

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

LYDIA ZOU, individually; BLAIR FLEMING,
individually,

Plaintiffs,

v.

MULTIPLAN INC., a foreign corporation;
REGENCE BLUESHIELD, a Washington
corporation.

Defendants.

No. 23-2-18847-1 KNT

**AGREED ORDER GRANTING
MOTION TO CERTIFY CPA
DAMAGES CLASS, FOR
PRELIMINARY APPROVAL OF
CLASS SETTLEMENT, TO
APPROVE CLASS COUNSEL
FEES, AND TO APPROVE CLASS
NOTICE**

This matter came before the Court on the parties Stipulated Motion to Certify CPA Damages Class, for Preliminary Approval of Class Settlement, to Approve Class Counsel Fees, and to Approve Class Notice. The Court reviewed and considered the file herein, as well as the Declarations of Andrew Ackley, Lisa Benedetti, and Darcy Covert.

THE COURT FINDS as follows:

Class Certification

1. Having already received Class certification on the issue of CPA liability, the parties seek full certification for all CPA issues (now including injury and damages) for a CPA

Class defined as follows:

1 All individuals covered by a “government plan,” as defined by 29 U.S. Code § 1002,
2 established or maintained within Washington State, from whom MultiPlan and/or
3 Regence collected or attempted to collect subrogation reimbursement, and stated
4 verbally or in writing that the health plan was an ERISA plan or subject to ERISA.

5 2. For the reasons set forth below, the Court finds that certification under CR 23(b)(3) is
6 appropriate.

7 3. First, after two Class notices, the Class remains so numerous that joinder of all
8 members is impracticable.

9 4. Second, the Court finds that there are questions of law or fact common to the Class
10 members on causation and damages, including:

11 a. They were all tort victims.

12 b. They all had government health plans.

13 c. Defendants sought subrogation reimbursement from them representing that
14 they had ERISA plans.

15 d. The ERISA representation had at least the capacity to induce payment and delay
16 subrogation resolution.

17 e. The made whole rule and common fund doctrine (the plan paying its share of
18 fees and costs) were at issue in every subrogation negotiation.

19 5. Third, the Court finds that the Class Representatives’ claims are typical of the claims
20 of the other Class members. Plaintiffs Zou and Fleming did not pay Defendants, but
21 their settlements were delayed. Plaintiff Bohanan did pay Defendants and is entitled to
22 a refund under the proposed settlement. Combined with the similarities described
23 above, the Class Representatives’ claims are typical of other Class members.

24 6. Fourth, the Court finds that Plaintiffs will fairly and adequately protect the interests of
the Class. Plaintiffs and other Class members have the same or similar interests in
resolving CPA claims, as described above.

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7. Under CR 23(b)(3), the Court also finds that common questions of law or fact predominate over questions affecting individual Class members. There is a common nucleus of operative facts in the type of health plans at issue (government plans) and Defendants' assertion of ERISA subrogation liens, and thus violation of the CPA. There is a common nucleus of operative facts as to Defendants' misrepresentations either inducing undue payment or creating a delay in accessing settlement funds. And because of the similar circumstances of Class members, both legally and factually, there is a common nucleus of operative facts as to their damages. Class members who exhausted all available policy limits but nevertheless paid Defendants were likely not made whole and are entitled to a full refund. Class members who did not may have been or likely were made whole but may be entitled to a partial refund under *Mahler*. Class members like Plaintiffs Zou and Fleming who never paid Defendants may have temporarily lost access to settlement funds. The types of available damages are the same across the Class.

8. Under CR 23(b)(3), a class action is superior to other available methods for fair and efficient adjudication of the controversy.

a. First, individual prosecution of these claims would likely be prohibitively expensive and burdensome for many Class members. For example, some Class members have approximately \$1,000 in claimed subrogation. The majority have subrogation liens of under \$5,000. Compared with the cost of attorneys, the burden of discovery, and pursuit of the claims, many such claims may never be brought outside of this action.

b. Second, Washington has an express public policy favoring CPA class actions to enforce laws and protect the public, which favors class certification here.

c. Third, a class action is far more efficient than individual claims for the parties and court system.

1 9. In contrast, there is no competing litigation and no apparent interest from Class
2 members in controlling the prosecution of separate actions. Class members also have
3 the option to opt out of the Class should they choose.

4 10. Concentrating litigation in one county also assures efficiency and consistency of
5 results. King County is an appropriate venue for Plaintiffs and there is no basis to
6 transfer venue to another county.

7 11. There does not appear to be significant difficulties in managing the Class. Defendants
8 have identified Class members and have recent contact information for all of them.

9 12. The Court also finds that Plaintiffs' counsel are experienced attorneys in tort litigation,
10 subrogation, and class actions. They are well qualified to serve as Class Counsel.

11 **Preliminary Approval of Class Settlement—Class Notice**

12 13. The Court finds that the proposed CPA Class settlement is reasonable and sufficient on
13 its face, subject to final approval after a Class notice period.

14 14. The settlement appears to be fair, adequate, and reasonable based on the extensive—
15 albeit inherently incomplete—information available to the parties about Class
16 members. The methodology for calculation damages appears reasonable and fair to the
17 Class.

18 15. Especially when weighed against the burden and expense of individual litigation, the
19 settlement methodology for calculating and disbursing damages will fairly and
20 adequately compensate the Class.

21 16. The parties appear to have negotiated the Class settlement in good faith after vigorous
22 and extensive litigation, with significant case development. The Class settlement is
23 based almost entirely on data rather compromise, understanding that issues of
24 individual causation and damages include some degree of risk for many Class
members.

1 17. The \$150,000 set aside for Class Counsel fees and costs of administration, quoted
2 currently at \$9,000, is reasonable and does not impact funds available to the Class under
3 the proposed settlement.

4 18. The parties' proposed Class notice is the best notice practicable under the
5 circumstances and meets all requirements under CR 23(c) and (e).

6 19. The procedure for Class claims appears fair, adequate, and reasonable.

7 **Issue Class Attorneys' Fees**

8 20. In 2023, Stritmatter charged its standard hourly rate of \$800 to Dr. Zou for Mr.
9 Ackley to resolve her subrogation dispute. In subsequent years, Stritmatter
10 changed its hourly fee to \$850 and then \$1,000 per hour—amounts which courts
11 have approved as reasonable. The Court finds that \$1,000 per hour is reasonable
12 for Stritmatter partners for contemporaneous and guaranteed billing in 2026.

13 21. In setting a reasonable attorney's fee, however, the Court is permitted to look
14 beyond hourly rates. To start, the purpose of the fee award is to encourage
15 enforcement of the CPA. *Bowers v. Transamerica Title Ins. Co.*, 100 Wn.2d 581,
16 595, 675 P.2d 193 (1983).

17 22. Under *Bowers*, "In addition to the usual billing rate, the court may consider the
18 level of skill required by the litigation, time limitations imposed on the litigation,
19 the amount of the potential recovery, the attorney's reputation, and the
20 undesirability of the case." *Id.* at 597.

21 23. Here, the level of skill required, time limitations, amount of potential recovery,
22 attorney reputation, and undesirability of the case warrant an upward adjustment
23 of what constitutes a reasonable fee.

24 24. Of the dozens of local law firms involved in Class member litigation, Stritmatter Law
was the only firm to file, prosecute, or appear in this litigation. Class members and their
other local injury attorneys have entrusted Stritmatter to prosecute these claims.

1 25. In two and a half years of litigation, Stritmatter attorneys have demonstrated expertise
2 in subrogation, Consumer Protection Act litigation, and class action work. They have
3 demonstrated a willingness to pursue claims that would not likely result in a large
4 financial recovery based on the damages at issue, and may therefore have been
5 undesirable to other attorneys, but would correct and enjoin behavior this Court has
6 deemed to violate the CPA.

7 26. Stritmatter has spent 1,097.9 hours in attorney and paralegal time on the CPA Issue
8 Class and injunction, which the Court finds as reasonable in the lengthy litigation of
9 this case and given the complexity of the issues involved. This amount of yet-
10 uncompensated time over two and a half years also demonstrates the undesirability of
11 handling this case for many law firms, despite its merit.

12 27. For these reasons, an upward adjustment of fees would be appropriate under *Bowers*,
13 particularly to effectuate the purpose of the CPA. However for purposes of this
14 settlement, the Court approves the fees described in the parties' motion as reasonable
15 for work on behalf of the Class and similarly situated individuals in pursuing CPA
16 liability and an injunction.

17 28. The Court also approves costs as described in the parties' motion as reasonable and
18 related to the Class.

19 IT IS HEREBY ORDERED as follows:

20 Plaintiffs' Motion for Class Certification is GRANTED as follows.

21 1. Pursuant to CR 23(b)(3), the Court hereby certifies the Class for all claims under the
22 Consumer Protection Act, RCW 19.86, based on conduct meeting this Class definition:

23 All individuals covered by a "government plan," as defined by 29 U.S. Code §
24 1002, established or maintained within Washington State, from whom MultiPlan
and/or Regence collected or attempted to collect subrogation reimbursement,
and stated verbally or in writing that the health plan was an ERISA plan or
subject to ERISA.

- 1 2. Plaintiffs, including Kristen Bohanan, are appointed Class Representatives.
- 2 3. Plaintiffs' counsel are appointed Class Counsel.
- 3 4. The parties' proposed settlement is approved pending notice and final approval after
- 4 notice. The settlement includes \$600,000 for the Class and a separate \$150,000 in
- 5 attorneys' fees and costs related to the Damages Class settlement. Fees and costs will
- 6 be assessed upon final approval. The cost of administration up to \$15,000 is approved,
- 7 subject to further review.
- 8 5. The parties' proposed Class notice and procedure is approved.
- 9 6. The parties' agreement of \$975,000 as a separate allocation for attorneys' fees and costs
- 10 as to the Issue Class and injunction is approved as reasonable.
- 11 7. Refunds under the proposed settlement replace funds from and originating out of
- 12 personal injury settlements. Approval of the settlement and compensation formula
- 13 herein does not establish the amount of compensation attributable to personal injury
- 14 settlements as opposed to other claims. The Court makes no findings in that regard on
- 15 any individualized basis, or on any other tax issues, and Class members are individually
- 16 responsible for the appropriate payment of any federal, state, and/or local taxes related
- 17 to their settlement compensation.
- 18 8. Fees and costs in the parties' proposed settlement and approved herein are based on the
- 19 Consumer Protection Act, which imposes on Defendants an obligation to pay fees and
- 20 costs for violation of the CPA, regardless of whether any damages are owed or awarded
- 21 to any Class member. The purpose of the fee award is to encourage active enforcement
- 22 of the CPA and thereby protect the public. *Bowers v. Transamerica Title Ins. Co.*, 100
- 23 Wn.2d 581, 595, 675 P.2d 193 (1983); *Sign-O-Lite Signs, Inc. v. DeLaurenti Florists*,
- 24

1 *Inc.*, 64 Wn. App. 553, 569, 825 P.2d 714 (1992). Such fees and costs are additional to
2 and separate from Class settlement funds. They do not belong to, nor shall they be
3 considered compensation to or a recovery by, Class members.

4 DATED this 28th day of April, 2026.

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6 _____
7 THE HONORABLE KENT LIU

8 Presented by:

9 STRITMATTER LAW

10 /s/Andrew Ackley

11 Andrew Ackley, WSBA#41752

12 Paul Stritmatter, WSBA#4532

13 Lisa Benedetti, WSBA#43194

14 Darcy Covert, WSBA#57137

15 Counsel for Plaintiffs

16 Approved as to Form and Relief Requested¹:

17 WILLIAMS KASTNER & GIBBS PLLC

18 /s/ Jeffrey M. Wells

19 *(per signature authority 4/15/26)*

20 Jeffrey M. Wells, WSBA #45840

21 *Counsel for MultiPlan, Inc. and*

22 *Regence Blueshield*

23 PHELPS DUNBAR LLP

24 /s/Errol J. King, Jr.

(per signature authority 4/15/26)

 Errol J. King, Jr., Bar #17649

 Katherine C. Mannino, Bar #35081

 Taylor J. Crousillac, Bar #37087

Pro Hac Vice Counsel for MultiPlan, Inc. and Regence Blueshield

¹ Defendants' stipulation is limited to the relief requested as explained on page 36 of the parties' motion.