05 - Motion for Preliminary Approval

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

WILLIAM JAMES GRIFFIN, et al., Plaintiffs, v. BENEFYTT TECHNOLOGIES, INC., et al., Defendants.	Case No. 0:20- cv-62371-AHS

PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT, CERTIFICATION OF SETTLEMENT CLASSES, APPROVAL OF CLASS NOTICE AND SCHEDULING OF A FAIRNESS HEARING, AND INCORPORATED MEMORANDUM OF LAW

Plaintiffs William James Griffin, Ashley Lawley, William "Jeff" Cooper, Sandra Wilson and Vicki Needham ("Plaintiffs"), for themselves and the Settlement Class Members, move for (i) preliminary approval of the Settlement[1] of this Action against Defendants Benefytt Technologies, Inc. and Health Plan Intermediaries Holdings, Inc. (together, "Benefytt") and Assurance IQ, LLC ("Assurance") (collectively, "Defendants"); (ii) certification of the Settlement Classes for purposes of settlement; (iii) approval of the form and manner of the Class Notice; and (iv) a Fairness Hearing on final approval of settlement.

I. INTRODUCTION

This case is one of several actions brought against Benefytt and its business partners to challenge their deceptive marketing and sale of health insurance policies as comprehensive medical insurance that complied with the individual insurance mandate of the Affordable Care Act

[1] Unless otherwise indicated, all capitalized terms shall have the meanings set for in the Settlement Agreement, which is attached as **Exhibit 1**.

(the "ACA") when in reality they were selling "limited benefit indemnity plans" and "short term insurance plans" that did not satisfy the ACA's mandate, along with various add-on products like discount cards, association memberships and accidental health insurance to make the health insurance seem more comprehensive than it actually was. In addition to the present case, the actions against Benefytt include: 1) *FTC v. Simple Health Plans, LLC*, No. 18-cv-62593-GAYLES (S.D. Fla.); 2) *FTC v. Benefytt Technologies, Inc.*, No. 8:22-cv-01794-TPB-JSS (M.D. Fla.); 3) *Belin v. Health Insurance Innovations*, *Inc.*, No. 0:19-cv-61430-AHS (S.D. Fla.)("*Belin")*; and 4) *Ketayi v. Health Enrollment Group*, No. 3:20-cv-01198-GPC-KSC (S.D. Cal.). As discussed below, although both of the FTC actions as well as the *Belin* action have settled, to date, the claims at issue in this case -- which encompasses certain different products than those at issue in all the other cases except for the *FTC v. Benefytt Technologies, Inc.* action, discussed further below -- have neither been redressed nor released.

Since they filed their original complaint on May 5, 2020, Plaintiffs have engaged in hard-fought litigation to seek relief from Defendants on behalf of themselves and others similarly situated. Specifically, as discussed further below, over the more than three years since this litigation has been pending, Plaintiffs have, *inter alia*:

- engaged in extensive motion practice, defeating multiple motions to dismiss and fully briefing their motion for class certification;
- conducted wide-ranging fact discovery, including voluminous document discovery and the taking and defending of numerous depositions;
- submitted two expert reports and completed expert discovery of both their experts and Defendants' experts; and
- participated in protracted settlement negotiations.

On May 23, 2023, the Benefytt Defendants filed voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas. D.E. 183. As a result, on May 26, 2023, this litigation was stayed as to Benefytt. D.E. 184. Thereafter, in response to the Court's request as to how the parties would like to proceed with the litigation as to Assurance, Plaintiffs and Assurance jointly requested that the Court stay the balance of the litigation pending their previously-scheduled mediation. D.E. 185. The Court granted the parties' request on June 7, 2023. D.E. 186. Since that time, Plaintiffs have taken steps to preserve their rights against Benefytt in the bankruptcy proceeding and acquired class member contact information from Benefytt.

Ultimately, the mediation between Plaintiffs and Assurance was successful and resulted in a settlement. Accordingly, by this motion, Plaintiffs seek this Court's preliminarily approval of their Settlement with Assurance under Rule 23(e). The Settlement is fair, adequate and reasonable under the circumstances. Notice of the Settlement will be sent to each of the approximately 372,343 class members using Benefytt's existing records. The Notice will direct class members to a Settlement Website containing a Claim Form to complete and submit in order to receive a pro rata distribution of the net settlement proceeds and receive an immediate distribution. The Claim Form will also ask class members who meet the requirements of members of the Medical Expense Subclass to certify under penalty of perjury that they incurred qualifying medical expenses and in what approximate amounts. Medical Expense Subclass members will receive a multiplier on their pro rata distribution, depending on the amount of unreimbursed medical expenses they incurred. Given the size of the settlement amount compared to the number of potential claimants, the concept of a multiplier is preferable to a lengthy and likely far more expensive claims process with its considerable costs relating to expert review of medical records.

The $13.5 million settlement amount represents a significant recovery, particularly given Benefytt's bankruptcy and the risks of continued litigation. If finally approved, the Settlement will end more than three years of litigation, and provide immediate compensation to Settlement Class Members.

Plaintiffs have patterned the proposed Class Notice on Federal Judicial Center models and the notice approved by this Court in *Belin*. The Notice, attached as **Exhibit 1.A**, describes in plain English the history of the litigation, the definition of the Settlement Classes and who is excluded, the amount of the Settlement and the maximum amount of attorneys' fees that may be requested (33 1/3%). The Notice further informs class members of the procedures to be followed if they wish to be heard and informs them of their right to opt out or object.

Notice will be provided by a third-party class action administrator, Kroll Settlement Administration, LLC. Notice will be sent first by email, then by first-class mail to all those for whom there is no available email address or whose email bounces back. As mentioned above, a Settlement Website will be created as a portal to submit Claim Forms and obtain information about the Settlement. A copy of the proposed Claim Form is attached as **Exhibit 1.B**.

While the Settlement is necessarily a compromise, the path to a greater recovery would have been difficult, lengthy and fraught with risk. First, Plaintiffs would have faced the risk of losing their pending motion for class certification. Significantly, this was not a risk that the *Belin* plaintiffs faced when they settled with Benefytt. Moreover, class certification was far from a certainty even though this Court granted the plaintiffs' motion for class certification in *Belin*. Indeed, the plaintiffs' motion for class certification was recently denied in the *Ketayi* action. *Ketayi v. Health Enrollment Group,* No. 20-cv-1198-RSP-KSC, 2023 WL 6373071 (S.D. Cal. Sept. 14, 2023).

Defendants raised substantial arguments in opposition to class certification in this case, some of which were not made in *Belin*. For example, Defendants raised the possibility that the settlement reached and approved by the Court in *FTC v. Benefytt Technologies, Inc.*, No. 8:22-cv-01794-TPB-JSS (M.D. Fla.) on August 11, 2022, which required Benefytt to pay the FTC $100 million for purposes of providing redress to consumers, could make many putative class members whole and deprive them of standing. *See* D.E. 151, at 28. Similarly, Defendants argued at length that this case was distinguishable from *Belin* in that it concerns a broader array of products, distributors and marketing representations than those at issue in *Belin*, purportedly defeating the predominance of common issues and rendering class certification inappropriate. *Id.*, at 12-24. Defendants also filed motions to exclude the testimony of Plaintiffs' two experts supporting class certification. D.E. 155, D.E. 171.

Even if Plaintiffs' motion for class certification were granted, Plaintiffs still would have faced the possibility of Rule 23(f) review by the Eleventh Circuit, as well as additional risks at summary judgment and trial. For these reasons, Plaintiffs and Class Counsel, who have extensive experience in similar litigation, support the Settlement.

The thorough record, developed over several years of litigation, as well as the extensive settlement negotiations that led to the Settlement, give every indication that the Settlement is procedurally and substantively fair, and merits the Court's approval.

II. BACKGROUND AND PROCEDURAL HISTORY

Plaintiffs originally filed this action against Benefytt on May 5, 2020, in the Northern District of Alabama, the district where Plaintiffs reside. *See Griffin v. Benefytt Technologies, Inc.*, No. 2:20-cv-630-AKK (N.D. Ala.). In their original complaint, Plaintiffs alleged that Benefytt and its marketing partners Assurance, Nationwide and Simple Health -- which Plaintiffs identified as

Benefytt's co-conspirators but did not name as Defendants -- marketed health insurance policies as comprehensive medical insurance that satisfied the ACA's individual insurance mandate but instead sold non-ACA compliant limited benefit indemnity plans and short term insurance plans along with various add-on products like discount cards, association memberships and accidental health insurance to make the health insurance seem more comprehensive than it really was. D.E. 1, at ¶ 1. Plaintiffs further alleged that the policies left consumers with little or no insurance, no coverage for preexisting conditions and prescription drugs and minimal coverage for other services. *Id.* Based on these allegations, Plaintiffs, on behalf of themselves and a putative class of similarly situated consumers, asserted claims against Benefytt for violations of the federal Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961, *et seq.* Count I of the original complaint alleged violation of RICO, 18 U.S.C. § 1962(c); Count II alleged RICO conspiracy in violation of 18 U.S.C. § 1962(d); Count III alleged violation of 18 U.S.C. § 2 by seeking to and aiding and abetting in violation of 18 U.S.C. § 1962(c); and Count IV sought declaratory and injunctive relief under 18 U.S.C. § 1964(a). *Id.*, at ¶¶ 118-135.

In response to the original complaint, Benefytt brought a motion to dismiss for failure to state a claim (D.E. 18) as well as a motion to transfer the action, pursuant to the first-filed rule, to the Southern District of Florida, where the *Belin* action was pending. D.E. 27. In its motion to transfer, Benefytt argued that Plaintiffs "propose nearly the same putative class, allege nearly the same facts, and assert nearly the same claims against nearly the same defendants." D.E. 27, at 1. Shortly after Benefytt filed its motion to transfer, Plaintiffs filed a motion for leave to amend their complaint to add Assurance as a Defendant. D.E. 28.

On November 9, 2020, Judge Kallon of the Northern District of Alabama granted the motion to transfer and sent the action to the Southern District of Florida. D.E.33. As grounds for

transfer, Judge Kallon found that "because both cases assert most of the same allegations and accuse the defendants of virtually the same conduct, it would be a waste of judicial resources for two separate courts to evaluate these facts." *Id.*, at 11 (quotations and citations omitted).

Following transfer, on February 9, 2021, this Court granted Plaintiffs' pending motion for leave to amend their complaint and denied Benefytt's pending motion to dismiss as moot. D.E. 49. Plaintiffs filed an Amended Complaint on February 16, 2021, in which it named Assurance as a Defendant. D.E. 50.

Benefytt and Assurance both filed motions to dismiss for failure to state a claim. D.E. 57, 78. In separate orders issued on February 25, 2021 and March 30, 2021, respectively, this Court denied both motions as to Plaintiffs' claims for damages but granted them as to Plaintiffs' claims for injunctive relief on the basis that it was unlikely that Plaintiffs would be misled by Defendants' sales practices again in the future. D.E. 84, 94.

Per Defendants' request, on May 6, 2022, Plaintiffs filed an unopposed motion for leave to file a Second Amended Complaint to clarify that Plaintiffs were not asserting the claims in this action on behalf of persons who previously released their claims in connection with the settlement reached in *Belin*, and to further clarify that Defendants' sales practices with respect to both limited benefit indemnity plans and short term insurance plans were at issue. D.E.103. The Court granted Plaintiffs' motion for leave to amend on May 16, 2022 (D.E. 106) and Plaintiffs filed their Second Amended Complaint on May 17, 2022. D.E. 107. Defendants answered the Second Amended Complaint on May 26, 2022, and May 31, 2022, respectively. D.E. 109 (Assurance), D.E. 110 (Benefytt).

The parties engaged in extensive discovery over the ensuing months. Plaintiffs issued 74 requests for production of documents to Benefytt and 47 requests for production of document to

Assurance. Sheehan Decl., at ¶ 8.[2] Defendants produced over 100,000 pages of documents in response to these requests, which Plaintiffs reviewed and analyzed. *Id.* Plaintiffs also issued 25 interrogatories to Benefytt and 17 interrogatories to Assurance. *Id.*

Plaintiffs also deposed the Defendants' corporate representative pursuant to Federal Rule of Civil Procedure 30(b)(6), as well as several of Defendants' employees and Defendants' two experts. *Id.*, at ¶¶ 10-12. Plaintiffs also filed and fully briefed a motion to exclude the testimony of one of Defendants' experts. *Id.*, at ¶ 12.

In addition, Plaintiffs served subpoenas upon several non-parties, including distributors American National and Priority Insurance (who Plaintiffs only learned through discovery had sold some of the products at issue to them) and former Benefytt executives and took their depositions. *Id.*, at ¶ 11.[3]

Each of the Plaintiffs responded to lengthy requests for production, interrogatories and requests for admission. *Id.*, at ¶ 9. Together Plaintiffs produced more than 1,000 pages of documents, including health-related documents containing personal information. *Id.* Plaintiffs also spent considerable time preparing for and sitting for their depositions. *Id.*

Plaintiffs' two experts likewise spent a significant amount of time preparing their reports as well as preparing for and sitting for their depositions. *Id.*, at ¶ 12. Plaintiffs also filed briefs in opposition to motions filed by Defendants to exclude the testimony of both of their experts. *Id.*

Plaintiffs' efforts in discovery culminated in the filing of a motion for class certification on January 30, 2023, which was supported by over 50 exhibits and two expert reports. D.E.143, 159.

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[2] All references herein to the "Sheehan Decl., at ¶ __" refer to paragraphs in the Declaration of Patrick J. Sheehan, Esq., attached as **Exhibit 2**.

[3] "American National" refers to American National Benefits Group, LLC. "Priority Insurance" refers to Independent Insurance Consultant, Inc., d/b/a Priority Insurance.

On the same day, Plaintiffs filed a motion for leave to file a Third Amended Complaint conforming the class definitions to those in Plaintiffs' motion for class certification and identifying American National and Priority Insurance as Defendants' co-conspirators. D.E. 137. Plaintiffs' motion for leave to file the Third Amended Complaint was granted on February 1, 2023 (D.E. 140) and it was filed on the same day. D.E. 141. With the filing of Plaintiffs' reply in support of its motion for class certification on March 13, 2023 (D.E. 159), the motion was fully briefed.

Two months later, on May 23, 2023, the Benefytt Defendants filed voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas. D.E. 183. As a result, on May 26, 2023, this litigation was stayed as to Benefytt. D.E. 184. Thereafter, Plaintiffs and Assurance jointly requested that the Court stay the balance of the litigation pending their previously-scheduled mediation. D.E. 185. The Court granted the parties' request on June 7, 2023. D.E. 186.

While they were litigating, the parties engaged in extensive settlement negotiations, including multiple mediation sessions. The parties' first mediation session, in which Plaintiffs, Benefytt and Assurance all participated, took place on October 13, 2022, before John S. Freud. The mediation lasted a full day but resulted in an impasse. Sheehan Decl., at ¶ 14.

On June 19, 2023, Plaintiffs and Assurance participated in a second all-day mediation before Mr. Freud, following which they reached a $13.5 million settlement in principle. This agreement in principle was later reduced to writing in a term sheet that was executed on June 28, 2023 and, ultimately, memorialized in the final Settlement Agreement. *Id.*

In response to requests of Plaintiffs and Assurance for more time to obtain class member contact information from Benefytt and finalize their settlement, the Court subsequently extended the stay of the litigation on July 14, 2023, August 14, 2023 and finally, on September 14, 2023,

when it ordered the parties to file their settlement papers on or before November 14, 2023. D.E. 197, D.E. 199 and D.E. 201. Plaintiffs bring the present motion in accordance with the Court's September 14 Order.

III. THE TERMS OF THE SETTLEMENT AGREEMENT

Plaintiffs and Assurance have agreed to the following settlement terms.

A. The Settlement Classes

The Settlement Classes include the following Classes and Subclass:

- American National Class. All individuals who purchased Benefytt's limited benefit indemnity plans or short term medical plans through American National from May 5, 2016 through the date of Preliminary Approval, and paid fees and/or premiums that were not completely recovered through a refund or chargeback.
- Assurance Class. All individuals who purchased Benefytt's limited benefit indemnity plans or short term medical plans through Assurance from May 5, 2016 through the date of Preliminary Approval, and paid fees and/or premiums that were not completely recovered through a refund or chargeback.
- Benefytt[4] Class. All individuals who purchased limited benefit indemnity plans or short term medical plans directly from Benefytt from May 5, 2016 through the date of Preliminary Approval, and paid fees and/or premiums that were not completely recovered through a refund or chargeback.
- Priority Insurance Class. All individuals who purchased Benefytt's limited benefit indemnity plans or short term medical plans through Priority Insurance from May 5, 2016 through the date of Preliminary Approval, and paid fees and/or premiums that were not completely recovered through a refund or chargeback.
- Medical Expense Subclass. All individuals within any of the above Classes who incurred Uncovered Medical Expense(s).

B. The Settlement Consideration

Assurance will pay $13.5 million to resolve this class action. Settlement Agreement, Section I.(k). No portion of the Settlement Fund will revert to Defendants. *Id.*, at Section VI.(o). Notice and Administrative Expenses will be deducted from the Settlement Fund and paid to the Settlement Administrator. *Id.*, at Section VI. (e)-(g). Plaintiffs may seek an award up to 33 1/3%

[4] "Benefytt" refers collectively to Benefytt Technologies, Inc., formerly Health Insurance Innovations, Inc. and Health Plan Intermediaries Holdings, Inc.

of the class action settlement payment in attorneys' fees plus reimbursement of litigation expenses.[5] *Id.*, at Section IV.(b). Attorneys' fees and expense reimbursements approved by the Court will be paid to Class Counsel. *Id.* The balance, along with any interest accrued on the Settlement Fund, will be applied to pay claims of Settlement Class Members.

The class release is straightforward, encompassing claims that were or could have been asserted in the case. *Id.*, Section IX. The Assurance Released Parties are comprised of Assurance and related entities and individuals and the Releasing Parties are comprised of Settlement Class Members who do not timely opt out of the Settlement and Class Counsel. *Id.*, at Section I.(ff), (gg).

C. Notice and Administration

Rule 23(c)(2)(B) requires the Court to "direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." Plaintiffs and Assurance have agreed that a third-party administrator, Kroll Settlement Administration, LLC, will act as Settlement Administrator. *Id.*, at Section I.(ii). Kroll will be responsible for giving and/or supervising Direct Notice to Settlement Class Members; sending, receiving, reviewing and adjudicating Claim Forms; obtaining new addresses for any returned emails or postal mailings; maintaining records of all activities relating to notice and administration of this Settlement; and other tasks reasonably required to effectuate

[5] Class Counsel will file a motion for approval of fees and expenses within 45 days of Preliminary Approval. Settlement Agreement, Section IV.(a). Settlement is not contingent upon the award of any particular fee. *Id.*, at Section IV.(e). Class Counsel took on considerable financial risk to obtain these results. Sheehan Decl., at ¶ 6. Class Counsel devoted thousands of hours of time and fronted approximately $250,000 in costs on a contingency fee basis, with no guarantee of any recovery or reimbursement of expenses. *Id.* Class Counsel's firms have less than 20 lawyers combined, which increased the financial risk to the firms from the use of significant firm resources. *Id.* They faced formidable and sophisticated opposition from a 1,300-lawyer firm, King & Spalding LLP, and a 900-lawyer firm, Seyfarth Shaw LLP. *See* https://www.kslaw.com/pages/about; https://www.seyfarth.com/about-us/index.html.

the administration of the Settlement. *Id.*, at VI.(b). Kroll will establish a Settlement Website and post the Class Notice, Claim Form and related settlement documents on it. *Id.*, at VI.(c)(ii). Assurance will fund up to $150,000 in initial notice and administration costs prior to final approval. *Id.*, at VI.(e).

Notice of the Settlement will be sent directly to Settlement Class Members by email, requesting confirmation of receipt. *Id.*, at VI.(c)(i)(1). Emails will have a hyperlink to the Settlement Website, where Settlement Class Members can complete and submit a Claim Form. *Id.* For those Settlement Class Members for which neither the Settlement Administrator nor the Defendants have an email address, and for those whose emails are undeliverable, direct notice shall be made by postcard via U.S. mail to the last-known mailing addresses. *Id.*, at VI.(c)(i)(2). The postcard will direct the Settlement Class Members to the Settlement Website. *Id.* Each Settlement Class Member shall have a right to object to the Settlement within 90 days of Preliminary Approval. *Id.*, at Section I.(v). The requirements for excluding oneself from the Settlement or filing and pursuing an objection will be described for Settlement Class Members in the Class Notice. *Id.*, at Section I.(2), Exhibit 1.A.

The Settlement Administrator shall also be responsible for overseeing the calculation of, and implementing the distribution of, the Net Consideration to Settlement Class Members. *Id.*, at Section VI.(d). Each Settlement Class Member who timely submits a valid Claim Form and does not opt out of the Settlement shall be a Participating Settlement Class Member and receive his or her pro rata share of the Settlement Fund. *Id.*, at Section I.(aa), Section VI.(d). The Settlement Administrator shall calculate each share according to a formula provided in the Settlement Agreement. *Id.*, at Section VI.(d). Participating Settlement Class Members who submit a Claim Form stating under penalty of perjury that he or she incurred Uncovered Medical Expenses will

receive a multiplier of two, three or four times his or her base share, depending on the amount of Uncovered Medical Expenses he or she incurred. These multipliers, while not an exact determination of Participating Class Members' shares, recognize the enhanced damages of Subclass members while avoiding the considerable administrative burdens and costs of having a document-intensive, evidentiary claim process. Sheehan Decl., at ¶ 17.

Finally, the Settlement Administrator will, within 10 days after filing of this Motion, cause the mailing of CAFA Notice to appropriate officials pursuant to 28 U.S.C. § 1715(b). Settlement Agreement, at Section VI.(h).

IV. THE PROPOSED SETTLEMENT WARRANTS PRELIMINARY APPROVAL

"There exists an overriding public interest in favor of settlement, particularly in class actions that have the well-deserved reputation as being most complex." *Lipuma v. Am. Express Co.*, 406 F. Supp. 2d 1298, 1314 (S.D. Fla. 2005) (Altonaga, J.) (citations omitted). "Thus, in reviewing a proposed settlement, as here, the Court must take into account 'the clear policy in favor of encouraging settlements, . . . particularly in an area where voluntary compliance by the parties over an extended period will contribute significantly toward ultimate achievement of statutory goals.'" *Id*. (quoting *Patterson v. Newspaper & Mail Deliverers' Union*, 514 F.2d 767, 771 (2d Cir.1975)).

Within this context, a district court's approval of a class action settlement proceeds in two steps. *See, e.g., Wilson v. Everbank, N.A.*, 2015 WL 10857344, at *1 (S.D. Fla. Aug. 31, 2015). The first step determines whether to conditionally certify a settlement class and notify class members of the pending settlement and a right to participate in a final fairness hearing. *See id.*; *see also* MANUAL FOR COMPLEX LITIG. (FOURTH) §§ 21.622-.623. The second step involves the fairness hearing itself, which occurs only after class members have been notified of their right

to participate in the hearing and object to the settlement. *See Wilson*, 2015 WL 10857344, at *1; *Gevaerts v. TD Bank, N.A.,* 2015 WL 12533121, at *10 (S.D. Fla. Aug. 4, 2015).

During the first step — the preliminary approval stage — "approval is appropriate where the proposed settlement is the result of the parties' good faith negotiations, there are no obvious deficiencies and the settlement falls within the range of reason." *In re Checking Accout Overdraft Litig.*, 275 F.R.D. 654, 661 (S.D. Fla. 2011) (King, J.) (quotation omitted). "Settlement negotiations that involve arm's length, informed bargaining with the aid of experienced counsel support a preliminary finding of fairness." *Id.* at 661-62 (quoting MANUAL FOR COMPLEX LITIG. (THIRD) § 30.42).

Preliminary approval requires the Court to evaluate a number of factors. The December 2018 amendments to Rule 23 provide explicit new instructions, requiring notice to be issued if the court is likely to approve the settlement and certify a settlement class. *See* Fed. R. Civ. P. 23(e)(1)(B). The amendments specify that before finally approving a settlement, the court should consider whether:

> (A) the class representatives and class counsel have adequately represented the class;
> (B) the proposal was negotiated at arm's length;
> (C) the relief provided for the class is adequate, taking into account:
> (i) the costs, risks, and delay of trial and appeal;
> (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
> (iii) the terms of any proposed award of attorney's fees, including timing of payment; and
> (iv) any agreement required to be identified under Rule 23(e)(3); and
> (D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2).

In exercising its discretion, courts in this Circuit also continue to analyze class action settlements using the so-called *Bennett* factors. *See Ferron v. Kraft Heinz Foods Co*., 2021 WL 2940240, at *7-*8 (S.D. Fla. July 13, 2021) (analyzing the Rule 23(e) and *Bennett* factors together to approve settlement). The *Bennett* factors consider (i) the likelihood of success at trial; (ii) the range of possible recovery; (iii) the range of possible recovery at which a settlement is fair, adequate and reasonable; (iv) the anticipated complexity, expense and duration of litigation; (v) the opposition to the settlement; and (vi) the stage of proceedings at which the settlement was achieved. *See Saccoccio v. JP Morgan Chase Bank, N.A.,* 297 F.R.D. 683, 691 (S.D. Fla. 2014) (citing *Bennett v. Behring Corp.,* 737 F.2d 982, 986 (11th Cir.1984)).

Here, an analysis of both the new Rule 23(e)(2) factors and the *Bennett* factors shows that the proposed Settlement is fair, adequate and reasonable, and within the reasonable range of possible final approval.

A. The Adequacy of Representation by Class Representation and Class Counsel

Rule 23(e)(2)(A) considers whether the class received adequate representation. Plaintiffs have pursued this litigation vigorously. They actively sought out counsel, monitored the lawsuit throughout its pendency, sat for depositions, produced personal information and participated in mediation in an effort to obtain the maximum recovery for both themselves and other Settlement Class Members. Sheehan Decl., at ¶ 13; Carroll Decl., at ¶¶4, 10-14.[6] As for Class Counsel, adequacy is "presumed" absent specific proof to the contrary. *Diakos*, 137 F. Supp. 3d at 1309. Class Counsel are experienced in complex class litigation and have successfully prosecuted similar cases throughout the country. Sheehan Decl., at ¶¶ 19-20; Carroll Decl., at ¶ 18. There has been

[6] All references herein to the "Carroll Decl., at ¶ __" refer to paragraphs in the Declaration of Matthew Carroll, Esq., attached as **Exhibit 3**.

no challenge to Class Counsel's adequacy to serve as Class Counsel.

B. Whether Negotiations Were Conducted at Arm's Length

Rule 23(e)(2)(B) looks at whether the parties negotiated an arm's-length settlement. "In determining whether there was fraud or collusion, the Court examines whether the settlement was achieved in good faith through arm's-length negotiations, whether it was the product of collusion between the parties and/or their attorneys, and whether there was any evidence of unethical behavior or want of skill or lack of zeal on the part of class counsel." *Berman v. Gen. Motors, LLC*, 2019 WL 6163798, at *4 (S.D. Fla. Nov. 18, 2019) (citations omitted).

There is no hint of collusion here. The parties attended a full-day mediation with highly accomplished mediator John S. Freud on October 13, 2022 that resulted in an impasse. Sheehan Decl., at ¶ 14; Carroll Decl., at ¶ 13. Some eight months later, after the parties had briefed Plaintiffs' motion for class certification and Benefytt had filed its bankruptcy petition, Plaintiffs and Assurance returned to another full-day mediation on June 19, 2023 with Mr. Freud, following which they reached an agreement in principle to settle the litigation for $13.5 million. Sheehan Decl., at ¶ 14; Carroll Decl., at ¶ 13. *See also Ingram v. The Coca-Cola Co.*, 200 F.R.D. 685, 693 (N.D. Ga. 2001) ("The fact that the entire mediation was conducted under the auspices of Mr. Hughes, a highly experienced mediator, lends further support to the absence of collusion."). In the days and weeks that followed, Plaintiffs and Assurance reduced their agreement in principle to a written term sheet signed on June 28, 2023 and, ultimately, reached a comprehensive agreement that they memorialized in the Settlement Agreement. Sheehan Decl., at ¶ 14.

Furthermore, no portion of the settlement will revert to Defendants. *Id.*, at Section VI.(o). Although Assurance has agreed not to oppose Class Counsel's request for an attorneys' fee award of up to 33 1/3%, the Settlement is not contingent upon any particular award to Class Counsel. *Id.*,

at Section IV.(e).

Relatedly, the sixth *Bennett* factor looks at the stage of litigation at which the parties reached settlement. By the time Plaintiffs and Assurance reached settlement here, they had been litigating heavily for over three years, had completed virtually all discovery, briefed class certification and hired experts in the fields of insurance and consumer marketing to analyze their claims and defenses. As such, Plaintiffs and Assurance were well-positioned to evaluate the benefits of the Settlement Agreement and consider the expense, risks and uncertainty of continued and likely protracted litigation. In sum, the Settlement was negotiated at arm's length, without collusion and at a mature stage of the litigation.

C. The Adequacy of Relief Provided by the Settlement

Rule 23(e)(2)(C) looks at whether the relief provided in the settlement is adequate, taking into account: (i) the costs, risks and delay of trial and appeal; (ii) the effectiveness of distributing relief and processing claims; (iii) the terms of any attorneys' fees award, including timing of payment; and (iv) any agreements made in connection with the proposed settlement. Relatedly, the first through fifth *Bennett* factors analyze the likelihood of success at trial; the range of possible recovery; the range of possible recovery at which a settlement is fair, adequate and reasonable; the anticipated complexity, expense and duration of litigation; and any opposition to the settlement. *See Saccoccio*, 297 F.R.D. at 691.

Addressing the *Bennett* factors first, in determining whether the Settlement is adequate and fair in comparison to the potential range of recovery, "the Court's role is not to engage in a claim-by-claim, dollar-by-dollar evaluation, but rather, to evaluate the proposed settlement in its totality." *Berman*, 2019 WL 6163798, at *5 (quoting *Lipuma v. Am. Express Co.*, 406 F. Supp. 2d 1298, 1323 (S.D. Fla. 2005)). "[T]he fact that a proposed settlement amounts to only a fraction of

the potential recovery does not mean the settlement is unfair or inadequate." *Ferron*, 2021 WL 2940240, at *7-8 (quoting *Behrens v. Wometco Enters., Inc.*, 118 F.R.D. 534, 542 (S.D. Fla. 1988)). "A settlement can be satisfying even if it amounts to a hundredth or even a thousandth of a single percent of the potential recovery." *Id*.

Here, the potential damages that Settlement Class Members could be awarded at trial are immense. The fees and premiums paid by Settlement Class Members amount to hundreds of millions of dollars, and a successful RICO verdict would have trebled that number. In addition, Medical Expense Subclass members incurred millions more in expenses. Given the potential size of Plaintiffs' claims and Benefytt's poor financial position, the possibility that Settlement Class Members could collect on a victory at trial was far from a certainty. The analysis therefore focuses on whether Plaintiffs and Class Counsel achieved an adequate settlement given the financial realities of this case.

In determining whether a settlement is adequate, the Court may rely at least somewhat upon the judgment of experienced counsel. *See, e.g., Nelson v. Mead Johnson & Johnson Co.*, 484 F. App'x 429, 434 (11th Cir. 2012) ("Absent fraud, collusion, or the like, the district court should be hesitant to substitute its own judgment for that of counsel."). Here, Class Counsel have significant experience in class action and complex fraud litigation, and believe that under these circumstances, the multimillion-dollar relief provided by the Settlement is fair, reasonable and adequate under the circumstances. Sheehan Decl., at ¶¶ 19-20; Carroll Decl., at ¶ 19.

1. The Risks, Costs and Delay of Continued Litigation

The Settlement finds further support from the four specific factors enumerated in new Rule 23(e)(C). Under Rule 23(e)(2)(C)(i), which examines the risks, costs and delay of continued litigation, the Court must "consider the vagaries of litigation and compare the significance of

immediate recovery by way of the compromise to the mere possibility of relief in the future, after protracted and expensive litigation." *Berman*, 2019 WL 6163798, at *6 (quoting *Lipuma*, 406 F. Supp. 2d at 1323). "The law favors compromises in large part because they are often a speedy and efficient resolution of long, complex, and expensive litigations." *Id.* (quoting *Behrens*, 118 F.R.D. at 543).

Here, the potential costs and delay of continued litigation in this case are substantial. The Settlement will bring to conclusion a complex class action lawsuit pending for more than three years. But for the Settlement, the parties will continue to incur significant additional legal fees and expenses related to further discovery, motion practice and potentially trial. A potential Rule 23(f) appeal in the event the Court grants class certification, which is not certain, pre-trial motions, trial, and resolution of any subsequent appeals would likely have taken years, delaying any benefit to the Settlement Class Members by years as well.

Relatedly, the first *Bennett* factor examines the likelihood of success at trial. Here, Plaintiffs have successfully navigated through multiple motions to dismiss but class certification has not yet been granted and any order granting class certification would be subject to appellate review under Federal Rule of Civil Procedure 23(f). Further, this litigation is stayed as to Benefytt and Assurance possesses defenses that it may assert at trial or via summary judgment. Given these circumstances and the fact that a trial victory is rarely a given for any party, the risks attendant to continued litigation strongly support entering a settlement now.

Plaintiffs and Class Counsel also have considered the fact that Assurance has shown its willingness and ability to defend the lawsuit through trial and possibly appeal. Yet Assurance has concluded that it is desirable to settle the claims to avoid the costs, disruption and distraction of further litigation.

2. The Effectiveness of Distributing Relief to the Settlement Classes

Rule 23(e)(2)(C)(ii) examines the "effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims." Here, the Settlement requires the Settlement Administrator to provide Direct Notice, first by email and then by mail if necessary, to each Settlement Class Member using records provided by Benefytt. Settlement Agreement, at Section VI.(c). All notices will direct Settlement Class Members to a Settlement Website containing more information and the Claim Form. *Id.* Each Settlement Class Member who timely submits a Claim Form to the Settlement Administrator will receive payment. The Claim Form contains boxes for a Settlement Class Member to affirm, under penalty of perjury, whether he or she is a member of the Medical Expense Subclass and approximately how much in unreimbursed medical expenses he or she has incurred. *Id.*, at Exhibit 1.B. Members of the Medical Expense Subclass will receive a multiplier of their pro rata share to as compensation for medical expenses. *Id.*, at Section VI.(d). Given the size of the settlement amount compared to the number of potential claimants, the concept of a multiplier is preferable to a lengthy and likely far more expensive claims process with its attendant costs for expert review of medical records.

3. The Reasonable Terms Relating to Attorneys' Fees

Rule 23(e)(2)(C)(iii) looks at "the terms of any proposed award of attorney's fees, including timing of payment." Here, Class Counsel may request up to 33 1/3% of the net Settlement Amount of $13.5 million. *Id.*, Section IV.(a). Such a request is consistent with *Camden I Condominium Ass'n, Inc. v. Dunkle*, 946 F.2d 768 (11th Cir. 1991), which mandates use of the percentage method. Following *Camden I*, fee awards in the Eleventh Circuit have averaged around one-third. *See Wolff v. Cash 4 Titles*, 2012 WL 5290155, at *5-6 (S.D. Fla. Sept. 26, 2012) ("The average percentage award in the Eleventh Circuit mirrors that of awards nationwide — roughly one-third");

see also George v. Acad. Mortg. Corp. (UT), 369 F. Supp. 3d 1356, 1382 (N.D. Ga. 2019) (discussing the normality of 33% contingency fees); Eisenberg, *Attorneys' Fees in Class Actions: 2009-2013*, 92 N.Y.U. LAW REV. 937, 951 (2017) (empirical study showing the median award in Eleventh Circuit is 33%). Given the diligence and experience of Class Counsel, which investigated and developed the claims, the complexity of the issues involved, the substantial amount of time dedicated to the Action and Settlement, and the financial risk associated with the representation, a fee of up to 33 1/3% fee would be reasonable here.

As to the timing of payment to the attorneys, the Settlement Agreement calls for payment within seven days of a Final Approval Order and Judgment of this Court.[7] Settlement Agreement, at Section IV.(b). Class Counsel agrees that to the extent its fees or costs are reduced, vacated or reversed, or should this Settlement be terminated or cancelled for any reason, it will return the funds to the Escrow Agent within 15 days. *Id.*

4. The Equitable Treatment of Settlement Class Members Relative to Each Other

Finally, Rule 23(e)(2)(D) analyzes whether the Settlement Agreement treats all members of the Settlement Classes equally. Here, the Settlement Agreement treats all members of the Settlement Classes equally as each will receive the opportunity to submit a Claim Form and be paid a *pro rata* amount based on their payment of unrefunded fees and premiums. Also, members of the Medical Expense Subclass will have the opportunity to affirm under penalty of perjury that they incurred uncovered medical expenses during the Class Period and in what approximate amounts. Each Medical Expense Subclass member will receive a reasonable multiplier of their share on the basis that they incurred damages beyond the payment of fees and premiums. Especially given the limited Settlement Fund here, this method of approximating Medical Expense

[7] A proposed Final Approval Order is attached as **Exhibit 1.D**.

Subclass damages is preferable to the time and expense of a full claims-made procedure complete with the submission of medical records, and the review and verification of medical expenses by paid experts.

In sum, when taking into consideration the substantial monetary benefits to the Settlement Classes, the specific risks faced by the Settlement Classes in prevailing on Plaintiffs' claims, the stage of the proceedings at which the Settlement was reached, the effectiveness of the proposed method for distributing relief to the Settlement Classes and the proposed manner of allocating benefits to the Settlement Classes: (i) the proposed Settlement provides for a recovery for the Settlement Classes that is within range of what could be approved as fair, reasonable and adequate taking into account all of the potential risks, expense and delay of continued litigation; (ii) is the result of lengthy, good-faith, arm's-length negotiations that took place under the auspices of a highly accomplished mediator; (iii) is not deficient; (iv) otherwise meets the criteria for approval; and (v) warrants issuance of notice to the Settlement Classes.

V. CERTIFICATION OF THE SETTLEMENT CLASSES IS APPROPRIATE

In granting preliminary approval, the Court should also certify the Settlement Classes and Medical Expense Subclass for settlement purposes. Under Rule 23(e)(1), at the preliminary approval stage, this Court must determine whether it is likely to be able to certify the class for settlement purposes at final approval. For settlement purposes, Plaintiffs respectfully request that the Court certify the Settlement Classes defined above, and in Section I.(jj) of the Settlement Agreement. "A class may be certified solely for purposes of settlement [if] a settlement is reached before a litigated determination of the class certification issue." *Borcea v. Carnival Corp.*, 238 F.R.D. 664, 671 (S.D. Fla. 2006) (internal quotation marks omitted). "Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried,

would present intractable management problems ... for the proposal is that there be no trial." *Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 620 (1997).

Certification of the Settlement Classes for settlement purposes permits notice of the proposed Settlement to issue and inform Settlement Class Members of the existence and terms of the proposed Settlement, of their right to be heard on its fairness, of their right to opt out, and of the date, time and place of the formal fairness hearing. *See Manual for Compl. Lit*., at §§ 21.632, 21.633. For purposes of this Settlement only, Assurance does not oppose class certification. For the reasons set forth below, certification is appropriate under Rule 23(a) and (b)(3).

Certification under Rule 23(a) of the Federal Rules of Civil Procedure requires that (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class. Under Rule 23(b)(3), certification is appropriate if the questions of law or fact common to the members of the class predominate over individual issues of law or fact and if a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

The numerosity requirement of Rule 23(a) is satisfied because the Settlement Classes consist of hundreds of thousands of people located throughout the United States, and joinder of all such persons is impracticable. Sheehan Decl., at ¶ 16; *see also* Fed. R. Civ. P. 23(a)(1); *Kilgo v. Bowman Trans.*, 789 F.2d 859, 878 (11th Cir. 1986) (numerosity satisfied where plaintiffs identified at least 31 class members "from a wide geographical area"); *Belin v. Health Insurance Innovations, Inc.*, 337 F.R.D. 544, 556 (S.D. Fla. 2021) (class comprised of "tens of thousands… more than sufficient to establish numerosity").

"[C]ommonality requires that there be at least one issue whose resolution will affect all or a significant number of the putative class members." *Williams v. Mohawk Industries, Inc.*, 568 F.3d 1350, 1355 (11th Cir. 2009) (internal quotation marks omitted); *see also Fabricant v. Sears Roebuck*, 202 F.R.D. 310, 313 (S.D. Fla. 2001) (same). It is "well established" that the commonality threshold "is not high." *Dujanovic v. MortgageAmerica, Inc.*, 185 F.R.D. 660, 667 (N.D. Ala. 1999); *see also Georgine v. Amchem Products, Inc.*, 83 F.3d 610, 627 (3rd Cir. 1996) (recognizing "very low threshold for commonality"). The legal claims among the class members do not need to be exactly the same, *Kreuzfeld A.G. v. Carnehammar*, 138 F.R.D. 594, 599 (S.D. Fla. 1991), and not all questions of law or fact must be common, *Singer v. AT&T Corp.*, 185 F.R.D. 681, 687 (S.D. Fla. 1998). Indeed, "'even a single common question' will do." *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 359 (2011); *Carriuolo v. Gen. Motors Co.*, 823 F.3d 977, 984 (11th Cir. 2016). Here, the commonality requirement is satisfied because there are many questions of law and fact common to the Settlement Classes that center on Defendants' sales practices as alleged in the operative complaint and that concern whether Defendants were parties to a RICO conspiracy. *See* Fed. R. Civ. P. 23(a)(2). *See Belin*, 337 F.R.D. at 557 (finding commonality requirement met because, "[i]n addition to raising common questions that focus on a scheme, RICO claims likewise raise questions of a standardized course of conduct.").

For similar reasons, Plaintiffs' claims are reasonably coextensive with those of the absent class members, such that the Rule 23(a)(3) typicality requirement is satisfied. *See Kornberg v. Carnival Cruise Lines, Inc.*, 741 F.2d 1332, 1337 (11th Cir. 1984) (typicality satisfied where claims "arise from the same event or pattern or practice and are based on the same legal theory"); *Murray v. Ausländer*, 244 F.3d 807, 811 (11th Cir. 2001) (named plaintiffs are typical of the class where they "possess the same interest and suffer the same injury as the class members"). "The

typicality requirement may be satisfied despite substantial factual differences when there is a strong similarity of legal theories." *Williams v. Mohawk Indus., Inc.*, 568 F.3d 1350, 1357 (11th Cir. 2009). Plaintiffs are typical of absent Settlement Class Members because they were subjected to the same practices and claim to have suffered from the same injuries, and because they will equally benefit from the relief provided by the Settlement. *See Belin*, 337 F.R.D. at 557-558.

Plaintiffs also satisfy the adequacy of representation requirement. Adequacy under Rule 23(a)(4) relates to (1) whether the proposed class representatives have interests antagonistic to the class; and (2) whether the proposed class counsel has the competence to undertake this litigation. *Fabricant*, 202 F.R.D. at 314. The determinative factor "is the forthrightness and vigor with which the representative party can be expected to assert and defend the interests of the members of the class." *Lyons v. Georgia-Pacific Corp. Salaried Employees Ret. Plan*, 221 F.3d 1235, 1253 (11th Cir. 2000) (internal quotation marks omitted). Plaintiffs' interests are coextensive with, not antagonistic to, the interests of the Settlement Classes, because Plaintiffs and absent Settlement Class Members have an equally great interest in the relief offered by the Settlement, and absent Settlement Class Members have no diverging interests. Further, Plaintiffs are represented by qualified and competent counsel who have extensive experience and expertise prosecuting complex class actions, including consumer actions similar to the instant case. *See* Sheehan Decl., at ¶¶ 19-20; Carroll Decl., at ¶ 18. Plaintiffs' counsel have devoted substantial time and resources to vigorous litigation of this case through the defeat of multiple motions to dismiss, engaging in extensive discovery, the filing of a motion for class certification supported by detailed record evidence and expert testimony, and settlement. Sheehan Decl., at ¶¶ 4-14; Carroll Decl., at ¶¶ 4-14.

To satisfy the predominance requirement of Rule 23(b)(3), "the issues in the class action

that are subject to generalized proof and thus applicable to the class as a whole, must predominate over those issues that are subject only to individualized proof." *Kerr v. City of W. Palm Beach*, 875 F.2d 1546, 1557-58 (11th Cir. 1989) (internal quotation marks omitted). "[c]ommon issues of fact and law ... ha[ve] a direct impact on every class member's effort to establish liability that is more substantial than the impact of individualized issues in resolving the claim or claims of each class member." *Sacred Heart Health Sys., Inc. v. Humana Military Healthcare Sen's., Inc.*, 601 F.3d 1159, 1170 (11th Cir. 2010) (internal quotation marks omitted). That said, the predominance inquiry "does not require a plaintiff seeking class certification to prove that each element of its claim is susceptible to classwide proof*." Amgen Inc. v. Conn. Ret. Plans & Trust Funds*, 568 U.S. 455, 469 (2013).

Plaintiffs satisfy the predominance requirement because liability questions common to all Settlement Class Members substantially outweigh any possible issues that are individual to each Settlement Class Member. Indeed, each Settlement Class Member's relationship with the Defendants arises out of the same misleading marketing scheme. *See Belin*, 337 F.R.D. at 558. .

Furthermore, resolution of thousands of claims in one action is far superior to individual lawsuits, because it promotes consistency and efficiency of adjudication. *See* Fed. R. Civ. P. 23(b)(3)*; Belin*, 337 F.R.D. at 559. For these reasons, the Court should certify the Settlement Classes.

VI. THE PROPOSED NOTICE PLAN IS ADEQUATE

Class notice must "fairly apprise the prospective members of the class of the terms of the proposed settlement and of the options that are open to them in connection with the proceedings." *Wal-mart Stores, Inc. v. Visa USA, Inc.*, 396 F.3d 96, 114 (2d Cir. 2005). "Notice must be reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of

the action and afford them an opportunity to present their objections." *Eisen v. Carlisle and Jacquelin,* 417 U.S. 156, 172 (1974). "Individual notice must be provided to those class members who are identifiable through reasonable effort." *Id*. at 175.

Here, the proposed form and method of notice of settlement satisfies all due process considerations and meets the requirements of Rule 23(e)(1). The Class Notice attached as **Exhibit 1.A**, which is modeled after the Federal Judicial Center models and the notice this Court approved in *Belin*, fully apprises Settlement Class Members of the existence of the lawsuit and the claims asserted, the proposed Settlement Agreement and the information they need to make informed decisions about their rights. This includes (i) the risks attendant to continued litigation; (ii) the terms and operation of the Settlement Agreement; (iii) the nature and extent of the release; (iv) the maximum attorneys' fees and expenses that will be sought; (v) the procedure and timing for opting out of the Settlement; (vi) the procedure and timing for objecting to the Settlement Agreement; and (vi) the date and place of the Fairness Hearing. Significantly, this Court approved a similar notice plan in *Belin*. *See Belin*, D.E. 265, at 5-7.

The Settlement Class Members are identifiable because they were customers of Defendants. Plaintiffs have acquired last-known contact information for Settlement Class Members from Benefytt. *See* Sheehan Decl., at ¶ 16. Using this information, notice of the Settlement will be sent to the Settlement Class Members by email within 45 days of the entry of a Preliminary Approval Order. Within that time, the Settlement Administrator shall also establish a Settlement Website containing the Class Notice and the Settlement Agreement. For those Settlement Class Members for which there is no email address, or whose emails are undeliverable, direct notice shall be made by U.S. mail to the last-known mailing addresses.

VII. REQUEST FOR FAIRNESS HEARING

Rule 23(e)(2) provides that if a settlement proposal would bind class members, the court may give final approval of it "only after a hearing and on a finding that it is fair, reasonable, and adequate." Plaintiffs ask this Court to set a Fairness Hearing for the purpose of considering the fairness, reasonableness and adequacy of the Settlement Agreement, the payment of attorneys' fees and expenses, and whether the Settlement Agreement should be finally approved. Class Counsel will file a memorandum in support of final approval prior to the Fairness Hearing. Plaintiffs respectfully request that the Fairness Hearing be set for a date approximately 180 days from the entry of the Preliminary Approval Order. This would allow ample time for notice to the Settlement Class Members and for the parties to address any objections that may be filed.

VIII. CONCLUSION

For the reasons stated above, Plaintiffs ask this Court to enter the proposed Preliminary Approval Order attached as **Exhibit 1.C** and (i) grant preliminary approval of the Settlement of this Action as fair, adequate and reasonable, and within the reasonable range of possible final approval; (ii) certify the Settlement Classes, appoint Plaintiffs as Settlement Class Representatives and appoint Plaintiffs' Counsel as Class Counsel for settlement purposes; (iii) approve the form and content of the Class Notice and find that the notice program set forth constitutes the best notice practicable under the circumstances, and satisfies due process and Rule 23; (iv) set the Objection Deadline and Opt-Out Deadline; and (v) schedule a Fairness Hearing, as well as any other or further relief the Court deems necessary or proper.

Dated: November 14, 2023

WHATLEY KALLAS, LLP

/s/ Charles Nicholas Dorman
Charles Nicholas Dorman
111 North Orange Avenue
Suite 800
Orlando, Florida 32801
Telephone: (321) 325-6624
Facsimile: (800) 922-4851
Email: ndorman@whatleykallas.com

Joe R. Whatley Jr.
W. Tucker Brown
2001 Park Place North 1000
Park Place Tower
P.O. Box 10968
Birmingham, AL 35203
Telephone: (205) 488-1200
Facsimile: (800) 922-4851
jwhatley@whatleykallas.com
tbrown@whatleykallas.com

Patrick J. Sheehan
101 Federal Street, 19th Floor
Boston, MA 02110
Telephone: (617) 573-5118
Facsimile: (617) 371-2950
psheehan@whatleykallas.com

MATT CARROLL LAW, LLC
Matt Carroll
P.O. Box 660749
Vestavia, AL 35216
Telephone: (205) 240-2586
Email: matt@mattcarrollfirm.com

INGE JOHNSTONE LAW OFFICES
F. Inge Johnstone
1 Independence Plaza
Homewood, AL 35209
Telephone: (205) 771-4009
Facsimile: (205) 771-4049
Email: ijohnstone@ingejohnstone.com

J. Dennis Gallups
PO Box 381894
Birmingham, AL 35283

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been electronically filed on November 14, 2023, with the Clerk of the Court using the CM/ ECF system which will send notification of such filing to the following counsel of record:

Val Leppert
KING & SPALDING LLP
200 S. Biscayne Blvd., Suite 4700
Miami, FL 33131
(404) 572-4600
vleppert@kslaw.com

Dale A. Evans Jr.
Florida Bar Number: 98496
LOCKE LORD LLP
777 South Flagler Drive, Suite 215-East
West Palm Beach, Florida 33401
Telephone: 561-833-7700
Facsimile: 561-655-8719
dale.evans@lockelord.com

Vincent A. Sama (*Pro Hac Vice*)
Catherine B. Schumacher (*Pro Hac Vice*)
Daphne Morduchowitz (*Pro Hac Vice*)
Sarah Fedner (*Pro Hac Vice*)
SEYFARTH SHAW LLP
620 Eighth Avenue, 32nd Floor
New York, New York 10018-1405
Telephone: (212) 218-5500
Facsimile: (212) 218-5526
vsama@seyfarth.com
cschumacher@seyfarth.com
dmorduchowitz@seyfarth.com
sfedner@seyfarth.com

Martha Rosa Mora
AVILA RODRIGUEZ HERNANDEZ
MENA & FERRI
2525 Ponce de Leon Boulevard
Penthouse 1225
Coral Gables, FL 33134
(305) 779-3567
mmora@arhmf.com

Renée B. Appel (*Pro Hac Vice*)
975 F Street NW
Washington, D.C. 20004
Telephone: (202) 828-5371
rappel@seyfarth.com

/s/ Charles Nicholas Dorman
Attorney for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

WILLIAM JAMES GRIFFIN, et al., Plaintiffs, v. BENEFYTT TECHNOLOGIES, INC., et al., Defendants.	Case No. 0:20- cv-62371-AHS

SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into by and between Plaintiffs William James Griffin, Ashley Lawley, William "Jeff" Cooper, Sandra Wilson and Vicki Needham ("Plaintiffs"), for themselves and the Settlement Class Members (as defined below) on the one hand, and Defendant Assurance IQ, LLC ("Assurance"), on the other hand.

Plaintiffs and Assurance are each a "Party" to this Settlement Agreement and are referred to collectively herein as the "Parties."

Subject to the terms and conditions set forth herein and to the Court's approval pursuant to Rule 23 of the Federal Rules of Civil Procedure, the settlement embodied in this Settlement Agreement is intended by the Parties to be a full and final disposition of the Action with respect to Assurance and to fully, finally and forever resolve, discharge, dismiss and settle the Released Claims against the Released Parties.

The Parties agree that, by entering into this Settlement, Assurance is not admitting any liability, fault or violation of law. Rather, the Parties agree and acknowledge that Assurance vigorously denies all allegations and claims asserted against it, but like Plaintiffs, is entering into the Settlement to avoid the risk, burden and expense of continued litigation.

I. DEFINITIONS

As used in this Settlement Agreement and its exhibits, the following capitalized terms shall have the meanings set forth below. In the event of any inconsistency between any definition set forth below and any definition in any other document related to the Settlement, the definition set forth below shall control.

(a) "Action" means the civil action captioned *William James Griffin, et al. v. Benefytt Technologies, et al.*, No. 0:20- cv-62371-AHS (S.D. Fla.).

(b) "Additional Plaintiffs' Counsel" means F. Inge Johnstone and J. Dennis Gallups.

(c) "American National" means American National Benefits Group, LLC.

(d) "Assurance" means Assurance IQ, LLC, its parents, subsidiaries and affiliates and each of their current and former officers, directors, managers and employees.

(e) "Assurance Released Parties" means Assurance and any and all related parties, including without limitation, Assurance's parent, Prudential Financial, Inc., any and all subsidiaries, affiliates, predecessors, or successors, any and all current or former officers, directors, employees, indemnitees, independent contractors, associates, shareholders, agents or other persons acting on its behalf, including but not limited to attorneys, advisors, consultants, auditors, accountants, underwriters, assigns, creditors, administrators, heirs, estates, or legal representatives and insurers.

(f) "Benefytt Defendants" or "Benefytt" means Health Plan Intermediaries Holdings, LLC and Benefytt Technologies, Inc. formerly Health Insurance Innovations, Inc.

(g) "CAFA Notice" means the notice required pursuant to the Class Action Fairness Act, 28 U.S.C. § 1715, *et. seq.*

(h) "Claim Form" means the form sent to Settlement Class Members and voluntarily

returned and/or submitted by Participating Settlement Class Members who seek to participate in the Settlement Classes. The Claim Form shall require a Settlement Class Member who seeks to participate to affirm his or her desire to participate, and to provide or confirm current contact information. The Claim Form shall also require each Settlement Class Member who seeks to be included in the Medical Expense Subclass to confirm under penalty of perjury that he or she incurred Uncovered Medical Expense(s) during the Class Period and the approximate amount. A copy of the Claim Form is attached as **Exhibit 1.B.**

(i) "Class Counsel" means Whatley Kallas, LLP and Matt Carroll Law LLC.

(j) "Class Period" means the period from May 5, 2016 to Preliminary Approval.

(k) "Consideration" or "Class Payment" means the cash sum of $13.5 million ($13,500,000.00) that Assurance will pay into the Settlement Fund to settle the Action in accordance with the terms of this Settlement Agreement. Other than the Consideration or Class Payment, Assurance shall owe no additional monies of any kind under this Settlement Agreement.

(l) "Court" means the United States District Court for the Southern District of Florida.

(m) "Distribution(s)" means the distribution of the Net Consideration from the Settlement Fund to Participating Settlement Class Members. At the discretion of the Settlement Administrator with the prior approval of the Parties, the Net Consideration may be distributed to Participating Settlement Class Members (i) in multiple Distributions or (ii) in a single Distribution.

(n) "Effective Date," or the date upon which the Settlement takes effect, means the date of Final Approval.

(o) "Escrow Account" means one or more separate escrow account(s) into which the Consideration will be deposited for the benefit of the Settlement Classes until such time as the Consideration is transferred pursuant to the terms of this Settlement Agreement. All funds held in

the Escrow Account shall be the Settlement Fund and deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds shall be disbursed pursuant to the terms of this Settlement Agreement and/or further order of the Court. The Escrow Agent shall invest the funds in the Escrow Account in instruments or accounts backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, including a U.S. Treasury Fund or a bank account that is either (a) fully insured by the Federal Deposit Insurance Corporation ("FDIC") or (b) secured by instruments backed by the full faith and credit of the United States Government. All risks of loss related to the investment shall be borne solely by the Settlement Fund. In the event this Settlement Agreement fails for any of the reasons specified in Section X, below, the contents of the Escrow Account will revert to Assurance in accordance with the terms of that Section.

(p) "Escrow Agent" means the person or institution selected with the approval of all Parties to receive and hold the Settlement Fund under the terms of this Settlement Agreement. The Settlement Administrator may act as Escrow Agent.

(q) "Final Approval" means the date when the order granting final approval of the Settlement and entering judgment (the Final Order and Judgment) will be final and no longer subject to appeal, and specifically:

(1) If no appeal is taken therefrom, the date on which the time to appeal (including any potential extension of time) has expired; or

(2) If any appeal is taken therefrom, the date on which all appeals therefrom, including petitions for rehearing or reargument, petitions for rehearing en banc and petitions for certiorari or any other form of review, have been finally disposed of, such that the time to appeal therefrom (including any potential extension of time) has expired, in a manner resulting in an

affirmance of Final Order and Judgment.

(r) "Final Approval Hearing" means the hearing held by the Court to determine whether to enter the Final Order and Judgment.

(s) "Final Order and Judgment" means an order granting final approval of the Settlement and entering judgment substantially in the form of **Exhibit 1.D** hereto.

(t) "Medical Expense Subclass" means all Settlement Class Members who incurred Uncovered Medical Expense(s).

(u) "Net Consideration" means the Settlement Fund less: (1) Court-awarded attorneys' fees and reimbursement of attorneys' costs and expenses; (2) Notice and Administration Expenses; (3) Taxes, if any; and (4) any other costs, fees or expenses approved by the Court.

(v) "Notice" or "Class Notice" means the Notice of Class Action Settlement to be provided to each Settlement Class Member. Subject to approval of the Court, the Notice shall be substantially in the form attached as **Exhibit 1.A** hereto and shall describe for Settlement Class Members the requirements for excluding oneself from the Settlement or filing and pursuing an objection. The Settlement Administrator shall cause the Notice to be sent to each Settlement Class Member in accordance with the notice procedures described in Section VI.

(w) "Notice and Administration Expenses" means all costs, fees, and expenses incurred by the Settlement Administrator and/or any mailing agents retained by Settlement Administrator in connection with providing Notice to the Settlement Classes and distributing the Net Consideration to Participating Settlement Class Members, including but not limited to costs of printing and providing notice to persons in the Settlement Classes including, but not limited to costs for Direct Notice and the Settlement Website (all of which are defined in Section VI below); costs of administering the Settlement, including, but not limited to, the cost of printing and mailing

settlement payments; and costs of reviewing Claim Forms and verifying information therein.

(x) "Objection Deadline" shall be the date set by the Court for Settlement Class Members to provide notice to the Court of their objection to this Settlement, which, subject to Court approval, shall be 90 days from Preliminary Approval, but in any event at least 45 days after Preliminary Approval and at least 21 days before the Final Approval Hearing.

(y) "Opt-Out Deadline" shall be the date set by the Court for Settlement Class Members to provide the Settlement Administrator with notice of their desire to opt out of this Settlement, which, subject to Court approval, shall be 90 days from Preliminary Approval, but in any event at least 45 days after Preliminary Approval and at least 21 days before the Final Approval Hearing.

(z) "Participating Settlement Class Members" means those Settlement Class Members who timely submit a valid Claim Form and do not timely and validly request exclusion from the Settlement.

(aa) "Preliminary Approval" means the date on which the Court enters the Preliminary Approval Order.

(bb) "Preliminary Approval Order" means the order by the Court granting preliminary approval of this Settlement Agreement, substantially in the form attached hereto as **Exhibit 1.C.**

(cc) "Priority Insurance" means Independent Insurance Consultant, Inc., d/b/a Priority Insurance.

(dd) "Released Claims" means any and all claims, causes of action, suits, obligations, debts, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses, refunds, reimbursements, restitution, and attorneys' fees of any nature whatsoever, whether arising under federal law, state law, local law, common law or equity, state or federal antitrust laws, any state's consumer protection laws, unjust enrichment, contract, rule, regulation, any regulatory

promulgation (including, but not limited to, any opinion or declaratory ruling), or any other law, including Unknown Claims, whether suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, punitive or compensatory, that were advanced in the Action, or that are related to the facts, transactions, events, occurrences, acts, or omissions alleged in the Action and could have been advanced in the Action, as of the date of the Final Order and Judgment (excluding, for avoidance of doubt, any claims to enforce the Settlement or the Final Order and Judgment). However, for the avoidance of doubt, the Parties agree that the Settlement Agreement shall not limit Settlement Class Members' ability to claim or receive relief in connection with the settlement reached in the *FTC v. Benefytt Technologies, Inc.*, No. 8:22-cv-01794-TPB-JSS (M.D. Fla.). The Parties further agree that claims for violations of the Telephone Consumer Protection Act 47 U.S.C. § 227 *et seq.*, or state court analogues, against the Benefytt Defendants, are not affected by this Settlement.

(ee) "Released Parties" means Assurance Released Parties; the Settlement Class Members, including the Settlement Class Representatives, who do not timely opt out of the Settlement; and Class Counsel.

(ff) "Releasing Parties" means Assurance; the Settlement Class Members, including the Settlement Class Representatives, who do not timely opt out of the Settlement; and Class Counsel.

(gg) "Settlement" means the resolution of the Action in accordance with the terms and provisions of this Settlement Agreement.

(hh) "Settlement Administrator" means Kroll Settlement Administration, LLC and/or any third-party chosen by the Parties with expertise in the administration of class action settlements.

(ii) "Settlement Agreement" means this Settlement Agreement and its exhibits.

(jj) "Settlement Classes" or "Classes" shall mean the classes defined as follows:

The American National Class. All individuals who purchased Benefytt's limited benefit indemnity plans or short term medical plans through American National during the Class Period, and paid fees and/or premiums that were not completely recovered through a refund or chargeback.

The Assurance Class. All individuals who purchased Benefytt's limited benefit indemnity plans or short term medical plans through Assurance during the Class Period, and paid fees and/or premiums that were not completely recovered through a refund or chargeback.

The Benefytt Class. All individuals who purchased limited benefit indemnity plans or short term medical plans directly from Benefytt during the Class Period, and paid fees and/or premiums that were not completely recovered through a refund or chargeback.

The Priority Insurance Class. All individuals who purchased Benefytt's limited benefit indemnity plans or short term medical plans through Priority Insurance during the Class Period, and paid fees and/or premiums that were not completely recovered through a refund or chargeback.

The Medical Expense Subclass. All individuals within any of the above Classes who incurred Uncovered Medical Expense(s).

Excluded from the Settlement Classes are Assurance, American National, Benefytt and Priority Insurance, as well as their subsidiaries and affiliates, their officers, directors and members of their immediate families and any entity in which Assurance, American National, Benefytt or Priority Insurance has a controlling interest, the legal representatives, heirs, successors or assigns of any such excluded entity, the judicial officer(s) to whom this action is assigned, and the members of their immediate families.

(kk) "Settlement Class Members" means those persons who are members of the Settlement Classes.

(ll) "Settlement Class Representatives" means Plaintiffs William James Griffin, Ashley Lawley, William "Jeff" Cooper, Sandra Wilson and Vicki Needham.

(mm) "Settlement Fund" means the Consideration deposited in the Escrow Account and any interest or dividends that may accrue thereon.

(nn) "Tax" or "Taxes" mean any and all taxes, fees, levies, duties, tariffs, imposts, and other charges of any kind (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto), if any, imposed by any governmental authority.

(oo) "Uncovered Medical Expenses" means medical expenses (i) incurred by a Settlement Class Member (ii) during the Class Period (iii) for which the Settlement Class Member made a claim for reimbursement under a Benefytt limited benefit indemnity plan or short term medical plan purchased through Assurance, American National, Benefytt and/or Priority Insurance that was in effect at the time the medical expense was incurred but (iv) whose claim was rejected in whole or in part.

(pp) "Unknown Claims" means any and all Released Claims that Plaintiffs and/or any other Settlement Class Member does not know or suspect to exist in her, his, or its favor at the time of the release of the Released Parties, which if known by him, her, or it might have affected her, his, or its decision(s) with respect to the Settlement, including the decision to seek exclusion from or object to the Settlement.

II. THE SETTLEMENT CLASSES

The Parties stipulate to: (i) certification, for settlement purposes only, of the Classes (as

defined above), pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure; (ii) appointment of Plaintiffs as the Settlement Class Representatives; and (iii) appointment of Class Counsel as lead counsel.

Certification of the Classes shall be binding only with respect to the Settlement of the Action and only if the Final Order and Judgment contemplated by this Settlement Agreement becomes Final and the Effective Date occurs. Nothing in this Settlement Agreement shall serve in any fashion, either directly or indirectly, as evidence or support for certification of a class or classes other than for settlement purposes, and the Parties intend that the provisions herein concerning certification of the Classes shall have no effect whatsoever in the event the Final Order and Judgement is not entered, as defined in Section X.

Plaintiffs shall seek, and Assurance shall not oppose, Preliminary Approval and then Final Approval of this Settlement Agreement. If the Settlement Agreement is not finally approved by the Court for any reason whatsoever, then this Settlement Agreement will be void subject to Section X below, and no doctrine of waiver, estoppel or preclusion will be asserted in any further litigated proceedings in this Action. No agreements made by or entered into by Assurance in connection with the Settlement Agreement may be used by Plaintiffs, any Settlement Class Member or any other person to establish any of the elements of liability in any further litigated proceedings, whether in the Action or any other judicial proceeding.

III. SETTLEMENT CONSIDERATION

(a) In consideration of the releases, covenants, and other agreements set forth in this Settlement Agreement, Assurance shall pay the Consideration into the Escrow Account by check or wire transfer within 30 days after Preliminary Approval, provided that, at least 20 days prior to payment of this Consideration, Assurance has received from the Escrow Agent written instructions

specifying the payee, tax ID number, wire transfer instructions and/or physical address for delivery of the check with a contact person name and phone number and an executed W-9 form (if necessary).

(b) Other than the Consideration, Assurance shall owe no additional monies of any kind under this Settlement Agreement.

IV. PAYMENT OF ATTORNEYS' FEES AND COSTS

(a) Within 45 days of Preliminary Approval, Class Counsel will move for, and Assurance shall not oppose, an award of attorneys' fees not to exceed 33.33% of the Class Payment, plus reimbursement of expenses and costs incurred, to be paid from the Class Payment.

(b) Within seven days after entry of the Final Order and Judgment, any award of attorneys' fees and costs shall be paid to Class Counsel from the Escrow Account according to wiring instructions that Class Counsel will provide. Any payment of attorneys' fees and costs pursuant to this Paragraph shall be subject to Class Counsel's joint and several obligation to make refunds or repayments to the Escrow Account of any paid amounts, plus accrued earnings at the same net rate as is earned by the Escrow Account, if: (a) as a result of any appeal or further proceedings on remand or successful collateral attack, the fee or cost is reduced, vacated, or reversed by a final, non-appealable court order; (b) this Settlement is terminated or cancelled for any reason; or (c) the Settlement is not approved or is reversed or modified by any court, except as to Plaintiffs' or Class Counsel's requests for attorneys' fees and cost reimbursement, as set forth in Section IV(e). If any one or more of the events described in this Paragraph occur, Class Counsel shall make the appropriate refund or repayment in full no later than 15 calendar days after receiving notice of the event(s).

(c) With the sole exception of Assurance causing the payment of the Consideration

into the Escrow Account as provided for in Section III(a), Assurance shall have no responsibility for, shall take no position with respect to, and have no liability whatsoever with respect to, any payment whatsoever to Class Counsel. The sole source of any payment of attorneys' fees shall be the Settlement Fund.

(d) Class Counsel, in their sole discretion, shall allocate and distribute any attorneys' fees or litigation expenses awarded in the Action in good faith among Class Counsel and Additional Plaintiffs' Counsel in this Action. Assurance shall have no responsibility for, and no liability whatsoever with respect to, any allocation of attorneys' fees or litigation expenses awarded in the Action.

(e) This Settlement Agreement is not dependent or conditioned upon the Court's approving Plaintiffs' or Class Counsel's requests for attorneys' fees and cost reimbursement, or upon awarding the particular amounts sought. In the event the Court declines Plaintiffs' or Class Counsel's requests or awards less than the amounts sought, this Settlement Agreement shall continue to be effective and enforceable by the Parties. No appeal or proceeding seeking subsequent judicial review pertaining solely to the Court's award of attorneys' fees and cost reimbursement shall in any way delay or affect the time set forth above for the Judgment to become final, or otherwise preclude the Judgment from becoming final.

V. PRELIMINARY APPROVAL

(a) Plaintiffs shall move the Court for entry of a proposed Preliminary Approval Order substantially in the form of **Exhibit 1.C.** hereto. Plaintiffs' motion shall request that:

1) the Court certify the Classes for settlement purposes, appoint Plaintiffs as the Settlement Class Representatives for settlement purposes, and appoint Class Counsel as counsel for the Settlement Classes for settlement purposes;

2) the Court preliminarily approve the Settlement Agreement as fair, adequate and reasonable, and within the reasonable range of possible Final Approval;

3) the Court approve the form and content of the Notice and find that the notice program set forth herein constitutes the best notice practicable under the circumstances, and satisfies due process and Rule 23 of the Federal Rules of Civil Procedure;

4) the Court set the date and time for the Final Approval Hearing, which may be continued by the Court from time to time without the necessity of further notice; and

5) the Court set the Objection Deadline and the Opt-Out Deadline.

VI. NOTICE AND ADMINISTRATION PROCESS

(a) The Settlement distribution process for the Settlement Classes will be administered by the Settlement Administrator with the assistance of a mailing agent or other administrator with expertise in the administration of class action settlements.

(b) The Settlement Administrator's responsibilities with respect to Notice and administration of the Settlement shall include giving and/or supervising Notice to Settlement Class Members; sending, receiving, reviewing and adjudicating Claim Forms; obtaining new addresses for any returned mail; maintaining records of all its activities relating to Notice and administration of this Settlement; and other tasks reasonably required to effectuate the foregoing.

(c) The Settlement Administrator shall provide and/or supervise email notice and mail notice to Settlement Class Members, as follows:

i. Direct Notice. The Settlement Administrator will provide and/or supervise individual notice to all Settlement Class Members for whom the Parties have reasonably accessible contact information (the "Direct Notice"). The Direct Notice shall be provided as follows:

(1) Email-Notice. Notice of the Settlement shall first be sent by e-mail

to all Settlement Class Members as to whom the Parties have a reasonably accessible e-mail address (the "E-mail Notice"). E-mails sent shall have a "return receipt" or other such function that permits the Settlement Administrator and/or its mailing agent to reasonably determine whether e-mails have been delivered and/or opened. E-mails shall have a hyperlink that Settlement Class Member recipients may click and be taken to a landing page on the Settlement Website that contains the Class Notice and Claim Form.

(2) Mail Notice. For Settlement Class Members for whom the Parties have a reasonably accessible mailing address, but not an associated e-mail address, and to those Settlement Class Members whose e-mails are returned as undeliverable, notice of the Settlement shall be sent via postcard to the most recent mailing address as reflected in reasonably available computerized records and/or data associated with the number (the "Mail Notice"). A National Change of Address update shall be performed before mailing. Skip tracing shall be performed for all returned mail. All costs of skip tracing will be considered Notice and Administrative Expenses.

(3) The Direct Notice will include summary information pursuant to Federal Rule of Civil Procedure 23(c)(2)(B) on how to obtain and submit the Claim Form and also refer to the Settlement Website, which, as discussed below, will include information regarding the Settlement and also provide for online submission of the Claim Form and opt out requests.

ii. Settlement Website. Within 45 days after Preliminary Approval, the Settlement Administrator will cause to be established and maintained the Settlement Website, using a URL selected by Assurance and subject to approval by Class Counsel, on which will be posted the Direct Notice and Claim Form. The Direct Notice shall direct recipients to the

Settlement Website. The Settlement Website will provide for online submission of the Claim Forms.

(d) The Settlement Administrator shall also be responsible for overseeing the calculation of, and implementing the distribution of, the Net Consideration to Participating Settlement Class Members. Each Participating Settlement Class Member shall receive his or her *pro rata* share of the Settlement Fund. To calculate each *pro rata* share, first each Participating Settlement Class Member will be assigned a "total numerator" to be calculated as each Participating Settlement Class Member's unrefunded payments for limited benefit indemnity plans and/or short term medical plans (the "base numerator"), plus a "medical expense multiplier" equal to the base numerator if that Participating Settlement Class Member timely submits a Claim Form stating under penalty of perjury that he or she incurred Uncovered Medical Expenses of $25,000.00 or less, two times the base numerator if that Participating Settlement Class Member timely submits a Claim Form stating under penalty of perjury that he or she incurred Uncovered Medical Expenses in an amount between $25,000.00 and $50,000.00, and three times the base numerator if that Participating Settlement Class Member timely submits a Claim Form stating under penalty of perjury that he or she incurred Uncovered Medical Expenses in an amount greater than $50,000.00. The Net Consideration will be divided by the sum of all Participating Settlement Class Members' total numerators to calculate a "final multiplier," which shall be multiplied against each Participating Settlement Class Member's total numerator to arrive at that Participating Settlement Class Member's *pro rata* share.

(e) The costs of Direct Notice, the Settlement Website and/or any other Notice and Administration Expenses, up to $150,000, that arise prior to Assurance's payment of the Consideration into the Settlement Fund shall be advanced by Assurance and credited toward total

Consideration owed by Assurance.

(f) Within 14 days of the execution of this Settlement Agreement, Assurance shall pay $150,000 of the Consideration into the Escrow Account by check or wire transfer for use in the payment of initial Notice and Administration Expenses, which will be credited toward the total Consideration owed by Assurance.

(g) All Notice and Administration Expenses of the Settlement incurred after Assurance's payment of the Consideration into the Settlement Fund shall be paid from the Settlement Fund. The Settlement Administrator shall be allowed to obtain reimbursement for Notice and Administration Expenses from the Settlement Fund upon approval of the Parties and without having to obtain leave of Court. Itemization of the Settlement Administrator's Notice and Administration Expenses shall be provided to counsel to the Parties upon request.

(h) In conformance with the time limitations set forth in 28 U.S.C. § 1715(b), the Settlement Administrator, within 10 days after the filing of the motion for preliminary approval, will cause the CAFA Notice to be prepared and sent to the appropriate officials.

(i) Notice shall be provided to all persons in the Settlement Class in accordance with the notice procedures approved by the Court. Within 45 days after Preliminary Approval, the Settlement Administrator shall cause the Direct Notice to be sent to all Settlement Class Members. For any Direct Notice that is returned as undeliverable, the Settlement Administrator or its mailing agent shall attempt to locate an alternative email or mailing address for the Settlement Class Member and re-send the Notice promptly.

(j) Settlement Class Members must return and/or submit their Claim Form within 135 days of Preliminary Approval to receive a Distribution. Should any portion of a Settlement Class Member's Claim Form be incomplete or illegible, the Settlement Administrator and/or its mailing

agent shall use its best efforts to contact the Settlement Class Member and obtain a complete legible Claim Form.

(k) Within three business days of the Effective Date, the Escrow Agent shall disburse the Net Consideration to the Settlement Administrator.

(l) The Settlement Administrator thereafter shall cause the Distributions to be distributed to Participating Settlement Class Members consistent with the provisions of this Settlement Agreement.

(m) No later than 10 days after the Effective Date, the Settlement Administrator and/or its mailing agent shall notify Class Counsel of the Distributions to be allocated to each Participating Settlement Class Member out of the Settlement Fund.

(n) No later than 45 days after the date of the Effective Date, and subject to Class Counsel's prior approval, which shall not be unreasonably withheld, the Settlement Administrator shall cause the Distributions to be paid to Participating Settlement Class Members out of the Settlement Fund.

(o) The Settlement Administrator shall endeavor to cause the entire Net Consideration to be distributed to Participating Settlement Class Members. No portion of the Settlement Fund will revert to Assurance. Any amount of the Settlement Fund greater than $20,000 that, owing to undeposited checks, remains under the control of the Settlement Administrator 180 days after payment of all Distributions to Participating Settlement Class Members, shall be redistributed to Participating Settlement Class Members whose checks were deposited. Any amount less than $20,000 shall be distributed to one or more non-profit or charitable organizations with a core mission of educating the public about the purchase of health insurance (the "*Cy Pres* Distribution"). The *Cy Pres* Distribution shall be made 240 days after the payment of all

Distributions to Participating Settlement Class Members. The Parties shall agree upon the proposed recipient(s) of the *Cy Pres* Distribution and shall submit a filing to the Court identifying such proposed recipient(s). The *Cy Pres* Distribution shall be made equally among the recipients designated by the Parties, subject to approval by the Court. If, for any reason, the Parties and/or the Court determine that one or more proposed recipients are not or are no longer appropriate recipients, the Parties shall agree on replacement recipient(s) of such monies, subject to Court approval.

(p) Neither Assurance nor its counsel shall have any role in allocating or challenging the payment of Distributions from the Settlement Fund.

(q) No later than 21 days prior to the Final Approval Hearing, the Settlement Administrator shall file with the Court an affidavit or a declaration stating that the Notice required by the Settlement Agreement has been given in accordance with the terms of the Preliminary Approval Order.

(r) No later than 21 days prior to the Final Approval Hearing, Assurance shall file with the Court an affidavit or declaration stating that the CAFA Notice has been given in accordance with the statutory requirements.

VII. OPT-OUTS AND OBJECTIONS

(a) Any Settlement Class Member who wishes to be excluded from the Settlement Classes must advise the Settlement Administrator in writing of that intent and the opt-out request must be postmarked no later than the Opt-Out Deadline. Settlement Class Members who do not properly and timely submit an opt-out request will be bound by this Settlement Agreement and the judgment, including the releases.

(b) Any Settlement Class Member who submits a valid and timely request for exclusion

to the Settlement Administrator will not be bound by the terms of this Settlement Agreement. In a written request for exclusion, the Settlement Class Member must state:

(1) the Settlement Class Member's full name;

(2) the Settlement Class Member's address, telephone number, and email address;

(3) a statement indicating that they are a member of one or more of the Settlement Classes and wish to be excluded from the Settlement; and

(4) the Settlement Class Member's signature.

(c) Any Settlement Class Member who intends to object to this Settlement Agreement or to Class Counsel's application for attorneys' fees and reimbursement of costs must file with the Court a written objection signed by the Settlement Class Member by the Objection Deadline. For an objection to be considered by the Court, the objection must be filed with the Court and must include all of the following:

(1) the Settlement Class Member's full name, address, email address, and telephone number;

(2) an explanation of the basis upon which the objector claims to be a Settlement Class Member;

(3) whether the objection applies only to the objector, or to the Settlement Classes as a whole, and the reasons for his or her objection, accompanied by any legal or factual support for the objection;

(4) the name of counsel for the objector (if any), including any former or current counsel who may seek or receive compensation for any reason related to the objection;

(5) the case name and civil action number of any other objections the objector

or his or her counsel have made in any other class action cases in the last 4 years; and

(6) whether the objector intends to appear at the Final Approval Hearing on his or her own behalf or through counsel. Counsel for any objector must enter a Notice of Appearance no later than 14 days before the Final Approval Hearing.

(d) Any Settlement Class Member who timely and properly objects may appear at the Final Approval Hearing, either in person or through an attorney hired at the Settlement Class Member's own expense.

(e) A Settlement Class Member may not both opt out of the Settlement and object. If a Settlement Class Member submits both a request for exclusion and an objection, the request for exclusion will control. A Settlement Class Member who opts out of the Settlement may not object to the fairness of this Settlement Agreement.

(f) Any Settlement Class Member who does not make an objection in the time and manner set forth herein shall be deemed to have waived any objections and be forever foreclosed from making any objection to the fairness or adequacy of the Settlement, including but not limited to the compensation of Settlement Class Members, the award of attorneys' fees and reimbursement of costs, or the Final Order and Judgment.

(g) The Settlement Administrator shall provide Class Counsel and counsel for Assurance with copies of all opt-out notifications and, within 14 days after the Opt-out Deadline, shall provide counsel with a final list of all who have timely and validly excluded themselves from the Settlement Classes.

VIII. FINAL ORDER AND JUDGMENT

(a) After the Preliminary Approval, Plaintiffs shall move for Final Approval of the Settlement no later than 30 days prior to the Final Approval Hearing. Plaintiffs' motion shall attach

a proposed Final Order and Judgment substantially in the form of **Exhibit 1.D** hereto.

(b) For the Effective Date to occur, the Court must enter a Final Order and Judgment:

(1) approving this Settlement Agreement without modification (except insofar as the Parties have agreed to such modification) as fair, reasonable and adequate to the Settlement Classes and direct its consummation according to its terms;

(2) finding that the form and manner of notice implemented pursuant to this Settlement Agreement constitutes the best notice practicable under the circumstances; constitutes notice that is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of Plaintiffs' claims, the terms of the proposed Settlement, the right to object to the proposed Settlement, the right to exclude themselves from the proposed Settlement, and the right to appear at the Final Approval Hearing; constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; and meets the requirements of due process and applicable rules of civil procedure;

(3) finding that all members of the Settlement Classes (except those who have timely and validly excluded themselves) shall be bound by this Settlement Agreement, including the release provisions and covenant not to sue;

(4) directing that upon the Effective Date, judgment be entered dismissing the Action with prejudice;

(5) incorporating the release and covenant not to sue set forth in the Settlement Agreement, and forever barring any claims or liabilities related to any Released Claims; and

(6) retaining continuing and exclusive jurisdiction over matters relating to the interpretation, administration, implementation, and enforcement of this Settlement Agreement.

IX. RELEASE OF CLAIMS AND COVENANT NOT TO SUE

(a) As of the date that both the Effective Date and the payment of the Consideration have occurred pursuant to Section III(a), Releasing Parties shall be deemed to have fully, finally and forever released and discharged the Released Parties from the Released Claims.

(b) With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date, the Releasing Parties expressly have, and by operation of the Judgment shall have, to the fullest extent permitted by law, expressly waived and relinquished any and all provisions, rights, and benefits conferred by any law or any state or territory of the United States, or principle of common 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.

Releasing Parties understand and acknowledge the significance of these waivers of California Civil Code Section 1542 and/or of any other applicable law relating to limitations on releases. In connection with such waivers and relinquishment, Releasing Parties acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they now know or believe to be true with respect to the subject matter of the Settlement Agreement, but that they release fully, finally, and forever all Released Claims, and in furtherance of such intention, the release will remain in effect notwithstanding the discovery or existence of any such addition or different facts. Plaintiffs and Assurance acknowledge, and other Settlement Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims was separately bargained for and was a material element of the Settlement.

(c) Plaintiffs and each Settlement Class Member further covenant and agree that they

will not sue or bring any action or cause of action, or seek restitution or other forms of monetary relief, including by way of third-party claim, crossclaim, or counterclaim, against any of the Released Parties in respect of any of the Released Claims; they will not initiate or participate in bringing or pursuing any class action against any of the Released Parties in respect of any of the Released Claims; if involuntarily included in any such class action, they will not participate therein; and they will not assist any third party in initiating or pursuing a class action lawsuit in respect of any Released Claims.

(d) The releases set forth in this Section may be raised as a complete defense and bar to any action or demand brought in contravention of this Settlement Agreement, including but not limited to any and all future claims for contribution or indemnity (and related claims where the injury to the non-settling defendants is their liability or risk of liability to Settlement Class Members) related to the Released Claims.

(e) It is expressly understood and acknowledged by the Parties that the release and covenant not to sue set forth in this Section together constitute essential and material terms of the Settlement Agreement to be included in the proposed Final Order and Judgment.

X. POTENTIAL TERMINATION OF THE SETTLEMENT

(a) Plaintiffs and Assurance shall each individually have the right to terminate the Settlement and this Settlement Agreement by providing written notice of his, her or its election to do so ("Termination Notice"), through counsel, to all other Parties hereto within 14 days of any of the following occurrences:

(1) subject to Section X(d)(2), the Court declines to preliminarily or finally approve, or the Court (or any other court) requires material modifications of the Settlement Agreement, and the Parties do not jointly agree to accept the Settlement Agreement as judicially

modified or are unable to jointly agree to modify the Settlement Agreement for resubmission to the Court for approval; or

(2) any other grounds for termination provided for elsewhere in this Settlement Agreement occur.

(b) If either Plaintiffs or Assurance terminate(s) this Settlement Agreement, the Settlement Agreement shall be of no force and effect and the Parties' rights and defenses shall be restored, without prejudice, to their respective positions as if this Settlement Agreement had never been executed, and any orders entered by the Court in connection with this Settlement Agreement shall be vacated.

(c) This Settlement of the Action is contingent upon the approval of the United States District Court for the Southern District of Florida. Absent Court approval, there is no Settlement of the Action. If the Settlement of the Action is not consummated for any reason (including if the Court does not approve the Settlement of the Action), then all rights of parties in the Action are fully preserved.

(d) If the Settlement is terminated or not approved by the Court, the Effective Date does not occur, or the Settlement otherwise fails for any reason:

(1) The Settlement Fund (including the accrued interest thereon), less any Notice and Administration Expenses actually incurred or paid, and less any Taxes paid or due or owing, shall be refunded to Assurance in accordance with instructions provided by Assurance to Class Counsel no later than 7 days after the Settlement is terminated, the Settlement is not approved by the Court, the Effective Date does not occur, or the Settlement otherwise fails for any reason; and

(2) The Parties agree to work collaboratively to effectuate this Settlement

Agreement. If for some reason it is not possible to do so, the Parties will work together in good faith to modify the terms herein as necessary to effectuate the Settlement Agreement. In the event the Court (or any other court) disapproves or sets aside this Settlement Agreement or any material part hereof for any reason, then the Parties will either jointly agree to accept the Settlement Agreement as judicially modified or engage in negotiations in an effort to jointly agree to modify the Settlement Agreement for resubmission to the Court for approval. The Parties may agree by stipulation executed by counsel to modifications of the Exhibits to this Settlement Agreement to effectuate the purpose of this Settlement Agreement and/or to conform to guidance from the Court with regard to the contents of such Exhibits without need for further amendment of this Settlement Agreement. Any such stipulation shall be filed with the Court.

XI. STAY OF PROCEEDINGS

(a) Plaintiffs and Assurance shall move the Court to stay, or continue to stay, all proceedings except as may be necessary to implement the Settlement or comply with the terms of the Settlement Agreement. Pending determination of whether the Settlement should be granted final approval, the Parties agree not to pursue any claims or defenses otherwise available to them, and further agree that the Final Approval Order shall include an injunction that no person who has not opted out of the Settlement Classes and no person acting or purporting to act directly or on behalf of a Settlement Class Member, or acting on a representative basis or in any other capacity, will commence or prosecute against any of the Released Parties any action or proceeding asserting any of the Released Claims. The Settlement will be conditioned upon the entry of such an injunction in the Final Approval Order.

XII. USE AND TAX TREATMENT OF THE CONSIDERATION

(a) The Consideration shall be applied as follows and only as follows: (1) to pay any

attorneys' fees and reimbursement of costs awarded by the Court; (2) to pay Notice and Administration Expenses; (3) to pay any Taxes; (4) to pay any other costs, fees, or expenses approved by the Court; and (5) to pay the Net Consideration to Participating Settlement Class Members.

(b) All funds held in Escrow Account shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds shall be disbursed or returned, pursuant to the terms of this Settlement Agreement, or further Order of the Court.

(c) The interest from the Escrow Account will accrue *pro rata* to the benefit of the Settlement Classes if the Court approves the Settlement of the Action. But if the Court does not approve the Settlement of the Action, Section X(d)(1) applies.

(d) The Parties agree that the Escrow Account is intended to be maintained as a "qualified settlement fund" within the meaning of Treasury Regulation § 1.468B-1. The Escrow Agent shall timely make, or cause to be made, such elections as necessary or advisable to carry out the provisions of this Paragraph, including the "relation-back election" (as defined in Treas. Reg. § 1.468B-1) back to the earliest permitted date. Such election shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the sole responsibility of the Escrow Agent to timely and properly prepare and deliver, or cause to be prepared and delivered, the necessary documentation for signature by all necessary parties, and thereafter take all such actions as may be necessary or appropriate to cause the appropriate filing(s) to occur.

(1) For the purposes of Section 468B of the Internal Revenue Code of 1986, as amended, and Treasury Regulation § 1.468B promulgated thereunder, the "administrator" shall be

the Escrow Agent, who shall be responsible for timely and properly filing, or causing to be filed, all informational and other federal, state, or local tax returns necessary or advisable with respect to the earnings on the funds deposited in the Escrow Account (including without limitation the returns described in Treas. Reg. § 1.468B-2(k)). Those tax returns (as well as the election described above) shall be consistent with this subparagraph and in all events shall reflect that all Taxes (including any estimated taxes, earnings, or penalties) on the income earned on the funds deposited in the Escrow Account shall be paid out of those funds as provided in subparagraph(b) of this Paragraph.

(2) All Taxes shall be paid by the Escrow Agent out of the Settlement Fund.

XIII. CONFIDENTIALITY

(a) The terms of this Settlement Agreement, including the fact of the proposed Settlement, shall remain completely confidential until all documents are executed and a motion for preliminary approval of the Settlement is filed with the Court; provided, however, that the Parties may jointly report the pendency of the Settlement to the Court in the Action. The Parties may also communicate the terms of the Settlement to Benefytt, as necessary to effectuate the terms of this Settlement Agreement. Assurance may, at its sole discretion, disclose the terms of this Settlement Agreement to its auditors and other parties as reasonably necessary.

XIV. MISCELLANEOUS

(a) This Settlement Agreement and the exhibits hereto constitute the entire agreement between the Parties to resolve the Action. Any previous memoranda between the Parties regarding settlement of the Action are superseded by this Settlement Agreement. No representations, warranties or inducements have been made by any of the Parties regarding the settlement of the Action, other than those representations, warranties, and covenants contained in this Settlement

Agreement.

(b) The Settlement Agreement compromises claims that are contested and will not be deemed an admission by any Party as to the merits of any claim or defense. Neither this Settlement Agreement, any provision thereof, any document prepared in connection with the Settlement Agreement, nor any negotiations, statements and proceedings associated with the Settlement may be cited or used in any way in any proceeding as an admission by any Released Party, including any Plaintiffs, except that any and all provisions of the Settlement Agreement may be admitted into evidence and otherwise used in a proceeding to enforce any or all terms of the Settlement Agreement, or in defense of any claims released or barred by this Settlement Agreement.

(c) Class Counsel and Plaintiffs agree to destroy all materials produced by Assurance or Benefytt in the Action within 60 days after the Effective Date pursuant to the Stipulated Protective Order entered in the Action.

(d) This Settlement Agreement shall be governed by the laws of the State of Florida.

(e) The Court shall retain continuing and exclusive jurisdiction over the Parties to this Settlement Agreement, including the Plaintiffs and all Settlement Class Members, for the express and limited purposes of the administration and enforcement of this Settlement Agreement. As part of its agreement to render services in connection with this Settlement Agreement, the Settlement Administrator also consents to the jurisdiction of the Court for this purpose.

(f) This Settlement Agreement was drafted jointly by the Parties and, in construing and interpreting this Settlement Agreement, no provision of this Settlement Agreement shall be construed or interpreted against any Party based upon the contention that this Settlement Agreement or a portion of it was purportedly drafted or prepared by that Party.

(g) The Parties shall cooperate in good faith in the administration of this Settlement

Agreement and agree to use their best efforts to promptly execute all documents, seek and defend Court approval of this Settlement Agreement, and to do all other things reasonably necessary to complete and effectuate the Settlement described in this Settlement Agreement.

(h) This Settlement Agreement may be signed in counterparts, and the separate signature pages executed on behalf of the Parties by their counsel may be combined to create a document binding on all Parties and together shall constitute one and the same instrument. Original signatures are not required. Any signature submitted by facsimile or as a .pdf file by email shall be deemed an original.

(i) The time periods and dates described herein are subject to Court approval and may be modified upon order of the Court or written stipulation of the Parties. Unless expressly stated otherwise, references to days in this Settlement Agreement refer to calendar days as opposed to business or court days.

(j) Each person executing this Settlement Agreement on behalf of any of the Parties hereto represents that such person has the authority to so execute this Settlement Agreement.

(k) This Settlement Agreement may not be amended, modified, altered, or otherwise changed in any manner, except by a writing signed by duly authorized agents of Plaintiffs and Assurance.

(l) Each Party acknowledges, agrees, and specifically warrants that he, she, or it has received independent legal advice with respect to the advisability of entering into this Settlement Agreement and the Releases, the legal effects of this Settlement Agreement and the Releases, and fully understands the effect of this Settlement Agreement and the Releases.

(m) The Parties, and each of them, acknowledge, warrant, represent, and agree that in executing and delivering this Settlement Agreement, through their counsel, they do so freely,

knowingly, and voluntarily, that they had an opportunity to and did discuss its terms and their implications with legal counsel, that they are fully aware of the contents and effect of this settlement, and that such execution and delivery is not the result of any fraud, duress, mistake, or undue influence whatsoever.

(n) This Settlement Agreement shall be binding upon, and inure to the benefit of, the heirs, successors, and assigns of the Parties.

(o) To the extent Congress or any other relevant regulatory authority promulgates different requirements or any other law or regulatory promulgation that would govern any conduct affected by the Settlement Agreement, those laws and regulatory provisions shall control. However, the Parties agree that changes in law shall not provide any basis for any attempt to alter, modify or invalidate this agreement.

(p) Unless otherwise stated herein, any notice to Class Counsel or Assurance required or provided for under this Settlement Agreement shall be in writing and sent by electronic mail, fax, hand delivery, or overnight mail postage prepaid to:

If to Class Counsel:

Charles Nicholas Dorman
WHATLEY KALLAS, LLP
111 North Orange Avenue
Suite 800
Orlando, Florida 32801
Telephone: (321) 325-6624
Facsimile: (800) 922-4851
ndorman@whatleykallas.com

Patrick J. Sheehan
WHATLEY KALLAS, LLP
101 Federal Street, 19th Floor
Boston, MA 02110
Telephone: (617) 203-8459
Facsimile: (800) 922-4851
psheehan@whatleykallas.com

and

Matt Carroll
MATT CARROLL LAW LLC
P.O. Box 660749
Vestavia, AL 35216
Telephone: (205) 240-2586
matt@matcarrollfirm.com

If to counsel for Assurance:

Vincent A. Sama (*Pro Hac Vice*)
Catherine B. Schumacher (*Pro Hac Vice*)
Daphne Morduchowitz (*Pro Hac Vice*)
Sarah Fedner (*Pro Hac Vice*)
SEYFARTH SHAW LLP
620 Eighth Avenue, 32nd Floor
New York, New York 10018-1405
Telephone: (212) 218-5500
Facsimile: (212) 218-5526
vsama@seyfarth.com
cschumacher@seyfarth.com
dmorduchowitz@seyfarth.com
sfedner@seyfarth.com
and

Martha R. Mora (Fla. Bar No. 648205)
AVILA RODRIGUEZ HERNANDEZ MENA & GARRO LLP
2525 Ponce de Leon Boulevard, Suite 1225
Coral Gables, Florida 33134
Telephone: (305) 779-3560
Facsimile: (305) 779-3561
mmora@avilalaw.com

The notice recipients and addresses designated above may be changed by written notice.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed, by their duly authorized attorneys, as of November 14, 2023.

WILLIAM JAMES GRIFFIN

By: _____

ASSURANCE IQ, LLC

By: _____

ASHLEY LAWLEY

By: _____

WILLIAM "JEFF" COOPER

By: _____

SANDRA WILSON

By: _____

VICKI NEEDHAM

By: _____

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed, by their duly authorized attorneys, as of November __, 2023.

WILLIAM JAMES GRIFFIN

By: _____

ASSURANCE IQ, LLC

By: _____

ASHLEY LAWLEY

By: _____

WILLIAM "JEFF" COOPER

By: _____

SANDRA WILSON

By: _____

VICKI NEEDHAM

By: _____

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed, by their duly authorized attorneys, as of November 14, 2023.

WILLIAM JAMES GRIFFIN

By: _____

ASSURANCE IQ, LLC

By: _____

ASHLEY LAWLEY

By: Ashley Lawley

WILLIAM "JEFF" COOPER

By: William Jeff Cooper

SANDRA WILSON

By: _____

VICKI NEEDHAM

By: _____

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed, by their duly authorized attorneys, as of November 14, 2023.

WILLIAM JAMES GRIFFIN

By: _____

ASHLEY LAWLEY

By: _____

WILLIAM "JEFF" COOPER

By: _____

SANDRA WILSON

By: Sandra Wilson

VICKI NEEDHAM

By: _____

ASSURANCE IQ, LLC

By: _____

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed, by their duly authorized attorneys, as of November 14, 2023.

WILLIAM JAMES GRIFFIN

By: _____

ASSURANCE IQ, LLC

By: _____

ASHLEY LAWLEY

By: _____

WILLIAM "JEFF" COOPER

By: _____

SANDRA WILSON

By: _____

VICKI NEEDHAM

By: Vicki Needham

EXHIBIT 1.A.

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

IMPORTANT NOTICE ABOUT A PROPOSED CLASS ACTION SETTLEMENT THAT AFFECTS YOU

PLEASE READ THIS NOTICE CAREFULLY.
A FEDERAL COURT AUTHORIZED THIS NOTICE.
THIS IS NOT A SOLICITATION FROM A LAWYER.

A settlement of $13.5 million has been reached in a class action lawsuit brought by a group of Plaintiffs, William James Griffin, Ashley Lawley, William "Jeff" Cooper, Sandra Wilson and Vicki Needham ("Plaintiffs"), who purchased limited benefit indemnity plans and/or short term medical plans made available by Defendants Benefytt Technologies, Inc. and Health Plan Intermediaries Holdings, Inc. (collectively, "Beneyfytt") either directly from Benefytt or through American National Benefits Group, LLC ("American National"), Defendant Assurance IQ, LLC ("Assurance") or Independent Insurance Consultant, Inc., d/b/a Priority Insurance ("Priority Insurance"). Defendants Benefytt Technologies, Inc., Health Plan Intermediaries Holdings, Inc. and Assurance IQ, LLC are collectively referred to herein as "Defendants."

Plaintiffs allege that themselves and other consumers purchased limited benefit indemnity plans and/or short term medical plans made available by Benefytt either directly from Benefytt or through distributors American National, Assurance and Priority Insurance and were led to believe that the limited benefit indemnity plans and/or short term medical plans were "comprehensive" health insurance plans (similar to those made available under the provisions of the Affordable Care Act (the "ACA" or "Obamacare")) when they were not. Defendants dispute these allegations.

Plaintiffs and Assurance agreed to enter into this settlement to avoid the uncertainties, delays and expenses of ongoing litigation, while providing class members with definite benefits now. **The purpose of this notice is to inform you of the class action and the proposed settlement so that you may decide what to do.**

SUMMARY OF THE SETTLEMENT

WHO'S INCLUDED? Records show that you are a member of the Settlement Classes because (i) you purchased one or more limited benefit indemnity plans and/or short term medical plans made available by Benefytt either directly from Benefytt or through American National, Assurance or Priority Insurance during the time period from May 5, 2016 through [Preliminary Approval], and (ii) you paid fees and/or premiums that were not completely refunded or "charged back."

You may (or may not) also be a member of the "Medical Expense Subclass." The Medical Expense Subclass includes those who incurred medical expense(s) that were not covered by the limited benefit indemnity plans or short term medical plans.

WHAT ARE THE SETTLEMENT TERMS?

What the Settlement Class Members Are Getting.

Monetary Relief. Assurance has agreed to create a $13.5 million settlement fund (the "Settlement Fund"), which will be distributed to Settlement Class Members after first deducting any attorneys' fees and costs, notice and administration expenses that the Court awards Plaintiffs and the attorneys representing the Class ("Class Counsel"). The amount remaining in the Settlement Fund after deduction of fees and expenses shall be the "Net Consideration."

What the Settlement Classes Are Giving Up.

In return for the relief that Assurance is providing, Settlement Class Members are deemed to have agreed to a release of any claims that they may have against Defendants relating in any way to the sale of limited benefit indemnity plans and/or short term medical plans made available by Benefytt and sold directly by Benefytt or through American National, Assurance or Priority Insurance.

HOW CAN I GET PAYMENT?

To receive a cash payment from the Settlement Fund, you must submit a Claim Form as provided below.

If you have moved within the last five years you may notify the Settlement Administrator in charge of administrating settlement of your new mailing address by writing to: Benefytt Class Action Settlement Administrator, c/o Kroll Settlement Administration, LLC, [ADDRESS].

WHAT ARE MY OTHER OPTIONS?

You can exclude yourself: If you do not want to be bound by the settlement, then you can exclude yourself. But you must do so by [MONTH DAY YEAR]. Part 11 below explains what you need to do to exclude yourself. If you do not exclude yourself, and you timely submit a Claim Form by [MONTH DAY YEAR], and the settlement is given Final Approval by the Court, then you will remain a Settlement Class Member and you will receive your individual allocation of the Settlement Fund. If you do not submit a Claim Form by [MONTH DAY YEAR], then you will not receive an allocation from the Settlement Fund.

You can object: Alternatively, you may object to the settlement by [MONTH DAY YEAR]. Part 16 below explains what you need to do to object to the settlement. The Court will hold a hearing on [MONTH DAY YEAR] beginning at [xxxxx p.m./a.m.] to consider whether to finally approve the settlement, as well as any request for attorneys' fees by class counsel (the "Fairness Hearing"). If you object, Part 19 explains how you may ask the Court to speak at the Fairness Hearing. Persons who exclude themselves from the Settlement Class will not be bound by the Settlement; however, they cannot file an objection and cannot speak at the Fairness Hearing.

The rest of this Notice provides you with a more detailed summary of the settlement, and also more fully describes your legal rights and options. For even more information, please visit www.benefyttsettlement.com (the "Settlement Website"), at which you may download a complete copy of the "Stipulation of Settlement and Release" and attached exhibits. ***Please read all of this***

Notice carefully and in its entirety because your legal rights may be affected whether you act or don't act.

BASIC INFORMATION

1. Why did I receive this notice?

You received this notice because, according to the Benefytt's records, you purchased a limited benefit indemnity plan and/or short term medical plan made available by Benefytt either directly from Benefytt or through American National, Assurance or Priority Insurance.

You have a right to know about a proposed settlement of a class action lawsuit pending in the U.S. District Court for the Southern District of Florida (the "Court") entitled *William James Griffin, et al. v. Benefytt Technologies, et al*., No. 0:20- cv-62371-AHS (S.D. Fla.) (the "Action"). You are entitled to know your options before the Court decides whether to approve the settlement. If the settlement is approved, certain payments will be distributed to Class Members, and Class Members will release claims arising from the conduct at issue in the Action. This package describes the Action, the Settlement, your legal rights, what relief is being offered to you, how that relief will be distributed and other important information. This Notice only summarizes the Settlement. The full terms of the Settlement are available for review at www.benefyttsettlement.com. If there is any conflict between this Notice and the Settlement Agreement, the Settlement Agreement governs. You should review the Settlement Agreement before deciding what to do.

2. What is this lawsuit about?

Limited benefit indemnity plans and short term medical plans are not considered comprehensive health insurance, and they do not comply with the minimum essential health benefits requirements of the ACA.

Plaintiffs allege, among other things, that Benefytt, American National, Assurance and Priority Insurance lured Plaintiffs and other consumers with websites and standardized sales scripts that misled Plaintiffs and other consumers to believe that they were buying comprehensive health insurance, when in reality they were only buying limited benefit indemnity plans and/or short term medical plans. Plaintiffs allege that Defendants violated the Racketeer Influenced and Corrupt Organizations Act ("RICO"), which provides for treble damages and attorneys' fees against violators. Defendants deny that they did anything illegal or wrong.

This Settlement is a compromise of these and other claims described in the Settlement Agreement. Meanwhile, Part 21 of this Notice explains how you may obtain more information about the claims in this Action and Defendants' response to those claims. You can also visit www.benefyttsettlement.com to review Plaintiffs' operative complaint, the Parties' proposed Settlement Agreement, and other documents related to this Action.

3. What is a class action, and why is this case a class action?

In a class action, one or more persons called "Class Representatives" (here, Plaintiffs) sue on behalf of people who have similar claims. All of these people with similar claims are a "Class"

or "Class Members." One court resolves the issues for all Class Members, and all Class Members are bound by the court's decision or settlement.

The Honorable Judge Anuraag Singhal of the U.S. District Court for the Southern District of Florida is in charge of this case.

Because the Settlement will determine the rights of the Settlement Class Members, the Parties must make the best effort practicable to send Notice to all of the Settlement Class Members before the Court can consider entering Final Approval of the Settlement and making it effective. If the Settlement is not given Final Approval, or otherwise fails to become final, or is terminated by the Parties for any of the reasons set forth in Section X of the Settlement Agreement, then the Settlement will become void, the Settlement Classes will no longer remain certified, and the Action will proceed as if there had been no Settlement and no certification of the Settlement Classes.

4. Why is there a settlement?

The Court has not decided whether Plaintiffs or Defendants would win this case or whether the proposed classes could be certified. Instead, both sides agreed to the Settlement before any judgment was entered or any of the proposed classes were certified. That way, the Parties avoid the uncertainties and expenses of ongoing litigation, and the delays of a trial and possible appeals, while providing the Settlement Class Members with definite benefits now rather than the uncertain benefits potentially available from fully contested litigation years from now (if at all). Plaintiffs believe that settlement is in the best interest of Class Members because it offers them relief now, while at the same time allowing anyone who wishes to pursue their own individual claims against Defendants to exclude themselves from the Settlement Classes. The Settlement avoids the risk of an unfavorable result for Class Members, which could mean no recovery at all.

WHO IS IN THE SETTLEMENT

5. Why did I receive this notice?

The Court has preliminarily approved the certification of several classes for settlement purposes only.

The Court decided that everyone who fits the following description is a member of the "American National Class" for settlement purposes only:

> All individuals who purchased Benefytt's limited benefit indemnity plans or short term medical plans through American National from May 5, 2016 through [Preliminary Approval], and paid fees and/or premiums that were not completely recovered through a refund or chargeback.

The Court decided that everyone who fits the following description is a member of the "Assurance Class" for settlement purposes only:

> All individuals who purchased Benefytt's limited benefit indemnity plans or short term medical plans through Assurance from May 5, 2016 through [Preliminary

> Approval], and paid fees and/or premiums that were not completely recovered through a refund or chargeback.

The Court decided that everyone who fits the following description is a member of the "Benefytt Class" for settlement purposes only:

> All individuals who purchased limited benefit indemnity plans or short term medical plans directly from Benefytt from May 5, 2016 through [Preliminary Approval], and paid fees and/or premiums that were not completely recovered through a refund or chargeback.

The Court decided that everyone who fits the following description is a member of the "Priority Insurance Class" for settlement purposes only:

> All individuals who purchased Benefytt's limited benefit indemnity plans or short term medical plans through Priority Insurance from May 5, 2016 through [Preliminary Approval], and paid fees and/or premiums that were not completely recovered through a refund or chargeback.

The Court has also decided that the following members of and of the above Classes may also make a claim to be included in the "Medical Expense Subclass" for settlement purposes only:

> All individuals within any of the above Classes who incurred Uncovered Medical Expense(s).

Excluded from the Settlement Classes are Defendants, American National and Priority Insurance, as well as their subsidiaries and affiliates, their officers, directors and members of their immediate families and any entity in which a Defendant, American National or Priority Insurance has a controlling interest, the legal representatives, heirs, successors or assigns of any such excluded entity, the judicial officer(s) to whom this action is assigned, and the members of their immediate families.

As noted above, if this Notice was addressed to you, then, according to Benefytt's records, you are a member of the Settlement Classes and you will receive a distribution from the Settlement Fund if you complete and timely return a Claim Form as described in Part 7 of this Notice. You will be bound by the Settlement unless you timely and properly exclude yourself as described in Part 11 of this Notice.

6. What does the settlement provide?

Assurance has agreed to create the $13.5 million Settlement Fund. If the Settlement receives Final Approval, the Settlement Fund will first be used to pay (1) Court-awarded attorneys' fees and reimbursement of costs; (2) Notice and Administration Expenses; (3) Taxes, if any; and (4) any other costs, fees, or expenses approved by the Court. The term "Notice and Administration Expenses" means all costs, fees, or expenses incurred in connection with providing Notice and distributing the Settlement proceeds to you. The money remaining after these fees and costs are deducted is the Net Consideration.

Each Settlement Class Member who timely submits a valid Claim Form and does not opt-out of the Settlement shall receive his or her *pro rata* share of the Settlement Fund. To calculate each *pro rata* share, first each Settlement Class Member will be assigned a "total numerator" to be calculated as each Settlement Class Member's unrefunded payments for limited benefit indemnity plans and/or short term medical plans (the "base numerator"), plus a "medical expense multiplier" equal to the base numerator if that Settlement Class Member timely submits a Claim Form stating under penalty of perjury that he or she incurred Uncovered Medical Expenses incurred Uncovered Medical Expenses of $25,000.00 or less, two times the base numerator if that Settlement Class Member timely submits a Claim Form stating under penalty of perjury that he or she incurred Uncovered Medical Expenses in an amount between $25,000.00 and $50,000.00, and three times the base numerator if that Settlement Class Member timely submits a Claim Form stating under penalty of perjury that he or she incurred Uncovered Medical Expenses in an amount great than $50,000.00. The Net Consideration will be divided by the sum of all Settlement Class Members' total numerators to calculate a "final multiplier," which shall be multiplied against each Settlement Class Member's total numerator to arrive at that Settlement Class Member's *pro rata* share.

The actual amount that each Settlement Class Member will receive will ultimately depend on a variety of factors, including the fees and expenses awarded by the Court, the expenses incurred by the Settlement Administrator, the number of Settlement Class Members who choose to opt out of the Settlement, the number of Subclass Members and the number of Settlement Class Members who timely return a Claim Form.

7. How can I get such relief?

As long as you (i) do not exclude yourself from the Settlement Classes and (ii) fully complete and submit or return the Claim Form so that it is postmarked no later than [MONTH DAY YEAR] to the Settlement Administrator, then you will receive a distribution from the Settlement Fund. You can return the Claim Form by submitting it at www.benefyttsettlement.com; mailing to Benefytt Class Action Settlement Administrator, c/o Kroll Settlement Administration, LLC, [ADDRESS]; or emailing it to the Settlement Administrator in .pdf format to [EMAIL ADDRESS].

The Claim Form contains a box where you will indicate under penalty of perjury whether you are a member of the Medical Expense Subclass.

If, from May 5, 2016, to [Preliminary Approval], you incurred medical expenses for which you made a claim for reimbursement under a Beneyftt limited benefit indemnity plan and/or short term medical plan you purchased through Assurance, American National, Benefytt and/or Priority Insurance that was in effect at the time the medical expense was incurred, and that claim was rejected in whole or in part, then you should check the "Medical Expense Subclass" box and complete the rest of the Medical Expense Subclass section of the Claim Form.

If you do not qualify as a member of the Medical Expense Subclass, don't worry. You will still receive some share of the Settlement Fund if you complete and timely submit your Claim Form.

If you have moved within the last five years, you may notify the Settlement Administrator of your new mailing address by writing to: Benefytt Class Action Settlement Administrator, c/o Kroll Settlement Administration, LLC, [ADDRESS].

8. When would I get such relief and how will it be distributed to me?

The Court will hold a hearing at [time] on [date] to decide whether to approve the Settlement. The Court will only approve the Settlement if it finds it to be fair, reasonable and adequate. It may take the Court several weeks or months after the hearing before it decides. If the Court approves the settlement, then there may be appeals. If appeals are filed, then it is uncertain how long it will take to resolve them. It is also possible that this Settlement may be terminated for other reasons, such as those set forth in Section X of the Settlement Agreement (a copy of which is available for review at www.benefyttsettlement.com). Please be patient.

The "Final Approval" date, as defined in the Settlement, is the date when the order granting Final Approval of the Settlement and entering judgment (the Final Order and Judgment) will be final and no longer subject to appeal. Distributions are expected to be made within 45 days of the Final Approval date. The Settlement Website will be updated from time to time to reflect the progress of the Settlement.

All checks will expire and become void 180 days after they are issued and will be considered unclaimed funds. Unclaimed funds will be considered a waiver by you of the right to receive a Distribution. Unclaimed distributions may be redistributed *pro rata* to other Class embers or to a nonprofit or charity via a *cy pres* fund.

9. Will the Settlement have any tax consequences on me?

Neither the Court nor the Parties (including their counsel) can advise you about what, if any, tax consequences might arise for you from the Settlement. You are encouraged to consult with your own tax advisor to determine whether any potential tax consequences could arise from your receipt of a Distribution.

10. Am I giving up anything by remaining in the Settlement Classes?

If you don't exclude yourself, then you will remain in the Settlement Classes, and that means that if the Settlement is given Final Approval and reaches the Final Settlement Date, then you shall be deemed to be a "Releasing Party." As a Releasing Party, you shall be deemed to release the following "Released Claims":

> Any and all claims, causes of action, suits, obligations, debts, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses, refunds, reimbursements, restitution, and attorneys' fees of any nature whatsoever, whether arising under federal law, state law, local law, common law or equity, state or federal antitrust laws, any state's consumer protection laws, unjust enrichment, contract, rule, regulation, any regulatory promulgation (including, but not limited to, any opinion or declaratory ruling), or any other law, including Unknown Claims, whether suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, punitive or compensatory, that were

advanced in the Action, or that are related to the facts, transactions, events, occurrences, acts, or omissions alleged in the Action and could have been advanced in the Action, as of the date of the Final Order and Judgment (excluding, for avoidance of doubt, any claims to enforce the Settlement or the Final Order and Judgment). However, for the avoidance of doubt, the Parties agree that the Settlement Agreement shall not limit Settlement Class Members' ability to claim or receive relief in connection with the settlement reached in the *FTC v. Benefytt Technologies, Inc.*, No. 8:22-cv-01794-TPB-JSS (M.D. Fla.). The Parties agree that claims for violations of the Telephone Consumer Protection Act 47 U.S.C. § 227 *et seq.*, or state court analogues, against the Benefytt Defendants, are not affected by this Settlement.

This release will include claims that you and any other Settlement Class Member do not know or suspect to exist in her, his or its favor at the time of the release of the Released Parties, which if known by him, her, or it might have affected her, his, or its decision(s) with respect to the Settlement, including the decision to seek exclusion from or object to the Settlement.

If the Settlement is given final approval, then all Settlement Class Members will have expressly, and by operation of the Judgment to the fullest extent permitted by law, waived and relinquished any and all provisions, rights, and benefits conferred by any law or any state or territory of the United States, or principle of common 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.

As a "Releasing Party" you shall be deemed to understand and acknowledge the significance of these waivers of California Civil Code Section 1542 and/or of any other applicable law relating to limitations on releases. In connection with such waivers and relinquishment, you shall be deemed to acknowledge that you are aware that you may hereafter discover facts in addition to, or different from, those facts which they now know or believe to be true with respect to the subject matter of the Settlement Agreement, but that you release fully, finally, and forever all Released Claims, and in furtherance of such intention, the release fully, finally, and forever all Released Claims, and in furtherance of such intention, the release will remain in effect notwithstanding the discovery or existence of any such additional or different facts. You shall acknowledge, and by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims was separately bargained for and was a material element of the Settlement.

The full terms of the Release provisions of the Settlement are at Section IX of the Settlement Agreement, a copy of which is available at www.benefyttsettlement.com.

EXCLUDING YOURSELF FROM THE SETTLEMENT

11. How do I exclude myself from the Settlement Classes?

If you don't want to be part of the Settlement, or if you want to keep the right to sue or continue suing the Released Parties on your own about the Released Claims, then you must take steps to exclude yourself from the Settlement Classes. This is also called "opting out" of the Settlement Class. If you exclude yourself from the Settlement Classes, you will not be bound by the Settlement and will not receive any relief offered by the Settlement, but you will be free to file and then pursue your own individual lawsuit regarding the Released Claims if you wish to do so. However, the Court has ruled that neither the Settlement, nor this Notice, nor the Court's preliminary approval order may be used as evidence in such individual lawsuits. You should be aware that if you do exclude yourself and plan to file your own action against the Released Parties, the statute of limitations applicable to your claim may prevent you from separately suing the Released Parties unless you act promptly.

To exclude yourself, you must mail a letter to the Settlement Administrator postmarked no later than [MONTH DAY YEAR] saying that you want to be excluded from the Settlement Classes. Your letter must be addressed to the Benefytt Class Action Settlement Administrator, c/o Kroll Settlement Administration, LLC, [ADDRESS] , and must (i) contain a caption or title that identifies it as a "Request for Exclusion in *Griffin v. Benefytt*"; (ii) include your name, mailing address and email address(es) and contact telephone number; (iii) specify that you want to be excluded from the Settlement Classes; and (iv) be *personally* signed by you.

NOTE: If your request for exclusion is late or incomplete, then it will not be valid and you will remain part of the Settlement Classes. You will still be bound by the Settlement and other orders or judgments in the Action, and you will not be able to participate in any other lawsuits against Defendants and the Released Parties based on the Released Claims.

12. If I don't exclude myself, can I sue Defendants later for the same thing?

No. If you do not exclude yourself from the Settlement Classes and the Settlement is given final approval, then you will give up the right to sue Defendants and the Released Parties for the Released Claims – ***even if you do not timely submit a valid Claim Form.***

13. If I exclude myself, can I get anything from this Settlement?

If you exclude yourself, you will not be eligible to receive any of the monetary benefits that the Settlement provides.

THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in this case?

Yes. The Court has appointed Whatley Kallas, LLP and Matt Carroll Law LLC to represent you and other Settlement Class Members in this Action and for purposes of this Settlement, and for no other purpose. These attorneys are called "Class Counsel," and they can be reached by writing them at:

Charles Nicholas Dorman

WHATLEY KALLAS, LLP
111 North Orange Avenue
Suite 800
Orlando, Florida 32801
Telephone: (321) 325-6624
Facsimile: (800) 922-4851
ndorman@whatleykallas.com

Patrick J. Sheehan
WHATLEY KALLAS, LLP
101 Federal Street, 19th Floor
Boston, MA 02110
Telephone: (617) 203-8459
Facsimile: (617) 371-2950
psheehan@whatleykallas.com

and

Matt Carroll
MATT CARROLL LAW LLC
P.O. Box 660749
Vestavia, AL 35216
Telephone: (205) 240-2586
matt@matcarrollfirm.com

You have the right to retain your own separate lawyer to represent you in this case, but you are not obligated to do so. If you hire your own lawyer, then you will be solely responsible for all of his or her fees and expenses. You also have the right to represent yourself before the Court without a lawyer, but if you want to appear at the Fairness Hearing you must comply with the procedures set forth in Parts 18 and 19 of the Notice below.

15. How will Class Counsel be paid?

Class Counsel have prosecuted this case on a contingent-fee basis and, so far, have not been paid anything for their services. If the Settlement is approved, then Class Counsel will ask the Court for an award of attorneys' fees, to be paid from the Settlement Fund in an amount not to exceed 33.33% of the Settlement Fund, and expenses.

Class Counsel will file with their Court their request for attorneys' fees and expenses on or before [MONTH DAY YEAR], which will then be posted on www.benefyttsettlement.com.

The Settlement is not conditioned on the Court approving any specific amount of attorneys' fees and expenses. The Court will ultimately decide whether any attorneys' fees and expenses should be awarded to Class Counsel and in what amounts.

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

If you do not exclude yourself from the Settlement Classes, then you can object to the Settlement if you don't agree with any part of it. You can provide reasons why you think the Court should deny approval of the Settlement by filing an objection. However, you can't ask the Court to order a larger or different type of settlement as the Court can only approve or deny the Settlement presented by the Parties. If the Court denies approval, then no settlement relief will be available to the Settlement Class Members and the lawsuit will continue. If you file a written objection, then the Court will consider your views.

To object, you must file a written statement of objection with the Court. Your written objection must (i) contain a caption or title that identifies it as an "Objection to Case Settlement in *Griffin v. Benefytt*"; (ii) include your full name, mailing address and email address(es) and contact telephone number; (iii) provide an explanation of the basis upon which you claim to be a Settlement Class Member (such as, you received this Class Notice); (iv) state whether the objection applies only to you, or to the Settlement Classes as a whole, and the reasons for your objection, accompanied by any legal or factual support for the objection; (v) disclose the name and contact information of any and all attorneys representing, advising or in any way assisting you in connection with the preparation or submission of your objection; and (vi) disclose the case name and civil action number of any other objections that you or your counsel have made in any other class action cases in the last 4 years; (vii) state whether you intend to appear at the Final Approval Hearing on your own behalf or through counsel; and (viii) be *personally* signed by you.

You may file your written statement of objection in person at, or you may mail it to, the Clerk of Court, United States District Court for the Southern District of Florida, U.S. Federal Building and Courthouse, 299 East Broward Boulevard #108, Ft. Lauderdale, Florida 33301. However, if you are represented by your own attorney, then your attorney must file your objection through the Court's Case Management/Electronic Case Filing (CM/ECF) system. To be considered timely and valid, all statements of objection must be filed with the Court by, or mailed sufficiently in advance to be received by the Court by [MONTH DAY YEAR]. Any Settlement Class Member who does not comply with the above deadline and requirements shall be deemed to have waived all objections to and shall be forever barred from challenging the Settlement.

17. What's the difference between objecting and excluding yourself?

Objecting is simply telling the Court that you do not like something about the Settlement, but that you are still willing to be bound by it if the Settlement is finally approved despite your objection. You can object only if you stay in the Settlement Classes. Excluding yourself is telling the Court that you don't want to be part of the Settlement Classes at all. If you exclude yourself, you will not be subject to the Settlement and therefore cannot object to the Settlement or appear at the Fairness Hearing because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you are not required to.

When and where will the Court decide whether to approve the settlement?

The Court will hold a Fairness Hearing at [time] on [date] before the Honorable Judge Anuraag Singhal at the U.S. District Court for the Southern District of Florida, U.S. Federal Building and Courthouse, 299 East Broward Boulevard, #107, Ft. Lauderdale, Florida 33301. At this hearing the Court will consider whether to: (1) grant final certification to the Settlement Classes for settlement purposes; (2) approve the Settlement as fair, reasonable and adequate; and (3) award any attorneys' fees and expenses to Class Counsel. After the hearing, the Court will decide whether to approve the Settlement. It is not possible to predict how long the Court's decision will take.

NOTE: The Court has reserved the right to change the date and/or time of the Fairness Hearing, or to continue it, without further notice. If you plan to attend the Fairness Hearing, you should confirm the date and time shortly before traveling to attend the hearing by checking www.benefyttsettlement.com or the Court's Public Access to Court Electronic Records (PACER) system at https://www.flsd.uscourts.gov/CMECF/default.htm.

18. Do I have to attend the fairness hearing?

No, Class Counsel will represent the Settlement Classes at the Fairness Hearing. But you are welcome to come at your own expense. Even if you send an objection, you do not have to go to the Fairness Hearing to talk about it. As long as your objection was timely filed and meets the other requirements described in Part 16, the Court will consider it. You may also retain a lawyer at your own expense to represent you at the Fairness Hearing, but it is not necessary to do so.

19. May I speak at the fairness hearing?

You may ask the Court for permission to speak at the Fairness Hearing, but only *if* you timely file an objection in full compliance with the instructions set forth in Part 16, and *if* you also state in that objection that you would like to speak at the Fairness Hearing. However, any separate attorney you hire may appear only if he or she files through the Court's Case Management/Electronic Case Filing (CM/ECF) system a separate "Notice of Intention to Appear in *Griffin v. Benefytt*, Case No. 0:20- cv-62371-AHS." That notice must be filed with the Court no later than [MONTH DAY YEAR]. You cannot speak at the Fairness Hearing if you have excluded yourself from the Settlement Classes.

IF YOU DO NOTHING

20. What if I do nothing?

If you do nothing and the Settlement is approved and reaches Final Approval, then you will be a Settlement Class Member. Even if you do not submit a Claim Form, you will be bound by the Settlement's release and other terms, and therefore you will not be able to file your own lawsuit, continue with your own lawsuit, or be part of any other lawsuit against the Released Parties concerning any of the Released Claims.

ADDITIONAL INFORMATION

21. Where can I get additional information?

This Notice summarizes the proposed settlement. For precise terms and conditions of the Settlement, please see the full Settlement Agreement available at www.benefyttsettlement.com, by accessing the Court docket in this case through the Court's Case Management/Electronic Case Filing (CM/ECF) system at https://www.flsd.uscourts.gov/CMECF/, or by visiting the office of the Clerk of Court for the United States District Court for the Southern District of Florida, U.S. Federal Building and Courthouse, 299 East Broward Boulevard #108, Ft. Lauderdale, Florida 33301, between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT TELEPHONE THE COURT, THE CLERK OF THE COURT'S OFFICE OR DEFENDANTS TO INQUIRE ABOUT THIS SETTLEMENT

EXHIBIT 1.B.

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Griffin, et al. v. Benefytt Technologies, Inc. et al.
U.S. District Court for the
Southern District of Florida (Case No. 0:20- cv-62371-AHS)

CLAIM FORM

SAVE TIME BY SUBMITTING YOUR CLAIM ONLINE AT WWW.BENEFYTTSETTLEMENT.COM

YOUR CLAIM FORM MUST BE SUBMITTED ON OR BEFORE <Claims Deadline>	Benefytt Class Action Settlement Administrator c/o Kroll Settlement Administration LLC PO Box <Number> New York, NY 10150-5324	FOR OFFICE USE ONLY

GENERAL CLAIM FORM INFORMATION

All capitalized terms not otherwise defined herein shall have the same meanings ascribed to them in the Settlement Agreement, which can be downloaded at www.benefyttsettlement.com.

To recover as a Settlement Class Member based on your claims in the above-captioned class action lawsuit (the "Action"), and/or to recover as a member of the Medical Expense Subclass in this Action, you must complete and sign this Claim Form. If you fail to submit a properly completed Claim Form, then you will be precluded from any recovery in connection with the proposed Settlement. And if you fail to submit a properly completed Claim Form and fail to request exclusion from the Settlement as set forth in the accompanying "Important Notice About a Proposed Class Action Settlement That Affects You" (the "Class Notice"), then you will also have released your claims against Defendants in this Action.

YOU MUST SUBMIT ONLINE AT WWW.BENEFYTTSETTLEMENT.COM OR MAIL YOUR COMPLETED AND SIGNED CLAIM FORM SO THAT IT IS POSTMARKED NO LATER THAN [CLAIMS DEADLINE], TO THE SETTLEMENT ADMINISTRATOR ADDRESSED AS FOLLOWS:

Benefytt Class Action Settlement Administrator
c/o Kroll Settlement Administration LLC
PO Box <Number>
New York, NY 10150-5324

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TO SUBMIT A CLAIM FOR PAYMENT:

1. Please fill out Parts 1 and 3 below in their entirety and sign where indicated.
2. Please fill out Part 2 below in its entirety if you are a member of the Medical Expense Subclass and sign where indicated.
3. If submitting via mail, keep a copy of your Claim Form for your records.
4. If you desire an acknowledgment that the Settlement Administrator received your Claim Form, please send it by Certified U.S. Mail, Return Receipt Requested.
5. If you submit your Claim Form electronically, your submission is not deemed to have been properly submitted unless the Settlement Administrator sends you confirmation of receipt of the electronically submitted Claim Form.

If you move, please send your new address to the Settlement Administrator at the address below.

AGAIN, THIS CLAIM FORM MUST BE RECIVED (IF SUBMITTED ONLINE) OR POSTMARKED (IF MAILED) NO LATER THAN [DEADLINE], ADDRESSED AS FOLLOWS:

Benefytt Class Action Settlement Administrator
c/o Kroll Settlement Administration, LLC
PO Box <Number>, New York, NY 10150-5324

To submit your claim online, visit www.benefyttsettlement.com.

I. THE SETTLEMENT CLASSES

The American National Class. All individuals who purchased Benefytt's limited benefit indemnity plans or short term medical plans through American National from May 5, 2016 through [Preliminary Approval], and paid fees and/or premiums that were not completely recovered through a refund or chargeback.

Assurance Class. All individuals who purchased Benefytt's limited benefit indemnity plans or short term medical plans through Assurance from May 5, 2016 through [Preliminary Approval], and paid fees and/or premiums that were not completely recovered through a refund or chargeback.

The Benefytt Class. All individuals who purchased limited benefit indemnity plans or short term medical plans directly from Benefytt from May 5, 2016 through [Preliminary Approval], and paid fees and/or premiums that were not completely recovered through a refund or chargeback.

The Priority Insurance Class. All individuals who purchased Benefytt's limited benefit indemnity plans or short term medical plans through Priority Insurance from May 5, 2016 through [Preliminary Approval], and paid fees and/or premiums that were not completely recovered through a refund or chargeback.

The Medical Expense Subclass. All individuals within any of the above Classes who incurred Uncovered Medical Expense(s).

If you complete this Claim Form properly and you timely submit it to the Settlement Administrator, then you will receive a cash settlement related to the premiums and fees you paid for the Benefytt limited benefit indemnity plans and/or short term medical plans you purchased through Assurance, American National, Benefytt and/or Priority Assurance. The amount you will receive cannot be determined until all Claim Forms are received.

II. THE MEDICAL EXPENSE SUBCLASS

In addition to being a member of the American National Class, the Assurance Class, the Benefytt Class and/or the Priority Insurance Class, you may also be a member of the Medical Expense Subclass, which includes all individuals within these Classes who incurred uncovered medical expenses.

You incurred "Uncovered Medical Expense(s)" if you (i) incurred medical expenses (ii) from May 5, 2016, through [Preliminary Approval] (iii) for which you made a claim for reimbursement under a Benefytt limited benefit indemnity plan or short term medical plan purchased through Assurance, Benefytt, American National and/or Priority Insurance that was in effect at the time the medical expense was incurred that (iv) was rejected in whole or in part.

If you complete the "Medical Expense Subclass" portion of this Claim Form properly and you timely submit it to the Settlement Administrator, then you will receive an enhanced cash settlement. Again, the amount you will receive cannot be determined until all Claim Forms are received.

If you believe you are not a member of the Medical Expense Subclass, then do not complete the "Medical Expense Subclass" portion of this Claim Form. (You will still be eligible to receive a cash settlement as part of the main Settlement Classes, as described in Section I above.)

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This Claim Form Must Be Postmarked (if Mailed) or Received (if Submitted Online) No Later Than:
[DEADLINE]

Please Type or Print (in Blue or Black Ink)

PART 1: CLAIMANT IDENTIFICATION

*Class Member ID: **00000** ___ ___ ___ ___ ___ ___ ___ ___
*Class Member ID: Your Class Member ID can be found on the Notice you received informing you about this Settlement. If you need additional help locating this Class Member ID, please contact the Settlement Administrator at (xxx) xxx-xxxx.

Last Name	MI	First Name

Name of executor, administrator, guardian Conservator and/or trustee (if applicable)	TITLE	Statement of authority to act for Claimant.

(In the case of a Death: We require a copy of the Death Certificate along with a will, Probate judgement, etc. and a copy of your State/Federal Identification showing the name and current address of all the legally entitled heirs. Please mail any documentation to the Settlement Administrator)

Telephone Number (Primary Daytime)	Telephone Number (Alternate)

Email Address

Address 1

Address 2

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City State Zip Zip Code

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PART 2: MEDICAL EXPENSE SUBCLASS CLAIM

Please read and sign below if the following is true and correct.

I swear and affirm under penalty of perjury that all of the following is true and correct:

1. I incurred one or more medical expenses from May 5, 2016 to [Preliminary Approval];

2. I made a claim or claims for reimbursement of those medical expenses under a Benefytt limited benefit indemnity plan or short term medical plan purchased through Assurance, American National, Beneytt and/or Priority Insurance that was in effect at the time the medical expense was incurred; and

3. My claim or claims for coverage was or were rejected in whole or in part.

4. As a result of this claim or these claims being rejected in whole or in part, my medical expenses not reimbursed by coverage total (check one):

___ $25,000.00 or less;

___ between $25,000.00 and $50,000.00; or

___ greater than $50,000.00.

Sign Name Here: _____

Print Name Here: _____

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PART 3: FINAL SIGNATURE AND AFFIRMATION

I declare under penalty of perjury under the laws of the United States of America that all the foregoing information supplied by me in this Claim Form is true and correct.

Signed this _____ day of _____ (Month/Year)

in _____.
(City), (State/Country)

_____
(Sign your name here)

_____
(Type or print your name here)

_____
(If not you personally, state the capacity of person(s) signing, *e.g.*, Beneficial Holder, Executor or Administrator)

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EXHIBIT 1.C.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

WILLIAM JAMES GRIFFIN, et al., Plaintiffs, v. BENEFYTT TECHNOLOGIES, INC., et al., Defendants.	Case No. 0:20- cv-62371-AHS

[PROPOSED] ORDER PRELIMINARILY APPROVING SETTLEMENT AND PROVIDING FOR NOTICE

WHEREAS, currently before this Court is the motion of Plaintiffs William James Griffin, Ashley Lawley, William "Jeff" Cooper, Sandra Wilson and Vicki Needham ("Plaintiffs"), for themselves and the Settlement Class Members, to preliminarily approve a Settlement Agreement entered into with Defendant Assurance IQ, LLC ("Assurance") to approve the form and method of providing notice to the Settlement Classes of the proposed Settlement and to set a date for a fairness hearing on the proposed Settlement;

WHEREAS, the Court has reviewed the Settlement Agreement, together with its exhibits;

WHEREAS, the Settlement Agreement provides that Assurance shall pay a total of $13.5 million to settle all claims in this Action;

WHEREAS, the Settlement appears to be the product of informed, arms-length settlement negotiations between Class Counsel and Assurance over a period of months with the help of mediator John S. Freud;

WHEREAS, the Court is familiar with and has reviewed the record, the Settlement Agreement, Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and supporting declarations, and has found good cause for entering this Order; and

WHEREAS, unless otherwise specified, all capitalized terms used herein have the same meanings as set forth in the Settlement Agreement;

NOW THEREFORE, it is ORDERED and ADJUDGED as follows:

The Settlement Classes and Class Counsel

1. The Court finds upon preliminary evaluation that it will likely be able to approve the proposed Settlement as fair, reasonable and adequate. The Court finds that giving notice of the Settlement is justified pursuant to Federal Rule of Civil Procedure 23(e)(1). The Court hereby preliminary certifies the following Settlement Classes for purposes of judgment on the Settlement:

The American National Class. All individuals who purchased Benefytt's limited benefit indemnity plans or short term medical plans through American National from May 5, 2016 through [Preliminary Approval], and paid fees and/or premiums that were not completely recovered through a refund or chargeback.

Assurance Class. All individuals who purchased Benefytt's limited benefit indemnity plans or short term medical plans through Assurance from May 5, 2016 through [Preliminary Approval], and paid fees and/or premiums that were not completely recovered through a refund or chargeback.

The Benefytt Class. All individuals who purchased limited benefit indemnity plans or short term medical plans directly from Benefytt from May 5, 2016 through [Preliminary Approval], and paid fees and/or premiums that were not completely recovered through a

refund or chargeback.

The Priority Insurance Class. All individuals who purchased Benefytt's limited benefit indemnity plans or short term medical plans through Priority Insurance from May 5, 2016 through [Preliminary Approval], and paid fees and/or premiums that were not completely recovered through a refund or chargeback.

The Medical Expense Subclass. All individuals within any of the above Classes who incurred Uncovered Medical Expense(s).

Excluded from the Settlement Classes are Assurance, American National, Benefytt and Priority Insurance, as well as their subsidiaries and affiliates, their officers, directors and members of their immediate families and any entity in which Assurance, American National, Benefytt or Priority Insurance has a controlling interest, the legal representatives, heirs, successors or assigns of any such excluded entity, the judicial officer(s) to whom this action is assigned, and the members of their immediate families.

2. The Court determines for settlement purposes that the proposed Settlement Classes meet all of the requirements of Rule 23(a) and (b)(3).

3. The Court appoints Plaintiffs William James Griffin, Ashley Lawley, William "Jeff" Cooper, Sandra Wilson and Vicki Needham as representatives of the proposed Settlement Classes.

4. The following lawyers are designated as class counsel for the Settlement Classes pursuant to Rule 23(g): Patrick J. Sheehan, W. Tucker Brown and C. Nicholas Dorman of Whatley Kallas, LLP and Matt Carroll of Matt Carroll Law LLC. The Court finds that these lawyers are experienced and will adequately protect the interests of the Settlement Classes.

Preliminary Approval of the Settlement

5. The Court preliminarily finds that the Settlement is the product of non-collusive, arm's-length negotiations between experienced class action attorneys who were well informed of the strengths and weaknesses of the Action, including through discovery and motion practice, and whose settlement negotiations were supervised by an experienced and highly accomplished mediator, John S. Freud. The Settlement confers substantial benefits upon the Settlement Classes and avoids the costs, uncertainty, delays, and other risks associated with continued litigation, trial and/or appeal concerning the claims at issue. The Settlement falls within the range of possible recovery, compares favorably with the potential recovery when balanced against the risks of continued prosecution of the claims in the Action, and does not grant preferential treatment to Plaintiffs, their counsel, or any subgroup of the Settlement Classes.

6. The Court preliminarily approves the Settlement as fair, reasonable, and adequate and in the best interest of Plaintiffs and the other Settlement Class Members, subject to further consideration at the Final Approval Hearing to be conducted as described below.

7. The Settlement Amount shall be paid to and managed by the Settlement Administrator, Kroll Settlement Administration, LLC, as detailed in the Settlement Agreement. All funds held by the Settlement Administrator shall be deemed and considered to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as such funds are distributed pursuant to the Settlement Agreement.

Manner and Form of Notice

8. The Court approves the Class Notice substantially in the form attached as **Exhibit 1.A** of the Settlement Agreement. The proposed notice plan, which provides for direct notice via email (and then first-class mail to those whose email address cannot be located or whose

email is returned as undeliverable), will provide the best notice practicable under the circumstances. This plan and the Notice are reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action; the effect of the proposed Settlement (including on the Released Claims); the anticipated motion for attorneys' fees, reimbursement of litigation expenses; their rights to participate in, opt-out of, or object to any aspect of the proposed Settlement. The plan and the Notice constitute due, adequate and sufficient notice to Settlement Class Members and satisfy the requirements of Rule 23 of the Federal Rules of Civil Procedure, due process and all other applicable laws and rules. The date and time of the Final Approval Hearing shall be included in the Notice before dissemination. Non-material modifications to the Notice may be made without further order of the Court.

9. The Claim Form attached as **Exhibit 1.B** to the Settlement Agreement is approved. Non-material modifications to the Claim Form may be made without further order of the Court.

10. The Court hereby appoints Kroll Settlement Administration, LLC as Settlement Administrator to carry out the Notice program, effect payment to Settlement Class Members and otherwise perform all administrative tasks set forth in Section VI of the Settlement Agreement.

11. Within 45 days after entry of this Order ("Preliminary Approval"), the Settlement Administrator shall cause to be established and maintained the Settlement Website, using a URL selected by Assurance and subject to approval by Class Counsel, on which will be posted the Notice and Claim Form. The Notice shall direct recipients to the Settlement Website via a hyperlink. The Settlement Website shall provide for online submission of Claim Forms.

12. Within 45 days of Preliminary Approval, Notice shall be sent by e-mail to all Settlement Class Members as to whom the Parties have a reasonably accessible e-mail address. Emails sent shall have a "return receipt" or other such function that permits the Settlement

Administrator to reasonably determine whether emails have been delivered and/or opened. Emails shall have a hyperlink that Class Members may click and be taken to a landing page on the Settlement Website. The Settlement Administrator shall also cause the Settlement Agreement, Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and supporting documents, as well as all other documents ultimately filed in support of Final Approval, to be posted on the Settlement Website.

13. For Settlement Class Members for whom the Parties have a reasonably accessible mailing address but not an associated email address, and to those Settlement Class Members whose emails are returned as undeliverable, Notice shall be sent via postcard to the most recent mailing address as reflected in reasonably available computerized records and/or data associated with the number. A National Change of Address update shall be performed before mailing. Skip tracing shall be performed for all returned mail. All costs of skip tracing will be considered Notice and Administrative Expenses.

14. All reasonable expenses incurred in notifying Settlement Class Members, as well as in administering the Settlement Fund, shall be paid to Settlement Administrator from the Settlement Fund as set forth in the Settlement Agreement.

15. The Settlement Administrator will require Settlement Class Members to timely submit the Claim Form, as required by the terms of the Settlement Agreement, in order to verify a Settlement Class Member's status as a Settlement Class Member and/or Subclass Member and their eligibility for any benefits under the Settlement, in addition to any other purposes consistent with the Settlement Administrator's responsibilities under the Settlement Agreement.

16. The dates provided for herein may be extended by Order of the Court, for good cause shown, without further notice to the Settlement Class Members.

17. In conformance with the time limitations set forth in 28 U.S.C. § 1715(b), within 10 days after the filing of the motion for preliminary approval, Assurance will cause the CAFA Notice to be prepared and sent to the appropriate officials.

The Final Approval Hearing

18. An approval hearing shall take place before the Court on _____, 202_, at a.m./p.m. in Courtroom 107 at the U.S. Federal Building and Courthouse, 299 East Broward Boulevard, Ft. Lauderdale, Florida 33301, to determine whether: (a) the proposed Classes should be certified for settlement purposes pursuant to Rule 23; (b) the Settlement should be approved as fair, reasonable and adequate; (c) full effect should be given to the releases contained in the Settlement Agreement and those provisions finally approved as contained therein; (d) this matter should be dismissed with prejudice; (e) Class Counsel's application for attorneys' fees and expenses should be approved; and (f) any other matters the Court deems necessary and appropriate.

19. Any Settlement Class Member who has not timely and properly excluded themselves from the Settlement Classes in the manner described below may appear at the approval hearing in person or through counsel and be heard, as allowed by the Court, regarding the proposed Settlement; provided, however, that no Settlement Class Member who excluded themselves from the Settlement Classes shall be entitled to object or otherwise appear at the approval hearing, and, further provided, that no Settlement Class Member shall be heard in opposition to the Settlement unless the Settlement Class Member complies with the requirements of this Order pertaining to objections, which are described below.

20. Papers in support of Class Counsel's application for attorneys' fees and reimbursement of litigation expenses shall be filed within 45 days after Preliminary Approval.

21. Class Counsel's motion for final approval of the settlement shall be filed no less than 30 days before the Final Approval Hearing.

Objections and Appearances at the Final Approval Hearing

22. Any Settlement Class Member may appear at the Final Approval Hearing and show cause why the proposed Settlement should or should not be approved as fair, reasonable, and adequate, or why judgment should or should not be entered, or to comment on or oppose Class Counsel's application for attorneys' fees and reimbursement of litigation expenses. No person shall be heard or entitled to contest the approval of the Settlement or, if approved, the judgment to be entered approving the Settlement, Class Counsel's application for an award of attorneys' fees and reimbursement of litigation expenses, unless that person filed an objection with the Clerk of the United States District Court for the Southern District of Florida electronically, in person, or by first-class mail postmarked within 90 days after the date of this Order (the "Objection and Opt-Out Deadline"). Absent leave of this Court, objections shall not exceed 20, double-spaced pages in length.

23. For the objection to be considered by the Court, the objection must be in writing and set forth:

(a) The name of this proceeding (*William James Griffin, et al., v. Benefytt Technologies, et al.*, No. 0:20- cv-62371-AHS (S.D. Fla.), or similar identifying words such as "Benefytt Lawsuit");

(b) the Settlement Class Member's full name;

(c) the Settlement Class Member's current address;

(d) the Settlement Class Member's personal signature (an attorney's signature is insufficient);

(e) a statement indicating why the Settlement Class Member thinks that the Settlement Class Member is a part of the Settlement Classes and/or the Medical Expense Subclass;

(f) a statement with the reasons why the Settlement Class Member objects to the Settlement, accompanied by any legal support for the Settlement Class Member's objection;

(g) a statement identifying all class action settlements to which the Settlement Class Member has objected in the previous five years;

(h) a statement as to whether the Settlement Class Member intends to appear at the Final Approval Hearing, either in person or through a lawyer, and if through a lawyer, identifying the lawyer by name, address and telephone number, and four dates prior to the Final Approval Hearing during which the Settlement Class Member is available to be deposed by counsel for the Parties; and

(i) a detailed description of any and all evidence the Settlement Class Member may offer at the Final Approval Hearing, including copies of any and all exhibits the Settlement Class Member may seek to introduce at the Final Approval Hearing.

24. Additionally, if the objecting Settlement Class Member is represented by a lawyer and the lawyer intends to seek compensation for his or her services from anyone other than the objecting Settlement Class Member, then the objection letter must include:

(a) the identity of all lawyers who represent the objecting Settlement Class Member, including any former or current lawyer who may be entitled to compensation for any reason related to the objection;

(b) a statement identifying all instances in which the lawyer or the lawyer's law firm have objected to a class action settlement within the preceding five years, giving the case name(s), case number(s) and court(s) in which the class action settlement(s) were filed;

(c) a statement identifying any and all agreements or contracts that relate to the objection or the process of objecting — whether written or oral — between the Settlement Class Member, the Settlement Class Member's lawyer and/or any other person or entity;

(d) a description of the lawyer's legal background and prior experience in connection with class action litigation;

(e) a statement regarding whether the lawyer's compensation will be calculated on the basis of lodestar, contingency or other method;

(f) an estimate of the amount of fees to be sought;

(g) the factual and legal justification for any fees to be sought;

(h) the number of hours already spent by the lawyer and an estimate of the hours to be spent in the future; and

(i) the lawyer's hourly rate.

25. Any Settlement Class Member who fails to comply with the provisions in this Order will waive and forfeit any and all rights they may have to object to the Settlement, may have their objection stricken from the record and may lose their rights to appeal from approval of the Settlement. Any such Settlement Class Member shall also be bound by all the terms of the Settlement Agreement, this Order and by all proceedings, orders and judgments, including, but not limited to, the releases in the Settlement Agreement if Final Order and Judgment is entered.

26. Counsel for any objector must enter a Notice of Appearance no later than 14 days before the Final Approval Hearing.

27. Attendance at the Final Approval Hearing is not necessary, but persons wishing to be heard orally in connection with the approval of the Settlement and/or the application for an award of attorneys' fees and reimbursement of expenses must indicate in their written objection their intention to appear at the hearing.

Exclusions from the Settlement Classes

28. Any Settlement Class Member who wishes to be excluded from the Settlement Classes must mail a written notification of his or her intent to be excluded to the Settlement Administrator at the address provided in the approved notice attached to the Settlement Agreement postmarked no later than 90 days from the date of this Order (the "Opt-out Deadline"). Each written request for exclusion must be signed by the Settlement Class Member seeking exclusion, can only request exclusion for that one Settlement Class Member and must contain the following information:

(a) the name of this proceeding (*William James Griffin, et al., v. Benefytt Technologies, et al.*, No. 0:20- cv-62371-AHS (S.D. Fla.), or similar identifying words such as "Benefytt Lawsuit");

(b) the Settlement Class Member's full name;

(c) the Settlement Class Member's current address;

(d) the words "Request for Exclusion" at the top of the document or a statement that the Settlement Class Member does not wish to participate in the Settlement; and

(e) a personal signature.

29. Any Settlement Class Member who does not timely and validly exclude themselves from the Settlement shall be bound by the terms of the Settlement. If a Final Order and Judgment is entered, any Settlement Class Member who has not submitted a timely, valid written notice of exclusion from the Settlement Classes shall be bound by all subsequent proceedings, orders and judgments in this matter, including but not limited to the releases set forth in the Settlement Agreement and Final Order and Judgment.

30. The Settlement Administrator shall provide Class Counsel and counsel for Assurance with copies of all opt-out notifications and, within 14 days after the Opt-out Deadline, shall provide these counsel with a final list of all who have timely and validly excluded themselves from the Settlement Classes. All those Settlement Class Members who submit valid and timely notices of exclusion from the Settlement Classes shall not be entitled to receive any benefits of the Settlement.

Claims Process

31. The Settlement Agreement establishes a process for claiming benefits under the Settlement. To receive any compensation, Settlement Class Members must submit to the Settlement Administrator the approved Claim Form, attached as **Exhibit 1.B** to the Motion for Preliminary Approval, within 135 days from the date of this Order.

Termination of the Settlement and Use of this Order

32. This Order shall become null and void and shall be without prejudice to the rights of the Parties, all of which shall be restored to their respective positions existing immediately before this Court entered this Order, if the Settlement is not approved by the Court or is terminated in accordance with the terms of the Settlement Agreement. In such event, the Settlement and Settlement Agreement, and all rights and obligations thereunder, including any releases, shall become null and void and be of no further force and effect, and neither the Settlement Agreement nor the Court's orders, including this Order, relating to the Settlement shall be used or referred to for any purpose whatsoever by any person or entity.

33. This Order shall be of no force or effect if a Final Order and Judgment is not entered or there is no effective date under the terms of the Settlement Agreement; shall not be construed or used as an admission, concession or declaration by or against any party of any fault, wrongdoing, breach or liability; shall not be construed or used as an admission, concession or declaration by or against any Settlement Class Representative or any other Settlement Class Member that its claims lack merit or that the relief requested is inappropriate, improper or unavailable; and shall not constitute a waiver by any Party of any defense or claims it may have in this Action or in any other lawsuit.

34. No Party or counsel to a Party in this Action shall have any liability to any Settlement Class Member for any action taken substantially in accordance with the terms of this Order.

Reservation of Jurisdiction

35. The Court retains exclusive jurisdiction over the Action to consider all further matters arising out of or connected with the Settlement.

36. The Court reserves the right to adjourn or continue the Final Approval Hearing and related deadlines without further written notice to the Settlement Class Members. If the Court alters any of those dates or times, the revised dates and times shall be posted on the Settlement Website by the Settlement Administrator.

Summary of Deadlines

37. The Settlement Agreement shall be administered according to its terms pending the Final Approval Hearing. Deadlines arising under the Settlement Agreement and this Order include, but are not limited to, the following:

EVENT	TIMING
Deadline for Assurance to send CAFA Notice	[INSERT DATE]; 10 days after Court grants Preliminary Approval
Deadline for Assurance to pay $13.5 million Consideration to Escrow Agent	[INSERT DATE]; 30 days after Court grants Preliminary Approval
Deadline for Settlement Administrator to establish Settlement Website	[INSERT DATE]; 45 days after Court grants Preliminary Approval
Deadline for Settlement Administrator to send Notice to Settlement Class Members	[INSERT DATE]; 45 days after Court grants Preliminary Approval
Deadline to file Class Counsel's motion for attorneys' fees and litigation expenses	[INSERT DATE]; 45 days after Court grants Preliminary Approval
Objection deadline	[INSERT DATE]; 90 days after Court grants Preliminary Approval
Opt-out deadline	[INSERT DATE]; 90 days after Court grants Preliminary Approval
Deadline for Settlement Class Members to submit Claim Forms to Settlement Administrator	[INSERT DATE]; 135 days after Court grants Preliminary Approval

Deadline for Class Counsel to file motion for Final Approval of Settlement	[INSERT DATE]; 30 days before Final Approval Hearing
Deadline for Settlement Administrator to submit Affidavit or Declaration stating that the Class Notice has been given	[INSERT DATE]; 21 days before Final Approval Hearing
Deadline for the Assurance to submit Affidavit or Declaration stating that the CAFA Notice has been given	[INSERT DATE]; 21 days before Final Approval Hearing
Deadline for counsel for any objector to file a Notice of Appearance	[INSERT DATE]; 14 days before Final Approval Hearing
Final Approval Hearing	[INSERT DATE]

DONE AND ORDERED in Ft. Lauderdale, Florida, this ___ day of _____, 2023.

HON. RAAG SINGHAL
UNITED STATES DISTRICT JUDGE

EXHIBIT 1.D.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

WILLIAM JAMES GRIFFIN, et al., Plaintiffs, v. BENEFYTT TECHNOLOGIES, INC., et al., Defendants.	Case No. 0:20- cv-62371-AHS

[PROPOSED] FINAL ORDER AND JUDGMENT

Now before the Court is the Unopposed Motion for Final Approval of Proposed Settlement and Plaintiffs' Unopposed Motion for Attorneys' Fees and Expenses filed by Plaintiffs William James Griffin, Ashley Lawley, William "Jeff" Cooper, Sandra Wilson and Vicki Needham ("Plaintiffs"). The Parties ask the Court to enter this Final Order and Judgment granting final approval of the settlement, and Plaintiffs ask the Court (without opposition) to grant Class Counsel's motion for attorneys' fees and expenses. The Parties seek dismissal of this Action with prejudice. Due and adequate notice having been given of the Settlement as required by the Preliminary Approval Order, the Court having considered all papers filed and proceedings conducted herein, and good cause appearing therefor, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. This Final Order and Judgment incorporates by reference the definitions in the Settlement Agreement dated _____, and all defined terms used herein have the same meaning given to them in the Settlement Agreement.

2. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2). The Court has personal jurisdiction over Assurance pursuant to Federal Rule of Civil Procedure 4(k). Additionally, venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

A. The Court Grants Final Approval to the Settlement

3. The Court reaffirms and makes final its provisional findings, rendered in the Preliminary Approval Order, that, for purposes of the Settlement, all prerequisites for maintenance of a class action set forth in Federal Rules of Civil Procedure 23(a) and (b)(3) are satisfied. The Court further confirms certification of the Classes described in its Preliminary Approval Order, as Settlement Classes:

> The American National Class. All individuals who purchased Benefytt's limited benefit indemnity plans or short term medical plans through American National from May 5, 2016 through [Preliminary Approval], and paid fees and/or premiums that were not completely recovered through a refund or chargeback.
>
> Assurance Class. All individuals who purchased Benefytt's limited benefit indemnity plans or short term medical plans through Assurance from May 5, 2016 through [Preliminary Approval], and paid fees and/or premiums that were not completely recovered through a refund or chargeback.
>
> The Benefytt Class. All individuals who purchased limited benefit indemnity plans or short term medical plans directly from Benefytt from May 5, 2016 through [Preliminary Approval], and paid fees and/or premiums that were not completely recovered through a refund or chargeback.
>
> The Priority Insurance Class. All individuals who purchased Benefytt's limited benefit indemnity plans or short term medical plans through Priority Insurance from May 5, 2016

through [Preliminary Approval], and paid fees and/or premiums that were not completely recovered through a refund or chargeback.

The Medical Expense Subclass. All individuals within any of the above Classes who incurred Uncovered Medical Expense(s).

Excluded from the Settlement Classes are Assurance, American National, Benefytt and Priority Insurance, as well as their subsidiaries and affiliates, their officers, directors and members of their immediate families and any entity in which Assurance, American National, Benefytt or Priority Insurance has a controlling interest, the legal representatives, heirs, successors or assigns of any such excluded entity, the judicial officer(s) to whom this action is assigned, and the members of their immediate families.

4. Pursuant to Federal Rule of Civil Procedure 23(e), the Court grants final approval of the Settlement and finds that it is, in all respects, fair, reasonable, and adequate and in the best interests of the Settlement Class Members.

5. The Court finds that notice of this Settlement was given to Settlement Class Members in accordance with the Preliminary Approval Order and constituted the best notice practicable of the proceedings and matters set forth therein, including the Action, the Settlement and the Settlement Class Members' rights to object to the Settlement or opt-out of the Settlement Classes, to all persons entitled to such notice, and that this notice satisfied the requirements of Federal Rule of Civil Procedure 23 and of due process. The Court further finds that the notification requirements of the Class Action Fairness Act, 28 U.S.C. § 1715, have been met.

6. The Court therefore directs the Settlement Administrator and the Parties to implement the Settlement Agreement according to its terms and conditions.

7. Upon the later of (i) the Settlement Effective Date and (ii) payment by Assurance of the Settlement Consideration, the Releasing Parties shall be deemed to have provided the Released Parties with a full and final release of the Released Claims as provided in the Settlement Agreement.

8. The persons identified in the attached Exhibit 1 requested exclusion from the Settlement Classes as of the Objection and Opt-Out Deadline. These persons shall not share in the benefits of the Settlement, and this Final Approval Order and Judgment does not affect their legal rights to pursue any claims they may have against Defendants. All other members of the Settlement Classes are hereinafter barred and permanently enjoined from prosecuting any Released Claims against the Released Parties in any court, administrative agency, arbitral forum or other tribunal.

9. All Settlement Class Members not listed in Exhibit 1 shall be bound by the Settlement Agreement and this Final Approval Order and Judgment, including the release provisions and covenant not to sue.

10. Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement, is or may be deemed to be or may be used as an admission of, or evidence of, (a) the validity of any Released Claim, (b) any wrongdoing or liability of Defendants or any other Released Party, or (c) any fault or omission of Defendants or any other Released Party in any proceeding in any court, administrative agency, arbitral forum, or other tribunal.

11. Within three business days of the Effective Date as that term is defined in the Settlement Agreement, the Escrow Agent shall disburse the Net Consideration to the Settlement Administrator. No later than 10 days after the Effective Date, the Settlement Administrator shall notify Class Counsel of the Distributions to be allocated to each Participating Settlement Class Member out of the Settlement Fund. No later than 45 days after the date of the Effective Date, the Settlement Administrator shall cause the Distributions to be paid to Participating Settlement Class Members out of the Settlement Fund.

12. Any amount of the Settlement Fund greater than $20,000 that, owing to undeposited checks, remains under the control of the Settlement Administrator 180 days after payment of all Distributions to Participating Settlement Class Members, shall be redistributed by the Settlement Administrator to Participating Settlement Class Members whose checks were deposited. Any amount less than $20,000 shall be distributed to one or more non-profit or

charitable organizations with a core mission of educating the public about the purchase of health insurance (the "*Cy Pres* Distribution"). The Settlement Administrator shall make the *Cy Pres* Distribution within 240 days after payment of all Distributions to Participating Settlement Class Members.

13. Without affecting the finality of this Judgment, this Court reserves exclusive jurisdiction over all matters related to the administration, consummation, enforcement and interpretation of the Settlement and/or this Final Order and Judgment, including any orders necessary to effectuate the Final Approval of the Settlement and its implementation. If any Party fails to fulfill its material obligations under the Settlement Agreement, the Court retains authority to vacate the provisions of this Judgment releasing, relinquishing, discharging, barring and enjoining the prosecution of the Released Claims against the Released Parties and to reinstate the Released Claims.

14. If the Settlement does not become effective, this Judgment shall be rendered null and void to the extent provided by and in accordance with the Settlement Agreement and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Settlement Agreement.

15. The Parties have complied with the requirements of the Class Action Fairness Act.

16. No person who has not opted out of the Settlement Class and no person acting or purporting to act directly or on behalf of a Settlement Class Member, or acting on a representative basis or in any other capacity, shall commence or prosecute against any of the Released Parties any action or proceeding asserting any of the Released Claims.

17. This Court retains exclusive jurisdiction over the interpretation, enforcement, and implementation of the Settlement Agreement, including, but not limited to, any issues regarding the Parties and the Released Claims.

18. Upon the Settlement Effective Date, the Action shall be dismissed with prejudice.

B. Plaintiffs' Unopposed Motion for Attorneys' Fees and Expenses Is Granted

19. In Plaintiffs' Unopposed Motion for Attorneys' Fees and Expenses, Class Counsel requests that the Court approve the requested attorney's fee of $4,500,000.00 million, which is 33.33% of the $13,500,000.00 million Settlement Amount and reimbursement of current expenses in the amount of $[_____].

20. This Court has considered the requested fees both in light of the value of the relief obtained for the Settlement Class Members and finds the requested fee amount is fair and reasonable under the "percentage of recovery" method, which is the standard in the Eleventh Circuit. *See Camden I Condo. Ass'n v. Dunkle*, 946 F.2d 768, 771 (11th Cir. 1991).

21. Following *Camden I*, percentage-based fee awards in the Eleventh Circuit have averaged around 33% of the class benefit. *See, e.g., Wolff v. Cash 4 Titles*, 2012 WL 5290155 at *5-6 (S.D. Fla. Sept. 26, 2012) (noting that fees in this Circuit are "roughly one-third"); T. Eisenberg, et al., *Attorneys' Fees in Class Actions: 2009- 2013*, 92 N.Y.U. Law Rev. 937, 951 (2017) (the median fee from 2009 to 2013 was 33%); B. Fitzpatrick, An Empirical Study of Class Action Settlements and Their Fee Awards, 7 J. Empirical L. Stud. 811 (2010) (during 2006 and 2007 the median fee was 30%); *Decl. of H. Hughes, Champs Sports Bar & Grill Co. v. Mercury Payment Systems, LLC*, No. 1:16-CV-00012-MHC (N.D. Ga.) (Doc. 82-1 at 4-5) (90% of the hundreds of common fund settlements a leading Atlanta mediator has negotiated provide for a fee of one-third of the benefit).

22. Here, the requested fee award falls well within that range. The requested fee also falls within the range of the customary fee in the private market place, where 40 percent fee contracts are common for complex cases such as this. *See, e.g., In re: Checking Account Overdraft Litig*, No. 1:09002036, 2013 WL 11319391, at *18 (S.D. Fla. Aug. 5, 2013) ("Class Counsel's fee request falls within the range of the private marketplace, where contingency fee arrangements often approach or equal 40 percent of any recovery.").

23. In light of the analysis of the *Camden I* factors, the arguments made by Class Counsel, Class Counsel's Declaration all submitted with the unopposed motion, the Court finds that Class Counsel's request for an award of attorney's fees in the amount of 33.33% of the

$13,500,000.00 million Settlement Amount, and reimbursement of their current expenses in the amount of [$ _____] is fair and reasonable.

24. As such, Plaintiffs' Unopposed Motion for Attorney's Fees, Expenses and Service Award is **GRANTED**. Class Counsel shall be entitled to be paid attorney's fees in the amount of $4,500,000.00 and reimbursement of current expenses in the amount of [$ _____] from the Settlement Amount of $13,500,000.00 in accordance with the Settlement Agreement.

There is no just reason to delay entry of this Final Order and Judgment and immediate entry by the Clerk of the Court is directed pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

DONE AND ORDERED, this ___ day of _____, 2024.

_____
HON. RAAG SINGHAL
UNITED STATES DISTRICT JUDGE

Exhibit 2

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

WILLIAM JAMES GRIFFIN, et al., Plaintiffs, v. BENEFYTT TECHNOLOGIES, INC., et al., Defendants.	Case No. 0:20- cv-62371-AHS

DECLARATION OF PATRICK J. SHEEHAN, ESQ.

Pursuant to 28 U.S.C. § 1746, I, Patrick J. Sheehan, Esq., declare as follows:

1. I am an individual over the age of twenty-one (21) and I submit this declaration based upon my own personal knowledge of the facts stated in this declaration, and review of public records and other documentation.

2. I am a partner in the law firm of Whatley Kallas, LLP ("Whatley Kallas") and one of the attorneys serving as counsel for Plaintiffs in the above captioned matter.

3. I submit this declaration in support of Plaintiffs' Motion for Preliminary Approval of Settlement Agreement, Certification of Settlement Classes, Approval of Class Notice and Scheduling of Fairness Hearing. I have personal knowledge of the facts stated herein and, if called upon to do so, could and would testify competently thereto.

4. On May 5, 2020, Whatley Kallas and co-counsel filed the original class action complaint in this matter in the United States District Court for the Northern District of Alabama.

5. On November 9, 2020, the United States District Court for the Northern District of Alabama transferred this case to the United States District Court for the Southern District of Florida.

6. Whatley Kallas, along with Matt Carroll Law, LLC (together, "The Firms") have done considerable work and dedicated significant resources over the past three years examining the facts and investigating and identifying the claims they have brought on behalf of the putative class. The Firms also took on considerable financial risk to obtain these results. The Firms have devoted thousands of hours of attorney and paralegal time and fronted approximately $250,000 in costs on a contingency fee basis, with no guarantee of any recovery or reimbursement of expenses. The Firms have less than 20 lawyers combined, which increased the financial risk to the Firms from the use of significant Firm resources.

7. The Firms have filed several complaints, defeated multiple motions to dismiss and fully briefed Plaintiffs' motion for class certification.

8. The Firms also engaged in full-fledged fact and expert discovery. In this regard, the Firms issued 74 requests for production of documents to Benefytt and 47 requests for production of document to Assurance. In response, Defendants produced over 100,000 pages of documents, which The Firms then reviewed and analyzed. The Firms also issued 25 interrogatories to Benefytt and 17 interrogatories to Assurance.

9. The Firms also assisted Plaintiffs in responding to lengthy requests for production, interrogatories and requests for admission. The Firms also collected and produced over 1,000 pages of documents from Plaintiffs, including health-related documents containing personal information. The Firms also spent considerable time assisting Plaintiffs to prepare for their depositions and defending Plaintiffs' depositions.

10. The Firms also took the Defendants' corporate representative depositions pursuant to Federal Rule of Civil Procedure 30(b)(6), as well as the individual depositions of several of Defendants' employees.

11. In addition, The Firms served subpoenas upon several non-parties, including distributors American National and Priority Insurance (who Plaintiffs only came to learn through discovery had sold some of the products at issue to them) and former Benefytt executives, taking all of their depositions as well.

12. The Firms also took the depositions of Defendants' two expert witnesses and filed and fully briefed a motion to exclude the testimony of one of those experts. The Firms also defended the depositions of their own two expert witnesses as well as filed briefs in opposition to motions to exclude their testimony.

13. Plaintiffs themselves have also pursued this litigation vigorously. They actively sought out counsel and monitored the lawsuit throughout its pendency in an effort to obtain the maximum recovery for both themselves and for the other Settlement Class Members. As noted above, they each responded to lengthy requests for production, interrogatories and requests for admission. Together they produced more than 1,000 pages of documents, including health-related documents containing personal information. Plaintiffs also spent considerable time preparing for and sitting for their depositions.

14. The Firms also participated in extensive settlement negotiations. In this regard, all parties attended a full-day mediation with highly accomplished mediator John S. Freud on October 13, 2022 that resulted in an impasse. Some eight months later, after the parties had briefed Plaintiffs' motion for class certification and Benefytt had filed its bankruptcy petition, Plaintiffs and Assurance returned to a second full-day mediation on June 19, 2023 with Mr. Freud, following which they reached an agreement in principle to settle the litigation for $13.5 million. In the days and weeks that followed, Plaintiffs and Assurance reduced their agreement in principle to a written term sheet executed on June 28, 2023 and, ultimately, reached a comprehensive agreement that

they memorialized in the Settlement Agreement.

15. The Firms have conducted research to develop nationwide claims that benefit all of the consumers victimized by Defendants. Also, the Firms drafted and filed extensive papers in support of Plaintiffs' motion for class certification. The considerable work done thus far has benefited Plaintiffs and Class Members, protecting their interests. The Firms have also evaluated the interests of the various Classes and have determined that there is not divergent interest among members of the Classes.

16. Plaintiffs have acquired last-known contact information for Settlement Class Members from Benefytt. According to this data, the Classes are comprised of approximately 372,343 people located throughout the United States.

17. Under the terms of the Settlement, Participating Settlement Class Members who submit a Claim Form stating under penalty of perjury that he or she incurred Uncovered Medical Expenses will receive a multiplier of two, three or four times his or her base share, depending on the amount of Uncovered Medical Expenses he or she incurred. These multipliers, while not an exact determination of Participating Class Members' shares, recognize the enhanced damages of members of the Medical Expense Subclass while avoiding the considerable administrative burdens and costs of having a document-intensive, evidentiary claim process.

18. The Firms made no agreements in connection with the proposed settlement.

19. As indicated in our firm resume (attached as Exhibit 1 hereto), the attorneys of Whatley Kallas have a long history of representation of healthcare providers and consumers in health care litigation and have a strong national reputation healthcare litigation and class action litigation generally. Whatley Kallas's attorneys have been appointed to leadership positions in numerous class cases, including many major healthcare cases. For example, Edith Kallas and Joe

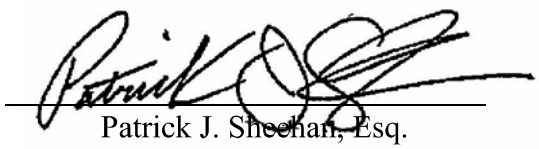
Whatley served as members of the steering committee in *In re: Managed Care Litigation*, which led to the Eleventh Circuit's decision regarding class certification in *Klay v. Humana*, 382 F.3d 1241, 1254 (11th Cir. 2004), and Edith Kallas served as co-lead counsel in the related Love v. Blue Cross litigation, No. 03-cv-21296 (S.D. Fla. filed 2003). Settlement of those cases resulted in billions of dollars of relief for the nationwide classes of health care providers, including both monetary relief and significant corporate reform.

20. Examples of other major cases in which Whatley Kallas attorneys have been involved in leadership positions include *Waterbury Hospital v. U.S. Foodservice*, No. 06-cv-01657 (D. Conn. 2014) (served as co-lead counsel for a certified class of customers resulting in a settlement of $297 million); *Scher v. Oxford Health Plans* (served as lead counsel in a statewide class arbitration on behalf of physicians in New York resulting in a settlement of $22 million); *In re Insurance Brokerage Litigation*, No. 04-cv-05184 (D. N.J. filed 2004) (served as co-lead counsel in antitrust and RICO action resulting in settlements with Marsh & McClennan, AIG, Zurich Insurance Company and Arthur J. Gallagher, together totaling over $250 million); *Parsons v. Brighthouse Networks, LLC*, No. 09-cv-00267 (N.D. Ala. 2015) (co-lead counsel for a nationwide class in an antitrust action which reached a settlement valued at approximately $91 million dollars in monetary relief and $72 million dollars in injunctive relief); *In re Puerto Rican Cabotage Antitrust Litigation*, No. 08-md-01960 (D.P.R. filed 2008) (co-lead counsel representing purchasers in a class action alleging the defendants conspired to fix prices of shipping services to and from Puerto Rico resulting in settlement involving monetary and non-monetary relief exceeding $100 million in value); *In re Lorazepam and Clorazepate Antitrust Litigation*, M.D.L. No. 1290 (D.D.C. 2005) (third party payor lead class counsel in an antitrust action where settlements of over $100 million were achieved); *In re: Qwest Savings and Retirement Plan ERISA Litigation*, No. 02-cv-00464 (D.

Colo. 2007) (served as co-lead counsel in action resulting in approximately $37.5 million settlement); *Davis-Hudson v. 23andMe, Inc.*, Am. Arb. Ass'n, No. 74-20-1400-0032 (filed 2014) ($22 million settlement in class arbitration involving alleged false advertising of genetic testing products in violation of California consumer protection laws). Based on these and other cases, Whatley Kallas has extensive experience representing plaintiffs in class actions, particularly those involving health care and insurance issues.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 14, 2023



Patrick J. Sheehan, Esq.

Exhibit 1

WK WhatleyKallas
Litigation & Healthcare Group

I. Introduction

The attorneys of Whatley Kallas, LLP have a long history of representation of health systems and other healthcare providers, patients and members of the organized medicine community. The Firm is a full-service litigation and healthcare firm. The attorneys of Whatley Kallas have a strong national reputation in healthcare litigation, and provide a broad array of services to their clients. The Firm handles arbitration, class action, antitrust, ERISA and commercial litigation, including claims on behalf of healthcare providers against payors including health insurance companies.

Whatley Kallas operates offices in New York, Alabama, Colorado, California, Florida, Georgia, Massachusetts, and New Hampshire.

The attorneys of Whatley Kallas have been repeatedly recognized in legal publications, such as *The National Law Journal* and *American Lawyer*, by their peers and by leaders of organized medicine for their work in the healthcare field.

The attorneys of Whatley Kallas represent a number of health systems in claims against health insurance companies in litigation including arbitration. They have held leadership roles in in numerous high profile, complex national class action litigations, recovering billions of dollars in value, consisting of monetary relief and significant corporate reforms, which have provided meaningful change for classes of people and businesses.

Whatley Kallas's attorneys have been appointed to leadership positions in numerous cases. For example, Joe Whatley and Edith Kallas serve as co-lead counsel for the class of Provider Plaintiffs in the ongoing case entitled *In re Blue Cross Blue Shield Antitrust Litigation MDL 2406*, No. 13-cv-20000 (N.D. Ala. filed 2013), pending in the Northern District of Alabama. Examples of cases in which Whatley Kallas attorneys served in a leadership role and were extensively involved in the litigation and negotiation of settlements include: *Waterbury Hospital v. U.S. Foodservice*, No. 07-md-1894 (D. Conn. filed 2007) (served as co-lead counsel in action resulting in a $297 million settlement); *Love v. Blue Cross Litigation*, No. 03-cv-21296 (S.D. Fla. filed 2003) and the related case entitled *In re: Managed Care Litigation* (served as co-lead counsel and members of the steering committee, respectively, in actions resulting in billions of dollars in value, consisting of monetary relief and significant corporate reform, to classes of 900,000 physicians throughout the United States); *Scher v. Oxford Health Plans* (served as lead counsel in statewide class arbitration on behalf of physicians in New York resulting in a settlement of $22 million); *In re Insurance Brokerage Antitrust Litigation*, No. 04-cv-05184 (D. N.J. filed 2004) (served as co-lead counsel in action resulting in settlements with Marsh & McClennan, AIG, Zurich Insurance Company and Arthur J. Gallagher, together totaling over

$250 million); *Levinson v. Westport National Bank*, No. 09-cv-00269 (D. Conn. 2014) (served as lead counsel in action resulting in a $7.5 million settlement for retirees and small investors most of whom were doctors on the eve of closing argument of a jury trial); *In re: Qwest Savings and Retirement Plan ERISA Litigation*, No. 02-cv-00464 (D. Colo. 2007) (served as co-lead counsel in action resulting in an approximately $37.5 million settlement). In addition, Whatley Kallas's attorneys have taken lead roles in numerous cases on behalf of patients. Such cases include the HIV/AIDS Specialty Medications Mail Order Litigations, which were filed against a number of healthcare companies in the country and resulted in significant practice reforms, as well as *Feller v. Blue Cross of California*, No. 56-2010-00368587-CU-BT-VTA (Ventura Super. Ct. filed 2010) (remedying the practice of trapping members in a closed plan subject to dramatically increasing premiums).

The Firm's lawyers have gained a national reputation for their aggressive litigation style and their quality legal work. A significant aspect of the Firm's resources is its ability to try complex cases. One of the Firm's founding partners, Joe R. Whatley, Jr., is an experienced trial lawyer and is one of the few lawyers representing plaintiffs in complex class action litigation who has tried class action cases to verdict. He won a $1.28 billion jury verdict on behalf of a class of cattle ranchers against Tyson Fresh Meats, Inc. in *Pickett v. Tyson Fresh Meats, Inc.*, No. 96-A-1103-N (M.D. Ala. 1996). In *Cox v. United Steelworkers*, Mr. Whatley served as counsel to one of the defendants and the jury returned a defendants' verdict. Mr. Whatley also won what was, at the time, the largest wrongful death verdict in Louisiana history in *Dunn v. Consolidated Rail Corp.*, 890 F. Supp. 1262 (M.D. La. 1995). More recently, Mr. Whatley and other attorneys from Whatley Kallas have tried a number of class actions before juries, including, *In re Cox Enterprises, Inc. Set-Top Cable Television Antitrust Litigation*, No. 12-ml-2048 (W.D. Okla. filed 2012), to a plaintiffs' jury verdict in 2015 and *Levinson v. Westport National Bank*, which settled immediately before closing arguments to the jury in 2013. Whatley Kallas's experience in this regard has made it a highly sought-after member of plaintiffs' leadership groups in numerous complex and multidistrict litigations.

II. Firm Litigation

A. Healthcare and Insurance Litigation

A more detailed description of examples of healthcare and insurance cases in which attorneys at Whatley Kallas have served in leadership roles includes, among others:

***In re Blue Cross Blue Shield Antitrust Litigation MDL 2406*, No. 13-cv-20000 (N.D. Ala. filed 2013).** Co-lead counsel for the class of Provider Plaintiffs in this action. The Provider Plaintiffs (including hospitals, physicians, surgery centers, chiropractors, and other healthcare providers) have alleged that all insurers licensing the Blue Cross or Blue Shield trademarks reached explicit agreement to divide the United States into geographic markets called "Service Areas" and to allocate those geographic markets, free of competition, among themselves. The Provider Plaintiffs have also challenged the agreements reached by the Blues to fix prices for services rendered by healthcare providers through the Blue Card Program. The Provider Plaintiffs' claims have survived Motions to Dismiss and the case is ongoing.

***Love v. Blue Cross Blue Shield Association*, No. 03-cv-21296 (S.D. Fla. filed 2003).** Co-lead counsel in this action, which alleged that defendants engaged in a civil conspiracy in violation of the Racketeering Influenced and Corrupt Organizations Act to wrongfully and fraudulently pay doctors less than the amounts to which they were entitled. Settlements were reached with approximately ninety percent (90%) of the defendants. The settlements consisted of billions of dollars in value, consisting of monetary relief and significant corporate reforms.

***In re Managed Care Litigation*, MDL No. 1334, No. 03-cv-21296 (S.D. Fla. filed 2003).** Members of the Plaintiffs' Steering Committee in this action against nine of the largest managed care providers in the United States, including Aetna, Cigna, United, Healthnet, Humana, PacifiCare, Prudential, and WellPoint. This action alleged that these defendants engaged in a civil conspiracy in violation of the Racketeering Influenced and Corrupt Organizations Act to wrongfully and fraudulently pay doctors less than the amounts to which they were entitled. Settlements were reached with Aetna, Cigna, Healthnet, Humana, Prudential, and Wellpoint consisting of monetary relief and significant business practice changes valued in the billions of dollars.

Arbitrations for Health Systems. Whatley Kallas represents health systems in arbitrations against major healthcare insurers for breach of contract or violations of law in the Commercial and Medicare Advantage contexts. While the details of these arbitrations are often confidential, Whatley Kallas has helped recover over a $100 million from major health insurers related to DRG downcoding, incorrect categorization of claims as observation rather than inpatient admissions, and other claims denial issues in 2021 alone.

***Scher v. Oxford Health Plans*, AAA Case No. 11 193 00548 05.** Lead Counsel in this statewide class arbitration on behalf of a class of physicians in the state of New York, which resulted in a settlement of $22 million.

HIV/AIDS Specialty Medications Mail Order Litigations. Served in lead role in successfully brought actions against a number of major health insurance companies in the United States involving their requirements to obtain HIV/AIDS specialty medications by mail order. These companies have agreed to resolve these issues, either as part of a class action settlement or other agreements obligating those companies to change or cancel their mail order programs as to HIV/AIDS specialty medications, ultimately impacting an estimated 50,000 consumers nationwide. These cases include: *Doe v. United Health Care*, No. 13-cv-00864 (C.D. Cal. filed 2013) (national class action settlement approved in July 2014 permitting consumers to opt out of mail order program); *Doe v. Cigna Health Care*, No. 15-cv-60894 (S.D. Fla. filed 2015) (national settlement implemented in December 2015 that removed HIV/AIDS specialty medications from the mandatory mail order tier); *Doe v. Blue Cross of California*, No. 37-2013-31442 (San Diego Super. Ct. filed 2013) (California-only settlement implemented in May 2013 cancelling mandatory mail order program); and *Doe v. Anthem, Inc.* (national settlement implemented in June 2016 that also removed HIV/AIDS specialty medications from the mandatory mail-order requirement tier for all of Anthem's subsidiaries in the United States).

***Doe One v. Caremark, LLC*, No. 18-cv-238 (S.D. Ohio).** Represented a class of individuals living with HIV to whom Caremark sent mail with the word "HIV" visible through the envelope's window. Settled the case for $4.4 million and non-monetary relief designed to prevent recurrence.

***Feller v. Blue Cross of California*, No. 56-2010-00368587-CU-BT-VTA (Ventura Super. Ct. filed 2010).** Served in lead role in class action successfully brought to remedy the practice of trapping members in a closed plan subject to dramatically increasing premiums. Under the settlement, among other relief, class members were allowed to switch plans without underwriting until 2014, at which time preexisting conditions will no longer serve as a basis for denying health insurance.

***In re Insurance Brokerage Antitrust Litigation*, MDL No. 1663, No. 04-cv-05184 (D.N.J. filed 2004).** Co-lead counsel in action involving class of purchasers of commercial and employer benefit insurance against many of the largest insurance companies and brokers in the country relating to these companies' alleged participation in a conspiracy to manipulate the markets for insurance. Settlements with the majority of the defendants were reached including, Marsh & McClennan, AIG, Zurich Insurance Company and Arthur J. Gallagher, together totaling over $250 million.

***Omni Healthcare, Inc. et al. v. Health First, Inc. et al.*, No. 13-cv-01509 (M.D. Fla. 2013).** Whatley Kallas handled this antitrust case for doctors and other healthcare professionals who were excluded from the Defendant health plan network through selection of the jury and opening statements. The night after opening statements, the Defendants agreed to pay Whatley Kallas' clients $32 million dollars.

***Omni Healthcare, Inc. v. North Brevard Medical Support Inc.*, No. 05-2021-CA-032983-XXXX-XX (Eighteenth Judicial Circuit Court, Brevard County, FL).** Represented physician practice in a breach of contract case, which resulted in a favorable jury verdict after an eight-day trial.

B. Antitrust and Other Complex Commercial Litigation

A more detailed description of examples of antitrust and other complex commercial cases in which attorneys at Whatley Kallas have served in leadership roles includes, among others:

***Waterbury Hospital v. U.S. Foodservice*, No. 06-cv-01657 (D. Conn. 2014).** Co-lead counsel for a certified class of customers in a case involving an alleged scheme whereby USF, the second largest food distributor in the United States, fraudulently inflated the prices it charged to its cost-plus customers. Plaintiffs alleged that USF's customers were charged, pursuant to cost-plus agreements, inflated prices that represented the cost of products plus a kickback to their suppliers. The case settled for $297 million.

***Levinson v. Westport National Bank*, No. 09-cv-00269 (D. Conn. 2014).** Lead counsel for certified class of hundreds of retirees and small investors who lost the bulk of their savings in the

aftermath of the Bernard Madoff scandal. This action alleged that the bank breached numerous contractual and fiduciary duties to the investors in its administration of their accounts. After a two-week trial, on the eve of closing arguments, a settlement was reached in the amount of $7.5 million for the Class.

***In re Cox Enterprises, Inc. Set-Top Cable Television Antitrust Litigation*, No. 12-ml-2048 (W.D. Okla. filed 2012).** Co-lead counsel on behalf of a certified plaintiff class of Oklahoma City Cox customers alleging that the cable provider Cox unlawfully tied its premium cable service to rental of its set-top boxes. After a two-week trial, the jury awarded the plaintiffs $6.31 million in damages, which were trebled to $18.93 million. After the jury verdict, the Court entered an Order directing verdict for the Defendant.

***Parsons v. Brighthouse Networks, LLC*, No. 09-cv-00267 (N.D. Ala. 2015).** Co-lead counsel for a nationwide class of Brighthouse cable customers alleging that Brighthouse abused its market power to illegally tie the rental of a set top box to the purchase of premium cable from Brighthouse. The parties reached a settlement valued at approximately $91 million dollars in monetary relief and $72 million dollars in injunctive relief.

***In Re Puerto Rican Cabotage Antitrust Litigation*, No. 08-md-01960 (D.P.R. filed 2008).** Co-lead counsel representing purchasers in a class action alleging that Defendants conspired to fix the prices of shipping services to and from Puerto Rico. A settlement was reached resulting in monetary and non-monetary relief exceeding $100 million in value.

***In re Lorazepam and Clorazepate Antitrust Litigation*, MDL No. 1290 (D.D.C. 2005).** Third Party Payor Lead Class Counsel in an antitrust action. Settlements of over $100 million were achieved.

***Pickett v. Tyson Fresh Meats, Inc.*, No. 96-A-1103-N (M.D. Ala. 1996).** Co-lead counsel representing a class of cattle ranchers against the major beef packers and producers in the country for conspiring to depress the price of beef on the cash market. In addition to serving in a leadership position in this action, Joe R. Whatley served as trial counsel in the Middle District of Alabama for the plaintiff class, and obtained a $1.28 billion jury verdict for the class of ranchers and cattle producers. The verdict was ultimately vacated.

III. Biographies

Joe R. Whatley, Jr.

Joe Whatley grew up in Monroeville, Alabama, the setting for *To Kill A Mockingbird*. Mr. Whatley is one of the few lawyers in the country to have argued before the United States Supreme Court as well as tried class actions to jury verdict for plaintiffs and defendants. He has a wide-ranging, national practice. He has argued cases before a majority of the Circuit Courts of Appeals in the country and tried cases in a number of different State and District Courts, before Judges and juries. For the past several decades, his practice has concentrated in the representation of healthcare providers including healthcare systems to redress abuses by managed care companies.

He is a graduate of Harvard College (A.B., *cum laude*, 1975), and the University of Alabama School of Law (J.D., 1978). Mr. Whatley is a member of the Bar in the States of Alabama, Texas, Colorado and New York, and is admitted to practice before the United States Supreme Court, the United States District Court for the Middle, Southern and Northern Districts of Alabama, the Southern, Eastern and Northern Districts of New York, the Northern, Southern, Eastern and Western Districts of Texas, the Eastern and Western Districts of Michigan, the Eastern District of Wisconsin, the Northern District of Florida, the Northern District of Illinois, and the District of Colorado, as well as the United States Court of Appeals for the First, Second, Third, Fourth, Fifth, Sixth, Ninth, Tenth, Eleventh, and District of Columbia Circuits. After graduating from the University of Alabama School of Law, Mr. Whatley served as a law clerk to the Honorable Frank H. McFadden, who was then Chief United States District Judge for the Northern District of Alabama (1978-1979). Mr. Whatley is a member of the American Bar Association (Member, Sections on: Labor and Employment Law; Litigation; Antitrust Law; Health Law), a member and past President (1990-1991) of the Birmingham Federal Bar Association, and a member and past President (1990-1991) of the Labor and Employment Law Section of the Alabama State Bar.

For more than a decade Mr. Whatley has focused his practice on healthcare and antitrust cases. His healthcare cases have primarily been against health insurance companies. Mr. Whatley was appointed Co-Lead Counsel for the Provider Plaintiffs in *In re Blue Cross Blue Shield Antitrust Litigation*, MDL No. 2406. He was one of the most active lawyers in Court proceedings in *In re Managed Care Litigation* and in *Thomas/Love v. Blue Cross*, and was one of the principal negotiators of the path-breaking settlements in both of those proceedings that resulted in billions of dollars in value, consisting of monetary relief and significant practice changes in the managed care industry. He represents providers of healthcare of all types in disputes with health insurance companies.

He is also an experienced trial lawyer, having tried numerous cases, including class actions, to verdict. For example, Mr. Whatley won a $1.28 billion jury verdict on behalf of a class of cattle ranchers against Tyson Fresh Meats, Inc. in *Pickett v. Tyson Fresh Meats, Inc.*, No. 96-A-1103-N (M.D. Ala.), and won what was at the time the largest wrongful death verdict in Louisiana history in *Dunn v. Consolidated Rail Corp.*, 890 F. Supp. 1262 (M.D. La. 1995). In addition, he has tried other class action cases to successful jury verdicts for plaintiffs and defendants.

Mr. Whatley has been recognized by his peers as one of the top lawyers in the country. He has been admitted as a Fellow to the American College of Trial Lawyers as well as a member of the International Academy of Trial Lawyers. In 2011, he was selected as one of the top 100 lawyers in the New York Metropolitan Area. He has been selected each year for decades as one of the Best Lawyers in Alabama.
E-MAIL: jwhatley@whatleykallas.com

Edith M. Kallas
Ms. Kallas was born in New York, New York. Ms. Kallas graduated from the Juilliard School in 1984 with a B.M. in Music Performance and from the Fashion Institute of Technology with an A.A.S., summa cum laude. She is a 1987 graduate of the Benjamin N. Cardozo School of Law,

where she was a member of the Moot Court Board. Ms. Kallas is admitted to the New York and Colorado State Bars, the United States Supreme Court, the United States District Court for the Southern, Eastern and Northern Districts of New York, the United States District Court for the District of Colorado, and the United States Courts of Appeal for the Second, Third, Sixth, Ninth, Eleventh, and District of Columbia Circuits. She is also a member of the American Bar Association (Health Law Section), Association of the Bar of the City of New York, the New York State Bar Association, the New York County Lawyers' Association, the Colorado Bar Association and the American Society of Medical Association Counsel.

In April of 2004, Ms. Kallas was honored by thirteen State and County Medical Societies, who presented her with an award "For the Success Attained in her Relentless Pursuit of Justice for the Physicians of America and their Patients." Also in 2004, Ms. Kallas was named by the New York County Lawyers' Association as one of the "Outstanding Women of the Bar." In 2005, the National Law Journal featured Ms. Kallas in their UP CLOSE section in an article entitled, "HMO Settlement: A Fairer Deal for Doctors." The National Law Journal also featured Ms. Kallas and her partner Joe Whatley in an article entitled "Case Puts Doctors Back in the Driver's Seat" in 2007. In 2011, the National Law Journal recognized Ms. Kallas in a feature article entitled, "In Insurance Fights, a Healthy Return for Firm – With Wellpoint Case." In February 2013, Ms. Kallas was highlighted in the *Big Suits* section of the American Lawyer Magazine in connection with the In re Aetna UCR Litigation settlement.

Ms. Kallas concentrates her practice in the areas of healthcare and insurance litigation. She represents healthcare providers, patients and members of the organized medicine community including physicians, ancillary providers, ambulatory surgical centers, durable medical equipment providers, as well as numerous national, state and county medical societies throughout the country. Her medical association clients have included the American Medical Association, Medical Society of the State of New York, Connecticut State Medical Society, Medical Society of New Jersey, California Medical Association, Florida Medical Association, Texas Medical Association, South Carolina Medical Association, Tennessee Medical Association, Northern Virginia Medical Societies, North Carolina Medical Society, Nebraska Medical Association, Washington State Medical Association, Hawaii Medical Association, Alaska State Medical Association, Rhode Island Medical Society, Vermont Medical Society, New Hampshire Medical Society, El Paso County Medical Society, and the California Chiropractic Association.

Ms. Kallas represents healthcare providers in litigation, arbitration, negotiations, and contracting, and provides day-to-day consultation and advocacy services in connection with a broad range of issues facing providers today. She has also represented healthcare providers and medical associations in numerous class actions pending in federal and state courts (including representation of a certified class of approximately 900,000 physicians throughout the United States). Ms. Kallas was appointed Co-Lead Counsel for the Provider Plaintiffs in *In re Blue Cross Blue Shield Antitrust Litigation*, MDL No. 2406. She has also served as Co-Lead Counsel in the *Love et al. v. Blue Cross Blue Shield Association et al*. in the United States District Court for the Southern District of Florida; on the Steering Committee in the *In re Managed Care* action; as Co-Lead Counsel and a member of the Executive Committee in the UCR Class Actions against Wellpoint (C.D. Cal.), CIGNA and Aetna; as Lead Counsel in the *Scher v.*

Oxford physician class arbitration; and has served as lead counsel in numerous state court healthcare actions. Ms. Kallas also served as Co-Lead Counsel in the *In re Insurance Brokerage Antitrust Litigation* in the District of New Jersey against major brokerage and insurance companies on behalf of classes of businesses and employees who purchased insurance, including healthcare insurance. She was one of the principal negotiators of settlements with Aetna, Cigna, Healthnet, Prudential, Humana, Wellpoint and 90% of all the Blue Cross entities in the country on behalf of nationwide classes of physicians and medical societies that have resulted in billions of dollars in value, consisting of monetary relief and significant corporate reforms, to physicians throughout the country. The settlements have resulted in significant business practice changes that are viewed as setting a new standard in the healthcare industry in the best interests of physicians and their patients.

Ms. Kallas has also served in a lead role in *Doe v. United Health Care*, No. 13-cv-00864 (C.D. Cal. filed 2013) (national class action settlement approved in July 2014 permitting consumers to opt out of mail order program); *Doe v. Cigna Health Care*, No. 15-cv-60894 (S.D. Fla. filed 2015) (national settlement implemented in December 2015 that removed HIV/AIDS specialty medications from the mandatory mail order tier); *Doe v. Blue Cross of California*, No. 37-2013-31442 (San Diego Super. Ct. filed 2013) (California-only settlement implemented in May 2013 cancelling mandatory mail order program); and *Doe v. Anthem, Inc.* (national settlement implemented in June 2016 that also removed HIV/AIDS specialty medications from the mandatory mail-order requirement tier for all of Anthem's subsidiaries in the United States), and was a principal negotiator of the settlements in those actions. Ms. Kallas has also given legislative testimony regarding issues affecting physicians and successfully handled, on a pro bono basis, an appeal for a patient requiring lifesaving treatment.

Ms. Kallas is the co-author of "Gender Bias and the Treatment of Women As Advocates," Women in Law 1998. Ms. Kallas has also participated as a Faculty Member and/or Speaker in connection with the following presentations: "Class Action Healthcare Litigation," ALI-ABA Healthcare Law and Litigation Conference, 1999; "Class Actions: HMOs and Healthcare Providers Under Attack," ALI-ABA Life and Health Insurance Litigation Conference, 2000; "Providers (Suits by Doctors and Hospital Class Actions)," ALI-ABA Healthcare Law and Litigation Conference, 2000; "The Application of ERISA and RICO Theories in the Age of Managed Care," The Judges and Lawyers Breast Cancer Alert, 2000; "Healthcare Litigation: What You Need to Know After Pegram," Practicing Law Institute, 2000; "Provider Suits by Doctors and Hospitals v. HMOs," ALI-ABA Healthcare Law and Litigation Conference, 2001; The Joint Seminar Session of the School of Allied Health and Health Law Section at Quinnipiac University School of Law, 2001; The CLE Conference presented by the American Society of Medical Association Counsel, 2002; "The Unique Role of The Medical Society Effectively Litigating for Change in the Healthcare Arena," American Academy of Otolaryngology Presidential Board of Governors Special Seminar 2002; "The Future of Class Action Litigation in America," The CLE Conference presented by the American Bar Association, 2005; "Gender Bias in Litigation and the Trend Toward Diversity in Multi-District Litigation Proceedings," Mass Torts and Class Actions CLE Summit (Whatley Drake LLC Continuing Legal Education Conference) 2006 and 2007; "Arbitration Issues in Class Action Suits: How *Bazzle* Changed the Landscape of Class Arbitration," Whatley Drake & Kallas LLC Continuing Legal Education Conference 2007, ASMAC 2008; "Forum Shopping: Defendants Do It Too," Symposium on the

Class Action Fairness Act and published in the Newsletter of the ABA Tort Trial and Insurance Practice Section Business Litigation Committee, Winter 2007; "Ingenix Litigation Update," ASMAC 2010; "Negotiating Skills for Career Advancement," Connecticut State Medical Society Professional Development Conference for Women in Medicine CME, May 2010; and "National Trends in Provider Contracting," Connecticut State Medical Society, "Managed Care Contracting: Anatomy of a Contract" Seminar, April 2012; "Avoiding Traps in Alternative Dispute Resolution," American Medical Association Webinar, February 2013; "Contract Negotiation Skills," Connecticut State Medical Society Professional Development Conference for Women in Medicine CME; "Update on Antitrust in Healthcare Cases," American Society of Medical Association Counsel Meeting, June 2015; "MDL Process and Procedures, Selection of Lead Counsel," Miami Law Class Action & Complex Litigation Forum, December 2016; "Health Insurer Predatory Practices," ASMAC 2018; "Ethics Issues in Large Scale Litigation," Miami Law Class Action & Complex Litigation Forum, January 2020.
E-MAIL: ekallas@whatleykallas.com

Patrick J. Sheehan
Mr. Sheehan heads the Firm's Boston, Massachusetts office. Mr. Sheehan's practice focuses on complex litigation involving health care law and consumer protection issues. As part of his practice, Mr. Sheehan represents a wide array of health care providers and consumers in class actions and other complex litigation pending throughout the country. Mr. Sheehan's health care practice focuses on issues concerning health care financing, including provider reimbursement, health insurance coverage issues and antitrust matters. Mr. Sheehan's consumer protection practice concentrates on issues related to health insurance, other types of insurance, data breach and privacy litigation, and myriad other issues implicating consumer protection law.

Mr. Sheehan is a graduate of the College of the Holy Cross and Northeastern University School of Law, where he was an editor of the NU Forum. Mr. Sheehan is a member of the American Bar Association, the Massachusetts Bar Association, the Massachusetts Academy of Trial Attorneys and the Boston Bar Association. Mr. Sheehan is a past President and longstanding member of the Board of Directors of the Holy Cross Lawyers Association and a member of the Holy Cross Alumni Association Board of Directors. Mr. Sheehan is also a long-time member of the Massachusetts Bar Association's Health Law Section Council and a member of the American Society of Medical Association Counsel. Mr. Sheehan has been recognized as a Super Lawyer for his work in class actions for years and frequently speaks on issues concerning health care law and class actions.

Mr. Sheehan is a member of the Massachusetts and New York bars and is admitted to practice before the United States District Courts for the District of Massachusetts, the Southern and Eastern Districts of New York, the Northern District of Illinois, the District of Colorado, the Eastern District of Michigan, the United States Courts of Appeals for the First, Third, Fourth and Eleventh Circuits and the United States Supreme Court.
E-MAIL: psheehan@whatleykallas.com

W. Tucker Brown
Mr. Brown's practice focuses primarily on the areas of healthcare, antitrust and other complex

litigation. Mr. Brown represents a wide array of healthcare clients, including national and state medical associations, physicians, hospitals, surgical centers and other healthcare providers in litigations, including national class actions, arbitrations and other forms of dispute resolution. Much of the focus of Mr. Brown's practice is representing healthcare providers in disputes with managed care companies and insurers. In 2016, Mr. Brown was named one of Law360's six "Rising Stars" in Health Law. Mr. Brown was selected as an Alabama Super Lawyers "Rising Star" from 2012-2019, and Super Lawyer in 2020 and 2021. He was a Mid-South Super Lawyer selection in 2020 and 2021.

Mr. Brown presently represents health care providers in antitrust litigation challenging illegal price fixing, market allocation, boycotts and other anticompetitive schemes in cases including *In re Blue Cross Blue Shield Antitrust Litigation*, No. 2:13-cv-20000 (MDL 2406)(N.D. Ala.); a regional hospital system against major insurers in arbitration regarding Medicare Advantage plans resulting in settlements to date of over $20 million; an eating disorder treatment center in claims against a national insurer in arbitration for claims involving breach of contract.

Mr. Brown has been involved in numerous noteworthy healthcare and antitrust cases including *Kissing Camels Surgery Center, LLC, et al. v. Centura Health Corp., et al.*, No. 1:12-cv-03012-WJM-NYW (D. Col.), where Mr. Brown led the five-year litigation on behalf of four Colorado surgery centers involving antitrust claims against large hospital groups and insurers for working to exclude those surgery centers from the Colorado market. The *Kissing Camels* litigation ultimately resulted in successful settlements for each of four Colorado ambulatory surgery centers. Mr. Brown helped lead the litigation efforts in *Parsons v. Brighthouse Networks* where Whatley Kallas represented a nationwide class in an antitrust action against a cable company for tying. Whatley Kallas helped reached a settlement in that case valued at approximately $91 million dollars in monetary relief and $72 million dollars in injunctive relief. Mr. Brown was part of the trial team in the *In re Cox Enterprises Inc. Set-Top Cable Television Box Antitrust Litigation*, No. 5:12-ml-02048 (MDL 2048) (W.D. Okla.) case which tried the case through to a Plaintiffs' verdict, though it was subsequently overturned.

Mr. Brown has been a member of the Alabama Bar since 2004 and is admitted to practice before the United States Court of Appeals for the Eleventh Circuit, as well as the U.S. District Courts for the Northern, Middle and Southern Districts of Alabama, and the U.S. District Court for the District of Colorado. He obtained his B.A. in Economics and Political Science from Vanderbilt University and received his J.D., *magna cum laude*, in 2004 from the Georgetown University Law Center, where he was Order of the Coif. Following law school, he served as law clerk to Hon. William M. Acker, Jr., U.S. District Court for the Northern District of Alabama from 2004 to 2005. He is a member of the Alabama State Bar, the American Bar Association (Healthcare and Antitrust Sections), and the Birmingham Bar Association. Mr. Brown has served as the President of The Community Kitchens of Birmingham. He was born in Birmingham, Alabama.
E-MAIL: tbrown@whatleykallas.com

Henry C. Quillen
Mr. Quillen has extensive experience litigating matters involving healthcare and antitrust issues. He has briefed and argued dispositive motions in *In re Blue Cross Blue Shield Antitrust*

Litigation, MDL No. 2406, and he was one of the primary attorneys representing the plaintiffs in *OMNI Healthcare, Inc. v. Health First, Inc.*, which resulted in a $32 million settlement. He has also obtained a favorable ruling from the Arkansas Supreme Court on behalf of an air ambulance provider in *Air Evac EMS, Inc. v. USAble Mutual Insurance Co.* The D.C. Circuit cited Mr. Quillen's amicus brief for the American Medical Association when affirming an injunction against the merger of Anthem and Cigna in *United States v. Anthem*. In 2016, Mr. Quillen was named a "Rising Star" by Law360 for his work in competition law, one of just seven attorneys to be honored in his field that year.

Before joining Whatley Kallas, Mr. Quillen was an associate in the litigation department of Sullivan & Cromwell LLP, where he focused on complex commercial litigation. He also served as a law clerk to the Honorable A. Raymond Randolph of the United States Court of Appeals for the District of Columbia Circuit, as well as the Honorable Jeffrey Howard of the United States Court of Appeals for the First Circuit.

Mr. Quillen graduated from Harvard College magna cum laude (A.B., Biochemical Sciences, 2000) and Yale Law School (J.D., 2007). He also received a Master in Public Administration from the John F. Kennedy School of Government (2007). He is a member of the American Bar Association and admitted to practice in New York, New Hampshire, the District of Columbia, the United States District Courts for the District of Colorado, District of Columbia, and District of New Hampshire, the United States Courts of Appeals for the First, Eighth, Tenth, Eleventh, and District of Columbia Circuits, the United States Court of Appeals for Veterans Claims, and the United States Supreme Court.
E-MAIL: hquillen@whatleykallas.com

Catherine I. Hanson
Ms. Hanson has over 30 years of experience providing advice and counsel to physicians, medical associations and other health care related individuals and organizations. She has handled a broad array of health care and association matters, utilizing all advocacy strategies from informal discussion, to regulation, legislation and litigation. Most recently, Ms. Hanson has focused on managed care, including the impact of ACOs, new payment models and clinical integration, HIPAA, including the Privacy, Security and Transaction Rules, and evolving physician employment arrangements. Ms. Hanson is the author of numerous publications and a sought after speaker.

Ms. Hanson recently served as vice-president of the American Medical Association's state and private sector advocacy unit from July 2007 through January 2013. Under her leadership, AMA's private sector advocacy team developed the National Managed Care Contract and database, the only complete compilation and analysis of every managed care law and regulation in the country. Ms. Hanson also directed the creation of numerous other unique resources for physicians, including how-to manuals on new payment models, ACOs and physician integration strategies. She led the development of AMA's National Health Insurer Report Card (NHIRC), the first objective look at the claims processing activities of the nation's largest health insurers. Ms. Hanson's private sector advocacy team also achieved significant, nationwide physician profiling

reforms and improvements in the HIPAA transaction standards necessary to enable payer transparency and physician practice automation.

Ms. Hanson's state advocacy successes included obtaining National Association of Insurance Commissioners (NAIC) support for AMA positions related to critical state ACA implementation/health insurance market reform issues, such as medical loss ratio, rate review, health insurance exchanges, and transparency of coverage facts for consumers, successes that were subsequently reflected in the federal ACA regulations. She led a successful effort that secured National Conference of Insurance Legislators (NCOIL) model bills regulating rental network PPOs and calling for transparency for out-of-network services instead of a ban on balance billing. Last but certainly not least, Ms. Hanson's team worked with medical associations throughout the country to achieve hundreds of legislative and regulatory victories to preserve medical liability reforms, ensure health insurer transparency, improve public health and safety, enact truth-in-advertising laws and protect the patient-physician relationship.

Prior to her AMA work, Ms. Hanson served as vice-president and general counsel for the California Medical Association from December 1986 through June 2007. Her many CMA accomplishments included an extremely successful advocacy campaign in the courts and before the California Attorney General that resulted in nearly 100 decisions upholding MICRA and otherwise protecting physicians from unfair professional liability exposure, protecting the physician-patient relationship, increasing access to care, reigning in managed care abuses, and ensuring fair peer review, among other issues. Ms. Hanson also led the development and publication of the 4000+ page *California Physicians Legal Handbook,* a comprehensive health law treatise, which she published annually with her CMA Legal Center staff from 1990-2007. Prior to starting the CMA's in-house law department, Ms. Hanson was an attorney with the law firm of Hassard Bonnington in San Francisco.

Ms. Hanson is a past president of the California Society for Health Care Attorneys, a past president of the American Society of Medical Association Counsel, a member of the American Health Lawyers Association, and the American Bar Association Health Law Section.

Ms. Hanson is a Phi Beta Kappa graduate of the University of California, Berkeley. She obtained her J.D. degree from Boalt Hall School of Law at University of California, Berkeley. She is a California licensed attorney admitted to practice in the U.S. Supreme Court, the Ninth Circuit Court of Appeals, and the United States District Court for the Northern and Southern Districts of California. Ms. Hanson has an AV Martindale Hubbell rating. Ms. Hanson is Of Counsel to the Firm.
E-MAIL: chanson@whatleykallas.com

Alan Mansfield
Alan M. Mansfield has practiced primarily in the area of national health care, privacy, consumer and securities class action and public interest litigation since 1989. His clients have included such public interest organizations as the California Medical Association, the Independent

Physical Therapists of California, Consumer Watchdog, and the Privacy Rights Clearinghouse.

Mr. Mansfield has been involved in numerous significant healthcare matters, including a class action against Anthem Blue Cross for improperly closing certain health plans which resulted in a settlement requiring defendant to limit plan rate increases and requiring any plan changes to be without medical underwriting for several years (*Feller v. Anthem Blue Cross*, Ventura County Superior Court Case No. 56-2010-00368587-CU-BT-VTA); and a class action representing a number of California pharmacists seeking to require Pharmacy Benefits Managers to provide data required under state law, obtaining a significant decision from the Ninth Circuit and the California Supreme Court interpreting the scope of the First Amendment as applied to California pharmacists' claims under California law (*Beeman v. Anthem Prescription*, 2011 U.S. App. LEXIS 14687 (9th Cir., July 19, 2011), *Beeman v. Anthem Prescription*, 58 Cal. 4th 529 (2013). He also has been actively involved resolving numerous cases on behalf of patients with HIV/AIDS, including *Doe v. CVS,* S.D. Oh. Case No. 2:18 cv-00238-EAS-CMV (Ohio class action settlement approved in January 2020 arising out of Ohio ADAP mailing, providing for over $2 million in payments to affected individuals); *Doe v. United Health Care*, No. 13-cv-00864 (C.D. Cal. filed 2013) (national class action settlement approved in July 2014 permitting consumers to opt out of mail order program); *Doe v. Cigna Health Care*, No. 15-cv-60894 (S.D. Fla. filed 2015) (national settlement implemented in December 2015 that removed HIV/AIDS specialty medications from the mandatory mail order tier); *Doe v. Blue Cross of California*, No. 37-2013-31442 (San Diego Super. Ct. filed 2013) (California-only settlement implemented in May 2013 cancelling mandatory mail order program); *Doe v. Anthem, Inc.* (national settlement implemented in June 2016 that also removed HIV/AIDS specialty medications from the mandatory mail-order requirement tier for all of Anthem's subsidiaries in the United States), and *DOE v. Aetna, Inc. and Coventry Health Plans* (nationwide settlement revising similar mandatory mail-order pharmacy programs). He was also one of the counsel who negotiated a settlement of claims by the IPTCA against a nationwide workers compensation claims processor, revising the procedures and review of submitting and adjudicating such claims. He is currently one of the primary counsel in an action against the California Department of Public Health and other entities for violating the privacy rights of hundreds of recipients of HIV/AIDS medications in California, as well as other significant health care matters.

As part of his commitment to public interest litigation, Mr. Mansfield was one of the lead counsel in *Garrett v. City of Escondido*,465 F.Supp. 2d 1043 (S.D. Cal. 2006), in the U.S. District Court for the Southern District of California, which successfully challenged the legality of the City of Escondido's immigration landlord-tenant enforcement ordinance, resulting in one of the first decisions addressing the constitutionality of local ordinances or state laws addressing immigration issues. Based on that and other work in the community performed by both him and the previous firm for which he was the managing partner (Rosner & Mansfield LLP), he and his firm was awarded the 2007 Public Service by a Law Firm Award by the San Diego County Bar Association. He also assisted the ACLU in obtaining a significant First Amendment victory regarding the improper seizure by the U.S. Government of property belonging to members of the Mongols Motorcycle Club (*Rivera v. Melson,*No. 2:09-cv-02435 DOC (JCx)(C.D. Cal.)). He was also involved in the "Joe Camel" teen smoking case, a landmark decision that permitted false advertising claims to proceed against a major tobacco company. *Mangini v. R.J. Reynolds*

Tobacco Co.(1994) 7 Cal.4th 1057. He also volunteers as a *pro tem* commissioner for the San Diego County Superior Court handling small claims and traffic matters.

Highlights from other successful actions where he was appointed as one of the lead class counsel include a class action against 23andMe arising out of claims relating to early genetic testing results, which was resolved as a class action settlement in arbitration valued at over $10 million; a class action against Nvidia Corp. arising out of alleged defects in GPUs that resulted in class action settlement valued at over $50 million (*In re Nvidia GTX 970 Graphics Card Litigation,* N.D. Ca. Case No. 15-CV-00760-PJH); an action against American Honda for misrepresenting gas mileage on Honda Civic Hybrids, resulting in a settlement valued at over $400 million (*Lockabey v. American Honda*, S.D. Sup. Ct. Case No. 37-2010-00087755-CU-BT-CTL); and an action involving the unauthorized billing of consumers for overdraft fees on checking and debit account, resulting in the creation of a $35 million common fund and significant *cy pres* contributions to several non-profit organizations (*Closson v. Bank of America*, San Francisco Superior Court Case No. CGC 04436877). He also prevailed, after a two-week long class action arbitration in January 2009, on behalf of a class of senior citizens residing at a senior living community who were charged entrance fees in violation of California's landlord-tenant laws, obtaining significant relief for the benefit of the class members and contributions for Alzheimer's Disease research (*VanPelt v. SRG*).

Mr. Mansfield was also one of the lead counsel in class action lawsuits against various utilities, including a class action against Sprint Communications for charging customers improper telephone fees for data plan communication, resulting in a settlement that fully refunded the vast majority of such charges (*Taylor v. Sprint Communications*, Case No. C07-CV-2231-W (RJB)); a class action involving billing customers for previously promised airtime, resulting in a class action settlement that gave over 1 million customers the ability to claim full reimbursement for the uncredited airtime (*Nelson v. Virgin Mobile*, Case No. 05-CV-1594-AJB); a case challenging Sprint's failure to provide a cancellation window when it imposed certain additional fees against customers in July 2003, resulting in a class-wide settlement returning Early Termination Fees that had been charged to consumers, as well as improving certain disclosure practices (*UCAN v. Sprint Spectrum LP*, San Diego Superior Court Case No. GIC 814461); and a class action *Maycumber v. PowerNet Global Telecommunications*, Case No. 06-cv-1773-H (RBB) (S.D. Cal.), which challenged the practice of charging a "Network Access Charge" as a tax when it was not, resulting in a significant refund of such charges. Mr. Mansfield also represented the public interest group UCAN in an action before the California Public Utilities Commission involving improper billing for Early Termination Fees, resulting in a refund of over $18 million in fees to over 100,000 former Cingular Wireless customers (*In Re Cingular Wireless*, CPUC Case No. I.02-06-003), as well as an action challenging AT&T California's practice of terminating 911-only service to California residents in violation of the Public Utilities Code, resulting in a multi-million dollar fine and an order requiring significant practice changes (*UCAN v. SBC California*, CPUC Case No. C.05-11-011).

Mr. Mansfield is currently the President of the Association of Business Trial Lawyers, San Diego Chapter (Secretary – 2017; Treasurer – 2018; Vice President -- 2019); member of the Executive Committee (2008-present); Program Chair, 2017 ABTL Annual Seminar and 2018 ABTL Joint Board Retreat; Planning Committee member, 2016; Program Co-chair, 2009 ABTL Annual

Seminar; Co-chair, mini-annual seminar, 2009, 2013 and 2015; Editor, ABTL Report (2004-2009). He also is a Master member of the Enright Inn of Court, and in that capacity has been a team leader for numerous committees responsible for making presentations to members of Inn. He is a member of the Anti-Trust Section of California Bar Association (now California Lawyers Association), where he participated in committee that made presentation to State's Anti-trust and Unfair Competition Law section related to Proposition 64 (2005). Previously Mr. Mansfield was a Lawyer Representative to the Ninth Circuit Judicial Conference, Southern District of California (6/2008 to 6/2010), where he helped create and make presentations to the Southern District of California Judicial Conference, as well as attended the Ninth Circuit Judicial Conference in 2009. He is also a member of the San Diego County Bar Association, the Federal Bar Association, San Diego Chapter, the Consumer Attorneys of San Diego, and the American Bar Association.

Mr. Mansfield has been a panelist or speaker on numerous issues, including the following: California Center for Judicial Education And Research (July 2001) – participant in panel discussion on mechanics of Bus. & Prof. Code Section 17200 ("UCL") to state court judges in continuing legal education program for judges; The Rutter Group (2001) -- panel discussion on mechanics of UCL; Consumer Financial Services Litigation (PLI, April 2000 and 2001) – participant in panel discussion on choice of law issues arising in nationwide class certification and jurisdictional issues arising from being engaged in Internet activities; Judge Advocate General Naval Training Center (Nov. 2004) – lectured on procedure and substance of state consumer protection statutes at training session for JAG officers from around the Western U.S.; Mealey's Unfair Competition Law Annual Section 17200 Seminar (Nov. 2004) – participant in panel discussion on anticipated litigation issues under UCL; California State Bar Association, Antitrust and Unfair Competition Annual Seminar (May 2005) – participant in panel discussion on class certification issues arising under UCL in light of then recent amendments to Proposition 64; Southern District of California Judicial Conference (May 2008) – participant in panel discussion on identity theft issues and protections available to victims; Mealey's "Weathering Mass Tort and Class Action Settlement Negotiations" (Feb. 2008) – participated in tele-seminar re: ethical issues involved in class actions; Privacy Foundation, University of Denver School of Law (February 2004, 2005, 2007, 2009, 2011 and 2015) – lectured and participated in several panels where discussed federal privacy issues; University of San Diego School of Law (Spring 2008) – guest lecturer in class on Mediation and Arbitration on class action mediation and arbitration issues; Privacy Advocates Seminar (May 2009) – Moderator of panel on trends and limitations in privacy litigation and potential role of cy pres awards in resolving privacy matters; State Bar of California Unfair Competition Law Section "Navigating the Waters: Understanding the Intricacies of California's Unfair Competition Law" (June 2010) — panelist on recent developments under UCL.

Mr. Mansfield has also authored a treatise and articles on a variety of consumer law related issues. In 2003 Mr. Mansfield wrote the chapter and later the 2005 update on California's Consumers Legal Remedies Act, published by the California Bar Association in California Antitrust and Unfair Competition Law – Third, Ch. 19 at 150 (Matthew Bender & Co. 2003). He also assisted in the 2009 revision of the same chapter for the Antitrust and Unfair Competition Law Section, The State Bar of California, California State Antitrust and Unfair Competition Law Fourth, Ch. 19 (Cheryl Lee Johnson, ed., Matthew Bender & Co. 2009). Articles written by Mr.

Mansfield include: The ABTL Annual Seminar Keynote Presentation "Watergate: The Ultimate Crisis Event", ABTL Report San Diego (Winter 2017-18) at 6 (www.abtl.org/report/sd); Another Post-Concepcion Twist – California Supreme Court Rules Claims for Public Injunctive Relief May Not Be Subject to Arbitration, ABTL Report San Diego (Spring 2017) at 17 (www.abtl.org/sd); Would You Consider Making Scriptural References in a Closing Argument? ABTL Report San Diego (Winter 2016) at 16 (www.abtl.org/report/sd); How Does Sanchez v. Valencia Holding Co. Change The Arbitration Equation In California? ABTL Report San Diego (Fall 2015) at 1 (co-authored with Michael Klitzke) (www.abtl.org/report/sd); Class Action Waivers After the Supreme Court Decision in AT&T v. Concepcion, ABTL Report San Diego (Summer 2011) at 4 (www.abtl.org/report/sd); republished in the San Diego Defense Bar Journal (Summer 2011); Kwikset Corp. v. Superior Court: Re-affirming the Vitality of Private Enforcement of the Unfair Competition Law, Competition, The Journal of the Antitrust and Unfair Competition Law Section of the State Bar of California, Vol. 20, No. 1 (Spring 2011)(co-authored with Hon. Pamela M. Parker); Supreme Court's Most Recent Prop. 64 Decision Provides Guidance On Standing, ABTL Report San Diego (Winter 2011) at 1 (www.abtl.org/report/sd); Dukes v. Walmart – the Ninth Circuit's Analysis of How "Merits" Evidence is to be Weighed In Deciding Class Certification, ABTL Report San Diego (Summer 2010) at 7 (www.abtl.org/report/sd); The Proper Scope of Expert Analysis In the Context of Class Certification, Program Materials for American Association for Justice Annual Seminar (July 2009) (co-authored with W. Tucker Brown); The Revised Standards for Publication of Appellate Decisions, ABTL Report San Diego (June 2008) at 4 (www.abtl.org/report/sd); Is Your Client Prepared to Comply With the Data Security Breach Notification Laws?, ABTL Report San Diego (Spring 2007) at 4 (www.abtl.org/report/sd); Behind The Red Cover: A Writ Petition Primer, ABTL Report San Diego (November 2005) at 1 (www.abtl.org/report/sd); Has The Class Certification Inquiry Changed Due To Proposition 64? Program Materials for California's Unfair Competition Law After Proposition 64, State Bar of California Antitrust and Unfair Competition Section Seminar (May 2005); Litigation Involving Websites and Personal Privacy on the Internet - A Balance Gone Askew, Consumer Attorneys of California, Forum Vol. 32, No. 8 at 22 (October 2002)(co-wrote with William Doyle); Hartwell: Are Courtroom Doors Open to Litigation Involving Regulated Industries? ABTL Report San Diego (August 2002) at 1 (www.abtl.org/report/sd); Litigation Arising from the Use of Websites, Consumer Financial Services Litigation at 57 (PLI, April 2001); Nationwide Class Actions in State Court: Starting with Shutts, Consumer Financial Services Litigation at 263 (PLI, April 2000); Kraus, Cortez and Future Battlegrounds In Representative Actions under the Unfair Competition Law, Consumer Attorneys of California, Forum, Vol. 30, No. 6 at 233 (July/August 2000) (co-authored with Mark Chavez); Private Enforcement of California's Unfair Business Practices Act, Program Materials for Consumer Attorneys of California Annual Seminar (November 1997); and Life After BMW v. Gore - Who Is Now the Trier of Fact?, Consumer Financial Services Litigation (Supplement) at 55 (PLI, April 1997).

Mr. Mansfield received his B.S. degree, *cum laude*, in Business Administration - Finance from California Polytechnic State University, San Luis Obispo in 1983 and his *Juris Doctorate* degree from the University of Denver School of Law in 1986. He is admitted to the Bar of the State of California, to the United States District Courts for all Districts of California, to the United States District Court for the Districts of Colorado and Michigan, to the Second, Third, Fifth, Sixth,

Ninth and Tenth Circuit Courts of Appeal, and to the Supreme Court of the United States of America. Mr. Mansfield is Of Counsel to the Firm.
E-MAIL: amansfield@whatleykallas.com

Deborah Winegard
Ms. Winegard focuses her practice on healthcare litigation, primarily representing physicians, ambulatory surgery centers, and other healthcare providers in disputes with third party payers and in antitrust litigation against health insurers and healthcare systems. Ms. Winegard also represents medical societies and organizations advocating for physician interests with payers and government.

Ms. Winegard speaks widely on healthcare and reimbursement issues affecting physicians. She has given presentations for the American Medical Association, the Ambulatory Surgery Center Association, the American Society of Medical Association Counsel, the Medical Group Managers Association, and several state and specialty medical associations. Ms. Winegard has published articles in several publications, including *Connecticut Medicine*, published by the Connecticut State Medical Society, and *Texas Medicine*, published by the Texas Medical Association. A webinar on RAC and other medical audits Ms. Winegard conducted for the Physicians Advocacy Institute is available on that organization's website.

Ms. Winegard's prior experience includes serving as the General Counsel and Director of Third Party Payer Advocacy for the Medical Association of Georgia, as General Counsel and Senior Vice President for the California Medical Association, as Law & Government Affairs Vice President for four states for AT&T, and as an Associate on King & Spalding's Healthcare Team.

Ms. Winegard served as the Facilitator for the MDL settlements with Aetna, Blue Cross Blue Shield Association, Capital Blue Cross, CIGNA, Health Net, and Humana, handling compliance disputes brought by physicians who complained that these health insurers had violated the settlement agreements reached in the MDL healthcare litigation.

Ms. Winegard graduated *magna cum laude* with a B.A. in Politics from Wake Forest University in 1979, where she was elected to the Phi Beta Kappa honor society. She earned her J.D. with honors from George Washington University in 1982. She is admitted to practice in Georgia, as well as in the United States District Court for the Northern District of Georgia.

Ms. Winegard is based in Atlanta, where she serves as a member of the Board of Governors and Chair of the Audit Committee for LifeLink Foundation. She has previously held leadership positions for the Health Law Section of the State Bar of Georgia, the Georgia Association for Women Lawyers, and the National Kidney Foundation of Georgia, and has also served on the Boards of Directors for the Alliance Française d'Atlanta and the Boys & Girls Clubs of Metro Atlanta.

Ms. Winegard speaks French and Spanish. Ms. Winegard is Of Counsel to the Firm.
E-MAIL: dwinegard@whatleykallas.com

Sara Hacker Collins
Ms. Collins is a member of the Alabama Bar (2005). She is a member of the Alabama State Bar, Birmingham Bar Association and Farrah Law Society. She graduated from Auburn University (B.A. magna cum laude, 2002) and the University of Alabama School of Law (J.D., 2005) where she was Senior Editor of the *Alabama Law Review*. Following law school she served as law clerk for Judge Patricia Smith, Alabama Supreme Court (2005-2006) and for Judge Inge Johnson, U. S. District Judge, Northern District of Alabama (2006-2007).
E-MAIL: scollins@whatleykallas.com

D. Jamie Carruth
Mr. Carruth practices in the areas of healthcare litigation, antitrust, product liability, consumer protection, complex litigation, and class actions. He represents physicians, medical practices, and ambulatory surgical centers in reimbursement and contract disputes against managed care companies. He represents clients in alternative dispute resolution proceedings in addition to state and federal courts. He specializes in using the latest technology to assist clients in efficiently navigating the E-Discovery process. He is a member of the Alabama Bar since 2004 and is admitted to practice in the United States District Court for the Northern District of Alabama. He is a member of the American and Birmingham Bar Associations. He received a B.A. in political science from the University of Alabama, Tuscaloosa, Alabama in 2001 and obtained a J.D. in 2004 from the University of Alabama School of Law, Tuscaloosa, Alabama.
E-MAIL: jcarruth@whatleykallas.com

C. Nicholas Dorman
Mr. Dorman's practice is focused on healthcare and antitrust litigation, and he primarily represents healthcare providers challenging anticompetitive practices of insurers and health systems. He also has experience representing both providers and consumers in healthcare litigation involving claims under ERISA and RICO, and representing whistleblowers in *qui tam* litigation under the False Claims Act. He has represented clients in both class and individual antitrust litigation and has taken antitrust cases to trial, obtaining jury verdicts or favorable settlements for his clients.

Mr. Dorman graduated first in his class from the University of Florida Levin College of Law, receiving book awards in Antitrust: Healthcare; Appellate Advocacy; Constitutional Law; Consumer Law; Electronic Discovery, and Electronic Discovery: Search and Data Analysis. He served on the Florida Law Review as Managing Editor. While in law school, he also served as an extern to Hon. Gary R. Jones and to Hon. Maurice M. Paul, both of the U.S. District Court for the Northern District of Florida.

Mr. Dorman is a member of the Florida Bar and is admitted to practice before the U.S. District Courts for the Northern, Middle, and Southern Districts of Florida. He is a member of the Healthcare and Antitrust Sections of the American Bar Association and is a member of Public Justice.

Mr. Dorman is not admitted to practice in the State of Alabama.
E-MAIL: ndorman@whatleykallas.com

T. Kenneth Foster
T. Kenneth Foster is an attorney with the Firm. He received his B.S. with honors in Business Administration from The University of Alabama in 1968 and his J.D. from The University of Alabama School of Law in 2000. Following law school, he was in private practice for over 15 years, handling both civil and criminal matters. He is a member of the Alabama Bar Association. Prior to attending law school, Mr. Foster worked for several grain processing and milling companies, serving as past president and on the board of directors of the Home Baking Association, a national milling trade association.
E-MAIL: kfoster@whatleykallas.com

Cody B. Isbell
Cody B. Isbell is an attorney in the Firm's Birmingham office. He received his B.S. in Criminal Justice from Faulkner University in 2012. He received his J.D. from Cumberland School of Law in 2015. He was a semi-finalist in the Robert B. Donworth Moot Court Competition. Following law school, he practiced as a personal injury attorney in Birmingham. He has been a member of the Alabama State Bar since 2015.
E-MAIL: cisbell@whatleykallas.com

Blake W. Cole
Mr. Cole is an attorney with the Firm and a member of the Alabama State Bar. He attended Auburn University on scholarship where he obtained his Bachelor of Science in Polymer and Fiber Engineering in 2010. Afterwards he worked for a short time in the body armor industry before proceeding to law school. He obtained his Juris Doctor from Cumberland School of Law in 2016, receiving a book in Estate Planning. He then attended the University of Alabama School of Law where he obtained his Master of Laws in Taxation in 2019.
E-MAIL: bcole@whatleykallas.com

Aspen • Atlanta • Birmingham • Boston • Los Angeles • New York • Orlando • Portsmouth •San Diego • San Francisco

1228 Riverside Drive
Aspen, CO 81611
Telephone: 970-300-4848
Facsimile: 800-922-4851

1068 Virginia Ave. NE
Atlanta, GA 30306
Telephone: 404-607-8222
Facsimile: 404-220-9625

2001 Park Place North
Suite 1000
Birmingham, AL 35203
Telephone: 205- 488-1200
Facsimile: 800-922-4851

101 Federal Street, 19th Floor
Boston, MA 02110
Telephone: 617-203-8459
Facsimile: 800-922-4851

355 So. Grand Avenue, Ste 2450
Los Angeles, CA 90071
Telephone: 310-684-2504
Telephone: 213-943-1312
Facsimile: 855-274-1888

152 West 57th Street
41st Floor
New York, NY 10019
Telephone: 212- 447-7060
Facsimile: 800- 922-4851

111 North Orange Avenue
Suite 800
Orlando, FL 32801
Telephone: 321-325-6624
Facsimile: 800-922-4851

159 Middle Street, Suite 2C
Portsmouth, NH 03801
Telephone: 603-294-1591
Facsimile: 800-922-4851

16870 W. Bernardo Dr., Ste 400
San Diego, CA 92127
Telephone: 619-308-5034
Facsimile: 855-274-1888

1 Sansome Street, 35th Fl.
PMB #131
San Francisco, CA 94104
Telephone: 415-906-3876
Facsimile: 855-274-1888

www.whatleykallas.com

Exhibit 3

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

WILLIAM JAMES GRIFFIN, et al., Plaintiffs, v. BENEFYTT TECHNOLOGIES, INC., et al., Defendants.	Case No. 0:20- cv-62371-AHS

DECLARATION OF MATTHEW CARROLL, ESQ.

Pursuant to 28 U.S.C. § 1746, I, Matt Carroll, declare as follows:

1. I am an individual over the age of twenty-one (21) and I submit this declaration based upon my own personal knowledge of the facts stated in this declaration, and review of public records and other documentation.

2. I am an attorney and one of the counsel for Plaintiffs in the above captioned matter. I am a solo practitioner. The name of my firm is Matt Carroll Law LLC. Previously I was a partner at the law firm of Johnstone Carroll, LLC.

3. I submit this declaration in support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement. I have personal knowledge of the facts stated herein and, if called upon to do so, could and would testify competently thereto.

4. In 2019, my prior law firm, Johnstone Carroll, LLC, was contacted by several individuals who had incurred tens of thousands of dollars in medical bills that Benefytt Technologies, Inc. ("Benefytt") had refused to pay. At that time, we began investigating potential claims against Benefytt and Assurance IQ. Subsequently, several other individuals were referred to our firm who also had medical bills that Benefytt had refused to pay.

5. On May 5, 2020, Johnstone Carroll, LLC, and co-counsel at the Whatley Kallas firm, filed the original class action complaint in this matter in the United States District Court for the Northern District of Alabama. We have continued to prosecute this action diligently since filing the original complaint.

6. Since filing this case, my current and predecessor firms, Matt Carroll Law, LLC and Johnstone Carroll, LLC, respectively, together with the Whatley Kallas firm (hereinafter, "The Firms"), have devoted thousands of hours of attorney and paralegal time investigating the facts and identifying the claims they have brought on behalf of the putative class. The Firms have also fronted approximately $250,000 in costs on a contingency fee basis, with no guarantee of any recovery or reimbursement of expenses.

7. The time and money that The Firms have devoted to this case has posed a substantial financial risk on them. My prior firm had two attorneys, and The Firms together have less than 20 lawyers. The concentration of significant Firm time and resources on this matter increased the financial risk that The Firms took to obtain this result.

8. The Firms have filed several complaints, defeated multiple motions to dismiss and fully briefed Plaintiffs' motion for class certification.

9. The Firms also engaged in full-fledged fact and expert discovery. In this regard, The Firms issued 74 requests for production of documents to Benefytt and 47 requests for production of document to Assurance. In response, Defendants produced over 100,000 pages of documents, which The Firms then reviewed and analyzed. The Firms also issued 25 interrogatories to Benefytt and 17 interrogatories to Assurance.

10. The Firms also assisted Plaintiffs in responding to lengthy requests for production, interrogatories and requests for admission. The Firms worked with our clients to collect and

produce over 1,000 pages of documents from Plaintiffs, including health-related documents containing personal information. The Firms also spent many hours assisting Plaintiffs to prepare for their depositions and defending Plaintiffs' depositions.

11. Each of the named Plaintiffs in this case have also pursued this litigation vigorously. They actively sought out counsel for their unreimbursed medical expenses, contacted us regularly regarding the status of this case, and have pushed to obtain the maximum recovery for themselves and for the other Settlement Class Members. As noted above, they each responded to lengthy requests for production, interrogatories, and requests for admission. Each of the Plaintiffs also spent considerable time combing their personal email accounts and searching their records for information responsive to the Defendants' document requests, and together they produced more than 1,000 pages of documents, including health-related documents containing personal information.

12. The named Plaintiffs also spent considerable time preparing for and sitting for their depositions. Most of the Plaintiffs missed work to do so. The depositions themselves were stressful for the named Plaintiffs, with counsel for the Defendants conducting lengthy, full-day cross-examinations of each one and their claims in this matter.

13. The Firms also participated in extensive settlement negotiations. In this regard, all parties attended a full-day mediation with highly accomplished mediator John S. Freud on October 13, 2022 that resulted in an impasse. Some eight months later, after numerous party depositions, the parties had briefed Plaintiffs' motion for class certification and Benefytt had filed its bankruptcy petition, Plaintiffs and Assurance returned to a second full-day mediation on June 19, 2023 with Mr. Freud, during which they reached an agreement in principle to settle the litigation for $13.5 million. In the days and weeks that followed, Plaintiffs and Assurance reduced their

agreement in principle to a written term sheet executed on June 28, 2023 and, ultimately, reached a comprehensive agreement that they memorialized in the Settlement Agreement.

14. The Firms have conducted research to develop nationwide claims that benefit all of the consumers victimized by Defendants. Also, Tshe Firms drafted and filed extensive papers in support of Plaintiffs' motion for class certification. The considerable work done thus far has benefited Plaintiffs and Class Members, protecting their interests. The Firms have also evaluated the interests of the various Classes and have determined that there is not divergent interest among members of the Classes.

15. Plaintiffs have acquired last-known contact information for Settlement Class Members from Benefytt. According to this data, the Classes are comprised of approximately 370,000 people located throughout the United States.

16. Under the terms of the Settlement, Participating Settlement Class Members who submit a Claim Form stating under penalty of perjury that he or she incurred Uncovered Medical Expenses will receive a multiplier of two, three or four times his or her base share, depending on the amount of Uncovered Medical Expenses he or she incurred. These multipliers, while not an exact determination of Participating Class Members' shares, recognize the enhanced damages of members of the Medical Expense Subclass while avoiding the considerable administrative burdens and costs of having a document-intensive, evidentiary claim process.

17. The Firms made no agreements in connection with the proposed settlement.

18. I have substantial experience in consumer fraud and class action matters. With respect to class actions, I was most recently appointed class counsel in the matter of *Family Medicine Pharmacy v. Lifescan, Inc.*, previously pending in the U.S. District Court for the Southern District of Alabama as Case No. 1:20-CV-00534-KD (class-wide settlement involving class with

3,000 members). I was also counsel for a putative class in *Family Medicine Pharmacy v. Ads for Academics, Inc.*, previously pending as Case No. 1:20-CV-00369-TFM-MU in the Southern District of Alabama (confidential settlement).

19. Based on my experience, I believe that the settlement that we have obtained for the proposed class is fair, reasonable, and adequate under the circumstances.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 11/13/23

Matthew F. Carroll, Esq.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

WILLIAM JAMES GRIFFIN, et al., Plaintiffs, v. BENEFYTT TECHNOLOGIES, INC., et al., Defendants.	Case No. 0:20- cv-62371-AHS

PLAINTIFFS' CERTIFICATE OF GOOD FAITH CONFERENCE REGARDING THEIR MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT, CERTIFICATION OF SETTLEMENT CLASSES, APPROVAL OF CLASS NOTICE AND SCHEDULING OF A FAIRNESS HEARING, AND INCORPORATED MEMORANDUM OF LAW

Plaintiffs William James Griffin, Ashley Lawley, William "Jeff" Cooper, Sandra Wilson and Vicki Needham ("Plaintiffs") by and through their undersigned counsel hereby certifies pursuant to Local Rule 7.1(a)(3) that Plaintiffs' counsel conferred with Defendants' counsel, and Defendants do not oppose the relief sought in this Motion.

Dated: November 16, 2023

WHATLEY KALLAS, LLP

/s/ Charles Nicholas Dorman
Charles Nicholas Dorman
111 North Orange Avenue
Suite 800
Orlando, Florida 32801
Telephone: (321) 325-6624
Facsimile: (800) 922-4851
Email: ndorman@whatleykallas.com

Joe R. Whatley Jr.
W. Tucker Brown
2001 Park Place North 1000
Park Place Tower
P.O. Box 10968

Birmingham, AL 35203
Telephone: (205) 488-1200
Facsimile: (800) 922-4851
jwhatley@whatleykallas.com
tbrown@whatleykallas.com

Patrick J. Sheehan
101 Federal Street, 19th Floor
Boston, MA 02110
Telephone: (617) 573-5118
Facsimile: (617) 371-2950
psheehan@whatleykallas.com

MATT CARROLL LAW, LLC
Matt Carroll
P.O. Box 660749
Vestavia, AL 35216
Telephone: (205) 240-2586
Email: matt@mattcarrollfirm.com

INGE JOHNSTONE LAW OFFICES
F. Inge Johnstone
1 Independence Plaza
Homewood, AL 35209
Telephone: (205) 771-4009
Facsimile: (205) 771-4049
Email: ijohnstone@ingejohnstone.com

J. Dennis Gallups
PO Box 381894
Birmingham, AL 35283

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been electronically filed on November 16, 2023, with the Clerk of the Court using the CM/ ECF system which will send notification of such filing to the following counsel of record:

Val Leppert
KING & SPALDING LLP
200 S. Biscayne Blvd., Suite 4700
Miami, FL 33131
(404) 572-4600
vleppert@kslaw.com

Dale A. Evans Jr.
Florida Bar Number: 98496
LOCKE LORD LLP
777 South Flagler Drive, Suite 215-East
West Palm Beach, Florida 33401
Telephone: 561-833-7700
Facsimile: 561-655-8719
dale.evans@lockelord.com

Vincent A. Sama (*Pro Hac Vice*)
Catherine B. Schumacher (*Pro Hac Vice*)
Daphne Morduchowitz (*Pro Hac Vice*)
Sarah Fedner (*Pro Hac Vice*)
SEYFARTH SHAW LLP
620 Eighth Avenue, 32nd Floor
New York, New York 10018-1405
Telephone: (212) 218-5500
Facsimile: (212) 218-5526
vsama@seyfarth.com
cschumacher@seyfarth.com
dmorduchowitz@seyfarth.com
sfedner@seyfarth.com

Martha Rosa Mora
AVILA RODRIGUEZ HERNANDEZ
MENA & FERRI
2525 Ponce de Leon Boulevard
Penthouse 1225
Coral Gables, FL 33134
(305) 779-3567
mmora@arhmf.com

Renée B. Appel (*Pro Hac Vice*)
975 F Street NW
Washington, D.C. 20004
Telephone: (202) 828-5371
rappel@seyfarth.com

/s/ Charles Nicholas Dorman
Attorney for Plaintiffs