

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss.

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT
CA No. 2085-CV-00971D

JOEL BURMAN as the Legal Representative of
the Estate of Mary Burman, on behalf of Ms.
Burman and all others similarly situated,

Plaintiff,

v.

CONTINUING CARE MANAGEMENT LLC;
WHITNEY PLACE AT SHARON LLC;
WHITNEY PLACE AT SHARON LIMITED
PARTNERSHIP, d/b/a WHITNEY PLACE AT
SHARON; WHITNEY PLACE AT SHARON
MANAGEMENT LLC; SALMON HEALTH
AND RETIREMENT; and SHI II WHITNEY
PLACE SHARON, LLC.,

Defendants.

[PROPOSED]
PRELIMINARY APPROVAL ORDER

The Parties in the above-captioned action (the “Action”), having made an application for a preliminary approval order; and further, for the scheduling of a hearing with respect to a Final Hearing relating to the settlement of the Action in accordance with a Settlement Agreement (the “Settlement Agreement which provides for the ultimate dismissal of the Action with prejudice); and the Court having considered the Settlement Agreement as preliminarily approved after hearing; and the Parties having consented to the entry of this Order;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

- 1. Definitions.** Except for terms defined herein (with the definitions to be applicable to both the singular and the plural forms of each term defined if both such forms of such term are used

herein), the Court adopts and incorporates the definitions in the Settlement Agreement for purposes of this Order.

2. Approval of Notices.

- a. The Court approves, in form and content, the former resident Class Member Notice to the all former resident members of the Class of the pendency of the proposed settlement of the Action and the Class Action in the form approved; and further, finds that the dissemination of the Notice to each former resident Class Member in the method set forth in the Settlement Agreement will adequately satisfy the requirements of Rule 23 of the Massachusetts Rules of Civil Procedure, due process, and applicable law; is the most appropriate notice practicable under the circumstances; and shall constitute due and sufficient notice of the Settlement and Final Approval Hearing (as defined below) and all other matters referred to in the Notice to all persons entitled to receive such Notice.
- b. The Court also approves, in form and content, the current resident Settlement Class Member Notice to all current resident members of the Settlement Class of the pendency of the proposed settlement of the Action and the Class Action; and further, finds that the dissemination of the current resident Notice to each current resident Class Member by way of direct distribution shall avoid confusion amongst current resident class members; and further, will adequately satisfy the requirements of Rule 23 of the Massachusetts Rules of Civil Procedure, due process, and applicable law; is the most appropriate notice practicable under the circumstances; and shall constitute due and sufficient notice of the Settlement and Final Approval.

3. **The Certified Class, the Class Representatives and Class Counsel.** The Court endorses certification of a Settlement Class (for settlement purposes only) consisting of:

All current and former residents during the Class Period, as defined, of ALRs in Massachusetts managed, owned, and/or operated by Salmon Health who:

- A. Paid a Community Fee; and/or
- B. Paid an amount in consideration of Last Month's Charges; and
- C. Has not previously entered a settlement with Salmon Health regarding claims concerning Community Fees and/or Last Month's Charges.

The Court also endorses Plaintiff as the representatives of the Settlement Class (the "Class Representatives"), and appointment of their counsel, Forrest, Mazow, McCullough, Yasi & Yasi, P.C., as class counsel ("Class Counsel").

4. **Preliminary Approval of the Settlement.** The Court preliminarily approves the Settlement Agreement and Settlement set forth therein, as fair, reasonable, and adequate, and in the best interest of the Settlement Class, subject to further consideration at the Final Approval Settlement Hearing described below.

5. **Final Approval Hearing.** A hearing (the "Final Approval Hearing") shall be held before this Court on _____ in the Worcester County Superior Court, to:

- A. Determine whether to grant final approval to this Settlement Agreement;
- B. Consider any timely objections to this Settlement Agreement and all responses to objections by the Parties; and
- C. Rule on Plaintiffs' Fee and Expense Application ("Fee and Expense Application").

6. **Reservation by the Court.** The Court reserves the right to adjourn and reconvene the Final Approval Hearing, including with respect to *Plaintiffs' Fee and Expense Application*, without further notice to the Class Members other than an oral announcement at the Final Approval Hearing or any adjournment thereof. Papers in support of Final Approval, Plaintiffs' Fee and

Expense Application may be filed with the Court and served upon all Parties **no later than seven (7) days before** the Final Approval Hearing. The Court may approve the Settlement at or after the Final Approval Hearing with such modifications as may be consented to by the Parties and without further notice to the Class Members.

7. **Appearance at the Final Approval Hearing and Objections to Settlement.** Any Settlement Class Member wishing to object to the approval of this Settlement, and/or to seeking to oppose the Fee and Expense Application, shall inform the Court and the Parties in writing of his or her intent to object or oppose by following the procedure set forth in the Notice, or such number of days as the Court shall specify, from the date of entry of the Preliminary Approval Order. To be effective, any objection must comply with the Settlement Agreement.
8. **Stay of Proceedings.** All proceedings in the Action, other than such proceedings as may be necessary to carry out the terms and conditions of the Settlement or proceedings in connection with Plaintiffs' Fee and Expense Application, are hereby stayed and suspended until further order of this Court. Pending final determination of whether the Settlement provided for in the Settlement Agreement should be approved, Plaintiff and all members of the Settlement Class, or any of them, are barred and enjoined from commencing, prosecuting, instigating or in any way participating in the commencement or prosecution of any action asserting any Released Claims against any of the Released Parties.
9. **No Admissions by the Parties.** The provisions contained in the Settlement Agreement shall not be construed as/or deemed to be legal evidence of an admission by Defendants, or the Released parties, with respect to the merits of the claims alleged in the Action, the validity of any claims that could have been asserted by an of the Settlement Class Members in the Action

or the liability of Defendants (or any of the Released Parties) in this Action. Defendants specifically deny any liability or wrongdoing of any kind associated with the claims alleged in the Action. Neither the acceptance by Plaintiff, or the terms of this Settlement Agreement, nor any of the related negotiations or proceedings shall be construed as, or deemed to be, legal evidence of an admission by Plaintiff or any Settlement Class Members with respect to the merits of the defenses asserted in the Action or the validity of any defenses that could have been asserted by Defendants in this Action. Neither this Settlement Agreement, nor any pleading or other paper related in any way to this Agreement, nor any act or communication in the course of negotiating, implementing or seeking approval of this Agreement, shall be deemed an admission by Defendants that certification of the Class is appropriate, or constitute a presumption, concession or an admission by any party in the Action of any fault, liability or wrongdoing or lack of any fault, liability or wrongdoing, as to any facts or claims alleged or asserted in the Action, or any other actions or proceedings, and shall not be interpreted, construed, deemed, involved, offered, or received in evidence or otherwise used by any Person in the Action, or in any other action or proceeding, whether civil, criminal or administrative, except in connection with any proceeding to enforce the terms of the Stipulation.

10. Retention of Exclusive Jurisdiction by the Court. The Court retains exclusive jurisdiction over the Action to consider all further applications arising out of or connected with the Settlement.

Dated: _____

BY THE COURT:

CLERK'S NOTICE

DOCKET NUMBER

2085CV00971**Trial Court of Massachusetts
The Superior Court**

CASE NAME:

Joel Burman as the Legal Representative of the Estate of Mary Burman, on behalf of Ms. Burman and all others similarly situated vs. Continuing Care Management LLC, et al

Dennis P. McManus, Clerk of Courts
Worcester County

TO:

Michael C Forrest, Esq.
Forrest, Mazow, McCullough, Yasi and Yasi, PC
2 Salem Green Suite 2
Salem, MA 01970

COURT NAME & ADDRESS

Worcester County Superior Court
225 Main Street
Worcester, MA 01608

You are hereby notified that on 02/23/2023 the following entry was made on the above referenced docket:

Endorsement on Motion for Preliminary Approval of Class Action Settlement (#26.0): ALLOWED
After hearing and review, ALLOWED. Trial hearing for approval to be held on 5/9/23 in "D" session. Notices mailed 2/24/23

Judge: Kenton-Walker, Hon. Janet

DATE ISSUED

02/24/2023

ASSOCIATE JUSTICE/ ASSISTANT CLERK

Hon. Janet Kenton-Walker

SESSION PHONE#

(508)831-2350