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8 **SUPERIOR COURT OF THE STATE OF WASHINGTON**
9 **FOR KING COUNTY**

10 PAUL HAMAKER, individually and as a
11 putative class representative, and
12 JOSEPHINE HAMAKER, individually and
13 as a putative class representative,

14 Plaintiffs,

15 vs.

16 HIGHLINE MEDICAL CENTER, a
17 Washington non-profit corporation,
18 REBECCA A. ROHLKE, individually, on
19 behalf of the marital community and as
20 agent of non-party Hunter Donaldson;
21 JOHN DOE ROHLKE, on behalf of the
22 marital community; RALPH
23 WADSWORTH, individually, on behalf of
24 the marital community, and as agent of non-
25 party Hunter Donaldson, JANE DOE
26 WADSWORTH, on behalf of the marital
community; TIM CARDA, individually, on
behalf of the marital community, and as
agent of non-party Hunter Donaldson, JANE
DOE CARDA, on behalf of the marital
community; GRACIELA PULIDO,
individually, on behalf of the marital
community and as agent of non-party
Hunter Donaldson, JOHN DOE PULIDO,
on behalf of the marital community,
KIMBERLY WADSWORTH, individually,
on behalf of the marital community and as
agent of non-party Hunter Donaldson, and
JOHN DOE WADSWORTH, on behalf of
the marital community,

Defendants.

16-2-02870-5 KNT

No. ~~16-2-00022-0~~

[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION IN PART AND
DENYING IN PART

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I. INTRODUCTION

THIS MATTER having come before the Court upon Plaintiffs' Motion for Class Certification, and the Court having considered the following:

1. Plaintiffs' Motion for Class Certification and its accompanying declarations;
2. Defendant Highline Medical Center's Opposition to Motion for Class Certification and accompanying declarations;
3. Plaintiffs' Reply in Support of Motion for Class Certification and accompanying declarations;
4. The oral argument of the parties; and
5. The existing record in the case.

For the reasons stated below, it is **ORDERED, ADJUDGED, and DECREED** that Plaintiffs' Motion for Class Certification is hereby **GRANTED IN PART and DENIED IN PART.**

II. BACKGROUND

Plaintiffs allege that Highline Medical Center ("the Hospital,") and Rebecca Rohlke, Ralph Wadsworth, Tim Carda, and Graciela Pulido (collectively, "the Hunter Donaldson Defendants") recorded medical services liens under chapter 60.44 RCW against them and members of the proposed classes for purposes of collecting from monetary recoveries arising from injuries caused by third party tortfeasors. Plaintiffs allege that each lien was defective, rendering them invalid and, as a result, Defendants unlawfully encumbered or collected monies received by Plaintiffs and members of the classes in connection with injuries caused by third party tortfeasors. Plaintiffs additionally allege that despite the invalidity or eventual expiration by operation of law of all such liens, Defendants failed to record lien releases for class members.

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III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The four prerequisites to class certification are numerosity, commonality, typicality, and adequacy of representation. CR 23(a). In addition, one of the three conditions of CR 23(b) must be met. Here, Plaintiffs seek certification of all claims under CR 23(b)(3), which requires a finding that questions of law or fact common to class members predominate over any questions affecting only the individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

Plaintiffs seek certification of a class consisting of (1) patients against whom liens notarized by Rebecca Rohlke were recorded, and (2) patients against whom lien notices signed by Ralph Wadsworth or other Hunter Donaldson employees were recorded. As discussed below, Plaintiffs satisfy all of the requirements of CR 23(a) and CR 23(b)(3) as to the first category of lien notices, i.e., those notarized by Rebecca Rohlke, but Plaintiffs do not satisfy the requirements of CR 23(a) and CR 23(b)(3) as to the second category, i.e., those signed by Ralph Wadsworth or other Hunter Donaldson employees. Therefore, the Court grants class certification of the following class:

(1) For purposes of their claims for monetary relief, a class under CR 23(b)(3) consisting of all individuals who (i) paid money to Hunter Donaldson or the Hospital or (ii) had a portion of their personal injury settlement funds held in trust by their attorneys to pay the Hospital's medical service lien claim, because of an allegedly defective medical services lien notice notarized by Rebecca Rohlke and recorded with the King County Auditor by Hunter Donaldson on behalf of the Hospital.

The Court denies certification of a class consisting of those patients against whom lien notices signed by Ralph Wadsworth or other Hunter Donaldson employees were recorded.

1 Plaintiffs also seek certification of their claims for declaratory and injunctive relief
2 under CR 23(b)(2), which requires a finding that Defendants have acted or refused to act on
3 grounds generally applicable to the class. The Court makes no such finding at this time and
4 denies Plaintiffs' request for relief under CR 23(b)(2) without prejudice.
5

6 **A. CR 23(a)**

7 1. Numerosity.

8 CR 23(a)(1) provides that one or more members of a class may sue as representative
9 parties on behalf of all members where the class is so numerous that joinder of all members is
10 impracticable. The parties do not dispute that the numerosity requirement of CR 23(a)(1) is
11 satisfied.

12 2. Commonality.

13 CR 23(a)(2) requires that there are questions of law or fact common to the class. A
14 single common question is sufficient to satisfy the commonality test of CR 23(a)(2). The Court
15 finds that liability is the common question for the patients who received lien notices notarized
16 by Rebecca Rohlke, specifically, that there is a common question because of the statutory
17 violation arising from the improper notarization. All of these patients could have been impacted
18 similarly by the improper notarization, so therefore the Court finds the commonality
19 requirement is met.
20

21 3. Typicality.

22 CR 23(a)(3) provides that the claims of the representative Plaintiffs must be typical of
23 those of the class they seek to represent. A representative's claim is "typical" if the claim of the
24 class and the class representative arise from the same event or pattern or practice and are based
25 upon the same legal theory. Because the representative Plaintiffs received lien notices signed
26

1 by Rebecca Rohlke, their claims are typical of the claims of other class members, satisfying the
2 requirements of CR 23(a)(3).

3
4 4. Adequacy of Representation.

5 CR 23(a)(4) provides that the named Plaintiffs must adequately represent the interests
6 of the class. Resolution of two questions determines the adequacy of the representatives and
7 their counsel: (1) do the named Plaintiffs and their counsel have any conflicts of interest with
8 other class members; and (2) will the named Plaintiffs and their counsel prosecute the action
9 vigorously on behalf of the class?

10 The Court finds that the representative parties—Class Counsel and Named Plaintiffs—
11 satisfy both prongs of the adequacy test because both Plaintiffs have exhibited a willingness
12 and capacity to prosecute this matter and no conflicts exist between them and the Class
13 Members.

14
15 **B. Predominance and Superiority Under CR 23(b)(3)**

16 CR 23(b)(3) provides that certification is appropriate where the Court determines that
17 questions of law or fact common to class members predominate over any questions affecting
18 only individual members and that a class action is superior to other available methods for fairly
19 and efficiently adjudicating the controversy. When common questions present a significant
20 aspect of the case and they can be resolved for all members of the class in a single adjudication,
21 there is justification for handling the dispute on a representative basis rather than on an
22 individual basis.

23
24 Plaintiffs' claims for monetary relief are suited to class treatment under CR 23(b)(3).
25 The Court finds that the common liability and damages questions predominate individual
26 questions and that a class action is superior to other available methods to adjudicating this
controversy.

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C. Class Notice

When an action, as here, is certified pursuant to CR 23(b)(3), class members are to be provided appropriate notice of the Court's order of certification. CR 23(c)(2). Members of the class shall be provided notice as ordered below.

IV. ORDER

For the reasons set forth above, **IT IS ORDERED:**

1. The following class is certified for purposes of litigation and trial:

For purposes of their claims for monetary relief, a class under CR 23(b)(3) consisting of all individuals who (i) paid money to Hunter Donaldson or the Hospital or (ii) had a portion of their personal injury settlement funds held in trust by their attorneys to pay the Hospital's medical service lien claim, because of an allegedly defective medical services lien notice notarized by Rebecca Rohlke and recorded with the King County Auditor.

2. Excluded from the class are Defendants, any entity in which Defendants have a controlling interest or which have a controlling interest of Defendants, and Defendants' legal representatives, assignees, and successors. Also excluded are the Court to whom this case is assigned and any member of the Court's immediate family.

3. The Court denies certification of a class under CR 23(b)(3) consisting of those patients against whom lien notices signed by Ralph Wadsworth or other Hunter Donaldson employees were recorded.

4. **THE COURT MADE NO FINDINGS UNDER CR 23(b)(2) THEREFORE**
Plaintiffs' request for declaratory and injunctive relief under CR 23(b)(2) is denied without prejudice.

5. Plaintiff Paul Hamaker is hereby appointed as Representatives for the Class.

6. Darrell L. Cochran and Christopher E. Love of Pfau Cochran Vertetis Amala PLLC are hereby appointed as Class Counsel for the Class.

1 7. Within thirty (30) days of the date of this Order, Class Counsel will serve and file a
2 proposed "Class Notice" and notice plan for the Court's review and approval. This Notice will
3 comply with CR 23(b)(3), and the parties are encouraged to seek agreement on the form and
4 content of the Notice. Class Counsel will have five (5) days from service and filing of any
5 objections to serve and file any reply to the same.
6

7 8. No later than 10 days after entry of this order, Class Counsel shall provide counsel for
8 the Hospital with a list of individuals who—based on the records of the King County Auditor—
9 may be class members. The Hospital shall make a good faith and reasonable effort to provide
10 Class Counsel with mailing addresses for those individuals based solely on its current business
11 records. That information is to be provided to Class Counsel within 30 days after receipt of the
12 list of individuals provided by Class Counsel. Address information shall be kept confidential
13 in conformity with the Protective Order entered in this matter.

14 9. Class Counsel shall cause a copy of the notice to be transmitted by first class mail to all
15 class members no later than ten (10) days after the Court's approval of the Class Notice and
16 notice plan described in paragraph 7 of this order.
17

18 10. Class members shall have forty-five (45) days from the mailing of the Class Notice
19 within which to return their exclusion requests advising Class Counsel of their desire to opt-out
20 of the case.
21

22 11. Any class member who does not request exclusion may enter a separate appearance
23 through counsel.

24 12. In the event any notice is returned undeliverable, counsel shall use reasonable efforts to
25 obtain corrected addresses. When corrected addresses are obtained, Class Counsel shall cause
26 the approved Notice to be mailed promptly to the affected individuals, with the exception that

1 the deadline for returning the exclusion forms shall be forty-five (45) days after the date of the
2 second mailing.

3 DATED this ___ day of _____, 2021.

4
5
6 Judge Cindi Port

7 Approved as to Form Only:

8 PFAU COCHRAN VERTETIS AMALA, PLLC
9

10 By _____
11 Darrell L. Cochran, WSBA No. 22851
12 Christopher E. Love, WSBA No. 42832
13 Attorneys for Plaintiffs

14 Approved as to Form Only:

15 FAIN ANDERSON VANDERHOEF
16 ROSENDAHL O'HALLORAN SPILLANE, PLLC

17 By _____
18 Jake Winfrey, WSBA #29747
19 Caitlyn Spencer, WSBA #51437
20 Attorneys for Defendant Highline Medical Center

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King County Superior Court
Judicial Electronic Signature Page

Case Number: 16-2-02870-5
Case Title: HAMAKER ET ANO VS HIGHLINE MEDICAL CENTER ET AL
Document Title: ORDER RE GRANTING CLASS CERTIFICATION
Signed By: Cindi Port
Date: November 10, 2021



Judge: Cindi Port

This document is signed in accordance with the provisions in GR 30.

Certificate Hash: 35E902175D6BCFBE416A7DC3ECA4B64834A5D5AC
Certificate effective date: 4/30/2020 10:19:11 AM
Certificate expiry date: 4/30/2025 10:19:11 AM
Certificate Issued by: C=US, E=kcscefiling@kingcounty.gov, OU=KCDJA,
O=KCDJA, CN="Cindi Port: GE3inpRJ6RGCb9i4jC11QQ=="