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UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

Sana Mujahid, individually and on behalf  
of a class of all persons and entitled  
similarly situated,

Plaintiff,

v.

DivvyMed, LLC d/b/a Divvydose,

Defendant.

No. CV-19-05454-PHX-NVW

**PRELIMINARY APPROVAL ORDER**

This Court has reviewed the Motion for Preliminary Approval of Class Settlement (Doc. 26), including the Settlement Agreement and Release (“Settlement Agreement”).<sup>1</sup> Good cause appearing,

**IT IS ORDERED** granting the Motion for Preliminary Approval of Class Settlement (Doc. 26).

**THE COURT FINDS:**

**1.** The Court hereby preliminarily approves the Settlement Agreement and the terms and conditions of settlement set forth therein, subject to further consideration at the Final Approval Hearing.

**2.** The Court has conducted a preliminary assessment of the fairness, reasonableness, and adequacy of the Agreement, and hereby finds that the settlement falls

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<sup>1</sup> Capitalized terms in this Order, unless otherwise defined, have the same definitions as those terms in the Settlement Agreement.

1 within the range of reasonableness meriting possible final approval. The Court therefore  
2 preliminarily approves the proposed settlement as set forth in the Settlement Agreement.

3       **3.** The Long-Form Notice, Email Notice, Postcard Notice, Claim Form and Opt-  
4 Out Form (all attached to the Settlement Agreement), and their manner of transmission,  
5 comply with Rule 23 and due process because the notices and forms are reasonably  
6 calculated to adequately apprise class members of (i) the pending lawsuit, (ii) the proposed  
7 settlement, and (iii) their rights, including the right to either participate in the settlement,  
8 exclude themselves from the settlement, or object to the settlement.

9       **4.** For settlement purposes only, the Class is so numerous that joinder of all  
10 Class Members is impracticable.

11       **5.** For settlement purposes only, Plaintiff's claims are typical of the Settlement  
12 Class's claims.

13       **6.** For settlement purposes only, there are questions of law and fact common to  
14 the Settlement Class, which predominate over any questions affecting only individual  
15 Settlement Class Members.

16       **7.** For settlement purposes only, class certification is superior to other available  
17 methods for the fair and efficient adjudication of the controversy.

18       **IT IS FURTHER ORDERED:**

19       **8. Settlement Approval.** The Settlement Agreement, including the Long-Form  
20 Notice, Email Notice, Postcard Notice, Claim Form, and Opt-Out Form attached to the  
21 Settlement Agreement as Exhibits 2–6 are preliminarily approved.

22       **9. Appointment of the Settlement Administrator and the Provision of Class**  
23 **Notice.** KCC LLC is appointed as the Settlement Administrator. Divvydose and the  
24 Settlement Administrator, will notify Class Members of the settlement in the manner  
25 specified under Section 4 of the Settlement Agreement.

26       **10. Claim for a Settlement Award.** Class Members who want to receive an  
27 award under the Settlement Agreement must accurately complete and deliver a Claim Form  
28 to the Settlement Administrator no later than ninety (90) calendar days after the entry of  
this Order.

1           **11. Objection to Settlement.** Any Class Member who has not submitted a timely  
2 written exclusion request pursuant to paragraph 13 below and who wishes to object to the  
3 fairness, reasonableness, or adequacy of the Settlement Agreement, the Fees, Costs, and  
4 Expenses Award, or the Service Payment, must deliver written objections by postal mail to  
5 the Settlement Administrator or the Court no later than ninety (90) calendar days after the  
6 entry of this Order. Written objections must: (a) clearly identify the case name and number;  
7 (b) include the full name and the unique identification number for the Settlement Class  
8 Member assigned by the Settlement Administrator; (c) include the address, telephone  
9 number, and email address (optional) of the objecting Settlement Class Member; (d) include  
10 the full name, address, telephone number, and email address of the objector's counsel, and  
11 the state bar(s) to which counsel is admitted (if the objector is represented by counsel); and  
12 (e) provide a detailed explanation stating the specific reasons for the objection, including  
13 any legal and factual support and any evidence in support of the objection. Any Class  
14 Member who timely submits a written objection, as described in this paragraph, has the  
15 option to appear at the Final Approval Hearing, either in person or through personal counsel  
16 to object to the fairness, reasonableness, or adequacy of the Settlement Agreement or the  
17 proposed settlement, the Service Payment, or to the Fees, Costs, and Expenses Award.  
18 However, Settlement Class Members (with or without their attorneys) intending to make an  
19 appearance at the Final Approval Hearing must include on a timely and valid objection a  
20 statement substantially similar to "Notice of Intention to Appear." Only Settlement Class  
21 Members who submit timely and valid objections including Notices of Intention to Appear  
22 may speak at the Final Approval Hearing. If a Settlement Class Member makes an objection  
23 through an attorney, the Settlement Class Member will be responsible for his or her personal  
24 attorney's fees and costs. The objection will not be valid if it only objects to the lawsuit's  
appropriateness or merits.

25           **12. Failure to Object to Settlement.** Settlement Class Members who fail to  
26 object to the Settlement Agreement in the manner specified above will: (1) be deemed to  
27 have waived their right to object to the Settlement Agreement; (2) be foreclosed from  
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1 objecting (whether by a subsequent objection, intervention, appeal, or any other process) to  
2 the Settlement Agreement; and (3) not be entitled to speak at the Final Approval Hearing.

3 **13. Requesting Exclusion.** Settlement Class Members may elect not to be part  
4 of the Class and not to be bound by this Settlement Agreement. Individual requests for  
5 exclusion may be submitted to the Settlement Administrator electronically (through the  
6 Settlement Website) or by postal mail, but if submitted by postal mail, each Settlement  
7 Class Member must pay for postage. No mass opt-outs are allowed. All requests for  
8 exclusion must be in writing and must: (a) clearly identify the case name and number; (b)  
9 include the full name and the unique identification number for the Settlement Class Member  
10 assigned by the Settlement Administrator; (c) address, telephone number, and email address  
11 (optional) of the Settlement Class Member seeking exclusion; (d) contain a statement that  
12 the requestor does not wish to participate in the settlement; and (e) be signed personally by  
13 the Settlement Class Member. A request for exclusion must be submitted no later than  
14 ninety (90) calendar days after entry of this Order.

15 **14. Provisional Certification.** The Settlement Class is provisionally certified as  
16 a class of all persons in the United States who were called by 1564 Ventures, Inc. with a  
17 recorded message about Divvydose during the Class Period. Excluded from the Class are  
18 the Court, the officers and directors of Divvymed, LLC, and persons who timely and validly  
19 request exclusion from the Settlement Class. The Class Period is from June 26, 2019  
20 through November 1, 2019.

21 **15. Conditional Appointment of Class Representative and Class Counsel.**  
22 Plaintiff is conditionally certified as the class representative to implement the Parties'  
23 settlement in accordance with the Settlement Agreement. The law firms of Paronich Law  
24 and Heidarpour Law Firm, PLLC are conditionally appointed as Settlement Class Counsel.  
25 Plaintiff and Settlement Class Counsel must fairly and adequately protect the Settlement  
26 Class's interests.

27 **16. Stay of Other Proceedings.** The Court hereby orders that any actions or  
28 proceedings in any court in the United States involving any Released Claims asserted by  
any Releasing Parties, except any matters necessary to implement, advance, or further the

1 approval of the Settlement Agreement, are stayed pending the Final Approval Hearing and  
2 issuance of any Final Order and Judgment.

3 **17. Termination.** If the Settlement Agreement terminates for any reason, the  
4 following will occur: (a) class certification will be automatically vacated; (b) Plaintiff and  
5 Settlement Class Counsel will stop functioning as the class representative and class counsel,  
6 respectively, except to the extent previously appointed by the Court; and (c) this Action will  
7 revert to its previous status in all respects as it existed immediately before the Parties  
8 executed the Settlement Agreement, other than as to payments made to, or owed for work  
9 already incurred by, the Settlement Administrator. Neither the Settlement nor this Order  
10 will waive or otherwise impact the Parties' rights or arguments.

11 **18. No Admissions.** Nothing in this Order is, or may be construed as, an  
12 admission or concession on any point of fact or law by or against any Party.

13 **19. Stay of Dates and Deadlines.** All discovery, pretrial proceedings and  
14 deadlines, are stayed and suspended until further notice from the Court, except for such  
15 actions as are necessary to implement the Settlement Agreement and this Order.

16 **20. Modifications.** Counsel for the Parties are hereby authorized to utilize all  
17 reasonable procedures in connection with the administration of the settlement which are not  
18 materially inconsistent with either this Order or the terms of the Agreement. The Parties  
19 may further modify the Settlement Agreement prior to the Final Approval Hearing so long  
20 as such modifications do not materially change the terms of the settlement provided therein.  
21 The Court may approve the Settlement Agreement with such modifications as may be  
22 agreed to by the Parties, if appropriate, without further notice to Settlement Class Members.

23 **21. Final Approval Hearing.** On August 25, 2020 at 10:00 a.m., this Court  
24 will hold a Fairness Hearing in Courtroom 401, Sandra Day O'Connor U. S.  
25 Courthouse, 401 West Washington, Phoenix, Arizona 85003, to determine whether the  
26 Settlement Agreement should be finally approved as fair, reasonable, and adequate.  
27 Plaintiff's motion in support of the Final Judgment shall be filed on or before fourteen (14)  
28 calendar days before the Final Approval Hearing. Any brief Divvydose may choose to file  
shall be filed on or before seven (7) calendar days before the Final Approval Hearing. This

1 Court may order the Fairness Hearing to be postponed, adjourned, or continued. If that  
 2 occurs, the updated hearing date shall be posted on the Settlement Website but other than  
 3 the website posting the Parties will not be required to provide any additional notice to  
 4 Settlement Class Members.

5 **22. Summary Timeline.** The Agreement and this Order provide for the  
 6 following timeline dates and deadlines related to the provision of notice and the Final  
 7 Approval Hearing:

8 9 10	Last day for Divvydose to provide the Settlement Administrator the Class List and Call Record Database	On or before 14 days after entry of this Order
11 12 13 14 15 16	Last day for the Settlement Administrator to publish the Settlement Website and begin operating a toll-free telephone line, and email address and P.O. Box to accept inquiries from Settlement Class Members	On or before 30 days after entry of this Order
17 18 19	Settlement Administrator provides Email Notice and Postcard Notice to Settlement Class Members	On or before 30 days after entry of this Order
20 21 22	Last day for Settlement Class Counsel to file motion in support of Fees, Cost and Expense Award and apply for Service Payment	On or before 69 days after entry of this Order
23 24 25	Last day for Settlement Class Members to file Claim Forms, object, or request exclusion from the Settlement Class	On or before 90 days after entry of this Order
26 27 28	Last day for Settlement Class Counsel to file motion in support of Final Approval	On or before 14 days before Final Approval Hearing

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Last day for Divvydose to file optional brief in support of Settlement	On or before 7 days before Final Approval Hearing
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Dated this 21st day of May, 2020.



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Neil V. Wake  
Senior United States District Judge