

## NOTICE OF CLASS ACTION SETTLEMENT

United States District Court for the Middle District of Pennsylvania

*In re: Cleveland Brothers Data Incident Litigation*

Case No. 1:23-cv-00501

**To:** All individuals within the United States of America whose personally identifiable information (PII) was exposed to unauthorized third parties as a result of the data breach discovered on November 3, 2022.

A proposed settlement has been reached in the class action lawsuit titled, *In re: Cleveland Brothers Data Incident Litigation*, No. 1:23-cv-00501 (the “Lawsuit”). The Lawsuit asserts claims against Defendant Cleveland Brothers Equipment Company, Inc (“Defendant” or “Cleveland Brothers”) related to a data breach discovered on November 3, 2022, about which Defendant notified potentially impacted individuals on or about February 17, 2023 (the “Data Breach”). Defendant denies all claims asserted in the Lawsuit and denies that it did anything wrong.

The Settlement offers payments to members of the Settlement Class. Certain of the amounts paid will depend upon how many people submit valid claims but initially are set at the following amounts:

- (1) Documented Out-of-Pocket Losses and Attested Time: reimbursement of up to five thousand dollars (**\$5000**) for any documented out-of-pocket losses, including attested time spent remediating issues related to the Data Breach at a rate of thirty-five dollars (**\$35 per hour, for up to six (6) hours**); or
- (2) Alternative Cash Payment: in the alternative to payments for Documented Out-of-Pocket Losses and Attested Time, the Settlement provides for a pro rata cash payment estimated to be two hundred dollars (**\$200**).

If you are a Settlement Class Member, your options are:

<b>SUBMIT A CLAIM FORM DEADLINE: JULY 23, 2024</b>	You must submit a valid claim form to receive a payment from this Settlement.
<b>DO NOTHING</b>	You will receive no payment and will no longer be able to sue Defendant over the claims resolved in the Settlement.
<b>EXCLUDE YOURSELF DEADLINE: JUNE 24, 2024</b>	You may exclude yourself from this Settlement and keep your right to sue separately. If you exclude yourself, you will receive no payment. Exclusion instructions are provided in this Notice.
<b>OBJECT DEADLINE: JUNE 24, 2024</b>	If you do not exclude yourself, you may write to the Court to comment on or detail why you do not like the Settlement by following the instructions in this Notice. The Court may reject your objection. You must still file a claim if you desire any monetary relief under the Settlement.

The Court must give final approval to the Settlement before it takes effect, but has not yet done so. No payments will be made until after the Court gives final approval and any appeals are resolved.

**Please review this Notice carefully.** You can learn more about the Settlement by visiting [www.ClevelandBrothersDataSettlement.com](http://www.ClevelandBrothersDataSettlement.com) or by calling 1-844-709-0193.

### **Further Information about this Notice and the Lawsuit**

1. *Why was this Notice issued?*

Settlement Class Members are eligible to receive payment from a proposed Settlement in the Lawsuit. The Court overseeing the Lawsuit authorized this Notice to advise Settlement Class Members about the proposed Settlement that will affect their legal rights. This Notice explains certain legal rights and options Settlement Class Members have in connection with the Settlement.

2. *What is the Lawsuit about?*

The Lawsuit is a proposed class action lawsuit brought on behalf of the Nationwide Class of all individuals within the United States of America whose PII was exposed to unauthorized third parties as a result of the Data Breach discovered on November 3, 2022.

The Lawsuit claims Defendant is legally responsible for the Data Breach and asserts various legal claims including negligence, breach of implied contract, and unjust enrichment. Defendant denies these claims and denies that it did anything wrong.

3. *Why is the Lawsuit a class action?*

In a class action, one or more representative plaintiffs bring a lawsuit on behalf of others who have similar claims. Together, all these people are the “Class” and each individual is a “Class Member.” There are three Representative Plaintiffs in this case: Randy Thomas, Gabrielle Thomas, and Robert MacMichael. The Class in this case are referred to in this Notice as the “Settlement Class.”

4. *Why is there a Settlement?*

The Representative Plaintiffs in the Lawsuit, through their attorneys, investigated the facts and law relating to the issues in the Lawsuit. The Representative Plaintiffs and Class Counsel believe that the Settlement is fair, reasonable, and adequate and will provide substantial benefits to the Settlement Class. The Court has not decided whether Representative Plaintiffs’ claims or Defendant’s defenses have any merit, and it will not do so if the proposed Settlement is approved. By agreeing to settle, both sides avoid the cost and risk of a trial, and people who submit valid claims will receive compensation. The Settlement does not mean that Defendant did anything wrong, or that the Representative Plaintiffs and the Settlement Class would or would not win the case if it were to go to trial.

### **Terms of the Proposed Settlement**

5. *Who is in the Settlement Class?*

The Settlement Class is defined by the Court as “all individuals within the United States of America whose PII information was exposed to unauthorized third parties as a result of the data breach discovered on November 3, 2022.”

Excluded from the Settlement Class are: (i) the Judge presiding over the Lawsuit, any members of the Judge’s staff, and immediate members of the Judge’s respective family, (ii) officers, directors, members and shareholders of Defendant, (iii) persons who timely and validly request exclusion from and/or opt-out of the Settlement Class(es), (iv) the successors and assigns of any such excluded persons, and (v) any 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 Data Breach or who pleads *nolo contendere* to any such charge.

6. *What are the terms of the Settlement?*

The proposed Settlement would create a non-reversionary Settlement Fund of four hundred and fifty thousand dollars (\$450,000) that would be used to pay all costs of the Settlement, including: (i) payments to Settlement Class Members who submit valid claims, (ii) costs of administration and notice, (iii) any attorneys’ fees and costs awarded by the Court to Class Counsel (not to exceed one third of the total Settlement Fund, or one hundred and fifty thousand dollars (\$150,000) in attorneys’ fees, plus litigation costs and expenses), and (iv) any service awards to the Representative Plaintiffs awarded by the Court (not exceed an amount of two thousand five hundred dollars (\$2,500) to each Class Representative). The Settlement also releases all claims or potential claims of Settlement Class Members against Defendant arising from or related to the Data Breach, as detailed in the Class Settlement Agreement and Release.

7. *What claims are Settlement Class Members giving up under the Settlement?*

Settlement Class Members who do not validly exclude themselves from the Settlement will be bound by the Class Settlement Agreement and Release and any final judgment entered by the Court and will give up their right to sue Defendant for the claims being resolved by the Settlement, including all claims or potential claims of Settlement Class Members against Defendant arising from or related to the Data Breach. The claims that Settlement Class Members are releasing are described in the Class Settlement Agreement and Release.

**Payments to Settlement Class Members**

8. *What kind of payments can Settlement Class Members receive?*

Settlement Class Members who submit valid claims and any required documentation may receive one or more of the following, to be paid from the Settlement Fund: (i) Documented Out-of-Pocket Losses and Attested Time: reimbursement of up to five hundred dollars (\$5000) for any documented out-of-pocket losses, including attested time spent remedying issues related to the Data Breach at a rate of thirty-five dollars (\$35) per hour, for up to six (6) hours, or (ii) a pro rata Cash Payment estimated to be two hundred dollars (\$200) in the alternative to awards for Documented Out-of-Pocket Losses and Attested Time.

Depending on how many valid claims are submitted, the amounts of the Alternative Cash Payment will be adjusted upward or downward proportionally among Settlement Class Members submitting valid claims for those awards, as explained further below in Question 11.

9. *What are Documented Out-of-Pocket Losses and Attested Time?*

Documented Out-of-Pocket Losses, including Attested Time: Settlement Class Members who, at any time from November 3, 2022 and July 23, 2024, suffered from unreimbursed costs or expenditures as result of the Data Breach Incident or spent time remedying the issues related to the Data Breach, are eligible to receive up to \$5000 as reimbursement for those charges and expenses. All Settlement Class Members may submit a claim for Documented Out-of-Pocket Losses and Attested Time up to five hundred dollars (\$5000) per individual. Examples of Documented Out-of-Pocket Losses and Attested Time may include:

Unreimbursed costs, expenses or charges incurred addressing or remedying identity theft, fraud, or misuse of personal information and/or other issues reasonably traceable to the Data Breach. This can include Attested Time for up to six (6) hours, at thirty five dollars (\$35) per hour, for time spent addressing or remedying issues related to the Data Breach, including time spent monitoring credit, resolving disputes for unauthorized transactions, freezing or unfreezing your credit, remedying a falsified tax return, etc.

To make a valid claim for Documented Out-of-Pocket Losses, you must provide documentation of these unreimbursed losses.

You do not need to provide documentation for time spent remedying issues related to the Data Breach, but you must attest under oath that you actually spent this time.

10. *What is the Pro Rata Alternative Cash Payment?*

In the alternative, every Settlement Class Member is eligible to receive a cash payment estimated to be two hundred dollars (\$200) Alternative Cash Payment, regardless of whether he or she experienced any unauthorized charges or identifiable losses related to the Data Breach. Settlement Class Members seeking a pro rata Alternative Cash Payment must provide the information required on the claim form. The two hundred dollar (\$200) Alternative Cash Payment is subject to upward or downward adjustment as described below in Question 11.

Eligibility for any award and the validity of your claim, including the Alternative Cash Payment, will be determined by the Settlement Administrator as outlined in Question 15.

11. *When and how will the amount of Settlement payments be adjusted?*

The amounts paid for all Alternative Cash Payments will be adjusted upward or downward from the amounts listed in Question 10 depending on how many Settlement Class Members submit valid claims.

If the total dollar value of all valid claims is less than the amount of money available in the Settlement Fund for payment of those claims, the amounts for Alternative Cash Payments will be

adjusted upward proportionally among all valid claims for those awards, until the amounts remaining in the Settlement Fund are exhausted (or as nearly as possible).

If the total dollar value of all valid claims is more than the amount of money available in the Settlement Fund for payment of those claims, the amount of the payments for Alternative Cash Payments will be adjusted downward proportionally among all Settlement Class Members who submitted valid claims for Alternative Cash Payments.

12. *What happens after all claims are processed and there are funds remaining?*

If there are any funds remaining after all valid claims are processed and the time to cash any payment checks has passed, those funds shall be distributed as directed by the Court, including potential distribution to a charitable organization. No remaining funds will be returned to Defendant.

### **Your Options as a Settlement Class Member**

13. *If I am a Settlement Class Member, what options do I have?*

If you are a Settlement Class Member, you do not have to do anything to remain in the Settlement. In order to receive payment from the Settlement you must submit a valid Claim Form.

If you do not want to give up your right to sue Defendant about the Data Breach or the issues raised in this case, you must exclude yourself (or “opt out”) from the Settlement Class. See Question 16 below for instructions on how to exclude yourself.

If you wish to object to the Settlement, you must remain a Settlement Class Member (*i.e.*, you may not also exclude yourself from the Settlement Class by opting out) and submit a written objection. See Question 19 below for instructions on how to submit an objection.

14. *What happens if I do nothing?*

If you do nothing, you will get no award from this Settlement. Unless you exclude yourself, after the Settlement is granted final approval and the judgment becomes final, you will be bound by the judgment and you will never be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendant related to the claims released by the Settlement.

15. *Who decides my Settlement claim and how do they do it?*

The Settlement Administrator will decide whether a claim form is complete and valid and includes all required documentation. The Settlement Administrator may require additional information from any claimant. Failure to timely provide all required information will invalidate a claim and it will not be paid.

16. *How do I exclude myself from the Settlement?*

To opt out of the Settlement you must make a signed, written request that includes (i) the name of the proceeding, (ii) your full name, current address and personal signature, and (iii) the words “Request for Exclusion” or a comparable unequivocal statement that you do not wish to participate in the Settlement. You must mail your request to this address:

**Cleveland Brothers Data Incident Settlement Administrator**  
**P.O. Box 4285**  
**Baton Rouge, LA 70821**

Your request must be submitted online or postmarked by **June 24, 2024**.

17. *If I exclude myself, can I receive any payment from this Settlement?*

No. If you exclude yourself, you will not be entitled to any award under the Settlement. However, you will also not be bound by any judgment in this Lawsuit.

18. *If I do not exclude myself, can I sue Defendant for the Data Breach later?*

No. Unless you exclude yourself, you give up any right to sue Defendant for the claims that this Settlement resolves. You must exclude yourself from the Settlement Class to start your own lawsuit or to be part of any different lawsuit relating to the claims in this case. If you exclude yourself, do not submit a claim form requesting a payment.

19. *How do I object to the Settlement?*

All Settlement Class Members who do not opt-out from the Settlement Class have the right to object to the Settlement or any part of it. You can ask the Court to deny approval by filing an objection. You can’t ask the Court to order a different Settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no Settlement payments will be sent out and the Lawsuit will continue. If that is what you want to happen, you must object.

Any objection to the proposed Settlement must be in writing and it and any supporting papers must be mailed to this address:

**Cleveland Brothers Data Incident Settlement Administrator**  
**P.O. Box 4285**  
**Baton Rouge, LA 70821**

Your objection must be filed or postmarked no later than the objection deadline, **June 24, 2024**. Class Counsel will then file your objection with the Court.

To be considered by the Court, your objection must list the name of the Lawsuit pending in the United States District Court for the Middle District of Pennsylvania: *In re: Cleveland Brothers Data Incident Litigation*, Case No. 1:23-cv-00501, and include all of the following information:

(i) your full name, address, telephone number, and email address (if any), (ii) information identifying you as a Settlement Class Member, including proof that you are a member of the Settlement Class (such as the Notice you received from Cleveland Brothers or the Notice of this Settlement), (iii) a statement as to whether your objection applies only to yourself, to a specific subset of the Settlement Class, or to the entire Class, (iv) a clear and detailed written statement of the specific legal and factual bases for each and every objection, accompanied by any legal support for the objection you believe is applicable, (v) the identity of any counsel representing you, (vi) a statement of whether you intend to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying that counsel, (vii) a list of all persons who will be called to testify at the Final Approval Hearing in support of your objections and any documents to be presented or considered, and (viii) your signature and the signature of your duly authorized attorney or other duly authorized representative (if any).

If you submit a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

### **Court Approval of the Settlement**

20. *How, when, and where will the Court decide whether to approve the Settlement?*

The Court will hold a Final Approval Hearing to decide whether to approve the Settlement. That hearing is scheduled for **August 27, 2024, at 9:30 a.m.** at the United States District Court for the Middle District of Pennsylvania, Sylvia H. Rambo United States Courthouse, 1501 North 6th Street, Harrisburg, PA 17102. Please visit the Court's website at <https://www.pamd.uscourts.gov/> for current information regarding courthouse access and court hearings. At the Final Approval Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are timely objections, the Court will consider them and will listen to people who have properly requested to speak at the hearing. The Court may also consider Settlement Class Counsel's request for attorneys' fees and costs, and the request for a service award for the Representative Plaintiffs. After the hearing, the Court will decide whether to approve the Settlement.

It is possible the Court could reschedule the hearing to a different date or time without notice, so it is a good idea before the hearing to check [www.ClevelandBrothersDataSettlement.com](http://www.ClevelandBrothersDataSettlement.com) or access the Court docket in this case, for a fee, through the Court's Public Access System at <https://ecf.pamd.uscourts.gov> to confirm the schedule if you wish to attend.

21. *Do I have to attend the hearing?*

No. You do not need to attend the hearing unless you object to the settlement and wish to appear in person. It is not necessary to appear in person in order to make an objection; the Court will consider any written objections properly submitted according to the instructions in Question 19. You or your own lawyer are welcome to attend the hearing at your expense, but are not required to do so.

22. *What happens if the Court approves the Settlement?*

If the Court approves the settlement and no appeal is taken, the Settlement Fund will be fully funded. The Settlement Administrator will pay any attorney fees' and costs award and any Representative Plaintiffs' service awards from the Settlement Fund. Then, the Settlement Administrator will send settlement payments to Settlement Class Members who submitted timely and valid Settlement Claims.

If any appeal is taken, it is possible the settlement could be disapproved on appeal.

23. *What happens if the Court does not approve the Settlement?*

If the Court does not approve the Settlement, there will be no Settlement payments to Settlement Class Members, Settlement Class Counsel or the Representative Plaintiffs, and the case will proceed as if no Settlement had been attempted.

**Lawyers for the Settlement Class and Defendant**

24. *Who represents the Settlement Class?*

The Court has appointed the following Class Counsel to represent the Settlement Class in this Lawsuit:

<b>Settlement Class Counsel</b>	
<p>Laura Grace Van Note, Esq <b>COLE &amp; VAN NOTE</b> 555 12th Street Suite 2100 Oakland, CA 94607</p>	<p>David K, Lietz, Esq. <b>MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN</b> 5335 Wisconsin Avenue NW, Suite 440 Washington, DC 20015</p>

Settlement Class Members will not be charged for the services of Settlement Class Counsel. Settlement Class Counsel will be paid out of the Settlement Fund, subject to Court approval. However, you may hire your own attorney at your own cost to advise you in this matter or represent you in making an objection or appearing at the Final Approval Hearing.

25. *How will the lawyers for the Settlement Class be paid?*

Settlement Class Counsel will request the Court's approval of an award for attorneys' fees up to one-third of the Settlement Fund, or one hundred fifty thousand dollars (\$150,000), plus reasonable costs and expenses. Settlement Class Counsel will also request approval of a service award of two



thousand five hundred dollars (\$2,500) for the Representative Plaintiffs, which shall also be paid from the Settlement Fund.

26. *Who represents Defendant in the Lawsuit?*

Defendant is represented by the following counsel:

<b>Defendant's Counsel</b>
<p>Jill H. Fertel, Esq. Ernest F. Koschineg, Esq. <b>CIPRIANI &amp; WERNER</b> 450 Sentry Parkway, Suite 200 Blue Bell, PA 19422</p>

**For Further Information**

27. *What if I want further information or have questions?*

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Class Settlement Agreement and Release available at **www.ClevelandBrothersDataSettlement.com**, by contacting Settlement Class Counsel at the phone number provided in response to Question 19 above, by accessing the Court docket in this case, for a fee, through the Court's Public Access system at <https://ecf.pamd.uscourts.gov> or by visiting The Office of the Clerk, Sylvia H. Rambo United States Courthouse, 1501 North 6th Street Harrisburg, PA 17102, between 8:30 a.m. and 5:00 p.m., Monday through Friday, excluding Court holidays.

Postlethwaite & Netterville will act as the Settlement Administrator for the Settlement. You can contact the Settlement Administrator at 1-844-709-0193, at [info@ClevelandBrothersDataSettlement.com](mailto:info@ClevelandBrothersDataSettlement.com), or by writing to Cleveland Brothers Data Security Incident Settlement Administrator, P.O. Box 4285, Baton Rouge, LA 70821.

**Please do not contact the Court or Defendant's Counsel.**