

IN THE MARION SUPERIOR COURT
CAUSE NO.

Plaintiff,

V.

Defendants.

I. THE PARTIES

1. Plaintiff is charged with, among other things, enforcement of the Relevant Laws of this State. Plaintiff, pursuant to 42 U.S.C. § 1320d-5(d), may also enforce HIPAA.

2. Defendant Inmediata Health Group, LLC is a limited liability corporation incorporated in the Commonwealth of Puerto Rico. Its principal office is located at 636 Avenue, San Patricio, San Juan, PR 00920, and a branch known as Inmediata Health Group Corp., is located at 200 South Tryon Street, Suite 1700, Charlotte, NC 28202.

3. Defendant Inmediata Technologies, LLC is a limited liability corporation incorporated in the Commonwealth of Puerto Rico. Its principal office is located at 636 Ave San Patricio, San Juan, PR 00920.

II. BACKGROUND

4. On January 15, 2019, the U.S. Department of Health & Human Services' Office of Civil Rights alerted Defendants that the electronic protected health information ("ePHI") held and maintained by the Defendants was exposed online. Defendants' investigation revealed that a coding issue allowed two webpages to be indexed by Bing Bots from May 16, 2016 and continuing through January 15, 2019, potentially exposing the ePHI of approximately 1.5 million U.S. individuals.

5. The Attorneys General of Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Hampshire, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Utah, Washington, West Virginia, and Wisconsin (collectively, the "Attorneys General") investigated this incident pursuant to the Relevant Laws. Defendants are entering into a Judgment with each of

the States and each State's Judgment incorporates the substantive terms included herein. To the extent there are differences, those arise from the requirements of local rules and state laws.

III. STIPULATIONS

6. Plaintiff and Defendants agree to and do not contest the entry of this Judgment.

7. At all times relevant to this matter, Defendants were engaged in trade and commerce affecting consumers in the State insofar as Defendants provided health care clearinghouse services to health care providers in the State.

8. At all times relevant to this matter, Defendants were Covered Entities subject to the requirements of HIPAA in that they acted as a health care clearinghouse, which facilitates financial and clinical transactions between health care providers and insurers across the United States.

9. Defendants consent to jurisdiction and venue in this Court for purposes of entry of this Judgment as well as for the purpose of any subsequent action to enforce it.

IV. JURISDICTION

10. The Court finds that it has jurisdiction over Defendants for purposes of entry of this Judgment as well as for the purpose of any subsequent action to enforce it.

11. The Court finds that it has jurisdiction over the subject matter and over the Parties for the purpose of entering and enforcing this Judgment, and venue is proper in this Court pursuant to Ind. Trial Rule 75(A)(10). Further, the Court retains jurisdiction for the purpose of enabling the Parties to later apply to the Court for such further orders and relief as may be necessary for the construction, enforcement, execution or satisfaction of this Judgment.

V. DEFINITIONS

12. "Administrative Safeguards" shall be defined in accordance with 45 C.F.R. §

164.304 and are administrative actions, and policies and procedures, to manage the selection, development, implementation, and maintenance of security measures to protect Electronic Protected Health Information and to manage the conduct of the covered entity's or business associate's workforce in relation to the protection of that information.

13. "Business Associate" shall be defined in accordance with 45 C.F.R. § 160.103 and is a person or entity that provides certain services to or performs functions on behalf of covered entities, or other business associates of covered entities, that require access to Protected Health Information.

14. "Consumer Protection Law" shall mean Indiana Deceptive Consumer Sales Act, Ind. Code §§ 24-5-0.5 et seq.

15. "Covered Entity" shall be defined in accordance with 45 C.F.R. § 160.103 and is a health care clearinghouse, health plan, or health care provider that transmits health information in electronic form in connection with a transaction for which the U.S. Department of Health and Human Services has adopted standards.

16. "Data Breach" shall mean the unauthorized access to electronic protected health information ("ePHI") that the Defendants held and maintained on two internal webpages which were indexed by Bing Bots occurring from May 16, 2016 and continuing through January 15, 2019, potentially exposing the sensitive PI and PHI of approximately 1.5 million U.S. individuals.

17. "Data Breach Notification Law" shall mean the Indiana Disclosure of Security Breach Act, Ind. Code §§ 24-4.9 et seq.

18. "Effective Date" shall be December 1, 2023.

19. "Electronic Protected Health Information" or "ePHI" shall be defined in accordance with 45 C.F.R. § 160.103.

20. “Encrypt” or “Encryption” shall mean to render unreadable, indecipherable, or unusable to an unauthorized person through a security technology or methodology accepted generally in the field of information security.

21. “Minimum Necessary Standard” shall refer to the requirements of the Privacy Rule that, when using or disclosing Protected Health Information or when requesting Protected Health Information from another Covered Entity or Business Associate, a Covered Entity or Business Associate must make reasonable efforts to limit Protected Health Information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request as defined in 45 C.F.R. § 164.502(b) and § 164.514(d).

22. “Personal Information” or “PI” shall have the same definition as set forth in Ind. Code § 24-4.9-2-10.

23. “Privacy Rule” shall refer to the HIPAA Regulations that establish national standards to safeguard individuals’ medical records and other Protected Health Information, including ePHI, that is created, received, used, or maintained by a Covered Entity or Business Associate that performs certain services on behalf of the Covered Entity, specifically 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E.

24. “Protected Health Information” or “PHI” shall be defined in accordance with 45 C.F.R. § 160.103.

25. “Security Incident” shall be synonymous with “Intrusion” and shall be defined as the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system in accordance with 45 C.F.R. § 164.304.

26. “Security Rule” shall refer to the HIPAA Regulations that establish national

standards to safeguard individuals' Electronic Protected Health Information that is created, received, used, or maintained by a Covered Entity or Business Associate that performs certain services on behalf of the Covered Entity, specifically 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and C.

27. "Technical Safeguards" shall be defined in accordance with 45 C.F.R. § 164.304 and means the technology and the policy and procedures for its use that protect Electronic Protected Health Information and control access to it.

VI. INJUNCTIVE PROVISIONS

WHEREFORE, TO PROTECT CONSUMERS AND ENSURE FUTURE COMPLIANCE WITH THE LAW:

Compliance with State and Federal Laws

28. Defendants shall comply with the Consumer Protection Law in connection with their collection, maintenance, and safeguarding of PI, PHI, and ePHI.

29. Defendants shall not make any representation that has the capacity, tendency, or effect of deceiving or misleading consumers in connection with the safeguarding of PI, PHI, or ePHI.

30. Defendants shall comply with the Data Breach Notification Law.

31. Defendants shall comply with the HIPAA Privacy and Security Rules and shall implement all Administrative and Technical Safeguards required by HIPAA.

Information Security Program

32. Defendants shall develop, implement, and maintain an information security program ("Information Security Program" or "Program") that shall be written and shall contain administrative, technical, and physical safeguards appropriate to: (i) the size and complexity of

Defendants' operations; (ii) the nature and scope of Defendants' activities; and (iii) the sensitivity of the personal information that Defendants maintain. At a minimum, the Program shall include the information security requirements in Paragraphs 39 through 57 below.

33. Defendants shall design and update the Program consistent with the Minimum Necessary Standard to collect and/or maintain PHI only to the extent necessary to accomplish its intended purpose and to fulfill its regulatory, legal, and contractual obligations.

34. Each Defendant shall designate an executive or officer whose full-time responsibility will be to implement, maintain, and monitor the Program (hereinafter referred to as the "Chief Information Security Officer" or "CISO"). The CISO shall have appropriate training, expertise, and experience to oversee the Program and shall regularly report to the Board of Directors ("Board") and Chief Executive Officer ("CEO") regarding the status of the Program, the security risks faced by the Defendant, resources required for implementation of the Program, and the security implications of Defendant's business decisions. At a minimum, the CISO shall report to the Board and CEO any future Security Incident within forty-eight (48) hours of discovery, and shall also provide a regular written report to the Board on a quarterly basis and to the CEO on a monthly basis.

35. Defendants shall develop a written incident response plan ("Plan") to prepare for and respond to any future Security Incidents. At a minimum, this plan shall provide for the following phases: Preparation; Detection and Analysis; Containment; Notification and Coordination with Law Enforcement; Eradication; Recovery; Consumer and Regulator Notification and Remediation; and Post-Incident Analysis. As part of the Plan, Defendants shall maintain specific policies and procedures requiring the review and approval of Consumer Notification letters and mailings before they are sent, which at a minimum:

- a. Ensure that Consumer Notification letters are drafted clearly and provide enough detail to enable consumers to understand why they are receiving the notification and what categories of PI, PHI, and/or ePHI were compromised;
- b. Require review of Consumer Notifications mailings prior to sending to ensure that addresses are accurate; and
- c. Require that consumers' addresses are run through the National Change of Address database prior to mailing out Consumer Notifications.

36. Within ninety (90) days of the Effective Date, and at least annually thereafter, Defendants shall provide data security and privacy training to all personnel with access to PI, PHI, or ePHI. Defendants shall provide this training to any employees newly hired to, or transitioned into, a role with access to PI, PHI, or ePHI, within thirty (30) days of hire or transition. Such training shall be appropriate to employees' job responsibilities and functions. Defendants shall document the trainings and the date(s) upon which they were provided.

37. Defendants may satisfy the requirements to implement and maintain the Program through review, maintenance, and as necessary, updating of an existing information security program and related safeguards, provided that such program and safeguards meet the requirements of this Judgment.

38. Defendants shall provide the resources and support necessary to fully implement the Program so that it functions as required and intended by this Judgment.

Specific Information Security Safeguards

39. **Code Review:** Defendants shall perform regular review of coding to ensure that PI, PHI, or ePHI is not indexed or indexable on externally facing webpages owned, controlled, licensed, or maintained by the Defendants or on the Defendants' behalf.

40. **Crawling Controls:** Defendants shall expressly disallow crawling of webpages owned, controlled, licensed, or maintained by the Defendants or on the Defendants' behalf by any bots, such as BingBot, containing PI, PHI, or ePHI.

41. **Password Management:** Defendants shall implement and maintain password policies and procedures requiring the use of strong, complex passwords, and ensuring that stored passwords are protected from unauthorized access.

42. **Account Management:** Defendants shall implement and maintain policies and procedures to manage, and limit access to and use of, all accounts with access to PI, PHI, or ePHI, including individual accounts, administrator accounts, service accounts, and vendor accounts. In particular, Defendants shall appropriately limit the creation of new accounts in their system to protect against the creation of unauthorized accounts.

43. **Access Controls:** Defendants shall implement and maintain policies and procedures to ensure that access to PI, PHI, and ePHI is granted under the principle of least privilege. Such policies and procedures shall further include a means to regularly review access and access levels of users and remove network and remote access within twenty-four (24) hours of notification of termination for any employee whose employment has ended. Defendants shall require in any contract with a vendor that vendors also include a means to regularly review access and access level of users and remote network and remote access within twenty-four (24) hours of termination of any vendor, employee of the vendor, or anyone working on behalf of the vendor.

44. **Multi-Factor Authentication:** Defendants shall require the use of multi-factor authentication for remote access to systems(s) that store or permit access to PI or ePHI. Such multi-factor authentication methods should not include telephone or SMS-based authentication methods, but can include mobile applications, physical security keys, or other more secure options.

45. **Software Updates:** Defendants shall maintain, keep updated, and support software on their network.

46. **Antivirus:** Defendants shall implement and maintain current, up-to-date antivirus protection programs or a reasonably equivalent technology.

47. **Firewalls:** Defendants shall implement and maintain firewall policies and procedures to restrict connections between internal networks through appropriately configured hardware and software tools.

48. **Encryption:** Defendants shall Encrypt PI and ePHI at rest and in transit as appropriate, and in accordance with applicable law.

49. **Segmentation:** Defendants shall implement, and maintain policies and procedures designed to appropriately segment its network, which shall, at a minimum, ensure that systems communicate with each other only to the extent necessary to perform their business and/or operational functions.

50. **Logging and Monitoring:** Defendants shall implement and maintain a Security Incident and Event Monitoring solution to detect and respond to malicious attacks. Defendants shall ensure that logs of system activity are regularly and actively reviewed and analyzed in as close to real-time as possible, and that appropriate follow-up and remediation steps are taken with respect to any Security Incident. Defendants shall further ensure that logs are protected from unauthorized access, destruction, and/or deletion.

51. **Intrusion Detection and Data Loss Prevention:** Defendants shall implement and maintain an intrusion detection and data loss prevention technology to detect and prevent unauthorized access and data exfiltration.

52. **Vulnerability Scanning:** Defendants shall conduct regular vulnerability scanning

using industry-standard tool and shall take appropriate steps to remediate identified vulnerabilities.

53. **Risk Assessments:** Defendants shall obtain an annual risk assessment by a qualified, independent third party, which shall, at a minimum, include: the identification of internal and external risks to the security, confidentiality, or integrity of PI, PHI, and ePHI that could result in the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of such information; an assessment of the safeguards in place to control these risks; the evaluation and adjustment of the Program considering the results of the assessment, including the implementation of reasonable safeguards to control these risks; and documentation of safeguards implemented in response to such annual risk assessments. Defendants shall retain documentation of the risk assessments and remedial measures for five (5) years and shall provide them to the Plaintiff upon request.

54. **Penetration Testing:** Defendants shall implement and maintain a risk-based penetration testing program reasonably designed to identify, assess, and remediate potential security vulnerabilities. Such testing shall occur on at least a biannual basis and shall include penetration testing of Defendants' internal and external network defenses. Defendants shall review the results of such testing, take steps to remediate findings revealed by such testing, and document such remediation. Defendants shall retain documentation of the penetration test results and remedial measures for five (5) years and shall provide them to the Plaintiff upon request.

55. **Business Associates:** Defendants shall develop, implement, and maintain written policies and procedures related to Business Associates, which at a minimum:

- a. Designate one or more individual(s) who are responsible for ensuring that Defendants enter into a Business Associate agreement with each of its Business Associates, prior to disclosing PI, PHI, or ePHI to the Business Associates;

- b. Assess Defendants' current and future business relationships to determine whether the relationship involves a Business Associate;
- c. Implement and maintain a process for negotiating and entering into Business Associate agreements with Business Associates prior to disclosing PI, PHI, or ePHI to the Business Associates; and
- d. Implement and maintain risk-based policies and procedures which limit disclosures of PI, PHI, or ePHI to the minimum amount necessary for the Business Associate to perform their duties.

Information Security Program Assessment

56. Defendants shall, within one hundred and eighty (180) days of the Effective Date, and thereafter annually for a period of five (5) years, submit to an assessment of their compliance with this Judgment, by an independent third-party assessor ("Assessor"). Following each such assessment, the Assessor shall prepare a report ("Security Report") including its findings and recommendations, a copy of which shall be provided to the Indiana Attorney General within thirty days (30) of its completion.

57. Within ninety (90) days of their receipt of each Security Report, Defendants shall review and, to the extent necessary, revise their current policies and procedures based on the findings of the Security Report. Within one hundred eighty (180) days of Defendants' receipt of each Security Report, Defendants shall forward to the Indiana Attorney General a description of any action they take and, if no action is taken, a detailed description why no action is necessary, in response to each Security Report.

V. PAYMENT TO THE STATES

58. Defendants shall make a total payment to the Attorneys General collectively in the

amount of One Million, Four Hundred Thousand Dollars (\$1,400,000), to be divided among the Attorneys General at their discretion. Seven Hundred Thousand Dollars (\$700,000) shall be due December 1, 2023, and Seven Hundred Thousand Dollars (\$700,000) shall be due December 1, 2025. Payment in two equal installments is expressly premised upon the truthfulness, accuracy, and completeness of Inmediata's financial statement submitted to the States and representations of its inability to pay the amount in its entirety by December 1, 2023.

59. The amount apportioned to the Indiana Attorney General is to be paid by Defendants directly to the Indiana Attorney General in an amount designated by the Attorneys General and communicated to the Defendants. Out of the total amount, the Defendants shall pay \$65,640.50 to the Indiana Attorney General by December 1, 2023, and \$65,640.50 to the Indiana Attorney General by December 1, 2025. Said payment may be used for purposes that may include, but are not limited to, attorneys' fees, and other costs of investigation and litigation, or be placed in, or applied to, any consumer protection law enforcement fund, including future consumer protection or privacy enforcement, consumer education, litigation or local consumer aid fund or revolving fund, used to defray the costs of the inquiry leading hereto, or for other uses permitted by state law, at the sole discretion of the Plaintiff, where applicable, or any purpose allowable under state law. For purposes of IRS Form 1098-F, all payments shall be reported in Box 2 as "Amount to be paid for violation or potential violation." To effectuate this reporting, Defendants shall provide the Indiana Attorney General with an IRS Form W-9 upon execution of this Judgment.

VI. RELEASE

60. Following full payment of the amounts due by Defendants under this Judgment, Plaintiff shall release and discharge Defendants from all civil claims that the Plaintiff could have

brought under the Relevant Laws, based on Defendants' conduct as set forth in the Complaint. Nothing contained in this paragraph shall be construed to limit the ability of the Plaintiff to enforce the obligations that Defendants or their officers, subsidiaries, affiliates, agents, representatives, employees, successors, and assigns have under this Judgment. Further, nothing in the Judgment shall be construed to create, waive, or limit any private right of action.

61. Notwithstanding any term of this Judgment, any and all of the following forms of liability are specifically reserved and excluded from the release in Paragraph 60 above as to any entity or person, including Defendants:

a. Any criminal liability that any person or entity, including Defendants, has or may have to the States.

b. Any civil liability or administrative liability that any person or entity, including Defendants, has or may have to this State under any statute, regulation, or rule not expressly covered by the release in Paragraph 60 above, including but not limited to, any and all of the following claims: (i) State or federal antitrust violations; (ii) State or federal securities violations; (iii) State insurance law violations; or (iv) State or federal tax claims.

VII. CONSEQUENCES OF NONCOMPLIANCE

62. Defendants represent that they have fully read this Judgment and understand the legal consequences attendant to entering into this Judgment. Defendants understand that any violation of this Order may result in the Plaintiff seeking all available relief to enforce this Order, including an injunction, civil penalties, court and investigative costs, attorneys' fees, restitution, and any other relief provided by the laws of the State or authorized by a court. If the Plaintiff is required to file a petition to enforce any provision of this Judgment against one or more Defendants, the particular Defendant(s) involved in such petition agrees to pay all court costs and

reasonable attorneys' fees associated with any successful petition to enforce any provision of this Judgment against such Defendant(s).

VIII. GENERAL PROVISIONS

63. Any failure of the Plaintiff to exercise any of its rights under this Judgment shall not constitute a waiver of any rights hereunder.

64. Defendants hereby acknowledge that their undersigned representative or representatives are authorized to enter into and execute this Judgment. Defendants are and have been represented by legal counsel and have been advised by their legal counsel of the meaning and legal effect of this Judgment.

65. This Judgment shall bind Defendants and their officers, subsidiaries, affiliates, agents, representatives, employees, successors, future purchasers, acquiring parties, and assigns.

66. Defendants shall deliver a copy of this Judgment to, or otherwise fully apprise, their executive management having decision-making authority with respect to the subject matter of this Judgment within thirty (30) days of the Effective Date.

67. The settlement negotiations resulting in this Judgment have been undertaken by Defendants and the Plaintiff in good faith and for settlement purposes only, and no evidence of negotiations or communications underlying this Judgment shall be offered or received in evidence in any action or proceeding for any purpose.

68. Defendants waive notice and service of process for any necessary filing relating to this Judgment, and the Court retains jurisdiction over this Judgment and the Parties hereto for the purpose of enforcing and modifying this Judgment and for the purpose of granting such additional relief as may be necessary and appropriate. No modification of the terms of this Judgment shall be valid or binding unless made in writing, signed by the Parties, and approved by the Court in which

the Judgment is filed, and then only to the extent specifically set forth in such Judgment. The Parties may agree in writing, through counsel, to an extension of any time period specified in this Judgment without a court order.

69. Defendants do not object to *ex parte* submission and presentation of this Judgment by the Plaintiff to the Court, and do not object to the Court's approval of this Judgment and entry of this Judgment by the clerk of the Court.

70. The Parties agree that this Judgment does not constitute an approval by the Plaintiff of any of Defendants' past or future practices, and Defendants shall not make any representation to the contrary.

71. The requirements of the Judgment are in addition to, and not in lieu of, any other requirements of state or federal law. Nothing in this Judgment shall be construed as relieving Defendants of the obligation to comply with all local, state, and federal laws, regulations, or rules, nor shall any of the provisions of the Judgment be deemed as permission for Defendants to engage in any acts or practices prohibited by such laws, regulations, or rules.

72. This Judgment shall not create a waiver or limit Defendants' legal rights, remedies, or defenses in any other action by the Plaintiff, except an action to enforce the terms of this Judgment or to demonstrate that Defendants were on notice as to the allegations contained herein.

73. This Judgment shall not waive Defendants' right to defend themselves, or make argument in, any other matter, claim, or suit, including, but not limited to, any investigation or litigation relating to the subject matter or terms of the Judgment, except with regard to an action by the Plaintiff to enforce the terms of this Judgment.

74. This Judgment shall not waive, release, or otherwise affect any claims, defenses, or position that Defendants may have in connection with any investigations, claims, or other matters

not released in this Judgment.

75. Defendants shall not participate directly or indirectly in any activity to form or proceed as a separate entity or corporation for the purpose of engaging in acts prohibited in this Judgment or for any other purpose which would otherwise circumvent any part of this Judgment.

76. If any clause, provision, or section of this Judgment shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision, or section of this Judgment and this Judgment shall be construed and enforced as if such illegal, invalid, or unenforceable clause, section, or other provision had not been contained herein.

77. Unless otherwise prohibited by law, any signatures by the Parties required for entry of this Judgment may be executed in counterparts, each of which shall be deemed an original, but all of which shall be considered one and the same Judgment.

78. To the extent that there are any, Defendants agree to pay all court costs associated with the filing of this Judgment.

IX. NOTICES UNDER THIS ORDER

79. Any notices or other documents required to be sent to the Parties pursuant to the Judgment shall be sent by (a) United States Mail, Certified Return Receipt Requested, or other nationally recognized courier service that provides tracking services and identification of the person signing for the documents; and (b) email. The notices and/or documents required to be submitted to:

FOR THE INDIANA ATTORNEY GENERAL:

Jennifer M. Van Dame
Deputy Attorney General – Data Privacy & Identity Theft Unit
Office of Attorney General Todd Rokita
302 West Washington Street, IGCS – 5th Floor
Indianapolis, IN 46204
p: (317) 232-0486
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Douglas S. Swetnam
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FOR THE DEFENDANTS:


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Mobile: 806.535.0274

APPROVED:

DEFENDANT, INMEDIATA HEALTH GROUP, LLC

By:  _____ Date: 10/09/2023
Severiano Lopez-Marrero
Founder, Chief Executive Officer
Inmediata Health Group LLC
636 Ave. San Patricio
San Juan, PR 00920
(787) 774-0606

DEFENDANT, INMEDIATA TECHNOLOGIES, LLC

By:  _____ Date: 10/09/2023
Severiano Lopez-Marrero
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636 Ave. San Patricio
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COUNSEL FOR DEFENDANTS

By:  _____ Date: 10/09/2023
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APPROVED:

PLAINTIFF, STATE OF INDIANA



By: _____

Date: 10/17/2023

Jennifer M. Van Dame
Deputy Attorney General
Data Privacy & Identity Theft Unit
Office of Attorney General Todd Rokita
302 West Washington Street
IGCS – 5th Floor
Indianapolis, IN 46204
p: (317) 232-0486
jennifer.vandame@atg.in.gov

SO ORDERED:

By: _____

Judge

Date: _____