

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

SARAH CONTE, JOANNE TOUCHBERRY,)
TEKISHA L. NICHOLSON, TOBY) CASE NO. 5:21-CV-00190-D
BELIVEAU, ALEXANDER CARLISLE, and)
EARLENE N. HUNTER, Individually and on) CLASS ACTION
Behalf of the WakeMed 403(b) Plan and All)
Others Similarly Situated,)
)
Plaintiffs,)
)
vs.)
)
WAKEMED,)
)
Defendant.)
)
_____)

DECLARATION OF TOBY BELIVEAU

I, Toby Beliveau, declare as follows:

1. I am a plaintiff in this action (the “Litigation”).¹ I have personal knowledge of the facts herein, and if called as a witness, would testify thereto.

2. I reside in Raleigh, North Carolina. During the Settlement Class Period, I participated in the WakeMed 403(b) Plan (“Plan”).

3. I submit this declaration in support of: (i) final approval of the Settlement, which includes a \$975,000.00 monetary component and a non-monetary component; (ii) the Plan of Allocation; and (iii) Lead Counsel’s request for attorneys’ fees of one-third of the Settlement Amount and litigation expenses in an amount not to exceed \$40,000. I also submit this declaration in support of my request for a \$5,000 service award for the time I spent monitoring and participating in this Litigation.

4. I have spent a considerable amount of time performing actions that benefitted the Settlement Class at large, including furnishing WakeMed’s Plan Disclosure Statement, the Summary Plan Description, and my 403(b) account statements to attorneys at Capozzi Adler, P.C. (“Capozzi Adler”), and discussing the Plan and its investment options. I reviewed the initial complaint and other case documents. I participated in numerous telephone calls and corresponded with Capozzi Adler regarding the Litigation, particularly about the Settlement discussions and other important developments.

5. Since I became involved in the Litigation, I assisted Capozzi Adler with its investigation of the ERISA class action claims. Capozzi Adler consulted with me throughout the

¹ All capitalized terms that are not otherwise defined herein have the same meanings ascribed to them in the Class Action Settlement Agreement, dated April 26, 2021, ECF No. 11-1 (“Settlement Agreement”).

case on a variety of issues relating to the Plan's investment options, the status of the Litigation, and settlement negotiations. I stayed updated on case developments throughout the process.

6. I have authorized my counsel to enter into the Settlement Agreement including a Settlement Amount of \$975,000 and the non-monetary component. Before doing so, I reviewed, considered, and discussed the merits of this case with my counsel, was kept apprised of the scheduling and progress of the case, and understood the risks and benefits of the decision to settle the Litigation. I believe that the Settlement is a very good recovery for the Settlement Class and would not have been possible without counsel's diligent efforts. I believe the Settlement provides a fair, reasonable, and adequate recovery for the Settlement Class, and that its approval is in the best interest of Settlement Class Members.

7. While I recognize that the Court will determine the appropriate fee, I have approved Lead Counsel's request for an award of attorneys' fees of one-third of the Settlement Amount and expenses not to exceed \$40,000. In concluding that the requested fee and expense award was reasonable, I considered the quality and diligence with which counsel for the Settlement Class prosecuted this Litigation and the significant percentage of damages that the Settlement recovers.

8. Additionally, I understand that in cases like this, the Court can award a reasonable amount to a representative serving on behalf of the Settlement Class. I respectfully submit that the effort I expended in this case warrants a \$5,000 service award.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Raleigh, North Carolina, this 24th day of September, 2021.



TOBY BELIVEAU