

CLASS ACTION SETTLEMENT AGREEMENT
NATHAN HOFSTADER ET AL V. PROVIDENCE HEALTH SERVICES
ET AL

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SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This Class Action Settlement Agreement and Release (the “Agreement” or “Settlement”) is made by and between Plaintiffs Nathan Hofstader (“Hofstader”) and Richard Cerenzia (“Cerenzia”) (or jointly as “Plaintiffs”), individually and on behalf of the class they seek to represent, on the one hand, and Defendants Providence Health and Services Washington (“PHS-WA”) (named as Providence Holy Family Hospital and, Sacred Heart Medical Center,¹ (“Sacred Heart”)), and Providence Health and Services (“PHS”) (or jointly as “Defendants”), on the other.

RECITALS

This Agreement is made with reference to and in contemplation of the following facts and circumstances:

1. On February 20, 2018, Plaintiff Hofstader filed a Class Action Complaint in the United States District Court for the Eastern District of Washington, under the caption *Hofstader v. Emergency Physician Services, P.S., et al.*, No. 2:18-cv-00062 SMJ (the “Action”). Plaintiff alleged Defendants failed to give him adequate notice of the availability of charity

¹ Holy Family Hospital and Sacred Heart Medical Center are not distinct legal entities but rather are among the hospitals operated by PHS-WA.

care during the emergency department intake process, in violation of the Washington Consumer Protection Act (“CPA”), RCW 19.86 *et seq.* On June 17, 2018, Plaintiff filed the First Amended Class Action Complaint, naming Cerenzia as a plaintiff and asserting the same claims on both their behalves and that of a putative nationwide class of emergency department patients. Dkt. 20. On January 7, 2019, Plaintiffs stipulated to dismissal of Defendant Emergency Physician Services, P.S. Dkt. 37.

2. Defendants vigorously deny all claims asserted in the Action and deny all allegations of wrongdoing and liability. Defendants also deny that the Action is suitable for class treatment. Nevertheless, without admitting or conceding liability, and while continuing to deny that the claims asserted in the Action would be appropriate for class treatment if prosecuted at trial, Defendants now desire to settle the Action on the terms and conditions set forth in this Agreement, solely for the purpose of avoiding the burden, expense, risk, and uncertainty of continuing litigation, and of putting to rest all claims that were, or could have been, brought in the Action or in similar litigation based on the facts alleged in the Action.

3. Plaintiffs and Class Counsel have investigated the facts and law underlying the claims asserted in the Action. Plaintiffs and Class Counsel requested information pertaining to the claims asserted in the Action through

written discovery requests, and Defendants produced documents and information, in response thereto, relating to Plaintiffs' claims. Class Counsel are also very experienced in complex litigation including consumer class action matters. Accordingly, Plaintiffs and Class Counsel are fully aware of the facts and issues necessary to evaluate the claims and legal theories asserted by Plaintiffs and to negotiate a class-wide settlement of the Action that is beneficial to the Class. Taking into account the benefits achieved and the risks of continued litigation, as well as the delays and uncertainties inherent in such litigation and any subsequent appeal, Plaintiffs and Class Counsel believe that it is desirable that the Action be fully and finally compromised and settled in exchange for Defendants' agreement to provide the settlement relief to the Settlement Class Members (as defined below) pursuant to the terms and conditions set forth in this Agreement.

4. This Agreement is non-collusive, and resulted from and is the product of extensive, good faith arm's-length negotiations. The Parties (as defined below) participated in two settlement conferences before the Honorable Magistrate John T. Rodgers, and negotiated preliminary settlement terms, culminating in this Agreement. Since that time the parties have engaged in further meetings and discussions in order to complete that process.

5. As a result of these efforts, the Parties believe that it is desirable, fair, and beneficial to the putative class that the Action now be fully and finally compromised, settled, and terminated in the manner and upon the terms and conditions set forth in this Agreement. Accordingly, the Parties have agreed to enter into this Settlement, subject to preliminary approval and final approval by the Court as required by Rule 23 of the Federal Rules of Civil Procedure, to fully, finally and forever resolve, discharge and release all rights and claims of Plaintiffs and the Settlement Class Members as to the claims set forth in the Action in exchange for Defendants' agreement to provide the settlement relief to the Settlement Class Members as described in this Agreement.

6. The Parties understand, acknowledge and agree that the execution of this Agreement constitutes the settlement and compromise of disputed claims. This Agreement, and all related documents, shall not be construed as any admission or concession by Defendants of any fault, liability, wrongdoing, or damage whatsoever. Preliminary certification of the Settlement Class shall not be deemed a concession that certification of a litigation class is appropriate, nor would Defendants be precluded from challenging class certification in further proceedings in the Action or in any other action if the Settlement Agreement is not finalized or finally approved.

This Agreement is inadmissible as evidence against any Party except to enforce the terms of the Agreement and is not an admission of wrongdoing or liability on the part of any Party to this Agreement. It is the Parties' desire and intention to effect a full, complete and final settlement and resolution of all existing disputes and claims as set forth in the Action.

NOW, THEREFORE, in consideration of the promises, covenants, representations, and warranties contained herein, and for good and valuable consideration given hereunder, the sufficiency of which is hereby acknowledged by the signatories to this Agreement, and subject to the approval by the Court, the Parties hereby agree as follows:

SECTION 1 DEFINITIONS

1. **"Class Counsel"** means:

KAZEROUNI LAW GROUP
Abbas Kazerounian, Esq.
ak@kazlg.com
Ryan L. McBride, Esq.
ryan@kazlg.com
245 Fischer Ave., Suite D1
Costa Mesa, CA 92626
Tel: 800.400.6808
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MAYO LAW GROUP
Boyd McFadden Mayo, Esq.
mack@bmayolaw.com
922 S. Cowley Street, Suite 6
Spokane, WA 99202
Tel: (509) 381-5091
Fax: (509) 241-0834

2. **“Class Period”** means the period running from February 20, 2014, until the date the Motion for Preliminary Approval is filed with the Court.

3. **“Class Member”** means any person who falls within the “Settlement Class,” as defined in Section 2.

4. **“Effective Date”** means the later of the following:

a. The date on which the time for filing an appeal to the Final Approval Order is expired, if no appeal is filed; or

b. In the event that a motion for reconsideration, an appeal, or other effort to obtain review of the Final Approval Order is filed, the Effective Date is the date on which such reconsideration, appeal, or review has been finally concluded and is no longer subject to review, whether by appeal, petitions for rehearing, petitions for rehearing en banc, or petitions for writ of certiorari or otherwise (excluding any time period provided under Federal Rule of Civil Procedure 60). Class Counsel must give Defendants’ Counsel a draft of any papers opposing any effort to obtain review of the Final Approval Order, at least five (5) business days before the filing deadline. Defendants shall be permitted, but not

required, to file its own brief or statement regarding such appeal or motion.

5. **“Final Approval”** means that all of the following have occurred:

a. The Court has entered the Settlement Order and Final Judgment;

b. The Court has made its final award of attorneys’ fees and costs; and

c. Thirty-one (31) days have passed after entry of the Settlement Order and Final Judgment without any appeals being taken, or, if appeals or requests for review have been taken, the time has passed for seeking further review after orders affirming the Settlement Order and Judgment or review has been denied after exhaustion of all appellate remedies.

6. **“Final Approval Order”** means the Settlement Order and Final Judgment the Court enters upon Final Approval. In the event that the Court issues separate orders addressing the matters constituting Final Approval, then Final Approval Order includes all such orders.

7. **“Financial Assistance”** as used in this Settlement Agreement means Charity Care under the Washington Charity Care Act, RCW 70.170 *et seq.*

8. **“Notice”** means the notice of proposed class action settlement that the Parties will ask the Court to approve in connection with the motion for preliminary approval of the Settlement. **“Notice Program”** means the methods provided for in this Agreement for giving the Notice and consists of (1) banner advertisement on multiple websites; and (2) Long-Form Notice posted on the Settlement Website. The form of the Long-Form Notice, shall be substantially in the form attached hereto as Exhibit A, and approved by the Court. The form of the banner advertisement shall be substantially in the form attached hereto as Exhibit D, and approved by the Court. Additional description of the contemplated Notice Program is in Section 6, below.

9. **“Notice Deadline”** means 40 days after the Order Granting Preliminary Approval.

10. **“Objection Deadline”** means 90 days after the Notice Deadline. The Objection Deadline will be specified in the Notice.

11. **“Opt-Out Deadline”** means 90 days after the Notice Deadline. The Opt-Out Deadline will be specified in the Notice.

12. **“Parties”** means Plaintiffs (defined below), on behalf of themselves and the Settlement Class, and Defendants.

13. **“Plaintiffs” or “Named Plaintiffs”** means Nathan Hofstader and Richard Cerenzia, on behalf of themselves and the Settlement Class.

14. **“Preliminary Approval”** means the date that the Court enters, without material change, an order preliminarily approving the Settlement in the form substantially the same as in the attached Exhibit B.

15. **“Released Claims”** means all claims to be released as specified in Section 10 below. The “Releases” means all of the releases contained in Section 10 below.

16. **“Released Parties”** means PHS-WA and PHS and their affiliates, parent(s), direct and indirect subsidiaries, and any company or companies under common control with any of them, and each of their respective predecessors, successors, past and present officers, directors, employees, agents, servants, managers, accountants, attorneys, advisors, shareholders, insurers, representatives, partners, vendors (to the degree they were an acting agent of PHS-WA and PHS related to this action), issuers, and assigns, or anyone acting on their behalf. For the sake of clarity, the hospitals affiliated with Defendants include Providence Centralia Hospital, Providence Holy Family Hospital, Providence Mount Carmel Hospital,

Providence Regional Medical Center Everett, Providence Sacred Heart Medical Center & Children's Hospital, Providence St. Joseph's Hospital, Providence St. Mary Medical Center, Providence St. Peter Hospital Providence Holy Family Hospital, Sacred Heart Medical Center, and Kadlec Medical Center.

17. **“Releasing Parties”** means Plaintiffs and all Settlement Class Members who do not timely and properly opt out of the Settlement, and each of their respective heirs, assigns, beneficiaries, successors, agents, administrators, servants, employees, representatives, executors, trustees, joint venturers, partners, predecessors, and attorneys.

18. **“Settlement”** means the settlement into which the Parties have entered to resolve the Action. The terms of the Settlement are set forth in this Agreement.

19. **“Settlement Administrator”** means ILYM Group, Inc. The Settlement Administrator shall be responsible for providing the Class Notice as well as services related to administration of the settlement. Class Counsel and Defendants may, by agreement, substitute a different organization as Settlement Administrator, subject to approval by the Court if the Court has previously approved the Settlement preliminarily or finally. In the absence of agreement, either Class Counsel or Defendants may move the Court to

substitute a different organization as Settlement Administrator, upon a showing that the responsibilities of Settlement Administrator have not been adequately executed by the incumbent.

20. **“Settlement Class”** means the class defined in Section 2 below.

21. **“Settlement Class Member”** means any person included in the Settlement Class who does not exclude himself or herself from the Settlement.

22. **“Settlement Website”** means the website that the Settlement Administrator will establish as soon as practicable following Preliminary Approval, but prior to the commencement of the Notice Program, as a means for Settlement Class Members to obtain notice of and information about the Settlement, through and including hyperlinked access to this Agreement, the Long-Form Notice, the order preliminarily approving this Settlement, the Claim Form, and such other documents as Claims Counsel and Defendants agree to post or that the Court orders posted on the website. These documents shall remain on the Settlement Website at least until Final Approval. The URL of the Settlement Website shall be www.providencehealthSettlement.com or such other URL as Class Counsel and Defendants may subsequently agree upon in writing. The Settlement

Website shall not include any advertising, and shall not bear or include the Defendants' logo or Defendants' trademarks. Ownership of the Settlement Website URL shall be transferred to Plaintiffs' counsel within 10 days of the date on which operation of the Settlement Website ceases.

SECTION 2 CERTIFICATION OF THE SETTLEMENT CLASS

23. **Settlement Class.** For settlement purposes only, Plaintiffs agree to ask the Court to certify the following "Settlement Class" under Rule 23(b)(2) of the Federal Rules of Civil Procedure:

All individuals (or their guardians or representatives) who from February 20, 2014, until the date the Motion for Preliminary Approval is filed with the Court, who received emergency care medical treatment from a PHS-WA affiliated hospital, or a PHS affiliated hospital in Washington State.

24. **Settlement Class Counsel.** The Parties agreed that Plaintiffs shall be the Class Representatives and shall represent the Settlement Class for settlement purposes, and that the law firms of Kazerouni Law Group, and Mayo Law Group shall be appointed as Class Counsel for the Settlement Class. Plaintiffs, through Class Counsel, shall apply to the Court for Preliminary Approval of this Agreement, as provided in Section 4 of this Agreement.

25. **Limited Effect of Settlement Class.** Defendants do not consent to certification of the Settlement Class for any purpose other than to effectuate settlement of the Action. If the court does not grant Final Approval of the Settlement, or if for any other reason the Effective Date does not occur, any certification of any Settlement Class will be vacated and the Parties will be returned to their positions with respect to the Action as if the Agreement had not been entered into. In the event that Final Approval is not achieved: any Court orders preliminarily or finally approving the certification of any class contemplated by this Agreement shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity, including in any manner whatsoever, including without limitation any contested proceeding relating to the certification of any class. In the event the terms and conditions of this Agreement are substantially modified by the Court, Plaintiffs and Defendants reserve the right to declare this Agreement null and void, in their sole discretion, within fifteen (15) days after such modification.

SECTION 3 SETTLEMENT CONSIDERATION

26. **Emergency Department Financial Assistance Policies and Procedures.** Defendants PHS, for its Washington affiliated hospitals, and

PHS-WA, agree to make the following policy changes in regards to charity care and financial aid:

A. The Registrar in the emergency department will, at the time of registration or as soon as possible following the initiation of services to the patient, determine whether the patient is insured or uninsured. If the patient is uninsured (or if the patient is unable to confirm whether he/she has coverage), after the patient's medical screening exam, the Registrar (or a Financial Counselor) will screen the patient for eligibility for Medicaid or financial assistance as described below.² Defendants may refer the patient to a Financial Counselor in any practicable manner, such as by providing the patient with a phone number or other contact information. In all instances, Defendants' obligations under the Emergency Medical Treatment & Labor Act ("EMTALA") remain in full force and effect,

² For the sake of clarity, the Registrar or other of Defendants' personnel may perform the duties of a Financial Counselor (and vice versa), and Defendants shall be deemed to be in compliance with this agreement so long as the duties described in this paragraph 26 are performed.

and EMTALA supersedes and trumps any conflicting provision in this Agreement.

B. The Registrar will ask the uninsured patient if he/she would like to be screened for Washington Medicaid or Financial Assistance eligibility.

- i. If the patient declines to be screened for Financial Assistance, the patient will be asked to pay any applicable deposit. If the patient indicates it is a hardship to pay, the patient may be referred to a Financial Counselor. Defendants may refer the patient to a Financial Counselor in any practicable manner, such as by providing the patient with a phone number or other contact information.
- ii. If the patient agrees to be screened for Washington Medicaid or Financial Assistance eligibility, the Registrar will either perform the screening/eligibility process or refer the patient to the Financial Counseling team to begin the screening/eligibility process. In all instances, however, Defendants will comply first with

EMTALA. A note will be left in the patient's account indicating the patient is being screened for Washington Medicaid and/or Financial Assistance, and the patient cannot be asked to pay any deposit, co-pay, deductible, or other fee pending a determination regarding eligibility. The patient will not be asked to pay any deposit, co-pay, deductible, or other fee pending a determination regarding eligibility.

- C. If the uninsured patient wants to be screened for Financial Assistance, that will be noted in the patient's account, and the patient will be informed that a Financial Counselor will follow up with him/her to assist the patient in completing the financial assistance/charity care application process. The patient will also be given contact information for the Financial Counseling team.
- D. The self-pay screening workflow and scripting are documented, so Registrar employees understand the steps to follow.

27. Permissible Changes in Emergency Department Financial Assistance Policies and Procedures. After the Effective Date of this Agreement, Defendants PHS, for its Washington affiliated hospitals, and PHS-WA, may update or revise Emergency Department Financial Assistance Policies and Procedures with regard to Charity Care under the Washington Charity Care Act if any of the conditions below occur. Such updates or revisions shall not be an event of termination or a violation of this Agreement.

- a. If federal or state law mandates changes to how patients are assessed for financial assistance in emergency departments in any manner that differs from the terms of this Agreement (including the Policies and Procedures in Paragraph 26, above), Defendants may update or revise their charity care and financial assistance policies or procedures.
- b. If electronic or other records-keeping systems change requiring a change in the charity care and financial assistance workflow and/or documentation and/or communication policies or procedures in any manner that differs from the terms of this Agreement (including the Policies and Procedures in Paragraph 26, above), Defendants may update or revise their charity care

and financial aid assistance policies or procedures so long as consumers continue to be notified of their rights under the Washington Charity Care Act.

- c. For any other reason, upon notice of any update or revision to Class Counsel at least 60 days prior to implementation of the proposed update or revision.

SECTION 4 SETTLEMENT APPROVAL

28. **Preliminary Approval.** Within thirty (30) days of the execution of this Agreement by all Parties, Class Counsel shall promptly move the Court for an Order granting preliminary approval of this Settlement (“Preliminary Approval Order”). Class Counsel may represent to the Court that the preliminary motion is unopposed by Defendants. The proposed Preliminary Approval Order that will be attached to the motion shall be in a form agreed upon by Class Counsel and Defendants, and substantially in the form as is attached hereto as Exhibit C. The motion for preliminary approval shall request that the Court: (1) approve the terms of the Settlement as fair, adequate, and reasonable; (2) provisionally certify the Settlement Class pursuant to Federal Rule of Civil Procedure 23(b)(2) and (e) for settlement purposes only; (3) approve the Notice Program set forth

herein and approve the form and content of the Notices of the Settlement; (4) approve the procedures set forth in Section 7 below for Class Members to exclude themselves from the Settlement Class or to object to the Settlement; (5) stay the Action pending Final Approval of the Settlement; and (6) schedule a Final Approval hearing for a time and date mutually convenient for the Court, Class Counsel, and Defendants, and no earlier than 90 days after the Class Action Fairness Act, 28 U.S.C. § 1715(b) (“CAFA”) notices are given, at which the Court will conduct an inquiry into the fairness of the Settlement, determine whether it was made in good faith, and determine whether to approve Class Counsel’s application for attorneys’ fees, costs, and expenses and for a Service Award to Plaintiffs (“Final Approval Hearing”).

29. **CAFA Notice.** Within ten (10) days after the filing of the Motion for Preliminary Approval, Defendants shall notify the appropriate state and federal officials of the proposed settlement in accordance with 28 U.S.C. § 1715. In connection with final approval proceedings, Defendants shall file a declaration establishing that CAFA notice was timely provided.

SECTION 5
SETTLEMENT ADMINISTRATOR

30. **Settlement Administrator Authority.** The Settlement Administrator shall administer various aspects of the Settlement as described in the next paragraph hereafter and perform such other functions as are specified for the Settlement Administrator elsewhere in this Agreement, including, but not limited to, providing Notice to Settlement Class Members as described in Section 6.

31. **Settlement Administrator Duties.** The duties of the Settlement Administrator, in addition to other responsibilities that are described in this Agreement, are as follows:

- a. Provide Notice of the Settlement Agreement to Class Members, as discussed under Section 6, below;
- b. Establish and maintain a website for requests for exclusion from the Settlement Class;
- c. Process all requests for exclusion from the Settlement Class;
- d. Provide weekly reports and, no later than five days after the Opt-Out Deadline, a final report to Class Counsel and Defendants that summarize(s) the number of requests for exclusion received that week, the total number of exclusion requests received to date, and other pertinent information;

- e. At Class Counsel's request, in advance of the Final Approval Hearing, prepare an affidavit to submit to the Court that identifies each Settlement Class Member who timely and properly requested exclusion from the Settlement Class;
- f. Review, determine the validity of, and respond to all claims of exclusion; and
- g. Perform any Settlement-administration-related function at the instruction of Class Counsel and Defendants.

SECTION 6 NOTICE TO CLASS MEMBERS

32. **Class Notice.** Within 30 days after Preliminary Approval is granted, at the direction of Class Counsel, the Settlement Administrator shall implement the Notice Program provided herein, using the forms of Notice approved by the Court in the Preliminary Approval Order. The Notice shall include, among other information: a description of the material terms of the Settlement, a description of the Settlement Class Members' right to "opt out" or exclude themselves from the Settlement and the Opt-Out Deadline; a description of the Settlement Class Members' right to object to the Settlement and the Objection Deadline; the date upon which the Final Approval Hearing is scheduled to occur; and the address of the Settlement

Website at which Settlement Class Members may access this Agreement and other related documents and information. Class Counsel and Defendants shall insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. Notices and publications provided under or as part of the Notice Program shall not bear or include the Defendants' logo or trademarks or the return address of Defendants, or otherwise be styled to appear to originate from Defendants. Within the parameter set forth in this Section, further specific details of the Notice Program shall be subject to the agreement of Class Counsel and Defendants.

33. **Targeted Campaign and Long-Form Notice.** Notice shall be provided to Class Members through publication of an online targeted campaign ("Targeted Campaign"), as well as a Long-Form Notice on the Settlement Website. Notice shall be provided substantially in a form as that attached hereto as Exhibits A and D (Targeted Campaign Banner attached as Exhibit D). Based on the number of emergency department visits at Defendants' Washington hospitals during the class period (approximately 1,032,474, which includes repeat visits by the same patients), the Settlement Administrator believes that five million (5,000,000) impressions will be adequate to reach the Class Members. Accordingly, the Settlement

Administrator will place targeted banner ads on social media outlets directed at Washington residents that will achieve this objective (See Exhibit D).

34. **Targeted Campaign Deadline.** The Targeted Campaign shall be completed by the Notice Deadline. Within seven (7) days after the date the Settlement Administrator completes the Targeted Campaign, the Settlement Administrator shall provide Class Counsel and Defendants an affidavit that confirms that the Targeted Campaign was completed in a timely manner. Class Counsel shall file that affidavit with the Court as an exhibit to or in conjunction with Plaintiffs' motion for final approval of the Settlement.

SECTION 7 OPT OUT AND OBJECTIONS

35. **Exclusion/Opt-Out.** Any Class Member may exclude himself or herself from the Settlement and Release, and from the Settlement's binding effect, by completing an online opt-out form on the Settlement Website by the Opt-Out Deadline. The request must include the individual's name and address; a statement that he or she wants to be excluded from the settlement in *Hofstader et al v. Emergency Physician Services, P.S., et al.* United States District Court for the Eastern District of Washington, Case No. 2:18-cv-00062-SMJ; and the individual's signature. The Settlement

Administrator shall provide the Parties with copies of all completed opt-out requests, and Plaintiffs shall file a list of all who have opted out with the Court no later than 10 days prior to the Final Approval Hearing. Any Class Member who does not timely and validly request to opt out shall be bound by the terms of this Agreement.

36. **Objections.** Any Class Member who does not opt out of the Settlement may object to the Settlement or object to Class Counsel's application for attorneys' fees, costs, and expenses, or for a Service Award. Objections must be filed directly with the Clerk of the Court, with copy to Class Counsel, and Defendants' counsel. For an objection to be considered by the Court, the objection must be electronically filed or mailed first-class postage prepaid and addressed in accordance with the instructions, and the postmark date indicated on the envelope must be no later than the Objection Deadline, as specified in the Notice.

37. **Objection Requirements.** For an objection to be considered by the Court, the objection must also set forth:

- a. The name of the Action;
- b. The objector's full name, address, and telephone number;
- c. An explanation of the basis upon which the objector claims to be a Settlement Class Member;

- d. All grounds for the objections, accompanied by any legal support for the objection;
- e. The identity of all counsel who represent the objector;
- f. The identity of all counsel representing the objector who will appear at the Final Approval Hearing;
- g. A statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing;
and
- h. The objector's signature (an attorney's signature is not sufficient).

SECTION 8 FINAL APPROVAL ORDER AND JUDGMENT

38. **Entry of Final Judgment.** Within twenty (20) days of the expiration of the Opt-Out Period set forth above, the Parties will request that the Court in the Action: (a) grant final approval of the settlement, and (b) enter judgment in accordance with this Agreement, in the form of Exhibit C, approving the Agreement as final, fair, reasonable, and adequate, and binding on all Settlement Class Members who have not excluded themselves; approving the Notice Program as complying with due process; ordering that Defendants implement the emergency department policies and

procedures described above; ordering that attorneys' fees be paid in the amount approved by the Court; dismissing the Action with prejudice; and barring Settlement Class Members from bringing the Released Claims against the Released Parties.

SECTION 9 ADMINISTRATIVE COSTS

39. **Plaintiffs to Bear Administrative Costs.** The Settlement Administrator shall provide an estimated amount of the costs not to exceed \$15,000 to implement the Notice Program, establish the Settlement Website, and related upfront expenses, and Plaintiffs shall pay the estimated amount within 14 days after the entry of the Preliminary Approval Order. After the upfront payment of costs, the Settlement Administrator shall bill Plaintiffs monthly for the reasonable costs of settlement administration. Any amount paid by Plaintiffs for the upfront payment of costs that was not used will be deducted from the first monthly bill from the Settlement Administrator. Defendants shall have no obligation to pay any portion of the Administrative Costs.

SECTION 10 RELEASES

40. **Released Claims.** As of the Effective Date, Plaintiffs and the class members shall automatically be deemed to have fully and irrevocably

released and forever discharged all *class claims (monetary and non-monetary)*, and all *non-monetary individual claims* against the Released Parties of any nature, whether known or unknown, direct or indirect, matured or unmatured, contingent or absolute, existing or potential, suspected or unsuspected, and whether under federal or state statutory, constitutional, regulatory, or common law, that were or could have been alleged in the Action, including the claim that Defendants unlawfully failed to adequately notify and screen emergency department patients in their Washington hospitals for financial assistance/charity care, as well as any other claims arising out of or relating to Defendants' policies and practices related to financial assistance/charity care. Class Members are specifically not releasing *individual monetary claims* in this release.

41. **Releases.** Plaintiffs or any Settlement Class Member may hereafter discover facts other than or different from those he or she knows or believes to be true with respect to the subject matter of the claims released pursuant to paragraph 40 above, or the law applicable to such claims may change. Nonetheless, each of those individuals expressly agrees that, as of the Effective Date, he or she shall have automatically and irrevocably waived and fully, finally, and forever settled and released any known or unknown, suspected or unsuspected, asserted or unasserted, liquidated or

unliquidated, contingent or non-contingent individual non-monetary and all class (monetary and non-monetary) claims with respect to all of the matters described in or subsumed by this paragraph and paragraph 40 above. Further, each of those individuals agrees and acknowledges that he or she shall be bound by this Agreement, including by the releases contained in this paragraph and paragraph 40 above, and that all of their class claims in the Action shall be dismissed with prejudice and released, whether or not such claims are concealed or hidden; without regard to subsequent discovery of different or additional facts and subsequent changes in the law; and even if he or she never receives actual notice of the Settlement.

42. **Defendants' Right to Recovery.** Nothing in this Agreement shall operate or be construed to release any claims or rights Defendants have to recover any past, present, or future amount that may be owed by Plaintiffs or by any Settlement Class Member on his or her accounts or any other debts with Defendants, pursuant to the terms and conditions of such accounts or other debts.

43. **Sole and Exclusive Remedy.** This Settlement shall be the sole and exclusive remedy for any and all Released Claims against the Released Parties, and each Plaintiff Class Member shall be barred from initiating,

asserting, or prosecuting Released Claims or any claims released by operations of this Agreement.

**SECTION 11
PAYMENT OF ATTORNEYS' FEES, COSTS, AND
SERVICE AWARD**

44. **Class Counsel Fee Request.** Defendants agree not to oppose Class Counsel's request for attorneys' fees and costs and expenses of up to \$95,000.

45. **Payment of Class Counsel's Fees.** Within three (3) business days of the Effective Date, Defendants shall pay to Class Counsel all Court-approved attorneys' fees, cost, and expenses of Class Counsel. In the event that the award of attorneys' fees, costs, and expenses of Class Counsel is reduced on appeal, the Defendants shall only pay to Class Counsel the reduced amount of such award, including interest accrued thereon. Class Counsel shall timely furnish to the Defendants any required tax information or forms before the payment is made.

46. **Method of Payment.** The payment of attorneys' fees, costs, and expenses of Class Counsel pursuant to paragraph 45 above shall be made through a wired deposit by the Defendants into the attorney client trust account of Class counsel. After the fees, costs, and expenses have been deposited into this account, Class counsel shall be solely responsible for

distributing each Class Counsel firm's allocated share of such fees, costs, and expenses to that firm.

47. **Plaintiff Service Award.** Class Counsel will ask the Court to approve a service award of up to \$2,500 for each Plaintiff ("Service Award"). The Service Award is to be paid by Defendants within three (3) business days of the Effective Date. Defendants shall not oppose Class Counsel's request for payment of the Service Award.

48. **No Collusion.** The Parties negotiated and reached agreement regarding attorneys' fees and costs and the Service Award only after reaching agreement on all other material terms of this Settlement.

SECTION 12 TERMINATION OF SETTLEMENT

49. **Termination.** This Settlement may be terminated by either Class Counsel or Defendants by serving on counsel for the opposing Party and filing with the Court a written notice of termination within 45 days (or such longer time as may be agreed between Class Counsel and Defendants) after any of the following occurrences:

- a. Class Counsel and Defendants agree to termination;
- b. The Court fails to preliminarily approve the Settlement within 180 days after filing of the motion or amended motion for preliminary

approval, or fails to finally approve the Settlement within 360 days of Preliminary Approval;

c. The Court rejects, materially modifies, materially amends or changes, or declines to preliminarily or finally approve the Settlement;

d. An appellate court reverses the Final Approval Order, and the Settlement is not reinstated and finally approved without material change by the Court on remand within 270 days of such reversal;

e. Any court incorporates terms or provisions into, or deletes or strikes terms or provisions from, or modifies, amends, or changes, the Preliminary Approval Order, Final Approval Order, or the Settlement in a way that Class Counsel or Defendants reasonably considers material;

f. The Effective Date does not occur; or

g. Any other ground for termination provided elsewhere in the Agreement.

50. **Termination Date.** This Agreement, and all obligations imposed under it, shall terminate on December 31, 2023.

SECTION 13 EFFECT OF A TERMINATION

51. **Effect of Termination.** The grounds upon which this Agreement may be terminated are set forth in Section 12. In the event of a termination as provided therein, this Agreement shall be considered null and void; all of Defendants' obligations under the Settlement shall cease to be of any force and effect; and the Parties shall return to the status quo ante in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement claims and defenses will be preserved, including, but not limited to, Plaintiffs' right to seek class certification and Defendants' right to oppose class certification.

52. **Effective Date.** The Settlement shall become effective on the Effective Date unless earlier terminated in accordance with the provisions of Section 12 above.

53. **No Admissibility.** In the event the Settlement is terminated in accordance with the provisions of Section 12 above, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose, without prejudice to Plaintiffs' right to seek class certification, and Defendants' right to oppose class certification. In such

event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Court.

SECTION 14
NO ADMISSION OF LIABILITY

54. **No Admission of Liability.** Defendants dispute the claims alleged in the Action and do not by this Agreement or otherwise admit any liability or wrongdoing of any kind. Defendants have agreed to enter into this Agreement to avoid further expense, inconvenience, and distraction of burdensome and protracted litigation, and to be completely free of any further claims that were asserted or could have been asserted in the Action.

55. **Class Counsel and Plaintiffs' Determination of Settlement.** Class Counsel and Plaintiffs believe that the claims asserted in the Action have merit, and they have examined and considered the benefits to be obtained under the proposed Settlement set forth in this Agreement, the risks associated with the continued prosecution of this complex, costly, and time-consuming litigation, and the likelihood of success on the merits of the Action. Class Counsel and Plaintiffs have concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class Members.

56. **Purpose of Agreement.** The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgement or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever. Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by Plaintiffs or Settlement Class Members, or of any wrongdoing or liability of the Released Parties; or (b) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the Action or in any proceeding in any court, administrative agency, or other tribunal. In addition to any other defenses Defendants may have at law, in equity, or otherwise, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, or other proceeding that may be

instituted, prosecuted, or attempted in breach of this Agreement or the Releases contained herein.

SECTION 15 MISCELLANEOUS PROVISIONS

57. **Assignment of Claims.** No party hereto has assigned, transferred or granted, or purported to assign, transfer, or grant, any of the claims, demands and cause(s) of action disposed by this Agreement.

58. **Gender and Plurals.** As used in this Agreement, the masculine, feminine, or neuter gender, the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

59. **Binding Effect.** This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Releasing Parties and the Released Parties.

60. **Cooperation of Parties.** The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, defend Court approval, and to do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

61. **Obligation to Meet and Confer.** Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the

Parties shall consult with each other and certify to the Court that they have consulted.

62. **Integration.** This Agreement constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.

63. **No Conflict Intended.** Any inconsistency between the headings used in this Agreement and the Text of the paragraphs of this Agreement shall be resolved in favor of the text.

64. **Governing Law.** The Agreement shall be construed in accordance with, and be governed by, the laws of the State of Washington, without regard to the principles thereof regarding choice of law.

65. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts. Original signatures are not required. Any signature submitted by facsimile or through email of an Adobe PDF shall be deemed an original.

66. **Jurisdiction.** The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation, and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice Program and the Settlement Administrator. As part of its agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose.

67. **Notices.** All notices to Class Counsel provided for herein shall be sent by email with hard copy sent by overnight mail to:

KAZEROUNI LAW GROUP
Abbas Kazerounian, Esq.
ak@kazlg.com
Ryan L. McBride, Esq.
ryan@kazlg.com
245 Fischer Ave., Suite D1
Costa Mesa, CA 92626
Tel: 800.400.6808
Fax: 800.520.5523

MAYO LAW GROUP
Boyd McFadden Mayo, Esq.
mack@bmayolaw.com
922 S. Cowley Street, Suite 6
Spokane, WA 99202

Tel: (509) 381-5091
Fax: (509) 241-0834

All notices to Defendants provided for herein shall be sent by email with a hard copy sent by overnight mail to:

DAVIS WRIGHT TERMAINE LLP
Brad Fisher, Esq.
bradfischer@dwt.com
920 Fifth Avenue, Suite 3300
Seattle, WA 98105
Tel: (206) 757-8042
Fax: (206) 757-7042

The notice recipients and addresses designated above may be changed by written notice. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice Program.

68. **Modification and Amendment.** This Agreement may be amended or modified only by a written instrument signed by counsel for Defendants and Class Counsel and, if the Settlement has been approved preliminarily by the Court, approved by the Court.

69. **Waiver.** No provision of this Agreement may be waived unless in writing signed by all Parties hereto. Waiver of any one provision shall not be deemed to be a waiver of any other provision hereof. The waiver by any Party of any breach of this Agreement by another Party shall not be deemed

or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

70. **Successors and Assigns.** This Agreement is binding upon, and shall inure to the benefit of, the Parties hereto and their respective successors, assigns, heirs, agents, employees, attorneys, representatives, officers, parents, affiliates, and subsidiaries.

71. **Authority.** Each individual signing this Agreement warrants that he or she has the authority to enter into this Agreement on behalf of the party for which that individual signs.

72. **Agreement Mutually Prepared.** Neither Defendants nor Plaintiff, nor any of them, shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

73. **Independent Investigation and Decision to Settle.** The Parties understand and acknowledge that they: (a) have performed an independent investigation of the allegations of fact and law made in connection with this Action; and (b) that even if they may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Action as reflected in this

Agreement, that will not affect or in any respect limit the binding nature of this Agreement. It is the Parties' intention to resolve their disputes in connection with this Action pursuant to the terms of this Agreement now and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the discover of any additional facts or law, or changes in any substantive or procedural law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in facts or law or changes in any substantive or procedural law, subsequently occurring or otherwise.

74. **Receipt of Advice of Counsel.** Each Party acknowledges, agrees, and specifically warrants that he, she or it has fully read this Agreement and the Releases contained in Section 10 hereof, including the wavier of rights under California Civil Code Section 1542 or any other similar statute of any other state or jurisdiction, received independent legal advice with respect to the advisability of entering into this Agreement and the Releases, and the legal effects of this Agreement and the Releases, and fully understands the effect of this Agreement and the Releases.

75. **Assignment; Third Party Beneficiaries.** None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any member of the Plaintiff Settlement Class without the

express written consent of the other Parties. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties, and shall not be construed to confer any right or to afford any remedy to any other person.

76. **Public Statements.** The Parties and their respective counsel shall not affirmatively seek media attention for this settlement, but may respond to inquiries from members of the media who previously have inquired about the Action. If contacted by the media, the Parties, Class Counsel, and Counsel for Defendants may provide representatives of the media with copies of any non-confidential document filed with the Court, including but not limited to this Settlement Agreement and attached Exhibits. Class Counsel shall inform counsel for Defendants promptly of any media inquiry concerning this settlement and, upon request, shall advise counsel for Defendants of any documents provided to any media representative in response to any inquiry concerning this settlement.

(The rest of this page is intentionally left blank)

Dated: 07/16/2020

Nathan Hofstader

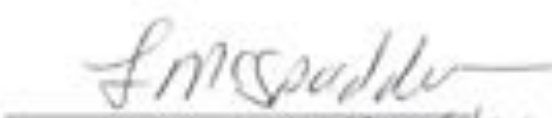
Nathan Hofstader
Plaintiff

Dated: 07/16/2020



Richard Cerenzia
Plaintiff

Dated: 7/16/2020



TERISA McSPADDEN
Representative of Providence
Health & Services
Defendant

Dated: July 17, 2020



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Class Counsel

Dated: July 17, 2020



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Counsel for Defendants

July 17, 2020