

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

JEROME SKOCHIN,
et al.,

Plaintiffs,

v.

Civil Action No. 3:19-cv-49

GENWORTH FINANCIAL, INC.,
et al.,

Defendants.

ORDER

This matter is before the Court on Plaintiffs' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT ("Motion for Final Approval") (ECF No. 135). Plaintiffs, individually and on behalf of the proposed Settlement Class, and Genworth have entered into a JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE ("Settlement Agreement") (ECF No. 93-1), as amended on March 25, 2020 (ECF No. 102-2), that settles the above-captioned litigation. Having considered the motion, the Settlement Agreement together with all appendices thereto, the record, and the briefs, declarations, and oral argument in this matter, it is hereby ORDERED that:

(1) Unless otherwise defined herein, all terms that are capitalized herein shall have the same meaning ascribed to those terms in the Settlement Agreement;

(2) The Court has jurisdiction over this litigation, Named Plaintiffs, Genworth, and Settlement Class members, and any party

to any agreement that is part of or related to the Settlement Agreement;

FINAL SETTLEMENT AGREEMENT APPROVAL

(3) For the reasons set forth in the accompanying Memorandum Opinion, it is hereby ORDERED that Plaintiffs' Motion for Final Approval (ECF No. 135) is GRANTED;

APPROPRIATE NOTICE

(4) For the reasons set forth in the Court's Memorandum Opinion addressing objections to the Settlement Agreement, see ECF No. 215 at 28-43, the plan to disseminate the Class Notice and Publication Notice, which the Court previously approved, has been implemented and satisfies the requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process;

(5) The Notices provided by Genworth to the appropriate state and federal officials fully satisfied the requirements of the Class Action Fairness Act of 2005, 28 U.S.C. § 1715;

FINAL CERTIFICATION OF SETTLEMENT CLASS

(6) For the reasons set forth in the Court's Memorandum Opinion addressing objections to the Settlement Agreement, see ECF No. 215 at 53-65, the Court finally certifies, pursuant to Fed. R. Civ. P. 23, for settlement purposes only, the Settlement Class defined as follows:

all Policyholders¹ of Class Policies,² excluding:

(1) those Policyholders of Class Policies whose policies went into Non-Forfeiture Status prior to January 1, 2014;

(2) those Policyholders of Class Policies that entered a Fully Paid-Up Status at any time up to the date the Class Notice was mailed; (3) any Policyholder whose Class Policy is lapsed and is outside any period Genworth allows for the Class Policy to be automatically reinstated with payment of past-due premium, or whose Class Policy has otherwise terminated, as of the date of the Class Notice; or any Policyholder whose Class Policy is lapsed and is outside any period Genworth allows for the Class Policy to be automatically reinstated with payment of past-due premium or has otherwise terminated, as of the date the Special Election Letter would otherwise be mailed to the Policyholder; (4) Genworth's current officers, directors, and employees as of the date Class Notice was mailed; and (5) Judge Robert E. Payne and his immediate family and staff.

Also excluded from the Settlement Class is any individual who timely and validly opted-out of the Settlement Class, the list of which is attached hereto and incorporated herein by reference as **Exhibit A**;

(7) The Final Judgment, this Order, and the Settlement Agreement shall not be offered or received against any Party as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by any Party with respect

¹ "Policyholder(s)" means the policy owner, and where a single policy insures both a policy owner and his or her spouse, "Policyholders" means both the policy owner and his or her spouse.

² "Class Policies" means Genworth long-term care insurance policies on the policy forms identified in Appendix A to the Settlement Agreement in force at any time during the Class Period and issued in any of the fifty (50) states of the United States or the District of Columbia.

to the truth of any fact alleged by any Party or the validity of any claim or defense that has been or could have been asserted in the Action or in any litigation, the deficiency of any claim or defense that has been or could have been asserted in the Action or any litigation, or the suitability of this case for class certification on a contested motion;

(8) Neither this Final Judgment and Order, nor the Settlement Agreement, shall be used for any purpose, including as evidence by any of the Parties in any judicial, administrative, arbitration, or other proceeding, except as may be necessary to enforce the terms of the Settlement Agreement or this Final Judgment and Order;

(9) Upon the Final Settlement Date, this Action is dismissed with prejudice, with each Party to bear its own costs and attorneys' fees except as provided by the terms of the Settlement Agreement and the Order Awarding Attorneys' Fees, Expenses, and Service Awards (ECF No. 218);

(10) All Settlement Class members shall be bound by the terms of the Settlement Agreement upon entry of this Final Judgment and Order;

(11) Upon the Final Settlement Date, and by Order of this Court, every Settlement Class member who did not timely and validly opt-out and exclude himself or herself from the Settlement as reflected in **Exhibit A** releases and discharges the

Genworth Released Parties³ of and from any and all known or unknown, contingent or absolute, matured or unmatured, suspected or unsuspected, disclosed or undisclosed, foreseeable or unforeseeable, liquidated or unliquidated, existing or arising in the future, and accrued or unaccrued claims, demands, interest, penalties, fines, and causes of action, that the Named Plaintiffs and Settlement Class members may have from the beginning of time through and including the Final Settlement Date that relate to claims alleged, or that have a reasonable connection with any matter of fact set forth in the Action including, but not limited to, any claims relating to rate increases on Class Policies. This release specifically includes any legal or equitable claim arising from or related to any election or policy change made or not made by any Settlement Class member to his or her policy benefits prior to the Final Settlement Date. Named Plaintiffs and Settlement Class members will further release the Genworth Released Parties and Class Counsel from any future claims, on any legal or equitable basis, relating to or arising out of the Special Election Options and/or statements and representations provided in connection with the Special Election Options including (but not limited to) any claim specifically relating to

³ "Genworth Released Parties" means Defendants and each of Defendants' respective affiliates, predecessors, successors, parents, subsidiaries, and for each of the foregoing, their current, former, and future directors, officers, direct and indirect owners, members, managers, attorneys, representatives, employees and agents.

any decision, or non-decision, to maintain, modify, or give up coverage;⁴

(12) Upon the Final Settlement Date, and by Order of this Court, each Settlement Class member and Named Plaintiff expressly waives and releases any and all provisions, rights and benefits conferred by Section 1542 of the California Civil Code, which reads:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Each Named Plaintiff and each Settlement Class member similarly waives any and all rights and benefits conferred by any law of any state or territory of the United States or any other jurisdiction or principle of common law, which is similar, comparable or equivalent to Section 1542 of the California Code. Each Named Plaintiff and each Settlement Class member may hereafter discover facts other than or different from those which he or she knows or believes to be true with respect to the Released Claims, but each Named Plaintiff and each Settlement Class member shall expressly waive and fully, finally, and forever settle and release, upon the Final Settlement Date, any

⁴Collectively, the claims described in this Paragraph shall be referred to as the "Released Claims."

known or unknown, suspected or unsuspected contingent or non-contingent claim that would otherwise fall within the definition of Released Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts;

(13) Upon the Final Settlement Date, and by Order of this Court, Genworth releases and discharges Named Plaintiffs, the Settlement Class, and Class Counsel from any and all claims that arise out of or relate to the institution, prosecution, or settlement of the claims against Genworth in the Action, except for claims relating to the breach or enforcement of the Settlement Agreement;

(14) By Order of this Court, Settlement Class members and Named Plaintiffs shall not sue, directly or indirectly, any of the Genworth Released Parties or Class Counsel with respect to any of the Released Claims. Settlement Class members and Named Plaintiffs are forever barred and enjoined from directly or indirectly filing, commencing, instituting, prosecuting, maintaining, joining, or intervening in any action, suit, cause of action, arbitration, claim, demand, or other proceeding in any jurisdiction, or before any tribunal or administrative body (including any State Regulator, state Department of Insurance or other regulatory entity) whether in the United States or elsewhere, on their own behalf or in a representative capacity,

that is based upon or arises out of any of the Released Claims. If any Settlement Class member or Named Plaintiff breaches this covenant not to sue, the Genworth Released Parties or Class Counsel, as the case may be, shall be entitled to all damages resulting from that breach including, but not limited to, attorneys' fees and costs in defending such an action or enforcing the covenant not to sue.

(15) In the event that the Settlement Agreement is terminated pursuant to the terms of the Settlement Agreement, (a) the Settlement Agreement and this order shall become void, shall have no further force or effect, and shall not be used in the Action or any other proceedings for any purpose other than as may be necessary to enforce the terms of the Settlement Agreement that survive termination; (b) this matter will revert to the status that existed before execution of the Settlement Agreement; and (c) no term or draft of the Settlement Agreement or any part of the Parties' settlement discussions, negotiations, or documentation (including any briefs filed in support of preliminary or final approval of the Settlement) shall (i) be admissible into evidence for any purpose in the Action or other proceeding other than as may be necessary to enforce the terms of the Settlement Agreement that survive termination, (ii) be deemed an admission or concession by any Party regarding the validity of any Released Claim or the


propriety of certifying any class against Genworth, or (iii) be deemed an admission or concession by any Party regarding the truth or falsity of any facts alleged in the Action or the availability or lack of availability of any defense to the Released Claims.

(16) Without affecting the finality of the Court's judgment, the Court retains jurisdiction over the implementation, administration, effectuation, and enforcement of the Settlement Agreement and its terms;

(17) The Court also has the jurisdiction and authority to enforce the provisions of this Final Judgment and Order. See *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 381-82 (1994);

(17) The Court finds there is no just reason for delay and DIRECTS the Clerk to enter judgment pursuant to Federal Rule of Civil Procedure 54 immediately;

It is so ORDERED.

/s/ 

Robert E. Payne
Senior United States District Judge

Richmond, Virginia
Date: November 12, 2020

EXHIBIT A

**INDIVIDUALS WHO HAVE VALIDLY AND TIMELY REQUESTED
EXCLUSION FROM THE SETTLEMENT CLASS**

EPIQ ID	CITY	STATE
1	895 ZEBULON	NC
2	1379 SANTA MARIA	CA
3	2844 SPARKS	NV
4	3142 BERKELEY	CA
5	3345 MOSELEY	VA
6	4908 WENDELL	NC
7	6222 ARROYO GRANDE	CA
8	7658 OAKLAND	CA
9	7756 SAINT PETERS	MO
10	7877 CHESTERFIELD	MO
11	7937 GARDNERVILLE	NV
12	8118 OVERLAND PARK	KS
13	9289 DALLAS	TX
14	15591 DUBUQUE	IA
15	16070 HAGERSTOWN	IN
16	17625 UPPER DARBY	PA
17	17704 MEQUON	WI
18	17769 HOCKESSIN	DE
19	17798 ANNAPOLIS	MD
20	19479 FRANKFORT	KY
21	20294 JURUPA VALLEY	CA
22	20407 WAKE FOREST	NC
23	21833 LITTLETON	CO
24	22635 MARION	MA
25	23057 MARION	MA
26	23254 CHERRY HILL	NJ
27	26069 OWENSBORO	KY
28	26801 JACKSON	TN
29	27134 PORT LAVACA	TX
30	30208 LITITZ	PA
31	30221 LAKEWOOD	CA
32	30522 MOSELEY	VA
33	30681 WASHINGTON	PA
34	32366 ZEBULON	NC
35	32593 DADEVILLE	AL
36	33041 KRUM	TX
37	33195 SAN RAFAEL	CA
38	35755 EAGLE	ID

39	36919 MILTON	DE
40	37050 CLEARWATR BCH	FL
41	37122 WHITING	NJ
42	37838 MOUNT JULIET	TN
43	39425 WOODSTOWN	NJ
44	40445 SHERMAN OAKS	CA
45	42887 WOODLAND PARK	NJ
46	44036 SPARTANBURG	SC
47	44633 EAU CLAIRE	WI
48	44785 RALEIGH	NC
49	44888 HILLSBOROUGH	NJ
50	47058 HOUSTON	TX
51	47882 WALNUT CREEK	CA
52	48138 ZEBULON	NC
53	50514 BERKELEY	CA
54	51577 CONROE	TX
55	51805 CHARLOTTESVLE	VA
56	51808 INDIANHEAD PK	IL
57	53546 SAN RAFAEL	CA
58	54278 VALLEY STREAM	NY
59	55797 BONITA SPGS	FL
60	57611 CARY	NC
61	59541 PHILADELPHIA	MS
62	59670 SHERMAN OAKS	CA
63	61300 VICTORIA	TX
64	62465 UNIVERSITY CY	MO
65	64793 SEQUIM	WA
66	64918 GLENDALE	OR
67	65378 ELLICOTT CITY	MD
68	68672 SEQUIM	WA
69	71354 FAIRHOPE	AL
70	71769 UPPER SANDSKY	OH
71	74765 GARDNERVILLE	NV
72	75053 CHESTERFIELD	MO
73	75087 LOS ANGELES	CA
74	75710 PIKESVILLE	MD
75	77538 DE PERE	WI
76	81729 LELAND	NC
77	81730 LELAND	NC
78	82015 NEWBURY PARK	CA
79	84836 CANTON	MI
80	87916 LAKE WACCAMAW	NC
81	89090 CONROE	TX
82	89682 JACKSON	TN
83	90359 JURUPA VALLEY	CA
84	92199 LITITZ	PA
85	93037 BLACK MTN	NC
86	94393 ALBANY	NY
87	95522 CENTRAL POINT	OR
88	95662 CHESTERTON	IN

89	95722 CHESTERTON	IN
90	96434 PLYMOUTH	IN
91	97910 CARY	NC
92	98056 BRENTWOOD	CA
93	98712 STATESVILLE	NC
94	98968 BILLINGS	MT
95	99147 WAKE FOREST	NC
96	99224 WAKE FOREST	NC
97	100646 CARMEL	IN
98	103264 PITTSBORO	NC
99	103415 LOGANVILLE	GA
100	103873 THE VILLAGES	FL
101	104187 CONROE	TX
102	105160 MORSE BLUFF	NE
103	105299 DE PERE	WI
104	105602 GILBERT	AZ
105	105603 GILBERT	AZ
106	107914 NEPTUNE	NJ
107	108223 DAVIS	CA
108	108406 CHARLESTON	WV
109	109130 WENDELL	NC
110	109743 DELRAY BEACH	FL
111	110334 ELWOOD	IN
112	111275 LAKEWOOD	CO
113	112613 CLEARWATR BCH	FL
114	115301 SPENCER	IA
115	116924 SAN RAMON	CA
116	119883 SAN MARINO	CA
117	120396 FALLS CHURCH	VA
118	121374 PALOS HEIGHTS	IL
119	121657 WELDON SPRING	MO
120	121769 CANTON	MI
121	123305 NEW YORK	NY
122	124587 WELLINGTON	KS
123	125477 GLENSHAW	PA
124	128254 SARASOTA	FL
125	130475 LAKEWOOD	CO
126	130534 MARLBORO	NJ
127	130647 GREENVILLE	SC
128	130649 MARLBORO	NJ
129	131392 HILLSBOROUGH	NJ
130	132363 DERIDDER	LA
131	133727 LAKEWOOD	CA
132	136617 BIG BEAR CITY	CA
133	137521 HARLEYSVILLE	PA
134	138611 DAVIS	CA
135	139687 CHARLESTON	IL
136	139917 ZEBULON	NC
137	140381 UNIVERSITY CY	MO
138	141031 GLENSHAW	PA
139	142695 SAINT PETERS	MO

140	144745 MORSE BLUFF	NE
141	146035 HOCKESSIN	DE
142	146864 BLACK MTN	NC
143	149218 LOUISVILLE	KY
144	149251 MOUNDSVILLE	WV
145	149636 TYNGSBORO	MA
146	152718 ANNAPOLIS	MD
147	153855 MERCED	CA
148	154293 BLOOMINGTON	IL
149	154690 PALOS HEIGHTS	IL
150	154815 NEW YORK	NY
151	159170 OMAHA	NE
152	160234 SOMERVILLE	TN
153	160744 BILLINGS	MT
154	162402 DES MOINES	IA
155	162676 WENDELL	NC
156	164888 LAKE WACCAMAW	NC
157	167311 BIG BEAR CITY	CA
158	168402 KINGWOOD	TX
159	170584 ETOWAH	NC
160	170712 ETOWAH	NC
161	170736 PHILADELPHIA	MS
162	172808 WARRINGTON	PA
163	172898 WARRINGTON	PA
164	173184 SAN RAMON	CA
165	174178 FAIRFIELD	CT
166	177389 DERIDDER	LA
167	178478 KINGWOOD	TX
168	179172 FRANKFORT	KY
169	179303 FALLS CHURCH	VA
170	180232 SOMERVILLE	TN
171	184656 FRESNO	CA
172	185261 GERMANTOWN	TN
173	185325 GERMANTOWN	TN
174	186205 UPPER SANDSKY	OH
175	187085 LITTLE ROCK	AR
176	188107 COLORADO SPGS	CO
177	188466 CONROE	TX
178	188772 FORT WORTH	TX
179	189500 MERRY HILL	NC
180	190751 CABLE	OH
181	190950 HARLEYSVILLE	PA
182	192350 ELLICOTT CITY	MD
183	193547 BLOOMINGTON	IL
184	195169 MERRY HILL	NC
185	196141 THE VILLAGES	FL
186	196961 WAKE FOREST	NC
187	198585 WALNUT CREEK	CA
188	198633 ST CHARLES	IL
189	198909 MACON	GA

190	200258 NEW YORK	NY
191	206678 REGO PARK	NY