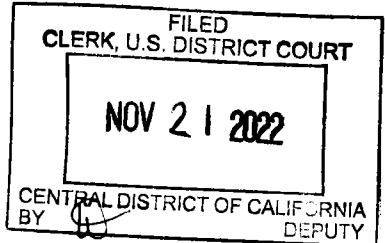


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15 **THE UNITED STATES DISTRICT COURT**
 16 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

17 KEN HASHEMI, STEVE
 18 ALTES, SANDRA JOHNSON-
 19 FOSTER, GREGORY BOUTE,
 20 RAFAEL ARTIME, and JOHN
 BOWDEN as individuals and all
 others similarly situated,

Case No.: 2:21-cv-00946-PSG(RAOx)

[proposed] Final Approval Order and Judgment

Plaintiffs,

vs.

BOSLEY, INC.,

Defendant.

FINAL APPROVAL ORDER AND JUDGMENT

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1 On February 22, 2022, the Court entered an order granting preliminary
2 approval (the “Preliminary Approval Order”) to the January 6, 2022 Settlement
3 Agreement and Release (“Settlement Agreement”) between Plaintiffs Ken Hashemi,
4 Steve Altes, Sandra Johnson-Foster, Gregory Boute, Rafael Artime, and John
5 Bowden, individually and on behalf of the Settlement Class (as defined below), and
6 Defendant Bosley, Inc.¹

7 Commencing on April 8, 2022, pursuant to the notice requirements in the
8 Settlement Agreement and the Preliminary Approval Order, CPT Group, Inc.
9 (“CPT”) (the “Claims Administrator”), provided Notice to Settlement Class
10 Members in compliance with the Settlement Agreement and the Notice Program,
11 due process, and Rule 23 of the Federal Rules of Civil Procedure. The notice:

12 (a) fully and accurately informed Settlement Class Members about the
13 Litigation and the existence and terms of the Settlement Agreement;

14 (b) advised Settlement Class Members of their right to request exclusion from
15 the Settlement and provided sufficient information so that Settlement Class
16 Members were able to decide whether to accept the benefits offered, opt out
17 and pursue their own remedies, or object to the proposed settlement;

18 (c) provided procedures for Settlement Class Members to file written
19 objections to the proposed settlement, to appear at the Final Approval
20 Hearing, and to state objections to the proposed settlement; and
21

22 (d) provided the time, date, and place of the Final Approval Hearing.
23

24 On November 18, 2022, the Court held a Final Approval Hearing to determine
25 whether the proposed settlement is fair, reasonable, and adequate and
26

27 _____
28 ¹ Capitalized terms used in this Final Approval Order shall have the same
meaning as defined in the Settlement Agreement unless otherwise expressly stated.

1 judgment should be entered dismissing this Litigation with prejudice. The Court
2 reviewed (a) Plaintiffs' Motion for Final Approval of Class Action Settlement and
3 Plaintiffs' Motion for an Award off Attorneys' Fees, Reimbursement of Expenses
4 and Service Awards (together, the "Motions") and all supporting materials,
5 including but not limited to the Settlement Agreement and the exhibits thereto; (b)
6 any objections filed with or presented to the Court; and (c) the Parties' responses to
7 any objections. The Court also considered the oral argument of counsel and any
8 objectors who appeared. Based on this review and the findings below, the Court
9 finds good cause to grant the Motions.

10 **IT IS HEREBY ORDERED:**

11 1. The Court has jurisdiction over the subject matter of this Litigation, all
12 claims raised therein, and all Parties thereto, including the Settlement Class.

13 2. The Settlement Agreement is fair, reasonable, adequate and in the best
14 interests of Settlement Class Members. The Settlement Agreement was negotiated
15 at arm's-length, in good faith and without collusion, by capable and experienced
16 counsel, with full knowledge of the facts, the law, and the risks inherent in litigating
17 the Litigation, and with the active involvement of the Parties. Moreover, the
18 Settlement Agreement confers substantial benefits on the Settlement Class
19 Members, is not contrary to the public interest, and will provide the Parties with
20 repose from litigation. The Parties faced significant risks, expense, and/or
21 uncertainty from continued litigation of this matter, which further supports the
22 Court's conclusion that the settlement is fair, reasonable, adequate and in the best
23 interests of the Settlement Class Members.

24 3. The Court grants final approval of the Settlement Agreement in full,
25 including but not limited to the releases therein and the procedures for distribution
26 of funds to Settlement Class Members, Class Counsel and the Claims Administrator.
27 All Settlement Class Members who have not excluded themselves from the
28 Settlement Class are bound by this Final Approval Order and Judgment.

1 4. The Parties shall carry out their respective obligations under the
2 Settlement Agreement in accordance with its terms. The relief provided for in the
3 Settlement Agreement shall be made available to the various Settlement Class
4 Members submitting valid Claim forms, pursuant to the terms and conditions in the
5 Settlement Agreement. The Settlement Agreement is incorporated herein in its
6 entirety as if fully set forth herein and shall have the same force and effect of an
7 order of this Court.

8 **OBJECTIONS AND REQUESTS FOR EXCLUSION**

9 5. Two objections to the Settlement were submitted by Settlement Class
10 Members. These two objections were filed by Jude Milson and Peter Henderson
11 through their counsel, The Wilshire Law Firm, PLC, which have been withdrawn.
12 Doc. No. 72. The Court has considered all objections and finds that they do not
13 warrant or support rejection or non-approval of the Settlement. All objections are
14 hereby overruled in all respects. All persons who did not object to the Settlement in
15 the manner set forth in the Settlement Agreement are deemed to have waived any
16 objections, including but not limited to by appeal, collateral attack, or otherwise.

17 6. Three persons made valid and timely requests to be excluded from the
18 Settlement and the Settlement Class (the “Opt-Out Members”). The Opt-Out
19 Members are not bound by the Settlement Agreement and this Final Approval Order
20 and Judgment and shall not be entitled to any of the benefits afforded to Settlement
21 Class Members under the Settlement Agreement.

22 **CERTIFICATION OF THE SETTLEMENT CLASS**

23 7. Solely for purposes of the Settlement Agreement and this Final
24 Approval Order and Judgment, the Court hereby certifies the following Settlement
25 Class:

26 All persons residing in the United States whose PII was potentially
27 compromised in the Data Incident first announced by Bosley on or about
28

1 January 26, 2021, including but not limited to the California Settlement
2 Subclass.

3 8. Solely for purposes of the Settlement Agreement and this Final
4 Approval Order and Judgment, the Court hereby certifies the following California
5 Settlement Subclass:

6 All persons whose PII was potentially compromised in the Data Incident first
7 announced by Bosley on or about January 26, 2021, and who were residing in
8 the State of California at the time their PII was potentially compromised in
9 the Data Incident.

10 9. The Court incorporates its preliminary conclusions in the Preliminary
11 Approval Order regarding the satisfaction of Federal Rules of Civil Procedure 23(a)
12 and 23(b). Because the Settlement Class is certified solely for purposes of settlement,
13 the Court need not address any issues of manageability for litigation purposes.

14 10. The Court grants final approval to the appointment of Representative
15 Plaintiffs Ken Hashemi, Steve Altes, Sandra Johnson-Foster, Gregory Boute, Rafael
16 Artime, and John Bowden as the class representatives and concludes that they have
17 fairly and adequately represented the Settlement Class and shall continue to do so.

18 11. The Court grants final approval to the appointment as Class Counsel to
19 M. Anderson Berry of Clayco C. Arnold, A Professional Law Corporation, Jeffrey
20 S. Goldenberg of Goldenberg Schneider, LPA, David K. Lietz of Milberg Coleman
21 Bryson Phillips Grossman, PLLC, and Charles E. Schaffer of Levin Sedran &
22 Berman, LLP. Class Counsel have fairly and adequately represented the Settlement
23 Class and shall continue to do so.

24 **NOTICE TO THE CLASS**

25 12. The Court finds that the Notice Program, set forth in the Settlement
26 Agreement and effectuated pursuant to the Preliminary Approval Order: (i) was the
27 best notice practicable under the circumstances; (ii) was reasonably calculated to
28 provide, and did provide due and sufficient notice to the Settlement Class regarding

1 the existence and nature of the Litigation, certification of the Settlement Class for
2 settlement purposes only, the existence and terms of the Settlement Agreement, and
3 the rights of Settlement Class Members to exclude themselves from the Settlement,
4 to object and appear at the Final Approval Hearing, and to receive benefits under the
5 Settlement Agreement; and (iii) satisfied the requirements of the Federal Rules of
6 Civil Procedure, the United States Constitution, and all other applicable law.

7 **ATTORNEYS' FEES AND COSTS, SERVICE AWARDS**

8 13. The Court awards Class Counsel a total of \$262,500 in combined
9 attorneys' fees and reimbursement for costs. The Court finds this combined amount
10 to be fair and reasonable. Payment shall be made pursuant to the procedures in
11 paragraph 7.4 of the Settlement Agreement.

12 14. The Court awards \$1,250 to each Representative Plaintiff as service
13 awards. The Court finds these amounts are justified by their service to the Settlement
14 Class. Payment shall be made pursuant to the procedures in paragraph 7.4 of the
15 Settlement Agreement.

16 15. The Court awards The Wilshire Firm, counsel for the former objectors
17 Jude Milson and Peter Henderson, \$15,000 as payment for its time and expenses.
18 This \$15,000 shall be paid from the \$262,500 amount discussed above in paragraph
19 13 and is made consistent with and pursuant to Rule 23(e)(5)(B).

20 **RELEASE**

21 16. Each Settlement Class Member, including Representative Plaintiffs,
22 are: (1) deemed to have completely and unconditionally released, forever discharged
23 and acquitted Defendant and the other Released Persons from all the Released
24 Claims (including Unknown Claims) as defined in the Settlement Agreement; and
25 (2) barred and permanently enjoined from asserting, instituting, or prosecuting,
26 either directly or indirectly, these claims. The full terms of the release described in
27 this paragraph are set forth in Paragraphs 1.24-1.25 and 6.1-6.2 of the Settlement
28 Agreement and are specifically approved and incorporated herein by this reference

1 (the “Release”). In addition, Representative Plaintiffs and Settlement Class
2 Members are deemed to have waived (i) the provisions of California Civil Code §
3 1542, which provides that a general release does not extend to claims that the creditor
4 or releasing party does not know or suspect to exist in his or her favor at the time of
5 executing the release and that, if known by him or her, would have materially
6 affected his or her settlement with the debtor or released party, and (ii) any law of
7 any state or territory of the United States that is similar, comparable, or equivalent
8 to California Civil Code § 1542.

9 17. The Settlement Agreement and this Final Approval Order and
10 Judgment apply to all claims or causes of action settled under the Settlement
11 Agreement and binds Representative Plaintiffs and all Settlement Class Members
12 who did not properly request exclusion. The Settlement Agreement and this Final
13 Approval Order and Judgment shall have maximum res judicata, collateral estoppel,
14 and all other preclusive effect in all causes of action, claims for relief, suits,
15 demands, petitions, or any other challenges or allegations that arise out of or relate
16 to the subject matter of the Litigation and/or the Complaint.

17 **OTHER PROVISIONS**

18 18. Defendant shall pay all costs of the settlement, including all awards and
19 payments to Settlement Class Members, costs of Claims Administration, the
20 Attorneys’ Fees and Expenses Award to Class Counsel, and the Representative
21 Plaintiffs’ service awards.

22 19. The Settlement Agreement and this Final Approval Order and
23 Judgment, and all documents, supporting materials, representations, statements and
24 proceedings relating to the settlement, are not, and shall not be construed as, used
25 as, or deemed evidence of, any admission by or against Defendant of liability, fault,
26 wrongdoing, or violation of any law, or of the validity or certifiability for litigation
27 purposes of the Settlement Class or any claims that were or could have been asserted
28 in the Litigation.

1 20. The Settlement Agreement and this Final Approval Order and
2 Judgment, and all documents, supporting materials, representations, statements and
3 proceedings relating to the Settlement shall not be offered or received into evidence,
4 and are not admissible into evidence, in any action or proceeding, except that the
5 Settlement Agreement and this Final Approval Order and Judgment may be filed in
6 any action by any Defendant or the Settlement Class Members seeking to enforce
7 the Settlement Agreement or the Final Approval Order and Judgment.

8 21. Consistent with Paragraphs 9.1-9.4 of the Settlement Agreement, if the
9 Effective Date does not occur for any reason, the following will occur: (a) the Final
10 Approval Order and Judgment and all of its provisions, will be vacated, including,
11 but not limited to the Attorneys' Fees and Expenses Award and the Representative
12 Plaintiffs' Service Awards, and the Final Approval Order and Judgment will not
13 waive, release or otherwise impact the Parties' rights or arguments in any respect;
14 and (b) the Litigation will revert to the status that existed before the Settlement
15 Agreement's execution date, and the Parties shall be restored to their respective
16 positions in the Litigation as if the Settlement Agreement had never been entered
17 into. No term or draft of the Settlement Agreement, or any part of the Parties'
18 settlement discussions, negotiations, or documentation, will have any effect or be
19 admissible in evidence for any purpose in the Litigation.

20 22. Without affecting the finality of this Final Approval Order and
21 Judgment, the Court will retain jurisdiction over this Litigation and the Parties with
22 respect to the interpretation, implementation, and enforcement of the Settlement
23 Agreement for all purposes.


24 23. The Court hereby dismisses the Action in its entirety with prejudice,
25 and without fees or costs except as otherwise provided for herein.

26 **NOW, THEREFORE,** the Court hereby enters judgment in this matter
27 pursuant to Rule 58 of the Federal Rules of Civil Procedure.
28

1 **IT IS SO ORDERED:**

2
3 DATED: _____

11/21/22



4 HON. PHILIP S. GUTIERREZ
5 UNITED STATES DISTRICT COURT
6 JUDGE

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