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**FILED**  
Clerk of the Superior Court

DEC 10 2021

By: C. Beutler, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO – CIVIL COMPLEX**

R.O., a Minor By and Through Cara O.,  
Parent and *Guardian ad Litem*, Individually  
and on Behalf of All Others Similarly  
Situated,

Plaintiff,

vs.

RADY CHILDREN’S HOSPITAL-SAN  
DIEGO, a California Domestic Nonprofit  
Corporation; and  
DOES 1-50, Inclusive,

Defendants.

JOSE OROZCO, A Minor, By and Through  
Guardian Ad Litem, JOANNA VEGA,  
Individually and on Behalf of All Others  
Similarly Situated,

Plaintiff,

vs.

RADY CHILDREN’S HOSPITAL-SAN  
DIEGO, a California Corporation; and DOES 1  
through 100, inclusive,

Defendants.

Case No.: 37-2020-00011841-CU-BT-CTL  
[Consolidated with:  
Case No.:37-2020-00023102-CU-NP-CTL]

**CLASS ACTION**

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS’ UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF  
PROPOSED CLASS ACTION  
SETTLEMENT; CONDITIONAL  
CERTIFICATION OF SETTLEMENT  
CLASS; APPROVAL OF CLASS NOTICE;  
AND APPOINTMENT OF CLASS  
COUNSEL**

**IMAGED FILE**

Date: August 6, 2021  
Time: 1:30 p.m.  
Judge: Honorable Katherine Bacal  
Dept.: C-69

ASSIGNED FOR ALL PURPOSES TO:  
Judge: The Honorable Katherine Bacal  
Dept.: C-69

Trial Date: TBD

1 This matter came before the Court on December 10, 2021, at 1:30 p.m., pursuant to  
2 Plaintiffs' Unopposed Motion for Preliminary Approval of Proposed Class Action Settlement;  
3 Conditional Certification of Settlement Class; Approval of Class Notice; and Appointment of Class  
4 Counsel ("Motion").

5 The Court, having fully reviewed the Class Action Settlement Agreement (the "Settlement"  
6 or "Settlement Agreement")<sup>1</sup> between Plaintiff R.O., a Minor by and through Cara O., Parent and  
7 Guardian ad Litem ("R.O."), Plaintiff Jose Orozco, a minor, by and through Guardian ad Litem,  
8 Joanna Vega ("Orozco"), (collectively, the "Plaintiffs") and Defendant Rady Children's Hospital -  
9 San Diego ("Rady" or "Defendant"), including the supporting documents thereto, and after hearing  
10 arguments of counsel, hereby ORDERS AS FOLLOWS:

11 1. The Court preliminarily approves the Settlement Agreement, attached as **Exhibit 1**  
12 to the Declaration of Robert D. Prine filed in support of Plaintiffs' Motion, as amended by the  
13 Amendment to the Class Action Settlement Agreement, attached as **Exhibit A** to the Supplemental  
14 Declaration of Patrick N. Keegan filed in support of Plaintiffs' Motion, subject to the Final Approval  
15 Hearing described below.

16 2. The Court finds that the Settlement Agreement is fair, reasonable, and adequate and  
17 falls within the range of possible approval, meriting dissemination of the Class Notice to the  
18 Settlement Class Members. The Court incorporates by reference as though fully set forth herein,  
19 the definitions set for in the Settlement Agreement.

20 3. The Court approves for dissemination and distribution to the Class Members, the  
21 Notice of Class Action Settlement, attached as **Exhibit B** to the Supplemental Declaration of Patrick  
22 N. Keegan filed in support of Plaintiffs' Motion, and the Claim Form, attached as **Exhibit C** to the  
23 Supplemental Declaration of Patrick N. Keegan filed in support of Plaintiffs' Motion.

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27 <sup>1</sup> Unless otherwise defined herein, all terms have the same meaning as defined in the  
28 Settlement Agreement, which is submitted to the Court as Exhibit 1 to the Declaration of Robert D.  
Prine filed in support of Plaintiffs' Motion.

1           4.       For purposes of, and solely in connection with, the preliminary approval of the  
2 Settlement Agreement, the Court finds that each of the requirements for provisional certification of  
3 the Class set forth in Plaintiffs' Motion and the Settlement Agreement is met and hereby  
4 provisionally certifies the Class, defined as follows:

5           All patients who were admitted as radiology patients or received radiology-related  
6 treatment or services at one of Defendant's hospital, satellite or urgent care locations  
7 on or before January 3, 2020 and were mailed a letter sent by Rady entitled Notice  
8 of Data Breach, dated on or about February 21, 2020.

8           This Class definition is to be used for the Class to be conditionally and/or finally certified in  
9 connection with seeking approval of the Settlement Agreement.

10           5.       For purpose of, and solely in connection with, the Settlement Agreement, the Court  
11 hereby appoints Alreen Haeggquist of Haeggquist & Eck, LLP, Abbas Kazerounian and Mona  
12 Amini of Kazerouni Law Group, APC and Patrick N. Keegan of Keegan & Baker, LLP as counsel  
13 for the Settlement Class Members ("Class Counsel"), and appoints R.O., a minor, by and through  
14 Cara O., Parent and Guardian *ad Litem*, as well as Jose Orozco, a minor, by and through Joanna  
15 Vega, parent and Guardian *ad Litem*, as representatives for the Settlement Class Members ("Class  
16 Representatives").

17           6.       ILYM Group, Inc. is appointed as the Settlement Administrator to carry out its duties  
18 pursuant to the terms of the Settlement Agreement. In addition to the undertakings set forth in the  
19 Settlement Agreement, and as detailed therein, from the date of the first Mailed Notice, and  
20 thereafter for six (6) months after the Effective Date, the Settlement Administrator will maintain a  
21 settlement website that will include information about how to contact Class Counsel, a copy of the  
22 Class Notice, and a copy of the Settlement Agreement, as well as posting (within 24 hours of filing)  
23 any papers filed in support of, or in opposition or reply to, of the Final Approval Motion or any  
24 Motion for Fees, Costs and Incentive Awards. The Settlement Administrator will also maintain an  
25 active link to the Court's website concerning practices and procedures for appearances at court  
26 hearings in the San Diego Superior Court during the COVID pandemic. Further, the Settlement  
27 Administrator will maintain an 800 number, as set forth in the Settlement Agreement, which 800  
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1 number recording will also advise any persons attending hearings at the Court to check the Court's  
2 posted online practices and procedures for appearances during the COVID pandemic.

3 7. Within ten (10) days after entry of this Preliminary Approval Order, Defendant shall  
4 provide the Settlement Administrator with the list it used to mail notice of the Data Security Incident  
5 in February 2020, as provided in the Settlement Agreement, and to the extent reasonably available  
6 shall provide to the Settlement Administrator any other information necessary to ensure a complete  
7 mailing to all Class Members, including the list necessary to prepare the list of Sub-Class 1 and Sub-  
8 Class 2 Class Members, no later than the time the Class Notice is first mailed pursuant to paragraph  
9 8 below.

10 8. As soon as practicable, but no later than 20 days after the entry of this Preliminary  
11 Approval Order, the Settlement Administrator shall, by First Class Mail, disseminate Class Notice,  
12 pursuant to the Settlement Agreement. The Court finds the use of First-Class Mail to mail the notice  
13 to potential Class Members to be the best notice practicable under the circumstances, satisfies the  
14 requirements of the California Code of Civil Procedure and due process, and shall constitute due  
15 and sufficient notice to all persons entitled thereto.

16 9. Class Members who wish to exclude themselves from the Settlement shall notify the  
17 Settlement Administrator in writing that they want to exclude themselves (*i.e.*, opt out). The Notice  
18 shall explain the procedure for Settlement Class Members to exclude themselves or "opt-out" of the  
19 Settlement by submitting a Request for Exclusion to the Settlement Administrator. Any Class  
20 Member may make a Request for Exclusion by mailing or delivering such request in writing to the  
21 Settlement Administrator at the address set forth in the Class Notice. Any Request for Exclusion  
22 must be postmarked or delivered not later than forty-five (45) days after the date of Mailed Notice  
23 or such other date specified in the Court's Preliminary Approval Order. The Request for Exclusion  
24 shall (i) state the Class Member's full name and current address, and (ii) specifically state his or her  
25 desire to be excluded from the Settlement and from the Class. Failure to comply with these  
26 requirements and to timely submit the Request for Exclusion will result in the Class Member being  
27 bound by the terms of the Settlement. Any Class Member who submits a timely Request for  
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1 Exclusion may not file an objection to the Settlement and shall be deemed to have waived any rights  
2 or benefits under this Settlement Agreement.

3 10. Any Class Member who wishes to be heard orally at the Final Approval Hearing, or  
4 who wishes for any objection to be considered, must file a written notice of objection by the  
5 Objection Date, forty-five (45) days from the date of Mailed Notice, as well as a notice of intention  
6 to appear at the Final Approval Hearing. To state a valid objection to the Settlement, an objecting  
7 Class Member must not have timely opted-out of participation in the Settlement and must provide  
8 to the Settlement Administrator the following information in his or her written objection: (i) full  
9 name, current address, and current telephone number; (ii) documentation sufficient to establish  
10 membership in the Class; (iii) a statement of the position(s) the objector wishes to assert, including  
11 the factual and legal grounds for the position; (iv) provide copies of any other documents that the  
12 objector wishes to submit in support of his/her/its position; (v) the name and contact information for  
13 all counsel representing the objector; and (vi) the objector's signature under the penalty of perjury.  
14 Any objecting Class Member may appear, either personally or through their authorized  
15 representative, at the Final Approval Hearing held by the Court, to show cause why the proposed  
16 Settlement should not be approved as fair, adequate, and reasonable, or object to any petitions for  
17 reasonable attorneys' fees, Incentive Awards, and reimbursement of reasonable litigation costs and  
18 expenses. The objecting Class Member must file with the Clerk of the Court and serve by U.S. mail  
19 upon all counsel designated in the Class Notice, a notice of intention to appear at the Final Approval  
20 Hearing ("Notice of Intention to Appear") by the date set by the Court. The Notice of Intention to  
21 Appear must include copies of any papers, exhibits, or other evidence that the objecting Class  
22 Member (or his/her counsel) will present to the Court in connection with the Final Approval  
23 Hearing. Any Class Member who does not provide a Notice of Intention to Appear in complete  
24 accordance with specifications set forth in the Class Notice, subject to approval by the Court, may  
25 be deemed to have waived any objections to the Settlement and may be barred from speaking or  
26 otherwise presenting any views at the Final Approval Hearing.

27 11. Potential Class Members who timely and validly excuse themselves from the  
28 Settlement shall not: (a) be bound by any orders granting final approval of the Settlement; (b) be

1 bound by the releases contained in the Settlement; (c) be entitled to any relief under the Settlement;  
2 (d) gain any rights by the Settlement; or (e) be entitled to object to any aspect of the Settlement.

3 12. Potential Settlement Class Members seeking any recovery under the Settlement  
4 Agreement shall follow the procedures set forth in the Settlement Agreement, including submitting  
5 a timely and valid Claim Form to the Settlement Administrator that is either postmarked or  
6 submitted online on or before the 90<sup>th</sup> day after the deadline for completion by the Settlement  
7 Administrator of the mailing of the Class Notice.

8 13. Plaintiffs, via Class Counsel, shall file and serve both the Motion for Final Approval  
9 of the Settlement and the Motion for Award of Fees and Costs to Class Counsel and for Approval  
10 of Incentive Awards with the Court at least 28 calendar days prior to the Final Approval Hearing.  
11 The Settlement Administrator will post these filings and all supporting papers, including any  
12 oppositions and replies thereto, on the website hosted for this proposed Settlement within 24 hours  
13 of the time such documents are filed with the Court.

14 14. On **May 6, 2022, at 1:30 p.m.**, in Department C-69 of the above-entitled Court or as  
15 soon thereafter as may be heard, a Final Approval Hearing will be held to determine: (a) whether  
16 this Court should finally approve the Settlement as fair, reasonable, and adequate and whether a  
17 Final Judgment should be entered; and (b) whether Class Counsel's Application for Class Counsel  
18 Fees, Class Counsel Costs, and Incentive Awards should be granted.

19 15. The Court may, for good cause, extend any of the deadlines and/or dates set forth in  
20 this Order without further notice to the Class Members, including the date of the Final Approval  
21 Hearing. If the Court arranges the Final Approval Hearing with access via Zoom or a  
22 videoconferencing platform, the Court will provide an order directing Class Counsel and the  
23 Settlement Administrator to post information concerning such access on the settlement website.

24 16. The Court retains continuing and exclusive jurisdiction over the action to consider  
25 all further matters arising out of or connected with the Settlement, including the administration and  
26 enforcement of the Settlement Agreement.

27 17. All proceedings other than those necessary to carry out the Settlement Agreement,  
28 as ordered herein, are stayed until further order from this Court.

1 18. If the Settlement Agreement does not receive final approval, this Order shall be  
2 treated as vacated *nunc pro tunc*.

3 19. After entry of this Order granting Preliminary Approval, the case shall proceed  
4 pursuant to the following schedule, unless subsequently modified by order of the Court:

Event		Date
Last day for Defendant to provide mailing list for Settlement Class Members to Settlement Administrator	Within 10 days after Order Granting Preliminary Approval	December 20, 2021
Last day for Settlement Administrator to mail Class Notice to Class Members	20 days after Order Granting Preliminary Approval	December 30, 2021
Last day for Class Members to opt out of the Settlement Class or file objections to the Settlement	No later than 45 days after the date of Mailed Notice	February 14, 2022
Last day for Class Counsel to file Motion for Final Approval and Motion for Award of Attorneys' Fees, Costs, and Class Representatives' Incentive Awards	At least 28 days before Final Approval Hearing (or as scheduled by the Court)	April 8, 2022
Hearing on Motion for Final Approval and Motion for Award of Attorneys' Fees, Costs, and Class Representatives' Incentive Awards	At least 75 days after preliminary approval or February 25, 2022 (or as scheduled by the Court)	May 6, 2022, at 1:30 p.m.

22 **IT IS SO ORDERED.**

23 Dated: 12/10/21

24 **KATHERINE A. BACAL**  
25 THE HONORABLE KATHERINE BACAL  
26 JUDGE OF THE SUPERIOR COURT