

ATLANTIC AMBULANCE CORPORATION,

Plaintiff,

v.

JOHN G. CULLUM and
MARY CLARE CULLUM,

Defendants/Counterclaimants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MORRIS COUNTY

DOCKET NO. MRS-L-264-12

(Consolidated)

Civil Action

ATLANTIC AMBULANCE CORPORATION,

Plaintiff,

v.

HALA HITTI and ANTOINE HITTI,

Defendants/Counterclaimants.

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION
AND HEARING ON PROPOSED SETTLEMENT**

YOU HAVE BEEN IDENTIFIED AS A PERSON TO WHOM ATLANTIC AMBULANCE'S ADVANCED LIFE SUPPORT ("ALS") UNITS RESPONDED OR PROVIDED ANY SERVICES BETWEEN JANUARY 1, 2007 AND JANUARY 31, 2018 AND WHO IS NOT INSURED BY MEDICARE OR MEDICAID.

THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE NOTE THAT BECAUSE YOU ARE INCLUDED IN THE CLASS ACTION, YOU MAY BE ENTITLED TO SHARE IN THE PROPOSED SETTLEMENT DESCRIBED IN THIS NOTICE AND YOU MAY BE REQUIRED TO RELEASE CERTAIN CLAIMS AGAINST ATLANTIC AMBULANCE. PLEASE READ IT CAREFULLY.

This notice is given pursuant to New Jersey Court Rule 4:32-2 and the Order of the Court entered on January 2, 2019, to inform you of (a) the proposed settlement of the above entitled class action (the "Action" and the "Settlement"); and (b) the fairness hearing to be held by the Superior Court of New Jersey, Law Division, to consider (1) the fairness, reasonableness and adequacy of the Settlement, (2) the award of fees and expenses to Defendants/Counterclaimants' Counsel ("Counterclaimants' Counsel"), (3) the award of the class representatives' fee, and (4) such other matters as the Court may deem appropriate (the "Fairness Hearing").

NOTICE IS HEREBY GIVEN THAT:

A. On October 15, 2018, Plaintiff Atlantic Ambulance Corporation ("Atlantic Ambulance") and Defendants/Counterclaimants John G. Cullum, Mary Clare Cullum, Hala Hitti and Antoine Hitti ("Counterclaimants") (Atlantic Ambulance and Counterclaimants collectively referred to herein as the "Parties"), entered into a Settlement Agreement and Release (the "Settlement Agreement") settling this Action, upon certain terms and conditions.

B. Pursuant to an Order of the Court dated January 2, 2019, and pursuant to New Jersey Court Rule 4:32-2, a Fairness Hearing will be held by Judge Maryann L. Nergaard at the Superior Court of New Jersey, Law Division, Washington and Court Streets, Morristown, New Jersey, on **March 29, 2019, at or about 9:00 a.m.**, for the purpose of determining whether the terms of the Settlement are fair, reasonable and adequate and should be approved by the Court, and the amount, if any, that should be awarded to Counterclaimants' Counsel in attorneys' fees and reimbursement of litigation expenses, and the amount, if any, that should be awarded to Counterclaimants for acting as the class representatives.

The Fairness Hearing may be adjourned by the Court from time to time without any further notice.

DESCRIPTION OF THE LITIGATION

This Settlement Agreement pertains to a lawsuit between Atlantic Ambulance and Counterclaimants. Counterclaimants alleged that Atlantic Ambulance perpetrated a violation of the New Jersey Consumer Fraud Act, as well as certain common law claims, by overcharging Counterclaimants and others similarly situated. Class certification was denied by the trial court, which was affirmed on appeal with the exception of Atlantic Ambulance's bill to the Hittis and those similarly situated of \$14 for one-mile of transport that Atlantic Ambulance did not provide but for which it billed, which claim was remanded to the trial court for further consideration of class certification. Counterclaimants' motion to the New Jersey Supreme Court for review was denied.

ATLANTIC AMBULANCE'S DENIAL OF WRONGDOING

Atlantic Ambulance denies the substantive allegations of Counterclaimants' claims and denies any wrongdoing or liability whatsoever to the members of the Class. Atlantic Ambulance contends that it acted properly and lawfully at all times, except that Atlantic Ambulance concedes that it billed certain individuals \$14 for one mile of transport that Atlantic Ambulance did not provide and that, in certain circumstances, those patients should not have been billed that \$14. Atlantic Ambulance desires to settle and terminate the Action so as to avoid lengthy and time-consuming litigation and the substantial burden, inconvenience and expense connected therewith, and to finally put to rest any and all claims that were or could have been asserted in this Action or arising out of matters set forth in the pleadings, without in any way acknowledging any fault or liability on behalf of Atlantic Ambulance. The Settlement and all related documents are not to be, and shall not be, construed as an admission by Atlantic Ambulance of any damage to the members of the Class, or any wrongdoing or liability on the part of Atlantic Ambulance, or any other person.

CLASS CERTIFICATION

Pursuant to the Settlement Agreement, the Parties have stipulated to the certification of a class (the "Settlement Class"), for settlement purposes only, consisting of "all Persons to whom Atlantic Ambulance's Advanced Life Support ("ALS") units responded or provided any services during the Class Period, but not including Medicare or Medicaid patients." The Parties have further stipulated to the certification of a sub-class (the "Settlement Sub-Class") consisting of the members of the Settlement Class "who paid \$14 for one mile of transportation that was not provided."

THE PROPOSED SETTLEMENT TERMS

After extensive discovery in the Action, as well as several rounds of briefing and argument regarding class certification, Atlantic Ambulance and Counterclaimants entered into the Settlement Agreement on October 15, 2018, which, subject to Court approval and certain other conditions, provides for the following: If the proposed Settlement is approved by the Court, and the Settlement becomes Final as provided in the Settlement Agreement, then Atlantic Ambulance will pay a settlement amount of \$130,000.00 (the “Settlement Amount”). The Settlement Amount will be allocated as follows:

Members of the Settlement Sub-Class will receive a cash distribution of their pro rata share of what remains of the Settlement Amount after the following expenditures: (i) the Court’s award to Counterclaimants’ Counsel of fees and costs of the litigation; (ii) any incentive awards the Court authorizes to the individual Counterclaimants for their services to the Class; and (iii) the costs of administration of the Settlement, including the preparation, mailing and publication of notice as ordered by the Court.

If you are in any way unsatisfied with the terms of the Settlement, you may request exclusion from the Class (“opt out”) and pursue your claims on an individual basis against Atlantic Ambulance. If, however, you choose to remain in this class action, you FORFEIT your right to claim damages for any alleged overcharges by Atlantic Ambulance and/or other damages relating to ALS Services by Atlantic Ambulance.

DISMISSAL OF THE ACTION AND CLASS RELEASE

If the Settlement is approved, and the Settlement becomes “final,” as that term is defined in the Settlement Agreement, the claims against Atlantic Ambulance and the Action will be dismissed, with prejudice, and Counterclaimants and each and every member of the Class (other than those persons who timely and validly request exclusion from the Class) will release and discharge all of their claims against Atlantic Ambulance.

EFFECTIVENESS OF THE SETTLEMENT

The effectiveness of the Settlement and Atlantic Ambulance’s obligations thereunder are subject to a number of conditions which may or may not be satisfied. These include, but are not limited to: (a) the Settlement being approved by the Court as fair, reasonable and adequate; and (b) the Settlement becoming “final” (as defined in the Settlement Agreement”) at the trial court or appellate court level. There can be no assurance that any or all of these conditions to the effectiveness of the Settlement can be met. In the event the Settlement is not approved by the Court or does not become effective for any reason whatsoever, all findings, releases, orders and judgments related to the Settlement shall be vacated and become null and void, except as expressly provided in the Settlement Agreement, and the parties and the claims and counterclaims shall be restored to their respective positions on the date immediately preceding the date the proposed Settlement was reached.

THE FOREGOING IS A SUMMARY OF THE TERMS AND CONDITIONS SET FORTH IN THE SETTLEMENT AGREEMENT. CLASS MEMBERS AND OTHER INTERESTED PERSONS WHO WISH TO REVIEW ALL TERMS AND CONDITIONS OF THE SETTLEMENT ARE URGED TO REVIEW THE SETTLEMENT AGREEMENT.

THE FAIRNESS HEARING

The Fairness Hearing will be held before the Honorable Maryann L. Nergaard at the Superior Court of New Jersey, Law Division, Washington and Court Streets, Morristown, New Jersey, on **March 29, 2019, at or about 9:00 a.m.** (or at any such adjourned date or time as the Court may direct without further notice), (a) to determine whether the proposed Settlement, on the terms and conditions provided for in the Settlement Agreement, is fair, reasonable and adequate, and should be approved by the Court, and (b) to consider the application by Counterclaimants' Counsel for an award of attorneys' fees and reimbursement of litigation expenses.

If you are a member of the Class, you will participate in, and be bound by, the proposed Settlement if it is approved by the Court, and you do not need to appear at this hearing or take any action.

RIGHT TO BE EXCLUDED FROM THE CLASS

If you do not wish to remain a member of the Class, you must request exclusion from the Class (sometimes referred to as an "opt out") by mailing, via first class mail, a written, signed request for exclusion clearly stating that you wish to be excluded from the Class, **postmarked no later than February 14, 2019**, directed to the Settlement Administrator, JND Legal Administration, P.O. Box 91239, Seattle, WA 98111-9339. If you timely and validly request exclusion from the Class: (1) you will not be entitled to share in any recovery that may be obtained in this Action; (2) you will not be able to be heard in objection to the proposed Settlement; (3) you will not be bound by any further order(s) or judgment(s) in the Action, whether favorable or not; and (4) you may pursue any claims you may have against Atlantic Ambulance, at your own expense.

CLASS MEMBERS' RIGHT TO OBJECT OR APPEAR

Any member of the Class who does not timely and properly request exclusion from the Class may appear at the Fairness Hearing, in person or through counsel, solely at such Class member's personal expense, to be heard in support of, or in opposition to, the proposed Settlement, the application of Counterclaimants' Counsel for an award of attorneys' fees and costs, the application for the award to Counterclaimants as the class representatives and/or such other matters relevant to the Action and the Settlement, provided that no person or entity shall be heard or entitled to be heard at the Fairness Hearing unless **on or before February 21, 2019** (or unless the Court shall otherwise direct) that person or entity shall file with the Clerk of the Court and serve by hand or via first-class United States mail, a notice of his or her intent to appear, personally or through counsel, with a written statement of the basis for the appearance, and any supporting papers and briefs relating to such support or objection(s) that such Class member wishes the Court to consider, on Counterclaimants' Counsel, addressed to Charles Quinn, Esq., McElroy, Deutsch, Mulvaney & Carpenter, LLP, 1300 Mount Kemble Avenue, P.O. Box 2075, Morristown, New Jersey 07962 and to Atlantic Ambulance's Counsel, addressed to Lauren E. Aguiar, Esq., Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, New York 10036.

Any member of the Class who fails to appear and/or object in the manner prescribed herein shall be deemed to have waived such objection, and shall be barred from raising any objections to the fairness, adequacy or reasonableness of the Settlement, Counterclaimants' Counsel's request for an award of attorney's fees and reimbursement of expenses, the application for the incentive award to Counterclaimants as the class representative, and/or any other matters related to the Action or the Settlement.

THE APPLICATIONS OF COUNTERCLAIMANTS' COUNSEL FOR FEES AND EXPENSES AND OF COUNTERCLAIMANTS FOR INCENTIVE AWARDS

If the Court approves the proposed Settlement, then Counterclaimants' Counsel will petition the Court for an award of Counsel Fees and Expenses in the amount of \$30,000, for services rendered in connection with the Action and Settlement, to be paid from the Settlement Amount. If the Court approves the proposed Settlement, Counterclaimants will also petition the Court for an incentive award of \$2,000 total.

LIMITATION OF FURTHER ACTION AND BAR ORDER

Pending final determination of whether the Settlement should be approved, the Court has ordered that no member of the Class may commence or prosecute, directly, representatively, or in any capacity, any of the "Released Claims," as defined in the Settlement Agreement, including any claim which has been or could have been asserted in the Action and which arises out of or is in any way related to the "Released Claims," in these proceedings or in any other proceedings in this or any other forum. Following the Court's determination of the matters presented to it at the Fairness Hearing, a Class member who has filed a timely and valid Request for Exclusion from the Class shall no longer be subject to this restriction. Upon the Settlement becoming "final," as that term is defined in the Settlement Agreement, all Class members who have not validly and timely requested exclusion from the Class will be permanently barred and enjoined from instituting or prosecuting any action or proceeding against the Released Parties based upon, related to, or in connection with the "Settled Claims" in this or any other forum.

EFFECT OF DISAPPROVAL OR TERMINATION OF SETTLEMENT

In the event that fifty (50) or more Class members effectively exclude themselves from the Class, then Atlantic Ambulance may choose to terminate the Settlement Agreement. Likewise, in the event that the court or, in the event of an appeal, the highest appellate court to which the Settlement Agreement is presented, refuses to approve the Settlement Agreement (other than Counterclaimants' Counsel's request for attorneys' fees), then Atlantic Ambulance may choose to terminate the Settlement Agreement.

If for any reason the Settlement Agreement does not become "Final," as that term is defined in the Settlement Agreement, or the Settlement is terminated pursuant to the provisions of the Settlement Agreement, the Settlement Agreement shall have no further force and effect with respect to any Party in the Action or member of the Class, and shall not be used in the Action or in any other proceeding for any purpose; all negotiations, proceedings and statements made in connection therewith shall be without prejudice to any person or Party thereto, shall not be deemed or construed to be an admission by any Party of any act, matter or proposition, and shall not be used in any manner or for any purpose in any subsequent proceeding in the Action or in any other action or proceeding, including but not limited to the right of any Party to move for or oppose class certification; all findings, orders, releases and judgments by the Court

shall become null and void; the Parties shall revert to their respective positions as of January 31, 2018; and the Parties shall proceed in all respects as though the Settlement Agreement had never been executed.

The Settlement Agreement and any related documents are not and shall not be construed as an admission by Atlantic Ambulance of the truth or validity of any claim which has or could have been asserted in the Action, or of any fault or liability or wrongdoing whatsoever on the part of Atlantic Ambulance, nor shall they be deemed or construed as an admission by Counterclaimants of a lack of merit to any of their allegations or claims against Atlantic Ambulance.

SCOPE OF THIS NOTICE

THE ABOVE DESCRIPTION OF THE MATTERS INVOLVED IN THE ACTION AND THE PROPOSED SETTLEMENT ARE ONLY A SUMMARY AND NOT ALL INCLUSIVE. In the event of any conflict between this Notice and the Settlement Agreement, the Settlement Agreement shall control. Members of the Class are referred to the pleadings, Settlement Agreement and other documents filed in the Action for a complete description of the terms thereof, all of which are available for inspection by contacting Counterclaimants' Counsel. Capitalized terms not otherwise defined in this Notice have the meaning given to them in the Settlement Agreement.

THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF THE RESPECTIVE CLAIMS OR DEFENSES AS TO ISSUES OF LIABILITY OR DAMAGES. THIS NOTICE IS SENT ONLY TO ADVISE YOU OF THE PROPOSED SETTLEMENT DESCRIBED HEREIN AND OF CERTAIN RIGHTS YOU MAY HAVE WITH RESPECT THERETO.

FURTHER INQUIRIES

Any inquiries regarding this Notice or the Action may be directed to the following Counterclaimants' Counsel:

Charles Quinn
McElroy, Deutsch, Mulvaney & Carpenter, LLP
1300 Mount Kemble Avenue
P.O. Box 2075
Morristown, New Jersey 07962

or to the Settlement Administrator:

JND Legal Administration
P.O. Box 91239
Seattle, WA 98111-9339

PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE DIRECTLY FOR SUCH INFORMATION.

BY ORDER OF THE COURT

Dated: January 2, 2019