

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT FOR FLORIDA

CASE NO. 99-109-CIV-GARBER

ACCESS NOW, INC., et al.,

Plaintiffs,

v.

AMBULATORY SURGERY
CENTER GROUP, LTD., et al.,

Defendants.

ORDER

THIS MATTER came before the Court on the Parties' Notice of Partial Settlement as to Defendant SAN JOSE HEALTHCARE SYSTEM, LP d/b/a Regional Medical Center of San Jose, and their request for Fairness Hearing ("Notice of Partial Settlement"). The Court having considered the relevant portions of the file, the Parties' proposed Stipulation of Settlement as to Defendant SAN JOSE HEALTHCARE SYSTEM, LP d/b/a Regional Medical Center of San Jose ("Stipulation of Settlement"), and otherwise being fully advised in the premises, it is hereby

ORDERED AND ADJUDGED that:

1. The Court has accepted for preliminary consideration the Stipulation for Settlement, submitted with the Parties' Notice of Partial Settlement.
2. A hearing (the "Fairness Hearing") shall be held in Courtroom Four, 10th Floor, 99 N.E. 4th Street, Miami, Florida 33132, on Thursday, the 1st day of April , 2010, at 10:00 A.M., at which time the Court shall consider the fairness of the Parties' proposed Stipulation for Settlement, including any objections thereto, and whether it should be approved and entered by the Court.

3. The Parties are ORDERED to provide Notice of Settlement to the Named Plaintiffs and the Plaintiff Class as set forth in this Court's Second Amended Order dated April 19, 2002, and modified on May 23, 2002, in substantially the same form as the proposed Summary Notice attached to the Parties' Notice of Partial Settlement, except to include the date and time of the Fairness Hearing as set out in Paragraph 2 above and the objection deadline as set out in Paragraph 4 below.

4. Any member of the Plaintiff Class may object to the proposed Stipulation for Settlement by filing an objection and, if she or he so desires, appearing at the Fairness Hearing. To be considered by the Court, however, any objections to the final approval of the Stipulation for Settlement must state the basis for the objection and must be timely filed in writing, along with all other papers or briefs the objector wishes the Court to consider, with the United States District Court for the Southern District of Florida, in compliance with the Local Rules of this Court, and served upon Class Counsel and counsel for Defendant SAN JOSE HEALTHCARE SYSTEM, LP d/b/a Regional Medical Center of San Jose ("Defendant") on or before Wednesday, March 17th, 2010 (the "Cutoff Date"). All objections must include at the top of the document: the case name, the case number, and the name of the Defendant to whom the objections relate. If any attorney will be representing an individual objecting to the settlement, the attorney shall file a notice of appearance with the Court and serve counsel for all parties on or before the Cutoff Date. Any member of the class who does not timely file and serve a written objection in the manner prescribed herein (1) shall not be permitted to raise such objection, except for good cause shown, and (2) shall be deemed to have waived, and shall be foreclosed from raising, any such objection.

5. Counsel for all parties are: (a) for the Named Plaintiffs and Plaintiff Class: Miguel M. de la O, Esq., and David E. Marko, de la O, Marko, Magolnick, & Leyton, 3001 S.W. 3rd Avenue,

Miami, Florida 33129; and (b) for the Settling Defendant: Pedro Forment, Esq., Ford & Harrison LLP, 100 S.E. 2nd Street, Suite 2150, Miami, Florida 33131.

6. If objections are filed, Class Counsel or counsel for Defendant may engage in discovery concerning the filed objections prior to the Fairness Hearing. Plaintiffs and Defendant shall serve on each other and file with the Court on or before three (3) days prior to the Fairness Hearing any further documents in support of the proposed Stipulation for Settlement, including responses to any papers filed by Class members.

DONE AND ORDERED in Chambers in Miami, Florida this 4th day of January, 2010.



BARRY L. GARBER
UNITED STATES MAGISTRATE JUDGE