

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

KEITH RAYMOND, et al.,)	CASE NO. 1:15-CV-00559-MRB
)	
Plaintiffs,)	Judge Michael R. Barrett
)	
v.)	
)	
AVECTUS HEALTHCARE)	
SOLUTIONS, LLC, et al.)	
)	
Defendants.)	

**JOINT MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT,
CERTIFICATION OF A SETTLEMENT CLASS, APPOINTMENT OF LEAD CLASS
COUNSEL & APPOINTMENT OF SETTLEMENT ADMINISTRATOR**

Pursuant to Fed. R. Civ. P. 23(e), Class Representatives/Plaintiffs, Keith Raymond and Timothy Strunk, ("Plaintiffs"), and Defendants, Avectus Health Care Solutions, LLC and Mercy Health ("Defendants"), jointly move this Court to enter an Order: (1) preliminarily approving the Settlement Agreement; (2) certifying the settlement class; (3) appointing lead Class Counsel; and (4) appointing a Settlement Administrator.

After fully considering the difficulties associated with this litigation, including the likelihood of ultimate success on the merits and the risks, expense and delay of further litigation, Plaintiffs and Defendants negotiated a Settlement that achieves significant benefits for the Settlement Class. This Settlement was reached only after more than eight (8) years of vigorous litigation and lengthy arm's-length negotiations.

For the reasons set forth more particularly in the Memorandum in Support of this Joint Motion for Preliminary Approval of Settlement Agreement, Certification of a

Settlement Class, Appointment of Lead Class Counsel and Appointment of Settlement Administrator, the Parties respectfully request that the Court grant this Motion. The Parties have agreed to the proposed order of preliminary approval attached to this Motion, for settlement purposes only.

Respectfully submitted,

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MEMORANDUM IN SUPPORT OF JOINT MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT, CERTIFICATION OF A SETTLEMENT CLASS, APPOINTMENT OF LEAD CLASS COUNSEL AND APPOINTMENT OF CLASS ADMINISTRATOR

I. INTRODUCTION AND SUMMARY

After conducting arm's-length negotiations, Plaintiffs/Class Representatives, Keith Raymond and Timothy Strunk ("Plaintiffs") and Defendants, Avectus Healthcare Solutions, LLC and Mercy Health ("Defendants") respectfully submit this Memorandum in Support of their Joint Motion for Preliminary Approval of Settlement, Certification of a Settlement Class, Appointment of Lead Class Counsel and appointment of Settlement Administrator. Plaintiffs and Defendants (the "Parties"), by counsel, reached a fair, reasonable and adequate settlement in this Lawsuit after eight (8) years of vigorous litigation over the claims and defenses, which fully and finally resolves and settles the case captioned Keith Raymond et al. v. Avectus Healthcare Solutions, et al., Southern District of Ohio No. 1:15-CV-00559-MRB (the "Lawsuit"). The proposed Settlement will avoid further expense, uncertainty, and delay and bring a complete end to this case. The terms of the proposed Settlement are fair, provide substantial benefits to Settlement Class Members, and are uniquely attuned to the issues addressed by the litigation. The proposed Settlement Agreement is subject to this Court's approval and is hereto attached as Exhibit A.

This Settlement remedies allegedly improper practices and provides Class Members with appropriate and equitable monetary relief. Defendants expressly deny any and all fault, wrongdoing, or liability in connection with any of the claims. Before agreeing to the Settlement, the Parties engaged in intense litigation for more than eight (8) years

before the Court and before the 6th Circuit Court of Appeals. The Parties conducted extensive rounds of written discovery, exchanged tens of thousands of documents, took numerous depositions inside and outside of Ohio, litigated the Class Certification Motion, engaged in lengthy motion practice and briefing for or against summary judgment, and engaged in extensive arm's-length negotiations.

The Parties request that the Court grant preliminary approval of the proposed Settlement. Specifically, the Parties respectfully request that the Court enter an Order (1) preliminarily approving the Settlement Agreement attached as Exhibit A as fair, adequate, and reasonable as to the Settlement Class; (2) conditionally certifying the Settlement Class for the purpose of effectuating the Settlement Agreement; (3) appointing Lead Class Counsel; and (4) appointing a Settlement Administrator. For the reasons set forth more particularly below, the Parties request that the Court grant this Motion. The Parties have agreed to the proposed Order granting preliminary approval attached to this Motion, for settlement purposes only.

II. BACKGROUND OF LITIGATION AND SUMMARY OF BENEFITS IN SETTLEMENT AGREEMENT

A. The Parties Reached a Settlement After Significant Litigation

The within cause of action commenced with the filing of Plaintiffs', Keith Raymond and Timothy Strunk (hereinafter "Plaintiffs"), Class Action Complaint on August 27, 2015. Doc. 1. Plaintiffs' claims arise from, among other things, the alleged violation of Ohio R.C. §1751.60 and the Fair Debt Collection Practices Act. Plaintiffs allege that under Ohio law, Class Members who were insured with Mercy's contracted health insuring corporations (HICs) could not be subjected to attempts to collect, nor collection, by the Defendants, other than for applicable co-payments or deductibles.

Specifically, Plaintiffs allege that Plaintiffs/Class Representatives, Raymond and Strunk, sustained injury in separate incidents. Doc. 75, Page ID # 1700 and Doc. 77, Page ID # 2266. Raymond and Strunk both received medical care at Mercy as a result of their injuries. Doc. 27, Page ID # 279 and Doc. 27, Page ID # 281. During admission to Mercy's hospitals, Plaintiffs informed Mercy's admitting staff/registration clerk(s) that they had health insurance coverage. Doc. 27, Page ID # 280, 281.

After Plaintiffs received their medical treatment, Defendant, Avectus, contacted Plaintiffs, sent written correspondence to Plaintiffs and Plaintiffs' legal counsel requesting that legal counsel sign a letter of protection against any settlement or judgement which would then "prevent your client's account from being sent to collections." Doc. 10-3, Page ID # 125 and Doc. 10-4, Page ID 126. Despite having Raymond and Strunk's health insurance information, Defendants' agents, servants and/or employees contacted Plaintiffs relative to payment of Mercy's bill. Doc. 75-1, Page ID # 2115-2154 Doc. 79-1, Page ID 2599-2600. On February 1, 2014, Defendants received a check from Strunk's attorney in the amount of \$2,816.70, made payable to Avectus Healthcare Solutions. Doc. 79-1, Page ID # 2661.

The Complaint asserts claims for (1) breach of contract; (2) violations of the Ohio Consumer Sales Practices Act; (3) violations of the Fair Debt Collection Practices Act; (4) fraud; (5) conversion; (6) unjust enrichment; (7) punitive damages; and (8) breach of third-party beneficiary contract. Throughout this litigation, Defendants have maintained that they complied with all applicable statutes, regulations, and laws; they have asserted many defenses; and they have denied any and all wrongdoing or liability. Defendants, Avectus and Mercy, moved to dismiss Plaintiffs' Complaint. Doc. 5 and Doc. 10. The trial court

granted Defendants' Motions to Dismiss on September 30, 2016. Doc. 21. The Plaintiffs appealed the dismissal to the 6th Circuit Court of Appeals. Doc. 23. The 6th Circuit reversed the trial court's judgment, issued an opinion and remanded the case for further proceedings. Doc. 24. The parties then engaged in extensive discovery, including numerous depositions and the exchange of more than Forty Thousand (40,000) documents. On June 5, 2019, Plaintiffs filed a motion to certify the within action as a class action. Doc. 92. After extensive briefing, on March 27, 2020, the Court granted Plaintiffs' motion for class certification under Rule 23(b)(3). Doc. 127. The Court denied Plaintiffs' motion for class certification under Rule 23(b)(2) and Plaintiffs' Ohio Consumer Sales Practices Act claims. Doc. 127. Avectus and Mercy sought leave to appeal the class certification pursuant to Rule 23(f). On March 31, 2021, the 6th Circuit denied Defendants' Rule 23(f) petitions. Doc. 137.

Following the second trip to the 6th Circuit, the Parties continued with vigorous discovery and litigation, including motions and hearings relative to contested discovery. Plaintiffs and Defendants engaged in extensive motion practice and filed cross Motions for Summary Judgment. Doc. 190, 193 and 216. With the cross Motions for Summary Judgment pending, on May 11, 2023, the Court conducted an all day Settlement Conference/Mediation session. The Parties engaged in good faith, arm's-length negotiation and reached a tentative agreement. The Parties have thoroughly reviewed and analyzed this case, including but not limited to the claims and defenses that have been asserted, formal and informal discovery, consultation with experts, and review of applicable nationwide and Ohio law. The Parties believe the Settlement is fair, adequate, reasonable, and in the best interests of the Class Members, taking into account the

benefits provided to the Class Members through the terms of the Settlement, the risks to all Parties of continued litigation, the uncertainty attendant with possible trial and appeals, and the length of time and the costs that would be required to complete the litigation.

B. The Settlement Provides Substantial Benefits to Settlement Class Members

Pursuant to Fed. R. Civ. P. 23, the Settlement provides the certification, for settlement purposes only, of the following Settlement Class:

“Settlement Class” means all health insured persons, with a health insurance plan accepted by Mercy Health: (1) who were patients at any Mercy Health facility in the State of Ohio between August 27, 2009, and August 31, 2023; (2) who presented evidence of health insurance to Mercy Health; and (3) who thereafter paid, or were requested to pay, any amount of money for the treatment received at any Mercy Health operated facility, other than for co-pays and deductibles.

The parties have also agreed to a Sub Class for Class Members contacted by Defendant Mercy, and not by Defendant Avectus.

“Mercy Only Settlement Subclass” means all health insured persons, with a health insurance plan accepted by Mercy Health: (1) who were patients at any Mercy Health facility in the State of Ohio between August 27, 2009, and August 31, 2023; (2) who presented evidence of health insurance to Mercy Health; and (3) who thereafter paid, or were requested to pay, any amount of money for the treatment received at any Mercy Health operated facility, other than for co-pays and deductibles; and (4) who were not contacted by Avectus on Mercy Health’s behalf.

While Defendants continue to vigorously deny any and all wrongdoing or liability, they jointly agreed to a Gross Settlement Amount of Three Million Five Hundred Thousand Dollars (\$3,500,000.00), with Avectus to pay Three Million Dollars (\$3,000,000) and Mercy Health to pay Five Hundred Thousand Dollars (\$500,000). Subject to the terms and conditions of the Settlement Agreement, each Approved Claimant who

received a Qualifying Communication (as defined in the Settlement Agreement) shall receive a cash payment of \$25.00 ("Base Settlement Payment"), regardless of whether the Approved Claimant submitted a payment to Mercy Health. If the total payments provided for under this subparagraph exceed \$500,000, the amount of each Base Settlement Payment shall be reduced pro rata so that the total Base Settlement Payments do not exceed Five Hundred Thousand Dollars (\$500,000.00). Further, each Approved Claimant who himself, herself, or through an attorney, actually made a Medical Bill Payment to Mercy Health shall receive a cash payment equal to 50% of the Medical Bill Payment. If the payments to the Settlement Class Members would exceed the Net Settlement Fund (as defined in the Settlement Agreement), the payments to the Settlement Class Members shall be reduced on a pro rata basis so that the settlement payments to the Settlement Class Members do not exceed the Net Settlement Fund.

The Parties agree that payments to Class Members shall be made on a claims-made basis. The Parties further agree that all claims must be submitted within Forty-Five (45) days of the settlement approval being sent to the Class Member. Any portion of the Settlement Fund that is not distributed as part of payment to the Class Members, costs of administration, incentive awards and attorneys' fees shall be returned to Defendants based upon a proportional share of their contribution to the Settlement Fund. This settlement provides real benefit to Class Members and the payment of Class Member claims.

In exchange for the above benefits, Settlement Class Members have agreed to release all claims against Defendants and their affiliates which relate to the matters alleged in the Complaint, including, but not limited to the billing practices of Defendants.

C. Notice Provisions

Pursuant to Fed. R. Civ. P. 23(c)(2)(B), “[f]or any class certified under Rule 23(b)(3)—or upon ordering notice under Rule 23(e)(1) to a class proposed to be certified for purposes of settlement under Rule 23(b)(3)—the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.” The parties have agreed to utilize regular mail notice to provide direct notice to all class members for whom Defendants have an address and to also utilize internet notice. The regular mail notice shall be mailed no later than 30 days following Preliminary Approval, first-class U.S. Mail, postage prepaid, requesting either forwarding service or change service. Following the mailing of these notices, the Settlement Administrator will re-mail one time only the notices via standard U.S. Mail, postage prepaid, to updated addresses of Settlement Class Members to the extent that the Settlement Administrator receives address change notifications from the U.S. Postal Service.

The Settlement Administrator will also establish an internet website containing information about the Settlement. The Settlement Website will be accessible no later than 25 days after entry of the Preliminary Approval Order. The Settlement Website will contain the following information: (a) the full text of the Settlement Agreement; (b) the Mail Notice; (c) the Preliminary Approval Order and other relevant orders of the Court; and (d) contact information for Settlement Class Counsel and the Settlement Administrator. The parties have agreed to use Atticus Administration LLC as the Settlement Administrator, subject to approval by the Court. If the Settlement Administrator requires a portion of the administration fees to be paid on or around the Notice Date (the “Initial Payment”), then within 30 days of Preliminary Approval, Mercy

Health shall cause to be paid one-seventh of the Initial Payment into the Escrow Account and Avectus shall cause to be paid six-sevenths of the Initial Payment into the Escrow Account.

Therefore, in providing traditional mail notice and modern internet notice, the notice provided is clearly adequate and in full compliance with Fed. R. Civ. P. 23.

III. THE PROPOSED SETTLEMENT WARRANTS PRELIMINARY APPROVAL

Class action suits filed in federal court may be settled only with the court's approval. See Fed. R. Civ. P. 23(e). Settlement of class actions is generally favored and encouraged. *Franks v. Kroger Co.*, 649 F.2d 1216, 1224 (6th Cir. 1981). Federal Rule 23(e) provides three steps for the final approval of a proposed class action settlement: "(1) the court must preliminarily approve the proposed settlement, (2) members of the class must be given notice of the proposed settlement, and (3) after holding a hearing, the court must give its final approval of the settlement." *Bailey v. Verso Corp.*, 337 F.R.D. 500, 505 (S.D. Ohio 2021) citing *In re Telectronics Pacing Sys., Inc.*, 137 F. Supp. 2d 985, 1026 (S.D. Ohio 2001); see also *Williams v. Vokovich*, 720 F.2d 909, 921 (6th Cir. 1983). Courts review class settlements to protect the interests of absent parties by ensuring the agreement is not "the product of fraud or overreaching by, or collusion between, the negotiating parties and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." *Clark Equip. Co. v. Int'l Union, Allied Indus. Workers of Am., AFL-CIO*, 803 F.2d 878, 880 (6th Cir. 1986) (quoting *Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 625 (9th Cir. 1982)).

District courts in the Sixth Circuit balance the following factors to determine whether the proposed settlement is "fair, reasonable, and adequate":

(1) the risk of fraud or collusion; (2) the complexity, expense, and likely duration of the litigation; (3) the amount of discovery completed; (4) the likelihood of success on the merits; (5) the opinion of class counsel and representatives; (6) the reaction of absent class members; and (7) public interest in the settlement.

Bailey v. Verso Corp., 337 F.R.D. 500, 505 (S.D. Ohio Fed. 22, 2021) citing *Ostendorf v. Grange Indem. Ins. Co.*, No. 2:19-cv-1147, 2020 LEXIS 163391, at *2 (S.D. Ohio Sept. 8, 2020) (quoting *Vigna v. Emery Fed. Credit Union*, No. 1:15-cv-51, 2016 LEXIS 166605, at *3 (S.D. Ohio Dec. 2, 2016)). The court need not make an affirmative determination of each factor but, rather, should grant preliminary approval if "the proposed settlement appears to be the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments of the class, and falls within the range of possible approval." *Id.* (quoting *In re Telectronics Pacing Sys.*, 137 F. Supp. 2d at 1015). The Court "enjoys wide discretion in assessing the weight and applicability of these factors." *Granada Invest., Inc. v. DWG Corp.*, 962 F.2d 1203, 1205-06 (6th Cir. 1992).

A. The Likelihood of Ultimate Success on the Merits Balanced Against the Amount and Form of Relief Offered Supports Approval of the Settlement

"The most important of the factors to be considered in reviewing a settlement is the probability of success on the merits." *In re Gen. Tire & Rubber Co. Sec. Litig.*, 726 F.2d 1075, 1086 (6th Cir. 1984). "The ultimate question . . . is whether the interests of the class as a whole are better served if the litigation is resolved by the settlement rather than pursued." *Bailey v. AK Steel Corp.*, No. 1:06-CV-468 2008 U.S. Dist. LEXIS 16704 at *4 (S.D. Ohio Feb. 21, 2008), *aff'd*, 320 Fed. Appx. 364 (6th Cir. 2009) (quoting *UAW*

v. Gen. Motors Corp., No. 05-CV-73991, 2006 U.S. Dist. LEXIS 14890, at *46 (E.D. Mich. 2006), *aff'd* 497 F.3d 615 (6th Cir. 2007)).

"It is neither required, nor is it possible for a court to determine the settlement is the fairest possible resolution of the claims of every individual class member; rather, the settlement, taken as a whole, must be fair, adequate, and reasonable." *Id.* (citation omitted). In assessing the settlement, "the Court should balance the benefits afforded to members of the Class, and the immediacy and certainty of a substantial recovery for them, against Plaintiff's likelihood for success on the merits." *In re Nationwide Fin. Servs. Litig.*, No. 2:08-CV-00249, U.S. Dist. LEXIS 126962 *5-6 (S.D. Ohio Aug. 18, 2009) (quoting *In re Telectronics*, 137 F. Supp. 2d at 1010) and (citing *In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions*, 148 F.3d 283, 319 (3d Cir. 1998); *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 463 (2d Cir. 1974)).

Here, the prospect of any recovery, had the Parties proceeded further to litigate the matter, was "not overwhelming." *Bailey v. AK Steel Corp.*, No. 1:06-CV-468 2008 U.S. Dist. LEXIS 16704, at * 2 (S.D. Ohio Feb. 21, 2008). Questions about whether Plaintiffs could have prevailed on the merits of the case persist. Before the Settlement Agreement was reached, both Defendants had filed extensive motions for summary judgment asserting numerous factual and legal defenses, Doc. 193 and 216, which were fully briefed on each of Plaintiffs' claims. If Plaintiffs' claims survived those motions, there was still a substantial risk that Plaintiffs would not have ultimately prevailed on the merits of the case. Settlement Class Members were able to avoid these risks.

Notwithstanding questions and uncertainty about whether Plaintiffs would eventually prevail on the merits, this Settlement provides substantial benefits to

Settlement Class Members. The Settlement provides certain and immediate relief, as opposed to the uncertainties associated with protracted litigation. The negotiated settlement is fair, adequate, and reasonable and directly remedies the harms alleged in the Complaint. Plaintiffs allege that Defendants intentionally and systematically refused, failed, and/or avoided submitting medical bills to Health Insuring Corporations. Plaintiffs further allege that Defendants sought compensation for covered services from the enrollees or subscribers, instead of the Health Insurance Corporations, as required by law. Defendants maintain that they fully complied with all applicable statutes, regulations, and laws; they asserted many defenses in the litigation; and they expressly deny all liability. The Parties' settlement provides monetary relief to Class Members allegedly harmed by Defendants' billing practices. When balanced against the possibility that Settlement Class Members might have received less or no relief by proceeding to trial, this factor weighs heavily in favor of approving the proposed Settlement.

B. The Risks, Expense and Delay of Further Litigation All Support Approval of the Settlement

In determining the fairness of the settlement, courts also consider "[t]he complexity, expense and likely duration of the litigation." *In re Telectronics*, 137 F. Supp. 2d at 1013; *In re Art Materials Antitrust Litig.*, 100 F.R.D. 367, 370 (N.D. Ohio 1983). This case, like "most class actions," is "inherently complex[,] and settlement avoids the costs, delays, and multitude of other problems associated with them." *In re Telectronics*, 137 F. Supp. 2d at 1013 (quoting *In re Austrian & German Bank Holocaust Litig.*, 80 F. Supp. 2d 164, 174 (S.D.N.Y. 2000)). "[A]voiding the delay, risks, and costs of continued litigation against a defendant is a valid reason for counsel to recommend and for the court to approve a settlement." *In re Nationwide*, 2009 U.S. Dist. LEXIS 126962, at *10 (quoting *Ayers v.*

Haley Barbour, 358 F.3d 356, 369 (5th Cir. 2004) ("settling now avoids the risks and burdens of potentially protracted litigation"). The difficulty Plaintiffs would encounter in proving their claims, the substantial litigation expenses, and a possible delay in recovery due to the appellate process, all justify this Court's approval of the Settlement. *Id.* at *7.

Absent settlement, Plaintiffs would be required to engage in further motion practice and, if successful, time-consuming trial preparation which would be a massive endeavor and require considerable additional time and resources. Counsel on both sides would be compelled to expend hundreds of hours preparing for direct and cross-examination, identifying and preparing the exhibits intended for use at trial, and filing and responding to pre-trial motion practice, including motions in limine. The trial itself would take six (6) weeks, if not longer.

These efforts and costs must be considered in connection with the instant motion to approve the Settlement. In complex class action litigation, these expenses will burden any recovery obtained for the Settlement Class, even if Plaintiffs were to succeed. Moreover, even a victory at trial could be lost through post-trial motions or likely appeals. All of this work would result in the expenditure of many additional hours (and years) of effort, and great additional expense. This factor also weighs heavily in favor of approval because the Settlement secures a substantial benefit in a complex action, undiminished by further expenses, and without delay, costs, and the uncertainty of protracted litigation.

C. The Stage of Proceedings and Amount of Discovery Support Approval of the Settlement

To ensure that Plaintiffs have had access to sufficient information to evaluate their case and to assess the adequacy of the Settlement, the stage of the proceedings and the discovery taken must be considered. *In re Telectronics*, 137 F. Supp. 2d at 1015; *Kogan*

v. AIMCO Fox Chase, L.P., 193 F.R.D. 496, 502 (E.D. Mich. 2000). Substantial discovery in the within case has occurred. Plaintiffs have had the opportunity to depose witnesses from both Mercy and Avectus. Plaintiffs have also received and reviewed in excess of Forty Thousand (40,000) documents from the Defendants responsive to discovery requests. The Parties have engaged in extensive discovery practice, including fully briefed Motions to Compel additional discovery, that required Court intervention.

More than eight (8) years have now elapsed since the filing of the Complaint. Class Counsel has had the opportunity to evaluate documents produced by Defendants and to depose numerous employees and former employees of the Defendants both inside and outside of Ohio. The Settlement occurred after Plaintiffs' counsel had the opportunity assess the documents produced by Defendants, the facts supporting their claims, the legal and factual defenses raised by the Defendants, and the risks of continued litigation. All of the Parties had a "clear view of the strengths and weaknesses of their cases." *In re Warner Commc'ns Sec. Litig.*, 618 F. Supp. 735, 745 (S.D.N.Y. 1985), *aff'd*, 798 F.2d 35 (2d Cir. 1986). This factor weighs in favor of approving the proposed Settlement. Both sides were fully apprised of the legal and factual issues presented, as well as the strengths and weaknesses of their cases, and both sides have made a well-informed decision to enter into the Settlement.

D. The Judgment of Experienced Counsel Who Have Competently Evaluated the Strength of the Case Supports Approval of the Settlement

The view of experienced counsel favoring the settlement is entitled to great weight. *In re Telectronics*, 137 F. Supp. 2d at 1015-16; *In re Art Materials*, 100 F.R.D. at 371. It is well settled that, in approving a class action settlement, the courts should "defer to the judgment of experienced counsel who has competently evaluated the strength of his

proofs." *Williams v. Vukovich*, 720 F.2d 909, 922-23 (6th Cir. 1983); accord: Kogan, 193 F.R.D. at 501 (citing *Bronson v. Bd. of Educ.*, 604 F. Supp. 68, 73 (S.D. Ohio 1984)).

Both Plaintiffs' and Defendants' counsel are experienced practitioners in the field of complex class actions. Lead counsel for the Class have decades of class action litigation experience. Lead counsel for Defendants similarly have decades of experience in class action litigation. Counsel for the parties urge preliminary approval of the Settlement based upon their class action experience, their knowledge of the strengths and weaknesses of the case, their analysis of the discovery taken in the case, the risks associated with this type of litigation, the likely recovery at trial and on appeal, and other factors considered in evaluating the Settlement. The Settlement has been negotiated vigorously over an extended period of time and at arm's-length. At all times, Plaintiffs and Lead Class Counsel acted independently and their interests coincide with the interests of the Settlement Class. Plaintiffs and Defendants, along with their respective counsel, made a well-informed decision to enter into the Settlement.

E. The Settlement is Consistent With the Public Interest

"There is a strong public interest in encouraging settlement of complex litigation and class-action suits because they are notoriously difficult and unpredictable and settlement conserves judicial resources." *A.K. Steel*, 2008 U.S. Dist. LEXIS 16704, at *11 (citing *In re Cardizem CD Antitrust Litig.*, 218 F.R.D. 508 (E.D. Mich. 2003) (citing *Granada Invs., Inc. v. DWG Corp.*, 962 F2d 1203, 1205 (6th Cir. 1992)). As the Sixth Circuit has stated:

"Settlement agreements should . . . be upheld whenever equitable and policy considerations so permit. By such agreements are the burdens of trial spared to the parties, to other litigants waiting their turn before over-burdened courts, and to the citizens whose taxes support the latter. An

amicable compromise provides the more speedy and reasonable remedy for the dispute. "

Aro Corp. v. Allied Witan Co., 531 F.2d 1368, 1372 (6th Cir.), cert. denied 429 U.S. 862, 97 S. Ct. 165, 50 L. Ed. 2d 140 (1976); accord: *In re Telectronics*, 137 F. Supp. 2d at 1025; *In re Dun & Bradstreet*, 130 F.R.D. at 372. The public has a significant interest in settlement of disputed claims that require substantial federal judicial resources to supervise and resolve. The Settlement ends potentially longer and more protracted litigation and frees the Court's valuable judicial resources. Although the Parties could have litigated the case to judgment and taxed the resources of the litigants and the Court, they chose instead to forgo the expense and uncertainty of continued litigation and focus their efforts on achieving a fair and adequate settlement that took the risks of further litigation into account rationally and reasonably. The Settlement confers immediate benefits on Settlement Class members, avoids the risks and expense of further litigation, and conserves judicial resources. Accordingly, the Court should find that the public interest favors preliminarily approving the settlement.

IV. A SETTLEMENT CLASS SHOULD BE CERTIFIED

The Supreme Court has recognized that at times the benefits of a proposed settlement of a class action can be realized only through the certification of a settlement class. See *Amchem Prods. v. Windsor*, 521 U.S. 591, 620 (1997); *Wess v. Storey*, No. 2:08-cv-623, 2011 U.S. Dist. LEXIS 41050, at *17 (S.D. Ohio Apr. 14, 2011) (final approval of a class settlement under Rule 23(b)(1) and (b)(2) involving claims under the Fair Debt Collection Practices Act and the Ohio Consumer Sales Practices Act). For a settlement class to be certified, all four requirements of Rule 23(a) must be satisfied, along with one of the three categories in Rule 23(b). *Pelzer v. Vassalle*, 655 F. App'x

352, 363 (6th Cir. 2016). For purposes of settlement only, the requirements of Fed. R. Civ. P. 23(a) and (b)(3) have been met. Accordingly, the Parties seek the conditional certification of the Settlement Class set forth above and in the Agreement.

A. Rule 23(a) Requirements Are Satisfied for Purposes of Certifying a Settlement Class

"The four requirements of Rule 23(a), numerosity, commonality, typicality and adequacy, are well recognized and defined by the courts." *Wess*, 2011 U.S. Dist. LEXIS 41050, at *17 (citing *Senter v. Gen. Motors Corp.*, 532 F.2d 511, 522 (6th Cir. 1976)). "A class may be certified 'solely for purposes of settlement where a settlement is reached before a litigated determination of the class certification issue.'" *Lipuma v. Am. Express Co.*, 406 F. Supp. 2d 1298, 1313-1314 (S.D. Fla. 2005) (citation omitted). In certifying a class for settlement purposes only, the Court need not determine "whether the case, if tried, would present intractable management problems ... for the proposal is that there be no trial." *Amchem Prods.*, 521 U.S. at 620, 117 S. Ct. at 2248. These four requirements are satisfied for purposes of certifying a settlement class in this case.

B. Numerosity is Satisfied

Rule 23(a)(1) requires that the class be "so numerous that joinder of all members is impracticable." Fed. R. Civ. P. 23(a)(1). This requirement is not amenable to a strict numerical test. *In re Am. Med. Sys.*, 75 F.3d 1069, 1079 (6th Cir. 1996). The Court must examine this factor in light of the specific facts of the case. *Id.* While there is no strict test to determine when the class is sufficiently numerous to be joined under Rule 23, a "substantial" number of class members satisfies the element. *Daffin v. Ford Motor Co.*, 458 F.3d 549, 552 (6th Cir. 2006). Courts routinely approve classes with forty or more members. See, e.g., *Ganci v. MBF Inspection Servs., Inc.*, 323 F.R.D. 249, 255 (S.D.

Ohio 2017). The proposed class consists of approximately Twelve Thousand (12,000) members, which is large enough to establish the presumption of impracticality of joinder and satisfies the requirement of Rule 23(a)(1). For this reason, the instant case easily satisfies the numerosity requirement under Fed. R. Civ. P. 23(a)(1).

C. Commonality is Satisfied

Rule 23(a)(2) requires "questions of law or fact common to the class." Fed. R. Civ. P. 23(a)(2). To satisfy Rule 23(a)(2), the case must present a common issue the resolution of which will advance the litigation. *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 360 (2011). Commonality asks whether the class members suffered the same injury. See, e.g., *In re Whirlpool Corp. Front-Loading Washer Prods. Liab. Litig.*, 722 F.3d at 852. Class claims must depend on a common contention "capable of class wide resolution -- which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." *Bailey*, 337 F.R.D. at 505 citing *Davis v. Cintas Corp.*, 717 F.3d 476, 487 (6th Cir. 2013) (quoting *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011)).

Here, each Settlement Class Member's claim raises questions of law or fact, the resolution of which are common to the Settlement Class. More specifically, the Settlement Class presents the common question of whether Defendants engaged in improper billing practices in violation of Ohio R.C. §1751.60 and the FDCPA. These are common questions, among others detailed in the Complaint. Doc. 1. Rule 23(a)(2) is satisfied because the resolution of these questions of law and fact is common to the Settlement Class.

D. Typicality is Satisfied

"Typicality is met if the class members' claims are 'fairly encompassed by the named plaintiff's claims.'" *In re Whirlpool Corp. Front-Loading Washer Prods. Liab. Litig.*, 722 F.3d at 852 (quoting *Sprague v. Gen. Motors Corp.*, 133 F.3d 388, 399 (6th Cir. 1998) (en banc)). "This requirement [e]nsures that the representatives' interests are aligned with the interests of the represented class members so that, by pursuing their own interests, the class representatives also advocate the interests of the class members." *Id.* at 852-53

The claims or defenses of the representative parties are typical of the claims or defenses of the Settlement Class. To satisfy the typicality requirement of Rule 23(a)(3), the claims of the class representatives must be "typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). "Typicality determines whether a sufficient relationship exists between the injury to the named plaintiff and the conduct affecting the class, so that the court may properly attribute a collective nature to the challenged conduct." *In re Am. Med. Sys.*, 75 F.3d at 1082 (citation omitted) ("a plaintiff's claim is typical if it arises from the same event or practice or course of conduct that gives rise to the claims of other class members, and if his or her claims are based on the same legal theory").

With respect to this litigation, there is a nexus between the Parties' claims and defenses and the common questions of fact and law (i.e., whether Defendants improperly billed enrollees or subscribers directly in violation of Ohio R.C. §1751.60). Rule 23(a)(3) is satisfied in this case.

E. Adequacy is Satisfied

Finally, to satisfy the adequacy of representation element "(1) the representatives must have common interests with unnamed members of the class, and (2) it must appear

that the representatives will vigorously prosecute the interests of the class through qualified counsel." *In re Dry Max Pampers Litig.*, 724 F.3d 713, 721 (6th Cir. 2013) (quoting *Vassalle v. Midland Funding LLC*, 708 F.3d 747, 757 (6th Cir. 2013)). "The court reviews the adequacy of class representation to determine whether class counsel are qualified, experienced and generally able to conduct the litigation, and to consider whether the class members have interests that are not antagonistic to one another." *Stout v. J.D. Byrider*, 228 F.3d 709, 717 (6th Cir. 2000).

Rule 23(a)(4) requires that "the representative parties will fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a)(4). To establish adequacy of representation, Plaintiffs must satisfy two elements. First, Plaintiffs must have interests in common with the unnamed members of the Settlement Class. *In re Am. Med. Sys.*, 75 F.3d at 1083. Second, it must be shown that Plaintiffs -- through qualified counsel -- will vigorously prosecute the interests of the Settlement Class. *Id.*

Here, Plaintiffs are adequate Settlement Class representatives. With respect to the class claims, Plaintiffs do not have interests that are adverse or antagonistic to the interests of the Settlement Class. Both Raymond and Strunk have followed the litigation closely and actively worked with counsel to provide discovery responses and deposition testimony. Doc. 75, 77 and 79. Plaintiffs have served as exemplary class representatives and are appropriate class representatives for the Settlement Class.

Lead Class Counsel are also adequate. Lead Class Counsel have extensive experience handling complex class actions and have demonstrated a willingness to vigorously prosecute the class claims. In this action, the team of lawyers assembled to represent the Class is knowledgeable and possesses extensive experience in complex

class action and commercial litigation involving medical records, medical billing, collections, contract law and insurance. The efforts of Plaintiffs' counsel thus far in this case show that they are committed to the vigorous prosecution of this action and possess the skills necessary for such efforts.

Plaintiffs' counsel has worked well over Six Thousand (6,000) hours on this matter over the past Eight (8) years. Over the course of this litigation, Class Counsel has taken numerous depositions, obtained over Forty Thousand (40,000) documents in discovery, briefed and researched key issues for the Court's consideration, represented Plaintiffs in numerous hearings before the Court; litigated in the 6th Circuit twice and represented the interests of the Settlement Class in motion practice and in contested negotiations. Further, Class Counsel litigated this matter against highly competent, experienced and aggressive defense Counsel who zealously represented Avectus and Mercy. Lead Class Counsel are clearly qualified counsel and have vigorously prosecuted the interests of the Settlement Class.

V. APPOINTMENT OF SETTLEMENT ADMINISTRATOR

The Parties have agreed that the Court should appoint Atticus Administration LLC as Settlement Administrator. Founded in August 2016, Atticus has administered over 900 settlements and has distributed more than \$1.14 billion in award payments. Collectively, the Atticus team has over 125 years of industry experience, has managed over 3,000 settlements, and has distributed more than \$3 billion. Atticus Administration LLC has been appointed as Settlement Administrator numerous times in the 6th Circuit

and is clearly qualified to administer the within Settlement Class. The Parties therefore request that the Court appoint Atticus Administration LLC as Settlement Administrator.

VI. **CONCLUSION**

For the foregoing reasons, the Settlement is fair, adequate, and reasonable. The parties respectfully request the following:

(a) conditionally certify the Settlement Classes under Rule 23 of the Federal Rules of Civil Procedure, appointing the named Plaintiffs as the Class Representatives, and Plaintiffs' Counsel as Class Counsel pursuant to Rule 23(g);

(b) preliminarily approve the proposed Settlement Agreement attached hereto as Exhibit A;

(c) approve the proposed Notices to the Settlement Classes and Claim Forms in a form substantially similar to those attached hereto as Exhibits B, C and D; and

(d) appoint Atticus Administration LLC as Settlement Administrator.

The Parties respectfully request that the Court grant preliminary approval and enter the proposed Order attached hereto.

Respectfully submitted,

/s/ Gary F. Franke

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed through the Court's CM/ECF filing system, which shall serve a copy of the document upon all registered counsel of record.

/s/ Gary F. Franke

Gary F. Franke
Attorney at Law

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“**Settlement Agreement**”) is made and entered into by and between (1) Plaintiffs Keith Raymond and Timothy Strunk (collectively, “**Plaintiffs**”; each a “**Plaintiff**”), on behalf of themselves individually and as representatives of the proposed Settlement Classes (defined below); (2) Defendant Avectus Healthcare Solutions, LLC, d/b/a Medpay Assurance LLC (“**Avectus**”); and (3) Defendant Bon Secours Mercy Health, Inc. (“**Mercy Health**”). Plaintiffs, Avectus, and Mercy Health are collectively referred to as the “**Parties**,” each of which is a “**Party**.” This Settlement Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle all released rights and claims to the extent set forth below, subject to the terms and conditions set forth herein.

RECITALS

WHEREAS, on August 27, 2015, Plaintiffs commenced the putative class action lawsuit styled *Keith Raymond, et al., v. Avectus Healthcare Solutions, LLC, et al.*, Case No. 1:15-cv-00559 (the “**Litigation**”), filed in the United States District Court for the Southern District of Ohio (the “**Court**”); and

WHEREAS, on October 26, 2015, Mercy Health filed a Motion to Dismiss for Failure to State a Claim and then on August 25, 2017, filed its Answer; and

WHEREAS, on November 24, 2015, Avectus filed a Motion to Dismiss for Failure to State a Claim and then on August 25, 2017, filed its Answer; and

WHEREAS, on May 11, 2023, the Parties, including Settlement Class Counsel (defined below), participated in a settlement conference with the Court, during which they engaged in arm’s-length settlement discussions with the assistance of the Court and, as a result of those settlement discussions, agreed to the structure of this settlement; and

WHEREAS, Settlement Class Counsel—as counsel for Plaintiffs—have undertaken substantial investigation and discovery in the Litigation (defined below), including review of thousands of pages of documents produced by Avectus and Mercy Health, defending the depositions of Plaintiffs, and taking the depositions of individuals employed by Avectus or Mercy Health; and

WHEREAS, the Parties are willing to enter into this Settlement Agreement to settle the claims of the Settlement Classes because of, among other reasons, the attendant expense, risks, difficulties, delays, and uncertainties of continued litigation; and

WHEREAS, Plaintiffs and Settlement Class Counsel have concluded, based on their investigation, that this Settlement Agreement provides fair, reasonable, and adequate relief to the Settlement Classes, and is in the best interest of the Settlement Classes, after having considered (a) the benefits that the Settlement Classes will receive from the settlement of the Litigation, (b) the attendant risks of continuing the Litigation, and (c) the desirability of permitting the settlement to be consummated on the terms set forth below, subject to approval of the Court; and

WHEREAS, Avectus and Mercy Health aver that they have acted lawfully and in compliance with all applicable statutes, regulations, and laws; deny all claims asserted against them in the Litigation; deny that class certification would be appropriate if the case were litigated rather than settled; deny all allegations of wrongdoing and liability asserted by Plaintiffs and the Settlement Classes; and deny that anyone was harmed by the alleged relevant conduct; but nevertheless desire to settle the Released Claims (defined below) on the terms and conditions set forth in this Settlement Agreement solely for the purpose of avoiding the burden, expense, risks and uncertainty of continuing the proceedings in the Litigation, without in any way acknowledging any wrongdoing, fault, liability, or damages to Plaintiffs or the Settlement

Classes or conceding that they engaged in the alleged conduct or the truth of any other allegations in any complaint filed in the Litigation;

NOW THEREFORE, IT IS AGREED, by and among the Parties, that all Released Claims shall be fully, finally, and forever compromised, settled, and released as to all the Released Persons and the Litigation shall be dismissed with prejudice on the merits, on the terms set forth below, subject to the approval of the Court.

The recitals stated above are true and accurate, and are hereby made a part of the Settlement Agreement.

I. DEFINITIONS

As used in this Settlement Agreement, the terms defined below or in the preceding RECITALS or first paragraph of this Settlement Agreement shall have the meanings assigned to them when capitalized in the same fashion.

1.1. “**Attorneys’ Fees**” means the attorneys’ fees and expenses applied for by Settlement Class Counsel under this Settlement Agreement and approved by the Court.

1.2. “**Approved Claimant**” means a Settlement Class Member who timely submits an approved Claim Form.

1.3. “**Claimant**” means a Settlement Class Member who submits a Claim Form.

1.4. “**Claim Deadline**” means 11:59 p.m. Eastern Time on the 45th day from the Notice Date.

1.5. “**Claim Form**” means the documents attached hereto as Exhibits B-1 and B-2.

1.6. “**Class Settlement Payment**” or “**Settlement Payment**” means a payment to a Settlement Class Member as set forth in Section VIII of this Settlement Agreement.

1.7. “**Counsel for Avectus**” means Ronald D. Holman, II; Michael J. Zbiegien, Jr.; and Chad R. Ziepfel of Taft Stettinius & Hollister LLP.

1.8. “**Counsel for Mercy Health**” means Kris M. Dawley, John P. Gilligan, and Kristina Dahmann of Ice Miller LLP.

1.9 “**Defense Counsel**” means Counsel for Avectus and Counsel for Mercy Health.

1.10. “**Effective Date**” is the date on which the Final Approval Order and the Court’s order regarding Attorneys’ Fees have all become final, and is the first business day after (a) the time provided in the applicable rules of procedure within which an appeal may be filed has lapsed if no appeal of either the Final Approval Order or the Court’s order regarding Attorneys’ Fees has been filed, or (b) if one or more timely appeals have been filed, all such appeals are finally resolved, with no possibility of further appellate review, resulting in final judicial approval of this Settlement. For purposes of this definition, the term “appeal” includes proceedings for a writ of certiorari.

1.11. “**Escrow Account**” means the interest-bearing account to be established by the Settlement Administrator consistent with the terms and conditions described in this Agreement.

1.12. “**FDCPA**” means the Fair Debt Collections Practices Act and related administrative regulations.

1.13. “**Financial Institution**” means a federally insured financial institution selected by Settlement Class Counsel, subject to Court approval.

1.14. “**Final Approval**” means the approval of the Settlement Agreement by the Court at or after the Final Approval Hearing, and entry on the Court’s docket of the Final Approval Order.

1.15. “**Final Approval Hearing**” means the hearing at which the Court will consider and finally decide whether to approve this settlement, enter final judgment, and make such other rulings as are contemplated by this Settlement Agreement. The Final Approval Hearing shall not be

scheduled on a date less than 90 days following the mailing of the notice mandated by 28 U.S.C. § 1715.

1.16. “**Final Approval Order**” means an order and judgment entered by the Court, giving Final Approval of the Settlement, dismissing the Litigation with prejudice, and entering a judgment in accordance with the terms set forth in this Settlement Agreement.

1.17. “**Gross Settlement Amount**” means the sum of money provided in Section VII and shall not exceed \$3,500,000.

1.18. “**Healthcare Billing Statutes**” means Ohio Rev. Code 1751.60, et seq., and related administrative regulations and similar statutes and regulations under the laws of other States or the United States.

1.19. “**Litigation**” means the lawsuit styled *Keith Raymond, et al., v. Avectus Healthcare Solutions, LLC, et al.*, Case No. 1:15-cv-00559, filed in the United States District Court for the Southern District of Ohio.

1.20. “**Mail Notice**” means the notice provided by Section 4.2.2.

1.21. “**Medical Bill Payment**” means a payment, other than a co-pay or deductible, on behalf of a Settlement Class Member made by himself, herself, or through an attorney to Mercy Health for treatment received between August 27, 2009, and August 31, 2023, for services covered by the Settlement Class Member’s health insurance. A Medical Bill Payment does not include any payment made by any insurance company, tortfeasor, or other third party.

1.22. “**Mercy Net Settlement Amount**” means is equal to the Mercy Gross Settlement Amount (stated in Section 7.1) plus any interest on that amount less one-seventh of the following:

- a. the amount of the Court-ordered award of Settlement Class Counsel’s Attorneys’ Fees and expenses, and/or any other Court-ordered award of fees in connection with the Settlement, together with any interest accrued thereon;
- b. the amount of any Court-ordered Service Award to Plaintiffs;

- c. all fees, costs, and expenses of the Settlement Administrator, including without limitation all costs of notice and administration;
- d. all applicable taxes; and
- e. other appropriate fees, costs, and expenses not specifically enumerated in subparagraphs (a) through (d) of this paragraph, subject to the approval of Settlement Class Counsel and Defense Counsel or as provided under this Agreement.

1.23. “**Mercy Only Class Member**” means a Settlement Class Member who is a member of the Mercy Only Settlement Subclass.

1.24. “**Mercy Only Settlement Subclass**” means all health insured persons, with a health insurance plan accepted by Mercy Health: (1) who were patients at any Mercy Health facility in the State of Ohio between August 27, 2009, and August 31, 2023; (2) who presented evidence of health insurance to Mercy Health; and (3) who thereafter paid, or were requested to pay, any amount of money for the treatment received at any Mercy Health operated facility, other than for co-pays and deductibles; and (4) who were *not* contacted by Aevectus on Mercy Health’s behalf.

1.25. “**Notice Date**” means the date on which the Settlement Administrator first mails the Mail Notice, which date will be no later than 30 days following Preliminary Approval.

1.26. “**Notice Plan**” means the plan for disseminating notice to Settlement Class Members, as described in Section 4.

1.27. “**Objection Deadline**” means the date 45 days after the Notice Date.

1.28. “**OCSPA**” means the Ohio Consumer Sales Practices Act, Ohio R.C. 1345.01, et seq. and related administrative regulations.

1.29. “**Opt Out Deadline**” means the date 45 days after the Notice Date.

1.30. “**Preliminary Approval**” means the preliminary approval of the Settlement by the Court, and entry on the Court’s docket of the Preliminary Approval Order.

1.31. “**Preliminary Approval Order**” means the order granting preliminary approval of the Settlement Agreement, conditional certification of the Settlement Class, and approval of the method and content of notice to the Settlement Class.

1.32. “**Qualifying Communication**” means a communication requesting payment for medical treatment received at any Mercy Health operated facility in the State of Ohio, other than for co-pays and deductibles, that any health insured person received from Mercy Health and its vendors, including Apectus.

1.33. “**Released Claims**” means those claims released as set forth in Section XI below.

1.34. “**Released Parties**” means Mercy Health; Community Mercy Health Partners; Mercy Health – St. Rita’s Medical Center, LLC; Mercy Health – Anderson Hospital, LLC; Mercy Health Cincinnati, LLC; Mercy Health – Clermont Hospital, LLC; Mercy Health – West Hospital, LLC; Mercy Health – Fairfield Hospital, LLC; Jewish Hospital, LLC; Mercy Health – Allen Hospital, LLC; Mercy Health Lorain, LLC; Mercy Health – Regional Medical Center, LLC; Mercy Health – Defiance Hospital, LLC; Mercy Health North, LLC; Mercy Health – St. Vincent Medical Center, LLC; Mercy Health – Tiffin Hospital, LLC; Mercy Health Youngstown, LLC; Bon Secours Mercy Health Medical Group, LLC; Apectus; Cognizant Technologies Solutions, Inc.; and their respective parents, subsidiaries, and affiliates, and the present, former and future officers, directors, partners, employees, agents, attorneys, servants, members, member entities, shareholders, predecessors, successors, affiliates, subsidiaries, parents, representatives, trustees, principals, insurers, and assigns of each, individually, jointly, and severally.

1.35. “**Service Award**” means the amount applied for by Settlement Class Counsel and approved by the Court to be paid to Plaintiffs Keith Raymond and Timothy Strunk for their service as named Plaintiffs in the Litigation.

1.36. “**Settlement**” means the agreement between Plaintiffs, on behalf of themselves and as proposed representatives of the Settlement Classes, Mercy Health, and Avectus to settle and compromise Plaintiffs’ and the Settlement Class Members’ claims in the Litigation fully, finally, and forever, on the terms set forth in this Settlement Agreement.

1.37. “**Settlement Administrator**” means the administrator for the Settlement Agreement that the parties will identify and propose as described in Section 3.3.

1.38. “**Settlement Agreement**” or “**Agreement**” means this Settlement Agreement and Release.

1.39. “**Settlement Class**” means all health insured persons, with a health insurance plan accepted by Mercy Health: (1) who were patients at any Mercy Health facility in the State of Ohio between August 27, 2009, and August 31, 2023; (2) who presented evidence of health insurance to Mercy Health; and (3) who thereafter paid, or were requested to pay, any amount of money for the treatment received at any Mercy Health operated facility, other than for co-pays and deductibles.

1.40. “**Settlement Classes**” means the Settlement Class and the Mercy Only Settlement Subclass.

1.41. “**Settlement Class Counsel**” means Gary F. Franke and Michael D. O’Neill of Gary F. Franke Co., LPA and C. David Ewing of Ewing & Willis, LLC.

1.42. “**Settlement Class Member**” means a person who is a member of either the Settlement Class or the Mercy Only Settlement Subclass. Settlement Class Member shall exclude (a) all persons who would otherwise qualify for membership in the “Settlement Classes” but for the fact

that such person previously has released all claims as to Avectus and Mercy Health; (b) Avectus's and Mercy Health's respective officers, directors, and employees; (c) Avectus's and Mercy Health's respective attorneys; (d) Plaintiffs' attorneys; and (e) any judge who has presided over either mediation or disposition of this case and the members of his or her immediate family.

1.43. "**Settlement Fund**" means the fund established pursuant to Section VII.

1.44. "**Settlement Website**" means the internet website established and maintained by the Settlement Administrator for purposes of facilitating notice to, and communicating with, the Settlement Class and for receipt of online claims.

1.45. "**Taxes**" means the taxes, interest, or penalties described in Section 7.3.2.

1.46. "**Tax Expenses**" means the expenses described in Section 7.3.3.

II. NO ADMISSION OF LIABILITY OR ELEMENTS OF CLASS CERTIFICATION

2.1. Avectus's and Mercy Health's Denial of Wrongdoing or Liability

This Settlement Agreement, whether or not consummated, and any actions or proceedings taken pursuant to this Settlement Agreement, is for settlement purposes only and entered into solely for the purpose of avoiding possible future expenses, burdens, or distractions of litigation, and Mercy Health, Avectus, and the Released Parties specifically deny any and all wrongdoing or liability. Avectus and Mercy Health have asserted and continue to assert that they have complied with all applicable statutes, regulations, and laws. Further, Avectus and Mercy Health have asserted and continue to assert many defenses in the Litigation, and Mercy Health, Avectus, and the Released Parties specifically and expressly deny any and all fault, wrongdoing, or liability in connection with any claims which have been made or could have been made, or which are the subject matter of, arise from, or are connected directly or indirectly, with or related in any way to the Litigation, including but not limited to any violations of any federal

or state law (whether statutory or common law), rule or regulation, and Mercy Health, Avectus, and the Released Parties deny that any violation of any such law, rule, or regulation has ever occurred, as well as the validity of each of the claims and prayers for relief asserted in the Litigation.

The Parties expressly acknowledge and agree that neither the fact of, nor any provision contained in, this Settlement Agreement (whether or not it becomes final), nor any of the implementing documents or actions taken under them, shall constitute, be construed as, or be admissible in evidence as, any admission for or against Mercy Health, Avectus, the Released Parties, or Plaintiffs of the validity of any position, any claim, any status, or any fact alleged in the Litigation or any fault, wrongdoing, violation of law, or liability of any kind on the part of Mercy Health or Avectus, or any admission by any Party of any claim or allegation made in any action or proceeding by or against such Party. This Settlement Agreement, any document referred to herein, any action taken to carry out this Settlement Agreement and/or the Settlement, Avectus's and Mercy Health's willingness to enter into this Settlement Agreement, or any or all negotiations, communications, and discussions associated with the Settlement (a) shall not be admissible in any action or proceeding for any reason, other than an action to enforce the terms hereof; and (b) shall not be described as, construed as, offered, or received against the Released Parties as evidence of and/or deemed to be evidence of any presumption, concession, or admission by any of the Released Parties of the truth of any fact alleged by Plaintiffs; the validity of any claim that has been or could have been asserted in the Litigation or in any other litigation; the appropriateness of certifying a non-settlement class; the deficiency of any defense that has been or could have been asserted in the Litigation or in any other litigation; or any liability, negligence, fault, or wrongdoing of any of the Released Parties. Notwithstanding the foregoing,

this Agreement may be admitted and considered as evidence in an action to determine insurance coverage or the apportionment of the Settlement Fund to claims asserted in the Litigation.

2.2. No Admission of Elements of Class Certification

2.2.1. Avectus and Mercy Health deny that a class should be certified other than for purposes of this Settlement and reserve their rights to appeal the class certification ruling. In the event that the Settlement Agreement does not become final for any reason, this Settlement Agreement shall not be described as, construed as, offered, or received against any of the Released Parties as res judicata, issue preclusion, law of the case, estoppel, or any other legal or equitable theory as to the propriety of certification of any class under Rule 23, either Plaintiffs' affirmatively demonstrating their compliance with Rule 23, or the Court's satisfaction after rigorous analysis that Rule 23 has been satisfied.

2.2.2. The certification of the Settlement Classes shall be binding only in the event that the Litigation is settled. Should the Court not enter the Final Approval Order or the Effective Date not occur, the certification of the Settlement Classes shall be immediately void, the Settlement Classes should be automatically decertified, and the Litigation shall proceed as though the Settlement Classes had never been certified, in which case this Settlement Agreement shall not constitute, be construed as, or be admissible in evidence as, an admission or be used for any purpose whatsoever in the Litigation or any other pending or future action. Notwithstanding the foregoing, this Agreement may be admitted and considered as evidence in an action to determine insurance coverage or the apportionment of the Settlement Fund to claims asserted in the Litigation.

III. MOTION FOR PRELIMINARY APPROVAL

3.1. On or before November 3, 2023, Plaintiffs shall file a Motion for Entry of the Preliminary Approval Order that seeks entry of an order that would, for settlement purposes only:

(a) conditionally certify the Settlement Classes under Rule 23 of the Federal Rules of Civil Procedure composed of the Settlement Class Members, appointing Plaintiffs as the representatives of those Settlement Classes and Settlement Class Counsel as counsel under Rule 23(g); (b) preliminarily approve the proposed Settlement Agreement; (c) approve the proposed notice to the Settlement Classes in a form substantially similar to the notice attached hereto as Exhibit A; and (d) appoint the Settlement Administrator. The Motion for Entry of the Preliminary Approval Order shall include (i) a proposed form of Preliminary Approval Order; and (ii) a proposed form of Mail Notice, the form of each of which shall have been agreed to among the Parties. Avectus and Mercy Health may, but are not required to, file a brief in support of the motion, within one day of the filing of that motion.

3.2. For purposes of this Settlement only, Plaintiffs, Mercy Health, and Avectus stipulate to the certification of the Settlement Classes, which is contingent upon the Court's Final Approval of the Settlement and the occurrence of the Effective Date.

3.3. Settlement Class Counsel will cause to be hired Atticus Administration LLC as the Settlement Administrator, subject to approval by the Court.

IV. NOTICE PLAN

4.1. Preparation and Production of List of Identified Settlement Class Members

4.1.1. Avectus and Mercy Health agree to use reasonable efforts, based on information in their records, to provide the Settlement Administrator, within 7 days after entry of the Preliminary Approval Order, a list of potential Settlement Class Members in the form and with the identifiers required by the Settlement Administrator. The class list shall include any electronic mail address of any potential Settlement Class Member known to Avectus and Mercy Health through their ordinary business processes. Avectus and Mercy Health do not agree to and shall not be required

to perform any other searches to locate potential Settlement Class Member information outside of the information maintained by Avectus and Mercy Health in their electronic records.

4.1.2. The class lists shall be used solely for the purpose of effectuating the Settlement Agreement and for no other purpose. The Settlement Administrator (and any person retained by the Settlement Administrator) shall sign a confidentiality agreement in a form agreed to by Defense Counsel and Settlement Class Counsel. The confidentiality agreement will provide that Defense Counsel, Settlement Class Counsel, and the Settlement Administrator (and any person retained by the Settlement Administrator) shall treat as confidential the names, addresses and all other identifying information concerning Settlement Class Members provided as or with the class lists. The confidentiality agreement will further provide that Defense Counsel, Settlement Class Counsel, and the Settlement Administrator (and any person retained by Defense Counsel, Settlement Class Counsel, and/or Settlement Administrator) shall use the class lists or any other information provided by or on behalf of Avectus and Mercy Health only for purposes of fulfilling the duties and responsibilities provided for under this Settlement Agreement, and shall not disclose the class lists, in whole or in part, to any other person without prior written approval by Avectus and Mercy Health.

4.2. Notice Process

4.2.1. For purposes of providing court-approved class notice and establishing that the best practicable notice has been given, the provision of class notice will be accomplished in accordance with the following provisions.

4.2.2. Mail Notice for Settlement Class Members

No later than 30 days following Preliminary Approval, the Settlement Administrator shall cause Mail Notice, in a form substantially similar to that attached hereto as Exhibit A for each

Settlement Class Member, to be sent via first-class U.S. Mail, postage prepaid, requesting either forwarding service or change service. For up to 45 days following the mailing of these notices, the Settlement Administrator will re-mail one time only the notices via standard U.S. Mail, postage prepaid, to updated addresses of Settlement Class Members to the extent that the Settlement Administrator receives address change notifications from the U.S. Postal Service. If no forwarding address is available, the Settlement Administrator shall take reasonable steps to locate the Settlement Class Member for purpose of securing delivery. Any Mail Notice returned to the Settlement Administrator a second time as not deliverable and not forwarded will not be re-sent. Not later than 20 days before the Final Approval Hearing, the Settlement Administrator shall cause proof of the mailing of the Mail Notices to be filed with the Court. Neither the Parties nor the Settlement Administrator shall have any further obligation to send notice of the Settlement to the Settlement Class Members. The Court may continue hearings from time to time without further notice to the individual class members, but Settlement Class Counsel must post any such continuances to the Settlement Website.

4.2.3. Internet Notice

The Settlement Administrator shall establish an internet website containing information about the Settlement. The Settlement Website will be accessible no later than 25 days after entry of the Preliminary Approval Order. The Settlement Website will set forth the following information: (a) the full text of the Settlement Agreement; (b) the Mail Notice; (c) the Preliminary Approval Order and other relevant orders of the Court; and (d) contact information for Settlement Class Counsel and the Settlement Administrator. The title and URL for the Settlement Website shall be approved by the Parties. In addition, any language or documents appearing on the Settlement Website in addition to the above-listed documents shall be approved

by the Parties. Not later than 20 days before the Final Approval Hearing, the Settlement Administrator shall cause proof of the establishment and maintenance of the Settlement Website to be filed with the Court. The Settlement Website shall be deactivated 210 days following the Effective Date.

4.2.4. Settlement Class Counsel Assistance

As necessary, the Settlement Administrator shall coordinate with Settlement Class Counsel for Settlement Class Counsel to provide telephonic support, advice, and assistance.

4.3. Expenses of Notice and Administration

4.3.1. All necessary and reasonable Settlement Administrator fees, charges, and expenses shall be paid from the Settlement Fund within 30 days of Settlement Class Counsel's and Defense Counsel's mutual receipt and approval of an invoice.

4.3.2. Within 15 days after the Claim Deadline, the Settlement Administrator will provide to Settlement Class Counsel a detailed statement of the costs that have been and will be incurred in administration.

V. VERIFICATION PROCESS

5.1. In order to be eligible to receive a Class Settlement Payment, a Settlement Class Member must submit a completed Claim Form within 45 days from the Notice Date. Only those Settlement Class Members who timely submit an approved Claim Form shall be eligible to receive a Class Settlement Payment. In order for a Claim Form submitted online to be considered timely, the Settlement Administrator must receive the completed Claim Form by 11:59 p.m. Eastern Time on the Claim Deadline. In order for a Claim Form submitted by U.S. Mail to be considered timely, it must be postmarked on or before the Claim Deadline and received by the Settlement Administrator on or before the 14th calendar day after the Claim Deadline. These deadlines shall be set forth clearly in the Notice. The Claim Forms agreed to

by the Parties are attached as Exhibits B-1 and B-2 and subject to Court approval are included as part of the Mail Notice under Section 4.2.2 attached hereto as Exhibit A.

5.2. In order for a Claim Form to be approved, the Claimant must meet the following criteria:

5.2.1. The Claimant must have received a Qualifying Communication;

5.2.2. The Claimant must complete in full all fields on each Claim Form submitted; and

5.2.3. Claim Forms shall be executed under penalty of perjury, but need not be notarized.

5.3. Submission by a Settlement Class Member of an incomplete Claim Form may render the Claim Form submitted by that Settlement Class Member invalid and ineligible for a Class Settlement Payment. The Settlement Administrator shall send to all Settlement Class Members who have submitted incomplete Claim Forms a notice of deficiency with instructions on how to cure the deficiency. Settlement Class Members will have 30 days from the date notice is sent to cure any identified deficiency.

5.4. Within 10 days after the deadline to submit Claim Forms, the Settlement Administrator shall provide a spreadsheet to Settlement Class Counsel and to Defense Counsel that contains sufficient information for the Parties to determine the number and amount of approved Claims. Avectus and Mercy Health shall have the right, if each or both of them so elects, to audit the Claim Forms submitted by Settlement Class Members. The Settlement Administrator shall also provide information regarding rejected Claim Forms, as well as the reasons why each Claim Form was rejected. The Settlement Administrator shall retain the original of all Claim Forms (including any envelopes with the postmarks) received from Claimants, and shall make copies or the originals available to both Settlement Class Counsel or Defense Counsel within five days upon request from either counsel.

VI. PROCEDURES FOR OPT OUTS AND OBJECTIONS

6.1. Opt-Out Procedures for Settlement Class Members

6.1.1. The Mail Notice and Settlement Website shall contain information and restrictions about the manner in which a Settlement Class Member may opt out of the Settlement, as well as the potential implications of doing so.

6.1.2. A Settlement Class Member may request to be excluded from the Settlement Classes by sending a written request for exclusion to the Settlement Administrator with the notification: “Exclusion Requests – *Avectus and Mercy Health* Settlement Administrator.” The proposed Settlement Class Member’s opt-out request must contain the class member’s name, original signature, current postal address and telephone number, and a specific statement that the proposed Settlement Class Member wants to be excluded from the Settlement Classes. The Parties agree that a statement to the effect that “I wish to opt out of the settlement” or “I wish to be excluded from the settlement” will be sufficient. A sample opt-out form shall be maintained on the Settlement Website. Opt-out requests must be postmarked by the Opt Out Deadline. In no event shall Settlement Class Members be able to opt out of the Settlement Classes as a group, aggregate, or class consisting of more than one individual. Requests for exclusion that do not comply with any of the foregoing requirements are invalid.

6.2. List of Opt Outs

No later than 7 days after the Opt Out Deadline, the Settlement Administrator shall provide to Settlement Class Counsel and Defense Counsel a complete list of all persons who have properly opted out of the Settlement. Copies of the opt-out requests shall be provided to Settlement Class Counsel and to Defense Counsel upon request.

6.3. Objections from Settlement Class Members

6.3.1. Any Settlement Class Member who does not opt out, but who instead wishes to object to the Settlement or any other matters as described in the Mail Notice may do so by filing with the Court a notice of his or her intention to object (which shall set forth the name of the Litigation, each objection and the basis therefor, and contain the objecting Settlement Class Member's name and signed verification of membership in the Settlement Class), with any papers in support of his or her position, and serve copies of all such papers upon Settlement Class Counsel and Defense Counsel by first class mail, postage prepaid, CM/ECF Notification, or any other form of service upon counsel of record permitted by Rule 5(b)(2) of the Federal Rules of Civil Procedure.

Objections must be filed and served no later than the Objection Deadline.

6.3.2. Objections to Settlement Class Counsel's attorneys' fees may be filed up to 7 days after the filing of a motion for such fees to address additional information or materials in the motion.

6.3.3. The written objection must indicate whether the class member and/or his or her lawyer(s) intend to appear at the Final Approval Hearing. Any lawyer who intends to appear at the Final Approval Hearing must file a written Notice of Appearance of Counsel with the Clerk of the Court no later than the date set by the Court in the Preliminary Approval Order and shall include the full caption and case number of each previous class action case in which that counsel has represented an objector. The Court will consider all objections filed by the Objection Deadline.

VII. SETTLEMENT FUND

7.1. Gross Settlement Amount

In exchange for the mutual promises and covenants in this Settlement Agreement, including, without limitation, the Releases set forth in Section XI of this Settlement Agreement, within 10 calendar days following Final Approval, Mercy Health shall pay or cause to be paid the sum of \$500,000 (the "Mercy Gross Settlement Amount") into the Escrow Account and

Avectus shall pay or cause to be paid the sum of \$3,000,000 (the “Avectus Gross Settlement Amount”) into the Escrow Account using the account information and wiring instructions contained in Schedule 1. The Mercy Gross Settlement Amount and the Avectus Gross Settlement Amount together constitute the Gross Settlement Amount. If the Settlement Administrator requires a portion of the administration fees to be paid on or around the Notice Date (the “Initial Payment”), then within 30 days of Preliminary Approval, Mercy Health shall cause to be paid one-seventh of the Initial Payment into the Escrow Account and Avectus shall cause to be paid six-sevenths of the Initial Payment into the Escrow Account using the account information and wiring instructions in Schedule 1. Any Initial Payment made by Mercy Health shall be counted towards the Mercy Gross Settlement Amount, and any Initial Payment made by Avectus shall be counted towards the Avectus Gross Settlement Amount. The Initial Payment shall not increase the Mercy Gross Settlement Amount, the Avectus Gross Settlement Amount, or the Gross Settlement Amount.

7.2. Creation of and Deposit Into Settlement Fund

The Settlement Administrator shall establish a qualified Escrow Account approved by Avectus and Mercy Health at the Financial Institution to hold the Settlement Fund. The Settlement Fund shall be considered a common fund created as a result of the Litigation. Settlement Class Counsel and Defense Counsel shall direct the Settlement Administrator to make distributions from the Settlement Fund only in accordance with this Settlement Agreement and orders of the Court. The Settlement Administrator shall promptly notify the other Parties of the date of the establishment of the Escrow Account. The Settlement Fund may not be commingled with any other funds and may be held in cash, cash equivalents, certificates of deposit or instruments insured by an arm of or backed by the full faith and credit of the United States

Government. Interest earned, if any, on the Settlement Fund shall be for the benefit of the Settlement Classes in the event this Settlement Agreement is not terminated by Avectus and Mercy Health and the Effective Date otherwise occurs.

7.3. Settlement Fund Tax Status

7.3.1. The Parties agree to treat the Settlement Fund as being at all times a “qualified settlement fund” within the meaning of 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 Subsection, including the “relation back election” (as defined in Treas. Reg. § 1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Settlement Administrator to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

7.3.2. For the purpose of Treas. Reg. § 1.468B, as amended, and the regulations promulgated thereunder, the “administrator” shall be the Settlement Administrator. The Settlement Administrator shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treas. Reg. § 1.468B-2(k)). Such returns (as well as the election described in Subsection 7.3.1) shall be consistent with this Subsection and in all events shall reflect that all federal or state income taxes (including any estimated taxes, interest or penalties) (“**Taxes**”) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in Subsection 7.3.3 hereof.

7.3.3. All (a) Taxes (including any estimated Taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be

imposed upon the Released Parties with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a “qualified settlement fund” for federal or state income tax purposes, and (b) expenses and costs incurred in connection with the operation and implementation of this Subsection (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 Subsection 7.3.2 (“**Tax Expenses**”)), shall be paid out of the Settlement Fund; in no event shall the Released Parties have any responsibility for or liability with respect to the Taxes or the Tax Expenses. The Settlement Administrator shall indemnify and hold the Released Parties harmless for Taxes and Tax Expenses (including, without limitation, Taxes payable by reason of any such indemnification). Further, Taxes and Tax Expenses shall be timely paid by the Settlement Administrator out of the Settlement Fund without prior order from the Court, and the Settlement Administrator shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(l)); the Released Parties are not responsible therefor nor shall they have any liability with respect thereto. The Parties hereto agree to cooperate with the Settlement Administrator, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Section.

7.3.4. No opinion concerning the tax consequences of this Settlement to Settlement Class Members is given or will be given by Avectus and Mercy Health, Defense Counsel, or Settlement Class Counsel, nor are any representations or warranties regarding such tax consequences made by virtue of this Settlement Agreement. Each Settlement Class Member’s

tax obligations, and the determinations thereof, are the sole responsibility of each individual Settlement Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Settlement Class Member.

7.4. Use and Disbursement of Settlement Fund

7.4.1. The Settlement Fund shall be used only in the manner and for the purposes provided for in this Settlement Agreement. No portion of the Settlement Fund shall be disbursed except as expressly provided for herein.

7.4.2. Within 14 days after the Effective Date, the Settlement Administrator shall mail the settlement checks to Approved Claimants via U.S. Mail. Payment notices accompanying the payment checks shall notify the recipients of the following: (a) that the checks must be cashed within 90 days from the date on the payment notice, (b) that the enclosed check shall not be valid after that date, and (c) that the check incorporates the releases set forth in Paragraph 11.2. If the check has not been deposited or cashed by 210 days after the date on the payment notice, the amount of the check shall be returned to the Net Settlement Fund.

7.5. Capped Fund

7.5.1. All of the following must be paid from the Gross Settlement Amount: (a) payments to the Settlement Class Members; (b) payments to Settlement Class Counsel for Attorneys' Fees; (c) any Service Award granted by the Court to the Plaintiffs; (d) all fees, costs, and expenses of the Settlement Administrator, including without limitation all costs of notice and administration; (e) all applicable taxes; and (f) other appropriate fees, costs, and expenses not specifically enumerated in subparagraphs (a) through (e) of this paragraph, subject to mutual approval of Settlement Class Counsel and Defense Counsel or as provided under this Settlement

Agreement. The Parties and their respective counsel agree that Avectus and Mercy Health and/or their insurers will not pay or cause to be paid more than the Gross Settlement Amount.

7.5.2. The payments to the Settlement Class Members, to the Settlement Class Counsel for Attorneys' Fees, and to the Plaintiffs as Service Awards are allocated between Avectus and Mercy Health and the claims asserted against them as provided in Sections 8.3 and 10.7. The Parties further agree that all fees, costs, and expenses of the Settlement Administrator, including without limitation all costs of notice and administration; all applicable taxes; and all other appropriate fees, costs, and expenses not specifically enumerated shall be allocated one-seventh to Mercy Health and six-sevenths to Avectus. If, however, the allocation to Mercy Health under this Section plus the allocation to Mercy Health provided in Sections 8.3 and 10.7 for the payments to the Settlement Class Members, to the Settlement Class Counsel for Attorneys' Fees, and to the Plaintiffs as Service Awards would exceed the Mercy Gross Settlement Amount, then all such settlement payments that exceed the Mercy Gross Settlement Amount shall be attributable to Avectus. The parties further agree that 75% of the amount allocated to Avectus shall be allocated to the FDCPA claims and the remaining 25% shall be evenly allocated to Plaintiffs' claims for breach of contract, breach of third-party beneficiary contract, fraud, unjust enrichment, and conversion, except that the allocation to specific claims for the payments to Settlement Class Members, Attorneys' Fees, and Service Awards shall be as provided in Sections 8.3 and 10.7.

7.6. Reversion

7.6.1. Any portion of the Net Settlement Fund (the "Reversion Amount") not distributed as part of the (a) payments to the Settlement Class Members; (b) payments to Settlement Class Counsel for Attorneys' Fees; (c) any Service Award granted by the Court to the Plaintiffs; (d) all

fees, costs, and expenses of the Settlement Administrator, including without limitation all costs of notice and administration; (e) all applicable taxes; and (f) other appropriate fees, costs, and expenses not specifically enumerated in subparagraphs (a) through (e) of this paragraph, subject to mutual approval of Settlement Class Counsel and Defense Counsel or as provided under this Settlement Agreement shall be returned to Aectus and Mercy Health. For purposes of clarity, the Reversion Amount shall include the amount of any settlement check that has not been deposited or cashed by 210 days after the date on the payment notice that is returned to the Net Settlement Fund in accordance with Subparagraph 7.4.2.

7.6.2. The Reversion Amount shall be distributed between Aectus and Mercy Health as follows:

- (a) Mercy Health shall receive the Mercy Net Settlement Amount less the following:
 - (i) the Settlement Payments to the Mercy Only Settlement Class Members and (ii) one-seventh of the Settlement Payments to all other Settlement Class Members;
- (b) Aectus shall receive any remaining Reversion Amount after the allocation to Mercy Health under Subparagraph 7.6.2(a).

VIII. ALLOCATION AND DISTRIBUTION OF SETTLEMENT FUND

8.1. The Net Settlement Fund is equal to the Gross Settlement Amount plus any interest earned, less the following:

- a. the amount of the Court-ordered award of Settlement Class Counsel's Attorneys' Fees and expenses, and/or any other Court-ordered award of fees in connection with the Settlement, together with any interest accrued thereon;
- b. the amount of any Court-ordered Service Award to Plaintiffs;
- c. all fees, costs, and expenses of the Settlement Administrator, including without limitation all costs of notice and administration;
- d. all applicable taxes; and
- e. other appropriate fees, costs, and expenses not specifically enumerated in subparagraphs (a) through (d) of this paragraph, subject to the approval of

Settlement Class Counsel and Defense Counsel or as provided under this Agreement.

8.2. Subject to the terms and conditions of this Settlement Agreement, all cash payments will be made from the Net Settlement Fund and calculated in accordance with the Allocation Formula described below:

- a. Each Approved Claimant who received a Qualifying Communication shall receive a cash payment of \$25.00 (a “Base Settlement Payment”), regardless of whether the Approved Claimant submitted a payment to Mercy Health. Each Approved Claimant shall be entitled to only one Base Settlement Payment. If the total payments provided for under this subparagraph would exceed \$500,000, the amount of each Base Settlement Payment shall be reduced pro rata so that the total Base Settlement Payments do not exceed \$500,000.
- b. Each Approved Claimant who himself, herself, or through an attorney, actually made a Medical Bill Payment shall receive a cash payment equal to 50% of the Medical Bill Payment.
- c. If the payments to the Settlement Class Members would exceed the Net Settlement Fund, the payments to the Settlement Class Members shall be reduced on a pro rata basis so that the settlement payments to the Settlement Class Members do not exceed the Net Settlement Fund.

8.3. The Parties have agreed that all Base Settlement Payments under Section 8.2(a) attributable to Avectus, or any portion thereof, and that 75% of any settlement payments under Section 8.2(b) attributable to Avectus, or any portion thereof, shall be allocated to the FDCPA claim against Avectus and that the remaining 25% of any settlement payments under Section 8.2(b) attributable to Avectus shall be evenly allocated to Plaintiffs’ claims for breach of contract, breach of third-party beneficiary contract, fraud, unjust enrichment, and conversion. The Parties have agreed that six-sevenths of all settlement payments to Settlement Class Members other than Mercy Only Settlement Class Members shall be attributable to Avectus. The Parties have also agreed that all of the settlement payments to Mercy Only Settlement Class Members and one-seventh of all settlement payments to Settlement Class Members other than Mercy Only Settlement Class Members shall be attributable to Mercy Health. If, however, after applying any

adjustments required by Section 8.2(c), the settlement payments to the Mercy Only Settlement Class Members and the one-seventh of settlement payments to other Settlement Class Members attributable to Mercy Health would exceed the Mercy Net Settlement Amount, then all such settlement payments that exceed the Mercy Net Settlement Amount shall be attributable to Avectus.

8.4. No person shall have any claim against Mercy Health, Avectus, Plaintiffs, the Settlement Classes, Settlement Class Counsel, Defense Counsel, Mercy Health's insurers, Avectus's insurers, the Settlement Administrator, or any Released Parties based on any claims determinations made in accordance with this Settlement Agreement.

IX. FINAL APPROVAL HEARING AND FINAL APPROVAL

9.1. Final Approval Hearing

Within 30 days after the Claim Deadline, or on such other date as set by the Court, Plaintiffs shall file a motion for approval and entry of the Final Approval Order, the text of which the Parties shall in good faith agree upon, in support of which Avectus and Mercy Health may, but are not required to, file a brief. The Parties agree that the Final Approval Order will constitute a final judgment dismissing the Litigation with prejudice. The Final Approval Order shall include, at a minimum, the substance of the following provisions:

- (a) approving this Settlement and its terms as being a fair, reasonable, and adequate settlement as to the Settlement Class Members within the meaning of Federal Rule of Civil Procedure 23 and directing its consummation according to its stated terms;
- (b) ruling on Settlement Class Counsel's application for an award of attorneys' fees and costs;
- (c) finding that all Settlement Class Members shall be bound by this Settlement Agreement including the release provisions;

- (d) as to Avectus and Mercy Health, directing that the Litigation be dismissed with prejudice and, except as provided for in this Settlement Agreement, without costs;
- (e) finding that the notice given constitutes due, adequate and sufficient notice and meets the requirements of due process and the Federal Rules of Civil Procedure;
- (f) incorporating the releases set forth in Section XI of this Settlement Agreement, and forever barring any claims or liabilities related to the Litigation or any Released Claims against any of the Released Parties; and
- (g) reserving exclusive jurisdiction over the Settlement and this Settlement Agreement, including the administration and consummation of this Settlement.

9.2. Final Approval

All relief contemplated by this Settlement or Settlement Agreement is expressly contingent upon the Settlement Agreement receiving Final Approval.

X. ATTORNEYS' FEES AND SERVICE AWARDS

10.1. At least 14 days before the Final Approval Hearing, Settlement Class Counsel shall file a motion for an award of reasonable Attorneys' Fees.

10.2. Settlement Class Counsel shall ask the Court to approve a service award of up to \$25,000 for each of the two named Plaintiffs, Keith Raymond and Timothy Strunk. Such Service Awards are to be paid from the Net Settlement Fund. The Service Awards shall be paid to each Plaintiff and are in addition to Plaintiffs' individual settlement payments as Settlement Class Members.

10.3. The application or applications for Attorneys' Fees and Service Awards shall be noticed to be heard at the Final Approval Hearing.

10.4. Plaintiffs and Settlement Class Counsel agree that this Settlement Agreement is not conditional on the Court's approval of Attorneys' Fees or Service Awards in the requested

amounts or in any amount whatsoever. The Court's ruling on the application or applications for such fees and awards shall not operate to terminate or cancel the Settlement.

10.5. Avectus and Mercy Health shall have no responsibility for, nor any liability with respect to, the payment of Attorneys' Fees to Settlement Class Counsel or of Service Awards to Plaintiffs beyond that which is set forth in this Settlement Agreement.

10.6. Attorneys' Fees and Service Awards in the amount approved by the Court will be paid from the Settlement Fund through a distribution by the Settlement Administrator within 14 days after the Effective Date. The Attorneys' Fees and Service Awards approved by the Court shall be paid by the Settlement Administrator in accordance with written instructions to be provided by attorney Gary Franke from Gary F. Franke Co., LPA, as authorized representative of all Settlement Class Counsel.

10.7 The Parties have agreed that one-seventh of any Attorneys' Fees or Service Awards approved by the Court shall be allocated to the Mercy Gross Settlement Amount and six-sevenths of any Attorneys' Fees or Service Awards approved by the Court shall be allocated to the Avectus Gross Settlement Amount. The Parties have further agreed that, because the FDCPA permits plaintiffs in the case of any successful action to recover their reasonable attorneys' fees as determined by the Court, 15 U.S.C. § 1692k(a)(3), all Attorneys' Fees and Service Awards approved by the Court and allocated to Avectus shall be allocated to the FDCPA claim.

XI. RELEASE OF CLAIMS

11.1. Upon the Effective Date, Plaintiffs and each Settlement Class Member who has not opted out as provided herein, and for themselves and on behalf of their spouse, heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors and assigns and all those otherwise acting or purporting to act on behalf of each acknowledge full

satisfaction of, and shall be conclusively deemed to have fully, finally and forever settled, released, and discharged the Released Parties of and from, the Released Claims. Subject to the Court's approval, this Settlement Agreement shall bind all Settlement Class Members, and all of the Released Claims shall be dismissed with prejudice and released as against the Released Parties, even if a Settlement Class Member never received actual notice of the Settlement prior to the hearing on final approval of the Settlement.

11.2. Released Claims

In exchange for the consideration and relief described in this Settlement Agreement, the Plaintiffs, Settlement Class Members, and/or his or her respective spouse, heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors and assigns and all those acting or purporting to act on their behalf agree to release, acquit, and forever discharge the Released Parties from all duties, obligations, demands, allegations, claims, actions, causes of action, suits, damages, rights or liabilities of any nature and description whatsoever, whether arising under local, state or federal law, whether by Constitution, statute (including, but not limited to, the FDCPA, the OCSPA, the Healthcare Billing Statutes, and any assertions of liability, debts, covenants, guarantees, projections, losses, endorsements, controversies, suits, actions, rights, legal duties, warranties, torts, unfair or deceptive practices, statutory violations, contracts, agreements, obligations, promises, promissory estoppel, detrimental reliance, or unjust enrichment), tort, contract, common law or equity or otherwise, whether known or unknown, concealed or hidden, suspected or unsuspected, anticipated or unanticipated, asserted or unasserted, foreseen or unforeseen, actual, fixed, contingent, or vested, liquidated or unliquidated, direct or indirect, matured or unmatured, individually or on behalf of or as part of any putative, proposed, or certified class or other aggregate proceeding, related to, arising out of,

concerning or in connection with in any way, any and all alleged direct or indirect acts, omissions, representations, conducts, legal duties, unjust enrichment, trade practices, or obligations that arise out of, or are related or connected in any way with pricing, billing and payment practices of Mercy Health and/or AVectus and/or the Litigation. This release includes, but is not limited to, all claimed or unclaimed compensatory damages, actual damages, damages stemming from any allegations of willfulness or recklessness, damages for emotional distress, statutory damages, consequential damages, incidental damages, nominal damages, treble damages, punitive and exemplary damages, injunction, rescission, reformation, restitution, disgorgement, constructive trust, as well as all claims for equitable, declaratory or injunctive relief under any federal or state statute or common law or other theory that was alleged or could have been alleged in the Litigation, including but not limited to, any and all claims under deceptive or unfair practices statutes, or any other statute, regulation or judicial interpretation. This release also includes interest, costs, and fees arising out of any of the claims described above. Nothing in this Settlement Agreement shall be deemed a release of the Parties' respective rights and obligations under this Settlement Agreement. In addition, nothing in this Settlement Agreement shall be deemed a release of any medical malpractice or similar claim that any Settlement Class Member may have against Mercy Health.

11.3. Release of Unknown Claims

The claims described in Section 11.1 or 11.2, as applicable, are released and discharged regardless of whether they are known or unknown, concealed or hidden, suspected or unsuspected, anticipated or unanticipated, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, fixed or contingent.

11.4. Waiver of California Civil Code Section 1542

Plaintiffs and each Settlement Class Member who does not opt out as provided elsewhere herein, acknowledge that they are aware that they may hereafter discover facts in addition to or different from those that they or Settlement Class Counsel now knows or believes to be true with respect to the subject matter of these releases, but it is their intention to, and they do hereby, upon the Effective Date of this Settlement Agreement, fully, finally and forever settle and release any and all Released Claims, without regard to the subsequent discovery or existence of such different or additional facts. Plaintiffs and each Settlement Class Member who does not opt out as provided elsewhere herein waive any and all rights and benefits afforded by California Civil Code Section 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Plaintiffs, Settlement Class Members, and Settlement Class Counsel understand and acknowledge the significance of this waiver of California Civil Code Section 1542 and/or of any other applicable federal or state law relating to limitations on releases, and further, upon the Effective Date, shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state, the District of Columbia, or territory of the United States, by federal law, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to Section 1542 of the California Civil Code.

11.5. Mercy Health – Avectus Mutual Release

Avectus and Mercy Health, on behalf of themselves and their respective affiliated entities, parents, subsidiaries, predecessors, successors, owners, members, managers, partners, shareholders, officers, directors, agents, heirs, assigns, insurers, attorneys or other representatives, hereby unconditionally and irrevocably release, acquit, and forever discharge each other and any affiliated entities, parents, subsidiaries, predecessors, successors, owners, members, managers, partners, shareholders, officers, directors, agents, heirs, assigns, insurers, attorneys or other representatives, including the Released Parties, from and against any and all duties, obligations, demands, allegations, claims, actions, causes of action, suits, damages, rights or liabilities of any nature and description whatsoever, whether arising under local, state or federal law, including but not limited to any and all claims, direct or indirect, arising out of or in any way related to the Services Agreement between Avectus and Mercy Health, as amended, or the Litigation.

XII. TERMINATION

12.1. Right to Terminate Agreement

12.1.1. Avectus's and Mercy Health's willingness to settle this Litigation on a class basis and to agree to the certification of conditional Settlement Classes is expressly dependent upon achieving finality in this Litigation, and the desire to avoid the expense of this and other litigation. Consequently, Avectus and Mercy Health shall individually have the unilateral and unfettered right to terminate this Settlement Agreement, declare it null and void, and have no further obligations under this Settlement Agreement to the Plaintiffs, Settlement Class Members, or Settlement Class Counsel if any of the following conditions subsequently occurs:

- (a) The Court fails or declines to grant Preliminary Approval;

(b) The Court materially modifies the Final Approval Order such that it is not acceptable to Mercy Health or Avectus, as determined in Avectus's and Mercy Health's sole discretion; or

(c) The Effective Date does not occur for any reason, including the entry of an order by any court that would require either material modification or termination of the Settlement.

12.1.2. Additionally, if more than 5% of the Settlement Class Members request to opt out of the Settlement pursuant to Section 6.1, Avectus and Mercy Health may, individually, at their sole option, no later than 14 days after the Opt Out Deadline, terminate this Settlement Agreement, declare it null and void, and have no further obligations under this Settlement Agreement to the Plaintiffs, Settlement Class Members, or Settlement Class Counsel.

12.1.3. Plaintiffs shall have the unilateral and unfettered right to terminate this Settlement Agreement, declare it null and void, and have no further obligations under this Settlement Agreement to Avectus and Mercy Health if any of the following conditions subsequently occurs:

(a) The Court fails or declines to grant Preliminary Approval; or

(b) The Court materially modifies the Final Approval Order such that it is not acceptable to Plaintiffs.

12.1.4. The failure of any court to approve the Attorneys' Fees in the requested amounts, or any amount whatsoever, or any service payments to Plaintiffs in the requested amounts or in any amount whatsoever, shall not be grounds for Plaintiffs or Settlement Class Counsel to terminate this Settlement Agreement.

12.1.5 Avectus's and Mercy Health's right to terminate the Settlement is an individual right held separately by each Defendant that may be exercised by either Mercy Health or Avectus without the consent or approval of the other.

12.2. Effect of Termination on This or Future Litigation

If this Settlement Agreement is terminated by Plaintiffs, Mercy Health, or Avectus:

- (a) any provision of this Settlement Agreement stipulating to or supporting certification of a Settlement Class shall have no further force and effect, and shall not be offered in evidence or used in the Litigation or in any other proceeding;
- (b) counsel for the Parties shall seek to have any Court orders, filings, or other entries in the Court's file that result from this Settlement Agreement set aside, withdrawn, and stricken from the record;
- (c) the Settlement Agreement and all negotiations, proceedings, and documents prepared, and statements made in connection with either of them, shall be without prejudice to any Party and shall not be deemed or construed to be an admission or confession by any Party of any fact, matter, or proposition of law nor offered into evidence in any judicial proceeding or other action;
- (d) the Parties shall stand in the same procedural position as if the Settlement Agreement had not been negotiated, made, or filed with the Court; and
- (e) any provision elsewhere herein concerning the effect if the Settlement does not receive Final Approval or the Effective Dates does not occur shall have continuing effect.

12.3. Effect of Termination on Monies Paid by Avectus and Mercy Health Pursuant to Settlement Agreement

If this Settlement Agreement is terminated, the Settlement Fund, including interest earned, less Taxes, Tax Expenses, and notice, claims, and other administration costs (including fees, costs, and other expenses of the Settlement Fund) that have been properly disbursed pursuant to this Settlement Agreement, shall be returned to Avectus and Mercy Health in proportion to the amount of their contributions to the Settlement Fund.

XIII. PUBLIC STATEMENTS

13.1. Aside from the filing of court papers with the Court related to the Settlement, the Parties shall not, nor shall they cause any other person to, make any public statement with regard to the Settlement or any terms thereof, without the express written authorization of the other Parties, until such time as the terms of the Settlement are made public as a result of Court-ordered notice to the Settlement Classes. This prohibition is inapplicable to Settlement Class Counsel's communications with Settlement Class Members or potential Settlement Class Members. Before Final Approval, Plaintiffs and Settlement Class Counsel shall not, nor shall they cause any other person to, issue any press release regarding the Settlement or any terms thereof without express written authorization of the other Parties.

XIV. MISCELLANEOUS PROVISIONS

14.1. Admissibility of Settlement Agreement

This Settlement Agreement shall not be offered or be admissible in evidence in any action or proceeding except (a) as necessary to obtain and implement Court approval of this Settlement; (b) to enforce the terms of this Settlement Agreement or any related order by the Court; or (c) as necessary in an action to determine insurance coverage or the apportionment of the Settlement Fund to claims asserted in the Litigation. For purposes of clarity, this Section

permits use of Section II herein (i.e., that nothing in this Settlement Agreement is an admission of liability or elements of class certification by Avectus and Mercy Health or any of the Released Parties), Section XII herein (i.e., concerning public statements about the Settlement), or Section XIV herein (e.g., the choice of law and forum selection provisions).

14.2. Successors and Assigns

The terms of this Settlement Agreement shall be binding upon and inure to the benefit of the Parties as well as their heirs, successors, assigns, executors, and legal representatives.

14.3. Communications Relating to Settlement Agreement

All notices or other formal communications under this Settlement Agreement shall be in writing and sent by mail to counsel for the Party to whom the notice is directed at the following addresses:

If to Plaintiffs:

Gary Francis Franke, Esq.
Gary F. Franke Co., L.P.A.
201 East 5th Street
Suite 910
Cincinnati, OH 45202

If to Avectus:

Ronald D. Holman, II, Esq.
Taft Stettinius & Hollister
LLP
200 Public Square
Suite 3500
Cleveland, OH 44114

If to Mercy Health:

Kris Dawley, Esq.
Ice Miller LLP
Arena District
250 West Street
Suite 700
Columbus, OH 43215

Any Party may, by written notice to all the other Parties, change its designated recipient(s) or notice address provided above.

14.4. Avectus’s and Mercy Health’s Communications with Settlement Class Members in the Ordinary Course of Business

Avectus and Mercy Health reserve the right to continue communicating with Mercy Health’s patients, including Settlement Class Members, in the ordinary course of business. To the extent Settlement Class Members initiate communications regarding this Settlement Agreement, Avectus and Mercy Health may confirm the fact of a settlement, state that they

dispute the claims in the Litigation, and refer inquiries to Settlement Class Counsel. Nothing herein is intended to prohibit Mercy Health from communicating with Settlement Class Members regarding issues related to the Settlement Class Member's personal medical care.

14.5. Efforts to Support Settlement

The Parties and their counsel agree to cooperate fully in seeking Court approval for this Settlement Agreement and to use their best efforts to effect the consummation of the Settlement and to protect the Settlement Agreement by applying for appropriate orders enjoining others from initiating or prosecuting any action arising out of or related to facts or claims alleged in the Litigation, if so required.

14.6. Procedures for Disputes Between Parties Relating to the Settlement Agreement

To the extent any disputes or issues arise with respect to documenting or effecting the Settlement Agreement, the Parties and their respective counsel agree to use their best efforts to informally resolve any such disputes or issues, and, in the event any such dispute or issue cannot be resolved informally, to bring any such dispute or issue to the Court for resolution.

14.7. Entire and Voluntary Agreement

The Parties intend the Settlement Agreement to be a final and complete resolution of the Litigation. The Parties agree that the terms of the Settlement Agreement were negotiated at arm's length and in good faith and were reached voluntarily after consultation with competent legal counsel. There shall be no presumption for or against any Party that drafted all or any portion of this Settlement Agreement. This Settlement Agreement contains the entire agreement and understanding concerning the subject matter between the Parties and supersedes all prior negotiations and proposals, whether written or oral (except as provided elsewhere herein). No Party or any agent or attorney of any Party has made any promise, representation, or warranty

whatsoever not contained in this Settlement Agreement to induce another Party to execute the same. The Parties represent that they have not executed this instrument or the other documents in reliance on any promise, representation or warranty not contained in this Settlement Agreement. This Settlement Agreement may not be changed, modified, or amended except in writing signed by all Parties, subject to Court approval; provided, however, that the Parties may effect such changes, modifications, or amendments of this Settlement Agreement and their implementing documents (including any exhibits to them) without notice to or approval by the Court if such changes are consistent with the Court's Final Approval. The Parties further contemplate that, subject to Court approval or without such approval where legally permissible, the exhibits to this Settlement Agreement may be modified by subsequent agreement of counsel for the Parties prior to dissemination of the Class Notice to the Settlement Class.

14.8. Headings for Convenience Only

The headings in this Settlement Agreement are for the convenience of the reader only and shall not affect the meaning or interpretation of this Settlement Agreement.

14.9. Settlement Agreement Controls

All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein. To the extent that there is any conflict between the terms of this Settlement Agreement and the exhibits attached hereto, this Settlement Agreement shall control.

14.10. Authorization of Counsel

Settlement Class Counsel, on behalf of the Settlement Classes, are expressly authorized by Plaintiffs to take all appropriate action required or permitted to be taken by the Settlement Classes pursuant to the Settlement Agreement to effectuate its terms, and also are expressly authorized to enter into any modifications or amendments to the Settlement Agreement on behalf

of the Settlement Classes that Settlement Class Counsel deems necessary or appropriate. Each attorney executing the Settlement Agreement on behalf of any Party hereto hereby warrants that such attorney has the full authority to do so.

14.11. Confidentiality

All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Settlement Agreement. Within 30 days of the Effective Date, all confidential documents and information obtained during discovery, including copies, summaries, or other reproductions or derivations of such materials, shall be returned promptly to the party that produced the materials. In the alternative, the party possessing the information shall destroy it and provide the opposing party a certification to that effect unless such copies must be maintained pursuant to applicable Rules of Professional Conduct.

14.12. Court's Jurisdiction

The Court shall retain continuing jurisdiction with respect to implementation and enforcement of the terms of the Settlement Agreement.

14.13. Severability

The failure of one Party to insist upon strict adherence to any term of this Settlement Agreement on any occasion shall not be considered a waiver thereof or deprive any Party of the right thereafter to insist upon strict adherence to that term or any other term of this Settlement Agreement.

14.14. Construction

Each of the Parties has cooperated in the drafting and preparation of this Settlement Agreement. Hence, in any construction to be made of this Settlement Agreement, the same shall not be construed against any of the Parties. Before declaring any provision of this Settlement

Agreement invalid, a court should first attempt to construe the provision valid to the fullest extent possible, consistent with applicable precedent, so as to find all provisions of this Settlement Agreement valid and enforceable.

Any notice period or deadline set forth in this Settlement Agreement shall be calculated pursuant to Rule 6(a)(1) of the Federal Rules of Civil Procedure.

14.15. No Claims Arising from this Settlement Agreement

No person shall have any claim against Avectus and Mercy Health, Defense Counsel, Avectus's and Mercy Health's insurers, Plaintiffs or Settlement Class Counsel based on distribution of benefits made substantially in accordance with this Settlement Agreement or any Settlement-Agreement-related order(s) of the Court.

14.16. Choice of Law and Forum Selection

This Settlement Agreement shall, in all respects, be interpreted, construed and governed by and under the laws of the United States of America and the State of Ohio. All judicial proceedings regarding this Settlement Agreement shall be brought only in the Court (or, if the Court determines it lacks subject matter jurisdiction of the claims in that proceeding, in any other court of competent jurisdiction located in Hamilton County, Ohio). All parties subject to this Settlement Agreement consent to the personal jurisdiction of a court located in Hamilton County, Ohio for purposes of resolving disputes under, about, or concerning this Settlement Agreement.

The Parties make these selections for clarity, predictability, and efficiency and because this is the proper forum.

14.17. Counterparts

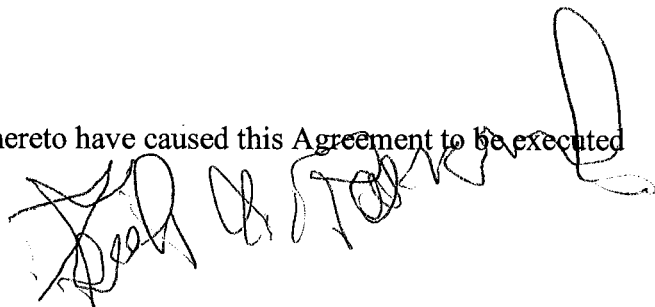
This Settlement Agreement may be executed in one or more counterparts and by facsimile or by PDF. All executed counterparts and each of them shall be deemed to be one and

the same instrument. Counsel for the Parties shall exchange among themselves signed counterparts, and a complete set of executed counterparts shall be filed with the Court.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

SIGNATURE PAGE TO FOLLOW

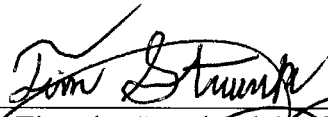
IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.



Date: 10/24/23

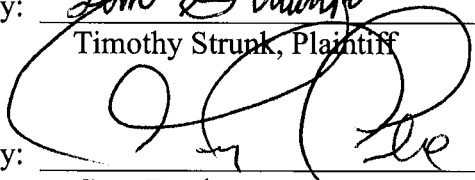
By: _____
Keith Raymond, Plaintiff

Date: 10/25/23

By: 

Timothy Strunk, Plaintiff

Date: 10/25/23

By: 

Gary Franke
Counsel for Plaintiffs

Date: _____

By: _____
For Avectus Healthcare Solutions, LLC

Date: _____

By: _____
Ronald D. Holman, II
Counsel for Avectus Healthcare Solutions, LLC

Date: _____

By: _____
For Bon Secours Mercy Health, Inc.

Date: _____

By: _____
Kris Dawley
Counsel for Bon Secours Mercy Health, Inc.

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

Date: _____

By: _____
Keith Raymond, Plaintiff


Date: _____

By: _____
Timothy Strunk, Plaintiff

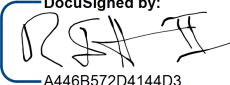
Date: _____

By: _____
Gary Franke
Counsel for Plaintiffs

Date: 10/25/2023

DocuSigned by:

By: _____
Jared Barceñas
For Auctus Healthcare Solutions, LLC

Date: October 31, 2023

DocuSigned by:

By: _____
A446B572D4144D3
Ronald D. Holman, II
Counsel for Auctus Healthcare Solutions, LLC

Date: _____

By: _____
For Bon Secours Mercy Health, Inc.

Date: _____

By: _____
Kris Dawley
Counsel for Bon Secours Mercy Health, Inc.

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

Date: _____

By: _____
Keith Raymond, Plaintiff

Date: _____

By: _____
Timothy Strunk, Plaintiff

Date: _____

By: _____
Gary Franke
Counsel for Plaintiffs

Date: _____

By: _____
For Aectus Healthcare Solutions, LLC

Date: _____

By: _____
Ronald D. Holman, II
Counsel for Aectus Healthcare Solutions, LLC

Date: 10-25-2023

By: Ted Ford System Director Claims
For Bon Secours Mercy Health, Inc.

Date: 10/26/2023

By: _____
Kris Dawley
Counsel for Bon Secours Mercy Health, Inc.

SCHEDULE 1

(Account Information and Wiring Instructions)

**BENEFICIARY NAME:
BENEFICIARY ADDRESS:**

**BENEFICIARY ACCOUNT NUMBER:
RECEIVING/BENEFICIARY BANK:
RECEIVING/BENEFICIARY BANK ADDRESS:**

RECEIVING/BENEFICIARY BANK ROUTING/ABA:



129657192

EXHIBIT A

In the United States District Court for the Southern District of Ohio
Keith Raymond, et al., v. Avectus Healthcare Solutions, LLC d/b/a MedPay Assurance LLC and
Mercy Health
Case No. 1:15-cv-00559

NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

***A FEDERAL COURT ORDERED THIS IMPORTANT NOTICE. YOU ARE NOT BEING SUED.
THIS IS NOT A SOLICITATION FROM A LAWYER.***

If you received treatment at a Mercy Health facility in Ohio between August 27, 2009, and August 31, 2023; presented evidence of health insurance to Mercy Health through a plan accepted by Mercy Health; and thereafter paid, or were requested to pay, any amount of money for the treatment received from Mercy Health, other than for a copay or deductible, you are a part of a class-action settlement.

- A Settlement has been reached in a class-action lawsuit against Avectus Healthcare Solutions, LLC d/b/a MedPay Assurance LLC (“Avectus”) and Mercy Health. The class-action lawsuit involves whether or not certain communications by Mercy Health and its vendors, including Avectus, complied with Ohio law.
- You are included in the Settlement if you (a) received treatment at a Mercy Health facility in Ohio between August 27, 2009, and August 31, 2023; (b) in conjunction with that treatment, presented evidence to Mercy Health of health insurance through a plan accepted by Mercy Health; and (c) thereafter paid, or were requested to pay, to Mercy Health any amount of money for the treatment received, other than for copays and deductibles, if any.
- Only patients who presented evidence of insurance to Mercy Health through a plan accepted by Mercy Health and then paid, or were requested to pay, money to Mercy Health, other than for copays and deductibles, are eligible to receive payment, and only one claim may be submitted per individual.
- If you are included in the Settlement, you are eligible to receive a cash payment of up to \$25.00, regardless of whether you made a payment to Mercy Health. If you or your attorney made a payment to Mercy Health, you may be eligible to receive a cash payment of up to 50% of the payment to Mercy Health.. The exact amount depends on whether you actually made payment for covered services, the actual amount of any payment you made, and the number and value of valid claims submitted.
- Please read this notice carefully. Your legal rights are affected whether or not you act.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM BY [CLAIM DEADLINE]	<p>You must submit a Claim Form within 45 days of the Claim Notice if you want to receive a payment from this Settlement. Claim Forms must be submitted online or postmarked by [CLAIM DEADLINE].</p>
EXCLUDE YOURSELF FROM (OR “OPT OUT OF”) THE SETTLEMENT BY [OPT OUT DEADLINE]	<p>You can remove yourself entirely from participation in this class-action settlement. If you do this, you will not receive any benefits from this Settlement, but you will retain any right you would otherwise have to file a separate lawsuit against Mercy Health and/or Avectus about the allegations in this case.</p> <p>Your request to exclude yourself from the Settlement must be RECEIVED or POSTMARKED within 45 days of the Claim Notice, that is by [OPT OUT DEADLINE].</p> <p>You cannot both exclude yourself and also object.</p>
OBJECT BY [OBJECTION DEADLINE]	<p>You can remain a Settlement Class Member and are bound by the Settlement, but you may write to the Court and explain why you do not like any aspect of the Settlement. Objections must be RECEIVED or POSTMARKED within 45 days of the Claim Notice, that is by [Objection Deadline].</p> <p>You may still submit a Claim Form even if you object.</p> <p>You cannot both exclude yourself and also object.</p>
DO NOTHING	<p>If you do nothing, you will remain a Settlement Class Member—be bound by the Settlement, including the release of claims described below—but you will not receive any payment from the Settlement.</p>

BASIC INFORMATION

A. Why should I read this notice?

A court authorized this notice to inform you about a proposed class-action settlement of a lawsuit pending in the United States District Court for the Southern District of Ohio called *Raymond, et al., v. Aectus Healthcare Solutions, LLC, et al.*, S.D. Ohio No. 1:15-cv-00559, brought on behalf of the Settlement Class. This notice describes the Settlement. Please read this notice carefully to determine whether you wish to participate in the Settlement. This notice explains your rights and options and the deadlines to exercise them. ***The Settlement affects your legal rights whether or not you act.***

B. What is this lawsuit about?

The lawsuit claims that certain communications made to Mercy Health patients, including communications made by Aectus to Mercy Health patients, violated Ohio law regarding seeking payments from patients who have health insurance. A more complete description of Plaintiffs' allegations is available in the Class Action Complaint, which is available on the Settlement Website at [www.\[address\]](#).

Aectus and Mercy Health maintain that they have complied with all applicable Ohio laws, deny that they have done anything wrong, and deny that anyone has been harmed in any way. Plaintiffs, Mercy Health, and Aectus decided to settle the lawsuit, on the terms of this Settlement, solely for the purpose of avoiding the burden, expense, risk, and uncertainty that are inherent in litigation.

C. What is a class action and who is involved?

In a class-action lawsuit, someone called a "Class Representative" (in this case Plaintiffs Keith Raymond and Timothy Strunk) sues on behalf of other people who have allegedly similar claims. If the court approves, the group of similar people is referred to as a "Class" or the "Class Members." In a class action, one court resolves the issues for everyone in the Class, except for those people who choose to exclude themselves from the Class.

After the parties reached an agreement to settle this case, the Court granted preliminary approval of the Settlement and conditionally recognized it as a case that should be treated as a class action for settlement purposes. Among other things, this preliminary approval permits Settlement Class Members to exclude themselves from the Settlement Class or to voice their support of or opposition to the Settlement before the Court makes a final determination as to certification of the Settlement Class and approval of the Settlement.

D. Why is there a Settlement?

The Court has not decided in favor of any party to the litigation. Instead, the Parties (meaning Plaintiffs, Aectus and Mercy Health) have agreed to settle the claims against Aectus and Mercy Health by entering into a written settlement agreement.

Avectus and Mercy Health maintain that their conduct was lawful, and they deny all allegations of wrongdoing or liability.

The Class Representatives and their attorneys think the Settlement is best for everyone because it provides benefits to the Class Members now while avoiding the risk, expense, uncertainty, and delay of pursuing the case through trial and appeals. Avectus and Mercy Health are settling solely for the purpose of avoiding the risk, burden, expense, and uncertainty that are inherent in litigation.

WHO IS AFFECTED BY THE SETTLEMENT?

E. How do I know if I am part of the Settlement Class?

The Settlement Class includes the following persons: All health insured persons, with a health insurance plan accepted by Mercy Health: (1) who were patients at any Mercy Health facility in the State of Ohio between August 27, 2009, and August 31, 2023; (2) who presented evidence of health insurance to Mercy Health; and (3) who thereafter paid, or were requested to pay, any amount of money for the treatment received at any Mercy Health operated facility, other than for co-pays and deductibles.

There is also a Settlement Subclass, the “Mercy Only Settlement Class,” that includes all health insured persons, with a health insurance plan accepted by Mercy Health: (1) who were patients at any Mercy Health facility in the State of Ohio between August 27, 2009, and August 31, 2023; (2) who presented evidence of health insurance to Mercy Health; (3) who thereafter paid, or were requested to pay, any amount of money for the treatment received at any Mercy Health operated facility, other than for co-pays and deductibles; and (4) who were *not* contacted by Avectus on Mercy Health’s behalf.

Only patients who presented evidence of insurance to Mercy Health through a plan accepted by Mercy Health and then paid, or were requested to pay, money to Mercy Health, other than for copays and deductibles, are eligible to receive payment.

Excluded from the Settlement Class are: (a) all persons who would otherwise qualify for membership in the Settlement Class but for the fact that such person previously has released all claims as to Avectus and Mercy Health; (b) Avectus’s and Mercy Health’s respective officers, directors, and employees; (c) Avectus’s and Mercy Health’s attorneys; (d) Plaintiffs’ attorneys; and (e) any judge who has presided over the disposition of this case and the members of his or her immediate family.

If you fall within the foregoing Settlement Class definition, you are a Settlement Class Member and will be bound by the Settlement, unless you opt out or exclude yourself. (See Question “M. How do I exclude myself from the Settlement?” for how to opt out or exclude yourself.)

WHAT BENEFITS ARE PROVIDED?

F. What does the Settlement provide?

Avectus and Mercy Health have agreed to make available \$3.5 million (the “Fund”), which will be used to pay Settlement Class Members, pay Class Counsel’s attorneys’ fees and costs, pay a service award to the Class Representatives, and pay the costs and expenses of settlement administration.

Subject to the terms and conditions of the Settlement Agreement, Avectus and Mercy Health shall pay \$25.00 (a “Base Settlement Payment”) to each Approved Claimant who was requested to pay money to Mercy Health, other than for copays or deductibles, regardless of whether the Approved Claimant submitted a payment to Mercy Health. Each Approved Claimant shall be entitled to only one Base Settlement Payment. If the total of the Base Settlement Payments to all Approved Claimants would exceed \$500,000, the amount of each Base Settlement Payment shall be reduced pro rata so that the total Base Settlement Payments do not exceed \$500,000.

Subject to the terms and conditions of the Settlement Agreement, Avectus and Mercy Health shall pay each Approved Claimant who was requested to pay money to Mercy Health and who himself, herself, or through an attorney actually paid money to Mercy Health for covered services, other than for copays and deductibles, (a “Medical Bill Payment”) a cash payment equal to 50% of the Medical Bill Payment. A Medical Bill Payment does not include any payment made by any insurance company, tortfeasor (e.g. the driver at fault in an auto accident), or other third party.

In addition, Avectus and Mercy Health have agreed to pay, from the Fund, Settlement Class Counsel’s attorneys’ fees and costs and service awards to the named Plaintiffs, in an amount to be determined by the Court, along with the cost and expenses for the administration of the Settlement.

There is a cap of \$3.5 million for the total Settlement amount—including attorneys’ fees and costs, service awards, and the cost and expenses of Settlement Administration. If the combined sum of the payments to the Class Members, the attorneys’ fees and costs and service awards approved by the Court, and the cost and expenses would exceed \$3.5 million, then all Settlement payments shall be reduced on a pro rata basis so that the total amount paid by Avectus and Mercy Health does not exceed \$3.5 million.

If you are a member of the Settlement Class (see Question “E. How do I know if I am part of the Settlement Class?”), and you choose to stay in the Settlement Class, you can submit a Claim Form to receive a check containing your cash payment. (See Question “G. How can I get a cash payment?”) The Settlement Agreement provides more detail about the Settlement. You can access a copy of the Settlement Agreement at the Settlement Website: [www.\[address\].com](http://www.[address].com).

HOW YOU GET SETTLEMENT BENEFITS

G. How can I get a cash payment?

To claim a cash payment as part of the Settlement, you must complete and submit the attached Claim Form online or by U.S. Mail within 45 days of the Claim Notice, that is by **[Claim**

Deadline]. You cannot submit your claim form by any other method. You can submit an electronic Claim Form online at [www.\[Settlement Website\].com](http://www.[Settlement Website].com) before 11:59 p.m. ET on **[Claim Deadline]**. If you choose to submit your Claim Form by U.S. Mail, it must be postmarked by **[Claim Deadline]** and must be received by the Settlement Administrator by **[Claim Deadline + 14 days]** to be eligible for payment. Claim Forms sent by U.S. Mail should be addressed to *Raymond v. Avectus Healthcare Solutions, LLC*, Settlement Administrator [address].

Please read the instructions on the Claim Form carefully. To be eligible, you must affirm on the Claim Form, under penalty of perjury: 1) that you were a patient at a Mercy Health facility in the State of Ohio between August 27, 2009, and August 31, 2023; (2) that you had health insurance through a plan accepted by Mercy Health and that you presented evidence of health insurance to Mercy Health in conjunction with your treatment; and (3) if true, that you thereafter paid, or were requested to pay, any amount of money for the treatment for covered services received at any Mercy Health operated facility, other than for co-pays and deductibles. The Claim Form you received as an attachment to this notice pertains to your category of claim, specifically, the Claim Form may provide for an award on account of being contacted by Mercy or Avectus but not responding thereto with a payment. Or, the Claim Form attached may provide for an Award for those qualifying Class Members identified through Mercy records as potentially having submitted a payment to Mercy. If you are in receipt of the latter Claim Form, you are required to affirm whether you or your attorney on your behalf made a payment to Mercy Health in conjunction with that treatment—other than a copay or deductible. Amounts paid by an insurance company, tortfeasor (e.g., the driver at fault in an auto accident), or other third party do not qualify.

H. When would I get my Settlement payment?

If you timely submit a valid Claim Form, you should receive a check from the Settlement Administrator by 90 days after the Settlement has received final approval and/or after any appeals have been resolved in favor of the Settlement. The Court will hold a hearing on [redacted] to decide whether to approve the Settlement. If the Court approves the Settlement, there may then be appeals. It is always uncertain how these appeals will be resolved, and resolving them can take time, perhaps more than a year after Court approval.

All checks will expire 90 days after they are issued.

THE LAWYERS REPRESENTING YOU

I. Who represents the Settlement Class?

The Court has appointed the following attorneys as Settlement Class Counsel to represent you and the rest of the Settlement Class Members in this case for purposes of the Settlement: Gary F. Franke and Michael D. O'Neill of Gary F. Franke Co., L.P.A. and C. David Ewing of Ewing & Willis, PLLC.

You will not be charged directly for these attorneys, but they will be compensated out of the Settlement Fund (see Question "F. What does the Settlement provide?"). If you want to be represented by your own lawyer, you may hire an attorney at your own cost.

In addition, the Court appointed Keith Raymond and Timothy Strunk to serve as the Class Representatives. They are also Settlement Class Members.

J. How will the lawyers be paid?

Settlement Class Counsel will ask the Court for an award of attorneys' fees, which will be paid out of the Settlement Fund (see Question "F. What does the Settlement provide?"). From the beginning of this case in August 2015, Settlement Class Counsel has not received any payment for the time they have spent litigating this case or obtaining the settlement.

They will ask the Court to approve payment of attorneys' fees and expenses in an amount the Court determines to be fair and reasonable but no greater than the amount remaining in the Settlement Fund after the payment of all claims to Settlement Class Members and all fees, costs, taxes, and other expenses related to the Settlement (including the costs of Settlement Administration) and in no event greater than \$3.2 million. Settlement Class Counsel will submit their fee request 14 days prior to the Final Approval Hearing that is by **[Deadline]**. Class Counsel's fee request will be posted on the Settlement Website. Avectus and Mercy Health will not object to Class Counsel's fee request so long as the fee award is determined by the Court. You may also comment on the amount Settlement Class Counsel requests (see Question "P. How do I provide the Court my comments on the Settlement?").

Settlement Class Counsel will also request service awards of \$25,000 to each of the two Class Representatives as compensation for their time and effort.

The Court will ultimately decide the amount to award. These payments, along with the costs of administering the Settlement, will be made out of the Settlement Fund.

YOUR RIGHTS AND OPTIONS

K. What am I giving up to get a cash payment or stay in the Settlement Class?

If the Court grants final approval to the Settlement, the Court will enter a final order and judgment and dismiss the case against Avectus and Mercy Health with prejudice. Claim Forms and payments under the Settlement will then be processed, and claims payments will be distributed. The release by the Settlement Class Members will also take effect.

Under the release, unless you exclude yourself from the Settlement Class, you cannot separately sue Mercy Health or Avectus or any of the Released Parties for the claims and issues in this case or any of the Released Claims. The Settlement Agreement contains the following release:

In exchange for the consideration and relief described in this Settlement Agreement, the Plaintiffs, Settlement Class Members, and/or his or her respective spouse, heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors and assigns and all those acting or purporting to act on their behalf agree to release, acquit, and forever discharge the Released Parties from all duties, obligations, demands, allegations, claims, actions, causes of action, suits, damages, rights or liabilities of any nature and description

whatsoever, whether arising under local, state or federal law, whether by Constitution, statute (including, but not limited to, the FDCPA¹, the OCSPA², the Healthcare Billing Statutes³, and any assertions of liability, debts, covenants, guarantees, projections, losses, endorsements, controversies, suits, actions, rights, legal duties, warranties, torts, unfair or deceptive practices, statutory violations, contracts, agreements, obligations, promises, promissory estoppel, detrimental reliance, or unjust enrichment), tort, contract, common law or equity or otherwise, whether known or unknown, concealed or hidden, suspected or unsuspected, anticipated or unanticipated, asserted or unasserted, foreseen or unforeseen, actual, fixed, contingent, or vested, liquidated or unliquidated, direct or indirect, matured or unmatured, individually or on behalf of or as part of any putative, proposed, or certified class or other aggregate proceeding, related to, arising out of, concerning or in connection with in any way, any and all alleged direct or indirect acts, omissions, representations, conducts, legal duties, unjust enrichment, trade practices, or obligations that arise out of, or are related or connected in any way with pricing, billing and payment practices of Mercy Health and/or Avectus and/or the Litigation. This release includes, but is not limited to, all claimed or unclaimed compensatory damages, actual damages, damages stemming from any allegations of willfulness or recklessness, damages for emotional distress, statutory damages, consequential damages, incidental damages, nominal damages, treble damages, punitive and exemplary damages, injunction, rescission, reformation, restitution, disgorgement, constructive trust, as well as all claims for equitable, declaratory or injunctive relief under any federal or state statute or common law or other theory that was alleged or could have been alleged in the Litigation, including but not limited to, any and all claims under deceptive or unfair practices statutes, or any other statute, regulation or judicial interpretation. This release also includes interest, costs, and fees arising out of any of the claims described above. Nothing in this Settlement Agreement shall be deemed a release of the Parties' respective rights and obligations under this Settlement Agreement. In addition, nothing in this Settlement Agreement shall be deemed a release of any medical malpractice or similar claim that any Settlement Class Member may have against Mercy Health.

(See Section 11.2 of the Settlement Agreement.)

As you can see, by staying in the settlement class, you are releasing—or giving up—any unknown claims. That means you are giving up claims against Avectus and Mercy Health which you might

¹ Defined as the Fair Debt Collections Practices Act and related administrative regulations.

² Defined as the Ohio Consumer Sales Practices Act, Ohio R.C. 1345.01, et seq. and related administrative regulations.

³ Defined as Ohio Rev. Code 1751.60, et seq., and related administrative regulations and similar statutes and regulations under the laws of other States or the United States.

have but do not know you have. Section 11.3 of the Settlement Agreement provides more detail on what this means.

The full Settlement Agreement is available at [www.\[Settlement Website\].com](http://www.[Settlement Website].com).

Unless you exclude yourself from the Settlement Class, you will be bound by the Settlement Agreement and any decisions by the Court relating to the Settlement. If you do not wish to be a Settlement Class Member, you must exclude yourself from the Settlement Class.

If the Court does not approve the Settlement, the case will proceed as though no settlement had been attempted. If the Settlement is not approved, there is no assurance that a class would receive a greater recovery than provided for in the Settlement (if anything).

L. What if I do nothing?

If you do nothing, you will not receive a payment under the Settlement, and you will release all claims you may have against Mercy Health, Avectus, and the Released Parties concerning the conduct alleged in this case. (See Question “N. If I do not exclude myself, can I sue Avectus and Mercy Health for the same thing later?”)

M. How do I exclude myself from the Settlement?

If you do not want to be part of the Settlement Class, you must take steps to exclude yourself from, or opt out of, the Settlement Class. (Excluding yourself or opting out of the Settlement Class are the same thing.) If you do this, you cannot submit a Claim Form and will not get a Settlement payment, but you will also not release any claims you have. If you exclude yourself, you also will not be bound by any orders or judgments issued in this case, and if you choose to do so, you can pursue whatever legal rights you may have in a separate proceeding, but you will do so at your own expense.

To exclude yourself from the Settlement Class, you must send a written request to the Settlement Administrator with the notification: “Exclusion Requests—*Avectus and Mercy Health* Settlement Administrator.” The written request must also contain your name, your original signature, current postal address and telephone number, and a specific statement that you want to be excluded from the Settlement Class. It will be sufficient to state, along with the other required information, that “I wish to opt out of the settlement” or “I wish to be excluded from the settlement.” You must mail your exclusion Request so that it is postmarked no later than [OPT OUT DEADLINE], to:

Exclusion Requests – *Avectus and Mercy Health* Settlement Administrator
[SETTLEMENT ADMINISTRATOR]

You cannot exclude yourself by phone or by e-mail. You also cannot exclude yourself by mailing a request to any other location or after the deadline. You cannot exclude others or be excluded as part of a group or class consisting of more than one patient.

REQUESTS FOR EXCLUSION THAT ARE NOT POSTMARKED ON OR BEFORE [OPT OUT DEADLINE] WILL BE INVALID AND WILL NOT BE HONORED.

N. If I don't exclude myself, can I sue Avectus and Mercy Health for the same thing later?

No. If you do not exclude yourself, you give up or waive the right to sue Mercy Health, Avectus, and the Released Parties for the claims being resolved by this Settlement. (See Question "K. What am I giving up to get a benefit cash payment or stay in the Settlement Class?")

O. If I exclude myself, can I participate in the Settlement?

No. If you exclude yourself from the Settlement Class, you cannot participate in the Settlement, you will not be eligible to receive a payment pursuant to the Settlement, and you will not be able to object to the Settlement.

P. How do I provide the Court my comments on the Settlement?

If you do not exclude yourself from the Settlement Class, you can provide the Court comments on the Settlement if you like or do not like any part of the Settlement. The Court and Settlement Class Counsel will consider your views carefully. To comment—which is entirely optional—you must file with the Court a notice of your intention to comment (which shall set forth each comment and the basis therefor). Any comments must be in writing and include: (1) the name of this lawsuit, *Raymond v. Avectus Healthcare Solutions, LLC*, Case No. 1:15-cv-00559; (2) whether you or any attorney acting on your behalf intend to appear at the Fairness Hearing; and (3) a signed verification of membership in the Settlement Class. These materials must be filed with Court and served upon Settlement Class Counsel and Defense Counsel by first class mail postage prepaid, CM/ECF Notification, or any other form of service upon counsel of record permitted by Rule 5(b)(2) of the Federal Rules of Civil Procedure. Comments on the Settlement must be filed and served no later than [OBJECTION DEADLINE]. Comments on Settlement Class Counsel's request for attorneys' fees must be filed and served by [date 7 days after the filing of the motion for fees]

For your convenience, the following addresses may be used for filing and serving any comments:

<p><u>COURT</u> Clerk of the Court United States District Court Potter Stewart U.S. Courthouse, Room 103 100 East Fifth Street Cincinnati, OH 45202</p>	<p><u>CLASS COUNSEL</u> GARY F. FRANKE CO., LPA Gary F. Franke 201 East Fifth Street Suite 910 Cincinnati, OH 45202</p>
<p><u>COUNSEL FOR MERCY HEALTH</u> ICE MILLER LLP Kris Dawley, Esq. Arena District 250 West Street Suite 700 Columbus, OH 43215</p>	<p><u>COUNSEL FOR AVECTUS</u> TAFT STETTINIUS & HOLLISTER LLP Ronald D. Holman, II 200 Public Square, Suite 3500 Cleveland, OH 44114</p>

If you, or an attorney acting on your behalf, would like to appear and address the court on the subject of your comments, you must indicate in your written comments that you intend to appear at the Fairness Hearing. If an attorney will be appearing on your behalf, the attorney must file with the Clerk of the Court a written Notice of Appearance of Counsel by [date set in preliminary approval order] and include in the notice the full caption and case number of each previous class action in which that attorney has represented an objector. (See Questions “R. When and where will the Court decide whether to approve the Settlement?,” “S. Do I have to come to the Fairness Hearing?,” and “T. May I speak at the hearing?” for more details.)

Q. What’s the difference between commenting and excluding myself?

Commenting is telling the Court what your views are on all or part of the Settlement. The Court will consider your comments only if you remain in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you have no basis to comment on this Settlement because the case no longer affects you and, if you submit a comment, the Court will not consider it.

THE COURT’S FAIRNESS HEARING

R. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing on _____, at _____, in Courtroom _____ of the United States District Court for the Southern District of Ohio, Potter Stewart U.S. Court House, 100 East Fifth Street, Cincinnati, Ohio 45202. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and in the best interests of the Settlement Class Members. If there are objections, the Court will consider them. The Court will listen to people who have submitted timely requests to speak at the hearing. The Court may also decide the amount that Settlement Class Counsel and Class Representatives shall be paid. After the hearing, the Court will decide whether to finally approve the settlement.

S. Do I have to come to the Fairness Hearing?

No. Settlement Class Counsel will answer questions the Court may have. But you are welcome to come at your own expense. If you send an objection or comment, you do not have to come to Court to talk about it. (See Question “P. How do I provide the Court my comments on the Settlement?”) As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

T. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must file and serve a written comment by [objection deadline] and include in your comment a statement that you intend to appear at the Fairness Hearing. (See Question “P. How do I provide the Court my comments on the Settlement?”) Any lawyer who intends to appear on your behalf at the Fairness Hearing must file a written Notice of Appearance of Counsel with the Clerk of the Court by _____ and must include the full caption and case number of each previous class-action case

in which that counsel has represented an objector. You cannot speak at the hearing if you have excluded yourself.

INFORMATION ABOUT THE SUIT AND SETTLEMENT

U. Where can I get more information?

You can visit the Settlement Website at [www.\[Settlement Website\].com](http://www.[Settlement Website].com). If you have questions about the case, you can call Settlement Class Counsel at (513) 564-9222 , or write to the Settlement Class Counsel, Gary F. Franke, Esq., Gary F. Franke Co., L.P.A., 201 East Fifth Street, Suite 910, Cincinnati, OH 45202.

PLEASE DO NOT CALL THE COURT, THE CLERK, OR THE DEFENDANTS REGARDING THIS SETTLEMENT.

EXHIBIT B-1

**MERCY HEALTH / AVECTUS SETTLEMENT
REQUEST ONLY CLAIM FORM**

If you (a) received treatment at a Mercy Health facility in Ohio between August 27, 2009, and August 31, 2023; (b) in conjunction with that treatment, presented evidence to Mercy Health of health insurance through a plan accepted by Mercy Health; and (c) thereafter were requested to pay to Mercy Health any amount of money for treatment received for services covered by your health insurance plan, other than for copays and deductibles, if any, and you have not previously released all claims as to Mercy Health and Avectus, then as a result of a Settlement with Mercy Health and Avectus you are eligible to receive a cash payment of up to \$25.

To receive a payment, you must submit this Claim Form. The deadline to file completed Claim Forms online is 11:59 P.M. Eastern Time on [Claim Deadline]. All Claim Forms submitted by U.S. Mail must be postmarked by [Claim Deadline].

The amount of the payment will be determined based on a formula contained in the Settlement Agreement. Additional information regarding the formula and the Settlement can be found at [Settlement Website].

Only patients who presented evidence of insurance to Mercy Health through a plan accepted by Mercy Health and then paid, or were requested to pay, money to Mercy Health for services covered by your health insurance plan, other than for copays and deductibles, are eligible to receive payment, and only one claim may be submitted per individual.

Completed Claim Forms must be submitted either online at [Settlement Website] or by U.S. Mail. If submitting a Claim Form by U.S. Mail, it must be mailed to the following address:

Claim Administrator
[Address]

If you submit a Claim Form online, it must be submitted by 11:59 P.M.ET on [Deadline Date]. If you submit a Claim Form by U.S. Mail, it must be postmarked on or before [Deadline Date]. Claim Forms submitted online *after* [Deadline Date] or postmarked *after* [Deadline Date] will not be eligible for payment under the Settlement. In addition, Claim Forms sent by U.S. Mail must be received by the Settlement Administrator by [Deadline Date + 14 days] to be eligible for payment under the Settlement.

Please Complete Each Section On The Following Page In The Space Provided. Incomplete Claim Forms Will Be Ineligible For A Payment.

SECTION I: CONTACT INFORMATION

Name (First/Last)	
Name at time of treatment	
Street Address	
City, State, Zip Code	
Phone Number (primary)	
Current E-mail Address	
Mercy Account Number (if known)	

I understand that the parties to the lawsuit have the right to audit my claim and may contact me at the address, phone number, or e-mail address I have provided to do so.

SECTION II: CERTIFICATION OF TREATMENT

By submitting this Claim Form, I hereby certify and affirm, under penalty of perjury, that I: (a) received treatment at a Mercy Health facility in Ohio between August 27, 2009, and August 31, 2023; (b) in conjunction with that treatment, presented evidence to Mercy Health of health insurance through a plan accepted by Mercy Health; and (c) thereafter paid, or was requested to pay, to Mercy Health any amount of money for the treatment received for covered services, other than for copays and deductibles. I understand that only one claim may be submitted per individual.

Date(s) of Treatment	Location of Treatment

SECTION III: SIGNATURE

Date: ____ / ____ / ____	Signature _____
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EXHIBIT B-2

MERCY HEALTH / AVECTUS SETTLEMENT CLAIM FORM

If you (a) received treatment at a Mercy Health facility in Ohio between August 27, 2009, and August 31, 2023; (b) in conjunction with that treatment, presented evidence to Mercy Health of health insurance through a plan accepted by Mercy Health; and (c) thereafter paid, or were requested to pay, to Mercy Health any amount of money for treatment received for services covered by your health insurance plan, other than for copays and deductibles, if any, and you have not previously released all claims as to Mercy Health and Avectus, then as a result of a Settlement with Mercy Health and Avectus you are eligible to receive a cash payment of up to \$25 plus up to 50% of any payment you made or an attorney made on your behalf to Mercy Health for covered services, other than for copays and deductibles.

To receive a payment, you must submit this Claim Form. The deadline to file completed Claim Forms online is 11:59 P.M. Eastern Time on [Claim Deadline]. All Claim Forms submitted by U.S. Mail must be postmarked by [Claim Deadline].

The amount of the payment will be determined based on a formula contained in the Settlement Agreement. Additional information regarding the formula and the Settlement can be found at [Settlement Website].

Only patients who presented evidence of insurance to Mercy Health through a plan accepted by Mercy Health and then paid, or were requested to pay, money to Mercy Health for services covered by your health insurance plan, other than for copays and deductibles, are eligible to receive payment, and only one claim may be submitted per individual.

Completed Claim Forms must be submitted either online at [Settlement Website] or by U.S. Mail. If submitting a Claim Form by U.S. Mail, it must be mailed to the following address:

Claim Administrator
[Address]

If you submit a Claim Form online, it must be submitted by 11:59 P.M.ET on [Deadline Date]. If you submit a Claim Form by U.S. Mail, it must be postmarked on or before [Deadline Date]. Claim Forms submitted online *after* [Deadline Date] or postmarked *after* [Deadline Date] will not be eligible for payment under the Settlement. In addition, Claim Forms sent by U.S. Mail must be received by the Settlement Administrator by [Deadline Date + 14 days] to be eligible for payment under the Settlement.

Please Complete Each Section On The Following Page In The Space Provided. Incomplete Claim Forms Will Be Ineligible For A Payment.

SECTION I: CONTACT INFORMATION

Name (First/Last)	
Name at time of treatment	
Street Address	
City, State, Zip Code	
Phone Number (primary)	
Current E-mail Address	
Mercy Account Number (if known)	

I understand that the parties to the lawsuit have the right to audit my claim and may contact me at the address, phone number, or e-mail address I have provided to do so.

SECTION II: CERTIFICATION OF TREATMENT

By submitting this Claim Form, I hereby certify and affirm, under penalty of perjury, that: (a) I received treatment at a Mercy Health facility in Ohio between August 27, 2009, and August 31, 2023; (b) in conjunction with that treatment, I presented evidence to Mercy Health of health insurance through a plan accepted by Mercy Health; and (c) thereafter I, or an attorney on my behalf, made a payment, other than for a copay or deductible, to Mercy Health for covered services (a “Medical Bill Payment”). I understand that a Medical Bill Payment does not include any payment made by an insurance company, tortfeasor (e.g., the driver at fault in an auto accident), or other third party. I also understand that only one claim may be submitted per individual.

I or an attorney on my behalf made a Medical Bill Payment to Mercy Health.

Date(s) of Treatment	Location of Treatment

SECTION III: SIGNATURE

Date: ____ / ____ / ____	Signature _____
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EXHIBIT B

In the United States District Court for the Southern District of Ohio
Keith Raymond, et al., v. Avectus Healthcare Solutions, LLC d/b/a MedPay Assurance LLC and
Mercy Health
Case No. 1:15-cv-00559

NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

*A FEDERAL COURT ORDERED THIS IMPORTANT NOTICE. YOU ARE NOT BEING SUED.
THIS IS NOT A SOLICITATION FROM A LAWYER.*

If you received treatment at a Mercy Health facility in Ohio between August 27, 2009, and August 31, 2023; presented evidence of health insurance to Mercy Health through a plan accepted by Mercy Health; and thereafter paid, or were requested to pay, any amount of money for the treatment received from Mercy Health, other than for a copay or deductible, you are a part of a class-action settlement.

- A Settlement has been reached in a class-action lawsuit against Avectus Healthcare Solutions, LLC d/b/a MedPay Assurance LLC (“Avectus”) and Mercy Health. The class-action lawsuit involves whether or not certain communications by Mercy Health and its vendors, including Avectus, complied with Ohio law.
- You are included in the Settlement if you (a) received treatment at a Mercy Health facility in Ohio between August 27, 2009, and August 31, 2023; (b) in conjunction with that treatment, presented evidence to Mercy Health of health insurance through a plan accepted by Mercy Health; and (c) thereafter paid, or were requested to pay, to Mercy Health any amount of money for the treatment received, other than for copays and deductibles, if any.
- Only patients who presented evidence of insurance to Mercy Health through a plan accepted by Mercy Health and then paid, or were requested to pay, money to Mercy Health, other than for copays and deductibles, are eligible to receive payment, and only one claim may be submitted per individual.
- If you are included in the Settlement, you are eligible to receive a cash payment of up to \$25.00, regardless of whether you made a payment to Mercy Health. If you or your attorney made a payment to Mercy Health, you may be eligible to receive a cash payment of up to 50% of the payment to Mercy Health.. The exact amount depends on whether you actually made payment for covered services, the actual amount of any payment you made, and the number and value of valid claims submitted.
- Please read this notice carefully. Your legal rights are affected whether or not you act.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM BY [CLAIM DEADLINE]	<p>You must submit a Claim Form within 45 days of the Claim Notice if you want to receive a payment from this Settlement. Claim Forms must be submitted online or postmarked by [CLAIM DEADLINE].</p>
EXCLUDE YOURSELF FROM (OR “OPT OUT OF”) THE SETTLEMENT BY [OPT OUT DEADLINE]	<p>You can remove yourself entirely from participation in this class-action settlement. If you do this, you will not receive any benefits from this Settlement, but you will retain any right you would otherwise have to file a separate lawsuit against Mercy Health and/or Avectus about the allegations in this case.</p> <p>Your request to exclude yourself from the Settlement must be RECEIVED or POSTMARKED within 45 days of the Claim Notice, that is by [OPT OUT DEADLINE].</p> <p>You cannot both exclude yourself and also object.</p>
OBJECT BY [OBJECTION DEADLINE]	<p>You can remain a Settlement Class Member and are bound by the Settlement, but you may write to the Court and explain why you do not like any aspect of the Settlement. Objections must be RECEIVED or POSTMARKED within 45 days of the Claim Notice, that is by [Objection Deadline].</p> <p>You may still submit a Claim Form even if you object.</p> <p>You cannot both exclude yourself and also object.</p>
DO NOTHING	<p>If you do nothing, you will remain a Settlement Class Member—be bound by the Settlement, including the release of claims described below—but you will not receive any payment from the Settlement.</p>

BASIC INFORMATION

A. Why should I read this notice?

A court authorized this notice to inform you about a proposed class-action settlement of a lawsuit pending in the United States District Court for the Southern District of Ohio called *Raymond, et al., v. Aevctus Healthcare Solutions, LLC, et al.*, S.D. Ohio No. 1:15-cv-00559, brought on behalf of the Settlement Class. This notice describes the Settlement. Please read this notice carefully to determine whether you wish to participate in the Settlement. This notice explains your rights and options and the deadlines to exercise them. ***The Settlement affects your legal rights whether or not you act.***

B. What is this lawsuit about?

The lawsuit claims that certain communications made to Mercy Health patients, including communications made by Aevctus to Mercy Health patients, violated Ohio law regarding seeking payments from patients who have health insurance. A more complete description of Plaintiffs' allegations is available in the Class Action Complaint, which is available on the Settlement Website at [www.\[address\]](#).

Aevctus and Mercy Health maintain that they have complied with all applicable Ohio laws, deny that they have done anything wrong, and deny that anyone has been harmed in any way. Plaintiffs, Mercy Health, and Aevctus decided to settle the lawsuit, on the terms of this Settlement, solely for the purpose of avoiding the burden, expense, risk, and uncertainty that are inherent in litigation.

C. What is a class action and who is involved?

In a class-action lawsuit, someone called a "Class Representative" (in this case Plaintiffs Keith Raymond and Timothy Strunk) sues on behalf of other people who have allegedly similar claims. If the court approves, the group of similar people is referred to as a "Class" or the "Class Members." In a class action, one court resolves the issues for everyone in the Class, except for those people who choose to exclude themselves from the Class.

After the parties reached an agreement to settle this case, the Court granted preliminary approval of the Settlement and conditionally recognized it as a case that should be treated as a class action for settlement purposes. Among other things, this preliminary approval permits Settlement Class Members to exclude themselves from the Settlement Class or to voice their support of or opposition to the Settlement before the Court makes a final determination as to certification of the Settlement Class and approval of the Settlement.

D. Why is there a Settlement?

The Court has not decided in favor of any party to the litigation. Instead, the Parties (meaning Plaintiffs, Aevctus and Mercy Health) have agreed to settle the claims against Aevctus and Mercy Health by entering into a written settlement agreement.

Avectus and Mercy Health maintain that their conduct was lawful, and they deny all allegations of wrongdoing or liability.

The Class Representatives and their attorneys think the Settlement is best for everyone because it provides benefits to the Class Members now while avoiding the risk, expense, uncertainty, and delay of pursuing the case through trial and appeals. Avectus and Mercy Health are settling solely for the purpose of avoiding the risk, burden, expense, and uncertainty that are inherent in litigation.

WHO IS AFFECTED BY THE SETTLEMENT?

E. How do I know if I am part of the Settlement Class?

The Settlement Class includes the following persons: All health insured persons, with a health insurance plan accepted by Mercy Health: (1) who were patients at any Mercy Health facility in the State of Ohio between August 27, 2009, and August 31, 2023; (2) who presented evidence of health insurance to Mercy Health; and (3) who thereafter paid, or were requested to pay, any amount of money for the treatment received at any Mercy Health operated facility, other than for co-pays and deductibles.

There is also a Settlement Subclass, the “Mercy Only Settlement Class,” that includes all health insured persons, with a health insurance plan accepted by Mercy Health: (1) who were patients at any Mercy Health facility in the State of Ohio between August 27, 2009, and August 31, 2023; (2) who presented evidence of health insurance to Mercy Health; (3) who thereafter paid, or were requested to pay, any amount of money for the treatment received at any Mercy Health operated facility, other than for co-pays and deductibles; and (4) who were *not* contacted by Avectus on Mercy Health’s behalf.

Only patients who presented evidence of insurance to Mercy Health through a plan accepted by Mercy Health and then paid, or were requested to pay, money to Mercy Health, other than for copays and deductibles, are eligible to receive payment.

Excluded from the Settlement Class are: (a) all persons who would otherwise qualify for membership in the Settlement Class but for the fact that such person previously has released all claims as to Avectus and Mercy Health; (b) Avectus’s and Mercy Health’s respective officers, directors, and employees; (c) Avectus’s and Mercy Health’s attorneys; (d) Plaintiffs’ attorneys; and (e) any judge who has presided over the disposition of this case and the members of his or her immediate family.

If you fall within the foregoing Settlement Class definition, you are a Settlement Class Member and will be bound by the Settlement, unless you opt out or exclude yourself. (See Question “M. How do I exclude myself from the Settlement?” for how to opt out or exclude yourself.)

WHAT BENEFITS ARE PROVIDED?

F. What does the Settlement provide?

Avectus and Mercy Health have agreed to make available \$3.5 million (the “Fund”), which will be used to pay Settlement Class Members, pay Class Counsel’s attorneys’ fees and costs, pay a service award to the Class Representatives, and pay the costs and expenses of settlement administration.

Subject to the terms and conditions of the Settlement Agreement, Avectus and Mercy Health shall pay \$25.00 (a “Base Settlement Payment”) to each Approved Claimant who was requested to pay money to Mercy Health, other than for copays or deductibles, regardless of whether the Approved Claimant submitted a payment to Mercy Health. Each Approved Claimant shall be entitled to only one Base Settlement Payment. If the total of the Base Settlement Payments to all Approved Claimants would exceed \$500,000, the amount of each Base Settlement Payment shall be reduced pro rata so that the total Base Settlement Payments do not exceed \$500,000.

Subject to the terms and conditions of the Settlement Agreement, Avectus and Mercy Health shall pay each Approved Claimant who was requested to pay money to Mercy Health and who himself, herself, or through an attorney actually paid money to Mercy Health for covered services, other than for copays and deductibles, (a “Medical Bill Payment”) a cash payment equal to 50% of the Medical Bill Payment. A Medical Bill Payment does not include any payment made by any insurance company, tortfeasor (e.g. the driver at fault in an auto accident), or other third party.

In addition, Avectus and Mercy Health have agreed to pay, from the Fund, Settlement Class Counsel’s attorneys’ fees and costs and service awards to the named Plaintiffs, in an amount to be determined by the Court, along with the cost and expenses for the administration of the Settlement.

There is a cap of \$3.5 million for the total Settlement amount—including attorneys’ fees and costs, service awards, and the cost and expenses of Settlement Administration. If the combined sum of the payments to the Class Members, the attorneys’ fees and costs and service awards approved by the Court, and the cost and expenses would exceed \$3.5 million, then all Settlement payments shall be reduced on a pro rata basis so that the total amount paid by Avectus and Mercy Health does not exceed \$3.5 million.

If you are a member of the Settlement Class (see Question “E. How do I know if I am part of the Settlement Class?”), and you choose to stay in the Settlement Class, you can submit a Claim Form to receive a check containing your cash payment. (See Question “G. How can I get a cash payment?”) The Settlement Agreement provides more detail about the Settlement. You can access a copy of the Settlement Agreement at the Settlement Website: [www.\[address\].com](http://www.[address].com).

HOW YOU GET SETTLEMENT BENEFITS

G. How can I get a cash payment?

To claim a cash payment as part of the Settlement, you must complete and submit the attached Claim Form online or by U.S. Mail within 45 days of the Claim Notice, that is by **[Claim**

Deadline]. You cannot submit your claim form by any other method. You can submit an electronic Claim Form online at [www.\[Settlement Website\].com](http://www.[Settlement Website].com) before 11:59 p.m. ET on [**Claim Deadline**]. If you choose to submit your Claim Form by U.S. Mail, it must be postmarked by [**Claim Deadline**] and must be received by the Settlement Administrator by [Claim Deadline + 14 days] to be eligible for payment. Claim Forms sent by U.S. Mail should be addressed to *Raymond v. Avectus Healthcare Solutions, LLC*, Settlement Administrator [address].

Please read the instructions on the Claim Form carefully. To be eligible, you must affirm on the Claim Form, under penalty of perjury: 1) that you were a patient at a Mercy Health facility in the State of Ohio between August 27, 2009, and August 31, 2023; (2) that you had health insurance through a plan accepted by Mercy Health and that you presented evidence of health insurance to Mercy Health in conjunction with your treatment; and (3) if true, that you thereafter paid, or were requested to pay, any amount of money for the treatment for covered services received at any Mercy Health operated facility, other than for co-pays and deductibles. The Claim Form you received as an attachment to this notice pertains to your category of claim, specifically, the Claim Form may provide for an award on account of being contacted by Mercy or Avectus but not responding thereto with a payment. Or, the Claim Form attached may provide for an Award for those qualifying Class Members identified through Mercy records as potentially having submitted a payment to Mercy. If you are in receipt of the latter Claim Form, you are required to affirm whether you or your attorney on your behalf made a payment to Mercy Health in conjunction with that treatment—other than a copay or deductible. Amounts paid by an insurance company, tortfeasor (e.g., the driver at fault in an auto accident), or other third party do not qualify.

H. When would I get my Settlement payment?

If you timely submit a valid Claim Form, you should receive a check from the Settlement Administrator by 90 days after the Settlement has received final approval and/or after any appeals have been resolved in favor of the Settlement. The Court will hold a hearing on _____ to decide whether to approve the Settlement. If the Court approves the Settlement, there may then be appeals. It is always uncertain how these appeals will be resolved, and resolving them can take time, perhaps more than a year after Court approval.

All checks will expire 90 days after they are issued.

THE LAWYERS REPRESENTING YOU

I. Who represents the Settlement Class?

The Court has appointed the following attorneys as Settlement Class Counsel to represent you and the rest of the Settlement Class Members in this case for purposes of the Settlement: Gary F. Franke and Michael D. O'Neill of Gary F. Franke Co., L.P.A. and C. David Ewing of Ewing & Willis, PLLC.

You will not be charged directly for these attorneys, but they will be compensated out of the Settlement Fund (see Question "F. What does the Settlement provide?"). If you want to be represented by your own lawyer, you may hire an attorney at your own cost.

In addition, the Court appointed Keith Raymond and Timothy Strunk to serve as the Class Representatives. They are also Settlement Class Members.

J. How will the lawyers be paid?

Settlement Class Counsel will ask the Court for an award of attorneys' fees, which will be paid out of the Settlement Fund (see Question "F. What does the Settlement provide?"). From the beginning of this case in August 2015, Settlement Class Counsel has not received any payment for the time they have spent litigating this case or obtaining the settlement.

They will ask the Court to approve payment of attorneys' fees and expenses in an amount the Court determines to be fair and reasonable but no greater than the amount remaining in the Settlement Fund after the payment of all claims to Settlement Class Members and all fees, costs, taxes, and other expenses related to the Settlement (including the costs of Settlement Administration) and in no event greater than \$3.2 million. Settlement Class Counsel will submit their fee request 14 days prior to the Final Approval Hearing that is by **[Deadline]**. Class Counsel's fee request will be posted on the Settlement Website. Avectus and Mercy Health will not object to Class Counsel's fee request so long as the fee award is determined by the Court. You may also comment on the amount Settlement Class Counsel requests (see Question "P. How do I provide the Court my comments on the Settlement?").

Settlement Class Counsel will also request service awards of \$25,000 to each of the two Class Representatives as compensation for their time and effort.

The Court will ultimately decide the amount to award. These payments, along with the costs of administering the Settlement, will be made out of the Settlement Fund.

YOUR RIGHTS AND OPTIONS

K. What am I giving up to get a cash payment or stay in the Settlement Class?

If the Court grants final approval to the Settlement, the Court will enter a final order and judgment and dismiss the case against Avectus and Mercy Health with prejudice. Claim Forms and payments under the Settlement will then be processed, and claims payments will be distributed. The release by the Settlement Class Members will also take effect.

Under the release, unless you exclude yourself from the Settlement Class, you cannot separately sue Mercy Health or Avectus or any of the Released Parties for the claims and issues in this case or any of the Released Claims. The Settlement Agreement contains the following release:

In exchange for the consideration and relief described in this Settlement Agreement, the Plaintiffs, Settlement Class Members, and/or his or her respective spouse, heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors and assigns and all those acting or purporting to act on their behalf agree to release, acquit, and forever discharge the Released Parties from all duties, obligations, demands, allegations, claims, actions, causes of action, suits, damages, rights or liabilities of any nature and description

whatsoever, whether arising under local, state or federal law, whether by Constitution, statute (including, but not limited to, the FDCPA¹, the OCSPA², the Healthcare Billing Statutes³, and any assertions of liability, debts, covenants, guarantees, projections, losses, endorsements, controversies, suits, actions, rights, legal duties, warranties, torts, unfair or deceptive practices, statutory violations, contracts, agreements, obligations, promises, promissory estoppel, detrimental reliance, or unjust enrichment), tort, contract, common law or equity or otherwise, whether known or unknown, concealed or hidden, suspected or unsuspected, anticipated or unanticipated, asserted or unasserted, foreseen or unforeseen, actual, fixed, contingent, or vested, liquidated or unliquidated, direct or indirect, matured or unmatured, individually or on behalf of or as part of any putative, proposed, or certified class or other aggregate proceeding, related to, arising out of, concerning or in connection with in any way, any and all alleged direct or indirect acts, omissions, representations, conducts, legal duties, unjust enrichment, trade practices, or obligations that arise out of, or are related or connected in any way with pricing, billing and payment practices of Mercy Health and/or Auctus and/or the Litigation. This release includes, but is not limited to, all claimed or unclaimed compensatory damages, actual damages, damages stemming from any allegations of willfulness or recklessness, damages for emotional distress, statutory damages, consequential damages, incidental damages, nominal damages, treble damages, punitive and exemplary damages, injunction, rescission, reformation, restitution, disgorgement, constructive trust, as well as all claims for equitable, declaratory or injunctive relief under any federal or state statute or common law or other theory that was alleged or could have been alleged in the Litigation, including but not limited to, any and all claims under deceptive or unfair practices statutes, or any other statute, regulation or judicial interpretation. This release also includes interest, costs, and fees arising out of any of the claims described above. Nothing in this Settlement Agreement shall be deemed a release of the Parties' respective rights and obligations under this Settlement Agreement. In addition, nothing in this Settlement Agreement shall be deemed a release of any medical malpractice or similar claim that any Settlement Class Member may have against Mercy Health.

(See Section 11.2 of the Settlement Agreement.)

As you can see, by staying in the settlement class, you are releasing—or giving up—any unknown claims. That means you are giving up claims against Auctus and Mercy Health which you might

¹ Defined as the Fair Debt Collections Practices Act and related administrative regulations.

² Defined as the Ohio Consumer Sales Practices Act, Ohio R.C. 1345.01, et seq. and related administrative regulations.

³ Defined as Ohio Rev. Code 1751.60, et seq., and related administrative regulations and similar statutes and regulations under the laws of other States or the United States.

have but do not know you have. Section 11.3 of the Settlement Agreement provides more detail on what this means.

The full Settlement Agreement is available at [www.\[Settlement Website\].com](http://www.[Settlement Website].com).

Unless you exclude yourself from the Settlement Class, you will be bound by the Settlement Agreement and any decisions by the Court relating to the Settlement. If you do not wish to be a Settlement Class Member, you must exclude yourself from the Settlement Class.

If the Court does not approve the Settlement, the case will proceed as though no settlement had been attempted. If the Settlement is not approved, there is no assurance that a class would receive a greater recovery than provided for in the Settlement (if anything).

L. What if I do nothing?

If you do nothing, you will not receive a payment under the Settlement, and you will release all claims you may have against Mercy Health, Avectus, and the Released Parties concerning the conduct alleged in this case. (See Question “N. If I do not exclude myself, can I sue Avectus and Mercy Health for the same thing later?”)

M. How do I exclude myself from the Settlement?

If you do not want to be part of the Settlement Class, you must take steps to exclude yourself from, or opt out of, the Settlement Class. (Excluding yourself or opting out of the Settlement Class are the same thing.) If you do this, you cannot submit a Claim Form and will not get a Settlement payment, but you will also not release any claims you have. If you exclude yourself, you also will not be bound by any orders or judgments issued in this case, and if you choose to do so, you can pursue whatever legal rights you may have in a separate proceeding, but you will do so at your own expense.

To exclude yourself from the Settlement Class, you must send a written request to the Settlement Administrator with the notification: “Exclusion Requests—*Avectus and Mercy Health* Settlement Administrator.” The written request must also contain your name, your original signature, current postal address and telephone number, and a specific statement that you want to be excluded from the Settlement Class. It will be sufficient to state, along with the other required information, that “I wish to opt out of the settlement” or “I wish to be excluded from the settlement.” You must mail your exclusion Request so that it is postmarked no later than [OPT OUT DEADLINE], to:

Exclusion Requests – *Avectus and Mercy Health* Settlement Administrator
[SETTLEMENT ADMINISTRATOR]

You cannot exclude yourself by phone or by e-mail. You also cannot exclude yourself by mailing a request to any other location or after the deadline. You cannot exclude others or be excluded as part of a group or class consisting of more than one patient.

REQUESTS FOR EXCLUSION THAT ARE NOT POSTMARKED ON OR BEFORE [OPT OUT DEADLINE] WILL BE INVALID AND WILL NOT BE HONORED.

N. If I don't exclude myself, can I sue Avectus and Mercy Health for the same thing later?

No. If you do not exclude yourself, you give up or waive the right to sue Mercy Health, Avectus, and the Released Parties for the claims being resolved by this Settlement. (See Question "K. What am I giving up to get a benefit cash payment or stay in the Settlement Class?")

O. If I exclude myself, can I participate in the Settlement?

No. If you exclude yourself from the Settlement Class, you cannot participate in the Settlement, you will not be eligible to receive a payment pursuant to the Settlement, and you will not be able to object to the Settlement.

P. How do I provide the Court my comments on the Settlement?

If you do not exclude yourself from the Settlement Class, you can provide the Court comments on the Settlement if you like or do not like any part of the Settlement. The Court and Settlement Class Counsel will consider your views carefully. To comment—which is entirely optional—you must file with the Court a notice of your intention to comment (which shall set forth each comment and the basis therefor). Any comments must be in writing and include: (1) the name of this lawsuit, *Raymond v. Avectus Healthcare Solutions, LLC*, Case No. 1:15-cv-00559; (2) whether you or any attorney acting on your behalf intend to appear at the Fairness Hearing; and (3) a signed verification of membership in the Settlement Class. These materials must be filed with Court and served upon Settlement Class Counsel and Defense Counsel by first class mail postage prepaid, CM/ECF Notification, or any other form of service upon counsel of record permitted by Rule 5(b)(2) of the Federal Rules of Civil Procedure. Comments on the Settlement must be filed and served no later than [OBJECTION DEADLINE]. Comments on Settlement Class Counsel's request for attorneys' fees must be filed and served by [date 7 days after the filing of the motion for fees]

For your convenience, the following addresses may be used for filing and serving any comments:

<p><u>COURT</u> Clerk of the Court United States District Court Potter Stewart U.S. Courthouse, Room 103 100 East Fifth Street Cincinnati, OH 45202</p>	<p><u>CLASS COUNSEL</u> GARY F. FRANKE CO., LPA Gary F. Franke 201 East Fifth Street Suite 910 Cincinnati, OH 45202</p>
<p><u>COUNSEL FOR MERCY HEALTH</u> ICE MILLER LLP Kris Dawley, Esq. Arena District 250 West Street Suite 700 Columbus, OH 43215</p>	<p><u>COUNSEL FOR AVECTUS</u> TAFT STETTINIUS & HOLLISTER LLP Ronald D. Holman, II 200 Public Square, Suite 3500 Cleveland, OH 44114</p>

If you, or an attorney acting on your behalf, would like to appear and address the court on the subject of your comments, you must indicate in your written comments that you intend to appear at the Fairness Hearing. If an attorney will be appearing on your behalf, the attorney must file with the Clerk of the Court a written Notice of Appearance of Counsel by [date set in preliminary approval order] and include in the notice the full caption and case number of each previous class action in which that attorney has represented an objector. (See Questions “R. When and where will the Court decide whether to approve the Settlement?,” “S. Do I have to come to the Fairness Hearing?,” and “T. May I speak at the hearing?” for more details.)

Q. What’s the difference between commenting and excluding myself?

Commenting is telling the Court what your views are on all or part of the Settlement. The Court will consider your comments only if you remain in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you have no basis to comment on this Settlement because the case no longer affects you and, if you submit a comment, the Court will not consider it.

THE COURT’S FAIRNESS HEARING

R. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing on _____, at ____, in Courtroom ____ of the United States District Court for the Southern District of Ohio, Potter Stewart U.S. Court House, 100 East Fifth Street, Cincinnati, Ohio 45202. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and in the best interests of the Settlement Class Members. If there are objections, the Court will consider them. The Court will listen to people who have submitted timely requests to speak at the hearing. The Court may also decide the amount that Settlement Class Counsel and Class Representatives shall be paid. After the hearing, the Court will decide whether to finally approve the settlement.

S. Do I have to come to the Fairness Hearing?

No. Settlement Class Counsel will answer questions the Court may have. But you are welcome to come at your own expense. If you send an objection or comment, you do not have to come to Court to talk about it. (See Question “P. How do I provide the Court my comments on the Settlement?”) As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

T. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must file and serve a written comment by [objection deadline] and include in your comment a statement that you intend to appear at the Fairness Hearing. (See Question “P. How do I provide the Court my comments on the Settlement?”) Any lawyer who intends to appear on your behalf at the Fairness Hearing must file a written Notice of Appearance of Counsel with the Clerk of the Court by _____ and must include the full caption and case number of each previous class-action case

in which that counsel has represented an objector. You cannot speak at the hearing if you have excluded yourself.

INFORMATION ABOUT THE SUIT AND SETTLEMENT

U. Where can I get more information?

You can visit the Settlement Website at [www.\[Settlement Website\].com](http://www.[Settlement Website].com). If you have questions about the case, you can call Settlement Class Counsel at (513) 564-9222 , or write to the Settlement Class Counsel, Gary F. Franke, Esq., Gary F. Franke Co., L.P.A., 201 East Fifth Street, Suite 910, Cincinnati, OH 45202.

PLEASE DO NOT CALL THE COURT, THE CLERK, OR THE DEFENDANTS REGARDING THIS SETTLEMENT.

EXHIBIT C

MERCY HEALTH / AVECTUS SETTLEMENT REQUEST ONLY CLAIM FORM

If you (a) received treatment at a Mercy Health facility in Ohio between August 27, 2009, and August 31, 2023; (b) in conjunction with that treatment, presented evidence to Mercy Health of health insurance through a plan accepted by Mercy Health; and (c) thereafter were requested to pay to Mercy Health any amount of money for treatment received for services covered by your health insurance plan, other than for copays and deductibles, if any, and you have not previously released all claims as to Mercy Health and Avectus, then as a result of a Settlement with Mercy Health and Avectus you are eligible to receive a cash payment of up to \$25.

To receive a payment, you must submit this Claim Form. The deadline to file completed Claim Forms online is 11:59 P.M. Eastern Time on [Claim Deadline]. All Claim Forms submitted by U.S. Mail must be postmarked by [Claim Deadline].

The amount of the payment will be determined based on a formula contained in the Settlement Agreement. Additional information regarding the formula and the Settlement can be found at [Settlement Website].

Only patients who presented evidence of insurance to Mercy Health through a plan accepted by Mercy Health and then paid, or were requested to pay, money to Mercy Health for services covered by your health insurance plan, other than for copays and deductibles, are eligible to receive payment, and only one claim may be submitted per individual.

Completed Claim Forms must be submitted either online at [Settlement Website] or by U.S. Mail. If submitting a Claim Form by U.S. Mail, it must be mailed to the following address:

Claim Administrator
[Address]

If you submit a Claim Form online, it must be submitted by 11:59 P.M.ET on [Deadline Date]. If you submit a Claim Form by U.S. Mail, it must be postmarked on or before [Deadline Date]. Claim Forms submitted online *after* [Deadline Date] or postmarked *after* [Deadline Date] will not be eligible for payment under the Settlement. In addition, Claim Forms sent by U.S. Mail must be received by the Settlement Administrator by [Deadline Date + 14 days] to be eligible for payment under the Settlement.

Please Complete Each Section On The Following Page In The Space Provided. Incomplete Claim Forms Will Be Ineligible For A Payment.

SECTION I: CONTACT INFORMATION

Name (First/Last)	
Name at time of treatment	
Street Address	
City, State, Zip Code	
Phone Number (primary)	
Current E-mail Address	
Mercy Account Number (if known)	

I understand that the parties to the lawsuit have the right to audit my claim and may contact me at the address, phone number, or e-mail address I have provided to do so.

SECTION II: CERTIFICATION OF TREATMENT

By submitting this Claim Form, I hereby certify and affirm, under penalty of perjury, that I: (a) received treatment at a Mercy Health facility in Ohio between August 27, 2009, and August 31, 2023; (b) in conjunction with that treatment, presented evidence to Mercy Health of health insurance through a plan accepted by Mercy Health; and (c) thereafter paid, or was requested to pay, to Mercy Health any amount of money for the treatment received for covered services, other than for copays and deductibles. I understand that only one claim may be submitted per individual.

Date(s) of Treatment	Location of Treatment

SECTION III: SIGNATURE

Date: ____ / ____ / ____ Signature _____

EXHIBIT D

MERCY HEALTH / AVECTUS SETTLEMENT CLAIM FORM

If you (a) received treatment at a Mercy Health facility in Ohio between August 27, 2009, and August 31, 2023; (b) in conjunction with that treatment, presented evidence to Mercy Health of health insurance through a plan accepted by Mercy Health; and (c) thereafter paid, or were requested to pay, to Mercy Health any amount of money for treatment received for services covered by your health insurance plan, other than for copays and deductibles, if any, and you have not previously released all claims as to Mercy Health and Avectus, then as a result of a Settlement with Mercy Health and Avectus you are eligible to receive a cash payment of up to \$25 plus up to 50% of any payment you made or an attorney made on your behalf to Mercy Health for covered services, other than for copays and deductibles.

To receive a payment, you must submit this Claim Form. The deadline to file completed Claim Forms online is 11:59 P.M. Eastern Time on [Claim Deadline]. All Claim Forms submitted by U.S. Mail must be postmarked by [Claim Deadline].

The amount of the payment will be determined based on a formula contained in the Settlement Agreement. Additional information regarding the formula and the Settlement can be found at [Settlement Website].

Only patients who presented evidence of insurance to Mercy Health through a plan accepted by Mercy Health and then paid, or were requested to pay, money to Mercy Health for services covered by your health insurance plan, other than for copays and deductibles, are eligible to receive payment, and only one claim may be submitted per individual.

Completed Claim Forms must be submitted either online at [Settlement Website] or by U.S. Mail. If submitting a Claim Form by U.S. Mail, it must be mailed to the following address:

Claim Administrator
[Address]

If you submit a Claim Form online, it must be submitted by 11:59 P.M.ET on [Deadline Date]. If you submit a Claim Form by U.S. Mail, it must be postmarked on or before [Deadline Date]. Claim Forms submitted online *after* [Deadline Date] or postmarked *after* [Deadline Date] will not be eligible for payment under the Settlement. In addition, Claim Forms sent by U.S. Mail must be received by the Settlement Administrator by [Deadline Date + 14 days] to be eligible for payment under the Settlement.

Please Complete Each Section On The Following Page In The Space Provided. Incomplete Claim Forms Will Be Ineligible For A Payment.

SECTION I: CONTACT INFORMATION

Name (First/Last)	
Name at time of treatment	
Street Address	
City, State, Zip Code	
Phone Number (primary)	
Current E-mail Address	
Mercy Account Number (if known)	

I understand that the parties to the lawsuit have the right to audit my claim and may contact me at the address, phone number, or e-mail address I have provided to do so.

SECTION II: CERTIFICATION OF TREATMENT

By submitting this Claim Form, I hereby certify and affirm, under penalty of perjury, that: (a) I received treatment at a Mercy Health facility in Ohio between August 27, 2009, and August 31, 2023; (b) in conjunction with that treatment, I presented evidence to Mercy Health of health insurance through a plan accepted by Mercy Health; and (c) thereafter I, or an attorney on my behalf, made a payment, other than for a copay or deductible, to Mercy Health for covered services (a “Medical Bill Payment”). I understand that a Medical Bill Payment does not include any payment made by an insurance company, tortfeasor (e.g., the driver at fault in an auto accident), or other third party. I also understand that only one claim may be submitted per individual.

I or an attorney on my behalf made a Medical Bill Payment to Mercy Health.

Date(s) of Treatment	Location of Treatment

SECTION III: SIGNATURE

Date: ____ / ____ / ____ Signature _____

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

KEITH RAYMOND, et al.,)	CASE NO. 1:15-CV-00559-MRB
)	
Plaintiffs,)	Judge Michael R. Barrett
)	
v.)	
AVECTUS HEALTHCARE)	
SOLUTIONS, LLC, et al.)	
)	
Defendants.)	

**ORDER GRANTING PRELIMINARY APPROVAL OF THE SETTLEMENT,
CERTIFICATION OF A SETTLEMENT CLASS, APPOINTMENT OF LEAD CLASS
COUNSEL AND APPOINTMENT OF SETTLEMENT ADMINISTRATOR**

This matter comes before the Court on the Parties' Joint Motion for Preliminary Approval of Settlement Agreement, Certification of a Settlement Class, Appointment of Lead Class Counsel and Appointment of Settlement Administrator. The Court has reviewed the Motion and the Class Action Settlement Agreement and Release dated October 31, 2023, entered into among Plaintiffs Keith Raymond and Timothy Strunk and Defendants Avectus Healthcare Solutions, LLC and Mercy Health ("Defendants") and finds that the Motion should be GRANTED.

NOW, THEREFORE, the Court hereby **FINDS, CONCLUDES, AND ORDERS:**

1. The Court does hereby preliminarily and conditionally approve, for settlement purposes, the following Settlement Class and Mercy Only Settlement Subclass:

“Settlement Class” means all health insured persons, with a health insurance plan accepted by Mercy Health: (1) who were patients at any Mercy Health facility in the State of Ohio between August 27, 2009, and August 31, 2023; (2) who presented evidence of health insurance to Mercy Health; and (3) who thereafter paid, or were requested to pay, any amount of money for the treatment received at any Mercy Health operated facility, other than for co-pays and deductibles.

“Mercy Only Settlement Subclass” means all health insured persons, with a health insurance plan accepted by Mercy Health: (1) who were patients at any Mercy Health facility in the State of Ohio between August 27, 2009, and August 31, 2023; (2) who presented evidence of health insurance to Mercy Health; and (3) who thereafter paid, or were requested to pay, any amount of money for the treatment received at any Mercy Health operated facility, other than for co-pays and deductibles; and (4) who were not contacted by Avectus on Mercy Health’s behalf.

2. Based upon information provided: the class is ascertainable; it numbers in the thousands, satisfying numerosity; there are common questions of law and fact, including whether the billing practices of Defendants were proper, satisfying

commonality; and the proposed Class Representatives' claims are typical, in that they are members of the Class, they allege the same damage by the same conduct as other members of the Class. The proposed Class Representatives and Class Counsel can fully, fairly and adequately protect the interests of the Class. Questions of law and fact common to members of the Class predominate over questions affecting only individual members. A class action for settlement purposes is superior to other available methods for the fair and efficient adjudication of this controversy.

3. The Court appoints Plaintiffs Keith Raymond and Timothy Strunk as Class Representatives.

4. The Court appoints Gary F. Franke and Michael D. O'Neill of GARY F. FRANKE CO., L.P.A., and C. David Ewing of EWING & WILLIS as Class Counsel for the Class.

5. The Court appoints Atticus Administration LLC as Settlement Administrator and approves the proposed class notices and claim forms submitted with the Motion for Preliminary Approval.

6. The Court does hereby preliminarily approve the Settlement as being fair, reasonable, and adequate as to the Class Members, subject to further consideration at the Fairness Hearing described below.

7. A hearing (the "Fairness Hearing") shall be held before the Court on _____ at _____ a.m./p.m. at Potter Stewart U.S. Courthouse, 100 East Fifth Street, Cincinnati, Ohio for the following purposes:

a. To determine whether the proposed Settlement on the terms and conditions provided for by the Agreement is fair, reasonable, and adequate and should be approved by the Court;

b. To determine whether a Final Approval Order, as defined in the Agreement, should be entered;

c. To determine whether Plaintiffs' application for attorneys' fees and reimbursement of expenses, and requested Incentive Awards for the Class Representatives, should be approved; and

d. To rule upon such other matters as the Court may deem appropriate.

8. All Class Members shall be bound by all determinations and judgments in the class action concerning the Settlement, including, but not limited to, the releases provided for in the Agreement, whether favorable or unfavorable.

9. Pending final determination of whether the Agreement should be approved, Class Counsel, Plaintiffs and Class Members are barred and enjoined from commencing or prosecuting any action that contains or asserts any Released Claims against Defendants.

10. All papers in support of the Settlement, and Class Counsel's Fee Application and request for expenses and Service Awards, shall be filed with the Court no later than 14 days prior to the scheduled Fairness Hearing.

11. Any Class Member may appear and show cause, if that Class Member has any reason why the proposed Settlement should not be approved as fair, reasonable, and adequate, or why Class Counsel's application for an award of attorneys' fees and for reimbursement of expenses should not be granted; provided,

however, that no person shall be heard or entitled to contest such matters unless that person has delivered by hand or sent by first-class mail, sufficient written objections and copies of all papers and briefs any such person wishes to submit in support of any such objection, delivered or post-marked no later than 45 days following Notice to each of the following:

OFFICE OF THE CLERK
Potter Stewart U.S. Courthouse
Room 103
100 East Fifth Street
Cincinnati, Ohio 45202

GARY F. FRANKE CO., L.P.A.
Gary F. Franke, Esq.
201 East Fifth Street, Suite 910
Cincinnati, Ohio 45202
Class Counsel

TAFT, STETTINIUS & HOLLISTER LLP
Ronald D. Holman, Esq.
200 Public Square, Ste. 3500
Cleveland, Ohio 45202
Counsel for Defendant, Aevectus Healthcare Solutions, LLC

ICE MILLER LLP
Kris M. Dawley, Esq.
250 West Street
Columbus, Ohio 43215
Counsel for Defendant, Mercy Health

12. Any person who fails to make his, her, or its objection in the manner provided in this Order shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement as set forth in the Agreement, unless otherwise ordered by the Court. Any

papers in response to any such objections or in further support of the above-named motions shall be filed no later than _____.

13. This Order, the Agreement, and the Settlement, and any of their terms, and all negotiations, discussions, and proceedings in connection with this Order, the Agreement, and the Settlement, shall not constitute evidence, or an admission by Defendants that any of the alleged acts of wrongdoing have been committed and shall not be deemed to create any inference that there is any liability on the part of Defendants. This Order, the Agreement, and the Settlement, and any of their terms, and all negotiations, discussions and proceedings in connection with this Order, the Agreement and the Settlement shall not be offered or received in evidence or used for any purpose in this or any other proceeding in any court, administrative agency, arbitration tribunal, or other forum of any kind or character in the United States or any other country except as necessary to enforce the terms of this Order or the Settlement. Notwithstanding the foregoing, the Agreement and the Settlement may be admitted and considered as evidence in an action to determine insurance coverage or the apportionment of the Settlement Fund to claims asserted in this litigation.

14. The Court reserves the right to adjourn the date of the Fairness Hearing without further notice to the Class Members and retains jurisdiction to consider all further applications or matters arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modifications as may be agreed to by the Plaintiffs and Defendants, if appropriate, without further notice to the Class.

Per Fed. R. Civ. P. 23, *et seq.*, the Joint Motion for Preliminary Approval of Settlement Agreement, Certification of a Tentative Settlement Class, Appointment of Lead Class Counsel and Appointment of Settlement Administrator is hereby **GRANTED**.

IT IS SO ORDERED.

Judge Michael R. Barrett
United States District Court Judge