

FILED
05-13-2019
John Barrett
Clerk of Circuit Court
2018CV009161

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

ELIZABETH HARWOOD

Individually and on behalf of a class of others
similarly situated,

Plaintiff,

Case No.: 18CV9161
Judge Triggiano

v.

BELL AMBULANCE, INC.,

Defendant.

**ORDER GRANTING PLAINTIFF'S CONSENT MOTION FOR
PRELIMINARILY APPROVAL OF A SETTLEMENT CLASS
AND DIRECTING NOTICE TO BE GIVEN**

Upon consideration of the Plaintiff's Consent Motion to Preliminarily Approve a Settlement Class, the record and the arguments presented to the Court at a hearing on May 10, 2019, the Court finds that the motion should be GRANTED.

IT IS THEREFORE ORDERED that the Plaintiff's Consent Motion to Preliminarily Approve a Settlement Class is Granted. The Court finds that the requirements of Wis. Stat. §803.08 (1)(a)-(d) and (2)(c) are met.

(1)(a) The potential class size is in excess of 3,000 persons making joinder impractical;

(1)(b) there is a common question of fact and law as to the legality of the

Defendant's charge for certain fees for copies of health care records;

(1)(c) the claim of the Plaintiff is typical of the claims asserted because it is based on the same facts and law; and

(1)(d) the court finds that the plaintiff is adequate because she does not have any interests antagonistic to the class as attested in her affidavit and her counsel are adequate based on their experience and knowledge in class proceedings and the specific claims asserted in this action as set forth in their declarations. They have handled similar cases and been approved as class counsel.

The Court also finds that the common legal and fact issue identified is also the predominant issue for this action under (2)(c). The claims of the plaintiff and class are dependent on prevailing on the common legal and factual issue. This issue predominates over individual issues because the claims entitle the plaintiff and class members to the same relief and certain defenses have already been addressed by the Wisconsin Supreme Court in *Moya v. Aurora Health Care*, 2017 WI 45 (2017) and the court has rejected defenses that seek to undermine enforcement of the prohibitions under Wis. Stat. §146.83.

The Court also finds that a class is superior under (c)(2) after considering the factors at (c)(1)-(4). Repetitive individual actions based on the small amount of fees collected that makes a class proceeding to be the most efficient method to address the claims. There is no other litigation filed by individual class members to assert these claims that the parties are aware of and therefore there does not

appear to be any interest by class members to individually control the prosecution of the claims. And, any class member has the right to opt out if they want to file their own action. This court is a proper forum for these claims and there is nothing undesirable for the claims to be heard in this forum.

The manageability of the class proceeding is not an issue since this is a settlement class.

IT IS FURTHER ORDERED that the Plaintiff is appointed as class representative and her counsel are appointed as class counsel. The claims and issues to be addressed are the claims set forth in the Plaintiff's complaint.

IT IS FURTHER ORDERED that the Court finds that the settlement is fair, reasonable and adequate.

IT IS FURTHER ORDERED that the Plaintiff's Counsel is directed to send class notice to the class members identified by the Defendant in accordance with the Settlement Agreement.

IT IS FURTHER ORDERED that the Court shall hold a Final Fairness Hearing to consider final approval of the Settlement Class on August 26, 2019 at 1:30 P.M..

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