

ROBERT STROUGO, Individually and on)	Civil Action No. 3:20-cv-00165
Behalf of All Others Similarly Situated,)	
)	<u>CLASS ACTION</u>
Plaintiff,)	
)	Judge Waverly D. Crenshaw, Jr.
vs.)	Magistrate Judge Jeffery S. Frensley
)	
TIVITY HEALTH, INC., et al.,)	STIPULATION OF SETTLEMENT
)	
Defendants.)	
)	
)	

I. THE LITIGATION

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Litigation was filed on February 25, 2020. ECF 1. On August 18, 2020, the Court appointed Local 33 as Lead Plaintiff and Robbins Geller Rudman & Dowd LLP as Lead Counsel. ECF 89.

Pleadings: On November 13, 2020, Lead Plaintiff filed the Consolidated Complaint (the “Complaint”) alleging violations of §§10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), and U.S. Securities and Exchange Commission Rule 10b-5. ECF 105. On December 4, 2020, Defendants moved to dismiss the Complaint. ECF 108-109. Lead Plaintiff filed its opposition to the motion on January 4, 2021 (ECF 112), and Defendants filed their reply on January 11, 2021 (ECF 113). On July 29, 2021, the Court issued an Order denying Defendants’ motion to dismiss. ECF 116-117. Defendants answered the Complaint on August 27, 2021. ECF 122.

Discovery: On August 27, 2021, the Court held a case management conference and the initial case management order was entered. ECF 123. On September 17, 2021, Lead Plaintiff and Defendants exchanged their Rule 26(a) initial disclosures after which the parties conducted extensive fact and expert discovery. In all, Defendants and third parties produced more than 800,000 pages of documents, and the parties conducted 28 fact and expert depositions.

Class Certification: On October 26, 2021, Lead Plaintiff moved to certify the Class. ECF 125-127. Defendants filed their opposition on November 30, 2021. ECF 131-132. On January 21, 2022, Lead Plaintiff filed its reply in support of its class certification motion. ECF 149-150. In accordance with the Court’s March 9, 2022 directive (ECF 164), the Parties filed supplemental class

certification briefing on April 8, 2022. ECF 168, 172-173. On June 7, 2022, the Court granted Lead Plaintiff's class certification motion. ECF 178-179.

On June 22, 2022, Defendants filed a petition pursuant to Fed. R. Civ. P. 23(f) for permission to appeal the Court's order certifying the class. Lead Plaintiff filed its opposition to the petition on July 1, 2022. The Sixth Circuit Court of Appeals granted Defendants' Rule 23(f) petition on November 21, 2022, vacated class certification, and remanded to this Court for further proceedings. ECF 194. Lead Plaintiff moved for a revised class certification order on December 5, 2022, which this Court granted on June 7, 2023. ECF 243. Defendants filed a second Rule 23(f) petition on June 22, 2023 seeking permission to appeal class certification. ECF 251-1. Pending resolution of Defendants' petition, this Court granted Defendants' motion to stay the litigation on July 27, 2023. ECF 259. On September 10, 2024, the Sixth Circuit Court of Appeals denied Defendants' petition (ECF 266) and on September 26, 2024, this Court lifted the stay order (ECF 271). Notice of the pendency of this Litigation as a class action was provided in October 2024 pursuant to the Court's September 26, 2024 Order. ECF 272.

Summary Judgment: On April 7, 2023, Defendants moved for summary judgment (ECF 213) and Lead Plaintiff sought leave to move for partial summary judgment (ECF 209). On April 21, 2023, Defendants filed their opposition to Lead Plaintiff's motion. ECF 220. Lead Plaintiff filed its opposition to Defendants' motion for summary judgment on May 5, 2023 (ECF 226), and Defendants filed their reply in support of the motion on May 19 (ECF 233). On February 20, 2025, the Court denied Lead Plaintiff's motion for permission to file a motion for partial summary judgment. ECF 281. With respect to Defendants' motion for summary judgment, the Court heard

argument on February 24, 2025, and granted in part and denied in part Defendants' motion for summary judgment on April 21, 2025. ECF 303.

Trial: On March 4, 2025, the Court set trial for June 2, 2025 and provided deadlines for pretrial submissions. ECF 287. The Parties completed substantial preparations for trial, including extensive motion practice. On April 14, the Parties exchanged their proposed witness lists, exhibit lists, and deposition testimony. On April 28, the Parties filed *Daubert* motions objecting to expert testimony and motions *in limine*. ECF 306, 308, 310, 312, 314, 317, 320, 325, 328, 332, 333, 336, 338, 339, 341. Additionally, Lead Plaintiff filed a damages brief. ECF 334. On May 2, the Parties submitted expert reports (ECF 343-346, 362-367, 369-370), a joint proposed pretrial order (ECF 357), stipulation of facts (ECF 359), pretrial briefs (ECF 347, 372), witness lists (ECF 349, 360), trial exhibit lists (ECF 350, 371), proposed disputed jury instructions (ECF 351, 356), joint proposed jury instructions (ECF 358), proposed verdict forms (ECF 352, 355) and objections to the opposing party's aforementioned submissions (ECF 353, 354). On May 5, the Parties filed responses to the opposing party's April 28 filings (ECF 373-400). On May 9, the Parties submitted additional briefing (ECF 418, 420) pursuant to the Court's May 7 order (ECF 403) in regards to the joint proposed pretrial order. The Court heard argument on the Parties' respective *Daubert* motions on May 12-13 and granted Defendants' motion to exclude one of Lead Plaintiff's experts on May 16. (ECF 428).

Mediation Efforts: Lead Plaintiff and Defendants first scheduled a confidential mediation session pursuant to the Court's Supplemental Case Management Order (ECF 144) with Gregory P. Lindstrom (of Phillips ADR), an experienced mediator, in September 2022. In anticipation of the

scheduled mediation, the Parties submitted and exchanged detailed opening and reply mediation statements supported by hundreds of pages exhibits and participated in several calls with the mediator to discuss their respective positions. Prior to the mediation date, however, the Parties determined that there was no likelihood that a mediation would facilitate a potential resolution. Thereafter, the Parties participated in three mediation sessions: 1) on June 26, 2023 with Lindstrom serving as the mediator; (2) on January 7, 2025 with Miles N. Ruthberg, also of Phillips ADR, serving as the mediator; and (3) on May 1, 2025 with Ruthberg again serving as the mediator. Ahead of the latter two mediation sessions, the Parties submitted and exchanged updated opening and reply mediation briefs. Although the Parties engaged in good-faith negotiations, they did not reach a settlement during the mediation sessions.

The Parties continued their trial preparation while pursuing settlement negotiations, and on May 17, 2025, the Parties agreed to settle the Litigation in return for a cash payment of \$17.05 million to be paid by Defendants and/or their insurers on behalf of Defendants for the benefit of the Class, subject to the negotiation of the terms of a stipulation of settlement and approval by the Court. This Stipulation (together with the Exhibits hereto) has been duly executed by the undersigned signatories on behalf of their respective clients, and reflects the final and binding agreement among the Settling Parties.

II. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY

Throughout this Litigation, Defendants have denied, and continue to deny, any and all of the claims alleged in the Litigation, including any allegations of fault, negligence, liability, wrongdoing, or damages whatsoever. Specifically, Defendants expressly have denied, and continue to deny, that they have committed any act or made any materially misleading statement giving rise to any liability under the federal securities laws. Defendants expressly have denied, and continue to deny, that they have committed any wrongdoing or violations of law as alleged in any complaint in the Litigation or

that could have been alleged in the Litigation, and Defendants maintain that their conduct was at all times proper and in compliance with applicable provisions of law. Defendants also have denied, and continue to deny, that (a) they made any material misstatement or omission or engaged in any fraudulent schemes or conduct; (b) the price of Tivity Health common stock was artificially inflated during the Class Period as a result; (c) any Class Member, including Lead Plaintiff, suffered any damages; and (d) any Class Member, including Lead Plaintiff, was harmed by any conduct alleged in the Litigation or that could have been alleged therein. Defendants maintain that they have meritorious defenses to all claims alleged in the Litigation.

As set forth below, neither the Settlement nor any of the terms of this Stipulation shall be construed or deemed to be evidence of or constitute an admission, concession, or finding with respect to any claim or allegation of any fault, negligence, liability, wrongdoing, or damage whatsoever, or any infirmity in the defenses that Defendants have, or could have, asserted. Defendants are entering into this Stipulation solely to eliminate the burden, expense, and uncertainty of further litigation. Defendants have determined that it is desirable and beneficial to them that the Litigation be settled in the manner and upon the terms and conditions set forth in this Stipulation.

III. LEAD PLAINTIFF'S CLAIMS AND THE BENEFITS OF SETTLEMENT

Lead Plaintiff and Lead Counsel believe that the claims asserted in the Litigation have merit and that the evidence developed to date supports the claims asserted therein. However, Lead Plaintiff and Lead Counsel recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Litigation through trial and through appeals. Lead Plaintiff and Lead Counsel also have taken into account the uncertain outcome and the risks of any litigation, especially in a complex action such as this Litigation, as well as the difficulties and delays inherent in this Litigation. Lead Plaintiff and Lead Counsel also are mindful of the inherent problems of proof under and possible defenses to the securities law violations asserted in the Litigation. Lead

Plaintiff and Lead Counsel believe that the Settlement set forth in this Stipulation confers substantial benefits upon the Class. Based on their own investigation and evaluation, Lead Plaintiff and Lead Counsel have determined that the Settlement set forth in this Stipulation is in the best interests of Lead Plaintiff and the Class.

IV. TERMS OF THE STIPULATION AND AGREEMENT OF SETTLEMENT

NOW, THEREFORE, without any concession by Lead Plaintiff that the Litigation lacks merit, and without any concession by Defendants of any liability, negligence, wrongdoing, fault, damages, or lack of merit in the defenses asserted, IT IS HEREBY STIPULATED AND AGREED by and between Lead Plaintiff (on behalf of itself and the Class Members) and Defendants, by and through their respective counsel, that, subject to the approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, in consideration of the benefits flowing to the Parties from the Settlement, the Litigation and the Released Plaintiff's Claims shall be finally, fully, and forever compromised, settled, and released, and the Litigation shall be dismissed with prejudice upon and subject to the terms and conditions of this Stipulation, as follows:

1. Definitions

As used in this Stipulation and in any Exhibits attached hereto and made a part hereof, the following terms, when capitalized, have the meanings specified below:

1.1 "Authorized Claimant" means any Class Member who submits a valid Claim to the Claims Administrator that is accepted for payment pursuant to the Court-approved Plan of Allocation.

1.2 "Claim(s)" means a paper claim submitted on a Proof of Claim and Release form or an electronic claim that is submitted to the Claims Administrator.

1.3 "Claims Administrator" means Verita Global.

1.4 “Class” means all Persons who purchased or otherwise acquired Tivity Health common stock between March 8, 2019, and February 19, 2020, inclusive. Excluded from the Class are: Defendants, members of their immediate families, any entity of which a Defendant has a controlling interest, and the legal representatives, heirs, predecessors, successors, or assigns of any excluded party. Also excluded from the Class is any Person who properly excludes himself, herself, itself, or themselves from the Class should the Court afford a renewed opportunity to opt out of the Class.

1.5 “Class Member” or “Member of the Class” means a Person who falls within the definition of the Class as set forth in ¶1.4 above.

1.6 “Class Period” means the period between March 8, 2019, and February 19, 2020, inclusive.

1.7 “Defendants’ Counsel” means King & Spalding LLP and Bass, Berry & Sims PLC.

1.8 “Effective Date,” or the date upon which this Settlement becomes “Effective,” means the first date by which all of the events and conditions specified in ¶7.1 of this Stipulation have been met and have occurred or have been waived.

1.9 “Escrow Account” means an interest-bearing account established by the Escrow Agent. The Escrow Account shall be managed by the Escrow Agent, subject to the Court’s supervisory authority, for the benefit of Lead Plaintiff and the Class in accordance with the terms of this Stipulation and any order of the Court.

1.10 “Escrow Agent” means the law firm of Robbins Geller Rudman & Dowd LLP and its successor(s).

1.11 “Final” means, with respect to any order or Judgment of the Court, that such order or Judgment represents a final and binding determination of all issues within its scope and has not been

reversed, vacated, or modified in any way and is no longer subject to appellate review, either because of disposition on appeal and conclusion of the appellate process or because of passage, without action, of time for seeking appellate review. Without limitation, an order or Judgment becomes Final when either: (a) no appeal therefrom has been filed and the time has passed for any notice of appeal to be timely filed therefrom; or (b) an appeal from the Judgment or order has been filed and either: (i) the court of appeals has either affirmed the order or Judgment or dismissed that appeal and the time for any reconsideration or further appellate review has passed; or (ii) a higher court has granted further appellate review and that court has either affirmed the underlying order or Judgment or affirmed the court of appeals' decision affirming the Judgment or dismissing the appeal. For purposes of this paragraph, an "appeal" shall include any motion for reconsideration or petition for a writ of *certiorari* or other writ that may be filed in connection with approval or disapproval of this Settlement. Any appeal or proceeding seeking subsequent judicial review pertaining solely to an order issued with respect to: (a) attorneys' fees, costs, or expenses; (b) the Plan of Allocation (as submitted or subsequently modified); or (c) the procedures for determining Authorized Claimants' recognized Claims, shall not in any way delay, affect, or preclude the time set forth above for the Judgment to become Final, or otherwise preclude the Judgment from becoming Final.

1.12 "Individual Defendants" means, collectively, Donato Tramuto, Adam C. Holland, and Dawn Zier.

1.13 "Judgment" means the Final Judgment and Order of Dismissal with Prejudice to be rendered by the Court, substantially in the form attached hereto as Exhibit B, as well as any form of final judgment that may be entered by the Court in a form other than the form attached hereto as Exhibit B.

1.14 "Lead Counsel" means the law firm of Robbins Geller Rudman & Dowd LLP.

1.15 “Lead Plaintiff” or “Class Representative” means Sheet Metal Workers Local No. 33, Cleveland District, Pension Fund.

1.16 “Lead Plaintiff’s Counsel” means any attorney or firm who has appeared in the Litigation, on behalf of any plaintiff or proposed class.

1.17 “Litigation” means the lawsuit pending in the United States District Court for the Middle District of Tennessee captioned *Strougo v. Tivity Health, Inc., et al.*, Civil Action No. 3:20-cv-00165.

1.18 “Net Settlement Fund” means the Settlement Fund less: (a) any Court-awarded attorneys’ fees, expenses, and interest thereon; (b) Notice and Administration Expenses; (c) Taxes and Tax Expenses; and (d) other Court-approved deductions.

1.19 “Notice and Administration Expenses” means actual notice and administration expenses, including reasonable costs and expenses actually incurred with providing notice of the Settlement to the Class by mail, email, publication, and other means, locating potential Class Members, assisting with the submission of Claims, processing Proofs of Claim, administering the Settlement, and paying escrow taxes, fees and costs, if any.

1.20 “Person(s)” means an individual, corporation (including all divisions and subsidiaries), limited liability corporation, professional corporation, partnership, limited partnership, limited liability partnership, limited liability company, professional corporation, joint venture, fund, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity, and all of their respective spouses, heirs, beneficiaries, trustees, transferees, executors, administrators, predecessors, successors, representatives, or assignees.

1.21 “Plan of Allocation” means a plan or formula of allocation of the Net Settlement Fund whereby the Net Settlement Fund shall be distributed to Authorized Claimants. Any Plan of Allocation is not part of this Stipulation and neither Defendants nor the Released Defendant Parties shall have any responsibility or liability with respect thereto. Any order of the Court modifying or rejecting the Plan of Allocation will not affect the finality or binding nature of the Settlement.

1.22 “Postcard Notice” means the notice, as approved by the Court and as described in ¶3.1 and in the Preliminary Approval Order, substantially in the form attached hereto as Exhibit A-4, which is to be emailed or mailed to potential Class Members informing them of the Settlement contemplated by this Stipulation.

1.23 “Preliminary Approval Order” means an order entered by the Court, substantially in the form of Exhibit A attached hereto, granting, *inter alia*: (i) preliminary approval of the Settlement set forth in this Stipulation; and (ii) approval for the mailing and emailing of the Postcard Notice, publication of the Summary Notice, and the posting of the Notice of Proposed Settlement of Class Action (“Notice”) and Proof of Claim and Release form (“Proof of Claim”) on the case-designated website, substantially in the forms of Exhibits A-1 through A-4 attached hereto.

1.24 “Proof of Claim” means the Proof of Claim and Release form for submitting a Claim. Subject to approval of the Court, the Proof of Claim shall be substantially in the form attached hereto as Exhibit A-2, which a Class Member must complete and submit should that Class Member seek to share in a distribution of the Net Settlement Fund.

1.25 “Released Plaintiff’s Claims” means all claims and causes of action of every nature and description, whether known or unknown, including Unknown Claims (as defined in ¶1.36), whether arising under federal, state, common, or foreign law, whether class or individual in nature, based on, arising out of, or in connection with both: (i) the purchase or acquisition of Tivity Health

common stock during the period between March 8, 2019, and February 19, 2020, inclusive; and (ii) the allegations, acts, facts, matters, occurrences, disclosures, filings, representations, statements, or omissions that were or could have been alleged by Lead Plaintiff and other Class Members in the Litigation. Released Plaintiff's Claims do not include: (i) any claims related to the enforcement of the Settlement; or (ii) any claims of any Person who validly opts out of the Class should the Court afford the Class a renewed opportunity to opt out.

1.26 "Released Defendants' Claims" means any and all claims and causes of action of every nature and description whatsoever, including both known claims and Unknown Claims (as defined in ¶1.36), whether arising under federal, state, common, or foreign law, against Releasing Plaintiff Parties (as defined in ¶1.28) that arise out of or relate in any way to the institution, prosecution, or settlement of the claims against Defendants in the Litigation, except for claims relating to the enforcement of the Settlement or any claims against any Person who or which submitted a request for exclusion that was accepted by the Court.

1.27 "Released Defendant Party" or "Released Defendant Parties" or "Defendants' Released Persons" means any or all of Defendants and any or all of their current and former officers, directors, agents, parents, affiliates, subsidiaries, successors, predecessors, assigns, assignees, insurers, reinsurers, employees, attorneys, spouses, heirs, beneficiaries, trustees, transferees, executors, administrators, and representatives, in their capacities as such.

1.28 "Releasing Plaintiff Party" or "Releasing Plaintiff Parties" means Lead Plaintiff, any of its attorneys, and all other Class Members, and their respective current and former officers, directors, agents, parents, affiliates, subsidiaries, successors, predecessors, assigns, assignees, employees, and attorneys, in their capacities as such.

1.29 "Releases" means the releases set forth in ¶¶4.1-4.6 of this Stipulation.

1.30 “Settlement” means the resolution of the Litigation in accordance with the terms and provisions of this Stipulation.

1.31 “Settlement Amount” means Seventeen Million Fifty Thousand U.S. Dollars (U.S. \$17,050,000.00) to be paid by wire transfer(s) or check(s) to the Escrow Agent pursuant to ¶2.2 of this Stipulation.

1.32 “Settlement Fund” means the Settlement Amount plus all interest and accretions thereto.

1.33 “Settlement Hearing” means the hearing set by the Court under Rule 23(e)(2) of the Federal Rules of Civil Procedure to consider final approval of the Settlement.

1.34 “Settling Parties” means, collectively, Defendants and Lead Plaintiff, on behalf of itself and the Class.

1.35 “Tax” or “Taxes” means any and all taxes, fees, levies, duties, tariffs, imposts, and other charges of any kind (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any governmental authority, including, but not limited to, any local, state, and federal taxes.

1.36 “Unknown Claims” means: (a) any and all Released Plaintiff’s Claims that the Releasing Plaintiff Parties do not know or suspect to exist in his, her, or its favor at the time of the release of such claims, which, if known by him, her, or it, might have affected his, her, or its decision(s) with respect to this Settlement; and (b) any and all Released Defendants’ Claims that any of the Released Defendant Parties do not know or suspect to exist in his, her, or its favor at the time of the release of such claims, which, if known by him, her, or it, might have affected his, her, or its decision(s) with respect to this Settlement. With respect to both (a) any and all Released Plaintiff’s Claims against the Released Defendant Parties, and (b) any and all Released Defendants’ Claims

against the Releasing Plaintiff Parties, the Settling Parties stipulate and agree that, upon the Effective Date, the Settling Parties shall expressly waive, and each Releasing Plaintiff Party and Released Defendant Party shall be deemed to have, and by operation of the Judgment shall have expressly waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, that is similar, comparable, or equivalent to California Civil Code §1542, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

The Settling Parties shall fully, finally, and forever expressly waive any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to California Civil Code §1542. The Releasing Plaintiff Parties and Released Defendant Parties acknowledge that they may hereafter discover facts, legal theories, or authorities in addition to or different from those which he, she, it, or their counsel now knows or believes to be true with respect to the subject matter of the Released Plaintiff's Claims or Released Defendants' Claims, but: (a) the Releasing Plaintiff Parties shall expressly, fully, finally, and forever waive, compromise, settle, discharge, extinguish, and release, and each Releasing Plaintiff Party shall be deemed to have waived, compromised, settled, discharged, extinguished, and released, and upon the Effective Date, and by operation of the Judgment shall have waived, compromised, settled, discharged, extinguished, and released, fully, finally, and forever, any and all Released Plaintiff's Claims against the Released Defendant Parties, known or unknown, suspected or unsuspected, contingent or non-contingent, accrued or unaccrued, whether or not concealed or hidden, which now exist, or heretofore have existed, or may hereafter exist, upon any theory of law or equity now existing or coming into existence in the future,

including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts, legal theories, or authorities; and (b) the Released Defendant Parties shall expressly, fully, finally, and forever waive, compromise, settle, discharge, extinguish, and release, and each Released Defendant Party shall be deemed to have waived, compromised, settled, discharged, extinguished, and released, and upon the Effective Date, and by operation of the Judgment shall have waived, compromised, settled, discharged, extinguished, and released, fully, finally, and forever, any and all Released Defendants' Claims against Lead Plaintiff, the Class, and Lead Plaintiff's Counsel, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts, legal theories, or authorities. The Settling Parties acknowledge, and the Releasing Plaintiff Parties and Released Defendant Parties shall be deemed by operation of law to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part.

2. The Settlement

2.1 The obligations incurred pursuant to the Stipulation are: (a) subject to approval by the Court and the Judgment, reflecting such approval, becoming Final; and (b) in full and final disposition of the Litigation, and any and all Released Plaintiff's Claims and Released Defendants' Claims upon and subject to the terms and conditions set forth herein.

a. The Settlement Amount

2.2 In full and final settlement of the claims asserted in the Litigation and in consideration of the Releases specified in ¶¶4.1-4.6 herein, Defendants shall pay or cause to be paid the Settlement Amount into the Escrow Account by wire transfer(s) or check(s) within thirty (30) calendar days after the later of: (a) entry of the Preliminary Approval Order; or (b) the provision to Defendants' Counsel of all information necessary to effectuate a transfer of funds, including, but not limited to, complete mailing instructions or wire instructions, payment address, the bank name and ABA routing number, account name and number, and a signed W-9 reflecting the taxpayer identification number for the Settlement Fund. The Escrow Agent shall deposit the Settlement Amount plus any accrued interest in the Escrow Account.

2.3 The Settlement Amount represents the entirety of Defendants' financial obligations under this Stipulation and in connection with this Settlement. Other than Defendants' obligation to pay or cause to be paid the Settlement Amount into the Settlement Fund set forth in ¶2.2 herein, the Released Defendant Parties shall have no responsibility for, interest in, or liability whatsoever with respect to: (a) any act, omission, or determination by Lead Counsel, the Escrow Agent, or the Claims Administrator, or any of their respective designees, in connection with the administration of the Settlement or otherwise; (b) the management, investment, or distribution of the Settlement Fund; (c) the Plan of Allocation; (d) the determination, administration, calculation, or payment of any Claims asserted against the Settlement Fund; (e) any loss suffered by, or fluctuation in value of, the Settlement Fund; or (f) the payment or withholding of any Taxes, expenses, and/or costs incurred in connection with the taxation of the Settlement Fund, distributions or other payments from the Escrow Account, or the filing of any federal, state, or local returns.

2.4 If the entire Settlement Amount is not timely deposited into the Escrow Account, Lead Counsel may terminate the Settlement, but only if: (a) Lead Counsel has notified Defendants'

Counsel in writing of Lead Counsel's intention to terminate the Settlement, and (b) the entire Settlement Amount is not transferred to the Escrow Account within three (3) business days after Lead Counsel has provided such written notice.

2.5 Other than the obligation to cause the payment of the Settlement Amount in accordance with the terms of ¶2.2 and the fees, costs, and expenses associated with providing notice pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. §1715 *et seq.* ("CAFA") (as discussed below in ¶5.1), the Released Defendant Parties shall have no obligation to make any other payments pursuant to this Stipulation.

b. The Escrow Agent

2.6 The Settlement Fund shall be used to pay: (a) any Taxes; (b) any Notice and Administration Expenses; (c) any litigation expenses awarded by the Court; (d) any attorneys' fees awarded by the Court; and (e) any award to Lead Plaintiff pursuant to 15 U.S.C. §78u-4(a)(4) awarded by the Court. The balance remaining in the Settlement Fund, that is, the Net Settlement Fund, shall be distributed to Authorized Claimants as provided in ¶¶5.4-5.10.

2.7 Except as provided herein or pursuant to orders of the Court, the Net Settlement Fund shall remain in the Escrow Account prior to the Effective Date. All funds held by the Escrow Agent shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds shall be distributed or returned pursuant to the terms of this Stipulation and/or further order of the Court.

2.8 The Escrow Agent shall invest the Settlement Amount deposited pursuant to ¶2.2 hereof in United States Agency or Treasury Securities or other instruments backed by the full faith and credit of the United States Government or an agency thereof, or fully insured by the United States Government or an agency thereof, or in money funds holding only instruments backed by the full faith and credit of the United States Government or an agency thereof, and shall reinvest the

proceeds of these instruments as they mature in similar instruments at their then-current market rates. All costs and risks related to the investment of the Settlement Fund in accordance with the investment guidelines set forth in this paragraph shall be borne by the Settlement Fund, and the Released Defendant Parties shall have no responsibility for, interest in, or liability whatsoever with respect to investment decisions or the actions of the Escrow Agent, or any transactions executed by the Escrow Agent. The Escrow Agent, through the Settlement Fund, shall indemnify and hold each of the Released Defendant Parties and their counsel harmless for the actions of the Escrow Agent.

2.9 The Escrow Agent shall not disburse the Settlement Fund except as provided in this Stipulation, by an order of the Court, or with the prior written agreement of Defendants' Counsel.

2.10 Subject to further order(s) and/or directions as may be made by the Court, or as provided in this Stipulation, the Escrow Agent is authorized to execute such transactions as are consistent with the terms of this Stipulation. The Released Defendant Parties shall have no responsibility for, interest in, or liability whatsoever with respect to the actions of the Escrow Agent, or any transaction executed by the Escrow Agent. The Escrow Agent, through the Settlement Fund, shall indemnify and hold each of the Released Defendant Parties and their counsel harmless for any transaction executed by the Escrow Agent.

2.11 All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to this Stipulation and/or further order(s) of the Court.

2.12 Notwithstanding the fact that the Effective Date of the Settlement has not yet occurred, Lead Counsel may pay, without further approval from Defendants and/or order of the Court, all reasonable costs and expenses actually incurred in connection with providing notice of the Settlement by mail, publication, and other means, locating potential Class Members, assisting with

the submission of Claims, processing Proofs of Claim, administering the Settlement, and paying escrow taxes, fees, and costs, if any (“Notice and Administration Expenses”).

2.13 It shall be Lead Counsel’s responsibility to disseminate the Postcard Notice, Notice, Proof of Claim, and Summary Notice to potential Class Members in accordance with this Stipulation and as ordered by the Court. The Released Defendant Parties shall have no responsibility for or liability whatsoever with respect to the Notice and Administration Expenses, nor shall they have any responsibility or liability whatsoever for any claims with respect thereto. The Escrow Agent, through the Settlement Fund, shall indemnify and hold each of the Released Defendant Parties and their counsel harmless for any Notice and Administration Expenses.

c. Taxes

2.14 The Settling Parties agree as follows:

(a) The Settling Parties and the Escrow Agent agree to treat the Settlement Fund as being at all times a “qualified settlement fund” within the meaning of Treasury Regulation §1.468B-1, and the regulations promulgated thereunder. The Settling Parties and the Escrow Agent further agree that the Settlement Fund shall be established pursuant to the Court’s subject matter jurisdiction within the meaning of Treasury Regulation §1.468B-1(c)(1). In addition, the Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of this ¶2.14, including the “relation-back election” (as defined in Treasury Regulation §1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

(b) For the purpose of §1.468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” (as defined in Treasury

Regulation §1.468B-2(k)(3)) shall be the Escrow Agent. The Escrow Agent shall timely and properly file all informational and other federal, state, or local tax returns necessary or advisable with respect to the earnings on the Settlement Fund (including, without limitation, the returns described in Treasury Regulation §1.468B-2(k)). Such returns (as well as the elections described in ¶2.14(a) hereof) shall be consistent with this ¶2.14 and in all events shall reflect that all Taxes (including any estimated Taxes, interest, or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in ¶2.14(c) hereof.

(c) All: (a) Taxes (including any estimated Taxes, interest, or penalties) arising with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be imposed upon the Released Defendant Parties or their counsel with respect to any income earned by the Settlement Fund for any period, after the deposit of the Settlement Amount, during which the Settlement Fund does not qualify as a “qualified settlement fund” for federal or state income tax purposes, and (b) expenses and costs incurred in connection with the operation and implementation of this ¶2.14 (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this ¶2.14) (“Tax Expenses”), shall be paid out of the Settlement Fund; in all events, the Released Defendant Parties and their counsel shall have no liability or responsibility whatsoever for the Taxes or the Tax Expenses. The Escrow Agent, through the Settlement Fund, shall indemnify and hold each of the Released Defendant Parties and their counsel harmless for Taxes and Tax Expenses (including, without limitation, Taxes payable by reason of any such indemnification). Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement Fund without prior order from the Court and the Escrow Agent shall be authorized

(notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treasury Regulation §1.468B-2(l)(2)); neither the Released Defendant Parties nor their counsel are responsible nor shall they have any liability for any Taxes or Tax Expenses. The Settling Parties hereto agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this ¶2.14.

2.15 This is not a claims-made settlement. As of the Effective Date, the Released Defendant Parties, and/or any other Person funding the Settlement on their behalf, shall not have any right to the return of the Settlement Fund or any portion thereof for any reason, and shall not have liability should Claims made exceed the amount available in the Settlement Fund for payment of such Claims. The Released Defendant Parties shall not be liable for the loss of any portion of the Settlement Fund, nor have any liability, obligation, or responsibility for the payment of Claims, Taxes, legal fees, or any other expenses payable from the Settlement Fund.

2.16 All Taxes shall be paid out of the Settlement Fund, and shall be timely paid by the Escrow Agent without further order of the Court. Any tax returns prepared for the Settlement Fund (as well as the election set forth therein) shall be consistent with the previous paragraph and in all events shall reflect that all Taxes on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein. The Released Defendant Parties shall have no responsibility or liability for the acts or omissions of Lead Counsel or its agents with respect to the payment of Taxes, as described herein.

2.17 If there is any balance remaining in the Net Settlement Fund (whether by reason of Tax refunds, uncashed checks, or otherwise) after at least six (6) months from the date of initial

distribution of the Net Settlement Fund, the Claims Administrator shall, if feasible and economical after payment of Notice and Administration Expenses, Taxes, and attorneys' fees and expenses, if any, redistribute such balance among Authorized Claimants who have cashed their checks in an equitable and economic fashion. Once it is no longer feasible or economical to make further distributions, any balance that still remains in the Net Settlement Fund after redistribution(s) and after payment of outstanding Notice and Administration Expenses, Taxes, and attorneys' fees and expenses, if any, shall be contributed to a non-sectarian, not-for-profit charitable organization certified as tax-exempt under §501(c)(3) of the Internal Revenue Code and serving the public interest selected by Lead Counsel.

d. Termination of Settlement

2.18 In the event that this Stipulation is not approved or the Settlement is not approved, or is terminated, canceled, or the Effective Date otherwise fails to occur for any reason, including, without limitation, in the event the Judgment is reversed or vacated or altered following any appeal taken therefrom, or is successfully collaterally attacked, the Settlement Fund less Notice and Administration Expenses, Taxes and Tax Expenses paid, incurred, or due and owing pursuant to ¶¶2.12 and 2.14 hereof in connection with the Settlement provided for herein, shall be refunded pursuant to written instructions from Defendants' Counsel in accordance with ¶7.3 herein.

3. Preliminary Approval Order and Settlement Hearing

3.1 Promptly after execution of this Stipulation, Lead Counsel shall submit this Stipulation together with its Exhibits to the Court and shall apply for entry of an order (the "Preliminary Approval Order"), substantially in the form of Exhibit A attached hereto, requesting, *inter alia*, preliminary approval of the Settlement set forth in this Stipulation pursuant to Federal Rule of Civil Procedure 23(e)(2), and approval for the distribution of the Postcard Notice and publication of a summary notice ("Summary Notice"), substantially in the forms of Exhibits A-4 and

A-3, respectively, attached hereto. The Postcard Notice shall direct Class Members to the Settlement website to access the Notice, which shall contain the general terms of the Settlement set forth in this Stipulation, the proposed Plan of Allocation, the general terms of the Fee and Expense Application, as defined in ¶6.1 hereof, and the date of the Settlement Hearing, as defined in ¶1.33 and below.

3.2 It shall be solely Lead Counsel's responsibility to disseminate the Postcard Notice and Summary Notice to the Class in accordance with this Stipulation and as ordered by the Court. Class Members shall have no recourse as to the Released Defendant Parties with respect to any claims they may have that arise from any failure or deficiency of the notice process.

3.3 Lead Counsel shall request that, after notice is given and not earlier than ninety (90) calendar days after the later of the dates on which the appropriate Federal official and the appropriate State officials are provided with notice, at Defendants' expense, pursuant to CAFA, the Court hold a hearing (the "Settlement Hearing") and approve the Settlement of the Litigation as set forth herein. At or after the Settlement Hearing, Lead Counsel also will request that the Court approve the proposed Plan of Allocation and the Fee and Expense Application.

4. Releases

4.1 The obligations incurred pursuant to this Stipulation are in consideration of: (a) the full and final disposition of the Litigation as against Defendants; and (b) the Releases provided for herein.

4.2 Upon the Effective Date, as defined in ¶1.8 hereof, Lead Plaintiff shall have, and each and every Releasing Plaintiff Party shall be deemed to have, and by operation of law and of the Judgment shall have, to the fullest extent permitted by law, fully, finally, and forever compromised, settled, resolved, waived, released, relinquished, discharged, and dismissed each and every one of the Released Plaintiff's Claims against each and every one of the Released Defendant Parties and shall be deemed to have covenanted not to sue any Released Defendant Parties on the basis of any

Released Plaintiff's Claims or, unless compelled by operation of law, to assist any person in commencing or maintaining any suit relating to any Released Plaintiff's Claim against any Released Defendant Parties. The foregoing release is given regardless of whether Lead Plaintiff or any Class Member has: (a) executed and delivered a Proof of Claim; (b) received the Notice; (c) participated in the Settlement Fund; (d) filed an objection to the Settlement, the proposed Plan of Allocation, or any application by Lead Plaintiff's Counsel for attorneys' fees and expenses; or (e) had their claims approved or allowed. Nothing contained herein shall bar any action or claim to enforce the terms of this Stipulation or the Judgment. Claims to enforce the terms of this Stipulation are not released.

4.3 Upon the Effective Date, as defined in ¶1.8 hereof, the Released Defendant Parties shall be deemed to have, and by operation of law and of the Judgment shall have, to the fullest extent permitted by the law, fully, finally, and forever compromised, settled, resolved, waived, released, relinquished, and discharged each and every one of Released Defendants' Claims against the Releasing Plaintiff Parties, and shall be deemed to have covenanted not to sue any Releasing Plaintiff Parties on the basis of the Released Defendants' Claims against any of the Releasing Plaintiff Parties or, unless compelled by operation of law, to assist any person in commencing or maintaining any suit relating to any Released Defendants' Claim against any Releasing Plaintiff Parties. This release shall not apply to any person or entity who or which the Court permits to be excluded from the Class. Nothing contained herein shall bar any action or claim to enforce the terms of this Stipulation or the Judgment. Claims to enforce the terms of this Stipulation are not released.

4.4 Any Proof of Claim that is executed by a Class Member shall acknowledge the release of all Released Plaintiff's Claims against the Released Defendant Parties pursuant to this Stipulation and shall be substantially in the form contained in Exhibit A-2 attached hereto.

4.5 Upon the Effective Date, to the extent allowed by law, this Stipulation shall operate conclusively as an estoppel and full defense in the event, and to the extent, of any claim, demand, action, or proceeding brought by the Class or a Class Member against any of the Released Defendant Parties with respect to any Released Plaintiff's Claims, or brought by a Released Defendant Party against any of the Releasing Plaintiff Parties with respect to any Released Defendants' Claim.

4.6 Notwithstanding ¶¶4.1-4.5 above, nothing in the Judgment shall bar any action by any of the Settling Parties to enforce or effectuate the terms of this Stipulation or the Judgment.

5. Administration and Calculation of Claims, Final Awards, and Supervision and Distribution of the Settlement Fund

5.1 As part of the Preliminary Approval Order, Lead Plaintiff shall seek appointment of a Claims Administrator. The Claims Administrator, subject to such supervision and direction of Lead Counsel and the Court as may be necessary or as circumstances may require, shall administer and calculate the Claims submitted by Class Members and shall oversee distribution of the Net Settlement Fund to Authorized Claimants. With the exception that Defendants shall be responsible for providing any required notice under CAFA, including the costs and expenses thereof, the Released Defendant Parties and Defendants' Counsel shall have no responsibility for or interest whatsoever in the administration of the Settlement or the actions or decisions of the Claims Administrator, and shall have no liability whatsoever to the Releasing Plaintiff Parties, including Lead Plaintiff, any other Class Members, or Lead Plaintiff's Counsel, in connection with such administration, including, but not limited to: (a) any act, omission, or determination by Lead Counsel, the Escrow Agent, and/or the Claims Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement or otherwise; (b) the management or investment of the Settlement Fund or the Net Settlement Fund, or the distribution of the Net Settlement Fund; (c) the Plan of Allocation; (d) the determination, administration, calculation, or

payment of any Claims asserted against the Settlement Fund; (e) any losses suffered by, or fluctuations in value of, the Settlement Fund; or (f) the payment or withholding of any Taxes, expenses, and/or costs incurred with the taxation of the Settlement Fund or the filing of any federal, state, or local returns.

5.2 The Settlement Fund shall be applied as follows:

- (a) to pay all Notice and Administration Expenses;
- (b) to pay the Taxes and Tax Expenses;
- (c) to pay attorneys' fees and expenses of Lead Plaintiff's Counsel and to pay an award to Lead Plaintiff for its reasonable costs and expenses (including lost wages) pursuant to 15 U.S.C. §78u-4(a)(4), if and to the extent allowed by the Court (the "Fee and Expense Award"); and
- (d) after the Effective Date, to distribute the Net Settlement Fund to Authorized Claimants as provided by this Stipulation, the Plan of Allocation, or orders of the Court.

5.3 After the Effective Date, and in accordance with the terms of this Stipulation, the Plan of Allocation, or such further approval and further order(s) of the Court as may be necessary or as circumstances may require, the Net Settlement Fund shall be distributed to Authorized Claimants, subject to and in accordance with the following provisions of this Stipulation.

5.4 Within ninety (90) calendar days after the dissemination of the Postcard Notice or such other time as may be set by the Court, each Class Member shall be required to submit to the Claims Administrator a completed Proof of Claim, substantially in the form of Exhibit A-2 attached hereto, signed under penalty of perjury and supported by such documents as are specified in the Proof of Claim.

5.5 Except as otherwise ordered by the Court, all Class Members who fail to timely submit a valid Proof of Claim within such period, or such other period as may be ordered by the

Court, or otherwise allowed, shall be forever barred from receiving any payments pursuant to this Stipulation and the Settlement set forth herein, but will, in all other respects, be subject to and bound by the provisions of this Stipulation, the Releases contained herein, and the Judgment, and will be barred from bringing any action against the Released Defendant Parties concerning the Released Plaintiff's Claims. Notwithstanding the foregoing, Lead Counsel shall have the discretion (but not an obligation) to accept late-submitted Claims for processing by the Claims Administrator so long as the distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed thereby. No Person shall have any claim against Lead Plaintiff, Lead Plaintiff's Counsel, the Claims Administrator, or any Class Member by reason of the exercise or non-exercise of such discretion.

5.6 Each Proof of Claim shall be submitted to and reviewed by the Claims Administrator, under the supervision of Lead Counsel, who shall determine, in accordance with this Stipulation and the approved Plan of Allocation, the extent, if any, to which each Claim shall be allowed, subject to review by the Court pursuant to ¶5.8 below.

5.7 Proofs of Claim that do not meet the submission requirements may be rejected. Prior to rejecting a Proof of Claim in whole or in part, the Claims Administrator shall communicate with the claimant in writing to give the claimant the chance to remedy any curable deficiencies in the Proof of Claim submitted. The Claims Administrator, under the supervision of Lead Counsel, shall notify, in a timely fashion and in writing, all claimants whose Claims the Claims Administrator proposes to reject in whole or in part for curable deficiencies, setting forth the reasons therefor, and shall indicate in such notice that the claimant whose Claim is to be rejected has the right to a review by the Court if the claimant so desires and complies with the requirements of ¶5.8 below.

5.8 If any claimant whose timely Claim has been rejected in whole or in part for curable deficiency desires to contest such rejection, the claimant must, within twenty (20) calendar days after

the date of mailing of the notice required in ¶5.7 above, or a lesser period of time if the Claim was untimely, serve upon the Claims Administrator a notice and statement of reasons indicating the claimant's grounds for contesting the rejection along with any supporting documentation, and requesting a review thereof by the Court. If a dispute concerning a Claim cannot be otherwise resolved, Lead Counsel shall thereafter present the claimant's request for review to the Court.

5.9 Each claimant except those whom the Court permits to be excluded from the Class shall be deemed to have submitted to the jurisdiction of the Court with respect to the claimant's Claim, including, but not limited to, all Releases provided for herein and in the Judgment, and the Claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to the claimant's status as a Class Member and the validity and amount of the claimant's Claim. In connection with processing the Proofs of Claim, no discovery shall be allowed on the merits of the Litigation or the Settlement. All proceedings with respect to the administration, processing, and determination of Claims and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of Claims, shall be subject to the jurisdiction of the Court, but shall not, in any event, delay or affect the finality of the Judgment. All Class Members, other claimants, and parties to this Settlement expressly waive trial by jury (to the extent any such right may exist) with respect to such determinations.

5.10 Following the Effective Date, the Net Settlement Fund shall be distributed to the Authorized Claimants substantially in accordance with the Plan of Allocation set forth in the Notice and approved by the Court. No distributions will be made to Authorized Claimants who would otherwise receive a distribution of less than \$10.00. If there is any balance remaining in the Net Settlement Fund after a reasonable period of time after the date of the distribution of the Net

Settlement Fund, Lead Counsel shall, if feasible, reallocate such balance among Authorized Claimants who negotiated the checks sent in the initial distribution and who would receive a minimum of \$10.00. These redistributions shall be repeated until the balance remaining in the Net Settlement Fund is *de minimis*. Any *de minimis* balance that still remains in the Net Settlement Fund after such reallocation(s) and payments, which is not feasible or economical to reallocate, shall be donated to an appropriate non-sectarian, non-profit charitable organization(s) serving the public interest selected by Lead Counsel.

5.11 The Released Defendant Parties shall have no responsibility for, interest in, or liability whatsoever with respect to the distribution of the Net Settlement Fund, the Plan of Allocation, the determination, administration, or calculation of Claims, the payment or withholding of Taxes or Tax Expenses, or any losses incurred in connection therewith. No Person shall have any claim of any kind against the Released Defendant Parties with respect to the matters set forth in ¶¶5.1-5.13 hereof; and the Releasing Plaintiff Parties release the Released Defendant Parties from any and all liability and claims arising from or with respect to the administration, investment, or distribution of the Settlement Fund.

5.12 No Person shall have any claim against the Released Defendant Parties, Lead Plaintiff, Lead Plaintiff's Counsel, the Claims Administrator, or any other Person designated by Lead Counsel based on determinations or distributions made substantially in accordance with this Stipulation and the Settlement contained herein, the Plan of Allocation, or further order(s) of the Court.

5.13 It is understood and agreed by the Settling Parties that any proposed Plan of Allocation of the Net Settlement Fund, including, but not limited to, any adjustments to an Authorized Claimant's Claim set forth therein, is not a part of this Stipulation and is to be considered

by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in this Stipulation, and any order or proceeding relating to the Plan of Allocation shall not operate to terminate or cancel this Stipulation or affect the finality of the Court's Judgment approving this Stipulation and the Settlement set forth herein, or any other orders entered pursuant to the Stipulation.

6. Lead Plaintiff's Counsel's Attorneys' Fees and Expenses

6.1 Lead Counsel may submit an application or applications (the "Fee and Expense Application") on behalf of Lead Plaintiff's Counsel for an award from the Settlement Fund for: (a) attorneys' fees; plus (b) expenses or charges in connection with prosecuting the Litigation; plus (c) any interest earned on such attorneys' fees and expenses/charges at the same rate and for the same periods as earned by the Settlement Fund (until paid) as may be awarded by the Court. Any such fees and expenses awarded shall be paid from the Settlement Fund. Any application for fees and expenses may include a request for reimbursement of Lead Plaintiff's reasonable costs and expenses in connection with its representation of the Class pursuant to 15 U.S.C. §78u-4(a)(4). Lead Counsel reserves the right to make additional applications for fees and expenses incurred.

6.2 The amount of attorneys' fees and expenses awarded by the Court is within the sole discretion of the Court. Any fees and expenses, as awarded by the Court, shall be paid to Lead Counsel from the Settlement Fund, as ordered, immediately after the Court executes the Judgment and an order awarding such fees and expenses, notwithstanding the existence of any timely filed objections thereto or to the Settlement, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof. Lead Counsel shall thereafter allocate the attorneys' fees among Lead Plaintiff's Counsel in a manner in which it in good faith believes reflects the contribution of such counsel to the initiation, prosecution, and resolution of the Litigation.

6.3 In the event that the Effective Date does not occur, or the Judgment or the order making the Fee and Expense Award is reversed or modified, or this Stipulation is canceled or terminated for any other reason, and such reversal, modification, cancellation, or termination becomes Final and not subject to review, and in the event that the Fee and Expense Award has been paid to any extent, then Lead Counsel, including its partners and/or shareholders, and such other Lead Plaintiff's Counsel, including their law firms, partners, and/or shareholders, and Lead Plaintiff who have received any portion of the Fee and Expense Award shall, within ten (10) business days from receiving notice from Defendants' Counsel or from a court of appropriate jurisdiction, refund to the Settlement Fund all such fees and expenses previously paid to them from the Settlement Fund plus interest thereon in an amount consistent with such reversal, modification, cancellation, or termination. Any refunds required pursuant to this ¶6.3 shall be the several obligation of Lead Plaintiff's Counsel, including their law firms, partners, and/or shareholders, and Lead Plaintiff if they received fees or expenses to make appropriate refunds or repayments to the Settlement Fund. Each such Lead Plaintiff's Counsel or Lead Plaintiff receiving fees and expenses, as a condition of receiving such fees and expenses, on behalf of themselves and each of their partners and/or shareholders, agrees that: (a) such Person and its partners, shareholders, and/or members are subject to the jurisdiction of the Court for the purpose of enforcing the provisions of this paragraph; and (b) are severally liable for the full amount of all fees, expenses, and costs paid from the Settlement Fund.

6.4 The procedure for and the allowance or disallowance by the Court of any applications by any Lead Plaintiff's Counsel for attorneys' fees and expenses to be paid out of the Settlement Fund is not part of the Settlement set forth in this Stipulation, and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the

Settlement set forth in this Stipulation, and shall have no effect on the terms of the Stipulation or on the validity or enforceability of this Settlement. The approval of the Settlement, and it becoming Final, shall not be contingent on the award of attorneys' fees and expenses, any award to Lead Plaintiff, Lead Counsel, or Lead Plaintiff's Counsel, nor any appeals from such awards. Any order or proceeding relating to the Fee and Expense Application, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Stipulation, or affect or delay the finality of the Judgment approving this Stipulation and the Settlement of the Litigation set forth therein, or any other orders entered pursuant to this Stipulation.

6.5 Any fees and/or expenses awarded by the Court shall be paid solely from the Settlement Fund. With the sole exception of Defendants' obligation to cause the Settlement Amount to be paid into the Escrow Account as provided for in ¶2.2 and the fees, costs, and expenses associated with providing notice under CAFA, as provided in ¶5.1, the Released Defendant Parties shall have no responsibility for, and no liability whatsoever with respect to, any payment of attorneys' fees and/or expenses (including Taxes) to Lead Plaintiff's Counsel, including their law firms, partners, and/or shareholders, or any other counsel or Person who receives payment from the Settlement Fund.

6.6 The Released Defendant Parties shall have no responsibility for, and no liability whatsoever with respect to, the allocation among Lead Plaintiff's Counsel and/or any other Person who may assert some claim thereto, of any Fee and Expense Award that the Court may make in the Litigation.

6.7 The Released Defendant Parties shall have no responsibility for, and no liability whatsoever with respect to, any attorneys' fees, costs, or expenses (including Taxes) incurred by or on behalf of any Class Member, whether or not paid from the Escrow Account.

7. Conditions of Settlement, Effect of Disapproval, Cancellation, or Termination

7.1 The Effective Date of the Settlement shall be conditioned on the occurrence of all of the following events:

- (a) the Court has entered the Preliminary Approval Order directing notice to the Class, as required by ¶3.1 hereof;
- (b) the Settlement Amount has been deposited into the Escrow Account;
- (c) no party has exercised its option to terminate the Settlement pursuant to the terms of this Stipulation;
- (d) the Court has entered the Judgment, or a judgment substantially in the form of Exhibit B attached hereto; and
- (e) the Judgment has become Final, as defined in ¶1.11 hereof.

7.2 Upon the Effective Date, any and all remaining interest or right of Defendants in or to the Settlement Fund, if any, shall be absolutely and forever extinguished, and the Releases herein shall be effective. The Released Defendant Parties shall not have any liability, obligation, or responsibility for the payment of Claims, Taxes, legal fees, or any other expenses payable from the Settlement Fund. If the conditions specified in ¶7.1 hereof are not met, then the Settlement shall be canceled and terminated subject to ¶¶7.3-7.5 hereof unless the Settling Parties mutually agree in writing to proceed with the Settlement. For avoidance of doubt, no order of the Court or modification or reversal on appeal of any order of the Court concerning the Plan of Allocation or the amount of any attorneys' fees, expenses, and interest awarded by the Court to Lead Counsel or expenses to Lead Plaintiff shall operate to terminate or cancel this Stipulation or constitute grounds for cancellation or termination of the Stipulation.

7.3 Unless otherwise ordered by the Court, in the event this Stipulation is not approved or this Stipulation or the Settlement is terminated, or canceled, or the Effective Date otherwise fails to occur for any reason, including, without limitation, in the event: (a) the Judgment is reversed or vacated or altered following any appeal taken therefrom, or is successfully collaterally attacked; (b) either party exercises any other ground for termination set forth in ¶7.4 of this Stipulation within ten (10) business days after written notification of such event is sent by Defendants' Counsel or Lead Counsel to the Escrow Agent, the Settlement Fund (including accrued interest), less Taxes, Tax Expenses, and Notice and Administration Expenses which have either been disbursed pursuant to ¶¶2.12 and/or 2.14 hereof, or are chargeable to the Settlement Fund pursuant to ¶¶2.12 and/or 2.14 hereof, shall be fully refunded by the Escrow Agent to the entities that paid the Settlement Fund on behalf of Defendants in proportion to their respective contribution. Such refunds shall be pursuant to written instructions from Defendants' Counsel. The Escrow Agent or its designee shall apply for any tax refund owed on the Settlement Amount and pay the proceeds, after deduction of any fees or expenses incurred in connection with such application(s) for refund to the entities that paid the Settlement Fund on behalf of Defendants. Such payments shall be pursuant to written instructions from Defendants' Counsel.

7.4 The Settling Parties agree that an additional opportunity of Class Members to opt out of the Class is unnecessary in light of the Court's order certifying the Class and the subsequent notice of pendency of the Litigation to the Class establishing a date by which Class Members must opt out that has expired. The Parties oppose any effort to provide a second opportunity to opt out given the stage of the litigation and will reasonably cooperate to challenge any application to the Court seeking such a renewed opt out opportunity. However, to the extent a second opportunity to opt out is provided, and in addition to the grounds set forth in ¶7.5 below, the Settling Parties shall

enter into a confidential supplemental agreement that provides Defendants the right to terminate the Settlement based on certain conditions (the “Supplemental Agreement”). The Supplemental Agreement, which will only be executed if the Court provides a renewed opt out opportunity, shall not be filed with the Court and its terms shall not be disclosed in any other manner (other than the statements herein and in the Notice, to the extent necessary, or as otherwise provided in the Supplemental Agreement) unless the Court otherwise directs or a dispute arises between Lead Plaintiff and the Defendants concerning its interpretation or application, in which event the Settling Parties shall submit the Supplemental Agreement to the Court *in camera* and request that the Court afford it confidential treatment.

7.5 Lead Plaintiff and Defendants shall have the right to terminate the Settlement and this Stipulation by providing written notice of their election to do so (“Termination Notice”) to all other Parties hereto within thirty (30) calendar days of: (a) the Court’s refusal to enter the Preliminary Approval Order; (b) the Court’s refusal to approve this Stipulation; (c) the Court’s refusal to enter the Judgment; (d) the date upon which the Judgment is reversed or vacated or altered following any appeal taken therefrom, or is successfully collaterally attacked; or (e) the failure of the Effective Date to occur for any reason. For avoidance of doubt, no order of the Court or modification or reversal on appeal of any order of the Court concerning the Plan of Allocation or the amount of any attorneys’ fees, expenses, and interest awarded by the Court to Lead Counsel or expenses to Lead Plaintiff shall operate to terminate or cancel this Stipulation or constitute grounds for cancellation or termination of the Stipulation.

7.6 In the event that this Stipulation is not approved or this Stipulation or the Settlement is terminated, canceled, or the Effective Date otherwise fails to occur for any reason, the Settling Parties shall not forfeit or waive any factual or legal defense or contention in the Litigation and shall

be restored to their respective positions in the Litigation as of May 19, 2025. In such event, the terms and provisions of the Stipulation, with the exception of ¶¶1.1-1.36, 2.10-2.18, 6.3, 7.3-7.7, 8.1, and 9.4 hereof, shall have no further force and effect with respect to the Settling Parties and shall not be used in this Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of this Stipulation shall be treated as vacated, *nunc pro tunc*.

7.7 If the Effective Date does not occur, or if this Stipulation is terminated pursuant to its terms, neither Lead Plaintiff nor Lead Plaintiff's Counsel shall have any obligation to repay any amounts disbursed pursuant to ¶¶2.12 or 2.14. In addition, any amounts already incurred pursuant to ¶¶2.12 or 2.14 hereof at the time of such termination or cancellation but which have not been paid, shall be paid by the Escrow Agent in accordance with the terms of this Stipulation prior to the balance being refunded in accordance with ¶¶2.17 and 7.3 hereof.

8. No Admission of Wrongdoing

8.1 Neither the Settlement, this Stipulation (whether or not consummated), including the Exhibits hereto and the Plan of Allocation contained therein (or any other plan of allocation that may be approved by the Court), the negotiations leading to the execution of this Stipulation and the Settlement, nor any acts, proceedings, communications, drafts, documents, or agreements taken pursuant to or in connection with this Stipulation, and/or approval of the Settlement (including any arguments proffered in connection therewith):

(a) shall be offered or received against or to the prejudice of any of the Released Defendant Parties as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by any Released Defendant Party of the truth of any allegations by Lead Plaintiff or any Member of the Class or the validity of any claim that has been or could have been asserted in the Litigation, or the deficiency of any defense that has been or could have been asserted

in the Litigation or in any other litigation, including, but not limited to, litigation of the Released Plaintiff's Claims, or of any liability, negligence, fault, or wrongdoing of any kind of any of the Released Defendant Parties or in any way referred to for any other reason as against any of the Released Defendant Parties, in any civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation;

(b) shall be offered or received against or to the prejudice of Lead Plaintiff or any Class Member as evidence that Lead Plaintiff's claims in any way lack merit or the validity of any affirmative defense that has been or could have been asserted in the Litigation, including, but not limited to, litigation of the Released Plaintiff's Claims;

(c) shall be offered or received against or to the prejudice of any Released Defendant Party as evidence of a presumption, concession, or admission of any fault, misrepresentation, scheme, or omission with respect to any statement or written document approved or made by any Released Defendant Party, or against Lead Plaintiff or any Member of the Class as evidence of any infirmity in the claims of Lead Plaintiff and the Class;

(d) shall be offered or received against or to the prejudice of any Released Defendant Party as evidence of a presumption, concession, or admission of any liability, negligence, fault, or wrongdoing, or in any way referred to for any other reason as against any of the Parties to this Stipulation, in any other civil, criminal, or administrative action or proceeding; provided, however, that if this Stipulation is approved by the Court, the Released Defendant Parties may refer to it to effectuate the release granted them hereunder; or

(e) shall be construed against the Released Defendant Parties, Lead Plaintiff, or the Class as evidence of a presumption, concession, or admission that the consideration to be given

hereunder represents the amount which could be or would have been recovered after trial or in any proceeding other than this Settlement.

9. Miscellaneous Provisions

9.1 The Settling Parties: (a) acknowledge that it is their intent to consummate this Settlement; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Stipulation and to exercise their best efforts to accomplish the foregoing terms and conditions of this Stipulation.

9.2 The Settling Parties intend this Settlement to be a final and complete resolution of all disputes between them with respect to the Litigation. The Settlement compromises all claims that were or are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. Pursuant to 15 U.S.C. §78u-4(c)(1), the Settling Parties agree that the Judgment will contain a finding that, during the course of the Litigation, the Settling Parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11. The Settling Parties agree that the Settlement Amount and the other terms of the Settlement were negotiated in good faith by the Settling Parties, and reflect a settlement that was reached voluntarily after consultation with competent legal counsel.

9.3 Defendants and/or the Released Defendant Parties may file this Stipulation and/or the Judgment from this Litigation in any other action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, statute of limitations, statute of repose, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim, or to effectuate any liability protection under any applicable insurance policy. The Settling Parties may file this Stipulation and/or the Judgment in any action that may be brought to enforce the terms of this

Stipulation and/or the Judgment. All Settling Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement.

9.4 All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Stipulation.

9.5 All of the Exhibits to this Stipulation are material and integral parts hereof and are fully incorporated herein by this reference. Notwithstanding the foregoing, in the event that there exists a conflict or inconsistency between the terms of this Stipulation and the terms of any exhibit attached hereto, the terms of the Stipulation shall prevail.

9.6 This Stipulation, along with its Exhibits, may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.

9.7 This Stipulation, the Exhibits attached hereto, and the Supplemental Agreement (if necessary) constitute the entire agreement among the Settling Parties hereto as to the subject matter hereof and supersede any prior or contemporaneous written or oral agreements or understandings between the Settling Parties. No representations, warranties, or inducements have been made to any party concerning this Stipulation, or its Exhibits, or the Supplemental Agreement (if necessary), other than the representations, warranties, and covenants contained and memorialized in such documents.

9.8 Except as otherwise provided herein, each party shall bear his, her, or its own fees and costs.

9.9 Lead Counsel, on behalf of the Class, is expressly authorized by Lead Plaintiff to take all appropriate action required or permitted to be taken by the Class pursuant to this Stipulation to

effectuate its terms and also is expressly authorized to enter into any modifications or amendments to this Stipulation on behalf of the Class which it deems appropriate.

9.10 Each counsel or other Person executing this Stipulation, its Exhibits, the Supplemental Agreement, or any related Settlement document, on behalf of any party hereto hereby warrants that such Person has the full authority to do so, and that they have the authority to take appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms, without requiring additional consent, approval, or authorization of any other Person, board, entity, tribunal, or other regulatory or governmental authority.

9.11 This Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of executed counterparts shall be filed with the Court. Signatures sent by facsimile or pdf via e-mail shall be deemed originals.

9.12 All notices, requests, demands, claims, and other communications hereunder shall be in writing and shall be deemed duly given: (a) when delivered personally to the recipient, including via email; (b) one (1) business day after being sent to the recipient by reputable overnight courier service (charges prepaid); or (c) seven (7) business days after being mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid, and addressed to the intended recipient as set forth below:

If to Lead Plaintiff or to Lead Counsel:

ROBBINS GELLER RUDMAN
& DOWD LLP
ELLEN GUSIKOFF STEWART
655 West Broadway, Suite 1900
San Diego, CA 92101

If to Defendants or to Defendants' Counsel:

KING & SPALDING LLP
LISA R. BUGNI
1180 Peachtree Street, N.E.
Atlanta, GA 30309

9.13 This Stipulation shall be binding upon, and inure to the benefit of, the successors, heirs, and assigns of the Settling Parties.

9.14 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Stipulation, and all Settling Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in this Stipulation and matters related to the Settlement.

9.15 Any waiver of any of the terms of this Stipulation must be in writing, signed by the party against whom the waiver is sought to be enforced. The waiver by one Settling Party of any breach of this Stipulation by any other party shall not be deemed a waiver by any other Settling Party or a waiver of any other prior or subsequent breach of this Stipulation.

9.16 Pending approval of the Court of this Stipulation and its Exhibits, all proceedings in this Litigation shall be stayed and all Members of the Class shall be barred and enjoined from prosecuting any of the Released Plaintiff's Claims against any of the Released Defendant Parties.

9.17 This Stipulation and its Exhibits and the Supplemental Agreement shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the State of Tennessee and the rights and obligations of the parties to the Stipulation shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Tennessee without giving effect to its choice-of-law principles, except to the extent that federal law requires that federal law govern.

9.18 Any action arising under or to enforce this Stipulation or any portion thereof shall be commenced and maintained only in the Court.

9.19 The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

9.20 This Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Settling Parties, it being recognized that it is the result of arm's-length negotiations between the Settling Parties and the Settling Parties have contributed substantially and materially to the preparation of this Stipulation.

9.21 Nothing in the Stipulation, or the negotiations relating thereto, is intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, attorney-client privilege, joint defense privilege, or work product protection.

9.22 Whether or not this Stipulation or the Settlement is approved, the Settling Parties and their counsel shall use their best efforts to keep all non-public negotiations, discussions, acts performed, agreements, drafts, documents signed, and proceedings had in connection with this Stipulation confidential. Notwithstanding the foregoing, the Settling Parties agree that this Stipulation may be filed publicly as part of any motion for preliminary or final approval of the Settlement.

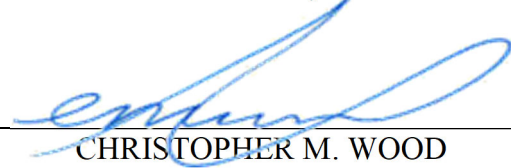
9.23 Unless otherwise provided, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of this Stipulation without further order of the Court.

9.24 No opinion or advice concerning the tax consequences of the Settlement to individual Class Members is being given or will be given by the Settling Parties or their counsel; nor is any representation or warranty in this regard made by virtue of this Stipulation. Each Class Member's

tax obligations, and the determination thereof, are the sole responsibility of the Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Class Member.

IN WITNESS HEREOF, the Parties hereto have caused this Stipulation to be executed, by their duly authorized attorneys, dated June 23, 2025.

ROBBINS GELLER RUDMAN
& DOWD LLP
CHRISTOPHER M. WOOD, #032977



CHRISTOPHER M. WOOD

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Attorneys for Defendants Tivity Health, Inc.,
Donato Tramuto, Adam C. Holland, and Dawn
Zier

EXHIBIT A

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

ROBERT STROUGO, Individually and on	)	Civil Action No. 3:20-cv-00165
Behalf of All Others Similarly Situated,)	
	)	<u>CLASS ACTION</u>
Plaintiff,)	
	)	Judge Waverly D. Crenshaw, Jr.
vs.	)	Magistrate Judge Jeffery S. Frensley
)	
TIVITY HEALTH, INC., et al.,	)	[PROPOSED] ORDER PRELIMINARILY
	)	APPROVING SETTLEMENT AND
Defendants.	)	PROVIDING FOR NOTICE
)	
_____	)	EXHIBIT A

WHEREAS, an action is pending before this Court entitled *Strougo v. Tivity Health, Inc., et al.*, Civil Action No. 3:20-cv-00165 (M.D. Tenn.) (the “Litigation”);

WHEREAS, on June 7, 2022, the Court certified the Litigation to proceed as a class action on behalf of the following class (the “Class”):

All Persons who purchased or otherwise acquired Tivity Health, Inc. (“Tivity Health”) common stock between March 8, 2019, and February 19, 2020, inclusive. Excluded from the Class are: Defendants, members of their immediate families, any entity of which a Defendant has a controlling interest, and the legal representatives, heirs, predecessors, successors, or assigns of any excluded party.

WHEREAS, Sheet Metal Workers Local No. 33, Cleveland District, Pension Fund has been appointed Lead Plaintiff and Robbins Geller Rudman & Dowd LLP has been appointed Lead Counsel;

WHEREAS, notice of pendency of the Litigation was provided to Class Members in October 2024 (the “Notice of Pendency”), and Class Members were afforded an opportunity to seek exclusion, which has since expired;

WHEREAS, no Class Members sought exclusion from the Class in response to the Notice of Pendency;

WHEREAS, Lead Plaintiff having made application, pursuant to Federal Rule of Civil Procedure 23(e), for an order preliminarily approving the settlement of this Litigation, in accordance with the Stipulation of Settlement between Lead Plaintiff and Defendants, dated June 23, 2025 (the “Stipulation”), which, together with the Exhibits annexed thereto, sets forth the terms and conditions for a proposed settlement of the Litigation (“Settlement”) and for dismissal of the Litigation with prejudice upon the terms and conditions set forth therein; and the Court having been presented with the Stipulation for review on Lead Plaintiff’s unopposed motion and having read and considered the Stipulation and the Exhibits annexed thereto;

WHEREAS, the Stipulation does not provide for a further opportunity for Class Members to seek exclusion; and

WHEREAS, unless otherwise defined, all capitalized terms used herein have the same meanings as set forth in the Stipulation.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. After a preliminary review, the Settlement appears to be fair, reasonable, and adequate. The Settlement: (i) resulted from arm’s-length negotiations overseen by experienced mediators; (ii) eliminates the risks to the Settling Parties of continued litigation; (iii) does not provide undue preferential treatment to Lead Plaintiff or to segments of the Class; (iv) does not provide excessive compensation to counsel for the Class; and (v) appears to fall within the range of possible approval and is therefore sufficiently fair, reasonable, and adequate to warrant providing notice of the Settlement to the Class. Accordingly, the Court does hereby preliminarily approve the Settlement set forth in the Stipulation, subject to further consideration at the Settlement Hearing described below.

2. A hearing (the “Settlement Hearing”) shall be held before this Court on _____, 2025, at __: __ .m. [a date that is at least 100 days from the date of this Order], at the United States District Court for the Middle District of Tennessee, Fred D. Thompson U.S. Courthouse and Federal Building, 719 Church Street, Nashville, TN 37203, for the following purposes:

- (a) to determine whether the Settlement is fair, reasonable, and adequate, and should be approved by the Court;
- (b) to finally determine whether Judgment as provided in the Stipulation should be entered, dismissing the Complaint on the merits and with prejudice, and to determine whether the release by the Class of the Released Defendant Parties as set forth in the Stipulation, should be ordered, along with a permanent injunction barring efforts to bring any Released Plaintiff’s Claims or Released Defendants’ Claims extinguished by the Settlement;
- (c) to finally determine whether the proposed Plan of Allocation for the distribution of the Net Settlement Fund is fair and reasonable and should be approved by the Court;
- (d) to consider the application of Lead Counsel for an award of attorneys’ fees and expenses, including an award to Lead Plaintiff pursuant to 15 U.S.C. §78u-4(a)(4);
- (e) to consider any Class Member’s objections to the Settlement, Plan of Allocation, or application for fees and expenses; and
- (f) to rule upon such other matters as the Court may deem appropriate.

3. The Court may adjourn the Settlement Hearing without further notice to the Members of the Class, and reserves the right to approve the Settlement with such modifications as may be

agreed upon or consented to by the Settling Parties and without further notice to the Class where to do so would not impair Class Members' rights in a manner inconsistent with Rule 23 of the Federal Rules of Civil Procedure and due process of law. The Court further reserves the right to enter its Judgment approving the Settlement and dismissing the Complaint, on the merits and with prejudice, regardless of whether it has approved the Plan of Allocation or awarded attorneys' fees and expenses.

4. The Court approves, as to form and content, the Notice of Proposed Settlement of Class Action (the "Notice"), the Proof of Claim and Release form (the "Proof of Claim"), the Summary Notice, and the Postcard Notice, annexed hereto as Exhibits 1, 2, 3, and 4, respectively, and finds that the distribution of the Postcard Notice by email or regular mail (where an email is unavailable) and publishing of the Summary Notice, substantially in the manner and form set forth in ¶¶7-8 of this Order, meet the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process, and is the best notice practicable under the circumstances and shall constitute due and sufficient notice to all Persons entitled thereto.

5. Other than the fees, costs, and expenses of providing notice pursuant to the Class Action Fairness Act, 28 U.S.C. §1715, which have or shall be paid as set forth in the Stipulation, all fees, costs, and expenses incurred in identifying and notifying potential Class Members shall be paid from the Settlement Fund as set forth in the Stipulation, and in no event shall any of the Released Defendant Parties or Releasing Plaintiff Parties bear any responsibility for such fees, costs, or expenses.

6. The firm of Verita Global ("Claims Administrator") is hereby appointed to supervise and administer the notice procedure as well as the processing of Claims as more fully set forth below.

7. Lead Counsel, through the Claims Administrator, shall commence emailing or mailing (where an email is unavailable) the Postcard Notice, substantially in the form annexed hereto, within twenty (20) calendar days after the Court signs this Order (the “Notice Date”), by email or by first-class mail to all Class Members who can be identified with reasonable effort. Contemporaneously with the emailing or mailing of the Postcard Notice, the Claims Administrator shall cause the Notice and Proof of Claim, substantially in the forms attached hereto, to be posted on the Settlement website at www.TivityHealthSecuritiesLitigation.com, from which copies of the documents can be downloaded.

8. Not later than seven (7) calendar days after the Notice Date, the Claims Administrator shall cause the Summary Notice to be published once in the national edition of *The Wall Street Journal* and once over a national newswire service.

9. At least seven (7) calendar days prior to the Settlement Hearing, Lead Counsel shall serve on Defendants’ Counsel and file with the Court proof, by affidavit or declaration, of such emailing, mailing, and publishing.

10. Nominees who purchased or acquired Tivity Health common stock for the beneficial ownership of Class Members during the Class Period shall: (i) within seven (7) calendar days of receipt of the Postcard Notice request from the Claims Administrator sufficient copies of the Postcard Notice to forward to all such beneficial owners and within seven (7) calendar days of receipt of those documents forward them to all such beneficial owners; or (ii) within seven (7) calendar days of receipt of the Postcard Notice, send a list of the names and addresses, including email addresses where available, of all such beneficial owners to the Claims Administrator in which event the Claims Administrator shall promptly email or mail (where an email is unavailable) the Postcard Notice to such beneficial owners. If a nominee elects to send the Postcard Notice to

beneficial owners, such nominee is directed to email or mail (where an email address is unavailable) the Postcard Notice within seven (7) calendar days of receipt of those documents from the Claims Administrator, and upon such emailing or mailing, the nominee shall send a statement to the Claims Administrator confirming that the emailing or mailing was made as directed, and the nominee shall retain the list of names and addresses for use in connection with any possible future notice to the Class. Upon full compliance with these instructions, including the timely emailing or mailing of the Postcard Notice to beneficial owners, such nominees may seek reimbursement of their reasonable expenses actually incurred in complying with these instructions by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought and reflecting compliance with these instructions. Reasonable out-of-pocket expenses actually incurred in connection with the foregoing includes up to \$0.03 for providing names, addresses, and email addresses to the Claims Administrator per record; up to a maximum of \$0.03 per Postcard Notice mailed by the nominee, plus postage at the rate used by the Claims Administrator; or \$0.03 per Postcard Notice sent by email. Such properly documented expenses incurred by nominees in compliance with the terms of these instructions will be paid from the Settlement Fund.

11. Any Postcard Notice provided by a third-party must include a link to the website www.TivityHealthSecuritiesLitigation.com as well as contact information for the Claims Administrator.

12. In order to be entitled to participate in the recovery from the Net Settlement Fund after the Effective Date, each Class Member shall take the following action and be subject to the following conditions:

- (a) A properly completed and executed Proof of Claim must be submitted to the Claims Administrator, at the post office box or electronic mailbox indicated in the Notice and Proof of Claim, postmarked no later than ninety (90) calendar days from the Notice Date. Such deadline may be further extended by Order of the Court. Each Proof of Claim shall be deemed to have been submitted when legibly postmarked (if properly addressed and mailed by first-class mail). Any Proof of Claim submitted in any other manner shall be deemed to have been submitted when it was actually received by the Claims Administrator at the address designated in the Notice.
- (b) The Proof of Claim submitted by each Class Member must satisfy the following conditions: (i) it must be properly filled out, signed, and submitted in a timely manner in accordance with the provisions of the preceding subparagraph; (ii) it must be accompanied by adequate supporting documentation for the transactions reported therein, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation as is deemed adequate by the Claims Administrator or Lead Counsel; (iii) if the person executing the Proof of Claim is acting in a representative capacity, a certification of their current authority to act on behalf of the Class Member must be provided with the Proof of Claim; and (iv) the Proof of Claim must be complete and contain no material deletions or modifications of any of the printed matter contained therein and must be signed under penalty of perjury.

- (c) Once the Claims Administrator has considered a timely submitted Proof of Claim, it shall determine whether such Claim is valid, deficient, or rejected. For each Claim determined to be either deficient or rejected, the Claims Administrator shall send a deficiency letter or rejection letter as appropriate, describing the basis on which the Claim was so determined. Persons who timely submit a Proof of Claim that is deficient or otherwise rejected shall be afforded a reasonable time (at least twenty (20) calendar days) to cure such deficiency if it shall appear that such deficiency may be cured.
- (d) For the filing of and all determinations concerning their Proof of Claim, each Class Member shall submit to the jurisdiction of the Court.

13. Any Class Member who does not submit a valid Proof of Claim within the time provided for shall be barred from sharing in the distribution of the proceeds of the Net Settlement Fund, but will in all other respects be subject to and bound by the provisions of the Stipulation and the Judgment, if entered. Notwithstanding the foregoing, Lead Counsel shall have the discretion (but not an obligation) to accept late-submitted Claims for processing by the Claims Administrator so long as the distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed thereby, but will bear no liability for failing to accept such late Claims.

14. Any Member of the Class may enter an appearance in the Litigation, at their own expense, individually or through counsel of their own choice. If they do not enter an appearance, they will be represented by Lead Counsel.

15. All Class Members shall be bound by all determinations and judgments in this Litigation, whether favorable or unfavorable. Pursuant to the Court's Order dated September 26, 2024 (ECF 272), a Class Member wishing to be excluded from the Class had to submit to the Claims

Administrator a request for exclusion (“Request for Exclusion”), by first-class mail, or otherwise hand-deliver it, such that it was postmarked no later than December 2, 2024, to the address listed in the Notice of Pendency. No Persons sought exclusion from the Class. The Court has determined that no further exclusion opportunity is necessary or appropriate in connection with the Settlement. Any Class Member who did not submit a valid and timely written Request for Exclusion as provided by this paragraph shall be bound by the Stipulation and the Judgment, if entered.

16. The Court will consider comments or objections to the Settlement or the Stipulation that comprises the Settlement, the Plan of Allocation, or Lead Counsel’s request for an award of attorneys’ fees and expenses, including an award to Lead Plaintiff pursuant to 15 U.S.C. §78u-4(a)(4), only if such comments or objections and any supporting papers are delivered by hand or sent by First-Class Mail such that they are received, not simply postmarked, on or before twenty-one (21) calendar days prior to the Settlement Hearing, by Robbins Geller Rudman & Dowd LLP, Attn: Ellen Gusikoff Stewart, 655 West Broadway, Suite 1900, San Diego, CA 92101; and King & Spalding LLP, Lisa R. Bugni, 1180 Peachtree Street, N.E., Suite 1600, Atlanta, GA 30309, and filed said objections, papers, and briefs with the Clerk of the United States District Court for the Middle District of Tennessee, 719 Church Street, Nashville, TN 37203 on or before twenty-one (21) calendar days prior to the Settlement Hearing. Attendance at the Settlement Hearing is not necessary, but any Person wishing to be heard orally in opposition to the Settlement (in whole or in part), the Plan of Allocation, or the application for attorneys’ fees and expenses is required to indicate in their written objection whether they intend to appear at the Settlement Hearing. The notice of objection must include documentation establishing the objecting Person’s membership in the Class, including the date(s), price(s), and number of shares of Tivity Health common stock purchased, acquired, held, or sold between March 8, 2019, and February 19, 2020, inclusive; and a

statement of reasons for the objection, including whether it applies only to the objector, to a specific subset of the Class, or to the entire Class. The objection must identify all other class action settlements the objector and his, her, or its counsel has previously objected to, copies of any papers, briefs, or other documents upon which the objection is based, and contain the objector's signature, even if represented by counsel. Any Member of the Class who does not make his, her, or its objection in the manner provided shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the Settlement as set forth in the Stipulation, to the Plan of Allocation, or to the award of attorneys' fees, expenses to Lead Counsel or award to Lead Plaintiff unless otherwise ordered by the Court. Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.

17. All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

18. All opening briefs and supporting documents in support of the Settlement, the Plan of Allocation, and any application by Lead Counsel for attorneys' fees and expenses and award to Lead Plaintiff shall be filed and served no later than thirty-five (35) calendar days before the Settlement Hearing, or _____, 2025. Replies to any objections shall be filed and served at least seven (7) calendar days prior to the Settlement Hearing, or _____, 2025.

19. The Released Defendant Parties shall have no responsibility, interest in, or liability whatsoever for the Plan of Allocation or any application for attorneys' fees or expenses submitted by Lead Counsel, and such matters will be considered separately from the fairness, reasonableness, and adequacy of the Settlement. Any order or proceeding relating to the Plan of Allocation or any application for attorneys' fees or expenses, or award to Lead Plaintiff pursuant to 15 U.S.C.

§78u-4(a)(4) or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel the Stipulation, or affect or delay the finality of the Judgment approving the Stipulation and the Settlement of the Litigation.

20. At or after the Settlement Hearing, the Court shall determine whether the Plan of Allocation proposed by Lead Counsel, and any application for attorneys' fees or payment of expenses shall be approved.

21. All reasonable expenses incurred in identifying and notifying Class Members, as well as administering the Settlement Fund, shall be paid as set forth in the Stipulation.

22. Neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an admission or concession by the Defendants of the truth of any of the allegations in the Litigation, or of any liability, fault, or wrongdoing of any kind.

23. If the Settlement set forth in the Stipulation is not approved or consummated for any reason whatsoever (in whole or in part), the Stipulation and Settlement and all proceedings had in connection therewith shall be without prejudice to the rights of the Settling Parties *status quo ante* as set forth in the Stipulation.

24. Pending final determination of whether the proposed Settlement should be approved, neither the Lead Plaintiff, nor any Class Member, directly or indirectly, representatively, or in any other capacity, shall institute, commence, or prosecute against any of the Settling Parties, any action or proceeding in any court, tribunal, or other forum asserting any of the Released Plaintiff's Claims.

IT IS SO ORDERED.

DATED: _____

HONORABLE WAVERLY D. CRENSHAW, JR.
UNITED STATES DISTRICT JUDGE

EXHIBIT A-1

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF TENNESSEE

ROBERT STROUGO, Individually and on	)	Civil Action No. 3:20-cv-00165
Behalf of All Others Similarly Situated,)	
	)	<u>CLASS ACTION</u>
Plaintiff,)	
	)	Judge Waverly D. Crenshaw, Jr.
vs.	)	Magistrate Judge Jeffery S. Frensley
)	
TIVITY HEALTH, INC., et al.,	)	NOTICE OF PROPOSED SETTLEMENT OF
	)	CLASS ACTION
Defendants.)	
	)	EXHIBIT A-1

A Federal Court Authorized This Notice. This Is Not a Solicitation from a Lawyer.

IF YOU PURCHASED OR OTHERWISE ACQUIRED TIVITY HEALTH, INC. (“TIVITY HEALTH”) COMMON STOCK BETWEEN MARCH 8, 2019, AND FEBRUARY 19, 2020, INCLUSIVE, A CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS

NOTICE OF SETTLEMENT: Please be advised that Lead Plaintiff Sheet Metal Workers Local No. 33, Cleveland District, Pension Fund, on behalf of the Class (as defined in ¶1 below), has reached a proposed settlement of the Litigation with Defendants for \$17.05 million in cash that will resolve all claims against all Defendants in the Litigation (the “Settlement”).

This Notice explains important rights you may have, including your possible receipt of cash from the Settlement. Your legal rights will be affected whether or not you act. Please read this Notice carefully.

1. **Description of the Action and the Class:** This Notice relates to a proposed Settlement reached in a class action lawsuit pending against the following defendants: Tivity Health, Donato Tramuto, Adam C. Holland, and Dawn Zier (“Defendants”) (collectively, with Lead Plaintiff, the “Settling Parties”). The proposed Settlement, if approved by the Court, will apply to the following Class (the “Class”): All Persons who purchased or otherwise acquired Tivity Health common stock between March 8, 2019, and February 19, 2020, inclusive. Excluded from the Class are: Defendants, members of their immediate families, any entity of which a Defendant has a controlling interest, and the legal representatives, heirs, predecessors, successors, or assigns of any excluded party. An opportunity to be excluded from the Class was previously provided to the Class and no member of the Class requested exclusion. No further exclusion opportunity is being provided under the Settlement.

2. **Statement of Class’s Recovery:** Subject to Court approval, and as described more fully in ¶¶3-6 below, Lead Plaintiff, on behalf of the Class, has agreed to settle all Released

Plaintiff's Claims (as defined in the Stipulation of Settlement ("Stipulation")) against Defendants and other Released Defendant Parties (as defined in the Stipulation) in exchange for a settlement payment of \$17.05 million in cash (the "Settlement Amount"). The Net Settlement Fund (the Settlement Fund less the amount of the Fee and Expense Award and any award to Lead Plaintiff, if requested, and to the extent allowed by the Court, Taxes and Tax Expenses, Notice and Administration Expenses, any other fees or expenses approved by the Court) will be distributed in accordance with a plan of allocation (the "Plan of Allocation") that will be approved by the Court and will determine how the Net Settlement Fund shall be distributed to Members of the Class. The Plan of Allocation is a basis for determining the relative positions of Class Members for purposes of allocating the Net Settlement Fund. The proposed Plan of Allocation is included in this Notice, and may be modified by the Court without further notice.

3. **Statement of Average Distribution Per Share:** The Settlement Fund consists of the \$17.05 million Settlement Amount plus interest earned. The estimated average recovery is \$0.70 per damaged share before fees and expenses. Class Members may recover more or less than this amount depending on, among other factors, the aggregate value of the Recognized Claims represented by valid and acceptable Claim Forms as explained in the Plan of Allocation; when their Tivity Health shares were purchased or acquired and the price at the time of purchase or acquisition; and whether the shares were sold, and if so, when they were sold and for how much. In addition, the actual recovery of Class Members may be further reduced by the payment of fees and costs from the Settlement Fund, as approved by the Court.

4. **Statement of the Parties' Position on Damages:** Defendants deny all claims of wrongdoing, that they engaged in any wrongdoing, that they are liable to Lead Plaintiff and/or the Class, and that Lead Plaintiff or other Members of the Class suffered any injury. Moreover, the Parties do not agree on the amount of recoverable damages if Lead Plaintiff prevailed on each of the claims. The issues on which the Parties disagree include, but are not limited to, whether: (i) the statements made or facts allegedly omitted were material, false, or misleading; (ii) Defendants engaged in a scheme to defraud; (iii) Defendants are otherwise liable under the securities laws for those statements, omissions, or scheme; and (iv) all or part of the damages allegedly suffered by Members of the Class were caused by economic conditions or factors other than the allegedly false or misleading statements, omissions, or scheme.

5. **Statement of Attorneys' Fees and Expenses Sought:** Lead Counsel will apply to the Court for an award of attorneys' fees from the Settlement Fund of no more than 25% of the Settlement Amount, plus interest earned at the same rate and for the same period as earned by the Settlement Fund. In addition, Lead Counsel also will apply to the Court for payment from the Settlement Amount for Lead Plaintiff's Counsel's litigation expenses, in a total amount not to exceed \$2,000,000, plus interest earned at the same rate and for the same period as earned by the Settlement Fund. If the Court approves Lead Counsel's fee and expense application, the estimated average cost per damaged share is \$0.26. In addition, Lead Counsel will apply for an award to Lead Plaintiff in an amount not to exceed \$26,000 pursuant to 15 U.S.C. §78u-4(a)(4) in connection with its representation of the Class.

6. **Identification of Attorneys' Representatives:** Lead Plaintiff and the Class are being represented by Robbins Geller Rudman & Dowd LLP ("Lead Counsel"). Any questions regarding the Settlement should be directed to Ellen Gusikoff Stewart at Robbins Geller Rudman & Dowd

LLP, 655 W. Broadway, Suite 1900, San Diego, CA 92101, 1-800-449-4900, settlementinfo@rgrdlaw.com.

YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT	
DO NOTHING	Get no payment. Remain a Class Member. Give up your rights.
SUBMIT A CLAIM FORM POSTMARKED OR SUBMITTED ONLINE NO LATER THAN [____], 2025	This is the only way to be potentially eligible to receive a payment. If you wish to obtain a payment as a Member of the Class, you will need to file a Proof of Claim and Release form (the “Claim Form” or “Proof of Claim Form”), postmarked or submitted online no later than _____, 2025.
OBJECT TO THE SETTLEMENT SO THAT IT IS RECEIVED NO LATER THAN [____], 2025	Write to the Court about your view on the Settlement, or why you do not think the Settlement is fair to the Class. You may object to the Settlement, the Plan of Allocation, or the request for attorneys’ fees and litigation expenses. You must still submit a Claim Form in order to be potentially eligible to receive any money from the Net Settlement Fund.
GO TO THE HEARING ON [____], 2025, AT __:__.M., AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS RECEIVED NO LATER THAN [____], 2025	Ask to speak in Court about the fairness of the Settlement, the proposed Plan of Allocation, and/or the request for attorneys’ fees and litigation expenses.

WHAT THIS NOTICE CONTAINS	
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WHAT IS THE PURPOSE OF THIS NOTICE?

7. The purpose of this Notice is to inform you about: (i) this Litigation; (ii) the terms of the proposed Settlement; and (iii) your rights in connection with a hearing to be held before the United States District Court for the Middle District of Tennessee (the “Court”), on _____, 2025, at _____.m., to consider the fairness, reasonableness, and adequacy of the Settlement and related matters. This Notice also describes the steps to be taken by those who wish to seek to be potentially eligible to share in the distribution of the Net Settlement Fund in the event the Settlement is approved by the Court.

8. A class action is a type of lawsuit in which the claims of a number of individuals are resolved together, thus providing the class members with both consistency and efficiency. In a class action lawsuit, the Court selects one or more people, known as class representatives, to sue on behalf of all people with similar claims, commonly known as the class or the class members. In this Litigation, the Court has certified the Class and appointed Lead Plaintiff as the representative of the Class.

9. The Court in charge of this case is the United States District Court for the Middle District of Tennessee, and the case is known as *Strougo v. Tivity Health, Inc., et al.*, Civil Action No. 3:20-cv-00165 (M.D. Tenn.). The judge presiding over this case is the Honorable Waverly D. Crenshaw, Jr., United States District Judge. The pension fund which is suing is called Lead Plaintiff, and those who are being sued are called Defendants. In this case, the Defendants are Tivity Health, Donato Tramuto, Adam C. Holland, and Dawn Zier.

10. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. It also informs you of the terms of the proposed Settlement, and of a hearing to be held by the Court to consider, among other things, the fairness, reasonableness, and adequacy of the proposed Settlement, the proposed Plan of Allocation, and the application by Lead Counsel for attorneys’ fees and litigation expenses (the “Settlement Hearing”).

11. The Court will conduct a Settlement Hearing on _____, 2025, at ____:____.m., at the United States District Court for the Middle District of Tennessee, Fred D. Thompson U.S. Courthouse and Federal Building, 719 Church Street, Nashville, TN 37203, for the following purposes:

- (a) to determine whether the proposed Settlement on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate and should be approved by the Court;
- (b) to determine whether the Judgment as provided for under the Stipulation should be entered;
- (c) to determine whether the proposed Plan of Allocation for the net proceeds of the Settlement is fair and reasonable and should be approved by the Court;

(d) to determine whether the application by Lead Counsel for an award of attorneys' fees and litigation expenses (including an award to Lead Plaintiff pursuant to 15 U.S.C. §78u-4(a)(4)) should be approved; and

(e) to rule upon such other matters as the Court may deem appropriate.

12. This Notice does not express any opinion by the Court concerning the merits of any claim in the Litigation, and the Court still has to decide whether to approve the Settlement. If the Court approves the Settlement, payments to Authorized Claimants will be made after appeals, if any, are resolved, and after the completion of all claims processing. This process takes time. Please be patient.

WHAT IS THIS CASE ABOUT? WHAT HAS HAPPENED SO FAR?

13. The Litigation is currently pending before Judge Waverly D. Crenshaw, Jr. in the United States District Court for the Middle District of Tennessee (the "Court"). The initial complaint in the Litigation was filed on February 25, 2020. On August 18, 2020, the Court appointed Sheet Metal Workers Local No. 33, Cleveland District, Pension Fund as Lead Plaintiff and Robbins Geller Rudman & Dowd LLP as Lead Counsel.

14. **Pleadings:** On November 13, 2020, Lead Plaintiff filed the Consolidated Complaint (the "Complaint") alleging violations of §§10(b) and 20(a) of the Securities Exchange Act of 1934 (the "Exchange Act"), and U.S. Securities and Exchange Commission Rule 10b-5. On December 4, 2020, Defendants moved to dismiss the Complaint. Lead Plaintiff filed its opposition to the motion on January 4, 2021, and Defendants filed their reply on January 11, 2021. On July 29, 2021, the Court issued an Order denying Defendants' motion to dismiss. Defendants answered the Complaint on August 27, 2021.

15. **Discovery:** On August 27, 2021, the Court held a case management conference and the initial case management order was entered. On September 17, 2021, Lead Plaintiff and Defendants exchanged their Rule 26(a) initial disclosures after which the parties conducted extensive fact and expert discovery. In all, Defendants and third parties produced more than 800,000 pages of documents, and the parties conducted 28 fact and expert depositions.

16. **Class Certification:** On October 26, 2021, Lead Plaintiff moved to certify the Class. Defendants filed their opposition on November 30, 2021. On January 21, 2022, Lead Plaintiff filed its reply in support of its class certification motion. In accordance with the Court's March 9, 2022 directive, the Parties filed supplemental class certification briefing on April 8, 2022. On June 7, 2022, the Court granted Lead Plaintiff's class certification motion.

17. On June 22, 2022, Defendants filed a petition pursuant to Fed. R. Civ. P. 23(f) for permission to appeal the Court's order certifying the class. Lead Plaintiff filed its opposition to the petition on July 1, 2022. The Sixth Circuit Court of Appeals granted Defendants' Rule 23(f) petition on November 21, 2022 vacated class certification, and remanded to the Court for further proceedings. Lead Plaintiff moved for a revised class certification order on December 5, 2022, which the Court granted on June 7, 2023. Defendants filed a second Rule 23(f) petition on June 22,

2023 seeking permission to appeal class certification. Pending resolution of Defendants' petition, the Court granted Defendants' motion to stay the litigation on July 27, 2023. On September 10, 2024, the Sixth Circuit Court of Appeals denied Defendants' petition and on September 26, 2024, the Court lifted the stay order. Notice of the pendency of this Litigation as a class action was provided in October 2024 pursuant to the Court's September 26, 2024 Order.

18. **Summary Judgment:** On April 7, 2023, Defendants moved for summary judgment and Lead Plaintiff sought leave to move for partial summary judgment. On April 21, 2023, Defendants filed their opposition to Lead Plaintiff's motion. Lead Plaintiff filed its opposition to Defendants' motion for summary judgment on May 5, 2023, and Defendants filed their reply in support of the motion on May 19. On February 20, 2025, the Court denied Lead Plaintiff's motion for permission to file a motion for partial summary judgment. With respect to Defendants' motion for summary judgment, the Court heard argument on February 24, 2025, and granted in part and denied in part Defendants' motion for summary judgment on April 21, 2025.

19. **Trial:** On March 4, 2025, the Court set trial for June 2, 2025 and provided deadlines for pretrial submissions. The Parties completed substantial preparations for trial, including extensive motion practice. On April 14, the Parties exchanged their proposed witness lists, exhibit lists, and deposition testimony. On April 28, the Parties filed *Daubert* motions objecting to expert testimony and motions *in limine*. Additionally, Lead Plaintiff filed a damages brief. On May 2, the Parties submitted expert reports, a joint proposed pretrial order, stipulation of facts, pretrial briefs, witness lists, trial exhibit lists, proposed disputed jury instructions, joint proposed jury instructions, proposed verdict forms and objections to the opposing party's aforementioned submissions. On May 5, the Parties filed responses to the opposing party's April 28 filings. On May 9, the Parties submitted additional briefing pursuant to the Court's May 7 order, in regards to the joint proposed pretrial order. The Court heard argument on the Parties' respective *Daubert* motions on May 12-13 and granted Defendants' motion to exclude one of Lead Plaintiff's experts on May 16.

20. Neither the Court nor a jury have made a ruling on the merits of Lead Plaintiff's allegations or on Defendants' denials and defenses. By authorizing this Notice, the Court is not suggesting that the Lead Plaintiff would win or lose this case.

21. In the course of the Litigation, the Settling Parties engaged the services of Gregory P. Lindstrom and Miles N. Ruthberg, each with Phillips ADR, and each nationally recognized mediators. The Settling Parties engaged in formal mediation and additional settlement discussions with Mr. Lindstrom and thereafter Mr. Ruthberg on multiple occasions and ultimately an agreement was reached to settle the Litigation for \$17.05 million.

22. Lead Plaintiff sought and obtained an order granting preliminary approval of the Settlement and permitting notice to the Class, which was entered on _____, 2025.

HOW DO I KNOW IF I AM AFFECTED BY THE SETTLEMENT?

23. If you are a Member of the Class, you are subject to the Settlement as the Settlement does not provide for an additional exclusion opportunity. The Class consists of all Persons who purchased or otherwise acquired Tivity Health common stock between March 8, 2019, and February

19, 2020, inclusive. Anyone with questions as to whether or not they are excluded from the Class may call the Claims Administrator toll-free at 1-888-756-7630.

RECEIPT OF THIS NOTICE OR THE POSTCARD NOTICE DOES NOT NECESSARILY MEAN THAT YOU ARE A CLASS MEMBER OR THAT YOU ARE ENTITLED TO RECEIVE PROCEEDS FROM THE SETTLEMENT. IF YOU WISH TO BE POTENTIALLY ELIGIBLE TO RECEIVE A DISTRIBUTION OF THE SETTLEMENT PROCEEDS, YOU MUST COMPLETE, SIGN, AND SUBMIT THE CLAIM FORM POSTMARKED OR SUBMITTED ONLINE (AT WWW.TIVITYHEALTHSECURITIESLITIGATION.COM) NO LATER THAN [____], 2025.

WHAT ARE LEAD PLAINTIFF'S REASONS FOR THE SETTLEMENT?

24. Lead Plaintiff and Lead Counsel believe that the claims asserted against Defendants have merit. Lead Plaintiff and Lead Counsel recognize, however, the risk of pursuing their claims against Defendants through trial and appeals, as well as the difficulties in establishing liability and damages. Lead Plaintiff and Lead Counsel have considered the amount of the Settlement, as well as the uncertain outcome and risk in complex lawsuits like this one. Such risks include, in particular, the risk that Lead Plaintiff would be unsuccessful in proving at trial that Defendants' alleged misstatements were materially false and misleading, made with scienter (that is, the requisite state of mind), or caused compensable damages to the Class.

25. In light of the amount of the Settlement and the immediacy of recovery to the Class, Lead Plaintiff and Lead Counsel believe that the proposed Settlement is fair, reasonable, adequate, and in the best interests of the Class. Lead Plaintiff and Lead Counsel believe that the Settlement provides a substantial benefit now, namely \$17.05 million in cash (less the various deductions described in this Notice), as compared to the risk that the claims would produce a smaller recovery, or no recovery after trial and any appeals, possibly years in the future.

26. Defendants have denied and continue to deny each and all of the claims alleged by Lead Plaintiff in the Litigation. Defendants expressly have denied and continue to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Litigation. Defendants also have denied and continue to deny, among other things, the allegations that Lead Plaintiff or the Class have suffered any damage, that Lead Plaintiff or the Class were harmed by the conduct alleged in the Litigation, or that the Litigation is properly certifiable as a class action.

WHAT MIGHT HAPPEN IF THERE WERE NO SETTLEMENT?

27. If there were no Settlement and Lead Plaintiff failed to establish any essential legal or factual element of the alleged claims at trial, neither Lead Plaintiff nor the Class would recover anything from Defendants. Also, if Defendants were successful in proving any of their defenses, the

Class likely would recover substantially less than the amount provided in the Settlement, or nothing at all.

HOW MUCH WILL MY PAYMENT BE?

28. Defendants have agreed to pay or cause to be paid Seventeen Million Fifty Thousand Dollars (\$17,050,000.00) in cash into escrow for the benefit of the Class. At this time, it is not possible to make any determination as to how much individual Class Members may receive from the Settlement. Lead Plaintiff has proposed a plan for allocating the Net Settlement Fund to those Class Members who timely submit valid Proof of Claim Forms. The Plan of Allocation proposed by Lead Plaintiff is set forth below, and additional information is available on the case-specific website, www.TivityHealthSecuritiesLitigation.com.

29. The Court has reserved jurisdiction to allow, disallow, or adjust on equitable grounds the claim of any Member of the Class.

30. Each claimant shall be deemed to have submitted to the jurisdiction of the United States District Court for the Middle District of Tennessee, with respect to his, her, or its Claim Form.

PLAN OF ALLOCATION

31. The Settlement Amount of \$17,050,000 together with any interest earned thereon is the “Settlement Fund.” The Settlement Fund, less all taxes, tax expenses, notice and claims administration expenses, and approved fees and expenses (the “Net Settlement Fund”) shall be distributed to Class Members who submit timely and valid Proof of Claim Forms to the Claims Administrator (“Authorized Claimants”).

32. The objective of the Plan of Allocation is to equitably distribute the Net Settlement Fund among Class Members based on their respective alleged economic losses resulting from the securities law violations alleged in the Litigation.

33. In this case, Lead Plaintiff alleges that Defendants engaged in a scheme to defraud and made materially false and misleading statements and omissions during the Class Period, which had the effect of artificially inflating the trading price of Tivity Health common stock. Lead Plaintiff alleges that corrective information was released to the market, resulting in potentially recoverable damages (“Corrective Disclosures”).

34. The Plan of Allocation is intended to compensate investors who purchased or otherwise acquired Tivity Health common stock during the Class Period, held through the issuance of at least one Corrective Disclosure, and have a “Recognized Loss Amount” as described below.¹

¹ For purposes of identifying the date of sale, any transactions in Tivity Health common stock executed outside regular trading hours for the U.S. financial markets shall be deemed to have occurred during the next trading session.

35. The Plan of Allocation is not a formal damages analysis. The Recognized Loss Amount is not intended to estimate the amount a Class Member may have been able to recover after a trial, nor to estimate the amount the Class Member will receive. It is a formula for allocating the Net Settlement Fund among all Authorized Claimants. The allocation below is based on the following inflation per share amounts for Class Period stock purchases and sales as well as the statutory PSLRA 90-day look-back amount of \$8.02 per share of Tivity Health common stock.²

36. The Plan of Allocation was developed in consultation with the Lead Plaintiff's in-house damages expert. In developing the Plan of Allocation, the expert calculated the estimated amount of alleged artificial inflation in the prices of Tivity Health common stock that was allegedly proximately caused by Defendants' misconduct. In calculating the estimated impact allegedly caused by those misrepresentations and omissions, the damages expert considered the price changes in Tivity Health common stock in reaction to the public disclosures that allegedly corrected the alleged scheme, misrepresentation or omissions, adjusting the price changes for factors that were attributable to market or industry forces, and for non-fraud-related company-specific information.

37. Based on the formulas stated below, a Recognized Loss Amount will be calculated for each purchase or acquisition of Tivity Health common stock during the Class Period that is listed on the Claim Form and for which adequate documentation is provided. If a Recognized Loss Amount calculates to a negative number or zero under the formula below, that Recognized Loss Amount will be zero. A claimant's "Recognized Claim" under the Plan of Allocation will be the sum of their Recognized Loss Amounts.

38. The allocation below is based on the following inflation per share amounts for Class Period share purchases and sales as well as the statutory PSLRA 90 day-look back amount of \$8.02. Furthermore, if any of the formulas set forth below yield an amount less than \$0.00 the claim per share is zero.

Inflation Period	Inflation per share
March 8, 2019 – December 8, 2019	\$8.41
December 9, 2019 – February 19, 2020	\$8.19

For Tivity Health shares purchased, or acquired, on or between March 8, 2019 through and including February 19, 2020, the claim per share shall be as follows:

² "In any private action arising under this [Exchange Act] in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated to the market." Consistent with §28(D)(e)(1) of the Exchange Act, Recognized Loss Amounts for Tivity Health common stock are reduced to an appropriate extent by taking into account the closing prices of Tivity Health common stock and during the 90-day look-back period. The mean (average) closing price for Tivity Health common stock during this 90 day look-back period was \$8.02 per share.

- (a) If sold prior to December 9, 2019, the claim per share is \$0.00.
- (b) If sold on or between December 9, 2019 and February 19, 2020, the claim per share shall be the lesser of: (i) the inflation per share at the time of purchase less the inflation per share at the time of sale; and (ii) the difference between the purchase price and the selling price.
- (c) If retained at the end of February 19, 2020 and sold on or before May 19, 2020, the claim per share shall be the least of: (i) the inflation per share at the time of purchase; (ii) the difference between the purchase price and the selling price; and (iii) the difference between the purchase price and the average closing price up to the date of sale as set forth in Table A below.
- (d) If retained at the end of May 19, 2020, or sold thereafter, the claim per share shall be the lesser of: (i) the inflation per share at the time of purchase; and (ii) the difference between the purchase price and \$8.02.

TABLE A

DATE	PRICE	AVERAGE CLOSING PRICE
2/20/2020	\$12.50	\$12.50
2/21/2020	\$12.00	\$12.25
2/24/2020	\$13.01	\$12.50
2/25/2020	\$13.36	\$12.72
2/26/2020	\$12.14	\$12.60
2/27/2020	\$12.01	\$12.50
2/28/2020	\$12.67	\$12.53
3/02/2020	\$13.30	\$12.62
3/03/2020	\$11.86	\$12.54
3/04/2020	\$12.00	\$12.49
3/05/2020	\$11.63	\$12.41
3/06/2020	\$10.91	\$12.28
3/09/2020	\$8.89	\$12.02
3/10/2020	\$9.00	\$11.81
3/11/2020	\$7.90	\$11.55
3/12/2020	\$4.93	\$11.13
3/13/2020	\$4.36	\$10.73
3/16/2020	\$3.16	\$10.31
3/17/2020	\$3.16	\$9.94
3/18/2020	\$2.68	\$9.57
3/19/2020	\$3.09	\$9.26
3/20/2020	\$3.84	\$9.02
3/23/2020	\$4.32	\$8.81
3/24/2020	\$5.71	\$8.68
3/25/2020	\$7.20	\$8.63

DATE	PRICE	AVERAGE CLOSING PRICE
3/26/2020	\$6.89	\$8.56
3/27/2020	\$7.07	\$8.50
3/30/2020	\$6.43	\$8.43
3/31/2020	\$6.29	\$8.36
4/01/2020	\$5.27	\$8.25
4/02/2020	\$5.11	\$8.15
4/03/2020	\$4.73	\$8.04
4/06/2020	\$5.37	\$7.96
4/07/2020	\$5.62	\$7.89
4/08/2020	\$6.25	\$7.85
4/09/2020	\$6.50	\$7.81
4/13/2020	\$6.40	\$7.77
4/14/2020	\$6.78	\$7.75
4/15/2020	\$6.39	\$7.71
4/16/2020	\$6.23	\$7.67
4/17/2020	\$6.74	\$7.65
4/20/2020	\$6.79	\$7.63
4/21/2020	\$6.75	\$7.61
4/22/2020	\$6.83	\$7.59
4/23/2020	\$7.33	\$7.59
4/24/2020	\$7.16	\$7.58
4/27/2020	\$7.65	\$7.58
4/28/2020	\$8.08	\$7.59
4/29/2020	\$9.48	\$7.63
4/30/2020	\$8.97	\$7.65
5/01/2020	\$9.09	\$7.68
5/04/2020	\$8.44	\$7.70
5/05/2020	\$9.65	\$7.73
5/06/2020	\$9.82	\$7.77
5/07/2020	\$11.36	\$7.84
5/08/2020	\$10.25	\$7.88
5/11/2020	\$9.37	\$7.91
5/12/2020	\$9.99	\$7.94
5/13/2020	\$8.50	\$7.95
5/14/2020	\$8.69	\$7.96
5/15/2020	\$8.65	\$7.98
5/18/2020	\$9.69	\$8.00
5/19/2020	\$9.16	\$8.02

39. For Class Members who held Tivity Health common stock at the beginning of the Class Period or made multiple purchases, acquisitions, or sales during the Class Period, the First-In, First-Out (“FIFO”) method will be applied to such holdings, purchases, acquisitions, and sales for purposes of calculating a claim. Under the FIFO method, sales of Tivity Health common stock

during the Class Period will be matched, in chronological order, first against Tivity Health common stock held at the beginning of the Class Period. The remaining sales of Tivity Health common stock during the Class Period will then be matched, in chronological order, against Tivity Health common stock purchased or acquired during the Class Period.

40. A Class Member will be eligible to receive a distribution from the Net Settlement Fund only if a Class Member had a net overall loss, after all profits from transactions in Tivity Health common stock described above during the Class Period are subtracted from all losses. However, the proceeds from sales of Tivity Health common stock that have been matched against Tivity Health common stock held at the beginning of the Class Period will not be used in the calculation of such net loss. The Net Settlement Fund will be distributed to Authorized Claimants on a *pro rata* basis, based on the relative size of their Recognized Claims. Specifically, a “Distribution Amount” will be calculated for each Authorized Claimant, which will be the Authorized Claimant’s Recognized Claim divided by the total Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund. No distributions will be made to Authorized Claimants who would otherwise receive a distribution of less than \$10.00.

41. If a claimant suffered an overall market loss with respect to their overall transactions in Tivity Health common stock during the Class Period but that market loss was less than the claimant’s total Recognized Claim calculated above, then the claimant’s Recognized Claim will be limited to the amount of the actual market loss. For purposes of determining whether a claimant had a market gain, or suffered a market loss, with respect to a claimant’s overall transactions of Tivity Health common stock during the Class Period, the Claims Administrator will determine the difference between the claimant’s (i) Total Purchase Amount³ and (ii) the sum of the Total Sales Proceeds⁴ and Total Holding Value.⁵

42. A purchase, acquisition, or sale of Tivity Health common stock shall be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date. All purchase, acquisition, and sale prices shall exclude any fees and commissions. The receipt or

³ The “Total Purchase Amount” is the total amount the claimant paid (excluding commissions and other charges) for Tivity Health common stock purchased or otherwise acquired during the Class Period.

⁴ The Claims Administrator will match any sales of Tivity Health common stock from the start of the Class Period through and including the close of trading on May 19, 2020, first against the claimant’s opening position (the proceeds of those sales will not be considered for purposes of calculating market gains or losses). The total amount received (excluding commissions and other charges) for the remaining sales of Tivity Health common stock from the start of the Class Period through and including the close of trading on May 19, 2020 will be the “Total Sales Proceeds.”

⁵ The Claims Administrator will ascribe a holding value equal to \$8.02 for each share of Tivity Health common stock purchased or acquired during the Class Period and still held as of the close of trading on May 19, 2020. A claimant’s total holding values for Tivity Health common stock purchased or acquired during the Class Period that were still held as of the close of trading on May 19, 2020 shall be the claimant’s “Total Holding Value.”

grant by gift, devise, or operation of law of Tivity Health common stock during the Class Period shall not be deemed a purchase, acquisition, or sale of Tivity Health common stock for the calculation of a claimant's Recognized Claim nor shall it be deemed an assignment of any claim relating to the purchase or acquisition of such security unless specifically provided in the instrument of gift or assignment. The receipt of Tivity Health common stock during the Class Period in exchange for securities of any other corporation or entity shall not be deemed a purchase or acquisition of Tivity Health common stock.

43. The date of covering a "short sale" is deemed to be the date of purchase or acquisition of the Tivity Health common stock. The date of a "short sale" is deemed to be the date of sale of Tivity Health common stock. Under the Plan of Allocation, however, the Recognized Loss Amount on "short sales" is zero. In the event that a claimant has an opening short position in Tivity Health common stock, their earliest Class Period purchases or acquisitions of Tivity Health common stock will be matched against the opening short position, and not be entitled to a recovery, until that short position is fully covered.

44. After the initial distribution of the Net Settlement Fund, the Claims Administrator shall make reasonable and diligent efforts to have Authorized Claimants cash their distribution checks. To the extent any monies remain in the fund within a reasonable time after the initial distribution, if Lead Counsel, in consultation with the Claims Administrator, determine that it is cost-effective to do so, the Claims Administrator shall conduct a re-distribution of the funds remaining after payment of any unpaid fees and expenses incurred in administering the Settlement, including for such re-distribution, to Authorized Claimants who have cashed their initial distributions. Additional re-distributions to Authorized Claimants who have cashed their prior checks may occur thereafter if Lead Counsel, in consultation with the Claims Administrator, determine that additional re-distributions, after the deduction of any additional fees and expenses incurred in administering the Settlement, including for such re-distributions, would be cost-effective. At such time as it is determined that the re-distribution of funds remaining in the Net Settlement Fund is not cost-effective, the remaining balance shall be contributed to a nonprofit, non-sectarian 501(c)(3) organization(s) chosen by Lead Counsel.

45. Payment pursuant to the Plan of Allocation, or such other plan of allocation as may be approved by the Court, shall be conclusive against all Authorized Claimants. No person shall have any claim against Lead Plaintiff, Lead Plaintiff's Counsel, Lead Plaintiff's damages expert, Class Members, the Claims Administrator or other agent designated by Lead Counsel, or the Released Defendant Parties and/or their respective counsel, arising from distributions made substantially in accordance with the Stipulation, the Plan of Allocation approved by the Court, or further orders of the Court. Lead Plaintiff, and Defendants, their respective counsel, Lead Plaintiff's damages expert, and all other releasees shall have no responsibility or liability whatsoever for the investment or distribution of the Settlement Fund, the Net Settlement Fund, the Plan of Allocation, or the determination, administration, calculation, or payment of any Claim Form or nonperformance of the Claims Administrator, the payment or withholding of taxes (including interest and penalties) owed by the Settlement Fund, or any losses incurred in connection therewith.

46. The Plan of Allocation set forth herein is the plan that is being proposed to the Court for its approval by Lead Plaintiff after consultation with its damages expert. The Court may approve this plan as proposed or it may modify the Plan of Allocation without further notice to the Class.

Any orders regarding any modification of the Plan of Allocation will be posted on the Settlement website.

WHAT RIGHTS AM I GIVING UP BY AGREEING TO THE SETTLEMENT?

47. If the Settlement is approved, the Court will enter a judgment (the “Judgment”). The Judgment will dismiss with prejudice the claims against Defendants and will provide that Lead Plaintiff, and all other Releasing Plaintiff Parties (as defined in the Stipulation) shall have waived, released, discharged, and dismissed each and every one of the Released Plaintiff’s Claims (as defined in the Stipulation), including Unknown Claims (as defined in the Stipulation), against each and every one of the Released Defendant Parties (as defined in the Stipulation) and shall forever be barred and enjoined from commencing, instituting, prosecuting, or maintaining any and all of the Released Plaintiff’s Claims against any and all of the Released Defendant Parties, whether or not they execute and deliver the Claim Form or share in the Settlement Fund. Claims to enforce the terms of the Settlement are not released.

WHAT PAYMENT ARE THE ATTORNEYS FOR THE CLASS SEEKING? HOW WILL THE LAWYERS BE PAID?

48. Lead Counsel has not received any payment for its services in pursuing claims against Defendants on behalf of the Class, nor has Lead Counsel been paid for its expenses. Before final approval of the Settlement, Lead Counsel intends to apply to the Court for an award of attorneys’ fees from the Settlement Fund of no more than 25% of the Settlement Amount, plus interest. At the same time, Lead Counsel also intends to apply for payment from the Settlement Amount for counsel’s litigation expenses in a total amount not to exceed \$2,000,000, plus interest. The Court will determine the amount of the award of fees and expenses. Lead Plaintiff may also seek an award not to exceed \$26,000 pursuant to 15 U.S.C. §78u-4(a)(4) in connection with its representation of the Class. Such sums as may be approved by the Court will be paid from the Settlement Fund. Class Members are not personally liable for any such fees or expenses.

HOW DO I PARTICIPATE IN THE SETTLEMENT? WHAT DO I NEED TO DO?

49. If you fall within the definition of the Class as described above, and you are not excluded by the definition of the Class, then you are a Class Member, and you will accordingly be bound by the proposed Settlement if the Court approves it, and by any judgment or determination of the Court affecting the Class. If you are a Class Member, you must submit a Claim Form and supporting documentation to establish your potential entitlement to share in the proceeds of the Settlement. You may go to the website maintained by the Claims Administrator for the Settlement to download a Claim Form. The website is www.TivityHealthSecuritiesLitigation.com. You may also request a Claim Form by calling toll-free 1-888-756-7630. Those who do not submit timely and valid Claim Forms with adequate supporting documentation, will not be entitled to share in the proceeds of the Settlement unless otherwise ordered by the Court. Please retain all original records of your ownership of, or transactions in the shares, as they may be needed to document your claim.

50. As a Class Member, for purposes of the Settlement, you are represented by Lead Plaintiff, and Lead Counsel, unless you enter an appearance through counsel of your own choice at your own expense. You are not required to retain your own counsel, but if you choose to do so, such counsel must file a notice of appearance on your behalf.

51. If you wish to object to the Settlement or any of its terms, the proposed Plan of Allocation, or Lead Counsel's application for attorneys' fees and litigation expenses, you may present your objections by following the instructions in the section entitled, "When and Where Will the Court Decide Whether to Approve the Settlement?" below.

**WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE
SETTLEMENT?
DO I HAVE TO COME TO THE HEARING?
MAY I SPEAK AT THE HEARING IF I DO NOT LIKE THE SETTLEMENT?**

52. **If you do not wish to object in person to the proposed Settlement, the proposed Plan of Allocation, and/or the application for attorneys' fees and litigation expenses, you do not need to attend the Settlement Hearing. You can object to or participate in the Settlement without attending the Settlement Hearing.**

53. The Settlement Hearing will be held on _____, 2025, at __:__.m., before the Honorable Waverly D. Crenshaw, Jr., at the United States District Court for the Middle District of Tennessee, Fred D. Thompson U.S. Courthouse and Federal Building, 719 Church Street, Nashville, TN 37203. The Court reserves the right to approve the Settlement or the Plan of Allocation, Lead Counsel's motion for an award of attorneys' fees and expenses, and/or any other matter related to the Settlement at or after the Settlement Hearing without further notice to the Members of the Class.

54. Any Class Member may object to the Settlement, the Plan of Allocation, or Lead Counsel's request for an award of attorneys' fees and litigation expenses.⁶ You can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a different settlement; the Court can only approve or reject the Settlement or the Stipulation that comprise it. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue.

55. Any objection to the proposed Settlement must be in writing. If you file a timely written objection, you may, but are not required to, appear at the Settlement Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. To object to any aspect of the Settlement, you must send a signed letter saying that you wish to object to the proposed settlement in *Strougo v. Tivity Health, Inc., et al.* Include your name, address, email address, telephone number, and your signature (even if you are represented by counsel), identify the date(s), price(s), and number of shares of Tivity Health common stock purchased, acquired, held, or sold during the Class Period, and state with specificity

⁶ Lead Plaintiff's initial motion papers in support of these matters will be filed with the Court on or before _____, 2025, and available after that date on the Settlement website, www.TivityHealthSecuritiesLitigation.com.

your comments or the reasons why you object to the Settlement, Plan of Allocation, and/or fee and expense application, including any legal and evidentiary support for such objection.

56. The objection must also include a statement of whether the objector intends to appear at the Settlement Hearing. The objection must state whether it applies only to the objector, to a specific subset of the Class, or to the entire Class. In addition, the objector must identify all class action settlements to which the objector and his, her, or its counsel have previously objected. Documentation establishing membership in the Class must consist of copies of brokerage confirmation slips or monthly brokerage account statements, or an authorized statement from the objector's broker containing the transactional and holding information found in a broker confirmation slip or account statement. Objectors who desire to present evidence at the Settlement Hearing in support of their objection must include in their written objection or notice of appearance the identity of any witnesses they may call to testify and any exhibits they intend to introduce into evidence at the hearing.

57. Your comments or objection must be filed with the Court and mailed or delivered to each of the following addresses such that it is **received** no later than _____, 2025:

COURT	LEAD COUNSEL	DEFENDANTS' COUNSEL
CLERK OF THE COURT UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF TENNESSEE Fred D. Thompson U.S. Courthouse and Federal Building 719 Church Street Nashville, TN 37203	Ellen Gusikoff Stewart Robbins Geller Rudman & Dowd LLP 655 W. Broadway, Suite 1900 San Diego, CA 92101	Lisa R. Bugni King & Spalding LLP 1180 Peachtree Street, N.E., Suite 1600 Atlanta, GA 30309

58. You may file a written objection without having to appear at the Settlement Hearing. You may not appear at the Settlement Hearing to present your objection, however, unless you have first filed a written objection in accordance with the procedures described above, unless the Court orders otherwise.

59. You are not required to hire an attorney to represent you in making written objections or in appearing at the Settlement Hearing. If you decide to hire an attorney, which will be at your own expense, however, they must file a notice of appearance with the Court so that the notice is received on or before _____, 2025.

60. The Settlement Hearing may be adjourned by the Court without further written notice to the Class, other than a posting of the adjournment on the Settlement website, www.TivityHealthSecuritiesLitigation.com. If you plan to attend the Settlement Hearing, you should confirm the date and time with Lead Counsel.

Unless the Court orders otherwise, any Class Member who does not object in the manner described above will be deemed to have waived any objection and shall be forever foreclosed from making any objection to the proposed Settlement, the proposed Plan of Allocation, or Lead Counsel's request for an award of attorneys' fees and litigation expenses. Class Members do not need to appear at the hearing or take any other action to indicate their approval.

WHAT IF I BOUGHT SHARES ON SOMEONE ELSE'S BEHALF?

61. Nominees who purchased or acquired Tivity Health common stock for beneficial owners who are Class Members are directed to: (i) request within seven (7) calendar days of receipt of the Postcard Notice sufficient copies of the Postcard Notice from the Claims Administrator to forward to all such beneficial owners; or (ii) send a list of the names and addresses (including email addresses if available) of such beneficial owners to the Claims Administrator within seven (7) calendar days after receipt of the Postcard Notice. If a nominee elects to send the Postcard Notice to beneficial owners, such nominee is directed to email or mail (where an email is unavailable) the Postcard Notice within seven (7) calendar days of receipt of those documents from the Claims Administrator, and upon such emailing or mailing, the nominee shall send a statement to the Claims Administrator confirming that the emailing or mailing was made as directed, and the nominee shall retain the list of names and addresses for use in connection with any possible future notice to the Class. Upon full compliance with these instructions, including the timely emailing or mailing of the Postcard Notice to beneficial owners, such nominees may seek reimbursement of their reasonable expenses actually incurred in complying with these instructions by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought and reflecting compliance with these instructions, including timely emailing or mailing of the Postcard Notice, if the nominee elected or elects to do so. Reasonable out-of-pocket expenses actually incurred in connection with the foregoing includes up to \$0.03 for providing names, addresses, and email addresses per record; up to a maximum of \$0.03 per Postcard Notice mailed, plus postage at the rate used by the Claims Administrator; or \$0.03 per Postcard Notice sent by email. Such properly documented expenses incurred by nominees in compliance with the terms of these instructions will be paid from the Settlement Fund. Copies of this Notice may also be obtained by calling toll-free 1-888-756-7630, and may be downloaded from the Settlement website, www.TivityHealthSecuritiesLitigation.com.

CAN I SEE THE COURT FILE? WHOM SHOULD I CONTACT IF I HAVE QUESTIONS?

62. This Notice contains only a summary of the terms of the proposed Settlement. More detailed information about the matters involved in the Litigation is available at www.TivityHealthSecuritiesLitigation.com, including, among other documents, copies of the Stipulation and Proof of Claim Form. This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Stipulation available at www.TivityHealthSecuritiesLitigation.com, or by contacting Lead Counsel below. You may also access the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://pacer.gov>, or by visiting the office of the Clerk of the Court for

the United States District Court for the Middle District of Tennessee, between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays. All inquiries concerning this Notice or the Claim Form should be directed to:

Tivity Health Securities Litigation
c/o Verita Global
P.O. Box 301171
Los Angeles, CA 90030-1171
1-888-756-7630
info@tivityhealthsecuritieslitigation.com

-or-

Ellen Gusikoff Stewart
ROBBINS GELLER RUDMAN & DOWD LLP
655 W. Broadway, Suite 1900
San Diego, CA 92101
1-800-449-4900
settlementinfo@rgrdlaw.com

**DO NOT CALL OR WRITE THE COURT, DEFENDANTS, DEFENDANTS'
COUNSEL, OR THE OFFICE OF THE CLERK OF COURT
REGARDING THIS NOTICE.**

Dated: _____

By Order of the Court
United States District Court
Middle District of Tennessee

EXHIBIT A-2

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

ROBERT STROUGO, Individually and on	)	Civil Action No. 3:20-cv-00165
Behalf of All Others Similarly Situated,)	
	)	<u>CLASS ACTION</u>
Plaintiff,)	
	)	Judge Waverly D. Crenshaw, Jr.
vs.	)	Magistrate Judge Jeffery S. Frensley
)	
TIVITY HEALTH, INC., et al.,	)	PROOF OF CLAIM AND RELEASE
)	
Defendants.	)	EXHIBIT A-2
_____)	

I. GENERAL INSTRUCTIONS

1. To recover as a Class Member based on the claims in the Litigation, you must complete and, on page ____ hereof, sign this Proof of Claim and Release (“Proof of Claim”). This Proof of Claim incorporates by reference the definitions in the Stipulation of Settlement dated June 23, 2025 (“Stipulation”), which can be obtained at www.TivityHealthSecuritiesLitigation.com. If you fail to submit a properly addressed (as set forth in paragraph 3 below) Proof of Claim, your claim may be rejected and you may be precluded from any recovery from the Net Settlement Fund created in connection with the proposed Settlement.

2. Submission of this Proof of Claim, however, does not assure that you will share in the proceeds of the Settlement of the Litigation.

3. YOU MUST MAIL OR SUBMIT ONLINE YOUR COMPLETED AND SIGNED PROOF OF CLAIM, ACCOMPANIED BY COPIES OF THE DOCUMENTS REQUESTED HEREIN, **ON OR BEFORE _____, 2025**, ADDRESSED AS FOLLOWS:

Tivity Health Securities Litigation
Claims Administrator
c/o Verita Global
P.O. Box 301171
Los Angeles, CA 90030-1171

Online Submissions:
www.TivityHealthSecuritiesLitigation.com

If you are NOT a Class Member, as defined in the Notice of Proposed Settlement of Class Action (“Notice”), DO NOT submit a Proof of Claim.

4. If you are a Class Member, you are bound by the terms of any judgment entered in the Litigation, including the releases provided therein, WHETHER OR NOT YOU SUBMIT A PROOF OF CLAIM.

II. CLAIMANT IDENTIFICATION

You are a Member of the Class if you purchased or otherwise acquired Tivity Health common stock between March 8, 2019, and February 19, 2020, inclusive (the “Class Period”) and are not otherwise excluded from the Class.

Use Part I of this form entitled “Claimant Identification” to identify each holder, purchaser, or acquirer of record (“nominee”) of the Tivity Health common stock that forms the basis of this claim. THIS PROOF OF CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL PURCHASER(S) OR ACQUIRER(S) OR THE LEGAL REPRESENTATIVE OF SUCH PURCHASER(S) OR ACQUIRER(S) OF THE TIVITY HEALTH COMMON STOCK UPON WHICH THIS CLAIM IS BASED.

All joint purchasers or acquirers must sign this Proof of Claim. Executors, administrators, guardians, conservators, and trustees must complete and sign this claim on behalf of persons represented by them and their authority must accompany this claim and their titles or capacities must be stated. The last four digits of the Social Security Number (or full Taxpayer Identification

Number) and telephone number of the beneficial owner may be used in verifying the claim. Failure to provide the foregoing information could delay verification of your claim or result in the rejection of the claim.

A Proof of Claim should be submitted for each separate legal entity (*e.g.*, a claim of joint owners should not include separate transactions of just one of the joint owners, and an individual should not combine his or her IRA transactions with transactions made solely in the individual's name). Conversely, a single Proof of Claim should be submitted on behalf of one legal entity including all transactions made by that entity, no matter how many separate accounts that entity has (*e.g.*, an institution with multiple brokerage accounts that the entity has transacted in Tivity Health common stock during the Class Period).

III. CLAIM FORM

Use Part II of this form entitled "Schedule of Transactions in Tivity Health Common Stock" to supply all required details of your transaction(s). If you need more space or additional schedules, attach separate sheets giving all of the required information in substantially the same form. Sign and print or type your name on each additional sheet.

On the schedules, provide all of the requested information with respect to *all* of your purchases, acquisitions, and sales of Tivity Health common stock that took place between March 8, 2019 and May 19, 2020, inclusive, whether such transactions resulted in a profit or a loss. You must also provide all of the requested information with respect to the number of shares of Tivity Health common stock you held at the close of trading on March 7, 2019, February 19, 2020, and May 19, 2020. Failure to report all such transactions may result in the rejection of your claim.

List each transaction separately and in chronological order, by trade date, beginning with the earliest. You must accurately provide the month, day, and year of each transaction you list.

The date of covering a “short sale” is deemed to be the date of purchase or other acquisition of Tivity Health common stock. The date of a “short sale” is deemed to be the date of sale of Tivity Health common stock.

COPIES OF BROKER CONFIRMATIONS OR OTHER DOCUMENTATION OF YOUR TRANSACTIONS IN TIVITY HEALTH COMMON STOCK SHOULD BE ATTACHED TO YOUR PROOF OF CLAIM. FAILURE TO PROVIDE THIS DOCUMENTATION COULD DELAY VERIFICATION OF YOUR CLAIM OR RESULT IN THE REJECTION OF YOUR CLAIM. **THE PARTIES DO NOT HAVE INFORMATION ABOUT YOUR TRANSACTIONS IN TIVITY HEALTH COMMON STOCK.**

PLEASE NOTE: As set forth in the Plan of Allocation contained in the Notice, each Authorized Claimant shall receive his, her, its, or their *pro rata* share of the Net Settlement Fund. If the prorated payment to any Authorized Claimant calculates to less than \$10.00, it will not be included in the calculation and no distribution will be made to that Authorized Claimant.

NOTICE REGARDING ELECTRONIC FILES: Certain claimants with large numbers of transactions may request, or may be requested, to submit information regarding their transactions in electronic files. All claimants **MUST** submit a manually signed paper Proof of Claim listing all their transactions whether or not they also submit electronic copies. If you wish to submit your Proof of Claim electronically, you must contact the Claims Administrator at edata@veritaglobal.com to obtain the mandatory file layout. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues to the claimant a written acknowledgment of receipt and acceptance of electronically submitted data.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

Strougo v. Tivity Health, Inc., et al.

Civil Action No. 3:20-cv-00165

PROOF OF CLAIM AND RELEASE

Must Be Postmarked (if Mailed) or Received (if Submitted Online) No Later Than:

_____, 2025

Please Type or Print

REMEMBER TO ATTACH COPIES OF BROKER CONFIRMATIONS OR OTHER DOCUMENTATION OF YOUR TRANSACTIONS IN TIVITY HEALTH COMMON STOCK. FAILURE TO PROVIDE THIS DOCUMENTATION COULD DELAY VERIFICATION OF YOUR CLAIM OR RESULT IN THE REJECTION OF YOUR CLAIM.

PART I: CLAIMANT IDENTIFICATION	
Last Name	M.I. First Name
<input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/>
Last Name (Co-Beneficial Owner)	M.I. First Name (Co-Beneficial Owner)
<input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/>
<input type="radio"/> IRA <input type="radio"/> Joint Tenancy <input type="radio"/> Employee <input type="radio"/> Individual <input type="radio"/> Other (specify)	
Company Name (Beneficial Owner - If Claimant is not an Individual) or Custodian Name if an IRA	
<input type="text"/>	
Trustee/Asset Manager/Nominee/Record Owner's Name (If Different from Beneficial Owner Listed Above)	
<input type="text"/>	
Account#/Fund# (Not Necessary for Individual Filers)	
<input type="text"/>	
Social Security Number	Taxpayer Identification Number
<input type="text"/> - <input type="text"/> - <input type="text"/>	or <input type="text"/> - <input type="text"/>
Telephone Number (Primary Daytime)	Telephone Number (Alternate)
<input type="text"/> - <input type="text"/> - <input type="text"/>	<input type="text"/> - <input type="text"/> - <input type="text"/>
Email Address	
<input type="text"/>	
MAILING INFORMATION	
Address	
<input type="text"/>	
Address	
<input type="text"/>	
City	State Zip Code
<input type="text"/>	<input type="text"/> <input type="text"/>
Foreign Province	Foreign Postal Code Foreign Country Name/Abbreviation
<input type="text"/>	<input type="text"/> <input type="text"/>

PART II: SCHEDULE OF TRANSACTIONS IN TIVITY HEALTH COMMON STOCK

A. Number of shares of Tivity Health common stock held at the close of trading on March 7, 2019. If none, write "0" or "zero." ____

B. Purchases or other acquisitions of Tivity Health common stock between March 8, 2019 and May 19, 2020, inclusive:

Trade Date(s) Month Day Year (List chronologically)	Number of Shares Purchased or Otherwise Acquired	Total Purchase or Acquisition Price (Excluding commissions, taxes and fees)	Proof of Purchase/ Acquisition Enclosed
1. _____	1. _____	1. _____	<input type="checkbox"/> Y <input type="checkbox"/> N
2. _____	2. _____	2. _____	<input type="checkbox"/> Y <input type="checkbox"/> N
3. _____	3. _____	3. _____	<input type="checkbox"/> Y <input type="checkbox"/> N

IMPORTANT: (i) If any purchase listed covered a "short sale," please mark Yes: ☐ Yes

(ii) If you received shares through an acquisition or merger at some date beginning March 8, 2019 through May 19, 2020, please identify the date, the share amount, and the company acquired:

____/____/____
MM DD YYYY

Merger Shares

Company

C. Sales of Tivity Health common stock between March 8, 2019 and May 19, 2020, inclusive:

Trade Date Month Day Year	Number of Shares Sold	Total Sales Price (Excluding commissions, taxes and fees)	Proof of Sale Enclosed
1. _____	1. _____	1. _____	<input type="checkbox"/> Y <input type="checkbox"/> N
2. _____	2. _____	2. _____	<input type="checkbox"/> Y <input type="checkbox"/> N
3. _____	3. _____	3. _____	<input type="checkbox"/> Y <input type="checkbox"/> N

D. Number of Tivity Health common shares held at the close of trading on February 19, 2020: _____

Proof of Position Enclosed: ☐ Yes ☐ No

E. Number of Tivity Health common shares held at the close of trading on May 19, 2020: _____

Proof of Position Enclosed: ☐ Yes ☐ No

YOU MUST READ AND SIGN THE RELEASE ON PAGE __. FAILURE TO SIGN THE RELEASE MAY RESULT IN A DELAY IN PROCESSING OR THE REJECTION OF YOUR CLAIM.

IV. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS

I (We) submit this Proof of Claim under the terms of the Stipulation described in the Notice. I (We) also submit to the jurisdiction of the United States District Court for the Middle District of Tennessee with respect to my (our) claim as a Class Member and for purposes of enforcing the release set forth herein. I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment that may be entered in the Litigation. I (We) agree to furnish additional information to the Claims Administrator to support this claim if requested to do so. I (We) have not submitted any other claim covering the same purchases, other acquisitions, holdings, or sales of Tivity Health common stock during the relevant period and know of no other person having done so on my (our) behalf.

V. RELEASE

1. I (We) hereby acknowledge full and complete satisfaction of, and do hereby fully, finally, and forever waive, release, relinquish, discharge, and dismiss from the Released Plaintiff's Claims each and all of the "Released Defendant Parties," as defined in the Stipulation.

2. "Released Plaintiff's Claims" is defined in the Stipulation.

3. These releases shall be of no force or effect unless and until the Court approves the Stipulation and the Settlement becomes effective on the Effective Date.

4. I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to this release or any other part or portion thereof.

5. I (We) hereby warrant and represent that I (we) have included information about all of my (our) transactions in Tivity Health common stock that occurred during the relevant period as

well as the number of shares held by me (us) at the close of trading on March 7, 2019, February 19, 2020, and May 19, 2020.

I (We) declare under penalty of perjury under the laws of the United States of America that all of the foregoing information supplied on this Proof of Claim by the undersigned is true and correct.

Executed this _____ day of _____
(Month/Year)

in _____
(City) (State/Country)

(Sign your name here)

(Type or print your name here)

(Capacity of person(s) signing,
e.g., Beneficial Purchaser or Acquirer,
Executor or Administrator)

**ACCURATE CLAIMS PROCESSING TAKES A
SIGNIFICANT AMOUNT OF TIME.
THANK YOU FOR YOUR PATIENCE.**

Reminder Checklist:

1. Please sign the above release and acknowledgment.
2. Remember to attach copies of supporting documentation.
3. **Do not send** originals of certificates or other documentation as they will not be returned.
4. Keep a copy of your Proof of Claim and all supporting documentation for your records.
5. If you desire an acknowledgment of receipt of your Proof of Claim, please send it Certified Mail, Return Receipt Requested.
6. If you move, please send your new address to the address below.
7. **Do not use red pen or highlighter** on the Proof of Claim or supporting documentation.

**THIS PROOF OF CLAIM MUST BE SUBMITTED ONLINE OR MAILED NO
LATER THAN _____, 2025, ADDRESSED AS FOLLOWS:**

Tivity Health Securities Litigation
Claims Administrator
c/o Verita Global
P.O. Box 301171
Los Angeles, CA 90030-1171

Online Submissions: www.TivityHealthSecuritiesLitigation.com

EXHIBIT A-3

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

ROBERT STROUGO, Individually and on	)	Civil Action No. 3:20-cv-00165
Behalf of All Others Similarly Situated,)	
	)	<u>CLASS ACTION</u>
Plaintiff,)	
	)	Judge Waverly D. Crenshaw, Jr.
vs.	)	Magistrate Judge Jeffery S. Frensley
)	
TIVITY HEALTH, INC., et al.,	)	SUMMARY NOTICE
)	
Defendants.	)	EXHIBIT A-3
_____)	

IF YOU PURCHASED OR OTHERWISE ACQUIRED TIVITY HEALTH, INC. (“TIVITY HEALTH”) COMMON STOCK BETWEEN MARCH 8, 2019, AND FEBRUARY 19, 2020, INCLUSIVE (THE “CLASS PERIOD”), YOU COULD RECEIVE A PAYMENT FROM A CLASS ACTION SETTLEMENT. CERTAIN PERSONS ARE EXCLUDED FROM THE DEFINITION OF THE CLASS AS SET FORTH IN THE STIPULATION OF SETTLEMENT.

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY
A CLASS ACTION LAWSUIT PENDING IN THIS COURT.

YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Middle District of Tennessee, that in the above-captioned litigation (the “Litigation”), a \$17.05 million settlement has been proposed (the “Settlement”). A hearing will be held on _____, 2025, at __:__.m., before the Honorable Waverly D. Crenshaw, Jr., at the United States District Court for the Middle District of Tennessee, Fred D. Thompson U.S. Courthouse and Federal Building, 719 Church Street, Nashville, TN 37203, for the purpose of determining, among other things, whether: (i) the proposed Settlement should be approved by the Court as fair, reasonable, and adequate; (ii) the proposed Plan of Allocation for distribution of the Settlement proceeds is fair, reasonable, and adequate and therefore should be approved; and (iii) the application of Lead Counsel for the payment of attorneys’ fees and

expenses from the Settlement Fund, including interest earned thereon, and an award to Lead Plaintiff pursuant to 15 U.S.C. §78u-4(a)(4), should be granted.

IF YOU ARE A MEMBER OF THE CLASS DESCRIBED ABOVE, YOUR RIGHTS WILL BE AFFECTED BY THE SETTLEMENT OF THE LITIGATION, AND YOU MAY BE ENTITLED TO SHARE IN THE NET SETTLEMENT FUND. You may obtain a copy of the Stipulation of Settlement, the Notice of Proposed Settlement of Class Action (“Notice”), and the Proof of Claim and Release form (“Proof of Claim”) at www.TivityHealthSecuritiesLitigation.com or by contacting the Claims Administrator: *Tivity Health Securities Litigation*, c/o Verita Global, P.O. Box 301171, Los Angeles, CA 90030-1171; 1-888-756-7630.

If you are a Class Member, to be eligible to share in the distribution of the Net Settlement Fund, you must submit a Proof of Claim by mail postmarked no later than _____, 2025, or electronically via the website by that date. If you are a Class Member and do not submit a valid Proof of Claim, you will not be eligible to share in the distribution of the Net Settlement Fund, but you will still be bound by any judgment entered by the Court in this Litigation (including the releases provided for therein).

No further exclusion opportunity is being provided under the Settlement. Because no Class Member excluded themselves previously when notice was provided, you will be bound by any judgment entered by the Court in this Litigation (including the releases provided for therein) whether or not you submit a Proof of Claim.

Any objection to the proposed Settlement, the Plan of Allocation, and/or the fee and expense application must be filed with the Court and sent to Lead Counsel and Defendants’ Counsel no later than _____, 2025, in the manner and form explained in the Notice.

PLEASE DO NOT CONTACT THE COURT, THE CLERK'S OFFICE, DEFENDANTS, OR DEFENDANTS' COUNSEL REGARDING THIS NOTICE. If you have any questions about the Settlement, or your eligibility to participate in the Settlement, you may contact Lead Counsel at the following address:

ROBBINS GELLER RUDMAN
& DOWD LLP
ELLEN GUSIKOFF STEWART
655 W. Broadway, Suite 1900
San Diego, CA 92101
settlementinfo@rgrdlaw.com
Telephone: 1-800-449-4900

DATED: _____

BY ORDER OF THE COURT
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

EXHIBIT A-4

LEGAL NOTICE

Strougo v. Tivity Health, Inc., et al.,
No. 3:20-cv-00165 (M.D. Tenn.)
c/o Verita Global
P.O. Box 301171
Los Angeles, CA 90030-1171

www.TivityHealthSecuritiesLitigation.com

Court-Ordered Legal Notice
(Forwarding Service Requested)

This notice contains important information about a securities class action settlement.

You may be entitled to a payment. This notice may affect your legal rights.

Please read this notice carefully.

[INCLUDE BARCODE FOR WEBSITE]

THIS POSTCARD PROVIDES ONLY LIMITED INFORMATION ABOUT THE SETTLEMENT.
VISIT WWW.TIVITYHEALTHSECURITIESLITIGATION.COM OR CALL 1-888-756-7630 FOR MORE INFORMATION.

If you purchased or otherwise acquired Tivity Health, Inc. (“Tivity Health”) common stock between March 8, 2019, and February 19, 2020, inclusive, you could be entitled to a payment from a proposed settlement (“Settlement”) reached in the above-captioned action (“Litigation”). Your rights may be affected by this Litigation and the Settlement. A hearing will be held on _____, 2025, at __:__.m., at the United States District Court for the Middle District of Tennessee, Fred D. Thompson U.S. Courthouse and Federal Building, 719 Church Street, Nashville, TN 37203 (“Settlement Hearing”), before the Honorable Waverly D. Crenshaw, Jr., to determine whether the proposed Settlement of the Litigation against Defendants Tivity Health, Donato Tramuto, Adam C. Holland, and Dawn Zier for \$17.05 million in cash and the Plan of Allocation should be approved as fair, reasonable, and adequate; whether the Litigation should be dismissed with prejudice against Defendants, as set forth in the Stipulation of Settlement (“Stipulation”) filed with the Court; and whether Lead Counsel’s application for an award of attorneys’ fees of up to 25% of the Settlement Amount, and expenses not to exceed \$2,000,000, plus interest on both amounts, and an award to Lead Plaintiff, should be granted.

If approved, the Settlement will resolve a putative class action lawsuit alleging that, in violation of the U.S. federal securities laws, the Defendants misled investors by making materially false and misleading statements, failed to disclose material information, and engaged in a fraudulent scheme which caused Tivity Health’s stock to trade at artificially inflated prices until the nature of the alleged wrongdoing was revealed, causing Tivity Health’s stock price to fall. Defendants deny the allegations and any liability or wrongdoing of any kind. For a full description of the proposed Settlement and your rights, and to make a claim, you may obtain the Stipulation, long-form Notice of Proposed Settlement of Class Action (“Notice”), and the Proof of Claim and Release form (“Claim Form”) by visiting the website: www.TivityHealthSecuritiesLitigation.com (“Website”) or you may request copies of the documents from the Claims Administrator by: (i) mail: *Tivity Health Securities Litigation*, c/o Verita Global, P.O. Box 301171, Los Angeles, CA 90030-1171, or (ii) toll-free call: 1-888-756-7630.

To qualify for a payment from the Settlement, you must submit a valid Claim Form, with supporting documentation, postmarked or submitted online no later than _____, 2025. Your *pro rata* share of the Settlement will depend on the number of valid claims, and the number, size, and timing of your transactions in Tivity Health common stock. The estimated average distribution per share is approximately \$0.70, before deducting any Court-approved fees and expenses. Your actual share of the Settlement will be determined pursuant to the proposed Plan of Allocation set forth in the Notice, or other plan approved by the Court.

You will be bound by any judgment or order entered in the Litigation, regardless of whether you submit a Claim Form. There is no further opportunity to exclude yourself from the Class. You may object to the proposed Settlement, Plan of Allocation, and/or request for award

of attorneys' fees and expenses and award to Lead Plaintiff no later than _____, 2025. The long-form Notice and the Website explain how to object.

Lead Plaintiff and the Class are represented by Lead Counsel: Ellen Gusikoff Stewart, Robbins Geller Rudman & Dowd LLP, 655 West Broadway, Suite 1900, San Diego, CA 92101, 1-800-449-4900, settlementinfo@rgrdlaw.com. You may, but do not have to, attend the Settlement Hearing to be heard. The Court reserves the right to hold the Settlement Hearing telephonically or by other virtual means and/or change its date and/or time. Please check the Website for updates.

EXHIBIT B

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

ROBERT STROUGO, Individually and on	)	Civil Action No. 3:20-cv-00165
Behalf of All Others Similarly Situated,)	
	)	<u>CLASS ACTION</u>
Plaintiff,)	
	)	Judge Waverly D. Crenshaw, Jr.
vs.	)	Magistrate Judge Jeffery S. Frensley
)	
TIVITY HEALTH, INC., et al.,	)	[PROPOSED] FINAL JUDGMENT AND
	)	ORDER OF DISMISSAL WITH PREJUDICE
Defendants.)	
	)	EXHIBIT B
_____)	

This matter came before the Court for hearing pursuant to the Order of this Court, dated _____, 2025 (the “Preliminary Approval Order”), on the application of the Settling Parties for approval of the Settlement set forth in the Stipulation of Settlement dated June 23, 2025 (the “Stipulation”).¹ Due and adequate notice having been given to the Class previously certified by the Court’s June 7, 2023 Order as required in the Preliminary Approval Order, the Court having considered all papers filed and proceedings held herein and otherwise being fully informed in the premises and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This Judgment incorporates by reference the definitions in the Stipulation, and all capitalized terms used herein shall have the same meanings as set forth in the Stipulation, unless otherwise stated herein.

2. This Court has jurisdiction over the subject matter of the Litigation and over all parties to the Litigation, including all Members of the Class.

¹ “Settling Parties” means Sheet Metal Workers Local No. 33, Cleveland District, Pension Fund (“Lead Plaintiff”) and Tivity Health, Inc., Donato Tramuto, Adam C. Holland, and Dawn Zier.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure and the Court's June 7, 2023 Order, the Class consists of all Persons who purchased or otherwise acquired Tivity Health common stock between March 8, 2019, and February 19, 2020, inclusive. Excluded from the Class are: Defendants, members of their immediate families, any entity of which a Defendant has a controlling interest, and the legal representatives, heirs, predecessors, successors, or assigns of any excluded party.

4. The Stipulation does not provide for a further opportunity for Class Members to seek exclusion, and the Court has determined that no such further exclusion opportunity is necessary or appropriate. No Class Members sought exclusion in response to the Notice of Pendency of Class Action provided to the Class in October 2024.

5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby approves the Settlement and finds that:

(a) in light of the benefits to the Class and the complexity and expense of further litigation, the Settlement is, in all respects, fair, reasonable, and adequate;

(b) there was no collusion in connection with the Stipulation;

(c) Lead Plaintiff and Lead Counsel have adequately represented the Class;

(d) the Stipulation was the product of informed, arm's-length negotiations among competent, able counsel;

(e) the relief provided for the Class is adequate, having taken into account: (i) the costs, risks, and delay of trial and likely subsequent appeals; (ii) the effectiveness of any proposed method of distributing relief to the Class, including the method of processing Class Member's claims; (iii) the terms of any proposed award of attorneys' fees, including timing of payment; and (iv) any agreement required to be identified under Federal Rule of Civil Procedure 23(e)(3);

(f) the proposed Plan of Allocation treats Class Members equitably relative to each other; and

(g) the record is sufficiently developed and complete to have enabled Lead Plaintiff and Defendants to have adequately evaluated and considered their positions.

6. Accordingly, the Court authorizes and directs implementation and performance of all the terms and provisions of the Stipulation, as well as the terms and provisions hereof. The Litigation and all claims contained therein are dismissed with prejudice as to the Lead Plaintiff, and the other Class Members and as against each and all of the Released Defendant Parties. The Settling Parties are to bear their own costs except as otherwise provided in the Stipulation.

7. No Person shall have any claim against the Lead Plaintiff, Lead Counsel, the Claims Administrator, any other Person designated by Lead Counsel, or the Released Defendant Parties, based on determinations or distributions made substantially in accordance with the Stipulation and the Settlement contained therein, the Plan of Allocation, or further order(s) of the Court.

8. Upon the Effective Date, Lead Plaintiff, and each of the Class Members (whether or not such Class Members execute and deliver a Proof of Claim), on behalf of themselves, and each of their respective heirs, executors, administrators, predecessors, successors, assigns, parents, subsidiaries, affiliates, officers, directors, agents, fiduciaries, beneficiaries or legal representatives, in their capacities as such, and any other Person or entity legally entitled to bring Released Plaintiff's Claims on behalf of a Class Member, in that capacity, shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever compromised, settled, resolved, waived, released, discharged, and dismissed each and every one of the Released Plaintiff's Claims (including, without limitation, Unknown Claims) against each and every one of the Released Defendant Parties with prejudice on the merits, whether or not the Lead Plaintiff or such Class

Member executes and delivers the Proof of Claim and whether or not each of the Class Members ever seeks or obtains any distribution from the Settlement Fund. Claims to enforce the terms of the Stipulation are not released.

9. Upon the Effective Date, Released Defendant Parties shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever waived, released, discharged, and dismissed the Releasing Plaintiff Parties from all Released Defendants' Claims (including, without limitation, Unknown Claims). Claims to enforce the terms of the Stipulation are not released.

10. Upon the Effective Date, the Lead Plaintiff, all Class Members, and anyone claiming through or on behalf of any of them are forever permanently barred and enjoined from commencing, instituting, maintaining, enforcing, asserting, or continuing to prosecute any action or proceeding in any court of law or equity, arbitration tribunal, administration forum or other forum of any kind any of the Released Plaintiff's Claims (including, without limitation, Unknown Claims) against any of the Released Defendant Parties.

11. The distribution of the Postcard Notice by email and mail (where no email was available), posting of the Notice and Proof of Claim, and publication of the Summary Notice as provided for in the Preliminary Approval Order constituted the best notice practicable under the circumstances, including individual notice to Class Members who could be identified through reasonable effort. The notice provided was the best notice practicable under the circumstances of those proceedings and of the matters set forth therein, including the proposed Settlement set forth in the Stipulation, to all Persons entitled to such notice, and said notice fully satisfied the requirements of Federal Rule of Civil Procedure 23, due process, and any other applicable law, including the Private Securities Litigation Reform Act of 1995. No Class Member is relieved from the terms of the Settlement, including the releases provided for therein, based upon the contention or proof that

such Class Member failed to receive actual or adequate notice. A full opportunity has been offered to the Class Members to object to the proposed Settlement and to participate in the hearing thereon. The Court further finds that the notice provisions of the Class Action Fairness Act, 28 U.S.C. §1715, were fully discharged and that the statutory waiting period has elapsed. Thus, it is hereby determined that all Members of the Class are bound by this Judgment.

12. Any Plan of Allocation submitted by Lead Counsel or any order entered regarding any attorneys' fee and expense application shall in no way disturb or affect this Judgment and shall be considered separate from this Judgment. Any order or proceeding relating to the Plan of Allocation or any order entered regarding any attorneys' fee and expense application, or any appeal from any order relating thereto or reversal or modification thereof, shall not affect or delay the finality of the Judgment in this Litigation.

13. Neither the Stipulation nor the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement: (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Plaintiff's Claim or of any wrongdoing or liability of the Released Defendant Parties; or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Defendant Parties; or (iii) is or may be deemed to be or may be used as an admission or evidence that any claims asserted by Lead Plaintiff were not valid or that the amount recoverable was not greater than the Settlement Amount in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. The Released Defendant Parties may file the Stipulation and/or this Judgment in any other action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release,

good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

14. Without affecting the finality of this Judgment in any way, this Court hereby retains continuing jurisdiction over: (i) implementation of the Settlement and any award or distribution of the Settlement Fund, including interest earned thereon; (ii) disposition of the Settlement Fund; (iii) hearing and determining applications for attorneys' fees and expenses in the Litigation; and (iv) all parties hereto for the purpose of construing, enforcing, and administering the Settlement.

15. The Court finds that during the course of the Litigation, the Settling Parties and their respective counsel at all times complied with the requirements of Rule 11 of the Federal Rules of Civil Procedure.

16. In the event that the Settlement does not become effective in accordance with the terms of the Stipulation, or the Effective Date does not occur as to the Stipulation, or in the event that the Settlement Fund, or any portion thereof, is returned to Defendants or their insurers who funded it, then this Judgment shall be rendered null and void to the extent provided by and in accordance with the Stipulation; and in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulation.

17. The Settling Parties shall bear their own costs and expenses except as otherwise provided in the Stipulation or in this Judgment.

18. Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

19. The Court directs immediate entry of this Judgment by the Clerk of the Court.

20. The Court's orders entered during this Litigation relating to the confidentiality of information shall survive this Judgment.

IT IS SO ORDERED.

DATED: _____

HONORABLE WAVERLY D. CRENSHAW, JR.
UNITED STATES DISTRICT JUDGE