

# EXHIBIT 1

**STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT**

MARIA CUMMINGS, Individually, and as  
PERSONAL REPRESENTATIVE OF THE  
ESTATE OF SHAUN MICHAEL CHAVEZ;  
JANA VALLEJOS, Individually, and as  
PERSONAL REPRESENTATIVE OF THE  
ESTATE OF DONOVAN VALLEJOS; and  
LEON SALAZAR, INDIVIDUALLY, on behalf of  
themselves and ALL OTHERS SIMILARLY SITUATED,

Plaintiffs,

v.

Cause No. CV-2001-00579  
(As consolidated with  
Cause No. CV-2001-01409)

BOARD OF REGENTS OF THE UNIVERSITY  
OF NEW MEXICO, a body corporate of the State of  
New Mexico, for itself and its public operations including  
UNIVERSITY OF NEW MEXICO HEALTH SCIENCES  
CENTER, and its components the UNIVERSITY OF  
NEW MEXICO HOSPITAL and UNIVERSITY OF NEW  
MEXICO SCHOOL OF MEDICINE,

Defendants.

**DECLARATION OF DENISE EARLE  
REGARDING CLAIMS ADMINISTRATION AND PLAN OF DISTRIBUTION**

I, Denise Earle, hereby declare under penalty of perjury as follows:

1. I am a Senior Project Manager for Angeion Group (“Angeion”), located at 1650 Arch Street, Suite 2210, Philadelphia, PA 19103. I am over 21 years of age and am not a party to this action. I have personal knowledge of the facts set forth herein and, if called as a witness, could testify and would testify competently thereto.

2. Unless otherwise defined, the capitalized terms used herein shall have the meaning defined in the Settlement Agreement, Preliminary Approval Order, and the Final Approval Order.

3. Angeion was appointed by this Court on April 16, 2020 to serve as Settlement Administrator in this matter pursuant to the Decedent Class Settlement Agreement, Preliminary Approval Order, and Final Approval Order.

4. As the Settlement Administrator, Angeion supervised and administered the notice procedure, as well as the processing and review of Claims as to the Settlement. Specifically, Angeion was tasked with: administering the Notice Program; further investigation to identify potential claimants; receiving, processing and evaluating Claims; responding to claimant inquiries; establishing and maintaining the Settlement Website; preparing a proposed plan of distribution and performing such duties as may be directed by the Court or the Parties, including preparing to distribute the Net Settlement Fund to Authorized Claimants upon Court approval.

**I. SUMMARY OF NOTICE PROGRAM AND FURTHER INVESTIGATION**

5. As was described in the Declarations of Brian Devery (filed on June 1, 2020 and July 15, 2020, respectively), Angeion caused notice to be sent to 249 potential Class Members pursuant to records provided to Angeion. In addition to the mailed notice, Angeion also incorporated a digital banner ad campaign, press release, notice about the Settlement in certain print publications and performed community outreach. Each of these methods contained information about the Settlement, as well as listed the dedicated Settlement website [www.UNMChildCancerSettlement.com](http://www.UNMChildCancerSettlement.com) where there was an option to Submit a Claim Form online, or Class Members could download a PDF version of the Claim Form to complete and mail to the address on the form.

6. Angeion hired a private investigator to thoroughly research and identify additional potential Class Members. Measures the private investigator took over the course of several months were to identify potential Class Members and the descendants and relatives of potential Class

Members included, but were not limited to: (1) thorough searches on subjects and their relatives through different search agencies, including Tracers and Clear Search; (2) thorough searches on obituary records and graveyard records in numerous states; (3) thorough searches of newspaper archives; (4) thorough searches on internet sites; and (5) thorough searches on Facebook and other social media sites. To help aid in the thorough searches, the private investigator used the social security numbers, birth dates, death dates, last known addresses, medical ID numbers and other unique identifiers of deceased potential Class Members to assist in the locating of possible descendants and relatives of those potential Class Members. The private investigator's efforts resulted in contact with, and information for, numerous potential descendants and relatives of potential Class Members.

## **II. PROCEDURES FOLLOWED IN PROCESSING CLAIMS**

7. Throughout the Claims process, Angeion has received potential Settlement Class Member inquiries by electronic mail, postal mail, and telephone. Angeion maintains a case specific toll-free telephone number, 1-855-534-5953, established on or before May 7, 2020, with an interactive voice response system ("IVR"). The toll-free hotline is accessible 24 hours a day, 7 days a week. As of January 11, 2023, the hotline has received 405 calls. Additionally, Angeion received approximately 6 mailed letters and approximately 248 email inquiries.

8. On or before May 7, 2020, Angeion established a website dedicated to the Settlement, [www.UNMChildCancerSettlement.com](http://www.UNMChildCancerSettlement.com). The Settlement Website, which Angeion continues to maintain, enables potential Settlement Class Members and others to obtain information about the Settlement and provides access to important dates and deadlines. The Settlement Website also provides important documents relevant to the Settlement, including the

Settlement Agreement, Long Form Notice and the Claim Form. In addition, the website allowed potential Class Members to file Claim Forms electronically.

9. Potential Settlement Class Members were required to submit a Claim Form to the Claims Administrator postmarked or filed electronically by no later than May 27, 2022 in order to be considered for eligibility, and to potentially share in the proceeds of the Net Settlement Fund.

10. As of January 11, 2023, Angeion received and processed 92 Claim Forms from potential members of the Class.

11. Angeion used the following procedure to process all Claim Forms submitted by U.S. mail:

a. envelopes received from the Post Office were opened, and then sorted into correspondence, such as requests for Claim Forms, and actual Claim Forms;

b. the correspondence received was reviewed and responded to accordingly;

c. the Claim Forms were opened, and any documentation submitted with a Claim Form was grouped with that Claim Form. Each Claim Form received that did not contain a pre-printed claim number was assigned a unique claim number. Each Claim Form and any corresponding documentation was imaged, and the original documents were stored in a secure manner; and

d. the information from each Claim Form, including the name and address, as well as Decedent information listed on the claim along with the documentation provided in support of each Claim by the Claimant was reviewed to ascertain whether the Claimant had, in fact, a Decedent family member who was diagnosed with pediatric ALL, presented for treatment at the University of New Mexico Health Science Centers between January 1,

1977, and March 31, 1997, and had died by December 1, 2019, inclusive (the “Class Period”) and was a Statutory Beneficiary.

12. Angeion used the following procedure to process all Claims submitted electronically through the online Claims portal located on the Settlement website:

e. potential Class Members who received a Notice via U.S. mail could login to the Settlement website using the uniquely assigned Claim Number and Confirmation Code that was pre-printed on their Notice and submit a Claim Form;

f. potential Class Members who did not receive a Notice had the opportunity to file an electronic generic Claim Form online. Generic claims were automatically assigned a unique Claim Number and Confirmation Code after submitting an electronic claim;

g. after the Claims deadline passed, all claimant data, Claim Form data and any supporting documentation uploaded with such Claim Form submissions was extracted from the Settlement website and stored in a secure manner;

h. the Claims data was reviewed and accompanying supporting documentation submitted with an electronic Claim was grouped with that Claim Form; and

i. the information from each Claim Form, including the name and address, as well as Decedent information listed on the Claim along with the documentation provided in support of each Claim by the Claimant was reviewed to ascertain whether the Claimant had, in fact, a Decedent family member who was diagnosed with pediatric ALL, presented for treatment at the University of New Mexico Health Science Centers between January 1, 1977, and March 31, 1997, and had died by December 1, 2019, inclusive (the “Class Period”) and was a Statutory Beneficiary.

### **III. THE CLAIMS APPROVAL PROCESS**

13. During the Claims approval process, Angeion determined that 24 Claims were missing pertinent information and/or documentation, in whole or in part, necessary to validate and approve a Claim. Through January 11, 2023, Angeion performed various outreach measures attempting to contact Claimants and obtain the missing pertinent information and/or documentation for those particular Claims. As of January 11, 2023, Angeion had sent outreach emails to these 24 Claimants, made numerous outreach phone calls to certain of the 24 Claimants, performed a Social Media search on nine of the Claimants, and mailed outreach letters by U.S. mail to nine of the Claimants. Angeion also provided the names and contact information of seven of the Claimants to the private investigator to perform various searches to help locate those Claimants for whom additional information was needed in order to validate their Claims (and for whom other attempts at communication failed).

14. The various outreach measures advised Claimants they had an opportunity to correct their Claim(s) if they submitted their response by November 30, 2022. The outreach efforts also stated to Claimants that unless their Claim(s) were corrected by November 30, 2022, the Claim(s) would be denied if the Claimant did not supply the required documentation or information.

15. After the Claims were processed, outreach efforts were completed, and Claimants' additional responses were received and processed, Angeion performed quality assurance reviews. The review procedures ensured the correctness and completeness of all the Claims processed and the ultimate approval (or disapproval) determination prior to preparing this Declaration. Under those review procedures, Angeion:

- (a) Performed a review of deficient Claims;
- (b) Attempted to match Class Data to Claim Forms from deficient claims using the information provided by the Claimant to see if the Claimant's Decedent family member had been previously identified by the Special Master, Defendants, or Plaintiffs. If a match was found, and necessary required documentation was received, the Claim was approved;
- (c) Reviewed Claims that were invalid;
- (d) Reviewed Claims with no supporting documentation;
- (e) Completed a phone and email outreach program for deficient Claims;
- (f) Completed a Social Media search for deficient Claims;
- (g) Completed a mailed letter outreach program for deficient Claims; and
- (h) Hired a private investigator to assist with deficient Claims.

#### **IV. CLAIMS RECOMMENDED FOR APPROVAL AND/OR REJECTION**

16. As noted above, Angeion has received a total of 92 Claim Forms.

##### **Approved Claims**

17. There were a total of four Claims that were considered late. Angeion did not reject any Claim solely because it was postmarked or electronically submitted after the Court-approved Claims filing deadline of May 27, 2022. It is Angeion's opinion that no delay resulted from the provisional acceptance of these Claims, which were processed while the other timely Claims were also being processed. Thus, these four Claims were ultimately approved.

18. After final review, Angeion recommends the approval of a total of 59 Claims (which includes the four late Claims) representing 47 Unique Decedents. A listing of those Claims recommended for approval, with recommended approved amounts, is attached as Exhibit A to this Declaration.

### **Disallowed Claims**

19. Angeion recommends a total of 33 Claims be disallowed in their entirety, for one or more of the following reasons: (1) the Claimant failed to provide required information or documentation in support of their Claim; (2) the Decedent was not diagnosed with ALL; (3) the Claimant was not a Statutory Beneficiary; (4) the patient was not deceased as of December 1, 2019; (5) the Decedent's Claims had previously been settled; (6) the Claimant withdrew their Claim; or (7) the Claim was a duplicate. A listing of those Claims for which denial is recommended is attached as Exhibit B to this Declaration.

### **Lists of Claims**

20. Attached as Exhibit A to this Declaration is a list of all Claims recommended for approval and referenced by Claim Number. Each Claimant is identified by his or her individual Claim Number to provide anonymity to the individual's identity. The list of approved Claims includes the total amounts recommended to be paid to each Claimant and the values that were used to determine those amounts. Each Claimant whose Claim is recommended for approval will be able to identify the entry related to him or her from the individual Claim Number.

21. Attached as Exhibit B to this Declaration is a list of all Claims recommended for denial, referenced by Claim Number. Again, each Claimant is identified by his or her individual Claim Number to provide anonymity to the individual's identity. The list of denied Claims identifies the reason(s) for denial of each Claim. Each Claimant whose claim is recommended for denial will be able to identify the entry related to him or her from the individual Claim Number.



**V. PRO RATA DISTRIBUTION OF NET SETTLEMENT FUND AMONG AUTHORIZED CLAIMANTS**

22. As of January 11, 2023, a total of \$22,154,114.82 in Settlement Funds is available for distribution. This balance includes a total of \$183,167.98 of earned interest through January 31, 2023, and takes into consideration necessary payment deductions. Payment deductions included attorneys' fees and expenses and Class Representative incentive awards, all of which were approved by the Court, payment to Angeion for Notice and Claims Administration, as well as outstanding Settlement administration invoices for incurred and unpaid expenses through December 31, 2022 (for which I understand Class Counsel are seeking approval for withdrawal of funds to pay) and the estimated expenses to complete Settlement administration, as further described herein.

23. Taking into consideration the Net Settlement Fund of \$22,154,114.82, as well as the 47 Unique Decedents, if only one approved Claimant is claiming for one Decedent, then that Claimant would receive a Settlement payment of approximately \$471,364.14. If there are two approved Claimants claiming for one Decedent, then those Claimants would each receive a Settlement payment of approximately \$235,682.07. Likewise, if there are three approved Claimants claiming for one Decedent, then those Claimants would each receive a Settlement payment of approximately \$157,121.38.

24. The finalized list of Approved Claimants is subject to Court approval. Should there be a change to the information provided in Exhibit A of this declaration, the Settlement payment amounts described herein would also change. Thus, the Settlement payment amounts described in this declaration are approximate.

**VI. ADMINISTRATIVE FEES AND EXPENSES**

25. The total invoiced administrative fees and expenses including publication notice, direct mail notice, Claimant communication, the audit and Claim review process, and other Claims administration tasks through December 31, 2022 were \$568,226.24. As of the date of this declaration, Angeion has received \$523,927.37 in payments towards its administration expenses. The amount of unreimbursed past administration expenses for work performed through December 2022 is \$44,298.87.

26. Reserve Fund. Funds in the amount of \$100,000.00 will be reserved in the Settlement Fund account to cover (i) expected further costs of administration; (ii) expected taxes; and (iii) unforeseen costs or fees not described above. There may be a second pro rata distribution of any unused funds held in reserve at a later date upon Court approval.

27. Net Settlement Fund. Considering the interest earned, fees paid and a reserve to the Settlement Fund described above, the total amount estimated to be available for distribution to Claimants is \$22,154,114.82 (“Net Settlement Fund” or “NSF”).

28. If the calculations described herein and the recommended approvals and denials of the Claims as described herein and reflected in the Attachments to this Declaration are approved by the Court, the estimated distribution from the Net Settlement Fund to each Claimant is as described in Attachment A.

29. All procedures performed by Angeion with respect to the distribution of the Net Settlement Fund, including procedures to determine the validity of Claims, are subject to the supervision and direction of Counsel and the Court.

## **VII. NOTICE AND DISTRIBUTION**

30. Angeion understands that Class Counsel are submitting to the Court the proposed Plan of Distribution reflected by this Declaration and are requesting the setting of a hearing for

final approval of the Plan of Distribution, together with notice to the Claimants identified in Attachments A and B to this Declaration.

31. Upon approval by this Court of the proposed Notice, Angeion will send the Notice approved by this Court to all Claimants identified in Attachments A and B to this Declaration by prepaid U.S. Mail and by email, as well as placing the Notice on the website previously referred to.

32. Upon Final Approval of the Plan of Distribution, in preparation for printing and mailing the distribution checks, the names and addresses of eligible claimants will be processed, standardized and updated utilizing the National Change of Address database (“NCOA”) maintained by the U.S. Postal Service (“USPS”). The NCOA contains change of address notifications filed with the USPS and if an individual had filed a change of address notification with the USPS, the address listed with NCOA will be updated in our records and used in connection with the mailing of the checks.

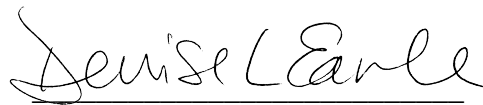
33. The distribution checks will be voided 60 days after issuance. Wording to this effect will be printed on the face of the check and will be noted in the check stub.

34. Angeion will re-issue checks to any beneficiary whose check is returned by the USPS as undeliverable but is noted with a forwarding address. All checks re-issued through this process, or by Claimant request, will be void 30 days after re-issuance or the original check’s void date, whichever is greater. Any check for which an updated address cannot be obtained through these means (or is returned a second time by the USPS as undeliverable after re-issue and following research) will be deemed “undeliverable” and no further processing will be performed. If there are funds remaining and it makes economic sense, Angeion will make a second distribution.

## **VIII. CONCLUSION**

35. For the foregoing reasons, Angeion recommends to the Court the approval of the Plan of Distribution reflected by this Declaration and Attachments A and B to this Declaration. I hereby declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: February 10, 2023

A handwritten signature in cursive script that reads "Denise Earle". The signature is written in black ink and is positioned above a horizontal line.

DENISE EARLE

# Exhibit A

#	Claim Number	Unique Decedent	Percentage of Award Share	Estimated Amount of Award
1	CMG26999	X	50%	\$ 235,682.07
2	CMG50010		50%	\$ 235,682.07
3	CMG27177	X	50%	\$ 235,682.07
4	CMG27232		50%	\$ 235,682.07
5	CMG27043	X	100%	\$ 471,364.14
6	CMG27188	X	100%	\$ 471,364.14
7	CMG27299	X	100%	\$ 471,364.14
8	CMG50011	X	100%	\$ 471,364.14
9	CMG27289	X	100%	\$ 471,364.14
10	CMG27212	X	33.33%	\$ 157,121.38
11	CMG27275		33.33%	\$ 157,121.38
12	CMG27331		33.33%	\$ 157,121.38
13	PCMG1006	X	100%	\$ 471,364.14
14	PCMG1016	X	100%	\$ 471,364.14
15	PCMG1013	X	100%	\$ 471,364.14
16	PCMG1017	X	100%	\$ 471,364.14
17	CMG27631	X	33.33%	\$ 157,121.38
18	PCMG1010		33.33%	\$ 157,121.38
19	PCMG1011		33.33%	\$ 157,121.38
20	CMG27510	X	100%	\$ 471,364.14
21	PCMG1024	X	100%	\$ 471,364.14
22	CMG27225	X	100%	\$ 471,364.14
23	PCMG1030	X	100%	\$ 471,364.14
24	CMG27129	X	100%	\$ 471,364.14
25	CMG26794	X	100%	\$ 471,364.14
26	PCMG1004	X	100%	\$ 471,364.14
27	PCMG1026	X	100%	\$ 471,364.14
28	PCMG1023	X	100%	\$ 471,364.14
29	PCMG1007	X	50%	\$ 235,682.07
30	PCMG1008		50%	\$ 235,682.07
31	PCMG1020	X	50%	\$ 235,682.07
32	PCMG1021		50%	\$ 235,682.07
33	PCMG1005	X	100%	\$ 471,364.14
34	PCMG1003	X	100%	\$ 471,364.14
35	CMG26897	X	100%	\$ 471,364.14
36	CMG50013	X	100%	\$ 471,364.14
37	PCMG1025	X	100%	\$ 471,364.14
38	PCMG1045	X	100%	\$ 471,364.14
39	PCMG1029	X	100%	\$ 471,364.14
40	PCMG1034	X	100%	\$ 471,364.14
41	CMG27656	X	100%	\$ 471,364.14
42	CMG26838	X	100%	\$ 471,364.14
43	PCMG1018	X	100%	\$ 471,364.14
44	PCMG1015	X	100%	\$ 471,364.14
45	CMG26820	X	100%	\$ 471,364.14
46	CMG27072	X	50%	\$ 235,682.07

47	CMG27206		50%	\$	235,682.07
48	CMG26826	X	100%	\$	471,364.14
49	CMG27316	X	100%	\$	471,364.14
50	PCMG1031	X	50%	\$	235,682.07
51	PCMG1032		50%	\$	235,682.07
52	PCMG1042	X	50%	\$	235,682.07
53	PCMG1044		50%	\$	235,682.07
54	CMG26868	X	100%	\$	471,364.14
55	PCMG1040	X	100%	\$	471,364.14
56	CMG27204	X	50%	\$	235,682.07
57	CMG27205		50%	\$	235,682.07
58	PCMG1039	X	100%	\$	471,364.14
59	CMG27660	X	100%	\$	471,364.14
				\$	22,154,114.58

# Exhibit B



#	Claim Number	Denial Reason
1	CMG26891	Ineligible Statutory Beneficiary
2	CMG27263	Ineligible Statutory Beneficiary
3	CMG27267	Ineligible Diagnosis
4	CMG27420	Unable to Validate; No Documentation Provided
5	CMG27433	Unable to Validate Treatment at UNM; Insufficient Documentation Provided
6	CMG50003	Ineligible Timeframe (Outside the Class Period)
7	CMG50004	Ineligible Timeframe (Outside the Class Period)
8	CMG50005	Ineligible Timeframe (Outside the Class Period)
9	CMG50006	Unable to Validate Treatment at UNM; Insufficient Documentation Provided
10	CMG50008	Ineligible Statutory Beneficiary
11	CMG50012	Ineligible Statutory Beneficiary
12	CMG50014	Ineligible Statutory Beneficiary
13	CMG50015	Ineligible Diagnosis
14	PCMG1001	Ineligible Timeframe (Outside the Class Period); Ineligible Diagnosis
15	PCMG1002	Ineligible Timeframe (Outside the Class Period)
16	PCMG1009	Ineligible Class (Survivor)
17	PCMG1012	Unable to Validate; No Documentation Provided
18	PCMG1014	Ineligible Timeframe (Outside the Class Period)
19	PCMG1022	Ineligible Timeframe (Outside the Class Period)
20	PCMG1027	Ineligible (Previously Settled)
21	PCMG1033	Unable to Validate; No Documentation Provided
22	PCMG1038	Ineligible Diagnosis
23	PCMG1041	Ineligible Statutory Beneficiary
24	PCMG1043	Ineligible Statutory Beneficiary