

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
Miami Division**

<p>RICK LOVE, M.D., et al.,</p> <p style="text-align: center;">Plaintiffs,</p> <p>v.</p> <p>BLUE CROSS & BLUE SHIELD ASSOCIATION, et al.,</p> <p style="text-align: center;">Defendants</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Case No. 03-21296-CIV-MORENO/SIMONTON</p>
--	--	---

MOTION FOR APPROVAL OF JOINDER IN SETTLEMENT AGREEMENT

Representative Plaintiffs, Signatory Medical Societies, the Settling Defendants,¹ and Independence Blue Cross, AmeriHealth HMO, Inc., LaCruz Azul de Puerto Rico, and Keystone Health Plan East, Inc. (collectively referred to herein as “IBC”), respectfully move this Court to enter an Order approving the joinder filed by IBC in the Settlement Agreement in the action styled Love, et al. v. Blue Cross Blue Shield Ass’n, et al., (formerly Thomas, et al. v. Blue Cross Blue Shield Ass’n, et al.), Case No. 03-21296-CIV-MORENO/SIMONTON (the “Action”), which this Court preliminarily approved on May 31, 2007 [D.E. 945]. The Settling Parties² and IBC are collectively referred to herein as “Parties.”

As such, we request that the Court enter the proposed Order (attached herewith) granting the Parties’ Motion for Approval of Joinder as expeditiously as possible, as the Notice of Class Action and Proposed Settlement and Instructions Regarding the Claim Form must be amended to

¹ “Settling Defendants” means the “Blue Parties” as defined in the Settlement Agreement.
² “Settling Parties” includes all the parties to the Settlement Agreement that the Court preliminarily approved on May 31, 2007.

include IBC no later than July 16, 2007. In support of this Motion, the Settling Parties and IBC state as follows:

1. Representative Plaintiffs, the Signatory Medical Societies, and a group of Blue Parties entered into a Settlement Agreement [D.E. 928], which was preliminarily approved by this Court on May 31, 2007 [D.E. 945].

2. IBC has agreed to join the Settlement Agreement subject to the terms and conditions set forth in IBC's Joinder of Settlement Agreement ("Joinder Agreement"), a copy of which is submitted herewith as Exhibit 1.

3. IBC's Joinder of Settlement Agreement does not impact any of the other Settling Defendants' rights or obligations under the Settlement Agreement or the enforceability of any of the provisions of the Settlement Agreement, including without limitation Sections 7, 8, 9, 10, 13, 14, and 28.

4. The Settling Parties consent to the joinder of IBC to the Settlement Agreement.

5. IBC's joinder in the Settlement Agreement does not affect the date of the Final Approval Hearing of November 14, 2007 or any of the other dates and deadlines established in the Court's May 31, 2007 Order preliminarily approving the Settlement Agreement, including the opt-out deadline of September 14, 2007, the objection deadline of October 1, 2007, and the claim form deadline of October 19, 2007, except that published notice in *The American Medical News* and *The Journal of the American Medical Association* will occur on or about August 6 and 8, respectively.³ The Parties request the Court approve that the published notice in *The American*

³ The Settling Parties note that due to a miscommunication with the publisher regarding the deadline for publication in the *The American Medical News* and *The Journal of the American Medical Association*, Published Notice in these publications will be made after the 60th day following preliminary approval, on August 6 and August 8, 2007, respectively.

Medical News and *The Journal of the American Medical Association* will occur within 75 days of the preliminary approval order.

6. The Notice of Class Action and Proposed Settlement attached as Exhibit E to the Joinder Agreement, the Claim Form attached as Exhibit A to the Joinder Agreement, and the Instructions Regarding the Claim Form attached as Exhibit B to the Joinder Agreement have been revised to include IBC. The Parties request the Court to order that the Notice of Class Action and Proposed Settlement, the Claim Form and the Instructions Regarding Claim Form in Exhibits A, B and E to the Joinder Agreement be disseminated pursuant to the Court's May 31, 2007 Order Preliminarily Approving Proposed Settlement Agreement.

7. In addition, submitted herewith are Exhibits H, K, and L to the Joinder Agreement, which include the additional language agreed to by the Representative Plaintiffs and IBC.

8. Consistent with the May 31, 2007 Order Preliminarily Approving the Settlement Agreement, the Blue Parties and Class Counsel will cause the above referenced exhibits along with a conformed copy of the Settlement Agreement (conformed as will be necessary to reflect the addition of IBC including the revised Settlement Fund Amounts described in Section 8 and the Unopposed Amount of attorneys fees described in Section 9 reflecting the additional amounts IBC has agreed to pay) be made available on the websites of the Settlement Administrator, the Blue Parties and the websites designated by Class Counsel: www.hmosettlements.com, www.whatleydrake.com, www.kttlaw.com and www.archielamb.com. The conformed copy will subsequently be filed with the Court for the record.

9. Therefore the Parties respectfully request that the Court grant this Motion so that all of the Court's prior deadlines, including the mailed notice and the Fairness Hearing proceed as scheduled.

10. Representative Plaintiffs, Signatory Medical Societies, and IBC respectfully request that this Court approve IBC's Joinder in the Settlement Agreement.

Respectfully submitted this 13th day of July, 2007.

/s/ Edith M. Kallas
Edith M. Kallas, Esq.
Joseph P. Guglielmo, Esq.
WHATLEY DRAKE & KALLAS
1540 Broadway, 37th Floor
New York, NY 10036

Joe R. Whatley, Esq.
Charlene P. Ford, Esq.
Othni J. Lathram, Esq.
WHATLEY DRAKE & KALLAS
2001 Park Place North, Suite 1000
Birmingham, AL 35203

/s/ Archie C. Lamb, Jr.
Archie C. Lamb, Jr., Esq. (FBN 742597)
LAW OFFICES OF ARCHIE LAMB
2017 2nd Avenue North
Birmingham, AL 35203

/s/ Harley S. Tropin
Harley S. Tropin, Esq. (FBN 241253)
Janet L. Humphreys, Esq. (FBN 607258)
KOZYAK TROPIN & THROCKMORTON
2525 Ponce de Leon, 9th Floor
Coral Gables, FL 33134

James B. Tilghman, Esq.
STEWART TILGHMAN FOX, et al.
1 S.E. 3rd Avenue
Suite 3000
Miami, Florida 33131

/s/ Craig P. Kalil
Craig P. Kalil, Esq.
Florida Bar No. 607282
ABALLI, MILNE, KALIL & ESCAGEDO, P.A.
2250 SunTrust International Center
One S.E. Third Avenue
Miami, Florida 33131

Edward F. Mannino, Esq.
David L. Comerford, Esq.
Katherine M. Katchen, Esq.
AKIN GUMP STRAUSS HAUER & FELD LLP
2005 Market Street, Suite 2200
Philadelphia, PA 19103-7013
(215) 965-1200
(215) 965-1210 FAX

Counsel for Defendants Independence Blue Cross, AmeriHealth HMO, Inc., Keystone Health Plan East, Inc., and La Cruz Azul de Puerto Rico

McDERMOTT WILL & EMERY LLP

s/ Steven E. Siff
Steven E. Siff (FBN: 352330)
Michael G. Austin (FBN: 0457205)
201 S. Biscayne Boulevard, 22nd Floor

Aaron S. Podurst, Esq.
PODURST ORSECK
25 W. Flagler Street, Suite 800
Miami, FL 33130

Nicholas B. Roth, Esq.
EYSTER KEY TUBB WEAVER & ROTH
402 E. Moulton Street
Decatur, AL 35601

Dennis G. Pantazis, Esq.
WIGGINS CHILDS QUINN & PANTAZIS
301 19th Street North
Birmingham, AL 35203

Kenneth S. Canfield, Esq.
DOFFERMYRE SHIELDS CANFIELD
Knowles & Devine
1355 Peachtree Street, Suite 1600
Atlanta, GA 30309

Jeffrey A. Mobley, Esq.
LOWE MOBLEY & LOVE
1210 21st Street
Haleyville, AL 35565

J. Mark White, Esq.
WHITE ARNOLD ANDREWS & DOWD
2025 3rd Avenue North
Suite 600
Birmingham, AL 35203

Mark Gray, Esq.
GRAY & WEISS
1200 PNC Plaza
500 West Jefferson
Louisville, KY 40202

Guido Saveri/Cadio Zirpoli, Esq.
SAVERI & SAVERI
111 Pine Street
Suite 1700
San Francisco, CA 94111

Robert Foote, Esq.

Miami, FL 33131
Tel: (305) 358-3500
Fax: (305) 347-6500

Michael A. Pope
Christopher Murphy
Marie A. Halpin
McDERMOTT WILL & EMERY LLP
227 West Monroe Street
Chicago, IL 60606
Tel: (312) 372-2000
Fax: (312) 984-7700

Joel L. Michaels
McDERMOTT WILL & EMERY LLP
600 13th Street N.W., 12th Floor
Washington, D.C. 20005
Tel: (202) 756-8000
Fax: (202) 756-8087

Attorneys for Blue Cross and Blue Shield of Florida, Blue Cross and Blue Shield of Alabama; Louisiana Health Services & Indemnity Company d/b/a Blue Cross and Blue Shield of Louisiana; HMO of Mississippi, Inc.; Blue Cross & Blue Shield of Mississippi, Blue Cross and Blue Shield of South Carolina; Hospital Service Association of Northeastern Pennsylvania d/b/a Blue Cross of Northeastern Pennsylvania; Blue Cross and Blue Shield of Rhode Island; Regence BlueCross BlueShield of Utah; Regence BlueShield of Idaho, Inc.; Regence BlueCross BlueShield of Oregon; Regence BlueShield; Health Care Service Corporation, a Mutual Legal Reserve Company, operating through its divisions Blue Cross and Blue Shield of Illinois; Blue Cross and Blue Shield of New Mexico and Blue Cross and Blue Shield of Texas; Blue Cross & Blue Shield of Oklahoma; BlueCross BlueShield of Tennessee; Tennessee Healthcare Network, Inc.; Blue Cross and Blue Shield of Minnesota; Wellmark, Inc. d/b/a Wellmark Blue Cross and Blue Shield of Iowa; Wellmark of South Dakota, Inc. d/b/a Wellmark Blue Cross and Blue Shield of South Dakota

FOOTE MEYERS MIELKE & FLOWERS

416 S. 2nd Street
Geneva, IL 60134

James E. Hartley, Jr., Esq.

DRUBNER HARTLEY & O'CONNOR

500 Chase Parkway, 4th Floor
Waterbury, CT 06708

Counsel for Plaintiffs

Emily M. Yinger

HOGAN & HARTSON L.L.P.

8300 Greensboro Drive – Suite 1100

McLean, VA 22102

Tel: (703) 610-6100

Fax: (703) 610-6200

**Attorneys for Blue Cross and Blue Shield of
North Carolina**

Joseph A. Fink

Kathleen A. Lang

DICKINSON WRIGHT PLLC

500 Woodward Avenue, Suite 4000

Detroit, MI 48226

Tel: (313) 223-3534

Fax: (313)223-3598

**Attorneys for Blue Cross & Blue Shield of
Michigan**

Daly D.E. Temchine

John M. Murdock

EPSTEIN, BECKER & GREEN, P.C.

1227 25th Street, N.W. Ste. 700

Washington D.C. 20037

Hervé Gouraige

EPSTEIN, BECKER & GREEN, P.C.

Two Gateway Center, 12th Floor

Newark, NJ 07102-5003

Tel: 973-639-8536

Fax: 973-642-0099

Alvin D. Lodish

BILZIN, SUMBERG, BAENA, PRICE &

AXELROD LLP

200 South Biscayne Blvd., Suite 2500

Miami, FL 33131

Tel: (305) 374-7580

Fax: (305) 374-7593

Attorneys for Carefirst Blue Cross and Blue Shield of The District of Columbia; Carefirst Blue Cross and Blue Shield of Maryland; Blue Cross & Blue Shield of Massachusetts; Blue Cross & Blue Shield Montana; Horizon Blue Cross Blue Shield of New Jersey; and Empire Blue Cross and Blue Shield of New York

Alvin D. Lodish
BILZIN, SUMBERG, BAENA, PRICE & AXELROD LLP
200 South Biscayne Blvd., Suite 2500
Miami, FL 33131
Tel: (305) 374-7580
Fax: (305) 374-7593

Chester T. Kamin
C. Steven Tomashefsky
John J. Hamill
JENNER & BLOCK LLP
One IBM Plaza
Chicago, IL 60611
Tel: (312) 222-9350
Fax: (312) 840-7769

Anthony F. Shelley
MILLER & CHEVALIER CHARTERED
655 Fifteenth Street, N.W.
Suite 900
Washington, D.C. 20005
Tel: (202) 626-5924
Fax: (202) 628-0858

Attorneys for Blue Cross and Blue Shield Association

Alan G. Greer
RICHMAN, GREER, WEIL, BRUMBAUGH, MIRABITO & CHRISTENSEN, P.A.
Miami Center – 10th Floor
201 S. Biscayne Boulevard
Miami, FL 33131

Gwendolyn C. Payton
LANE, POWELL, SPEARS & LUBERSKY LLP

1420 5th Avenue, Suite 4100
Seattle, WA 98101
Tel: (206) 223-7746
Fax: (907) 276-2631

**Attorneys for Premera Blue Cross d/b/a
Premera Blue Cross/Blue Shield of Alaska**

Robert Carson Godbey
Jess H. Griffiths
GODBEY GRIFFITHS REISS
1001 Bishop St., 2300 Pauahi Tower
Honolulu, HI 96813
Tel: (808) 523-8894

Ellen Godbey Carson
Louise K. Y. Ing
ALSTON HUNT FLOYD & ING
1001 Bishop St.
1800 American Savings Bank Tower
Honolulu, HI 96813
Tel: (808) 524-1800

Isaac Mitrani
**MITRANI, RYNOR, ADAMSKY &
MACAULAY, P.A.**
2200 SunTrust International Center
One Southeast Third Avenue
Miami, Fl 33131
Tel: (305) 358-0050
Fax: (305) 358-0550

**Attorneys for Hawaii Medical Service
Association**

César T. Alcover-Costa
Jose E. Gonzalez-Borgos
FIDDLER, GONZÁLEZ & RODRIGUEZ
P.O. Box 363507
San Juan, PR 00936-3507
Tel: (787) 759-3207
Fax: (787) 250-7545

Ana T. Barnett
STEARNS WEAVER MILLER
150 West Flagler Street, Suite 2200
Miami, FL 33130
Tel: (305) 789-3514
Fax: (305) 789-3395

Attorney for Triple-S, Inc., of Puerto Rico

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that on this 13th day of July, 2007, a true copy of the foregoing Motion for Approval of Joinder in Settlement Agreement caused to be was served via ECF, Federal Express and e-mail to:

Michael Pope, Esq.
McDermott Will & Emery LLP
227 W. Monroe Street
Chicago, IL 60606

Chester T. Kamin, Esq.
Jenner & Block LLP
One IBM Plaza
Chicago, IL 60611

Alvin Lodish, Esq.
Bilzin Sumberg Baena Price & Axelrod LLP
200 S. Biscayne Boulevard
Suite 2500
Miami, FL 33131

and via electronic service on all parties on record on the 1/12/05 service list.

/s/ Joy A. Nesbitt