

JUDGE KRISTIN RICHARDSON
Noted for: January 18, 2022
Without Oral Argument

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

GARY STEVE CLOPP, SHLON
SMITHSON, and LEEANN CRAWFORD,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

PACIFIC MARKET RESEARCH, LLC, a
Washington limited liability company; and
DOES 1-10,

Defendants.

No. 21-2-08738-4 KNT

ORDER GRANTING UNOPPOSED
MOTION FOR PRELIMINARY
APPROVAL OF CLASS SETTLEMENT

This matter came before the Court on Plaintiffs' Motion for Preliminary Approval of Class Settlement. Plaintiffs Gary Steve Clopp, Shlon Smithson, and LeeAnn Crawford (collectively, "Plaintiffs"), individually and on behalf of the proposed Settlement Class, and Defendant Pacific Market Research, LLC ("Defendant") have entered into a Settlement Agreement (the "Settlement Agreement") that settles the above-captioned litigation.

On May 22, 2021, Defendant became the victim of a ransomware attack wherein cybercriminals gained access to Defendant's company computer systems (the "Ransomware Attack"). As a contractor to the Washington State Department of Labor and Industries ("L&I"), Defendant's computer systems contained a document with L&I data. Upon discovering the

cyberattack, Defendant hired a cybersecurity firm to conduct an independent investigation into

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EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101

PHONE: (206) 442-9106 • FAX: (206) 441-9711

1 the Ransomware Attack and notified L&I that approximately 16,466 individuals' information
2 may have been impacted. In turn, L&I notified the individuals whose information may have been
3 impacted. The information potentially accessed in the Ransomware Attack may have included
4 one or more of the following: demographic information (such as full name, date of birth, phone
5 number, address) and workers' compensation claim number(s) related to Washingtonians who
6 had been injured and filed claims with L&I.

7 Plaintiffs filed the Class Action Complaint ("Complaint") on July 2, 2021, commencing
8 this litigation (the "Litigation"). The causes of action in the Complaint include: (1) negligence,
9 and (2) violation of the Washington Consumer Protection Act ("CPA").

10 Plaintiffs and Defendant (collectively, "Parties"), through their counsel, have entered into
11 a Settlement Agreement following good faith, arm's-length negotiations. The Parties have agreed
12 to settle this action, pursuant to the terms of the Settlement Agreement, and subject to the approval
13 and determination of the Court as to the fairness, reasonableness, and adequacy of the settlement
14 which, if approved, will result in dismissal of this action with prejudice.

15 Having reviewed the Settlement Agreement, including the exhibits attached thereto, and
16 all prior proceedings herein, and for good cause shown, it is hereby ordered that Plaintiffs' Motion
17 for Preliminary Approval of Class Settlement is granted as set forth herein.¹

18 **1. Class Certification for Settlement Purposes Only**

19 For settlement purposes only, and pursuant to Washington Civil Rule 23(b)(3) and (e), the
20 Court provisionally certifies a Settlement Class in this matter defined as follows:

21 All individuals residing in the United States whose personal
22 information may have been accessed by a third party in the
23 ransomware attack on Pacific Market Research disclosed by the
Washington State Department of Labor & Industries in July 2021.

24 The Settlement Class specifically excludes: (i) Defendant and its officers and directors;
25 (ii) all Settlement Class Members who timely and validly request exclusion from the Settlement

26 _____
¹ Unless otherwise indicated, capitalized terms used herein have the same meanings as in the Settlement Agreement.
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1 Class; (iii) the Judge assigned to evaluate the fairness of this settlement; and (iv) any other person
2 found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing,
3 aiding or abetting the criminal activity occurrence of the Ransomware Attack or who pleads nolo
4 contender to any such charge.

5 The Court provisionally finds, for settlement purposes only, that: (a) the Settlement Class
6 is so numerous that joinder of all Settlement Class Members would be impracticable; (b) there
7 are issues of law and fact common to the Settlement Class; (c) the claims of the Settlement Class
8 Representatives are typical of and arise from the same operative facts and seek similar relief as
9 the claims of the Settlement Class Members; (d) the Settlement Class Representatives and
10 Settlement Class Counsel will fairly and adequately protect the interests of the Settlement Class,
11 as the Settlement Class Representatives have no interests antagonistic to or in conflict with the
12 Settlement Class and have retained experienced and competent counsel to prosecute this matter
13 on behalf of the Settlement Class; (e) questions of law or fact common to Settlement Class
14 Members predominate over any questions affecting only individual members; and (f) a class
15 action and class settlement is superior to other methods available for a fair and efficient resolution
16 of this controversy.

17 **2. Preliminary Settlement Approval**

18 Upon preliminary review, the Court concludes and finds that the proposed Settlement is
19 fair, reasonable, and adequate to warrant providing Notice of the Settlement to the Settlement
20 Class and accordingly is preliminarily approved.

21 **3. Settlement Class Representatives and Service Awards**

22 The Court provisionally finds that Plaintiffs Gary Steve Clopp, Shlon Smithson, and
23 LeeAnn Crawford are similarly situated to absent Class Members and therefore typical of the
24 Class and that they will be adequate Settlement Class Representatives. Plaintiffs are hereby
25 provisionally designated and appointed as the Settlement Class Representatives. Plaintiffs shall
26 file a motion for service awards within 14 days of the Final Approval Hearing.

1 **4. Settlement Class Counsel and Attorneys' Fees Award**

2 The Court finds that Timothy W. Emery of Emery Reddy, PLLC is experienced and
3 adequate counsel and is hereby provisionally designated as Settlement Class Counsel. Plaintiffs
4 shall file a motion for attorneys' fees and costs within 14 days of the Final Approval Hearing.

5 **5. Jurisdiction**

6 The Court concludes that it has subject matter jurisdiction and personal jurisdiction over
7 the Parties before it for the purposes of the Settlement. Additionally, venue is proper in this Court.

8 **6. Final Approval Hearing**

9 The Final Approval Hearing shall be held on June 3, 2022 at 9:00, in
10 the Superior Court of the State of Washington, King County, ~~401 Fourth Avenue North, Kent,~~ *by Zoom in*
11 ~~WA 98032,~~ Courtroom E815, to determine, among other things, whether: (a) this matter
12 should be finally certified as a class action for settlement purposes; (b) the settlement should be
13 finally approved as fair, reasonable, and adequate; (c) the action should be dismissed with
14 prejudice pursuant to the terms of the Settlement Agreement; (d) Settlement Class Members
15 should be bound by the releases set forth in the Settlement Agreement; (e) the requested attorneys'
16 fee award should be approved; and (f) the requested service awards should be approved. Plaintiffs'
17 Motion for Final Approval of the Settlement shall be filed with the Court at least 14 days prior to
18 the Final Approval Hearing.

19 **7. Claims Administration**

20 The Court appoints Postlethwaite & Netterville as the Claims Administrator, with
21 responsibility for class notice and claims administration and to fulfill the duties of the Claims
22 Administrator set forth in the Settlement Agreement. Defendant shall pay all costs and expenses
23 associated with providing notice to Settlement Class Members including, but not limited to, the
24 Claims Administrator's fees, as well as the costs associated with administration of the Settlement.

25 **8. Claims Referee**

26 The Court appoints Mark G. Honeywell as Claims Referee.

1 **9. Notice to the Class**

2 The proposed Notice Program set forth in the Settlement Agreement, and the Claim Form,
3 Short-Form Notice, and Long-Form Notice attached to the Settlement Agreement as Exhibits A,
4 B, and C satisfy the requirements of Washington Civil Rule 23(c)(2) and (e), provide the best
5 notice practicable under the circumstances, and are hereby approved. Non-material modifications
6 to these exhibits may be made without further order of the Court. The Claims Administrator is
7 directed to carry out the Notice Program in conformance with the Settlement Agreement.

8 Within 30 days from the date of this Order (the "Notice Deadline"), the Claims
9 Administrator shall complete the Notice Program in the manner set forth in Paragraph 3.2 of the
10 Settlement Agreement.

11 **10. Findings and Conclusions Concerning Notice**

12 The Court finds that the form, content, and method of giving notice to the Settlement Class
13 as described in this Order at Paragraph 9 and the Settlement Agreement at Paragraph 3.2
14 (including the exhibits thereto): (a) will constitute the best practicable notice to the Settlement
15 Class; (b) are reasonably calculated to apprise Settlement Class Members of the pendency of the
16 action, the terms of the proposed settlement, and their rights under the proposed settlement,
17 including but not limited to their rights to object to or exclude themselves and other rights under
18 the terms of the Settlement Agreement; (c) are reasonable and constitute due, adequate, and
19 sufficient notice to all Class Members and other persons entitled to receive notice; and the Court
20 concludes that the Notice Program meets all applicable requirements of law, including
21 Washington Civil Rule 23(c) and (e), and the Due Process Clause(s) of the United States
22 Constitution and Washington State Constitution. The Court further finds that the Notice is written
23 in plain language, uses simple terminology, and is designed to be readily understandable by Class
24 Members.

1 **11. Exclusion from Class**

2 Any Settlement Class Member who wishes to be excluded from the Settlement Class must
3 mail a written notification of the intent to exclude himself or herself from the Settlement Class to
4 the Claims Administrator at the address provided in the Notice, postmarked no later than 90 days
5 from the date of this Order (the "Opt-Out Period"). The written notification must include the
6 individual's full name, address, and telephone number; an unequivocal statement that he or she
7 wants to be excluded from the Settlement Class; and the original signature of the individual or a
8 person previously authorized by law, to act on behalf of the individual with respect to the claims
9 asserted in this action.

10 The Claims Administrator shall provide the Parties with copies of all completed opt-out
11 notifications, and a final list of all who have timely and validly excluded themselves from the
12 Settlement Class, which Settlement Class Counsel may move to file under seal with the Court no
13 later than 10 days prior to the Final Approval Hearing.

14 Any Settlement Class Member who does not timely and validly exclude herself or himself
15 from the settlement shall be bound by the terms of the Settlement Agreement. If Final Order and
16 Judgment is entered, any Settlement Class Member who has not submitted a timely, valid written
17 notice of exclusion from the Settlement Class shall be bound by all proceedings, orders, and
18 judgments in this matter, including but not limited to the Release set forth in the Final Order and
19 Judgment, including Settlement Class Members who have previously initiated or who
20 subsequently initiate any litigation against any or all of the Released Persons relating to the claims
21 and transactions released in the Settlement Agreement. All Settlement Class Members who
22 submit valid and timely notices of exclusion from the Settlement Class shall not be entitled to
23 receive any benefits of the Settlement.

24 **12. Objections and Appearances**

25 A Settlement Class Member who complies with the requirements of this paragraph may
26 object to the settlement.

1 No Settlement Class Member shall be heard, and no papers, briefs, pleadings, or other
2 documents submitted by any Settlement Class Member shall be received and considered by the
3 Court, unless the objection is filed with the Clerk of the Court no later than 60 days after the date
4 on which the Court enters a Preliminary Approval Order, and served concurrently therewith upon
5 Settlement Class Counsel and Defendant's Counsel at the following addresses:

6 **Settlement Class Counsel:**

7 Timothy W. Emery
8 Emery Reddy, PLLC
9 600 Stewart Street, Suite 1100
10 Seattle, Washington 98101

6 **Defendant's Counsel:**

7 James R. Morrison
8 Baker & Hostetler LLP
9 999 Third Avenue, Suite 3900
10 Seattle, WA 98101

11 For an objection to be considered by the Court, the objection must also include all of the
12 information set forth in Paragraph 5.1 of the Settlement Agreement, which is as follows:

- 13 a. The objector's full name, address, telephone number, and e-mail address (if any);
- 14 b. Information identifying the objector as a Settlement Class Member, including
15 proof that the objector is a member of the Settlement Class (e.g., copy of notice,
16 copy of original notice of the Ransomware Attack);
- 17 c. A written statement of all grounds for the objection, accompanied by any legal
18 support for the objection the objector believes applicable;
- 19 d. The identity of all counsel representing the objector;
- 20 e. A statement whether the objector and/or his or her counsel will appear at the Final
21 Fairness Hearing;
- 22 f. The objector's signature and the signature of the objector's duly authorized
23 attorney or other duly authorized representative (along with documentation setting
24 forth such representation); and
- 25 g. A list, by case name, court, and docket number, of all other cases in which the
26 objector and/or the objector's counsel has filed an objection to any proposed class
action settlement within the last three years.

22 Any Settlement Class Member who fails to comply with the provisions in this Paragraph
23 may waive and forfeit any and all rights he or she may have to object, and shall be bound by all
24 the terms of the Settlement Agreement, this Order, and by all proceedings, orders, and judgments
25 in this matter, including, but not limited to, the release in the Settlement Agreement if Final Order
26 and Judgment is entered.

1 Any Settlement Class Member, including a Settlement Class Member who files and serves
2 a written objection, as described above, may appear at the Final Approval Hearing, either in
3 person or through counsel hired at the Settlement Class Member's expense, to object to or
4 comment on the fairness, reasonableness, or adequacy of the settlement. If an objecting Settlement
5 Class Member intends to appear at the Final Approval Hearing, either with or without counsel,
6 he or she must also file a notice of appearance with the Court (as well as serve on Settlement
7 Class Counsel and Defendant's Counsel) by the Objection Date. If the objecting Settlement Class
8 Member intends to appear at the Final Approval Hearing through counsel, he or she must also
9 identify the attorney(s) representing the objecting Settlement Class Member who will appear at
10 the Final Approval Hearing and include the attorney(s) name, address, phone number, e-mail
11 address, state bar(s) to which counsel is admitted, as well as associated state bar numbers, and a
12 list identifying all objections such counsel has filed to class action settlements in the past three
13 (3) years, the results of each objection, any court opinions ruling on the objections, and any
14 sanctions issued by a court in connection with objections filed by such attorney. If the objecting
15 Settlement Class Member intends to request the Court for permission to call witnesses at the Final
16 Approval Hearing, the objecting Settlement Class Member must provide a list of any such
17 witnesses together with a brief summary of each witness's expected testimony at least 60 days
18 before the Final Approval Hearing.

19 If Final Order and Judgment is entered, any Settlement Class Member who fails to object
20 in the manner prescribed herein shall be deemed to have waived his or her objections and shall
21 be forever barred from making any such objections in this action or in any other proceeding or
22 from challenging or opposing, or seeking to reverse, vacate, or modify any approval of the
23 Settlement Agreement.

24 13. Claims Process and Distribution and Allocation Plan

25 The Settlement Class Representatives and Defendant have created a process for assessing
26 and determining the validity and value of claims and a payment methodology to Settlement Class

1 Members who submit a timely, valid Claim Form. The Court preliminarily approves the plan for
2 remuneration described in Paragraph 3.2 of the Settlement Agreement and directs that the Claims
3 Administrator effectuate the distribution of settlement consideration according to the terms of the
4 Settlement Agreement, should the settlement be finally approved.

5 Settlement Class Members who qualify for and wish to submit a Claim Form shall do so
6 in accordance with the requirements and procedures specified in the Notice and the Claim Form.
7 If Final Order and Judgment is entered, all Settlement Class Members who qualify for any benefit
8 under the settlement but fail to submit a claim in accordance with the requirements and procedures
9 specified in the Notice and the Claim Form shall be forever barred from receiving any such
10 benefit, but will in all other respects be subject to and bound by the provisions in the Settlement
11 Agreement, the Release included in that Settlement Agreement, and the Final Order and
12 Judgment.

13 **14. Termination of Settlement**

14 This Order shall become null and void and shall be without prejudice to the rights of the
15 Parties, all of whom shall be restored to their respective positions existing as of the date of the
16 execution of the Settlement Agreement if the settlement is not finally approved by the Court or is
17 terminated in accordance with the Settlement Agreement. In such event, the settlement and
18 Settlement Agreement shall become null and void and be of no further force and effect, and
19 neither the Settlement Agreement nor the Court's orders, including this Order, relating to the
20 Settlement shall be used or referred to for any purpose whatsoever.

21 **15. Use of Order**

22 This Order shall be of no force or effect if Final Order and Judgment is not entered or
23 there is no Effective Date and shall not be construed or used as an admission, concession, or
24 declaration by or against Defendant of any fault, wrongdoing, breach, liability, or the certifiability
25 of any class. Nor shall this Order be construed or used as an admission, concession, or declaration
26 by or against the Settlement Class Representative or any other Settlement Class Member that his

1 or her claim lacks merit or that the relief requested is inappropriate, improper, unavailable, or as
2 a waiver by any Party of any defense or claim he, she, or it may have in this litigation or in any
3 other lawsuit.

4 **16. Stay of Proceedings**

5 Except as necessary to effectuate this Order, all proceedings and deadlines in this matter
6 are stayed and suspended pending the Final Approval Hearing and issuance of the Final Order
7 and Judgment, or until further order of this Court.

8 **17. Continuance of Hearing**

9 The Court reserves the right to adjourn or continue the Final Approval Hearing and related
10 deadlines without further written notice to the Settlement Class. If the Court alters any of those
11 dates or times, the revised dates and times shall be posted on the website maintained by the Claims
12 Administrator.

13 **18. Summary of Deadlines**

14 The preliminarily approved settlement shall be administered according to its terms
15 pending the Final Approval Hearing. Deadlines arising under the Settlement Agreement and this
16 Order include, but are not limited to:

Event	Date
Defendant to Pay to Claims Administrator the Estimated Costs Associated with Notifying the Class Members of the Settlement	15 Days After the Preliminary Approval Order
Mailing of Notice, Start of Notice Period	30 Days After the Preliminary Approval Order
End of Notice Period, Deadline for Class Members to Submit Claim Forms, Opt-Out, or Object	120 Days After the Preliminary Approval Order (i.e., 90 Days After the Start of the Notice Period)
Claims Administrator's Report Identifying Opt-Outs	127 Days After the Preliminary Approval Order (i.e., 7 Days After Deadline to Opt-Out)
Class Counsel to File Motion for Final Approval of Settlement, Service Awards, Attorney Fees and Costs, Entry of Judgment, and Dismissal of Action	14 Days Before Final Approval Hearing

1 THE COURT HEREBY SETS THE FINAL APPROVAL HEARING AT THE
2 FOLLOWING DATE AND TIME: June 3, 2022 at 9:00am

3
4 IT IS SO ORDERED this 24 day of January, 2022.

5
6 K Richardson
7 THE HONORABLE KRISTIN RICHARDSON

8 Presented by:

9 EMERY REDDY, PLLC

10 By: s/ Timothy W. Emery

11 Timothy W. Emery, WSBA No. 34078

12 Patrick B. Reddy, WSBA No. 34092

13 600 Stewart Street, Suite 1100

14 Seattle, WA 98101

15 Tel.: 206.442.9106

16 Fax: 206.441.9711

17 Email: emeryt@emeryreddy.com

18 Email: reddyp@emeryreddy.com

19 Attorneys for Plaintiffs