

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

ADVENTIST HEALTH SYSTEM
SUNBELT HEALTHCARE
CORPORATION,
a Florida not for profit corporation,

Plaintiff,

v.

MICHAEL H. WEISS, P.C., California
professional corporation; MICHAEL H.
WEISS, a California resident; TOMAX
CAPITAL MANAGEMENT, INC., a
California corporation; and YEHORAM
TOM EFRATI, a California resident,

Defendants.

Case No.: 6:20-CV-00877-PGB-DCI

**UNOPPOSED¹ MOTION FOR ENTRY OF CONSENT FINAL JUDGMENT
AGAINST DEFENDANTS TOMAX AND EFRATI**

Plaintiff Adventist Health System Sunbelt Healthcare Corporation (“AdventHealth”), pursuant to the parties’ Settlement Agreement and Mutual Release, respectfully requests this Court enter the attached Consent Final Judgment Against Defendants Yehoram Tom Efrati (“Efrati”) and Tomax Capital Management, Inc. (“Tomax”), and states:

¹ On April 16, 2021, pursuant to Local Rule 3.01(g), the undersigned hereby certifies that he conferred by telephone with Defendants’ counsel, who does not oppose the relief requested in this motion.

I. Background

Defendants' failure to make periodic settlement payments pursuant to the terms of the Settlement Agreement and Mutual Release dated March 3, 2021 ("Settlement Agreement") entitles AdventHealth to entry of the Consent Final Judgment Against Defendants.² On March 3, 2021, AdventHealth, Efrati, and Tomax attended mediation, and reached a settlement.³ Tomax and Efrati agreed to pay money to AdventHealth through periodic payments. Tomax and Efrati failed to make the first periodic payment due on April 12, 2021 in the amount of \$300,000.⁴ AdventHealth notified Tomax and Efrati of their default. Tomax and Efrati had three (3) days or until April 15, 2021 to cure their default, and failed to pay the amount due by April 15, 2021.⁵

II. Memorandum of Law

The Settlement Agreement is not unconstitutional, unlawful, unreasonable, or contrary to public policy as it was the product of the parties' negotiations at mediation to resolve the debt that Defendants owed to AdventHealth. "District courts should approve consent decrees so long as they are not unconstitutional,

² A true and correct copy of the Settlement Agreement is attached as Exhibit A, and the Consent Final Judgment Against Defendants ("Consent Judgment") is attached to the Settlement Agreement as Exhibit 1.

³ The factual allegations in this Motion are outlined in the Declaration of Mayanne Downs attached as Exhibit B.

⁴ Settlement Agreement ¶ 4.b.

⁵ Settlement Agreement ¶ 6.

unlawful, unreasonable, or contrary to public policy.” *Stovall v. City of Cocoa, Fla.*, 117 F.3d 1238, 1240 (11th Cir. 1997). “A court may properly enter a consent decree only if the settlement it incorporates is ‘fair, adequate, and reasonable and is not the product of collusion between the parties.’” *Florida Wildlife Fed’n, Inc. v. Jackson*, 4:08CV324-RHWCS, 2009 WL 5217062, at *3 (N.D. Fla. Dec. 30, 2009) (quoting *Cotton v. Hinton*, 559 F.2d 1326, 1330 (5th Cir. 1977)).

AdventHealth has not received any amounts due from Efrati or Tomax. Defendants agreed to the entry of the Consent Judgment as part of the settlement in the event they failed to make timely payments. Defendants executed the Settlement Agreement freely and voluntarily with the advice and assistance of their counsel. The amount of the Consent Judgment reflects the amounts owed to AdventHealth to make it whole for the loss it suffered at the hands of Tomax and Efrati. Under these circumstances, Florida’s public policy favors enforcement of settlement agreements. *See, e.g., Sun Microsystems of California, Inc. v. Eng’g & Mfg. Sys., C.A.*, 682 So. 2d 219, 220 (Fla. 3d DCA 1996) (“The public policy of the State of Florida, as articulated in numerous court decisions, highly favors settlement agreements among parties and will seek to enforce them whenever possible.”).

The principal amount of the Consent Judgment is \$1,500,000.⁶ Interest on the judgment amount began accruing on March 3, 2021 at the rate of 6%.⁷ The total interest due is \$10,573.39 as of April 16, 2021. Accordingly, AdventHealth is entitled to entry of the Consent Final Judgment Against Defendants for the total judgment amount of \$1,510,573.39,⁸ which is attached as Exhibit C.

WHEREFORE, AdventHealth respectfully requests this Court enter the Consent Final Judgment Against Defendants Efrati and Tomax in the amount of \$1,510,573.39, which is attached as Exhibit C.

Respectfully submitted this 16th day of April, 2021,

/s/ Joshua Bachman _____
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⁶ Settlement Agreement ¶ 6.

⁷ Settlement Agreement ¶ 6.

⁸ The total judgment amount plus interest was calculated as follows:
 $1,500,000.00(1 + 0.06/1)^{(1)(0.12054794520548)} = \$1,510,573.39$

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 16, 2021, a true and correct copy of the foregoing was filed through the CM/ECF system which will serve an electronic copy on:

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