

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

Women Who Received a Colonoscopy or Sigmoidoscopy at the Charleston Area Medical Center Performed by Steven R. Matulis, M.D. and Charleston Gastroenterology Associates, PLLC Between January 1, 2010 through February 17, 2016

You Could Receive Money from a Settlement

The Honorable Jennifer F. Bailey, Circuit Judge of Kanawha County, West Virginia authorized this Notice. This is not a solicitation from a lawyer. You are not being sued.

- Charleston Area Medical Center, Inc. (“CAMC”) has agreed to a Settlement of some of the claims brought by former female patients of CAMC, Charleston Gastroenterology Associates, PLLC, and Steven R. Matulis, M.D.
- If you are a former female patient of CAMC and you had a colonoscopy or sigmoidoscopy procedure performed at CAMC by Dr. Steven R. Matulis and Charleston Gastroenterology Associates, PLLC (his practice group), during the period **January 1, 2010 through February 17, 2016**, you are a member of a proposed Settlement Class, and you may be eligible for cash payments. **If you received this Notice in the mail from the Claims Administrator, then CAMC records indicate that you are a member of the Settlement Class.**
- CAMC records indicated that you had a colonoscopy or sigmoidoscopy procedure during the above time period performed at CAMC by Dr. Steven R. Matulis and Charleston Gastroenterology Associates, PLLC. The Court appointed a neutral party called a “Guardian Ad Litem” to maintain the confidentiality of your protected information and to serve as a liaison between you and the Court. The Court required CAMC to provide the Guardian Ad Litem and Claims Administrator with information needed to contact you, but CAMC did not provide either of them with any of your medical records.
- The proposed settlement resolves all claims against CAMC except for claims by Plaintiffs against CAMC under any law or public policy for sexual harassment or discrimination.

Your legal rights are affected even if you do nothing. Please read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
PARTICIPATE IN THE SETTLEMENT AND RECEIVE PAYMENT	You are a member of the Settlement Class. If you do nothing in response to this letter, you will be included in the settlement and will receive a check as part of the settlement once the settlement is approved by the Court. You are not required to complete a form, contact the Claims Administrator or take any other action.
ASK TO BE EXCLUDED	The only way you can individually sue CAMC is to ask to be excluded from the Settlement. If you ask to be excluded, you will receive no payment through this process.
OBJECT TO SOME PART OF THE SETTLEMENT	You may write to the Court about why you disagree with the Settlement.
GO TO A HEARING	You may speak in Court on May 6, 2021 at 10:00 a.m. about the fairness of the Settlement. You can only do this if you do not ask to be excluded from the settlement.
IF THE PATIENT HAS DIED	You should give this Notice to the Administrator or Executor of the Estate of the Patient and have them contact the Claims Administrator for the Settlement immediately. If there is no Executor or Administrator, please contact the Claims Administrator at (844) 744-8424 for further instructions.

- These rights and options - *and the deadlines to exercise them* - are explained in this Notice.
- The Court in charge of this case still must decide whether to approve the Settlement. Cash payments will only be made if the Court approves the Settlement. This process will take some time, so please be patient.

1. Why did I receive this notice?

BASIC INFORMATION

The Court in charge of this case authorized this Notice because you have a right to know about the proposed Settlement of some of the claims made against CAMC in this lawsuit and your options before the Court decides to give “final approval” to this Settlement. This Notice explains the Settlement, and it explains your legal rights.

The Honorable Jennifer F. Bailey, Judge of the Circuit Court of Kanawha County, West Virginia, is overseeing this case. This case is known as *A.H, et al. v. Matulis, et al.*, No. I8-C-176.

The people who sued are called the “Plaintiffs.” Charleston Area Medical Center, Inc., Charleston Gastroenterology Associates, PLLC, a professional group of doctors which Dr. Matulis was a part of, and Steven R. Matulis, M.D. are the “Defendants.”

Because your right to pursue claims against CAMC may be affected by the Settlement, you should carefully read this Notice.

2. What is this lawsuit about?

- (a) The Plaintiffs claim that the Defendants, including CAMC, violated various duties, laws, and public policies regarding female patients who had colonoscopy and sigmoidoscopy procedures performed by Dr. Steven R. Matulis, M.D. and Charleston Gastroenterology Associates, PLLC, his practice group, at CAMC’s hospital in Charleston, Kanawha County, West Virginia between January 1, 2010 and February 17, 2016.
- (b) The Defendants, including CAMC, deny that they have done anything wrong. The Court has not yet ruled on the merits of any of Plaintiffs’ claims.
- (c) The settlement that is the subject of this Notice (see Question 6 below) will only pertain to certain claims made by the Plaintiffs against CAMC. It does not apply to Plaintiffs’ claims against the other Defendants.

3. What is a class action, and why is this case a class action?

In a class action, one or more persons (called “Class Representatives”) sue on behalf of others with similar claims. In this case, there are two Class Representatives. All of the people with similar claims are called “Class Members.” When a class action is settled, it resolves the Class Representatives’ and the Class Members’ claims, except the claims of those who exclude themselves. The Court has preliminarily ordered that this case may proceed as a class action.

4. Why is there a Settlement?

The Class Representatives and their attorneys believe that the proposed Settlement with CAMC is, under all the circumstances, fair and in the best interest of all Class Members. By settling this part of the case against CAMC, the parties avoid some uncertainties, costs, and risks associated with trial and delay in distributing money obtained from the Settlement to Class Members.

5. Who is included in the Settlement?

WHO IS IN THE SETTLEMENT?

You are a member of a proposed Settlement Class, and you may be eligible for cash payments if:

- You are a former female patient of CAMC, and

- You had a colonoscopy or sigmoidoscopy procedure performed at CAMC by Dr. Steven R. Matulis and Charleston Gastroenterology Associates, PLLC (his practice group), and
- The colonoscopy or sigmoidoscopy was performed between **January 1, 2010** and **February 17, 2016**.

CAMC's records reflect that the person to whom this Notice is directed falls within the Settlement Class.

6. What are the terms of the Settlement?

THE SETTLEMENT BENEFITS

CAMC has agreed to pay \$23.1 million to settle Plaintiffs' claims against CAMC except for claims by made by Plaintiffs against CAMC under any law or public policy for sexual harassment or discrimination, including claims for Sexual Harassment in Violation of the West Virginia Human Rights Act, Sexual Harassment in violation of the West Virginia Common Law, and Statutory Negligence Claims under W. Va. Code 55-7-9 as pled in Counts V, VI, and VII of the Second Amended Complaint in the lawsuit called *A.H., et al. v. Steven R. Matulis, M.D.* (No. 18-C-176) that is currently filed in the Circuit Court of Kanawha County, West Virginia. After deduction of attorneys' fees and expenses, payments to Class Representatives (see Question 19), as approved by the Court, and a 1% fee required to be paid to the West Virginia Patient Injury Fund from medical malpractice claims, the Net Settlement Funds will be available for equal distribution to members of the Settlement Class that qualify.

In addition, CAMC has agreed to pay all costs associated with the administration of the Settlement. This includes the costs of the Claims Administrator and the Guardian Ad Litem. The Claims Administrator and Guardian Ad Litem will be responsible for administering the Net Settlement Funds and distributing cash payments to eligible Class Members.

The Plaintiffs have also agreed to limit their future recovery, if any, from CAMC for their remaining claims related to sexual harassment or discrimination to an aggregate amount equal to the maximum amount of CAMC's insurance coverage available for such claims. The availability and the exact amount of CAMC's insurance coverage for such claims is currently in dispute and is subject to future rulings by the Court. The most such insurance could ever be is \$30 million. However, there is no guarantee that the Court will determine that any insurance coverage will be available for the sexual harassment and discrimination claims. If there is no insurance coverage for such claims, then your total recovery against CAMC in this lawsuit will be limited to your share of the current \$23.1 million settlement. By participating in the current \$23.1 million settlement, you are also agreeing to limit any additional future recovery against CAMC in this lawsuit to a share (to be determined by the Court) of the insurance limits discussed above as to the sexual harassment and discrimination claims.

More details about the Settlement can be found in the Term Sheet, available by calling (844) 744-8424.

7. How much will my payment be?

The initial settlement payment to each Class Member is likely to equal or exceed \$5,000; however the exact amount you could receive cannot be determined at this time. The exact cash payment will depend on:

- The number of Class Members who request to be excluded from the settlement;
- The number of Class Members who fail to cash checks mailed to them as part of the settlement process; and
- The amount of attorney fees, expenses, and any service awards to Class Representatives which may be approved by the Court.

The Net Settlement Fund will be distributed to Class Members upon Court approval of the settlement. There are approximately 2,500 Class Members. Each Class Member who does not request to be excluded from the settlement and accepts the payment issued will receive an equal share of the Net Settlement Fund. In an effort to simplify the process, the Court has ordered that you do not need to complete a claim form or other paperwork to receive your share of the Net Settlement Fund.

Cash payments will be distributed after the Court holds a Final Fairness Hearing (see Question 15), grants final approval of the Settlement, and resolves any appeals.

Any unclaimed funds shall be distributed pursuant to the approval of the Court and consistent with the law and the Court's discretion.

8. What about my personal health information and medical records?

The Court has approved and appointed a Claims Administrator and Guardian Ad Litem to protect the confidentiality of your protected information and oversee the administration of the claims. Upon order of the Court, CAMC confidentially provided certain contact information (name, address, date of birth, and, if necessary, the last four digits of social security number) to the Guardian Ad Litem and Settlement Administrator so that they could mail you this Notice. No other information from your medical records has been disclosed by CAMC. Neither CAMC, the Claims Administrator nor the Guardian Ad Litem has provided or will provide any information about you to any person or entity other than the Court.

9. When will the remaining claims against CAMC and the other Defendants be settled?

CONTINUING LITIGATION

There is no set time when this litigation will be complete. The Plaintiffs will continue to litigate the sexual discrimination and harassment claims against CAMC. The Plaintiffs will also continue to litigate all claims against Steven R. Matulis, M.D., and Charleston Gastroenterology Associates, PLLC. There is no guarantee that the Plaintiffs will win any money or other benefits or that any of the parties will agree to a settlement.

There is no settlement at this time with Steven R. Matulis, M.D. nor Charleston Gastroenterology Associates, PLLC, and they also remain Defendants in this case, along with CAMC.

You will receive further notice of this litigation if additional Settlement(s) are achieved.

10. What happens if I remain in the Settlement Class?

REMAINING IN THE SETTLEMENT CLASS

If the Settlement becomes final, you will give up your right to sue CAMC on your own for the claims being resolved by this Settlement unless you exclude yourself from the Settlement Class. You also will be bound by any decisions of the Court.

In return for paying the Settlement amount, CAMC will be released from the claims being resolved by this Settlement. If you have any questions concerning the settlement, you can talk to the Claims Administrator or law firms listed in Question 12 of this Notice for free, or you can, of course, talk to your own lawyer about what this means.

11. What if I do not want to be part of the Settlement?

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don't want benefits from this settlement, but you want to keep the right to sue CAMC on your own about all the legal issues in this case, then you must take steps to get out of the Settlement. This is called excluding yourself- or it is sometimes referred to as "opting out" of the Settlement.

To exclude yourself from the Settlement and receive no Settlement payment, you must send a signed Request for Exclusion by mail stating: (a) your name, address, and telephone number and (b) a statement that you wish to be excluded from the Settlement Class. Requests for Exclusion must be mailed to the following:

Claims Administrator
A.H. v. CAMC Class Settlement
c/o ILYM Group, Inc.
P.O. Box 2031
Tustin, CA 92781

Your request for exclusion must be postmarked no later than April 19, 2021.

If you wish to individually sue CAMC, you should immediately consult an attorney since statutes of limitation could bar a claim if not filed promptly.

12. How do I tell the Court that I do not like the Settlement?

OBJECTING TO THE SETTLEMENT

You can submit a written objection to the Settlement if you do not like some or all of it. The Court will consider your views. Your objection must include the following:

- The name of the case, *A.H., et al. v. Matulis, et al.*, No. 18-C-176,
- Your full name, address, telephone number, signature, and
- The specific reasons you are objecting, and any legal support or evidence you wish to use to support your objection.

You cannot both request exclusion from the Settlement Class by opting out *and* objecting to the Settlement. Only members of the Settlement Class may object to the Settlement.

Any comment or objection must be in writing, mailed to **all** of the addresses on the following chart:

Court	Counsel for Settlement Class	Counsel for CAMC
Honorable Jennifer F. Bailey 111 Court Street, 4 th Floor Charleston, West Virginia 25301	L. Dante diTrapano, Esquire David H. Carriger, Esquire Calwell Luce diTrapano, P.L.L.C. Law and Arts Center West 500 Randolph Street Charleston, WV 25302	Lee Murray Hall, Esq. Charlotte A. Hoffman Norris, Esq. Sarah A. Walling, Esq. Jenkins Fenstermaker, PLLC P.O. Box 2688 Huntington, WV 25726-2688
	P. Rodney Jackson, Esq. P. Rodney Jackson & Associates 401 Fifth Third Center 700 Virginia Street, Suite 400 Charleston, West Virginia 25301	Heather Heiskell Jones, Esq. Joseph A. Ford, Esq. Spilman, Thomas & Battle, PLLC 300 Kanawha Blvd., East Charleston, WV 25301
	Ben Salango, Esq. Kristy Salango, Esq. Preston & Salango, PLLC P.O. Box 3084 Charleston, WV 25331	

	<p>Marvin W. Masters, Esq. The Masters Law Firm LC 181 Summers Street Charleston, WV 25301</p>
	<p>Robert V. Berthold, Jr., Esq. Berthold Law Firm PLLC 208 Capitol Street P.O. Box 3508 Charleston, WV 25301</p>
	<p>Matthew Stonestreet, Esq. The Giatras Law Firm, PLLC 118 Capitol St. #400 Charleston, WV 25301</p>

Your objection must be postmarked no later than April 23, 2021.

13. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself you cannot object to the Settlement because the case no longer affects you, and you will not get any benefits from the Settlement.

14. What if I do nothing?

DO NOTHING

Unless you exclude yourself from the Settlement Class, you will be bound by all Settlement terms and will receive a settlement payment, upon Court approval of the Settlement. If you do nothing, you will be a member of the Settlement Class. You will (a) be bound by Settlement; (b) you will not be able to sue CAMC in the future for the claims being resolved by this Settlement; and (c) your claims against CAMC will be limited to only the Settled Claims and Remaining Claims, as described in this Notice. (see Question 6).

15. When and where will the court decide whether to approve the Settlement?

THE FINAL FAIRNESS HEARING

The Court will hold a Final Fairness Hearing at 10:00 a.m. on May 6, 2021, at the Kanawha County Courthouse, 111 Court Street, 4th Floor, Charleston, West Virginia 25301. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections or comments, the Court will consider them at that time and may listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel. At or after the hearing, the Court will decide whether to approve the Settlement.

The hearing may be moved to a different date or time. If the hearing is moved, you will receive an additional notice from the Claims Administrator.

16. Do I need to attend the hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to attend at your expense. If you send an objection or comment, you do not have to come to Court to talk about it. As long as you mailed your complete and valid written objection on time, as described above in Question 12, the Court will consider it. You may also hire your own lawyer at your own expense to attend on your behalf, but you are not required to do so.

17. May I speak at the hearing?

If you do not exclude yourself from the Settlement and object to some part of it, you have a right to appear and speak at the Final Fairness Hearing and present your objections. You may also appear by counsel if you wish. To be permitted to appear, however, you, or your legal counsel, must do the following on or before the hearing:

- File with the Court a notice of intention to appear, together with a statement detailing your objections (see Question 12) no later than **April 23, 2021**; and
- Serve copies of such notice and all supporting materials, either by hand delivery or by first-class mail, postage prepaid, to all eight of the addresses listed in Question 12.

18. Do I have a lawyer in this case?

THE LAWYERS REPRESENTING YOU

Yes. The Court has appointed the attorneys listed in Question 12 as Settlement Class Counsel to represent Class Members.

However, if you exclude yourself from the Settlement Class, you will not be represented by Settlement Class Counsel and must hire a lawyer at your own expense. If you remain a member of the Settlement Class, you are represented by Settlement Class Counsel.

19. How will the lawyers be paid?

Since the beginning of this litigation about four years ago, Settlement Class Counsel has not received any payment for their services in prosecuting the Action nor any reimbursement for out-of-pocket expenses.

Settlement Class Counsel will file a petition with the Court seeking an award of attorneys fees to be paid from the gross settlement payment by CAMC. Class Counsel will file their fee petition on or before April 2, 2021. This fee petition will be available for review from the Claims Administrator and from www.wvhospital-settlement.com. Class Counsel will also ask the Court to approve reimbursement of expenses up to \$400,000.00. Class Counsel will also request that each of the two class representatives receive up to \$42,000.00 (Forty-Two Thousand Dollars) for their services.

20. How do I get more information?

GETTING MORE INFORMATION

This Notice summarizes the Settlement. If you have any questions or wish to have any additional information, you may contact the Claims Administrator, who will provide you with answers to your questions or you also may write with questions to Claims Administrator, A.H. v. CAMC Class Settlement, c/o ILYM Group, Inc., P.O. Box 2031, Tustin, CA 92781, call the toll-free number, (844) 744-8424, or go to the settlement website at www.wvhospital-settlement.com.