

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

**FILED**

MAY 17 2021

CLERK, U.S. DISTRICT CLERK  
WESTERN DISTRICT OF TEXAS  
BY \_\_\_\_\_ DEPUTY

ROY C. SPEGELE, individually and on behalf  
of all others similarly situated,

Plaintiff,

v.

USAA LIFE INSURANCE COMPANY,

Defendant.

Case No. 5:17-cv-967-OLG

**ORDER PERMITTING ISSUANCE OF NOTICE OF PROPOSED CLASS ACTION  
SETTLEMENT**

Before the Court is Plaintiff's unopposed motion to permit issuance of Class Notice of the proposed class action Settlement (Doc. 103). The Parties propose a Settlement of this Action in accordance with a Settlement Agreement dated April 1, 2021 (the "Agreement"), which, together with the Exhibits to the Agreement, sets forth the terms and conditions for a proposed Settlement of this Action and for a dismissal of the Action with prejudice.<sup>1</sup> The Court hereby GRANTS the motion and further orders as follows:

1. **Giving Notice of the Settlement to the Class is Justified.** Pursuant to Federal Rule of Civil Procedure 23(e)(1), the Court finds that giving Class Notice is justified. The Court finds that it will likely be able to approve the proposed Settlement as fair, reasonable, and adequate. The Court also finds that it will likely be able to certify the following Settlement Class

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<sup>1</sup> All defined terms in this order have the same meanings ascribed to them in the Agreement.

because it meets the requirements of Rule 23(a) and Rule 23(b)(3):

Persons or entities who own or owned one of approximately 39,000 Universal Life 1 or Universal Life 2 life insurance policies issued or administered by USAA Life or its predecessors in interest, and in force on or after March 1, 1999; and persons or entities who own or owned one of approximately 83,000 Universal Life 3 or Universal Life 4 life insurance policies issued or administered by USAA Life or its predecessors in interest, and in force on or after March 1, 1999.<sup>2</sup>

2. **Jurisdiction.** The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2), and personal jurisdiction over the Parties. Additionally, venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2).

3. **Class Counsel.** In certifying a class earlier in this case, the Court recognized that Plaintiff's counsel—Stueve Siegel, Miller Schirger, and Girard Sharp—have extensive experience in litigating cost of insurance overcharge cases and, pursuant to Rule 23(g)(1), appointed them as Class Counsel. Accordingly, the Court appoints these counsel as interim class counsel of the proposed Settlement Class pursuant to Rule 23(g)(3), pending certification of the Settlement Class, for purposes of issuing Class Notice.

4. **Settlement Administrator.** The Court appoints Analytics Consulting LLC as the

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<sup>2</sup> Excluded from the Settlement Class are USAA Life; any entity in which USAA Life has a controlling interest; any of the officers, directors, or employees of USAA Life; the legal representatives, heirs, successors, and assigns of USAA Life; anyone employed with Plaintiff's law firms; and any Judge to whom this case is assigned, and his or her immediate family. Also excluded from the Class are persons or entities who own or owned Universal Life 3 and Universal Life 4 Policies issued in New Jersey and policies issued by USAA Life Insurance Company of New York (except to the extent they owned Policies that are otherwise in the Settlement Class).

Settlement Administrator, with responsibility for Class Notice and claims administration.

5. **Notice.** The proposed Class Notice program set forth in the Agreement and the declaration of Richard W. Simmons, of Analytics Consulting LLC, and the Class Notice attached to the Agreement as Exhibit A, are hereby approved. Non-material modifications to the Class Notice may be made without further order of the Court.

The Court finds that the proposed form, content, and method of giving Class Notice (a) will constitute the best practicable notice to the Settlement Class; (b) are reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the action, the terms of the proposed Settlement, and their rights under the proposed Settlement, including their rights to object to or exclude themselves from the proposed Settlement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Class Members; and (d) meet all applicable requirements of law, including Federal Rule of Civil Procedure 23(c) and (e), and the Due Process Clause of the United States Constitution. The Court further finds that the Class Notice is written in plain language, uses simple terminology, and is designed to be readily understandable by Class Members.

The Settlement Administrator and the Parties are directed to carry out the Class Notice provisions of Section 4 of the Agreement.

6. **Exclusion from Class.** Any Class Member who wishes to be excluded from the Settlement Class must mail a written notification of the intent to exclude herself or himself from the Settlement Class to the Settlement Administrator at the address and in the manner provided in the Class Notice. Requests for exclusion must meet the opt-out deadline established by this Order and stated in the Court-approved Class Notice.

7. **Class Action Fairness Act Notice.** Within 10 days after the filing of the motion to permit issuance of notice, the Settlement Administrator shall serve or cause to be served a notice of the proposed Settlement on appropriate officials in accordance with the requirements under the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1715(b).

8. **Fairness Hearing.** A Fairness Hearing shall be held on August 26, 2021, at 1:30 P.M. at the United States District Court for the Western District of Texas at 655 E. Cesar E. Chavez Blvd., San Antonio, Texas 78206, either in-person or by telephone or video, to determine, among other things, whether: (a) this matter should be finally certified as a class action for settlement purposes pursuant to Fed. R. Civ. P. 23(b)(3) and (e); (b) the Settlement should be approved as fair, reasonable and adequate, and finally approved pursuant to Fed. R. Civ. P. 23(e); (c) this case should be dismissed with prejudice pursuant to the terms of the Agreement; (d) Settlement Class Members should be bound by the releases set forth in the Agreement; (e) the application for Class Counsel’s Fees and Expenses should be approved pursuant to Fed. R. Civ. P. 23(h); and (f) the application for Plaintiff’s Service Award should be approved.

9. **Objections and Appearances.** Any Settlement Class Member may appear and explain why the proposed Settlement of this case should or should not be approved as fair, reasonable, and adequate, why a judgment should or should not be entered, why Class Counsel’s Fees and Expenses should or should not be awarded, or why Plaintiff’s Service Award should or should not be awarded; provided, however, that no Settlement Class Member or any other person shall be heard or entitled to contest such matters unless he or she has complied with the deadline established by this Order and the requirements for objections set forth in the Court-approved Class Notice. Any Settlement Class Member who does not make his or her objection in the

manner provided shall be deemed to have waived any objection and shall forever be foreclosed from objecting to the fairness or adequacy of the proposed Settlement, or to the award of Class Counsel’s Fees and Expenses or Plaintiff’s Service Award, unless otherwise ordered by the Court.

10. **Continuance of Hearing.** The Court reserves the right to adjourn or continue the Fairness Hearing and related deadlines without further mailed notice to the Settlement Class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the website maintained by the Settlement Administrator. The Court may approve the Settlement, with such modifications as may be agreed by the Parties, if appropriate, without further notice to the Settlement Class.

11. **Schedule and Deadlines.** The Court orders the following schedule for the specified actions and further proceedings:

EVENT	TIMING
Deadline for Settlement Administrator to disseminate CAFA notices	10 days from filing of motion to issue notice
Deadline for USAA Life to provide Notice List to Settlement Administrator	14 days after this Order permitting issuance of Class Notice
Deadline for the Settlement Administrator to mail Court-approved Class Notice to Settlement Class	45 days after this Order permitting issuance of Class Notice
Deadline for Class Counsel to file motion for final approval of Settlement and motion for Class Counsel’s Fees and Expenses and Plaintiff’s Service Award	14 days after the Notice Date
Objection deadline	35 days after Notice Date
Opt-out deadline	35 days after Notice Date

Deadline for Class Counsel to file with the Court all objections served on the Settlement Administrator	5 days after objection deadline
Deadline for responses to any timely objections	Anytime prior to the Fairness Hearing
Fairness Hearing	August 26, 2021 at 1:30 P.M.

Dated: \_\_\_\_\_

5.15.21



Orlando L. Garcia

Chief United States District Judge