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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

ATUL SINGH DEORA, *et al.*,

Plaintiffs,

v.

NANTHEALTH, *et al.*,

Defendants.

Case No. 2:17-cv-01825-TJH-MRWx

**[PROPOSED] FINAL ORDER AND  
JUDGMENT GRANTING MOTION  
FOR FINAL APPROVAL OF CLASS  
SETTLEMENT AND AWARDED  
ATTORNEYS' FEES, LITIGATION  
COSTS, AND COMPENSATORY  
AWARD**

1           Lead Plaintiff's Motion for Final Settlement Approval came before the Court  
2 for hearing on June 15, 2020, pursuant to the Court's Order Granting Lead  
3 Plaintiff's Motion for Preliminary Approval of Class Action Settlement and  
4 Directing Class Notice dated January 31, 2020 (Preliminary Approval Order) (ECF  
5 No. 117). Having considered the parties' settlement agreement embodied in the  
6 Stipulation of Settlement (Stipulation), and all papers filed and proceedings in this  
7 action,

8           IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

9           1.     This Court has subject matter jurisdiction over this Action. Capitalized  
10 terms not otherwise defined herein shall have the same meaning as set forth in the  
11 Stipulation.

12           2.     This Order incorporates and makes a part hereof: the Stipulation, which  
13 was filed with the Court on December 10, 2019, and the Mailed Notice and the  
14 Summary Notice, which were filed with the Court on December 10, 2019.

15           3.     The Court finds that notice has been disseminated to the Classes in  
16 compliance with the Court's Preliminary Approval Order and that the notice given  
17 was the best notice practicable under the circumstances, fully satisfied due process,  
18 and met the requirements of Rule 23 of the Federal Rules of Civil Procedure, and  
19 the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78-u4(a)(7).

20           4.     The Court has considered the Plan of Allocation and hereby finds and  
21 concludes that the formula for the calculation of the claims of Authorized Claimants  
22 provides a fair and reasonable basis upon which to allocate the proceeds of the Net  
23 Settlement Fund among the Class Members with due consideration having been  
24 given to administrative convenience and necessity. The Court therefore approves the  
25 Plan of Allocation as described in the Mailed Notice.

1 5. No Class member has objected to the Settlement.<sup>1</sup>

2 6. The Court finds that the proposed Settlement is fair, reasonable, and  
3 adequate under Rule 23(e)(2), is in the best interests of the Classes, and should be  
4 and hereby is fully and finally approved. *See* Fed. R. Civ. P. 23(e)(1)(B)(i). The  
5 Settlement:

- 6 a) Results from efforts by Lead Plaintiff and Class Counsel who  
7 adequately represented the Classes;
- 8 b) Was negotiated at arm's length with the assistance of mediator  
9 Robert A. Meyer, Esq., of JAMS;
- 10 c) Provides relief for the Classes that is adequate, taking into  
11 account: (i) the costs, risks, and delay of trial and appeal; (ii) the  
12 effective proposed method of distributing relief to the Classes; and  
13 (iii) the terms of the proposed award of attorney's fees, including  
14 timing of payment; and
- 15 d) Treats Class Members equitably relative to each other.

16 7. The Court finds the attorneys' fee requested by Class Counsel to be fair  
17 and reasonable. The attorneys' fees here constitute 25% of the Settlement Fund; that  
18 percentage is consistent with the Ninth Circuit's benchmark and is particularly  
19 appropriate here in light of (1) the results achieved; (2) awards made in similar cases;  
20 (3) the risk of litigation; (4) the skill required and the quality of the work; (5) the  
21 contingent nature of the fee and the financial burden carried by the Plaintiff; and (6)  
22 awards made in similar cases. *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047-52 (9th  
23 Cir. 2002).

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26 <sup>1</sup> After the deadline for Class members to object or request exclusion from the  
27 Settlement has passed, Plaintiff will submit a revised proposed order with details  
28 concerning any Class member objections received and identifying all Class members  
who opted out of the Classes.

1           8.     A lodestar cross-check confirms the reasonableness of the requested fee:  
2 Based on its review of the evidence submitted by Class Counsel and additional  
3 counsel, the Court finds that Class Counsel and additional counsel reasonably spent  
4 5159.25 hours representing the Classes' interests through this litigation, that Class  
5 Counsel and additional counsel's hourly rates are reasonable and in line with the  
6 prevailing rates in the community for complex class action litigation, and that the  
7 lodestar in this matter therefore equals \$2,978,818. *Camacho v. Bridgeport Fin., Inc.*,  
8 523 F.3d 973, 979 (9th Cir. 2008). Ninth Circuit law supports the application of a  
9 multiplier to compensate Class Counsel for, among other things, the contingency  
10 risk undertaken in the litigation. *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d  
11 935, 941 (9th Cir. 2011). Here, the requested fee entails a multiplier of 1.38, which is  
12 well within the range of multipliers awarded in such cases and is reasonable here,  
13 further supporting the requested fee. *Vizcaino*, 290 F.3d at 1051. Accordingly, the  
14 Court grants Class Counsel's request for an attorneys' fee of \$4,125,000 to be paid  
15 from the Gross Settlement Fund. (Stipulation, Sec. VII.B.)

16           9.     The Court further finds that Class Counsel reasonably expended  
17 \$349,073.67 in costs to prosecute the litigation on behalf of the Classes. Costs are  
18 recoverable where a settlement results in a common fund. *In re Omnivision Techs.,*  
19 *Inc.*, 559 F. Supp. 2d 1036, 1048 (N.D. Cal. 2008). Accordingly, the Court grants the  
20 request to reimburse Class Counsel's costs in the amount of \$349,073.67 to be paid  
21 from the Gross Settlement Fund. (Stipulation, Sec. VII.B.)

22           10.    The Court further finds the requested Compensatory Award is fair and  
23 reasonable, given the time and effort expended by Lead Plaintiff SEPTA on behalf  
24 of the Classes. The PSLRA expressly authorizes the Court to compensate the Lead  
25 Plaintiff for its service to the Classes. *See* 15 U.S.C. § 78u-4(a)(4). The Court has  
26 reviewed the declaration from Lead Plaintiff's representative Gino Benedetti  
27 attesting to the time and resources SEPTA devoted to the litigation over the past  
28 three years, and finds the requested award is warranted. Accordingly, the Court

1 awards Lead Plaintiff a Compensatory Award of \$25,000, to be paid from the Gross  
2 Settlement Fund. (Stipulation, Sec. VII.F.)

3 11. The Court incorporates the releases set forth in the Stipulation, in  
4 Section I.BB (collectively, Release), and as of the Effective Date and by operation of  
5 this Order, the Release is binding and effective on all Class Members who have not  
6 properly excluded themselves from the Classes. The Stipulation, including the full  
7 Release in Section I.BB, can be found on the Court's publicly available docket at  
8 ECF No. 112-1. The terms of the Release, Stipulation, and this Judgment shall be  
9 forever binding on Defendants, Lead Plaintiff, and all Class Members (regardless of  
10 whether or not any individual Class Member submitted a Proof of Claim form or  
11 sought or seeks or obtains a distribution from the Net Settlement Fund).

12 12. Attached as Exhibit A is a list with the name of each person or entity  
13 who properly requested exclusion from the Classes in compliance with the  
14 procedures set forth in the Preliminary Approval Order.<sup>2</sup> The persons and entities  
15 listed in Exhibit A shall be neither entitled to the benefits from the Settlement nor  
16 bound by this Final Order and Judgment.

17 13. The Court finds and concludes that the parties and their respective  
18 counsel have complied with the requirements of Rule 11 of the Federal Rules of  
19 Civil Procedure in connection with the institution, prosecution, defense, and  
20 Settlement of the Action.

21 14. There being no just reason for delay, the Court, in the interests of  
22 justice, expressly directs the Clerk of the Court to enter this Final Order and  
23 Judgment, and hereby decrees that, upon entry, it be deemed a final judgment.

24 15. Without affecting the finality of this Judgment in any way, this Court  
25 hereby retains continuing jurisdiction over (a) implementation of the Settlement and

26 <sup>2</sup> As noted above, after the deadline for Class members to object or request exclusion  
27 from the Settlement has passed, Plaintiff will submit a revised proposed order with  
28 details concerning any Class member objections received and identifying all Class  
members who opted out of the Classes.

1 disposition of the Settlement Fund; (b) further proceedings, if necessary, on  
2 applications for attorneys' fees, expenses, costs, and a Compensatory Award for the  
3 Lead Plaintiff, in connection with the Action and the Settlement; and (c) the parties  
4 and the Class Members for the purpose of construing, enforcing, and administering  
5 the Stipulation and all related orders and judgments.

6 16. Neither this Judgment, nor the Stipulation, nor the Settlement  
7 embodied therein, nor the negotiations leading to the execution of the Stipulation,  
8 nor any act performed or document executed pursuant to or in furtherance of this  
9 Stipulation or the Settlement: (a) is or may be deemed to be or may be used as an  
10 admission of, or evidence of, the validity or infirmity of any Released Claim, of any  
11 allegation made in the Action, or of any wrongdoing or liability of any of the  
12 Released Parties; (b) is or may be deemed to be or may be used as an admission of,  
13 or evidence of, any liability, fault or omission of any of the Released Parties in any  
14 civil, criminal or administrative proceeding in any court, administrative agency or  
15 other tribunal; or (c) is or may be deemed to be or may be used as an admission or  
16 evidence that Lead Plaintiff and the Class Members would have received less, or  
17 more, than the Settlement Amount had the Action been prosecuted to conclusion.  
18 Neither the Stipulation nor the Settlement, nor the negotiations leading to the  
19 execution of this Stipulation, nor any act performed or document executed pursuant  
20 to or in furtherance of this Stipulation or the Settlement shall be admissible in any  
21 proceeding for any purpose, except to enforce the terms of the Settlement, and  
22 except that any of the Released Parties may file the Stipulation or this Judgment in  
23 any action that may be brought against any of them in order to support a defense or  
24 counterclaim based on principles of res judicata, collateral estoppel, release, good  
25 faith settlement, judgment bar or reduction or any other theory of claim preclusion  
26 or issue preclusion or similar defense or counterclaim.

27 17. In the event the Stipulation and the Settlement set forth therein do not  
28 become effective in accordance with the terms of the Stipulation or the Effective

1 Date as provided therein fails to occur for any reason whatsoever, then this  
2 Judgment shall be vacated, rendered null and void and be of no further force and  
3 effect, except to the extent provided by and in accordance with the Stipulation, and  
4 the parties shall revert to their respective positions in the Action as of October 21,  
5 2019, as provided in the Stipulation.

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8 IT IS SO ORDERED.

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10 Dated: \_\_\_\_\_

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11 HON. TERRY J. HATTER JR.  
12 U.S. DISTRICT COURT JUDGE  
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