IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHELLE ANDERSON, an individual, On Behalf of Herself and All Others Similarly Situated, Plaintiff, v. TRAVELEX INSURANCE SERVICES INC. and TRANSAMERICA CASUALTY INSURANCE COMPANY, Defendants.	Case No. 8:18-cv-00362-JMG-SMB **PLAINTIFF'S UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Pursuant to Federal Rule of Civil Procedure 23(e), Plaintiff Michelle Anderson hereby moves the Court to enter the proposed Preliminary Approval Order, which: (1) preliminarily approves the class action Settlement reached in the matter; (2) preliminarily certifies the Settlement Class; (3) appoints Plaintiff Michelle Anderson as the Class Representative; (4) appoints Shanon J. Carson, Peter R. Kahana, Lane L. Vines, Y. Michael Twersky, and John G. Albanese of Berger Montague PC as Lead Counsel for the Settlement Class; (5) approves the proposed Notice Program and issuance of Notice to Settlement Class Members; (6) sets forth procedures for opting out of or objecting to the Settlement; (7) bars Settlement Class members (that have not requested exclusion) from asserting any claims for which a release will be given if the Court approves the Settlement; and (8) schedules a Final Approval Hearing to consider final approval of the Settlement.

In support of her Motion, Plaintiff relies on the concurrently-filed Memorandum of Law in support thereof and the exhibits attached thereto. Defendants Travelex Insurances Services, Inc., and Transamerica Casualty Insurance Company do not oppose the relief sought in this Motion.

Dated: June 11, 2021

Respectfully submitted,

/s/ John G. Albanese

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 11, 2021, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on the following counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF:

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHELLE ANDERSON, an individual, On Behalf of Herself and All Others Similarly Situated,

Plaintiff,

v.

TRAVELEX INSURANCE SERVICES INC. and TRANSAMERICA CASUALTY INSURANCE COMPANY,

Defendants.

Case No. 8:18-cv-00362-JMG-SMB

PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

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INTRODUCTION

After nearly three years of hotly contested litigation, Plaintiff Michelle Anderson and Defendants Travelex Insurance Services Inc. ("Travelex") and Transamerica Casualty Insurance Company ("Transamerica") ("Defendants") (collectively, "the Parties") have reached an agreement to resolve this matter through a class action settlement.[1]

Defendants sold single-trip travel insurance plans ("Travel Plans") that included both pre-departure and post-departure benefits.[2] Plaintiff alleges that these two categories of coverage are distinct and divisible, and that by the Travel Plans' own terms the post-departure coverage only became effective upon commencement of travel. Defendants had a policy of not providing partial premium refunds for post-departure benefits whenever a covered trip was cancelled. Plaintiff alleges that Defendants violated the Nebraska Consumer Protection Act and were unjustly enriched by retaining the portion of the premium attributable to post-departure benefits when the covered trip was cancelled before departure, because the risk associated with providing these benefits to insureds never attached, and the premium was not earned. Defendants vigorously dispute Plaintiff's allegations in the case. Among other defenses, Defendants dispute that the travel insurance plans are divisible into pre and post-departure benefits; argue that all risk, including for post-departure benefits attached at the time of purchase of the Travel Plans; and otherwise deny that their refund practices violated any laws, or were unjust.

After hard fought litigation and two full days of mediation with mediator Rodney Max,[3] the Parties agreed to settle this matter by establishing a ***non-reversionary***, common fund of $3,237,500 ("Settlement Amount") from which Settlement Class Members who are reached will

[1] The Class Action Settlement Agreement ("Settlement Agreement" or "SA"), is attached hereto as Exhibit 1. All capitalized terms referred to herein are defined in the Settlement Agreement.
[2] Defendants stopped selling their Travel Plans in 2017.
[3] *See* https://www.floridamediators.org/rodney-max.

receive automatic payment ***without the need to submit a claim form***. Defendants have identified no more than 105,284 Settlement Class members. The common fund will also be used for payment of attorneys' fees, litigation expenses, administration costs, and a service award for Plaintiff, all of which are subject to Court approval. If the anticipated fees, costs, and service award are approved, Settlement Class Members will be eligible to receive a payment representing approximately 25%-35% of the premium attributable to post-departure benefits, or $5.00, whichever is greater. This is a substantial and commendable recovery given the risks and delays associated with continued litigation and Defendants' myriad asserted defenses.

The class action Settlement warrants preliminary approval as the terms are "fair, reasonable, and adequate" and meets all requirements of Rule 23 of the Federal Rules of Civil Procedure. Plaintiff respectfully requests that the Court enter the proposed Preliminary Approval Order (Exhibit D to the Settlement Agreement), which: (1) preliminarily approves the Settlement; (2) preliminarily certifies the Settlement Class; (3) appoints Plaintiff Michelle Anderson as the Settlement Class Representative; (4) appoints Berger Montague PC as Class Counsel; (5) approves the proposed Notice Program and issuance of Notice to Settlement Class members; and (6) schedules a Final Approval Hearing to consider final approval of the Settlement. Defendants do not oppose the relief sought in this Motion.

RELEVANT FACTUAL AND PROCEDURAL BACKGROUND

Defendants sold Travel Plans underwritten by Transamerica and marketed by Travelex. These plans contained both pre-departure insurance benefits (such as payment for losses due to trip cancellation), and post-departure insurance benefits (such as payment for losses due to trip interruption and baggage delay). Dkt. No. 1, Compl. ¶¶ 18, 33. By the Travel Plans' express terms, coverage for pre-departure losses takes effect when the plan is purchased; whereas coverage for

post-departure losses only becomes effective when the insured trip actually begins. *Id.* ¶ 30. Defendants ceased selling the plans at issue in this case in 2017.

Plaintiff purchased her Travel Plan from Defendants through the online travel agency, Just Air Ticket. *Id.* ¶¶ 32-33. Plaintiff did not take her covered trip and filed a claim for travel cancellation benefits, which was denied by Defendants for being outside the scope of such coverage. Moreover, upon her subsequent demand, Defendants refused to provide her a partial premium refund related to the post-departure benefits. *Id.* ¶¶ 37-39. Plaintiff initially brought this case in the Western District of New York because the address to send claims under Defendants' travel insurance plan was the "Travelex Claims Department" located in Niagara Falls, NY. Dkt. No. 33 at 7.[4] Defendants filed a motion to dismiss challenging personal jurisdiction in New York and requesting, in the alternative, that the case be transferred to Arizona. *Id.* at 7-8. Plaintiff voluntarily dismissed the action in New York and refiled in this Court based on Defendant Travelex's extensive ties to Nebraska. *Id.* at 8.

In the operative Complaint, Plaintiff alleges that Defendants' policy of failing to provide partial premium refunds was an unfair practice under the Nebraska Consumer Protection Act and constituted unjust enrichment as they were obligated to return unearned premiums in accord with long established insurance principles. Compl. ¶¶ 55-69. Defendants moved to dismiss the complaint under Fed. R. Civ. P. 12(b)(6), arguing that Plaintiff's unjust enrichment claim failed because the Parties' relationship was governed by a contract. Dkt. No. 27. Defendants also moved to dismiss Plaintiff's claim under the Nebraska Consumer Protection Act, arguing that she lacked statutory standing as a non-Nebraska resident to bring such a claim and had not adequately alleged

[4] Plaintiff originally filed this litigation on December 5, 2017. S*ee* W.D.N.Y. Case No. 1:17-cv-001274, Dkt. 1 (Class Action Complaint).

an unfair practice covered by the statute. *Id*. The Court denied Defendants' motion, finding that Plaintiff had plausibly alleged claims for unjust enrichment and violation of the Nebraska Consumer Protection Act. *See Anderson v. Travelex Ins. Servs., Inc.*, No. 8:18-cv-362, 2019 WL 1932763 (D. Neb. May 1, 2019). While Plaintiff prevailed on Defendants' motion, the Court noted that determining when the risk for post-departure coverage attached could "only be sorted out after the defendants have answered the complaint and the parties have had a reasonable opportunity for discovery." *Id.* at 3.

During discovery, Defendants objected to providing information regarding any of their travel protection plans other than plans sold through Just Air Ticket. Defendants moved to dismiss for lack of subject matter jurisdiction under Fed. R. Civ. P. 12(b)(1) the claims of putative class members who bought plans other than through Just Air Ticket, arguing that Plaintiff lacked "Article III standing to pursue class claims with respect to products she did not purchase." Dkt. No. 66 at 3. In connection with this second motion to dismiss, Defendants submitted a declaration from Travelex Senior VP Risk and Compliance Sally Dunlap, and Plaintiff deposed Ms. Dunlap in connection with responding to Defendants' motion. Dkt. Nos. 67, 76-1. The Court denied Defendants' motion finding that "there is an absence of evidence suggesting that the plaintiff's claim and alleged injury is so different from the possible claims and injuries of putative class members, such that the exception to the general standing requirement for class actions should not apply." *Anderson v. Travelex Ins. Servs., Inc.*, No. 8:18-cv-362, 2020 WL 1323489, at *4 (D. Neb. Mar. 20, 2020). Defendants then moved to certify for interlocutory appeal the denial of their motion, which the Court also denied. *Anderson v. Travelex Ins. Servs., Inc.*, No. 8:18-cv-362, 2020 WL 2909980 (D. Neb. June 3, 2020).

Thereafter, the Parties agreed to mediate this case. Prior to mediation, Defendants produced additional discovery in the form of tens of thousands of pages of documents relating to the travel plans, including, (*e.g.*), rate filings and documents setting forth the premiums collected. Plaintiff retained an actuarial consultant, Charles DeWeese, FSA, MAAA, to review Defendants' documents and develop a damages model. Mr. DeWeese estimated approximately between 26.35% and 29.27% of the total aggregate premium charged for Defendants' Travel Plans could be attributed to post-departure benefits. Defendants contest that the insurance provided through their Travel Plans are legally divisible (arguing that it is not), and the remainder of Plaintiff's allegations.

On November 11, 2020, the Parties attended via Zoom an all-day mediation session with Rodney Max. Dkt. No. 96 at ¶ 5. Prior to the mediation, the Parties exchanged detailed mediation statements and Plaintiff provided Defendants with a copy of a report prepared by Mr. DeWeese for the purposes of mediation. The Parties did not resolve the matter at the first mediation, but discussions were productive. Dkt. No. 96 at ¶ 6. The Parties continued to exchange settlement correspondence and reconvened for a second mediation with Rodney Max on March 4, 2021. Dkt. No. 99 at ¶ 4. After a second full day of mediation the Parties reached an agreement in principle to resolve this matter. Over the course of the next three months, the Parties negotiated the details of the Settlement Agreement.

THE SETTLEMENT AGREEMENT

A. The Settlement Class

The Settlement Class is defined as:

> All persons in the United States who have been identified by Defendants as insured under a Travel Plan purchased within the Class Period, and for whom a claim for trip cancellation benefits was initiated under the Travel Plan. The Parties acknowledge that the third party administrator handling trip cancellation claims for the Travel Plans identified no more than 105,284 potential Settlement Class

> Members. Excluded from the Settlement Class are: (i) all persons who previously received a refund of premium from the Defendants for any Travel Plan(s) at issue in the Litigation; (ii) all persons who previously entered into a written agreement with the Defendants releasing all claims related to a Travel Plan(s) at issue in the Litigation; (iii) all insureds for whom no premium was charged under a Travel Plan; and (iv) all persons who during the Class Period were officers, directors, or employees of either of the Defendants.

SA ¶ A.36. The Class Period is defined as January 1, 2014 to December 31, 2017 (SA ¶ A.4), as Defendants ceased selling the plans at issue in 2017. The Settlement Class is narrower than the putative class pled in the Complaint, inasmuch as the Settlement Class consists only of people who, based on Defendants' records, initiated a coverage claim in connection with a cancelled trip that was never commenced. *Compare* Compl. ¶ 43 *with* SA ¶ A.36. Here, the total number of potential Settlement Class Members is approximately 100,000. *Id.* Needless to say, the Settlement only releases the claims of Settlement Class Members (and related Persons). SA ¶ F.1.

B. Relief to the Settlement Class

The Settlement provides for Defendants to pay the Settlement Amount of ***$3,237,500*** from which payments to Settlement Class Members will be made. SA ¶ C.1. After deductions for Court-approved attorney fees, litigation expenses, settlement administration costs, and a service award, the Net Settlement Fund will be divided among Settlement Class Members *pro rata* based on the amount of premium paid to insure that Settlement Class Member under their applicable Travel Plan, SA ¶ C.3, unless a Settlement Class Member would receive a payment of less than $5.00, in which event the payment will be increased until the payment reaches $5.00. *Id.* Based on analysis of available data about Settlement Class Members, Plaintiff estimates that each Settlement Class Member who does not receive the minimum will receive 7.5-10% of their premium paid, which represents about 25%-35% of the estimated premium paid for post-departure benefits.[5]

[5] For instance, if Settlement Payments are 7.5% of the total premium paid by Settlement Class Members, and assuming 29.27% is the portion of the total premium attributable to post-departure

No claim form is required for payment. The Settlement Administrator will send the appropriate Settlement Payment by check to every Settlement Class Member for whom a mailing address has been provided, except that a check will not be sent to any Settlement Class member whose Postcard Notice is returned as undeliverable, and for whom no forwarding address has been found by the Settlement Administrator, and for whom no other address is provided by the Settlement Class Member prior to the Effective Date of the Settlement. SA ¶ C.4. If a Settlement Class member timely requests to be excluded from the Settlement, that Settlement Class member will also not receive a payment. SA ¶ E.1. Additionally, in lieu of receiving a check, the Settlement Administrator will provide Settlement Class Members as part of the Notice Plan with the option of receiving payment via electronic means, including Paypal, Venmo, or other reasonable and valid means made available by the Settlement Administrator. SA ¶ C.4. Settlement Class Members shall have a full 180 days to cash their checks. SA ¶ C.5.

If a portion of the Net Settlement Fund remains following the distribution by the Settlement Administrator to Settlement Class Members of their payments and the Check Cashing Deadline, then such remaining funds will be distributed to a *cy pres* recipient to be proposed by the Parties subject to the Court's approval in its Final Approval Order. SA ¶ C.6. If the amount remaining is of such an amount that in the discretion of Lead Counsel and the Settlement Administrator it is feasible that such monies should be redistributed, then Lead Counsel may petition the Court for an Order to distribute the remaining Net Settlement Fund to those Settlement Class Members (rather than making a *cy pres* distribution). *Id.*

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benefits (as was the high-end of the range estimated by Plaintiff's expert), the Settlement Payment would represent 25.6% (7.5/29.27) of the recoverable damages. Of course, the final settlement payment amounts will depend on how many Settlement Class members can be found, the number of opt-outs, and the amounts approved for attorneys' fees, costs, and Plaintiff's service award.

In exchange for Defendants' payment of the Settlement Amount, Settlement Class Members will release all claims which were asserted or could have been asserted in the case concerning Defendants' alleged liability to pay partial refunds of premium paid by policyholders for post-departure benefits when their insured travel is cancelled (as described in the Settlement). SA ¶ F.1. Significantly, the release will ***exclude*** pending or as yet unfiled policyholder claims for trip cancellation benefits under the Travel Plans. *Id.*

C. Class Notice

After receiving competitive bids from several class action administration firms, the Parties have selected Angeion Group, LLC, ("Angeion") to serve as the Settlement Administrator. Angeion has provided a bid wherein costs of notice and administration shall not exceed $199,500.[6]

Defendants shall cause to be mailed notice of the Settlement to federal and state officials as required by the Class Action Fairness Act, 28 U.S.C. § 1715. SA ¶ D.3.e. Within five business days of preliminary approval, Defendants will also provide to the Settlement Administrator all known contact information for Settlement Class members, including, without limitation, each policyholders' name, address, and email address, and the amount of the premium paid to insure that Settlement Class member under their applicable Travel Plan. SA ¶ D.3.a.

Within 30 days of the Preliminary Approval Order, the Settlement Administrator will send notice by postcard ("Postcard Notice") and email ("Email Notice"). SA ¶ D.3.b. These notices will be in the forms set forth as Exhibits C and B to the Settlement Agreement. SA ¶¶ A.18, D.3.b. Prior to mailing the Postcard Notice, the Settlement Administrator will use the U.S. Postal Office's National Change of Address System to verify or update address information for members of the Settlement Class. *Id.* Additionally, if any Postcard Notice is returned with a forwarding address,

[6] Attached as Exhibit 2 hereto is the Declaration of Steven Weisbrot, which sets forth Angeion's background and qualifications to serve as the Settlement Administrator.

the Settlement Administrator will re-mail the Postcard Notice to the forwarding address. *Id.* Prior to sending the Email Notice, the Settlement Administrator will use software to correct errors in email addresses provided for members of the Settlement Class. *Id.*

The Settlement Administrator will also establish a Settlement Website specific to this Settlement, and the address of that Website will be included in all Settlement Notices. SA ¶ D.3.c. The Settlement Website will have: (i) the Long Form Notice; (ii) the Settlement Administrator's toll-free phone number applicable to the Settlement; (iii) copies of the Complaint, the Settlement Agreement and its exhibits, Court Orders regarding the Settlement, Plaintiff's Motion for Approval of Attorneys' Fees, Litigation Expenses and the Plaintiff's Service Award, and Plaintiff's Motion for Final Approval of Class Action Settlement; (iv) information about the ability for Settlement Class Members to update their addresses; (v) information about the ability for Settlement Class Members to select to receive any Settlement Payments via Paypal, Venmo, or other reliable electronic means made available at the discretion of the Settlement Administrator; and (vi) a Frequently Asked Questions page. *Id.* The Settlement Administrator will also shall establish a toll-free telephone number that will provide members of the Settlement Class with information regarding the Settlement and direct them to the Settlement Website. SA ¶ D.3.d.

To ensure a high check cashing rate, ninety days in advance of the 180-day check cashing deadline, the Settlement Administrator will send check-cashing reminders by email and/or postcard (if email is unavailable) to Settlement Class Members who were sent but who have not yet cashed their check. SA ¶ D.3.f. The costs of settlement administration will be paid from the Gross Settlement Fund with the initial costs of sending notice being paid by Defendants prior to final approval. SA ¶ C.2. The remaining costs will be deducted from the Gross Settlement Fund after the Settlement is fully funded by Defendants following final approval. SA ¶ C.10.

D. Opt-Outs and Objections

To request exclusion (opt-out) from the Settlement, a member of the Settlement Class must mail the Settlement Administrator a written request, postmarked by the Objection and Opt-Out Deadline that: (i) includes the full name and address of the Settlement Class member seeking exclusion, (ii) includes the individual signature of the Settlement Class member seeking exclusion, and (iii) clearly states that the person desires to be excluded from the Settlement Class. SA ¶ E.1. A Settlement Class member who submits a Request for Exclusion cannot object to the Settlement and is not eligible to receive a Settlement Payment or any other relief under the Settlement. *Id.*

To object to the Settlement a Settlement Class Member must mail to the Settlement Administrator and file with the Clerk of Court a detailed written statement, postmarked by the Objection and Opt-Out Deadline, stating the objection(s) in detail and the specific aspect(s) of the Settlement being challenged; the specific reason(s), if any, for each such objection, including any evidence and legal authority that the Settlement Class member wishes to bring to the Court's attention; and whether the objection applies only to the objector, to a specific subset of the class, or to the entire class. SA ¶ E.2. Any objector who serves and files a valid and timely written objection as described above may appear at the Final Approval Hearing, either in person or through separate counsel hired at the objector's expense, to object to the Settlement. SA ¶ E.2.e. A member of the Settlement Class who objects can also withdraw their objection before the Final Approval Hearing by submitting a signed written request or email containing an electronic signature to the Settlement Administrator stating their desire to withdraw their objection. SA ¶ E.2.i.

E. Attorneys' Fees, Attorneys' Expenses and Plaintiff's Service Award

The Settlement allows Plaintiff to petition for attorneys' fees not to exceed one-third of the Settlement Amount, Litigation Expenses not to exceed $75,000, and a service award for Plaintiff Michelle Anderson not to exceed $6,500. SA ¶¶ C.7, C.8. Defendants' agreement not to oppose

Class Counsel's attorneys' fees and reasonable expenses identified herein, and Plaintiff's Service Award, were obtained only after the material terms for the relief to the Settlement Class were agreed upon. SA ¶ C.8. The Notice Plan will disclose to members of the Settlement Class that any attorneys' fees and expenses, service award to Plaintiff, and notice and administration costs will come from the Settlement Amount (upon approval by the Court). *See* SA Exhibit A, B, C.

No later than fourteen days before the Objection and Opt-Out Deadline, Class Counsel will file a Motion for Approval of Attorneys' Fees, Litigation Expenses, and Plaintiff's Service Award to be paid out of the Gross Settlement Fund. SA ¶ C.9. The Settlement Administrator will also promptly post the filed fee motion on the Settlement Website. *Id.* In other words, members of the Settlement Class will be able to sufficiently examine this motion before deciding whether to opt-out, or object.[7] Additionally, in connection with later moving for final approval of the Settlement, Class Counsel will also apply to the Court for the costs of the Settlement Administrator to be paid from the Settlement Amount. SA ¶ C.10.

[7] "[T]he Court does not need to determine attorney's fees at the preliminary approval stage, [as] Class Counsel … will fully address the reasonableness of their requested fee award in their forthcoming Motion for Attorneys' Fees, Costs, and Incentive Awards." *Hilsley v. Ocean Spray Cranberries, Inc.*, No. 3:17-cv-2335-GPC-MDD, 2020 WL 520616, at *7 (S.D. Cal. Jan. 31, 2020). In that motion, Plaintiff will present information why it believes the requested fee is proper, including all information needed for the Court to be able to determine the appropriateness of the fee request. *Accord Huyer v. Buckley*, 849 F.3d 395, 399 (8th Cir. 2017) (affirming fee award of one-third of settlement fund; finding that "courts have frequently awarded attorneys' fees ranging up to 36% in class actions"). When awarding fees at final approval, the Court may then consider, for example: "(1) the time and work required; (2) the preclusion of other employment by the attorney due to acceptance of this case; (3) the contingent nature of the fee; (4) the results obtained; and (5) the experience, reputation, and ability of the attorneys." *Id.* (quoting *Huyer v. Wells Fargo & Co.*, 314 F.R.D. 621, 628-29 (S.D. Iowa 2016)). At this stage of the case, however, Plaintiff only seeks to notify members of the Settlement Class that Plaintiff's counsel will seek a maximum of one-third of the total settlement amount as attorneys' fees, separate payment of their litigation expenses, and a service award for the Plaintiff.

ARGUMENT

The Eighth Circuit has held that "strong public policy favors [settlement] agreements, and courts should approach them with a presumption in their favor." *Petrovic v. Amoco Oil Co.*, 200 F.3d 1140, 1148 (8th Cir. 1999) (citing *Little Rock Sch. Dist. v. Pulaski Cnty. Spec. Sch. Dist. No. 1*, 921 F.2d 1371, 1388 (8th Cir. 1990)). *See also* William Rubenstein, 4 NEWBERG ON CLASS ACTIONS § 13:44 (5th ed.) ("The law favors settlement, particularly in class actions and other complex cases where substantial resources can be conserved by avoiding lengthy trials and appeals."). "It is the surety of settlement that makes it a favored policy in dispute resolution as compared to unknown dangers and unforeseen hazards of litigation." *In re Charter Commc'ns, Inc., Sec. Litig.*, No. 4:02-CV-1186 CAS, 2005 WL 4045741, at *4 (E.D. Mo. June 30, 2005) (quoting *In re Wireless Tel. Fed. Cost Recovery Fees Litig.*, No. 03-cv-015, 2004 WL 3671053, at *11 (W.D. Mo. Apr. 20, 2004)).

In considering approval of a class action settlement, "the court makes a preliminary evaluation of the fairness of the settlement, prior to notice." *Lechner v. Mut. of Omaha Ins. Co.*, No. 8:18-cv-22, 2020 WL 5982022, at *3 (D. Neb. Oct. 8, 2020) (citing MANUAL OF COMPLEX LITIGATION (FOURTH) § 21.632 (2010)); *see also* Fed. R. Civ. P. 23(e)(1)(B)(i). "First, the court must make a *preliminary determination* of the fairness, reasonableness and adequacy of the settlement terms and must direct the preparation of notice of the proposed settlement and the date of the fairness hearing." *Id.* (emphasis added). "After an agreement is preliminarily approved, the second step of the process ensues: notice is given to the class members of a hearing, at which time class members and the settling parties may be heard with respect to final court approval." *Id. See also* Rubinstein, 4 NEWBERG ON CLASS ACTIONS § 13:10 (5th ed.) (describing the three prong process and noting "[p]reliminary approval is thus the first stage of the settlement process, and the

court's primary objective at that point is to establish whether to direct notice of the proposed settlement to the class, invite the class's reaction, and schedule a final fairness hearing").

"A settlement must provide adequate notice to class members so that each can make an informed choice about whether to object. Rule 23(e)(1) provides that, in the event of a class settlement, '[t]he court must direct notice in a reasonable manner to all class members who would be bound by' the proposed settlement." *Lechner*, 2020 WL 5982022, at *4 (quoting Fed. R. Civ. P. 23(e)(1)). "To satisfy due process, the notice must be 'reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.'" *Id.* (quoting *Mullane v. Cen. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)). However, "[b]efore assessing whether the Settlement is within the range of reasonableness for the purposes of preliminary approval, the Court must [also] conduct an independent class certification analysis," pursuant to the requisites of Rules 23(a)and (b)(3) of the Federal Rules of Civil Procedure. *Id.* at 2. *See also* Fed. R. Civ. P. 23(e)(1)(B)(ii).

As demonstrated below, the Settlement Class should be preliminarily certified, the Settlement should be preliminary approved, and the Notice plan should be approved, so that notice of the Settlement can be issued to the Settlement Class and a Final Fairness Hearing be scheduled at which the Court may consider the Settlement for final approval.

I. THE SETTLEMENT CLASS SHOULD BE CERTIFIED

Fed. R. Civ. P. 23 sets forth the requirements for establishing and maintaining certification for a class-action lawsuit. "In order to obtain class certification, a plaintiff has the burden of showing that the class should be certified and that the requirements of Rule 23 are met." *Coleman v. Watt*, 40 F.3d 255, 258-59 (8th Cir. 1994) (citing *Smith v. Merchants & Farmers Bank of W. Helena*, 574 F.2d 982, 983 (8th Cir. 1978)). Fed. R. Civ. P. 23(a) provides: "One or more members of a class may sue or be sued as representative parties on behalf of all members only if: (1) the

class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class." The United States Supreme Court has summarized these four basic requirements as: (1) numerosity; (2) commonality; (3) typicality; and (4) adequacy of representation. *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 613 (1997).

"Plaintiffs must meet all requirements of Rule 23(a) and fall within one of the categories of Rule 23(b) to certify their … claims as a class action." *Blades v. Monsanto Co.*, 400 F.3d 562, 568-69 (8th Cir. 2005) (citing *Amchem Products, Inc.*, 521 U.S. at 614). Fed. R. Civ. P. 23(b) allows a class action if: (1) there is otherwise a risk of (a) inconsistent adjudications or (b) impairment of interests for non-class members; (2) the defendant's conduct applies generally to the whole class; or (3) questions of law or fact common to members of the class predominate, and the class action is a superior method for adjudication. *See* Fed. R. Civ. P. 23(b). Also, when "[c]onfronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems ... for the proposal is that there be no trial." *Amchem Products, Inc.*, 521 U.S. at 620.

Here, the Settlement Class warrants provisional certification as the Court "will likely be able to certify the class for purposes of judgment on the proposal." *See* Fed. R. Civ. P. 23(e)(1)(B)(ii).

A. The Settlement Class Is Numerous

Rule 23(a)(1) requires that the class be "so numerous that joinder of all members is impracticable." Fed. R. Civ. P. 23(a)(1). Numerosity "requires only the impracticality, not the impossibility, of joinder." *Cortez v. Nebraska Beef, Inc.*, 266 F.R.D. 275, 289 (D. Neb. 2010) (citing *United States Fid. & Guar. Co. v. Lord*, 585 F.2d 860, 870 (8th Cir. 1978)). "[A]s few as

40 class members should raise a presumption that joinder is impractical." *Caroline C. by and through Carter v. Johnson*, 174 F.R.D. 452, 462 (D. Neb. 1996) (citations omitted). Here, the total number of Settlement Class Members is approximately 100,000. Numerosity is therefore easily satisfied. *See also Jones v. Novastar Fin., Inc.*, 257 F.R.D. 181, 186 (W.D. Mo. 2009) ("The proposed class numbers over one thousand persons. [Plaintiff] has satisfied Rule 23(a)(1).")

B. There are Common Questions of Law and Fact

Rule 23(a)(2) requires Plaintiff to establish that there are "questions of law or fact common to the class." Fed. R. Civ. P. 23(a)(2). However, "[t]he rule does not require that every question of law or fact be common to every member of the class." *Cortez*, 266 F.R.D. at 289 (citing *Paxton v. Union Nat'l Bank*, 688 F.2d 552, 561 (8th Cir. 1982)). To establish commonality, there must be a "common contention ... of such a nature that it is capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). A single common question is enough. *Ebert v. Gen. Mills, Inc.*, 823 F.3d 472, 478 (8th Cir. 2016) (noting that "a single common question 'will do' for purposes of Rule 23(a)(2)") (quoting *Wal-Mart Stores, Inc.*, 564 U.S. at 359)). "Rule 23 is satisfied when the legal question linking the class members is substantially related to the resolution of the litigation." *DeBoer v. Mellon Mortg. Co.*, 64 F.3d 1171, 1174 (8th Cir. 1995) (internal quotation marks and citation omitted). Further, commonality may be shown "where the question of law linking the class members is substantially related to the resolution of the litigation even though the individuals are not identically situated." *Paxton*, 688 F.2d at 561 (citation omitted).

Here there are multiple common questions of law and fact central to this litigation that Plaintiff contends can be determined in one stroke using common evidence. These include key questions central to this litigation, such as:

- the divisibility of Defendants' Travel Plans;
- when the risk for post-departure benefits included in Defendants' Travel Plan attaches, and the related premium is earned;
- whether the Parties' relationship in connection with refunds for post-departure benefits was governed by a contract (potentially precluding unjust enrichment claims);
- whether Defendants were unjustly enriched by not providing premium refunds when covered trips were not taken; and
- whether Defendants' refusal to provide partial premium refunds in the circumstances of this litigation constitutes an unfair practice under Nebraska law.

Commonality is met for purposes of the Settlement Class.

C. Typicality is Met

Typicality "is generally considered to be satisfied if the claims or defenses of the representatives and the members of the class stem from a single event or are based on the same legal or remedial theory." *Paxton*, 688 F.2d at 561–62. "The Eighth Circuit, 'long ago defined typicality as requiring a demonstration that there are other members of the class who have the same or similar grievances as the plaintiff.'" *Cortez*, 266 F.R.D. at 290 (quoting *Chaffin v. Rheem Mfg. Co.*, 904 F.2d 1269, 1275 (8th Cir. 1990)). "Factual differences will not render a claim atypical if the claim arises from the same event or practice or course of conduct that gives rise to the claims of the class members, and if it is based on the same legal theory." *Id.* (citing *Beck v. Maximus, Inc.*, 457 F.3d 291, 296 (3d Cir. 2006)); *see also Alpern v. UtiliCorp United, Inc.*, 84 F.3d 1525, 1540 (8th Cir. 1996). The burden to establish typicality is "fairly easily met so long as other class members have claims similar to the named plaintiff." *DeBoer*, 64 F.3d at 1174.

Here, typicality is met. Plaintiff's claims arise from the same course of conduct and the same remedial theory, and Plaintiff suffered the same alleged injury as every other Settlement Class member. Plaintiff, like each member of the Settlement Class, did not receive a refund of the

premium paid for post-departure benefits when her trip did not commence despite Defendants never having accepted the risk of coverage. Typicality is easily met for the Settlement Class.

D. Plaintiff and Class Counsel are Adequate

The final prerequisite under Rule 23(a) for class certification is adequacy of representation. Rule 23(a)(4) requires that "the representative parties will fairly and adequately protect the interests of the class." *See* Fed. R. Civ. P. 23(a)(4). "The focus of Rule 23(a)(4) is whether: (1) the class representatives have common interests with the members of the class, and (2) whether the class representatives will vigorously prosecute the interests of the class through qualified counsel." *Paxton*, 688 F.2d at 562 (citing *Gonzales v. Cassidy*, 474 F.2d 67, 72 (5th Cir. 1973)).

Here, the proposed Settlement Class representative, Plaintiff Michelle Anderson, has been an active participant during the entirety of this litigation. Ms. Anderson's perseverance over the past three and one-half years allowed for the proposed Settlement, which may now provide a real and substantial recovery for all members of the Settlement Class.[8] Ms. Anderson's interests are squarely aligned with every other member of the Settlement Class (all seeking refunds for the portion of the premium paid for post-departure benefits), and she has no known conflict with any Settlement Class members. Further, Ms. Anderson's lead counsel, Berger Montague PC, is well-qualified and experienced in class actions, and has devoted significant resources in prosecuting the claims of the Settlement Class in this litigation.[9]

[8] The original suit in New York began on December 5, 2017 and was re-filed in Nebraska federal court on July 30, 2018.

[9] A copy of Berger Montague's firm biography with selected individual attorney biographies is attached as Exhibit 3 hereto. *See also* https://bergermontague.com/. In addition to Berger Montague, Plaintiff is also represented by the Evans Law Firm (https://www.evanslaw.com/bios/ingrid-evans/) and local counsel Burke Smith Law (https://bankruptcy-lawyer-omaha.com/about-our-firm/).

Here, the adequacy requirement is met and Plaintiff respectfully requests that she be appointed to serve as the Class Representative of the Settlement Class and that John Albanese, Shanon J. Carson, Peter R. Kahana, Lane L. Vines and Y. Michael Twersky of Berger Montague PC serve as Lead Class Counsel, pursuant to Fed. R. Civ. P. 23(g).

E. Common Issues Predominate and a Class Action is Superior

"To qualify for certification under Rule 23(b)(3), a class must meet two requirements beyond the Rule 23(a) prerequisites: 'Common questions must predominate over any questions affecting only individual members'; and 'class resolution must be superior to other available methods for the fair and efficient adjudication of the controversy.'" *Amchem Prods., Inc. v. Windsor*, 521 U.S. at 615. The Supreme Court has stated the "predominance inquiry tests whether proposed classes are sufficiently cohesive to warrant adjudication by representation." *Amchem Products, Inc.*, 521 U.S. at 623 (citing 7A Wright, Miller & Kane, FED. PRACTICE & PROC. § 1777, at 518-19 (2d ed. 1986)).

Predominance measures "the relation between common and individual questions in a case." *Tyson Foods, Inc. v. Bouaphakeo*, 577 U.S. 442, 453 (2016). "An individual question is one where members of a proposed class will need to present evidence that varies from member to member, while a common question is one where the same evidence will suffice for each member to make a prima facie showing or the issue is susceptible to generalized, class-wide proof." *Id.* (internal quotation omitted). "When 'one or more of the central issues in the action are common to the class and can be said to predominate, the action may be considered proper under Rule 23(b)(3) even though other important matters will have to be tried separately, such as damages or some affirmative defenses peculiar to some individual class members.'" *Id. See also Custom Hair Designs by Sandy v. Cent. Payment Co., LLC*, 984 F.3d 595, 601 (8th Cir. 2020) (same). "At the core of Rule 23(b)(3)'s predominance requirement is the issue of whether the

defendant's liability to all plaintiffs may be established with common evidence.... If the same evidence will suffice for each member to make a prima facie showing, then it becomes a common question." *Sandusky Wellness Ctr., LLC v. Medtox Sci., Inc.*, 821 F.3d 992, 998 (8th Cir. 2016) (citation omitted). Further, "[p]redominance is 'a test readily met' in cases involving alleged consumer or securities fraud." *Campbell v. Transgenomic, Inc.*, No. 4:17-cv-3021, 2019 WL 3003920, at *1 (D. Neb. July 10, 2019) (quoting *Amchem Products, Inc.*, 521 U.S. at 625)).

Here, in the context of the Settlement Class, common issues far outweigh any individualized ones. The central questions in this litigation, for example, are when the risk attaches for post-departure benefits, and whether Defendants' Travel Plans are divisible. Plaintiff would not use individual evidence to answer these questions. Likewise, damages issues predominate inasmuch as they do not depend on individualized factors, but rather are determinable by means of a mechanical formula to actuarily compute for each Settlement Class Member the percentage of their total premium attributable exclusively to post-departure coverage. Further, because the Court is certifying a class in the settlement context, there are no trial management issues that the Court needs to consider because the Settlement obviates the need for any trial. Put simply, because the Parties seek to resolve these cases through a settlement, any manageability issues that could have arisen at trial are marginalized. *See Sullivan v. DB Invs., Inc.*, 667 F.3d 273, 302–03 (3d Cir. 2011). Predominance is easily met at this stage for the Settlement Class.

For the second prong of the Rule 23(b)(3) inquiry, the class action must be "superior to other available methods for the fair and efficient adjudication of the controversy." *See* Fed. R. Civ. P. 23(b)(3). "Implicit in the satisfaction of the predominance test is the notion that the adjudication of common issues will help achieve judicial economy.... Having to engage in separate threshold inquiries for each class member prior to reaching the common issues does not promote such

economy.... [It] will create judicial *dis* economy." *Est. of Mahoney v. R.J. Reynolds Tobacco Co.*, 204 F.R.D. 150, 161 (S.D. Iowa 2001) (internal quotation marks and citation omitted). As shown above, the predominance test is satisfied.

Moreover, the Settlement Agreement ensures judicially economic resolution of this litigation by providing members of the Settlement Class with prompt, predictable, and certain relief. The Settlement also contains well-defined administrative procedures to ensure due process, including the right of any Settlement Class members who are dissatisfied with the Settlements to object to the Settlement or exclude themselves from it. The Settlement would relieve the substantial judicial burdens that would be caused by repeated adjudication of the same issues.

"Class actions are also superior if the alleged damages are small, and absent a class action most plaintiffs would not realistically enjoy a day in court." *Khoday v. Symantec Corp.*, No. 11-cv-180 JRT/TNL, 2014 WL 1281600, at *35 (D. Minn. Mar. 13, 2014); *Stuart v. State Farm Fire & Cas. Co.*, 910 F.3d 371, 377 (8th Cir. 2018) ("The district court properly noted that the class members' claims are generally small and unlikely to be pursued individually."). Here, there is little question that absent this litigation and Settlement most members of Settlement Class would not realistically enjoy a day in court. Therefore, "class status here is not only the superior means, but probably the only feasible [way] ... to establish liability and perhaps damages." *In re Nassau Cty. Strip Search Cases*, 461 F.3d 219, 229 (2d Cir. 2006) (quoting *Tardiff v. Knox County*, 365 F.3d 1, 7 (1st Cir. 2004)).

II. THE SETTLEMENT SHOULD BE PRELIMINARILY APPROVED

In accord with Fed. R. Civ. P. 23, in determining whether notice should be sent to the Class regarding the Settlement, the Court should consider if:

> (A) the class representatives and class counsel have adequately represented the class;
> (B) the proposal was negotiated at arm's length;

(C) the relief provided for the class is adequate, taking into account:
(i) the costs, risks, and delay of trial and appeal;
(ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
(iii) the terms of any proposed award of attorney's fees, including timing of payment;[10] and
(iv) any agreement required to be identified under Rule 23(e)(3);[11] and
(D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2)(A)-(D). These factors are meant to "focus the court and the lawyers on the core concerns of procedure and substance that should guide the decision whether to approve the proposal." Fed. R. Civ. P. 23 adv. comm. notes (2018). In 2018, Rule 23(e) was amended to codify that at the preliminary approval phase, the Court must decide that it "will likely be able to" find that the settlement satisfies the criteria set out in Rule 23(e)(2). *See* Fed. R. Civ. P. 23(e)(1).

As shown below, an examination of the core concerns of procedure and substance demonstrate that at this stage, the Settlement is fair, reasonable, and adequate and in the best interests of the Settlement Class, and should be preliminarily approved. There are no signs of collusion, excessive attorney fees, or any other red flags.

A. The Settlement is Procedurally Fair, as the Class Representatives and Class Counsel Have Adequately Represented the Class, and the Proposed Settlement Was Negotiated at Arm's Length

Rule 23(e)(2)(A) and (B) raise "'procedural' concerns, looking to the conduct of the litigation and of the negotiations leading up to the proposed settlement." Fed. R. Civ. P. 23(e)(2) adv. comm. notes (2018). The "focus at this point is on the actual performance of counsel" for the class, and courts may consider factors such as "the nature and amount of discovery", the "conduct of the negotiations", the "involvement of a neutral … mediator". *Id.* A key goal is to determine whether counsel "had an adequate information base." *Id.*

[10] *See, supra*, discussion of the Settlement Agreement (section E).
[11] Other than the Settlement Agreement, there are no other such agreements here.

"[A] settlement agreement is presumptively valid." *Campbell v. Transgenomic, Inc.*, No. 4:17-cv-3021, 2020 WL 2946989, at *2 (D. Neb. June 3, 2020) (citing *In re Uponor, Inc., F1807 Plumbing Fittings Prod. Liab. Litig.*, 716 F.3d 1057, 1063 (8th Cir. 2013)). "The experience and opinion of counsel on both sides may be considered, as well as whether a settlement resulted from arm's length negotiations, and whether a skilled mediator was involved." *Lechner*, 2020 WL 5982022, at *4 (granting preliminary approval) (citing *DeBoer*, 64 F.3d at 1178). Courts have held terms of a settlement are appropriate where the parties have engaged in extensive negotiations at an appropriate stage in the litigation when they can evaluate the strengths and weaknesses of the case and the propriety of settlement. *See, e.g.*, *In re Emp. Ben. Plans Sec. Litig.*, No. CIV. 3-92-708, 1993 WL 330595, at *5–6 (D. Minn. June 2, 1993). "Rule 23(e) requires the court to intrude on that private consensual agreement merely to ensure that the agreement is not the product of fraud or collusion and that, taken as a whole, it is fair, adequate, and reasonable to all concerned." *Ramsey v. Sprint Commc'ns Co., L.P.*, No. 4:11-cv-3211, 2012 WL 6018154, at *1 (D. Neb. Dec. 3, 2012).

Here, the Settlement has all the hallmarks of procedural fairness, and no signs of fraud or collusion. The Parties have been actively litigating the case for the past three and a half years. The Settlement was reached only after two separate rounds of motions to dismiss briefing in which Plaintiff prevailed following extensive arguments on both the viability of the merits of Plaintiff's claims and Article III jurisdictional challenges (relating to the scope of the putative class). Moreover, substantial discovery has taken place, including the production and review of tens of thousands of pages of documents, the deposition of Travelex's Senior VP, and the preparation of an expert damages analysis. In addition, the Parties' negotiations leading to the Settlement were prolonged and at arm's-length culminating in two full days of mediation conducted by a well-

respected and experienced neutral, Rodney Max. In short, the Parties were well informed regarding the material facts and in a position to properly assess the merits of Plaintiff's claims and Defendants' defenses. *See In re UnitedHealth Grp. Inc. S'holder Derivative Litig.*, 631 F. Supp. 2d 1151, 1158 (D. Minn. 2009) ("Where sufficient discovery has been provided and the parties have bargained at arm's length, there is a presumption in favor of the settlement."); *Desert Orchid Partners, LLC v. Transaction Sys. Architects, Inc.*, Nos. 8:02-cv-553, 8:02-cv-561, 2007 WL 703515, at *2 (D. Neb. Mar. 2, 2007) (finding the assistance of "qualified mediators" supports approval of a settlement).

Moreover, Plaintiff and the proposed Settlement Class are represented by competent and experienced counsel with experience in insurance and class action matters. *See Christina A. v. Bloomberg*, No. 00-cv-4036, 2000 WL 33980011, at *4 (D.S.D. Dec. 13, 2000) ("The Court attributes significant weight to Plaintiffs' attorney's assertion that the Settlement Agreement is fair, reasonable and provides significant benefits to the Plaintiff class.") Indeed, Plaintiff's counsel have decades of combined experienced in class actions and insurance matters. Lawyers from Berger Montague have been approved as Class Counsel in this District and this Circuit numerous times. *See, e.g., Lechner v. Mut. of Omaha Ins. Co.*, No. 8:18-cv-22, 2021 WL 424421 (D. Neb. Feb. 8, 2021); *Klug v. Watts Regul. Co.*, No. 8:15-cv-61, 2017 WL 1373857 (D. Neb. Apr. 13, 2017); *Sharp v. Watts Regul. Co.*, No. 8:16-cv-200, 2017 WL 1373860 (D. Neb. Apr. 13, 2017); *Cortez v. Nebraska Beef, Inc.*, No. 8:08-cv-90, 2012 WL 12931431 (D. Neb. Feb. 9, 2012).

In addition, Plaintiff Michelle Anderson has been an exemplary putative Class Representative, meeting and conferring with Class Counsel consistently throughout the course of this litigation, providing documents and information, coordinating with Class Counsel during the mediation, and reviewing and approving the Settlement Agreement.

In short, the circumstances in which this Settlement was reached weighs strongly in favor of preliminary approval. *See In re Zurn Pex Plumbing Prod. Liab. Litig.*, No. 08-MDL-1958 ADM/AJB, 2013 WL 716088, at *6 (D. Minn. Feb. 27, 2013) (holding that "settlement agreements are presumptively valid, particularly where a settlement has been negotiated at arm's length, discovery is sufficient, [and] the settlement proponents are experienced in similar matters") (internal quotations omitted); *Risch v. Natoli Eng'g Co., LLC*, No. 4:11CV1621 AGF, 2012 WL 4357953, at *3 (E.D. Mo. Sept. 24, 2012) (approving settlement when the parties engaged in "extensive fact discovery, exchanging and reviewing significant numbers of documents…[including] all documents necessary to evaluate the class claims and damages."); *King v. Raineri Const., LLC*, No. 4:14-CV-1828 CEJ, 2015 WL 631253, at *3 (E.D. Mo. Feb. 12, 2015) (approving settlement when the "parties engaged in settlement negotiations and exchanged a 'large amount of information and documents' for a month before submitting the proposed settlement").

As such, the Court will "likely be able to" find that the Settlement is procedurally fair.

B. Substantive Fairness is Met, as the Settlement Provides Adequate Relief and Treats Settlement Class Members Equitably Relative to Each Other

Rule 23(e)(2)(C) and (D) consider the substantive fairness of the Settlement, and focus on whether "the relief provided for the class is adequate" and "the proposal treats class members equitably relative to each other." Fed. R. Civ. P. 23(e)(2).

"The most important consideration in deciding whether a settlement is fair, reasonable, and adequate 'is the strength of the case for plaintiffs on the merits, balanced against the amount offered in settlement.'" *In re Wireless Tel. Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 933 (8th Cir. 2005) (citation omitted). In considering the Settlement's fairness, a court must consider the challenges that Plaintiff would face in prevailing on the claims asserted. *See, e.g.*, *Ramsey*, 2012

WL 6018154, at *3. In doing so, the court "does not try the case," but instead identifies the disputed factual and legal issues that make it less likely for the plaintiff class to receive a full recovery. *Id.* (citing *Grunin v. Int'l House of Pancakes*, 513 F.2d 114, 123 (8th Cir. 1975)); *see also Cullan and Cullan LLC v. M-Qube, Inc.*, No. 8:13-cv-172, 2016 WL 5394684, *7 (D. Neb. Sept. 27, 2016) (approving settlement because it provided "a real and substantial remedy without the risk and delay inherent in prosecuting this matter through trial and appeal"). "As courts routinely recognize, a settlement is a product of compromise and the fact that a settlement provides only a portion of the potential recovery does not make such settlement unfair, unreasonable or inadequate." *Keil v. Lopez*, 862 F.3d 685, 696 (8th Cir. 2017) (internal citation omitted).

Here, the payments to Settlement Class Members will be approximately 25-35% of the premium paid for the post-departure benefit component of their Travel Plan and hence, the recoverable damages if they were successful at trial. This is a substantial recovery, especially where Settlement Class Members who are reached will be receiving these payments automatically without the need for any claims form or claim process and can elect to receive payment through electronic means. As long as a Settlement Class Member can be found, they will receive a payment.

The automatic payment process also mitigates against any concern regarding the timing of payment of attorney's fees. While attorneys' fees are being paid fifteen days after the Effective Date and checks are not required to be sent to Class members until 30 days after the Effective Date (SA ¶¶ C.3, C.11), that delay is strictly due to the time that it takes to print checks for the tens of thousands Settlement Class Members. This is not a case with a multi-year claims process where attorneys receive their full payment after approval, but class members have to wait years to be paid. Here, Settlement Class Members and the approved attorneys' fees will be paid within no later than a few weeks of each other.

Moreover, all Settlement Class Members are being treated equitably. Under the payment allocation plan, Settlement Class Members who are not receiving the $5.00 minimum are receiving a pro rata portion of the Net Settlement Fund based on the amount of premium paid by the Settlement Class Member, *i.e.*, Settlement Class Members who paid a bigger premium will receive a larger payment.[12] In order to ensure that no Settlement Class Members receives a *de minimis* amount, the Settlement also provides that Settlement Class Members who would otherwise receive less than $5.00 get a slightly increased payment to ensure that no one receives less than $5.00

This recovery is reasonable especially when compared to the alternative of further litigation. To obtain recovery through a fully litigated judgment, Plaintiff would have to win class certification, summary judgment, trial, post-trial motions, and potentially appeal. Any loss at any one of those steps would result in no recovery and any litigated judgment would take potentially years before it became final. The court system is still incurring delays and logistical hurdles as a result of the COVID-19 pandemic, and thus any litigated resolution will probably incur even more delays than in other times when there is not an ongoing public health emergency.

Moreover, in addition to the general risks and delays attendant with complex litigation, Defendants have raised numerous significant defenses that they intended to litigate potentially though appeal, including raising over 20 affirmatives defenses in their answers to Plaintiff's complaint. Dkt. Nos. 42 and 43. For example, as described above, Defendants contest whether the Travel Plans were divisible insurance policies wherein premiums for pre-departure benefits and

[12] The Settlement Payments will be calculated by adding up the total premium paid by all Settlement Class Members eligible for payment, calculating the pro rata share of the total premium of each Settlement Class Member, and multiplying the pro rata share by the Net Settlement Fund. Those Settlement Class Members whose payment would be less than $5.00 will then have their payments adjusted to $5.00 and the payments to the Settlement Class Members receiving higher than the $5.00 minimum payment will be adjusted accordingly pro rata.

post-departure benefits could be segregated. Relatedly, Defendants contest when the premium connected with post-departure benefits is earned. Defendants also contest whether their practice to not provide partial premium refunds constituted unjust enrichment or violated the Nebraska Consumer Protection Act.

While Plaintiff believes that Defendants' defenses could have been overcome, the defenses were substantial with no definite answers provided by case law, as this is not cookie cutter litigation. The risks at every turn of further litigation when weighed against the recovery warrants settlement approval here. *Yarrington v. Solvay Pharms., Inc.*, No. 09-CV-2261 (RHK/RLE), 2010 WL 11453553, at *9 (D. Minn. Mar. 16, 2010) (finding class counsel had "exhaustively assessed the probability of ultimate success on the merits against the risks of establishing liability and damages and maintaining a class action through trial and appeal" where parties had extensive motion practice, prepared expert reports, exchanged discovery and took depositions, and engaged in mediation); *see also Keil*, 862 F.3d at 695 (holding that this factor "weighs in favor of approving the settlement because the outcome of the litigation would be far from certain if the case had not settled, whereas the settlement provides substantial benefits to the class") (internal quotations omitted).

The proposed Settlement warrants preliminary approval, as the Court may easily find "that it will likely be able to finally approve the Settlement under Rule 23(e)(2) as being fair, reasonable, and adequate to the Class, subject to further consideration at the Settlement Fairness Hearing." *Accord In re CenturyLink Sales Pracs. & Sec. Litig.*, No. MDL172795MJDKMM, 2021 WL 1040520, at *1 (D. Minn. Mar. 18, 2021) (citing Fed. R. Civ. P. 23(e)(1)(B)(i)).

III. THE COURT SHOULD APPROVE THE NOTICE PLAN

The Eighth Circuit has found that, pursuant to Fed. R. Civ. P. 23(e), "the district court directs the form of the notice of settlement, and the notice need only satisfy the 'broad 'reasonableness' standards imposed by due process.'" *Petrovic v. Amoco Oil Co.*, 200 F.3d 1140, 1153 (8th Cir. 1999). Moreover, the United States Supreme Court has concluded that a notice of class action settlement must be "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane*, 339 U.S. at 314. "The contents must fairly apprise the prospective members of the class of the terms of the proposed settlement and of the options that are open to them in connection with the proceedings." *Campbell*, 2019 WL 3003920, at *2.

Here, the proposed Notices and manner of distribution negotiated and agreed upon by the parties is "the best notice practicable," as required under Fed. R. Civ. P. 23(c)(2)(B). The Notice Plan, includes multiple forms of Settlement Notice, including direct notice by a mailed postcard and by email. The proposed Notices themselves are clear, straightforward, and provide in plain English information on the meaning and nature of the terms and provisions of the Settlement Agreement, the benefits that the Settlement will provide to members of the Settlement Class, and information regarding how to object or opt-out of the Settlement. *See Reynolds v. Credit Bureau Servs., Inc.*, No. 8:15CV168, 2016 WL 389977, at *5 (D. Neb. Feb. 1, 2016) (notice is adequate if "'reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections'") (citation omitted). *See also* Exhibit 2, Declaration of Steven Weisbrot, at ¶¶ 22-23.

Finally, as part of the preliminary approval of the Settlement, Plaintiff requests that the Court schedule certain deadlines and a Final Approval Hearing to consider whether the Settlement

Agreement is fair, reasonable, and adequate. Fed. R. Civ. P. 23(e)(2); MANUAL FOR COMPLEX LITIGATION, FOURTH § 21.634. Prior to that time, Plaintiff will file a motion asking the Court to: (i) finally approve the Settlement; (ii) certify the Settlement Class for settlement purposes; (iii) find that the Notice Plan fully complied with Rule 23 and due process mandates; (iv) authorize the Parties to implement the terms of the Settlement Agreement; and (v) enter a Final Approval Order dismissing the case with prejudice. *See also* SA ¶ G.1. The proposed schedule for implementing the proposed Settlement is set forth in the Parties' agreed-upon Preliminary Approval Order (SA Ex. D), which Plaintiff respectfully requests that the Court enter so that notice of the Settlement can be provided to the Settlement Class.

CONCLUSION

For all of the aforementioned reasons, Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement should be granted.

Dated: June 11, 2021

Respectfully submitted,

/s/ John G. Albanese

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CERTIFICATE OF WORD COUNT COMPLIANCE

The undersigned certifies in accordance with Local Rule 7.1(d)(3), that the foregoing Memorandum contains 10,102 words, as counted by Microsoft Word 365's Word Count function, including all headings, footnotes, and quotations, as well as the caption.

Date: June 11, 2021

/s/John G. Albanese
John G. Albanese

CERTIFICATE OF SERVICE

I certify that on June 11, 2021, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on the following counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF:

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EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHELLE ANDERSON, an individual, on behalf of herself and all others similarly situated, Plaintiff, v. TRAVELEX INSURANCE SERVICES INC. and TRANSAMERICA CASUALTY INSURANCE COMPANY, Defendants.	Case No. 8:18-cv-00362-JMG-SMB

CLASS ACTION SETTLEMENT AGREEMENT

Plaintiff Michelle Anderson ("**Plaintiff**") in the above-captioned action, *Anderson v. Travelex Insurance Services Inc., et al.*, No. 8:18-cv-00362-JMG-SMB (D. Neb.) (the "**Litigation**"), and Defendants Travelex Insurance Services Inc. ("**TIS**") and Transamerica Casualty Insurance Company ("**TCIC**") (collectively, "**Defendants**")), stipulate and agree, pursuant to the terms and conditions set forth in this Settlement Agreement (the "**Settlement Agreement**," or "**Agreement**"), to settle, dismiss, and compromise the claims asserted against Defendants in the Litigation as set forth herein.

WHEREAS, up until December 31, 2017, TCIC was engaged in the business of underwriting single trip travel protection plans marketed and sold by TIS; and

WHEREAS, Plaintiff has asserted claims against Defendants in the Litigation, individually and on behalf of similarly situated persons insured under single trip travel protection plans underwritten and sold by Defendants; and

WHEREAS, Plaintiff alleges in the Litigation that Defendants' single trip travel protection plans offered both pre-departure and post-departure insurance benefits, and Plaintiff seeks to recover damages and/or restitution from Defendants on the alleged ground that she and other similarly situated insureds cancelled their insured travel pre-departure but did not receive a refund for the portion of premiums attributable to the coverage of post-departure risks, and Plaintiff claims in the Litigation that she and other similarly situated insureds should have received such a refund; and

WHEREAS, without conceding that any of her claims lack merit, Plaintiff and Class Counsel have concluded that it is in the best interests of the Settlement Class (defined below) to settle the Litigation on the terms set forth herein, and that the Settlement set forth in this Agreement is fair, reasonable, adequate, and in the best interests of Plaintiff and the Settlement Class; and

WHEREAS, the Defendants in the Litigation vigorously deny any wrongdoing, liability, or fault whatsoever on their part, and specifically deny any alleged wrongdoing regarding the travel insurance plans at issue in the Litigation and their refund practices and procedures related to those plans, and further have asserted numerous defenses to the facts alleged, certification of a litigation class, and causes of action asserted in the Litigation, and maintain that their sale, administration, refund practices and procedures, and other actions with respect to the travel insurance plans have been proper, lawful, consistent with the terms of the plans, and appropriate in all respects; and

WHEREAS, the parties to the Litigation and their respective counsel, after extensive litigation, arm's length negotiation, and analysis, have agreed upon the terms and conditions set forth herein to settle and resolve the Litigation in order to avoid the expense, burden and risks associated with protracted litigation; and

WHEREAS, the parties to the Litigation desire and intend by this Agreement to settle finally and completely, and effectuate a final resolution of the Released Claims of all Settlement Class Members, and to provide for a complete, full, and final release of the Released Claims in favor of the Released Parties, as described below in detail;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, Plaintiff, individually and on behalf of the Settlement Class as defined below, and Defendants, hereby agree to the full and complete settlement of the Litigation, subject to Court approval, according to the terms and conditions set forth herein.

A. DEFINITIONS

As used in this Settlement Agreement, the capitalized terms defined above and those defined in this section or elsewhere in the Agreement shall have the meanings so designated when used throughout this Agreement.

1. The term **"Action"** shall mean the civil action captioned *Michelle Anderson v. Travelex Insurance Services Inc., et al.*, Case No. 8:18-cv-00362-JMG-SMB, in the United States District Court for the District of Nebraska.

2. The term "**Agreement**" shall mean this Class Action Settlement Agreement together with all Exhibits referenced herein and attached hereto.

3. The term "**Class Counsel**" means all attorneys of record for Plaintiff in the Litigation.

4. The term "**Class Period**" means the period of January 1, 2014 to December 31, 2017.

5. The term "**Class Representative**" means Plaintiff Michelle Anderson.

6. The term "**Counsel for Defendants**" means Markham R. Leventhal, Julianna Thomas McCabe, and Michael N. Wolgin of Carlton Fields, PA.

7. The term "**Court**" means the United States District Court for the District of Nebraska.

8. The term "**days**" means calendar days and not court or business days unless otherwise indicated.

9. The term "**Defendants**" means TIS and TCIC, and their respective predecessors, parent and sister companies, successors, subsidiaries, affiliates, agents, insurers, and assigns.

10. The term "**Effective Date**" means the date on which the Final Approval Order and Judgment approving the Settlement becomes final and not subject to further appeal. If no appeal has been taken from the Final Approval Order and Judgment, the Effective Date means the date on which the time to appeal therefrom has expired. If any appeal has been taken from the Final Approval Order and Judgment, the Effective Date means the date on which all appeals therefrom including petitions for rehearing, petitions for rehearing en banc, and petitions for certiorari or any other form of review, have been finally disposed of in a manner that affirms the Final Approval Order and Judgment.

11. The term "**Final Approval Hearing**" means the hearing conducted by the Court to determine whether to grant final approval of this Settlement and to determine the fairness, adequacy, and reasonableness of this Settlement.

12. The term "**Final Approval Order and Judgment**" means the Final Approval Order and Judgment entered by the Court in the form attached to this Agreement as Exhibit E.

13. The term "**Gross Settlement Fund**" means the Settlement Amount of $3,237,500, plus any accrued interest, less any advanced costs paid to the Settlement Administrator by

Defendants. It shall be the total amount from which Plaintiff and Settlement Class Members shall be paid, and from which settlement administration costs other than those costs advanced by Defendants (including, but not limited to, the cost of the Settlement Notice), and any Court-approved awards of attorneys' fees, Litigation Expenses, and the Class Representative Service Award, shall be paid. Defendants shall pay the Gross Settlement Fund into a common fund, which shall be established and maintained by the Settlement Administrator as a Qualified Settlement Fund for federal tax purposes pursuant to Treas. Reg. § 1.468B-1. The Settlement Administrator, on behalf of the Class, shall be responsible for all administrative, accounting, and tax compliance activities in connection with the Qualified Settlement Fund, including any filing necessary to obtain Qualified Settlement Fund status pursuant to Treas. Reg. § 1.468B-1. Defendants shall provide to the Settlement Administrator any documentation reasonably requested by the Administrator to facilitate obtaining Qualified Settlement Fund status. In no event shall Defendants be required to pay any additional sum for the settlement of this matter other than the Settlement Amount of $3,237,500. If any interest accrues on the Gross Settlement Fund, all interest shall be paid into the Gross Settlement Fund.

14. The term "**Lead Counsel**" means Shanon J. Carson, Peter R. Kahana, Lane L. Vines, John Albanese, and Y. Michael Twersky of Berger Montague PC.

15. The term "**Litigation**" shall mean the civil action captioned *Michelle Anderson v. Travelex Insurance Services Inc., et al.*, Case No. 8:18-cv-00362-JMG-SMB, in the United States District Court for the District of Nebraska.

16. The term "**Litigation Expenses**" means the out-of-pocket costs and litigation expenses incurred or disbursed by Class Counsel in the Litigation for which Class Counsel intends

to apply to the Court for reimbursement out of the Gross Settlement Fund, which amount shall not exceed $75,000 in the aggregate.

17. The term **"Net Settlement Fund"** means the amount of money remaining in the Gross Settlement Fund after the Gross Settlement Fund is reduced by the following amounts, as approved by the Court: (a) the service award to the Class Representative, (b) attorneys' fees and Litigation Expenses, and (c) the Settlement Administration Costs paid from the Gross Settlement Fund.

18. The term "**Notice**" (also, "**Settlement Notice**") means the written notice of the Settlement provided for under Section D of this Agreement and in the Preliminary Approval Order. The Notice shall include a long-form Notice of Class Action Settlement ("Long Form Notice") to be posted on the Settlement Website, in the form attached as Exhibit A hereto, the email Notice of Class Action Settlement ("Email Notice") in the form attached as Exhibit B hereto, and the postcard Notice of Class Action Settlement ("Postcard Notice") substantially in the form attached as Exhibit C hereto. The Notice will be disseminated in accordance with the Notice Plan, subject to the approval of the Court in the Preliminary Approval Order.

19. The term "**Notice Date**" means the date, no later than thirty (30) days after the Preliminary Approval Date, on which the Settlement Administrator is to have posted the Long Form Notice on the live Settlement Website, and mailed or e-mailed the Postcard Notice and Email Notice.

20. The term "**Notice Plan**" shall have the meaning ascribed to it in Section D of this Agreement.

21. The term "**Objection and Opt-Out Deadline**" means the date sixty (60) days after the Notice Date or as otherwise set forth in the Court's Preliminary Approval Order.

22. The term "**Parties**" means Plaintiff and Defendants.

23. The term "**Person**" or "**Persons**" means any individual or entity, public or private.

24. The term "**Plaintiff**" means Michelle Anderson.

25. The term "**Plan**" or "**Plans**" (also, "**Travel Plan**" or "**Travel Plans**") means any single-trip travel protection plan with insurance that included post-departure coverage, underwritten by TCIC and administered by TIS during the Class Period, and includes each and every travel protection plan at issue in the Litigation and addressed by this Agreement.

26. The term "**Preliminary Approval Date**" means the date on which the Court enters the Preliminary Approval Order.

27. The term "**Preliminary Approval Order**" means the Order attached to this Agreement as Exhibit D, which, upon entry by the Court will preliminarily approve the Settlement, approve the Notice Plan, and schedule a Final Approval Hearing to address final approval of the Settlement.

28. The term "**Release**" means the release of claims set forth in Section F.

29. The term "**Released Claims**" means the claims released as set forth in Section F.

30. The term "**Released Parties**" is defined in Section F.

31. The term "**Releasing Parties**" is defined in Section F.

32. The term "**Service Award**" means a monetary payment to the Plaintiff, in addition to a Settlement Payment, which shall be subject to Court approval.

33. The term "**Settlement**" means the settlement between Plaintiff, TCIC, TIS, and members of the Settlement Class, as contemplated by this Agreement.

34. The term "**Settlement Administrator**" means Angeion Group, LLC, the class action settlement administrator agreed upon by counsel for the Parties and to be appointed by the Court to administer the Settlement.

35. The term "**Settlement Administration Costs**" means the reasonable fees and expenses charged by the Settlement Administrator for the administration of this Settlement, including the costs associated with: (i) the Notice Plan; (ii) administering, calculating, and distributing of payments under the Settlement to Settlement Class Members; and (iii) all other reasonable fees, expenses, and costs incurred or billed by the Settlement Administrator to provide administrative services in connection with this Settlement consistent with the terms of this Settlement Agreement.

36. The term "**Settlement Class**" or "**Class**" means, for purposes of this Settlement only, all persons in the United States who have been identified by Defendants as insured under a Travel Plan purchased within the Class Period, and for whom a claim for trip cancellation benefits was initiated under the Travel Plan. The Parties acknowledge that the third party administrator handling trip cancellation claims for the Travel Plans identified no more than 105,284 potential Settlement Class Members. Excluded from the Settlement Class are: (i) all persons who previously received a refund of premium from the Defendants for any Travel Plan(s) at issue in the Litigation; (ii) all persons who previously entered into a written agreement with the Defendants releasing all claims related to a Travel Plan(s) at issue in the Litigation; (iii) all insureds for whom no premium was charged under a Travel Plan; and (iv) all persons who during the Class Period were officers, directors, or employees of either of the Defendants.

37. The term "**Settlement Class Member**" means a person within the Settlement Class who does not submit a timely and valid request for exclusion from the Settlement pursuant to Section E below.

38. The term "**Settlement Payment**" means a payment sent by the Settlement Administrator to a Settlement Class Member.

39. The term "**Settlement Website**" means the dedicated Settlement Website to be established by the Settlement Administrator.

B. CERTIFICATION OF THE SETTLEMENT CLASS; PRELIMINARY APPROVAL OF THE SETTLEMENT

1. Settlement Class Certification. Defendants agree not to object to the certification of the Class for settlement purposes only pursuant to Rule 23(e) of the Federal Rules of Civil Procedure. The certification of a Settlement Class pursuant to this Agreement shall not constitute an admission or acknowledgement of any kind that the certification of a class under Rule 23 would be appropriate outside of the settlement context or absent this Agreement. By entering into this Agreement, the Defendants are not waiving any of their defenses or objections in the Litigation, nor are they agreeing that the criteria for class certification could be met outside of the settlement context or absent the terms of this Agreement. If the Settlement is not approved for any reason, or if the Effective Date is not reached, Defendants expressly reserve the right to assert all of their objections and defenses to certification of any class for trial purposes, and neither Class Counsel nor Plaintiff or any Settlement Class member shall offer the terms of this Agreement as evidence

in support of any motion to certify a class outside of the Settlement context in this or in any other proceeding.

2. Preliminary Approval.

a. On or before June 11, 2021, Lead Counsel shall file a copy of this Agreement with the Court and shall file a Motion for Preliminary Approval of the Settlement consistent with this Agreement, requesting entry of the Preliminary Approval Order in the form of Exhibit D attached hereto. The Preliminary Approval Order shall include provisions:

i. Finding that the Parties have provided to the Court, through this Agreement, the Motion for Preliminary Approval of Class Action Settlement, and any response thereto by Defendants, information sufficient to enable the court to determine whether to give notice of the proposal to the Class;

ii. Preliminarily appointing Plaintiff as the Class Representative, and preliminarily appointing Lead Counsel as counsel for the Settlement Class;

iii. Preliminarily approving the Settlement as being within the range of reasonableness such that the Settlement Notice should be provided to the Settlement Class Members;

iv. Approving the Notice Plan and Settlement Notice, and directing that the Notice Plan be implemented and the Settlement Notice be given as set forth in Section D of this Settlement Agreement;

v. Scheduling the Final Approval Hearing approximately 90 days following the Notice Date, or as soon thereafter as practicable;

vi. Appointing the Settlement Administrator;

vii. Providing that any objections by any Settlement Class Member to the Settlement Agreement shall be heard and any papers submitted in support thereof shall be

considered by the Court at the Final Approval Hearing only if, on or before the Objection and Opt-Out Deadline specified in the Settlement Notice and the Preliminary Approval Order, the objecting Settlement Class Member follows the procedures for objecting set forth in this Settlement Agreement and in the Preliminary Approval Order;

viii. Establishing dates by which the Parties shall file any papers in support of the motion for final approval of the Settlement, in support of Class Counsel's motion for attorneys' fees and expenses and service awards, and in response to any valid and timely objections;

ix. Providing that all Persons in the Settlement Class will be bound by the Final Approval Order and Judgment, except those Persons who submit to the Settlement Administrator a valid and timely written request for exclusion in accordance with this Settlement Agreement and the Settlement Notice; and

x. Providing that, pending the Final Approval Hearing and the Effective Date, all proceedings in the Litigation, other than proceedings necessary to carry out or enforce the terms and conditions of this Settlement Agreement, shall be stayed.

xi. Providing that, from the date of entry of the Preliminary Approval Order until the Court holds the Final Approval Hearing, all Settlement Class Members (except those who have requested exclusion) shall be barred from asserting any claims for which a release will be given if the Court approves the settlement.

b. Following the entry of the Preliminary Approval Order, the Notice Plan shall be effectuated as set forth herein and in the Preliminary Approval Order. The Parties agree that the methods of Settlement Notice described in this Settlement Agreement are valid, effective, and provide the best notice practicable to the Settlement Class solely for the purposes of the

Settlement, and the Settlement Administrator shall provide Lead Counsel and Counsel for Defendants with a declaration detailing the manner in which the Notice Plan in its professional opinion provides the best practicable notice under the circumstances, and is reasonably calculated to apprise Settlement Class members of the Litigation, the Settlement Agreement, their objection rights, and their opt-out rights.

c. Upon entry of the Preliminary Approval Order, Plaintiff, Class Counsel, Defendants, and Counsel for Defendants agree to use reasonable and good faith efforts to effectuate the Court's final approval of the Settlement, including by filing the necessary motion papers and scheduling any necessary hearings for a date and time convenient for the Court.

C. DISTRIBUTION OF THE SETTLEMENT FUND

1. **Settlement Amount.** In exchange for the Release of the Released Claims described below, Defendants shall pay $3,237,500.00 (the "**Settlement Amount**"), which shall be received, held, and distributed in accordance with the process outlined below. The Settlement Amount shall represent the full extent of Defendants' financial obligations under this Settlement Agreement. Upon the Settlement reaching the Effective Date, there shall be no reversion to Defendants of the Settlement Amount under any circumstance.

2. **Payment of Gross Settlement Fund.** Within ten business days after the entry of the Preliminary Approval Order and timely receipt of appropriate wiring instructions, Defendants will remit $65,850 to the Settlement Administrator, which is the estimated cost of providing the Notice. Within ten business days after the Effective Date, Defendants will remit the Settlement Amount less the amount previously paid to the Settlement Administrator in connection with the cost of providing the Notice.

3. **Distribution of Net Settlement Fund to Class Members.** The Net Settlement Fund shall be distributed by the Settlement Administrator to Settlement Class Members. The Settlement Administrator shall begin the process of distributing the Net Settlement Fund no later than 30 days after the Effective Date. Each Settlement Class Member shall be eligible for a Settlement Payment from the Net Settlement Fund, which shall be calculated as a pro rata portion of the Net Settlement Fund, and based on a percentage of the premium paid to insure that Settlement Class Member under their applicable Travel Plan. The percentage of premium shall be the same for every Settlement Class Member unless a Settlement Class Member would receive a payment of less than $5.00, in which event, the percentage of premium will be increased until the payment reaches $5.00.

4. **Form of Payment**. The Settlement Administrator will send the appropriate Settlement Payment by check to every Settlement Class Member for whom a mailing address has been provided, except that a check will not be sent to any Settlement Class member whose Postcard Notice is returned as undeliverable, and for whom no forwarding address has been found by the Settlement Administrator, and for whom no other address is provided by the Settlement Class Member prior to the Effective Date. Additionally, in lieu of receiving a check, Settlement Class Members may opt to receive their Settlement Payment electronically. As part of the Notice Plan, the Settlement Administrator will provide one or more options for Settlement Class Members to receive their Settlement Payment via a secure and verifiable electronic deposit such as Paypal, Venmo, or other reasonable and valid means made available by the Settlement Administrator.

5. **Check Cashing Deadline**. For all Settlement Payments distributed by check, Settlement Class Members shall have 180 days to cash their Settlement Payment check (the "**Check Cashing Deadline**"). Checks will include the following language: "void after 180 days."

Any Settlement Class Member who does not cash a Settlement Payment check addressed to them by the Check Cashing Deadline waives the right to any Settlement Payment, but will remain in the Settlement Class and will be bound by the Release.

6. **Residual Settlement Fund**. If a portion of the Net Settlement Fund remains following the distribution by the Settlement Administrator to Settlement Class Members of the Settlement Payments and after the expiration of the Check Cashing Deadline, then such remaining funds will be distributed to a *cy pres* recipient to be agreed to by the Parties and approved by the Court. If the Parties cannot agree, the Court shall select a *cy pres* recipient. However, if the amount remaining is of such an amount that, in the discretion of Lead Counsel and the Settlement Administrator, it is feasible that such monies should be redistributed to the Settlement Class Members who have previously received a Settlement Payment electronically or cashed their Settlement checks, then Lead Counsel may petition the Court for an Order to distribute the remaining Net Settlement Fund, net of the Settlement Administrator's additional fees and costs, to those Settlement Class Members rather than making a *cy pres* distribution.

7. **Service Award to Plaintiff.** Class Counsel will petition the Court for a service award of up to $6,500 for Plaintiff in this matter. If approved by the Court, any Service Award will be paid to Plaintiff from the Gross Settlement Fund, at the same time that Settlement Payments are sent to the Settlement Class Members. Plaintiff's Service Award shall be in addition to the Settlement Payment paid to Plaintiff pursuant to the distribution of the Net Settlement Fund noted above.

8. **Attorneys' Fees and Litigation Expenses.** Class Counsel will apply to the Court for an award of attorneys' fees and Litigation Expenses to be paid from the Gross Settlement Fund. The application for attorneys' fees shall not exceed one-third of the Settlement Amount. Class

Counsel also intend to petition for their Litigation Expenses to be paid from the Gross Settlement Fund, not to exceed $75,000. By signing this Agreement, the Parties warrant that Defendants' agreement not to oppose Class Counsel's attorneys' fees and reasonable expenses identified herein, and Plaintiff's Service Award, were obtained only after the material terms for the relief to the Settlement Class were agreed upon. Defendants agree not to oppose Class Counsel's Motion for Approval of Attorneys' Fees and Litigation Expenses, and Plaintiff's Service Award so long as it is consistent with this paragraph and the preceding paragraph concerning the Plaintiff's Service Award.

9. **Timing of Motion for Fees, Costs and Service Award**. Within the time period established by the Court, and no later than fourteen (14) days before the Objection and Opt-Out Deadline, Class Counsel will file a Motion for Approval of Attorneys' Fees, Litigation Expenses, and Plaintiff's Service Award, to be paid out of the Gross Settlement Fund which motion shall be published by the Settlement Administrator on the Settlement Website.

10. **Settlement Administration Expenses.** In the Motion for Final Approval of Class Action Settlement, Class Counsel shall apply to the Court for any unpaid costs of the Settlement Administrator to be paid from the Gross Settlement Fund.

11. **Timing of Payment of Attorneys' Fees, Costs.** Any award of attorneys' fees and Litigation Expenses approved by the Court shall be paid by the Settlement Administrator from the Gross Settlement Fund to Lead Counsel within fifteen (15) business days after the Effective Date.

D. SETTLEMENT ADMINISTRATION AND NOTICE PLAN

1. **Settlement Administrator Duties Regarding the Parties' Information**. The Settlement Administrator shall use information acquired from the Parties as the result of this

Agreement solely for purposes of administering this Settlement and maintain reasonable data security measures.

2. **Settlement Administrator Accounting**. The Settlement Administrator shall maintain a complete and accurate accounting of all receipts, expenses, and payments made pursuant to this Agreement. The accounting shall be made available on reasonable notice at any time to Lead Counsel and Counsel for Defendants.

3. **Notice Plan**. The Notice Plan utilized to provide notice of this Settlement to the Settlement Class shall be approved in the Court's Preliminary Approval Order. The Notice Plan shall be effectuated by the Settlement Administrator and shall include:

a. **Settlement Class Member Information**. Within five (5) business days of the entry of the Preliminary Approval Order, Defendants shall send to the Settlement Administrator in a secure manner the following contact information from Defendants' electronically searchable records for Settlement Class members, if known: the Settlement Class member's name, address, email address, and the amount of the premium paid to insure that Settlement Class member under their applicable Travel Plan, for which a trip cancellation claim was initiated on or after January 1, 2014.

b. **Direct Notice.** Within 30 days of the Preliminary Approval Order, the Postcard Notice and the Email Notice shall be disseminated to all Settlement Class members for whom a mailing or email address has been provided by Defendants. Prior to mailing the Postcard Notice, the Settlement Administrator shall use the U.S. Postal Office's National Change of Address System to verify or update address information for members of the Settlement Class. Prior to sending the Email Notice, the Settlement Administrator shall use software to correct errors in email addresses provided for members of the Settlement Class.

Should any Postcard Notice be returned as undeliverable without a forwarding address, the Settlement Administrator shall attempt to update address information by performing a skip trace. Should any Postcard Notice be returned with a forwarding address, the Settlement Administrator shall remail the Postcard Notice to the forwarding or updated address, if available.

c. **Settlement Website**. On the Notice Date, the Settlement Administrator shall establish and make live the Settlement Website, which shall be an Internet website concerning the Settlement using the domain name mutually agreed by the Parties. The Settlement Website shall be maintained by the Settlement Administrator through the conclusion of the check-cashing period. The domain name of the Settlement Website shall be included in any Settlement Notice. The Settlement Website shall include: (i) the Long Form Notice; (ii) the Settlement Administrator's toll-free phone number applicable to the Settlement; (iii) copies of the Complaint, this Settlement Agreement and its exhibits, any Court Orders regarding the Settlement, Class Counsel's Motion for Approval of Attorneys' Fees and Litigation Expenses; (iv) the ability for Settlement Class Members to update their addresses; (v) the ability for Settlement Class Members to select to receive any Settlement Payments via Paypal, Venmo, or other reliable electronic means made available at the discretion of the Settlement Administrator; and (vi) a Frequently Asked Questions page regarding the Settlement with content approved by the Parties. Court filings that become available after the Settlement Website goes live will be posted by the Settlement Administrator to the Settlement Website within a reasonable period of time.

d. **Toll-Free Number for Settlement Administrator**. On the Notice Date, the Settlement Administrator shall establish a toll-free telephone number that will provide

Settlement Class Members with information regarding the Settlement and direct them to the Settlement Website. The toll-free number shall be included in all Notices. During the Claim Period, the Settlement Administrator shall provide an Interactive Voice Response ("IVR") system during regular business hours. The IVR system shall be capable of (i) receiving requests for the Notice of Settlement; and (ii) providing general information concerning deadlines for opting out of or objecting to the Settlement, the dates and locations of relevant Court proceedings, including the Final Approval Hearing, and directions to the Settlement Website.

e. **CAFA Notice**. Pursuant to 28 U.S.C. § 1715, Defendants shall cause to be mailed all required notices in accordance with their obligations thereunder.

f. **Uncashed Settlement Payment Checks**. Ninety (90) days in advance of the 180-day checking cashing deadline, the Settlement Administrator shall send a check-cashing reminder by email and/or postcard (if email is unavailable) to Settlement Class Members who were sent but have not yet cashed their check.

4. **Proof of Compliance with Notice Plan**. The Settlement Administrator shall provide Lead Counsel and Counsel for Defendants with a declaration detailing its compliance with the Notice Plan, in sufficient time to be filed as an exhibit to Plaintiff's Motion for Final Approval.

5. **Settlement Administrator Records**. The Settlement Administrator shall maintain and preserve records of all of its activities, including logs of any telephone calls, emails, faxes, mailings, visits to the Settlement Website, and all other contacts with actual and potential members of the Settlement Class. The Settlement Administrator shall also maintain a running tally of the number of and types of materials mailed or disseminated by the Settlement Administrator. The Settlement Administrator shall provide Lead Counsel and Counsel for Defendants with weekly written reports, beginning on the Notice Date and continuing until the end of the check-cashing

period, summarizing all statistics and actions taken by the Settlement Administrator in connection with administering the Settlement.

6. **No Liability for Claims Administered Pursuant to Agreement.** No Person shall have any claim against Defendants (or Defendants' parents, subsidiaries, affiliates, officers, directors, employees or agents), Counsel for Defendant, Plaintiff, Class Counsel, Lead Counsel, the Released Parties, and/or the Settlement Administrator based on any determinations, distributions, actions taken, or awards made, with respect to this Settlement, so long as each of these individuals and entities act in accordance with the Settlement Agreement, the Preliminary Approval Order, and Final Approval Order.

E. OPT-OUTS AND OBJECTIONS

1. **Requests for Exclusion**.

a. Any member of the Class who wishes to opt-out and be excluded from the Settlement Class may do so, but must submit a written request ("Request for Exclusion ") to the Settlement Administrator on or before the Objection and Opt-Out Deadline set forth in the Preliminary Approval Order which shall be no later than 60 days after the Notice Date. A Settlement Class member who submits a Request for Exclusion cannot object to the Settlement and is not eligible to receive a Settlement Payment or any other relief under the Settlement.

b. In order to be valid and effective, a Request for Exclusion must be sent by first class mail properly addressed to the Settlement Administrator, postmarked by the Objection and Opt-Out Deadline, and (i) must include the full name and address of the Class member seeking exclusion, (ii) must bear the individual signature of the Class member seeking exclusion, and (iii) must clearly state that the person desires to be excluded from the Class. No person shall be permitted to request exclusion from the Settlement Class on behalf of any other

Class members, except that a legal representative or guardian may submit a Request for Exclusion on behalf of a deceased, incapacitated, or minor Class member. Each Class member seeking to exclude themselves from the Settlement, regardless of whether they were covered under the same Travel Plan as another Class member, must submit an individually signed Request for Exclusion in order to be excluded from the Settlement Class. Requests for Exclusion cannot be made on a group or class basis and any attempt to opt out a group or class of individuals shall be null and void.

c. The Settlement Administrator will provide copies of all Requests for Exclusion to Lead Counsel and Counsel for Defendants on a weekly basis.

d. Any Settlement Class Member who does not submit a valid and timely written Request for Exclusion as provided herein shall be bound by all subsequent proceedings, orders and judgments in this Litigation, including but not limited to the Release and the Final Approval Order and Judgment, even if such Settlement Class Member has litigation pending, or subsequently initiates litigation, against any Released Party relating to the Released Claims.

e. A member of the Settlement Class who opts out can, on or before the Objection and Opt-Out Deadline, withdraw their Request for Exclusion by submitting a written or emailed request to the Settlement Administrator stating their desire to revoke their Request for Exclusion and containing their actual written signature or electronic signature. Any statement or submission purporting or appearing to be both an objection and opt-out shall be treated as a Request for Exclusion.

f. No later than fourteen (14) days after the Objection and Opt-Out Deadline, the Settlement Administrator shall provide to Lead Counsel and Defendants a complete list of opt-outs, together with copies of the opt-out requests and any other related information.

g. Other than responding to questions from Class members about the procedures for completing a Request for Exclusion provided by this Section, Class Counsel shall not directly or indirectly assist, cooperate with, or aid in any way Class members in excluding themselves from the Settlement or pursuing any separate actions against the Defendants or the Released Parties.

2. **Objections**. Any Settlement Class Member who does not submit a written Request for Exclusion may appear at the Final Approval Hearing or submit a written objection to the Settlement explaining why they believe that the Settlement should not be approved by the Court as fair, reasonable, and adequate.

a. A Settlement Class Member who wishes to object or appear must file with the Clerk of the Court, at the address identified on the Settlement Website, and separately mail to the Settlement Administrator, a detailed written statement, postmarked by the Objection and Opt-Out Deadline, stating any objection(s) in detail and any specific aspect(s) of the Settlement being challenged; the specific reason(s), if any, for each such objection, including any evidence and legal authority that the Settlement Class Member wishes to bring to the Court's attention; and whether any objection applies only to the objector, to a specific subset of the class, or to the entire class.

b. That written statement shall clearly identify the case name and number, and in addition to the details set forth above with respect to the objection, shall contain (i) the Settlement Class Member's printed name, address, telephone number, and email address; (ii) evidence showing that the objector is a Settlement Class Member; (iii) any other supporting papers, materials, or briefs that the Settlement Class Member wishes the Court to consider when reviewing the objection; (iv) the actual written signature of the Settlement Class Member

making the objection; and (v) a statement of whether the objecting Settlement Class Member or their counsel intends to appear at the Final Approval Hearing.

c. A Settlement Class Member may object on their own behalf or through an attorney; provided, however, that even if represented, the objector must individually sign the objection, and timely file the objection and mail a copy to the Settlement Administrator. All attorneys who are involved in any way in asserting the objection must be listed on the objection.

d. On a weekly basis, the Settlement Administrator shall provide counsel for the Parties with copies of any objections it receives.

e. Any objector who files and serves a valid and timely written objection or intends to appear as described above may appear at the Final Approval Hearing, either in person or through separate counsel hired at the objector's expense, to object to the Settlement on the basis set forth in his or her objection; provided, however, that any objector or attorney for an objector who intends to make an appearance at the Final Approval Hearing must in their timely objection state their intention to appear. If the Settlement Class Member or their attorney wish to speak at the Final Approval Hearing, their written notice of intent must identify by name, address, and telephone number the person(s) who intend(s) to appear, including any witnesses and a summary of any witness testimony the Settlement Class Member intends to present during their appearance.

f. Any Settlement Class Member who does not comply with the foregoing provisions shall waive and forfeit any and all rights to object to the Settlement, and shall be bound by all terms of this Settlement Agreement and by all proceedings, orders and judgments in the Litigation, including but not limited to the Release and the Final Approval Order and Judgment.

g. A member of the Class who submits a valid Request for Exclusion may not object to the Settlement or speak at the Final Approval Hearing. Objections filed by Class members who have excluded themselves from the Class will not be considered.

h. The procedures for filing objections and appearing at the Final Approval Hearing are intended to ensure the fair and efficient administration of justice, consistent with the Federal Rules of Civil Procedure and due process.

i. A Settlement Class Member who objects can withdraw their objection before the Final Approval Hearing by submitting a signed written request or email containing an electronic signature to the Settlement Administrator stating their desire to withdraw their objection. The Settlement Administrator will forward all such requests to Lead Counsel and Defense Counsel on a weekly basis, and will ensure that all such requests submitted prior to the date of the Final Approval Hearing are forwarded prior to the Final Approval Hearing.

F. RELEASE OF CLAIMS

1. **Release**. Upon the Effective Date, the Plaintiff and all Settlement Class Members, on behalf of themselves and all of their agents, heirs, estates, executors and administrators, successors, assigns, insurers, attorneys, representatives, and any and all Persons who seek to claim through or in the name or right of any of them (the "Releasing Parties"), expressly and irrevocably release and forever discharge, upon good and sufficient consideration, Defendants and all of their respective present and former administrators, insurers, reinsurers, firms, parents, subsidiaries, and affiliates, and all of Defendants and the foregoing Persons' respective predecessors, successors, assigns and present and former officers, directors, shareholders, employees, agents, indemnitees, attorneys, and representatives (collectively, the "Released Parties"), from any and all claims, demands, complaints, disputes, causes of action, rights of action, suits, debts, liabilities,

obligations, and damages of every nature whatsoever, on any legal or equitable ground, whether based on federal, state, or local law, statute, ordinance, regulation, common law, private contract, agreement or any other authority, asserted or unasserted, known or unknown, that the Releasing Parties now have, ever had, or may in the future have, arising out of, resulting from, or related in any way to the Litigation or the subject matter of the Litigation, and which were or could have been asserted in the Litigation based upon the facts alleged, including, without limitation, any and all claims for attorneys' fees, costs, or expenses, and any and all past and present claims, damages, or liability on any legal or equitable ground whatsoever ("Released Claims"). This Release is as a result of the Settlement Class Members' membership in the Settlement Class and status as Releasing Parties, the Court's approval process herein, and the occurrence of the Effective Date and is not conditioned on receipt of payment by any particular Settlement Class Member or Releasing Party. The Released Claims do not include either pending or as yet unfiled policyholder claims for trip cancellation benefits under the Travel Plans.

2. **Good Faith Settlement**. The Releasing Parties agree that the provisions of this Agreement and any claim thereunder constitute a good faith settlement under California Code of Civil Procedure Sections 877 and 877.6, Hawaii Revised Statutes Section 663-15.5, and comparable laws in other states. Plaintiff and Class Counsel will not oppose a motion by Defendants in a subsequent action contending that this is a good faith settlement.

3. **Assumption of Risk**. Each of the Releasing Parties hereby does, and shall be deemed to, assume the risk that they may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those which they now know or believe to be true with respect to the matters released here. Nevertheless, it is the intent of the Settlement to fully, finally and forever settle and release all such matters and all claims relating thereto, which

exist, hereafter may exist, or might have existed (whether or not previously or currently asserted in any action). It is expressly understood that the Release will extinguish all claims of every nature regardless of whether the claims are known at the time of the Settlement or Final Approval Order and Judgment. Each of the Releasing Parties agrees that any such additional, different, or contrary facts shall in no way limit, waive, or reduce the foregoing Release, which shall remain in full force and effect.

4. **California Civil Code and Any Counterparts from Other States**. All Releasing Parties will be deemed by the Final Approval Order and Judgment to acknowledge and waive Section 1542 of the California Civil Code, which provides that: "**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY**." Settlement Class Members, on behalf of all Releasing Parties, expressly waive and relinquish any and all rights and benefits that they may have under, or that may be conferred upon them by, the provisions of Section 1542 of the California Civil Code, or any other law of any state or territory that is similar, comparable or equivalent to Section 1542, to the fullest extent they may lawfully waive such rights or benefits pertaining to the Released Claims. In connection with such waiver and relinquishment, the Settlement Class Members hereby acknowledge that the Releasing Parties are aware that they or their attorneys may hereafter discover claims or facts in addition to or different from those that they now know or believe exist with respect to Released Claims, but that it is their intention to hereby fully, finally, and forever settle and release all of the Released Claims known or unknown, suspected or unsuspected, that

they have against the Released Parties. In furtherance of such intention, the Release herein given by the Releasing Parties to the Released Parties shall be and remain in effect as a full and complete general release notwithstanding the discovery or existence of any such additional different claims or facts. The Notice shall expressly inform all Settlement Class Members of the contents and effect of Section 1542, and based on express or constructive knowledge, the Settlement Class Members hereby expressly waive whatever benefits they may have had pursuant to such section. Plaintiff acknowledges, and the Releasing Parties shall be deemed by operation of the Final Approval Order and Judgment to have acknowledged, that the foregoing waiver was expressly bargained for and a material element of the Settlement of which this Release is a part.

5. **Injunction**. Upon the Effective Date, Plaintiff and the Settlement Class Members who have not timely and properly opted out and excluded themselves from the Settlement shall be permanently barred and enjoined from filing, commencing, prosecuting, intervening in, or participating in (individually or in a representative capacity) any lawsuit, action, or proceeding in any jurisdiction asserting or based upon any claims or causes of action released in the Settlement and Final Approval Order and Judgment; and from soliciting or encouraging any other Class members to participate in any such lawsuit, action, or proceeding.

6. **Dismissal with Prejudice**. Subject to Court approval, all Settlement Class Members who have not excluded themselves from the Settlement Class shall be bound by this Agreement and the Released Claims of the Settlement Class Members and Releasing Parties will be dismissed with prejudice whether or not they received actual notice of the Litigation or this Settlement.

G. FINAL APPROVAL

1. **Motion for Final Approval of Settlement**. Pursuant to the schedule to be set by the Court in its Preliminary Approval Order and at least fourteen (14) days before the Final Approval Hearing, Lead Counsel shall file a motion and supporting papers requesting that the Court grant final approval of this Settlement Agreement and for entry of the Final Approval Order and Judgment. The Final Approval Order and Judgment shall include provisions:

a. Determining that the Court has personal jurisdiction over Plaintiff and Settlement Class Members, that the Court has subject matter jurisdiction over the claims asserted in this Litigation and to approve the Settlement, and that venue is proper;

b. Certifying the Settlement Class for settlement purposes only;

c. Finally approving the Settlement Agreement and Settlement as fair, reasonable, adequate and consistent and in compliance with all applicable requirements of Federal Rule of Civil Procedure 23 and due process;

d. Finding that the Notice Plan, Settlement Notice, and dissemination methodology complied with all applicable laws, including the Due Process Clause, and: (i) was fair, adequate and sufficient; (ii) constituted the best practicable notice under the circumstances; and (iii) was reasonably calculated to apprise Settlement Class Members of the Litigation, the Settlement Agreement, their objection rights, their right to appear at the Final Approval Hearing, and their opt-out rights;

e. Dismissing the Litigation on the merits and with prejudice and without fees or costs except as provided herein, which may be awarded in a related Order of the Court;

f. Incorporating the Release provisions of this Agreement, making the Release effective as of the Effective Date, and forever discharging the Released Parties from any claims or liabilities for any Released Claims;

g. Finding that Class Counsel and the Plaintiff have adequately represented the Class for purposes of entering into and implementing the Settlement;

h. Adjudging that the Releasing Parties have conclusively and forever settled and released the Released Claims against Defendants and all Released Parties;

i. Finding that the notification requirements of the Class Action Fairness Act, 28 U.S.C. § 1715, have been met;

j. Authorizing the Parties to implement the terms of the Settlement Agreement;

k. Permanently barring and enjoining Plaintiff and all other Settlement Class Members and those subject to their control, from commencing, maintaining, or participating in, or permitting another to commence, maintain, or participate in on their behalf, any Released Claims against the Released Parties as set forth above;

l. Retaining personal jurisdiction over the Settlement Class Members and jurisdiction relating to the administration, consummation, enforcement, and interpretation of the Settlement Agreement and the Final Approval Order and Judgment, and for any other necessary purpose without affecting the finality of the Final Approval Order and Judgment;

m. Providing that neither this Agreement nor any proposals, negotiations, communications, documents, or discussions relating to the Settlement shall be considered, used, or construed as an admission of any wrongdoing or liability by Defendants or any Released Party, and neither the terms of this Agreement nor any proposals, negotiations, communications,

documents, or discussions preceding or related to the Settlement of this Agreement may be introduced or used in any proceedings as proof of any fact or point of law, except in a proceeding to enforce the terms of this Agreement;

n. Reserving jurisdiction to issue related Orders to effectuate the final approval of the Settlement Agreement and its implementation; and

o. Incorporating any other provisions not inconsistent with the Agreement that the Court deems necessary and just.

2. **Exclusive Remedy and Jurisdiction of Court**. All Settlement Class Members who do not properly file a timely written Request for Exclusion from the Settlement Class submit to the jurisdiction of the Court and will be bound by the terms of this Agreement, including, without limitation, the Release set forth herein. This Agreement sets forth the sole and exclusive remedy for any and all claims of Settlement Class Members against Defendants and the Released Parties based upon the Settlement Class Members being previous insureds under a Travel Plan who cancelled their insured travel but did not receive refunds from Defendants for the portion of premiums paid for the coverage of post-departure risks. Upon entry of the Final Approval Order and Judgment, each Settlement Class Member who has not validly and timely opted out of the Settlement Class shall be barred from initiating, asserting, continuing, or prosecuting any such claims against Defendants and any Released Party. The Released Claims do not include either pending or as yet unfiled policyholder claims for trip cancellation benefits under the Travel Plans.

H. OTHER TERMS AND CONDITIONS

1. **No Admission of Liability**. The Parties expressly acknowledge that this Agreement is made in compromise of disputed claims, and that neither this Agreement nor any proposals, negotiations, communications, documents, or discussions relating to the Settlement

shall be considered, used, or construed as an admission of any wrongdoing or liability by Defendants or any Released Party, and that, to the contrary, the Defendants expressly deny any wrongdoing, liability, or fault of any kind. Neither the terms of this Agreement nor any proposals, negotiations, communications, documents, or discussions preceding or related to the Settlement or this Agreement may be introduced or used in any proceedings as proof of any fact or point of law, except in a proceeding to enforce the terms of this Agreement. In the event that the Effective Date does not occur, this Agreement shall be terminated and only those provisions necessary to effectuate such termination and to restore fully the Parties to their respective positions before entry of this Agreement shall be given effect and enforced. In such event, the Parties shall bear their own costs, except that Defendants shall bear the costs of Settlement Administration up until the date that the Agreement is terminated.

2. **Exclusive and Continuing Jurisdiction**. The Court shall retain exclusive and continuing jurisdiction to interpret and enforce the terms, conditions, and obligations of this Agreement and its own orders and judgments.

3. **Defendants' Attorneys' Fees and Costs**. Defendants shall bear their own attorneys' fees and costs in the Litigation.

4. **Representation by Counsel**. The Parties are represented by competent counsel, and they have had an opportunity to consult and have consulted with counsel prior to executing this Agreement. Each Party represents that it understands the terms and consequences of entering into this Agreement and executes it and agrees to be bound by the terms set forth herein knowingly and voluntarily.

5. **Public Statements**. Prior to the Effective Date, Plaintiff, Defendants, Class Counsel, and/or Defendants' Counsel shall not hold any press conference or issue any press release

or public statements regarding the Settlement reflected in this Stipulation without the express written consent of Lead Counsel and Defendants' Counsel. Plaintiff, Defendants, Class Counsel, and/or Defendants' Counsel may, however, make such statements as may be required to the Court, and they may make such disclosures as may be required by law or to submit to a government agency, or as may be necessary for financial purposes (including without limitation, tax and audit purposes), or as appropriate to their employees or agents, or to respond to inquiries by Settlement Class members relating to the Settlement reflected in this Agreement, or to effectuate the Settlement. Defendants may also respond to inquiries from their customers or business partners about the Settlement. Class Counsel may include information about the Settlement in their bios/CVs. To the extent that Plaintiff, Defendants, Class Counsel, and/or Defendants' Counsel desire to disseminate any other public statement regarding the Settlement reflected in this Agreement prior to the Effective Date, such statement must be mutually agreed upon in writing by Lead Counsel and Defendants' Counsel prior to any such statement being made.

6. **Mutual Cooperation**. The Parties agree to cooperate with each other in good faith to accomplish the terms of this Agreement as may reasonably be necessary to implement the terms of this Agreement and obtain the Court's final approval of the Agreement including the entry of the Final Approval Order and Judgment dismissing the Litigation with prejudice. Plaintiff will share a draft of the motions seeking preliminary and final approval before filing with the Court.

7. **Other Notices**. Unless otherwise specifically provided herein, other than the Notice to the Settlement Class, all notices, demands, or other communications given hereunder shall be in writing by mail or email and addressed to the undersigned counsel for the Parties.

8. **Drafting of Agreement**. The language of all parts of this Agreement shall be construed as a whole, according to its fair meaning, and not strictly for or against any Party. No

Party shall be deemed the drafter of this Agreement. The Parties acknowledge that the terms of this Agreement are contractual and are the product of arms-length negotiations between the Parties and their counsel. The Parties, through their counsel, cooperated in the drafting and preparation of this Agreement, and this Agreement shall not be construed against any Party because of their role in drafting it.

9. **Governing Law**. This Agreement and the Exhibits hereto will be construed and enforced in accordance with, and governed by, the Federal Rules of Civil Procedure, the Due Process clause of the United States Constitution, and the Class Action Fairness Act. The substantive laws of the State of Nebraska will apply to the extent that any issue of state law is implicated, without giving effect to the choice-of-law principles of that or any other state.

10. **Modification**. This Agreement may not be changed, altered, or modified, except in writing and signed by all Parties hereto. The Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

11. **Integration**. This Agreement and its Exhibits contain the entire agreement between the Parties relating to the Settlement, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or its counsel, are merged herein. Each Party represents and warrants that it is not relying on any representation not expressly included in this Agreement. No rights hereunder may be waived except in writing.

12. **Use in Other Proceedings**. The Parties expressly acknowledge and agree that this Settlement Agreement and its Exhibits, along with all related drafts, motions, pleadings, conversations, negotiations, and correspondence, constitute an offer of compromise and a compromise within the meaning of Federal Rule of Evidence 408 and any equivalent rule of

evidence in any state. In no event shall this Settlement Agreement, any of its provisions or any negotiations, statements or court proceedings relating to its provisions in any way be construed as, offered as, received as, used as, or deemed to be evidence of any kind in the Litigation, in any other action, or in any judicial, administrative, regulatory or other proceeding, except to enforce this Settlement Agreement or the rights of the Parties, their counsel, or the Released Parties.

13. **Subheadings**. Subheadings in this Agreement are for the purpose of clarity only and are not intended to modify the terms of this Agreement's text, which are controlling.

14. **Waiver**. The waiver by any party to this Agreement of any breach of its terms shall not be deemed or construed to be a waiver of any other breach of this Agreement, whether prior, subsequent, or contemporaneous.

15. **Signatures**. Each Person executing this Agreement on behalf of any Party warrants that such Person has the authority to do so. This Agreement shall be binding upon, and inure to the benefit of, the agents, heirs, executors, administrators, successors, and assigns of the Parties.

16. **Counterparts**. This Agreement may be executed in any number of counterparts, including by electronic signature and/or DocuSign, each of which shall be deemed to be an original. All counterparts shall constitute one Agreement, binding on all Parties hereto, regardless of whether all Parties are signatories to the same counterpart, but the Agreement will be without effect until and unless all Parties to this Agreement have executed a counterpart.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

17. **Exhibits**. All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein. Notwithstanding the foregoing, in the event that a conflict or inconsistency exists between the terms of this Agreement and the terms of any exhibit hereto, the terms of this Agreement shall prevail.

AGREED TO BY THE PARTIES AND THEIR RESPECTIVE COUNSEL.

DocuSigned by:
Michelle Anderson
0123EAE3DA43...
Michelle Anderson, Plaintiff

6/10/2021
Date

DocuSigned by:
Peter Kahana
7A266A5B1E7649D...
Shanon J. Carson
Peter R. Kahana
Lane L. Vines
Y. Michael Twersky
BERGER MONTAGUE PC
1818 Market Street, Suite 3600
Philadelphia, Pennsylvania 19103
Telephone: (215) 875-3000

6/10/2021
Date

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Burke Smith
BURKE SMITH LAW
10730 Pacific Street, Suite 100
Omaha, Nebraska 68114
Telephone: (402) 718-8865

Counsel for Plaintiff Michelle Anderson and the Proposed Settlement Class

Name:
Title:
For Travelex Insurance Services Inc.

Date

DocuSigned by:
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6/11/2021 | 2:31 CDT

Name: Blake S. Bostwick
Title: President
For Transamerica Casualty Insurance Company

Date

Markham R. Leventhal
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1025 Thomas Jefferson Street, NW
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Julianna Thomas McCabe
Michael N. Wolgin
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700 N.W. 1st Avenue
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Telephone: (305) 530-0050

Counsel for Defendants Travelex Insurance Services Inc. and Transamerica Casualty Insurance Company

DocuSigned by:
Shannon Lofdahl
7A87BFA1C83D4B3...

6/11/2021

Name: Shannon Lofdahl
Title: President/CEO
For Travelex Insurance Services Inc.

Date

Name:
Title:
For Transamerica Casualty Insurance Company

Date

Markham R. Leventhal
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Michael N. Wolgin
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Telephone: (305) 530-0050

Counsel for Defendants Travelex Insurance Services Inc. and Transamerica Casualty Insurance Company

EXHIBIT A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

Anderson v. Travelex Insurance Services, Inc. and Transamerica Casualty Insurance Company
No. 8:18-cv-00362-JMG-SMB

A federal court authorized this notice. This is not a solicitation from a lawyer.

You may have received a summary notice in the mail or an email regarding the proposed Settlement in the above referenced litigation. This notice provides more detail regarding the Settlement. You received a notice in the mail or an email because records indicate that you purchased a single-trip travel protection plan from Travelex Insurance Services, Inc. ("TIS") and Transamerica Casualty Insurance Company ("TCIC") (collectively, "Defendants"), cancelled your trip prior to departure, initiated a claim for trip cancellation coverage, and did not receive a premium refund. In this lawsuit, the Plaintiff, on behalf of a class, alleges that Defendants unlawfully retained premiums attributable to post-departure insurance benefits when covered trips were cancelled prior to departure. Defendants deny that they violated the law in any fashion but have agreed to settle the lawsuit to avoid the time, expense, and uncertainty associated with further litigation. Your legal rights will be affected by the Settlement of this lawsuit. Please read this notice carefully. It explains the lawsuit, the settlement, and your legal rights, including the process for receiving a settlement check, excluding yourself from the Settlement, or objecting to the Settlement.

- Payments to participating Settlement Class Members will vary depending on a variety of factors, based on a percentage of the premium you paid for the travel protection plan, with a minimum payment of $5.00. The final amount of monetary payment depends on the amount of premium you paid, and other factors, as further described in the Settlement Agreement. For more information about the estimated amount Settlement Class Members will receive under the Settlement, please visit **[*INSERT URL*].**

- The Court still has to decide whether to approve this Settlement, which may take some time.

ADDITIONAL INFORMATION ABOUT THE LAWSUIT, THE SETTLEMENT, AND YOUR RIGHTS MAY BE FOUND AT: [*INSERT URL*]. You may also call the Settlement Administrator toll-free at **[*INSERT TELEPHONE NUMBER*]**.

DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT TO THE COURT OR THE CLERK'S OFFICE. THEY ARE NOT PERMITTED TO ANSWER YOUR QUESTIONS.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing	***Class Members Entitled to Autopay.*** If you do nothing, you are eligible to receive an automatic payment. The amount of the payment will be based on a percentage of the travel insurance premium, with a minimum payment of no less than $5.00. The exact amount of the payment will depend on a number of factors, including the number of Settlement Class Members who can be located, the amount of attorneys' fees and expenses, the Class Representative service payment, and administration costs. You will release any claim you may have against Defendants. The automatic payment will be by check, except that if you would like to receive your payment via electronic means, like Venmo or Paypal, rather than by check, please visit **[*INSERT URL*]**.

Exclude Yourself	If you exclude yourself from the Settlement, you will not receive any monetary payment. By excluding yourself, you will not release any claim you may have against Defendants.
Object	You may tell the Court why you believe the Settlement should not be approved. If the Settlement is not approved, no one will be paid.

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Basic Information

1. Why I am seeing this Notice?

The Court in this case has approved the posting of this Notice on **[*INSERT URL*]** so that it may be viewed by Settlement Class Members. The Class Members are:

> All persons in the United States who have been identified by Defendants as insured under a Travel Plan purchased within the Class Period [the period of January 1, 2014 to December 31, 2017], and for whom a claim for trip cancellation benefits was initiated under the Travel Plan. The Parties have acknowledged that the third party administrator handling trip cancellation claims for the Travel Plans identified no more than 105,284 potential Settlement Class Members. Excluded from the Settlement Class are: (i) all persons who previously received a refund of premium from the Defendants for any Travel Plan(s) at issue in the Litigation; (ii) all persons who previously entered into a written agreement with the Defendants releasing all claims related to a Travel Plan(s) at issue in the Litigation; (iii) all insureds for whom no premium was charged under a Travel Plan; and (iv) all persons who during the Class Period were officers, directors, or employees of either of the Defendants.

All capitalized terms are defined in the Settlement Agreement, which you may view or download at **[*INSERT URL*]**. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. This Notice contains only a summary of the Settlement Agreement.

If you are a Settlement Class Member, you should have received an e-mail and/or postcard mailing informing you that you are a Settlement Class Member. If you think you are a member of the Settlement Class but did not receive an e-mail or a postcard mailing, you may contact the Settlement Administrator at **[*INSERT EMAIL ADDRESS*]**. Class membership was determined based on records that were previously collected in connection with the Settlement.

This Notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. A full copy of the Settlement Agreement may be reviewed at the Settlement Website: **[*INSERT URL*]**. This Notice contains only a summary of the Settlement Agreement.

The Court in charge of this case is the United States District Court for the District of Nebraska. The lawsuit is called ***Anderson v. Travelex Insurance Services, Inc. and Transamerica Casualty Insurance Company* No. 8:18-cv-00362-JMG-SMB.** Michelle Anderson, the person who filed this lawsuit, is called the Plaintiff, and TIS and TCIC are called the Defendants.

2. What is the lawsuit about?

Plaintiff alleges that Defendants were unjustly enriched and violated the Nebraska Consumer Protection Act by failing to provide partial premium refunds attributable to post-departure insurance benefits when a covered trip was cancelled prior to departure.

Defendants vigorously deny the Plaintiff's claims and deny all liability to Plaintiff and the Settlement Class. Defendants deny that they have violated the law in any manner whatsoever, and have raised a number of defenses to the claims asserted.

The Parties are settling the lawsuit to avoid the risks, uncertainties and expenses associated with contested litigation. No court has found Defendants to have violated the law in any way. No court has found that the Plaintiff or the Settlement Class could recover any amount in this lawsuit.

Although the Court has authorized notice to be given of the proposed Settlement, this Notice does not express the opinion of the Court on the merits of the claims or defenses asserted by either side in the lawsuit.

3. What is a class action?

In a class action lawsuit, one or more people called "Class Representatives" sue on behalf of other people who have similar claims. One court resolves the issues for everyone in the class -- except for those people who choose to exclude themselves from the class. Any settlement of the case resolves the claims for all people in the class. The lawyers appointed by the Court to represent the Class are called "Class Counsel."

If approved by the Court, the proposed Settlement would fully and finally resolve, on the terms described below and in the Settlement Agreement, any claims related to partial premium refunds you may have against Defendants relating to any single-trip travel protection plan purchased by you from Defendants during the Class Period.

4. Why is there a settlement?

The Court did not decide this case in favor of the Plaintiff or in favor of Defendants. If approved, the Settlement will stop the Parties from litigating anymore. If the lawsuit continued, Defendants would seek the dismissal of the case and oppose class certification, and therefore the potential exists that the Settlement Class would receive nothing. There also is the possibility that Defendants would be required to pay more than they have agreed to pay as a result of the Settlement.

Class Counsel investigated the facts and law regarding the Plaintiff's claims and Defendants' asserted defenses. The Parties engaged in extensive and arms-length negotiations to reach this Settlement. Plaintiff and Class Counsel believe that the proposed Settlement is fair, reasonable, and adequate, and in the best interests of the Settlement Class.

Both sides agree that, by settling, Defendants are not admitting any liability or that they did anything wrong. Both sides want to avoid the uncertainties and expense of further litigation.

Who Is in the Settlement?

5. How do I know if I am part of the Settlement?

You are part of the Settlement Class if you purchased on or after January 1, 2014 and on or before December 31, 2017 a single-trip travel protection plan sold by Defendants, initiated a trip cancellation claim, and did not receive a refund of any portion of the premium paid for the travel protection plan. If you are part of the Settlement, you should have received a postcard notice in the mail or an email informing you that you are a member of the Settlement Class.

This Settlement does not relate to the COVID-19 pandemic or travel protection plans purchased after December 31, 2017.

If you think you are a member of the Settlement Class but did not receive an e-mail or a postcard mailing, you may contact the Settlement Administrator at **[*INSERT ADDRESS*]**. Class membership was determined based on records that were previously collected in connection with the Settlement.

The Settlement Benefits—What You Get

6. What does the Settlement provide?

The Settlement provides money for Settlement Class Members. Defendants will provide a settlement fund of $3,237,500. This money will be available for payment to approximately 105,294 potential Settlement Class Members, and will also be used to pay for any court-approved attorneys' fees and expenses, a Class Representative service payment, and administration costs. A portion of the Settlement fund that is not directly distributed to Settlement Class Members may be distributed to a charity with the Court's approval.

The exact amount each Settlement Class Member will receive depends on the amount you paid in premium for your travel protection plan, the number of Settlement Class Members who can be located, and the amounts of fees, expenses, and service payment approved by the Court. Those who qualify for payment will receive a percentage of the travel insurance premium, with a minimum payment of $5.00. For more information about the estimated amount Settlement Class Members will receive under the Settlement, please visit **[*INSERT URL*]**.

7. How can I get a monetary payment?

If you are a Settlement Class Member, you do not need to do anything to be eligible to receive a payment.

If you have a new address, you must mail a notification of your new address to the Settlement Administrator, contact Class Counsel, or submit a change of address online at **[*INSERT URL*]**. If you would like to receive your payment via electronic means, like Venmo or Paypal, rather than by check, please visit **[*INSERT URL*]**.

8. When would I get my monetary payment?

The Court will hold a final approval hearing on **[*DATE*]** to decide whether to approve the settlement. If the settlement is approved, there may be appeals. Payments to eligible members of the Settlement Class will be made only if the Settlement is finally approved. This may take some time, so please be patient.

9. What am I giving up to receive a monetary payment and stay in the Class?

Upon the Court's approval of the Settlement, all Class Members who have not timely and properly opted out of or excluded themselves from the Settlement Class will fully release Defendants from any and all claims arising out of or relating directly or indirectly in any manner whatsoever to the facts alleged or that could have been alleged or asserted in the lawsuit. The Released Claims do not include either pending or as yet unfiled policyholder claims for trip cancellation benefits under the Travel Plans.

This release may affect your rights. To view the full terms of the release that are contained in the Settlement Agreement, please visit **[*INSERT URL*]**.

10. How do I exclude myself from the Settlement?

If you choose to be excluded from the Settlement (or "opt out"), you will not be bound by any judgment or other final disposition of the lawsuit. However, you will not receive any payment. You will retain any claims against Defendants you might have. To opt out, you must state in writing your desire to be excluded from the Settlement

Class. To be valid, your submission must be signed by you and dated, must provide your full name (and former names, if applicable), current address, and current telephone number. You can only submit a request for exclusion for yourself, and not for any other Class members.

Your request for exclusion must be sent by first class mail, postmarked on or before [*DATE*], addressed to:

Travel Insurance
Class Action Settlement
c/o Settlement Administrator
[*ADDRESS*]
[*ADDRESS*]

If the request is not postmarked on or before [*DATE*], your request for exclusion will be invalid, and you will be bound by the terms of the settlement approved by the Court, including the judgment ultimately rendered in the case, and you will be subject to the release referenced in paragraph 9 above.

11. If I don't exclude myself, can I sue the Defendants for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Defendants for the claims that this Settlement resolves. If you have a pending lawsuit, you should speak to your lawyer in that lawsuit.

12. If I exclude myself, can I get a monetary payment from this Settlement?

No. If you exclude yourself, you are not part of the Settlement.

The Lawyers Representing You

13. Do I have a lawyer in this case?

The Court has appointed Berger Montague PC as Lead Counsel:

Shanon J. Carson
Peter R. Kahana
Lane L. Vines
Y. Michael Twersky
Berger Montague PC
1818 Market Street, Suite 3600
Philadelphia, PA 19103

John G. Albanese
Berger Montague PC
1229 Tyler Street, Suite 205
Minneapolis, MN 55413

You may hire your own attorney to advise you, but if you hire your own attorney, you will be responsible for paying that attorney. You may contact Lead Class Counsel by emailing John Albanese, jalbanese@bm.net, or calling 612-594-5997.

14. How will the lawyers and Class Representative be paid?

Class Counsel have not been paid anything for their representation of the Settlement Class to date. They have paid expenses for the litigation out of their own pockets. If they were to lose the case, they would be paid nothing.

In connection with this Settlement, Class Counsel intend to apply to the Court for payment of attorneys' fees in an amount not to exceed one-third of the total Settlement Amount, as well as payment of reasonably incurred

expenses, not to exceed $75,000. The Court will evaluate whether this request for fees and expenses is reasonable in light of Class Counsel's skill and the risk they undertook in bringing the lawsuit. The Court may award less.

The Court has appointed the Plaintiff Michelle Anderson as the Class Representative. Class Counsel also will seek a Class Representative service payment for her services to the Settlement Class Members, in an amount not to exceed $6,500. This compensation is intended to pay the Class Representative for the time and effort she put into bringing and prosecuting this lawsuit on behalf of everyone in the Settlement Class.

The costs of settlement notice and administration are expected to be approximately **[*INSERT*]**. If awarded by the Court, all of these amounts will be paid from the settlement fund.

Objecting to the Settlement

15. How do I tell the Court that I don't like the Settlement?

If you're a Settlement Class Member, you can object to the Settlement if you don't like any part of it. You can ask the Court to deny approval of the Settlement by filing an objection with the Settlement Administrator and the Court. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the Settlement as is. If the Court denies approval, then no Settlement Payments will be sent out and the case will continue.

If you submit a written objection, you may also appear at the Final Approval Hearing, either in person, or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney.

All written objections must include a detailed written statement, setting forth your objection in detail and any specific aspects of the Settlement you are challenging; the specific reasons for your objection, any evidence and legal authority that you wish to bring to the Court's attention; and whether your objection applies only to you, to a specific subset of the Settlement Class, or to the entire Settlement Class. Your objection must also include: (1) your printed name, address, telephone number, and email address; (2) evidence showing that you are a Settlement Class Member; (3) any other supporting papers, materials, or briefs that you would like the Court to consider when reviewing the objection; (4) your actual written signature; and (5) a statement of whether you or your lawyer intends to appear at the Final Approval Hearing; and, if so, (6) the name of your lawyer, and the names of any intended witnesses with a summary of their expected testimony.

Objections must be submitted to the Settlement Administrator, [*ADDRESS*] and filed with the Court, the United States District Court for the District of Nebraska, File: *Anderson v. Travelex Insurance Services, Inc. and Transamerica Casualty Insurance Company* No. 8:18-cv-00362-JMG-SMB. Your objection must be submitted to the Settlement Administrator with a postmark on or before **[*DATE*]** and filed with the Court on or before [*DATE*].

Any member of the Settlement Class who does not submit an objection in the time and manner described above will not be permitted to raise that objection later.

16. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you believe the Settlement is not fair, adequate, or reasonable. You can object only if you stay in the Settlement. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you have no basis to object because the litigation no longer affects you.

17. Where and when will the Court decide whether to approve the Settlement?

There will be a Final Approval Hearing to consider approval of the proposed settlement at **[*DATE/TIME*]** in the United States District Court, 586 Federal Building, 100 Centennial Mall North, Lincoln, Nebraska. The hearing may be postponed to a later date without further notice and may occur via remote means such a teleconference or Zoom. Settlement Class Members should check **[*INSERT URL*]** regularly for any changes to this date or method of attending. The purpose of the hearing is to determine the fairness, reasonableness, and adequacy of the terms of Settlement; whether the Settlement Class is adequately represented by the Class Representative and Class Counsel; and whether an order and Final Judgment should be entered approving the proposed Settlement. The Court also will consider Class Counsel's application for payment of attorneys' fees and expenses and the Class Representative's service compensation.

You do not need to appear at the hearing. You will be represented at the Final Approval Hearing by Class Counsel, unless you choose to enter an appearance in person or through your own counsel. The appearance of your own attorney is not necessary to participate in the hearing.

18. Do I have to come to the hearing?

No. Class Counsel will represent the Settlement Class at the Final Approval Hearing, but you are welcome to come at your own expense. If you send any objection, you do not have to come to Court to talk about it, but you may if you wish. As long as you timely submitted your written objection, the Court will consider it. You may also pay your own lawyer to attend, if you wish.

19. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must send with your objection a notice of intention to appear at the hearing as described in Paragraph 15 above. You cannot speak at the hearing if you excluded yourself.

Getting More Information

20. Are there more details about the Settlement?

This Notice is only a summary. For a more detailed statement of the matters involved in the litigation or the Settlement, you may refer to the papers filed in this case during regular business hours at the office of the Clerk of the Court, 586 Federal Building, 100 Centennial Mall North, Lincoln, Nebraska, File: *Anderson v. Travelex Insurance Services, Inc. and Transamerica Casualty Insurance Company* No. 8:18-cv-00362-JMG-SMB. The full Settlement Agreement and certain pleadings filed in the case are also available at **[*INSERT URL*]** or can be requested, in writing from the Settlement Administrator.

21. How do I get more information?

You can visit **[*INSERT URL*]** or contact the lawyers representing the Settlement Class, identified in Paragraph 13 above. You can also correspond with the Settlement Administrator at **[*INSERT ADDRESS*]**. **Please do not contact the Court for information.**

EXHIBIT B

From: Settlement Administrator

Sent: [INSERT]

To: [INSERT]

Subject: Notice of Proposed Travel Insurance Class Action Settlement

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

Anderson v. Travelex Insurance Services, Inc. and Transamerica Casualty Insurance Company,
Case No. 8:18-cv-00362-JMG-SMB

A federal court authorized this notice. This is not a solicitation from a lawyer.

Dear [INSERT NAME],

This court-authorized notice has been sent to you because a settlement has been reached in a class action lawsuit involving travel insurance that was brought against Defendants Travelex Insurance Services, Inc. ("TIS") and Transamerica Casualty Insurance Company ("TCIC"). You may be eligible to receive a settlement payment as you have been identified as a Settlement Class Member. Please read this notice carefully, as it explains your legal rights in this matter.

What Is the Lawsuit About?

Defendants sold single-trip travel insurance plans that provided for pre-departure and post-departure insurance benefits. Plaintiff alleges that Defendants were unjustly enriched and violated the Nebraska Consumer Protection Act by failing to provide partial premium refunds attributable to post-departure benefits when the covered trip was cancelled prior to departure. Defendants vigorously deny Plaintiff's claims and deny all liability to Plaintiff and the Settlement Class.

Under the Settlement, Defendants agree to create a Settlement Fund of Three Million Two Hundred Thirty-Seven Thousand Five Hundred Dollars ($3,237,500) for the benefit of the Settlement Class and from which to pay, subject to the Court's approval: (a) attorneys' fees and expenses to Class Counsel; (b) a service award to plaintiff Michelle Anderson as the Class Representative; and (c) notice and administration costs.

For detailed information about the lawsuit and the Settlement, please see the Notice of Settlement and review the Settlement Agreement, available at ***[INSERT URL]***.

Am I a Settlement Class Member?

Defendants' records indicate you are a Settlement Class Member. Defendants' records show that you purchased a single-trip travel insurance plan sold by Defendants during the period January 1, 2014 to December 31, 2017 and initiated a claim for trip cancellation coverage. This Settlement does not relate to the COVID-19 pandemic or travel protection plans purchased after December 31, 2017.

If you do not opt out of the Settlement Class, you will be eligible to receive a payment under the Settlement. You may add or update your settlement payment information, including your mailing address, or select to receive payment via electronic means, at ***[INSERT URL]***.

What Can I Get?

If the Settlement is approved by the Court, you will be entitled to a monetary payment based on a percentage of the travel insurance premium paid. The exact amount of the payment will depend on a number of factors, including the amount you paid in premium for your travel protection plan, the number of Settlement Class Members who can be located, the amount of attorneys' fees, the Class

Representative service payment, and Court-approved administration costs. Those who qualify for payment will receive a percentage of the travel insurance premium, with a minimum payment of $5.00. For more information about the estimated amount Settlement Class Members will receive under the Settlement, please visit **[*INSERT URL*].** On the Settlement Website, you can also select to receive your payment via electronic means, such a Paypal or Venmo, rather than by check.

How Would I Exclude Myself?

If you do not want to be a Settlement Class Member, you may exclude yourself from the Settlement Class by mailing a written notice to the Settlement Administrator by **[*DATE*]**. This would mean you would not receive a settlement payment, but you will retain your rights concerning the legal issue in the lawsuit. Detailed instructions on how to exclude yourself from the Settlement are available at **[*INSERT URL*]**.

What If I Do Not Agree with the Settlement?

If you do not exclude yourself, but do not like some aspect of the Settlement, you can also object. You or your lawyer can then appear before the Court and object to the Settlement. To object or appear, you must submit a written notice to the Court and the Settlement Administrator no later than **[*Date*]**. Instructions on how to object to the Settlement or appear before the Court can be found at **[*INSERT URL*]**.

Do I Have a Lawyer?

The Court has appointed lawyers from Berger Montague PC to serve as Lead Class Counsel. They will petition to be paid legal fees from the Settlement Fund not to exceed one third of the Settlement Fund, their reasonable expenses in pursuing the lawsuit not to exceed $75,000 and payment of a Class representative service award not to exceed $6,500. However, you may hire your own lawyer at your expense if you so choose.

When Will the Court Consider the Settlement?

The Court will hold a final approval hearing on **[*DATE/TIME*]** at United States District Court, 586 Federal Building, 100 Centennial Mall North, Lincoln, NE. The hearing may be postponed to a later date without further notice and may occur via remote means such a teleconference or Zoom. Settlement Class Members should check **[*INSERT URL*]** regularly for any changes to this date or method of attending. At that hearing, the Court will hear any objections concerning the fairness of the Settlement, decide whether to approve the Settlement, the requested attorneys' fees not to exceed one-third of the Settlement Fund, plus reasonable expenses not to exceed $75,000, the requested Class Representative payment not to exceed $6,500 and administration costs.

How Do I Get More Information?

For more information, go to **[*INSERT URL*]**, or contact the Settlement Administrator at **[*INSERT TELEPHONE NUMBER*]**.

Please Do Not Contact the Court for Information.

EXHIBIT C

A settlement has been reached in a class action lawsuit, *Anderson v. Travelex Insurance Services, Inc. and Transamerica Casualty Insurance Company*, Case No. 8:18-cv-00362-JMG-SMB, pending in the United States District Court for the District of Nebraska. Between 2014 and 2017, Defendants marketed and sold single-trip travel plans that provided pre-departure and post-departure insurance benefits. Plaintiff claims that Defendants unlawfully retained the portions of insurance premiums related to the post-departure benefits when the covered trip was not taken. Defendants vigorously deny that they violated any law but have agreed to the Settlement to avoid the expenses associated with continuing the litigation. This Notice summarizes the proposed Settlement. Under the Settlement, Defendants agreed to create a Settlement Fund of $3,237,500 for the benefit of the Settlement Class and from which to pay, subject to the Court's approval, any attorneys' fees and expenses, a service award to Plaintiff, and notice and administration costs. For the precise terms and conditions of the Settlement, please see the Notice of Settlement and review the Settlement Agreement, available at **[*INSERT URL*]**.

Am I a Class Member? Defendants' records indicate you are a Class Member, because you purchased a single-trip travel protection plan sold by Defendants during the period January 1, 2014 and on or before December 31, 2017 and you initiated a trip cancellation claim.

What Can I Get? If the Settlement is approved by the Court, you are eligible to receive money. If approved, the amount of payment will depend on the premium paid for your travel protection plan, the number of Settlement Class Members who can be located, and the amount of approved attorneys' fees, costs, Class Representative payment, and administration costs. Those who qualify for payment will receive a percentage of the travel insurance premium, with a minimum payment of $5.00. More information about the estimated payment is available at **[*INSERT URL*]**.

How Do I Get a Payment? You will be eligible to automatically receive money under the Settlement, unless you opt out of the Settlement Class. If you would like to update your address or receive your payment via electronic means, like Venmo or Paypal, rather than by check, please visit **[*INSERT URL*]**.

What Are My Other Options? You may exclude yourself from the Settlement Class by mailing a written notice to the Settlement Administrator by **[*DATE*].** If you exclude yourself, then you cannot receive a settlement payment, but you will not be bound by the Settlement. If you do not exclude yourself, then you may object to the Settlement, and you or your lawyer can appear before the Court. Your written objection must be submitted to the Settlement Administrator and the Court no later than **[*DATE*].** Specific instructions on how to exclude yourself from the Settlement or object are available at **[*INSERT URL*]**.

Who Represents Me? The Court has appointed lawyers from Berger Montague PC to serve as Lead Class Counsel. They will petition to be paid legal fees and their reasonable expenses from the Settlement Fund. You may hire your own lawyer at your expense if you so choose.

When Will the Court Consider the Settlement? The Court will hold a final approval hearing on **[*DATE/TIME*]** in Courtroom No. 1, 586 Federal Building, 100 Centennial Mall North, Lincoln, NE. At that hearing, the Court will hear timely objections concerning the fairness of the Settlement, decide whether to approve the requested attorneys' fees of up to one-third of the Settlement Fund plus reasonable out of pocket costs not to exceed $75,000, the requested Class Representative payment of $6,500, and administration costs.

How Do I Get More Information? For more information, go to **[*INSERT URL*]**, or contact the Settlement Administrator at **[*INSERT TELEPHONE NUMBER*]**.

COURT ORDERED SETTLEMENT NOTICE

Anderson v. Travelex Insurance Services, Inc. and Transamerica Casualty Insurance Company

Class Action Notice

Opt-Out Deadline:
[*INSERT*]

Anderson Travel Insurance
Class Action Settlement
[*SETTLEMENT ADMIN INFO*]

[PrintedID]

FIRST CLASS
MAIL
US POSTAGE
PAID
Permit#__

[Postal barcode]
Postal Service: Please do not mark barcode.

[MailingID]
[NAME]
[ADDR1]
[ADDR2]
[CITY], [ST] [ZIP]

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHELLE ANDERSON, an individual, On Behalf of Herself and All Others Similarly Situated,

Plaintiff,

v.

TRAVELEX INSURANCE SERVICES INC. and TRANSAMERICA CASUALTY INSURANCE COMPANY,

Defendants.

Case No. 8:18-cv-00362-JMG-SMB

[PROPOSED] PRELIMINARY APPROVAL ORDER

This matter is before the Court on Plaintiff's Motion for Preliminary Approval of Class Action Settlement, asking the Court for an order pursuant to Fed. R. Civ. P. 23(b) and (e) that certifies a settlement class, preliminarily approves a settlement, and approves forms and a program for class notice. Plaintiff Michelle Anderson ("Plaintiff") and Defendants Travelex Insurance Services, Inc. and Transamerica Casualty Insurance Company ("Defendants") (together, the "Parties"), have participated in arm's-length negotiations and mediation overseen by Rodney Max, and executed a proposed Settlement Agreement. A copy of the Settlement Agreement has been filed with the Court.[1] Defendants do not oppose Plaintiff's motion. The Court will grant the motion.

I. CERTIFICATION OF SETTLEMENT CLASS

The Court has considered: (1) the record in this case, including the briefing provided by Plaintiff in support of its motion for entry of this Preliminary Approval Order; (2) the terms of the Settlement Agreement and benefits to be provided to the Settlement Class; and (3) the Settlement's elimination of any potential manageability issues that may otherwise have existed if the Litigation continued. Based on those considerations, the Court finds:

A. Plaintiff has shown that, in the context of this Settlement, it will "likely be able to" meet all requirements of class certification of the Settlement Class under Fed. R. Civ. P. 23(a) and (b)(3), including: (a) numerosity, given that the Settlement Class includes thousands of members ; (b) there are questions of law and fact common to the Settlement Class; (c) Plaintiff's claims are typical of the claims of the Settlement Class Members for purposes of the Settlement; (d) Plaintiff and Class Counsel have fairly and adequately represented the interests of the Settlement Class and will continue to do so; (e) questions of law and fact common to the Settlement Class predominate

[1] Capitalized terms in this Order have the meaning ascribed to them in the Settlement Agreement.

over any questions affecting any individual members; and (f) a class action provides a fair and efficient method for settling the controversy under Rule 23.

B. Because the Litigation is being settled rather than litigated, the Court need not consider manageability issues that might otherwise be presented by the trial of a class action involving the issues in the Litigation. Likewise, the Court need not consider Defendants' denial of Plaintiff's allegations or its legal arguments.

C. As such, the Court provisionally certifies the Settlement Class for settlement purposes defined as follows: All persons in the United States who have been identified by Defendants as insured under a Travel Plan purchased within the Class Period,[2] and for whom a claim for trip cancellation benefits was initiated under the Travel Plan. The Parties have acknowledged that the third party administrator handling trip cancellation claims for the Travel Plans identified no more than 105,284 potential Settlement Class Members. Excluded from the Settlement Class are: (i) all persons who previously received a refund of premium from the Defendants for any Travel Plan(s) at issue in the Litigation; (ii) all persons who previously entered into a written agreement with the Defendants releasing all claims related to a Travel Plan(s) at issue in the Litigation; (iii) all insureds for whom no premium was charged under a Travel Plan; and (iv) all persons who during the Class Period were officers, directors, or employees of either of the Defendants.

D. Plaintiff Michelle Anderson is appointed as the Class Representative of the Settlement Class, and Shanon J. Carson, Peter R. Kahana, Lane L. Vines, Y. Michael Twersky, and John G. Albanese of Berger Montague PC, are appointed as Lead Counsel for the Settlement Class.

[2] The "Class Period" is the period of January 1, 2014 to December 31, 2017.

II. PRELIMINARY APPROVAL OF THE TERMS OF THE SETTLEMENT

A. The Settlement requires Defendants to make a payment of Three Million Two Hundred Thirty-Seven Thousand Five Hundred Dollars ($3,237,500.00) as set forth in the Settlement Agreement.

B. The Settlement is the product of non-collusive arm's-length negotiations between experienced counsel who were well informed of the strengths and weaknesses of the Litigation, including through significant discovery and motion practice, and whose settlement negotiations included mediation supervised by neutral mediator Rodney Max.

C. The Settlement confers substantial benefits upon the Settlement Class and avoids the costs, uncertainty, delays, and other risks associated with continued litigation, trial, and/or appeal in this Litigation. The Court preliminarily finds that the consideration provided to the Settlement Class under the Settlement Agreement falls within the range of reasonable recovery when balanced against the risks and delay of continuing the Litigation, and does not grant preferential treatment to Plaintiff, Class Counsel, or any subgroup of the Settlement Class. The plan of allocation is fair and reasonable, and consequently, the Settlement is likely to gain final approval under Fed. R. Civ. P. 23(e)(2).

D. The Court thus preliminarily approves the Settlement, as memorialized in the Settlement Agreement, as fair, reasonable, and adequate, and in the best interest of Plaintiff and the Settlement Class, subject to further consideration at the Final Approval Hearing to be conducted as described below.

III. APPOINTMENT OF THE SETTLEMENT ADMINISTRATOR AND APPROVAL OF NOTICE PLAN

As set forth in the Settlement Agreement, the Parties have submitted a proposed Notice Plan.

A. By virtue of the fact that an action maintained as a class suit under Rule 23 has res judicata effect on all members of the class, due process requires that notice of a proposed settlement be given to the class. *Grunin v. Int'l House of Pancakes*, 513 F.2d 114, 120 (8th Cir. 1975). The notice given must be reasonably calculated, under all of the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. *Id*. In addition, the notice must reasonably to convey the required information and it must afford a reasonable time for those interested to make their appearance. *Id*. The contents must fairly apprise the prospective members of the class of the terms of the proposed settlement and of the options that are open to them in connection with the proceedings. *Id*. at 122.

B. The Settlement Notice, including the long-form Notice of Class Action Settlement to be posted on the Settlement Website, the email Notice of Class Action Settlement, and the postcard Notice of Class Action Settlement attached as exhibits to the Settlement Agreement, fairly, accurately, and reasonably inform Settlement Class Members of: (1) appropriate information about the nature of this Litigation and the essential terms of the Settlement Agreement; (2) appropriate information about how to obtain additional information regarding this matter and the Settlement, in particular, through the Settlement Website; and (3) appropriate information about how to object to, or exclude themselves from, the Settlement if they wish to do so.

B. Defendants shall notify the appropriate federal and state officials under the Class Action Fairness Act of 2005, 28 U.S.C. § 1715. Proof of compliance will be filed with Plaintiff's Motion for Final Approval of Class Action Settlement.

C. The Settlement Notice, and the notice methods described in the Settlement Agreement, satisfy due process, Rule 23(c)(2)(B) and 23(e)(1) of the Federal Rules of Civil Procedure, the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, and any other applicable laws, and further, constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

D. Accordingly, the Court hereby approves the proposed Notice Plan and orders that the Settlement Notice is approved and shall be provided to the Settlement Class as set forth in the Settlement Agreement.

F. Angeion Group is appointed by the Court as the Settlement Administrator, and shall perform all duties ascribed to it under the Settlement Agreement.

IV. REQUESTS FOR EXCLUSION AND OBJECTIONS

A. All Settlement Class Members have the right to either opt out of or object to the Settlement pursuant to the procedures and schedule set forth in the Settlement Agreement. A member of the Settlement Class who submits a timely and valid request for exclusion cannot object to the Settlement and is not eligible to receive a Settlement Payment.

B. To request exclusion from the Settlement Class, a Settlement Class Member must send a written request for exclusion by first class mail properly addressed to the Settlement Administrator, postmarked by the Objection and Opt-Out Deadline, and (i) must include the full name and address of the Class member seeking exclusion, (ii) must bear the individual signature of the Class member seeking exclusion, and (iii) must clearly state that the person desires to be

excluded from the Class. No person shall be permitted to request exclusion from the Settlement Class on behalf of any other Class members, except that a legal representative or guardian may submit a Request for Exclusion on behalf of a deceased, incapacitated, or minor Class member. Each Class member seeking to exclude themselves from the Settlement, regardless of whether they were covered under the same Travel Plan as another Class member, must submit an individually signed Request for Exclusion in order to be excluded from the Settlement Class. Requests for Exclusion cannot be made on a group or class basis and any attempt to opt out a group or class of individuals shall be null and void.

C. Any Settlement Class Member who does not submit a valid and timely written request for exclusion shall be bound by all subsequent proceedings, orders, and the judgment in this Litigation should the Settlement receive final approval.

D. Any statement or submission purporting or appearing to be both an objection and opt-out shall be treated as a request for exclusion.

E. Any Settlement Class Member who does not submit a written request for exclusion may present a written objection to the Settlement explaining why he or she believes that the Settlement Agreement should not be approved by the Court as fair, reasonable, and adequate. A Settlement Class Member who wishes to submit an objection must file with the Clerk of the Court, and separately mail to the Settlement Administrator a detailed written statement, postmarked by the Objection and Opt-Out Deadline, which is sixty (60) days after the Notice Date, stating the objection(s) in detail and the specific aspect(s) of the Settlement being challenged; the specific reason(s), if any, for each such objection, including any evidence and legal authority that the Settlement Class Member wishes to bring to the Court's attention; and whether any objection applies only to the objector, to a specific subset of the class, or to the entire class.

F. The objection shall clearly identify the case name and number, and contain (i) the Settlement Class Member's printed name, address, telephone number, and email address; (ii) evidence showing that the objector is in fact a Settlement Class Member; (iii) any other supporting papers, materials, or briefs that the Settlement Class Member wishes the Court to consider when reviewing the objection; (iv) the actual written signature of the Settlement Class Member making the objection; and (v) a statement whether the objecting Settlement Class Member and/or his or her counsel intend to appear at the Final Approval Hearing.

G. A Settlement Class Member may object on his or her own behalf or through an attorney, however, even if represented, the Settlement Class Member must individually sign the objection and all attorneys involved must be listed on the objection. The objection must be timely filed with the Court and mailed to the Settlement Administrator.

H. Any objector who files and serves a valid and timely written objection as described above may appear at the Final Approval Hearing, either in person or through separate counsel hired at the objector's expense, to object to any aspect of the Settlement on the basis set forth in his or her objection; provided, however, that any objector or attorney for an objector who intends to make an appearance at the Final Approval Hearing must in the objection state their intention to appear. If the Settlement Class Member or their attorney wish to speak at the Final Approval Hearing, their written notice of intent must identify by name, address, and telephone number the person(s) who intend(s) to appear, including any witnesses and a summary of any witness testimony the Settlement Class Member intends to present during their appearance.

I. Any Settlement Class Member who does not comply with these requirements shall waive any and all rights that he, she, or it may have to appear separately and/or to object to the

Settlement, and shall be bound by the terms of the Settlement Agreement and by all proceedings, orders and judgment in the Litigation.

J. A Settlement Class Member who requests exclusion or objects can withdraw their request for exclusion or objection prior to the Final Approval Hearing by submitting a signed written request or email containing an electronic signature to the Settlement Administrator stating their desire to withdraw their request for exclusion or objection.

K. From the date of entry of this Order until the Court holds the Final Approval Hearing and determines the matters set forth in this Order, and through the Effective Date as defined in the Settlement Agreement, all Settlement Class members (except those who have requested exclusion) shall be barred from asserting any claims for which a release will be given if the Court approves the Settlement.

V. FINAL APPROVAL HEARING

The Court hereby schedules a Final Approval Hearing at _____:_____ ___m. on _____, _____, (which date is approximately 90 days after the entry of this Preliminary Approval Order), to determine whether the Settlement should receive final approval. At that time, the Court will also consider Plaintiff's Motion for Attorneys' Fees, Costs, and Service Award, which shall be filed fourteen (14) days before the Objection and Opt-Out deadline and posted on the Settlement Website. Plaintiff's Motion for Final Approval of Class Action Settlement shall be filed twenty-one (21) days before the Final Approval Hearing. The Final Approval Hearing may be scheduled via remote means, postponed or rescheduled by the Court, but any rescheduled date will be posted on the Settlement Website.

VI. STAY OF PROCEEDINGS AND DEADLINES

Pending the Final Approval Hearing as scheduled above, the Court hereby stays all proceedings in this case other than those necessary to carry out or enforce the terms of the Settlement Agreement. In accord with the above, the Court sets the following deadlines:

Event	**Time for Compliance**
Deadline for disseminating the Notice and Claim Form to Settlement Class Members	No later than thirty (30) days after entry of Preliminary Approval Order
Deadline for Settlement Class Members to opt-out or object to the Settlement	Sixty (60) days after the Notice is disseminated by the Settlement Administrator
Deadline for Plaintiff to file a Motion for Attorneys' Fees, Costs, and Service Award	Fourteen (14) days before the deadline for opt-outs and objections to the Settlement
Deadline for Plaintiff to file a Motion for Final Approval of Class Action Settlement	Twenty-one (21) days prior to the Final Approval Hearing
Deadline for Class Counsel to file with the Court a declaration regarding implementation of the Notice Plan	With Plaintiff's Motion for Final Approval of Class Action Settlement
Deadline for filing any reply papers in further support of the settlement, attorneys' fees and expenses and/or in response to any written objections	Seven (7) days prior to the Final Approval Hearing
Final Approval Hearing	_____, at _____ _.m. The Final Approval Hearing may take place via remote means. Details to be placed on the Settlement Website.

SO ORDERED on this _____ day of _____, 2021.

_____
Hon. John M. Gerrard
Chief United States District Judge

EXHIBIT E

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHELLE ANDERSON, an individual, On Behalf of Herself and All Others Similarly Situated,

Plaintiff,

v.

TRAVELEX INSURANCE SERVICES INC. and TRANSAMERICA CASUALTY INSURANCE COMPANY,

Defendants.

Case No. 8:18-cv-00362-JMG-SMB

[PROPOSED] FINAL APPROVAL ORDER AND JUDGMENT

This matter came for hearing on _____, _____ (the "Final Approval Hearing"), to determine whether the terms and conditions of the Parties' Settlement are fair, reasonable, and adequate, and whether final approval should be granted. Due and adequate notice having been given to the Settlement Class in accordance with the terms of the Settlement Agreement (Doc. No. _____) and the Court's Preliminary Approval Order (Doc. No. _____), and the Court having considered all papers filed and proceedings in this Action and otherwise being fully informed, and good cause appearing therefore, IT IS HEREBY ORDERED AND ADJUDGED:

1. This Final Approval Order and Judgment (the "Final Approval Order" or "Order") incorporates by reference the definitions in the Settlement Agreement, and all capitalized terms used herein shall have the same meanings as set forth in the Settlement Agreement, unless otherwise set forth below.

2. The Court has personal jurisdiction over Plaintiff and Settlement Class Members, the Court has subject matter jurisdiction over the claims asserted in this Litigation and to approve the Settlement, and venue is proper.

3. The Court preliminarily approved the Settlement Agreement by entering the Preliminary Approval Order and notice was given to the Settlement Class pursuant to the terms of the Settlement Agreement and Preliminary Approval Order.

4. The Court finds that the prerequisites for a class action under Federal Rule of Civil Procedure 23 have been satisfied for settlement purposes for each Settlement Class Member in that:

(a) the Settlement Class is so numerous that joinder of all members is impracticable;

(b) there are questions of law or fact common to the Settlement Class;

(c) Plaintiff's claims are typical of the claims of the Settlement Class;

(d) Plaintiff and Class Counsel have fairly and adequately protected the interests of the Settlement Class;

(e) the questions of law or fact common to the Settlement Class Members, and which are relevant for settlement purposes, predominate over the questions affecting only individual Settlement Class Members; and

(f) certification of the Settlement Class is superior to other available methods for the fair and efficient adjudication of the controversy.

5. In light of these findings and solely for purposes of the Settlement, the Court certifies this Action as a class action pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3). The Settlement Class consists of: All persons in the United States who have been identified by Defendants as insured under a Travel Plan purchased within the Class Period, and for whom a claim for trip cancellation benefits was initiated under the Travel Plan. The Parties have acknowledged that the third party administrator handling trip cancellations claims for the Travel Plans identified no more than 105,284 potential Settlement Class Members. The "Class Period" means the period of January 1, 2014 to December 31, 2017.

6. Excluded from the Settlement Class are: (i) all persons who previously received a refund of premium from the Defendants for any Travel Plan(s) at issue in the Litigation; (ii) all persons who previously entered into a written agreement with the Defendants releasing all claims related to a Travel Plan(s) at issue in the Litigation; (iii) all insureds for whom no premium was charged under a Travel Plan; and (iv) all persons who during the Class Period were officers, directors, or employees of either of the Defendants.

7. The Court finally appoints Plaintiff Michelle Anderson as the Class Representative of the Settlement Class.

8. The Court finally appoints Shanon J. Carson, Peter R. Kahana, Lane L. Vines, Y. Michael Twersky, and John G. Albanese of Berger Montague PC as Lead Counsel.

9. Pursuant to Fed. R. Civ. P. 23, the Court gives final approval to the Settlement as set forth in the Settlement Agreement and finds that:

(A) Plaintiff and Class Counsel have adequately represented the Settlement Class;

(B) the Settlement was negotiated in good faith and at arm's length;

(C) the relief provided for the Settlement Class is adequate, taking into account:

(i) the costs, risks, and delay of trial and appeal;

(ii) the effectiveness of the proposed method of distributing relief to the Settlement Class, including the method of processing Settlement Class Member claims;

(iii) the terms of any proposed award of attorney's fees, including timing of payment; and

(iv) any agreement required to be identified under Rule 23(e)(3); and

(D) the Settlement treats class members equitably relative to each other.

10. The Notice was given to the Settlement Class in the manner ordered by the Court. The Notice given was the best notice practicable under the circumstances; constituted notice reasonably calculated to apprise members of the Settlement Class of the pendency of the Litigation, their right to object or exclude themselves from the proposed Settlement Class, and their right to appear at the Final Approval Hearing; included individual notice to all Settlement Class Members who could be identified through reasonable effort; was fair and reasonable, and constituted due and sufficient notice to all persons, including all Settlement Class Members. The form and method of the Notice constituted due and adequate notice of the proceedings and satisfied the requirements of Fed. R. Civ. P. 23, the Due Process Clause of the United States Constitution, the Local Rules of this Court, and any other applicable law. Thus, all Settlement Class Members are bound by this Final Approval Order and Judgment.

11. This Court finds that proper and timely notice of the Settlement has been provided to the appropriate state and federal officials in accord with the Class Action Fairness Act of 2005, 28 U.S.C. § 1715 ("CAFA"), and that more than ninety (90) days have elapsed since Defendants provided the required notice, as required by 28 U.S.C. §1715(d).

12. The distribution plan for the Net Settlement Fund set forth in the Settlement Agreement is approved.

13. The Settlement Agreement, in its entirety, the terms of which are incorporated into this Final Approval Order and Judgment, is finally approved in all respects as fair, reasonable, and adequate, pursuant to Federal Rule of Civil Procedure 23, and any applicable law, and is in the best interest of the Settlement Class Members.

14. The following terms of the Settlement Agreement shall be effective as set forth in the Settlement Agreement.

A. The Release of Claims set forth in Section F of the Settlement Agreement, is effective as of the Effective Date defined in the Settlement Agreement, and the Released Parties are forever released, relinquished and discharged from all Released Claims by the Releasing Parties as set forth below.

1. **Release**. Upon the Effective Date, the Plaintiff and all Settlement Class Members, on behalf of themselves and all of their agents, heirs, estates, executors and administrators, successors, assigns, insurers, attorneys, representatives, and any and all Persons who seek to claim through or in the name or right of any of them (the "Releasing Parties"), expressly and irrevocably release and forever discharge, upon good and sufficient consideration, Defendants and all of their respective present and former administrators, insurers, reinsurers,

firms, parents, subsidiaries, and affiliates, and all of Defendants and the foregoing Persons' respective predecessors, successors, assigns and present and former officers, directors, shareholders, employees, agents, indemnitees, attorneys, and representatives (collectively, the "Released Parties"), from any and all claims, demands, complaints, disputes, causes of action, rights of action, suits, debts, liabilities, obligations, and damages of every nature whatsoever, on any legal or equitable ground, whether based on federal, state, or local law, statute, ordinance, regulation, common law, private contract, agreement or any other authority, asserted or unasserted, known or unknown, that the Releasing Parties now have, ever had, or may in the future have, arising out of, resulting from, or related in any way to the Litigation or the subject matter of the Litigation, and which were or could have been asserted in the Litigation based upon the facts alleged, including, without limitation, any and all claims for attorneys' fees, costs, or expenses, and any and all past and present claims, damages, or liability on any legal or equitable ground whatsoever ("Released Claims"). This Release is as a result of the Settlement Class Members' membership in the Settlement Class and status as Releasing Parties, the Court's approval process herein, and the occurrence of the Effective Date and is not conditioned on receipt of payment by any particular Settlement Class Member or Releasing Party. The Released Claims do not include either pending or as yet unfiled policyholder claims for trip cancellation benefits under the Travel Plans.

2. All other Release of Claims provisions set forth in Section F of the Settlement Agreement, are further hereby incorporated by reference into, and made a part of, this Final Approval Order and Judgment.

B. The Release of Claims was bargained for and is a material element of the Settlement Agreement.

C. The Release does not affect the rights of members of the Settlement Class who timely and properly submitted a Request for Exclusion from the Settlement Class in accordance with the requirements of the Preliminary Approval Order and Settlement Agreement.

D. The Settlement shall be the exclusive remedy for any and all Settlement Class Members, and the Released Parties shall not be subject to liability or expense for any of the Released Claims to any Settlement Class Member.

E. The Release shall not preclude any action to enforce the terms of the Settlement Agreement, including participation in any of the processes detailed therein. The Release set forth herein and in the Settlement Agreement was not intended to include the release of any rights or duties of the Parties arising out of the Settlement Agreement, including the express warranties and covenants contained therein.

15. **Injunction**. Upon the Effective Date, Plaintiff and the Settlement Class Members who have not timely and properly opted out and excluded themselves from the Settlement shall be permanently barred and enjoined from filing, commencing, prosecuting, intervening in, or participating in (individually or in a representative capacity) any lawsuit, action, or proceeding in any jurisdiction asserting or based upon any claims or causes of action released in the Settlement

and Final Approval Order and Judgment; and from soliciting or encouraging any other Class members to participate in any such lawsuit, action, or proceeding.

16. Accordingly, the Court authorizes and directs implementation and performance of all terms of the Settlement Agreement and this Final Approval Order and Judgment. The Court hereby dismisses the Litigation and the claims asserted in the Litigation with prejudice. The Parties are to bear their own costs except as, and to the extent provided in, the Settlement Agreement and the related Orders of this Court.

17. Upon the Effective Date, as defined in the Settlement Agreement and by operation of this Final Approval Order and Judgment, it is hereby determined that the terms of the Settlement Agreement, including all exhibits thereto, and of this Final Approval Order and Judgment, are forever binding on and shall have res judicata and preclusive effect in all pending and future lawsuits maintained by Settlement Class Members, as well as their agents, heirs, executors, administrators, successors, and assigns, against any of the Released Parties in any forum of any kind. Plaintiff and each Settlement Class Member shall be bound by the terms of the Settlement as set forth in the Settlement Agreement and this Order; shall be deemed to have released, dismissed and forever discharged the Released Claims against the Released Parties, with prejudice and on the merits, without costs to any of the Parties; and shall forever be barred and enjoined from commencing, instituting, prosecuting, or maintaining any of the Released Claims against any of the Released Parties in any forum of any kind, whether directly or indirectly, whether on their own behalf or otherwise.

18. This Final Judgment and the Stipulation of Settlement may be filed in any action against or by any Released Person to support a defense of *res judicata*, collateral estoppel,

release, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

19. In the event that the Settlement does not become final as contemplated by the Stipulation of Settlement, this Final Judgment shall automatically be rendered null and void and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void.

20. Neither the Stipulation of Settlement nor this Final Judgment constitutes an admission of liability, fault, or wrongdoing on the part of Defendants.

21. Without affecting the finality of this Final Approval Order and Judgment, in any way, this Court hereby retains exclusive and continuing jurisdiction over the administration, consummation, and enforcement of the Settlement Agreement.

22. There is no just reason for delay in the entry of this Final Approval Order and Judgment and immediate entry by the Clerk of the Court is expressly directed.

SO ORDERED on this _____ day of _____, _____.

_____
Hon. John M. Gerrard
Chief United States District Judge

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHELLE ANDERSON, an individual, on behalf of herself and all others similarly situated, Plaintiff, v. TRAVELEX INSURANCE SERVICES INC. and TRANSAMERICA CASUALTY INSURANCE COMPANY, Defendants.	Case No. 8:18-cv-00362-JMG-SMB

DECLARATION OF STEVEN WEISBROT OF ANGEION GROUP, LLC
REGARDING QUALIFICATIONS AND THE PROPOSED NOTICE PLAN

I, Steven Weisbrot, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am the President and Chief Innovation Officer at the class action notice and claims administration firm Angeion Group, LLC ("Angeion"). I am fully familiar with the facts contained herein based upon my personal knowledge.

2. I have been responsible in whole or in part for the design and implementation of hundreds of court-approved notice and administration programs, including some of the largest and most complex notice plans in recent history. I have taught numerous accredited Continuing Legal Education courses on the Ethics of Legal Notification in Class Action Settlements, using Digital Media in Due Process Notice Programs, as well as Claims Administration generally. I am the author of multiple articles on Class Action Notice, Claims Administration, and Notice Design in publications such as Bloomberg, BNA Class Action Litigation Report, Law360, the ABA Class

Action and Derivative Section Newsletter, and I am a frequent speaker on notice issues at conferences throughout the United States and internationally.

3. I was certified as a professional in digital media sales by the Interactive Advertising Bureau and I am co-author of the Digital Media section of Duke Law's *Guidelines and Best Practices—Implementing 2018 Amendments to Rule 23* and the soon to be published George Washington Law School Best Practices Guide to Class Action Litigation.

4. I have given public comment and written guidance to the Judicial Conference Committee on Rules of Practice and Procedure on the role of direct mail, email, broadcast media, digital media and print publication, in effecting due process notice, and I have met with representatives of the Federal Judicial Center to discuss the 2018 amendments to Rule 23 of the Federal Rules of Civil Procedure and offered an educational curriculum for the judiciary concerning notice procedures.

5. Prior to joining Angeion's executive team, I was employed as Director of Class Action services at Kurtzman Carson Consultants, an experienced notice and settlement administrator. Prior to my notice and claims administration experience, I was employed as an attorney in private law practice.

6. My notice work comprises a wide range of class actions that include product defect, data breach, mass disasters, false advertising, employment discrimination, antitrust, tobacco, banking, firearm, insurance, and bankruptcy cases.

7. I have been at the forefront of infusing digital media, as well as big data and advanced targeting, into class action notice programs. Courts have repeatedly recognized my work in the design of class action notice programs. A comprehensive summary of judicial recognition Angeion has received is attached hereto as **Exhibit A**.

8. By way of background, Angeion is an experienced class action notice and claims administration company formed by a team of executives that have had extensive tenures at five other nationally recognized claims administration companies. Collectively, the management team at Angeion has overseen more than 2,000 class action settlements and distributed over $15 billion to class members. The executive profiles as well as the company overview are available at

https://www.angeiongroup.com/our_team.php.

9. As a class action administrator, Angeion has regularly been approved by both federal and state courts throughout the United States and abroad to provide notice of settlement and claims processing services.

10. This declaration describes the Notice Plan (as defined in the Parties' Class Action Settlement Agreement) which, if approved by the Court, we will implement in the above-captioned litigation. This declaration also describes the considerations that informed the development of the plan and why it will provide due process to the Settlement Class. In my professional opinion, the Notice Plan described herein is the best practicable notice under the circumstances and fulfills all due process requirements.

SUMMARY OF THE NOTICE PLAN

11. The proposed Notice Plan is the best notice that is practicable under the circumstances and fully comports with due process and Fed. R. Civ. P. 23. It provides individual direct notice to all reasonably identifiable Settlement Class members via email and/or mail, combined with a dedicated website and toll-free telephone line where Settlement Class members can learn more about their rights and options pursuant to the terms of the Settlement.

DIRECT NOTICE

12. As part of the Notice Plan, Angeion will send direct notice via first-class U.S. mail, postage pre-paid, to Settlement Class members for whom a mailing address is provided in the Settlement Class List provided to Angeion. In administering the Notice Plan, Angeion will employ the following best practices to increase the deliverability rate of the mailed notices:

a. Angeion will cause the mailing address information for members of the Class to be updated utilizing the National Change of Address ("NCOA") database, which provides updated address information for individuals or entities who have moved during the previous four years and filed a change of address with the USPS.

b. Notices returned to Angeion by the USPS with a forwarding address will be re-mailed to the new address provided by the USPS and the Settlement Class member database will be updated accordingly.

c. Notices returned to Angeion by the USPS without forwarding addresses will be subjected to an address verification search (commonly referred to as "skip tracing") using a wide variety of data sources, including public records, real estate records, electronic and directory assistance listings, to locate updated addresses.

d. For any Settlement Class members where a new address is identified through the skip trace process, the Settlement Class member database will be updated with the new address information and a Notice will be mailed to that address.

13. The direct notice effort will also consist of sending individual notice via email to all potential Settlement Class members for whom email addresses are included on the Settlement Class member list provided to Angeion.

14. As an initial matter, Angeion has worked with counsel for the Parties to design the email notice to avoid many common "red flags" that might otherwise cause a potential Settlement Class member's spam filter to block or identify the email notice as spam. For instance, Angeion does not include Long Form Notice as an attachment to the email notice, because attachments are often interpreted by various Internet Service Providers ("ISP") as spam. Rather, in accordance with industry best practices, Angeion includes a link to all operative documents so that Settlement Class members can easily access this information. In addition, the email notice will include the domain name of the Settlement Website, and a toll-free telephone number that Settlement Class members may call to obtain information without clicking the links.

15. Angeion will employ additional methods to help ensure that as many Settlement Class members with email addresses as possible receive notice via email. Specifically, prior to distributing email notice, Angeion will engage in an email updating process to help ensure the

accuracy of recipient email addresses. Angeion will also review email addresses for mis-transcribed characters and perform other such measures, as appropriate.

16. Angeion also accounts for the real-world reality that some emails will inevitably fail to be delivered during the initial delivery attempt. Therefore, after an approximate 24-72-hour rest period following the initial noticing campaign, Angeion will cause a second round of email noticing to continue to any email addresses that were previously identified as soft bounces and not delivered. This rest period allows any temporary block at the ISP level to expire.. In our experience, this methodology minimizes the number of emails that may have erroneously failed to deliver due to sensitive servers and optimizes delivery.

SETTLEMENT WEBSITE AND TOLL-FREE HOTLINE

17. The Notice Plan also includes the creation of a case-specific Settlement Website, where Settlement Class members can learn about the Settlement, easily view general information about this class action Settlement, review relevant Court documents, and view important dates and deadlines pertinent to the Settlement. The website will be designed to be user-friendly and make it easy for Settlement Class members to find information about the case. The website will also have a "Contact Us" page whereby Settlement Class members can send an email with any additional questions to a dedicated email address. The website will provide eligible Settlement Class members with the option to elect their Settlement Payment electronically via the website.

18. A toll-free hotline devoted to this case will be implemented to further apprise Settlement Class members of their rights and options in the Settlement. The toll-free hotline will utilize an interactive voice response ("IVR") system to provide Settlement Class members with responses to frequently asked questions and provide essential information regarding the Settlement. This hotline will be accessible 24 hours a day, 7 days a week.

PLAIN LANGUAGE NOTICE DESIGN

19. Rule 23(c)(2) of the Federal Rules of Civil Procedure requires class action notices to be written in "plain, easily understood language." Angeion has drawn on its experience and expertise in reviewing the Notice Plan for this Settlement. Angeion is of the opinion that the Notice Plan

effectively conveys the necessary information to members of the Settlement Class in plain language.

20. The proposed Notice to be used is designed to present information in plain language that can be readily understood by members of the Settlement Class. The design of the notice forms follows the principles embodied in the Federal Judicial Center's illustrative "model" notices posted at www.fjc.gov. The notice forms contain plain-language summaries of key information about the rights and options of members of the Settlement Class pursuant to the Settlement. Consistent with normal practice, prior to being delivered and published, all notice documents will undergo a final edit for accuracy.

NOTICE PURSUANT TO THE CLASS ACTION FAIRNESS ACT OF 2005

21. Following the filing of the Parties' Class Action Settlement Agreement with this Court, Angeion will work with Defendants to cause notice of the Settlement to be disseminated pursuant to the requirements of 28 U.S.C. §1715 (Class Action Fairness Act of 2005).

CONCLUSION

22. The Notice Plan outlined above includes direct notice to all reasonably identifiable potential Settlement Class members via mail and/or email, where applicable, coupled with the implementation of a dedicated Settlement Website and toll-free hotline to further inform Settlement Class members of their rights and options pursuant to the terms of the Settlement.

23. In my opinion, the Notice Plan will provide the best notice practicable to the Settlement Class before the opt-out and objection deadlines, and fully comports with due process and Fed. R. Civ. P. 23. After the Notice Plan has concluded, Angeion will provide a final report verifying its effective implementation.

24. Based on the Notice Plan and other administrative services contemplated by the Parties' Settlement Agreement, I prepared a detailed estimate of Angeion's costs for the services to be

provided, which I calculated as not exceeding $199,500.[1]

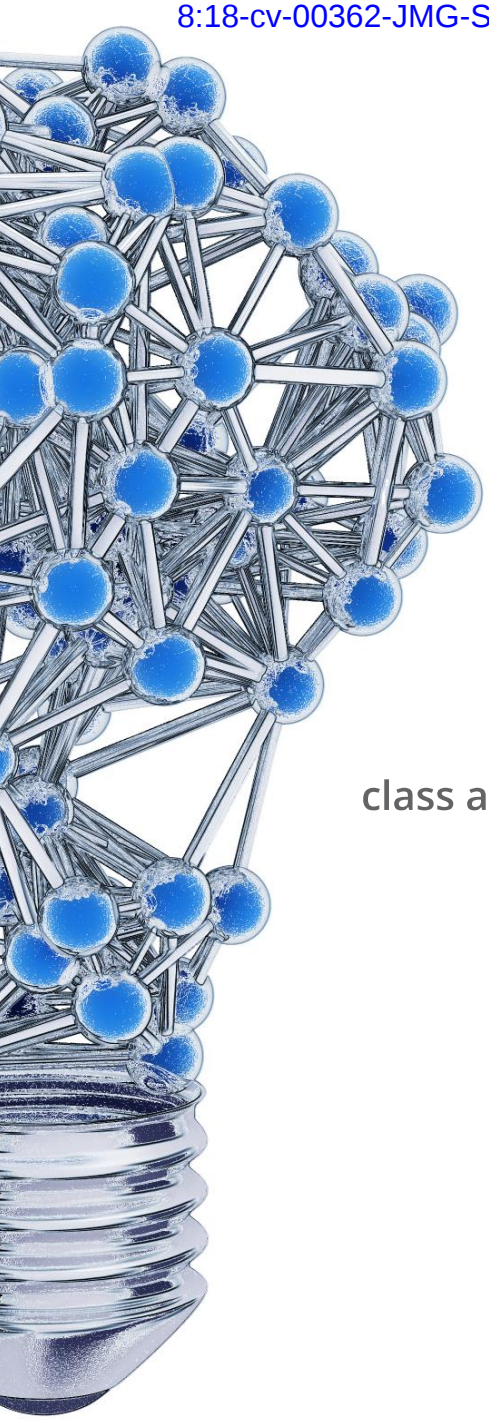
I hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: June 11, 2021

STEVEN WEISBROT

[1] This amount does not include costs for a second distribution to Settlement Class members, if sufficient funds remained as a result of uncashed checks following the distribution of the Settlement Payments and a second distribution were to be deemed appropriate.

Exhibit A



INNOVATION
IT'S PART OF OUR DNA

class action | mass tort | legal noticing | litigation support

ANGEION GROUP
Changing the Rules

Judicial Recognition

JUDICIAL RECOGNITION

IN RE: APPLE INC. DEVICE PERFORMANCE LITIGATION

Case No. 5:18-md-02827

The Honorable Edward J. Davila, United States District Court, Northern District of California (March 17, 2021): Angeion undertook a comprehensive notice campaign…The notice program was well executed, far-reaching, and exceeded both Federal Rule of Civil Procedure 23(c)(2)(B)'s requirement to provide the "best notice that is practicable under the circumstances" and Rule 23(e)(1)(B)'s requirement to provide "direct notice in a reasonable manner."

IN RE: GOOGLE PLUS PROFILE LITIGATION

Case No. 5:18-cv-06164

The Honorable Edward J. Davila, United States District Court, Northern District of California (January 25, 2021): The Court further finds that the program for disseminating notice to Settlement Class Members provided for in the Settlement, and previously approved and directed by the Court (hereinafter, the "Notice Program"), has been implemented by the Settlement Administrator and the Parties, and such Notice Program, including the approved forms of notice, is reasonable and appropriate and satisfies all applicable due process and other requirements, and constitutes best notice reasonably calculated under the circumstances to apprise Settlement Class Members…

NELSON ET AL. v. IDAHO CENTRAL CREDIT UNION

Case No. CV03-20-00831, CV03-20-03221

The Honorable Robert C. Naftz, Sixth Judicial District, State of Idaho, Bannock County (January 19, 2021): The Court finds that the Proposed Notice here is tailored to this Class and designed to ensure broad and effective reach to it…The Parties represent that the operative notice plan is the best notice practicable and is reasonably designed to reach the settlement class members. The Court agrees.

IN RE: HANNA ANDERSSON AND SALESFORCE.COM DATA BREACH LITIGATION

Case No. 3:20-cv-00812

The Honorable Edward M. Chen, United States District Court, Northern District of California (December 29, 2020): The Court finds that the Class Notice and Notice Program satisfy the requirements of due process and Rule 23 of the Federal Rules of Civil Procedure and provide the best notice practicable under the circumstances.

IN RE: PEANUT FARMERS ANTITRUST LITIGATION

Case No. 2:19-cv-00463

The Honorable Raymond A. Jackson, United States District Court, Eastern District of Virginia (December 23, 2020): The Court finds that the Notice Program…constitutes the best notice that is practicable under the circumstances and is valid, due and sufficient notice to all persons entitled thereto and complies fully with the requirements of Rule 23(c)(2) and the due process requirements of the Constitution of the United States.

JUDICIAL RECOGNITION

BENTLEY ET AL. v. LG ELECTRONICS U.S.A., INC.

Case No. 2:19-cv-13554

The Honorable Madeline Cox Arleo, United States District Court, District of New Jersey (December 18, 2020): The Court finds that notice of this Settlement was given to Settlement Class Members in accordance with the Preliminary Approval Order and constituted the best notice practicable of the proceedings and matters set forth therein, including the Litigation, the Settlement, and the Settlement Class Members' rights to object to the Settlement or opt out of the Settlement Class, to all Persons entitled to such notice, and that this notice satisfied the requirements of Federal Rule of Civil Procedure 23 and of due process.

IN RE: ALLURA FIBER CEMENT SIDING PRODUCTS LIABILITY LITIGATION

Case No. 2:19-mn-02886

The Honorable David C. Norton, United States District Court, District of South Carolina (December 18, 2020): The proposed Notice provides the best notice practicable under the circumstances. It allows Settlement Class Members a full and fair opportunity to consider the proposed settlement. The proposed plan for distributing the Notice likewise is a reasonable method calculated to reach all members of the Settlement Class who would be bound by the settlement. There is no additional method of distribution that would be reasonably likely to notify Settlement Class Members who may not receive notice pursuant to the proposed distribution plan.

ADKINS ET AL. v. FACEBOOK, INC.

Case No. 3:18-cv-05982

The Honorable William Alsup, United States District Court, Northern District of California (November 15, 2020): Notice to the class is "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Central Hanover Bank & Tr. Co., 399 U.S. 306, 314 (1650).*

IN RE: 21ST CENTURY ONCOLOGY CUSTOMER DATA SECURITY BREACH LITIGATION

Case No. 8:16-md-02737

The Honorable Mary S. Scriven, United States District Court, Middle District of Florida (November 2, 2020): The Court finds and determines that mailing the Summary Notice and publication of the Settlement Agreement, Long Form Notice, Summary Notice, and Claim Form on the Settlement Website, all pursuant to this Order, constitute the best notice practicable under the circumstances, constitute due and sufficient notice of the matters set forth in the notices to all persons entitled to receive such notices, and fully satisfies the of due process, Rule 23 of the Federal Rules of Civil Procedure, 28 U.S.C. § 1715, and all other applicable laws and rules. The Court further finds that all of the notices are written in plain language and are readily understandable by Class Members.

MARINO ET AL. v. COACH INC.

Case No. 1:16-cv-01122

The Honorable Valerie Caproni, United States District Court, Southern District of New York (August 24, 2020): The Court finds that the form, content, and method of giving notice to the Settlement Class as described in paragraph 8 of this Order: (a) will constitute the best practicable notice; (b) are reasonably calculated, under the circumstances, to apprise the Settlement Class Members of

the pendency of the Action, the terms of the proposed Settlement, and their rights under the proposed Settlement, including but not limited to their rights to object to or exclude themselves from the proposed Settlement and other rights under the terms of the Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class Members and other persons entitled to receive notice; and (d) meet all applicable requirements of law, including but not limited to 28 U.S.C. § 1715, Rule 23(c) and (e), and the Due Process Clause(s) of the United States Constitution. The Court further finds that all of the notices are written in plain language, are readily understandable by Settlement Class Members, and are materially consistent with the Federal Judicial Center's illustrative class action notices.

BROWN v. DIRECTV, LLC

Case No. 2:13-cv-01170

The Honorable Dolly M. Gee, United States District Court, Central District of California (July 23, 2020): Given the nature and size of the class, the fact that the class has no geographical limitations, and the sheer number of calls at issue, the Court determines that these methods constitute the best and most reasonable form of notice under the circumstances.

IN RE: SSA BONDS ANTITRUST LITIGATION

Case No. 1:16-cv-03711

The Honorable Edgardo Ramos, United States District Court, Southern District of New York (July 15, 2020): The Court finds that the mailing and distribution of the Notice and the publication of the Summary Notice substantially in the manner set forth below meet the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process and constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all Persons entitled to notice.

KJESSLER ET AL. v. ZAAPPAAZ, INC. ET AL.

Case No. 4:18-cv-00430

The Honorable Nancy F. Atlas, United States District Court, Southern District of Texas (July 14, 2020): The Court also preliminarily approves the proposed manner of communicating the Notice and Summary Notice to the putative Settlement Class, as set out below, and finds it is the best notice practicable under the circumstances, constitutes due and sufficient notice to all persons and entities entitled to receive such notice, and fully satisfies the requirements of applicable laws, including due process and Federal Rule of Civil Procedure 23.

HESTER ET AL. v. WALMART, INC.

Case No. 5:18-cv-05225

The Honorable Timothy L. Brooks, United States District Court, Western District of Arkansas (July 9, 2020): The Court finds that the Notice and Notice Plan substantially in the manner and form set forth in this Order and the Agreement meet the requirements of Federal Rule of Civil Procedure 23 and due process, is the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all Persons entitled thereto.

JUDICIAL RECOGNITION

CLAY ET AL. v. CYTOSPORT INC.

Case No. 3:15-cv-00165

The Honorable M. James Lorenz, United States District Court, Southern District of California (June 17, 2020): The Court approves the proposed Notice Plan for giving notice to the Settlement Class through publication, both print and digital, and through the establishment of a Settlement Website, as more fully described in the Agreement and the Claims Administrator's affidavits (docs. no. 222-9, 224, 224-1, and 232-3 through 232-6). The Notice Plan, in form, method, and content, complies with the requirements of Rule 23 and due process, and constitutes the best notice practicable under the circumstances.

GROGAN v. AARON'S INC.

Case No. 1:18-cv-02821

The Honorable J.P. Boulee, United States District Court, Northern District of Georgia (May 1, 2020):

The Court finds that the Notice Plan as set forth in the Settlement Agreement meets the requirements of Fed. R. Civ. P. 23 and constitutes the best notice practicable under the circumstances, including direct individual notice by mail and email to Settlement Class Members where feasible and a nationwide publication website-based notice program, as well as establishing a Settlement Website at the web address of www.AaronsTCPASettlement.com, and satisfies fully the requirements the Federal Rules of Civil Procedure, the U.S. Constitution, and any other applicable law, such that the Settlement Agreement and Final Order and Judgment will be binding on all Settlement Class Members.

CUMMINGS v. BOARD OF REGENTS OF THE UNIVERSITY OF NEW MEXICO, ET AL.

Case No. D-202-CV-2001-00579

The Honorable Carl Butkus, Second Judicial District Court, County of Bernalillo, State of New Mexico (March 30, 2020): The Court has reviewed the Class Notice, the Plan of Allocation and Distribution and Claim Form, each of which it approves in form and substance. The Court finds that the form and methods of notice set forth in the Agreement: (i) are reasonable and the best practicable notice under the circumstances; (ii) are reasonably calculated to apprise Settlement Class Members of the pendency of the Lawsuit, of their rights to object to or opt-out of the Settlement, and of the Final Approval Hearing; (iii) constitute due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) meet the requirements of the New Mexico Rules of Civil Procedure, the requirements of due process under the New Mexico and United States Constitutions, and the requirements of any other applicable rules or laws.

SCHNEIDER, ET AL. v. CHIPOTLE MEXICAN GRILL, INC.

Case No. 4:16-cv-02200

The Honorable Haywood S. Gilliam, Jr., United States District Court, Northern District of California (January 31, 2020): Given that direct notice appears to be infeasible, the third-party settlement administrator will implement a digital media campaign and provide for publication notice in People magazine, a nationwide publication, and the East Bay Times. SA § IV.A, C; Dkt. No. 205-12 at ¶¶ 13–23. The publication notices will run for four consecutive weeks. Dkt. No. 205 at ¶ 23. The digital media campaign includes an internet banner notice implemented using a 60-day desktop and mobile campaign. Dkt. No. 205-12 at ¶ 18. It will rely on "Programmatic Display Advertising" to reach the "Target Audience," Dkt. No. 216-1 at ¶ 6, which is estimated to include 30,100,000 people and identified using the target definition of "Fast Food & Drive-In Restaurants Total

JUDICIAL RECOGNITION

Restaurants Last 6 Months [Chipotle Mexican Grill]," Dkt. No. 205-12 at ¶ 13. Programmatic display advertising utilizes "search targeting," "category contextual targeting," "keyword contextual targeting," and "site targeting," to place ads. Dkt. No. 216-1 at ¶¶ 9–12. And through "learning" technology, it continues placing ads on websites where the ad is performing well. Id. ¶ 7. Put simply, prospective Class Members will see a banner ad notifying them of the settlement when they search for terms or websites that are similar to or related to Chipotle, when they browse websites that are categorically relevant to Chipotle (for example, a website related to fast casual dining or Mexican food), and when they browse websites that include a relevant keyword (for example, a fitness website with ads comparing fast casual choices). Id. ¶¶ 9–12. By using this technology, the banner notice is "designed to result in serving approximately 59,598,000 impressions." Dkt. No. 205-12 at ¶ 18.

The Court finds that the proposed notice process is "'reasonably calculated, under all the circumstances,' to apprise all class members of the proposed settlement." Roes, 944 F.3d at 1045 (citation omitted).

HANLEY v. TAMPA BAY SPORTS AND ENTERTAINMENT LLC

Case No. 8:19-cv-00550

The Honorable Charlene Edwards Honeywell, United States District Court, Middle District of Florida (January 7, 2020): The Court approves the form and content of the Class notices and claim forms substantially in the forms attached as Exhibits A-D to the Settlement. The Court further finds that the Class Notice program described in the Settlement is the best practicable under the circumstances. The Class Notice program is reasonably calculated under the circumstances to inform the Settlement Class of the pendency of the Action, certification of a Settlement Class, the terms of the Settlement, Class Counsel's attorney's fees application and the request for a service award for Plaintiff, and their rights to opt-out of the Settlement Class or object to the Settlement. The Class notices and Class Notice program constitute sufficient notice to all persons entitled to notice. The Class notices and Class Notice program satisfy all applicable requirements of law, including, but not limited to, Federal Rule of Civil Procedure 23 and the Constitutional requirement of Due Process.

CORCORAN, ET AL. v. CVS HEALTH, ET AL.

Case No. 4:15-cv-03504

The Honorable Yvonne Gonzalez Rogers, United States District Court, Northern District of California (November 22, 2019): Having reviewed the parties' briefings, plaintiffs' declarations regarding the selection process for a notice provider in this matter and regarding Angeion Group LLC's experience and qualifications, and in light of defendants' non-opposition, the Court APPROVES Angeion Group LLC as the notice provider. Thus, the Court GRANTS the motion for approval of class notice provider and class notice program on this basis.

Having considered the parties' revised proposed notice program, the Court agrees that the parties' proposed notice program is the "best notice that is practicable under the circumstances." The Court is satisfied with the representations made regarding Angeion Group LLC's methods for ascertaining email addresses from existing information in the possession of defendants. Rule 23 further contemplates and permits electronic notice to class members in certain situations. See Fed. R. Civ. P. 23(c)(2)(B). The Court finds, in light of the representations made by the parties, that this is a situation that permits electronic notification via email, in addition to notice via United

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States Postal Service. Thus, the Court APPROVES the parties' revised proposed class notice program, and GRANTS the motion for approval of class notice provider and class notice program as to notification via email and United States Postal Service mail.

PATORA v. TARTE, INC.

Case No. 7:18-cv-11760

The Honorable Kenneth M. Karas, United States District Court, Southern District of New York (October 2, 2019): The Court finds that the form, content, and method of giving notice to the Class as described in Paragraph 9 of this Order: (a) will constitute the best practicable notice; (b) are reasonably calculated, under the circumstances, to apprise the Settlement Class Members of the pendency of the Action, the terms of the Proposed Settlement, and their rights under the Proposed Settlement, including but not limited to their rights to object to or exclude themselves from the Proposed Settlement and other rights under the terms of the Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class Members and other persons entitled to receive notice; and (d) meet all applicable requirements of law, including but not limited to 28 U.S.C. § 1715, Rule 23(c) and (e), and the Due Process Clauses of the United States Constitution. The Court further finds that all of the notices are written in simple terminology, are readily understandable by Settlement Class Members, and are materially consistent with the Federal Judicial Center's illustrative class action notices.

CARTER, ET AL. v. GENERAL NUTRITION CENTERS, INC., and GNC HOLDINGS, INC.

Case No. 2:16-cv-00633

The Honorable Mark R. Hornak, United States District Court, Western District of Pennsylvania (September 9, 2019): The Court finds that the Class Notice and the manner of its dissemination described in Paragraph 7 above and Section VII of the Agreement constitutes the best practicable notice under the circumstances and is reasonably calculated, under all the circumstances, to apprise proposed Settlement Class Members of the pendency of this action, the terms of the Agreement, and their right to object to or exclude themselves from the proposed Settlement Class. The Court finds that the notice is reasonable, that it constitutes due, adequate and sufficient notice to all persons entitled to receive notice, and that it meets the requirements of due process, Rule 23 of the Federal Rules of Ci vii Procedure, and any other applicable laws.

CORZINE v. MAYTAG CORPORATION, ET AL.

Case No. 5:15-cv-05764

The Honorable Beth L. Freeman, United States District Court, Northern District of California (August 21, 2019): The Court, having reviewed the proposed Summary Notice, the proposed FAQ, the proposed Publication Notice, the proposed Claim Form, and the proposed plan for distributing and disseminating each of them, finds and concludes that the proposed plan will provide the best notice practicable under the circumstances and satisfies all requirements of federal and state laws and due process.

MEDNICK v. PRECOR, INC.

Case No. 1:14-cv-03624

The Honorable Harry D. Leinenweber, United States District Court, Northern District of Illinois (June 12, 2019): Notice provided to Class Members pursuant to the Preliminary Class Settlement Approval Order constitutes the best notice practicable under the circumstances, including

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individual email and mail notice to all Class Members who could be identified through reasonable effort, including information provided by authorized third-party retailers of Precor. Said notice provided full and adequate notice of these proceedings and of the matter set forth therein, including the proposed Settlement set forth in the Agreement, to all persons entitled to such notice, and said notice fully satisfied the requirements of F.R.C.P. Rule 23 (e) and (h) and the requirements of due process under the United States and California Constitutions.

GONZALEZ v. TCR SPORTS BROADCASTING HOLDING LLP, ET AL.

Case No. 1:18-cv-20048

The Honorable Darrin P. Gayles, United States District Court, Southern District of Florida (May 24, 2019): The Court finds that notice to the class was reasonable and the best notice practicable under the circumstances, consistent with Rule 23(e)(1) and Rule 23(c)(2)(B).

ANDREWS ET AL. v. THE GAP, INC., ET AL.

Case No. CGC-18-567237

The Honorable Richard B. Ulmer Jr., Superior Court of the State of California, County of San Francisco (May 10, 2019): The Court finds that (a) the Full Notice, Email Notice, and Publication constitute the best notice practicable under the circumstances, (b) they constitute valid, due, and sufficient notice to all members of the Class, and (c) they comply fully with the requirements of California Code of Civil Procedure section 382, California Rules of Court 3.766 and 3.769, the California and United States Constitutions, and other applicable law.

COLE, ET AL. v. NIBCO, INC.

Case No. 3:13-cv-07871

The Honorable Freda L. Wolfson, United States District Court, District of New Jersey (April 11, 2019): The record shows, and the Court finds, that the Notice Plan has been implemented in the manner approved by the Court in its Preliminary Approval Order. The Court finds that the Notice Plan constitutes: (i) the best notice practicable to the Settlement Class under the circumstances; (ii) was reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of this..., (iii) due, adequate, and sufficient notice to all Persons entitled to receive notice; and (iv) notice that fully satisfies the requirements of the United States Constitution (including the Due Process Clause), Fed. R. Civ. P. 23, and any other applicable law.

DIFRANCESCO, ET AL. v. UTZ QUALITY FOODS, INC.

Case No. 1:14-cv-14744

The Honorable Douglas P. Woodlock, United States District Court, District of Massachusetts (March 15, 2019): The Court finds that the Notice plan and all forms of Notice to the Class as set forth in the Settlement Agreement and Exhibits 2 and 6 thereto, as amended (the "Notice Program"), is reasonably calculated to, under all circumstances, apprise the members of the Settlement Class of the pendency of this action, the certification of the Settlement Class, the terms of the Settlement Agreement, and the right of members to object to the settlement or to exclude themselves from the Class. The Notice Program is consistent with the requirements of Rule 23 and due process, and constitutes the best notice practicable under the circumstances.

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IN RE: CHRYSLER-DODGE-JEEP ECODIESEL MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY LITIGATION

Case No. 3:17-md-02777

The Honorable Edward M. Chen, United States District Court, Northern District of California (February 11, 2019): Also, the parties went through a sufficiently rigorous selection process to select a settlement administrator. See Proc. Guidance for Class Action Sett. ¶ 2; see also Cabraser Decl. ¶¶ 9-10. While the settlement administration costs are significant – an estimated $1.5 million – they are adequately justified given the size of the class and the relief being provided.

In addition, the Court finds that the language of the class notices (short and long-form) is appropriate and that the means of notice – which includes mail notice, electronic notice, publication notice, and social media "marketing" – is the "best notice…practicable under the circumstances." Fed. R. Civ. P. 23(c)(2)(B); see also Proc. Guidance for Class Action Sett. ¶¶ 3-5, 9 (addressing class notice, opt-outs, and objections). The Court notes that the means of notice has changed somewhat, as explained in the Supplemental Weisbrot Declaration filed on February 8, 2019, so that notice will be more targeted and effective. See generally Docket No. 525 (Supp. Weisbrot Decl.) (addressing, inter alia, press release to be distributed via national newswire service, digital and social media marketing designed to enhance notice, and "reminder" first-class mail notice when AEM becomes available).

Finally, the parties have noted that the proposed settlement bears similarity to the settlement in the Volkswagen MDL. See Proc. Guidance for Class Action Sett. ¶ 11.

RYSEWYK, ET AL. v. SEARS HOLDINGS CORPORATION and SEARS, ROEBUCK AND COMPANY

Case No. 1:15-cv-04519

The Honorable Manish S. Shah, United States District Court, Northern District of Illinois (January 29, 2019): The Court holds that the Notice and notice plan as carried out satisfy the requirements of Rule 23(e) and due process. This Court has previously held the Notice and notice plan to be reasonable and the best practicable under the circumstances in its Preliminary Approval Order dated August 6, 2018. (Dkt. 191) Based on the declaration of Steven Weisbrot, Esq. of Angeion Group (Dkt. No. 209-2), which sets forth compliance with the Notice Plan and related matters, the Court finds that the multi-pronged notice strategy as implemented has successfully reached the putative Settlement Class, thus constituting the best practicable notice and satisfying due process.

MAYHEW, ET AL. v. KAS DIRECT, LLC, and S.C. JOHNSON & SON, INC.

Case No. 7:16-cv-06981

The Honorable Vincent J. Briccetti, United States District Court, Southern District of New York (June 26, 2018): In connection with their motion, plaintiffs provide the declaration of Steven Weisbrot, Esq., a principal at the firm Angeion Group, LLC, which will serve as the notice and settlement administrator in this case. (Doc. #101, Ex. F: Weisbrot Decl.) According to Mr. Weisbrot, he has been responsible for the design and implementation of hundreds of class action administration plans, has taught courses on class action claims administration, and has given testimony to the Judicial Conference Committee on Rules of Practice and Procedure on the role of direct mail, email, and digital media in due process notice. Mr. Weisbrot states that the internet banner advertisement campaign will be responsive to search terms relevant to "baby wipes, baby

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products, baby care products, detergents, sanitizers, baby lotion, [and] diapers," and will target users who are currently browsing or recently browsed categories "such as parenting, toddlers, baby care, [and] organic products." (Weisbrot Decl. ¶ 18). According to Mr. Weisbrot, the internet banner advertising campaign will reach seventy percent of the proposed class members at least three times each. (Id. ¶ 9). Accordingly, the Court approves of the manner of notice proposed by the parties as it is reasonable and the best practicable option for confirming the class members receive notice.

IN RE: OUTER BANKS POWER OUTAGE LITIGATION

Case No. 4:17-cv-00141

The Honorable James C. Dever III, United States District Court, Eastern District of North Carolina (May 2, 2018): The court has reviewed the proposed notice plan and finds that the notice plan provides the best practicable notice under the circumstances and, when completed, shall constitute fair, reasonable, and adequate notice of the settlement to all persons and entities affected by or entitled to participate in the settlement, in full compliance with the notice requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process. Thus, the court approves the proposed notice plan.

GOLDEMBERG, ET AL. v. JOHNSON & JOHNSON CONSUMER COMPANIES, INC.

Case No. 7:13-cv-03073

The Honorable Nelson S. Roman, United States District Court, Southern District of New York (November 1, 2017): Notice of the pendency of the Action as a class action and of the proposed Settlement, as set forth in the Settlement Notices, was given to all Class Members who could be identified with reasonable effort, consistent with the terms of the Preliminary Approval Order. The form and method of notifying the Class of the pendency of the Action as a class action and of the terms and conditions of the proposed Settlement met the requirements of Rule 23 of the Federal Rules of Civil Procedure, due process, and any other applicable law in the United States. Such notice constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

HALVORSON v. TALENTBIN, INC.

Case No. 3:15-cv-05166

The Honorable Joseph C. Spero, United States District Court, Northern District of California (July 25, 2017): The Court finds that the Notice provided for in the Order of Preliminary Approval of Settlement has been provided to the Settlement Class, and the Notice provided to the Settlement Class constituted the best notice practicable under the circumstances, and was in full compliance with the notice requirements of Rule 23 of the Federal Rules of Civil Procedure, due process, the United States Constitution, and any other applicable law. The Notice apprised the members of the Settlement Class of the pendency of the litigation; of all material elements of the proposed settlement, including but not limited to the relief afforded the Settlement Class under the Settlement Agreement; of the res judicata effect on members of the Settlement Class and of their opportunity to object to, comment on, or opt-out of, the Settlement; of the identity of Settlement Class Counsel and of information necessary to contact Settlement Class Counsel; and of the right to appear at the Fairness Hearing. Full opportunity has been afforded to members of the Settlement Class to participate in the Fairness Hearing. Accordingly, the Court determines that all Final Settlement Class Members are bound by this Final Judgment in accordance with the terms provided herein.

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IN RE: ASHLEY MADISON CUSTOMER DATA SECURITY BREACH LITIGATION

MDL No. 2669/Case No. 4:15-md-02669

The Honorable John A. Ross, United States District Court, Eastern District of Missouri (July 21, 2017): The Court further finds that the method of disseminating Notice, as set forth in the Motion, the Declaration of Steven Weisbrot, Esq. on Adequacy of Notice Program, dated July 13, 2017, and the Parties' Stipulation—including an extensive and targeted publication campaign composed of both consumer magazine publications in People and Sports Illustrated, as well as serving 11,484,000 highly targeted digital banner ads to reach the prospective class members that will deliver approximately 75.3% reach with an average frequency of 3.04 —is the best method of notice practicable under the circumstances and satisfies all requirements provided in Rule 23(c)(2)(B) and all Constitutional requirements including those of due process.

The Court further finds that the Notice fully satisfies Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process; provided, that the Parties, by agreement, may revise the Notice, the Claim Form, and other exhibits to the Stipulation, in ways that are not material or ways that are appropriate to update those documents for purposes of accuracy.

TRAXLER, ET AL. v. PPG INDUSTRIES INC., ET AL.

Case No. 1:15-cv-00912

The Honorable Dan Aaron Polster, United States District Court, Northern District of Ohio (April 27, 2017): The Court hereby approves the form and procedure for disseminating notice of the proposed settlement to the Settlement Class as set forth in the Agreement. The Court finds that the proposed Notice Plan contemplated constitutes the best notice practicable under the circumstances and is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action and their right to object to the proposed settlement or opt out of the Settlement Class in full compliance with the requirements of applicable law, including the Due Process Clause of the United States Constitution and Rules 23(c) and (e). In addition, Class Notice clearly and concisely states in plain, easily understood language: (i) the nature of the action; (ii) the definition of the certified Settlement Class; (iii) the claims and issues of the Settlement Class; (iv) that a Settlement Class Member may enter an appearance through an attorney if the member so desires; (v) that the Court will exclude from the Settlement Class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3).

IN RE: THE HOME DEPOT, INC., CUSTOMER DATA SECURITY BREACH LITIGATION

Case No. 1:14-md-02583

The Honorable Thomas W. Thrash Jr., United States District Court, Northern District of Georgia (March 10, 2017): The Court finds that the form, content, and method of giving notice to the settlement class as described in the settlement agreement and exhibits: (a) constitute the best practicable notice to the settlement class; (b) are reasonably calculated, under the circumstances, to apprise settlement class members of the pendency of the action, the terms of the proposed settlement, and their rights under the proposed settlement; (c) are reasonable and constitute due, adequate, and sufficient notice to those persons entitled to receive notice; and (d) satisfy the requirements of Federal Rule of Civil Procedure 23, the constitutional requirement of due process, and any other legal requirements. The Court further finds that the notice is written in plain language, uses simple terminology, and is designed to be readily understandable by settlement class members.

ROY v. TITEFLEX CORPORATION t/a GASTITE and WARD MANUFACTURING, LLC

Case No. 384003V

The Honorable Ronald B. Rubin, Circuit Court for Montgomery County, Maryland (February 24, 2017): What is impressive to me about this settlement is in addition to all the usual recitation of road racing litanies is that there is going to be a) public notice of a real nature and b) about a matter concerning not just money but public safety and then folks will have the knowledge to decide for themselves whether to take steps to protect themselves or not. And that's probably the best thing a government can do is to arm their citizens with knowledge and then the citizens can make decision. To me that is a key piece of this deal. ***I think the notice provisions are exquisite*** [emphasis added].

IN RE: LG FRONT LOADING WASHING MACHINE CLASS ACTION LITIGATION

Case No. 2:08-cv-00051

The Honorable Madeline Cox Arleo, United States District Court, District of New Jersey (June 17, 2016): This Court further approves the proposed methods for giving notice of the Settlement to the Members of the Settlement Class, as reflected in the Settlement Agreement and the joint motion for preliminary approval. The Court has reviewed the notices attached as exhibits to the Settlement, the plan for distributing the Summary Notices to the Settlement Class, and the plan for the Publication Notice's publication in print periodicals and on the internet, and finds that the Members of the Settlement Class will receive the best notice practicable under the circumstances. The Court specifically approves the Parties' proposal to use reasonable diligence to identify potential class members and an associated mailing and/or email address in the Company's records, and their proposal to direct the ICA to use this information to send absent class members notice both via first class mail and email. The Court further approves the plan for the Publication Notice's publication in two national print magazines and on the internet. The Court also approves payment of notice costs as provided in the Settlement. The Court finds that these procedures, carried out with reasonable diligence, will constitute the best notice practicable under the circumstances and will satisfy.

FENLEY v. APPLIED CONSULTANTS, INC.

Case No. 2:15-cv-00259

The Honorable Mark R. Hornak, United States District Court, Western District of Pennsylvania (June 16, 2016): The Court would note that it approved notice provisions of the settlement agreement in the proceedings today. That was all handled by the settlement and administrator Angeion. The notices were sent. The class list utilized the Postal Service's national change of address database along with using certain proprietary and other public resources to verify addresses. the requirements of Fed.R.Civ.P. 23(c)(2), Fed.R.Civ.P. 23(e) (l), and Due Process....

The Court finds and concludes that the mechanisms and methods of notice to the class as identified were reasonably calculated to provide all notice required by the due process clause, the applicable rules and statutory provisions, and that the results of ***the efforts of Angeion were highly successful and fulfilled all of those requirements*** [emphasis added].

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FUENTES, ET AL. v. UNIRUSH, LLC d/b/a UNIRUSH FINANCIAL SERVICES, ET AL.

Case No. 1:15-cv-08372

The Honorable J. Paul Oetken, United States District Court, Southern District of New York (May 16, 2016): The Court approves, as to form, content, and distribution, the Claim Form attached to the Settlement Agreement as Exhibit A, the Notice Plan, and all forms of Notice to the Settlement Class as set forth in the Settlement Agreement and Exhibits B-D, thereto, and finds that such Notice is the best notice practicable under the circumstances, and that the Notice complies fully with the requirements of the Federal Rules of Civil Procedure. The Court also finds that the Notice constitutes valid, due and sufficient notice to all persons entitled thereto, and meets the requirements of Due Process. The Court further finds that the Notice is reasonably calculated to, under all circumstances, reasonably apprise members of the Settlement Class of the pendency of the Actions, the terms of the Settlement Agreement, and the right to object to the settlement and to exclude themselves from the Settlement Class. The Parties, by agreement, may revise the Notices and Claim Form in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting for publication.

IN RE: WHIRLPOOL CORP. FRONTLOADING WASHER PRODUCTS LIABILITY LITIGATION

MDL No. 2001/Case No. 1:08-wp-65000

The Honorable Christopher A. Boyko, United States District Court, Northern District of Ohio (May 12, 2016): The Court, having reviewed the proposed Summary Notices, the proposed FAQ, the proposed Publication Notice, the proposed Claim Form, and the proposed plan for distributing and disseminating each of them, finds and concludes that the proposed plan for distributing and disseminating each of them will provide the best notice practicable under the circumstances and satisfies all requirements of federal and state laws and due process.

SATERIALE, ET AL. v. R.J. REYNOLDS TOBACCO CO.

Case No. 2:09-cv-08394

The Honorable Christina A. Snyder, United States District Court, Central District of California (May 3, 2016): The Court finds that the Notice provided to the Settlement Class pursuant to the Settlement Agreement and the Preliminary Approval Order has been successful, was the best notice practicable under the circumstances and (1) constituted notice that was reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Action, their right to object to the Settlement, and their right to appear at the Final Approval Hearing; (2) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (3) met all applicable requirements of the Federal Rules of Civil Procedure, Due Process, and the rules of the Court.

FERRERA, ET AL. v. SNYDER'S-LANCE, INC.

Case No. 0:13-cv-62496

The Honorable Joan A. Lenard, United States District Court, Southern District of Florida (February 12, 2016): The Court approves, as to form and content, the Long-Form Notice and Short- Form Publication Notice attached to the Memorandum in Support of Motion for Preliminary Approval of Class Action Settlement as Exhibits 1 and 2 to the Stipulation of Settlement. The Court also approves the procedure for disseminating notice of the proposed settlement to the Settlement Class and the Claim Form, as set forth in the Notice and Media Plan attached to the Memorandum in Support of Motion for Preliminary Approval of Class Action Settlement as Exhibits G. The Court

finds that the notice to be given constitutes the best notice practicable under the circumstances, and constitutes valid, due, and sufficient notice to the Settlement Class in full compliance with the requirements of applicable law, including the Due Process Clause of the United States Constitution.

IN RE: POOL PRODUCTS DISTRIBUTION MARKET ANTITRUST LITIGATION

MDL No. 2328/Case No. 2:12-md-02328

The Honorable Sarah S. Vance, United States District Court, Eastern District of Louisiana (December 31, 2014): To make up for the lack of individual notice to the remainder of the class, the parties propose a print and web-based plan for publicizing notice. The Court welcomes the inclusion of web- based forms of communication in the plan. The Court finds that the proposed method of notice satisfies the requirements of Rule 23(c)(2)(B) and due process. The direct emailing of notice to those potential class members for whom Hayward and Zodiac have a valid email address, along with publication of notice in print and on the web, is reasonably calculated to apprise class members of the settlement. Moreover, the plan to combine notice for the Zodiac and Hayward settlements should streamline the process and avoid confusion that might otherwise be caused by a proliferation of notices for different settlements. Therefore, the Court approves the proposed notice forms and the plan of notice.

SOTO, ET AL. v. THE GALLUP ORGANIZATION, INC.

Case No. 0:13-cv-61747

The Honorable Marcia G. Cooke, United States District Court, Southern District of Florida (June 16, 2015): The Court approves the form and substance of the notice of class action settlement described in ¶ 8 of the Agreement and attached to the Agreement as Exhibits A, C and D. The proposed form and method for notifying the Settlement Class Members of the settlement and its terms and conditions meet the requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process, constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons and entities entitled to the notice. The Court finds that the proposed notice is clearly designed to advise the Settlement Class Members of their rights.

OTT v. MORTGAGE INVESTORS CORPORATION OF OHIO, INC.

Case No. 3:14-cv-00645

The Honorable Janice M. Stewart, United States District Court, District of Oregon (July 20, 2015): The Notice Plan, in form, method, and content, fully complies with the requirements of Rule 23 and due process, constitutes the best notice practicable under the circumstances, and is due and sufficient notice to all persons entitled thereto. The Court finds that the Notice Plan is reasonably calculated to, under all circumstances, reasonably apprise the persons in the Settlement Class of the pendency of this action, the terms of the Settlement Agreement, and the right to object to the Settlement and to exclude themselves from the Settlement Class.

EXHIBIT 3

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About Berger Montague

Berger Montague is a full-spectrum class action and complex civil litigation firm, with nationally known attorneys highly sought after for their legal skills. The firm has been recognized by courts throughout the country for its ability and experience in handling major complex litigation, particularly in the fields of antitrust, securities, mass torts, civil and human rights, whistleblower cases, employment, and consumer litigation. In numerous precedent-setting cases, the firm has played a principal or lead role.

The *National Law Journal* selected Berger Montague in 12 out of 14 years (2003-2005, 2007-2013, 2015-2016) for its "Hot List" of top plaintiffs-oriented litigation firms in the United States. The select group of law firms recognized each year had done "exemplary, cutting-edge work on the plaintiffs' side." The *National Law Journal* ended its "Hot List" award in 2017 and replaced it with "Elite Trial Lawyers," which Berger Montague has won from 2018-2020. The firm has also achieved the highest possible rating by its peers and opponents as reported in *Martindale-Hubbell* and was ranked as a 2021 "Best Law Firm" by *U.S. News - Best Lawyers*.

Currently, the firm consists of 67 lawyers; 25 paralegals; and an experienced support staff. Few firms in the United States have our breadth of practice and match our successful track record in such a broad array of complex litigation.

History of the Firm

Berger Montague was founded in 1970 by the late David Berger to concentrate on the representation of plaintiffs in a series of antitrust class actions. David Berger helped pioneer the use of class actions in antitrust litigation and was instrumental in extending the use of the class action procedure to other litigation areas, including securities, employment discrimination, civil and human rights, and mass torts. The firm's complement of nationally recognized lawyers has represented both plaintiffs and defendants in these and other areas and has recovered billions of dollars for its clients. In complex litigation, particularly in areas of class action litigation, Berger Montague has established new law and forged the path for recovery.

The firm has been involved in a series of notable cases, some of them among the most important in the last 50 years of civil litigation. For example, the firm was one of the principal counsel for

plaintiffs in the *Drexel Burnham Lambert/Michael Milken* securities and bankruptcy litigation. Claimants in these cases recovered approximately $2 billion in the aftermath of the collapse of the junk bond market and the bankruptcy of *Drexel* in the late 1980's. The firm was also among the principal trial counsel in the *Exxon Valdez Oil Spill* litigation in Anchorage, Alaska, a trial resulting in a record jury award of $5 billion against Exxon, later reduced by the U.S. Supreme Court to $507.5 million. Berger Montague was lead counsel in the *School Asbestos Litigation*, in which a national class of secondary and elementary schools recovered in excess of $200 million to defray the costs of asbestos abatement. The case was the first mass tort property damage class action certified on a national basis. Berger Montague was also lead/liaison counsel in the *Three Mile Island Litigation* arising out of a serious nuclear incident.

Additionally, in the human rights area, the firm, through its membership on the executive committee in the *Holocaust Victim Assets Litigation*, helped to achieve a $1.25 billion settlement with the largest Swiss banks on behalf of victims of Nazi aggression whose deposits were not returned after the Second World War. The firm also played an instrumental role in bringing about a $4.37 billion settlement with German industry and government for the use of slave and forced labor during the Holocaust.

Practice Areas and Case Profiles

Antitrust

In antitrust litigation, the firm has served as lead, co-lead or co-trial counsel on many of the most significant civil antitrust cases over the last 50 years, including *In re Corrugated Container Antitrust Litigation* (recovery in excess of $366 million), the *Infant Formula* case (recovery of $125 million), the *Brand Name Prescription Drug* price-fixing case (settlement of more than $700 million), the *State of Connecticut Tobacco Litigation* (settlement of $3.6 billion), the *Graphite Electrodes Antitrust Litigation* (settlement of more than $134 million), and the *High-Fructose Corn Syrup Litigation* ($531 million).

> Once again, Berger Montague has been selected by *Chambers and Partners* for its 2021 *Chambers USA* Guide as one of Pennsylvania's top antitrust firms. *Chambers USA 2021* states that Berger Montague's antitrust practice group is "a preeminent force in the Pennsylvania antitrust market, offering expert counsel to clients from a broad range of industries."
>
> The *Legal 500*, a guide to worldwide legal services providers, ranked Berger Montague as a Top Tier Law Firm for Antitrust: Civil Litigation/Class Actions: Plaintiff in the United States in its 2020 guide and states that Berger Montague's antitrust department is "well-known for its heavy involvement in numerous matters pertaining to manipulation in the financial space."

- ***In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation:*** Berger Montague served as co-lead counsel for a national class including millions of merchants in the *Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* against Visa, MasterCard, and several of the largest banks in the U.S. (*e.g.*, Chase, Bank of America, and Citi). The lawsuit alleged that merchants paid excessive fees to accept Visa and MasterCard cards because the payment cards, individually and together with their respective member banks, violated the antitrust laws. The challenged conduct included, *inter alia*, the collective fixing of interchange fees and adoption of rules that hindered any competitive pressure by merchants to reduce those fees. The lawsuit further alleged that defendants maintained their conspiracy even after both Visa and MasterCard changed their corporate forms from joint ventures owned by member banks to publicly-owned corporations following commencement of this litigation. On September 18, 2018, after thirteen years of hard-fought litigation, Visa and MasterCard agreed to pay as much as approximately $6.26 billion, but no less than approximately $5.56 billion, to settle the case. This result is the largest-ever class action settlement of an antitrust case. The settlement received preliminary approval on January 24, 2019. The settlement received final approval on December 16, 2019, for approximately $5.6 billion.

- ***Contant, et al. v. Bank of America Corp., et al.:*** Berger Montague served as lead class counsel in the multistate indirect purchaser antitrust class action *Contant, et al. v. Bank of America Corp., et al.*, against 16 of the world's largest dealer banks. Plaintiffs alleged that the defendants colluded to manipulate prices on foreign currency ("FX") instruments, using a number of methods to carry out their conspiracies, including sharing confidential price and order information through electronic chat rooms, thereby enabling the defendants to coordinate pricing and eliminate price competition. As with prior bank rigging scandals involving conspiracies to manipulate prices on other financial instruments, the defendants' alleged conspiracy to manipulate FX prices was the subject of numerous governmental investigations as well as direct purchaser class actions brought under antitrust federal law. However, the *Contant* action was the first of such cases to bring claims under state indirect purchaser antitrust laws on behalf of state-wide classes of retail investors of those financial instruments and whose claims have never been redressed. On July 29, 2019, U.S. District Judge Lorna G. Schofield granted preliminary approval of a $10 million settlement with Citigroup and a $985,000 settlement with MUFG Bank Ltd. On July 17, 2020, the Court granted preliminary approval of three settlements with all remaining defendants for a combined $12.695 million. Each of the five settlements, totaling $23.63 million, received final approval on November 19, 2020.

- ***In re Dental Supplies Antitrust Litigation:*** Berger Montague served as co-lead counsel for a class of dental practices and dental laboratories in *In re Dental Supplies Antitrust Litigation*, a suit brought against Henry Schein, Inc., Patterson Companies, Inc., and Benco Dental Supply Company, the three largest distributors of dental supplies in the United States. On September 7, 2018, co-lead counsel announced that they agreed with defendants to settle on a classwide basis for $80 million. The settlement received final approval on June 24, 2019. The suit alleged that the defendants, who collectively control

close to 90 percent of the dental supplies and equipment distribution market, conspired to restrain trade and fix prices at anticompetitive levels, in violation of the Sherman Act. In furtherance of the alleged conspiracy, plaintiffs claimed that the defendants colluded to boycott and pressure dental manufacturers, dental distributors, and state dental associations that did business with or considered doing business with the defendants' lower-priced rivals. The suit claimed that, because of the defendants' anticompetitive conduct, members of the class were overcharged on dental supplies and equipment. In the 2019 Fairness Hearing, Judge Brian M. Cogan of the U.S. District Court for the Eastern District of New York said: "This is a substantial recovery that has the deterrent effect that class actions are supposed to have, and I think it was done because we had really good Plaintiffs' lawyers in this case who were running it."

- ***In re Domestic Drywall Antitrust Litigation:*** Berger Montague served as co-lead counsel on behalf of a class of direct purchasers of drywall, in a case alleging that the dominant manufacturers of drywall engaged in a conspiracy to fix drywall prices in the U.S. and to abolish the industry's long-standing practice of limiting price increases for the duration of a construction project through "job quotes." Berger Montague represented a class of direct purchasers of drywall from defendants for the period from January 1, 2012 to January 31, 2013. USG Corporation and United States Gypsum Company (collectively, "USG"), New NGC, Inc., Lafarge North America Inc., Eagle Materials, Inc., American Gypsum Company LLC, TIN Inc. d/b/a Temple-Inland Inc., and PABCO Building Products, LLC were named as defendants in this action. On August 20, 2015, the district court granted final approval of two settlements—one with USG and the other with TIN Inc.—totaling $44.5 million. On December 8, 2016, the district court granted final approval of a $21.2 million settlement with Lafarge North America, Inc. On February 18, 2016, the district court denied the motions for summary judgment filed by American Gypsum Company, New NGC, Inc., Lafarge North America, Inc., and PABCO Building Products. On August 23, 2017, the district court granted direct purchaser plaintiffs' motion for class certification. On January 29, 2018, the district court granted preliminary approval of a joint settlement with the remaining defendants, New NGC, Inc., Eagle Materials, Inc., American Gypsum Company LLC, and PABCO Building Products, LLC, for $125 million. The settlement received final approval on July 17, 2018, bringing the total amount of settlements for the class to $190.7 million.

- ***In re Currency Conversion Fee Antitrust Litigation:*** Berger Montague, as one of two co-lead counsel, spearheaded a class action lawsuit alleging that the major credit cards had conspired to fix prices for foreign currency conversion fees imposed on credit card transactions. After eight years of litigation, a settlement of $336 million was approved in October 2009, with a Final Judgment entered in November 2009. Following the resolution of eleven appeals, the District Court, on October 5, 2011, directed distribution of the settlement funds to more than 10 million timely filed claimants, among the largest class of claimants in an antitrust consumer class action. A subsequent settlement with American Express increased the settlement amount to $386 million. (MDL No. 1409 (S.D.N.Y)).

- ***In re Marchbanks Truck Service Inc., et al. v. Comdata Network, Inc.:*** Berger Montague was co-lead counsel in this antitrust class action brought on behalf of a class of thousands of Independent Truck Stops. The lawsuit alleged that defendant Comdata Network, Inc. had monopolized the market for specialized Fleet Cards used by long-haul truckers. Comdata imposed anticompetitive provisions in its agreements with Independent Truck Stops that artificially inflated the fees Independents paid when accepting the Comdata's Fleet Card for payment. These contractual provisions, commonly referred to as anti-steering provisions or merchant restraints, barred Independents from taking various competitive steps that could have been used to steer fleets to rival payment cards. The settlement for $130 million and valuable prospective relief was preliminary approved on March 17, 2014, and finally approved on July 14, 2014. In its July 14, 2014 order approving Class Counsel's fee request, entered contemporaneously with its order finally approving the settlement, the Court described this outcome as "substantial, both in absolute terms, and when assessed in light of the risks of establishing liability and damages in this case."

- ***Ross, et al. v. Bank of America (USA) N.A., et al.:*** Berger Montague, as lead counsel for the cardholder classes, obtained final approval of settlements reached with Chase, Bank of America, Capital One and HSBC, on claims that the defendant banks unlawfully acted in concert to require cardholders to arbitrate disputes, including debt collections, and to preclude cardholders from participating in any class actions. The case was brought for injunctive relief only. The settlements remove arbitration clauses nationwide for 3.5 years from the so-called "cardholder agreements" for over 100 million credit card holders. This victory for consumers and small businesses came after nearly five years of hard-fought litigation, including obtaining a decision by the Court of Appeals reversing the order dismissing the case, and will aid consumers and small businesses in their ability to resist unfair and abusive credit card practices. In June 2009, the National Arbitration Forum (or "NAF") was added as a defendant. Berger Montague also reached a settlement with NAF. Under that agreement, NAF ceased administering arbitration proceedings involving business cards for a period of three and one-half (3.5) years, which relief is in addition to the requirements of a Consent Judgment with the State of Minnesota, entered into by the NAF on July 24, 2009.

- ***Johnson, et al. v AzHHA, et al.:*** Berger Montague was co-lead counsel in this litigation on behalf of a class of temporary nursing personnel, against the Arizona Hospital and Healthcare Association, and its member hospitals, for agreeing and conspiring to fix the rates and wages for temporary nursing personnel, causing class members to be underpaid. The court approved $24 million in settlements on behalf of this class of nurses. (Case No. 07-1292 (D. Ariz.)).

The firm has also played a leading role in cases in the pharmaceutical arena, especially in cases involving the delayed entry of generic competition, having achieved over $2 billion in settlements in such cases over the past decade, including:

- ***In re: Namenda Direct Purchaser Antitrust Litigation:*** Berger Montague is co-lead counsel for the class in this antitrust action brought on behalf of a class of direct purchasers of branded and/or generic Namenda IR and/or branded Namenda XR. It settled for $750 million on the very eve of trial. The $750 million settlement received final approval on May 27, 2020, and is the largest single-defendant settlement ever for a case alleging delayed generic competition. (Case No. 15-cv-7488 (S.D.N.Y.)).

- ***King Drug Co. v. Cephalon, Inc.:*** Berger Montague played a major role (serving on the executive committee) in this antitrust class action on behalf of direct purchasers of the prescription drug Provigil (modafinil). After nine years of hard-fought litigation, the court approved a $512 million partial settlement, then the largest settlement ever for a case alleging delayed generic competition. (Case No. 2:06-cv-01797 (E.D. Pa.)). Subsequent non-class settlements pushed the total settlement figure even higher.

- ***In re Aggrenox Antitrust Litigation:*** Berger Montague represented a class of direct purchasers of Aggrenox in in an action alleging that defendants delayed the availability of less expensive generic Aggrenox through, *inter alia*, unlawful reverse payment agreements. The case settled for $146 million. (Case No. 14-02516 (D. Conn.)).

- ***In re Asacol Antitrust Litigation:*** The firm served as class counsel for direct purchasers of Asacol HS and Delzicol in a case alleging that defendants participated in a scheme to block generic competition for the ulcerative colitis drug Asacol. The case settled for $15 million. (Case No. 15-cv-12730-DJC (D. Mass.)).

- ***In re Celebrex (Celecoxib) Antitrust Litigation***: The firm represented a class of direct purchasers of brand and generic Celebrex (celecoxib) in an action alleging that Pfizer, in violation of the Sherman Act, improperly obtained a patent for Celebrex from the U.S. Patent and Trademark Office in a scheme to unlawfully extend patent protection and delay market entry of generic versions of Celebrex. The case settled for $94 million. (Case No. 14-cv-00361 (E.D. VA.)).

- ***In re DDAVP Direct Purchaser Antitrust Litigation:*** Berger Montague served as co-lead counsel in a case that charged defendants with using sham litigation and a fraudulently obtained patent to delay the entry of generic versions of the prescription drug DDAVP. Berger Montague achieved a $20.25 million settlement only after winning a precedent-setting victory before the United States Court of Appeals for the Second Circuit that ruled that direct purchasers had standing to recover overcharges arising from a patent-holder's misuse of an allegedly fraudulently obtained patent. (Case No. 05-2237 (S.D.N.Y.)).

- ***In re K-Dur Antitrust Litigation:*** Berger Montague served as co-lead counsel for the class in this long-running antitrust litigation. Berger Montague litigated the case before the Court of Appeals and won a precedent-setting victory and continued the fight before the Supreme Court. On remand, the case settled for $60.2 million. (Case No. 01-1652 (D.N.J.)).

- ***In re Loestrin 24 Fe Antitrust Litigation:*** Berger Montague served as co-lead counsel for the class of direct purchasers of brand Loestrin, generic Loestrin, and/or brand Minastrin. The direct purchaser class alleged that defendants violated federal antitrust laws by unlawfully impairing the introduction of generic versions of the prescription drug Loestrin 24 Fe. The case settled shortly before trial for $120 million (Case No. 13-md-2472) (D.R.I.).

- ***Meijer, Inc., et al. v. Abbott Laboratories:*** Berger Montague served as co-lead counsel in a class action on behalf of pharmaceutical wholesalers and pharmacies charging Abbott Laboratories with illegally maintaining monopoly power and overcharging purchasers in violation of the federal antitrust laws. Plaintiffs alleged that Abbott had used its monopoly with respect to its anti-HIV medicine Norvir (ritonavir) to protect its monopoly power for another highly profitable Abbott HIV drug, Kaletra. This antitrust class action settled for $52 million after four days of a jury trial in federal court in Oakland, California. (Case No. 07-5985 (N.D. Cal.)).

- ***Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Ltd. Co.:*** Berger Montague served as co-lead counsel in a case challenging Warner Chilcott's alleged anticompetitive practices with respect to the branded drug Doryx. The case settled for $15 million. (Case No. 2:12-cv-03824 (E.D. Pa.)).

- ***In re Oxycontin Antitrust Litigation:*** Berger Montague served as co-lead counsel on behalf of direct purchasers of the prescription drug Oxycontin. The case settled in 2011 for $16 million. (Case No. 1:04-md-01603 (S.D.N.Y)).

- ***In re Prandin Direct Purchaser Antitrust Litigation:*** Berger Montague served as co-lead counsel and recovered $19 million on behalf of direct purchasers of the diabetes medication Prandin. (Case No. 2:10-cv-12141 (E.D. Mich.)).

- ***Rochester Drug Co-Operative, Inc. v. Braintree Labs., Inc.*:** Berger Montague served as co-lead counsel on behalf of direct purchasers alleging sham litigation led to the delay of generic forms of the brand drug Miralax. The case settled for $17.25 million. (Case No. 07-142 (D. Del.)).

- ***In re Skelaxin Antitrust Litigation:*** Berger Montague was among a small group of firms litigating on behalf of direct purchasers of the drug Skelaxin. The case settled for $73 million. (Case No. 2:12-cv-83 / 1:12-md-02343) (E.D. Tenn.)).

- ***In re Solodyn Antitrust Litigation:*** Berger Montague served as co-lead counsel representing a class of direct purchasers of brand and generic Solodyn (extended-release minocycline hydrochloride tablets) alleging that defendants entered into agreements not to compete in the market for extended-release minocycline hydrochloride tablets in violation of the Sherman Act. With a final settlement on the eve of trial, the case settled for a total of more than $76 million. (Case No. 14-MD-2503-DJC (D. Mass.)).

- ***In re Tricor Antitrust Litigation:*** Berger Montague was one of a small group of counsel in a case alleging that the manufacturer of this drug was paying its competitors to refrain from introducing less expensive generic versions of Tricor. The case settled for $250 million. (No. 05-340 (D. Del.)).

- ***In re Wellbutrin XL Antitrust Litigation:*** Berger Montague served as co-lead counsel for a class of direct purchasers of the antidepressant Wellbutrin XL. A settlement of $37.5 million was reached with Valeant Pharmaceuticals (formerly Biovail), one of two defendants in the case. (Case No. 08-cv-2431 (E.D. Pa.)).

Commercial Litigation

Berger Montague helps business clients achieve extraordinary successes in a wide variety of complex commercial litigation matters. Our attorneys appear regularly on behalf of clients in high stakes federal and state court commercial litigation across the United States. We work with our clients to develop a comprehensive and detailed litigation plan, and then organize, allocate and deploy whatever resources are necessary to successfully prosecute or defend the case.

- ***Robert S. Spencer, et al. v. The Arden Group, Inc., et al.*:** Berger Montague represented an owner of limited partnership interests in several commercial real estate partnerships in a lawsuit against the partnerships' general partner. The terms of the settlement are subject to a confidentiality agreement. (Aug. Term, 2007, No. 02066 (Pa. Ct. Com. Pl., Phila. Cty. - Commerce Program)).

- ***Forbes v. GMH:*** Berger Montague represented a private real estate developer/investor who sold a valuable apartment complex to GMH for cash and publicly-held securities. The case which claimed securities fraud in connection with the transaction settled for a confidential sum which represented a significant portion of the losses experienced. (No. 07-cv-00979 (E.D. Pa.)).

Commodities & Financial Instruments

Berger Montague ranks among the country's preeminent firms for managing and trying complex Commodities & Financial Instruments related cases on behalf of individuals and as class actions. The firm's commodities clients include individual hedge and speculation traders, hedge funds, energy firms, investment funds, and precious metals clients.

- ***In re Peregrine Financial Group Customer Litigation:*** Berger Montague served as co-lead counsel in a class action which helped deliver settlements worth more than $75 million on behalf of former customers of Peregrine Financial Group, Inc., in litigation against U.S. Bank, N.A., and JPMorgan Chase Bank, N.A., arising from Peregrine's collapse in July 2012. The lawsuit alleges that both banks breached legal duties by allowing Peregrine's owner to withdraw and put millions of dollars in customer funds to non-customer use. (No. 1:12-cv-5546)

- ***In re MF Global Holdings Ltd. Investment Litigation*:** Berger Montague is one of two co-lead counsel that represented thousands of commodities account holders who fell victim to the alleged massive theft and misappropriation of client funds at the former major global commodities brokerage firm MF Global. Berger Montague reached a variety of settlements, including with JPMorgan Chase Bank, the MF Global SIPA Trustee, and the CME Group, that collectively helped to return approximately $1.6 billion to the class. Ultimately, class members received more than 100% of the funds allegedly misappropriated by MF Global even after all fees and expenses. (No. 11-cv-07866 (S.D.N.Y.).

- ***In re Commodity Exchange, Inc., Gold Futures and Options Trading Litigation*:** Berger Montague is one of two co-lead counsel representing traders of traders of gold-based derivative contracts, physical gold, and gold-based securities against The Bank of Nova Scotia, Barclays Bank plc, Deutsche Bank AG, HSBC Bank plc, Société Générale and the London Gold Market Fixing Limited. Plaintiffs allege that the defendants, members of the London Gold Market Fixing Limited, which sets an important benchmark price for gold, conspired to manipulate this benchmark for their collective benefit. (1:14-md-02548 (S.D.N.Y.)).

- ***In re Libor-Based Financial Instruments Antitrust Litigation*:** Berger Montague represents exchange-based investors in this sprawling litigation alleging a conspiracy among many of the world's largest banks to manipulate the key LIBOR benchmark rate. LIBOR plays an important role in valuing trillions of dollars of financial instruments worldwide. The case, filed in 2011, alleges that the banks colluded to misreport and manipulate LIBOR rates for their own benefit. The banks' conduct damaged, among others, exchange-based investors who transacted in Eurodollar futures and options on the CME between 2005 and 2010. Eurodollar futures and options are keyed to LIBOR and are the world's most heavily traded short-term interest rate contracts. Following years of hotly contested litigation on behalf of these exchange-based investors, Berger Montague and its co-counsel achieved settlements with seven banks totaling more than $180 million. In September 2019, the Court granted preliminary approval of a plan of distribution for these settlement funds. A final approval hearing on the settlement is scheduled in September 2020. (No. 1:11-md-02262-NRB (S.D.N.Y.)).

Consumer Protection

Berger Montague's Consumer Protection Group protects consumers when they are injured by false or misleading advertising, defective products, data privacy breaches, and various other unfair trade practices. Consumers too often suffer the brunt of corporate wrongdoing, particularly in the area of false or misleading advertising, defective products, and data or privacy breaches.

- ***In re Public Records Fair Credit Reporting Act Litigation***: Berger Montague is class counsel in three class action settlements involving how the big three credit bureaus, Experian, TransUnion, and Equifax, report public records, including tax liens and civil judgments. The settlements provide groundbreaking injunctive relief valued at over $100 billion and provide a streamlined process for consumers to receive uncapped monetary payments for claims related to inaccurate reporting of public records.

- ***In re: CertainTeed Fiber Cement Siding Litigation***: The firm, as one of two Co-Lead Counsel firms obtained a settlement of more than $103 million in this multidistrict products liability litigation concerning CertainTeed Corporation's fiber cement siding, on behalf of a nationwide class. (MDL No. 2270 (E.D. Pa.)).

- ***Countrywide Predatory Lending Enforcement Action:*** Berger Montague advised the Ohio Attorney General (and several other state attorneys general) regarding predatory lending in a landmark law enforcement proceeding against *Countrywide* (and its parent, Bank of America) culminating in 2008 in mortgage-related modifications and other relief for borrowers across the country valued at some $8.6 billion.

- ***In re Experian Data Breach Litigation***: Berger Montague served on the Executive Committee of this class action lawsuit that arose from a 2015 data breach at Experian in which computer hackers stole personal information including Social Security numbers and other sensitive personal information for approximately 15 million consumers. The settlement is valued at over $170 million. It consisted of $22 million for a non-reversionary cash Settlement Fund; $11.7 million for Experian's remedial measures implemented in connection with the lawsuit; and two years of free credit monitoring and identity theft insurance. The aggregate value of credit monitoring claimed by class members during the claims submission process exceeded $138 million, based on a $19.99 per month retail value of the service.

- ***In re Pet Foods Product Liability Litigation***: The firm served as one of plaintiffs' co-lead counsel in this multidistrict class action suit seeking to redress the harm resulting from the manufacture and sale of contaminated dog and cat food. The case settled for $24 million. Many terms of the settlement are unique and highly beneficial to the class, including allowing class members to recover up to 100% of their economic damages without any limitation on the types of economic damages they may recover. (1:07-cv-02867 (D.N.J.), MDL Docket No. 1850 (D.N.J.)).

- ***In re TJX Companies Retail Security Breach Litigation***: The firm served as co-lead counsel in this multidistrict litigation brought on behalf of individuals whose personal and financial data was compromised in the then-largest theft of personal data in history. The breach involved more than 45 million credit and debit card numbers and 450,000 customers' driver's license numbers. The case was settled for benefits valued at over $200 million. Class members whose driver's license numbers were at risk were entitled to 3 years of credit monitoring and identity theft insurance (a value of $390 per person based

on the retail cost for this service), reimbursement of actual identity theft losses, and reimbursement of driver's license replacement costs. Class members whose credit and debit card numbers were at risk were entitled to cash of $15-$30 or store vouchers of $30-$60. (No. 1:07-cv-10162-WGY, (D. Mass.)).

- ***In re: Heartland Payment Systems, Inc. Customer Data Security Breach Litigation:*** The firm served on the Executive Committee of this multidistrict litigation and obtained a settlement of cash and injunctive relief for a class of 130 million credit card holders whose credit card information was stolen by computer hackers. The breach was the largest known theft of credit card information in history. (No. 4:09-MD-2046 (S.D. Tex. 2009)).

- ***In re: Countrywide Financial Corp. Customer Data Security Breach Litigation***: The firm served on the Executive Committee of this multidistrict litigation and obtained a settlement for a class of 17 million individuals whose personal information was at risk when a rogue employee sold their information to unauthorized third parties. Settlement benefits included: (i) reimbursement of several categories of out-of-pocket costs; (ii) credit monitoring and identity theft insurance for 2 years for consumers who did not accept Countrywide's prior offer of credit monitoring; and (iii) injunctive relief. The settlement was approved by the court in 2010. (3:08-md-01998-TBR (W.D. Ky. 2008)).

- ***In re Educational Testing Service Praxis Principles of Learning and Teaching: Grades 7-12 Litigation*****:** The firm served on the plaintiffs' steering committee and obtained an $11.1 million settlement in 2006 on behalf of persons who were incorrectly scored on a teacher's licensing exam. (MDL No. 1643 (E.D. La.)).

- ***Salvucci v. Volkswagen of America, Inc. d/b/a Audi of America, Inc*.:** The firm served as co-lead counsel in litigation brought on behalf of a nationwide class alleging that defendants failed to disclose that its vehicles contained defectively designed timing belt tensioners and associated parts and that defendants misrepresented the appropriate service interval for replacement of the timing belt tensioner system. After extensive discovery, a settlement was reached. (Docket No. ATL-1461-03 (N.J. Sup. Ct. 2007)).

Corporate Governance and Shareholder Rights

Berger Montague protects the interests of individual and institutional investors in shareholder derivative actions in state and federal courts across the United States. Our attorneys help individual and institutional investors reform poor corporate governance, as well as represent them in litigation against directors of a company for violating their fiduciary duty or provide guidance on shareholder rights.

- ***Emil Rossdeutscher and Dennis Kelly v. Viacom:*** The firm, as lead counsel, obtained a settlement resulting in a fund of $14.25 million for the class. (C.A. No. 98C-03-091 (JEB) (Del. Super. Ct.)).

- ***Fox v. Riverview Realty Partners, f/k/a Prime Group Realty Trust, et al.:*** The firm, as lead counsel, obtained a settlement resulting in a fund of $8.25 million for the class.

Employee Benefits & ERISA

Berger Montague represents employees who have claims under the federal Employee Retirement Income Security Act. We litigate cases on behalf of employees whose 401(k) and pension investments have suffered losses as a result of the breach of fiduciary duties by plan administrators and the companies they represent. Berger Montague has recovered hundreds of millions of dollars in lost retirement benefits for American workers and retirees, and also gained favorable changes to their retirement plans.

- ***Diebold v. Northern Trust Investments, N.A.*:** As co-lead counsel in this ERISA breach of fiduciary duty case, the firm secured a $36 million settlement on behalf of participants in retirement plans who participated in Northern Trust's securities lending program. Plaintiffs alleged that defendants breached their ERISA fiduciary duties by failing to manage properly two collateral pools that held cash collateral received from the securities lending program. The settlement represented a recovery of more than 25% of alleged class member losses. (No. 1:09-cv-01934 (N.D. Ill.)).

- ***Glass Dimensions, Inc. v. State Street Bank & Trust Co.***: The firm served as co-lead counsel in this ERISA case that alleged that defendants breached their fiduciary duties to the retirement plans it managed by taking unreasonable compensation for managing the securities lending program in which the plans participated. After the court certified a class of the plans that participated in the securities lending program at issue, the case settled for $10 million on behalf of 1,500 retirement plans that invested in defendants' collective investment funds. (No. 1:10-cv-10588-DPW (D. Mass)).

- ***In re Eastman Kodak ERISA Litigation*:** The firm served as class counsel in this ERISA breach of fiduciary duty class action which alleged that defendants breached their fiduciary duties to Kodak retirement plan participants by allowing plan investments in Kodak common stock. The case settled for $9.7 million. (Master File No. 6:12-cv-06051-DGL (W.D.N.Y.)).

- ***Lequita Dennard v. Transamerica Corp. et al*.:** The firm served as counsel to plan participants who alleged that they suffered losses when plan fiduciaries failed to act solely in participants' interests, as ERISA requires, when they selected, removed and monitored plan investment options. The case settled for structural changes to the plan and $3.8 million monetary payment to the class. (Civil Action No. 1:15-cv-00030-EJM (N.D. Iowa)).

Employment & Unpaid Wages

The Berger Montague Employment & Unpaid Wages Department works tirelessly to safeguard the rights of employees and devotes all of their energies to helping the firm's clients achieve their goals. Our attorneys' understanding of federal and state wage and hour laws, federal and state civil rights and discrimination laws, ERISA, the WARN Act, laws protecting whistleblowers, such

as federal and state False Claims Acts, and other employment laws, allows us to develop creative strategies to vindicate our clients' rights and help them secure the compensation to which they are entitled.

Berger Montague is at the forefront of class action litigation, seeking remedies for employees under the Fair Labor Standards Act, state wage and hour law, breach of contract, unjust enrichment, and other state common law causes of action.

Berger Montague's Employment & Unpaid Wages Group, which is chaired by Managing Shareholder Shanon Carson, is repeatedly recognized for outstanding success in effectively representing its clients. In 2015, *The National Law Journal* selected Berger Montague as the top plaintiffs' law firm in the Employment Law category at the Elite Trial Lawyers awards ceremony. Portfolio Media, which publishes *Law360*, also recognized Berger Montague as one of the eight Top Employment Plaintiffs' Firms in 2009.

Representative cases include the following:

- ***Fenley v. Wood Group Mustang, Inc*:** The firm served as lead counsel and obtained a settlement of $6.25 million on behalf of a class of oil and gas inspectors who allegedly did not receive overtime compensation for hours worked in excess of 40 per week. (Civil Action No. 2:15-cv-326 (S.D. Ohio)).

- ***Sanders v. The CJS Solutions Group, LLC*:** The firm served as co-lead counsel and obtained a settlement of $3.24 million on behalf of a class of IT healthcare consultants who allegedly did not receive overtime premiums for hours worked in excess of 40 per week. (Civil Action No. 17-3809 (S.D.N.Y.)).

- ***Gundrum v.* Cleveland Integrity Services, Inc.:** The firm served as lead counsel and obtained a settlement of $4.5 million on behalf of a class of oil and gas inspectors who allegedly did not receive overtime compensation for hours worked in excess of 40 per week. (Civil Action No. 4:17-cv-55 (N.D. Okl.)).

- ***Fenley v.* Applied Consultants, Inc.:** The firm served as lead counsel and obtained a settlement of $9.25 million on behalf of a class of oil and gas inspectors who allegedly did not receive overtime compensation for hours worked in excess of 40 per week. (Civil Action No. 2:15-cv-259 (W.D. Pa.)).

- ***Acevedo v. Brightview Landscapes, LLC*:** The firm served as co-lead counsel and obtained a settlement of $6.95 million on behalf of a class of landscaping crew members who allegedly did not receive proper overtime premiums for hours worked in excess of 40 per week. (Civil Action No. 3:13-cv-02529 (M.D. Pa.)).

- ***Jantz v. Social Security Administration:*** The firm served as co-lead counsel and obtained a settlement on behalf of employees with targeted disabilities ("TDEs") alleged

that SSA discriminated against TDEs by denying them promotional and other career advancement opportunities. The settlement was reached after more than ten years of litigation, and the Class withstood challenges to class certification on four separate occasions. The settlement includes a monetary fund of $9.98 million and an unprecedented package of extensive programmatic changes valued at approximately $20 million. (EEOC No. 531-2006-00276X (2015)).

- ***Ciamillo v. Baker Hughes, Incorporated:*** The firm served as lead counsel and obtained a settlement of $5 million on behalf of a class of oil and gas workers who allegedly did not receive any overtime compensation for working hours in excess of 40 per week. (Civil Action No. 14-cv-81 (D. Alaska)).

- ***Salcido v. Cargill Meat Solutions Corp.:*** The firm served as co-lead counsel and obtained a settlement of $7.5 million on behalf of a class of thousands of employees of Cargill Meat Solutions Corp. alleging that they were forced to work off-the-clock and during their breaks. This is one of the largest settlements of this type of case involving a single plant in U.S. history. (Civil Action Nos. 1:07-cv-01347-LJO-GSA and 1:08-cv-00605-LJO-GSA (E.D. Cal.)).

- ***Chabrier v. Wilmington Finance, Inc.:*** The firm served as co-lead counsel and obtained a settlement of $2,925,000 on behalf of loan officers who worked in four offices to resolve claims for unpaid overtime wages. A significant opinion issued in the case is *Chabrier v. Wilmington Finance, Inc.*, 2008 WL 938872 (E.D. Pa. April 04, 2008) (denying the defendant's motion to decertify the class). (No. 06-4176 (E.D. Pa.)).

- ***Bonnette v. Rochester Gas & Electric Co.:*** The firm served as co-lead counsel and obtained a settlement of $2 million on behalf of a class of African American employees of Rochester Gas & Electric Co. to resolve charges of racial discrimination in hiring, job assignments, compensation, promotions, discipline, terminations, retaliation, and a hostile work environment. (No. 07-6635 (W.D.N.Y.)).

Environment & Public Health

Berger Montague lawyers are trailblazers in the fields of environmental class action litigation and mass torts. Our attorneys have earned their reputation in the fields of environmental litigation and mass torts by successfully prosecuting some of the largest, most well-known cases of our time. Our Environment & Public Health Group also prosecutes significant claims for personal injury, commercial losses, property damage, and environmental response costs. In 2016, Berger Montague was named an Elite Trial Lawyer Finalist in special litigation (environmental) by *The National Law Journal*.

- ***Cook v. Rockwell International Corporation:*** In February 2006, the firm won a $554 million jury verdict on behalf of thousands of property owners whose homes were exposed to plutonium from the former Rocky Flats nuclear weapons site northwest of Denver, Colorado. Judgment in the case was entered by the court in June 2008 which, with

interest, totaled $926 million. Recognizing this tremendous achievement, the Public Justice Foundation bestowed its prestigious Trial Lawyer of the Year Award for 2009 on Merrill G. Davidoff, David F. Sorensen, and the entire trial team for their "long and hard-fought" victory against "formidable corporate and government defendants." (No. 90-cv-00181-JLK (D. Colo.)). The jury verdict in that case was vacated on appeal in 2010, but on a second trip to the Tenth Circuit, Plaintiffs secured a victory in 2015, with the case then being sent back to the district court. A $375 million settlement was reached in May 2016, and final approval by the district court was obtained in April 2017.

- ***In re Exxon Valdez Oil Spill Litigation*:** On September 16, 1994, a jury trial of several months duration resulted in a record punitive damages award of $5 billion against the Exxon defendants as a consequence of one of the largest oil spills in U.S. history. The award was reduced to $507.5 million pursuant to a Supreme Court decision. David Berger was co-chair of the plaintiffs' discovery committee (appointed by both the federal and state courts). Harold Berger served as a member of the organizing case management committee. H. Laddie Montague was specifically appointed by the federal court as one of the four designated trial counsel. Both Mr. Montague and Peter Kahana shared (with the entire trial team) the 1995 "Trial Lawyer of the Year Award" given by the Trial Lawyers for Public Justice. (No. A89-0095-CVCHRH (D. Alaska)).

- ***Drayton v. Pilgrim's Pride Corp.:*** The firm served as counsel in a consolidation of wrongful death and other catastrophic injury cases brought against two manufacturers of turkey products, arising out of a 2002 outbreak of Listeria Monocytogenes in the Northeastern United States, which resulted in the recall of over 32 million pounds of turkey – the second largest meat recall in U.S. history at that time. A significant opinion issued in the case is *Drayton v. Pilgrim's Pride Corp.*, 472 F. Supp. 2d 638 (E.D. Pa. 2006) (denying the defendants' motions for summary judgment and applying the alternative liability doctrine). All of the cases settled on confidential terms in 2006. (No. 03-2334 (E.D. Pa.)).

- ***In re Three Mile Island Litigation:*** As lead/liaison counsel, the firm successfully litigated the case and reached a settlement in 1981 of $25 million in favor of individuals, corporations and other entities suffering property damage as a result of the nuclear incident involved. (C.A. No. 79-0432 (M.D. Pa.)).

Insurance Fraud

When insurance companies and affiliated financial services entities engage in fraudulent, deceptive or unfair practices, Berger Montague helps injured parties recover their losses. We focus on fraudulent, deceptive and unfair business practices across all lines of insurance and financial products and services sold by insurers and their affiliates, which include annuities, securities and other investment vehicles.

- ***Spencer v. Hartford Financial Services Group, Inc.:*** The firm, together with co-counsel, prosecuted this national class action against The Hartford Financial Services Group, Inc. and its affiliates in the United States District Court for the District of Connecticut (*Spencer*

v. Hartford Financial Services Group, Inc., Case No. 05-cv-1681) on behalf of approximately 22,000 claimants, each of whom entered into structured settlements with Hartford property and casualty insurers to settle personal injury and workers' compensation claims. To fund these structured settlements, the Hartford property and casualty insurers purchased annuities from their affiliate, Hartford Life. By purchasing the annuity from Hartford Life, The Hartford companies allegedly were able to retain up to 15% of the structured amount of the settlement in the form of undisclosed costs, commissions and profit - all of which was concealed from the settling claimants. On March 10, 2009, the U.S. District Court certified for trial claims on behalf of two national subclasses for civil RICO and fraud (256 F.R.D. 284 (D. Conn. 2009)). On October 14, 2009, the Second Circuit Court of Appeals denied The Hartford's petition for interlocutory appeal under Federal Rule of Civil Procedure 23(f). On September 21, 2010, the U.S. District Court entered judgment granting final approval of a $72.5 million cash settlement.

- ***Nationwide Mutual Insurance Company v. O'Dell:*** The firm, together with co-counsel, prosecuted this class action against Nationwide Mutual Insurance Company in West Virginia Circuit Court, Roane County (*Nationwide Mutual Insurance Company v. O'Dell*, Case No. 00-C-37), on behalf of current and former West Virginia automobile insurance policyholders, which arose out of Nationwide's failure, dating back to 1993, to offer policyholders the ability to purchase statutorily-required optional levels of underinsured ("UIM") and uninsured ("UM") motorist coverage in accordance with West Virginia Code 33-6-31. The court certified a trial class seeking monetary damages, alleging that the failure to offer these optional levels of coverage, and the failure to provide increased first party benefits to personal injury claimants, breached Nationwide's insurance policies and its duty of good faith and fair dealing, and violated the West Virginia Unfair Trade Practices Act. On June 25, 2009, the court issued final approval of a settlement that provided a minimum estimated value of $75 million to Nationwide auto policyholders and their passengers who were injured in an accident or who suffered property damage.

Predatory Lending and Borrowers' Rights

Berger Montague's attorneys fight vigorously to protect the rights of borrowers when they are injured by the practices of banks and other financial institutions that lend money or service borrowers' loans. Berger Montague has successfully obtained multi-million-dollar class action settlements for nationwide classes of borrowers against banks and financial institutions and works tirelessly to protect the rights of borrowers suffering from these and other deceptive and unfair lending practices.

- ***Coonan v. Citibank, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against Citibank and its affiliates in the United States District Court for the Northern District of New York concerning alleged kickbacks Citibank received in connection with its force-placed insurance programs. The firm obtained a settlement of $122 million on behalf of a class of hundreds of thousands of borrowers.

- ***Arnett v. Bank of America, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against Bank of America and its affiliates in the United States District Court for the District of Oregon concerning alleged kickbacks received in connection with its force-placed flood insurance program. The firm obtained a settlement of $31 million on behalf of a class of hundreds of thousands of borrowers.

- ***Clements v. JPMorgan Chase Bank, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against JPMorgan Chase and its affiliates in the United States District Court for the Northern District of California concerning alleged kickbacks received in connection with its force-placed flood insurance program. The firm obtained a settlement of $22,125,000 on behalf of a class of thousands of borrowers.

- ***Holmes v. Bank of America, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against Bank of America and its affiliates in the United States District Court for the Western District of North Carolina concerning alleged kickbacks received in connection with its force-placed wind insurance program. The firm obtained a settlement of $5.05 million on behalf of a class of thousands of borrowers.

Securities & Investor Protection

In the area of securities litigation, the firm has represented public institutional investors – such as the retirement funds for the States of Pennsylvania, Connecticut, New Hampshire, New Jersey, Louisiana and Ohio, as well as the City of Philadelphia and numerous individual investors and private institutional investors. The firm was co-lead counsel in the *Melridge Securities Litigation* in the Federal District Court in Oregon, in which jury verdicts of $88.2 million and a RICO judgment of $239 million were obtained. Berger Montague has served as lead or co-lead counsel in numerous other major securities class action cases where substantial settlements were achieved on behalf of investors.

- ***In re Merrill Lynch Securities Litigation:*** Berger Montague, as co-lead counsel, obtained a recovery of $475 million for the benefit of the class in one of the largest recoveries among the recent financial crisis cases. (No. 07-cv-09633 (S.D.N.Y.)).

- ***In re: Oppenheimer Rochester Funds Group Securities Litigation:*** The firm, as co-lead counsel, obtained a $89.5 million settlement on behalf of investors in six tax-exempt bond mutual funds managed by OppenheimerFunds, Inc. (No. 09-md-02063-JLK (D. Col.)).

- ***In re KLA Tencor Securities Litigation:*** The firm, as a member of Plaintiffs' Counsel's Executive Committee, obtained a cash settlement of $65 million in an action on behalf of investors against KLA-Tencor and certain of its officers and directors. (No. 06-cv-04065 (N.D. Cal.)).

- ***In re NetBank, Inc. Securities Litigation:*** The firm served as lead counsel in this certified class action on behalf of the former common shareholders of NetBank, Inc. The $12.5

million settlement, which occurred after class certification proceedings and substantial discovery, is particularly noteworthy because it is one of the few successful securities fraud class actions litigated against a subprime lender and bank in the wake of the financial crisis. (No. 07-cv-2298-TCB (N.D. Ga.)).

- ***The City Of Hialeah Employees' Retirement System v. Toll Brothers, Inc.:*** The firm, as co-lead counsel, obtained a class settlement of $25 million against Home Builder Toll Brothers, Inc. (No. 07-cv-1513 (E.D. Pa.)).

- ***In re Alcatel Alsthom Securities Litigation:*** The firm, as co-lead counsel, obtained a class settlement for investors of $75 million cash. (MDL Docket No. 1263 (PNB) (E.D. Tex.)).

- ***Qwest Securities Action:*** The firm represented New Jersey in an opt-out case against Qwest and certain officers, which was settled for $45 million. (C.A. No. L-3838-02 (Superior Court New Jersey, Law Division)).

Whistleblower, *Qui Tam*, and False Claims Act

Berger Montague has represented whistleblowers in matters involving healthcare fraud, defense contracting fraud, IRS fraud, securities fraud, and commodities fraud, helping to return more than $3 billion to federal and state governments. In return, whistleblower clients retaining Berger Montague to represent them in state and federal courts have received more than $500 million in rewards. Berger Montague's time-tested approach in whistleblower/*qui tam* representation involves cultivating close, productive attorney-client relationships with the maximum degree of confidentiality for our clients.

Judicial Praise for Berger Montague Attorneys

Berger Montague's record of successful prosecution of class actions and other complex litigation has been recognized and commended by judges and arbitrators across the country. Some remarks on the skill, efficiency, and expertise of the firm's attorneys are excerpted below.

Antitrust Cases

From **Judge Lorna G. Schofield**, of the U.S. District Court for the Southern District of New York:

> "I'm not sure I've ever seen a case without a single objection or opt-out, so congratulations on that."

Transcript of the November 19, 2020 Hearing in ***Contant, et al. v. Bank of America Corp., et al.***, No. 1:17-cv-03139 (S.D.N.Y.).

From **Judge William E. Smith,** of the U.S. District Court for the District of Rhode Island:

> "The degree to which you all litigated the case is – you know, I can't imagine attorneys litigating a case more rigorously than you all did in this case. It seems like every conceivable, legitimate, substantive dispute that could have been fought over was fought over to the max. So you, both sides, I think litigated the case as vigorously as any group of attorneys could. The level of representation of all parties in terms of the sophistication of counsel was, in my view, of the highest levels. I can't imagine a case in which there was really a higher quality of representation across the board than this one."

Transcript of the August 27, 2020 Hearing in ***In re Loestrin 24 Fe Antitrust Litigation***, No. 13-md-02472 (D.R.I.).

From **Judge Margo K. Brodie,** of the U.S. District Court for the Eastern District of New York:

> "Class counsel has without question done a tremendous job in litigating this case. They represent some of the best plaintiff-side antitrust groups in the country, and the size and skill of the defense they litigated against cannot be overstated. They have also demonstrated the utmost professionalism despite the demands of the extreme perseverance that this case has required…"

In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation, No. 1:05-md-01720 (E.D.N.Y. 2019) (Mem. & Order).

From **Judge Brian M. Cogan**, of the U.S. District Court of the Eastern District of New York:

> "This is a substantial recovery that has the deterrent effect that class actions are supposed to have, and I think it was done because we had really good Plaintiffs' lawyers in this case who were running it."

Transcript of the June 24, 2019 Fairness Hearing in ***In re Dental Supplies Antitrust Litigation***, No. 16-cv-696 (E.D.N.Y.).

From **Judge Michael M. Baylson**, of the U.S. District Court of the Eastern District of Pennsylvania:

> "[C]ounsel…for direct action plaintiffs have done an outstanding job here with representing the class, and I thought your briefing was always very on point. I thought the presentation of the very contentious issues on the class action motion was very well done, it was very well briefed, it was well argued."

Transcript of the June 28, 2018 Hearing in ***In re Domestic Drywall Antitrust Litigation***, No. MD-13-2437 at 11:6-11.

From **Judge Madeline Cox Arleo,** of the U.S. District Court for the District of New Jersey praising the efforts of all counsel:

> "I just want to thank you for an outstanding presentation. I don't say that lightly . . . it's not lost on me at all when lawyers come very, very prepared. And really, your clients should be very proud to have such fine lawyering. I don't see lawyering like this every day in the federal courts, and I am very grateful. And I appreciate the time and the effort you put in, not only to the merits, but the respect you've shown for each other, the respect you've shown for the Court, the staff, and the time constraints. And as I tell my law clerks all the time, good lawyers don't fight, good lawyers advocate. And I really appreciate that more than I can express."

Transcript of the September 9 to 11, 2015 Daubert Hearing in ***Castro v. Sanofi Pasteur***, No. 11-cv-07178 (D.N.J.) at 658:14-659:4.

From **Judge William H. Pauley, III**, of the U.S. District Court of the Southern District of New York:

> "Class Counsel did their work on their own with enormous attention to detail and unflagging devotion to the cause. Many of the issues in this litigation . . . were unique and issues of first impression."
>
> * * *
>
> "Class Counsel provided extraordinarily high-quality representation. This case raised a number of unique and complex legal issues …. The law firms of Berger Montague and Coughlin Stoia were indefatigable. They represented the Class with a high degree of professionalism, and vigorously litigated every issue against some of the ablest lawyers in the antitrust defense bar."

In re Currency Conversion Fee Antitrust Litigation, 263 F.R.D. 110, 129 (2009).

From **Judge Faith S. Hochberg,** of the United States District court for the District of New Jersey:

> "[W]e sitting here don't always get to see such fine lawyering, and it's really wonderful for me both to have tough issues and smart lawyers … I want to congratulate all of you for the really hard work you put into this, the way you presented the issues, … On behalf of the entire federal judiciary I want to thank you for the kind of lawyering we wish everybody would do."

In re Remeron Antitrust Litig., Civ. No. 02-2007 (Nov. 2, 2005).

From U.S. District **Judge Jan DuBois**, of the U.S. District Court of the Eastern District of Pennsylvania:

> "[T]he size of the settlements in absolute terms and expressed as a percentage of total damages evidence a high level of skill by petitioners … The Court has repeatedly stated that the lawyering in the case at every stage was superb, and does so again."

In re Linerboard Antitrust Litig., 2004 WL 1221350, at *5-*6 (E.D. Pa. 2004).

From **Judge Nancy G. Edmunds**, of the U.S. District Court of the Eastern District of Michigan:

> "[T]his represents an excellent settlement for the Class and reflects the outstanding effort on the part of highly experienced, skilled, and hard working Class Counsel….[T]heir efforts were not only successful, but were highly organized and efficient in addressing numerous complex issues raised in this litigation[.]"

In re Cardizem CD Antitrust Litig., MDL No. 1278 (E.D. Mich., Nov. 26, 2002).

From **Judge Charles P. Kocoras,** of the U.S. District Court for the Northern District of Illinois:

> "The stakes were high here, with the result that most matters of consequence were contested. There were numerous trips to the courthouse, and the path to the trial court and the Court of Appeals frequently traveled. The efforts of counsel for the class has [sic] produced a substantial recovery, and it is represented that the cash settlement alone is the second largest in the history of class action litigation. . . .There is no question that the results achieved by class counsel were extraordinary [.]"

Regarding the work of Berger Montague in achieving more than $700 million in settlements with some of the defendants in ***In Re Brand Name Prescription Drugs Antitrust Litigation***, 2000 U.S. Dist. LEXIS 1734, at *3-*6 (N.D. Ill. Feb. 9, 2000).

From **Judge Peter J. Messitte,** of the U.S. District Court for the District of Maryland:

"The experience and ability of the attorneys I have mentioned earlier, in my view in reviewing the documents, which I have no reason to doubt, the plaintiffs' counsel are at the top of the profession in this regard and certainly have used their expertise to craft an extremely favorable settlement for their clients, and to that extent they deserve to be rewarded."

Settlement Approval Hearing, Oct. 28, 1994, in ***Spawd, Inc. and General Generics v. Bolar Pharmaceutical Co., Inc.***, CA No. PJM-92-3624 (D. Md.).

From **Judge Donald W. Van Artsdalen,** of the U.S. District Court for the Eastern District of Pennsylvania:

> "As to the quality of the work performed, although that would normally be reflected in the not immodest hourly rates of all attorneys, for which one would expect to obtain excellent quality work at all times, the results of the settlements speak for themselves. Despite the extreme uncertainties of trial, plaintiffs' counsel were able to negotiate a cash settlement of a not insubstantial sum, and in addition, by way of equitable relief, substantial concessions by the defendants which, subject to various condition, will afford the right, at least, to lessee-dealers to obtain gasoline supply product from major oil companies and suppliers other than from their respective lessors. The additional benefits obtained for the classes by way of equitable relief would, in and of itself, justify some upward adjustment of the lodestar figure."

Bogosian v. Gulf Oil Corp., 621 F. Supp. 27, 31 (E.D. Pa. 1985).

From **Judge Krupansky**, who had been elevated to the Sixth Circuit Court of Appeals:

> "Finally, the court unhesitatingly concludes that the quality of the representation rendered by counsel was uniformly high. The attorneys involved in this litigation are extremely experienced and skilled in their prosecution of antitrust litigation and other complex actions. Their services have been rendered in an efficient and expeditious manner, but have nevertheless been productive of highly favorable result."

In re Art Materials Antitrust Litigation, 1984 CCH Trade Cases ¶65,815 (N.D. Ohio 1983).

From **Judge Joseph Blumenfeld,** of the U.S. District Court for the District of Connecticut:

> "The work of the Berger firm showed a high degree of efficiency and imagination, particularly in the maintenance and management of the national class actions."

In re Master Key Antitrust Litigation, 1977 U.S. Dist. LEXIS 12948, at *35 (Nov. 4, 1977).

Securities & Investor Protection Cases

From **Judge Brantley Starr** of the U.S. District Court for the Northern District of Texas, Dallas Division:

> "I think y'all have been a model on how to handle a case like this. So I appreciate the diligence y'all have put in separating the fee negotiations until after the main event is resolved…Everything I see here is in great shape, and really a testament to y'all's diligence and professionalism. So hats off to y'all…So thanks again for your professionalism in handling this case and handling the stipulated settlement. Y'all are model citizens, and so I wish I could send everyone to y'all's school of litigation management."

Howell Family Trust DTD 1/27/2004 v. Hollis Greenlaw, et al., No. 3:18-cv-02864-X (N.D. Tex., March 25, 2021).

From **Judge Jed Rakoff** of the U.S. District Court for the Southern District of New York:

> Court stated that lead counsel had made "very full and well-crafted" and "excellent submissions"; that there was a "very fine job done by plaintiffs' counsel in this case"; and that this was "surely a very good result under all the facts and circumstances."

In re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation, Master File No. 07-cv-9633(JSR)(DFE) (S.D.N.Y., July 27, 2009).

From **Judge Michael M. Baylson** of the U.S. District Court for the Eastern District of Pennsylvania:

> "The Court is aware of and attests to the skill and efficiency of class counsel: they have been diligent in every respect, and their briefs and arguments before the Court were of the highest quality. The firm of Berger Montague took the lead in the Court proceedings; its attorneys were well prepared, articulate and persuasive."

In re CIGNA Corp. Sec. Litig., 2007 U.S. Dist. LEXIS 51089, at *17-*18 (E.D. Pa. July 13, 2007).

From **Judge Stewart Dalzell** of the U.S. District Court for the Eastern District of Pennsylvania:

> "The quality of lawyering on both sides, but I am going to stress now on the plaintiffs' side, simply has not been exceeded in any case, and we have had some marvelous counsel appear before us and make superb arguments, but they really don't come any better than Mrs. Savett… [A]nd the arguments we had on the motion to dismiss [Mrs. Savett argued the motion], both sides were fabulous, but plaintiffs' counsel were as good as they come."

In re U.S. Bioscience Secs. Litig., No. 92-0678 (E.D. Pa. April 4, 1994).

From **Judge Wayne Andersen** of the U.S. District Court for the Northern District of Illinois:

> "[Y]ou have acted the way lawyers at their best ought to act. And I have had a lot of cases…in 15 years now as a judge and I cannot recall a significant case where I felt people were better represented than they are here…I would say this has been the best representation that I have seen."

In re: Waste Management, Inc. Secs. Litig., No. 97-C 7709 (N.D. Ill. 1999).

From **Chancellor William Chandler, III** of the Delaware Chancery Court:

> "All I can tell you, from someone who has only been doing this for roughly 22 years, is that I have yet to see a more fiercely and intensely litigated case than this case. Never in 22 years have I seen counsel going at it, hammer and tong, like they have gone at it in this case. And I think that's a testimony – Mr. Valihura correctly says that's what they are supposed to do. I recognize that; that is their job, and they were doing it professionally."

Ginsburg v. Philadelphia Stock Exchange, Inc., No. 2202 (Del. Ch., Oct. 22, 2007).

From **Judge Stewart Dalzell** of the U.S. District Court for the Eastern District of Pennsylvania:

> "Thanks to the nimble class counsel, this sum, which once included securities worth $149.5 million is now all cash. Seizing on an opportunity Rite Aid presented, class counsel first renegotiated what had been stock consideration into Rite Aid Notes and then this year monetized those Notes. Thus, on February 11, 2003, Rite Aid redeemed those Notes from the class, which then received $145,754,922.00. The class also received $14,435,104 in interest on the Notes."
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> "Co-lead counsel ... here were extraordinarily deft and efficient in handling this most complex matter... they were at least eighteen months ahead of the United States Department of Justice in ferreting out the conduct that ultimately resulted in the write down of over $1.6 billion in previously reported Rite Aid earnings. In short, it would be hard to equal the skill class counsel demonstrated here."

In re Rite Aid Corp. Securities Litigation, 269 F. Supp. 2d 603, 605, n.1, 611 (E.D. Pa. 2003).

From **Judge Helen J. Frye**, United States District Judge for the U.S. District Court for the District of Oregon:

> "In order to bring about this result [partial settlements then totaling $54.25 million], Class Counsel were required to devote an unusual amount of time and effort over more than eight years of intense legal litigation which included a four-month long jury trial and full briefing and argument of an appeal before the Ninth Circuit Court of Appeals, and which produced one of the most voluminous case files in the history of this District."
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> * * *
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> "Throughout the course of their representation, the attorneys at Berger Montague and Stoll, Stoll, Berne, Lokting & Shlachter who have worked on this case have exhibited an unusual degree of skill and diligence, and have had to contend with opposing counsel who also displayed unusual skill and diligence."

In Re Melridge, Inc. Securities Litigation, No. CV 87-1426-FR (D. Ore. April 15, 1996).

From **Judge Marvin Katz** of the U.S. District Court for the Eastern District of Pennsylvania:

> "[T]he co-lead attorneys have extensive experience in large class actions, experience that has enabled this case to proceed efficiently and professionally even under short deadlines and the pressure of handling thousands of documents in a large multi-district action... These counsel have also acted vigorously in their clients' interests...."
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> * * *
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> "The management of the case was also of extremely high quality.... [C]lass counsel is of high caliber and has extensive experience in similar class action litigation.... The submissions were of consistently high quality, and class counsel has been notably diligent in preparing filings in a timely manner even when under tight deadlines."

Commenting on class counsel, where the firm served as both co-lead and liaison counsel in ***In re Ikon Office Solutions, Inc. Securities Litigation***, 194 F.R.D. 166, 177, 195 (E.D. Pa. 2000).

From **Judge William K. Thomas,** Senior District Judge for the United States District Court for the Northern District of Ohio:

> "In the proceedings it has presided over, this court has become directly familiar with the specialized, highly competent, and effective quality of the legal services performed by Merrill G. Davidoff, Esq. and Martin I. Twersky, Esq. of Berger Montague...."
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> * * *

> "Examination of the experience-studded biographies of the attorneys primarily involved in this litigation and review of their pioneering prosecution of many class actions in antitrust, securities, toxic tort matters and some defense representation in antitrust and other litigation, this court has no difficulty in approving and adopting the hourly rates fixed by Judge Aldrich."

Commenting in ***In re Revco Securities Litigation***, Case No. 1:89CV0593, Order (N.D. Oh. September 14, 1993).

Consumer Protection Cases

From **Judge Paul A. Engelmayer** of the U.S. District Court for the Southern District of New York:

> "I know the diligence of counsel and dedication of counsel to the class…Thank you, Ms. Drake. As always I appreciate the – your extraordinary dedication to your – to the class and the very obvious backwards and forwards familiarity you have with the case and level of preparation and articulateness today. It's a pleasure always to have you before me…Class Counsel [] generated this case on their own initiative and at their own risk. Counsel's enterprise and ingenuity merits significant compensation…Counsel here are justifiably proud of the important result that they achieved."

Sept. 22, 2020, Final Approval Hearing, ***Gambles v. Sterling Info., Inc.***, No. 15-cv-9746.

From **Judge Joel Schneider** of the U.S. District Court for the District of New Jersey:

> "I do want to compliment all counsel for how they litigated this case in a thoroughly professional manner. All parties were zealously represented in the highest ideals of the profession, legitimately and professionally, and not the usual acrimony we see in these cases…I commend the parties and their counsel for a very workmanlike professional effort."

Transcript of the September 10, 2020 Final Fairness Hearing in ***Somogyi, et al. v. Freedom Mortgage Corp.***

From **Judge Harold E. Kahn** of the Superior Court of California County of San Francisco:

> "You are extraordinarily impressive. And I thank you for being here, and for your candid, non-evasive response to every question I have. I was extremely skeptical at the outset of this morning. You have allayed all of my concerns and have persuaded me that this is an important issue, and that you have done a great service to the class. And for that reason, I am going to approve your settlement in all respects, including the motion for attorneys' fees. And I congratulate you on your excellent work."

Transcript of the November 7, 2017 Hearing in ***Loretta Nesbitt v. Postmates, Inc.***, No. CGC-15-547146

Civil/Human Rights Cases

From **Deputy Treasury Secretary Stuart E. Eizenstat**:

> "We must be frank. It was the American lawyers, through the lawsuits they brought in U.S. courts, who placed the long-forgotten wrongs by German companies during the Nazi era on the international agenda. It was their research and their work which highlighted these old injustices and forced us to confront them. Without question, we would not be here without them.... For this dedication and commitment to the victims, we should always be grateful to these lawyers."

In his remarks at the July 17, 2000, signing ceremony for the international agreements which established the German Foundation to act as a funding vehicle for the payment of claims to Holocaust survivors.

Insurance Litigation

From **Judge Janet C. Hall**, of the U.S. District Court of the District of Connecticut:

> Noting the "very significant risk in pursuing this action" given its uniqueness in that "there was no prior investigation to rely on in establishing the facts or a legal basis for the case….[and] no other prior or even now similar case involving parties like these plaintiffs and a party like these defendants." Further, "the quality of the representation provided to the plaintiffs ... in this case has been consistently excellent…. [T]he defendant[s] ... mounted throughout the course of the five years the case pended, an extremely vigorous defense…. [B]ut for counsel's outstanding work in this case and substantial effort over five years, no member of the class would have recovered a penny…. [I]t was an extremely complex and substantial class ... case ... [with an] outstanding result."

Regarding the work of Berger Montague attorneys Peter R. Kahana and Steven L. Bloch, among other co-class counsel, in ***Spencer, et al. v. The Hartford Financial Services Group, Inc., et al.,*** in the Order approving the $72.5 million final settlement of this action, dated September 21, 2010 (No. 3:05-cv-1681, D. Conn.).

Customer/Broker Arbitrations

From **Robert E. Conner**, Public Arbitrator with the National Association of Securities Dealers, Inc.:

> "[H]aving participated over the last 17 years in 400 arbitrations and trials in various settings, ... the professionalism and the detail and generally the civility of everyone involved has been not just a cause for commentary at the end of these proceedings but between ourselves [the arbitration panel] during the course of them, and ... the detail and the intellectual rigor that went into the documents was fully reflective of the effort that was made in general. I wanted to make that known to everyone and to express my particular respect and admiration."

About the efforts of Berger Montague shareholders Merrill G. Davidoff and Eric L. Cramer, who achieved a $1.1 million award for their client, in ***Steinman v. LMP Hedge Fund, et al.***, NASD Case No. 98-04152, at Closing Argument, June 13, 2000.

Employment & Unpaid Wages Cases

From **Judge Timothy R. Rice**, United States Magistrate Judge for the U.S. District Court for the Eastern District of Pennsylvania:

> Describing Berger Montague as "some of the finest legal representation in the nation," who are "ethical, talented, and motivated to help hard working men and women."

Regarding the work of Berger Montague attorney Camille F. Rodriguez in ***Gonzalez v. Veritas Consultant Group, LLC, d/b/a Moravia Health Network***, No. 2:17-cv-1319-TR (E.D. Pa. March 13, 2019).

From **Judge Malachy E. Mannion**, United States District Judge for the U.S. District Court for the Middle District of Pennsylvania:

> "At the final approval hearing, class counsel reiterated in detail the arguments set forth in the named plaintiffs' briefing. … The court lauded the parties for their extensive work in reaching a settlement the court deemed fair and reasonable.
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> * * *
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> "The court is confident that [class counsel] are highly skilled in FLSA collective and hybrid actions, as seen by their dealings with the court and the results achieved in both negotiating and handling the settlement to date."

Acevedo v. Brightview Landscapes, LLC, No. 3:13-cv-2529, 2017 WL 4354809 (M.D. Pa. Oct. 2, 2017).

From **Judge Joseph F. Bataillon**, United States District Judge for the U.S. District Court for the District of Nebraska:

> [P]laintiffs' counsel succeeded in vindicating important rights. … The court is familiar with "donning and doffing" cases and based on the court's experience, defendant meat packing companies' litigation conduct generally reflects "what can only be described as a deeply-entrenched resistance to changing their compensation practices to comply with the requirements of FLSA." (citation omitted). Plaintiffs' counsel perform a recognized public service in prosecuting these actions as a 'private Attorney General' to protect the rights of underrepresented workers.
>
> The plaintiffs have demonstrated that counsel's services have benefitted the class. … The fundamental policies of the FLSA were vindicated and the rights of the workers were protected.

Regarding the work of Berger Montague among other co-counsel in ***Morales v. Farmland Foods**, Inc.*, No. 8:08-cv-504, 2013 WL 1704722 (D. Neb. Apr. 18, 2013).

From **Judge Jonathan W. Feldman**, United States Magistrate Judge for the U.S. District Court for the Western District of New York:

> "The nature of the instant application obliges the Court to make this point clear: In my fifteen years on the bench, no case has been litigated with more skill, tenacity and legal professionalism than this case. The clients, corporate and individual, should be proud of the manner in which their legal interests were brought before and presented to the Court by their lawyers and law firms."
>
> and
>
> "…the Court would be remiss if it did not commend class counsel and all those who worked for firms representing the thousands of current and former employees of Kodak for the outstanding job they did in representing the interests of their clients. For the last several years, lead counsel responsibilities were shared by Shanon Carson …. Their legal work in an extraordinarily complex case was exemplary, their tireless commitment to seeking justice for their clients was unparalleled and their conduct as officers of the court was beyond reproach."

Employees Committed For Justice v. Eastman Kodak, (W.D.N.Y. 2010) ($21.4 million settlement).

Other Cases

From **Stephen M. Feiler, Ph.D.,** Director of Judicial Education, Supreme Court of Pennsylvania, Administrative Office of Pennsylvania Courts, Mechanicsburg, PA *on behalf of the Common Pleas Court Judges (trial judges) of Pennsylvania*:

> "On behalf of the Supreme Court of Pennsylvania and AOPC's Judicial Education Department, thank you for your extraordinary commitment to the *Dealing with Complexities in Civil Litigation* symposia. We appreciate the considerable time you spent preparing and delivering this important course across the state. It is no surprise to me that the judges rated this among the best programs they have attended in recent years."

About the efforts of Berger Montague attorneys Merrill G. Davidoff, Peter Nordberg and David F. Sorensen in planning and presenting a CLE Program to trial judges in the Commonwealth of Pennsylvania.

Attorneys

Shanon J. Carson – Managing Shareholder
Shanon J. Carson is a Managing Shareholder of the firm. He Co-Chairs the Employment & Unpaid Wages, Consumer Protection, Defective Products, and Defective Drugs and Medical Devices Departments and is a member of the Firm's Commercial Litigation, Employee Benefits & ERISA, Environment & Public Health, Insurance Fraud, Predatory Lending and Borrowers' Rights, and Technology, Privacy & Data Breach Departments.

Mr. Carson has achieved the highest peer-review rating, "AV," in Martindale-Hubbell, and has received honors and awards from numerous publications. In 2009, Mr. Carson was selected as one of 30 "Lawyers on the Fast Track" in Pennsylvania under the age of 40. In both 2015 and 2016, Mr. Carson was selected as one of the top 100 lawyers in Pennsylvania, as reported by Thomson Reuters. In 2018, Mr. Carson was named to the *Philadelphia Business Journal*'s "2018 Best of the Bar: Philadelphia's Top Lawyers."

Mr. Carson is often retained to represent plaintiffs in employment cases, wage and hour cases for minimum wage violations and unpaid overtime, ERISA cases, consumer cases, insurance cases, construction cases, automobile defect cases, defective drug and medical device cases, product liability cases, breach of contract cases, invasion of privacy cases, false advertising cases, excessive fee cases, and cases involving the violation of state and federal statutes. Mr. Carson represents plaintiffs in all types of litigation including class actions, collective actions, multiple plaintiff litigations, and single plaintiff litigation. Mr. Carson is regularly appointed by federal courts to serve as lead counsel and on executive committees in class actions and mass torts.

Mr. Carson is frequently asked to speak at continuing legal education seminars and other engagements and is active in nonprofit and professional organizations. Mr. Carson currently serves on the Board of Directors of the Philadelphia Trial Lawyers Association (PTLA) and as a Co-Chair of the PTLA Class Action/Mass Tort Committee. Mr. Carson is also a member of the

American Association for Justice, the American Bar Foundation, Litigation Counsel of America, the National Trial Lawyers - Top 100, and the Pennsylvania Association for Justice.

While attending the Dickinson School of Law of the Pennsylvania State University, Mr. Carson was senior editor of the Dickinson Law Review and clerked for a U.S. District Court Judge. Mr. Carson currently serves on the Board of Trustees of the Dickinson School of Law of the Pennsylvania State University.

Peter R. Kahana – Shareholder

Peter R. Kahana is a Shareholder in the Insurance and Antitrust practice groups. He concentrates his practice in complex civil and class action litigation involving relief for insurance policyholders and consumers of other types of products or services who have been victimized by fraudulent conduct and unfair business practices.

Significant class cases vindicating the rights of insurance policyholders or consumers in which Mr. Kahana was appointed as co-class counsel have included: settlement in 2012 for $90 million of breach of fiduciary duty and negligence claims (certified for trial in 2009) on behalf of a class of former policyholder-members of Anthem Insurance Companies, Inc. ("Anthem") alleging the class was paid insufficient cash compensation in connection with Anthem's conversion from a mutual insurance company to a publicly-owned stock insurance company (a process known as "demutualization") (*Ormond v. Anthem, Inc., et al.*, USDC, S.D. Ind., Case No. 1:05-cv-01908 (S.D. Ind. 2012)); settlement in 2010 for $72.5 million of a nationwide civil RICO and fraud class action (certified for trial in 2009) against The Hartford and its affiliates on behalf of a class of personal injury and workers compensation claimants for the Hartford's alleged deceptive business practices in settling these injury claims for Hartford insureds with the use of structured settlements (*Spencer, et al. v. The Hartford Financial Services Group, Inc., et al.*, 256 F.R.D. 284 (D. Conn. 2009)); settlement in 2009 for $75 million of breach of contract, Unfair Trade Practices Act and insurance bad faith tort claims on behalf of a class of West Virginia automobile policyholders (certified for trial in 2007) alleging that Nationwide Mutual Insurance Company failed to properly offer and provide them with state-required optional levels of uninsured and underinsured motorist coverage (*Nationwide Mutual Insurance Company v. O'Dell, et al.*, Circuit Court of Roane County, W. Va., Civ. Action No. 00-C-37); and, settlement in 2004 for $20 million on behalf of a class of cancer victims alleging that their insurer refused to pay for health insurance benefits for chemotherapy and radiation treatment (*Bergonzi v. CSO, USDC, D.S.D.*, Case No. C2-4096). For his efforts in regard to the Bergonzi matter, Mr. Kahana was named as the recipient of the American Association for Justice's Steven J. Sharp Public Service Award, which is presented annually to those attorneys whose cases tell the story of American civil justice and help educate state and national policymakers and the public about the importance of consumers' rights.

Mr. Kahana has also played a leading role in major antitrust and environmental litigation, including cases such as *In re Brand Name Prescription Drugs Antitrust Litigation* ($723 million settlement), *In re Ashland Oil Spill Litigation* ($30 million settlement), and *In re Exxon Valdez* ($287 million compensatory damage award and $507.5 million punitive damage award). In connection with his work as a member of the trial team that prosecuted *In re The Exxon Valdez*,

Mr. Kahana was selected in 1995 to share the Trial Lawyer of the Year Award by the Public Justice Foundation.

Lane L. Vines – Senior Counsel
Lane L. Vines's practice is concentrated in the areas of securities/investor fraud, consumer and *qui tam* litigation. For more than 17 years, Mr. Vines has prosecuted both class action and individual opt-out securities cases for state government entities, public pension funds, and other large investors. Mr. Vines also represents consumers in class actions involving unlawful and deceptive practices, as well as relators in *qui tam*, whistleblower and False Claims Act litigations. Mr. Vines is admitted to practice law in Pennsylvania, New Jersey and numerous federal courts.

Mr. Vines also has experience in the defense of securities and commercial cases. For example, he was one of the firm's principal attorneys defending a public company which obtained a pre-trial dismissal in full of a proposed securities fraud class action against a gold mining company based in South Africa. See *In re DRDGold Ltd. Securities Litigation*, 05-cv-5542 (VM), 2007 U.S. Dist. LEXIS 7180 (S.D.N.Y. Jan. 31, 2007).

During law school, Mr. Vines was a member of the Villanova Law Review and served as a Managing Editor of Outside Works. In that role, he selected outside academic articles for publication and oversaw the editorial process through publication.

Prior to law school, Mr. Vines worked as an auditor for a Big 4 public accounting firm and a property controller for a commercial real estate development firm, and served as the Legislative Assistant to the Minority Leader of the Philadelphia City Council.

Mr. Vines has achieved the highest peer rating, "AV Preeminent" in Martindale-Hubbell for legal abilities and ethical standards. Mr. Vines is admitted to practice law in Pennsylvania, New Jersey and several federal courts.

Associates

John G. Albanese – Associate
John Albanese is an Associate in the Minneapolis office. Mr. Albanese concentrates his practice on consumer protection with a focus on Fair Credit Reporting Act violations related to criminal background checks. Mr. Albanese has also prosecuted class actions related to illegal online lending, unfair debt collection, privacy breaches, and other consumer law issues. Mr. Albanese is regularly invited to speak on consumer law and litigation issues. Mr. Albanese has obtained favorable decisions for consumers in state and federal courts all over the country. He also frequently represents consumer advocacy groups as *amici curiae* at the appellate level.

Mr. Albanese is a graduate of Columbia Law School and Georgetown University. At Columbia, he was a managing editor of the Columbia Law Review and was elected to speak at graduation by

his classmates. Mr. Albanese clerked for Magistrate Judge Geraldine Brown in the Northern District of Illinois.

Y. Michael Twersky – Associate

Y. Michael Twersky concentrates his practice primarily on representing plaintiffs in complex litigation, including on insurance, antitrust, and environmental matters.

In the past, Mr. Twersky has worked on a wide variety of insurance matters including an insurance case in which a Federal District Court found on Summary Judgement that a large insurance company had breached its policy when it denied benefits under an accidental death insurance plan. Mr. Twersky has also worked on a number of antitrust class actions alleging that pharmaceutical manufacturers wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws, including: *In re Skelaxin (Metaxalone) Antitrust Litigation*, 1:12-md-02343 (E.D. Tenn.) ($73 million settlement in 2014), and *In re Solodyn Antitrust Litig.*, 14 MD 2503 (D. Mass.) (combined settlements in excess of $76 million in 2018). Mr. Twersky has also represented inmates in connection with allegations that various inmate calling services charged unreasonable rates and fees in violation of the Federal Communication Act. Mr. Twersky was also involved in a proposed class action in Federal Court brought on behalf of Alaska-enrolled Medicaid Healthcare Providers against the developers of the Alaska Medicaid Management Information System Company alleging that providers were harmed as a result of the negligent and faulty design and implementation of the MMIS system. *See South Peninsula Hospital et al v. Xerox State Healthcare, LLC*, 3:15-cv-00177 (D. Alaska).

Currently, Mr. Twersky is litigating several complex class actions related to insurance products, including proposed class actions related to COVID-19. Mr. Twersky is also involved in environmental litigation on behalf of various states to recover the costs of remediation for contamination to groundwater resources.

Mr. Twersky graduated from Temple University Beasley School of Law in 2011, where he was a member of the Rubin Public Interest Law Honors Society and a Class Senator. In addition, Mr. Twersky advised various clients in business matters as part of Temple University's Business Law Clinic.