

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021
Title Joyce Walker et al. v. Life Insurance Company of the Southwest

Present: The Honorable **James V. Selna, U.S. District Court Judge**

Lisa Bredahl Not Present
Deputy Clerk Court Reporter

Attorneys Present for Plaintiffs: Not Present
Attorneys Present for Defendants: Not Present

Proceedings: [IN CHAMBERS] Order Regarding Motion for Final Approval of Class Action Settlement

Before the Court is Plaintiffs Joyce Walker, Kim Bruce Howlett, Muriel Spooner, Taline Bedelian, and Oscar Guevara’s (collectively - “Plaintiffs”) motion for final approval of the class settlement they have reached with Defendant Life Insurance Company of the Southwest (“LICS”). Final Approval Mot., ECF No. 1105, LICS does not oppose. Plaintiffs also move for attorney’s fees, costs, and service awards. Fees Mot., ECF No. 1106. Plaintiffs filed a reply in support of each motion. Final Approval Reply, ECF No. 1108; Fees Reply, ECF No. 1109.

For the following reasons, the Court **GRANTS** final approval of the proposed settlement and **GRANTS** the fees motion.

I. BACKGROUND

A. Allegations and Procedural History

The general background of this dispute is well-known to the parties and to the Court. Plaintiffs represent a class of purchasers of indexed universal life insurance policies issued by LICS. Fourth Amended Complaint (“FAC”), ECF No. 947, ¶ 1. Generally, Plaintiffs allege claims under California’s Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code §§ 17200, *et seq.*, that LICS’s pre-application illustrations, which are documents that depict policy performance under a variety of “what-if” scenarios, violated provisions of California’s Illustration Statute, Cal. Ins. Code §§ 10509.950, *et seq.* *Id.* ¶¶ 17-38. In their surviving claims, Plaintiffs allege that LICS’s illustrations

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

improperly projected policy values in two ways: (1) by failing to define that “guaranteed values” at particular interest rates for the policies reflect yearly minimum interest rates instead of a minimum average interest rate over multiple years, and (2) by assuming, but not expressly describing, the elimination of the Monthly Percent of Accumulated Value Charge (“MPAVC”) after Paragon policies have been in force for ten years. Id. ¶¶ 25-27, 31-35.

In 2011, the Court ruled that Plaintiffs could not predicate UCL claims on California’s Illustration Statute because the Statute lacks a private right of action. 2011 MTD Order, ECF No. 59; 2011 MJP Order, ECF No. 112. On November 9, 2012, the Court then certified two classes, each asserting claims for common-law fraud and violations of the UCL based on different factual allegations. See 2012 Certification Order, ECF No. 353. On May 29, 2013, the Court decertified one of those classes. 2013 Decertification Order, ECF No. 447.

At trial, a jury heard Plaintiffs’ common-law fraud claims, and the Court heard Plaintiffs’ UCL claims. Post-Trial UCL Proceedings Order, ECF No. 791, at 3. The jury found LICS not liable on all of Plaintiffs’ common-law fraud claims. Id. The Court found in favor of LICS on all remaining claims. Id. at 75. On appeal, the Ninth Circuit reversed the Court’s dismissal of Plaintiffs’ UCL claims predicated on violations of the Illustration Statute and clarified that Plaintiffs could sue to enforce the Illustration Statute through UCL claims. Walker v. Life Insurance Company of the Southwest, 681 Fed. Appx. 599, 602, as amended on denial of reh’g (9th Cir. May 5, 2017). The Ninth Circuit otherwise affirmed this Court’s judgment. Id.

On remand, Plaintiffs filed a Third Amended Complaint (“TAC”) alleging that LICS’s practices in connection with the marketing and sale of two of its life insurance policies, SecurePlus Provider (“Provider”) and SecurePlus Paragon (“Paragon”), constitute unlawful and unfair business practices under the UCL based on various violations of the Illustration Statute. TAC, ECF No. 839, ¶¶ 83–99. The parties filed crossmotions for summary judgment, which the Court granted in part and denied in part on December 22, 2017. 2017 MSJ Order, Docket No. 874. Subsequently, the Court granted Plaintiffs’ motion for leave to file a Fourth Amended Complaint (“FAC”) to add Plaintiffs Taline Bedelian and Oscar Guevara. 2018 Nunc Pro Tunc Order, ECF No. 939, at 13. On July 31, 2018, the Court certified a new class. 2018 Certification Order, ECF

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

No. 961. The certification order was subsequently affirmed on appeal. Walker v. Life Insurance Company of the Southwest, 953 F.3d 624 (9th Cir. 2020).

On February 22, 2021, the Court granted preliminary approval of the Class Settlement at issue in this motion and directed dissemination of notice to members of the Settlement Class. Preliminary Order, ECF No. 1099.

B. Summary of the Settlement

1. The Settlement Class

The Settlement Class is defined as:

All persons who purchased a Provider Policy or Paragon Policy from Life Insurance Company of the Southwest that was issued between September 24, 2006 and April 27, 2014, and who resided in California at the time the Policy was issued, and who received an illustration on or before the date of policy application.

Settlement Agreement, ECF No. 1095-1, ¶ 2.5. The Court has previously certified the Settlement Class. 2018 Certification Order at 7, 20.

2. Settlement Amount and Injunctive Relief

Under the terms of the Settlement, LICS will be “required to continue to eliminate the Monthly Percent of Accumulated Value Charge (‘MPAVC’) on each Underlying Life Insurance Policy that is a Paragon Policy once such Underlying Life Insurance Policy has been in force for ten policy years.” Settlement Agreement ¶ 4.17. Class Members will also be entitled to receive at least one of three different types of relief: (1) Term Insurance Relief, (2) a Surrender Charge Credit, or (3) Cash Relief. *Id.* at ¶ 4. Specifically, Class Members can elect to receive any combination of options except they cannot select both the Term Insurance Relief and Cash Relief options. *See id.* ¶ 4.13.

a. Term Insurance Relief

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

The Term Insurance Relief option gives eligible Class Members the option to receive from LICS at no cost a three-year term life insurance policy. Id. ¶ 4.3. Class Members will be eligible to receive this benefit if they submit a Proof of Claim electing Term Insurance Relief and submit a Term Insurance Application. Id. ¶ 4.5. The Class Member cannot elect to receive Cash Relief or have an insured that dies prior to the issuance of the Term Life Insurance Relief. Id. ¶ 4.3.

LICS will make available term insurance relief of up to \$35,000,000 in aggregate face value. Id. ¶ 4.2. “The face value of each Term Policy shall be a percentage of the face value of the Underlying Life Insurance Policy owned by the Class Member receiving the Term Policy. The percentage, which shall be the same for all Term Policies, is equal to \$35,000,000 divided by the product of: (i) the aggregate face value of all SecurePlus Paragon and SecurePlus Provider Policies issued to individuals in California during the Class Period (other than Policies that have paid a death claim prior to the date on which the Stipulation of Settlement was executed), multiplied by (ii) 0.75. The percentage is currently estimated to be 0.51%, and will be finalized as part of the settlement administration process.” Id. ¶ 4.4. “In the event that the total aggregate face value of the Term Policies to be issued calculated using the formula outlined above exceeds \$35,000,000, then the face value of each Term Policy shall instead be based on a pro rata share (by face value of each Underlying Life Insurance Policy electing to receive the Term Insurance Relief Option) of the \$35,000,000.” Id.

b. Surrender Charge Credit

The Surrender Charge Credit option gives eligible Class Members the option to surrender their underlying life insurance policy and obtain a refund of “some or all of the surrender charge incurred on the full surrender.” Id. ¶ 4.7. “To be eligible, a Class Member must maintain his or her Underlying Life Insurance Policy in force through the Proof of Claim Cure Period and until the surrender has been processed in accordance with this Settlement.” Id. ¶ 4.8. The “Proof of Claim Cure Period” is a 60-day period beginning on the day after the period when Class Members can submit Proofs of Claim during which Claims Administrator can contact Class Members who submitted a Proof of Claim to cure any defects. Id. ¶¶ 2.19, 4.10.

LICS will make available surrender charge credit of up to \$1,000,000 in aggregate

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

value. Id. ¶ 4.7. “The amount of Surrender Charge Credit available to each eligible Class Member shall be the lesser of: (i) the amount of surrender charge actually incurred on full surrender of the Class Member’s Underlying Life Insurance Policy in accordance with this Stipulation; or (ii) an amount determined by the following formula: (a) first, calculate a percentage (which shall be the same for all eligible Class Members) equal to one million dollars (\$1,000,000) divided by the aggregate premium paid on all SecurePlus Paragon and SecurePlus Provider Policies issued to individuals in California during the Class Period; and then (b) multiply that percentage times the total premiums paid on the eligible Class Member’s Underlying Life Insurance Policy that is being surrendered. The percentage is currently estimated to be 0.256%, and will be finalized as part of the settlement administration process.” Id. ¶ 4.9.

c. Cash Relief Option

Finally, the Cash Relief option gives eligible Class Members the option to receive a direct payment. Class Members will be eligible to receive this benefit if they submit a Proof of Claim electing the Cash Relief option. Id. ¶ 4.13. The Class Member also cannot elect to receive Term Life Insurance. Id. If a Class Member elects to receive Term Insurance Relief and the insured on the underlying life insurance policy dies prior to issuance of the Term Life Insurance Relief, that Class Member will be eligible for the Cash Relief option. Id.

The total amount available to the Class under the Cash Relief option will be equal to the sum of: (1) \$500,000 minus any amount up to \$150,000 paid to cover the Settlement’s administrative costs and taxes and (2) any remainder from the \$1,000,000 allocated to cover the surrender charge credit following distribution of the surrender charge credit (collectively referred to as the “Residual”). Id. ¶¶ 3.1, 3.2, and 4.12. The payment made to any individual Class Member who elects the Cash Relief option will be equal to “the lesser of: (a) the total premiums paid on the Underlying Life Insurance Policy owned by the electing Class Member; or (b) a pro rata share (by total premium paid on each Underlying Life Insurance Policy electing to receive the Cash Relief Option) of the Residual.” Id. ¶ 4.14. If “the Residual becomes sufficiently small that, in the reasonable judgment of Lead Counsel, it is not economically reasonable to distribute further proceeds, any remaining Residual shall be donated to a charity selected by Lead Counsel and unaffiliated with any Party or their counsel.” Id. ¶ 4.16.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021
Title Joyce Walker et al. v. Life Insurance Company of the Southwest

3. *Attorneys' Fees and Costs*

Plaintiffs agreed to make an application for reimbursement of costs and fees not to exceed \$2,500,000. *Id.* ¶ 8.1. The amount given in attorney's fees will not reduce the amount of money made available to Class Members. Plaintiffs now move for attorneys' fees and costs in the amount of \$2,500,000. Fees Mot. at 1.

4. *Administrative Expenses and Service Awards*

As noted previously, *supra* Section I.B.2, the Parties have agreed that a maximum of \$150,000 that is allocated for payment of the Cash Relief option will be available to pay for administrative expenses and taxes. Plaintiffs have agreed to make a request for service awards not to exceed an aggregate sum of \$100,000 for the Named Plaintiffs, which LICS will not oppose. Settlement Agreement ¶ 9.1. Any amount allocated for service awards will not reduce the amount of money allocated for the Class. Plaintiffs now move for service awards that collectively amount to \$100,000. Fees Mot. at 1.

5. *Release*

On final approval of the Settlement Agreement, "the Releasing Parties, on behalf of themselves, their successors and assigns, and any other Person claiming (now or in the future) through or on behalf of them (regardless of whether any such Releasing Party ever seeks or obtains by any means, including without limitation by submitting a Proof of Claim, any Term Insurance Relief or any disbursement from the Settlement Fund), shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties and shall have covenanted not to sue the Released Parties with respect to all such Released Claims, and shall be permanently barred and enjoined from asserting, commencing, prosecuting, instituting, assisting, instigating, or in any way participating in the commencement or prosecution of any action or other proceeding, in any forum, asserting any Released Claim, in any capacity, against any of the Released Parties." Settlement Agreement ¶ 5.1.

The "Releasing Parties" includes LICS, the Named Class Members, all other Class

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

Members, and “with respect to each Released Party, the immediate family members, heirs, executors, trustees, administrators, successors, assigns, and present and former employees, officers, directors, attorneys, legal representatives, accountants, insurers, reinsurers, managers, and agents of each of them, and any person or entity which is or was related to or affiliated with any Released Party or in which any Released Party has a controlling interest, and the present, former, and future direct and indirect parents, subsidiaries, divisions, affiliates, predecessors, successors, and the employees, officers, directors, attorneys, assigns, legal representatives, insurers, reinsurers, managers, and agents of each of them.” Id. ¶ 2.23.

The “Released Claims” for Class Members and their related parties “includes, unless prohibited by law, any and all Claims and Unknown Claims (as defined herein) relating in any way, directly or indirectly, to any Paragon or Provider life insurance Policies issued in California between September 24, 2006 and April 27, 2014, that have been or could have been asserted by or on behalf of any of the Releasing Plaintiff Parties, in any capacity, which concern, arise out of, are based upon, or refer or relate in any way to the same events, transactions, circumstances, or factual predicate as the claims asserted in the Action, including without limitation any communications, disclosures, omissions, or nondisclosures related to the Policies, whether written or oral, including any Policy illustrations; the offering of advice in any manner related to the Policies; the design, marketing, solicitation, application, sale, appropriateness, or administration of the Policies; or the crediting of interest to Policy accounts. Notwithstanding the foregoing, “Released Plaintiffs’ Claims” does not include: (i) Claims to enforce a Class Member’s contractual rights to make a claim for benefits that will become payable in the future pursuant to the express terms of the policy form issued by LICS; or (ii) Claims to enforce the terms of this Stipulation or orders or judgments issued by the Court in connection with this Settlement.” Id. ¶ 2.26.

The “Released Claims” for LICS and its related parties include, “unless prohibited by law, any and all Claims and Unknown Claims (as defined herein) that could have been asserted against any of the Released Plaintiff Parties arising out of, based upon, or relating in any way to the institution, prosecution, or settlement of the Action. Notwithstanding the foregoing, “Released Defendant’s Claims” does not include claims to enforce the terms of this Stipulation or orders or judgments issued by the Court in connection with this Settlement.” Id. ¶ 2.25.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

6. *Notice*

The Parties provided notice to Class Members by mail and e-mail. Page Decl., ECF No. 1105-3, ¶ 7. LICS provided the Claim Administrator with “Class Members’ (i) name, (ii) last known mailing address, (iii) last known email address, and (iv) information related to their eligible insurance policy.” *Id.* ¶ 4. The Claim Administrator then sent the Postcard Notice, ECF No. 1101-3, to each Class Member at either their last known e-mail address or their last known mailing address. *Id.* ¶ 7. If the Claim Administrator had a Class Member’s mailing address and e-mail address, notice was sent to each address. *Id.* As of April 30, 2021, notice was delivered to 47,902 Class Members, comprising 96.7% of the entire Settlement Class. *Id.* ¶ 11.

The Postcard Notice included the following information: “(i) the existence of and [Class Members’] rights with respect to the Action and Settlement, including information on excluding themselves from the Class; (ii) the various benefits provided to Class Members in exchange for the dismissal and release of claims against LICS (including that Class Members who stay in the Settlement will be mailed a Proof of Claim Form); (iii) the date, time and place of the Settlement Hearing and Class Members’ right to appear at the Settlement Hearing; (iv) the maximum Fee and Cost Reimbursement and Incentive Award that may be sought; and (v) the website for Class Members to access and the address, phone number, and email address for Class Members to contact in order to view the Stipulation and obtain copies of the long form Notice.” Preliminary Mot., ECF No. 1095, at 21.

A Settlement Website for the Class Settlement was established.¹ Page Decl. ¶ 12. The Postcard Notice refers all Class Members to the Settlement Website, at which Class Members can access a longer Notice of Pendency and Proposed Settlement of Class Action (the “Notice of Pendency”), ECF No. 1101-1. Postcard Notice. This longer Notice includes the following information: “(i) the Class definition and terms of the Settlement; (ii) the eligibility criteria for each of the various Settlement benefits; (iii) the process Class Members must follow to receive the Settlement benefits; (iv) procedures for objecting to or seeking exclusion from the Settlement; and (v) the binding effect of the proceedings, rulings, orders, and judgments in this Action.” Preliminary Mot. at 21-22.

¹ That Settlement Website is available at www.lswclassaction.com. Postcard Notice.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

7. *Opt-Out and Objection Process*

A Class Member could exclude himself or herself from the Settlement by sending a notification in writing to Walker v. LICS Exclusions, c/o Epiq Class Action & Claims Solutions, Inc., P.O. Box 5053, Portland, OR 97208-5053. Notice of Pendency at 9. Such written notice had to include the Class Member's name, address, telephone number, policy number(s), signature, and a statement that he or she wishes to be excluded from the Class. *Id.* Such a written notice had to be postmarked by May 21, 2021. *Id.* As of May 28, 2021, twelve Class Members requested exclusion from the Settlement. Second Page Decl., ECF No. 1108, ¶ 3.

Similarly, the Notice of Pendency states that a Class Member can object to the Settlement by submitting a written notice of objection including the objector's name, address, telephone number, policy number(s), signature, reasons for objection, and any relevant supporting documents. Notice of Pendency at 10. The written objection had to be sent by first class mail to the Claims Administrator, Plaintiffs' counsel, and LICS's counsel. *Id.* The written objection also had to be filed with the Clerk of the United States District Court for the Central District of California. *Id.* The written objection similarly had to be postmarked by May 21, 2021. *Id.* As May 28, 2021, no Class Members had objected to the Settlement. Second Page Decl. ¶ 4.

8. *Revocation of Agreement*

Either Party may terminate the Settlement within seven business days of any of the following events occurring: "(i) entry of a Court order declining to enter the Preliminary Approval Order; (ii) entry of a Court order refusing to approve this Stipulation; (iii) entry of a Court order declining to enter the Final Judgment; (iv) entry of a Court order refusing to dismiss the Action with prejudice; (v) entry of an order by which the Final Judgment is modified or reversed by any appeal or review; or (vi) failure on the part of any Settling Party to abide, in material respect, with the terms of this Stipulation." Settlement Agreement ¶ 10.1. Lead Plaintiffs also have the right to terminate the Settlement Agreement if the Settlement Fund amount is not paid into the Escrow Account as provided in ¶ 3.1 of the Settlement. *Id.* ¶ 10.2. Finally, LICS has the option to terminate the Settlement if the Class Members who request exclusion from the Settlement have paid total premiums on the underlying life insurance policies greater than

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

\$19,400,000. Id. ¶ 10.3; Confidential Agreement, ECF No. 1098-1.

II. LEGAL STANDARD

Federal Rule of Civil Procedure Rule 23(e) states that “[t]he claims ... of a certified class—or a class proposed to be certified for purposes of settlement—may be settled . . . or compromised only with the court’s approval.” “The parties must provide the court with information sufficient to enable it to determine whether to give notice of the propos[ed] [settlement] to the class.” Fed. R. Civ. P. 23(e)(1)(A). “The court must direct notice in a reasonable manner to all class members who would be bound by the proposal if giving notice is justified by the parties’ showing that the court will likely be able to: (i) approve the propos[ed] [settlement] under Rule 23(e)(2); and (ii) certify the class for purposes of judgment on the proposal.” Id. 23(e)(1)(B)(i)(ii).

III. DISCUSSION

This Court has already certified the class incorporated in the Settlement Agreement. 2018 Certification Order. The Court therefore turns to final approval of the Settlement Agreement.

A. *Final Approval of the Proposed Class Settlement*

1. *The Fairness Factors Support Settlement Approval*

Under Rule 23(e)(2) if the proposed settlement would bind class members, the Court may approve it only after a hearing and only on finding that it is fair, reasonable and adequate. To make this determination, the Court must consider the following factors:

- (A) the class representatives and class counsel have adequately represented the class;
- (B) the proposal was negotiated at arm’s length;
- (C) the relief provided for the class is adequate, taking into account:
 - (i) the costs, risks, and delay of trial and appeal;
 - (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

- (iii) the terms of any proposed award of attorneys' fees, including timing of payment; and
 - (iv) any agreement required to be identified under Rule 23(e)(3); and
- (D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2).

Before the revisions to the Federal Rule of Civil Procedure 23(e), the Ninth Circuit had developed its own list of factors to be considered. See, e.g., In re Bluetooth Headset Products Liab. Litig., 654 F.3d 935, 964 (9th Cir. 2011) (citing Churchill Vill., L.L.C. v. Gen. Elec., 361 F.3d 566, 575 (9th Cir. 2004)). The revised Rule 23 “directs the parties to present [their] settlement to the court in terms of [this new] shorter list of core concerns[.]” Fed. R. Civ. P. 23(e)(2), 2018 Advisory Committee Notes. “The goal of [amended Rule 23(e)] is . . . to focus the [district] court and the lawyers on the core concerns of procedure and substance that should guide the decision whether to approve the proposal.” Id.

a. Adequacy of Representation by Class Representatives and Class Counsel

Under Rule 23(e)(2)(A), the first factor to be considered is whether the class representatives and class counsel have adequately represented the class. This analysis includes “the nature and amount of discovery” undertaken in the litigation. Fed. R. Civ. P. 23(e)(2)(A), 2018 Advisory Committee Notes.

There certainly has been adequate representation by the class representatives and class counsel. This case has been extensively litigated, with the complaint having been filed over a decade ago. See supra Section I.A. Class Counsel, Kasowitz Benson Torres LLP, is a respected litigation firm that has been involved in the case since its early stages. There has also been extensive discovery conducted during this litigation, sufficient for the case to have even gone to trial several years ago. This factor therefore weighs in favor of approval.

b. Negotiated at Arm's Length

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

The second Rule 23(e)(2) factor asks the Court to confirm that the proposed settlement was negotiated at arm's length. Fed. R. Civ. P. 23(e)(2)(B). As with the preceding factor, this can be "described as [a] 'procedural' concern[], looking to the conduct of the litigation and of the negotiations leading up to the proposed settlement." Fed. R. Civ. P. 23(e)(2), 2018 Advisory Committee Notes. "[T]he involvement of a neutral or court-affiliated mediator or facilitator in [settlement] negotiations may bear on whether th[ose] [negotiations] were conducted in a manner that would protect and further the class interests." Fed. R. Civ. P. 23(e), 2018 Advisory Committee Notes; accord Pederson v. Airport Terminal Servs., 2018 WL 2138457, at *7 (C.D. Cal. April 5, 2018) (the oversight "of an experienced mediator" reflected noncollusive negotiations).

The Parties have made previous attempts to settle this case that included mediation before a private neutral and before Magistrate Judge Early. Final Mot. at 7. This previous involvement of a neutral and a court-affiliated mediator, together with the Parties' extensive adversarial proceedings through the various motions and appeals, suggest that this Settlement Agreement was negotiated at arm's length. The Parties also engaged in further negotiations following the Ninth Circuit's March 23, 2020 opinion. Id. Those negotiations included "an in-person meeting of counsel in Boston, Massachusetts, dozens of teleconferences and email exchanges, and many proposals and counterproposals." Id. Collectively, these facts convince the Court that the negotiations were conducted at arm's length.

c. Adequacy of Relief Provided for the Class

The third factor the Court considers is whether "the relief provided for the class is adequate, taking in to account: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorneys' fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3)." Fed. R. Civ. P. 23(e)(2)(C). Under this factor, the relief "to class members is a central concern." Fed. R. Civ. P. 23(e)(2)(C), Advisory Committee Notes.

Plaintiffs allege that LICS's illustrations improperly projected policy values in two ways: (1) by failing to define that illustrations of "guaranteed values" at particular

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

interest rates reflect providing that particular minimum interest rate on average over a multiple year period instead of yearly, and (2) by assuming, but not expressly describing, the elimination of the Monthly Percent of Accumulated Value Charge (“MPAVC”) after Paragon policies have been in force for ten years. FAC ¶¶ 25-27, 31-35.

LICS’s agreement to continue to eliminate the MPAVC on each underlying Paragon policy after it has been in force for ten policy years would adequately remedy any damage caused by the second allegedly misleading projection. It is more difficult for the Court to compare the value of the rest of the Settlement Agreement to any alleged damage to the Class from the first allegedly misleading projection. The Parties have not submitted with this motion any estimate for the Class’s damages should Plaintiffs’ theory of the case prevail.

But it is this inability to calculate damages that convinces the Court that the relief provided to the Class by the Settlement Agreement is reasonable. To show that the Class is entitled to restitution under the UCL, Plaintiffs would be required to show a “measurable amount to restore to the [P]laintiff[s] what has been acquired by violations of the [Illustration Statute], and that measurable amount must be supported by evidence.” Colgan v. Leatherman Tool Group, Inc., 135 Cal. App. 4th 663, 697 (2006). “For each consumer who . . . is deceived by misrepresentations into making a purchase, the economic harm is the same: the consumer has purchased a product that he or she paid more for than he or she otherwise might have been willing to pay if the product had been labeled accurately.” Pulasi & Middleman, LLC v. Google, Inc., 802 F.3d 979, 989 (9th Cir. 2015) (emphasis in original) (quoting Kwikset Corp. v. Superior Court, 51 Cal. 4th 310, 329 (2011)). Thus, to obtain restitution under the UCL, Plaintiffs would be required to show a measurable amount more that Class Members paid for their policies than they would have in the absence of the alleged violations of the Illustration statute.

It would be extremely difficult for Plaintiffs to show that Class Members would have paid less for the policies in the absence of the alleged violations. Any method for calculating these damages would rely on the assumption that “[i]f there were a reduced expected value for the policy as it actually functions, as compared with the policy as represented, then there would be a corresponding reduced willingness of consumers to pay for the product under conditions of full disclosure.” Brockett Report, ECF No. 863, ¶ 126 (Plaintiffs’ expert witness making such an

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

assumption in determining damages). LICS has suggested that it would argue that there is no “connection between illustrated cashflows and values and the actual cashflows and values of policies acquired by class members.” Motion in Limine, ECF No. 1019, at 2 n.2. This argument could well succeed. It is difficult to calculate the expected value of these life insurance policies; Plaintiffs’ expert calculated the expected value of the policies in the absence of violations of the Illustration Statute using Monte Carlo simulations of the S&P 500 based on 22 years of historical data. Brockett Report ¶¶ 65-76; see Abrevaya Declaration, ECF No. 908, ¶ 24 (approving of the Monte Carlo simulations performed in the Brockett Report). Considering how difficult it is to project the actual expected value of the policies, it would be difficult for Plaintiffs to demonstrate that there would indeed be a measurable difference, supported by evidence, in what Class Members would have paid for the policies. Average consumers may well not have understood the difference in value of the policies, even if properly disclosed. LICS has even provided an expert declaration that made such a conclusion based on survey results. Wilcox Decl., ECF No. 1025-1, ¶¶ 84-86.

Thus, while the Court is unable to evaluate the amount of damages to which Class Members would be entitled should Plaintiffs succeed in their theory of the case, the value of the Settlement Agreement appears equitable on its face. The Court notes that the face value of the Settlement Agreement, excluding the elimination of the MPAVC, is altogether approximately \$36,350,000. Of course, not all of this value will necessarily be realized by the Class. Should enough Class Members elect the Cash Relief option, a portion of the relief made available by LICS will likely revert to a cy pres award. Moreover, not every insured individual covered by the term life insurance will die during the period covered by the term life insurance, leaving much of the value of the Settlement Agreement unrealized for the Class Members. Nevertheless, this does not strike the Court as a facially unreasonable amount of relief relative to the substantial challenges faced by Plaintiffs in demonstrating entitlement to restitution under the UCL.

The Court now turns to considering the factors listed in Rule 23(e)(2)(C).

i. Costs, Risks, and Delay of Trial and Appeal

“A[] central concern [when evaluating a proposed class action settlement] . . . relate[s] to the cost and risk involved in pursuing a litigated outcome.” Fed. R. Civ. P.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

23(e), 2018 Advisory Committee Notes. Here, the costs, risks, and delay of trial and appeal favor preliminary approval. “Proceeding in this litigation in the absence of settlement poses various risks such as . . . having summary judgment granted against Plaintiffs[] or losing at trial. Such considerations have been found to weigh heavily in favor of settlement.” Graves v. United Industries Corporation, 2020 WL 953210, at *7 (C.D. Cal. Feb. 24, 2020) (citing See Rodriguez v. West Publishing Corp., 563 F.3d 948, 966 (9th Cir. 2009); Curtis-Bauer v. Morgan Stanley & Co., Inc., 2008 WL 4667090, at *4 (N.D. Cal. Oct. 22, 2008)). Moreover, as Class Counsel note in their motion, the Parties in this case have shown themselves to be capable advocates readily and willing to appeal. Final Mot. at 26 n.10. Therefore, although this case is currently set for trial during this year, final resolution of this case in the absence of this Settlement Agreement will likely be far removed. This subfactor favors preliminary approval of the Class Settlement because in its absence there will be inevitable costs, high risks and delay.

ii. Effectiveness of Proposed Method of Relief Distribution

Next, the Court must consider “the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims.” Fed. R. Civ. P. 23(e)(2)(C). “Often it will be important for the court to scrutinize the method of claims processing to ensure that it facilitates filing legitimate claims.” Fed. R. Civ. P. 23(e), 2018 Advisory Committee Notes. “A claims processing method should deter or defeat unjustified claims, but the court should be alert to whether the claims process is unduly demanding.” Id.

The claims process is straightforward. The Claim Administrator will disseminate a Proof of Claim form to each Class Member. Notice of Pendency at 8. A Class Member then would have 60 days to complete and submit the Proof of Claim form. Id. If a Class Member requests the Surrender Charge Credit, he or she must also submit a Surrender Form, which will be sent with the Proof of Claim form. Id. The Claim Administrator will then review all Proof of Claim forms and distribute relief as appropriate. Id.

The claim administration process is also designed to facilitate the filing of legitimate claims. As noted, supra Section I.B.2.b, after Class Members have the opportunity to submit claim forms there will be a Cure Period during which the Claims Administrator will contact those who have submitted Claim Forms to cure any defects or

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

problems identified. The Claims Administrator is also experienced in handling claims administration. As the method for processing Class Member claims is neither onerous nor likely to result in false claims, this factor weighs in favor of preliminary approval.

iii. Terms of Proposed Award of Attorneys' Fees

Third, the Court must consider “the terms of any proposed award of attorneys’ fees, including timing of payment.” Fed. R. Civ. P. 23(e)(2)(c). In considering the proposed award of attorney’s fees, the Court must scrutinize the Settlement for three factors that tend to show collusion: “(1) when counsel receives a disproportionate distribution of the settlement; (2) when the parties negotiate a “clear sailing arrangement,” under which the defendant agrees not to challenge a request for an agreed-upon attorney’s fee; and (3) when the agreement contains a “kicker” or “reverter” clause that returns unawarded fees to the defendant, rather than the class.” Briseno v. ConAgra Foods, Inc., 2021 WL 2197968, at *6 (9th Cir. 2021) (internal quotation marks omitted) (citing In re Bluetooth Headset Products Liability Litigation, 654 F.3d 935, 947 (9th Cir. 2011)). The Court must consider whether these factors exist in post-class certification settlements. Id. at *8.

As described below, infra Part III.B, the Court grants Plaintiffs’ motion for attorneys’ fees and costs. \$2,500,000 in fees and costs does not strike the Court as undermining the adequacy of relief to the Class. The provisions in the Settlement Agreement regarding attorneys’ fees and costs were negotiated following negotiation of relief to the Class. Final Mot. at 27. It is true that the Settlement does include a clear sailing agreement and a reverter clause. See Settlement Agreement ¶¶ 8.2, 8.4. Nevertheless, class counsel will receive far from a disproportionate distribution of the Settlement. The face value of the Settlement Agreement’s benefits for Class Members is approximately \$36,350,000. Moreover, Class Counsel would receive less than 5% of their lodestar. Fees Mot. at 10. Since the key Bluetooth factor is whether Class Counsel would receive “excessive fees,” the Court does not believe that the factors weigh in favor of a conclusion that the Settlement is unreasonable. See Briseno, 2021 WL 2197968, at *9 (describing a clear sailing agreement and a kicker as protective of “excessive fees”). This subfactor therefore weighs in favor of preliminary approval.

iv. Agreement Identification Requirement

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

The Court must also evaluate any agreement made in connection with the proposed Settlement. See Fed. R. Civ. P. 23(e)(2)(C)(iv), (e)(3). Here, the Parties state that in addition to the Settlement Agreement, they also reached a Confidential Supplemental Agreement. Final Mot. at 27. As the Court has noted previously, the Confidential Supplemental Agreement allows LICS to withdraw from the Settlement if Class Members who have paid more than \$19,400,000 in premiums request exclusion from the Settlement. Confidential Agreement at ¶ 2. The Court does not find this to be an improper or unusual basis for terminating the Settlement Agreement. See, e.g., In re Lithium Ion Batteries Antitrust Litigation, 2019 WL 3856413, at *21 (N.D. Cal. Aug. 16, 2019) (granting final approval to a class settlement that allowed the defendant to withdraw from the settlement agreement if class members who collectively purchased 5% or more of the products at issue requested exclusion). This subfactor therefore weighs in favor of preliminary approval.

Based on the foregoing analysis, it is clear that the adequacy of relief for the Class weighs in favor of preliminary approval of the Settlement Agreement.

d. Equitable Treatment of Class Members

The final Rule 23(e)(2) factor turns on whether the proposed settlement “treats class members equitably relative to each other.” Fed. R. Civ. P. 23(e)(2)(D). “Matters of concern could include whether the apportionment of relief among class members takes appropriate account of differences among their claims, and whether the scope of the release may affect class members in different ways that bear on the apportionment of relief.” Fed. R. Civ. P. 23(e)(2)(D), 2018 Advisory Committee Notes.

The Court previously expressed doubts about the equitable treatment of Class Members whose policies insured individuals who die prior to the issuance of term life insurance relief. Preliminary Approval Order, ECF No. 1099, at 16. After further consideration, the Court concludes that this doubt was unjustified. It is true that Class Members whose policies’ insureds die prior to issuance of term life insurance relief will only be eligible for the cash relief option. See supra Section I.B.2. These Class Members will not benefit from any future elimination of the MPAVC after a policy has been in force for ten years. Nor will they have the option of surrendering their policies and obtaining a surrender charge credit, for the insured has already died. Their only possible

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

form of relief from the Settlement Agreement is therefore the cash relief option. See Final Mot. at 29 (acknowledging that Class Members whose policies' insured individuals have already died can only receive the cash relief option).

The Court had previously expressed concern that many of the Class Members who elect cash relief may see their cash relief revert to a cy pres award. Preliminary Order at 16-17. Plaintiffs claim that the Residual will only revert to a cy pres award after “all Class Members who elect to receive the Cash Relief Option have received their share of the Cash Relief.” Final Mot. at 29 (emphasis in original) (citing Settlement Agreement § 4.15). But § 4.15 of the Settlement Agreement reads: “The Claims Administrator shall calculate and disseminate the Cash Relief after the Proof of Claim Cure Period has ended and the amount of the Residual has been calculated following dissemination of the Surrender Charge Credit.” This provision does not relate to the cy pres award. Indeed, the provision that discusses the cy pres award appears to contemplate that there may be individuals entitled to sufficiently small amounts of cash relief that it will not be economically reasonable to distribute their relief. See id. § 4.16 (“When the Residual becomes sufficiently small that, in the reasonable judgment of Lead Counsel, it is not economically reasonable to distribute further proceeds, any remaining Residual shall be donated to a charity selected by Lead Counsel and unaffiliated with any Party or their counsel.”) (emphasis added). Although the word “proceeds” is not defined, it is best read as claims for Cash Relief, for no other distributions are contemplated as being made from the Residual.

Nevertheless, even if a disproportionate number of Class Members were to select the cash relief option, the vast majority of Class Members would receive the cash relief they request. For example, assume that a sufficient number of Class Members select the Surrender Charge Credit option such that none of the \$1,000,000 reserved for that option reverts to the Residual. Even if claim administration cost the maximum amount of \$150,000, there would be \$350,000 left over for distribution. If 49,000 Class Members were to select the Cash Relief option—a situation that is highly unlikely considering that would represent over 95% of Class Members both filing a valid claim and selecting the Cash Relief option—each Class Member would be entitled to a little more than \$7 on average. While the Settlement Agreement does not define where the Parties will determine that it is no longer “economically reasonable” to make further distributions of cash relief, presumably that cutoff will be lower than \$7. It does not cost \$7 to mail a

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

check.

Class Members' cash relief will be calculated based on the amount that they have paid in premiums. As Class Members whose policies insured individuals who have already died are likely to have paid premiums for fewer years than Class Members whose policies insure individuals who are still alive, it is likely that Class Members whose policies insured individuals who have already died will on average receive smaller amounts in cash relief than other Class Members. But this is equitable relative to the size of their injury, as measured in premiums, under Plaintiffs' theory of the case. While such a difference could result in a disproportionate number of Class Members whose policies insured individuals who have already died having their relief revert to cy pres awards, it is impossible to know whether such a situation would occur because of many factors currently unknown. These factors include the number of Class Members who will participate in the Settlement Agreement, the number who will select cash relief, and the relative difference in amount of premiums paid by Class Members whose policies insured individuals who have already died compared to other Class Members. As any inequity in relief for Class Members whose policies insured individuals who have already died is inherently only speculative, this is not a sufficient basis for rejecting the Settlement Agreement.

Second, Class Counsel will request service awards for the Named Plaintiffs. Class Counsel will request \$100,000 overall in service awards for the five Named Plaintiffs. Class Counsel request that each of the three original Named Plaintiffs receive service awards of \$28,666.66 and each of the two added Named Plaintiffs receive service awards of \$7,000. Fee Mot. at 16. This amount in service awards is substantially greater than the amount that Class Members will receive on average. If we assume that the full value of the term life insurance policies is realized by the Class Members—an unrealistic assumption considering far from all of the Class Members who elect to receive the term life insurance will die during the three years for which the term life insurance policy is active—the overall value of the relief in the Settlement Agreement is \$36,350,000. Assuming that relief is distributed to each of the approximately 50,000 Class Members, each would receive on average about \$730. This means that the original Named Plaintiffs would receive about 40 times more than the average Class Member.ouro

But as the Court discusses, see infra Section III.E, the Named Plaintiffs have each

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

spent extensive amounts of time working on this case. Indeed, because of the original Named Plaintiffs' participation in the 2014 trial, they have spent about 500 hours on average on this case. See Section III.E. The Court therefore does not think that the distribution of more money to the Named Plaintiffs is inequitable given their substantial contribution of time and efforts to the Settlement Agreement approved today.²

Given the analysis above, the Court concludes that this factor weighs in favor of final approval. As all the factors weigh in favor of final approval, the Court therefore **GRANTS** final approval of the Settlement Agreement.

B. Attorney's Fees

"In a certified class action, the court may award reasonable attorney's fees and nontaxable costs that are authorized by law or by the parties' agreement." Fed. R. Civ. P. 23(h). "Attorneys' fees provisions included in proposed class action settlement agreements are, like every other aspect of such agreements, subject to the determination whether the settlement is 'fundamentally fair, adequate, and reasonable.'" Staton v. Boeing Co., 327 F.3d 938, 963 (9th Cir. 2003) (quoting Fed. R. Civ. P. 23(e)). "The reasonableness of any fee award must be considered against the backdrop of the 'American Rule,' which provides that courts generally are without discretion to award attorneys' fees to a prevailing plaintiff unless (1) fee-shifting is expressly authorized by the governing statute; (2) the opponents acted in bad faith or willfully violated a court order; or (3) 'the successful litigants have created a common fund for recovery or extended a substantial benefit to a class.'" In re Bluetooth, 654 F.3d at 941 (quoting Alyeska Pipeline Service Co. v. Wilderness Society, 421 U.S. 240, 275 (1975) (Brennan, J., dissenting)).

The first exception to the American Rule applies here: under California law fee shifting is permitted "when a plaintiff has acted as a private attorney general by enforcing an important right affecting the public interest" pursuant to California Code of Civil Procedure § 1021.5, California's Private Attorney General statute. Laffitte v. Robert Half International Inc., 1 Cal 5th 480, 489 (2016). Although the California UCL does not

²The Court notes also that at least facially these awards do not reduce the compensation flowing to Class Members.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

provide for attorney's fees, "[i]f a plaintiff prevails in an unfair competition law claim, it may seek attorney fees as a private attorney general pursuant to Code of Civil Procedure section 1021.5." Kane v. Valley Slurry Seal Co., 2018 WL 2126752, at *12 (Cal. Ct. App. May 8, 2018) (quoting Walker v. Countrywide Home Loans, Inc., 98 Cal. App. 4th 1158, 1179 (2002)).

Where the relief obtained is not easily monetized, as is true in cases like this where a fee-shifting statute applies and some injunctive relief is obtained, the "lodestar method" is used to calculate attorneys' fees. In re Bluetooth, 654 F.3d at 941. "The lodestar figure is calculated by multiplying the number of hours the prevailing party reasonably expended on the litigation (as supported by adequate documentation) by a reasonable hourly rate for the region and for the experience of the lawyer." Id. (citing Staton, 327 F.3d at 965).

Here, Class Counsel declare that they have spent 29,023.10 attorney hours and 5,429.70 paralegal hours and professional staff hours. Nauts Decl. at Ex. A, tbl. 1. Class Counsel further claim hourly rates range from \$650 to \$1,400 for partners, \$430 to \$800 for special counsel, \$235 to \$510 for associates, and \$150 to \$300 for non-attorneys including paralegals. Id. Together, this results in a lodestar of \$18,329,821. Id. Class Counsel seek \$874,919.29 in attorney's fees, amounting to 4.77% of the lodestar. Fees Mot. at 10.

This amount in attorney's fees is certainly reasonable considering this litigation has lasted for more than 10 years. Even if the Court were to quibble with the number of hours spent on the case or the high rates claimed by some of the lawyers, the amount claimed in attorney's fees would still be a fraction of the resulting lodestar. The Court therefore **GRANTS** the motion for attorney's fees.

D. Litigation Expenses

Class Counsel further seek reimbursement of \$1,625,101.84 in litigation expenses. Fee Mot. at 14. "Attorneys may recover their reasonable expenses that would typically be billed to paying clients in non-contingency matters." In re Omnivision Techs., 559 F. Supp. 2d 1028, 1048 (N.D. Cal. Jan. 9, 2008). The Court has considered the details of the litigation expenses that have been submitted and finds them to be reasonable. See Nauts

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021

Title Joyce Walker et al. v. Life Insurance Company of the Southwest

Decl. ¶ 1, Ex. A at tbl. 4. The Court therefore **GRANTS** the motion with respect to litigation expenses.

E. Service Awards

Plaintiffs request \$100,000 in service payments for the Named Plaintiffs. Fees Mot. at 15. Specifically, Plaintiffs request “\$28,666.66 each to the original named Plaintiffs Joyce Walker, Kim Bruce Howlett, and Muriel Spooner; and \$7,000 each to Taline Bedelian and Oscar Guevara who officially joined the action as class representatives in 2018.” Id. at 16.

Courts have discretion to issue incentive awards to class representatives. Rodriguez v. West Publishing Corp., 563 F.3d 948, 958–59 (9th Cir. 2009). The awards are “intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general.” Id. Courts evaluate incentive awards relative to named plaintiff[s]’ efforts, considering “the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefitted from those actions, . . . the amount of time and effort the plaintiff expended in pursuing the litigation . . . and reasonabl[e] fear[s of] workplace retaliation.” Staton, 327 F.3d at 977 (alterations in original) (quoting Cook v. Niedert, 142 F.3d 1004, 1016 (7th Cir. 1998)). Courts also compare the incentive awards to the total settlement by looking at “the number of named plaintiffs receiving incentive payments, the proportion of the payments relative to the settlement amount, and the size of each payment.” In re Online DVD-Rental Antitrust Litigation, 779 F.3d 934, 947 (9th Cir. 2015) (quoting Staton, 327 F.3d at 977).

The Named Plaintiffs all submitted declarations in which they estimated the amount of time that they spent on this case. Bedelian Decl., ECF No. 1106-3, ¶ 13 (75 hours); Howell Decl., ECF No. 1106-4, ¶ 15 (520 hours and \$11,400 in paid time off as out-of-pocket expenses); Spooner Decl., ECF No. 1106-5, ¶ 14 (480 hours); Walker Decl., ECF No. 1106-6, ¶ 16 (500 hours); Guevara Decl., ECF No. 1106-7, ¶¶ 5, 13 (100 hours and \$300 on nursing services for disabled son while preparing for deposition). Each Named Plaintiff has been deposed, participated in a day of preparation with Class counsel before his or her deposition, spent time communicating extensively with Class

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 10-9198 JVS (JDEx) Date June 7, 2021
Title Joyce Walker et al. v. Life Insurance Company of the Southwest

Counsel, collected documents, and reviewed court filings. See generally Bedelian Decl.; Howell Decl.; Spooner Decl.; Walker Decl.; Guevara Decl. In addition, the original Named Plaintiffs each also attended the 2014 trial, which occurred over a three-week period. Howell Decl. ¶ 10; Spooner Decl. ¶ 9; Walker Decl. ¶¶ 10-11.

Considering the extensive amount of time spent by each of the Named Plaintiffs during the course of this case, the Court finds the service payments to be reasonable. While the amount that each of the Named Plaintiffs requests may be somewhat larger than the relief obtained by each of the Class Members, the Named Plaintiffs—and the original Named Plaintiffs in particular—have spent extensive amounts of their own time on this case. For the original Named Plaintiffs, this time was also spent largely more than five years ago, meaning that this is belated compensation for their time. The Court thus **GRANTS** the motion for service payments.

IV. CONCLUSION

For the foregoing reasons, the Court **GRANTS** final approval of the proposed settlement and **GRANTS** the motion for attorney’s fees, costs, and service awards.

IT IS SO ORDERED.

Initials of Preparer _____ : _____ 0
lmb _____