West Virginia E-Filing Notice

CC-54-2014-C-829

Judge: Jason Wharton

To: Sean Daniel Thomas
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NOTICE OF FILING

IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA
JAMES F. SMITH AND JOHN E. SMITH, AS CO-EXECUTORS AND ON BEHALF OF THE ESTATE OF DONALD E. SMITH v. CAMDEN-CLARK MEMORIAL HOSPITAL CORPORATION, AND RECORDS IMAGING & STORAGE, INC.
CC-54-2014-C-829

The following order - motion was FILED on 9/22/2026 10:44:23 AM

Notice Date: 9/22/2026 10:44:23 AM

Celeste Ridgway
CLERK OF THE CIRCUIT COURT
Wood County
Wood County Judicial Building
PARKERSBURG, WV 26102

(304) 424-1700
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/s/ Jason A. Wharton
Circuit Court Judge
Ref. Code: 26N010F3X

E-FILED | 9/22/2026 10:44 AM
CC-54-2014-C-829
Wood County Circuit Clerk
Celeste Ridgway

IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA

**JAMES F. SMITH and John E. Smith,
as Co-Executors and on behalf of the Estate of
Donald E. Smith,**

Plaintiffs,

v.

**Civil Action No. 14-C-829
Honorable Jason Wharton**

**CAMDEN-CLARK MEMORIAL HOSPITAL
CORPORATION, et al.**

Defendant.

ORDER GRANTING JOINT MOTION TO APPROVE AMENDMENT TO PRELIMINARY APPROVAL AND CERTIFICATION OF SETTLEMENT CLASS ORDER

On a previous date, the Plaintiffs, James F. Smith and John E. Smith, as Co-Executors and on behalf of the Estate of Donald E. Smith (the "Smith Plaintiffs") and Russell G. Binder ("Binder") (collectively, "Named Plaintiffs"), and Defendants, Camden-Clark Memorial Hospital Corporation ("Camden-Clark"), The Charles Town General Hospital d/b/a Jefferson Medical Center ("Jefferson Medical Center"), and City Hospital, Inc. d/b/a Berkeley Medical Center ("Berkeley Medical Center") and intervenor, CIOX Health, Inc. ("CIOX") (collectively, the "Defendants"), by and through undersigned counsel, filed a Joint Motion to Approve Amendment to Preliminary Approval and Certification of Settlement Class Order.

The Court understands that a disagreement arose between the parties when discussing the details of how the Claims Administrator would value different claims for potential members of the Settlement Class. Specifically, the parties disagreed on whether Class members would be entitled to recoup the $10 search fee (often labeled a basic fee) which was charged to some Class members.

The Court understands that the parties engaged in negotiations in an effort to find a middle ground on this issue which would not derail the settlement and would allow the Claims Administration to continue as planned. Eventually, the parties agreed to enter into a Second Amendment to Settlement Agreement and Release, which provides as follows:

> 1. Amendments. The Settlement Agreement is amended, modified and revised as follows:
>
> a. Section I(14) of the Settlement Agreement is amended and restated to read in its entirety as follows:
>
> "Disputed Fee Amount" means the delta between the Per-Page Rate charged by CIOX to produce copies of the medical records in response to a Qualifying Request and the Settlement Rate of 14 cents per page. Additionally, any patients that paid a search fee (often labeled a basic fee), either when requesting medical records or reimbursing the person(s) that requested medical records on their behalf, shall also recover 100% of the search fee, including the applicable interest (e.g., a patient that paid a $10 search fee would receive $6.71, plus have 49% interest added to the Disputed Fee Amount consistent with Section IV(B)(4)). Non-Patient Requestors, including attorneys and insurance companies, shall not be eligible to receive reimbursement of the "search fee." No other fees, costs, expenses or taxes shall be included in the Disputed Fee Amount.

The Court recognizes that this proposed Amendment will provide additional funds to those Class members who were actual patients who ultimately paid for copies of their own medical records.

The Court recognizes that this proposed Amendment will not provide additional funds non-Patient Requestors, including lawyers, law firms, insurance companies, or other representatives who paid for copies of a patient's medical records.

The Court recognizes that the original language of this provision, set forth in Section I(14) of the Settlement Agreement read as follows:

14. "Disputed Fee Amount" means the delta between the Per-Page Rate charged by CIOX to produce copies of the medical records in response to a Qualifying Request and the Settlement Rate of 14 cents per page.

The parties have jointly moved the Court to adopt this proposed Amendment in an effort to resolve a relatively small dispute for an issue that affects a minority of the potential claimants in a way that will allow the wheels of justice to continue moving toward a final resolution of this lawsuit, which was originally filed in 2014.

Having reviewed the joint submissions of the parties, the Court hereby **FINDS** that the proposed Amendment is fair, reasonable, and appropriate, and is a good compromise to secure just compensation while at the same time avoiding additional delay in the Claims Administration process of this Class Action Settlement.

Accordingly, the Court hereby **ORDERS** that the Parties' Joint Motion to Approve Amendment to Preliminary Approval and Certification of Settlement Class Order is hereby **GRANTED**.

The Clerk is **DIRECTED** to send a Certified copy of this Order to all counsel of record.

ENTER:_____

_____

JUDGE JASON WHARTON

Jointly Submitted by:

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