

**IN THE STATE COURT OF CHATHAM COUNTY  
STATE OF GEORGIA**

NICOLE M. COHEN, M.D., and  
CHADWICK E. HUGGINS, M.D., on behalf  
of themselves and all others similarly situated,

Plaintiffs

v.

SMHA HEALTHCARE, INC. f/k/a  
MEMORIAL HEALTH, INC.; SMHA  
VENTURES, INC. f/k/a MPPG, INC.;  
SMHA HEALTHCARE CENTER, INC. f/k/a  
MEMORIAL HEALTH UNIVERSITY  
MEDICAL CENTER,) INC., SMHA  
CARDIOVASCULAR, LLC f/k/a  
MEMORIAL CARDIOVASCULAR  
CONSULTANTS, LLC, AND SMHA  
CARDIOLOGY, INC. f/k/a MEMORIAL  
SAVANNAH CARDIOLOGY INC.,

Defendants.

CIVIL ACTION NO.

STCV1801613

Civil Action No. STCV1801613

JURY TRIAL DEMANDED

**ORDER PRELIMINARILY APPROVING  
SETTLEMENT AND NOTICE TO THE CLASS**

This 10th of July, 2023, upon consideration of Plaintiffs' Consent Motion to Grant Preliminary Approval of Class Settlement and Provide for Notice, **IT IS ORDERED** as follows:

1. The motion is **GRANTED** and this Court grants preliminary approval of the proposed Settlement. The Court finds that the proposed Settlement and the included proposed distribution plan are fair, reasonable, and adequate. Accordingly, notice thereof should be given to the Class.

2. For purposes of this settlement, the Parties have expressly waived any further procedure regarding discovery under O.C.G.A. § 9-11-23, including a hearing date for class discovery, the need for additional class discovery, and a hearing on the issue of class certification. The parties have also consented to the certification of the Settlement Class as described below.

The Settlement Class (consisting of two subclasses) defined as follows is **HEREBY CERTIFIED**:

MPPG Subclass:

The MPPG subclass is defined as comprising the individuals listed under “The MPPG Subclass” in Attachment A.

Cardiologist Subclass

The cardiology subclass is defined as comprising the physicians listed under “The Cardiologist Subclass” in Attachment A.

3. The Court agrees that the lawyers for the Class and the proposed class representatives can adequately represent the interests of the Class. The lawyers for the Class are:

Jeffrey R. Harris  
Jed Manton  
Yvonne S. Godfrey  
**Harris Lowry Manton LLP**  
401 East Broughton Street  
Savannah, GA 31401

Michael B. Terry  
Jason J. Carter  
Patrick C. Fagan  
Naveen Ramachandrapa  
Jane D. Vincent  
Allen E. Page  
**Bondurant, Mixson & Elmore, LLP**  
1201 W. Peachtree St., N.W., Suite 3900  
Atlanta, GA 30309-3417

4. This Court will hold a hearing on final approval of the settlement on **Wednesday, November 15, 2023 at 10 a.m.** This hearing may, if necessary, be conducted remotely and/or held at a different time or location without further formal notice to Class Members. Class Members

should check the settlement website at [www.mppgclassaction.com](http://www.mppgclassaction.com) for further information regarding the time, date, location and format of the hearing.

5. The Court concludes that the form and substance of the proposed notice to the Settlement Class (“Notice”) and the mailing notice pursuant to the Settlement Agreement constitutes the best notice practicable under the circumstances and **APPROVES** the proposed Notice.

6. Class Members who wish to exclude themselves from the Settlement Class and this Settlement must do so in writing by submitting to the Administrator at the address listed in the Notice, a written, signed, and dated statement that he or she is opting out of the Class and understands that he or she will receive no money from the Settlement of this Action. To be effective, this opt-out statement (i) must be received by the Administrator by the Opt Out Deadline set forth in the Settlement Notice approved by the Court, (ii) include the Class Member’s name and last four digits of their social security number, and (iii) must be personally signed and dated by the Class Member. The Administrator will, within ten (10) calendar days of receiving any opt-out statement, provide counsel for the Parties with a copy of the opt out statement. The Administrator will, at least seven (7) calendar days before the Final Approval Hearing, file copies of all opt-out statements with the Court. The Settlement Class will not include any individuals who send timely and valid opt-out statements, and individuals who opt out are not entitled to any monetary award under this Settlement.

7. American Legal Claims, LLC, is **APPOINTED** as Settlement Administrator, and shall be responsible for providing notice of the preliminarily approved Settlement in accordance with the provisions of the Settlement Agreement and this Order. The Class has provided information to the Court showing that American Legal Claims is a disinterested third party and has extensive

experience as a settlement administrator in significant class actions both across the Country and here in Georgia.

8. The Notice shall be mailed by the Settlement Administrator to all Class Members, by first-class mail, postage prepaid, **within twenty days** of the date of this Order. The Notice shall be sent to all Class Members at their last known addresses, with address updating and verification to be performed by the Settlement Administrator in accordance with the Settlement Agreement. **No later than seven days** prior to the Final Approval Hearing, the Settlement Administrator shall file with the Court proof of mailing of the Notice to all Class Members.

9. Class Members shall file with the Clerk any objections to the settlement **within sixty (60) days** of the date the Notice is mailed. A Class Member who submits an objection must submit a written objection that includes: the objector's name and address, the basis for the objection, all arguments and authority supporting the objection, and any evidence supporting the objection. The objection shall also state whether the Class Member is represented by an attorney, and if so, the attorney's name. If represented by counsel, the attorney for the objector shall disclose:

a) The number of times in which the objector's counsel and the counsel's law firm have objected to a class action settlement within the five years preceding the date that the objector files the objection, the caption of each case in which the counsel or the firm has made such objection, and a copy of any orders related to or ruling upon counsel's or the firm's prior objections that were issued by the trial and appellate courts in each case;

b) If the objector is represented by an attorney who intends to seek fees and expenses from anyone other than the objectors he or she represents, the objection should also include (i) a description of the attorney's legal background and prior experience in

connection with class action litigation; (ii) the amount of fees sought by the attorney for representing the objector and the factual and legal justification for the fees being sought; (iii) a statement regarding whether the fees being sought are calculated on the basis of a lodestar, contingency, or other method; (iv) the number of hours already spent by the attorney and an estimate of the hours to be spent in the future; and (v) the attorney's hourly rate;

c) Any and all agreements that relate to the objection or the process of objecting, whether written or verbal, between objector or objector's counsel and any other person or entity; and

d) A description of all evidence to be presented at the Final Approval Hearing in support of the objection, including a list of any witnesses, a summary of the expected testimony from each witness, and a copy of any documents or other non-oral material to be presented.

An objection will be deemed submitted and will be considered by the Court only if it is filed with the Court by the Objection Deadline set forth in the Settlement Notice. It is the responsibility of the objector to ensure proper filing so as to make certain that the objection is timely received by the Court.

The objecting Class Member must also provide a statement whether the objector intends to appear at the Settlement Hearing, either with or without counsel. If the objector intends to appear at the Settlement Hearing through counsel, his/her/its counsel must file a notice of appearance with the Court no later **than fifteen (15) days** after the objection deadline and shall cooperate fully in setting a prompt deposition if requested.

10. **No later than fifteen (15) days after the objection deadline, or fifteen (15) days before the Final Hearing**, whichever is later, Class Counsel shall file their written submission in support of the Settlement Agreement, which shall include a response to any class member objections that are received, and shall file their application for attorneys' fees and reimbursement of costs and expenses and shall promptly post their application at [www.mppgclassaction.com](http://www.mppgclassaction.com).

11. Any Class Member may appear at the Final Approval Hearing, in person or through counsel, and be heard to the extent allowed by the Court in opposition to the fairness, reasonableness, and adequacy of the Settlement, the proposed distribution plan, and the application for an award of attorneys' fees, costs, and expenses to Class Counsel.

12. The Court reserves the right to adjourn and/or reschedule the Final Approval Hearing without further notice of any kind to Class Members. Therefore, any Class Member intending to attend the Final Approval Hearing should, in addition to complying with all instructions and requirements above, confirm the date, time, and location of the Final Approval Hearing with Class Counsel. Any order or notice of scheduling changes shall be promptly posted at [www.mppgclassaction.com](http://www.mppgclassaction.com).

13. If this Court grants approval of the Settlement, all Class Members shall be bound by all the provisions of the Settlement, Settlement Agreement, distribution plan, and all determinations and judgments in this case, including the Final Order and Judgment dismissing this case with prejudice, and the Released Claims of all Class Members shall be barred as of the entry of judgment.

14. Pending the final determination of whether the Settlement should be approved, all proceedings and discovery in this case are **STAYED**, except as specifically provided for in this Order. If the Settlement is terminated, the Settlement is not finally approved by this Court, or the

Effective Date does not occur for any reason, the stay of this case shall be lifted.

SO ORDERED, this the 10th day of July, 2023.

BY THE COURT:



Chief Judge Gregory V. Sapp

Prepared By:

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