

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

SIMONA OPRIS, ADRIAN ADAM, and
BRITNEY RICHARDSON, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

SINCERA REPRODUCTIVE MEDICINE,
formerly known as and operating as
ABINGTON REPRODUCTIVE MEDICINE,
P.C., also known as REGIONAL WOMENS
HEALTH GROUP, LLC, d/b/a/ SINCERA
REPRODUCTIVE MEDICINE,

Defendant.

Case No.: 2:21-cv-03072-JHS

AMENDED ORDER OF PRELIMINARY APPROVAL

WHEREAS, a Settlement Agreement, dated as of January 31, 2023 (the “Settlement Agreement”), was made and entered into by and among the following Settling Parties: (i) Simona Opris, Adrian Adam, Britney Richardson, Diptesh Patel and Payal Patel (collectively the “Representative Plaintiffs”), individually and on behalf of the Settlement Class Members, by and through Kenneth Grunfeld of the law firm Golomb Spirt Grunfeld, P.C. and Patrick Donathen of the law firm Lynch Carpenter, LLP (collectively, “Settlement Class Counsel” or “Plaintiffs’ Counsel”); and (ii) Sincera Reproductive Medicine (“Sincera” or “Defendant”), for the benefit of all Released Parties, by and through the Defendant’s counsel of record, Mark S. Melodia, Paul Bond, Nipun J. Patel and Sophie L. Kletzien of Holland & Knight LLP (“Defense Counsel”); and

NOW THEREFORE, upon consideration of the Unopposed Motion to Preliminarily Approve the Class Settlement Action, Certify the Class, Appoint Class Counsel, and Schedule a Final Approval Hearing (Doc. No. 57) and having reviewed and considered the submissions presented with respect to the settlement set forth in the Settlement Agreement and the record in these proceedings, having heard and considered the evidence presented by the parties and the arguments of counsel, having determined preliminarily that the settlement set forth in the Settlement Agreement is fair, reasonable, adequate, and in the best interests of the Class;

IT IS ORDERED:

1. The Court incorporates by reference the definitions set forth in the Settlement Agreement.
2. The Court finds it has personal and subject-matter jurisdiction over this matter, the Settling Parties, and all Settlement Class Members.

Preliminary Settlement Class Certification

3. The Court certifies, for settlement purposes only, the following Settlement Class pursuant to Fed. R. Civ. P. 23:

All Persons residing in the United States who were provided notice from Sincera that their information was involved in the Data Incident.

Excluded from the Settlement Class are (a) officers, directors, trustees, and employees of the Defendant; (b) all judges and their staffs assigned to this case and any members of their immediate families; (c) the mediator; (d) experts retained in this Litigation by the Parties; and (e) the Parties' counsel in this Litigation.

4. The Court determines that for settlement purposes the proposed Settlement Class likely meets all the requirements of Federal Rules of Civil Procedure ("Rules") 23(a) and (b)(3), namely that the Settlement Class is so numerous that joinder of all members is impractical; that there are common issues of law and fact; that the claims of the Settlement Class Representatives are typical of absent Settlement Class Members; that the Settlement Class Representatives will fairly and adequately protect the interests of the Settlement Class as they have no interests antagonistic to or in conflict with the Settlement Class and have retained experienced and competent counsel to prosecute this matter; that common issues predominate over any individual issues; and that a class action is the superior means of adjudicating the controversy.

5. Plaintiffs Simona Opris, Adrian Adam, Britney Richardson, Diptesh Patel and Payal Patel are designated as Settlement Class Representatives.

6. The Court appoints Kenneth J. Grunfeld of the law firm Golomb Spirt Grunfeld, P.C. and Kelly K. Iverson and Patrick D. Donathen of the law firm Lynch Carpenter, LLP as Settlement Class Counsel for the Settlement Class.

Reasonableness of the Proposed Settlement

7. The Court finds that: (i) the proposed Settlement resulted from extensive and good-faith negotiations at arms' length; (ii) the proposed Settlement was concluded only after extensive discovery and litigation; and (iii) the terms of the proposed Settlement as evidenced by the Settlement Agreement appears to be sufficiently fair, reasonable, and adequate in light of the risks, delays, and expenses of further litigation, warranting the Settlement Agreement, and the scheduling of a final fairness hearing.

8. The Court finds that the Proposed Settlement creates an equitable claims process that will allow Class Members an opportunity to obtain reimbursement for certain types of harm they may have suffered as a result of events alleged in the Litigation. This consideration appears to be within the range of reasonableness and an adequate exchange for the Settlement Class's release of claims as described in the Settlement Agreement.

Accordingly, the Court grants preliminary approval of the Settlement, subject to final approval, and authorizes the Parties to conduct their plan for Notice as described in the Settlement Agreement.

Notice to the Settlement Class

9. The Court finds that the notice proposed in the Settlement Agreement, including in form, content and method: (a) constitutes the best practicable notice to the Settlement Class; (b) is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the action, the terms of the proposed Settlement, and their rights under the proposed Settlement; (c) is reasonable and constitutes due, adequate, and sufficient notice to those persons entitled to receive notice; and (d) satisfies the requirements of Rule 23, the constitutional requirement of due process, and any other legal requirements. The Court further finds that the notices are written in plain language, use simple terminology, and are designed to be readily understandable by Settlement Class Members.

10. The Parties and Settlement Administrator are authorized to make non-material modifications to the notices and claim form, such as proofing and formatting alterations, without further Order from this Court.

11. The Court appoints KCC LLC as the Settlement Administrator and orders it to provide notice to the Settlement Class Members, CAFA Notice and perform services as set forth in the Settlement Agreement.

12. The Court orders Defendant to pay the cost of preliminary notice as set forth in the Settlement Agreement, as a portion of the Total Settlement Compensation, as defined therein.

13. Within 60 days from the entry of this Order, the Parties and Settlement Administrator shall cause notice to be disseminated to Settlement Class Members. The postcard form of Notice shall be sent to all Settlement Class Members prior to the Notice Deadline. The website form of Notice as well as the Claim Form shall be posted on a Settlement Website to be created by the Settlement Administrator. Further, Defendant shall provide Notice of the Settlement on its website and in its patient newsletter. The Settlement Administrator shall also establish a toll-free phone line for Settlement Class Members to call in order to receive information about the Settlement. Finally, before the end of the Claims Period, the Settlement Administrator shall send the reminder form of Notice to all Settlement Class Members for whom an email address can be found.

Claims Process and Distribution Plan

14. The Settlement establishes a process for assessing and determining the validity of two types of claims (Cash Payments and Out-of-Pocket Expenses) and a methodology for paying Settlement Class Members that submit a timely, valid Claim Form. The Court preliminarily approves this process.

15. Settlement Class members that 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.

Exclusions from the Class

16. Any Settlement Class Member who wishes to be excluded from the Class must mail a written notification of the intent to exclude themselves to the Settlement Administrator, at the address provided in the Notice, postmarked no later than sixty (60) days after the Notice Deadline (the “Opt-Out Deadline”) and sent via first class postage pre-paid United States mail. The written request for exclusions must include the name of this Litigation or a decipherable approximation (*Opris et al. v. Sincera Reproductive Medicine*, United States District Court for the Eastern District of Pennsylvania, No. 2:21-cv-03072-JHS); the full name, address, and telephone number of the Settlement Class Member or the name, address, telephone number, relationship, and signature of any individual who is acting on behalf of a deceased or incapacitated Settlement Class Member; and the words “Request for Exclusion” at the top of the document or a statement in the body of the document requesting exclusion from the Settlement.

17. All Settlement Class Members who submit valid and timely notices of their intent to be excluded from the Settlement shall not receive any benefits of or be bound by the terms of the Settlement. Any Settlement Class Member that does not timely and validly exclude himself or herself from the Settlement shall be bound by the terms of the Settlement. If final judgment is entered, any Settlement Class Member that has not submitted a timely, valid written notice of exclusion from the Settlement (in accordance with the requirements of the Settlement) shall be bound by all subsequent proceedings, orders, and judgments in this matter, the Settlement including but not limited to the releases set forth in the Settlement Agreement, and the Final Approval Order and Judgment.

Objections to the Settlement

18. A Settlement Class Member who complies with the requirements of this Order may object to the Settlement, the request of Settlement Class Counsel for an award of attorneys’ fees, costs, and expenses, and/or the request for Service Awards.

19. No Settlement Class Member shall be heard and no papers, briefs, pleadings, or other documents submitted by any Settlement Class Member shall be received and considered by the Court unless the objection is (a) filed with the Court by the Objection Deadline; or (b) mailed first-class postage prepaid to the Clerk of Court and the Settlement Administrator at the addresses listed in the Notice, and postmarked no later than the Objection Deadline, which shall be sixty (60) days after the Notice Deadline, as specified in the Notice. For the objection to be considered by the court, the objection shall set forth:

- a. Clearly identify the case name and number *Opris et al. v. Sincera Reproductive Medicine*, United States District Court for the Eastern District of Pennsylvania, No. 2:21-cv-03072-JHS;

- b. the full name, address, telephone number, and email address of the person objecting;
- c. the full name, address, telephone number, and email address of the objector's counsel (if the objector is represented by counsel);
- d. state whether the objection applies only to the objector, to a specific subset of the Settlement Class, or to the entire Settlement Class, and also state with specificity the grounds for the objection;
- e. confirm whether the objector or counsel on the objector's behalf will personally appear and/or testify at the Final Approval Hearing; and
- f. provide the objector's signature and the signature of the objector's duly authorized counsel or other duly authorized representative.

20. In addition, any Settlement Class Member that objects to the proposed Settlement must make himself or herself available to be deposed regarding the grounds for the objection and must provide, along with the objection, the dates when the objector will be available to be deposed during the period from when the objection is filed through the date seven days before the Final Approval Hearing.

21. Any Settlement Class Member who fails to comply with the provisions in this Order will waive and forfeit any and all rights it may have to object, and shall be bound by all the terms of the Settlement Agreement, this Order, and by all proceedings, orders, and judgments, including, but not limited to, the releases in the Settlement Agreement, if finally approved. Any Settlement Class Member who both objects to the Settlement and opts out will be deemed to have opted out and the objection shall be deemed null and void.

Stay of Proceedings

22. Except as necessary to effectuate this Order, this matter and any deadlines set by the Court in this matter are stayed and suspended pending the Final Approval Hearing and issuance of the Final Approval Order and Judgment, or until further order of this Court.

Continuance of Final Approval Hearing

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

Actions by Settlement Class Members

24. The Court stays and enjoins, pending Final Approval of the Settlement any actions, lawsuits, or other proceedings brought by Settlement Class Members against Defendant related to the Data Incident.

Final Approval Hearing

25. Final Approval Hearing shall take place before the Court on September 6, 2023 at 10:00 a.m./p.m. in Courtroom 13A before Judge Joel H. Slomsky of the United States District Court for the Eastern District of Pennsylvania, 13614 U.S. Courthouse, 601 Market Street, Philadelphia, Pennsylvania 19106, to determine, among other things: (a) the Settlement should be finally approved as fair, reasonable and adequate and, in accordance with the Settlement Agreement's terms, all claims in the Litigation should be dismissed with prejudice; (b) Settlement Class Members should be bound by the releases set forth in the Settlement Agreement; (c) the proposed Final Approval Order and Judgment should be entered; (d) the application of Settlement Class Counsel for an award of attorneys' fees, costs, and expenses should be approved; and (e) the application for Service Awards to the Representative Plaintiffs should be approved. Any other matters that the Court deems necessary and appropriate will also be addressed at the hearing.

26. Settlement Class Counsel shall submit their application for fees, costs, and expenses and the application for Service awards at least 14 days before the Opt-out/Objection Deadline. Objectors, if any, shall file any response to Class Counsel's motions no later than 17 days prior to the Final Approval Hearing. By not later than 10 days prior to the Final Approval Hearing, responses shall be filed, if any, to any filings by objectors, and any replies in support of final approval of the Settlement Agreement and/or Settlement Class Counsel's application for attorneys' fees, costs, and expenses and for Service Awards shall be filed.

27. Any Settlement Class Member that has not timely and properly excluded himself or herself from the Settlement Class in the manner described below, may appear at the Final Approval Hearing in person or by counsel and be heard, to the extent allowed by the Court, regarding the proposed Settlement; provided, however, that no Settlement Class Member that has elected to exclude himself or herself from the Class shall be entitled to object or otherwise appear, and, further provided, that no Settlement Class Member shall be heard in opposition to the Settlement unless the Settlement Class Member complies with the requirements of this Order pertaining to objections, which are described above and in the Notice.

28. The Settlement, as preliminary approved in this order shall be administered according to its terms pending the Final Approval Hearing. Deadlines under the Settlement and this Order include but are not limited to the following:

<u>Event</u>	<u>Deadline</u>
Motion for Attorney's Fees	June 9, 2023
Notice Deadline	April 24, 2023
Objection and Opt Out Deadline	June 23, 2023
Claim Deadline	July 24, 2023
Motion for Final Approval	July 24, 2023
Final Approval Hearing	September 6, 2023

IT IS SO ORDERED.

March 2, 2023

/s/ Joel H. Slomsky

JOEL H. SLOMSKY

UNITED STATES DISTRICT JUDGE