

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY  
PENNSYLVANIA**

MICHELLE HARRIS-BARBER, on behalf  
of herself and all other similarly situated  
individuals,

Plaintiffs,

vs.

UPMC-PRESBYTERIAN SHADYSIDE,

Defendants.

CIVIL DIVISION

No. GD: 18-012330

**AMENDED SCHEDULING ORDER OF PRELIMINARY APPROVAL OF CLASS  
SETTLEMENT AND PROVIDING FOR NOTICE AND HEARING**

This matter is before the Court on the Plaintiffs' Amended Scheduling Order for Preliminary Approval of Class Action Settlement;

WHEREAS, the Parties previously submitted a Motion pursuant to Pa.R.Civ.P. 1714 and an order preliminarily approving the settlement to this action in accordance with the terms of the class action Settlement Agreement dated June 1, 2023 was granted by the Court on September 8, 2023.

The Court, having reviewed the Settlement Agreement entered into by the parties, hereby Orders that:

1. The Court previously determined that the prerequisites to a class action under Pa.R.Civ.P. 1702, 1708 and 1709 have been satisfied for settlement purposes only; however, it has since been agreed upon by the parties that there are 300 class members;

2. Pursuant to Pa.R.Civ.P. 1709, plaintiff, Michelle Harris-Barber, on behalf of herself and on behalf of all other similarly situated individuals, are certified as class representatives. This Court certifies Brendan Lupetin, Esquire and Mark A. Smith, Esquire as counsel for the settlement class, and he shall serve as the attorney to whom any request for

exclusions from the Settlement Class or objections to the settlement or the request for attorneys' fees and costs shall be mailed by class members or opt-outs.

3. The Court will hold a fairness hearing pursuant to Pa.R.Civ.P.1714(a) on

**February 9, 2024** in Courtroom 820 at 9:00 a.m. for the following purposes:

- a. To determine whether the defined class should be certified for settlement purposes pursuant to Pa.R.Civ.P. 1702, 1708 and 1709;
- b. To determine whether the proposed settlement is fair, reasonable and adequate and should be granted final approval by the Court;
- c. To determine whether a final judgment should be entered dismissing the claims of the Class Members with prejudice, as required by the Agreement;
- d. To consider the application of Plaintiffs' counsel for an award of attorneys' fees and expenses, and for service awards to the class representatives; and
- e. To rule upon other such matters as the Court may deem appropriate.

4. On or before **November 21, 2023**, the Settlement Administrator shall:

(B) cause a copy of the proper class notice to be sent by first class mail to the individuals on each of the Class List for the Settlement Class as of the date of the filing of this Order;

(C) establish an Internet website containing information about the Settlement;

and

(D) establish a Telephone Assistance program, all as provided in the Settlement Agreement.

5. On **January 22, 2024**, the Settlement Administrator shall serve on Plaintiffs' counsel proof, by affidavit of, that it has performed the functions described in Paragraphs 8-10 of the Honorable Court's Order of September 8, 2023.

6. As provided in the Class Notice, each Class Member shall have the right to exclude

himself or herself from the settlement class by mailing a request for exclusion to the Settlement Administrator and/or Counsel for the Class postmarked not later than thirty (30) days after mailing of the Class Notice. Requests for exclusion must set forth the Class Member's original signature, current postal address and telephone number, the last four digits of the Settlement Class Member's Social Security number, and a specific statement that the proposed Settlement Class Member wants to be excluded from the Settlement Class. **On February 2, 2024**, and at least seven (7) days prior to the final approval hearing, Class Counsel shall file with the Court a list of all persons who have timely requested exclusion from the Settlement Class along with copies of the Requests For Exclusion.

7. As provided in the Class Notice, each Class Member who does not timely opt out of the class shall have the right to object to the settlement or to the request by Plaintiffs' counsel for an award of attorneys' fees and expenses by filing written objections with the Court postmarked not later than thirty (30) days after the date on which the Class Notices were mailed. Each Class Member that objects must file his or her objections with the Court under the caption of this case and must also serve his or her objections on Counsel for the Class as provided in the Notice. Any settlement class member who does not make his or her objection in the manner provided herein shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed settlement as incorporated in the Settlement Agreement, to the final judgment and order approving class settlement, unless otherwise ordered by Court. Any such objections shall be:

(A) Delivered by hand, sent by first class mail, overnight or other delivery service, written objections and copies of any papers and briefs within thirty days of the date on which the Class Notice was mailed to: Brendan B. Lupetin, Esquire, Lupetin & Unatin, LLC The

Gulf Tower, 707 Grant Street, Suite 3200, Pittsburgh, PA 15219.

(B) Filed under the caption of this case as *Michelle Harris-Barber, on behalf of herself and all others similarly situated individuals v. UPMC Presbyterian Shadyside*, GD: 18-012330 with the Department of Court Records, Civil, City-County Building, 414 Grant Street, Pittsburgh, PA 15219 within thirty (30) days of the mailing of the Class Notice.

8. As provided in the Class Notice, each Class Member who does not timely opt out of the class shall have the right to be heard at the final fairness hearing upon written request to be heard that must be filed with the Court under the caption of this case as *Michelle Harris-Barber v. UPMC Presbyterian Shadyside* with the Department of Court Records (Civil), City-County Building, 414 Grant Street, Pittsburgh, PA 15219 and postmarked not later than 21 days before the scheduled final settlement hearing. Each Class Member that wishes to appear at the final fairness hearing must file his or her written request with the Court and must also serve his or her request on Counsel for the Class as provided in the Notice. Any settlement class member who does not make his or her written request to be heard in the manner provided herein shall be deemed to have waived his or her right to speak at the final fairness hearing. To the extent an objection relates to Plaintiffs' Counsel's attorneys' fees and costs, any such objection may be made and/or supplemented up to seven (7) days after the filing of a motion for such fees and costs.

9. All briefs, memoranda, petitions and affidavits to be filed in support of final approval of the settlement and for an award of attorneys' fees and expenses by counsel for the class shall be filed **on January 30, 2024** and not later than ten (10) days before the fairness hearing.

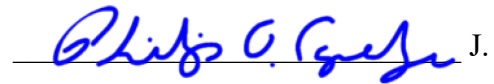
10. The Court reserves the right to adjourn the date of the final fairness hearing without further notice to the members in the settlement classes, and retains jurisdiction to consider all

further applications arising out of or connected with the proposed settlement. The Court may approve the settlement, with such modifications as may be agreed to by the settling parties, if appropriate, without further notice to the settlement class.

11. The Court retains exclusive jurisdiction over this action to consider all further matters arising out of or connected with the Settlement Agreement.

It is So Ordered.

BY THE COURT:

 J.

October 26, 2023