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CLERK OF THE SUPERIOR COURT

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

BARBARA LARSON, Individually and On  
Behalf Of All Others Similarly Situated,

Plaintiff,

vs.

JOHN HANCOCK LIFE INSURANCE  
COMPANY (U.S.A.),

Defendant.

Case No.: RG16813803

~~PROPOSED~~ ORDER OF FINAL  
APPROVAL AND JUDGMENT AND  
GRANTING MOTION FOR  
ATTORNEYS' FEES AND EXPENSES,  
SERVICE AWARD, AND  
REIMBURSEMENT FOR SETTLEMENT  
ADMINISTRATION EXPENSES

Hearing date: May 8, 2018

Time: 3:00 pm

Reservation Nos: R-1942419; R-1942423

Dept: 23

Judge: Hon. Brad Seligman

Action filed: April 29, 2016

~~PROPOSED~~ ORDER OF FINAL APPROVAL AND JUDGMENT AND GRANTING MOTION FOR  
ATTORNEYS' FEES AND EXPENSES, SERVICE AWARD, AND REIMBURSEMENT FOR SETTLEMENT  
ADMINISTRATION EXPENSES, CASE No. RG16813803

1 WHEREAS, on February 2, 2018, Plaintiff Barbara Larson (“Larson” or “Plaintiff”), on  
2 behalf of the certified class of Flex V2 policy owners, and Defendant John Hancock Life  
3 Insurance Company (U.S.A.) (“John Hancock”) entered into a First Amended Joint Stipulation  
4 and Settlement Agreement (“Agreement”) intended to resolve this litigation.

5 WHEREAS, the Agreement, together with the exhibits attached thereto (a copy of which  
6 is attached hereto as Exhibit 1), sets forth the terms and conditions for a proposed settlement of  
7 this Action against John Hancock, upon the terms and conditions set forth therein;

8 WHEREAS, on February 13, 2018, the Court granted preliminary approval of the  
9 Settlement and directed dissemination of Class Notice.

10 WHEREAS, the Court has before it Larson’s Motion for Final Approval of Class Action  
11 Settlement, which John Hancock does not oppose, filed on April 17, 2018, together with exhibits  
12 and supporting materials;

13 WHEREAS, the Court has before it Class Counsel’s application for attorneys’ fees and  
14 reimbursement of expenses, a reasonable service award payment for the Plaintiff, and  
15 reimbursement of settlement administration expenses, which John Hancock does not oppose,  
16 filed on April 17, 2018, together with exhibits and supporting materials;

17 WHEREAS, on May 8, 2018, the Court held a Fairness Hearing with respect to the  
18 proposed Settlement of this Action and Class Counsel’s application for attorneys’ fees and  
19 expenses, a reasonable service award payment for the Plaintiff, and expense reimbursements and  
20 costs of settlement administration;

21 WHEREAS, having reviewed Larson’s Motion for Final Approval, memorandum in  
22 support of the Motion, and the accompanying evidence, the Court is satisfied that the Settlement  
23 set forth in the Agreement was the result of good faith, arm’s-length negotiations among the  
24 competent and experienced counsel for both Larson and John Hancock; and

25 WHEREAS, having considered the submissions of the Parties, and good cause appearing  
26 therefor, the Court now enters the following Findings of Fact, Conclusions, Order, and  
27 Judgment.

1 **PROCEDURAL HISTORY**

2 1. On April 29, 2016, Larson filed her Class Action Complaint against John  
3 Hancock, alleging causes of action for breach of contract and declaratory and injunctive relief on  
4 behalf of herself and others similarly situated who purchased certain life insurance products from  
5 John Hancock. Larson alleges that John Hancock breached the terms of her Flex V Scheduled  
6 Premium Variable Whole Life policy (the "Flex V2") by: including non-mortality factors, such  
7 as expenses and profit, in determining the Applied Monthly Rates used to calculate the policy's  
8 Insurance Charge ("First Cause of Action"); recovering expenses through Insurance Charges in  
9 excess of the Policy's maximum Maintenance Charge ("Second Cause of Action"); and failing to  
10 adjust Applied Monthly Rates to reflect improving mortality expectations ("Third Cause of  
11 Action"). John Hancock maintains that the Insurance Charges, Maintenance Charges, and  
12 Applied Monthly Rates at issue in this Action were appropriate and permissible under the terms  
13 of the Flex V2 policy.

14 2. On March 23, 2017, following briefing by the Parties and a hearing, the Court  
15 certified a nationwide (except New Jersey) class of current and former Flex V2 policyholders.  
16 On May 31, 2017, notice was mailed to class members informing them that they were members  
17 of the certified class, and providing them an opportunity to exclude themselves from the class.  
18 Seventeen policyholders opted out of the class. The individuals who opted out of the class are  
19 identified in Exhibit B to the Parties' Agreement.

20 3. On February 6, 2018, Larson filed her Motion for Preliminary Approval of the  
21 Settlement with supporting exhibits. On February 13, 2018, this Court held a hearing on Larson's  
22 Motion for Preliminary Approval. On the same day, this Court granted Larson's Motion for  
23 Preliminary Approval and directed dissemination of Class Notice.

24 4. On May 8, 2018, this Court held a Fairness Hearing where it heard evidence on  
25 Larson's Motion for Final Approval of the Settlement for the purposes of: (i) entering the Order  
26 and Judgment; (ii) determining whether the Settlement should be approved as fair, reasonable,  
27 adequate and in the best interests of the Settlement Class Members; (iii) ruling upon an  
28

1 application by Class Counsel for attorneys' fees and reimbursement of expenses and reasonable  
2 service award payments for the Plaintiff, and expenses reimbursements and costs of  
3 administration; and (iv) ruling on any other matters raised or considered.

4 **FINDINGS OF FACT**

5 5. All terms used in this Order have the same meanings as set forth in the  
6 Agreement, attached hereto as Exhibit 1.

7 6. The Settlement Class Members consist of all persons who own or owned a Flex V  
8 Scheduled Premium Variable Whole Life insurance policy (Form 94-85) and referred to as the  
9 Flex V2, that is an individual life insurance policy, the benefits, payments or values of which  
10 may increase or decrease in accordance with the investment experience of a "Separate Account,"  
11 issued or administered by Defendant, or its predecessors in interest, the terms of which provide  
12 or provided for: (i) an "Insurance Charge" calculated using an "Applied Monthly Rate" that is  
13 based on Defendant's "expectations of future mortality experience;" (ii) an additional but  
14 separate "Maintenance Charge;" (iii) an investment, interest-bearing, or savings component; and  
15 (iv) a death benefit. Excluded from the Settlement Class are: (i) anyone employed with  
16 Plaintiff's counsel's firms; (ii) the assigned Judge and his or her immediate family; (iii) the  
17 policies issued on a New Jersey policy form; and (iv) the Opt-Out Policies. The Settlement Class  
18 is made up of the Owners of the Policies on the Class List, attached as Attachment 1 to Exhibit 2  
19 to Plaintiff's Motion for Final Approval.

20 7. The Court finds that the Agreement confers substantial benefits on the Settlement  
21 Class Members. Pursuant to its terms, John Hancock will create a non-reversionary cash  
22 Settlement Fund in the amount of \$59,750,000.00. The Settlement Fund will be used to pay (1)  
23 all payments to Settlement Class Members; (2) fees and expenses incurred in providing Class  
24 Notice and administering the Settlement including those fees and expenses incurred by the  
25 Settlement Administrator; (3) any service award to Ms. Larson approved by the Court; and (4)  
26 any attorneys' fees and expenses approved by the Court. Settlement Class Members are not  
27 required to submit a claim or otherwise perform any steps to receive this relief. Settlement  
28

1 checks will be issued within thirty (30) days of the Final Settlement Date.

2 8. Settlement Class Members will receive an approximate pro rata portion of the Net  
3 Settlement Fund<sup>1</sup> taking into account the amount of alleged excessive Insurance Charges paid by  
4 each Settlement Class Member and whether the Settlement Class Member was subject to an  
5 order by the United States District Court for the District of Massachusetts determining that  
6 certain claims in this case were released as part of a 1997 class action settlement in that court  
7 (“the *Duhaime* litigation”). The distribution plan is attached to the Settlement Agreement as  
8 Exhibit C. Under the Agreement, Class Counsel have separately moved for an attorneys’ fee  
9 award that does not exceed 30% of the Settlement Fund and reimbursement of expenses that  
10 does not exceed \$650,000. Class Counsel have also moved for a service award for Larson to be  
11 paid from the Settlement Fund in an amount that does not exceed \$25,000. Class Counsel have  
12 also moved for an award of \$311,637 for Settlement Administration Expenses. John Hancock  
13 does not oppose Plaintiff’s motion for attorneys’ fees and expenses, for a service award for the  
14 Plaintiff, and for reimbursement of Settlement Administration Expenses. The Settlement is  
15 intended and designed to distribute all Settlement Funds with no reversion to Defendant.

16 9. The Parties have provided notice of the Settlement to Settlement Class Members  
17 by direct mail. Class Notice was in the form as attached as Exhibit A to the Order granting  
18 preliminary approval of the Settlement. In addition, the Settlement Administrator updated the  
19 website created following class certification to include information regarding the Settlement and  
20 Class Counsel’s Motion for Attorneys’ Fees and Expenses, Service Award, and Settlement  
21 Administration Expenses.

22 10. The Notice provided Settlement Class Members forty-five (45) days to file an  
23 objection to the Settlement. Because class members were previously notified of their right to  
24 exclude themselves from the class, the Settlement does not provide a second opportunity to opt-

25  
26 <sup>1</sup> The Net Settlement Fund is the Settlement Fund less (1) all administrative fees and  
27 expenses incurred in administering all Class Notice and the Settlement including those fees and  
28 expenses incurred by the Settlement Administrator, (2) any service award to Ms. Larson awarded  
by the Court, and (3) any attorneys’ fees and expenses awarded by the Court. Ex. 1 at ¶ 1.33.

1 out.<sup>2</sup> The Settlement Administrator identified two timely objections to the Settlement.

2 **CONCLUSIONS OF LAW**

3 11. **Final Approval.** California Rules of Court, rule 3.769 “requires the approval of  
4 the court after hearing” of any “settlement or compromise” of a class action, and notice to the  
5 class of the proposed settlement. (Cal. Rules of Court, rule 3.769(a), (f).) At the first step in  
6 reviewing the Settlement, the preliminary-approval stage, the Court determined that the  
7 Settlement was within the “ballpark” of reasonableness that justified disseminating notice of the  
8 Settlement to the Settlement Class Members. (See *Kullar v. Foot Locker Retail, Inc.* (2008) 168  
9 Cal.App.4th 116, 133 [85 Cal.Rptr.3d 20, 34]; Cal. Rules of Court, rule 3.769(c), (e).) The  
10 second step, final approval, now follows the close of the notice period. Here, upon receipt of any  
11 comments and following a motion for final approval and hearing, the court considers whether to  
12 approve the settlement and enter judgment. (See Cal. Rules of Court, rule 3.769(h).) Final  
13 approval entails determining if the settlement is fair, reasonable, and adequate to the class.  
14 (*Kullar*, 168 Cal.App.4th at p. 131; Cal. Rules of Court, rule 3.769(g).) At the final approval  
15 stage, the court also entertains any application for an award of attorneys’ fees, reimbursement of  
16 costs, service award to the plaintiff, and reimbursement of expenses and costs of settlement  
17 administration.

18 12. A settlement enjoys a presumption of fairness where: (1) the settlement is reached  
19 through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel  
20 and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the  
21 percentage of objectors is small. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802 [56  
22 Cal.Rptr.2d 483].) Before approval of any settlement, the court must conduct an inquiry into the  
23 fairness of the proposed settlement. (Cal. Rules of Court, rule 3.769(g).) “The court must . . .

24 \_\_\_\_\_  
25 <sup>2</sup> Flex V2 policyholders that are John Hancock employees were initially excluded from  
26 the certified class, but are members of the Settlement Class. Because this small group of  
27 Settlement Class Members did not receive notice of class certification, they were afforded the  
28 right to exclude themselves from the Settlement Class. No John Hancock employees opted out of  
the Settlement Class.

1 scrutinize the proposed settlement agreement to the extent necessary to reach a reasoned  
2 judgment that the agreement is not the product of fraud or overreaching by, or collusion between,  
3 the negotiating parties, and that the settlement, taken as a whole is fair, reasonable, and adequate  
4 as to all concerned.” (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245 [110  
5 Cal.Rptr.2d 145], internal quotation marks omitted.) The inquiry should include consideration of  
6 the following factors:

- 7 • The strength of the plaintiff’s case.
- 8 • The risk, expense, complexity, and likely duration of further litigation.
- 9 • The risk of maintaining class action status through trial.
- 10 • The amount offered in settlement.
- 11 • The extent of discovery completed and stage of the proceedings.
- 12 • The experience and views of the attorneys.
- 13 • The presence of a governmental participant.
- 14 • The reaction of the class members to the proposed settlement.

15 (*Kullar*, 168 Cal.App.4th at p. 128.) This list of factors is not exclusive, and the court is free to  
16 engage in a balancing and weighing of factors depending on the circumstances of each case.  
17 (*Wershba*, 91 Cal.App.4th at pp. 244–245.) The most important factor is the strength of the  
18 plaintiffs’ case on the merits, balanced against the amount offered in settlement. (*Clark v.*  
19 *American Residential Services LLC* (2009) 175 Cal.App.4th 785, 799 [96 Cal.Rptr.3d 441]; see  
20 also *Kullar*, 168 Cal.App.4th at p. 129.)

21 13. Having considered these factors and the evidence submitted by Larson, the Court  
22 concludes that the Settlement meets the requirements for final approval. First, the Settlement is  
23 entitled to a presumption of fairness because (1) it is the product of arm’s-length bargaining  
24 between the Parties, including the use of an experienced third-party mediator; (2) Larson  
25 engaged in extensive investigation and discovery regarding her claims; (3) Class Counsel has  
26 significant experience in similar cost of insurance litigation; and (4) only 17 class members  
27 excluded themselves from the class, and only one out of 91,459 Settlement Class Members have  
28

1 lodged objections to the Settlement. Thus, the Settlement is presumptively fair.

2 14. In addition, the applicable fairness factors support a finding of fairness, and  
3 therefore, final approval of the Settlement is warranted. First, while Larson may prevail on  
4 proving that John Hancock's Applied Monthly Rates, and consequently its Insurance Charges,  
5 include a margin over mortality, and that John Hancock's overall mortality expectations have  
6 improved, Plaintiff faces many challenges to obtaining a class-wide judgment following trial.  
7 First, Larson will have to establish that her reading of the policies is correct, and that, therefore,  
8 John Hancock has repeatedly breached them by including non-mortality factors in its Applied  
9 Monthly Rates. John Hancock contends that its inclusion of such factors in Applied Monthly  
10 Rates was proper under the policies, and it cites support for its interpretation under some case  
11 law. If this Court, or an appellate court, were to adopt John Hancock's interpretation, class  
12 members would be entitled to nothing. In addition, even if Larson were to prevail on establishing  
13 contract liability, she would face additional obstacles in proving damages, which John Hancock  
14 would challenge, and prevailing against John Hancock's statutes of limitations defense, which  
15 potentially affects the claims of 80% of the class at a minimum. Furthermore, John Hancock was  
16 successful in obtaining an injunction halting Larson from pursuing the claims of almost 47,000  
17 class members that were settlement class members in the *Duhaime* litigation. In contrast, John  
18 Hancock has agreed to include *Duhaime* class members in the Settlement. Furthermore, if the  
19 Settlement is not approved, the Parties would have to immediately begin expensive trial  
20 preparations in earnest, with trial previously calendared to commence on March 19, 2018. Even  
21 if Larson were to prevail at trial, John Hancock would surely appeal, resulting in significant  
22 delay to the class in obtaining any relief.

23 15. In light of these risks, the Court concludes that the Settlement, which returns a  
24 significant percentage of the total potential overcharges without the necessity of making a claim,  
25 is a fair result that satisfies the requirements for final approval. Likewise, Class Counsel's plan  
26 for distributing the Net Settlement Fund to the Settlement Class Members is fair because it is  
27 designed to provide each Settlement Class Member an approximate pro rata portion of the Net  
28



1 Settlement Fund, subject to a minimum payment, based on the amount of excessive Insurance  
2 Charges paid by each Settlement Class Member. In addition, for Settlement Class Members that  
3 purchased a Policy on or before December 31, 1996, the payments will properly reflect that the  
4 United States District Court for the District of Massachusetts determined that claims related to  
5 those policies were released as part of the *Duhaime* litigation.

6 16. The Court further concludes that the Agreement's Release is acceptable because it  
7 is fairly tailored to the claims that were or could have been asserted in this lawsuit. In particular,  
8 the Release releases only claims that were or could have been asserted in this case arising out of  
9 the facts alleged in the Complaint. In addition, the Release expressly excludes certain claims  
10 associated with John Hancock's future increases to Applied Monthly Rate scales. Furthermore,  
11 while Ms. Larson has personally agreed to a general release, the Agreement provides additional  
12 consideration to her for doing so.

13 17. The Court received two objections to the Settlement, one from Laura E. Butler  
14 and one from William G. Jungbauer. The Court concludes that Ms. Butler is not a Settlement  
15 Class Member, and therefore, has no standing to object to the Settlement. (See, e.g., *Moore v.*  
16 *Verizon Communications Inc.* (N.D. Cal. 2013) 2013 WL 450365, \*4 [“[N]on-class members  
17 have no standing to object to the settlement of a class action.”].) In addition, Ms. Butler's  
18 objection appears to concern an unrelated dispute over an estate of another individual who is not  
19 a Settlement Class Member, and does not challenge the substantive terms of the Settlement. The  
20 objection therefore provides no substantive basis for the Court to conclude that the Settlement is  
21 not fair, reasonable, or adequate. Therefore, the Court overrules this objection. The Court has  
22 considered the objection submitted by Mr. Jungbauer and rejects his objection as well. His  
23 objection claims that information relating to the amount of attorneys' fees, costs, expenses,  
24 service award, and settlement distribution was not disclosed to Mr. Jungbauer. But the Class  
25 Notice described the distribution formula in sufficient detail and the settlement website included  
26 Class Counsel's request for fees, costs, expenses and the service award. Accordingly, the  
27 objections are overruled. The overwhelmingly positive reaction to the Settlement weighs in favor  
28

1 of its approval.

2 18. The Court also recognizes and takes into consideration the opinion of all counsel  
3 of record that this Settlement is fair, reasonable, and adequate. As such, the Court finds that the  
4 Settlement, all terms of which are incorporated herein by reference, are fair, reasonable, and  
5 adequate and in the best interest of the Settlement Class Members.

6 19. **Class Notice.** California Rules of Court, rule 3.769(f), requires that notice of the  
7 proposed settlement be given to class members. The notice must include the time, date, and place  
8 of the final approval hearing, and “an explanation of the proposed settlement and procedures for  
9 class members to follow in filing written objections to it and in arranging to appear at the  
10 settlement hearing and state any objections to the proposed settlement.” (*Id.*) “The notice must  
11 fairly apprise the class members of the terms of the proposed compromise and of the options  
12 open to the dissenting class members. A class action settlement notice should present  
13 information neutrally, simply, and understandably. The notice should allow class members to  
14 evaluate a proposed settlement. Notice should describe the formula or plan for computing  
15 individual settlement class member recoveries.” (*Duran v. Obesity Research Inst., LLC* (2016) 1  
16 Cal.App.5th 635, 644 [204 Cal.Rptr.3d 896, 904–05], internal quotations and citations omitted.)  
17 The notice must be “the best notice practicable under the circumstances” (See *id.* at 650.)

18 20. The Court finds that the Class Notice and dissemination of the Class Notice as  
19 carried out by the Settlement Administrator complied with the Court’s order granting preliminary  
20 approval and all applicable requirements of law, including, but not limited to California Rules of  
21 Court, rule 3.769(f) and the Constitutional requirements of due process, and constituted the best  
22 notice practicable under the circumstances and sufficient notice to all persons entitled to notice  
23 of the Settlement. The Class Notice satisfied the requirements of California Rules of Court, rule  
24 3.769(f) because it advised Settlement Class Members of the time, date, and place of the Fairness  
25 Hearing, provided an understandable explanation of the proposed Settlement, including a  
26 description of the distribution plan for computing individual class member recoveries, and  
27 advised Settlement Class Members of the procedure for objecting to the Settlement. In addition,

1 the Class Notice provided forty-five days for class members to object, which is a reasonable time  
2 frame already approved by the Court in the previous notice to the class of class certification.  
3 Class members were previously notified of their right to exclude themselves from the class.  
4 Settlement Class Members were not provide a second opportunity to opt-out, which fully  
5 comports with due process requirements. (See, e.g., *Low v. Trump Univ., LLC* (S.D.Cal. 2017)  
6 246 F.Supp.3d 1295, 1305-06 [citing case law holding that due process does not require  
7 providing class members a second opportunity to opt-out of a settlement class after already being  
8 given the right to opt-out of the class following notice of class certification]; compare Cal. Rules  
9 of Court, rule 3.766(d) [requiring notice of class *certification* to inform class members of  
10 whether exclusion is permitted and of how to exclude themselves from class], with Cal. Rules of  
11 Court, rule 3.769(f) [notice of class action *settlement* must apprise class members of procedure  
12 for filing written objections to it, but not requiring notice of right to exclude oneself from  
13 settlement class].)

14 Finally, the dissemination of the Class Notice constituted the best notice practicable  
15 because it included mailing individual notice to all Settlement Class Members who are  
16 reasonably identifiable using the same method used to inform class members of certification of  
17 the class, following a National Change of Address search and run through the LexisNexis  
18 Deceased Database.

19 **21. Distribution Plan.** The Court approves the Distribution Plan as set forth in  
20 Exhibit C to the Settlement. Within thirty (30) days after the Final Settlement Date, the  
21 Settlement Administrator shall calculate each Settlement Class Member's distribution pursuant  
22 to the Distribution Plan and deliver to each Settlement Class Member by U.S. mail, first-class  
23 postage prepaid, a settlement check in the amount of the share of the Net Settlement Fund to  
24 which he/she/it is entitled pursuant to the Distribution Plan. Settlement checks will be  
25 automatically mailed without any proof of claim or further action on the part of the Settlement  
26 Class Members. Settlement Checks will remain negotiable for 180 days. For Settlement Class  
27 Members who do not reside in California, uncashed settlement checks will be sent to the

1 unclaimed property division of the state in which each such Settlement Class Member was last  
2 sent Class Notice. For Settlement Class Members who reside in California, any residual funds  
3 remaining in the Settlement Fund Account after 1 year from the Final Settlement Date shall be  
4 paid pursuant to California Code of Civil Procedure § 384 (revision effective June 27, 2017), in  
5 that twenty-five percent of such unclaimed funds will be deposited in accordance with §  
6 384(b)(3)(A); twenty-five percent of such unclaimed funds will be deposited in accordance with  
7 § 384(b)(3)(B); and fifty percent of such unclaimed funds will be paid to the East Bay  
8 Community Law Center and the Equal Access Fund in accordance with § 384(b)(3)(C), with  
9 each organization receiving half of such residual funds.

10       22.     **Attorneys' Fees and Expenses.** The Court approves as fair and reasonable the  
11 amounts requested by Class Counsel to be paid to Class Counsel for the services they have  
12 rendered, and expenses they have incurred, in prosecuting the Action in the amount of seventeen  
13 million nine hundred twenty-five thousand dollars (\$17,925,000.00) plus litigation costs and  
14 expenses in the amount of \$441,081.32, which will be paid from the Settlement Fund. The Court  
15 finds that the fee requested of 30% of the Settlement Fund is a reasonable percentage of the  
16 Settlement Fund achieved for the class through the Settlement, and the expenses requested were  
17 reasonably incurred. In light of the value of these benefits and the investment by Class Counsel  
18 in obtaining these benefits, the Court is persuaded that the fee requested is appropriate. (See,  
19 e.g., *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 487 [approving of fee award that was  
20 1/3 of the gross settlement fund]); *Connell v. Sun Microsystems, Inc.* (Cal. Super. Ct., Alameda  
21 County, Nov. 12, 2008) No. RG06252310, 2008 WL 5102492 [awarding 30% of settlement  
22 fund; stating that the court starts with the presumption that a fee award of 25-33% is usually  
23 reasonable in the common fund analysis]; Herbert Newberg & Alba Conte, *Newberg on Class*  
24 *Actions* (4th ed. 2002) § 14.6, at p. 550 [noting that 50% of the fund appears to be an  
25 approximate upper limit on a reasonable fee award, although somewhat larger percentages are  
26 not unprecedented]. The Court has also reviewed the evidence Class Counsel has submitted in  
27 support of their lodestar, including the hours spent on the litigation through April 10, 2018, and

1 Class Counsel's hourly rates. The Court finds that the hours spent and Class Counsel's hourly  
2 rates are reasonable. Class Counsel's fee request of \$17,925,000.00 results in a lodestar  
3 multiplier of 2.3 for the time submitted through April 10, 2018. The Court concludes this  
4 multiplier is reasonable in light of high quality of Class Counsel's representation, the novelty and  
5 complexity of the issues involved, the excellent results obtained, and the contingent risk  
6 presented. (See *Laffitte*, 1 Cal.5th at p. 505; *Wershba*, 91 Cal.App.4th at p. 255 [courts typically  
7 approve multipliers ranging "from two to four or even higher"], citations omitted.)

8 23. The Court directs 10% of the attorneys' fee award, \$1,792,500.00, to be held in an  
9 interest-bearing account maintained by Class Counsel, pending the submission and approval of a  
10 final compliance status report after completion of the distribution of the Net Settlement Fund to  
11 Settlement Class Members. A compliance hearing is set for 12/18, 2018. <sup>C 31.A</sup> A compliance  
12 status report shall be filed (with a courtesy copy delivered directly to Dept. 23) at least 5 court  
13 days prior to the compliance hearing.

14 24. **Service Award.** The Court awards a service award to Plaintiff Barbara Larson in  
15 the amount of ~~twenty five thousand dollars (\$25,000.00)~~ <sup>As fees through (\$15,000.00)</sup> to be paid from the Settlement Fund.  
16 This amount is fair and reasonable for the service performed by Ms. Larson, which includes her  
17 efforts in assisting with the prosecution of the Action on behalf of the Settlement Class  
18 Members, as well as her agreement to release John Hancock from Unknown Claims and to waive  
19 the protections of Section 1542 of the California Civil Code.

20 25. The Court awards \$311,637 as reimbursement for Settlement Administration  
21 Expenses, to be paid from the Settlement Fund.

22 26. Without affecting the finality of this order in any way, pursuant to California  
23 Rules of Court, rule 3.769(h), the Court shall retain exclusive jurisdiction with respect to the  
24 interpretation, implementation and enforcement of the terms of the Settlement, all orders and  
25 judgments entered in connection therewith, and other matters ancillary to the Settlement, and the  
26 Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of  
27 interpreting, implementing and enforcing the Settlement and all orders and judgments entered in  
28

1 connection therewith.

2 **ORDER AND JUDGMENT**

3 IT IS THEREFORE, ORDERED, ADJUDGED and DECREED that Plaintiff's Motions  
4 for Final Approval of a Class Action Settlement and for Attorneys' Fees and Expenses, Service  
5 Award, and Settlement Administration Expenses are GRANTED. The terms of the Settlement  
6 and Release are adjudged to be fair, reasonable, and adequate. The Parties are ordered to  
7 implement the terms of the Settlement in accordance with this Order.

8 Judgment is hereby entered on the Released Claims of all Settlement Class Members.  
9 The Court hereby retains jurisdiction over the Parties to enforce the terms of the Judgment  
10 pursuant to California Rules of Court, rule 3.769(h).

11  
12 ENTERED this 8 day May of 2018.



13  
14  
15 Honorable Brad Seligman  
16 Judge of the Superior Court  
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