

FILED
08-27-2019
John Barrett
Clerk of Circuit Court
2018CV009161

DATE SIGNED: August 27, 2019

Electronically signed by Mary Triggiano-13
Circuit Court Judge

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 FINAL
APPROVAL OF A SETTLEMENT CLASS
AND DIRECTING PAYMENTS AND AWARDS**

Upon consideration of the Plaintiff’s Motion to Finally Approve the Settlement Class, the record and the arguments presented to the Court at a hearing on August 26, 2019, the Court finds that the motion should be GRANTED.

IT IS THEREFORE ORDERED that the Plaintiff’s Motion to Finally Approve the 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 class size is 2,966 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.

The Court finds that the settlement is fair, reasonable and adequate.

By Order filed May 14, 2019, the Court directed that an approved form of notice be sent to the Class members. The administrator has provided a declaration that the notice was sent as required by the order.

IT IS FURTHER ORDERED those persons who timely opted out are not part of the Class.

IT IS FURTHER ORDERED that the Defendant pay the total sum of \$125,000 to the Class Administrator for distribution in accordance with this order.

IT IS FURTHER ORDERED that the Administrator shall pay Plaintiff as class representative an incentive fee of \$1,500.00.

IT IS FURTHER ORDERED that the Administrator shall pay the Class counsel \$25,000 for attorney's fees and costs.

IT IS FURTHER ORDERED that the Administrator shall pay its final costs and fees that are currently estimated at \$17,217.

IT IS FURTHER ORDERED that the Administrator disburse the remaining funds to the class members (excluding any who opted out or who they were unable to locate) in accordance with the Settlement Agreement.

IT IS FURTHER ORDERED that any funds that are not timely claimed within 180 days shall be paid to the Wisconsin Trust Account Foundation, Inc. (“WisTAF”) to support direct delivery of legal services to persons of limited means in non-criminal matters.

IT IS FURTHER ORDERED that upon Defendant’s payment of the amounts required above, the case shall be dismissed with prejudice but the Court shall retain jurisdiction over this matter as necessary to implement the Settlement Class and the terms of the Settlement Agreement.

IT IS SO ORDERED.

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