

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE KING COUNTY**

JEFFRIE ALAN SUMMERS II, on behalf
of himself and all other similarly situated

Plaintiffs,

v.

SEA MAR COMMUNITY HEALTH
CENTERS,

Defendant.

Case No. 22-2-00773-7 SEA

APV

~~PROPOSED~~ ORDER GRANTING
PLAINTIFF'S MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT

THIS MATTER came before the Court on Plaintiffs' unopposed Motion for Preliminary Approval of Class Action Settlement. Prior to ruling, the Court considered the following documents and evidence:

1. Plaintiffs' Motion for Preliminary Approval of Class Action Settlement;
2. Declaration of Gary M. Klinger in Support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and attached exhibits; and

3. The records in this case and arguments of counsel.
- 4. objection to approval filed by*
- NOW, THEREFORE, IT IS HEREBY ORDERED:**

*submitted in
counsel briefs.
for Barnes
and Cannon
and attachments
thereto.*

- SRP

1 1. The Court preliminarily approves the Settlement Agreement and Release between
2 Plaintiffs and Defendant Sea Mar Community Health Centers. The terms defined in the Settlement
3 shall have the same meaning in this Order

4 2. The proposed Settlement appears to be the product of serious, informed, non-
5 collusive negotiations, including a mediation before a mediator with substantial experience with
6 consumer class action cases. The proposed Settlement has no obvious deficiencies, does not
7 improperly grant preferential treatment to any class members, and falls within the range of possible
8 judicial approval. These factors weigh in favor of granting preliminary approval. *See* William B.
9 Rubenstein, *Newberg on Class Actions* § 13:10 (5th ed. June 2019 update 5th).

10 3. For purposes of settlement only, the Court finds that the Settlement Class satisfies
11 the requirements of CR 23(a) and (b)(3) and grants conditional and preliminary certification of the
12 following Settlement Class: All persons whose Private Information was maintained on
13 Defendant's computer systems and/or network that was potentially compromised in the Data
14 Incident. Excluded from the Settlement Class are (i) Defendant and its officers and directors; (ii)
15 all Settlement Class Members who timely and validly submit requests for exclusion from the
16 Settlement Class; (iii) any other Person found by a court of competent jurisdiction to be guilty
17 under criminal law of initiating, causing, aiding, or abetting the criminal activity occurrence of the
18 Data Incident or who pleads *nolo contendere* to any such charge; and (iv) members of the judiciary
19 to whom this case is assigned, their families, and members of their staff.

20 4. The numerosity requirement is satisfied because the Class consists of
21 approximately 1.2 million individuals. See CR 23(a)(1); *Miller v. Farmer Bros. Co.*, 115 Wn. App.
22 815, 821, 64 P.3d 49 (2003).

23 5. The commonality requirement is satisfied because there are overarching questions
24 of law and fact common to the class, including (a) whether Sea Mar's security environment was
25 adequate to protect Settlement Class members' Personal Information; (b) whether Sea Mar failed
26 to implement and maintain reasonable security procedures and practices appropriate to the nature
and scope of information compromised in the Data Incident; (c) whether Sea Mar's data security

1 systems prior to and during the Data Incident complied with applicable data security laws and
2 regulations; (d) whether Sea Mar's conduct rose to the level of negligence; (e) whether Sea Mar
3 invaded Plaintiffs' and the Class Members' reasonable expectations of privacy; (f) whether Sea
4 Mar omitted or concealed material facts from Plaintiffs and the Class Members; (g) whether Sea
5 Mar's privacy policy disclosed Sea Mar's conduct; and (h) whether Sea Mar gave adequate notice
6 of the Data Incident. *See* CR 23(a)(2); *Smith v. Behr Process Corp.*, 113 Wn. App. 306, 320, 54
7 P.3d 665 (2002).

8 6. The typicality requirement is satisfied because Plaintiffs' claim arises from the
9 same course of conduct that gives rise to the claims of other Class Members and is based on the
10 same legal theory. *See* CR 23(a)(3); *Pellino v. Brink's Inc.*, 164 Wn. App. 668, 267 P.3d 383, 392
11 (2011).

12 7. The adequacy requirement is satisfied because Plaintiffs have no interests
13 antagonistic to the other Class Members and are represented by qualified counsel. *See Hansen v.*
14 *Ticket Track, Inc.*, 213 F.R.D. 412, 415 (W.D. Wash. 2003).

15 8. The predominance requirement is satisfied because there is a "common nucleus of
16 operative facts" to each Class Member's claim, and all Class Members were subject to the same
17 conduct by Defendant. *See* CR 23(b)(3); *Chavez v. Our Lady of Lourdes Hosp. at Pasco*, 190
18 Wn.2d 507, 516, 415 P.3d 224 (2018).

19 9. The superiority requirement is satisfied because the resolution of approximately 1.2
20 million claims in one action is far superior to individual lawsuits and promotes consistency and
21 efficiency of adjudication, particularly in a case like this one with modest individual damages. *See*
22 CR 23(b)(3); *Chavez*, 190 Wn.2d at 518-23.

23 10. For the purposes of settlement, the Court appoints Alan Hall, Jeffrie Alan Summers
24 II, and Kristina Wright as class representatives.

25 11. The Court appoints Morgan & Morgan Complex Litigation Group, Milberg
26 Coleman Bryson Phillips Grossman PLLC, and Hagens Berman Sobol Shapiro LLP as Class
Counsel.

1 12. The Court appoints and has jurisdiction over Kroll Business Services as the
2 Settlement Administrator. As provided for in the Settlement Agreement, the Settlement
3 Administrator shall disseminate notice to Class Members by mail, track responses, mail Settlement
4 Awards, arrange for the filing of tax forms and payments (if any) relating to the Settlement Fund,
5 and perform such other duties as are called for by the Settlement Agreement or ordered by the
6 Court.

7 13. The Court approves, as to form and content, the Notices attached as exhibits to the
8 Settlement Agreement that the Parties have prepared (collectively the “notices”). The notices
9 provide all of the information Class Members need to evaluate and respond to the Settlement,
10 including: the nature of the litigation; the general terms of the proposed Settlement; their rights
11 under the Settlement; an explanation of how they can object to or exclude themselves from the
12 Settlement; the identity of Class Counsel and that Class Counsel will request attorneys’ fees and
13 expenses from the Settlement Fund; and the date and time of the Final Approval Hearing. The
14 notices also direct Class Members to a website established by the Settlement Administrator that
15 will provide additional information about the Settlement, as well as a toll-free number for the
16 Settlement Administrator that Class Members can call with questions about the Settlement.

17 14. The Court also approves the parties’ plan for disseminating notice, which will
18 ensure that Class Members receive “the best notice practicable under the circumstances.” See CR
19 23(c)(2). Issuance of notice substantially in the manner set forth in the Settlement Agreement
20 satisfies the requirements of due process and applicable state and federal law and constitutes due
21 and sufficient notice to all members of the Settlement Class.

22 15. Within 10 days of the date of this order, Defendant shall provide the Settlement
23 Class List to the Settlement Administrator.

24 16. Within 30 days of this order, the Settlement Administrator shall distribute notice to
25 all Class Members as provided in the Settlement Agreement. The date the Settlement
26 Administrator distributes notice is the “Settlement Notice Date.”

1 17. Any Class Member may exclude himself or herself from the Settlement by
2 submitting a written request to the Settlement Administrator no later than 60 days after the
3 Settlement Notice Date. Following final approval of the Settlement and the occurrence of the
4 Effective Date, each Class Member who does not submit a timely, valid request for exclusion shall
5 be bound by the releases in the Settlement Agreement.

6 18. Any Class Member may object to the Settlement by submitting a written statement
7 to the Settlement Administrator by 60 days after the Settlement Notice Date. The statement of
8 objection must include the information stated in Paragraph 65 of the Settlement Agreement. Any
9 objector or their attorney may appear at the Final Approval Hearing. In order to do so, such
10 objectors or their attorneys must file a notice of appearance with the Court no later than 10 days
11 before the Final Approval Hearing and send a copy of the notice of appearance to Class Counsel
12 and Defendant's Counsel.

13 19. Responses from the Parties to any objections from Class Members shall be filed no
14 later than 14 days prior to the Final Approval Hearing.

15 20. Class Counsel shall file their motion for entry of the Final Approval Order, final
16 approval of the Settlement, and their motion for attorneys' fees and reimbursement of costs and
17 for service awards to the class representatives no later than 14 days prior to the Final Approval
18 Hearing.

19 21. The Final Approval Hearing shall be held before this Court ~~for least 120 days after~~
20 ~~this order~~ on 12/16/22 2022 at 9:00 am in the courtroom of the Honorable Suzanne R. Parisien,
21 King County Superior Court, 516 Third Ave., Courtroom W-355, Seattle, Washington, 98104.

22 22. At the hearing, the Court will consider whether the prerequisites for class
23 certification and treatment under CR 23(a) and (b)(3) are satisfied and whether the Settlement is
24 fair, reasonable, and adequate, and should be approved by the Court. The Court will also consider
25 Class Counsel's motion for attorneys' fees and costs and for service awards to the class
26 representatives, and rule on any other matters that the Court deems appropriate.

1 23. The Court retains jurisdiction over the Action and all matters arising out of or
2 connected with the proposed Settlement. All deadlines in the current Case Scheduling Order are
3 hereby stricken, including the trial date, and all proceedings in the Action are hereby stayed other
4 than proceedings relating to the consideration of whether the Settlement should be approved. The
5 Court reserves the right to adjourn or continue the date of the Final Approval Hearing without
6 further notice to Class Members and retains jurisdiction to consider all further applications arising
7 out of or connected with the Settlement. After the Final Approval Hearing, the Court may approve
8 the Settlement without further notice to Class Members.

9 24. If the Court does not enter the Final Approval Order, or if the Effective Date does
10 not occur for any reason, then the Action shall proceed as if the Settlement Agreement had not
11 been executed. In that event, the Parties shall meet and confer and present the court with a proposed
12 revised case scheduling order.

13 IT IS SO ORDERED.

14 DATED this 2nd August day of June, 2022.

15 E-signature on last page.

16 SUPERIOR COURT JUDGE SUZANNE R. PARI SIEN

17 Presented by:

18 **HAGENS BERMAN SOBOL SHAPIRO LLP**

19 By: /s/ Thomas E. Loeser

20 THOMAS E. LOESER (WSB# 38701)

21 1301 Second Ave, Suite 2000

22 Seattle, WA 98101

23 (206) 623-7292

24 toml@hbsslaw.com

25 **MORGAN & MORGAN COMPLEX
LITIGATION GROUP**

26 JOHN A. YANCHUNIS (*Pro Hac Vice*)

 RYAN D. MAXEY (*Pro Hac Vice*)

**[PROPOSED] ORDER GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT**

1 201 N. Franklin Street, 7th Floor
2 Tampa, FL 33602
3 (813) 223-5505
4 jyanchunis@ForThePeople.com
5 rmaxey@ForThePeople.com

6 **MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN, PLLC**

7 Gary M. Klinger (*Pro Hac Vice*)
8 227 W. Monroe Street, Suite 2100
9 Chicago, IL 60606
10 Phone: 866.252.0878
11 Email: gklinger@milberg.com

12 *Attorneys for Plaintiff and the Putative Class*

IT IS SO ORDERED.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Dated: 8/2/22



Hon. Suzanne R. Parisien
Superior Court of the State of Washington
King County