

**STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG**

**IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT**

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

C.A. No. 2017-CP-42-00219

Plaintiffs,

**AMENDED ORDER ESTABLISHING
NOTICE PROCEDURES AND HIPAA
QUALIFIED ORDER**

v.

Mary Black Health System, LLC, d/b/a
Mary Black Memorial Hospital; CHSPSC,
LLC; and Professional Account Services,
Inc.,

Defendants.

RECEIVED
Sep 16 2024
SC Court of Appeals

This matter came before the Court on the Motion of Plaintiffs Jo Ann Blackwell and Michelene Brooks, individually and on behalf of all others similarly-situated, for an order establishing procedures to notify class members of the pendency of this action, appointing The Notice Company, Inc. to provide notice to class members, and for entry of a HIPAA qualified order, directing Defendants to release the names and contact information for the class members, so that Plaintiffs can proceed with providing actual notice to the class members. Having reviewed Plaintiffs' Motion, the Court finds that the relief requested therein is consistent with Rule 23, SCRCP, and hereby **ORDERS** as follows:

The Court hereby **APPOINTS** The Notice Company, Inc. to administer the notice process to class members in this case.

The Court further **ORDERS** the defendants to disclose to The Notice Company and class counsel the names and last known addresses of all class members, pursuant to the terms of the

Qualified HIPAA Order incorporated below, for the purpose of providing direct mail notice of the pendency of this class to the class members.

The Court further ORDERS that The Notice Company shall administer notice to the class members in the manner described below.

QUALIFIED HIPAA ORDER

For purpose of providing direct mail notice to class members, this Order directs the defendants to disclose to both class counsel and the appointed notice administrator, The Notice Company, Inc., 94 Station Street, Hingham, MA 02043, classact@notice.com, the names and last known address of all individuals (or, for deceased individuals, their next of kin or, if such next of kin is unknown, whomever was provided as the “in case of emergency” contact by the patient) who fall within the following class certified by the Court on November 1, 2022:

All individuals who, since January 1, 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 other than Cigna, and whose medical bills resulting from that treatment were not submitted to their health insurance carrier for potential payment.

(Certification Order, Nov. 1, 2022, at 7, 16.)

This information may be deemed Protected Health Information under the privacy regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”). 45 C.F.R. § 164.512(e)(1)(i). Such disclosure is a permissible disclosure of protected health information “in response to a subpoena, discovery request, or other lawful process.” 45 C.F.R. 521(e)(1)(ii), and such information will be subject to the confidentiality protections of the Confidentiality Order that has been previously entered in this case.

The defendants are hereby directed to provide such information to The Notice Company, Inc. in an electronic format (preferably, Excel spreadsheet), within ten (10) days from the date of entry of this Order.

Plaintiffs and The Notice Company, Inc. are expressly prohibited from using or disclosing the Protected Health Information obtained pursuant to this Order for any purpose other than this action. Further, Plaintiffs and The Notice Company are ordered to destroy all Protected Health Information (including all copies made) within ten days following the conclusion of this action. *See* 45 C.F.R. §§ 163.502(b), 164.512(e)(1)(v). Plaintiffs and The Notice Company is ordered to certify to the Court that all information and copies thereof that are received from the defendants have been destroyed as required by this Order.

NOTICE TO CLASS MEMBERS

Pursuant to the specific grants of authority given to this Court in Rule 23(d), SCRCPP, the Court hereby approves of the following process for providing notice to the class members of the pendency of this action and further ORDERS that The Notice Company shall implement the same as the Court-appointed notice administrator in this case. The Court finds that the notice process set forth herein satisfies the requirements of Rule 23 and Due Process under the federal and state constitutions, and further that such notice to absent class members constitutes the best practicable notice, reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of this action and afford them an opportunity to present their objections and/or be removed from the class. Therefore, based on the foregoing, the Court hereby ORDERS that the class members shall receive notice as follows:

1. With ten (10) days of the entry of this Order, Defendants shall provide The Notice Company, Inc. (“TNC”) and class counsel with a class list in the form of an Excel spreadsheet

listing the names, last-known addresses, and last-known email addresses of all class members (the “Class List”).

2. TNC shall prepare a dedicated website, www.MaryBlackClassAction.com, for this case and will set up a dedicated email account. The website shall include the Notice of Pendency of Class Action substantially in the form of the Notice attached hereto as **Exhibit A** to this Order, and which is approved without material alteration. The website will also include a Summary Notice, substantially in the form of **Exhibit B** to this Order, along with copies of the Amended Complaint, Answers to the Amended Complaint, and this Court’s Order Certifying the Class.

3. Within thirty (30) days of the entry of this Order, TNC shall provide actual notice to class members by mailing individualized notice to class members in the form of the Post Card Notice, which is attached hereto as **Exhibit C** to this Order, and which is approved without material alteration.

4. TNC shall maintain a Post Office Box to receive any returned mail or Opt-Out requests from class members. The deadline for members of the Class to request exclusion (opt out) from the Class shall be eighty (80) days from the date of the entry of this Order.

5. TNC shall setup a toll-free telephone line to provide information to class members. The telephone line shall allow callers to learn about the case and request additional information.

6. In addition to the notice procedures outline above, the Court hereby approves the following schedule and procedures for notice by publication:

- a. Commencing within seven (7) days of the mailing of the Postcard Notice, TNC will cause the Summary Notice to be published in the following publications: *Spartanburg Herald-Journal*, *Gaffney Ledger*, with publication continuing for a total of three times over three weeks in each publication.

- b. Commencing within seven (7) days of the mailing of the Postcard Notice, TNC will cause the Summary Notice, or a link to the case website, to be posted online at the www.goupstate.com website. Such posting shall continue for at least four (4) weeks.
 - c. Commencing within seven (7) days of the mailing of the Postcard Notice, TNC will issue a press release substantially in the form of the Summary Notice utilizing PR Newswire's Southeast Regional Newswire.
7. The Court further orders that, commencing within seven (7) days of the mailing of the Postcard Notice, copies of the Summary Notice shall be posted in conspicuous locations within those hospital facilities that Defendants formerly operated, including in all lobby, waiting room areas, elevators, and public entrance/exits at Spartanburg Medical Center – Mary Black Campus in Spartanburg, South Carolina and at Cherokee Medical Center & Hospital in Gaffney, South Carolina. Copies of such Summary Notice shall be delivered to the hospitals, along with a copy of this Order and the November 1, 2022 Order Certifying Class, by way of Federal Express (or such other trackable mailing) to the attention of the President and/or Chief Executive Officer of Spartanburg Regional Healthcare System and to the President and/or Chief Executive Officer of Cherokee Medical Center. Such postings shall be maintained in good condition and remain posted while this case remains pending. Plaintiffs shall be required to provide a certification to this Court that they complied with this mailing requirement and that they have attempted in good faith to confirm that the hospital facilities have complied with the Court's directives related to same. Additionally, the Court orders Defendants to cooperate with Plaintiffs' counsel and any necessary third parties to facilitate the posting of notice in these community hospitals as the Court finds

that posting such notices in conspicuous areas in community hospitals is reasonably likely to apprise absent class members (who otherwise might not receive actual notice) of the pendency of the action and the opportunity to opt out.

It is so **ORDERED**.

Judge's Signature Page Follows

EXHIBIT A

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

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, d/b/a Mary
Black Memorial Hospital; CHSPSC, LLC; and
Professional Account Services, Inc.,

Defendants.

C.A. No. 2017-CP-42-00219

CLASS ACTION

NOTICE OF PENDENCY OF A CLASS ACTION

If you received healthcare treatment in South Carolina since January 1, 2014, a class action lawsuit may affect your rights.

The Court of Common Pleas, Spartanburg County, authorized this Notice. This is not a solicitation from a lawyer.

1. Why You Should Read This Notice?

The purpose of this notice is to inform you that the Court has certified a class action lawsuit that may affect you. The lawsuit is known as *Blackwell, et al. v. Mary Black Health System, LLC et al.*, C. A. No. 2017-CP-42-00219, and it is currently pending before the Honorable J. Mark Hayes, II of the Court of Common Pleas, Spartanburg County, South Carolina. This Notice is also to apprise you of the nature of the lawsuit, to describe who is a member of the certified Class, and to explain your legal rights and options. Finally, this Notice describes how you can request to be excluded if you do not want to be a member of the Class.

2. Who are the Defendants?

- Mary Black Health System, LLC, d/b/a Mary Black Memorial Hospital
- CHSPSC, LLC
- Professional Account Services, Inc.

3. Who is in the Class?

The Court has certified the following Class: All individuals who, since January 1, 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 other than Cigna, and whose medical bills resulting from that treatment were not submitted to their health insurance carrier for potential payment.

4. What is this case about?

The class action lawsuit asserts that the Defendants had a policy and practice of refusing to bill health

insurance that impacted every member of the Class by interfering with Class Members' own relationships with their insurance companies. The lawsuit also alleges that the Defendants attempted to collect larger payments from Class Members than what the Defendants separately contracted for with the insurance companies. The Defendants deny the lawsuit's allegations. The Court has not decided whether the Defendants are liable or whether the allegations of the lawsuit are true. The Court has only decided that the case should proceed as a class action. The lawsuit is thus ongoing.

5. What is a Class Action?

In a class action lawsuit, one or more people called "Class Representatives" (in this case Jo Ann Blackwell, Michelene Brooks, and Samuel H. Owens, Jr.) sue on behalf of other people who have similar claims. The people together are a "Class" or "Class Members."

6. Can Class Members receive payment now?

No. Payment to Class Members is not available at this time. There currently is no settlement and no judgment in this case. There is no guarantee that any money or other relief will be awarded to the Class.

7. Who represents the Class?

The Court appointed the following attorneys as Class Counsel:

Class Counsel	
John B. White, Jr. Marghretta H. Shisko John B. White, Jr. P.A. 291 S. Pine Street	John S. Simmons Rachel G. Peavy Simmons Law Firm, LLC 1711 Pickens Street

Spartanburg, SC 29302	Columbia, SC 29201
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8. Are Class Members responsible for paying Class Counsel?

No. If Class Counsel gets money or benefits for the Class, they may ask the Court for fees and expenses. Class Members will not have to pay these fees and expenses. If the Court grants Class Counsels' request, the fees and expenses would be either deducted from any money obtained for the Class or paid separately by the Defendants.

9. How do you remain a Class Member?

If you are a member of the certified Class, you are not required to do anything to remain a Class Member. If you remain a Class Member, you will be legally bound by the rulings of the Court. Class Members will be notified how to claim their share of a monetary award if Class Counsel prevails. If you remain in the Class, you may not pursue a lawsuit on your own against the Defendants for legal claims that are the subject of this lawsuit. By remaining in the Class, you will be represented by Class Counsel; however, if you prefer, you may have your own attorney appear on your behalf to represent you in the Class Action, at your own expense.

10. How do you request exclusion from this Class Action?

If you do not wish to be a Class Member, and thus want to be excluded, which is sometimes referred to as "opting out," you must make your request in writing. The court will exclude from the Class any member who requests exclusion. To be valid, a request for exclusion must include the following:

- a. Your full name and address;
- b. The statement "I want to be excluded from the class in Blackwell v. Mary Black Health System, LLC.";
- c. Be dated and signed by you or your legal representative; and
- d. Be postmarked on or before MONTH XX, 2023, and sent to the Class Administrator at the following address:

Mary Black Exclusions

c/o The Notice Company

P.O. Box 455

Hingham, MA 02043

If you choose to opt-out of the Class Action, the decisions of the Court and the results of trial will not be binding on you. **Do not request exclusion if you wish to remain a Class Member.**

11. Will there be a trial and do you have to come to Court?

Currently, no trial date has been set by the Court to decide who is right in this case. As long as the case isn't resolved by a settlement or otherwise, Class Counsel will have to prove the Plaintiffs' claims at a trial at the Spartanburg County Judicial Center. You do not need to attend the trial. Class Counsel will present the case for the Class. You or your own lawyer are welcome to come at your own expense.

12. Further Information.

This Notice does not fully describe all of the claims, defenses, or allegations of the parties. If you have any questions about this Notice of the Class Action, or if you want to review the Complaint or other important filings in the lawsuit, you may:

- go to www.MaryBlackClassAction.com
- call 1-800-XXX-XXXX or
- contact Class Counsel at the addresses provided in Section 7 above.

Please do NOT telephone or contact the Court or the Clerk of the Court about this notice.

Dated: Month XX, 2023

By Order of the Court
The Honorable J. Mark Hayes, II
Circuit Court Judge, 7th Judicial Circuit

EXHIBIT B

If you received healthcare treatment in South Carolina and your medical bills were not submitted to your health insurance carrier for payment at any time since January 1, 2014, a class action lawsuit may affect your rights.

A court authorized this notice. This is not a solicitation.

The Court has certified a class action lawsuit that may affect you. The lawsuit is known as *Blackwell, et al.* (“Plaintiffs”) v. *Mary Black Health System, LLC et al.* (“Defendants”), C. A. No. 2017-CP-42-00219, and it is currently pending before the Honorable J. Mark Hayes, II of the Court of Common Pleas, Spartanburg County, South Carolina.

Who is Included? On November 1, 2022, the Court certified the following Class:

All individuals who, since January 1, 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 other than Cigna, and whose medical bills resulting from that treatment were not submitted to their health insurance carrier for potential payment.

Plaintiffs allege that the Defendants had a policy and practice of refusing to bill health insurance that impacted every member of the Class by interfering with Class Members’ own relationships with their insurance companies. The lawsuit also alleges that the Defendants attempted to collect larger payments from Class Members than what the Defendants separately contracted for with the insurance companies. The Defendants deny the lawsuit’s allegations. The Court has not decided whether the Defendants are liable or whether the allegations of the lawsuit are true. The Court has only decided that the case should proceed as a class action. The lawsuit is thus ongoing.

What Do You Need to Do? You don’t have to do anything now if you want to remain in the Class and keep the possibility of getting money or benefits from this lawsuit.

What Are My Other Options? If you do not want to be a part of the Class, you must exclude yourself (“opt out”) by Month xx, 2023. If you opt out, you will not be eligible to receive any payments or benefits that might result at trial or settlement. Requests to opt out must be in writing and mailed to Mary Black Exclusions, c/o The Notice Company, P.O. Box 455, Hingham, MA 02043. Do not opt out if you wish to remain a member of the Class.

The descriptions in this Notice are only summaries. If you have any questions or would like more information, including the detailed notice, please contact the Class Administrator at 1-800-XXX-XXXX or visit www.MaryBlackClassAction.com. Please do not call the Court about this Notice or lawsuit. They will not be able to give you advice or answer your questions.

EXHIBIT C

NOTICE OF PENDENCY OF
CLASS ACTION LAWSUIT

**This Legal Notice May
Affect Your Rights.
Please Read It Carefully**

**Review Details online at
MaryBlackClassAction.com**

A class has been certified
in the lawsuit known as

***Blackwell et al. v. Mary Black
Health Systems et al.***

Court of Common Pleas, Spartan-
burg County, SC
C.A. No. 2017-CP-42-00219

Mary Black Health Systems Class Action
c/o The Notice Company
P.O. Box 455
Hingham, MA 02043

Who is Included in the Class? You are a member of the class if you are an individual who, since January 1, 2014, received any type of healthcare treatment from any entity located in South Carolina that is owned or affiliated with Mary Black Health System, LLC, d/b/a Mary Black Memorial Hospital; CHSPSC, LLC; and Professional Account Services, Inc. ("Defendants"), while being covered by valid health insurance other than Cigna, and whose medical bills resulting from that treatment were not submitted to their health insurance carrier for potential payment.

What is the Case About? The class action lawsuit asserts that the Defendants had a policy and practice of refusing to bill health insurance that impacted every member of the Class by interfering with Class Members' own relationships with their insurance companies. The lawsuit also alleges that the Defendants attempted to collect larger payments from Class Members than what the Defendants separately contracted for with the insurance companies. The Defendants deny the lawsuit's allegations. The Court has not decided whether the Defendants are liable or whether the allegations of the lawsuit are true. The Court has only decided that the case should proceed as a class action. The lawsuit is thus ongoing.

Can Class Members receive payment now? No. Payment to Class Members is not available at this time. There currently is no settlement and no judgment in this case. There is no guarantee that any money or other relief will be awarded to the Class.

What Do You Need to Do? You don't have to do anything now if you want to keep the possibility of getting money or benefits from this lawsuit.

If you do nothing, you will remain a member of the Class and be bound by the outcome of the lawsuit. If you do not wish to participate, you must make your request in writing, be signed, and postmarked on or before **MONTHXX, 2023**, and mailed to: Mary Black Exclusions, c/o The Notice Company, P.O. Box 455, Hingham, MA 02043. If you choose to opt-out of the Class Action, the decisions of the Court and the results of trial will not be binding on you. In the event of a favorable result at trial or settlement, you will not be eligible to submit a claim to share in any award. **Do not request exclusion if you wish to remain a Class Member.**

The Court appointed Class Counsel (listed below) to represent the Class. If you desire, you may hire your own attorney, at your own expense, to appear on your behalf.

How Do You Obtain More Information? You are urged to visit **www.MaryBlackClassAction.com**. You may contact Court-appointed Class Counsel: John B. White, Jr. P.A., 291 S. Pine St, Spartanburg, SC 29302; or Simmons Law Firm, 1711 Pickens St, Columbia, SC 29201. You may obtain more information, including a detailed notice, by calling 1-800-XXX-XXXX or visiting **www. MaryBlackClassAction.com**.

Updated Information will be posted online. Do NOT write or call the Court.



Spartanburg Common Pleas

Case Caption: Jo Ann Blackwell , plaintiff, et al VS Mary Black Health System, Llc
, defendant, et al
Case Number: 2017CP4200219
Type: Order/Other

IT IS SO ORDERED

s/ J. Mark Hayes, II #2132