

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

ROBERT CIARCIELLO, Individually and
on Behalf of All Others Similarly Situated,

Plaintiff,

v.

BIOVENTUS INC., KENNETH M.
REALI, MARK L. SINGLETON,
GREGORY O. ANGLUM, and SUSAN M.
STALNECKER,

Defendants.

Case No. 1:23-cv-00032-CCE-JEP

**DECLARATION OF KATHLEEN BRAUNS REGARDING THE
DISTRIBUTION OF THE NET SETTLEMENT FUND AND CY PRES**

I, KATHLEEN BRAUNS, hereby declare under penalty of perjury as follows:

1. I am a Project Manager of A.B. Data, Ltd.’s Class Action Administration Company (“A.B. Data”), whose Corporate Office is located in Milwaukee, Wisconsin. I am over 21 years of age and am not a party to the above-captioned action (the “Litigation”).¹ The following statements are based on my personal knowledge and information provided by other A.B. Data employees working under my supervision, and if called on to do so, I could and would testify competently thereto.

2. Pursuant to its Order Preliminarily Approving Settlement and Providing for Class Notice (the “Preliminary Approval Order,” ECF No. 150), the Court approved the retention of A.B. Data as the Claims Administrator in the Litigation. (*See* ECF No. 150 ¶ 8).

3. On December 18, 2024, the Court entered a Judgment, in which the Court, among other things, stated that the “Claims Administrator shall administer the claims administration process, including the calculation of claims submitted by Settlement Class Members and distribution of the Net Settlement Fund to Authorized Claimants, pursuant to the Court-approved Plan of Allocation” (ECF No. 173, ¶ 22) (the “Judgment”).

4. On December 18, 2024, the Court also entered a Memorandum Opinion and Order, in which the Court, among other things, granted final approval of the Settlement and ordered that A.B. Data “SHALL make all required payments from the settlement fund in accordance with the amounts and the times set forth in the settlement agreement and plan of allocation, including all payments to settlement class members who submitted an approved

¹ Unless otherwise defined in this Declaration, all capitalized terms have the meanings set forth in the Stipulation of Settlement, dated July 12, 2024, as revised on August 7, 2024 (the “Stipulation,” ECF No. 148-1).

claim, as approved herein” (ECF No. 172, at 30-31) (the “Final Approval Order”).

5. Pursuant to the Distribution Plan for the Net Settlement Fund set forth in the A.B. Data Interim Status Report (ECF No. 175-1, ¶ 49), the initial distribution began on July 1, 2025. A.B. Data distributed payments totaling \$9,665,901.01 to 4,295 Settlement Class Members. Payment amounts for the Authorized Claims ranged from \$10.01 to \$438,758.75 and the average recovery per claimant was \$2,250.50. Settlement Class Members were provided with a 120-day period to deposit their checks before they became void, setting the initial check void date for October 29, 2025. The payments included A.B. Data’s contact information in the event a Settlement Class Member had questions or needed their check reissued due to a name change.

6. In all, 4,011 payments totaling \$9,583,093.34 were cashed. A total of 284 checks were not cashed totaling \$82,807.67. This represents a cash rate of 99.14%.

7. After the initial distribution was completed, a residual balance of \$110,615.36 remained in the Net Settlement Fund consisting of the uncashed check total and additional tax reserve. A.B. Data, in consultation with Lead Plaintiff’s Counsel, believed there was sufficient money remaining in the Net Settlement Fund and determined that a secondary distribution to Settlement Class Members that cashed their initial payment and who would receive a minimum allocation of \$10.00 was feasible.

8. Pursuant to the Court’s Order (the “Second Distribution Order”) (ECF No. 178), on January 26, 2026, A.B. Data sent secondary distribution payments totaling \$92,912.57 to 521 Settlement Class Members who cashed their initial distribution payment and who would receive a minimum allocation of \$10.00 (the “Second Distribution”). Payment amounts for the

Authorized Claims ranged from \$10.02 to \$4,538.24, and the average recovery per claimant was \$178.34.

9. Authorized Claimants were provided with a 60-day period to deposit their checks before they became void. The void date was March 27, 2026. The payments included A.B. Data's contact information in the event an Authorized Claimant had questions or needed their check reissued due to a name change or some other issue.

10. As authorized by the Second Distribution Order, A.B. Data incurred \$15,296.00 in additional administrative expenses to administer the Second Distribution. These expenses included, among other things, expenses related to contacting claimants, print and postage costs to mail checks, expenses related to tax reporting, and expenses related to keeping the website and telephone contact center operational.

11. A total of 509 payments totaling \$91,917.24 from the Second Distribution have been cashed. This represents a cash rate of 98.9%.

12. At the conclusion of the Second Distribution, a residual balance of \$995.33 remained in the Net Settlement Fund. Additionally, A.B. Data has received a federal tax refund of \$9,144.97. Therefore, the total amount of remaining funds is \$10,140.30.

13. A.B. Data, in consultation with Class Counsel, has determined it is not economically feasible to carry out a third distribution of this amount to the 509 Settlement Class Members who cashed their initial and secondary payments. Consistent with the Distribution Plan and as detailed in my previous distribution declaration (ECF No. 175-1, ¶¶ 49(c), (d)), at such time as Class Counsel, in consultation with A.B. Data, determines that the redistribution of funds remaining in the Net Settlement Fund is not cost effective, if sufficient funds remain to

warrant the processing of Claims received after the established claim filing deadline of April 18, 2025 (“Late Claims”), such Claims will be processed. Any such Claims that are otherwise valid, as well as any earlier received Claims for which an adjustment was received after April 18, 2025, which resulted in an increased Recognized Claim, may be paid their distribution amounts or additional distribution amounts on a pro rata basis and in a way that would bring them into parity with other Authorized Claimants who have cashed all of their prior distribution checks to the extent possible.

14. A.B. Data has processed a total of 100 Late Claims and has determined 12 Claims to be eligible for payment under the Plan of Allocation.

15. In accordance with the Distribution Plan, A.B. Data proposes distributing the remaining \$10,140.30 to these 12 Authorized Claimants. A.B. Data anticipates payments will be completed by July 31, 2026.

16. A.B. Data intends to distribute the remaining balance of \$10,140.30 to the 12 Authorized Claimants via electronic wire transfer. Accordingly, A.B. Data does not anticipate any uncashed funds after the distribution. In the unlikely event that any funds remain following the wire transfers, the residual balance will be contributed, subject to Court approval and pursuant to the Final Approval Order, to a qualified tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code (see Final Approval Order at 32). A.B. Data, in consultation with Class Counsel, recommends that the remaining funds in the Net Settlement Fund be donated to Warrior Wellness Solutions, a North Carolina based 501(c)(3) organization providing wounded, ill, and injured veterans with rehabilitative exercise, adaptive sports performance, functional medicine coaching, nutrition education, and wellness training. This

organization aligns with both the geographic location of the case and the subject matter of the alleged fraud (*i.e.*, Bioventus’s business supplying pain treatments, restorative therapies, and surgical solutions).²

17. Based on my experience in similar matters, this proposed handling of the additional distribution along with the *cy pres* payment is standard and customary in common fund class action settlements like this one. A.B. Data will not seek any additional fees or reimbursement of expenses to conduct the additional distribution or to make the *cy pres* distribution.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 1st day of July 2026.


KATHLEEN BRAUNS

² Further information about Warrior Wellness Solutions can be found here:
<https://www.warriorwellnesssolutions.org/>.