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6 CASE #: 23-2-10174-0 SEA

7 **IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON**
8 **IN AND FOR KING COUNTY**

9
10 JESSICA BAUER, individually and on behalf
of all others similarly situated,

11 Plaintiff,

12 v.

13
14 EVERGREEN TREATMENT SERVICES,

15 Defendant.
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Case No. 23-2-10174-0 SEA

FINAL APPROVAL ORDER

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FINAL APPROVAL ORDER
(Case No. 23-2-10174-0 SEA)

1 Before the Court is Plaintiff's Unopposed Motion for Final Approval of Class Action
2 Settlement ("Motion for Final Approval"). The Motion seeks approval of the Settlement as fair,
3 reasonable, and adequate. Also before the Court is Plaintiff's Motion for Attorneys' Fees, Costs,
4 and Expenses to Class Counsel, and Service Awards to Plaintiff ("Motion for Attorneys' Fees").

5 Having reviewed and considered the Settlement Agreement, Motion for Final Approval,
6 and Motion for Attorneys' Fees, and having conducted a Final Fairness Hearing, the Court makes
7 the findings and grants the relief set forth below approving the Settlement upon the terms and
8 conditions set forth in this Order.

9 **WHEREAS**, on September 23, 2024, the Court entered an Order Granting Preliminary
10 Approval of Class Action Settlement ("Preliminary Approval Order") which, among other things:
11 (a) conditionally certified this matter as a class action, including defining the class and class claims,
12 (b) appointed Plaintiff as the Class Representative and appointed Cassandra Miller of Strauss
13 Borrelli PLLC as Class Counsel; (c) preliminarily approved the Settlement Agreement; (d)
14 approved the form and manner of Notice to the Settlement Class; (d) set deadlines for opt-outs and
15 objections; (e) approved and appointed the Settlement Administrator; and (f) set the date for the
16 Final Fairness Hearing;

17 **WHEREAS**, on October 23, 2024, pursuant to the Notice requirements set forth in the
18 Settlement Agreement and in the Preliminary Approval Order, the Settlement Class was notified
19 of the terms of the proposed Settlement Agreement, of the right of Settlement Class Members to
20 opt-out, and the right of Settlement Class Members to object to the Settlement Agreement and to
21 be heard at a Final Fairness Hearing;

22 **WHEREAS**, on January 10, 2025, the Court held a Final Approval Hearing to determine,
23 inter alia: (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable,
24 and adequate for the release of the claims contemplated by the Settlement Agreement; and (2)
25 whether judgment should be entered dismissing this action with prejudice. Prior to the Final
26 Fairness Hearing, a declaration of compliance with the provisions of the Settlement Agreement
27 and Preliminary Approval Order relating to notice was filed with the Court as required by the

1 Preliminary Approval Order. Therefore, the Court is satisfied that Settlement Class Members were
2 properly notified of their right to appear at the Final Fairness Hearing in support of or in opposition
3 to the proposed Settlement Agreement, the award of attorneys' fees, costs, and expenses to Class
4 Counsel, and the payment of a Service Award to the Class Representative;

5 **WHEREAS**, the Court not being required to conduct a trial on the merits of the case or
6 determine with certainty the factual and legal issues in dispute when determining whether to
7 approve a proposed class action settlement; and

8 **WHEREAS**, the Court being required under Federal Rule of Civil Procedure 23(e) to make
9 the findings and conclusions hereinafter set forth for the limited purpose of determining whether
10 the settlement should be approved as being fair, reasonable, adequate and in the best interests of
11 the Settlement Class;

12 Having given an opportunity to be heard to all requesting persons in accordance with the
13 Preliminary Approval Order, having heard the presentation of Class Counsel and counsel for
14 Defendant, having reviewed all of the submissions presented with respect to the proposed
15 Settlement Agreement, having determined that the Settlement Agreement is fair, adequate, and
16 reasonable, having considered the application made by Settlement Class Counsel for attorneys'
17 fees, costs, and expenses, and the application for a Service Award to the Representative Plaintiff,
18 and having reviewed the materials in support thereof, and good cause appearing:

19 **IT IS ORDERED** that:

20 1. The Court has jurisdiction over the subject matter of this action and over all claims
21 raised therein and all Parties thereto, including the Settlement Class.

22 2. The Settlement involves allegations in Plaintiff's Class Action Complaints against
23 Defendant for failure to implement or maintain adequate data security measures and safeguards to
24 protect Private Information, which Plaintiff alleges directly and proximately caused injuries to
25 Plaintiff and Settlement Class Members.

26 3. The Settlement does not constitute an admission of liability by Defendant, and the
27 Court expressly does not make any finding of liability or wrongdoing by Defendant.

1 4. Unless otherwise indicated, words spelled in this Order and Judgment Granting
2 Final Approval of Class Action Settlement (“Final Order and Judgment”) with initial capital letters
3 have the same meaning as set forth in the Settlement Agreement.

4 5. The Court, having reviewed the terms of the Settlement Agreement submitted by
5 the Parties pursuant to Federal Rule of Civil Procedure 23(e)(2), grants final approval of the
6 Settlement Agreement and for purposes of the Settlement Agreement and this Final Order and
7 Judgment only, the Court hereby finally certifies the following Settlement Class:

8 All individuals residing in the United States whose Sensitive
9 Information was compromised in the Data Incident discovered by
10 Evergreen Treatment Services in December 2022, including all
11 those who received notice of the breach.

12 Specifically excluded from the Settlement Class are:

13 (1) the judges presiding over this Action, and members of their
14 direct families; (2) the Defendants, their subsidiaries, parent
15 companies, successors, predecessors, and any entity in which the
16 Defendant or its parents have a controlling interest and their current
17 or former officers and directors; and (3) Settlement Class Members
18 who submit a valid Request for Exclusion prior to the Opt-Out
19 Deadline.

20 6. The Settlement was entered into in good faith following arm’s length negotiations
21 and is non-collusive. The Settlement is in the best interests of the Settlement Class and is therefore
22 approved. The Court finds that the Parties faced significant risks, expenses, delays, and
23 uncertainties, including as to the outcome, including on appeal, of continued litigation of this
24 complex matter, which further supports the Court’s finding that the Settlement Agreement is fair,
25 reasonable, adequate, and in the best interests of the Settlement Class Members. The Court finds
26 that the uncertainties of continued litigation in both the trial and appellate courts, as well as the
27

1 expense associated with it, weigh in favor of approval of the settlement reflected in the Settlement
2 Agreement.

3 7. The Settlement Agreement provides, in part, and subject to a more detailed
4 description of the settlement terms in the Settlement Agreement, for:

- 5 a. Claims Administration as outlined in the Settlement Agreement whereby
6 Settlement Class Members can submit claims that will be evaluated by a
7 Settlement Administrator.
- 8 b. Defendant to pay all costs of Claims Administration from the Settlement
9 Fund, including the cost of the Settlement Administrator, instituting Notice,
10 processing and administering claims, and preparing and mailing checks.
- 11 c. Defendant to pay, subject to the approval and award of the Court, the
12 reasonable attorneys' fees, costs, and expenses of Class Counsel and a
13 Service Awards to the Class Representative from the Settlement Fund.

14 The Court readopts and incorporates herein by reference its preliminary conclusions as to the
15 satisfaction of Federal Rule of Civil Procedure 23(a) and (b)(3) set forth in the Preliminary
16 Approval Order and notes that because this certification of the Settlement Class is in connection
17 with the Settlement Agreement rather than litigation, the Court need not address any issues of
18 manageability that may be presented by certification of the class proposed in the Settlement
19 Agreement.

20 8. The terms of the Settlement Agreement are fair, adequate, and reasonable and are
21 hereby approved, adopted, and incorporated by the Court. Notice of the terms of the Settlement,
22 the rights of Settlement Class Members under the Settlement, the Final Fairness Hearing,
23 Plaintiff's application for attorneys' fees, costs, and expenses, and the Service Award payment to
24 the Class Representative has been provided to Settlement Class Members as directed by this
25 Court's Orders, and proof of Notice has been filed with the Court.

26 9. The Court finds that the notice program, set forth in the Settlement Agreement and
27 effectuated pursuant to the Preliminary Approval Order, was the best notice practicable under the

1 circumstances, was reasonably calculated to provide and did provide due and sufficient notice to
2 the Settlement Class of the pendency of the Action, certification of the Settlement Class for
3 settlement purposes only, the existence and terms of the Settlement Agreement, and their right to
4 object and to appear at the final approval hearing or to exclude themselves from the Settlement
5 Agreement, and satisfied the requirements of the Federal Rules of Civil Procedure, the United
6 States Constitution, and other applicable law.

7 10. The Court finds that Defendants have fully complied with the notice requirements
8 of the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

9 11. As of the Opt-Out deadline, none of the potential Settlement Class Members have
10 requested to be excluded from the Settlement.

11 12. There were no objections filed by Settlement Class Members.

12 13. All Settlement Class Members who have not objected to the Settlement Agreement
13 in the manner provided in the Settlement Agreement are deemed to have waived any objections
14 by appeal, collateral attack, or otherwise.

15 14. The Court has considered all the documents filed in support of the Settlement, and
16 has fully considered all matters raised, all exhibits and affidavits filed, all evidence received at the
17 Final Fairness Hearing, all other papers and documents comprising the record herein, and all oral
18 arguments presented to the Court.

19 15. The Parties, their respective attorneys, and the Settlement Administrator are hereby
20 directed to consummate the Settlement in accordance with this Final Order and Judgment and the
21 terms of the Settlement Agreement.

22 16. Pursuant to the Settlement Agreement, Defendant, the Settlement Administrator,
23 and Class Counsel shall implement the Settlement in the manner and timeframe as set forth therein.

24 17. Within the time period set forth in the Settlement Agreement, the relief provided
25 for in the Settlement Agreement shall be made available to the various Settlement Class Members
26 submitting valid Claim Forms, pursuant to the terms and conditions of the Settlement Agreement.
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1 18. Pursuant to and as further described in the Settlement Agreement, Plaintiff and the
2 Settlement Class Members release claims as follows:

3 Upon Final Approval of this Settlement Agreement, Releasors
4 release, acquit, and forever discharge Defendant and each of its
5 present and former parents, subsidiaries, divisions, affiliates,
6 predecessors, successors, and assigns, Board of Trustees, and the
7 present and former directors, officers, employees, agents, insurers,
8 shareholders, attorneys, advisors, consultants, representatives,
9 partners, joint venturers, independent contractors, wholesalers,
10 resellers, distributors, retailers, and the predecessors, successors,
11 and assigns of each of them as well as covered entities associated
12 with the Data Incident (“Released Parties”) from all liabilities,
13 rights, claims, actions, causes of action, demands, damages,
14 penalties, costs, attorneys’ fees, losses, and remedies, whether
15 known or unknown, existing or potential, suspected or unsuspected,
16 liquidated or unliquidated, legal, statutory, or equitable, that result
17 from, arise out of, are based upon, or relate to the Data Incident, and
18 conduct that was alleged or could have been alleged in the
19 Litigation, including, without limitation, any claims, actions, causes
20 of action, demands, damages, penalties, losses, or remedies relating
21 to, based upon, resulting from, or arising out of the Data Incident
22 (the “Released Claims”), provided that nothing in this Release is
23 intended to, does or shall be deemed to release any claims not arising
24 out of, based upon, resulting from, or related to the Data Incident.

16 Upon the Effective Date, Defendant and its representatives, officers,
17 agents, directors, principals, affiliates, employees, insurers, and
18 attorneys shall be deemed to have released, acquitted, and forever
19 discharged the Settlement Class Representative and Class Counsel
20 from any and all claims or causes of action of every kind and
21 description, including any causes of action in law, claims in equity,
22 complaints, suits or petitions, and any allegations of wrongdoing,
23 demands for legal, equitable or administrative relief (including, but
24 not limited to, any claims for injunction, rescission, reformation,
25 restitution, disgorgement, constructive trust, declaratory relief,
26 compensatory damages, consequential damages, penalties,
27 exemplary damages, punitive damages, attorneys’ fees, costs,
interest or expenses), whether known or unknown, that arise out of,
are based upon, or relate to prosecution of the Action, the Settlement
Agreement, or the Settlement claims process (provided, however,
that this release and discharge shall not include claims relating to the
enforcement of the terms of the Settlement or this Agreement).

 Upon entry of the Final Approval Order, Releasors shall be enjoined
from prosecuting any claim they have released in the preceding

1 paragraphs in any proceeding against Defendant or based on any
2 actions taken by any of the Released Parties that are authorized or
3 required by this Agreement or by the Final Approval Order.
4 Likewise, Defendant and its representatives, officers, agents,
5 directors, principals, affiliates, employees, insurers, and attorneys
6 shall be enjoined from prosecuting any claim they have released in
7 the preceding paragraphs in any proceeding against Settlement Class
8 Representative and Class Counsel or based on any actions taken by
9 Settlement Class Representative and Class Counsel that are
10 authorized or required by this Agreement or by the Final Approval
11 Order. It is further agreed that the Settlement may be pleaded as a
12 complete defense to any proceeding subject to this section.

13 19. The Court grants final approval to the appointment of Plaintiff as a Class
14 Representative. The Court concludes that the Class Representative has fairly and adequately
15 represented the Settlement Class and will continue to do so.

16 20. Pursuant to the Settlement Agreement, and in recognition of their efforts on behalf
17 of the Settlement Class, the Court approves a payment to the Class Representative in the amount
18 of \$5,000 as a Service Award. Defendants shall make such payment in accordance with the terms
19 of the Settlement Agreement.

20 21. The Court grants final approval to the appointment of Cassandra Miller of Strauss
21 Borrelli as Class Counsel. The Court concludes that Class Counsel has adequately represented the
22 Settlement Class and will continue to do so.

23 22. The Court, after careful review of the fee petition filed by Class Counsel, and after
24 applying the appropriate standards required by relevant case law, hereby grants Class Counsel's
25 application for attorneys' fees in the amount of \$141,666.67. Reasonable costs and expenses of
26 \$10,000 are also hereby awarded. Payment shall be made pursuant to the terms of the Settlement
27 Agreement.

28 23. This Final Order and Judgment and the Settlement Agreement, and all acts,
29 statements, documents, or proceedings relating to the Settlement Agreement are not, and shall not
30 be construed as, used as, or deemed to be evidence of, an admission by or against Defendant of
31 any claim, any fact alleged in the Litigation, any fault, any wrongdoing, any violation of law, or
32 any liability of any kind on the part of Defendant or of the validity or certifiability for litigation of

1 any claims that have been, or could have been, asserted in the lawsuit. This Final Order and
2 Judgment, the Settlement Agreement, and all acts, statements, documents, or proceedings relating
3 to the Settlement Agreement shall not be offered or received or be admissible in evidence in any
4 action or proceeding, or be used in any way as an admission or concession or evidence of any
5 liability or wrongdoing of any nature or that Plaintiff, any Settlement Class Member, or any other
6 person has suffered any damage; provided, however, that the Settlement Agreement and this Final
7 Order and Judgment may be filed in any action by Defendants, Class Counsel, or Settlement Class
8 Members seeking to enforce the Settlement Agreement or the Final Order and Judgment
9 (including, but not limited to, enforcing the releases contained herein). The Settlement Agreement
10 and Final Order and Judgment shall not be construed or admissible as an admission by Defendants
11 that Plaintiff's claims or any similar claims are suitable for class treatment. The Settlement
12 Agreement's terms shall be forever binding on, and shall have res judicata and preclusive effect
13 in, all pending and future lawsuits or other proceedings as to Released Claims and other
14 prohibitions set forth in this Final Order and Judgment that are maintained by, or on behalf of, any
15 Settlement Class Member or any other person subject to the provisions of this Final Order and
16 Judgment.

17 24. If the Effective Date, as defined in the Settlement Agreement, does not occur for
18 any reason, this Final Order and Judgment and the Preliminary Approval Order shall be deemed
19 vacated, and shall have no force and effect whatsoever; the Settlement Agreement shall be
20 considered null and void; all of the Parties' obligations under the Settlement Agreement, the
21 Preliminary Approval Order, and this Final Order and Judgment and the terms and provisions of
22 the Settlement Agreement shall have no further force and effect with respect to the Parties and
23 shall not be used in the Litigation or in any other proceeding for any purpose, and any judgment
24 or order entered by the Court in accordance with the terms of the Settlement Agreement shall be
25 treated as vacated *nunc pro tunc*, and the Parties shall be restored to their respective positions in
26 the Litigation, as if the Parties never entered into the Settlement Agreement (without prejudice to
27 any of the Parties' respective positions on the issue of class certification or any other issue). In

1 such event, the Parties will jointly request that all scheduled Litigation deadlines be reasonably
2 extended by the Court so as to avoid prejudice to any Party or Party's counsel. Further, in such
3 event, Defendants will pay amounts already billed or incurred for costs of notice to the Settlement
4 Class, and Claims Administration, and will not, at any time, seek recovery of same from any other
5 Party to the Litigation or from counsel to any other Party to the Litigation.

6 25. Pursuant to *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 382 (1994)
7 and the parties' agreement, this Court shall retain the authority to issue any order necessary to
8 protect its jurisdiction from any action, whether in state or federal court.

9 26. Without affecting the finality of this Final Order and Judgment, the Court will retain
10 jurisdiction over the subject matter and the Parties with respect to the interpretation and
11 implementation of the Settlement Agreement for all purposes.

12 27. This Order resolves all claims against all Parties in this action and is a final order.

13 28. The matter is hereby dismissed with prejudice and without costs except as provided
14 in the Settlement Agreement.

1 Submitted by:

2
3 /s/ Walter M. Smith

4 Walter M. Smith, WSBA #46695

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17 DATED:

17 ENTERED:

**King County Superior Court
Judicial Electronic Signature Page**

Case Number: 23-2-10174-0 SEA
Case Title: BAUER VS EVERGREEN TREATMENT SERVICES
Document Title: Order
Date Signed: 01/16/2025



Judge: Cindi Port

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