Honorable Grant Blinn
December 19, 2025 at 9:00 a.m.

SUPERIOR COURT OF WASHINGTON
IN AND FOR PIERCE COUNTY

M.N., A.B., G.T., and W.N., individually and on behalf of all others similarly situated,

Plaintiff,

v.

MULTICARE HEALTH SYSTEM, INC., a Washington corporation,

Defendant.

No. 18-2-08055-5

PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

TABLE OF CONTENTS

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

TABLE OF AUTHORITIES

Cases

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

I. INTRODUCTION

Named Plaintiffs M.N., A.B., and G.T. move under CR 23(e) for final approval of the parties' Settlement Agreement.[1] The Settlement Agreement provides for the payment of a $4 million Settlement Fund out of which Settlement Class Members will each be paid hundreds of dollars. This result was achieved following prolonged litigation, including before the Washington Supreme Court, and was reached after contentious arm's-length negotiations between the Parties with the assistance of an experienced mediator, Keith Kubik, of the Kubik Mediation Group.

In granting preliminary approval, this Court found that the Settlement Agreement, and then the Amended Settlement Agreement, were "fair, reasonable, and adequate" under CR 23(e). Order Granting Pls.' Mot. for Prelim. Approval of Class Action Settlement (July 25, 2025); Order Granting Pls.' Mot. for Prelim. Approval of Amended Class Action Settlement (Sept. 18, 2025).

Subsequent events further support that finding. The Plan of Notice has been successfully implemented, and no Settlement Class Member has thus far objected to the Settlement or sought exclusion from it. As part of this Motion, Plaintiffs are proposing revisions to the Plan of Allocation, which was not a material term of the Amended Settlement Agreement and which this Court has the authority to change. These revisions will ensure that as many Settlement Class Members as possible will receive payment from the Settlement Fund.

Accordingly, the Named Plaintiffs respectfully ask the Court to grant final approval of the Settlement by: (1) finding that the Settlement is fair, adequate, and reasonable; (2) determining that adequate notice was provided to the Settlement Classes; and (3) approving the revised Plan of Allocation.

[1] Unless otherwise stated, capitalized terms used here have the same meaning given them in the Amended Settlement Agreement for which final approval is being sought. Note that the Amended Settlement Agreement uses the term "Settlement Agreement," rather than "Amended Settlement Agreement," to refer to itself, so Plaintiffs will refer to the Amended Settlement Agreement as the "Settlement Agreement."

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

II. RELEVANT BACKGROUND

This motion assumes familiarity with this litigation's factual background and procedural history, which are summarized in detail in Plaintiffs' Motion for Preliminary Approval of Class Action Settlement at 2–5 (July 11, 2025).[2] Plaintiffs incorporate that Motion by reference and will focus here on developments since preliminary approval.

1. The implementation of the Plan of Notice. The Plan of Notice has been extensive and successful. *See* Decl. of Benjamin Gould in Supp. of Pls.' Mot. for Final Approval of Class Action Settlement ("Gould Declaration" or "Gould Decl."), Ex. C (filed herewith). On October 3, the Settlement Administrator disseminated individual notice by both mail and email. *Id.*, Ex. C, ¶ 4. Although 288 of the 2,737 Postcard Notices have been returned undelivered, the Settlement Administrator, after skip tracing, has successfully remailed 142 of them. *Id.*, Ex. C, ¶ 5. The Settlement Administrator has sent 1,710 Email Notices, and only 33 of those have returned as undelivered. *Id.* ¶ 11. These figures, as the Settlement Administrator notes, mean that approximately 95% of Settlement Class Members received individual notice, and that about 61% of Settlement Class Members have received both an individual Email Notice and an individual Postcard Notice. *Id.*, Ex. C, ¶ 6.

The Settlement Administrator has also established the Settlement Website and a toll-free hotline for Settlement Class Members' questions. *Id.*, Ex. C, ¶ 7.

2. A revised Plan of Allocation. Current law requires the Settlement Administrator to report payments of $600 and above to the Internal Revenue Service using Form 1099. *See* Am. Class Action Settlement Agreement, Ex. B, ¶ 13; Gould Decl. ¶ 3. For that reason, the original Plan of Allocation required Settlement Class Members to provide their Form W-9 information (social security number and address) to the Settlement Administrator before receiving payment. Gould Decl. ¶ 3.

[2] To prevent needless repetition and shorten this motion, Plaintiffs will be relying on their Motion for Preliminary Approval throughout this motion. For ease of reference, they have attached the Motion for Preliminary Approval as an Addendum, and will be citing it as such in what follows.

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

Beginning January 1, 2026, however, the minimum payment that must be reported to the IRS using Form 1099 will rise to $2,000. *Id.* ¶ 4. Payments to Settlement Class Members here will be under that threshold. So, if payments are made to Settlement Class Members in 2026, Settlement Class Members need not provide their Form W-9 information to the Settlement Administrator before receiving payment.

Requiring payments to be sent in 2026 will therefore benefit Settlement Class Members enormously. It will not result in material delay (if any delay at all). *See id.* ¶ 6. But it *will* result in far more Settlement Class Members receiving payments. That is because a relatively small number of Settlement Class Members—as of November 14, only 381 of them—have provided the Form W-9 information required under the original Plan of Allocation. *Id.* ¶ 13. This low number came as some surprise, *see id.*, given the highly successful notice campaign and because the Settlement Administrator had made it easy and quick for Settlement Class Members to enter their Form W-9 information on the Settlement Website. *See* Addendum at 17.

The text of the revised proposed Plan of Allocation, and a copy showing how that text differs from the original Plan of Allocation, are attached to the Gould Declaration as Exhibits A and B respectively.

3. Further efforts to ensure that Settlement Class Members receive payment. Besides proposing a revised Plan of Allocation, Class Counsel have taken other steps to ensure that as many Settlement Class Members as possible actually receive payments from the Settlement Fund.

For practical reasons, the default payment method under this Settlement Agreement—the method used to pay Settlement Class Members if they do not choose otherwise—must be by mailing checks. Gould Decl. ¶ 15. As explained in Class Counsel's accompanying declaration, though, past experience suggests that mailing checks from class action settlements often go uncashed. *Id.* ¶ 16.

Class Counsel's experience also suggests there are three mutually reinforcing ways to

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

minimize the number of uncashed checks. The first is to go beyond minimum notice requirements and send out reminder notices. *Id.* ¶ 19(A). The second is to provide an easy way for class members to receive funds electronically. *Id.* ¶ 19(B). The third is to ensure that class members physical addresses are up to date, to avoid mailing checks to inaccurate addresses. *Id.* ¶ 19(C).

To try to accomplish all three of these goals, Class Counsel designed reminder notices for Settlement Class Members. *Id.* ¶ 20. Settlement Class Members with physical addresses on file will receive postcard reminders, Settlement Class Members with email addresses on file will receive email reminders, and Settlement Class Members with both kinds of address on file will receive both. *Id.* These reminders will be transmitted on the date of this filing at a small incremental cost to the Settlement Classes. *See id.* ¶ 21. Like the Notices, the reminders encourage Settlement Class Members to visit the Settlement Website, where they can select an electronic payment method (*e.g.*, Venmo, PayPal, etc.) and/or ensure their physical address is up to date.[3] *Id.* ¶ 23; *see id.*, Exs. D–E.

4. No opt outs or objections. Settlement Class Members have only one more week—until November 21—to exclude themselves from the Settlement Agreement or to object to it. To date, the Settlement Administrator has not received any requests to opt out of the Settlement Agreement, and there have been no objections to it. *See id.* ¶ 12; *id.*, Ex. C, ¶ 8.

III. THE SETTLEMENT AGREEMENT WARRANTS FINAL APPROVAL

A. Legal standard

CR 23 requires judicial approval of all class action settlements. CR 23(e). In deciding whether to approve a proposed 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) (citation omitted). This is a "largely unintrusive inquiry." *Id*. at 189. It is "limited" to ensuring that "the agreement is not the product of fraud or

[3] To be clear, the Parties have already taken considerable steps to ensure that the physical addresses are accurate. *See* Mot. for Prelim. Approval of Am. Settlement Agreement at 5 (Sept. 15, 2025).

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

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.* (quoting *Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 625 (9th Cir. 1982)).

When assessing whether a settlement is "fair, adequate, and reasonable," Washington courts generally consider the following factors: (1) "the likelihood of success by plaintiffs"; (2) "the amount of discovery or evidence" produced thus far in the litigation; (3) "the settlement terms and conditions"; (4) the "recommendation and experience of counsel"; (5) the "future expense and likely duration of litigation"; (6) the "recommendation of neutral parties, if any"; (7) the "number of objectors and nature of objections"; and (8) "the presence of good faith and the absence of collusion." *Id.* at 188–89. This list is "not exhaustive," and "'[t]he relative degree of importance to be attached to any particular factor will depend upon . . . the unique facts and circumstances presented by each individual case.'" *Id*. at 189 (quoting *Officers for Justice*, 688 F.2d at 625). A court reviewing a proposed settlement should also "not . . . overlook[] that voluntary conciliation and settlement are the preferred means of dispute resolution." *Id.* at 190 (quoting *Officers for Justice*, 688 F.2d at 625).

B. The Settlement is fair, adequate, and reasonable.

Plaintiffs' Preliminary Approval Motion addressed at length nearly all the factors listed above. The arguments made in that Motion remain valid and unchanged. Indeed, because the Preliminary Approval Motion comprehensively addressed factor 1 (likelihood of success), factor 2 (amount of discovery or evidence), factor 4 (counsel's recommendation and experience), factor 5 (expense and duration of further litigation), and factor 8 (good faith and absence of collusion), Plaintiffs will not repeat what they have already said on those topics. *See* Addendum at 7–9, 10–13. Instead, they will discuss how factor 3 (settlement terms and conditions) favors approval of the Settlement Agreement even more than it did at the preliminary stage, and why the lack of objections and opt-outs likewise favors approval.

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

1. The Settlement Agreements' fair and equitable terms and conditions support final approval.

The Settlement Agreement's terms are fair and equitable for all the reasons already adduced in the Preliminary Approval Motion. Addendum at 9–10. The revised Plan of Allocation will further benefit Settlement Class Members by enabling the Settlement Administrator to distribute payments to all Settlement Class Members for whom there is a physical address without requiring Settlement Class Members to provide their W-9 information. *See supra* at 2–3. This likely represents a huge benefit to the Settlement Classes, given the relatively small number of Settlement Class Members who have thus far provided their Form W-9 information. *See* Gould Decl. ¶¶ 13–14. This revision to the Plan of Allocation makes an excellent Settlement Agreement even better.

2. The reaction of the settlement class supports final approval.

To date, no Settlement Class Members oppose the Settlement Agreement or have opted out of the Settlement Classes. Gould Decl. ¶ 12; *id.*, Ex. C., ¶ 8. The absence of objections and opt-outs raises a "strong presumption" that the terms are favorable to Settlement Class Members. *See Pickett*, 145 Wn.2d at 201 (finding only 50 objections out of 470,000 class notices sent was "de minimis" and "far smaller than that approved by federal courts in similar instances); *Clemans v. New Werner Co.*, No. 3:12-CV-05186, 2013 WL 12108739, at *5 (W.D. Wash. Nov. 22, 2013) ("The scarcity of objections and requests to opt out of the Settlement both indicate the broad, class-wide support for the Settlement and support its approval."); *Pelletz v. Weyerhaeuser Co.*, 255 F.R.D. 537, 543–44 (W.D. Wash. 2009) (finding that three objections and 119 opt-outs of an "estimated 110,000 to 140,000 Class members" was evidence of "[t]he positive response to the Settlement by the Class").

The reaction of the Settlement Class Members strongly supports final approval of the Settlement Agreement.

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

IV. NOTICE HAS COMPLIED WITH WASHINGTON LAW AND DUE PROCESS

The Notice Plan—involving Postcard Notice, Email Notice, and a Long-Form Notice on the Settlement Website—has now been successfully implemented. Gould Decl., Ex. C, ¶¶ 4–5, 7. The Settlement Administrator estimates that individual notice has reached 95% of the Settlement Classes. *Id.*, Ex. C, ¶ 6.

Together, the Postcard Notice, Email Notice, and Long-Form Notice have been more than sufficient to provide "the best notice practicable under the circumstances," CR 23(c)(2); *see* Addendum at 14–15, especially given the Parties' considerable efforts to ensure that the individual notices reached as many Settlement Class Members as possible, *see* Mot. for Prelim. Approval of Am. Settlement Agreement at 5 (Sept. 15, 2025). The Postcard Notice and Email Notice provided essential information about the Settlement Agreement and Settlement Class Members' rights, and directed them to the Long-Form Notice on the Settlement Website for further details. *See* Addendum at 16. The Settlement Website provides still more information. *See id.* at 16–17. The Notice Plan has complied with both CR 23 and the requirements of due process.

On top of this, the 95% of Settlement Class Members who received individual notice will soon receive a reminder postcard and/or reminder email. *See supra* at 4. The Settlement Classes will have been provided with notice that well exceeds the law's minimum requirements.

V. THE REVISED PLAN OF ALLOCATION SHOULD BE APPROVED

The Settlement Agreement provides that the Plan of Allocation is not a necessary or material term of the Settlement Agreement, and that the Court may approve an altered Plan of Allocation without affecting the validity of the Settlement Agreement. *See* Am. Settlement Agreement ¶¶ 30, 78. Plaintiffs ask that the Court approve Plaintiffs' revised proposed Plan of Allocation, which will enable many more Settlement Class Members to receive payments from the Settlement Fund. *See supra* at 2–3, 6.

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

VI. CONCLUSION

The Settlement Agreement is an excellent resolution for the Settlement Classes and merits this Court's final approval. The Notice Plan has exceeded the requirements of CR 23 and due process. And Plaintiffs' revised proposed Plan of Allocation will allow payments to be distributed to far more Settlement Class Members than the original Plan of Allocation.

For these reasons, Plaintiffs respectfully request that the Court grant final approval of the Settlement Agreement under CR 23(e), rule that the Plan of Notice has complied with CR 23 and due process, and approve the revised proposed Plan of Allocation

DATED this 14th day of November, 2025.

KELLER ROHRBACK L.L.P.

By *s/ Cari Campen Laufenberg*

Cari Campen Laufenberg, WSBA # 34354
Benjamin Gould, WSBA # 44093
Chris Ryder, WSBA # 58732
1201 Third Ave., Suite 3400
Seattle, Washington 98101
Telephone: (206) 623-1900
Fax: (206) 623-3384
Email: claufenberg@kellerrohrback.com
bgould@kellerrohrback.com
cryder@kellerrohrback.com

Mark D. Samson (*pro hac vice*)
KELLER ROHRBACK L.L.P.
3101 N. Central Avenue, Ste. 1400
Phoenix, Arizona 85012
Telephone: (602) 248-0088
Fax: (602) 248-2822
Email: msamson@kellerrohrback.com

Joseph G. Sauder
Matthew D. Schelkopf
Joseph B. Kenney
SAUDER SCHELKOPF LLC
555 Lancaster Avenue

Berwyn, Pennsylvania 19312
Telephone: 888.711.9975
E-Mail: jgs@sstriallawyers.com
mds@sstriallawyers.com
jbk@sstriallawyers.com

Attorneys for Plaintiffs

Addendum

Honorable Grant Blinn
July 25, 2025 at 9:00 am
With Oral Argument

SUPERIOR COURT OF WASHINGTON
IN AND FOR PIERCE COUNTY

M.N., A.B., G.T., and W.N., individually and on behalf of all others similarly situated,

Plaintiffs,

v.

MULTICARE HEALTH SYSTEM, INC., a Washington corporation,

Defendant.

No. 18-2-08055-5

PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

I. INTRODUCTION

Named Plaintiffs M.N., A.B., and G.T. respectfully submit this motion for preliminary approval of the settlement of this Action on the terms outlined in the classwide Settlement Agreement.[1] The proposed Settlement Agreement provides for the payment of a $4 million Settlement Fund out of which Settlement Class Members will each be paid hundreds of dollars. It follows prolonged litigation that took this case up to the Washington Supreme Court and back. And it results from contentious arm's-length negotiations between the Parties with the assistance of an experienced mediator, Keith Kubik, of the Kubik Mediation Group ("Mediator"). The Settlement Agreement, if it receives the Court's final approval, will resolve

[1] Unless context requires otherwise, the capitalized terms used in this Motion have the same meaning as provided by the Settlement Agreement.

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

this Action. For the reasons that follow, it should receive the Court's preliminary approval, so that notice can be issued to Settlement Class Members and the process of seeking final approval can begin.

II. BACKGROUND

A. Factual background

The Supreme Court's decision in this case, *M.N. v. MultiCare Health System, Inc.*, 2 Wn.3d 655, 659–62, 541 P.3d 346 (2024), provides a good overview of the facts underlying, and the history of, this litigation. Except where other sources are explicitly cited, this Motion's account of the facts and procedural history is taken from the Supreme Court's overview.

Defendant MultiCare Health System, Inc. operates Good Samaritan Hospital in Puyallup ("Good Sam"). In 2018, public health officials traced two cases of hepatitis C cases to treatment by Cora Weberg, a nurse in Good Sam's emergency department. It turned out that Weberg had spread hepatitis C to these patients by diverting injectable drugs for her own use. Ultimately, public health officials determined that twelve cases of hepatitis C were attributable to Weberg's drug diversion. Decl. of Benjamin Gould in Supp. of Pls. Mot. for Preliminary Approval of Class Action Settlement ("Gould Decl."), Ex. 2 (filed herewith).

Defendant then sent a letter to all 2,762 patients who had received certain intravenous injections in Good Sam's emergency room either while Weberg was on duty, or while being treated directly by Weberg. *See id.*, Ex. 3. The letter informed patients of the outbreak and offered complimentary blood testing for hepatitis C, hepatitis B, and HIV to all recipients and cautioned that "[t]he only way to be certain you were not infected is to have your blood tested."

B. Procedural history

This Action was filed in May 2018, and a few months later an amended class action complaint was filed that included all the Named Plaintiffs.[2] Class Action Compl. (May 11, 2018); Am. Class Action Compl. (Aug. 2, 2018). The amended complaint alleged negligent

[2] The former Plaintiff W.N. was later dismissed as a proposed named plaintiff by a stipulation that did not affect W.N.'s status as an absent class member. Gould Decl. ¶ 20.

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

supervision and hiring under a theory of corporate negligence and under chapter 7.70 RCW, which governs a claim for injuries resulting "from the failure of a health care provider to follow the accepted standard of care." RCW 7.70.030(1). Plaintiffs claimed damages for emotional distress and for medical care, treatment, and services.

Named Plaintiffs moved for class certification, and after briefing and a hearing, the Court in January 2020 certified two classes, the Weberg Treatment Class and the General Treatment Class. Order Granting Class Certification (Jan. 22, 2020). The Weberg Treatment Class consisted of "[a]ll persons who were treated at the MultiCare Good Samaritan Hospital in Puyallup, Washington, between August 4, 2017, and March 23, 2018, who received care from Cora Weberg, and received notification letters in April 2018 from MultiCare." *Id.* at 11. The General Treatment Class consisted of "[a]ll persons who were treated at the MultiCare Good Samaritan Hospital in Puyallup, Washington, between August 4, 2017, and March 23, 2018, and received notification letters in April 2018 from MultiCare, but who did not receive care from Cora Weberg." *Id.* The Court appointed Plaintiff A.B. as class representative for the Weberg Treatment Class, appointed Plaintiffs M.N. and G.T as class representatives for the General Treatment Class, appointed Keller Rohrback L.L.P. as Class Counsel for both classes, and directed notice to the classes. *Id.* at 11–12. Class notice was then disseminated. *See* Stip. and Order to Approve Class Notices (May 13, 2020).

Not long thereafter, Defendant moved for summary judgment on all claims of the General Treatment Class. Def.'s Mot. for Summ. J. at 1 (Apr. 24, 2020). The General Treatment Class opposed, providing documentary evidence and expert declarations that addressed duty, breach of duty, and proximate cause. Pls.' Opp'n to Def.'s Mot. for Summ. J. (May 11, 2020).[3] The Court granted Defendant's motion, concluding that the General Treatment Class could not establish legal causation, *see* Order Granting Def.'s Mot. for Summ. J. (July 31, 2020), and

[3] *See also* Decl. of Ian Birk in Supp. of Pls.' Opp'n to Def.'s Mot. for Summ. J. (May 11, 2020); Decl. of Richard K. Ogden, Jr., Pharm.D., in Supp. of Pls.' Opp'n to Def.'s Mot. for Summ. J. (May 11, 2020); Decl. of Paula Bradshaw, RN, in Supp. of Pls.' Opp'n to Def.'s Mot. for Summ. J. (May 11, 2020); Decl. of Harry F. Hull, M.D., in Supp. of Pls.' Opp'n to Def.'s Mot. for Summ. J. (May 11, 2020).

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

entered judgment as to that Class under CR 54(b), Stip. and Order Directing Entry of Final J. as to the General Treatment Class Pursuant to CR 54(b) and Staying Action (Sept. 17, 2020). Plaintiffs M.N. and G.T., as representatives of the General Treatment Class, then appealed. Division Two affirmed the summary judgment of dismissal, holding that the General Treatment Class had not established legal causation. *M.N. v. MultiCare Health Sys., Inc.*, 23 Wn. App. 2d 558, 519 P.3d 932 (2022).

After granting review of the Court of Appeals' decision, the Washington Supreme Court reversed, holding that (1) the General Treatment Class's injuries arose under chapter 7.70 RCW, and (2) that the General Treatment Class had established legal causation for its claim under chapter 7.70 RCW. *See M.N.*, 2 Wn.3d at 661–68. The Court established a new legal-causation standard for medical-negligence claims involving a fear of disease transmission: "Plaintiffs must establish (1) an objectively reasonable fear of having contracted a disease (2) through a medically recognized means of transmission (3) and damages that occur within the window of anxiety," the period between when victims learn of the exposure and when they know or should know that they are not infected. *Id.* at 671.

C. Settlement negotiations

Following the Supreme Court's decision, the Named Plaintiffs sent Defendant a settlement demand letter for both the Weberg Treatment Class and the General Treatment Class. Gould Decl. ¶ 2. Defendant neither accepted nor rejected the proposal, but instead suggested that mediation would be helpful. *Id.* Plaintiffs agreed. *Id.*

After the case returned to this Court, the Parties engaged in limited discovery in the last half of 2024 and early months of 2025—"limited" because the discovery record was already so large and thorough. *See id.* ¶¶ 6–7. Meanwhile, the Parties engaged Keith M. Kubik of the Kubik Mediation Group and participated in two full mediation sessions. *Id.* ¶ 3. The first took place on June 24, 2024, and the second on April 17, 2025. *Id.* ¶¶ 5, 10. In advance of the first mediation session, the Parties submitted detailed mediation statements to Mr. Kubik. *See id.* ¶ 4.

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

After the second mediation session in April 2015 did not result in a settlement, Mr. Kubik facilitated and oversaw further negotiations. *Id.* ¶ 11. After several weeks of shuttle diplomacy by Mr. Kubik, the Parties' extensive, arm's-length negotiations finally produced a settlement in principle in May 2025, a few months before trial was scheduled to start on August 25, 2025. *Id.*

III. THE SETTLEMENT AGREEMENT WARRANTS PRELIMINARY APPROVAL

A. The procedure and legal standard governing the approval of class settlements

1. Procedure. CR 23 requires judicial approval of all class-action settlements. CR 23(e). When parties reach a settlement in a class action, they present the proposed settlement to the presiding court for preliminary approval. 4 William B. Rubenstein, *Newberg and Rubenstein on Class Actions* § 13:1 (6th ed. June 2025 update).[4] That is the procedural stage this Motion represents.

Next, if the presiding court grants preliminary approval, notice of the settlement is sent to class members. *Id.* If the class is certified under CR 23(b)(3), the notice informs class members of their opportunity to "opt out" of the settlement—i.e., to exclude themselves from any binding classwide judgment. *See* CR 23(c)(2)–(3); *see also* 4 Rubenstein, *supra,* § 13:1. Then, after class members have an opportunity to opt out of, or comment on or object to, the settlement, the parties move for final approval. The court then decides whether to grant final approval under CR 23(e) and to enter final judgment. 4 Rubenstein, *supra,* § 13:1; *see also, e.g.*, *Summers v. Sea Mar Cmty. Health Ctrs.,* 29 Wn. App. 2d 476, 486, 541 P.3d 381 (discussing how these procedures were followed in the trial court), *rev. denied,* 3 Wn.3d 1002, 549 P.3d 112 (2024); *Deien v. Seattle City Light,* 26 Wn. App. 2d 57, 61–63, 527 P.3d 102 (2023) (same).

2. Legal standard. In deciding whether to approve a proposed 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) (quotation and ciation

[4] The discussion in this treatise is focused on the procedures that federal courts follow under Federal Rule of Civil Procedure 23, but while the relevant provisions of the federal rule have been filled out with more specific details than CR 23, both rules envision the same basic procedure for approval of a class action settlement. *Compare* Fed. R. Civ. P. 23(e)(1)–(2), *with* CR 23(e).

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

omitted). This is a "largely unintrusive inquiry." *Id.* at 189. It is "limited" to ensuring 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*. (quoting *Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 625 (9th Cir. 1982)).

When assessing whether a settlement is "fair, adequate, and reasonable," Washington courts generally consider the following factors: (1) "the likelihood of success by plaintiffs"; (2) "the amount of discovery or evidence" produced thus far in the litigation; (3) "the settlement terms and conditions"; (4) the "recommendations and experience of counsel"; (5) the "future expense and likely duration of litigation"; (6) the "recommendation of neutral parties, if any"; (7) number of objectors and nature of objectors; and (8) the presence of good faith and the absence of collusion." *Id.* at 188–89. This list is "not exhaustive," and "[t]he relative degree of importance to be attached to any particular factor will depend upon . . . the unique facts and circumstances presented by each individual case." *Id*. at 189 (quotation and citation omitted). Note, too, that at the preliminary-approval stage, factor number 7—the number and nature of objectors—cannot yet be considered, since no one has had an opportunity to receive notice of the settlement and object. *See id.* ("[N]or will each factor be relevant in every case.").

A court reviewing a proposed settlement should also "not . . . overlook[] that voluntary conciliation and settlement are the preferred means of dispute resolution." *Id.* at 190 (citation and quotation omitted); *see also City of Seattle v. Blume*, 134 Wn.2d 243, 258, 947 P.2d 223 (1997) ("[T]he express public policy of this state . . . strongly encourages settlement."). Class actions are inherently complex, costly, and long-running, so the public policy favoring settlements has special force here. *See, e.g.*, *In re Syncor ERISA Litig.*, 516 F.3d 1095, 1101 (9th Cir. 2008) ("[T]here is a strong judicial policy that favors settlements, particularly where complex class action litigation is concerned.")

As noted earlier, this Motion represents the first stage in the process of settlement

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

approval. On a motion for preliminary approval, courts cannot make their final assessment of whether the settlement is fair, reasonable, and adequate, since "notice of the proposed dismissal or compromise" has not yet been sent to class members. CR 23(e). Rather, they typically ask whether it is *likely* that they will give final approval to the settlement when the time comes. *See* 4 Rubenstein, *supra*, § 13:15 (noting the level of judicial scrutiny is generally lower at the preliminary-approval stage).[5] Here, the Settlement Agreement is likely to receive final approval because the factors that this Court will consider at final approval illustrate the fairness, adequacy and reasonableness of the Settlement Agreement.

B. The Settlement Agreement is fair, adequate and reasonable.

1. The likelihood-of-success factor supports preliminary approval due to the challenges the Settlement Classes would face in recovering substantial damages and the risks on further appeal.

The Named Plaintiffs believe their claims have considerable merit and that, in particular, they would have likely persuaded a jury that Defendant failed to meet the standard of care here. *See* Decl. of Richard K. Ogden, Jr., Pharm.D., in Supp. of Pls.' Opp'n to Def.'s Mot. for Summ. J. at 2–6 (May 11, 2020); Decl. of Paula Bradshaw, RN, in Supp. of Pls.' Opp'n to Def.'s Mot. for Summ. J. at 2–4 (May 11, 2020). Even so, the Named Plaintiffs and the Settlement Classes would face serious risks at and after trial.

First, the likely amount of damages is deeply uncertain. While the Named Plaintiffs continue to believe that considerable emotional distress was created by Settlement Class Members' objectively reasonable fear of having contracted hepatitis C, they also acknowledge that Defendant could adduce evidence to argue otherwise. For example, even though over 1,800 persons have had their blood tested, none of the Settlement Class Members has so far tested positive for hepatitis C linked to Nurse Weberg. *See M.N.*, 2 Wn.3d at 660. Defendant could

[5] The federal rule has now been explicitly amended to require federal district courts, at the preliminary-approval stage, to apply a "likely-to-receive-final-approval" standard. *See* Fed. R. Civ. P. 23(e)(1)(B). Even before that amendment, however—when Federal Rule of Civil Procedure 23(e) was still identical to CR 23(e)—many federal district courts were, in effect, applying the likely-to-be-finally-approved standard at the preliminary-approval stage. *See* 4 Rubenstein, *supra*, § 13:15.

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

also point out that when caught early, hepatitis C is easily treated, in most cases, with modern antiviral medicine, and that when successfully treated, it is highly unlikely to cause any long-term effects in most healthy persons.[6] Furthermore, damages are limited to the "window of anxiety," defined as the "period between when a person learns of the exposure and when they know or should know that they are not infected." *Id.* at 672. Defendant could argue that the window was short here, given that a commonly used blood test for hepatitis C is approximately 99 percent accurate.[7] The jury testing in which Class Counsel engaged suggested that possible damages awards varied significantly, which, in counsel's view, underlined the risks and uncertainty involved in taking this case to trial. Gould Decl. ¶ 8.

Furthermore, while the Settlement Classes here were indeed certified, class certification of classes seeking damages solely for emotional distress are rare, and some decisions can be read to cast doubt on whether class-action treatment is appropriate in such cases. *See Rader v. Teva Parenteral Medicines, Inc.*, 276 F.R.D. 524, 530 (D. Nev. 2011). Even if the Named Plaintiffs and Settlement Classes obtained a good result in this Court, Defendants might have been able to challenge and overturn class certification on appeal.

The real risks that the Named Plaintiffs and Settlement Classes would receive relatively paltry damages at trial, or that class certification could be overturned on appeal, or both, supports preliminary approval of the Settlement Agreement.

2. The substantial amount of discovery and evidence gathered throughout this long-running litigation supports preliminary approval.

This Action has been exhaustively litigated for about seven years. The Settlement Agreement follows approximately two years of intensive litigation before this Court, including class certification, much discovery, and a motion for summary judgment; an appeal to Division Two and ultimately to the Washington Supreme Court; limited further discovery following

[6] *See* World Health Organization, *Hepatitis C* (Apr. 9, 2024), https://www.who.int/news-room/fact-sheets/detail/hepatitis-c [https://perma.cc/8ZXS-JGBJ].

[7] U.S. Department of Veterans Affairs, *Laboratory Tests Hepatitis C* (Oct. 23, 2018) https://www.hepatitis.va.gov/hcv/screening-diagnosis/laboratory-tests.asp [https://perma.cc/RSC7-7Y5Y].

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

remand; and prolonged, contentious negotiations overseen by an experienced mediator. *See* Gould Decl. ¶¶ 2–11.

Discovery here was extensive. It included the production of approximately 4,500 documents by the Named Plaintiffs, approximately 30,000 documents by the Defendants, and approximately 4,000 documents from third parties, the exchange of written discovery requests and responses, the deposition of all Named Plaintiffs, the deposition of important witnesses for Defendant, and expert declarations at summary judgment. *Id.* ¶ 7.

This is not a case in which discovery was lacking or evidence was still hidden when the parties entered into a settlement. Rather, the Parties had an extensive record from which to evaluate their chances of success should litigation continue. This factor also supports preliminary approval of the Settlement Agreement.

3. The Settlement Agreement's fair and equitable terms and conditions support preliminary approval.

The Settlement Agreement, which provides the Settlement Classes with a large cash benefit, is an excellent result for Settlement Class Members, especially given the relatively small class size here as compared to many other class actions. Defendants have agreed to pay $4 million into the Settlement Fund. After deducting likely notice and administration costs and expenses, attorney's fees and expenses, and awards to class representatives, equal distribution of the remaining funds to all 2,762 Settlement Class Members will amount to approximately $830 per capita. This is a substantial cash benefit, particularly in light of the significant risks at trial and the wide range of possible outcomes. Its amount both acknowledges the likelihood of establishing liability on a classwide basis and reasonably weighs that factor against the risks of recovering considerably lower emotional distress damages for each Settlement Class Member and the potential that class certification itself might eventually be unwound.

The scope of the Settlement Agreement's release is well within the range of typical releases in class actions. It is common to release a limited number of nonparties and to

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

extinguish claims that were not asserted but that arise from the same factual predicate. *See Summers*, 29 Wash. App 2d at 504–05 (citing *Hesse v. Sprint Corp*., 598 F.3d 581, 590 (9th Cir. 2010)); *In re Fin. Servs. Grp., Inc.*, 440 F. Supp. 2d 421, 439 (W.D. Pa. 2006).

In their capacity as Settlement Class Members, the Named Plaintiffs will receive the same distribution from the Settlement Fund as every other Settlement Class Member. And while the Named Plaintiffs are seeking Service Awards, those Awards are intended to *equalize* the Named Plaintiffs with the other Settlement Class Members. For unlike other Settlement Class Members, the Named Plaintiffs spent time and effort reviewing pleadings, briefs, and orders, reviewing Defendant's requests for production of documents, aiding in the responses to Defendant's interrogatories, preparing and sitting for depositions, conferring with Class Counsel about mediation and settlement negotiations, and approving the substance of the Settlement Agreement. Gould Decl. ¶ 21. Some of the work required of the Named Plaintiffs was particularly unpleasant: in their depositions, they testified about sensitive personal details and had to relive the distress they experienced after receiving Defendant's notification letter. *See id.* Making the Service Awards also falls well within this Court's powers. Such awards, a common practice in class actions that has received nearly unanimous approval from courts, are consistent with the traditional practices of courts of equity.[8]

The Settlement Agreement's terms and conditions provide Class Members with substantial relief, treat them equitably, and contain typical releases. These key terms and conditions strongly support preliminary approval.

4. The recommendation of experienced Class Counsel supports preliminary approval.

"When experienced and skilled class counsel support a settlement, their views are given great weight." *Pickett*, 145 Wn.2d at 200 (citing *Reed v. Gen. Motors Corp.*, 703 F.2d 170, 175

[8] *See generally* Benjamin Gould, *On the Lawfulness of Awards to Class Representatives*, 2023 Cardozo Law Review de novo 1, 16–23 (2023), https://cardozolawreview.com/wp-content/uploads/2023/02/GOULD_DN_Final-PDF-1.pdf.

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

(5th Cir. 1983)). Here, Class Counsel have carefully evaluated the risks of trial, including by conducting jury testing, and have considered the legal risks the Settlement Classes might face on further appeal. *Id.* ¶ 16. They have concluded that the Settlement Agreement is fair, reasonable, and adequate and very much in the best interest of the class. *Id.* In addition, the Named Plaintiffs support the Settlement Agreement. *Id.* ¶ 22.

Class Counsel have years of experience litigating class actions, and so are qualified to make these evaluations. *See generally id.*, Ex. 1. Cari Laufenberg has years of experience over many class actions, and has been appointed as lead counsel in multiple nationwide class actions. *Id.* ¶ 13. Mark Samson is a veteran trial lawyer who possesses not only expertise in medical-negligence cases, but also considerable experience in class actions. *Id.* ¶ 14. Benjamin Gould has been litigating class actions for well over a decade and is also a seasoned appellate lawyer. *Id.* ¶ 15.

5. The future expense and likely duration of litigation support preliminary approval.

The Parties reached this Settlement Agreement a few months before a trial that would have required expert testimony on several issues, most notably on the standard of care. *See, e.g.*, *Collins v. Juergens Chiropractic, PLLC*, 13 Wn. App. 2d 782, 793, 467 P.3d 126 (2020) ("Generally, the plaintiff must establish the applicable standard of care and proximate cause by medical expert testimony.").

Trial is ordinarily expensive, but even more so where expert testimony is involved. *See, e.g.*, 1 *Business and Commercial Litigation in the Federal Courts* § 11:26 (4th ed. 2020) (noting costliness of expert witnesses). And here, the Settlement Classes would also have called experts to testify about other aspects of the Action, including to educate the jury generally about the risks of hepatitis C, especially to persons with preexisting conditions, and to discuss the psychological effects that Settlement Class Members experienced because of their objectively reasonable fear of having contracted hepatitis C. Bringing this testimony before the jury in an

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

effective way would have been costly and time-consuming.

Lastly, even if the Named Plaintiffs persuaded a jury to award the Settlement Classes substantial damages and prevailed at every remaining stage, trial, post-trial proceedings, and an appeal would have extended the litigation for several years before any Settlement Class Member would see any money. The appeal that ultimately took this case to the Washington Supreme Court took almost four years, from the filing of the notice of appeal in the fall of 2020 to remand to this Court in the spring of 2024. The Settlement Agreement, by contrast, gives meaningful relief to Settlement Class Members now, and without the considerable risks of further litigation. These considerations strongly favor preliminary approval.

6. The presence of good faith, use of a neutral mediator, and absence of collusion support preliminary approval.

"One may take a settlement amount as good evidence of the maximum available if one can assume that parties of equal knowledge and negotiating skill agreed upon the figure through arms-length bargaining . . . ." *Ortiz v. Fibreboard Corp.*, 527 U.S. 815, 852 (1999); *see also* Fed. R. Civ. P. 23(e)(2) advisory committee's note to 2018 amendment ("[T]he involvement of a neutral or court-affiliated mediator or facilitator in negotiations may bear on whether they were conducted in a manner that would protect and further the class interests").

Class Counsel and MultiCare's attorneys are highly experienced lawyers who fought hard for their clients first through years of litigation and then during the lengthy negotiations overseen by Keith Kubik, an experienced and highly respected mediator. Under these circumstances, the Court can be unusually confident that the Settlement is the product of arm's-length negotiations between experienced counsel. *See Deien*, 26 Wn. App. 2d at 69 (noting that arm's-length negotiations conducted in good-faith by experienced attorneys familiar with legal and factual issues of the case support approval of settlements).

The terms of the Settlement Agreement themselves are evidence of arm's-length negotiations and lack of collusion, as illustrated by a legal framework first developed in the

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

Ninth Circuit. The Ninth Circuit has picked out three warning signs of collusion in class-action settlements. *In re Bluetooth Headset Prods. Liab. Litig*., 654 F.3d 935, 947 (9th Cir. 2011). The first is when "counsel receive[s] a disproportionate distribution of the settlement, or when the class receives no monetary distribution, but class counsel are amply rewarded." *Id.* (quotation and citation omitted); *see also Summers*, 29 Wn. App. 2d at 502 (collusion can be "signaled by . . . suspiciously generous attorney fees"). Here, Class Counsel are not seeking to receive a disproportionate distribution of the settlement—they are seeking no more than one-third of the Settlement Fund, a percentage that is considerably less than Class Counsel's lodestar fee, as they will later show when they file their motion for attorneys' fees.[9] Gould Decl. ¶ 18. Settlement Class Members will receive the lion's share of the Settlement Fund. *Id.* The second sign is a "clear sailing" provision in which a class-action defendant agrees not to object to class counsel's motion for attorneys' fees, or a provision under which class counsel will be paid separate and apart from settlement funds. *Bluetooth*, 654 F.3d at 947. No such provision is present here. Class Counsel will receive payment only from the Settlement Fund, and there is no "clear sailing" provision. *See id.*, Ex. 4, Settlement Agreement ¶ 65 ("Defendant reserves all rights in connection with Class Counsel's application for a Fee and Expense Award and Service Awards."). The third sign of collusion is "when the parties arrange for fees not awarded to revert to defendants rather than be added to the class fund." *Bluetooth*, 654 F.3d at 947. Here, though, the Settlement Agreement provides that "[t]his is a common-fund settlement. There will be no reversion of the Settlement Fund to Defendant" once the Settlement Agreement is approved and the judgment becomes final. Gould Decl., Ex. 4, Settlement Agreement ¶ 76.

Here, all signs point to good-faith, zealous, arms-length negotiations, overseen by a highly experienced neutral party. This fact also supports preliminary approval of the Settlement.

[9] A lodestar fee is calculated by multiplying the number of hours that attorneys have reasonably expended on litigation against those attorneys' reasonable hourly rates. *Scott Fetzer Co. v. Weeks*, 114 Wn.2d 109, 124, 786 P.2d 265 (1990). In "common fund" class actions like this one, though, a "percentage-of-the-fund" method of calculating fees is very often used. *See Bowles v. Wash. Dep't of Ret. Sys.*, 121 Wn.2d 52, 72–73, 847 P.2d 440 (1993).

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

IV. THE PROPOSED NOTICE PROGRAM SATISFIES WASHINGTON LAW AND DUE PROCESS

CR 23(e) requires that notice of a class-action settlement "be given to all members of the class in such manner as the court directs." CR 23(e). For class actions maintained under CR 23(b)(3), "the court shall direct to the members of the class the best notice practicable under the circumstances." CR 23(c)(2). The notice must tell class members how they may opt out of the settlement, and that if they do not, they will be bound by the settlement. *See id.* The notice must also explain how class members may voice their objections to the settlement, if any, and that if they do, they may appear through their own counsel. *See* CR 23(c)(2)(C); *Pickett*, 145 Wn. 2d at 188.

A. The proposed plan of notice

"[T]he best notice practicable under the circumstances," CR 23(c)(2), means "notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Summers*, 29 Wn. App. 2d at 491 (quotation and citation omitted). Put differently, parties must adopt means of distributing notice that "one might reasonably adopt when desirous of actually informing the absentee" class members. *Id*. (quotation and citation omitted). This standard is context-sensitive and asks what "means or combination of means" of notice is "most likely to be effective" in the particular case. *Id.* at 492 (quotation and citation omitted).

In this case, helpfully, nearly all Settlement Class Members have some preexisting knowledge of the Action. When the Settlement Classes were certified in 2020, notice of certification was sent to them by mail and published in local newspapers. *See* Stipulation and Order to Approve Class Notices at 2 (May 13, 2020).

This round of notice will involve three principal methods: individual mailed Postcard Notice, Email Notice to all Settlement Class Members whose email addresses are known, and a Long-Form Notice on the Settlement Website. Decl. of Julie N. Green, Settlement Administrator, Regarding the Notice Plan and Settlement Administration ("Green Decl.") ¶¶

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

11–12.[10]

Postcard Notice will be mailed to all Settlement Class Members with mailing addresses on file. MultiCare has made efforts to ensure that the address information it has for Settlement Class Members has been updated to reflect any changes since 2020, when the certification notice was sent. *See id.* ¶ 10. On top of that, the Settlement Administrator "will scrub the records to reduce anomalies and duplicates and update the mailing addresses using National Change of Address (NCOA)." *Id.* ¶ 11(a). Any Postcard Notices returned as undeliverable will be promptly re-mailed, if returned with a forwarding address, or skip traced to locate the current address and promptly re-mailed. *Id.*

The Settlement Administrator will also disseminate Email Notice. *Id.* ¶ 11(b). Although there is not an email address available for all Settlement Class Members, the many Settlement Class Members who do have a known email address will receive, in addition to Postcard Notice, an Email Notice that will inform them of the Settlement Agreement. *See id.*

As a centralized source for information on the Settlement Agreement, the Settlement Administrator will create a Settlement Website that will include the Long-Form Notice, providing Settlement Class Members with detailed information. *Id.* ¶ 12. Both the Postcard Notice and the Email Notice will include links to the Settlement Website. *Id.* The Settlement Administrator will also establish a toll-free 24-hour support line that Settlement Class Members may call to get answers to their questions and will create a dedicated email address through which Settlement Class Members can contact the Settlement Administrator with questions. *Id.* ¶¶ 14–15.

Together, these methods of notice are more than sufficient to provide the best notice practicable under the circumstances. *See Summers*, 29 Wn. App. 2d at 494 n.7 (noting the lack of authority requiring both email and first class mail to be sent, even where both email and physical addresses are known).

[10] The Green Declaration is incorporated in the Settlement Agreement and is attached thereto as Exhibit B. The Settlement Agreement and all of its exhibits, in turn, are attached as Exhibit 4 to the Gould Declaration.

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

B. The content of the notices

Here, as is normal in class-action settlements, the mailed notice is in the form of a postcard to minimize administrative costs. *See* 3 Rubenstein, *supra*, § 8:28 (noting that postcards reduce the cost of notice and that "numerous courts" have deemed postcard notices "more than sufficient" (quotation and footnote omitted)). The Postcard Notice provides the essential information that Settlement Class Members need: who is included in the Settlement Agreement, the amount of the Settlement Fund and how it will be divided, how to receive payment, the fact that Settlement Class Members must opt out if they do not want to be bound, their ability to voice objections, the deadlines for opting out and objecting, the basics on how to opt out or object, the amount of fees that Class Counsel may seek, and the date of the Final Approval Hearing. *See* Gould Decl., Ex. 4, Settlement Agreement at Ex. E. It directs Settlement Class Members to the Settlement Website if they want more details. *See id.* This content is more than enough to provide the required notice. *See* 3 Rubenstein, *supra*, § 8:28 & n.10.

The Long-Form Notice on the Settlement Website contains all the information in the mailed notice, and much more. Its ten pages, structured as questions and answers, provide detailed information about the settlement and detailed instructions for opting out or objecting. *See* Gould Decl., Ex. 4, Settlement Agreement at Ex. C.

The content of the Email Notice closely resembles the Postcard Notice, except that it contains several hyperlinks that will bring Settlement Class Members directly to the Settlement Website. *See id.*, Settlement Agreement at Ex. D. This is designed to allow Settlement Class Members to get the information they need, and receive payment, with minimal effort.

Finally, the language of the Notice is colloquial and easily understood, provides neutral and objective information about the settlement, and includes clear instructions for opting out or objecting to the Settlement Agreement. Both the form and substance of the Notice satisfies Washington law and due process.

As for the Settlement Website, it will contain not only the Long-Form Notice, but also

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

copies of the Settlement Agreement, the Preliminary Approval Order, a printable version of the Opt-Out form, a Frequently Asked Questions section, the Motion for a Fee and Expense Award and Service Awards once it is filed, the motion for final approval once it is filed, and any other relevant filings as needed. Green Decl. ¶ 12.

Finally, the Notice Plan also accounts for Settlement Class Members who are most comfortable, or conversant only, in Spanish. The Postcard Notice and Email Notice both contain Spanish directing Settlement Class Members to a Spanish version of the Settlement Website. *See* Gould Decl., Ex. 4, Settlement Agreement at Exs. D–E; Green Decl. ¶ 12.

The Court should approve the Notice Plan and the Notice because they satisfy the requirements of both CR 23 and due process. *See* CR 23(c)(2); *Summers*, 29 Wn. App. 2d at 491; *Nobl Park, L.L.C. of Vancouver v. Shell Oil Co.*, 122 Wn. App. 838, 845, 95 P.3d 1265 (2004).

C. Settlement administration

Plaintiffs ask that the Court appoint CPT Group, Inc., as the Settlement Administrator. CPT has served as a settlement administrator in thousands of cases and has the experience and expertise to efficiently and accurately act as the Settlement Administrator here. *See generally* Green Decl. ¶¶ 4–7 & Ex. A.

CPT has designed a process that will make it as easy as possible for Settlement Class Members to supply the minimal information necessary to receive payment. *See id.* ¶ 13. The Postcard Notice will include a QR code, and the Email Notice will include a link, that will take Settlement Class Members directly to the interface on the Settlement Website that will allow them to provide their W9 information in a simplified, low-effort format. *Id.* This interface will also allow them to select certain electronic payment methods such as PayPal or Venmo if they do not want to receive their payment as a check. *Id.*

V. PROPOSED SCHEDULE FOR THE NOTICE, ADMINISTRATION, AND FINAL APPROVAL PROCESS

The Settlement Agreement, through its proposed Preliminary Approval Order, sets the

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

following schedule for providing notice to the Settlement Classes, administering the Settlement Agreement, and seeking final approval of the Settlement Agreement. Gould Decl., Ex. 4, Settlement Agreement, Ex. A. This schedule is consistent with accepted practices in class actions, *id.* ¶ 17, and is designed to give Settlement Class Members sufficient time to weigh their options. In particular, it gives them enough time (1) to decide whether to opt out and (2) to review and (if they wish) object to or comment on the Settlement Agreement and Class Counsel's motion for a Fee Expense Award and Service Awards:

EVENT	TIMING
Defendant causes the Settlement Fund to be deposited into the Escrow Account; the Settlement Fund becomes subject to the continuing jurisdiction of this Court	14 business days after issuance of the Preliminary Approval Order
Postcard Notice and Email Notice is disseminated to Settlement Class Members, and the Settlement Website goes live	30 calendar days after issuance of the Preliminary Approval Order
Class Counsel files all papers in support of an application for a Fee and Expense Award and Service Awards	40 calendar days after issuance of the Preliminary Approval Order
Class Counsel files all papers in support of final approval of the Settlement Agreement	70 calendar days after issuance of the Preliminary Approval Order
Deadline for Settlement Class Members to exclude themselves from the Settlement Agreement	80 calendar days after issuance of the Preliminary Approval Order
Deadline for Settlement Class Members object to or comment on the Settlement Agreement or Class Counsel's application for a Fee and Expense Award and Service Awards	80 calendar days after issuance of the Preliminary Approval Order
Class Counsel files all reply papers in support of final approval of the Settlement Agreement	94 calendar days after issuance of the Preliminary Approval Order (i.e., 14 days after the Objection and Opt-Out Deadlines)

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

Class Counsel files all reply papers in support of final approval of the application for a Fee and Expense Award and Service Awards	94 calendar days after issuance of the Preliminary Approval Order (i.e., 14 days after the Objection and Opt-Out Deadlines)
Final Approval Hearing	110 calendar days after issuance of the Preliminary Approval Order, or other comparable date chosen by the Court

VI. CONCLUSION

Based on the foregoing, the Named Plaintiffs and Class Counsel believe that the Settlement Agreement is a highly favorable resolution and is fair, reasonable, and in the best interests of the Settlement Classes. They respectfully request that the Court enter the proposed Preliminary Approval Order, which is attached as Exhibit A to the Settlement Agreement.

DATED this 11th day of July, 2025.

KELLER ROHRBACK L.L.P.

By *s/ Cari Campen Laufenberg*

Cari Campen Laufenberg, WSBA # 34354
Benjamin Gould, WSBA # 44093
Chris Ryder, WSBA # 58732
1201 Third Ave., Suite 3400
Seattle, Washington 98101
Telephone: (206) 623-1900
Fax: (206) 623-3384
Email: claufenberg@kellerrohrback.com
bgould@kellerrohrback.com
cryder@kellerrohrback.com

Mark D. Samson (*pro hac vice*)
KELLER ROHRBACK L.L.P.
3101 N. Central Avenue, Ste. 1400
Phoenix, Arizona 85012
Telephone: (602) 248-0088
Fax: (602) 248-2822
Email: msamson@kellerrohrback.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 11, 2025, I caused a true and correct copy of the foregoing document to be served on the following attorneys of record via email:

Michele C. Atkins
Joseph V. Gardner
Michelle Messmer
Yazmin Haerling
Amanda Thorsvig
Fain Anderson VanDerhoeff Rosendahl O'Halloran Spillane, PLLC
3131 Elliott Avenue
Suite 300
Seattle, WA 98121
michele@favros.com
joe@favros.com
michellem@favros.com
yazmin@favros.com
amanda@favros.com

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

Dated July 11, 2025 at Seattle, WA.

/s *Sarah Skaggs*
Sarah Skaggs

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384