



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA
IN RE: UNIVERSITY COMMONS LITIGATION **Civil Action No. 13-C-7000**

THIS DOCUMENT APPLIES TO ALL CASES

ORDER FROM DECEMBER 18, 2013 TELEPHONIC HEARING

On December 18, 2013, the Plaintiffs appeared by Kerrie Wagoner Boyle, Esq., and P. Gregory Haddad, Esq., the Underlying Tort Defendants appeared by Liaison Counsel, Thomas G. Steele, Esq., the Insurance Defendants appeared by Liaison Counsel James A. Varner, Esq., and Allison S. McClure, Esq., and Plaintiff Andrew Smith appeared for a telephonic hearing regarding recent clarification requests from Plaintiffs' counsel and *pro se* filings regarding the proposed settlement.¹

The Court hereby FINDS and ORDERS as follows:

1. Plaintiffs' Counsel is directed to comply with the December 9, 2013 Order regarding the required distribution of information to their clients and the Court.
2. Plaintiffs' Counsel shall redact only Plaintiffs' names and unit numbers from the spreadsheet. Plaintiffs' Counsel shall not redact past due condo fees or "proposed service awards" from the spreadsheet.
3. "Proposed service awards" or "incentive payments" are normally reserved for Class Actions. Plaintiffs' counsel must provide the Court and each individual Plaintiff with legal authority for payment of such awards in this litigation.
4. Each individual Plaintiff is entitled to a "Settlement Disbursement Sheet" showing the gross settlement and all deductions (i.e., attorneys' fees, costs, expenses, and subrogation reimbursement therefrom, if applicable.)

¹ Plaintiff Andrew Smith is currently represented by Plaintiffs' counsel. However, his continued representation is the subject of a Motion to Withdraw filed by Plaintiffs' counsel, which is pending before this Court.

5. Plaintiffs' Counsel shall make the detailed cost invoice available for all Plaintiffs to review at their office. Plaintiffs' Counsel shall provide a copy of the detailed cost invoice on CD Rom, if requested.
6. Plaintiffs' Counsel shall provide the mathematical formula for their proposed method of allocation and distribution of settlement proceeds. In the event Plaintiffs' Counsel has not used a mathematical formula, Plaintiffs' counsel shall provide the rationale for their proposed method of allocation and distribution of settlement proceeds.
7. Any objections to Counsel's proposed method of allocation and distribution of settlement proceeds by individual Plaintiffs are to be submitted directly to the Presiding Judges and the Mass Litigation Manager via fax.
8. The Court will summarily disregard any *pro se* filings made by represented litigants. Plaintiff Andrew Smith is represented by counsel and any matters he wishes to file on his behalf must be filed by Bailey & Glasser.
9. Plaintiff Andrew Smith shall not represent other Plaintiffs in **any manner**, including but not limited to: (1) court filings; (2) written, telephonic, or electronic communications; and (3) social media.
10. The Mass Litigation Manager can only respond to questions regarding administrative or procedural issues. Parties and counsel shall not attempt to engage in *ex parte* conversations or communications with the Mass Litigation Manager on substantive issues. Parties seeking relief from the Court must file a motion in compliance with the West Virginia Rules of Civil Procedure.

11. The Court **GRANTS** Bailey & Glasser's "Motion To Seal Andrew Smith And Smith Rentals LLC's Motion To Request Information From Plaintiff's Counsel" (Transaction ID 54717363).

Counsel for the Plaintiffs is **ORDERED** to provide a copy of this Order to all Plaintiffs immediately.

It is so **ORDERED**.

ENTER: January 3, 2014

/s/ Derek C. Swope
Lead Presiding Judge,
University Commons Litigation