

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

JEFFREY LEONARD, IN HIS CAPACITY AS  
TRUSTEE OF THE POPLAWSKI 2008  
INSURANCE TRUST; PHYLLIS POPLAWSKI;  
PBR PARTNERS, BRIGHTON TRUSTEES,  
LLC, on behalf of and as trustee for COOK  
STREET MASTER TRUST III; BANK OF  
UTAH, solely as security intermediary for COOK  
STREET MASTER TRUST III; PEAK TRUST  
COMPANY, AK, on behalf of and as trustee for  
SUSAN L. CICIORA TRUST and STEWART  
WEST INDIES TRUST; and ADVANCE TRUST  
& LIFE ESCROW SERVICES, LTA, as  
securities intermediary for LIFE PARTNERS  
POSITION HOLDER TRUST, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

vs.

JOHN HANCOCK LIFE INSURANCE  
COMPANY OF NEW YORK and JOHN  
HANCOCK LIFE INSURANCE COMPANY  
(U.S.A.),

Defendants.

Civil Action No. 18-cv-04994-AKH

**DECLARATION OF GINA M. INTREPIDO-BOWDEN IN CONNECTION WITH  
PLAINTIFFS’ MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT  
AND CLASS CERTIFICATION**

I, GINA M. INTREPIDO-BOWDEN, declare and state as follows:

1. I am a Vice President at JND Legal Administration (“JND”). This Declaration is based on my personal knowledge, as well as upon information provided to me by experienced JND employees, and if called upon to do so, I could and would testify competently thereto.
2. In its Order preliminarily approving the class action settlement and certifying the class, the Court appointed me as the Settlement Administrator in this action. *See* Dkt. 203 ¶ 9.
3. I previously submitted a declaration regarding the Proposed Settlement Notice Plan in connection with Plaintiffs’ Motion for Preliminary Approval and Class Certification (Dkt. 201-7)

and a declaration in connection with Class Counsel's Motion for Attorneys' Fees, Reimbursement of Litigation Expenses, and Incentive Awards (Dkt. 210).

4. On January 10, 2022, the Court approved the notice program described in Section 5 of the Settlement Agreement and paragraphs 24-33 of my declaration submitted in connection with Plaintiffs' Motion for Preliminary Approval and Class Certification. The Court found that the manner of distribution of the settlement Class Notice constitutes the best practicable notice under the circumstances as well as valid, due and sufficient notice to the Class and complies fully with the requirements of Federal Rule of Civil Procedure 23 and the due process requirements of the United States Constitution. *See* Dkt. 203 ¶ 11.

5. The Federal Rules of Civil Procedure Rule 23 directs that the best notice practicable under the circumstances must include individual notice to all members who can be identified through reasonable effort. The notice program satisfies this requirement. The notice program provided for individual mailed notice to all Settlement Class Members who were reasonably identifiable. In my opinion, providing individual notice to the Settlement Class satisfied the requirements of due process, including its desire to actually inform requirement.

6. This additional Declaration is being filed to report on the implementation of the Settlement notice program and the exclusion requests received.

### **CAFA NOTICE**

7. In compliance with the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715, JND compiled a CD-ROM containing the following documents:

- a. Class Action Complaint, filed on June 5, 2018
- b. First Amended Class Action Complaint, filed on April 9, 2020
- c. Second Amended Class Action Complaint, filed on March 25, 2021
- d. Notice of Plaintiffs' Motion for Preliminary Approval and Class Certification, filed on December 30, 2021

- e. Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Approval and Class Certification, filed on December 30, 2021
- f. Declaration of Seth Ard in Support of Plaintiffs' Motion for Preliminary Approval of Settlement, filed on December 31, 2021, and attaching the class action profile of Susman Godfrey, L.L.P., the Settlement Agreement, and proposed Distribution Plan (Plan of Allocation)
- g. Declaration of Gina M. Intrepido-Bowden on Proposed Settlement Notice Plan, filed on December 30, 2021, attaching curriculum vitae ("c.v.") of Gina M. Intrepido-Bowden and JND, and proposed notice materials
- h. Proposed Order Preliminarily Approving Class Action Settlement and Certifying the Class, filed on December 30, 2021
- i. Estimated Breakdown of Class Members by State

8. The CD-ROM along with a cover letter was mailed to the appropriate Federal and State officials on January 7, 2022. A copy of the cover letter and a list of the Federal and State official recipients was submitted to the Court as Exhibit 1 to my Declaration in Connection with Class Counsel's Motion for Attorneys' Fees, Reimbursement of Litigation Expenses, and Incentive Awards. *See* Dkt. 210-1.

**CLASS DATA RECEIVED**

9. On January 24, 2022, counsel for John Hancock provided JND an electronic file containing the names, mailing addresses, and policy numbers of individuals identified as potential Settlement Class Members. The file contained a total of 1,308 records (across 1,278 unique Class Policies).

10. Prior to mailing the Class Notices, JND updated addresses using data from the United States Postal Service's National Change of Address ("NCOA") database.<sup>1</sup> The Settlement Class Member data was then promptly loaded into a secure database established for this Action.

### **DIRECT NOTICE MAILING**

11. On February 9, 2022, JND mailed the Court-approved Class Notice via first-class mail to the 1,308 records on the Settlement Class list. A representative copy of the Class Notice was submitted to the Court as Exhibit 2 to my Declaration in Connection with Class Counsel's Motion for Attorneys' Fees, Reimbursement of Litigation Expenses, and Incentive Awards. *See* Dkt. 210-2.

12. The Class Notice explains in plain language the essential elements of the Settlement and the options available to Class Members in connection with the Settlement. It describes the litigation, summarizes the Settlement's terms and benefits, describes the manner of allocating the cash payments among eligible Class Members, quotes the releases verbatim, and explains the deadline and procedure for filing objections to the Settlement as well as opting out of the cash settlement class

13. The Class Notice also explains in plain language that the Final Settlement Fund will first be used to pay (1) all settlement administration expenses; (2) any incentive awards for Plaintiffs; and (3) any of Class Counsel's Fees and Expenses, which will not exceed one-third of the value of all benefits provided by the Settlement to the Final Settlement Class Members. The Class Notice further explained that Class Counsel will file a motion seeking attorneys' fees, reimbursement for expenses, and incentive awards of up to \$25,000 for each of the named Plaintiffs. *See* Dkt. 210-2 at 7, 9.

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<sup>1</sup> The NCOA database is the official United States Postal Service ("USPS") technology product which makes change of address information available to mailers to help reduce undeliverable mail pieces before mail enters the mail stream. This product is an effective tool to update address changes when a person has completed a change of address form with the USPS. The address information is maintained in the database for 48 months.

14. The Class Notice informs Class Members that they had until March 28, 2022 to exclude themselves from the Class or object to the Settlement by sending a letter to the Settlement Administrator.

15. The Class Notice prominently notifies Class Members how they can obtain more information from Class Counsel or the Settlement Administrator through a toll-free number, a website, and traditional channels including mail and telephone.

16. As of April 8, 2022, of the 1,308 Class Notices mailed, 39 Class Notices were returned as undeliverable. Two (2) of the Class Notices were forwarded to updated addresses by USPS. Of the undeliverable Class Notices that were not returned with updated address information, JND conducted advanced address skip-trace research and received updated address information for 5 records. JND re-mailed the Class Notice to the 5 records accordingly.

#### **PUBLICATION NOTICE**

17. On February 9, 2022, JND caused the Court-approved short-form notice (“Publication Notice”) to be transmitted electronically over the PR Newswire Internet wire service. On February 10, 2022, JND caused the Publication Notice to appear in *The New York Times*. On February 11, 2022, JND caused the Publication Notice to appear in *The Financial Times*. On February 12, 2022, JND caused the Publication Notice to appear in the *Wall Street Journal*. On February 14, 2022, JND caused the Publication Notice to appear in *USA Today*. Copies of the notices as they appeared in each edition of the paper/service were submitted to the Court as Exhibit 3 to my Declaration in Connection with Class Counsel’s Motion for Attorneys’ Fees, Reimbursement of Litigation Expenses, and Incentive Awards. *See* Dkt. 210-3.

18. The Publication Notice explained in plain language that Class Counsel may seek reimbursement of fees and expenses (not to exceed 33% of the value of the benefits provided by the Settlement, and incentive awards (up to \$25,000 per Plaintiff)). *See* Dkt. 210-3 at 5.

**CASE WEBSITE**

19. On February 7, 2022, JND established the Class Website ([www.HancockCOISettlement.com](http://www.HancockCOISettlement.com)), which hosts copies of important case documents (including, but not limited to, the Long Form Notice, Short Form Notice/Publication Notice, Second Amended Class Action Complaint, Settlement Agreement, and Preliminary Approval Order, Order Awarding Fees, Expenses, and Incentive Awards), answers to frequently asked questions, and includes contact information for the Settlement Administrator. The Class Website also provides important information about the Settlement deadlines and gives Settlement Class Members the opportunity to learn more about their options outlined in the Class Notice.

20. As of April 8, 2022, the Class Website has 2,407 unique user views and 4,865 page views.

**TOLL-FREE NUMBER AND POST OFFICE BOX**

21. On February 7, 2022, JND activated a case-specific toll-free number, 1-877-389-2130, for Settlement Class Members to call to obtain information about the Settlement. The telephone line is available 24 hours day, seven (7) days a week.

22. As of April 8, 2022, JND has received 89 calls.

23. JND also established a dedicated post office box where Settlement Class Members may send their exclusion requests.

**REACH**

24. The direct mailed notice effort successfully reached 98% of Settlement Class Members. The publication notice effort and press release extended that reach further. As a result, the reach meets that of other court approved programs, and exceeds the 70% or above reach standard set forth by the Federal Judicial Counsel.

**EXCLUSIONS AND OBJECTIONS**

25. The Notice states that Settlement Class Members may exclude themselves (“opt out”) of the Settlement by submitting a timely postmarked exclusion letter to the Settlement Administrator. The deadline to submit an exclusion request was March 28, 2022.

26. The Notice states that in order for an exclusion request to be complete, the Settlement Class Member must include their name, address, telephone number, e-mail address (if any), case name and number, and the policy number(s) to be excluded, in the request. The exclusion letter must also be signed.

27. As of April 8, 2022, JND has received 10 timely exclusion requests for 158 policy numbers. Of these timely requests, 155 policy numbers were included on the Class Policy List.

28. Although the exclusion deadline has passed, JND may continue to receive exclusion requests. JND will continue to submit regular reports to Class Counsel regarding both timely and untimely exclusion requests received.

29. The Notice states that Settlement Class Members may object to the Settlement by filing an objection letter with the Court (and providing timely postmarked copies of the objection letter to Class Counsel and Defendants’ Counsel). The deadline to object to the Settlement was March 28, 2022.

30. As of April 8, 2022, JND has received no objections to the Settlement.

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

Executed on April 11, 2022, at Philadelphia, PA.



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GINA M. INTREPIDO-BOWDEN