

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

DUANE BUCK AND ANN BUCK,  
on Behalf of Themselves and All  
Others Similarly Situated,

Case No. 1:17-cv-13278-CPO-EAP

Plaintiffs,

v.

AMERICAN GENERAL LIFE  
INSURANCE COMPANY,

Defendant.

**SETTLEMENT AGREEMENT**

This Settlement Agreement, dated \_\_\_\_\_, 2023, is entered into between Duane Buck and Ann Buck (as defined herein, the “Bucks”) individually and on behalf of the Settlement Classes; and American General Life Insurance Company (as defined herein, “AGLIC”). Subject to the approval of the Court and the terms and conditions expressly provided herein, this Settlement Agreement is intended to fully, finally, and forever settle, release, resolve, and dismiss with prejudice all Released Claims against AGLIC.

**I. BACKGROUND**

WHEREAS:

A. On December 19, 2017, the Bucks filed this Action against AGLIC, alleging inaccuracies in Illustrations and Annual Statements that AGLIC provided to Policyholders. On January 3, 2018, the Bucks amended their complaint.

B. On March 5, 2018, AGLIC filed a motion to dismiss the Amended Complaint and strike its class allegations. On October 31, 2018, the Court granted the motion in part and denied the motion in part.

C. On December 13, 2018, AGLIC filed an answer denying the material allegations in the Amended Complaint including, but not limited to, any and all allegations of wrongdoing or liability against AGLIC and asserted various defenses to the Bucks' claims.

D. The Settling Parties subsequently engaged in substantial discovery, including written interrogatories; document requests resulting in AGLIC's production of more than 100,000 pages including extensive policy files of potential class members; and party depositions.

E. On July 29, 2020, the Bucks filed a motion to certify a damages class, under Federal Rule of Civil Procedure 23(b)(3), and an injunctive class, under Federal Rule of Civil Procedure 23(b)(2). AGLIC opposed the Bucks' motion, and as authorized by the Court, filed a sur-reply (to which the Bucks were permitted to file a sur-surreply). Briefing on the Bucks' motion to certify included extensive declarations from fact and expert witnesses, and by counsel, and thousands of pages of exhibits.

F. On February 25, 2021, the Court denied the Bucks' motion for class certification. The Court found that the Bucks failed to satisfy the typicality requirement of Federal Rule of Civil Procedure 23(a)(3), Ann Buck failed to satisfy the adequacy requirement of Federal Rule of Civil Procedure 23(a)(4), and the proposed damages class failed to satisfy the predominance and ascertainability requirements of Federal Rule of Civil Procedure 23(b)(3). Because it found that the damages class failed on predominance and ascertainability grounds, the Court declined to reach the question under Rule 23(b)(3) of whether a "class action is superior to other available methods for fairly and efficiently adjudicating the controversy."

G. On March 11, 2021, the Bucks filed with the United States Court of Appeals for the Third Circuit a petition seeking permission to appeal the Court's denial of their motion for class certification under Federal Rule of Civil Procedure 23(f). On July 9, 2021, the Third Circuit granted the Bucks' petition, granting them permission to appeal.

H. On August 3, 2021, in advance of any briefing, the Bucks' appeal was referred to the Third Circuit's mandatory mediation program. After more than a year of arms-length negotiations facilitated by the Third Circuit's Chief Circuit Mediator, Joseph A. Torregrossa, the Settling Parties reached the Settlement reflected in this Settlement Agreement.

I. As described below, this Settlement Agreement, if approved by the Court, provides cash compensation to the Damages Settlement Class, as well as non-monetary compensation in the form of an enhanced disclosure on Annual Statements to the Injunctive Settlement Class.

J. Based upon their investigation and prosecution of the Action, and following a more than year-long mediation, the Bucks and Class Counsel believe that the terms and conditions of this Settlement are fair, reasonable, and adequate to the Bucks and the Settlement Class Members, and in their best interests. The Bucks, with the advice of Class Counsel, have agreed to fully and finally settle and release the Released Claims in accordance with the terms and provisions of the Settlement Agreement, after considering, among other things: (i) the financial and other benefits that the Bucks and the other Settlement Class Members will receive; and (ii) the significant expense and uncertainty of continued litigation and trial.

K. AGLIC has entered into this Settlement Agreement solely to eliminate the burden and expense of further litigation. AGLIC specifically denies any wrongdoing or liability arising from or related to the Action, including as to the Released Claims, and this Settlement Agreement is not, and shall not be construed as or deemed to be, evidence of or an admission or concession

on AGLIC's part with respect to any claim or allegation of wrongdoing or liability or damage whatsoever, or any infirmity in any defense that AGLIC has asserted or could have asserted. AGLIC expressly denies that any valid claim has been asserted against it in this Action, and expressly denies any and all allegations of wrongdoing, liability, or damages.

NOW THEREFORE, it is hereby agreed, by and among the Bucks (individually and on behalf of the Settlement Class Members) and AGLIC, by and through their respective undersigned attorneys and subject to the approval of the Court, that this Settlement Agreement is intended to fully, finally, and forever compromise, settle, release, resolve, and dismiss with prejudice all Released Claims against AGLIC.

## II. DEFINITIONS

Capitalized terms used in this Settlement Agreement, including in the introductory paragraph and the Background section, have the following respective meanings. Defined terms expressed in the singular also include the plural form of the term, and vice versa, where applicable.

1. "Action" means the above-captioned action styled *Buck v. American General Life Insurance Company*, 1:17-cv-13278-CPO-EAP.
2. "Active Policy" means a Policy that, as of the Preliminary Approval Date, has not terminated or for which coverage has not ceased, either due to lapse, surrender, maturity, death of the insured, or any other reason.
3. "AGLIC" means American General Life Insurance Company and all entities merged into American General Life Insurance Company, including the entities listed on Appendix I, and all successors and assigns of American General Life Insurance Company.
4. "Allocation Plan" means the terms and procedures for allocating the Net Settlement Fund among, and distributing it to, Damages Settlement Class Members, as the Court shall

approve. The Bucks and Class Counsel shall ask the Court to approve the Allocation Plan substantially in the form set out in Exhibit A.

5. “Amended Complaint” means the Amended Class Action Complaint filed by the Bucks in the Action on January 3, 2018.

6. “Annual Statement” means a report, often styled as an “Annual Statement” or “Annual Report,” delivered to a Policyholder on an annual basis, which provides information regarding the status of the Policyholder’s Policy.

7. “Approved Claim” means a Claim by a Claimant approved by the Settlement Administrator in accordance with the procedures of Section VIII.

8. “Approved Claimant” means a Claimant whose claim is an Approved Claim.

9. “Buck” means Duane Buck.

10. “Bucks” means Duane and Ann Buck.

11. “Claim” means a claim for payment from the Net Settlement Fund submitted through a Proof of Claim to the Settlement Administrator.

12. “Claimant” means a Policyholder who is not an Identified Damages Settlement Class Member but who submits a Claim.

13. “Class Counsel” means the law firms of Stark & Stark, P.C., and Gorman & Gorman, LLC.

14. “Class Notice” means notice of the Settlement through the Long-Form Class-Notice, Short-Form Class Notice or Publication Notice, as applicable.

15. “Class Notice and Administration Costs” means the costs, fees, and expenses that are incurred by the Settlement Administrator in providing Class Notice and administering the Settlement, as well as the costs, fees, and expenses incurred in connection with the Settlement

Fund.

16. “Class Notice List” means the list of every Identified Damages Settlement Class Member.

17. “Court” means the United States District Court for the District of New Jersey.

18. “Damages Settlement Class” means a class comprised of the Identified Damages Settlement Class Members and Supplemental Damages Settlement Class Members. The Damages Settlement Class excludes any persons or entities who opt out from the Damages Settlement Class in accordance with this Settlement Agreement and the procedures set forth in the Class Notice.

19. “Damages Settlement Class Member” means a member of the Damages Settlement Class.

20. “DEFRA Letter” means a written communication with respect to a Policy, advising that premium payments have been, are, or will be restricted, limited, or prohibited, either temporarily or permanently, in whole or in part, as a result of requirements and premium limits contained in and imposed by IRC § 7702.

21. “Effective Date” means thirty-five days after the date the Final Approval Order and Judgment has been entered, if no appeal from the Final Approval Order and Judgment has been filed. If an appeal from the Final Approval Order and Judgment has been filed and the appeal is dismissed or the Final Approval order and Judgment is affirmed in full, the Effective Date shall be the later of (i) thirty-five days from the date the appeal is dismissed or the Final Approval Order and Judgment is affirmed in full, and (ii) the day following the deadline to file any further appeal after the appeal is dismissed or the Final Approval Order and Judgment is affirmed in full. If an appeal from the Final Approval Order and Judgment has been filed and the Final Approval Order and Judgment is reversed, modified or vacated, in whole or in part, the Effective Date will not

have occurred.

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

23. “Final Approval Order and Judgment” means an order of dismissal and final judgment entered by the Court in the Action dismissing the claims asserted in the Action with prejudice, granting final approval of the Settlement Agreement, and entering judgment according to the terms of this Settlement Agreement.

24. “Identified Damages Settlement Class Member” means a Policyholder that AGLIC has identified as meeting the Identified Damages Settlement Class Member Criteria.

25. “Identified Damages Settlement Class Member Criteria” means the criteria set forth in Section V of this Settlement Agreement.

26. “Illustration” means a hypothetical presentation or depiction provided to a Policyholder after a Policy has been issued showing the Policyholder how the Policy may perform in the future under various assumptions and circumstances.

27. “Inactive Policy” means a Policy that, on or before the Preliminary Approval Date, has terminated or for which coverage has ceased, either due to lapse, surrender, maturity, death of the insured, or any other reason.

28. “Incentive Award” means any award approved by the Court to be paid to the Bucks

from the Settlement Fund, as compensation for efforts undertaken by them on behalf of the Settlement Classes.

29. “Injunctive Settlement Class” means a class comprised of Policyholders with Active Policies administered on the ULA. LifeComm86, LifeComm90, ALS, or ALIP administrative systems.

30. “Injunctive Settlement Class Member” means a member of the Injunctive Settlement Class.

31. “IRC § 7702” means Section 7702 of the Internal Revenue Code of 1986, as well as its predecessor provision, Section 101(f) of the Internal Revenue Code of 1954, and all other regulations, revenue rulings, or other regulatory or administrative guidance, imposing limitations on premiums paid towards a Universal Life Insurance policy.

32. “Litigation Expenses” means costs and expenses incurred by Class Counsel in connection with commencing, prosecuting, and settling the Action, for which Class Counsel will apply to the Court for payment or reimbursement from the Settlement Fund, including for reimbursement of costs and expenses related to their representation of the Settlement Classes.

33. “Long-Form Class Notice” means the “Notice of Class Action,” attached as Exhibit B.

34. “Net Settlement Fund” means the Settlement Fund less any Class Notice and Administration Costs, Litigation Expenses awarded by the Court, attorneys’ fees awarded by the Court, Incentive Awards, and any other costs or fees approved by the Court.

35. “Plaintiffs” means the Bucks.

36. “Planned Premium” means the premium set by the Policyholder with regard to a Policy for a particular period.



37. “Policy” means a Universal Life Insurance policy in the United States that was issued by AGLIC. Policy includes each and every application, rider, endorsement, and other document specifically made part of the Policy, or that is otherwise part of the “Contract” as that term is defined in the Policy.

38. “Policyholder” means a Policy’s last known owner or owners, as reflected in AGLIC’s records.

39. “Preliminary Approval Date” means the date when the Court enters the Preliminary Approval Order.

40. “Preliminary Approval Order” means the order, substantially in the form attached as Exhibit E, issuing a preliminary determination that the Settlement Classes can be certified, approving the Settlement Agreement, and directing that Class Notice be provided to the Settlement Classes.

41. “Proof of Claim” means the form, substantially in the form attached as Exhibit F, that a Claimant shall submit to make a Claim.

42. “Publication Notice” means the method of publicizing the Settlement to the public through the notice attached as Exhibit D, as set forth in the Preliminary Approval Order.

43. “Released Claims” means all claims, actions, causes of action, demands, damages, penalties, losses, or remedies of every nature, whether known or Unknown, that result from, relate to, or arise out of the conduct, acts, omissions, duties, or matters that were or could have been alleged in the Action, or that may hereafter be asserted relating to or arising out of that conduct or those acts, omissions, duties, or matters, relating to or concerning Illustrations, Annual Statements, AGLIC’s systems, or AGLIC’s calculation of premium limits contained in or imposed by IRC § 7702. Released Claims do not include any claim currently pending in any court by a Policyholder

against AGLIC that would otherwise be a Released Claim, unless such claim has been disclosed by AGLIC to Class Counsel in writing ten days prior to the deadline to opt out from the Damages Settlement Class as set forth in the Class Notice.

44. “Releasees” means AGLIC and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors, and assigns, and each of their respective present and former employees, members, partners, principals, officers, directors, shareholders, agents, attorneys, advisors, consultants, joint ventures, and independent contractors, and the predecessors, successors, and assigns of each of them.

45. “Releasers” means the Bucks and the Settlement Class Members, and each of their respective present and former heirs, executors, administrators, trusts, trustees, estates, beneficiaries, legatees, parents, subsidiaries, divisions, affiliates, partners, other related organizations, insurers, predecessors, successors, assigns, guardians, officers, directors, employees, shareholders, agents, attorneys, advisors, consultants, joint ventures, and independent contractors, and legal and other representatives.

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

47. “Settlement Administrator” means the firm retained, subject to approval of the Court, to administer the Settlement, including by providing or arranging to be provided all notices approved by the Court, administering the claims process and distributing the proceeds of the Settlement Fund in accordance with this Settlement Agreement.

48. “Settlement Agreement” means this agreement, including any accompanying exhibits and appendices, and any amendments, including and any exhibits and appendices to such amendments, which embodies the Settlement.

49. “Settlement Amount” means \$4,650,000.

50. “Settlement Classes” means the Damages Settlement Class and the Injunctive Settlement Class.

51. “Settlement Class Member” means a Damages Settlement Class Member or Injunctive Settlement Class Member (or a member of both the Damages Settlement Class and Injunctive Settlement Class).

52. “Settlement Fund” means a non-reversionary cash fund, that shall be a single qualified settlement fund pursuant to 26 U.S.C. § 468 used to pay Class Notice and Administration Costs, Litigation Expenses awarded by the Court, attorneys’ fees awarded by the Court, any Incentive Award, any other costs or fees approved by the Court, and compensation to the Damages Settlement Class in accordance with the Allocation Plan. No portion of the Settlement Fund may revert to AGLIC, except pursuant to Paragraphs 80 or Section XI of this Settlement Agreement. AGLIC shall have no financial obligation under the Settlement Agreement or with respect to the Settlement other than payment of the Settlement Amount into the Settlement Fund.

53. “Settling Parties” means the Bucks, on behalf of themselves and the Settlement Classes, and AGLIC.

54. “Short-Form Class Notice” means the postcard notice, attached as Exhibit C.

55. “Specified Amount” means the amount designated in a Policy as the specified amount.

56. “Supplemental Damages Settlement Class Member” means a Policyholder that is not an Identified Damages Settlement Class Member but meets the Identified Damages Settlement Class Member Criteria, regardless of whether the Policyholder submits a Claim to the Claims Administrator.

57. “Universal Life Insurance” means an individual flexible premium adjustable life

insurance policy or an individual flexible premium variable universal life insurance policy.

58. “Unknown” means, with respect to a claim, a claim that the Bucks or any Settlement Class Member does not know of or suspect to exist in his, her, or its favor at the time of the release of such claim. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, the Bucks and the Settlement Class Members, expressly waive, and by operation of the Final Approval Order and Judgment, shall have expressly 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 or foreign law, which is similar, comparable, or equivalent to California Civil Code §1542, which provides:

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

The Settling Parties acknowledge that they may hereafter discover facts in addition to or different from those which they or their counsel now knows or believes to be true with respect to the subject matter of the Released Claims, but, upon the Effective Date, the Bucks shall expressly settle and release, and each of the other Settlement Class Members shall be deemed to have, and by operation of the Final Approval Order and Judgment, shall have, settled and released, any and all Released Claims without regard to the subsequent discovery or existence of such different or additional facts. The Settling Parties acknowledge, and each of the other Settlement Class Members shall be deemed by operation of law to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement.

### **III. PRELIMINARY AND FINAL APPROVAL**

59. The Bucks will immediately move for a preliminary determination regarding certification of the Settlement Classes and approval of the Settlement, authorization to provide

Class Notice, and the scheduling of the Fairness/Final Approval Hearing for consideration of final approval of the Settlement, which motion shall be unopposed by AGLIC. The motion for preliminary approval shall seek entry of the Preliminary Approval Order attached hereto as Exhibit E.

60. In accordance with a schedule to be set by the Court, Class Counsel will file a motion for final approval and judgment seeking certification of the Settlement Classes and final approval of the Settlement, and a motion for Class Counsel's fees and expenses. The motion for final approval shall seek entry of the Final Approval Order and Judgment.

#### **IV. RELEASE OF CLAIMS**

61. On the Effective Date, the Releasors shall be deemed to have, and by operation of the Final Approval Order and Judgment shall have, fully, finally, and forever released, relinquished and discharged the Releasees of and from all Released Claims and shall forever be barred and enjoined from prosecuting any and all Released Claims.

62. In addition to any other defenses the Releasees may have at law, in equity, or otherwise, to the extent permitted by law, this Settlement Agreement shall be a full and complete defense to and may be used as the basis for an injunction against, any action, suit, or other proceeding that may be instituted, prosecuted, maintained, or attempted in breach of this Settlement Agreement or concerning or asserting Released Claims.

63. The scope of the Released Claims shall not be impaired to any extent by the failure of any Settlement Class Member to receive the benefits, in whole or in part, provided for under this Settlement Agreement.

64. The Settling Parties acknowledge and expressly agree that the Releasors' release of the Released Claims, and the release provisions in this Section IV, constitute essential terms of

this Settlement Agreement.

65. Nothing in this Section IV shall preclude any action to enforce the terms of this Settlement Agreement.

**V. IDENTIFIED DAMAGES SETTLEMENT CLASS MEMBERS**

66. AGLIC has undertaken best efforts to identify Policyholders that, based on Annual Statements or Illustrations that a Policyholder received or may have received, and the Policyholder's past receipt of a DEFRA Letter or future projected receipt or possible receipt of a DEFRA Letter, the Settling Parties agree are entitled to compensation under the Settlement. These Policyholders are known as Identified Damages Settlement Class Members, and the criteria by which they are identified are known as Identified Damages Settlement Class Member Criteria, which are set forth below:

- a. For Policies administered on the LifeComm86 or LifeComm90 administrative systems:
  - i. For Active Policies or Inactive Policies, the Policyholder received a DEFRA Letter on or after December 19, 2011; or
  - ii. For Active Policies, the Policyholder has not received a DEFRA Letter on or after December 19, 2011, but the Policy is projected to, through the continued payment of Planned Premiums, reach or exceed the premium limits contained in and imposed by IRC § 7702.
- b. For Policies administered on the ULA administrative system:
  - i. For Active Policies or Inactive Policies, the Policyholder received a DEFRA Letter on or after December 19, 2011; or

ii. For Active Policies

1. The Policyholder has not received a DEFRA Letter on or after December 19, 2011, but the Policy is projected to, through the continued payment of Planned Premiums, reach or exceed the premium limits contained in and imposed by IRC § 7702; or
2. The Policyholder has not received a DEFRA letter on or after December 19, 2011, and before August 1, 2017, the Policy (i) had a death benefit option change from an increasing death benefit to a level death benefit, (ii) had a rider terminated; (iii) has had a decrease in the Specified Amount, or (iv) experienced a rate class change.

c. For Policies administered on the ALIP administrative system:

- i. For Active Policies or Inactive Policies, the Policyholder received a DEFRA Letter on or after December 19, 2011; or

ii. For Active Policies

1. The Policyholder has not received a DEFRA Letter on or after December 19, 2011, but the Policy is projected to, through the continued payment of Planned Premiums, reach or exceed the premium limits contained in and imposed by IRC § 7702; or
2. The Policyholder has not received a DEFRA letter on or after December 19, 2011, but before April 1, 2019, the Policy has had a death benefit option change from an increasing death benefit to a level death benefit or had a decrease in the Specified Amount.

- d. For Policies administered on the ALS administrative system:
  - i. For Active Policies or Inactive Policies, the Policyholder received a DEFRA Letter on or after December 19, 2011; or
  - ii. For Active Policies
    - 1. The Policyholder has not received a DEFRA Letter on or after December 19, 2011, but the Policy is projected to, through the continued payment of Planned Premiums, reach or exceed the premium limits contained in and imposed by IRC § 7702; or
    - 2. The Policyholder has not received a DEFRA letter on or after December 19, 2011, and on or before March 31, 2019, the Policy had a death benefit option change from an increasing death benefit to a level death benefit.
- di. For Policies administered on the VFLEX or AGNIS administrative systems under one of the product types listed in Appendix A to the Long-Form Settlement Notice:
  - i. For Active Policies or Inactive Policies, the Policyholder received an Illustration on or before April 30, 2019.
- dii. For Policies administered on the Vantage administrative system:
  - i. For Inactive Policies, (i) between January 1, 2011, and March 31, 2019, the Policy has had a death benefit option change from an increasing death benefit to a level death benefit, or between January 1, 2014, and March 31, 2019, the Policy has had a decrease in the Specified Amount; or (ii) the Policyholder received a DEFRA Letter on or after December 19, 2011, but after the date of the death benefit option change or Specified Amount



decrease.

- ii. For Active Policies; (i) between January 1, 2011, and March 31, 2019, the Policy has had a death benefit option change from an increasing death benefit to a level death benefit; or (ii) between January 1, 2014, and March 31, 2019, the Policy has had a decrease in the Specified Amount.

67. To qualify as an Identified Damages Settlement Class Member, a Policyholder must have, according to AGLIC's records, met the Identified Damages Settlement Class Member Criteria no later than November 30, 2022. For purposes of determining whether a Policyholder meets the Identified Damages Settlement Class Member Criteria and therefore is an Identified Damages Settlement Class Member, AGLIC applied the Identified Damages Settlement Class Member Criteria with respect to the Policy, without regard for changes in ownership of the Policy. By way of example, for an Inactive Policy administered on the Vantage administrative system, if the Policy's ownership changed such that the Policyholder that made a death benefit option change is different from the Policyholder that received a DEFRA Letter, but the Policy otherwise meets the Identified Damages Settlement Class Member Criteria relevant to the Vantage administrative system, the Policyholder is an Identified Damages Settlement Class Member.

68. Identified Damages Settlement Class Members shall be compensated from the Net Settlement Fund, in accordance with the Allocation Plan.

## **VI. SETTLEMENT RELIEF**

69. Class Counsel shall provide wire instructions for the Settlement Fund no later than the Effective Date, and AGLIC shall transfer the Settlement Amount into the Settlement Fund within ten days after the Effective Date.

70. Commencing no later than ten days after the Effective Date, AGLIC shall begin efforts to place the following disclosure language on all Annual Statements for Policies

administered on the ULA, LifeComm86, LifeComm90, ALS, and ALIP administrative systems:

“This Annual Statement does not account for premium contribution limits imposed by applicable law, which may prevent you from paying planned premiums through the listed termination dates.”

71. AGLIC will use best efforts to ensure that the disclosure language begins to appear on Annual Statements for Policies administered on the ULA, LifeComm86, LifeComm90, ALS, and ALIP administrative systems by June 30, 2024.

## **VII. CLASS NOTICE AND SETTLEMENT ADMINISTRATION**

72. In connection with the Preliminary Approval Order, Class Counsel shall seek appointment of a Settlement Administrator. The Settlement Administrator shall be responsible for administering the Settlement, including by providing Class Notice in accordance with the Preliminary Approval Order, overseeing the process of receiving, reviewing and approving or denying Claims from Claimants, managing the opt-out and objection process, and administering payments from the Settlement Fund. The Settlement Administrator, or its designee, will also serve, pursuant to 26 U.S.C. § 468, as the trustee of the Settlement Fund. The trustee shall, *inter alia*, provide accounting for the Settlement Fund; make any necessary tax return filings; issue any necessary tax forms; disperse sums in payment of Class Notice and Administration Costs, Litigation Expenses awarded by the Court, attorneys’ fees awarded by the Court; any Incentive Award, and any other costs or fees approved by the Court; and handle the closing of the Settlement Fund.

73. AGLIC shall not have responsibility, authority or liability for the selection of the Settlement Administrator, the administration of the Settlement, the Claims process, the opt-out or objection process, or disbursement of the Settlement Fund, and shall have no liability to any person or entity in connection with the foregoing, but shall cooperate in the administration of the Settlement to the extent reasonably necessary to effectuate its terms.

74. On or before ten business days after the motion for preliminary approval is filed with the Court, AGLIC shall serve or cause to be served the notice required under the Class Action Fairness Act (“CAFA”), 28 U.S.C. §1715 *et seq.*

75. AGLIC will provide the Class Notice List to the Settlement Administrator within seven days following the Preliminary Approval Date.

76. In accordance with the terms of the Preliminary Approval Order, the Settlement Administrator shall (i) mail the Short-Form Class Notice to Identified Damages Settlement Class Members, (ii) cause the Publication Notice to be published, and (iii) maintain a settlement website including, among other things, the Long-Form Settlement Notice.

77. The Class Notice will advise Damages Settlement Class Members of their right to opt out of the Settlement and the manner in which they are required to do so.

78. Every Damages Settlement Class Member that does not opt out in the manner required by the Class Notice, and all Injunctive Settlement Class Members, shall be bound by all subsequent proceedings, orders and judgments in this Action, and shall be deemed to have released all Released Claims, in accordance with the provisions of this Settlement Agreement.

79. The Settlement Administrator shall notify the Settling Parties of its receipt of any opt-out request within three days of its receipt of such opt-out request.

80. Notwithstanding anything in this Settlement Agreement, if the total number of Damages Settlement Class Members that opt out in the manner required by the Class Notice meets or exceeds two percent of the total number of Identified Damages Settlement Class Members, or if the aggregate death benefit amounts for Damages Settlement Class Members that opt out in the manner required by the Class Notice is \$6,000,000 or more, AGLIC shall have the right, in its sole and absolute discretion, but not the obligation, to withdraw from and terminate this Settlement

Agreement, which right AGLIC shall exercise no later than thirty days from the opt-out deadline set forth in the Class Notice.

81. The Class Notice will advise Settlement Class Members of their right to object to the Settlement and the manner for doing so.

82. The Settlement Administrator shall notify the Settling Parties of its the receipt of any objection within three days of its receipt of such objection.

83. Class Counsel shall file with the Court all objections served on the Settlement Administrator within five days after the deadline for the Settlement Class Members to file objections, or as otherwise directed by the Court. The Settling Parties may serve and file responses to written objections any time prior to the Fairness/Final Approval Hearing, or as otherwise directed by the Court.

#### **VIII. CLAIMS REVIEW PROCESS**

84. The Settlement Administrator shall determine whether a Claim is an Approved Claim.

85. An Approved Claim is a Claim submitted by or on behalf of a Claimant that meets the Identified Damages Settlement Class Member Criteria, as described in Section V of this Settlement Agreement.

86. All Claims must be submitted in the manner required by the Long-Form Class Notice. Any Supplemental Damages Settlement Class Member that fails to submit a Claim in that manner shall be forever barred from receiving any payment from the Net Settlement Fund or other benefit pursuant to this Settlement Agreement, but shall otherwise be bound by the terms and conditions of this Settlement Agreement, including the terms of the Final Approval Order and Judgment, and the Release of Claims as described in Section IV, and shall forever be permanently

barred and enjoined from bringing any action, claim, or other proceeding of any kind against the Releasees or any one or more of them, that is a Released Claim.

87. If the Settlement Administrator rejects a Claim, it shall notify the Claimant in writing within five days of receiving such Claim, stating the basis for its rejection.

88. A Claimant seeking review of a rejected Claim shall, within ten days after the Settlement Administrator sends the notice required in Paragraph 87 above, serve upon the Settlement Administrator a statement of the reasons for the Claimant's position along with any supporting documentation, and request a review of the Claim by the Settlement Administrator. The Settlement Administrator will review the Claimant's statement and any supporting documentation provided by the Claimant and will determine whether to uphold or reverse its prior determination within two days.

#### **IX. PAYMENT FROM SETTLEMENT FUND**

89. Within five days after AGLIC transfers the Settlement Amount into the Settlement Fund, the Settlement Administrator shall issue payment from the Settlement Fund for Class Notice and Administration Costs, Litigation Expenses awarded by the Court, attorneys' fees awarded by the Court, Incentive Awards, and any other costs or fees approved by the Court.

90. Within ten days after the Effective Date, the Settlement Administrator shall begin to distribute by U.S. mail, first-class postage prepaid from the Settlement Fund settlement checks calculated based on the Allocation Plan.

91. Settlement checks shall remain negotiable for 180 days from the date of mailing. Settlement checks that are not negotiated within this time shall be null and void, and those funds shall be sent by the Settlement Administrator, for the benefit of the relevant Damages Settlement Class Member, to the unclaimed property division of the state to which each settlement check was

sent or shall be distributed as otherwise ordered by the Court.

92. No person or entity shall have any claim against the Bucks, Class Counsel, the Settlement Administrator, or the Releasees, relating to or arising out of any distribution (or lack thereof) pursuant to the Allocation Plan, this Settlement Agreement, the Settlement, or orders of the Court.

93. The Settling Parties understand and agree that, notwithstanding any other provision of this Settlement Agreement, a court-ordered or court-approved change to the Allocation Plan shall not operate to modify, terminate, or cancel this Settlement Agreement or the Settlement, or affect the finality of the Final Approval Order and Judgment or any other orders entered by the Court giving effect to, or entered pursuant to, this Settlement Agreement. In the event the Court declines to approve the Settlement based on the Allocation Plan, the Bucks may modify the Allocation Plan to the Court's satisfaction. Nothing in this Paragraph 93 shall limit the Settling Parties' rights under Section XI of this Settlement Agreement. AGLIC expressly reserves the right to terminate this Settlement Agreement if the Allocation Plan approved by the Court or proposed by the Bucks expressly or impliedly requires AGLIC to perform any work to implement the Allocation Plan.

94. Any person or entity receiving payment pursuant to this Settlement Agreement shall be solely responsible to report and pay any federal, state, or local income or other tax due and payable for that payment. AGLIC shall have no obligation to report or pay any federal, state, or local income or other tax on any payment made pursuant to this Settlement Agreement. AGLIC and Class Counsel have not provided and shall have no responsibility to provide any opinion concerning any tax consequence to any Settlement Class Member, nor is there any representation or warranty in this regard made pursuant to or by virtue of this Settlement Agreement.

**X. ATTORNEYS' FEES AND LITIGATION EXPENSES**

95. Class Counsel will apply to the Court for a collective award of attorneys' fees and Litigation Expenses to be paid solely from (and out of) the Settlement Fund.

96. AGLIC agrees not to contest Class Counsel's request for approval of attorneys' fees, provided that the request does not exceed 33 ⅓ % of the Settlement Amount. AGLIC also agrees not to contest Class Counsel's request for approval of Litigation Expenses they incurred in prosecuting this case provided such Litigation Expenses do not exceed \$100,000 (not including the costs and fees of the Settlement Administrator).

97. Neither the Bucks nor AGLIC will be liable or obligated to pay fees, expenses, costs or disbursements to any person or entity, directly or indirectly, in connection with the Action or the Settlement, except as expressly provided in this Settlement Agreement.

98. This Settlement Agreement is not conditioned on the Court's approval of the payment of Class Counsel's attorneys' fees or Litigation expenses. Neither the Bucks nor Class Counsel may cancel or terminate this Settlement Agreement based on this Court's or any appellate court's ruling with respect to attorneys' fees or Litigation Expenses, and any appeal from any order awarding attorneys' fees or Litigation Expenses or any reversal or modification of any such order shall not affect or delay the finality of the Final Approval Order and Judgment.

99. Class Counsel may move the Court for, and AGLIC agrees not to oppose, Incentive Awards to the Bucks, in an amount not to exceed \$12,500 to each of them. The Incentive Awards shall be in addition to any distribution from the Settlement Fund or other consideration the Bucks receive or are entitled to under this Settlement Agreement.

100. Buck has a separate and individual claim for reissuance of a check for \$3,260 issued by AGLIC on November 1, 2017, which check Buck refused to cash so as to avoid waiving any

of his rights. AGLIC agrees to reissue this check to Buck.

**XI. EFFECT OF DISAPPROVAL OR NON-OCCURRENCE OF THE EFFECTIVE DATE**

101. This Settlement Agreement shall terminate at the sole option and discretion of AGLIC or the Bucks (on behalf of themselves and the Settlement Class Members) if (i) the Court, or any appellate court(s), rejects, modifies, or denies approval of any portion of this Settlement Agreement in a manner that AGLIC or the Bucks reasonably and in good faith determine(s) is material, or (ii) the Court, or any appellate court(s), declines to enter or completely affirm, or modifies, any portion of the Preliminary Approval Order or the Final Approval Order and Judgment in a manner that AGLIC or the Bucks reasonably and in good faith determine(s) is material. The terminating party must exercise the option to terminate this Settlement Agreement, as provided in this Section XI, no later than thirty days after receiving notice of the circumstance prompting the right to terminate.

102. If this Settlement Agreement is terminated or if the Effective Date does not occur, the Settling Parties shall retain, and expressly reserve, all rights and arguments they had before the execution of this Settlement Agreement, and nothing in this Settlement Agreement, or the papers or proceedings relating to the Settlement, shall constitute an admission for any purpose. If this Settlement Agreement is terminated or if the Effective Date does not occur, each of the Settling Parties shall be restored to the place it was in as of the date before this Settlement Agreement was executed.

**XII. NO ADMISSION OF LIABILITY OR WRONGDOING**

103. The Settling Parties acknowledge that this Settlement Agreement constitutes a compromise and settlement of disputed claims.

104. No action taken by the Settling Parties, either previously or in connection with



negotiating the Settlement, or executing this Settlement Agreement, and no aspect of this Settlement Agreement (whether or not consummated) including its exhibits and appendices, or of the Settlement, or of any act performed or document executed pursuant to, in furtherance of, or in connection with this Settlement Agreement or the Settlement, shall be deemed to be, or may be used or offered:

- a. against the Releasees as an admission or evidence of any kind with respect to the truth of any fact alleged or the validity of any claim that was made, or could have been made, in or in connection with the Action or in any other litigation, or of any wrongdoing, negligence, fault, or liability of the Releasees, or as an admission or evidence of any wrongdoing, negligence, fault, or liability by or of the Releasees, or in any way referred to for any other reason as against the Releasees in the Action or in any other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate or enforce the provisions of this Settlement Agreement.
- b. against the Releasers, as an admission or evidence of any kind of, any presumption, concession, or admission that any of their claims are without merit, that any of the claims they asserted were subject to meritorious defenses, or that damages recoverable in the Action would not have exceeded the Settlement Amount, or in any way referred to for any other reason as against the Releasers in the Action or in any other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate or enforce the provisions of this Settlement Agreement;
- c. against Releasers or the Releasees as an admission, concession, or presumption that

the consideration provided by the Settlement Agreement represents the amount that could have been or would have been recovered at a trial of this Action.

105. For the avoidance of doubt, if this Settlement Agreement is approved by the Court, nothing in this Section XII shall prohibit the Releasees or their counsel from referring to or filing this Settlement Agreement or the Final Approval Order and Judgment in this or any other action or proceeding in order to enforce the Released Claims and protections from liability conferred by this Settlement Agreement, to enforce any right under any applicable insurance policy, or otherwise to enforce the terms of this Settlement Agreement.

### **XIII. NON-DISPARAGEMENT AND CONFIDENTIALITY**

106. The Bucks and Class Counsel agree that they shall not make any statements to the press or media concerning any aspect of the Action or this Settlement Agreement, without first obtaining written approval from AGLIC, and shall not disparage the Releasees, including through any statements to the public or the media concerning any aspect of the Action or this Settlement Agreement. The Bucks and Class Counsel agree that they shall not take any action designed to harm the public perception or standing of the Releasees concerning any aspect of the Action or this Settlement Agreement, except that they may provide sworn testimony required by compulsory process.

107. AGLIC agrees that it shall not make any statements to the press or media concerning any aspect of the Action or this Settlement Agreement, without first obtaining written approval from Class Counsel, and shall not disparage the Bucks or Class Counsel, including through any statements to the public or the media concerning any aspect of the Action or this Settlement Agreement. AGLIC agrees that it will not take any action designed to harm the public perception or standing of the Bucks or Class Counsel concerning any aspect of the Action or this

Settlement Agreement, except that AGLIC may provide sworn testimony required by compulsory process.

108. The Settling Parties agree not to disclose publicly or to any other person the terms of this Settlement Agreement until this Settlement Agreement has been fully executed, except that nothing in this paragraph shall prevent the Bucks or Class Counsel from disclosing or discussing the terms of this Settlement Agreement or the Settlement with their respective attorneys, agents, advisors, and consultants, or shall prevent AGLIC from disclosing or discussing the terms of this Settlement Agreement or the Settlement with its parents, subsidiaries, divisions, and affiliates, and each of their respective employees, members, partners, principals, officers, directors, shareholders, agents, attorneys, advisors, and consultants.

#### **XIV. MISCELLANEOUS PROVISIONS**

109. The Bucks' appeal pending before the Third Circuit Court of Appeals, Docket No. 21-2327 is hereby stayed, and shall remain stayed until the Settlement Agreement is terminated by its terms.

110. Where a Policy is owned by more than one Policyholder, no action under this Settlement Agreement can be taken without authorization by every Policyholder of that Policy.

111. The exhibits and appendices attached to this Settlement Agreement are hereby incorporated by reference as though fully set forth herein. Notwithstanding the foregoing, if there exists a conflict or inconsistency between the terms of this Settlement Agreement and the terms of any exhibit or appendix, the terms of this Settlement Agreement shall prevail.

112. The Settling Parties intend this Settlement Agreement to be a final and complete resolution of all claims, actions, and disputes asserted or which could be asserted by the Bucks and the Settlement Class Members, or any one or more of them, against the Releasees with respect to

the Released Claims. The Settling Parties agree that the amounts paid pursuant to, and the other terms of, this Settlement Agreement were negotiated at arm's length and in good faith by the Settling Parties, with the assistance of experienced legal counsel who were fully competent to assess the strengths and weaknesses of their respective clients' claims or defenses, and with the assistance of the Chief Mediator of the United States Court of Appeals for the Third Circuit.

113. The terms of this Settlement Agreement may not be modified or amended, nor may any of its provisions be waived except by a writing signed by or on behalf of all Settling Parties.

114. The headings in this Settlement Agreement are used for the purpose of convenience only and are not meant to have legal effect.

115. The administration and consummation of the Settlement as embodied in this Settlement Agreement shall be under the authority of the Court, and the Court shall retain jurisdiction to enforce all terms of this Settlement Agreement and the Settlement, including the Allocation Plan (or such other plan of allocation as may be approved by the Court) and the distribution of the Settlement Fund.

116. Any Settling Party's waiver of any breach of this Settlement Agreement shall not be deemed, nor constitute, a waiver of any other breach of this Settlement Agreement.

117. This Settlement Agreement, and its exhibits and appendices, constitute the entire agreement between and among the Settling Parties concerning the subject matter of the Settlement. The Settling Parties acknowledge and agree that no other agreements, representations, warranties, or inducements have been made by any Settling Party concerning the Settlement or this Settlement Agreement, or its exhibits or appendices, other than those contained and memorialized in such documents.

118. This Settlement Agreement may be executed in one or more counterparts, including

by signature transmitted via facsimile, or by a .pdf/.tif image of the signature transmitted via email. All executed counterparts and each of them shall be deemed to be one and the same instrument.

119. This Settlement Agreement shall be binding upon and inure to the benefit of the Settling Parties and their successors and assigns, including any and all Releasees and other entities into or with which any Settling Party may merge, consolidate, or reorganize.

120. Any action arising under, relating to, concerning, or to enforce this Settlement Agreement or any portion thereof, or the Settlement, shall be commenced and maintained only in the Court.

121. This Settlement Agreement shall not be construed more strictly against one of the Settling Parties than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Settling Parties, it being recognized that this Settlement Agreement is the result of arm's-length negotiations between the Settling Parties and that all Settling Parties have contributed substantially and materially to the preparation of this Settlement Agreement.

122. All persons executing this Settlement Agreement and any exhibits and appendices hereto, or any related Settlement documents, warrant and represent that they have the full authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to this Settlement Agreement to effectuate its terms.

123. The Settling Parties and their respective counsel agree to cooperate fully with one another in seeking Court entry of the Preliminary Approval Order and the Final Approval Order and Judgment, and to use best efforts to promptly agree upon and execute all such other documentation as may be reasonably required to enter the Preliminary Approval Order and the Final Approval Order and Judgment.

124. Except as otherwise provided in this Settlement Agreement, notices required under this Settlement Agreement shall be in writing and shall be deemed to have been duly given upon receipt of hand delivery or facsimile, or upon email transmission. Notice shall be provided as follows:

To the Bucks:

Martin Schrama  
Stark & Stark, P.C.  
993 Lenox Drive, Building Two  
Lawrenceville, New Jersey 08648  
mps@stark-stark.com

Scott B. Gorman  
Gorman & Gorman, LLC  
Liberty View, Suite 400  
457 Haddonfield Road  
Cherry Hill, NJ 08002  
sbgorman@gormanlegal.com

To AGLIC:

Andrew P. Fishkin  
Fishkin Lucks LLP  
One Gateway Center, Suite 1150  
Newark, NJ 07102  
afishkin@fishkinlucks.com

125. Any Settling Party that wants to change its required recipient of notices provided under this Settlement Agreement, shall provide notice of that change in writing in accordance with the terms of this Section, to the other Settling Party.

126. Except as otherwise provided herein, each Party shall bear its own costs.

127. Whether or not this Settlement Agreement is consummated, and whether or not this Settlement Agreement is approved by the Court or the Effective Date occurs, the Settling Parties and their counsel shall use their best efforts to keep all negotiations, discussions, acts performed,

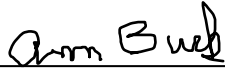
agreements, drafts, documents signed, and proceedings in connection with this Settlement Agreement and the Settlement, confidential.


128. The Settling Parties shall stay all activities in the Action, except those activities related to the negotiation and implementation of this Settlement Agreement.

129. All agreements made and orders entered during the course of this Action relating to the confidentiality of information shall survive.

**AGREED, EXECUTED AND ACKNOWLEDGED on the above date by the following individuals possessing full legal authority to bind the Parties:**

For Plaintiffs:   
DUANE BUCK

  
ANN BUCK

DocuSigned by:  
  
For AGLIC: 714379010008498...  
Name: MICHAEL H. BAILEY Title: CFO GLOBAL LIFE

# APPENDIX I



**Appendix I: Entities Merged into American General Life Insurance Company**

SunAmerica Life Insurance Company  
American General Assurance Company  
American General Life and Accident Insurance Company  
American General Life Insurance Company of Delaware  
Western National Life Insurance Company  
Pacific Union Assurance Company  
AIG Life Insurance Company of Puerto Rico  
The Old Line Life Insurance Company of America  
The Franklin Life Insurance Company  
All American Life Insurance Company

# EXHIBIT A

## ALLOCATION PLAN

### **I. Definitions**

Capitalized terms used herein shall have the same meaning as in the Settlement Agreement.

### **II. Calculation and Distribution of Net Settlement Amount**

The Net Settlement Fund shall be allocated on a *per capita* basis to all (i) Identified Damages Settlement Class Members that have not opted out from the Settlement; and (ii) Supplemental Damages Settlement Class Members with Approved Claims.

To illustrate, if the Net Settlement Fund is \$2,900,000, and there are 20,000 Identified Damages Settlement Class Members that have not opted out from the Settlement and 100 Supplemental Damages Settlement Class Members with Approved Claims, each Identified Damages Settlement Class Member that has not opted out from the Settlement and each Supplemental Damages Settlement Class Member with an Approved Claim shall receive \$144.27 ( $\$2,900,000/20,100$ ).