

If you were notified of a Data Incident involving Tennessee Orthopaedic Clinics in March 2023, you may be entitled to benefits from a settlement.

A federal court has authorized this Notice. This is not a solicitation from a lawyer.

- A settlement has been reached in a class action lawsuit against TOC Enterprises Inc. d/b/a Tennessee Orthopaedic Clinics, a division of Tennessee Orthopaedic Alliance, P.A. (“Defendant”) arising out of a data security incident Defendant experienced in March 2023 (the “Data Incident”). The Private Information of current and former patients of Defendant was potentially compromised in the Data Incident.
- You are a “Class Member” if you were sent notice that your Private Information was potentially impacted in the Data Incident.
- Under the terms of the Settlement, Class Members may be able to recover the following benefits:
 - **Documented Ordinary Out-of-Pocket Expenses:** If you submit a Valid Claim showing that you spent money or incurred losses as a result of the Data Incident, you may be eligible for reimbursement up to \$1,500.
 - **Attested Lost Time:** Class Members are also eligible to receive reimbursement for up to three hours of lost time spent dealing with the Data Incident, calculated at the rate of \$20 per hour.
 - **Documented Extraordinary Out-of-Pocket Expenses:** For certain documented monetary losses, you may be eligible for reimbursement up to \$4,000. You must submit a Valid Claim to receive these benefits.
 - **Identity Theft Protection and Credit Monitoring:** Class Members may submit a Claim to receive two years of free identity theft restoration and credit monitoring services. Individuals who previously enrolled in the credit monitoring services offered by Defendant following the Data Incident will be automatically provided one year of additional 1-bureau credit monitoring services without the need to make any affirmative claim.

This Notice may affect your rights. Please read it carefully.

Your Legal Rights and Options		Deadline
SUBMIT A CLAIM FORM	The only way to get Settlement benefits is to submit a Claim Form. Individuals who previously enrolled in the credit monitoring services offered by Defendant following the Data Incident will automatically receive one year of additional 1-bureau credit monitoring services, without the need to make a claim for this benefit.	Submitted or Postmarked on or before April 8, 2024.
EXCLUDE YOURSELF	Get no Settlement benefits. Keep your right to file your own lawsuit against Defendant about the legal claims in this case.	Postmarked on or before March 8, 2024.
OBJECT TO THE SETTLEMENT	Stay in the Settlement, but tell the Court why you do not agree with the Settlement. You will still be bound by the Settlement if the Court approves it.	Received on or before March 8, 2024.
DO NOTHING	Get no Settlement benefits. Be bound by the Settlement.	

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court must still decide whether to approve the Settlement and the requested attorneys’ fees and expenses. No Settlement benefits or payments will be provided unless the Court approves the Settlement, and it becomes final.

Questions? Go to www.TOCsettlement.com or call 1-888-928-4179

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BASIC INFORMATION

1. Why is this Notice being provided?

A federal court authorized this Notice because you have the right to know about the proposed Settlement of this class action lawsuit and about all of your rights and options before the Court decides whether to grant final approval to the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for the benefits, and how to get them.

The Honorable Aleta A. Trauger of the United States District Court for the Middle District of Tennessee is overseeing this class action. The case is known as *Bandy. v. TOC Enterprises, Inc.*, No. 3:23-cv-00598 (M.D. Tenn.) (the “Litigation”). The person who filed this Litigation is called the “Plaintiff” and/or “Class Representative” and the company sued, TOC Enterprises Inc. d/b/a Tennessee Orthopaedic Clinics, a division of Tennessee Orthopaedic Alliance, P.A., is called the “Defendant.”

2. What is this lawsuit about?

Plaintiff filed this lawsuit against Defendant, individually, and on behalf of current and former patients of Defendant whose personally identifying information or protected health information (“Private Information”) was potentially impacted in the Data Incident.

Plaintiff alleges that in March 2023, as a result of the Data Incident, unauthorized third parties potentially accessed Class Members’ Private Information. Plaintiff brought this lawsuit against Defendant alleging claims for: (1) negligence; (2) negligence *per se*; (3) breach of implied contract; (4) unjust enrichment; (5) violation of the Tennessee Consumer Protection Act, Tenn. Code Ann. § 47-18-101, *et seq.*; and (6) violation of Tennessee’s Identity Theft Deterrence Act under Tenn. Code Ann. § 47-18-2104.

Defendant denies these claims and denies any wrongdoing or liability. No court or other judicial entity has made any judgment or other determination of any wrongdoing by Defendant, or that any law has been violated. Instead, Plaintiff and Defendant have agreed to a settlement to avoid the risk, cost, and time of further litigation.

3. Why is the lawsuit 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 these people are called a class or class members. One court resolves the issues for all class members, except for those class members who timely exclude themselves (opt out) from the class.

The proposed Class Representative in this Litigation is Plaintiff Jennifer Bandy.

4. Why is there a Settlement?

Plaintiff and Defendant do not agree about the claims made in this Litigation. The Litigation has not gone to trial, and the Court has not decided in favor of Plaintiff or Defendant. Instead, Plaintiff and Defendant have agreed to settle the Litigation. The Class Representative, Defendant, and their attorneys believe the Settlement is best for all Class Members because of the benefits available to Class Members and the risks and uncertainty associated with continued litigation and the nature of the defenses raised by Defendant.

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WHO IS INCLUDED IN THE SETTLEMENT?

5. How do I know if I am part of the Settlement?

You are a Class Member if you were sent notice that your Private Information was potentially impacted in the Data Incident.

6. Are there exceptions to being included in the Settlement?

Yes. Excluded from the Class are (i) Defendant and its employees, officers, and directors; (ii) all Persons who timely and validly request exclusion from the Class; (iii) the Judge assigned to evaluate the fairness of this settlement; and (iv) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Data Incident or who pleads *nolo contendere* to any such charge.

7. What if I am still not sure whether I am part of the Settlement?

If you are still not sure whether you are a Class Member, you may go to the Settlement Website at www.TOCsettlement.com or call the Settlement Administrator's toll-free number at 1-888-928-4179.

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

8. What does the Settlement provide?

If you are a Class Member and you file a timely Valid Claim, you may be eligible for the following benefits:

Documented Ordinary Out-of-Pocket Expenses. All Class Members who submit a Valid Claim are eligible for the following documented ordinary out-of-pocket expenses, not to exceed \$1,500 per Class Member, that were incurred as a result of the Data Incident:

- 1) unreimbursed bank fees;
- 2) long distance phone charges;
- 3) cell phone charges (only if charged by the minute);
- 4) data charges (only if charged based on the amount of data used);
- 5) postage;
- 6) gasoline for local travel;
- 7) unreimbursed losses due to fraud or identity theft; and
- 8) any other charge or loss reasonably related to the Data Incident incurred by Class Members between March 20, 2023, and April 8, 2024.

To receive reimbursement for the above-referenced out-of-pocket expenses, you must submit a Valid Claim, including documentation supporting your claim.

Reimbursement for Attested Lost Time. Class Members are also eligible to receive reimbursement for up to three hours of lost time spent dealing with the Data Incident, calculated at the rate of \$20 per hour (but only if at least one full hour was spent dealing with the Data Incident). As part of your Claim Form you must:

- 1) state that any claimed lost time was spent responding to issues raised by the Data Incident; and

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- 2) provide a description of your time spent.

Claims for reimbursement of lost time may be combined with claims for documented out-of-pocket expenses.

Documented Extraordinary Out-of-Pocket Expenses. Class Members are also eligible to receive reimbursement for documented extraordinary out-of-pocket losses, not to exceed \$4,000 per Class Member for documented monetary loss that:

- 1) is actual, documented, and unreimbursed;
- 2) was more likely than not caused by the Data Incident;
- 3) occurred between March 20, 2023, to April 8, 2024; and
- 4) is not already covered by one or more of the above-referenced reimbursed expenses.

Your Documented Extraordinary Out-of-Pocket Expense Claim must include documentation that you made reasonable efforts to avoid, or seek reimbursement for, such extraordinary losses, including but not limited to exhaustion of all available credit monitoring insurance and identity theft insurance.

Identity Theft Protection and Credit Monitoring. Class Members may submit a Claim to accept two years of free 1-bureau credit monitoring and identity theft restoration services.

Class Members who previously enrolled in credit monitoring services offered by Defendant following the Data Incident (the “Automatic Credit Monitoring Subclass”), will be automatically provided one year of additional 1-bureau credit monitoring services without the need to make any claim for this Settlement benefit. This one year of credit monitoring is in addition to any credit monitoring previously offered by Defendant following the Data Incident. The Notice mailed to you will note if you are included in the Automatic Credit Monitoring Subclass.

9. What am I giving up to receive Settlement benefits or stay in the Class?

Unless you exclude yourself (opt out), you are choosing to remain in the Class. If the Settlement is approved and becomes final, all Court orders will apply to you and legally bind you. You will not be able to sue, continue to sue, or be part of any other lawsuit against Defendant or its Related Entities (collectively, the “Released Parties”) about the legal issues in this Litigation that are released by this Settlement. The specific rights you are giving up are called “Released Claims.”

10. What are the Released Claims?

The Settlement Agreement in Paragraphs 1.25, 1.26, 1.27, 1.33 and Section 6 describes the Released Claims and the Release, in necessary legal terminology, so please read these sections carefully. The Settlement Agreement is available at www.TOCsettlement.com or in the public Court records on file in this lawsuit. For questions regarding the Release or Released Claims and what the language in the Settlement Agreement means, you can also contact Class Counsel listed in Question 14 for free, or you can talk to your own lawyer at your own expense.

HOW TO GET BENEFITS FROM THE SETTLEMENT

11. How do I make a claim for Settlement benefits?

To submit a claim for any of the benefits described in Question 8, you must timely submit a Valid Claim. Class Members seeking benefits under the Settlement must complete and submit a Valid Claim to the Settlement Administrator, **postmarked** or submitted online on or before

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April 8, 2024. Claim Forms may be submitted online at www.TOCsettlement.com or printed from the Settlement Website and mailed to the Settlement Administrator at the address on the form. The quickest way to submit a claim is online. Claim Forms are also available by calling 1-888-928-4179 or by writing to:

TOC Settlement Administrator
PO Box 5017
Portland, OR 97208-5017

Claim Forms must be submitted online or postmarked by April 8, 2024.

12. 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 1-888-928-4179 or by writing to:

TOC Settlement Administrator
PO Box 5017
Portland, OR 97208-5017

13. When will I receive my Settlement benefits?

If you file a timely and Valid Claim, payment will be provided by the Settlement Administrator after the Settlement is approved by the Court and becomes final.

It may take time for the Settlement to be approved and become final. Please be patient and check www.TOCsettlement.com for updates.

THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in this case?

Yes, the Court has appointed Lisa A. White and Danielle L. Perry of the law firm MASON LLP as Class Counsel to represent you and the Class for the purposes of this Settlement. You may hire your own lawyer at your own cost and expense if you want someone other than Class Counsel to represent you in this Litigation.

15. How will Class Counsel be paid?

Class Counsel will file a motion asking the Court to award attorneys' fees and costs not to exceed \$150,000 to be paid by Defendant. Class Counsel will also ask the Court to approve an Incentive Award of \$2,000 for the Class Representative for participating in this Litigation and for her effort in achieving the Settlement. The Court may award less than these amounts. If awarded by the Court, Defendant will pay fees, costs, expenses, and the Incentive Award directly. The fees, costs, expenses and Incentive Award will not reduce the Settlement benefits available to the Class.

Class Counsel's application for attorneys' fees, expenses, and the incentive award will be made available on the Settlement Website at www.TOCsettlement.com before the deadline for you to comment or object to the Settlement.

Questions? Go to www.TOCsettlement.com or call 1-888-928-4179

OPTING OUT FROM THE SETTLEMENT

If you are a Class Member and want to keep any right you may have to sue or continue to sue Defendant or its Related Entities on your own based on the claims raised in this Litigation or released by the Released Claims, then you must take steps to get out of the Settlement. This is called excluding yourself from—or “opting out” of—the Settlement.

16. How do I opt out of the Settlement?

To opt out of the Settlement, you must timely mail written notice of a request for exclusion. The written notice must be:

- (1) Signed,
- (2) Include your name and address, and
- (3) Clearly state that you wish to be excluded from the Class.

The exclusion request must be **mailed** to the Settlement Administrator at the following address, and be **postmarked** by **March 8, 2024**:

TOC Settlement Administrator
Exclusions
PO Box 5017
Portland, OR 97208-5017

You cannot opt out (exclude yourself) by telephone or by email.

17. If I opt out can I still get anything from the Settlement?

No. If you opt out, you will not be entitled to receive any Settlement benefits, but you will not be bound by any judgment in this case. You can only get Settlement benefits if you stay in the Settlement and submit a Valid Claim.

18. If I do not opt out, can I sue Defendant for the same thing later?

No. Unless you opt out, you give up any right to sue any of the Released Parties for the legal claims this Settlement resolves and Releases relating to the Data Incident. You must opt out of this Litigation to start or continue with your own lawsuit or be part of any other lawsuit against the Released Parties. If you have a pending lawsuit, speak to your lawyer in that case immediately.

OBJECTING TO THE SETTLEMENT

19. How do I tell the Court that I do not like the Settlement?

If you are a Class Member, you can tell the Court you do not agree with all or any part of the Settlement or requested attorneys’ fees and expenses. You can also give reasons why you think the Court should not approve the Settlement or attorneys’ fees and expenses.

To object, you must file timely written notice as provided below no later than **March 8, 2024**, stating you object to the Settlement in *Bandy v. TOC Enterprises, Inc.*, No. 3:23-cv-00598 (M.D. Tenn.). The objection must also include all the following additional information:

- (1) Your full name, address, telephone number, and email address (if any);

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- (2) Information identifying you as a Class Member, including proof that you are a member of the Class (e.g., copy of notice, copy of original notice of the Data Incident);
- (3) A written statement of all grounds for the objection, accompanied by any legal support you care to submit;
- (4) The identity of all lawyers (if any) representing you;
- (5) A statement as to whether you and/or your lawyer will appear at the Final Fairness Hearing;
- (6) Your signature and the signature of your duly authorized lawyer or other duly authorized representative (along with documentation setting forth such representation); and
- (7) A list, by case name, court, and docket number, of all other cases in which you and/or your lawyer has filed an objection to any proposed class action settlement within the last three (3) years.

To be timely, written notice of an objection in the appropriate form containing the case name and docket number (*Bandy v. TOC Enterprises, Inc.*, No. 3:23-cv-00598) must be filed with the Court by **March 8, 2024**, with copies to Class Counsel and Defendant’s Counsel at the following addresses:

COURT	CLASS COUNSEL	DEFENDANT’S COUNSEL
Hon. Aleta A. Trauger Fred D. Thompson U.S. Courthouse & Federal Building 719 Church Street, Suite 1300 Nashville, TN 37203	Lisa A. White & Danielle L. Perry MASON LLP 5335 Wisconsin Ave NW, Suite 640 Washington, D.C. 20015	Casie D. Collignon and Keeley O. Cronin BAKER HOSTETLER LLP 1801 California Street Suite 4400 Denver, CO 80202

Any Class Member who fails to comply with the requirements for objecting detailed above shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders and judgments in the Litigation.

20. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court you do not like something about the Settlement or requested attorneys’ fees and expenses. You can object only if you stay in the Settlement Class (meaning you do not opt out of the Settlement). Opting out of the Settlement is telling the Court you do not want to be part of the Class or the Settlement. If you opt out, you cannot object to the Settlement.

THE FINAL FAIRNESS HEARING

21. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Fairness Hearing on **March 14, 2024, at 3:00 p.m.** before the Honorable Aleta A. Trauger at the Fred D. Thompson U.S. Courthouse and Federal Building, 719 Church Street, Suite 1300, Nashville, TN 37203 or via Zoom or by phone. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and decide whether to approve the Settlement, Class Counsel’s application for attorneys’ fees, costs and expenses, and the Incentive Award to Plaintiff.

If there are objections, the Court will consider them. The Court will also listen to people who have asked to speak at the hearing.

Questions? Go to www.TOCsettlement.com or call 1-888-928-4179

Note: The date and time of the Final Fairness Hearing are subject to change. The Court may also decide to hold the hearing via Zoom or by phone. Any change will be posted at www.TOCsettlement.com.

22. Do I have to attend to the Final Fairness Hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend at your own expense. If you send an objection, you do not have to attend the court hearing to speak about it. As long as you file or mail your written objection on time, the Court will consider it.

23. May I speak at the Final Fairness Hearing?

Yes, as long as you do not exclude yourself (opt out), you can (but do not have to) participate and speak for yourself at the Final Fairness Hearing. This is called making an appearance. You also can have your own lawyer speak for you, but you will have to pay for the lawyer yourself.

If you want to appear, or if you want your own lawyer instead of Class Counsel to speak for you at the hearing, you must follow all of the procedures for objecting to the Settlement listed in Section 19 above—and specifically include a statement whether you and your counsel will appear at the Final Fairness Hearing.

IF YOU DO NOTHING

24. What happens if I do nothing at all?

If you are a Class Member and you do nothing, you will not receive any Settlement benefits, and you will give up rights explained in the “Opting Out from the Settlement” section of this Notice, including your right to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against any of the Released Parties about the legal issues in this Litigation that are released by the Settlement Agreement relating to the Data Incident.

GETTING MORE INFORMATION

25. How do I get more information?

This Notice summarizes the proposed Settlement. Complete details are provided in the Settlement Agreement. The Settlement Agreement and other related documents are available at www.TOCsettlement.com, by calling 1-888-928-4179 or by writing to:

TOC Settlement Administrator
PO Box 5017
Portland, OR 97208-5017

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT’S CLERK OFFICE
REGARDING THIS NOTICE.**

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