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

PAUL HAMAKER, individually and as a
putative class representative, and
JOSEPHINE HAMAKER, individually and
as a putative class representative;

Plaintiffs,

vs.

HIGHLINE MEDICAL CENTER, a
Washington non-profit corporation,
REBECCA A. ROHLKE, individually, on
behalf of the marital community and as
agent of non-party Hunter Donaldson;
JOHN DOE ROHLKE, on behalf of the
marital community; RALPH
WADSWORTH, individually, on behalf of
the marital community, and as agent of non-
party Hunter Donaldson, JANE DOE
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.

No. 16-2-02870-5 KNT

**STIPULATED MOTION AND
ORDER FOR APPROVAL OF PLAN
OF NOTICE AND NOTICE TO
CLASS MEMBERS**

STIPULATED MOTION FOR APPROVAL OF PLAN
OF NOTICE AND NOTICE TO CLASS MEMBERS

**PFAU COCHRAN
VERTETIS AMALA**
ATTORNEYS AT LAW

909 A Street, Suite 700
Tacoma, WA 98402
(253) 777-0799 | Fax: (253) 627-0654

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I. RELIEF REQUESTED

Pursuant to the Court’s previous order certifying, Plaintiffs respectfully ask the Court to enter an order approving the below stipulated plan for providing notice (“Notice Plan”) to the certified CR 23(b)(3) class as well as the proposed form of notice (“Class Notice”) attached as **Exhibit 1** to the accompanying Declaration of Darrell L. Cochran (“Cochran Decl.”).

II. FACTS

This class action lawsuit arises from Plaintiffs’ allegations that Defendant Highline Medical Center and corporate officers and employees of its vendor, Hunter Donaldson—Defendants 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 classes for purposes of encumbering and collecting from monetary recoveries arising from injuries caused by third party tortfeasors. Plaintiffs allege that each lien contained one or more defects, 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. The Court previously entered an order certifying a class under CR 23(b)(3) 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 by Hunter Donaldson on behalf of the Hospital.

Pursuant to the Court’s class certification order, Plaintiffs now submit their proposed Notice Plan for the Court’s approval. Under the proposed Notice Plan, CPT Group, Inc. (“CPT”), a well-qualified notice administrator for class action lawsuits, will administer the notice process for purposes of providing notice to the class members, assisting class members

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2 inquiries prompted in response to the notice, and processing any requests for exclusion from
3 the classes (“opt-out requests”) or other correspondence submitted by class members.¹ Class
4 Counsel will provide all Defendants who have appeared in this action with copies of all opt-out
5 requests and provide the Court with a list of opt-outs.²

6 Once the Court enters an order approving the Notice Plan and Class Notice, CPT will
7 transmit the Class Notice to class members via first-class mail using addresses provided by
8 Highline from its business records.³ The Class Notice summarizes the nature of the claims at
9 issue in this case, the relief sought by Plaintiffs, the case’s status, class members’ rights to
10 participate or exclude themselves from the classes as well as the procedures for doing so, the
11 risks of participating in or excluding oneself from the class, and CPT and Class Counsel’s
12 contact information for any questions or assistance needed.⁴ CPT also will make publicly
13 available a website replicating the Class Notice’s content and making available for download
14 Plaintiffs’ Complaint, the Court’s class certification order, the official Class Notice, and this
15 Notice Plan.⁵ The Class Notice transmitted to class members will provide class members with
16 a link to the website directing them to access the website for replacement copies of the Class
17 Notice, CPT and Class Counsel’s information, important pleadings and other case documents,
18 and other information.⁶

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III. EVIDENCE RELIED ON

27 This motion relies upon the Declaration of Darrell L. Cochran in Support of Stipulated
28 Motion for Approval of Plan of Notice and Notice to Class Members, as well as all pleadings,
29 documents, and exhibits already on file.

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¹ Cochran Decl. ¶2; Ex. 2.
² *Id.*
³ *Id.* ¶3.
⁴ *Id.* Exhibit (“Ex.”) 1.
⁵ *Id.* ¶4.
⁶ *Id.* Ex. 1.

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IV. ARGUMENT

A. The Proposed Notice Program is Sound

In order to protect the rights of absent class members, when the Court certifies a class under CR 23(b)(3), the Court must provide the best notice practicable under the circumstances to class members of a potential class action settlement. *See* CR 23(c)(2); *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 811-12, 105 S. Ct. 2965, 86 L. Ed. 2d 628 (1985); *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 174-175, 94 S. Ct. 2140, 40 L. Ed. 2d 732 (1974); *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314, 70 S. Ct. 652, 94 L. Ed. 2d 865 (1950). The best practicable notice is that which is “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.” *Mullane*, 339 U.S. at 314. Where possible, mailed notice to individual class members satisfies these requirements. *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 356 n.22 (1978).

CR 23(c)(2) further prescribes the features that the certification notice should contain. According to the rule, the notice should advise each class member that:

(A) the court will exclude the member from the class if the member so requests by a specified date; (B) the judgment, whether favorable or not, will include all members who do not request exclusion; and (C) any member who does not request exclusion may, if the member desires, enter an appearance through counsel.

The Manual for Complex Litigation further recommends features that the settlement notice should contain. According to the *Manual for Complex Litigation* § 21.311, the notice should:

- describe succinctly the positions of the parties;
- identify the opposing parties, class representatives, and counsel;
- describe the relief sought; and

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- 2 • explain any risks and benefits of retaining class membership and opting out, while
 - 3 emphasizing that the court has not ruled on the merits of any claims or defenses

4 Here, the notice program and proposed forms of notice satisfy these criteria. Class
5 members can be specifically identified through the Hospital’s own records, as those records
6 contains the addresses of former patients. Plaintiffs have retained CPT Group to sending the
7 Class Notice directly via First Class mail to the class member addresses listed within the
8 Hospital’s records. If any notices are returned as undeliverable, CPT will make reasonable
9 attempts to determine a current mailing address and will promptly remail the notice to any
10 addresses disclosed through such efforts. This approach will ensure that direct notice reaches
11 as many class members as possible. The mailed notice contains all of the elements required by
12 CR 23(c)(2) and the *Manual for Complex Litigation*. Class members with questions may call
13 CPT or Class Counsel which will establish a response system that will provide answers to
14 frequently asked questions. Toll free numbers will be available for class members to use.

15 In addition to the notice that is mailed directly to class members, CPT will establish a
16 website providing the content of the Class Notice, the ability to download copies of the mailed
17 notice and other relevant documents, and telephone numbers for Class Counsel. This notice
18 program is the best practicable notice under the circumstances of this case, and, indeed, will be
19 highly effective. *See Manual for Complex Litigation* § 21.311 (stating that notice via dedicated
20 Internet sites “is a useful supplement to individual notice” and is included by many courts as a
21 component of acceptable certification notice plans).

22 **V. CONCLUSION**

23 For the foregoing reasons, the parties respectfully request this Court enter an order
24 approving the proposed Notice Plan and Notice.

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RESPECTFULLY SUBMITTED this 10th day of January, 2022.

PFAU COCHRAN VERTETIS AMALA, PLLC

By /s/ Darrell L. Cochran
Darrell L. Cochran, WSBA No. 22851
Christopher E. Love, WSBA No. 42832
Attorneys for Plaintiffs

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STIPULATION

Plaintiffs and Defendants have conferred about the case schedule and hereby stipulate, by and through their undersigned attorneys, to requesting approval of the class notice and notice plan submitted to the Court with this motion.

SIGNED this 10th day of January, 2022.

PFAU COCHRAN VERTETIS AMALA PLLC

By: /s/ Darrell L. Cochran
Darrell L. Cochran, WSBA No. 22851
Christopher E. Love, WSBA No. 42832
Attorneys for Plaintiffs

FAIN ANDERSON VANDERHOEF O'HALLORAN
SPILLANE PLLC

By: /s/ Jake Winfrey
Todd Reichert, WSBA No. 35557
Jake Winfrey, WSBA No. 29747

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ORDER

THIS MATTER, having come on Plaintiffs' Stipulated Motion for Approval of Plan of Notice and Notice to Class Members and the Court being fully appraised after reviewing the record and finding the motion to be in order; **NOW THEREFORE**,

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Plaintiffs' Stipulated Motion for Approval of Plan of Notice and Notice to Class Members is **GRANTED**. It is further **ORDERED, ADJUDGED, and DECREED** that CPT Group is appointed as notice administrator for the class certified in this case and notice shall be administered and issued pursuant to the plan described in Plaintiffs' motion and the terms of the Court's class certification order.

Dated this 24th day of January, 2022

electronic signature attached
THE HONORABLE J. MICHAEL DIAZ

1 **CERTIFICATE OF SERVICE**

2 I, **Sarah Awes**, hereby declare under penalty of perjury under the laws of the State of
3 Washington that I am employed at Pfau Cochran Vertetis Amala PLLC and that on today's
4 date, I placed for service the foregoing via **ECF / Email** by directing delivery to the following
5 individuals:

6 Jake Winfrey
7 Todd Reichert
8 FAVROS Law
9 701 5th Ave. Suite 4750
Seattle, WA 98104

10 DATED this 10th day of January 2022.

11
12 /s/ Sarah Awes
13 Sarah Awes
14 Legal Assistant

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

Signed By: J. Michael Diaz
Date: January 24, 2022



Judge: J. Michael Diaz

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

Certificate Hash: 01A96EA2E6076989F13DD183118BA2B21550CDDD
Certificate effective date: 2/6/2018 3:30:01 PM
Certificate expiry date: 2/6/2023 3:30:01 PM
Certificate Issued by: C=US, E=kcscefiling@kingcounty.gov, OU=KCDJA,
O=KCDJA, CN="J. Michael Diaz:
+jfnaIr95BGAYVpmHl1GsA=="