

STATE OF NORTH CAROLINA
COUNTY OF GASTON

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
12-CVS-1547

2016 SEP 26 PM 12:02

I. BEVERLY LAKE, JOHN B. LEWIS, GASTON CO. C.S.C.
JR., EVERETTE M. LATTA, PORTER L.)
McATEER, ELIZABETH S. McATEER,)
ROBERT C. HANES, BLAIR J.)
CARPENTER, MARILYN L.)
FUTRELLE, FRANKLIN E. DAVIS,)
ESTATE OF JAMES D. WILSON,)
BENJAMIN E. FOUNTAIN, JR., FAYE)
IRIS Y. FISHER, STEVE FRED)
BLANTON, HERBERT W. COOPER,)
ROBERT C. HAYES, JR., STEPHEN B.)
JONES, MARCELLUS BUCHANAN,)
DAVID B. BARNES, BARBARA J.)
CURRIE, CONNIE SAVELL, ROBERT)
B. KAISER, JOAN ATWELL, ALICE P.)
NOBLES, BRUCE B. JARVIS,)
ROXANNA J. EVANS, and JEAN C.)
NARRON, and all others similarly situated,)

Plaintiffs,)

v.)

STATE HEALTH PLAN FOR)
TEACHERS' AND STATE)
EMPLOYEES, a corporation, formerly)
known as the North Carolina Teachers' and)
State Employees' Comprehensive Major)
Medical Plan, TEACHERS' AND STATE)
EMPLOYEES' RETIREMENT SYSTEM)
OF NORTH CAROLINA, a corporation,)
BOARD OF TRUSTEES TEACHERS')
AND STATE EMPLOYEES')
RETIREMENT SYSTEM OF NORTH)
CAROLINA, a body politic and corporate,)
JANET COWELL, in her official capacity)
as Treasurer of the State of North Carolina,)
and the STATE OF NORTH CAROLINA,)

Defendants.)

**ORDER APPROVING THE
PROVISION OF NOTICE TO
MEMBERS OF THE CLASS**

THIS MATTER is before the Court upon the Joint Motion to Approve Notice to Class Members (the "Motion"). The parties have agreed and consented to the Notice Plan as set forth in the Motion. The parties have represented in open court that they have worked together in advance of this Order to develop the materials necessary to implement the Notice Plan; that through those efforts they have already cooperatively developed much of the materials necessary to implement the Notice Plan; and that their investigations show that the Notice Plan can be fully executed within the timeframes in this Order. It appears to the Court that the Notice Plan provides the best notice practicable under the circumstances.

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED as follows:

1. The Joint Motion to Approve Class Notice is **GRANTED**.
2. The Mailer attached as Exhibit A hereto is approved in form and format and Plaintiffs' counsel is authorized and ordered to undertake the printing and distribution of the Mailer to those persons indicated on the Class Spreadsheet as set forth in the Motion.
3. The Notice Plan is otherwise approved and the parties are authorized to undertake the Notice Plan as indicated in the Motion, including the creation of the website and phone line. The Defendants are ordered to produce to the Plaintiffs, as was indicated at the hearing, the list of potential class members – the Class Spreadsheet.
4. The website required by the Notice Plan shall prominently state, in a manner to be agreed upon by the parties, that it is maintained by the Plaintiffs only and does not necessarily represent the views of the Defendants. The phone line required by the Notice Plan shall include a recorded message, to be agreed upon by the parties, that

shall be played to all incoming callers that states that the phone line is maintained by the Plaintiffs and does not provide information on behalf of the Defendants.

5. The Court will draft and issue a letter to all of the North Carolina Clerks of Superior Court as set forth in the Notice Plan and Motion.
6. Each North Carolina Clerk of Superior Court is ordered to post a copy of the Order Granting Class Certification and a copy of the Mailer in their respective courthouses along with other legal notices.
7. The deadline for members of the class to opt out of the class is October 31, 2016. Any opt-out letters must be postmarked on or before that date to be valid. In order to opt out of the Class, a class member must send a signed letter to Plaintiffs' counsel at 516 S. New Hope Road, Gastonia, North Carolina 28054 indicating their full name, their return address, and their unequivocal request to opt out of the Class.
8. Plaintiffs' counsel shall maintain a registry of any and all class members who opt out and a copy of their letters opting out and provide (including via electronic transmission) electronic copies of the registry and the letters to Defendants' counsel and to the undersigned judge no later than November 9, 2016.
9. All costs associated with the Notice Plan shall be initially borne by the Plaintiffs, provided that the court may consider at a later time, based upon a timely showing by the Plaintiffs, whether reallocation of some or all of those costs is appropriate.

This the 22 day of September, 2016.



Edwin G. Wilson, Jr.
Designated Superior Court Judge (Rule 2.1)

Exhibit A

NOTICE OF CLASS ACTION

Lake, et al. v. State Health Plan of N.C., et al.
12-CVS-1547 (Gaston)

This Notice Advises You that the N.C. Superior Court Has Certified a Class with Regard to Changes Made to Your Retirement Health Benefits Received Through the N.C. State Health Plan.

This Notice May Affect Your Legal Rights. Please Read it Carefully.

See Reverse Side for Details and Information

Visit www.LakeClassCase.com for additional information or call (704) 790-6030.

Gray Layton Kersh Solomon
Furr & Smith, PA
PO Box 2636
Gastonia, NC 28052

First Class
Auto
US Postage Paid
Charlotte, NC
Permit # 3609

John Q Public
C/O Esther Americus
123456 Freedom Way
Suite CDE
Any Town, NC 12345

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| <p>Who is a Class Member?</p> | <p>(1) All members of the N.C. Teachers' and State Employees' Retirement System ("TSERS") who retired before January 1, 1988; (2) TSERS members who retired on or after January 1, 1988, were hired before October 1, 2006 and have 5 or more years of contributory service with the State and (3) certain surviving spouses of former state employees or retirees provided that the death of the employee or retiree occurred prior to October 1, 1986.</p> |
| <p>What is this case about?</p> | <p>The Plaintiffs contend that the class members are contractually entitled to a premium-free 80/20 health benefit for the duration of their retirement and to a 90/10 health benefit that requires a premium. The Defendants contend that the State Health Plan is allowed to adjust the premiums and coinsurance as necessary in order to provide appropriate health benefits to all members.</p> |
| <p>What is at stake for me?</p> | <p>If the Court rules in favor of the Plaintiffs, you may be entitled to recovery of some previously paid premiums or out-of-pocket healthcare expenses and to certain healthcare benefits going forward.</p> |
| <p>Who is representing the class?</p> | <p>The Court has appointed the law firms of Gray Layton Kersh Solomon Furr & Smith, PA and The Jackson Law Group as class counsel to represent the class. You may contact them for information using the website and phone number listed below. You may also retain your own attorney.</p> |
| <p>What happens next?</p> | <p>The Court has scheduled a hearing on summary judgment for November 14, 2016 at the Forsyth County Courthouse. If the case is not resolved fully at summary judgment, a trial date will likely be set. You should contact class counsel for questions about the case. The Court, the State Health Plan and TSERS cannot discuss the litigation with you.</p> |
| <p>What do I need to do to participate?</p> | <p>Nothing. If you want to be included in the class, you do not need to do anything. You will automatically be a member of the class and will be able to participate in any recovery or settlement. You will also be bound by any decision of the Court with respect to the issues in the case.</p> |
| <p>Can I be excluded?</p> | <p>Yes. To exclude yourself from the class, you must mail a request to opt out, postmarked on or before October 31, 2016. See below for information on how to opt out.</p> |
| <p>What happens if I exclude myself?</p> | <p>If you opt out of the class, you will not be bound by any decision of the Court, but will also not be eligible to participate in any future settlements or benefit from any judgments that might be issued to the class.</p> |
| <p>Where can I get more information?</p> | <p>More information about the case and the class and how to opt out can be found online at www.LakeClassCase.com or by telephone at (704) 790-6030.</p> |