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MECKLENBURG COUNTY

CLERK OF SUPERIOR COURT

BY: V. Fairley

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
24CV036383-590

MONICA JACKSON and KEITH GRAYS,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

THE CHARLOTTE-MECKLENBURG
HOSPITAL AUTHORITY,

Defendant.

**ORDER GRANTING UNOPPOSED
MOTION FOR PRELIMINARY
APPROVAL OF CLASS SETTLEMENT
INCLUDING CONDITIONAL
CERTIFICATION OF SETTLEMENT
CLASS**

THIS MATTER came on before the undersigned Superior Court Judge designated pursuant to N.C. Gen. Stat. § 7A-47.3(e) and Local Rule 6.1, on Plaintiffs' Unopposed Motion for Certification of Settlement Class and Preliminary Approval of Class Settlement. Plaintiffs, individually, and on behalf of the proposed Settlement Class, and Defendant, The Charlotte-Mecklenburg Hospital Authority ("CMHA" or "Defendant"), (collectively, the "Parties") have entered into a Settlement Agreement that, if approved, settles this Litigation. The Court conducted a hearing on this Motion on December, 5, 2025.

Based upon the arguments of the Parties, and the Court's review of these matters, this Court, in its discretion, grants the Motion, certifies a Settlement Class, and preliminarily concludes that the proposed Settlement Agreement is fair, reasonable, and adequate. Specifically, this Court finds that:

1. Plaintiffs filed the present Class Action Complaint against the Defendant on August

8, 2024, and amended it on September 17, 2024.¹ The Plaintiffs' Amended Class Action Complaint asserted claims for (1) Negligence, (2) Breach of Fiduciary Duty, (3) Breach of Contract, and (4) Medical Malpractice. The Amended Class Action Complaint alleged that Defendant operated a urology clinic at which the Plaintiffs and others were treated and either failed to accurately record the steps taken to sterilize or provide "high-level" disinfection of reusable surgical instruments or failed to adequately sterilize or appropriately disinfect these instruments. As a consequence, Plaintiffs alleged that they were notified by CMHA that they should undergo blood testing for infectious diseases, that they underwent such testing, and that their tests showed no new infections. The Plaintiffs made claims for emotional distress, pain and suffering, and economic loss.

2. The Parties, through their counsel, have entered into a Settlement Agreement following good faith, arm's-length negotiations. The Parties have agreed to settle this Litigation, pursuant to the terms of the Settlement Agreement, and subject to the approval and determination of the Court as to the fairness, reasonableness, and adequacy of the proposed Settlement Agreement. If approved, the proposed Settlement Agreement will result in the dismissal of the Litigation with prejudice and bar the claims of the Named Plaintiffs and Settlement Class arising out of the Litigation.

3. The Settlement Agreement,² including the proposed Notice to Patients of Atrium Health Urology ("AH Urology") and the form of that Notice, the appointment of Plaintiffs Monica

¹ The Plaintiffs initially filed this matter on November 10, 2022. That Complaint was first Amended and then dismissed without prejudice by consent on April 12, 2023. A second Complaint was filed on September 5, 2023. This second Complaint was dismissed without prejudice by Order of the Hon. Robert Ervin, Judge Presiding, on January 18, 2024.

² All capitalized terms used in this Order shall have the same meanings as set for in the Settlement Agreement.

Jackson and Keith Grays as the Class Representatives, the appointment of Class Counsel for Plaintiffs and the Settlement Class, the approval of Kroll as the Settlement Administrator, and the proposed Plan of Allocation, are fair, reasonable, and adequate, subject to further consideration at the Final Approval Hearing described below.

4. For settlement purposes only, the Court preliminarily and conditionally certifies the following Settlement Class:

All natural persons who (1) were treated between April 1, 2021 and September 22, 2022, at the clinic owned and operated by the Charlotte-Mecklenburg Hospital Authority (“CMHA”) and known as “Atrium Health Urology”, (2) were notified by CMHA that it was advisable for them to be tested for the purpose of determining whether they were suffering from or contracted any new infections as a result of their treatment, (3) underwent such testing, and (4) were found to have no new infections.

The Settlement Class includes approximately 1,300 persons. Excluded from the Settlement Class are all members of the Board of Commissioners and senior executives of CMHA or its affiliates, and any and all judges and justices, and chambers’ staff, assigned to hear or adjudicate any aspect of this Litigation.

5. Based on the information provided, the Court conditionally finds, for settlement purposes only that: (a) the Settlement Class is ascertainable; it consists of roughly 1,300 Class Members satisfying numerosity; (b) there are common questions of law and fact including whether Defendant maintained adequate records for the purpose of determining whether all appropriate steps were taken in the sterilization or high-level disinfection of reusable instruments, and that these common questions of law or fact will predominate over any questions affecting only individual Class Members, satisfying commonality; (c) the claims of defenses of the proposed Class Representatives’ claims are typical of the claims or defenses of the Settlement Class; (d) the Named Plaintiffs will fairly and adequately protect the interests of the Settlement Class as the

Class Representatives; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

6. The Court provisionally appoints Plaintiffs Monica Jackson and Keith Grays as the Class Representatives. The Court provisionally finds that the Class Representatives are similarly situated to absent Settlement Class Members and therefore typical of the Settlement Class and that they will be adequate Class Representatives.

7. The Court provisionally finds that Poulin Willey Anastopoulos, LLC, is experienced and adequate Class Counsel and is hereby designated as “Class Counsel.” All costs and attorneys’ fees incurred by Class Counsel and finally approved by this Court shall be paid from the Settlement Amount of \$2,500,000.00.

8. The Court appoints Kroll as the Settlement Administrator with the responsibility for the Plan of Notice and claims administration activities that are necessary to fulfill the duties set forth in the Settlement Agreement. The costs of administration, as well as the costs associated with the provision of Notice to the Settlement Class Members will be paid for from the Settlement Payment of \$2,500,000.00.

9. A Final Approval Hearing shall be held before the Court on April 24, 2026 at 10:00 AM in Courtroom 6310 at the Mecklenburg County Courthouse in Charlotte, North Carolina for the following purposes:

- a. To determine whether the proposed Settlement is fair, reasonable, and adequate to the Settlement Class and should be approved by the Court;
- b. To determine whether to grant Final Approval, as defined in the Settlement Agreement;
- c. To determine whether the Notice provided was appropriate;

- d. To determine whether the Plan of Allocation under the Settlement is fair, reasonable and adequate and should be approved by the Court;
- e. To determine whether the requested Class Representative Service Awards of \$5,000.00 each, and Class Counsel's combined attorneys' fees of up to 30% of the Settlement Fund and expenses should be approved by the Court;
- f. To determine whether the Settlement benefits are fair, reasonable, and adequate; and,
- g. To rule upon such other matters as the Court may deem appropriate.

10. The Court approves, as to the form and content, the Notice. Furthermore, the Court approves the implementation of the Settlement Website and the proposed methods of mailing or distributing the Notice substantially in the form as presented in the exhibits to the Motion for Certification of Settlement Class and Preliminary Approval of Class Settlement, and finds that such plan for providing notice meets the requirements of N.C. Gen. Stat. § 1A-1, Rule 23 and due process, constitute reasonable notice of the commencement of this Litigation and of the terms of the Proposed Class Action Settlement, and shall constitute due and efficient notice to all persons entitled to notice. Nonmaterial modifications to these documents may be made without further order of the Court.

11. The Court further finds that the form, content, and method of giving notice to the Settlement Class as described in this Order and the Settlement Agreement (including its exhibits) constitutes reasonable notice and meets all applicable requirements of due process. Specifically, the Notice is written in plain language, uses simple terminology, and is designed to be readily understandable by Settlement Class Members. Moreover, the Notice is clear and straightforward, apprising Settlement Class Members of the pendency of the Litigation, the essential terms of the

Settlement, the definition of the Settlement Class, the options available to a Member of the Settlement Class and the deadlines for taking action, explains procedures for making claims, objections or requesting exclusion, discloses the requested attorney's fees, costs, expenses, and Class Representatives requested Service Awards, describes the date, time, and place of the Final Approval Hearing, and prominently displays the address and phone number of Settlement Class Counsel.

12. The Court preliminarily approves the following Settlement Timeline for the purposes of conducting the Plan of Notice, settlement administration, claims processing, and other execution of the proposed Settlement:

SETTLEMENT TIMELINE

| <u>From Order Granting Preliminary Approval</u> | |
|---|---|
| Defendant provides list of Class Members to the Settlement Administrator | +14 days after Preliminary Approval Order |
| Long and Short Notices Posted on the Settlement Website | Upon Notice Date |
| Notice Date | +45 days after Preliminary Approval Order |
| Notice Completion Date | +15 days after Notice Date |
| Class Counsel's Final Motion for Attorneys' Fees, Reimbursement of Litigation Expenses, and Class Representative Service Awards | -14 days before the Opt Out and Objection Deadlines |
| Objection Deadline | +60 days after Notice Date |
| Opt Out Deadline | +60 days after Notice Date |
| Settlement Administrator Provide List of Objections/Exclusions to the Parties' counsel | +70 days after objection/opt-out deadline |
| Claims Deadline | +90 days after Notice Date |
| <u>Final Approval Hearing</u> | April 24, 2026 |
| Motion for Final Approval | -14 days from the Final Approval Hearing |
| <u>From Order Granting Final Approval</u> | |
| Effective Date | +31 days, assuming no appeal has been taken. |
| Payment of Class Counsel's Attorneys' Fees and Expenses and Class Representative Service Awards | +30 days after Effective Date |

| | |
|------------------------------------|-------------------------------|
| Payment of Claims to Class Members | +30 days of Effective Date |
| Settlement Website Deactivation | +90 days after Effective Date |

For purposes of this matter, all timelines and dates set forth shall be measured from the date of the hearing granting preliminary approval of the settlement class, December 5, 2025.

13. The Court further authorizes and directs the disclosure of the names and contact information for Members of the Settlement Class by CMHA to Class Counsel and the Settlement Administrator for purposes of providing Notice to the Settlement Class, providing appropriate information concerning the proposed Settlement Agreement to the Settlement Class, and allowing Members of the Settlement Class to object to the Settlement Agreement or Opt Out of the Settlement Class. The Court specifically finds that disclosure of the names and contact information for Members of the Settlement Class by Defendant is necessary for the proper administration of justice under N.C. Gen. Stat. § 8-53. The names and contact information so disclosed shall not be considered a public record, shall be disclosed only the Class Counsel and the Settlement Administrator, and shall be treated by Class Counsel and the Settlement Administrator as confidential and privileged information protected under North Carolina law. The Court further finds and orders that following transmission of this information, Defendant shall be relieved and otherwise absolved from any breach of confidentiality by Class Counsel or the Settlement Administrator. To the extent that this information, or any part of it, is required to be filed with the Court by any of the Parties, the Court directs that such information be filed under seal as confidential under § 8-53.

14. Any Settlement Class Member who wishes to be excluded from the Settlement Class must request to opt out of the proposed Settlement Class. All requests to opt out of the proposed Settlement Class must be received by the Settlement Administrator no later than sixty

(60) days after the Notice Date. Any request to opt out of the Settlement should, to the extent possible, contain words or phrases such as “opt out,” “exclusion,” or words or phrases to that effect indicating an intent not to participate in the Settlement, or be bound by the Settlement Agreement, or otherwise to be excluded from the Settlement Class, and the Settlement Class Member’s full legal name, address, and telephone or other contact information, the approximate dates of treatment at AH Urology, and the signature of the Settlement Class Member. Opt Out Statements shall not be rejected simply because they were inadvertently sent to the Court or Class Counsel so long as they are timely postmarked or received by the Court or Class Counsel. The Settlement Administrator shall, within eleven (11) calendar days after the end of the Opt Out Period, prepare a summary of the opt outs to be transmitted to the Settling Parties and filed with the Court under seal listing the Settlement Class Members who have opted out and including the total number of Settlement Class Members who have opted out. Settlement Class Members who seek to opt out shall receive no benefit or compensation under this Agreement.

15. Settlement Class Members may submit an objection to the proposed Settlement under Rule 23. For an objection to be valid, it must be received by the Settlement Administrator, Class Counsel, or filed with the Court within sixty (60) days of the Notice Date and include each and all of the following:

- (i) the objector’s full name, address, telephone number, and e-mail address (if any);
- (ii) information identifying the objector as a Settlement Class Member;
- (iii) a written statement of all grounds for the objection, accompanied by any legal support the objector cares to submit;
- (iv) the identity of all lawyers (if any) representing the objector;
- (v) the identity of all of the objector’s lawyers (if any) who will appear at the Final

Approval Hearing;

- (vi) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and
- (vii) the objector's signature or the signature of the objector's duly authorized lawyer or other duly authorized representative.

Any objection failing to include the requirements expressed above will be deemed to be invalid.

The Court, in its discretion, may consider the grounds for such objection even if the objection is invalid.

16. Any Settlement Class Member, including a Settlement Class Member who files and serves a written objection, may appear at the Final Approval Hearing, either in person or through counsel hired at the Settlement Class Member's expense, to comment on the fairness, reasonableness, or adequacy of the Settlement, or Class Counsel's Fees, costs, expenses, and/or Service Awards for Class Representatives.

17. Any Settlement Class Members who have not timely and validly excluded themselves from the Settlement Class shall be bound by the Settlement Agreement and all determinations and judgments in this Litigation concerning the Settlement Agreement.

18. Pending final determination of whether the Settlement Agreement should be approved, Named Plaintiffs and the Settlement Member Class are barred and enjoined from commencing or prosecuting any claims or otherwise asserting any claims related to the subject-matter of the Litigation against Defendant.

19. Class Representatives and Class Counsel have agreed with CMHA that:

- a. Within ten (10) business days of this Preliminary Approval, Defendant shall remit or cause to be remitted \$30,000.00 to the Settlement Fund to cover the

anticipated cost of Notice. This amount shall be an offset against the total Settlement Payment and shall be nonrefundable regardless of the disposition of the Settlement Agreement.

- b.** No later than thirty (30) calendar days after entry of a Final Approval, Defendant shall pay or cause to be paid the remainder of the Settlement Payment into the Settlement Fund. Such payment shall constitute full and complete satisfaction of all obligations by Defendant. Thereafter, Defendant shall have no liabilities, obligations or responsibilities with respect to the payment, disbursement, disposition or distribution of the Settlement Fund. Settlement Class Members shall look solely to the Settlement Fund for settlement and satisfaction against Defendant of all claims that are released herein, all Attorneys' Fees and Expenses, the Service Awards to the Named Plaintiffs, and all administrative or other costs and expenses arising out of or related to the Litigation or the Settlement. Settlement Class Members shall not under any circumstances be entitled to any further payment from Defendant with respect to the Released Claims, the Litigation or the Settlement. In the event the Settlement Agreement becomes final and effective, payment of the Settlement Payment shall fully satisfy any and all Released Claims. Except as provided by Order of the Court, no Settlement Class Member shall have any interest in the Settlement Fund or any portion thereof.
- c.** Within a reasonable time period after the Effective Date, and after all objections, collateral challenges or appeals relating to the Settlement have been fully and finally resolved, the Settlement Administrator shall pay each

Settlement Class Member an equal amount of the Settlement Fund after all costs, expenses, Service Awards, Attorneys' Fees and Expenses, taxes or any other costs as approved by the Court have been paid.

d. In the event monies remain as residue in the Settlement Fund following all distribution efforts approved by the Court and payment of all costs, expenses, Service Award, Attorneys' Fees and Expenses, and taxes, the Settlement Administrator will take appropriate steps to determine whether there are sufficient funds remaining to issue an additional distribution to Settlement Class Members consistent with the Plan of Allocation. This process will continue until the Settlement Administrator determines that there are no longer sufficient funds remaining to issue another distribution to Settlement Class Members (in no event may the Settlement Administrator so determine if there is \$300,000.00 or more remaining in the Settlement Fund). The remainder, if any, will be distributed *cy pres* to a recipient or recipients approved by the Court. The Parties suggest that an appropriate *cy pres* recipient is the Ronald McDonald House Charities of Greater Charlotte and the Court has preliminarily approved this recipient, subject to the Final Approval Hearing.

20. This Preliminary Approval Order shall become null and void and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing as of the date of the execution of the Settlement Agreement, if the Settlement is not finally approved by the Court, or the Court's approval is reversed on appeal, or the Settlement Agreement is otherwise terminated. In such event, neither the Settlement Agreement nor the Court's orders, including this Preliminary Approval Order, relating to the Settlement shall be used or referred to

for any purpose whatsoever.

21. This Preliminary Approval Order shall be of no force or effect if a Final Order and Judgment is not entered or there is no Effective Date and shall not be construed or used as an admission, concession, or declaration by or against Defendant of any fault, wrongdoing, breach, liability, or the certifiability of any class. Nor shall this Preliminary Approval Order be construed or used as an admission, concession, or declaration by or against the Class Representatives or any Settlement Class Member that his or her claim lacks merit or that the relief requested is inappropriate, improper, unavailable, or as a waiver by any Party of any defense or claim.

22. Except as necessary to effectuate this Preliminary Approval Order, all proceedings and deadlines in this matter are stayed pending the Final Approval Hearing.

12/12/2025 9:49:45 AM

IT IS SO ORDERED.

Dated: December 5, 2025


Hon. Troy J. Stafford