

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

MARIA STAPLETON, et al.,	)	
	)	
Plaintiffs,	)	
	)	Civil Action No. 1:14-cv-01873
v.	)	
	)	Hon. Edmond E. Chang
ADVOCATE HEALTH CARE NETWORK AND	)	
SUBSIDIARIES, et al.,	)	
	)	
Defendants.	)	

**DECLARATION OF LYNN LINCOLN SARKO IN SUPPORT OF  
PLAINTIFFS’ UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF  
SETTLEMENT AGREEMENT**

Lynn Lincoln Sarko declares under penalty of perjury under the laws of the United States of America:

1. I am the Managing Partner of the law firm of Keller Rohrback L.L.P. (“Keller Rohrback”), and a member in good standing of the bar of the State of Washington. I represent Plaintiffs<sup>1</sup> and the proposed Settlement Class in the above-captioned action. I have personal knowledge of the facts set forth below and, if called as witness, I could and would testify competently thereto.

2. On January 21, 2015, the Court stayed the above-captioned case pending an interlocutory appeal of this Court’s Order of December 31, 2014 to the Seventh Circuit Court of Appeals and, ultimately, to the Supreme Court. *Advocate Health Care Network v. Stapleton*, 137 S. Ct. 1652 (2017).

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<sup>1</sup> Capitalized terms not otherwise defined in this Declaration shall have the same meaning ascribed to them in the Class Action Settlement Agreement. A copy of the Settlement Agreement is attached as Exhibit 1 to Plaintiffs’ Memorandum in Support of Unopposed Motion for Preliminary Approval of Settlement Agreement (“Preliminary Approval Motion”).

3. On June 5, 2017, the Supreme Court issued its opinion in *Advocate Health Care*, holding that pension plans need not be established by churches in order to qualify as ERISA-exempt church plans, if they otherwise meet the requirements to be church plans. Although Plaintiffs advance other strong arguments and theories not reached by the Supreme Court, Plaintiffs' case was arguably negatively impacted by the Supreme Court's opinion.

4. Following the Supreme Court's decision in *Advocate*, the parties prepared to return to active litigation. However, the parties agreed to first attempt to settle the case through mediation. On August 23, 2017, the Court continued further proceedings in the case for 60 days to allow for mediation.

5. The settlement negotiations were extensive and took place over the course of several months. The parties proceeded to mediation on September 15, 2017, in Chicago, Illinois, with the assistance of an experienced JAMS mediator, Robert A. Meyer, Esq. Mr. Meyer has substantial experience mediating cases involving ERISA and retirement plan issues, including cases involving the church plan exemption.

6. The case was not resolved at the September 15, 2017 mediation, but the parties agreed to continue settlement discussions, and the Court, at the parties' request, continued proceedings until early January, 2018, to allow for further settlement discussions. The Court simultaneously set a schedule for Defendants to answer the Complaint, and for proceeding with discovery, should settlement not be reached.

7. After further intensive negotiations with the assistance of Mr. Meyer, the parties met for an additional mediation session in New York on December 13, 2017. Once again, the parties were not able to settle the case at the New York mediation.

8. At the urging of Mr. Meyer, the parties continued their discussions, with Mr. Meyer continuing in the role of mediator. With Mr. Meyer's assistance and after considering all relevant factors, the parties finally accepted a mediator's proposal and reached an agreement in principle to settle the case. On January 10, 2018, the parties signed a Term Sheet containing the primary terms resolving this matter.

9. The Settlement Agreement now before the Court, Exhibit 1 to the Preliminary Approval Motion, is a comprehensive agreement based on the Term Sheet. It was executed by all parties on February 16, 2018. The Settlement is the result of protracted, lengthy arm's-length negotiations between the parties. The process was thorough, adversarial, and professional.

10. Prior to instigating suit, and throughout the course of the litigation and the parties' negotiations, Class Counsel worked with the Named Plaintiffs to investigate the facts, circumstances, and legal issues associated with the allegations and defenses in the action.

11. Class Counsel's investigation included, *inter alia*, (a) inspecting, reviewing, and analyzing financial statements, corporate records, and other documents publicly available and/or produced by Defendants or otherwise relating to Defendants, the Plan, and the administration and funding of the Plan; (b) reviewing confidential documents produced by Defendants and protected by Fed. R. Evid. 408 during mediation discovery; (c) reviewing, analyzing and researching the applicable law with respect to the claims asserted in this case and the possible defenses thereto; and (d) researching and analyzing governmental and other publicly-available sources concerning the Defendants and the industry. During the mediation, Defendants provided Plaintiffs with confidential copies of the Advocate Health Care Network Pension Plan Actuarial Valuation Reports for 2014, 2015, 2016, and 2017, which Plaintiffs reviewed with their actuarial expert. Plaintiffs' expert confirmed that the actuarial reports reflect a level of funding of vested participants' benefits under the Advocate Plan that would satisfy or exceed ERISA requirements.

12. Throughout the course of the litigation and during the parties' negotiations, the Named Plaintiffs collected and produced documents, reviewed and approved the Complaint and other major filings, maintained contact with Class Counsel, stayed abreast of settlement negotiations; attended meetings in preparation for oral arguments and attended oral arguments in Chicago, Illinois and Washington, D.C.; and advised on the settlement of this litigation.

13. The two lead law firms representing the Plaintiffs and proposed Settlement Class in this case—Keller Rohrback and Cohen Milstein Sellers & Toll PLLC (“Cohen Milstein”) — are well-versed in class action litigation, are among the leading litigators of ERISA actions on behalf of plaintiffs, possess specific and extensive experience litigating the ERISA “church plan” exemption, and have in-depth knowledge of the unique legal and factual issues in this case.

14. Cohen Milstein and Keller Rohrback have been litigating church plan cases since 2010. *See Thorkelson v. Publ’g House of the Evangelical Lutheran Church in Am.*, No. 10-1712 (D. Minn. filed Apr. 21, 2010).

15. Cohen Milstein and Keller Rohrback served as co-lead counsel in the interlocutory appeal in this matter to the Seventh Circuit Court of Appeals and then to the Supreme Court.

16. In addition to *Advocate Health Care*, Cohen Milstein and Keller Rohrback serve, or have served, as co-counsel in roughly 20 cases pending across the country involving claims by other hospital systems that their plans qualify as “church plans.”

17. A true and correct copy of the firm resume detailing the experience of Cohen Milstein in ERISA cases and church plan cases is attached hereto as Exhibit A.

18. A true and correct copy of the firm resume detailing the experience of Keller Rohrback in ERISA cases and church plan cases is attached hereto as Exhibit B.

19. Based on their experience, and the facts of this case, and the Supreme Court's ruling in *Advocate*, Class Counsel have concluded that the Settlement is fair, reasonable, and adequate.

20. A draft of the [Proposed] Order and Final Judgment for this case is attached as Exhibit 4 to Plaintiffs' Memorandum in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Settlement Agreement, filed contemporaneously herewith.

21. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 16 day of February, 2018, in Seattle, Washington.

By: \_\_\_\_\_

Lynn Lincoln Sarko

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