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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Flor Medina, et al.,
Plaintiffs,
v.
PracticeMax Incorporated,
Defendant.

No. CV-22-01261-PHX-DLR
ORDER

The Court having reviewed Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement and Notice Plan (Doc. 39), and the Class Action Settlement Agreement and Release entered into by Plaintiffs and Defendant PracticeMax, Inc., and for good cause shown:

IT IS ORDERED that Plaintiffs’ Motion¹ (Doc. 39) is GRANTED.

IT IS FURTHER ORDERED as follows:

1. The Court does hereby preliminarily and conditionally approve, for settlement purposes, the following Class:

All persons residing in the United States to whom PracticeMax sent its notice of a Data Security Incident that PracticeMax discovered on or about May 1, 2021. Excluded from the Settlement Class are: (i) PracticeMax, Inc.; (ii) the Related Entities; (iii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iv) any judges assigned to this case and their staff and family; and (v) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing,

¹ Unless otherwise stated, all capitalized terms used in this Order shall have the same meanings as set forth in the Settlement Agreement.

1 aiding or abetting the criminal activity occurrence of the Data Security
2 Incident or who pleads nolo contendere to any such charge.

3 2. The Settlement provides that PracticeMax will pay up to \$3,000,000.00 for
4 Settlement benefits to the Class, Settlement Administration costs and expenses, Class
5 Counsel's attorneys' fees and expenses, and any Class Representative Service Award. The
6 following Settlement benefits are available to Class Members who submit valid and timely
7 Claim Forms:

- 8 a. Compensation for ordinary losses incurred as a result of the Data Security
9 Incident, up to a maximum of \$500 per person upon submission of a claim
10 and supporting documentation, including \$25 per hour for a maximum of
11 up to \$75 per person for lost time;
- 12 b. Compensation for extraordinary losses incurred as a result of the Data
13 Security Incident, up to a maximum of \$3,500 per person upon
14 submission of actual documented identity theft for proven monetary loss;
- 15 c. Credit monitoring services for all Settlement Class Members to enroll in
16 two years of single bureau credit monitoring and identity theft protection
17 with \$1 million in insurance;
- 18 d. Defendant will also provide confirmatory discovery regarding remedial
19 measures taken as a result of the Data Security Incident and to confirm
20 that it is no longer operating.

21 3. Based upon information provided: the Class is ascertainable; it numbers
22 approximately 258,00 individuals, satisfying numerosity; there are common questions of
23 law and fact, including whether Defendant's Data Security Incident potentially
24 compromised Plaintiffs' and Class Members' Private Information, satisfying commonality;
25 the proposed Class Representative's claims are typical, in that they are members of the
26 Class and allege they received notice from Defendant that their Private Information was
27 potentially compromised in Defendant's Data Security Incident, thereby alleging they have
28 been damaged by the same conduct as other Class Members; the proposed Class
Representative and Class Counsel will fully, fairly and adequately protect the interests of
the Class; questions of law and fact common to members of the Class predominate over
questions affecting only individual members for settlement purposes; and a nationwide

1 class for settlement purposes is superior to other available methods for the fair and efficient
2 adjudication of this controversy.

3 4. The Court appoints Robert Hogsed, Justin Knox, Flor Medina, Brenda Allen,
4 and Katherine Witkowski as the Class Representatives of the Class.

5 5. The Court appoints as Class Counsel Gary M. Klinger of Milberg Coleman
6 Bryson Phillips Grossman, PLLC, Raina C. Borrelli of Turke & Strauss LLP, John A.
7 Yanchunis of Morgan & Morgan, Terence R. Coates of Markovits, Stock & DeMarco,
8 LLC, and William Federman of Federman & Sherwood.

9 6. The Court appoints Epiq as Settlement Administrator.

10 7. The Court does hereby preliminarily approve the Settlement, including the
11 notices and releases contained therein as being fair, reasonable, and adequate as to the Class
12 Members, subject to further consideration at the Fairness Hearing described below.

13 8. A Final Approval Hearing shall be held before the Court on **March 14, 2024,**
14 **at 9:30 a.m.** for the following purposes:

- 15 a. To determine whether the proposed Settlement on the terms and
16 conditions provided for by the Agreement is fair, reasonable, and
17 adequate to the Class and should be approved by the Court;
- 18 b. To determine whether a Final Approval Order, as defined in the
19 Agreement, should be entered;
- 20 c. To determine whether the claims process under the Settlement is fair and
21 reasonable, and it should be approved by the Court;
- 22 d. To determine whether Plaintiffs' application for Attorneys' Fees and
23 Expenses, and requested Service Awards for the Class Representative,
24 should be approved; and
- 25 e. To rule upon such other matters as the Court may deem appropriate.

26 9. Plaintiffs' Motion for Final Approval shall be filed at least thirty (30) days
27 before the Final Approval Hearing.

28 10. The Court approves, as to the form and content, the Short Form Postcard
Notice, Long Form Notice, and Claim Form, and finds that the mailing, distribution, and

1 publishing of the various notices in the form and manner set forth in the Settlement
2 Agreement meets the requirements of Fed. R. Civ. P. 23 and due process, and is the best
3 notice practicable under the circumstances, and shall constitute due and sufficient notice to
4 all persons entitled to notice. Defendant shall pay the entirety of the estimated costs of
5 Claims Administration and the costs of providing notice to the Settlement Class within 15
6 days of this Order.

7 11. The Complaint was commenced after February 18, 2005. The Court directs
8 Defendant to timely notify, through the Settlement Administrator, the appropriate Federal
9 and State officials under the Class Action Fairness Act of 2005, 28 U.S.C. § 1715 (to the
10 extent this has not already been done). Counsel for Defendant or the Settlement
11 Administrator shall, at or before the Final Approval Hearing, file with the Court proof of
12 compliance with the Class Action Fairness Act of 2005, 28 U.S.C. §1715.

13 12. The Claim Form submitted by each Class Member must be properly
14 completed, signed, and submitted in a timely manner in accordance with the provisions of
15 the preceding subparagraph.

16 13. As part of the Claim Form, each Class Member shall submit to the
17 jurisdiction of the Court with respect to the claim submitted and shall (subject to
18 effectuation of the Settlement) release all Released Claims as provided in the Agreement.

19 14. All Class Members shall be bound by all determinations and judgments in
20 the class action concerning the Settlement, including, but not limited to, the releases
21 provided for in the Agreement, whether favorable or unfavorable, except those who timely
22 and validly requested exclusion from the Class and have not opted back in. The persons
23 and entities who timely and validly requested exclusion from the Class will be excluded
24 from the Class and shall not have rights under the Agreement, shall not be entitled to submit
25 any Claim Forms, and shall not be bound by the Agreement or the Final Approval Order
26 as to Defendant in the Class Action.

1 15. Pending final determination of whether the Agreement should be approved,
2 Class Counsel, Plaintiffs, and Class Members are barred and enjoined from commencing
3 or prosecuting any action asserting any Released Claims against Defendant.

4 16. Any Class Member may enter an appearance, individually or, at their own
5 expense, through counsel of their choice, in which case counsel must file with the Clerk of
6 Court and deliver to Class Counsel and counsel for Defendant a notice of such appearance
7 no later than sixty (60) days after the Notice Deadline. If they do not enter an appearance,
8 they will be represented by Class Counsel.

9 17. Any Class Member may appear and show cause, if that Class Member has
10 any reason why the proposed Settlement should not be approved as fair, reasonable, and
11 adequate, or why Class Counsel's application for an award of attorneys' fees and for
12 reimbursement of expenses should not be granted; provided, however, that no person shall
13 be heard or entitled to contest such matters unless that person has delivered by hand or sent
14 by first class mail sufficient written objections and copies of all papers and briefs any such
15 person wishes to submit in support of any such objection delivered or post-marked no later
16 than sixty (60) days following the Notice Deadline to Settlement Class Counsel and
17 PracticeMax Counsel at the address set forth in the Notice.

18 18. Objections may also be filed using the Court's ECF filing system, so long as
19 such objections are filed within sixty (60) days of the Notice Deadline.

20 19. Any written objection shall include: (i) the objector's full name and address;
21 (ii) the case name and docket number, Hogsed, et al. v. PracticeMax, Inc., Case No. 2:22-
22 cv-01261-PHX-DLR (D. Ariz.); (iii) a written statement of all grounds for the objection;
23 and (iv) the objector's signature or the signature of the objector's duly authorized attorney
24 or other duly authorized representative (if any) representing him or her in connection with
25 the objection.

26 20. Any person who does not make an objection in the manner provided in this
27 Order shall be deemed to have waived such objection and shall forever be foreclosed from
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1 making any objection to the fairness or adequacy of the proposed Settlement as set forth in
2 the Agreement, unless otherwise ordered by the Court.

3 21. Class Members may also exclude themselves from this action by mailing a
4 written notice of such intent to the designated Post Office box established by the Settlement
5 Administrator (which shall be identified in the settlement notices). To be effective, the
6 written notice must be timely, signed, and clearly manifest the Person’s intent to opt-out
7 of the Class. Such notices of a Class Member’s intent to opt-out of the settlement must be
8 postmarked no later than sixty (60) days after the Notice Deadline.

9 22. This Order, the Agreement, and the Settlement, and any of their terms, and
10 all negotiations, discussions, and proceedings in connection with this Order, the
11 Agreement, and the Settlement, shall not constitute evidence, or an admission by Defendant
12 that any acts of wrongdoing have been committed and shall not be deemed to create any
13 inference that there is any liability on the part of Defendant. This Order, the Agreement,
14 and the Settlement, and any of their terms, and all negotiations, discussions and
15 proceedings in connection with this Order, the Agreement and the Settlement shall not be
16 offered or received in evidence or used for any purpose in this or any other proceeding in
17 any court, administrative agency, arbitration tribunal, or other forum of any kind of
18 character in the United States or any other country except as necessary to enforce the terms
19 of this Order or the Settlement.

20 23. In addition to the deadlines imposed above, the Settlement Administrator and
21 Parties shall abide by the following timeline:

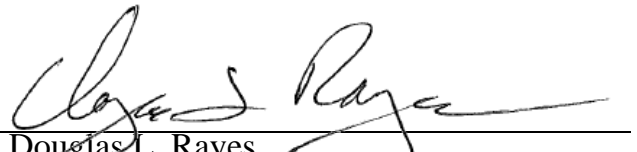
<u>From Date this Order is Entered</u>	
Defendant provides list of Class Members to the Settlement Administrator	+10 days
Long and Short Notices Posted on the Settlement Website	+30 days
Defendant pays cost of Notice Program and	+15 days

1 2 3	Claims Administration from the Settlement Fund	
4	Notice Deadline	+30 days
5 6 7	Class Counsel's Motion for Attorneys' Fees, Reimbursement of Litigation Expenses, and Class Representative Service Award	+76 days
8	Objection & Exclusion Date	+90 days
9	Claims Deadline	+120
10 11	Settlement Administrator Provide List of Objections/Opt-Outs to the Parties' counsel	+104 days

12 24. The Court reserves the right to adjourn the date of the Final Approval
13 Hearing without further notice to the Class Members and retains jurisdiction to consider
14 all further applications or matters arising out of or connected with the proposed Settlement.
15 The Court may approve the Settlement, with such modifications as may be agreed to by
16 the Plaintiffs and Defendant, if appropriate, without further notice to the Class.

17 Dated this 26th day of October, 2023.

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Douglas L. Rayes
United States District Judge