

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

ROBERT CIARCIELLO Individually and
on Behalf of All Others Similarly Situated,

Plaintiff,

v.

BIOVENTUS INC., KENNETH M.
REALI, MARK L. SINGLETON,
GREGORY O. ANGLUM, and SUSAN M.
STALNECKER,

Defendants.

Case No. 1:23-cv-00032-CCE-JEP

**DECLARATION OF GERARD GRYSKO IN SUPPORT OF (I) LEAD
PLAINTIFF'S UNOPPOSED MOTION FOR FINAL APPROVAL OF
PROPOSED CLASS ACTION SETTLEMENT, AND (II) LEAD PLAINTIFF'S
COUNSEL'S MOTION FOR ATTORNEYS' FEES AND EXPENSES, AND LEAD
PLAINTIFF'S REASONABLE COSTS AND EXPENSES**

I, Gerard Grysko, on behalf of Wayne County Employees' Retirement System ("WCERS"), declare as follows pursuant to 28 U.S.C. § 1746:

1. I am the Deputy Executive Director of WCERS, the Court-appointed Lead Plaintiff in this action (the "Litigation").¹

2. I respectfully submit this declaration in support of (i) Lead Plaintiff's Unopposed Motion for Final Approval of Proposed Class Action Settlement, and (ii) Lead Plaintiff's Counsel's Motion for Attorneys' Fees and Expenses, and Lead Plaintiff's Reasonable Costs and Expenses. This declaration supplements the declaration I submitted in support of Lead Plaintiff's Unopposed Motion for Preliminary Approval of Proposed Class Action Settlement, dated August 5, 2024, which is fully incorporated herein by reference (the "August WCERS Declaration"). (ECF No. 142.)

3. I have been one of the primary WCERS personnel involved in overseeing Lead Plaintiff's Counsel's prosecution of the Litigation and the negotiations leading to the proposed settlement. The matters set forth herein are based on my personal knowledge and/or discussions with WCERS' personnel.

I. WCERS'S OVERSIGHT OF THE LITIGATION

4. On April 12, 2024, the Court appointed WCERS as Lead Plaintiff. (ECF No. 44). Since that time, WCERS has directly supervised Lead Plaintiff's Counsel, and has been extensively involved in the prosecution and settlement of the Litigation. As

¹ Capitalized terms not defined herein have the meanings stated in the Stipulation of Settlement, dated July 12, 2024, as revised on August 7, 2024 (the "Stipulation," ECF No. 148-1).

previously stated in the August WCERS Declaration, WCERS has performed the following tasks, among others:

- a. Regularly communicating with Lead Plaintiff's Counsel concerning the status, progress, and major strategy decisions regarding the Litigation;
- b. Reviewing major motions and pleadings to provide comments and direction as needed;
- c. Assisting in locating, collecting, and preserving potentially relevant documents;
- d. Responding to discovery requests, including requests for production and interrogatories, and producing information regarding WCERS' transactions in Bioventus securities;
- e. Preparing for and testifying during a Rule 30(b)(6) deposition, which was taken on April 10, 2024 (and for which I was designated as WCERS's Rule 30(b)(6) designee); and
- f. Preparing for and participating in the mediation session.

II. WCERS ENDORSES APPROVAL OF THE SETTLEMENT

5. WCERS supports final approval of the proposed Settlement. The Settlement is the product of Lead Plaintiff's hard-fought negotiation and careful consideration on behalf of the Settlement Class and represents an award to the Settlement Class that is commensurate with those WCERS has obtained in other actions.

6. As explained more fully in the August WCERS Declaration, I, on behalf

of WCERS, participated in a formal full-day mediation session on May 29, 2024, with mediator Jed Melnick, Lead Plaintiff's Counsel, counsel for Defendants, and representatives of Bioventus and its various insurance carriers. (See August WCERS Declaration, at ¶¶ 6-8.)

7. At the conclusion of the session, Mediator Melnick issued a mediator's proposal that the case settle for \$15.25 million, which, I authorized Lead Plaintiff's Counsel to accept on behalf of Lead Plaintiff and the proposed class.

8. Based on WCERS's experience as a court-appointed lead plaintiff, its active involvement throughout the Litigation, its participation in the mediation session, and its understanding of the strength of the merits, the amount of damages, and numerous risks (including Bioventus's financial condition), WCERS believes that the proposed settlement is fair, reasonable, and adequate to the Settlement Class. WCERS strongly endorses Court approval of the settlement.

III. WCERS ENDORSES SETTLEMENT CLASS COUNSEL'S FEE AND EXPENSE APPLICATION

9. I, on behalf of WCERS, have reviewed Lead Plaintiff's Counsel's Fee Application. WCERS supports the request for attorneys' fees of 33% of the Settlement Fund, plus interest at the same rate earned by the Settlement Fund.

10. As Lead Plaintiff, in retaining Lead Plaintiff's Counsel for this matter, WCERS determined, based on its experience as a court-appointed lead plaintiff (*see* August WCERS Declaration, at ¶ 4), that Lead Plaintiff's Counsel was particularly well qualified based on its experience successfully litigating securities class actions on

behalf of investors. WCERS retained Lead Plaintiff's Counsel on an entirely contingent basis. WCERS further understood that Lead Plaintiff's Counsel would devote the resources necessary to fully prepare the Settlement Class's claims for trial, if necessary, including by investing heavily in time and expenses to prosecute the Litigation.

11. In light of the result achieved, the work performed (which I, on behalf of WCERS, oversaw), and the risks faced in the Litigation, WCERS believes that the Fee Application is fair and reasonable.

12. I, on behalf of WCERS, have also reviewed Lead Plaintiff's Counsel's Expense Application. WCERS also supports the request for payment to Lead Plaintiff's Counsel for litigation expenses that it incurred in connection with the prosecution of the Litigation from the Settlement Fund in the amount of \$623,509 plus interest at the same rate earned by the Settlement Fund.

13. I believe that the litigation expenses for which Lead Plaintiff's Counsel seeks reimbursement are reasonable, and represent costs and expenses necessary for the effective prosecution and resolution of this complex action.

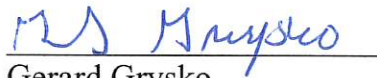
IV. WCERS'S REASONABLE COSTS AND EXPENSES

14. WCERS understands that the PSLRA authorizes the award of class representatives' reasonable costs and expenses, including lost wages. *See* 15 U.S.C. § 78u-4(a)(4). Accordingly, WCERS seeks an award of WCERS's reasonable costs and expenses incurred in connection with its representation of the Settlement Class.

15. In connection with work performed in this Litigation (*see supra* ¶ 4),

WCERS incurred \$11,813.94 in costs and expenses. Attached to this declaration as Exhibit A is a true and correct copy of a letter I, on behalf of WCERS, submitted to Settlement Class Counsel reflecting the time spent on this Litigation by WCERS's personnel. I have reviewed the time spent by WCERS personnel on this Litigation, and believe it was necessary for WCERS to effectively satisfy its obligations as Lead Plaintiff and representative of the Settlement Class.

I declare under the penalty of perjury, under the laws of the United States, that the foregoing is true and correct this 8th day of November, 2024.



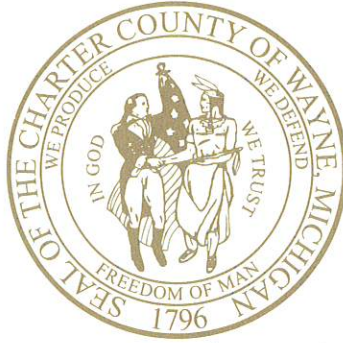
Gerard Grysko
Deputy Executive Director
*Wayne County Employees' Retirement
System*

EXHIBIT A

RETIREMENT COMMISSION
EMPLOYEE MEMBERS
Henry Wilson, Chair
Frank Simone, Vice-Chair
Cassandra McDonald
Tom Yee

RETIREE MEMBERS
Elizabeth Misuraca
Ronald Yee

EX-OFFICIO MEMBERS
Warren C. Evans
Wayne County Executive
Assad Turfe
Designated Representative
Alisha Bell, Chairperson
Wayne County Commission



ROBERT J. GRDEN
Executive Director

GERARD J. GRYSKO
Deputy Director

GABRIEL ROEDER SMITH & CO.
Actuary

CHAD STENNETT, M.D.
Medical Director

July 12, 2024

Nancy A. Kulesa, Partner
Bleichmar Fonti & Auld LLP
300 Park Ave, Suite 1301
New York, NY 10022

Please find the hours Robert Grden, Gerard Grysko, Sue Hammoud, Anwar Hussein, and Hector Roman spent on the Bioventus Litigation matter.

Robert Grden rate \$101.38/hour
Total Hours 50 x \$101.38 = \$5,069
Gerard Grysko rate \$67.53/hour
Total Hours 70 x \$67.53 = \$4,727.10
Sue Hammoud rate 6.5 x \$129.36
Total Hours 6.5 x \$129.36 = \$840.84
Anwar Hussein 2 hours record keeping
Total Hours 2 x \$71.06 = \$142.12
Hector Roman rate 8 x \$129.36
Total Hours 8 x 129.36 = \$1,034.88

Total Amount = \$11,813.94

Should you have any questions regarding time spent on the litigation, you may contact me at 313-224-2769 or ggrysko@waynecountymi.gov.

Gerard Grysko, Deputy Director
Wayne County Employees' Retirement System
Grand Park Centre Building
28 W Adams Ave, Suite 1900
Detroit, MI 48226