

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 ROBERT
MILLS IN SUPPORT OF CLASS
COUNSEL’S MOTION FOR
ATTORNEYS’ FEES,
REIMBURSEMENT OF
LITIGATION EXPENSES, AND
SERVICE AWARDS**

I, Robert Mills, declare as follows:

1. I submit this declaration in support of Class Counsel’s Motion for Attorneys’ Fees, Reimbursement of Litigation Expenses, and Service Awards in this Action. 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.

2. I am an economist and Director at Micronomics, Inc., an economic research and consulting firm located in Los Angeles, California. I have 25 years of economic research and consulting experience in areas including the valuation of intellectual property and other assets, industrial organization, and the calculation of economic damages. Over the course of my career, I have worked on numerous projects involving the life insurance industry, including matters in which I have been asked to compute damages caused by cost of insurance (“COI”) overcharges.

3. In that damages context, I have analyzed and estimated COI charges for over 650,000 life insurance policies during my career. I also have analyzed, calculated, and reconciled numerous other variables pertaining to life insurance, including premium payments, administrative expenses, sales loads, rider charges, interest credits, account values, surrender values, corridor values, net amounts at risk, grace notice values, and death benefits, among other variables, and I have provided expert testimony concerning these analyses and calculations. I have qualified as an expert on damages issues and have provided expert testimony before United States District Courts, state courts, and at arbitration. A biographical summary has been filed in this Action at Docket No. 151-26.

4. I was asked by Class Counsel to provide opinions regarding damages in this Action caused by impermissible COI and rider charges imposed by Defendant ReliaStar Life Insurance Company (“RLIC”). More specifically, I was asked to calculate breach of contract damages both class-wide and policy-by-policy using the available information. As part of this process, I determined historical monthly COI charges from historical policy data produced by RLIC. I determined but-for COI rates for these policies under Plaintiffs’ contentions, using base mortality tables and scalars produced by RLIC. Monthly but-for COI charges were calculated using these but-for COI rates. COI overcharges were calculated as the difference between actual COI charges and but-for COI charges.

5. On October 14, 2022, I executed an expert report that detailed my calculations and was served on counsel for RLIC. Using data through May 31, 2022, in that report, I calculated the total COI overcharges to the COI Class policies under the methodology described above to be \$62,416,112.00.

6. I was also asked to calculate COI overcharges under an alternative scenario in which but-for COI rates were determined by applying an annual Historical Mortality Improvement (“HMI”) factor of 0.9925 to actual COI rates used by RLIC to calculate COI charges. I was asked to apply this adjustment factor each year beginning with the calendar year following the year in which the last policy was issued on the applicable COI Class policy form. Under the alternative HMI approach, total overcharges for the COI Class were \$33,340,653 through May 31, 2022.

7. With regard to rider overcharges, I calculated the damages that resulted from RLIC’s 15% increase in waiver rider rates in 1989. The overcharge for a particular policy on a monthly deduction date was equal to the actual rider charge deducted on that date less the rider charge that would have been imposed on that date but for the breach of contract (the 15% increase). I calculated the total amount of overcharges for the Rider Class to be \$51,774 through May 31, 2022.

8. In connection with the May 31, 2023 mediation in this Action, Class Counsel asked me to use the same RLIC data and assumptions I used to calculate overcharge damages through May 2022 in my October 14, 2022 expert report to estimate COI overcharges through May 31, 2023. In response to that request, I calculated the total estimated COI overcharges through May 31, 2023 to be \$68,684,478 under the damages methodology described in Paragraph 4 above.

9. In the months that followed that mediation, RLIC produced to Class Counsel supplemental policy-level data through May 31, 2023, which Class Counsel shared with me. Using the same processes described in paragraphs 4 and 7 above, I calculated the total

actual (as opposed to estimated) COI and rider overcharges through May 31, 2023. The total COI overcharges under the damages methodology described in Paragraph 4 above through May 31, 2023 are \$68,790,332.93, and the total rider overcharges through May 31, 2023 are \$53,283.96. Together, the total overcharges are \$68,843,616.89.

10. Comparing my May 2023 estimated COI overcharges with the actual COI overcharges through May 2023, now that I have access to RLIC's supplemental policy-level data, the difference is \$105,854.93; the total actual COI overcharges ended up being just .15% higher than I estimated.

11. Comparing the damages I calculated in my October 14, 2022 expert report, based on data through May 31, 2022, with my more recent calculations with the supplemental data through May 31, 2023, overcharges grew by 10.2% with the additional year of data (\$62,416,112.00 to \$68,790,332.93). Assuming overcharges grew by the same percentage and applying that percentage to the HMI approach, overcharges under the HMI approach are \$36,745,554 through May 31, 2023, and HMI overcharges plus rider overcharges total \$36,798,838.

12. Given these numbers, the \$39,000,000 cash portion of the settlement in this Action represents approximately 57% of the COI overcharges I calculated using my primary, maximum damages model and the rider overcharges through May 31, 2023, and approximately 106% of the COI overcharges using my alternative HMI model and the rider overcharges through May 31, 2023.

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

Dated: September 21, 2023



Robert Mills