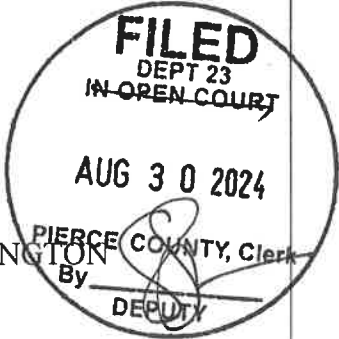


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The Honorable André Peñalver
Hearing Date: August 30, 2024
Hearing Time: 9:00 a.m.



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF PIERCE

SHELLY M. KNIGHT, DOUGLAS
ZUKOWSKI, and HEATHER FARIS,
individually and on behalf of all those
similarly situated,

Plaintiffs,

v.

MULTICARE HEALTH SYSTEM, a
Washington Nonprofit Corporation,

Defendant.

NO. 22-2-04332-1

**ORDER GRANTING
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

On June 7, 2024, this Court entered the Order Granting Preliminary Approval of Class Action Settlement, Authorizing Notice, and Setting Final Fairness Hearing (the "Preliminary Approval Order"); and

Individual notice complying with Civil Rule 23 was sent to the last-known address of each member of the Settlement Class and by email to all Settlement class Members for whom the settlement administrator possessed an email address; and

A fairness hearing on final approval of the Settlement was held before the Court on August 30, 2024; and



1 The Court, being advised, finds that good cause exists for entry of the below Order; now,
2 therefore,

3 IT IS HEREBY FOUND, ORDERED, ADJUDGED AND DECREED THAT:

4 1. Unless otherwise provided herein, all capitalized terms in this Order shall have
5 the same meaning as set forth in the Settlement Agreement attached as Exhibit 1 to the
6 Declaration of Marc C. Cote in Support of Plaintiffs' Motion for Final Approval of Class Action
7 Settlement.

8 2. The Court finds that notice to the Settlement Class has been completed in
9 conformity with the Preliminary Approval Order. The Court finds that this notice was the best
10 notice practicable under the circumstances, that it provided due and adequate notice of the
11 proceedings and of the matters set forth therein, and that it fully satisfied all applicable
12 requirements of law and due process.

13 3. The Court finds it has personal and subject matter jurisdiction over all claims
14 asserted in this litigation with respect to all members of the Settlement Class.

15 4. Pursuant to Civil Rule 23, the Court has certified the following Classes (which
16 together constitute the Settlement Class):

17 First Meal Period Class: All hourly, non-exempt MultiCare employees who (1)
18 have been employed at any MultiCare facility, including clinics and urgent care
19 facilities, except for Auburn Medical Center, at any time from January 24, 2019
20 through October 30, 2023, and (2) reported a missed meal period in Kronos during
that time period.

21 Second Meal Period Class: All hourly, non-exempt MultiCare employees who
22 were employed at any non-hospital MultiCare facilities and who worked at least
one shift longer than 10.5 hours at any time between January 24, 2019 and April
23 23, 2022.

24 The Settlement Class excludes anyone who timely opted out of the Settlement or
previously opted out of the Classes following notice of class certification.

25 5. The Court has appointed Plaintiffs Shelly Knight, Douglas Zukowski and
26 Heather Faris as class representatives for the Settlement Class.

1 6. The Court has appointed Marc C. Cote and Jack N. Miller of Frank Freed Subit
2 & Thomas LLP and James B. Pizl of Entente Law PLLC as Class Counsel for the Settlement
3 Class.

4 7. No Settlement Class Members have objected to the Settlement or the fee or cost
5 requests. The Court considers the letter attached as Exhibit 1 to the Supplemental Declaration of
6 James B. Pizl in Support of Final Approval to be a comment on an individual award calculation
7 and not an objection to the Settlement itself.

8 8. Ten individuals filed timely requests for exclusion from the Settlement Class. In
9 addition, 98 individuals previously filed timely requests for exclusion from the certified Classes
10 following class certification and issuance of notice in October 2023 and March 2024. These 108
11 individuals are not bound by the Class Settlement Agreement or Release contained therein.

12 9. The Court hereby approves the terms set forth in the Settlement Agreement,
13 including Defendant's payment of the total Settlement Amount of \$39,000,000, as fair, adequate,
14 and reasonable in light of the degree of recovery obtained in relation to the risks faced by the
15 Settlement Class. The relief provided to the Settlement Class under the Settlement Agreement is
16 appropriate as to the individual members of the Settlement Class and as a whole.

17 10. In *Bowles v. Department of Retirement Systems*, 121 Wn.2d 52, 72, 847 P.2d 440
18 (1993), the Washington Supreme Court held that the "percentage of recovery approach is used
19 in calculating fees" for common fund class action settlements like this one. The materials that
20 Plaintiffs submitted (including the list of cases in Exhibit 2 to the Declaration of Marc C. Cote
21 in Support of Plaintiffs' Motion for Final Approval) support that, today, a fee of 30 to 33 percent
22 of the common fund is a common fee award for attorneys who achieve a common fund settlement
23 in a class action in Washington. Legal authorities have recognized that the typical range for
24 attorneys' fees awarded in common fund class action settlements is between 20 and 33 percent.
25 4 Newberg on Class Actions § 14.6 (4th ed. 2002) ("*Newberg*") (recognizing "fee awards in class
26 actions average around one-third of the recovery"); *Bowles*, 121 Wn.2d at 72 (noting that fee

1 awards for common fund cases were often in range of 20 to 30 percent). Class Counsel request
2 approval of an Attorneys' Fees Award of 30 percent of the common fund.

3 11. The Court finds that an Attorneys' Fees Award of 30 percent of the common fund
4 Settlement Amount is fair and reasonable. The Court therefore approves the payment of
5 \$11,700,000 in attorneys' fees to Class Counsel based on the "percentage of recovery" approach.
6 The approved fee award is 30 percent of the \$39,000,000 common fund. The 30 percent fee is
7 within the range of reasonableness set forth by *Newberg* and in *Bowles* and consistent with
8 numerous recent fee awards in other common fund settlements in employment law class actions
9 in Washington courts. The Court reaches the conclusion that the 30 percent fee award to Class
10 Counsel is reasonable after analyzing (1) the substantial financial recovery for Settlement Class
11 Members; (2) the diligent effort utilized by Class Counsel in litigating the claims; (3) Class
12 Counsel's substantial experience in employment class action litigation and the skill necessary to
13 achieve the settlement; (4) the hurdles to obtaining certification of the classes and establishing
14 Defendant's liability; (5) the substantial risks Class Counsel took in litigating this case on a
15 contingency basis, paying all costs, and forgoing other work; (6) the high-quality work Class
16 Counsel performed; and (7) the duration and complexity of the litigation and scope of discovery.

17 12. For common fund settlements, reasonable litigation costs incurred by attorneys
18 for a class are awarded in addition to percentage fee awards. *See Bowles*, 121 Wn.2d at 70. The
19 settlement notices issued to Settlement Class Members indicated that litigation costs were
20 estimated to be up to \$120,000. Class Counsel have incurred more than \$109,638.98 in costs to
21 date. The Court approves payment of \$109,638.98 in litigation costs to Class Counsel as fair and
22 reasonable to compensate Class Counsel for the relevant and necessary costs incurred.

23 13. The Court approves payment of up to \$95,000 from the Settlement Amount to the
24 Settlement Administrator, CPT Group, Inc. This payment is fair and reasonable to compensate
25 the Settlement Administrator for its work and costs incurred in administering the settlement.
26

1 14. The Court approves service awards of \$15,000 each for Plaintiffs Shelly Knight,
2 Douglas Zukowski and Heather Faris. These awards reasonably compensate Plaintiffs for the
3 reputational risks they took in bringing the case and their time and effort in stepping forward to
4 serve as class representatives, assisting in the investigation, participating actively in the litigation,
5 and reviewing and approving the proposed settlement terms after consulting with Class Counsel.

6 15. Each Settlement Class Member who did not file a timely request for exclusion
7 shall be entitled to receive a proportional share of the Class Fund as described in Section V.4.c
8 of the Settlement Agreement after deduction of the Attorneys' Fees and Costs Awards, Service
9 Awards, Reserve Fund, and Settlement Administration Expenses Award.

10 16. No later than the settlement's Effective Date (three days after entry of this Order),
11 Defendant shall pay the sum of \$39,000,000 to the Settlement Administrator to establish a
12 Qualified Settlement Fund.

13 17. Within 10 days after the Effective Date or within 10 days after the Settlement
14 Administrator provides its estimate of the employer-side payroll taxes, whichever is later,
15 Defendant shall also pay an additional amount equal to Defendant's employer-side payroll taxes
16 due on the wage portion of the Class Fund.

17 18. Within five business days of receiving Defendant's payment of the Settlement
18 Amount, the Settlement Administrator shall pay to Class Counsel the Attorneys' Fees and Costs
19 Awards detailed above and shall pay the Service Awards to Plaintiffs as detailed above.

20 19. Within 21 days of receiving Defendant's payment of the Settlement Amount, the
21 Settlement Administrator shall issue and mail all Settlement Award checks to Settlement Class
22 Members who did not submit a timely request for exclusion.

23 20. If a Settlement Award check remains uncashed after 120 days following issuance
24 of the check to a Settlement Class Member who has not provided an updated mailing address as
25 provided in the Settlement Agreement, the funds from such check will be sent by the Settlement
26

1 Administrator in the corresponding Class Member's name to the Unclaimed Property Fund for
2 the State of Washington pursuant to the Unclaimed Property Act (RCW 63.29 et seq).

3 21. The Settlement Administrator will maintain a Reserve Fund of up to \$300,000
4 from the Class Fund, which it will use to pay out any claims for which Defendant did not provide
5 accurate Settlement Class Member data or for any Settlement Class Members who were
6 inadvertently left off the initial lists produced by Defendant (or for any other purposes agreed by
7 the parties to ensure Settlement Class Members receive appropriate payments).

8 22. All Settlement Class Members, except any who have submitted a timely and valid
9 request for exclusion in response to notice of class certification in October 2023 or in response
10 to the Settlement Notice, are bound by the terms of the Settlement Agreement, including the
11 Release in Section V.2 of the Agreement. As of the Effective Date, the Settlement constitutes a
12 full and final settlement and release of all "Released Claims" as defined in Section V.1.q. of the
13 Settlement Agreement.

14 23. The parties and their counsel shall implement and consummate the Settlement
15 Agreement according to its terms and provisions, including all payments to be made by
16 Defendant and the Settlement Administrator under the Agreement.

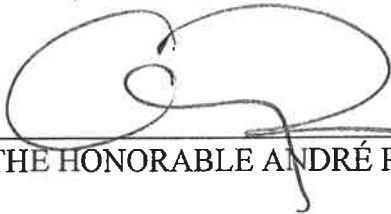
17 24. This Court hereby dismisses with prejudice all "Released Claims" as defined by
18 the Settlement Agreement. This dismissal shall be without costs or attorneys' fees, except as
19 otherwise ordered here, to any party.

20 25. The dismissal of the "Released Claims" against Defendant is without prejudice to
21 the rights of the parties to enforce the terms of the Settlement Agreement and the rights of Class
22 Counsel to seek the payment of fees and costs as provided for in this Order.

23 26. The Court retains jurisdiction over the parties, the Settlement Class Members, and
24 the Settlement with respect to the future performance of the terms of the Settlement Agreement,
25 including the administration and enforcement of the Agreement, to ensure that all payments and
26 other actions required by the Settlement are properly carried out.

1 IT IS SO ORDERED

2 Dated this 30th day of August 2024.

3
4 
5 _____
6 THE HONORABLE ANDRÉ PEÑALVER

7
8 Presented By:

9 FRANK FREED SUBIT & THOMAS LLP

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