

**IN THE CIRCUIT COURT OF THE  
THIRTEENTH CIRCUIT COURT,  
IN AND FOR HILLSBOROUGH  
COUNTY, FLORIDA - CIVIL DIVISION**

DOUGLAS BAUER, individually, and  
on behalf of all similarly situated,

Plaintiff,

vs.

ST. JOSEPH'S HOSPITAL, INC.,

Defendant.

Class Representation

Case No. 19-CA-10837

Division: L

Business Division

**ORDER GRANTING  
JOINT MOTION FOR PRELIMINARY APPROVAL  
OF CLASS ACTION SETTLEMENT, CERTIFYING CLASS  
FOR SETTLEMENT PURPOSES ONLY, DIRECTING THE ISSUANCE  
OF CLASS NOTICE, AND SCHEDULING A FINAL APPROVAL HEARING**

THIS MATTER came before the Court on February 22, 2021, on the Joint Motion for Preliminary Approval of Class Action Settlement Agreement (the “Motion”), and the Court, having reviewed the Motion, including the parties’ Settlement Agreement and Release (the “Settlement Agreement” or “Settlement”) and all exhibits thereto, and having heard the argument of counsel and being otherwise fully advised in the premises, it is hereby;

**ORDERED, ADJUDGED and DECREED** as follows:

1. **Settlement.** Named Plaintiff and the Hospitals (collectively the “Parties”) have negotiated a potential settlement of this action (the “Litigation” or the “Action”) to avoid the expense, uncertainties, and burden of protracted litigation, and to resolve the Released Claims against the Released Parties, in all capacities, including the Hospitals (“Hospitals” or “Defendants”), and any of such entities’ past, present, and future divisions, parents, subsidiaries, predecessors, investors, parent companies, affiliates, and each and all of their respective past, present, and future directors, officers, managers, employees, general partners, limited partners, principals, agents, brokers, distributors, insurers, reinsurers, shareholders, attorneys, advisors,

representatives, predecessors, successors, divisions, joint ventures, assigns, or related entities, and each and all of their respective executors, successors, assigns, and legal representatives.

2. **Review.** The Court has carefully reviewed the Settlement Agreement, as well as the files, records, and proceedings to date in this matter. The terms and conditions in the Settlement Agreement are hereby incorporated as though fully set forth in this Order, and, unless otherwise indicated, capitalized terms in this Order shall have the meanings attributed to them in the Settlement Agreement.

3. **Preliminary Approval.** The Settlement Agreement entered into by and among the Named Plaintiff Douglas Bauer (“Named Plaintiff” or “Plaintiff”), on behalf of himself and the Settlement Class, and the Hospitals, has been negotiated at arm’s length and is approved on a preliminary basis as fair, reasonable, and adequate.

4. **Settlement Class Relief.** The proposed relief to the Settlement Class Members as specified in Paragraph 4 of the Settlement Agreement is approved on a preliminary basis as fair, reasonable, and adequate. The Settlement Class shall consist of each person who at any time during the Class Period:

(1) received from the Hospital’s emergency medical services and care that were covered by the person's PIP insurance governed by Section 627.736, Florida Statutes;

(2) entered into the Hospitals’ standard form Patient Agreement and Consent for Facility Services;

(3) incurred medical bills from the Hospitals for which the person's PIP insurer reduced the Hospitals’ charges to 80% of 75% of the Hospitals’ usual and customary charges pursuant to Section 627.736(5)(a)l.b, Florida Statutes;

(4) were subsequently billed by the Hospitals for the unpaid balance of the Hospitals’ charges that were covered and paid by PIP insurance; and

(5) the Hospitals’ billed charges were without the appropriate adjustment or reduction, to reflect the statutory discount imposed by Section 627.736(5)(a)l.b and 4.

But excluded from the foregoing group are any claims of such persons who, prior to the Opt-Out Deadline: (a) have been fully resolved through litigation, release, or settlement, including but not limited to those persons who negotiated and settled their balance with the Hospitals for less than the balance that would have been owed had the Hospitals applied the statutory PIP discount; and/or (b) are the subject of any pending litigation against any of the Hospitals.

5. **Preliminary Certification of Settlement Class.** The Court makes the following determinations as to certification of the Settlement Class:

- a. The Court preliminarily and conditionally certifies the Settlement Class for purposes of settlement only, under Fla. R. Civ. P. 1.220(a) and (b)(3).
- b. The Settlement Class is so numerous that joinder of all members is impracticable;
- c. There are questions of law or fact common to the members of the Settlement Class;
- d. The claims of the Plaintiff are typical of the claims of the other members of the Settlement Class;
- e. Plaintiff is capable of fairly and adequately protecting the interests of the members of the Settlement Class, in connection with the Settlement Agreement;
- f. Common questions of law and fact predominate over questions affecting only individual members of the Settlement Class for purposes of enforcing and implementing this Settlement Agreement;
- g. The Settlement Class, as defined, is ascertainable; and
- h. Resolution of the claims in this Action by way of a settlement class action is superior to other available methods for the fair and efficient resolution of the claims of the Settlement Class.

6. **Designation of Class Representative.** Plaintiff, Douglas Bauer, is designated as class representative of the Settlement Class for the sole purpose of seeking a settlement of the Litigation.

7. **Designation of Class Counsel.** The law firms of Craig Rothburd, P.A., Jeeves Law Group, P.A., de la Parte & Gilbert, P.A., and Neff Insurance Law, PLLC, are hereby designated as Class Counsel for the Settlement Class.

8. **Final Approval Hearing.** A hearing regarding final approval of the Settlement (“Final Approval Hearing”) will be held at **1:30 p.m. on June 2, 2021, via Zoom, <https://zoom.us/j/4393837898>, Zoom Meeting ID is:439-383-7898, before the Honorable Darren D. Farfante, George Edgecomb Courthouse, Thirteenth Judicial Circuit Court, Hillsborough County, Florida, 800 Twiggs St. E, Room 526, Courtroom 508, Tampa, Florida, 33602.** The Final Approval Hearing shall be to determine, among other things: (a) whether the Settlement of the Litigation should be approved finally as fair, reasonable, and adequate; (b) whether the Litigation should be dismissed with prejudice pursuant to the terms of the Settlement Agreement; (c) whether Settlement Class Members should be bound by the Release set forth in the Settlement Agreement; and (d) whether the application of Class Counsel for an award of attorneys’ fees and costs, and the proposed class representative service award to Douglas Bauer should be approved.

9. **Class Notice.** With respect to the Class Notice attached to the Settlement Agreement as Exhibit A, and submitted to the Court with Plaintiffs’ Motion for Preliminary Approval, the Court orders as follows:

- a. The Class Notice attached as Exhibit A to the Settlement Agreement, and the manner of providing notice to Settlement Class Members by regular mail as set forth in Section 6 of the Settlement Agreement is approved. The Court finds that the means of notice set forth under the Settlement

Agreement is the best practicable notice under the circumstances and is reasonably calculated, under the circumstances, to apprise the Settlement Class Members of the pendency of this Action, the terms of the Settlement Agreement, and their rights to object to or otherwise exclude themselves from the Settlement. The Court finds that sending the Class Notice by United States Mail is reasonable, and constitutes due, adequate, and sufficient notice to all persons entitled to receive such notice and meets the requirements of the Due Process Clause of the Florida and United States Constitutions.

- b. The Class Notice shall be mailed no less than fifteen (15) days after the Settlement Administrator receives the Class List from the Hospitals. The Hospitals shall provide the Class List to the Settlement Administrator no later than fifteen (15) days after the date this Preliminary Approval Order is entered, unless otherwise ordered by the Court or agreed to by the Settling Parties.
- c. No later than ten (10) days before the Final Approval Hearing, Class Counsel shall obtain from the Settlement Administrator and thereafter shall file with the Court a proof of mailing of the Class Notice.

10. **Settlement Administrators.** The Court authorizes and directs the Parties to retain the Settlement Administrator to implement the terms of the Settlement Agreement and authorizes and directs such Settlement Administrator to (a) mail the Class Notice; (b) receive and process any opt-out requests; and (c) carry out such other responsibilities as are provided for in the Settlement Agreement or may be agreed to by the Parties.

11. **Exclusion from the Settlement Class.** Any Settlement Class Member who wishes to opt out or be excluded from the Class must send a written Request for Exclusion to the Settlement Administrator, by first-class mail, postage prepaid, to the address provided in the Class Notice. Any such Request for Exclusion must be postmarked no later than thirty (30) days after the Class Notice Date.

- a. To be valid, the Request for Exclusion must: (1) identify the case name and number; (2) identify the name and address of the Settlement Class Member; (3) be personally signed by the Settlement Class Member requesting exclusion; and (4) contain a statement that indicates a desire to be excluded from the Settlement Class in the Litigation, such as “I hereby request that I be excluded from the proposed Settlement Class in the Bauer Class Action.” A single Request for Exclusion is required for each Class Member requesting exclusion; mass or class opt outs shall not be allowed.
- b. A Settlement Class Member who desires exclusion must take timely affirmative written action pursuant to this Order and the Settlement Agreement, even if the Settlement Class Member desiring exclusion: (1) files a separate action against any of the Released Parties, or (b) becomes a putative class member in any other class action filed against any of the Released Parties.
- c. Except for those Settlement Class Members who timely and properly file a request for exclusion, all other Settlement Class Members will be deemed to be Settlement Class Members for purposes under this Order, and upon the Effective Date of the Settlement Agreement, will be bound by its terms, including, but not limited to, the Releases in Section 11 of the Settlement Agreement.

- d. If the Settlement Agreement receives final approval, any Settlement Class Member who has not submitted a timely, written Request for Exclusion from the Class shall be bound by all subsequent proceedings, orders, and judgments in this Action, even if he or she subsequently initiates litigation against the Hospitals or any other Released Party, relating to any of the Released Claims.

12. **Objections and Appearances.** Any Settlement Class Member who has not filed a timely written Request for Exclusion and who complies with the requirements of this Paragraph may object to any aspect of the Settlement Agreement either on his or her own or through an attorney hired at his or her expense.

- a. Any Settlement Class Member who wishes to object to the Settlement Agreement must do so in writing and must file with the Clerk of Court and serve on Class Counsel and Hospitals' Counsel, at the addresses listed below, a written statement of objection in accordance with the requirements set forth below and in the Settlement Agreement no later than thirty (30) days after the Class Notice Date:

For Plaintiffs and the Settlement Class:

**CRAIG E. ROTHBURD, P.A.**

Craig E. Rothburd, Esq.  
320 W. Kennedy Blvd., Suite 700  
Tampa, Florida 33606-1459  
Telephone: (813) 251-8800  
Fax: (813) 251-5042  
Email: [craig@rothburdpa.com](mailto:craig@rothburdpa.com)

and

**JEEVES LAW GROUP, P.A.**

Scott R. Jeeves, Esq.  
954 First Avenue North  
St. Petersburg, Florida 33705  
Telephone: (727) 894-2929  
Email: [sjeeves@jeeveslawgroup.com](mailto:sjeeves@jeeveslawgroup.com)

For the Hospitals:

**MacFARLANE FERGUSON & McMULLEN**

Brian J. Aungst, Jr. Esq.  
625 Court Street, Suite 200  
Clearwater, Florida 33756  
Telephone: (727) 441-8966  
Email: [bj@macfar.com](mailto:bj@macfar.com)

and

**HOLLAND & KNIGHT, LLP**

Philip E. Rothschild, Esq.  
515 E. Las Olas Blvd., Suite 1200  
Ft. Lauderdale, FL 33301  
Telephone: (954) 468-7881  
Email: [phil.rothschild@hkllaw.com](mailto:phil.rothschild@hkllaw.com)

- b. The requirements to assert a valid written objection shall be set forth in the Class Notice, and shall include: (1) the case name and number; (2) the factual and legal basis for the objection; (3) the objector's name, address, telephone number, and, if represented by counsel, the contact information of the objector's counsel; (4) a statement of whether the Class Member intends to appear at the Final Approval Hearing, either with or without counsel; and (5) be personally signed by the Class Member.
- c. Any Settlement Class Member who fails to object to the Settlement in the manner described in the Class Notice and consistent with this Order shall be deemed to have waived any such objection, shall not be permitted to object to any terms or approval of the Settlement Agreement at the Final Approval Hearing, and shall be deemed to have waived any right to seek review of the Settlement Agreement by appeal or other means.
- d. Any Settlement Class Member who submits a timely written objection may appear, individually or by counsel, at the Final Approval Hearing held by the Court, to show cause why the proposed Settlement Agreement should

not be approved as fair, adequate, and reasonable, provided that the objecting Settlement Class Member: (1) files with the Clerk of the Court a notice of intention to appear at the Final Approval Hearing (“Notice of Intent to Appear”), which must include the case name and number and the Settlement Class Member’s name, address, telephone number, and signature, postmarked by the Objection Deadline; and (2) serves the Notice of Intention to Appear on all counsel designated in the Class Notice by the Objection Deadline. The Notice of Intention to Appear must identify the name, address, email address, and telephone number of each witness and include copies of any papers, exhibits, or other evidence that the objecting Settlement Class Member will present to the Court in connection with the Final Approval Hearing. Any attorney who intends to represent an objecting Settlement Class Member at the Final Approval Hearing must do so at the Settlement Class Member’s expense and must file a notice of appearance at least two weeks before the Final Approval Hearing. Any Settlement Class Member who does not file a Notice of Intention to Appear in accordance with the applicable deadlines and other specifications set forth in this Order, the Settlement Agreement, and Class Notice will not be entitled to appear at the Final Approval Hearing to raise any objections to the Settlement.

13. **Releases.** If the Settlement is finally approved, all Settlement Class Members who have not filed a timely and proper Request for Exclusion shall release the Released Parties from all Released Claims, as described in Section 11 of the Settlement Agreement, including, *inter alia*, all claims, charges, or demands that relate, concern, arise from, or pertain in any way to the Released Parties’ conduct, policies, or practices concerning the medical billing by the Hospitals for unpaid balances of the portion of the Hospitals’ charges that were covered and paid by PIP

insurance in excess of the amounts identified in Section 627.736(5)(a)1.b and 4., Florida Statutes including but not limited to, conduct, policies, or practices concerning the billing or collection of the same.

**14. Attorneys' Fees and Costs, and Class Representative Service Award.**

Plaintiff and Class Counsel agree not to seek an award of attorneys' fees and costs in the Action in an amount exceeding \$275,000.00. In addition, Plaintiff shall also apply for a Class Representative Service Award of \$10,000.00 for his work and assistance in this Action. Except as otherwise provided by the Settlement Agreement, the Hospitals will not pay any amounts greater than \$275,000.00 for attorneys' fees and costs in the Action.

**15. Service of Papers.** Hospitals' counsel and Class Counsel shall serve on each other and on all other parties who have filed notices of appearance, at or before the Final Approval Hearing, any further documents in support of the proposed Settlement Agreement, including responses to any papers filed by Settlement Class Members. Hospitals' counsel and Class Counsel shall promptly furnish to each other any and all objections or written requests for exclusion that may come into their possession and shall file such objections or requests for exclusion with the Court on or before the date of the Final Approval Hearing.

**16. Termination of Settlement.** This Order shall become null and void and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing immediately before the Court entered this Order, if the proposed Settlement Agreement: (a) is not finally approved by the Court, or (b) does not become final, pursuant to its terms; or (c) is terminated pursuant to its terms. In such event, and except as provided therein, the proposed Settlement Agreement shall become null and void and be of no further force and effect; the preliminary certification of the Settlement Class for settlement purposes shall be automatically vacated; neither the Settlement Agreement nor the Court's Orders, including this Order, shall be used or referred to for any purpose whatsoever; the Parties shall retain, without prejudice, any and

all objections, arguments, and defenses with respect to class certification; and the Parties and this Action shall be returned to the status quo that existed prior to the Settlement Agreement.

17. **Use of Order Following Termination of Settlement.** This Order shall be of no force and effect if the Settlement Agreement does not become final and shall not be construed or used as an admission, concession, or declaration by or against any Defendant of any fault, wrongdoing, breach, or liability, or by or against Plaintiff or the Settlement Class Members that their claims lack merit or that the relief requested in the Class Complaint in this Action is inappropriate, improper, or unavailable, or as a waiver by the Hospitals of any defenses they may have.

18. **Necessary Steps.** The Court authorizes the Parties to take all necessary and appropriate steps to implement the Settlement Agreement.

**DONE AND ORDERED** in chambers, in Tampa, Hillsborough County, Florida, on this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Electronically Conformed 2/26/2021

Darren D. Farfante

\_\_\_\_\_  
DARREN D. FARFANTE

Circuit Court Judge

***Conformed copies to:***

- Craig E. Rothburd (*CERPA File No. 6796*)
- Scott R. Jeeves
- Casim A. Neff
- David M. Caldevilla
- Brian J. Aungst, Jr.
- Philip E. Rothchild