

NOTICE OF PENDENCY AND SETTLEMENT OF CLASS ACTION

A. Doe, individually and on behalf of all others similarly situated, *v. A.J. Boggs & Company*, San Francisco Superior Court Case No. CGC-18-565456

TO SETTLEMENT CLASS MEMBER in *A. Doe v. A.J. Boggs & Company*, San Francisco Superior Court Case No. CGC-18-565456.

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE AFFECTS YOUR RIGHTS.

By Order of the Superior Court of the State of California for the County of San Francisco (the “Court”), YOU ARE HEREBY NOTIFIED AS FOLLOWS:

A class action lawsuit is now pending in this Court. A class action lawsuit is a lawsuit in which one or more persons sue on behalf of other persons who are in a similar situation. This Notice of Pendency and Settlement of Class Action (“Notice”) is being sent to you because you are part of this class of plaintiffs (the “Class”). This Notice contains a brief description of this lawsuit and discusses participation as a member of the Class.

I. DESCRIPTION OF THE LAWSUIT AND RELATED INFORMATION.

On April 3, 2018, Plaintiff, represented by Lambda Legal Defense and Education Fund and Cozen O’Connor (“Plaintiff’s Counsel”), filed a class action complaint in San Francisco Superior Court Case No. CGC-18-565456 (the “Complaint”) and, thereafter, filed a First Amended Class Action Complaint (“FACAC”) against A.J. Boggs & Company (“A.J. Boggs”). The lawsuit is hereinafter referred to in this Notice as the “Action.”

In the Action, the Complaint and FACAC each allege that a security vulnerability in the California Aids Drug Assistance Program (“ADAP”) enrollment portal existed and that, due to the security vulnerability, unauthorized third parties accessed certain enrollees’ confidential medical information. The Complaint and FACAC each allege as a result of this Potential Data Breach, the ADAP enrollment portal provided by A.J. Boggs was taken offline on November 29, 2016 and never put back online. The Complaint and FACAC each further allege, attach and incorporate as Exhibit 1, the California Department of Health’s (“CDPH”) Notice Letter, dated April 7, 2017, (the “CDPH Notice Letter”), which sets forth CDPH’s description of the circumstances related to or concerning the ADAP enrollment portal. The Complaint and FACAC each allege that this CDPH Notice Letter was sent to ninety-three (93) ADAP enrollees whose personal information was allegedly potentially accessed. The Complaint and the FACAC each allege causes of action for violation of the California AIDS Public Health Records Confidentiality Act (California Health & Safety Code section 121025) and the California’s Confidentiality of Medical Information Act (Civil Code section 56, *et seq.*), seeking statutory damages, actual damages, civil penalties, attorneys’ fees, costs and other relief as deemed appropriate by the Court.

A.J. Boggs denies each and every claim and contention alleged against it in the Action, the Complaint, the FACAC, and CDPH’s Notice Letter, denies the potential data breach, and denies all other charges of wrongdoing or liability alleged against it, including, but not limited to, in the pending consolidated federal action entitled: *John Doe*, individually and on behalf of all others similarly situated *v. A.J. Boggs & Company; and Does 1-100*, defendants, Case No. 1:18-CV-01454 AWI BAM. A.J. Boggs further contends that, at all relevant times, it complied with applicable standards of care and

contractual obligations. Only for reference purposes of this Notice and the Settlement (as defined below), these allegations, charges and description are hereinafter referred to as the “Potential Data Breach.”

The “Settlement Class” is defined as: the class to be conditionally certified, for settlement purposes only, consisting of the ninety-three (93) individuals who were the specific intended recipients of the CDPH Notice Letter.

No Court has ruled that A.J. Boggs did anything wrong nor has any Court decided whether any liability exists.

The Court has determined that the potential or actual impact (if any took place) of any unauthorized viewing, access, disclosure or release (if any took place) associated with the Potential Data Breach was and is limited to the ninety-three (93) individuals who were the specific intended recipients of the CDPH Notice Letter.

The Action was mediated with a highly skilled mediator. Upon final approval of the settlement by the Court, the Court will make and enter judgment consistent with the terms of the settlement, and will retain jurisdiction to enforce the terms of the judgment.

By Order dated June 14, 2022, as amended by Order dated October 7, 2022, the Court in the Action has determined that Plaintiff’s Counsel, for settlement purposes only, are counsel for the Settlement Class (“Settlement Class Counsel”).

Plaintiff and Settlement Class Counsel have concluded that settling with A.J. Boggs pursuant to the terms of the Settlement Agreement (the “Settlement”) is in the best interests of the Settlement Class.

By Order dated June 14, 2022, as amended by Order dated October 7, 2022, the Court has preliminarily approved the Settlement, which affects your legal rights, and you now have a choice to exercise these rights.

To preserve your confidentiality and at the request of the Parties and CDPH, a claims administrator (the “Claims Administrator”) has entered into a separate contract with CDPH that preserves your confidentiality. Under the process for this Notice and the payment process under the Settlement, Plaintiff, Plaintiff’s Counsel, Settlement Class Counsel, A.J. Boggs and A.J. Boggs’ counsel have not been and will not be provided with your identity, contact information or information that may directly or indirectly lead to your identity. This Notice is being sent to you by the Claims Administrator.

AS A MEMBER OF THE SETTLEMENT CLASS, YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OR DO NOT ACT. READ THIS NOTICE CAREFULLY.

II. SUMMARY OF THE PROPOSED CLASS SETTLEMENT.

The proposed Settlement provides for:

1. Without any admission of fault or liability, and in compromise and settlement, provided the Settlement Agreement is finalized and has received final, non-appealable approval by the Court and is not subject to vacatur, A.J. Boggs or its insurer shall fund two (2) payments to each member of the ninety-three (93) Settlement Class who is not an Opt-Out, payable in installments of Two Thousand Dollars (\$2,000.00) each, with one \$2,000.00 payment anticipated to be made in 2023 and one \$2,000.00 payment anticipated to be made in 2024, for a total combined settlement payment of Four Thousand Dollars (\$4,000.00) (the "Settlement Monetary Payment") in full and final satisfaction of each such Settlement Class Member's claim of loss arising from, concerning or in connection with the Potential Data Breach, which payment shall be made through the Claims Administrator in order to preserve the confidentiality of the Settlement Class Member. In the event a Settlement Class Member is not located or does not come forward to accept payment until 2024, such Settlement Class Members may elect to receive one \$2,000.00 payment in 2024 and a second \$2,000.00 payment in 2025, provided that such Settlement Class Member requests payment of the first \$2,000 installment no later than December 15, 2024.
2. There is no requirement that each of the Settlement Class Members submit documentation to establish that the Member actually incurred damages of four thousand dollars (\$4,000.00) because A.J. Boggs is waiving this otherwise applicable requirement as part of the consideration provided for the settlement. Each Settlement Class Member who is not an Opt-Out will receive the Settlement Monetary Payment unless, for any reason, the Settlement Class Member elects to not take or otherwise will not receive the Settlement Monetary Payment, in which case the Settlement Monetary Payment will be distributed pursuant to the Settlement's *cy pres* provisions.
3. What is *Cy Pres* Distribution of the Settlement Funds? When it is difficult for all Settlement Class Members to receive individual shares of the recovery or when there are unclaimed class member settlement funds, under the legal doctrine known as *cy pres* and/or California Code of Civil Procedure section 384(b), courts may approve the distribution of the settlement funds to support public or non-profit activities to address the injury alleged in a lawsuit instead of distributing funds directly to the allegedly affected party. In this case, the recipients of any settlement funds distributed pursuant to the Settlement's *cy pres* are the non-profit entities: APLA Health and the San Francisco AIDS Foundation (SFAF) for their respective use exclusively for state-wide HIV/AIDS advocacy work.
4. Releases by each Settlement Class Member regarding the Released Claims, including any claims brought or that could have been brought in the Action or related to the Potential Data Breach, and releasing A.J. Boggs and the other Released Parties under the Settlement.
5. Continuing Court jurisdiction over the Action to enforce the terms of the Settlement.
6. No payment of an enhancement or incentive award to Plaintiff.
7. Payment to Settlement Class Counsel of up to \$125,000.00 in legal fees, expenses and costs subject to approval by the Court.

The above is a summary of the basic terms of the Settlement. For the precise terms of the Settlement, you are referred to the detailed Settlement Agreement, which will be on file with the Clerk of the Court and also available on the website located at: www.AJBoggsCompanySettlement.com.

III. WHAT ARE YOUR OPTIONS AS A MEMBER OF THE SETTLEMENT CLASS?

Your options as a member of the Settlement Class (“Settlement Class Member”) are as follows:

A. You Can Remain A Member Of The Settlement Class By Doing Nothing And Receive \$4,000.00.

If you wish to remain a member of the Settlement Class, you do not need to do anything. Your interests as a Settlement Class Member will be represented by Settlement Class Counsel. You will be bound by the terms of the Settlement and any final judgments that may be entered by the Court, and you will be deemed to have released claims against A.J. Boggs and the other Released Parties related to the Potential Data Breach as described in Section IV below.

As a Member of the Settlement Class, if the Settlement is approved and provided the Settlement Agreement is finalized and has received final, non-appealable approval by the Court and is not subject to vacatur, you will receive the Settlement Monetary Payment in the total amount of \$4,000.00, payable in (2) installments of \$2,000.00, with one \$2,000.00 payment anticipated to be made in 2023 and one \$2,000.00 payment anticipated to be made in 2024, which payment will be made through the Claims Administrator in order to preserve the confidentiality of Settlement Class Members. These payment dates may change due to developments in the Action. To determine if there has been any change in payment schedule, please go online to the website located at: www.AJBoggsCompanySettlement.com.

To the extent you elect to receive the first Settlement Monetary Payment of \$2,000.00 after December 31, 2023 and no later than December 15, 2024, you will receive the first \$2,000 installment by check issued no later than December 22, 2024, which will remain payable for a period of one hundred eighty (180) days. In that event, such Settlement Class Member may then receive a second \$2,000.00 settlement check in January of 2025, which will remain payable for a period of one hundred eighty (180) days. If you do not request the first \$2,000.00 installment of Settlement Monetary Payment funds by December 15, 2024, and have not been issued a check for the first \$2,000.00 installment by December 22, 2024, any Settlement Monetary Payment corresponding to you will be distributed pursuant to the Settlement’s *cy pres* provisions. Additionally, any settlement checks that remain uncashed one hundred eighty (180) days after January 31, 2025 will be distributed pursuant to the Settlement’s *cy pres* provisions. To determine if there are any changes to these dates, please see the website located at: www.AJBoggsCompanySettlement.com.

RECEIPT OF SETTLEMENT MONETARY PAYMENTS MAY POTENTIALLY IMPACT YOUR QUALIFICATIONS FOR BENEFITS UNDER CERTAIN GOVERNMENTAL PROGRAMS, INCLUDING BUT NOT LIMITED TO, ADAP. YOU SHOULD CAREFULLY CONSIDER WHETHER ACCEPTING THE SETTLEMENT PAYMENTS WITH ONE \$2,000.00 PAYMENT ANTICIPATED TO BE MADE IN 2023 AND ONE \$2,000.00 PAYMENT ANTICIPATED TO BE MADE IN 2024 (BUT IN ANY EVENT, NO LATER THAN JANUARY 31, 2025), FOR A TOTAL COMBINED SETTLEMENT PAYMENT OF \$4,000.00, WILL IMPACT YOUR QUALIFICATION FOR BENEFITS.

IF YOU HAVE ANY QUESTIONS REGARDING THE POTENTIAL IMPACT ON YOUR ELIGIBILITY FOR BENEFITS UNDER ANY GOVERNMENTAL PROGRAMS, INCLUDING BUT NOT LIMITED TO ADAP, BASED ON RECEIVING THE SETTLEMENT PAYMENT, YOU SHOULD CONTACT YOUR ADAP CASE MANAGER OR OTHER LOCAL PROGRAM CONTACT PERSON TO DETERMINE THE IMPACT, IF ANY, ON YOUR ELIGIBILITY FOR BENEFITS PRIOR TO DETERMINING WHETHER TO ELECT TO RECEIVE THE SETTLEMENT PAYMENT.

You can elect to remain a Settlement Class Member, but not take the Settlement Monetary Payment, in which case the Settlement Monetary Payment will be distributed pursuant to the Settlement's *cy pres* provisions.

B. You Can Object To The Terms Of The Settlement.

You may object to the Settlement before final approval if you remain in the Settlement Class. However, if the Court rejects your objection, you will be bound by the terms of the Settlement. To object, you may submit a written notice of objection and any and all papers and briefs in support of your objection to the Claims Administrator: Kroll Settlement Administration, LLC Attn: Paul Ferruzzi 2000 Market Street Suite 2700 Philadelphia, PA 19103. The information on the outside of the envelope containing the notice of objection should not make any reference to nor include A.J. Boggs, ADAP, or the Settlement. The envelope containing the notice of objection should not contain a clear or translucent window of any type. The Claims Administrator will then: (i) confidentially confirm the objection is being made in the name of a Settlement Class Member; (ii) make redactions to the objection and any and all papers and briefs in support of your objection to preserve the confidentiality of the Settlement Class Member and any protected information; (iii) have CDPH's counsel confirm the necessary redactions have been made; and (iv) then provide to the respective counsel for the Parties the redacted copy of the written notice of objection and any and all papers and briefs in support of your objection. Counsel for the respective Parties will file with the Court the redacted copy of your written notice of objection and any and all papers and briefs in support of your objection, which will preserve the confidentiality of your identity and the confidentiality of any protected information.

Any objections sent to the Claims Administrator must state: (1) the objector's full legal name and address; (2) a written statement of all grounds for the objection, accompanied by any factual or legal support for the objection; (3) the identity of all counsel representing the objector, if any; (4) the identity of all counsel representing the objector who will appear at the Final Approval Hearing, if any; (5) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and (6) the objector's signature signed under oath and penalty of perjury or, if legally incapacitated, the signature of the objector's duly authorized representative (along with documentation setting forth such legal incapacitation and representation) and a request to act as the objector's guardian ad litem in the Litigation. Objections to approval of the Settlement must be submitted to the Claims

Administrator and postmarked no later than January 4, 2023. Class Members or their counsel may alternatively appear at the Final Approval Hearing to make an oral objection without also having to submit a written objection. Class Members or their counsel do not have to file a written objection in order to appear at the Final Approval Hearing.

If you elect to remain a Member of the Settlement Class for purposes of the Settlement, but do not wish to be represented by Settlement Class Counsel, you may personally enter an appearance or appear through your own attorney. To do so, you must file an Entry of Appearance with the Clerk of the Court and deliver copies to the attorneys listed below. You or your counsel may apply to the Court for permission to have the Entry of Appearance use a fictitious name, or be filed under seal, in order to preserve your confidentiality. You will then continue as a Settlement Class Member. However, if you hire your own attorney to represent you, unless the Court orders otherwise, you will be solely responsible for the fees, expenses and costs of your attorney.

C. You Can Opt-Out From The Settlement Class.

You can exclude yourself from the Settlement Class. To exclude yourself from the Settlement Class, you must mail a written Request for Exclusion from the Settlement Class to the Claims Administrator:

Kroll Settlement Administration, LLC
Attn: Paul Ferruzzi
2000 Market Street
Suite 2700
Philadelphia, PA 19103
Tel: (833) 512-2305

Inside of the envelope, your Request for Exclusion from the Settlement Class must be signed by you personally. If legally incapacitated, the signature of the duly authorized representative must be on the Request for Exclusion (along with documentation setting forth such legal incapacitation and representation) and a request to act as the individual's guardian ad litem in the Action. Your written Request for Exclusion inside of the envelope must state your full name and current address. In order to be effective, your written Request for Exclusion also must be postmarked on or before January 4, 2023 and sent by first class mail or by an express service carrier (e.g., UPS or Federal Express) to the Class Administrator. The information on the outside of the envelope containing the Request for Exclusion should not make any reference to nor include A.J. Boggs, ADAP, or the Settlement. The envelope containing the Request for Exclusion should not contain a clear or translucent window of any type.

IV. WHAT DO YOU GIVE UP UNDER THE SETTLEMENT?

The Settlement is intended to settle and release all claims that any of the Settlement Class Members have alleged or could have alleged (“Released Claims”) against A.J. Boggs and the other Released Parties in any way based on the Potential Data Breach.

“Released Claims” means and will include any and all claims that the Settlement Class Member (other than those that opt out) has or may have, including assigned claims, whether known or unknown, asserted or unasserted, latent or patent, that is, has been, could reasonably have been or in the future might be asserted by any Settlement Class Member (other than those that opt out) either in the Action or in any other action or proceeding in this Court or any other court or forum, regardless of legal theory, and regardless of the type or amount of relief or damages claimed, against the Released Parties, or any

of them, based on or arising out of or related to: the Potential Data Breach; A.J. Boggs' involvement in ADAP; any of the allegations made in or that could have been made in the Complaint; any of the allegations made in or that could have been made in the FACAC; any allegations that A.J. Boggs or any of the other Released Parties failed to secure or protect (i) any "protected health records" pursuant to H&S Code section 121025; (ii) "health records" as used in California Health & Safety Code section 121026, (iii) any "medical information" pursuant to CMIA, (iv) any "personal health information" under the federal Health Insurance Portability and Accountability Act, (v) blood test results or other information or other data in the ADAP portal, and/or (vi) any other federal or state constitution, act, statute, regulation or document concerning privacy; any alleged failure by A.J. Boggs or any of the other Released Parties to allegedly provide adequate or timely notice of the Potential Data Breach; and/or any other allegations, facts or circumstances described or that could have been described in the Complaint, the FACAC or the Action, including, without limitation, any causes of action under the Information Practices Act of 1977 (California Civil Code § 1798 *et seq.*), the California Unfair Competition Law (California Business & Professions Code § 17200 *et seq.*), the California Consumer Legal Remedies Act (California Civil Code § 1750 *et seq.*), CMIA, H&S Code section 121025, the United States Constitution, the California Constitution, and all other acts, statutes, regulations, ordinances and/or documents in effect in California and/or any other state in the United States and/or under federal United States law; right of privacy, negligence, breach of contract, breach of fiduciary duty and unfair competition; breach of contract; breach of implied contract; and including, without limitation, any and all claims for damages, injunctive relief, disgorgement, restitution, declaratory relief, injunctive or other equitable relief, attorneys' fees and expenses, costs, prejudgment interest, post-judgment interest, credit monitoring services, statutory damages, punitive damages, civil penalties, special damages, exemplary damages, and any liability, right, demand, suit, matter, obligation, damage, loss or cost, action or cause of action, of every kind and description in any way related to the Potential Data Breach.

"Released Parties" means A.J. Boggs and its parent entities, associates, affiliates, subsidiaries, predecessors, successors and assigns, other Related Entities and each and all of their respective past, present or future officers, directors, stockholders, agents, representatives, employees, contractors, vendors, security providers, attorneys, business associates, financial or investment advisors, other advisors, consultants, accountants, investment bankers, commercial bankers, trustees, engineers, insurers, co-insurers and/or reinsurers, heirs, executors, trustees, general and/or limited partners and/or partnerships, limited liability companies, members, heirs, executors, personal and/or legal representatives, estates, and/or administrators, together with their predecessors, successors and/or assigns.

If you do not exclude yourself from the Settlement Class, you will be deemed to have entered into this Settlement and to have settled and released, among other things, the above described claims. If the Settlement is approved by the Court and becomes final, the Settlement will be consummated. If the Settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

V. FINAL APPROVAL HEARING.

The Court will hold a hearing in Department 613 of the Superior Court of the State of California for the County of San Francisco, at the San Francisco Superior Court, 400 McAllister Street, San Francisco, CA 94102, on February 9, 2023, at 2 PM to determine whether the Settlement should be finally approved as fair, reasonable and adequate. The hearing may be continued without further notice to the Settlement Class. It is not necessary for you to appear at this hearing.

VI. ADDITIONAL INFORMATION.

The entire case record in this litigation, including pleadings and copies of the Settlement Agreement, is available on the website for the Superior Court of the State of California for the County of San Francisco (<https://www.superiorcourt.org/online-services>) and can be viewed for free by entering the case number: CGC-18-565456. The case record also may be examined at any time during regular business hours at the office of the Clerk of the Superior Court of the State of California for San Francisco County, at the San Francisco Superior Court, 400 McAllister Street, San Francisco, CA 94102. Copies of the Settlement Notice, the Settlement, the Order Granting Preliminary Approval, and Order Granting Final Approval, deadline dates and payment schedule, including any updates to the deadline dates and payment schedule are also available on the publicly accessible portion of the website located at: www.AJBoggsCompanySettlement.com. Documents and information filed under seal as part of Plaintiff's Motions for Approval of the Settlement can be viewed under the condition that the Settlement Class Member (and any counsel individually retained by the Settlement Class Member) have agreed in writing to be bound by the Stipulated Amended Protective Order entered by the Court on February 8, 2022, a copy of which can be obtained from the Claims Administrator. After the executed (signed and dated) copies are returned to the Claims Administrator, the Claims Administrator will provide an access code and the second authentication information needed to gain access to the secure portion of the settlement website. This Stipulated Amended Protective Order requires that the covered documents and information be kept confidential and be used only in this Action.

If you have any questions about this Notice or the Settlement, please direct your questions to the Claims Administrator or, at your election, the following Settlement Class Counsel:

Kara N. Ingelhart (pro hac vice)
LAMBDA LEGAL DEFENSE &
EDUCATION FUND, INC.
65 E. Wacker Place Suite 2000
Chicago, IL 60601-7245
Tel: 312.663.4413
Email: kingelhart@lambdalegal.org

Kara Kapp (SBN 300896)
COZEN O'CONNOR
1200 19th Street NW
Washington, DC 20036
Tel: 202.304.1457
Email: KKapp@cozen.com

PLEASE DO NOT CONTACT A.J. BOGGS, A.J. BOGGS' ATTORNEYS, THE COURT,
OR THE COURT CLERK. A.J. BOGGS, ITS ATTORNEYS AND THE COURT WILL NOT
BE PERMITTED TO DISCUSS THE TERMS OF THE SETTLEMENT WITH YOU.