

STATE OF MICHIGAN
COURT OF CLAIMS

DAVID HOREIN, ET.AL.,

COC No. 23-000063-MM

Plaintiffs,

HON. JAMES REDFORD

v

MICHIGAN DEPARTMENT OF HEALTH
AND HUMAN SERVICES,

CLASS ACTION SETTLEMENT
AGREEMENT

Defendant.

Robin B. Wagner (P79408)
Michael L. Pitt (P24429)
Beth M. Rivers (P33614)
Pitt McGehee Palmer Bonanni & Rivers, PC
Attorneys for Plaintiffs
117 W. Fourth Street, Suite 200
Royal Oak, MI 48068
(248) 398-9800
rwagner@pittlawpc.com
mpitt@pittlawpc.com
brivers@pittlawpc.com

Michele P. Fuller (P53316)
Michigan Law Center, PLLC
Attorney for Plaintiffs
45200 Card Road
Suite 108
Macomb, MI 48044
586-803-8500
michele@milaw.center

Neil A. Giovanatti (P82305)
Bryan W. Beach (P69681)
Ticara D. Hendley (P81166)
Attorneys for Defendant
Michigan Department of Attorney General
Health, Education & Family Services Division
P.O. Box 30758
Lansing, MI 48909
(517) 335-7603
giovanattin@michigan.gov
beachb@michigan.gov
hendleyt@michigan.gov

Nancy K. Chinonis P71350
Cline, Cline & Griffen
Attorney for Special Subclass
Representative Hawk Kennedy
503 S. Saginaw St.
Suite 1000
Flint, MI 48502
nchinonis@ccglawyers.com
(810) 600-4229

PLAINTIFFS' UNOPPOSED MOTION
TO CERTIFY SETTLEMENT CLASS AND APPOINT SETTLEMENT CLASS COUNSEL

Plaintiffs David and Kortni Horein, parents and next friends to minor child D.H., and Mollie and Brent Bonter, parents and next friends to minor child A.B., on behalf of D.H. and A.B. and a class of similarly situated Minor Children; and NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, and Chauncey Payne, Jr., individually and on behalf of a class of similarly-situated adults, through their attorneys, move for an Order certifying this action as a class action, for settlement purposes only, pursuant to MCR 3.501 of the Michigan Rules of Civil Procedure. The above-captioned matter has been consolidated with the following related actions for settlement purposes: Horein v Petti, No. 23-005451-CZ (Wayne CC); Woodruff v MDHHS, No. 23-000071-MM (COC); Woodruff v Petti, No. 23-006141-CZ (Wayne CC); Kennedy v Petti, No. 23-010125-CZ (Wayne CC).

1. Plaintiffs seek certification of two settlement classes, including one sub-class, defined as follows:

- a. **A Patient Plaintiff Class** (also referred to herein as **Patient Plaintiffs**), **defined as:** all individuals who were patients at the Hawthorn Center and were present in the Hawthorn Center on December 21, 2022, between the hours of 9:00 a.m. and 11:00 a.m.
- b. **A Staff Plaintiff Class** (also referred to herein as **Staff Plaintiffs**), **define as:** all Department employees and DK Security employee(s) who were present in the Hawthorn Center on December 21, 2022 between the hours of 9:00 a.m. and 11:00 a.m., excluding Victoria Petti, Derek Leppek, Wayne Soucie, and Dr. George Mellos. This Staff Patient Class includes a special subclass comprising only Brandon Woodruff and Hawk Kennedy.

2. Plaintiffs David and Kortni Horein, parents and next friends to minor child D.H., and Mollie and Brent Bonter, parents and next friends to minor child A.B., on behalf of D.H. and A.B.; and NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, and Chauncey Payne, Jr., request that they be appointed class representatives and that Brandon Woodruff and Hawk Kennedy be appointed representative for a special sub-class of the Staff Plaintiffs that only includes Mr. Woodruff and Mr. Kennedy. Mr. Kennedy is represented Nancy K. Chinonis of Cline, Cline & Griffen. All other Class Representatives are represented by Pitt, McGehee, Palmer, Bonanni & Rivers, PC.

3. Plaintiffs further request that their counsel, Pitt, McGehee, Palmer, Bonanni & Rivers, PC, and Michigan Law Center, PLLC be appointed as class counsel for the Patient Plaintiffs Class.

4. In support of this motion, Plaintiffs rely upon the Brief and Declaration filed with this motion and attached below.

5. Defendant does not oppose this motion.

WHEREFORE, Plaintiffs respectfully request the Court 1) appoint Plaintiffs David and Kortni Horein, parents and next friends to minor child D.H., and Mollie and Brent Bonter, parents and next friends to minor child A.B., on behalf of D.H. and A.B. be appointed class representatives on behalf of the Patient Class; 2) appoint Plaintiffs NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, and Chauncey Payne, Jr., as class representatives for the Adult Class, with Brandon Woodruff and Hawk Kennedy as representatives of a special sub-class that only includes them; 3) appoint Pitt, McGehee, Palmer, Bonanni & Rivers, PC as class counsel; 4) approve the Settlement Agreement; and 5) approve the proposed method and notice of settlement to the settlement classes.

Respectfully submitted,

PITT, MCGEHEE, PALMER & RIVERS, P.C.

/s/ Robin B. Wagner

Robin B. Wagner (P79408)

Michael L. Pitt (P24429)

Beth M. Rivers (P33614)

Attorneys for Plaintiffs

117 West Fourth Street, Suite 200

Royal Oak, MI 48067

(248) 398-9800

rwagner@pittlawpc.com

mpitt@pittlawpc.com

brivers@pittlawpc.com

Dated: January 31, 2024

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117 W. Fourth Street, Suite 200
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rwagner@pittlawpc.com
mpitt@pittlawpc.com
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Michele P. Fuller (P53316)
Michigan Law Center, PLLC
Attorney for Plaintiffs
45200 Card Road
Suite 108
Macomb, MI 48044
586-803-8500
michele@milaw.center

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Attorneys for Defendant
Michigan Department of Attorney General
Health, Education & Family Services Division
P.O. Box 30758
Lansing, MI 48909
(517) 335-7603
giovanattin@michigan.gov
beachb@michigan.gov
hendleyt@michigan.gov

Nancy K. Chinonis P71350
Cline, Cline & Griffen
Attorney for Special Subclass
Representative Hawk Kennedy
503 S. Saginaw St.
Suite 1000
Flint, MI 48502
nchinonis@ccglawyers.com
(810) 600-4229

**BRIEF IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION TO CERTIFY
SETTLEMENT CLASS AND APPOINT CLASS COUNSEL**

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STATEMENT OF ISSUES PRESENTED

1. Do the proposed Adult Class and Patient Class meet MCR 3.501 requirements for class certification?

Answer: Yes.

2. Should Pitt McGehee Palmer Bonanni & Rivers, PC be appointed Counsel of the Settlement Class?

Answer: Yes.

3. Should Plaintiffs David and Kortni Horein, parents and next friends to minor child D.H., and Mollie and Brent Bonter, parents and next friends to minor child A.B., on behalf of D.H. and A.B., be appointed Class Representatives for the Patient Class?

Answer: Yes.

4. Should NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, and Chauncey Payne, Jr., be appointed Class Representatives for the Staff Plaintiff Class, with Brandon Woodruff and Hawk Kennedy as representatives of a special sub-class that only includes Mr. Woodruff and Mr. Kennedy?

Answer: Yes.

5. Should the Court approve the Settlement?

Answer: Yes.

6. Should the Court approve the method of Notice to the Settlement Class Members?

Answer: Yes.

CONTROLLING AUTHORITY

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INTRODUCTION

Plaintiffs David and Kortni Horein, parents and next friends to minor child D.H., and Mollie and Brent Bonter, parents and next friends to minor child A.B., on behalf of D.H. and A.B. and the Patient Class they seek to represent, and NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, and Chauncey Payne, Jr., on behalf of themselves and the Adult Class they seek to represent, allege that they were suffered injuries and harms including but not limited to severe psychological, emotional and physical distress because of the acts and omissions of the leaders of the Hawthorn Center, a Children’s Psychiatric Hospital owned and operated by the Michigan Department of Health and Human Services. After months of negotiations, the parties have reached a proposed settlement (“Settlement Agreement”), which, if approved by the Court, would resolve the Plaintiffs’ claims and those of other similarly situated individuals who were subjected to Defendant’s gross negligence and abuse, which constituted violations of the Plaintiffs’ and class members’ Constitutional rights.

Plaintiffs seek certification, *for settlement purposes only*, of the following classes:

- A. **A Patient Plaintiff Class** (also referred to herein as **Patient Plaintiffs**), **defined as:** all individuals who were patients at the Hawthorn Center and were present in the Hawthorn Center on December 21, 2022 between the hours of 9:00 a.m. and 11:00 a.m.
- B. **A Staff Plaintiff Class** (also referred to herein as **Staff Plaintiffs**), **define as:** all Department employees and DK Security employee(s) who were present in the Hawthorn Center on December 21, 2022 between the hours of 9:00 a.m. and 11:00 a.m., excluding Victoria Petti, Derek Leppek, Wayne Soucie, and Dr. George Mellos. This Staff Patient Class includes a special subclass comprising only Brandon Woodruff and Hawk Kennedy.

For the reasons explained below, the Patient and Adult Classes should be certified, and Plaintiffs respectfully request that the Court grant their motion. Special Subclass member Hawk Kennedy is represented by Mr. Kennedy is represented by Nancy Chinonis of Cline, Cline & Griffen, and does not oppose this motion.

BACKGROUND

A. Statement of Facts

The Hawthorn Center is located at 18471 Haggerty Road in Northville, Michigan. The Hawthorn Center is a Children's Psychiatric Hospital owned and operated by the Michigan Department of Health and Human Services, an administrative department of the State of Michigan reporting directly to the Governor. On December 21, 2022, approximately 50 children were patients at the Hawthorn Center for inpatient psychiatric treatment. Approximately 110 employees, including childcare workers, psychologists and social workers, nurses, physicians, maintenance workers, housekeepers, office staff, teachers, and food preparers, were also present and on duty. The main entrance to the Hawthorn Center, which has since been razed to make way for a new facility to be constructed on that site, was staffed by a security guard and a front desk clerical worker.

Mid-morning on December 21, 2022, the Hawthorn Center held an "Active Shooter" drill. The staff and patients in the facility did not have advanced notice that the drill was not a real event. A front desk worker was ordered to announce over the building loudspeaker that there were armed intruders in the building, one Black man and one white man, with automatic weapons. A second announcement indicated that shots had been fired. Nearly all staff and patients believed the truth of the announcement.

Plaintiffs allege that the drill caused the 50 children and over 100 adults under their care and responsibility to experience extreme trauma and distress that continues to cause them pain. Employees, hiding under their desks and barricading the doors to the areas where they hid with the children in their care, called 911, texted their last messages of love to family, and waited in extreme fear, praying that they would not die. Because the Hawthorn Center had not provided law enforcement with any advanced warning about the drill, some 50 police and state troopers from

multiple jurisdictions responded to the Hawthorn Center, armed themselves with automatic weapons and armor, and prepared to confront the active shooters described over the intercom and relayed to them through 911. People in the Hawthorn Center who were not sure if this was a drill or not, saw the police response assembling outside the building and believed that this was a genuine mass-shooter attack. See NBC News, “Active Shooter Drill Sparks Fear & Confusion”, available at <https://www.nbcnews.com/now/video/active-shooter-drill-sparks-fear-and-confusion-atmichigan-children-s-facility-166159429854> (Last visited April 14, 2023) and Northville Township, Michigan, “Police Respond to Hawthorn Center’s Surprise Drill”, available at <https://www.twp.northville.mi.us/Home/Components/News/News/188/15> (last visited April 15, 2023), for press reports with dash cam, body cam, and audio footage of this December 21, 2022, incident.

Meanwhile, Hawthorn Official Derek Leppek ordered maintenance workers Brandon Woodruff, a Black man, and Hawk Kennedy, a white man, to walk through the entire building playing the “role” of the active shooters. Only Woodruff and Kennedy had no idea that the children and colleagues at the Hawthorn Center did not know this was “only a drill” and were unaware that the police had been called and had arrived in great force to neutralize the mass shooters who had been described over the building loudspeakers as a white man and a Black man armed and firing shots. When Woodruff and Kennedy left the building, having completed the “drill,” a group of armed police confronted them and yelled at them to get down on the ground. They were arrested and held in police custody outside the Hawthorn Center as the police responding to the incident confirmed their identifies and ascertained the facts of the “drill” from Hawthorn Center officials.

This unannounced mass-shooter “drill” may have lasted less than an hour, but Plaintiffs allege it has indelibly scarred the patients and adults at the Hawthorn Center that morning.

Plaintiffs representing the class describe severe post-traumatic stress conditions that have caused them to miss work, struggle in their family relationships, and suffer from numerous ailments related to severe anxiety and depression brought on by the horror they experienced.

B. Procedural History and Settlement Discussions

Plaintiffs filed this action in the Court of Claims on April 28, 2023. Additionally, Plaintiffs filed a related action against individual defendants in the Wayne County Circuit Court, *Horein et al. v Petti et al.*, No. 23-005451-CZ (Wayne CC). Three other matters, *Woodruff v MDHHS*, No. 23-000071-MM (COC); *Woodruff v Petti et al.*, No. 23-006141-CZ (Wayne CC); *Kennedy v Petti et al.*, No. 23-010125-CZ (Wayne CC) also arise out of the same core operative facts as this action; therefore, at the parties joint request, the Court of Claims and the Wayne County Circuit Court have agreed to dismiss without prejudice the other cases, *Horein et al. v Petti et al.*, No. 23-005451-CZ (Wayne CC), *Woodruff v MDHHS*, No. 23-000071-MM (COC), *Woodruff v Petti et al.*, No. 23-006141-CZ (Wayne CC), *Kennedy v Petti et al.*, No. 23-010125-CZ (Wayne CC), and consolidate all five actions under this one for settlement purposes.¹

In lieu of filing an answer, Defendant asked Plaintiffs' counsel to engage in a mediated settlement process to resolve all claims on behalf of Plaintiffs seeking to represent the Adult class and the Patient class, as well as the claims brought by Mr. Woodruff. Mr. Kennedy filed his case in August of 2023, and he joined his claims to the mediated settlement conversations as a member of the class. Mr. Woodruff, represented by Pitt, McGehee, Palmer, Bonanni & Rivers, PC, and Mr. Kennedy and his counsel, Nancy Chinonis of Cline, Cline & Griffen, along with the State of

¹ Wayne County Circuit Court, No. 23-005451-CZ, Order entered on November 17, 2023, by Hon. Leslie K. Smith; Court of Claims, No. 23-000071-MM, Order entered on November 20, 2023, by Hon. James Robert Redford; Wayne County Circuit Court, No. 23-006141-CZ, Order entered on November 17, 2023, by Hon. Leslie K. Smith; Wayne County Circuit Court, No. 23-010125-CZ, Order entered on November 17, 2023, by Hon. Leslie K. Smith.

Michigan, have since agreed to participate in the negotiated settlement as a Special Sub-Class of the Adult Class.

With the assistance of a neutral mediator, attorney William W. Jack, Jr., the parties engaged in extensive settlement negotiations from August through November of 2023. On November 8, 2023, the parties reached an agreement to resolve all claims arising from the unannounced “active shooter drill” of December 21, 2022, for \$13,000,000, inclusive of all attorney’s fees and costs. On January 31, 2024, the parties executed a Settlement Agreement. (See Exhibit 1).

Plaintiffs now seek to certify the proposed Settlement Classes so that the terms of the Settlement Agreement can be presented to the Court for preliminary approval and distribution of notice. Defendants do not oppose the relief requested in this motion to certify. Because the Court has granted stays of the proceedings to accommodate the parties’ efforts to resolve this matter, this motion is timely under MCR 3.501(B)(1)(a).

THE PROPOSED CLASSES SHOULD BE CERTIFIED FOR SETTLEMENT

Classes certified for settlement purposes, like classes certified for the litigation process, must meet the requirements of MCR 3.501(A)(1).² *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997). A class is properly certified under MCR 3.501(A)(1) where:

- (a) The class is so numerous that joinder of all members is impracticable;
- (b) There are questions of law or fact common to the members of the class that predominate over questions affecting only individual class members;
- (c) The claims or defenses of the representative parties are typical of the claims or defenses of the class;

² “[T]he rules governing class certification in MCR 3.501(A) very closely mirror the federal prerequisites for class certification found in” Fed. R. Civ. P. 23. *Henry v. Dow Chemical Co.*, 484 Mich. 483, 503 (2009). Thus, Michigan Courts often rely on federal case law construing Fed. R. Civ. P. 23. *See Neal v. James*, 252 Mich. App. 12, 21 (2002) *overruled on other grounds by Henry v. Dow Chemical Co.*, 484 Mich. 483 (2009). Thus, where relevant, Plaintiffs rely on similar provisions of federal law.

- (d) The representative parties will fairly and adequately assert and protect the interests of the class; and
- (e) The maintenance of the action as a class action will be superior to other available methods of adjudication in promoting the convenience administration of justice.

As explained below, the Settlement Class satisfies each of the requirements of the rule.

A. Plaintiffs have satisfied the Numerosity requirement.

To satisfy numerosity, the settlement class must be “so numerous that joinder of all members is impracticable.” MCR 3.501(A)(1)(a). “While no strict numerical test exists, ‘substantial’ numbers of affected consumers are sufficient to satisfy this requirement.” *Young v. Nationwide Mut. Ins. Co.*, 693 F.3d 532, 541 (6th Cir. 2012). “There is no particular minimum number of members necessary to meet the numerosity requirement, and the exact number of members need not be known as long as general knowledge and common sense indicate that the class is large.” *Zine v. Chrysler Corp.*, 236 Mich. App. 261, 288 (1999). Generally, when a class consists of 25 or more individuals, joinder is presumed to be impracticable. *Talbott v. GC Services Ltd Partnership*, 191 FRD 99, 102 (W.D. Va 2000); *In Re Kirschner Medical Corporation Securities Litigation*, 139 F.R.D. 74, 78 (D.Md.1991); *see also Zeidman v. J. Ray McDermott & Co.*, 651 F.2d 1030, 1038 (5th Cir.1981) (recognizing that courts certify classes with 25-30 members); *Philadelphia Elec. Co. v. Anaconda Am. Brass Co.*, 43 F.R.D. 452 (E.D.Pa.1968) (certifying class with 25 members) (finding “no necessity for encumbering the judicial process with 25 lawsuits, if one will do.”); *Cypress v. Newport News General and Nonsectarian Hospital Ass'n*, 375 F.2d 648, 653 (4th Cir.1967) (certifying class with 18 members).

In the present case, the Settlement Class is so numerous as to make joinder impracticable. According to Defendant’s records, 50 children were patients and present at the Hawthorn Center when the incident took place, and over 100 adults who worked for the Hawthorn Center or for the

security company serving the Hawthorn Center and were present at the time of the incident. General knowledge and common sense dictate that 50 minors with diverse custody and familial statuses, along with over 100 adults is substantial enough in size to satisfy the numerosity requirement, or else risk 150 individual lawsuits to the Department of Health and Human Services. Plaintiffs have therefore satisfied the numerosity requirement.

B. Plaintiffs have satisfied the Commonality requirement.

To satisfy Commonality, there must exist “questions of law or fact common to the members of the class that predominate over questions affecting only individual members.” MCR 3.501(A)(1)(b). Commonality "is concerned with whether there 'is a common issue the resolution of which will advance the litigation.'" *Zine*, 236 Mich App at 289. “[A] common question is one where the same evidence will suffice for each member to make a prima facie showing or the issue is susceptible to generalized, class-wide proof.” *Tyson Foods, Inc v Bouaphakeo*, 577 U.S. 442, 452 (2016).

In the present case, members of the Patient Class share a common question of fact and law that predominates over any question affecting only individual members. Patient Class members were all subjected to a deprivation of their liberty and forced to fear for their lives during the “active shooter drill” of December 21, 2022, in violation of the Michigan Constitution, Article 1, Section 17. Patient Class members were also victims of cruel and unusual punishment in violation of the rights under Article 1, Section 16 of the Michigan Constitution when the State inflicted gratuitous fear for their lives on them during the December 21, 2022, “active shooter drill” when they were being held in the State’s custody.

Likewise, the Adult Class members were deprived of their liberty and made to genuinely fear for their lives without any meaningful notice or opportunity to be heard on whether they consented to participate in the horrifying “active shooter drill” incident, in violation of the

Michigan Constitution, Article 1, Section 17. The Adult Class members were also subjected to an unreasonable seizure of their persons in violation of the Michigan Constitution, Article 1, Section 11, when they were required to barricade themselves and hide for fear of their lives with no freedom to leave during the “active shooter drill” on December 21, 2022.

Moreover, while the amount of damages per individual class member may vary, “the amount of damages need not be uniform as long as the trial court has some basis for concluding that all members of the class had a common injury that could be demonstrated with generalized proof, rather than evidence unique to each class member.” *Hill v City of Warren*, 276 Mich. App. 299, 312 (2007), quoting *A&M Supply Co v Microsoft Corp*, 252 Mich. App. 580, 588 (2002). Here, the same incident caused the harm and injuries to all members of the Patient Class and the Adult Class. Therefore, commonality is satisfied.

C. Plaintiffs have satisfied the Typicality requirement.

To satisfy Typicality, “the claims or defenses of the representative parties [must be] typical of the claims or defenses of the class.” MCR 3.501(A)(1)(c). This "directs the court 'to focus on whether the named representatives' claims have the same essential characteristics as the claims of the class at large.'" *Neal v. James*, 252 Mich. App. 12, 21 (2002) overruled on other grounds by *Henry v. Dow Chemical Co.*, 484 Mich. 483 (2009). “[T]he representative’s interests [must] be aligned with those of the represented group, and in pursuing [their] own claims, the named plaintiff[s] [must] also advance the interests of the class members.” *Young*, 693 F.3d at 542. Typicality and commonality are similar and tend to merge. *Gen Tel Co of the Southwest v Falcon*, 457 US 147, 157 n 13 (1982).

In the present case, the claims of representatives are the same as those of the Settlement Class members. The State engaged in the same wrongful conduct—the unannounced “active shooter drill”—toward the Plaintiffs as it did the members of the two classes. The Plaintiffs’ claims

are typical cases with essential characteristics that are reflected across the entire class. All Patient Class members, including D.H. and A.B., were deprived of their liberty without specific notice or an opportunity to be heard and subjected to cruel and unusual punishment, causing them to suffer immensely. Likewise, all Adult Class members, including Jones, Smith, Vance, Mason, Padula, Payne, and sub-class members Kennedy and Woodruff were deprived of their liberty and made to genuinely fear for their lives without any meaningful notice or opportunity to be heard and were subjected to an unreasonable seizure, causing them to suffer immensely. These are the “same essential characteristics as the claims of the class at large.” *Neal*, 252 Mich. App. at 121. As a result, typicality is satisfied.

D. Plaintiffs have satisfied the Adequacy requirement.

To satisfy adequacy, “the representative parties [must] fairly and adequately assert and protect the interests of the class.” MCR 3.501(A)(1)(d). A named plaintiff is an adequate class representative if he or she will pursue the rights of the class vigorously through qualified counsel. *In re American Medical Systems, Inc*, 75 F3d 1069, 1083 (6th Cir 1996); *Grigg v Michigan National Bank*, 405 Mich 148, 175 (1979); *Smolen v Dahlmann Apartments Ltd*, 127 Mich App 108, 121 (1983).

Plaintiffs David and Kortni Horein, parents and next friends to minor child D.H., and Mollie and Brent Bonter, parents and next friends to minor child A.B., on behalf of D.H. and A.B., and NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, Chauncey Payne, Jr., Brandon Woodruff and Hawk Kennedy have proven themselves to be zealous advocates of the class and have committed themselves to fulfilling this duty for the Settlement Classes. Plaintiffs have suffered the same injury as the prospective Class Members. Plaintiffs and class members share identical interests of recovery, and therefore Plaintiffs’ interests are not antagonistic to the Settlement Class as a whole, consistent with *Neal*, 252 Mich. App. 22.

Moreover, class counsels Robin B. Wagner, Michael L. Pitt, and Beth M. Rivers possess decades of experience with class action litigation. Class Counsel Michele P. Fuller is a leading expert in Michigan on advocacy, protection, and asset preservation for persons with disabilities, which are particular concerns for the patient class members. (Exhibit 2, Michele P. Fuller Declaration.) Furthermore, Plaintiffs’ counsel has already undertaken substantial efforts to prepare the necessary framework for a responsible, equitable, and efficient disbursement of funds to the two settlement classes. Therefore, counsel should be appointed Counsel of the Adult and of the Patient settlement classes.

For all of these reasons, Plaintiffs and Plaintiffs’ Counsel have demonstrated their commitment to the Settlement Class and have satisfied the Adequacy requirement.

E. Plaintiffs have satisfied the Superiority requirement.

Superiority is satisfied where “the maintenance of the action as a class action [is] superior to other available methods of adjudication in promoting the convenient administration of justice.” MCR 3.501(A)(1)(e). In other words, a “class action, rather than individual suits, [are] the most convenient way to decide the legal questions presented, making a class action a superior form of action.” *A&M*, supra, at 601. “Use of the class method is warranted [where] ... class members are not likely to file individual actions [and] the cost of litigation ... dwarf[s] any potential recovery.” *In re Whirlpool Corp. Front-Loading Washer Prods. Liability Litig.*, 722 F.3d 838, 861 (6th Cir. 2013).

The impracticality of 160 individual recovery actions—50 of them involving minors who are persons with disabilities and have special legal requirements for safeguarding their rights and any assets awarded to them—demonstrates that a class action is the superior method of adjudication that would promote the convenient administration of justice for all parties and for the Court. The central question of law and fact at issue here is shared by every Settlement Class member. While

the Adult claimants' recoveries may differ from each other, the proposed settlement process provides for an equitable process for each individual. Here, a class action provides the most equitable and efficient pathway to ensure settlement funds are disbursed equitably among the class members. For these reasons, a certified Settlement Class is the superior method of resolution.

THE COURT SHOULD APPOINT THE CLASS REPRESENTATIVES

Plaintiffs David and Kortni Horein, parents and next friends to minor child D.H., and Mollie and Brent Bonter, parents and next friends to minor child A.B., on behalf of D.H. and A.B., and NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, Chauncey Payne, Jr., along with Brandon Woodruff and Hawk Kennedy, will fulfill the full scope of their duties as class representatives and the Court should appoint them class representatives.

PLAINTIFFS' COUNSEL SHOULD BE APPOINTED CLASS COUNSEL

Class counsel Robin B. Wagner, Michael L. Pitt, and Beth M. Rivers possess decades of experience with class action litigation, including actions involving the State of Michigan. Class Counsel Michele P. Fuller is a leading expert in Michigan on advocacy, protection, and asset preservation for persons with disabilities, which are particular concerns for the patient class members. Furthermore, Plaintiffs' counsel has already taken substantial efforts to prepare the necessary framework for a responsible, equitable, and efficient disbursement of funds to the two settlement classes. Therefore, counsel should be appointed Counsel of the Adult and of the Patient settlement classes.

For all of these reasons, Plaintiffs and Plaintiffs' Counsel have demonstrated their commitment to the Settlement Class and have satisfied the Adequacy requirement.

CONCLUSION

For the reasons stated above, Plaintiffs, with the concurrence of Defendant, hereby respectfully request that this Court grant their motion Certify the Settlement Class and Appoint Plaintiffs' counsel as Class Counsel.

Respectfully submitted,

PITT, MCGEHEE, PALMER & RIVERS, P.C.

/s/ Robin B. Wagner

Robin B. Wagner (P79408)

Michael L. Pitt (P24429)

Beth M. Rivers (P33614)

Attorneys for Plaintiffs

117 West Fourth Street, Suite 200

Royal Oak, MI 48067

(248) 398-9800

rwagner@pittlawpc.com

mpitt@pittlawpc.com

brivers@pittlawpc.com

Dated: January 31, 2024

PROOF OF SERVICE

Carrie Bechill states that she served counsel of record with Plaintiffs' Unopposed Motion to Certify Settlement Class and Appoint Settlement Class Counsel with this Proof of Service via the Michigan Supreme Court's electronic filing system to counsel of record on January 31, 2024.

/s/ Carrie Bechill
Carrie Bechill, Legal Assistant