

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PAT CASON-MERENDA and JEFFREY A. SUHRE on behalf of themselves and others similarly situated,)	
)	Case No. 06-15601
Plaintiffs,)	
v.)	Hon. Gerald E. Rosen
)	
VHS OF MICHIGAN, INC., d.b.a. DETROIT MEDICAL CENTER)	
)	
Defendant)	
)	
)	

CLASS SETTLEMENT AGREEMENT AND RELEASE

This Class Settlement Agreement and Release (“Settlement Agreement” or “Agreement”) is made and entered into this 11th day of September, 2015 (the “Execution Date”), by and among defendant VHS of Michigan, Inc., d.b.a. Detroit Medical Center (“DMC”), on the one hand, and plaintiffs Pat Cason-Merenda and Jeffrey Suhre (collectively “Plaintiffs”), individually and as representatives of the certified Class of similarly situated Registered Nurses (as defined below), on the other hand.

WHEREAS, Plaintiffs are the named plaintiffs in the above-captioned action (the “Litigation”), which they have filed on their own behalf and on behalf of the Class against DMC and other Defendants;

WHEREAS, on December 12, 2006, Plaintiffs filed a class action complaint alleging, among other things, that DMC participated in an unlawful conspiracy to depress wages for Registered Nurses and/or to unlawfully exchange wage information in violation of Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1 *et seq.*;

WHEREAS, Plaintiffs have subsequently filed amended and corrected complaints, including their Third Corrected Class Action Complaint filed on or about June 15, 2007 (docket 67) (the “Complaint”);

WHEREAS, DMC has denied any wrongdoing, denies Plaintiffs’ allegations, has not conceded or admitted any liability, and has asserted affirmative and other defenses to each of Plaintiffs’ original and amended claims;

WHEREAS, Defendants and various third-parties have furnished several million pages of discovery and various databases containing payroll and human resources information;

WHEREAS, Plaintiffs represent that there have been over one hundred party and third-party depositions as of the time of this Agreement;

WHEREAS, Plaintiffs and their counsel have conducted an investigation into the facts and the law regarding the Litigation and have concluded that a settlement with DMC according to the terms set forth herein is in the best interest of Plaintiffs and the Class;

WHEREAS, DMC has concluded, despite its belief that it has strong and valid defenses to the claims asserted, to enter into this Settlement Agreement in order to avoid further expense, inconvenience, and the distractions of burdensome and protracted litigation, to obtain the releases, orders and judgments contemplated by this Settlement Agreement, and to put to rest with finality all Released Claims as defined below;

WHEREAS, arm’s-length settlement negotiations have taken place between counsel for Plaintiffs and DMC, including mediation facilitated by the Court-appointed Special Master for Settlement Negotiations, former Judge Layn Phillips;

NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein, it is agreed by and among the undersigned that the Litigation be settled, compromised, and dismissed on the merits with prejudice as to DMC, without costs except as expressly provided in this Settlement Agreement as to Plaintiffs, the Class, or DMC, subject to the approval of the Court, on the following terms and conditions:

A. Definitions

The following terms, as used in this Settlement Agreement, have the following meanings:

1. "Claims Administrator" means Rust Consulting, Inc., which shall administer the settlement.
2. "Class" means all registered nurses who provided direct patient care in short term acute care facilities, exclusive of supervisory, managerial and advance practice nurses, and who were employed by Defendants within the Detroit, Michigan Metropolitan Statistical Area at any time from December 12, 2002 through December 12, 2006 who have not timely and validly elected to be excluded from the Class.
3. "Class Counsel" means the law firms of Keller Rohrback, L.L.P. 1201 Third Avenue, Suite 3200, Seattle WA, 98101; Cohen, Milstein, Sellers, & Toll, P.L.L.C., 1100 New York Avenue, N.W., Suite 500, Washington, D.C. 20005; and James & Hoffman, P.C., 1130 Connecticut Avenue, NW, Suite 950, Washington, DC 20036 as appointed by the Court in its Order of September 13, 2013, and as affirmed by Order Reinstating The Court's September 13, 2102 Opinion, dated March 7, 2015.

4. “Class Member” means each member of the Class who has not timely and validly elected to be excluded from the Class.
5. “Class Notice” means a notice to members of the Class approved by the Court and any additional notices and communications to Class Members provided for herein.
6. “Class Period” means the period from December 12, 2002, through December 12, 2006, inclusive.
7. “Court” means the United States District Court for the Eastern District of Michigan, Southern Division, in which the Litigation is pending.
8. “Defendant” means any person or entity named as a defendant in Plaintiffs’ Third Corrected Class Action Complaint filed on or about June 15, 2007 (docket 67) and each of their corporate parents, subsidiaries, and affiliated companies and officers, directors, employees, and representatives (and the parents, subsidiaries, and affiliates’ past and present officers, directors, employees, and representatives), and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing.
9. “Detroit” (or “Detroit MSA”) means the Detroit-Warren-Livonia Metropolitan Statistical Area as defined by the federal Office of Management and Budget in December 2006.
10. “DMC” means VHS of Michigan, Inc., d.b.a. Detroit Medical Center, and its respective past and present parents, subsidiaries, affiliates, and officers, directors, employees, and representatives (and the parents, subsidiaries, and affiliates’ past and

present officers, directors, employees, and representatives), and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing.

11. “Effective Date” means the date on which the Settlement Agreement has become final as set forth in paragraph 36 below.

12. “Employee” means any full-time, part-time, hourly or per diem employee.

13. “Final Judgment” means an order granting final approval of this Settlement Agreement under Rule 23(e) of the Federal Rules of Civil Procedure together with entry of the final judgment dismissing the Litigation and all claims therein against DMC on the merits with prejudice as to all Class Members, and which is certified as a final judgment by the Court under Rule 54(b) at the time of entry or, if not so certified, then said order at such later time when a final judgment is entered by the Court that adjudicates all the claims and all of the rights and liabilities of all of the parties to the Litigation. Notwithstanding the foregoing, the Parties agree that the Court’s determination of the amount of any fee to be awarded to Class Counsel, or any modification of such fees on appeal or remand, shall not affect whether a judgment or other order is deemed a Final Judgment.

14. “Parties” means Plaintiffs and DMC;

15. “Plaintiffs” means Pat Cason-Merenda and Jeffrey Suhre.

16. “Registered Nurse” means any individual licensed under the Michigan Public Health Code, § 333.17201, *et seq.*, to practice nursing.

17. “Released Claims” means those claims released pursuant to Paragraph 37 of this Settlement Agreement.

18. “Releasees” shall refer jointly and severally, individually and collectively to DMC, and its respective past and present parents, subsidiaries, affiliates, officers, directors, employees, representatives (and the parents, subsidiaries, and affiliates’ past and present officers, directors, employees, and representatives), and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing.

19. “Releasers” shall refer jointly and severally, individually and collectively to Plaintiffs, the Class Members, and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing.

20. “Settlement Amount” means \$42,000,000.

21. “Settlement Fund” means the Settlement Amount plus any interest earned on that amount.

22. “Taxes” means any sums due to be paid to governmental taxing authorities from the Settlement Fund, including taxes, estimated taxes, interest and penalties.

23. “Tax Expenses” means any and all reasonable fees and costs due to be paid to tax preparers, tax consultants or others for determining the tax liability of the Settlement Fund.

B. Payment

24. The Settlement Amount shall be paid to Keller Rohrback L.L.P.’s trust account, to be transferred to the Qualified Settlement Fund Account already established in this case (“QSF”), by DMC within 30 days after this Settlement Agreement has become final in accordance with Paragraph 36 hereof.

C. Approval of This Settlement Agreement and Dismissal of Claims

25. The Parties shall use their best efforts to effectuate this Settlement Agreement, and Plaintiffs shall timely seek to obtain the Court's preliminary and final approval of this settlement. Plaintiffs shall use their best efforts to secure the prompt, complete and final dismissal with prejudice of the Litigation as to DMC. DMC shall use its reasonable efforts to cooperate in the foregoing.

26. Plaintiffs intend to submit to the Court on the Execution Date of this agreement (but will otherwise do so within twenty-one (21) days of the Execution Date), a motion requesting entry of an Order (i) preliminarily approving the Settlement Agreement, (ii) authorizing dissemination of the Notice to the Class and the method for, and timetable for dissemination of Class Notice as set forth in this agreement, (iii) authorizing the payment of certain expenses specified herein from the Settlement Fund, and (iv) staying all proceedings against DMC except those proceedings provided for or required by this Settlement Agreement.

27. Within ten (10) days of the Settlement Agreement's filing with the Court, the Claims Administrator shall serve upon the Michigan Department of Community Health and Attorney General of each state in which a class member may reside and upon the United States Attorney General a notice of this settlement composed of materials designated or supplied by Plaintiffs in accordance with the Class Action Fairness Act of 2005, 28 U.S.C. § 1715 (b) 1-6 ("CAFA Notice"). For purposes of this notice, Plaintiffs shall also provide to the Claims Administrator a reasonable estimate of: (a) the number of Class Members who reside in each state; and (b) for each state, the estimated proportionate

share of the claims of resident class members to the entire settlement as required by 28 U.S.C. § 1715 (b)(7).

D. Class Notice.

28. The parties agree to the following provisions for Class Notice, subject to Court approval. Within twenty-one (21) days of execution of the Settlement Agreement, DMC shall provide Plaintiffs with a current list of the names and addresses of members of the Class (in electronic form, if available) who worked at DMC during the Class Period, either linked to previous name and address information provided during discovery or linked to the unique SSN-E number used during the litigation to identify DMC employees (“Updated Address List”). DMC shall also provide as soon as possible, and no later than thirty (30) days after Preliminary Approval of the Settlement Agreement, Social Security Numbers for members of the Class employed by DMC, which shall be subject to all confidentiality provisions of the Court’s Protective Order.

29. Within twenty (20) days of receipt of the Updated Address List and after entry of an Order of Preliminary Approval by the Court, the Claims Administrator shall mail a Court-approved form of Class Notice by first class mail postage prepaid to each member of the Class on the Class List (defined below) as updated through the National Change of Address database. If a Class Notice is returned as undeliverable, and the USPS provides a forwarding address, the Claims Administrator shall resend the Class Notice to the potential Class Member using the corrected address provided by the USPS. If a Class Notice is returned by the USPS without a forwarding address, the Claims Administrator shall utilize normal skip tracing techniques, including but not necessarily limited to

searching the database of one or more of the nationally recognized credit reporting agencies (such as Equifax, TransUnion, or Experian) to locate the potential Class member's current address. If successful, a Class Notice shall be resent to the potential Class Member at the current address.

30. The Class Notice shall incorporate a final fairness hearing date as established by the Court which is not less than 60 days from the date the Claims Administrator anticipates completion of the initial mailing of the Class Notice (without regard to returned envelopes). Because notice of certification of the Class was provided, in accordance with Federal Rule of Civil Procedure 23(c)(2), and the deadline for opt-outs expired June 1, 2015, the parties will seek Court approval for a Class Notice that shall not include any option to opt-out of this Settlement for any member of the Class.

31. No later than five (5) business days after the mailing of the Class Notice, Plaintiffs shall post on the already established Class Settlement Web Site, detroitnursewages.com, the following items: (i) the Class Notice; (ii) the Settlement Agreement; (iii) the Preliminary Approval Order as entered by the Court; (iv) information as to the date and time of the final approval hearing, including any changes to such hearing time or place received by the Claims Administrator at least five (5) business days prior to the final approval hearing; (v) contact information for Class Counsel; (vi) notification of the deadline by which any objections to final approval of the Settlement Agreement must be filed with the Court and served on counsel for the parties; (vii) notification of Class Members' right to be represented at the final approval hearing by counsel of their own choosing, at their own expense, and the deadline for notification of any intent to appear and

request to be heard at the final fairness hearing; (viii) the Complaint; (ix) when available, Class Counsel's Plan of Allocation and any orders relating thereto; and (x) any other document or notification relating to the Settlement or distribution of the Settlement Fund. The Class Settlement Web Site shall be maintained for a period of at least sixty (60) days after the entry of an order approving the final distribution of the Settlement Fund. Plaintiffs shall update this website to reflect the current status of this settlement.

32. Class Counsel shall take all necessary and appropriate steps to ensure that notice of the settlement hearing is provided to Class Members in accordance with this Settlement Agreement and the orders of the Court.

33. DMC shall have no liability with respect to the giving of any notice provided for in this Settlement Agreement.

E. Final Approval of the Settlement

34. Class Counsel shall submit a motion for final approval of the settlement to the Court. Plaintiffs shall seek, and DMC shall not object to, entry of a final judgment and order: (a) approving finally this Settlement Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms; (b) directing that, as to DMC, the Class Action be dismissed with prejudice and without costs; (c) reserving exclusive jurisdiction over the settlement and this Settlement Agreement, including the administration and consummation of this settlement; and (d) finding under Federal Rules of Civil Procedure 54(b) that there is no just reason for delay and directing that the judgment of dismissal as to DMC shall be final and entered forthwith.

35. Plaintiffs agree that, ten (10) business days prior to submission of the motion for final approval of the Settlement Agreement (or as soon as reasonably possible thereafter depending on the deadline for filing objections), they shall provide DMC's counsel with an advance copy of the papers and make reasonable suggested edits from DMC's counsel.

36. This Settlement Agreement shall become final only upon: (a) the entry by the Court of the Final Judgment, and (b) the expiration of the time for appeal and to seek permission to appeal from the Court's approval of the Settlement Agreement and entry of the Final Judgment or, if an appeal from an approval and Final Judgment is taken, the affirmance of such Final Judgment in its entirety, without substantial modification, by the court of last resort to which an appeal of such Final Judgment may be taken, except that any modification of the Final Judgment on appeal that the parties agree shall not affect the finality of this Settlement Agreement or the Effective Date shall not do so. Notwithstanding the foregoing, the modification of any award of fees or costs to Class Counsel for the Class on appeal or on remand shall not affect the finality of this Settlement Agreement, or the Effective Date.

F. Release and Discharge

37. Upon the occurrence of the Effective Date and in consideration of the payment of the Settlement Amount, the Releasees shall be completely released, acquitted, and forever discharged from any and all claims, demands, actions, suits, and causes of action (including without limitation claims under the Michigan Antitrust Reform Act and any state or federal antitrust, or unfair competition laws), whether class, individual, or

otherwise in nature, damages whenever incurred, liabilities of any nature whatsoever, including costs, expenses, penalties, and attorneys' fees that Releasors, or any one of them, whether directly, representatively, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have against the Releasees, whether known or unknown, relating in any way to any allegedly anticompetitive conduct by the Releasees prior to the Execution Date concerning the Releasors' monetary compensation, non-monetary compensation, benefits, recruitment, employment, and/or retention as a non-managerial and non-supervisory Registered Nurse, other than as an advanced practice nurse, in the Detroit MSA. The Released Claims include, without limitation, all claims related to or arising out of any of the facts, occurrences, transactions, or other matters alleged in the Litigation during the Class Period as applied to non-managerial and non-supervisory Registered Nurses other than when working as advanced practice nurses in the short term care facilities identified in the Complaint. Upon the Effective Date, Class Members shall be forever enjoined from prosecuting Released Claims against any Releasee.

38. In addition, each Releasor hereby expressly waives and releases any and all provisions, rights, and benefits conferred by Section 1542 of the California Civil Code¹ or by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable or equivalent to Section 1542 of the California

¹ Section 1542 provides that a "general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her own settlement with the debtor." Cal. Civil Code §1542.

Civil Code. Each Releasor acknowledges that he, she, or it may hereafter discover facts other than or different from those which the Releasor knows or believes to be true with respect to the claims which are the subject matter of this Paragraph, but each Releasor, through this Agreement, and with the ability to seek independent advice of counsel, hereby expressly waives and fully, finally, and forever settles and releases any known or unknown, suspected or unsuspected, contingent or non-contingent claim that would otherwise fall within the definition of Released Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. The releases herein given by the Releasors shall be and remain in effect as full and complete releases of the claims set forth in this Action, notwithstanding the later discovery or existence of any such additional or different facts relating to the Action or this Agreement or the later discovery of any such additional or different claims that would fall within the scope of the release provided in Paragraph 37 of this Agreement, as if such facts or claims had been known at the time of this release.

39. In addition to the provisions of Paragraphs 37 and 38, each Releasor hereby expressly and irrevocably waives and releases, upon this Agreement becoming finally approved by the Court, any and all defenses, rights, and benefits that each Releasor may have or that may be derived from the provisions of applicable law which, absent such waiver, may limit the extent or effect of the release contained in Paragraphs 37 and 38. Each Releasor also expressly and irrevocably waives any and all defenses, rights, and benefits that the Releasor may have under any similar statute in effect in any other jurisdiction that, absent such waiver, might limit the extent or effect of the release.

G. The Settlement Fund

40. Each Class Member shall look solely to the Settlement Fund for settlement and satisfaction, as provided herein, of all claims released by the Releasers. Except as provided by this agreement and by order of the Court, no Class Member shall have any interest in the Settlement Fund or any portion thereof. Notwithstanding any other provision of this Settlement Agreement, DMC's responsibility for any expenses, costs, damages or fees of any nature is fulfilled by its deposit of the Settlement Amount in accordance with Paragraph 24, and DMC shall not bear any other expenses, costs, damages or fees of any nature alleged or incurred by Class Members or their attorneys, experts, advisors, agents or representatives, including, without limitation, the Claims Administrator.

41. With Court approval, the Settlement Fund may be distributed to pay the following expenses as they are incurred: Taxes, Tax Expenses, bank charges, and charges of the Claims Administrator. DMC agrees not to oppose any petition for these payments.

42. Except as otherwise provided in this Settlement Agreement, the approval of the Court shall be required prior to the distribution of any monies from the QSF.

43. The Settlement Amount shall be invested as directed by Class Counsel in fully-insured QSF Accounts. All interest earned by the Settlement Amount shall become and remain part of the Settlement Fund.

44. The Settlement Fund shall be distributed to Class Members after the Agreement is final in accordance with Paragraph 36 and in accordance with a Plan of Allocation that Class Counsel shall have submitted and the Court shall have approved prior to any such distribution.

45. DMC shall not have any responsibility, financial obligation, or liability whatsoever with respect to the investment, distribution, use, or administration of the Settlement Fund including, but not limited to, the costs and expenses of such investment, distribution, or administration.

46. DMC shall have no responsibility or liability whatsoever for the allocation or distribution of the Settlement Fund and shall not be responsible or otherwise liable for any disputes relating to the amount, allocation, or distribution of any fees, costs, or awards. However, DMC's counsel shall answer reasonable queries from Class Counsel and conduct reasonable investigation regarding the job title and employment status of any nurse who claims to have been a member of the Class employed by DMC during the Class Period. DMC shall not be liable for any additional payments to the Class Members, Class Counsel, or to other entities, pursuant to this Settlement Agreement, including, without limitation, payments to any local, state or federal authority arising from distribution of any payments to the Plaintiffs, Class Members, or Class Counsel and the employer tax or any other obligation that results.

47. Plaintiffs and Class Counsel shall be reimbursed and paid solely out of the Settlement Fund for all expenses including, but not limited to, attorneys' fees and past, current, or future litigation expenses (including, but not limited to, experts' and consultants' fees and expenses).

H. Rescission If This Settlement Agreement Is Not Approved

48. If the Court declines preliminarily to approve this Settlement Agreement substantially on the terms set forth herein, or if the Court declines to finally approve the

Settlement Agreement at or after the final fairness hearing substantially on the terms set forth herein or as modified by stipulation by the parties, or if the Court does not enter Final Judgment, or if such approval or Final Judgment is materially modified or otherwise not approved on appeal, then DMC and Plaintiffs shall, each in their sole discretion, have the option to rescind this Settlement Agreement in its entirety within ten (10) business days of any such event.

49. If the Settlement Agreement is rescinded, canceled, or terminated, any obligations pursuant to this Settlement Agreement shall cease immediately.

50. DMC and Plaintiffs expressly reserve all of their respective rights to the extent that this Settlement Agreement does not become effective or if this Settlement Agreement is rescinded or terminated by DMC or Plaintiffs pursuant to the terms of this Settlement Agreement.

I. Taxes

51. Class Counsel shall be solely responsible for directing the Claims Administrator to file all informational and other tax returns necessary to report any taxable and/or net taxable income earned by the Settlement Fund. Further, Class Counsel shall be solely responsible for directing the Claims Administrator to make any tax payments, including interest and penalties due, on income earned by the Settlement Fund. DMC shall have no responsibility to make any tax filings relating to this Settlement Agreement or the Settlement Fund, and shall have no responsibility to pay Taxes on the Settlement Fund or in connection with this settlement. Other than as specifically set forth herein, DMC shall have no responsibility for the payment of Taxes or Tax Expenses. If for any reason, for any

period of time, DMC is required to pay Taxes on income earned by the Settlement Fund, the Claims Administrator shall, upon Court approval and written instructions from DMC and Plaintiffs, timely pay to DMC sufficient funds to enable it to pay all Taxes (state, federal, or other) on income earned by the applicable Settlement Funds.

52. For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “Administrator” of the QSF shall be the Claims Administrator, who shall timely and properly file or cause to be filed on a timely basis, all tax returns necessary or advisable with respect to the QSF (including without limitation all income tax returns, all informational returns, and all returns described in Treas. Reg. § 1.468B-2(1)).

53. The Parties to this Settlement Agreement and their counsel shall treat, and shall cause the Claims Administrator to treat, the QSF as being at all times a “qualified settlement fund” within the meaning of Treas. Reg. § 1.468B-1. The Parties, their counsel, and the Claims Administrator agree that they will not ask the Court to take any action inconsistent with the treatment of the QSF in such manner. In addition, the Claims Administrator and, as required, the Parties shall timely make such elections as necessary or advisable to carry out the provisions of this Paragraph, including the “relation-back election” (as defined in Treas. Reg. § 1.468B-1(j)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Claims Administrator timely and properly to prepare and deliver the necessary documentation for signature by all necessary Parties and thereafter to cause the appropriate filing to occur. All provisions of this

Settlement Agreement shall be interpreted in a manner that is consistent with the QSF being a “qualified settlement fund” within the meaning of Treas. Reg. § 1.468B-1.

54. The Claims Administrator shall be responsible for calculating all required or appropriate local, state and federal payroll taxes resulting from this Settlement, including without limitation Social Security, Medicare, income and other taxes or assessments arising from distribution or allocation of any portion of the Settlement Fund to Class Members or Class Counsel, including the employer portion of any payroll or other tax. The Claims Administrator shall withhold such taxes or assessments from any distribution or allocation, and make all required tax payments, including the employer portion of any tax obligation, from the Settlement Fund. The Claims Administrator shall assure compliance with all applicable local, state and federal statutes, rules and regulations applicable to such distributions or allocation. The Claims Administrator shall prepare and distribute all necessary or appropriate tax forms (including, without limitation, W-2 forms), and perform any customary or appropriate procedures attendant to processing or issuing such payments and forms. The Claims Administrator shall also establish an Employer Identification Number for the Settlement Fund to be used for processing payroll tax payments and forms. Subject to Class Counsel’s approval, the Claims Administrator may engage tax counsel to assist in fulfilling its responsibilities under this Settlement Agreement. If an amount less than 100 percent of each Class Member's allocation is treated as wages for tax purposes, then the Claims Administrator shall obtain a written opinion of such tax counsel supporting such treatment. All payments, costs and fees made or incurred under this Paragraph shall be made solely from the Settlement Fund.

J. Use of This Agreement

55. This Agreement and the fact of settlement of Plaintiffs' claims relating to Registered Nurses, including all negotiation and discussions leading up to the settlement, shall not constitute any admission of liability or other evidence of any violation of any statute or law or of any liability or wrongdoing by a Releasee or of the truth of any of the claims or allegations Plaintiffs may have asserted against Releasees; nor shall it constitute evidence or an admission of the absence of liability or wrongdoing, of the falsity of any claims or allegations asserted by Plaintiffs, or of the truth of any of the defenses or allegations asserted by any Releasee.

K. Miscellaneous

56. This Settlement Agreement constitutes the entire agreement among Plaintiffs and DMC pertaining to the settlement of the Litigation against DMC and supersedes any and all prior and contemporaneous undertakings of Plaintiffs and DMC in connection therewith. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by any party hereto to any other party concerning the subject matter hereof. This is an integrated agreement. This Settlement Agreement may be modified or amended only by a writing executed by Class Counsel and DMC and approved by the Court.

57. All terms of this Settlement Agreement shall be governed by and interpreted according to the substantive laws of Michigan without regard to its choice of law or conflict of law principles.

58. The United States District Court for the Eastern District of Michigan, Southern Division, shall retain exclusive jurisdiction over all matters relating to the implementation and enforcement of the Settlement Agreement.

59. The Parties agree that they will not issue, or request or encourage others to issue, any public statements, press releases, advertisements, internet postings, social media postings, or other postings and the like, regarding their settlement or the Settlement Agreement, other than the pleadings to be filed to obtain court approval of the Settlement Agreement, the statements made in Court regarding such pleadings and the request for approval, and the statements the Parties have exchanged and agreed upon.

60. Neither DMC nor Plaintiffs, nor any of them, shall be considered to be the drafter of this Settlement Agreement, or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement.

61. Nothing expressed or implied in this Settlement Agreement is intended to or shall be construed to confer upon or give any person or entity other than Plaintiffs, Class Members, DMC, Releasers, and Releasees any right or remedy under or by reason of this Settlement Agreement.

62. This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of Releasers and Releasees.

63. Where this Settlement Agreement requires any party to provide notice or any other communication or document to any other party, such notice, communication, or document shall be provided by email, facsimile or letter by overnight delivery at the

address reflected on the signature pages, with notice to be considered received on the day of receipt; provided, however, that any notice of non-delivery shall cause such notice to be invalid.

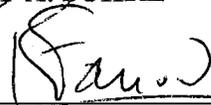
64. This Settlement Agreement may be executed in counterparts by Plaintiffs and DMC, and a facsimile or emailed image of a signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

65. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement, by and on behalf of his or her respective clients.

66. Class Counsel shall submit any petition for fees, costs or payment of incentive awards so that it can be considered at the same time as the motion for final approval of the Settlement Agreement, provided, however, that Class Counsel's fees shall not be paid out of the Settlement Fund prior to the time this Settlement Agreement is final in accordance with Paragraph 36 hereof. DMC agrees not to oppose any petition for reimbursement of costs or payment to the Plaintiffs of incentive awards in the amount of \$15,000 each.

IN WITNESS WHEREOF, the parties hereto, through their fully authorized representatives, have agreed to this Settlement Agreement as of the date first herein written above.

**PLAINTIFFS PAT CASON-MERENDA
and JEFFREY A. SUHRE**

By: 
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Counsel for DMC

IN WITNESS WHEREOF, the parties hereto, through their fully authorized representatives, have agreed to this Settlement Agreement as of the date first herein written above.

**PLAINTIFFS PAT CASON-MERENDA
and JEFFREY A. SUHRE**

**VHS OF MICHIGAN, INC., d.b.a.
DETROIT MEDICAL CENTER**

By: _____

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IN WITNESS WHEREOF, the parties hereto, through their fully authorized representatives, have agreed to this Settlement Agreement as of the date first herein written above.

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