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The Honorable Jerry Costello
Trial Date: February 17, 2015

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

VELMA WALKER, individually and as a class representative; JAMES STUTZ, individually and as a class representative; KARL WALTHALL, individually and as a class representative; GINA CICHON, individually and as a class representative; and MELANIE SMALLWOOD, individually and as class representative,

Plaintiffs,

vs.

HUNTER DONALDSON, LLC, a California limited liability company; MULTICARE HEALTH SYSTEM, a Washington nonprofit corporation; REBECCA A. ROHLKE, individually, on behalf of the marital community and as agent of Hunter Donaldson; JOHN DOE ROHLKE, on behalf of the marital community; RALPH WADSWORTH, individually, on behalf of the martial community, and as agent of Hunter Donaldson; and JANE DOE WADSWORTH, on behalf of the martial community,

Defendants.

Case No. 13-2-08746-0

consolidated with

Case No. 13-2-12653-8

CLASS ACTION SETTLEMENT AGREEMENT

I. BACKGROUND

1.1 The Plaintiff Class Representatives have asserted a number of claims on behalf of themselves and others similarly situated for monetary, injunctive and declaratory relief based

1 on allegations that in their preparation, filing, and recovery on medical service liens,
2 Defendants violated certain provisions of Ch. 60.44 RCW and RCW 42.44.020, and
3 Washington's Consumer Protection Act, RCW 19.86.

4 1.2 Defendant MultiCare Health System ("MultiCare") has denied and continues to deny
5 any liability to Plaintiffs Class Representatives or the Class they would represent.

6 1.3 Class Counsel have analyzed and evaluated the merits of all Parties' contentions and
7 the impact of this Agreement on the members of the Class. Based on that analysis and
8 evaluation, and recognizing the risks of continued litigation and the likelihood that the Action,
9 if not settled now, may be protracted and will further delay any relief to the proposed classes,
10 Plaintiff Class Representatives and Class Counsel are satisfied that the terms and conditions
11 of this Agreement are fair, reasonable, adequate, and equitable, and that a settlement of the
12 Action on the terms described herein is in the best interests of the Class.

13 1.4 In order to put to rest all controversy and to avoid further burdensome, protracted, and
14 costly litigation, Class Counsel, Plaintiff Class Representatives and MultiCare have agreed,
15 subject to preliminary and final court approval, to compromise and settle the Action between
16 the Plaintiff Class and MultiCare on the terms set forth herein.

17 **II. DEFINITIONS**

18 2.1 In addition to any definitions elsewhere in this Agreement, the following terms below,
19 when capitalized, shall be defined as follows:

20 (a) "**Action**" means the above-captioned action, *Walker, et al v. Hunter*
21 *Donaldson, LLC, et al.*, Pierce County Superior Court No. 13-2-08746-0 and the consolidated
22 individual case, *Miesmer v. Hunter Donaldson, LLC, et al*, Pierce County Superior Court No.
23 13-2-12653-8.

24 (b) "**Agreement**" means this Agreement, including all Exhibits hereto.

25 (c) "**Claimant**" means a Class Member who submits a Claim under this
26 Agreement.

1 (d) **“Claim Period”** means the 90-day period commencing on the Initial Notice
2 Date, except that the Claim Period shall be extended if necessary so that it ends not less than
3 30 days after the Settlement Date.

4 (e) **“Claim Form”** means the claim form attached hereto as Exhibit B.

5 (f) **“Class”** means persons:

6 i. on whose accounts MultiCare received a payment as the result of a Rohlke
7 Lien; or

8 ii. whose personal injury settlement funds were held in trust by their attorneys in
9 order to satisfy a Rohlke Lien but no payment was received by MultiCare.

10 (g) **“Class Counsel”** means Pfau Cochran Vertitis Amala, PLLC and Watson &
11 Gallagher, P.S.

12 (h) **“Class Member”** means a member of the Class who does not opt out.

13 (i) **“Common Fund”** means the funds available in the Escrow Account for Court-
14 approved payments by the Settlement Administrator to Class Members, Plaintiff Class
15 Representatives, and Class Counsel.

16 (j) **“Commercial Health Insurance”** means health insurance provided by a
17 health care service carrier, health management organization, disability insurer, or employer
18 sponsored health plan, excluding government-sponsored programs such as Medicare,
19 Medicaid, or TriCare.

20 (k) **“Court”** means the Superior Court of Washington for Pierce County, in which
21 this Action is pending.

22 (l) **“Corrected Notice of Lien”** shall mean a lien subscribed by a MultiCare
23 employee and recorded with the King or Pierce County Auditors on or after December 1,
24 2013.

25 (m) **“Escrow Account”** means a bank account established by the Settlement
26 Administrator into which MultiCare shall deposit \$7.5 million within seven days after the

1 Fairness Hearing, provided that the Court at that hearing enters the Judgment and Order
2 without material modifications.

3 (n) **“Fairness Hearing”** means the settlement approval hearing to be conducted by
4 the Court in connection with the determination of the fairness, adequacy, and reasonableness
5 of this Agreement in accordance with Civil Rule 23(e). It is the intention of the Parties that
6 the Fairness Hearing will be scheduled at the earliest date that is at least sixty days after the
7 Initial Notice Date that the Court is available to hear the matter.

8 (o) **“Final Settlement Date”** means the date on which all of the following have
9 occurred:

10 i. Entry of the Order and Judgment without material modification; and
11 ii. Finality of the Judgment and Order by virtue of that order having become
12 final and nonappealable through:

13 (1) the expiration of all allowable appeal periods without an appeal
14 having been filed or,

15 (2) if an appeal is filed, final affirmance of the Judgment and Order on
16 appeal or final dismissal or denial of all such appeals, including petitions for
17 review, rehearing, reargument, or certiorari; or

18 (3) final disposition of any proceedings, including any appeals,
19 following any appeal from entry of the Order and Judgment. However, an
20 appeal or petition for discretionary review pertaining solely to the Plaintiffs’
21 Class Representative’s incentive awards, or the award of attorneys’ fees, costs
22 or expenses to Class Counsel, shall not in any way delay the Final Settlement
23 Date, except with respect to the appealed items.

24 (p) **“Initial Notice Date”** means the date upon which the Notice of Proposed Class
25 Action Settlement is first mailed to Class Members pursuant to Part VI of this Agreement.

1 (q) **“Judgment and Order”** means the order to be entered by the Court, in a form
2 that is mutually agreeable to the Parties, approving this Agreement as fair, adequate, and
3 reasonable and in the best interests of the Class as a whole in accordance with Civil Rule
4 23(e) and making such other findings and determinations necessary and appropriate to
5 effectuate the terms of this Agreement.

6 (r) **“MultiCare”** means MultiCare Health System.

7 (s) **“Notice of Proposed Class Action Settlement”** or **“Notice”** means the Court-
8 approved notice to Class Members of proposed settlement substantially in the form attached
9 as Exhibit A to this Agreement.

10 (t) **“Opt-Out Period”** means the 45-day period commencing on the Initial Notice
11 Date.

12 (u) **“Party”** or **“Parties”** means Plaintiffs Class Representatives and MultiCare, as
13 represented by their counsel.

14 (v) **“Person”** without regard to capitalization, means any individual or legal entity,
15 including associations, and their successors or assigns.

16 (w) **“Plaintiffs’ Class Representatives”** means Velma Walker, James Stutz, Karl
17 Walthall, Melanie Smallwood, and Christina Miesmer.

18 (x) **“Preliminary Approval”** means the Court’s entry of an order preliminarily
19 approving this Agreement pursuant to Civil Rule 23(e).

20 (y) **“Published Notice of Proposed Class Action Settlement”** or **“Published Notice”**
21 means the short form notice of proposed settlement disseminated by the Settlement
22 Administrator for publication substantially in the form attached as Exhibit D to this
23 agreement;

24 (z) **“Rohlke Lien”** means a notice of medical service lien submitted to the Pierce
25 or King County Auditor pursuant to Ch. 60.44 RCW on behalf of MultiCare, bearing a
26 signature or facsimile of a signature of Ralph Wadsworth and notarized by Rebecca Rohlke.

1 (aa) “**Settled Claim**” means a claim which has been resolved under this
2 Agreement, as set forth in Part III.

3 (bb) “**Settlement Administrator**” means Gilardi & Co., LLC.

4 (cc) “**Settlement Date**” means the date on which the Court enters Preliminary
5 Approval.

6 **III. SETTLED CLAIMS**

7 3.1 It is the intent of the Parties to resolve any and all claims by Class Members against
8 Multicare relating to Rohlke Liens, including all claims against MultiCare based on
9 preparation, submission, enforcement, or attempted enforcement of a Rohlke Lien. A Settled
10 Claim includes any claim, cause of action, loss, damage, or right, known or unknown,
11 asserted or unasserted, whether based in tort, contract, or any other theory of legal recovery
12 that Class Members have against MultiCare and its affiliated corporations, including but not
13 limited MultiCare Consulting, LLC, Medis Corporation, Inc., or their directors, officers,
14 employees, attorneys or agents relating in any way, directly or indirectly, to a Rohlke Lien.
15 Without limiting the scope of the foregoing, a Settled Claim shall include claims:

16 (a) for breach or violation of, or for benefits conferred by, any federal or state law
17 or statute, regulation, or ordinance;

18 (b) based on principles of tort law or other kind of liability, including without
19 limitation those based on principles of, negligence, reliance, racketeering, fraud, conspiracy,
20 concerted action, aiding and abetting, veil-piercing liability, alter-ego or successor liability,
21 consumer fraud, negligent misrepresentation, intentional misrepresentation, or other direct or
22 derivative liability;

23 (c) for breach of any duty imposed by common law, by contract, or otherwise,
24 including, without limitation express or implied, promissory or equitable estoppel or
25 principles of unjust enrichment;

26 (d) for declaratory or injunctive relief; and

1 (e) for penalties, punitive damages, exemplary damages, or any claim for damages
2 based upon a multiplication of compensatory damages associated with the above.

3 3.2 The Parties also agree that all claims by Plaintiff Class Representatives and the Class
4 against Hunter Donaldson, LLC, its members, directors, owners, officers, employees, agents,
5 or attorneys, including but not limited to Ralph Wadsworth and Rebecca Rohlke, shall be
6 assigned to MultiCare insofar as such claims are based, directly or indirectly, on preparation,
7 submission, enforcement, or attempted enforcement of a Rohlke Lien by or on behalf of
8 Multicare. This assignment of claims shall not include claims against Hunter Donaldson,
9 LLC, and its members, directors, owners, officers, employees, agents, or attorneys, including
10 Ralph Wadsworth and Rebecca Rohlke, arising out of or in any way related to their assertion
11 of liens, collection activities, or other tortious or wrongful acts either directly or by or on
12 behalf of persons or entities other than MultiCare.

13 **IV. SETTLEMENT PURPOSES ONLY**

14 4.1 This Agreement is for settlement purposes only and neither the fact of, nor any
15 provision contained in this Agreement or its Exhibits, nor any action taken hereunder, shall
16 constitute, be construed as, or be admissible in evidence as an admission of the validity of any
17 claim or any fact alleged by Plaintiffs' Class Representatives in this Action or in any other
18 pending or subsequently filed action, or of any wrongdoing, fault, violation of law, or liability
19 of any kind on the part of MultiCare or admission by MultiCare of any claim or allegation
20 made in this Action or in any action, nor as an admission by Plaintiffs' Class Representatives,
21 Class Members, or Class Counsel of the validity of any fact or defense asserted against them
22 in this Action or in any action.

1 notices to any addresses disclosed through such efforts; (b) On the Initial Notice Date, the
2 Settlement Administrator also shall establish and maintain a website through which this
3 Agreement, Notice, and Claim Form shall be available until the close of the Claim Period (90
4 days after the Initial Notice Date), and shall publish a Published Notice of Proposed Class
5 Action Settlement in The Seattle Times, The News Tribune, The Olympian, the Federal Way
6 Mirror, the Washington State Association for Justice Trial News, and the Washington State
7 Bar Association's NWLawyer Magazine.

8 6.4 MultiCare will pay the reasonable costs of providing the Notice, regardless of whether
9 the settlement is finally approved.

10 **VII. CLASS MEMBERS' RIGHT OF EXCLUSION**

11 7.1. A Class Member may opt out of the Class during the Opt-Out Period. Any person
12 who elects to opt out of the Class pursuant to this Section shall not be entitled to relief under
13 or be affected by this Agreement. Except for those persons who have properly opted out, all
14 Class Members will be deemed Class Members for all purposes under this Agreement.

15 7.2 To opt out, the Class Member must complete, sign, and mail to the Settlement
16 Administrator a request for exclusion by the end of the Opt-Out Period. The request must be
17 signed by the Class Member and must state the Class Member's name, address, and telephone
18 number. To be effective, the request must be postmarked on or before the end of the Opt-Out
19 Period. The Settlement Administrator shall provide counsel for the Parties with copies of all
20 exclusion requests.

21 7.3. The Parties shall have the right to challenge the timeliness and validity of any
22 exclusion request and Class Counsel shall also have the right to effectuate the withdrawal of
23 any exclusion filed in error, or to seek to have the Class Member withdraw his or her opt out
24 request. The Court shall determine whether any contested exclusion request is valid.

25 7.4 With respect to any Class Member who elects to opt out, to the extent that the statutes
26 of limitations and/or repose or any defenses of lapse of time are tolled by operation of law,

1 they will continue to be tolled until 90 days after receipt of the request to opt out or for such
2 longer period as the law may provide without reference to this Agreement.

3 **VIII. SETTLEMENT TERMS**

4 8.1 **Generally.** This Agreement provides Class Members with two kinds of relief: (a)
5 monetary relief to Class Members who timely submit a Claim Form to the Settlement
6 Administration containing the specified information showing that they are entitled to a
7 payment; and (b) a judicial decree that any future medical service lien claim by MultiCare
8 based on a Rohlke Lien is invalid, unless another lien claim notice in the form specified by
9 statute was filed with the appropriate county auditor before the Class Member's third party
10 personal injury claim was settled and paid to the Class Member or the Class Member's
11 attorney.

12 8.2 **Monetary Relief.** MultiCare will pay \$7.5 million into the Escrow Account to be
13 available as a Common Fund to be administered by the Settlement Administrator.

14 (a) The Settlement Administrator will make payments to Class Members who
15 timely submit a Claim Form and provide the required information, as follows:

16 i. If, prior to the Settlement Date, MultiCare received a payment on a Class
17 Member's account as a result of a Rohlke Lien from a tortfeasor, the tortfeasor's
18 insurer, or from funds received by the Class Member as a result of a third party
19 personal injury claim:

20 (1) 45 percent of the amount MultiCare received if the Class Member had no
21 health insurance and was not enrolled in a government-sponsored health care
22 program at the time of service;

23 (2) 65 percent of the amount MultiCare received if the Class Member was
24 enrolled in a government-sponsored health care program at the time of service;

25 (3) 150 percent of the amount MultiCare received if the Class Member had
26 Commercial Health Insurance through a health insurer with which MultiCare had

1 a provider contract in effect at the time of service, if MultiCare's records so
2 indicated at the time of service, plus nine percent simple interest from the date
3 payment was received by MultiCare to the date of payment by Settlement
4 Administrator;

5 (4) 100 percent of the amount MultiCare received if the Class Member had
6 Commercial Health Insurance through a health insurer with which MultiCare had
7 a provider contract in effect at the time of service, if MultiCare's records did not
8 so indicate at the time of service, plus nine percent simple interest from the date
9 payment was received by MultiCare to the date of payment by Settlement
10 Administrator; and

11 (5) Where total medical service lien payments exceeded 25 percent of the total
12 settlement amount or award for a Class Member's personal injury damages, and
13 MultiCare received payment as a result of a Rohlke Lien, 150 percent of the
14 amount by which MultiCare's lien recoveries exceeded the 25% limit, plus nine
15 percent simple interest from the date payment was received by MultiCare to the
16 date of payment by Settlement Administrator. If there were multiple lien
17 recoveries that, when combined, exceeded the 25% cap, MultiCare's payment will
18 be pro-rated based on the total recoveries.

19 ii. Where, prior to the Settlement Date, a Class Member's personal injury
20 settlement funds were held in trust by his or her attorney in order to satisfy a Rohlke Lien but
21 no payment was received by MultiCare, ten percent of the amount held in trust to satisfy
22 MultiCare's lien claim.

23 iii. Where, prior to the Settlement Date, a Class Member has received a
24 payment from MultiCare as reimbursement for amounts previously recovered by MultiCare
25 on account of a Rohlke lien, then the Class Member shall receive the net difference between
26

1 the amount to be paid to the Class Member under this Settlement Agreement and the amount
2 previously paid to the Class Member by MultiCare.

3 iv. Payments to Class Members under ¶8.2 (A) will be reduced by any
4 amounts owed to MultiCare for services not forming the basis for a Rohlke Lien claim.

5 iv. MultiCare will not re-open a Class Member's previously closed account
6 because the Class Member receives a payment under this Agreement.

7 (b) For purposes of this Agreement:

8 i. A payment to MultiCare will be deemed to have been received as a
9 result of a Rohlke Lien if MultiCare received the payment from a tortfeasor or insurer,
10 from a Class Member or the Class Member's attorney, or otherwise as the result of a
11 personal injury settlement or award in favor of the Class Member after a Rohlke Lien
12 was on file with the King or Pierce county auditors, and no Corrected Notice of Lien
13 claim was filed before the payment was issued to MultiCare. Payments received by
14 MultiCare as a result of first party insurance covering the Class Member, including
15 personal injury protection, premises medical payments, or medical protection
16 payments, are not payments received as a result of a Rohlke lien for purposes of this
17 agreement, regardless of how the payment was transmitted to MultiCare; and

18 ii. Personal injury settlement funds will be deemed to have been held in
19 trust in order to satisfy a Rohlke Lien if, (1) prior to the Settlement Date and at a time
20 when a Rohlke lien was on file with the Pierce or King County auditor and no
21 Corrected Notice of Lien was on file; (2) a Class Member's attorney deposited into his
22 or her trust account funds received as a result of the personal injury claim that formed
23 the basis for the Rohlke lien or liens; (3) in an amount equal to or greater than the
24 amount of the Rohlke lien or 25% of the total settlement, whichever is less; or (4) the
25 Class Member demonstrates by contemporaneous documentation, such as a
26

1 distribution letter from his/her attorney, that an amount was deposited specifically to
2 satisfy a Rohlke lien.

3 **8.3 Payments to Class Representatives.** Class Counsel will seek, and MultiCare will not
4 oppose, incentive awards to the Plaintiff Class Representatives in the amount of \$15,000 each.
5 The Settlement Administrator will pay the amounts authorized by the Court to the Plaintiff
6 Class Representatives from the Common Fund.

7 **8.4 Payments to Class Counsel.** Class Counsel will seek, and MultiCare will not oppose,
8 an attorney fee award of up to 33 1/3 percent of the Common Fund plus the amount
9 voluntarily paid by MultiCare to Class Members on account of Rohlke Liens, which is
10 stipulated to be \$ 81,117.44. Class Counsel will also seek reimbursement of their reasonable
11 litigation expenses. The Settlement Administrator will pay the amounts authorized by the
12 Court to Class Counsel from the Common Fund.

13 **8.5 Common Fund Limitations.** Monies deposited into the Escrow Account and
14 available for payment from Common Fund are and shall remain the property of MultiCare
15 until paid out by the Settlement Administrator in accordance with this Agreement. If the
16 Common Fund is not sufficient to make the specified payments to Class Members, the
17 Settlement Administrator shall so inform Class Counsel, who must seek the Court's approval
18 to reduce all payments to Class Members *pro rata*. If the Common Fund is not exhausted by
19 payments under this Agreement, the Settlement Administrator shall remit the balance in the
20 Escrow Account to MultiCare within seven days after all payments to Class Members have
21 been made.

22 **8.6 Declaration of Invalidity.** The Parties will jointly request the Court to include the
23 following language in its judgment and order:

24 All notices of medical service lien claims filed on behalf of MultiCare Health
25 System, which were signed by Ralph Wadsworth and notarized by Rebecca
26 Rohlke, are hereby declared invalid and are hereby released, provided that this
declaration shall not preclude assertion of a medical service lien claim where

1 another notice of lien claim was filed with the appropriate county auditor in
2 the form prescribed by and within the time limit prescribed by law.

3 (a) MultiCare will provide the Settlement Administrator with a release of lien to
4 be sent to each Class Member who returns a Claim Form, except in those cases where
5 MultiCare has re-filed a Corrected Notice of Lien claim.

6 **8.7 Release of Claims against MultiCare.** On the Final Settlement Date, each Plaintiff
7 Class Representative, Class Counsel, and each Class Member who has not opted out shall –
8 on behalf of himself or herself and any person claiming by or through him or her as an heir,
9 administrator, devisee, predecessor, successor, attorney, representative of any kind,
10 shareholder, partner, director, owner or co-tenant of any kind, affiliate, subrogee, assignee, or
11 insurer (the “Releasing Parties”), and regardless of whether any Class Member executes and
12 delivers a written release – be deemed to and does hereby release and forever discharge
13 MultiCare, and each of its successors and assigns and each of their respective directors,
14 officers, employees, attorneys, or agents, of and from any and all Settled Claims, provided
15 that all claims against Hunter Donaldson, LLC, Ralph Wadsworth, Rebecca Rohlke, and any
16 persons or entities affiliated with them are not released.

17 **8.8 Assignment of Claims against Hunter Donaldson, etc.** On the Final Settlement
18 Date, all claims by Plaintiff Class Representatives and any Class Member against Hunter
19 Donaldson, LLC, and its owners, officer, agents or attorneys, including Ralph Wadsworth and
20 Rebecca Rohlke related to Rohlke Liens and efforts to collect on Rohlke Liens on behalf of
21 MultiCare, except for claims based on discovery sanctions against Hunter Donaldson, LLC,
22 Ralph Wadsworth and Rebecca Rohlke shall be deemed assigned to MultiCare Health
23 System. This Assignment of Claims shall not include claims against Hunter Donaldson, LLC,
24 and its owners, officers, agents or attorneys, including Ralph Wadsworth and Rebecca Rohlke
25 arising out of or in any way related to their assertion of liens, collection activities, or other
26 tortious or wrongful acts either directly or by or on behalf of persons or entities other than
MultiCare.

1 **IX. CLAIM PROCESS**

2 9.1 **Class Member's Responsibility.** In order to receive a payment from the Common
3 Fund, a Class Member must complete and timely transmit a Claim Form with the specified
4 supporting documentation to the Settlement Administrator.

5 9.2 **Settlement Administrator's Responsibility.** The Settlement Administrator will
6 administer the Claims Process in accordance with the terms of Exhibit C to this Agreement.

7 **X. PAYMENT**

8 10.1 **Payments to Class Members.** All payments due shall be mailed to Class Members
9 by the Settlement Administrator not later than 45 days after the end of the Claim Period or the
10 Final Settlement Date, whichever is later, except where there is an unresolved dispute as to a
11 Class Member's claim, in which case payment shall be mailed within ten days after resolution
12 of the dispute. The check (or stub) shall include remarks stating that endorsement of the
13 check represents satisfaction of any claim that the Class Member has against MultiCare based
14 on a Rohlke Lien.

15 10.2 **Payments to Plaintiff Class Representatives and Class Counsel.** Court-approved
16 payments to Plaintiff Class Representatives and Class Counsel shall be made by the
17 Settlement Administrator within ten days after the Final Settlement Date, provided that they
18 have provided IRS W-9 forms to the Settlement Administrator.

19 **XI. ADMINISTRATIVE PROVISIONS**

20 11.1 The Settlement Administrator shall maintain records of its activities under this
21 Agreement sufficient to resolve any concerns about its implementation, which shall be subject
22 to review on reasonable notice by the Court or counsel for the Parties. The expense of any
23 review initiated by a Party shall be borne by that Party.

24 11.2 MultiCare shall be responsible to pay the Settlement Administrator's reasonable fees
25 and expenses. Any dispute regarding the same shall be submitted to the Court for resolution.
26

1 11.3 The Parties and their counsel shall have the duty to cooperate with the Settlement
2 Administrator in resolving issues that may arise concerning the claims process in a rational,
3 responsive, and timely manner. The Parties shall confer in person or by telephone
4 periodically to discuss the implementation of this Agreement and to attempt to resolve any
5 concerns that may arise among the Parties. In the event that any Party reasonably believes
6 that the other Party is not properly implementing or applying any of the terms of this
7 Agreement, or in the event there is a question concerning the application of the terms of this
8 Agreement by any Party, then:

9 (b) Counsel for that Party shall notify counsel for the other Party;

10 (c) Counsel for the Parties shall meet within seven days of receipt of the written
11 notification to resolve the concern; and

12 (d) In the event that Counsel for the Parties cannot resolve the matter, then the
13 matter shall be submitted to the Court.

14 11.4 Until the Final Settlement Date, the Parties agree to use reasonable efforts to preserve
15 all records and evidence which are or could be relevant to, or could lead to the discovery of,
16 relevant evidence concerning the matters at issue in the Action.

17 11.5 The Judgment and Order shall provide for the Court's exclusive and continuing
18 jurisdiction over the Action, all Parties, and Class Members to interpret and enforce the terms,
19 conditions, and obligations of this Agreement. In the event any Party fails to perform under
20 the Agreement or to make a payment due and owing under the terms of this Agreement,
21 counsel for the other Party shall so notify the Court and simultaneously notify the other Party.
22 If a breach is not cured within a reasonable period of time, the other Party may apply to the
23 Court for relief.

24 **XII. JUDGMENT & RELEASE**

25 12.1 The relief provided under this Agreement shall be the sole and exclusive remedy for
26 Plaintiff Class Representatives, Class Members and Class Counsel with respect to Settled

1 Claims. The Judgment and Order shall provide that Action is dismissed with prejudice and
2 that Plaintiff Class Representatives and each Class Member who has not opted out of the
3 Class are barred from initiating, asserting, or prosecuting any Settled Claims against
4 MultiCare.

5 12.2 The Judgment and Order shall also provide that, in consideration of MultiCare's
6 undertakings in this Agreement, Plaintiff Class Representatives, and each Class Member who
7 has not opted out, shall be deemed to have forever released and discharged MultiCare from
8 any Settled Claims, which release shall be effective as any person claiming through the
9 Plaintiff Class Representative or Class Member, whether as an heir, administrator, devisee,
10 predecessor, successor, attorney, representative of any kind, shareholder, partner, director,
11 owner or co-tenant of any kind, affiliate, subrogee, assignee, or insurer.

12 **XIII. TERMINATION OF THE AGREEMENT**

13 13.1. This Agreement is expressly contingent upon the Court's preliminary and final
14 approval of its terms as stated herein. If the Court fails to approve the Agreement, either
15 preliminarily or finally, the Agreement will be terminated, having no force or effect
16 whatsoever, and shall be considered null and void, *ab initio*, and not admissible as evidence
17 for any purpose in any pending or future litigation (in any jurisdiction) involving any of the
18 Parties.

19 **XIV. MISCELLANEOUS PROVISIONS**

20 14.1 This Agreement, including all attached Exhibits hereto, shall constitute the entire
21 agreement among the Parties with regard to the subject matter of this Agreement and shall
22 supersede any previous agreements and understandings between the Parties. This Agreement
23 or Exhibits may not be changed, modified, or amended except in writing signed by Class
24 Counsel and MultiCare, and subject to Court approval.

1 14.2 This Agreement may be executed by the Parties in one or more counterparts, each of
2 which shall be deemed an original but all of which together shall constitute one and the same
3 instrument.

4 14.3 This Agreement, if approved by the Court, shall be binding upon and inure to the
5 benefit of the Class, the Parties, and their representatives, heirs, successors, attorneys, and
6 assigns.

7 14.4 The headings of the Sections of this Agreement are included for convenience only and
8 shall not be deemed to constitute part of this Agreement or to affect its construction. The
9 decimal numbering of provisions herein is intended to designate Subsections where
10 applicable.

11 14.5 Any notice, instruction, application for Court approval, or application for Court order
12 sought in connection with this Agreement or other document to be given by any Party to any
13 other Party shall be in writing and delivered to counsel of record for MultiCare and Class
14 Counsel.

15 14.6. This Agreement has been negotiated at arm's length by Class Counsel and
16 MultiCare's counsel. In the event of any dispute arising out of this Agreement, or in any
17 proceeding to enforce any of the terms of this Agreement, no Party shall be deemed to be the
18 drafter of this Agreement or of any particular provision or provisions, and no part of this
19 Agreement shall be construed against any Party on the basis of that Party's identity as the
20 drafter of any part of this Agreement. The Parties further acknowledge that the obligations
21 and releases herein described are in good faith and are reasonable in the context of the matters
22 released.

23 14.7 The Parties represent, warrant, and agree that no promise or agreement not expressed
24 herein has been made to them, that this Agreement contains the entire agreement between the
25 Parties, that the Agreement supersedes any and all prior agreements or understandings
26 between the Parties with respect to the matters herein, and that the terms of this Agreement

1 are contractual and not a mere recital; that in executing this Agreement, no Party is relying on
2 any statement or representation made by the other Party, or any other Party's agents or
3 attorneys concerning the subject matter, basis or effect of this Agreement other than as set
4 forth herein; and that each Party is relying solely on its own judgment and knowledge.


5 14.8 This Agreement shall be construed according to the laws of the State of Washington.

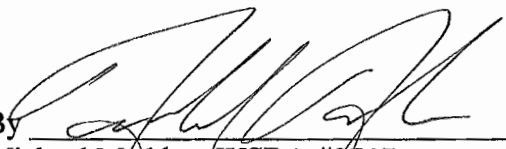
6 14.9 Waiver by one party of any provision or breach of this Agreement shall not be deemed
7 a waiver of any other provision or breach of this Agreement.

8 14.10 Each individual signing this Agreement warrants that he or she has the authority to
9 enter into this Agreement on behalf of the party for which that individual signs.

10 DATED this 17th day of November 2014.

11 PFAU COCHRAN VERTETIS AMALA, BENNETT BIGELOW & LEEDOM, P.S.
12 PLLC

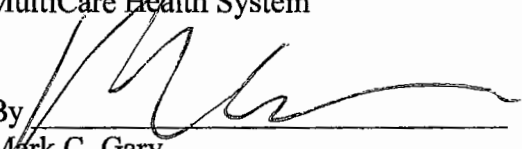
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