

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE: PHILIPS RECALLED CPAP, BI-LEVEL PAP, AND MECHANICAL VENTILATOR PRODUCTS LITIGATION	:	Master Docket: Misc. No. 21-mc-1230-JFC
	:	
	:	MDL No. 3014
	:	
	:	
This Document Relates to:	:	
All Actions Asserting Economic Loss Claims	:	

**JOINT MOTION OF SETTLEMENT CLASS COUNSEL AND THE
PHILIPS DEFENDANTS TO PUBLISH THE ECONOMIC LOSS
CLASS SETTLEMENT NOTICE ON THIS COURT’S WEBSITE**

Pursuant to this Court’s order preliminarily approving the Amended Class Settlement Agreement and Release of Economic Loss Claims, the proposed Notice Plan and forms of Notice (ECF 2289) (the “Preliminary Approval Order”); Federal Rule of Civil Procedure 7(b)(1); United States District Court for the Western District of Pennsylvania Local Rule 23 H (requiring Court-approved class action settlement notices to be posted to the Court’s website); and this Court’s Rules for Pretrial and Trial Matters, Civil Cases Pretrial Procedure Rule 3(C), Settlement Class Counsel and Defendants Philips RS North America LLC, Koninklijke Philips N.V., Philips North America LLC, Philips Holding USA, Inc., and Philips RS North America Holding Corporation jointly request that the Court direct the Clerk of Court to publish the Economic Loss Class Settlement Notice attached hereto as Exhibit “A” on the Court’s website at <https://www.pawd.uscourts.gov/mdl-3014-re-philips-recalled-cpap-bi-level-pap-and-mechanical-ventilator-products-litigation>.

The Settlement Notice is identical to the long-form notice approved by the Court (Exhibit 3(a) to the Settlement Agreement), except for formatting edits and necessary clarification of

deadlines in accordance with the Preliminary Approval Order. Specifically, the date of August 9, 2024 was inserted for the Claims Period Deadline placeholder, the date of February 7, 2024 was inserted for the Opt-Out/Objection Deadline placeholder, and April 11, 2024, at 10:30 a.m. was inserted for the Final Approval Hearing date and time.

WHEREFORE, pursuant to Local Rule 7(D), the Parties respectfully request that the Court enter the attached proposed Order.

DATED: December 7, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed via the Court's CM/ECF system on this 7th day of December 2023, and is available for download by all counsel of record.

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE: PHILIPS RECALLED CPAP, BI-LEVEL PAP, AND MECHANICAL VENTILATOR PRODUCTS LITIGATION	:	Master Docket: Misc. No. 21-mc-1230-JFC
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	:	MDL No. 3014
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This Document Relates to:	:	
All Actions Asserting Economic Loss Claims	:	

[PROPOSED] ORDER

AND NOW, this _____ day of _____, 2023, upon consideration of the Parties' Joint Motion to Publish the Economic Loss Class Settlement Notice on this Court's Website, it is HEREBY ORDERED that the Motion is GRANTED and the Clerk of Court is directed to publish the Economic Loss Class Settlement Notice attached hereto as Exhibit "A" on the Court's website at <https://www.pawd.uscourts.gov/mdl-3014-re-philips-recalled-cpap-bi-level-pap-and-mechanical-ventilator-products-litigation>.

Honorable Joy Flowers Conti
Senior United States District Judge

Dated: _____, 2023

EXHIBIT “A”

Para la notificación en español, visite el sitio web
www.RespironicsCPAP-ELSettlement.com
¿Preguntas? Llame 1-855-912-3432

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

United States District Court for the Western District of Pennsylvania

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

If you paid for a Philips Respironics CPAP, BiPAP, or Ventilator that was recalled, you may be eligible for a cash award from a proposed class action settlement.

- A proposed Settlement has been reached in a U.S. class action lawsuit alleging Economic Loss Claims related to the purchase, lease, or rental of certain CPAPs, BiPAPs, and ventilators that Philips Respironics recalled beginning in June 2021. These devices were sold in the U.S. between 2008 and 2021.
- **The Settlement does *not* affect or release any claims for personal injuries or medical monitoring relief.**
- Eligible **Users** are entitled to:
 - a **Device Payment Award** for each Recalled Device they purchased, leased, or rented;
 - a **Device Return Award of \$100** for each Recalled Device they purchased, leased, rented, or were prescribed that they have already returned or that they return to Philips Respironics by **August 9, 2024**; and/or
 - a **Device Replacement Award** if they spent their own money to purchase a comparable CPAP, BiPAP, or ventilator *on or after* June 14, 2021 and *before* September 7, 2023 to replace a Recalled Device.
- **Users who return their Recalled Device to Philips Respironics by August 9, 2024** (as part of a Recall Program or by Enrolling in the Settlement) **will be entitled to a \$100 Device Return Award and a Device Payment Award without the need to submit a claim form.**
- Visit **www.RespironicsCPAP-ELSettlement.com** for instructions on how to obtain a prepaid label to return your Recalled Device. Returning your Recalled Device will maximize your payments from the Settlement. If you are still using your Recalled Device, please consult with your physician before returning your Recalled Device.
- For **Users** who have not already returned their Recalled Device and do not still have it, review the charts on the following pages for more information on your options.
- Eligible **Payers**, including insurers, self-funded employers, and other third-party payers, that reimbursed a payment for a Recalled Device, will be entitled to a Payer Award by submitting a Payer Declaration and Claim Form by **August 9, 2024**, with documentation of the number of insured lives covered by the **Payer** and the dollar amount of direct premiums written by the **Payer** in the United States in calendar years 2021 and 2022.

QUESTIONS? CALL 1-855-912-3432 OR VISIT: **www.RespironicsCPAP-ELSettlement.com**

- You have several choices to make depending on the options available to you. **Review the charts on the following pages and go to the interactive Settlement website at www.RespironicsCPAP-ELSettlement.com for more information and for instructions on what steps, if any, you need to take.**
- Your rights are affected whether you take any action in response to this Notice or you do not. If the proposed Settlement is approved, and you do not opt out, you will release your Economic Loss Claims against the Philips Defendants and the other Released Parties and assign to Philips Respironics your Economic Loss Claims against manufacturers of ozone cleaners. Please read this Notice carefully.

USERS: SUMMARY OF AVAILABLE CASH BENEFITS

Users will receive a \$100 Device Return Award in addition to a Device Payment Award if they return their Recalled Device as part of a Recall Program or by Enrolling in the Settlement.

An interactive website is available to guide you through your choices:

www.RespironicsCPAP-ELSettlement.com.

<p>Device Return Awards</p>	<p>\$100 for each Recalled Device returned to Philips Respironics.</p> <ul style="list-style-type: none"> • You will obtain a Device Return Award if you return (or already returned) your Recalled Device as part of a Recall Program or by Enrolling in the Settlement at www.RespironicsCPAP-ELSettlement.com, where you can also confirm your name and address and choose your payment option. • If you still have your Recalled Device and want to return it, a free prepaid label is available at: www.RespironicsCPAP-ELSettlement.com. • If you have multiple Recalled Devices and you return them, you can get multiple Device Return Awards. • If you are still using your Recalled Device, please consult with your physician before returning your device. • With limited exceptions, all submissions and returns must be made by August 9, 2024.
<p>Device Payment Awards</p>	<ul style="list-style-type: none"> • The amount of each Device Payment Award depends on the type of Recalled Device. A chart setting forth the Device Payment Awards per device is on Question 8 below. • On the Settlement website, Users may look up their Recalled Device by Serial Number, Recall Registration Number (if applicable), or Claim ID Number (if available) to see what Device Payment Award they may be entitled to. • No claim form is needed for a Recalled Device if you registered it in a Recall Program or Enroll it in the Settlement at: www.RespironicsCPAP-ELSettlement.com and you return or have already returned it. • For all other Recalled Devices, Users must submit a Device Payment Award Claim Form, unless the User

	<p>registered the Recalled Device in a Recall Program before September 7, 2023.</p> <ul style="list-style-type: none"> • The Device Payment Award Claim Form is available at: www.RespironicsCPAP-ELSettlement.com, or by calling 1-855-912-3432. You will need the Serial Number of your Recalled Device to complete the claim form. If you do not still have your Recalled Device, you can obtain the Serial Number by referring to the paperwork you received when you obtained the Recalled Device, or contact the DME or other company where you obtained the Recalled Device to ask for the Serial Number. • For Recalled Devices registered in a Recall Program before September 7, 2023 that will not (or cannot) be returned, the User must go to www.RespironicsCPAP-ELSettlement.com to confirm the User's name and address and choose a preferred payment option. • If you have multiple Recalled Devices, you can get multiple Device Payment Awards. • With limited exceptions, all submissions and returns must be made by August 9, 2024.
<p>Device Replacement Awards</p>	<p>If you spent your own money to purchase a comparable Replacement CPAP, BiPAP or ventilator to replace a Recalled Device <i>on or after</i> June 14, 2021 and <i>before</i> September 7, 2023, you may be eligible for a Device Replacement Award <i>in addition to</i> a Device Payment Award.</p> <ul style="list-style-type: none"> • Complete a Device Replacement Claim Form and provide all required documentation. • The claim form is available at: www.RespironicsCPAP-ELSettlement.com or by calling 1-855-912-3432 • All submissions must be made by August 9, 2024

USERS: <u>ACCELERATED PAYMENT OPTION (“AIO”)</u>	
<p>Users who return or have already returned their Recalled Devices can get paid quicker.</p>	<p>If you have already returned or return your Recalled Device to Philips Respironics by August 9, 2024, you are eligible for the Accelerated Implementation Option (“AIO”) to get your Device Payment Award and \$100 Device Return Award quicker and without having to wait for the completion of any appeals.</p> <p>Go to www.RespironicsCPAP-ELSettlement.com:</p> <ul style="list-style-type: none"> • Elect the AIO; • Sign the sworn attestation as to whether you used ozone cleaning products with your Recalled Device; • If you used ozone cleaning products, sign the assignment to Philips Respironics of your Economic Loss Claims against the ozone cleaning company; • Sign the individual release of your Economic Loss Claims against the Released Parties; and • Choose your payment option. <p>AIO Election by this Deadline: August 9, 2024 or the completion of any appeals, whichever is later</p>

PAYERS: CASH BENEFITS	
<p>Payer Awards</p>	<p>Payers are entities, such as insurers, self-funded employers, and other third-party payers, that reimbursed a payment by someone else for a Recalled Device.</p> <p>You are eligible for a Payer Award if you submit a valid claim.</p> <p>Go to www.RespironicsCPAP-ELSettlement.com:</p> <ul style="list-style-type: none"> • Complete a Payer Declaration and Claim Form; and • Provide documentation of the number of insured lives covered and dollar amount of direct premiums written in the U.S. in 2021 and 2022. <p>All submissions must be made by: August 9, 2024</p>

SETTLEMENT CLASS MEMBERS WHO WISH TO EXCLUDE THEMSELVES FROM THE SETTLEMENT	
<p>You can exclude yourself from the Settlement (opt-out) and receive no Settlement Payment or other Settlement benefits.</p>	<p>You must mail to the Settlement Administrator a valid request to opt out of the Settlement.</p> <ul style="list-style-type: none"> • If you exclude yourself from the Settlement, you also cannot object to the Settlement. • Follow the instructions below in Question 27 or go to www.RespironicsCPAP-ELSettlement.com for more information. • All requests for exclusion must be made by February 7, 2024.

SETTLEMENT CLASS MEMBERS WHO WISH TO OBJECT TO THE SETTLEMENT	
<p>You can object to the Settlement but remain eligible for benefits</p>	<p>You must mail to the Settlement Administrator a valid objection to the Settlement.</p> <ul style="list-style-type: none"> • If you object to the Settlement, you cannot also opt out of the Settlement. • Follow the instructions below in Question 31 or go to www.RespironicsCPAP-ELSettlement.com for more information. • All objections must be made by February 7, 2024.

- These rights and options—**and the deadlines to exercise them**—are explained in more detail in the rest of this Notice and in the Settlement Agreement.
- The proposed Settlement benefits are related to, but separate and distinct from, any benefits provided under the Philips Respironics Recall Programs. If you are a **User** who did not register your Recalled Device in a Recall Program and you still have your Recalled Device, you may be eligible to receive a free Remanufactured Device or other benefits from Philips Respironics under the Recall Programs. Go to www.philips.com/src-update for more information about the Recall Programs and instructions on how to register.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made if the Court approves it and after any appeals are denied (except for the AIO, which provides accelerated payments before appeals are decided). This process can take time. Please be patient.
- This Notice will be published on the Settlement website in Spanish, and the Settlement Administrator will assist Settlement Class Members who speak Spanish and other foreign languages.

QUESTIONS? CALL 1-855-912-3432 OR VISIT: www.RespironicsCPAP-ELSettlement.com

- Este Aviso se publicará en el sitio web del Acuerdo en español y el Administrador del Acuerdo ayudará a los Miembros del Grupo del Acuerdo que hablan español y otros idiomas extranjeros.

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BASIC INFORMATION

1. Why did I get this Notice?

A court authorized this Notice because individuals and entities residing in the United States (including its Territories and the District of Columbia), including military and diplomatic personnel stationed overseas, who either (a) purchased, leased, rented, paid for (in whole or in part), or were prescribed a Recalled Device (“Users”), or (b) reimbursed (in whole or part) a payment to purchase, lease, rent, or otherwise pay for a Recalled Device, including insurers, self-funded employers, and third-party payers (“Payers”), have the right to know about a proposed legal Settlement affecting them. The Recalled Devices are the CPAP, BiPAP, ventilator, and/or other devices sold, leased, rented or otherwise distributed in the United States identified in Question 8 below.

On the Settlement Website, www.RespironicsCPAP-ELSettlement.com, Users may look up their Recalled Device by Serial Number, Recall Registration Number (if applicable), or Claim ID Number (if available) to verify their CPAP, BiPAP, or ventilator is one of the Recalled Devices distributed in the United States, as identified in Question 8 below, and also to see what Device Payment Award they may be entitled to.

This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for those benefits, and how to get them. A full copy of the Settlement Agreement (along with other relevant documents) is available at www.RespironicsCPAP-ELSettlement.com. Capitalized terms in this Notice have the same meaning as defined in the Settlement Agreement.

Judge Joy Flowers Conti of the United States District Court for the Western District of Pennsylvania is presiding over this litigation. The litigation is called: *In re Philips Recalled CPAP, BI-LEVEL PAP, and Mechanical Ventilator Products Litigation*, Master Docket No. 21-mc-1230-JFC, MDL No. 3014 (W.D. Pa.).

If the Settlement is approved, Judge Conti (or her successor) will retain jurisdiction over the Settlement, including the interpretation, implementation, administration, consummation, and enforcement of the Settlement and the Settlement Agreement.

2. What is this lawsuit about?

Plaintiffs assert Economic Loss Claims relating to the approximately 10.8 million Continuous Positive Airway Pressure (“CPAP”) devices, Bi-Level Positive Airway Pressure (“BiPAP”) devices, ventilators, and other devices sold or otherwise distributed in the United States (including its Territories and the District of Columbia) that were subsequently recalled (the “Recalled Devices”) by Philips RS North America LLC (“Philips Respironics”). Plaintiffs allege that the particular type of noise-reducing foam used in the Recalled Devices was defective. Philips Respironics announced the Recall on June 14, 2021 and began the “Recall Programs” in September 2021 to replace certain of the Recalled Devices with remanufactured CPAPs, BiPAPs and ventilators that do not include the challenged foam (the “Remanufactured Devices”) and/or to provide other compensation.

This proposed Settlement is about the Recalled Devices, not the Remanufactured Devices.

This Settlement does not resolve claims for personal injury or medical monitoring. Those claims continue to be litigated. Personal Injury Claims are for physical injuries you may have suffered as a result of using a Recalled Device, such as an illness or disease. Medical Monitoring Claims seek damages for the cost of diagnostic testing for the early detection of as-yet-undetected or unidentified illness or disease from using a Recalled Device.

QUESTIONS? CALL 1-855-912-3432 OR VISIT: www.RespironicsCPAP-ELSettlement.com

The Philips Defendants (Philips Respironics, Koninklijke Philips N.V., Philips North America LLC, Philips Holding USA, Inc., and Philips RS North America Holding Corporation) deny all of the allegations made in the litigation. They have also asserted numerous defenses to the claims in this case. The proposed Settlement is not an admission of liability or wrongdoing of any kind by the Philips Defendants. The Court has not decided that the Philips Defendants have done anything wrong.

3. What is a class action?

In a class action, one or more individuals and/or entities called “class representatives” sue on behalf of themselves and others who have similar claims. This group of individuals and/or entities is called the “class,” and the individuals and/or entities in the class are called “class members.” The resolution of the class representatives’ lawsuit resolves the claims for all Settlement Class Members, except those who exclude themselves from (*i.e.*, opt out of) the class.

4. Why is there a proposed Settlement?

Both sides agreed to a proposed Settlement after extensive litigation and negotiations before a Court-appointed mediator with substantial experience mediating economic loss claims. Both sides agreed to this Settlement to avoid the costs, delays, and risks of a trial. Settlement Class Members can get compensation or other benefits from the Settlement. The class representatives and their attorneys think the Settlement is a good result for the Class. The Court did not decide in favor of the Plaintiffs or the Philips Defendants. There has been no determination that the Philips Defendants did anything wrong, and the Philips Defendants continue to deny any wrongdoing, liability or damage to class members. The Settlement is subject to approval by the Court.

WHO IS IN THE PROPOSED SETTLEMENT CLASS?

5. How do I know if I am in the Settlement Class?

You are a member of the Settlement Class if you are a natural person or entity residing in the United States (including its Territories and the District of Columbia), including military and diplomatic personnel stationed overseas, who either: (a) purchased, leased, rented, paid for (in whole or in part), or were prescribed a Recalled Device (“**Users**”), or (b) reimbursed (in whole or in part) a payment to purchase, lease, rent, or otherwise pay for a Recalled Device, including insurers, self-funded employers, and third-party payers (“**Payers**”). The Recalled Devices are listed below at Question 8 and defined in the Settlement Agreement at Section 1.37.

Excluded from the Settlement Class are: (a) the Philips Defendants and their employees, officers, and directors; (b) the Judge, mediator and Special Masters assigned to the case; (c) individuals who have already released the Released Claims against one or more of the Philips Defendants pursuant to individual settlements or other resolutions; (d) Durable Medical Equipment (“**DME**”) providers; (e) federal government payers; and (f) Settlement Class Counsel.

If you are not sure whether you are included in the Settlement Class, you can ask for free help by calling the Settlement Administrator at 1-855-912-3432 for more information. You can also visit www.RespironicsCPAP-ELSettlement.com for more information or send an email to Info@RespironicsCPAP-ELSettlement.com. You can also look at the sticker with the Serial Number and other identifying information on your CPAP device, BiPAP device, or ventilator and go to the Settlement website to see if your device is one of the Recalled Devices. On the website, you can also look up your device by your Recall Registration Number (if you have one) or your Claim ID Number (if you have one).

QUESTIONS? CALL 1-855-912-3432 OR VISIT: www.RespironicsCPAP-ELSettlement.com

THE PROPOSED SETTLEMENT BENEFITS AND HOW TO GET A PAYMENT

6. How much will the Philips Defendants pay under the proposed Settlement?

The Philips Defendants have agreed to pay a minimum of \$445 million to compensate eligible **Users** for Device Payment Awards and Device Return Awards. To the extent this amount is not sufficient to pay all Device Payment Awards and Device Return Awards required by the Settlement, the Philips Defendants will make additional payments to pay all eligible **Users** who qualify for those payments under the Settlement.

The Philips Defendants will also pay **Users** up to an additional \$15 million for Device Replacement Awards.

The Philips Defendants have agreed to pay \$34 million for Payer Awards to eligible **Payers**.

In addition to making the payments described above, the Philips Defendants will also separately pay the reasonable costs to administer the Settlement, the amount the Court awards with respect to the motion for attorneys' fees and litigation expenses that will be filed by Settlement Class Counsel in connection with the Settlement, and any Service Awards the Court approves for the five Settlement Class Representatives. These payments will not reduce the amounts paid to Settlement Class Members.

The benefits provided by the proposed Settlement are related to, but separate and distinct from, any relief provided under the Philips Respironics Recall Programs. However, if the financial compensation to a particular **User** under the Settlement is greater than the financial compensation provided under the Recall Programs to the same **User**, or vice versa, nothing precludes that **User** from recovering the larger of the two *but not both*. Go to www.RespironicsCPAP-ELSettlement.com for further information and details.

7. What is the easiest way for Users who still have their Recalled Devices to maximize their Settlement payments?

The easiest way for **Users** who still have their Recalled Devices to get a payment and maximize their payment is to return their Recalled Devices to Philips Respironics. If you return your registered or enrolled Recalled Device, you will get a \$100 Device Return Award in addition to a Device Payment Award.

If you already registered your Recalled Device in a Recall Program, go to www.RespironicsCPAP-ELSettlement.com to receive a prepaid label to return your Recalled Device to Philips Respironics for free. If you have not registered your Recalled Device in a Recall Program and you want to return it, enroll your device in the Settlement at www.RespironicsCPAP-ELSettlement.com to receive a prepaid label to return your Recalled Device to Philips Respironics for free.

If you have multiple Recalled Devices that you are not using and would like to return them for additional Device Return Awards, enroll those devices in the Settlement and return them to Philips Respironics by getting prepaid return labels from the Settlement website. Even if you have not used your Recalled Devices for a long time, they can still be returned for a Device Return Award if you enroll them in the Settlement.

If you are still using your Recalled Device, you should consult with your physician before returning it to Philips Respironics.

The Enrollment Process is available for all Recalled Devices *except the Trilogy 100/200 Recalled Devices*; for those **Users** who still possess their Trilogy 100/200 Recalled Devices and wish to receive a Device Return Award, they should register their Trilogy 100/200 with Philips Respironics pursuant to a Recall Program and follow the process under the Recall Program. The **User's** DME will reach out to the **User** to schedule a time to pick up the Trilogy 100/200 and install a Remanufactured Device.

8. How much are the Device Payment Awards for Users?

If you are a **User**, you may be eligible for a **Device Payment Award** for each Recalled Device you purchased, leased, or rented. The amount of the award depends on the specific model of your Recalled Device:

Recalled Device	User Device Payment Award (Per Device)
System One 50 Series ASV4 (Auto SV4)	\$469.14
System One 50 Series Base	\$69.14
System One 50 Series BiPAP	\$159.46
System One 60 Series ASV4 (Auto SV4)	\$424.32
System One 60 Series Base	\$68.24
System One 60 Series BiPAP	\$152.70
C-series S/T, AVAPS (C-series and C-series HT)	\$394.37
DreamStation CPAP	\$55.63
DreamStation ASV	\$379.50
DreamStation ST, AVAPS	\$329.05
DreamStation BiPAP	\$130.63
DreamStation Go	\$107.43
E30	\$453.83
OmniLab Advanced Plus	\$165.99
Trilogy 100/200, Garbin Plus, Aeris LifeVent	\$1,552.25
V30 auto	\$67.12

These awards are based on the relative pricing of the devices. For example, a basic CPAP machine (DreamStation CPAP) is less expensive than a full ventilator system (Trilogy 100/200), and the Device Payment Awards take that relative pricing into account.

If more than one **User** makes a claim for a Device Payment Award with respect to the same Recalled Device (*e.g.*, a rental Recalled Device), the Device Payment Award will be allocated by the Settlement Administrator among those **Users** on a *pro rata* basis after **August 9, 2024**.

If a **User** returned their Recalled Device to Philips Respironics under warranty (outside of a Recall Program) and received another Recalled Device for free pursuant to that warranty, the **User** is *only* eligible for a Device Payment Award for the Recalled Device provided to the **User** for free under warranty, not the original Recalled Device returned to Philips Respironics under warranty.

If a **User** returned his or her Recalled Device under warranty (outside of a Recall Program) and received his or her full payment back, the **User** is not eligible for a Device Payment Award for the Recalled Device the **User** returned.

QUESTIONS? CALL 1-855-912-3432 OR VISIT: www.RespironicsCPAP-ELSettlement.com

Please keep in mind that if you returned a Recalled Device to Philips Respironics and received a Remanufactured Device from Philips Respironics, your potential claim for Settlement benefits is for the Recalled Device, not the Remanufactured Device.

9. How much are the Device Return Awards for Users?

If you are a **User**, you are eligible for a **\$100 Device Return Award** for each Recalled Device you return (or already returned) to Philips Respironics. The return deadline is **August 9, 2024**. The amount of the Device Return Award does not depend on the specific model of the Recalled Device.

Even if you have not used your Recalled Device for a long time, it can still be returned for a Device Return Award.

10. How much are the Device Replacement Awards for Users?

If you are a **User**, you may be eligible for a **Device Replacement Award** for money you spent to replace a Recalled Device with a comparable CPAP, BiPAP, or ventilator Replacement Device *on or after* June 14, 2021 and *before* September 7, 2023. This payment is in addition to the Device Payment Award for your Recalled Device that you replaced. To qualify, you had to purchase the Replacement Device before you received, or without receiving, a Remanufactured Device from Philips Respironics.

To receive a Device Replacement Award, you must submit a claim supported by the required information and documentation. Go to www.RespironicsCPAP-ELSettlement.com to obtain and complete a copy of the Device Replacement Award Claim Form and submit the required information and documentation. You must also return your Recalled Device (if you still have it) to Philips Respironics, and if you received a Remanufactured Device from Philips Respironics, you must return that as well.

The amount of a Device Replacement Award will depend on the amount paid by the **User** (not any payment made by insurance or a third-party payer) to purchase, lease, or rent the Replacement Device, the value of a device that is comparable to the replaced Recalled Device, as well as the number of valid Device Replacement Award claims submitted.

Users who receive Device Replacement Awards are also eligible for Device Payment Awards. However, except in certain circumstances, **Users** who receive Device Replacement Awards are not eligible for Device Return Awards. If you qualify for a Device Replacement Award, you should submit a Device Replacement Claim Form and provide all required documentation.

Visit the **Device Replacement Award Tab** at www.RespironicsCPAP-ELSettlement.com for more details.

11. What is the Extended Warranty on Remanufactured Devices?

If you are a **User** and you received or receive a Remanufactured Device as part of a Philips Respironics Recall Program, you will receive the following **extended warranty** from Philips Respironics:

- 2 years for materials and workmanship for Remanufactured Devices that have a different Serial Number from the associated Recalled Device; or
- 2 years for materials and workmanship on the repair work that was performed by Philips Respironics pursuant to the Recall Programs (not the entire Remanufactured Device) on Remanufactured Devices that have the same Serial Number as the associated Recalled Device.

QUESTIONS? CALL 1-855-912-3432 OR VISIT: www.RespironicsCPAP-ELSettlement.com

The extended warranty begins (i) on the date of shipment to the **User** for Remanufactured Devices shipped by Philips Respironics directly to the **User**, and (ii) on the date the Remanufactured Device was set up for the **User** by the DME for Remanufactured Devices shipped by Philips Respironics to the DME.

12. What is the Accelerated Implementation Option for Users?

Users who return (or already returned) their Recalled Devices to Philips Respironics by **August 9, 2024** can get paid more quickly – *i.e.*, before the completion of any appeals – *if* they complete the necessary forms for the Accelerated Implementation Option (“AIO”). To get an accelerated payment, go to www.RespironicsCPAP-ELSettlement.com and complete the necessary AIO forms. The deadline to elect the AIO is **August 9, 2024** or the completion of any appeals from MDL Court Final Approval, whichever is later. To be eligible for the AIO, you must return your Recalled Device to Philips Respironics by **August 9, 2024**.

In exchange for an accelerated Device Payment and Device Return Award, **Users** will be required to (a) provide the Philips Defendants and the other Released Parties with an individual release of their Economic Loss Claims, including both known and unknown claims, (b) make a sworn attestation as to whether they used ozone cleaning with their Recalled Device, and (c) if they used ozone cleaning, submit a signed individual assignment to Philips Respironics of all their Economic Loss Claims against the manufacturer of their ozone cleaner.

Users who rented a Recalled Device are not eligible for accelerated payments. Device Replacement Awards are also not subject to an accelerated payment option.

13. What are the Settlement Benefits for Payers? (Payer Awards)

If you are a **Payer**, you may qualify for a **Payer Award** from the \$34 million fund established for Payer Awards. Payer Awards will be calculated based on each Eligible **Payer’s** relative market share (aggregated among all Eligible **Payers**) based on the number of insured lives covered by the Eligible **Payer** in the United States and the dollar amount of direct premiums written by the Eligible **Payer** in United States in the calendar years 2021 and 2022 (“Market Share Percentage”). The Settlement Administrator will determine each Eligible **Payer’s** Market Share Percentage based on industry data and the information provided in the Eligible **Payer’s** Declaration and Claim Form.

Payers are **not** eligible for Device Payment, Device Return or Device Replacement Awards, and are not eligible for accelerated payments.

Go to www.RespironicsCPAP-ELSettlement.com and click on the **Payer Tab**, or call 1-855-912-3432, for more details.

14. How can I get a payment? What steps do I need to take?

The charts on pages 2-5 above summarize the steps that must be taken by **Users**, and the deadlines, to get a Device Payment Award, Device Return Award, and/or Device Replacement Award under the Settlement. Go to www.RespironicsCPAP-ELSettlement.com for more information and to submit a claim, if necessary. **The easiest way for Users who still have their Recalled Devices to get a payment and maximize that payment is to return their Recalled Devices(s) to Philips Respironics.**

Payers must submit a Declaration and Claim Form supported by the required information and documentation to get a Payer Award. Visit the Payer Tab at www.RespironicsCPAP-ELSettlement.com for details.

15. I already registered my Recalled Device in a Recall Program. Do I also need to enroll in the Settlement for that Recalled Device?

No. If you already registered your Recalled Device in a Philips Respironics Recall Program, you do not separately need to enroll that device in this Settlement. The information from your registration will be provided to the Settlement Administrator. However, please go to www.RespironicsCPAP-ELSettlement.com to confirm or update your contact information, as well as to choose your preferred payment option.

16. Where can I obtain more information about the Settlement and obtain a Claim Form?

You can obtain more information about the Settlement and submit a claim, if necessary, by going to www.RespironicsCPAP-ELSettlement.com. This Settlement website offers an interactive feature that will help you determine the benefits available to you, and you can confirm or provide your contact information.

You can also submit a paper claim by downloading a claim form at www.RespironicsCPAP-ELSettlement.com and mailing it, along with any necessary supporting documentation, to Respironics CPAP Settlement, c/o Settlement Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103. You can also call the Settlement Administrator at 1-855-912-3432 and they will mail you a paper claim form.

17. What is the deadline for submitting a claim?

The deadline for taking any steps required under the Settlement to receive a payment is **August 9, 2024**.

18. When will I get my payment?

It is too early to answer this question. The Court will hold a hearing on **April 11, 2024 at 10:30 a.m.**, to decide whether to approve the Settlement. The Court may move the Final Approval Hearing to a different date or time without providing further notice to the Settlement Class. The date and time of the Final Approval Hearing can be confirmed at www.RespironicsCPAP-ELSettlement.com. Please check it regularly for updates.

However, even if the Court approves the Settlement, there may be appeals that further delay payments unless you are a **User** who qualifies for and elects the Accelerated Implementation Option. Please be patient.

19. What am I giving up if I stay in the Class?

Unless you timely exclude yourself from the Settlement Class with a valid opt-out request (see Questions 27-30), your Economic Loss Claims will be released, and you **cannot** sue, continue to sue, or be part of any other lawsuit against the Philips Defendants or the other Released Parties seeking to recover for Economic Loss Claims. Any such Economic Loss Claims by you will be barred whether or not you complete the steps necessary to receive a payment under the proposed Settlement. **You may, however, pursue claims for personal injury or medical monitoring; those claims are not released by this proposed Settlement.**

In addition, if you do not timely and validly opt out of the Settlement, you will assign to Philips Respironics any Economic Loss Claims you may have against Ozone Cleaning Companies.

Details regarding the “Releases” and “Assignment” are in Sections 4 and 5 of the Settlement Agreement, which can be viewed at www.RespironicsCPAP-ELSettlement.com.

QUESTIONS? CALL 1-855-912-3432 OR VISIT: www.RespironicsCPAP-ELSettlement.com

20. What claims against Ozone Cleaning Companies would, and would not, be assigned to Philips Respironics under the proposed Settlement?

Under the proposed Settlement, with one exception (discussed below), you would assign to Philips Respironics all of your Economic Loss Claims against Ozone Cleaning Companies relating to any use of an Ozone Cleaning Product. For example, if you used an Ozone Cleaning Product with your Recalled Device, and the Ozone Cleaning Product caused damage to your device, any claim you may have against the Ozone Cleaning Company for that property damage would be assigned to Philips Respironics. The assignment does *not* encompass any claims for medical monitoring or personal injury against Ozone Cleaning Companies. Also, the assignment does *not* encompass the claims that have been asserted against SoClean, Inc. in the *First Consolidated Amended Class Action Complaint and Jury Trial Demand in In re: SoClean, Inc., Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 3021 (Docket No. 141). In that case, plaintiffs do not allege damage to their property but instead allege that they overpaid for the Ozone Cleaning Products of one Ozone Cleaning Company (SoClean, Inc.), and should receive some or all of their purchase price back.

WHAT OTHER STEPS CAN I TAKE?

21. How can I monitor the progress of the proposed Settlement?

Updates regarding the proposed Settlement, including the timing of the Final Fairness Hearing, will be posted at www.RespironicsCPAP-ELSettlement.com. If you visit that website and input your Claim ID Number (which can be found on the Notice you received via postal mail and/or email notifying you about the Settlement), you will get automatic updates regarding the proposed Settlement.

22. How can I verify or update my contact information and choose my payment option?

All Settlement Class Members can update their contact information and choose their preferred payment option by visiting www.RespironicsCPAP-ELSettlement.com, or by sending an email to Info@RespironicsCPAP-ELSettlement.com, or by calling 1 855-912-3432.

Payment options for **Users** are Zelle, Virtual Mastercard, or paper check. **Payers** may choose ACH payment or paper check. Processing times for paper check will be longer.

THE LAWYERS REPRESENTING THE CLASS

23. Do I have a lawyer in connection with the Economic Loss Claims that are the subject of this Settlement?

Yes. The Court appointed the following lawyers to represent you and the other Settlement Class Members: Christopher A. Seeger of Seeger Weiss; Sandra L. Duggan of Levin Sedran & Berman; Steven A. Schwartz of Chimicles Schwartz Kriner & Donaldson-Smith LLP; Kelly K. Iverson of Lynch Carpenter, LLP; Roberta D. Liebenberg of Fine, Kaplan and Black, R.P.C.; Lisa Ann Gorshe of Johnson Becker PLLC; and Arthur H. Stroyd, Jr. of Del Sole Cavanaugh Stroyd LLC.

These firms are called Settlement Class Counsel. You will not be charged for their services.

24. How will the lawyers who serve as Class Counsel be paid?

In addition to the payments described above to Settlement Class Members, the Philips Defendants have agreed to pay the amount the Court awards with respect to the motion for attorneys' fees and reimbursement of costs and expenses that will be filed by Settlement Class Counsel. Settlement Class Counsel will seek an award of attorneys' fees and reimbursement of costs and expenses in the aggregate amount of \$95,000,000. The Philips Defendants will not oppose the motion.

The amount of attorneys' fees, costs and expenses awarded by the Court will not reduce the payments to Settlement Class Members.

A copy of Settlement Class Counsel's Motion for Attorneys' Fees and Expenses will be available 30 days prior to **February 7, 2024** at www.RespironicsCPAP-ELSettlement.com.

25. Should I get my own lawyer?

You do not need to hire your own lawyer because Settlement Class Counsel are working on your behalf in connection with the Economic Loss Claims. If you want your own lawyer, you may hire one at your own expense. For example, you can ask your own lawyer to appear in Court if you want someone other than Settlement Class Counsel to speak for you, and you follow the necessary steps to appear. You may also appear for yourself without a lawyer if you follow the necessary steps to do so discussed in Question 35 below.

26. Who are the Settlement Class Representatives and what will they get from the Settlement?

The Settlement Class Representatives are: Elizabeth Heilman, Peter and Julie Barrett, and Ivy Creek of Tallapoosa LLC d/b/a Lake Martin Community Hospital, who are **Users**; and ASEA/AFSCME Local 52 Health Benefits Trust, which is a **Payer**. Settlement Class Counsel will ask the Court to award each Settlement Class Representative \$5,000 as a Service Award for their efforts in serving as a class representative in connection with this proposed Settlement. Other than this potential award, the Settlement Class Representatives will be eligible for the same Settlement benefits as every other Settlement Class Member in the same situation. Settlement Class Counsel will assert to the Court that the Service Awards are reasonable because the Settlement Class Representatives agreed to serve in that capacity and spent significant time consulting with counsel in connection with this proposed Settlement.

The Service Awards approved by the Court will be paid by the Philips Defendants separate and apart from the other Settlement payments described in this Notice and will not reduce the payments to Settlement Class Members.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don't want a payment or any other benefits from the Settlement and you want to keep your ability to sue the Philips Defendants or the other Released Parties or Ozone Cleaning Companies for any Economic Loss Claims, then you must take steps to get out of the Settlement. This is called excluding yourself from—or "opting out" of—the Settlement Class.

27. How do I get out of the Settlement?

You may opt out of the Settlement by mailing an opt out request to the Claims Administrator at:

Respironics CPAP Settlement
Attn: Exclusions
P.O. Box 58220
Philadelphia, PA 19102

QUESTIONS? CALL 1-855-912-3432 OR VISIT: www.RespironicsCPAP-ELSettlement.com

Users who desire to opt out of the Settlement must mail a written request to opt out stating that they seek exclusion from the Settlement and providing their name, address, telephone number, and email, if any, as well as the same information regarding their counsel (if applicable). In addition, **Users** must provide in their opt-out request any of the following three pieces of information for each of their Recalled Devices: (a) the Serial Number; (b) the Recall Registration Number (if they have one); and/or (c) their Claim ID Number provided by the Settlement Administrator (if they have one). If none of those three pieces of information is available, then the **User** must provide in their opt-out request the model of the Recalled Device(s) they have or had; the year of acquisition; and the type of acquisition (*i.e.*, purchase, lease, or rental).

Payers who desire to opt out of the Settlement must mail a written request to opt out stating that they seek exclusion from the Settlement and providing the full name of the Payer plan, address, telephone number, and email, the number of lives insured by the **Payer** in the United States in 2021 and 2022, the number of direct premiums written in the United States in 2021 and 2022, and the Claim ID Number provided by the Settlement Administrator (if available).

Incomplete opt-outs are invalid.

To be valid and effective, an original request to opt-out must be signed by the Settlement Class Member or the Settlement Class Member's Representative Claimant, but not by the Settlement Class Member's counsel, if any, or anyone else. Representative Claimants must supply the Settlement Administrator with written proof that such person has legal authority to act in a representative capacity for the Settlement Class Member. **Mass opt-outs are not permitted**, and each Settlement Class Member may only opt out on behalf of himself, herself, or itself. **Electronic signatures (other than DocuSign) are not valid and effective, whether for Settlement Class Members or Representative Claimants.**

The opt-out request must be postmarked no later than February 7, 2024 or it will be denied as untimely and invalid.

28. If I don't opt out, can I sue the Philips Defendants for Economic Loss Claims later?

No. Unless you submit a timely and valid opt out, if the Settlement is approved, you give up the right to bring any Economic Loss Claims against the Philips Defendants or the other Released Parties. Any such Economic Loss Claims by you will be barred whether or not you complete the steps necessary to receive a settlement payment. You must exclude yourself from the Settlement Class if you want to try to pursue your own lawsuit for Economic Loss Claims against the Philips Defendants or the other Released Parties.

Remaining in the Settlement Class does not affect any personal injury or medical monitoring claims you may have.

29. If I don't opt out, can I sue Ozone Cleaning Companies for Economic Loss Claims?

No. If you do not opt out and the Settlement is approved, you will assign to Philips Respiroics your Economic Loss Claims against Ozone Cleaning Companies.

30. What happens if I opt out?

If you submit a timely and valid request to opt out of the Settlement, you will not have any rights as a member of the Settlement Class under the Settlement; you will not receive any payment or other benefits provided by the Settlement; you will not be able to object to the Settlement; and you will keep the right, if any, to sue on any Economic Loss Claims.

OBJECTING TO THE SETTLEMENT

31. How do I tell the Court that I have an objection to the Settlement?

If you are a Settlement Class Member and do not opt out of the Settlement, you can object to the Settlement (or any aspect of it) by mailing an objection to the Settlement Administrator. You can also object to the amount sought in the motion for attorneys' fees and costs that will be filed by Settlement Class Counsel, or the proposed Service Awards to the Settlement Class Representatives. The Court will consider your views. You can't ask the Court to compel the parties to agree to a different Settlement; the Court can only approve or reject the proposed Settlement as presented and explain its reasons for doing so. If the Court denies approval, no Settlement payments will be made, and the lawsuit will continue unless the parties negotiate a revised Settlement.

Any objection to the proposed Settlement must be in writing and mailed to the Settlement Administrator at the following address: Respironics CPAP Settlement, Attn: Objections, P.O. Box 58220, Philadelphia, PA 19102. **The postmark deadline for any objection is February 7, 2024. Any objections that are not postmarked by February 7, 2024 are untimely and invalid.**

All objections must state that you object to the proposed Settlement in *In re Philips Recalled CPAP, BI-LEVEL PAP, and Mechanical Ventilator Products Litigation*, Master Docket No. 21-mc-1230-JFC, MDL No. 3014 (W.D. Pa.).

All objections also must state with specificity the grounds for the objection. Any objection must include a statement whether the Settlement Class Member intends to appear at the Final Fairness Hearing either with or without the objector's counsel (who must be identified).

Any objection must include the objector's name, mailing address, email address, if any (an email address is not required), and telephone number of the objecting Settlement Class Member and his, her or its counsel (if any), and the Claim ID Number (if available) provided by the Settlement Administrator (if available).

The objection must be signed by the Settlement Class Member. Any objection not submitted in full compliance with these terms and procedures are invalid and deemed waived.

If you make a timely and valid written objection, you may (but are not required to) appear at the Final Approval Hearing, either in person or through your own attorney, provided that you state that intention to appear in the objection itself. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

32. What's the difference between objecting and opting out?

Objecting is telling the Court that you don't like something about the proposed Settlement. You can object to the proposed Settlement only if you do not exclude yourself from the Settlement Class. You can still get the Settlement benefits if it is approved over your objection.

Excluding yourself from the proposed Settlement is opting out and telling the Court that you don't want to be part of the Settlement. If you opt out of the Settlement, you cannot object to it because it no longer affects you.

You cannot opt out of the Settlement and object to it.

THE COURT'S FINAL APPROVAL HEARING

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

The Court will hold a Final Approval Hearing on **April 11, 2024, at 10:30 a.m.**, in Courtroom 5A of the Joseph F. Weis, Jr. U.S. Courthouse, 700 Grant Street, Pittsburgh, PA 15219.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to Settlement Class Members (or their counsel) who have timely and properly asked to speak at the hearing. The Court will then decide whether to approve the Settlement.

The Court may also decide the motion for attorneys' fees and costs that will be filed by Settlement Class Counsel, and how much the Settlement Class Representatives should receive in Service Awards.

The Court may reschedule the Final Approval Hearing or change any of the deadlines described in this Notice. The date of the Final Approval Hearing may change without further notice to Settlement Class Members. Be sure to check the website, www.RespironicsCPAP-ELSettlement.com, for news of any such changes. You can also access the case docket 21-mc-1230 via the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.pawd.uscourts.gov> or access the Court's public information website for the litigation at: <https://www.pawd.uscourts.gov/mdl-3014-re-philips-recalled-cpap-bi-level-pap-and-mechanical-ventilator-products-litigation>.

34. Do I have to come to the Final Approval Hearing?

No. Settlement Class Counsel will answer any questions the Court may have. You may attend at your own expense if you wish. If you mail an objection to the Settlement Administrator, you do not have to come to the hearing to talk about it. As long as you meet the requirements for objections, the Court will consider it. You may also pay your own lawyer to attend, but that is not necessary.

35. May I speak at the hearing?

You may ask the Court for permission for you or your own lawyer (hired at your own expense) to speak at the Final Approval Hearing. To do so, you must include a statement in your written objection (see Question 31) that you and/or your lawyer intend to appear at the hearing. Be sure to meet all the objection requirements (see Question 31).

You cannot speak at the hearing or send your own lawyer to speak on your behalf if you exclude yourself from the Settlement Class.

IF I DO NOTHING

36. What happens if I do nothing at all?

If you take no action at all, you will get no Settlement payment unless you are a **User** that registered your Recalled Device as part of a Recall Program and already returned it to Philips Respironics, qualifying you for an Automatic Payment. If you are a **User** who qualifies for an Automatic Payment, you will be sent a check for your automatic Device Payment Award and Device Return Award to your last known address if you do nothing further. But to ensure your information is up to date, please go to www.RespironicsCPAP-ELSettlement.com to verify or update your contact information, provide the Serial Number of your Recalled Device and/or Recall Registration Number to expedite your payment, and confirm your preferred payment option.

All other Settlement Class Members must take some further action to receive a payment. See the charts on pages 2-5 above. If you do nothing, you'll be a Settlement Class Member but you won't get a payment from this Settlement.

If you are a Settlement Class Member and you do not exclude yourself as explained in Question 27, you will give up your right to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Philips Defendants, the other Released Parties, and/or Ozone Cleaning Companies for Economic Loss Claims. Any such Economic Loss Claims by you will be barred whether or not you complete the steps necessary to receive a Settlement payment. **However, any claim you may have for personal injury or medical monitoring will not be affected even if you do nothing.**

GETTING MORE INFORMATION

37. Are more details about the Settlement available?

Yes. This Notice simply summarizes the proposed Settlement. The specific details are in the Settlement Agreement and other case documents. You can get a copy of these and other documents at www.RespironicsCPAP-ELSettlement.com, by emailing Info@RespironicsCPAP-ELSettlement.com, by calling 1-855-912-3432, by accessing the docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at: <https://ecf.pawd.uscourts.gov> or access the Court's public information website for the litigation at: <https://www.pawd.uscourts.gov/mdl-3014-re-philips-recalled-cpap-bi-level-pap-and-mechanical-ventilator-products-litigation>, or by visiting the office of the Clerk of the Court for the United States District Court for the Western District of Pennsylvania located at Joseph F. Weis, Jr. U.S. Courthouse, 700 Grant Street, Pittsburgh, PA 15219 between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT CALL THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

38. How do I get more information?

The Settlement Website, www.RespironicsCPAP-ELSettlement.com, has relevant information about the Settlement, including claim forms, answers to questions about the Settlement and relevant pleadings filed with the Court. These documents will tell you more about the Settlement and help you determine whether you are eligible for a payment.

You can also call 1-855-912-3432 or write to the Claims Administrator at:

Respironics CPAP Settlement
c/o Settlement Administrator
1650 Arch Street, Suite 2210
Philadelphia, PA 19103

Settlement Class Counsel can also be reached using the following contact information: ClassCounsel@RespironicsCPAP-ELSettlement.com.