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VENTURA SUPERIOR COURT

FILED

03/08/2024

Brenda L. McCormick
Executive Officer and Clerk

Brenda L. McCormick
Cristal Alvarez

6
7 Attorneys for Representative Plaintiff

8
9 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **IN AND FOR THE COUNTY OF VENTURA**

11
12 VERONICA HUBBARD, individually,
and on behalf of all others similarly
13 situated,

14 Plaintiff,

15 v.

16 LIVINGSTON MEMORIAL VNA
HEALTH CORP., LIVINGSTON
17 MEMORIAL VISITING NURSE
ASSOCIATION, LIVINGSTON
18 CAREGIVERS, and DOES 1 through 100,
inclusive,

19 Defendants.
20

Case No. 56-2023-00576342-CU-NP-VTA

CLASS ACTION

~~PROPOSED~~ ORDER GRANTING
PLAINTIFF'S MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT

Date: February 13, 2024

Time: 8:30 a.m.

Dept.: 40

Judge: Hon. Mark S. Borrell

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22 This matter, having come before the Superior Court of the State of California, in and for
23 the County of Ventura, at 8:30a. m. on February 13, 2024, 2024 in Department 40 with Cole &
24 Van Note appearing as counsel for Representative Plaintiff Veronica Hubbard, individually, and
25 on behalf of the Plaintiff Class, and O'Hagen Meyer Law Firm appearing as counsel for defendant
26 Livingston Memorial, and Does 1 through 100 ("Livingston Memorial" or "Defendant"). The
27 Court, having carefully considered the briefs, argument of counsel, and all matters presented to the
28

Received 01/17/2024

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1 Court and good cause appearing, hereby **GRANTS** Plaintiff's Motion for Preliminary Approval
2 of Class Action Settlement.

3 **IT IS HEREBY ORDERED THAT:**

4 1. Named Plaintiff's Motion for Preliminary Approval of Class Action Settlement is
5 GRANTED. The terms defined in the Settlement Agreement shall have the same meanings in this
6 Order.

7 2. Having made the findings set forth below, the Court conditionally certifies the
8 following Class for settlement purposes only:

9 "All individuals within the State of California that received notice from Livingston
10 Memorial VNA Health Corporation, Livingston Memorial Visiting Nurse
11 Association and/or Livingston Caregivers of a Data Breach occurring between
12 February 6, 2022 and February 11, 2022."

13 Excluded from the Settlement Class are Officers of Defendant, the judges presiding over the
14 Action and members of their immediate family, and Class Members who submit a Request for
15 Exclusion.

16 3. For settlement purposes only, with respect to the Settlement Class, the Court
17 preliminary finds the prerequisites for a class action pursuant to California Code of Civil Procedure
18 382 have been met, in that: (a) the Settlement Class is so numerous that joinder of all individual
19 Settlement Class members in a single proceeding is impracticable; (b) questions of law and fact
20 common to all Settlement Class Members predominate over any potential individual questions;
21 (c) the claims of the Named Plaintiff are typical of the claims of the Settlement Class; (d) Plaintiff
22 and proposed Class Counsel will fairly and adequately represent the interests of the Settlement
23 Class; and (e) a class action is the superior method to fairly and efficiently adjudicate this
24 controversy.

25 4. The Court hereby appoints Plaintiff, Veronica Hubbard, as Class Representative for
26 the Settlement Class.

27 5. The Court hereby appoints Laura Van Note of Cole & Van Note as Class Counsel.
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1 6. The terms of the Settlement, including its proposed release, are preliminarily
2 approved as within the range of fair, reasonable, and adequate, and are sufficient to warrant
3 providing notice of the Settlement to the Settlement Class in accordance with the notice plan, and
4 are subject to further and final consideration at the Final Approval Hearing provided for below. In
5 making this determination, the Court considered the fact that the Settlement is the product of arm's-
6 length negotiations facilitated by a neutral mediator and conducted by experienced and
7 knowledgeable counsel, the current posture of the Action, the benefits of the Settlement to the
8 Settlement Class, and the risk and benefits of continuing litigation to the Parties and the Settlement
9 Class.

10 7. As provided for in the Settlement Agreement, if the Court does not grant final
11 approval of the Settlement or if the Settlement is terminated or cancelled in accordance with its
12 terms, then the Settlement, and the conditional certification of the Settlement Class for settlement
13 purposes only provided for herein, will be vacated and the Action shall proceed as though the
14 Settlement Class had never been conditionally certified for settlement purposes only, with no
15 admission of liability or merit as to any issue, and no prejudice or impact as to any Party's position
16 on the issue of class certification or any other issue in the case.

17 8. The Court appoints CPT Group as the Settlement Administrator. The
18 responsibilities of the Settlement Administrator are set forth in the Settlement Agreement.

19 9. The Court has considered the Class Notice provisions of the Settlement, and the
20 Class Notice attached as **Exhibit A** to the Settlement Agreement. The Court finds that the direct
21 emailing and/or mailing of Notice in the manner set forth in the notice plan is the best notice
22 practicable under the circumstances, constitutes due and sufficient notice of the Settlement and
23 this Order to all persons entitled thereto, and is in full compliance with applicable law and due
24 process. The Court approves as to form and content the Class Notice in the form attached as Exhibit
25 A to the Settlement Agreement. The Court orders the Settlement Administrator to commence the
26 notice plan following entry of this Order in accordance with the terms of the Settlement
27 Agreement.

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1 10. Each person wishing to opt out of the Settlement Class must individually sign and
2 timely mail written notice of such intent to the Settlement Administrator at the address set forth in
3 the Class Notice. The written notice must clearly manifest the Settlement Class Member's intent
4 to be excluded from the Settlement Class. To be effective, written notice must be postmarked no
5 later than 45 days after the Class Notice Date.

6 11. Persons who submit valid and timely notices of their intent to be excluded from the
7 Settlement Class shall neither receive any benefits of nor be bound by the terms of the Settlement.

8 12. Persons falling within the definition of the Settlement Class who do not timely and
9 validly request to be excluded from the Settlement Class shall be bound by the terms of the
10 Settlement, including its releases, and all orders entered by the Court in connection therewith.

11 13. Each Settlement Class Member desiring to object to the Settlement must submit a
12 timely written notice of his or her objection to the Settlement Administrator at the address set forth
13 in the Class Notice. Such notice must include: (i) the objector's full name, current address, current
14 telephone number, and be personally signed; (ii) the case name and number—*Hubbard v.*
15 *Livingston Memorial*, Case No. 56-2023-00576342-CU-NP-VTA; (iii) documentation sufficient
16 to establish membership in the Class; (iv) a statement of the position(s) the objector wishes to
17 assert, including the factual and legal grounds for the position; (v) provide copies of any other
18 documents that the objector wishes to submit in support of his/her position; (vi) whether the
19 objecting Class Member intends to appear at the Final Approval Hearing; and (v) whether the
20 objecting Class Member is represented by counsel and, if so, the name, address, and telephone
21 number of his/her counsel.

22 14. To be timely, written notice of an objection in appropriate form must be mailed to
23 the Settlement Administrator and postmarked no later than 45 days after the Class Notice Date.

24 15. Unless otherwise ordered by the Court, any Settlement Class Member who does not
25 timely object in the manner prescribed above shall be deemed to have waived all such objections
26 and shall forever be foreclosed from making any objection to the fairness, adequacy, or
27 reasonableness of the Settlement, including its releases, the Final Approval Order and Judgment
28 approving the Settlement, Plaintiff's Counsel's Fees and Expenses and Service Awards to Plaintiff.

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1 16. The Court will hold a Final Approval Hearing on [Date], at [Time] __.m., at the
 2 Ventura County Superior Court, 800 S. Victoria Ave, Ventura, CA 93009, Department 40, to
 3 consider: (a) whether certification of the Settlement Class for settlement purposes only should be
 4 confirmed; (b) whether the Settlement should be approved as fair, reasonable, adequate and in the
 5 best interests of the Settlement Class; (c) the application by Plaintiff’s Counsel for an award of
 6 attorneys’ fees, costs and expenses as provided for under the Settlement; (d) the application for
 7 Plaintiff’s Service Award, as provided for under the Settlement; (e) whether the release of
 8 Released Claims as set forth in the Settlement should be provided; (f) whether the Court should
 9 enter the [Proposed] Final Order and [Proposed] Judgment; and (g) ruling upon such other matters
 10 as the Court may deem just and appropriate. The Final Approval Hearing may, from time to time
 11 and without further notice to Settlement Class Members be continued or adjourned by order of the
 12 Court.

13 17. No later than 16 court days prior to the Final Approval Hearing, Plaintiff shall file
 14 her Motion for Final Approval of Class Action Settlement and her Motion for Award of Attorneys’
 15 Fees and Expenses and Plaintiff’s Service Award. No later than five court days prior to the Final
 16 Approval Hearing, Plaintiff may file a Reply Brief in Support of Motion for Final Approval of
 17 Class Action Settlement Agreement and a Reply Brief in Support of Motion for Award of
 18 Attorneys’ Fees and Expenses and Plaintiff’s Service Award, including as needed to respond to
 19 any valid and timely objections.

20 18. The related time periods for events preceding the Final Approval Hearing are as
 21 follows:

Event	Timing
Class Notice Date	Within 20 days after entry of this Order
Request for Exclusion Deadline	45 days after the Class Notice Date
Objection Deadline	45 days after the Class Notice Date
Motion for Final Approval filing Deadline	16 court days prior to the Final Approval Hearing
Final Approval Hearing	_____, 2024 at ____:____m. [approx. 100 days after Preliminary Approval, or shortly thereafter] <i>6/20/24 @</i>

*8:20 AM
 Dept. 40*

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19. Any action brought by a Settlement Class Member concerning a Released Claim shall be stayed pending final approval of the Settlement.

IT IS SO ORDERED.

Dated: 3/8/24

By: 
Judge Mark S. Borrell

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