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6 CASE #: 23-2-10294-1 SEA Department 46
7 Hearing Date: July 17, 2026, 9:00 a.m.
8 With Oral Argument

9 IN THE SUPERIOR COURT OF THE STATE WASHINGTON
10 COUNTY OF KING

11 EPIC HOMEOWNERS ASSOCIATION, a
12 Washington limited liability company;
13 BAYVIEW ON THE LAKE CONDOMINIUM
14 OWNERS ASSOCIATION, a Washington
15 nonprofit corporation; ARBORETUM AT VISTA
16 PARK CONDOMINIUM ASSOCIATION, a
17 Washington nonprofit corporation; THE VINE
18 BUILDING OWNERS ASSOCIATION, a
19 Washington nonprofit corporation; and THE
20 COSMOPOLITAN CONDOMINIUM OWNERS'
21 ASSOCIATION, a Washington nonprofit
22 corporation, all individually and on behalf of
23 similarly situated entities,

24 Plaintiffs,

25 v.

26 MARK HOLMES and J. DOE HOLMES, and the
27 marital community comprised thereof;
KAPPES MILLER MANAGEMENT, LLC, a
Washington limited liability company; YATES,
WOOD & MCDONALD, INC., a Washington
corporation; ECONDOSERVICES.COM, LLC, a
Washington limited liability company;
ASSOCIATION UNDERWRITERS OF
WASHINGTON, LLC, a Washington limited
liability company; DOE ENTITIES 1–20; and
KELLY SZETO and J. DOE SZETO, and the
marital community comprised thereof,

Defendants.

NO. 23-2-10294-1 SEA

**PLAINTIFFS' UNOPPOSED MOTION FOR
FINAL APPROVAL OF CLASS
SETTLEMENT**

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17 2 Herbert B. Newberg & Alba Conte, *Newberg on Class Actions* § 11.43 (3d ed. 1992)..... 3

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I. INTRODUCTION

Plaintiffs, five condominium associations (COAs) or homeowner associations (HOAs), respectfully ask the Court to grant final approval of the class action settlement reached with Defendants in this matter. The settlement, if approved, resolves claims arising out of alleged violations of the Washington Consumer Protection Act. The settlement will create a common fund of \$1,265,000 and will bring relief to 56 Settlement Class Members.¹

The proposed settlement is a favorable result for Settlement Class Members, is fair, reasonable, and adequate under the applicable standards, and warrants approval by the Court. Notice reached all Class Members and no Class member objected or opted-out of the Settlement Class. Accordingly, Plaintiffs respectfully ask the Court to: (1) approve the Settlement Agreement as fair, reasonable, and adequate; (2) determine that Class Members were provided adequate notice; (3) approve the requested attorneys' fees, costs, service awards, and settlement administration expenses; and (4) dismiss this action with prejudice.

II. STATEMENT OF FACTS

Plaintiffs filed their class action complaint in June 2023, asserting claims against Defendants for violations of the Washington Consumer Protection Act, breach of fiduciary duty, intentional or negligent nondisclosure or misrepresentation, and constructive fraud. Sub. No. 1. Plaintiffs brought this action on behalf of a proposed class of HOAs to recover insurance premiums paid to Defendants that exceeded the amounts being collected by the insurance carriers, without the written disclosures required by law. *Id.*

As explained in Plaintiffs' Motion for Attorneys' Fees, Litigation Costs, and Service Awards, sub. no. 196, discovery was contentious, and the parties engaged in extensive motion practice, sub. nos. 20–28.

¹ Unless otherwise explicitly defined herein, all capitalized terms have the same meanings as those set forth in the Settlement Agreement & Release, Exhibit 1 to the Declaration of Blythe H. Chandler in support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Settlement, sub. no. 193.

1 In September 2025, while Plaintiffs’ motion for class certification and Defendants’
2 motion for a continuance were pending, sub. nos. 137–147; 165–166, the parties filed a
3 stipulated motion to stay the case pending mediation, sub. no. 178, which the Court granted
4 the same day, sub. no. 180.

5 The parties participated in a full-day mediation in December 2025, and, over the
6 subsequent months, negotiated and documented the complete terms of the settlement.
7 Chandler Decl. ¶5.

8 In March 2026, Plaintiffs filed their Unopposed Motion for Preliminary Approval of Class
9 Settlement. Sub. No. 191. The Court granted preliminary approval and ordered that notice be
10 sent to the Class. Sub. No. 194.

11 On April 27, 2026, Settlement Administrator Simpluris, Inc. (Simpluris) sent court-
12 approved Postcard Notices to 56 Class Members and Email Notices to 53 Class Members.
13 Declaration of Michelle Kennedy Regarding Notice and Settlement Administration (Simpluris
14 Decl.) ¶¶8, 10. The Postcard and Email Notices provided key information about the litigation
15 and settlement and directed Class Members to the Settlement Website for additional
16 information. *Id.* ¶7. The Settlement Website explains the litigation, the general terms of the
17 settlement, the right to object or opt out and related deadlines, and the date and time of the
18 Final Approval Hearing. Chandler Decl. ¶8. The Settlement Website also displays the operative
19 Complaint, Postcard and Website Notices, Settlement Agreement, Preliminary Approval Order,
20 and Plaintiffs’ Motion for Attorneys’ Fees, Litigation Costs, and Service Awards. *Id.* As of the
21 date of this motion, no Settlement Class Members have opted out, and none have objected to
22 the settlement. Simpluris Decl. ¶12.

23 On May 15, 2026, Plaintiffs filed their Motion for Attorneys’ Fees, Litigation Costs, and
24 Service Awards. Sub. No. 196. Within one business day, Class Counsel posted the fee motion
25 materials on the Settlement Website. Chandler Decl. ¶10; SA.VII.2.b. As of the date of this
26 motion, no Settlement Class Members have objected to the requested attorneys’ fees, costs
27 and service awards. Simpluris Decl. ¶12.

1 *Id.* (quoting *Officers for Just. v. Civ. Serv. Comm’n*, 688 F.2d 615, 625 (9th Cir. 1982)). Moreover,
2 “it must not be overlooked that voluntary conciliation and settlement are the preferred means
3 of dispute resolution.” *Id.* at 190 (quoting *Officers for Justice*, 688 F.2d at 625).

4 Here, the settlement easily meets the criteria for final approval.

5 **A. The settlement is fair, adequate, and reasonable**

6 The \$1,265,000 common fund settlement is fair, adequate, and reasonable. As
7 described below, the relevant criteria favor final approval.

8 1. Plaintiffs’ likelihood of success supports final approval

9 The existence of risk and uncertainty to Plaintiffs and the Class “weighs heavily in favor
10 of a finding that the settlement was fair, adequate, and reasonable.” *See Pickett*, 145 Wn.2d at
11 192. Absent settlement, Class Members would have faced significant hurdles to relief.

12 Throughout this litigation, Defendants have continuously denied liability, arguing that
13 Washington insurance law does not prohibit their practices and that Plaintiffs should have been
14 aware of those practices. Defendants have also asserted an affirmative defense of
15 indemnification based on terms of the management agreement, sub. no. 127 at 15, and filed a
16 notice of hearing for a summary judgment motion, sub. no. 163. Defendants had not filed the
17 summary judgment motion when the parties agreed to stay litigation and discuss settlement.
18 Although Plaintiffs are confident in their position, there is a risk of losing inherent in any trial.

19 Plaintiffs also face the risk of this Court denying class certification or later decertifying
20 the class, leaving only the individual claims of the named Plaintiffs. *See Chavez v. Our Lady of*
21 *Lourdes Hosp. at Pasco*, 190 Wn.2d 507, 521, 415 P.3d 224 (2018) (recognizing potential of
22 decertification even after liability is determined). When the parties negotiated the settlement,
23 Plaintiffs had filed their class certification motion. Sub. Nos. 137–147. While Plaintiffs expected
24 to prevail, Defendants moved to continue the hearing date instead of responding, seeking
25 additional discovery and previewing anticipated challenges to certification including purported
26 differences among management contracts, the need for individualized inquiries into class
27 members’ knowledge, and unique defenses. Sub. No. 165. The additional discovery sought by

1 Defendants included over 20 depositions before responding to Plaintiffs’ class certification
2 motion. Sub. No. 165. If Defendants were successful at defeating class certification entirely, it
3 would leave only the named Plaintiffs to pursue individual claims, providing no recovery for the
4 rest of the Settlement Class.

5 Even if Plaintiffs obtained class certification and proved liability and damages, any
6 recovery could be delayed for years by an appeal, and an appellate court could ultimately
7 reverse a trial court’s favorable ruling or a jury’s verdict.

8 The settlement eliminates all these risks and provides Settlement Class Members with
9 substantial compensation without delay. *See Paredes Garcia v. Harborstone Credit Union*, No.
10 3:21-CV-05148-LK, 2023 WL 7412842, at *6 (W.D. Wash. Nov. 9, 2023) (recognizing that the
11 costs, risks, and delay of continued litigation added to “the benefit to class members of early
12 settlement in this case.”).

13 2. The settlement terms and conditions support final approval

14 Defendants have agreed to pay \$1,265,000 for a common fund settlement. SA IV.1. If
15 the Court approves the requested fees, costs and service awards, the 56 Settlement Class
16 Members will share in a net Settlement Fund of at least \$650,155, an amount equal to
17 approximately 80% of the \$813,244 in Defendants’ Fees that Class Members paid during the
18 class period. Chandler Decl. ¶11.² “Defendants’ Fees” means any amount of broker fee paid as
19 part of a “premium” to AUW by a Class Member. SA II.5. The majority of the Class Members’
20 Settlement Awards will be well above \$1,000 with more than half over \$10,000. Chandler Decl.
21 ¶13.

22
23 ² The net Settlement Fund amount is a few hundred dollars less than the anticipated net fund included in
24 Plaintiffs’ Motion for Attorneys’ Fees, Litigation Costs, and Service Awards. Sub. No. 196 at 5. The net
25 fund amount in the earlier motion, \$650,343, reflects an error in the calculation of the net fund when
26 Class Counsel subtracted litigation costs. Chandler Decl. ¶12. Class Counsel’s total litigation costs are
27 \$40,147.94. *See* Sub No. 197 (documenting Terrell Marshall costs of \$18,944.05) and Sub. No. 198
(documenting Ruiz & Smart costs of \$21,203.89). But class counsel seek only \$40,000, in litigation costs,
which is the litigation costs amount listed in both their motion for fees and costs and the Settlement
Notice. Simpluris Decl. ¶16, Exs. A, B. The correct net Settlement Fund is \$650,155. Chandler Decl. ¶11.

1 In assessing the fairness of a class action settlement, courts also examine whether there
2 is equitable treatment “between class members.” *Pickett*, 145 Wn.2d at 189. Here, settlement
3 funds will be allocated in an equitable manner. Settlement Class Members will receive a pro
4 rata award from the net fund based on the amount the Settlement Class Member paid in
5 Defendants’ Fees. SA V.1.

6 The treatment of residual funds is also fair. No portion of the \$1,265,000 Settlement
7 Fund will revert to Defendants. SA V.5, 7. Instead, if there are unclaimed Settlement Funds after
8 the first distribution, and if it is feasible to pay the costs of a second distribution and make
9 payments of at least \$20 to each Settlement Class Member, the administrator will make a
10 second distribution. SA V.6. Any undistributed Amounts remaining in the Settlement Fund will
11 be paid equally to *cy pres* recipients Legal Foundation of Washington and Northwest Consumer
12 Law Center. SA V.7

13 3. The amount of discovery and evidence supports final approval

14 Where extensive discovery takes place before a class settlement, final approval is
15 favored. *Pickett*, 145 Wn.2d at 199. After filing, Class Counsel engaged in extensive written
16 discovery and document production, including retaining an ESI expert to assist with collecting
17 responsive documents. Chandler Decl. ¶4. Class Counsel has spent over three years litigating
18 the action, including contentious motion practice related to discovery issues; reviewing
19 thousands of pages of documents that Defendants produced; calculating potential damages;
20 and evaluating evidence for class certification and mediation. *Id.* ¶3.

21 4. The positive recommendation and extensive experience of counsel support final
22 approval

23 “When experienced and skilled class counsel support a settlement, their views are given
24 great weight.” *Pickett*, 145 Wn.2d at 200. Class Counsel, who are experienced and skilled in
25 class action litigation, support the settlement as fair, reasonable, and adequate, and in the best
26 interest of the Settlement Class. Chandler Decl. ¶14; *see also Deien v. Seattle City Light*, 25 Wn.
27 App. 2d 57, 68, 527 P.3d 102 (2023) (affirming trial court finding that the attorneys at Terrell

1 Marshall have significant experience litigating class actions and thus their judgment about
2 fairness of a settlement should be given great weight). Given their knowledge and experience in
3 litigating class actions and their evaluation of the strengths and weaknesses in this case, Class
4 Counsel believe the settlement is a strong result under the circumstances. *Id.* ¶14.

5 5. Future expense and likely duration of litigation support final approval

6 The Court should also consider the expense and likely duration of litigation if a
7 settlement had not been reached. *Pickett*, 145 Wn.2d at 188. This settlement guarantees a
8 monetary recovery for Settlement Class Members while obviating the need for lengthy,
9 uncertain, and expensive litigation. At the time of mediation, Plaintiffs had filed their class
10 certification motion. Sub. Nos. 137–147. Defendants moved for a continuance instead of
11 responding, arguing for entry of a case schedule and additional discovery, including over 20
12 depositions, ESI, and expert materials, before responding to the motion. Sub. Nos. 165–66. Oral
13 arguments likely would have been necessary, and the Court would have had to invest judicial
14 resources reviewing the briefing and issuing a ruling. If a class had been certified, one or both
15 parties would have moved for summary judgment on some or all claims, and any unresolved
16 claims would have proceeded to a lengthy class action trial. Even if a certified class had
17 prevailed at trial, Defendants would likely have appealed any adverse rulings, further delaying
18 relief to Class Members.

19 6. The reaction of the Class Members support final approval

20 A court may infer a class action settlement is fair, adequate, and reasonable when few
21 class members object to it. *See Pickett*, 145 Wn.2d at 200–01. Here, the deadline to opt out or
22 object to the settlement was June 26, 2026. Simpluris Decl. ¶11. As of the date of this motion,
23 no Class Members have objected to the settlement; none have objected to the requested
24 attorneys’ fees, costs, and service awards; and none have opted out. *Id.* ¶12.

25 7. The presence of good faith and absence of collusion support final approval

26 In determining the fairness of a settlement, the Court should consider the presence of
27 good faith and absence of collusion. *Pickett*, 145 Wn.2d at 201. Here, there has been no

1 collusion or bad faith. The settlement is the result of extensive, arm's-length negotiations
2 between experienced attorneys who are familiar with insurance-fraud and class action litigation
3 and the legal and factual issues of this case. Chandler Decl. ¶14. At all times, settlement
4 negotiations were adversarial, non-collusive and conducted with the assistance of a mediator.

5 *Id.*

6 For these reasons, final approval of the settlement is appropriate.

7 **B. The notice program was extremely effective.**

8 This Court approved the proposed notice plan and form of notices and ordered that
9 they be sent to Class Members. Sub. No. 194. Simpluris has successfully implemented the
10 notice program. After Counsel for Defendants provided Simpluris with the name, mailing
11 address, and contact person for each for each Class Member HOA or COA, and after updating all
12 addresses through the National Change of Address Database, Simpluris sent Postcard Notices
13 via U.S. Mail to the 56 Class Members. Simpluris Decl. ¶¶4, 5, 8. One notice was returned, but
14 Simpluris successfully re-mailed it. *Id.* ¶9. To date, no notice packets have been returned as
15 undeliverable. *Id.*

16 Simpluris also established a settlement case email address to provide the email notice,
17 offering the opportunity to view further information and frequently-asked questions. Simpluris
18 Decl. ¶13(c). Simpluris sent the Email Notice to 53 Class Members. *Id.* ¶10. As of the date of this
19 motion, Simpluris successfully delivered the Email Notice to 51 Class Members. *Id.*

20 **C. The requested attorneys' fees, costs, service awards, and settlement administration
21 expenses should be approved.**

22 Plaintiffs request the Court approve their requested attorneys' fees of \$421,245,
23 litigation costs of \$40,000, and service awards of \$30,000 for each Plaintiff from the common
24 fund as set forth in Plaintiffs' Motion for Attorneys' Fees, Litigation Costs, and Service Awards.
25 Sub. No. 196. Plaintiffs also request approval of Simpluris's settlement administration expenses
26 of \$3,600, which matches Simpluris's estimated administration costs included in its project
27 proposal. Simpluris Decl. ¶13.

1 **VI. CONCLUSION**

2 The common fund settlement is fair, adequate, and reasonable. Accordingly, Plaintiffs
3 respectfully ask the Court to enter an order: (1) approving the Settlement Agreement as fair,
4 reasonable, and adequate; (2) determining that Class Members were provided adequate notice;
5 (3) approving the requested attorneys' fees, costs, service awards, and settlement
6 administration expenses (Sub. No. 196); and (4) dismissing this action with prejudice.

7 RESPECTFULLY SUBMITTED AND DATED this 2nd day of July, 2026.

8 TERRELL MARSHALL LAW GROUP PLLC

9 *I certify that this memorandum contains 2,785*
10 *words, in compliance with the Local Civil Rules.*

11 By: /s/ Blythe H. Chandler, WSBA #43387

12 Beth E. Terrell, WSBA #26759

13 Email: bterrell@terrellmarshall.com

14 Amanda M. Steiner, WSBA #29147

15 Email: asteiner@terrellmarshall.com

16 Blythe H. Chandler, WSBA #43387

17 Email: bchandler@terrellmarshall.com

18 1700 Westlake Avenue, Suite 300

19 Seattle, Washington 98109

20 Telephone: (206) 816-6603

21 Isaac Ruiz, WSBA #35237

22 Email: iruiz@ruizandsmart.com

23 RUIZ & SMART LLP

24 901 5th Avenue, Suite 820

25 Seattle, Washington 98164

26 Telephone: (206) 203-9100

27 *Attorneys for Plaintiffs and Proposed Class*

CERTIFICATE OF SERVICE

I, Blythe H. Chandler, hereby certify that on July 2, 2026, I caused true and correct copies of the foregoing to be served via the means indicated below:

Mary DePaolo Haddad, WSBA #30604
Email: mhaddad@klinedinstlaw.com
Gregor A. Hensrude, WSBA #45918
Email: ghensrude@klinedinstlaw.com
Jack T. Bishop, WSBA #55564
Email: jbishop@klinedinstlaw.com
KLINEDINST PC
1325 Fourth Avenue, Suite 1335
Seattle, Washington 98101
Telephone: (206) 672-4400

- U.S. Mail, postage prepaid
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- Facsimile
- Electronic Mail
- King County Electronic Filing System

*Attorneys for Defendants Kappes Miller
Management, LLC, Yates, Wood & MacDonald,
Inc., and eCondoservices.com, LLC*

Jeffrey Bilanko, WSBA #38829
Email: jbilanko@cbblegal.com
CARROL, BIDDLE, & BILANKO, PLLC
411 W. Mercer Street
Seattle, Washington 98119
Telephone: (206) 338-1605

- U.S. Mail, postage prepaid
- Hand Delivered via Messenger Service
- Overnight Courier
- Facsimile
- Electronic Mail
- King County Electronic Filing System

*Attorneys for Defendants Association
Underwriters of Washington, Mark Holmes, J.
Doe Holmes, Kelly Szeto and J. Doe Szeto*

Fred B. Burnside, WSBA #32491
Email: fredburnside@dwt.com
Ardie Ermac, WSBA #60755
Email: ardieermac@dwt.com
DAVIS WRIGHT TREMAINE LLP
920 Fifth Avenue, Suite 3300
Seattle, Washington 98104
Telephone: (206) 622-3150

- U.S. Mail, postage prepaid
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- Facsimile
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Attorneys for Mark Holmes

1 I declare under penalty of perjury under the laws of the State of Washington and the
2 United States that the foregoing is true and correct.

3 DATED this 2nd day of July, 2026.

4 By: /s/ Blythe H. Chandler
5 Blythe H. Chandler, WSBA #43387
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