UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NICHOLE JACOBSEN, KATHERINE KING, DEBORAH DALRYMPLE, LAURA PHILLIPS, and JEFFREY HUNTER, Individually and on Behalf of All Others Similarly Situated, Plaintiffs, v. LONG ISLAND COMMUNITY HOSPITAL, ROBERT SCHWARZ, ERNEST PATRICK SMITH, LISA ROSE, RICHARD MARGULIS, JAMES MAIORINO, WALTER LADICK, MARK MULHOLLAND, MARC ADLER, and FREDERICK C. BRAUN, III, Defendants.	**Case No. 2:24-cv-00386-GRB-ST**

DECLARATION OF GUSTAVO F. BRUCKNER IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

I, Gustavo F. Bruckner, declare as follows pursuant to 28 U.S.C. §1746:

1. I am a Partner of the law firm of Pomerantz LLP ("Pomerantz" or "Class Counsel"), which is Counsel for Plaintiffs Nichole Jacobsen, Katherine King, Deborah Dalrymple, Laura Phillips, and Jeffrey Hunter (collectively, the "Plaintiffs"). I am admitted to practice before this Court.

2. I respectfully submit this declaration in support of Plaintiffs' Unopposed Motion for (i) preliminary approval of the proposed Settlement presented in the Settlement Agreement; (ii) certification of the proposed Settlement Class for settlement purposes only; (iii) appointment of Plaintiffs as Class Representatives for settlement purposes only; (iv) appointment of Pomerantz

LLP as Class Counsel for settlement purposes only; (v) appointment of RG/2 Claims Administration LLC as Settlement Administrator; (vi) approval of the form and manner of providing notice of the proposed Settlement to Settlement Class Members; (vii) establishment of deadlines for disseminating notice, Settlement Class Member objections, Plaintiffs' motion for Final Approval, and Class Counsel's application for Attorneys' Fees and Costs and Case Contribution Awards; and (viii) scheduling of a Final Approval Hearing (the "Motion"). I have personal knowledge of the statements herein and, if called upon as a witness, could and would competently testify thereto.

PROCEDURAL HISTORY OF THE LITIGATION

3. This litigation commenced on January 18, 2024. ECF No. 1. Prior to filing the Complaint, Pomerantz investigated Defendants' alleged breaches of fiduciary duty. The investigation included reviewing: (i) Plaintiffs' account statements; (ii) the Brookhaven Memorial Hospital Medical Center dba Long Island Community Hospital Retirement Savings Plan's (the "Plan") filings with the Department of Labor; and (iii) SEC filings concerning the Plan's investments. The investigation also included identifying appropriate benchmarks and comparators, assessing potential damages, consulting with experts, and conducting legal research.

4. On April 11, 2024, Plaintiffs filed an Amended Complaint to include additional allegations regarding Plaintiffs' standing and adding plaintiff Jeffrey Hunter as an additional plaintiff and putative class representative, together with plaintiffs Nichole Jacobsen, Katherine King, Deborah Dalrymple, and Laura Phillips. ECF No. 19. On July 22, 2024, the Court partially granted Defendant Hospital's motion to dismiss the Amended Complaint, dismissing Plaintiffs' second claim concerning the Plan's stable value fund. ECF No. 27. Plaintiffs filed their Second Amended Complaint on August 9, 2024, adding allegations in support of that claim. ECF No. 29.

On November 14, 2024, the Court denied Defendant Hospital's motion to dismiss the Second Amended Complaint, finding that Plaintiffs had sufficiently pled their stable value fund claim. ECF No. 38. The Parties thereafter proceeded with discovery.

5. On March 31, 2025, Plaintiffs filed their Third Amended Complaint naming individual members of the Plan's Pension Committee as additional defendants in this Action. ECF No. 55. Defendants moved to dismiss the claims against the newly added defendants. ECF No. 58. On May 7, 2025, the Court denied Defendants' motion to dismiss as to those defendants. ECF No. 63.

6. The Parties engaged in extensive fact discovery. Defendants produced more than 5,600 documents, totaling over 19,000 pages. ECF No. 82. Plaintiffs also subpoenaed two third-parties and obtained discovery from them following extensive negotiations. The Parties served multiple requests for production, interrogatories, and requests for admission, and engaged in extensive negotiations concerning the scope of Defendants' document production and other discovery issues. After developing a substantial factual record, the Parties agreed to attempt to resolve the Action through mediation before Magistrate Judge Steven Tiscione. The litigation was stayed while the Parties pursued mediation between January and March 2026. *See* ECF No. 71; Text Order dated Jan. 7, 2026, by Magistrate Judge Tiscione.

7. The Parties submitted mediation statements and participated in an in-person mediation on January 20, 2026, followed by two mediation sessions by videoconference on February 5, 2026, and March 13, 2026. ECF Nos. 75, 76 & 80. Although the Parties did not reach a settlement during those sessions, they continued their settlement discussions after the stay was lifted on March 13, 2026. At the same time, the Parties actively continued litigating the Action and proceeding with discovery. Among other things, the Parties litigated a motion to compel, the

depositions of Plaintiffs Jacobsen, King and Dalrymple were conducted, and depositions of the remaining Plaintiffs and Defendants were scheduled or in the process of being scheduled. *See, e.g.*, ECF Nos. 83 & 85.

8. Following several additional months of negotiations while litigation proceeded, the Parties reached a settlement in principle on May 18, 2026, and notified the Court of the settlement on May 20, 2026. ECF No. 91.

9. In sum, the Settlement was reached only after a thorough pre-suit investigation, substantial litigation and discovery, multiple mediation sessions, and several additional months of arm's-length negotiations. Based on Pomerantz's investigation, the factual record developed during the litigation, and its experience litigating complex class actions, Plaintiffs and Pomerantz believe that the Settlement is fair, reasonable, and adequate and provides a substantial and immediate monetary benefit to the Class.

10. Plaintiffs have actively participated in the Action since its inception in 2024, as well as in the investigation that preceded filing the Action. Plaintiffs provided their account statements, diligently reviewed all court filings, appeared for court hearings, provided written discovery responses and assisted Class Counsel with review of discovery requests, produced discovery, including their personal emails and social media information, and otherwise assisted in representing the interests of the Plan and its participants and beneficiaries. Plaintiffs also attended Court hearings and participated in regular conference calls with Class Counsel to ensure they remained fully apprised of all developments in the Action and approved the Settlement. Additionally, Plaintiffs Jacobsen, Dalrymple and King prepared for and sat for depositions. Plaintiffs were prepared, at all times, to undertake any steps necessary to the successful prosecution of the claims in the Action, including attending trial and testifying if necessary. Plaintiffs fully

understand the nature of their duties and responsibilities to the Plan as Class Representatives and have no interest antagonistic to the Plan or members of the Settlement Class.

11. Attached hereto as **Exhibit 1** is a true and correct copy of Settlement Agreement, dated August 19, 2026 ("Settlement Agreement"). The exhibits to the Settlement Agreement are as follows:

- Exhibit A: Short Form Postcard Settlement Notice.
- Exhibit B: Long Form Settlement Notice.
- Exhibit C: Plan of Allocation.
- Exhibit D: Proposed Preliminary Approval Order
- Exhibit E: Proposed Final Order and Judgment
- Exhibit F: Notice under the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711–1715

STANDING AND EXPERIENCE OF COUNSEL

12. Attached as **Exhibit 2** is a true and correct copy of the firm resume of Pomerantz.

13. As reflected in Exhibit 2, Pomerantz is an exceptionally experienced class action firm that has recovered billions of dollars for its clients in some of the largest and most complex class actions. In this District and others, Pomerantz has recovered hundreds of millions of dollars, including the fifth-largest securities class action settlement achieved in the United States—a $2.95 billion settlement in a securities class action against Petroleo Brasileiro S.A. and other defendants (*In re Petrobras Sec. Litig.*, No. 14-cv-09662 (S.D.N.Y)); a preliminarily approved $172.5 million settlement in a securities class action against Danaher Corporation (*Hawkins v. Danaher Corp.*, No. 23-cv-02055 (D.D.C.)); a $135 million recovery in a securities class action in an insider trading case against S.A.C. Capital Advisors LP (*Kaplan v. S.A.C. Cap. Advisors, LP*, No. 12-cv-

09350 (S.D.N.Y.)); and a $225 million settlement in a securities class action against Comverse Technology, Inc. (*In re Comverse Tech., Inc. Sec. Litig.*, No. 06-cv-01825 (E.D.N.Y.)); *see also Karimi v. Deutsche Bank AG*, No. 22-cv-02854 (S.D.N.Y.) (a $26.25 million settlement in a securities class action).

14. Since the inception of this litigation, Pomerantz has vigorously prosecuted this action under the oversight, and for the benefit, of Plaintiffs, and for the benefit of the Settlement Class. Pomerantz's efforts included, among other things:

- conducted a comprehensive investigation into Defendants' alleged breaches;
- drafted and filed a Complaint (ECF No. 1);
- drafted and filed a First Amended Complaint (ECF No. 19);
- successfully defeated in part Defendants' motion to dismiss the First Amended Complaint (ECF No. 27);
- drafted and filed a Second Amended Complaint (ECF No. 29);
- successfully defeated in full Defendants' motion to dismiss the Second Amended Complaint (ECF No. 38);
- drafted and served party discovery requests and responses;
- drafted and filed a Third Amended Complaint (ECF No. 55);
- successfully defeated in full Defendants' motion to dismiss the Third Amended Complaint (ECF No. 63);
- reviewed thousands of documents produced by Defendants;
- drafted discovery requests to be served on third-parties and negotiated their scope of discovery;

- drafted and filed a motion to compel additional discovery from Defendants;
- made multiple productions of Plaintiffs' documents;
- defended three of the five named Plaintiffs' depositions;
- prepared for and participated in one in-person mediation session and two additional mediation sessions through videoconferencing before Magistrate Judge Tiscione;
- conducted numerous follow-up discussions with Defendants and negotiated the proposed Settlement; and
- communicated regularly with Plaintiffs through conference calls and in-person meetings.

15. This Settlement was the result of complex negotiations between the Parties. The negotiations began *a year* after discovery commenced. The Parties had three mediation sessions before Magistrate Judge Tiscione. Although the mediation sessions did not result in an immediate settlement, the parties continued their arm's length negotiations while litigation proceeded. After the completion of document discovery and midway through fact depositions, the parties ultimately reached a settlement.

16. Plaintiffs and Pomerantz strongly believe the claims asserted against Defendants have merit. Plaintiffs and Pomerantz acknowledge, however, that there are substantial risks to their claims in the expense and length of continued proceedings necessary to pursue their claims through trial and appeals, including in obtaining class certification as well as in establishing liability and damages, and thus believe that the settlement is in the best interests of Settlement Class Members. Indeed, were the litigation to continue, any potential recovery would occur years from now.

<u>RETENTION OF RG/2 CLAIMS ADMINISTRATION LLC</u>

17. In connection with Plaintiffs' Motion, Pomerantz requests that the Court approve the retention of RG/2 Claims Administration LLC ("RG/2"), an independent settlement and claims administrator with extensive experience handling the administration of ERISA class actions, to provide notice and administration services in the Action under the supervision of Pomerantz. These services will include disseminating notice of the Settlement to Settlement Class Members, calculating payment amounts for eligible Settlement Class Members under the Court-approved plan of allocation, distributing payments to Settlement Class Members, and responding to Settlement Class Member inquiries.

18. Pomerantz selected RG/2 after a "request for proposal" process in which Pomerantz solicited proposals for notice and administration services from three experienced settlement administration firms. RG/2's proposed fees and cost structures resulted in the lowest estimated total cost of the three bids received. Although Pomerantz has not previously worked with RG/2, RG/2 has successfully administered numerous complex ERISA class action settlements, and Pomerantz believes RG/2 possesses the requisite experience and capacity to perform its duties reliably and competently. *See, e.g., Kennedy v. Aegis Media Americas, Inc.*, No. 1:20-cv-03624 (SDNY); *Ritorto v. KPMG, LLP*, No. 2:21-cv-19330 (D.N.J.); *R.B. v. United Behavioral Health*, No. 1:21-CV-00553-DBH-CFH (N.D.N.Y.); *Foster v. Adams and Associates, Inc.*, No. 3:18-cv-02723-JSC (N.D. Cal.); *Kelly v. Johns Hopkins University*, No. 1:16-cv-02835-GLR (D. Md.). Accordingly, Pomerantz has selected RG/2 to serve as Settlement Administrator for this engagement, subject to the Court's approval. A copy of RG/2's company profile is attached as **<u>Exhibit 3</u>**.

I declare, under penalty of perjury, that the foregoing is true and correct to the best of our knowledge.

DATED: August 19, 2026

Respectfully submitted,

POMERANTZ LLP

/s/ Gustavo F. Bruckner

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