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**THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
**IN AND FOR THE COUNTY OF MARICOPA**

*In re: Valley Anesthesiology Consultants, Inc.  
Data Breach Litigation*

Case No. CV2016-013446

This Order Relates to:

*Becher, et al. v. Valley Anesthesiology  
Consultants, Inc. (CV2016-013446)*

*Manz, et al. v. Valley Anesthesiology  
Consultants, Inc. (CV2016-052906)*

~~PROPOSED~~ <sup>g</sup> FINAL JUDGMENT AND  
ORDER

(Assigned to Honorable Daniel Martin)

1 WHEREAS, a class action is pending before this Court (the “Action”);

2 WHEREAS, the Court has granted preliminary approval of the settlement described in  
3 the Unopposed Motion for and Memorandum of Points and Authorities in Support of  
4 Preliminary Approval of Class Action Settlement and Certification of Settlement Class (the  
5 “Motion for Preliminary Approval”); WHEREAS, Plaintiffs have filed the Unopposed Motion  
6 for and Memorandum of Points and Authorities in Support of Final Approval of Class Action  
7 Settlement and Certification of Settlement Class (the “Motion for Final Approval”);

8 WHEREAS, the Court has reviewed the Settlement Agreement and its exhibits, the  
9 Motion for Final Approval, the pleadings and other papers on file in this action, and statements  
10 of counsel, and has held a Fairness Hearing on the fairness, adequacy, and reasonableness of the  
11 Settlement and considered all written submissions and oral arguments made in connection with  
12 final settlement approval; and

13 WHEREAS, the Court finds that the Motion for Final Approval should be GRANTED  
14 and that this Final Approval Order should be entered. Terms and phrases used in this Final  
15 Approval Order shall have the same meaning ascribed to them in the Settlement Agreement  
16 attached to the Motion for Preliminary Approval as Exhibit 1.

17 NOW, THEREFORE, IT IS HEREBY ORDERED, that:

18 **A. Final Approval of Class Certification**

19 1. The Court finds that the following Class and Subclass are certified for settlement  
20 purposes under Arizona Rule of Civil Procedure 23:

21 **Injunctive Relief Class**

22 All persons whose personally identifiable information, health information, bank  
23 account information, financial information, or health provider information was  
24 stored on Valley’s electronic data systems before August 12, 2016.  
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1                    **Monitoring Subclass**

2                    All Injunctive Relief Class members whose social security, Medicare, or Medicaid  
3                    number were potentially exposed during the Breach.<sup>1</sup>

4                    2.            The Court finds that certification of the Injunctive Relief Class and Monitoring  
5                    Subclass is appropriate under Arizona Rule of Civil Procedure 23 because: (a) the Class is so  
6                    numerous that joinder of all members is impractical; (b) there are questions of law and fact  
7                    common to the Class; (c) those common questions of law and fact predominate over questions  
8                    affecting only individual members of the Class; (d) Settlement Class Representatives' claims  
9                    are typical of the claims of the members of the Class; (e) Settlement Class Representatives and  
10                   their Counsel have and will adequately represent the claims of the members of the Class; (f) a  
11                   class action is superior to all other available methods for fairly and efficiently adjudicating the  
12                   Action; and (g) the Action is manageable as a class action.

12                   **B.        Final Approval of Settlement**

13                   3.            The Court finds that the settlement set forth in the Settlement Agreement is fair,  
14                   reasonable, adequate, and in the best interests of the Settlement Class. The Settlement  
15                   Agreement was arrived at through good-faith bargaining at arm's-length, without collusion,  
16                   conducted by counsel with substantial experience in prosecuting and resolving class actions.  
17                   The settlement consideration provided under the Settlement Agreement constitutes fair value  
18                   given in exchange for the release of the Released Claims against the Released Parties. The  
19                   consideration to be provided to members of the Settlement Class is reasonable, considering the  
20                   facts and circumstances of the Litigation, and in light of the complexity, expense, and duration  
21                   of litigation and the risks involved in establishing liability and damages and in maintaining the  
22                   class action through trial and appeal. All terms of the settlement and Settlement Agreement are  
23                   approved by this Final Approval Order. The fact that this Final Approval Order specifically  
24                   identifies or summarily recapitulates some, but not other, provisions of the Settlement  
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<sup>1</sup> The Monitoring Subclass includes at least 209,000 individuals who were previously offered  
one year of identity or theft protection services by Valley following the Data Breach.

1 Agreement does not modify any provision of the Settlement Agreement, nor does it elevate or  
2 demote any provision vis á vis any other provision, nor does it create an inference in that regard.

3 **C. Approval of Co-Lead Class Counsel and Settlement Class Representatives**

4 4. The Court appoints Hagens Berman Sobol Shapiro LLP and Bonnett, Fairbourn,  
5 Friedman & Balint, P.C., as Co-Lead Class Counsel for the Injunctive Relief Class and  
6 Monitoring Subclass. Class Counsel are experienced in class litigation and have fairly and  
7 adequately protected the interests of the Injunctive Relief Class and Monitoring Subclass.

8 5. The Court appoints Cade Becher, Melanie R. Chaignot, Janice E. Manz, and  
9 Megan F. Thomas as Settlement Class Representatives, on behalf of themselves and the  
10 Injunctive Relief Class and Monitoring Subclass.

11 **D. Approval of Form and Manner of Class Notice**

12 6. The Court finds that notice has been provided in accordance with the Courts'  
13 Preliminary Approval Order. This notice, in form, method, and content, fully complied with the  
14 requirements of Rule 23 of the Arizona Rules of Civil Procedure and due process, and  
15 constituted the best notice practicable under the circumstances, and constituted due and  
16 sufficient notice to all persons entitled to notice of the Settlement.

17 **E. Motion for Attorneys' Fees and Costs and Incentive Awards**

18 7. The Court makes the following awards to Class Representatives and Settlement  
19 Class Counsel:

1 a. \$800,000.00 as attorneys' fees, inclusive of costs, collectively to Hagens  
2 Berman Sobol Shapiro LLP, Bonnett, Fairbourn, Friedman & Balint, P.C.,  
3 Westerman Law Corp., and Emerson Scott, LLP. Such attorneys' fees and  
4 costs are due and payable within 30 business days of the Effective Date of  
5 Settlement.

6 b. \$2,500.00 to each Class Representative as an incentive award.  
7

8 **F. Binding Effect of Settlement**

9 8. All Settlement Class members shall be bound by all proceedings, determinations,  
10 orders, and judgments in this Action concerning the Settlement, even if such Settlement Class  
11 member has previously initiated or subsequently initiates individual litigation or other  
12 proceedings encompassed by the Release, unless such persons requested exclusion from the  
13 Class in a timely and proper manner as set forth in the notices or unless the Court has otherwise  
14 approved the untimely request for exclusion.

15 9. All persons who submitted a valid, timely and unrevoked Request for Exclusion  
16 are forever barred from receiving any relief under the Settlement.

17 10. The Parties, the Released Parties, and each Settlement Class member have  
18 irrevocably submitted to the exclusive jurisdiction of this Court for any suit, action, proceeding,  
19 or dispute relating in any way to, or arising out of, the Released Claims, the Settlement  
20 Agreement, or this Final Judgment and Order.

21 **G. Objections to Settlement**

22 11. Any Class member who failed to submit an objection to the Settlement in  
23 accordance with the deadline and procedure set forth in the Preliminary Approval Order are  
24 deemed to have waived such objection and shall forever be foreclosed from making any such  
25 objection or seeking any adjudication or review of the Settlement Agreement by appeal or by  
26 any other means.

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1 **H. Consummation and Termination of Settlement**

2 12. The Parties are directed to consummate the Settlement Agreement in accordance  
3 with its terms. The Parties and any and all Settlement Class members who did not validly  
4 exclude themselves from the Settlement Class are bound by the terms and conditions of the  
5 Settlement Agreement.

6 13. Without further order of the Court, the Parties may agree to reasonable extensions  
7 of time to carry out any of the provisions of the Settlement Agreement.

8 14. Defendant may elect to terminate the Settlement only as provided in the  
9 Settlement Agreement. In such event, or in the event the Settlement does not become effective  
10 in accordance with the terms of the Settlement Agreement, then the Settlement and this Order  
11 (including any amendment(s) thereof, and except as expressly provided in the Settlement or by  
12 order of the Court) shall be rendered null and void, of no further force or effect, and without  
13 prejudice to party, and may not be introduced as evidence or used in any action or proceeding  
14 by any person against the parties, and each shall be restored to his, her or its respective litigation  
15 positions as they existed prior to the execution of the Settlement Agreement.

16 **I. Dismissal of Action and Entry of Final Judgment**


17 15. Subject to the terms and conditions of the Settlement Agreement, this Court  
18 hereby dismisses the Action as to all Released Parties, without fees or costs, except as provided  
19 in the Settlement Agreement.

20 16. By operation of this Final Judgment and Order, the Releasing Parties release and  
21 forever discharge the Released Parties from the Released Claims, and the Released Parties  
22 release and forever discharge Plaintiffs and Settlement Class Counsel, as set forth in the  
23 Settlement Agreement.

24 17. Based upon the Court's finding that there is no just reason for delay of enforcement  
25 or appeal of this Order notwithstanding the Court's retention of jurisdiction to oversee  
26 implementation and enforcement of the Settlement Agreement, the Court directs the Clerk to  
27 enter final judgment.  
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IT IS SO ORDERED.

Dated: February 15, 2019

  
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Honorable Daniel Martin  
Maricopa County Superior Court Judge

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