

Settlement Class; and (3) whether and in what amount to award attorneys' fees and expenses to Class Counsel (including any incentive award to Representative Plaintiff).

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, and DECREED THAT:

1. The terms and conditions in the Agreement that was attached to the motion for preliminary approval filed with the Court are hereby incorporated as though fully set forth in this Judgment, and unless otherwise indicated, capitalized terms in this Judgment shall have the meanings attributed to them in the Agreement.

2. The Court has personal jurisdiction over Representative Plaintiff, Defendant, and Class Members, venue is proper, the Court has subject matter jurisdiction to approve the Agreement, including all exhibits thereto, and the Court has jurisdiction to enter this Judgment. Without in any way affecting the finality of this Judgment, this Court hereby retains jurisdiction as to all matters relating to administration, consummation, enforcement, construction, and interpretation of the Agreement and of this Judgment. Further, this Court hereby retains jurisdiction to protect, preserve, and implement the Agreement, including, but not limited to, enforcement of the releases contained in the Agreement, and to enter such further orders as may be necessary or appropriate in administering and implementing the terms and provisions of the Agreement.

3. The Settlement was negotiated at arm's length by experienced counsel who were fully informed of the facts and circumstances of this Action and of the strengths and weaknesses of their respective positions. The Settlement was reached after the parties had engaged in extensive and multiple settlement negotiation sessions. Counsel for the parties were therefore well positioned to evaluate the benefits of the Settlement, considering the risks and uncertainties of continued litigation, the time and expense that would be necessary to prosecute the Action through

class certification, trial and any appeals that might be taken, and the likelihood of success.

4. The Court finds that the prerequisites for a class action under Fed. R. Civ. P. 23(a) and 23(b) have been satisfied for settlement purposes in that: (a) the number of Class Members is so numerous that joinder of all members is impracticable; (b) there are questions of law and fact common to the Settlement Class; (c) the claims of Representative Plaintiff are typical of the claims of the Settlement Class they seek to represent; (d) Representative Plaintiff and Class Counsel have and will continue to fairly and adequately represent the interests of the Settlement Class for purposes of the Settlement; (e) the questions of law and fact common to Class Members predominate over any questions affecting any individual Class Member; (f) the Settlement Class is reasonably ascertainable; and (g) a class action is superior to the other available methods for the fair and efficient adjudication of the controversy. Accordingly, and pursuant to Fed. R. Civ. P. 23, this Court hereby finally certifies the Settlement Class.

5. Pursuant to Fed. R. Civ. P. 23, the Court hereby finally certifies the Settlement Class for settlement purposes only, as identified in the Settlement Agreement, which shall be defined as follows:

[D]uring the Class Period defined in Section 2.11, Representative Plaintiff and all policyholders who were insured by GEICO under a motor vehicle insurance policy issued in Tennessee for collision and uninsured motorist coverage and submitted an uninsured motorist claim to GEICO in which GEICO determined the other driver was known, uninsured, and solely at fault and to whom GEICO applied a deductible (or any other deductible).

“Class Period” means the following time period: from June 29, 2012 until five (5) business days after the Court enters the Preliminary Approval Order as defined by Sections 2.2. and 3.3.3.

6. Pursuant to Fed. R. Civ. P. 23(g), the Court appoints the law firms of Watson Burns, PLLC, and the Futhey Law Firm, PLC, as Class Counsel for the Settlement Class.

7. The Court also designates Plaintiff Jonathan H. Weimar as the Class Representative of the Settlement Class.

8. The Court makes the following findings with respect to the Class Notice to the Settlement Class:

- a. The Court finds that the Class Notice, the establishment of an automated toll-free interactive voice response phone system, and the Settlement website, all as provided for in the Settlement Agreement and the Preliminary Approval Order, (i) constituted notice that was reasonably calculated, under the circumstances, to apprise Class Members of the Settlement, their right to object or to exclude themselves from the Settlement, and their right to appear at the Final Approval Hearing; (ii) were reasonable and constituted due, adequate and sufficient notice to all persons entitled to be provided with notice; and (iii) complied fully with all legal requirements, including the requirements of Fed. R. Civ. P. 23, the United States Constitution, the Rules of this Court, and any other applicable law.
- b. The parties have filed with the Court a declaration from JND Legal Administration, the independent third-party Settlement Administrator for the Settlement, establishing that the Class Notice was mailed to Class Members from August 30, 2020 to October 12, 2020, the Settlement website was established on August 31, 2020, and the telephone line available for Class Members to call was made available beginning August 31, 2020. Adequate notice was given to the Settlement Class in compliance with the Settlement Agreement and the Preliminary Approval Order.

9. Persons who wished to be excluded from the Settlement Class were provided an opportunity to request exclusion as described in the Class Notice and Opt-out Form, and on the Settlement website. The Court finds that the individual interests of the ten (10) persons who timely sought exclusion from the Settlement Class are preserved and that no person was precluded from being excluded from the Settlement Class if desired. Those persons who timely and properly excluded themselves from the Settlement Class are identified in the attached Exhibit 1.

10. Defendant has complied with all notice obligations under the Class Action Fairness Act, 28 U.S.C. §§ 1715, *et seq.*, in connection with the proposed Settlement.

11. No objections to the proposed settlement have been filed.

12. Class Members who did not timely file and serve an objection in writing to the Settlement Agreement, to the entry of this Judgment, to Class Counsel's application for fees, costs, and expenses (including the incentive award to Representative Plaintiff), in accordance with the procedure set forth in the Class Notice and mandated in the Preliminary Approval Order, are deemed to have waived any such objection through any appeal, collateral attack, or otherwise.

13. The terms and provisions of the Agreement, including all exhibits thereto, have been entered into in good faith and, pursuant to Fed. R. Civ. P. 23(e), are hereby fully and finally approved as fair, reasonable, adequate as to, and in the best interests of, Class Members. The Court hereby enters judgment approving and adopting the Settlement and the Agreement, fully and finally terminating the Released Claims of Representative Plaintiffs and the Settlement Class in this Action and in the Colby Action against Defendants, on the merits and with prejudice.

14. Pursuant to Fed. R. Civ. P. 23(h), the Court hereby awards Class Counsel attorneys' fees and expenses in the total amount of one hundred twelve thousand five hundred dollars (\$112,500), payable by Defendant pursuant to the terms of the Agreement. Defendant shall not be responsible for and shall not be liable with respect to the allocation among Class Counsel or any other person who may assert a claim thereto of attorneys' fees and expenses awarded by the Court. The Court also awards an incentive award to the Representative Plaintiff in the amount of two thousand five hundred dollars (\$2,500).

15. The terms of the Agreement, including all exhibits thereto, and of this Judgment, shall be forever binding on, and shall have *res judicata* and preclusive effect in and on, all Released Claims by Representative Plaintiff and each Class Member who did not timely and properly exclude himself or herself from the Settlement Class, as well as each of their respective heirs, beneficiaries, administrators, successors, and assigns, and all other Releasing Persons.

16. The Releases set forth in Section 9 of the Settlement Agreement, are incorporated herein in all respects and are effective as of the entry of this Judgment. The Released Persons are forever released, relinquished, and discharged by the Releasing Persons, including all Class Members who did not timely exclude themselves from the Settlement Class, from all Released Claims (as that term is defined below and in the Settlement Agreement).

- a. Representative Plaintiff and each Class Member, shall, by operation of the Final Judgment, be deemed to have fully, conclusively, irrevocably, forever, and finally released, relinquished, and discharged Defendant and all other Released Persons from any and all claims, Unknown Claims, actions, causes of action, suits, debts, sums of money, payments, obligations, reckonings, promises, damages, interest, penalties, attorney's fees and costs, liens, judgments, and demands of any kind

whatsoever that each Releasing Person has or may have had prior to the Effective Date and arising from a loss during the Class Periods, whether *ex contractu* or *ex delicto*, debts, liens, contracts, liabilities, agreements, attorneys' fees, costs, penalties, interest, expenses, or losses (including actual, consequential, statutory, extra-contractual and punitive or exemplary damages), and whether arising under or based on contract, extra-contractual or tort theories, at law or in equity, or under federal, state or local law, statute, ordinance, rule or regulation, whether asserted individually or in a representative capacity, whether past or present, mature or not yet mature, that any of the Representative Plaintiff or Class Members have raised or could have raised in the Action against any of the Released Persons ("Released Claims") relating in any way to deductibles for uninsured motorist coverage.

- b. In agreeing to the foregoing Releases, Representative Plaintiff, for himself and on behalf of Class Members, explicitly acknowledge that Unknown Claims within the scope of Released Claims could possibly exist and that any present losses may have been underestimated in amount or severity. Representative Plaintiff or any Class Member may hereafter discover facts other than or different from those that he/she knows or believes to be true with respect to the subject matter of the Released Claims or the law applicable to such claims may change. Nonetheless, Representative Plaintiff and each Class Member expressly agree that he/she/they shall have irrevocably waived and fully, finally and forever settled and released any known or unknown, suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, contingent or non-contingent, claims with respect to all Released Claims, including Unknown Claims. Further, Representative Plaintiff and Class

Members agree and acknowledge that they are bound by the Settlement Agreement, including by the Releases, and that all of their claims in the Action asserted against Defendant shall be dismissed with prejudice and released, without regard to subsequent discovery of different or additional facts or subsequent changes in the law, and regardless of whether unknown losses or claims exist or whether present losses may have been underestimated in amount or severity, and even if they never received actual notice of the Settlement or received a Claim Settlement Payment. The Parties acknowledge that the foregoing Releases were bargained for and are a material element of the Agreement.

- c. In connection with the foregoing Releases, Representative Plaintiff and each Class Member shall be deemed, as of the entry of this Judgment, to have waived any and all provisions, rights, and benefits conferred by any statute, rule and legal doctrine similar, comparable, or equivalent to California Civil Code Section 1542, which provides that:

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

To the extent that anyone might argue that these principles of law are applicable— notwithstanding that the Parties have chosen Tennessee law to govern this Settlement Agreement—Representative Plaintiff agrees, and each Class Member is deemed to agree, that the provisions of all such principles of law or similar federal or state laws, rights, rules, or legal principles, to the extent they are found to be

applicable herein, are hereby knowingly and voluntarily waived, relinquished, and released. Representative Plaintiff recognizes, and each Class Member will be deemed to recognize, that, even if they may later discover facts in addition to or different from those which they now know or believe to be true, they nevertheless agree that, upon entry of this Judgment, they fully, finally, and forever settle and release any and all Released Claims.

- d. Provided, however, that Released Claims do not include: Members' rights and obligations under this Agreement.
- e. The Releases do not affect the rights of potential Class Members who timely and properly submit a request for exclusion from the Settlement Class in accordance with the Settlement Agreement.

17. Neither the Agreement, the negotiations or proceedings connected with it, nor any of the documents or statements referred to therein, nor this Judgment, nor any of its terms and provisions, nor any pleadings, motions, or other document related in any way to the Agreement shall be:

- a. Construed as an admission or concession by Defendant of the truth of any of the allegations in the action, or of any liability, fault, or wrongdoing of any kind by Defendant;
- b. Offered into evidence in the Action or in any other case or proceeding: (i) in support of or in opposition to a motion to certify a contested class against Defendant; or (ii) as an admission or concession of liability or wrongdoing by Defendant.

18. If the Effective Date does not occur, this Judgment shall automatically be rendered null and void and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void.

19. This Judgment and the Agreement (including the exhibits thereto) may be filed in any action against or by any Released Person in order to support any argument, defense or counterclaim, including, without limitation, those based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion, issue preclusion, or similar defense or counterclaim.

20. Representative Plaintiff and all Class Members who have not opted out, and anyone purporting to act on their behalf are, from this day forward, hereby permanently barred and enjoined from filing, commencing, prosecuting, intervening in, maintaining, or participating in (as parties, class members, or otherwise) any new or existing action or proceeding before any court or tribunal regarding any Released Claims against any Released Persons, and from organizing any Class Members into a separate class for purposes of pursuing as a purported class action any lawsuit regarding any Released Claims against any Released Persons, and providing that any person in violation of the injunction may be subject to sanctions, including payment of reasonable attorneys' fees incurred in seeking enforcement of the injunction.

21. Within 10 days after the Effective Date under the Agreement, Representative Plaintiff and Class Members shall dismiss with prejudice all Released Claims asserted in any actions or proceedings that have been brought by or involve any Class Member in any jurisdiction.

22. The Released Claims of Representative Plaintiff, individually and on behalf of the Settlement Class, are hereby settled, compromised, and dismissed on the merits and with prejudice against Defendant without fees (including attorneys' fees) or costs to any party except as otherwise provided in this Judgment.

23. The parties are hereby directed to implement and consummate the Settlement according to its terms and provisions, as may be modified by Orders of this Court. Without further order of the Court, the parties may agree to reasonable extensions of time to carry out any of the provisions of the Agreement, as may be modified by the Preliminary Approval Order or this Judgment.

24. Pursuant to Rule 54(b), the Court hereby enters Final Judgment as described herein and expressly determines that there is no just reason for delay. Without impacting the finality of this Judgment, the Court shall retain jurisdiction over the construction, interpretation, consummation, implementation, and enforcement of the Agreement and forthcoming Judgment, including jurisdiction to enter such further orders as may be necessary or appropriate.

IT IS SO ORDERED on this 2nd day of December 2020.

s/John T. Fowlkes, Jr.
JOHN T. FOWLKES, JR.
United States District Judge