

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

Trudy Clark, <i>et al.</i> ,)	Case No. 1:22-cv-10068-DPW
)	
Plaintiffs,)	Judge Douglas P. Woodlock
)	
v.)	
)	
BETH ISRAEL DEACONESS MEDICAL)	
CENTER., <i>et al.</i> ,)	
)	
Defendants.)	

NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT

IF YOU WERE A PARTICIPANT IN THE BETH ISRAEL DEACONESS MEDICAL CENTER 401(K) SAVINGS AND INVESTMENT PLAN OR THE BETH ISRAEL DEACONESS MEDICAL CENTER VOLUNTARY 403(B) PLAN BETWEEN JANUARY 18, 2016 AND MAY 5, 2023, YOU COULD RECEIVE A PAYMENT AND YOUR LEGAL RIGHTS WILL BE AFFECTED BY THIS CLASS ACTION SETTLEMENT.

A Federal Court authorized this Notice. This is not a solicitation from a lawyer.

This Notice advises you of the settlement (the “Settlement”) of a lawsuit against Beth Israel Deaconess Medical Center, the Board of Directors of Beth Israel Deaconess Medical Center, and the Pension Committee of Beth Israel Deaconess Medical Center (collectively, “Defendants”). In the lawsuit, Plaintiffs, Trudy Clark, Donna Nesmith, Jessica Smith, and Shelly Stack (collectively, “Plaintiffs,” and with Defendants, the “Parties”), allege that Defendants violated the Employee Retirement Income Security Act of 1974 (“ERISA”) in the administration of the Beth Israel Deaconess Medical Center 401(k) Savings and Investment Plan and the Beth Israel Deaconess Medical Center Voluntary 403(b) Plan (collectively, the “Plans”). Defendants deny the allegations and deny that they engaged in any improper conduct. YOU SHOULD READ THIS ENTIRE NOTICE CAREFULLY BECAUSE YOUR LEGAL RIGHTS WILL BE AFFECTED, WHETHER YOU ACT OR NOT.

Your rights and options, and the deadline for you to object if you are opposed to the Settlement, are explained in this Notice.

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1. Why did I get this Notice?

Records indicate that you are or may be a Current Participant, Former Participant, Beneficiary or Alternate Payee of a Participant or Former Participant, of the Plans at any time on or after January 18, 2016 through and including May 5, 2023 (the “Class Period”).¹

You are receiving this Notice because you have a right to know about the proposed settlement of a class action lawsuit in which you are potentially a Class Member before the Court decides whether to approve the Settlement.

This Notice summarizes the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible to receive them, and how to get them.

The lawsuit is pending in the United States District Court for the District of Massachusetts (the “Court”). It is known as *Clark, et al. v. Beth Israel Deaconess Medical Center., et al.*, Case No. 1:22-cv-10068-DPW and is brought against Defendants.

2. What is this lawsuit about?

On January 18, 2022, Plaintiffs filed an action against Defendants, alleging that their administration of the Plans violated ERISA. Since the filing of the action, the parties engaged in litigation, including investigating the claims and other developments and briefing a motion to dismiss. In September 2022, the Parties mediated the action and were ultimately able to reach the terms of the Settlement explained in this Notice. Defendants have denied and continue to deny any wrongdoing or liability and will continue to vigorously defend the lawsuit if the proposed Settlement is not approved.

3. What is a class action lawsuit?

In a class action lawsuit, one or more people called “class representatives” sue on their own behalf and on behalf of other people who they allege have similar claims. One court resolves all the issues for all class members in a single lawsuit. Plaintiffs are the proposed class representatives in this lawsuit, and are sometimes referred to in this Notice as the “Class Representatives” or as “Plaintiffs.”

4. Why is there a settlement?

The Parties agreed to the Settlement after extensive negotiations. By agreeing to a settlement, the Parties avoid the costs and risks of further litigation, and Plaintiffs and the other Class Members will receive compensation. Class Counsel have conducted an extensive review of the evidence in the case and the potential risks and benefits of continued litigation. Plaintiffs and Class Counsel agree that the Settlement is in the best interest of the Settlement Class. The Court has not made any finding that Defendants have done anything wrong or violated any law or regulation.

5. How do I get more information about the Settlement?

This Notice summarizes the proposed settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement, which is available at strategicclaims.net/BethIsrael401K, by contacting Class Counsel (see answer to question 12 for contact information) or the Settlement Administrator (see answer to question 6 for contact information), or by accessing the Court docket in this case, for a fee, through the Court’s Public Access to Court Electronic Records (PACER) system at <https://ecf.mad.uscourts.gov/>.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIMS PROCESS.

¹ Capitalized terms not otherwise defined in this Notice shall have the same meaning as in the Settlement Agreement, which is available at strategicclaims.net/BethIsrael401K.

6. Who will administer the Settlement?

The Settlement Administrator, Strategic Claims Services, will administer the Settlement, including the processing of the Former Participant Claim Form, if applicable, that you may need to fill out and send in to receive any settlement payment. You may contact the Settlement Administrator by: (a) sending a letter to Beth Israel Deaconess Medical Center 401(k) and 403(b) Settlement Administrator, c/o Strategic Claims Services, 600 N Jackson St, Suite 205, Media, PA 19063; (b) sending an e-mail to info@strategicclaims.net; (c) visiting the Settlement website at strategicclaims.net/BethIsrael401K; or (d) calling toll-free at (866) 274-4004.

THE SETTLEMENT BENEFITS – WHAT THE SETTLEMENT PROVIDES

7. What does the Settlement provide?

Defendants have agreed to pay a total of \$2,900,000.00 to the Class Members (“Gross Settlement Amount”). Class Counsel intends to ask the Court to approve up to 25% of that amount for attorneys’ fees, inclusive of litigation expenses incurred by Class Counsel, as well as Class Representatives’ Case Contribution Awards not to exceed \$7,500 for each Class Representative. The amount that will be available for distribution to Class Members (“Net Settlement Amount”) will be the Gross Settlement Amount *minus* the amounts used for other approved settlement purposes (Case Contribution Awards, Court-approved Attorneys’ Fees and Expenses to Class Counsel, Administrative Expenses, and certain taxes and tax-related costs).

8. How may I benefit from the Settlement?

You may be entitled to payment of a portion of the Net Settlement Amount. The amount paid to each Current Participant, Former Participant, Beneficiary or Alternate Payee will be determined by a Plan of Allocation subject to Court approval.

As explained below, if you are a Current Participant, or Beneficiary or Alternate Payee of a Participant and you have an Active Account in the Plans, you do not need to take any action in order to receive payment under the Settlement. Payments made to Current Participants, or to Beneficiaries or Alternate Payees of a Participant who have Active Accounts in the Plans shall be made into these persons’ individual investment accounts in the Plans.

If you are a Former Participant, or a Beneficiary or Alternate Payee of a Former Participant and you no longer have an active account in the Plans, you will need to submit a Former Participant Claim Form by the submission deadline in order to receive payment under the Settlement. Payments made to Former Participants, or to Beneficiaries or Alternate Payees of Former Participants who do not have Active Accounts in the Plans may be made either by check or tax-qualified rollover to an individual retirement account or other eligible employer plan.

9. How do I submit a claim for a Settlement Payment?

If you are a Current Participant, or a Beneficiary or Alternate Payee of a Participant and you have an Active Account in the Plans, you do not need to submit a claim to be eligible for a payment under the Settlement. You will receive any payment for which you are eligible automatically in your Plan account. If you are a Former Participant, or a Beneficiary or an Alternate Payee of a Former Participant and you do not have an Active Account in the Plans, you must submit a Former Participant Claim Form by the submission deadline in order to be eligible for a payment under the Settlement. “Former Participant” means a member of the Settlement Class who does not have an Active Account (*i.e.*, a balance greater than \$0) as of May 5, 2023, the date on which the Court authorized notice to the Class.

If you are a Former Participant, or a Beneficiary or Alternate Payee of a Former Participant and you do not have an Active Account in the Plans, and want to receive any monetary benefits from the Settlement, you must submit the Former Participant Claim Form by no later than September 5, 2023. You must mail the Former Participant Claim Form to the address shown on the Form.

A Former Participant Claim Form will be deemed submitted when it is actually received by the Settlement Administrator at the address listed in the Former Participant Claim Form.

Even if you do not submit a Former Participant Claim Form, you will be bound by the Settlement. (See answer to question 14 below.)

10. What are the Plaintiffs receiving from the Settlement?

Class Counsel intends to ask the Court to award the Class Representatives Case Contribution Awards of an amount not to exceed \$7,500 each in recognition of the work and effort they expended on behalf of the Class.

THE SETTLEMENT BENEFITS – WHAT YOU GIVE UP

11. What do I give up by participating in the Settlement?

Each Class Member gives Defendants a “release.” A release means you give up your rights to sue Defendants or receive any benefits from any other lawsuit against Defendants if the lawsuit asserts similar claims or relates in any way to the practices or decisions at issue in this lawsuit.

For additional details about the scope of the release, consult the Settlement Agreement or contact Class Counsel. (See answer to question 5 for details.)

THE LAWYERS REPRESENTING YOU

12. Do I have a lawyer in this case?

Yes. The Court has appointed the law firms of Miller Shah LLP and Capozzi Adler, P.C. as Class Counsel. You will not be charged for the work of these lawyers. If you want to be represented by a different lawyer in this case, you may hire one at your own expense.

13. How will the lawyers (Class Counsel) be paid?

Class Counsel anticipate that they will ask the Court for an award of attorneys’ fees of up to 25% of the Settlement Amount, inclusive of litigation expenses, based upon the value of the Settlement, the time they have devoted to this engagement, and the expenses they have advanced in prosecuting this matter.

OPTING OUT OF THE SETTLEMENT

14. Can I exclude myself from the Settlement Class?

No. The Settlement Class has been certified under Federal Rule of Civil Procedure 23(b)(1). Therefore, as a Class Member, you are bound by any judgments or orders that are entered in the lawsuit for all claims that were asserted in the lawsuit or are otherwise included as Released Claims as defined in the Settlement Agreement. If you wish to object to any part of the Settlement, you may (as discussed below) write to the Court and counsel about why you object to the Settlement.

OBJECTING TO THE SETTLEMENT

15. What does it mean to object?

Objecting is simply telling the Court that you do not like something about the Settlement. Objecting will not have any bearing on your right to receive the benefits of the Settlement if it is approved by the Court.

16. What is the procedure for objecting to the Settlement, including any objection to Class Counsel’s Motion for Attorneys’ Fees and Expenses or Case Contribution Awards?

You can ask the Court to deny approval of the Settlement and/or the Motion for Attorneys’ Fees and Expenses of Class Counsel or the Case Contribution Awards to be requested for the Class Representatives by filing an objection. You cannot ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object. The Court, however, can award less than the amount requested by Class Counsel

for attorneys' fees and expenses or the amount requested for the case contribution awards. If the Court does so, because of an objection or in its own discretion, although that ruling could affect the timing and amount of settlement payments, any such reduction in Class Counsel's attorneys' fees and expenses or Case Contribution Awards to be paid to the Class Representatives would not otherwise affect the finality of the Settlement.

Any objection to the proposed Settlement or Motion for Attorneys' Fees and Expenses or Case Contribution Awards must be in writing in accordance with the requirements in the Court's Order Authorizing Notice to the Class. If you file a timely written objection, you may, but are not required to, appear at the Fairness 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.

All written objections and supporting papers must: (a) clearly identify the case name and number as *Clark, et al. v. Beth Israel Deaconess Medical Center., et al.*, Case No. 1:22-cv-10068-DPW; (b) be submitted to the Court either by mailing them to the Clerk of the Court for the United States District Court for the District of Massachusetts, John Joseph Moakley United States Courthouse, 1 Courthouse Way, Suite 2300, Boston, MA 02210, or by filing them in person at any location of the United States District Court for the District of Massachusetts; and (c) be filed or postmarked on or before August 23, 2023. Copies of any objection and supporting materials must be sent to Class Counsel and Defense Counsel at the below noted mailing address postmarked no later than August 23, 2023.

Your objection must also include: (1) your full name, current address, and current telephone number, and, if represented by counsel, any of your counsel's names and contact information; (2) a written statement of your objection(s), specifying the reason(s) for each objection, including any supporting evidence, and whether the objection applies only to you, to a specific subset of the Settlement Class, or to the entire Settlement Class; (3) copies of any papers, brief, or other documents upon which the objection is based; (4) a list of all persons who will be called to testify in support of the objection; (5) a list of any other objections to any class action settlements you or anyone acting on your behalf has submitted in any court, whether state, federal, or otherwise, in the United States in the previous five (5) years; and (6) your signature, even if you are represented by counsel.

Any party may file a response to an objection by a Class Member at least seven (7) calendar days before the Fairness Hearing.

ANY CLASS MEMBER WHO DOES NOT OBJECT IN THE MANNER DESCRIBED ABOVE SHALL BE DEEMED TO HAVE WAIVED ANY OBJECTION AND SHALL NOT HAVE ANY RIGHT TO OBJECT TO THE FAIRNESS OR ADEQUACY OF THE SETTLEMENT.

Clerk of the Court

U.S. District Court for the District of Massachusetts
Clerk of Court
John Joseph Moakley
United States Courthouse
1 Courthouse Way, Suite 2300
Boston, MA 02210

Class Counsel

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THE COURT'S FAIRNESS HEARING

17. When/where will the Court decide whether to approve the Settlement?

On September 22, 2023, at 11:00 a.m., in the John Joseph Moakley United States Courthouse, 1 Courthouse Way, Suite 2300, Courtroom 1, Third Floor, Boston, MA 02210, the Court will hold a Fairness Hearing to determine whether the proposed Settlement is fair, reasonable, and adequate and whether it should be approved. The hearing may be continued from time to time by the Court without further notice, and may be held via teleconference or

videoconference. Please check the website or contact Class Counsel if you wish to confirm that the hearing time has not been changed and to determine if it is occurring in person or by video or teleconference.

18. Do I have to attend the Fairness Hearing?

No; however, you are welcome to attend at your own expense. If you file an objection to the Settlement, you do not have to go to Court to talk about it. As long as your objection is filed or postmarked by August 23, 2023 and you comply with the requirements in the answer to question 16 above, the Court will consider it. You may also send your own lawyer at your expense to attend the Fairness Hearing.

19. May I speak at the Fairness Hearing?

You may ask the Court for permission to speak at the hearing. Anyone wishing to appear must state in their written objection their intention to appear at the Fairness Hearing, at their own expense.

Objectors or their attorneys intending to participate at the Fairness Hearing must file a notice of intention to participate (and, if applicable, the name, address, and telephone number of the objector's attorney) with the Court no later than September 7, 2023. Any objectors, or their counsel, who do not timely file a notice of intention to participate in accordance with this Paragraph shall not be permitted to speak at the Fairness Hearing, except for good cause shown.

IF YOU DO NOTHING

20. What happens if I do nothing at all?

IF YOU DO NOTHING, YOU AND ALL OTHER CLASS MEMBERS WILL BE BOUND BY THE JUDGMENT AND SETTLEMENT AGREEMENT, INCLUDING THE RELEASE OF CLAIMS. If you are a Current Participant, or a Beneficiary or Alternate Payee of a Participant and you have an Active Account in the Plans, you do not need to take any action to be eligible to receive the Settlement benefits. If you are a Former Participant, or a Beneficiary or Alternate Payee of a Former Participant and you do not have an Active Account in the Plans, you must submit a Former Participant Claim Form by the submission deadline or you will not receive any of the settlement payments described above in the answers to questions 7 and 8.

DATED: June 16, 2023

**THIS NOTICE HAS BEEN SENT TO YOU BY ORDER OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

Beth Israel 401k and 403b Settlement Administrator
c/o Strategic Claims Services
600 North Jackson Street, Suite 205
Media, PA 19063

IMPORTANT LEGAL NOTICE – PLEASE FORWARD

Mail ID
Name
Address
City, State, Zip