

**SUPERIOR COURT OF THE STATE OF WASHINGTON**  
**KING COUNTY**

**DAMAGES CLAIMS MAY NOW BE BROUGHT**

**This notice may affect your rights or the rights of a child for whom you care or cared for.  
Please read carefully.**

*The Court has authorized this notice. It is not a solicitation.*

TO: All Seattle Children’s Hospital child patients who received preventative treatment for aspergillus exposure at Seattle Children’s Hospital at 4800 Sand Point Way NE between December 2, 2016 and November 2019 and who suffered special and/or general damages as a result of their prophylaxis treatment (the “Class”), and to their parents or guardians.

A FORM IS PROVIDED at the end of this Notice. To assure that you preserve the right to bring a damages claim in this action, your response is REQUIRED no later than April 1, 2024.

**1. Why Did I Receive This Notice?**

The Court has directed this notice to update Class members on the status of the class action lawsuit pending on their behalf known as *Mills and Lukas et al. v. Seattle Children’s Hospital*, No. 19-2-31648-9 SEA, (formerly *Kerr et al.*) filed in King County Superior Court and assigned to the Honorable Jim Rogers.

## **2. What Is the Status of the Class Action Lawsuit?**

Seattle Children's has elected not to contest the claim that it was negligent in exposing the Class to the risk of Aspergillus surgical site infections in 2019, which resulted in the Class being recommended prophylactic (preventative) treatment. This means Seattle Children's is legally responsible for any damages caused by such negligence.

The Class and their parents who wish to bring claims in this action for any damages they suffered are now **REQUIRED** to return the FORM enclosed with this notice no later than April 1, 2024. Any claims not preserved by returning this FORM may be or may soon be barred by a statute of limitations. The statute of limitations refers to the time allowed to file a lawsuit. Although many claims are time-barred if not filed within three years of the date of injury, this depends on the circumstances of each case.

Class Members and their parents who do not return the FORM will not receive further class notice and may also be excluded from further proceedings in this action.

## **3. What Is a Damages Claim?**

A child's damages claims from the negligent exposure to Aspergillus may include any pain and suffering, both mental and physical, disability, disfigurement, loss of enjoyment of life, medical expenses, and other similar types of harms.

Parents may be entitled to bring individual claims for their own harms, if any, relating to the injury of the child. Those harms may include the child's health care expenses and other monetary losses, as well as mental anguish, loss of love and companionship of the child, loss of the child's emotional support, and injury to or destruction of the parent-child relationship.

## **4. What If I Don't Want To Pursue a Damages Claim Against Seattle Children's?**

You don't need to do anything if you choose not to pursue a damages claim against Seattle Children's. The FORM attached to this Notice only needs to be completed by those who want to pursue a claim, either for their child or on their own behalf, in this action.

## **5. How Do I Select Representation for a Damages Claim?**

If you wish to bring damages claims in this action, you may retain Class Counsel, another lawyer of your choice, or represent yourself. The Court appointed the following attorneys as counsel for the Class (“Class Counsel”) in determining Seattle Children’s liability:

Karen Koehler  
Andrew Ackley  
Stritmatter Kessler Koehler Moore  
3600 15th Ave W, Ste. 300  
Seattle, WA 98119  
206-826-8217

[seattlechildrenshospitalaspergillusclassaction@stritmatter.com](mailto:seattlechildrenshospitalaspergillusclassaction@stritmatter.com)

John Layman  
Layman Law Firm  
601 S. Division  
Spokane, WA 99202

The Court has not appointed Class Counsel to pursue damages claims. You may consult with Class Counsel or any other lawyers of your choice in making decisions about representation and whether to bring a damages claim. If you wish to pursue a damages claim in this action, you must indicate your selection of representation in the enclosed FORM.

## **6. How Do I Bring a Damages Claim?**

Bringing a damages claim may require you to disclose certain health care information, answer written questions, answer questions in a deposition, and possibly testify at trial. You will also be required to participate in mediation by Zoom or other remote means. Mediation is a dispute resolution process to assist the parties in settling claims before trial. You may consult Class Counsel or counsel of your choice to understand more fully what is involved in bringing a damages claim.

## **7. Where Can I Get Additional Information?**

Copies of the concession of negligence, the complaint, answer, order certifying the Class, and other pleadings and notices may be obtained upon request to Class Counsel or on the following website:

[www.stritmatter.com/seattlechildrenshospitalaspergillusclassaction](http://www.stritmatter.com/seattlechildrenshospitalaspergillusclassaction)

Any questions you may have concerning the matters contained in this notice should be directed to Class Counsel or your own counsel. Any corrections to your name or address should be directed to the Administrator. Please do not telephone either the Clerk's Office or the judge assigned to this lawsuit.

**If you need to update your contact information, or the contact information for your child and/or child's other parent, please submit that information to:**

*Wills v. Seattle Children's Hospital*  
c/o JND Legal Administration  
PO Box 91225  
Seattle, WA 98111

If you move and fail to update your information, you may not receive any further notices about the Lawsuit. **If you use a language other than English or would understand this notice better in another language, please submit your request, along with the language you use, to:**

*Wills v. Seattle Children's Hospital*  
c/o JND Legal Administration  
PO Box 91225  
Seattle, WA 98111

DATED this 11th day of January, 2024.

*/s/ Hon. Jim Rogers* \_\_\_\_\_

The Honorable Jim Rogers  
King County Superior Court

# STATEMENT OF INTENT TO PURSUE DAMAGES CLAIM

## FOR PARENTS AND CHILDREN

***YOU MUST RETURN THIS FORM TO PRESERVE YOUR CLAIM FOR DAMAGES IN THIS ACTION***

I understand that making a claim for damages places my health and health care at issue, and that certain health care information, including my identity, will need to be disclosed as part of the legal process.

I understand I have the right to proceed with my claim for damages using the lawyer of my choice—or using no lawyer at all. My selection of counsel follows:

I choose to retain Class Counsel as attorneys for my/my minor child's claim against Seattle Children's Hospital, and **authorize Seattle Children's Hospital and Class Action Administrator to disclose my/my child's name and contact information to Class Counsel.** If representation does not proceed for any reason, I authorize Class Counsel to notify the Class Action Administrator.

I choose to retain another attorney or law firm. My counsel's name and address (if known) is: \_\_\_\_\_  
\_\_\_\_\_.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Child Name

\_\_\_\_\_  
(Address 1)

\_\_\_\_\_  
Parent Name(s)

\_\_\_\_\_  
(Address 2)

\_\_\_\_\_  
*Adult* Child Signature

\_\_\_\_\_  
(Phone Number)

\_\_\_\_\_  
Parent Signature  
(for minor child and joinder of parental damages claims)

You must complete and return this form by mail postmarked on or before April 1, 2024, to: *Mills and Lukas et al. v. Seattle Children's Hospital*, c/o JND Legal Administration, PO Box 91225, Seattle, WA 98111.