

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

Angi Schave,

Plaintiff,

v.

CentraCare Health System, the Board of  
Directors of CentraCare Health System,  
and John Does 1-40,

Defendants.

Case No.: 0:22-cv-01555-JRT/LIB

**CLASS ACTION SETTLEMENT AGREEMENT**

This Class Action Settlement Agreement (the "Settlement Agreement") is entered into between and among the Class Representative, all Class Members, and the Defendants, as defined herein.

NOW, THEREFORE, without any admission or concession on the part of the Class Representative of any lack of merit of the Action, and without any admission or concession on the part of Defendants as to the merits of the allegations or claims asserted in the Action, it is hereby STIPULATED AND AGREED, by and among the Settling Parties to this Settlement Agreement, through their respective attorneys, subject to approval of the Court pursuant to Federal Rule of Civil Procedure 23(e) (and as otherwise provided for below), in consideration of the benefits flowing to the Settling Parties hereto from the Settlement Agreement, that all Released Claims as against the Released Parties shall be compromised, settled, released, and dismissed with prejudice, upon and subject to the following terms and conditions:

**1. ARTICLE 1 - DEFINITIONS**

As used in this Settlement Agreement and the Exhibits hereto, unless otherwise defined, the following terms have the meanings specified below:

- 1.1. "Active Account" means an individual investment account in the Plans with a balance greater than \$0 as of June 13, 2016.
- 1.2. "Administrative Expenses" means expenses incurred in the administration of this Settlement Agreement, including (a) all fees, expenses, and costs associated with providing the Settlement Notice to the Class Members, including but not limited to the fees of the Plans' Recordkeeper to identify the names and mailing addresses of Class Members; (b) related tax expenses (including taxes and tax expenses as described in Section 4.3); (c) all expenses and costs associated with the distribution of funds under the Plan of Allocation, including but not limited to the fees of the Plans' Recordkeeper associated with implementing this Settlement Agreement, facilitating the distribution of funds under the Plan of Allocation, gathering the data necessary to prepare the Plan of Allocation, and performing the calculations pursuant to the Plan of Allocation; (d) all fees and expenses of the Settlement Administrator and Escrow Agent; and (e) all fees, expenses, and costs associated with providing CAFA Notices. Administrative Expenses shall be paid from the Gross Settlement Amount. Excluded from Administrative Expenses are (a) the Settling Parties' respective legal fees and expenses and (b) all fees and expenses of the Independent Fiduciary.
- 1.3. "Alternate Payee" means a Person other than a participant or Beneficiary in the Plans who is entitled to a benefit under the Plans as a result of a QDRO.
- 1.4. "Attorneys' Fees and Costs" means the amount awarded by the Court as compensation for the services provided by Class Counsel. The amount of attorneys' fees for Class Counsel shall not exceed 33 1/3% of the Gross Settlement Amount, which shall be recovered from the Gross Settlement Amount. Class Counsel also will seek reimbursement for all litigation costs and expenses advanced and carried by Class Counsel for the duration of this Action, which also shall be recovered from the Gross Settlement Amount.
- 1.5. "Authorized Administrator" means any entity, other than the Recordkeeper, with appropriate administrative authority under the Plans.

- 1.6. "Beneficiary" means any individual, trust, estate, or other recipient entitled to receive death benefits payable under the Plans, on either a primary or contingent basis, other than an Alternate Payee.
- 1.7. "CAFA" means the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711-1715.
- 1.8. "CAFA Notice" means notice of this Settlement to the appropriate federal and state officials pursuant to CAFA, substantially in the form set forth in Exhibit E hereto.
- 1.9. "Case Contribution Award" means the monetary amount awarded by the Court to the Class Representative in recognition of the Class Representative's assistance in the prosecution of this Action, for which Class Counsel may seek an amount payable from the Gross Settlement Amount. Any such Case Contribution Award shall be subject to the approval of the Court.
- 1.10. "CentraCare" means CentraCare Health System.
- 1.11. "Action" means *Schave v. CentraCare Health System, et al.*, Case No. 0:22-cv-01555-JRT/LIB, in the United States District Court for the District of Minnesota.
- 1.12. "Class Counsel" means Wanta Thome, PLC.
- 1.13. "Class Members" means all individuals in the Settlement Class, including the Class Representative.
- 1.14. "Class Period" means the period from June 13, 2016, through the date the Court enters the Preliminary Approval Order.
- 1.15. "Class Representative" means Angi Schave.
- 1.16. "Complaint" means the Complaint filed in this Action on June 13, 2022.
- 1.17. "Court" means the United States District Court for the District of Minnesota.
- 1.18. "Defendants" means CentraCare Health System, the Board of Directors of CentraCare Health System, and John Does 1-40.

- 1.19. "Defense Counsel" means Dorsey & Whitney LLP.
- 1.20. "Escrow Agent" means Atticus Administration, or another entity agreed to by the Settling Parties.
- 1.21. "ERISA" means the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 *et seq.*
- 1.22. "Fairness Hearing" means the hearing scheduled by the Court to consider (a) any objections by Class Members to the Settlement; (b) Class Counsel's petition for Attorneys' Fees and Costs and Class Representative's Case Contribution Award; and (c) whether to finally approve the Settlement under Fed. R. Civ. P. 23(e). The Parties agree that the Fairness Hearing may be conducted telephonically or via videoconferencing.
- 1.23. "Final" means, with respect to any judicial ruling, order, or judgment, that the period for any motions for reconsideration, motions for rehearing, appeals, petitions for certiorari, or the like (referred to as a "Review Proceeding") has expired without the initiation of a Review Proceeding, or, if a Review Proceeding has been timely initiated, that it has been fully and finally resolved, either by court action or by voluntary action of any party, without any possibility of a reversal, vacatur, or modification of any judicial ruling, order, or judgment, including the exhaustion of all proceedings in any remand or subsequent appeal and remand. The Settling Parties agree that absent an appeal or other attempted Review Proceeding, the period after which the Final Order becomes Final is thirty-five (35) calendar days after its entry by the Court.
- 1.24. "Final Order" means the entry of the order and final judgment approving the Settlement Agreement, implementing the terms of this Settlement Agreement, and dismissing the Action with prejudice, to be proposed by the Settling Parties for approval by the Court, in substantially the form attached as Exhibit D hereto.
- 1.25. "Former Participant" means a member of the Settlement Class who does not have an Active Account as of March 31, 2024.
- 1.26. "Gross Settlement Amount" means the sum of eight hundred thousand dollars (\$800,000), contributed by Defendants (and/or their

insurers) to the Qualified Settlement Fund in accordance with Article 5. The Gross Settlement Amount shall be the full and sole monetary payment to the Settlement Class, Plaintiffs, and Class Counsel made by or on behalf of Defendants in connection with the Settlement effectuated through this Settlement Agreement. Neither Defendants nor their insurer(s) will make, nor are they obligated to make, any additional payment in connection with the Settlement of the Action.

- 1.27. "Independent Fiduciary" means an independent fiduciary who will serve as a fiduciary to the Plans with the delegated authority to approve and authorize the settlement of Released Claims on behalf of the Plans in accordance with Section 2.1 and the Department of Labor Prohibited Transaction Exemption 2003-39. Defendants will select the Independent Fiduciary.
- 1.28. "Mediator" means Doug Hinson.
- 1.29. "Net Settlement Amount" means the Gross Settlement Amount minus (a) all Attorneys' Fees and Costs paid to Class Counsel as authorized by the Court; (b) the Case Contribution Award as authorized by the Court; (c) all Administrative Expenses; and (d) a contingency reserve not to exceed an amount to be mutually agreed upon by the Settling Parties that is set aside by the Settlement Administrator for (1) Administrative Expenses incurred before the Settlement Effective Date but not yet paid, (2) Administrative Expenses estimated to be incurred after the Settlement Effective Date, and (3) an amount estimated for adjustments of data or calculation errors.
- 1.30. "Person" means an individual, partnership, corporation, governmental entity, or any other form of entity or organization.
- 1.31. "Plaintiffs" means the Class Representative and each member of the Settlement Class.
- 1.32. "Plans" means the CentraCare Health System Retirement Plan and the CentraCare Health System 403(b) Plan.

- 1.33. "Plan of Allocation" means the method of allocating settlement funds to Class Members. A proposed form of the Plan of Allocation is attached hereto as Exhibit B.
- 1.34. "Preliminary Approval Order" means the order of the Court in substantially the form attached hereto as Exhibit C, whereby the Court preliminarily approves this Settlement.
- 1.35. "QDRO" means a Qualified Domestic Relations Order within the meaning of 26 U.S.C. § 414(p).
- 1.36. "Qualified Settlement Fund" means the interest-bearing settlement fund account to be established and maintained by the Escrow Agent in accordance with Article 5 herein and referred to as the Qualified Settlement Fund (within the meaning of Treas. Reg. § 1.468B-1).
- 1.37. "Recordkeeper" means the entity that maintains electronic records of the Plans' participants and their individual accounts.
- 1.38. "Released Claims" means any and all past, present, and future actual or potential claims (including claims for any and all losses, damages, unjust enrichment, attorneys' fees, disgorgement, litigation costs, injunctions, declarations, contribution, indemnification, or any other type or nature of legal or equitable relief), actions, demands, rights, obligations, liabilities, expenses, costs, and causes of action, whether arising under federal, state, or local law, whether by statute, contract, or equity, whether brought in an individual or representative capacity, whether accrued or not, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, against any of the Released Parties and Defense Counsel based in whole or in part on acts or failures to act through the end of the Class Period that:
- 1.38.1. (a) were asserted in the Action, or that arise out of, relate to, or are based on, or have any connection with any of the allegations, acts, omissions, facts, events, matters, transactions, or occurrences that were alleged, or could have been alleged or asserted in the Action or could have been alleged or asserted based on the same factual predicate, whether or not pleaded in the Complaint; or (b) involve the selection or monitoring of the Plans' investments or the Plans' fees or the disclosures made to participants; or

- 1.38.2. Would be barred by res judicata based on entry of the Final Order; or
  - 1.38.3. Relate to the direction to calculate, the calculation of, or the method or manner of allocation of the Qualified Settlement Fund to the Plans or any Class Member in accordance with the Plan of Allocation or to any action taken or not taken by the Settlement Administrator in the course of administering the Settlement; or
  - 1.38.4. Relate to the approval by the Independent Fiduciary of the Settlement, unless brought against the Independent Fiduciary alone.
  - 1.38.5. The Class Representative and Class Members expressly waive and relinquish, to the fullest extent permitted by law, any and all provisions, rights, and benefits conferred by Section 1542 of the California Civil Code, which provides that a “general release does not extend to claims that the creditor or the releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party,” and any similar state, federal or other law, rule or regulation or principle of common law of any domestic governmental entity.
  - 1.38.6. “Released Claims” excludes claims for vested benefits Class Members may have under the Plans, with the understanding that the term “vested benefits” does not include a claim that a participant’s benefits would be larger but for a breach of ERISA’s fiduciary or prohibited transaction provisions.
- 1.39. “Released Parties” means (a) each Defendant; (b) Defendants’ insurers, co-insurers, and reinsurers; (c) Defendants’ direct and indirect past, present, and future affiliates, parents, subsidiaries, divisions, joint ventures, predecessors, successors, Successors-In-Interest, assigns, boards of trustees, boards of directors (and members of the same), officers, trustees, directors, partners, agents, managers, members, employees, and heirs (including any individuals who serve

or served in any of the foregoing capacities, such as members of the boards of trustees or boards of directors that are associated with any of Defendants' past, present, and future affiliates), and each Person that controls, is controlled by, or is under common control with them; (d) the Plans and the Plans' current and past fiduciaries (with the exception of the Independent Fiduciary), administrators, plan administrators, recordkeepers, service providers, consultants, representatives, attorneys, agents, trustees, advisors, insurers, and parties-in-interest; and (e) Defendants' independent contractors, representatives, attorneys, administrators, insurers, fiduciaries, accountants, auditors, advisors, consultants, personal representatives, spouses, heirs, executors, administrators, associates, employee benefit plan fiduciaries (with the exception of the Independent Fiduciary), employee benefit plan administrators, service providers to the Plans (including their owners and employees), members of their immediate families, consultants, subcontractors, and all persons acting under, by, through, or in concert with any of them.

- 1.40. "Representatives" shall mean representatives, attorneys, agents, directors, officers, or employees.
- 1.41. "Review Proceeding" shall have the meaning set forth in Section 1.23.
- 1.42. "Settlement" means the settlement to be consummated under this Settlement Agreement and its exhibits, including any modifications or amendments adopted pursuant to Article 14.
- 1.43. "Settlement Administrator" means Atticus Administration, the entity selected and retained by Class Counsel and subject to approval by Defense Counsel. The Settlement Administrator shall be responsible for administering the Settlement and Plan of Allocation, sending the Settlement Notices to the Class Members, and establishing the Settlement Website and telephone support line as more fully discussed herein. The Settlement Administrator shall be monitored, overseen, and directed by the Class Counsel. Defendants shall have no duty to monitor, oversee, or direct the Settlement Administrator.
- 1.44. "Settlement Agreement" means this agreement embodying the terms of the Settlement, including any modifications or amendments hereto.



- 1.45. "Settlement Agreement Execution Date" means the date on which the final signature is affixed to this Settlement Agreement.
- 1.46. "Settlement Class" means all persons who participated in the Plans at any time during the Class Period, including any plan participant and Beneficiary of the same (including spouses), any Beneficiary of a deceased Person who participated in the Plans at any time during the Class Period, and any Alternate Payee of a Person subject to a QDRO who participated in the Plans at any time during the Class Period. Excluded from the Settlement Class are the members of the CentraCare Retirement Plan Advisory Committee during the Class Period and the members of CentraCare's Board of Directors and their spouses.
- 1.47. "Settlement Effective Date" means the date on which the Final Order is Final, provided that by such date the Settlement has not been terminated in accordance with Article 11.
- 1.48. "Settlement Notice" means the Notice of Class Action Settlement and Fairness Hearing to be sent to Class Members identified by the Settlement Administrator following the Court's issuance of the Preliminary Approval Order, in substantially the form attached hereto as Exhibits A-1 and A-2. The Settlement Notice shall inform Class Members of a Fairness Hearing to be held with the Court, on a date to be determined by the Court, at which any Class Member satisfying the conditions set forth in the Preliminary Approval Order and the Settlement Notice may be heard regarding (a) the terms of the Settlement Agreement; (b) the petition of Class Counsel for award of Attorneys' Fees and Costs; (c) payment of and reserve for Administrative Expenses; and (d) the Class Representative's Case Contribution Award.
- 1.49. "Settlement Website" means the internet website established in accordance with paragraph 2.3.1.
- 1.50. "Settling Parties" means the Defendants and the Class Representative, on behalf of herself, the Plans, and each of the Class Members.
- 1.51. "Stipulated Protective Order" means the stipulated protective order the Court previously entered at Docket 77, which will ensure the

confidentiality and protection of information and data related to Class Members provided during the settlement administration process.

- 1.52. "Successor-In-Interest" shall mean a Person or Party's estate, legal representatives, heirs, successors or assigns, including successors or assigns that result from corporate mergers or other structural changes.
- 1.53. "Transferor" means CentraCare, as the "transferor" within the meaning of Treas. Reg. § 1.468B-1(d)(1).

**2. ARTICLE 2 - REVIEW AND APPROVAL BY INDEPENDENT FIDUCIARY, PRELIMINARY SETTLEMENT APPROVAL, AND NOTICE TO THE CLASS**

- 2.1. Independent Fiduciary. The Independent Fiduciary, retained by Defendants on behalf of the Plans, shall have the following responsibilities, including whether to approve and authorize the Settlement of Released Claims on behalf of the Plans. This Settlement Agreement is contingent on the Independent Fiduciary approving of this Settlement Agreement and executing a release on the Plans' behalf in a form and manner acceptable to Defendants.
- 2.1.1. The Independent Fiduciary shall comply with all relevant conditions set forth in Prohibited Transaction Class Exemption 2003-39, "Release of Claims and Extensions of Credit in Connection with Litigation," issued December 31, 2003, by the United States Department of Labor, 68 Fed. Reg. 75,632, as amended ("PTE 2003-39"), in making its determination.
- 2.1.2. The Independent Fiduciary shall notify Defendants directly of its determination and the release it agrees to provide on behalf of the Plans, in writing (with copies to Class Counsel and Defense Counsel), which notification shall be delivered no later than thirty-seven (37) calendar days before the Fairness Hearing.
- 2.1.3. Defendants shall pay the fees and expenses associated with the Independent Fiduciary's determination and

performance of its other obligations in connection with the Settlement.

2.1.4. Defendants, Defense Counsel, and Class Counsel shall respond to reasonable requests by the Independent Fiduciary for information so that the Independent Fiduciary can review and evaluate the Settlement Agreement.

2.1.5. If Defendants conclude that the Independent Fiduciary's determination does not comply with PTE 2003-39 or is otherwise deficient in any way (as determined by Defendants), Defendants shall so inform the Independent Fiduciary within seven (7) calendar days of receipt of the determination. Should the Independent Fiduciary execute a release on behalf of the Plans that in Defendants' view is either narrower than the scope of the release identified in this Settlement Agreement or is inconsistent with PTE 2003-39, Defendants have the right to terminate this Settlement Agreement consistent with the terms found in Section 11 *infra*.

2.1.6. Class Counsel may file a copy of the Independent Fiduciary's determination with the Court in support of Final approval of the Settlement.

2.2. Preliminary Approval. As soon as reasonably possible and subject to any relevant Court Order, upon the full execution of this Settlement Agreement by the Settling Parties, the Class Representative, through Class Counsel, shall file with the Court motions seeking preliminary approval of this Settlement Agreement and for entry of the Preliminary Approval Order in substantially the form attached hereto as Exhibit C. Defendants will not object to these motions, provided that Class Counsel provides drafts to Defendants' Counsel reasonably ahead of the filing date for their review and approval. The Preliminary Approval Order to be presented to the Court shall, among other things:

2.2.1. Certify the Settlement Class for settlement purposes only under Fed. R. Civ. P. 23(b)(1);

- 2.2.2. Approve the text of the Settlement Notice for mailing to Class Members;
- 2.2.3. Determine that under Fed. R. Civ. P. 23(c)(2), the Settlement Notice constitutes appropriate notice under the circumstances, provides due and sufficient notice of the Fairness Hearing and of the rights of all Class Members, and complies fully with the requirements of Fed. R. Civ. P. 23, the Constitution of the United States, and any other applicable law;
- 2.2.4. Cause the Settlement Administrator to send by first-class mail the Settlement Notice to each Class Member identified by the Settlement Administrator based upon the data provided by the Plans' Recordkeeper;
- 2.2.5. Provide that, pending final determination of whether the Settlement Agreement should be approved, no Class Member may directly, through Representatives, or in any other capacity, commence any action or proceeding in any court or tribunal asserting any of the Released Claims against Defendants, the Released Parties, and/or the Plans;
- 2.2.6. Set the Fairness Hearing for no sooner than one hundred twenty (120) calendar days after the date on which the Preliminary Approval Order is issued, in order to determine whether (a) the Court should approve the Settlement as fair, reasonable, and adequate; (b) the Court should enter the Final Order; and (c) the Court should approve the application for Attorneys' Fees and Costs, Class Representative's Case Contribution Award, Administrative Expenses incurred to date, and a reserve for anticipated future Administrative Expenses;
- 2.2.7. Provide that any objections to any aspect of the Settlement Agreement shall be heard, and any papers submitted in support of said objections shall be considered, by the Court at the Fairness Hearing if they have been filed validly with the Clerk of the Court and copies provided to Class Counsel and Defense Counsel. To be filed validly, the objection and any notice of intent to participate or supporting documents

must be filed at least twenty-one (21) calendar days prior to the scheduled Fairness Hearing. Any Person wishing to speak at the Fairness Hearing shall file and serve a notice of intent to participate within the time limitation set forth above;

2.2.8. Provide that any party may file a response to an objection by a Class Member at least seven (7) calendar days before the Fairness Hearing;

2.2.9. Provide that the Fairness Hearing may, without further direct notice to the Class Members, other than by notice to Class Counsel, be adjourned or continued by order of the Court; and

2.2.10. Approve the form of the CAFA Notice attached as Exhibit E and order that upon mailing of the CAFA Notices, Defendants shall have fulfilled their obligations under CAFA.

2.3. Settlement Administrator. Defendants and Defense Counsel shall use reasonable efforts to respond timely to written requests, including by e-mail, from the Settlement Administrator for readily accessible data that is reasonably necessary to determine the feasibility of administering the Plan of Allocation or to implement the Plan of Allocation. The actual and reasonable expenses of any third party, including the Plans' Recordkeeper, that are necessary to perform such work shall be Administrative Expenses to be deducted from the Gross Settlement Amount. The Settlement Administrator shall, within ten (10) calendar days of Class Representative's filing of the Settlement Agreement and proposed Preliminary Approval Order, have prepared and provided CAFA notices to the Attorney General of the United States and the Attorneys General of all states in which Class Members reside, as specified by 28 U.S.C. § 1715. The Settlement Administrator shall provide the Settling Parties with notice in writing upon completion of the provision of CAFA notices to the above-referenced persons.

2.3.1. The Settlement Administrator may establish a Settlement Website on which it will post the following documents, or links to the following documents, on or following the date

of the Preliminary Order: the Complaint, the Settlement Agreement and its Exhibits, the Class Notice, the Motion for Attorneys' Fees and Costs and Case Contribution Award, any Court orders related to the Settlement, any amendments or revisions to these documents, and any other documents or information mutually agreed upon by the Settling Parties. No other information or documents will be posted on the Settlement Website unless agreed to in advance by the Settling Parties in writing, and Class Counsel will not include any commentary about the Settlement on the website. The Settlement Administrator will take down the Settlement Website nine months after the Settlement Effective Date.

2.3.2. The Settlement Administrator shall be bound by the Stipulated Protective Order and any further non-disclosure or security protocol required by the Settling Parties.

2.3.3. The Settlement Administrator shall use the data provided by Defendants and the Plans' Recordkeeper solely for the purpose of meeting its obligations as Settlement Administrator, and for no other purpose.

2.3.4. At the request of the Settling Parties, the Settlement Administrator shall provide a written protocol addressing how the Settlement Administrator will maintain and store information provided to it in order to ensure that reasonable and necessary precautions are taken to safeguard the privacy and security of such information.

2.4. Settlement Notice. By the date and in the manner set by the Court in the Preliminary Approval Order, and unless otherwise set forth below, the Settlement Administrator shall cause to be sent to each Class Member identified by the Settlement Administrator a Settlement Notice in the form and manner to be approved by the Court, which shall be in substantially the form attached hereto as Exhibit A or a form subsequently agreed to by the Settling Parties and approved by the Court. The Settlement Administrator shall use commercially reasonable efforts to locate any Class Member whose

Settlement Notice is returned and re-send such documents one additional time.

### **3. ARTICLE 3 - FINAL SETTLEMENT APPROVAL**

3.1. No later than fourteen (14) calendar days before the Fairness Hearing, Class Counsel shall submit to the Court a motion for entry of the Final Order (Exhibit D) in the form approved by Class Counsel and Defense Counsel, which shall request approval by the Court of the terms of this Settlement Agreement and entry of the Final Order in accordance with this Settlement Agreement. The Final Order as proposed by the Settling Parties shall provide for the following, among other things, as is necessary to carry out the Settlement consistent with applicable law and governing Plan documents:

3.1.1. Approval of the Settlement and the release of the Released Claims covered by this Settlement Agreement, adjudging the terms of the Settlement Agreement to be fair, reasonable, and adequate to the Plans and the Class Members, and directing the Settling Parties to take the necessary steps to effectuate the terms of the Settlement Agreement;

3.1.2. A determination under Fed. R. Civ. P. 23(c)(2)(A) that the Settlement Notice constitutes appropriate notice under the circumstances and that due and sufficient notice of the Fairness Hearing and the rights of all Class Members has been provided and the requirements of due process have been met;

3.1.3. Dismissal with prejudice of the Action and all Released Claims asserted therein whether asserted by the Class Representative on her own behalf or on behalf of the Class Members, or derivatively to secure relief on behalf of the Plans, without costs to any of the Settling Parties other than as provided for in this Settlement Agreement;

3.1.4. That the Plans and each Class Member (and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns) shall be (a) conclusively deemed to have, and by operation of the

Final Order shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged the Released Parties from all Released Claims; and (b) barred and enjoined from suing the Released Parties in any action or proceeding alleging any of the Released Claims.

- 3.1.5. That the Class Representative and each Class Member and the Plans shall release the Released Parties, Defense Counsel, and Class Counsel for any claims, liabilities, and attorneys' fees and expenses arising from the allocation of the Gross Settlement Amount or Net Settlement Amount and for all tax liability and associated penalties and interest as well as related attorneys' fees and expenses;
- 3.1.6. That the Class Representative and each Class Member and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns, shall be (a) conclusively deemed to have, and by operation of the Final Order shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged Defendants, the Plans, and the Released Parties from all Released Claims, and (b) barred and enjoined from suing Defendants, the Plans, or the Released Parties in any action or proceeding alleging any of the Released Claims;
- 3.1.7. That the provisions of Sections 3.1.4 through 3.1.6 shall apply even if any Class Member may thereafter discover facts in addition to or different from those which the Class Members or Class Counsel now know or believe to be true with respect to the Action and the Released Claims, whether or not such Class Members receive a monetary benefit from the Settlement, whether or not such Class Members actually received the Settlement Notice, whether or not such Class Members have filed an objection to the Settlement or to any application by Class Counsel for an award of Attorneys' Fees and Costs, and whether or not the objections or claims for distribution of such Class Members have been approved or allowed;



- 3.1.8. That all applicable CAFA requirements have been satisfied;
  - 3.1.9. That the Settlement Administrator shall have final authority to determine the share of the Net Settlement Amount to be allocated to each Class Member in accordance with the Plan of Allocation approved by the Court;
  - 3.1.10. That, with respect to any matters that arise concerning the implementation of distributions to Class Members who are current participants in the Plans (after allocation decisions have been made by the Settlement Administrator in its sole discretion pursuant to the Plan of Allocation), all questions not resolved by the Settlement Agreement shall be resolved by Class Counsel; and
  - 3.1.11. That within twenty-one (21) calendar days following the issuance of all settlement payments to Class Members as provided by the Plan of Allocation approved by the Court, the Settlement Administrator shall prepare and provide to Class Counsel and Defense Counsel a list of each Person who received a settlement payment or contribution from the Qualified Settlement Fund and the amount of such payment or contribution.
- 3.2. The Final Order and judgment entered by the Court approving the Settlement Agreement shall provide that upon its entry, all Settling Parties, the Settlement Class and the Plans shall be bound by the Settlement Agreement and the Final Order.

#### **4. ARTICLE 4 - ESTABLISHMENT OF QUALIFIED SETTLEMENT FUND**

- 4.1. No later than ten (10) calendar days after the Preliminary Approval Order is issued, the Settlement Administrator shall establish the Qualified Settlement Fund with the Escrow Agent. The Settling Parties agree that the Qualified Settlement Fund is intended to be, and will be, an interest-bearing "qualified settlement fund" within the meaning of Section 468B of the Code and Treas. Reg. § 1.468B-1. In addition, the Settlement Administrator shall timely make such elections as necessary or advisable to carry out the provisions of this Section 4.1. If applicable, the Settlement Administrator (as the "administrator" pursuant to Section 4.2) and the Transferor shall fully

cooperate in filing the “relation-back election” (as defined in Treas. Reg. § 1.468B-1(j)(2)) to treat the Qualified Settlement Fund as coming into existence as a “qualified settlement fund” within the meaning of Section 468B of the Code and Treas. Reg. § 1.468B-1 as of 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 Settlement Administrator to prepare and deliver, in a timely and proper manner, the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to be timely made.

- 4.2. The “administrator” within the meaning of Treas. Reg. § 1.468B-2(k)(3) shall be the Settlement Administrator. The Settlement Administrator shall timely and properly cause to be filed on behalf of the Qualified Settlement Fund all informational and other tax returns required to be filed in accordance with Treas. Reg. §§ 1.468B-2(k) and -2(l) with respect to the Gross Settlement Amount (including without limitation applying for a taxpayer identification number for the Qualified Settlement Fund pursuant to Internal Revenue Service Form SS-4 and in accordance with Treas. Reg. § 1.468B-2(k)(4)). Such returns as well as any election described in Section 4.1 shall be consistent with this Article 4 and, in all events, shall reflect that all taxes (including any estimated taxes, interest, or penalties) on the income earned by the Qualified Settlement Fund shall be deducted and paid from the Gross Settlement Amount as provided in Section 4.3.
- 4.3. Taxes and tax expenses are Administrative Expenses to be deducted and paid from the Gross Settlement Amount, including but not limited to: (a) all taxes (including any estimated taxes, interest, or penalties) arising with respect to the income earned by the Qualified Settlement Fund, including any taxes or tax detriments that may be imposed upon Defendants or Defense Counsel with respect to any income earned by the Qualified Settlement Fund for any period during which the Qualified Settlement Fund does not qualify as a “qualified settlement fund” within the meaning of Section 468B of the Code and Treas. Reg. § 1.468B-1; and (b) all tax expenses and costs incurred in connection with the operation and implementation of this Article 4 (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses

relating to filing (or failing to file) the returns described in this Article 4). Such taxes and tax expenses shall be Administrative Expenses and shall be paid timely by the Settlement Administrator out of the Gross Settlement Amount without prior order from the Court. The Settlement Administrator shall ensure compliance with withholding and reporting requirements in accordance with Treas. Reg. § 1.468B-2(l) and shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to any Class Member any funds necessary to pay such amounts, including the establishment of adequate reserves for any taxes and tax expenses; neither the Released Parties, Defense Counsel, nor Class Counsel are responsible nor shall they have any liability therefor. The Settling Parties agree to cooperate with the Settlement Administrator, Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Article 4.

- 4.4. Within twenty-one (21) calendar days after the later of (a) the date the Preliminary Approval Order is entered, or (b) the date the Qualified Settlement Fund is established and the Settlement Administrator (or Class Counsel) has furnished to Defendants and/or Defense Counsel in writing the Qualified Settlement Fund name, IRS W-9 Form, and all necessary wiring instructions, then the Transferor shall cause to deposit one hundred thousand dollars (\$100,000) into the Qualified Settlement Fund as the first installment of the Gross Settlement Amount.
- 4.5. Within ten (10) business days after the Settlement Effective Date, the Transferor shall cause to deposit the remainder of the Gross Settlement Amount, which is one seven hundred thousand dollars (\$700,000), into the Qualified Settlement Fund.
- 4.6. The Settlement Administrator shall, at the written direction of Class Counsel, cause the Escrow Agent to invest the Qualified Settlement Fund in short-term United States Agency or Treasury Securities or other instruments backed by the Full Faith and Credit of the United States Government or an agency thereof, or fully insured by the United States Government or an agency thereof, and shall cause the Escrow Agent to reinvest the proceeds of these investments as they mature in similar instruments at their then-current market rates.

- 4.7. The Settlement Administrator shall not disburse the Gross Settlement Amount or any portion thereof from the Qualified Settlement Fund except as provided in this Settlement Agreement, in an order of the Court, or in a subsequent written stipulation between Class Counsel and Defense Counsel. Subject to the orders of the Court, the Settlement Administrator is authorized to execute such transactions as are consistent with the terms of this Settlement Agreement.
- 4.8. The Settlement Administrator shall be responsible for making provision for the payment from the Qualified Settlement Fund of all taxes and tax expenses, if any, owed with respect to the Qualified Settlement Fund, and for all tax reporting, remittance, and/or withholding obligations, if any, for amounts distributed from it. The Released Parties, Defense Counsel, and Class Counsel have no responsibility or any liability for any taxes or tax expenses owed by, or any tax reporting or withholding obligations, if any, of the Qualified Settlement Fund.
- 4.9. No later than February 15 of the year following the calendar year in which Defendants' insurer makes any transfer of the Gross Settlement Amount, or any other amount, to the Qualified Settlement Fund on behalf of the Transferor pursuant to the terms of this Article 4, the Transferor shall timely furnish a statement to the Settlement Administrator that complies with Treas. Reg. § 1.468B-3(e)(2), which may be a combined statement under Treas. Reg. § 1.468B-3(e)(2)(ii), and shall attach a copy of the statement to its federal income tax return filed for the taxable year in which Defendants makes a transfer to the Qualified Settlement Fund.

## **5. PAYMENTS FROM THE QUALIFIED SETTLEMENT FUND**

- 5.1. Disbursements from Qualified Settlement Fund prior to Settlement Effective Date. Class Counsel, subject to the approval of Defendants, which approval shall not be unreasonably withheld, shall direct the Escrow Agent to disburse money from the Qualified Settlement Fund as follows:
  - 5.1.1. For Settlement Notice Expenses. After entry of the Preliminary Approval Order, the Escrow Agent shall be directed in writing to disburse from the Qualified Settlement Fund an amount sufficient for the payment of

costs of the Settlement Notice. Class Counsel will select a Settlement Administrator to assist with Class Notice and administration of the Settlement, subject to the agreement of Defendants, which agreement shall not unreasonably be withheld. The Settlement Administrator shall enter into a confidentiality agreement and information security agreement to adequately protect information provided to the Settlement Administrator relating to the Settlement. Any costs, expenses, or fees incurred in connection with the administration of this Settlement shall be paid out of the Qualified Settlement Fund. Neither Defendants nor Defense Counsel are responsible for the Settlement Administrator's work, nor may they be held liable for any act or omission by the Settlement Administrator.

- 5.1.2. For taxes and expenses of the Qualified Settlement Fund as provided in Section 4.3.
  - 5.1.3. For costs and expenses of the Settlement Administrator in implementing the Plan of Allocation and otherwise administering the Settlement.
  - 5.1.4. For costs and expenses incurred by the Recordkeeper (or Authorized Administrator) in implementing this Settlement. To the extent Defendants are responsible for paying these costs, they will have the right to recover any sums paid from the Qualified Settlement Fund.
- 5.2. Following the payment of the second installment of the Gross Settlement Amount as set forth in Section 4.5, Class Counsel shall direct the Escrow Agent to disburse money from the Qualified Settlement Fund as follows:
- 5.2.1. For Attorneys' Fees and Costs, as approved by the Court notwithstanding the existence of any appeal therefrom, and no later than fifteen (15) business days following the Settlement Effective Date. The Court's failure to approve in part any application for Attorneys' Fees and Costs sought by Class Counsel shall not prevent the Settlement Agreement from becoming effective, nor shall it be grounds for termination of the Settlement. In the event that the

Settlement Agreement does not become effective, or the judgment or the order making the fee and cost award is reversed or modified, or the Settlement Agreement is canceled or terminated for any other reason, and such reversal, modification, cancellation or termination becomes Final and not subject to review, and in the event that the fee and cost award has been paid to any extent, then Class Counsel with respect to the entire fee and cost award shall within thirty (30) business days from receiving notice from the Defendants' counsel or from a court of appropriate jurisdiction, refund to the Qualified Settlement Fund such fees and expenses previously paid to it from the Qualified Settlement Fund plus interest thereon at the same rate as earned on the Qualified Settlement Fund in an amount consistent with such reversal or modification. Class Counsel, as a condition of receiving such fees and costs, on behalf of itself and each partner and/or shareholder of it, agrees that the law firm and its partners and/or shareholders are subject to the jurisdiction of the Court for the purpose of enforcing the provisions of this paragraph.

- 5.2.2. For Class Representative's Case Contribution Award, as approved by the Court, and no later than fifteen (15) business days following the Settlement Effective Date.
- 5.2.3. For costs and expenses of the Settlement Administrator in implementing the Plan of Allocation and otherwise administering the Settlement that were not previously paid.
- 5.2.4. For costs and expenses incurred by the Recordkeeper (or Authorized Administrator) in implementing this Settlement that were not previously paid. To the extent that Defendants or their insurer(s) are responsible for paying these costs, they will have the right to recover any sums paid from the Qualified Settlement Fund.
- 5.2.5. The Net Settlement Amount will be distributed in accordance with the Plan of Allocation. Pending final distribution of the Net Settlement Amount in accordance

with the Plan of Allocation, the Escrow Agent will maintain the Qualified Settlement Fund.

- 5.3. Implementation of the Plan of Allocation. Class Counsel shall propose to the Court a Plan of Allocation, in substantial conformity to the one attached hereto as Exhibit B, which shall provide for the calculation, allocation, and distribution of the Net Settlement Amount. The Settlement Administrator shall be exclusively responsible and liable for calculating the amounts payable to the Class Members pursuant to the Plan of Allocation. Upon the Settlement Effective Date, and after the amounts payable pursuant to Sections 5.1 and 5.2.1 through 5.2.4 have been disbursed, or, in the case of future estimated expenses set aside and withheld, Class Counsel shall direct the Escrow Agent to disburse the Net Settlement Amount as provided by this Settlement Agreement and the Plan of Allocation. The Recordkeeper shall allocate to the Plans accounts of Class Members who are not Former Participants any Net Settlement Amount as calculated by the Settlement Administrator according to the Plan of Allocation, documentation of which Class Counsel shall direct the Settlement Administrator to provide to the Authorized Administrator pursuant to the Plan of Allocation no later than the distribution of the Net Settlement Amount. The Settlement Administrator shall promptly notify Class Counsel as to the date(s) and amounts(s) of said allocation(s) made to Class Members who are not Former Participants. The Settlement Administrator shall be responsible for distributing the Net Settlement Amount allocated to the Former Participants as provided by the Plan of Allocation, as well as complying with all tax laws, rules, and regulations and withholding obligations with respect to Former Participants. Defendants shall have no liability related to the structure or taxability of such payments. Nothing herein shall constitute approval or disapproval of the Plan of Allocation by Defendants or the Released Parties, and Defendants and the Released Parties shall have no responsibility or liability for the Plan of Allocation and shall take no position for or against the Plan of Allocation.
- 5.4. The Net Settlement Amount distributed to the Plans' trust pursuant to the Plan of Allocation shall constitute "restorative payments" within the meaning of Revenue Ruling 2002-45 for all purposes.

- 5.5. Final List of Class Members. Prior to the disbursement of the Net Settlement Amount to the Plans, the Settlement Administrator shall provide to Defense Counsel and Class Counsel a final list of Class Members, in electronic format, to whom the Net Settlement Amount will be distributed in accordance with the Plan of Allocation. Such list shall be final, and only persons on the list or their Beneficiaries or Alternate Payees shall be eligible to receive any recovery from this Settlement.
- 5.6. After the distribution of the Net Settlement Amount to the Plans' trust and allocation of the Net Settlement Amount pursuant to the Plan of Allocation, amounts allocable to Class Members who cannot be located or otherwise cannot receive their Settlement payment shall revert to the Qualified Settlement Fund.

## **6. ARTICLE 6 - ATTORNEYS' FEES AND EXPENSES**

- 6.1. Application for Attorneys' Fees and Expenses and Class Representative's Case Contribution Award. Class Counsel intends to seek to recover their attorneys' fees not to exceed 33 1/3% of the Gross Settlement Amount, and litigation costs and expenses advanced and carried by Class Counsel for the duration of the Action, which shall be recovered from the Gross Settlement Amount. Class Counsel also intends to seek Class Representative's Case Contribution Award, which shall be recovered from the Gross Settlement Amount.
- 6.2. Class Counsel will file a motion for an award of Attorneys' Fees and Costs at least thirty (30) calendar days before the Fairness Hearing, which may be supplemented thereafter.

## **7. ARTICLE 7 - RELEASE AND COVENANT NOT TO SUE**

- 7.1. As of the issuance of the Final Order, the Plans (subject to Independent Fiduciary approval as required by Section 2.1) and all Class Members (and their respective heirs, beneficiaries, executors, administrators, estates, family members, officers, directors, agents, attorneys, predecessors, successors, and assigns), on their own behalf and on behalf of the Plans, shall fully, finally, and forever settle, release, relinquish, waive, and discharge all Released Parties from the Released Claims, whether or not such Class Members have received or will receive a monetary benefit from the Settlement, whether or not



such Class Members have actually received the Settlement Notice or read the Settlement Notice, whether or not such Class Members have filed an objection to the Settlement or to any application by Class Counsel for an award of Attorneys' Fees and Costs, and whether or not the objections or claims for distribution of such Class Members have been approved or allowed.

- 7.2. As of the issuance of the Final Order, the Class Representative, the Class Members, and the Plans (subject to Independent Fiduciary approval as required by Section 2.1), acting individually or together, or in combination with others, shall not sue or seek to institute, maintain, prosecute, argue, or assert in any action or proceeding (including but not limited to an IRS determination letter proceeding, a Department of Labor proceeding, an arbitration, or a proceeding before any state insurance or other department or commission), any cause of action, demand, or claim adverse to the Released Parties on the basis of, connected with, or arising out of any of the Released Claims. Nothing herein shall preclude any action to enforce the terms of this Settlement Agreement in accordance with the procedures set forth in this Settlement Agreement. Nothing herein shall preclude any Class Member or the Plans from cooperating with or participating in any investigation, inquiry or proceeding conducted by any federal, state, or local governmental entity or subdivision.
- 7.3. Class Counsel, the Class Representative, Class Members, or the Plans may hereafter discover facts in addition to or different from those that they know or believe to be true with respect to the Released Claims. Such facts, if known by them, might have affected the decision to settle with the Defendants or the Released Parties, or the decision to release, relinquish, waive, and discharge the Released Claims, or the decision of a Class Member not to object to the Settlement. Notwithstanding the foregoing, each Class Member and the Plans shall expressly, upon the entry of the Final Order, be deemed to have, and, by operation of the Final Order, shall have fully, finally, and forever settled, released, relinquished, waived, and discharged any and all Released Claims. The Class Representative, all Class Members, and the Plans acknowledge and shall be deemed by operation of the Final Order to have acknowledged that the foregoing waiver was bargained for separately and is a key element of the Settlement embodied in this Settlement Agreement of which this release is a part.

7.4. Upon the entry of the Final Order, the Class Representative, all Class Members, and the Plans shall be conclusively deemed to, and by operation of the Final Order shall, settle, release, relinquish, waive, and discharge any and all rights or benefits they may now have, or in the future may have, under any law relating to the releases of unknown claims pertaining specifically to Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Also, the Class Representative and Class Members shall, upon entry of the Final Order, waive any and all provisions, rights and benefits conferred by any law or of any State or territory within the United States or any foreign country, or any principle of common law, which is similar, comparable or equivalent in substance to Section 1542 of the California Civil Code.

7.5. Dismissal With Prejudice. The Action and all Released Claims shall be dismissed with prejudice.

7.6. No Impact on Prior Releases. The Released Claims in the Action shall not invalidate or impair any prior release of claims by any Class Members against any of the Released Parties.

## 8. ARTICLE 8 - COVENANTS

The Settling Parties covenant and agree as follows:

8.1. Cooperation. Defendants shall cooperate with Class Counsel by using reasonable efforts to provide, to the extent reasonably accessible, information to identify Class Members and to implement the Plan of Allocation.

8.1.1. Defendants or Defense Counsel shall work with the Recordkeeper to provide to the Settlement Administrator and/or Class Counsel within one (1) business day of entry

of the Preliminary Approval Order: (1) the names and last known addresses of members of the Settlement Class, as compiled from reasonably accessible electronic records maintained by the Recordkeeper and (2) the social security numbers of Settlement Class members in order for the Settlement Administrator to perform a National Change of Address search to update out-of-date addresses;

- 8.1.2. Defendants or Defense Counsel shall work with the Recordkeeper to provide to the Settlement Administrator and/or Class Counsel at least thirty (30) business days before the Fairness Hearing participant data necessary to perform calculations pursuant to the Plan of Allocation.
  - 8.1.3. With respect to the Plan of Allocation data provided in sections 8.1.1 and 8.1.2, the Plans' Recordkeeper shall take commercially reasonable steps to ensure the data provided is complete as it exists in the Recordkeeper's systems. Neither Plaintiffs, Class Counsel, Defendants, or Defense Counsel will be responsible or liable in any way for ensuring the completeness or accuracy of the information provided by the Recordkeeper pursuant to this section.
  - 8.1.4. The Settlement Administrator shall use the information provided by Defendants, Defense Counsel, and/or the Recordkeeper pursuant to Sections 8.1.1 and 8.1.2 to compile a preliminary list of Class Members for purposes of sending the Class Notice and calculating payments pursuant to the Plan of Allocation.
  - 8.1.5. Class Counsel and their agents will use any information provided by Defendants, Defense Counsel, and/or the Recordkeeper pursuant to Sections 8.1.1 and 8.1.2 solely for the purpose of providing notice and administering this Settlement and for no other purpose, and will take all reasonable and necessary steps as required by law to maintain the security and confidentiality of this information.
- 8.2. The Settling Parties shall reasonably cooperate with each other to effectuate this Settlement, including with respect to the Plan of

Allocation, and shall not do anything or take any position inconsistent with obtaining a prompt Final Order approving the Settlement unless expressly permitted by this Settlement Agreement. The Settling Parties shall suspend any and all efforts to prosecute and to defend the Action pending entry of the Final Order or, if earlier, termination of the Settlement Agreement.

## 9. ARTICLE 9 - REPRESENTATION AND WARRANTIES

9.1. Settling Parties' Representations and Warranties. The Settling Parties, and each of them, represent and warrant as follows, and each Settling Party acknowledges that each other Settling Party is relying on these representations and warranties in entering into this Settlement Agreement:

9.1.1. That they have diligently prepared the case pursuant to the Court's orders; that they are voluntarily entering into this Settlement Agreement as a result of arm's length negotiations under the auspices of the Mediator; that in executing this Settlement Agreement they are relying solely upon their own judgment, belief and knowledge, and the advice and recommendations of their own independently selected counsel, concerning the nature, extent, and duration of their rights and claims hereunder and regarding all matters which relate in any way to the subject matter hereof; and that, except as provided herein, they have not been influenced to any extent whatsoever in executing this Settlement Agreement by any representations, statements, or omissions pertaining to any of the foregoing matters by any Settling Party or by any Person representing any Settling Party to this Settlement Agreement. Each Settling Party assumes the risk of mistake as to facts or law. Each Settling Party further recognizes that additional evidence may have come to light, but that they nevertheless desire to avoid the expense and uncertainty of litigation by entering into the Settlement.

9.1.2. That they have carefully read the contents of this Settlement Agreement, and this Settlement Agreement is signed freely by each Person executing this Settlement Agreement on

behalf of each of the Settling Parties. The Settling Parties, and each of them, further represent and warrant to each other that he, she, or it has made such investigation of the facts pertaining to the Settlement, this Settlement Agreement, and all of the matters pertaining thereto, as he, she, or it deems necessary.

- 9.2. Signatories' Representations and Warranties. Each Person executing this Settlement Agreement on behalf of any other Person does hereby personally represent and warrant to the other Settling Parties that he or she has the authority to execute this Settlement Agreement on behalf of, and fully bind, each principal whom such individual represents or purports to represent.

## **10. ARTICLE 10 - NO ADMISSION OF LIABILITY**

- 10.1. The Class Representative, Class Counsel, and the Class Members agree that this Settlement Agreement, whether or not consummated, and any related negotiations or proceedings, are not, and shall not be construed as, deemed to be, or offered or received as evidence of an admission by or on the part of Defendants or Released Parties of any wrongdoing, fault, or liability whatsoever by any of Defendants or Released Parties, or give rise to any inference of any wrongdoing, fault, or liability or admission of any wrongdoing, fault, or liability in the Action or any other proceeding, and Defendants and Released Parties admit no wrongdoing or liability with respect to any of the allegations or claims in the Action. The Class Representative, Class Counsel, and the Class Members agree that this Settlement Agreement, whether or not consummated, and any related negotiations or proceedings, shall not constitute admissions of any liability of any kind, whether legal or factual.
- 10.2. The Class Representative, while believing that the claims brought in the Action have merit, has concluded that the terms of this Settlement Agreement are fair, reasonable, and adequate to the Plans, themselves and members of the Settlement Class given, among other things, the inherent risks, difficulties, and delays in complex ERISA litigation such as the Action. Neither the fact nor the terms of this Settlement Agreement shall be used or offered or received in evidence in any action or proceeding for any purpose, except in an action or

proceeding to enforce this Settlement Agreement or arising out of or relating to the Final Order.

## 11. ARTICLE 11 - CONDITIONS TO FINALITY OF SETTLEMENT

This Settlement shall be contingent upon each of the following conditions in this Article 11 being satisfied. The Settling Parties agree that if any of these conditions is not satisfied, then this Settlement Agreement is terminated (subject to Defendants' right to waive the condition set forth in Section 11.4) and the Action will, for all purposes with respect to the Settling Parties, revert to its status as of the Settlement Agreement Execution Date. In such event, Defendants will not be deemed to have consented to the class certification order referenced in Section 11.1, the agreements and stipulations in this Settlement Agreement concerning class definition or class certification shall not be used as evidence or argument to support a motion for class certification, and Defendants will retain all rights with respect to challenging class certification.

11.1. Court Approval and Class Certification for Settlement Purposes. The Court shall have certified the Settlement Class for settlement purposes only (and Defendants will not object to this certification for settlement purposes only), the Settlement shall have been approved by the Court, the Court shall have entered the Final Order substantially in the form attached as Exhibit D hereto, and the Settlement Effective Date shall have occurred.

It shall not be deemed a failure to approve the Settlement Agreement if the Court denies, in whole or in part, Class Counsel's request for Attorneys' Fees and Costs and/or Class Representative's Case Contribution Award and/or modifies any of the proposed orders relating to Attorneys' Fees and Costs and/or Class Representative's Case Contribution Award.

11.2. Finality of Settlement. The Settlement shall have become Final.

11.3. Resolution of CAFA Objections (If Any). In the event that any of the government officials who received a CAFA Notice object to and request modifications to the Settlement, Class Representative and Class Counsel agree to cooperate and work with Defendants and Defense Counsel to overcome such objection(s) and requested modifications. In the event such objection(s) or requested

modifications are not overcome, Defendants shall have the right to terminate the Settlement Agreement pursuant to this Article 11.

- 11.4. Settlement Authorized by Independent Fiduciary. If the Independent Fiduciary disapproves or otherwise does not authorize the Settlement or refuses to execute the release on behalf of the Plans, or if the Defendants believe that such release is unacceptable to them for any reason, this Settlement Agreement is void as provided for in Article 2 *supra*. The Settling Parties may, however, mutually agree to modify the terms of this Settlement Agreement as necessary to facilitate an approval by the Independent Fiduciary and/or the Independent Fiduciary's release on behalf of the Plans. Otherwise, Defendants shall have the option to waive this condition, in which case such option is to be exercised in writing within ten (10) business days after the Settling Parties' receipt of the Independent Fiduciary's written determination, unless otherwise agreed by the Settling Parties.

**12. ARTICLE 12 - CONFIDENTIALITY OF THE SETTLEMENT NEGOTIATIONS AND PERMITTED SETTLEMENT-RELATED COMMUNICATIONS**

- 12.1. Except as set forth explicitly below, the Settling Parties, Class Counsel, and Defense Counsel agree to keep confidential all positions, assertions, and offers made during settlement negotiations relating to the Action and the Settlement Agreement, except that they may discuss the negotiations with the Class Members, the Independent Fiduciary, and the Settling Parties' auditors, tax, legal, and regulatory advisors, provided in each case that they (a) secure written agreements with such persons or entities that such information shall not be further disclosed to the extent such persons are not already bound by confidentiality obligations at least as restrictive as those in this Article 12 and which would otherwise cover the Settlement Agreement; and (b) comply with this Article 12 in all other respects.

- 12.2. Defendants, Class Representative, Class Counsel, and Defense Counsel agree that they will not at any time make (or encourage or induce others to make) any public statement regarding the Action or the Settlement that disparages any Released Party; provided, however, that this prohibition does not preclude Class Counsel from

restating the allegations made in the Complaint for purposes of the motion for preliminary approval of the Settlement, motion for Final approval of the Settlement, or the request for Attorney's Fees and Costs, Administrative Expenses, and Case Contribution Award. This prohibition does not prohibit any Settling Party from making any statements pursuant to a valid legal process, a request by a regulatory agency, or as required by law.

- 12.3. Other than expressly provided by Section 12.2, any other public statements by Defendants, Class Representative, Class Counsel, or Defense Counsel regarding the Settlement shall be mutually agreed to by the Settling Parties through their respective Counsel. Nothing in Section 12.3 precludes or regulates Defendants from communicating with CentraCare employees regarding the settlement, as long as such communication complies with the non-disparagement provisions of Section 12.2.
- 12.4. Defendants, Class Representative, Class Counsel, and Defense Counsel agree that they will not publicly disclose the terms of the Settlement until after the motion for preliminary approval of the Settlement has been filed with the Court, other than as necessary to administer the Settlement, or unless such disclosure is pursuant to a valid legal process, a request by a regulatory agency, or as otherwise required by law, government regulations including corporate reporting obligations, or order of the Court.

### **13. ARTICLE 13 - GENERAL PROVISIONS**

- 13.1. The Settling Parties agree to cooperate fully with each other in seeking Court approvals of the Preliminary Approval Order and the Final Order, and to do all things as may reasonably be required to effectuate preliminary and Final approval and the implementation of this Settlement Agreement according to its terms. The Settling Parties agree to provide each other with copies of any filings necessary to effectuate this Settlement reasonably in advance of filing.
- 13.2. This Settlement Agreement, whether or not consummated, and any negotiations or proceedings hereunder are not, and shall not be construed as, deemed to be, or offered or received as evidence of an admission by or on the part of any Released Party of any wrongdoing, fault, or liability whatsoever by any Released Party, or give rise to any



inference of any wrongdoing, fault, or liability or admission of any wrongdoing, fault, or liability in the Action or any other proceeding.

- 13.3. Defendants deny all allegations of wrongdoing. Defendants believe that the Plans have been managed, operated, and administered at all relevant times reasonably and prudently, in the best interest of the Plans' participants, and in accordance with ERISA, including the fiduciary duty and prohibited transaction provisions of ERISA.
- 13.4. Neither the Released Parties, nor Defense Counsel shall have any responsibility for or liability whatsoever with respect to (a) any act, omission, or determination of the Settlement Administrator, or any of their respective designees or agents, in connection with the administration of the Gross Settlement Amount or otherwise; (b) the management, investment, or distribution of the Qualified Settlement Fund; (c) the Plan of Allocation as approved by the Court; (d) the determination, administration, calculation, or payment of any claims asserted against the Qualified Settlement Fund; (e) any losses suffered by, or fluctuations in the value of, the Qualified Settlement Fund; or (f) the payment or withholding of any taxes, expenses, and/or costs incurred in connection with the taxation of the Qualified Settlement Fund or tax reporting, or the filing of any returns. Further, neither Defendants nor Defense Counsel shall have any responsibility for, or liability whatsoever with respect to, any act, omission, or determination of Class Counsel in connection with the administration of the Gross Settlement Amount or otherwise. Class Counsel shall not have any responsibility for or liability whatsoever with respect to any errors, omissions, or misrepresentations in any data or disclosures supplied by the Recordkeeper as set forth in Section 8.1.
- 13.5. The Released Parties and their counsel shall not have any responsibility for or liability whatsoever with respect to the Plan of Allocation, including, but not limited to, the determination of the Plan of Allocation or the reasonableness of the Plan of Allocation.
- 13.6. The Settling Parties acknowledge that any payments to Class Members or their attorneys may be subject to applicable tax laws. Defendants, the Released Parties, Defense Counsel, Class Counsel, and the Class Representative will provide no tax advice to the Class Members and make no representation regarding the tax consequences

of any of the settlement payments described in the Settlement Agreement. To the extent that any portion of any settlement payment is subject to income or other tax, the recipient of the payment shall be responsible for payment of such tax. Deductions will be made, and reporting will be performed by the Settlement Administrator, as required by law in respect of all payments made under the Settlement Agreement. Payments from the Qualified Settlement Fund shall not be treated as wages by the Settling Parties.

- 13.7. Each Class Member who receives a payment under this Settlement Agreement shall be fully and ultimately responsible for payment of any and all federal, state, or local taxes resulting from or attributable to the payment received by such person. Each such Class Member shall hold the Released Parties, Defense Counsel, Class Counsel, and the Settlement Administrator harmless from any tax liability, including penalties and interest, related in any way to payments under the Settlement Agreement, and shall hold the Released Parties, Defense Counsel, Class Counsel, and the Settlement Administrator harmless from the costs (including, for example, attorneys' fees and disbursements) of any proceedings (including, for example, investigation and suit), related to such tax liability.
- 13.8. Only Class Counsel shall have standing to seek enforcement of this Settlement Agreement on behalf of Plaintiff and Class Members. Any individual concerned about Defendants' compliance with this Settlement Agreement may so notify Class Counsel and direct any requests for enforcement to them. Class Counsel shall have the full and sole discretion to take whatever action they deem appropriate, or to refrain from taking any action, in response to such request. Any action by Class Counsel to monitor or enforce the Settlement Agreement shall be done without additional fee or reimbursement of expenses beyond the Attorneys' Fees and Costs determined by the Court.
- 13.9. This Settlement Agreement shall be interpreted, construed, and enforced in accordance with applicable federal law and, to the extent that federal law does not govern, Minnesota law.
- 13.10. The Settling Parties agree that the Court has personal jurisdiction over the Settlement Class and Defendants and shall maintain personal and

subject-matter jurisdiction for purposes of resolving any disputes between the Settling Parties concerning compliance with this Settlement Agreement. Any motion or action to enforce this Settlement Agreement—including by way of injunction—may be filed in the U.S. District Court for the District of Minnesota, or asserted by way of an affirmative defense or counterclaim in response to any action asserting a violation of the Settlement Agreement.

- 13.11. Each party to this Settlement Agreement hereby acknowledges that he, she, or it has consulted with and obtained the advice of counsel prior to executing this Settlement Agreement and that this Settlement Agreement has been explained to that party by his, her, or its counsel.
- 13.12. Before entry of the Preliminary Approval Order and approval of the Independent Fiduciary, this Settlement Agreement may be modified or amended only by written agreement signed by or on behalf of all Settling Parties. Following approval by the Independent Fiduciary, this Settlement Agreement may be modified or amended only if such modification or amendment is set forth in a written agreement signed by or on behalf of all Settling Parties and only if the Independent Fiduciary approves such modification or amendment in writing. Following entry of the Preliminary Approval Order, this Settlement Agreement may be modified or amended only by written agreement signed on behalf of all Settling Parties, and only if the modification or amendment is approved by the Independent Fiduciary in writing and approved by the Court.
- 13.13. The provisions of this Settlement Agreement may be waived only by an instrument in writing executed by the waiving party and specifically waiving such provisions. The waiver of any breach of this Settlement Agreement by any party shall not be deemed to be or construed as a waiver of any other breach or waiver by any other party, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.
- 13.14. Each of the Settling Parties agrees, without further consideration, and as part of finalizing the Settlement hereunder, that it will in good faith execute and deliver such other documents and take such other actions as may be necessary to consummate and effectuate the subject matter of this Settlement Agreement.

- 13.15. All of the exhibits attached hereto are incorporated by reference as though fully set forth herein. The exhibits shall be: Exhibit A-1 – Notice of Class Action Settlement and Fairness Hearing; Exhibit A-2 – Notice of Class Action Settlement and Fairness Hearing for Former Participants with Claim Form; Exhibit B – Plan of Allocation; Exhibit C – Preliminary Approval Order; Exhibit D – Final Approval Order; Exhibit E – Form of CAFA Notice; and Exhibit F – Former Participant Claim Form.
- 13.16. No provision of the Settlement Agreement or of the exhibits attached hereto shall be construed against or interpreted to the disadvantage of any party to the Settlement Agreement because the party is deemed to have prepared, structured, drafted, or requested the provision.
- 13.17. Principles of Interpretation. The following principles of interpretation apply to this Settlement Agreement:
- 13.17.1. Headings. Any headings included in this Settlement Agreement are for convenience only and do not in any way limit, alter, or affect the matters contained in this Settlement Agreement or the Articles or Sections they caption.
- 13.17.2. Singular and Plural. Definitions apply to the singular and plural forms of each term defined.
- 13.17.3. Gender. Definitions apply to the masculine, feminine, and neuter genders of each term defined.
- 13.17.4. References to a Person. References to a Person are also to the Person's permitted successors and assigns, except as otherwise provided herein.
- 13.17.5. Terms of Inclusion. Whenever the words "include," "includes," or "including" are used in this Settlement Agreement, they shall not be limiting but rather shall be deemed to be followed by the words "without limitation."
- 13.18. Survival. All of the covenants, representations, and warranties, express or implied, oral or written, concerning the subject matter of this Settlement Agreement are contained in this Settlement Agreement. No Party is relying on any oral representations or oral

agreements. All such covenants, representations, and warranties set forth in this Settlement Agreement shall be deemed continuing and shall survive the Settlement Effective Date.

13.19. Notices. Any notice, demand, or other communication under this Settlement Agreement (other than the Settlement Notice, or other notices given at the direction of the Court) shall be in writing and shall be deemed duly given upon receipt if it is addressed to each of the intended recipients as set forth below and personally delivered, sent by registered or certified mail postage prepaid, or delivered by reputable express overnight courier or via e-mail:

IF TO CLASS REPRESENTATIVE:

Shawn J. Wanta  
Scott A. Moriarity  
WANTA THOME PLC  
100 South Fifth Street, Suite 1200  
Minneapolis, MN 55402  
Telephone: (612) 252-3570  
samoriarity@wantathome.com  
sjwanta@wantathome.com

IF TO DEFENDANTS:

Andrew Holly  
Nicholas J. Bullard  
DORSEY & WHITNEY LLP  
50 South Sixth Street, Suite 1500  
Minneapolis, MN 55402  
Telephone: (612) 340-2600  
holly.andrew@dorsey.com  
bullard.nick@dorsey.com

Any Settling Party may change the address at which it is to receive notice by written notice delivered to the other Settling Parties in the manner described above.

13.20. Entire Agreement. This Settlement Agreement and the exhibits attached hereto constitute the entire agreement among the Settling

Parties and no representations, warranties, or inducements have been made to any party concerning the Settlement other than those contained in this Settlement Agreement and the exhibits thereto. It specifically supersedes any settlement terms or settlement agreements relating to the Defendants that were previously agreed upon orally or in writing by any of the Settling Parties.

- 13.21. Counterparts. The Settlement Agreement may be executed by exchange of executed signature pages, and any signature transmitted by facsimile or e-mail attachment of scanned signature pages for the purpose of executing this Settlement Agreement shall be deemed an original signature for purposes of this Settlement Agreement. The Settlement Agreement may be executed in any number of counterparts, and each of such counterparts shall for all purposes be deemed an original, and all such counterparts shall together constitute the same instrument.
- 13.22. Binding Effect. This Settlement Agreement binds and inures to the benefit of the Settling Parties hereto, their assigns, heirs, administrators, executors, and successors.
- 13.23. Destruction/Return of Confidential Information. Within thirty (30) days after the Settlement Effective Date, Class Representative and Class Counsel shall fully comply with the Stipulated Protective Order entered in this case. Further, the Settling Parties agree that the preliminary and final lists of Class Members are deemed confidential pursuant to the Stipulated Protective Order. Further, the Settling Parties shall have the right to continue to designate documents provided to any party in connection with this Settlement Agreement as confidential pursuant to this paragraph or pursuant to any Stipulated Protective Order entered in this case.

IN WITNESS WHEREOF, the Settling Parties have executed this Settlement Agreement on the dates set forth below.

For Defendants:

For Plaintiffs:



Andrew Holly  
DORSEY & WHITNEY LLP  
50 South Sixth Street, Suite 1500  
Minneapolis, MN 55402

Scott A. Moriarity  
WANTA THOME PLC  
100 South Fifth Street, Suite 1200  
Minneapolis, MN 55402

April 8, 2024

*Counsel for Defendants*

*Counsel for Plaintiff*

# Exhibit A-1



UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

---

**If you were a participant in the CentraCare Health System Retirement Plan or the CentraCare Health System 403(b) Plan at any time from June 13, 2016 through [date of preliminary class action settlement approval order] you may benefit from this class action settlement.**

---

*The case is Schave v. CentraCare Health System, et al., Case No. 0:22-cv-01555-JRT/LIB. A court authorized this notice. This is not a solicitation from a lawyer.*

You are receiving this notice because the records maintained by the CentraCare Health System Retirement Plan or the CentraCare Health System 403(b) Plan indicate that you participated in one or both Plans during the period from June 13, 2016 through [date of the preliminary class action settlement approval order] (the Class Period). As such, your rights may be affected by a proposed class action settlement (the Settlement) of the above-captioned federal lawsuit.

The Defendants are CentraCare Health System and the Board of Directors of CentraCare Health System. **Please read the following information carefully to find out what the lawsuit is about, what the terms of the proposed settlement are, what rights you have to object to the proposed settlement agreement if you disagree with its terms, and what deadlines apply to your right to object to the proposed settlement.**

## BASIC INFORMATION

### 1. What is this lawsuit about?

---

A lawsuit was filed in the United States District Court for the District of Minnesota (the Court) against Defendants. The lawsuit alleges that Defendants violated the federal Employee Retirement Income Security Act of 1974, as amended (ERISA) by failing to comply with their fiduciary duties under ERISA to the Plans and to the Plans' participants in the management, operation, and administration of the Plan.

The individual who filed the lawsuit (Plaintiff) on behalf of the Plan and its participants claims that Defendants allowed the Plan and its participants to pay excessive fees on investments. Defendants deny the allegations in the lawsuit and contend their conduct was proper. Defendants have also asserted multiple defenses to Plaintiffs' claims.

## **2. What is a class action lawsuit?**

---

In a class action lawsuit, one or more people called "class representatives" sue on their own behalf and on behalf of other people who have similar claims. One court resolves all the issues for all class members in a single lawsuit. Plaintiff participates in the Plans and is the class representative in this lawsuit.

## **3. Why is there a Settlement?**

---

The parties have agreed to the Settlement after extensive negotiations. Under the Settlement, the parties avoid the costs and risks of further litigation, and Plaintiff and the other class members receive settlement payments. Class Counsel reviewed the evidence in the case, and the potential risks and benefits of continuing with a lawsuit, and believe that the Settlement is in the best interest of the class. The Court has not made any finding that Defendants have done anything wrong or violated any law or regulation.

The Plans have retained an independent fiduciary to evaluate the fairness of the Settlement. The independent fiduciary is [name of independent fiduciary].

## **4. How do I get more information about the Settlement?**

---

If you would like to find out more information or have questions regarding the Settlement, you can visit [website], call [toll free telephone number], or contacting [Settlement Administrator] at [Settlement Administrator's mailing address]. This notice is only a summary of the lawsuit and the proposed Settlement. It is not a complete description of the lawsuit or the proposed Settlement.

Legal papers from the lawsuit, including the Settlement Agreement, are available for your review at [website]. You may also inspect the filings in the lawsuit at the offices of the Clerk of the United States District Court for the District of Minnesota. You may also review those filings electronically through Public Access to Court Records at [www.pacer.gov](http://www.pacer.gov).

If you have questions about this notice or the proposed Settlement, you may contact Class Counsel. See Question 10 below for contact information.

**Do not contact the Court, the Plans, or the Defendants for information about the Settlement. The settlement administrator [Settlement Administrator] or Class Counsel can answer any questions you may have about the proposed Settlement.**

## THE SETTLEMENT BENEFITS – WHAT YOU MAY GET

### 5. What does the Settlement provide?

---

Plaintiffs and Defendants have agreed to a settlement that involves monetary payments to participants. This and other terms of the Settlement are set forth in the Class Action Settlement Agreement dated [settlement agreement date] (“Settlement Agreement”), which is described briefly below.

As part of the Settlement, Defendants have agreed to make a one-time payment of \$800,000.00 (the Gross Settlement Amount). Deductions may be from the Gross Settlement Amount for any amounts that the Court approves for settlement-related expenses, which may include a case contribution award to Plaintiff; attorneys’ fees and expenses to Class Counsel; the cost and expense of sending notices of the proposed Settlement to certain state and federal officials as required under 28 U.S.C. § 1715; reasonable expenses incurred by the Plans’ recordkeeper for purposes relating to the Settlement, and taxes and administrative costs. After those deductions are made, the remaining amount (the Net Settlement Amount) will be distributed to class members. Class members are participants and beneficiaries of the Plans from June 13, 2016 through [date of the preliminary class action settlement approval order].

### 6. If I am entitled to a distribution, how will I receive the settlement proceeds?

---

All Class Members who are current participants one or both Plans (Current Participants) will receive any settlement proceeds through a deposit into their Plan accounts. If you participate in both Plans, the settlement payments will be deposited proportionally between both accounts; if you participate in only one of the Plans, the settlement payment will be deposited into that Plan account. To the extent feasible, such payments will be invested in accordance with your instructions for investment of new contributions to the account, or if no instructions are present, in accordance with the qualified default investment option. Current Participants do not need to submit anything in order to receive their share of any settlement proceeds.

Class Members who no longer have an active account with either of the Plans (Former Participants) and wish to receive their settlement distribution in the form of a roll-over distribution to an eligible retirement account must complete and submit a Former Participant Claim Form. The Former Participant Claims form is available at [website]. Former Participants who do not submit a claim form will be sent any settlement proceeds by check.

### 7. How will I benefit from the Settlement?

---

You may be entitled to receive a portion of the Net Settlement Amount if you participated in the Plan from June 13, 2016 through [date of the preliminary class action settlement approval order]. Only Class Members are eligible to receive a portion of the Net Settlement Amount. (See the answer to Question 5 above.) Whether or not a person meets this definition will be based on the Plans’ records. You received this notice because, based on the Plans’ records, you were determined to be a Class Member.

The settlement administrator will use a Plan of Allocation included in the Settlement Agreement to determine the amount paid to each Class Member. Using information received from the Plans' recordkeeper, the settlement administrator will calculate the sum of each Class Member's quarter-end account balance for all Active Accounts (meaning accounts with a balance greater than \$0) that the Class Member had during the Class Period. The settlement administrator will then divide that sum by the sum of all Class Members' quarter-end account balances for all of their active accounts during the Class Period, resulting in a proportional share of all account balances (the Entitlement Percentage). To determine how much is paid to a Class Member, the settlement administrator shall multiply the Net Settlement Amount by that Class Member's Entitlement Percentage.

**8. What is the class representative receiving from the Settlement?**

---

The class representative in this case may seek a case contribution award not to exceed \$4,000. Additionally, the class representative will be entitled to a portion of the Net Settlement Amount, like all other Class Members, based on that person's Entitlement Percentage.

## **THE SETTLEMENT BENEFITS – WHAT YOU GIVE UP**

**9. What do I give up by participating in the Settlement?**

---

In exchange for Defendants' payment of the Settlement amount, all Class Members will release any claims they have related to the lawsuit and be prohibited from bringing or pursuing any other lawsuits or other actions based on such claims.

With Court approval, the Class Members will consist of all persons who were participants in the Plans from June 13, 2016 through [date of the preliminary class action settlement approval order]. The release is set forth in full in the Settlement Agreement, which can be viewed online at [website] or requested from Class Counsel.

## **THE LAWYERS REPRESENTING YOU**

**10. Do I have a lawyer in this case?**

---

Yes. In granting preliminary approval of the proposed Settlement, the Court appointed the Plaintiff's lawyers to serve as Class Counsel for Class Members. You may contact Class Counsel as follows:

Scott Moriarity  
Shawn Wanta  
WANTA THOME PLC  
100 South Fifth Street, Suite 1200  
Minneapolis, MN 55402  
samoriarity@wantathome.com  
sjwanta@wantathome.com

You will not be charged separately for the work of these lawyers. Their compensation will come from the Gross Settlement Amount and will be determined by the Court. If you want to be represented by a different lawyer in this case, you may hire one at your own expense.

**11. How will Class Counsel be paid?**

---

Class Counsel will file a motion with the Court seeking approval of their compensation, which will consist of (a) reasonable attorneys' fees and (b) reimbursement of the expenses they incurred in prosecuting the case. Class Counsel intend to seek attorneys' fees equal to one-third of the Gross Settlement amount plus litigation expenses. The motion and supporting papers will be filed on or before [30 days prior to the fairness hearing]. After that date you may review the motion and supporting papers at [website]. Any attorneys' fees, expenses, and case contribution award approved by the Court, in addition to the cost and expense of sending notices of the proposed Settlement to certain state and federal officials pursuant to 28 U.S.C. § 1715, reasonable expenses incurred by the Plans' recordkeeper for purposes relating to the Settlement, and taxes and administrative costs in connection with the Settlement, will be paid from the Gross Settlement Amount.

## **OBJECTING TO THE SETTLEMENT**

**12. What does it mean to object?**

---

Objecting is simply telling the Court that you do not like something about the Settlement. Objecting will not have any bearing on your right to receive the benefits of the Settlement if it is approved by the Court.

**13. What is the procedure for objecting to the Settlement?**

---

Prior to the Fairness Hearing, Class Members will have the opportunity to object to approval of the Settlement. Class Members can object to the Settlement and give reasons why they believe that the Court should not approve it. To object, you must send your objection to the Court, at U.S. District Court for the District of Minnesota, 300 South Fourth Street, Minneapolis, MN 55415 and to the parties at the following addresses:

To Class Counsel:

Scott Moriarity  
Shawn Wanta  
WANTA THOME PLC  
100 South Fifth Street, Suite 1200  
Minneapolis, MN 55402

To Defendant's Counsel:

Andrew Holly  
Nicholas J. Bullard  
DORSEY & WHITNEY LLP

50 South Sixth Street, Suite 1500  
Minneapolis, MN 55402

Objections must be filed with the Court Clerk on or before [21 days prior to the fairness hearing]. Objections filed after that date will not be considered. Any Class Member who fails to submit a timely objection will be deemed to have waived any objection the Class Member might have, and any untimely objections will be barred absent an order from the Court. Objections must include (1) the case name and number; (2) your full name, current address, telephone number, and signature; (3) a statement that you are a Class Member and an explanation of the basis upon which you claim to be a Class Member; (4) all grounds for the objection, accompanied by any supporting information or documents. If you retain legal counsel to represent you at your own expense, then your legal counsel should identify themselves and specify how they can be contacted.

---

**14. What if I do not want to be part of the lawsuit and want to exclude myself?**

---

The Settlement does not allow any Class Members to exclude themselves from the settlement or decide not to be a part of the Settlement. Some class action settlements allow Class Members to “opt out” of the settlement if they want, but because of the nature of the claims Plaintiffs have asserted in this lawsuit, Class Members do not have the legal right to opt out in this case. If you dislike some portion of the Settlement, your only recourse is to object.

## THE COURT’S FAIRNESS HEARING

---

**15. What is a Fairness Hearing?**

---

The Court has granted preliminary approval of the proposed Settlement, which means the Court has found the Settlement is sufficiently reasonable for preliminary approval and has approved delivery of this notice to Class Members. Before the Settlement takes effect, Class Members must receive an opportunity to object to the Settlement, and after the deadline for those objections, the Court will decide whether to grant final approval of the Settlement.

Following the deadline for objecting to the Settlement, the Court will hold a Fairness Hearing on [fairness hearing date] to consider any objections. The Fairness Hearing will take place at [fairness hearing time] at the United States District Court for the District of Minnesota, 300 South Fourth Street in Minneapolis, Minnesota. The date and location of the Fairness Hearing will appear on the public Court docket for this case and is subject to change by order of the Court.

---

**16. Can I attend the Fairness Hearing?**

---

Yes. Anyone can attend the Fairness Hearing. But the Court will only allow a Class Member to speak at the Fairness Hearing, in person or through counsel retained at the Class Member’s own expense, when the Class Member files and serves a written objection in the time period set forth in this notice. Anyone who does not timely file and serve an objection will not be permitted to speak at the Fairness Hearing, except by Order of the Court for good cause shown. Any comment or objection that is timely filed will be considered by the Court even in the absence of a personal appearance by the Class Member or that Class Member’s counsel.

The Court will consider Class Member objections in deciding whether to grant final approval. Objectors are not required to attend the Fairness Hearing. Class Members who do not comply with these procedures, or who miss the deadline to file an objection, lose the opportunity to have their objection considered by the Court or to appeal from any order or judgment entered by the Court regarding the Settlement.

**17. Where can I get more information?**

---

You can visit [\[website\]](#) where you will find the full Settlement Agreement, the Court’s order granting preliminary approval, and other legal papers from the lawsuit. If you cannot find the information you need on the website, you may also contact Class Counsel for more information. Do not contact the Court, the Plans, or the Defendants for information about the lawsuit or the proposed Settlement.

Dated: \_\_\_\_\_, 2024.

By Order of the United States District Court  
District Judge John R. Tunheim

# Exhibit A-2



UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

---

---

**If you were a participant in the CentraCare Health System Retirement Plan or the CentraCare Health System 403(b) Plan at any time from June 13, 2016 through [date of preliminary class action settlement approval order] you may benefit from this class action settlement.**

---

---

*The case is Schave v. CentraCare Health System, et al., Case No. 0:22-cv-01555-JRT/LIB. A court authorized this notice. This is not a solicitation from a lawyer.*

You are receiving this notice because the records maintained by the CentraCare Health System Retirement Plan or the CentraCare Health System 403(b) Plan indicate that you participated in one or both Plans during the period from June 13, 2016 through [date of the preliminary class action settlement approval order] (the Class Period). As such, your rights may be affected by a proposed class action settlement (the Settlement) of the above-captioned federal lawsuit.

The Defendants are CentraCare Health System and the Board of Directors of CentraCare Health System. **Please read the following information carefully to find out what the lawsuit is about, what the terms of the proposed settlement are, what rights you have to object to the proposed settlement agreement if you disagree with its terms, and what deadlines apply to your right to object to the proposed settlement.**

### **Former Participant Notice with Former Participant Claim Form**

If you no longer have an active account in either of the Plans and you want your settlement proceeds to be rolled over into an eligible retirement plan, you must return the enclosed Former Participant Claim Form using the enclosed prepaid envelope. This Claim Form must be correctly filled out, signed, and mailed with a postmark on or before [45 days prior to the fairness hearing] to the Settlement Administrator at the following address:

[Settlement Administrator]  
[Address]  
[Address]

**Former participants who do not complete and timely return this form will receive their settlement proceeds by check.**

---

## BASIC INFORMATION

### 1. What is this lawsuit about?

---

A lawsuit was filed in the United States District Court for the District of Minnesota (the Court) against Defendants. The lawsuit alleges that Defendants violated the federal Employee Retirement Income Security Act of 1974, as amended (ERISA) by failing to comply with their fiduciary duties under ERISA to the Plans and to the Plans' participants in the management, operation, and administration of the Plan.

The individual who filed the lawsuit (Plaintiff) on behalf of the Plan and its participants claims that Defendants allowed the Plan and its participants to pay excessive fees on investments. Defendants deny the allegations in the lawsuit and contend their conduct was proper. Defendants have also asserted multiple defenses to Plaintiffs' claims.

### 2. What is a class action lawsuit?

---

In a class action lawsuit, one or more people called "class representatives" sue on their own behalf and on behalf of other people who have similar claims. One court resolves all the issues for all class members in a single lawsuit. Plaintiff participates in the Plans and is the class representative in this lawsuit.

### 3. Why is there a Settlement?

---

The parties have agreed to the Settlement after extensive negotiations. Under the Settlement, the parties avoid the costs and risks of further litigation, and Plaintiff and the other class members receive settlement payments. Class Counsel reviewed the evidence in the case, and the potential risks and benefits of continuing with a lawsuit, and believe that the Settlement is in the best interest of the class. The Court has not made any finding that Defendants have done anything wrong or violated any law or regulation.

The Plans have retained an independent fiduciary to evaluate the fairness of the Settlement. The independent fiduciary is [name of independent fiduciary].

### 4. How do I get more information about the Settlement?

---

If you would like to find out more information or have questions regarding the Settlement, you can visit [website], call [toll free telephone number], or contacting [Settlement Administrator] at [Settlement Administrator's mailing address]. This notice is only a summary of the lawsuit and the proposed Settlement. It is not a complete description of the lawsuit or the proposed Settlement.

Legal papers from the lawsuit, including the Settlement Agreement, are available for your review at [website]. You may also inspect the filings in the lawsuit at the offices of the Clerk of the United States District Court for the District of Minnesota. You may also review those filings electronically through Public Access to Court Records at [www.pacer.gov](http://www.pacer.gov).

If you have questions about this notice or the proposed Settlement, you may contact Class Counsel. See Question 10 below for contact information.

**Do not contact the Court, the Plans, or the Defendants for information about the Settlement. The settlement administrator [Settlement Administrator] or Class Counsel can answer any questions you may have about the proposed Settlement.**

## THE SETTLEMENT BENEFITS – WHAT YOU MAY GET

### 5. What does the Settlement provide?

---

Plaintiffs and Defendants have agreed to a settlement that involves monetary payments to participants. This and other terms of the Settlement are set forth in the Class Action Settlement Agreement dated [settlement agreement date] (“Settlement Agreement”), which is described briefly below.

As part of the Settlement, Defendants have agreed to make a one-time payment of \$800,000.00 (the Gross Settlement Amount). Deductions may be from the Gross Settlement Amount for any amounts that the Court approves for settlement-related expenses, which may include a case contribution award to Plaintiff; attorneys’ fees and expenses to Class Counsel; the cost and expense of sending notices of the proposed Settlement to certain state and federal officials as required under 28 U.S.C. § 1715; reasonable expenses incurred by the Plans’ recordkeeper for purposes relating to the Settlement, and taxes and administrative costs. After those deductions are made, the remaining amount (the Net Settlement Amount) will be distributed to class members. Class members are participants and beneficiaries of the Plans from June 13, 2016 through [date of the preliminary class action settlement approval order].

### 6. If I am entitled to a distribution, how will I receive the Settlement proceeds?

---

You received this notice and the Former Participant Claim Form because, based on the Plans’ records, you no longer have an active account with either of the Plans.

If you want your settlement proceeds to be rolled over into an eligible retirement plan, you must return the enclosed Former Participant Claim Form using the enclosed prepaid envelope. This Claim Form must be correctly filled out, signed, and mailed with a postmark on or before [45 days prior to the fairness hearing] to the Settlement Administrator at the following address:

[Settlement Administrator]  
[Address]  
[Address]

The Former Participant Claims form is available at [website]. **Former Participants who do not submit a claim form will be sent any settlement proceeds by check.**

## **7. How will I benefit from the Settlement?**

---

You may be entitled to receive a portion of the Net Settlement Amount if you participated in the Plan from June 13, 2016 through [date of the preliminary class action settlement approval order]. Only Class Members are eligible to receive a portion of the Net Settlement Amount. (See the answer to Question 5 above.) Whether or not a person meets this definition will be based on the Plans' records. You received this notice because, based on the Plans' records, you were determined to be a Class Member.

The settlement administrator will use a Plan of Allocation included in the Settlement Agreement to determine the amount paid to each Class Member. Using information received from the Plans' recordkeeper, the settlement administrator will calculate the sum of each Class Member's quarter-end account balance for all Active Accounts (meaning accounts with a balance greater than \$0) that the Class Member had during the Class Period. The settlement administrator will then divide that sum by the sum of all Class Members' quarter-end account balances for all of their active accounts during the Class Period, resulting in a proportional share of all account balances (the Entitlement Percentage). To determine how much is paid to a Class Member, the settlement administrator shall multiply the Net Settlement Amount by that Class Member's Entitlement Percentage.

## **8. What are the class representatives receiving from the Settlement?**

---

The class representative in this case may seek a case contribution award not to exceed \$4,000. Additionally, the class representative will be entitled to a portion of the Net Settlement Amount, like all other Class Members, based on that person's Entitlement Percentage.

# **THE SETTLEMENT BENEFITS – WHAT YOU GIVE UP**

## **9. What do I give up by participating in the Settlement?**

---

In exchange for Defendants' payment of the Settlement amount, all Class Members will release any claims they have related to the lawsuit and be prohibited from bringing or pursuing any other lawsuits or other actions based on such claims.

With Court approval, the Class Members will consist of all persons who were participants in the Plans from June 13, 2016 through [date of the preliminary class action settlement approval order]. The release is set forth in full in the Settlement Agreement, which can be viewed online at [website] or requested from Class Counsel.

# **THE LAWYERS REPRESENTING YOU**

## **10. Do I have a lawyer in this case?**

---

Yes. In granting preliminary approval of the proposed Settlement, the Court appointed the Plaintiff's lawyers to serve as Class Counsel for Class Members. You may contact Class Counsel as follows:

Scott Moriarity  
Shawn Wanta  
WANTA THOME PLC  
100 South Fifth Street, Suite 1200  
Minneapolis, MN 55402  
samoriarity@wantathome.com  
sjwanta@wantathome.com

You will not be charged separately for the work of these lawyers. Their compensation will come from the Gross Settlement Amount and will be determined by the Court. If you want to be represented by a different lawyer in this case, you may hire one at your own expense.

**11. How will Class Counsel be paid?**

---

Class Counsel will file a motion with the Court seeking approval of their compensation, which will consist of (a) reasonable attorneys' fees and (b) reimbursement of the expenses they incurred in prosecuting the case. Class Counsel intend to seek attorneys' fees equal to one-third of the Gross Settlement amount plus litigation expenses. The motion and supporting papers will be filed on or before [30 days prior to the fairness hearing]. After that date you may review the motion and supporting papers at [website]. Any attorneys' fees, expenses, and case contribution award approved by the Court, in addition to the cost and expense of sending notices of the proposed Settlement to certain state and federal officials pursuant to 28 U.S.C. § 1715, reasonable expenses incurred by the Plans' recordkeeper for purposes relating to the Settlement, and taxes and administrative costs in connection with the Settlement, will be paid from the Gross Settlement Amount.

**OBJECTING TO THE SETTLEMENT**

**12. What does it mean to object?**

---

Objecting is simply telling the Court that you do not like something about the Settlement. Objecting will not have any bearing on your right to receive the benefits of the Settlement if it is approved by the Court.

**13. What is the procedure for objecting to the Settlement?**

---

Prior to the Fairness Hearing, Class Members will have the opportunity to object to approval of the Settlement. Class Members can object to the Settlement and give reasons why they believe that the Court should not approve it. To object, you must send your objection to the Court, at U.S. District Court for the District of Minnesota, 300 South Fourth Street, Minneapolis, MN 55415 and to the parties at the following addresses:

To Class Counsel:

Scott Moriarity  
Shawn Wanta  
WANTA THOME PLC

100 South Fifth Street, Suite 1200  
Minneapolis, MN 55402

To Defendant's Counsel:

Andrew Holly  
Nicholas J. Bullard  
DORSEY & WHITNEY LLP  
50 South Sixth Street, Suite 1500  
Minneapolis, MN 55402

Objections must be filed with the Court Clerk on or before [21 days prior to the fairness hearing]. Objections filed after that date will not be considered. Any Class Member who fails to submit a timely objection will be deemed to have waived any objection the Class Member might have, and any untimely objections will be barred absent an order from the Court. Objections must include (1) the case name and number; (2) your full name, current address, telephone number, and signature; (3) a statement that you are a Class Member and an explanation of the basis upon which you claim to be a Class Member; (4) all grounds for the objection, accompanied by any supporting information or documents. If you retain legal counsel to represent you at your own expense, then your legal counsel should identify themselves and specify how they can be contacted.

---

**14. What if I do not want to be part of the lawsuit and want to exclude myself?**

The Settlement does not allow any Class Members to exclude themselves from the settlement or decide not to be a part of the Settlement. Some class action settlements allow Class Members to “opt out” of the settlement if they want, but because of the nature of the claims Plaintiffs have asserted in this lawsuit, Class Members do not have the legal right to opt out in this case. If you dislike some portion of the Settlement, your only recourse is to object.

## THE COURT'S FAIRNESS HEARING

---

**15. What is the Fairness Hearing?**

The Court has granted preliminary approval of the proposed Settlement, which means the Court has found the Settlement is sufficiently reasonable for preliminary approval and has approved delivery of this notice to Class Members. Before the Settlement takes effect, Class Members must receive an opportunity to object to the Settlement, and after the deadline for those objections, the Court will decide whether to grant final approval of the Settlement.

Following the deadline for objecting to the Settlement, the Court will hold a Fairness Hearing on [fairness hearing date] to consider any objections. The Fairness Hearing will take place at [fairness hearing time] at the United States District Court for the District of Minnesota, 300 South Fourth Street in Minneapolis, Minnesota. The date and location of the Fairness Hearing will appear on the public Court docket for this case and is subject to change by order of the Court.

## **16. Can I attend the Fairness Hearing?**

---

Yes. Anyone can attend the Fairness Hearing. But the Court will only allow a Class Member to speak at the Fairness Hearing, in person or through counsel retained at the Class Member's own expense, when the Class Member files and serves a written objection in the time period set forth in this notice. Anyone who does not timely file and serve an objection will not be permitted to speak at the Fairness Hearing, except by Order of the Court for good cause shown. Any comment or objection that is timely filed will be considered by the Court even in the absence of a personal appearance by the Class Member or that Class Member's counsel.

The Court will consider Class Member objections in deciding whether to grant final approval. Objectors are not required to attend the Fairness Hearing. Class Members who do not comply with these procedures, or who miss the deadline to file an objection, lose the opportunity to have their objection considered by the Court or to appeal from any order or judgment entered by the Court regarding the Settlement.

## **17. Where can I get more information?**

---

You can visit [\[website\]](#) where you will find the full Settlement Agreement, the Court's order granting preliminary approval, and other legal papers from the lawsuit. If you cannot find the information you need on the website, you may also contact Class Counsel for more information. Do not contact the Court, the Plans, or the Defendants for information about the lawsuit or the proposed Settlement.

Dated: \_\_\_\_\_, 2024.

By Order of the United States District Court  
District Judge John R. Tunheim

## Former Participant Claim Form

*Schave v. CentraCare Health System, et al.*, Case No. 0:22-cv-01555-JRT/LIB

If you were a participant in CentraCare Health System Retirement Plan or the CentraCare Health System 403(b) Plan during the period from June 13, 2016 through [date of the preliminary class action settlement approval order] (the Class Period), but you did not have an account with a positive balance in either Plan as of [date of the preliminary class action settlement approval order]; or if you are a Beneficiary or Alternate Payee (in the case of a person subject to a Qualified Domestic Relations Order) of such a participant, *and* you would prefer to have your settlement proceeds rolled over into an eligible retirement plan, you must complete this form and mail it WITH A POSTMARK ON OR BEFORE [45 DAYS PRIOR TO THE FAIRNESS HEARING] to the following address:

[Settlement Administrator]

[Address]

[Address]

For purposes of this Former Participant Claim Form, Former Participant means a person who did not have an account with a positive balance in either Plan as of [date of the preliminary class action settlement approval order]; Beneficiary and Alternate Payee respectively mean a Beneficiary or Alternate Payee of a Former Participant.

### ▪ Participant Information

Your Name		
Address		
Address 2		
City	State	Zip
Your Social Security Number	Phone (Preferred)	Phone (Alternate)
Your Date of Birth		
Email Address		

### ▪ Beneficiary or Alternate Payee Information (ONLY PROVIDE IF THIS PERSON SHOULD RECEIVE PAYMENT INSTEAD OF THE PARTICIPANT)

Your Name		
Address		
Address 2		
City	State	Zip
Your Social Security Number	Phone (Preferred)	Phone (Alternate)
Your Date of Birth		
Email Address		



BY SUBMITTING THIS FORM, I DIRECT THAT IF PRACTICABLE, MY PAYMENT SHALL BE MADE PAYABLE TO AS A ROLLOVER DISTRIBUTION TO THE FOLLOWING RETIREMENT ACCOUNT:

Account Name	
Account Number	
Contact or Trustee (if required)	
Address Line 1	
Address Line 2	
City, State, ZIP	

BY SUBMITTING THIS FORM, I FURTHER CERTIFY AND REPRESENT UNDER PENALTY OF PERJURY THAT NO PORTION OF THE PAYMENT TO BE ROLLED OVER IS SUBJECT TO A QUALIFIED DOMESTIC RELATIONS ORDER (QDRO) OR ALTERNATIVELY, THAT A TRUE AND ACCURATE COPY OF ANY APPLICABLE QDRO IS ENCLOSED AND THAT THE REQUESTED ROLLOVER IS CONSISTENT WITH THAT QDRO.

Signature (Required): \_\_\_\_\_

Date: \_\_\_\_\_

**Note: There is no promise or assurance your payment is eligible for rollover or tax-preferred treatment. The decision to seek rollover treatment is yours alone. Any questions about taxation or rollover treatment must be directed to your tax advisor or accountant. No one associated with this case can provide you assistance or advice of any kind regarding this issue or other tax considerations.**

Deceased Class Members are not eligible for rollover treatment and cannot use this form. For further inquiries, please contact the Settlement Administrator or Class Counsel.

# Exhibit B

**EXHIBIT B**  
**PLAN OF ALLOCATION**  
**for Class Action Settlement Agreement**  
*Schave v. CentraCare Health System et al.,*  
**No. 0:22-cv-01555-JRT-LIB**

This Exhibit B shall constitute the Plan of Allocation under Section 1.33 of the Settlement Agreement and shall set forth the parties' obligations with regard to disposition of the Net Settlement Amount pursuant to Sections 5.2 and 5.3 of the Settlement Agreement. To the extent feasible, the Settlement Agreement and this Plan of Allocation shall be construed in harmony with one another. In the event of any material conflict between the Settlement Agreement and this Plan of Allocation, the Settlement Agreement shall govern.

1. To be eligible for a payment from the Net Settlement Amount under this Plan of Allocation, a person must be (i) a current participant in the Plans; (ii) a Former Participant in the Plans; or (iii) a Beneficiary or Alternate Payee of any eligible Class Member. All payments to Class Members under this Plan of Allocation shall be treated for all purposes as restorative payments under IRS Revenue Ruling 2002-45.
2. Beneficiaries will receive settlement payments under this Plan of Allocation in amounts corresponding to their entitlement as beneficiaries of the current participant or Former Participant with respect to whom payment is made. These payments include settlement payments to a Beneficiary in connection with (i) a participant's account and/or (ii) an account created by the Plans for the benefit of the Beneficiary. Alternate Payees will receive settlement payments under this Plan of Allocation in amounts corresponding to the terms of their applicable QDRO.
3. Beneficiaries and Alternative Payees with Active Accounts shall receive settlement payments in accordance with the procedures this Plan of Allocation provides for current participants. Beneficiaries and Alternative Payees without Active Accounts shall receive settlement payments in accordance with the procedures this Plan of Allocation provides for Former Participants. Unless expressly modified by court order, the Settlement Administrator shall have sole and final discretion to determine the amounts of settlement payments under this Plan of Allocation to Beneficiaries and Alternate Payees.

4. The Settlement Administrator shall obtain a joint written statement from the Settling Parties stating the Net Settlement Amount. In general, the proportion of the Net Settlement Amount allocated to each Class Member shall be calculated as the sum of all quarter-end account balances of that Class Member during the Class Period divided by the sum of all quarter-end account balances of all Class Members during the Class Period.
5. More specifically, to determine the proportion of the Net Settlement Amount allocated to each Class Member, the Settlement Administrator shall use the following procedure:
  - a. Based on information received from the Recordkeeper, the Settlement Administrator shall calculate the sum of each Class Member's quarter-end account balance for all Active Accounts in which the Class Member had an Active Account during the Class Period ("Total Balance"). For any Class Member for which the Total Balance is a positive number, the Settlement Administrator shall divide the Class Member's Total Balance by the sum of all Class Members' Total Balances, and that quotient shall be the Entitlement Percentage for that Class Member. (Total Balance for each Class Member ÷ Sum of Total Balances for all Class Members = Entitlement Percentage.)
  - b. Based on information received from the Recordkeeper, when calculating the Total Balance for each Class Member, the Settlement Administrator shall further calculate the proportion of that Class Member's Total Balance that is attributable to Active Accounts in the CentraCare Health System 403(b) Plan (the "403(b) Proportion") and the proportion of that Class Member's Total Balance that is attributable to Active Accounts in the CentraCare Health System Retirement Plan (the "Retirement Plan Proportion"). For all Class Members, the sum of the 403(b) Proportion and the Retirement Plan Proportion shall be 100%.
  - c. For each Class Member, the Settlement Administrator shall multiply that Class Member's Entitlement Percentage by the Net Settlement amount, and that product shall be the Entitlement Amount for that Class Member. (Entitlement Percentage x Net Settlement Amount = Entitlement Amount.)

- d. For every Class Member who is a current participant in both Plans on the Settlement Effective Date, the Settlement Administrator shall direct that the Class Member's Entitlement Amount be deposited into the Class Member's Plan accounts as follows: one portion shall be deposited in the Class Member's account with the CentraCare Health System 403(b) Plan in proportion to the Class Member's 403(b) Proportion, and the other portion shall be deposited with the Class Member's account with the CentraCare Health System Retirement Plan in proportion to the Class Member's Retirement Plan Proportion. For every Class Member who is a current participant in only one of the Plans on the Settlement Effective Date, the Settlement Administrator shall direct that the Class Member's Entitlement Amount be deposited in its entirety in whichever Plan account remains active for that Class Member. All deposits under this Paragraph 5(d) shall be administered in accordance with Section 6 of this Plan of Allocation.
  - e. For every Class Member who is a Former Participant, the Settlement Administrator shall direct that the Class Member's Entitlement Amount either (i) be paid by check to that Class Member or (ii) by tax-qualified rollover to that Class Member's individual retirement account or other eligible retirement plan in accordance with the procedures in Section 7 of this Plan of Allocation.
  - f. The Settlement Administrator shall have sole responsibility for performing the calculations required by this Plan of Allocation, including but not limited to the calculations set forth in this Section 5.
6. To accomplish transfer of Entitlement Amounts from the Qualified Settlement Fund to Class Members who are current participants in the Plans, the procedure shall be as follows:
    - a. Within five (5) calendar days after the Settlement Administrator has completed all payment calculations under Section 5 of this Plan of Allocation, the Settlement Administrator shall securely communicate a spreadsheet to Defendants and Class Counsel with the following information: the name of each Class Member who is a current participant in the Plans; the last four digits of that Class Member's Social Security number (or such other personal identifiers as may be agreed upon by Defendants, Class Counsel, and the Settlement

Administrator); the Class Member's Entitlement Amount; and the portions to be deposited pursuant to Section 5(d) of this Plan of Allocation into the Class Member's account(s) with the CentraCare Health System 403(b) Plan and the CentraCare Health System Retirement Plan.

- b. If at any point when payment calculations are being made, the Settlement Administrator determines that a Class Member no longer holds any Active Accounts with the Plans, then the Settlement Administrator shall remove that Class Member from the spreadsheet. Such Class Members shall be treated as a Former Participant and shall receive that Class Member's Entitlement Amount in accordance with Sections 5(e) and 7 of this Plan of Allocation.
- c. No more than twenty (20) calendar days after the later of (i) the point in time that the Settlement Administrator communicates the spreadsheet to Defendants and Class Counsel under Section 6(a) of this Plan of Allocation or (ii) the Settlement Effective Date, the Settlement Administrator shall direct a transfer from the Qualified Settlement Fund to the Plans in the amounts specified by the spreadsheet. Defendants shall then direct the Recordkeeper to credit each Class Member's Active Account(s) in amounts equal to those stated on the spreadsheet. The Recordkeeper shall process these credits no more than thirty (30) days after the Plans receive this transfer.
- d. When a Class Member receives settlement payments through credits to that Class Member's Active Account(s) pursuant to Section 6 of this Plan of Allocation, the payments shall be invested in accordance with and proportional to the Class Member's investment elections then on file for new contributions to the Active Account(s). If the Class Member has no investment election on file for an Active Account, then the Class Member shall be deemed to have directed investment of the payment in accordance with that Plan's qualified default investment alternative, as that term is defined by 29 C.F.R. § 2550.404c-5.
- e. If the Recordkeeper is unable to process credits to any Class Member under Section 6(c) of this Plan of Allocation, the Recordkeeper shall notify the Settlement Administrator, identifying the Class Members

who were not credited and the respective amounts. The Plans shall then transfer the total uncredited amount back to the Qualified Settlement Fund. The Settlement Administrator shall then treat all such Class Members as Former Participants and they shall receive their Entitlement Amounts in accordance with Sections 5(e) and 7 of this Plan of Allocation.

7. To accomplish transfer of Entitlement Amounts from the Qualified Settlement Fund to Class Members who are Former Participants in the Plans, the procedure shall be as follows:
  - a. To the extent practicable, each Former Participant shall have the opportunity to elect a tax-qualified rollover of that person's Entitlement Amount to an individual retirement account or other eligible retirement plan. To make this election, the Former Participant shall submit a Former Participant Claim Form (**Exhibit F**) to the Settlement Administrator by mailing postmarked no more than forty-five (45) days before the Fairness Hearing, and on the form, the Former Participant shall supply sufficient information for the Settlement Administrator to enable the rollover.
  - b. If a Former Participant timely submits a Former Participant Claim Form with sufficient information for the Settlement Administrator to enable the rollover, then the Settlement Administrator shall direct that person's Entitlement Amount to be deposited with the individual retirement account or other eligible retirement plan and shall cooperate with any other submissions as may be necessary to complete the rollover.
  - c. If a Former Participant (i) does not submit a Former Participant Claim Form, (ii) submits a Former Participant Claim Form but does not meet the forty-five (45) day deadline specified in Section 7(a) of this Plan of Allocation, (iii) submits a Former Participant Claim Form but does not supply sufficient information for the Settlement Administrator to enable the rollover, or (iv) does not otherwise satisfy the conditions for tax-qualified rollover of that person's Entitlement Amount to an individual retirement account or other eligible retirement plan, then the Settlement Administrator shall deliver the Entitlement Amount to that Former Participant by check.

- d. For all Former Participants receiving the Entitlement Amount by check, the Settlement Administrator shall deliver the check by U.S. Mail. If a Former Participant submitted a Former Participant Claim Form, the Settlement Administrator shall use the mailing address specified on that form by the Former Participant. If the Settlement Administrator is uncertain about a Former Participant's mailing address, the Settlement Administrator may use any other commercially reasonable means to determine the Former Participant's current mailing address.
  - e. For checks issued other than pursuant to a rollover under Section 7(a) of this Plan of Allocation, the Settlement Administrator shall further direct that (i) any applicable taxes be calculated and withheld from any Entitlement Amount(s) otherwise payable to the Former Participant; (ii) the payments and associated tax withholdings for the Former Participant be reported to the Internal Revenue Service and any applicable state revenue agents; and (iii) applicable tax forms be issued to the Former Participant.
  - f. Settlement checks shall be valid for ninety (90) days from the date of issuance. The Settlement Administrator shall use commercially reasonable efforts to locate any Class Member whose check is returned and shall re-send the check one additional time. More than ninety (90) days following the issuance of all settlement checks pursuant to this Plan of Allocation, any remaining uncashed checks shall be void and those funds shall remain in the Qualified Settlement Fund.
8. This Plan of Allocation is based on preliminary information regarding Class Members who may qualify for settlement payments under the Settlement Agreement. If the Settlement Administrator determines that it is impracticable to implement any term in this Plan of Allocation, the Settlement Administrator shall promptly notify the Settling Parties. On receiving such notice, the Settling Parties shall promptly confer and engage in reasonable negotiations to modify this Plan of Allocation, and if the Settling Parties agree on such modifications, they shall promptly present those modifications for court approval. In the event the Settling Parties agree to modify this Plan of Allocation, no mailed notice of such modifications to Class Members shall be required, but the proposed



modifications shall be posted by the Settlement Administrator on the Settlement Website.

9. Within ten (10) calendar days after Settlement Administrator completes all its obligations under this Plan of Allocation, the Settlement Administrator shall securely communicate one or more declarations to Defendants and Class Counsel with the following information: (i) the names of all Class Members to whom the Settlement Administrator sent the Settlement Notice and the corresponding mailing addresses to which the Settlement Notice was sent; (ii) the date(s) on which the Settlement Administrator sent the Settlement Notice; (iii) the names of all Class Members whose Settlement Notices were returned as undeliverable; (iv) whether the Settlement Administrator engaged in commercially reasonable efforts to determine the correct mailing address for such undeliverable notices and re-send them to such Class Members; (v) the names of all Class Members to whom the Settlement Administrator paid the Class Member's Entitlement Amount; (vi) the means by which the payment was made, specifying the payee(s), the manner of distribution (whether to Active Account(s), to a qualifying rollover, or by check), and the payment date; and (vii) if applicable, the amount of tax withholdings and the date those withholdings were remitted to the applicable tax authority.
10. The Settling Parties acknowledge that payments to Class Members and Class Counsel are subject to applicable tax laws. Defendants, Defense Counsel, Class Representatives, and Class Counsel shall provide no tax advice to Class Members and shall make no representations regarding the tax consequences of settlement payments under the Settlement Agreement or this Plan of Allocation. To the extent any portion of a Class Member's Entitlement Amount is subject to income or other tax, the recipient shall be responsible for such tax liability and any costs related to such tax liability. The Settlement Administrator shall report the payments and tax withholdings in accordance with Section 7(e) of this Plan of Allocation and as otherwise required by law. The Settling Parties shall not characterize the settlement payments as wages.
11. No fewer than ninety-five (95) days after the Settlement Administrator completes commercially reasonable efforts to re-send returned checks under Section 7(f) of this Plan of Allocation, any funds remaining in the Qualified Settlement Fund shall be paid to the Plans, which shall only use those funds for the purpose of defraying administrative fees and expenses that would

otherwise be charged to the Plans' participants. The Plans may direct the Settlement Administrator regarding how these remaining funds are allocated between the CentraCare Health System 403(b) Plan and the CentraCare Health System Retirement Plan. Under no circumstances shall any portion of the Qualified Settlement Fund revert to one or more Defendants or their insurers.

# Exhibit C

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

---

Angi Schave,

Court File No. 22-cv-1555 (JRT/LIB)

Plaintiff,

v.

CentraCare Health System, the Board of  
Directors of CentraCare Health System,  
and John Does 1-40,

**[PROPOSED] ORDER GRANTING  
PLAINTIFF'S MOTION FOR  
PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

Defendants.

---

This matter is before the Court, United States District Judge John R. Tunheim, on Plaintiff's Motion for Preliminary Approval of Class Action Settlement. A hearing on the motion was held on [date]. Scott A. Moriarity appeared on behalf of Plaintiff. [Attorney] appeared on behalf of Defendant. Based upon all the files, records, and proceedings herein, IT IS HEREBY ORDERED THAT:

1. This Order incorporates by reference the definitions in the Settlement Agreement ([Doc. No. \*]). All capitalized terms used in this Order will have the same meanings as set forth in the Settlement Agreement, unless otherwise defined in this Order.

2. **Preliminary Certification of the Settlement Class.** In accordance with the Settlement Agreement, and pursuant to Rules 23(a) and (b)(1) of the Federal Rules of Civil Procedure, this Court conditionally certifies the following class ("Settlement Class"):

All persons who participated in the CentraCare Health System Retirement Plan or the CentraCare Health System 403(b) Plan at any time between June 13, 2016 and the date of this Order, including any plan participant and any Beneficiary of the same (including spouses), any Beneficiary of a deceased Person who participated in the Plans at any time during the Class Period, and any Alternate Payee of a Person subject to a QDRO who participated in the Plans at any time during the Class Period. Excluded from the Settlement Class are the members of the CentraCare Retirement Plan Advisory Committee during the Class Period and the members of CentraCare's Board of Directors and their spouses.

3. Pursuant to the Settlement Agreement, and for settlement purposes only, the Court preliminarily finds that:

- a. The Settlement Class is ascertainable from records kept with respect to the Plans and from other objective criteria.
- b. As required by Fed. R. Civ. P. 23(a)(1), the Settlement Class is so numerous that joinder of all members is impracticable.
- c. As required by Fed. R. Civ. P. 23(a)(2), there are one or more questions of law and/or fact common to the Settlement Class.
- d. As required by Fed. R. Civ. P. 23(a)(3), the claims of Angi Schave ("the Named Plaintiff") are typical of the claims of the Settlement Class that the Named Plaintiff seeks to certify.
- e. As required by Fed. R. Civ. P. 23(a)(4), the Named Plaintiff will fairly and adequately protect the interests of the Settlement Class in that: (i) the interests of the Named Plaintiff and the nature of the alleged claims are consistent with those of Settlement Class members; and (ii) there appear to be no conflicts between the Named Plaintiff and the Settlement Class.

- f. As required by Fed. R. Civ. P. 23(b)(1), the prosecution of separate actions by individual members of the Settlement Class would create a risk of: (i) inconsistent or varying adjudications as to individual Settlement Class members that would establish incompatible standards of conduct for the parties opposing the claims asserted in the Action; or (ii) adjudications as to individual Settlement Class members that, as a practical matter, would be dispositive of the interests of other members not parties to the individual adjudications, or substantially impair or impede the ability of such persons to protect their interests.
- g. As required by Fed. R. Civ. P. 23(g), Class Counsel are capable of fairly and adequately representing the interests of the Settlement Class, and Class Counsel: (i) have done appropriate work identifying or investigating potential claims in the Action; (ii) are experienced in handling class actions; and (iii) have committed the necessary resources to represent the Settlement Class.

4. The Court preliminarily appoints the Named Plaintiff as Class Representative for the Settlement Class and Wanta Thome PLC as Class Counsel for the Settlement Class.

5. The Court preliminarily approves the proposed Plan of Allocation, finding it is fair, reasonable, and adequate.

6. **Preliminary Approval of Proposed Settlement.** The Settlement Agreement is hereby preliminarily approved as fair, reasonable, and adequate. This Court preliminarily finds that:

- a. The Settlement was negotiated vigorously and at arm's-length by Counsel for the Defendants, on the one hand, and the Named Plaintiff and Class Action on behalf of the Settlement Class, on the other hand, through mediation conducted by Doug Hinson.
- b. Plaintiffs and Defendants had sufficient information to assess settlement value of the Action.
- c. The Action settled after this Court dismissed Named Plaintiff's Complaint in part.
- d. If the Settlement had not been achieved, Named Plaintiff and the Defendants faced the expense, risk, and uncertainty of extended litigation.
- e. The Settlement amount of eight hundred thousand dollars (\$800,000.00) is fair, reasonable, and adequate, taking into account the costs, risks, and delay of trial and appeal.
- f. The proposed method for distributing settlement payments is efficient, relying on records regularly maintained by the Plans' recordkeeper, and class members are not required to file claims.
- g. The Settlement terms related to attorneys' fees do not raise any questions concerning fairness of the Settlement.
- h. The parties have no agreements outside the Settlement Agreement and no agreements between the parties subject to Fed. R. Civ. P. 23(e)(2)(C)(iv).
- i. At all times, Named Plaintiff and Class Counsel have acted independently of Defendants and in the interest of the Settlement Class.

7. **Fairness Hearing.** A hearing is scheduled for [time] on [no sooner than 120 days after this order] to make a final determination, concerning among other things:

- a. Whether the Settlement should receive final approval as fair, reasonable, and adequate.
- b. Whether the Action should be dismissed with prejudice pursuant to the Settlement.
- c. Whether the notice method proposed by the Parties constitutes appropriate notice to class members under Rule 23(c)(2)(A).
- d. Whether Class Counsel adequately represented the Settlement Class for purposes of entering into and implementing the Settlement.
- e. Whether the proposed Plan of Allocation should be finally approved.
- f. Whether to approve the proposed attorney fees and costs to Class Counsel and the proposed Case Contribution Award to Named Plaintiff as fair and reasonable.

8. **Class Notice.** The Court approves the forms of Class Notice attached as Exhibits A-1 and A-2 to the Settlement Agreement. The Court finds these forms fairly and adequately (a) describe the terms and effects of the Settlement Agreement, the Settlement, and the Plan of Allocation; (b) notifies the Settlement Class that Class Counsel will seek from the Settlement Fund attorney fees and costs, and for the Named Plaintiff, a Case Contribution Award; (c) notifies the Settlement Class that Settlement administration costs will be paid out of the Settlement Fund; (d) gives notice to the Settlement Class of the time and place of the Fairness Hearing; and (e) describes how Settlement Class Members may



object to any of the relief requested. The Parties have proposed that the notice be sent to Class Members by first-class U.S. Mail, and the Court finds that such proposed manner is the best notice practicable under the circumstances. Accordingly, the Court directs that Class Counsel shall:

- a. By no later than [30 days following entry of this order], cause the Class Notice, with such non-substantive modifications thereto as may be agreed upon by the Parties, to be provided by first-class mail, postage prepaid, to each member of the Settlement Class identified by the Settlement Administrator based upon the data provided by the Plans' Recordkeeper;
- b. By no later than [30 days following entry of this order], cause the Class Notices to be published on the website identified in those notices, which will also host and make available copies of the Settlement Agreement and other documents as specified by the Settlement Agreement.

9. **Petition for Attorneys' Fees and Litigation Costs and Case Contribution Awards.** Any petition by Class Counsel for attorneys' fees, litigation costs, and Case Contribution Award to the Named Plaintiff, and all briefs in support thereof, shall be filed no later than [30 days prior to the Fairness Hearing]. Class Counsel may supplement their petition thereafter as necessary.

10. **Briefs in Support of Final Approval of the Settlement.** Briefs and other documents in support of final approval of the Settlement shall be filed no later than [14 days prior to the Fairness Hearing].

11. **Objections to Settlement.** Any member of the Settlement Class or authorized recipient of any CAFA Notice may file an objection to the fairness, reasonableness, or adequacy of the Settlement, to any term of the Settlement Agreement, to the Plan of Allocation, to the proposed award of attorney fees and litigation costs, to the payment of Settlement administration costs out of the Settlement Fund, or to the request for a Case Contribution Award for the Named Plaintiff. An objector must file with the Court a statement of his, her, or its objection(s), specifying the reason(s), if any, for each such objection made, including any legal support and/or evidence that the objector wishes to bring to the Court's attention or introduce in support of the objection(s). The address for filing objections with the Court is as follows:

Clerk of the Court  
United States District Court, District of Minnesota  
Diana E. Murphy United States Courthouse  
300 South Fourth Street, Suite 202  
Minneapolis, MN 55414

Re: *Schave, et al. v. CentraCare Health System, et al.*,  
Civil Action No. 22-cv-1555 (JRT/LIB) (D. Minn.)

The objector or their counsel (if any) must file the objection(s) and supporting materials with the Court, and provide copies of the same to Class Counsel and Defense Counsel, no later than [21 days prior to the scheduled Fairness Hearing]. If an objector hires an attorney to represent them for the purposes of making an objection pursuant to this paragraph, the attorney must also file a notice of appearance with the Court no later than [14 days prior to the scheduled Fairness Hearing]. Any member of the Settlement Class or other Person who does not timely file a written objection complying with the terms of this paragraph shall be

deemed to have waived, and shall be foreclosed from raising, any objection to the Settlement, and any untimely objection shall be barred. Any responses to objections shall be filed with the Court no later than [7 days prior to the scheduled Fairness Hearing]. There shall be no reply briefs.

12. **Appearance at Final Approval Hearing.** Any objector who files and serves a timely, written objection in accordance with paragraph 10 above may also appear at the Fairness Hearing either in person or through qualified counsel retained at the objector's expense. Objectors or their attorneys intending to appear at the Fairness Hearing must file a notice of intention to appear (and, if applicable, the name, address, and telephone number of the objector's attorney) with the Court by no later than [21 days prior to the scheduled Fairness Hearing]. Any objector who does not timely file a notice of intention to appear in accordance with this paragraph shall not be permitted to appear at the Fairness Hearing, except for good cause shown.

13. **Notice Expenses.** The expenses of printing, mailing, and publishing the Class Notice required herein shall be paid exclusively from the Settlement Fund.

14. **Termination of Settlement.** This Order shall become null and void, *ab initio*, and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions as of the day immediately before the Parties reached agreement to settle the Action, if the Settlement Agreement is terminated in accordance with its terms.

15. **Use of Order.** This Order is not admissible as evidence for any purpose against Defendants in any pending or future litigation. This Order shall not be construed or

used as an admission, concession, or declaration by or against Defendants of any finding of fiduciary status, fault, wrongdoing, breach, omission, violation of law, breach of duty, mistake, or liability. This Order shall not be construed or used as an admission, concession, or declaration by or against Named Plaintiff or the Settlement Class that their claims lack merit, or that the relief requested in the Action is inappropriate, improper, or unavailable. In the event that the Settlement Agreement is terminated, this Order shall not be construed or used as an admission, concession, declaration, or waiver by any Party of any arguments, defenses, or claims they may have, including, but not limited to, any objections by Defendants to class certification. The Settlement Agreement and any proceedings relating to the Settlement Agreement are for settlement purposes only. Neither the fact of, nor any provision contained in, the Settlement Agreement or its exhibits, nor any actions taken thereunder, shall be construed as, offered into evidence as, received into evidence as, and/or deemed to be evidence of a presumption, concession, or admission of any kind as to the truth of any fact alleged or validity of any claim or defense that has been, could have been, or in the future might be asserted.

16. **Jurisdiction.** The Court hereby retains jurisdiction for purposes of implementing the Settlement and reserves the power to enter additional orders to effectuate the fair and orderly administration and consummation of the Settlement as may from time to time be appropriate, and to resolve any and all disputes arising thereunder.

17. **Continuance of Final Approval Hearing.** The Court reserves the right to continue the Fairness Hearing without further written notice.

Dated: \_\_\_\_\_

---

District Judge John R. Tunheim  
United States District Court

# Exhibit D

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

---

Angi Schave,

Court File No. 22-cv-1555 (JRT/LIB)

Plaintiff,

v.

CentraCare Health System, the Board of  
Directors of CentraCare Health System,  
and John Does 1-40,

**[PROPOSED] FINAL ORDER  
GRANTING PLAINTIFF'S MOTION  
FOR FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT**

Defendants.

---

This matter is before the Court, United States District Judge John R. Tunheim, on Plaintiff's Motion for Final Approval of Class Action Settlement. A hearing on the motion was held on [date]. Scott A. Moriarity appeared on behalf of Plaintiff. [Attorney] appeared on behalf of Defendant. Based upon all the files, records, and proceedings herein, IT IS HEREBY ORDERED THAT:

1. The Court has jurisdiction over the subject matter of the Action and over all Parties to the Action, including all members of the Settlement Class.
2. For the sole purpose of settling and resolving the Action, the Court certifies this Action as a class action pursuant to Rules 23(a) and (b)(1) of the Federal Rules of Civil Procedure. The Settlement Class is defined as:

All persons who participated in the CentraCare Health System Retirement Plan or the CentraCare Health System 403(b) Plan at any time between June 13, 2016 and the date of this Order, including any plan participant and any Beneficiary of the same (including spouses), any Beneficiary of a deceased Person who participated in the Plans at any time during the Class Period, and any Alternate Payee of a Person subject to a QDRO who participated in the Plans at any time during the Class Period. Excluded from the Settlement Class are the members of the CentraCare Retirement Plan Advisory Committee during the Class Period and the members of CentraCare's Board of Directors and their spouses.

3. The Court finds for the sole purpose of settling and resolving the Action that:
  - a. The Settlement Class is ascertainable from records kept with respect to the Plans and from other objective criteria.
  - b. As required by Fed. R. Civ. P. 23(a)(1), the Settlement Class is so numerous that joinder of all members is impracticable.
  - c. As required by Fed. R. Civ. P. 23(a)(2), there are one or more questions of law and/or fact common to the Settlement Class.
  - d. As required by Fed. R. Civ. P. 23(a)(3), the claims of Angi Schave ("the Named Plaintiff") are typical of the claims of the Settlement Class that the Named Plaintiff seeks to certify.
  - e. As required by Fed. R. Civ. P. 23(a)(4), the Named Plaintiff will fairly and adequately protect the interests of the Settlement Class in that: (i) the interests of the Named Plaintiff and the nature of the alleged claims are consistent with those of Settlement Class members; and (ii) there appear to be no conflicts between the Named Plaintiff and the Settlement Class.
  - f. As required by Fed. R. Civ. P. 23(b)(1), the prosecution of separate actions by individual members of the Settlement Class would create a risk of: (i)



inconsistent or varying adjudications as to individual Settlement Class members that would establish incompatible standards of conduct for the parties opposing the claims asserted in the Action; or (ii) adjudications as to individual Settlement Class members that, as a practical matter, would be dispositive of the interests of other members not parties to the individual adjudications, or substantially impair or impede the ability of such persons to protect their interests.

g. As required by Fed. R. Civ. P. 23(g), Class Counsel are capable of fairly and adequately representing the interests of the Settlement Class, and Class Counsel: (i) have done appropriate work identifying or investigating potential claims in the Action; (ii) are experienced in handling class actions; and (iii) have committed the necessary resources to represent the Settlement Class. The Court hereby appoints the Named Plaintiff Angi Schave as Class Representative for the Settlement Class and Wanta Thome PLC as Class Counsel for the Settlement Class.

4. The Court appoints the Named Plaintiff as Class Representative for the Settlement Class and Wanta Thome PLC as Class Counsel for the Settlement Class.

5. The Court hereby finds that the Settlement Class has received proper and adequate notice (a) of the terms and effects of the Settlement Agreement, the Settlement, and the Plan of Allocation; (b) that Class Counsel is seeking attorney fees and costs from the Settlement Fund and that the Named Plaintiff is seeking a Case Contribution Award from the Settlement Fund; (c) that Settlement administration costs will be paid out of the

Settlement Fund; (d) of the time and place of the Fairness Hearing; and (e) how Class Members could object to any relief requested. Such notice included individual mailed notice to all members of the Settlement Class who could be identified through reasonable efforts, as well as notice through a dedicated Settlement website on the internet. These procedures provided Class Members valid, due, and sufficient notice of the proceedings and of the matters set forth in this Order and the procedure for making objections. Such notice fully satisfied the requirements of Fed. R. Civ. P. 23(c)(2)(A) and the requirements of due process. The Court further finds that all requirements under the Class Action Fairness Act have been satisfied.

6. The Court hereby approves the Settlement Agreement and hereby Orders that the Settlement Agreement be consummated and implemented in accordance with its terms and conditions.

7. Pursuant to Fed. R. Civ. P. 23(e), the Court finds the Settlement embodied in the Settlement Agreement is fair, reasonable, and adequate, and more particularly finds that:

- a. The Settlement was negotiated vigorously and at arm's-length by Counsel for the Defendants, on the one hand, and the Named Plaintiff and Class Action on behalf of the Settlement Class, on the other hand, through mediation conducted by Doug Hinson.
- b. Plaintiffs and Defendants had sufficient information to assess settlement value of the Action.

- c. The Action settled after this Court dismissed Named Plaintiff's Complaint in part.
- d. If the Settlement had not been achieved, Named Plaintiff and the Defendants faced the expense, risk, and uncertainty of extended litigation.
- e. The Settlement amount of eight hundred thousand dollars (\$800,000.00) is fair, reasonable, and adequate, taking into account the costs, risks, and delay of trial and appeal.
- f. The proposed method for distributing settlement payments is efficient, relying on records regularly maintained by the Plans' recordkeeper, and class members are not required to file claims.
- g. The Settlement terms related to attorneys' fees do not raise any questions concerning fairness of the Settlement.
- h. The parties have no agreements outside the Settlement Agreement and no agreements between the parties subject to Fed. R. Civ. P. 23(e)(2)(C)(iv).
- i. At all times, Named Plaintiff and Class Counsel have acted independently of Defendants and in the interest of the Settlement Class.
- j. Defendants retained independent fiduciary Newport Trust Company, LLC to independently determine whether to approve and authorize the Settlement on behalf of the Plans. Prior to [37 days prior to the Fairness Hearing], Newport Trust Company issued its determination, approved and authorized the Settlement on the Plans' behalf, and made no objections to the Settlement or any of its terms.

8. The Plan of Allocation is approved as fair, reasonable, and adequate. Class Counsel shall direct distribution of the Net Settlement Amount in accordance with the Plan of Allocation and the Settlement Agreement, and the Settlement Administrator shall have final authority to determine the share of the Net Settlement Amount to be allocated to each Class Member. If any matters arise concerning the implementation of such distributions that are not resolved by the Settlement Administrator pursuant to its discretion,

9. The Releases set forth in the Settlement Agreement, including but not limited to terms defined in Sections 1.38 and 1.39 and the release set forth in Article 7, are expressly incorporated into this Order. The Releases are effective as of the date final judgment is entered in this case. Consistent with those terms, the following shall occur upon the entry of final judgment:

- a. Named Plaintiff, on behalf of herself and each member of the Settlement Class, shall release the Released Parties from the following claims (the “Released Claims”): any and all past, present, and future claims of any nature whatsoever (including claims for any and all losses, damages, unjust enrichment, attorneys’ fees, disgorgement, litigation costs, injunction, declaration, contribution, indemnification or any other type or nature of legal or equitable relief), accrued or not, known or unknown, by or on behalf of the Plans, the Named Plaintiff, and each and every member of the Settlement Class, and their respective heirs, beneficiaries, executors, administrators, past and present parties, agents, attorneys, and assigns that:
  - (a) involve the selection or monitoring of the Plans’ investments or the

Plans' fees or the disclosures made to participants; or (b) arise out of the Action or are in any way related to any of the acts, omissions, facts, matters, transactions, or occurrences alleged in the Complaint.

- b. With respect to the Released Claims, it is the intention of the Parties and all other members of the Settlement Class and the Plans to expressly waive to the fullest extent of the law: (a) the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides that a "general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party"; and (b) the provisions, rights and benefits of any similar statute or common law of any other jurisdiction that may be, or may be asserted to be, applicable. This release does not include any claims that the Named Plaintiff or the Settlement Class have for vested benefits under the terms of the Plans.
- c. The Plaintiffs and the Plans shall be permanently and finally enjoined, without the necessity of Defendants posting a bond, from commencing or prosecuting any actions or other proceedings asserting any of the Released Claims either directly, indirectly, derivatively, or in any other capacity, against any of the Released Parties.

10. The Action shall be dismissed with prejudice, and there being no just reason to delay enforcement or appeal of this Order, the Clerk of Court is directed to enter final judgment pursuant to Fed. R. Civ. P. 54(b).

11. This dismissal and entry of judgment shall be without prejudice to the Court's ongoing authority and jurisdiction to supervise the administration of the Settlement. The Court shall retain exclusive jurisdiction over any disputes or challenges that may arise as to the performance of the Settlement Agreement or any challenges as to the performance, validity, interpretation, administration, enforcement, or enforceability of the Class Notice, Plan of Allocation, this Judgment, or the Settlement Agreement or its termination. The Court shall also retain exclusive jurisdiction and rule by separate Order, consistent with the terms in the Settlement Agreement, with respect to attorney fees, costs, and the Case Contribution Award to the Named Plaintiff.

12. In the event that the Settlement Agreement is terminated, then in accordance with its terms, this Order and any accompanying Judgment shall be rendered null and void *ab initio*, and this Action shall for all purposes with respect to the Parties revert to its status as of the day immediately before the Settlement was reached. The Parties shall be afforded a reasonable opportunity to negotiate a new case management schedule.

13. This Judgment shall not be construed or used as an admission, concession, or declaration by or against Defendants of any fault, wrongdoing, breach, or liability. Defendants have denied and continue to deny all of the claims and allegations made by Named Plaintiff in the Action and specifically deny any liability, wrongful conduct, violation of law, or breach of duty of any kind.

14. This Judgment shall not be construed or used as an admission, concession, or declaration by or against Named Plaintiff or the Settlement Class that their claims lack merit, or that the relief requested in the Action is inappropriate, improper, or unavailable.

15. This Judgment shall not be construed or used as an admission, concession, declaration, or waiver by any Party of any arguments, defenses, or claims they may have in the event that the Settlement Agreement is terminated. Moreover, the Settlement Agreement and any proceedings taken pursuant to the Settlement Agreement are for settlement purposes only. Neither the fact of, nor any provision contained in, the Settlement Agreement or its exhibits, nor any actions taken thereunder, shall be construed as, offered into evidence as, received into evidence as, and/or deemed to be evidence of a presumption, concession, or admission of any kind as to the truth of any fact alleged or validity of any claim or defense that has been, could have been, or in the future might be asserted.

Based on the foregoing, the Plaintiff's Motion for Final Approval of Class Action Settlement [Doc. No. \*] is **GRANTED**.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

SO ORDERED:

Dated: \_\_\_\_\_

\_\_\_\_\_  
District Judge John R. Tunheim  
United States District Court

# Exhibit E



[date]

**VIA U.S. PRIORITY MAIL**

[attorney general name]

Attorney General of [state]

[address]

[address]

[city, state, zip]

Re: **Class Action Fairness Act Notice**

*Angi Schave v. CentraCare Health System, et al.*

U.S. District Court, District of Minnesota, Court File No. 22-cv-1555 (JRT/LIB)

Dear Attorney General:

ATTICUS ADMINISTRATION, LLC has been retained as the third-party Settlement Administrator in a putative class action lawsuit in the above-referenced class action (the “Action”) pending in U.S District Court for the District of Minnesota. The parties have proposed to settle the claims asserted in the Action under the terms of a settlement agreement filed with the court on [date of motion for preliminary approval of class action settlement].

This notice of a proposed settlement is being provided to you in accordance with the Class Action Fairness Act, 28 U.S.C. § 1715, on behalf of Defendants CentraCare Health System and the Board of Directors of CentraCare Health System. The enclosed CD-ROM, the contents of which are identified below, includes all of materials required under the statute.

**Contents of the Enclosed CD-ROM**

1. Complaint, June 13, 2022 (Attachment 1).
2. Plaintiff’s Motion for Preliminary Approval of Class Action Settlement with Memorandum in Support (Attachment 2).
3. Settlement Agreement (Attachment 3).
4. [Proposed] Order Granting Plaintiff’s Motion for Preliminary Approval of Class Action Settlement (Attachment 4).
5. [Proposed] Notices of Class Action Settlement (Attachment 5).
6. A reasonable estimate of the number of settlement class members residing in each State (Attachment 6). It is not feasible to provide the estimated proportionate share of class members’ claims to the entire settlement pursuant to 28 U.S.C. §

1715(b)(7). However, under the contemplated Plan of Allocation, the settlement fund (after payment of Plaintiffs' attorneys' fees and other expenses) will be distributed pro rata to each class member, based on account balances.

A final judgment has not been entered in this action and no notice of dismissal has been filed at this time. No written judicial opinions have been issued in this action relating to the materials described in 28 U.S.C. § 1715(b)(3) through (6) regarding any proposed or final notice to the class members, any proposed or final class action settlement, any settlement or other contemporaneous agreement, or any final judgment or notice of dismissal.

If you are unable to access any of the information included on the enclosed CD or if you have any questions regarding the proposed settlement, kindly contact counsel for Defendant CentraCare Health Care System, Andrew Holly and Nicholas J. Bullard of Dorsey & Whitney LLP, 50 South Sixth Street, Suite 1500, Minneapolis 55402. They can be called at 612-340-2600 or e-mailed at [holly.andrew@dorsey.com](mailto:holly.andrew@dorsey.com) and [bullard.nick@dorsey.com](mailto:bullard.nick@dorsey.com).

With kind regards,

Office of the Settlement Administrator

Enclosure – CD-ROM

# Exhibit F

## Former Participant Claim Form

*Schave v. CentraCare Health System, et al.*, Case No. 0:22-cv-01555-JRT/LIB

If you were a participant in CentraCare Health System Retirement Plan or the CentraCare Health System 403(b) Plan during the period from June 13, 2016 through [date of the preliminary class action settlement approval order] (the Class Period), but you did not have an account with a positive balance in either Plan as of [date of the preliminary class action settlement approval order]; or if you are a Beneficiary or Alternate Payee (in the case of a person subject to a Qualified Domestic Relations Order) of such a participant, *and* you would prefer to have your settlement proceeds rolled over into an eligible retirement plan, you must complete this form and mail it WITH A POSTMARK ON OR BEFORE [45 DAYS PRIOR TO THE FAIRNESS HEARING] to the following address:

[Settlement Administrator]

[Address]

[Address]

For purposes of this Former Participant Claim Form, Former Participant means a person who did not have an account with a positive balance in either Plan as of [date of the preliminary class action settlement approval order]; Beneficiary and Alternate Payee respectively mean a Beneficiary or Alternate Payee of a Former Participant.

### ▪ Participant Information

Your Name		
Address		
Address 2		
City	State	Zip
Your Social Security Number	Phone (Preferred)	Phone (Alternate)
Your Date of Birth		
Email Address		

### ▪ Beneficiary or Alternate Payee Information (ONLY PROVIDE IF THIS PERSON SHOULD RECEIVE PAYMENT INSTEAD OF THE PARTICIPANT)

Your Name		
Address		
Address 2		
City	State	Zip
Your Social Security Number	Phone (Preferred)	Phone (Alternate)
Your Date of Birth		
Email Address		

BY SUBMITTING THIS FORM, I DIRECT THAT IF PRACTICABLE, MY PAYMENT SHALL BE MADE PAYABLE TO AS A ROLLOVER DISTRIBUTION TO THE FOLLOWING RETIREMENT ACCOUNT:

Account Name	
Account Number	
Contact or Trustee (if required)	
Address Line 1	
Address Line 2	
City, State, ZIP	

BY SUBMITTING THIS FORM, I FURTHER CERTIFY AND REPRESENT UNDER PENALTY OF PERJURY THAT NO PORTION OF THE PAYMENT TO BE ROLLED OVER IS SUBJECT TO A QUALIFIED DOMESTIC RELATIONS ORDER (QDRO) OR ALTERNATIVELY, THAT A TRUE AND ACCURATE COPY OF ANY APPLICABLE QDRO IS ENCLOSED AND THAT THE REQUESTED ROLLOVER IS CONSISTENT WITH THAT QDRO.

Signature (Required): \_\_\_\_\_

Date: \_\_\_\_\_

**Note: There is no promise or assurance your payment is eligible for rollover or tax-preferred treatment. The decision to seek rollover treatment is yours alone. Any questions about taxation or rollover treatment must be directed to your tax advisor or accountant. No one associated with this case can provide you assistance or advice of any kind regarding this issue or other tax considerations.**

Deceased Class Members are not eligible for rollover treatment and cannot use this form. For further inquiries, please contact the Settlement Administrator or Class Counsel.