

EXHIBIT D1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

BRIAN SMITH, JACQUELINE MOONEY,
ANGELA BAKANAS, and MATTHEW
COLÓN, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

VCA, INC., and THE PLAN COMMITTEE
FOR THE VCA, INC. SALARY SAVINGS
PLAN, and JOHN AND JANE DOES 1-50,

Defendants.

Case No. 2:21-cv-09140-GW-AGR

Hon. George H. Wu

**[PROPOSED] FINAL APPROVAL
ORDER**

1 This Action came before the Court for hearing on _____, 2023 to determine
2 the fairness of the proposed Settlement presented to the Court and the subject of this
3 Court's Order Granting Preliminary Approval of Class Action Settlement, Preliminarily
4 Certifying a Class for Settlement Purposes, Approving Form and Manner of Settlement
5 Notice, and Setting Date for a Final Approval Hearing. Due notice having been given and
6 the Court having been fully advised in the premises,

7 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:**

8 Except as otherwise defined herein, all capitalized terms used in this Final
9 Approval Order shall have the same meanings as ascribed to them in the Settlement
10 Agreement executed by counsel on behalf of the Class Representatives, all Class
11 Members, and Defendants, respectively.

12 1. The Court has jurisdiction over the subject matter of the Action and over all
13 Settling Parties, including all members of the Settlement Class.

14 2. For the sole purpose of settling and resolving the Action, the Court certifies
15 this Action as a class action pursuant to Rules 23(a) and (b)(1) of the Federal Rules of
16 Civil Procedure. The Settlement Class is defined as:

17 All persons who participated in the Plan at any time during the period
18 from November 22, 2015 through July 24, 2020, including any
19 Beneficiary of a deceased Person who participated in the Plan at any
20 time during the Class Period, and any Alternate Payee of a Person
21 subject to a QDRO who participated in the Plan at any time during the
22 period from November 22, 2015 through July 24, 2020. Excluded
23 from the Settlement Class are Defendants and their Beneficiaries, any
24 Plan fiduciaries, and the Judges assigned to this case.

25 3. The Court finds for the sole purpose of settling and resolving the Action that:

26 (a) as required by Fed. R. Civ. P. 23(a)(1), the Settlement Class is
27 ascertainable from records kept with respect to the Plan and from other objective
28

1 criteria, and the Settlement Class is so numerous that joinder of all members is
2 impracticable.

3 (b) as required by Fed. R. Civ. P. 23(a)(2), there are one or more questions
4 of law and/or fact common to the Settlement Class.

5 (c) as required by Fed. R. Civ. P. 23(a)(3), the claims of the Class
6 Representatives are typical of the claims of the Settlement Class that the Class
7 Representatives seek to certify.

8 (d) as required by Fed. R. Civ. P. 23(a)(4), the Class Representatives will
9 fairly and adequately protect the interests of the Settlement Class in that: (i) the
10 interests of the Class Representatives and the nature of the alleged claims are
11 consistent with those of the Settlement Class members; and (ii) there appear to be
12 no conflicts between or among the Class Representatives and the Settlement Class.

13 (e) as required by Fed. R. Civ. P. 23(b)(1), the prosecution of separate
14 actions by individual members of the Settlement Class would create a risk of: (i)
15 inconsistent or varying adjudications as to individual Settlement Class members
16 that would establish incompatible standards of conduct for the parties opposing the
17 claims asserted in this Action; or (ii) adjudications as to individual Settlement Class
18 members that, as a practical matter, would be dispositive of the interests of the
19 other members not parties to the individual adjudications, or substantially impair
20 or impede the ability of such persons to protect their interests.

21 (f) as required by Fed. R. Civ. P. 23(g), Class Counsel at Ahdoot &
22 Wolfson, PC and the Roberts Law Firm U.S., P.C., are capable of fairly and
23 adequately representing the interests of the Settlement Class, and that Class
24 Counsel: (i) have done appropriate work identifying or investigating potential
25 claims in the Action; (ii) are experienced in handling class actions; and (iii) have
26 committed the necessary resources to represent the Settlement Class.

1 4. The Court hereby appoints Robert Ahdoot and Andrew W. Ferich of Ahdoot
2 & Wolfson, PC and Michael L. Roberts and Erich P. Schork of Roberts Law Firm, U.S.,
3 P.C., to serve as Class Counsel on behalf of the Settlement Class.

4 5. The Court hereby appoints Class Representatives Brian Smith, Jacqueline
5 Mooney, Angela Bakanas, and Matthew Colón as Class Representatives for the
6 Settlement Class.

7 6. The Court hereby finds that the Settlement Class has received proper and
8 adequate notice of the Settlement, the Final Approval Hearing, Class Counsel's
9 application for attorneys' fees and reimbursement of litigation costs and for Service
10 Payments to the Class Representatives, and the Plan of Allocation, such notice having
11 been given in accordance with the Preliminary Approval Order. Such notice included
12 individual notice to all members of the Settlement Class who could be identified through
13 reasonable efforts, as well as notice through a dedicated Settlement website on the
14 internet, and provided valid, due, and sufficient notice of these proceedings and of the
15 matters set forth in this Order, and included sufficient information regarding the
16 procedure for the making of objections. Such notice constitutes the best notice practicable
17 under the circumstances and fully satisfies the requirements of Fed. R. Civ. P. 23 and the
18 requirements of due process.

19 7. The Court hereby approves the Settlement and hereby orders that the
20 Settlement shall be consummated and implemented in accordance with its terms and
21 conditions.

22 8. Pursuant to Fed. R. Civ. P. 23(e), the Court finds that the Settlement
23 embodied in the Settlement Agreement is fair, reasonable, and adequate to the Plan and
24 the Settlement Class, and more particularly finds that:

25 (a) The Settlement was negotiated vigorously and at arm's-length by
26 Defense Counsel, on the one hand, and the Class Representatives and Class
27 Counsel on behalf of the Settlement Class, on the other hand;

28

1 (b) Plaintiffs and Defendants had sufficient information to evaluate the
2 settlement value of the Action;

3 (c) If the Settlement had not been achieved, Defendants, Class
4 Representatives, and the Settlement Class all faced the expense, risk, and
5 uncertainty of protracted litigation;

6 (d) The amount of the Settlement—one million five hundred thousand
7 dollars (\$1,500,000.00)—is fair, reasonable, and adequate, taking into account the
8 costs, risks, and delay of trial and appeal. The method of distributing the Settlement
9 Amount is efficient and requires no filing of claims. The Settlement terms related
10 to attorneys' fees do not raise any questions concerning fairness of the Settlement,
11 and there are no agreements, apart from the Settlement, required to be considered
12 under Fed. R. Civ. P. 23(e)(2)(C)(iv). The Settlement Amount is within the range
13 of settlement values obtained in similar cases;

14 (e) At all times, the Class Representatives and Class Counsel have acted
15 independently of Defendants and in the interest of the Settlement Class; and

16 (f) The Court has duly considered and overruled any filed objection(s) to
17 the Settlement to the extent there were any.

18 9. The Plan of Allocation is finally approved as fair, reasonable, and adequate.
19 The Settlement Administrator shall distribute the Net Settlement Amount in accordance
20 with the Plan of Allocation and the Settlement Agreement. The Settlement Administrator
21 shall have final authority to determine the share of the Net Settlement Amount to be
22 allocated to each Class Member in accordance with the Plan of Allocation approved by
23 the Court.

24 10. All requirements of the Class Action Fairness Act, 28 U.S.C. § 1711, *et seq.*,
25 have been met.

26 11. The releases and covenants not to sue set forth in the Settlement Agreement,
27 including but not limited to Article 7 of the Settlement Agreement, together with the
28 definitions contained in the Settlement Agreement relating thereto, are expressly

1 incorporated herein in all respects. The Releases are effective as of the Settlement
2 Effective Date. Accordingly, the Court orders that, as of the Settlement Effective Date,
3 the Plan, the Class Representatives, and the Class Members (and their respective heirs,
4 beneficiaries, executors, administrators, estates, past and present partners, officers,
5 directors, predecessors, successors, assigns, agents, and attorneys) hereby fully, finally,
6 and forever settle, release, relinquish, waive, and discharge all Released Parties
7 (including Defendants) from all Released Claims, regardless of whether or not such Class
8 Member may discover facts in addition to or different from those which the Class
9 Members or Class Counsel now know or believe to be true with respect to the Class
10 Action and the Released Claims and regardless of whether such Class Member receives
11 a monetary benefit from the Settlement, actually received the Settlement Notice, filed an
12 objection to the Settlement or to any application by Class Counsel for an award of
13 Attorneys' Fees and Costs, and whether or not the objections or claims for distribution of
14 such Class Member have been approved or allowed.

15 12. The Class Representatives, Class Members, and the Plan hereby settle,
16 release, relinquish, waive, and discharge any and all rights or benefits they may now have,
17 or in the future may have, under any law relating to the releases of unknown claims,
18 including without limitation, Section 1542 of the California Civil Code, which provides:
19 "A general release does not extend to claims that the creditor or releasing party does not
20 know or suspect to exist in his or her favor at the time of executing the release and that if
21 known by him or her would have materially affected his or her settlement with the debtor
22 or released party." The Class Representatives, Class Members, and the Plan with respect
23 to the Released Claims also hereby waive any and all provisions, rights and benefits
24 conferred by any law or of any State or territory within the United States or any foreign
25 country, or any principle of common law, which is similar, comparable or equivalent in
26 substance to Section 1542 of the California Civil Code.

27 13. The Class Representatives, the Class Members, and the Plan acting
28 individually or together, or in combination with others, are hereby permanently and

1 finally barred and enjoined from suing the Released Parties in any action or proceeding
2 alleging any of the Released Claims.

3 14. Each Class Member hereby releases the Released Parties, Defense Counsel,
4 and Class Counsel for any claims, liabilities, and attorneys' fees and expenses arising
5 from the allocation of the Gross Settlement Amount or Net Settlement Amount and for
6 all tax liability and associated penalties and interest as well as related attorneys' fees and
7 expenses.

8 15. The operative Complaint and all claims asserted therein in the Action are
9 hereby dismissed with prejudice and without costs to any of the Settling Parties and
10 Released Parties other than as provided for in the Settlement Agreement.

11 16. The Court shall retain exclusive jurisdiction to resolve any disputes or
12 challenges that may arise as to the performance of the Settlement Agreement or any
13 challenges as to the performance, validity, interpretation, administration, enforcement, or
14 enforceability of the Settlement Notice, Plan of Allocation, this Final Approval Order,
15 the Judgment, or the Settlement Agreement or the termination of the Settlement
16 Agreement. The Court shall also retain exclusive jurisdiction and rule by separate Order
17 with respect to all applications for awards of attorneys' fees and Service Payments to the
18 Class Representatives, and reimbursements of litigation costs, submitted pursuant to the
19 Settlement Agreement.

20 17. Any motion to enforce this Final Approval Order and the Judgment or the
21 Settlement Agreement, including by way of injunction, may be filed in this Court, and
22 the provisions of the Settlement Agreement and/or this Final Approval Order and the
23 Judgment may also be asserted by way of an affirmative defense or counterclaim in
24 response to any action that is asserted to violate the Settlement Agreement.

25 18. In the event that the Settlement Agreement is terminated, in accordance with
26 its terms, the Final Approval Order and Judgment shall be rendered null and void, *ab*
27 *initio*, and shall be vacated *nunc pro tunc*, and this Action shall for all purposes with
28 respect to the Parties revert to its status as of the day immediately before the day the

1 Settlement was reached. The Parties shall be afforded a reasonable opportunity to
2 negotiate a new case management schedule.

3 19. With respect to any matters that arise concerning the implementation of
4 distributions to Class Members who have an Active Account (after allocation decisions
5 have been made by the Settlement Administrator in its sole discretion), all questions not
6 resolved by the Settlement Agreement shall be resolved by the Plan administrator or other
7 fiduciaries of the Plan, in accordance with applicable law and the governing terms of the
8 Plan.

9 20. Within twenty-one (21) calendar days following the issuance of all
10 Settlement payments to Class Members as provided by the Plan of Allocation approved
11 by the Court, the Settlement Administrator shall prepare and provide to Class Counsel
12 and Defense Counsel a list of each person who received a settlement payment or
13 contribution from the Qualified Settlement Fund and the amount of such payment or
14 contribution.

15 21. Upon entry of this Order, all Settling Parties, the Settlement Class, and the
16 Plan shall be bound by the Settlement Agreement and this Final Approval Order and
17 Judgment.

18
19 SO ORDERED this ____ day of _____, 2023.

20
21 _____
22 Hon. George H. Wu
23 United States District Judge
24
25
26
27
28