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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

KAMAL AMIREH and HUGO CABRERA
VILLALOBOS, individually and on behalf
of others similarly situated,

Plaintiffs,

v.

UW MEDICINE/NORTHWEST, d/b/a
NORTHWEST HOSPITAL & MEDICAL
CENTER, a Washington corporation,

Defendant.

No. 16-2-14579-5 SEA

PLAINTIFFS' UNOPPOSED MOTION
FOR SETTLEMENT CLASS
CERTIFICATION AND
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT

I. RELIEF REQUESTED

Pursuant to Civil Rule 23, the named plaintiffs, Kamal Amireh and Hugo Cabrera Villalobos, seek an order that (1) conditionally certifies a Settlement Class, (2) preliminarily approves the parties' class-wide settlement, (3) approves the proposed notice to be sent to potential class members, and (4) schedules a final settlement hearing.¹ This relief should be

¹ In the interests of efficiency and expediency, and because it is unopposed, Plaintiffs have noted this motion on the Court's calendar without oral argument. Should the Court have questions or require further information before approving this motion, counsel are prepared to respond either by presenting the motion at a hearing or through supplemental filings.

1 granted, because the Settlement provides fair, reasonable, and adequate equitable and
2 monetary relief for the proposed Settlement Class. Defendant has reviewed this motion and
3 does not oppose it.

4 II. STATEMENT OF FACTS

5 A. Northwest Hospital and the Washington Charity Care Act.

6 The factual allegations and legal assertions giving rise to this lawsuit are set forth at
7 length in the Class Action Complaint filed in this case on June 21, 2016 (“Complaint”), and
8 are only briefly summarized here.

9 Defendant UW Medicine/Northwest d/b/a Northwest Hospital & Medical Center
10 (“Northwest” or the “Hospital”) provides emergency medical treatment and other medical
11 services to patients. Northwest is subject to Washington’s Charity Care Act, RCW 70.170,
12 which requires all Washington hospitals to provide charity care to medically indigent
13 patients, who are defined as patients with incomes at or below 200% of the federal poverty
14 level. *See* RCW 70.170.060(5); WAC 246-453-040(2); WAC 246-453-010(4).

15 Plaintiffs assert that the Charity Care Act requires hospitals to affirmatively screen all
16 patients at or near the time of admission to determine whether they are indigent and to
17 conduct this affirmative screening before demanding payment for services. *See* Complaint,
18 ¶¶ 20 & 22 (citing RCW 70.170.060(6); WAC 246-453-020(1)). Plaintiffs allege that
19 Northwest failed to comply with this requirement and had a practice of collecting or seeking
20 to collect payment from its patients without first affirmatively screening them for charity care
21 eligibility. *Id.*, ¶ 27. In addition, the Charity Care Act provides that hospitals shall make
22 charity care determinations at any time upon receiving information that a patient is charity
23 care eligible. *See* WAC 246-453-020(10). Plaintiffs allege that Northwest had a policy and
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1 practice of informing patients that it was too late to obtain charity care after Northwest had
2 referred their account to collections and its collection agency had filed suit to collect on the
3 patient's bill. *See* Complaint, ¶ 32.

4 Northwest disputes Plaintiffs' interpretation of the Charity Care Act and asserts that
5 its current and historic practices comply with the screening and other requirements of the
6 Charity Care Act. *Compare* Complaint, ¶¶ 18-35 with Answer of Defendant to Class Action
7 Complaint, ¶¶ 18-35.
8

9 **B. The Named Plaintiffs.**

10 Plaintiffs Kamal Amireh and Hugo Villalobos were both emergency department
11 patients at Northwest. Both Mr. Amireh and Mr. Villalobos qualified as medically indigent
12 under the Charity Care Act at the time they were treated at Northwest. *See* Complaint, ¶¶ 49
13 & 64.
14

15 Mr. Amireh was uninsured when he was treated at Northwest on November 16, 2013.
16 He alleges that Northwest did not make an affirmative initial determination of whether he
17 was eligible for charity care before engaging in collection efforts on his hospital bill.
18 Ultimately, Northwest referred his account to collections and its collection agency filed suit
19 against him. Mr. Amireh alleges that he then contacted Northwest's billing department, but
20 was told it was too late for him to apply for charity care. A default judgment was entered
21 against him in the collection lawsuit, and the collection agent garnished his bank account. *See*
22 Complaint, ¶¶ 36-49.
23

24 Mr. Villalobos was insured when he was treated at Northwest, but he qualified for
25 charity care for the portion of his bill that was not covered by his insurance. Like
26 Mr. Amireh, he alleges that Northwest did not affirmatively screen him for charity care

1 before engaging in collection efforts on his hospital bill. Ultimately, Northwest referred his
2 account to collections, and its collection agency filed suit against Mr. Villalobos, obtained a
3 default judgment, and garnished his wages. *See* Complaint, ¶¶ 50-64.

4 **C. Procedural History.**

5 Plaintiffs filed this putative class action lawsuit on June 21, 2016, alleging causes of
6 action for breach of contract and the contractual duty of good faith and fair dealing, unjust
7 enrichment, violation of the Washington Consumer Protection Act (“CPA”), relief under the
8 Declaratory Judgments Act, RCW 7.24, and injunctive relief. *See* Complaint, ¶¶ 84-114.
9 Following commencement of the lawsuit, the parties engaged in discovery and a cooperative
10 exchange of information regarding Northwest’s charity care policies, practices, and
11 procedures, and data relating to emergency room visits, billings, collections, and charity care
12 determinations during the putative class period. Declaration of Matthew Geyman (“Geyman
13 Decl.”), ¶¶ 2-3. The parties engaged in two full-day mediation sessions with mediator Stew
14 Cogan on November 7, 2016, and June 22, 2017, and extensive direct negotiations between
15 the two sessions. The result of these extended arm’s-length negotiations was the Settlement
16 Agreement presented here. *Id.*, ¶¶ 2-6 & Ex. A (Settlement Agreement).

17 Plaintiffs and their counsel have determined that the Settlement is fair, reasonable,
18 adequate, and in the best interests of the putative Settlement Class, and that it is desirable that
19 the litigation be settled in the manner and upon the terms and conditions set forth therein. As
20 discussed below, the Settlement will permit Settlement Class members to apply retroactively
21 for charity care and obtain reimbursement for any payments for treatment that should have
22 been covered by charity care, reimbursement for any out-of-pocket expenditures, such as
23 interest, attorney fees, and court costs, resulting from collection actions instituted by
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1 Northwest's collection agents, and waiver of any pending and uncollected charges for
2 medical care that should have been covered by charity care at the time of service. As
3 important, the Settlement provides prospective relief to enhance Northwest's charity care
4 screening procedures and improve communication of charity care information to emergency
5 department patients. The Settlement would provide these benefits for Settlement Class
6 members and the community of future Northwest emergency department patients without the
7 time, risk, and expense of further litigation, and would permit Northwest to avoid the risk,
8 expense, and inconvenience of further legal proceedings. *See* Geyman Decl., ¶ 7 & Ex. A
9 (Settlement Agreement).

11 **D. The Proposed Settlement.**

12 A copy of the Settlement Agreement is attached as Exhibit A to the accompanying
13 Geyman Declaration. The key terms of the Agreement are as follows:

14 (1) Settlement Class: The Settlement Class includes:

15 All individuals (or their guardians or representatives) who within the Class
16 Period: (a) received emergency care medical treatment in Northwest
17 Hospital's emergency department; (b) were, at the time of service, "indigent"
18 as defined by WAC 246-453-010(4); (c) were not covered by insurance or any
19 other third-party source of payment, in whole (uninsured) or in part
20 (underinsured), at the time of treatment; and (d) were subject to collections
without Northwest Hospital first affirmatively screening them for Charity
Care Act eligibility by determining their income and family size.

21 The Class Period runs from June 21, 2010 until July 31, 2017, the date the Settlement
22 Agreement was executed. *See* Settlement Agreement, § 4.5. Northwest does not oppose
23 certification of the Settlement Class but reserves the right to oppose certification of any
24 litigation class in the event the Settlement is not approved. *See id.*, § 2.3.

25 (2) Retrospective Relief: If the Court approves the Settlement, all patients who
26 received medical services in Northwest's emergency department within the Class Period who

1 self-paid (i.e. paid out of pocket, as opposed to payment by a third-party payor) or have
2 outstanding self-pay bills shall be entitled to apply retrospectively for charity care for those
3 medical services. *See* Settlement Agreement, § 7. If Northwest determines that a claimant
4 was eligible for charity care at the time services were provided, the claimant will be
5 reimbursed for all payments made and for all out-of-pocket expenditures incurred by the
6 class member as a result of collection efforts instituted by Northwest, including interest,
7 penalties, attorney fees, court costs and related charges. *Id.*, § 7.1. Northwest will waive or
8 write-off all pending but uncollected charges for emergency medical services provided to
9 eligible claimants. *Id.* The claim procedure also includes an appeal process should Northwest
10 determine the claimant was not eligible for charity care. *Id.*, § 7.2.

11
12 (3) Prospective Relief: Northwest agrees to continue its existing charity care
13 screening practices for at least three (3) years from final approval of the Settlement, absent
14 superseding changes to applicable laws. *See* Settlement Agreement, § 8. These existing
15 practices include:
16

- 17 • Having a financial counselor offer to meet with all uninsured
18 emergency department patients, either in person or by phone if a
19 counselor is not available at the time of a patient's visit;
- 20 • Having a financial counselor offer to meet with insured emergency
21 department patients who indicate they are interested in financial
22 assistance for their portion of any medical bill;
- 23 • Posting charity care information in the emergency department and on
24 the Hospital's website;
- 25 • Including on all billing statements a statement informing patients that
26 they may qualify for financial assistance and explaining how to
receive more information about charity care;
- Allowing a patient to apply for charity care at any time prior to entry
of a judgment with respect to the Hospital's charges;

- Using information collected during screening for third-party sponsorship (including Medicaid) to make an initial determination of charity care eligibility; and
- Providing interpreter and translation services for non-English speaking and limited-English proficient patients.

Id., § 8.1.

In addition, Northwest agrees to implement additional policies, practices and procedures to enhance compliance with the Charity Care Act's screening requirements and to improve communication of charity care information to all emergency department patients, including the following:

- Unless the patient refuses or exigent circumstances exist, all emergency department patients will be provided with written copies of the Hospital's Plain Language Summary of Financial Assistance Program, a charity care application, and a self-addressed stamped envelope in which to return the completed application. These materials shall include a chart that shows the varying income levels at which financial assistance may be available depending on family size.
- Unless the patient refuses to cooperate or exigent circumstances exist, all emergency department patients shall be orally informed and asked: "Financial assistance is available for those who qualify, whether or not you have insurance. Are you interested in learning more about Financial Assistance?"
- If a patient indicates that he or she is interested in being considered for financial assistance, including but not limited to in response to the oral question described above, Northwest will add the patient to the financial counselor work queue. The financial counselor will meet with the patient either before discharge, or by telephone within two business days after discharge, to obtain income and household size information needed to make an initial determination of charity care eligibility.
- If the financial counselor is unable to meet with or contact a patient who indicated interest, Northwest will send a follow-up letter including another copy of the plain language summary of the charity care program, an application, a stamped return envelope, and the income and family size chart described above.

- If the income and household size information gathered by Northwest from any source (including its Medicaid screening contractor) indicates that the patient may qualify for charity care, the Hospital shall inform the patient of that fact and shall ask the patient to complete and return a charity care application so that Northwest can make a final determination of eligibility.
- Northwest will suspend all billing and collection efforts under a variety of circumstances where an initial determination of eligibility has been made in order to provide reasonable time for patients to submit a charity care application, complete an incomplete application, or appeal a denied application.

See Settlement Agreement, §§ 8.2-8.4.

Finally, for three years following approval of the Settlement, Northwest will provide data regarding charity care applications and dispositions on a confidential basis to Plaintiffs' counsel for purposes of assessing the effectiveness of the Agreement in enhancing the charity care screening process. *Id.*, § 9.

(4) Attorney Fees and Costs: Subject to approval by the Court, Northwest will pay Plaintiffs' counsel \$160,000 for attorney fees and costs incurred in this lawsuit. *Id.*, § 10.

(5) Class Representative Payment: Subject to approval by the Court, Northwest will pay the named Plaintiffs \$1,000 each in recognition of their services to the Settlement Class and their time and efforts in the litigation. *Id.*, § 14.

(6) Notice: A copy of the proposed short-form Notice is attached as Exhibit 2 to the Settlement Agreement. *Id.*, Ex. 2. The short-form Notice will be mailed by the third-party Claims Administrator to all patients who (a) received medical services in Northwest Hospital's emergency department within the Class Period and (b)(i) made a payment or payments in excess of \$100 for such services or (ii) have an outstanding balance of more than \$100 for such services, including any uncollected amounts referred to collections. *Id.*, § 5.2. The Notice shall be in postcard form and will be mailed to the last known addresses of

1 qualifying patients within forty-four (44) days of preliminary approval of the Settlement. *Id.*
2 Northwest shall cross-check the patient's last known address against current patient accounts
3 and the current address information being used by its collection agents. *Id.*

4 Notice also will be published as a 1/8 page notice in *The Seattle Times* in a format
5 substantially similar to the short-form Notice that is attached as Exhibit 2 to the Settlement
6 Agreement. *Id.*, § 5.3 & Ex. 2.

7
8 The Claims Administrator shall establish a dedicated website including relevant case
9 documents and information about the claims process and charity care eligibility criteria. The
10 URL for the website will be included in the mailed and publication notices. The URL will
11 contain a long-form Notice with more information about the litigation and the proposed
12 Settlement. It will be substantially similar to the proposed long-form Notice attached as
13 Exhibit 3 to the Settlement Agreement. *Id.*, § 5.4 & Ex. 3.

14
15 Settlement Class members will be given sixty (60) calendar days from the date on the
16 Notice (provided on both the short-form and long-form Notices) to object to the Settlement.
17 Settlement Class members also will have sixty (60) calendar days to opt out of the monetary
18 relief portion of the Settlement. Settlement Class members will not be permitted to opt out of
19 the prospective injunctive relief portions of the Settlement. *Id.*, § 5.5.

20 Northwest will bear all the costs of notice and settlement administration.

21
22 (7) Final Approval: Plaintiffs will file pleadings in support of final approval no
23 later than twenty-one (21) calendar days before the final fairness hearing. At the final
24 fairness hearing, the Court will be asked to enter a final order approving the Settlement
25 Agreement. *Id.*, §§ 5.6 & 5.7.

26 (8) Release of Claims: All Settlement Class members who do not opt out of the

1 monetary relief portion of the Settlement will be held to have released any and all claims,
2 rights, demands, charges, complaints, actions, suits, causes of action, and liabilities for any
3 damages relating to the subject matter of the Lawsuit arising between June 21, 2010 through
4 the last day of the Class Period. *Id.*, § 11.2. All Settlement Class members, without
5 exception, will be held to have released any and all claims, rights, demands, charges,
6 complaints, actions, suits, and causes of action for injunctive or declaratory relief relating to
7 the subject matter of the Lawsuit, arising between June 21, 2010 through the date of final
8 approval by the Court. *Id.*, § 11.1.

10 III. STATEMENT OF ISSUES

- 11 A. Whether the Court should conditionally certify the Settlement Class.
- 12 B. Whether the Court should preliminarily approve the settlement pursuant to
13 CR 23(e).
- 14 C. Whether the Court should approve distribution of the Notice and schedule a
15 final settlement hearing.

17 IV. EVIDENCE RELIED UPON

18 Plaintiffs rely upon the pleadings on file in this case and the accompanying
19 Declaration of Matthew Geyman and Exhibits thereto.

20 V. DISCUSSION

21 A. The Settlement Class Satisfies the Criteria of CR 23.

22 Like other classes, Settlement Classes may only be certified if they meet the criteria
23 of CR 23(a) and one or more of the subsections of CR 23(b). Here, Plaintiffs request
24 certification under both CR 23(b)(2) and CR 23(b)(3).

26 Under CR 23(a), a proposed Settlement Class must satisfy the requirements of

1 numerosity, commonality, typicality, and adequacy of representation. Under CR 23(b)(2), the
2 party opposing the class must have “acted or refused to act on grounds generally applicable
3 to the class, thereby making appropriate final injunctive relief or corresponding declaratory
4 relief with respect to the class as a whole.” Under CR 23(b)(3), Plaintiffs must show that
5 “questions of law or fact common to the members of the class predominate over any questions
6 affecting only individual members, and that a class action is superior to other available methods
7 for the fair and efficient adjudication of the controversy.”
8

9 Class actions are favored in Washington and elsewhere as an effective means of
10 adjudicating numerous, similar claims. Washington courts interpret CR 23 liberally to
11 effectuate its objectives. Not only does liberal application of the rule “avoid[] multiplicity of
12 litigation, [but it] ‘saves members of the class the cost and trouble of filing individual suits[,]
13 and . . . also frees the defendant from the harassment of identical future litigation.’” *Sitton v.*
14 *State Farm*, 116 Wn. App. 245, 250 (2003) (citation omitted); *see also Scott v. Cingular*
15 *Wireless*, 160 Wn.2d 843, 851 (2007) (“state policy favor[s] aggregation of small claims for
16 purposes of efficiency, deterrence, and access to justice”).
17

18 **1. The Settlement Class Satisfies CR 23(a).**

19 **a. Numerosity.**

20 The numerosity requirement of CR 23(a)(1) is met if the class is so large that joinder
21 of all its members would be impracticable. There is a “rebuttable presumption” that a class of
22 over 40 persons meets this standard. *Miller v. Farmer Bros. Co.*, 115 Wn. App. 815, 821
23 (2003). Here, almost 95,000 patients were seen in the emergency department at Northwest
24 Hospital between June 2010 and April 2016. Almost 14,000 of those patients were uninsured,
25 only about 5,000 of whom received charity care. Plaintiffs allege that most of the remaining
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1 9,000 uninsured patients were not affirmatively screened for charity care eligibility before
2 Northwest initiated collection efforts and that the great majority of those 9,000 uninsured
3 patients would have qualified for charity care. In addition, of the slightly more than 80,000
4 insured patients who were treated in the emergency department during this time period,
5 Plaintiffs allege that roughly 75,000 were not affirmatively screened for charity care before
6 being billed and that as many as sixty percent (60%) of those patients (defined in the
7 Complaint as “underinsured”) may have qualified for charity care for the amounts not
8 covered by their insurance. *See* Geyman Decl., ¶¶ 4-5. Thus, the proposed class easily
9 satisfies CR 23(a)(1) on numbers alone.
10

11 **b. Commonality.**

12 The commonality requirement of CR 23(a)(2) requires that the claims of the proposed
13 class “depend upon a common contention ... of such a nature that it is capable of classwide
14 resolution.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 131 S.Ct. 2541, 2551 (2011).
15 However, the rule does not require that every question of law or fact be common to every
16 member, nor does it require that class members be identically situated or have suffered the
17 same degree of injury. *King v. Riveland*, 125 Wn.2d 500, 519 (1995); *Brown v. Brown*, 6 Wn.
18 App. 249, 255 (1971). As the court stated in *Miller*, the commonality “requirement is met if
19 the ‘course of conduct’ that gives rise to the cause of action affects all the class members and
20 at least one of the elements of the cause of action is shown by all class members.” *Miller*, 115
21 Wn. App. at 824.
22

23 Here, common legal and factual issues bind the Settlement Class, namely whether
24 Washington hospitals have a duty to affirmatively screen patients for charity care eligibility
25 before billing them, and whether Northwest had a policy and practice of failing to make an
26

1 initial determination of eligibility before beginning collection efforts. Additional common
2 questions include whether Northwest may be held liable for breach of contract, breach of the
3 contractual duty of good faith and fair dealing, or violation of the CPA if it failed to make
4 such initial determinations. These questions focus on Northwest's policies and practices
5 rather than the individual circumstances of any class member, and their resolution would
6 substantially determine Northwest's liability to the entire class. Thus, the claims of the class
7 members are bound by sufficient common threads of fact and law to satisfy CR 23(a)(2).
8

9 **c. Typicality.**

10 The typicality requirement of CR 23(a)(3) is satisfied if the representative plaintiff's
11 claims "arise[] from the same event or practice or course of conduct that gives rise to the
12 claims of other class members, and if his or her claims are based on the same legal theory."
13 *Smith v. Behr Process Corp.*, 113 Wn. App. 306, 320 (2002) (internal citation and quotation
14 omitted). This factor closely resembles that of commonality and requires that the
15 representative be "part of the class and 'possess the same interest and suffer the same injury'
16 as the class members." *General Tel. Co. of the Southwest v. Falcon*, 457 U.S. 147, 156-57,
17 102 S.Ct. 2364 (1982); *see also Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1022 (9th Cir.
18 1998) (class representative's claims are "typical" if they are "reasonably co-extensive with
19 those of absent class members . . .").
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22 Here, the named Plaintiffs were patients in the Northwest emergency department, and
23 were medically indigent at the time of treatment. Plaintiffs allege that Northwest did not
24 make an initial determination of Plaintiffs' eligibility for charity care before beginning
25 collection efforts, and they were ultimately subject to legal action and garnishment by
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1 Northwest and its collection agent despite being medically indigent. Thus, Plaintiffs' claims
2 are typical of and co-extensive with those of the Settlement Class.

3 **d. Adequacy of Representation.**

4 This adequacy requirement of CR 23(a)(4) has two elements: (1) there must be no
5 adversity of interest between the class representatives and other class members; and (2) the
6 attorneys for the class representatives must be qualified to conduct the proposed litigation.
7 *DeFunis v. Odegaard*, 84 Wn.2d 617, 622 (1974); *Marquardt v. Fein*, 25 Wn. App. 651, 656
8 (1980). Here, there is no adversity of interest between Plaintiffs and the proposed Settlement
9 Class, and Plaintiffs are represented by experienced class action counsel. *See* Geyman Decl.,
10 ¶¶ 11-12.

11
12 **2. The Settlement Class Satisfies the Criteria of CR 23(b)(2).**

13 Under CR 23(b)(2), a class may be certified where “[t]he party opposing the class has
14 acted or refused to act on grounds generally applicable to the class, thereby making
15 appropriate final injunctive relief or corresponding declaratory relief with respect to the class
16 as a whole.”

17
18 As discussed above, Plaintiffs' basic claim in this case is that Northwest had a general
19 policy and practice of failing to comply with the Charity Care Act's requirement that it make
20 an affirmative initial determination of patients' eligibility for financial assistance before
21 engaging in any efforts to collect on emergency department bills. Northwest disputes this
22 allegation and Plaintiffs' interpretation of the Charity Care Act, but there is no question that
23 the gravamen of the claim is that Northwest “acted or refused to act on grounds generally
24 applicable to the class.”

25
26 Similarly, the relief sought in the suit and obtained through the proposed Settlement is

1 primarily injunctive and equitable in nature and is applicable to the class as a whole. The
2 prospective relief required by the Settlement will apply to and benefit all future emergency
3 department patients equally, enhancing compliance with the Charity Care Act and improving
4 communication with patients regarding the financial assistance available. The retrospective
5 relief is also equitable in nature, creating a process by which all class members will be able to
6 apply for charity care for past emergency department charges and, if eligible, obtain waiver
7 of pending charges and reimbursement for hospital bills and associated collection fees,
8 interest, and costs already paid. Moreover, even though certification is sought under CR
9 23(b)(2), the parties have agreed that class members will received notice and an opportunity
10 to opt out of the monetary relief portion of the Settlement, preserving any damage claims
11 they may individually have. Thus, the proposed Settlement Class satisfies the criteria of CR
12 23(b)(2).
13
14

15 **3. The Settlement Class Satisfies the Criteria of CR 23(b)(3).**

16 Under CR 23(b)(3), a class may be certified where common issues of law and fact
17 *predominate* over individual questions and a class action is the *superior* means of
18 adjudicating the dispute.

19 **a. Predominance.**

20 The analysis of predominance under CR 23(b)(3) is “somewhat more stringent than
21 the CR 23(a)(2) commonality requirement but it involves a similar inquiry.” *Miller*, 115 Wn.
22 App. at 825. Whether common issues predominate is a “pragmatic” inquiry into whether
23 there is a “common nucleus of operative facts” as to all class claims. *Smith*, 113 Wn. App. at
24 323. It is not a “rigid test,” but contemplates “many factors,” the central one being “whether
25 adjudication of the common issues in the particular suit has important and desirable advantages
26

1 of judicial economy compared to all other issues, or when viewed by themselves.” *Sitton*, 116
2 Wn. App. at 254 (internal quotation and citations omitted). A single issue may be the overriding
3 one in the litigation, “despite the fact that the suit also entails numerous remaining individual
4 questions.” *Id.*; see also *Moeller v. Farmers Ins. Co. of Wash.*, 173 Wn.2d 264, 280 (2011).

5 As explained above, resolution of Plaintiffs’ claims hinges on the predominantly
6 common legal and factual questions of whether Northwest has an affirmative duty to screen
7 patients for charity care eligibility before engaging in collection activities, whether
8 Northwest’s policies and practices failed to meet this obligation, and whether these alleged
9 failures give rise to actionable claims for breach of contract, unjust enrichment or violation of
10 the Consumer Protection Act. The answers to these question are common and focus on
11 interpretation of the Charity Care Act and Northwest’s policies and practices regarding
12 screening and collections, not the behavior or experiences of individual class members.

13
14
15 **b. Superiority.**

16 CR 23(b)(3) also requires that a class action be “superior to other available methods
17 for the fair and efficient adjudication of the controversy.” This criterion focuses on “a
18 comparison of available alternatives.” *Sitton*, 116 Wn. App. at 256. Here, the alternative to a
19 class action is individual or multiple lawsuits to resolve the same legal issue. This imposes
20 unnecessary costs on the judicial system and, in many cases, may deny recovery altogether to
21 wronged class members, who may be unable or unwilling to bring individual claims due to
22 financial constraints, lack of sufficient incentive, or lack of sophistication and access to legal
23 assistance. See *id.* at 256-57 (“[F]orcing numerous plaintiffs to litigate the alleged pattern or
24 practice of bad faith in repeated individual trials runs counter to the very purpose of a class
25 action.”).

1 Moreover, there is no evidence that any other class members have instituted
2 competing lawsuits on the issues raised in this case or shown any interest in individual
3 control of this litigation. *See* CR 23(b)(3)(A)-(B). As a practical matter, denying certification
4 in this case would lead not to alternative methods of adjudicating this dispute for other class
5 members, but to a denial of relief to other patients altogether.

6
7 The purpose of the class action vehicle is to “achieve economies of time, effort, and
8 expense, and promote uniformity of decision as to persons similarly situated, without
9 sacrificing procedural fairness or bringing about other undesirable results.” Advisory Comm.
10 on Rule 23, Proposed Amends. to Rules of Civ. Proc., 39 F.R.D. 69, 102-03 (1966). This
11 purpose would be well served by certification of the Settlement Class here, where many class
12 members likely are ignorant of or lack the sophistication and resources to pursue their rights.
13 Even were Settlement Class members willing and able to pursue their claims individually,
14 such individual actions would be inefficient, wasteful of judicial resources, and risk
15 inconsistent results among similarly situated individuals.

16
17 **B. The Proposed Settlement Is Fair, Adequate, and Reasonable.**

18 Civil Rule 23(e) states:

19 A class action shall not be dismissed or compromised without the approval of
20 the court, and notice of the proposed dismissal or compromise shall be given
21 to all members of the class in such manner as the court directs.

22 CR 23(e). “The requirements of CR 23(e) are for the most part procedural, requiring that
23 notice of a proposed settlement be given to class members and that they be given an
24 opportunity to object to the settlement.” *Pickett v. Holland America Line-Westours, Inc.*, 145
25 Wn.2d 178, 188 (2001).

26 The issue of final approval of the Settlement is not presently before the Court, but

