

United States District Court  
Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IN RE ANTHEM, INC. DATA BREACH  
LITIGATION

Case No. 15-MD-02617-LHK

**ORDER GRANTING MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

Re: Dkt. No. 869

This matter is before the Court on Plaintiffs’ motion for preliminary approval of the proposed class action settlement. Plaintiffs, individually and on behalf of the proposed settlement class, and Defendants have entered into a Settlement Agreement and Release and an Amendment to the Settlement Agreement and Release (together, “Settlement Agreement”) that, if approved, would settle the above-captioned litigation. Having considered the motion, the Settlement Agreement together with all exhibits and attachments thereto, the record in this matter, and the briefs and arguments of counsel, **IT IS HEREBY ORDERED** as follows:

1. Unless otherwise defined herein, all terms that are capitalized herein shall have the same meaning ascribed to those terms in the Settlement Agreement.

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1           2.       The Court has jurisdiction over this multidistrict litigation, all actions transferred  
2 to, filed in, or otherwise coordinated as part of this multidistrict litigation, Plaintiffs, Defendants,  
3 and Settlement Class Members, and any party to any agreement that is part of or related to the  
4 Settlement Agreement.

5   **PRELIMINARY APPROVAL**

6           3.       The Court has reviewed the terms of the proposed Settlement Agreement, the  
7 exhibits and attachments thereto, Plaintiffs’ motion papers and briefs, and the declarations of  
8 counsel. Based on its review of these papers, the Court finds that the Settlement Agreement  
9 appears to be the result of serious, informed, non-collusive negotiations conducted with the  
10 assistance of former United States District Judge Layn R. Phillips over the course of nearly three  
11 months. The Court further observes that the Settlement Agreement is the product of more than  
12 two years of litigation, including two rounds of motions to dismiss, extensive fact and expert  
13 discovery, and briefing on Plaintiffs’ motion for class certification and the Parties’ motions to  
14 exclude expert testimony. The terms of the Settlement Agreement do not improperly grant  
15 preferential treatment to any individual or segment of the Settlement Class and fall within the  
16 range of possible approval as fair, reasonable, and adequate.

17           4.       The Court therefore GRANTS preliminary approval of the Settlement Agreement  
18 and all of the terms and conditions contained therein.

19   **PRELIMINARY CERTIFICATION OF SETTLEMENT CLASS**

20           5.       Pursuant to Federal Rule of Civil Procedure 23, the Court preliminarily certifies,  
21 for settlement purposes only, the Settlement Class defined as follows:

22               All Individuals whose Personal Information was maintained on Anthem’s  
23 Enterprise Data Warehouse and are included in Anthem’s Member Impact  
24 Database and/or received a notice relating to the Data Breach; provided, however,  
25 that the following are excluded from the Settlement Class: (i) Defendants, any  
26 entity in which Defendants have a controlling interest, and Defendants’ officers,  
27 directors, legal representatives, successors, subsidiaries, and assigns; (ii) any judge,  
28 justice, or judicial officer presiding over this matter and the members of their  
immediate families and judicial staff; and (iii) any individual who timely and  
validly opts-out from the Settlement Class

1           6.       The Court preliminarily finds that the Settlement Class satisfies the requirements of  
2 Federal Rule of Civil Procedure 23(a): the Settlement Class is comprised of approximately 79  
3 million individuals; there are questions of law or fact common to the Settlement Class; the  
4 Settlement Class Representatives' claims are typical of those of Settlement Class Members; and  
5 the Settlement Class Representatives will fairly and adequately protect the interests of the  
6 Settlement Class.

7           7.       The Court preliminarily finds that the Settlement Class satisfies the requirements of  
8 Federal Rule of Civil Procedure 23(b)(3): the questions of law or fact common to the Settlement  
9 Class predominate over individual questions, class action litigation is superior to other available  
10 methods for the fair and efficient adjudication of this controversy, and defendants have acted or  
11 refused to act on grounds that apply generally to the Settlement Class.

12           8.       The Court hereby appoints as Class Representatives: Cindy Chadwick, Pearl  
13 Bruno, Daniel Randrup, Mary Ella Carter (on behalf of her minor daughter T), Kenneth Coonce,  
14 Steve Kawai, Kenneth Solomon, Joseph and Karen Jo Blanchard, Lillian Brisko, Alvin Lawson,  
15 James Schatzman, Janet Brunton, Kimberly Kos-Williams, Gary Lasneski, Ralph Staffieri, Jessica  
16 Holguin, Danielle DiFonzo, Glenn Kahn, Gerald Keaton, John McAffry, Charles Platt, John  
17 Thomas, II, Lauren Roberts, Karen Coppedge, Allison Swank, Kevin Donnelly, Harold Lott,  
18 Cynthia Kelley, Mary Wicklund, David Klemer, Nadine Foster, Cynthia Reichrath, Wanda Pratt,  
19 Brent Harris, Steven Quinnette, Darrell Hunter, Cheryl Grissom, Melinda Lambert, Amy  
20 Whittaker, Shantel and Rahman Jones, Jason Jenkins, Kelli Smith (on her own behalf and on  
21 behalf of her three minor children), Dianne Reistroffer, Christopher Ruberg, Frank Bailey, Jason  
22 Baker, Meredith Fisse, Robin Wilkey, Gary Bellegarde, Mark Hatcher, Don West, Denese  
23 Depeza, Claudia Cass, Robert Roy, Carrie Ramos, Lisa Daniels, Michelle Kaseta-Collins, Lyle  
24 Nichols, Hank Maurer, Jack Wenglewick, Charles McCullough, Debbie Stein, Melody Eads,  
25 Christopher Allen, Jill Noble, Cherri and Gregory Hawes, Christina Renkoski (previously Novak),  
26 Shawn Crane, Troy Hobbs, David Ifversen, Angelin Gonzalez, Joseph LeBrun, Brenda  
27 Harrington, Elizabeth Ames, Ronald Percy, Barbara Gold, Matthew Gates, Marne Onderdonk,

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1 Frank Pacilio, Valerie Brescia, Randy Polacsek, Francis Nicosia, Connie McDaniel, Rachel Calo,  
2 Nicholas Bowes, Martin Williams, Rosanne M. Stanley, Gregory Kremer, Denise Masloski, Alan  
3 Voll, Lakeysha Gant, Jonathan B. Pulcini, Patrick Kimbrell, William Ansah-Dawson, C.  
4 Wheelwright, Michael S. Weinberger, Vernon Davitte, Jennifer Mertlich, Simon Kaufman, Lisa  
5 Shiltz, Susan H. Jones, and Jennifer Rud.

6 9. The Court hereby appoints as Class Counsel Eve H. Cervantez, Andrew N.  
7 Friedman, Michael W. Sobol, and Eric Gibbs, as well as their respective firms: Altshuler Berzon  
8 LLP; Cohen Milstein Sellers & Toll PLLC; Lieff Cabraser Heimann & Bernstein LLP; and Girard  
9 Gibbs LLP.

10 **NOTICE & ADMINISTRATION**

11 10. Pursuant to the Settlement Agreement, the Parties have designated KCC as the  
12 Settlement Administrator. The Settlement Administrator shall perform all the duties of the  
13 Settlement Administrator set forth in the Settlement Agreement.

14 11. The Court finds that the Notice and Notice Plan set forth in the Settlement  
15 Agreement satisfy the requirements of due process and Federal Rule of Civil Procedure 23 and  
16 provide the best notice practicable under the circumstances. The Notice and Notice Plan are  
17 reasonably calculated to apprise Settlement Class Members of the nature of this litigation, the  
18 scope of the Settlement Class, the terms of the Settlement Agreement, the right of Settlement  
19 Class Members to object to the Settlement Agreement or exclude themselves from the Settlement  
20 Class and the process for doing so, and of the Final Approval Hearing. The Court therefore  
21 approves the Notice and Notice Plan and directs the parties and the Settlement Administrator to  
22 proceed with providing notice to Settlement Class Members pursuant to the terms of the  
23 Settlement Agreement and this Order.

24 12. Under the terms of the Settlement Agreement, the Settlement Administrator shall  
25 disseminate the Notice and implement the Notice Plan on or before October 30, 2017.

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20. At the Final Approval Hearing, the Court will consider whether: (a) the Settlement is fair, reasonable, and adequate; (b) the Settlement Class should be finally certified; (c) a final judgment should be entered; (d) Class Counsel's motion for attorneys' fees and costs should be granted; and (e) the Service Payments sought for Settlement Class Representatives should be awarded.

21. The Court reserves the right to continue the date of the Final Approval hearing without further notice to Settlement Class Members.

#### DEADLINES, INJUNCTION & TERMINATION

<u>Event</u>	<u>Date</u>
Notice of Class Action Settlement completed as per Notice Plan	October 30, 2017
Class Counsel Motion for Attorneys' Fees and Costs	December 1, 2017
Motion for Final Approval	December 1, 2017
Opt-Out and Objection Deadline	December 29, 2017
Reply in Support of Motion for Final Approval and Attorneys' Fees and Costs	January 25, 2018
Final Approval Hearing	February 1, 2018

22. All proceedings and deadlines in this matter, except those necessary to implement this Order and the Settlement, are hereby stayed and suspended until further order of the Court.

23. All Settlement Class Members who do not validly opt out and exclude themselves are hereby enjoined from pursuing or prosecuting any of the Released Claims as set forth in the Settlement Agreement until further order of the Court.

24. In the event that the Settlement Agreement is terminated pursuant to the terms of the Settlement Agreement, (a) the Settlement Agreement and this Order shall become void, shall

1 have no further force or effect, and shall not be used in any Action or any other proceedings for  
 2 any purpose other than as may be necessary to enforce the terms of the Settlement Agreement that  
 3 survive termination; (b) this matter will revert to the status that existed before execution of the  
 4 Settlement Agreement; and (c) no term or draft of the Settlement Agreement or any part of the  
 5 Parties' settlement discussions, negotiations or documentation (including any briefs filed in  
 6 support of preliminary or final approval of the Settlement) shall (i) be admissible into evidence for  
 7 any purpose in any Action or other proceeding other than as may be necessary to enforce the terms  
 8 of the Settlement Agreement that survive termination, (ii) be deemed an admission or concession  
 9 by any Party regarding the validity of any Released Claim or the propriety of certifying any class  
 10 against Defendants, or (iii) be deemed an admission or concession by any Party regarding the truth  
 11 or falsity of any facts alleged in the Actions or the availability or lack of availability of any  
 12 defense to the Released Claims.

13           25.     The instant motion granting preliminary approval of the proposed class action  
 14 settlement renders moot the following pending motions in this multi-district litigation: ECF No.  
 15 851 (Administrative Motion to File Under Seal); ECF No. 850 (Administrative Motion to File  
 16 Under Seal); ECF No. 849 (Administrative Motion to File Under Seal); ECF No. 847 (Application  
 17 for Leave to File Response to Defendants' Statement of Recent Decision); ECF No. 843  
 18 (Administrative Motion to File Under Seal); ECF No. 842 (Administrative Motion to File Under  
 19 Seal); ECF No. 841 (Administrative Motion to File Under Seal); ECF No. 832 (Administrative  
 20 Motion to File Under Seal); ECF No. 831 (Administrative Motion to File Under Seal); ECF No.  
 21 826 (Administrative Motion to File Under Seal); ECF No. 821 (Motion to Strike Expert  
 22 Testimony of Dr. Stefan Savage); ECF No. 820 (Motion to Strike Expert Testimony of James  
 23 Mulvenon); ECF No. 819 (Motion to Strike Expert Testimony of William S. Choi); ECF No. 818  
 24 (Administrative Motion to File Under Seal); ECF No. 807 (Administrative Motion for Removal of  
 25 Incorrectly Filed Documents); ECF No. 797 (Administrative Motion to File Under Seal); ECF No.  
 26 794 (Administrative Motion to File Under Seal); ECF No. 793 (Administrative Motion to File  
 27 Under Seal); ECF No. 780 (Administrative Motion to File Under Seal); ECF No. 778



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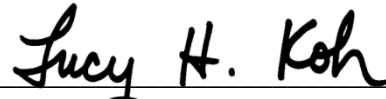
1 (Administrative Motion to File Under Seal); ECF No. 777 (Administrative Motion to File Under  
2 Seal); ECF No. 776 (Administrative Motion to File Under Seal); ECF No. 743 (Administrative  
3 Motion to File Under Seal); ECF No. 719 (Administrative Motion to File Under Seal); ECF No.  
4 716 (Administrative Motion to File Under Seal); ECF No. 714 (Administrative Motion to File  
5 Under Seal). The Court therefore DENIES these pending motions as moot.

6 26. For the reasons discussed above, the Court GRANTS Plaintiffs' motion for  
7 preliminary approval.

8 **IT IS SO ORDERED.**

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10 Dated: August 25, 2017



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12 LUCY H. KOH  
13 United States District Judge  
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