

EXHIBIT 2

**IN THE CIRCUIT COURT OF THE
TWENTY-SECOND JUDICIAL CIRCUIT
CITY OF ST. LOUIS, STATE OF MISSOURI**

JOHN DOE and JANE DOE, individually and
on behalf of all others similarly
situated, *et al.*

Plaintiffs,

v.

SSM HEALTH CARE CORPORATION d/b/a
SSM HEALTH and NAVVIS & COMPANY,
LLC,

Defendants.

Case No: 2422-CC00208

Div. 1

**DECLARATION OF JACK GARVEY IN SUPPORT OF UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

I, John (“Jack”) Garvey, Jr., am over the age of eighteen years. I offer this declaration in my capacity as one of the attorneys for Plaintiffs and the proposed Class in support of the unopposed Motion for Preliminary Approval of the proposed settlement in this case with Defendants, Navvis & Company, LLC (“Navvis”) and SSM Health Care Corporation d/b/a SSM Health) (collectively, “Defendants”).

I have personal knowledge of the facts recited in this Declaration, and if called upon to testify to the truth of the statements below, I could and would do so:

1. I am a licensed attorney in private practice in the State of Missouri. I am a Partner in the law firm Stranch, Jennings & Garvey, PLLC.
2. I am co-counsel of record for Plaintiffs and the Class and am identified as Class Counsel in the Parties’ Settlement Agreement.
3. This case arises from the alleged compromise of the highly sensitive personal information of approximately 2.8 million individuals between July 12, 2023, and July 25, 2023,

during a ransomware data breach to Navvis's network. This Private Information included individuals' names, Social Security numbers, dates of birth, and medical information, and other types of personally identifiable information or protected health information collected or maintained by Navvis (the "Incident"). *See* Settlement Agreement ("SA") ¶¶ IV, 1.7, 1.17.

4. Following Navvis notifying affected persons of the Incident, numerous putative class actions were filed against Navvis and others. On January 5, 2024, Brian Rekoske filed suit against Navvis in the United States District Court for the Eastern District of Missouri. *See Rekoske, et al. v. Navvis & Company, LLC et al.*, Case No. 4:24-cv-00029 (the "Federal Action"). Soon thereafter, at least five other related class action lawsuits were filed against Navvis in federal court: *Maxwell Klassen v. Navvis & Company, LLC d/b/a Navvis*, No. 4:24-cv-00035-RHH (E.D. Mo.), *Melanie Burns v. Navvis & Company, LLC d/b/a Navvis*, No. 4:24-cv-00039-SRW (E.D. Mo.), *Julie Montiel v. Navvis & Company, LLC d/b/a Navvis*, No. 4:24-cv-00040-AGF (E.D. Mo.), *Patricia McCreary v. Navvis & Company, LLC d/b/a Navvis*, No. 4:24-cv-00041-MTS (E.D. Mo.), and *Richard Lilly v. Navvis & Company, LLC*, No. 4:24-cv-00065-SEP (E.D. Mo.). These and ultimately consolidated pursuant to court order on February 9, 2024. *See* Federal Action, Doc. 21. On March 11, 2024, a consolidated class action complaint was filed and a subsequently filed related action, *Detrick Clark v. Navvis and Company, LLC*, 4:24-cv-00514-PLC, was consolidated with the Federal Action.

5. The instant action was filed by Plaintiffs John and Jane Doe on February 2, 2024. Finally, Pamela Clark filed an individual action in Hillsborough County, Florida Circuit Court, *Pamela Clark v. Navvis & Company, LLC*, Case No. 24-CA-003585.

6. The Parties in the actions vigorously litigated their respective positions, and subsequently entered into settlement negotiations to resolve the above actions. The Settlement is

the product of a hard-fought, prolonged, and extensive arm's length negotiations, conducted by experienced counsel after extensive analysis of the relevant facts and law.

7. Prior to beginning settlement negotiations, the Parties exchanged key information, in the multiple actions including as to the size of the class, the types of information accessed and stolen in the Incident, and Navvis's investigation into and response to the Incident.

8. Armed with this information, the Parties spent many months negotiating the key terms of the Settlement, including participating in mediation on June 20, 2024 with Bennett G. Picker. While the mediation was not successful, the Parties continued to negotiate after that time for months, eventually reaching the proposed Settlement. With this information, Proposed Class Counsel and Defendant's counsel were able to determine reasonable terms to provide for a settlement that is fair, reasonable, and adequate.

9. Thereafter, the Parties continued to negotiate about the details of the written Settlement Agreement, spending significant time and effort in so doing.

10. The Settlement provides benefits to the Settlement Class which are targeted to address the specific harms caused by the Data Breach in this action, by providing the Settlement Class with prospective relief in the form of credit monitoring protection, as well as retrospective compensation for out-of-pocket expenses, Ordinary Losses, for Extraordinary Losses, and with a *pro rata* cash payment to compensate Settlement Class Members for their loss of privacy, and well as providing for business practice changes to prevent such a breach as the Incident from occurring again.

11. Under the proposed Settlement, Navvis will pay a \$6,000,000 non-reversionary fund, with up to \$6.5 million supplemental ("Settlement Fund") for payment of: (i) two (2) additional years of three-bureau credit monitoring, (ii) documented Out-of-Pocket Expenses

(Ordinary Losses) of up to \$2,000.00 per Settlement Class Member, including for lost time; (iii) Extraordinary Losses of up to \$5,000.00 per Settlement Class Member; (iv) *pro rata* cash payments to compensate the Settlement Class for the loss of privacy associated with the Incident; (v) service awards of \$2,500.00 to each of the proposed Class Representatives, (vi) settlement notice and administration, and for (vii) attorneys' fees not to exceed one-third of the Settlement and litigation expenses. SA ¶¶ 2.1, 2.2, 2.3.1, 2.3.3, 2.3.2, 7.3, 2.7, 7.2. Moreover, if any funds remain unpaid in the \$6,000,000 non-reversionary portion of the Settlement Fund after any checks are uncashed, the Parties will agree on a charitable organization to receive the remaining funds in a *cy pres* payment. SA ¶ 1.28.

12. Specifically, the Settlement provides:

a. ***Compensation for Ordinary Losses:*** Under the Settlement, Settlement Class Members may each receive up to a total of **\$2,000.00** for Ordinary Losses, upon submission of a valid claim with supporting documentation. These Ordinary Losses include: (i) unreimbursed bank or credit card fees; (ii) long distance phone charges (only if charged by the minute); (iii) long distance or cell phone charges (only if charged by the minute); (iv) data charges (only if charged based on the amount of data used); (v) postage; (vi) gasoline for local travel; and/or (vii) credit monitoring or other identity theft monitoring purchased by Settlement Class Members between July 12, 2023 and the date that notice of the Data Security Incident was sent by Navvis to Settlement Class Members. SA ¶ 2.3.1. In addition, to qualify for these Ordinary Expense reimbursements, Class Members must have made reasonable efforts to avoid, or seek reimbursement for, such losses, including but not limited to exhaustion of all available credit monitoring insurance, identity theft insurance and fraud insurance. *Id.*

To be eligible for Ordinary Loss reimbursement for Out-of-Pocket Expenses,

Settlement Class Members need only submit a Claim Form along with plausible documentation supporting their claims, such as receipts or other documentation that documents the costs incurred. This documentation must not be self-prepared by the claimant, such as handwritten receipts (although these may be considered to add clarity or support other submitted documentation and a description of how the time was spent). Id.

b. ***Compensation for Extraordinary Losses:*** Further, under the Settlement, Settlement Class Members are eligible to receive reimbursement for documented Extraordinary Losses, not to exceed \$5,000 per Settlement Class Member for a documented monetary loss that: (i) is an actual, documented and unreimbursed monetary loss caused by (A) injurious misuse of the Settlement Class Member's Private Information or (B) fraud associated with the Settlement Class Member's Private Information; (ii) was more likely than not caused by the Incident; (iii) occurred between July 12, 2023 and seven (7) days after the Court approved notice of settlement is sent to Settlement Class Members; (iv) is not already covered by one or more of the other reimbursed expense categories. SA ¶ 2.3.3. In addition, to be eligible for the Extraordinary Loss reimbursement, Settlement Class Members must have made reasonable efforts to avoid, or seek reimbursement for, the loss, including but not limited to exhaustion of the Settlement Class Member's identity protection services, identity theft insurance or fraud insurance, if any such services/insurance applies. To be eligible for compensation for Extraordinary Losses, Settlement Class Members must submit a valid Claim along with substantial and plausible documentation in support, subject to the same requirements for reimbursement for Ordinary Losses.

c. ***Pro Rata Cash Payments.*** Third, under the Settlement, Class Members may receive *pro rata* cash payments as compensation for their loss of privacy in the Incident. Settlement Class Members may make a claim for a cash payment to compensate them for the

loss of privacy associated with the Incident, up to \$150.00 per person (unless such a cap will not result in exhaustion of the \$6,000,000 non-reversionary fund). SA ¶ 2.3.2. This cash payment will be increased or decreased on a *pro rata* basis based on the number of Class Members who make claims under the Settlement. *Id.*

d. ***Credit Monitoring Services.*** Further the Settlement provides that all Settlement Class Members who submit a valid claim are entitled to receive two (2) additional years of three-bureau credit monitoring. *Id.* ¶ 2.2.

e. ***Information Security Improvements.*** In addition to the above benefits to the Settlement Class Members, the proposed Settlement provides for information security improvements by Navvis. Specifically, separate from and in addition to the Settlement Fund, Navvis has made commitments to spend an additional \$500,000 per year on cybersecurity, beginning in 2024 to 2028. This \$500,000 of additional spending will be measured against Navvis's cybersecurity spending for 2023. Further, Navvis will disclose, upon request, efforts taken to date to Plaintiffs' Counsel via written declaration. SA ¶ 2.5.

13. The claim submission process is effectuated by Settlement Class Members' submission of a Claim Form, which may be submitted electronically via the Settlement Website or by mail to the Settlement Administrator.

14. The Settlement was reached after extensive analysis of the relevant facts and law and is the result of arm's-length negotiations. Although courteous and professional, the negotiations were intense and hard-fought on all sides.

15. Considering the relevant factors, the terms of the Settlement are well within the range of possible final approval.

16. Under the Settlement, Plaintiffs' Counsel will seek an award of attorneys' fees not

to exceed one-third (1/3rd) of the Settlement Fund (Tranches 1 and 2) of \$6 million. SA ¶ 7.2 Further, Class Counsel will seek reimbursement for reasonable out-of-pocket costs and expenses not to exceed \$50,000. Navvis has agreed not to object to either request. The Parties did not discuss payment of attorneys' fees and reimbursement of expenses until after the substantive terms of the settlement had been agreed upon. *Id.* ¶ 7.1

17. The result contained in the Settlement is particularly favorable given the risks of continued litigation. Although Class Counsel strongly believe in the merits of the claims asserted in this action, they are cognizant of the serious risks in prevailing on the merits, including proving liability, causation, as well as risk at class certification and at trial, and surviving appeal. Any of these could result in the Settlement Class obtaining nothing if this case is litigated.

18. A settlement today not only avoids the risks of continued litigation, but it provides immediate, tangible benefits to the members of the Settlement Class now as opposed to after years of risky litigation. The Settlement benefits unquestionably provide a favorable result to the members of the Settlement Class, placing the Settlement well within the range of possible final approval. Accordingly, Proposed Class Counsel believe that the Settlement is an excellent outcome for the Settlement Class in view of the possible issues that could arise during litigation.

19. Plaintiffs, John Doe, Jane Doe, Donna Allen, Keeley Bogart, Melanie Burns, Detrick Clark, Richard Lilly, Julie Montiel, Jeff Ruderman, Julie Schaus, Dorothy Winston, and Duane Zellmer have each demonstrated that they are well-suited to represent the Settlement Class. They each came forward prior to the filing of the respective Petition(s) and/or Complaint(s) and have been involved in this matter since that time. Plaintiffs have maintained contact with counsel, assisted in the investigation of the case, reviewed the Petitions, remained available for consultation throughout the settlement negotiations, reviewed the Settlement

Agreement, and answered counsel's relevant questions. Plaintiffs do not have any conflicts with the proposed class and have adequately represented Settlement Class Members in the litigation.

20. Moreover, Plaintiffs and their counsel have devoted considerable time and resources to this litigation and have shown a deft understanding of the issues in this Action and believe this settlement will make Class Members whole. Prior to filing the Petition, Proposed Class Counsel carried out a thorough investigation of the claims, including reviewing Defendant's notices of the Data Incident, researching the incident and Defendants' response, and investigating applicable legal claims.

21. Our Firm, and our Managing Partner J. Gerard Stranch, IV, have significant experience representing consumer classes. Our Firm resume is attached hereto as **Exhibit A**. For example, we have extensive experience successfully litigating data breach class actions like the instant, in state and federal courts across the country, often with leadership appointments.¹

¹ See, e.g., *See, e.g., Kerr v. Andrews McMeel Universal, Inc.*, No. 2316-CV12523 (Jackson Co. Cir Ct., Dec. 13, 2024) (granting final approval of settlement in data breach litigation); *In re MoveIt Customer Data Security Breach Litigation*, MDL No. 1:23-md-03083-ADB (D. Mass.) (data breach MDL involving the compromise of millions of individuals' personal information); *McKenzie v. Allconnect, Inc.*, No. 5:18-cv-00359-JMH (E.D. Ky.) (data breach class action settlement providing \$100 direct cash payments to every single class member without the need for any claim form submission); *Goodlett v. Brown-Forman*, No. 20-CI-005631 (Jefferson Cnty. Ky. Cir. Ct.); *In re CorrectCare Data Breach Litig.*, No. 5:22-319-DCR (appointed interim co-lead counsel); *Berthold, et al. v. Norton Healthcare, Inc., et al.*, No. 23-CI-003349 (Jeff. Cnty., Ky. Cir. Ct.) (appointed co-lead interim class counsel in consolidated data breach class action impacting at least 2.5 million patients and employees); *Lurry v. Pharmerica Corp.*, No. 3:23-cv-00297-RGJ (W.D. Ky.) (appointed interim lead class counsel in consolidated data breach class action); *Reese v. Teen Challenge Training Ctr., Inc.*, No. 210400093 (Phil. Cnty. Pa. Ct. of Comm. Ple.) (final approval granted Nov. 14, 2023); *Black v. Smith Transport, Inc.* No. 2022 GM 3110 (Blair Cnty. Pa. Ct. of Comm. Ple.); *Wermann, et al. v. Med. Assoc. Lehigh Valley, P.C.*, No. 2022-C-2356 (Lehigh Cnty. Pa. Ct. of Comm. Pl.); *Slos v. Select Health Network*, No. 71D05-2022-PL-000060 (St. Joseph Super. Ct. Aug. 5, 2021); *Jones v. Methodist Hospital, Inc.*, No. 45C01-1911-CT-001201 (Lake Cnty. Super. Ct.); *Baldwin v. Nat'l W. Life Ins. Co.*, No. 2:21-cv-04066-WJE (W.D. Mo.); *In re BJC Healthcare Data Breach Litig.*, No. 2022-CC09492 (Mo. Cir. Ct.); *Marshall v. Conway Reg. Med. Ctr., Inc.*, No. 23CV-20-771 (Ark. Cir. Ct.); *Crawford v. thyssenkrupp Materials NA, Inc.*, No. 2122-CC00411 (Mo. Cir. Ct.) (same); *Carr v. Beaumont*

22. The Notice program provides the best practicable method to reach the potential Settlement Class Members and is consistent with other class action notice programs that have been approved by various courts for similarly situated matters, including a Short Notice mailed by first class United States Postal Service (“USPS”) mail to the Settlement Class (SA Exhibit A); a Settlement Website which will inform Settlement Class Members of the terms of the Settlement, their rights, dates and deadlines and related information, and important documents including: (i) the Long Notice (SA Ex. C); (ii) the Claim Form; (iii) the Preliminary Approval Order; (iv) this Agreement; (v) the Complaint filed in this action, the consolidated complaint filed in the Federal Action, and the complaint filed in the Florida State Court Action; (vi) Class Counsel’s application for attorneys’ fees and expenses and the service awards for Class Representatives; and (vii) any other materials agreed upon by the Settling Parties and/or required by the Court. SA ¶¶ 1.29, 3.2.2. The Settlement Website shall provide Settlement Class Members with the ability to complete and submit the Claim Form, and supporting documentation, electronically.

23. Both the Short Notice and Long Notice are written in plain language such that they will be readily understandable to the Settlement Class, and summarize the Settling Parties’ respective litigation positions, the general terms of the settlement set forth in the Settlement Agreement, instructions for how to object to or opt-out of the settlement, the process and

Health, No. 2020-181002-NZ (Mich. Cir. Ct.); *Goetz v. Benefit Recovery Specialists, Inc.*, No. 2020CV000550 (Wis. Cir. Ct.); *Monegato v. Fertility Cts. of Ill., PLLC*, No. 2022 CH 00810 (Cook Cnty. Cir. Ct.); *Larson v. Aditi Consulting, LLC*, No. 22-2-03572-2 SEA (King Cnty., Wash. Sup. Ct.) (final approval granted July 14, 2023); *Carr v. S. Country Health Alliance*, No. 74-CV-21-632 (Steele Cnty. Minn. Dist. Ct.) (final approval granted November 6, 2023); *Owens, et al. v. U.S. Radiology Specialists, et al.*, No. 22 CVS 17797 (Mecklenburg, N.C. Sup. Ct.) (final approval granted); *Gilbert, et al. v. Bioplus Specialty Pharmacy Servs., LLC*, No. 6:21-cv-02158-RBD-DCI (M.D. Fla.) (preliminary approval granted); *In re CorrectCare Data Breach Litig.*, No. 5: 22-319-DCR (E.D. Ky.).

instructions for making claims to the extent contemplated herein, the requested attorneys' fees, and the date, time and place of the Final Fairness Hearing. SA ¶ 3.1.6.

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

Sworn this 7th day of February 2025 at St. Louis, Missouri.

/s/ John F. Garvey.