

The Honorable Brian M. MacDonald
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IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

TOD WIX, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

PACIFIC CATARACT & LASER
INSTITUTE, INC. P.C.,

Defendant.

NO. 24-2-06283-1 SEA

**FINAL APPROVAL ORDER AND
JUDGMENT GRANTING
PLAINTIFF'S UNOPPOSED MOTION
FOR FINAL APPROVAL**

WHEREAS, the above-captioned class action is pending in this Court (the “Action”);

WHEREAS, Plaintiff Tod Wix (“Plaintiff”), individually and on behalf of all others similarly situated, and Defendant Pacific Cataract & Laser Institute (“PCLI” or “Defendant”) have entered into a Settlement Agreement (the “Settlement Agreement”) that settles the above-captioned litigation and provides for a complete dismissal with prejudice of the claims asserted against Defendant in the above-captioned action (the “Action”) on the terms and conditions set forth in the Settlement Agreement, that was approved by this Court;

WHEREAS, Plaintiff has made an application, pursuant to Rule 23 of the Washington Rules of Civil Procedure, for an order preliminarily approving the Settlement in accordance with the Settlement Agreement, certifying the Settlement Class for purposes of the Settlement only, appointing Plaintiff as Class Representatives, appointing Class Counsel as counsel for the Settlement Class, appointing Vertia Global, LLC f/k/a KCC Class Action Services, LLC or KCC, and allowing notice to Settlement Class Members as more fully described herein;

WHEREAS, the Court granted Plaintiffs' application for an order preliminarily approving the Settlement on July 25, 2024.

WHEREAS, Plaintiff has made an application, pursuant to Rule 23 of the Washington Rules of Civil Procedure, for a Final Order approving the Settlement in accordance with the Settlement Agreement, certifying the Settlement Class for purposes of the Settlement only, appointing Plaintiff as Class Representatives, appointing Class Counsel as counsel for the Settlement Class, appointing Vertia Global, LLC f/k/a KCC Class Action Services, LLC or KCC, and allowing notice to Settlement Class Members as more fully described herein;

WHEREAS, the Court has read and considered: (a) Plaintiff's Unopposed Motion for Final Approval of Class Action Settlement, and the papers filed and arguments made in connection therewith; and (b) the Settlement Agreement and exhibits attached thereto; and

WHEREAS, on December 13, 2024, the Court held a Final Fairness Hearing to determine whether the proposed settlement is fair, reasonable and adequate and whether judgment should be entered dismissing this Action with prejudice. The Court reviewed (a) Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement and Plaintiffs' Motion for an Award off Attorneys' Fees, Expenses and Service Award to Plaintiff (together, the "Motions") and all supporting materials, including but not limited to the Settlement Agreement and the exhibits thereto; (b) any objections filed with or presented to the Court; and (c) the Parties' responses to any objections. The Court also considered the oral argument of counsel and any objectors who appeared. Based on this review and the findings below, the Court finds good cause to grant the Motions.

NOW, THEREFORE, IT IS HEREBY ORDERED:

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

2. The Settlement Agreement is fair, reasonable, adequate and in the best interests of Settlement Class Members. The Settlement Agreement was negotiated at arm's-length, in good faith and without collusion, by capable and experienced counsel, with full knowledge of the facts, the law, and the risks inherent in litigating the Action, and with the active involvement of the Parties. Moreover, the Settlement Agreement confers substantial benefits on the Settlement Class Members, is not contrary to the public interest, and will provide the Parties with repose from litigation. The Parties faced significant risks, expense, and/or uncertainty from continued litigation of this matter, which further supports the Court's conclusion that the settlement is fair, reasonable, adequate and in the best interests of the Settlement Class Members.

3. The Court grants final approval of the Settlement Agreement in full, including but not limited to the releases therein and the procedures for effecting the Settlement. All Settlement Class Members who have not excluded themselves from the Settlement Class are bound by this Final Approval Order and Judgment.

4. The Parties shall carry out their respective obligations under the Settlement Agreement in accordance with its terms. The relief provided for in the Settlement Agreement shall be made available to the various Settlement Class Members submitting valid Claim Forms, pursuant to the terms and conditions in the Settlement Agreement.

OBJECTIONS AND REQUESTS FOR EXCLUSION

5. No objections to the settlement were submitted. All persons who did not object to the settlement in the manner set forth in the Settlement Agreement are deemed to have waived any objections, including but not limited to by appeal, collateral attack, or otherwise.

6. Only one class member has submitted a valid opt-out request.

CERTIFICATION OF THE SETTLEMENT CLASS

7. Solely for purposes of the Settlement Agreement and this Final Approval and Order and Judgment, the Court hereby certifies the following Settlement Class:

Settlement Class:

“ All individuals impacted by Defendant’s Data Incident, including all individuals who received notice of the Data Incident, that occurred in November 2023. The Class specifically excludes: (i) all Persons who timely and validly request exclusion from the Class; (ii) the Judge assigned to evaluate the fairness of this settlement (including any members of the Court’s staff assigned to this case); (iii) Defendant’s officers and directors, and (iv) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Data Incident or who pleads nolo contendere to any such charge.

The Settlement Class is estimated to include approximately 14,000 people.

8. The Court incorporates its preliminary conclusions in the Preliminary Approval Order regarding the satisfaction of Rule 23 of the Washington Rules of Civil Procedure. Because the Settlement Class is certified solely for purposes of settlement, the Court need not address any issues of manageability for litigation purposes.

9. The Court grants final approval to the appointment of Representative Plaintiff Tod Wix as Class Representative of the Settlement Class and concludes that he has fairly and adequately represented the Settlement Class and shall continue to do so.

10. The Court grants final approval to the appointment of Philip J. Krzeski of Chestnut Cambronne PA as Class Counsel. Class Counsel has fairly and adequately represented the Settlement Classes and shall continue to do so.

NOTICE TO THE CLASS

11. The Court finds that the Notice Program provided for in the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order: (i) was the best notice practicable

under the circumstances; (ii) was reasonably calculated to provide, and did provide due and sufficient notice to the Settlement Class regarding the existence and nature of the Action, certification of the Settlement Class for settlement purposes only, the existence and terms of the Settlement Agreement, and the rights of Settlement Class Members to exclude themselves from the settlement, to object and appear at the Final Fairness Hearing, and to receive benefits under the Settlement Agreement; and (iii) satisfied the requirements of the Washington Rules of Civil Procedure, the United States Constitution, and all other applicable law.

ATTORNEYS' FEES AND COSTS, SERVICE AWARD

12. The Court awards Class Counsel \$120,000 for attorneys' fees and \$1,570.97 for reimbursement of costs and expenses. The Court finds this amount to be fair and reasonable. Payment shall be made pursuant to the procedures in Section X of the Settlement Agreement.

13. The Court awards a Service Award of \$5,000 to Plaintiff Tod Wix. The Court finds this amount is justified by his service to the Settlement Class. Payment shall be made from the Settlement Fund pursuant to in Section IX of the Settlement Agreement.

RELEASE

14. Each Settlement Class member, including the Class Representative, are be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims as defined in the Settlement Agreement and including Unknown Claims. The full terms of the release described in this paragraph are set forth in Section VIII of the Settlement Agreement and are specifically approved and incorporated herein by this reference (the "Release"). Further, upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, including Plaintiff, shall directly, indirectly, or in any representative capacity, be permanently barred and enjoined from commencing,

prosecuting, or participating in any recovery in any action in this or any other forum (other than participation in this Settlement Agreement as provided herein) in which any of the Released Claims is asserted.

15. The Settlement Agreement and this Final Judgment and Order apply to all claims or causes of action settled under the Settlement Agreement, and binds Class Representative and all Settlement Class Members who did not properly request exclusion. The Settlement Agreement and this Final Approval Order and Judgment shall have maximum res judicata, collateral estoppel, and all other preclusive effect in any and all causes of action, claims for relief, suits, demands, petitions, or any other challenges or allegations that arise out of or relate to the subject matter of the Cases.

OTHER PROVISIONS

16. The Court directs the Parties and their counsel to implement and consummate the Settlement Agreement, and make available to Settlement Class Members the relief provided for therein, in accordance with the Settlement Agreement's terms and provisions.

17. The Settlement Agreement and this Final Approval Order and Judgment, and all documents, supporting materials, representations, statements and proceedings relating to the settlement, are not, and shall not be construed as, used as, or deemed evidence of, any admission by or against Defendant of liability, fault, wrongdoing, or violation of any law, or of the validity or certifiability for litigation purposes of the Settlement Class or any claims that were or could have been asserted in the Action.

18. ~~The Settlement Agreement and this Final Approval Order and Judgment, and all documents, supporting materials, representations, statements and proceedings relating to the settlement shall not be offered or received into evidence, and are not admissible into evidence, in~~

~~any action or proceeding, except that the Settlement Agreement and this Final Approval Order and Judgment may be filed in any action by any Defendant or the Settlement Class Members seeking to enforce the Settlement Agreement or the Final Approval Order and Judgment.~~

19. If the Effective Date does not occur for any reason, the Action will revert to the status that existed before the Settlement Agreement's execution date, and the Parties shall be restored to their respective positions in the Action as if the Settlement Agreement had never been entered into. ~~No term or draft of the Settlement Agreement, or any part of the Parties' settlement discussions, negotiations, or documentation, will have any effect or be admissible in evidence for any purpose in the Litigation.~~

20. Without affecting the finality of this Final Approval Order and Judgment, the Court will retain jurisdiction over this Action and the Parties with respect to interpretation, implementation and enforcement of the Settlement Agreement for all purposes.

21. The Court hereby dismisses the Action in its entirety with prejudice, and without fees or costs except as otherwise provided for herein.

NOW, THEREFORE, the Court hereby enters judgment in this matter.

IT IS SO ORDERED this ____ day of, 2024.

The Honorable Brian M. McDonald
Superior County for State of
Washington In and For King County

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

Case Number: 24-2-06283-1 SEA
Case Title: WIX VS PACIFIC CATARACT & LASER INSTITUTE
Document Title: Order
Date Signed: 12/13/2024



Judge: Brian McDonald

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