

DOCKET NO.: FST-CV21-6054676-S	:	SUPERIOR COURT
	:	
SARAH KENT, and ALISON PACTONG,	:	JUDICIAL DISTRICT OF
individually and on behalf of all other similarly	:	
situated,	:	
	:	STAMFORD/NORWALK
Plaintiff,	:	
	:	
VS.	:	AT STAMFORD
	:	
WOMEN’S HEALTH USA, INC., IN VITRO	:	
SCIENCES, LLC, CENTER FOR ADVANCED	:	
REPRODUCTIVE SERVICES, P.C., and	:	
REPRODUCTIVE MEDICINE ASSOCIATES OF	:	
CONNECTICUT, P.C.,	:	
	:	
Defendants.	:	NOVEMBER 28, 2022

**AMENDED REPLY MEMORANDUM IN FURTHER SUPPORT OF  
PLAINTIFFS’ UNOPPOSED MOTION FOR FINAL APPROVAL  
AND NOTICE REPORT**

**INTRODUCTION**

Plaintiffs Sarah Kent and Alison Pactong (“Plaintiffs”), on behalf of a Settlement Class of natural persons that paid for assisted reproductive technology (“ART”) services from Center for Advanced Reproductive Services, P.C. (“CARS”), and Reproductive Medicine Associates of Connecticut, P.C. (“RMACT”) between January 1, 2004 and July 19, 2022, hereby respectfully submit this Amended Reply Memorandum in Further Support of Plaintiffs’ Unopposed Motion for Final Approval and Notice Report. As described more fully below, notice was delivered to approximately 96.7% of the potential Settlement Class, yet only one defective objection and six exclusion requests were received. In contrast, 2,793 claims have been filed seeking to participate in the proposed Settlement. Settlement Class Counsel respectfully submit that this favorable response by the Settlement Class militates strongly in favor of approval of the proposed Settlement, the proposed distribution plan, and the requests for attorneys’ fees and expenses and service

awards.

## **I. DISSEMINATION OF NOTICE TO THE SETTLEMENT CLASS**

In accordance with the Court’s July 19, 2022 Order Granting Plaintiffs’ Motion for Preliminary Approval of Proposed Settlement, Certification of a Settlement Class, and Approval of Notice Plan (“Preliminary Approval Order”), Epiq Class Action and Claims Solutions, Inc. (“Epiq”) mailed 19,063 Summary Notices to potential Settlement Class members via United States Postal Service first-class mail on September 2, 2022. (Decl. of Cameron R. Azari, Esq. on Implementation of Notice Plan and Notices (“Azari Decl.”), attached hereto, at ¶11.) In addition, 1,534 Summary Notices were re-mailed where forwarding addresses were available, or where a better address was identified using a third-party lookup service. (*Id.* at ¶13.) Altogether, as of November 23, 2022, a Summary Notice was delivered to 96.7% of the identified potential Settlement Class Members. (*Id.* at ¶15.)

In addition, on September 1, 2022, Epiq established a dedicated website at [www.IVFsettlement.com](http://www.IVFsettlement.com), which, among other things, provided relevant documents—including the Settlement Agreement, Preliminary Approval Order, Motion for Final Approval, and Motion for Attorneys’ Fees and Costs and Service Awards, as well as the Long Form Notice, Short Form Notice, and Claim Form approved by the Court. (*Id.* at ¶16.) The website also provided Settlement Class members the ability to submit Claim Forms online, summarized key dates, answered frequently asked questions (“FAQs”), and instructed them how to opt out or object to the proposed Settlement. (*Id.*) Settlement Class members were also able to submit questions on the website, and they were provided a toll-free telephone number where they could request a Claim Package or a copy of the Settlement Agreement to be mailed to them. (*Id.* at ¶18.) Notice to the Settlement Class has, therefore, been provided as ordered by the Court.

## II. SETTLEMENT CLASS MEMBERS' FAVORABLE RESPONSE TO THE PROPOSED SETTLEMENT

The reaction of the class has been recognized by courts in this State and in federal courts within the Second Circuit as a factor in evaluating the fairness, reasonableness, and adequacy of a proposed settlement. *See, e.g., Gray v. Found. Health Sys., Inc.*, No. X06CV990158549S, 2004 WL 945137, at \*6 (Conn. Super. Ct. Apr. 21, 2004) (holding that “[a] mere thirty-nine” class members opting out of the settlement favored approval of the settlement); *Wright v. Stern*, 553 F. Supp. 2d 337, 344-45 (S.D.N.Y. 2008) (“fact that the vast majority of class members neither objected nor opted out is a strong indication” of fairness); *In re Frontier Commc'ns Corp.*, No. 3:17-CV-01617-VAB, 2022 WL 4080324, at \*12 (D. Conn. May 20, 2022) (finding that the class’s reaction, with only one objection and 74 opt outs, “strongly supports approval”).

In the instant matter, the low number of exclusion requests (six) and the single, defective objection militates strongly in favor of approval of the proposed settlement, the proposed distribution plan, and the requests for attorneys’ fees and expenses and service awards.

### A. Only One, Defective Objection Was Received

The Long Form and Short Form Notices advised that any objections to the proposed Settlement, the proposed distribution plan, or to Settlement Class Counsel’s requests for an award of attorneys’ fees and expenses and service awards to Class Representatives had to be mailed to Epiq by November 16, 2022. As of this date, only one objection has been received by Epiq. (*Id.* at ¶20.) As discussed below, the objection is defective, wholly without merit and devoid of any legal or factual support which would undermine the outstanding result achieved by Plaintiffs in this matter.

**B. 2,793 Claims Forms Have Been Received**

The claim filing deadline is not until January 4, 2023. However, Epiq has already received 2,793 claim forms. (*Id.* at ¶ 24.) In addition, Epiq has not yet completed its review and audit of the claim forms received. (*Id.*) Nonetheless, based on Settlement Class Counsel’s estimate that there are approximately 15,000 putative Settlement Class Members (*see* Affidavit of Jonathan M. Jagher In Support of Plaintiffs’ Motion, on Consent, for Preliminary Approval of Proposed Settlement, Certification of a Settlement Class, and Approval of Notice Plan at ¶10), 2,793 claims would represent a participation rate of approximately 19%. This factor weighs heavily in favor of finding the proposed settlement is fair, adequate, and reasonable. *See, e.g., Hernandez v. Immortal Rise, Inc.*, 306 F.R.D. 91, 100 (E.D.N.Y. 2015) (holding that 20% participation rate demonstrated a favorable class reaction indicative of the settlement’s fairness and noting that claims-made settlements typically have a participate rate in the 10-15% range); *Acevedo v. Workfit Med. LLC*, 187 F. Supp. 3d 370, 380 (W.D.N.Y. 2016) (approving settlement with 21% participation rate and observing that claims-made settlements typically yield response rates of 10% or less); *Sullivan v. DB Invs., Inc.*, 667 F.3d 273, 329 n.60 (3d Cir. 2011) (*en banc*) (noting that claims rate in consumer class action settlements “rarely exceed seven percent”); *Pollard v. Remington Arms Co., LLC*, 320 F.R.D. 198, 214–15 (W.D. Mo. 2017) (collecting cases that have approved settlements “where the claims rate was less than one percent”); Consumers and Class Actions: A Retrospective and Analysis of Settlement Campaigns, Federal Trade Commission, September 2019, at 11, [www.ftc.gov/reports/consumers-class-actions-retrospective-analysis-settlement-campaigns](http://www.ftc.gov/reports/consumers-class-actions-retrospective-analysis-settlement-campaigns) (last accessed Jun. 24, 2022) (weighted mean claims rate—*i.e.*, cases weighted by the number of notice recipients—is 4%).

### C. Only Six Requests for Exclusion Were Received

The Long Form and Short Form Notices further advised that requests for exclusion from the Settlement Class must be mailed to Epiq postmarked no later than November 16, 2022. (*Id.* at ¶20, Attachments 1, 2.) As of November 23, 2022, only six requests for exclusion were received.

### III. THE LONE, DEFECTIVE OBJECTION FAILS TO PROVIDE ANY LEGAL OR FACTUAL SUPPORT THAT WOULD POTENTIALLY UNDERMINE THE FAIRNESS OF THE PROPOSED SETTLEMENT

Epiq received only one objection to the proposed Settlement. (*See id.* ¶ 20 and attachment 4.) This individual “objects to the settlement on the grounds that the Total Settlement Fund is inadequate given the value of the claims at issue and the scope of the release sought.” (*Id.*) Notably, the objection gives no estimate as to what this objector believes to be the value of the claims at issue, gives no indication as to what an adequate settlement amount would be, nor does it describe what an appropriate scope of release would be. (*Id.*)

As an initial matter, the objection is defective. As a result, it can and should be rejected solely on the grounds that it fails to comply with the Court’s Preliminary Approval Order, which ordered that any objection must include, among other things, “[a] written statement of all reasons for the objection, accompanied by any legal support for the objection that the person believes is applicable.” (Preliminary Approval Order at ¶ 15(d) (emphasis added); *see also 1988 Tr. for Allen Child. Dated 8/8/88 v. Banner Life Ins. Co.*, 28 F.4th 513, 521 (4th Cir. 2022) (“an objector to a class settlement must state the basis for its objection with enough specificity to allow the parties to respond and the court to evaluate the issues at hand”). However, the objection provides zero legal or factual support for its assertion that the settlement amount is somehow inadequate. The reason for this lack of support is simple: there is none.

As Plaintiffs previously indicated, based on the information provided to them by Defendants, the \$2,850,000 settlement here represents approximately 50% of the maximum

damages the Settlement Class could realistically obtain at trial. (Aff. of Jonathan M. Jagher ISO Pls’ Unopp. Mot. for Final Approval of Prop. Settlement and Prop. Plan of Dist. of Settlement Fund and Pls’ Mot. for Award of Attys’ Fees, Costs and Expenses and For Class Rep. Service Awards at ¶13.) Here—where the participation rate currently stands at approximately 19%, the proposed Settlement is non-reversionary, and the proposed Plan of Distribution is to be made on a *pro rata* basis based on the amounts paid for ART services from Defendants during the proposed class period—each claiming Settlement Class member will almost certainly receive a *pro rata* share equal to or greater than the amount he or she was overcharged as result of Defendants’ alleged misconduct, *i.e.*, they will be made completely whole again.

Moreover, in exchange for being made whole again, each Class Member is signing a release narrowly tailored to address the specific harms alleged in the complaint. (*See* Settlement Agreement at ¶ 17 (releasing all claims “arising out of any conduct alleged in the Class Action Complaint or any act or omission of the Releasees (or any of them), concerning Defendants’ alleged participation in a conspiracy to artificially raise, fix, maintain, or stabilize prices for ART services and/or to allocate geographic markets for ART services in Connecticut from January 1, 2004 through the date of preliminary approval”).)

#### **IV. CONCLUSION**

For the foregoing reasons, and for those set forth in Plaintiffs’ Unopposed Motion for Final Approval of Proposed Settlement and Proposed Plan of Distribution of Settlement Fund and Motion for Award of Attorneys’ Fees, Costs and Expenses and for Class Representative Service Awards, Plaintiffs respectfully request that the Court grant final approval of the proposed settlement, the proposed distribution plan, and the requests for an award of attorneys’ fees, costs and expenses, and for service awards.

Dated: November 28, 2022

Respectfully submitted,

**THE PLAINTIFFS,  
SARAH KENT and ALISON PACTONG,  
individually and on behalf of all others similarly  
situated,**

By: /s/ Jonathan M. Shapiro 419859

Jonathan M. Shapiro  
Aeton Law Partners LLP  
311 Centerpoint Drive  
Middletown, Connecticut 06475  
Telephone: 860-724-2160  
Facsimile: 860-724-2161  
JURIS # 433168  
jms@aetonlaw.com

Jonathan M. Jagher  
Kimberly Justice  
**FREED KANNER LONDON & MILLEN LLC**  
923 Fayette Street  
Conshohocken, PA 19428  
Telephone: (610) 234-6486  
jjagher@fklmlaw.com  
kjustice@fklmlaw.com

Douglas A. Millen  
**FREED KANNER LONDON & MILLEN, LLC**  
2201 Waukegan Road, #130  
Bannockburn, IL 60015  
Telephone: (224) 632-4500  
Facsimile: (224) 632-4521  
dmillen@fklmlaw.com

Andrew J. Shamis, Esq.  
**SHAMIS & GENTILE, P.A.**  
14 NE 1<sup>st</sup> Avenue, Suite 705  
Miami, Florida 33132  
Telephone: (305) 479-2299  
ashamis@shamisgentile.com

Jeffrey J. Corrigan  
**SPECTOR ROSEMAN & KODROFF, P.C.**  
2001 Market Street, Suite 3420

Philadelphia, PA 19103  
Telephone: (215) 496-0300  
jcorrigan@srkattorneys.com

Brian D. Clark  
Stephen J. Teti (Juris No. 432018)  
**LOCKRIDGE GRINDAL NAUEN P.L.L.P.**  
100 Washington Avenue S, Suite 2200  
Minneapolis, MN 55401  
Telephone: (612) 339-6900  
Facsimile: (612) 339-0981  
bdclark@locklaw.com  
sjteti@locklaw.com

Katrina Carroll  
**LYNCH CARPENTER, LLP**  
111 W. Washington Street, Suite 1240  
Chicago, IL 60602  
Telephone: (312) 750-1265  
katrina@lcllp.com

Gary M. Klinger  
**MILBERG COLEMAN BRYSON  
PHILLIPS GROSSMAN, PLLC**  
227 W. Monroe Street, Suite 2100  
Chicago, Illinois 60606  
Telephone: (866) 252-0878  
gklinger@milberg.com  
Telephone: (202) 975-0477  
gklinger@masonllp.com

Elizabeth A. Fegan  
**FEGAN SCOTT LLC**  
150 S. Wacker Dr., 24<sup>th</sup> Floor  
Chicago, IL 60606  
Telephone: (312) 741-1019  
beth@feganscott.com

Kevin B. Love  
**CRIDEN & LOVE, P.A.**  
7301 SW 57th Court, Ste 515  
South Miami FL 33143  
Telephone: (305) 357-9000  
klove@cridenlove.com

Scott Edelsberg, Esq.  
**EDELSBERG LAW P.A.**  
20900 NE 30th Ave., Suite 417  
Aventura, Florida 33180  
Telephone: (305) 975-3320  
scott@edelsberglaw.com

David P. McLafferty  
**MCLAFFERTY LAW FIRM P.C.**  
923 Fayette Street  
Conshohocken, PA 19428  
Telephone: (610) 940-4000  
dmclafferty@mclaffertylaw.com

*Counsel for Plaintiffs and the Class*

## CERTIFICATION

I hereby certify that a copy of the above was mailed or electronically delivered on this 28th day of November, 2022 to all counsel and pro se parties of record and that written consent for electronic delivery was received from all counsel and pro se parties of record who were electronically served including:

Ann Harris, Rubin, Esq. [arubin@carmodylaw.com](mailto:arubin@carmodylaw.com)  
Carmody Torrance Sandak & Hennessey, LLP  
PO Box 1110  
Waterbury, CT 06721

Douglas A. Millen, Esq. [dmillen@fkmlaw.com](mailto:dmillen@fkmlaw.com)  
& Millen, LLC  
2201 Waukegan Road, Suite 130  
Bannockburn, IL 60015

Ari Joshua Hoffman, Esq. [ahoffman@cohenandwolf.com](mailto:ahoffman@cohenandwolf.com)  
Cohen & Wolf, P.C.  
PO Box 1821  
Bridgeport, CT 06601  
*Attorney for Defendant, Reproductive Medicine Associates of CT, P.C.*

Jonathan M. Jagher, Esq. [jjagher@fkmlaw.com](mailto:jjagher@fkmlaw.com)  
Freed, Kanner, London & Millen, LLC  
923 Fayette Street  
Conshohocken, PA 19428  
*Attorney PHV for Plaintiff*

/s/ Jonathan M. Shapiro 419859  
Jonathan M. Shapiro

DOCKET NO.: FST-CV-21-6054676-S	:	SUPERIOR COURT
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SARAH KENT and ALISON PACTONG,	:	
on behalf of themselves and all others similarly	:	
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	:	
Plaintiffs,	:	STAMFORD/NORWALK
	:	
v.	:	
	:	AT STAMFORD
WOMEN’S HEALTH USA, INC.,	:	
IN VITRO SCIENCES, LLC, CENTER FOR	:	
ADVANCED REPRODUCTIVE SERVICES,	:	
P.C., and REPRODUCTIVE MEDICINE	:	
ASSOCIATES OF CONNECTICUT, P.C.	:	
	:	
Defendants.	:	

**DECLARATION OF CAMERON R. AZARI, ESQ. ON IMPLEMENTATION OF  
NOTICE PLAN AND NOTICES**

I, Cameron R. Azari, Esq., hereby declare and state as follows:

1. My name is Cameron R. Azari. I have personal knowledge of the matters set forth herein, and I believe them to be true and correct.
2. I am a nationally recognized expert in the field of legal notice and have served as an expert in hundreds of federal and state cases involving class action notice plans.
3. I am the Senior Vice-President of Epiq Class Action and Claims Solutions, Inc. (“Epiq”) and the Director of Legal Notice for Hilsoft Notifications, a firm that specializes in designing, developing, analyzing, and implementing large-scale, un-biased, legal notification plans. Hilsoft Notifications is a business unit of Epiq.<sup>1</sup>
4. This declaration describes the successful implementation of the Settlement Notice Plan (“Notice Plan” or “Notice Program”) and notices (the “Notice” or “Notices”) for *Kent, et al.*

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<sup>1</sup> References to Epiq in this declaration include Hilsoft Notifications.

*v. Women’s Health USA, Inc., et al.*, Case No. FST-CV-21-6054676-S (Superior Court Judicial District of Stamford/Norwalk). Previously, I executed my *Declaration of Cameron R. Azari Esq. on Notice Plan and Notices* on July 7, 2022, which described the Notice Program, detailed Hilsoft’s class action notice experience, and attached Hilsoft’s *curriculum vitae*. I also provided my educational and professional experience relating to class actions and my ability to render opinions on overall adequacy of notice programs.

### **NOTICE PLAN SUMMARY**

5. Connecticut Practice Book Section 9-9 (c)(2)(B) directs that notice must be “the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort,” and that “the notice may be by one or more of the following: United States mail, electronic means, or other appropriate means.”<sup>2</sup> The Notice Program satisfied these requirements.

6. This Notice Program was designed to reach the greatest practicable number of Settlement Class Members. The Notice Plan individual notice efforts alone reached approximately 96.7% of the identified Settlement Class. The reach was further enhanced by a settlement website. In my experience, the reach of the Notice Plan was consistent with other court-approved notice plans, was the best notice practicable under the circumstances of this case, and was designed to satisfy the requirements of due process, including its “desire to actually inform” requirement.<sup>3</sup>

### **NOTICE PLAN DETAIL**

7. On July 19, 2022, the Court approved the Notice Plan designed by Hilsoft and appointed Epiq as the Settlement Administrator in the *Order Granting Plaintiff’s Motion, on*

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<sup>2</sup> Sup. Ct. R. D.C. 23 (c)(2)(B).

<sup>3</sup> *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950) (“But when notice is a person’s due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it. The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected . . .”).

*Consent, for Preliminary Approval of Proposed Settlement, Certification of a Settlement Class, and Approval of Notice Plan* (“Preliminary Approval Order”). In the Preliminary Approval Order, the Court preliminary certified the following Settlement Class:

All natural persons that purchased or paid for, in whole or in part, assisted reproductive technology (“ART”) services from Center for Advanced Reproductive Services, P.C. (“CARS”) or Reproductive Medicine Associates of Connecticut P.C. (“RMACT”) from January 1, 2004 through the date of this Order.

Specifically excluded from this Settlement Class are Defendants’ officers, directors, and employees; all counsel of record; and the Court, Court personnel, and members of their immediate families

8. After the Court’s Preliminary Approval Order was entered, we began to implement the Notice Program. This declaration will detail the notice activities undertaken and explain how and why the Notice Program was comprehensive and well-suited to the Settlement Class. This declaration will also discuss the administration activity to date. The facts in this declaration are based on my personal knowledge, as well as information provided to me by my colleagues in the ordinary course of my business at Hilsoft and Epiq.

### **NOTICE PLAN**

#### ***Individual Notice***

9. From August 8, 2022, to August 10, 2022, Epiq received four data files from the Defendant, which contained records for 20,362 individuals identified as potential Settlement Class Members (the data included names and mailing addresses). It is my understanding that some of these individuals do not actually qualify as Settlement Class Members, as they did not pay any portion of the ART services received. However, counsel was unable to identify which persons fall into this category. Thus, claimant eligibility as Settlement Class Members is determined using the information provided in the Claim Form, which must be submitted under penalty of perjury and

subject to potential verification by counsel. Though the data set described above may be slightly overinclusive, it nonetheless ensures that all Settlement Class Members for whom physical address information is available were sent a notice.

10. For the data received, Epiq deduplicated and rolled-up records where names and addresses were an exact match and loaded the data for the individuals identified as potential Settlement Class Members into its database. These efforts resulted in 19,063 records to receive a Summary Notice.

***Individual Notice – Direct Mail***

11. On September 2, 2022, Epiq sent 19,063 Summary Notices enclosed in an envelope to all identified Settlement Class Members with an associated physical address. The Summary Notice was sent via United States Postal Service (“USPS”) first-class mail. The Summary Notice clearly and concisely summarized the case, the Settlement, and the legal rights of the Settlement Class Members. The Summary Notice also directed the recipients to the settlement website where they can access additional information and file a claim. The Summary Notice is included as **Attachment 1**.

12. Prior to sending the Summary Notice, all mailing addresses were checked against the National Change of Address (“NCOA”) database maintained by the USPS to ensure Settlement Class Member address information was up-to-date and accurately formatted for mailing.<sup>4</sup> In addition, the addresses were certified via the Coding Accuracy Support System (“CASS”) to ensure the quality of the zip code and were verified through Delivery Point Validation (“DPV”) to verify the accuracy of the addresses. This address updating process is standard for the industry

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<sup>4</sup> The NCOA database is maintained by the USPS and consists of approximately 160 million permanent change-of-address (COA) records consisting of names and addresses of individuals, families, and businesses who have filed a change-of-address with the Postal Service™. The address information is maintained on the database for 48 months and reduces undeliverable mail by providing the most current address information, including standardized and delivery-point-coded addresses, for matches made to the NCOA file for individual, family, and business moves.

and for the majority of promotional mailings that occur today.

13. The return address on the Summary Notices was a post office box that Epiq maintains for this case. The USPS automatically forwarded Summary Notices with an available forwarding address order that has not expired (“Postal Forwards”). Summary Notices returned as undeliverable were re-mailed to any new address available through USPS information, (for example, to the address provided by the USPS on returned mail pieces for which the automatic forwarding order has expired, but was still within the time period in which the USPS returns the piece with the address indicated), and to better addresses that may be found using a third-party lookup service. Upon successfully locating better addresses, Summary Notices were promptly re-mailed. As of November 23, 2022, Epiq has re-mailed 1,534 Summary Notices where a forwarding address was provided, or a better address was identified using a third-party lookup service.

14. Additionally, a Claim Package (Long Form Notice and Claim Form) and/or the Settlement Agreement were mailed to all persons who request one via the toll-free telephone number. As of November 23, 2022, Epiq has mailed 157 Claim Packages and 32 Settlement Agreements as a result of such requests. The Claim Package (Long Form Notice and Claim Form) is included as **Attachment 2**.

15. As of November 23, 2022, a Summary Notice were delivered to 18,438 of the 19,063 unique, identified Settlement Class Members to whom Epiq sent Notice. This means the individual notice efforts reached approximately 96.7% of the identified Settlement Class Members sent notice.

#### *Settlement Website*

16. On September 1, 2022, Epiq established a dedicated website for the Settlement with an easy to remember domain name ([www.IVFSettlement.com](http://www.IVFSettlement.com)). Relevant documents, including the Long Form Notice, Short Form Notice, Claim Form, Settlement Agreement, Motion for Preliminary Approval, Preliminary Approval Order, Motion for Attorneys’ Fees and Costs and Service Awards, and Motion for Final Approval are posted on the settlement website. The

settlement website also provides the ability for Settlement Class Members to file an online Claim Form. In addition, the settlement website includes relevant dates, answers to frequently asked questions (“FAQs”), instructions for how Settlement Class Members could opt-out (request exclusion) from or object to the Settlement, contact information for the Settlement Administrator, and how to obtain other case-related information. The website address was prominently displayed in all notice documents.

17. As of November 23, 2022, there have been 9,811 unique visitor sessions to the settlement website, and 39,128 web pages have been presented.

#### ***Toll-Free Number and Other Contact Information***

18. On September 1, 2022, a toll-free telephone number (1-855-675-2845) was established for the Settlement. Callers are able to hear an introductory message and have the option to learn more about the Settlement in the form of recorded answers to FAQs. Callers are also able to request that a Claim Package (Long Form Notice and Claim Form) or a Settlement Agreement be mailed to them. This automated phone system is available 24 hours per day, 7 days per week. The toll-free telephone number was prominently displayed in all notice documents. As of November 23, 2022, the toll-free number has handled 830 calls for 2,359 minutes of use.

19. A postal mailing address was established, providing Settlement Class Members with the opportunity to request additional information or ask questions.

#### ***Exclusion Requests and Objections***

20. The deadline to request exclusion from the Settlement Class was November 16, 2022. As of November 23, 2022, Epiq has received six requests for exclusion from the Settlement. As standard practice, Epiq is in the process of conducting a complete review of all the requests for exclusion received. There is a likelihood that after detailed review and input from counsel, the total number of requests for exclusion may change due to incomplete/invalid requests. Since the deadline just passed, it is possible that Epiq may receive additional timely, postmarked requests for exclusion. If so, I will provide a supplemental declaration to the Court. The Request for

Exclusion Report is included as **Attachment 3**. As of November 23, 2022, I am aware of one objection to the Settlement. I have reviewed the objection, which does not relate to notice or settlement administration. The redacted objection is included as **Attachment 4**.

#### **PLAIN LANGUAGE NOTICE DESIGN**

21. The Notices and Claim Form were carefully designed in consultation with counsel for the settling parties, to be “noticed,” reviewed, and—by presenting the information in plain language—understood by Settlement Class Members. The design of the Notices followed the principles embodied in the Federal Judicial Center’s illustrative “model” notices, posted at [www.fjc.gov](http://www.fjc.gov). Many courts, and the FJC itself, have approved notices that Epiq has written and designed in a similar fashion. The Notices contained substantial, easy-to-read summaries of all key information about Settlement Class Members’ rights and options under the Settlement. Consistent with our standard practice, all notice documents underwent a final edit for grammar and accuracy prior to their dissemination and publication.

22. The Long Form Notice provided substantial information to Settlement Class Members. The Long Form Notice included (i) details regarding the Settlement Class Members’ ability to opt out or object to the Settlement, (ii) instructions on how to submit a Claim Form, (iii) the deadline to submit a Claim Form, opt out, or object, and (iv) the date, time, and location of the Final Fairness Hearing, among other information.

#### ***Status of Claim Submission & Distribution Options***

23. The Notices provided a detailed summary of the relevant information about the Settlement, including the settlement website address and how Settlement Class Members can file a Claim Form online or by mail. The Summary Notice included the settlement website URL, where Settlement Class Members can file a Claim Form online. With any method of filing a Claim Form, Settlement Class Members are given the option of receiving a digital payment or a traditional paper check.

24. The deadline for Settlement Class Members to file a claim is January 4, 2023. As

of November 23, 2022, Epiq has received 2,793 Claim Forms (2,699 online and 94 paper). Since the claim filing deadline has not yet passed, these numbers are preliminary. As the deadline approaches, I expect additional claims will be filed by Settlement Class Members. As standard practice, Epiq is in the process of conducting a complete review and audit of all Claims received. There is a likelihood that after detailed review, the total number of Claim Forms received will change due to duplicate and denied Claim Forms.

### CONCLUSION

25. In class action notice planning, execution, and analysis, we are guided by due process considerations under the United States Constitution, by state and local rules and statutes, and further by case law pertaining to notice. This framework directs that the notice plan be designed to reach the greatest practicable number of potential class members and, in a settlement class action notice situation such as this, that the notice or notice plan itself not limit knowledge of the availability of benefits—nor the ability to exercise other options—to class members in any way. All of these requirements were met in this case.

26. The Notice Plan included an extensive individual notice effort to the identified Settlement Class Members. The individual notice efforts of the Notice reached approximately 96.7% of the Settlement Class. The individual notice was supplemented with a dedicated settlement website. The FJC’s Judges’ Class Action Notice and Claims Process Checklist and Plain Language Guide, which is relied upon for federal cases, and is illustrative for state court courts, states that “the lynchpin in an objective determination of the adequacy of a proposed notice effort is whether all the notice efforts together will reach a high percentage of the Settlement Class. It is reasonable to reach between 70–95%.”<sup>5</sup> Here, the Notice Plan we developed will achieved a reach at the high end of that standard.

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<sup>5</sup> FED. JUDICIAL CTR., JUDGES’ CLASS ACTION NOTICE AND CLAIMS PROCESS CHECKLIST AND PLAIN LANGUAGE GUIDE 3 (2010), available at <https://www.fjc.gov/content/judges-class-action-notice-andclaims-process-checklist-and-plain-language-guide-0>.

27. The Notice Plan in this case provided the best notice practicable under the circumstances, conformed to all aspects of Connecticut Practice Book Section 9-9 (c)(2)(B) regarding notice, comported with the guidance for effective notice articulated in the Manual for Complex Litigation, Fourth and applicable FJC materials, and exceeded the requirements of due process, including its “desire to actually inform” requirement.

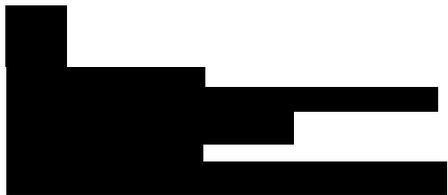
28. The Notice Plan schedule afforded enough time to provide full and proper notice to Settlement Class Members before any opt-out and objection deadlines.

I declare under penalty of perjury that the foregoing is true and correct. Executed November 28, 2022.

  
\_\_\_\_\_  
Cameron R. Azari, Esq.

# Attachment 1

Settlement Administrator  
P.O. Box 2956  
Portland, OR 97208-2956



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SETTLEMENT ADMINISTRATOR  
P.O. BOX 2956  
PORTLAND, OR 97208-2956



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Unique ID: 

**If you purchased or paid for Assisted Reproductive Technology (ART) IVF services from Center for Advanced Reproductive Services, P.C. (CARS) or Reproductive Medicine Associates of Connecticut (RMACT) from January 1, 2004, through July 19, 2022, you may be entitled to benefits from a settlement.**

A \$2.85 million Settlement has been reached in a class action lawsuit against Women’s Health USA, Inc.; In Vitro Sciences, LLC; Center for Advanced Reproductive Services, P.C. (“CARS”); and Reproductive Medicine Associates of Connecticut (“RMACT”) (collectively “Defendants”). The Settlement is regarding Defendants’ alleged conspiracy to artificially raise, fix, maintain, or stabilize prices for Assisted Reproductive Technology (“ART”) IVF services and to allocate geographic markets for ART services, which resulted in restricted competition and artificially high prices in violation of the Connecticut Antitrust Act. Defendants deny they did anything wrong, but have decided to settle this action in order to avoid the burden and expense of litigation. The Court has not decided who is right.

**You received this notice because records indicate you may be a Settlement Class Member.** You are a Settlement Class Member if you purchased or paid for, in whole or in part, Assisted Reproductive Technology (“ART”) services from the Center for Advanced Reproductive Services, P.C. (“CARS”) or Reproductive Medicine Associates of Connecticut (“RMACT”) from January 1, 2004, through July 19, 2022.

**How can I get a payment?** If you are a Settlement Class Member, you must submit a valid and timely Claim Form to receive a share of the Settlement Fund based on the amount you paid for ART services (IVF services) from CARS or RMACT during the relevant period. Settlement Class Members who file a valid, timely Claim Form will receive a pro rata share (a legal term that means proportional share based on the amount you paid for ART services relative to the total amounts paid by all other claiming Settlement Class Members) of the \$2.85 million Settlement Fund as a cash payment, minus attorneys’ fees, expenses, and costs, service awards, and the cost of settlement administration. Claim Forms can be submitted online at [www.IVFSettlement.com](http://www.IVFSettlement.com) or by mail. If by mail, the Claim Form must be **postmarked by January 4, 2023**. The quickest way to submit a claim is online. Claim Forms are also available by calling 1-855-675-2845.

**Your other options.** If you do not want to be legally bound by the Settlement and want to keep any right you may have to sue or continue to sue the Defendants on your own based on the claims raised in this Action or released by the Released Claims, then you must take steps to get out of the Settlement. This is called excluding yourself from or “opting out” of the Settlement. You must exclude yourself by **November 16, 2022**. If you do not exclude yourself, you may object to the Settlement by **November 16, 2022**. The Detailed Notice available at [www.IVFSettlement.com](http://www.IVFSettlement.com) explains how to exclude yourself or object.

The Court will hold a Final Fairness Hearing on **December 5, 2022, at 2:00 PM** before Judge Kenneth B. Povodator, remotely via Zoom. The date and time of the Final Fairness Hearing are subject to change. Any change will be posted at [www.IVFSettlement.com](http://www.IVFSettlement.com).

**Questions? Go to [www.IVFSettlement.com](http://www.IVFSettlement.com) or call 1-855-675-2845**



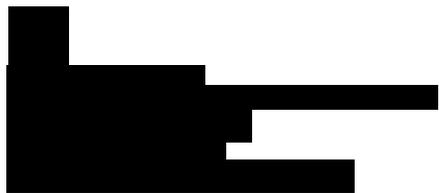
At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and decide whether to approve the Settlement, Class Counsel's application for attorneys' fees, expenses, and costs, Plaintiff Class Representative service awards, plus interest on such attorneys' fees, costs and expenses at the same rate and for the same period as earned by the Settlement Fund (until paid). If there are objections, the Court will consider them. The Court will also listen to people who have asked to speak at the hearing. You may appear at the hearing, yourself or through an attorney you hire, but you don't have to.

This Notice summarizes the proposed Settlement. Complete details are provided in the Settlement Agreement. The Settlement Agreement and other related documents are available at [www.IVFSettlement.com](http://www.IVFSettlement.com) or by calling 1-855-675-2845. You may also write to the Settlement Administrator at P.O. Box 2956, Portland, OR 97208-2956.

**Questions? Go to [www.IVFSettlement.com](http://www.IVFSettlement.com) or call 1-855-675-2845**

# Attachment 2

Settlement Administrator  
P.O. Box 2956  
Portland, OR 97208-2956



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**If you purchased or paid for Assisted Reproductive Technology (ART) IVF services from Center for Advanced Reproductive Services, P.C. (CARS) or Reproductive Medicine Associates of Connecticut (RMACT) from January 1, 2004, through July 19, 2022, you may be entitled to benefits from a settlement.**

*A state court has authorized this Notice. This is not a solicitation from a lawyer.*

- A \$2.85 million Settlement has been reached in a class action lawsuit against Women’s Health USA, Inc.; In Vitro Sciences, LLC; Center for Advanced Reproductive Services, P.C. (“CARS”); and Reproductive Medicine Associates of Connecticut (“RMACT”) (collectively “Defendants”). The Settlement is regarding Defendants’ alleged conspiracy to artificially raise, fix, maintain, or stabilize prices for Assisted Reproductive Technology (“ART”) IVF services and to allocate geographic markets for ART services, which resulted in restricted competition and artificially high prices in violation of the Connecticut Antitrust Act. Defendants have decided to settle this action in order to avoid the burden and expense of litigation, and each maintains that their actions were lawful and did not result in higher prices.
- You are a “Settlement Class Member” if you purchased or paid for, in whole or in part, Assisted Reproductive Technology (“ART”) services from the Center for Advanced Reproductive Services, P.C. (“CARS”) or Reproductive Medicine Associates of Connecticut (“RMACT”) from January 1, 2004, through July 19, 2022.
- Settlement Class Members may file a Claim Form to receive a percentage of out-of-pocket costs paid for ART services from CARS or RMACT. Settlement Class Members who file a valid, timely Claim Form will receive a pro rata share (a legal term that means proportional share based on the amount you paid for ART services relative to the total amounts paid by all other claiming Settlement Class Members) of the \$2.85 million Settlement Fund, as a cash payment, minus attorneys’ fees, expenses, and costs, service awards, and the cost of settlement administration.

**This Notice may affect your rights. Please read it carefully.**

<b>Your Legal Rights and Options</b>		<b>Deadline</b>
<b>SUBMIT A CLAIM FORM</b>	The only way to get money from the Settlement is to submit a Claim Form.	<b>January 4, 2023</b>
<b>EXCLUDE YOURSELF</b>	Get no Settlement benefits. Keep your right to file your own lawsuit against the Defendants about the legal claims in this case.	<b>November 16, 2022</b>
<b>OBJECT</b>	Tell the Court why you do not like the Settlement. You will still be bound by the Settlement if the Court approves it.	<b>November 16, 2022</b>
<b>DO NOTHING</b>	Get no Settlement benefits. Be bound by the Settlement.	

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court in charge of this case must still decide whether to approve the Settlement and the requested attorneys’ fees, expenses, and costs. No Settlement benefits or payments will be provided unless the Court approves the Settlement and it becomes final.

**Questions? Go to [IVFSettlement.com](http://IVFSettlement.com) or call 1 (855) 675-2845.**



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**Questions? Go to [IVFSettlement.com](http://IVFSettlement.com) or call 1 (855) 675-2845.**

## BASIC INFORMATION

### 1. Why is this Notice being provided?

A state court authorized this Notice because you have the right to know about the proposed Settlement of this class action lawsuit and about all of your rights and options before the Court decides whether to grant final approval to the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for the benefits, and how to get them.

The Honorable Kenneth B. Povodator is overseeing this class action. The case is known as *Kent et al. v. Women's Health USA, Inc. et al.*, Case No. FST-CV-21-6054676-S (Superior Court Judicial District of Stamford/Norwalk) (the "Action"). The people who filed this lawsuit are called the "Plaintiffs" or "Plaintiff Class Representatives" and the companies sued, Women's Health USA, Inc.; In Vitro Sciences, LLC; Center for Advanced Reproductive Services, P.C. ("CARS"); and Reproductive Medicine Associates of Connecticut ("RMACT") are called the "Defendants."

### 2. What is this lawsuit about?

The Plaintiffs allege that they were injured as a result of Defendants' participation in a conspiracy to artificially raise, fix, maintain, or stabilize prices for Assisted Reproductive Technology ("ART") services and to allocate geographic markets for ART services, which resulted in restricted competition and artificially high prices in violation of the Connecticut Antitrust Act.

The Defendants deny any wrongdoing, and no court or other entity has made any judgment or other determination of any wrongdoing, or that any law has been violated. The Defendants deny these and all other claims made in the Action. By entering into the Settlement, the Defendants are not admitting any wrongdoing.

### 3. Why is the lawsuit a class action?

In a class action, Plaintiff Class Representatives sue on behalf of all people who have similar claims. Together, all these people are called a Settlement Class or Settlement Class Members. One court resolves the issues for all Settlement Class Members, except for those Settlement Class Members who timely exclude themselves (opt out) from the Settlement Class.

### 4. Why is there a Settlement?

The Plaintiffs and Defendants do not agree about the claims made in this Action. The Action has not gone to trial, and the Court has not decided in favor of the Plaintiffs or Defendants. Instead, the Plaintiffs and Defendants have agreed to settle the Action. Plaintiffs and the attorneys for the Settlement Class ("Class Counsel") believe the Settlement is best for all Settlement Class Members because of the Settlement benefits and, the risks and uncertainty associated with continued litigation, and the nature of the defenses raised by the Defendants.

## WHO IS INCLUDED IN THE SETTLEMENT?

### 5. How do I know if I am part of the Settlement?

You are a "Settlement Class Member" if you purchased or paid for, in whole or in part, Assisted Reproductive Technology ("ART") services from the Center for Advanced Reproductive Services, P.C. ("CARS") or Reproductive Medicine Associates of Connecticut ("RMACT") from January 1, 2004, through July 19, 2022.

### 6. Are there exceptions to being included in the Settlement?

Yes. Excluded from the Settlement Class are Defendants' officers, directors, and employees; all counsel of record; and the Court, Court personnel, and members of their immediate families.

Questions? Go to [IVFSettlement.com](http://IVFSettlement.com) or call 1 (855) 675-2845.

## 7. What if I am still not sure whether I am part of the Settlement?

If you are still not sure whether you are a Settlement Class Member, you may go to the settlement website at [IVFSettlement.com](http://IVFSettlement.com) or call the Settlement Administrator's toll-free number at 1 (855) 675-2845.

### THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

## 8. What does the Settlement provide?

If you are a Settlement Class Member, you must submit a valid and timely Claim Form to receive a share of the Settlement Fund based on the amount you paid for ART services (IVF services) from CARS or RMACT during the relevant period. Settlement Class Members who file a valid, timely Claim Form will receive a pro rata share (a legal term that means proportional share based on the amount you paid for ART services relative to the total amounts paid by all other claiming Settlement Class Members) of the \$2.85 million Settlement Fund, as a cash payment, minus attorneys' fees, expenses, and costs, service awards, and the cost of settlement administration.

## 9. What am I giving up to receive Settlement benefits or stay in the Settlement Class?

Unless you exclude yourself (opt out), you are choosing to remain in the Settlement Class. If the Settlement is approved and becomes final, all Court orders will apply to you and legally bind you. You will not be able to sue, continue to sue, or be part of any other lawsuit against the Defendants and Releasees about the legal issues in this Action that are released by this Settlement. The specific rights you are giving up are called "Released Claims."

## 10. What are the Released Claims?

The Settlement Agreement in Section C, paragraph 17 describes the Release, in necessary legal terminology, so please read this section carefully. The Settlement Agreement is available at [IVFSettlement.com](http://IVFSettlement.com) or in the public Court records on file in this lawsuit. For questions regarding the Release or Released Claims and what the language in the Settlement Agreement means, you can also contact one of the lawyers listed in Question 14 for free, or you can talk to your own lawyer at your own expense.

### HOW TO GET BENEFITS FROM THE SETTLEMENT

## 11. How do I make a claim for Settlement benefits?

To submit a claim for a payment from the Settlement Fund for out-of-pocket costs paid, in whole or in part, for ART services from CARS or RMACT, you must submit a valid Claim Form to the Settlement Administrator by **January 4, 2023**. Claim Forms can be submitted online at [IVFSettlement.com](http://IVFSettlement.com) or by mail. If by mail, the Claim Form must be **postmarked** by **January 4, 2023**. The quickest way to submit a claim is online. Claim Forms are also available by calling 1 (855) 675-2845 or by writing to:

Settlement Administrator  
P.O. Box 2956  
Portland, OR 97208-2956

## 12. What happens if my contact information changes after I submit a claim?

If you change your mailing address or email address after you submit a Claim Form, it is your responsibility to inform the Settlement Administrator of your updated information. You may notify the Settlement Administrator of any changes by calling 1 (855) 675-2845 or by writing to:

Settlement Administrator  
P.O. Box 2956  
Portland, OR 97208-2956

**Questions? Go to [IVFSettlement.com](http://IVFSettlement.com) or call 1 (855) 675-2845.**

### 13. When will I receive my Settlement benefits?

If you file a timely and valid Claim Form, payment will be provided by the Settlement Administrator after the Settlement is approved by the Court and becomes final.

It may take time for the Settlement to be approved and become final. Please be patient and check IVFSettlement.com for updates.

### THE LAWYERS REPRESENTING YOU

### 14. Do I have a lawyer in this case?

Yes, the Court has appointed Jonathan Jagher of Freed Kanner London & Millen LLC and Jonathan Shapiro of Aeton Law Partners LLP, as Class Counsel to represent you and the Settlement Class for the purposes of this Settlement. You may hire your own lawyer at your own cost and expense if you want someone other than Class Counsel to represent you in this Action. Class Counsel can be contacted at:

Jonathan Jagher  
Freed Kanner London & Millen LLC  
923 Fayette Street  
Conshohocken, PA 19428

Jonathan Shapiro  
Aeton Law Partners LLP  
311 Centerpoint Drive  
Middletown, CT 06457

### 15. How will Class Counsel be paid?

Class Counsel will file a motion asking the Court to award attorneys' fees up to 1/3 of the Settlement Fund, plus reimbursement of expenses and costs. They will also ask the Court to approve service awards not to exceed \$10,000 per Plaintiff Class Representative for participating in this Action and for their efforts in achieving the Settlement. If awarded by the Court, attorneys' fees, expenses, and costs, Plaintiff Class Representative service awards, plus interest on such attorneys' fees, costs, and expenses at the same rate and for the same period as earned by the Settlement Fund (until paid) will be paid out of the Settlement Fund. The Court may award less than these amounts.

Class Counsel's application for attorneys' fees, expenses, and costs and service awards will be made available on the settlement website at IVFSettlement.com before the deadline for you to comment or object to the Settlement.

### OPTING OUT FROM THE SETTLEMENT

If you are a Settlement Class Member and want to keep any right you may have to sue or continue to sue the Defendants on your own based on the claims raised in this Action or released by the Released Claims, then you must take steps to get out of the Settlement. This is called excluding yourself from or "opting out" of the Settlement.

### 16. How do I get out of the Settlement?

To opt out of the Settlement, you must mail a written notice of intent to opt out. The written notice must be signed, include your name and address, and clearly state that you wish to be excluded from the Settlement Class.

The opt out request must be mailed to the Settlement Administrator, **postmarked by November 16, 2022**:

Settlement Administrator  
P.O. Box 2956  
Portland, OR 97208-2956

You cannot exclude yourself by telephone or by email.

### 17. If I opt out, can I get anything from the Settlement?

No. If you opt out, you are telling the Court you do not want to be part of the Settlement. You can only get Settlement benefits if you stay in the Settlement.

**Questions? Go to IVFSettlement.com or call 1 (855) 675-2845.**

## 18. If I do not opt out, can I sue the Defendants for the same thing later?

No. Unless you opt out, you give up any right to sue the Defendants and Releasees for the claims this Settlement resolves. You must opt out of this Action to start or continue with your own lawsuit or be part of any other lawsuit against the Defendants or any of the Releasees. If you have a pending lawsuit, speak to your lawyer in that case immediately.

### OBJECTING TO THE SETTLEMENT

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

If you are a Settlement Class Member, you can tell the Court you do not agree with all or any part of the Settlement or requested attorneys' fees, expenses, and costs. You can also give reasons why you think the Court should not approve the Settlement or attorneys' fees, expenses, and costs. To object, you must file timely written notice as provided below no later than **November 16, 2022**, stating you object to the Settlement. The objection must include all the following additional information:

- (1) Your full name and address;
- (2) The case name and docket number, *Kent et al. v. Women's Health USA, Inc. et al.*, Case No. FST-CV-21-6054676-S (Superior Court Judicial District of Stamford/Norwalk) (the "Action");
- (3) Information identifying you as a Settlement Class Member, including proof that you are a member of the Settlement Class (e.g., copy of your settlement notice or a statement explaining why you believe you are a Settlement Class Member);
- (4) A written statement of all reasons for the objection, accompanied by any legal support for the objection you believe is applicable;
- (5) The identity of any and all counsel representing you in connection with the objection;
- (6) A statement whether you and/or your counsel will appear at the Final Fairness Hearing; and
- (7) Your signature or the signature of your duly authorized attorney or other duly authorized representative (if any) representing you in connection with the objection.

To be timely, written notice of an objection in the appropriate form must be mailed to the Settlement Administrator, **postmarked by November 16, 2022**:

Settlement Administrator  
P.O. Box 2956  
Portland, OR 97208-2956

Any Settlement Class Member who fails to comply with the requirements for objecting waives and forfeits any and all rights they may have to appear separately and/or to object to the Settlement Agreement and will be bound by all the terms of the Settlement Agreement and by all proceedings, orders, and judgments in the Action.

## 20. What is the difference between objecting and asking to opt out?

Objecting is simply telling the Court you do not like something about the Settlement or requested attorneys' fees, expenses, and costs. You can object only if you stay in the Settlement Class (meaning you do not opt out of the Settlement). Opting out of the Settlement is telling the Court you do not want to be part of the Settlement Class or the Settlement. If you opt out, you cannot object to the Settlement.

### THE FINAL FAIRNESS HEARING

## 21. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Fairness Hearing on **December 5, 2022, at 2:00 p.m.** before Judge Kenneth B. Povodator, remotely via Zoom. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and decide whether to approve the Settlement, Class Counsels' application for attorneys' fees, expenses, and costs, Plaintiff Class Representative service awards, plus interest on such attorneys' fees, costs and expenses at the same rate and for the same period as earned by the Settlement Fund (until paid). If there are objections, the Court will consider them. The Court will also listen to people who have asked to speak at the hearing.

**Questions? Go to [IVFSettlement.com](http://IVFSettlement.com) or call 1 (855) 675-2845.**

Note: The date and time of the Final Fairness Hearing are subject to change. Any change will be posted at IVFSettlement.com.

**22. Do I have to attend to the Final Fairness Hearing?**

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend at your own expense. If you send an objection, you do not have to come to Court to speak about it. As long as you file or mail your written objection on time, the Court will consider it.

**23. May I speak at the Final Fairness Hearing?**

Yes, as long as you do not exclude yourself (opt out), you can (but do not have to) participate and speak for yourself in this Action and Settlement. This is called making an appearance. You also can have your own lawyer speak for you, but you will have to pay for the lawyer yourself.

If you want to appear, or if you want your own lawyer instead of Class Counsel to speak for you at the hearing, you must follow all of the procedures for objecting to the Settlement listed in Question 19 and specifically include a statement whether you and your counsel will appear at the Final Fairness Hearing.

**IF YOU DO NOTHING**

**24. What happens if I do nothing at all?**

If you are a Settlement Class Member and you do nothing, you will not receive any Settlement benefits. You will give up rights explained in the “Opting Out from the Settlement” section of this Notice, including your right to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants or any of the Releasees about the legal issues in this Action that are released by the Settlement Agreement relating to the Action.

**GETTING MORE INFORMATION**

**25. How do I get more information?**

This Notice summarizes the proposed Settlement. Complete details are provided in the Settlement Agreement. The Settlement Agreement and other related documents are available at IVFSettlement.com, by calling 1 (855) 675-2845, or by writing to:

Settlement Administrator  
P.O. Box 2956  
Portland, OR 97208-2956

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT’S CLERK OFFICE REGARDING THIS NOTICE.**

**Questions? Go to IVFSettlement.com or call 1 (855) 675-2845.**





## How You Would Like to Receive Your Cash Payment

If you made a claim for a cash payment on this Claim Form, you can elect to receive your payment either by check or by electronic payment (e.g. PayPal or similar service). If you choose an electronic payment, instructions for receiving your cash payment will be sent to the email address you provided on this Claim Form. Checks must be cashed within 120 days.

Which do you prefer?

- Electronic payment  
 Check

## Signature

I declare, under penalty of perjury under the laws of the State of Connecticut, that the foregoing information provided by the undersigned is true and correct. By signing and submitting this Claim Form, I further agree and understand that Class Counsel may contact me to verify and confirm the answers provided herein.

Signature:

Date:

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MM		DD		YYYY			

REMINDER: You can submit your claim online at [IVFSettlement.com](http://IVFSettlement.com). If you choose to submit your claim by mail, this form must be completed, signed, and sent to the Settlement Administrator, postmarked no later than **January 4, 2023**, and addressed to: Settlement Administrator, P.O. Box 2956, Portland, OR 97208-2956.

# Attachment 3



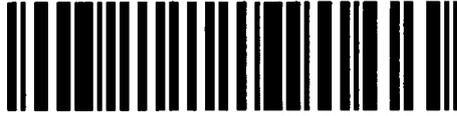
**Exclusion Report**  
***Kent v. WHUSA***

Number	Tracking Number	Complete or Incomplete	Deficiency
1	7164	Complete	
2	13584	Complete	
3	14150	Complete	
4	4400	Complete	
5	17104	Complete	
6	12914	Complete	

# Attachment 4

RECEIVED  
NOV 18 2022  
LEGAL SERVICES

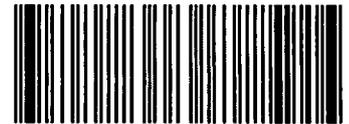
Kent v WHUSA CA40059094



Objection #

600000001

CERTIFIED MAIL  
Document Control



4005909405

### Document Range

Begin:

End:

Quantity:

1

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Route to: Vault

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# SULLIVAN & YAECKEL

## LAW GROUP

A PROFESSIONAL CORPORATION

2330 THIRD AVENUE  
SAN DIEGO, CALIFORNIA 92101

PHONE 619-702-6760  
FACSIMILE 619-702-6761

November 15, 2020

*Via U.S. Mail*

Settlement Administrator  
P.O. Box 2956  
Portland, OR 97208-2956

Re: [REDACTED] Objection to Kent et al. v. Women's Health USA, Inc. Settlement

Dear Settlement Administrator and the Court (Hon Kenneth B. Povodator):

Please allow this correspondence to serve as a formal objection on behalf of [REDACTED] who has authorized the attorneys from this law firm to serve as her representative in this matter. Thank you for your anticipated assistance in this matter.

We are hereby providing the information requested in the Class Notice:

- (1) [REDACTED]
- (2) *Kent et al. v. Women's Health USA, Inc. et al.*, Case No. FST-CV-21-6054676-S (Superior Court Judicial District of Stamford/Norwalk) (the "Action");
- (3) A copy of the settlement notice received by [REDACTED] is attached. It bears unique ID number [REDACTED]
- (4) [REDACTED] objects to the settlement on the grounds that the Total Settlement Fund is inadequate given the value of the claims at issue and the scope of the release sought. The Court should therefore decline to approve the settlement. Additional details relevant to the objections can be provided at the Final Approval Hearing;
- (5) Sullivan & Yaeckel Law Group, APC. The address and phone number are listed above. Email

at [yaeckel@gmail.com](mailto:yaeckel@gmail.com):

(6) Counsel requests to appear on behalf of [REDACTED] at the Final Fairness Hearing; and

(7) [REDACTED] has retained this law firm to act on her behalf in conjunction with this matter. Her attorneys' signature is directly below.

Again, thank you for your assistance throughout this matter. Should you have any questions or comments, please do not hesitate to contact the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read 'E. Yaeckel', written over a horizontal line.

Eric K. Yaeckel, Esq.

cc: Jonathan Jagher  
Freed Kanner London & Millen, LLC  
923 Fayette Street  
Conshohocken, PA 19428

SETTLEMENT ADMINISTRATOR  
P.O. BOX 2956  
PORTLAND, OR 97208-2956



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**If you purchased or paid for Assisted Reproductive Technology (ART) IVF services from Center for Advanced Reproductive Services, P.C. (CARS) or Reproductive Medicine Associates of Connecticut (RMACT) from January 1, 2004, through July 19, 2022, you may be entitled to benefits from a settlement.**

A \$2.85 million Settlement has been reached in a class action lawsuit against Women's Health USA, Inc.; In Vitro Sciences, LLC; Center for Advanced Reproductive Services, P.C. ("CARS"); and Reproductive Medicine Associates of Connecticut ("RMACT") (collectively "Defendants"). The Settlement is regarding Defendants' alleged conspiracy to artificially raise, fix, maintain, or stabilize prices for Assisted Reproductive Technology ("ART") IVF services and to allocate geographic markets for ART services, which resulted in restricted competition and artificially high prices in violation of the Connecticut Antitrust Act. Defendants deny they did anything wrong, but have decided to settle this action in order to avoid the burden and expense of litigation. The Court has not decided who is right.

You received this notice because records indicate you may be a Settlement Class Member. You are a Settlement Class Member if you purchased or paid for, in whole or in part, Assisted Reproductive Technology ("ART") services from the Center for Advanced Reproductive Services, P.C. ("CARS") or Reproductive Medicine Associates of Connecticut ("RMACT") from January 1, 2004, through July 19, 2022.

**How can I get a payment?** If you are a Settlement Class Member, you must submit a valid and timely Claim Form to receive a share of the Settlement Fund based on the amount you paid for ART services (IVF services) from CARS or RMACT during the relevant period. Settlement Class Members who file a valid, timely Claim Form will receive a pro rata share (a legal term that means proportional share based on the amount you paid for ART services relative to the total amounts paid by all other claiming Settlement Class Members) of the \$2.85 million Settlement Fund as a cash payment, minus attorneys' fees, expenses, and costs, service awards, and the cost of settlement administration. Claim Forms can be submitted online at [www.IVFSettlement.com](http://www.IVFSettlement.com) or by mail. If by mail, the Claim Form must be postmarked by January 4, 2023. The quickest way to submit a claim is online. Claim Forms are also available by calling 1-855-675-2845.

**Your other options.** If you do not want to be legally bound by the Settlement and want to keep any right you may have to sue or continue to sue the Defendants on your own based on the claims raised in this Action or released by the Released Claims, then you must take steps to get out of the Settlement. This is called excluding yourself from or "opting out" of the Settlement. You must exclude yourself by November 16, 2022. If you do not exclude yourself, you may object to the Settlement by November 16, 2022. The Detailed Notice available at [www.IVFSettlement.com](http://www.IVFSettlement.com) explains how to exclude yourself or object.

The Court will hold a Final Fairness Hearing on December 5, 2022, at 2:00 PM before Judge Kenneth B. Povodator, remotely via Zoom. The date and time of the Final Fairness Hearing are subject to change. Any change will be posted at [www.IVFSettlement.com](http://www.IVFSettlement.com).

**Questions? Go to [www.IVFSettlement.com](http://www.IVFSettlement.com) or call 1-855-675-2845**



At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and decide whether to approve the Settlement, Class Counsel's application for attorneys' fees, expenses, and costs, Plaintiff Class Representative service awards, plus interest on such attorneys' fees, costs and expenses at the same rate and for the same period as earned by the Settlement Fund (until paid). If there are objections, the Court will consider them. The Court will also listen to people who have asked to speak at the hearing. You may appear at the hearing, yourself or through an attorney you hire, but you don't have to.

This Notice summarizes the proposed Settlement. Complete details are provided in the Settlement Agreement. The Settlement Agreement and other related documents are available at [www.IVFSettlement.com](http://www.IVFSettlement.com) or by calling 1-855-675-2845. You may also write to the Settlement Administrator at P.O. Box 2956, Portland, OR 97208-2956.

**Questions? Go to [www.IVFSettlement.com](http://www.IVFSettlement.com) or call 1-855-675-2845**

**CERTIFIED MAIL**

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# State of Connecticut Judicial Branch Superior Court E-Filing



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<b>Docket Number:</b>	<a href="#">FST-CV-21-6054676-S</a>
<b>Case Name:</b>	KENT, SARAH v. WOMEN'S HEALTH USA, INC. Et Al
<b>Type of Transaction:</b>	Pleading/Motion/Other document
<b>Date Filed:</b>	Nov-28-2022
<b>Motion/Pleading by:</b>	AETON LAW PARTNERS LLP (433168)
<b>Document Filed:</b>	126.00 REPLY MEMORANDUM Amended Reply Memorandum
<b>Date and Time of Transaction:</b>	Monday, November 28, 2022 3:12:27 PM

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