

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

37 BESEN PARKWAY, LLC, on behalf of
itself and all others similarly situated,

Plaintiff,

vs.

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

Defendant.

Case No.: 15-CV-9924 (PGG)(HBP)

ECF CASE

JOINT STIPULATION AND SETTLEMENT AGREEMENT

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IT IS HEREBY STIPULATED AND AGREED, subject to approval of the Court and pursuant to Rule 23 of the Federal Rules of Civil Procedure, by, between and among Plaintiff 37 Besen Parkway, LLC, individually and on behalf of the Settlement Class (as defined below), and Defendant John Hancock Life Insurance Company (U.S.A.), that the causes of action and matters raised by and related to this lawsuit, captioned *37 Besen Parkway, LLC v. John Hancock Life Insurance Company (U.S.A.)*, Case No. 15-CV-9924 (PGG)(HBP), in the United States District Court for the Southern District of New York, are hereby settled and compromised on the terms and conditions set forth in this Joint Stipulation and Settlement Agreement and the releases set forth herein.

This Agreement is made and entered into by and among Plaintiff and Defendant (as defined herein) and is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the Action and Released Claims (as both terms defined herein) upon and subject to the terms and conditions hereof.

TERMS OF AGREEMENT AND SETTLEMENT

1. Definitions

Capitalized terms in this Agreement are defined herein as follows:

1.1. “Action” means the lawsuit, captioned *37 Besen Parkway, LLC v. John Hancock Life Insurance Company (U.S.A.)*, Case No. 15-CV-9924 (PGG)(HBP), currently pending in the United States District Court for the Southern District of New York.

1.2. “Agreement” means this Joint Stipulation and Settlement Agreement.

1.3. “Claims” means all suits, claims, cross-claims, counter-claims, controversies, liabilities, demands, obligations, debts, indemnities, costs, fees, expenses, losses, liens, actions, or causes of action (however denominated), including Unknown Claims, of every nature, character, and description, whether in law, contract,

statute or in equity, direct or indirect, whether known or unknown, foreseen or not foreseen, accrued or not yet accrued, or present or contingent, for any injury, damage, obligation, or loss whatsoever, including but not limited to compensatory damages, statutory liquidated damages, exemplary damages, punitive damages, losses, costs, expenses, or attorneys' fees.

1.4. "Class Counsel" means Susman Godfrey L.L.P., the attorneys appointed by the Court on May 22, 2017, to serve as interim class counsel.

1.5. "Class List" means the COI Decrease Class Policies identified by policy number and attached to this Agreement as Exhibit A and the Rider Overcharge Class Policies identified by policy number in Exhibit B.

1.6. "Class Notice" means the notice of the Settlement approved by the Court to be sent by the Settlement Administrator, as described in Section 4, to the persons and entities on the Notice List. The Parties will submit the Class Notice substantially in the form attached to this Agreement as Exhibit C for the Court's approval.

1.7. "Class Website" means a website set up by the Settlement Administrator containing relevant information regarding the Settlement.

1.8. "COI Decrease Class Policies" means: all universal and variable universal life insurance policies issued by John Hancock Life Insurance Company (U.S.A.), or its predecessors, that state "The Applied Monthly Rates will be based on our expectations of future mortality experience." Excluded from the COI Decrease Class Policies are: (i) policies that disclose factors on which "Applied Monthly Rates will be based" other than or in addition to "expectations of future mortality experience"; and (ii) the Flex V-2 Policies. The policies on the Class List are all COI Decrease Class Policies.

1.9. "COI Decrease Class" means all Owners of COI Decrease Class Policies with the exception of: (i) all Owners that submit a timely and valid written request to be excluded from the Settlement Class in accordance with Section 5; (ii) Class Counsel and their employees; and (iii) the judge presiding over the Action and the staff and immediate family of such judicial official.

1.10. “Confidential Information” means material designated as “Confidential” in accordance with the terms of the Stipulated Confidentiality Agreement and Protective Order entered in the Action on May 6, 2016.

1.11. “Court” means The United States District Court for the Southern District of New York, Hon. Paul G. Gardephe.

1.12. “Defendant” means John Hancock Life Insurance Company (U.S.A.) and its predecessor and successor entities.

1.13. “Excluded Claims” refers to new Claims against Defendant that could not have been asserted in the Action based solely upon a future increase in Defendant’s Applied Monthly Rate scale should that occur after the date of this Agreement. Excluded Claims are limited to those claims or incremental damages that could not have been included in the Action because a future increase in Defendant’s Applied Monthly Rate scale has not yet taken place. Excluded Claims do not include claims based on Defendant’s past or future decision to decrease or not decrease its Applied Monthly Rate or any other rerating, rate changes or changes in deductions from Policy account values resulting from an insured’s status, attained age or risk classification, such claims being Released Claims. The right to pursue Excluded Claims, if they exist in the future, is expressly reserved by the Settlement Class Members.

1.14. “Fairness Hearing” means any hearing held by the Court on any motion(s) for final approval of the Settlement for the purposes of: (i) entering the Order and Judgment; (ii) determining whether the Settlement should be approved as fair, reasonable, adequate and in the best interests of the Settlement Class Members; (iii) ruling upon an application by Class Counsel for attorneys’ fees and reimbursement of expenses and reasonable service award payments for the Plaintiff; and (iv) ruling on any other matters raised or considered.

1.15. “Final Approval Date” means the date on which the Court enters its Order and Judgment approving the Settlement.

1.16. “Final Settlement Date” means the date on which the Order and Judgment becomes final, which shall be the latest of: (i) the date of final affirmance on any appeal of the Order and Judgment; (ii) the date of final

dismissal with prejudice of the last pending appeal from the Order and Judgment; or (iii) if no appeal is filed, the expiration of the time for filing or noticing any form of valid appeal from the Order and Judgment.

1.17. “Flex V2 Policies” means those policies issued by Defendant as a John Hancock Flex V Life Insurance Policy (Policy Form 94-85), which was the subject of a class action lawsuit in California state court titled *Larson et al. v. John Hancock Life Insurance Company (U.S.A.)*, Case No. RG16813803.

1.18. “Mediator” means Judge Theodore H. Katz (Ret.) with JAMS.

1.19. “Notice Date” means the date on which the Settlement Administrator mails the Class Notice.

1.20. “Notice List” means those individuals or entities, along with their addresses, that are reflected in Defendants’ records as the last known policy owners of the Policies on the Class List.

1.21. “Order and Judgment” means the Court’s order approving the Settlement and entering final judgment. The judgment will include a provision for the retention of the Court’s jurisdiction over the Parties to enforce the terms of the judgment.

1.22. “Owner” or “Owners” means all current and former Policy’s owner or owners, whether a person or entity and whether in an individual or representative capacity.

1.23. “Parties” means, collectively, Plaintiff and Defendant.

1.24. “Plaintiff” means 37 Besen Parkway LLC, individually and as representative of the Settlement Class, and its assigns, successors-in-interest, representatives, employees, managers and members.

1.25. “Policy” or “Policies” means the COI Decrease Class Policies and the Rider Overcharge Class Policies. Policy or Policies shall include all applications, schedules, riders, and other forms specifically made a part of the policies at the time of their issue, plus all riders and amendments issued thereafter.

1.26. “Preliminary Approval Date” means the date on which the Court enters the order granting preliminary approval of the proposed Settlement.

1.27. “Released Claims” means any and all Claims asserted in the Action, that might have been asserted in the Action or that hereafter may be asserted arising out of or related to the facts, transactions, events, occurrences, acts, disclosures, statements, omissions, or failures to act concerning allegations that:

- (a) Defendant breached the COI Decrease Class Policies by considering non-mortality factors, such as, for example, expenses (including without limitation, administrative, maintenance, and acquisition expenses, sales commissions, taxes, and fees) reinsurance costs, persistency, future investment income, or profit, in determining Applied Monthly Rates or failing to adjust or decrease Applied Monthly Rates or any other charge to reflect changing mortality expectations; or
- (b) Defendant breached the Rider Overcharge Class Policies by charging Age 100 Waiver Monthly Rates in excess of that permitted by the Rider Overcharge Class Policies.

Released Claims do not include Excluded Claims. Released Claims expressly includes all Claims that were or could be asserted in the Action or based on Defendant’s calculation and deduction of its Cost of Insurance Charge, Applied Monthly Rates, Age 100 Waiver of Charges Rider and other rates (*i.e.*, Maintenance and Expense Charges and Age). Released Claims expressly include all claims that: (i) Defendant failed to decrease its Applied Monthly Rate ; (ii) may have a future obligation to decrease the Applied Monthly Rate for any reason; or (iii) may have a future obligation to not charge the Age 100 Waiver of Charges Rider because the term “Age” is used in the Table of Rates instead of “Policy Year.”

1.28. “Released Parties” means, individually and collectively, Defendant and Defendant’s current and former shareholders, agents, representatives, principals, employees, independent contractors, attorneys, owners, directors, officers, parents, fiduciaries, administrators, partners, subrogees, creditors, insurance providers, subsidiaries, divisions, affiliates, related entities, predecessors, successors and assignees. Released Parties shall exclude any individual that is a Settlement Class Member.

1.29. “Releasing Parties” means Plaintiff and each Settlement Class Member on behalf of themselves and their respective agents, heirs, relatives, representatives, attorneys, successors, trustees, subrogees, executors, assignees, and all other persons or entities acting by, through, under, or in concert with any of them purporting to claim on their behalf.

1.30. “Rider Overcharge Class Policies” means the 183 policies identified by policy number in Exhibit B.

1.31. “Rider Overcharge Class” means the Owners of the Rider Overcharge Class Policies with the exception of: (i) all Owners that submit a timely and valid written request to be excluded from the Settlement Class in accordance with Section 5; (ii) Class Counsel and their employees; and (iii) the judge presiding over the Action and the staff and immediate family of such judicial official.

1.32. “Settlement” means the settlement set forth in this Agreement.

1.33. “Settlement Administrator” means Epiq Class Action & Claims Solutions, Inc., or such other settlement administrator as is mutually agreeable to the Parties.

1.34. “Settlement Class” means the COI Decrease Class and the Rider Overcharge Class.

1.35. “Settlement Class Member(s)” means all persons and entities that are included in the Settlement Class.

1.36. “Settlement Fund” means a non-reversionary cash fund consisting of the consideration paid by Defendant for the benefit of the Settlement Class in the amount of \$91,250,000. The Settlement Fund will be a single qualified settlement fund pursuant to 26 U.S.C. § 468B that will be used to pay: (i) Settlement Administration Expenses, (ii) Plaintiff’s Service Award; (iii) Class Counsel’s Fees and Expenses; and (iv) all settlement relief to Settlement Class Members. No portion of the Settlement Fund may revert to Defendant. Defendant shall have no financial obligations under this Agreement or the Settlement other than payment of the Settlement Fund. All funds held in the Settlement Fund and all earnings thereon, shall be deemed to be *in custodia legis* of the Court and shall

remain subject to the jurisdiction of the Court until such time as the funds shall have been disbursed pursuant to the terms of this Agreement or further order of the Court.

1.37. “Net Settlement Fund” means the Settlement Fund, less: (i) Settlement Administration Expenses; (ii) Plaintiff’s Service Award; and (iii) Class Counsel’s Fees and Expenses,. The Net Settlement Fund shall be distributed to the Settlement Class pursuant to the plan of allocation set forth in Exhibit D, or such other plan of allocation as approved by the Court.

1.38. “Settlement Administration Expenses” means all fees, costs, and expenses incurred by the Settlement Administrator, including Class Notice costs and claims administration. Settlement Administration Expenses shall be paid from the Settlement Fund.

1.39. “Plaintiff’s Service Award” means the amount of the award approved by the Court to be paid to 37 Besen Parkway, LLC from the Settlement Fund, in addition to any settlement relief it may be eligible to receive, as compensation for efforts undertaken by it on behalf of the Settlement Class.

1.40. “Class Counsel’s Fees and Expenses” means the amount of the award approved by the Court to be paid to Class Counsel from the Settlement Fund for attorneys’ fees and reimbursement of Class Counsel’s costs and expenses.

1.41. “Settlement Fund Account” means the escrow account from which all payments out of the Settlement Fund will be made. The Settlement Fund Account shall be established under terms acceptable to Plaintiff and Defendant at a depository institution and such funds shall be invested in instruments backed by the full faith and credit of the United States Government (or a mutual fund or funds invested solely in such instruments), or shall be deposited in non-interest-bearing transaction accounts that are fully insured by the Federal Deposit Insurance Corporation in the amounts that are up to the limit of FDIC insurance. Plaintiff, Class Counsel, Defendant, and Defendant’s Counsel shall have no responsibility for or liability whatsoever with respect to investments decisions

made for the Settlement Fund Account. All risks related to the investment of the Settlement Fund shall be borne solely by the Settlement Fund.

1.42. “Unknown Claims” means any claims asserted, that might have been asserted or that hereafter may be asserted arising out of the facts, transactions, events, occurrences, acts, disclosures, statements, omissions, or failures to act that were alleged in the Action with respect to the Released Claims that Plaintiff or any Settlement Class Member does not know or suspect to exist in his or her favor at the time of the entry of the Order and Judgment, and which if known by him or her might have affected his or her decision to opt out of or object to the Settlement. With respect to any and all Claims released under this Agreement, the parties stipulate and agree that, upon the Final Settlement Date, Plaintiff and the Settlement Class Members shall be deemed to have, and by operation of the Order and Judgment shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

Plaintiff and the Settlement Class Members shall upon the Final Settlement Date be deemed to have, and by operation of the Order and Judgment shall have, waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Section 1542 of the California Civil Code. Plaintiff and/or the Settlement Class Members may hereafter discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of the Released Claims, but Plaintiff and the Settlement Class Members upon the Final Settlement Date, shall be deemed to have, and by operation of the Order and Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed upon any theory of law

or equity now existing or coming into existence in the future, including, but not limited to, conduct relating to the Released Claims that is negligent, intentional, with or without malice, or any breach of any duty, law, or rule without regard to subsequent discovery or existence of such different or additional facts.

1.43. The terms “he or she” and “his or her” include “it” or “its,” where applicable. Defined terms expressed in the singular also include the plural form of such term, and vice versa, where applicable.

1.44. All references herein to sections and paragraphs refer to sections and paragraphs of this Agreement, unless otherwise expressly stated in the reference.

2. Settlement Relief

2.1. Within five business days following the Preliminary Approval Date, Defendant shall fully fund the Settlement Fund by wire transfer into the Settlement Fund Account. Within two business days following the Preliminary Approval Date, Class Counsel shall provide to Defendant’s Counsel written confirmation of all necessary information to complete the wire transfer.

2.2. The Net Settlement Fund shall be distributed to the Settlement Class pursuant to the plan of allocation set forth in Exhibit D, or such other plan of allocation as approved by the Court.

2.3. Within thirty calendar days after the Final Settlement Date, the Settlement Administrator shall calculate each Settlement Class Member’s distribution pursuant to the plan of allocation proposed by Class Counsel and set forth in Exhibit D, or such other plan of allocation as approved by the Court, and deliver to each Settlement Class Member by U.S. mail, first-class postage prepaid, a settlement check in the amount of the share of the Net Settlement Fund to which he/she/it is entitled. Settlement checks will be automatically mailed without any proof of claim or further action on the part of the Settlement Class Members. Within one year plus 30 days after the date the Settlement Administrator mails settlement checks pursuant to this paragraph, the Settlement Administrator shall mail additional checks to distribute any funds remaining in the Settlement Fund, as set forth in the plan of allocation approved by the Court, and subject to the economic and administrative feasibility of mailing such additional checks.

2.4. To the extent the Court finds that the Settlement does not meet the standard for preliminary approval, the Parties will negotiate in good faith to modify the Settlement directly or with the assistance of the Mediator and endeavor to resolve the issue(s) to the satisfaction of the Court.

3. Releases and Waivers

3.1. Upon the Final Settlement Date, the Releasing Parties shall be deemed to have, and by operation of the Order and Judgment shall have, fully, finally, and forever released, relinquished and discharged the Released Parties of and from all Released Claims.

3.2. Nothing in this Release shall preclude any action to enforce the terms of this Agreement.

3.3. The scope of the Released Claims or Released Parties shall not be impaired in any way by the failure of any Settlement Class Member to actually receive the benefits provided for under this Agreement.

3.4. Notwithstanding the foregoing, for purposes of clarification only, this Agreement shall not release Defendant from paying any future death benefits that may be owed.

4. Notice to Settlement Class Members

4.1. Subject to the requirements of any orders entered by the Court, no later than thirty calendar days after the Preliminary Approval Date, the Settlement Administrator shall mail a Class Notice by first-class mail to the addresses on the Notice List. The Parties agree and understand that if more time is needed to prepare the Notice List and mail Class Notice, they will agree on another date for mailing the Class Notice, unless otherwise ordered by the Court.

4.2. The mailing of a Class Notice to a person or entity that is not in the Settlement Class shall not render such person or entity a part of the Settlement Class or otherwise entitle such person to participate in this Settlement.

4.3. Defendant will deliver the Notice List to the Settlement Administrator within five business days after Preliminary Approval. The Notice List shall be designated Confidential Information. The Parties agree and understand that if more time is needed to prepare the Notice List, they will agree on another date for delivering the

Notice List to the Settlement Administrator, unless otherwise ordered by the Court. Defendant further agrees to provide all other data reasonably necessary for Class Counsel to effectuate the distribution of Class Notice, the allocation of the Net Settlement Fund, and payments to the Settlement Class.

4.4. The Settlement Administrator will run an update of the last known addresses provided by Defendant through the National Change of Address database before initially mailing the Class Notice. If a Class Notice is returned to the Settlement Administrator as undeliverable, the Settlement Administrator will endeavor to: (i) re-mail any Class Notice so returned with a forwarding address; and (ii) make reasonable efforts to attempt to find an address for any returned Class Notice that does not include a forwarding address. The Settlement Administrator will endeavor to re-mail the Class Notice to every person and entity in the Notice List for which it obtains an updated address. If any Settlement Class Member is known to be deceased, the Class Notice will be addressed to the deceased Settlement Class Member's last known address and "To the Estate of [the deceased Settlement Class Member]."

4.5. The Settlement Administrator will establish, maintain, and update a Class Website to provide relevant information regarding the Settlement to Settlement Class Members.

4.6. After Preliminary Approval of the Settlement, the Settlement Administration Expenses may be paid from the Settlement Fund on a nonrefundable basis, up to the sum of \$1,000,000.

5. Responses to Class Notice

5.1. Any Class Member that wishes to be excluded from the Settlement Class must submit to the Settlement Administrator a written request for exclusion sent by U.S. mail and postmarked no later than 45 calendar days after the Notice Date. A list reflecting all valid requests for exclusion shall be filed with the Court, by Class Counsel, prior to the Fairness Hearing.

5.2. Exclusion requests must clearly state that the Class Member desires to be excluded from the Settlement Class, must identify the Policy(ies) to be excluded, and must be signed by such person or entity or by a person providing a valid power of attorney to act on behalf of such person or entity.

5.3. A Settlement Class Member who owns multiple Policies may request to exclude some Policies from the Settlement while participating in the Settlement with respect to other Policies.

5.4. The Settlement Administrator shall maintain the post office box to which exclusion requests are required to be sent, monitor exclusion requests for accuracy and completeness, request any needed clarifications, and provide copies of all such materials to Class Counsel and Defendant's Counsel.

5.5. Every Class Member that does not file a timely written request for exclusion in accordance with this Section shall be bound by all subsequent proceedings, orders, and judgments in this Action.

5.6. Settlement Class Members may object to this Settlement by filing a written objection with the Court and serving any such written objection on counsel for the respective Parties (as identified in the Class Notice) no later than 45 calendar days after the Notice Date, or as otherwise determined by the Court. Unless otherwise ordered by the Court, the objection must contain: (1) the full name, address, telephone number, email address, if any, of the Settlement Class Member; (2) Policy number; (3) a written statement of all grounds for the objection accompanied by any legal support for the objection (if any); (4) copies of any papers, briefs, or other documents upon which the objection is based; (5) a list of all persons who will be called to testify in support of the objection (if any); (6) a statement of whether the Settlement Class Member intends to appear at the Fairness Hearing; and (7) the signature of the Settlement Class Member or his/her counsel. If an objecting Settlement Class Member intends to appear at the Fairness Hearing through counsel, the written objection must also state the identity of all attorneys representing the objecting Settlement Class Member who will appear at the Settlement Hearing. Unless otherwise ordered by the Court, Settlement Class Members who do not timely make their objections as provided in this Paragraph will be

deemed to have waived all objections and shall not be heard or have the right to appeal approval of the Settlement. The Class Notice shall advise Settlement Class Members of their right to object and the manner required to do so.

5.7. The Parties may file responses to written objections any time prior to the Fairness Hearing, or as otherwise directed by the Court.

6. Fees and Expenses

6.1. Defendant agrees not to oppose any application for an award of attorneys' fees to Class Counsel up to and including 33% of the Settlement Fund, reimbursement of costs, and incentive awards, as described herein.

6.2. Class Counsel's Fees and Expenses, as awarded by the Court, shall be payable to an account designated by Class Counsel within five business days of the entry of an Order approving such Class Counsel's Fees and Expenses, or such later date if required by the Court. Class Counsel will, in its sole discretion, allocate and distribute the fees and costs that they receive pursuant to this Settlement among Class Counsel and any and all other counsel, if applicable. In the event that the Court's approval of the Settlement is reversed on appeal, or the order making the Class Counsel's Fees and Expenses is reversed, then Class Counsel shall within five business days of receiving notice from Defendant's counsel or from a court of appropriate jurisdiction, refund the Class Counsel's Fees and Expenses, or any portion thereof previously paid, to Defendant. The amount refunded shall not include the non-refundable Settlement Administration Expenses described above at Section 4.6.

6.3. Class Counsel may move the Court, and Defendant agrees not to oppose the motion, for a service or incentive award payment to Plaintiff in an amount not to exceed \$40,000 for each representative of Plaintiff that testified in this action to compensate Plaintiff for efforts undertaken by it on behalf of the Settlement Class. This Payment of this service or incentive award shall be made to Plaintiff in addition to, and shall not diminish or prejudice in any way, any settlement relief which it may be eligible to receive. All sums paid to Plaintiff pursuant to this paragraph shall be paid from the Settlement Fund.

6.4. Defendant and Plaintiff shall not be liable or obligated to pay any fees, expenses, costs, or disbursements to any person, either directly or indirectly, in connection with the Action, this Agreement, or the Settlement, other than those expressly provided in this Agreement.

6.5. The Parties agree that the Settlement is not conditioned on the Court's approval of Plaintiff's Service Award or Class Counsel's Fees and Expenses.

7. Tax Reporting and No Prevailing Party

7.1. Any person or entity receiving any payment or consideration pursuant to this Agreement shall alone be responsible for the reporting and payment of any federal, state and/or local income or other form of tax on any payment or consideration made pursuant to this Agreement, and Defendant shall have no obligations to report or pay any federal, state and/or local income or other form of tax on any payment or consideration made pursuant to this Agreement.

7.2. All taxes resulting from the tax liabilities of the Settlement Fund Account shall be paid solely out of the Settlement Fund.

7.3. No Party shall be deemed the prevailing party for any purposes of this Action.

8. Preliminary and Final Approval

8.1. The Parties agree that Plaintiff shall move for an order seeking preliminary approval of the Settlement within 14 calendar days of the execution of this Agreement. Plaintiff shall also move for an order: (i) certifying the Settlement Class; and (ii) approving the Class Notice plan. Plaintiff will share a draft of the motions seeking preliminary and final approval of the Settlement, and all other settlement-related filings (excluding Class Counsel's motion for Plaintiff's Service Award and Class Counsel's Fees and Expenses), no less than 3 business days before it is filed.

8.2. Subject to approval by the Court, Defendant conditionally consents to certification of the Settlement Class for settlement purposes only. Defendant agrees to class action treatment of the claims alleged or potentially

asserted solely for the purpose of effecting the compromise and settlement of those claims on a class basis as set forth in the Agreement. If the Settlement Agreement is terminated pursuant to the provisions set forth in this Section 9.1 or the Final Settlement Date does not occur for any reason, the Parties will not offer this Settlement Agreement, any agreement negotiated between the parties in connection with or regarding the Settlement or the Settlement Agreement, or any motion seeking approval of the Settlement or Agreement in connection with a motion or opposition to a motion to certify a litigation class or in any other proceeding in this action.

8.3. Class Counsel agrees to file a Motion for Final Approval of the Settlement and an Application for Plaintiff's Service Award and Class Counsel's Fees and Expenses no later than 45 calendar days before the Fairness Hearing. The Motion for Final Approval of the Settlement will include a proposed Final Order and Judgment in a form agreed to by the Parties.

8.4. The Final Order and Judgment proposed by the Class Counsel shall, among other things: (i) approve the Settlement as fair, reasonable, and adequate; and (ii) provide for the retention of the Court's jurisdiction over the Parties to enforce the terms of the judgment.

8.5. Within 10 calendar days following the filing of this Agreement with the Court, Defendant, with the assistance of the Settlement Administrator, shall serve notices of the proposed Settlement upon the appropriate officials in compliance with the requirements of the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715. The cost of the notices provided for under this paragraph shall be considered a Settlement Administration Expense.

9. Termination

9.1. John Hancock shall have the option, but not the obligation, to terminate this Agreement no later than 10 calendar days after expiration of the deadline for submitting requests for exclusion from the Settlement Class pursuant to Section 5 of this Agreement, only if more than 5% of the Settlement Class (by either policy count or current face amount) timely and validly request to be excluded from the Settlement.

10. Other Provisions

10.1. The Parties: (i) acknowledge that it is their intent to consummate this Agreement, (ii) agree to cooperate in good faith to the extent reasonably necessary to effect and implement all terms and conditions of the Agreement and to exercise their best efforts to fulfill the foregoing terms and conditions of the Agreement, and (iii) agree to cooperate in good faith to obtain preliminary and final approval of the Settlement and to finalize the Settlement.

10.2. Plaintiff: (i) agrees to serve as representative of the Settlement Class; (ii) remains willing, able, and ready to perform all of the duties and obligations of a representative of the Settlement Class; (iii) is familiar with the allegations in the Action, or has had such allegations described or conveyed to it; (iv) has consulted with Class Counsel about the Action (including discovery conducted in the Action), this Agreement, and the obligations of a representative of the Settlement Class; and (v) shall remain and serve as a representative of the Settlement Class until the terms of this Agreement are effectuated and fully implemented, this Agreement is terminated in accordance with its terms, or, the Court at any time determines that the Plaintiff cannot represent the Settlement Class.

10.3. The Parties agree that the amounts paid in Settlement and the other terms of the Settlement were negotiated in good faith, and at arm's length, by the Parties, with the assistance of the Mediator, and reflect a settlement that was reached voluntarily after consultation with competent legal counsel.

10.4. No person or entity shall have any claim against Class Counsel, the Settlement Administrator, Defendant's counsel or any of the Released Parties based on actions taken substantially in accordance with the Agreement and the Settlement contained therein or further orders of the Court.

10.5. Defendant specifically and generally denies any and all liability or wrongdoing of any sort with regard to any of the claims or allegations in the Action and makes no concessions or admissions of liability of any sort. Neither this Agreement nor the Settlement nor any drafts or communications related thereto, nor any act performed or document executed pursuant to, or in furtherance of, the Agreement or the Settlement: (i) is or may be

deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Released Parties, or any of them; or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of the Released Parties, or any of them, in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Nothing in this Paragraph shall prevent Defendant and/or any of the Released Parties from using this Agreement and Settlement or the Order and Judgement in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

10.6. Plaintiff and Class Counsel agree that if this Agreement or the Settlement fails to be approved, fails to become effective, or otherwise fails to be consummated, or if there is no Final Settlement Date, then: (i) the parties will be returned to the *status quo ante*, as if this Agreement had never been negotiated or executed, except that all Settlement Administration Expenses, up to \$1 million, shall not be recouped; and (ii) Defendant shall retain, and expressly reserves, any and all of the rights it had prior to the execution of this Agreement to object to the maintenance of the Action as a class action by Class Counsel and Plaintiff. Plaintiff and Class Counsel agree that nothing in this Agreement or other papers or proceedings related to the Settlement shall be used as evidence or argument concerning whether the Action may properly be maintained as a class action, whether the purported class is ascertainable, or whether Class Counsel or Plaintiff can adequately represent class members under applicable law. If the Agreement is deemed void or the Final Settlement Date does not occur, Plaintiff and Class Counsel agree not to argue or present any argument, and hereby waive any argument, that Defendant could not contest (or is estopped from contesting) maintenance of this Action as a class action based on any grounds it had prior to the execution of this Agreement; and this Agreement shall not be deemed an admission by, or ground for estoppel against, Defendant that class certification or any claims brought in the Action are proper or that such class certification or claims cannot be contested on any grounds that Defendant had prior to the execution of this Agreement. In the event the

Agreement is declared void or the Final Settlement Date does not occur, Plaintiff and Class Counsel retain and reserve any and all rights and arguments they had prior to execution of this Agreement to oppose Defendant's positions and arguments. Each of the Parties will be restored to the place it was in as of the date this Agreement was signed with the right to assert in the Action any argument or defense that was available to it at that time.

10.7. Nothing in this Agreement shall change the terms of any Policy. Nothing in this Agreement shall preclude any action to enforce the terms of this Agreement.

10.8. The Parties agree, to the extent permitted by law, that all agreements made and orders entered during the course of the Action relating to confidentiality of information shall survive this Agreement. To the extent Class Counsel or the Settlement Administrator requires Confidential Information to effectuate the terms of this Agreement, the terms of the Stipulated Confidentiality Agreement and Protective Order dated May 6, 2016 shall apply to any information necessary to effectuate the terms of this Agreement.

10.9. The Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest. No waiver of any provision of this Agreement or consent to any departure by either Party therefrom shall be effective unless the same shall be in writing, signed by the Parties or their counsel, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No amendment or modification made to this Agreement pursuant to this Paragraph shall require any additional notice to the Settlement Class Members, including written or publication notice, unless ordered by the Court. Plaintiff and Class Counsel agree not to seek such additional notice. The Parties may provide updates on any amendments or modifications made to this Agreement on the Class Website as described in Section 4.5.

10.10. Each person executing the Agreement on behalf of any party hereto hereby warrants that such person has the full authority to do so.

10.11. The Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Furthermore, pdf's or copies of original signatures may

be accepted as actual signatures, and will have the same force and effect as the original. A complete set of executed counterparts shall be filed with the Court.

10.12. The Agreement shall be binding upon, and inure to the benefit of, the successors, heirs, and assigns of the Parties hereto; but this Agreement is not designed to and does not create any third-party beneficiaries either express or implied, except as to the Settlement Class Members.

10.13. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against either party. No party shall be deemed the drafter of this Agreement. The Parties acknowledge that the terms of the Agreement are contractual and are the product of negotiations between the Parties and their counsel. Each party and its respective counsel cooperated in the drafting and preparation of the Agreement. In any construction to be made of the Agreement, the Agreement shall not be construed against any party.

10.14. Other than necessary disclosures made to the Court or the Settlement Administrator this Agreement and all related information and communication shall be held strictly confidential by Plaintiff, Class Counsel and their agents until such time as the Parties file this Agreement with the Court.

10.15. The Parties and their counsel further agree that their discussions and the information exchanged in the course of negotiating this Settlement are confidential under the terms of the mediation agreement signed by the Parties in connection with the mediation session with the Mediator and any follow-up negotiations between the Parties' counsel. Such exchanged information was made available on the condition that neither the Parties nor their counsel may disclose it to third parties (other than experts or consultants retained by the Parties in connection with the Action and subject to confidentiality restrictions), that it not be the subject of public comment, and that it not be publicly disclosed or used by the Parties or their counsel in any way in the Action should it not settle, or in any other proceeding; provided however, that nothing contained herein shall prohibit the Parties from seeking such

information through formal discovery if not previously requested through formal discovery or from referring to the existence of such information in connection with the Settlement of the Action.

10.16. This Agreement shall be governed by and interpreted in accordance with the laws of the State of New York, without reference to its choice-of-law or conflict-of-laws rules.

10.17. The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Agreement and any discovery sought from or concerning objectors to this Agreement. All Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Agreement.

10.18. Whenever this Agreement requires or contemplates that one Party shall or may give notice to the other, notice shall be provided by e-mail and/or next-day (excluding Saturday and Sunday) express delivery service as follows:

(a) If to Defendant, then to:

Alan Vickery
BOIES SCHILLER FLEXNER LLP
575 Lexington Avenue
New York, NY 10022
avickery@bsfllp.com

Motty Shulman
BOIES SCHILLER FLEXNER LLP
333 Main Street
Armonk, NY 10504
mshulman@bsfllp.com

(b) If to Plaintiff, then to:

Steven Sklaver
Glenn Bridgman
Rohit Nath
SUSMAN GODFREY LLP
1900 Avenue of the Stars, Suite 1400
Los Angeles, California 90067
ssklaver@susmangodfrey.com
gbridgman@susmangodfrey.com

rmath@susmangodfrey.com

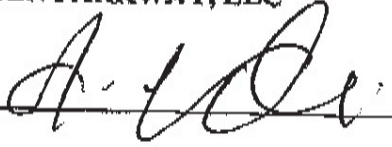
Seth Ard
SUSMAN GODFREY LLP
1301 Avenue of the Americas, 32nd Floor
New York, NY 10019
Tel.: 212-336-8330
Fax: 212-336-8340
sard@susmangodfrey.com

10.19. The Parties reserve the right to agree between themselves on any reasonable extensions of time that might be necessary to carry out any of the provisions of this Agreement.

10.20. All time periods set forth herein shall be computed in calendar days unless otherwise expressly provided. In computing any period of time prescribed or allowed by this Agreement or by order of any court, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Each other day of the period to be computed shall be included, including the last day thereof, unless such last day is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper in court on a day in which the court is closed during regular business hours. In any event, the period runs until the end of the next day that is not a Saturday, a Sunday, a legal holiday, or a day on which the court is closed. When a time period is less than seven business days, intermediate Saturdays, Sundays, legal holidays, and days on which the court is closed shall be excluded from the computations. As used in this Paragraph, "legal holiday" includes New Year's Day, Martin Luther King, Jr. Day, Good Friday, Primary Election Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, General Election Day, Veterans Day, Thanksgiving Day, Lincoln's Birthday, Washington's Birthday, Christmas Day and any other day appointed as a holiday by federal law or New York law.

Stipulated and agreed to by,

37 BESEN PARKWAY, LLC

By: 

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

By: _____

Title: ARG

Date: 7/2/18

Plaintiff

By: _____

Title: _____

Date: _____

Plaintiff

Title: _____

Date: _____

Defendant

math@susmangodfrey.com

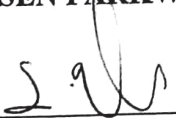
Seth Ard
SUSMAN GODFREY LLP
1301 Avenue of the Americas, 32nd Floor
New York, NY 10019
Tel.: 212-336-8330
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Stipulated and agreed to by,

37 BESEN PARKWAY, LLC

By:  _____

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

By: _____

math@susmangodfrey.com

Seth Ard
SUSMAN GODFREY LLP
1301 Avenue of the Americas, 32nd Floor
New York, NY 10019
Tel.: 212-336-8330
Fax: 212-336-8340
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Stipulated and agreed to by,

37 BESEN PARKWAY, LLC

By: _____

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

By: Paul J. Jellat

Title: _____

Title: Vice President and Counsel

Date: _____

Date: July 2, 2018

Plaintiff

Defendant

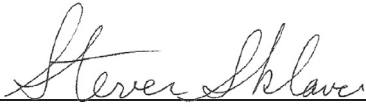
By: _____

Title: _____

Date: _____

Plaintiff

APPROVED ONLY AS TO FORM:



Seth Ard (Bar No. SA-1817)
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New York, NY 10019
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Attorneys for Plaintiff,
37 Besen Parkway, LLC*



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mshulman@bsflfp.com
jkroetsch@bsflfp.com

*Attorneys for Defendant
John Hancock Life Insurance Company (U.S.A.)*

Exhibit A

CONFIDENTIAL LODGED WITH THE COURT

Exhibit B

Policy Number	Product Name	Policy Number	Product Name
20033577	VEP	54006887	ULEP
20039046	VEP	54006960	ULEP
20039400	VEP	54007265	ULEP
20039525	VEP	54007950	ULEP
20041414	VEP	54008008	ULEP
20041810	VEP	54008016	ULEP
20042453	VEP	54008149	ULEP
20042602	VEP	54008578	ULEP
20042875	VEP	54008628	ULEP
20043253	VEP	54008743	ULEP
20043733	VEP	54008834	ULEP
20043816	VEP	54008875	ULEP
20045811	VEP	54009162	ULEP
20046132	VEP	54009261	ULEP
20046926	VEP	54009469	ULEP
20046967	VEP	54009527	ULEP
20046975	VEP	54010038	ULEP
20052569	VEP	54010426	ULEP
20052619	VEP	54010590	ULEP
20053856	VEP	54010665	ULEP
20054490	VEP	54010681	ULEP
20056842	VEP	54010889	ULEP
20061081	VEP	54011101	ULEP
20062436	VEP	54011317	ULEP
20066619	VEP	54011366	ULEP
54004080	ULEP	54011960	ULEP
54004940	ULEP	54012182	ULEP
54005277	ULEP	54012349	ULEP
54005343	ULEP	54012554	ULEP
54005632	ULEP	54012836	ULEP
54005681	ULEP	54012885	ULEP
54005772	ULEP	54012919	ULEP
54006085	ULEP	54013081	ULEP
54006358	ULEP	54013164	ULEP
54006481	ULEP	54013222	ULEP
54006630	ULEP	54013263	ULEP
54006663	ULEP	54013305	ULEP
54006796	ULEP	54013339	ULEP
54006804	ULEP	54013354	ULEP
54006812	ULEP	54013370	ULEP
54006879	ULEP	54013412	ULEP
		54013529	ULEP
		54013685	ULEP

Policy Number	Product Name	Policy Number	Product Name
54013719	ULEP	54017561	ULEP
54013842	ULEP	54017629	ULEP
54014030	ULEP	54017678	ULEP
54014089	ULEP	54017694	ULEP
54014097	ULEP	54017702	ULEP
54014238	ULEP	54017710	ULEP
54014352	ULEP	54017751	ULEP
54014394	ULEP	54017819	ULEP
54014501	ULEP	54017827	ULEP
54014543	ULEP	54017876	ULEP
54014691	ULEP	54017892	ULEP
54014824	ULEP	54018080	ULEP
54014956	ULEP	54018148	ULEP
54015151	ULEP	54018254	ULEP
54015326	ULEP	54018270	ULEP
54015755	ULEP	54018304	ULEP
54016035	ULEP	54018312	ULEP
54016050	ULEP	54018379	ULEP
54016316	ULEP	54018387	ULEP
54016332	ULEP	54018445	ULEP
54016381	ULEP	54018502	ULEP
54016449	ULEP	54018676	ULEP
54016456	ULEP	54018700	ULEP
54016621	ULEP	54018718	ULEP
54016639	ULEP	54018726	ULEP
54016647	ULEP	54018734	ULEP
54016746	ULEP	54018742	ULEP
54016779	ULEP	54018809	ULEP
54016795	ULEP	54018866	ULEP
54016852	ULEP	54018932	ULEP
54016928	ULEP	54018973	ULEP
54016944	ULEP	54019104	ULEP
54017009	ULEP	54019138	ULEP
54017017	ULEP	54019260	ULEP
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54017165	ULEP	54019310	ULEP
54017181	ULEP	54019336	ULEP
54017280	ULEP	54019385	ULEP
54017363	ULEP	54019450	ULEP
54017439	ULEP	54019492	ULEP
54017454	ULEP	54019518	ULEP
54017462	ULEP	54019609	ULEP
54017520	ULEP	54019716	ULEP

Policy Number	Product Name
54020177	ULEP
54020193	ULEP
54020219	ULEP
54020235	ULEP
54020250	ULEP
54020284	ULEP
54020359	ULEP

Policy Number	Product Name
54020367	ULEP
54020375	ULEP
54020433	ULEP
54020458	ULEP
54020532	ULEP
54020680	ULEP

Exhibit C

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

If You Own a Universal Life Insurance Policy with John Hancock, You May Be Eligible for a Payment from a Class Action Settlement.

A federal court authorized this notice. This is not a solicitation from a lawyer.

A Settlement has been reached in a class action lawsuit that alleged that John Hancock Life Insurance Company (U.S.A.) (“John Hancock”) charged policyholders excessive (1) cost of insurance (“COI”) charges, and (2) costs under an “Age 100 Waiver of Charges Rider.” John Hancock maintains that it did nothing wrong and denies any wrongdoing or liability. The Court has not decided who is right.

As part of the Settlement, Settlement Class Members who do not exclude themselves from the Class will be eligible to receive payment from the \$91.25 million Settlement Fund and will automatically receive a payment if the Settlement is approved. There is no need to file a claim.

Your legal rights are affected whether you act or don’t act. Read this notice carefully.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	Receive a payment under the Settlement. Give up certain rights to sue.
ASK TO BE EXCLUDED	Receive no benefit from the Settlement. This is the only option that allows you to retain your right to bring any other lawsuit against John Hancock about the claims in this case.
OBJECT	Write to the Court if you do not like the terms of the Settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the Settlement.

These rights and options—**and the deadlines to exercise them**—are explained in this Notice.

The Court in charge of this case still has to decide whether to finally approve the Settlement. Settlement checks will be automatically issued to Settlement Class Members if the Court approves the Settlement and after any appeals are resolved. **You do not need to take further action to receive payment if you are eligible under the Settlement.** Please be patient.

BASIC INFORMATION

1. Why is there a notice?

A Court authorized this notice because you have a right to know about the proposed Settlement of this class action lawsuit, and about all of your options, before the Court decides whether to give Final Approval to the Settlement. This notice explains the lawsuit, the Settlement and your legal rights.

Judge Paul G. Gardephe of the United States District Court for the Southern District of New York is overseeing this case. The case is known as *37 Besen Parkway, LLC v. John Hancock Life Insurance Company (U.S.A.)*, Case No. 15-cv-9924, (the “Action”). The entity who sued is called the “Plaintiff.” The Defendant is John Hancock Life Insurance Company (USA).

2. What is this lawsuit about?

The lawsuit alleges that John Hancock policyholders paid excessive COI charges not allowed by the terms of the policies, because John Hancock was allegedly required to review its rates every five years and COI rates were allegedly based on factors other than its expectations of future mortality experience. The lawsuit also alleges that John Hancock charged unauthorized Age 100 Waiver of Charges Rider (“Age 100 Rider”) charges on certain John Hancock life insurance policies.

All of the lawsuit’s claims can be found in Plaintiff’s Class Action Complaint available at the www.XXXXXXXXXXX.com website.

John Hancock denies the allegations asserted in the Action and claims that it has done nothing wrong. John Hancock’s defenses to the claims in the lawsuit can be found in their Answer available at the settlement website. Nevertheless, given the risks, uncertainties, burden and expense of continued litigation, John Hancock has agreed to settle.

3. Why is this a class action?

In a class action, one or more people called class representatives (in this case, Plaintiff 37 Besen Parkway LLC) sue on behalf of people who have similar claims. The people included in the class action are called the Settlement Class or Settlement Class members. One court resolves the issues for all Settlement Class members, except for those who timely exclude themselves from the Settlement Class.

4. Why is there a Settlement?

The Parties negotiated the Settlement at arms-length and with the assistance of an experienced mediator, the Honorable Theodore H. Katz (Ret.), and with a full understanding of the factual and legal issues that would affect the outcome of this lawsuit. During the course of the lawsuit, the Plaintiff, through its attorneys, thoroughly examined and investigated the facts and law relating to the issues in this case.

The Plaintiff believes that the final outcome of the lawsuit, if it were to proceed through trial and appeals, is uncertain. A settlement avoids the costs and risks of further litigation and provides immediate relief to the Settlement Class Members. As a result of their evaluation of the facts and law, the Plaintiff and its attorneys have determined that this Settlement is fair, reasonable, and adequate. They have reached this conclusion due to the substantial benefits the Settlement provides to Settlement Class Members, the risks, uncertainties, and costs inherent in this Action, and the desirability of continuing this protracted litigation.

There has been no trial, and there has been no final determination on the merits of the Claims or defenses in this lawsuit, and there will be no trial or final determination on the merits of the Claims

Questions? Visit www.XXXXXXXXXXX.com, or call 855-367-5404.

and defenses if the Court approves the Settlement. The Settlement does not suggest that John Hancock has or has not done anything wrong, or that the Plaintiff and the Settlement Class Members would or would not win if the lawsuit were to go to trial.

WHO IS IN THE SETTLEMENT?

To see if you will be affected by the Settlement or if you can get a payment from it, you first have to determine if you are a Settlement Class member.

5. Who is included in the Settlement?

The Settlement Class includes the “COI Decrease Class” and the “Rider Overcharge Class.” The COI Decrease Class means current and former owners of John Hancock COI Decrease Class Policies, which are all universal and variable universal life insurance policies issued by John Hancock, or its predecessors, that state “The Applied Monthly Rates will be based on our expectations of future mortality experience.” Excluded from the COI Decrease Class Policies are: (i) policies that disclose factors on which “Applied Monthly Rates will be based” other than or in addition to “expectations of future mortality experience”; and (ii) John Hancock Flex V-2 Life Insurance Policies (Policy Form 94-85). The Rider Overcharge Class means current and former owners of John Hancock Rider Overcharge Class Policies. A list of all policy numbers included in each of these Classes is available on the www.XXXXXXXXXXXXXXXXXX.com case website.

Excluded from each Class are: (i) all such persons and entities that submit a timely and valid written request to be excluded from the Settlement Class in accordance with Paragraph 11 below, (ii) Class Counsel and their employees, and (iii) the judge presiding over the Action and the staff and immediate family of such judicial official.

If you received this Notice in the mail, then John Hancock’s records show you may be a Class Member.

6. How can I confirm whether I am in the Settlement Class?

If you are not sure whether you are included in the Settlement Class, you can get free help at www.XXXXXXXXXXXXXXXXXX.com.

THE SETTLEMENT’S BENEFITS

7. What does the Settlement provide? How much will my payment be?

John Hancock has agreed to fund a cash Settlement Fund in the amount of \$91,250,000. The Settlement Fund will be used to pay Settlement Administration Expenses, Plaintiff’s Service Award, Class Counsel’s Fees and Expenses, and all settlement relief to Settlement Class Members. The Settlement Fund, less Settlement Administration Expenses, Plaintiff’s Service Award, and Class Counsel’s Fees and Expenses is called the “Net Settlement Fund.” No portion of the Settlement Fund will revert to John Hancock.

If the Court approves the Settlement, Settlement checks will be mailed to the owners of Settlement Class Policies on a *pro rata* (or proportional) as basis as follows: a minimum settlement payment of \$100 per policy plus a share of the remaining Net Settlement Fund, in proportion to the Settlement Class Members’ share of the overall COI and Age 100 Rider overcharges paid during the applicable statute of limitations through August 2016. Policies owned by class members issued before December 31, 1996 shall have alleged COI Overcharge discounted by half due to an alleged prior release in *Duhaime et al. v. John Hancock Mutual Life Insurance Company, et al.* (D. Mass. 1996).

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

8. When will I receive my Settlement check?

The Settlement checks will be issued to Settlement Class Members within 30 days after the Final Settlement Date. Settlement checks will be automatically mailed without any proof of claim or further action on the part of the Settlement Class Members.

9. How do I participate in the Settlement? Do I need to make a claim?

Settlement Class Members do not have to do anything to participate in the Settlement. No claims need to be filed. Upon approval of the Settlement, a check will be issued to every Settlement Class Member to the same address to which this Notice was sent.

10. What am I giving up to stay in the Settlement Class?

Unless you exclude yourself from the Settlement, you cannot sue or be part of any other lawsuit against John Hancock about the issues in this case, including any existing litigation, arbitration, or proceeding. Unless you exclude yourself, all of the decisions and judgments by the Court will bind you. If you do nothing at all, you will be releasing John Hancock from all of the claims described and identified in Section __ of the Joint Stipulation and Settlement Agreement.

This release includes any and all claims asserted in the Action, that might have been asserted in the Action or that hereafter may be asserted arising out of or related to the facts, transactions, events, occurrences, acts, disclosures, statements, omissions, or failures to act concerning allegations that (a) Defendant breached the COI Decrease Class Policies by considering non-mortality factors, such as, for example, expenses (including without limitation, administrative, maintenance, and acquisition expenses, sales commissions, taxes, and fees) reinsurance costs, persistency, future investment income, or profit, in determining Applied Monthly Rates or failing to adjust or decrease Applied Monthly Rates or any other charge to reflect changing mortality expectations; or (b) Defendant breached the Rider Overcharge Class Policies by charging Age 100 Waiver Monthly Rates in excess of that permitted by the Rider Overcharge Class Policies. Released Claims do not include Excluded Claims. Released Claims expressly includes all Claims that were or could be asserted in the Action or based on Defendant's calculation and deduction of its Cost of Insurance Charge, Applied Monthly Rates, Age 100 Waiver of Charges Rider and other rates (i.e., Maintenance and Expense Charges and Age). Released Claims expressly include all claims that Defendant failed to decrease its Applied Monthly Rate or may have a future obligation to decrease the Applied Monthly Rate for any reason.

Released Claims do not include claims arising from any failure by Defendant to pay any future death benefits owed. Released Claims also do not include new claims against Defendant that could not have been asserted in the Action based solely upon a future increase in Defendant's Applied Monthly Rate scale should that occur after the date of the Agreement.

Settlement Class Members expressly waive any and all rights that they may have under any law that would limit the release to claims actually known or suspected to exist at the time of the Settlement, including the provisions of Section 1542 of the California Civil Code, which provides as follows: "GENERAL RELEASE-CLAIMS EXTINGUISHED. A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

The Joint Stipulation and Settlement Agreement is available at the www.XXXXXXXXXXXXXXXX.com website. The Joint Stipulation and Settlement Agreement describes in detail the claims that you give up if you remain in the Settlement, so read it carefully. You can talk to the law firms representing the Class listed below in Question 14 for free, or you can, at your own expense, talk to your own lawyer if you have any questions about the released claims or what they mean.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want benefits from the Settlement, and you want to keep the right to sue John Hancock on your own about the legal issues in this Action, then you must take steps to get out of the Settlement. This is called excluding yourself — or it is sometimes referred to as “opting-out” of the Settlement Class.

11. How do I get out of the Settlement and receive no benefits?

To exclude yourself, you must send a written request to be excluded from the Settlement in *37 Besen Parkway, LLC v. John Hancock Life Insurance Company (U.S.A.)*, Case No. 15-CV-9924 (PGG)(HBP), with your name and address, clearly stating that you want to be excluded from the Settlement Class. You must also identify your John Hancock insurance policy or policies to be excluded, and your exclusion request must be signed by you or by a person providing a valid power of attorney to act on your behalf. You must mail your exclusion request postmarked by **Month Day, 2018**, to:

Besen Settlement Exclusions
P.O. Box 3217
Portland, OR 97208-3217

If you own multiple John Hancock policies that are included in the Class, you may request to exclude some policies from the Settlement while participating in the Settlement with respect to other policies.

12. If I do not exclude myself, can I sue John Hancock for the same thing later?

No. Unless you exclude yourself, you give up the right to sue John Hancock for the claims that the Settlement resolves. You must exclude yourself from this Settlement Class in order to try to pursue your own lawsuit.

13. If I exclude myself from the Settlement, can I still receive a payment?

No. You will not get a payment if you exclude yourself from the Settlement.

THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in this case?

Yes. The Court appointed the following lawyers as Class Counsel:

Steven Sklaver Glenn Bridgman Rohit Nath SUSMAN GODFREY L.L.P. 1900 Avenue of the Stars, Suite 1400 Los Angeles, California 90067 310-789-3100	Seth Ard SUSMAN GODFREY L.L.P. 1301 Avenue of the Americas, 32 nd Floor New York, New York 10019 212-336-8330
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If you have questions, you may contact these lawyers. You will not be charged for contacting these lawyers. If you want to be represented by your own lawyer, however, you may hire one at your own expense.

15. How will the lawyers be paid?

The Court will determine how much Class Counsel will be paid for fees and expenses. Class Counsel will seek an award for up to one-third of the Settlement Fund plus reimbursement of Class Counsel's expenses, to be paid from the Settlement Fund. You will not be responsible for direct payment of Class Counsel's fees and expenses.

Class Counsel will also request a service award payment to Plaintiff in an amount not to exceed \$40,000 for each representative of Plaintiff that testified in this action to compensate Plaintiff for efforts undertaken by it on behalf of the Settlement Class.

OBJECTING TO THE SETTLEMENT

16. How do I tell the Court that I don't like the Settlement?

If you are a Settlement Class Member, you can object to any part of the Settlement. To do so, you file written objection in this case, *37 Besen Parkway, LLC v. John Hancock Life Insurance Company (U.S.A.)*, Case No. 15-CV-9924 (PGG)(HBP). You are required to include:

- Your full name, address, telephone number and email address, if any;
- Your Policy number or numbers;
- A written statement of all grounds for your objection accompanied by any legal support for your objection (if any);
- Copies of any papers, briefs, or other documents upon which your objection is based;
- A list of all persons who will be called to testify in support of your objection (if any);
- A statement of whether you intend to appear at the Fairness Hearing; and
- Your signature or the signature of your counsel, and a list of any objections by you or your attorney in any class action settlements submitted to any state or federal court in the United States in the previous five years.

You must file your objection with the Court and send it to all the addresses listed below, so that it is received no later than **Month Day, 2018**.

Clerk of the Court _____ _____	
Class Counsel Steven Sklaver SUSMAN GODFREY LLP 1900 Avenue of the Stars, Suite 1400 Los Angeles, California 90067	Defense Counsel Motty Shulman BOIES SCHILLER FLEXNER LLP 333 Main Street, Armonk, NY 10504

17. What's the difference between objecting and asking to be excluded?

Questions? Visit www.XXXXXXXXXX.com, or call 855-367-5404.

Objecting is telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you do not exclude yourself from the Settlement. Excluding yourself from the Settlement is telling the Court that you don't want to be part of the Settlement. If you exclude yourself from the Settlement, you have no basis to object to the Settlement because it no longer affects you.

THE FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the Settlement and any request for fees and expenses. You may attend and you may ask to speak, but you don't have to.

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

The Court will hold the Fairness Hearing at __.__.m. on Month Day, 2018, at the United States District Court for the Southern District of New York, _____ . The hearing may be moved to a different date or time without additional notice, so it is a good idea to check www.XXXXXXXXXXXXXXXXXXXXXX.com for updates. At the hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them and listen to people who have asked to speak at the hearing. The Court may also decide how much to pay and reimburse Class Counsel. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long the Court's decision will take.

19. Do I have to come to the hearing?

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

20. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. You must first timely file an objection that indicates your intention to speak at the hearing (see Question 16 above). Unless otherwise ordered by the Court, a Settlement Class Member who does not submit a timely objection with the proper notice will not be permitted to speak at the Fairness Hearing.

GETTING MORE INFORMATION

21. How do I get more information?

This notice summarizes the proposed Settlement. More details can be found in the Joint Stipulation and Settlement Agreement. You can obtain a copy of the Joint Stipulation and Settlement Agreement by writing to Besen Settlement Administrator, PO Box 3217, Portland, OR 97208-3217.

Exhibit D

Plan of Allocation¹

1. Each Settlement Class Member who is the current or most recent owner of a policy according to Defendant's records ("Recipient") shall be issued a check for that policy equal to the minimum settlement relief payment plus that Recipient's pro-rata share of the remaining Net Settlement Fund.
2. The minimum settlement relief payment for each policy shall be one hundred dollars (\$100.00).
3. Each Recipient's pro-rata share of the Net Settlement Fund after deducting all minimum settlement relief payments shall be computed as follows:
 - a. First, each Recipient's alleged damages shall be the sum of the Recipient's alleged COI Overcharge and the Recipient's alleged Age 100 Rider Overcharge.
 - i. Each Recipient's alleged COI Overcharge and Age 100 Rider Overcharge shall be determined in accordance with the methodology set forth in the declaration of Mr. Robert Mills, Dkt. 126, which, generally (1) determines the COI Overcharge during the applicable statute of limitations as the difference between the COI charges John Hancock actually assessed on the policy and the COI charges that Plaintiff contends that John Hancock should have assessed; and (2) determines the Age 100 Rider Overcharge during the applicable statute of limitations as the difference between the Age 100 Rider charges John Hancock actually assessed on the policy and the Age 100 Rider charges Plaintiff contends that John Hancock should have assessed.
 - ii. Each policy issued before December 31, 1996, and thus allegedly subject to the injunction from *Duhaime v. John Hancock Mutual Life Insurance Company*, shall have its alleged COI Overcharge discounted by 50%.
 - b. Second, divide each Recipient's alleged damages by the total alleged damages for all Recipients, and
 - c. Third, multiply the resultant percentage for each Recipient by the Net Settlement Fund that remains after deducting all minimum settlement relief payments.
4. If a Settlement Class Member would receive multiple checks pursuant to paragraphs 1-3 above, such checks may be consolidated into a single check.

¹ All capitalized terms herein are used as defined in the Joint Stipulation and Settlement Agreement.

5. Within one year plus 30 days after the date the Settlement Administrator mails the first Settlement Fund Payments, any funds remaining in the Settlement Fund shall be re-distributed on a *pro rata* basis to Settlement Class Members who previously cashed the checks they received, to the extent feasible and practical in light of the costs of administering such subsequent payments, unless the amounts involved are too small to make individual distributions economically viable or other specific reasons exist that would make such further distributions impossible or unfair. All costs associated with the disposition of residual funds – whether through additional distributions to Settlement Class Members and/or through an alternative plan approved by the Court – shall be borne solely by the Settlement Fund.
6. The plan of allocation may be modified upon further order of the Court. Any updates to the plan of allocation will be published on the settlement administration website.