

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

)	
BAYSTATE HEALTH SYSTEM, d/b/a)	
BAYSTATE MEDICAL CENTER, INC., <u>et al.</u> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 02-0601 (PLF)
)	
TOMMY THOMPSON, SECRETARY,)	
UNITED STATES DEPARTMENT)	
OF HEALTH AND HUMAN SERVICES,)	
)	
Defendant.)	

CASE MANAGEMENT ORDER

On January 7, 2003, the Court consolidated 30 civil actions with the above-captioned case.¹ Subsequent to the consolidation, approximately 215 additional actions have been filed that raise the same or similar legal and factual issues. Under Rule 42(a) of the Federal Rules of Civil Procedure, the Court may consolidate separately filed cases when the cases involve a common question of law or fact. See FED. R. CIV. P. 42(a). Under Local Civil Rule 40.5(d), motions to consolidate shall be determined by the judge to whom the earliest numbered case is assigned. See LCvR 40.5(d).

¹ The caption in the original Consolidation Order issued by the Court included two actions in which the parties entered into settlement agreements prior to the Court signing the Consolidation Order. On January 3, 2003, the Court signed a Stipulation of Settlement and Dismissal, dismissing with prejudice Stormont-Vail Health Care v. Thompson, Civil Action No. 02-1917. Also on January 3, 2003, the Court entered a Stipulation of Settlement and Dismissal, dismissing with prejudice University of Kansas Hospital Authority v. Thompson, Civil Action No. 02-1925. Accordingly, these actions are no longer part of the consolidated action and shall not appear in the caption.

The Court has determined that the 246 actions listed in Appendix A to this Case Management Order involve the same or similar legal issues. It therefore concludes that consolidation of these cases is appropriate. Furthermore, upon consideration of the proposed case management plan submitted by counsel for all parties in the 31 previously-consolidated cases and of the complaints filed in the 215 related cases, and recognizing the logistical burdens plaintiffs' counsel have placed on the Court by filing separate actions instead of one class action lawsuit, the Court has determined that a global case management plan is necessary in order to effectuate the efficient disposition of these actions. The Court also has concluded that the burden to procedurally coordinate all of these matters (and any related cases subsequently filed) for all plaintiffs and to communicate and coordinate with defendant's counsel should be borne by the four law firms that have filed the vast majority of these cases. Accordingly, it is hereby

ORDERED that Baystate Health System v. Tommy Thompson, Civil Action No. 02-0601 and those actions listed in Appendix A to this Order are hereby CONSOLIDATED; it is

FURTHER ORDERED that in order to facilitate the efficient management of these 246 cases, plaintiffs' counsel: (1) shall continue to serve the persons statutorily required to be served with pleadings on behalf of defendant Thompson with all pleadings in these consolidated actions and in any related cases subsequently filed; and (2) in addition, shall provide copies of all past, present and future pleadings, motions, oppositions, replies and other filings in these consolidated actions and in any related cases subsequently filed, with the exception of the past filings in the 31 cases previously consolidated on January 7, 2003, to Robert E. Leidenheimer, Jr., Assistant United States Attorney, United States

Attorney's Office for the District of Columbia, 555 Fourth St. NW, Washington, D.C., 20530

(hereinafter "government counsel"); it is

FURTHER ORDERED that those counsel not currently registered in the Court's Electronic Case Filing ("ECF") system shall contact the Clerk's Office in order to register;² it is

FURTHER ORDERED that all papers raising matters and issues common to more than one of these consolidated cases henceforth shall be filed only in the newly-created Miscellaneous Action No. 03-0090 (PLF) under the caption "In Re: Medicare Reimbursement Litigation," and not in their individually-numbered cases; the individual cases to which the filings pertain nevertheless shall be listed in the caption of that filing as demonstrated in the following examples:

_____)	
IN RE:)	
)	
MEDICARE REIMBURSEMENT LITIGATION)	
)	
_____)	Misc. No. 03-0090 (PLF)
)	
This document relates to:)	
)	
COVENANT MEDICAL CENTER v.)	
THOMPSON, No. 02-0683)	
)	
SAINT LUKE'S HOSPITAL OF KANSAS CITY)	
v. THOMPSON, No. 02-1373)	
_____)	

² Counsel may speak with any of the following with respect to this paragraph: Joe Burgess, Operations Analyst, 202-354-3172, Angela Caesar Mobley, Operations Manager, 202-354-3181, or Greg Hughes, Chief Deputy for Operations, 202-354-3191.

_____)	
IN RE:)	
)	
MEDICARE REIMBURSEMENT LITIGATION)	
)	
_____)	Misc. No. 03-0090 (PLF)
)	
This document relates to:)	
)	
ALL ACTIONS)	
_____)); it is

FURTHER ORDERED that filings related to issues or matters unique to one case shall be filed only under that original individually-numbered case and not in Miscellaneous Action No. 03-0090; joint motions to dismiss on the basis of settlement, praecipes of dismissals and/or settlement documents submitted for court approval and similar filings shall be filed under the original individually-numbered case; when counsel files papers in the individual civil actions those counsel shall not “spread” that filing to the other consolidated actions when presented with that option during the ECF filing process; it is

FURTHER ORDERED that the Clerk of the Court is not required to provide hard copies of any papers filed electronically in the consolidated cases to supernumerary attorneys of a law firm who have not entered their appearances on the ECF system and registered for a password granting them access to the electronic dockets; it is

FURTHER ORDERED that the following lawyers and law firms are hereby designated

“Coordinating Counsel”: Reed Smith LLP, with lead counsel Jacqueline E. Bennett; Crowell & Moring, with lead counsel Robert Roth; Akin Gump Strauss Hauer & Feld LLP, with lead counsel John R. Jacob; and Kenneth R. Marcus, P.C., with lead counsel Kenneth R. Marcus. As Coordinating Counsel, their responsibilities are to coordinate with all other plaintiffs’ counsel to reach agreements on briefing schedules, number and lengths of briefs, and other matters that concern the core issues involved in all or most of the now consolidated cases, to communicate and coordinate with government counsel, and to attempt to negotiate any disagreements with the government before filing any motions or otherwise bringing such matters to the attention of the Court consistent with Local Civil Rule 7.1(m); it is

FURTHER ORDERED that Coordinating Counsel and government counsel shall jointly submit a proposed case management plan for all of the consolidated cases, including those in which the government’s time to answer may not have expired, on or before May 16, 2003. This case management plan shall include a proposed schedule for briefing of the core issues. The Court expects joint briefs from plaintiffs, and will only consider the submission of short supplemental briefs filed by individual plaintiffs for good cause shown. In planning its schedule, counsel can assume that oral argument on the core issues will take place sometime between July 15, 2003 and August 20, 2003; it is

FURTHER ORDERED that to the extent that the government intends to move for an enlargement of time within which to answer or otherwise respond to the complaints in these consolidated actions, the government is directed to file a comprehensive request in the form of a plenary motion to the extent possible; and it is

FURTHER ORDERED that parties in any new cases filed and/or consolidated with these actions after this Order is entered will be required to comply with any briefing or case management schedules already in place except for good cause shown why those new actions should be exempt, keeping in mind that any decision made by the Court on the core issues after the July or August argument is unlikely to be reconsidered.

SO ORDERED.

PAUL L. FRIEDMAN
United States District Judge

DATE:

APPENDIX A

02-0601: Baystate Health Systems v. Thompson
02-0683: Covenant Medical Center v. Thompson
02-1373: Saint Luke's Hospital of Kansas City v. Thompson
02-1380: Regents of the University of Michigan v. Thompson
02-1635: St. Francis Medical Center v. Thompson
02-1731: Brigham & Women's Hospital, et al. v. Thompson
02-1890: Via Christi Regional Medical Center, Inc. v. Thompson
02-1891: Saint Vincent Health Center v. Thompson
02-1892: Johnson City Medical Center v. Thompson
02-1893: St. John's Health System NE Community Hospital v. Thompson
02-1899: Presbyterian Hospital v. Thompson
02-1900: Forsyth Memorial Hospital, et al. v. Thompson
02-1901: Naples Community Hospital v. Thompson
02-1902: Virginia Mason Medical Center v. Thompson
02-1905: Waterbury Hospital v. Thompson
02-1907: Avera McKennan Hospital v. Thompson
02-1908: Rapid City Regional Hospital v. Thompson
02-1910: University of Washington v. Thompson
02-1911: Duke University Health System, Inc. v. Thompson
02-1912: William W. Backus Hospital v. Thompson
02-1913: Stamford Hospital v. Thompson
02-1914: Danbury Hospital v. Thompson
02-1915: New Britain General Hospital v. Thompson
02-1916: Edward W. Sparrow Hospital v. Thompson
02-1918: W.A. Foote Memorial Hospital v. Thompson
02-1919: Baptist Memorial Hospital v. Thompson
02-1920: Valley Presbyterian Hospital v. Thompson
02-1921: Denver General Hospital v. Thompson
02-1924: Monongahela Valley Hospital v. Thompson
02-1926: University of Kansas Hospital Authority v. Thompson
02-1927: Glenwood Regional Medical Center v. Thompson
02-2350: Meriter Hospital, Inc., et al. v. Thompson
03-0162: St Vincent Hospital of the Hospital Sisters of the Third Order of St Francis v. Thompson
03-0221: Via Christi Regional Medical Center, Inc. v. Thompson
03-0245: Saint Luke's Hospital of Kansas City v. Thompson
03-0250: Lakeland Regional Medical Center v. Thompson
03-0264: William B. Kessler Memorial Hospital v. Thompson
03-0267: Sisters of St. Francis Health Services, Inc. v. Thompson
03-0280: Winter Haven Hospital v. Thompson
03-0297: Salem Memorial Corporation v. Thompson

03-0299: Baptist St. Anthony Health System v. Thompson
03-0312: Medical Center East, Inc. v. Thompson
03-0315: Swedish Covenant Hospital v. Thompson
03-0316: St. Joseph Regional Health Center v. Thompson
03-0317: Robert Wood Johnson University Hospital v. Thompson
03-0318: St. Claire Medical Center v. Thompson
03-0319: Columbus Regional Hospital v. Thompson
03-0320: Somerset Hospital v. Thompson
03-0321: Delta Medical Center v. Thompson
03-0322: Santa Barbara Cottage Hospital v. Thompson
03-0323: Harrisburg Hospital, et al. v. Thompson
03-0332: Clara Maass Medical Center, et al. v. Thompson
03-0333: Cabrini Medical Center v. Thompson
03-0334: United Health Service Hospitals, Inc. v. Thompson
03-0335: Little Falls Hospital v. Thompson
03-0336: Mercy Medical Center of Springfield v. Thompson
03-0337: Medical College of Ohio Hospital v. Thompson
03-0339: Jackson Hospital & Clinic, Inc. v. Thompson
03-0340: Spartanburg Regional Medical Center v. Thompson
03-0341: Yale-New Haven Hospital v. Thompson
03-0342: Marietta Memorial Hospital v. Thompson
03-0343: Bridgeport Hospital v. Thompson
03-0345: University of Colorado Hospital v. Thompson
03-0346: Hospital for Joint Diseases Orthopaedic Institute v. Thompson
03-0347: Lennox Hill Hospital v. Thompson
03-0348: Alliance Community Hospital v. Thompson
03-0349: Robinson Memorial Hospital v. Thompson
03-0350: St. Rita's Medical Center v. Thompson
03-0351: H. Lee Moffitt Cancer Center v. Thompson
03-0352: Jefferson Memorial Hospital v. Thompson
03-0354: Covenant Health System/Methodist Hospital v. Thompson
03-0355: Methodist Hospital of Southern California, Inc. v. Thompson
03-0356: St. Vincent Hospital v. Thompson
03-0358: St. Dominic-Jackson Memorial Hospital, Inc. v. Thompson
03-0359: Delta Regional Medical Center, et al. v. Thompson
03-0363: Provena United Samaritans Hospital, et al. v. Thompson
03-0364: St. John Hospital & Medical Center v. Thompson
03-0391: Methodist Hospitals, Inc., Broadway Methodist-Southlake v. Thompson
03-0392: St. Vincent's Hospital & Medical Center of New York v. Thompson
03-0393: St. Vincent Medical Center v. Thompson
03-0394: St. Luke's Episcopal Hospital v. Thompson
03-0395: Mease Dunedin Hospital v. Thompson

03-0396: Medical Center at Bowling Green v. Thompson
03-0397: Bethesda Memorial Hospital v. Thompson
03-0398: South Florida Baptist Hospital v. Thompson
03-0399: Methodist Hospitals, Inc., Gary Methodist-Northlake v. Thompson
03-0400: Cape Fear Valley Medical Center v. Thompson
03-0401: St. Mary's Medical Center v. Thompson
03-0403: Halifax Medical Center v. Thompson
03-0404: Swedish American Hospital v. Thompson
03-0405: Bronx-Lebanon Hospital Center v. Thompson
03-0406: Baptist Hospital, et al. v. Thompson
03-0407: Antelope Valley Hospital, et al. v. Thompson
03-0409: Saint Joseph Hospital Augusta Georgia, Inc. v. Thompson
03-0410: Highland Hospital of Rochester v. Thompson
03-0411: Anaheim Memorial Medical Center, et al. v. Thompson
03-0412: Fresno Community Hospital & Medical Center v. Thompson
03-0418: Christus Health Ark-La-Tex v. Thompson
03-0419: Aurora Healthcare, Inc., et al. v. Thompson
03-0420: Athens Regional Medical Center, Inc. v. Thompson
03-0422: John Dempsey Hospital v. Thompson
03-0423: St. Mary's Regional Medical Center v. Thompson
03-0424: Ohio State University Hospital v. Thompson
03-0425: Baptist Medical Center Princeton v. Thompson
03-0426: Mount Sinai Medical Center v. Thompson
03-0428: Sisters of Charity Hospital v. Thompson
03-0429: Clark Memorial Hospital v. Thompson
03-0430: Shands Jacksonville Medical Center, et al. v. Thompson
03-0436: Saint Vincent's Catholic Medical Center of Brooklyn & Queens, Inc. v. Thompson
03-0437: UAB Medical West v. Thompson
03-0446: AHS Hospital Corp./General Hospital at Passaic, et al. v. Thompson
03-0447: Kingsbrook Jewish Medical Center v. Thompson
03-0448: Barnert Hospital, et al. v. Thompson
03-0449: Ashtabula County Medical v. Thompson
03-0450: San Joaquin Community Hospital v. Thompson
03-0451: Spectrum Health Downtown Campus v. Thompson
03-0452: Northeast Alabama Regional Medical Center v. Thompson
03-0453: Lawrence & Memorial Hospital v. Thompson
03-0454: Mobil Infirmary Medical Center v. Thompson
03-0455: Franciscan Skemp Medical Center v. Thompson
03-0456: St. Joseph Hospital & Health Center v. Thompson
03-0457: Osteopathic Medical Center of Texas v. Thompson
03-0458: New York Hospital v. Thompson
03-0459: Middle Tennessee Medical Center v. Thompson

03-0460: Jersey Shore Medical Center v. Thompson
03-0468: University Community Hospital v. Thompson
03-0469: Licking Memorial Hospital v. Thompson
03-0470: Mercy Hospital of Buffalo v. Thompson
03-0471: Western Reserve Care System v. Thompson
03-0472: Covenant Medical Center-Cooper, et al. v. Thompson
03-0473: Leesburg Regional Medical Center v. Thompson
03-0474: Davis Memorial Hospital, Inc. v. Thompson
03-0475: University of South Alabama Medical Center v. Thompson
03-0476: St. Mary's Hospital v. Thompson
03-0477: Rogue Valley Medical Center v. Thompson
03-0478: NYU Downtown Hospital v. Thompson
03-0479: Presbyterian Hospital v. Thompson
03-0480: King's Daughter's Medical Center v. Thompson
03-0481: Good Samaritan Hospital v. Thompson
03-0482: UMDMJ v. Thompson
03-0483: St. Joseph's Hospital v. Thompson
03-0484: Lakeland Regional Medical Center v. Thompson
03-0485: St. Anthony's Hospital v. Thompson
03-0486: Mary Rutan Hospital v. Thompson
03-0487: Greenville Hospital Center v. Thompson
03-0488: Presbyterian Hospital v. Thompson
03-0489: University Hospital SUNY at Stony Brook v. Thompson
03-0490: Sentara Norfolk General Hospital v. Thompson
03-0491: Sentara Hampton General Hospital v. Thompson
03-0492: Dekalb Medical Center, Inc., et al. v. Thompson
03-0493: Millard Fillmore Hospital v. Thompson
03-0494: Bay Harbor Hospital v. Thompson
03-0495: Franciscan Medical Center v. Thompson
03-0497: Glendale Adventist Hospital v. Thompson
03-0498: Inova Alexandria Hospital, et al. v. Thompson
03-0499: North Broward Hospital District v. Thompson
03-0500: Alegent Health, et al. v. Thompson
03-0501: St. Vincent's Catholic Medical Centers of New York v. Thompson
03-0502: Southside Hospital v. Thompson
03-0503: Hazard ARH Regional Medical Center v. Thompson
03-0504: Women's Christian Association Hospital v. Thompson
03-0505: Palmetto Baptist Medical Center v. Thompson
03-0506: Shelby Baptist Medical Center v. Thompson
03-0507: St. Catherine Hospital, Inc. v. Thompson
03-0508: Miami Valley Hospital v. Thompson
03-0509: Sun Coast Hospital v. Thompson

03-0510: St. Mary's Medical Center v. Thompson
03-0511: Brunswick Hospital Center, Inc. v. Thompson
03-0512: Albany Medical Center Hospital v. Thompson
03-0513: Trinity Health Michigan v. Thompson
03-0514: West Calcasieu-Cameron Hospital
03-0516: Bon Secours Health System, Inc., et al. v. Thompson
03-0517: Hartford Healthcare, et al. v. Thompson
03-0518: Lakeland Medical Center-Mercy St. Joseph v. Thompson
03-0519: Adventist Health System, Inc., et al. v. Thompson
03-0520: Auburn Memorial Hospital v. Thompson
03-0521: St. Clare's Hospital of Schenectady v. Thompson
03-0522: St. Vincent Hospital & Health Services v. Thompson
03-0523: New York Hospital Medical Center of Queens v. Thompson
03-0524: Presbyterian Hospital v. Thompson
03-0525: Good Samaritan Hospital v. Thompson
03-0526: New York Methodist Hospital v. Thompson
03-0528: Sentara Virginia Beach General Hospital v. Thompson
03-0529: Ingalls Memorial Hospital v. Thompson
03-0530: Moses H. Cone Memorial Hospital Operating Corp. v. Thompson
03-0531: St. Francis Hospital, et al. v. Thompson
03-0532: Board of Trustees of the University of Alabama v. Thompson
03-0533: Providence Yakima Hospital, et al. v. Thompson
03-0534: Providence St. Peter Hospital, et al. v. Thompson
03-0535: Harrison Memorial Hospital v. Thompson
03-0536: Kadlec Medical Center v. Thompson
03-0537: New York Westchester Square Medical Center v. Thompson
03-0538: Emory University Hospital v. Thompson
03-0539: Wishard Health Services v. Thompson
03-0540: Sound Shore Medical Center of Westchester, et al. v. Thompson
03-0541: St. Vincent's Medical Center v. Thompson
03-0542: Long Beach Medical Center v. Thompson
03-0543: Cabell-Huntington Hospital, Inc. v. Thompson
03-0544: Suburban General Hospital v. Thompson
03-0545: Providence Hospital v. Thompson
03-0546: St. Alexius Medical Center v. Thompson
03-0547: Gaston Memorial Hospital, et al. v. Thompson
03-0548: Carilion Medical Center, et al. v. Thompson
03-0549: U.S. Health of Southern Ohio/Southern Ohio Medical Center v. Thompson
03-0550: Lincoln Regional Hospital v. Thompson
03-0551: Kaweah Delta Health Care District v. Thompson
03-0552: County of Erie v. Thompson
03-0553: St. Mary's Medical Center v. Thompson

03-0554: Catholic Health Partners Services v. Thompson
03-0555: OSF Healthcare System, Inc. v. Thompson
03-0558: Northern Hospital of Surry County, et al. v. Thompson
03-0559: Casa Grande Regional Medical Center, et al. v. Thompson
03-0560: Nyack Hospital, Inc. v. Thompson
03-0561: St. Francis Medical Center v. Thompson
03-0562: Highlands Regional Medical Center v. Thompson
03-0563: Gateway Medical Center v. Thompson
03-0564: United Hospital Medical Center v. Thompson
03-0565: Memorial Hospital of South Bend v. Thompson
03-0566: Union Hospital, Inc. v. Thompson
03-0567: St. Thomas Hospital v. Thompson
03-0568: Bayfront Medical Center, Inc. v. Thompson
03-0569: East Alabama Medical Center v. Thompson
03-0570: Baptist Hospital v. Thompson
03-0571: Spectrum Health-East Campus v. Thompson
03-0572: Elkhart General Hospital v. Thompson
03-0573: Bloomington Hospital & Health Care System v. Thompson
03-0574: Bay Regional Medical Center v. Thompson
03-0575: Glens Falls Hospital v. Thompson v. Thompson
03-0576: Knapp Medical Center v. Thompson
03-0577: University of Utah Hospital v. Thompson
03-0578: Owensboro Mercy Health System v. Thompson
03-0579: Ball Memorial Hospital, Inc. v. Thompson
03-0580: Vanderbilt University Medical Center v. Thompson
03-0581: Interfaith Medical Center v. Thompson
03-0582: Central Baptist Hospital v. Thompson
03-0583: Wuesthoff Memorial Hospital v. Thompson
03-0584: Deaconess Hospital, Inc. v. Thompson
03-0585: Maimonides Medical Center v. Thompson
03-0586: Sacred Heart Hospital v. Thompson
03-0587: Palmetto Health Richland Memorial Hospital v. Thompson
03-0588: University of Illinois Medical Center at Chicago v. Thompson
03-0589: Anderson Area Medical Center v. Thompson
03-0590: University Community Hospital Carrollwood v. Thompson
03-0591: St. Elizabeth Hospital v. Thompson
03-0592: Slidell Memorial Hospital v. Thompson
03-0593: St. Joseph Health System and Affiliates v. Thompson