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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA**

The States of Arizona; Arkansas; Florida;
Indiana; Iowa; Kansas; Kentucky; Louisiana;
Minnesota; Nebraska; North Carolina; and
Wisconsin,

Plaintiffs;

vs.

Medical Informatics Engineering, Inc. d/b/a
Enterprise Health, LLC and K&L Holdings, and
NoMoreClipboard, LLC,

Defendants.

Case No.:

COMPLAINT

COMPLAINT

Plaintiffs, the states of Arizona, Arkansas, Florida, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Nebraska, North Carolina, and Wisconsin (collectively “Plaintiff States”), for their complaint against Defendants Medical Informatics Engineering, Inc., (“MIE”) operating as Enterprise Health, LLC and K&L Holdings, and NoMoreClipboard, LLC, (“NMC” together with MIE “Defendants”), allege:

SUMMARY OF THE CASE

1. Intermittently between May 7, 2015 and May 26, 2015, unauthorized persons (“hackers”) infiltrated and accessed the inadequately protected computer systems of Defendants. During this time, the hackers were able to access and exfiltrate the electronic Protected Health Information (“ePHI”), as defined by 45 C.F.R. § 160.103, of 3.9 million individuals, whose PHI was contained in an electronic medical record stored in Defendants’ computer systems. Such personal information obtained by the hackers included names, telephone numbers, mailing

1 addresses, usernames, hashed passwords, security questions and answers, spousal information
2 (names and potentially dates of birth), email addresses, dates of birth, and Social Security
3 Numbers. The health information obtained by the hackers included lab results, health insurance
4 policy information, diagnosis, disability codes, doctors' names, medical conditions, and
5 children's name and birth statistics.
6

7 2. In fostering a security framework that allowed such an incident to occur,
8 Defendants failed to take adequate and reasonable measures to ensure their computer systems
9 were protected, failed to take reasonably available steps to prevent the breaches, failed to
10 disclose material facts regarding the inadequacy of their computer systems and security
11 procedures to properly safeguard patients' personal health information, failed to honor their
12 promises and representations that patients' personal health information would be protected, and
13 failed to provide timely and adequate notice of the incident, which caused significant harm to
14 consumers across the United States.
15

16 3. Defendants' actions resulted in the violation of the state consumer protection, data
17 breach, personal information protection laws and federal HIPAA statutes, as more fully outlined
18 below. Plaintiffs seek to enforce said laws by bringing this action.
19

20 4. This action is brought, in their representative and individual capacities as
21 provided by state and federal law, by the attorneys general of Arizona, Arkansas, Florida,
22 Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Nebraska, North Carolina, and
23 Wisconsin (collectively the "Attorneys General"). The plaintiffs identified in the paragraph are
24 also referred to collectively as the "Plaintiff States."
25

26 5. The Plaintiff States bring this action pursuant to consumer protection, business
27 regulation, and/or data security oversight authority conferred on their attorneys general,
28

1 secretaries of state, and/or state agencies by state law, federal law, and/or pursuant to *parens*
2 *patriae* and/or common law authority. These state laws authorize the Plaintiff States to seek
3 temporary, preliminary, and permanent injunctive relief, civil penalties, attorneys' fees,
4 expenses, costs, and such other relief to which the Plaintiff States may be entitled.
5

6 6. This action is also brought by the Attorneys General of the Plaintiff States
7 pursuant to the Health Insurance Portability and Accountability Act of 1996, as amended by the
8 Health Information Technology for Economic and Clinical Health ("HITECH") Act, 42 U.S.C. §
9 1302(a), and the Department of Health and Human Services Regulations, 45 C.F.R. § 160 *et*
10 *seq.*(collectively, "HIPAA"), which authorize attorneys general to initiate federal district court
11 proceedings and seek to enjoin violations of, and enforce compliance with HIPAA, to obtain
12 damages, restitution, and other compensation, and to obtain such further and other relief as the
13 court may deem appropriate.
14

15 JURISDICTION AND VENUE

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17 7. This Court has jurisdiction over the federal law claims pursuant to 42 U.S.C.
18 § 1320d-5(d), and 28 U.S.C. §§ 1331 and 1337(a). This Court has supplemental jurisdiction over
19 the subject matter of the state law claims pursuant to 28 U.S.C. § 1367.
20

21 8. Venue in this District is proper pursuant to 28 U.S.C. §§ 1391(b) and (c).

22 9. The Attorneys General provided prior written notice of this action to the Secretary
23 of HHS, as required by 42 U.S.C. § 1320d-5(d)(4). The Attorneys General have also provided a
24 copy of this complaint to the Secretary of HHS. *Id.*
25

26 10. At all times relevant to this matter, Defendants were engaged in trade and
27 commerce affecting consumers in the States insofar as Defendants provided electronic health
28

1 records services to health care providers in the States. Defendants also maintained a website for
2 patients and client health care providers in the States.

3
4 **PLAINTIFFS**

5 11. The Attorneys General are charged with, among other things, enforcement of the
6 Deceptive Trade Practices Acts, the Personal Information Protection Acts, and the Breach
7 Notification Acts. The Attorneys General, pursuant to 42 U.S.C. § 1320d-5(d), may also enforce
8 HIPAA.
9

10 12. The Attorneys General are the chief legal officers for their respective states and
11 commonwealths. The Plaintiff States bring this action pursuant to consumer protection, business
12 regulation, and/or data security oversight authority conferred on their attorneys general,
13 secretaries of state, and/or state agencies by state law, federal law, and/or pursuant to *parens*
14 *patriae* and/or common law authority.
15

16 13. Plaintiff Attorneys General institute this action for injunctive relief, statutory
17 damages, attorney fees, and the costs of this action against Defendants for violations of the
18 Health Insurance Portability and Accountability Act of 1996, as amended by the Health
19 Information Technology for Economic and Clinical Health (“HITECH”) Act, 42 U.S.C. §
20 1302(a), and the Department of Health and Human Services Regulations, 45 C.F.R. § 160 *et*
21 *seq.*(collectively, “HIPAA”), and supplemental state law claims under Plaintiffs’ respective
22 Unfair, Deceptive, or Abusive Acts or Practices (“UDAP”) statutes, Disclosure of Data Breach
23 Statutes (also referred to as “Breach Notification Acts”), and Personal Information Protection
24 Statutes (also referred to as “PIPA”), specifically:
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State	Deceptive Acts	Data Breach	PIPA
Arizona:	Ariz. Rev. Stat. § 44-1521 <i>et seq.</i>		
Arkansas:	Ark. Code § 4-88-101 <i>et seq.</i>	Ark. Code § 4-110-105	Ark. Code § 4-110-101 <i>et seq.</i>
Florida:	Chapter 501, Part II, Florida Statutes	Section 501.171, Florida Statutes	Section 501.171(9), Florida Statutes
Indiana:	Ind. Code §§ 24-5-0.5-4(C), and 24-5-0.5-4(G)		Ind. Code § 24-4.9-3-3.5(f)
Iowa:	Iowa Code § 714.16	Iowa Code § 715c.2	
Kansas:	Kan. Stat. §§ 50-632, and 50-636	Kan. Stat. § 50-7a02	Kan. Stat. § 50-6139b
Kentucky:	Ky. Rev. Stat. §§ 367.110-.300, and 367.990		
Louisiana:	La. Rev. Stat. § 51:1401 <i>et seq.</i>	La. Rev. Stat. 51:3071 <i>et seq.</i>	
Minnesota:	Minn. Stat. §§ 325D.43 <i>et seq.</i> ; Minn. Stat. §§ 325F.68 <i>et seq.</i>	Minn. Stat. § 325E.61	
Nebraska:	Neb. Rev. Stat. §§ 59-1602; 59-1608, 59-1614, and 87-301	Neb. Rev. Stat. § 87-806	
North Carolina	N.C. Gen. Stat. § 75-1.1, <i>et seq.</i>	N.C. Gen. Stat. § 75-65	N.C. Gen. Stat. § 75-60, <i>et seq.</i>
Wisconsin:	Wis. Stat. §§ 93.20, 100.18, and 100.26	Wis. Stat. § 134.98	Wis. Stat. §§ 146.82 and 146.84(2)(b)

DEFENDANTS

14. Defendant MIE is a citizen of the State of Indiana. MIE is a corporation that is incorporated in Indiana and has its principal place of business in Indiana at 6302 Constitution Drive, Fort Wayne, IN 46804.

1 15. Defendant NMC is a citizen of the State of Indiana. NMC is a wholly-owned
2 subsidiary of MIE, is organized in Indiana, and has its principal place of business in Indiana at
3 6312 Constitution Drive, Fort Wayne, IN 46804.

4
5 16. Prior to January 6, 2016, MIE also operated under the name of Enterprise Health.
6 Enterprise Health was a division of MIE. On January 6, 2016, MIE formed Enterprise Health,
7 LLC, which shares founders, officers, employees, offices, and servers with MIE and NMC.

8 17. K&L Holdings, LLC is affiliated with MIE and has the same founders, officers,
9 and occupies the same offices as MIE, NMC, and Enterprise Health. K&L Holdings, LLC owns
10 the property that serves as the headquarters for K&L Holdings, LLC, MIE, NMC, and Enterprise
11 Health.
12

13 **FACTUAL ALLEGATIONS**

14
15 18. MIE is a third-party provider that licenses a web-based electronic health record
16 application, known as WebChart, to healthcare providers. MIE, through its subsidiary NMC, also
17 provides patient portal and personal health records services to healthcare providers that enable
18 patients to access and manage their electronic health records. Through its WebChart application,
19 MIE provides electronic health services to physicians and medical facilities nationwide.
20

21 19. At all relevant times, MIE's customers consisted of healthcare providers who
22 were Covered Entities within the meaning of HIPAA. 45 C.F.R. § 160.103.

23 20. At all relevant times, MIE and NMC were Business Associates within the
24 meaning of HIPAA. 45 C.F.R. § 160.103.
25

26 21. As Business Associates, Defendants are required to comply with the HIPAA
27 federal standards that govern the security of ePHI, including Security Rules. *See* 45 C.F.R. §
28 164.302.

1 22. The Security Rule generally prohibits Covered Entities and Business Associates,
2 such as Defendants, from unlawfully disclosing ePHI. The Security Rule requires Covered
3 Entities and Business Associates to employ appropriate Administrative, Physical, and Technical
4 Safeguards to maintain the security and integrity of ePHI. *See* 45 C.F.R. § 164.302.
5

6 23. At all relevant times, no written agreement existed between MIE and its
7 subsidiary NMC to appropriately safeguard the information created, received, maintained, or
8 transmitted by the entities.

9 24. Between May 7, 2015 and May 26, 2015, hackers infiltrated and accessed the
10 computer systems of Defendants.
11

12 25. The hackers stole the ePHI of 3.9 million individuals whose health information
13 was contained in an electronic medical records database stored on Defendants' computer
14 systems.
15

16 26. On June 10, 2015, MIE announced a “data security compromise that has affected
17 the security of some personal and protected health information relating to certain clients and
18 individuals who have used a Medical Informatics Engineering electronic health record.” *Medical*
19 *Informatics Engineering Updates Notice to Individuals of Data Security Compromise*, MIE (July
20 23, 2015), <http://www.mieweb.com/notice>.
21

22 27. On June 20, 2015, NMC announced “a data security compromise that has affected
23 the security of some personal and protected health information relating to individuals who have
24 used a NoMoreClipboard personal health record or patient portal.” *NoMoreClipboard Notice to*
25 *Individuals of a Data Security Compromise*, NoMoreClipboard (July 23, 2015),
26 <https://www.nomoreclipboard.com/notice>.
27
28

1 28. Defendants admitted that unauthorized access to their network began on May 7,
2 2015, but they did not discover the suspicious activity until May 26, 2015.

3 29. After discovering the intrusion, Defendants “began an investigation to identify
4 and remediate any identified security vulnerability,” hired “a team of third-party experts to
5 investigate the attack and enhance data security and protection,” and “reported this incident to
6 law enforcement including the FBI Cyber Squad.” *MIE Notice*, <http://www.mieweb.com/notice>;
7 *NoMoreClipboard Notice*, <https://www.nomoreclipboard.com/notice>;
8

9 30. MIE admitted that the following information was accessed by the hackers: “an
10 individual’s name, telephone number, mailing address, username, hashed password, security
11 question and answer, spousal information (name and potentially date of birth), email address,
12 date of birth, Social Security number, lab results, health insurance policy information, diagnosis,
13 disability code, doctor’s name, medical conditions, and child’s name and birth statistics.” *MIE*
14 *Notice*, <http://www.mieweb.com/notice>.
15

16 31. NMC admitted that the following information was accessed by the hackers: “an
17 individuals’ [sic] name, home address, Social Security number, username, hashed password,
18 spousal information (name and potentially date of birth), security question and answer, email
19 address, date of birth, health information, and health insurance policy information.”
20 *NoMoreClipboard Notice*, <https://www.nomoreclipboard.com/notice>.
21

22 32. Defendants began notifying affected individuals by mail on July 17, 2015. This
23 was two months after the initial breach date of May 7, 2015, and over 50 days after the breach
24 discovery date of May 26, 2015.
25

26 33. Defendants did not conclude mailing notification letters until December 2015, six
27 months after the breach discovery date of May 26, 2015.
28

1 34. Defendants' security framework was deficient in several respects. Defendants
2 failed to implement basic industry-accepted data security measures to protect individual's health
3 information from unauthorized access. Specifically, Defendants set up a generic "tester" account
4 which could be accessed by using a shared password called "tester" and a second account called
5 "testing" with a shared password of "testing". In addition to being easily guessed, these generic
6 accounts did not require a unique user identification and password in order to gain remote access.
7 In a formal penetration test conducted by Digital Defense in January 2015, these accounts were
8 identified as high risk, yet Defendants continued to employ the use of these accounts and, in fact,
9 acknowledged establishing the generic accounts at the request of one of its' health care provider
10 clients so that employees did not have to log-in with a unique user identification and password.

13 35. Defendants did not have appropriate security safeguards or controls in place to
14 prevent exploitation of vulnerabilities within their system. The "tester" account did not have
15 privileged access but did allow the attacker to submit a continuous string of queries, known as a
16 SQL injection attack, throughout the database as an authorized user. The queries returned error
17 messages that gave the intruder hints as to why the entry was incorrect, providing valuable
18 insight into the database structure.

20 36. The vulnerability to an SQL injection attack was identified as a high risk during a
21 penetration test performed by Digital Defense in 2014. Digital Defense recommended that
22 Defendant "take appropriate measures to implement the use of parameterized queries, or ensure
23 the sanitization of user input." Despite this recommendation, Defendants took no steps to remedy
24 the vulnerability.
25

26 37. The intruder used information gained from the SQL error messages to access the
27 "checkout" account, which had administrative privileges. The "checkout" account was used to
28

1 access and exfiltrate more than 1.1 million patient records from Defendants' databases. The SQL
2 error exploit was also used to obtain a second privileged account called "dcarlson". The
3 "dcarlson" account was used to access and exfiltrate more than 565,000 additional records that
4 were stored in a database containing NMC patient records.
5

6 38. On May 25, 2015, the attacker initiated a second method of attack by inserting
7 malware called a "c99" cell on Defendants' system. This malware caused a massive number of
8 records to be extracted from Defendants' databases. The huge document dump slowed down
9 network performance to such an extent that it triggered a network alarm to the system
10 administrator. The system administrator investigated the event and terminated the malware and
11 data exfiltration on May 26, 2015.
12

13 39. Defendant's post-breach response was inadequate and ineffective. While the c99
14 attack was being investigated, the attacker continued to extract patient records on May 26 and
15 May 28, using the privileged "checkout" credentials acquired through use of the SQL queries.
16 On those two days, a total of 326,000 patient records were accessed.
17

18 40. The breach was not successfully contained until May 29, when a security
19 contractor hired by Defendant identified suspicious IP addresses which led the contractor to
20 uncover the principal SQL attack method.
21

22 41. Defendants failed to implement and maintain an active security monitoring and
23 alert system to detect and alert on anomalous conditions such as data exfiltration, abnormal
24 administrator activities, and remote system access by unfamiliar or foreign IP addresses. The
25 significance of the absence of these security tools cannot be overstated, as two of the IP
26 addresses used to access Defendants' databases originated from Germany. An active security
27
28

1 operations system should have identified remote system access by an unfamiliar IP address and
2 alerted a system administrator to investigate.

3 42. Defendants' privacy policy, in effect at the time of the breach, stated: "Medical
4 Informatics Engineering uses encryption and authentication tools (password and user
5 identification) to protect your personal information...[O]ur employees are aware that certain
6 information provided by our customers is confidential and is to be protected." Yet Defendants
7 failed to encrypt the sensitive personal information and ePHI within MIE's computer systems, a
8 protection that, had it been employed, would have rendered the data unusable.

9 43. Defendants' information security policies were deficient and poorly documented.
10 For example, the incident response plan provided by Defendants was incomplete. There are
11 several questions posed in the document that indicate it is still in a coordination or draft stage.
12 Indeed, there is no documented evidence or checklist to indicate that Defendants followed their
13 own incident response plan. Finally, there is no documentation that Defendants conducted
14 HIPAA Security and Awareness training for 2013, 2014, or 2015, prior to the breach.

15 44. Defendants' actions caused harm to members of the Plaintiff States. Specifically,
16 the victims are subject to emotional distress due to their personal information and ePHI being in
17 the hands of unknown and untrusted individuals, in addition to the increased potential for harm
18 that could result from instances of fraud.

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23 **DEFENDANTS' LAW VIOLATIONS**

24
25 **Count I**
Arizona: Violation of HIPAA Safeguards

26 45. Plaintiff, Arizona, incorporates the factual allegations in paragraphs 1 through 44
27 of this Complaint.
28

1 46. Defendants' conduct constitutes violations of Administrative Safeguards,
2 Technical Safeguards, and implementation specifications as required by HIPAA. Specifically:

3 a. MIE failed to review and modify security measures needed to continue the
4 provision of reasonable and appropriate protection of ePHI in accordance with the
5 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
6 164.306(e).

7
8 b. MIE failed to conduct an accurate and thorough assessment of the
9 potential risks and vulnerabilities to the confidentiality, integrity, and availability of ePHI
10 that it maintained in accordance with the implementation specifications of the Security
11 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(A).

12
13 c. MIE failed to implement security measures sufficient to reduce risks and
14 vulnerabilities to a reasonable and appropriate level in accordance with the
15 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
16 164.308(a)(1)(ii)(B).

17
18 d. MIE failed to implement procedures to regularly review records of
19 information system activity, such as audit logs, access reports, and Security Incident
20 tracking reports in accordance with the implementation specifications of the Security
21 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(D).

22
23 e. MIE failed to implement policies and procedures that, based upon its
24 access authorization policies, establish, document, review, and modify a user's right of
25 access to a workstation, transaction, program, or process that includes ePHI in
26 accordance with 45 C.F.R. § 164.308(a)(4)(ii)(C).

1 f. MIE failed to implement policies and procedures to address Security
2 Incidents, including suspected Security Incidents, to mitigate, to the extent practicable,
3 harmful effects of security incidents known to MIE, or to document such Incidents and
4 their outcomes in accordance with the implementation specifications of the Security Rule,
5 45 C.F.R. § 164.308(a)(6)(ii).
6

7 g. MIE failed to assign a unique name and/or number for identifying and
8 tracking user identity in accordance with the implementation specifications of the
9 Security Rule. 45 C.F.R. § 164.312(a)(2)(i).
10

11 h. MIE failed to implement a mechanism to encrypt and decrypt ePHI, in
12 accordance with the implementation specifications of the Security Rule. 45 C.F.R. §
13 164.312(a)(2)(iv).
14

15 i. MIE failed to implement hardware, software, and/or procedural
16 mechanisms that record and examine activity in information systems that contain or use
17 ePHI, in violation of 45 C.F.R. § 164.312(b).
18

19 j. MIE failed to implement procedures to verify that a person or entity
20 seeking access to ePHI is the one claimed, in violation of 45 C.F.R. § 164.312(c)(2)(d).
21

22 k. MIE failed to adhere to the Minimum Necessary Standard when using or
23 disclosing ePHI, in violation of 45 C.F.R. § 164.502(b)(1).
24

25 47. Plaintiff, Arizona, is entitled to certain statutory damages pursuant to 42 U.S.C.
26 1320d-5(d)(2).
27

28 **Count II**
Arizona: Violation of Ariz. Rev. Stat. § 44-1522

48. Plaintiff, Arizona, incorporates the factual allegations in paragraphs 1 through 44
of this Complaint.

1 49. The Defendants' conduct constitutes a violation of Ariz. Rev. Stat. § 44-1522.

2 50. The information security failings outlined in paragraphs 30 through 40 constitute
3 unfair or deceptive acts in violation of Ariz. Rev. Stat. § 44-1522.

4 51. For example, MIE committed unfair or deceptive acts or practices by
5 representing, in connection with the advertisement and sale of its services, that it maintained
6 appropriate Administrative and Technical Safeguards to protect patients' ePHI and other
7 appropriate measures to protect consumers' sensitive information, when such was not the case.
8

9 52. Defendants' security failings were also likely to cause substantial injury to
10 consumers, including identity theft, and such injury was not reasonably avoidable by the
11 consumers themselves, particularly in light of Defendants' failure to notify consumers in the
12 most expedient manner possible, nor would such injury be outweighed by any countervailing
13 benefits to consumers or competition.
14

15 53. Defendants' conduct was also willful, as, among other things, they knew or
16 should have known that their unfair or deceptive acts or practices were unlawful.
17

18 54. Plaintiff, Arizona, is entitled to injunctive relief, restitution to all affected persons,
19 and disgorgement of Defendants' profits or revenues obtained by means of its unlawful conduct
20 pursuant to Ariz. Rev. Stat. § 44-1528; civil penalties pursuant to Ariz. Rev. Stat. § 44-1531; and
21 attorney fees and costs pursuant to Ariz. Rev. Stat. § 44-1534.
22

23 **Count III**
24 **Arkansas: Violation of HIPAA Safeguards**

25 55. Plaintiff, Arkansas, incorporates the factual allegations in paragraphs 1 through 44
26 of this Complaint.

27 56. Defendants' conduct constitutes violations of Administrative Safeguards,
28 Technical Safeguards, and implementation specifications as required by HIPAA. Specifically:

1 a. MIE failed to review and modify security measures needed to continue the
2 provision of reasonable and appropriate protection of ePHI in accordance with the
3 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
4 164.306(e).

5
6 b. MIE failed to conduct an accurate and thorough assessment of the
7 potential risks and vulnerabilities to the confidentiality, integrity, and availability of ePHI
8 that it maintained in accordance with the implementation specifications of the Security
9 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(A).

10
11 c. MIE failed to implement security measures sufficient to reduce risks and
12 vulnerabilities to a reasonable and appropriate level in accordance with the
13 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
14 164.308(a)(1)(ii)(B).

15
16 d. MIE failed to implement procedures to regularly review records of
17 information system activity, such as audit logs, access reports, and Security Incident
18 tracking reports in accordance with the implementation specifications of the Security
19 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(D).

20
21 e. MIE failed to implement policies and procedures that, based upon its
22 access authorization policies, establish, document, review, and modify a user's right of
23 access to a workstation, transaction, program, or process that includes ePHI in
24 accordance with 45 C.F.R. § 164.308(a)(4)(ii)(C).

25
26 f. MIE failed to implement policies and procedures to address Security
27 Incidents, including suspected Security Incidents, to mitigate, to the extent practicable,
28 harmful effects of security incidents known to MIE, or to document such Incidents and

1 their outcomes in accordance with the implementation specifications of the Security Rule,
2 45 C.F.R. § 164.308(a)(6)(ii).

3 g. MIE failed to assign a unique name and/or number for identifying and
4 tracking user identity in accordance with the implementation specifications of the
5 Security Rule. 45 C.F.R. § 164.312(a)(2)(i).

6 h. MIE failed to implement a mechanism to encrypt and decrypt ePHI, in
7 accordance with the implementation specifications of the Security Rule. 45 C.F.R. §
8 164.312(a)(2)(iv).

9 i. MIE failed to implement hardware, software, and/or procedural
10 mechanisms that record and examine activity in information systems that contain or use
11 ePHI, in violation of 45 C.F.R. § 164.312(b).

12 j. MIE failed to implement procedures to verify that a person or entity
13 seeking access to ePHI is the one claimed, in violation of 45 C.F.R. § 164.312(c)(2)(d).

14 k. MIE failed to adhere to the Minimum Necessary Standard when using or
15 disclosing ePHI, in violation of 45 C.F.R. § 164.502(b)(1).

16 57. Plaintiff, Arkansas, is entitled to certain statutory damages pursuant to 42 U.S.C.
17 1320d-5(d)(2).

18
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21
22 **Count IV**
Arkansas: Deceptive Acts in Violation of Ark. § 4-88-101

23 58. Plaintiff, Arkansas, incorporates the factual allegations in paragraphs 1 through 44
24 of this Complaint.

25 59. The Defendants' conduct constitutes a violation of Ark. Code § 4-88-108.

26 60. The information security failings outlined in paragraphs 30 through 40 constitute
27 unfair or deceptive acts in violation of Ark. Code § 4-88-108.
28

1 61. MIE committed an unfair or deceptive act by representing that it maintained
2 appropriate Administrative and Technical Safeguards to protect patients' ePHI, and other
3 appropriate measures to protect consumers' sensitive information, when such was not the case, in
4 violation of Ark. Code Ann. § 4-88-107(b) and Ark. Code Ann. § 4-88-108.

5
6 62. Plaintiff, Arkansas, is entitled to civil penalties pursuant to Ark. Code § 4-88-
7 113(a)(3), attorney's fees and costs pursuant to Ark. Code § 4-88-113(e), and injunctive relief
8 pursuant to Ark. Code § 4-88-113(a)(1).

9
10 **Count V**
Arkansas: Data Breach Violation of Ark. Code § 4-110-105

11 63. Plaintiff, Arkansas, incorporates the factual allegations in paragraphs 1 through 44
12 of this Complaint.

13
14 64. MIE failed to notify affected individuals or others of the Data Breach as required
15 by Ark. Code § 4-110-105.

16 65. As alleged in paragraphs 28 and 29, Defendants began notifying affected
17 individuals on July 17, 2015 and did not conclude until December 2015. The effective notice
18 date range after the breach was discovered was between 52 days and six months.

19
20 66. By waiting between 52 days and six months to notify affected individuals,
21 Defendants violated Ark. Code § 4-110-105.

22 67. Plaintiff, Arkansas, is entitled to civil penalties pursuant to Ark. Code §§ 4-110-
23 108, 4-88-113(a)(3), attorney fees and costs pursuant to Ark. Code §§ 4-110-108, 4-88-113(e),
24 and injunctive relief pursuant to Ark. Code §§ 4-110-108, 4-88-113(a)(1).
25
26
27
28

1 **Count VI**

2 **Arkansas: Failure to Implement Reasonable Procedures to Protect Personal Information in**
3 **Violation of Ark. Code § 4-110-104(b)**

4 68. Plaintiff, Arkansas, incorporates the factual allegations in paragraphs 1 through 44
5 of this Complaint.

6 69. Defendants failed to implement and maintain reasonable procedures to protect and
7 safeguard the unlawful disclosure of personal information in violation of Ark. Code § 4-110-
8 104(b).

9 70. The information security failings outlined in paragraphs 30 through 40 constitute
10 unreasonable safeguard procedures in violation of Ark. Code § 4-110-104(b).

11 71. Plaintiff, Arkansas, is entitled to civil penalties pursuant to Ark. Code §§ 4-110-
12 108, 4-88-113(a)(3), attorney fees and costs pursuant to Ark. Code §§ 4-110-108, 4-88-113(e),
13 and injunctive relief pursuant to Ark. Code §§ 4-110-108, 4-88-113(a)(1).
14

15 **Count VII**

16 **Florida: Violation of HIPAA Safeguards**

17 72. Plaintiff, Florida, incorporates the factual allegations in paragraphs 1 through 44
18 of this Complaint.

19 73. Defendants' conduct constitutes violations of Administrative Safeguards,
20 Technical Safeguards, and implementation specifications as required by HIPAA. Specifically:

21 a. MIE failed to review and modify security measures needed to continue the
22 provision of reasonable and appropriate protection of ePHI in accordance with the
23 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
24 164.306(e).
25

26 b. MIE failed to conduct an accurate and thorough assessment of the
27 potential risks and vulnerabilities to the confidentiality, integrity, and availability of ePHI
28

1 that it maintained in accordance with the implementation specifications of the Security
2 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(A).

3 c. MIE failed to implement security measures sufficient to reduce risks and
4 vulnerabilities to a reasonable and appropriate level in accordance with the
5 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
6 164.308(a)(1)(ii)(B).

7
8 d. MIE failed to implement procedures to regularly review records of
9 information system activity, such as audit logs, access reports, and Security Incident
10 tracking reports in accordance with the implementation specifications of the Security
11 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(D).

12
13 e. MIE failed to implement policies and procedures that, based upon its
14 access authorization policies, establish, document, review, and modify a user's right of
15 access to a workstation, transaction, program, or process that includes ePHI in
16 accordance with 45 C.F.R. § 164.308(a)(4)(ii)(C).

17
18 f. MIE failed to implement policies and procedures to address Security
19 Incidents, including suspected Security Incidents, to mitigate, to the extent practicable,
20 harmful effects of security incidents known to MIE, or to document such Incidents and
21 their outcomes in accordance with the implementation specifications of the Security Rule,
22 45 C.F.R. § 164.308(a)(6)(ii).

23
24 g. MIE failed to assign a unique name and/or number for identifying and
25 tracking user identity in accordance with the implementation specifications of the
26 Security Rule. 45 C.F.R. § 164.312(a)(2)(i).

1 h. MIE failed to implement a mechanism to encrypt and decrypt ePHI, in
2 accordance with the implementation specifications of the Security Rule. 45 C.F.R. §
3 164.312(a)(2)(iv).

4 i. MIE failed to implement hardware, software, and/or procedural
5 mechanisms that record and examine activity in information systems that contain or use
6 ePHI, in violation of 45 C.F.R. § 164.312(b).

7 j. MIE failed to implement procedures to verify that a person or entity
8 seeking access to ePHI is the one claimed, in violation of 45 C.F.R. § 164.312(c)(2)(d).

9 k. MIE failed to adhere to the Minimum Necessary Standard when using or
10 disclosing ePHI, in violation of 45 C.F.R. § 164.502(b)(1).

11 74. Plaintiff, Florida, is entitled to certain statutory damages pursuant to 42 U.S.C.
12 1320d-5(d)(2).

13
14
15 **Count VIII**

16 **Florida: Deceptive Acts in Violation of Section 501.204, Florida Statutes**

17 75. Plaintiff, Florida, incorporates the factual allegations in paragraphs 1 through 44
18 of this Complaint.

19 76. The Defendants' conduct constitutes a violation of Section 501.204, Florida
20 Statutes.

21 77. The information security failings outlined in paragraphs 30 through 40 constitute
22 unfair or deceptive acts in violation of Section 501.204, Florida Statutes.

23 78. MIE committed an unfair or deceptive act by representing that it maintained
24 appropriate Administrative and Technical Safeguards to protect patients' ePHI, and other
25 appropriate measures to protect consumers' sensitive information, when such was not the case, in
26 violation of Section 501.204, Florida Statutes.
27
28

1 79. Plaintiff, Florida, is entitled to civil penalties pursuant to Section 501.2075,
2 Florida Statutes, attorney fees and costs pursuant to Section 501.2105, Florida Statutes, and
3 injunctive relief pursuant to Section 501.207(b), Florida Statutes.
4

5 **Count IX**
6 **Florida: Data Breach Violation of Section 501.171, Florida Statutes**

7 80. Plaintiff, Florida, incorporates the factual allegations in paragraphs 1 through 44
8 of this Complaint.

9 81. MIE failed to notify affected individuals or others of the Data Breach as required
10 by Section 501.171(4), Florida Statutes.

11 82. As alleged in paragraphs 28 and 29, Defendants began notifying affected
12 individuals on July 17, 2015 and did not conclude until December 2015. The effective notice
13 date range after the breach was discovered was between 52 days and six months.
14

15 83. By waiting between 52 days and six months to notify affected individuals,
16 Defendants violated Section 501.171(4), Florida Statutes.

17 84. Plaintiff, Florida, is entitled to civil penalties pursuant to Section 501.171(9),
18 Florida Statutes, attorney fees and costs pursuant to Section 501.171(9), Florida Statutes and
19 injunctive relief pursuant to Section 501.171(9), Florida Statutes.
20

21 **Count X**
22 **Florida: Failure to Implement Reasonable Procedures to Protect Personal Information in**
23 **Violation of Section 501.171(2), Florida Statutes**

24 85. Plaintiff, Florida, incorporates the factual allegations in paragraphs 1 through 44
25 of this Complaint.

26 86. Defendants failed to implement and maintain reasonable procedures to protect and
27 safeguard the unlawful disclosure of personal information in violation of Section 501.171(2),
28 Florida Statutes.

1 87. The information security failings outlined in paragraphs 30 through 40 constitute
2 unreasonable safeguard procedures in violation of Section 501.171(4), Florida Statutes.

3 88. Plaintiff, Florida, is entitled to civil penalties pursuant to Section 501.171(9)(b),
4 Florida Statutes, attorney fees and costs pursuant to Section 501.171(9), Florida Statutes and
5 injunctive relief pursuant to Section 501.171(9), Florida Statutes.
6

7 **Count XI**
8 **Indiana: Violation of HIPAA Safeguards**

9 89. Plaintiff, Indiana, incorporates the factual allegations in paragraphs 1 through 44
10 of this Complaint.

11 90. Defendants' conduct constitutes violations of Administrative Safeguards,
12 Technical Safeguards, and implementation specifications as required by HIPAA. Specifically:

13 a. MIE failed to review and modify security measures needed to continue the
14 provision of reasonable and appropriate protection of ePHI in accordance with the
15 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
16 164.306(e).
17

18 b. MIE failed to conduct an accurate and thorough assessment of the
19 potential risks and vulnerabilities to the confidentiality, integrity, and availability of ePHI
20 that it maintained in accordance with the implementation specifications of the Security
21 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(A).
22

23 c. MIE failed to implement security measures sufficient to reduce risks and
24 vulnerabilities to a reasonable and appropriate level in accordance with the
25 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
26 164.308(a)(1)(ii)(B).
27
28

1 d. MIE failed to implement procedures to regularly review records of
2 information system activity, such as audit logs, access reports, and Security Incident
3 tracking reports in accordance with the implementation specifications of the Security
4 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(D).

5
6 e. MIE failed to implement policies and procedures that, based upon its
7 access authorization policies, establish, document, review, and modify a user's right of
8 access to a workstation, transaction, program, or process that includes ePHI in
9 accordance with 45 C.F.R. § 164.308(a)(4)(ii)(C).

10
11 f. MIE failed to implement policies and procedures to address Security
12 Incidents, including suspected Security Incidents, to mitigate, to the extent practicable,
13 harmful effects of security incidents known to MIE, or to document such Incidents and
14 their outcomes in accordance with the implementation specifications of the Security Rule,
15 45 C.F.R. § 164.308(a)(6)(ii).

16
17 g. MIE failed to assign a unique name and/or number for identifying and
18 tracking user identity in accordance with the implementation specifications of the
19 Security Rule. 45 C.F.R. § 164.312(a)(2)(i).

20
21 h. MIE failed to implement a mechanism to encrypt and decrypt ePHI, in
22 accordance with the implementation specifications of the Security Rule. 45 C.F.R. §
23 164.312(a)(2)(iv).

24 i. MIE failed to implement hardware, software, and/or procedural
25 mechanisms that record and examine activity in information systems that contain or use
26 ePHI, in violation of 45 C.F.R. § 164.312(b).

1 j. MIE failed to implement procedures to verify that a person or entity
2 seeking access to ePHI is the one claimed, in violation of 45 C.F.R. § 164.312(c)(2)(d).

3 k. MIE failed to adhere to the Minimum Necessary Standard when using or
4 disclosing ePHI, in violation of 45 C.F.R. § 164.502(b)(1).

5
6 91. Plaintiff, Indiana, is entitled to certain statutory damages pursuant to 42 U.S.C.
7 1320d-5(d)(2).

8 **Count XII**

9 **Indiana: Deceptive Acts in Violation of Ind. Code § 24-5-0.5-3**

10 92. Plaintiff, Indiana, incorporates the factual allegations in paragraphs 1 through 44
11 of this Complaint.

12 93. The Defendants' conduct constitutes a violation of Ind. Code § 24-5-0.5-3.

13 94. The information security failings outlined in paragraphs 30 through 40 constitute
14 unfair or deceptive acts in violation of Ind. Code § 24-5-0.5-3.

15 95. MIE committed an unfair or deceptive act by representing that it maintained
16 appropriate Administrative and Technical Safeguards to protect patients' ePHI, and other
17 appropriate measures to protect consumers' sensitive information, when such was not the case, in
18 violation of Ind. Code § 24-5-0.5-3.

19 96. Plaintiff, Indiana, is entitled to civil penalties pursuant to Ind. Code § 24-5-0.5-
20 4(g), attorney fees and costs pursuant to Ind. Code § 24-5-0.5-4(c), and injunctive relief pursuant
21 to Ind. Code § 24-5-0.5-4(c).

22 **Count XIII**

23 **Indiana: Failure to Implement Reasonable Procedures to Protect Personal Information in**
24 **Violation of Ind. Code § 24-4.9-3-3.5**

25 97. Plaintiff, Indiana, incorporates the factual allegations in paragraphs 1 through 44
26 of this Complaint.

1 98. Defendants failed to implement and maintain reasonable procedures to protect and
2 safeguard the unlawful disclosure of personal information in violation of Ind. Code § 24-4.9-3-
3 3.5(c).

4 99. The information security failings outlined in paragraphs 30 through 40 constitute
5 unreasonable safeguard procedures in violation of Ind. Code § 24-5-0.5-3.5.

6 100. Defendants are not exempt from Ind. Code § 24-5-0.5-3.5, as the Defendants did
7 not comply with a HIPAA compliancy plan. Ind. Code § 24-5-0.5-3.5(a)(6).

8 101. Plaintiff, Indiana, is entitled to civil penalties pursuant to Ind. Code § 24-4.9-3-
9 3.5(f)(2), attorney fees and costs pursuant to Ind. Code § 24-4.9-3-3.5(f)(3), and injunctive relief
10 pursuant to Ind. Code § 24-4.9-3-3.5(f)(1).

11
12
13 **Count XIV**
14 **Iowa: Violation of HIPAA Safeguards**

15 102. Plaintiff, Iowa, incorporates the factual allegations in paragraphs 1 through 44 of
16 this Complaint.

17 103. Defendants' conduct constitutes violations of Administrative Safeguards,
18 Technical Safeguards, and implementation specifications as required by HIPAA. Specifically:

19 a. MIE failed to review and modify security measures needed to continue the
20 provision of reasonable and appropriate protection of ePHI in accordance with the
21 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
22 164.306(e).

23 b. MIE failed to conduct an accurate and thorough assessment of the
24 potential risks and vulnerabilities to the confidentiality, integrity, and availability of ePHI
25 that it maintained in accordance with the implementation specifications of the Security
26 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(A).
27
28

1 c. MIE failed to implement security measures sufficient to reduce risks and
2 vulnerabilities to a reasonable and appropriate level in accordance with the
3 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
4 164.308(a)(1)(ii)(B).
5

6 d. MIE failed to implement procedures to regularly review records of
7 information system activity, such as audit logs, access reports, and Security Incident
8 tracking reports in accordance with the implementation specifications of the Security
9 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(D).
10

11 e. MIE failed to implement policies and procedures that, based upon its
12 access authorization policies, establish, document, review, and modify a user's right of
13 access to a workstation, transaction, program, or process that includes ePHI in
14 accordance with 45 C.F.R. § 164.308(a)(4)(ii)(C).
15

16 f. MIE failed to implement policies and procedures to address Security
17 Incidents, including suspected Security Incidents, to mitigate, to the extent practicable,
18 harmful effects of security incidents known to MIE, or to document such Incidents and
19 their outcomes in accordance with the implementation specifications of the Security Rule,
20 45 C.F.R. § 164.308(a)(6)(ii).
21

22 g. MIE failed to assign a unique name and/or number for identifying and
23 tracking user identity in accordance with the implementation specifications of the
24 Security Rule. 45 C.F.R. § 164.312(a)(2)(i).
25

26 h. MIE failed to implement a mechanism to encrypt and decrypt ePHI, in
27 accordance with the implementation specifications of the Security Rule. 45 C.F.R. §
28 164.312(a)(2)(iv).

1 i. MIE failed to implement hardware, software, and/or procedural
2 mechanisms that record and examine activity in information systems that contain or use
3 ePHI, in violation of 45 C.F.R. § 164.312(b).

4 j. MIE failed to implement procedures to verify that a person or entity
5 seeking access to ePHI is the one claimed, in violation of 45 C.F.R. § 164.312(c)(2)(d).

6 k. MIE failed to adhere to the Minimum Necessary Standard when using or
7 disclosing ePHI, in violation of 45 C.F.R. § 164.502(b)(1).

8
9 104. Plaintiff, Iowa, is entitled to certain statutory damages pursuant to 42 U.S.C.
10 1320d-5(d)(2).

11
12 **Count XV**
13 **Iowa: Deceptive Acts in Violation of Iowa Code § 714.16**

14 105. Plaintiff, Iowa, incorporates the factual allegations in paragraphs 1 through 44 of
15 this Complaint.

16 106. The Defendants' conduct constitutes a violation of Iowa Code § 714.16.

17 107. The information security failings outlined in paragraphs 30 through 40 constitute
18 unfair or deceptive acts in violation of Iowa Code § 714.16.

19 108. MIE committed an unfair or deceptive act by representing that it maintained
20 appropriate Administrative and Technical Safeguards to protect patients' ePHI, and other
21 appropriate measures to protect consumers' sensitive information, when such was not the case, in
22 violation of Iowa Code § 714.16.
23

24 109. Plaintiff, Iowa, is entitled to civil penalties pursuant to Iowa Code § 714.16(8),
25 attorney fees and costs pursuant to Iowa Code § 714.16(11), and injunctive relief pursuant to
26 Iowa Code § 714.16(7).
27

1 **Count XVI**
2 **Iowa: Data Breach Violation of Iowa Code § 715C.2**

3 110. Plaintiff, Iowa, incorporates the factual allegations in paragraphs 1 through 44 of
4 this Complaint.

5 111. MIE failed to notify affected individuals or others of the Data Breach as required
6 by Iowa Code § 715C.2.

7 112. As alleged in paragraphs 28 and 29, Defendants began notifying affected
8 individuals on July 17, 2015 and did not conclude until December 2015. The effective notice
9 date range after the breach was discovered was between 52 days and six months.
10

11 113. By waiting between 52 days and six months to notify affected individuals,
12 Defendants violated Iowa Code § 715C.2.

13 114. Plaintiff, Iowa, is entitled to civil penalties pursuant to Iowa Code §§ 715C.2(9),
14 714.16(7), attorney fees and costs pursuant to Iowa Code §§ 715C.2(9), 714.16(7), and
15 injunctive relief pursuant to Iowa Code §§ 715C.2(9), 714.16(7).
16

17 **Count XVII**
18 **Kansas: Violation of HIPAA Safeguards**

19 115. Plaintiff, Kansas, incorporates the factual allegations in paragraphs 1 through 44
20 of this Complaint.

21 116. Defendants' conduct constitutes violations of Administrative Safeguards,
22 Technical Safeguards, and implementation specifications as required by HIPAA. Specifically:
23

24 a. MIE failed to review and modify security measures needed to continue the
25 provision of reasonable and appropriate protection of ePHI in accordance with the
26 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
27 164.306(e).
28

1 b. MIE failed to conduct an accurate and thorough assessment of the
2 potential risks and vulnerabilities to the confidentiality, integrity, and availability of ePHI
3 that it maintained in accordance with the implementation specifications of the Security
4 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(A).

5
6 c. MIE failed to implement security measures sufficient to reduce risks and
7 vulnerabilities to a reasonable and appropriate level in accordance with the
8 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
9 164.308(a)(1)(ii)(B).

10
11 d. MIE failed to implement procedures to regularly review records of
12 information system activity, such as audit logs, access reports, and Security Incident
13 tracking reports in accordance with the implementation specifications of the Security
14 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(D).

15 e. MIE failed to implement policies and procedures that, based upon its
16 access authorization policies, establish, document, review, and modify a user's right of
17 access to a workstation, transaction, program, or process that includes ePHI in
18 accordance with 45 C.F.R. § 164.308(a)(4)(ii)(C).

19
20 f. MIE failed to implement policies and procedures to address Security
21 Incidents, including suspected Security Incidents, to mitigate, to the extent practicable,
22 harmful effects of security incidents known to MIE, or to document such Incidents and
23 their outcomes in accordance with the implementation specifications of the Security Rule,
24 45 C.F.R. § 164.308(a)(6)(ii).

1 g. MIE failed to assign a unique name and/or number for identifying and
2 tracking user identity in accordance with the implementation specifications of the
3 Security Rule. 45 C.F.R. § 164.312(a)(2)(i).

4 h. MIE failed to implement a mechanism to encrypt and decrypt ePHI, in
5 accordance with the implementation specifications of the Security Rule. 45 C.F.R. §
6 164.312(a)(2)(iv).

7 i. MIE failed to implement hardware, software, and/or procedural
8 mechanisms that record and examine activity in information systems that contain or use
9 ePHI, in violation of 45 C.F.R. § 164.312(b).

10 j. MIE failed to implement procedures to verify that a person or entity
11 seeking access to ePHI is the one claimed, in violation of 45 C.F.R. § 164.312(c)(2)(d).

12 k. MIE failed to adhere to the Minimum Necessary Standard when using or
13 disclosing ePHI, in violation of 45 C.F.R. § 164.502(b)(1).

14 117. Plaintiff, Kansas, is entitled to certain statutory damages pursuant to 42 U.S.C.
15 1320d-5(d)(2).

16
17
18
19 **Count XVIII**

20 **Kansas: Deceptive Acts in Violation of Kan. Stat. § 50-626**

21 118. Plaintiff, Kansas, incorporates the factual allegations in paragraphs 1 through 44
22 of this Complaint.

23 119. The Defendants' conduct constitutes a violation of Kan. Stat. § 50-626.

24 120. The information security failings outlined in paragraphs 30 through 40 constitute
25 unfair or deceptive acts in violation of Kan. Stat. § 50-626.

26 121. MIE committed an unfair or deceptive act by representing that it maintained
27 appropriate Administrative and Technical Safeguards to protect patients' ePHI, and other
28

1 appropriate measures to protect consumers' sensitive information, when such was not the case, in
2 violation of Kan. Stat. § 50-626.

3 122. Plaintiff, Kansas, is entitled to civil penalties pursuant to Kan. Stat. § 50-636,
4 attorney fees and costs pursuant to Kan. Stat. § 50-632(a)(4), and injunctive relief pursuant to
5 Kan. Stat. § 50-632(a)(2).
6

7 **Count XIX**
8 **Kansas: Data Breach Violation of Kan. Stat. § 50-7a02**

9 123. Plaintiff, Kansas, incorporates the factual allegations in paragraphs 1 through 44
10 of this Complaint.

11 124. MIE failed to notify affected individuals or others of the Data Breach as required
12 by Kan. Stat. § 50-7a02.

13 125. As alleged in paragraphs 28 and 29, Defendants began notifying affected
14 individuals on July 17, 2015 and did not conclude until December 2015. The effective notice
15 date range after the breach was discovered was between 52 days and six months.
16

17 126. By waiting between 52 days and six months to notify affected individuals,
18 Defendants violated Kan. Stat. § 50-7a02.

19 127. Plaintiff, Kansas, is entitled to appropriate relief pursuant Kan. Stat. § 50-7a02(g).
20

21 **Count XX**
22 **Kansas: Failure to Implement Reasonable Procedures to Protect Personal Information in**
23 **Violation of Kan. Stat. § 50-6139b(b)(1)**

24 128. Plaintiff, Kansas, incorporates the factual allegations in paragraphs 1 through 44
25 of this Complaint.

26 129. Defendants failed to implement and maintain reasonable procedures to protect and
27 safeguard the unlawful disclosure of personal information in violation of Kan. Stat. § 50-
28 6139b(b)(1).

1 130. The information security failings outlined in paragraphs 30 through 40 constitute
2 unreasonable safeguard procedures in violation of Kan. Stat. § 50-6139b(b)(1).

3 131. Plaintiff, Kansas, is entitled to civil penalties pursuant to Kan. Stat. §§ 50-
4 6139b(d, e), 50-636, attorney fees and costs pursuant to Kan. Stat. §§ 50-6139b(d, e), 50-636(c),
5 and injunctive relief pursuant to Kan. Stat. §§ 50-6139b(d, e), 50-632(a)(2).
6

7 **Count XXI**
8 **Kentucky: Violation of HIPAA Safeguards**

9 132. Plaintiff, Kentucky, incorporates the factual allegations in paragraphs 1 through
10 44 of this Complaint.

11 133. Defendants' conduct constitutes violations of Administrative Safeguards,
12 Technical Safeguards, and implementation specifications as required by HIPAA. Specifically:

13 a. MIE failed to review and modify security measures needed to continue the
14 provision of reasonable and appropriate protection of ePHI in accordance with the
15 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
16 164.306(e).
17

18 b. MIE failed to conduct an accurate and thorough assessment of the
19 potential risks and vulnerabilities to the confidentiality, integrity, and availability of ePHI
20 that it maintained in accordance with the implementation specifications of the Security
21 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(A).
22

23 c. MIE failed to implement security measures sufficient to reduce risks and
24 vulnerabilities to a reasonable and appropriate level in accordance with the
25 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
26 164.308(a)(1)(ii)(B).
27
28

1 d. MIE failed to implement procedures to regularly review records of
2 information system activity, such as audit logs, access reports, and Security Incident
3 tracking reports in accordance with the implementation specifications of the Security
4 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(D).

5
6 e. MIE failed to implement policies and procedures that, based upon its
7 access authorization policies, establish, document, review, and modify a user's right of
8 access to a workstation, transaction, program, or process that includes ePHI in
9 accordance with 45 C.F.R. § 164.308(a)(4)(ii)(C).

10
11 f. MIE failed to implement policies and procedures to address Security
12 Incidents, including suspected Security Incidents, to mitigate, to the extent practicable,
13 harmful effects of security incidents known to MIE, or to document such Incidents and
14 their outcomes in accordance with the implementation specifications of the Security Rule,
15 45 C.F.R. § 164.308(a)(6)(ii).

16
17 g. MIE failed to assign a unique name and/or number for identifying and
18 tracking user identity in accordance with the implementation specifications of the
19 Security Rule. 45 C.F.R. § 164.312(a)(2)(i).

20
21 h. MIE failed to implement a mechanism to encrypt and decrypt ePHI, in
22 accordance with the implementation specifications of the Security Rule. 45 C.F.R. §
23 164.312(a)(2)(iv).

24 i. MIE failed to implement hardware, software, and/or procedural
25 mechanisms that record and examine activity in information systems that contain or use
26 ePHI, in violation of 45 C.F.R. § 164.312(b).

1 j. MIE failed to implement procedures to verify that a person or entity
2 seeking access to ePHI is the one claimed, in violation of 45 C.F.R. § 164.312(c)(2)(d).

3 k. MIE failed to adhere to the Minimum Necessary Standard when using or
4 disclosing ePHI, in violation of 45 C.F.R. § 164.502(b)(1).

5
6 134. Plaintiff, Kentucky, is entitled to certain statutory damages pursuant to 42 U.S.C.
7 1320d-5(d)(2).

8 **Count XXII**

9 **Kentucky: Deceptive Acts in Violation of Ky. Rev. Stat. § 367.170**

10 135. Plaintiff, Kentucky, incorporates the factual allegations in paragraphs 1 through
11 44 of this Complaint.

12 136. The Defendants' conduct constitutes a violation of Ky. Rev. Stat. § 367.170.

13 137. The information security failings outlined in paragraphs 23 through 43 constitute
14 unfair or deceptive acts in violation of Ky. Rev. Stat. § 367.170.

15 138. MIE committed an unfair or deceptive act by representing that it maintained
16 appropriate Administrative and Technical Safeguards to protect patients' ePHI, and other
17 appropriate measures to protect consumers' sensitive information, when such was not the case, in
18 violation of Ky. Rev. Stat. § 367.170.
19
20

21 139. Plaintiff, Kentucky, is entitled to civil penalties pursuant to Ky. Rev. Stat. §
22 367.990(2), and injunctive relief pursuant to Ky. Rev. Stat. § 367.190.

23 **Count XXIII**

24 **Louisiana: Violation of HIPAA Safeguards**

25 140. Plaintiff, Louisiana, incorporates the factual allegations in paragraphs 1 through
26 44 of this Complaint.

1 141. Defendants' conduct constitutes violations of Administrative Safeguards,
2 Technical Safeguards, and implementation specifications as required by HIPAA. Specifically:

3 a. MIE failed to review and modify security measures needed to continue the
4 provision of reasonable and appropriate protection of ePHI in accordance with the
5 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
6 164.306(e).

7
8 b. MIE failed to conduct an accurate and thorough assessment of the
9 potential risks and vulnerabilities to the confidentiality, integrity, and availability of ePHI
10 that it maintained in accordance with the implementation specifications of the Security
11 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(A).

12
13 c. MIE failed to implement security measures sufficient to reduce risks and
14 vulnerabilities to a reasonable and appropriate level in accordance with the
15 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
16 164.308(a)(1)(ii)(B).

17
18 d. MIE failed to implement procedures to regularly review records of
19 information system activity, such as audit logs, access reports, and Security Incident
20 tracking reports in accordance with the implementation specifications of the Security
21 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(D).

22
23 e. MIE failed to implement policies and procedures that, based upon its
24 access authorization policies, establish, document, review, and modify a user's right of
25 access to a workstation, transaction, program, or process that includes ePHI in
26 accordance with 45 C.F.R. § 164.308(a)(4)(ii)(C).

1 f. MIE failed to implement policies and procedures to address Security
2 Incidents, including suspected Security Incidents, to mitigate, to the extent practicable,
3 harmful effects of security incidents known to MIE, or to document such Incidents and
4 their outcomes in accordance with the implementation specifications of the Security Rule,
5 45 C.F.R. § 164.308(a)(6)(ii).
6

7 g. MIE failed to assign a unique name and/or number for identifying and
8 tracking user identity in accordance with the implementation specifications of the
9 Security Rule. 45 C.F.R. § 164.312(a)(2)(i).
10

11 h. MIE failed to implement a mechanism to encrypt and decrypt ePHI, in
12 accordance with the implementation specifications of the Security Rule. 45 C.F.R. §
13 164.312(a)(2)(iv).
14

15 i. MIE failed to implement hardware, software, and/or procedural
16 mechanisms that record and examine activity in information systems that contain or use
17 ePHI, in violation of 45 C.F.R. § 164.312(b).
18

19 j. MIE failed to implement procedures to verify that a person or entity
20 seeking access to ePHI is the one claimed, in violation of 45 C.F.R. § 164.312(c)(2)(d).
21

22 k. MIE failed to adhere to the Minimum Necessary Standard when using or
23 disclosing ePHI, in violation of 45 C.F.R. § 164.502(b)(1).
24

25 142. Plaintiff, Louisiana, is entitled to certain statutory damages pursuant to 42 U.S.C.
26 1320d-5(d)(2).
27

28 **Count XXIV**

Louisiana: Deceptive Acts in Violation of La. Rev. Stat. § 51:1405

143. Plaintiff, Louisiana, incorporates the factual allegations in paragraphs 1 through
44 of this Complaint.

1 144. The Defendants' conduct constitutes a violation of La. Rev. Stat. § 51:1405.

2 145. The information security failings outlined in paragraphs 30 through 40 constitute
3 unfair or deceptive acts in violation of La. Rev. Stat. § 51:1405.

4 146. MIE committed an unfair or deceptive act by representing that it maintained
5 appropriate Administrative and Technical Safeguards to protect patients' ePHI, and other
6 appropriate measures to protect consumers' sensitive information, when such was not the case, in
7 violation of La. Rev. Stat. § 51:1405.

8 147. Plaintiff, Louisiana, is entitled to civil penalties pursuant and injunctive relief
9 pursuant to La. Rev. Stat. § 51:1407.

10
11
12 **Count XXV**
13 **Louisiana: Data Breach Violation of La. Rev. Stat. § 51:3074**

14 148. Plaintiff, Louisiana, incorporates the factual allegations in paragraphs 1 through
15 44 of this Complaint.

16 149. MIE failed to notify affected individuals or others of the Data Breach as required
17 by La. Rev. Stat. § 51:3074.

18 150. As alleged in paragraphs 28 and 29, Defendants began notifying affected
19 individuals on July 17, 2015 and did not conclude until December 2015. The effective notice
20 date range after the breach was discovered was between 52 days and six months.

21 151. By waiting between 52 days and six months to notify affected individuals,
22 Defendants violated La. Rev. Stat. § 51:3074.

23 152. Plaintiff, Louisiana, is entitled to damages and civil penalties pursuant to La. Rev.
24 Stat. 51:3075 and 16 La. Admin. Code Pt III, 701.
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28

Count XXVI
Minnesota: Violation of HIPAA Safeguards

1
2
3 153. Plaintiff, Minnesota, incorporates the factual allegations in paragraphs 1 through
4 44 of this Complaint.

5 154. Defendants' conduct constitutes violations of Administrative Safeguards,
6 Technical Safeguards, and implementation specifications as required by HIPAA. Specifically:

7
8 a. MIE failed to review and modify security measures needed to continue the
9 provision of reasonable and appropriate protection of ePHI in accordance with the
10 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
11 164.306(e).

12 b. MIE failed to conduct an accurate and thorough assessment of the
13 potential risks and vulnerabilities to the confidentiality, integrity, and availability of ePHI
14 that it maintained in accordance with the implementation specifications of the Security
15 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(A).

16 c. MIE failed to implement security measures sufficient to reduce risks and
17 vulnerabilities to a reasonable and appropriate level in accordance with the
18 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
19 164.308(a)(1)(ii)(B).

20 d. MIE failed to implement procedures to regularly review records of
21 information system activity, such as audit logs, access reports, and Security Incident
22 tracking reports in accordance with the implementation specifications of the Security
23 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(D).

24 e. MIE failed to implement policies and procedures that, based upon its
25 access authorization policies, establish, document, review, and modify a user's right of
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1 access to a workstation, transaction, program, or process that includes ePHI in
2 accordance with 45 C.F.R. § 164.308(a)(4)(ii)(C).

3 f. MIE failed to implement policies and procedures to address Security
4 Incidents, including suspected Security Incidents, to mitigate, to the extent practicable,
5 harmful effects of security incidents known to MIE, or to document such Incidents and
6 their outcomes in accordance with the implementation specifications of the Security Rule,
7 45 C.F.R. § 164.308(a)(6)(ii).

8 g. MIE failed to assign a unique name and/or number for identifying and
9 tracking user identity in accordance with the implementation specifications of the
10 Security Rule. 45 C.F.R. § 164.312(a)(2)(i).

11 h. MIE failed to implement a mechanism to encrypt and decrypt ePHI, in
12 accordance with the implementation specifications of the Security Rule. 45 C.F.R. §
13 164.312(a)(2)(iv).

14 i. MIE failed to implement hardware, software, and/or procedural
15 mechanisms that record and examine activity in information systems that contain or use
16 ePHI, in violation of 45 C.F.R. § 164.312(b).

17 j. MIE failed to implement procedures to verify that a person or entity
18 seeking access to ePHI is the one claimed, in violation of 45 C.F.R. § 164.312(c)(2)(d).

19 k. MIE failed to adhere to the Minimum Necessary Standard when using or
20 disclosing ePHI, in violation of 45 C.F.R. § 164.502(b)(1).

21 155. Plaintiff, Minnesota, is entitled to certain statutory damages pursuant to 42 U.S.C.
22 1320d-5(d)(2).

1 **Count XXVII**

2 **Minnesota: Deceptive Acts in Violation of Minn. Stat. § 325F.69**

3 156. Plaintiff, Minnesota, incorporates the factual allegations in paragraphs 1 through
4 44 of this Complaint.

5 157. Minnesota Statutes section 325F.69, subdivision 1 reads:

6 The act, use, or employment by any person of any fraud, false
7 pretense, false promise, misrepresentation, misleading statement or
8 deceptive practice, with the intent that others rely thereon in
9 connection with the sale of any merchandise, whether or not any
10 person has in fact been misled, deceived, or damaged thereby, is
enjoinable as provided in section 325F.70

11 Minn. Stat. § 325F.69, subd. 1 (2017).

12 158. The term “merchandise” within the meaning of Minnesota Statutes section
13 325F.69 includes services. *See* Minn. Stat. § 325F.68, subd. 2 (2017).

14 159. Defendants have repeatedly violated Minnesota Statutes section 325F.69,
15 subdivision 1, by engaging in the deceptive and fraudulent practices described in this Complaint.
16 For example, Defendants falsely represented to Minnesota persons that Defendants would protect
17 and safeguard their protected health information and sensitive personal information—including,
18 but not limited to, by using encryption tools and maintaining appropriate Administrative and
19 Technical Safeguards to protect Minnesota persons’ ePHI, as well as other appropriate measures
20 to protect Minnesota persons’ sensitive personal information—when such was not the case,
21 resulting in the exposure of Minnesota persons’ protected health information and sensitive
22 personal information as described in this Complaint.
23
24

25 160. As a result of the practices described in this Complaint, hackers accessed and
26 exfiltrated the protected health information of more than 8,000 Minnesotans (including more
27 than 5,000 Minnesotans who also had their Social Security numbers exposed as well). The
28

1 protected health information and sensitive personal information that was hacked includes an
2 individual's name, telephone number, mailing address, username, hashed password, security
3 question and answer, spousal information (including name and date of birth), email address, date
4 of birth, Social Security number, lab results, health insurance policy information, diagnosis,
5 disability code, doctor's name, medical conditions, and child's name and birth statistics. These
6 Minnesota persons had their protected health information and personal information exposed in
7 connection with their seeking treatment from healthcare providers, physician practices, hospitals,
8 and/or other organizations which are or were located and/or operated within Minnesota.
9

10
11 161. Special circumstances exist that triggered a duty on the part of Defendants to
12 disclose material facts related to vulnerabilities within Defendants' computer systems to
13 Minnesota persons. First, Defendants had special knowledge of the vulnerabilities in Defendants'
14 computers systems, and that hackers had exposed these vulnerabilities, leading to the release of
15 Minnesotans protected health information and personal information. Minnesotans did not have
16 knowledge of these vulnerabilities or the release of this information at the time of their treatment.
17 Minnesotans lack of knowledge was also caused, in part, by Defendants failure to timely notify
18 Minnesotans of the security breach of Defendants' computer systems. Second, Defendants did
19 not say enough to prevent the representations it made to Minnesotans from being deceptive and
20 misleading.
21

22
23 162. Defendants knew or had reason to know that Minnesotans would place their trust
24 in Defendants and rely on Defendants to inform them of material facts relating to the
25 vulnerabilities in Defendants' computers systems, and that hackers had exposed these
26 vulnerabilities. Defendants abused that trust by making misrepresentations, or concealing
27 material facts, about these vulnerabilities.
28

1 ***

2 (7) represents that goods or services are of a particular standard,
3 quality, or grade, or that goods are of a particular style or model, if
4 they are of another;

5 *** or

6 (13) engages in any other conduct which similarly creates a
7 likelihood of confusion or of misunderstanding.

8 Minn. Stat. § 325D.44, subd. 1 (2017).

9 169. Defendants have repeatedly violated Minnesota Statutes section 325D.44,
10 subdivision 1, by engaging in the deceptive and fraudulent conduct described in this Complaint,
11 including by making false, deceptive, fraudulent, and/or misleading representations and material
12 omissions to Minnesota persons regarding their products and services. These misrepresentations
13 and material omissions include but are not limited to: (1) by making misrepresentations about
14 protecting Minnesota persons ePHI and sensitive personal information, Defendants represented
15 that their products and/or services had characteristics that they did not have in violation of Minn.
16 Stat. § 325D.44, subd. 1(5), and were of a particular standard, quality, or grade, when they were
17 of another in violation of Minn. Stat. § 325D.44, subd. 1(7); and (2) by falsely representing to
18 Minnesota persons that Defendants would protect and safeguard their protected health
19 information and sensitive personal information—including, but not limited to, by using
20 encryption tools and maintaining appropriate Administrative and Technical Safeguards to protect
21 Minnesota persons' ePHI, as well as other appropriate measures to protect Minnesota persons'
22 sensitive personal information—when such was not the case, resulting in the exposure of
23 Minnesota persons' protected health information and sensitive personal information as described
24 in this Complaint, Defendant engaged in conduct that creates a likelihood of confusing or of
25 misunderstanding in violation of Minn. Stat. § 325D.44, subd. 1(13).

1 170. As a result of the practices described in this Complaint, hackers accessed and
2 exfiltrated the protected health information of more than 8,000 Minnesotans (including more
3 than 5,000 Minnesotans who also had their Social Security numbers exposed as well). The
4 protected health information and sensitive personal information that was hacked includes an
5 individual's name, telephone number, mailing address, username, hashed password, security
6 question and answer, spousal information (including name and date of birth), email address, date
7 of birth, Social Security number, lab results, health insurance policy information, diagnosis,
8 disability code, doctor's name, medical conditions, and child's name and birth statistics. These
9 Minnesota persons had their protected health information and personal information exposed as a
10 result of their seeking treatment from healthcare providers, physician practices, hospitals, and/or
11 other organizations which are or were located and/or operated within Minnesota.
12

13
14 171. Special circumstances exist that triggered a duty on the part of Defendants to
15 disclose material facts related to vulnerabilities within Defendants' computer systems to
16 Minnesota persons. First, Defendants had special knowledge of the vulnerabilities in Defendants'
17 computers systems, and that hackers had exposed these vulnerabilities, leading to the release of
18 Minnesotans protected health information and personal information. Minnesota did not have
19 knowledge of these vulnerabilities or the release of this information at the time of their treatment.
20 Minnesotans lack of knowledge was also caused, in part, by Defendants failure to timely notify
21 Minnesotans of the security breach of Defendants' computer systems. Second, Defendants did
22 not say enough to prevent the representations it made to Minnesotans from being deceptive and
23 misleading.
24

25
26 172. Defendants knew or had reason to know that Minnesotans would place their trust
27 in Defendants and rely on Defendants to inform them of material facts relating to the
28

1 vulnerabilities in Defendants' computers systems, and that hackers had exposed these
2 vulnerabilities. Defendants abused that trust by making misrepresentations, or concealing
3 material facts, about these vulnerabilities.

4
5 173. Given the representations it made, its special knowledge, and the circumstances
6 described in this Complaint, Defendants had a duty to disclose material facts to Minnesota
7 persons in connection with the data breach described in this Complaint. By not doing so,
8 Defendants failed to disclose material information in violation of Minnesota Statutes section
9 325F.69, subdivision 1.

10
11 174. Due to the deceptive and fraudulent conduct described in this Complaint,
12 Minnesota persons made payments to Defendants for goods and services that they otherwise
13 would not have purchased or in amounts that they should not have been required to pay.

14
15 175. Defendants' conduct, practices, and actions described in this Complaint constitute
16 multiple, separate violations of Minnesota Statutes section 325D.44.

17
18 176. Plaintiff, Minnesota, is entitled to civil penalties pursuant to Minn. Stat. § 8.31;
19 attorney fees and costs pursuant to Minn. Stat. § 8.31; injunctive relief pursuant to Minn. Stat.
20 § 8.31 and § 325D.45; restitution under the *parens patriae* doctrine, the general equitable powers
21 of this Court, and § 8.31; and any such further relief as provided by law or equity, or as the Court
22 deems appropriate and just.

23 **Count XXIX**
24 **Minnesota: Data Breach Violation of Minn. Stat. § 325E.61**

25
26 177. Plaintiff, Minnesota, incorporates the factual allegations in paragraphs 1 through
27 44 of this Complaint.

28 178. MIE failed to notify affected individuals or others of the Data Breach as required
by Minn. Stat. § 325E.61.

1 179. As alleged in paragraphs 28 and 29, Defendants began notifying affected
2 individuals on July 17, 2015 and did not conclude until December 2015. The effective notice
3 date range after the breach was discovered was between 52 days and six months.
4

5 180. By waiting between 52 days and six months to notify affected individuals,
6 Defendants violated Minn. Stat. § 325E.61.

7 181. Minnesota Statutes 325E.61, subdivision 1(a) provides in part that:

8 Any person or business that conducts business in this state, and that
9 owns or licenses data that includes personal information, shall
10 disclose any breach of the security of the system following
11 discovery or notification of the breach in the security of the data to
12 any resident of this state whose unencrypted personal information
13 was, or is reasonably believed to have been, acquired by an
14 unauthorized person. The disclosure must be made in the most
15 expedient time possible and without unreasonable delay.

16 Minn. Stat. § 325E.61, subd. 1(a) (2017).

17 182. At all relevant times, Defendants conducted business in Minnesota and owned or
18 licensed data that included personal information.

19 183. Defendants have violated Minnesota Statutes section 325E.61, subdivision 1(a) by
20 failing to, without unreasonable delay, expediently notify Minnesota victims of the data breach
21 described in this Complaint. Despite knowing that it exposed the personal information, including
22 persons' names and Social Security numbers, of Minnesota persons, Defendants unreasonably
23 delayed providing notice of this breach to Minnesota residents.

24 184. Defendants' conduct, practices, and actions described in this Complaint constitute
25 multiple, separate violations of Minnesota Statutes section 325E.61.

26 185. Plaintiff, Minnesota, is entitled to civil penalties pursuant to Minn. Stat. § 8.31
27 and § 325E.61, subd. 6; attorney fees and costs pursuant to Minn. Stat. § 8.31 and § 325E.61;
28 subd. 6; injunctive relief pursuant to Minn. Stat. § 8.31 and § 325E.61, subd. 6; restitution under

1 the *parens patriae* doctrine, the general equitable powers of this Court, and Minn. Stat. § 8.31;
2 and any such further relief as provided by law or equity, or as the Court deems appropriate and
3 just.

4
5 **Count XXX**
6 **Nebraska: Violation of HIPAA Safeguards**

7 186. Plaintiff, Nebraska, incorporates the factual allegations in paragraphs 1 through
8 44 of this Complaint.

9 187. Defendants' conduct constitutes violations of Administrative Safeguards,
10 Technical Safeguards, and implementation specifications as required by HIPAA. Specifically:

11 a. MIE failed to review and modify security measures needed to continue the
12 provision of reasonable and appropriate protection of ePHI in accordance with the
13 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
14 164.306(e).

15
16 b. MIE failed to conduct an accurate and thorough assessment of the
17 potential risks and vulnerabilities to the confidentiality, integrity, and availability of ePHI
18 that it maintained in accordance with the implementation specifications of the Security
19 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(A).

20
21 c. MIE failed to implement security measures sufficient to reduce risks and
22 vulnerabilities to a reasonable and appropriate level in accordance with the
23 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
24 164.308(a)(1)(ii)(B).

25
26 d. MIE failed to implement procedures to regularly review records of
27 information system activity, such as audit logs, access reports, and Security Incident
28

1 tracking reports in accordance with the implementation specifications of the Security
2 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(D).

3 e. MIE failed to implement policies and procedures that, based upon its
4 access authorization policies, establish, document, review, and modify a user's right of
5 access to a workstation, transaction, program, or process that includes ePHI in
6 accordance with 45 C.F.R. § 164.308(a)(4)(ii)(C).

7
8 f. MIE failed to implement policies and procedures to address Security
9 Incidents, including suspected Security Incidents, to mitigate, to the extent practicable,
10 harmful effects of security incidents known to MIE, or to document such Incidents and
11 their outcomes in accordance with the implementation specifications of the Security Rule,
12 45 C.F.R. § 164.308(a)(6)(ii).

13
14 g. MIE failed to assign a unique name and/or number for identifying and
15 tracking user identity in accordance with the implementation specifications of the
16 Security Rule. 45 C.F.R. § 164.312(a)(2)(i).

17
18 h. MIE failed to implement a mechanism to encrypt and decrypt ePHI, in
19 accordance with the implementation specifications of the Security Rule. 45 C.F.R. §
20 164.312(a)(2)(iv).

21
22 i. MIE failed to implement hardware, software, and/or procedural
23 mechanisms that record and examine activity in information systems that contain or use
24 ePHI, in violation of 45 C.F.R. § 164.312(b).

25
26 j. MIE failed to implement procedures to verify that a person or entity
27 seeking access to ePHI is the one claimed, in violation of 45 C.F.R. § 164.312(c)(2)(d).

1 k. MIE failed to adhere to the Minimum Necessary Standard when using or
2 disclosing ePHI, in violation of 45 C.F.R. § 164.502(b)(1).

3 188. Plaintiff, Nebraska, is entitled to certain statutory damages pursuant to 42 U.S.C.
4 1320d-5(d)(2).

5
6 **Count XXXI**
7 **Nebraska: Deceptive Acts in Violation of Neb. Rev. Stat. § 59-1602**

8 189. Plaintiff, Nebraska, incorporates the factual allegations in paragraphs 1 through
9 44 of this Complaint.

10 190. The Defendants' conduct constitutes a violation of Neb. Rev. Stat. § 59-1602.

11 191. The information security failings outlined in paragraphs 30 through 40 constitute
12 unfair or deceptive acts in violation of Neb. Rev. Stat. § 59-1602.

13 192. MIE committed an unfair or deceptive act by representing that it maintained
14 appropriate Administrative and Technical Safeguards to protect patients' ePHI, and other
15 appropriate measures to protect consumers' sensitive information, when such was not the case, in
16 violation of Neb. Rev. Stat. § 59-1602.

17 193. Plaintiff, Nebraska, is entitled to civil penalties pursuant to Neb. Rev. Stat. § 59-
18 1614, attorney fees and costs pursuant to Neb. Rev. Stat. § 59-1602(1), and injunctive relief
19 pursuant to Neb. Rev. Stat. § 59-1608.

20
21
22 **Count XXXII**
23 **Nebraska: Data Breach Violation of Neb. Rev. Stat. § 87-803**

24 194. Plaintiff, Nebraska, incorporates the factual allegations in paragraphs 1 through
25 44 of this Complaint.

26 195. MIE failed to notify affected individuals or others of the Data Breach as required
27 by Neb. Rev. Stat. § 87-803.

1 196. As alleged in paragraphs 28 and 29, Defendants began notifying affected
2 individuals on July 17, 2015 and did not conclude until December 2015. The effective notice
3 date range after the breach was discovered was between 52 days and six months.

4 197. By waiting between 52 days and six months to notify affected individuals,
5 Defendants violated Neb. Rev. Stat. § 87-803.

6 198. Plaintiff, Nebraska, is entitled to direct economic damages for each affected
7 Nebraska resident pursuant to Neb. Rev. Stat. § 87-806.

8
9 **Count XXXIII**
10 **North Carolina: Violation of HIPAA Safeguards**

11 199. Plaintiff, North Carolina, incorporates the factual allegations in paragraphs 1
12 through 44 of this Complaint.

13 200. Defendants' conduct constitutes violations of Administrative Safeguards,
14 Technical Safeguards, and implementation specifications as required by HIPAA. Specifically:

15 a. MIE failed to review and modify security measures needed to continue the
16 provision of reasonable and appropriate protection of ePHI in accordance with the
17 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
18 164.306(e).

19 b. MIE failed to conduct an accurate and thorough assessment of the
20 potential risks and vulnerabilities to the confidentiality, integrity, and availability of ePHI
21 that it maintained in accordance with the implementation specifications of the Security
22 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(A).

23 c. MIE failed to implement security measures sufficient to reduce risks and
24 vulnerabilities to a reasonable and appropriate level in accordance with the
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1 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
2 164.308(a)(1)(ii)(B).

3 d. MIE failed to implement procedures to regularly review records of
4 information system activity, such as audit logs, access reports, and Security Incident
5 tracking reports in accordance with the implementation specifications of the Security
6 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(D).

7 e. MIE failed to implement policies and procedures that, based upon its
8 access authorization policies, establish, document, review, and modify a user's right of
9 access to a workstation, transaction, program, or process that includes ePHI in
10 accordance with 45 C.F.R. § 164.308(a)(4)(ii)(C).

11 f. MIE failed to implement policies and procedures to address Security
12 Incidents, including suspected Security Incidents, to mitigate, to the extent practicable,
13 harmful effects of security incidents known to MIE, or to document such Incidents and
14 their outcomes in accordance with the implementation specifications of the Security Rule,
15 45 C.F.R. § 164.308(a)(6)(ii).

16 g. MIE failed to assign a unique name and/or number for identifying and
17 tracking user identity in accordance with the implementation specifications of the
18 Security Rule. 45 C.F.R. § 164.312(a)(2)(i).

19 h. MIE failed to implement a mechanism to encrypt and decrypt ePHI, in
20 accordance with the implementation specifications of the Security Rule. 45 C.F.R. §
21 164.312(a)(2)(iv).

1 i. MIE failed to implement hardware, software, and/or procedural
2 mechanisms that record and examine activity in information systems that contain or use
3 ePHI, in violation of 45 C.F.R. § 164.312(b).

4 j. MIE failed to implement procedures to verify that a person or entity
5 seeking access to ePHI is the one claimed, in violation of 45 C.F.R. § 164.312(c)(2)(d).

6 k. MIE failed to adhere to the Minimum Necessary Standard when using or
7 disclosing ePHI, in violation of 45 C.F.R. § 164.502(b)(1).

8
9 201. Plaintiff, North Carolina, is entitled to certain statutory damages pursuant to 42
10 U.S.C. 1320d-5(d)(2).

11
12 **Count XXXIV**
13 **North Carolina: Deceptive Acts in Violation of N.C. Gen. Stat. § 75-1.1**

14 202. Plaintiff, North Carolina, incorporates the factual allegations in paragraphs 1
15 through 44 of this Complaint.

16 203. The Defendants' conduct constitutes a violation of N.C. Gen. Stat. § 75-1.1.

17 204. The information security failings outlined in paragraphs 30 through 40 constitute
18 unfair or deceptive acts in violation of N.C. Gen. Stat. § 75-1.1.

19 205. MIE committed an unfair or deceptive act by representing that it maintained
20 appropriate Administrative and Technical Safeguards to protect patients' ePHI, and other
21 appropriate measures to protect consumers' sensitive information, when such was not the case, in
22 violation of N.C. Gen. Stat. § 75-1.1.

23
24 206. Plaintiff, North Carolina, is entitled to attorney fees and costs, penalties, and
25 injunctive relief pursuant to N.C. Gen. Stat. § 75-1.1, *et seq.*

1 **Count XXXV**

2 **North Carolina: Data Breach Violation of N.C. Gen. Stat. § 75-65**

3 207. Plaintiff, North Carolina, incorporates the factual allegations in paragraphs 1
4 through 44 of this Complaint.

5 208. MIE failed to notify affected individuals or others of the Data Breach as required
6 by N.C. Gen. Stat. § 75-65.

7 209. As alleged in paragraphs 28 and 29, Defendants began notifying affected
8 individuals on July 17, 2015 and did not conclude until December 2015. The effective notice
9 date range after the breach was discovered was between 52 days and six months.
10

11 210. By waiting between 52 days and six months to notify affected individuals,
12 Defendants violated N.C. Gen. Stat. § 75-65.

13 211. Plaintiff, North Carolina, is entitled to attorney fees and costs, penalties, and
14 injunctive relief pursuant to N.C. Gen. Stat. § 75-1.1, *et seq.*
15

16 **Count XXXVI**

17 **Wisconsin: Violation of HIPAA Safeguards**

18 212. Plaintiff, Wisconsin, incorporates the factual allegations in paragraphs 1 through
19 44 of this Complaint.

20 213. Defendants' conduct constitutes violations of Administrative Safeguards,
21 Technical Safeguards, and implementation specifications as required by HIPAA. Specifically:

22 a. MIE failed to review and modify security measures needed to continue the
23 provision of reasonable and appropriate protection of ePHI in accordance with the
24 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
25 164.306(e).
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1 b. MIE failed to conduct an accurate and thorough assessment of the
2 potential risks and vulnerabilities to the confidentiality, integrity, and availability of ePHI
3 that it maintained in accordance with the implementation specifications of the Security
4 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(A).

5
6 c. MIE failed to implement security measures sufficient to reduce risks and
7 vulnerabilities to a reasonable and appropriate level in accordance with the
8 implementation specifications of the Security Rule, in violation of 45 C.F.R. §
9 164.308(a)(1)(ii)(B).

10
11 d. MIE failed to implement procedures to regularly review records of
12 information system activity, such as audit logs, access reports, and Security Incident
13 tracking reports in accordance with the implementation specifications of the Security
14 Rule, in violation of 45 C.F.R. § 164.308(a)(1)(ii)(D).

15 e. MIE failed to implement policies and procedures that, based upon its
16 access authorization policies, establish, document, review, and modify a user's right of
17 access to a workstation, transaction, program, or process that includes ePHI in
18 accordance with 45 C.F.R. § 164.308(a)(4)(ii)(C).

19
20 f. MIE failed to implement policies and procedures to address Security
21 Incidents, including suspected Security Incidents, to mitigate, to the extent practicable,
22 harmful effects of security incidents known to MIE, or to document such Incidents and
23 their outcomes in accordance with the implementation specifications of the Security Rule,
24 45 C.F.R. § 164.308(a)(6)(ii).

1 g. MIE failed to assign a unique name and/or number for identifying and
2 tracking user identity in accordance with the implementation specifications of the
3 Security Rule. 45 C.F.R. § 164.312(a)(2)(i).

4 h. MIE failed to implement a mechanism to encrypt and decrypt ePHI, in
5 accordance with the implementation specifications of the Security Rule. 45 C.F.R. §
6 164.312(a)(2)(iv).

7 i. MIE failed to implement hardware, software, and/or procedural
8 mechanisms that record and examine activity in information systems that contain or use
9 ePHI, in violation of 45 C.F.R. § 164.312(b).

10 j. MIE failed to implement procedures to verify that a person or entity
11 seeking access to ePHI is the one claimed, in violation of 45 C.F.R. § 164.312(c)(2)(d).

12 k. MIE failed to adhere to the Minimum Necessary Standard when using or
13 disclosing ePHI, in violation of 45 C.F.R. § 164.502(b)(1).

14 214. Plaintiff, Wisconsin, is entitled to certain statutory damages pursuant to 42 U.S.C.
15 1320d-5(d)(2).

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19 **Count XXXVII**

20 **Wisconsin: Fraudulent Representations in Violation of Wis. Stat. § 100.20**

21 215. Plaintiff, Wisconsin, incorporates the factual allegations in paragraphs 1 through
22 44 of this Complaint.

23 216. The Defendants' conduct constitutes a violation of Wis. Stat. § 100.20.

24 217. MIE represented that it maintained appropriate Administrative and Technical
25 Safeguards to protect patients' ePHI, and other appropriate measures to protect consumers'
26 sensitive information, when such was not the case, in violation of Wis. Stat. § 100.18.
27
28

218. Plaintiff, Wisconsin, is entitled to civil penalties, attorney’s fees and costs, and injunctive relief pursuant to Wis. Stat. §§ 100.26 and 93.20.

Count XXXVIII
Wisconsin: Negligent Disclosure of Patient Health Care Records in Violation of Wis. Stat. § 146.84(2)(b)

219. Plaintiff, Wisconsin, incorporates the factual allegations in paragraphs 1 through 44 of this Complaint.

220. The Defendants negligently disclosed confidential information in violation of Wis. Stat. § 146.82.

221. Plaintiff, Wisconsin, is entitled to civil penalties pursuant to Wis. Stat. § 146.84(2)(b).

THIS COURT’S POWER TO GRANT RELIEF

222. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction to allow the Plaintiff States to enforce their state laws against Defendants in this Court and to grant such relief as provided under the following state laws including injunctive relief, civil penalties, attorneys’ fees, expenses, costs, and such other relief to which the Plaintiff States may be entitled:

State	Deceptive Acts	Data Breach	PIPA
Arizona:	Ariz. Rev. Stat. §§ 44-1528, 44-1534, and 44-1531		
Arkansas:	Ark. Code Ann. § 4-88-113	Ark. Code Ann. § 4-110-108	Ark. Code Ann. § 4-110-108
Florida:	Sections 501.207, 501.2075, and 501.2105, Florida Statutes	Section 501.171(9), Florida Statutes	Section 501.171(9), Florida Statutes

1	Indiana:	Ind. Code §§ 24-5-0.5-4(C), and 24-5-0.5-4(G)		Ind. Code § 24-4.9-3-3.5(f)
2	Iowa:	Iowa Code § 714.16	Iowa Code § 715c.2	
3	Kansas:	Kan. Stat. §§ 50-632, and 50-636	Kan. Stat. § 50-7a02	Kan. Stat. § 50-6139b
4	Kentucky:	Ky. Rev. Stat. §§ 367.110-.300, and 367.990		
5				
6	Louisiana:	La. Rev. Stat. § 51:1401 et seq.	La. Rev. Stat. 51:3071 et seq.	
7	Minnesota:	Minn. Stat. § 8.31	Minn. Stat. § 8.31	
8				
9	Nebraska:	Neb. Rev. Stat. §§ 59-1602; 59-1608, and 59-1614	Neb. Rev. Stat. § 87-806	
10				
11				
12	North Carolina	N.C. Gen. Stat. § 75-1.1, et seq.	N.C. Gen. Stat. § 75-65	N.C. Gen. Stat. § 75-60, et seq.
13				
14				
15	Wisconsin:	Wis. Stat. §§ 93.20, 100.18, and 100.26		Wis. Stat. § 146.84(2)(b)
16				

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff States respectfully request that the Court:

- A. Award Plaintiffs such injunctive relief as outlined in Exhibit A, to be filed concurrently herewith;
- B. Award Plaintiffs a financial judgment for restitution and civil penalties as permitted by statute, and;
- C. Award Plaintiffs such other relief the Court deems just and proper.

Respectfully Submitted,

Date: _____

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