

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

**I. INTRODUCTION**

This Settlement Agreement ("Settlement Agreement" or "Agreement") is made on this 18 day of August, 2020, between Richard P. Console, JR., P.C. d/b/a Console and Hollawell, P.C., ("Console" or "Plaintiff"), on behalf of itself and the members of the certified class certified by the Court on August 30, 2019, and Medical Records Online Inc., d/b/a/ MRO ("MRO" or "Defendant"), in the matter of *Richard P. Console, JR., P.C. v. Medical Records Online Inc.*, Docket No. CAM-L-2133-18 (the "Action"). This Settlement Agreement is subject to the approval of the Court under New Jersey Court Rule 32. If the Court fails to approve the settlement, the Parties may revise this Agreement or terminate the settlement.

**II. BACKGROUND**

Plaintiff brought this action on behalf of a class of New Jersey attorneys who purchased copies of their client's New Jersey hospital records in electronic format via the MRO "e-delivery" portal between January, 2017 and March 1, 2020. Plaintiff's Class Action Complaint alleges that MRO charged more for copies of such records than was permitted by New Jersey law. The Court certified a class in this matter on August 30, 2019 defined as: **All New Jersey attorneys, between January 1, 2017 to March 1, 2020, who: a. Were authorized by their clients to request copies of that client's New Jersey hospital records; b. Who downloaded copies of such client hospital records electronically via the internet from MRO using the PDF E-Delivery system; c. Who paid a fee to MRO for such records; d. Who will not be reimbursed for that payment by the client or through a recovery for such costs; and e. Excluding from the class MRO and DeNittis Osefchen Prince, P.C. and any employees, officers or owners of either MRO or DeNittis Osefchen Prince, P.C.**

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MRO denies Plaintiff's allegations and has asserted numerous defenses to the class claims. MRO does not admit liability to any of the claims of Plaintiff or any member of the Settlement Class. Plaintiff and MRO agree that this Agreement and the Settlement reflected herein is a compromise and settlement of disputed claims, and that neither the Settlement, this Agreement, the Release, nor any consideration therefor, nor any actions taken by the Parties to carry out the terms of this Agreement, are intended to be nor may they be deemed or construed to be, an admission or concession of liability or of the validity of any Claim or of any point of law or fact (including but not limited to the propriety of class certification) on the part of any party, and this Agreement shall not be deemed or construed as an admission or evidence of any violation of any regulation, statute or law or of any liability or wrongdoing by Defendant.

**III. DEFINITIONS**

The following terms shall have the meanings stated below:

**A. Action** means the lawsuit filed by Plaintiff in the Superior Court of New Jersey, Camden County, captioned *Richard P. Console, JR., P.C. v. Medical Records Online Inc.*, Docket No. CAM-L-2133-18.

**B. Authorized Claimants** means those Class Members who timely complete and submit a Claim Form.

**C. Claim Form** means the claim form approved by the Court, which shall be substantially similar to the document attached hereto as Exhibit A.

**D. Claims Administrator** means a third party retained by Defendant to manage and administer the process by which the members of the Settlement Class are notified of and paid pursuant to this Settlement Agreement. All costs of administration ("Administrator Costs") shall be paid out of the Common Fund.

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**E. Class and Class Members** mean those persons and entities who fall within the class certified by the Court on August 30, 2019: All New Jersey attorneys, between January 1, 2017 to March 1, 2020, who: a. Were authorized by their clients to request copies of that client's New Jersey hospital records; b. Who downloaded copies of such client hospital records electronically via the internet from MRO using the PDF E-Delivery system; c. Who paid a fee to MRO for such records; d. Who will not be reimbursed for that payment by the client or through a recovery for such costs; and e. Excluding from the class MRO and DeNittis Osefchen Prince, P.C. and any employees, officers or owners of either MRO or DeNittis Osefchen Prince, P.C.

**F. Class Claims** mean those claims for monetary benefits made by Class Members pursuant to the procedure set forth in Sections V and VI.

**G. Class Counsel** means the law firm of DeNittis Osefchen Prince, P.C.

**H. Class Counsel's Attorneys' Fees and Costs** means the sum of \$175,000, which, upon approval by the Court, shall be paid by MRO separate from the Common Fund.

**I. Common Fund** means the sum of \$200,000 from which all Class Claims, Incentive Award and Administrator Costs shall be paid by Defendant.

**J. Complaint** means Plaintiff's Class Action Complaint filed in this Action.

**K. Effective Date** means the last date that this Settlement Agreement is signed by a party or counsel.

**L. Final Order and Judgment** means the Court's final appealable order approving this Settlement.

**M. Incentive Award** means a one-time payment of \$3,000.00 that shall be paid to the Named Plaintiff Richard P. Console, JR., P.C, subject to Court approval.

**N. Named Plaintiff or Plaintiff** means Richard P. Console, JR., P.C.

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**O. New Jersey Hospital** means any hospital (as that term is defined in N.J.A.C. § 8:43G-1.2) licensed by the New Jersey Department of Health for whom MRO provided release of information services during the class period from January 1, 2017 through March 1, 2020.

**P. Notice Date** means the date by which the Notice of Proposed Settlement of Class Action is to be mailed.

**Q. Notice of Proposed Settlement of Class Action or Notice** means the settlement notice approved by the Court, which shall be substantially similar to the document attached hereto as Exhibit B.

**R. Plan of Distribution** means the plan or formula of allocation of the Common Fund to be distributed to authorized claimants, as set forth in Section V.B.2.

**S. Released Parties** means MRO, and each and every of its current and former officers, directors, agents, employees, attorneys, affiliates, direct and indirect parents and subsidiaries, customers, clients, predecessors, successors, assigns, and indemnitees.

**T. Class** means the class certified by the Court on August 30, 2019: All New Jersey attorneys, between January 1, 2017 and March 1, 2020, who: a. Were authorized by their clients to request copies of that client's New Jersey hospital records; b. Who downloaded copies of such client hospital records electronically via the internet from MRO using the PDF E-Delivery system; c. Who paid a fee to MRO for such records; d. Who will not be reimbursed for that payment by the client or through a recovery for such costs; and e. Excluding from the class MRO and DeNittis Osefchen Prince, P.C. and any employees, officers or owners of either MRO or DeNittis Osefchen Prince, P.C.

**U. Settling Parties or Parties** means collectively, Defendant and Named Plaintiff on behalf of itself and the Class Members.

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**IV. PURPOSE**

Pursuant to the terms set forth below, Plaintiff and MRO enter into this Class Action Settlement Agreement to bring a full and final resolution of all claims asserted, or that could have been asserted, in the Complaint in this Action against MRO by Plaintiff and/or the Settlement Class. The Parties agree to settle the Action pursuant to the terms of this Agreement, as they are set forth herein. Plaintiff and Class Counsel believe the Agreement to be fair, reasonable and adequate relief to the Plaintiff and the Settlement Class and to be in their best interests.

**V. THE SETTLEMENT**

**A. The Certified Class**

The class in this matter was certified by the Court on August 30, 2019, as defined above.

**B. The Settlement Terms**

1. **Common Fund.** MRO agrees to a common fund settlement amount of \$200,000, from which all Class Claims, Incentive Award and Administrator Costs shall be paid. MRO will fund the Common Fund with an initial payment of \$50,000 within thirty days business days of preliminary approval by the Court, and will deposit additional funds as needed to satisfy all valid claims and other expenses chargeable to the Common Fund. Any unclaimed amounts in the Common Fund remaining after payment of class claims and administration costs shall revert to MRO.

2. **Plan of Distribution.** Distribution of the Class Claims from the Common Fund shall be on a claims-made basis. Each class member who submits a valid Class Claim shall receive a partial refund of any amounts actually paid to MRO in exchange for medical records received in electronic form via the online portal, via a single check in an amount calculated as

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follows: 100% of any payment in excess of \$10 per set of medical records relating to a patient. If the total amount of Class Claims and Administrator Costs exceeds \$200,000, valid Class Claims shall be paid on a pro rata basis. The parties agree that the foregoing Plan of Distribution is a negotiated compromise that Defendant have agreed to solely to resolve this litigation along with its associated costs and uncertainties. For avoidance of doubt and without limiting any other section of this Agreement regarding denial of liability, no aspect of the Plan of Distribution shall be construed as any form of evidence or admission by MRO regarding its actual costs for producing medical records or any issue of law relating thereto.

**C. Class Representative**

Class Counsel shall petition the Court for an Incentive Award for the Named Plaintiff Richard P. Console, JR., P.C. in an amount not to exceed \$3,000.00. MRO agrees not to object to this incentive award request. The Incentive Award shall be subject to Court approval.

**D. Class Counsel's Attorneys' Fees and Costs**

Class Counsel shall apply for an award of Attorneys' Fees and Costs, not to exceed \$175,000, which shall be paid by MRO separate from the Common Fund and subject to Court approval.

**VI. PROCEDURES**

**A. Settlement Implementation**

The Parties agree to cooperate to implement the terms of the Settlement Agreement, including all steps and efforts contemplated by this Settlement Agreement and any other steps and efforts that may be necessary or appropriate, by order of the Court or otherwise, to carry out the terms of this Settlement.

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**B. Motion for Preliminary Approval**

As soon as reasonably practicable, the Parties will submit this Settlement Agreement to the Superior Court of New Jersey, Camden County, with a motion pursuant to N.J. Court Rule 4:32-1 et al. to: (a) preliminarily approve this Agreement, (b) enter the Order Granting Preliminary Approval, (c) set a date and time for a fairness hearing (the "Fairness Hearing"), during which the Court shall finally approve the Settlement, (d) approve the form and method of Class Notice, (e) set an objection and opt-out date, and (f) set a period of time during which Class Members must file Class Claims in order to participate in the distribution of the Common Fund. The parties will request that the claim filing date be set within 90 days from the Notice Date.

**C. Class Notification**

Notice of this Settlement shall be given to the Class as soon as practicable after the 30<sup>th</sup> calendar day following entry of the Court's Order Granting Preliminary Approval and approving a form of Notice of Proposed Settlement of Class Action. The Notice will include details of the Settlement, including the application for Class Counsel's Attorneys' Fees and Costs, and the Incentive Award, the date and time for the Fairness Hearing, and Settlement Class Members' right to request exclusion from the Settlement Class or to object to the Settlement or any part thereof. The Notice will be substantially similar to the document attached hereto as Exhibit A. Notice shall be disseminated by electronic mail to all Settlement Class Members to the extent practicable. Class Members for whom the parties are unable to locate a valid email address shall be sent postcard notices via First Class Mail in a form substantially similar to the document attached hereto as Exhibit B. In addition, Defendant also shall cause to be published the Class

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Notice on one date in the *New Jersey Law Journal* in a form substantially similar to the document attached hereto as Exhibit A.

**D. Cost of Notice and Settlement Administration**

All Administrator Costs including the costs associated with the distributing the Notice, evaluating and paying Class Claims, and other costs associated with administering the Settlement, will be paid from the Common Fund.

**E. Final Fairness Hearing**

In the Motion for Preliminary Approval of this Settlement Agreement, the parties will request that the Superior Court of New Jersey set a Fairness Hearing as soon as practicable to determine the fairness, reasonableness, and adequacy of the Settlement, the dismissal with prejudice of the claims of the Named Plaintiff and the Settlement Class against MRO, the request for an award of Class Counsel's Attorneys' Fees and Costs, and the Incentive Award for the Named Plaintiff. The Parties will request that a Fairness Hearing be set within sixty (60) days following the date for mailing the Class Notice.

**F. Requests for Exclusion**

Any member of the Settlement Class may, upon request, be excluded from or "opt out" of the Settlement. To request exclusion, the member of the Settlement Class must submit to the Claims Administrator a request for exclusion ("Request for Exclusion"). A Request for Exclusion must be signed and state: (1) the name, address, and telephone number of the Settlement Class Member requesting exclusion; (2) information concerning the class members request and payment for medical records received electronically during the class period; and (3) that the class member wishes to be excluded from the class. All members of the Settlement Class who submit valid and timely Requests for Exclusion in the manner set forth in this



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paragraph shall have no rights under the Agreement, shall not share in the distribution of the Common Fund, and shall be not be bound by the final judgment. Requests for Exclusion shall be submitted no later than ten (10) days before the Fairness Hearing.

**G. Objections to Settlement**

1. Any member of the Settlement Class who wishes to object to the fairness, reasonableness, or adequacy of this Settlement Agreement, or the request by Class Counsel for an award of Class Counsel's Attorneys' Fees and Costs, or the application for the Incentive Award to the Named Plaintiff, must file with the Clerk of the Superior Court of New Jersey and serve Class Counsel and Counsel for MRO, no later than ten (10) days before the Fairness Hearing, a statement of the objection, as well as the specific reasons, if any, for each objection, including any legal support that the Class Member wishes to bring to the Court's attention and any evidence the Class Member wishes to introduce in support of the objection. Such objection must conform to the format described in sub-Paragraph 3 below. Any Class Member who files and serves a written objection, as described herein, may appear at the Fairness Hearing and request to be heard with respect to the objection timely filed in accordance with this Section.

2. Any Class Member filing a written objection or appearing at the Fairness Hearing in accordance with this Section may do so either on his or her own or through an attorney hired at the objecting Class Member's own expense. If a Class Member hires an attorney to represent him or her, the attorney must file a notice of appearance with the Clerk of the Superior Court of New Jersey, Camden County, no later than seven (7) days before the Fairness Hearing or as the Superior Court may otherwise direct, and serve a copy of such notice of appearance on Class Counsel and Counsel for MRO.

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3. Any objection, whether filed by a Class Member or an attorney hired on a Class Member's behalf, must contain and conform to the following format: (a) a heading that refers to the Action by case name and case number; (b) a statement of the legal and factual basis for each objection; (c) a statement whether the Class Member intends to appear at the Fairness Hearing, either in person or through counsel; (d) a description of any and all evidence the Class Member intends to offer at the Fairness Hearing, including but not limited to the names, addresses and expected testimony of any witnesses, and a description of all exhibits intended to be introduced at the Fairness Hearing; and (e) a list of other cases in which the Class Member or counsel for the Class Member has appeared either as an objector or counsel for an objector in the last five years.

**H. Final Judgment**

If the Court finally approves this Settlement, then the Parties hereto shall seek entry of an order and judgment:

1. Determining that Defendant, Named Plaintiff and Class Members have submitted to the jurisdiction of the Court for purposes of the proposed Settlement, and that the Court has subject matter jurisdiction to approve the Settlement Agreement;

2. Finding that the Notice given pursuant to this Settlement Agreement: (a) constitutes the best practicable notice under the circumstances; (b) constitutes due, adequate and sufficient notice to all persons entitled to receive notice; and (c) meets the requirements of due process and any other applicable rules of the Court;

4. Approving this Settlement and its terms as being in good faith and fair, reasonable, and adequate as to the members of the Class, and directing the Settlement's consummation pursuant to its terms;

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5. Approving the Class Counsel's Attorneys' Fees and Costs;
6. Approving the Incentive Award to the Named Plaintiff;
7. Dismissing the Action with prejudice, determining that there is no just reason for delay, and ordering that the judgment of dismissal of the Action shall be final and appealable;
8. Incorporating the Release set forth below (in Section VII of this Settlement Agreement), and forever discharging the Released Parties from any claims or liabilities relating to the Action; and
9. Reserving exclusive jurisdiction over the Settlement and this Settlement Agreement, including the administration and consummation of this Settlement Agreement.

**I. Effective Date**

This Settlement shall become final and effective upon the occurrence of all of the following events, the date five business days after the last of the following events being the "Effective Date":

1. This Settlement Agreement is finally approved by the Court;
2. The Court enters a Final Judgment and Order;
3. The Action is dismissed with prejudice; and
4. The time to appeal or seek permission to appeal from the Court's Final Judgment and Order has expired, or, if appealed, the Final Judgment and Order has been affirmed by the court of last resort to which such appeal has been taken and such affirmation has become no longer subject to appeal or further review.

**VII. RELEASE**

**A. Release**

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Upon the Effective Date, each and every Class Member shall be deemed to have released each and every Released Party, and the Released Parties shall be released and forever discharged from any and all claims, causes of action, demands, rights, actions, suits, and requests for equitable, legal and administrative relief of any kind or nature whatsoever by any class member arising from, or relating to, the facts alleged in the class complaint in this Action, whether known or unknown, asserted or unasserted, that any Class Member ever had, could have had, now has, or can, shall or may have up to the date of the Order for Final Approval of this settlement.

**B. Covenant Not to Sue**

Upon the Effective Date, each Class Member covenants and agrees that he or she shall not hereafter seek to establish liability or assert claims, on behalf of their self or any other person, entity or class, against MRO , in whole or in part, that any Class Member ever had, could have had, now has, or can, shall or may have which arise from, or relate to, the facts alleged in the class complaint in this Action. for any of the claims described in the Complaint. The Parties agree that this covenant may be pleaded as a full and complete defense to any action, suit, or other proceeding that may be instituted, prosecuted or attempted with respect to any of the claims described in the Plaintiff's Complaint. All Class Members and all persons acting on behalf of or in concert with any such Class Members shall be enjoined from, directly or indirectly: (i) commencing, prosecuting, participating in (as a class member or otherwise), or assisting in any lawsuit or other proceeding against Defendant that asserts or purports to assert claims that arise from, or relate to, the facts alleged in the class complaint in this Action.

**C. Effect of Releases**

This Settlement Agreement may be pleaded as a full and complete defense to any action, suit or other proceeding that may be instituted, prosecuted or attempted with respect to any of the

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Released Claims. The Parties further agree that this Settlement Agreement may be pleaded as necessary for the purpose of enforcing this Settlement Agreement.

**VIII. TERMINATION**

**A. Events of Termination**

Defendant shall have the right and option to terminate this Settlement Agreement if the following Event of Termination occurs: more than 10% of the Settlement Class Members opt out or request exclusion from the Class.

**B. Exercise of Right of Termination**

Following the Event of Termination, Defendant may terminate this Settlement Agreement by providing written notice ("Notice of Termination") within ten (10) calendar days following such Event of Termination. Notice of Termination will be deemed to have been timely only if filed with the Superior Court and served on Class Counsel within such 10-day period.

**IX. MISCELLANEOUS**

**A. No Admission**

It is expressly understood and agreed that this Settlement Agreement does not in any way embody, reflect, or imply any admission of wrongdoing on the part of MRO and the Parties may not use it for such purpose in any subsequent legal proceeding. Neither this Settlement Agreement nor any proceedings undertaken in accordance with the terms set forth herein shall be construed as or deemed to be evidence or an admission or concession by MRO as to the validity of any of the Released Claims.

**B. Class Counsel further represent and warrant that they have disclosed all additional clients interested in bringing any claims against MRO alleging that it charged more for copies of New Jersey hospital records than is permitted by law. Class Counsel**

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further represent that they are not aware of any other persons who have indicated to them an interest in bringing any claims alleging that MRO's billing practices violate prior or currently existing federal law, state law or common law. Class Counsel further agree that they will not send out solicitations or advertisements (by mail, email, telephone or other method of communication) seeking or encouraging any person or entity to bring claims against MRO alleging that it charged more for medical records than is permitted by prior or currently existing federal law, state law, or common law.

**C. No Prejudice to Parties**

In the event that this Settlement Agreement does not become final in accordance with the terms hereof, the Parties expressly reserve all of their rights and preserve all applicable defenses. The Class Action shall revert to its procedural and substantive status prior to the date of execution hereof and shall proceed as if this Settlement Agreement, and all other related orders and papers, had never been executed, provided that the Parties will jointly request that the Court provide sufficient reasonable time for the Parties and counsel to prepare for further proceedings in light of the passage of time since the execution of this Settlement Agreement. All communications between the Parties leading up to or related to the Settlement are confidential settlement communications inadmissible under N.J.R.E. 408 and any and all other applicable federal and state laws in any proceedings between the Parties or between a Settlement Class Member and a Party. The provisions of this paragraph shall survive and continue to apply to each Party, even if the Court does not approve the Settlement Agreement, or the Court's approval of the Settlement Agreement is set aside, or Defendant terminates the Settlement Agreement pursuant to the provisions of Section VIII of this Settlement Agreement.

**D. Binding Effect**

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The terms of this Settlement Agreement shall be binding on, and inure to the benefit of, the Parties and their respective successors and assigns. The Parties expressly disclaim any intention to create rights under this Settlement Agreement that may be enforced by any non-party under any circumstances whatsoever, except as expressly provided in this Settlement Agreement.

**E. Entire Agreement**

This Settlement Agreement contains the entire, complete, and integrated statement of each and every term and provision agreed to by the Parties, and is not subject to any conditions not provided for in this Settlement Agreement. There are no promises, understandings, or terms of the Settlement Agreement other than those stated herein. This Settlement Agreement supersedes and renders of no effect all other oral or written communications concerning the subject matter hereof.

**F. Modification and Waiver**

After entry of the Court's order preliminarily approving the Settlement, the terms and provisions of this Settlement Agreement may not be changed, waived, modified, or varied in any manner whatsoever unless in a writing duly signed by all Parties with the consent of the Court. Any failure by any Party to insist upon the strict performance by any other Party of any of the provisions of this Settlement Agreement shall not be deemed a waiver of any of the provisions hereof, and that Party, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Settlement Agreement to be performed by the other Party.

**G. No Party is the Drafter**

This Settlement Agreement was mutually prepared by the Parties hereto and shall not be construed against any of them solely by reason of authorship.

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**H. Execution in Counterparts**

The signatories to this Settlement Agreement may execute this Settlement Agreement in counterparts, and the execution of counterparts shall have the same effect as if all counsel had signed the same instrument. Facsimile signatures shall be considered as valid signatures as of the date of this Settlement Agreement, but the original signature pages shall subsequently be appended to this Settlement Agreement and filed with the Court.

**I. Jurisdiction**

The Superior Court of New Jersey shall have exclusive jurisdiction over all provisions and terms of this Settlement Agreement and over the administration and any and all disputes of any kind between the Parties or between a Party and a Settlement Class Member relating in any way to, or arising in any way out of, this Settlement Agreement.



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IN WITNESS WHEREOF, the undersigned have executed this Settlement Agreement effective as of the date each signs the Agreement.

**ON BEHALF OF PLAINTIFF:**

**PLAINTIFF:**

**CLASS COUNSEL:**

\_\_\_\_\_  
Name: \_\_\_\_\_

\_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
DeNITTIS OSEFCHEN PRINCE, P.C.  
Stephen P. DeNittis, Esq.  
5 Greentree Centre  
525 Route 73 North, Suite 410  
Marlton, New Jersey 08053  
856-797-9951

**ON BEHALF OF MRO :**

**DEFENDANT:**

**DEFENSE COUNSEL**

\_\_\_\_\_  
*Peter Schnatt*

Name: Peter Schnatt

Title: President

Date: 8/17/20

\_\_\_\_\_  
*Lisa J. Rodriguez*

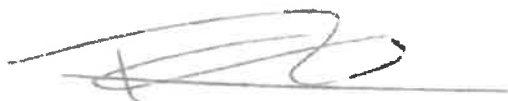
Lisa J. Rodriguez,  
Schnader Harrison Segal & Lewis LLP  
Woodland Falls Corporate Park  
220 Lake Drive East Suite 200  
Cherry Hill NJ 08002  
(856)482-5741

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IN WITNESS WHEREOF, the undersigned have executed this Settlement Agreement effective as of the date each signs the Agreement.

**ON BEHALF OF PLAINTIFF:**

**PLAINTIFF:**

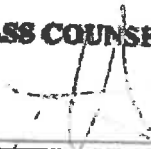


Name: Richard P. Caruso Jr.

Title: President/owner

Date: 8/6/20

**CLASS COUNSEL:**



**DeNITTIS OSEFCHEN PRINCE, P.C.**  
Stephen P. DeNittis, Esq.  
5 Greentree Centre  
525 Route 73 North, Suite 410  
Marlton, New Jersey 08053  
856-797-9951

**ON BEHALF OF MRO :**

**DEFENDANT:**

**DEFENSE COUNSEL**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Lisa J. Rodriguez,**  
Schnader Harrison Segal & Lewis LLP  
Woodland Falls Corporate Park  
220 Lake Drive East Suite 200  
Cherry Hill NJ 08002  
(856)482-5741

# **Exhibit A**

## LEGAL NOTICE BY ORDER OF THE COURT

YOU MAY BE ENTITLED TO A REFUND IF:

YOU ARE A NEW JERSEY ATTORNEY WHO BETWEEN  
JANUARY 1, 2017 AND MARCH 1, 2020 WHO:

- a. Was authorized by their clients to request copies of that client's New Jersey hospital records;
- b. Downloaded copies of such client hospital records electronically via the internet from MRO using the PDF E-Delivery system;
- c. Paid a fee to MRO for such records;
- d. Were not reimbursed for that payment by the client or through a recovery for such costs and will not be entitled to future reimbursement; and
- e. Are not an employee, officer or owner of either MRO or DeNittis Osefchen Prince, P.C.

**WHAT IS THIS NOTICE ABOUT?** A class action lawsuit, captioned Richard P. Console, JR., P.C. v. Medical Records Online Inc., Docket No. CAM-L-2133-18 was filed in the Superior Court of New Jersey, Camden County, on behalf of all New Jersey attorneys who, between January 1, 2017 and March 1, 2020, purchased copies of their clients' electronically-stored and transmitted New Jersey medical records via online portal access from MRO. The complaint alleges that MRO had a uniform policy of charging fees for such medical records stored and transmitted electronically via online portal access which exceeded the limits set forth in N.J.A.C. 8:43G-15.3(d). MRO denies any wrongdoing and denies the claims and allegations asserted by Plaintiff. The parties nevertheless have agreed to settle the lawsuit.

**WHY SHOULD I READ THIS NOTICE?** You may be a member of the class. This is a class action lawsuit that the parties have proposed to settle. If the proposed settlement is approved by the Court, your legal rights may be affected. This notice describes what the lawsuit is about, explains the terms of the proposed settlement, tells you who would be covered and what legal claims would be resolved by the settlement if the Court approves it, and explains how class members can obtain benefits under the settlement.

**AM I COVERED BY THIS CLASS ACTION LAWSUIT AND THE PROPOSED SETTLEMENT?** You will be a member of the class if you are a New Jersey attorney or law

firm who, between January 1, 2017 and March 1, 2020 were authorized by your client to request copies of that client's New Jersey hospital records; downloaded copies of such client hospital records electronically via the internet from MRO using the PDF E-Delivery system; paid a fee to MRO for such records; and were not reimbursed for that payment by the client or through a recovery for such costs; as long as you are not an employee, officer or owner of either MRO or DeNittis Osefchen Prince, P.C.. You can obtain more information about the proposed class and/or settlement by visiting administrator's website at \*\*\*\*

**WHAT ARE THE TERMS OF THE SETTLEMENT?** The proposed settlement provides class members who submit a valid timely claim to receive a refund of all amounts paid in excess of \$10 for each set of New Jersey hospital records relating to your client which you purchased from MRO via the e-delivery portal between January , 2017 and March 1, 2020. All claims are subject to the settlement cap of \$200,000. If the total amount of valid claims exceeds \$200,000, valid claims shall be paid on a pro rata basis.

Class counsel will seek Court approval of a \$3,000 incentive award to the named plaintiff. This incentive award will be paid from the settlement fund. MRO has agreed not to oppose this incentive award request. Class Counsel will also seek an award of attorney's fees and costs in amount of \$175,000. This attorney fee award is subject to Court approval. This attorney fee payment shall not come from the class settlement funds and, instead will be paid separately by MRO. Thus, the attorney's fees will not reduce the recovery of any class member.

The foregoing is a summary of the basic settlement terms. The full settlement is set forth in a Settlement Agreement that can be viewed at "\*\*\*\*."

**WHAT ARE MY RIGHTS?** If you are a member of the class and wish to participate in the settlement, you need to complete and submit a claim form on or before \_\_\_\_\_.

If you are a member of the class and you do NOT want to remain part of the class, you may exclude yourself ("opt-out"). To opt-out, you must mail a written request, postage pre-paid, to class counsel at Stephen DeNittis at DeNittis Osefchen Prince, P.C., Suite 410, 525 Route 73 N., Marlton New Jersey 08057, and Defendant's Counsel, Lisa J. Rodriguez, Schnader Harrison Segal & Lewis LLP, Woodland Falls Corporate Park 220 Lake Drive East Suite 200, Cherry Hill NJ 08002\*\*\*. The request must be post-marked on or before \_\_\_\_\_, and contain: the name of the lawsuit; your full name, current address and phone number; your signature; and a specific statement of your intention to exclude yourself from the Settlement Class and any judgment entered pursuant to the proposed Settlement. If you do not opt-out as instructed above, you will be automatically included and bound by any determination of the Court, whether favorable or not, and any claim of yours will be ended by judgment.

You may also file a motion with the Court for permission to intervene in this lawsuit if you wish. You do not have to intervene. If you do not intervene in this case or exclude yourself from the class, your interests will be represented by class counsel.

You may object to the proposed settlement if you wish. Any objection to the settlement must be sent to the addresses listed above and postmarked no later than \_\_\_\_\_. Any objection should contain the name of this lawsuit; your full name, current address and telephone number; your signature; proof of your membership in the class; and the specific reason(s) for your objection.

On \_\_\_\_\_, at \_\_\_\_\_, the Superior Court of New Jersey, Law Division, Camden County, the Honorable Sherri L. Schweitzer, J.S.C., Camden County Hall of Justice, \*\*\*\*\*, will hold a public hearing to determine whether the proposed settlement is fair, adequate, and reasonable and should be approved. Class members who support the proposed settlement do not need to appear at the hearing or take any other action to indicate their approval. Class members who object to the proposed settlement are not required to attend the settlement hearing. If you want to be heard orally in opposition to the settlement, either personally or through counsel, you must indicate your intention to appear at the hearing in your written objection.

**HOW DO I GET MORE INFORMATION?** Claim forms and further information about the settlement can be obtained by visiting the following website address: \*\*\*\*\*

**PLEASE DO NOT WRITE OR TELEPHONE THE COURT FOR INFORMATION ABOUT THE PROPOSED SETTLEMENT OR THIS LAWSUIT.**

Dated: \_\_\_\_\_, 2020

## **Exhibit B**

## CLAIM FORM

**THE DEADLINE TO SUBMIT THIS CLAIM FORM IS [to be inserted]**

This is the official claim form you must use to make a claim in Richard P. Console, JR., P.C. v. Medical Records Online Inc., Docket No. CAM-L-2133-18, Superior Court of New Jersey, Camden County. Please read this form carefully before filling it out.

In order to qualify for relief under the settlement, you must be a New Jersey attorney or law firm who, between January 1, 2017 to March 1, 2020, downloaded copies of a client's New Jersey hospital records via the internet from MRO using the PDF E-Delivery system, paid a fee to MRO for such records and were not reimbursed, nor entitled to possible future reimbursement for that payment by the client or through a recovery for such costs. A New Jersey attorney or law firm who has paid fees medical records for potential anticipated litigation or ongoing litigation not yet resolved are not entitled to reimbursement. Also not qualified for relief are employees or officers of DeNittis Osefchen Prince, P.C. or MRO.

To be eligible for benefits under the settlement, you must complete the form below and certify under penalty of perjury below that neither you nor your law firm have received reimbursement nor will you be entitled to reimbursement for your payments of the MRO invoices listed below from either your client or through recovery.

If you have any questions please contact class counsel, Stephen P. DeNittis at 856-797-9951 or via email at [sdenittis@denittislaw.com](mailto:sdenittis@denittislaw.com).

**THIS COMPLETED FORM MUST BE POSTMARKED,**  
**NO LATER THAN \_\_\_\_\_.**

### **INFORMATION REGARDING THE LAW FIRM SUBMITTING CLAIM:**

**Name and Title of Person Completing Claim Form:**

**Name of Law Firm:**

**Address:**

**Phone Number:**

**Email:**



**RECORDS PURCHASED FROM MRO VIA E-DELIVERY PORTAL:**

**NOTE: IF you have signed up for the MRO e-delivery portal, you may access copies of the following records via the portal.**

1. For each MRO invoice that you or your firm paid for New Jersey hospital records relating to a client between January 1, 2017 and March 1, 2020 which were downloaded via the e-delivery portal, list the clients to whom those records related:
  
  
  
  
  
  
  
  
  
  
2. For each such invoice, list the amount you or your law firm paid to MRO for the records in question:
  
  
  
  
  
  
  
  
  
  
3. For each such invoice, state the status of any litigation for which the medical records were requested, including whether or not you or your law firm have been reimbursed for that invoice by either your client or through a recovery:

**I DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE NEITHER I NOR MY FIRM HAS BEEN REIMBURSED FOR THE INVOICES LISTED ABOVE**

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Please send the completed claim form to:

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