

FILED  
SUPERIOR COURT  
THURSTON COUNTY, WASH.

09 MAY -8 PM 4:56

BETTY J. GOULD, CLERK

BY \_\_\_\_\_  
DEPUTY

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Date: _____	
Time: _____	
Judge/Calendar: Richard D. Hicks	

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

MARK POTTER, on behalf of himself and  
the class he represents,

Plaintiff,

v.

WASHINGTON STATE PATROL, a  
Washington State Agency,

Defendant.

No. 04-2-01086-9

*Rec'd  
5-7-08  
R.D.H.*

ORDER GRANTING PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT

**EX PARTE**

The Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement (the "Motion") has come before this Court. The Court determines and orders as follows:

1. Counsel have advised the Court that the parties have agreed, subject to final approval by this Court following notice to the Plaintiff Class and a hearing, to settle this action upon the terms and conditions set forth in the Settlement Agreement (the "Settlement Agreement"), which has been filed with the Court.

2. The Court has reviewed the Settlement Agreement and is familiar with the files, records, and proceedings to date in this matter.

[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT - 1

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**ORIGINAL**

SCHROETER GOLDMARK & BENDER  
500 Central Building • 810 Third Avenue • Seattle, WA 98104  
Phone (206) 622-8000 • Fax (206) 682-2305

1           3.     It appears to the Court that, based upon preliminary examination, the  
2 Settlement Agreement appears to be fair, reasonable, and adequate and that a hearing should  
3 be held after notice to the Class to determine whether the Settlement Agreement is fair,  
4 reasonable and adequate and whether a final settlement approval order and judgment should  
5 be entered in this Action, based upon that Settlement Agreement.

6                     Based upon the foregoing, IT IS HEREBY ORDERED:

7           4.     Preliminary Approval of Proposed Settlement. The Settlement Agreement,  
8 including all Exhibits thereto, is preliminarily approved as fair, reasonable, and adequate.  
9 The Court finds that (a) the Settlement Agreement resulted from extensive arm's length  
10 negotiations and only after significant discovery and litigation in the case; (b) the amount  
11 offered in settlement appears reasonable and adequate in light of the costs, delays, and risks  
12 inherent in continued litigation; and (c) the Settlement Agreement is sufficient to warrant  
13 notice thereof to members of the Class and a full hearing on the Settlement Agreement.  
14

15           5.     Stay of Proceedings. All discovery and other proceedings in this action are  
16 hereby stayed and suspended until further order of the Court, except such actions as may be  
17 necessary to implement the Settlement Agreement and this Order. The trial date and all  
18 filing deadlines relating thereto are hereby vacated.  
19

20           6.     Settlement Hearing. A Final Approval Hearing (the "Final Fairness Hearing")  
21 shall be held before this Court on OCTOBER 2, 2009 at 1:30 p.m., to determine  
22 whether the Settlement Agreement is fair, reasonable, and adequate and should be approved.  
23 The date of the Final Fairness Hearing shall be no earlier than 127 days and no more than  
24 150 days from the date of this Order. Papers in support of final approval of the Settlement  
25 Agreement, including any response to Class member objections, shall be filed with the Court  
26

[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT – 2

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1 five days prior to the Final Fairness Hearing. Class Counsel's application for an award of  
2 attorneys' fees, costs and expenses (the "Fee Application") shall be filed at least five days  
3 prior to the Final Fairness Hearing. The Final Fairness Hearing may be postponed,  
4 adjourned, or continued by order of the Court without further notice to the Class. After the  
5 Final Fairness Hearing, the Court may enter a Settlement Order and Final Judgment in  
6 accordance with the Settlement Agreement that will adjudicate the rights of the Class  
7 members.  
8

9 7. Notice. Within fifteen (15) days of the date of this Order, Class Counsel shall  
10 cause a Notice of Proposed Settlement ("Notice") and Claim Form in the form appended as  
11 Exhibits 1 and 2 to the Settlement Agreement to be mailed by United States mail to the last  
12 known valid addresses of members of the Class. Class counsel also shall post a copy of the  
13 Notice and Claim Form on Class Counsel's internet website.  
14

15 8. Findings Concerning Notice. The Court finds that the Notice and the manner  
16 of its dissemination constitute the best practicable notice under the circumstances and are  
17 reasonably calculated, under all the circumstances, to apprise Class members of the proposed  
18 settlement of this action and their rights with respect thereto. The Court further finds that the  
19 Notice is reasonable, that it constitutes due, adequate and sufficient notice to all persons  
20 entitled to receive notice, and that it meets the requirements of due process.  
21

22 9. Claims. All claims under the settlement must be postmarked or otherwise  
23 submitted to Class Counsel no later than 120 days following the date of this Order in order to  
24 be eligible for compensation under the Settlement.  
25  
26

1           10.   Objections and Appearances.

2                   Written Objections.   Any Class member may object to the fairness,  
3           reasonableness, or adequacy of the Settlement Agreement, the Fee Amount, or the Class  
4           Representative Payment. Class members may do so either on their own or through counsel  
5           hired at their own expense. Any Class member who wishes to object must, at least 14 days  
6           prior to the Final Fairness Hearing, file with the Clerk of the Court, Thurston County  
7           Superior Court, a written statement of objection along with any other supporting materials,  
8           papers or briefs that he or she wishes the Court to consider, and must on that same date serve  
9           such papers by first class mail on:  
10

11           For the Class:

12           Adam J. Berger, Esq.  
13           Schroeter, Goldmark & Bender  
14           500 Central Building  
15           810 Third Avenue  
16           Seattle, Washington 98104

17           For the Washington State Patrol:

18           Jennifer Smith Meyer  
19           Assistant Attorney General  
20           7141 Cleanwater Drive SW  
21           P.O. Box 40126  
22           Olympia, WA 98504-0126

23           Any objection that is not timely made shall be forever barred. Any attorney hired by  
24           a Class member at that Class member's expense for the purpose of making objections must  
25           file with the Clerk of the Court, and serve the counsel set forth above (the "Designated  
26           Counsel"), a notice of appearance, no later than 14 days prior to the Final Fairness Hearing.

Appearance at Settlement Hearing. Any Class member who timely files and  
serves a written objection may also appear at the Final Fairness Hearing, either in person or

1 through counsel hired at the Class member's expense, to object to the fairness,  
2 reasonableness, or adequacy of the Settlement Agreement, the Fee Application, or the Class  
3 Representative Payment. Any Class member who does not timely file and deliver a written  
4 objection by 14 days prior to the Final Fairness Hearing shall not be permitted to object or  
5 appear at the Final Fairness Hearing, except for good cause shown, shall be deemed to have  
6 waived and forfeited any objection at the Final Fairness Hearing, and shall be bound by all  
7 proceedings, orders and judgments of the Court.  
8

9 11. Dates of Performance. In summary, the dates of performance are as follows:

10 a. The Notice and Claim Form shall be mailed to Class members and posted on  
11 the internet within 15 days of the date of this Order, as set forth in Paragraph 7, above;

12 b. All claims under the settlement must be postmarked or otherwise submitted to  
13 Class Counsel within 120 days of the date of this Order;

14 c. All objections to the Settlement Agreement, Fee Amount, or Class  
15 Representative Payment shall be filed and served no later than 14 days prior to the Final  
16 Fairness Hearing;

17 d. Papers in support of final approval of the Settlement Agreement, the Fee  
18 Amount, and the Class Representative Payment and in response to any objections, shall be  
19 filed no later than five (5) days prior to the Final Fairness Hearing; and  
20

21 e. The Final Fairness Hearing shall be held on OCTOBER 2, 2009 at

22 1:30 p.m.

23 DATED this 7<sup>th</sup> day of May, 2009.

24  
25   
26 HON. RICHARD D. HICKS


[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT - 5

SCHROETER GOLDMARK & BENDER  
500 Central Building • 810 Third Avenue • Seattle, WA 98104  
Phone (206) 622-8000 • Fax (206) 682-2305

1 Presented by:

2 SCHROETER GOLDMARK & BENDER

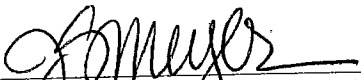
3

4   
ADAM J. BERGER, WSBA #20714  
5 Counsel for Plaintiff Class

6 Approved as to form,  
7 notice of presentation waived:

8 ROB MCKENNA  
9 Attorney General

9

10   
11 JENNIFER SMITH MEYER, WSBA #27057  
Counsel for Defendant

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[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT – 6