

Hon. William L. Dixon
Hearing Date: September 29, 2023
Hearing Time: 10:00 a.m.
With Oral Argument

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

AMY GARCIA, ANTHONY GIBBONS, and
TAYLOR RIELY-GIBBONS, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

WASHINGTON STATE DEPARTMENT OF
LICENSING, an agency of the State of
Washington,

Defendant.

No. 22-2-05635-5 SEA

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

This Court entered an order granting preliminary approval of the Settlement between Plaintiffs Amy Garcia, Anthony Gibbons, Taylor Riely-Gibbons, Tony Myhre, and Hansa Thomas (“Plaintiffs”), on their own behalf and on behalf of the Settlement Class, and Defendant Washington State Department of Licensing (“Defendant” or “DOL”) on May 11, 2023 (the “Preliminary Approval Order”). Plaintiffs submitted the Settlement Agreement to the Court with their Unopposed Motion for Preliminary Approval of Class Action Settlement (as Exhibit 1 to the Declaration of Timothy W. Emery in Support of Motion for Preliminary Approval).

On June 9, 2023, under the terms of the notice requirements set forth in the Settlement

1 Agreement and the Preliminary Approval Order, the Settlement Class was apprised of the nature
2 and pendency of the Litigation, the terms of the settlement, and their rights to request exclusion,
3 object, and/or appear and the Final Approval Hearing.

4 On July 26, 2023, Plaintiffs filed their Motion for Final Approval of Class Action
5 Settlement (“Final Approval Motion”) and accompanying Declaration of Scott M. Fenwick of
6 Kroll Settlement Administration LLC in Connection with Final Approval of Settlement; and
7 Class Counsel filed their Motion for an Award of Attorneys’ Fees, Costs, and Service Awards,
8 with an accompanying declaration from Timothy W. Emery setting forth Class Counsel’s time
9 and expenses (the “Fee Application”).

10 On September 29, 2023, the Court held a Final Approval Hearing to determine, among
11 other things, (1) whether the settlement is fair, reasonable, and adequate, and (2) whether the
12 Court should enter judgment dismissing all claims in the Complaint with prejudice. Prior to the
13 Final Approval Hearing, and as noted above, Class Counsel filed the Declaration of Scott M.
14 Fenwick of Kroll Settlement Administration LLC in Connection with Final Approval of
15 Settlement, confirming that the Notice Program was completed in accordance with the Parties’
16 instructions and the Preliminary Approval Order. Therefore, the Court is satisfied that Settlement
17 Class Members were properly notified of their right to appear at the Final Approval Hearing in
18 support of, or in opposition to, the proposed Settlement, the award of attorneys’ fees, costs, and
19 expenses, and the payment of service awards to the Class Representatives.

20 Having given an opportunity to be heard to all requesting persons in accordance with the
21 Preliminary Approval Order; having heard the presentation of Class Counsel and counsel for
22 DOL; having reviewed all of the submissions presented with respect to the proposed settlement;
23 having determined that the settlement is fair, reasonable, and adequate; having considered the

1 application made by Class Counsel for attorneys' fees, costs, and service awards to the Class
2 Representatives, and having reviewed the materials in support of that application; and good cause
3 appearing in the record, Plaintiffs' Final Approval Motion is **GRANTED**, Class Counsel's Fee
4 Application is **GRANTED**, and:

5 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

6 1. The Court has jurisdiction over the subject matter of this Litigation and over all
7 claims raised therein. The Court also has personal jurisdiction over the Parties and the Settlement
8 Class Members.

9 2. Unless otherwise defined herein, capitalized terms appearing in this Final
10 Approval Order and Judgment shall have the same meaning as used in the Settlement Agreement.

11 3. The Parties entered into the settlement in good faith following arm's-length
12 negotiations before an experienced mediator, and the settlement is non-collusive.

13 4. The settlement is, in all respects, fair, reasonable, and adequate; in the best
14 interests of the Settlement Class; satisfies Civil Rule 23; and is therefore approved. The Court
15 finds that the Parties faced significant risks, expenses, delays, and uncertainties, including as to
16 the outcome, of continued litigation in this matter, which further supports the Court's finding
17 that the settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class.

18 5. The Court grants final approval of the settlement, including, but not limited to,
19 the releases in the Settlement Agreement and the plans for distribution of the settlement relief.
20 Therefore, all Settlement Class Members (defined as "Person(s) who falls within the definition
21 of the Settlement Class and is/are not a Successful Opt-Out") are bound by the Settlement
22 Agreement and this Final Approval Order and Judgment.

23 6. The Settlement Agreement and every term and provision thereof shall be deemed

1 incorporated herein and shall have the full force of an order of this Court.

2 7. The Parties shall effectuate the Settlement Agreement in accordance with its
3 terms.

4 CLASS CERTIFICATION

5 8. For the purposes of the Settlement and this Final Approval Order and Judgment,
6 the Court hereby finally certifies for settlement purposes only the following Settlement Class:

7 All individuals whose personal information was compromised in the Data Breach
8 disclosed by the Washington State Department of Licensing in February 2022. The
9 Settlement Class specifically excludes: (1) DOL and its officers and directors; (ii)
10 all Settlement Class Members who timely and validly submit requests for exclusion
11 from the Settlement Class; (iii) any other Person found by a court of competent
jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting
the criminal activity occurrence of the Data Breach or who pleads *nolo contendere*
to any such charge; and (iv) members of the judiciary to whom this case is assigned,
their families, and members of their staff.

12 The Settlement Class is limited to those individuals who were included on the original list for
13 mailing the written Summary Notice in accordance with Paragraph 68 of the Settlement
14 Agreement.

15 9. The Court finds that for settlement purposes, the Settlement Class meets all the
16 requirements of CR 23(a) and (b)(3), namely that the Settlement Class is so numerous that
17 joinder of all members is impractical; there are common issues of law and fact; the claims of the
18 Settlement Class Representatives are typical of absent Settlement Class Members; the Settlement
19 Class Representatives have and will fairly and adequately protect the interests of the Settlement
20 Class, as they have no interests antagonistic to or in conflict with the Settlement Class and have
21 retained experienced and competent counsel to prosecute this matter; common issues
22 predominate over any individual issues; and a class action is superior to any alternative means
23 of adjudicating the controversy.

1 the other requirements of the Civil Rules.

2 13. The Settlement Administrator’s fees, as well as all other costs and expenses
3 associated with Notice and Claims Administration, will continue to be paid out of the Settlement
4 Fundas provided in the settlement.

5 **OBJECTIONS AND OPT-OUTS**

6 14. One objection was filed by a Settlement Class Member and served on the Parties.
7 The Court has considered this objection—which contains a purported concern about the length
8 of the credit monitoring services—and finds that it does not counsel against settlement approval.
9 The objection, filed by Settlement Class Member Mark S. Beaufait, is hereby overruled in all
10 respects. More specifically:

- 11 a. The Court overrules the objection to the extent that it claims that the two years
12 of identity theft protection and credit monitoring services is inadequate. The
13 settlement, as with all settlements, is a compromise—the fact that it may have
14 been greater is not in itself sufficient to undermine the Court’s conclusion that
15 the settlement is fair, reasonable, and adequate.
- 16 b. To the extent that the objection raises any other grounds for disapproval not
17 specifically addressed, the Court finds that they are not well taken and need
18 not be further considered.

19 15. The Court also received correspondence from Robert S. Miller, which the Parties
20 represent was not served on them. To the extent this correspondence raises objections, the
21 objections are overruled. The correspondence addresses the potential for future harm arising out
22 of the Data Breach, but the Court finds that the settlement’s provision of credit monitoring and
23 insurance reasonably addresses those fears. The Court further finds that the consideration

1 provided under the settlement is reasonable and adequate. To the extent that the correspondence
2 raises any other grounds for disapproval not specifically addressed, the Court finds that they are
3 not well taken and need not be further considered.

4 16. All Settlement Class Members who have not objected to the settlement in the
5 manner provided in the Settlement Agreement are deemed to have waived any objections to the
6 settlement, including, but not limited to, by appeal, collateral attack, or otherwise.

7 17. A list of putative members of the Settlement Class who have timely and validly
8 elected to opt-out of the Settlement and the Settlement Class, in accordance with the
9 requirements in the Settlement Agreement (the “Successful Opt-Outs”), has been submitted to
10 the Court as an attachment to the Declaration of Scott M. Fenwick, filed in advance of the Final
11 Approval Hearing. That list is attached as Exhibit A to this Order. The persons listed in Exhibit
12 A are not bound by the Settlement Agreement or this Final Approval Order and Judgment, and
13 they are not entitled to any of the benefits under the settlement.

14 **AWARD OF ATTORNEYS’ FEES, COSTS, AND INCENTIVE AWARDS**

15 18. The Court has considered Class Counsel’s Fee Application along with the
16 declaration submitted by Counsel setting forth their time and expenses incurred in connection
17 with this Litigation.

18 19. The Court finds that the attorneys’ fees requested by Class Counsel are fair and
19 reasonable, given: (1) the exceptional results achieved for the Settlement Class; (2) the risks
20 Class Counsel faced; (3) the case was handled on a contingency basis; (4) the market rates for
21 attorneys’ fees; (5) the skill demonstrated by Class Counsel; and (6) the burdens Class Counsel
22 experienced while litigating the case. The \$12,145.21 in costs incurred to prosecute this
23 Litigation were reasonable. Similarly, the requested fee award of \$1,080,000 is reasonable when

1 considering it in proportion to the benefits made available to, and claimed by, the Settlement
2 Class. This means the fee request is in line with the benchmark of 30 percent and is therefore
3 reasonable. Accordingly, Class Counsel is hereby awarded \$1,080,000 in attorneys' fees, as well
4 as \$12,145.21 in costs, to be paid from the Settlement Fund. This award of attorneys' fees and
5 costs is independent of the Court's consideration of the fairness, reasonableness, and adequacy
6 of the settlement.

7 20. The Court further finds that the requested service awards of \$6,000 to each of the
8 five Settlement Class Representatives, as provided in the Settlement Agreement, are fair and
9 reasonable given the time and effort expended by the Settlement Class Representatives on behalf
10 of the Settlement Class. Pursuant to the Settlement Agreement, the incentive awards are to be
11 paid from the Settlement Fund.

12 **OTHER PROVISIONS**

13 21. The Parties to the settlement shall carry out their respective obligations as set
14 forth in the Settlement Agreement.

15 22. Within the time period set forth in the settlement, the relief provided for in the
16 settlement shall be made available to the Settlement Class Members submitting valid Claim
17 Forms under the terms and conditions of the Settlement Agreement.

18 23. The Releases set forth in the Settlement Agreement, including those described in
19 Paragraphs 83–84, are incorporated herein, and—as of the Effective Date and by operation of
20 this Final Approval Order and Judgment—are binding and effective on all Settlement Class
21 Members who have not properly excluded themselves from the Settlement Class.

22 24. The Court hereby dismisses the Litigation and Complaint and all claims therein
23 on the merits and with prejudice, without fees or costs to any party, except as provided in this

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2
3 By: /s/ Timothy W. Emery

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