

NOTICE OF CLASS ACTION SETTLEMENT

WESTERN DISTRICT OF TEXAS

In re: CaptureRx Data Breach Litigation,

Case No. 5:21-cv-00523-OLG

If you received a notice from NEC Networks, LLC d/b/a/ CaptureRx (“CaptureRx”) in approximately May 2021, stating that your first name, last name, date of birth and prescription information was exposed on or about February 6, 2021 in a data breach that targeted CaptureRx and the pharmacies it services, you may be eligible for benefits from a data breach class action settlement.

A court authorized this notice. This is not a solicitation from a lawyer.

- A settlement (the “Settlement”) has been proposed with CaptureRx in lawsuits asserting claims against CaptureRx and certain of its pharmacy customers relating to a data security incident that occurred on or around February 6, 2021, arising from a third-party criminal cyberattack (the “Data Incident”). CaptureRx and the other defendants deny all of the claims. The Settlement does not establish who is correct and is not an admission of fault, but rather is a compromise to end the lawsuit.
- The Settlement includes, subject to certain limitations, all people residing in the United States whose PII and PHI (a) Defendant stored and/or shared in CaptureRx’s electronic files and (b) was exposed to an unauthorized party as a result of the Data Incident (the “Settlement Class”).
- The Settlement makes members of the Settlement Class who submit valid claims eligible to receive cash payment(s) if their information was exposed in the Data Incident.

Settlement Class Payment: Every Settlement Class Member who attests that CaptureRx notified them that they were impacted by the Data Incident is eligible to receive Twenty-Five Dollars (\$25.00), regardless of whether or not they experienced any identity theft as a result of the Data Incident. This payment is subject to a potential *pro rata* reduction or increase as detailed below.

California Settlement Subclass Payment: In addition to the Settlement Class Payment, California Settlement Subclass Members will also be eligible for an additional benefit of Seventy-Five Dollars \$75 each, subject to a potential *pro rata* reduction or increase as detailed below. To redeem this additional benefit, California Settlement Subclass Members must submit a Settlement Claim and attest that they were a California resident at the time CaptureRx notified them of the Data Incident in approximately May 2021.

Your legal rights are affected even if you do nothing. Read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
Submit a Claim by June 27, 2022	This is the only way to get benefits under this Settlement.
Ask to be Excluded by May 17, 2022	Get no benefits. This is the only option that allows you to bring your own lawsuit against CaptureRx and/or its pharmacy customers related to the Data Incident.
Object to the Settlement by May 17, 2022	Write to the Court about why you do not think the Settlement is fair, reasonable, or adequate.
Go to the Hearing on June 23, 2022	Ask to speak in Court about the fairness of the Settlement.
Do Nothing	Get no benefits from the Settlement. Give up rights to submit a claim for the Settlement benefits or to bring a different lawsuit against CaptureRx and/or its pharmacy customers related to the Data Incident.

- These rights and options – **and the deadlines to exercise them** – are explained in this notice.

- The Court in charge of this case still has to decide whether to grant final approval of the Settlement. No cash payments will be made until after the Court grants final approval of the Settlement and all appeals, if any, are resolved.

BASIC INFORMATION

1. Why is there a Notice?

The Court authorized this notice because you have a right to know about the Settlement and all of your options before the Court decides whether to give “final approval” to the Settlement. This notice explains the nature of the lawsuit that is the subject of the Settlement, the general terms of the Settlement, and your legal rights and options.

Judge Orlando L. Garcia of the United States District Court for the Western District of Texas is overseeing this case known as *In re CaptureRx Data Breach Litigation*, Case No. 5:21-cv-00523-OLG. The people who brought the lawsuit are called the Plaintiffs. The companies being sued, CaptureRx and certain of its pharmacy customers, are called the Defendants.

2. What is this lawsuit about?

The lawsuit claims that Defendants were responsible for the Data Incident and asserts claims such as: negligence, invasion of privacy, and violations of the California Confidentiality of Medical Information Act.

Defendants deny these claims and say they did not do anything wrong. No court or other judicial entity has made any judgment or other determination that Defendants have any liability on these claims or did anything wrong.

3. Why is this lawsuit a class action?

In a class action, one or more people called class representatives or representative plaintiffs sue on behalf of all people who have similar claims. Together, all of these people are called a class and the individuals are called class members. One court resolves the issues for all class members, except for those who exclude themselves from the class.

4. Why is there a Settlement?

The Court has not decided in favor of the Plaintiffs or Defendants. Instead, both sides agreed to the Settlement. The Settlement avoids the costs and risks of a trial and related appeals, while providing benefits to members of the Settlement Class (“Settlement Class Members”). The “Settlement Class Representatives” appointed to represent the Settlement Class, and the attorneys for the Settlement Class (“Settlement Class Counsel,” see Question 18) think the Settlement is best for all Settlement Class Members.

WHO IS IN THE SETTLEMENT?

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

You are affected by the Settlement and potentially a member of the Settlement Class if you resided in the United States and your first name, last name, date of birth and prescription information was exposed to an unauthorized party as a result of the Data Incident. CaptureRx sent notices to those affected by the Data Incident in approximately May 2021.

Only Settlement Class Members are eligible to receive benefits under the Settlement. Specifically excluded from the Settlement Class are CaptureRx and its pharmacy customers that were affected by the Data Incident and their

officers and directors, any judges presiding over this case and their judicial staff and immediate family members, Settlement Class Counsel and their first-degree relatives, and persons who timely and validly request exclusion from the Settlement Class.

6. What if I am not sure whether I am included in the Settlement Class?

➤ If you are not sure whether you are included in the Settlement Class, you may call **1-833-620-3609** with questions. You may also write with questions to CaptureRx Data Breach, c/o Kroll Settlement Administration, PO Box 225391 New York, NY 10150-5391.

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

7. What does the Settlement provide?

The Settlement provides that CaptureRx will fund the following payments, up to a total of \$4,750,000.00: (a) a \$25.00 cash payment to each Settlement Class Member who files a valid claim; (b) an additional \$75.00 cash payment to each California Settlement Subclass Member who files a valid claim; (c) any attorneys' fees and expenses awarded by the court (see Question 19); (d) any service award to the Representative Plaintiffs awarded by the court; and (e) notice and claims administration costs. The payments to the Settlement Class and the California Settlement Subclass are subject to *pro rata* reduction, or may be increased on a *pro rata*, depending upon the number of claims filed. If there are funds remaining after these payments, the residual amount will not be returned to CaptureRx but will be paid to a charitable recipient.

8. How do I get a benefit?

To receive any benefit under the Settlement, you must complete and submit a claim for that benefit (a "Claim"). Every Claim must be made on a form ("Claim Form") available at www.RxDataIncident.com or by calling 1-833-620-3609. Read the instructions carefully, fill out the Claim Form, and submit it according to the instructions on the Claim Form. The deadline to submit a claim form is **June 27, 2022**.

10. How will claims be decided?

The Claims Administrator will decide whether and to what extent any Claim made on each Claim Form is valid. The Claims Administrator may require additional information. If you do not provide the additional information in a timely manner, the Claim will be considered invalid and will not be paid.

11. When will I get my payment?

The Court will hold a hearing on **June 23, 2022** to decide whether to approve the Settlement. If the Court approves the Settlement, there may be appeals from that decision and resolving them can take time, perhaps more than a year. It also takes time for all the Claim Forms to be processed. Please be patient.

WHAT DO DEFENDANTS GET?

12. What am I giving up as part of the Settlement?

If the Settlement becomes final and you do not exclude yourself from the Settlement, you will be a Settlement Class Member and you will give up your right to sue Defendants and other persons ("Released Parties") as to all claims ("Released Claims") arising out of or relating to the Data Incident. This release is described in the Class

Settlement Agreement, which is available at www.RxDataIncident.com. If you have any questions you can talk to the law firms listed in Question 18 for free, or you can talk to your own lawyer.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want to be part of this Settlement, but you want to keep the right to sue Defendants about the legal issues in this case, then you must take steps to exclude yourself from the Settlement Class. This is sometimes referred to as “opting out” of the Settlement Class.

13. If I exclude myself, can I get a payment from this Settlement?

No. If you exclude yourself, you will not be entitled to receive any benefits from the Settlement, but you will not be bound by any judgment in this case.

14. If I do not exclude myself, can I sue Defendants for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Defendants (and any other Released Persons) 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 to ask for any benefit under the Settlement.

If you are requesting exclusion because you want to bring your own lawsuit based on the matters alleged in this class action, you may want to consult an attorney, at your expense, and discuss whether any individual claim that you may wish to pursue would be time-barred by the applicable statutes of limitations or repose.

15. How do I exclude myself from the Settlement?

To exclude yourself, send a letter that says you want to be excluded from the Settlement in *In re CaptureRx Data Breach Litigation*, Case No. 5:21-cv-00523-OLG (W.D. Tex.). You can use the exclusion form available at www.RxDataIncident.com. You must mail your exclusion request postmarked by **May 17, 2022**, to:

CaptureRx Data Breach
c/o Kroll Settlement Administration
PO Box 225391
New York, NY 10150-5391

OBJECTING TO THE SETTLEMENT

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

You can tell the Court that you do not agree with the Settlement or some part of it by objecting to the Settlement. The Court will consider your views in its decision whether to approve the Settlement. To object, you must mail your notice of intent to object to the Clerk of the Court, Class Counsel and Defendants’ Counsel, at the mailing addresses listed below, postmarked by **no later** than the objection deadline, **May 17, 2022**:

Court	Defendants' Counsel
Clerk of the Court U.S. District Clerk's Office 655 E. Cesar E. Chavez Blvd., Room G65 San Antonio, Texas 78206	Kevin M. O'Hagan O'Hagan Meyer One E. Wacker Dr., Suite 3400 Chicago, IL 60601
Class Counsel	
M. Anderson Berry Clayeo C. Arnold, A Professional Law Corp. 865 Howe Avenue Sacramento, CA 95825	Gary Klinger Milberg Coleman Bryson Phillips Grossman, PLLC 227 W. Monroe St., Suite 2100 Chicago, IL 60606

Your objection must state: (1) the name of the Litigation: *In re: CaptureRx Data Breach Litigation*, Case No. 5:21-cv-00523-OLG (W.D. Tex.); (2) your name, address, telephone number, and email address (if any); (3) information identifying you as a Settlement Class Member, including proof that you are a member of the Settlement Class (4) a statement as to whether your objection applies only to yourself, to a specific subset of the Settlement Class, or to the entire Settlement Class; (5) a clear and detailed written statement of the specific legal and factual bases for each of your objections, accompanied by any legal support for the objection(s) you believe applicable; (6) the identity of any counsel representing you; (7) a statement whether you intend to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying that counsel; (8) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objections and any documents to be presented or considered; and (9) your signature and the signature of your duly authorized attorney or other duly authorized representative (if any).

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

Objecting is telling the Court that you do not like the Settlement and why you do not think it should be approved. You can object only if you are a member of the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class and do not want to receive any payment from the Settlement. If you exclude yourself, you have no basis to object because you are no longer a member of the Settlement Class, and the case no longer affects you. If you submit both a valid objection and a valid request to be excluded, you will be deemed to have only submitted the request to be excluded.

THE LAWYERS REPRESENTING YOU

18. Do I have a lawyer in this case?

Yes. The Court appointed M. Anderson Berry and Gary M. Klinger as Interim Class Counsel to represent the Class in settlement negotiations. If you want to be represented by your own lawyer, you may hire one at your own expense.

19. How will the lawyers be paid?

Class Counsel will ask the Court for an award for attorneys' fees of up to \$1,583,333.33, plus costs and expenses of up to \$30,000.00. CaptureRx has agreed to pay any award of attorneys' fees and expenses up to those amounts, to the extent approved by the Court. Any such award would compensate Class Counsel for investigating the facts, litigating the case, and negotiating the Settlement, and will be the only payment to them for their efforts in achieving this Settlement and for their risk in undertaking this representation on a wholly contingent basis.

Class Counsel will also ask the Court for a service award of up to \$2,000.00 each for Representative Plaintiffs Daisy Trujillo, Mark Vereen, and Michelle Rodgers.

Any award for attorneys' fees, costs, and expenses for Class Counsel and of service awards to the Representative Plaintiffs must be approved by the Court. The Court may award less than the amounts requested. Class Counsel will file their motion papers in support of final approval of the Settlement and their application for attorneys' fees, costs and expenses, and service awards no later than **May 3, 2022**, and they will be posted on the settlement website.

THE COURT'S FINAL APPROVAL HEARING

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

The Court will hold a Final Approval Hearing at **2:30 CDT on June 23, 2022**, at the San Antonio U.S. District Courthouse, 655 E. Cesar E. Chaves Blvd., San Antonio, TX 78206. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are timely and valid objections, the Court will consider them and will listen to people who have asked to speak at the hearing if they have properly made such a request. The Court will also rule on the request for an award of attorneys' fees and reasonable costs and expenses, as well as the request for service awards for the Representative Plaintiffs. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take. The Court may move the hearing to a different date or time without additional notice to the Settlement Class, so Class Counsel recommend checking www.RxDataIncident.com or calling 1-833-620-3609.

21. Do I have to attend the hearing?

No. Class Counsel will present the Class Settlement Agreement to the Court. You or your own lawyer are welcome to attend, at your expense, but you are not required to do so. If you send an objection, you do not have to come to the Court to discuss it. As long as you filed your notice of intent to object containing your objection on time with the Court and mailed it according to the instructions provided in Question 16, the Court will consider it.

22. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must file a notice of intent to object according to the instructions in Question 16, including all the information required. Your objection must be **mailed** to the Clerk of the Court, Class Counsel and Defendants' Counsel, postmarked no later than **May 17, 2022** (see Question 16).

IF YOU DO NOTHING

23. What happens if I do nothing?

If you do nothing you will not get any money from this Settlement and, if the Settlement is granted final approval and the judgment becomes final, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against CaptureRx and the other Released Parties based on any of the Released Claims.

GETTING MORE INFORMATION

24. How do I get more information?

This Notice summarizes the proposed Settlement. More details are in the Class Settlement Agreement itself. A copy of the Class Settlement Agreement is available at www.RxDataIncident.com. You may also call the Settlement Administrator with questions or to request a Claim Form at **1-833-620-3609**.