

IN THE IOWA DISTRICT COURT FOR DALLAS COUNTY

Martin Rogers, Phoebe Gossman, Steven Peasley, Louise Peasley, Nikki Grote, Michael Hamilton, Mark Hart, Norman Lewman, Kristy Irwin, Teri Casey, and Larry Rogers, individually, and on behalf of all others similarly situated,

Plaintiffs,

v.

Des Moines Orthopaedic Surgeons, P.C.,

Defendant.

Case No. 05251CVC044835

PRELIMINARY APPROVAL ORDER

Before the Court is Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement (the "Motion"), the terms of which are set forth in a Settlement Agreement and Release between Plaintiffs Martin Rogers, Phoebe Gossman, Steven Peasley, Louise Peasley, Nikki Grote, Michael Hamilton, Mark Hart, Norman Lewman, Kristy Irwin, Teri Casey, and Larry Rogers (collectively, "Plaintiffs") and Defendant Des Moines Orthopaedic Surgeons, P.C. ("Defendant," together with Plaintiffs, the "Parties"), with accompanying exhibits, attached as **Exhibit 1** to the Motion (the "Settlement Agreement").¹

Having fully considered the issue, the Court hereby **GRANTS** the Motion and **ORDERS** as follows:

1. **Class Certification for Settlement Purposes Only.** The Settlement Agreement provides for a Settlement Class defined as follows:

¹ All defined terms in this Order ("Preliminary Approval Order") have the same meaning as set forth in the Settlement Agreement, unless otherwise indicated.

**All living individuals who were sent a notice by Defendant that their
Private Information may have been impacted in the Data Incident.**

The Class consists of approximately 300,000 persons. Specifically excluded from the Settlement Class are (a) directors and officers of Defendant; (b) the Judge assigned to the Action, that Judge's immediate family, and Court staff; and (c) natural persons who properly execute and submit a Request for Exclusion prior to the expiration of the Opt-Out Period.

Pursuant to Iowa Rules of Civil Procedure Rule 1.271, the Court finds that giving notice is justified. The Court finds that it will likely be able to approve the proposed Settlement as fair, reasonable, and adequate. The Court also finds that it will likely be able to certify the Settlement Class for purposes of judgment on the Settlement because it meets all of the requirements of Rule Rules 1.261 through 1.263.

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

2. **Settlement Class Representatives and Settlement Class Counsel.** The Court finds that Plaintiffs will likely satisfy the requirements of Rule 1.263(2) and should be appointed

as the Class Representatives. Additionally, the Court finds that Philip J. Krzeski of Chestnut Cambronne P.A., Nickolas J. Hagman of Cafferty Clobes Meriwether & Sprengel LLP, John J. Nelson of Milberg Coleman Bryson Phillips Grossman, PLLC, Terence R. Coates of Markovits Stock & DeMarco, LLC, Kevin Laukaitis of Laukaitis Law LLC, and Amina Thomas of Cohen Malad LLP, satisfy the requirements of Rule 1.263(2) and should be appointed as Class Counsel.

3. **Preliminary Settlement Approval.** Upon preliminary review, the Court finds the Settlement is fair, reasonable, and adequate to warrant providing notice of the Settlement to the Settlement Class and accordingly is preliminarily approved. In making this determination, the Court has considered the monetary and non-monetary benefits provided to the Settlement Class through the Settlement, the specific risks faced by the Settlement Class in prevailing on their claims, the good faith, arms' length negotiations between the Parties and absence of any collusion in the Settlement, the effectiveness of the proposed method for distributing relief to the Settlement Class, the proposed manner of allocating benefits to Settlement Class Members, the Settlement treats the Settlement Class Members equitably, and all of the other factors required by Rule 1.271 and relevant case law.

4. **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 also retain jurisdiction over all questions and/or disputes related to the Notice Program and the Settlement Administrator. The Court has subject matter jurisdiction over this action and personal jurisdiction over the Parties before it. Additionally, venue is proper in this District pursuant to Iowa Code § 616.5.

5. **Final Approval Hearing.** A Final Approval Hearing shall be held on July 16, 2026, at 1:30 PM, at the Dallas County Courthouse, 801 Court Street, Adel, IA 50003, where the Court will determine, among other things, whether: (a) this Litigation should be finally certified as a class action for settlement purposes pursuant to Rule 1.262; (b) the Settlement should be approved as fair, reasonable, and adequate, and finally approved pursuant to Rule 1.271; (c) this Litigation should be dismissed with prejudice pursuant to the terms of the Settlement Agreement; (d) Settlement Class Members who have not timely and validly excluded themselves from the Settlement should be bound by the releases set forth in the Settlement Agreement; (e) the application of Class Counsel for an award of Attorneys' Fees, Costs, and Expenses should be approved; and (f) the application of the Class Representatives for a Service Award should be approved.

6. **Settlement Administrator.** The Court appoints Analytics Consulting LLC ("Analytics") as the Settlement Administrator, with responsibility for Class Notice and settlement administration. The Settlement Administrator is directed to perform all tasks the Settlement Agreement requires. The Settlement Administrator's fees will be paid pursuant to the terms of the Settlement Agreement.

7. **Notice.** The proposed Notice program set forth in the Settlement Agreement and the Notices and Claim Form attached to the Settlement Agreement as **Exhibits A, B, and C** are hereby approved. Non-material modifications to these Exhibits may be made by the Settlement Administrator in consultation and agreement with the Parties, but without further order of the Court.

8. **Findings Concerning Notice.** The Court finds that the proposed form, content, and method of giving Notice to the Settlement Class as described in the Notice program and the

Settlement Agreement and its exhibits: (a) will constitute the best practicable notice to the Settlement Class; (b) are reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Litigation, the terms of the proposed Settlement, and their rights under the proposed Settlement, including, but not limited to, their rights to object to or exclude themselves from the proposed Settlement and other rights under the terms of the Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class Members and other persons entitled to receive notice; (d) meet all applicable requirements of law, including Iowa Rule of Civil Procedure Rule 1.271(3); and (e) and meet the requirements of the Due Process Clause(s) of the United States and Iowa Constitutions. The Court further finds that the Notice provided for in the Settlement Agreement is written in plain language, uses simple terminology, and is designed to be readily understandable by Settlement Class Members.

The Settlement Administrator is directed to carry out the Notice program in conformance with the Settlement Agreement.

9. **Exclusion from Class.** Any Settlement Class Member who wishes to be opt-out of the Settlement Class must individually sign and timely submit written notice of such intent to the designated Post Office box established by the Settlement Administrator in the manner provided in the Notice. The written notice must be personally signed by the Settlement Class Member and contain the requestor's name, address, telephone number, and email address (if any), and include a statement indicating a request to be excluded from the Settlement Class. To be effective, such requests for exclusion must be postmarked no later than the Opt-Out Date, which means 60 days after the Notice Date.

The Settlement Administrator shall promptly furnish to Class Counsel and to Defendant's counsel a complete list of all timely and valid requests for exclusion (the "Opt-Out List").

If a Final Approval Order is entered, all persons falling within the definition of the Settlement Class who do not request to be excluded from the Settlement Class shall be bound by the terms of this Settlement Agreement and the Final Approval Order. All Persons who submit valid and timely notices of their intent to be excluded from the Settlement Class shall not receive any cash benefits of and/or be bound by the terms of the Settlement Agreement.

10. **Objections and Appearances.** A Settlement Class Member (who does not submit a timely written request for exclusion) desiring to object to the Settlement Agreement and/or Motion for Attorneys' Fees, Costs, and Service Awards, and Postcard Notice may submit a timely written notice of his or her objection by the Objection Date and as stated in the Notice. The Long Notice shall instruct Settlement Class Members who wish to object to send written objections by U.S. Mail to the Settlement Administrator. For a written Objection to be considered by the Court, the relevant Settlement Class Member must submit the Objection no later than the Objection Date, which means 60 days after the Notice Date.

For a written objection to be considered by the Court, the objection must also set forth: (i) the objector's full name, mailing address, telephone number, and email address (if any); (ii) all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel; (iii) the identity of all counsel (if any) who represent the objector, including any former or current counsel who may claim an entitlement to compensation for any reason related to the objection to the Settlement and/or Motion for Attorneys' Fees, Costs, and Service Awards; (iv) the identity of all counsel (if any) representing the objector, and whether they will appear at the Final Approval Hearing; (v) a list of all cases, including case name, court file

number, and court, in which the objector has previously filed an objection; (vi) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any); (vii) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and (viii) the objector's signature (an attorney's signature is not sufficient).

Any Settlement Class Member who fails to comply with the requirements for objecting shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement and/or Motion for Attorneys' Fees, Costs, and Service Awards, and Postcard Notice, and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders, and judgments in the Litigation. The provisions stated in Paragraphs 71-74 of the Settlement Agreement shall be the exclusive means for any challenge to the Settlement Agreement and/or Motion for Attorneys' Fees, Costs, and Service Awards, and Postcard Notice. Any challenge to the Settlement Agreement, the final order approving this Settlement Agreement, or the Final Approval Order to be entered upon final approval shall be pursuant to appeal under the Iowa Rules of Appellate Procedure and not through a collateral attack.

11. **Claims Process.** Class Counsel and Defendant have created a process for Settlement Class Members to claim benefits under the Settlement. The Court preliminarily approves this process and directs the Settlement Administrator to make the Claim Form or its substantial equivalent available to Settlement Class Members in the manner specified in the Notice.

The Settlement Administrator will be responsible for effectuating the claims process. Settlement Class Members who qualify for and wish to submit a Claim Form shall do so in accordance with the requirement and procedures specified in the Notice and the Claim Form. If the Final Approval Order is entered, all Settlement Class Members who qualify for any benefit

under the Settlement but fail to submit a claim in accordance with the requirements and procedures specified in the Notice and the Claim Form shall be forever barred from receiving any such benefit, but will in all other respects be subject to and bound by the provisions in the Final Approval Order, including the releases contained therein.

12. **Termination of Settlement.** This Preliminary Approval Order shall become null and void and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing before the Court entered this Preliminary Approval Order and before they entered the Settlement Agreement, if not all conditions specified in Paragraph 101 of the Settlement Agreement are satisfied. In such event, the Parties shall jointly file a status report in the Court seeking to reopen the Action and all papers filed, the terms and provisions of this Agreement shall have no further force and effect with respect to the Parties and shall not be used in this Action or in any other action or proceeding for any other purpose, and any order entered by this Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*.

13. **Use of Order.** In the event the Final Order and Judgment is not entered or there is no Effective Date, this Preliminary Approval Order shall be of no force or effect and shall not be construed or used as an admission, concession, or declaration by or against Defendant of any fault, wrongdoing, breach, or liability. Nor shall this Preliminary Approval Order be construed or used as an admission, concession, or declaration by or against the Class Representatives or any other Settlement Class Member that his or her claims lack merit or that the relief requested is inappropriate, improper, unavailable, or as a waiver by any Party of any defense or claims they may have in this Litigation or in any other lawsuit.

14. **Continuance of Hearing.** The Court reserves the right to adjourn or continue the Final Approval Hearing and related deadlines without further written notice to the Settlement Class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the Settlement Website maintained by the Settlement Administrator. The Court may approve the Settlement, with such modifications as may be agreed upon by the Parties, if appropriate, without further notice to the Settlement Class.

15. **Stay of Litigation.** All proceedings in the Litigation, other than those related to approval of the Settlement Agreement, are hereby stayed. Further, any actions brought by Settlement Class Members concerning the Released Claims are hereby enjoined and stayed pending Final Approval of the Settlement Agreement.

16. **Schedule and Deadlines.** The Court orders the following schedule of dates for the specified actions/further proceedings:

SETTLEMENT TIMELINE

Action	Deadline
Class List Distribution	7 days after entry of the Preliminary Approval Order
Notice Date	30 days after entry of the Preliminary Approval Order
File Motion for Attorneys' Fees, Costs, and Service Awards	14 days prior to Opt-Out and Objection Deadline
Objection Date	60 days after the Notice Date
Opt-Out Date	60 days after the Notice Date
Claims Deadline	90 days after the Notice Date
Motion for Final Approval	14 days before the Final Approval Hearing
Final Approval Hearing	July 16, 2026, unless rescheduled by the court



State of Iowa Courts

Case Number
CVCV044835

Case Title
MARTIN ROGERS VS DES MOINES ORTHOPAEDIC
SURGEONS
OTHER ORDER

Type:

So Ordered


David Faith, District Court Judge,
Fifth Judicial District of Iowa

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