

IN THE CIRCUIT COURT FOR BALTIMORE CITY

CYNTHIA M. CLARK as successor personal representative of THE ESTATES OF WALTER F. KACALA and HELEN M. KACALA, *et al.*,

Plaintiffs,

v.

PETER G. ANGELOS, ESQ., *et al.*,

Defendants.

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Case No. 24-C-21-000847 OT

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FINAL JUDGMENT APPROVING SETTLEMENT AND CERTIFYING SETTLEMENT CLASS

UPON REVIEW AND CONSIDERATION of the Proposed Class Settlement Agreement (“Settlement Agreement”) relating to claims asserted by Plaintiffs¹ against The Law Offices of Peter G. Angelos, P.C. (the “Law Firm”) and the Estate of Peter G. Angelos (together with the Law Firm, “Defendants”) in the above-captioned litigation, and of Plaintiffs’ unopposed Motion for Final Settlement Approval; and in consideration of the memoranda and arguments of counsel,

NOW, upon the application of Plaintiffs, it is **ORDERED** and **ADJUDGED** as follows:

1. Pursuant to Maryland Rule 2-231, the Court **APPROVES** the settlement of this action, as embodied in the terms of the Settlement Agreement, and **FINDS** that the settlement is, in all respects, fair, reasonable, and adequate and in the best interest of the Class Members in light of the factual, legal, practical, and procedural considerations raised by this case. The Settlement Agreement is the product of good faith, arm’s-length negotiations among the parties,

¹ Cynthia M. Clark, as successor personal representative of the Estates of Walter F. Kacala and Helen M. Kacala; Norman J. Loverde, as successor personal representative of the Estates of Stephen J. Loverde, Sr. and Mary Anna Loverde; and Maria M. McCarthy and William J. McCarthy, Jr., as personal representatives of the Estate of Anne Major and successor personal representatives of the Estate of Bernard L. Major, individually and on behalf of a Class of similarly situated Angelos clients.

each of which was represented by experienced counsel. The relief provided for the Class in the settlement is adequate, and the proposal treats Class Members equitably relative to one another. The Settlement Agreement is incorporated by reference into this Final Judgment (with capitalized terms as set forth in the Settlement Agreement) and is hereby adopted as an Order of this Court. In the event of a conflict between the text of this Final Judgment and the text of the Settlement Agreement, the text of the Settlement Agreement shall control.

2. In accordance with the Settlement Agreement, and pursuant to Maryland Rule 2-231(b) and (c)(3), the Court **CERTIFIES** the following Class:

All persons (or their estate representatives or next of kin) represented at any time by Defendants in connection with the Motion to Enforce and/or the Tort Action who are identified on the MCIC Settlement Beneficiary List and the Surviving Family Member List, Exhibits 1 and 2 to the Settlement Agreement.

Excluded from the Class are:

(a) All directors, officers, employees, and shareholders of the Law Firm, and their immediate family members;

(b) All attorneys for Defendants in the current matter, and their immediate family members;

(c) Each and every judge assigned to this action and all members of those judges' staffs, and their immediate family members;

(d) Those persons who previously settled or whose associated MCIC Settlement Beneficiary previously settled legal malpractice claims against Defendants equivalent to any of the Claims asserted in the Case;

(e) For the avoidance of doubt, all persons listed on exhibit 3 to the third amended complaint in the Tort Action; and

(f) Those persons who opted out of the Class timely and validly, as set forth in the Administrator's list docketed on October 31, 2024, together with A383 Colbert D. Bert and A0069 The Estate of Frances Allmond through P.R. Victoria McNair, both of whom opted out untimely but whose opt-out requests the parties have agreed to honor.

3. The Court **FINDS** that the Notices dispatched to the Class Members were in compliance with the Court's August 28, 2024 Order Preliminarily Approving Settlement, Certifying Class for Settlement Purposes, and with Respect to Notice, Settlement Hearing, and Administration, and further **FINDS** that those Notices constituted the best notice practicable under the circumstances in satisfaction of the requirements of due process and Md. Rule 2-231(f).

Elements of Certifiable Class

4. The Court **FINDS** that all requirements for class certification under Maryland Rule 2-231(b) and (c)(3) are satisfied:

(a) **Ascertainability.** The Court **FINDS** that the Class is readily ascertainable, as the universe of settlement beneficiaries represented by the Law Firm is a matter of public record;

(b) **Numerosity.** The Court **FINDS** that the Class, which amounts to more than 10,000 MCIC Settlement Beneficiaries and Surviving Family Members, is so numerous that joinder of all members would be impracticable;

(c) **Commonality.** The Court **FINDS** that material questions of law and fact are common to the Class, including questions relating to Defendants' alleged breach of the duty of care, causation, and the framework for apportioning damages;

(d) **Typicality.** The Court **FINDS** that the claims of Plaintiffs (individually or through estate representatives) are typical of the class claims, as Plaintiffs were injured in the same manner as the absent Class Members due to the Law Firm's alleged negligence;

(e) **Adequacy.** The Court **FINDS** that Plaintiffs and their counsel will fairly and adequately protect the interests of the Class, as Plaintiffs' claims are not contrary to or inconsistent with any absent Class Members' claims, and as Plaintiffs' counsel have demonstrated that they possess the subject-matter expertise and experience to zealously advocate for the Class;

(f) **Predominance.** The Court **FINDS** that common questions of law and fact predominate over any individual issues given that the Law Firm's alleged malpractice uniformly impacted the MCIC Settlement Beneficiaries, and given that the MCIC Settlement Agreement requires that any additional proceeds recovered pursuant to that agreement must be distributed *pro rata* to the beneficiaries based on preexisting disease category, and as such a class action is the most logical means of adjudicating the Class Members' claims; and

(g) **Superiority.** The Court **FINDS** that a class action is superior to any other available method for the fair and efficient adjudication of this controversy, including because (i) given the commonality of factual and legal issues, the interests of Class Members in individually controlling the prosecution of separate actions are minimal; (ii) the only other actions known to the Court that implicate the subject matter of this case were not class actions, were prosecuted by a small number of Defendants' clients, and have resolved out of court; (iii) the Circuit Court for Baltimore City, where the underlying asbestos cases were litigated, is a suitable forum for resolution of the class claims; and (iv) a class action would be more efficient than individual

actions presenting the same legal and factual issues repeatedly, and the Court anticipates that the management of a class action would present no unusual difficulties.

Appointment of Class Representatives and Class Counsel

5. The Court **APPOINTS** Plaintiffs Cynthia M. Clark, Norman J. Loverde, Maria M. McCarthy, and William J. McCarthy, Jr. as Class Representatives, having found that they meet the requirements of Maryland Rule 2-231(b)(4).

6. The Court **APPOINTS** Plaintiffs' counsel of record as Class Counsel, having found that they meet the requirements of Maryland Rule 2-231(b)(4). The lawyers representing the Class are:

Paul S. Caiola (lead counsel)
Brian T. Tucker
Joe Dugan
Sarah R. Simmons
Tory S. Trocchia
GALLAGHER EVELIUS & JONES LLP
218 N. Charles St., Ste. 400
Baltimore, MD 21201

Fair, Reasonable, and Adequate Settlement

7. Because the Settlement Agreement will bind all members of the Class, the Court must determine that the settlement is fair, reasonable, and adequate, taking into account both procedural and substantive considerations:

(a) ***Adequate representation.*** Class Counsel and the Class Representatives zealously advocated for the rights of the absent Class Members in this hotly contested litigation. Class Counsel devoted thousands of hours and millions of dollars of time value to build and litigate the case. Class Counsel's efforts included: (i) researching and drafting three lengthy complaints, and successfully avoiding motions to dismiss as to each; (ii) defeating an early motion to strike Plaintiffs' class allegations, successfully moving to dismiss Defendants'

subsequent interlocutory appeal, and successfully resisting Defendants' petition for a writ of certiorari to the Maryland Supreme Court; and (iii) obtaining over 470,000 pages of discovery material from Defendants following three successful motions to compel. The Class Representatives also successfully advocated for the rights of the Class. They collected and produced documents, answered interrogatories, and appeared for depositions at which they expressed an appropriate understanding of the claims and their good-faith motivations for pursuing them. The Court **FINDS** that Class Counsel and the Class Representatives adequately represented the Class.

(b) *Arm's-length negotiation.* Plaintiffs and their counsel zealously advocated on behalf of the Class, ensuring a procedurally fair litigation process. The mediation and settlement process also was procedurally fair. The parties' arm's-length negotiations and related legal work took many weeks and hundreds of hours of attorney time, and the parties collectively exchanged at least eighteen drafts of a term sheet as part of that process. Along the way, counsel for Plaintiffs, for the Law Firm, and for the Angelos Estate repeatedly engaged with retired federal judge Hon. Paul Grimm as mediator. The Court **FINDS** that the settlement was achieved through an arm's-length negotiation.

(c) *Adequate relief.* The Court **FINDS** that the relief provided to the Class is adequate considering (i) the relative strength of the plaintiffs' case on the merits and the existence of any difficulties of proof or strong defenses the plaintiffs would likely encounter if the case went to trial; (ii) the anticipated duration and expense of additional litigation; (iii) the solvency of the defendants and the likelihood of recovery on a litigated judgment; (iv) the degree of opposition to the settlement; (v) the effectiveness of the proposed method of distributing relief to the Class; and (vi) the terms and timing of payment of counsel fees:

i. Relative strength of Plaintiffs' case and difficulties of proof.

Despite certain apparent strengths in Plaintiffs' case, Plaintiffs would have faced significant obstacles had litigation proceeded. As of the May 16, 2024 stay of litigation to facilitate settlement negotiations, Defendants' three summary judgment motions remained pending, and Defendants also had moved to strike Plaintiffs' principal damages expert. Moreover, Plaintiffs' damages assessment was predicated on the unproven assumptions that 100% of MCIC Settlement Beneficiaries were exposed to MCIC's asbestos operations and that operations coverage was available to MCIC for each year in the settlement beneficiaries' exposure windows. Since those assumptions might not have held up in light of further discovery and motion practice, settlement at a figure materially less than Plaintiffs' best case at trial is entirely appropriate.

ii. Anticipated expense and duration of litigation. Absent settlement,

further discovery disputes would have been likely, and the parties also would have undertaken extensive expert discovery. Trial would have required two weeks or longer, and given the novelty of some of the issues, appellate proceedings would have been likely regardless of the trial outcome. Inevitably, counsel would have invested millions of dollars of additional time and litigation expenses had the case not settled.

iii. Solvency and likelihood of collection after judgment. In the event

that Plaintiffs were to prevail at trial and on appeal and secure a judgment for the Class, Plaintiffs might have encountered uncertainty around collection, given major events that have taken place at the Law Firm and in the Angelos family since this case was filed (including the death of Peter Angelos, the publicly announced sale of the Law Firm, and the transfer of the Angelos family's ownership interest in the Baltimore Orioles to a new ownership group).

iv. Degree of opposition. The absent Class Members had a forty-five day window, following mailing of the Notice, to submit an opt-out request or a notice of objection pursuant to the instructions in the Notice. The Administrator received a total of sixteen opt-out requests and one objection, out of a Class of 10,215 MCIC Settlement Beneficiaries and Surviving Family Members. Some of the opt-out requestors stated that they simply did not want to go to the trouble of reopening an estate. The objector's concerns about funds that would not go to members of the Class are not a basis to reject or modify the settlement.

v. Effectiveness of method of distributing relief. Since the identities of all settlement beneficiaries who make up the Class are known to the parties, and since their contact information should in most instances either be known to the Law Firm or ascertainable from public records, no claim process is needed in this case. For all MCIC Settlement Beneficiaries with confirmed addresses, the Administrator will issue payment beginning in or about January 2025. For MCIC Settlement Beneficiaries whose addresses are unconfirmed, the Administrator will take further action to attempt to confirm the addresses before issuing payment, but will nevertheless issue the initial payment within the timeframes set forth in the Settlement Agreement.

vi. Terms and timing of payment of counsel fees. Class Counsel have requested an award of attorneys' fees in the amount of 33% of the gross settlement proceeds. Class Counsel also have requested reimbursement of their expenses. The requested award is approved as it is within the range of fees that courts approve in high-value class actions. Moreover, Class Counsel's fee will be paid out pursuant to the same distribution schedule as the payments to the Class, with Class Counsel's proposed fee equaling 33% of each payment. This feature of the agreement adds to the fairness of the proposed fee arrangement.

(d) **Equitable treatment.** The Court **FINDS** that the Settlement Agreement treats Class Member equitably relative to one another. The 1994 MCIC Settlement Agreement established a *pro rata* payment schedule based on injury category, with the largest group of settlement beneficiaries (those with non-malignant conditions) receiving \$1,000 each, and the smallest group (those with mesothelioma) receiving \$9,500 each. The Settlement Agreement mirrors the structure of the 1994 agreement, with the net settlement proceeds divided *pro rata* based on the injury categories of the MCIC Settlement Beneficiaries as set forth in that original agreement. This approach makes the most sense and is the most equitable approach to payment, because the underlying litigation involved efforts to enforce the Class Members' rights in connection with the MCIC Settlement Agreement.

8. After due consideration of the status of proceedings and the posture of the case at the time settlement was proposed; the circumstances surrounding settlement negotiations; the experience of counsel; the relative strength of Plaintiffs' case on the merits; the existence of difficulties of proof and defenses Plaintiffs would be likely to encounter if the case went to trial; the anticipated duration and expense of additional litigation; solvency considerations; the virtual lack of Class Member objections to the settlement; the limited opt-out requests by the Class Members; and affidavits and arguments of counsel, and after notice and a hearing, the Court **FINDS** that the settlement is fair, adequate, and reasonable.

9. Accordingly, the Settlement Agreement should be and is **APPROVED** and shall govern all issues regarding the settlement and all rights of the Parties to the settlement, including the Settlement Class Members. Each Settlement Class Member shall be bound by the Settlement Agreement, including the releases in the agreement.

Further Actions

10. The Parties are **DIRECTED** to promptly carry out their respective obligations under the Settlement Agreement, and the Administrator, Strategic Claims Services, is **DIRECTED** to make payments to those MCIC Settlement Beneficiaries entitled to payments under the Settlement Agreement consistent with the terms of the agreement.

11. Consistent with paragraph 19 of the Settlement Agreement, payments totaling \$57,000,000 **SHALL BE TRANSFERRED** from the Fund to the ANGELOS CLASS ACTION QSF held at The Huntington National Bank on the schedule set forth in the Settlement Agreement.² From there, Strategic Claims Services shall pay Gallagher Evelius & Jones LLP an amount equal to one-third of each Payment Installment, shall reimburse Gallagher Evelius & Jones LLP for expenses incurred in litigating this case in the total amount of \$330,012.50, and shall pay the Class Members consistent with the terms of the Settlement Agreement.

12. The Settlement Administration Expenses shall be paid out of the funds on deposit in the ANGELOS CLASS ACTION QSF held at The Huntington National Bank, subject to the requirement of paragraph 20 of the Settlement Agreement that any amounts exceeding \$550,000 require approval of the Court, and subject to the further requirement that future costs incurred by the Administrator to search for Class Members for whom no valid address presently is known to the Parties shall be charged only to the subset of Class Members who require additional effort to find them, rather than to the full Class.

13. Consistent with paragraph 18 of the Settlement Agreement, and contemporaneously with each Payment Installment, Strategic Claims Services **SHALL CAUSE TO BE PAID** out of the corpus of the Payment Installment an amount equal to \$2,000 to each of

² The parties anticipate that the Fund will be held on deposit at Goldman Sachs.

the Class Representatives, namely: Cynthia M. Clark; Norman J. Loverde; and William J. McCarthy, Jr. and Maria M. McCarthy (together as one unit). These payments, which add up to \$10,000 for each Class Representative unit over the course of five payments, constitute the court-approved Incentive Fees for the Class Representatives' service as named Plaintiffs.

14. The Court **APPROVES** the protocol for distributing the *cy pres* funds provided for in paragraph 17 of the Settlement Agreement as fair, reasonable, and warranted under the circumstances. Pursuant to that provision, the *cy pres* recipients shall be the University of Maryland Francis King Carey School of Law, for purposes of sponsoring the clinical law program (23.5%); the University of Baltimore School of Law, for purposes of sponsoring the Fannie Angelos Program for Academic Excellence (23.5%); Public Justice Center, Inc. (23.5%); Associated Catholic Charities, Inc., for use by the Esperanza Center (23.5%); and Franciscan Center, Inc. (6%).

15. All released Claims of each Settlement Class Member (as those terms are defined in the Settlement Agreement) are hereby **DISMISSED WITH PREJUDICE**.

16. Each and every Settlement Class Member is permanently **ENJOINED** from bringing, joining, assisting in, or continuing to prosecute against any of the released persons (as identified in paragraph 41 of the Settlement Agreement) any of the released Claims.

17. This Court retains jurisdiction over all matters relating to the interpretation, administration, implementation, effectuation, and enforcement of the Settlement Agreement.

The Court further retains jurisdiction to enforce this Judgment.

Date: 11/22/2024 12:36:34 PM


Hon. John S. Nugent, Judge in Charge, Civil
Circuit Court for Baltimore City