

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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Scott Belknap, on behalf of himself and all others )  
similarly situated, )  
) )  
Plaintiff )  
) )  
v. )  
) )  
Partners Healthcare System, Inc. et al., )  
) )  
Defendants. )

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Civil Action. No. 1:20-cv-11437

**DEFENDANTS’ ANSWER AND DEFENSES TO  
PLAINTIFF’S AMENDED COMPLAINT**

Mass General Brigham, Incorporated, formerly known as Partners Healthcare System, Inc. (“MGBI”), The Pension Management Committee and the Retirement Committee (collectively the “Defendants”) by and through their undersigned attorneys, hereby answer the Amended Complaint of Plaintiff Scott Belknap (“Plaintiff”) as set forth below.

**AMENDED COMPLAINT<sup>1</sup>**

To the extent Plaintiff’s unnumbered introductory paragraph requires a response, Defendants deny the allegations contained therein.

**INTRODUCTION**

1. Except to admit that Plaintiff purports to bring a class action against Defendants, Defendants deny the allegations in Paragraph 1 of the Complaint and specifically deny that Plaintiff is entitled to any relief.

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<sup>1</sup> Defendants restate herein the headings contained in Plaintiff’s Amended Complaint for the Court’s convenience, but they do not admit the content of any of the headings.

2. Defendants admit that what was known at the time of Plaintiff's retirement as the Consolidated Cash Balance Program of Partners Healthcare and Member Organizations ("the Plan")<sup>2</sup> was amended in 2016, and that Plaintiff is covered by Appendix E of the Plan, also known as the "Grandfathered MGH Plan" that encompasses the Plan as in effect as of December 31, 2015. The Plan is a written document that speaks for itself, and Defendants deny all remaining allegations as inconsistent with that Plan.

3. Certain of the allegations in paragraph 3 are conclusions of law to which no response is required. The remaining allegations of paragraph 3 are denied. The Plan is a written document that speaks for itself.

4. The allegations in paragraph 4 are conclusions of law to which no response is required.

5. Defendants deny the allegations in paragraph 5.

6. Defendants admit that some mortality rates have improved over long periods of time. Defendants deny the remaining allegations in paragraph 6.

7. Defendants admit that the 1951 GAM is based on certain mortality rates from more than 60 years ago. Defendants deny the remaining allegations in paragraph 7.

8. Defendants admit that interest rates affect the calculation of different forms of benefits. Defendants deny the remaining allegations in paragraph 8.

9. Defendants deny the allegations in paragraph 9.

10. Defendants admit that Plaintiff worked for Massachusetts General Hospital ("MGH") for more than 36 years and his benefits are calculated under Appendix E to the Plan,

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<sup>2</sup> For purposes of this Answer, all references to the Plan are to the 2016 Plan in effect on the date of Plaintiff's retirement.

also known as the Grandfathered MGH Plan.<sup>3</sup> Defendants deny the remaining allegations in paragraph 10.

11. Except to admit that Plaintiff seeks an Order from the Court granting the relief he requests, Defendants deny the allegations in paragraph 11 and specifically deny that Plaintiff is entitled to any relief.

### **JURISDICTION AND VENUE**

12. The allegations in paragraph 12 are conclusions of law to which no response is required.

13. The allegations in paragraph 13 are conclusions of law to which no response is required.

14. The allegations in paragraph 14 are conclusions of law to which no response is required.

### **PARTIES**

#### **Plaintiff**

15. Defendants admit that their most recent records reflect an address for Plaintiff Scott Belknap in Morrill, Maine and that he is covered by the Grandfathered MGH Plan. Defendants further admit that Plaintiff worked for MGH from 1980 to 2016, that he retired at age 62 and 3 months, and that he is currently receiving a 50% joint and survivor annuity, with his wife as the beneficiary.

#### **Defendants**

16. Admitted.

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<sup>3</sup> To the extent footnote one requires a response, Defendants admit only that Appendix E to the Plan is a written document, the contents of which speak for itself.

17. Certain of the allegations in paragraph 17 are conclusions of law to which no response is required. To the extent a response is required, admitted.

18. Defendants admit only that the Plan is a written document that speaks for itself and deny any allegations inconsistent with the terms of the Plan. Defendants deny the remaining allegations in paragraph 18.

19. Defendants admit only that the Plan is a written document that speaks for itself and deny any allegations inconsistent with the terms of the Plan.

20. Certain of the allegations in paragraph 20 are conclusions of law. To the extent a response is required, Defendants admit only that the Plan is a written document that speaks for itself and deny any allegations inconsistent with the terms of the Plan. Defendants deny the remaining allegations in paragraph 20.

21. Defendants admit only that the Plan is a written document that speaks for itself and deny any allegations inconsistent with the terms of the Plan.

**APPLICABLE ERISA REQUIREMENTS**

22. The allegations in paragraph 22 are conclusions of law to which no response is required. To the extent that a response is required, Defendants deny the allegations in paragraph 22.

23. The allegations in paragraph 23 are conclusions of law to which no response is required. To the extent that a response is required, Defendants deny the allegations in paragraph 23.

24. The allegations in paragraph 24 are conclusions of law to which no response is required. To the extent that a response is required, Defendants deny the allegations in paragraph 24.

25. The allegations in paragraph 25 are conclusions of law to which no response is required. To the extent that a response is required, Defendants deny the allegations in paragraph 25.

26. Defendants deny the allegations in paragraph 26.

27. Defendants deny the allegations in paragraph 27.

28. Defendants state that ASOP 27 is a written document that speaks for itself, deny any characterization inconsistent with the writing and deny that this ASOP has any application to the benefit calculations at issue here.<sup>4</sup> Defendants deny the remaining allegations in paragraph 28.

29. Defendants deny the allegations in paragraph 29.

### **SUBSTANTIVE ALLEGATIONS**

#### **I. The Plan**

30. Admitted.

31. The allegations of paragraph 31 are legal conclusions to which no response is required.

32. Defendants admit that in 2016 the Plan as amended, restated and merged with certain of MGBI's other defined benefit pension plans, and that Plaintiff is covered by the Grandfathered MGH Plan provisions. The Plan is a written document that speaks for itself, and Defendants deny all remaining allegations that are inconsistent with the Plan.

33. The Plan is a written document that speaks for itself. Defendants deny all remaining allegations that are inconsistent with the Plan, and deny the remaining allegations in paragraph 33.

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<sup>4</sup> Footnote two is a summary of testimony and legal conclusions expected by Plaintiff's anticipated expert, and therefore no response is required.

34. The Plan is a written document that speaks for itself. Defendants deny all remaining allegations that are inconsistent with the Plan, and deny the remaining allegations in paragraph 34.

35. Defendants deny the allegations in paragraph 35.

36. Defendants admit that certain participants in the Grandfathered MGH Plan can retire following their attainment of age 55 if they have sufficient Years of Vesting Service and Hours of Service. The Plan is a written document that speaks for itself, and Defendants deny any remaining allegations that are inconsistent with the Plan.

37. Defendants deny the allegations in paragraph 37.

38. Defendants admit that the Plan offers several benefit forms other than an SLA, including joint and survivor annuities of 50, 66-2/3, 75 and 100 percent (“JSAs”), certain and life annuities for 10, 15 or 20 years (“CLAs”) and period-certain annuities for 10, 15 and 20 years (“Period Certain Annuities”). The Plan is a written document that speaks for itself. Defendants deny any remaining allegations that are inconsistent with the Plan, and deny the remaining allegations in paragraph 38.

39. The Plan is a written document that speaks for itself. Defendants deny any remaining allegations that are inconsistent with the Plan, and deny the remaining allegations in paragraph 39.

40. The Plan is a written document that speaks for itself. Defendants deny all remaining allegations that are inconsistent with the Plan, and deny the remaining allegations in paragraph 40.

41. The Plan is a written document that speaks for itself and Defendants deny all allegations inconsistent with the Plan and all remaining allegations in paragraph 41.

**II. The Plan Does Not Provide Actuarially Equivalent Benefits to Participants That Retire Before Age 65.**

**A. Converting an Accrued Benefit to Another Form.**

42. Certain of the allegations in paragraph 42 are conclusions of law to which no response is required. To the extent that a response is required, the Plan is a written document that speaks for itself and Defendants deny all allegations inconsistent with the Plan and all remaining allegations in paragraph 42.

43. Defendants admit that generally when someone retires early they are trading a lower monthly benefit for receiving those benefits for a longer amount of time. Defendants deny all remaining allegations in paragraph 43.

44. Defendants admit that present value calculations can be done using an interest rate and mortality table(s), among other factors and assumptions. Defendants deny any remaining allegations in paragraph 44.

45. Defendants admit that an interest rate can be used to calculate present value, and that a “discount rate” discounts the value of future payments. Defendants deny any remaining allegations in paragraph 45.

46. Defendants deny the allegations in paragraph 46.

47. Defendants deny the allegations in paragraph 47.

48. Defendants admit that after the 1951 GAM was published, the SOA published additional mortality tables, including in 1971, 1983, 1994, 2000, and 2014. Defendants deny the remaining allegations in paragraph 48.

49. Defendants admit that Plaintiffs have quoted and incorporated charts from a paper by Aon Hewitt dated November 2014. The Aon Hewitt paper speaks for itself, and Defendants deny any characterization of the paper inconsistent with its contents.

50. Defendants deny the allegations in paragraph 50.

51. Defendants deny the allegations in paragraph 51.

52. Defendants admit that sometimes mortality tables are projected to future years to account for expected improvements in mortality, such as 2017 and 2018 Updated Static Morality Tables for Defined Benefit Pension Plans. Defendants deny the remaining allegations in paragraph 52.

53. Defendants deny the allegations in paragraph 53.

**B. The Actuarial Assumptions Partners Uses to Calculate Its Plan Liabilities and Costs Are Significantly Different Than Those Used to Calculate Grandfathered Participants' Early Retirement Benefits.**

**1. Partners Uses Reasonable, Updated Actuarial Assumptions to Calculate the Present Value of Its Liabilities to Pay Benefits.**

54. Defendants admit that an actuary's calculation of the present value of future pension liabilities in audited financial statements would incorporate elements such as the probability of payment due to events such as participant death and the time value of money, among many other actuarial assumptions. The Plan is a written document that speaks for itself, including Section 13.9, and Defendants deny any allegations that are inconsistent with the terms of the Plan. Defendants deny the remaining allegations in paragraph 54.

55. Certain allegations in paragraph 55 are conclusions of law to which no response is required. To the extent a response is required, Defendants admit only that Towers Watson, now Willis Towers Watson, has been the Plan's actuary since prior to 2014. Defendants deny the remaining allegations in paragraph 55.

56. Defendants admit that each year MGBI calculates the value of its liabilities under the Plan in its audited financial statements that are prepared under Generally Accepted Accounting Principles ("GAAP"). Defendants admit that Plaintiffs accurately quote October 2015 "Financial



Reporting Alert” by Deloitte with regard to ASC 715-30 and ASC 715-60 requirements, and deny any remaining allegations.<sup>5</sup>

57. Defendants deny the allegations in paragraph 57.<sup>6</sup>

58. Certain allegations in paragraph 58 are conclusions of law to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 58.

59. Defendants admit that the table in this paragraph accurately lists rates of one of the three indexes published as FTSE Above Mean Double-A Index as of the indicated dates and deny the remaining allegations in paragraph 59.

60. Defendants deny the allegations in paragraph 60.

61. Defendants deny the allegations in paragraph 61.

**2. Grandfathered Participants Who Retire Early Do Not Receive Actuarially Equivalent Benefits.**

62. Defendants deny the allegations in paragraph 62.

63. Defendants deny the allegations in paragraph 63.

64. Defendants admit that according to the cited url in the CDC website, based on death certificates, in 1960 a 65-year old who resided in the United States or certain other areas outside the 50 states and DC had an average life expectancy of 14.3 years and in 2010, a 65 year old residing in the United States had a 19.1 year life expectancy. Defendants deny the remaining allegations in paragraph 64.

65. Defendants deny the allegations in paragraph 65.

66. Defendants deny the allegations in paragraph 66.

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<sup>5</sup> To the extent footnote seven requires a response, Defendants admit that Deloitte issued a reporting alert, but deny the report has any application to benefit calculations for Plan participants and beneficiaries.

<sup>6</sup> To the extent footnote 8 requires a response, denied.

67. Defendants deny the allegations in paragraph 67.

68. Defendants deny the allegations in paragraph 68.

69. Defendants deny the allegations in paragraph 69.

70. Defendants admit that Belknap had benefit credits in his cash balance account earned both before 2009 and after 2008. The Plan is a written document that speaks for itself, and Defendants deny any allegations that are inconsistent with the terms of the Plan. Defendants deny the remaining allegations in paragraph 70.

71. Defendants admit that, under the Plan, Non-Grandfathered Employees have their cash balance accounts converted to single life annuities at a different -- 5%-- interest rate. Defendants deny the remaining allegations in paragraph 71.

72. Defendants deny the allegations in paragraph 72.

73. Defendants deny the allegations in paragraph 73.

74. Defendants admit that Plaintiff retired on November 1, 2016 when he was age 62 and 3 months. Defendants further admit that his single life annuity when he retired at age 62 and 3 months was \$863.97 per month (after he elected and took his \$230,000 lump sum), and that he elected a 50% joint and survivor annuity which is paying him \$787.94 per month. Defendants deny the remaining allegations in paragraph 74.

75. Defendants deny the allegations in paragraph 75.

76. Defendants deny the allegations in paragraph 76.

77. Defendants admit that Willis Towers Watson was hired to calculate the Plan's liabilities, which MGBI incorporated into its audited financial statements. Defendants further state that the Plan is a written document that speaks for itself, and deny any allegations inconsistent with the Plan terms. Defendants deny the remaining allegations in paragraph 77.

78. Defendants admit that the Retirement Committee is charged with the administration of the Plan. Defendants deny the remaining allegations in paragraph 78.

79. Defendants deny the allegations in paragraph 79.

80. Defendants deny the allegations in paragraph 80.

81. Defendants deny the allegations in paragraph 81.

**CLASS ACTION ALLEGATIONS**

82. Defendants admit that Plaintiff purports to bring this as a class action lawsuit. Defendants deny the remaining allegations in paragraph 82 and specifically deny that this action can be resolved on a class-wide basis.

83. The allegations in paragraph 83 are conclusions of law to which no response is required.

84. The allegations in paragraph 84 are conclusions of law to which no response is required. To the extent a response is required, denied.

85. The allegations in paragraph 85 are conclusions of law to which no response is required. To the extent a response is required, denied.

86. The allegations in paragraph 86 are conclusions of law to which no response is required. To the extent a response is required, denied.

87. The allegations in paragraph 87 are conclusions of law to which no response is required. To the extent a response is required, denied.

88. The allegations in paragraph 88 are conclusions of law to which no response is required. To the extent a response is required, denied.

89. The allegations in paragraph 89 are conclusions of law to which no response is required. To the extent a response is required, denied.

**FIRST CLAIM FOR RELIEF**  
**Declaratory and Equitable Relief**  
**(ERISA § 502(a)3), 29 U.S.C. § 1132(a)(3))**

90. Defendants repeat and reallege their responses to paragraphs 1-89 of the Amended Complaint as if fully asserted herein.

91. Defendants deny the allegations in paragraph 91.

92. The allegations in paragraph 92 are conclusions of law to which no response is required.

93. The allegations in paragraph 93 are conclusions of law to which no response is required. To the extent a response is required, Defendants admit that Plaintiff is seeking declaratory relief, deny that he is entitled to such relief, and deny the remaining allegations in paragraph 93.

94. Defendants admit that Plaintiff purports to seek a range of equitable relief. Defendants deny that Plaintiff is entitled to the relief he seeks and deny any remaining allegations in paragraph 94.

**SECOND CLAIM FOR RELIEF**  
**For Reformation of the Plan and Recovery of Benefits Under the Reformed Plan**  
**(ERISA §§ 502(a)(1) and (3), 29 U.S.C. §§ 1132(a)(1) and (3))**

95. Defendants repeat and reallege their responses to paragraphs 1-94 of the Amended Complaint as if fully asserted herein.

96. The allegations in paragraph 96 are conclusions of law to which no response is required.

97. Defendants deny the allegations in paragraph 97.

98. Defendants deny the allegations in paragraph 98.

99. The allegations in paragraph 99 are conclusions of law to which no response is required.

100. Defendants deny the allegations in paragraph 100.

**THIRD CLAIM FOR RELIEF**  
**Breach of Fiduciary Duty**  
**(ERISA §§ 1104 and 502(a)(3), 29 U.S.C. §§ 1104 and 1132(a)(3))**

101. Defendants repeat and reallege their responses to paragraphs 1-100 of the Amended Complaint as if fully asserted herein.

102. The allegations in paragraph 102 are conclusions of law to which no response is required.

103. The allegations in paragraph 103 are conclusions of law to which no response is required.

104. Certain of the allegations in paragraph 104 are conclusions of law to which no response is required. To the extent a response is required, Defendants admit that Section 13.2 of the Plan states that the Pension Management Committee had the powers and duties to “periodically review the actuarial status of the Plan” and “select and retain an Actuary described in Section 1.4.” Defendants deny the remaining allegations in paragraph 104.

105. The allegations in paragraph 105 are conclusions of law to which no response is required.

106. Defendants deny the allegations in paragraph 106.

107. The allegations in paragraph 107 are conclusions of law to which no response is required.

108. Defendants admit that Plaintiff purports to seek declaratory relief under 28 U.S.C. §§ 2201 and 2202 and Fed. R. Civ. P. 57. Defendants deny that Plaintiff is entitled to this relief and deny all the remaining allegations in paragraph 108.

109. Defendants admit that Plaintiffs seek equitable relief. Defendants deny that Plaintiff is entitled to such relief and deny all the remaining allegations in paragraph 109.

### **PRAYER FOR RELIEF**

Defendants deny the allegations in Plaintiff's unnumbered Prayer for Relief (as well as its subparts (A) through (O)) paragraph of the Amended Complaint, and they specifically deny that Plaintiff and those he seeks to represent are entitled to any relief.

### **GENERAL DENIAL**

To the extent that Defendants have not specifically admitted above any allegations of the Complaint, they are denied.

### **DEFENSES**

1. Plaintiff's Amended Complaint fails to state a claim upon which relief can be granted.
2. Plaintiff's claims and the claims of putative class members are barred, in whole or in part, by the applicable statute of limitations and repose governing the claims.
3. Plaintiff's claims and the claims of putative class members are barred, in whole or in part, because they lack standing to seek some or all of the requested relief.
4. Plaintiff's claims and those of putative class members are barred, in whole or in part, because they have already been paid and/or received all benefits due.
5. Plaintiff's claims and those of putative class members are barred, in whole or in part, by the equitable doctrine of laches.
6. Plaintiff and putative class members are not entitled to any retroactive relief, including ongoing or future changes to their benefit amounts based on benefit calculations that were performed in the past.

7. Certain defendants are not proper defendants, as they were not acting as fiduciaries with respect to the purported misconduct.

8. The claims of Plaintiff or any member of the putative class who have executed a waiver or release of claims against any or all Defendants may be barred by that waiver or release of class.

9. Plaintiff has failed to exhaust the Plan's claims and appeal procedures.

### **RESERVATION OF RIGHTS**

Defendants reserve their right to amend their Answer and Defenses to the Amended Complaint and to assert such additional defenses that may appear and prove applicable during discovery proceedings and its continuing fact investigation, or otherwise, in this case.

**WHEREFORE**, Defendants demand judgment dismissing Plaintiff's Amended Complaint and awarding them attorney's fees, costs of suit, and such other and further relief as the Court may deem proper.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

Dated: September 9, 2020

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\*Admitted *Pro Hac Vice*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 9, 2020, the foregoing document was filed through the Court's ECF System. Notice of this filing will be sent to all parties indicated on the electronic filing receipt.

/s/ Keri L. Engelman  
Keri L. Engelman