

1 Date of Hearing: 12/12/2025
2 Time of Hearing: 9:00 a.m.
3 Judicial Officer: Gonzales
4 Assigned Department: 4
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11 **IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR CLARK COUNTY**

12 GREGORY COOPER, HUNTER
13 ELLINGSON, MICHAEL MATSUBARA,
14 DOUGLAS FEHLEN, REBECCA
15 McCORMICK, REGINA AUNSPAUGH,
16 NICHOLE LAWRENCE, CHARLES
17 METHVIN, and JENNIFER CANTERBURY,
18 individually and on behalf of all others
19 similarly situated,

20 Plaintiffs,
21 v.
22 REBOUND ORTHOPEDICS &
23 NEUROSURGERY P.C.,
24 Defendant.

25 No. 25-2-00545-06
Clerk's Action Required

26 **PROPOSED PRELIMINARY APPROVAL ORDER**

27 WHEREAS, this Action¹ is a putative class action before this Court;

WHEREAS, Plaintiffs, individually, and on behalf of the proposed Settlement Class, and Defendant, have entered into the Settlement Agreement, which is subject to review and approval by the Court under Washington Rule of Civil Procedure 23(a) and (b)(3) and which, together

¹ The capitalized terms herein shall have the same meanings as those used in Section II of the Settlement Agreement, attached to the Motion for Preliminary Approval as *Exhibit A*.

1 with its exhibits, provides for a complete dismissal on the merits and with prejudice of the claims
2 asserted in the Action against Defendant should the Court grant Final Approval of the Settlement;

3 WHEREAS, Plaintiffs filed an unopposed Motion for Preliminary Approval requesting
4 entry of an order to: (1) conditionally certify the Settlement Class; (2) appoint Plaintiffs as Class
5 Representatives; (3) appoint Kaleigh N. Boyd, Jeff Ostrow, and Andrew J. Shamis as Class
6 Counsel; (4) preliminarily approve the Settlement; (5) appoint Simpluris, Inc. as the Settlement
7 Administrator; (6) approve the Notice Program and direct that Notice be sent to the Settlement
8 Class; (7) approve the Claim Form and Claims Process; (8) approve the Settlement's opt-out and
9 objection procedures; (8) stay all deadlines in the Action pending Final Approval of the
10 Settlement; (9) enjoin and bar all members of the Settlement Class from initiating or continuing
11 in any litigation or asserting any claims against Defendant and the Released Parties arising out
12 of, relating to, or in connection with the Released Claims prior to the Court's decision to grant
13 Final Approval of the Settlement; and (10) set a date for the Final Approval Hearing; and

14 WHEREAS, the Court having reviewed the Motion for Preliminary Approval along with
15 the Settlement and its exhibits and finding that substantial and efficient grounds exist for entering
16 this Preliminary Approval Order granting the relief requested.

17 NOW, THEREFORE, IT IS HEREBY ORDERED:

18 1. **Settlement Class Certification:** Pursuant to Washington Rule of Civil Procedure
19 23(a) and (b)(3), and for purposes of settlement only, the Action is hereby preliminarily certified
20 as a class action on behalf of the following Settlement Class:

21 All living individuals residing in the United States whose Private Information may
22 have been accessed in the Data Incident, including all those who were sent a notice
23 by Defendant that their Private Information may have been impacted by the Data
Incident.

24 Excluded from the Settlement Class are (a) all persons who are directors, officers, and agents of
25 Defendant; (b) governmental entities; and (c) the Judge assigned to the Action, that Judge's
26 immediate family, and Court staff

27 2. **Settlement Fund:** The Settlement provides Cash Payments and Medical Data

1 Monitoring that Defendant is obligated to pay for under the Settlement. The Settlement Fund will
2 be used to pay for the Cash Payments and Medical Data Monitoring; Settlement Administration
3 Costs; any Court-approved attorneys' fees and costs to Class Counsel; and any Court-approved
4 Service Awards to Plaintiffs for serving as the Class Representative.

5 3. The terms of the Settlement (and the Settlement provided for therein) are
6 preliminarily approved and likely to be approved at the Final Approval Hearing pursuant to
7 Washington Rule of Civil Procedure 23(c) and (e) as fair, reasonable, and adequate.

8 4. **Settlement Class Findings:** The Court finds, for purposes of settlement only, and
9 without any adjudication on the merits, that the prerequisites for certifying the Action as a class
10 action under Washington Rule of Civil Procedure 23(a) and (b)(3) have been satisfied, and that
11 the Court will likely certify at the Final Approval stage a Settlement Class.

12 5. As to Rule 23(a), the Court finds that: (a) the number of Settlement Class members
13 is so numerous that joinder is impracticable; (b) there are questions of law and fact common to
14 the Settlement Class; (c) the claims of the proposed Class Representatives are typical of the
15 claims of the Settlement Class; (d) the proposed Class Representatives and Class Counsel have
16 and will fairly and adequately represent the interests of the Settlement Class.

17 6. As to Rule 23(b)(3), the Court finds that questions of law and fact common to the
18 Settlement Class predominate over any questions affecting individual members. Also, a class
19 action is superior to other available methods for fairly and efficiently adjudicating the Action
20 taking into consideration: (i) the interest of members of the class in individually controlling the
21 prosecution or defense of separate actions; (ii) the extent and nature of the litigation concerning
22 the controversy already commenced by or against members of the class; (iii) the desirability or
23 undesirability of concentrating the litigation of the claims in the particular forum; and (iv) the
24 difficulties likely to be encountered in the management of a class action. *See Wash. R. Civ. P.*
25 23(b)(3).

26 7. **Appointment of Class Representatives and Class Counsel:** The Court hereby
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1 finds and concludes pursuant to Washington Rule of Civil Procedure 23(a)(4), and for purposes
2 of settlement only, that Plaintiffs are adequate Class Representatives and appoints them as Class
3 Representatives for the Settlement Class.

4 8. The Court finds that proposed Class Counsel have expended a reasonable amount
5 of time, effort, and expense investigating the Data Incident. It is clear from their track record of
6 success, as outlined in their resumes, that Class Counsel are highly skilled and knowledgeable
7 concerning class action practice. For purposes of the Settlement only, the Court appoints Kaleigh
8 N. Boyd, Jeff Ostrow, and Andrew J. Shamis as Class Counsel to act on behalf of the Settlement
9 Class and the Class Representatives with respect to the Settlement:

10 9. **Preliminary Approval of the Settlement:** The Court hereby preliminarily
11 approves the Settlement, as embodied in the Agreement, as being fair, reasonable, and adequate,
12 and in the best interest of the named Plaintiffs and the Settlement Class, subject to further
13 consideration at the Final Approval Hearing to be conducted as described below.

14 10. **Settlement Administrator:** Class Counsel are authorized to use Simpluris, Inc.
15 as the Settlement Administrator to supervise and administer the Notice Program and Claims
16 Process, as well as to administer the Settlement payments should the Court grant Final Approval.

17 11. **Approval of Notice Program and Notices:** The Court approves, as to form and
18 content, the Notice Program, including the Postcard Notice and Long Form Notice, substantially
19 in the forms attached as exhibits to the Agreement. The Court finds that the Notice Program: (a)
20 is the best notice practicable under the circumstances; (b) constitutes notice that is reasonably
21 calculated, under the circumstances, to apprise Settlement Class members of the pendency of the
22 Action, the terms of the Settlement, the effect of the proposed Settlement (including the Releases
23 contained therein), and their right to opt-out of or to object to the proposed Settlement and appear
24 at the Final Approval Hearing; (c) constitutes due, adequate, and sufficient notice to all persons
25 entitled to receive notice of the proposed Settlement; and (d) satisfies the requirements of
26 Washington Rule of Civil Procedure 23, due process, the rules of this Court, and all other
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1 applicable law and rules. The date and time of the Final Approval Hearing shall be posted on the
2 Settlement Website and included in the Postcard Notice and Long Form Notice, respectively,
3 before they are mailed or posted on the Settlement Website.

4 12. **Claim Form and Claims Process:** The Court approves the Claim Form as set
5 forth in the Settlement, and the Claims Process to be implemented by the Settlement
6 Administrator. The Claim Form is straightforward and easy to complete, allowing each
7 Settlement Class Member to elect the alternative Settlement Class Member Benefits. Should the
8 Court grant Final Approval to the Settlement, Settlement Class Members who do not opt-out of
9 the Settlement shall be bound by its terms even if they do not submit Claims.

10 13. **Dissemination of Notice and Claim Forms:** The Court directs the Settlement
11 Administrator to disseminate the Notices and Claim Form as approved herein. Class Counsel and
12 Defendant's counsel are hereby authorized to use all reasonable procedures in connection with
13 approval and administration of the Settlement that are not materially inconsistent with this order
14 or the Settlement, including making, without the Court's further approval, minor form or content
15 changes to the Notices and Claim Form they jointly agree are reasonable or necessary.

16 14. **Opt-Outs from the Settlement Class:** The Notice shall provide that any member
17 of the Settlement Class who wishes to opt out from the Settlement Class must request exclusion
18 in writing within the time and manner set forth in the Notice. The Opt-Out requests must strictly
19 and fully comply with the requirements of the Settlement Agreement and Long Form Notice.

20 15. Any Settlement Class member who timely and validly opts-out from the
21 Settlement Class shall, provided the Court grants Final Approval: (a) be excluded from the
22 Settlement Class by Order of the Court; (b) not be a Settlement Class Member; (c) not be bound
23 by the terms of the Settlement; and (d) have no right to the Settlement Class Member Benefits.
24 Any Settlement Class member who does not timely and validly request to opt-out shall be bound
25 by the terms of this Settlement.

26 16. **Objections to the Settlement:** The Notice shall also provide that any Settlement
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1 Class Member who does not opt-out from the Settlement Class may object to the Settlement
2 and/or the Application for Attorneys' Fees, Costs, and Service Awards. Objections must be filed
3 with the Clerk of the Court and mailed to the Settlement Administrator, Plaintiff's Counsel and
4 Defendant's Counsel. Objections must strictly and fully comply with the requirements of the
5 Settlement Agreement and Long Form Notice.

6 17. **Motion for Final Approval and Application for Attorneys' Fees, Costs, and**
7 **Service Awards:** Class Counsel intends to seek an award of up to one-third of the Settlement
8 Fund as attorneys' fees, as well as reimbursement of reasonable litigation costs, and a Service
9 Awards of \$2,000.00 each for the Class Representatives to be paid from the Settlement Fund.
10 These amounts appear reasonable, but the Court will defer ruling on those awards until the Final
11 Approval Hearing when considering Class Counsel's Application for Attorneys' Fees, Costs, and
12 Service Awards.

13 18. Class Counsel shall file their Motion for Final Approval and Application for
14 Attorneys' Fees, Costs, and Service Awards no later than 45 days before the initial date set for
15 the Final Approval Hearing. At the Final Approval Hearing, the Court will hear argument on
16 Class Counsel's request for attorneys' fees and costs and Service Awards for the Class
17 Representative. In the Court's discretion, the Court also will hear argument at the Final Approval
18 Hearing from any Settlement Class Members (or their counsel) who object to the Settlement or
19 to the Application for Attorneys' Fees, Costs, and Service Awards, provided the objector(s)
20 submitted timely objections that meet all of the requirements listed in the Settlement and in this
21 order.

22 19. **Termination:** If the Settlement is terminated, not approved, canceled, fails to
23 become effective for any reason, or the Effective Date does not occur, this order shall become
24 null and void and shall be without prejudice to the rights of Plaintiffs, the Settlement Class
25 members, and Defendant all of whom shall be restored to their respective positions in the Action
26 as provided in the Agreement.

1 20. Stay: All pretrial proceedings in this Action are stayed and suspended until further
2 order of this Court, except such actions as may be necessary to implement the Settlement and
3 this Preliminary Approval Order.

4 21. Upon the entry of this order, with the exception of Class Counsel, Defendant's
5 Counsel, Defendant, and the Class Representatives implementation of the Settlement and the
6 approval process in this Action, all members of the Settlement Class shall be provisionally
7 enjoined and barred from asserting any claims or continuing any litigation against Defendant and
8 the Released Parties arising out of, relating to, or in connection with the Released Claims prior
9 to the Court's decision as to whether to grant Final Approval of the Settlement.

10 22. Jurisdiction: For the benefit of the Settlement Class and to protect this Court's
11 jurisdiction, this Court retains continuing jurisdiction over the Settlement proceedings to ensure
12 the effectuation thereof in accordance with the Settlement preliminarily approved herein and the
13 related orders of this Court.

14 23. Final Approval Hearing: The Court will hold a Final Approval Hearing. The
15 Final Approval Hearing will be conducted for the following purposes: (a) to determine whether
16 the proposed Settlement, on the terms and conditions provided for in the Settlement, is fair,
17 reasonable, and adequate, and should be approved by the Court; (b) to determine whether an
18 order of final judgment should be entered dismissing the Action on the merits and with prejudice;
19 (c) to determine whether the proposed plan of allocation and distribution of the Settlement Fund
20 is fair and reasonable and should be approved; (d) to determine whether any requested award of
21 attorneys' fees and costs to Class Counsel and Service Awards to the Class Representatives
22 should be approved; and (e) to consider any other matters that may properly be brought before
23 the Court in connection with the Settlement. The Court may elect to hold the Final Approval
24 Hearing virtually by Zoom or some other application, and if it does, the instructions on how to
25 attend shall be posted by the Settlement Administrator on the Settlement Website.

26 24. Schedule: The Court hereby sets the following schedule of events:
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Event	Date
Notice Program Begins	Within 30 days of Preliminary Approval
Notice Program Complete	45 days before initial scheduled Final Approval Hearing
Deadline to File Motion for Final Approval, and Application for Attorneys' Fees , Costs, and Service Awards	45 days before initial scheduled Final Approval Hearing
Opt-Out Deadline	15 days before initial scheduled Final Approval Hearing
Objection Deadline	15 days before initial scheduled Final Approval Hearing
Claim Form Deadline	15 days before initial scheduled Final Approval Hearing
Final Approval Hearing	June 12, 2026, at 9:00am

11 SO ORDERED this _____ day of _____, 2025.
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13 **Gregory
Gonzales**

14  Digitally signed by Gregory
15 Gonzales
Date: 2025.12.19 16:26:26 -08'00'

16 HON. GREGORY M. GONZALES
17 SUPERIOR COURT JUDGE

18 Presented by:
 19

20 s/Kaleigh N. Boyd
 21 Kaleigh N. Boyd, WSBA #52684
 22 Joan M. Pradhan, WSBA #58134
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 23 1200 Fifth Avenue, Suite 1700
 24 Seattle, WA 98101
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