

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

KEITH RAYMOND, et al., : CASE NO. 1:15-CV-00559-MRB
 :
 Plaintiffs, : (Judge Michael R. Barrett)
 :
 v. :
 :
 AVECTUS HEALTHCARE :
 SOLUTIONS, LLC, et al. :
 :
 Defendants. :

**PLAINTIFFS' UNOPPOSED MOTION FOR
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

Pursuant to Fed. R. Civ. P. 23(e), Plaintiffs Keith Raymond and Timothy Strunk ("Plaintiffs"), on behalf of themselves and the Class, respectfully move this Court to enter the proposed Order (attached as Exhibit 1). Per Local Rule 7.3, Plaintiffs consulted with Defendants before filing this Motion and determined that this Motion is unopposed. The grounds for the Court's potential granting of this unopposed Motion are included in the accompanying Memorandum in Support of Unopposed Motion for Final Approval of Class Action Settlement. This Motion is supported by the Declaration of Gary F. Franke in Support of Final Approval of Class Action Settlement ("Franke Final Approval Decl.") attached as Exhibit 2, and the Declaration of Bryn Bridley of Atticus Administration, LLC Regarding Notice Mailing ("Atticus Decl.") attached as Exhibit 3.

Respectfully Submitted,

/s/ C. David Ewing
C. David Ewing (#002898)
EWING & WILLIS, PLLC

/s/ Gary F. Franke
Gary F. Franke (0029793)
Michael D. O'Neill (0075195)

P.O. Box 991549
Louisville, KY 40259
Tel: (502) 585-5800
Fax: (502) 585-5858

GARY F. FRANKE CO., L.P.A.
201 E Fifth Street, Ste. 910
Cincinnati, OH 45202
Tel: (513) 564-9222
Attorneys for Plaintiffs

**PLAINTIFFS' MEMORANDUM IN SUPPORT OF UNOPPOSED MOTION FOR
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

I. PRELIMINARY STATEMENT

Plaintiffs respectfully request that the Court grant final approval of the Settlement that the Court approved preliminarily on November 7, 2023. Doc. 235. Since the granting of preliminary approval, an effective notice process was utilized to inform the Class Members of the Settlement, and there have been zero objections and four opt outs. This speaks to the strength of the settlement and supports final approval.

II. FACTUAL BACKGROUND

A. Litigation and Settlement

The within cause of action commenced with the filing of Plaintiffs', Keith Raymond and Timothy Strunk (hereinafter "Plaintiffs"), Class Action Complaint on August 27, 2015. Doc. 1. Plaintiffs' claims arise from, among other things, the alleged violation of Ohio R.C. §1751.60 and the FDCPA. Plaintiffs allege that under Ohio law, Class Members who were insured with Mercy's contracted health insuring corporations (HICs) could not be subjected to attempts to collect, nor collection of, medical bills by the Defendants, other than for applicable co-payments or deductibles.

Specifically, Plaintiffs allege that Plaintiffs/Class Representatives, Raymond and Strunk, sustained injury in separate incidents. Doc. 75, Page ID # 1700 and Doc. 77,

Page ID # 2266. Raymond and Strunk both received medical care at a Mercy facility as a result of their injuries. Doc. 27, Page ID # 279 and Doc. 27, Page ID # 281. During admission to Mercy's hospitals, Plaintiffs informed Mercy's admitting staff/registration clerk(s) that they had health insurance coverage. Doc. 27, Page ID # 280, 281.

After the Plaintiffs received their medical treatment, Defendant, Aectus, contacted Plaintiffs, sent written correspondence to Plaintiffs and Plaintiffs' legal counsel requesting that legal counsel sign a letter of protection against any settlement or judgment which would then "prevent your client's account from being sent to collections." Doc. 10-3, Page ID # 125 and Doc. 10-4, Page ID 126. Despite having Raymond's and Strunk's health insurance information, Defendants' agents, servants and/or employees, contacted Plaintiffs relative to payment of Mercy bills. Doc. 75-1, Page ID # 2115-2154 Doc. 79-1, Page ID 2599-2600. On February 1, 2014, Defendants received a check from Strunk's attorney in the amount of \$2,816.70, made payable to Aectus Healthcare Solutions. Doc. 79-1, Page ID # 2661.

The Complaint asserts claims for (1) breach of contract; (2) violations of the Ohio Consumer Sales Practices Act; (3) violations of the Fair Debt Collection Practices Act; (4) fraud; (5) conversion; (6) unjust enrichment; (7) punitive damages; and (8) breach of third-party beneficiary contract. Defendants, Aectus and Mercy, moved to dismiss Plaintiffs' Complaint. Doc. 5 and Doc. 10. The trial Court granted Defendants' motions to dismiss on September 30, 2016. Doc. 21. The Plaintiffs appealed the dismissal to the 6th Circuit Court of Appeals. Doc. 23. The 6th Circuit reversed the trial Court's judgment, issued an opinion and remanded the case for further proceedings. Doc. 24. The parties then

engaged in extensive discovery, including numerous depositions and the exchange of more than Forty Thousand (40,000) documents.

On June 5, 2019, Plaintiffs filed a motion to certify the within action as a class action. Doc. 92. After extensive briefing, on March 27, 2020, the Court granted Plaintiffs' motion for class certification under Rule 23(b)(3). Doc. 127. The Court denied Plaintiffs' motion for class certification under Rule 23(b)(2) and Plaintiffs' Ohio Consumer Sales Practices Act claims. Doc. 127. Avectus and Mercy sought leave to and appealed the class certification pursuant to Rule 23(f). Following briefing, on March 31, 2021, the 6th Circuit denied Defendants' 23(f) petitions. Doc. 137.

Following the second trip to the 6th Circuit, the Parties continued with vigorous discovery and litigation over a period in excess of Two (2) years, including motions and hearings relative to contested discovery. Plaintiffs and Defendants engaged in extensive motion practice and ultimately filed cross Motions for Summary Judgment. Doc. 190, 193 and 216. With the cross Motions for Summary Judgment pending, on May 11, 2023, the Court conducted an all-day Settlement Conference/Mediation session. The Parties engaged in good faith, arm's length negotiation and reached a tentative agreement.

Following additional settlement negotiations, the parties filed a joint motion for preliminary approval of a proposed settlement on November 2, 2023. Doc. 234. This Court granted preliminary approval on November 7, 2023, starting the notice to the Class and claims process. Doc. 235. The notice and settlement program was successful, reaching the vast majority of the class.

B. Notice, Objections, and Opt-Outs

The Court-approved notice program implemented by the settlement administrator, Atticus Administration, LLC. (“Atticus”), was effective and complied with due process. Atticus sent notice to all Class Members via Regular U.S. mail. Atticus Decl., ¶ 8. This notice was highly effective reaching 91.67% of class members, with zero objections and five requests to opt out. *Id.*, ¶ 12. In addition to direct notice, Atticus established the Settlement Website with additional information, including frequently asked questions, important case documents and a toll-free hotline. Atticus Decl., ¶ 9; *see also* <https://medicalbillpaymentsettlement.com/>.

III. ARGUMENT

A. Final Class Certification for Settlement Purposes is Appropriate.

This Court preliminarily approved class certification for Settlement purposes in its November 7, 2023 Order. Doc. 235. At this juncture, final approval is appropriate.

1. The Elements of Rule 23(a) are Satisfied.

For a lawsuit to be maintained as a class action under Rule 23, the plaintiffs must establish each of the four threshold requirements of Subsection (a) of the Rule, which provides:

One or more members of a class may sue or be sued as representative parties on behalf of all only if (1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class. Fed. R. Civ. P. 23(a).

In the within action, all four elements are clearly satisfied.

a. Numerosity

Rule 23(a)(1) requires that plaintiffs demonstrate that “the class is so numerous that joinder of all members is impracticable.” While no specific number of class members is required to maintain a class action, “[w]hen class size reaches substantial proportions. . . the impracticability requirement is usually satisfied by the numbers alone.” *In re Am. Med. Sys., Inc.*, 75 F.3d 1069, 1079 (6th Cir. 1996) (citation omitted). Here, there are in excess of 10,000 Class Members, satisfying the numerosity requirement. Franke Final Approval Decl., ¶ 2 Atticus Decl., ¶ 8; *see also Caddell v. Campbell*, No. 1:19-cv-91, 2023 WL 3725101, at *2 (S.D. Ohio May 30, 2023) (“The Court agrees that a class containing 500 potential class members meets numerosity.”); *Lozada v. Dale Baker Oldsmobile, Inc.*, 197 F.R.D. 321, 329 (W.D. Mich. 2000) (numerosity is satisfied when a class consists of 400 to 500 individuals.); *Afro Am. Patrolmen’s League v. Duck*, 503 F.2d 294 (6th Cir. 1974) (numerosity satisfied for class of for a class as small as 35 employees).

b. Commonality

Rule 23(a)(2) requires a showing of the existence of questions of law or fact common to the class. *See Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 345 (2011). “Their claims must depend upon a common contention of such a nature that it is capable of class-wide resolution which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.” *Id.* at 350. Both the majority and dissenting opinions in that case agreed that “for purposes of Rule 23(a)(2) even a single common question will do.” *Id.* at 359.

Here, each Settlement Class Member's claim raises questions of law or fact, the resolution of which are common to the Settlement Class. More specifically, the Settlement Class presents the common question of whether Defendants engaged in

improper billing practices in violation of Ohio R.C. §1751.60 and the FDCPA. These are common questions, among others detailed in the Complaint. Doc. 1. Rule 23(a)(2) is satisfied because the resolution of these questions of law and fact are common to the Settlement Class.

c. Typicality

In order to satisfy the typicality requirement of Rule 23(a)(3), the claims or defenses of the representative parties must be typical of the claims or defenses of the class. “The typicality requirement ensures that the representative’s interests will be aligned with those of the represented group and that the named plaintiff will also advance the interests of the class members.” *Chesher v. Neyer*, 215 F.R.D. 544, 549 (S.D. Ohio 2003). “A plaintiff’s claim is typical if it arises from the same event or practice or course of conduct that gives rise to the claims of other class members, and if his or her claims are based on the same legal theory.” *Id.* (citing 1 Herbert B. Newberg & Alba Conte, *Newberg on Class Actions*, § 3-13, at 3-76 (3d ed. 1992)); *see also Am. Med. Sys.*, 75 F.3d at 1082 (same). Typicality seeks to ensure that there are no conflicts between the class representatives’ claims and the claims of the class members represented. With respect to this litigation, there is a nexus between the Parties’ claims and defenses and the common questions of fact and law (i.e., whether Defendants improperly billed enrollees or subscribers directly in violation of Ohio R.C. §1751.60 and the FDCPA. Rule 23(a)(3) is satisfied in this case. Typicality is satisfied.

d. Adequacy of Representation

Rule 23(a)(4) requires that “the representative parties will fairly and adequately protect the interests of the class.” “There are two criteria for determining this element: 1)

the representatives must have common interests with the unnamed class members, and 2) it must appear that the representatives will vigorously prosecute the class action through qualified counsel.” *Senter v. Gen. Motors Corp.*, 532 F.2d 511, 524-25 (6th Cir. 1976).

Here, Plaintiffs are adequate class representatives. With respect to the class claims, Plaintiffs do not have interests that are adverse or antagonistic to the interests of the Settlement Class. Both Raymond and Strunk have followed the litigation closely and actively worked with counsel to provide discovery responses and deposition testimony. Doc. 75, 77 and 79. Plaintiffs have served as exemplary class representatives and are appropriate class representatives for the Settlement Class.

Lead Class Counsel are also adequate. Lead Class Counsel have extensive experience handling complex class actions and have demonstrated a willingness to vigorously prosecute the class claims. In this action, the team of lawyers assembled to represent the Class is knowledgeable and possess extensive experience in complex class action and commercial litigation involving medical records, medical billing, collections, contract law and insurance. The efforts of Plaintiffs’ counsel thus far in this case show that they are committed to the vigorous prosecution of this action and possess the skills necessary for such efforts, including obtaining Two (2) separate and favorable opinions from the 6th Circuit Court of Appeals.

Class Counsel are qualified, possessing a wealth of experience in litigating complex class action lawsuits, which allowed them to negotiate an outstanding settlement for the Class. Franke Final Approval Decl., ¶ 4. The adequacy requirement is satisfied.

2. The Requirements of Rule 23(b)(3) are Met in the Settlement Context.

Plaintiffs seek to certify a Class under Rule 23(b)(3), which has two components: predominance and superiority. When assessing predominance and superiority, the court may consider that the class will be certified for settlement purposes only, and a showing of manageability at trial is not required. See *Amchem Prods. V. Windsor*, 521 U.S. 591, 620 (1997). With respect to predominance, the Sixth Circuit noted that “named plaintiffs must show, and district courts must find, that questions of law or fact common to members of the class predominate over any questions that affect only individual members.” *In re Whirlpool Corp. Front-Loading Washer Prods. Liab. Litig.*, 722 F.3d 838, 860 (6th Cir. 2013). With respect to superiority, the Court considers whether a class action is “superior to other methods for fairly and efficiently adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3).

Here, there are several common questions of law and fact that predominate over any questions that may affect individual Class Members. For example, were this case to proceed, the primary issue would be whether Defendants improperly billed enrollees or subscribers directly in violation of Ohio R.C. §1751.60 and/or the FDCPA. These are issues subject to “generalized proof,” and are questions that are common to all class members. See *Daffin v. Ford Motor Co.*, No. C-1-00-458, 2004 WL 5705647, at *2 (S.D. Ohio July 15, 2004) (predominance satisfied where significant issues included: 1) whether a defect reduced the value of the car; and 3) whether Ford breached its warranty); see also *In re Countrywide Fin. Corp. Customer Data Sec. Breach Litig.*, No. 3:08-MD-01998, 2009 WL 5184352, at *6 (W.D. Ky. Dec. 22, 2009) (“the proof required [must focus] on

Defendant's conduct, not on the conduct of the individual class members"). Accordingly, the predominance prong of Rule 23(b)(3) is satisfied.

The second prong of Rule 23(b)(3) - that a class action is superior to other available methods for the fair and efficient adjudication of the controversy - is also readily satisfied. See Fed. R. Civ. P. 23(b)(3). The Agreement provides members of the Class with prompt, simple, and certain relief, and contains well-defined administrative procedures to ensure due process. This includes the right of any Class Member who is dissatisfied with the Settlement to object to it or to request exclusion from the Class. The Settlement would also relieve the substantial judicial burdens that would be caused by repeated adjudications in individual trials against Mercy and Aectus. See *Young v. Nationwide Mut. Ins. Co.*, 693 F.3d 532, 545 (6th Cir. 2012) ("Where it is not economically feasible to obtain relief within the traditional framework of a multiplicity of small individual suits for damages, aggrieved persons may be without any effective redress unless they may employ the class-action device." (internal quotations omitted)). Here, individual trials are not feasible for more than 10,000 separate Mercy patients claiming a violation of Ohio R.C. §1751.60 and/or the FDCPA. The proposed class action with one class remedy is superior.

B. The Notice Program Preliminarily Approved by the Court Was the Best Notice Practicable Under the Circumstances, and Was Successful

In class actions certified under Federal Rule of Civil Procedure 23(b)(3), notice must meet the requirements of Rule 23(c)(2). The latter rule requires that notice to the class be the "best notice that is practicable under the circumstances." Rule 23(c)(2). See *In re Auto. Parts Antitrust Litig.*, No. 12-CV-00103, 2016 WL 8200511, at *10 (E.D. Mich. Aug. 9, 2016)

(program satisfied Rule 23 and due process). The Court must consider the mode of dissemination and the content of the notice to assess whether such notice was sufficient. See Federal Judicial Center, Manual for Complex Litig. § 21.312 (4th Ed. 2004). There is no statutory or due-process requirement that all class members receive actual notice by mail or other means; rather, “individual notice must be provided to those class members who are identifiable through reasonable effort.” *Eisen v. Carlisle & Jacqueline*, 417 U.S. 156, 175 (1974). Rule 23(c) gives the Court “virtually complete” discretion as to the manner of service of settlement notice. See *Franks v. Kroger Co.*, 649 F.2d 1216, 122323 (Sixth Cir. 1981); *Vassalle v. Midland Funding, LLC*, No. 3:11-CV-00096, 2014 WL 5162380, at *11 (N.D. Ohio Oct. 14, 2014), *aff’d sub nom. Pelzer v. Vassalle*, 655 F. App’x 352 (Sixth Cir. 2016).

Class Counsel worked closely with the Settlement Administrator to develop and implement the notice program preliminarily approved by the Court. Atticus Approval Decl., ¶ 2. The notice process was thorough and effective in that it provided direct notice to Class Members. Using the Class Member data Mercy and Auctus provided, the Settlement Administrator was able to provide direct notice to 91.67% Class Members consisting of 10,499 Class Members via U.S. Mail. Atticus Approval Decl., ¶ 8.

In addition to the direct notice plan, the Settlement Administrator also implemented an internet campaign that included the establishment of a settlement website <https://medicalbillpaymentsettlement.com/>.*Id.*, ¶ 9. Accordingly, Class Counsel and the Settlement Administrator are confident the notice reached the vast majority of the Class. This is well within the 70-95% notice guideline that is often cited as meeting the requirements of Rule 23(c)(2)(B) and due process. *Federal Judicial Center, Judges’*

Class Action Notice and Claims Process Checklist and Plain Language Guide, at 3 (2010), at <https://workplaceclassaction.lexblogplatform.com/wpcontent/uploads/sites/214/2013/07/forms.pdf>.

The notice program provided Class Members with a clear and concise statement of their rights under Rule 23(c)(2)(B). Doc. 234, Ex. B. The notices directed Class Members to the Settlement Website or a toll-free number for additional information regarding how they could opt out of or object to the settlement. *Id.* The notice program meets the structures of Rule 23 and due process and should be approved by the Court.

C. The Settlement Agreement Merits Final Approval

Under Rule 23(e), the Court may approve this Settlement if it determines that it is “fair, reasonable and adequate.” The determination of whether to grant final approval for the Settlement is left to the sound discretion of the Court. *Lonardo v. Travelers Indem. Co.*, 706 F. Supp. 2d 766, 778 (N.D. Ohio 2010) (citing *Bailey v. Great Lakes Canning, Inc.*, 908 F.2d 38, 42 (6th Cir. 1990)). The Sixth Circuit has identified the following factors when considering whether to finally approve a class action settlement: “(1) the risk of fraud or collusion; (2) the complexity, expense and likely duration of the litigation; (3) the amount of discovery engaged in by the parties; (4) the likelihood of success on the merits; (5) the opinions of class counsel and class representatives; (6) the reaction of absent class members; and (7) the public interest.” *Vassalle v. Midland Funding LLC*, 708 F.3d 747, 754 (6th Cir. 2013).

The 2018 amendments to Rule 23(e) also contain specific factors for federal courts to consider in determining whether a class action settlement is fair, reasonable and adequate. See Fed. R. Civ. P. 23(e)(2). These factors include:

- A. Whether the class representatives and class counsel have adequately represented the class;
- B. Whether the proposal was negotiated at arm's length;
- C. Whether the relief provided for the class is adequate, taking into account: (i) the costs, risk, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class including the method of processing class members claims; (iii) the terms of any proposed award of attorney's fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3); and
- D. Whether the proposal treats class members equitably. *Id.*

These amendments are not intended to displace the factors set forth in case law “but rather focus the court and the lawyers on the core concerns of procedure and substance that should guide the decision whether to approve the proposal.” *Id.*, at Advisory Committee’s Note to 2018 amendment. Courts in this Circuit consider both sets of factors when assessing the reasonableness of a settlement and enjoy “wide discretion in assessing the weight and applicability of these factors.” *Doe v. Ohio*, No. 2:91-cv-464, 2020 WL 728276, at * 3 (S.D. Ohio Feb. 12, 2020). All of the case law and 23(e) factors weigh in favor of granting final approval.

1. The Settlement resulted from multiple mediations, extensive arm's-length negotiations and without any risk or evidence of fraud or collusion.

Settlements resulting from arm's length negotiations conducted by court-approved counsel are presumptively reasonable. (See 1 Herbert B. Newberg & Alba Conte, *Newberg on Class Actions*, § 11.41 at 90 (4th Ed. 2002)). Courts presume the absence

of fraud or collusion in settlement negotiations unless there is evidence to the contrary. *In re Telectronics Pacing Sys.*, 137 F. Supp. 2d 985, 1106 (S.D. Ohio 2001). Here, there is no evidence of collusion.

This Settlement was the result of extensive, contentious, arm's-length negotiations between counsel with many decades of experience in handling complex, class action litigation. Negotiations were arduous and lengthy, stretching over years with the eventual assistance of the Court. Franke Final Approval Decl., ¶ 5. The Court's participation in the Parties' negotiations alone establishes the lack of fraud or collusion in this case. This factor strongly supports granting final approval.

2. The complexity, expense, and likely duration of the litigation warrant final approval of the Settlement.

"Most class actions are inherently complex and settlement avoids the costs, delays and multitude of other problems associated with them." *Brent v. Midland Funding, LLC*, No. 3:11 CV 1332, 2011 WL 3862363, at *16 (N.D. Ohio Sept. 1, 2011) (quoting *In re Austrian & German Bank Holocaust Litig.*, 80 F. Supp. 2d 164, 174 (S.D.N.Y. 2000)). "Thus, '[i]n most situations, unless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy and expensive litigation with uncertain results.'" *Id.* (quoting 4 Herbert B. Newberg & Alba Conte, *Newberg on Class Actions* § 11.50 (4th ed. 2002)). This case is no different in that it is a complex class action and a settlement at this stage of the case will avoid the risk of "costs, delays, and a multitude of other problems associated" with continued litigation and trial.

In the absence of settlement, Plaintiffs' action would remain subject to pending cross motions for summary judgment. Even if Plaintiffs' action survived or prevailed on summary

judgment, trial and appeal, it could take many years and involve substantial expense for all Parties to ultimately resolve this matter.

The uncertainty of continued litigation stands in stark contrast to the immediate relief offered by this Settlement. Therefore, the Settlement provides Class Members with real, cash benefits now without having to endure the risks, duration, and expense that would surely follow if this litigation were to continue. See *Bert v. AK Steel Corp.*, No. 1:02-cv-467, 2008 WL 4693747, at *2 (S.D. Ohio Oct. 23, 2008) (“The Court has no doubt that the required trials or hearings would have been time consuming, and that a complete resolution of the case would not be reached for several more years. This factor clearly weighs in favor of the proposed settlement.”).

3. Sufficient discovery was conducted in this case.

The Parties have already engaged in years of investigation and the formal discovery process, and Plaintiffs were able to properly evaluate the liability and damages on a class-wide basis. Franke Final Approval Decl., ¶ 6. Furthermore, Defendants provided access to confirmatory discovery related to class size and Defendants’ potential insurance coverage for Plaintiffs’ claims. These factors also provide support for granting final approval of the Settlement.

4. The likelihood of success balanced against the amount and form of relief offered by the settlement weigh in favor of approving the settlement.

The Sixth Circuit has identified the likelihood of success on the merits as the most important of all the factors a district court must evaluate in assessing the fairness of a class action settlement. *Poplar Creek Dev. Co. v. Chesapeake Appalachia, LLC*, 636 F.3d 235, 245 (6th Cir. 2011). A district court must weigh the likelihood that the class ultimately will prevail “against the amount and form of the relief offered in the settlement.” *Carson v*

Am. Brands, Inc., 450 U.S. 79, 88 n.14 (1981); see also *In re Gen. Tire & Rubber*, 726 F.2d 1075, 1086 (6th Cir. 1984); *UAW v. Gen. Motors, Corp.*, 497 F.3d 615, 631 (6th Cir. 2007).

Although Plaintiffs remain confident in their claims against Mercy and Avectus, they recognize the substantial risks involved in arguments set forth in Defendants' pending Motions for Summary Judgment. From the outset of this litigation, Defendants have consistently maintained that the allegations in this action are meritless and denied liability. The proposed settlement provides class-wide relief. Furthermore, there is always a risk that a jury might award little or nothing in the way of damages. Further, even if Plaintiffs prevailed through summary judgment and trial, the Class would still face the potential for prolonged appeals to the Sixth Circuit.

By contrast, the Settlement offers immediate cash payments to all Class Members. The Settlement Agreement specifies that any notified Class Member who submits a claim form will receive payment of \$25.00 regardless of whether or not the Class Member actually made a payment to Mercy or Avectus. Additionally, any Class Member who did make a payment will receive fifty percent (50%) of the payment made upon receipt of the claim form by the Settlement Administrator. Plaintiffs determined that the 50% recovery was reasonable and represented approximately a 100% reimbursement after accounting for subrogation obligations that would have been owed by the Class Member to his or her health insurer had Mercy billed the Class Member's health insurer.

The Settlement delivers real, tangible value to Class Members. Class Counsels' efforts resulted in a \$3,500,000.00 Settlement Fund from which cash payments will be sent to all Class Members who submit a claim form. This simplified and direct distribution of

cash payments to Class Members will result in real value to the Class. Under any analysis, the relief afforded by this Settlement is fair and reasonable, especially when weighed against the anticipated cost, prolonged nature, and uncertain outcome of continued litigation. Thus, this factor too weighs in favor of granting final approval.

5. The fact that counsel for all parties and Plaintiffs recommend approval of the Settlement strongly indicates that the Settlement is fair, reasonable, and adequate.

The Sixth Circuit has observed that, when experienced counsel immersed in the legal and factual issues comprising a class action recommend approval of their class settlement, their recommendations are entitled to deference. See *Williams v. Vukovich*, 720 F.2d 909, 922 (6th Cir. 1983) (a district court “should defer to the judgment of experienced counsel who has competently evaluated the strength of his proofs” and that deference “should correspond to the amount of discovery completed and the character of the evidence uncovered”). Likewise, courts in the Sixth Circuit defer to the recommendations made by class representatives who, like Plaintiffs here, were intimately involved in the litigation and support the Settlement. *Gascho v. Global Fitness Holdings, LLC*, No. 2:11-cv-436, 2014 WL 1350509, at *18 (S.D. Ohio Apr. 4, 2014) (“Not insignificantly, the Class Representatives have also approved the Settlement Agreement”).

Class Counsel and Plaintiffs support this Settlement because it provides Class Members with cash payments that directly addresses the issue of what they believe to be improper conduct by Mercy and Avectus. Franke Final Approval Decl., ¶ 3. Defendants are also supportive of the Settlement, which was reached after over Eight (8) years of litigation and extensive settlement negotiations. As the result of discovery conducted and

extensive settlement negotiations, the Parties are in a position to fully analyze the strengths and weaknesses of their respective cases and determine that the Settlement at this stage of the litigation is appropriate. Accordingly, the informed recommendations of the Parties and their experienced counsel weigh in favor of granting final approval.

6. The reaction of Class Members to date supports the Settlement.

The deadline for Class Members to object or opt out of the Settlement was January 22, 2024. There have been zero objections and 5 requests for exclusion. Atticus Decl., ¶¶ 12, 13. Moreover, Class Representatives Keith Raymond and Timothy Strunk fully support the Settlement. This further supports final approval.

7. This Settlement serves the public interest.

“[T]he law favors settlement, particularly in class actions and other complex cases where substantial judicial resources can be conserved by avoiding formal litigation.” *Brent*, 2011 WL 3862363, at *12 (quoting 4 Herbert Newberg & Alba Conte, *Newberg on Class Actions*, § 11.41 (4th ed. 2002)). See also *In re Cardizem CD Antitrust Litig.*, 218 F.R.D. 508, 530 (E.D. Mich. 2003) (“There is a strong public interest in encouraging settlement of complex litigation and class action suits because they are ‘notoriously difficult and unpredictable’ and settlement conserves judicial resources.”). This Settlement serves the public’s interest by ending already protracted litigation and freeing up judicial resources. See *In re Telectronics*, 137 F. Supp. 2d at 1025; see also *Hainey*, 617 F. Supp. 2d at 679; *Enter. Energy Corp. v. Columbia Gas Transmission Corp.*, 137 F.R.D. 240, 248 (S.D. Ohio 1991) (noting that the settlement of a class action lawsuit served the public interest because it “avoid[ed] a time-consuming and expensive trial” and “eliminate[d] the possibility of any time-consuming and expensive appeals.”).

In light of the immediate benefits that the Settlement provides to Class Members, and the fact that this Settlement will avoid further discovery and expensive motion practice, this “overriding public interest” would be well served by approval of this Settlement.

8. The Other Rule 23(e) Factors Support the Settlement.

To the extent not addressed above, the Rule 23(e) factors support the Settlement. The method of distributing relief was chosen to make the claims process as easy as possible. Rule 23(e)(2)(C)(ii). The attorneys’ are, as more fully set forth in Plaintiff’s Motion for Attorneys’ Fees, Expenses, and Class Representative Service Award (Doc. 236), well within the range of fees for a case of this nature and will not take away any settlement funds from Class Members. In fact, all valid claims must be paid prior to any attorney fees or expenses.

There is no undisclosed agreement made in connection with the Settlement. Franke Final Approval Decl., ¶ 7; Rule 23(e)(2)(C)(iv). Furthermore, all class members are treated equitably relative to each other and their claims. Rule 23(e)(2)(D). In total, all of the factors to be considered when determining whether to grant final approval weigh in favor of a finding that the Settlement is fair, reasonable, and adequate.

IV. CONCLUSION

Because the proposed Settlement is fair, adequate, and reasonable, Plaintiffs respectfully request that the Court grant final approval and enter the proposed Order attached hereto.

Respectfully Submitted,

/s/ C. David Ewing

C. David Ewing (#002898)
EWING & WILLIS, PLLC
P.O. Box 991549
Louisville, KY 40259
Tel: (502) 585-5800
Fax: (502) 585-5858

/s/ Gary F. Franke

Gary F. Franke (0029793)
Michael D. O'Neill (0075195)
William M. Bristol (0074005)
GARY F. FRANKE CO., L.P.A.
201 E Fifth Street, Ste. 910
Cincinnati, OH 45202
Tel: (513) 564-9222
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed through the Court's CM/ECF filing system, which shall serve a copy of the document upon all registered counsel of record.

Respectfully Submitted,

/s/ C. David Ewing

C. David Ewing (#002898)
EWING & WILLIS, PLLC
P.O. Box 991549
Louisville, KY 40259
Tel: (502) 585-5800
Fax: (502) 585-5858

/s/ Gary F. Franke

Gary F. Franke (#0029793)
Michael D. O'Neill (#0075195)
William M. Bristol (0074005)
GARY F. FRANKE CO., L.P.A.
201 E Fifth Street, Ste. 910
Cincinnati, OH 45202
Tel: (513) 564-9222
Attorneys for Plaintiffs

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

KEITH RAYMOND, et al.,	:	CASE NO. 1:15-CV-00559-MRB
	:	
Plaintiffs,	:	(Judge Michael R. Barrett)
	:	
v.	:	
	:	
AVECTUS HEALTHCARE	:	
SOLUTIONS, LLC, et al.	:	
	:	
Defendants.	:	

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

Before this Court is Plaintiffs' unopposed Motion for Final Approval of Class Action Settlement (Doc. 237) and Motion for Attorneys' Fees, Expenses, and Class Representative Service Awards (Doc. 236) ("Motions"). The Court has reviewed the Motions and Settlement Agreement between Plaintiffs, Keith Raymond and Timothy Strunk, and Defendants, Mercy Health ("Mercy") and Avectus Healthcare Solutions, LLC ("Avectus"). The Court finds that the Motions should be **GRANTED**. Therefore, it is **ORDERED**:

1. The Court, for purposes of this Final Judgment, adopts the defined terms as set forth in the Settlement Agreement for any term not otherwise defined herein.
2. The Court finds that the Settlement Agreement is fair, reasonable, and adequate, as expressed further herein. The Court also finds that the Settlement

Agreement was entered into in good faith, at arm's length and without collusion. The Court approves and directs consummation of the Settlement Agreement.

3. The Court approves the Release set forth in the Settlement Agreement (Doc. 234-1) and orders that, as of the Effective Date, the Released Claims will be released as to Released Parties.

4. The Court reserves jurisdiction over the Settlement and this Settlement Agreement, and for purposes of enforcing the Settlement and Settlement Agreement, the Court reserves jurisdiction over the Parties to the Settlement.

5. The Court finds that there is no just reason for delay of entry of final judgment with respect to the foregoing.

6. The Court dismisses with prejudice all claims of the Class against Mercy and Avectus in the Litigation, without costs and fees except as explicitly provided for in the Settlement Agreement and herein.

7. The Court grants Plaintiffs' Unopposed Motion for Attorneys' Fees, Expenses, and Class Representative Service Award (Doc. 236). Plaintiffs' Motion indicates that Class Counsel's attorneys' fees, calculated on a lodestar basis, are \$3,640,768.00, and Plaintiffs are requesting that Class Counsel be awarded \$3,200,000 in attorneys' fees. The Court grants Plaintiffs' request and awards Class Counsel \$3,200,000.00 in attorneys' fees, plus reimbursement of expenses in the amount of \$27,037.96, to be paid according to the terms of the Settlement Agreement. These fees and expenses are fair and reasonable. The Court awards Class Representative, Keith Raymond, \$25,000.00 to be paid according to the terms of the Settlement Agreement. The award is justified based on his service to the Class. The Court awards Class

Representative, Timothy Strunk, \$25,000.00 to be paid according to the terms of the Settlement Agreement. The award is justified based on his service to the Class.

8. On November 7, 2023, the Court entered an Order Granting Preliminary Approval of Class Action Settlement (Doc. 235) ("Preliminary Approval Order") and established a hearing date to consider final approval of the Settlement Agreement, Class Counsel's request for Service Awards to the Class Representatives and for attorneys' fees and expenses.

9. The Court's Preliminary Approval Order approved the notices and claim forms and found the distribution and publishing of the various notices as proposed met the requirements of Fed. R. Civ. P. 23 and due process, and is the best notice practicable under the circumstances, constituting due and sufficient notice to all persons entitled to notice.

10. The Court's Preliminary Approval Order also appointed Atticus Administration LLC as the settlement administrator. The Court hereby approves the payment of Atticus's fees and expenses in the amount of \$45,573.

11. The Court finds that the distribution of the Notices has been achieved pursuant to the Preliminary Approval Order and the Settlement Agreement, and that the distribution of Notice to Class Members complies with Fed. R. Civ. P. 23 and due process.

12. The Court further finds that on November 10, 2023, Defendants served on the appropriate federal and state officials notice of the proposed settlement of this action as required by 28 U.S.C. § 1715(b) and that this Final Approval Order is not issued earlier than 90 days after that notice was served as required by 28 U.S.C. § 1715(d).

13. The Court grants final approval to its appointment of Keith Raymond and Timothy Strunk as Class Representatives. The Court finds that the Class Representatives are similarly situated to absent Class Members, are typical of the Class, and are adequate Class Representatives, and that Class Counsel and the Class Representative have fairly and adequately represented the Class.

14. The Court grants final approval to its appointment of Class Counsel as provided in the Preliminary Approval Order (Doc. 235), appointing Gary F. Franke, C. David Ewing and Michael D. O'Neill as Class Counsel. Class Counsel have extensive experience handling Class Actions and have properly represented the interests of the Class in this case.

15. The Court finally certifies the following Class for settlement purposes under Fed. R. Civ. P. 23(a) and 23(b)(3), subject to the Class exclusions set forth in the Settlement Agreement:

All health insured persons, with a health insurance plan accepted by Mercy Health: (1) who were patients at any Mercy Health facility in the State of Ohio between August 27, 2009, and August 31, 2023; (2) who presented evidence of health insurance to Mercy Health; and (3) who thereafter paid, or were requested to pay, any amount of money for the treatment received at any Mercy Health operated facility, other than for co-pays and deductibles.

16. For purposes of settlement, based on the information provided: the Class is ascertainable; it consists of in excess of 10,000 Class Members satisfying numerosity; there are common questions of law and fact including whether Defendants sought payment from health insured individuals other than for co-payments and deductibles; the proposed Class Representative's claims are typical in that they are members of the Class and allege they have been damaged by the same conduct as the other members of the

Class; the proposed Class Representatives and Class Counsel fully, fairly, and adequately protected the interests of the Class; questions of law and fact common to members of the Class predominate over questions affecting only individual members for settlement purposes. A class action is superior to other available methods for the fair and efficient adjudication of this Litigation.

16. Having considered the negotiation of, the terms of, and all of the materials submitted concerning the Settlement Agreement; having considered Plaintiffs' and the Class's likelihood of success both of maintaining this action as a class action and of prevailing on the claims at trial, including the possibility that Mercy and Avectus might prevail on one or more of their defenses; having considered the range of the Plaintiffs' potential recovery and the complexity, expense, and duration of the Litigation; and having considered the substance and amount of opposition to the proposed settlement, it is hereby determined that:

- a) Plaintiff and Class Counsel have adequately represented the proposed Class;
- b) the terms of the Settlement Agreement were negotiated at arm's length, by experienced counsel for Plaintiff and Defendants;
- c) the outcome of the Litigation was in doubt when the Settlement was reached making the compromise under this Settlement reasonable under the circumstances;
- d) it is possible the proposed Class could receive more if the Litigation were to go to trial, but it is also possible that the proposed Class could receive less (including the possibility of receiving nothing);

- e) the value of immediate recovery outweighs the possibility of future relief that might occur, if at all, only after further protracted litigation and appeals;
- f) the Parties have in good faith determined that the Settlement Agreement is in their respective best interests, including the determination that it is in the best interest of all Class Members;
- g) The Settlement Fund is commensurate with the claims asserted and being released as part of the Settlement, and,
- h) the terms of the Settlement Agreement treat the Class Members equitably relative to each other and fall within the range of settlement terms that would be considered a fair, reasonable, and adequate resolution of the Litigation.

Therefore, pursuant to Rule 23(e), the terms of the Settlement Agreement are finally approved as fair, reasonable, and adequate as to, and in the best interest of, the Class and each of the Class Members and all Class Members are bound by this Final Approval Order except for Class Members who opted out of the Settlement. The Settlement Agreement and its terms shall have *res judicata* and preclusive effect in, all pending and future lawsuits or other proceedings as to Released Claims and waivers applicable thereto.

16. The Court approves the distribution and allocation of the Settlement Fund under the Settlement Agreement. To the extent that any funds remain after the allocation of the Settlement Fund, pursuant to the terms of the Settlement Agreement, those funds

shall revert to Defendants, Mercy and Avectus pursuant to the terms of the Settlement Agreement.

17. This Final Approval Order, and all statements, documents, or proceedings relating to the Settlement Agreement are not, and shall not be construed as, used as, or deemed to be evidence of, an admission by Mercy or Avectus of any fault, any wrongdoing, any violation of law, or any liability of any kind on the part of Mercy or Avectus.

18. This Final Approval Order, and all statements, documents or proceedings relating to the Settlement Agreement shall not be offered or received or be admissible in evidence in any action or proceeding, or be used in any way as an admission or concession or evidence of any liability or wrongdoing by Mercy or Avectus. Notwithstanding the above, the Settlement Agreement and this Final Approval Order may be filed in any action by Mercy, Avectus, Class Counsel, or Class Members seeking to enforce the Settlement Agreement or the Final Approval Order. In addition, the foregoing materials may be admitted and considered as evidence in an action to determine insurance coverage or the apportionment of the Settlement Fund to claims asserted in this litigation.

19. The Settlement Agreement and Final Approval Order shall not be construed or admissible as an admission by Mercy or Avectus that Plaintiffs' claims or any similar claims are suitable for class treatment.

IT IS SO ORDERED this ____ day of _____, 2024.

United States District Court Judge, Michael R. Barrett

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

KEITH RAYMOND, et al.,	:	CASE NO. 1:15-CV-00559-MRB
	:	
Plaintiffs,	:	(Judge Michael R. Barrett)
	:	
v.	:	
	:	
AVECTUS HEALTHCARE	:	
SOLUTIONS, LLC, et al.	:	
	:	
Defendants.	:	

**DECLARATION OF GARY F. FRANKE, ESQ. IN SUPPORT OF FINAL APPROVAL
OF CLASS ACTION SETTLEMENT**

I, Gary F. Franke, hereby state that the following is true and accurate and based on my personal knowledge:

- 1) I am the Managing Member of Gary F. Franke Co. LPA and am a member of Lead Counsel representing the preliminarily approved Class. I have personally participated in and have monitored the participation of fellow Counsel in the litigation of this matter from 2015 to the present. The contents of this Declaration are based upon my own personal knowledge, my prior experience in other Class Actions and the history of this litigation.
- 2) I have personally reviewed records produced by Defendants, Mercy Health and Aectus Healthcare Solutions, LLC, reflecting that there are in excess of 10,000 qualified Class Members.
- 3) I am of the opinion the settlement is fair, reasonable and adequate after consultation with fellow Lead Counsel and Defense counsel.

- 4) Lead Class Counsel have extensive experience handling complex Class Actions. In this action, the team of lawyers assembled to represent the Class is knowledgeable and possess extensive experience in complex litigation, including Class Actions, multidistrict litigation (MDL) and medical debt collection. Class Counsel is adequate.
- 5) The proposed Class Settlement was the result of extensive and contentious arm's-length negotiation between counsel with decades of experience in handling complex Class Action litigation. Negotiations were arduous and lengthy, stretching over years requiring the assistance of the Court.
- 6) The Parties engaged in years of formal discovery and conducted numerous depositions. Class Counsel personally reviewed tens of thousands of documents produced by Defendants. This enabled Class Counsel to properly evaluate the liability and damages on a class-wide basis.
- 7) Class Counsel took this case on a contingency-fee basis and still has not been paid anything for the representation of the Class; nor has Class Counsel been reimbursed for any litigation expenses. There are no undisclosed agreements that are part of this Settlement.

I declare under penalty of perjury under the laws of the United States of America that the forgoing is true and correct.

/s/ Gary F. Franke

Date: January 23, 2024

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing has been served upon counsel of record via the Court's CM/ECF System.

/s/ Gary F. Franke

Gary F. Franke
Attorney at Law

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OHIO
WESTERN DIVISION

KEITH RAYMOND, et al.,)	CASE NO. 1:15-CV00599-MRB
)	
Plaintiffs,)	Judge Michael R. Barrett
)	
v.)	
)	
AVECTUS HEALTHCARE)	
SOLUTIONS, LLC, et al.)	
)	
Defendants.)	
)	

**DECLARATION OF BRYN BRIDLEY ON DISSEMINATION OF NOTICE
AND SETTLEMENT ADMINISTRATION**

I, BRYN BRIDLEY, declare as follows:

1. I am the Director of Project Management at Atticus Administration, LLC (“Atticus”), a firm providing class action and claims administration services. I have extensive experience with class action notice, claims processing, and settlement administration. I am fully familiar with the facts contained herein based upon my personal knowledge and involvement in this matter.

2. Atticus is the Settlement Administrator for the above-captioned action and is responsible for carrying out the terms of the *Settlement Agreement and Release* (“Settlement Agreement”) pursuant to the Court’s *Order Granting Preliminary Approval of the Settlement, Certification of a Settlement Class, Appointment of Lead Class Counsel and Appointment of Settlement Administrator* (“Preliminary Approval Order”) filed on November 7, 2023.

3. I submit this declaration to inform the Parties and the Court of settlement administration activities completed to date. This declaration describes: (i) data files containing information about the class members, (ii) notice dissemination, (iii) the settlement website and toll-free telephone number, (iv) exclusion requests and settlement comments received, (v) claim submissions, and (vi) the cost of settlement administration.

I. CLASS LIST

4. On November 13, 2023, Atticus received five (5) secure data files from Defense Counsel that contained the name, address, phone number(s), facility name where treatment was received, visit date, amount paid for treatment, and information relating to whether or not the Settlement Class Member was a member of the “Mercy Only Settlement Subclass,” for 12,807 patients who received treatment at a Mercy Health facility in Ohio between August 27, 2009 and August 31, 2023, and presented evidence of a health insurance plan accepted by Mercy Health but ultimately paid for the treatment received other than for a co-pay or deductible (“Class Members”).

5. Atticus consolidated the files, reviewed the content for accuracy, completeness, and eligibility, and worked with Defense Counsel to finalize the class list. Ultimately, 1,354 duplicate Class Member entries were removed after appending the pertinent Mercy Health treatment information from the duplicate records to those that were retained for the same Class Members. The final class list included 11,453 Class Members – of which 848 are Mercy Only Settlement Subclass members and 10,605 who belong to the Settlement Class.

6. Atticus processed the class list through the National Change of Address (NCOA) database maintained by the United States Postal Service (USPS) prior to sending notice. This process provides address updates for persons who filed change of address cards with the USPS during the past four (4) years.

II. NOTICE DISSEMINATION

7. On December 7, 2023, Atticus sent the *Notice of Class Action and Proposed Settlement* (“Notice”) and “Claim Form” (collectively the “Notice Packet”) to 11,453 Class Members via U.S. first class mail. The Notice included information about the Settlement, the options, and legal rights available to Class Members and the deadlines by which action on the options had to occur, the benefits available, the Fairness Hearing, and contact information for the Parties and Atticus. The Notice also included a QR Code that when scanned directed Class Members to the settlement website for additional settlement information. Each Notice included either the Claim Form for the Mercy Only Settlement Subclass (*Mercy Health/Avectus Settlement Claim Form*) or the Settlement Class

(*Mercy Health/Avectus Request Only Claim Form*) based on the receiving Class Member's status. A true and correct copy of the mailed Notice and both versions of the Claim Form are attached to this declaration as **Exhibit A**.

8. As of this writing, 2,821 of the Notice Packets have been returned as undeliverable. Twenty-two (22) of those undeliverable records included forwarding information and Atticus mailed Notice Packets to the forwarding addresses received from the USPS. Of the 2,799 undeliverable records remaining, Atticus has sent 2,796 undeliverable address records to a professional service for address tracing. Atticus received new addresses for 2,013 of these records and did not receive new addresses for the 783 undeliverable records. Atticus remailed Notice Packets to the 2,035 trace addresses received. One hundred sixty-eight (168) of the remailed Notice Packets came back to Atticus as undeliverable a second time and processing has not occurred on three (3) undeliverable records. Thus, as of this writing, 10,499 Notice Packets or 91.67% pieces are believed to have been successfully mailed. Atticus will continue to trace and remail undeliverable records until the Class Member response deadline has passed.

III. SETTLEMENT WEBSITE AND TELEPHONE NUMBER

9. Atticus obtained the URL www.MedicalBillPaySettlement.com and developed the content found at that address as the dedicated settlement website for this action. Atticus published the website on December 1, 2023 in accordance with the Settlement Agreement. The contents of the Notice Packet included the website URL.

10. The website includes answers to frequently asked questions, access to the Notice, Claim Form, and other settlement documents filed with the Court, a summary of the important dates and deadlines, and Atticus' contact information. The website also provides Class Members with an option to submit a Claim Form online. The website has remained operational since it was launched and remains fully accessible at this time. The website has received 1,922 visits thus far.

11. Atticus secured the telephone number 1-800-210-1732 as the dedicated toll-free settlement information line for this matter and activated it to coincide with dissemination of the Notice Packets. Atticus' customer service representatives answer calls received on the toll-free line

during normal business hours. Class Members who call after hours or when a representative is unavailable have the opportunity to leave a voicemail message and receive a callback as soon as a member of the support team is available. Atticus has received 49 calls.

IV. EXCLUSION REQUESTS AND SETTLEMENT COMMENTS

12. Class Members who do not want to be part of the settlement have until January 22, 2024 to postmark and submit a written request to exclude themselves following the directions included in the mailed Notice. As of this writing, Atticus has received five (5) valid and timely exclusion requests. Atticus will promptly notify the Parties and the Court if additional exclusion requests are received.

13. Class Members who do not like any part of the Settlement have until January 22, 2024 to file and serve notice of their intention to comment on the Settlement with the Court following the directions included in the mailed Notice if they wish to do so. Atticus has received no Class Member intentions to comment on the Settlement or appear at the Fairness Hearing. Atticus will promptly notify the Parties and the Court if any are received hereafter.

V. CLAIM FORMS

14. Class Members have until January 22, 2024 to postmark or otherwise submit a valid and complete claim form to qualify for a cash payment as part of this Settlement. Atticus has received 302 claim form submissions thus far. Of the claims received, 199 were submitted online through the website, 102 were sent by mail and one (1) was sent by email. Two hundred ninety (290) or 96.35% of the claims submitted are valid and eligible for cash payments, seven (7) claim forms are invalid and five (5) are deficient.

15. Of the valid claims received, 15 are submissions from the Mercy Only Settlement Subclass Members and 10 are submissions from additional Settlement Class Members who made payments. Both groups are entitled to cash payments of \$25 plus up to 50% of the payment(s) they made. The cash payment total owed to members of the Mercy Only Settlement Subclass Members with valid claims is \$20,437.67, which is equal to 50% of the Medical Bill Payments they cumulatively made. The cash payment total owed to remaining Settlement Class Members with valid

claims is \$2,895.63, which is equal to 50% of the Medical Bill Payments they cumulatively made. The remaining 265 Settlement Class Members with valid claims are eligible for \$25 cash payments. Five (5) invalid claims are duplicate submissions from Class Members with other valid claims on record and one (1) Class Member used the Claim Form enclosure to communicate with Atticus without making a claim. One (1) claim is listed as "Invalid", due to it being completed by someone other than the Class Member. Atticus is attempting to "cure" or correct five (5) deficient claims with missing information or signatures. One (1) claim submitted in response to a cure letter is listed as "Invalid-Duplicate", due to being submitted a second time without the correction being completed.

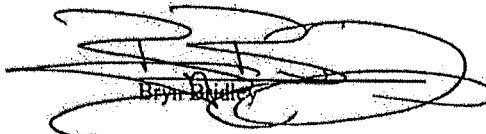
16. Class Members who submit incomplete or deficient Claim Forms are sent a *Notice of Deficient Claim* letter ("Cure Letter") that informs them of the reason(s) for their deficient claim form along with the actions required of the Class Member to validate the claim, and the deadline by which a response is required. Class Members have 30 days from the date the Cure Letter is mailed to postmark or otherwise return a deficiency notice response. A true and correct copy of the Cure Letter template is attached to this declaration as **Exhibit B**.

17. There were seven (7) Claim Forms requiring Cure Letters, five (5) for which the final outcomes are pending Class Member responses at this time. One (1) valid cure response and one (1) new Claim Form submission which negated the need for correction on the original claim. Atticus will continue to receive, process, and validate or attempt to cure claims received throughout the claims period and until the last cure response deadline has passed.

VI. COST OF SETTLEMENT ADMINISTRATION

18. Atticus agreed to administer the terms of this settlement for \$45,573.

I declare under penalty of perjury under the laws of the United States and the State of Missouri that the foregoing is true and correct and executed on this 25 day of January 2024 in Mendota Heights, Minnesota.



Bryn Bradley

EXHIBIT A



«barcode»

Claimant ID: «claimant_id»
«first_name» «last_name»«last_name»
«address1»
«city» «state» «zip»

Scan the QR Code below to
complete your Claim Form:



In the United States District Court for the Southern District of Ohio
Keith Raymond, et al., v. Avectus Healthcare Solutions, LLC d/b/a MedPay Assurance LLC and Mercy Health
Case No. 1:15-cv-00559-MRB

NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

***A FEDERAL COURT ORDERED THIS IMPORTANT NOTICE. YOU ARE NOT BEING SUED.
THIS IS NOT A SOLICITATION FROM A LAWYER.***

If you received treatment at a Mercy Health facility in Ohio between August 27, 2009, and August 31, 2023; presented evidence of health insurance to Mercy Health through a plan accepted by Mercy Health; and thereafter paid, or were requested to pay, any amount of money for the treatment received from Mercy Health, other than for a copay or deductible, you are a part of a class-action settlement.

- A Settlement has been reached in a class action lawsuit against Avectus Healthcare Solutions, LLC d/b/a MedPay Assurance LLC (“Avectus”) and Mercy Health. The class action lawsuit involves whether or not certain communications by Mercy Health and its vendors, including Avectus, complied with Ohio law.
- You are included in the Settlement if you (a) received treatment at a Mercy Health facility in Ohio between August 27, 2009, and August 31, 2023; (b) in conjunction with that treatment, presented evidence to Mercy Health of health insurance through a plan accepted by Mercy Health; and (c) thereafter paid, or were requested to pay, to Mercy Health any amount of money for the treatment received, other than for copays and deductibles, if any.
- Only patients who presented evidence of insurance to Mercy Health through a plan accepted by Mercy Health and then paid, or were requested to pay, money to Mercy Health, other than for copays and deductibles, are eligible to receive payment, and only one claim may be submitted per individual.
- If you are included in the Settlement, you are eligible to receive a cash payment of up to \$25.00, regardless of whether you made a payment to Mercy Health. If you or your attorney made a payment to Mercy Health, you may be eligible to receive a cash payment of up to 50% of the payment to Mercy Health. The exact amount depends on whether you actually made payment for covered services, the actual amount of any payment you made, and the number and value of valid claims submitted.
- Please read this Notice carefully. Your legal rights are affected whether or not you act.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

<p>SUBMIT A CLAIM FORM BY JANUARY 22, 2024</p>	<p>You must submit a Claim Form within 45 days of the Claim Notice if you want to receive a payment from this Settlement. Claim Forms must be submitted online or postmarked by January 22, 2024.</p>
<p>EXCLUDE YOURSELF FROM (OR "OPT OUT OF") THE SETTLEMENT BY JANUARY 22, 2024</p>	<p>You can remove yourself entirely from participation in this class action Settlement. If you do this, you will not receive any benefits from this Settlement, but you will retain any right you would otherwise have to file a separate lawsuit against Mercy Health and/or Avectus about the allegations in this case.</p> <p>Your request to exclude yourself from the Settlement must be RECEIVED or POSTMARKED within 45 days of the Claim Notice, that is by January 22, 2024.</p> <p>You cannot both exclude yourself and also object.</p>
<p>OBJECT BY JANUARY 22, 2024</p>	<p>You can remain a Settlement Class Member and are bound by the Settlement, but you may write to the Court and explain why you do not like any aspect of the Settlement. Objections must be RECEIVED or POSTMARKED within 45 days of the Claim Notice, that is by January 22, 2024.</p> <p>You may still submit a Claim Form even if you object.</p> <p>You cannot both exclude yourself and also object.</p>
<p>DO NOTHING</p>	<p>If you do nothing, you will remain a Settlement Class Member—be bound by the Settlement, including the release of claims described below—but you will not receive any payment from the Settlement.</p>

BASIC INFORMATION

A. Why should I read this Notice?

A court authorized this Notice to inform you about a proposed class action settlement of a lawsuit pending in the United States District Court for the Southern District of Ohio called *Raymond, et al., v. Avectus Healthcare Solutions, LLC, et al.*, S.D. Ohio No. 1:15-cv-00559-MRB, brought on behalf of the Settlement Class. This Notice describes the Settlement. Please read this Notice carefully to determine whether you wish to participate in the Settlement. This Notice explains your rights and options and the deadlines to exercise them. ***The Settlement affects your legal rights whether or not you act.***

B. What is this lawsuit about?

The lawsuit claims that certain communications made to Mercy Health patients, including communications made by Avectus to Mercy Health patients, violated Ohio law regarding seeking payments from patients who have health insurance. A more complete description of Plaintiffs' allegations is available in the Class Action Complaint, which is available on the Settlement Website at www.MedicalBillPaymentSettlement.com.

Avectus and Mercy Health maintain that they have complied with all applicable Ohio laws, deny that they have done anything wrong, and deny that anyone has been harmed in any way. Plaintiffs, Mercy Health, and Avectus decided to settle the lawsuit, on the terms of this Settlement, solely for the purpose of avoiding the burden, expense, risk, and uncertainty that are inherent in litigation.

C. What is a class action and who is involved?

In a class action lawsuit, someone called a "Class Representative" (in this case Plaintiffs Keith Raymond and Timothy Strunk) sues on behalf of other people who have allegedly similar claims. If the Court approves, the group of similar people is referred to as a "Class" or the "Class Members." In a class action, one court resolves the issues for everyone in the Class, except for those people who choose to exclude themselves from the Class.

After the parties reached an agreement to settle this case, the Court granted preliminary approval of the Settlement and conditionally recognized it as a case that should be treated as a class action for settlement purposes. Among other things, this preliminary approval permits Settlement Class Members to exclude themselves from the Settlement Class or to voice their support of or opposition to the Settlement before the Court makes a final determination as to certification of the Settlement Class and approval of the Settlement.

D. Why is there a Settlement?

The Court has not decided in favor of any party to the litigation. Instead, the Parties (meaning Plaintiffs, Avectus and Mercy Health) have agreed to settle the claims against Avectus and Mercy Health by entering into a written Settlement Agreement.

Avectus and Mercy Health maintain that their conduct was lawful, and they deny all allegations of wrongdoing or liability.

The Class Representatives and their attorneys think the Settlement is best for everyone because it provides benefits to the Class Members now while avoiding the risk, expense, uncertainty, and delay of pursuing the case through trial and appeals. Avectus and Mercy Health are settling solely for the purpose of avoiding the risk, burden, expense, and uncertainty that are inherent in litigation.

WHO IS AFFECTED BY THE SETTLEMENT?

E. How do I know if I am part of the Settlement Class?

The Settlement Class includes the following persons: All health insured persons, with a health insurance plan accepted by Mercy Health: (1) who were patients at any Mercy Health facility in the State of Ohio between August 27, 2009, and August 31, 2023; (2) who presented evidence of health insurance to Mercy Health; and (3) who thereafter paid, or were requested to pay, any amount of money for the treatment received at any Mercy Health operated facility, other than for co-pays and deductibles.

There is also a Settlement Subclass, the "Mercy Only Settlement Class," that includes all health insured persons, with a health insurance plan accepted by Mercy Health: (1) who were patients at any Mercy Health facility in the State of Ohio between August 27, 2009, and August 31, 2023; (2) who presented evidence of health insurance to Mercy Health; (3) who thereafter paid, or were requested to pay, any amount of money for the treatment received at any Mercy Health operated facility, other than for co-pays and deductibles; and (4) who were *not* contacted by Avectus on Mercy Health's behalf.

Only patients who presented evidence of insurance to Mercy Health through a plan accepted by Mercy Health and then paid, or were requested to pay, money to Mercy Health, other than for copays and deductibles, are eligible to receive payment.

Excluded from the Settlement Class are: (a) all persons who would otherwise qualify for membership in the Settlement Class but for the fact that such person previously has released all claims as to Avectus and Mercy Health; (b) Avectus's and Mercy Health's respective officers, directors, and employees; (c) Avectus's and Mercy Health's attorneys; (d) Plaintiffs' attorneys; and (e) any judge who has presided over the disposition of this case and the members of his or her immediate family.

If you fall within the foregoing Settlement Class definition, you are a Settlement Class Member and will be bound by the Settlement, unless you opt out or exclude yourself. (See Question "M. How do I exclude myself from the Settlement?") for how to opt out or exclude yourself.

WHAT BENEFITS ARE PROVIDED?

F. What does the Settlement provide?

Avectus and Mercy Health have agreed to make available \$3.5 million (the "Fund"), which will be used to pay Settlement Class Members, pay Class Counsel's attorneys' fees and costs, pay a service award to the Class Representatives, and pay the costs and expenses of settlement administration.

Subject to the terms and conditions of the Settlement Agreement, Avectus and Mercy Health shall pay \$25.00 (a "Base Settlement Payment") to each Approved Claimant who was requested to pay money to Mercy Health, other than for copays

or deductibles, regardless of whether the Approved Claimant submitted a payment to Mercy Health. Each Approved Claimant shall be entitled to only one Base Settlement Payment. If the total of the Base Settlement Payments to all Approved Claimants would exceed \$500,000, the amount of each Base Settlement Payment shall be reduced pro rata so that the total Base Settlement Payments do not exceed \$500,000.

Subject to the terms and conditions of the Settlement Agreement, Avectus and Mercy Health shall pay each Approved Claimant who was requested to pay money to Mercy Health and who himself, herself, or through an attorney actually paid money to Mercy Health for covered services, other than for copays and deductibles, (a "Medical Bill Payment") a cash payment equal to 50% of the Medical Bill Payment. A Medical Bill Payment does not include any payment made by any insurance company, tortfeasor (e.g., the driver at fault in an auto accident), or other third party.

In addition, Avectus and Mercy Health have agreed to pay, from the Fund, Settlement Class Counsel's attorneys' fees and costs and service awards to the named Plaintiffs, in an amount to be determined by the Court, along with the cost and expenses for the administration of the Settlement.

There is a cap of \$3.5 million for the total Settlement Fund—including attorneys' fees and costs, service awards, and the cost and expenses of Settlement Administration. If the combined sum of the payments to the Class Members, the attorneys' fees and costs and service awards approved by the Court, and the cost and expenses would exceed \$3.5 million, then all Settlement Payments shall be reduced on a pro rata basis so that the total amount paid by Avectus and Mercy Health does not exceed \$3.5 million.

If you are a member of the Settlement Class (see Question "E. How do I know if I am part of the Settlement Class?"), and you choose to stay in the Settlement Class, you can submit a Claim Form to receive a check containing your cash payment (See Question "G. How can I get a cash payment?"). The Settlement Agreement provides more details about the Settlement. You can access a copy of the Settlement Agreement at the Settlement Website: www.MedicalBillPaymentSettlement.com.

HOW YOU GET SETTLEMENT BENEFITS

G. How can I get a cash payment?

To claim a cash payment as part of the Settlement, you must complete and submit the attached Claim Form, online or by U.S. Mail, within 45 days of the Claim Notice, that is by **January 22, 2024**. You cannot submit your Claim Form by any other method. You can submit an electronic Claim Form online at www.MedicalBillPaymentSettlement.com before 11:59 p.m. ET on **January 22, 2024**. If you choose to submit your Claim Form by U.S. Mail, it must be postmarked by **January 22, 2024** and must be received by the Settlement Administrator by February 5, 2024 to be eligible for payment. Claim Forms sent by U.S. Mail should be addressed to *Raymond v. Avectus Healthcare Solutions, LLC*, c/o Atticus Administration, PO Box 64053, St. Paul, MN 55164.

Please read the instructions on the Claim Form carefully. To be eligible, you must affirm on the Claim Form, under penalty of perjury: (1) that you were a patient at a Mercy Health facility in the State of Ohio between August 27, 2009, and August 31, 2023; (2) that you had health insurance through a plan accepted by Mercy Health and that you presented evidence of health insurance to Mercy Health in conjunction with your treatment; and (3) if true, that you thereafter paid, or were requested to pay, any amount of money for the treatment for covered services received at any Mercy Health operated facility, other than for co-pays and deductibles. The Claim Form you received as an attachment to this Notice pertains to your category of claim, specifically, the Claim Form may provide for an award on account of being contacted by Mercy or Avectus but not responding thereto with a payment. Or the Claim Form attached may provide for an Award for those qualifying Class Members identified through Mercy records as potentially having submitted a payment to Mercy. If you are in receipt of the latter Claim Form, you are required to affirm whether you or your attorney on your behalf made a payment to Mercy Health in conjunction with that treatment—other than a copay or deductible. Amounts paid by an insurance company, tortfeasor (e.g., the driver at fault in an auto accident), or other third party do not qualify.

H. When would I get my Settlement Payment?

If you timely submit a valid Claim Form, you should receive a check from the Settlement Administrator by 90 days after the Settlement has received final approval and/or after any appeals have been resolved in favor of the Settlement. The Court will hold a hearing on February 8, 2024, at 11:00 a.m., to decide whether to approve the Settlement. If the Court

approves the Settlement, there may then be appeals. It is always uncertain how these appeals will be resolved, and resolving them can take time, perhaps more than a year after Court approval.

All checks will expire 90 days after they are issued.

THE LAWYERS REPRESENTING YOU

I. Who represents the Settlement Class?

The Court has appointed the following attorneys as Settlement Class Counsel to represent you and the rest of the Settlement Class Members in this case for purposes of the Settlement: Gary F. Franke and Michael D. O'Neill of Gary F. Franke Co., L.P.A. and C. David Ewing of Ewing & Willis, PLLC.

You will not be charged directly for these attorneys, but they will be compensated out of the Settlement Fund (see Question "F. What does the Settlement provide?"). If you want to be represented by your own lawyer, you may hire an attorney at your own cost.

In addition, the Court appointed Keith Raymond and Timothy Strunk to serve as the Class Representatives. They are also Settlement Class Members.

J. How will the lawyers be paid?

Settlement Class Counsel will ask the Court for an award of attorneys' fees, which will be paid out of the Settlement Fund (see Question "F. What does the Settlement provide?"). From the beginning of this case in August 2015, Settlement Class Counsel has not received any payment for the time they have spent litigating this case or obtaining the Settlement.

They will ask the Court to approve payment of attorneys' fees and expenses in an amount the Court determines to be fair and reasonable but no greater than the amount remaining in the Settlement Fund after the payment of all claims to Settlement Class Members and all fees, costs, taxes, and other expenses related to the Settlement (including the costs of settlement administration) and in no event greater than \$3.5 million. Settlement Class Counsel will submit their fee request 14 days prior to the Fairness Hearing that is by **January 25, 2024**. Settlement Class Counsel's fee request will be posted on the Settlement Website at www.MedicalBillPaymentSettlement.com. Avectus and Mercy Health will not object to Class Counsel's fee request so long as the fee award is determined by the Court. You may also comment on the amount Settlement Class Counsel requests (see Question "P. How do I provide the Court my comments on the Settlement?").

Settlement Class Counsel will also request service awards of \$25,000 to each of the two Class Representatives as compensation for their time and effort.

The Court will ultimately decide the amount to award. These payments, along with the costs of administering the Settlement, will be paid out of the Settlement Fund.

YOUR RIGHTS AND OPTIONS

K. What am I giving up to get a cash payment or stay in the Settlement Class?

If the Court grants final approval to the Settlement, the Court will enter a final order and judgment and dismiss the case against Avectus and Mercy Health with prejudice. Claim Forms and payments under the Settlement will then be processed, and Settlement Payments will be distributed. The release by the Settlement Class Members will also take effect.

Under the release, unless you exclude yourself from the Settlement Class, you cannot separately sue Mercy Health or Avectus or any of the Released Parties for the claims and issues in this case or any of the Released Claims. The Settlement Agreement contains the following release:

In exchange for the consideration and relief described in this Settlement Agreement, the Plaintiffs, Settlement Class Members, and/or his or her respective spouse, heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors and assigns and all those acting or purporting to act on their behalf agree to release, acquit, and forever discharge the Released Parties from all duties, obligations, demands, allegations, claims, actions, causes of action, suits, damages, rights or

liabilities of any nature and description whatsoever, whether arising under local, state or federal law, whether by Constitution, statute (including, but not limited to, the FDCPA¹, the OCSA², the Healthcare Billing Statutes³, and any assertions of liability, debts, covenants, guarantees, projections, losses, endorsements, controversies, suits, actions, rights, legal duties, warranties, torts, unfair or deceptive practices, statutory violations, contracts, agreements, obligations, promises, promissory estoppel, detrimental reliance, or unjust enrichment), tort, contract, common law or equity or otherwise, whether known or unknown, concealed or hidden, suspected or unsuspected, anticipated or unanticipated, asserted or unasserted, foreseen or unforeseen, actual, fixed, contingent, or vested, liquidated or unliquidated, direct or indirect, matured or unmatured, individually or on behalf of or as part of any putative, proposed, or certified class or other aggregate proceeding, related to, arising out of, concerning or in connection with in any way, any and all alleged direct or indirect acts, omissions, representations, conducts, legal duties, unjust enrichment, trade practices, or obligations that arise out of, or are related or connected in any way with pricing, billing and payment practices of Mercy Health and/or Avectus and/or the Litigation. This release includes, but is not limited to, all claimed or unclaimed compensatory damages, actual damages, damages stemming from any allegations of willfulness or recklessness, damages for emotional distress, statutory damages, consequential damages, incidental damages, nominal damages, treble damages, punitive and exemplary damages, injunction, rescission, reformation, restitution, disgorgement, constructive trust, as well as all claims for equitable, declaratory or injunctive relief under any federal or state statute or common law or other theory that was alleged or could have been alleged in the Litigation, including but not limited to, any and all claims under deceptive or unfair practices statutes, or any other statute, regulation or judicial interpretation. This release also includes interest, costs, and fees arising out of any of the claims described above. Nothing in this Settlement Agreement shall be deemed a release of the Parties' respective rights and obligations under this Settlement Agreement. In addition, nothing in this Settlement Agreement shall be deemed a release of any medical malpractice or similar claim that any Settlement Class Member may have against Mercy Health.

(See Section 11.2 of the Settlement Agreement.)

As you can see, by staying in the Settlement Class, you are releasing—or giving up—any unknown claims. That means you are giving up claims against Avectus and Mercy Health which you might have but do not know you have. Section 11.3 of the Settlement Agreement provides more detail on what this means.

The full Settlement Agreement is available at www.MedicalBillPaymentSettlement.com.

Unless you exclude yourself from the Settlement Class, you will be bound by the Settlement Agreement and any decisions by the Court relating to the Settlement. If you do not wish to be a Settlement Class Member, you must exclude yourself from the Settlement Class.

If the Court does not approve the Settlement, the case will proceed as though no settlement had been attempted. If the Settlement is not approved, there is no assurance that a class would receive a greater recovery than provided for in the Settlement (if anything).

L. What if I do nothing?

If you do nothing, you will not receive a payment under the Settlement, and you will release all claims you may have against Mercy Health, Avectus, and the Released Parties concerning the conduct alleged in this case. (See Question “N. If I do not exclude myself, can I sue Avectus and Mercy Health for the same thing later?”).

¹ Defined as the Fair Debt Collections Practices Act and related administrative regulations.

² Defined as the Ohio Consumer Sales Practices Act, Ohio R.C. 1345.01, et seq. and related administrative regulations.

³ Defined as Ohio Rev. Code 1751.60, et seq., and related administrative regulations and similar statutes and regulations under the laws of other States or the United States.

M. How do I exclude myself from the Settlement?

If you do not want to be part of the Settlement Class, you must take steps to exclude yourself from, or opt out of, the Settlement Class. (Excluding yourself or opting out of the Settlement Class are the same thing.) If you do this, you cannot submit a Claim Form and will not get a Settlement Payment, but you will also not release any claims you have. If you exclude yourself, you also will not be bound by any orders or judgments issued in this case, and if you choose to do so, you can pursue whatever legal rights you may have in a separate proceeding, but you will do so at your own expense.

To exclude yourself from the Settlement Class, you must send a written request to the Settlement Administrator with the notification: "Exclusion Requests—*Avectus and Mercy Health* Settlement Administrator." The written request must also contain your name, your original signature, current postal address and telephone number, and a specific statement that you want to be excluded from the Settlement Class. It will be sufficient to state, along with the other required information, that "I wish to opt out of the settlement" or "I wish to be excluded from the settlement." You must mail your exclusion Request so that it is postmarked no later than January 22, 2024, to:

Exclusion Requests – *Avectus and Mercy Health* Settlement Administrator
c/o Atticus Administration
PO Box 64053
St. Paul, MN 55164

You cannot exclude yourself by phone or by e-mail. You also cannot exclude yourself by mailing a request to any other location or after the deadline. You cannot exclude others or be excluded as part of a group or class consisting of more than one patient.

REQUESTS FOR EXCLUSION THAT ARE NOT POSTMARKED ON OR BEFORE JANUARY 22, 2024 WILL BE INVALID AND WILL NOT BE HONORED.

N. If I don't exclude myself, can I sue *Avectus* and *Mercy Health* for the same thing later?

No. If you do not exclude yourself, you give up or waive the right to sue *Mercy Health*, *Avectus*, and the Released Parties for the claims being resolved by this Settlement. (See Question "K. What am I giving up to get a benefit cash payment or stay in the Settlement Class?").

O. If I exclude myself, can I participate in the Settlement?

No. If you exclude yourself from the Settlement Class, you cannot participate in the Settlement, you will not be eligible to receive a payment pursuant to the Settlement, and you will not be able to object to the Settlement.

P. How do I provide the Court my comments on the Settlement?

If you do not exclude yourself from the Settlement Class, you can provide the Court comments on the Settlement if you like or do not like any part of the Settlement. The Court and Settlement Class Counsel will consider your views carefully. To comment—which is entirely optional—you must file with the Court a notice of your intention to comment (which shall set forth each comment and the basis therefor). Any comments must be in writing and include: (1) the name of this lawsuit, *Raymond v. Avectus Healthcare Solutions, LLC*, Case No. 1:15-cv-00559; (2) whether you or any attorney acting on your behalf intend to appear at the Fairness Hearing; and (3) a signed verification of membership in the Settlement Class. These materials must be filed with Court and served upon Settlement Class Counsel and Defense Counsel by first class mail postage prepaid, CM/ECF Notification, or any other form of service upon counsel of record permitted by Rule 5(b)(2) of the Federal Rules of Civil Procedure. Comments on the Settlement must be filed and served no later than January 22, 2024. Comments on Settlement Class Counsel's request for attorneys' fees must be filed and served by February 1, 2024.

For your convenience, the following addresses may be used for filing and serving any comments:

COURT Clerk of the Court United States District Court Potter Stewart U.S. Courthouse, Room 103 100 East Fifth Street Cincinnati, OH 45202	CLASS COUNSEL GARY F. FRANKE CO., LPA Gary F. Franke 201 East Fifth Street Suite 910 Cincinnati, OH 45202
-----------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------

«barcode»

**MERCY HEALTH / AVECTUS SETTLEMENT
REQUEST ONLY CLAIM FORM**

If you (a) received treatment at a Mercy Health facility in Ohio between August 27, 2009, and August 31, 2023; (b) in conjunction with that treatment, presented evidence to Mercy Health of health insurance through a plan accepted by Mercy Health; and (c) thereafter were requested to pay to Mercy Health any amount of money for treatment received for services covered by your health insurance plan, other than for copays and deductibles, if any, and you have not previously released all claims as to Mercy Health and Avectus, then as a result of a Settlement with Mercy Health and Avectus you are eligible to receive a cash payment of up to \$25.

To receive a payment, you must submit this Claim Form. The deadline to file a complete Claim Form online is 11:59 P.M. Eastern Time on January 22, 2024. A Claim Form can be submitted online by scanning the QR code on the Notice sent with this Claim Form. All Claim Forms submitted by U.S. Mail must be postmarked by January 22, 2024.

The amount of the payment will be determined based on a formula contained in the Settlement Agreement. Additional information regarding the formula and the Settlement can be found at www.MedicalBillPaymentSettlement.com.

Only patients who presented evidence of insurance to Mercy Health through a plan accepted by Mercy Health and then paid, or were requested to pay, money to Mercy Health for services covered by your health insurance plan, other than for copays and deductibles, are eligible to receive payment, and only one claim may be submitted per individual.

Completed Claim Forms must be submitted either online at www.MedicalBillPaymentSettlement.com or by U.S. Mail. If submitting a Claim Form by U.S. Mail, it must be mailed to the following address:

Raymond v. Avectus Healthcare Solutions, LLC
c/o Atticus Administration
PO Box 64053
St. Paul, MN 55164

If you submit a Claim Form online, it must be submitted by 11:59 P.M. ET on January 22, 2024. If you submit a Claim Form by U.S. Mail, it must be postmarked on or before January 22, 2024. Claim Forms submitted online after January 22, 2024 or postmarked after January 22, 2024 will not be eligible for payment under the Settlement. In addition, Claim Forms sent by U.S. Mail must be received by the Settlement Administrator by February 5, 2024 to be eligible for payment under the Settlement.

Please Complete Each Section On The Following Page In The Space Provided. Incomplete Claim Forms Will Be Ineligible For A Payment.

«barcode»

SECTION I: CONTACT INFORMATION

Name (First/Last)	
Name at time of treatment	
Street Address	
City, State, Zip Code	
Phone Number (primary)	
Current E-mail Address	
Mercy Account Number (if known)	

I understand that the parties to the lawsuit have the right to audit my claim and may contact me at the address, phone number, or e-mail address I have provided to do so.

SECTION II: CERTIFICATION OF TREATMENT

By submitting this Claim Form, I hereby certify and affirm, under penalty of perjury, that I: (a) received treatment at a Mercy Health facility in Ohio between August 27, 2009, and August 31, 2023; (b) in conjunction with that treatment, presented evidence to Mercy Health of health insurance through a plan accepted by Mercy Health; and (c) thereafter paid, or was requested to pay, to Mercy Health any amount of money for the treatment received for covered services, other than for copays and deductibles. I understand that only one claim may be submitted per individual.

Date(s) of Treatment	Location of Treatment

SECTION III: SIGNATURE

Date: _____ / _____ / _____ Signature _____

<<barcode>>

**MERCY HEALTH / AVECTUS SETTLEMENT
CLAIM FORM**

If you (a) received treatment at a Mercy Health facility in Ohio between August 27, 2009, and August 31, 2023; (b) in conjunction with that treatment, presented evidence to Mercy Health of health insurance through a plan accepted by Mercy Health; and (c) thereafter paid, or were requested to pay, to Mercy Health any amount of money for treatment received for services covered by your health insurance plan, other than for copays and deductibles, if any, and you have not previously released all claims as to Mercy Health and Avectus, then as a result of a Settlement with Mercy Health and Avectus you are eligible to receive a cash payment of up to \$25 plus up to 50% of any payment you made or an attorney made on your behalf to Mercy Health for covered services, other than for copays and deductibles.

To receive a payment, you must submit this Claim Form. The deadline to file a complete Claim Form online is 11:59 P.M. Eastern Time on January 22, 2024. A Claim Form can be submitted online by scanning the QR code on the Notice sent with this Claim Form. All Claim Forms submitted by U.S. Mail must be postmarked by January 22, 2024.

The amount of the payment will be determined based on a formula contained in the Settlement Agreement. Additional information regarding the formula and the Settlement can be found at www.MedicalBillPaymentSettlement.com.

Only patients who presented evidence of insurance to Mercy Health through a plan accepted by Mercy Health and then paid, or were requested to pay, money to Mercy Health for services covered by your health insurance plan, other than for copays and deductibles, are eligible to receive payment, and only one claim may be submitted per individual.

Completed Claim Forms must be submitted either online at www.MedicalBillPaymentSettlement.com or by U.S. Mail. If submitting a Claim Form by U.S. Mail, it must be mailed to the following address:

Raymond v. Avectus Healthcare Solutions, LLC
c/o Atticus Administration
PO Box 64053
St. Paul, MN 55164

If you submit a Claim Form online, it must be submitted by 11:59 P.M.ET on January 22, 2024. If you submit a Claim Form by U.S. Mail, it must be postmarked on or before January 22, 2024.

Claim Forms submitted online *after* January 22, 2024 or postmarked *after* January 22, 2024 will not be eligible for payment under the Settlement. In addition, Claim Forms sent by U.S. Mail must be received by the Settlement Administrator by February 5, 2024 to be eligible for payment under the Settlement.

Please Complete Each Section On The Following Page In The Space Provided. Incomplete Claim Forms Will Be Ineligible For A Payment.

<<barcode>>

SECTION I: CONTACT INFORMATION

Name (First/Last)	
Name at time of treatment	
Street Address	
City, State, Zip Code	
Phone Number (primary)	
Current E-mail Address	
Mercy Account Number (if known)	

I understand that the parties to the lawsuit have the right to audit my claim and may contact me at the address, phone number, or e-mail address I have provided to do so.

SECTION II: CERTIFICATION OF TREATMENT

By submitting this Claim Form, I hereby certify and affirm, under penalty of perjury, that: (a) I received treatment at a Mercy Health facility in Ohio between August 27, 2009, and August 31, 2023; (b) in conjunction with that treatment, I presented evidence to Mercy Health of health insurance through a plan accepted by Mercy Health; and (c) thereafter I, or an attorney on my behalf, made a payment, other than for a copay or deductible, to Mercy Health for covered services (a "Medical Bill Payment"). I understand that a Medical Bill Payment does not include any payment made by an insurance company, tortfeasor (e.g., the driver at fault in an auto accident), or other third party. I also understand that only one claim may be submitted per individual.

I or an attorney on my behalf made a Medical Bill Payment to Mercy Health.

Date(s) of Treatment	Location of Treatment

SECTION III: SIGNATURE

Date: _____ / _____ / _____ Signature _____

EXHIBIT B

Thank you for submitting your Claim Form in the *Raymond v Aectus Healthcare Solutions, LLC* case. You are receiving this notice because the Claim Form you submitted did not meet the requirements of a valid claim.

Your claim is deficient for the following reason(s):

CLAIM FORM NOT SIGNED

<<Your Claim Form was not signed. Your signature is required to validate your claim. Please either complete your Claim Form online at www.MedicalBillPaymentSettlement.com, or complete, sign and return the attached Claim Form.>>

INCOMPLETE CHECK BOX

<<The check box for the question, "I or an attorney on my behalf made a Medical Bill Payment to Mercy Health" was not checked. Please either complete your Claim Form online at www.MedicalBillPaymentSettlement.com, or complete, sign and return the attached Claim Form.>>

NO CLASS MEMBER DATA

<<The Claim Form you submitted did not include any of the required Class Member data. If you missed this information in error, please complete the enclosed Claim Form and return it by the deadline in this letter.>>

INCOMPLETE CLASS MEMBER DATA

<<The Claim Form you submitted did not include some of the required Class Member data. If you missed this information in error, please complete the enclosed Claim Form and return it by the deadline in this letter.>>

Failure to respond to this notice and provide the information necessary to validate your Claim Form by <<30 days from cure letter mail date>> may result in the rejection of your claim and you may not be eligible to receive a settlement payment.

Please send your signed Claim Form by <<30 days from cure letter mail date>> to the Settlement Administrator's office:

BY EMAIL: MedicalBillPaymentSettlement@atticusadmin.com

BY MAIL: Raymond v Aectus Healthcare Solutions, LLC
c/o Atticus Administration
PO Box 64053
Saint Paul, MN 55164

For more information, please call toll-free 1-800-210-1732

Sincerely,

Office of the Settlement Administrator