

CASE NO. 2020-CI-18623

KENNETH KESLAR II, individually and  
on behalf of all others similarly situated,  
Plaintiff,

v.

EMERUS / BHS SA THOUSAND OAKS,  
LLC d/b/a BAPTIST EMERGENCY  
HOSPITAL - SHAVANO PARK,  
EMERUS HOSPITAL PARTNERS, LLC,  
and EMERUS HOLDINGS INC.,  
Defendants.

IN THE DISTRICT COURT

73<sup>rd</sup> JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT<sup>1</sup>**

**(This is a court-ordered notice. You are not being sued. This is not a solicitation from a lawyer.)**

**YOU MAY BE ELIGIBLE TO HAVE YOUR LABORATORY PANEL BILL REDUCED, REFUNDED, OR BALANCE FORGIVEN IN A CLASS ACTION SETTLEMENT.**

This Notice tells you about a proposed “Settlement” in a case against Baptist Neighborhood Hospital (“BNH”) (previously known as Baptist Emergency Hospital) and the related Emerus entities listed below.

The Settlement has not yet been approved by the Court. If it is approved, you may qualify:

- to have money refunded to you, or
- the amount you owe BNH forgiven or written off, in whole or in part.

To get a refund, you must send in a Claim Form by September 18, 2023. You do not have to submit a claim form or do anything else to get a debt relating to the laboratory panels forgiven.

Please read further for more information on the Settlement and how to get benefits under the Settlement:

**Your legal rights will be affected by the Settlement whether you file a claim or do nothing. Please read this Notice carefully for more information about your options and rights.**

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<sup>1</sup> This Notice incorporates, by reference, the definitions in the Stipulation of Settlement dated January 27, 2023 (the “Settlement Agreement”), available on this Website: [www.BaptistEmergencyHospitalSettlement.com](http://www.BaptistEmergencyHospitalSettlement.com). All capitalized terms used, but not defined herein, shall have the same meaning as in the Settlement Agreement.

## YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

YOU MAY		DUE DATE
<b>SUBMIT A CLAIM FORM</b>	You must submit a Claim Form, either by mail or online, pursuant to the instructions below, to be considered for a refund under the Settlement. If you submit a Claim Form, the Settlement Administrator – RG/2 Claims Administration LLC - will determine if you are entitled to a Refund under the Settlement.	<b>BY: September 18, 2023</b>
<b>OBJECT TO THE SETTLEMENT</b>	If you do not like the proposed Settlement or anything related to it discussed below, you may write to the Court and explain why. Even if you object to the Settlement, you can still submit a Claim Form as long as you do not opt out.	<b>BY: April 24, 2023</b>
<b>OPT OUT OF THE SETTLEMENT</b>	If you exclude yourself ( <i>i.e.</i> “opt out”) from this Settlement, you will not get any of the benefits of the Settlement ( <i>i.e.</i> , no refund or forgiveness of your balance). But you will retain the right to sue Defendants on your own, at your own expense, relating to their billing practices during the Class Period.	<b>BY: April 24, 2023</b>
<b>DO NOTHING</b>	If you do nothing, you will not get any refund from the Settlement, BUT you will be considered for forgiveness of your balance, if eligible. Should you do nothing, you will also give up all your rights to sue Defendants on your own about the legal issues in this case.	<b>N/A</b>

If you have any questions about this Notice or the Settlement, you may:

- Call RG/2 Claims Administration at 1-866-742-4955 or call the lawyers who brought this lawsuit on behalf of you and others like you (called "Class Counsel") at 212-759-4600 or
- Email the RG/2 Claims Administration at [BaptistEmergencyHospitalSettlement@rg2claims.com](mailto:BaptistEmergencyHospitalSettlement@rg2claims.com) or the Class Counsel at [outreach@wolfpopper.com](mailto:outreach@wolfpopper.com).

### 1. What are laboratory panels?

A laboratory panel is a group of blood tests that are requested with a single testing order and completed with a single patient specimen, for example, a basic metabolic panel or a liver function panel. In other words, it is a test wherein a medical professional takes blood from you and that

blood is analyzed using different tests for different things like blood sugar, potassium, sodium and chloride levels, among others. Often, laboratory panels can be billed using a single code, known as the Current Procedure Terminology (“CPT”) code. When billed using a single CPT code, a laboratory panel may be less expensive than if each test in the panel were billed separately.

## 2. What are the BMP (includes CK) and LFT (includes Amylase) laboratory panels?

The BMP (includes CK) panel is a basic metabolic panel that comprises 8 separate tests on a single blood specimen offered at the BNH facilities that does not have a single billing code, meaning that each of the 8 tests are billed separately. It is slightly different from, and can be more expensive than, a basic metabolic panel that has a single billing code for the entire group of tests.<sup>2</sup>

The LFT (includes Amylase) panel is a liver function panel offered at the BNH facilities that is comprised of 8 separate tests on a single blood specimen, each of which is billed separately. It is slightly different from, and can be more expensive than, a liver function panel that has a single billing code for the entire group of tests.<sup>3</sup>

## 3. What is this lawsuit about?

This class action lawsuit alleges that Defendants deceptively unbundled laboratory panels by charging for them as separate tests rather than as a single panel of tests.

This lawsuit was brought by Kenneth Keslar II (the “**Plaintiff**”) against Emerus / BHS SA Thousand Oaks LLC d/b/a Baptist Emergency Hospital – Shavano Park, Emerus Hospital Partners LLC, and Emerus Holdings, Inc. (the “**Defendants**”) for alleged violations of the Texas Deceptive Trade Practices Act (“DTPA”) (§§17.46(b)(24) and 17.50(a)(3)), and the common law. Plaintiff alleges that Defendants provided insufficient disclosures regarding the cost of two in-house laboratory panels, namely, the BMP (includes CK) and LFT (includes Amylase) (“**Current Panels**”) and the manner in which they billed for these panels, which led to Plaintiff and other patients paying more for laboratory panels than was standard.

Plaintiff alleges that Defendants failed to disclose to patients that they were using a type of metabolic or liver function panel that could not be billed as a ‘panel’ using a single billing code, making it more expensive than a similar panel that could be billed using a single CPT code.

Plaintiff filed his class action petition (“**Petition**”) on September 25, 2020 and subsequently filed an amended petition (“**Amended Petition**”) on December 30, 2020.

The name of the case is *Keslar v. Emerus/BHS SA Thousand Oaks, LLC*, Cause No. 2020-CI-18623 (the “**Action**”) and the court in charge of the case is the Texas State Court, Bexar County, 73rd Judicial District. The Action is overseen by Honorable Judge David A. Canales.

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<sup>2</sup> The BMP (includes CK) panel comprises the following group of tests: (1) carbon dioxide (bicarbonate); (2) chloride; (3) creatinine; (4) glucose; (5) potassium; (6) sodium; (7) urea nitrogen (BUN); and (8) creatine kinase (ck). The standard basic metabolic panel that is billed at a single CPT code has 7 out of 8 of the same tests as the BMP (includes CK) panel, but as for the 8<sup>th</sup> test it does not contain the creatine kinase test, but rather includes a calcium test.

<sup>3</sup> The LFT (includes Amylase) panel comprises the following group of tests: (1) albumin; (2) bilirubin, total; (3) phosphatase, alkaline; (4) protein, total; (5) transferase, alanine amino (ALT) (SGPT); (6) transferase, aspartate amino (AST) (SGOT); (7) glutamyltransferase, gamma (GGT); and (8) amylase. The standard liver function panel with a single CPT code contains the same group of tests, with the exception that it does not include the GGT and Amylase tests, but includes a bilirubin (direct) test.

Defendants have expressly denied and continue to deny all allegations of wrongdoing, negligence, fault, or liability, and assert that their actions have been lawful and proper in all respects and in compliance with all applicable legal duties.

#### 4. Why is there a Settlement?

The Court has not decided in favor of either Plaintiff or Defendants. Both sides believe they would win if there were a trial in this case, but it might take a long time to resolve the case. In order to avoid the risks and cost of lengthy and uncertain litigation, trial, and appeals, the parties for both sides have negotiated a Settlement that they believe is in their best interests. Accordingly, on January 27, 2023, the Plaintiff and Defendants entered into a Stipulation of Settlement (“**Settlement Agreement**”), which sets forth the terms and conditions of the Settlement. The Settlement Agreement can be viewed, and a copy may be downloaded, on the Settlement Website: [www.BaptistEmergencyHospitalSettlement.com](http://www.BaptistEmergencyHospitalSettlement.com).

#### 5. How do I know if I am a Class Member and part of the Settlement?

You are a Class Member and part of the Settlement if:

- (i) you were treated at any Baptist Neighborhood Hospital (formerly Baptist Emergency Hospital) facility between September 25, 2016 and January 27, 2023 (see Q. 6 for the entire list of BNH facilities), **and**
- (ii) one or more of the Current Panels was ordered and performed for you, **and**
- (iii) you were subsequently billed for, at least, one of the Current Panels **and**
- (iv) you do not fall within the categories listed at Q. 8.

**You would have received a Summary Notice in the mail if Defendants’ records indicate that you are a member of the Class.**

If you are still not sure whether you are a part of the Settlement, you can ask for free help. You may contact the Settlement Administrator or Class Counsel at the information provided on p. 2.

#### 6. Which are the BNH facilities covered under this lawsuit?

All BNH facilities in Texas are covered under this lawsuit. For the sake of clarity, they are listed below:

- (1) Baptist Neighborhood Hospital Hausman, 8230 N 1604 W., San Antonio, TX 78249;
- (2) Baptist Neighborhood Hospital Kelly, 806 Cupples Rd, San Antonio, TX 78237;
- (3) Baptist Neighborhood Hospital Overlook, 25615 US-281, San Antonio, TX 78258;
- (4) Baptist Neighborhood Hospital Schertz, 16977 I-35 N., Schertz, TX 78154;
- (5) Baptist Neighborhood Hospital Shavano Park, 4103 North Loop 1604 W., San Antonio, TX 78249;
- (6) Baptist Neighborhood Hospital Thousand Oaks, 16088 San Pedro Ave., San Antonio, TX 78232;
- (7) Baptist Neighborhood Hospital Westover Hills, 10811 Town Center Dr., San Antonio, TX 78251; and

(8) Baptist Neighborhood Hospital Zarzamora, 7719 IH 35 S., San Antonio, TX 78224.

**Note: Baptist Neighborhood Hospital was previously known as Baptist Emergency Hospital. So, if you went to a Baptist Emergency Hospital in any of the above locations, and you satisfy the other conditions at Q.5, you are a Class Member.**

**7. I believe I am part of the Class, but have not received a Summary Notice. What should I do?**

The Summary Notice is only mailed to those who are members of the Class, per Defendants' records. If you have not received a Summary Notice, that means either it has been lost in the mail (you can contact your Post Office) or that you are not part of the Class per Defendants' records and are therefore, not part of this Settlement. However, if you believe you are a Class Member based on Q. 3 of this Notice, you may contact the Settlement Administrator or Class Counsel at the information provided on page 2 of this Notice to inquire further.

**8. Are there any exceptions to being included as a Class Member?**

Yes. Defendants' parents, subsidiaries, representatives, officers, directors, partners, and co-ventures are **not** Class Members and hence **not part** of the Settlement. Also, anyone who requests to be excluded (*i.e.*, "opts out") from the Class in accordance with the instructions provided in this Notice and set forth by the Court (*see* Q. 16 below), will **not** be a Class Member and hence **not part** of the Settlement.

**9. What does the Settlement provide?**

**Refunds:** For any Current Panel ordered and performed at a BNH Facility, if you paid more than the reimbursement amount that your insurance payor would have approved (or, for cash-paying patients, the amount BNH would have billed) for the associated CPT Code Panel, Defendants will refund that portion of the payment that exceeded the approved reimbursement (or billed amount), including any payments you made to a third party, such as a collection agency.

**Write-Offs or Forgiveness:** For any Current Panel ordered and performed at a BNH Facility, if you were billed more than the reimbursement amount that your insurance payor would have approved (or, for cash-paying patients, the amount BNH would have billed) for the associated CPT Code Panel and you have not paid any portion of that, Defendants will forgive the portion of payment you owed that exceeded the approved reimbursement (or billed amount).

**Changing the practice going forward:**

- (i) **Including CPT Code Panels as a laboratory test option:** Defendants have agreed to start offering the associated CPT Code Panels, *i.e.*, CPT 80047, CPT 80048 and CPT 80076 Panels, as laboratory testing options in-house at all their facilities' onsite point-of-care laboratories. The CPT Code Panels will be included as an option in all of BNH Facilities' in-house laboratory test menus so that they are available to the clinicians to order.
- (ii) **Disclosures in intake forms:** Defendants have agreed to include a disclosure in their admission consent forms, which will inform patients that they have three in-house options for metabolic or liver/pancreatic panels – (1) the Current Panel that may potentially be more expensive; (2) the associated CPT Code Panel, which, though slightly different, may be less expensive or (3) a combined metabolic and liver panel.

The disclosure encourages patients to discuss these options with their clinicians to determine which option is best for them and check with their insurance provider to discuss patient payment obligations for each of these laboratory panels.

- (iii) Disclosures in pricing transparency file on website: Defendants have agreed to disclose the chargemaster price of the Current Panels, in each of the BNH Facilities, down to the exact dollar figure, in the “Standard Charge Description File” available for download in the Pricing Transparency section of BNH’s website at <https://www.baptistneighborhoodhospital.com/pricing-transparency/>.

**10. I am an insured patient. How will my refund, if any, be calculated?**

Refunds for insured patients are calculated based on “**Panel Cost Difference**,” which is the difference between (i) the portion of the Patient Responsibility amount that is attributable to the cost of the respective Current Panels (the “**Current Panel Cost**”); and (ii) the portion of the Patient Responsibility amount that would have been attributable to the cost of the associated CPT Code Panel (CPT No. 80048 or CPT No. 80076) (the “**But-For Panel Cost**”).<sup>4</sup>

If the Panel Cost Difference for a Class Member is less than or equal to the amount owed, the Class Member will not be eligible for a Refund, but will be eligible to get the portion of the Panel Cost

<sup>4</sup> More specifically, refunds for insured patients are calculated by following the four steps below:

- (A) The applicable Third Party Payor’s contract rates and fee schedules in effect as on the Class Member’s Date of Service is used to determine (x) the total reimbursement amount payable to BNH that the payor approved for the Current Panels (the “**Approved Panel Reimbursement**”) ordered and performed for the Class Member; and (y) the total reimbursement amount payable to BNH that the payor would have approved for the associated CPT Code Panel (the “**But-For Panel Reimbursement**”);
- (B) The But-For Panel Reimbursement is subtracted from the Approved Panel Reimbursement to derive the “Panel Reimbursement Difference”;
- (C) The Patient Responsibility amount that BNH billed to the Class Member is divided by the total reimbursement amount payable to BNH for the Class Member’s visit that was approved by the Third Party Payor to derive the “Patient Responsibility Percentage”;
- (D) The Panel Reimbursement Difference is multiplied by the Patient Responsibility Percentage to determine the Panel Cost Difference.

The table below illustrates how refunds are calculated using the above four steps for a BMP (includes CK) panel performed and billed to an insured patient :

<b>Panel Reimbursement Difference Calculation</b>	<b>Amount</b>	<b>Notes</b>
(1) Approved Panel Reimbursement for BMP (includes CK)	\$50	Hypothetical Figure
<b>(2) But-For Panel Reimbursement for CPT no. 80048 Panel</b>	\$10	Hypothetical Figure
(3) Panel Reimbursement Difference	\$40	Equals (1) minus (2)
<b>Patient Responsibility Percentage Calculation</b>		
(4) Total Payor Approved Charges	\$100	Hypothetical Figure
<b>(5) Total Charges Billed to Patient</b>	\$70	Hypothetical Figure
<b>(6) Patient Responsibility Percentage</b>	70%	Equals (5) divided by (4)
<b>Panel Cost Difference</b>	\$28	Equals (3) times (6)

Difference forgiven by BNH.

**Note:** any Class Member (i) whose insurance plan reimburses BNH at a case rate or per diem rate, without any separate additional reimbursement for clinical laboratory testing, or (ii) who has a fee-for-service Medicare or Medicaid insurance plan with fixed copay plans will be ineligible for Refunds, but will still remain a Class Member for all other purposes.

The Summary Notice that you received by mail will tell you whether you are eligible for any refund and if so, how much. You may also contact the Settlement Administrator or Class Counsel at the information provided on page 2 of this Notice to inquire further.

**11. I am a cash-paying patient. How will my refund, if any, be calculated?**

Refunds for cash paying patients are calculated based on “**Panel Cost Difference**,” which is the difference between (i) the portion of the Patient Responsibility amount that is attributable to the cost of the respective Current Panels (the “**Current Panel Cost**”); and (ii) the portion of the Patient Responsibility amount that would have been attributable to the cost of the associated CPT Code Panel (CPT No. 80048 or CPT No. 80076) (the “**But-For Panel Cost**”).<sup>5</sup>

If the Panel Cost Difference for a Class Member is less than or equal to the amount owed to BNH, the Class Member will not be eligible for a refund, but may be eligible to get the portion of the Panel Cost Difference forgiven by BNH.

**Note:** Any Class Member who opted to pay for their BNH visit in cash under Defendants’ “prompt-

<sup>5</sup> More specifically, Refunds for eligible cash-paying patients are calculated by following the four steps below:

- (A) The Class Member’s billing record and the prices in effect on the Class Member’s Date of Service in the BNH Chargemaster is used to determine (x) the amount that BNH billed for the Current Panels (the “**Actual Panel Billed Amount**”) ordered and performed for the Class Member (before any adjustments); and (y) the amount that BNH would have billed for the associated CPT Code Panel (the “**But-For Panel Billed Amount**”);
- (B) The But-For Panel Billed Amount is subtracted from the Actual Panel Billed Amount to derive the panel billed amount difference (the “**Panel Billed Amount Difference**”);
- (C) The amount that BNH billed to the Class Member is divided by the total amount billed for the Class Member’s visit to derive the Patient Responsibility Percentage;
- (D) The Panel Billed Amount Difference is multiplied by the Patient Responsibility Percentage to determine the Panel Cost Difference.

The table below illustrates how Refunds are calculated using the above four steps for a BMP (includes CK) panel performed and billed to a cash-paying patient:

<b>Panel Reimbursement Difference Calculation</b>	<b>Amount</b>	<b>Notes</b>
(1) Actual Panel Billed Amount for BMP (includes CK)	\$50	-Hypothetical Figure
(2) <b>But-For Panel Billed Amount for CPT 80048 Panel</b>	\$10	-Hypothetical Figure
(3) Panel Billed Amount Difference	\$40	Equals (1) minus (2)
<b>Patient Responsibility Percentage Calculation</b>		
(4) Total Billed Amount by BNH	\$100	-Hypothetical Figure
(5) <b>Total Patient Responsibility after adjustments, if any, by BNH</b>	\$35	-Hypothetical Figure
(6) <b>Patient Responsibility Percentage</b>	35%	Equals (5) divided by (4)
<b>Panel Cost Difference</b>	\$14	Equals (3) times (6)

pay” option, which specifies a case rate for treatment that does not vary based on the number or types of clinical laboratory tests that are performed, will be ineligible for refunds, but will still remain a Class Member for all other purposes.

The Summary Notice that you received by mail will tell you whether you are eligible for any refund and if so, how much. You may also contact the Settlement Administrator or Class Counsel at the information provided on page 2 of this Notice to inquire further.

#### **12. What do I need to do to receive a refund?**

In order to receive a refund, you must be eligible under the terms of the Settlement, and you must submit a valid and timely **Claim Form** to the Settlement Administrator, RG/2 Claims Administration LLC. You may download the Claim Form from the Settlement Website, [www.BaptistEmergencyHospitalSettlement.com](http://www.BaptistEmergencyHospitalSettlement.com), or by contacting the Settlement Administrator at the contact information on page 2 of this Notice. Read the instructions carefully, fill out the Claim Form, sign it, and mail it so it is postmarked no later than September 18, 2023 or submit it online no later than September 18, 2023. Any Class Member who fails to submit a Claim Form by such date shall be forever barred from receiving any refund from Defendants (unless by order of the Court the deadline is extended or such Class Member’s Claim Form is accepted), but otherwise may be eligible for forgiveness of any amount per Q. 13 below and shall be bound by all the terms of the Settlement and the Final Judgment, including the Releases therein, and will be permanently barred and enjoined from asserting any of the Settled Class Claims against any of the Released Defendants’ Parties.

**You cannot submit your Claim Form by telephone, fax, or email.** You do not need to submit any medical records or medical information beyond billing-related information related to your blood tests, which is specified in the Claim Form.

#### **13. How will the forgiveness/write-off amounts be calculated?**

The forgiveness/write-off amount, if any, is calculated based on the Panel Cost Difference calculated using the formula described at Q. 10 or Q. 11, as the case may be. If the Panel Cost Difference owed to you is less than or equal to the amount you owe BNH, you will be eligible to get that portion of the Panel Cost Difference forgiven by BNH and your outstanding amount will be reduced dollar for dollar by the amount of the Panel Cost Difference.

The Summary Notice that you received by mail will tell you whether you are eligible for any forgiveness/write-off amount and if so, how much. You may also contact the Settlement Administrator or Class Counsel at the information provided on page 2 of this Notice to inquire further.

#### **14. When would I get my payment?**

The Court will hold a hearing on May 15, 2023, to decide whether to approve the Settlement. The Court may change the date and time of the Settlement Hearing without notice or hold the Settlement Hearing by telephonic or video conference. Any change to the Settlement Hearing will be posted on the Settlement Website. If the Settlement is approved, the Settlement Administrator will complete the claims review process and then make the refunds. Defendants will also simultaneously adjust patient balances to reflect the forgiveness/write-off amounts. This is necessarily a long process.

#### **15. What am I giving up as a Class Member?**

You will be giving up your right to bring your own, individual lawsuit against Defendants challenging (i) the billing of the Current Panels during the period between September 25, 2016 and January 27, 2023 that is the basis of the litigation; and (ii) pricing transparency and disclosure or non-disclosure concerning billing for the Current Panels. These are called the “Settled Class Claims.” **Any claims you may have related to your actual medical treatment will not be released.**

If you want to preserve your right to bring an individual lawsuit against Defendants relating to the Settled Class Claims, you must “opt out” of the Settlement.

#### **16. What if I do not want to be part of the Settlement?**

If you do not want to be part of the Settlement, you can “opt out.” If you opt out, you will not get a write-off or refund, but you will preserve your right to sue Defendants on your own. If a substantial number of Class Members opt out, the Defendants have the right to terminate the Settlement.

To opt out, you must mail your request for exclusion to the Settlement Administrator so that it is received no later than April 24, 2023 at the following address:

RG/2 Claims Administration LLC  
P.O. Box 59479  
Philadelphia, PA 19102-9479.

You bear the risk of delivery of the request. Your request must clearly state the full name, address, and telephone number of the Class Member seeking exclusion, that the Class Member requests to be excluded from the Class, and must be signed by the Class Member. All persons requesting exclusion must also state: the name of the BNH Facility they visited, the date of service(s), the date of the bill(s), the bill amount(s), and which Current Panel(s) was/were performed. Requests for exclusion must comply with these requirements in order to be valid and effective. If you opt out, you **cannot** object to the proposed Settlement, because it does not affect you.

Copies of any such requests for exclusions must also be mailed by first-class mail, no later than April 24, 2023, to:

Chet Waldman, Esq., Wolf Popper LLP, 845 Third Avenue, New York, NY 10022 (Class Counsel)

Kevin McGinty, Esq., Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., Financial Center, Boston, MA 02111 (Defendants’ Counsel)

#### **17. Do I have other options if I do not like the Settlement?**

If you do not like the Settlement or some part of it like the fee application by Plaintiff’s attorneys or the Class Representative Service Award, and you do not opt out, you can tell the Court by submitting a written objection. If you want to object to the Settlement, you must mail a letter containing the following information: the name and case number of this lawsuit (*Kenneth Keslar II v. Emerus / BHS Thousand Oaks LLC et. al.*, Case No. 2020-CI-18623); your full name, mailing address, and email address or telephone number; what specifically you do not like about the Settlement or any part of it and your reasons why. You must also provide a copy of your BNH bill for any Current Panel performed on you during the Class Period or any other document(s) that demonstrates you are a member of the Class. Your objection, including the document(s) showing

you are a member of the Class, must be mailed, postmarked no later than April 24, 2023, to the Clerk of the Court, 73rd Civil District Court, Bexar County Courthouse, 100 Dolorosa, 4th Floor, San Antonio, TX 78205.

Copies of any such objections and accompanying documentation must also be mailed by first-class mail, no later than April 24, 2023, to:

Chet Waldman, Esq., Wolf Popper LLP, 845 Third Avenue, New York, NY 10022 (Class Counsel)

Kevin McGinty, Esq., Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. One Financial Center, Boston, MA 02111 (Defendants' Counsel)

#### **18. What is the difference between opting out of the Settlement and objecting?**

Opting out means getting out of the Settlement altogether: you do not receive any benefits, but you are not bound by the terms of the Settlement. Objecting means remaining part of the Settlement, but complaining about some aspect of the Settlement you do not like. You can still receive benefits under the Settlement if you object, but if you want a refund, you must submit a Claim Form. You will also be bound by the Settlement if it is approved by the Court and you will not be able to sue the Defendants relating to any of the Settled Class Claims.

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

Yes, Plaintiff's attorneys (*i.e.*, Plaintiff's Counsel) represent the Plaintiff and the entire Class. You do not have to pay for these lawyers. The Court will decide how much Plaintiff's Counsel should be paid by Defendants. Defendants have agreed not to oppose Plaintiff's Counsel's application for attorneys' fees and expenses not to exceed \$800,000 to cover their work and expenses incurred in this case, but the Court will determine the amount of reasonable fees and expenses to be awarded. Any award of attorneys' fees and expenses will **not** reduce the amount of refunds or forgiveness amounts available to eligible Class Members. If you would like to be represented by your own lawyer, you may hire one at your own expense.

#### **20. What does the Plaintiff get from the Settlement?**

Defendants have agreed not to oppose Plaintiff's request to the Court for a \$5,000 Class Representative Service Award to the Plaintiff for his work in prosecuting this lawsuit. Any award to the Plaintiff will **not** reduce the amount of write-offs or refunds available to the Class. Like other members of the Class, the named Plaintiff may receive write-offs and/or refunds if eligible.

#### **21. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a "Final Approval Hearing" before deciding whether to approve the Settlement. The Final Approval Hearing is scheduled for May 15, 2023, in Courtroom 1.09 of the 73rd Civil District Court, Bexar County Courthouse, 100 Dolorosa, 4th Floor, San Antonio, TX 78205. You do not need to attend the Final Approval hearing, but you are welcome to do so. At the Final Approval Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will also consider Plaintiff's Counsel's application for attorneys' fees, reimbursement of expenses and class representative service award at the Final Approval Hearing.

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

This Notice contains only a summary of the lawsuit and Settlement. More information is available at [www.BaptistEmergencyHospitalSettlement.com](http://www.BaptistEmergencyHospitalSettlement.com). If you have any questions about this Notice or the Settlement, you may also contact the Settlement Administrator or Class Counsel using the contact information identified on p.2. The pleadings and some of the other important court filings in the Action are available on the settlement website as well.

**DO NOT TELEPHONE THE COURT, DEFENDANTS, OR DEFENDANTS' COUNSEL  
REGARDING THIS NOTICE.**

Dated: March 17, 2023

BY ORDER OF THE COURT

73<sup>RD</sup> JUDICIAL DISTRICT  
DISTRICT COURT, BEXAR COUNTY,

TEXAS