

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

SUPERIOR COURT OF WASHINGTON FOR GRAYS HARBOR COUNTY

MARY BRYAN and DEBRA RILEY, individually
and on behalf of all others similarly situated ,

NO. 16-2-00022-0

Plaintiffs,

**CLASS ACTION SETTLEMENT
AGREEMENT**

vs.

GRAYS HARBOR COMMUNITY HOSPITAL, a
Washington non-profit corporation, GRAYS
HARBOR COUNTY PUBLIC HOSPITAL
DISTRICT NO. 2, a Washington municipal
corporation; REBECCA A. ROHLKE,
individually, on behalf of the marital community
and as agent of non-party Hunter Donaldson;
JOHN DOE ROHLKE, on behalf of the marital
community; RALPH WADSWORTH, individually,
on behalf of the marital community, as agent of
non-party Hunter Donaldson, JANE DOE
WADSWORTH, on behalf of the marital
community; TIM CARDA, individually, on behalf
of the marital community, and as agent of non-
party Hunter Donaldson, JANE DOE CARDA, on
behalf of the marital community; GRACIELA
PULIDO, individually, on behalf of the martial
community and as agent of non-party Hunter
Donaldson, and JOHN DOE PULIDO, on behalf of
the marital community,

Defendants.

I. BACKGROUND

1.1 The Plaintiffs’ Class Representatives (“Plaintiffs”) have asserted claims on behalf of themselves and others similarly situated concerning Defendants’ preparation, filing, and

1 recovery on medical service liens under RCW Ch. 60.44 RCW. Plaintiffs claim that
2 Defendant Grays Harbor Public Hospital District No. 2 d/b/a Grays Harbor Community
3 Hospital (“GHCH”) was negligent and unjustly enriched as a result, and that GHCH failed to
4 file lien releases required by law.

5 1.2 The Court has certified classes of Plaintiffs as follows:

6 (1) For purposes of their claims for declaratory relief regarding the liens'
7 invalidity and for monetary relief, a class under CR 23(b)(3) consisting of
8 all individuals who, within the applicable period of limitations, paid money
9 to Hunter Donaldson or the Hospital or who had a portion of their personal
10 injury settlement funds held in trust by their attorneys to pay the
11 Hospital's medical service lien claim because of an allegedly defective
12 Medical lien notice filed by Hunter Donaldson on behalf of the Hospital; and

13 (2) For purposes of their claims for declaratory and injunctive relief
14 regarding the liens' expiration and lack of corresponding lien releases, a
15 class under CR 23(b)(2) consisting of all individuals with satisfied or
16 expired Medical liens filed against them by Hunter Donaldson on behalf of
17 the Hospital, which are still recorded with the Grays Harbor County
18 Auditor's Office without a corresponding lien release on file.

19 1.3 The Court has appointed Mary Bryan and Debra Riley as Class Representatives and
20 Darrell Cochran and Christopher E. Love as Class Counsel.

21 1.4 GHCH has denied and continues to deny any liability to Plaintiffs' Class
22 Representatives or the Class they represent.

23 1.5 Class Counsel have analyzed and evaluated the merits of all Parties' contentions and
24 the impact of this Agreement on the members of the Class. Based on that analysis and
25 evaluation, and recognizing the risks of continued litigation and the likelihood that the Action,
26 if not settled now, may be protracted and will further delay any relief to the proposed classes,
27 Plaintiffs' Class Representatives and Class Counsel are satisfied that the terms and conditions
28 of this Agreement are fair, reasonable, adequate, and equitable, and that a settlement of the
29 Action on the terms described herein is in the best interests of the Class.

30 1.6 In order to put to rest all controversy and to avoid further burdensome, protracted, and
31 costly litigation, Class Counsel, Plaintiffs' Class Representatives and GHCH have agreed,

1 subject to preliminary and final court approval, to compromise and settle the Action between
2 the Plaintiffs Class and GHCH on the terms set forth herein.

3 **II. DEFINITIONS**

4 2.1 In addition to any definitions elsewhere in this Agreement, the following terms below,
5 when capitalized, shall be defined as follows:

6 (a) **“Action”** means the above-captioned action, *Bryan v. Grays Harbor*
7 *Community Hospital, et al*, Grays Harbor Superior Court No. 16-2-00022-0.

8 (b) **“Agreement”** means this Agreement, including all Exhibits hereto.

9 (c) **“Claimant”** means a Class Member who submits a Claim under this
10 Agreement.

11 (d) **“Claim Period”** means the 90-day period commencing on the Initial Notice
12 Date, except that the Claim Period shall be extended if necessary so that it ends not less than
13 30 days after the Settlement Date.

14 (e) **“Claim Form”** means the claim form attached hereto as Exhibit B.

15 (f) **“Class”** means persons:

16 (1) For purposes of monetary relief, all individuals who, within the
17 applicable period of limitations, paid money to Hunter Donaldson or GHCH or who
18 had a portion of their personal injury settlement funds held in trust by their attorneys to
19 pay GHCH's medical service lien claim because of an allegedly defective Medical Lien
20 notice filed by Hunter Donaldson on behalf of GHCH; and

21 (2) For purposes of their claims for declaratory and injunctive relief
22 regarding the liens' expiration and lack of corresponding lien releases, all individuals
23 with satisfied or expired Medical Liens filed against them by Hunter Donaldson on
24 behalf of GHCH, which are still recorded with the Grays Harbor County Auditor's
25 Office without a corresponding lien release on file.

1 (g) “**Class Counsel**” means Darrell L. Cochran and Christopher E. Love of Pfau
2 Cochran Vertitis Amala, PLLC.

3 (h) “**Class Member**” means a member of the Class who has not previously opted
4 out.

5 (i) “**Common Fund**” means the funds available in the Escrow Account for Court-
6 approved payments by the Settlement Administrator to Class Members, Plaintiffs’ Class
7 Representatives, and Class Counsel.

8 (j) “**Court**” means the Superior Court of Washington for Grays Harbor County, in
9 which this Action is pending.

10 (k) “**Escrow Account**” means a bank account established by the Settlement
11 Administrator into which GHCH or its insurer shall deposit \$750,000.00 within seven (7) days
12 after the Fairness Hearing, provided that the Court at that hearing enters the Judgment and
13 Order without material modifications.

14 (l) “**Fairness Hearing**” means the settlement approval hearing to be conducted by
15 the Court in connection with the determination of the fairness, adequacy, and reasonableness
16 of this Agreement in accordance with Civil Rule 23(e). It is the intention of the Parties that
17 the Fairness Hearing will be scheduled at the earliest date that is at least sixty days after the
18 Initial Notice Date that the Court is available to hear the matter.

19 (m) “**Final Settlement Date**” means the date on which all of the following have
20 occurred:

- 21 i. Entry of the Order and Judgment without material modification; and
- 22 ii. Finality of the Judgment and Order by virtue of that order having
23 become final and nonappealable through:

- 24 (1) the expiration of all allowable appeal periods without an appeal
25 having been filed or,

1 (2) if an appeal is filed, final affirmance of the Judgment and Order
2 on appeal or final dismissal or denial of all such appeals, including petitions for
3 review, rehearing, reargument, or certiorari; or

4 (3) final disposition of any proceedings, including any appeals,
5 following any appeal from entry of the Order and Judgment. However, an
6 appeal or petition for discretionary review pertaining solely to the Plaintiffs'
7 Class Representative's incentive awards, or the award of attorneys' fees, costs
8 or expenses to Class Counsel, shall not in any way delay the Final Settlement
9 Date, except with respect to the appealed items.

10 (n) **"HD"** means Hunter Donaldson, LLC.

11 (o) **"Initial Notice Date"** means the date upon which the Notice of Proposed Class
12 Action Settlement is first mailed to Class Members pursuant to Part VI of this Agreement.

13 (p) **"Judgment and Order"** means the order to be entered by the Court, in a form
14 that is mutually agreeable to the Parties, approving this Agreement as fair, adequate, and
15 reasonable and in the best interests of the Class as a whole in accordance with Civil Rule 23(e)
16 and making such other findings and determinations necessary and appropriate to effectuate the
17 terms of this Agreement.

18 (q) **"GHCH"** means Grays Harbor Public Hospital District No. 2, formerly d/b/a
19 Grays Harbor Community Hospital, now d/b/a Harbor Regional Health, and Grays Harbor
20 Physician Services, LLC (formerly d/b/a Harbor Medical Group).

21 (r) **"Medical Lien"** means a notice of medical lien claim filed with the Grays
22 Harbor County Auditor on behalf of GHCH pursuant to RCW 60.44.02.

23 (s) **"Notice of Proposed Class Action Settlement"** or **"Notice"** means the Court-
24 approved notice to Class Members of proposed settlement substantially in the form attached as
25 Exhibit A to this Agreement.

1 (t) **“Party”** or **“Parties”** means Plaintiffs’ Class Representatives and GHCH, as
2 represented by their counsel.

3 (u) **“Person”** without regard to capitalization, means any individual or legal entity,
4 including associations, and their successors or assigns.

5 (v) **“Plaintiffs’ Class Representatives”** means Mary Bryan and Debra Riley.

6 (w) **“Preliminary Approval”** means the Court’s entry of an order preliminarily
7 approving this Agreement pursuant to Civil Rule 23(e).

8 (x) **“Rohlke Lien”** means a notice of Medical Lien filed with the Grays Harbor
9 County Auditor pursuant to Ch. 60.44 RCW on behalf of GHCH, notarized by Rebecca
10 Rohlke.

11 (y) **“Settled Claim”** means a claim which has been resolved under this Agreement,
12 as set forth in Part III.

13 (z) **“Settlement Administrator”** means CPT Group.

14 (aa) **“Settlement Date”** means the date on which the Court enters Preliminary
15 Approval.

16 **III. SETTLED CLAIMS**

17 3.1 It is the intent of the Parties to resolve any and all claims by Class Members against
18 GHCH, including all claims against GHCH based on preparation, submission, enforcement, or
19 attempted enforcement of a Medical Lien. A Settled Claim includes any claim, cause of
20 action, loss, damage, or right, known or unknown, asserted or unasserted, whether based in
21 tort, contract, or any other theory of legal recovery that Class Members have against GHCH
22 and its affiliates, or their directors, officers, employees, attorneys or agents relating in any
23 way, directly or indirectly, to preparation, filing or collection of Medical Lien claims. Without
24 limiting the scope of the foregoing, a Settled Claim shall include claims:

25 (a) for breach or violation of, or for benefits conferred by, any federal or
26 state law or statute, regulation, or ordinance;

1 (b) based on principles of tort law or other kind of liability, including
2 without limitation those based on principles of, negligence, reliance, racketeering,
3 fraud, conspiracy, concerted action, aiding and abetting, veil-piercing liability, alter-
4 ego or successor liability, consumer fraud, negligent misrepresentation, intentional
5 misrepresentation, or other direct or derivative liability;

6 (c) for breach of any duty imposed by common law, by contract, or
7 otherwise, including, without limitation express or implied, promissory or equitable
8 estoppel or principles of unjust enrichment;

9 (d) for declaratory or injunctive relief; and

10 (e) for penalties, punitive damages, exemplary damages, or any claim for
11 damages based upon a multiplication of compensatory damages associated with the
12 above.

13 **IV. SETTLEMENT PURPOSES ONLY**

14 4.1 This Agreement is for settlement purposes only and neither the fact of, nor any
15 provision contained in this Agreement or its Exhibits, nor any action taken hereunder, shall
16 constitute, be construed as, or be admissible in evidence as an admission of the validity of any
17 claim or any fact alleged by Plaintiffs' Class Representatives in this Action or in any other
18 pending or subsequently filed action, or of any wrongdoing, fault, violation of law, or liability
19 of any kind on the part of GHCH or admission by GHCH of any claim or allegation made in
20 this Action or in any action, nor as an admission by Plaintiffs' Class Representatives, Class
21 Members, or Class Counsel of the validity of any fact or defense asserted against them in this
22 Action or in any action.

23 **V. SUBMISSION FOR PRELIMINARY APPROVAL**

24 5.1 The Parties shall jointly submit this Agreement, including the Exhibits hereto, through
25 their respective attorneys, to the Court for Preliminary Approval as soon as possible after its
26 execution.

1 **VI. NOTICE**

2 6.1 Notice will be sent by mail to all Class Members. The Parties have compiled a list of
3 such persons and their addresses, which will be furnished to the Settlement Administrator by
4 the Preliminary Approval Date.

5 6.2 The notice process will be as follows:

6 (a) On the Initial Notice Date, which shall be _____, the Settlement
7 Administrator will transmit the Notice of Class Action Settlement, attached to this Settlement
8 Agreement as Exhibit A and the Claim Form, attached to this Settlement Agreement as Exhibit
9 B, via First Class mail. If any mailed notices are returned as undeliverable to their recipient
10 Class Members, the Settlement Administrator will make reasonable attempts to determine a
11 current mailing address for such Class Members and will promptly remail the notices to any
12 addresses disclosed through such efforts;

13 (b) On the Initial Notice Date, the Settlement Administrator also shall establish and
14 maintain a website through which this Agreement, Notice, and Claim Form shall be available
15 until the close of the Claim Period (90 days after the Initial Notice Date).

16 6.3 GHCH will pay the reasonable costs settlement administration up to a maximum of
17 \$25,000.00 including the cost of giving Initial Notice.

18 **VII. CLASS MEMBERS' RIGHT OF EXCLUSION**

19 7.1. Except for those persons who have properly opted out, all Class Members will be
20 deemed Class Members for all purposes under this Agreement.

21 **VIII. SETTLEMENT TERMS**

22 8.1 **Generally.** This Agreement provides Class Members with two kinds of relief: (a)
23 monetary relief to Class Members who timely submit a Claim Form to the Settlement
24 Administration containing the specified information showing that they are entitled to a
25 payment; and (b) a release of lien claim filed with the Grays Harbor County Auditor.
26

1 8.2 **Monetary Relief.** GHCH or its insurer will pay \$750,000.00 into the Escrow Account
2 to be available as a Common Fund to be administered by the Settlement Administrator.

3 (a) The Settlement Administrator will make payments to Class Members who
4 timely submit a Claim Form and provide the required information, as follows:

5 i. If payment was made to HD or GHCH on behalf of a Class Member as
6 the result of a Rohlke Medical Lien claim after January 12, 2013, the Class Member
7 will receive:

8 a. 45% of the payment on the Medical Lien claim if the Class
9 Member did not have health insurance or other third party coverage; or

10 b. 65% of the payment on Medical Lien claim if the Class Member
11 had coverage through Medicare, Medicaid, or other government sponsored
12 health care coverage.

13 ii. If payment was made to HD or GHCH on behalf of a Class Member as
14 the result of a Rohlke Medical Lien claim on or before January 12, 2013, the Class
15 Member will receive:

16 a. 20% of the payment on the Medical Lien claim if the Class
17 Member did not have health insurance or other third party coverage; or

18 b. 35% of the payment on Medical Lien claim if the Class Member
19 had coverage through Medicare, Medicaid, or other government sponsored
20 health care coverage.

21 iii. If payment was made to HD or GHCH on behalf of a Class Member as
22 the result of any other Medical Lien claim, the Class Member will receive:

23 a. 15% of the payment on the Medical Lien claim if the Class
24 Member did not have health insurance or other third party coverage; or
25
26

1 b. 20% of the payment on Medical Lien claim if the Class
2 Member had coverage through Medicare, Medicaid, or other government
3 sponsored health care coverage.

4 iv. If a Class Member's attorney held funds in trust to satisfy a Medical
5 Lien claim by GHCH, which were not paid to GHCH, the Class Member will receive:

6 a. 10% of the retained amount if attorney held funds in trust after
7 January 12, 2013; or

8 b. 6% of retained amount if attorney held funds in trust on or
9 before January 12, 2013.

10 (b) For purposes of this Agreement:

11 i. A payment to GHCH will be deemed to have been received as a result
12 of a Rohlke Medical Lien claim if GHCH or HD received the payment from a
13 tortfeasor or insurer, from a Class Member or the Class Member's attorney, or
14 otherwise as the result of a personal injury settlement or award in favor of the Class
15 Member after a Rohlke Medical Lien claim was on file with the Grays Harbor County
16 Auditor, and no corrected notice of lien claim was filed before the payment was issued
17 to GHCH or HD.

18 ii. A payment to GHCH or HD will be deemed to have been received as a
19 result of any other Medical Lien claim if GHCH or HD received the payment from a
20 tortfeasor or insurer, from a Class Member or the Class Member's attorney, or
21 otherwise as the result of a personal injury settlement or award in favor of the Class
22 Member after a Medical Lien claim, other than a Rohlke Lien, was on file with the
23 Grays Harbor County Auditor.

24 iii. Any payments received by GHCH or HD as a result of first party insurance
25 covering the Class Member, including personal injury protection, premises medical
26 payments, or medical protection payments, are not payments received as a result of a

1 Medical Lien claim for purposes of this agreement, regardless of how the payment was
2 transmitted to GHCH or HD; and

3 iv. Personal injury settlement funds will be deemed to have been held in
4 trust in order to satisfy a Rohlke Lien if, (1) prior to the Settlement Date and at a time
5 when a Medical Lien claim was on file with the Grays Harbor County auditor; (2) a
6 Class Member's attorney deposited into his or her trust account funds received as a
7 result of the personal injury claim that formed the basis for the lien or liens; (3) in an
8 amount equal to or greater than the amount of the lien or 25% of the total settlement,
9 whichever is less; or (4) the Class Member demonstrates by contemporaneous
10 documentation, such as a distribution letter from his/her attorney, that an amount was
11 deposited specifically to satisfy a Medical Lien claim by or on behalf of GHCH.

12 **8.3 Payments to Class Representatives.** Class Counsel will seek, and GHCH will not
13 oppose, incentive awards to the Plaintiff Class Representatives in the amount of \$5,000 each.
14 The Settlement Administrator will pay the amounts authorized by the Court to the Plaintiff
15 Class Representatives from the Common Fund.

16 **8.4 Payments to Class Counsel.** Class Counsel will seek, and GHCH will not oppose, an
17 attorney fee award of up to 33 1/3 percent of the Common Fund. Class Counsel will also seek
18 and GHCH will not oppose reimbursement of their reasonable litigation expenses, not to
19 exceed \$20,000.00. The Settlement Administrator will pay the amounts authorized by the
20 Court to Class Counsel from the Common Fund.

21 **8.5 Common Fund Limitations.** Monies deposited into the Escrow Account and
22 available for payment from Common Fund are and shall remain the property of GHCH until
23 paid out by the Settlement Administrator in accordance with this Agreement and the orders of
24 the Court. If the Common Fund is not sufficient to make the specified payments to Class
25 Members, the Settlement Administrator shall so inform Class Counsel and shall reduce all
26 payments to Class Members *pro rata*. If the Common Fund is not exhausted by payments

1 under this Agreement, the Settlement Administrator shall remit the balance in the Escrow
2 Account to GHCH within seven days after all payments to Class Members have been made.

3 **8.6 Release of Lien Claims Against Class Members.** Within seven days after the Final
4 Settlement Date, GHCH will file a release of lien claims against all Class Members with the
5 Grays Harbor County Auditor.

6 **8.7 Release of Claims against GHCH.** On the Final Settlement Date, each Plaintiff Class
7 Representative, Class Counsel, and each Class Member who has not opted out shall – on
8 behalf of himself or herself and any person claiming by or through him or her as an heir,
9 administrator, devisee, predecessor, successor, attorney, representative of any kind,
10 shareholder, partner, director, owner or co-tenant of any kind, affiliate, subrogee, assignee, or
11 insurer (the “Releasing Parties”), and regardless of whether any Class Member executes and
12 delivers a written release – be deemed to and does hereby release and forever discharge
13 GHCH, and each of its successors and assigns and each of their respective directors, officers,
14 employees, attorneys, or agents, of and from any and all Settled Claims.

15 **IX. CLAIM PROCESS**

16 **9.1 Class Member’s Responsibility.** In order to receive a payment from the Common
17 Fund, a Class Member must complete and timely transmit a Claim Form with the specified
18 supporting documentation to the Settlement Administrator. Submissions of a claims form
19 shall not be required for filing any release of liens to which a Class member is entitled under
20 this Agreement.

21 **9.2 Settlement Administrator’s Responsibility.** The Settlement Administrator will
22 administer the Claims Process in accordance with the terms of Exhibit C to this Agreement.

23 **X. PAYMENT**

24 **10.1 Payments to Class Members.** All payments due shall be mailed to Class Members by
25 the Settlement Administrator not later than 45 days after the end of the Claim Period or the
26 Final Settlement Date, whichever is later, except where there is an unresolved dispute as to a

1 Class Member's claim, in which case payment shall be mailed within ten days after resolution
2 of the dispute. The check (or stub) shall include remarks stating that endorsement of the check
3 represents satisfaction of any claim that the Class Member has against GHCH based on a
4 Medical Lien.

5 **10.2 Payments to Plaintiff Class Representatives and Class Counsel.** Court-approved
6 payments to Plaintiff Class Representatives and Class Counsel shall be made by the Settlement
7 Administrator within ten days after the Final Settlement Date, provided that they have
8 provided IRS W-9 forms to the Settlement Administrator.

9 **XI. ADMINISTRATIVE PROVISIONS**

10 11.1 The Settlement Administrator shall maintain records of its activities under this
11 Agreement sufficient to resolve any concerns about its implementation, which shall be subject
12 to review on reasonable notice by the Court or counsel for the Parties. The expense of any
13 review initiated by a Party shall be borne by that Party.

14 11.2 GHCH shall be responsible to pay the Settlement Administrator's reasonable fees and
15 expenses up to a maximum of \$25,000.00. Any dispute regarding the same shall be submitted
16 to the Court for resolution.

17 11.3 The Parties and their counsel shall have the duty to cooperate with the Settlement
18 Administrator in resolving issues that may arise concerning the claims process in a rational,
19 responsive, and timely manner. The Parties shall confer in person or by telephone periodically
20 to discuss the implementation of this Agreement and to attempt to resolve any concerns that
21 may arise among the Parties. In the event that any Party reasonably believes that the other
22 Party is not properly implementing or applying any of the terms of this Agreement, or in the
23 event there is a question concerning the application of the terms of this Agreement by any
24 Party, then:

- 25 (a) Counsel for that Party shall notify counsel for the other Party;
- 26

1 (b) Counsel for the Parties shall meet within seven days of receipt of the written
2 notification to resolve the concern; and

3 (c) In the event that Counsel for the Parties cannot resolve the matter, then the
4 matter shall be submitted to the Court.

5 11.4 Until the Final Settlement Date, the Parties agree to use reasonable efforts to preserve
6 all records and evidence which are or could be relevant to, or could lead to the discovery of,
7 relevant evidence concerning the matters at issue in the Action.

8 11.5 The Judgment and Order shall provide for the Court's exclusive and continuing
9 jurisdiction over the Action, all Parties, and Class Members to interpret and enforce the terms,
10 conditions, and obligations of this Agreement. In the event any Party fails to perform under
11 the Agreement or to make a payment due and owing under the terms of this Agreement,
12 counsel for the other Party shall so notify the Court and simultaneously notify the other Party.
13 If a breach is not cured within a reasonable period of time, the other Party may apply to the
14 Court for relief.

15 **XII. JUDGMENT & RELEASE**

16 12.1 The relief provided under this Agreement shall be the sole and exclusive remedy for
17 Plaintiff Class Representatives, Class Members and Class Counsel with respect to Settled
18 Claims. The Judgment and Order shall provide that Action is dismissed with prejudice and
19 that Plaintiff Class Representatives and each Class Member who has not opted out of the Class
20 are barred from initiating, asserting, or prosecuting any Settled Claims against GHCH.

21 12.2 The Judgment and Order shall also provide that, in consideration of GHCH's
22 undertakings in this Agreement, Plaintiff Class Representatives, and each Class Member who
23 has not opted out, shall be deemed to have forever released and discharged GHCH from any
24 Settled Claims, which release shall be effective as any person claiming through the Plaintiff
25 Class Representative or Class Member, whether as an heir, administrator, devisee,
26

1 predecessor, successor, attorney, representative of any kind, shareholder, partner, director,
2 owner or co-tenant of any kind, affiliate, subrogee, assignee, or insurer.

3 **XIII. TERMINATION OF THE AGREEMENT**

4 13.1. This Agreement is expressly contingent upon the Court’s preliminary and final
5 approval of its terms as stated herein. If the Court fails to approve the Agreement, either
6 preliminarily or finally, the Agreement will be terminated, having no force or effect
7 whatsoever, and shall be considered null and void, *ab initio*, and not admissible as evidence
8 for any purpose in any pending or future litigation (in any jurisdiction) involving any of the
9 Parties.

10 **XIV. MISCELLANEOUS PROVISIONS**

11 14.1 This Agreement, including all attached Exhibits hereto, shall constitute the entire
12 agreement among the Parties with regard to the subject matter of this Agreement and shall
13 supersede any previous agreements and understandings between the Parties. This Agreement
14 or Exhibits may not be changed, modified, or amended except in writing signed by Class
15 Counsel and GHCH, and subject to Court approval.

16 14.2 This Agreement may be executed by the Parties in one or more counterparts, each of
17 which shall be deemed an original but all of which together shall constitute one and the same
18 instrument.

19 14.3 This Agreement, if approved by the Court, shall be binding upon and inure to the
20 benefit of the Class, the Parties, and their representatives, heirs, successors, attorneys, and
21 assigns.

22 14.4 The headings of the Sections of this Agreement are included for convenience only and
23 shall not be deemed to constitute part of this Agreement or to affect its construction. The
24 decimal numbering of provisions herein is intended to designate Subsections where applicable.

25 14.5 Any notice, instruction, application for Court approval, or application for Court order
26 sought in connection with this Agreement or other document to be given by any Party to any

1 other Party shall be in writing and delivered to counsel of record for GHCH and Class
2 Counsel.

3 14.6. This Agreement has been negotiated at arm's length by Class Counsel and GHCH's
4 counsel. In the event of any dispute arising out of this Agreement, or in any proceeding to
5 enforce any of the terms of this Agreement, no Party shall be deemed to be the drafter of this
6 Agreement or of any particular provision or provisions, and no part of this Agreement shall be
7 construed against any Party on the basis of that Party's identity as the drafter of any part of
8 this Agreement. The Parties further acknowledge that the obligations and releases herein
9 described are in good faith and are reasonable in the context of the matters released.

10 14.7 The Parties represent, warrant, and agree that no promise or agreement not expressed
11 herein has been made to them, that this Agreement contains the entire agreement between the
12 Parties, that the Agreement supersedes any and all prior agreements or understandings
13 between the Parties with respect to the matters herein, and that the terms of this Agreement are
14 contractual and not a mere recital; that in executing this Agreement, no Party is relying on any
15 statement or representation made by the other Party, or any other Party's agents or attorneys
16 concerning the subject matter, basis or effect of this Agreement other than as set forth herein;
17 and that each Party is relying solely on its own judgment and knowledge.

18 14.8 This Agreement shall be construed according to the laws of the State of Washington.


19 14.9 Waiver by one party of any provision or breach of this Agreement shall not be deemed
20 a waiver of any other provision or breach of this Agreement.


21 14.10 Each individual signing this Agreement warrants that he or she has the authority to
22 enter into this Agreement on behalf of the party for which that individual signs.

23 DATED this ___ day of April, 2021.


24 PFAU COCHRAN VERTETIS AMALA, BENNETT BIGELOW & LEEDOM, P.S.
25 PLLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

By: 
Darrell L. Cochran, WSBA #22851
Christopher E. Love, WSBA #42832
Attorneys for Plaintiffs

By: 
Michael Madden, WSBA #8747
Amy M. Magnano, WSBA #38484
Attorneys for Defendant Grays Harbor
Community Hospital

GRAYS HARBOR PUBLIC HOSPITAL
DISTRICT NO. 2

By: 
Thomas Jensen
Chief Executive Office

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

EXHIBIT A—NOTICE

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE**

MARY BRYAN and DEBRA RILEY,
individually and on behalf of all others
similarly situated

Plaintiffs,

vs.

GRAYS HARBOR COMMUNITY
HOSPITAL, a Washington non-profit
corporation, GRAYS HARBOR COUNTY
PUBLIC HOSPITAL DISTRICT NO. 2, a
Washington municipal corporation;
REBECCA A. ROHLKE, individually, on
behalf of the marital community and as
agent of non-party Hunter Donaldson;
JOHN DOE ROHLKE, on behalf of the
marital community; RALPH
WADSWORTH, individually, on behalf of
the marital community, as agent of non-
party Hunter Donaldson, JANE DOE
WADSWORTH, on behalf of the marital
community; TIM CARDA, individually, on
behalf of the marital community, and as
agent of non-party Hunter Donaldson, JANE
DOE CARDA, on behalf of the marital
community; GRACIELA PULIDO,
individually, on behalf of the martial
community and as agent of non-party Hunter
Donaldson, and JOHN DOE PULIDO, on
behalf of the marital community,

Defendants.

CLASS ACTION

NO. 16-2-00022-0

**NOTICE OF PROPOSED CLASS
ACTION SETTLEMENT**

1 **IMPORTANT LEGAL NOTICE**

2 **This Notice may affect your legal rights. Please read carefully.**

3 **I. YOU MAY BE ELIGIBLE TO RECEIVE A SHARE OF CASH BENEFITS**
4 **FROM A PROPOSED SETTLEMENT**

5 You may be a member of the class listed below in a lawsuit against Grays Harbor
6 Community Hospital (“GHCH”). If you are a class member, you may be entitled to benefits
7 from a \$750,000 class action settlement (“Settlement”) reached in this lawsuit.

8 **A. Summary of Class Membership**

9 The Court has ruled that the following people are members of the proposed Settlement
10 class:

11 (1) For purposes of their claims for declaratory relief regarding the liens' invalidity and
12 for monetary relief, a class under CR 23(b)(3) consisting of all individuals who, within
13 the applicable period of limitations, paid money to Hunter Donaldson or the Hospital or
14 who had a portion of their personal injury settlement funds held in trust by their
15 attorneys to pay the Hospital's medical service lien claim because of an allegedly
defective Medical lien notice filed by Hunter Donaldson on behalf of the Hospital; and

16 (2) For purposes of their claims for declaratory and injunctive relief regarding the liens'
17 expiration and lack of corresponding lien releases, a class under CR 23(b)(2) consisting
18 of all individuals with satisfied or expired Medical liens filed against them by Hunter
Donaldson on behalf of the Hospital, which are still recorded with the Grays Harbor
County Auditor's Office without a corresponding lien release on file.

19 **B. Purpose of the Notice**

20 The purpose of the Notice is to inform you of:

- 21
- 22 • The status of the lawsuit;
 - 23 • The essential terms of a proposed settlement with GHCH, including the
24 requirements that govern payment of the proposed net proceeds of the
25 Settlement to class members;
- 26

- The hearing to be held by the Court to consider final approval of that proposed Settlement and Plan of Distribution;
- Your rights and obligations as a result of this lawsuit, settlement, and what steps you may take in relation to the Settlement and this class action litigation; and
- Requirement of filing a claim form in order to share in the Settlement funds.

C. Summary of Options and Deadlines

As a class member, you may choose to:

- Receive a portion of cash benefits of the proposed Settlement. (To share in the benefits of the proposed Settlement, you must mail a Claim Form by _____).
- Object to the proposed Settlement. (To object, you must mail an objection by October 4, 2021). You may both object and file a Claim Form to share in the benefits of the proposed Settlement if the settlement is approved.
- Do nothing in which case you will be bound by the terms of the Settlement, including releasing all claims you currently have against GHCH and Hunter Donaldson, and yet receive no cash benefits.
- You also have the right to remain in this action through representation of attorneys other than Class Counsel. You will be responsible for retaining and paying these other attorneys.

II. STATUS OF THE LAWSUIT

The Plaintiff Class Representatives (Plaintiffs) have asserted claims on behalf of themselves and the Class concerning Defendants’ preparation, filing, and recovery on medical service liens under RCW Ch. 60.44 RCW. Plaintiffs claim that Defendant Grays Harbor Community Hospital (“GHCH”) was negligent and unjustly enriched as a result, and that GHCH failed to file lien releases required by law. The Grays Harbor County Superior Court has certified classes of plaintiffs described above. The Court also appointed Mary Bryan and

1 Debra Riley as class representatives and Darrell Cochran and Christopher E. Love as Class
2 Counsel.

3 GHCH has denied and continues to deny any liability to Plaintiffs Class Representatives
4 or the Class they represent. Class counsel have analyzed and evaluated the merits of all Parties'
5 contentions and the impact of this Agreement on the members of the Class. Based on that
6 analysis and evaluation, and recognizing the risks of continued litigation and the likelihood that
7 the Action, if not settled now, may be protracted and will further delay any relief to the proposed
8 classes, Plaintiff Class Representatives and Class Counsel are satisfied that the terms and
9 conditions of this Agreement are fair, reasonable, adequate, and equitable, and that a settlement
10 of the Action on the terms described herein is in the best interests of the Class.

11 1.6 In order to put to rest all controversy and to avoid further burdensome,
12 protracted, and costly litigation, Class Counsel, Plaintiff Class Representatives and GHCH
13 agreed, subject to preliminary and final court approval, to compromise and settle the Action
14 between the Plaintiff Class and GHCH on the terms set forth herein.

15 On _____, the Court preliminarily approved the proposed Settlement with GHCH.
16 The Court will hold a hearing (the "Fairness Hearing") in Court Room _____, Superior Court of
17 Grays Harbor County, in Montesano, Washington, at _____ on _____, to determine
18 whether the Court should finally approve the proposed Settlement.

19 **To receive a share of the Settlement benefits, you must mail the attached Claim**
20 **Form, postmarked on or before _____, to the Settlement Administrator.**

21 III. TERMS OF SETTLEMENT

22 Please note that this Notice contains only a summary of the Settlement. The entire
23 Settlement Agreement is available at the following web address, [[web address](#)], as well as by
24
25
26

1 sending a written request to the Settlement Administrator at the addressed listed below in
2 Section VI.

3 **A. Establishment of Common Fund**

4
5 GHCH or its insurer will pay \$750,000.00 into a fund, which will be available for
6 payments to Class Members, Class Counsel, and Plaintiff Class Representatives.

7 **B. Payments to Class Members**

8 The proposed Settlement provides monetary relief to Class Members who timely submit
9 a Claim Form to the Settlement Administrator containing the specified information showing
10 that they are entitled to a payment. The Settlement Administrator will make payments to Class
11 Members. Class members who made a payment to GHCH on a Medical Lien claim will receive
12 amounts ranging from 15% to 35% of the payment to GHCH, depending on the nature of the
13 lien, the timing of the payment, and whether they had government sponsored health coverage.
14 Class members whose attorneys held funds in trust to satisfy a Medical Lien claim by GHCH
15 but did not pay GHCH will receive amounts ranging from 6% to 10% of the amount withheld.
16
17

18 **C. Release of Medical Lien Claims**

19 GHCH will file a release of lien claims against all Class Members with the Grays Harbor
20 County Auditor.

21 **D. Release of Claims Against GHCH**

22
23 Upon final Court approval of the Settlement and entry of the final court order dismissing
24 claims against GHCH, you and each other class member will be releasing all claims you may
25
26

1 have for acts or omissions of GHCH concerning the medical services liens filed on GHCH's
2 behalf.

3 **E. Attorney Fees and Costs**
4

5 To date, Class Counsel have not received any payment for their services in conducting
6 this litigation on behalf of Plaintiffs and the Class Members, nor have Class Counsel been
7 reimbursed for their out-of-pocket expenses. Class Counsel have been representing the named
8 Plaintiffs on a 1/3 contingency fee basis—that is, Class Counsel would be paid 1/3 of any
9 recovery achieved for the Plaintiffs and the class, and would receive no payment if no recovery
10 was achieved. Class Counsel intend to seek court approval of a fee equal to one third of
11 \$750,000.00, as well as reimbursement for their out-of-pocket litigation costs. The fee
12 requested by Class Counsel will compensate them for their efforts in achieving a Settlement for
13 the benefit of the class, and for their risk in undertaking this representation on a contingency
14 basis. The actual amount awarded Class Counsel for fees and costs will be determined by the
15 Court. No funds will be distributed to Class Counsel at this time.

16 **F. Conditions of Settlement**
17

18 The Settlement is conditioned upon the Court's final approval, which will be determined
19 at the Fairness Hearing on _____. If the Court does not grant final approval of the
20 Settlement, the Settlement agreement might be terminated, and, if terminated, will become null
21 and void, and the parties to the Settlement agreement will be restored to the respective positions
22 they held before the Settlement agreement.
23
24
25
26

1 IV. OPTIONS FOR CLASS MEMBERS

2 A. Option #1: Agree to Proposed Settlement

3 In order to receive a share of the cash benefits of the settlement, you must complete and
4 deliver to CPT Group, the Settlement Administrator, a Claim Form on or before _____.
5 A blank Claim Form is attached to this notice for your use. Any class member who fails to
6 properly complete a Claim Form and deliver it to the Settlement Administrator by the
7 deadline will not receive any share of the cash benefits of the Settlement but will still be bound
8 by the Settlement agreement.

9 Class members who support the proposed Settlement do not need to appear at the
10 Court’s Fairness Hearing on the Settlement.

11 B. Option # 2: Object to Proposed Settlement

12 Objections by class members to the proposed Settlement will be considered by the
13 Court, but only if the person raising such objections files with the Clerk for the Superior Court
14 for Grays Harbor County, Washington, and serves on Class Counsel and counsel for GHCH,
15 no later than October 4, 2021, at the address set forth in Section VI, below, a written statement
16 of his or her objections and the legal and/or factual bases for those objections. The written
17 statement of objections must: (1) bear the case name and cause number (*Bryan v. Grays Harbor*
18 *County Public Hospital Dist. No. 2, No. 16-2-00022-0*); (2) captioned as an “OBJECTION TO
19 PROPOSED SETTLEMENT”; and (3) contain the name, address, and telephone number of the
20 objecting party and his or her attorneys, if any. Any person who properly delivers a written
21 statement of objection as specified herein may appear at the Fairness Hearing in person or
22 through counsel to show cause why the proposed Settlement with GHCHMultiCare should not
23 be approved as fair, adequate, and within the realm of reasonableness. As long as an objection
24 is properly delivered as set forth above, the Court will consider it even if the objecting party is
25

1 not present at the Fairness Hearing. An objecting party must also file a Claim Form to share in
2 the Settlement proceeds if the settlement is approved.

3 **No objection, and no pleadings or papers relating to any objection, will be heard**
4 **or considered by the Court unless the objecting party has fully complied with the**
5 **requirements of the paragraph above. Any class member who does not properly deliver**
6 **a written statement of objections in the manner specified herein shall be deemed to have**
7 **waived any and all objections for all purposes.** Attendance at the Fairness Hearing is not
8 necessary; however, class members wishing to be heard orally in opposition to the proposed
9 Settlement and/or the Plan of Distribution should indicate their wish to be heard orally in their
10 written objection their intention to appear at the Fairness Hearing.

11 **V. PAYMENTS TO CLASS MEMBERS**

12 The proposed Settlement provides that the net settlement funds (the total amount of
13 funds received from GHCH after deduction of Court-approved litigation costs, attorney fees,
14 and incentive payments of \$5,000.00 to each of the two named plaintiffs) will be distributed by
15 the Settlement Administrator. Each class member who files a valid Claim Form by _____
16 may be entitled to receive payment from the common fund based on criteria described above in
17 Section III(B).

18 The responsibilities of the Settlement Administrator shall expressly include without
19 limitation: (1) the determination of the eligibility of any class member to receive payment from
20 the common fund and the amount of payment to be made to each class member; (2) the receipt
21 and processing of all Claim Forms; (3) the administration of an appropriate procedure for
22 adjudication of disputes that may arise with respect to the eligibility of a class member to
23 receive payment from the common fund; (4) the compliance with any applicable law; and (5)
24 any other duties assigned to the Settlement Administrator by order of the Court. The costs of
25 the Settlement Administrator shall be paid by GHCH, up to a limit of \$25,000.
26

1 **VI. ADDITIONAL INFORMATION**

2 Any questions you have concerning the matters contained in this notice (and any
3 corrections or changes of name or address) should NOT be directed to the Court but should be
4 directed to the Settlement Administrator at the following address and/or telephone number:
5

6
7
8 Claim Forms should be mailed to the Settlement Administrator at the following address:
9

10
11
12
13
14 Objections to the proposed Settlement Agreement must be filed with the Clerk of the
15 Grays Harbor County Superior Court and mailed to Class Counsel and counsel for GHCH at
16 the following addresses:
17
18
19
20
21
22
23
24
25
26

1
2
3
4 The pleadings, the Settlement Agreement, and other records in this litigation may be
5 examined and copied at any time during regular office hours at the office of the Clerk, Superior
6 Court of the State of Washington, Grays Harbor County. You may also obtain these documents
7 from the Settlement Administrator at the address listed above.

8 **VII. REMINDER AS TO TIME DEADLINE**

9 1. In order to participate in the Settlement, you must complete and send a Claim
10 Form to the Settlement Administrator at the address above by mail postmarked on or before
11 _____.

12 If you wish to object to the proposed Settlement Agreement, you must send an objection
13 to the Clerk of the Superior Court for Grays County, Washington, Class Counsel, and counsel
14 for GHCH in the manner described above, by mail postmarked on or before October 4, 2021.
15 Even if you do object, you should also timely file a Claim Form or you will not be able to
16 receive any payments under the Settlement agreement approved by the Court after
17 consideration of any objections.

18 2. The Court will hold a hearing (the “Fairness Hearing”) in Courtroom _____,
19 Superior Court of Grays Harbor County, in Montesano, Washington, at _____ on
20 _____, to determine whether the Court should finally approve the proposed Settlement.
21

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

PLEASE DO NOT CONTACT THE COURT

DATED this ____ day of _____, 2021.

SUPERIOR COURT OF THE STATE OF
WASHINGTON FOR GRAYS HARBOR COUNTY

By: _____
Clerk of the Court

EXHIBIT B—CLAIM FORM

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26



Bryan v. Grays Harbor

Cnty. Hospital

Grays Harbor County

Superior Court Case No.

16-2-00022-0

**Must Be Postmarked
No Later Than
_____, 2021**

Claim Form

<<Barcode>> <<ClaimID>>
<<FirstName>> <<LastName>>
<<Addr1>> <<Addr2>>
<<City>>, <<State>> <<Zip>>

DRAFT

CHANGE OF ADDRESS ONLY

Primary Address		
Primary Address Continued		
City	State	Zip Code
Foreign Province	Foreign Postal Code	Foreign Country Name/Abbreviation

Please complete this claim form only if a payment was made to Grays Harbor Community Hospital (GHCH) on your behalf, directly to the hospital or through Hunter Donaldson, LLC, to satisfy a medical services lien filed by GHCH in connection with a personal injury award or settlement **or** if award or settlement funds were placed in an attorney trust account to satisfy a medical services lien. Copies of the lien notice or notices containing your name are attached. If you were represented by an attorney in connection with a personal injury verdict or settlement, that attorney may be able to provide you with information regarding whether such payments were made or funds held in trust.

1. Were such payments made to GHCH? Yes No

If such a payment or payments was made, please list the date(s) and amount of the payment(s):

_____ (dd/mm/yyyy)	\$_____ (amount)
_____ (dd/mm/yyyy)	\$_____ (amount)
_____ (dd/mm/yyyy)	\$_____ (amount)

Please attach documentation showing that these payment(s) were made, showing the date and amount of the payment(s).

- 2. At the time you received medical services from GHCH for which a lien was filed and with respect to which a payment was made), did you have health insurance or government-sponsored coverage (such as Medicare, Medicaid, Workers Compensation) in place? Yes No

- 3. Were your personal injury settlement funds placed in an attorney trust account to satisfy a medical services lien claim by GHCH, but not ultimately paid to GHCH, directly or through Hunter Donaldson, LLC? Yes No

- 4. If your answer to No. 3, is yes, please attach a copy of a trust account statement or other acceptable documentation showing the date when those funds were place into trust and amount settlement funds held in trust.

By submitting this Claim Form, I affirm under penalty of perjury that the information provided is true and correct. By submitting this Claim Form, I authorize GHCH and the Settlement Administrator, CPT, to validate my claim, including accessing my protected health information, including health claims payment information. Once verified, I further authorize CPT to make such reports to the Court and Class Counsel as maybe required by the terms of the Settlement Agreement, which will include my name and the amount of any payment authorized under the terms of the Settlement Agreement, together with a general categorization of my claim as falling under one or more of the authorized payment classes and other potential claims identifying data. GHCH and CPT will not reveal the underlying nature of my health condition.

Sign Name: _____

Print Name: _____

Date: _____

MUWA1SECOND



EXHIBIT C—CLAIMS PROCESS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

BRYAN v. GHCH CLASS SETTLEMENT AGREEMENT
EXHIBIT C—CLAIMS PROCESS

A. Claim Processing

1. As Claim Forms are received, the Settlement Administrator will review them and, if the Claim Form was not timely submitted or does not contain required information or signature, notify the Class Member by first class mail that the Claim has been rejected. A Class Member may submit a corrected Claim Form and documentation, which must be received before the close of Claim Period.

2. As to claims not rejected by the Settlement Administrator, not less than weekly following receipt of the first properly completed Claim Form from a Class Member, the Settlement Administrator will provide counsel for GHCH with copies of the returned Claim Forms and supporting documentation, as well an Excel file containing information compiled from returned Claim Forms. Within not less than 14 days after receipt of this information, GHCH will provide the Settlement Administrator with: (i) verification of receipt of payment as the result of a medical lien, including the date and amount of payment; (ii) the Class Member's coverage status at the time of service; (iii) if it disputes a Class Member's claim that payment was received as the result of a medical lien or that funds were held in trust to satisfy a medical lien, a statement of the basis for the dispute.

3. Upon receipt of the specified information from GHCH, the Settlement Administrator will proceed to adjudicate each Claim based on the information provided by the Class Member and GHCH and determine the amount payable in accordance with the terms of the Settlement Agreement and this Exhibit, provided that if, after receipt of the specified information from GHCH, the Settlement Administrator determines it needs further information from the Class Member in order to adjudicate a Claim it will contact the Class Member to request that information. The Class Member must respond within 10 days of the Settlement Administrator's request, at which time the Settlement Administrator will adjudicate the Claim. Not less than once every 14 days during the Claim Period and as necessary during the subsequent 45 day period, the Settlement Administrator shall inform the Class Member, Class Counsel and GHCH of its determinations. Class Counsel and GHCH shall have seven days after receipt of notice of the Settlement Administrator's determinations to challenge the same and inform the opposing party and the Settlement Administrator in writing of the basis for the challenge. Class Members shall have 20 days after the date of the Settlement Administrator's determination regarding that Class Member to challenge the same and inform Class Counsel, GHCH, and the Settlement Administrator in writing of the basis for the challenge. If there is no challenge, the Settlement Administrator's decision shall be final and the Class Member paid in accordance with the Settlement Administrator's determination.

B. Dispute Resolution

1. A Class Member, Class Counsel, or GHCH may challenge the Settlement Administrator's adjudication of a Claim. In any such challenge, the burden shall be on the party challenging the Settlement Administrator's decision to prove that it is inconsistent with the terms of the Settlement Agreement. In cases where a Class Member, Class Counsel, or GHCH challenges the Settlement Administrator's adjudication of a Claim, the other party may submit additional information to the Settlement Administrator, which in the case of Class Counsel may include additional information obtained from the Class Member. Any additional information must be received within 14 days after receipt of notice of the challenge. Within 10 days thereafter, the Settlement Administrator shall resolve the challenge based on its good faith application of the terms of Settlement Agreement to the available information, including information submitted by the Class Member, Class Counsel or GHCH, and notify the Class Member, Class Counsel, and GHCH of its decision in writing or by electronic mail.

2. The payment deadline under Section 10.1 of the Settlement Agreement shall be extended as necessary to allow for resolution of disputed claims only.

C. Escrow Account

On or before the date of the Fairness Hearing, the Settlement Administrator shall establish an account with a bank satisfactory to GHCH or its insurer, the sole purpose of which shall be to receive and disburse funds in accordance with the Settlement Agreement (the Escrow Account).

D. HIPAA Compliance

The Settlement Administrator will execute a business associate agreement with GHCH for purposes of compliance with the Health Insurance Portability and Accountability Act of 1996 and will transmit and disclose protected healthcare information received from GHCH only in accordance with that agreement.