STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

CIVIL ACTION NO. 2017-CP-42-00219

Jo Ann Blackwell, Michelene Brooks, and Samuel H. Owens, Jr., individually and on behalf of all others similarly-situated,

Plaintiffs,

v.

Mary Black Health System, LLC, et al.,

Defendants.

ORDER GRANTING PLAINTIFFS' MOTION FOR SANCTIONS

This matter is before the Court on Plaintiffs' Motion for Sanctions against Defendant Mary Black Health System, LLC (hereafter, "Mary Black"), which Plaintiffs filed on February 22, 2022. According to Plaintiffs, Mary Black has engaged in a pattern of conduct during discovery designed to frustrate the purpose and intention of South Carolina's discovery rules and in contravention of the Court's repeated rulings and directives in this case. The Court agrees and finds that sanctions are appropriate for the reasons that follow.[1]

Relevant Factual Background and Procedural History

This is a class action lawsuit that was filed on January 20, 2017. The class definition in the Amended Complaint includes:

> *All individuals who, since January 20, 2014, received any type of healthcare treatment from any entity located in South Carolina that is owned or affiliated with Defendants, while being covered by valid health insurance, and whose medical bills resulting from that treatment were not submitted to their health insurance carrier for potential payment.*

[1] The Court incorporates by reference its prior orders of July 6, 2021, and November 23, 2021, along with those rulings and directives of the undersigned from the bench.

(Am. Compl. ¶ 53).[2] Put another way, this case is about patients covered by health insurance policies who sustained injuries implicating third party liability and presented at Mary Black for treatment. Instead of submitting claims to the patients' health insurance, Mary Black elected to seek payment directly from the patients, sometimes by contacting the patients directly or by asserting a lien against their possible third-party recoveries with the patients' personal injury attorneys.

Plaintiffs served interrogatories and requests for production on Mary Black on September 8, 2017, copies of which are of record in this case. Mary Black served its responses on November 13, 2017, in which Mary Black made numerous and repeated objections and identified certain responsive documents that it agreed to produce upon entry of a confidentiality order. Concurrent with serving its discovery responses, Mary Black also filed a motion for protective order and/or to stay discovery, in which Mary Black characterized the discovery at issue as "an expensive fishing expedition" and containing "overly broad and unduly burdensome" requests "for improper class-wide discovery." Mary Black's motion also asserted "patient privacy concerns" and other arguments for why it should not have to fully respond to Plaintiffs' discovery requests. On December 21, 2017, the Honorable Grace G. Knie ordered the production of those certain confidential documents identified in Mary Black's discovery responses upon the entry of an appropriate protective order. Although a consent protective order was filed on April 11, 2019, no documents were produced by Mary Black at that time.

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[2] No class has been certified yet; however, even if an "alleged class has a fluid, changing membership, this feature alone does not render the class action device unsuitable." *McGann v. Mungo*, 287 S.C. 561, 570, 340 S.E.2d 154, 159 (Ct. App. 1986); *see also id.* at 570–71, 340 S.E.2d at 159 (noting that the circuit court has discretion to "require the plaintiffs to replead, redefine the alleged class itself, or designate subclasses").

In October 2020, Plaintiffs' counsel requested that Mary Black produce those confidential documents previously identified, but Mary Black refused. As a result, on October 23, 2020, Plaintiffs filed a motion to compel the production of those certain documents identified in Judge Knie's order. After the requisite Rule 11 consultation, Plaintiffs then filed a *second* motion to compel full and complete responses to discovery on December 9, 2020.[3] Mary Black again filed a motion seeking protection from discovery on November 12, 2020.

On June 23, 2021, the Court held a hearing to address the pending motions to compel and Mary Black's contention that the Court lacked jurisdiction to hear the motions due to the hospital's pending appeal from the Court's order denying its motion to compel arbitration against one of the named plaintiffs, Samuel Owens. The Court, by order dated July 6, 2021, directed Mary Black to comply with Judge Knie's 2017 order—the subject of the Plaintiffs' first motion to compel—and urged Defendants to reconsider their stated objections to the discovery—the subject of the Plaintiffs' second motion to compel. The parties failed to reach an agreement as to the remaining discovery issues and a hearing was held on November 3, 2021.

After careful review of the parties' arguments and briefing, the Court issued an order granting Plaintiffs' motion to compel on November 23, 2021, reiterating its ruling from the bench that the scope of discovery was "very, very broad," and directing Mary Black to report back to the Court within 15 days as to when the sought-after information could be gathered and produced. In its Order, the Court specifically found that Mary Black's objections to the discovery were unfounded and there existed no good faith basis for the hospital to continue to decline to provide information relevant to the claims asserted in the lawsuit. The Court—citing its grave concerns

[3] This second motion to compel is the subject of Plaintiffs' motion for sanctions; however, as part of the Court's effort to provide a complete factual history of this case, mention is made of the first motion.

with the age of case and its duty to fairly and adequately protect the interests of those persons on whose behalf this action was brought under Rule 23(d), SCRCP—specifically found that the discovery sought by Plaintiffs was not unreasonable, overly broad, or unduly burdensome, nor was it outside the bounds of relevance under South Carolina law. In the Order, the Court directed Mary Black to gather information responsive to the outstanding interrogatories and requests for production and further required Mary Black to withdraw its stated objections to certain discovery requests. The Court set a follow-up status conference for December 9, 2021.

Shortly before the status conference was set to begin, Mary Black submitted a discovery status report reflecting its failure to gather the information the Court had ordered. The parties agreed to reschedule the hearing for the following week to allow Plaintiffs additional time to review the report. On December 17, 2021, the Court held another hearing and ordered Mary Black to produce the sought-after information within 60 days. By way of example, at the December 17 hearing, the Court specifically directed Mary Black to perform the calculation requested in Plaintiffs' Interrogatory No. 11, which would reflect the amount that Mary Black would have received had the patients' insurance carriers been billed directly. Additionally, the Court ordered Mary Black to produce, in response to Request for Production No. 14, any and all documents and communications during the relevant time period, to include internal communications and communications between Mary Black and any health insurance carrier, which discussed or referred to the hospital's refusal to submit medical bills to a patient's insurance carrier. Throughout the course of the December 17 hearing, Mary Black's counsel indicated that he understood the Court's directives and agreed to produce the requested information.

On February 15, 2022, Mary Black served Supplemental Responses to Plaintiffs' Second Set of Continuing Interrogatories and Plaintiffs' First Set of Requests for Production. In these

discovery responses, Mary Black failed to comply with the orders and directives of the Court. Namely, Mary Black continued to object to Interrogatory No. 11, refused to identify the total dollar amount Mary Black would have received had the patients' insurance carriers been billed directly, and instead directed Plaintiffs to review approximately 17,000 pages of documents and perform "hypothetical payment calculations" themselves. Mary Black took this position notwithstanding the Court's prior directive to "*do the analysis. Get it to Plaintiffs' counsel.*" Additionally, Mary Black failed to produce a single email or internal/external communication related to the failure to submit bills to a patient's insurance carrier as requested in Request For Production No. 14, even though the Court had specifically found such communications to be "*very relevant*" and had directed Mary Black to "*do . . . an appropriate search.*" Mary Black provided no information as to what search was undertaken, how it was conducted, or the steps taken. Rather than conducting the broad search ordered by the Court, Mary Black stated that it was "continuing to review and redact the communications" and improperly (and unilaterally) limited its response to communications related to the collection of payment for those patients impacted by its refusal to bill policy.

When Mary Black served these supplemental discovery responses on Plaintiffs in February 2022, this was the first time that Mary Black asserted that it could not identify the individuals or entities responsible for creating or implementing its billing practices from 2014 to present—as requested in Interrogatory No. 17—due to a never-before revealed three-year document retention policy. Mary Black's belated disclosure of this document retention policy only bolstered the Court's previously noted concerns—as outlined in the Order of November 23, 2021—regarding the preservation of evidence, given the age of the case and Mary Black's subsequent acquisition by Spartanburg Regional. Further, the supplemental discovery responses did not identify with

particularity the insurance carriers with whom Mary Black contracted that required Mary Black to submit claims promptly.

Shortly after receipt of Mary Black's supplemental discovery responses, Plaintiffs filed their motion for sanctions on February 22, 2022. In the sanctions motion, Plaintiffs alleged that Mary Black knowingly refused to obey multiple orders and directives compelling discovery in this case and that Mary Black had acted in bad faith, demonstrated willful disobedience of the Court, and shown gross indifference to the rights of Plaintiffs and the putative class members. The Court scheduled a hearing on the sanctions motion for March 30, 2022. Just two days before the scheduled hearing, Mary Black filed the affidavit of Paul Sinkhorn, an employee of a never-before disclosed third party vendor, Revenue Cycle Services, LLC. Neither Mr. Sinkhorn nor any employee of this entity had ever been identified as potential witnesses in this case. Yet Mary Black relied on Mr. Sinkhorn to opine that Mary Black's discovery responses were not evasive, incomplete, or in bad faith. He further testified that Mary Black could not answer Court-ordered discovery because the hospital did not possess the patients' individual health insurance policies and, therefore, could not determine whether there were any applicable deductibles or co-pays or whether a policy was in force or lapsed at the time of service, among other alleged concerns. Mary Black presented this testimony despite having previously represented to the Court that it was the "best entity" to perform the calculations.

The Court held a hearing on Plaintiffs' motion for sanctions on March 30, 2022. At that time, the Court heard lengthy argument from the parties, to include Mary Black's arguments that: (1) there was no prejudice or bad faith warranting the imposition of sanctions; (2) it could not perform the calculations requested in Interrogatory No. 11; and (3) the billing notes for the affected patients reflected every existing communication about the hospital's refusal to bill policy. After

careful consideration, the Court found that Mary Black's claimed inability to produce the information sought by Plaintiffs was indicative of bad faith and a lack of respect for the judicial process, while specifically noting that the Court had no indication that the hospital's attorneys were (or are) part of such misconduct. The Court thereafter requested that Plaintiffs' counsel submit attorney's fees affidavits related to the limited issues before the Court. The Court also requested that Mary Black produce certain communications it referenced that it was in the process of gathering and provide the Court with further explanation as to why it could not perform the requested calculation. Plaintiffs' counsel forwarded affidavits of attorney's fees and costs to the Court on April 14, 2022. The Court then scheduled a hearing for April 21, 2022, to allow the parties time to confer and report back to the Court.[4]

On April 13, 2022, Mary Black's counsel informed Plaintiffs' counsel that it was in the process of undertaking a search of certain records custodians' email accounts, utilizing a third-party support team and certain search terms, in an effort to identify communications responsive to Request For Production No. 14. Counsel further advised that Mary Black's accounting department was in the process of performing the calculations requested in Interrogatory No. 11. By letter dated April 28, 2022, Plaintiffs' counsel advised defense counsel that the records custodians identified by Mary Black did not include any "higher up" corporate or finance individuals employed by Mary Black and requested that Mary Black include additional search terms and records custodians.[5]

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[4] The April 21 hearing was canceled due to complications with the Court's docket in Fairfield County that week.

[5] Plaintiffs also advised that Mary Black had neglected to file an answer to the amended complaint, following the denial of its Rule 12 motions, and requested that such answer be filed without delay. Mary Black filed its answer on May 2, 2022.

On May 31, 2022, Plaintiffs' counsel wrote the Court advising that they had not received any amended or supplemental responses from Mary Black and seeking the Court's direction. By letter dated June 2, 2022, Mary Black's counsel advised the Court that it had expended about 400 working hours performing the calculation sought in Interrogatory No. 11 and approximately 634 working hours reviewing close to 50,000 documents that resulted from the search terms in an effort to identify communications responsive to Request For Production No. 14. The Court thereafter set the matter for a hearing for June 27, 2022.

Subsequently, Mary Black began a series of rolling productions, and, on June 17, Mary Black served Plaintiffs with its *second* supplemental responses to Plaintiffs' discovery requests. In its Second Supplemental Response to Interrogatory No. 11, Mary Black was, in fact, able to perform the requested calculation (as estimated) and advised that Mary Black would have received an expected maximum payment of $990,349.66 if it had submitted its charges to the patients' insurance carriers.[6] Mary Black further proceeded to produce relevant emails from certain of the agreed-on records custodians, which emails were not contained within patient billing records. However, searches of only *one* of the four custodians identified by Plaintiffs resulted in any responsive and relevant communications. At the hearing on June 27, Mary Black revealed that there appeared to be no communications available for when custodians worked at Mary Black's Gaffney location (as opposed to its Spartanburg hospital) and admitted that the hospital had not sought to identify any other corporate-level custodians besides those identified by Plaintiffs' counsel in their letter of April 28. Finally, Mary Black advised that three out of the eight search terms proposed by Plaintiffs on April 28 had resulted in an "overbroad" sampling—i.e., returned

[6] This figure reflects almost a 100% profit for the hospital a result of this business practice, as Mary Black stated in its second supplemental response to Interrogatory No. 10 that the total amount actually collected from the patients was $1,816,454.85.

too many "hits"—and, therefore, those terms were not utilized. The Court informed the parties at the hearing that the Court would be entering a sanctions order and further instructed Mary Black that Plaintiffs are entitled to full and complete discovery on Mary Black's billing policy, including, for example, how the policy came about, who was aware of what issues and when, and what was the motivation for enacting the policy.

Legal Conclusions and Factual Findings

The South Carolina Rules of Civil Procedure specifically provide that:

> Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter.

Rule 26(b)(1), SCRCP. It is well-established that "[t]he scope of discovery in South Carolina is generally broad. As a result, parties may obtain discovery regarding any matter that is not privileged so long as it is relevant to the subject matter involved in the pending claim." *In re Mt. Hawley Ins. Co.*, 427 S.C. 159, 166–67, 829 S.E.2d 707, 712 (2019) (internal citations omitted).

"Pursuant to Rule 37(b)(2)(C), SCRCP, when a party fails to obey an order to provide or permit discovery, the court may 'make such orders in regard to the failure as are just,' including an order dismissing the action or proceeding, or any part thereof." *Temple v. Tec-Fab, Inc.*, 370 S.C. 383, 390, 635 S.E.2d 541, 544 (Ct. App. 2006), *rev'd on other grounds*, 381 S.C. 597, 675 S.E.2d 414 (2009). "The rights of discovery provided by the Rules give the trial lawyer the means to be prepared for trial. Where these rights are not accorded, prejudice must be presumed and, unless the party who has failed to submit to discovery can show a lack of prejudice," sanctions must be imposed or a resulting verdict must be reversed. *Richardson v. Twenty-One Thousand &*

no/100 Dollars ($21,000.00) U.S. Currency & Various Jewelry, 430 S.C. 594, 600, 846 S.E.2d 14, 17 (Ct. App. 2020) (quoting *Downey v. Dixon*, 294 S.C. 42, 46, 362 S.E.2d 318, 319 (Ct. App. 1987)).

"The imposition of sanctions is generally entrusted to the sound discretion of the Circuit Court." *Downey*, 294 S.C. at 45, 362 S.E.2d at 318. However, "[w]hatever sanction is imposed should serve to protect the rights of discovery provided by the rules." *Orlando v. Boyd*, 320 S.C. 509, 511, 466 S.E.2d 353, 355 (1996). Without adequate sanctions, discovery procedures would be ineffectual. *Downey*, 294 S.C. at 45, 362 S.E.2d at 318 (quoting C. Wright, *The Law of Federal Courts* § 90, at 596 (4th ed. 1983)). As a result, "[o]verleniency" should be avoided. *Id.* (quoting *Diaz v. S. Drilling Corp.*, 427 F.2d 1118, 1126 (5th Cir. 1970)). "If a party fails to obey an order to provide or permit discovery, the trial court may impose sanctions such as striking pleadings, dismissing the action, or rendering a default judgment." *Griffin Grading & Clearing, Inc. v. Tire Serv. Equip. Mfg. Co.*, 334 S.C. 193, 198–99, 511 S.E.2d 716, 718 (Ct. App. 1999) (finding no abuse of discretion in the trial court's striking of defendant's answer as a discovery sanction and noting the trial court's finding of a "pattern of non-compliance and discovery abuse [that] constitutes further evidence of bad faith and wi[l]lful, intentional disobedience").

"In determining the appropriateness of a sanction, the court should consider such factors as the precise nature of the discovery and the discovery posture of the case, willfulness, and degree of prejudice." *Id.* at 199, 511 S.E.2d at 719. For example, in *Samples v. Mitchell*, a party failed to disclose the existence of a videotape in a personal injury case that was relevant to the issue of damages. 329 S.C. 105, 109–10, 495 S.E.2d 213, 215 (Ct. App. 1997). Observing that the tape's existence should have been disclosed, the Court of Appeals stated that "[t]he entire thrust of the discovery rules involves full and fair disclosure, 'to prevent a trial from becoming a guessing game

or one of surprise for either party.'" *Id.* at 113, 495 S.E.2d at 217 (quoting *S.C. State Highway Dep't v. Booker*, 260 S.C. 245, 252, 195 S.E.2d 615, 619 (1973)).

The sanction should be aimed at the specific conduct of the party sanctioned. *See id.* at 112, 495 S.E.2d at 216. Rule 37(b), SCRCP, provides that a court may award reasonable expenses, including attorney's fees, for a party's failure to make or cooperate in discovery, and courts in this State routinely award fees and costs as a sanction for discovery misconduct. *See, e.g.*, *Arnal v. Arnal*, 363 S.C. 268, 297, 609 S.E.2d 821, 836 (Ct. App. 2005) (noting that the family court had imposed sanctions awarding attorney's fees for discovery abuse); *Scott v. Greenville Hous. Auth.*, 353 S.C. 639, 644, 579 S.E.2d 151, 154 (Ct. App. 2003) (observing that the trial court awarded the plaintiff his attorney's fees and costs for the defendant's failure to participate in discovery); *Hundley ex rel. Hundley v. Rite Aid of S.C., Inc.*, 339 S.C. 285, 305, 529 S.E.2d 45, 56 (Ct. App. 2000) ("In total, the circuit court assessed more than $40,000 in sanctions against Rite Aid in fines, attorneys' fees, and costs for discovery abuses."). Moreover, in *Davis v. Parkview Apartments*, the South Carolina Supreme Court affirmed the more severe sanction of dismissal of the plaintiffs' lawsuit, as well as the award of the defendants' costs and attorney's fees as a result of plaintiffs' noncompliance with the trial court's discovery rulings. 409 S.C. 266, 270, 762 S.E.2d 535, 537 (2014). The *Davis* court noted that the plaintiffs had continuously attempted "to divert the implementation of the court's rulings by providing incomplete responses and causing delay through other tactics." *Id.* at 281, 762 S.E.2d at 543. This was despite the circuit court having provided the plaintiffs with "ample opportunity" to comply with the various orders of the court. *Id.* at 283, 762 S.E.2d at 544. The Supreme Court rejected the plaintiffs' assertion that the sanction was unduly harsh, noting that the movant met the required showing of "'bad faith, willful

disobedience or gross indifference to its rights' to justify the sanction." *Id.* at 282, 762 S.E.2d at 544 (quoting *Griffin Grading & Clearing, Inc.*, 334 S.C. at 198–99, 511 S.E.2d at 718–19).

Here, the Court finds that Mary Black has shown gross indifference to the rights of these Plaintiffs and the putative class members—persons whom this Court is charged with protecting under Rule 23, SCRCP. Mary Black has ignored the orders and directives of the trial court, despite having been given repeated opportunity to comply. Its continually changing positions, failure to disclose pertinent policies, documents, and witnesses, and refusal to answer discovery as propounded—and as ordered by the Court—are evidence of its willfulness, which warrants the imposition of sanctions under Rule 37, SCRCP. Further, the Court finds that the prejudice to Plaintiffs is severe. Plaintiffs filed this lawsuit five years ago, but only now in 2022—and after the Court's prolonged involvement—has Mary Black really begun to respond to discovery served in 2017.

While the Court is mindful that complex litigation of this sort may not always proceed along a straight and narrow path, it nevertheless finds that Mary Black's abusive discovery tactics cannot go unpunished. The Court therefore exercises its discretion to impose sanctions in this matter in the form of an award of Plaintiffs' attorney's fees and costs associated with Mary Black's discovery abuse. The Court, not wishing to wade into the merits of this case at this time, reserves any ruling on further sanctions—to include, for example, potential inferences or possible jury charges[7]—until such time as the parties have had the opportunity to confer as to the remaining issues raised at the hearing on June 27 and supplementation of the existing responses is satisfied.

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[7] "Over the years, courts have found numerous sanctions to be appropriate for the spoliation of evidence. Courts have allowed adverse inferences to be drawn from the loss or destruction of relevant evidence, dismissed cases or stricken pleadings, issued fines plus attorney's fees and applied almost every other sanction available for the failure to provide discovery. Among these tools that judges may use to combat spoliation is the adverse inference jury

"As a general rule, the amount of attorney's fees to be awarded in a particular case is within the discretion of the trial judge." *Burton v. York Cnty. Sheriff's Dep't*, 358 S.C. 339, 357, 594 S.E.2d 888, 898 (Ct. App. 2004). The appellate courts have explained that:

> There are six factors for the trial court to consider when determining an award of attorney's fees: (1) the nature, extent, and difficulty of the case; (2) the time necessarily devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) beneficial results obtained; and (6) customary legal fees for similar services.

Id. at 358, 594 S.E.2d at 898. The circuit courts may also award multiple sanctions for the same misconduct, and an award of attorney's fees and costs will not be disturbed on appeal absent an abuse of discretion. *See, e.g.*, *Howe v. Air & Liquid Sys. Corp.*, 2021-UP-422, 2021 WL 5626487, 2021 S.C. App. Unpub. LEXIS 502, at *6 (Ct. App. Dec. 1, 2021) ("As to whether the sanctions are grossly disproportionate and amount to an abuse of discretion, we find the court was permitted to exclude the 'midnight documents' *and* award sanctions in the form of attorneys' fees and costs. We also find the trial court did not abuse its discretion in awarding the [plaintiffs] attorneys' fees and costs due to [the defendants'] failure to cooperate with the discovery process and mid-trial production of documents despite numerous requests." (emphasis added)).

The Court has considered the six factors for determining an appropriate award of attorney's fees and costs, along with the affidavits submitted by Plaintiffs' counsel—Marghretta H. Shisko of John B. White, Jr., PA and Rachel G. Peavy of Simmons Law Firm, LLC. The Court finds the affidavits of Plaintiffs' counsel to be reasonable and appropriate. This is a complex case and Plaintiffs' counsel have necessarily devoted much time to obtaining discovery, which Mary Black only produced after multiple rounds of briefing and hearings. Collectively, counsel testified that

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instruction/presumption." *Hopper v. Air & Liquid Sys. Corp.*, C/A No. 2019-CP-40-00076, 2019 S.C. C.P. LEXIS 5488, at *16 (S.C. Ct. Comm. Pleas, Richland Cnty. Oct. 30, 2019).

since November 2020, they have spent 142.8 hours in their attempt to secure discovery from Mary Black, and the Court finds the time spent by counsel to be reasonable and necessary. Counsel are experienced trial attorneys, and the complexity of this case supports a finding by the Court that an hourly rate of $350 per hour is appropriate and customary for similar services.[8] Finally, the Court finds that Plaintiffs' attorneys have obtained a beneficial result through their efforts. All of these factors support the Court's award of fees and costs as a discovery sanction.

At the hearing, Mary Black's counsel raised an objection to the amount of time devoted to the case as outlined in the attorney's fee affidavits, specifically arguing that much of the time associated with the hearing on June 23, 2021—namely, 31.75 hours for Ms. Peavy and 9.5 hours for Ms. Shisko—was devoted to jurisdictional arguments related to Mary Black's assertion that an automatic stay prevented the Court from retaining jurisdiction over the case and hearing Plaintiffs' pending motions. Mary Black further argued that it was unnecessary for both Ms. Shisko and Ms. Peavy to be present at the five hearings the Court has held in this case since June 2021. After careful review of the filings by the parties and the Court's order of July 6, 2021, the Court finds that it is reasonable to reduce the hours of counsel from June 2021 by 70%, to account for the fact that most of time associated with the June 2021 hearing was spent on the jurisdictional issues involving the pending appeal. As to the hospital's argument that it was unnecessary for both Ms. Shisko and Ms. Peavy to attend the multiple hearings, however, the Court disagrees. A case of this

[8] The Court does not dispute that the range of somewhat higher hourly rates that Plaintiffs' counsel included in their affidavits are reasonable and customary for attorneys of their professional standing handling cases of like complexity; however, in its discretion, the Court elects to utilize the $350 per hour rate.

complexity, presenting myriad issues and involving potentially thousands of affected individuals suing a corporate defendant, is usually handled by a team of attorneys with attendant support staff.[9]

Order of the Court

Accordingly, based on the foregoing, Mary Black is HEREBY ORDERED to reimburse Plaintiffs' counsel their attorney's fees in the amount of $39,873.75 (as reduced to 113.925 hours at $350 per hour). The Court further finds that Plaintiffs incurred reasonable related costs in the amount of $1,177.17, and HEREBY ORDERS Mary Black to pay those costs to Plaintiffs' counsel as well. The Court ORDERS Mary Black to pay these amounts within 30 days of the filing of this Order.

AND IT IS SO ORDERED.

J. Mark Hayes, II
Presiding Circuit Court Judge

Dated: August 2, 2022

At: Spartanburg, SC

[9] In reaching this decision, the Court has also considered three (3) letters received from the attorneys subsequent to the last hearing. The letters are; a July 8, 2022, letter from Rachel G. Peavy, a July 20, 2022, letter from Katon E. Dawson, Jr., and a July 28, 2022, letter from Rachel G. Peavy. These letters are incorporated by reference.