

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

TEAIRRA PURVIS, individually, on behalf of her minor child, J.A., and on behalf of all others similarly situated, and ARAMAH JOHNSON, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

AVEANNA HEALTHCARE, LLC,

Defendant.

C.A. No. 1:20-cv-2277-LMM

**ORDER CERTIFYING A CLASS FOR SETTLEMENT PURPOSES  
ONLY,  
PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT,  
AND DIRECTING NOTICE TO THE CLASS**

This matter came before the Court on Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement and Certification of Class for Settlement.

Plaintiffs filed a Second Amended Class Action Complaint against Aveanna Healthcare, LLC ("Aveanna") on August 20, 2020, in which Plaintiffs Teairra Purvis, individually and on behalf of her minor child, J.A., and Aramah Johnson ("Plaintiffs" and, together with Aveanna, the "Parties") asserted claims for negligence, intrusion into private affairs or invasion of privacy, breach of express

contract, breach of implied contract, negligence per se, breach of fiduciary duty, breach of confidence, and a second claim for breach of express contract.

The Parties, through their counsel, have entered into a Settlement Agreement following good faith, arm's-length negotiations between the Parties. The Parties have agreed to settle this action, pursuant to the terms of the Settlement Agreement, and subject to the approval and determination of the Court as to the fairness, reasonableness, and adequacy of the settlement ("Settlement"), which, if approved, will result in dismissal of this action with prejudice.

Having reviewed the Settlement Agreement (ECF [72-2], revised at ECF [74-1]), including the exhibits attached thereto, and all prior proceedings herein, and for good cause shown, it is hereby ordered that Plaintiffs' Motion for Preliminary Approval is granted as set forth herein.<sup>1</sup>

1. **Class Certification for Settlement Purposes Only.** For settlement purposes only and pursuant to [Federal Rule of Civil Procedure 23\(b\)\(3\)](#) and (e), the Court provisionally certifies a class in this matter (the "Class") defined as follows:

All persons whose PII was received by, gathered by, shared with, obtained by, or otherwise came into the possession of Aveanna and was potentially compromised in the Security Incident.

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<sup>1</sup> Unless otherwise indicated, capitalized terms used herein have the same meaning as in the Settlement Agreement.

As specified in the Settlement Agreement, the “Settlement Class” specifically excludes those members of the Class: (i) who timely and validly request exclusion from the Settlement Class; and (ii) any other person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity or occurrence of the Security Incident or who pleads nolo contendere to any such charge.

The Court provisionally finds, for settlement purposes only, that: (a) the Class is so numerous that joinder of all Class Members would be impracticable; (b) there are issues of law and fact common to the Class; (c) the claims of the Plaintiffs are typical of and arise from the same operative facts and seek similar relief as the claims of the Class Members; (d) the Plaintiffs and Class Counsel will fairly and adequately protect the interests of the Class as the Plaintiffs have no interest antagonistic to or in conflict with the Class and have retained experienced and competent counsel to prosecute this matter on behalf of the Class; (e) questions of law or fact common to Class Members predominate over any questions affecting only individual members; and (f) a class action and class settlement is superior to other methods available for a fair and efficient resolution of this controversy.

**2. Representative Plaintiffs and Class Counsel.**

Plaintiffs are hereby provisionally designated and appointed as the Representative Plaintiffs. The Court provisionally finds that the Representative

Plaintiffs are similarly situated to absent Class Members and therefore typical of the Class and that they are adequate Class representatives.

The Court finds that the following counsel are experienced and adequate counsel and are hereby provisionally designated as “Class Counsel” pursuant to Federal Rule of Civil Procedure 23(g): David K. Lietz and Gary M. Klinger of Milberg Coleman Bryson Phillips Grossman PLLC.

3. **Preliminary Settlement Approval.** Upon preliminary review, the Court finds that the Settlement is fair, reasonable, and adequate to warrant providing notice of the Settlement to the Class and accordingly is preliminarily approved.

4. **Jurisdiction.** The Court concludes that it has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2), and personal jurisdiction over the Parties before it for the purposes of considering approval of the Settlement. Additionally, venue is proper in this District pursuant to 28 U.S.C. § 1391(a).

5. **Final Approval Hearing.** A final approval hearing shall be held on Tuesday, October 18, 2022 at 10:00 AM (ET) in Courtroom 2107 of the Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive SW, Atlanta, GA 30303, to determine, among other things, whether: (a) this matter should be finally certified as a class action for settlement purposes pursuant to Federal Rule of Civil Procedure 23(b)(3) and (e); (b) the Settlement should be finally approved as fair, reasonable, and adequate pursuant to Federal Rule of Civil Procedure 23(e); (c) the action should be dismissed with prejudice pursuant to the terms of the Settlement

Agreement; (d) Settlement Class Members should be bound by the releases set forth in the Settlement Agreement; (e) the motion of Class Counsel for an award of attorneys' fees and costs and expenses should be approved pursuant to Federal Rule of Civil Procedure 23(h); and (f) the motion of Representative Plaintiffs for service awards should be approved.

The Representative Plaintiffs will cause to be filed with the Court their motion for attorneys' fees, costs, and expenses, and service awards, no later than thirty (30) days prior to the Opt-Out Deadline and Objection Deadline.

The Representative Plaintiffs will cause to be filed with the Court their briefs in support of final approval, and any supplemental material in support of their motion for attorneys' fees, costs, and expenses, and service awards, no later than twenty- one (21) days before the Final Approval Hearing.

Responses to any objections shall be filed no later than 14 days prior to the Final Approval Hearing.

6. **Administration.** The Court appoints KCC Class Action Services, LLC as the Settlement Administrator, with responsibility for class notice and claims administration. Defendant shall pay all the Costs of Settlement Administration. These payments to the Settlement Administrator shall be made separate and apart

from the relief being made available to Settlement Class Members under the Settlement.

7. **Notice to the Class.** The proposed Notice Program set forth in the Settlement Agreement, and the Claim Form, Publication Notice, and Long Notice attached to the Settlement Agreement as Exhibits A, B, and C, respectively, satisfy the requirements of Federal Rule of Civil Procedure 23(c)(2)(B) and (e)(1) and are hereby approved. Non-material modifications to these Exhibits may be made without further order of the Court. The Settlement Administrator is directed to carry out the Notice Program in conformance with the Settlement Agreement.

By 45 days from the date of the entry of this Order, the Settlement Administrator shall complete the Notice Program, which shall be completed in the manner set forth in the Settlement Agreement.

8. **Findings and Conclusions Concerning Notice.** The Court finds that the form, content, and method of giving notice to the Class as described in Paragraph 7 of this Order and the Settlement Agreement (including the exhibits thereto): (a) will constitute the best practicable notice to the Class; (b) are reasonably calculated to apprise Class Members of the pendency of the action, the terms of the proposed Settlement, and their rights under the proposed Settlement, including but not limited to their rights to object to or exclude themselves from the proposed Settlement and other rights under the terms of the Settlement Agreement; (c) are reasonable and

constitute due, adequate, and sufficient notice to all Class Members and other persons entitled to receive notice; and the Court concludes that the Notice Program meets all applicable requirements of law, including Federal Rule of Civil Procedure 23(c) and (e), and the Due Process Clause(s) of the United States Constitution. The Court further finds that the notice is written in plain language, uses simple terminology, and is designed to be readily understandable by Class Members.

9. **Class Action Fairness Act Notice.** Defendant shall provide notice of the Settlement to the appropriate state or federal officials in accordance with the Class Action Fairness Act of 2005 (“CAFA”). *See* 28 U.S.C. § 1715. No later than fourteen (14) days before the Final Approval Hearing, Defendant shall file with the Court a certification that it complied with the CAFA notice requirements, stating the date of such compliance.

10. **Exclusion from Class.** Any Class Member wishing to opt out of the Settlement Class shall individually sign and timely submit written notice of such intent to the Post Office box designated in the Long Notice and the Publication Notice. The written opt out notice must clearly manifest a person’s intent to be excluded from the Settlement Class. The written opt out notice must include the individual’s name and address; a statement that he or she wants to be excluded from the Settlement Class; and the individual’s signature. No later than 14 days prior to the final approval hearing, the Settlement Administrator shall provide the Parties

with: (a) copies of all completed opt-out notifications, and (b) a final list of all who have timely and validly excluded themselves from the Settlement Class, which list Class Counsel shall file with the Court no later than 10 days prior to the final approval hearing for purposes of being attached to the Judgment that is entered upon final approval. To be effective, written opt-out notice must be postmarked no later than 60 days after the Notice Deadline.

The Opt-Out Members shall not receive any Settlement Benefits under or be bound by the terms of the Settlement Agreement. The Opt-Out Members shall also waive and forfeit any and all rights they may have to appear separately regarding and/or to object to the Settlement Agreement. All Settlement Class Members shall be bound by the terms of this Settlement Agreement and the Judgment entered thereon.

11. **Objections and Appearances.** A Settlement Class Member who complies with the requirements of this paragraph may object to the Settlement or the request for costs, expenses, service awards, and/or attorneys' fees.

Any Settlement Class Member desiring to object to the Settlement Agreement shall submit a timely written notice of his or her objection ("Objection"). Such notice shall state: (i) the objector's full name, address, telephone number, and e-mail address (if any); (ii) information identifying the objector as a Settlement Class Member, including proof or sufficient information to demonstrate that the objector

is a member of the Settlement Class; (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (iv) the identity of all counsel representing the objector (if any); (v) the identity of all counsel representing the objector who will appear at the final fairness hearing; (vi) a list of all persons who will be called to testify at the final fairness hearing in support of the Objection; (vii) a statement confirming whether the objector intends to personally appear and/or testify at the final fairness hearing; (viii) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative.

To be timely, written notice of the Objection in the appropriate form must be filed with the Clerk of the Court no later than 60 days from the Notice Deadline (the "Objection Deadline"), and served concurrently therewith upon Plaintiffs' Counsel, David Lietz, Milberg Coleman Bryson Phillips Grossman, PLLC, 5335 Wisconsin Avenue NW, Suite 440, Washington, DC 20015, [dlietz@milberg.com](mailto:dlietz@milberg.com) ; and Aveanna's Counsel, Douglas H. Meal, Herrington & Sutcliffe LLP, 222 Berkeley St., Suite 2000, Boston, MA 02116, [dmeal@orrick.com](mailto:dmeal@orrick.com).

Any Settlement Class Member who fails to timely file and serve a written Objection and notice of his or her intent to appear at the Final Approval Hearing pursuant to the Settlement Agreement, as detailed in the Long Notice, shall not be permitted to object to the approval of the Settlement at the Final Approval Hearing

and shall be foreclosed from seeking any review of the Settlement or the terms of the Settlement Agreement by appeal or other means. The parties may file a motion seeking an order to require any objecting Settlement Class Member who appeals a grant of the final Judgment to post an appeal bond.

Any Settlement Class Member who does not submit a timely Objection in complete accordance with the Settlement Agreement and this Order shall not be treated as having filed a valid Objection to the Settlement and shall forever be barred from raising any objection to the Settlement.

12. **Claims Process and Distribution Plan.** Representative Plaintiffs and Aveanna have created a process for assessing and determining the validity and value of claims and a methodology for distribution of the Settlement Benefits to Settlement Class Members on Approved Claims (“Claims Process and Distribution Plan”), as set out in the Settlement Agreement. The Court preliminarily approves the Claims Process and Distribution Plan described in the Settlement Agreement (including the exhibits thereto) and directs that the Settlement Administrator implement the Claims Process and Distribution Plan and effectuate the distribution of the Settlement Benefits to Settlement Class Members according to the terms of the Settlement Agreement, should the Settlement be finally approved.

Settlement Class Members who qualify for and wish to submit a Claim Form shall do so in accordance with the requirements and procedures specified in the

notice and the Claim Form. If the Judgment is entered, all Settlement Class Members who qualify for any Settlement Benefit under the Settlement but fail to submit a claim in accordance with the requirements and procedures specified in the notice and the Claim Form shall be forever barred from receiving any such Settlement Benefit but will in all other respects be subject to and bound by the provisions in the Settlement Agreement and the Judgment, including the releases included in those documents.

13. **Termination of Settlement Agreement.** This Order shall become null and void and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing immediately before this Court entered this Order, if the Settlement Agreement is terminated in accordance with the Settlement Agreement. In such event, the Settlement Agreement shall become null and void and be of no further force and effect, and neither the Settlement Agreement nor the Court's orders, including this Order, relating to the Settlement shall be used or referred to for any purpose whatsoever.

14. **Use of Order.** This Order shall not be construed or used as an admission, concession, or declaration by or against Aveanna of any fault, wrongdoing, breach, liability, or the certifiability of any class. Nor shall this Order be construed or used as an admission, concession, or declaration by or against the Representative Plaintiffs or any other Settlement Class Member that his or her claim

lacks merit or that the relief requested is inappropriate, improper, unavailable, or as a waiver by any Party of any defense or claim he, she, or it may have in this litigation or in any other lawsuit.

15. **Stay of Proceedings.** Except as necessary to effectuate this Order, all proceedings and deadlines in this matter are stayed and suspended pending the Final Approval Hearing and issuance of the Judgment, or until further order of this Court.

16. **Continuance of Hearing.** The Court reserves the right to adjourn or continue the Final Approval Hearing and related deadlines without further written notice to the Class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the website maintained by the Settlement Administrator.

17. **Summary of Deadlines.** The preliminarily approved Settlement shall be administered according to its terms pending the Final Approval Hearing. Deadlines arising under the Settlement Agreement and this Order include but are not limited to:

<b>Notice Deadline:</b>	45 Days from the entry of this Order	
<b>Opt-Out Deadline:</b>	60 Days from the Notice Deadline	
<b>Objection Deadline:</b>	60 Days from the Notice Deadline	
<b>Motion for Final Approval:</b>	21 Days before the Final Approval Hearing	
<b>Claims Deadline:</b>	90 Days after the Notice Deadline	

<b>Motion for Service Awards, Attorneys' Fees and Costs:</b>	30 Days Prior to the Opt-Out and Objection Deadline	
<b>Responses to Objections:</b>	14 Days before the Final Approval Hearing	
<b>Final Approval Hearing:</b>	At least 120 Days after the entry of this Order	<b>Tuesday, October 18, 2022 at 10:00 AM in Courtroom 2107</b>

IT IS SO ORDERED this 9th day of June, 2022.

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 The Honorable Leigh Martin May  
 United States District Judge