

COURT-APPROVED LEGAL NOTICE

John Doe and Jane Doe, et al. v. Partners Healthcare System, Inc., et al.,
Suffolk Superior Court, C.A. No. 1984CV01651-BLS1

Notice of Class Action Settlement

You are not being sued. This notice affects your rights. Please read it carefully.
The Suffolk Superior Court in the Commonwealth of Massachusetts has authorized this notice.
This is not a solicitation. This is not a data breach notification.

On September 24, 2021, the Honorable Brian A. Davis of the Suffolk Superior Court Business Litigation Session, in the Commonwealth of Massachusetts, granted preliminary approval of this class action settlement and directed the litigants to provide this notice about the settlement. You have received this notice because records indicate that you may be a Settlement Class Member, and you may be eligible to receive a payment from the Settlement. Please visit www.MAcookiesettlement.com for more information. The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at 2:00 pm on January 18, 2022 in the Suffolk County Courthouse, Courtroom 1309, located at 3 Pemberton Square, Boston, MA 02108. You are not required to attend the Final Approval Hearing, but you are welcome to do so at your own expense.

Summary of Litigation

What This Case Is About: Mass General Brigham Incorporated and their owned-and-operated healthcare providers, as well as Dana-Farber Cancer Institute, Inc. (collectively, the "Defendants" as further defined herein), operate publicly accessible informational websites (such as www.massgeneralbrigham.org (previously www.partners.org), www.massgeneral.org, www.brighamandwomens.org, and www.dana-farber.org) (the "Informational Websites" as defined herein), which are available to the general public and do not require any login, username, or password to access. The Informational Websites do not require any type of registration or account creation and do not require any website visitor to provide proof of identity or to otherwise self-identify. The Informational Websites provide general information about the programs and offerings at the Defendants, and use third-party website analytics tools, cookies, pixels, and related technologies.

Plaintiffs John Doe and Jane Doe (the "Doe Plaintiffs") filed this lawsuit asserting various legal claims on behalf of a putative class of website users who were also patients. Plaintiffs allege that the Defendants did not obtain sufficient consent when placing third party analytics tools, cookies, and pixels on their general and publicly accessible websites, including, for example, massgeneralbrigham.org, massgeneral.org, brighamandwomens.org, and dana-farber.org. Plaintiffs further allege that when using the Informational Websites, code on the Informational Websites caused the Plaintiffs' internet browsers to disclose information about Plaintiffs' internet use to third-parties through these analytics tools, cookies, pixels, and related technologies. The Doe Plaintiffs also filed a motion for preliminary injunction seeking to enjoin the Defendants from using the third-party website analytics tools, cookies, pixels, and related technologies on the

general and publicly accessible Informational Websites. On November 20, 2020, the Suffolk Superior Court denied Plaintiffs' motion for preliminary injunction, after Defendants had revised the cookie banners and privacy disclosures on the Informational Websites, and granted in part, and denied in part, Defendants' motion to dismiss the case.

The Defendants deny the Doe Plaintiffs' allegations, deny any wrongdoing and any liability whatsoever, and believe that no Settlement Class Members, including the Doe Plaintiffs, have sustained any damages or injuries due to the use of third-party website analytics tools, cookies, pixels, and related technologies on the general and publicly accessible Informational Websites. The Defendants maintain that they were prepared to defend vigorously this lawsuit. The settlement is not an admission of wrongdoing or an indication that the Defendants have violated any laws.

What This Case Is NOT About: This case does not involve your medical records and information, or other "Protected Health Information," maintained or disclosed inside any patient portal used by Defendants, including the Patient Gateway, (patientgateway.massgeneralbrigham.org). This case also does not involve any identity fraud, security breach, unauthorized use of Social Security or driver's license numbers, or any donor or financial information.

Summary of Settlement Terms

Settlement Fund: Under the Settlement, the Defendants will pay \$18.4 million which will be used to fund: (1) payments to Settlement Class Members; (2) attorneys' fees not to exceed 33% of the Settlement Fund and costs and expenses; (3) two Service Awards to the Representative Plaintiffs in an amount not to exceed \$3,500 each for their services on behalf of the Settlement Class and for a general release of all claims the Settlement Class may have against the Defendants; (4) administration fees and costs; and, if necessary, (5) *cy pres* distribution of any residual funds. No portion of the Settlement Fund can be returned to the Defendants.

Amount of Payments: Settlement Class Members who submit a valid Claim will receive a proportional share of the Net Settlement Fund up to a cash payment of \$100 depending on the number of claimants. Each Settlement Class Member can submit only one claim. Any funds remaining in the Net Settlement Fund after distribution(s) to Settlement Class Members will be distributed to the Massachusetts Interest on Lawyers' Trust Accounts (IOLTA) program, the designated *cy pres* recipient approved by the Court, which seeks to increase access to justice for all residents of the Commonwealth by funding and supporting programs that provide legal services for low and moderate income residents and initiatives that improve the administration of justice.

Method of Payment: The payments above for Settlement Class Members who submit a valid Claim will be made by check or electronic payment (Paypal/Venmo or Digital Check).

Your Options Under the Settlement

Option 1 - Submit a Claim Form Online to Be Eligible for a Cash Payment

If you submit a valid claim form online by **December 15, 2021**, you may receive a payment. You will also give up your rights to sue the Defendants and/or any other released entities regarding the legal claims in this case.

Option 2 - File an Objection with the Court

Write to the Settlement Administrator about why you do not like the Settlement. The deadline for objecting is **December 30, 2021**. These objections will be shared with the Court. The Court will consider your objection, and will either continue to approve the settlement, deny approval of the settlement, or conditionally approve the settlement subject to certain changes. Note, if you object to the Settlement and the Court nevertheless approves the settlement, you will still be bound by the Settlement's terms and will not be allowed to exclude yourself from the Settlement; you will lose the right to sue the Defendants and/or any other released entities regarding the legal claims in this case.

Massachusetts rules do not provide for the opportunity to opt out of the Settlement, and therefore you do not retain the ability to sue the Defendants and/or other released parties on your own regarding the legal claims in this case.

Option 3 - Do Nothing

If you do nothing, you will not receive any payment. You will be bound by the Settlement's terms and will lose the right to sue the Defendants and/or any other released entities regarding the legal claims in this case.

Additional Information

Is this a ransomware attack or data breach?

No, this case is not about a ransomware attack or data breach. The Doe Plaintiffs did not allege a data breach, ransomware attack, or disclosure of medical records or other "Protected Health Information" stored, maintained, or transmitted inside patient portals or on patient portal log-in or log-out pages hosted at the patient portal in separate locations from the Informational Websites.

This case also does **not** involve any identify fraud, security breach, or the loss, theft, or misuse of names combined with any Social Security number, driver's license number, donor, or financial information.

Who is the Settlement Administrator and what do they do?

The Settlement Administrator is a company (here, Angeion) chosen by the parties and approved by the Court, to send notices, host the settlement website, process claims, answer questions about the settlement, and otherwise administer the settlement for the Settlement Class Members, in accordance with the settlement agreement approved by the Court.

Why is this notice being provided?

This class notice is provided pursuant to an order issued by the Suffolk Superior Court to inform you of the proposed Settlement and the Final Approval Hearing to be held by the Court to consider, among other things, (a) whether the Settlement is fair, reasonable and adequate and should be approved; and (b) Class Counsel's request for Class Counsel fees and expenses and the Representative Plaintiffs' request for a Service Award.

This class notice explains the nature of the lawsuit, the general terms of the proposed Settlement (including the benefits available), and your legal rights and obligations. This class notice is not an expression of any opinion by the Court as to the merits of the claims or defenses asserted in the case.

Why is this a class action?

In a class action, one or more people called class representatives sue on behalf of all people who have similar claims. Together all of these people are called a Class or Settlement Class Members. One court resolves the issues for all Settlement Class Members.

Why is there a Settlement?

The Court has not decided in favor of Plaintiffs or Defendants. Instead, both sides agreed to a settlement. Settlements avoid the costs and uncertainty of a trial and related appeals, while more quickly providing benefits to members of the Settlement Class.

How do I know if I am part of the Settlement Class?

The Settlement Class is defined as: "All Persons who, within the Class Period, were Patients of the Defendants and visited the Informational Websites and are either (a) a resident of Massachusetts, and/or (b) received medical care in Massachusetts at any of the Defendants. Excluded from the Settlement Class are (a) officers, directors, trustees, and employees of the Defendants; (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."

A Person is a living natural person who is not an employee of any of the Defendants and who is resident in the United States. The Class Period is between May 23, 2016, and July 31, 2021. A Patient is defined as any Person who obtained medical care at any of the Defendant health-care providers during the Class Period.

Defendant health-care providers includes the following entities:

- Brigham and Women's Faulkner Hospital, Inc.
- Brigham and Women's Hospital, Inc.
- Brigham and Women's Physicians Organization, Inc.
- Massachusetts Eye and Ear Infirmary
- Massachusetts General Physicians Organization, Inc.
- The McLean Hospital Corporation
- Middlesex Cardiology
- Mystic Healthcare

- Cooley Dickinson Healthcare Corporation
- Cooley Dickinson Hospital, Inc.
- Dana-Farber Cancer Institute, Inc.
- Dana-Farber Cancer Care Network, Inc.
- The General Hospital Corporation, D/B/A Massachusetts General Hospital
- Harbor Medical Associates, Inc.
- Lincoln Physicians
- Martha's Vineyard Hospital, Inc.
- Mass General Brigham Community Physicians, Inc.
- Mass General Brigham Home Care, Inc.
- Mass General Brigham Incorporated (including, without limitation, those entities listed herein, and any entity owned, managed and/or controlled, directly or indirectly, by Mass General Brigham Incorporated or any Mass General Brigham affiliate)
- Mass General Brigham Specialty Pharmacy, Inc.
- Mass General Brigham Urgent Care, LLC
- Massachusetts Eye and Ear Associates, Inc.
- Nantucket Cottage Hospital
- Nantucket Physician Organization, Inc.
- Newton-Wellesley Hospital
- Newton-Wellesley Medical Group, Inc.
- North Shore Medical Center, Inc., D/B/A Salem Hospital
- North Shore Physicians Group, Inc.
- Pentucket Medical
- Spaulding Hospital Cambridge, Inc.
- Spaulding Nursing and Therapy Center Brighton, Inc.
- The Spaulding Rehabilitation Hospital Corporation
- Rehabilitation Hospital of the Cape and Island Corporation
- Spaulding Rehabilitation, Inc.
- Wentworth-Douglass Hospital
- Wentworth-Douglass Physician Corporation
- Westford Internal Medicine
- Windemere Nursing and Rehabilitation Center

Informational Websites are defined as websites on the domains and subdomains owned or operated by the Defendants (including, without limitation, massgeneralbrigham.org (previously partners.org), massgeneral.org, brighamandwomens.org, and dana-farber.org), which are available to the general public and do not require any login, username, or password to access. The Informational Websites do not require any type of registration or account creation and do not require any website visitor to provide proof of identity or to otherwise self-identify.

What are the terms of the Settlement?

Under the Settlement, the Defendants have agreed to create a Settlement Fund of \$18.4 million. This Settlement Fund will provide compensation to Settlement Class Members, pay for notice and administration costs, provide for any approved Service Awards to the Representative Plaintiffs who filed the case, and compensate the attorneys for any approved fees, costs, and expenses. If the Settlement is finally approved, Settlement Class Members will be prevented from bringing any further claims against the Defendants and/or other released parties for any conduct relating to the use of third-party website analytics tools, cookies, pixels, and related technologies.

Frequently Asked Questions

How will the Settlement Fund be distributed?

The lawyers for the Settlement Class ("Class Counsel") will ask the Court to approve the following payments from the Settlement Fund:

- The costs of providing notice and administration of the Settlement;
- Service Awards to each of the Representative Plaintiffs, not to exceed \$3,500 each, as compensation for their active participation in the case on behalf of the Settlement Class;
- Class Counsel's compensation for the time and effort incurred litigating the case, which will not exceed 33% of the Settlement Fund, and costs and expenses they incurred;
- Payments to Settlement Class Members who file timely and valid claim forms according to the plan of allocation outlined below; and
- Any residual funds remaining after the payments listed above will be distributed to the Massachusetts Interest on Lawyers' Trust Accounts ("IOLTA") program, the designated *cy pres* recipient approved by the Court.

More information regarding the Settlement, including the Settlement Agreement, can be found at the settlement website, www.MAcookiesettlement.com.

How can I get a Settlement Payment?

If you are a Settlement Class Member and would like to receive a settlement payment, you must submit a claim form no later than **December 15, 2021**. You must complete the claim form online at www.MAcookiesettlement.com.

If you do not complete and submit a claim form online, you will not receive a payment. Note that for each valid Claim, the payment method will be the Electronic Payment method specified on the claimant's claim form.

How much will I receive from the Settlement?

The plan of allocation provides for settlement payments to claimants as follows: The Net Settlement Fund shall be allocated to claimants on a proportional basis up to a maximum distribution of \$100 per claimant. If there are insufficient funds to pay claimants \$100 based on the number of claimants, the payment to each claimant will be reduced proportionally. For clarity, the maximum settlement payment to be made to any single claimant shall not exceed \$100.

When will I be paid under the Settlement?

If you file a timely and valid claim form and submit required information, the Settlement Administrator will evaluate your claim to confirm your eligibility and your payment amount. The Settlement Administrator will notify you of any deficiencies with respect to your claim, and you will have 21 days after such notice is sent to correct these deficiencies. The Settlement Administrator will then issue a final decision on your claim.

Payments for valid claims will not be made until after the Settlement is finally approved and all appeals and other reviews have been exhausted.

Do I have a lawyer in this case?

Yes. The Court has appointed Class Counsel to represent you and other Settlement Class Members. In this case, Class Counsel are Jason “Jay” Barnes and Eric Johnson of the law firm Simmons Hanly Conroy LLC, J. Michael Conley of the law firm Kenney & Conley P.C., Jeffrey A. Koncius and Nicole Ramirez of the law firm Kiesel Law LLP, Stephen M. Gorny and Christopher D. Dandurand of the law firm The Gorny Law Firm P.C., and Amy Gunn and Elizabeth Lenivy of The Simon Law Firm, P.C. If you want to be represented by another lawyer, you may hire one at your own expense.

How will the lawyers be paid?

The attorneys representing the Settlement Class have not yet received any payment for their legal services or any reimbursement of the costs or out-of-pocket expenses they have incurred. Class Counsel plans to ask the Court to award attorneys’ fees from the Settlement Fund not to exceed 33% of the Settlement Fund, and reimbursement of costs and expenses.

How do I object to the Settlement?

If you are a Settlement Class Member, you may object to any aspect of the Settlement if you do not think it is fair, reasonable, or adequate. The Court cannot order a larger settlement or award you more based on your individual circumstances; the Court can only approve or deny the Settlement as it is presented. Your completed objection must be submitted no later than **December 30, 2021**, online at www.MAcookiesettlement.com, or via postal mail to the following address:

MA Cookie Settlement, 1650 Arch Street, Suite 2210, Philadelphia, PA, 19103.

Any objection should be in writing and:

- (a) Clearly identify the case name and number, *John Doe and Jane Doe, et al. v. Partners Healthcare System, Inc., et al.*, Suffolk Superior Court, C.A. No. 1984CV01651-BLS1;
- (b) Include the full name, address, telephone number, and email address of the person objecting;
- (c) Include 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 Class, or to the entire Class, and also state with specificity the grounds for the objection;
- (e) Be verified by an accompanying declaration submitted under penalty of perjury or a sworn affidavit;
- (f) Be accompanied by any legal support for the objection the objector believes applicable;
- (g) Identify all counsel representing the objector who will appear at the Final Approval Hearing, if any;
- (h) Identify a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection, if any;
- (i) Confirm whether the objector intends to appear in person or via Zoom (Meeting ID: 161 7623 4752) and/or testify at the Final Approval Hearing; and

- (j) Provide the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative, if any.

Settlement Class Members who fail to submit timely written objections in the manner specified above will waive their right to object to any aspect of the Settlement.

Do I need to attend the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have. However, any Settlement Class Member who timely submits an objection has the option to appear and request to be heard at the Final Approval Hearing, either in person or through their counsel. If you choose to make an objection through an attorney or have an attorney appear at the Final Approval Hearing on your behalf, you will be solely responsible for paying that attorney's fees.

What happens if I do nothing at all?

If you are a Settlement Class Member and you do nothing, you will not receive any Settlement benefits. You will give up rights to sue the Defendants and/or other released parties, about the legal issues in this case that are released by the Settlement Agreement.

What happens if my contact information changes after I submit a claim?

If you change your mailing address or email address after you submit a claim form, it is your responsibility to inform the Settlement Administrator of your updated information. You may notify the Settlement Administrator of any changes by calling 866-516-2966 or by writing to:

MA Cookie Settlement, 1650 Arch Street, Suite 2210, Philadelphia, PA, 19103.

How can I get more information?

This Notice summarizes the Settlement. It does not describe all of its details. For the precise terms and conditions of the Settlement, please see the Settlement Agreement and related documents. Additional information about the Settlement, including a copy of the Settlement Agreement, may be obtained by:

- Visiting the settlement website at www.MAcookiesettlement.com;
- Contacting the Settlement Administrator toll-free by phone at 866-516-2966 or by email at Info@MAcookiesettlement.com;
- Accessing the Court docket in this case through the Court's electronic records systems system at www.masscourts.org;
- Visiting the office of the Civil Clerk of the Court for the Suffolk County Superior Court for the Commonwealth of Massachusetts, 3 Pemberton Square, Boston, MA 02108, between 8:30 am and 4:30 pm, Monday through Friday, excluding Court holidays; or
- Contact Lead Counsel for the Class, Jason "Jay" Barnes of Simmons Hanly Conroy, by phone at 800-479-9533; by mail at One Court Street, Alton, IL 62002; or by email at MAcookiesettlement@simmonsfirm.com.

Please do not telephone the Court or the Civil Court Clerk's Office to inquire about the Settlement.