

Notice of LivaNova USA Data Security Incident Class Action Settlement

If your private information was compromised in a data security incident experienced by LivaNova USA, Inc. on or around October 26, 2023, you may be entitled to benefits from this class action settlement.

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

Please read this Notice carefully and completely, your legal rights are affected whether you act or don't act.

THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT CAREFULLY.

- A Settlement has been reached in a class action lawsuit against LivaNova USA, Inc. (“LivaNova” or “Defendant”). The Settlement resolves claims brought by individuals impacted by the Data Security Incident that occurred on or around October 26, 2023, during which unauthorized third parties purportedly gained access to Private Information from LivaNova’s systems (“Data Security Incident”).
- You may be eligible to receive a Cash Payment for either (A) reimbursement for documented losses (maximum payment of up to \$5,000) or (B) a \$100 flat cash payment from the proposed Settlement. All Cash Payments are subject to a *pro rata* increase or decrease depending on the total value of all Claims received.
- In addition to the Cash Payment, you may elect up to three years of Credit/Data Monitoring services.
- To receive a Cash Payment and/or Credit/Data Monitoring services, you must complete and submit a Claim Form.
- Please read this Notice carefully. Your legal rights will be affected, and you have a choice to make now.

Summary of Your Legal Rights and Options		Deadline
SUBMIT A CLAIM FORM	The only way to get a Cash Payment and/or Credit/Data Monitoring. Please note that submitting a Claim Form will <u>not</u> automatically enroll you in Credit/Data Monitoring Services. To enroll, you must follow the instructions that will be sent to you using the email address you provided after the Settlement is approved.	Online or Postmarked by March 20, 2025.
EXCLUDE YOURSELF BY OPTING OUT	Get no Cash Payment and/or Credit/Data Monitoring. Keep your right to file your own lawsuit against the Defendant for the same claims resolved by this Settlement.	Postmarked by March 5, 2025.
OBJECT TO THE SETTLEMENT AND/OR ATTEND THE FINAL APPROVAL HEARING	Tell the Court the reasons why you do not believe the Settlement should be approved. You can also ask to speak to the Court at the Final Approval Hearing on April 4, 2025 about the fairness of the Settlement, with or without your own attorney.	Received by March 5, 2025.
DO NOTHING	Get no Cash Payment and/or Credit/Data Monitoring and be bound by the terms of the Settlement.	

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Cash Payments will be made and Credit/Data Monitoring services will be available if the Court approves the Settlement after any appeals are resolved.

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BASIC INFORMATION

1. Why did I receive Notice?

You received Notice because you have been identified as a person whose Private Information may have been accessed or exposed during the Data Security Incident. Similarly situated individuals brought a proposed class action lawsuit against LivaNova, alleging LivaNova was negligent due to its data security practices. LivaNova denied the allegations and denied that it would be found liable. The Parties have now reached a proposed Settlement of the lawsuit and related actions.

A court authorized this Notice because you have a right to know about your rights under the proposed class action Settlement before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after objections and appeals are resolved, a Settlement Administrator appointed by the Court will distribute the Settlement Class Member Benefits that the Settlement allows, and the pending legal claims against the Defendant will be released and dismissed. Please note that these claims will be released even if you do not file a Claim or receive any Settlement compensation (unless you timely opt out of the Settlement).

This Notice explains the lawsuit, the Settlement, your rights, what Settlement Class Member Benefits are available, who is eligible for them, and how to get them. The case is *J.W., a Minor, et al. v. LivaNova USA, Inc.*, Case No. 4:24-cv-2250, currently pending in the United States District Court for the Southern District of Texas. The Honorable Alfred H. Bennett, United States District Court Judge, is in charge of this case.

2. What is this lawsuit about?

The lawsuit claims that (1) on or about November 19, 2023, LivaNova discovered that an unauthorized third party obtained Private Information from its computer systems (“Data Security Incident”); (2) the Data Security Incident exposed certain Private Information pertaining to LivaNova’s customers and employees; (3) and LivaNova began notifying affected persons about the Data Security Incident on May 31, 2024. The Defendant denies any allegations of wrongdoing and denies that Plaintiffs would prevail or be entitled to any relief should this matter continue to be litigated.

The affected Private Information varied by impacted individual and included data such as name, contact information (e.g., phone number, email and postal addresses), Social Security number, date of birth, medical information (e.g., treatment, condition, diagnosis, prescription, physician, medical record number and device serial number), and health insurance information.

3. What is a class action?

In a class action one or more people called “Class Representatives” sue on behalf of themselves and other people who have similar claims. This group of people is called the “class,” and the people in the class are called “Settlement Class Members” or the “Settlement Class.” One court resolves the issues for all Settlement Class Members, except for people who exclude themselves from the class. The persons who sued here (J.W., a minor, by and through her guardian Angela Johnson, Crystal Schultz, Michele Eusebe, Justin Medina, Arthur Podroykin, and Katherine Chaudhry) are called the Plaintiffs. The company they sued—LivaNova USA, Inc.—is called the Defendant.

4. Why is there a Settlement?

The Court did not decide in favor of Plaintiffs or Defendant. Instead, both sides agreed to a Settlement. That way, they avoid the costs and risks of a trial, and Settlement Class Members can get benefits or compensation. The Class Representatives and Class Counsel think the Settlement is in the best interest of the Settlement Class.

WHO IS IN THE SETTLEMENT?

5. Who is in the Settlement?

The Settlement Class is defined as: “all persons in the United States whose Private Information was potentially compromised as a result of the Data Security Incident. Excluded from the Settlement Class are (a) all persons who are governing board members of Defendant; (b) governmental entities; (c) the Court, the Court’s immediate family, and Court staff; and (d) any individual who timely and validly opts-out of the Settlement.”

6. Are there exceptions to being included?

Yes, the following are not included in the Settlement Class: (a) all persons who are governing board members of Defendant; (b) governmental entities; (c) the Court, the Court’s immediate family, and Court staff; and (d) Settlement Class Members who submit a valid request to opt out of the Settlement by the Opt-Out Deadline.

7. What should I do if I am not sure whether I am included?

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 1-888-726-1386 or you can visit www.LNDataSecuritySettlement.com for more information.

THE SETTLEMENT BENEFITS

8. What does the Settlement provide?

Under the Settlement, the Defendant will establish a non-reversionary all cash Settlement Fund in the amount of \$1,205,000. These funds will be used to pay for all Valid Claims made by Settlement Class Members, Settlement Administration Costs, any Court-awarded Service Awards to the Class Representatives, and any Court-awarded attorneys' fees and costs. Any remaining funds will be sent to an appropriate mutually agreeable *cy pres* recipient to be approved by the Court.

9. What can I get from the Settlement?

Settlement Class Members may file a Claim for one or more of the following Settlement Class Member Benefits.

CASH PAYMENT: Settlement Class Members may submit a Claim for a Cash Payment from the Settlement Fund. You may choose ONE of the following two Cash Payment options.

Cash Payment A – Documented Losses. Settlement Class Members may submit a claim for reimbursement of documented monetary losses fairly traceable to the Data Security Incident up to \$5,000 per individual (“Documented Losses”). Documented Losses may include, without limitation, unreimbursed losses relating to fraud or identity theft; professional fees including attorneys’ fees, accountants’ fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after the Data Security Incident through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges. You will not be reimbursed for expenses if you have been previously reimbursed for the same expenses by another source. **You must provide proper documentation to make a successful claim for Documented Losses.**

OR

Cash Payment B – Flat Cash Payment. As an alternative to Cash Payment A above, you may elect to receive Cash Payment B, which is a flat cash payment in the amount of approximately \$100.

Claims for Cash Payments are subject to a *pro rata* increase or decrease depending upon the number of Valid Claims filed and approved.

CREDIT/DATA MONITORING SERVICES: In addition to a Cash Payment, Settlement Class Members may submit a Claim for up to three years of Credit/Data Monitoring services.

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

If you are a Settlement Class Member and you do not opt out of the Settlement, you will give up your right to sue, continue to sue, or be part of any other lawsuit against Defendant or other released parties concerning the claims released by this Settlement. These claims will be released even if you do not file a Claim or receive any Settlement compensation. The Settlement Agreement describes the legal claims that you give up if you remain in the Settlement Class. The entire text of the Settlement Agreement can be viewed at www.LNDataSecuritySettlement.com.

HOW TO GET SETTLEMENT BENEFITS – MAKING A CLAIM

11. How can I get a Cash Payment?

You must complete and submit a Claim Form by March 20, 2025. Claim Forms may be submitted online at www.LNDataSecuritySettlement.com or printed from the website and mailed to the address on the form.

Be sure to read the Claim Form instructions carefully, include all required information, and your signature.

The Settlement Administrator will review your claim to determine the validity and amount of your payment.

This is a closed class. The benefits are available only to Settlement Class Members with a unique Claim ID. All claims submitted by non-Settlement Class Members will be rejected.

12. How can I get Credit/Data Monitoring?

You must complete and submit a Claim Form by March 20, 2025. Claim Forms may be submitted online at www.LNDataSecuritySettlement.com or printed from the website and mailed to the address on the form. Please note that submitting a Claim Form will not automatically enroll you in Credit/Data Monitoring Services. To enroll, you must follow the instructions that will be sent to you using the email address you provided after the Settlement is approved.

13. When will I get my Cash Payment or Credit/Data Monitoring?

The Court will hold a hearing on April 4, 2025, to decide whether to approve the Settlement. Cash Payments and Credit/Data Monitoring services will be made after the Settlement is approved and becomes final (meaning there is no appeal from the order approving the Settlement). Updates regarding the Settlement will be posted on the Settlement Website, www.LNDataSecuritySettlement.com.

THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in this case?

Jeff Ostrow of Kopelowitz Ostrow P.A., Mariya Weekes of Milberg Coleman Bryson Phillips & Grossman PLLC, and Scott Cole of Cole & Van Note have been appointed to represent the Settlement Class. These lawyers are called Class Counsel. You will not be charged for their services.

15. Should I get my own lawyer?

If you want your own lawyer, you may hire one, but you will be responsible for any payment for that lawyer's services. For example, you can ask your own lawyer to appear in court for you if you want someone other than Class Counsel to speak for you. You may also appear for yourself without a lawyer.

16. How will the lawyers be paid?

The attorneys representing the Settlement Class have not yet received any payment for their legal services or any reimbursement of the costs or out-of-pocket expenses they have incurred. Class Counsel plans to ask the Court to award attorney's fees from the Settlement Fund. The request for attorneys' fees, costs, and expenses will be for up to 33.33% of the Settlement Fund or \$401,666.67.

The Settlement Class is represented by the Plaintiffs named above, who have been designated as the "Class Representatives." Class Representatives may make a Claim for Settlement Class Member Benefits, like all other Settlement Class Members, but will also each request a \$2,500 award for the efforts they have expended on behalf of the Settlement Class.

The Court will determine whether to approve the amount of attorneys' fees, costs, and expenses requested by Class Counsel, as well as the amount of the Service Awards for the Class Representatives. As part of Plaintiffs' Motion for Final Approval of the Settlement, Class Counsel will file an Application for Attorneys' Fees, Costs, and Service Awards no later than February 18, 2025. Once filed, the Motion for Final Approval will be available on the Settlement Website, www.LNDataSecuritySettlement.com.

EXCLUDING YOURSELF FROM THE SETTLEMENT

17. How do I get out of the Settlement?

If you are a Settlement Class Member and you do not want the benefits from the Settlement, and you want to keep your right, if any, to sue the Defendant or released parties on your own about the legal issues in this case, then you must take steps to get out of the Settlement. This is called excluding yourself from—or "opting out" of—the Settlement Class.

You may opt out of the Settlement by March 5, 2025. To opt out, you must send your request to the address below that contains the following information:

- Your full name, address, telephone number, email address (if any) and must be personally signed by you;
- A clear statement indicating your request to opt out of the Settlement Class and the Settlement.

You should also include the following in your letter or postcard: the name of this Litigation, or a decipherable approximation (*J.W. v. LivaNova USA, Inc.*, Case No. 4:24-cv-2250).

You must mail your opt-out request via First-Class postage prepaid U.S. Mail, postmarked no later than March 5, 2025 to:

J.W. v. LivaNova USA
Settlement Administrator
P.O. Box 301132
Los Angeles, CA 90030-1132

If you fail to include the required information, your request will be deemed invalid and you will remain a Settlement Class Member and be bound by the Settlement, including all releases.

18. If I am a Settlement Class Member and don't opt out, can I sue the Defendant for the same thing later?

No. You must opt out of the Settlement to keep your right to sue Defendant or other released parties for any of the claims resolved by the Settlement.

19. What happens if I opt out?

If you opt out of the Settlement, you will not have any rights as a member of the Settlement Class. You will not receive a Cash Payment and/or Credit/Data Monitoring services as part of the Settlement. You will not be bound by the Settlement, releases, or by any further orders or judgments in this case. You will keep the right, if any, to sue on the claims alleged in the case at your own expense.

In addition, if you opt out of the Settlement you cannot object to this Settlement because the Settlement no longer affects you. If you object to the Settlement and request to opt out, your objection will be voided and you will be deemed to have opted out.

COMMENTING ON OR OBJECTING TO THE SETTLEMENT

20. How do I tell the Court I don't like the Settlement?

If you are a Settlement Class Member and you do not opt-out of the Settlement, you can object to the Settlement if you do not think it is fair, reasonable, or adequate. You can give reasons why you think the Court should not approve it. You can't ask the Court to change or order a different settlement; the Court can only approve or deny this Settlement. If the Court denies approval, no Settlement Class Member Benefits will be distributed and the lawsuit will continue. If that is what you want to happen, you must object.

You may object to any part of the proposed Settlement in writing. You may also appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney.

All notices of an intent to object to the Class Settlement Agreement must be written and should include all of the following:

- a) the name of this Litigation (*J.W. v. LivaNova USA, Inc.*, Case No. 4:24-cv-2250);
- b) your full name, current mailing address, telephone number and email address (if any);
- c) the specific reasons for your objection or objections, accompanied by any legal support for the objection known to you or your counsel;
- d) the number of times you have objected to a class action settlement within the five years preceding the date of your objection along with the caption of each case and a copy of any orders related to or ruling upon your prior objections that were issued by the trial and appellate courts in each listed case;
- e) the identity of all counsel who represent you, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement and/or Application for Attorneys' Fees, Costs, and Service Awards;
- f) the number of times your counsel and/or counsel's law firm have objected to a class action settlement within the five years preceding the date of the filed objection, the caption of each case and a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case;
- g) Any and all agreements that relate to the objection or the process of objecting—whether written or oral—between you and your counsel and any other person or entity;
- h) The identity of all counsel (if any) representing you who will appear at the Final Approval Hearing;
- i) A list of everyone who will be called to testify at the Final Approval Hearing in support of your objection (if any);
- j) a statement indicating whether you intend to personally appear at the Final Approval Hearing; and
- k) Your original signature (an attorney's signature is not sufficient).

Completed objections must be submitted via postal mail to the Clerk of the Court and copies must be mailed to Class Counsel, Defense Counsel, and the Settlement Administrator postmarked no later than March 5, 2025.

Court	Class Counsel	Defense Counsel	Settlement Administrator
Clerk of the Court United States District Court for the Southern District of Texas 515 Rusk Street Houston, TX 77002	Jeff Ostrow Kopelowitz Ostrow P.A. 1 West Las Olas Boulevard, Ste. 500 Fort Lauderdale, FL 33301 Mariya Weekes Milberg Coleman Bryson Phillips & Grossman PLLC 201 S. Sevilla Avenue, Ste. 200 Coral Gables, FL 33134 Scott Cole Cole & Van Note, P.A. 555 12 th Street, Ste. 2100 Oakland, CA 94607	Neil Gilman Hunton Andrews Kurth LLP 200 Park Avenue New York, NY 10166	<i>J.W. v. LivaNova USA</i> Settlement Administrator P.O. Box 301132 Los Angeles, CA 90030- 1132

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

Objecting is telling the Court that you don't like something about the Settlement. You can object to the Settlement only if you are a Settlement Class Member and do not opt out of the Settlement. Opting out of the Settlement is 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 does not affect you.

THE COURT'S FINAL APPROVAL HEARING

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

The Court will hold a Final Approval Hearing at April 4, 2025, at 9:00 a.m., at United States District Court for the Southern District of Texas, 515 Rusk Street, Houston, TX 77002, before Judge Alfred H. Bennett. The hearing may be held virtually, and if it is, instructions on how to attend will be posted on the Settlement Website. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and Class Counsel's Application for Attorney's fees, Costs Service Awards. If there are objections, the Court will consider them. The Court may choose to hear from people who have asked to speak at the hearing. At or after the hearing, the Court will decide whether to approve the Settlement. There is no deadline by which the Court must make its decision.

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 the Settlement Class Members. Be sure to check the website, www.LNDataSecuritySettlement.com for updates.

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

No. Class Counsel will answer any questions the Court may have. You may attend at your own expense if you wish. If you send an objection, you do not have to come to the hearing to talk about it. As long as you mailed or filed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

24. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you should include a statement in your written objection (*see* Question 20) that you intend to appear at the hearing. Be sure to include your name, address, and signature as well. It is the judge's discretion to let you speak at the Final Approval Hearing. You cannot speak at the hearing if you opt out.

IF I DO NOTHING

25. What happens if I do nothing at all?

If you are a Settlement Class Member and do nothing, you will not get a Cash Payment and/or Credit/Data Monitoring from this Settlement, and you will not be able to sue the Defendant or other released parties for the claims released by the Settlement Agreement.

GETTING MORE INFORMATION

26. Are more details about the Settlement available?

This Notice summarizes the proposed Settlement—more details are available in the Settlement Agreement and other case documents available at www.LNDataSecuritySettlement.com; by reviewing the case docket and filings online at www.txs.uscourts.gov; or by visiting the office of the Clerk of the Court for the United States District Court for the Southern District of Texas, 515 Rusk Street, Houston, TX 77002, between 8:00 a.m. and 4:45 p.m., Monday through Friday, excluding Court holidays.

27. How do I get more information?

Visit the website, www.LNDataSecuritySettlement.com, where you will find more information, including the Claim Form, a copy of the Settlement Agreement, and answers to questions about the Settlement and other information to help you determine whether you are eligible for a payment.

Contact the Settlement Administrator:

J.W. v. LivaNova USA
Settlement Administrator
P.O. Box 301132
Los Angeles, CA 90030-1132

1- 888-726-1386
admin@LNDataSecuritySettlement.com

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