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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF SAN FRANCISCO

16 UFCW & Employers Benefit Trust, on behalf
of itself and all others similarly situated

17
18 Plaintiffs,

19 vs.

20 Sutter Health, et al.,

21
22 Defendants.

23 People of the State of California, ex. rel.
Xavier Becerra,

24
25 Plaintiff,

26 vs.

27 Sutter Health,

28 Defendant.

Case No. CGC 14-538451
Consolidated with
Case No. CGC-18-565398

**NOTICE OF RENEWED MOTION &
RENEWED MOTION FOR PRELIMINARY
APPROVAL OF SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

**[Declaration of Malinda Lee and [Proposed]
Order Filed Concurrently Herewith]**

Hearing Date: March 9, 2021
Time: 9:15 a.m.
Department: 304
Judge: Hon. Anne-Christine Massullo
Action Filed: April 7, 2014

1 **NOTICE OF RENEWED MOTION AND RENEWED MOTION**

2 TO THE COURT, THE PARTIES, AND COUNSEL OF RECORD:

3 Please take notice that, on March 9, 2021, at 9:15 a.m., or as soon thereafter as the matter
4 may be heard, in Department 304 of the San Francisco County Superior Court, 400 McAllister
5 Street, San Francisco, California 94102, Plaintiff UFCW & Employers Benefit Trust (“UEBT”),
6 the Plaintiff Class and the People of the State of California (collectively, “Plaintiffs”) will and
7 hereby do renew their motion for an order regarding preliminary approval of the settlement of the
8 antitrust and unfair competition class action against Defendant Sutter Health and certain affiliates.
9 Specifically, Plaintiffs seek an order which: (1) preliminarily approves the settlement as within the
10 range of possible final approval; (2) appoints Dionne Lomax of Affiliated Monitors, Inc. as the
11 Monitor; and (3) schedules a hearing at which the Court will consider final approval of the
12 settlement, Plaintiffs’ application for an award of attorneys’ fees and expenses and a service award
13 for UEBT, and entry of final judgment.

14 Plaintiffs hereby incorporate by reference: (1) Plaintiffs’ motion for preliminary approval
15 of settlement (“Motion”) filed on December 19, 2019¹; and (2) Plaintiffs’ supplemental
16 submissions in connection with the Motion.² The form of notice attached as Appendix 1 to
17 Plaintiffs’ August 13, 2020 supplemental submission in connection with Plaintiffs’ motion for
18 preliminary approval of settlement, and previously approved by the Court, is attached as
19 Attachment 1 to the Proposed Order. The claim form in the form attached as Appendix 3 to
20 Plaintiffs’ August 13, 2020 submission, and previously approved by the Court, is attached as
21 Attachment 2 to the Proposed Order. The Addendum to the Settlement Agreement, and attached
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24 ¹ “Jesse Caplan” should be replaced with “Dionne Lomax” in the Motion on page 16, line 1, as
25 well as on page 24, line 10, in the Proposed Final Judgment attached as Exhibit B to Appendix 1
to the Motion.

26 ² See Plaintiffs’ May 29, 2020 supplemental submission in response to the Court’s February 25,
27 2020 Order, Plaintiffs’ August 5, 2020 responses to the questions in the Court’s June 16 and July
28 29 orders, the August 7, 2020 responses of Defendants Sutter Health *et al.* (“Sutter”) to Plaintiffs’
responses, Plaintiffs’ August 13 supplemental submission in connection with Plaintiffs’ motion for
preliminary approval of settlement, and the parties’ August 24, 2020 joint submission in response
to the Court’s August 13, 2020 order re appointment of the monitor.

1 Proposed Final Judgment, as now amended to name Dionne Lomax as the monitor, is attached as
2 Attachment 3 to the Proposed Order.

3 This motion is based on California Rule of Court 3.769 subsection (c), the accompanying
4 Memorandum of Points and Authorities and documents filed herewith, the supporting Declaration
5 of Malinda Lee, the pleadings and documents on file in this action, and any argument and
6 evidence the Court may permit at the hearing.

7 Dated: March 1, 2021 By: /s/
8 Richard L. Grossman

9 Attorneys for Plaintiffs UFCW & Employers Benefit
10 Trust and the Class

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13 Dated: March 1, 2021 By: /s/
14 Malinda Lee

15 Attorneys for Plaintiff the People of the State of
16 California

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1 **INTRODUCTION**

2 Plaintiffs UFCW & Employers Benefit Trust (“UEBT”), on behalf of the certified class, and
3 the People of the State of California (collectively, “Plaintiffs”) seek preliminary approval of a
4 settlement reached in October 2019 on the eve of trial that resolves all claims in their antitrust and
5 unfair competition actions against Sutter Health and certain affiliates (“Sutter”).

6 Plaintiffs filed their motion for preliminary approval of settlement (“Motion”) on December
7 19, 2019. In the Order on September 22, 2020, the Court denied the Motion with leave to refile
8 upon the Parties’ completion of a new monitor selection process. The Court indicated that certain
9 deficiencies in the original monitor selection process were the remaining “one discrete stumbling
10 block in the way of preliminary approval.” (Hg. Transcript, Sept. 22, 2020, p. 11.) The Court
11 stated that “[t]hat stumbling block can be removed” by completing a new monitor selection
12 process. (*Ibid.*) Following a four-month new monitor search, the Parties have now completed the
13 process approved by the Court and set forth in the Order Re Monitor Selection Process on October
14 19, 2020 (“Order”). Through the new process, the Parties identified and agreed upon a different
15 monitor: Dionne Lomax, Managing Director of Antitrust and Trade Regulation, at Affiliated
16 Monitors, Inc. For the reasons explained below, Ms. Lomax is well-qualified to serve as the
17 Monitor to oversee Sutter’s compliance with the Final Judgment, and Plaintiffs respectfully
18 request that her appointment be confirmed by the Court.

19 **THE PARTIES’ MONITOR SELECTION PROCESS**

20 **I. BACKGROUND**

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22 Section V of the Proposed Final Judgment provides for the appointment of a Monitor “[f]or
23 purposes of monitoring [Defendants’] compliance with this Final Judgment. . . .” As explained in
24 Section V, the Monitor’s powers and responsibilities include, among others: investigating
25 compliance, taking complaints from the Plaintiff(s) and Insurers, compelling disclosure of
26 confidential documents subject to appropriate confidential protections, interviewing witnesses,
27 inspecting records, hiring staff and experts, setting up a process by which evidence shall be
28 presented for the Monitor to make an appropriate recommendation to the Court, and making

1 recommendations concerning enforcement to the Court. The Monitor is to act as a third-party
2 neutral who serves as an officer of the Court. (Lee Decl., Exh. B, Monitor Agmt., at ¶¶ 1.1, 2.3.)

3 **II. THE PARTIES FULLY COMPLIED WITH THE COURT-APPROVED PROCESS**

4 Over the last four months, the Parties have diligently worked together to execute the Court-
5 approved process. A four-person team comprised of counsel from each party served as lead
6 counsel of the monitor selection process: Malinda Lee of the California Attorney General’s Office
7 on behalf of the People; Sarah Grossman-Swenson of McCracken, Stemerman & Holsberry, LLP,
8 and Richard Grossman of Pillsbury & Coleman, LLP, on behalf of UEBT and the Plaintiff Class;
9 and Margaret Ward of Jones Day on behalf of Sutter (collectively, the “Monitor Team”).³ (Lee
10 Decl., ¶ 3.) The Monitor Team members worked closely with one another to successfully
11 complete the process.

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13 **A. The Parties Conducted Extensive Public Outreach in Compliance with the Order.**

14 The Monitor Team began the monitor selection process with extensive, public outreach to
15 ensure a broad applicant pool for the monitor position. The 45-day period to respond to the
16 Request for Proposal (RFP) began on October 26, 2020, and closed at midnight on December 10,
17 2020. (Lee Decl., ¶ 6; see Order, Exh. 1, § II, pp. 1.) The RFP for the monitor position was
18 publicly posted and circulated in several different ways, as specified in the Order.

19 First, the RFP was posted prominently on the front page of the Attorney General’s website
20 throughout the 45-day RFP period. (Lee Decl., ¶ 7; see Order, Exh. 1, § I-II, p. 1.) An overview
21 of the monitor position accompanied the RFP. (Lee Decl., ¶ 7.)

22 Second, the Monitor Team sent the RFP by email to each of the organizations and firms
23 listed in the Order, including more than 300 affinity groups statewide. (Lee Decl., ¶ 8; see
24 Appendix to Proposal Re Renewed Monitor Selection Process – Outreach Targets, Exh. B to Exh.
25 1 of the Order.) In total, the Monitor Team sent the RFP to nearly 650 recipients with an

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27 ³ The original Monitor Team also included Cheryl L. Johnson of the California Attorney General’s
28 Office on behalf of the People, until her retirement on February 12, 2021. (Lee Decl., ¶ 3.) She
participated in all the activities undertaken by the Monitor Team through the date of her
retirement. (*Ibid.*)

1 invitation to circulate it to their networks and communities, and obtained confirmation of delivery
2 for each email. (Lee Decl., ¶8.) In an effort to ensure successful delivery of the RFP, which had
3 the potential to exceed file size limits for email servers, members of the Monitor Team prepared
4 and sent two emails that went to each recipient: the first email provided an overview of the
5 monitor position and a link to the RFP on the Attorney General’s website, and the second email
6 contained the RFP attachment. (*Id.* at ¶ 9.) This process ensured that recipients would receive the
7 initial email providing information about the monitor position and a link to the RFP even if their
8 email server rejected the RFP attachment. For each email that was returned to sender because of
9 an invalid email address, the Monitor Team confirmed re-delivery to an updated contact, or to at
10 least one contact if multiple contacts were listed for a particular firm or organization. (*Id.* at ¶ 10.)

11 Finally, the RFP was posted on major social media and professional recruitment websites
12 including California Lawyers Association, Daybook, LinkedIn, and The National Association for
13 Law Placement, for a minimum of 30-days, beginning on October 26, 2020, and ending November
14 25, 2020. (Lee Decl., ¶ 11; see Order, Exh. 1, § II, pp. 1-2.) In addition, the RFP was posted on
15 Daybook for 10 days as a sponsored listing, which gave the listing premium placement,
16 accessibility, and promotion. (Lee Decl., ¶ 11.) All of those postings contained a link to the RFP
17 posting on the Attorney General’s website. (*Id.* at ¶ 11.)

18 The Monitor Team received and responded to a total of six separate inquiries about the RFP;
19 these inquiries were submitted through the Attorney General’s website, by email in response to the
20 outreach message, or by phone. (Lee Decl., ¶ 12.) For inquiries received by phone, the Monitor
21 Team requested the inquirer to submit the question in writing by email. (*Id.*) The Monitor Team
22 conferred with each other and responded to each inquiry in writing by email. (*Id.*)

23 The Parties received a total of twelve proposals by the December 10, 2020 proposal
24 deadline. (Lee Decl., ¶ 13.) The twelve proposals came from a mix of applicants from different
25 professions, including law, investigations, alternative dispute resolution, consulting, academia, and
26 monitoring. (Lee Decl., ¶ 14.) The applicants included individuals from California and across the
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1 country. (*Id.*) Over 75 percent of the applications consisted of proposed lead or co-lead monitors
2 who were people of color and/or women, LGBTQ, or some combination thereof.⁴ (*Id.*)

3 **B. The Parties Conducted Initial Interviews in Accordance with the Order.**
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5 After a period of thorough review of the written applications, the Monitor Team exchanged
6 the Parties' respective preferences regarding who should advance to an initial interview. (Lee
7 Decl., ¶ 15; see Order, Exh. 1, § III, p. 2.) Plaintiffs and Sutter each advanced three candidates to
8 an initial interview. (*Id.*) Plaintiffs and Sutter cross-selected Ms. Lomax, so a total of five
9 candidates were invited to an initial interview. (*Id.*)

10 Prior to finalizing the selection of initial round interviewees, the Monitor Team engaged in
11 a discussion regarding the other party's candidates to exchange potential concerns about conflicts
12 and/or qualifications and experience. (Lee Decl., ¶ 16; Order, Exh. 1, § V, pp. 2-3.) The Parties
13 did not eliminate from consideration any of the five candidates as a result of that discussion. (Lee
14 Decl., ¶ 16.) The Parties invited each of the five candidates to an initial interview, and all five
15 candidates accepted the invitation. (*Id.* at ¶ 17.)

16 The entire Monitor Team participated in each of the initial interviews and were joined by
17 additional counsel for Plaintiffs UEBT and the Plaintiff Class,⁵ and the State of California.⁶ (Lee
18 Decl., ¶ 18.) Client representatives also participated in some interviews. (*Id.*) The initial
19 interviews were conducted by Zoom video conference and conducted according to the interview
20 format specified in the Order: a 90-minute interview, starting with a maximum 30-minute
21 presentation by the candidate, followed by a set of nine standard questions posed to all candidates,
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23 ⁴ For many of the applicants, this representation is based on observer-selected identification,
24 pronoun usage, publicly available information, or some combination thereof. (Lee Decl., ¶ 14.)
25 The applicants may also identify with different and/or additional protected classes, which is
information that is not known or may not be knowable by the Parties in the absence of voluntary
disclosure.

26 ⁵ Additional counsel for UEBT included Daniel Bird or Aaron Panner of Kellogg, Hansen, Todd,
27 Figel & Frederick, Daniel Small of Cohen Milstein Sellers & Toll PLLC, and Christopher
Wheeler of Farella Braun + Martel LLP. (Lee Decl., ¶ 18, fn. 3.)

28 ⁶ Additional counsel for the People included Emilio Varanini, Supervising Deputy Attorney
General, and Renuka George, Senior Assistant Attorney General. (Lee Decl., ¶ 18, fn. 4.)

1 and concluding with questions from each party in alternating blocks of time. (Lee Decl., ¶ 19; see
2 Order, Exh. 1, §§ III & IV, p. 2.) Each of the candidates who participated in an initial interview
3 included a member or members of their monitoring team as part of the interview. (Lee Decl., ¶
4 20.) The team member(s) actively participated in the interviews through the prepared
5 presentations and/or through the question portion of the interview. (*Id.*)

6 **B. The Parties Conducted Final-Round Interviews in Accordance with the**
7 **Order.**

8 After the initial interviews, the Parties discussed their respective preferences for the
9 candidates. (Lee Decl., ¶ 22; see Order, Exh. 1, § III, p. 2.) The Parties invited two out of the five
10 candidates, including Ms. Lomax, to a final-round interview, and both candidates accepted the
11 invitation. (Lee Decl., ¶ 23.) The final-round interviews were scheduled based on the availability
12 of the applicants and the Parties. (*Id.*; see Order, § VII, p. 4.)

13 The entire Monitor Team participated in each of the final-round interviews and were joined
14 by additional counsel for Co-Plaintiffs UEBT and the Plaintiff Class,⁷ and the State of California.⁸
15 (Lee Decl., ¶ 24.) Client representatives also participated in the final-round interviews. (*Id.*) The
16 final-round interviews were conducted by Zoom video conference and were conducted according
17 to the interview format specified in the Order: a 60-minute interview, starting with a maximum
18 20-minute presentation by the candidate, followed by questions from each party in alternating
19 blocks of time. (*Id.* at ¶ 25; see Order, Exh. 1, §§ III & IV, p. 2.)

20 Both of the applicants who participated in the final-round interviews included a member or
21 members of their monitoring team as part of the interview. (Lee Decl., ¶ 26.) Ms. Lomax applied
22 to serve as the sole lead monitor, identifying Mr. Caplan as her deputy monitor, and the other
23 finalist's team included three proposed co-lead monitors. (*Id.* ¶ 26-27.) The team member(s)
24 actively participated in the interview through the prepared presentations and/or through the
25 question portion of the interview. (*Id.* ¶ 26.)

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27 ⁷ Additional counsel for UEBT included Daniel Bird of Kellogg, Hansen, Todd, Figel &
28 Frederick, Daniel Small of Cohen Milstein Sellers & Toll PLLC, and Christopher Wheeler of
Farella Braun + Martel LLP. (Lee Decl., ¶ 24, fn. 5.)

⁸ See, *supra*, fn. 6. (Lee Decl., ¶ 24, fn. 6.)

1 **C. The Parties Conferred After Completing the Process Required by the**
2 **Order.**

3 After completing the final-round interviews, which concluded the process set forth in the
4 Order, the Monitor Team conferred about the finalist applicants. (See Order, Exh. 1, § VI, p. 3.)
5 The Monitor Team’s discussion led to an agreement between the Parties to interview Mr. Caplan
6 about his proposal and any updates given the passage of time since his second interview in
7 November 2019. (Lee Decl., ¶ 29.) Mr. Caplan accepted the Parties’ request for an interview.
8 (*Id.* at ¶ 30.) The entire Monitor Team was present for Mr. Caplan’s interview and were joined by
9 additional counsel for Co-Plaintiffs UEBT and the Plaintiff Class,⁹ and the State of California.¹⁰
10 (*Id.* at ¶ 31.) Some of the Parties’ clients also participated. (*Id.*) Mr. Caplan’s 60-minute
11 interview was conducted by Zoom video conference and consisted of questions by the Parties in
12 alternating blocks of time. (*Id.* at ¶ 32.)

13 **D. The Parties Agreed to a New Monitor – Dionne Lomax**

14 After the Parties completed the process and following Mr. Caplan’s interview, the Parties
15 respectively evaluated the available options under the Order and exchanged their respective
16 positions. (Lee Decl., ¶ 33; see Order, Exh. 1 at p. 3, § VI.) The Parties agreed to select a
17 different monitor, Dionne Lomax of Affiliated Monitors. (Lee Decl., ¶ 34; see Order, p. 3, ¶ 2.)

18 **III. THE PARTIES’ MONITOR SELECTION IS WITHIN THE “BALLPARK” OF REASONABLENESS**

19 The Parties’ selected Monitor, Ms. Lomax, is well within the “ballpark” of reasonableness.
20 (*Kullar v. Foot Locker* (2008) 168 Cal.App.4th 116, 133 [setting forth the standard applicable to
21 the Court’s review of a settlement for preliminary approval].) She was selected pursuant to the
22 Court-approved process, which the Parties fully and faithfully executed. (See *U.S. v. Baltimore*
23 *Police Department* 282 F.Supp.3d 897, 900 (D. Md. 2017) [“Absent any evidence that the parties
24 have mishandled or short-circuited the selection process, it would be inappropriate for the Court to

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27 ⁹ Daniel Bird of Kellogg, Hansen, Todd, Figel & Frederick and Daniel Small of Cohen Milstein
28 Sellers & Toll PLLC.

¹⁰ See, *supra*, fn. 6.

1 lightly disregard [the parties’] recommendation.”.) Her qualifications have been recognized by
2 the Court and the Parties. (Hg. Transcript, Aug. 12, 2020, pp. 64-65, 68-69.)

3 The strengths of Ms. Lomax’s proposal, qualifications, and experience distinguished her
4 among the applicants. (Lee Decl., ¶ 35.) Ms. Lomax demonstrated in her interviews a substantive
5 understanding of the issues likely to arise under the monitorship and a thoughtful engagement with
6 the settlement terms. (*Id.* at ¶ 36.) The Parties also agreed that she also gave strong, detailed, and
7 credible responses to the Parties’ questions regarding her approach to the monitorship, her
8 understanding of the role, and how her experience and background are relevant to the work of the
9 monitor. (*Id.* at ¶ 37.)

10 As a Managing Director at Affiliated Monitors, Ms. Lomax also has access to the necessary
11 support and resources to serve as the Monitor, and her team includes Mr. Caplan, who intends to
12 serve as a core member of the proposed monitoring team. (Lee Decl. ¶ 27.) For the last seventeen
13 years, that firm has provided professional independent monitoring services in connection with
14 more than 800 monitor engagements including two cases where the Firm served as a dispute
15 resolution arbiter. (Lee Decl., ¶ 38.) Neither Ms. Lomax nor Affiliated Monitors has conflicts of
16 interest that would disqualify Ms. Lomax from serving as the monitor. (*Id.* at ¶ 39.)

17 **A. Ms. Lomax’s Experience and Qualifications for the Monitor Position**

18 Ms. Lomax has notable experience in healthcare antitrust law and managed care contracting
19 from both the public and private sector. Ms. Lomax spent four years as a trial attorney in the U.S.
20 Department of Justice (“DOJ”) Antitrust Division’s Health Care Section focusing on healthcare
21 mergers and alleged anticompetitive conduct in the healthcare industry.¹¹ (Lee Decl., ¶ 40a.)
22 During that time, Ms. Lomax served on the trial team in a case that challenged the merger of two
23 hospitals in New York, an action which focused on the impact of the merger on managed care
24 contracting and consumer access and choice. (*Id.* at ¶ 40b.) Ms. Lomax was also part of the DOJ
25 team that challenged a major insurer’s acquisition of certain health insurance-related assets and
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28 ¹¹ Ms. Lomax and Mr. Caplan first worked together in the Health Care Section of the U.S. DOJ,
Antitrust Division.

1 served on the trial team in an action which focused on the competitive implications of exclusive
2 dealing arrangements in the dental industry. (*Id.* at ¶ 40c.)

3 While in private practice, Ms. Lomax represented health systems, medical associations,
4 multi-specialty physician groups, pharmaceutical companies, and medical device manufacturers in
5 merger and non-merger activities. (Lee Decl., ¶ 40d.) For example, she represented a regional
6 health system before the DOJ Antitrust Division in a monopolization investigation that involved
7 clinical integration, exclusive dealing, market allocation and other substantive antitrust issues. (*Id.*
8 at ¶ 40e.) Her counseling experience includes: (1) analyzing the competitive effects of proposed
9 mergers and acquisitions; (2) advising clients on the collective provision of fee and non-fee related
10 information to the purchasers of health care services; (3) counseling clients on the structure and
11 operation of joint venture arrangements in connection with fulfilling the goals of the Affordable
12 Care Act and population health management; (4) assessing the antitrust implications of exclusive
13 dealing arrangements; and (5) developing antitrust compliance policies and training programs.
14 (*Id.* at ¶ 40f.)

15 Ms. Lomax is also familiar with the perspectives of different constituencies regarding
16 compliance programs, including compliance with a settlement agreement. She has worked with an
17 independent monitor while representing a private equity firm in connection with a Federal Trade
18 Commission antitrust settlement. (Lee Decl., ¶ 40g.) And at Affiliated Monitors (AMI), she
19 recently worked with an AMI team to assess the structure and effectiveness of the compliance
20 program of a national medical diagnostics provider. (*Id.* at ¶ 40h.)

21 Ms. Lomax's antitrust expertise, including healthcare antitrust, is also demonstrated in her
22 teaching positions. She has taught and is teaching antitrust courses, including courses related to
23 health care competition. She taught antitrust as an Adjunct Professor at Chicago Loyola School of
24 Law and now teaches Business Law at Boston University's Questrom School of Business as well
25 as co-teaches a Health Care Competition course at the Boston University School of Law. (Lee
26 Decl., ¶ 40i.)

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1 **B. Ms. Lomax’s Commitment to Equity, Diversity, and Inclusion**

2 Ms. Lomax has been a strong advocate for diversity and inclusion throughout her career.
3 Ms. Lomax is a woman of color and her commitment to equity, diversity, and inclusion will
4 ensure that the monitoring team includes qualified, diverse individuals throughout the term of the
5 monitorship. (Lee Decl., ¶ 41, 43b.)

6 During her fourteen-year tenure at a law firm, Ms. Lomax spearheaded the development of
7 the first attorneys of color firm-wide retreat to improve the retention of diverse attorneys, led
8 efforts for diversity training in the firm’s office in Washington, D.C., developed an attorney of
9 color monthly lunch series to encourage relationships between diverse attorneys and non-diverse
10 partners, and spent several years as a member of the firm’s Women’s Initiative. (Lee Decl., ¶
11 42a.) These initiatives remain in place today. (*Id.*)

12 As the Vice Chair of Publications (for two years) and as the Vice Chair of Education (for
13 the past year-and-a-half) in the Antitrust Practice Group for the American Health Law
14 Association, Ms. Lomax has consistently identified diverse authors and speakers to share their
15 expertise with the health care community. (Lee Decl., ¶ 42b.)

16 Ms. Lomax’s dedication to diversity and inclusion efforts has continued in the academic
17 arena. She currently serves as the Faculty in Residence for the Center for Diversity, Equity and
18 Inclusion (DE&I) at the Questrom School of Business, is a Member of the Questrom School of
19 Business Diversity Committee, and also serves as the Faculty Advisor for the Black Business
20 Students Association. (Lee Decl., ¶ 42c.)

21 As a firm, Affiliated Monitors also has a demonstrated commitment to equity, diversity, and
22 inclusion. Its staff includes individuals who are multilingual, members of ethnically and racially
23 diverse communities, and members of the LGBTQ community. (Lee Decl., ¶ 43a.) Forty percent
24 of Affiliated Monitor’s senior leadership are women, two of whom are women of color, including
25 Dionne Lomax. (*Id.* at ¶ 43b.) It is also a member of the National Association of Black
26 Compliance & Risk Management Professionals, Inc. that seeks to support diversity and inclusion
27 in the industry. (*Id.* at ¶ 43c.)
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CONCLUSION

For the foregoing reasons, the Parties believe that Ms. Lomax meets all the qualifications for the monitor set forth in the RFP; she has the experience, expertise, resources, and credibility to effectively serve as Monitor as well as a demonstrated long-standing commitment to diversity, equity, and inclusion. Ms. Lomax’s selection as the Monitor is reasonable, and Plaintiffs respectfully request that the Court grant preliminary approval and enter the accompanying Proposed Order.

Dated: March 1, 2021

By: /s/
Richard L. Grossman

Attorneys for Plaintiffs UFCW & Employers Benefit Trust and the Class

Dated: March 1, 2021

By: /s/
Malinda Lee

Attorneys for Plaintiff the People of the State of California