The Honorable André M. 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,

vs.

MULTICARE HEALTH SYSTEM, a Washington Nonprofit Corporation,

Defendant.

No. 22-2-04332-1

PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

FRANK FREED SUBIT & THOMAS LLP
Suite 1200 Hoge Building, 705 Second Avenue
Seattle, Washington 98104-1798
(206) 682-6711

TABLE OF CONTENTS

Page No.

FRANK FREED SUBIT & THOMAS LLP
Suite 1200 Hoge Building, 705 Second Avenue
Seattle, Washington 98104-1798
(206) 682-6711

TABLE OF AUTHORITIES

Page No.

STATE CASES

FEDERAL CASES

STATE REGULATIONS

FRANK FREED SUBIT & THOMAS LLP
Suite 1200 Hoge Building, 705 Second Avenue
Seattle, Washington 98104-1798
(206) 682-6711

OTHER AUTHORITIES

FRANK FREED SUBIT & THOMAS LLP
Suite 1200 Hoge Building, 705 Second Avenue
Seattle, Washington 98104-1798
(206) 682-6711

I. INTRODUCTION

After two and a half years of hard-fought litigation, Plaintiffs achieved a tremendous settlement for hourly healthcare workers in this case. The common fund settlement requires MultiCare Health System to pay $39,000,000. This amount represents almost 150% of the wage loss calculated by Plaintiffs' expert. The settlement is the result of Plaintiffs' success in obtaining numerous favorable court rulings despite a tenacious defense. After this Court preliminarily approved the settlement as "fair, reasonable and adequate," the settlement administrator sent a settlement notice with an individual estimated award to each Settlement Class Member. No Settlement Class Member has objected to the settlement to date.

There is no question that the settlement, the standard percentage fee and cost requests, and the service awards are fair, adequate, and reasonable under Washington law. Plaintiffs respectfully ask the Court to grant final approval of the settlement, approve the standard requests for attorneys' fees, costs, settlement administration expenses, and service awards, and find the settlement administrator provided adequate notice.

II. STATEMENT OF FACTS

Plaintiffs brought this case on behalf of approximately 22,784 hourly employees who worked in MultiCare's healthcare facilities during the class period. Plaintiffs alleged MultiCare violated Washington law by failing to provide second meal periods to non-hospital employees on shifts longer than 10.5 hours before April 24, 2022, and failing to pay for reported missed meal periods. In response, Defendant maintained that class members received the opportunity to take second meal periods but waived them and were not entitled to additional wages for reported missed meal periods because the company paid for work time during missed meal periods.

Plaintiffs outlined the facts in the preliminary approval motion, which this Court granted on June 7, 2024. Here, Plaintiffs summarize relevant facts for final approval.

Before reaching settlement, the parties engaged in more than two years of contentious, adversarial litigation. Defendant initially resisted providing class discovery, but Plaintiffs

FRANK FREED SUBIT & THOMAS LLP
Suite 1200 Hoge Building, 705 Second Avenue
Seattle, Washington 98104-1798
(206) 682-6711

successfully moved to compel early in the case. *See* Declaration of Marc C. Cote in Support of Motion for Final Approval of Class Action Settlement ("Cote Decl."), ¶4. As a result, Defendant made approximately 30 productions of documents and data, with tens of thousands of pages of documents and millions of lines of data. *Id.* ¶¶4-6. The parties also took eleven depositions, including four CR 30(b)(6) depositions and numerous class member depositions. *Id.* ¶7. The parties also filed approximately 42 briefs in the case, including an extensive motion for class certification and three summary judgment motions. *Id.* ¶9.

Ultimately, the parties participated in mediation with Lou Peterson on March 11, 2024. *Id.* ¶10. The case did not settle that day, but Mr. Peterson subsequently presented a mediator's proposal, which the parties accepted. *Id.* ¶12. Consistent with its tenacious approach throughout the case, even after settlement was reached, MultiCare raised several disputes regarding the terms. *Id.* ¶13. As a result, the parties returned to Mr. Peterson to resolve those disputes. *Id.* In mid-May, the parties resolved their disputes and executed the settlement agreement. *Id.*

The Court granted preliminary approval of the settlement on June 7, 2024. Defendant then compiled the Settlement Class list with contact information. Declaration of James B. Pizl in Support of Motion for Final Approval of Class Action Settlement ("Pizl Decl."), ¶2. The list revealed approximately 22,784 Settlement Class Members. *Id*. Using data Defendant produced, Class Counsel calculated an estimated award for each Settlement Class Member. *Id.* ¶3.

The settlement administrator completed the mailing of settlement notices on July 3, 2024. Declaration of Chantal Soto-Najera on Behalf of CPT Group, Inc. ("CPT Decl."), ¶8. Each Settlement Class Member's notice contains their estimated award; information regarding the settlement; the amounts requested for attorneys' fees, costs, settlement administration expenses, and service awards; and instructions on how to opt out or object. *Id.*, Ex. A. As of July 17, no Settlement Class Member has objected to the settlement and only one has opted out. *Id.* ¶¶12-13.

III. EVIDENCE RELIED UPON

Plaintiffs rely on the declarations of Marc C. Cote and James B. Pizl in support of this

FRANK FREED SUBIT & THOMAS LLP
Suite 1200 Hoge Building, 705 Second Avenue
Seattle, Washington 98104-1798
(206) 682-6711

motion, the declaration of Chantal Soto-Najera of CPT Group, and all papers filed in this action.

IV. AUTHORITY AND ARGUMENT

When considering final approval of a class action settlement, a court determines whether the settlement is "fair, adequate, and reasonable." *Pickett v. Holland Am. Line-Westours, Inc.*, 145 Wn.2d 178, 188, 35 P.3d 351 (2001). This is a "largely unintrusive inquiry." *Id.* at 189. Although the Court possesses some discretion in determining whether to approve a settlement,

> the court's intrusion upon what is otherwise a private consensual agreement negotiated between the parties to a lawsuit must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.

Id. (internal quotation omitted). "[I]t must not be overlooked that voluntary conciliation and settlement are the preferred means of dispute resolution." *Id.* at 190 (internal quotation omitted).

In evaluating whether a class settlement is "fair, adequate, and reasonable," courts reference the following criteria: the likelihood of success by Plaintiffs; the amount of discovery or evidence; the settlement terms and conditions; the recommendation and experience of counsel; the future expense and likely duration of litigation; the recommendation of neutral parties, if any; the number of objectors and nature of objections; and the presence of good faith and absence of collusion. *Id.* at 188-89 (citing 2 Herbert B. Newberg & Alba Conte, *Newberg on Class Actions* § 11.43 (3d ed. 1992)). Here, the settlement easily meets the criteria for final approval.

A. The settlement is fair, adequate, and reasonable.

1. Plaintiffs' likelihood of success supports final approval.

The existence of risk and uncertainty to Plaintiffs and the Settlement Class "weighs heavily in favor of a finding that the settlement was fair, adequate, and reasonable." *Id.* at 192. In the absence of settlement, the workers would have faced multiple hurdles to relief, including Defendant's request and likely subsequent motion for decertification of the classes, Defendant's arguments in opposition to the motion for partial summary judgment on damages, disputes regarding Plaintiffs' expert's calculations of damages, a jury trial, and an appeal by Defendant.

FRANK FREED SUBIT & THOMAS LLP
Suite 1200 Hoge Building, 705 Second Avenue
Seattle, Washington 98104-1798
(206) 682-6711

Defendant maintained that its meal break practices complied with the law. If Defendant were to succeed on this argument on appeal, the workers would recover nothing.

Furthermore, there is risk inherent in any jury trial. If Defendant were able to convince a jury that Plaintiffs' expert's damages calculations were incorrect, Defendant could effectively reduce the recoverable damages. Furthermore, the jury (or this Court) could have rejected Plaintiffs' assumptions regarding damages calculations, significantly limiting recovery.

Plaintiffs also considered the risk of decertification of the classes. If Defendant had succeeded in seeking decertification, it would have left Plaintiffs to pursue individual claims and would have allowed no recovery for 22,781 other workers.

Ultimately, the most important consideration for settlement was the delay inherent in a likely appeal. Even if Plaintiffs maintained class certification and established damages for Defendant's meal break violations, any recovery could have been delayed for years by an appeal, and an appellate court could ultimately reverse the favorable summary judgment rulings Plaintiffs obtained. *See Cooper v. Alsco*, 186 Wn.2d 357, 370-71, 376 P.3d 382 (2016) (reversing summary judgment in favor of class of drivers who asserted wage claims and remanding for entry of judgment in favor of employer). The settlement eliminates all these risks and provides substantial compensation to Settlement Class Members without delay.

2. The settlement terms and conditions support final approval.

Defendant agreed to pay $39 million for a common fund settlement. This is an unprecedented settlement in Washington for a case solely involving meal break claims. If the Court approves the allocations, workers will share in more than $27,040,000. Pizl Decl. ¶4.

"A possibility that the settlement could have been better does not mean it was not fair, reasonable, or adequate." *Summers v. Sea Mar Community Health Centers*, 29 Wn. App. 2d 476, 504, 541 P.3d 381 (2024) (affirming approval of class settlement with awards "up to approximately $3.66 per class member"). "A proposed settlement is not judged against a hypothetical or speculative measure of what might have been achieved." *Id.* The significant relief

FRANK FREED SUBIT & THOMAS LLP
Suite 1200 Hoge Building, 705 Second Avenue
Seattle, Washington 98104-1798
(206) 682-6711

Plaintiffs obtained for the Settlement Class—likely the largest class settlement in state history for a case involving only meal break claims—is well within the range of wage and hour class settlements that have been found fair and reasonable by other courts. Indeed, in *Koshman v. MultiCare Health System*, a case involving rounding claims and second meal break claims for hospital employees, the court approved a settlement (including a 30% fee) in which employees received roughly 48% of their wages lost due to missed second meal breaks. King County Superior Court Case No. 20-2-15648-5 SEA (July 26, 2022, Rittereiser Decl. at ¶18). Here, Settlement Class Members will receive more than 100% of their lost meal break wages as calculated by Plaintiffs' expert. Pizl Decl., ¶4. This is an exceptional result.

The average class member award is expected to be almost $1,200. *See id.* ¶6. The largest awards are expected to be more than $40,000. *Id*. ¶7. Based on the risks and likelihood of appellate delays, these payments represent an excellent result for class members.

In assessing the fairness of a class settlement, courts also examine whether there is equitable treatment "between class members." *Pickett*, 145 Wn.2d at 189. Here, settlement funds will be allocated in an equitable manner. Without needing to file a claim form, each Settlement Class Member will receive an award from the Class Fund based on their potential meal break damages. Pizl Decl. ¶8. The damages for the First Meal Period Class will be based on each class member's number of reported missed meal breaks and hourly rate. Cote Decl., Ex. 1 at V.4.c. The damages for the Second Meal Period Class will be based on each class member's number of shifts over 10.5 hours before April 24, 2022 and hourly rate. *Id.* This approach ensures employees who missed more meal breaks will receive larger shares.

No settlement funds will revert to Defendant under any circumstances. *See id.*, Ex. 1 at V.9.k. If any settlement check remains uncashed after 120 days, the funds will be sent to the Washington Unclaimed Property Fund in the class member's name. *Id.* at V.9.k. Any funds remaining in the Reserve Fund after 180 days will be paid to the Legal Foundation of Washington (50%) and Washington Healthcare Access Alliance (50%). *Id.* at V.7.

FRANK FREED SUBIT & THOMAS LLP
Suite 1200 Hoge Building, 705 Second Avenue
Seattle, Washington 98104-1798
(206) 682-6711

Finally, the release of claims is limited. To receive a settlement payment, Settlement Class Members release only claims for missed meal periods or other alleged violations of the meal period regulation, WAC 296-126-092(1)-(3), through April 1, 2024. *Id*. at V.1.q, V.2.

3. The amount of discovery and evidence supports final approval.

Where "extensive discovery" takes place before a class settlement, final approval is favored. *See Pickett*, 145 Wn.2d at 199. Here, the settlement is the result of lengthy efforts over a two-year period to obtain sufficient discovery and extensive adversarial litigation. Cote Decl. ¶¶3-14. Discovery included the production and review of over 94,000 pages of documents, 80 declarations, almost 100 million data records, 11 depositions, and numerous class member interviews. Pizl Decl. ¶¶9-10. Class Counsel's team of legal professionals at two firms spent extensive time over a two-year period collecting evidence, reviewing and analyzing documents and data, interviewing class members, and analyzing and litigating the legal claims. Pizl Decl. ¶¶10-12; Cote Decl. ¶¶3-9. Class Counsel also conducted four CR 30(b)(6) depositions. Cote Decl. ¶7. Counsel also spent weeks working with expert witness Aaron Mitchell on his damages model, which was based on massive datasets from MultiCare. Pizl Decl. ¶13. After extensive discovery and litigation, including a partial summary judgment ruling in favor of Plaintiffs and the classes, counsel were well-prepared to negotiate a strong settlement.

4. The positive recommendation and extensive experience of counsel and the neutral mediator support final approval.

"When experienced and skilled class counsel support a settlement, their views are given great weight." *Pickett*, 145 Wn.2d at 200. Class Counsel, who are experienced and skilled in class action litigation, support the settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class. Cote Decl. ¶¶15-16; Pizl Decl. ¶¶14-15. Furthermore, Washington courts consider the "recommendation of neutral parties, if any." *Pickett*, 145 Wn.2d at 188. Here, neutral mediator Lou Peterson proposed the $39 million common fund settlement in a mediator's proposal after a full day of negotiations. Cote Decl. ¶12.

FRANK FREED SUBIT & THOMAS LLP
Suite 1200 Hoge Building, 705 Second Avenue
Seattle, Washington 98104-1798
(206) 682-6711

5. Future expense and likely duration of litigation support final approval.

The future expense and likely duration of litigation had a settlement not been reached also support final approval. *Pickett*, 145 Wn.2d at 188. The Court must consider whether, absent settlement, "class members would have incurred significant delay in receiving the relief to which they are entitled pursuant to the agreement." *Deien v. Seattle City Light*, 26 Wn. App. 2d 57, 72, 527 P.3d 102 (2023). Here, the settlement guarantees immediate relief for the workers while avoiding the delay of further litigation, trial, and a lengthy appeal process. At the time of mediation, Plaintiffs' motion for partial summary judgment on class damages was pending and trial was upcoming, which would have taken extensive time and resources. Even if Plaintiffs prevailed against Defendant on their pending summary judgment motion or at trial, Defendant was certain to appeal adverse rulings, which would delay relief to class members for years.

6. The reaction of the class supports final approval.

A court may infer a class action settlement is fair, adequate, and reasonable when few class members object to it. *See Pickett*, 145 Wn.2d at 200-01. Here, the deadline to opt out or object to the settlement is August 2, 2024. As of July 18, no Settlement Class Member has objected and only one has opted out. Pizl Decl. ¶18; CPT Decl. ¶¶12-13. Plaintiffs will update this information and respond to any objections by August 16, 2024.

7. The presence of good faith and absence of collusion support final approval.

In determining the fairness of a settlement, the Court may also consider the presence of good faith and absence of collusion. *Pickett*, 145 Wn.2d at 201. Here, there has been no collusion or bad faith. The settlement is the result of extensive negotiations between experienced attorneys, which took place after more than two years of hard-fought litigation, substantial discovery, and extensive document review and analysis. Cote Decl. ¶¶3-15. At all times, the negotiations leading to the settlement were adversarial, non-collusive, and at arm's length. *Id.* ¶14.

B. Settlement Class Members received the best notice practicable.

This Court already determined the notice program meets the requirements of due process

FRANK FREED SUBIT & THOMAS LLP
Suite 1200 Hoge Building, 705 Second Avenue
Seattle, Washington 98104-1798
(206) 682-6711

and applicable law and provides the best notice practicable to Settlement Class Members. Preliminary Approval Order, ¶4. The settlement administrator, CPT Group, has successfully implemented the notice program. *See* CPT Decl. ¶¶4-11. After this Court granted preliminary approval, Defendant provided the names of Settlement Class Members, last known addresses, email addresses, and social security numbers. Pizl Decl. ¶2. Defendant also provided additional timekeeping and meal period attestation data, as required by the settlement agreement. *Id.* ¶3. Using data produced by Defendant, Class Counsel calculated estimated settlement awards, and CPT Group formatted settlement notices with individualized estimated awards for each Settlement Class Member. *Id.*; CPT Decl. ¶¶5, 8. CPT Group sent notice by mail using the most recent contact information available. CPT Decl. ¶¶5-8. As of July 17, 83 mailed notices were returned as undeliverable. *Id.* ¶10. As a result of skip trace efforts or remail requests from counsel or the Class Members themselves, 77 notices had been remailed as of July 17. *Id.* ¶11. CPT Group also issued notice by email to Settlement Class Members for whom MultiCare provided an email address and set up a settlement website with key documents and information. *Id.* ¶¶3, 8.

C. The requested attorneys' fees award is customary and reasonable.

Where attorneys have obtained a common fund settlement for the benefit of a class, Washington courts use the "percentage of recovery approach" in calculating and awarding attorneys' fees. *Bowles v. Dep't of Ret. Sys.*, 121 Wn.2d 52, 72, 847 P.2d 440 (1993). Because this is a common fund settlement, the "percentage of recovery approach" applies. *See id.* "Under the percentage of recovery approach . . . attorneys are compensated according to the size of the benefit conferred, not the actual hours expended." *Lyzanchuk v. Yakima Ranches Owners Ass'n, Phase II, Inc.*, 73 Wn. App. 1, 12, 866 P.2d 695 (1994). The Washington Supreme Court has recognized, "[i]n common fund cases, the size of the recovery constitutes a suitable measure of the attorneys' performance." *Bowles*, 121 Wn.2d at 72. Public policy supports this approach: "When attorney fees are available to prevailing class action plaintiffs, plaintiffs will have less difficulty obtaining counsel and greater access to the judicial system. Little good comes from a

FRANK FREED SUBIT & THOMAS LLP
Suite 1200 Hoge Building, 705 Second Avenue
Seattle, Washington 98104-1798
(206) 682-6711

system where justice is available only to those who can afford its price." *Id.* at 71.

Contingency fees in individual cases are usually in the range of 33 to 40 percent. *See Forbes v. Am. Bldg. Maint. Co. W.*, 170 Wn.2d 157, 161-66, 240 P.3d 790 (2010) (discussing contingency fees between 33 1/3 percent and 44 percent and reinstating trial court's order that "40 percent contingency fee based on the $5 million settlement was fair and reasonable"). The typical range for attorneys' fees awarded in common fund class action settlements is between 20 and 33 percent. *See* 4 Newberg on Class Actions § 14.6 (4th ed. 2002) (recognizing "fee awards in class actions average around one-third of the recovery"); *Bowles*, 121 Wn.2d at 72 (noting fee awards for common fund cases are often in range of 20 to 30 percent).

Here, Class Counsel request approval of a 30 percent fee. This is below the contingency fee range for individual cases and consistent with percentage fee awards in other employment law class actions. Indeed, Washington courts routinely approve fee awards of 30 to 35 percent of the common fund in class actions. *See* Cote Decl., Ex. 2 (list of more than 60 class cases in which Washington courts have approved fee awards of between 30 and 35 percent of the common fund); Pizl Decl. ¶16. Judges in Pierce County Superior Court and across the state have repeatedly approved 30 percent fee awards for wage-and-hour class settlements, including numerous cases in which the results achieved were much less significant than in this case. *See id.* Thus, the fee request here is reasonable under the "percentage of recovery" method.

Settlement Class Members received notices stating counsel would request a fee up to 30 percent, and no Settlement Class Member has objected to that amount to date. Pizl Decl. ¶17.

The excellent result counsel achieved supports a 30% fee. Plaintiffs' expert calculated an actual wage loss of approximately $26.5 million. *See id.* ¶4. Solely as a result of Class Counsel's work, the classes have obtained a $39 million settlement. This result alone justifies counsel's request. *Bowles*, 121 Wn.2d at 72 ("In common fund cases, the size of the recovery constitutes a suitable measure of the attorneys' performance."). Without counsel's diligent work pursuing class discovery, obtaining class certification, winning a ruling granting partial summary

FRANK FREED SUBIT & THOMAS LLP
Suite 1200 Hoge Building, 705 Second Avenue
Seattle, Washington 98104-1798
(206) 682-6711

judgment on liability, and defeating defendant's partial summary judgment motion, class members would have recovered nothing. As a result of counsel's work, class members will recover virtually all their wage loss. Courts regularly award 30% or more in attorneys' fees even where counsel's efforts secure only a fraction of the class's actual damages. *See* Pizl Decl. ¶16; Cote Decl., Ex. 2. It would be anomalous to deny a standard 30% fee here, where Class Counsel secured virtually a full recovery of class members' wage loss.

A 30 percent fee is appropriate considering the circumstances of the case. While any class action is risky, the case presented unique challenges that could have resulted in no recovery for the class if this Court had denied class certification or accepted Defendant's position that it provided adequate compensation for missed meal breaks by paying for the meal break time. Pizl Decl. ¶19. Nonetheless, Class Counsel took the risk of litigating the case on a contingency basis and advanced more than $100,000 in costs. Pizl Decl. ¶¶19-22; Cote Decl. ¶¶18-21. Based on the risks, there was a real possibility Class Counsel would recover nothing for their work. Nonetheless, counsel took their charge seriously and endeavored to represent the interests of the workers to the greatest extent possible for two and a half years without compensation. As a result of the tenacious approach taken by Defendant's legal team (including multiple in-house attorneys and a team of lawyers at Stoel Rives), Class Counsel needed a team of more than ten legal professionals at two firms to litigate the case successfully. *See* Pizl Decl. ¶11; Cote Decl. ¶21.

A standard 30% fee recognizes the financial risk Class Counsel took in litigating this case on a contingency fee basis for two and a half years. Counsel achieved an excellent result at great personal financial risk—dedicating much of their work life to this case for more than two years. Indeed, co-lead counsel Marc Cote dedicated approximately 70% of his litigation practice to this case since appearing in 2022. Cote Decl. ¶20. As a result of their duties to the class members, counsel had to forgo other work, despite the financial risk. *Id.* ¶20; Pizl Decl. ¶22.

A 30% fee is further justified by the duration and complexity of the litigation and scope of discovery. This was a complex case involving 22,784 class members. Class Counsel worked

FRANK FREED SUBIT & THOMAS LLP
Suite 1200 Hoge Building, 705 Second Avenue
Seattle, Washington 98104-1798
(206) 682-6711

diligently throughout the case with no guarantee of being compensated. Counsel engaged in substantial discovery, carefully crafted persuasive class certification and summary judgment briefing supported by extensive evidence, and worked with an expert to construct a class damages model that incorporated voluminous datasets. Armed with extensive data and documents, counsel carefully negotiated a settlement that will provide a meaningful remedy for all class members.

For these reasons, Class Counsel ask that this Court approve a 30 percent fee award.

D. Reimbursement of Class Counsel's litigation costs is reasonable.

For common fund settlements, litigation costs are awarded in addition to percentage fee awards. *See Bowles*, 121 Wn.2d at 70-74 (affirming common fund fee award and separate costs award). "Reasonable costs and expenses incurred by an attorney who creates or preserves a common fund are reimbursed proportionately by those class members who benefit from the settlement." *In re Media Vision Tech. Sec. Litig.*, 913 F. Supp. 1362, 1366 (N.D. Cal. 1996). The settlement notice issued to class members stated that Class Counsel would seek up to $120,000 in litigation expenses. To date, Class Counsel have incurred $109,638.98 in litigation expenses. Cote Decl. ¶18, Ex. 3; Pizl Decl. ¶21, Ex. A. These expenses include filing fees, service fees, expert witness fees, hearing transcript costs, Westlaw expenses, deposition expenses, class notice costs, and mediation expenses. *Id*. The expenses were reasonable and necessary to secure the successful resolution of this litigation. *See In re Immune Response Sec. Litig.*, 497 F. Supp. 2d 1166, 1177-78 (S.D. Cal. 2007) (finding costs such as filing fees, online legal research fees, and mediation expenses are relevant and necessary expenses in class action litigation). Thus, Class Counsel request reimbursement of $109,638.98 for litigation expenses.

E. The settlement administration expenses award is reasonable.

The settlement agreement provides for payment of no more than $95,000 in settlement administration expenses. Cote Decl., Ex. 1 at V.8.d. CPT Group is required to establish a Qualified Settlement Fund, create a settlement website, format settlement notices with estimated awards, mail and email notices, handle undeliverable notices and skip traces, calculate tax

FRANK FREED SUBIT & THOMAS LLP
Suite 1200 Hoge Building, 705 Second Avenue
Seattle, Washington 98104-1798
(206) 682-6711

withholdings, issue taxes to the appropriate government entities, process settlement payments, and handle tax reporting duties. *See id.* at V.8-9. The administration expenses are reasonable and necessary to inform Settlement Class Members of the settlement and ensure it is administered fairly. Plaintiffs request approval of settlement administration expenses not to exceed $95,000.

F. The class representative service awards are reasonable.

Service awards compensate class representatives for work done on behalf of the class. *Tuttle v. Audiophile Music Direct, Inc.*, C22-1081JLR, 2023 WL 8891575, at *15 (W.D. Wash. Dec. 26, 2023) (recognizing "[s]ervice awards are commonplace in class actions"). These awards promote the public policy of encouraging individuals to undertake the responsibility of representative lawsuits. *See id.* The requested awards of $15,000 for each Plaintiff class representative are reasonable and in line with awards approved by other courts. *See, e.g., Hughes v. Microsoft Corp.*, C93-0178C, 2001 WL 34089697, at *12 (W.D. Wash. Mar. 26, 2001) (approving service awards of $7,500, $25,000, and $40,000). Plaintiffs responded to Defendant's discovery requests, testified in depositions, communicated regularly with Class Counsel, and participated in a full-day mediation. They also assisted Class Counsel in understanding the underlying facts. Cote Decl. ¶22. The service awards will compensate Plaintiffs for their extensive time and effort in stepping forward to serve as class representatives and the reputational and occupational risks they faced by suing a powerful hospital system. The awards are well deserved and should be approved.

V. CONCLUSION

The common fund settlement is fair, adequate, and reasonable. Moreover, it is appropriate for the Court to approve a 30% fee award, $109,638.98 for costs, an amount not to exceed $95,000 for settlement administration expenses, and service awards of $15,000 for each class representative. Plaintiffs respectfully request that the Court grant final approval.

FRANK FREED SUBIT & THOMAS LLP
Suite 1200 Hoge Building, 705 Second Avenue
Seattle, Washington 98104-1798
(206) 682-6711

RESPECTFULLY SUBMITTED AND DATED this 19th day of July 2024.

ENTENTE LAW PLLC

By: *s/ James B. Pizl*
James B. Pizl, WSBA #28969
315 39th Ave SW, Suite 14
Puyallup, WA 98373
P: 253-446-7668
F: 253-251-1276
Email: jim@ententelaw.com

FRANK FREED SUBIT & THOMAS LLP

By: *s/ Marc C. Cote*
Marc C. Cote, WSBA #39824
Jack N. Miller, WSBA #57007
Ellicott K. Dandy, WSBA #57279
705 Second Avenue, Suite 1200
Seattle, WA 98104
P: 206-682-6711
F: 206-682-0401
Email: mcote@frankfreed.com
Email: jmiller@frankfreed.com
Email: edandy@frankfreed.com

Attorneys for Plaintiffs and Classes

CERTIFICATE OF SERVICE

I, Hannelore Ohaus, certify and state as follows:

1. I am a citizen of the United States and a resident of the state of Washington; I am over the age of 18 years and not a party of the within entitled cause. I am employed by the law firm of Frank Freed Subit & Thomas LLP, whose address is 705 Second Avenue, Suite 1200, Seattle, Washington 98104.

2. I caused the foregoing document to be served upon counsel of record at the address and in the manner described below, on July 19, 2024.

Timothy J. O'Connell, WSBA #15372
Christopher T. Wall, WSBA # 45873
Mark O. Morgan, WSBA #52006
Aaron R. Doyer, WSBA #60095
STOEL RIVES LLP
600 University Street, Suite 3600
Seattle, WA 98101
Tel: (206) 624-0900
Fax: (206) 386-7500
Email: tim.oconnell@stoel.com
Email: christopher.wall@stoel.com
Email: mark.morgan@stoel.com
Email: aaron.doyer@stoel.com

Attorneys for Defendant

[ ] U.S. Mail
[ ] ABC Legal Messenger
[ ] Facsimile
[X] E-Mail
[X] Via the Pierce County Electronic Filing System

I hereby declare under the penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

DATED at Seattle, Washington on this 19th day of July 2024.

s/ Hannelore Ohaus
Hannelore Ohaus