

1 John J. Nelson (SBN 317598)
2 **MILBERG COLEMAN BRYSON**
3 **PHILLIPS GROSSMAN, PLLC**
4 280 S. Beverly Drive
5 Beverly Hills, CA 90212
6 Telephone: (858) 209-6941
7 Email: jnelson@milberg.com

8 *Attorneys for Plaintiff and the Proposed Class*

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

10 **COUNTY OF RIVERSIDE**

11 MONICA BUSTOS; MARNIE EVANS;
12 SHIRLEY LILLY; AND JAMES
13 RADCLIFFE, on behalf of themselves and
14 all others similarly situated,

15 Plaintiffs,

16 v.

17 RIVERSIDE MEDICAL CLINIC

18 Defendant.

Case No. CVRI2203466

**~~PROPOSED~~ ORDER AND JUDGMENT
GRANTING PLAINTIFFS' MOTION FOR
AWARD OF ATTORNEYS' FEES,
EXPENSES, AND SERVICE AWARDS
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT**

Judge: Hon. Harold W. Hopp

Complaint Filed: August 17, 2022

19 The Motion for Application for an Order Granting Final Approval of Class Action
20 Settlement ("Final Order and Judgment") came before this Court on August 23, 2024. The
21 above-captioned Litigation is a class action lawsuit brought by Plaintiffs Monica Bustos,
22 Marnie Evans, Shirley Lilly, and James Radcliffe ("Plaintiffs" or "Representative Plaintiffs"),
23 individually and on behalf of all others similarly situated (the "Settlement Class"), and
24 Defendant Riverside Medical Clinic ("RMC" or "Defendant" and together with Plaintiffs, the
25 "Settling Parties").

26 Plaintiffs allege that, between September 9, 2017 and December 13, 2022, RMC
27 disclosed their web usage data, containing personal health information, to Facebook (aka Meta)
28 allegedly resulting in the invasion of Plaintiffs' and Settlement Class Members' privacy rights.
Class Action Complaint ("Complaint" or "*Comp.*"), dated August 17, 2022, ¶¶ 41-42. Plaintiffs

1 allege that RMC embedded the Meta Pixel on its website, which is a tool that allows Facebook
2 to intercept communications made on RMC’s website, including, as alleged by Plaintiffs, the
3 personal identifiable information and protected health information of visitors to the website.
4 *See id.*, ¶¶ 42, 45, 53-54, 65. Plaintiffs allege that RMC failed to adequately disclose the
5 presence of the Meta Pixel on the website or to obtain their consent to disclose this information
6 to a third party. *See id.*, ¶ 44, 46, 76.

7 Plaintiffs filed the instant action on August 17, 2022 pleading causes of action for
8 violations of: (1) California’s Invasion Of Privacy Act, Cal. Penal Code § 630, et seq; (2)
9 California’s Confidentiality of Medical Information Act, Cal. Civ. Code § 56, et seq. (3) Art. I
10 § I of the California Constitution; and (4) Common Law Invasion of Privacy – Intrusion Upon
11 Seclusion.

12 This Litigation was settled after a mediation presided over by a well-regarded third-
13 party neutral, and as a result of arm’s-length negotiations between counsel well experienced in
14 class action litigation, investigation, and informal discovery sufficient to permit counsel to act
15 knowingly;

16 RMC denies any and all alleged wrongdoing and denies any liability to Plaintiffs, to
17 members of the putative class, or to members of the Settlement Class; and

18 On April 12, 2024, this Court entered an Order Granting Preliminary Approval of Class
19 Action Settlement (“Preliminary Approval Order”) resulting in certification of the following
20 provisional Settlement Class:

21 Defendant’s patients, California citizens, and other members of the public, who
22 from September 9, 2017 through December 13, 2022, visited Defendant’s Web site
23 at www.riversidemedicalclinic.com.

24 Excluded from the Settlement Class are any judge presiding over this matter and any
25 members of their first-degree relatives, judicial staff, RMC’s officers, directors, and members,
26 and persons who timely and validly request exclusion from the Settlement Class.

27 That Preliminary Approval Order further directed the Settling Parties to provide Notice
28 to the Class, which informed absent class members of: (a) the proposed Settlement, and the
Settlement’s key terms; (b) the date, time, and location of the Final Approval Hearing; (c) the

1 right of any Settlement Class Member to object to the proposed Settlement, and an explanation
2 of the procedures to exercise that right; and (d) the right of any Settlement Class Member to
3 exclude themselves from the proposed Settlement, and an explanation of the procedures to
4 exercise that right. The Court, upon Notice having been given as required in the Preliminary
5 Approval Order, and having considered the proposed Settlement Agreement, attached to the
6 Declaration of John J. Nelson in support of Plaintiffs’ Motion for Preliminary Approval, filed
7 on March 29, 2024, as **Exhibit 1**, as well as all papers filed, hereby **ORDERS, ADJUDGES,**
8 **AND DECREES AS FOLLOWS:**

- 9 1. This Court has jurisdiction over the subject matter of the Litigation and over all Parties
10 to the Litigation, including all members of the Settlement Class.
- 11 2. The Court finds that the Settlement Class is properly certified as a class for settlement
12 purposes under California Civil Procedure Code Section 382.
- 13 3. The Notice Program provided to the Settlement Class conforms with the requirements
14 of the California and United States Constitutions, California Code of Civil Procedure
15 Section 382, California Rules of Court 3.766, 3.769, and 3.771, and any other applicable
16 law, and constitutes the best notice practicable under the circumstances, by providing
17 individual notice to all Settlement Class Members who could be identified through
18 reasonable effort, and by providing due and adequate notice of the proceedings and of
19 the matters set forth therein to the other Settlement Class Members. The Notice Program
20 fully satisfied the requirements of due process.
- 21 4. The Court finds the Settlement was entered into in good faith, that the Settlement is fair,
22 reasonable, and adequate, and that the Settlement satisfies the standards and applicable
23 requirements for final approval of this class action settlement under California law,
24 including the provisions of California Code of Civil Procedure Section 382 and
25 California Rule of Court 3.769.
- 26 5. No Settlement Class Members have objected to the terms of the Settlement.

1 6. Seven Class Members have requested exclusion from the Settlement, and have thus been
2 excluded and are not bound by the Final Order and Judgment in this Litigation. Those
3 individuals who timely excluded themselves from the Settlement are identified as:

- 4 1. BRENDA FETTERMAN (Claim ID No. 830374PBHS7BR)
- 5 2. CECILIA LIVESAY (Claim ID No. 830373NHQGGBJ)
- 6 3. CHARLES HUGHES (Claim ID No. 830371XWC8K2D)
- 7 4. DEBORAH HUGHES (Claim ID No. 8303720CR0DRY)
- 8 5. JOHN LIVESAY (Claim ID No. 830371N4FWK68)
- 9 6. MICHAEL GELLER (Claim ID No. 830371PRBZNF5)
- 10 7. TIMOTHY ANDERSON (Claim ID No. 8303727RHJKP1)

11 7. Upon entry of this Order, compensation to the participating members of the Settlement
12 Class shall be effectuated pursuant to the terms of the Class Settlement Agreement. Any
13 envelope transmitting a settlement distribution to a Settlement Class Member shall bear
14 the notation, "YOUR CLASS ACTION SETTLEMENT CHECK IS ENCLOSED." Any settlement
15 distribution check shall be negotiable for at least 120 days but not more
16 than 180 days from the date of mailing. The administrator shall mail a reminder postcard
17 to any Settlement Class Member whose settlement distribution check has not been
18 negotiated within 60 days after the date of mailing.

19 8. If (i) any of the Settlement Class Members are current employees of Defendant, (ii) the
20 distribution mailed to those employees is returned to the administrator as being
21 undeliverable, and (iii) the administrator is unable to locate a valid mailing address, the
22 administrator shall arrange with Defendant to have those distributions delivered to the
23 employees at their place of employment.

24 9. To the extent any monies remain in the Net Settlement Fund more than one hundred
25 twenty (120) Days after the distribution of Claim Payments to the Claimants, a
26 subsequent payment will be evenly made to all Claimants who cashed or deposited their
27 initial Claim Payments they received, provided that the average payment amount is
28 equal to or greater than Three Dollars and No Cents (\$3.00). The distribution of this

1 remaining Net Settlement Fund shall continue until the average payment amount in a
2 distribution is less than Three Dollars and No Cents (\$3.00).

3 10. Any amount remaining in the Net Settlement Fund after said additional distribution(s),
4 if any, will be distributed to the Electronic Frontier Foundation, a 26 U.S.C. § 501(c)(3)
5 non-profit organization that promotes digital privacy efforts and awareness whose
6 principal place of operations is located at 815 Eddy Street, San Francisco, CA 94109.

7 11. In addition to any recovery that Representative Plaintiffs may receive under the
8 Settlement, and in recognition of the Representative Plaintiffs' efforts on behalf of the
9 Settlement Class, the Court hereby approves the payment of a service award to
10 Representative Plaintiffs in the amount of \$3,500.00 each for a total of \$14,000.00.

11 12. The Court approves the payment of attorneys' fees in the sum of \$612,500.00 (thirty-
12 five percent of the Settlement Fund). The Court approves the payment of reasonable
13 case costs and expenses in the amount of \$29,087.89.

14 13. The Court approves and orders payment in the amount of \$412,075.53 to Kroll
15 Settlement Administration LLC ("Kroll") for performance of its settlement notice and
16 claims administration services.

17 14. Upon the Effective Date, the Releasing Parties will be deemed by operation of this Class
18 Settlement Agreement and the Final Approval Order and Judgment to have forever fully,
19 finally, completely, and unconditionally released, discharged, and acquitted RMC and
20 the Released Parties from any and all of the Released Claims, and will be deemed to
21 have also released Unknown Claims. Further, upon the Effective Date, and to the fullest
22 extent permitted by law, the Releasing Parties, shall, either directly, indirectly,
23 representatively, as a member of or on behalf of the general public, or in any capacity.

24 15. "Released Claims" means that on the Effective Date and in consideration of the promises
25 and covenants set forth in the Settlement Agreement, each Settlement Class Member
26 will be deemed to have fully, finally, and forever completely released, relinquished, and
27 discharged the Released Persons from any and all past, present, and future claims,
28 counterclaims, lawsuits, set-offs, costs, expenses, attorneys' fees and costs, losses,

1 rights, demands, charges, complaints, actions, suits, causes of action, obligations, debts,
2 contracts, penalties, damages, or liabilities of any nature whatsoever, known, unknown,
3 or capable of being known, in law or equity, fixed or contingent, accrued or unaccrued
4 and matured or not matured based solely on the Released Parties' use of the Meta Pixel
5 and Website Usage Disclosure from September 9, 2017 through December 13, 2022, as
6 alleged in the CAC. Released Claims shall not include the right of any Settlement Class
7 Member or any of the Released Persons to enforce the terms of the settlement contained
8 in the Settlement Agreement, and shall not include the claims of Settlement Class
9 Members who have timely excluded themselves from the Settlement Class.

10 16. "Released Persons" means Defendant; Riverside Medical Clinic Patient Services, LLC;
11 and Brand Savant and each of their present and former parents, subsidiaries, divisions,
12 departments, affiliates, predecessors, successors, assigns, insurers, and each of the
13 foregoing's former or present directors, trustees, officers, shareholders, members,
14 managers, joint venturers, partners, equity partners, owners, trustees, employees,
15 representatives, agents, providers, consultants, advisors, attorneys, accountants,
16 partners, vendors, customers, insurers, reinsurers, and subrogees who are or could have
17 been named in the Litigation based on the facts alleged in the Complaint.

18 17. "Releasing Parties" means Plaintiffs and all Settlement Class Members who do not
19 timely and properly exclude themselves from the settlement memorialized in this Class
20 Settlement Agreement, and each of their respective heirs, executors, administrators,
21 representatives, agents, partners, successors, attorneys, and assigns.

22 18. "Unknown Claims" means claims that were raised in the Litigation and those based on
23 the facts alleged in the CAC and which accrued from September 9, 2017 through
24 December 13, 2022 and that any of the Plaintiffs or Settlement Class Members and each
25 of their respective heirs, executors, administrators, representatives, agents, partners,
26 trustees, successors, attorneys, and assigns do not know to exist or suspects to exist,
27 which, if known by him, her or it, might affect his, her, or its agreement to release
28 Defendant and all other Released Persons, or might affect his, her, or its decision to

1 agree to, or object or not to object to the Settlement. With respect to any and all Released
2 Claims, the Settling Parties stipulate and agree that upon the Effective Date, the
3 Releasing Parties expressly shall be deemed to have, and by operation of the Final
4 Approval Order shall have, released any and all Released Claims, including Unknown
5 Claims, and waived the provisions, rights, and benefits conferred by California Civil
6 Code § 1542, and any and all provisions, rights, and benefits conferred by any law of
7 any state, province, or territory of the United States which is similar, comparable, or
8 equivalent to California Civil Code § 1542, which provides:

9 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
10 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
11 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
12 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
13 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
14 DEBTOR OR RELEASED PARTY.

15 Releasing Parties may hereafter discover facts in addition to, or different from, those
16 that they now know or believe to be true with respect to the subject matter of the
17 Released Claims, but Releasing Parties expressly shall be deemed to have, and by
18 operation of the Final Approval Order shall have, upon the Effective Date, fully, finally,
19 and forever settled and released any and all Released Claims including Unknown
20 Claims.

21 19. Upon completion of administration of the Settlement, the Settling Parties shall file a
22 declaration stating forth that claims have been paid and that the terms of the settlement
23 have been completed.

24 20. Pursuant to California Civil Procedure Code § 384(b), the Court will hold a hearing on
25 **April 25, 2024 at 8:30 a.m. PST**, at the Superior Court of California, County of
26 Riverside, 4050 Main St, Riverside, CA 92501, when the Settling Parties shall provide
27 the Court with a report of the total amount of Approved Awards that were actually paid
28 to Settlement Class Members. After the report is received, the Court shall amend the
Final Order and Judgment to direct the Claims Administrator to pay the Electronic

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

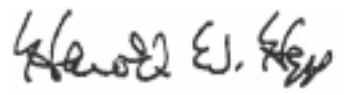
Frontier Foundation, located at 815 Eddy Street, San Francisco, CA 94109, any residual funds remaining in the Net Settlement Fund after all distributions have been made pursuant to the terms of the Class Settlement Agreement, plus interest.

21. This Final Order and Judgment is intended to be a final disposition of the above-captioned action in its entirety and is intended to be immediately appealable.

22. Pursuant to California Rule of Court 3.769(h), this Court shall retain jurisdiction with respect to all matters related to the administration and consummation of the settlement, and any and all claims, asserted in, arising out of, or related to the subject matter of the lawsuit, including but not limited to all matters related to the settlement and the determination of all controversies relating thereto.

IT IS SO ORDERED.

Dated: 09 * ~ • 09 2009



HON. HAROLD W. HOPP
JUDGE OF THE SUPERIOR COURT