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Filed **AUG 24 2023**
STEPHANIE BOHRER, CLERK
By
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN**

DANIEL HINDS, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

COMMUNITY MEDICAL CENTERS,
INC.,

Defendant.

Lead Case No. STK-CV-UNPI-2021-0010404

Assigned to the Hon. Erin Guy Castillo
Department 10B

fol
~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND
CONDITIONALLY CERTIFYING
SETTLEMENT CLASS

Action Filed: November 8, 2021

DATE: 8/24/23
TIME: 9am
DEPT: 10B

Included Actions:
Beck v. Community Medical Centers, Inc.,
Case No. 2021-10482
Donaire v Community Medical Centers,
Inc., Case No. 2021-10605
Palermo v. Community Medical Centers,
Inc., Case No. 2021-10626
Miranda v. Community Medical Centers,
Inc., Case No. 2021-11353

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1 WHEREAS, the above-styled Action was filed on November 8, 2021;

2 WHEREAS, Plaintiffs Daniel Hinds, Christopher Beck, Mohammad M. Dawood, Sylvia
3 Lopez, Darin Palermo, Aholiva Justiniano Miranda, and Robert Donaire (“Named Plaintiffs”),
4 individually and on behalf of themselves and the proposed Settlement Class (defined below), and
5 Defendant Community Medical Centers, Inc. (“CMC” or “Defendant”) (collectively, the
6 “Parties”), have entered into a Settlement Agreement and Release (“Settlement Agreement”)
7 resolving the Action, subject to Court approval;

8 WHEREAS, the Action was settled as a result of arm’s-length negotiations, investigation
9 and informal discovery sufficient to permit counsel and the Court to act knowingly, and counsel
10 are well experienced in similar class action litigation;

11 WHEREAS, Named Plaintiffs, the proposed Class Representatives, have moved the
12 Court for entry of an order preliminarily approving the Settlement, conditionally certifying the
13 Settlement Class for settlement purposes only, and approving the form and method of notice
14 upon the terms and conditions set forth in the Settlement Agreement, together with all exhibits
15 thereto; and

16 WHEREAS, the Court having considered the Settlement Agreement, together with all
17 exhibits thereto and records in this case, and the arguments of counsel and for good cause
18 appearing, hereby orders as follows:

19 **I. CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS**

20 1. Named Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement is
21 GRANTED. The terms defined in the Settlement Agreement shall have the same meanings in
22 this Order.

23 2. Having made the findings set forth below, the Court conditionally certifies the
24 following Class for settlement purposes only:

25 All individuals residing in the United States whose PHI/PII was compromised in
26 the data incident first announced by Defendant on or about October 25, 2021.

27 Excluded from the Settlement Class are Officers of Defendant, the judges presiding over the
28 Action and members of their immediate family, and Class Members who submit a Request for

1 Exclusion.

2 3. For settlement purposes only, with respect to the Settlement Class, the Court
3 preliminary finds the prerequisites for a class action pursuant to California Code of Civil
4 Procedure 382 have been met, in that: (a) the Settlement Class is so numerous that joinder of all
5 individual Settlement Class members in a single proceeding is impracticable; (b) questions of
6 law and fact common to all Settlement Class Members predominate over any potential individual
7 questions; (c) the claims of the Named Plaintiffs are typical of the claims of the Settlement Class;
8 (d) Plaintiffs and proposed Class Counsel will fairly and adequately represent the interests of the
9 Settlement Class; and (e) a class action is the superior method to fairly and efficiently adjudicate
10 this controversy.

11 4. The Court hereby appoints Plaintiffs, Daniel Hinds, Christopher Beck,
12 Mohammad M. Dawood, Sylvia Lopez, Darin Palermo, Aholiva Justiniano Miranda, and Robert
13 Donaire, as Class Representatives for the Settlement Class.

14 5. The Court hereby appoints Scott Edward Cole of Cole & Van Note and Rachele
15 R. Byrd of Wolf Haldenstein Adler Freeman & Herz LLP as Class Counsel.

16 **II. PRELIMINARY APPROVAL**

17 6. The terms of the Settlement, including its proposed release, are preliminarily
18 approved as within the range of fair, reasonable, and adequate, and are sufficient to warrant
19 providing notice of the Settlement to the Settlement Class in accordance with the notice plan, and
20 are subject to further and final consideration at the Final Approval Hearing provided for below.
21 In making this determination, the Court considered the fact that the Settlement is the product of
22 arm's-length negotiations facilitated by a neutral mediator and conducted by experienced and
23 knowledgeable counsel, the current posture of the Action, the benefits of the Settlement to the
24 Settlement Class, and the risk and benefits of continuing litigation to the Parties and the
25 Settlement Class.

26 7. As provided for in the Settlement Agreement, if the Court does not grant final
27 approval of the Settlement or if the Settlement is terminated or cancelled in accordance with its
28 terms, then the Settlement, and the conditional certification of the Settlement Class for settlement

1 purposes only provided for herein, will be vacated and the Action shall proceed as though the
2 Settlement Class had never been conditionally certified for settlement purposes only, with no
3 admission of liability or merit as to any issue, and no prejudice or impact as to any Party's
4 position on the issue of class certification or any other issue in the case.

5 **III. NOTICE OF THE SETTLEMENT TO THE SETTLEMENT CLASS**

6 8. The Court appoints CPT Group Class Action Administrators as the Settlement
7 Administrator. The responsibilities of the Settlement Administrator are set forth in the Settlement
8 Agreement.

9 9. The Court has considered the Class Notice provisions of the Settlement, the notice
10 plan set forth in the Settlement Agreement and the Class Notice and Postcard Notice, attached as
11 Exhibits 2 and 3 to the Settlement Agreement, respectively. The Court finds that the direct
12 emailing and/or mailing of Notice in the manner set forth in the notice plan is the best notice
13 practicable under the circumstances, constitutes due and sufficient notice of the Settlement and
14 this Order to all persons entitled thereto, and is in full compliance with applicable law and due
15 process. The Court approves as to form and content the Class Notice and Postcard Notice in the
16 forms attached as Exhibits 2 and 3, respectively, to the Settlement Agreement. The Court orders
17 the Settlement Administrator to commence the notice plan following entry of this Order in
18 accordance with the terms of the Settlement Agreement.

19 10. The Court approves as to form and content the Claim Form attached as Exhibit 1
20 to the Settlement Agreement.

21 11. Settlement Class Members who qualify for and wish to submit a Claim Form
22 under the Settlement shall do so in accordance with the requirements and procedures of the
23 Settlement Agreement and the Claim Form under which they are entitled to seek relief. The
24 Claims deadline is 45 days from the Class Notice Date. All Settlement Class Members who fail
25 to submit a claim in accordance with the requirements and procedures of the Settlement
26 Agreement and respective Claim Form shall be forever barred from receiving any such benefit
27 but will in all other respects be subject to and bound by the provisions of the Settlement and the
28 releases contained therein.

1 **IV. REQUESTS FOR EXCLUSION FROM THE SETTLEMENT CLASS**

2 12. Each person wishing to opt out of the Settlement Class must individually sign and
3 timely mail written notice of such intent to the Settlement Administrator at the address set forth
4 in the Class Notice. The written notice must clearly manifest the Settlement Class Member's
5 intent to be excluded from the Settlement Class. To be effective, written notice must be
6 postmarked no later than 45 days after the Class Notice Date.

7 13. Persons who submit valid and timely notices of their intent to be excluded from
8 the Settlement Class shall neither receive any benefits of nor be bound by the terms of the
9 Settlement.

10 14. Persons falling within the definition of the Settlement Class who do not timely
11 and validly request to be excluded from the Settlement Class shall be bound by the terms of the
12 Settlement, including its releases, and all orders entered by the Court in connection therewith.

13 **V. OBJECTIONS**

14 15. Each Settlement Class Member desiring to object to the Settlement must submit a
15 timely written notice of his or her objection to the Settlement Administrator at the address set
16 forth in the Class Notice. Such notice must include: (i) the objector's full name, current address,
17 current telephone number, and be personally signed; (ii) the case name and number— *Hinds v.*
18 *Community Medical Centers, Inc.*, Case No. STK-CV-UNPI-2021-0010404; (iii) documentation
19 sufficient to establish membership in the Class, such as a copy of the Postcard Notice he or she
20 received; (iv) a statement of the position(s) the objector wishes to assert, including the factual
21 and legal grounds for the position; (v) provide copies of any other documents that the objector
22 wishes to submit in support of his/her position; (vi) whether the objecting Class Member intends
23 to appear at the Final Approval Hearing; and (v) whether the objecting Class Member is
24 represented by counsel and, if so, the name, address, and telephone number of his/her counsel.

25 16. To be timely, written notice of an objection in appropriate form must be mailed to
26 the Settlement Administrator and postmarked no later than 45 days after the Class Notice Date.

27 17. Unless otherwise ordered by the Court, any Settlement Class Member who does
28 not timely object in the manner prescribed above shall be deemed to have waived all such

1 objections and shall forever be foreclosed from making any objection to the fairness, adequacy,
2 or reasonableness of the Settlement, including its releases, the Final Approval Order and
3 Judgment approving the Settlement, Plaintiffs' Counsel's Fees and Expenses and Service
4 Awards to Plaintiffs.

5 **VI. THE FINAL APPROVAL HEARING**

6 18. The Court will hold a Final Approval Hearing on ^{12/7/23 9:00 ~~see~~} [Date], at [Time] A.m., at the
7 San Joaquin Civil Division Stockton Courthouse, 180 E. Weber Ave., Suite 200 Stockton, CA
8 95202, Department 10B, to consider: (a) whether certification of the Settlement Class for
9 settlement purposes only should be confirmed; (b) whether the Settlement should be approved as
10 fair, reasonable, adequate and in the best interests of the Settlement Class; (c) the application by
11 Plaintiffs' Counsel for an award of attorneys' fees, costs and expenses as provided for under the
12 Settlement; (d) the application for Plaintiffs' Service Awards as provided for under the
13 Settlement; (e) whether the release of Released Claims as set forth in the Settlement should be
14 provided; (f) whether the Court should enter the [Proposed] Final Order and [Proposed]
15 Judgment; and (g) ruling upon such other matters as the Court may deem just and appropriate.
16 The Final Approval Hearing may, from time to time and without further notice to Settlement
17 Class Members be continued or adjourned by order of the Court.

18 19. No later than 16 court days prior to the Final Approval Hearing, Plaintiffs shall
19 file their Motion for Final Approval of Class Action Settlement and their Motion for Award of
20 Attorneys' Fees and Expenses and Plaintiffs' Service Awards. No later than five court days prior
21 to the Final Approval Hearing, Plaintiffs may file a Reply Brief in Support of Motion for Final
22 Approval of Class Action Settlement Agreement and a Reply Brief in Support of Motion for
23 Award of Attorneys' Fees and Expenses and Plaintiffs' Service Awards, including as needed to
24 respond to any valid and timely objections.

25 20. The related time periods for events preceding the Final Approval Hearing are as
26 follows:

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Event	Timing
CMC to provide Settlement Administrator with Settlement Class Member information	No later than seven (7) days after entry of this Order
CMC to advance to the Settlement Administrator the estimated cost of preparing and mailing the Postcard Notice to Class Members	No later than fourteen (14) days after entry of this Order
Class Notice Date	Within twenty (20) days after entry of this Order
Claims Deadline	45 days from the Class Notice Date
Request for Exclusion Deadline	45 days from the Class Notice Date
Objection Deadline	45 days after the Class Notice Date
Motion for Final Approval and Motion for Attorneys' Fees and Expenses and Service Awards	16 court days prior to the Final Approval Hearing
Reply Papers in Support of Final Approval and in Support of Motion for Attorneys' Fees and Expenses and Service Awards	5 court days prior to the Final Approval Hearing
Final Approval Hearing	<i>Ed</i> Dec 7, 2023 at 9:00 A.m. [approx. 100 days after Preliminary Approval, or shortly thereafter]

21. Any action brought by a Settlement Class Member concerning a Released Claim shall be stayed pending final approval of the Settlement.

IT IS SO ORDERED.

Dated: 8/24/23



HON. ERIN GUY CASTILLO
JUDGE OF THE SUPERIOR COURT

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