

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SOLANO**

MICHAEL MCCALMON, individually
and on behalf of himself and all others
similarly situated,

Plaintiff,

v.

NORTHBAY HEALTHCARE
CORPORATION,

Defendant.

Case No. CU24-03200
Assigned to Hon. Christine A. Carringer
Dept. 12

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

**[Notice of Motion; Memorandum of Points
and Authorities; Declaration of Kenneth J.
Grunfeld; Declaration of Shelby Alvey; and
Declaration of Michael McCalmon]**

Date:
Time:
Dept.: 12

Action filed: April 26, 2024

THIS MATTER HAVING come before this Court for an Order preliminarily certifying the Settlement Class and preliminarily approving a Settlement between Plaintiff Michael McCalmon, individually, and on behalf of the proposed Settlement Class, and Defendant Northbay Healthcare Corporation, and this Court having reviewed the Settlement Agreement and attachments thereto, executed by the Parties, and submitted to the Court with the Unopposed Motion for Preliminary Approval of Class Action Settlement;

IT IS HEREBY ORDERED as follows:

1 1. This Preliminary Approval Order incorporates the Agreement, and the terms used
2 herein shall have the meanings and/or definitions given to them in the Agreement, as submitted to
3 the Court with the Motion.

4 2. For purposes of the Settlement, and conditioned upon the Settlement receiving Final
5 Approval following the Final Approval Hearing, this Court hereby conditionally certifies the
6 Settlement Class defined as follows and subject to the stated exclusions below:

7 All persons in the United States whose Private Information was compromised as a
8 result of the Data Incident and who were sent notice of the Data Incident.

9 Excluded from the Settlement Class are all persons who are governing board members of the
10 Defendant; governmental entities; the Court, the Court's immediate family, and Court staff; and all
11 Settlement Class members who make a timely election to be excluded.

12 3. The Court finds that, for purposes of settlement: (a) the number of members of the
13 Settlement Class is so numerous that joinder is impracticable; (b) there are questions of law and fact
14 common to the members of the Settlement Class; (c) the claims of the Plaintiff are typical of the
15 claims of the members of the Settlement Class; (d) the Plaintiff is an adequate representative for the
16 Settlement Class, and has retained experienced and adequate Class Counsel; (e) the questions of law
17 and fact common to the members of the Settlement Class predominate over any questions affecting
18 any individual members of the Settlement Class; and (f) a class action is superior to the other
19 available methods for the fair and efficient adjudication of the controversy.

20 4. For purposes of settlement only, the Court finds and determines that Plaintiff Michael
21 McCalmon will fairly and adequately represent the interests of the Settlement Class in enforcing
22 their rights in the action, and appoints him as the Class Representative.

23 5. For purposes of settlement only, the Court appoints as Class Counsel: Kenneth
24 Grunfeld and Kristen Lake Cardoso of Kopelowitz Ostrow P.A.

25 6. Simpluris, Inc. is appointed as Settlement Administrator. The Settlement
26 Administrator shall abide by the terms and conditions of the Agreement that pertain to the
27 Settlement Administrator.

28 7. The Settlement, on the terms and conditions stated in the Agreement, is preliminarily

1 approved by this Court as being fair, reasonable, and adequate, free of collusion or indicia of
2 unfairness, and within the range of possible final approval.

3 8. The Final Approval Hearing will be held on _____, 2025 at _____ a.m./p.m.
4 before the Honorable Christine A. Carringer in Department 12 of the Superior Court of the State of
5 California, County of Solano, located at Courtroom I, Old Solano Courthouse, 580 Texas Street,
6 Fairfield, California 94533, to consider: (a) the fairness, reasonableness and adequacy of the
7 proposed Settlement; (b) any objections made by Settlement Class Members to the proposed
8 Settlement; (c) whether the Settlement should be finally approved by this Court; (d) Class Counsel's
9 Application for Attorneys' Fees, Costs, and Service Award; and (e) such other matters as this Court
10 may deem proper and necessary.

11 9. Class Counsel are to file and serve the Motion for Final Approval, including the
12 Application for Attorneys' Fees, Costs, and Service Award, no later than 45 days before the original
13 date set for the Final Approval Hearing. The Application for Attorneys' Fees, Costs, and Service
14 Award will be heard concurrently with the request for Final Approval.

15 10. The proposed forms of Notice to the Settlement Class are attached to the Agreement
16 as Exhibits 1 and 2, and are hereby approved for the purpose of notifying the members of the
17 Settlement Class of the proposed Settlement, the Final Approval Hearing date, and the rights of the
18 members of the Settlement Class to opt-out of or object to the Settlement, and it shall be sent to the
19 members of the Settlement Class substantially in the forms approved. The Parties may by mutual
20 written consent make non-substantive changes to the Notice without Court approval. The Settlement
21 Administration Costs will be paid from the Settlement Fund.

22 11. The Notice Program shall be substantially completed no later than 45 days before the
23 original date set for the Final Approval Hearing. The Long Form Notice shall be posted on the
24 Settlement Website created by the Settlement Administrator and be available on request made to
25 the Settlement Administrator.

26 12. In advance of the Final Approval Hearing, the Settlement Administrator shall prepare
27 a declaration confirming the Notice Program was completed in accordance with the terms of this
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1 Agreement and the Preliminary Approval Order, describing how the Notice Program was
2 completed, indicating the number of Claim Forms received, providing the names of each individual
3 in the Settlement Class who timely and properly requested to opt-out from the Settlement Class,
4 indicating the number of objections received, and other information as may be necessary to allow
5 the Parties to seek and obtain Final Approval.

6 13. The Postcard Notice and Long Form Notice, as set forth in Exhibits 1 and 2 to the
7 Agreement, and approved by this Preliminary Approval Order, is the best notice practicable, and is
8 reasonably calculated, under the circumstances, to apprise the members of the Settlement Class of
9 the pendency of the Action and their right to participate in, object to, or exclude themselves from
10 the Settlement. This Court further finds that the Postcard Notice and Long Form Notice are due and
11 sufficient notice of the Final Approval Hearing date, the Settlement, the Motion for Final Approval
12 and Application for Attorneys' Fees, Costs, and Service Award, and other matters set forth in the
13 Agreement, and that the Postcard Notice and Long Form Notice fully satisfy California Rules of
14 Court and due process of law, to all persons entitled thereto.

15 14. Any member of the Settlement Class who intends to object to the fairness,
16 reasonableness, and adequacy of the Settlement, including Class Counsel's Application for
17 Attorneys' Fees, Costs, and Service Awards, must object in writing and send the objection by mail
18 to the Clerk of Court, Class Counsel, Defendant's Counsel, and the Settlement Administrator. For
19 an objection to be considered by the Court, the objection must be submitted no later than the last
20 day of the Objection Period, as specified in the Notice. If submitted by mail, an objection shall be
21 deemed to have been submitted when posted if received with a postmark date indicated on the
22 envelope if mailed first-class postage prepaid and addressed in accordance with the instructions. If
23 submitted by private courier (e.g., Federal Express), an objection shall be deemed to have been
24 submitted on the shipping date reflected on the shipping label. There shall be no combined,
25 collective, or joint objections and, in the event any combined, collective, or joint objections are
26 submitted, they shall be deemed invalid as to all such persons.

27 15. For an objection to considered by the Court, the objection must also set forth:
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- 1 (i) The name of this case, which is *McCalmon v. Northbay Healthcare*
2 *Corporation*, Superior Court of California, County of Solano, Case No. CU24-
3 03200;
- 4 (ii) the objector's full name, mailing address, telephone number, and email
5 address (if any);
- 6 (iii) all grounds for the objection, accompanied by any legal support for the
7 objection known to the objector or objector's counsel;
- 8 (iv) the identity of all counsel who represent the objector, including the identity of
9 all counsel (if any) representing the objector who will appear at the Final
10 Approval Hearing;
- 11 (v) a list of all persons who will be called to testify at the Final Approval Hearing
12 in support of the objection (if any);
- 13 (vi) a statement confirming whether the objector intends to personally appear
14 and/or testify at the Final Approval Hearing; and
- 15 (vii) the objector's signature (an attorney's signature is not sufficient).

16 Any member of the Settlement Class who does not provide a timely and written objection shall have
17 waived any objection and shall forever be foreclosed from making any objection to the fairness,
18 reasonableness, or adequacy of the proposed Settlement and Class Counsel's Application for
19 Attorneys' Fees, Costs, and Service Award.

20 16. Members of the Settlement Class may elect to opt-out of the Settlement Class at any
21 time during the Opt-Out Period. In the event a member of the Settlement Class wishes to opt-out of
22 the Settlement Class and not to be bound by the Agreement, that person must mail a written request
23 to opt-out to the Settlement Administrator postmarked no later than the last day of the Opt-Out
24 Period. The opt-out request must be personally signed by the Settlement Class member and contain
25 the name, address, telephone number, and email address (if any), and include a statement indicating
26 a request to be excluded from the Settlement Class. Any individual in the Settlement Class who
27 does not timely and validly request to opt out shall be bound by the terms of this Agreement even
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1 if he or she does not submit a Valid Claim. There shall be no combined, collective, or joint opt-out
2 requests and, in the event any combined, collective, or joint opt-out requests are submitted, they
3 shall be deemed void as to all such persons.

4 17. Any member of the Settlement Class who submits a timely opt-out request may not
5 file an objection to the Settlement and shall be deemed to have waived any rights or benefits under
6 the Agreement.

7 18. All pretrial proceedings in this Action are stayed and suspended until further order of
8 this Court, except such actions as may be necessary to implement the Agreement and this
9 Preliminary Approval Order.

10 19. In the event that (a) this Court does not finally approve the Settlement as provided in
11 the Agreement; (b) this Court does not enter the Final Approval Order as provided in all material
12 respects and substantial form set forth in the Agreement; or (c) the Settlement does not become final
13 for any other reason consistent with the terms of the Agreement, the Agreement shall be null and
14 void and any order or judgment entered by this Court in furtherance of the Settlement shall be
15 vacated *nunc pro tunc*. In such a case, the Parties shall proceed in all respects as if the Agreement
16 had not been executed and the Parties shall in no way be prejudiced in proceeding with or defending
17 this litigation, the conditional class certification effected herein will be null and void, and Defendant
18 shall have the right to object to certification of the Settlement Class or any other class at any future
19 time.

20 20. For the benefit of the Settlement Class and to protect this Court's jurisdiction, this
21 Court retains continuing jurisdiction over the settlement proceedings to ensure the effectuation
22 thereof in accordance with the Settlement preliminarily approved herein and the related orders of
23 this Court.

24 21. The Parties are directed to carry out their obligations under the Agreement.

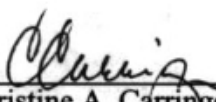
25 22. Class Counsel shall serve a copy of this Preliminary Approval/Notice Order on all
26 named parties or their counsel within seven days of receipt.
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Summary of Applicable Dates

Deadline to commence Notice Program	30 days after entry of the Preliminary Approval Order <u>7/2/25</u>
Deadline to complete Notice Program	45 days before the initially scheduled Final Approval Hearing <u>9/10/25</u>
Deadline to File Motion for Final Approval, including Class Counsel's Application for Attorneys' Fees, Costs, and Service Award	45 days before the initially scheduled Final Approval Hearing <u>9/10/25</u>
Opt-Out Period Ends	30 days before the initially scheduled Final Approval Hearing <u>9/30/25</u>
Objection Period Ends	30 days before the initially scheduled Final Approval Hearing <u>9/30/25</u>
Claim Form Deadline	15 days before the initially scheduled Final Approval Hearing <u>10/14/25</u>
Final Approval Hearing	<u>10/29</u> , 2025 at <u>8:30</u> a.m./p.m.

IT IS SO ORDERED.

Dated: 6/4/2025



The Hon. Christine A. Carringer
Judge of the Superior Court