

# **Declaration of Steven G. Sklaver**

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

PHT HOLDING I LLC, and ALICE  
CURTIS, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

RELIASTAR LIFE INSURANCE  
COMPANY,

Defendant.

Civ. No.: 18-cv-2863 DWF/TNL

**DECLARATION OF STEVEN G.  
SKLAVER IN SUPPORT OF  
PLAINTIFFS' UNOPPOSED  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

I, Steven G. Sklaver, declare as follows:

1. I submit this declaration in support of preliminary approval of the proposed Settlement in the class action case *PHT Holding I LLC, et al. v. ReliaStar Life Insurance Company*, Case No. 18-cv-2863, in the United States District Court for the District of Minnesota between the named plaintiffs and court-appointed Class Representatives (i) PHT Holding I LLC (“PHT”), and (ii) Alice Curtis, on behalf of themselves and all others similarly situated (together, “Class Plaintiffs” or “Plaintiffs”), for themselves and on behalf of the proposed settlement Class, and (iii) defendant ReliaStar Life Insurance Company (“RLIC” or “Defendant”) (collectively, the “Parties”).

2. I am a partner in the law firm of Susman Godfrey L.L.P., which is counsel for Plaintiffs and the Court-appointed Class Counsel (referred to herein as “Class Counsel”) in the above-captioned matter. I have personal, first-hand knowledge of the matters set forth herein and, if called to testify as a witness, could and would testify

competently thereto.

3. Susman Godfrey has significant experience with insurance litigation and class actions, including cost of insurance (“COI”) class actions and settlements thereof. Susman Godfrey has been appointed sole Class Counsel in numerous cases seeking recovery of COI overcharges against insurers, including cases involving Phoenix Life Insurance Company, AXA Equitable Life Insurance Company, Genworth Life Insurance & Annuity Company, Voya Retirement Insurance and Annuity Company, Lincoln Life & Annuity Company of New York, Security Life of Denver Insurance Company, John Hancock Life Insurance Company (U.S.A.), North American Company for Life and Health Insurance, and PHL Variable Insurance Company.<sup>1</sup> A copy of the firm’s profile in such cases, and the profiles of myself and my fellow Class Counsel, are attached hereto as **Exhibit 1**.

4. My firm’s results in such COI cases have been lauded by federal judges as “superb.” *Fleisher v. Phoenix Life Ins. Co.*, No. 11 Civ. 8405 (S.D.N.Y. Sep. 24, 2015), Dkt. 319 at 3:9–11, “the best settlement pound for pound for the class I’ve ever seen,” *id.*, and “quite extraordinary,” *37 Besen Parkway, LLC v. John Hancock Life Insurance Co.*,

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<sup>1</sup> The following is a non-exhaustive list of COI cases in which Susman Godfrey has been found to be “adequate” class counsel: *Fleisher v. Phoenix Life Ins. Co.*, 2013 WL 12224042, at \*12 (S.D.N.Y. July 12, 2013); *Vida Longevity Fund, LP v. Lincoln Life & Annuity Co. of N.Y.*, 2022 WL 986071, at \*5 (S.D.N.Y. Mar. 31, 2022); *In re AXA Equitable Life Ins. Co. COI Litig.*, 2020 WL 4694172, at \*16 (S.D.N.Y. Aug. 13, 2020); *Hanks v. Lincoln Life & Annuity Co. of N.Y.*, 330 F.R.D. 374, 387 (S.D.N.Y. 2019); *Advance Tr. & Life Escrow Servs., LTA v. Sec. Life of Denver Ins. Co.*, 2021 WL 62339, at \*9 (D. Colo. Jan. 6, 2021); *Advance Tr. & Life Escrow Servs., LTA v. N. Am. Co. for Life & Health Ins.*, 592 F. Supp. 3d 790, 809–10 (S.D. Iowa 2022); and *37 Besen Parkway, LLC v. John Hancock Life Ins. Co.*, 15 Civ. 9924 (S.D.N.Y. Nov. 1, 2018), Dkt. 139 ¶¶ 7–8.

15-cv-9924 (PGG), Dkt. 164 at 20:10 (S.D.N.Y. Mar. 18, 2019) (“*Hancock COI*”). I also closely follow other class actions involving life insurance, particularly COI class actions. I am thus intimately familiar with the terms of settlement in these types of cases, how to evaluate the relative strengths and weaknesses in such cases, and what a successful result looks like.

5. I was the principal negotiator of the proposed class action settlement with RLIC. I attach a true and correct copy of the Settlement Agreement as **Exhibit 2**. It is the opinion of Class Counsel that this settlement with RLIC is fair, adequate, and reasonable. Indeed, given the unique risks and issues present in this case, the result here is on par, or even better than, the results in *Fleisher* and *Hancock COI*. Plaintiffs similarly support this settlement and believe it to be fair, adequate, and reasonable.

6. The Settlement Agreement is the result of extended discussions between the Parties with a trial that was just months away. The Parties negotiated the Settlement Agreement after two separate mediation sessions, which were in addition to informal settlement discussions that took place over the course of more than three years.

7. The Parties’ first settlement discussions took place in March 2020, pursuant to an order from the Court requiring the Parties to “exchange at least one round of a demand from the plaintiff and a specific offer from the defendant” in advance of a settlement conference. Dkt. 72 at 2. Those discussions were unsuccessful. Two years later, settlement discussions resumed, again pursuant to a Court order. Dkt. 214. The Parties exchanged emails and conferred over the phone but were not able to reach agreement.

8. The first mediation took place on September 8, 2022, with mediator H. Jeffrey Peterson in Minneapolis, Minnesota. As part of this mediation, the Parties provided lengthy mediation statements, updated damages estimates, and supplemental statements detailing the opinions of the experts in the case. The Parties exchanged numerous settlement offers and counteroffers and engaged in a good faith negotiation, though were ultimately unsuccessful.

9. The second mediation took place on May 31, 2023 with former United States Magistrate Judge Sidney I. Schenkier of JAMS in Chicago, Illinois. The Parties again provided lengthy mediation statements, updated damages estimates, and Plaintiffs provided a supplemental mediation statement. After a lengthy mediation, the Parties reached an agreement. A long-form settlement agreement was negotiated and agreed to thereafter.

10. It would be an understatement to say that Class Counsel was well informed of all material facts. This case had long advanced past class certification and summary judgment; full expert reports had not only been completed but supplemented with updated damage figures as of May 31, 2022; and RLIC's 23(f) petition had been denied. Throughout this case, Class Counsel took steps to ensure that we had all the necessary information to advocate for a fair, adequate, and reasonable settlement that serves the best interests of the Class. The settlement negotiations were hard fought and non-collusive. It is my unequivocal opinion that the Settlement is fair, adequate, and reasonable, and reflects a tremendous result for the Class, particularly given the risks faced at trial.

11. This case was originally filed nearly five years ago on October 5, 2018. Fact

discovery lasted until September 3, 2021. Plaintiffs and their experts analyzed over 40,000 documents spanning more than 100,000 pages, which included extensive actuarial tables, policy-level data reflecting the historical credits and deductions to the account value of all Class Members' policies, and thousands of complex spreadsheets. Plaintiffs issued numerous requests for production, interrogatories, and requests for admissions, and engaged in myriad rounds of meet and confers with respect to discovery, including extended negotiations over search terms, custodians, and other issues.

12. Plaintiffs' investigation was so thorough that they uncovered that ReliaStar was also overcharging policyholders in a completely different way than was alleged in the original complaint: it was, and had been for almost three decades, assessing rider charges that were 15% higher than those set forth in the riders themselves. This discovery prompted numerous rounds of back-and-forth between Class Counsel and ReliaStar's counsel. ReliaStar itself was apparently unaware that it was assessing rider charges in excess of those set forth in the riders themselves, and there were virtually no documents explaining the genesis of the percentage multiplier that ReliaStar had been applying to the rider rates. On May 21, 2020, Plaintiffs moved for leave to amend their complaint to add an additional breach of contract claim regarding rider overcharges. Dkt. 105, 107. ReliaStar vigorously opposed that motion, arguing that amendment was futile because the claim was barred by the statutes of limitation in both Minnesota and Texas and would result in unduly burdensome discovery. Dkt. 111. Plaintiffs replied with a detailed motion showing that, under both Minnesota and Texas law, each imposition of an excessive charge is a distinct breach. The Court agreed with Plaintiffs and granted the motion to amend. Dkt. 131.

13. Plaintiffs also issued numerous subpoenas to relevant third parties, including RLIC's third-party administrator, actuarial consultants, and financial auditor. This third-party discovery was particularly complex, as Plaintiffs discovered that, unknown to policyholders, ReliaStar had farmed out policy administration for a broad swath of the policies to a third-party (Gibraltar Life Services, Ltd.). Gibraltar possessed many key documents, including policy-level data. Obtaining this discovery from Gibraltar required numerous rounds of letters and meets and confers—not just with Gibraltar, but also RLIC itself. All told, Plaintiffs obtained thousands of pages of valuable documents from these subpoenas, much of which had not already been produced by RLIC.

14. Plaintiffs took and defended seven fact depositions and one expert deposition, through which Plaintiffs obtained key admissions that they deployed to help defeat summary judgment.

15. Expert discovery was also a herculean task. Plaintiffs' experts had to analyze policy-level charge data for almost 40,000 policies, along with mortality studies, mortality tables, actuarial memoranda, regulatory filings, and annual assumption approval memoranda that detail the mortality expectations applicable to the Class Policies. Plaintiffs ultimately designated three experts and produced expert reports from: liability experts James Rouse and Linley Baker, and damages expert Robert Mills. Plaintiffs produced opening expert reports from Rouse and Mills on October 14, 2022. In response, RLIC designated actuarial expert Timothy Pfeifer. RLIC produced a rebuttal report from Pfeifer on November 10, 2022. In rebuttal, on December 16, 2022, Plaintiffs produced reports from Rouse, Baker, and Mills. Pfeifer was deposed. Collectively, including reports related

to class certification, the Parties produced 10 expert reports that totaled 658 pages, not including voluminous tables and appendices.

16. Throughout the long life of this case, Plaintiffs have prevailed in litigating critical motions. As described above, Plaintiffs first prevailed on a hotly-contested motion to amend. Then, in March 2022, after nearly 200 pages of briefing and a three-hour hearing, the Court granted Plaintiffs' motion for class certification and denied RLIC's motion for summary judgment in a 32-page order. Dkt. 211; *see* Dkt. 206. In that Order, the Court certified the following classes (together, the "Class"):

**COI Class**: All current and former owners of UL (including variable UL) policies insured by ReliaStar written on policy forms listed in Exhibit A who were assessed COI charges during the Class Period, excluding policies issued in Alaska, Arkansas, New Mexico, New York, Virginia, Washington, and Wyoming, policies listed in Exhibit B, and ReliaStar, its officers and directors, members of their immediate families, and their heirs, successors or assigns.

**Rider Class**: All current and former owners of universal life policies insured by ReliaStar written on policy forms 10830 and 10910, excluding policies issued in Alaska, Arkansas, New Mexico, New York, Virginia, Washington, and Wyoming, who were assessed Waiver Rider charges during the Class Period.

Dkt. 211 at 31–32. The Court also appointed Susman Godfrey as Class Counsel, finding that "Plaintiffs' attorneys have extensive experience in prosecuting class actions and COI cases and will vigorously represent the Plaintiffs here." *Id.* at 26 n.13.

17. On April 12, 2022, RLIC filed a 23(f) petition to the Eighth Circuit for review of the Court's class-certification decision. *ReliaStar Life Ins. Co. v. Advance Trust & Life Escrow Serv., et al.*, Case No. 22-08006 (8th Cir. April 12, 2022). Plaintiffs opposed the



petition on April 29, 2022. The Eighth Circuit denied the petition the following month.

18. After certifying the Class, the Court appointed JND Legal Administration LLC (“JND”) as notice administrator and approved the form and manner of notice consisting of direct mail to all members of the Class, using the contact information for registered owners in RLIC’s records. Dkt. 226 at 2–4. The Court also held that members of the Class “will be legally bound by all Court orders and judgments made in this class action and will not be able to maintain a separate lawsuit against RLIC for the same legal claims that are the subject of this lawsuit,” and gave members of the Class forty-five days after the notice date to submit opt-out notices. *Id.* at 4.

19. Pursuant to the Court’s order, JND mailed the approved short-form notice to members of the Class and established the notice website on June 24, 2022. Dkt. 229. The short- and long-form notices explain the procedure for opting out of the Class. The deadline to opt out was August 8, 2022. Just six members of the Class opted out. It is my opinion that JND adequately discharged its duties in its role as the Notice Administrator. After the opt-out period, all that was left was trial and, after that, appeal.

20. The certified Class consisted of 36,487 policies. Plaintiffs have several alternative damage models. Plaintiffs’ top-end COI damage model was \$62,416,112 through May 2022. That model assumed that ReliaStar was required to set COI rates exactly equal to its expectations of future mortality experience, and could not include any other factor, or profit margin, in the determination of COI rates, and is described in detail in the Expert Report of James Rouse. In connection with the May 31, 2023 mediation, I instructed Plaintiffs’ damages expert to use ReliaStar’s own data and assumptions to

project estimated COI overcharges through the end of May 2023. The total estimated COI overcharges through that date were \$68,684,478.

21. Plaintiffs' alternative COI damage model calculated COI overcharges of \$33,340,653 through May 2022. That model, referred to as the "HMI" damages model, was a mortality improvement model, which measured the extent to which ReliaStar's mortality expectations have improved, but did not remove all non-mortality factors or margins from the COI rates. *See* Dkt. 211 at 4–5 & n.3 (noting that Plaintiffs submitted "evidence that ReliaStar's EFME are "quantified, documented, and have improved over the last two decades," including because "people are living longer due to medical advancements, improvements in diet, reductions in smoking rates and other factors"). That model is also described in detail in the Expert Report of James Rouse.

22. Plaintiffs' Rider damage model was \$51,774 through May 2022.

23. There also remained the risk that the jury, even if it found breach, would not award any damages, or only minimal damages. This risk is very real and is precisely what happened to policyowners in a recent COI class action trial within the Eighth Circuit. *See Meek v. Kansas City Life Ins. Co.*, 19-CV-472 (W.D. Mo.). In *Meek*, although the class sought \$18 million, it recovered only \$5 million from the jury (i.e. less than one-third of the alleged overcharges). *Meek*, 19-CV-472, Dkt. 311 (W.D. Mo. May 25, 2023). A copy of the verdict form is attached hereto as **Exhibit 3**. That was then reduced further to less than \$1 million (i.e. less than 6%) post-trial. *Meek*, 19-CV-472, Dkts. 330 (W.D. Mo. June 20, 2023). A copy of the final judgment is attached hereto as **Exhibit 4**. RLIC's expert in this case, Mr. Timothy C. Pfeifer, also served as an expert in *Meek*. *See, e.g., Meek*, 19-cv-

472 (W.D. Mo.), Expert Declaration of Timothy C. Pfeifer, Dkt. 90-2 ¶ 54 (Oct. 21, 2021).

24. The specific terms and conditions of the settlement are set forth in the Settlement Agreement, which is attached as **Exhibit 2**. The principal terms of the settlement are as follows:

- **CASH:** A cash Settlement Fund of up to \$39,000,000.00, which is equal to approximately 57% of all alleged overcharges collected by RLIC from the Class Policies through May 31, 2023.
- **COI RATE SCHEDULE INCREASE FREEZE:** A freeze on any new COI rate scale increase for a period of seven years following the earlier of either the date of final approval or January 1, 2024. Thus, even if RLIC experiences a future change in expectations that would otherwise permit a COI rate increase, RLIC will not increase COI rate schedules for seven years. Policyholders now have the ability to predict, with certainty, what their COI obligations will be for close to a decade.
- **VALIDITY STIPULATION AND STOLI WAIVER:** An agreement that RLIC will not challenge the validity and enforceability of any eligible policies owned by participating members of the Class on the grounds of lack of an insurable interest, stranger originated life insurance (“STOLI”) or misrepresentations in the application for such policies.

25. The cash portion of the Settlement alone is, in my view, exceptional: It represents approximately 57% of Plaintiffs’ maximum damages model, and more than 100% of the alternative “HMI” damages model. The cash portion is particularly noteworthy given that a finding of breach was far from a given: this case turned on conflicting expert testimony on technical actuarial issues, such as the interpretation of Actuarial Standard of Practice No. 2.

26. The non-monetary benefits provide additional, real value to the Class. The COI Rate Schedule Increase Freeze ensures that the Class is protected against any new rate

action for many years, at a time when other insurers continue to impose new COI increases. The Validity Stipulation and STOLI Waiver prevent RLIC from nullifying the benefits provided in this settlement by challenging the validity of any Class Policy. Plaintiffs engaged an expert with substantial life insurance experience, Demeter Capital, to value these non-monetary benefits, and Demeter calculated a value of \$8,757,089. A copy of Demeter's valuation report is attached to the declaration of Keith McNally, filed herewith.

27. In Class Counsel's experience, this is an outstanding recovery, particularly given the complexity of COI cases, the conflicting expert testimony on technical actuarial issues that a jury would be required to weigh, and the inherent uncertainties of litigation.

28. Class Counsel recommends the proposed plan of allocation described in the Notice and attached in full as **Exhibit 5**. This distribution plan treats all class members equitably because it distributes settlement proceeds on a *pro rata* basis using each class member's share of overcharges, with a minimum payment of \$100 to each class member. Each class member will receive its settlement check in the mail automatically, without needing to complete a claim form.

29. The releases are also equitable, as they treat all members of the Class equally and do not affect apportionment of damages.

30. There are no agreements beyond the Settlement Agreement.

31. In sum, it is my strong opinion that the proposal is fair, adequate, and reasonable, especially in light of Class Counsel's detailed assessments of the strengths and weaknesses of the claims asserted, the applicable damages, and the likelihood of recovery.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: July 20, 2023

*/s/ Steven G. Sklaver*\_\_\_\_\_

Steven G. Sklaver

# **Exhibit #1**



## Insurance

Susman Godfrey has a long history of litigating and winning significant insurance matters on both sides of the “v.” For plaintiffs, this includes representing insureds, policy owners, and businesses in national class actions, life insurance disputes and business interruption matters against some of the nation’s largest insurers. For the insurance industry, this includes defending companies such as ACE Limited and ACE Bermuda (now Chubb), Equitas, and the members of the London Insurance Market against millions of dollars of potential exposure when litigation arises.

### *Representative Experience*

#### Insurance Class Actions

- ***Leonard et al. v. John Hancock Life Insurance Co. of New York et al.*** Secured a settlement valued at \$143 million, before fees and expenses, including a cash fund of over \$93 million and an agreement by John Hancock Life Insurance Company not to impose a higher cost of insurance rate scale for 5 years (even in the face of a worldwide pandemic), on behalf of a class of approximately 1,200 policyholders who alleged that Hancock breached the terms of their respective life insurance policies and overcharged them for life insurance. When granting final approval, the Court held that the settlement provided an “absolutely extraordinary” recovery rate for the class, and lauded Susman Godfrey’s “extraordinary work.”
- ***Helen Hanks v. Voya Retirement Insurance and Annuity Company.*** Negotiated settlement worth \$118 million, before fees and expenses, including a cash fund of over \$92 million and an agreement by Voya not to impose a higher rate scale for 5 years, on behalf of a certified class of 46,000+ policyholders over allegations that Voya improperly raised cost-of-insurance charges. Over the course of litigation, the team from Susman Godfrey secured certification of the nationwide class and defeated summary judgment. The Court recognized the quality of the work, stating: “I want to commend you all for the work done on the pretrial order and motions in limine . . . I’m very happy to have you as lawyers appearing before me.”
- ***37 Bensen Parkway v. John Hancock Life Insurance Company.*** Secured a \$91.25 million settlement all-cash, non-reversionary settlement (before fees and expenses) for insurance policy owners against

John Hancock Life Insurance Company. The Honorable Paul Gardephe described the settlement as a “quite extraordinary . . . result achieved on behalf of the class.”

- ***Fleisher v. Phoenix Life Insurance.*** Served as lead counsel to plaintiffs in a case that challenged Phoenix Life Insurance Company’s and PHL Variable Insurance Company’s decision to raise the cost of insurance (“COI”) nationwide on life insurance policy owners. After winning class certification and defeating two motions for class decertification and a motion for summary judgment, the case settled the day of the final pretrial conference—less than two months before trial with terms that included: a \$48.5 million cash fund (\$34 million after fees and expenses), a COI freeze through 2020, and a covenant by Phoenix not to challenge the policies, worth \$9 billion in face value, when the policies mature on the grounds of lack of insurable interest or misrepresentations in the application. At the final approval hearing, the Court concluded: “I want to say publicly that I think this is an excellent settlement. I think this is a superb—this may be the best settlement pound for pound for the class that I’ve ever seen.”
- ***Brach Family Foundation et al. v. AXA Equitable Life Insurance.*** Serving as lead counsel in a case challenging AXA’s decision to raise cost of insurance rates on life insurance policies nationwide, and alleging that AXA made misrepresentations to policyholders in its insurance illustrations leading up to the cost of insurance increase. The Court certified two nationwide classes, one for policy-based claims and one for misrepresentation-based claims.
- ***Hanks et al. v. The Lincoln Life & Annuity Company of New York, et al.*** Serving as lead counsel in a case challenging Voya Life Insurance Company’s decision to raise cost of insurance rates on life insurance policies nationwide. The Court certified a nationwide breach of contract class.
- ***In re Lincoln National COI Litigation.*** Serving as co-interim-lead counsel in two cases challenging Lincoln National’s decision to raise cost of insurance rates nationwide.
- ***Brighton Trustees et al. v. Genworth Life and Annuity Insurance Company.*** Serving as interim lead class counsel in a case challenging Genworth’s decision to raise cost of insurance rates nationwide.
- ***AvMed Inc. et al. v. BrownGreer, US Bancorp, and John Does.*** Represented a group of more than forty health plans (who between them comprise more than 70% of the US market for private health insurance) asserting healthcare reimbursement liens against claimants to the \$4.85 billion Vioxx compensation fund. Susman Godfrey reached a groundbreaking settlement with the Vioxx Plaintiffs’ Steering Committee, guaranteeing them certain payouts on their liens covering participating plaintiffs. *American Lawyer* magazine featured this settlement in the “Big Suits” column at the time of this decision.



**Life Insurance**

- ***The Lincoln Life and Annuity Company of New York v. Berck*; and *Berck v. The Lincoln Life and Annuity Company of New York*.** Won a reversal in a \$20 million life settlement rescission lawsuit against Lincoln Life & Annuity Company of New York as trial and appellate counsel for a group of investors. Lincoln's lawsuit was based on allegations that the insurance policies lacked an insurable interest because they were procured by third-parties for investment purposes and because there was net worth and other misrepresentations in the applications. The appellate court ordered that the trial court enter judgment in favor of the trust affirmed the trial court victory that Lincoln's fraud claim was time barred because the policies were incontestable. The \$20 million policy matured before the trial court entered judgment in favor of the policy owner. We then sued the insurance carrier to effectuate payment of the \$20 million policy. The case was the feature cover story in the publication, *California Lawyer*, at the time of this decision.
- ***The Lincoln Life and Annuity Company of New York v. Janis and Berck*.** Represented Jonathan Berck, as Trustee of the Rosamond Janis Insurance Trust, in a \$5 million rescission claim brought by the Lincoln Life and Annuity Company of New York for alleged violations of New York's insurable interest laws and other "STOLI" (stranger originated life insurance) related claims. In this matter summary judgment was granted in favor of our client.
- ***In re James V. Cotter, Living Trust, Ellen Marie Cotter, Margaret Cotter, Petitioners, v. James J. Cotter, Jr., Respondent*.** Achieved a successful verdict invalidating a will on grounds of both undue influence and incapacity in this trust and estates case in Los Angeles Superior Court.

**Other Significant Insurance Cases**

- ***Universal Cable Productions v. Atlantic Specialty Insurance*.** Represented Universal Cable Productions (UCP)—a subsidiary of NBC Universal—in its dispute with insurance carrier, Atlantic, which claims it was not required to provide coverage when Hamas bombing forced UCP to relocate filming of the TV miniseries "Dig" out of Jerusalem. After a successful appeal to the Ninth Circuit by Susman Godfrey on the scope of the exclusions, UCP then received a full win in the district court which found in its favor on all remaining liability issues. The case—which was set for trial on the amount of damages Atlantic owed to UCP for the relocation, whether Atlantic's denial of coverage was done in bad faith and the amount of punitive damages owed to UCP—was settled favorably on the eve of trial.
- ***Alley Theater v. Hanover Insurance*.** Secured a partial summary judgment win for Houston's historic Alley Theatre in an insurance coverage lawsuit the firm handled pro bono. The suit claimed the theatre

was not properly reimbursed by Hanover Insurance Company for claims related to business interruption losses sustained during Hurricane Harvey. The firm later scored its second victory for the theater when they settled the final piece of the litigation—terms of this settlement are confidential.

- **Insurance Litigation for Walmart.** Lead counsel for Walmart on insurance coverage claims against certain of its insurers, regarding the settlement of claims arising out of an accident on the NJ Turnpike that injured comedian Tracy Morgan and others.
- **LyondellBasell v. Allianz Insurance.** Secured a confidential recovery (ultimately disclosed in an SEC filing as more than \$100 million) for LyondellBassell Industries in a London arbitration over business interruption losses arising from Hurricane Ike. Lyondell sought coverage for losses caused by a hurricane, but faced a \$200 million deductible self-insured retention, which the insurers claimed exceeded any losses. We handled all coverage, accounting, and engineering issues (which included significant damage to refinery equipment and delays to turnaround construction projects). The case settled on the eve of the final evidentiary hearing after we won key disputes regarding certain insurance coverage and claim quantification issues.
- **Confidential Private Transportation Company Litigation.** Hired to represent a private transportation company against its insurer for bad-faith failure to settle. The firm was engaged after a South Texas jury returned a \$25+ million verdict on personal injury claims against our client, far in excess of the insurance policy limits. The matter was resolved without the need to file a lawsuit, and without the client paying anything out of pocket on the verdict.
- **Sabre v. The Insurance Company of the State of Pennsylvania.** Hired months before trial to represent the worldwide travel technology leader in a \$100 million insurance coverage dispute. Successfully settled the case on the eve of trial.
- **Aetna v. Ace Bermuda.** Represented Ace Bermuda Insurance (now part of Chubb) in a \$25 million coverage claim brought by the bankruptcy estate of Boston Chicken in bankruptcy court in Phoenix, Arizona. The case raised novel issues of bankruptcy procedure, international law, and the enforcement of arbitration agreements involving a bankruptcy trustee.
- **London Insurance Market Asbestos Cases.** Defended insurance groups in the London Insurance Market including Equitas, a Lloyds of London runoff company, in litigation regarding asbestos insurance coverage, including bankruptcy adversary proceedings regarding Dresser Industries, a Halliburton subsidiary; Babcock & Wilcox Co., a McDermott International subsidiary; and Pittsburgh Corning Corp., a PPG Industries subsidiary. The firm tried the Babcock & Wilcox matter to the bench for many weeks and won. In both the Dresser Industries and the Babcock & Wilcox matters, our team ultimately achieved settlements for the London Market at very large discounts from the exposed policy limits, saving the firm's clients hundreds of millions of dollars. Pittsburgh Corning ultimately

withdrew the bankruptcy plan to which our clients were objecting.

- ***City of Houston v. Hertz***. Won a no liability verdict for The Hertz Corporation in a high-profile jury trial in which the plaintiff alleged violations of state insurance licensing laws and unfair and deceptive practices. In less than an hour of deliberations, the jury found for Hertz on all issues and rejected plaintiff's claims for attorneys' fees.



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### *Overview*

Named one of *Lawdragon's* 500 Leading Lawyers since 2020, a recipient of the *California Lawyer Attorneys of the Year* award in 2017 and selected as "Top Plaintiff Lawyers in all of California" in 2016 and 2017 by *The Daily Journal*; Steven Sklaver has secured substantial litigation victories for both plaintiffs and defendants. For plaintiffs, Sklaver was lead counsel for a certified class of insurance policy owners, helping them achieve what the Court in the Southern District of New York described as "the best settlement pound for pound for the class that I've ever seen." You can read the Court's statement in full [here](#). You can also read more about the case in The Deal's profile on the litigation [here](#). Sklaver was also lead trial and appellate counsel for investors against an insurance company that resulted in a complete victory and full payout of a \$20 million life insurance policy. A copy of the appellate court decision is available [here](#). To listen to Sklaver's appellate oral argument, click [here](#). That matter was the feature cover story of the *April 2012 California Lawyer*.

Sklaver also represents the former members of the legendary rock group The Turtles in *Flo & Eddie, Inc. v. Sirius XM Radio, Inc.* (C.D. Cal.) in a certified class action lawsuit against Sirius XM that settled less than 48 hours before the jury trial was scheduled to begin. Sirius XM agreed to pay at least \$25.5 million (over \$16 million after fees and expenses) and royalties under a 10-year license that is valued up to \$62 million (over \$41 million after fees and expenses) as compensation for publicly performing without a license Pre-1972 sound recordings. The settlement was [approved by the Court](#), and has received widespread media coverage from publications such as [The New York Times](#), [Billboard](#), [The Hollywood Reporter](#), [Law360](#), [Rolling Stone](#), [Variety](#), [Reuters](#) and [Managing IP](#).

Within six months after the Sirius XM class action settled, so did Sklaver's [copyright class action](#) brought on behalf of artists owed mechanical royalties for compositions made available by Spotify, the leader in digital music

streaming. [Spotify agreed to a class action settlement valued at over \\$112 million](#) (over \$95 million after fees and expenses), a settlement for which the district court granted final approval and remains subject to a pending appeal. You can read more about this matter in [Billboard](#).

Sklaver's many significant and widely covered class action results in 2016 helped secure Susman Godfrey's recognition as *Law360*'s "Class Action Group of the Year" in early 2017. You can read that article announcing the award [here](#).

For defendants, Sklaver has handled numerous employment class actions across the country. He served, along with the Managing Partner of Susman Godfrey, as trial counsel for Wal-Mart, the world's largest retailer, trying a large employment class action in California. He also successfully defended and defeated class certification in numerous, substantial wage and hour matters for Alta-Dena Certified Dairy, LLC, dairy producers for Dean Foods, one of the leading food and beverage companies in the United States. Copies of the pro-employer decisions are available [here](#), [here](#), and [here](#).

Sklaver has tried complex commercial and class action disputes — including jury trials and bench trials in federal and state court, as well as arbitrations. Sklaver graduated cum laude from Dartmouth College, magna cum laude and Order of the Coif from Northwestern University School of Law, and clerked for Judge David Ebel on the United States Court of Appeals for the Tenth Circuit. Sklaver also won the National Debate Tournament for Dartmouth College, and is just one of four individuals in debate history to win three national championships at the high school and collegiate level. From 2010-2022, Sklaver has been recognized every year as a "Super Lawyer" in Southern California, awarded to no more than the top 5% of the lawyers in the state of California (Law & Politics Magazine, Thomson Reuters).

Sklaver currently serves on the Board of Directors for the Western Center on Law & Poverty, the Los Angeles Metropolitan Debate League, and the Association of Business Trial Lawyers. Sklaver was also selected as the 2016-2017 Ninth Circuit Judicial Conference Lawyer Representative.

## *Experience*

- Judge Approves \$25 Million Settlement to End Lawsuit Over Genworth's Cost of Insurance Increase
- Susman Godfrey and Gradstein & Marzano Secure \$43.45 Million Settlement with Spotify in Copyright Class Action
- Gradstein & Marzano and Susman Godfrey Secure Settlement Valued at Up to \$99 Million Settlement for The Turtles And Other Owners of Pre-1972 Sound Recordings in Class Action Against Sirius XM Radio
- U.S. Consumers and Businesses Obtain a \$193.8 Million Settlement with Denso in Auto Parts Price-fixing Multidistrict Class Action
- Susman Godfrey Wins Summary Judgment in \$5 Million Life Settlement Rescission Lawsuit
- Susman Godfrey L.L.P. Wins Reversal in \$20 Million Life Settlement Rescission Lawsuit
- Susman Godfrey Wins Summary Judgment in \$5 Million Life Settlement Rescission Lawsuit

## *Honors & Distinctions*

- *Lawdragon* 500 Leading Litigator ([2022](#))
- [Litigation Star](#), Benchmark Litigation (2022, Euromoney)
- Recommended Lawyer – Litigation – Labor and Employment, Best Lawyers in American (2020 – 2023, Woodward White, Inc.)
- Southern California California Super Lawyer (2010 – 2023, Thomson Reuters)
- *Lawdragon* 500 Leading Lawyers in America ([2020](#), [2021](#), [2022](#), [2023](#))
- *Lawdragon* 500 Leading Plaintiff Financial Lawyers ([2019](#), [2020](#), [2021](#), [2022](#), [2023](#))
- [Outstanding Antitrust Litigation Achievement in Private Law Practice](#) by the [American Antitrust Institute](#) (2019) for work on *In re: Automotive Parts Antitrust Litigation*.
- [California's Lawyer Attorneys of the Year](#) in 2017 by *The Daily Journal*. Click [here](#) for a photo of Sklaver, along with co-counsel, receiving the award.
- [Top 30 Plaintiff Lawyers in all of California in 2016](#) by *The Daily Journal*
- Southern California "Super Lawyers" awarded to no more than the top 5% of the lawyers in the state of California (2010 – 2021, *Law & Politics Magazine*, Thomson Reuters)
- Northwestern Law Review member and editor
- National Debate Tournament (NDT) collegiate championship winner

## *Education*

**Northwestern University School of Law** (J.D., magna cum laude)

- Order of the Coif

**Dartmouth College** (B.A., cum laude)

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## *Admissions*

### **Bar Admissions**

- Colorado
  - California
  - Illinois
- 

### **Court Admissions**

- United States Supreme Court
- United States Court of Appeals for the Ninth and Tenth Circuits
- U.S. District Courts for the Central, Southern, Northern, and Eastern Districts of California and District of Colorado

## *Leadership & Professional Memberships*

- Board of Directors, Los Angeles Metropolitan Debate League
- Board of Directors, Western Center on Law & Poverty

**SUSMAN  
GODFREY**

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## Seth Ard

Partner

New York

(212) 336-8330

[sard@susmangodfrey.com](mailto:sard@susmangodfrey.com)

### *Overview*

Seth Ard, a partner in Susman Godfrey's New York office and a member of the firm's Executive Committee, has secured substantial litigation victories for both plaintiffs and defendants. For plaintiffs, Ard was co-lead counsel for a certified class of insurance policy owners, helping them achieve what the Court in the Southern District of New York described as "the best settlement pound for pound for the class that I've ever seen." For defendants, Ard has obtained take-nothing judgments for NASDAQ and Dorfman Pacific in contract and intellectual property actions seeking tens of millions of dollars. Since 2019, Mr. Ard has been named one of the country's Leading Plaintiff Financial Lawyers by Lawdragon.

Before joining the firm, Mr. Ard clerked for the Honorable Shira A. Scheindlin of the United States District Court for the Southern District of New York, and for the Honorable Rosemary S. Pooler of the United States Court of Appeals for the Second Circuit. Mr. Ard graduated magna cum laude from Harvard Law School and completed his undergraduate work first in his class with a perfect GPA from Michigan State University, with dual degrees in philosophy and French literature. For the past three years, Ard has been recognized as a "Rising Star" in New York by Super Lawyers magazine.



## *Experience*

- Judge Approves \$25 Million Settlement to End Lawsuit Over Genworth's Cost of Insurance Increase
- Susman Godfrey L.L.P. and Hausfeld LLP Secure \$240 Million Deutsche Bank LIBOR Settlement
- Susman Godfrey LLP and Hausfeld LLP Secure \$130 Million Citibank LIBOR Settlement
- Susman Godfrey Secures \$120 Million Barclays LIBOR Settlement, Game-Changing Agreement from Bank to Cooperate in Ongoing Litigation

## *Honors & Distinctions*

- *Lawdragon* 500 Leading Litigator ([2022](#))
- *Lawdragon* 500 Leading Plaintiff Financial Lawyers ([2019](#), [2020](#), [2021](#), [2022](#), [2023](#))
- New York Super Lawyer ([2022](#), Thomson Reuters)
- New York Rising Star (2013-2018, Thomson Reuters)
- Teaching and Research Assistant for Professor Arthur Miller (Harvard Law School)
- Teaching Assistant for Professor Jon Hanson (Harvard Law School)
- Editorial Board, Harvard Civil Rights/Civil Liberties Law Review

## *Education*

**Harvard Law School** (J.D., magna cum laude, 2007)

**Northwestern University** (M.A., A.B.D., Philosophy, , 2003)

**Michigan State University** (B.A., Philosophy & French Literature, first in class, Highest Honors, 1997)

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## *Admissions*

### **Bar Admissions**

- New York

## *Languages*

French



# Ryan Kirkpatrick

Partner

New York

(212) 336-8330

[rkirkpatrick@susmangodfrey.com](mailto:rkirkpatrick@susmangodfrey.com)

## *Overview*

Ryan Kirkpatrick rejoins Susman Godfrey after spending four years as General Counsel and Senior Managing Director of McCourt Global, an alternative asset management firm. In that role, Ryan served as head of the New York office where he oversaw all legal affairs of the firm and its business verticals, including a \$1 billion commercial real estate development joint venture, MG Sports & Media (which owns the LA Marathon and co-owns Global Champions Tour and Global Champions League), and MG Capital (owner of a private direct lender and registered investment adviser).

Ryan's experience at McCourt equipped him with a deep understanding of how to successfully manage and direct a wide variety of multi-national legal matters. Ryan obtained or negotiated billions of dollars in judgments, settlements, and transactions while at McCourt. Working on both the plaintiff and defense sides, Ryan also developed a deep understanding of and how to successfully leverage litigation (and the threat of it) to accomplish financial and business objectives while at the same time managing and mitigating the financial and operational costs of litigation to a business. For example, while serving as director of Global Champions League, Ryan initiated an EU competition law action against Fédération Equestre Internationale, the international governing body for equestrian sports. After obtaining a landmark preliminary injunction that was upheld by the Brussels Court of Appeals—and has implications for all international sports federations—Ryan helped negotiate a highly favorable settlement with the FEI. As of 2017, Global Champions League has now sold/licensed 18 team franchises and holds 15 events around the world. This use of EU competition law to effect worldwide relief for a client was reminiscent of one of Ryan's first cases at Susman Godfrey, where he and Steve Susman guided start-up mainframe manufacturer Platform Solutions, Inc. to a \$200 million buy-out by IBM following years of contentious

of antitrust, patent infringement, and copyright infringement proceedings in both the Southern District of New York and the European Commission.

Ryan was first elected to the Susman Godfrey partnership in 2011. At the time, he was representing Frank McCourt and the Los Angeles Dodgers in connection with Mr. McCourt's highly-publicized divorce and the team's bankruptcy. This three-year representation culminated in a favorable settlement of the divorce, the sale of the Dodgers to Guggenheim Partners for \$2.15 billion—the highest amount ever paid for a professional sports franchise—and the formation of a \$550 million joint venture with affiliates of Guggenheim Partners. Ryan has been interviewed and quoted by numerous media outlets regarding the case, including the Wall Street Journal, Bloomberg News, the Los Angeles Time, ESPN, the National Law Journal, the Associated Press, KABC, and KTLA. Shortly following the sale, Mr. McCourt asked Ryan to help lead McCourt Global.

Ryan was named among *Lawdragon's 500 Leading Litigators in America* in 2022. Prior to his time at Susman Godfrey, Kirkpatrick clerked for the Hon. Ruggero J. Aldisert of the US Court of Appeals for the Third Circuit.

## *Experience*

- Judge Approves \$25 Million Settlement to End Lawsuit Over Genworth's Cost of Insurance Increase
- Court Approves \$16,500,000 Settlement in Securities Class Action Brought by Susman Godfrey Against Dendreon

## *Education*

**The University of California, Los Angeles** (J.D., Order of the Coif, 2005)

**Yale University** (B.A., Political Science, , 2001)

## *Admissions*

### **Bar Admissions**

- New York
- California
- District of Columbia

### **Court Admissions**

- U.S. District Court for Central District of California
- U.S. District Court for the Northern District of California
- United States Court of Appeals for the Seventh Circuit
- United States District Court for the Eastern District of Texas



## Rohit Nath

Partner

Los Angeles

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### *Overview*

Rohit Nath represents plaintiffs and defendants in high stakes litigation. He has taken on industry leaders such as the country's biggest insurers, major media and technology companies, and international wireless carriers in courts across the United States. Nath has handled disputes in an array of practice areas, including insurance, copyright, patent, breach-of-contract, and real estate.

In *37 Besen Parkway LLC v. John Hancock Life Insurance Co*, Nath was a significant part of a team of Susman Godfrey lawyers that secured a settlement of \$91.25 million (before fees and expenses) for a certified class of insurance policy owners against John Hancock Life Insurance Company. In the final approval order, Judge Paul Gardephe described the settlement as a "quite extraordinary . . . result achieved on behalf of the class." You can read more about the case [here](#) (subscription required).

Nath is currently prosecuting similar class actions against a number of other insurance companies, including Equitable, Voya Retirement & Annuity Company, and ReliaStar Life Insurance Company. More information on the Voya class action, which was certified in 2019, can be found [here](#).

On the defense side, Nath was hired by Lighting Science Group Corporation after it was sued by its former patent broker. Serving as lead counsel for Lighting Science, Nath successfully compelled arbitration, took and defended key depositions, and briefed and argued critical motions. The parties reached a confidential settlement on the eve of the plenary arbitration hearing.

In addition to the cases above, Nath also:

- Represents a putative class of professors and textbook authors in a lawsuit against one of the world's largest textbook publishers, Cengage

Learning, related to underpayment of royalties for electronic textbook offerings.

- Represents Flo & Eddie—the founding members of the 70's music group, the Turtles—against Pandora and SiriusXM in litigation concerning the unlicensed use of pre-1972 sound recordings.
- Represents SAJE and ACCE Action, two tenant advocacy groups, as proposed intervenors to help defend the City of Los Angeles's eviction and rent-freeze ordinances enacted in the wake of the COVID-19 pandemic.

Nath is active in the Los Angeles legal community. He received a Public Counsel Pro Bono award for his legal work to help the troubled LA housing situation. The *Daily Journal* and *Law360* also profiled Nath and his colleagues for their significant pro bono work in this area. He is a longtime board member of the South Asian Bar Association of Southern California and served as co-president during the 2021-2022 term. Nath is also a member of the Executive Committee of the Litigation Section of the Los Angeles County Bar Association.

Nath joined Susman Godfrey after working as a trial attorney at the U.S. Department of Justice and as a law clerk on the U.S. Court of Appeals for the Ninth Circuit. He graduated with high honors from The University of Chicago Law School, where he served as editor-in-chief of *The University of Chicago Law Review*. Before law school, he taught eighth-grade math in Oklahoma as a Teach for America corps member.

## *Experience*

- Verizon, AT&T Agree to Pay \$116 Million in California and \$11 Million in Nevada to Settle Whistleblower Cases

## *Honors & Distinctions*

- California Lawyer Attorney of the Year, *Daily Journal* (2023)
- Rising Stars of the Plaintiffs Bar, *National Law Journal's* Elite Trial Lawyers (2022, ALM)
- Public Counsel Pro Bono Award (2020)
- Named a Sports and Entertainment Litigation Trailblazer by *National Law Journal* (2020, ALM)
- Rising Star, Southern California (Thomson Reuters, 2020, 2021, 2022, 2023)
- Editor-in-Chief, *The University of Chicago Law Review*
- Order of the Coif
- Kirkland & Ellis Scholar: Awarded to top 5 percent of the 1L class
- 2011 Teacher of Today Award

- Wake Forest University Debate Team

## *Education*

**The University of Chicago Law School** (J.D., with High Honors, Order of the Coif, 2014)

**Wake Forest University** (B.A., magna cum laude, 2009)



## Ryan Weiss

Associate

Houston

(713) 651-9366

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### *Overview*

Ryan Weiss represents plaintiffs and defendants across the country in all types of high-stakes commercial litigation, including energy disputes, complex financial matters, business disputes, real estate litigation, and class actions. Ryan's clients value his diligence, creativity, efficiency, and decision-making—qualities that help Ryan visualize, and then zealously advocate for, their goals.

Ryan plays a central role in all of his matters. He has examined fact and expert witnesses at trial, taken and defended numerous critical depositions, and argued dispositive and non-dispositive motions alike. Courts have praised Ryan's "excellent" writing skills, describing him as the "linchpin" of his trial teams.

#### **BACKGROUND**

Ryan previously clerked for Judge Michael Daly Hawkins of the U.S. Court of Appeals for the Ninth Circuit and Judge Mark E. Walker of the U.S. District Court for the Northern District of Florida, two brilliant jurists who continue to inspire Ryan to strive to become an excellent attorney and an even better human being. These clerkships provided him with a unique perspective on the inner workings of the bench—this helps him view each case with an eye towards what issues matter most to the judge and jury.

Ryan graduated *magna cum laude* from Duke University School of Law, where he was the Managing Editor of the *Duke Law Journal* and was a member of the Moot Court and Mock Trial teams. He remains an active alumnus of Duke University and currently serves as the Law School Representative on the Duke Houston Board. Ryan graduated *cum laude* from the University of Florida and is a die-hard Gator fan.

## *Experience*

- Susman Godfrey Secures Affirmance of \$17 Million Summary Judgement Win from the Fort Worth Court of Appeals for Client Macquarie US Trading LLC

## *Honors & Distinctions*

- Managing Editor, *Duke Law Journal*
- Moot Court Board
- Mock Trial Board
- Dean's Scholar

## *Education*

**Duke University School of Law** (J.D., magna cum laude, 2016)

**University of Florida** (B.A., Criminology and Law, cum laude, 2013)

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## *Admissions*

### **Bar Admissions**

- New York
  - Texas
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### **Court Admissions**

- United States Court of Appeals for the Ninth Circuit
- U.S. District Court for the Southern District of Texas
- U.S. District Court for the Eastern District of New York
- U.S. District Court for the Southern District of New York





# Krisina Zuñiga

Associate

Houston

(713) 651-9366

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## Overview

Krisina Zuñiga successfully represents plaintiffs and defendants in all types of commercial litigation, including patent, trade secret, antitrust, class action, insurance, fraud, and breach of contract suits.

Krisina plays a central role in all her cases. She has opened at trial, direct and cross-examined witnesses at trial, taken and defended numerous critical depositions, and argued dispositive and non-dispositive motions alike, including claim construction positions that resulted in favorable constructions in several plaintiff-side patent infringement cases. You can read transcripts of two such arguments [here](#) and [here](#).

Krisina has been recognized by the American Bar Association as one of the nation's [Top 40 Lawyers Under 40](#) (2021), by *Texas Lawyer* as one of fewer than 30 lawyers "On the Rise" ([2021](#) and [2022](#)), by *Super Lawyers* as a "Rising Star" ([2022](#), [2023](#)), and by *Bloomberg Law* as an "[Intellectual Property Fresh Face](#)" (2020). In addition, in 2023, *National Law Journal* recognized her as a [Rising Star of the Plaintiff's Bar](#) as part of their Elite Trial Lawyers series.

Some of Krisina's most notable matters and wins include:

- ***Diamondback Industries, Inc. v. Repeat Precision, LLC, et al.*** Krisina, along with colleagues Trey Peacock and Shawn Raymond, and co-counsel, secured a nearly [\\$40 million judgment for Repeat Precision, LLC](#), the defendant in a case brought by Diamondback Industries in federal court in Waco, Texas. The case involved claims of patent infringement, antitrust violations, theft of trade secrets, breach of contract, and tortious interference. After a three-day bench trial, the court dismissed with prejudice all of Diamondback's affirmative claims and awarded Repeat Precision \$39,946,902 in actual, enhanced, and punitive damages (not including attorneys' fees and costs) for its counterclaims. During trial,

Krisina presented Repeat Precision's president, an examination the Court described as "virtually perfect." Krisina's role was highlighted in coverage of the trial win by *Texas Lawyer* and *The Texas Lawbook* (subscriptions required). You can read Krisina's direct examination of Repeat Precision's president and the Court's comment [here](#). Repeat Precision settled this case in late 2020 for more than \$25 million in cash payments and also received other business considerations. Krisina continues to represent Repeat Precision in patent litigation.

- ***Power Rental Solutions, LLC v. Henco Energy-Rick Hendrix Energy, LLC, et al.*** Krisina represented Caterpillar (or "Cat") dealer Power Rental Solutions (PRS) in a breach of contract, breach of warranty, and fraudulent inducement dispute involving alter ego allegations and the sale of three trailer-mounted, mobile power generation units. In 2022, the Honorable Fredericka Phillips of the 61<sup>st</sup> Civil Court of Harris County granted in full PRS's traditional motion for summary judgment against the defendants on all claims and awarded PRS \$4,920,368.20 in damages, along with attorneys' fees and costs that the court had awarded PRS during the dispute, including fees that the court awarded as a result of two TRCP 91a motions to dismiss that Krisina defeated.
- ***Gulf Shore Anesthesia Associates v. Christus Spohn Health System Corp.*** Krisina prosecuted claims of fraud, fraudulent inducement, breach of contract, and trade secret misappropriation on behalf of anesthesiology group Gulf Shore Anesthesia Associates against Corpus Christi-based Christus Spohn Health System, a case involving an assertion of over \$47 million in damages. Krisina played a key role in the case, including winning a motion to compel against Spohn's claim of a medical committee privilege in a virtual hearing in front of the Honorable Mark H. Woerner of the County Court at Law No. 4 of Nueces County, Texas. You can read a full transcript of Krisina's argument [here](#). The parties resolved the claims before trial.
- ***Advance Trust & Life Escrow Services, LTA v. ReliaStar Life Insurance Co.*** Krisina represents a class of universal life insurance policyholders against ReliaStar Life Insurance Company stemming from ReliaStar's failure to charge cost of insurance rates in accordance with the terms of its policies. In 2020, after the discovery of an additional contractual breach by ReliaStar, Krisina argued a motion for leave to amend Advance Trust's complaint in a virtual hearing in front of the Honorable Elizabeth Cowan Wright of the U.S. District Court for the District of Minnesota. After a lengthy hearing, and in a detailed opinion, Judge Wright granted the motion. You can read a full transcript of Krisina's argument [here](#) and the Court's opinion [here](#). Two years later, the court denied a summary judgment motion filed by ReliaStar and opposed by Krisina and the Susman Godfrey team and simultaneously granted class certification.

Krisina is deeply committed to pro bono work. Some of her work in this area includes:

- participating in a historic case taken on by the firm challenging Harris County's bail system (see coverage of the case from *The New York Times*, *The Houston Chronicle*, and *Lawdragon*);
- bringing a suit on sworn account on behalf of a small business owner for unpaid fees through Susman Godfrey's Minority Owned Business (MOBUS) program, in partnership with the University of Houston's Stimulating Urban Renewal through Entrepreneurship (SURE) program;
- representing through a referral from Kids in Need of Defense (KIND) two undocumented minor siblings who arrived in the United States unaccompanied and were seeking legal guardianship; and
- volunteering with the South Texas Pro Bono Asylum Representation Project (ProBAR) to provide intake services for detained children along the border.

Krisina is also active in the Houston legal community and currently serves as a vice chair of the [Houston Bar Foundation](#) (HBF) and as a director of the [Hispanic Bar Association of Houston](#) (HisBA). From 2020-2021, Krisina served as the president of the [Houston Young Lawyers Association](#) (HYLA). During her bar year, HYLA created a podcast called "[Hylights](#)," on which she was interviewed about her career path and leadership of the organization. Listen [here](#).

Krisina joined Susman Godfrey after clerking for the Honorable Diana Saldaña of the U.S. District Court for the Southern District of Texas in her hometown of Laredo, Texas, and the Honorable Jennifer Walker Elrod of the U.S. Court of Appeals for the Fifth Circuit. Krisina earned her J.D. from Stanford Law School after graduating *summa cum laude* with a B.A. from Rice University. Krisina speaks Spanish ([ILR Level 3](#)).

## *Experience*

- Susman Godfrey Secures Final Judgment of Nearly \$40M for Repeat Precision in Diamondback Industries Lawsuit Victory

## *Honors & Distinctions*

- Rising Star of the Plaintiff's Bar, *National Law Journal* (2023, ALM)
- On the Rise, *Texas Lawyer* (2021, 2022, ALM)
- Rising Star, *Texas Super Lawyers* (2022, 2023 Thomson Reuters)
- On The Rise: One of the Nation's Top 40 Lawyers Under 40, American Bar Association (2021)
- "[They've Got Next: Intellectual Property Fresh Face](#)," *Bloomberg Law* (2020)

- *Pro Bono* Distinction, Stanford Law School
- Articles Editor, Stanford Law Review
- Phi Beta Kappa

## *Education*

**Stanford Law School** (J.D., , 2015)

**Rice University** (B.A., Philosophy and Policy Studies, summa cum laude, 2012)

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## *Admissions*

### **Bar Admissions**

- Texas
- 

### **Court Admissions**

- U.S. Court of Appeals for the Fifth Circuit
- U.S. District Court for the Eastern District of Texas
- U.S. District Court for the Southern District of Texas
- U.S. District Court for the Western District of Texas

## *Leadership & Professional Memberships*

- Co-Vice Chair, Houston Bar Foundation
- Director, Hispanic Bar Association of Houston (HisBA)
- Fellow, Texas Bar Foundation
- Director, Houston Bar Foundation
- Fellow, Houston Bar Foundation
- Past President, Houston Young Lawyers Association (HYLA). HYLA won several awards from the Texas Young Lawyers Association and the American Bar Association Young Lawyers Division during Krisina's tenure as president including:
  - Comprehensive Award, First Place (Large City)
  - Single Project: Service to the Bar (Rallying Around Recent Grads)
  - Single Project: Service to the Public (Days—Even a Whole Week—of Service)
  - Single Project: Diversity (Amplifying Diverse Voices)
  - Outstanding Single Project: Service to the Bar (Rallying Around Recent Grads)
  - Service to the Public Award, First Place (Large City)

## SUSMAN GODFREY

- Diversity Award, First Place (Large City)
- Service to the Bar Award, Second Place (Large City)
- Past Treasurer, Houston Young Lawyers Association
- Past Director, Houston Young Lawyers Association
- Fellow, Houston Young Lawyers Foundation
- Houston Young Lawyers Association
- Houston Bar Association
- American Bar Association Young Lawyers Division



### *Languages*

Spanish (ILR Level 3).

# **Exhibit #2**

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

PHT HOLDING I LLC, and ALICE CURTIS,  
on behalf of themselves and all others  
similarly situated,

Plaintiffs,

v.

RELIASTAR LIFE INSURANCE  
COMPANY,

Defendant.

Civ. No.: 18-cv-2863-DWF-TNL

**JOINT STIPULATION AND  
SETTLEMENT AGREEMENT**

IT IS HEREBY STIPULATED AND AGREED, subject to approval of the Court and pursuant to Rule 23 of the Federal Rules of Civil Procedure, by, between, and among Plaintiffs, individually and on behalf of the Class, and Defendant, that the cause of action at issue in this lawsuit, as captioned above, is hereby settled and compromised on the terms and conditions set forth in this Joint Stipulation and Settlement Agreement and the releases set forth herein.

This Agreement is made and entered into by and among Plaintiffs and Defendant and is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the Action with respect to the Class Policies and Released Claims with prejudice upon and subject to the terms and conditions hereof.

## 1. Definitions

Capitalized terms in the Agreement shall have the meaning set forth below:

1.1 “Action” means the lawsuit, captioned *PHT Holding I LLC, et al. v. ReliaStar Life Insurance Company*, Case No. 18-cv-2863-DWF-TNL, currently pending in the United States District Court for the District of Minnesota.

1.2 “Agreement” means this Joint Stipulation and Settlement Agreement.

1.3 “Claims” means any and all claims in equity or law, however denominated or presented, including Unknown Claims, whether direct or indirect, known or unknown, foreseen or not foreseen, accrued or not yet accrued, for any injury, damage, obligation, penalty or loss whatsoever.

1.4 “Class” means the classes certified by the Class Certification and Summary Judgment Order, more specifically (1) “[a]ll current and former owners of UL (including variable UL) policies insured by ReliaStar written on policy forms listed in Exhibit A who were assessed COI charges during the Class Period, excluding policies issued in Alaska, Arkansas, New Mexico, New York, Virginia, Washington, and Wyoming, policies listed in Exhibit B, and ReliaStar, its officers and directors, members of their immediate families, and their heirs, successors or assigns;” and (2) “[a]ll current and former owners of universal life policies insured by ReliaStar written on policy forms 10830 and 10910, excluding policies issued in Alaska, Arkansas, New Mexico, New York, Virginia, Washington, and Wyoming, who were assessed Waiver Rider charges during the Class Period.” See Class Certification and Summary Judgment Order at 31–32. The Class excludes all owners who validly opted out of the Class during the original opt-out period, specifically the owners of the following policy numbers: SC0995834J, SC1064330H, SC0707939R, 005014044B, SC0622331W, SC0622335D, and CBS0134313.

1.5 “Class Certification and Summary Judgment Order” means the Court’s March 29, 2022 Memorandum Opinion and Order. Dkt. 211.

1.6 “Class Counsel” means Susman Godfrey L.L.P., the attorneys appointed by the Court to serve as class counsel in the Class Certification and Summary Judgment Order.

1.7 “Class Counsel’s Fees and Expenses” means the amount of the award approved by the Court to be paid to Class Counsel from the Settlement Fund for attorneys’ fees and reimbursement of Class Counsel’s costs and expenses.

1.8 “Class Member(s)” means the persons and entities that are included in the Class.

1.9 “Class Notice” means the notice of the Settlement approved by the Court to be sent by the Settlement Administrator, as described in Section 4, to the Class Members.

1.10 “Class Policy” or “Class Policies” means a policy or policies in the Class.

1.11 “Class Website” means the website that the Settlement Administrator set up concerning the Action.



1.12 “COI” means cost of insurance.

1.13 “Confidential Information” means material designated as “Confidential” in accordance with the terms of the Protective Order.

1.14 “Court” means the United States District Court for the District of Minnesota, Hon. Donovan W. Frank.

1.15 “Defendant” or “RLIC” means Defendant ReliaStar Life Insurance Company and its predecessor and successor entities.

1.16 “Excluded Claims” means (a) any claims that relate to any policies other than the policies owned by members of the Class, (b) any claims that could not have been asserted against RLIC in the Action because they arise from a future COI rate scale increase implemented after May 31, 2023, (c) any claims to complete the Settlement, (d) any claims to enforce a death benefit, and (e) any claims to otherwise enforce the terms of a Class Policy.

1.17 “Exhibit A,” as referenced in the definition of “Class” above, means Exhibit A to Plaintiffs’ Memorandum of Law in Support of their Motion for Class Certification in this Action. Dkt. 149-1.

1.18 “Exhibit B,” as referenced in the definition of “Class” above, means Exhibit B to Plaintiffs’ Memorandum of Law in Support of their Motion for Class Certification in this Action. Dkt. 149-2.

1.19 “Fairness Hearing” means any hearing held by the Court on any motion(s) for final approval of the Settlement for the purposes of: (i) entering the Order And Judgment; (ii) determining whether the Settlement should be approved as fair, reasonable, adequate and in the best interests of the Class Members; (iii) ruling upon an application by Class Counsel for attorneys’ fees and reimbursement of expenses and reasonable Service Award payments for the Plaintiff; and (iv) ruling on any other matters raised or considered.

1.20 “Final Approval Date” means the date on which the Court enters its Order And Judgment finally approving the Settlement.

1.21 “Final Class Members” means all persons and entities that are included in the Class, excluding, in the event that the Court requires a Second Opt-Out Period as a condition of approval of the Settlement, all owners of Class Policies who validly opt out of the class during the Second Opt-Out Period. For the avoidance of doubt, if the Court does not require a Second Opt-Out Period as a condition of approval of the Settlement, then the Final Class Members shall be the Class Members.

1.22 “Final Settlement Date” when referring to the Order And Judgment means exhaustion of all possible appeals, meaning: (i) if no appeal from or request for review of the Order And Judgment is filed, the day after the expiration of the time for filing or noticing any form of valid appeal from the Order And Judgment; or (ii) if an appeal or request for review is filed, the day after: (a) the date the last such appeal or request for review is dismissed; or (b) the date the Order And Judgment is upheld on appeal or review in all material respects and is not subject to

further review on appeal or by certiorari or otherwise; provided, however, that no order of the Court or modification or reversal on appeal or any other order relating solely to the Class Counsel's Fees and Expenses or Service Award shall constitute grounds for cancellation or termination of this Agreement or affect its terms, or shall affect or delay the date on which the Order And Judgment becomes final.

1.23 "Funding Date" means ten (10) calendar days after the Preliminary Approval Date.

1.24 "Mills Report" means the Expert Report of Robert Mills dated October 14, 2022.

1.25 "Net Settlement Fund" means the Settlement Fund less: (i) Settlement Administration Expenses; (ii) any Service Awards; and (iii) any Class Counsel's Fees and Expenses; and (iv) any other payments provided for under this Settlement or the Order And Judgment.

1.26 "Notice Date" means the date on which the Settlement Administrator mails the Class Notice.

1.27 "Opt-Out Policy(ies)" means any policy or policies that are validly excluded from the Class during any Second Opt-Out Period.

1.28 "Order And Judgment" means the Court's order approving the Settlement and entering final judgment. The judgment will include a provision for the retention of the Court's jurisdiction over the Parties to enforce the terms of the Settlement.

1.29 "Parties" means, collectively, Plaintiffs and Defendant.

1.30 "PHT" means PHT Holding I LLC, individually and as representative of the Class, and any of its assigns, successors-in-interest, representatives, employees, managers, partners, beneficiaries and members.

1.31 "Plaintiffs" means PHT and Curtis, together.

1.32 "Preliminary Approval Date" means the date on which the Court enters an order granting preliminary approval of the proposed Settlement.

1.33 "Protective Order" means the Protective Order, entered by the Court in this Action on January 4, 2019. Dkt. 35.

1.34 "Released Claims" means all Claims asserted in the Action or arising out of the facts, transactions, events, occurrences, acts, disclosures, statements, omissions, or failures to act that were alleged or could have been alleged in the Action.

1.35 "Released Parties" means RLIC and its past, present, and future parent companies, direct and indirect subsidiaries, predecessors, successors and assigns, together with each of their respective past, present, and future officers, directors, shareholders, employees, representatives, insurers, attorneys, and agents (including but not limited to, those acting on behalf of RLIC and within the scope of their agency).

1.36 “Releasing Parties” means Plaintiffs and each Final Class Member, on behalf of themselves and their respective agents, heirs, relatives, representatives, attorneys, successors, trustees, subrogees, executors, assignees, and all other persons or entities acting by, through, under, or in concert with any of them.

1.37 “Second Opt-Out Period” means any additional period required by the Court, as a condition of approval of the Settlement, in which Class Members are given a second opportunity to opt out of the Class.

1.38 “Service Award” means the amount of an award approved by the Court to be paid to Plaintiffs from the Settlement Fund, in addition to any settlement relief they may be eligible to receive, to compensate Plaintiffs for the efforts undertaken by them on behalf of the Class.

1.39 “Settlement” means the settlement set forth in this Agreement.

1.40 “Settlement Administration Expenses” means all Class Notice and administrative fees, costs, or expenses incurred in administering the Settlement, including those fees incurred by the Settlement Administrator. Settlement Administration Expenses shall be paid from the Settlement Fund.

1.41 “Settlement Administrator” means the third-party settlement administrator of the Settlement who is consented to by the parties. Plaintiffs shall be responsible for selecting the Settlement Administrator and consent from Defendant will not be unreasonably withheld. The Parties pre-approve JND Legal Administration LLC, which the Court previously approved in its Order Approving Form and Manner of Notice (Dkt. 226 ¶ 4) to administer Class Notice, as the Settlement Administrator.

1.42 “Settlement Fund” means a cash fund consisting of the consideration provided pursuant to Section 2.1, less any reductions provided pursuant to Section 2.2.

1.43 “Settlement Fund Account” means any escrow account designated and controlled by Class Counsel at one or more national banking institutions into which RLIC shall deposit the Final Settlement Fund pursuant to this Agreement.

1.44 “Unknown Claims” means any claims asserted, that might have been asserted, or that hereafter may be asserted concerning or arising out of the facts, transactions, events, occurrences, acts, disclosures, statements, omissions, or failures to act that were alleged in the Action with respect to the Released Claims that one or more of the Releasing Party does not know or suspect to exist in his, her or its favor at the Final Approval Date, and which if known by him, her, or it might have affected his, her, or its settlement with and release of the Released Party, including his, her, or its decision to object to the Settlement.

1.45 The terms “he or she” and “his or her” include “it” or “its,” where applicable. Defined terms expressed in the singular also include the plural form of such term, and vice versa, where applicable.

1.46 All references herein to sections and paragraphs refer to sections and paragraphs of this Agreement, unless otherwise expressly stated in the reference.

## 2. Settlement Relief: Cash Consideration

2.1 RLIC shall fund the Settlement Fund by depositing \$39,000,000 into the Settlement Fund Account by the Funding Date.

2.2 The Parties agree that the deadline to opt out of the Class expired on August 8, 2022, and agree not to request a Second Opt-Out Period. However, in the event that, as a condition of approval of the Settlement, the Court requires a Second Opt-Out Period, and any Class Policies then opt out, the Settlement Fund shall be reduced by multiplying the amount of the Settlement Fund (\$39,000,000) by a fraction where (1) the numerator is the total combined COI and rider “overcharges” for the Class as calculated in Exhibits 4–16 and Exhibits 33–34 of the Mills Report, less the combined “overcharges,” as calculated in those same Exhibits to Mills Supplemental Report, incurred by the Opt-Out Policies; and (2) the denominator is the total combined COI and rider “overcharges” for the Class as calculated in Exhibits 4–16 and Exhibits 33–34 of the Mills Report. In the event that the fraction described in the preceding sentence is less than .90, then the Settlement Fund shall be multiplied by .90. The amount of reduction will be returned to RLIC from the Settlement Fund Account within thirty (30) days of the end of any Second Opt-Out Period.

2.3 Any disputes regarding the reduction of the Settlement Fund as provided in Section 2.2 above shall be presented to the Court for a determination. For the avoidance of doubt, if an owner (such as a securities intermediary or trustee) owns multiple policies on behalf of different principals, that owner may stay in the Class as to some policies and opt out of the Class for other policies, in the event that, as a condition of approval of the Settlement, the Court requires a Second Opt-Out period. The Parties agree that the opt-out reduction methodology set forth in Section 2.2 above is proposed solely for settlement purposes and may not be used as an admission or evidence of the validity of any damages model regarding any alleged wrongdoing by RLIC.

2.4 The Settlement Fund shall be used to pay (i) Settlement Administration Expenses; (ii) any Service Award; (iii) any Class Counsel’s Fees and Expenses; and (iv) all payments to Final Class Members.

2.5 The Settlement Fund, and all earnings thereon, shall be deemed to be in *custodia legis* of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds shall have been disbursed pursuant to the terms of this Agreement or further order of the Court.

2.6 The funds deposited in the Settlement Fund Account shall be invested in instruments, accounts, or funds backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof. Such permissible investments include investments in a United States Treasury Fund or a bank account that is either: (a) fully insured by the Federal Deposit Insurance Corporation; or (b) secured by instruments backed by the full faith and credit of the United States Government. The Parties and their respective counsel shall have no responsibility for or liability whatsoever with respect to investment decisions made for the Settlement Fund Account. All risks related to the investment of the Settlement Fund shall be borne solely by the Class.

2.7 The Parties agree that this is a non-reversionary settlement, and that after the Final Settlement Date, there will be no reversion of the Settlement Fund to RLIC or any other person or entity funding the Settlement. If, however, a final non-appealable order is entered denying final approval of the Settlement, then all amounts in the Settlement Fund Account, except those already reasonably expended on Settlement Administration Expenses, shall be returned to RLIC.

2.8 Neither Plaintiffs nor RLIC shall be liable or obligated to pay any fees, expenses, costs, or disbursements to any person in connection with the Action, this Agreement, or the Settlement, other than those expressly provided in this Agreement. For the avoidance of doubt, the Settlement Fund amount represents RLIC's total and maximum contribution to this Settlement, inclusive of all relief to the Class, Class Counsel's Fees and Expenses, Service Awards, and Settlement Administration Fees.

### **3. Settlement Relief: Non-Cash Consideration**

3.1 RLIC agrees not to increase the COI rate schedules on the final Class Members' policies above RLIC's current COI rate schedule at any time prior to the expiration of seven (7) years after the earlier of: (1) the Final Approval Date, or (2) January 1, 2024. Plaintiffs and the Class agree that RLIC may continue to implement its current COI rates and further agree not to take any legal action or cause to take any legal action challenging the current (as of May 31, 2023) COI rates and/or COI rate schedules for the Class Policies. The covenant set forth in this paragraph shall not be interpreted to limit the scope of the Released Claims. RLIC represents and warrants that the current COI rate schedules for the Class Policies have not changed since this Action was commenced.

3.2 RLIC agrees to not take any legal action (including asserting as an affirmative defense or counter-claim), or cause to take any legal action, that seeks to void, rescind, cancel, have declared void, or seeks to deny coverage under or deny a death claim for any Final Settlement Class Member based on: (1) an alleged lack of valid insurable interest under any applicable law or equitable principles; or (2) any misrepresentation allegedly made on or related to the application for, or otherwise made in applying for the policy. If Defendant breaches this covenant, it shall also be liable for reasonable attorneys' fees and costs in connection with any such attempted rescission, cancellation, claim, or suit. The covenant set forth in this paragraph is solely prospective, and does not apply to any actions taken by RLIC in the past. With the exception of the foregoing, nothing contained in this Agreement shall otherwise restrict RLIC from: (i) following its normal procedures and any applicable legal requirements regarding claims processing, including but not limited to confirming the death of the insured; determining the proper beneficiary to whom payment should be made in accordance with applicable laws, the terms of the policy and policy specific documents filed with RLIC; and investigating and responding to competing claims for death benefits; (ii) enforcing contract terms and applicable laws with respect to misstatements regarding the age or gender of the insured; or (iii) complying with any court order, law or regulatory requirements or requests, including but not limited to, compliance with regulations relating to the Office of Foreign Asset Control, Financial Industry Regulatory Authority, and Financial Crimes Enforcement Network.

#### **4. Approval and Class Notice**

4.1 The Parties agree that Plaintiffs shall move for an order seeking preliminary approval of the Settlement, which shall include a request to notify the Class of the Settlement, by no later than July 1, 2023.

4.2 Plaintiffs will, through the Settlement Administrator, notify Class Members of the Settlement by direct mailing to the last-known address of each Class Member, as recorded in RLIC's administration system, as well as through the Class Website. RLIC shall provide all data reasonably necessary for Plaintiffs to effectuate such direct mailing notice.

4.3 The mailing of a notice to any person or entity that is not in the Class shall not render such person or entity a part of the Class or otherwise entitle such person to participate in this Settlement.

4.4 If the Court requires a Second Opt-Out Period as a condition of approving the Settlement, the Class Notice shall advise Class Members of their right to opt out of the Class and the deadline to do so. To be valid, a request to opt out of the Class must be in writing and served on the Settlement Administrator no later than 45 calendar days after the Notice Date, or as otherwise determined by the Court. To be valid, a request to opt out must further (i) clearly state the Class Member's desire to opt out from the Class; (ii) identify the Policy or Policies to be excluded by policy number; and (iii) be signed by the Class Member or by a person providing a valid power of attorney to act on behalf of the Class Member.

4.5 Notwithstanding anything in this Agreement, if, in the event that the Court requires a Second Opt-Out Period as a condition of approving the settlement, the total percentage of the Class (as measured by the percentage of total amount of alleged COI and rider "overcharges," as calculated in the Mills Report) which submit timely and valid requests for exclusion from the Class during the Second Opt-Out Period, or on whose behalf timely and valid requests for such exclusion are submitted during the Second Opt-Out Period, exceeds ten percent (10%), RLIC shall have the option, but not the obligation, to terminate this Agreement no later than 14 days after the opt-out period contemplated by Section 4.4 expires.

4.6 Class Members may object to this Settlement by filing a written objection with the Court and serving any such written objection on counsel for the respective Parties (as identified in the Class Notice) no later than 45 calendar days after the Notice Date, or as otherwise determined by the Court. Unless otherwise ordered by the Court, the objection must contain: (1) the full name, address, telephone number, and email address, if any, of the Class Member; (2) Policy number; (3) a written statement of all grounds for the objection accompanied by any legal support for the objection (if any); (4) copies of any papers, briefs, or other documents upon which the objection is based; (5) a list of all persons who will be called to testify in support of the objection (if any); (6) a statement of whether the Class Member intends to appear at the Fairness Hearing; and (7) the signature of the Class Member or his/her counsel. If an objecting Class Member intends to appear at the Fairness Hearing through counsel, the written objection must also state the identity of all attorneys representing the objecting Class Member who will appear at the Settlement Hearing. Unless otherwise ordered by the Court, Class Members who do not timely make their objections as provided in this Paragraph will be deemed to have waived all objections and shall not be heard

or have the right to appeal approval of the Settlement. The Class Notice shall advise Class Members of their right to object and the manner required to do so.

4.7 The Parties agree that if the Court finds that the Settlement does not meet the standard for preliminary approval, the Parties will negotiate in good faith to modify the Settlement directly or with the assistance of a mediator to resolve the issue(s) to the satisfaction of the Court.

4.8 Within 10 calendar days following the filing of this Agreement with the Court, Defendant shall serve notices of the proposed Settlement upon the appropriate officials in compliance with the requirements of the Class Action Fairness Act, 28 U.S.C. § 1715. To facilitate Defendant's service of these notices, Plaintiffs agree to provide Defendant, on or before the date this Agreement is filed with the Court, an estimate of the amount of the Settlement Fund to be distributed to Class Members in each state within the Class.

## **5. Service Award, Fees, Expenses, and Allocation**

5.1 Plaintiffs will move for Service Awards from the Settlement Fund in an amount up to but not more than \$50,000 each (\$100,000 total). RLIC will not oppose Plaintiffs' motion for Service Awards. The purpose of such awards shall be to compensate Plaintiffs for efforts undertaken on behalf of the Class. The Service Awards shall be made to Plaintiffs in addition to, and shall not diminish or prejudice in any way, any settlement relief which they may be eligible to receive.

5.2 Plaintiffs will move for attorneys' fees not to exceed 33 1/3% of the gross benefits provided to the Final Class Members by this Settlement, and, in addition, reimbursement for all expenses incurred or to be incurred, payable only from the Settlement Fund. RLIC agrees not to oppose Plaintiffs' motion for Class Counsel's Fees and Expenses to the extent Plaintiffs' request does not exceed the amounts set forth above.

5.3 Neither Plaintiffs nor Defendant shall be liable or obligated to pay any fees, expenses, costs, or disbursements to any person, either directly or indirectly, in connection with Claims at issue in the Action, this Agreement, or the Settlement, other than those expressly provided in this Agreement.

5.4 The Parties agree that the Settlement is not conditioned on the Court's approval of Service Awards or Class Counsel's Fees and Expenses.

5.5 The Net Settlement Fund shall be distributed to the Final Class Members pursuant to a plan of allocation to be developed by Class Counsel and approved by the Court. RLIC agrees to not oppose any such proposed plan of allocation, or such plan as may be approved by the Court, and further agrees to not take any position on any claims administration process.

5.6 Class Counsel will, in its sole discretion, allocate and distribute the fees and costs that it receives pursuant to this Settlement among Class Counsel and any and all other counsel, if applicable.

## **6. Releases and Waivers**

6.1 Upon the Final Settlement Date, the Releasing Party shall be deemed to have, and by operation of the Order And Judgment shall have, fully, finally, and forever released, relinquished, and discharged the Released Party of and from all Released Claims.

6.2 The Releasing Party expressly agrees that it shall not now or hereafter institute, maintain, assert, join, or participate in, either directly or indirectly, on their own behalf, on behalf of a class, or on behalf of any other person or entity, any action or proceeding of any kind against the Released Party asserting Released Claims.

6.3 With respect to any Released Claims under this Agreement, the Parties stipulate and agree that, upon the Final Settlement Date, the Releasing Parties shall be deemed to have, and by operation of the Order And Judgment shall have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of Section 1542 of the California Civil Code, which provides:

**A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.**

The Releasing Parties shall upon the Final Settlement Date be deemed to have, and by operation of the Order And Judgment shall have, waived any and all provisions, rights, or benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Section 1542 of the California Civil Code. The Releasing Parties may hereafter discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of the Released Claims, but the Releasing Parties upon the Final Settlement Date, shall be deemed to have, and by operation of the Order And Judgment shall have fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or noncontingent, whether or not concealed or hidden, which now exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct relating to the Released Claims that is negligent, intentional, with or without malice, or any breach of any duty, law, or rule without regard to subsequent discovery or existence of such different or additional facts. The Parties expressly acknowledge and each other Releasing Party and Released Party by operation of law shall be deemed to have acknowledged that the inclusion of Unknown Claims among Released Claims was separately bargained for and a material element of the Settlement.

6.4 Nothing in this Release shall preclude any action to enforce the terms of this Agreement.

6.5 The scope of the Released Claims or Released Party shall not be impaired in any way by the failure of any Class Member to actually receive the benefits provided for under this Agreement.

6.6 For purposes of clarification only, this Agreement shall not release Defendant from paying any future death benefits or surrender values that may be owed.



## **7. Tax Reporting and No Prevailing Party**

7.1 Any person or entity receiving any payment or consideration pursuant to this Agreement shall alone be responsible for the reporting and payment of any federal, state and/or local income or other form of tax on any payment or consideration made pursuant to this Agreement, and Defendant shall have no obligations to report or pay any federal, state and/or local income or other form of tax on any payment or consideration made pursuant to this Agreement.

7.2 All taxes resulting from the tax liabilities of the Settlement Fund Account shall be paid solely out of the Settlement Fund.

7.3 No Party shall be deemed the prevailing party for any purposes of this Action.

## **8. Other Provisions**

8.1 The Parties: (i) acknowledge that it is their intent to consummate this Agreement; (ii) agree to cooperate in good faith to the extent reasonably necessary to effect and implement all terms and conditions of the Agreement and to exercise their best efforts to fulfill the foregoing terms and conditions of the Agreement; and (iii) agree to cooperate in good faith to obtain preliminary and final approval of the Settlement and to finalize the Settlement.

8.2 The Parties agree that the amounts paid in the Settlement and the other terms of the Settlement were negotiated in good faith, and at arm's length by the Parties, and reflect a settlement that was reached voluntarily after consultation with competent legal counsel.

8.3 No person or entity shall have any claim against Class Counsel, the Settlement Administrator, Defendant's counsel or any of the Released Party based on actions taken substantially in accordance with the Agreement and the Settlement contained therein or further orders of the Court.

8.4 Defendant specifically and generally denies any and all liability or wrongdoing of any sort with regard to any of the Claims asserted or that could have been asserted in the Action and makes no concessions or admissions of liability or misconduct of any sort. Neither this Agreement, nor the Settlement, nor any communications related thereto, nor any act performed or document executed pursuant to, or in furtherance of, the Agreement or the Settlement: (i) is or may be deemed to be or may be used as an admission, concession, presumption, proof or evidence of, the validity of any Claims, or of any fault, wrongdoing or liability of the Released Party, or of any damages to the Class or of any infirmity of any of Defendant's defenses; or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault, liability, misconduct or omission of any kind whatsoever of the Released Party in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Nothing in this paragraph shall prevent Defendant and/or the Released Party from using this Agreement and Settlement or the Order And Judgment in any action that may be brought against it in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

8.5 RLIC agrees to provide all data reasonably necessary for Class Counsel to effectuate the distribution of Class Notice, any plan of allocation, and distribution of payments to Final Class Members.

8.6 The Parties agree that if this Agreement or the Settlement fails to be approved, fails to become effective, otherwise fails to be consummated, is declared void, or if there is no Final Settlement Date, then the Parties will be returned to *status quo ante*, as if this Agreement had never been negotiated or executed, except that no Settlement Administration Expenses shall be recouped. Each Party will be restored to the place it was in as of the date this Agreement was signed with the right to assert in the Action any argument or defense that was available to it at that time.

8.7 Nothing in this Agreement shall change the terms of any Policy. Nothing in this Agreement shall preclude any action to enforce the terms of this Agreement.

8.8 The Parties agree, to the extent permitted by law, that all agreements made and orders entered during the course of the Action relating to confidentiality of information shall survive this Agreement. To the extent Class Counsel or the Settlement Administrator requires Confidential Information to effectuate the terms of this Agreement, the terms of the Confidentiality Order shall apply to any information necessary to effectuate the terms of this Agreement.

8.9 The Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest. No waiver of any provision of this Agreement or consent to any departure by either Party therefrom shall be effective unless the same shall be in writing, signed by the Parties or their counsel, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No amendment or modification made to this Agreement pursuant to this paragraph shall require any additional notice to the Class Members, including written or publication notice, unless ordered by the Court. The Parties may provide updates on any amendments or modifications made to this Agreement on the Class Website.

8.10 Each person executing the Agreement on behalf of any party hereto hereby warrants that such person has the full authority to do so.

8.11 The Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Furthermore, electronically signed PDF versions or copies of original signatures may be accepted as actual signatures, and will have the same force and effect as the original. A complete set of executed counterparts shall be filed with the Court.

8.12 The Agreement shall be binding upon, and inure to the benefit of, the successors, heirs, and assigns of the Parties hereto; but this Agreement is not designed to and does not create any third-party beneficiaries either express or implied, except as to the Class Members.

8.13 The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against either party. No party shall be deemed the drafter of this Agreement. The Parties acknowledge that the terms of the Agreement are contractual and are the product of negotiations between the Parties and their counsel. Each of the Parties and their respective counsel cooperated in the drafting and preparation of the

Agreement. In any construction to be made of the Agreement, the Agreement shall not be construed against any Party.

8.14 Other than necessary disclosures made to the Court or the Settlement Administrator, this Agreement and all related information and communication shall be held strictly confidential by Plaintiffs, Class Counsel, and their agents until such time as the Parties file this Agreement with the Court.

8.15 This Agreement shall be governed by and interpreted in accordance with the laws of the State of Minnesota, without reference to its choice-of-law or conflict-of-laws rules.

8.16 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Agreement and any discovery sought from or concerning objectors to this Agreement. All Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Agreement.

8.17 Whenever this Agreement requires or contemplates that one Party shall or may give notice to the other, notice shall be provided by e-mail and/or next-day (excluding Saturday and Sunday) express delivery service as follows:

(a) If to Defendant, then to:

Clark C. Johnson  
Casey L. Hinkle  
Michael T. Leigh  
**Kaplan Johnson Abate & Bird LLP**  
710 West Main Street, 4th Floor  
Louisville, KY 40202  
cjohnson@kaplanjohnsonlaw.com  
chinkle@kaplanjohnsonlaw.com  
mleigh@kaplanjohnsonlaw.com

(b) If to Plaintiffs, then to:

Steven Sklaver  
Rohit Nath  
**SUSMAN GODFREY LLP**  
1900 Avenue of the Stars  
Los Angeles, California 90067  
ssklaver@susmangodfrey.com  
rnath@susmangodfrey.com

Seth D. Ard  
Ryan C. Kirkpatrick  
**SUSMAN GODFREY LLP**  
1301 Avenue of the Americas, 32nd Floor  
New York, NY 10019  
sard@susmangodfrey.com  
rkirkpatrick@susmangodfrey.com

Ryan Weiss  
Krisina J. Zuñiga  
**SUSMAN GODFREY LLP**  
1000 Louisiana Street, Suite 5100  
Houston, TX 77002

rweiss@susmangodfrey.com  
kzuniga@susmangodfrey.com

8.18 The Parties reserve the right to agree between themselves on any reasonable extensions of time that might be necessary to carry out any of the provisions of this Agreement.

8.19 All time periods set forth herein shall be computed in calendar days unless otherwise expressly provided. In computing any period of time prescribed or allowed by this Agreement or by order of any court, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Each other day of the period to be computed shall be included, including the last day thereof, unless such last day is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper in court on a day in which the court is closed during regular business hours. In any event, the period runs until the end of the next day that is not a Saturday, a Sunday, a legal holiday, or a day on which the court is closed. When a time period is less than seven business days, intermediate Saturdays, Sundays, legal holidays, and days on which the court is closed shall be excluded from the computation. As used in this Paragraph, legal holidays include New Year’s Day, Dr. Martin Luther King Jr. Day, Lincoln’s Birthday, Washington’s Birthday, Presidents’ Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Columbus Day, Election Day, Veterans Day, Thanksgiving Day, Christmas Day and any other day appointed as a holiday by Federal law or New York Law.

Stipulated and agreed to by:

**PHT Holding I LLC**

**Alice Curtis**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ReliaStar Life Insurance Company**

By: 

Title: Secretary

Date: June 28, 2023

rweiss@susmangodfrey.com  
kzuniga@susmangodfrey.com

8.18 The Parties reserve the right to agree between themselves on any reasonable extensions of time that might be necessary to carry out any of the provisions of this Agreement.

8.19 All time periods set forth herein shall be computed in calendar days unless otherwise expressly provided. In computing any period of time prescribed or allowed by this Agreement or by order of any court, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Each other day of the period to be computed shall be included, including the last day thereof, unless such last day is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper in court on a day in which the court is closed during regular business hours. In any event, the period runs until the end of the next day that is not a Saturday, a Sunday, a legal holiday, or a day on which the court is closed. When a time period is less than seven business days, intermediate Saturdays, Sundays, legal holidays, and days on which the court is closed shall be excluded from the computation. As used in this Paragraph, legal holidays include New Year's Day, Dr. Martin Luther King Jr. Day, Lincoln's Birthday, Washington's Birthday, Presidents' Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Columbus Day, Election Day, Veterans Day, Thanksgiving Day, Christmas Day and any other day appointed as a holiday by Federal law or New York Law.

Stipulated and agreed to by:

**PHT Holding I LLC**

**Alice Curtis**

By: Andrew Pless

By: Alice Curtis

Title: AUTHORIZED SIGNATORY

Title: \_\_\_\_\_

Date: 6/27/2023

Date: 6/29/23

**ReliaStar Life Insurance Company**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED ONLY AS TO FORM**

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Rohit Nath

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*Class Counsel and Counsel for Plaintiffs*



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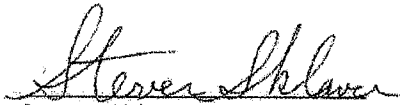
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*Counsel for Defendant ReliaStar Life  
Insurance Company*

**APPROVED ONLY AS TO FORM**



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*Class Counsel and Counsel for Plaintiffs*

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*Counsel for Defendant ReliaStar Life  
Insurance Company.*

# **Exhibit #3**



**VERDICT FORM A**

Note: Complete this form by writing in the names required by your verdict.

On Plaintiffs' claim that Defendant breached the COI charge provision, as submitted in Instruction No. 18, we find in favor of:

Plaintiff  
\_\_\_\_\_  
(Plaintiffs) or (Defendant)

**Note:** Complete the following paragraphs only if the above finding is in favor of Plaintiffs.

For the period of June 18, 2014, to February 28, 2021:

We find Plaintiffs' damages for Defendant's consideration of factors other than age, sex, and risk class and its expectations as to future mortality experience when setting the COI rate to be:

\$ 908,075.<sup>00</sup> (state the amount or, if none, write the word "none").

**Note:** Fill in the next blank only if you determined Defendant failed to apply its then-current mortality rates when setting the monthly COI charge.

We find Plaintiffs' damages for Defendant's failure to apply its then-current mortality rates when setting the monthly COI charge to be:

\$ \_\_\_\_\_ (state the amount or, if none, write the word "none").

For the period of May 1, 1982, to February 28, 2021:

We find Plaintiffs' damages for Defendant's consideration of factors other than age, sex, and risk class and its expectations as to future mortality experience when setting the COI rate to be:


\$ 5,059,275.<sup>00</sup> (state the amount or, if none, write the word "none").

**Note:** Fill in the next blank only if you determined Defendant failed to apply its then-current mortality rates when setting the monthly COI charge.

We find Plaintiffs' damages for Defendant's failure to apply its then-current mortality rates when setting the monthly COI charge to be:

\$ \_\_\_\_\_ (state the amount or, if none, write the word "none").

Dated: 05/25/23

  
\_\_\_\_\_  
Foreperson

**VERDICT FORM B**

Note: Complete this form by writing in the names required by your verdict.

On Plaintiffs' claim that Defendant breached the expense charge provision, as submitted in Instruction No. 19, we find in favor of:

\_\_\_\_\_ or Defendant  
(Plaintiffs) (Defendant)

**Note:** Complete the following paragraphs only if the above finding is in favor of Plaintiffs.

For the period of June 18, 2014, to February 28, 2021:

We find Plaintiffs' damages to be:

\$ 0 (state the amount or, if none, write the word "none").

For the period of May 1, 1982, to February 28, 2021:

We find Plaintiffs' damages to be:

\$ 0 (state the amount or, if none, write the word "none").

Dated: 05/25/23

Cheryl Smith  
Foreperson

# **Exhibit #4**

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

CHRISTOPHER Y. MEEK, )  
Individually and On Behalf of All Others )  
Similarly Situated, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
KANSAS CITY LIFE INSURANCE )  
COMPANY, )  
 )  
Defendant. )

Case No. 19-00472-CV-W-BP

**JUDGMENT IN A CIVIL CASE**

**X** **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

       **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

**X** **Decision by Court.** This action came before the Court. The issues have been determined and a decision has been rendered.

**IT IS ORDERED AND ADJUDGED**

The Court directs that judgment be entered with respect to the following Class:

All persons (1) who own or owned a Better Life Plan, Better Life Plan Qualified, LifeTrack, AGP, MGP, PGP, Chapter One, Classic, Rightrack (89), Performer (88), Performer (91), Prime Performer, Competitor (88), Competitor (91), Executive (88), Executive (91), Protector 50, LowerMax, Ultra 20 (93), Competitor II, Executive II, Performer II, or Ultra 20 (96) life insurance policy issued or administered by Defendant, or its predecessors in interest, (2) that was active on or after January 1, 2002, (2) purchased the life insurance policy while domiciled in Kansas, and (4) incurred charges for “Cost of Insurance” or “Expense Charges” between June 18, 2014 and February 28, 2021. Excluded from the Class are: KC Life; any entity in which KC Life has a controlling interest; any of the officers, directors, employees, or sales agents of KC Life; the legal representatives, heirs, successors, and assigns of KC Life; anyone employed with Plaintiff’s counsel’s firms; and any Judge to whom this case is assigned, and his or her immediate family.

The judgment to be entered is as follows:

1. Pursuant to the Court's March 27, 2023, Order, the jury's May 25, 2023, verdict, and the Court's June 20, 2023, Order, judgment is entered in favor of the Class and against Defendant on Count I in the amount of \$908,075.00.
2. Pursuant to the Court's March 27, 2023, Order, the jury's May 25, 2023, verdict, and the Court's June 20, 2023, Order, judgment is entered in favor of the Class and against Defendant on Count II in the amount of zero dollars.
3. Pursuant to the jury's May 25, 2023, verdict, and the Court's June 20, 2023, Order, judgment is entered in favor of Defendant and against the Class on Count III.
4. Pursuant to the Court's March 27, 2023, Order, judgment is entered in favor of Defendant and against the Class on Count IV.
5. Pursuant to the Court's June 20, 2023, Order, Count V is dismissed without prejudice to the other rulings in this case.

June 20, 2023  
Date

Paige Wymore-Wynn  
Clerk of Court

/s/ Shauna Murphy-Carr  
(by) Deputy Clerk

# **Exhibit #5**

### **Plan of Allocation<sup>1</sup>**

1. Each Final Class Member who is the current (or, for terminated policies, the last-known) owner of a Class Policy according to RLIC's records ("Recipient") shall be issued a check for that Class Policy equal to the minimum settlement relief plus that Recipient's *pro rata* share of the remaining Net Settlement Fund.
  2. The minimum settlement relief payment for each policy shall be one hundred dollars (\$100.00).
  3. Each Recipient's *pro rata* share of the Net Settlement Fund after deducting all minimum settlement relief payments shall be computed as follows:
    - a. First, identify each Recipient's total COI and rider, if applicable, overcharges as reflected in Exhibits 4–16 and Exhibits 33–34 of the Mills Report, including any updated calculations following RLIC's production of updated data pursuant to section 8.5 of the Settlement.
    - b. Second, divide that number by the combined total COI and rider overcharges for all Final Class Members as reflected in Exhibits 4–16 and Exhibits 33–34 of the Mills Report, including any updated calculations following RLIC's production of updated data pursuant to section 8.5 of the Settlement.
    - c. Third, multiply the resultant percentage for each Recipient by the Net Settlement Fund that remains after deducting all minimum settlement relief payments.
  4. If a Recipient would receive multiple checks pursuant to paragraphs 1–3 above, such checks may be consolidated into a single check.
  5. Within one year plus 30 days after the date the Settlement Administrator mails the first checks, any funds remaining in the Net Settlement Fund shall be redistributed on a *pro rata* basis to Recipients who previously cashed the checks they received, to the extent feasible and practical in light of the costs of administering such subsequent payments, unless the amounts involved are too small to make individual distributions economically viable or other specific reasons exist that would make such further distributions impossible or unfair. All costs associated with the disposition of residual funds—whether through additional distributions to Final Class Members and/or through an alternative plan approved by the Court—shall be borne solely by the Settlement Fund.
  6. The plan of allocation may be modified upon further order of the Court. Any updates to the plan of allocation will be published on the Class Website.
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<sup>1</sup> All capitalized terms herein are used as defined in the Joint Stipulation and Settlement Agreement.