

The Honorable Kymberly K. Evanson

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DENNIS E. DAVIS, individually and on behalf of  
all others similarly situated,

Plaintiff,

v.

SYMETRA LIFE INSURANCE COMPANY,  
Defendant.

NO. 2:21-cv-00533-KKE

**CLASS COUNSEL’S MOTION FOR  
ATTORNEYS’ FEES, EXPENSE  
REIMBURSEMENT, AND SERVICE  
AWARD**

NOTED ON MOTION CALENDAR:  
May 19, 2025

CLASS COUNSEL’S MOTION FOR ATTORNEYS’ FEES,  
EXPENSE REIMBURSEMENT, AND SERVICE AWARD  
Case No. 2:21-cv-00533-KKE

## TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	ii
I. INTRODUCTION.....	1
II. STATEMENT OF FACTS.....	2
III. THE SETTLEMENT.....	2
IV. ARGUMENT .....	3
A. The Court Should Apply the Percentage-of-the-Fund Method. ....	3
B. The Requested Fee Amount Is Reasonable Under the Percentage-of-the-Fund Method.....	4
1. Class Counsel Achieved an Excellent Result for the Settlement Class....	5
2. Plaintiff Faced Significant Risks in This Litigation. ....	6
3. Class Counsel are Highly Skilled Attorneys Experienced in COI Litigation. ....	6
4. Class Counsel Faced Substantial Risk of Non-Payment and Carried Significant Financial Burdens, Litigating on a Contingent Basis. ....	7
5. Fees Awarded in Comparable Cases Align with Those Requested Here.	8
C. A Lodestar Cross-Check Confirms the Reasonableness of the Requested Fees. .	9
1. Class Counsel’s Lodestar Is Reasonable. ....	10
2. A Multiplier is Warranted. ....	11
D. Class Counsel’s Reported Expenses are Reasonable. ....	11
E. The Requested Service Award Is Reasonable. ....	12
V. CONCLUSION .....	13

## TABLE OF AUTHORITIES

### Cases

<i>Bellinghausen v. Tractor Supply Co.</i> , 306 F.R.D. 245 (N.D. Cal. 2015) .....	9
<i>Benson v. DoubleDown Interactive, LLC</i> , 2023 WL 3761929 (W.D. Wash. June 1, 2023) .....	5
<i>Blum v. Stenson</i> , 465 U.S. 886 (1984) .....	10
<i>Boeing Co. v. Van Gemert</i> , 444 U.S. 472 (1980) .....	3
<i>Bolding v. Banner Bank</i> , 2024 WL 755903 (W.D. Wash. Feb. 23, 2024) .....	5
<i>Brown v. Papa Murphy's Holdings Inc.</i> , 2022 WL 1303176 (W.D. Wash. May 2, 2022) .....	5
<i>Covillo v. Specialtys, Café</i> , 2014 WL 954516 (N.D. Cal. Mar. 6, 2014) .....	9
<i>Craft v. Cnty. of San Bernardino</i> , 624 F. Supp. 2d 1113 (C.D. Cal. 2008) .....	11
<i>Dearaujo v. Regis Corp.</i> , 2017 WL 3116626 (E.D. Cal. July 21, 2017) .....	9
<i>Glass v. UBS Fin. Servs.</i> , 2007 WL 221862 (N.D. Cal. Jan. 26, 2007) .....	12
<i>Goldiner v. Datex-Ohmeda Cash Balance Plan</i> , 2011 WL 13190205 (W.D. Wash. May 10, 2011) .....	9
<i>Grimm v. American Eagle Airlines, Inc.</i> , 2014 WL 12746376 (C.D. Cal. Sept. 24, 2014) .....	6
<i>Hallman v. Wells Fargo Bank, N.A.</i> , 2021 WL 9567171 (W.D. Wash. June 10, 2021) .....	8
<i>Hanlon v. Chrysler Corp.</i> , 150 F.3d 1011 (9th Cir. 1998) .....	4, 10, 11

1	<i>Hartless v. Clorox Co.</i> ,	12
	273 F.R.D. 630 (S.D. Cal. 2011) .....	
2	<i>Hensley v. Eckerhart</i> ,	5
3	461 U.S. 424 (1983) .....	
4	<i>Ikuseghan v. Multicare Health Sys.</i> ,	5
5	2016 WL 4363198 (W.D. Wash. Aug. 16, 2016).....	
6	<i>In re Activision Sec. Litig.</i> ,	4
	723 F. Supp. 1373 (N.D. Cal. 1989).....	
7	<i>In re Am. Apparel, Inc. S'holder Litig.</i> ,	7
8	2014 WL 10212865 (C.D. Cal. Jul. 28, 2014) .....	
9	<i>In re Atossa Genetics, Inc. Sec. Litig.</i> ,	9
10	2018 WL 3546176 (W.D. Wash. July 20, 2018).....	
11	<i>In re Bluetooth Headset Prods. Liab. Litig.</i> ,	3, 4, 9, 10
	654 F.3d 935 (9th Cir. 2011) .....	
12	<i>In re Infospace, Inc. Sec. Litig.</i> ,	8, 11
13	330 F. Supp. 2d 1203 (W.D. Wash. 2004) .....	
14	<i>In re Mercury Interactive Corp. Sec. Litig.</i> ,	3
15	618 F.3d 988 (9th Cir. 2010) .....	
16	<i>In re Omnivision Techs., Inc.</i> ,	<i>passim</i>
	559 F. Supp. 2d 1036 (N.D. Cal. 2008).....	
17	<i>In re Online DVD Rental Antitrust Litig.</i> ,	4
18	779 F.3d 934 (9th Cir. 2015) .....	
19	<i>In re Pac. Enters. Secs. Litig.</i> ,	9
20	47 F.3d 373 (9th Cir. 1995) .....	
21	<i>In re Volkswagen "Clean Diesel" Mktg., Sales Practices, &amp; Prod. Liab. Litig.</i> ,	10
	2017 WL 1047834 (N.D. Cal. Mar 17, 2017) .....	
22	<i>In re Wash. Pub. Power Supply Sys. Sec. Litig.</i> ,	8
23	19 F.3d 1291 (9th Cir. 1994) .....	
24	<i>In re: Facebook Biometric Info. Privacy Litig.</i> ,	3
25	2022 WL 822923 (9th Cir. Mar. 17, 2022) .....	
26	<i>Knight v. Red Door Salons, Inc.</i> ,	8
	2009 WL 248367 (N.D. Cal. Feb. 2, 2009) .....	

1	<i>Larsen v. Trader Joe's Co.</i> ,	
	2014 WL 3404531 (N.D. Cal. July 11, 2014) .....	4
2	<i>Larson v. John Hancock Life Ins. Co. (U.S.A.)</i> ,	
3	2018 WL 8016973 (Cal. Super. May 08, 2018) .....	9
4	<i>Lee v. JPMorgan Chase &amp; Co.</i> ,	
5	2015 WL 12711659 (C.D. Cal. Apr. 28, 2015) .....	9
6	<i>Mills v. Electric Auto-Lite Co.</i> ,	
	396 U.S. 375 (1970) .....	11
7	<i>Niewinski v. State Farm Life Ins. Co.</i> ,	
8	2024 WL 4902375 (W.D. Mo. Apr. 1, 2024) .....	9, 12
9	<i>NuVasive, Inc. v. Alphatec Holdings, Inc.</i> ,	
10	No. 3:18-CV-347-CAB-MDD, 2020 WL 6876300 (S.D. Cal. Mar. 20, 2020) .....	10
11	<i>De Mira v. Heartland Emp't Serv., LLC</i> ,	
	2014 WL 1026282 (N.D. Cal. Mar 13, 2014) .....	4
12	<i>Pan v. Qualcomm Inc.</i> ,	
13	2017 WL 3252212 (S.D. Cal. July 31, 2017) .....	12
14	<i>Rodriguez v. West Publishing Corp.</i> ,	
15	563 F.3d 948 (9th Cir. 2009) .....	12
16	<i>Rogowski v. State Farm Life Ins. Co.</i> ,	
	2023 WL 5125113 (W.D. Mo. Apr. 18, 2023) .....	9, 12
17	<i>Romero v. Producers Dairy Foods, Inc.</i> ,	
18	2007 WL 3492841 (E.D. Cal. Nov. 14, 2007) .....	8
19	<i>Staton v. Boeing Co.</i> ,	
20	327 F.3d 938 (9th Cir. 2003) .....	3
21	<i>Steiner v. Am. Broad. Co, Inc.</i> ,	
	248 F. App'x. 780 (9th Cir. 2007) .....	11
22	<i>Syed v. M-I, L.L.C.</i> ,	
23	2017 WL 3190341 (E.D. Cal. July 27, 2017) .....	9
24	<i>Vizcaino v. Microsoft Corp.</i> ,	
25	290 F.3d 1043 (9th Cir. 2002) .....	<i>passim</i>
26	<b>Other Authorities</b>	
	Manual for Complex Litigation 4th (2004) .....	5

## I. INTRODUCTION

Over the course of nearly four years, Plaintiff Dennis E. Davis (“Plaintiff”) and Class Counsel vigorously litigated this hotly contested cost of insurance (“COI”) overcharge class action against Defendant Symetra Life Insurance Company (“Symetra”). Plaintiff sought relief for what he alleged were Symetra’s repeated violations of the terms of its universal life insurance policies, resulting in unauthorized and excessive deductions from policyholders’ policy accounts.

Class Counsel achieved a Settlement that provides significant relief for the Class. As set forth in detail as part of Plaintiff’s motion for preliminary approval, under the Parties’ Settlement Agreement, Symetra will establish a non-reversionary cash Settlement Fund of \$32,500,000 that will be used to pay for the settlement relief to the Settlement Class Members, which will be automatically distributed to them upon final approval; the cost of settlement administration, including providing notice; and any attorneys’ fees and expense reimbursement to Class Counsel, and any Service Award to Plaintiff, as approved and awarded by the Court.

Without Class Counsel’s willingness to pursue this case on a pure contingency fee basis with no guarantee of compensation for their work or recovery of their expenses, the Class would not have realized these substantial cash benefits. As set forth below, Class Counsel’s skill, experience, and national reputation in COI class action litigation brought about the excellent results achieved here and support the requested award of attorneys’ fees.

Accordingly, Class Counsel ask the Court to approve their request for attorneys’ fees of one-third (33.33%) of the Settlement Fund, which results in a fee of \$10,833,333.33, and reimbursement of their litigation expenses, which are \$197,618.82 through April 2, 2025. Class Counsel also request that the Court approve a Service Award for Plaintiff of \$25,000 for his contribution to this litigation on behalf of the Class.<sup>1</sup>

---

<sup>1</sup> Class Counsel submits a form proposed order herewith, but will submit an amended proposed order in advance of the Fairness Hearing but after the deadline for objections or exclusions, so that any feedback from class members may be addressed.

## II. STATEMENT OF FACTS

In the interest of brevity and efficiency, Plaintiff refers the Court to the Summary of the Litigation provided in Plaintiff's motion for preliminary approval filed January 31, 2025, as well as the Declaration of Patrick J. Stueve filed therewith, which set forth the procedural history of the case in detail. Dkt. 135; Dkt. 136 (Stueve Decl.), ¶¶12-24; *see also* Class Counsel's Declaration in Support of Motion for Attorneys' Fees, Expense Reimbursement, and Service Award ("Joint Decl."), ¶¶8-16.

Since this Court granted preliminary approval of the Settlement on February 4, 2025, Class Counsel has worked closely with Analytics, the Settlement Administrator, to ensure the Class Notice plan was carried out. *Id.*, ¶24. Class Counsel anticipates further involvement with Analytics in the coming months to ensure the successful administration of the Settlement for the Class. *Id.*, ¶40.

While the deadline to object or request exclusion is on April 25, 2025, to date, the Settlement has been well received, with only one request for exclusion and no objections. Declaration of Richard Simmons, ¶¶17-18.

## III. THE SETTLEMENT

The Agreement represents a compromise between Plaintiff and the Class and Symetra regarding the claims in this litigation. If the Settlement is finally approved, a non-reversionary cash Settlement Fund in the amount of \$32,500,000 will be created. There is no "claims process." Each Settlement Class Member will receive their share of the Net Settlement Fund pursuant to an objective distribution plan designed to provide each Settlement Class Member a minimum payment of \$10 plus an approximate pro rata portion of the Net Settlement Fund according to the amount of COI charges paid by each Settlement Class Member, with equitable adjustments for current policyholders. *See* Dkt. 138 (Witt Decl.), Ex. B.

The Settlement Fund will also be used to cover the fees and expenses of Settlement Administration and to pay any award of attorneys' fees and expense reimbursement, and service

award. Agreement, ¶¶1.36, 8.1, 8.2.

#### IV. ARGUMENT

It is well established that where counsel's work results in a benefit to a class, an award of reasonable attorneys' fees and costs is appropriate. *See Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980) ("[A] litigant or a lawyer who recovers a common fund . . . is entitled to a reasonable attorney's fee from the fund as a whole."). In deciding whether the requested fee is appropriate, the Court determines whether such amount is "fundamentally fair, adequate, and reasonable." *Staton v. Boeing Co.*, 327 F.3d 938, 963 (9th Cir. 2003).

##### A. The Court Should Apply the Percentage-of-the-Fund Method.

Where counsel seek fees from a common fund, courts may use one of two methods to determine whether the request is reasonable: "percentage-of-the-fund" or "lodestar/multiplier." *In re Mercury Interactive Corp. Sec. Litig.*, 618 F.3d 988, 992 (9th Cir. 2010). However, "the percentage method in common fund cases appears to be dominant" in the Ninth Circuit. *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1046 (N.D. Cal. 2008); *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1050 (9th Cir. 2002) ("[T]he primary basis of the fee award remains the percentage method.").

The common fund doctrine rests on the understanding that attorneys should normally be paid by their clients. *See Boeing*, 444 U.S. at 478. Awarding fees from a common fund avoids "the unjust enrichment of [the class who] benefit[s] from the fund that is created, protected, or increased by the litigation and who otherwise would bear none of the litigation costs." *In re: Facebook Biometric Info. Privacy Litig.*, 2022 WL 822923, at \*1 (9th Cir. Mar. 17, 2022) (quotation omitted).

Courts prefer the percentage method over a lodestar approach where it is possible to ascertain the value of a common fund. *See In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011) ("Because the benefit to the class is easily quantified in common-fund



1 settlements, we have allowed courts to award attorneys a percentage of the common fund in lieu  
2 of the often more time-consuming task of calculating the lodestar.”).

3 By contrast, courts rely on the lodestar method when “there is no way to gauge the net  
4 value of the settlement or of any percentage thereof.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011,  
5 1029 (9th Cir. 1998); *Bluetooth*, 654 F.3d at 941 (lodestar appropriate “where the relief  
6 sought—and obtained—is often primarily injunctive in nature and thus not easily monetized”).  
7 The percentage-of-the-fund approach also rewards efficiency. *Vizcaino*, 290 F.3d at 1050 n.5  
8 (recognizing “that the lodestar method creates incentives for counsel to expend more hours than  
9 may be necessary on litigating a case so as to recover a reasonable fee, since the lodestar method  
10 does not reward early settlement.”); *see also In re Activision Sec. Litig.*, 723 F. Supp. 1373,  
11 1378 (N.D. Cal. 1989) (lodestar method may encourage “abuses such as unjustified work”  
12 contrary to “the stated purposes of proportionality, predictability and protection of the class”).

13 Because the Parties negotiated a settlement resulting in a common fund in a fixed dollar  
14 amount, Class Counsel request that the Court use the percentage-of-the-fund method in  
15 determining attorneys’ fees.

16 **B. The Requested Fee Amount Is Reasonable Under the Percentage-of-the-Fund**  
17 **Method.**

18 Class Counsel’s request for 33.33% of the Settlement Fund as an attorneys’ fee is fair  
19 and reasonable. The Ninth Circuit has established a 25-percent benchmark as the “starting  
20 point” for analysis, *In re Online DVD Rental Antitrust Litig.*, 779 F.3d 934, 955 (9th Cir. 2015),  
21 but “[t]hat percentage amount can then be adjusted upward or downward depending on the  
22 circumstances of the case.” *De Mira v. Heartland Emp’t Serv., LLC*, 2014 WL 1026282, at \*1  
23 (N.D. Cal. Mar 13, 2014). Courts have recognized that “in most common fund cases, the award  
24 exceeds th[e] benchmark.” *Id.* (quoting *Omnivision*, 559 F. Supp. 2d at 1047); *see also Larsen*  
25 *v. Trader Joe’s Co.*, 2014 WL 3404531, at \*9 (N.D. Cal. July 11, 2014) (citing multiple cases  
26 awarding fees of up to 33.33%). Indeed, the mean percentage awarded in this district is 27%

1 and awards regularly exceed that percentage. *Benson v. DoubleDown Interactive, LLC*, 2023  
 2 WL 3761929, at \*2 (W.D. Wash. June 1, 2023) (awarding 29.3% fee); *Bolding v. Banner Bank*,  
 3 2024 WL 755903, at \*2 (W.D. Wash. Feb. 23, 2024) (“a 33% fee is standard and reasonable  
 4 for this type of contingency case.”); *Brown v. Papa Murphy’s Holdings Inc.*, 2022 WL  
 5 1303176, at \* 2 (W.D. Wash. May 2, 2022) (awarding 31.5% and finding that “30% should be  
 6 the benchmark”).

7 The Ninth Circuit asks district courts to “take into account all of the circumstances of  
 8 the case” and “reach[] a reasonable percentage,” *Vizcaino*, 290 F.3d at 1048, including “(1) the  
 9 results achieved; (2) the risk of litigation; (3) the skill required and the quality of work; (4) the  
 10 contingent nature of the fee and the financial burden carried by the plaintiffs; and (5) awards  
 11 made in similar cases.” *Omnivision*, 559 F. Supp. 2d at 1046. These factors support Class  
 12 Counsel’s requested fee.

### 13 **1. Class Counsel Achieved an Excellent Result for the Settlement Class.**

14 In determining the attorneys’ fee, a court should examine “the degree of success  
 15 obtained.” *Hensley v. Eckerhart*, 461 U.S. 424, 436 (1983); *Omnivision*, 559 F. Supp. 2d at  
 16 1046 (“The overall result and benefit to the class from the litigation is the most critical factor  
 17 in granting a fee award.”). Here, the size of the fund itself reflects “the measure of success and  
 18 represents the benchmark from which a reasonable fee will be awarded.” Federal Judicial  
 19 Center, Manual for Complex Litigation 4th § 14:121 (2004) (cleaned up). Class Counsel  
 20 secured a Settlement of \$32,500,000, which will be distributed to Settlement Class Members  
 21 without the necessity of making a claim. This is an excellent recovery for the Settlement Class  
 22 Members, most of whom are now at a significantly advanced age and had no way to know  
 23 Symetra’s deductions were in excess of what the policies authorized. *See Ikuseghan v.*  
 24 *Multicare Health Sys.*, 2016 WL 4363198, at \*2 (W.D. Wash. Aug. 16, 2016) (recognizing that  
 25 a superior result warrants an upward adjustment to percentage awarded as attorneys’ fees). This  
 26

1 is an excellent result that avoids the uncertainty and risk presented by continued litigation, while  
 2 providing the Class with immediate relief. This factor therefore supports the requested fee.

### 3 **2. Plaintiff Faced Significant Risks in This Litigation.**

4 The risk of non-recovery in a complicated case “is a significant factor in the award of  
 5 fees.” *Omnivision*, 559 F. Supp. 2d at 1046-47. In this case, Class Counsel undertook  
 6 representation of Plaintiff and the Settlement Class on a contingent basis and Class Counsel’s  
 7 risk of no recovery was high. First, this case involved claims that were by their nature difficult  
 8 to detect. Plaintiff alleged Symetra hid the unlawful COI charges for decades. Only Class  
 9 Counsel’s deep understanding of life insurance products, pricing, and access to qualified  
 10 actuarial experts allowed the case to be filed in the first instance. Joint Decl., ¶29.

11 Second, establishing Symetra’s liability likewise posed substantial risk considering that  
 12 courts have come out different ways on the meaning of the key policy language at issue. *See*  
 13 Dkts. 94, 110, 118. Moreover, policy interpretation was far from the only risk that Class  
 14 Counsel faced. As in the many COI cases Class Counsel have litigated, Symetra levied vigorous  
 15 statute of limitations challenges, as well as those directed at class certification, expert testimony,  
 16 and the damages calculations. *See, e.g., Grimm v. American Eagle Airlines, Inc.*, 2014 WL  
 17 12746376, at \*10 (C.D. Cal. Sept. 24, 2014) (noting plaintiffs “necessarily risk losing class  
 18 action status” at any time following certification). Nor did Class Counsel have the benefit of  
 19 tagging along to a previous, similar suit or from any government action or investigation. Joint  
 20 Decl., ¶3. Instead, Class Counsel were the first to challenge Symetra’s conduct and took on this  
 21 responsibility for the benefit of the Class without outside assistance.

22 Each risk could have impeded the successful prosecution of these claims at trial, resulting  
 23 in zero recovery for the policyholders. Thus, this factor supports the requested fee award.

### 24 **3. Class Counsel are Highly Skilled Attorneys Experienced in COI** 25 **Litigation.**

26 The “prosecution and management of a complex national class action requires unique

1 legal skills and abilities” relevant to determining a reasonable fee. *Omnivision*, 559 F. Supp. 2d  
 2 at 1047 (citation omitted); *see also Vizcaino*, 290 F.3d at 1048 (reasoning that the complexity of  
 3 the issues and skill and effort displayed by class counsel are among the relevant factors under  
 4 the percentage approach).

5 Class Counsel’s depth of knowledge and experience in class actions of this type is  
 6 unmatched. As this Court recognized, Class Counsel “have experience litigating complex cost-  
 7 of-insurance overcharge cases and have been appointed as class counsel in dozens of class  
 8 actions, including those asserting the same claims in courts as are at issue here.” Dkt. 139 at 4.  
 9 Class Counsel have obtained several settlements in this type of case and have tried four such  
 10 cases to jury verdicts in the plaintiff-class’s favor. Class Counsel effectively and efficiently  
 11 litigated this case to achieve this result, which would not have been possible without Class  
 12 Counsel’s track record of results, including their proven willingness to take cases to trial and  
 13 through appeal.

14 Courts also consider “the quality of opposing counsel as a measure of the skill required  
 15 to litigate the case successfully.” *In re Am. Apparel, Inc. S’holder Litig.*, 2014 WL 10212865,  
 16 at \*22 (C.D. Cal. Jul. 28, 2014). Throughout the litigation, Class Counsel faced lawyers at  
 17 Willkie Farr & Gallagher, a highly respected international law firm. This factor therefore  
 18 supports the requested fee award.

19 **4. Class Counsel Faced Substantial Risk of Non-Payment and Carried**  
 20 **Significant Financial Burdens, Litigating on a Contingent Basis.**

21 The Ninth Circuit has confirmed that a fair fee award must include consideration of the  
 22 contingent nature of the fee. *See, e.g., Vizcaino*, 290 F.3d at 1050. Courts recognize that the  
 23 public interest is served by rewarding attorneys who assume representation on a contingent  
 24 basis with an enhanced fee to compensate them for the risk that they might be paid nothing at  
 25 all for their work. *See, e.g., In re Wash. Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d 1291, 1299  
 26 (9th Cir. 1994) (“Contingent fees that may far exceed the market value of the services if

1 rendered on a non-contingent basis are ... a legitimate way of assuring competent representation  
 2 for plaintiffs who could not afford to pay on an hourly basis regardless whether they win or  
 3 lose.”).

4 Class Counsel litigated this case on a purely contingent basis, devoting substantial  
 5 resources to the prosecution of this matter for nearly four years and foregoing other  
 6 opportunities, with no guarantee that they would be compensated for their time or reimbursed  
 7 for their expenses. Joint Decl. ¶¶45. Nevertheless, Class Counsel zealously advocated for  
 8 Plaintiff and the Settlement Class. To date, Class Counsel have received no compensation for  
 9 their work on this case. Class Counsel’s “substantial outlay” of both time and money, and the  
 10 risk of no recovery, further supports the award of their requested fees. *Omnivision*, 559 F. Supp.  
 11 2d at 1047; *In re Infospace, Inc. Sec. Litig.*, 330 F. Supp. 2d 1203, 1212 (W.D. Wash. 2004)  
 12 (noting “preclusion of other employment ... due to acceptance of the case” is a factor to  
 13 consider) (quotation omitted).

14 To date, Class Counsel have worked over 4,250 hours on this case and advanced nearly  
 15 \$200,000 in expenses. Joint Decl. ¶¶39, 44. This substantial outlay of time and resources on a  
 16 purely contingent basis favors approval of the requested fee.

#### 17 **5. Fees Awarded in Comparable Cases Align with Those Requested Here.**

18 Comparing the requested fees to awards in similar cases highlights the reasonableness  
 19 of this application. “[I]n most common fund cases, the award exceeds” the 25% benchmark.  
 20 *Knight v. Red Door Salons, Inc.*, 2009 WL 248367, at \*6 (N.D. Cal. Feb. 2, 2009); *see also*,  
 21 *e.g.*, *Romero v. Producers Dairy Foods, Inc.*, 2007 WL 3492841, at \*1, 4 (E.D. Cal. Nov. 14,  
 22 2007) (awarding 33% of common fund and noting that “fee awards in class actions average  
 23 around one-third of the recovery”); *Hallman v. Wells Fargo Bank, N.A.*, 2021 WL 9567171, at  
 24 \*2 (W.D. Wash. June 10, 2021) (awarding 1/3 of settlement fund); *In re Atossa Genetics, Inc.*  
 25 *Sec. Litig.*, 2018 WL 3546176, at \*1 (W.D. Wash. July 20, 2018) (awarding 33.3% of common  
 26 fund); *Goldiner v. Datex-Ohmeda Cash Balance Plan*, 2011 WL 13190205, at \*1 (W.D. Wash.

May 10, 2011) (awarding 1/3 of net settlement fund); *Pine v. A Place for Mom, Inc.*, No. 17-cv-1826-TSZ (W.D. Wash. Jan. 11, 2021) (Dkt. 174) (awarding 30% of total settlement fund); *In re Pac. Enters. Secs. Litig.*, 47 F.3d 373, 379 (9th Cir. 1995) (affirming 33% award); *Syed v. M-I, L.L.C.*, 2017 WL 3190341, at \*8 (E.D. Cal. July 27, 2017) (awarding 33.33% of common fund); *Dearaujo v. Regis Corp.*, 2017 WL 3116626, at \*13 (E.D. Cal. July 21, 2017) (same); *Lee v. JPMorgan Chase & Co.*, 2015 WL 12711659, at \*8-9 (C.D. Cal. Apr. 28, 2015) (same).

Class Counsel were awarded 30-33% of the settlement funds in other COI overcharge cases. *See Rogowski v. State Farm Life Ins. Co.*, 2023 WL 5125113, at \*5 (W.D. Mo. Apr. 18, 2023) (awarding 33.33% of \$325 million fund); *Niewinski v. State Farm Life Ins. Co.*, 2024 WL 4902375, at \*5 (W.D. Mo. Apr. 1, 2024) (awarding 33.33% of \$65 million settlement fund); *Spegele v. USAA Life Ins. Co.*, No. 5:17-CV-967-OLG (W.D. Tex. Aug. 26, 2021) (Dkt. 117) (awarding 30% of \$90 million fund); *Larson v. John Hancock Life Ins. Co. (U.S.A.)*, 2018 WL 8016973, at \*6 (Cal. Super. May 08, 2018) (awarding 30% of \$59.75 million settlement fund).

Accordingly, fee awards in comparable cases support this request.

### **C. A Lodestar Cross-Check Confirms the Reasonableness of the Requested Fees.**

The Ninth Circuit has encouraged, but not required, courts to conduct a lodestar cross-check when assessing the reasonableness of a percentage-based fee award. *See Bluetooth*, 654 F.3d at 944. The lodestar cross-check calculation need not entail “mathematical precision nor bean counting,” and the Court may rely on summaries submitted by the attorneys rather than reviewing actual billing records. *Covillo v. Specialtys Café*, 2014 WL 954516, at \*6 (N.D. Cal. Mar. 6, 2014); *see also Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 264 (N.D. Cal. 2015) (accepting sworn declarations submitted by counsel). The first step in the lodestar method is to multiply the number of hours counsel reasonably expended on the litigation by a reasonable hourly rate. *Hanlon*, 150 F.3d at 1029. At that point, “the resulting figure may be adjusted upward or downward to account for several factors including the quality of



representation, the benefit obtained for the class, the complexity and novelty of the issues presented, and the risk of nonpayment.” *Id.*; see also *Bluetooth*, 654 F.3d at 942. The lodestar-crosscheck confirms the propriety of the requested fee here.

### 1. Class Counsel’s Lodestar Is Reasonable.

Through April 2, 2025, Class Counsel devoted over 4,250 hours to the investigation, litigation, and resolution of this complex case, incurring \$3,757,275.50 in lodestar at counsel’s current hourly rates.<sup>2</sup> Joint Decl., ¶¶38-39.<sup>3</sup> As set forth in the declaration, counsel’s time was spent investigating the claims, conducting discovery, researching and analyzing legal issues, working with Plaintiff’s actuarial expert, litigating and arguing class certification and dispositive motions, and engaging in settlement negotiations. *Id.* And, even after final approval, Class Counsel anticipate spending an additional 100 hours on settlement administration. *Id.*, ¶40; See *In re Volkswagen “Clean Diesel” Mktg., Sales Practices, & Prod. Liab. Litig.*, 2017 WL 1047834, at \*5 (N.D. Cal. Mar 17, 2017) (in conducting lodestar cross-check, including hours for reasonably anticipated future work). That is time spent and invested on behalf of the Settlement Class that could have been spent on less risky cases, where liability or damages were more certain, or where the claims had been advanced by a government investigation or public admissions—none of which was present here. *Id.*, ¶32. Class Counsel prosecuted the claims at

<sup>2</sup> Class Counsel will submit their billing records for the Court’s *in camera* review upon request.

<sup>3</sup> Class Counsel’s current hourly rates are based on rate scales, as annually adjusted, submitted to and approved as reasonable by many courts across the country, including those within the Ninth Circuit. See Joint Decl., ¶41; cf. *NuVasive, Inc. v. Alphatec Holdings, Inc.*, No. 3:18-CV-347-CAB-MDD, 2020 WL 6876300, at \*3 (S.D. Cal. Mar. 20, 2020) (approving hourly rates as “consistent with the rates charged by attorneys at large national law firms” in “complex high stakes” litigation in the field); see also, e.g., *Blum v. Stenson*, 465 U.S. 886, 895-96 n.11 (1984) (courts consider whether the claimed rate is “in line with those prevailing in the community for similar services by lawyers of reasonably comparable skill, experience and reputation”). Further, although Class Counsel infrequently accept non-contingent work, the rates reported here track the rates Class Counsel charge to hourly-paying clients that retain Class Counsel for hourly work. Joint Decl., ¶42. Courts in this District have approved comparable rates. See, e.g., *In re MCG Health Data Security Issue Litig.*, No. 2:22-CV-00849-RSM-DWC (W.D. Wash. Oct. 9, 2024), Dkt. 94 (granting fee motion using percentage of the recovery method and lodestar cross-check); *id.*, at Dkt. 89 (attorney declaration attesting to 2024 hourly rates of up to: \$1,195 for partners and \$878 for associates).

1 issue efficiently and effectively, making every effort to prevent the duplication of work. *Id.*,  
 2 ¶39.

## 3 **2. A Multiplier is Warranted.**

4 The fee requested by Class Counsel reflects a reasonable multiplier of 2.88, which will  
 5 continue to go down with the additional hours Class Counsel will spend up to and after final  
 6 approval. Multipliers in the Ninth Circuit have ranged from 0.6 to 19.6. *Vizcaino*, 290 F.3d at  
 7 1050-51 & n.6 (upholding 3.65 multiplier); *Infospace*, 330 F. Supp. 2d 1216 (3.5 multiplier);  
 8 *Steiner v. Am. Broad. Co, Inc.*, 248 F. App'x. 780, 783 (9th Cir. 2007) (finding 6.85 multiplier  
 9 to be “well within the range of multipliers that courts have allowed”); *Craft v. Cnty. of San*  
 10 *Bernardino*, 624 F. Supp. 2d 1113, 1123 (C.D. Cal. 2008) (5.2 multiplier).

11 Courts in the Ninth Circuit use similar factors when analyzing a lodestar cross-check.  
 12 See *Hanlon*, 150 F.3d at 1029. As discussed above, the factors outlined favor this request. A  
 13 2.88 multiplier is in line with multipliers awarded in the Ninth Circuit, and the lodestar cross-  
 14 check thus supports the requested fee.

## 15 **D. Class Counsel’s Reported Expenses are Reasonable.**

16 Under well-settled law, Class Counsel are entitled to reimbursement of the expenses  
 17 reasonably incurred investigating and prosecuting this matter. *Mills v. Electric Auto-Lite Co.*,  
 18 396 U.S. 375, 391-92 (1970). Under the Settlement, Class Counsel may seek reimbursement  
 19 from the Settlement Fund of all costs and expenses actually incurred. Agreement, ¶8.1. Through  
 20 April 2, 2025, Class Counsel have incurred \$197,618.82 in unreimbursed litigation costs, which  
 21 may be updated at final approval. The expenses for which Class Counsel seek reimbursement  
 22 were reasonably necessary for the continued prosecution and resolution of this litigation and  
 23 were incurred by Class Counsel for the benefit of the Class with no guarantee that they would  
 24 be reimbursed. They are reasonable in amount and the Court should approve their  
 25 reimbursement.



**E. The Requested Service Award Is Reasonable.**

Service awards compensate named plaintiffs for work done on behalf of the class, account for financial and reputational risks associated with litigation, and promote the public policy of encouraging plaintiffs to undertake the responsibility of representative lawsuits. *See Rodriguez v. West Publishing Corp.*, 563 F.3d 948, 958-59 (9th Cir. 2009); *Hartless v. Clorox Co.*, 273 F.R.D. 630, 646-47 (S.D. Cal. 2011) (“Incentive awards are fairly typical in class actions.”). The Settlement is not contingent on the Court’s granting of such an award.

Courts in the Ninth Circuit have approved service awards consistent with Class Counsel’s request of \$25,000 for Plaintiff here. *See Glass v. UBS Fin. Servs.*, 2007 WL 221862, at \*16-17 (N.D. Cal. Jan. 26, 2007) (approving \$25,000 award to each of four plaintiff representatives from \$45 million settlement); *Pan v. Qualcomm Inc.*, No. 16-cv-1885, 2017 WL 3252212, at \*13-14 (S.D. Cal. July 31, 2017) (awarding \$50,000 to seven representatives on a \$19.5 million recovery). And, these amounts are comparable to those awarded to the named plaintiffs in other recent COI settlements. *See Niewinski*, 2024 WL 4902375, at \*5 (approving service awards of \$25,000 each for five named plaintiffs); *Rogowski*, 2023 WL 5125113, at \*6 (approving service awards of \$25,000 for each of eleven named plaintiffs); *Spegele*, No. 5:17-CV-967-OLG (W.D. Tex. Aug. 26, 2021) (Doc. 117) (approving service award of \$20,000 to named plaintiff).

Further, the award amounts to only .076% of the total recovery, which is an average of approximately 58 cents per Settlement Class Member, a modest price any rational person would pay to receive the average \$750 payment here. Joint Decl., ¶34. In this light, the award is appropriate and reasonable, and will compensate Plaintiff for his substantial time and effort serving as class representative, assisting in the investigation, reviewing pleadings, keeping abreast of the litigation, sitting for deposition, and reviewing and approving the proposed settlement terms after consulting with Class Counsel. Declaration of Dennis Davis, ¶¶5-6. Without Plaintiff’s participation, the Class would have recovered nothing.

**V. CONCLUSION**

Class Counsel respectfully request the Court award the requested attorneys' fees, expense reimbursement, and service award.

*I certify that this memorandum contains 4,198 words, in compliance with the Local Civil Rules.*

DATED this 3rd day of April, 2025.

Respectfully submitted,

**TOUSLEY BRAIN STEPHENS PLLC**

/s/ Kim D. Stephens

Kim D. Stephens, P.S., WSBA #11984  
Rebecca L. Solomon, WSBA #51520  
1200 Fifth Avenue, Suite 1700  
Seattle, Washington 98101  
Tel: 206-682-5600  
Fax: 206-682-2992  
kstephens@tousley.com  
rsolomon@tousley.com

**STUEVE SIEGEL HANSON LLP**

Patrick J. Stueve (admitted *pro hac vice*)  
Lindsay Todd Perkins (admitted *pro hac vice*)  
Ethan M. Lange (admitted *pro hac vice*)  
David A. Hickey (admitted *pro hac vice*)  
460 Nichols Road Ste. 200  
Kansas City, MO 64112  
Tel: 816-714-7100  
Fax: 816-714-7101  
stueve@stuevesiegel.com  
perkins@stuevesiegel.com  
lange@stuevesiegel.com  
hickey@stuevesiegel.com

**SCHIRGER FEIERABEND LLC**

John J. Schirger (admitted *pro hac vice*)  
Joseph M. Feierabend (admitted *pro hac vice*)  
6811 Shawnee Mission Parkway, Suite 312

Overland Park, Kansas 66202

Tel: 816-561-6500

Fax: 816-561-6501

Schirger@SFlawyers.com

Feierabend@SFlawyers.com

*Counsel for Plaintiff Dennis E. Davis and the  
Settlement Class*

The Honorable Kymberly K. Evanson

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DENNIS E. DAVIS, individually and on behalf of  
all others similarly situated,

Plaintiff,

v.

SYMETRA LIFE INSURANCE COMPANY,  
Defendant.

NO. 2:21-cv-00533-KKE

**CLASS COUNSEL'S  
DECLARATION IN SUPPORT OF  
MOTION FOR ATTORNEYS' FEES,  
EXPENSE REIMBURSEMENT,  
AND SERVICE AWARD**

1 We, Patrick J. Stueve and John J. Schirger, declare as follows, pursuant to 28 U.S.C. §  
2 1746:

3 1. We are partners with our respective law firms and are counsel of record for the  
4 Plaintiff in the above-captioned action. We each have personal knowledge of our own firm's time  
5 and expenses, and if called upon, would testify competently thereto. As to the facts set forth  
6 herein, we each have personal knowledge of such, and if called upon, would testify competently  
7 thereto.

8 2. Mr. Stueve submitted a Declaration in support of Plaintiff's Motion for  
9 Preliminary Approval, Dkt. 136, including resumes for our law firms listing representative cases,  
10 industry recognition, judicial praise, and short biographies of the lawyers principally responsible  
11 for working on this case demonstrating their qualifications and experience, which we incorporate  
12 herein by reference. We make this Joint Declaration in support of Class Counsel's Motion for  
13 Attorneys' Fees, Expense Reimbursement, and Service Award ("Fee Motion").

14 3. Stueve Siegel Hanson and Schirger Feierabend, and the team of attorneys from  
15 these firms working on this case, are among the national leaders in representing policyholders  
16 who have suffered allegedly improper overcharges through cost of insurance ("COI") charges in  
17 their universal life insurance policies. We began filing these cases more than fifteen years ago  
18 when the theory of liability was nascent and developed the legal claims and theories related to  
19 improper rate setting. To our knowledge, there has been no government or regulatory  
20 investigation into the claims at issue here, and certainly none that is public. And there has been  
21 no admission of liability or culpability by Defendant or any other life insurer. All have taken the  
22 position that their COI charges are consistent with the terms of their policies and industry  
23 standard and custom. As set forth in our prior Declarations submitted in support of preliminary  
24 approval and class certification (Dkts. 64 & 65) and in more detail below, we have previously  
25 reached five large settlements, including four all cash settlements, with other life insurance  
26 companies.

4. Stueve Siegel Hanson and Schirger Feierabend have also tried four cost of insurance overcharge cases similar to this class action, securing jury verdicts in favor of policyholders in all four jury trials. For example, in *Karr v. Kansas City Life Insurance Co.*, Stueve Siegel Hanson and Schirger Feierabend secured full compensatory damages on all three breach of contract claims for \$28,362,830.96 in lost account value. *See Karr v. Kansas City Life Ins. Co.*, No. 1916-CV26645 (Mo. Cir. Ct. May 10, 2023). The Missouri Court of Appeals affirmed the jury verdict, agreeing with the trial court's interpretation of the policy language as unambiguously precluding the insurer from loading COI rates with non-mortality profits and expenses, and reversed the trial court's denial of prejudgment interest on the \$28.36 million damage award, thereby bringing the total recovery to over \$48 million. *See Karr v. Kansas City Life Ins. Co.*, 702 S.W.3d 1 (Mo. Ct. App. 2024), *transfer denied*, No. SC100845 (Mo. Dec. 23, 2024).

5. Stueve Siegel Hanson and Schirger Feierabend also obtained two additional jury verdicts against Kansas City Life Insurance Company in favor of Kansas and Missouri policyholders. *See Meek v. Kansas City Life Ins. Co.*, No. 4:19-cv-472-BP (W.D. Mo. May 25, 2023) (\$908,075 jury verdict); *Sheldon v. Kansas City Life Ins. Co.*, No. 1916-CV26689 (Mo. Cir. Ct. Sept. 22, 2023) (\$4,095,897.75 verdict).

6. Similarly, Stueve Siegel Hanson and Schirger Feierabend successfully tried a COI case against State Farm Life Insurance Company on behalf of Missouri policyholders, securing a jury verdict of \$34,333,495.81 in lost account value caused by COI overcharges. *See Vogt v. State Farm Life Ins. Co.*, No. 2:16-cv-04170-NKL, Dkts. 358 & 360 (W.D. Mo. June 6, 2018). The Eighth Circuit affirmed the jury verdict, concurred with the district court's interpretation of the life insurance policy language finding that the insurer was precluded from loading COI rates with non-mortality profits and expenses, and reversed the trial court's denial of prejudgment interest, bringing the total recovery to nearly \$40 million. *See Vogt v. State Farm Life Ins. Co.*, 963 F.3d 753 (8th Cir. 2020), *cert. denied*, 141 S. Ct. 2551 (Apr. 19, 2021).

7. In addition to the extensive trial experience in COI cases of Stueve Siegel Hanson and Schirger Feierabend, they have also obtained numerous settlements in COI overcharge cases. After the litigation referenced above on the State Farm policy, Stueve Siegel Hanson and Schirger Feierabend settled two cases against State Farm on a nationwide basis for \$325,000,000 on behalf of the owners of 760,000 policies and \$65,000,000 on behalf of the owners of 445,000 policies, respectively. *See Rogowski v. State Farm Life Ins. Co.*, No. 4:22-cv-00203-RK, 2023 WL 5125113 (W.D. Mo. Apr. 18, 2023); *Niewinski v. State Farm Life Ins. Co.*, No. 23-cv-4159, 2023 WL 11984134 (W.D. Mo. Oct. 18, 2023); *see also Niewinski*, 2024 WL 4902375 (W.D. Mo. Apr. 1, 2024). In 2021, Stueve Siegel Hanson and Schirger Feierabend settled a similar COI case against USAA Life Insurance Company, obtaining \$90 million for the owners of 122,000 universal life insurance policies. *Spegele v. USAA Life Ins. Co.*, No. 5:17-CV-967-OLG, 2021 WL 4935978, at \*3 (W.D. Tex. Aug. 26, 2021). And in 2018, we settled a similar case against John Hancock Life Insurance Company, obtaining \$59.75 million for the owners of 103,000 policies. *See Larson v. John Hancock Life Ins. Co.*, No. RG16813803 (Alameda Cty., Cal.). In 2016, the firms settled another similar case against Lincoln National Life Insurance Company, obtaining \$2.25 billion of guaranteed term life insurance with a market value of approximately \$171.8 million for a class of owners of approximately 77,500 universal life policies. *See Lincoln Nat'l Life Ins. Co. v. Bezich*, No. 02C01-0906-PL-73 (Allen Cty., Ind.).

### ***History of the Litigation***

8. On April 20, 2021, Class Counsel initiated this litigation on behalf of Plaintiff Davis and similarly situated policyholders with the filing of Plaintiff's class action complaint. *See generally* Compl. On May 5 and 13, 2021, Judge Robert S. Lasnik issued orders setting deadlines for holding the Rule 26(f) Conference, serving Initial Disclosures Pursuant to Rule 26(a)(1), and filing the Combined Joint Status Report and Discovery Plan as Required by Rule 26(f) and Local Rule 26(f). Dkt. 15 & 21.

1           9.       On June 24, 2021, the Parties participated in the Rule 26(f) Conference. On July  
2 1, 2021, the Parties served their Initial Disclosures. That same day, Plaintiff produced over 100  
3 pages of documents. On July 8, 2021, the Parties filed their Joint Status Report and Discovery  
4 Plan. Dkt. 33. On July 12, 2021, the Court entered an order setting the trial date and related  
5 deadlines. Dkt. 34.

6           10.      Shortly thereafter, the Parties engaged in a lengthy discovery process. On August  
7 23, 2021, Plaintiff served on Symetra 13 interrogatories and 61 requests for production. On  
8 October 15, 2021, Symetra served its objections and responses to the discovery. On June 27,  
9 2022, Plaintiff served a second set of 10 interrogatories. On August 31, 2022, Symetra served its  
10 objections and responses to the second set of interrogatories. On May 5, 2023, Symetra served  
11 supplemental objections and responses to the second set of interrogatories. On August 18, 2023,  
12 Symetra served a second supplemental objections and responses to the same interrogatories. On  
13 October 30, 2023, Symetra served supplemental initial disclosures, supplemental responses and  
14 objections to the first interrogatories, and a third supplemental objections and responses to the  
15 second interrogatories. On September 11, 2024, Symetra served its second supplemental initial  
16 disclosures.

17           11.      On March 24, 2023, Plaintiff served a Rule 30(b)(6) deposition notice on Symetra.  
18 On October 25, 2023, Plaintiff served an amended Rule 30(b)(6) deposition notice. On September  
19 5, 2023, Symetra served objections and responses to the Rule 30(b)(6) deposition notice. On  
20 November 2 and 3, 2023, Plaintiff deposed corporate representatives Olga Moshchuk and Philip  
21 Hughes in both their corporate and individual capacities. Each deposition lasted the entire day  
22 and covered forty-three exhibits.

23           12.      The Parties participated in a multi-year meet-and-confer process regarding  
24 Symetra's discovery responses and Rule 30(b)(6) deposition topics, beginning in March 2022  
25 and continuing through September 2024, resulting in numerous supplementations of  
26 interrogatory responses and document productions and avoiding the need to bring discovery



1 disputes before the Court. Over the course of discovery, Symetra made 26 separate productions  
2 of documents totaling 41,941 pages, including numerous Excel spreadsheets and data extracts.

3 13. Likewise, Symetra sought significant discovery from Plaintiff. On July 25, 2022,  
4 Symetra served: 22 interrogatories and 40 requests for production. On September 14, 2022,  
5 Plaintiff served his objections and responses to the discovery. On February 22, 2023, Symetra  
6 subpoenaed non-party Daugherty Insurance Agency, who later produced 10 pages of documents.  
7 On February 24, 2023, Symetra deposed Plaintiff, covering forty-two exhibits. On December 29,  
8 2023, Symetra served a subpoena on Plaintiff's expert, Scott Witt, to produce documents (12  
9 requests for production) and to sit for a deposition. On January 8, 2024, Symetra served an  
10 amended subpoena. On January 12, 2024, Plaintiff served objections and responses to the  
11 subpoena. On January 17, 2024, Mr. Witt produced 8 additional pages of documents (he  
12 previously produced several Excel spreadsheets on December 19, 2023 containing his class  
13 certification damages analysis). On January 31, 2024, Symetra deposed Mr. Witt, covering 11  
14 exhibits, including 3 detailed Excel workbooks.

15 14. In the midst of discovery, this case was reassigned from Judge Robert S. Lasnik  
16 to Judge Tana Lin, before being reassigned to Judge Kymberly K. Evanson on September 7,  
17 2023. Dkts. 34, 46.

18 15. On December 19, 2023, Class Counsel filed Plaintiff's motion for class  
19 certification, seeking to certify an 11-state class of Symetra policyholders who were issued  
20 Policies in Arizona, California, Florida, Illinois, Indiana, Kentucky, Minnesota, Missouri, South  
21 Carolina, Texas, or Washington whose policy was in force on or after 2000. Dkts. 61 & 67. Along  
22 with his motion for class certification, Plaintiff submitted a declaration from his actuarial expert,  
23 Mr. Witt, in support of the class certification damages model. Dkt. 63. On February 21, 2024,  
24 Symetra filed its opposition to Plaintiff's motion for class certification. Dkt. 80. That same day,  
25 Symetra moved to exclude Mr. Witt's expert opinion. Dkts. 81 & 86. On March 28, 2024,  
26 Symetra moved for summary judgment contending that the policy language permits it to load

1 non-mortality related profits and expenses in the COI rates and does not require it to lower COI  
 2 rates when its mortality expectations improve. Dkt. 94. Symetra also asserted that Plaintiff's  
 3 breach of contract claims were barred by the statute of limitations. *Id.* On April 1, 2024, Plaintiff  
 4 filed his opposition to Symetra's motion to exclude the testimony of Mr. Witt. Dkt. 96. On April  
 5 22, 2024, Plaintiff filed his reply in support of his motion for class certification. Dkt. 99. That  
 6 same day, Symetra filed its reply in support of its motion to exclude Mr. Witt. Dkts. 100-103. On  
 7 April 30, 2024, Plaintiff filed a notice of supplemental authority, alerting the Court to the Ninth  
 8 Circuit's decision in *Lytle v. Nutramax Laboratories, Inc.*, 99 F.4th 557 (9th Cir. 2024), which  
 9 affirmed class certification and rejected challenges to the proposed class-wide damages  
 10 methodology. Dkt. 106. On May 3, 2024, Plaintiff filed his opposition to Defendant's motion for  
 11 summary judgment. Dkt. 110 & 112. On May 24, 2024, Defendant filed its reply in support of  
 12 its motion for summary judgment. Dkt. 118.

13         16. The Court set an omnibus hearing on Plaintiff's motion for class certification and  
 14 Symetra's motion to exclude and motion for summary judgment for July 17, 2024. Dkts. 108 &  
 15 120. On July 17, 2024, the Court heard over four hours' worth of oral argument on Defendant's  
 16 motion for summary judgment and Plaintiff's motion for class certification (the Parties submitted  
 17 Defendant's motion to exclude Mr. Witt on the briefs without oral argument). Dkt. 121. The  
 18 Court took all three motions under advisement. *Id.* On July 18, 2024, the Court permitted  
 19 supplemental briefing on *In re Lincoln National COI Litigation*, 620 F. Supp. 3d 230 (E.D. Pa.  
 20 2022), as that case did not appear in Symetra's class certification briefing, but was cited by  
 21 Symetra's counsel at the hearing. Dkt. 122. Plaintiff filed his supplemental brief on July 24, 2024,  
 22 and Defendant filed its response to Plaintiff's supplemental brief on July 31, 2024. Dkts. 124-  
 23 125. On September 17, 2024, the Parties moved for the Court to hold the three motions in  
 24 abeyance to provide them an opportunity to mediate the case. Dkt. 128. The same day the Court  
 25 granted the Parties' motion and terminated the pending motions, but permitted the Parties to file  
 26 a notice of intent to reactivate any motion, if the mediation was unsuccessful. Dkt. 129.

***The Proposed Settlement and Preliminary Approval***

17. The Parties participated in several informal settlement discussions throughout the case culminating in a schedule for Plaintiff to issue a settlement demand, Symetra to respond, and then for the Parties to participate in a mediation before the Honorable Layn Phillips, retired U.S. District Judge.

18. Per the Parties' agreement, on September 6, 2024, Plaintiff provided Defendant a confidential settlement demand. On September 30, 2024, Symetra responded to Plaintiff's demand.

19. On October 1, 2024, the Parties submitted their respective mediation statements, including exhibits, to Judge Phillips. During the October 15, 2024, mediation session in New York, the Parties were not successful in reaching agreement. However, the Parties made significant progress during that session, such that, with the mediator's assistance, including by way of a mediator's proposal, they were able to reach an agreement on the material terms of the Agreement shortly thereafter.

20. Throughout the process, the settlement negotiations were conducted by highly qualified and experienced counsel on both sides at arm's length. Stueve Siegel Hanson and Schirger Feierabend were well informed of the material facts and legal risks and the negotiations were hard-fought and non-collusive. Having litigated the various legal and factual issues over more than three years, Stueve Siegel Hanson and Schirger Feierabend were well-positioned to evaluate Symetra's positions and the risks facing the Settlement Class Members, advocated in the settlement negotiation process for a fair and reasonable Settlement that serves the best interests of the Settlement Class, and made fair and reasonable settlement demands of Symetra.

21. The proposed Settlement Class includes Owners<sup>1</sup> of 43,391 policies ("Policies") that were active on or after January 1, 2000, and were issued by American States Life Insurance

---

<sup>1</sup> "Owner" or "Owners" means a Policy's owner or owners, whether a person or an entity and whether in an individual or representative capacity, as indicated in Defendant's records as of the

1 Company as MasterPlan, Executive MasterPlan, MasterPlan Plus, Joint MasterPlan Plus, and  
 2 Juvenile MasterPlan Plus universal life insurance policies in Arizona, California, Florida, Illinois,  
 3 Indiana, Kentucky, Minnesota, Missouri, South Carolina, Texas, and Washington and  
 4 administered by Symetra or its predecessors in interest.<sup>2</sup>

5 22. The Settlement requires Symetra to fund a cash Settlement Fund in the amount of  
 6 \$32,500,000, which will be used to pay (1) all payments to Settlement Class Members; (2) fees  
 7 and expenses incurred in providing Class Notice and administering the Settlement including  
 8 those fees and expenses incurred by the Settlement Administrator; (3) any Service Award to  
 9 Plaintiff (up to \$25,000); and (4) any attorneys' fees and expenses awarded by the Court (up to  
 10 one-third of the Settlement Fund for fees, and in addition, reimbursement of reasonably incurred,  
 11 actual expenses). There is no "claims process." Each Settlement Class Member will receive their  
 12 share of the Net Settlement Fund by settlement check determined pursuant to the distribution  
 13 plan developed by Class Counsel as approved by the Court.

14 23. The Court granted Plaintiff's motion for preliminary approval of the Settlement  
 15 on February 4, 2025. The Court found it would likely approve the Settlement as "fair, reasonable,  
 16 and adequate" and that it would likely certify the Settlement Class for purposes of entering  
 17 judgment on the Settlement. The Court thus ordered notice of the Settlement to be issued to the  
 18 Settlement Class and scheduled a Fairness Hearing for May 19, 2025. Dkt. 139.

19 24. Class Counsel has worked closely with Analytics, the Court-approved Settlement  
 20 Administrator, to ensure the Class Notice plan as approved by the Court was carried out. On  
 21 March 21, 2025, Analytics mailed the Court-approved Class Notice to the Settlement Class. *See*  
 22 Declaration of Richard Simmons, filed contemporaneously herewith, ¶ 7.

23 \_\_\_\_\_  
 24 Class List Date, except that if the Owner is deceased as of the Class List Date, the Owner shall  
 mean the estate of the deceased Owner. Agreement, ¶1.22.

25 <sup>2</sup> The Settlement Class excludes Symetra; any entity in which Symetra has a controlling interest;  
 26 any of the officers, directors, employees, or sales agents of Symetra; the legal representatives,  
 heirs, successors, and assigns of Symetra; anyone employed with Plaintiff's law firms; and any  
 Judge to whom this Action is assigned, and his or her immediate family. Agreement, ¶1.34.

1           25.     The Court set a deadline of April 25, 2025, for Settlement Class Members to file  
2 an objection to the Settlement terms or opt-out of the Settlement Class. Dkt. 139 at 8.

3           26.     Class Counsel's Fee Motion is made well in advance of the April 25, 2025,  
4 deadline for objections and exclusions so that Settlement Class Members have an opportunity to  
5 review Class Counsel's requests prior to that deadline.

6           27.     As of this filing, there has been one request for exclusion and no objections  
7 submitted by the Settlement Class Members. Declaration of Richard Simmons, ¶17-18.

8                   ***Class Counsel's Fees, Expenses, and Service Award Requests are Reasonable***

9           28.     As set forth in Class Counsel's motion, the percent of the Settlement Fund  
10 requested here as an attorneys' fee, 33.33%, is consistent with the percentages that are typically  
11 awarded by courts when fees are sought from a common fund in a class action. In addition, a  
12 typical contingent fee arrangement in non-class action cases provides that the attorney  
13 representing the plaintiff receives 25 to 50 percent of the plaintiffs' recovery, exclusive of costs.  
14 Here, Plaintiff agreed to a contingent fee percentage of 40%. Moreover, Class Counsel often  
15 represents sophisticated businesses in complex commercial litigation on a contingency basis,  
16 where these business clients commonly agree to pay fees amounting to 35 to 50 percent of any  
17 recovery.

18           29.     The risk to Class Counsel of no recovery was high. We undertook to represent  
19 these policyholders when these cases were not only risky, but legally precarious. As an initial  
20 matter, this case involves claims that were by their nature difficult to detect. Plaintiff alleged  
21 Defendant hid the unlawful COI charges for decades. Only Class Counsel's understanding of life  
22 insurance products, pricing, and access to qualified actuarial experts allowed the case to be filed  
23 in the first instance.

24           30.     Further, when we filed this case, federal appellate precedent on the issue of policy  
25 interpretation was mixed. In 2013, the meaning of a similar COI rates provision had resulted in  
26 a federal appellate ruling in favor of the insurance company. *Norem v. Lincoln Ben. Life Co.*, 737

1 F.3d 1145, 1150 (7th Cir. 2013). We represented the policyholders in that case, and in another  
 2 Seventh Circuit case, all on a contingent basis, through class certification, summary judgment,  
 3 and two full appeals. The Seventh Circuit affirmed summary judgment in both cases and we  
 4 ultimately recovered nothing despite thousands of hours of work. Many firms might have given  
 5 up on the policy theory here after such a stinging defeat. We did not. Indeed, thereafter Class  
 6 Counsel obtained a favorable policy interpretation and class certification ruling from the Indiana  
 7 Court of Appeals, *Lincoln Nat. Life Ins. Co. v. Bezich*, 33 N.E.3d 1160 (Ind. Ct. App. 2015), and  
 8 the case settled soon thereafter for \$2.25 billion of guaranteed term life insurance with a market  
 9 value of approximately \$171.8 million for the class of owners of approximately 77,500 universal  
 10 life insurance policies. We also filed another case against State Farm in *Vogt v. State Farm Life*  
 11 *Insurance Co.*, and then continued to file cases against State Farm even before ultimately  
 12 obtaining a favorable appellate decision in the Eighth Circuit. *See Vogt v. State Farm Life Ins.*  
 13 *Co.*, 963 F.3d 753 (8th Cir. 2020). Even after the Eighth Circuit's ruling in *Vogt*, there has been  
 14 disagreement among the subsequent courts to consider the issue of policy interpretation.  
 15 *Compare Meek v. Kansas City Life Ins. Co.*, 126 F.4th 577 (8th Cir. 2025) and *Karr v. Kansas*  
 16 *City Life Ins. Co.*, 702 S.W.3d 1 (Mo. Ct. App. 2024) (both agreeing with the policyholder's  
 17 interpretation), *with Advance Tr. & Life Escrow Servs., LTA v. Protective Life Ins. Co.*, 93 F.4th  
 18 1315 (11th Cir. 2024) (agreeing with the insurance company's interpretation).

19 31. Policy interpretation was also far from the only risk we faced. It was critical to  
 20 prevail on that point but hardly sufficient to obtain a significant recovery. As in the many cases  
 21 Class Counsel have litigated in this type of case, Defendant levied vigorous statute of limitations  
 22 challenges, as well as those directed at class certification, expert testimony, and the damages  
 23 calculations.

24 32. All of these issues created a significant risk for us to take on a purely contingent  
 25 basis. There were certainly less risky cases we could have devoted our resources to, where either  
 26 liability or damages or both were more certain or where the claims had been advanced by a

1 government investigation or public admissions. We nonetheless dedicated our resources to these  
2 cases because we believe in the claims and representation of these clients.

3 33. As noted in Mr. Stueve's prior Declaration, we believe the Settlement is in the  
4 best interests of the Settlement Class given the risks and delay of further litigation. Even setting  
5 aside the significant risks on the issue of policy interpretation, proving and recovering the entire  
6 overcharge was highly uncertain because of the broad range of potential recoveries at trial. Had  
7 Plaintiff gone to trial even with a favorable policy interpretation, he could have recovered nothing  
8 or even just a modest amount more than the Settlement provides, and he still would have faced  
9 significant appellate risk on key issues of class certification, policy interpretation, and  
10 admissibility of expert testimony, where any one adverse ruling could have eliminated the Class's  
11 claims entirely. And all this would take years. Notably, even in cases in which Class Counsel  
12 obtained verdicts in favor of policyholder classes, it took years for policyholders to receive their  
13 recovery. In the *Vogt v. State Farm* litigation, the class members who prevailed at trial in June  
14 2018 were not paid until 2022 because State Farm exercised all rights of appeal including seeking  
15 *certiorari* to the U.S. Supreme Court. Similarly, Kansas City Life Insurance Company did not  
16 pay the judgment against it in *Karr* resulting from a jury trial in December 2022 for over two  
17 years due to the delay inherent in the appeals process, and Kansas City Life has not yet paid the  
18 judgments against it from the *Meek* and *Sheldon* cases that went to trial May and September  
19 2023.

20 34. This Settlement compares favorably to our prior settlements, with an average  
21 gross per policy recovery of approximately \$750, including gross allocations for some class  
22 members in excess of \$50,000 and with the class member owners of nearly 9,000 policies having  
23 allocations in excess of \$1,000. See *Rogowski v. State Farm Life Ins. Co.*, No. 4:22-cv-00203-  
24 RK, 2023 WL 5125113 (W.D. Mo. Apr. 18, 2023) (average gross per policy recovery of \$427);  
25 *Niewinski v. State Farm Life Ins. Co.*, No. 23-04159-CV-C-BP, 2024 WL 4902375 (W.D. Mo.  
26 Apr. 1, 2024) (average gross per policy recovery of \$146); *Spegele v. USAA Life Ins. Co.*, No.



1 5:17-cv-967-OLG, 2021 WL 4935978 (W.D. Tex. Aug. 26, 2021) (average gross per policy  
 2 recovery of \$738); *Larson v. John Hancock Life Ins. Co.*, No. RG16813803, 2018 WL 8016973  
 3 (Alameda Cty., Cal. May 8, 2018) (average gross per policy recovery of \$577).

4 35. Plaintiff pursued and obtained significant discovery in this case to evaluate the  
 5 claims asserted and the likely damages under Plaintiff's theories. The discovery undertaken has  
 6 allowed Plaintiff to evaluate how Symetra determines the COI rates for the Policies, including  
 7 how and the extent to which its expectations as to future mortality experience were considered  
 8 and the impact of that process on the amount of the COI rates and corresponding COI charges.  
 9 The size of the Settlement Fund exceeds the recoverable damages within the statute of limitations  
 10 period; and, it represents a material portion of all potential damages back to policy inception.  
 11 That range is \$29 million to \$179 million.

12 36. Notably, the courts overseeing our prior COI cases awarded fees equal to 30-  
 13 33.33% of the funds, supporting the reasonableness of Class Counsel's request. *See Rogowski*,  
 14 2023 WL 5125113, at \*5 (awarding 33.33% of \$325 million settlement fund); *Niewinski*, 2024  
 15 WL 4902375, at \*5 (awarding 33.33% of \$65 million settlement fund); *Spegele v. USAA Life Ins.*  
 16 *Co.*, No. 5:17-CV-967-OLG (W.D. Tex. Aug. 26, 2021) (Dkt. 117) (awarding 30% of \$90 million  
 17 settlement fund); *Larson v. John Hancock Life Ins. Co. (U.S.A.)*, No. RG16813803, 2018 WL  
 18 8016973, at \*6 (Cal. Super. May 08, 2018) (awarding 30% of \$59.75 million settlement fund).  
 19 Class Counsel have also been awarded 33.33% of judgment funds. *See Vogt v. State Farm Life*  
 20 *Ins. Co.*, No. 2:16-CV-04170-NKL, 2021 WL 247958, at \*3 (W.D. Mo. Jan. 25, 2021)  
 21 (approving fee of 33.33% of judgment fund of \$38.84 million plus post-judgment interest); *Karr*  
 22 *v. Kansas City Life Ins. Co.*, No. 1916-CV26645 (Mo. Cir. Ct. Aug. 24, 2023) & *id.* at Amended  
 23 Judgment (Feb. 10, 2025) (awarding 33.3% of judgment fund of over \$48 million); *Sheldon v.*  
 24 *Kansas City Life Ins. Co.*, No. 1916-CV26689 (Mo. Cir. Ct. Feb. 13, 2024) & *id.* at Amended  
 25 Judgment (Jan. 16, 2025) (awarding 33.33% of judgment fund of over \$6 million plus post-  
 26 judgment interest).



1           37. To prepare this Declaration, we reviewed the time records maintained by our firms  
 2 in their time and billing systems. Kim Stephens performed the same task with respect to the time  
 3 records maintained by his firm, Tousley Brain Stephens PLLC. From the inception of the case,  
 4 Class Counsel utilized the firms' standard billing practices to track and maintain  
 5 contemporaneous time records for all timekeepers in 6-minute increments. We also collected  
 6 time and expense summaries from Mr. Stephens's firm for the litigation.

7           38. We, and other attorneys at our firms and local counsel's firm, have devoted  
 8 significant time and resources to this case to date, including, but not limited to:

- 9           a. Conducting an investigation into the facts regarding Plaintiff's and class  
 10 members' claims;
- 11           b. Researching law relevant to, and preparing Plaintiff's class action complaint;
- 12           c. Preparing detailed and comprehensive discovery requests, responding to  
 13 Defendant's discovery requests, and taking the depositions of Defendant's  
 14 witnesses and defending the depositions of Plaintiff Davis and Plaintiff's damages  
 15 expert, Scott Witt;
- 16           d. Researching the law relevant to, and preparing Plaintiff's motion for class  
 17 certification;
- 18           e. Researching the law and drafting responses to Defendant's motions for summary  
 19 judgment and to exclude Plaintiff's damages expert;
- 20           f. Working with Plaintiff's damages expert to develop a class-wide damages  
 21 methodology;
- 22           g. Preparing for and presenting at a lengthy in-person hearing on Plaintiff's motion  
 23 for class certification and Defendant's motions for summary judgment and to  
 24 exclude Plaintiff's damages expert;
- 25           h. Preparing for and attending mediation, including researching and preparing a  
 26 detailed mediation statement;

- i. Negotiating and preparing the Parties' class action settlement agreement, along with the proposed class notice;
- j. Negotiating with settlement administration companies to secure the best notice plan practicable;
- k. Preparing Plaintiff's motion for preliminary approval of the class action settlement and preparing a detailed declaration in support;
- l. Working with the Settlement Administrator to ensure the timely completion of the issuance of Class Notice;
- m. Closely monitoring evolving law regarding COI litigation and its potential impacts on the case; and
- n. Conferring with Plaintiff throughout the case.

39. As of April 2, 2025, Class Counsel, along with local counsel, have spent more than 4,250 hours working on this case. This time was reasonably expended to address the novel and complex issues presented by this litigation and Defendant's vigorous multi-faceted defense and is of the kind and character that we would normally bill to paying clients, as well as time that we normally track and seek to be paid for at the conclusion of successful contingency litigation. Class Counsel staffed and managed the litigation as efficiently as possible. We did not duplicate responsibilities and assigned work to qualified professional staff as opposed to lawyers where possible. Given we would only receive a fee if we were successful, we were incentivized to be efficient.

40. There is also more work yet to come up to final approval. And, based on the time spent after final approval of similar class action settlements, Class Counsel anticipate spending another approximately 100 hours on settlement administration, including responding to class member questions about the Settlement, supervising the Administrator, making updates to the Court, overseeing check reissuances and distribution of benefits to deceased class members' estates, and ensuring that the distribution runs smoothly. To estimate the amount of this

1 anticipated post-final approval work, we reviewed our post-approval time in two COI settlements  
 2 of similar size (the USAA and John Hancock cases discussed above). We averaged the amount  
 3 of post-settlement time spent across the number of policies at issue in those settlements and  
 4 applied that average to the number of policies at issue here, which produced our estimate of just  
 5 over 100 hours.

6 41. Our firms track and set hourly rates on a non-contingent basis and attest that the  
 7 rates reflected in Appendix 1 charged by the lawyers and staff in our firms are reasonable, based  
 8 on each person's position and experience level. We further affirm that the rates submitted with  
 9 this Declaration are based on rate scales, as annually adjusted, submitted to and approved by  
 10 many courts across the country. *See O'Dell v. Aya Healthcare, Inc.*, No. 22cv1151-CAB-MMP  
 11 (S.D. Cal. Oct. 15, 2024), Dkt. 136 at 8 (approving as reasonable Stueve Siegel Hanson's 2024  
 12 hourly rates); *id.* at Dkt. 107-2, ¶ 23 (setting forth hourly rates); *Clemens v. ExecuPharm, Inc.*,  
 13 No. 20-3383 (E.D. Pa. Oct. 1, 2024), Dkt. 67 at 8 (finding Stueve Siegel Hanson's 2024 hourly  
 14 rates for a senior partner of \$1,325 reasonable, among other billing rates, as part of lodestar  
 15 analysis); *id.* at Dkt. 64-2, ¶ 26 (setting forth hourly rates); *Niewinski*, No. 23-04159-CV-C-BP,  
 16 2024 WL 4902375, at \*5 (approving Class Counsel's 2024 hourly rates of up to \$1,325 for  
 17 partners, \$825 for associates, and \$350 for paralegals as part of lodestar crosscheck analysis); *id.*  
 18 at Dkt. 29-1 at ¶ 30; *id.* at Dkt. 33-2 at ¶ 4; *Armstrong v. Kimberly-Clark Corp.*, No. 3:20-cv-  
 19 03150-M, 2024 WL 1123034, at \*6 (N.D. Tex. Mar. 14, 2024) (approving Stueve Siegel  
 20 Hanson's 2023 hourly rates of up to \$1,225 for partners, \$675 for associates, and \$350 for  
 21 paralegals as part of lodestar crosscheck analysis); *id.* at Dkt. 123-1 (setting forth hourly rates);  
 22 *Rogowski*, 2023 WL 5125113, at \*5 n.8 (approving Class Counsel's 2023 hourly rates of up to  
 23 \$1,125 for partners, \$700 for associates, and \$340 for paralegals as part of lodestar crosscheck  
 24 analysis); *id.* at Dkt. 59-1 at Appendix A; *id.* at Dkt. 63-2 at ¶ 4; *In re Cap. One Consumer Data*  
 25 *Sec. Breach Litig.*, MDL No. 1:19-md-2915 (AJT/JFA), 2022 WL 17176495, at \*5 (E.D. Va.  
 26 Nov. 17, 2022) (finding Stueve Siegel Hanson's 2022 hourly rates of up to \$1,025 for partners,

1 \$625 for associates, and \$315 for paralegals, reasonable as part of lodestar crosscheck analysis);  
 2 *id.* at Dkt. 2231-1 at 35 (setting forth hourly rates); *Hays v. Nissan N. Am. Inc.*, No. 4:17-CV-  
 3 0353-BCW (W.D. Mo. Sept. 30, 2022), Dkt. 138 at ¶ 5 (approving Stueve Siegel Hanson's 2022  
 4 rates of \$1,125 for partners, \$695 for associates, \$340 for paralegals); *id.* at Dkt. 135-2, ¶ 8  
 5 (setting forth hourly rates); *Jackson County v. Trinity Industries*, No. 1516-CV23684, at \*4 (Mo.  
 6 Cir. Ct. Jackson Cty., Aug. 30, 2022) (approving blended hourly rate of \$662 for Class Counsel);  
 7 *Yellowdog Partners, LP v. CURO Group Holdings Corp.*, No. 18-cv-2662-JWL-KGG (D. Kan.  
 8 Dec. 18, 2020), Dkt. 107, at 1-3 (approving the motion for attorneys' fees); *id.* at Dkt. 99-14 at  
 9 2 (setting forth Stueve Siegel Hanson's 2020 rates); *In re Equifax Inc. Customer Data Sec.*  
 10 *Breach Litig.*, No. 1:17-MD-2800-TWT, 2020 WL 256132, at \*39 (N.D. Ga. Mar. 17, 2020)  
 11 (approving, *inter alia*, Stueve Siegel Hanson 2020 partner rate of \$935), *aff'd in relevant part*,  
 12 999 F.3d 1247 (11th Cir. 2021); *Larson*, 2018 WL 8016973, at \*6 (approving Class Counsel's  
 13 then-current hourly rates of up to \$895 for partners, \$550 for associates, and \$275 for paralegals  
 14 as part of lodestar crosscheck analysis); *Hapka v. Carecentrix, Inc.*, No. 2:16-cv-02372-KGG (D.  
 15 Kan. Feb. 15, 2018), Dkt. 103 at 3-4 (approving Stueve Siegel Hanson's then-current hourly rates  
 16 of up to \$865 for partners, \$475 for associates, and \$275 for paralegals as part of lodestar  
 17 crosscheck analysis); *id.* at Dkt. 95-2 at ¶¶22-23; *Criddell v. Premier Healthcare Services, LLC*,  
 18 No. 16-cv-05842-R-KS (C.D. Cal. Jan. 16, 2018), Dkt. 64 (approving Stueve Siegel Hanson's  
 19 then-current hourly rates for partner of \$825, for associate of \$395, and for paralegal of \$245);  
 20 *id.* at Dkt. 59-2 at ¶10; *Spangler v. Nat'l Coll. of Tech. Instruction*, No. 14-cv-03005-DMS  
 21 (RBB), 2018 WL 846930, at \*2 (S.D. Cal. Jan. 5, 2018) (approving Stueve Siegel Hanson's 2016  
 22 hourly rates of up to \$825 for partners and up to \$525 for associates).

23 42. Further, although we infrequently accept non-contingent work, the rates reported  
 24 here track the rates we charge to hourly-paying clients that retain us for hourly work. Based on  
 25 Class Counsel's collective experience and knowledge of the legal market, including the market  
 26 for hiring lawyers engaged in complex litigation, the rates reflected in the tables at Appendix 1

1 are comparable to the rates charged by other law firms with similar levels of experience,  
2 expertise, and reputation, for services in complex litigation in the nation's leading legal markets.  
3 Class Counsel's hourly rates reflect their national practices specializing in complex, high-risk  
4 class action and large consumer cases, and are the rates we customarily apply in these types of  
5 cases. There are no lawyers within this district with the experience and expertise of Class Counsel  
6 in cost of insurance overcharge litigation, which was vital to obtaining the results achieved here.  
7 Class Counsel's rates also compare favorably to the rates of major defense firms, further  
8 demonstrating their reasonableness. *See* Debra Cassens Weiss, Some top partners in BigLaw will  
9 bill nearly \$3,000 per hour next year, data says, ABA JOURNAL, Sept. 26, 2024,  
10 [https://www.abajournal.com/news/article/some-top-partners-in-biglaw-will-bill-nearly-3000-](https://www.abajournal.com/news/article/some-top-partners-in-biglaw-will-bill-nearly-3000-an-hour-next-year-report-says)  
11 [an-hour-next-year-report-says](https://www.abajournal.com/news/article/some-top-partners-in-biglaw-will-bill-nearly-3000-an-hour-next-year-report-says) (reporting nine firms with standard hourly rates for senior partners  
12 that range from about \$2,400 to \$2,875 and expecting rates of \$2,100 for senior partners and  
13 \$1,900 for other partners at the nation's 50 top-grossing firms).

14 43. Using these hourly rates, the lodestar for the work performed as of April 2, 2025,  
15 is \$3,757,275.50, which will continue to increase up to and after final approval. Class Counsel  
16 will update this billing data prior to final approval and will provide the underlying billing records  
17 for the Court's *in camera* review if requested to do so.

18 44. As of April 2, 2025, our firms and local counsel's firm have advanced  
19 \$197,618.82 in expenses on behalf of the Class. These were reasonably and necessarily incurred  
20 to prosecute the litigation. Appendix 2 contains a summary of the expenses by category.

21 45. As discussed above, Class Counsel bore the risk of litigating this action entirely  
22 on a contingent basis for the past four years. There are numerous examples where counsel in  
23 contingency fee cases have worked thousands of hours and advanced substantial sums of money,  
24 only to receive no compensation. From personal experience, Class Counsel are fully aware that  
25 despite the most vigorous and competent of efforts, a law firm's success in contingent litigation  
26 on behalf of a class is never guaranteed. Despite this, Class Counsel have ensured that sufficient

1 attorney resources were dedicated to prosecuting the claims. They have also ensured sufficient  
2 funds were available to advance the expenses required to pursue and complete such complex  
3 litigation. Class Counsel's investment of this amount of hard costs demonstrates the commitment,  
4 as well as the risk, we were willing to take in prosecuting the case and advancing the Settlement  
5 Class Members' claims. This extraordinary investment of labor and expenses necessarily  
6 hampered our ability to take on other significant work.

7 46. Plaintiff Davis was not only negatively impacted by the alleged contractual  
8 breaches here, but also provided vital support to the litigation. As explained in more detail in the  
9 contemporaneously submitted Declaration of Dennis Davis, Plaintiff helped to develop and  
10 review the factual allegations in the complaint, responded to discovery requests, and prepared  
11 for and sat for deposition. Plaintiff provided information and documents in connection with this  
12 litigation, assisted Class Counsel with the specifics of his policy, provided key guidance with  
13 respect to the Settlement, and worked with Class Counsel to advance the litigation on behalf of  
14 himself and all members of the Class. This work materially advanced the litigation and protected  
15 the Class's interests. Without his willingness to represent the Class, the Settlement could not  
16 have been achieved.

17 47. Based on the significant recovery for the Settlement Class and the substantial risks  
18 faced by Class Counsel, Class Counsel respectfully submits that the Court should award  
19 attorneys' fees of 33.33% of the Settlement Fund, approve reimbursement of Class Counsel's  
20 actually incurred litigation expenses (\$197,618.82 as of April 2, 2025, and to be updated prior to  
21 final approval), and a service award of \$25,000 for Plaintiff Davis.

22  
23  
24  
25  
26

1 We declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and  
2 correct.

3  
4 Executed this 3rd day of April 2025.

5   
6



7  
8 \_\_\_\_\_  
John J. Schirger

\_\_\_\_\_ Patrick J. Stueve

## APPENDIX 1

**Stueve Siegel Hanson LLP Lodestar  
Through April 2, 2025**

<b>Timekeeper</b>	<b>Title</b>	<b>Years of Experience</b>	<b>Hours</b>	<b>Rate</b>	<b>Lodestar</b>
Stueve, Patrick	Partner	37	166.50	\$1,425.00	\$237,262.50
Siegel, Norman	Partner	32	0.40	\$1,425.00	\$570.00
Perkins, Lindsay	Partner	18	425.90	\$1,050.00	\$447,195.00
Wilders, Bradley	Partner	18	1.20	\$1,250.00	\$1,500.00
Lange, Ethan	Partner	17	500.30	\$1,025.00	\$512,807.50
Hickey, David	Senior Counsel	16	1021.90	\$875.00	\$894,162.50
Walters, Stephanie	Associate	18	14.40	\$875.00	\$12,600.00
Stueve, Benjamin	Associate	7	18.90	\$675.00	\$12,757.50
Campbell, Michelle	Paralegal	40	0.30	\$400.00	\$120.00
Phommachanh, Vong	Paralegal	19	24.60	\$400.00	\$9,840.00
Perez, Cheri	Legal Assistant	41	8.40	\$375.00	\$3,150.00
Williams, Sheri	Legal Assistant	25	0.20	\$250.00	\$50.00
		<b>Totals:</b>	<b>2,183.00</b>		<b>\$2,132,015.00</b>

**Schirger Feierabend LLC Lodestar  
Through April 2, 2025**

<b>Timekeeper</b>	<b>Title</b>	<b>Years of Experience</b>	<b>Hours</b>	<b>Rate</b>	<b>Total</b>
Schirger, John	Partner	33	483.10	\$1,050.00	\$507,255.00
Feierabend, Joseph	Partner	15	788.00	\$875.00	\$689,500.00
Matt Lytle	Partner	19	113.80	\$875.00	\$99,575.00
Feierabend, Katie	Associate	4	19.10	\$650.00	\$12,415.00
Bess-Rhodes, Olivia	Associate	1	186.50	\$500.00	\$93,250.00
Sam Sherman	Associate	1	121.90	\$450.00	\$54,855.00
Duryea, Cara	Paralegal	24	103.40	\$250.00	\$25,850.00
Molley Stainbrook	Paralegal	1	114.10	\$225.00	\$25,672.50
		<b>Totals:</b>	<b>1,929.90</b>		<b>\$1,508,372.50</b>



**Tousley Brain Stephens PLLC Lodestar  
Through April 2, 2025**

<b>Timekeeper</b>	<b>Title</b>	<b>Years of Experience</b>	<b>Hours</b>	<b>Rate</b>	<b>Total</b>
Stephens, Kim	Partner	44	66.2	\$1,140.00	\$75,468.00
Solomon, Rebecca	Partner	12.5	45.5	\$900.00	\$40,950.00
Stanton, Amy	Paralegal	>20	0.3	\$350.00	\$105.00
Rashby, Eve	Paralegal	>20	0.4	\$350.00	\$140.00
Andrzejewski, Melissa	Legal Assistant	>20	1	\$225.00	\$225.00
		<b>Totals:</b>	<b>113.4</b>		<b>\$116,888.00</b>

## APPENDIX 2

**Stueve Siegel Hanson LLP Expenses  
Through April 2, 2025**

<b>Expense Category</b>	<b>Amount</b>
Outside Duplicating	\$476.76
Internal Print & Copy	\$2,721.80
Meals	\$2,129.27
Court Fees	\$952.00
Transcript/Video	\$10,703.79
Experts/Consultants	\$16,850.00
Process Servers	\$55.00
Arbitrators/Mediators	\$24,250.00
Misc/Other	\$407.46
Online Research (Pacer)	\$21.50
Online Research (Westlaw)	\$44,671.37
Hosting/Data Storage	\$553.91
Airfare	\$8,414.56
FedEx/UPS	\$59.60
Ground Transportation	\$1,467.69
Lodging	\$8,042.69
<b>Total</b>	<b>\$121,777.40</b>

**Schirger Feierabend LLC Expenses  
Through April 2, 2025**

<b>Expense Category</b>	<b>Amount</b>
Outside Print & Copy	\$71.48
Internal Print & Copy	\$140.40
Court Fees	\$1,153.00
Postage/FedEx/Delivery	\$9.90
Travel/Lodging/Meals	\$19,612.78
Transcript/Video	\$488.08
Experts/Consultants	\$22,825.00
Arbitrators/Mediators	\$20,000.00
Online Legal Research	\$7,622.11
<b>Total:</b>	<b>\$71,922.75</b>

**Tousley Brain Stephens PLLC Expenses  
Through April 2, 2025**

<b>Expense Category</b>	<b>Amount</b>
Print and Copy	\$406.32
Outside Print and Copy	\$211.51
Westlaw/Legal Research	\$68.50
Travel Expense	\$3,232.34
<b>Total</b>	<b>\$3,918.67</b>

The Honorable Kymberly K. Evanson

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DENNIS E. DAVIS, individually and on behalf of  
all others similarly situated,

Plaintiff,

v.

SYMETRA LIFE INSURANCE COMPANY,  
Defendant.

NO. 2:21-cv-00533-KKE

**DECLARATION OF RICHARD W.  
SIMMONS OF  
ANALYTICS CONSULTING LLC  
REGARDING IMPLEMENTATION  
OF NOTICE PLAN**

1 I, Richard W. Simmons, have personal knowledge of the facts and opinions set forth herein,  
 2 and I believe them to be true and correct to the best of my knowledge. If called to do so, I  
 3 would testify consistent with the sworn testimony set forth in this Declaration. Under penalty  
 4 of perjury, I state as follows:

#### 5 **SCOPE OF ENGAGEMENT**

6 1. I am the President of Analytics Consulting LLC (“Analytics”)<sup>1</sup>. My company is  
 7 one of the leading providers of class and collective action notice and claims management  
 8 programs in the nation. It is my understanding that Analytics’ class action consulting practice,  
 9 including the design and implementation of legal notice campaigns, is the oldest in the country.  
 10 Through my work, I have personally overseen court-ordered class and collective Notice Plans  
 11 in more than 3,000 matters.

12 2. In its Order Granting Preliminary Approval of Class Action Settlement on  
 13 February 4, 2025 (the “February 4, 2025 Order”), the Court approved the Class Notice Plan  
 14 (the “Notice Plan” or “Plan”) proposed in the Settlement Agreement in *Davis v. Symetra Life*  
 15 *Insurance Company*, No. 2:21-cv-00533-KKE, in the United States District Court for the  
 16 Western District of Washington. Subsequently, Class Counsel retained Analytics to implement  
 17 the Notice Plan, including the mailing of the Class Notice to all known Class Members and the  
 18 maintenance of a toll-free hotline, settlement website, and dedicated email address to assist  
 19 Class Members with questions regarding the Settlement.

20 3. My firm performed the services described herein under my supervision and I  
 21 submit this Declaration to provide the Court with proof of the dissemination of the Court-  
 22 approved Notices.

23  
 24  
 25  
 26 <sup>1</sup> In October 2013, Analytics Consulting LLC acquired Analytics, Incorporated. I am the former  
 President of Analytics, Incorporated (also d/b/a “BMC Group Class Action Services”).  
 References to “Analytics” herein include the prior legal entity.

### Mailing of the Notice

4. Pursuant to the February 4, 2025, Order, Analytics received from the Defendant a spreadsheet containing 43,934 records identifying Class Member policies.

5. All addresses were updated using the National Change of Address (“NCOA”) database maintained by the United States Postal Service (“USPS”);<sup>2</sup> certified via the Coding Accuracy Support System (“CASS”);<sup>3</sup> and verified through Delivery Point Validation (“DPV”).<sup>4</sup> The address list was then reviewed to identify and consolidate duplicate entries, resulting in 38,516 unique Class Members and 43,391 unique policy numbers.

6. These measures ensured that all appropriate steps have been taken to send Notices to current and valid addresses and resulted in mailable address records for 37,740 Class Members.

7. Analytics formatted the Class Notice and caused them to be printed, personalized with the name and address of each Class Member, posted for First-Class Mail, postage pre-paid, and delivered on March 21, 2025 to the USPS for mailing. A copy of the Class Notice is attached as **Exhibit A**.

8. Analytics requested that the USPS return (or otherwise notify Analytics) of Class Notices with undeliverable mailing addresses. Of the notices mailed to 37,740 class members, to date, 2,880 have been returned undeliverable. Analytics was able to locate updated addresses 1,457 for these class members, which are in the process of being re-mailed. This

---

<sup>2</sup> The NCOA database contains records of all permanent change of address submissions received by the USPS for the last four years. The USPS makes this data available to mailing firms and lists submitted to it are automatically updated with any reported move based on a comparison with the person’s name and last known address.

<sup>3</sup> The CASS is a certification system used by the USPS to ensure the quality of ZIP +4 coding systems.

<sup>4</sup> Records that are ZIP +4 coded are then sent through Delivery Point Validation (“DPV”) to verify the address and identify Commercial Mail Receiving Agencies. DPV verifies the accuracy of addresses and reports exactly what is wrong with incorrect addresses.

1 research was performed using Experian's TrueTrace and Metronet Databases, research tools  
2 that draw upon Experian's credit reporting database as well as additional third-party sources.<sup>5</sup>

3 9. To support the mailing of the Class Notice, Analytics established and continues  
4 to maintain a toll-free telephone number for the Action, 1-888-331-9840. This toll-free  
5 telephone line connects callers with an Interactive Voice Recording ("IVR"). By calling this  
6 number, Class Members are able to listen to pre-recorded answers to Frequently Asked  
7 Questions ("FAQs") or request to have a Notice mailed to them. The toll-free telephone line  
8 and IVR have been available 24 hours a day, 7 days a week.

9 10. In addition, Monday through Friday from 8:30 a.m. to 5:00 p.m. Central Time  
10 (excluding official holidays), callers to the toll-free telephone line are able to speak to a live  
11 operator regarding the status of the Action and/or obtain answers to questions they may have  
12 about the Notice. During other hours, callers may request a call back which is automatically  
13 queued to the next business day.

14 11. Automated messages are available to Class Members 24 hours a day, 7 days a  
15 week, with live call center agents also available during standard business hours. Analytics'  
16 IVR system allows Class Members to request a return call if they call outside of business hours.

17 12. Class Members can also email a dedicated email address -  
18 [aslcoisettlement@noticeadministrator.com](mailto:aslcoisettlement@noticeadministrator.com) with questions regarding the Settlement. This  
19 email was included in the Class Notice.

20 13. Analytics' staff spend necessary time to answer each Class Member's questions  
21 regarding the Settlement. I am aware of no questions from Class Members that are unanswered  
22 or otherwise remain outstanding.

23  
24  
25 <sup>5</sup> TrueTrace draws on Experian's consumer credit database of more than 200 million consumers  
26 and 140 million households, and through third party sources (Clarity's alternative payday  
information and Experian RentBureau property management database) provides access to 100  
million thin-file and underbanked consumers. Experian's Metronet database provides data  
regarding 215 million consumers in 110 million living units across United States.

**Settlement Website**

14. To support the mailing of the Class Notice, Analytics established and continues to maintain a Website dedicated to this Action ([www.aslcoisettlement.com](http://www.aslcoisettlement.com)) to assist Class Members. The Website address was set forth in the Notice.

15. Recognizing the increasingly mobile nature of communications, the Website is mobile optimized, meaning it can be clearly read and used by Class Members visiting the Website via smart phone or tablet.

16. By visiting the Website, Class Members are able to read and download key information about the litigation, including, without limitation:

- a) important dates and deadlines;
- b) answers to frequently asked questions; and
- c) case documents, including the Class Notice and other relevant case documents such as the Settlement Agreement.

17. Class Members can opt out of the Settlement by mailing a written statement requesting exclusion from the Settlement Class to Analytics by April 25, 2025. As of the date of this Declaration, Analytics has received one (1) request for exclusion.

18. Class Members can object to the Settlement by mailing a written statement objecting to the Settlement to Analytics by April 25, 2025. As of the date of this Declaration, Analytics has received no objections from Settlement Class Members.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: April 3, 2025



Richard W. Simmons  
President  
Analytics Consulting LLC



**Exhibit A**

## Class Notice of Symetra Cost of Insurance Class Action Settlement

ABC1234567890

Claim Number 1111111



JOHN Q CLASSMEMBER  
123 MAIN ST  
ANYTOWN, ST 12345

Dear Class Member,

You have been sent this Class Notice of Symetra Cost of Insurance Class Action Settlement (the “Class Notice”) because you were identified as a Settlement Class Member in the class action lawsuit, *Davis v. Symetra Life Insurance Company*, pending in the United States District Court for the Western District of Washington, Case No. 2:21-cv-00533-KKE. This Class Notice summarizes a recent Settlement that impacts your rights. A full description of the Settlement is contained in the Settlement Agreement, which includes the precise definitions of capitalized terms used in this Class Notice. The Settlement Agreement is available for you to read at [www.aslcoisettlement.com](http://www.aslcoisettlement.com). Please read it and this Class Notice carefully to understand your rights and obligations under the Settlement.

Records provided by Symetra Life Insurance Company indicate that you are an Owner (as that term is defined in the Settlement Agreement) of a MasterPlan, Executive MasterPlan, MasterPlan Plus, Joint MasterPlan Plus, or Juvenile MasterPlan Plus universal life insurance policy issued in Arizona, California, Florida, Illinois, Indiana, Kentucky, Minnesota, Missouri, South Carolina, Texas, and/or Washington, that was in force on or after January 1, 2000, that was issued by American States Life Insurance Company and administered by Symetra or its predecessors in interest. Throughout this Class Notice, Symetra Life Insurance Company is referred to as “Symetra.” American States Life Insurance Company merged with Symetra.

The Settlement involves the Cost of Insurance that Symetra deducted from the Cash Values of these life insurance policies. The Settlement provides that Symetra will fund a Settlement Fund in the amount of \$32.5 million, which will be used to pay (1) cash to Settlement Class Members; (2) Class Counsel’s attorneys’ fees and expenses in an amount to be approved by the Court; (3) any service award to Plaintiff in an amount to be approved by the Court; and (4) the expenses incurred in administering the Settlement.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON**

**If You Own or Owned a MasterPlan Series Life Insurance Policy  
issued by American States Life Insurance Company in Arizona,  
California, Florida, Illinois, Indiana, Kentucky, Minnesota,  
Missouri, South Carolina, Texas, or Washington, a Class Action  
Settlement May Affect Your Rights**

**A COURT AUTHORIZED THIS CLASS NOTICE.  
THIS IS NOT A SOLICITATION FROM A LAWYER.  
YOU ARE NOT BEING SUED.**

- A Settlement was reached with Symetra in a class action lawsuit about the Cost of Insurance applied to these policies. If the Settlement is approved by the Court, you will automatically receive a payment. No further action is required.
- The Settlement includes current and former owners of MasterPlan series universal life insurance policies issued by American States Life Insurance Company in Arizona, California, Florida, Illinois, Indiana, Kentucky, Minnesota, Missouri, South Carolina, Texas, or Washington that were in force on or after January 1, 2000 (see Questions 4 & 5 below).
- As part of the Settlement, Settlement Class Members will be eligible to receive a portion of a cash Settlement Fund funded by Symetra; the total Settlement Fund amount is \$32.5 million (see Question 6 below).

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>DO NOTHING</b>	Automatically receive your share of the Settlement Fund
<b>ASK TO BE EXCLUDED</b>	Get no benefits from the Settlement and preserve your right to separately sue Symetra about the claims in this case
<b>OBJECT</b>	Write to the Court if you don't like the Settlement
<b>GO TO A HEARING</b>	Make a request to speak in Court about the fairness of the Settlement

- These rights and options—and the deadlines to exercise them—are explained in this Class Notice.
- The Court in charge of this case still must decide whether to provide final approval of the Settlement. Settlement checks will be automatically issued to each Settlement Class Member if the Court approves the Settlement and after any appeals are resolved. **You do not need to take further action to receive payment if you are eligible under the Settlement. Please be patient.**

**BASIC INFORMATION**

**1. Why did I get this Class Notice?**

Symetra's records show that you own or owned a MasterPlan series life insurance policy issued by American States Life Insurance Company in Arizona, California, Florida, Illinois, Indiana, Kentucky, Minnesota, Missouri, South Carolina, Texas, or Washington (or were identified as the legal representative of such an owner) that was in force on or after January 1, 2000. A Court authorized this Class Notice because you have a right to know about the proposed Settlement and all your

options before the Court decides whether to approve the Settlement. This Class Notice explains the lawsuit, the Settlement, and your legal rights.

United States District Judge Kymberly K. Evanson of the United States District Court for the Western District of Washington is overseeing this case. The case is known as *Davis v. Symetra Life Insurance Company*, Case No. 2:21-cv-00533-KKE. The person who sued, Dennis E. Davis, is called the “Plaintiff.” Symetra Life Insurance Company is the Defendant and is referred to as “Symetra” in this Class Notice.

The following is only a summary of the Settlement. A full description of the Settlement is in the Settlement Agreement. Nothing in this Class Notice changes the terms of the Settlement Agreement. You can read the Settlement Agreement by visiting [www.aslcoisettlement.com](http://www.aslcoisettlement.com).

## 2. What is this Lawsuit about?

This lawsuit is about whether Symetra’s Cost of Insurance deductions were consistent with the policy language in the MasterPlan series life insurance policies issued by American States Life Insurance Company in Arizona, California, Florida, Illinois, Indiana, Kentucky, Minnesota, Missouri, South Carolina, Texas, or Washington (“Policies”). The Policies have a Cash Value that earns interest. The Policies expressly authorize Symetra to take a Cost of Insurance charge from the Cash Value each month.

Plaintiff alleges that Symetra took improper Cost of Insurance charges from the Cash Value. The Policies state that the Monthly Cost of Insurance Rates will be determined by Symetra from time to time based on its expectations as to future mortality experience. Plaintiff alleges Symetra breached the Policies in two ways. First, Plaintiff alleges that Symetra impermissibly used unauthorized and undisclosed non-mortality factors to initially set the Monthly Cost of Insurance Rates. Second, Plaintiff alleges Symetra failed to reduce its Monthly Cost of Insurance Rates when Symetra’s expectations as to future mortality experience improved.

Symetra denies all of Plaintiff’s claims, and asserts that, at all times, it complied with the plain language of the Policies.

You can read Plaintiff’s Class Action Complaint, Symetra’s Answer, and other relevant documents at [www.aslcoisettlement.com](http://www.aslcoisettlement.com).

## 3. Why is there a Settlement?

The Parties negotiated the Settlement with an understanding of the factual and legal issues that would affect the outcome of this lawsuit. During the lawsuit, Plaintiff, through his attorneys, thoroughly examined and investigated the facts and the law relating to the issues in this case.

As with all litigation, the final outcome of the lawsuit is uncertain. A settlement avoids the costs and risks of further litigation, if the lawsuit were to proceed through trial and appeals, and provides immediate relief to the Settlement Class Members. Based on their evaluation of the facts and law, Plaintiff and his attorneys have determined that the proposed Settlement is fair, reasonable, and adequate. They have reached this conclusion based on the substantial benefits the Settlement provides to Settlement Class Members and the risks, uncertainties, and costs inherent in the lawsuit.

There was no trial, and there were no final appellate determinations on the merits of the claims or defenses. Because the case has settled, there will be no trial or final determination on the merits of the remaining claims and defenses if the Court approves the Settlement. The Settlement does not indicate that Symetra has done anything wrong, or that Plaintiff and the Settlement Class Members would win or lose if this lawsuit were to go to trial.

## 4. Who is included in the Settlement Class?

The Settlement Class includes all persons or entities who are Owners (as defined in the Settlement Agreement) of the approximately 43,000 MasterPlan series Policies issued by American States Life Insurance Company in Arizona, California, Florida, Illinois, Indiana, Kentucky, Minnesota, Missouri, South Carolina, Texas, and/or Washington that were in force on or after January 1, 2000 (“Policies”). A Policy includes all applications, schedules, riders, and other forms that were specifically made a part of the Policy at the time of issue, plus all riders and amendments issued later. Policies include everything that was part of “The Policy,” as that term is defined in your Policy or Policies.

You are **not** part of the Settlement Class if you are Symetra; any entity in which Symetra has a controlling interest; any of the officers, directors, employees, or sales agents of Symetra; the legal representatives, heirs, successors, and assigns of Symetra; anyone employed with Plaintiff's counsel's law firms; or any Judge to whom this case is assigned or his or her immediate family.

If someone who would otherwise be a Settlement Class Member is deceased, his or her estate is a Settlement Class Member.

### 5. How can I confirm that I am in the Settlement Class?

If you are not sure whether you are included in the Settlement Class, you can get free help at [www.aslcoisettlement.com](http://www.aslcoisettlement.com), by calling 1-888-331-9840, or by emailing [aslcoisettlement@noticeadministrator.com](mailto:aslcoisettlement@noticeadministrator.com).

### 6. What does the Settlement provide?

Symetra has agreed to fund a Settlement Fund in the amount of \$32.5 million, which will be used to pay (1) all payments to Settlement Class Members; (2) Class Counsel's attorneys' fees and expenses in an amount to be approved by the Court; (3) any service award to Plaintiff Dennis E. Davis in an amount to be approved by the Court; and (4) the expenses incurred in administering the Settlement. The Net Settlement Fund equals \$32.5 million less the amounts described in (2) through (4) as approved by the Court.

If the Court approves the Settlement, settlement checks will be mailed to Settlement Class Members in amounts that will vary according to a Distribution Plan. The Distribution Plan is designed to provide each Settlement Class Member an approximate *pro rata* portion of the Net Settlement Fund in proportion to the amount of Cost of Insurance charges actually paid by each Settlement Class Member. There will also be a minimum cash payment and more paid where a Settlement Class Member's Policy is still in force.

The full Distribution Plan is attached to Plaintiff's Motion Pursuant to Rule 23(e) for Preliminary Approval of Class Action Settlement and to Permit Issuance of Notice to Settlement Class and is available on the Settlement Website.

**You should consult your own tax advisors about the tax consequences of the proposed Settlement, including any benefits you may receive and any tax reporting obligations you may have as a result.**

### 7. How do I participate in the Settlement?

Settlement Class Members do not have to do anything to participate in the Settlement. No claims need to be filed. Upon approval of the Settlement, a settlement check will be sent to every Settlement Class Member in the amount determined by the Settlement Administrator using the method described in Question 6. If someone who would otherwise be a Settlement Class Member is deceased, his or her estate is a Settlement Class Member. If your address changes, you should contact the Settlement Administrator to give them your new address.

### 8. When will I receive my Settlement check?

The settlement checks will be sent to Settlement Class Members within 30 days after the Final Settlement Date, which is the date that the approval process is formally completed. Settlement checks will be automatically mailed without any proof of claim or further action on the part of the Settlement Class Members. It could take several months to complete the Settlement process and depending on factors that cannot be predicted at this time. Updates will be made available to you on the Settlement Website, [www.aslcoisettlement.com](http://www.aslcoisettlement.com).

### 9. What happens if I do nothing?

If the Settlement is approved, you will receive a settlement check representing your share of the Settlement.

If the Settlement is approved, you cannot sue Symetra or be part of any other lawsuit against Symetra concerning the Released Claims, as that term is defined in the Settlement Agreement.

If your Policy is still in force, Symetra is not required to lower its Monthly Cost of Insurance Rates and may continue to use its current Monthly Cost of Insurance Rates. Symetra may also increase Monthly Cost of Insurance Rates if deterioration in its expectations as to future mortality experience is the reason for the increase.

The Settlement Agreement is available at [www.aslcoisettlement.com](http://www.aslcoisettlement.com) and describes the claims that you are giving up. If you have any questions, you can talk to the law firms listed in Question 12 for free, or you can hire your own lawyer.

### 10. Can I exclude myself from the Settlement?

Yes. If you don't want a payment from the Settlement, and/or you want to keep the right to hire your own lawyer and sue Symetra at your own expense about the issues in this case, then you may request to be excluded from the Settlement Class by sending a written notice to the Settlement Administrator. The notice **must include** the following information:

- The Settlement Class Member's name (or the name of the entity that owns the Policy), current address, telephone number, and e-mail address;
- Policy number(s);
- A clear statement that the Settlement Class Member elects to be excluded from the Settlement Class and does not want to participate in the Settlement in *Davis v. Symetra Life Insurance Company*, Case No. 2:21-cv-00533-KKE; and,
- The Settlement Class Member's signature, or the signature of a person providing a valid power of attorney to act on behalf of the Settlement Class Member. If there are multiple owners of a Policy, all owners must sign the notice, unless the signatory submits a copy of a valid power of attorney to act on behalf of all then-current owners of the Policy.

If you want to exclude yourself from the Settlement, your written notice must be mailed to the Settlement Administrator at ASL COI Settlement, P.O. Box 2009, Chanhassen, MN 55317-2009, postmarked no later than April 25, 2025.

### 11. How do I tell the Court if I do not like the Settlement?

You can object to the Settlement if you do not like some part of it. The Court will consider your views. To object to the Settlement, you must serve a written objection in the case, *Davis v. Symetra Life Insurance Company*, Case No. 2:21-cv-00533-KKE. The objection **must include** the following:

- The Settlement Class Member's name (or the name of the entity that owns the Policy), current address, telephone number, and email address;
- Policy number(s);
- A written statement of all reasons for the objection accompanied by any legal support for the objection (if any);
- Copies of any papers, briefs, or other documents upon which the objection is based (if any);
- A list of all persons who will be called to testify in support of the objection (if any);
- Whether you intend to appear at the Fairness Hearing and the identity of all attorneys (if any) who will appear at the Fairness Hearing on your behalf;
- Whether the objection applies only to you, to a specific subset of the Settlement Class, or to the entire Settlement Class; and
- The signature of you or your counsel.

You must mail your objection to the Settlement Administrator at ASL COI Settlement, P.O. Box 2009, Chanhassen, MN 55317-2009, postmarked no later than April 25, 2025.

### 12. Do I have a lawyer in this case?

Yes. The Court appointed the following lawyers as "Class Counsel" to represent all the members of the Settlement Class:

John J. Schirger, Joseph M. Feierabend  
Schirger Feierabend LLC  
4520 Main St., Suite 1570  
Kansas City, MO 64111  
[aslcoisettlement@SFLawyers.com](mailto:aslcoisettlement@SFLawyers.com)

Patrick J. Stueve, Ethan M. Lange  
Stueve Siegel Hanson LLP  
460 Nichols Rd., Suite 200  
Kansas City, MO 64112  
[aslcoisettlement@stuevesiegel.com](mailto:aslcoisettlement@stuevesiegel.com)

If you have questions, you may contact these lawyers. You will not be charged for contacting these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.



**13. How will the lawyers be paid?**

Class Counsel and the other lawyers who were involved in the pending case have not been paid for their work in this case. In addition to thousands of hours of labor spent on this case, Class Counsel have expended expenses prosecuting this case. The Court will determine how much Class Counsel will be paid for fees and expenses. Class Counsel will seek an award for attorneys' fees of up to one-third of the Settlement Fund, plus reimbursement of Class Counsel's costs and expenses (no more than \$240,000), also to be paid from the Settlement Fund. You will not be responsible for payment of Class Counsel's fees and expenses.

Class Counsel will also request a service award payment of up to \$25,000 for the Plaintiff Dennis E. Davis for his service to the Settlement Class. This payment will also be paid from the Settlement Fund.

The Judge will determine any amounts to be paid to Class Counsel and to Plaintiff. Class Counsel's motion seeking an award of attorneys' fees, reimbursement of costs and expenses, and service award for the Plaintiff will be available at [www.aslcoisettlement.com](http://www.aslcoisettlement.com).

**14. When and where will the Court decide whether to approve the Settlement?**

The Judge will hold a Fairness Hearing to decide whether to approve the Settlement and any requests for attorneys' fees and expenses, a service award to Plaintiff, and the costs of settlement administration. You may attend and ask to speak, but you do not have to.

The Judge will hold the Fairness Hearing at 10 a.m. on May 19, 2025, at the United States District Court for the Western District of Washington, 700 Stewart Street, Courtroom 16106, Seattle, Washington 98101-9906. The Fairness Hearing may be moved to a different date or time without additional notice being mailed to you, so please check [www.aslcoisettlement.com](http://www.aslcoisettlement.com) for any updates. At the Fairness Hearing, the Judge will consider whether the Settlement is fair, reasonable, and adequate and in the best interests of Settlement Class Members and whether to award the requested attorneys' fees, expenses, service award, and the costs of settlement administration. If there are objections, the Judge will consider them and will listen to people who have asked to speak at the Fairness Hearing. After the Fairness Hearing, the Judge will decide whether to approve the Settlement. We do not know how long the Judge's decision will take.

**15. Do I have to attend the hearing?**

No, but you or your own lawyer are welcome to attend the Fairness Hearing at your expense. If you send a timely objection but do not attend the Fairness Hearing, the Judge will still consider your objection.

**16. May I speak at the hearing?**

You may speak at the Fairness Hearing by filing an objection that indicates your intention to do so. If you wish to appear through counsel, your written objection must list the attorneys representing you who will appear at the Fairness Hearing. Unless otherwise ordered by the Judge, a Settlement Class Member who does not submit a timely objection with the required information will not be permitted to speak at the Fairness Hearing.

**17. How do I get more information?**

This Class Notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can find a copy of the Settlement Agreement at [www.aslcoisettlement.com](http://www.aslcoisettlement.com). You may also send your questions to the Settlement Administrator, in writing, at ASL COI Settlement, P.O. Box 2009, Chanhassen, MN 55317-2009, or call the Settlement Administrator at 1-888-331-9840. You can review the Court's docket in this case at [www.pacer.gov](http://www.pacer.gov).

If your address has changed or will change, please notify the Settlement Administrator by May 19, 2025.

Be sure to regularly check [www.aslcoisettlement.com](http://www.aslcoisettlement.com) for updates, as information contained in this notice, including dates, times, or locations, may be changed without additional notice being mailed to you.

DATE: March 21, 2025

The Honorable Kymberly K. Evanson

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DENNIS E. DAVIS, individually and on behalf  
of all others similarly situated,

Plaintiff,

v.

SYMETRA LIFE INSURANCE COMPANY, a  
Washington corporation,

Defendant.

Case No. 2:21-cv-00533-KKE

**DECLARATION OF CLASS  
REPRESENTATIVE DENNIS E. DAVIS**

---

DECLARATION OF CLASS REPRESENTATIVE  
DENNIS E. DAVIS  
(Case No. 2:21-cv-00533-KKE)



1 I, Dennis E. Davis, hereby submit the following Declaration:

2 1. This declaration is based on my personal knowledge and submitted in support of Class  
3 Counsel's Motion for Attorney's Fees, Expenses and Service Award (the "Motion").

4 2. Currently I reside in Des Moines, Iowa. I am fully retired and have served as the only  
5 Class Representative in this class action lawsuit.

6 3. I am submitting this declaration in support of my request to the Court that a service award  
7 of \$25,000 be approved for my time and work associated with serving as the Class Representative in this  
8 action.

9 4. I have always understood that only the Court can approve the payment of a service award,  
10 that there is no assurance an award will be approved, and that the Court could approve the settlement but  
11 deny any request for a service award. At no time have I been promised or assured by anyone that the  
12 Court will extend a service award to me.

13 5. Since first reaching out to my attorneys over four years ago, I have devoted significant  
14 time and energy to serving as the Class Representative in this action. As an 80-year-old individual, I am  
15 particularly aware that time is truly the most precious commodity. Nonetheless, I have never regretted the  
16 time and effort this lawsuit took away from my family or other interests because I felt it was the right  
17 thing to do. Those efforts included: a) staying in regular contact with my attorneys via phone and email  
18 on various matters including status reports, responding to requests for information, scheduling meetings  
19 and my deposition, and reviewing and signing documents; b) working with my attorneys to answer the  
20 discovery served by Symetra which required me to search for relevant documents and information; c)  
21 preparing for in-person meetings with my attorneys; d) preparing and sitting for my deposition which  
22 necessitated travel and a hotel stay; and e) monitoring and participating, through my attorneys, in  
23 mediation and settlement efforts.

---

DECLARATION OF CLASS REPRESENTATIVE

DENNIS E. DAVIS

(Case No. 2:21-cv-00533-KKE) - 1

1           6.       My best estimate of the total time I have devoted to this action is approximately 120 hours.

2           7.       My understanding is that tens of millions of dollars will be sent to members of the Class,  
3 with an average gross per policy recovery of approximately \$750, including gross allocations for some  
4 class members in excess of \$50,000, and with class member policyowners of nearly 9,000 policies having  
5 allocations in excess of \$1,000. I am proud to have served as the Class Representative in this action and  
6 for being responsible, along with my attorneys, for delivering this result to the Class.

7           I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and  
8 correct.

9           Executed on this 3rd day of April 2025, at Des Moines, Iowa.

10           

11           Dennis E. Davis  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23