

IN THE CIRCUIT COURT FOR BALTIMORE CITY

CYNTHIA M. CLARK as successor personal
representative of THE ESTATES OF WALTER
F. KACALA and HELEN M. KACALA, *et al.*,

Plaintiffs,

v.

PETER G. ANGELOS, ESQ., *et al.*,

Defendants.

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Case No. 24-C-21-000847 OT

HEARING REQUESTED

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MOTION FOR FINAL SETTLEMENT APPROVAL

Plaintiffs¹ respectfully move for final approval of the class-wide settlement that the Court preliminarily approved on August 28, 2024. As discussed in the accompanying memorandum of law, the Proposed Class Settlement is fair, adequate, and reasonable as to Settlement Class Members, and the class certification requirements of Maryland Rule 2-231 are satisfied.

Pursuant to paragraph 35 of the Proposed Class Settlement Agreement, Defendants will not oppose entry by the Court of a Final Approval Order that approves the settlement and directs its implementation, and also approves incentive fees to the Class Representatives and Class Counsel's application for attorneys' fees and costs.²

¹ Cynthia M. Clark, as successor personal representative of the Estates of Walter F. Kacala and Helen M. Kacala; Norman J. Loverde, as successor personal representative of the Estates of Stephen J. Loverde, Sr. and Mary Anna Loverde; and Maria M. McCarthy and William J. McCarthy, Jr., as personal representatives of the Estate of Anne Major and successor personal representatives of the Estate of Bernard L. Major, individually and on behalf of a Class of similarly situated Angelos clients. Defined terms appearing in this motion and accompanying memorandum that are not defined herein are defined in the Proposed Class Settlement Agreement.

² Defendants have not reviewed Plaintiffs' filings in connection with final approval, though as the Court will recognize, substantial portions of the memorandum accompanying Plaintiffs' Motion for Final Settlement Approval are similar or identical to material in Plaintiffs' memorandum in support of preliminary approval, which Defendants did review.

WHEREFORE, Plaintiffs request that the Court grant final approval for the Settlement Agreement and enter the attached proposed Final Judgment Approving Settlement and Certifying Settlement Class.

Respectfully submitted,

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Date: November 12, 2024

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MEMORANDUM IN SUPPORT OF MOTION FOR FINAL
SETTLEMENT APPROVAL

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Introduction

Plaintiffs¹ respectfully move for final approval of the class-wide settlement that the Court preliminarily approved on August 28, 2024.² The Claims that are the subject of the Proposed Class Settlement relate to Plaintiffs' allegations that the Law Firm and its founder, Peter Angelos, failed to move timely to enforce a 1994 settlement agreement with Baltimore-based asbestos installer MCIC, Inc., and failed timely to file settlement fraud claims in connection with that 1994 agreement. After more than three years of hard-fought litigation and a months-long mediation process before a retired federal judge, the Honorable Paul W. Grimm, the parties agreed on a term sheet and, ultimately, the Proposed Class Settlement that the Court preliminarily approved.

Through the Proposed Class Settlement, the Angelos Estate, with approval of the Law Firm and with a material contribution from an insurance policy that provided coverage for the Law Firm, will contribute \$57 million to a common fund that will distribute payments to thousands of Defendants' current and former clients. These payments will provide fair, adequate, and reasonable relief for the families of Baltimore-area laborers, steelworkers, and asbestos installers, many of whom were represented by Peter Angelos and the Law Firm for

¹ Cynthia M. Clark, as successor personal representative of the Estates of Walter F. Kacala and Helen M. Kacala; Norman J. Loverde, as successor personal representative of the Estates of Stephen J. Loverde, Sr. and Mary Anna Loverde; and Maria M. McCarthy and William J. McCarthy, Jr., as personal representatives of the Estate of Anne Major and successor personal representatives of the Estate of Bernard L. Major, individually and on behalf of a Class of similarly situated Angelos clients.

² Pursuant to paragraph 35 of the Proposed Class Settlement Agreement, Defendants will not oppose entry by the Court of a Final Approval Order that approves the settlement and directs its implementation, and also approves incentive fees to the Class Representatives and Class Counsel's application for attorneys' fees and costs. Defendants have not reviewed Plaintiffs' filings in connection with final approval, though as the Court will recognize, substantial portions of the memorandum accompanying Plaintiffs' Motion for Final Settlement Approval are similar or identical to material in Plaintiffs' memorandum in support of preliminary approval, which Defendants did review.

decades. The Court should grant final approval of the settlement, so the Settlement Class Members can take advantage of the substantial benefits it offers to them.

Factual Background

The MCIC Settlement Agreement

In the early 1990s, Baltimore City was a hub for asbestos injury claims. 3d Am. Class Action Compl. (“3AC”) ¶¶ 44, 46, 50. The Circuit Court for Baltimore City consolidated over 8,500 of these claims in a trial, known as Abate I, in which “the cases of six illustrative plaintiffs were tried to full and final judgments, and certain common issues ... were also tried.” ACandS, Inc. v. Abate, 121 Md. App. 590, 602 (1998), overruled on other grounds by John Crane, Inc. v. Scribner, 369 Md. 369 (2002). By the close of trial, only six defendants remained in the case, including McCormick Asbestos Company, also known as MCIC. Id. at 603. The jury returned multi-million-dollar verdicts in favor of three of the six illustrative plaintiffs, and also found that the defendants, including MCIC, were liable for asbestos injuries. Id. This liability verdict applied to all of Defendants’ clients who were common-issues plaintiffs in Abate I. See Extract of June 3, 1993 Mem. Op. and Order at 2-3, 49, attached as **Exhibit 1**.

Following the trial in Abate I, MCIC began settlement negotiations with the firms that had represented the thousands of common-issues plaintiffs. Defendants represented the vast majority of these plaintiffs. A sticking point in the negotiations was the amount of available insurance. Although complete insurance contracts had not been preserved for the dozens of years for which MCIC had liability insurance coverage, MCIC and its insurers supplied an assortment of schedules, certificates of insurance, declarations pages, and other documents to substantiate MCIC’s coverage. These materials became known in later litigation as the “Nagle Documents.” 3AC ¶ 58.

Because the Nagle Documents did not include complete policy contracts, and because Defendants and the other plaintiffs' firms argued that they "needed to verify the limits of MCIC's coverage or the total remaining coverage before agreeing to settle," the parties "agreed that the insurers would provide affidavits that stated that MCIC's total remaining coverage was approximately \$13 million, that the [insurers] were tendering the limits of remaining unpaid funds, and that the [insurers] were not aware of any other applicable or available coverage." Estate of Adams v. Cont'l Ins. Co., 233 Md. App. 1, 12-13 (2017) (emphasis omitted), cert. denied, 456 Md. 62 (2017); see 3AC ¶¶ 62-63. These affidavits were essential to the settlement, which would not have been consummated had the insurers refused to place what they represented to be all available coverage on the table. 3AC ¶ 66. [REDACTED]

[REDACTED]

[REDACTED]

MCIC's participating insurers stipulated to the asbestos exposure window and the disease category (mesothelioma, lung cancer, other cancer, or nonmalignant disease) for each settlement beneficiary. MCIC Settlement Agreement § 2.1, attached as **Exhibit 3**. MCIC and its insurers also agreed in Section 2.2 of the settlement agreement that "if in addition to the insurance coverage disclosed by Insurers and confirmed by their affidavits ... other insurance is discovered which would be applicable to claims made, the Defendant will promptly notify Participating Plaintiffs' Counsel and arrange for a *pro rata* distribution to them for payment to the Plaintiffs." Id. § 2.2. Section 2.2 of the MCIC Settlement Agreement forms a significant basis for Plaintiffs' claims.

Operations Coverage: The Insurance Industry's Best-Kept Secret

The MCIC Settlement Agreement was predicated on the insurers' sworn representation that all policies were subject to aggregate limits—*i.e.*, that regardless of the number of claims or occurrences in a policy period, the policy would pay a maximum amount as set forth on the policy declaration pages. Once the aggregate limit was exhausted, the policy would pay nothing further.

What the insurers arguably knew but did not disclose is that prior to the mid-1980s, standard liability insurance policies imposed aggregate limits for asbestos injuries arising from exposure to “completed operations” (*i.e.*, products liability claims), but there were no aggregate limits for asbestos injuries arising during “operations” (*i.e.*, during the performance of work by the insured). See In re Wallace & Gale Co., 275 B.R. 223, 238-39 (D. Md. 2002) (“[T]o the extent that injuries, beginning with exposure, may be considered as occurring before operations were completed they would, by definition, be excluded from the completed operations clause. There would be no aggregate limit under the policies then in effect.”), vacated in part on other grounds, 284 B.R. 557 (D. Md. 2002), aff'd, 385 F.3d 820 (4th Cir. 2004).

MCIC's insurers understood that they could face significant exposure should a Court award recovery under policies with operations coverage. E.g., Aug. 23, 1991 letter fr. W. Smiley to B. Chapper at 1, attached as **Exhibit 4** (“Royal ... specifically advised that ... products liability and completed operations coverage were not included in the policies issued to MCIC by Royal.”). As Judge Pierson explained in his summary judgment ruling finding the claims time barred in the Tort Action, “‘Fragmentary’ though they may have been, the policy-related materials made available to plaintiffs in 1993 ... are consistent and clear in their treatment of the hazards that are subject to aggregate limits. ... Aggregate limits ... explicitly apply only to

liability for bodily injuries arising out of products-completed operations hazards.” Extract of Nov. 20, 2012 Mem. at 30, attached as **Exhibit 5**. While Plaintiffs and Defendants in the case at bar vigorously disputed, prior to achieving the Proposed Class Settlement, how successful recovery under a policy with operations coverage could have been, it remained an avenue for recovery. That avenue was clarified following the Porter Hayden ruling.

The Porter Hayden Decision

In 1997, three years after the MCIC settlement was finalized, the Appellate Court of Maryland confirmed in Commercial Union Insurance Co. v. Porter Hayden Co. that an asbestos installer like MCIC “could be held liable for the manner in which it conducted its operations in installing the asbestos-containing products. In that light, it is not solely covered by the ‘Products Hazard’ insurance” on which MCIC’s asserted aggregate limits had been based. 116 Md. App. 605, 692 (1997) (emphasis omitted). Porter Hayden thus opened the door to additional insurance coverage not subject to aggregate limits to pay the claims of plaintiffs who were injured during the installation or removal of asbestos products.

Soon after Porter Hayden was decided, Peter Angelos wrote to MCIC’s president [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Soon after that filing, Defendants met with representatives of MCIC and its insurers for a settlement discussion and proceeded to demand millions of dollars in additional remuneration for their clients. The parties did not settle, and the Maryland courts ultimately treated the Motion to Enforce as time-barred. See Anderson v. Royal

Indem. Co., No. 1962, slip op. at 23 (Md. Ct. Spec. App. May 15, 2006), attached as **Exhibit 8**, cert. denied, 394 Md. 479 (2006).

Following the adverse ruling on the Motion to Enforce, Defendants brought a new lawsuit alleging that during the 1994 negotiations, MCIC and its insurers had misrepresented the amount of available insurance. 3AC ¶¶ 110-12. In this new Tort Action, Defendants claimed that certain documents they had received through discovery in the Motion to Enforce proceedings (the so-called “Chapper Documents”) revealed that “MCIC knew as early as 1985 that [the settlement beneficiaries] had claims for operations coverage because many of the plaintiffs were exposed to asbestos during installation.” Estate of Adams, 233 Md. App. at 20. After years of litigation, the Circuit Court for Baltimore City again found Defendants’ claims time-barred. 3AC ¶¶ 114-17. The Appellate Court of Maryland affirmed the trial court decision, Estate of Adams, 233 Md. App. at 14-15, and the Supreme Court of Maryland denied further review.

Procedural History

In March 2018, approximately six months after the Supreme Court of Maryland denied certiorari in the Estate of Adams litigation, Defendants informed their clients about the adverse ruling in the Tort Action and invited them to “seek separate legal counsel concerning any further options [they] may have as to ... a potential claim against the Firm by reason of its late filing.” Mar. 20, 2018 letter fr. A. Weiner to C. Clark at 2, attached as **Exhibit 9** (the “March 2018 Notice”). Thereafter, Plaintiffs filed this class action in February 2021, alleging in Count I that Defendants breached their duty of care to Plaintiffs and the Class when they failed to move timely to enforce the MCIC Settlement Agreement, and alleging in Count II that Defendants breached their duty of care to Plaintiffs and the Class when they failed to pursue timely claims in the Tort Action. Plaintiffs later amended their complaint to add Count III, which relates to

Defendants’ alleged failure to challenge timely a buyback by one of MCIC’s insurers, Reliance Insurance Co., of the coverage it had issued to MCIC (thereby allegedly depleting the pool of insurance available at the time of settlement).

The litigation that followed was exceedingly hard fought, featuring many rounds of dispositive motion practice and discovery motions. In early spring of 2024, with the class certification hearing on the horizon, the parties engaged the Honorable Paul W. Grimm, a retired federal judge, to lead them through a mediation effort. The parties convened on April 19, 2024 for a full-day mediation session. At the conclusion of that session, the parties reached an agreement in principle pursuant to which the Angelos Estate, with the consent of the Law Firm and with a material contribution from an insurance policy that provided coverage for the Law Firm, would contribute \$57 million to a common fund for settlement of the class claims.

After reaching that agreement in principle, the parties continued extensive negotiations in the weeks that followed, conferring regularly with Judge Grimm, and exchanging at least eighteen drafts of a term sheet in which virtually every material term was subject to extensive negotiation. The final version of the term sheet was executed as of June 3, 2024. Thereafter, the parties devoted many hours to preparing and negotiating a long-form Proposed Class Settlement Agreement, attached hereto as **Appendix A** (inclusive of exhibits to the agreement), which the Court preliminarily approved on August 28, 2024.

Through this adversarial process, the parties reached a proposed agreement that is fair, reasonable, and adequate with respect to the interests of the Class. Judge Grimm, drawing on his years of service as a federal judge who has presided over many class actions and facilitated numerous class settlements, has opined that “this is one of the most successful class action settlements that [he has] seen, providing substantial economic benefit to the entire class, while at

the same time benefitting the defendants significantly.” Decl. of Paul W. Grimm (“Grimm Decl.”) ¶ 7, attached as **Exhibit 10**. Judge Grimm added that “the proposed class settlement ... convincingly meets all the legal criteria for preliminary and final approval, and is noteworthy for its fairness to all parties, but especially to the proposed plaintiffs’ class.” *Id.* ¶ 8.

The Proposed Class Settlement

The Settlement Class

The Proposed Class Settlement is between a Class of clients represented by named Plaintiffs Cynthia M. Clark, Norman J. Loverde, William J. McCarthy, Jr., and Maria M. McCarthy, on the one hand, and the Law Firm and the Angelos Estate, on the other hand. As discussed above, the agreement was reached following years of hotly contested litigation, which featured comprehensive discovery (with hundreds of thousands of pages exchanged among the parties); dozens of often legally complex motions; and a mediation process that took months to complete. During that mediation process, the parties conferred regularly in groups and in separate meetings with Judge Grimm in an effort to achieve a fair and reasonable outcome. The Law Firm and two former defendants (attorneys with the firm who were dismissed by the named Plaintiffs as a condition set forth in the term sheet) were ably represented by a team of lawyers from Stein Sperling Bennett De Jong Driscoll PC and Thompson Hine LLP, with the input of William J. Murphy of Zuckerman Spaeder LLP as Conservator for the Law Firm. The Angelos Estate was represented by star Baltimore litigator Ben Rosenberg and his team at Rosenberg Martin Greenberg, LLP, and by Daniel M. Petrocelli, Chair of the Trial Practice Committee at O’Melveny & Myers LLP and one of the nation’s top trial lawyers. On the other side of the “v,” Plaintiffs were represented by a team at Gallagher Evelius & Jones that has advocated for their clients’ best interests since the inception of the class. The powerful advocacy on all sides

ensured a Proposed Class Settlement that maximizes value for the Class, while reasonably accounting for the perils of continued litigation.

Unlike many class settlements, in which the number and identities of participants cannot be ascertained until after notice and a claims administration process, here each Class Member can be determined with a reasonable level of detail due to lists maintained by the Law Firm. Each of these individuals are subject to inclusion in the approved Class because of (i) their inclusion on the lists of participants in the 1994 MCIC settlement and (ii) the allegation that they suffered identical harm due to the alleged malpractice by Defendants. Accordingly, the parties have crafted a settlement agreement through which each MCIC Settlement Beneficiary (or that settlement beneficiary's estate) is entitled to a *pro rata* share of the new settlement pool based on their injury categories in the underlying litigation.³ This *pro rata* feature of the Proposed Class Settlement ensures that no member receives a disproportionate share, and it mirrors the relief Plaintiffs would have requested at trial.

Pursuant to the settlement agreement, the parties have proposed the following Class:

All persons (or their estate representatives or next of kin) represented at any time by Defendants in connection with the Motion to Enforce and/or the Tort Action who are identified on the MCIC Settlement Beneficiary List and the Surviving Family Member List.

Proposed Class Settlement Agreement (**Appx. A**) ¶ 4; MCIC Settlement Beneficiary List and Surviving Family Member List, attached as Exhibits 1 and 2, respectively, to the Proposed Class Settlement Agreement (Appx. A). Excluded from the Class are (i) all directors, officers, employees, and shareholders of the Law Firm, and their immediate family members; (ii) all attorneys for Defendants in the current matter, and their immediate family members; (iii) each

³ As noted below, Surviving Family Members will not receive separate payments, as the MCIC Settlement Agreement contemplated a single payment per family unit for each primary asbestos injury claimant.

and every judge assigned to this action and all members of those judges' staffs, and their immediate family members; (iv) those persons who previously settled or whose associated MCIC Settlement Beneficiary previously settled legal malpractice claims against Defendants equivalent to any of the Claims asserted in the Case; (v) for the avoidance of doubt, all persons listed on exhibit 3 to the third amended complaint in the Tort Action;⁴ and (vi) those persons who affirmatively opt out of the Class. Id. ¶ 5.

Settlement Benefits

The proposed agreement includes several key features, including a significant monetary recovery for the Class:

- ***Settlement payment.*** Defendants will arrange for transfer of \$57,000,000 into a settlement fund, a portion of which will be paid by insurance and the balance of which will be paid by the Angelos Estate. Id. ¶ 8. Each MCIC Settlement Beneficiary who participates in the Settlement Class will be entitled to *pro rata* distributions from this settlement fund, based on that MCIC Settlement Beneficiary's injury category as set forth in the 1994 MCIC Settlement Agreement. Id. ¶ 11. In gross, mesothelioma claimants (an estimate of 90 claimants) will be entitled to approximately \$48,547.61 each; lung cancer claimants (an estimate of 788 claimants) will be entitled to approximately \$21,718.67 each; other cancer claimants (an estimate of 438 claimants) will be entitled to approximately \$7,665.41 each; and non-malignancy claimants (an estimate of 6,293 claimants) will be entitled to approximately \$5,110.27 each. Id. ¶ 13. These payments will be paid out over five annual installments, id. ¶ 15, and will be adjusted to account for whatever attorneys' fees, litigation expenses, and incentive fees the Court may award, as well as the costs of class administration, id. ¶ 13. Earnings on the \$57,000,000 settlement fund will be paid to the Angelos Estate.
- ***Incentive payments.*** The Proposed Class Settlement Agreement includes a provision, subject to the Court's approval, awarding \$10,000 incentive payments to each named Plaintiff unit, *i.e.*, Cynthia M. Clark; Norman J. Loverde; and William J. McCarthy, Jr. and Maria M. McCarthy. Id. ¶ 18. The incentive payments are in consideration of the named Plaintiffs' substantial efforts, including in discovery, and of their valuable contributions

⁴ The persons listed on exhibit 3 to the third amended complaint in the Tort Action were clients of the Law Firm who did not participate in the MCIC Settlement Agreement but alleged that they would have pursued claims against MCIC had they known the truth about MCIC's operations coverage. These individuals are not, and never have been, within the scope of the proposed class action here.

to the overall strategy in this long-running case. Plaintiffs' participation and dedication to doing right by the absent Class Members were integral to the pursuit of the case and the proposed settlement.

- ***Costs of administration.*** All costs of administration will be paid from the \$57,000,000 settlement fund. Id. ¶¶ 10(a), 20.
- ***Attorneys' fees and expenses.*** Plaintiffs are requesting an amount equal to 33% of the settlement fund as attorneys' fees in this matter, together with reimbursement of expenses. Concurrently with this motion, Class Counsel are filing separate motions for (i) approval of Plaintiffs' attorneys' fees and expenses; (ii) the above-mentioned incentive payments; and (iii) the proposed *cy pres* awards for the disposition of settlement funds where an eligible Class Member opted out or cannot be located.

Efforts to Locate Class Members

Because Class Counsel recognize the importance of the Notice process, Class Counsel have invested significant time coordinating with SCS around issues pertaining to contact information, opt-out requests, and communications with the absent Class Members. Class Counsel initiated this effort long before the Court entered its Order preliminarily approving the Proposed Class Settlement. Decl. of Paul Caiola ("Caiola Decl.") ¶ 16, attached as **Appendix C**. More recently, Tory Trocchia has spearheaded this effort. Id.

In mid-2023, Class Counsel determined that counsel's fact investigation should include contacting absent class members to survey them on information relevant to class certification and the merits of the case. Id. ¶ 17. Using public filings from the underlying 2005 Tort Action, Class Counsel ascertained the names and social security numbers of all 7,185 MCIC Settlement Beneficiaries who received payment in 1994 (the "1994 Payee Beneficiaries," and together with the personal representatives of their estates, the "1994 Payees"), as well as the names and addresses of the personal representatives of the estates of many of the 1994 Payee Beneficiaries. Id. ¶ 18.

For the 1994 Payee Beneficiaries for whom the public filings in the Tort Action did not list addresses or personal representative information, Class Counsel undertook additional efforts to ascertain this information. Specifically, between March and September 2023, a group of Gallagher administrative assistants and paralegals conducted searches using Thompson Reuters PeopleMap and the Maryland Register of Wills website to determine: which 1994 Payee Beneficiaries were still alive; the addresses of the living 1994 Payee Beneficiaries; and the names and addresses of the personal representatives of the deceased 1994 Payee Beneficiaries. Id. ¶ 19.

Once Class Counsel had generated a list of addresses for all 7,185 1994 Payees, counsel engaged Jeffrey Izes and his firm, Izes Consulting Services (together with Jeffrey Izes, “ICS”), a full-service call center consulting company, to “skip-trace” the data to obtain current address information. Id. ¶ 20. ICS first arranged for the data of a sample group of approximately 800 1994 Payees to be “skip-traced” in September 2023, and later arranged for the data of the remaining 1994 Payees to be skip-traced in October 2023. Id.

Class Counsel also engaged ICS to act as a call center. In September 2023, using the skip traced data, counsel mailed a letter (the “Pilot Mailing”) to a sample group of approximately 800 1994 Payees. Id. ¶ 21. In this letter, counsel informed recipients of the filing of this lawsuit and asked them to call the ICS call center during the weeks of October 2 and October 9, 2023 if they were willing to provide our firm with information related to the case. Id. ICS received calls from approximately 150 1994 Payees who received the Pilot Mailing, asked callers a specified list of questions drafted by Class Counsel regarding their or their loved one’s exposure to MCIC’s asbestos products and their contact information, and shared callers’ answers to these questions with Class Counsel. Id.

Following the Pilot Mailing, Class Counsel decided to cease using the ICS call center and to instead collect additional information from 1994 Payees via a written questionnaire. Id. ¶ 22. In November 2023, counsel mailed a letter to all 1994 Payees who either had not received the Pilot Mailing or had received the Pilot Mailing but had not called the call center to answer our questions. Id. Enclosed with this Second Mailing was a copy of Plaintiffs' Third Amended Class Action Complaint in this case, a questionnaire, and an authorization for release of information. Id. The letter requested that willing recipients complete the survey and authorization and return it to Class Counsel via mail or email. Id.

For 1994 Payees whose Second Mailings were returned as undeliverable and for addresses for which Class Counsel received reports that the intended recipient was no longer residing there, counsel's legal administrative assistants used Thompson Reuters PeopleMap and the Maryland Register of Wills website to attempt to identify new addresses or, in the case of deceased 1994 Payees, the names and addresses for alternate personal representatives or appropriate next of kin. Id. ¶ 23. In cases where Class Counsel were successful in identifying new addresses, counsel mailed copies of the Second Mailing to those addresses. Id. In cases where counsel were unsuccessful, the addresses on record were marked as bad addresses for recordkeeping purposes. Id.

Even now, many months later, Class Counsel continue to receive occasional calls, emails, and completed questionnaires and authorizations in response to the Second Mailing. Id. ¶ 24. Through these calls, emails, and returned questionnaires and surveys, counsel have been able to confirm as good the addresses for more than 1,200 Class Members. Id.

After Class Counsel identified SCS as Administrator, the parties provided SCS with lists of vetted addresses. Id. ¶ 26. The address list included information about which addresses had

been confirmed as good and which had been confirmed as bad by prior skip-tracing efforts, returned mail, and caller reports. Id. SCS skip-traced all of the addresses provided and ran them through the United States Postal Service National Change of Address Service to obtain current address information. Id. In cases where the Law Firm’s contact information for a Class Member conflicted with Gallagher’s and neither was ruled out by SCS’s address updating procedures, SCS sent the Notice to both sets of addresses. Id. ¶ 26.

In October 2024, SCS provided Class Counsel with a list of several hundred Class Members for whom it determined that all addresses were undeliverable. Id. ¶ 27. Counsel undertook efforts to find alternate addresses for these Class Members via Thomson Reuters PeopleMap and Accurant, which resulted in new addresses being identified for, and new Notices mailed to, 245 Class Members. Id.

Notice to the Class Comported with the Court’s August 28, 2024 Order and Maryland Rule 2-231(f)

The Court’s August 28, 2024 Order Preliminarily Approving Settlement, Certifying Class for Settlement Purposes, and with Respect to Notice, Settlement Hearing, and Administration appointed Strategic Claims Services, Inc. (“SCS”) as Settlement Administrator and directed SCS to give Notice of the Proposed Class Settlement and the Final Approval Hearing by mailing a copy of the Notice substantially in the form attached as exhibit 4 to the Proposed Class Settlement Agreement.

As discussed in the Declaration of Cornelia Vieira Concerning the Mailing of the Notice to Settlement Class Members and Report on Objections, attached as **Appendix B**, SCS complied with the Court’s directive. As Ms. Vieira explains, in preparation for Notice mailing, SCS received multiple excel spreadsheets from Defendants and Class Counsel listing names, addresses, and expected payment subgroups corresponding to the Class Members’ disease

categories included in the MCIC Settlement Agreement. Id. ¶ 4. Based on the class lists received, 7,609 Class Members and 2,606 Surviving Family Members were identified to receive Notice. Id. Pursuant to the Preliminary Approval Order, on September 11, 2024, SCS caused the Notice to be mailed, by first-class mail, postage prepaid, to the 7,609 Class Members and 2,606 Surviving Family Members. Id.

In an effort to reach all Class Members and Surviving Family Members, a number of Notices were mailed to multiple addresses and multiple potential Personal Representatives, for a total of 14,161 Notices mailed as of November 7, 2024. Id. ¶ 5. Prior to mailing, the class data was “skip-traced” and run through the United States Postal Service National Change of Address service to obtain current address information. Id. Of the 14,161 Notices mailed, 1,451 were returned as undeliverable. Id. ¶ 6. Of these, the United States Postal Service provided forwarding addresses for five, and SCS immediately mailed another Notice to the Class Members or Surviving Family Members at the updated addresses. Id. Out of the remaining 1,446 Notices returned as undeliverable, only 458 represented Notices returned from recipients where only one Notice was sent or where all Notices sent to the same recipient were returned, and for which SCS therefore did not have a valid address on file. Id. Following additional efforts by Class Counsel to find alternate addresses via Thomson Reuters PeopleMap (as discussed above), SCS remailed 245 Notices on October 18, 2024 to updated addresses obtained by Class Counsel. Id.

SCS and Class Counsel recently have engaged in discussions regarding the appropriate process for identifying addresses for the approximately 200 payee Settlement Class Members for whom all known addresses have been determined to be undeliverable, as well as for any payee Settlement Class Members for whom SCS later determines that all addresses on file are bad.

Caiola Decl. (**Appx. C**) ¶ 28. SCS and Class Counsel preliminarily have agreed that, in order to maximize the number of Settlement Class Members who receive settlement payments, SCS will run searches on the Maryland Register of Wills website to identify new contact information and addresses where possible. Id. The costs of this effort will be charged to the subset of Class Members who require additional effort to find them, rather than to the full Class. Id.

Administration of Settlement Benefits

Because the identities of the MCIC Settlement Beneficiaries and Surviving Family Members represented by the Law Firm (and, thus, the identities of the Class Members) are known, the Proposed Class Settlement Agreement does not require absent Class Members to submit a claim form or take any other cumbersome steps to participate in the Class. Instead, all MCIC Settlement Beneficiaries who did not opt out will receive payments, provided their current contact information can be ascertained by Plaintiffs with commercially reasonable efforts. Surviving Family Members will not receive separate payments, as the MCIC Settlement Agreement provided a single payment per family unit for each primary asbestos injury claimant.

Finally, because Class Counsel and the Settlement Administrator may be unable to locate some Class Members despite reasonable efforts, settlement payments corresponding to those members who cannot be located will (subject to Court approval) be paid to five deserving organizations that serve Baltimore and the greater Mid-Atlantic region: the University of Maryland Francis King Carey School of Law, to sponsor the clinical law program (23.5%); the University of Baltimore School of Law, to sponsor the Fannie Angelos Program for Academic Excellence (23.5%); Public Justice Center, Inc. (23.5%); Associated Catholic Charities Inc., for use by the Esperanza Center (23.5%); and Franciscan Center, Inc. d/b/a The Franciscan Center of

Baltimore (6%), a community soup kitchen and social services provider. Proposed Class Settlement Agreement (Appx. A) ¶ 17(c)

Any funds that cannot be delivered to the Settlement Class after one hundred twenty (120) calendar days following distribution of a Payment Installment will become *cy pres* funds. Id. ¶ 17(b). If the Administrator is unable to deliver the First Annual Installment to any Settlement Class Member after 120 days, the remaining payments due to that MCIC Settlement Beneficiary under subsequent Payment Installments will automatically become *cy pres* funds on or about each installment date, unless Class Counsel or the Administrator later learn of the location of an MCIC Settlement Beneficiary. Id.

Legal Standard

Class action settlements must be approved by the Court pursuant to Maryland Rule 2-231. Because Rule 2-231 is similar to Federal Rule of Civil Procedure 23, and given the limited body of Maryland case law in the class action context, Maryland courts generally rely on federal court decisions when analyzing class-related motions. E.g., Philip Morris Inc. v. Angeletti, 358 Md. 689, 724 (2000) (“There is a dearth of authority in Maryland analyzing the specific requirements of Maryland Rule 2–231. We need not consider the application of these requirements in a void, however, as there exists an abundance of cases from other jurisdictions, federal and state, that have analyzed class action rules either identical to or similar to Maryland’s rule.”). Accordingly, this memorandum includes a discussion of federal law in support of Plaintiffs’ position.

Federal Rule of Civil Procedure 23(e)(2) governs approval of class action settlements and requires a court to hold a hearing and make a finding that the class action settlement is “fair, reasonable, and adequate.” The finding of fairness, reasonability, and adequacy is based on 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. Pro. 23(e)(2). In reviewing class settlements, courts often follow a two-step process. First, courts look to the procedural fairness of the settlement process. A settlement is procedurally fair where it features arm's-length bargaining and an absence of collusion. Shenker v. Polage, 226 Md. App. 670, 687 (2016). The Courts consider the "extent of discovery that has taken place, the stage of the proceedings, the want of collusion in the settlement, and the experience of counsel who may have represented the plaintiffs in the negotiation." Id. at 687 (citation omitted). Second, courts will examine the substantive fairness, reasonableness, and adequacy of the proposed settlement. Id. at 683–84.

The same factors that informed the Court's analysis at the preliminary approval stage will help the Court evaluate the settlement at this final approval stage. E.g., Amador v. Baca, No. CV 10-01649, 2019 WL 13104946, at *2 (C.D. Cal. Sept. 23, 2019).

Argument

I. The Proposed Class Settlement is fair, reasonable, and adequate.

A. The Proposed Class Settlement is procedurally fair.

1. Class Counsel and the Class Representatives adequately represented the Class, and settlement occurred only after all parties had a thorough understanding of the strengths and weaknesses of Plaintiffs' claims and Defendants' defenses.

Class Counsel and the Class Representatives zealously advocated, each step of the way, for the rights of the absent Class Members in this hotly contested litigation. Class Counsel devoted thousands of hours and millions of dollars of time value to build and litigate the case.

Class Counsel's efforts included:

- Researching and drafting three lengthy complaints, and successfully avoiding motions to dismiss as to each;
- Defeating an early motion to strike Plaintiffs' class allegations, successfully moving to dismiss Defendants' subsequent interlocutory appeal, and successfully resisting Defendants' petition for a writ of certiorari to the Maryland Supreme Court;
- Obtaining over 470,000 pages of discovery material from Defendants following three successful motions to compel;
- Coordinating with an industry expert to analyze the Class damages and determine the settlement value of asbestos injury claims in the absence of insurance limits; and
- Conducting fact investigation outreach to absent Class Members, receiving and reviewing more than 1,000 questionnaires from absent Class Members, and avoiding Defendants' attempt to restrain that outreach through a TRO motion.

Caiola Decl. (**Appx. C**) ¶ 14.

At the August 28, 2024 hearing on the parties' Consent Motion for Preliminary Approval of the Class Settlement (the "Preliminary Approval Hearing"), the Court found that this factor "weighs heavily in favor of preliminary approval":

[T]his matter has been intensely litigated for several years. Plaintiffs have engaged in extensive discovery including obtaining thousands of pages of records. They have filed and responded to numerous motions and appeared and argued before this Court and before many of my colleagues on numerous occasions. The named plaintiffs have sat for depositions, answered interrogatories. This factor weighs heavily in favor of preliminary approval.

Extract of Tr. of Aug. 28, 2024 Hearing on Consent Motion for Preliminary Approval

(“Tr. of Prelim. Approval Hearing”) at 14:10-17, attached as **Exhibit 11**.

Indeed, Class Counsel left no stone unturned in the investigation and prosecution of Plaintiffs’ claims. Counsel painstakingly reviewed the Nagle and Chapper Documents and briefs and discovery material from the underlying proceedings. Caiola Decl. (**Appx. C**) ¶ 15. Counsel engaged no fewer than seven experts to assist with various aspects of the case. Id. Counsel served a total of sixty interrogatories and 158 requests for admission, and took or defended nine depositions. Id. Counsel also prepared a 46-page class certification brief and 92-page reply, the latter of which was filed shortly before the parties entered mediation. By that time, “all parties had a clear view of the strengths and weaknesses of their respective positions, and sufficient information about the claims and defenses at the time they began exploring the possibility of settlement.” Boyd v. Coventry Health Care Inc., 299 F.R.D. 451, 460 (D. Md. 2014).

Moreover, although Class Counsel did not have extensive prior experience prosecuting a class action, counsel’s collective professional experience and skill enabled counsel to craft a winning strategy in this complex case. Plaintiffs’ counsel have extensive experience with complex commercial litigation matters, including in cases involving insurance coverage disputes (subject matter that, obviously, is relevant to this case). Caiola Decl. (**Appx. C**) ¶¶ 2-13. Members of Plaintiffs’ litigation team have participated in some of the highest profile cases in

the state in recent years, including a series of cases pertaining to unemployment benefits⁵ and a certified question proceeding at which the Maryland Supreme Court announced a new test for the application of the religious employer exemption in Maryland's equivalent to Title VII.⁶

The Class Representatives, together with Class Counsel, proudly advocated for the rights of the Class. Moreover, the Class Representatives' interests are precisely aligned with the interests of the absent Class Members. Because each MCIC Settlement Beneficiary is entitled, under section 2.2 of the 1994 MCIC Settlement Agreement, to a *pro rata* share of the total sum of any additional insurance proceeds corresponding to the Abate I claims, each settlement beneficiary would have to prove the total insurance "pie" in individual litigation before establishing his or her individual "slice." The alternative to class treatment would be many trials for individual claimants or groups of claimants. Class certification better serves the interests of the absent Class Members, whose claims may not be worth enough individually to justify the costs of their individual cases.

In furtherance of their duties to the Class, named Plaintiffs Cynthia Clark, Norman Loverde, and William McCarthy (as the lead spokespersons for each family unit) each participated in the litigation and advocated for the Class's interests. They collected and produced documents, answered interrogatories, and appeared for depositions at which they

⁵ See Ovetta Wiggins, Judge Blocks Hogan's Plan to Pull Maryland Out of Federal Unemployment Program, Wash. Post (July 13, 2021, 10:37 a.m.), https://www.washingtonpost.com/local/md-politics/maryland-unemployment-judge-hogan-injunction-/2021/07/13/81f7ed5a-e3db-11eb-8aa5-5662858b696e_story.html; *Settlement Spurs Significant Reforms to Maryland's Broken Unemployment System*, Pub. Just. Ctr. (Dec. 16, 2022), <https://www.publicjustice.org/en/news/settlement-spurs-significant-reforms-to-marylands-broken-unemployment-system/>.

⁶ See Hugo Kugiya, Maryland Supreme Court Rules on Intent of Employment Discrimination Laws, Balt. Banner (Aug. 15, 2023, 10:49 p.m.), <https://www.thebaltimorebanner.com/politics-power/state-government/maryland-supreme-court-rules-state-job-protection-laws-do-not-apply-to-sexual-orientation-65SSY65AUJH4VDYJSNWWMASZYI/>.

expressed an appropriate understanding of the claims and, perhaps more importantly, their motivations for pursuing them. Mr. McCarthy testified that he “saw the Complaint before it was filed and ... saw the Amended Complaints before they were filed.” Extract of Tr. of Oct. 13, 2023 Dep. of W. McCarthy at 26:2-4, attached as **Exhibit 12**. He understood that “the people that participated in the settlement of the MCIC case would have had more resources available to be part of the global settlement of that case had these insurance coverages and these insurance policies been included in the pool of the global settlement.” Id. at 64:1-7. To Mr. McCarthy, it was appropriate to pursue this litigation both because of his fiduciary “responsibility to pursue actions on behalf of the estate” and because, “thinking of Uncle Bernie and the other people, his peers, his colleagues, people that he worked with over the years, that have been harmed ... it was the right thing to do.” Id. at 55:21 – 56:5.

Similarly, Mr. Loverde understood, upon receiving the March 2018 Notice, that Defendants “had tried to get the court to allow them to ... file against MCI[C] because they had located some other insurances that weren’t disclosed, insurance policies, but that the court had thrown that out, and that they said that Angelos’s firm didn’t file in a timely fashion.” Extract of Tr. of Nov. 15, 2023 Dep. of N. Loverde at 21:15 – 22:1, attached as **Exhibit 13**. Likewise, Ms. Clark understood that Defendants had “lost a dispute regarding the insurance They said they disagreed with the Court’s decision and they were unable to recover any money.” Extract of Tr. of Nov. 14, 2023 Dep. of C. Clark at 37:12-15, attached as **Exhibit 14**. She explained: “there was a sum of money that should have been obtained from these insurance companies.” Id. at 42:11-13. Ms. Clark understood that “there are 10,000 people affected by these mistakes and things that happened in this case, almost 10,000 I’m not the only one, along with the other plaintiffs who have suffered damages, a loss because of this.” Id. at 51:13-19.

2. The Proposed Class Settlement was negotiated at arm's length.

Plaintiffs and their counsel zealously advocated on behalf of the Class, ensuring a procedurally fair litigation process. The mediation and settlement process also was procedurally fair. The parties' arm's-length negotiations and related legal work took many weeks and hundreds of hours of attorney time, and the parties collectively exchanged at least eighteen drafts of a term sheet as part of that process. Along the way, counsel for Plaintiffs, for the Law Firm, and for the Angelos Estate repeatedly engaged with retired federal judge Hon. Paul Grimm as mediator.

As Judge Grimm recounted in his Declaration, the settlement was negotiated by “superbly competent counsel who were thoroughly familiar with the background facts, having conducted substantial pretrial discovery. The issues associated with class certification and the merits of the claims were extremely well developed, and counsel for all parties were completely conversant with the governing law.” Grimm Decl. (Ex. 10) ¶ 5. Judge Grimm observed that “while all counsel agreed that settlement was the desired outcome, this was a challenging and difficult case to settle,” with tough negotiations and “many areas of disagreement” that “had to be worked through.” Id. ¶ 6. As he worked with the parties, Judge Grimm “paid particular attention to the substantive terms that defined what relief the class plaintiffs would receive, the benefits the defendants would receive, and the proposed compensation for plaintiffs’ counsel.” Id. ¶ 7. Judge Grimm concluded that the proposed settlement “convincingly meets all the legal criteria for both preliminary and final approval, and is noteworthy for its fairness to all parties, but especially to the proposed plaintiffs’ class.” Id. ¶ 8.

At the Preliminary Approval Hearing, the Court agreed, finding that “[t]his factor also weighs heavily in favor of preliminary approval” because “the proposal in this case results from good faith bargaining among the parties”:

The parties participated in an extensive mediation settlement process before the Honorable Paul Grimm, one of the most well-respected federal judges here in the State of Maryland. The records indicates, I believe, that there were 18 drafts of a term sheet exchanged among the parties. This factor also weighs heavily in favor of preliminary approval.

Tr. of Prelim. Approval Hearing (Ex. 11) at 14:19-26, 15:1-2.

B. The Proposed Class Settlement is substantively fair.

1. The relief provided for the Class is adequate.

Apart from procedural fairness, the Court must consider whether the terms of the proposed settlement are substantively fair and adequate, accounting for “the likelihood of the plaintiff’s recovery on the merits against the amount offered in settlement.” Shenker, 226 Md. App. at 688 (citation omitted).

In doing so, the court should consider: (1) the relative strength of the plaintiffs’ case on the merits, (2) the existence of any difficulties of proof or strong defenses the plaintiffs are likely to encounter if the case goes to trial, (3) the anticipated duration and expense of additional litigation, (4) the solvency of the defendants and the likelihood of recovery on a litigated judgment, and (5) the degree of opposition to the settlement.

Id. (citations and internal quotation marks omitted). Additional factors set forth in Federal Rule of Civil Procedure 23(e)(2)(C) include the effectiveness of any proposed method of distributing relief to the Class, and the terms and timing of payment of counsel fees. Each of these factors weighs in favor of approval.

Relative strength of Plaintiffs’ case and difficulties of proof. While Plaintiffs believe they have a strong case for liability and a reasonable expert-based theory for damages, Plaintiffs would have faced significant obstacles had litigation proceeded. As of the May 16, 2024 stay of litigation to facilitate settlement negotiations, Defendants’ three summary judgment motions remained pending, and Defendants also had moved to strike Plaintiffs’ principal damages expert. Plaintiffs suspect, had litigation proceeded, that Defendants would have maintained their

objection (even following class certification, in the event the Court approved a contested Class) to producing the contents of the Law Firm’s client database, a request that had been sought and denied twice in motions to compel at the pre–class certification stage. Without that material, Plaintiffs may not have been in a position to prevail on their damages assessment based on the actual number of Angelos clients who were exposed to MCIC’s asbestos operations, which would have complicated Plaintiffs’ presentation at trial. Class Counsel and the Class Representatives considered these challenges in determining an appropriate settlement range. The \$57 million settlement amount is over 60% of the base case for damages that Plaintiffs developed in discovery—a base case that was predicated on the unproven assumptions that 100% of MCIC Settlement Beneficiaries were exposed to MCIC’s asbestos operations and that operations coverage was available to MCIC for each year in the settlement beneficiaries’ exposure windows. Since those assumptions might not have held up in light of further discovery and motion practice, a discount of that base case to 60% for settlement purposes is reasonable.

Anticipated expense and duration of litigation. Class Counsel and the Class Representatives also considered the likely cost of further litigation for both sides. At the Preliminary Approval Hearing, the Court noted that it was “mindful of the strengths of Plaintiffs’ case, but also the potential difficulties they would face if this litigation moved forward, including the enormous costs of continued discovery, dispositive motions practice including motions regarding expert witnesses, trial, and appeal.” Tr. of Prelim. Approval Hearing (**Ex. 11**) at 15:11-16. Absent settlement, further discovery disputes were a near certainty, and the parties also would have undertaken extensive expert discovery (including through as many as eight expert depositions that had not yet occurred as of the mediation). Trial would have required two weeks or longer, and given the novelty of some of the issues, appellate proceedings would have

been likely regardless of the trial outcome. Inevitably, counsel would have invested millions of dollars of additional time and litigation expenses had the case not settled—depleting much or all of the remaining coverage available on the \$10 million liability policy responding to the case on behalf of Defendants.

Solvency and likelihood of collection after judgment. In the event that Plaintiffs were to prevail at trial and on appeal and secure a judgment for the Class, Plaintiffs might have encountered uncertainty around collection, given major events that have taken place at the Law Firm and in the Angelos family since this case was filed (including the death of Peter Angelos, the publicly announced sale of the Law Firm, and the transfer of the Angelos family’s ownership interest in the Baltimore Orioles to a new ownership group). At minimum, collection potential would have been less straightforward under these circumstances than it would have been in a world in which Peter Angelos was still alive and in control of his firm.

Degree of opposition. Under the Proposed Class Settlement, the absent Class Members had a forty-five day window, following mailing of the Notice, to submit an opt-out request or a notice of objection pursuant to the instructions in the Notice. See Proposed Class Settlement Agreement (**Appx. A**) ex. 4 at 14-16. The Administrator, SCS, received a total of fourteen valid/timely opt-out requests, as well as two untimely opt-out requests that the parties nevertheless have agreed to treat as valid. Caiola Decl. (**Appx. C**) ¶ 46. Fifteen of the opt-out requests were from MCIC Settlement Beneficiaries, while one was from a Surviving Family Member. Id. SCS also received one valid/timely objection. Id. This is out a Class of 10,215 MCIC Settlement Beneficiaries and Surviving Family Members. Id. That works out to a little over one-tenth of one percent. Some of the opt-out requestors stated that they simply did not

want to go to the trouble of reopening an estate.⁷ Meanwhile, the sole objector, whose objection is attached hereto as **Exhibit 15**, took issue only with the incentive payments (which, at \$30,000, represent about half of one-tenth of one percent of the \$57 million settlement). Yet, as discussed in the contemporaneously filed Motion for Incentive Award, the \$10,000 payments are well within the range of what courts approve in complex class actions. The sole objector may not appreciate that fact, but that is no reason for the Court not to approve a settlement that virtually all Class Members evidently find satisfactory.

Effectiveness of method of distributing relief. Since the identities of all settlement beneficiaries who make up the Class are known to the parties, and since their contact information should in most instances either be known to the Law Firm or ascertainable from public records, no claim process is needed in this case. For all MCIC Settlement Beneficiaries with confirmed addresses, SCS will issue payment beginning in or about January 2025. Proposed Class Settlement Agreement (**Appx. A**) ¶ 15(a). For MCIC Settlement Beneficiaries whose addresses are unconfirmed, SCS will take further action to attempt to confirm the addresses before issuing payment. The Proposed Class Settlement Agreement allows for a 120-day window following distribution of a Payment Installment before funds are deemed *cy pres* funds, *id.* ¶ 17, so SCS should have adequate time to maximize distribution to the Settlement Class Members.

Terms and timing of payment of counsel fees. Concurrently with this memorandum, Class Counsel are filing a petition for an award of attorneys' fees in the amount of 33% of the gross settlement proceeds. Class Counsel also are requesting reimbursement of their expenses. The requested award mirrors the one-third fee that the Law Firm collected from its clients, many

⁷ Because only sixteen Class Members opted out of the settlement, the termination clause in paragraph 34 of the Proposed Class Settlement Agreement was not triggered, and accordingly the Angelos Estate has no ability to cancel the settlement.

of whom it represented in multiple asbestos injury settlements over the course of decades. As further discussed in Class Counsel’s fee petition, the proposed fee will be comfortably within the range of fees that courts approve in high-value class actions. Compare Decohen v. Abbasi, LLC, 299 F.R.D. 469, 481 (D. Md. 2014) (“the majority of courts ... use the percentage of recovery method in common fund cases”), with Muhammad v. Nat’l City Mortg., Inc., No. 2:07-0423, 2008 WL 5377783, at *8 (S.D. W. Va. Dec. 19, 2008) (recognizing the “presumptive reasonableness of an attorneys’ fee equal to one-third of a recovery”), McDaniels v. Westlake Servs., LLC, No. ELH-11-1837, 2014 WL 556288, at *13 (D. Md. Feb. 7, 2014) (“Particularly in light of the complexity of the case, the risk undertaken by counsel given the chance that plaintiffs would not prevail, and in view of the various factors considered with respect to the reasonableness of the settlement, such as the time devoted to litigating and settling, 33[.3] percent appears to be a reasonable percentage of the recovery in this case.”), and Kruger v. Novant Health, Inc., No. 1:14CV208, 2016 WL 6769066, at *5 (M.D.N.C. Sept. 29, 2016) (collecting cases for the proposition that courts generally deem lodestar multipliers between 2 and 4.5 reasonable and “routinely approve fee awards with higher lodestar multipliers”); see also Grimm Decl. (Ex. 10) ¶ 7 (“[T]he proposed attorney’s fees for counsel for the plaintiffs are fair, and fall squarely within the legal criteria for approval, whether judged by the difficulty of the case, the number of hours spent in the investigation and pretrial phase of the case, or the excellent result obtained.”).

Moreover, Class Counsel’s fee will be paid out pursuant to the same distribution schedule as the payments to the Class, with Class Counsel receiving 33% of each payment. See Proposed Class Settlement Agreement (Appx. A) ¶ 19. This feature of the agreement adds to the fairness of the proposed fee arrangement.

2. The Proposed Class Settlement treats Class Members equitably relative to one another.

As the Notice explains, the 1994 MCIC Settlement Agreement established a *pro rata* payment schedule based on injury category, with the largest group of settlement beneficiaries (those with non-malignant conditions) receiving \$1,000, and the smallest group (those with mesothelioma) receiving \$9,500. See Proposed Class Settlement Agreement (**Appx. A**) ex. 4 at 10-11. The Proposed Class Settlement Agreement mirrors the structure of the 1994 agreement, with the net settlement proceeds divided *pro rata* based on the injury categories of the MCIC Settlement Beneficiaries as set forth in that original agreement. This approach makes the most sense and is the most equitable approach to payment, because the underlying litigation involved efforts to enforce the Class Members’ rights in connection with the MCIC Settlement Agreement. See Cymbalista v. JPMorgan Chase Bank, N.A., No. 20 CV 456 (RPK)(LB), 2021 WL 7906584, at *9 (E.D.N.Y. May 25, 2021) (“Pro rata distribution schemes are sufficiently equitable”). At the Preliminary Approval Hearing, the Court agreed that “the proposal treats class members equitably and the method of distributing relief is effective” because “[t]he MCIC settlement agreement and the underlying litigation entitle the beneficiaries to a *pro rata* share of additional insurance proceeds,” and “[t]he identity of all beneficiaries are known to the parties or obtainable through public records as they were litigants again in the underlying litigation.” Tr. of Prelim. Approval Hearing (**Ex. 11**) at 15:17-23.

In summary, all of the applicable settlement factors support the adequacy of the proposed settlement. And, as the federal court in Maryland observed in Decohen, there is a “strong presumption in favor of finding a settlement fair.” 299 F.R.D. at 479 (citation omitted). The Proposed Class Settlement is fair, reasonable, and adequate, and the Court should approve it.

II. The Proposed Class Settlement Meets the Requirements of Maryland Rule 2-231(b) and (c)(3).

Not only is the Proposed Class Settlement fair, reasonable, and adequate; it also satisfies the implicit requirements for class certification, as well as the elements set forth in Maryland Rule 2-231(b) and (c)(3), for purposes of judgment on the proposal.

A. The Class meets the implicit requirements for class certification and the Maryland Rule 2-231(b) requirements for class certification.

A class action must comply with the four prerequisites set forth in Maryland Rule 2-231(b): (1) numerosity of members; (2) commonality of issues; (3) typicality of claims; and (4) adequacy of representation. Courts have recognized “two additional criteria, often referred to as the ‘implicit requirements’ of class certification: that the class be ‘definite’ or ‘ascertainable’ and that the class representative be a member of the class.” 1 William B. Rubenstein, Newberg & Rubenstein on Class Actions § 3:1 (6th ed.) (footnotes omitted) [hereinafter Newberg].⁸ Even at the contested class certification stage, Defendants did not dispute that Plaintiffs could satisfy ascertainability, numerosity, and commonality. And as all parties now agree, the proposed Settlement Class satisfies each requirement for class certification.

Ascertainability. In determining whether a class is ascertainable, “[a] court must analyze whether the members of a proposed class are readily identifiable in the context of the class proceedings at issue. The relevant inquiry is whether ‘the administrative burden of identifying class members in the [instant case] would render class proceedings too onerous.’” J.O.P. v. U.S. Dep’t of Homeland Sec., 338 F.R.D. 33, 52 (D. Md. 2020) (alterations in original) (citations and emphasis omitted), appeal docketed, No. 21-1187 (4th Cir. Feb. 19, 2021). The proposed Class comprises all MCIC Settlement Beneficiaries (or their estate representatives or next of kin)

⁸ Plaintiffs’ membership in the proposed Class is discussed below as part of the typicality analysis.

represented by Defendants in connection with the Motion to Enforce and the Tort Action, together with their Surviving Family Members. Because the Class Members are identified on existing lists, the proposed Class satisfies the flexible ascertainability requirement. See In re Marriott Int’l, Inc. Customer Data Sec. Breach Litig., 341 F.R.D. 128, 146 (D. Md. 2022) (“While the potential class sizes here are large and review of individual files will be required, Plaintiffs have adequately shown ... that any review in this case is administratively feasible and not the kind of administrative review that would preclude ascertainability.”), vacated and remanded on other grounds, 78 F.4th 677 (4th Cir. 2023), class certification reinstated, 345 F.R.D. 137 (D. Md. 2023). At the Preliminary Approval Hearing, the Court found that “the class is readily ascertainable as the settlement beneficiaries were represented by the law firm and are a matter of public record.” Tr. of Prelim. Approval Hearing (**Ex. 11**) at 16:3-6. The ascertainability requirement is satisfied.

Numerosity. The same evidence showing that the Class is ascertainable also shows that the Class is sufficiently numerous to satisfy the first prerequisite in Maryland Rule 2-231(b). As the Supreme Court of Maryland explained in Philip Morris, 358 Md. at 732, the numerosity requirement, which “helps to promote the objectives of judicial economy and access to the legal system,” depends on a “court’s practical judgment, given the facts of a particular case. Plaintiffs need not state a number with specificity; a good faith estimate is ordinarily sufficient.” (citations omitted). Moreover, “a class consisting of hundreds, or thousands, of members is likely to satisfy this requirement.” Id.; see 1 Newberg § 3:12 (“As a general guideline ... a class of 40 or more members raises a presumption of impracticability of joinder based on numbers alone.” (footnotes omitted)). As the Court found at the Preliminary Approval hearing, here, “the [C]lass is so numerous that joinder would be impractical as there are over 10,000 MCIC settlement

beneficiaries and surviving family members.” Tr. of Prelim. Approval Hearing (**Ex. 11**) at 16:6-8. Accordingly, the numerosity requirement is satisfied.

Commonality. Maryland Rule 2-231(b)(2) requires, for class certification, that “there are questions of law or fact common to the class,” although “[t]he commonality test is more qualitative than quantitative, and thus, there need be only a single issue common to all members of the class,” 1 Newberg § 3:20. As part of the commonality analysis, “courts must do more than look at the class members’ shared factual and legal question in the abstract. What matters is how these questions would be answered—how the parties would go about making their case—at trial.” Silver v. Greater Balt. Med. Ctr., Inc., 248 Md. App. 666, 693 (2020). Questions are “‘common’ when they are ‘susceptible to generalized, class-wide proof’—when class members may use the same evidence to answer them.” Id. (citations omitted).

In Bobbitt v. Milberg LLP, 338 F.R.D. 607 (D. Ariz. 2021), a legal malpractice class action that was itself based on an underlying class action gone wrong, the court found commonality satisfied where the facts relating to the alleged malpractice were common: “Milberg missed the expert witness deadline, so the [underlying] class was decertified, and Milberg failed to notify the putative class.” Id. at 620. The underlying case-within-a-case also presented a common substantive issue, concerning the legal effect of a life insurance company’s failure to disclose tax redundancy in its prospectuses. “Because commonality requires only some issues are the same among all class members,” the court found that this element “weighs in favor of class litigation.” Id.

In this case, by comparison, common issues abound, and material issues would be resolved by common proof, as Table 1 illustrates:

| Topic: Elements of Legal Malpractice | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| Common questions | Potential proof |
| What was the scope of Defendants' duty of care to their clients? | Pure legal issue to be resolved by the Court |
| Did Defendants breach their duty of care? | Expert analysis or, potentially, a legal issue to be resolved by the Court |
| Did Defendants' breach of duty proximately cause loss to their clients? | Terms of MCIC Settlement Agreement; evidence of operations coverage without aggregate limits; expert analysis |
| Would a reasonable lawyer in Defendants' position have moved to enforce the MCIC Settlement Agreement no later than three years after <u>Porter Hayden</u> ? | Expert analysis or, potentially, a legal issue to be resolved by the Court |
| Would a reasonable lawyer in Defendants' position have filed tort claims against MCIC and its insurers no later than three years after <u>Porter Hayden</u> ? | Expert analysis or, potentially, a legal issue to be resolved by the Court |
| Would a reasonable lawyer in Defendants' position have investigated and challenged Reliance's buy-back of its insurance coverage for MCIC? | Expert analysis or, potentially, a legal issue to be resolved by the Court |
| Topic: Trial Within a Trial as to Count I (Untimely Motion to Enforce) | |
| Common questions | Potential proof |
| Were the elements of an enforceable contract (offer, acceptance, consideration) satisfied as to the MCIC Settlement Agreement? | Pure legal issue to be resolved by the Court |
| What operations coverage was available under the policies that provided coverage to MCIC? | Nagle and Chapper Documents, and other documents produced in discovery in the underlying proceedings; expert analysis |
| Does the evidence show, to the degree customarily required in the context of block settlement negotiations, that some or all of the MCIC Settlement Beneficiaries were exposed to MCIC's asbestos operations? | Expert analysis |
| How does Section 2.2 of the MCIC Settlement Agreement (the provision calling for <i>pro rata</i> distribution of additional insurance) operate? | Pure legal issue to be resolved by the Court |
| Can the MCIC Settlement Agreement be enforced pursuant to its plain, unambiguous terms? | Pure legal issue to be resolved by the Court |
| In the event any part of the MCIC Settlement Agreement is deemed ambiguous, to what extent may parol evidence be admissible to resolve the ambiguities? | Pure legal issue to be resolved by the Court |
| What are the legal consequences of the parties' stipulations in the MCIC Settlement Agreement, including as to disease category and exposure window? | Pure legal issue to be resolved by the Court; in the event there is deemed to be ambiguity in the MCIC Settlement Agreement as to |

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| | this question, expert analysis regarding industry standards |
| What are the Class Members' damages? | Legal issue to be resolved by the Court, since damages must be proven in the aggregate given the <i>pro rata</i> distribution mechanism in Section 2.2 of the MCIC Settlement Agreement; Nagle and Chapper Documents, and other documents produced in discovery in the underlying proceedings; expert analysis; and comparator evidence to establish claim value |
| How, if at all, does the time-on-the-risk doctrine apply to the computation of the Class Members' damages? | Legal issue to be resolved by the Court (with jury to make corresponding damages determination) |
| When did commercial liability insurance covering asbestos risk become commercially unavailable to MCIC? | Expert analysis |
| What amount of <i>pre</i> -judgment interest, which would have been recovered in the case-within-a-case, may be compensable as legal malpractice damages? | Legal issue to be resolved by the Court (with jury to make corresponding damages determination) |
| What amount of <i>post</i> -judgment interest, which would have been recovered in the case-within-a-case, may be compensable as legal malpractice damages? | Legal issue to be resolved by the Court (with jury to make corresponding damages determination) |
| Topic: Trial Within a Trial as to Count II (Untimely Tort Action) | |
| Common questions | Potential proof |
| Fraud theory: Did the insurers make false representations about the scope of coverage in 1994? | Nagle and Chapper Documents, and other documents produced in discovery in the underlying proceedings; fact or expert testimony about liability insurance coverage during the relevant timeframe |
| Fraud theory: Did the insurers knowingly/recklessly make false representations? | Chapper Documents, and other documents produced in discovery in the underlying proceedings |
| Fraud theory: Did Defendants reasonably rely on the insurers' representations? | Fact question in light of the underlying record |
| Fraud theory: Does Defendants' reliance pass through to their clients? | Pure legal issue to be resolved by the Court |
| Fraud theory: What are the Class Members' damages? | Nagle and Chapper Documents, and other documents produced in |

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | discovery in the underlying proceedings; expert analysis; and comparator evidence to establish claim value and block/global settlement practices |
| Negligence theory: What duty of care is owed by counterparties (including insurers) to a settlement? | Pure legal issue to be resolved by the Court |
| Negligence theory: Did the insurers make false representations about the scope of coverage in 1994? | Nagle and Chapper Documents, and other documents produced in discovery in the underlying proceedings; fact or expert testimony about liability insurance coverage during the relevant timeframe |
| Negligence theory: Did the insurers negligently make false representations? | Chapper Documents, and other documents produced in discovery in the underlying proceedings: common to Subclass B |
| Negligence theory: Did the insurers intend to induce reliance, and did Defendants reasonably rely on the insurers' representations? | Chapper Documents, and other documents produced in discovery in the underlying proceedings; fact question in light of the underlying record |
| Negligence theory: Does Defendants' reliance pass through to their clients? | Pure legal issue to be resolved by the Court |
| Negligence theory: What are the Class Members' damages? | Nagle and Chapper Documents, and other documents produced in discovery in the underlying proceedings; expert analysis; and comparator evidence to establish claim value and block/global settlement practices |
| Were punitive damages more likely than not in the underlying Tort Action? | Fact question for trial |
| To what extent are punitive damages that would have been recovered in the case-within-a-case recoverable in this action as part of the Plaintiffs' legal malpractice damages? | Legal issue to be resolved by the Court (with jury to make corresponding damage determination) |
| What amount of <i>pre</i> -judgment interest, which would have been recovered in the case-within-a-case, may be compensable as legal malpractice damages? | Legal issue to be resolved by the Court (with jury to make corresponding damage determination) |
| What amount of <i>post</i> -judgment interest, which would have been recovered in the case-within-a-case, may be compensable as legal malpractice damages? | Legal issue to be resolved by the Court (with jury to make corresponding damage determination) |

| Topic: Trial Within a Trial as to Count III (Failure to Pursue Coverage from Reliance) | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Common questions | Potential proof |
| What legal constraints apply to an insurer that seeks to alter a contract of insurance after claimants obtain a verdict as to the liability of the insured? | Pure legal issue to be resolved by the Court |
| Are the <u>Abate I</u> common-issues plaintiffs intended beneficiaries of the policies issued by Reliance Insurance Co. as a result of the verdict they obtained as to the liability of the insured? | Pure legal issue to be resolved by the Court |
| Did MCIC, USF&G, and Reliance collude in bad faith in the MCIC buyout? | Chapper Documents |
| Had Defendants challenged timely the Reliance buyback, would Reliance have participated in the MCIC Settlement Agreement and/or supplied an affidavit? | Fact question for trial |
| What are the Class Members' damages, in light of the operations coverage provided by Reliance? | Legal issue to be resolved by the Court, since damages must be proven in the aggregate given the <i>pro rata</i> distribution mechanism in Section 2.2 of the MCIC Settlement Agreement; Nagle and Chapper Documents, and other documents produced in discovery in the underlying proceedings; expert analysis; and comparator evidence to establish claim value |
| What amount of <i>pre</i> -judgment interest, which would have been recovered in the case-within-a-case, could be compensable as legal malpractice damages? | Legal issue to be resolved by the Court (with jury to make corresponding damage determination) |
| What amount of <i>post</i> -judgment interest, which would have been recovered in the case-within-a-case, could be compensable as legal malpractice damages? | Legal issue to be resolved by the Court (with jury to make corresponding damage determination) |
| Topic: Evidentiary and Procedural Issues | |
| Common questions | Potential proof |
| What are the evidentiary parameters and burdens of a "trial within a trial"? | Pure legal issue to be resolved by the Court |
| To what extent are Defendants' advocacy positions in the underlying cases binding judicial or evidentiary admissions in this case? | Pure legal issue to be resolved by the Court |
| To what extent are MCIC's and its insurers' statements in the underlying cases binding judicial or evidentiary admissions in this case? | Pure legal issue to be resolved by the Court |
| Do the parties' experts satisfy the threshold tests (including under <u>Daubert v. Merrell Dow Pharmaceuticals, Inc.</u> , 509 U.S. 579 (1993), and | Pure legal issue to be resolved by the Court |

| | |
|------------------------------------------------------------------------------------|--|
| Rochkind v. Stevenson, 471 Md. 1 (2020)) for admissibility of expert testimony? | |
|------------------------------------------------------------------------------------|--|

Table 1: Examples of common issues in class action

A single factual or legal issue common to a class sometimes will satisfy the commonality element. 1 Newberg § 3:20. Plaintiffs have identified dozens of common questions. At the Preliminary Approval Hearing, the Court found that “there are questions of law [and] fact common to the [C]lass including questions regarding the defendants’ breach of the duty of care and causation.” Tr. of Prelim. Approval Hearing (**Ex. 11**) at 9-12. The commonality requirement is satisfied.

Typicality. Before plaintiffs may serve as representatives of a class, the court must find that their claims “are typical of the claims of the class.” Md. Rule 2-231(b)(3). “The typicality requirement seeks to make certain that the representative parties be squarely aligned in interest with the class members. It is also intended to ensure that class representatives will represent the best interests of class members who take a less active part in managing the litigation.” Philip Morris, 358 Md. at 737 (alterations, internal quotation marks, and citations omitted). “The test for typicality is not demanding. A plaintiff’s claim is typical if it arises from the same event, practice, or course of conduct that gives rise to the claims of other class members and if his or her claims are based on the same legal theory.” 1 Newberg § 3:29 (footnotes omitted).

As the Court found at the Preliminary Approval Hearing, here, “the claims of the named [P]laintiffs are typical of class claims, if not almost identical.” Tr. of Prelim. Approval Hearing (**Ex. 11**) at 16:12-13. Plaintiffs’ decedents were beneficiaries of the MCIC Settlement Agreement and also participants (individually or through estate representatives) in the Tort Action. See Extract of List of MCIC Settlement Beneficiaries, attached as **Exhibit 16**; Extract of List of Tort Action Plaintiffs, attached as **Exhibit 17**. Plaintiffs and the absent Class Members allegedly suffered the same harm from Defendants’ alleged late filing of the Motion to Enforce

and the Tort Action, and Defendants' lack of any challenge to the allegedly collusive Reliance Insurance buyback. The typicality requirement is satisfied.

Adequacy. Maryland Rule 2-231(b)(4) requires that “the representative parties will fairly and adequately protect the interests of the class.” Although the rule only refers to “parties,” a “certifying court will analyze the adequacy of both the proposed class representatives and class counsel.” 1 Newberg § 3:52. The foregoing discussion, concerning typicality, demonstrates that Plaintiffs are adequate representatives, as their claims are typical of the claims of the absent Class Members, and as no conflicts appear to exist between Plaintiffs and the rest of the Class. See 1 Newberg § 3:57 (“[I]f a class representative’s claims are typical of those of the class, then the central component underlying the theory of representative litigation is already in place: by pursuing her own interests, the representative will necessarily promote the interests of absent class members as well.” (footnotes omitted)). Courts applying the corresponding federal rule have recognized that “[a]bsent any conflicts between the interests of the representative and other [class members], and absent any indication that the representative will not aggressively conduct the litigation, fair and adequate protection of the class may be assumed.” Fleischman v. Albany Med. Ctr., No. 1:06-CV-765, 2008 WL 2945993, at *3 (N.D.N.Y. July 28, 2008) (alterations added and in original) (citations omitted).

Class Counsel, likewise, will adequately protect the interests of the Class. Class Counsel have extensive experience with commercial litigation generally and complex insurance coverage disputes in particular, and are well-equipped to represent the interests of the Class in this legal malpractice class action in which insurance coverage issues are central in the case-within-a-case. See Caiola Decl. (**Appx. C**) ¶¶ 2-13. Plaintiffs’ counsel zealously have advocated for the interests of the Class from the inception of these proceedings, devoting thousands of hours, and

millions of dollars of time value and hard costs, to vindicate the rights of Plaintiffs and the absent Class Members. At the Preliminary Approval Hearing, the Court found that “the named [P]laintiffs and their counsel will fairly and adequately protect the interests of the class.” Tr. of Prelim. Approval Hearing (Ex. 11) at 16:15-16. The adequacy requirement is satisfied.

B. The Class meets the Maryland Rule 2-231(c)(3) requirements for class certification.

Predominance. In a case like this one, where Plaintiffs seek to litigate claims for damages on a class-wide basis due to the similarity of the claims, Maryland Rule 2-231(c)(3) imposes additional requirements of predominance and superiority. While the threshold commonality inquiry involves classifying issues as common or individual, the predominance inquiry requires “*balancing* of issues involved in a case to decide which predominate.” Silver, 248 Md. App. at 692 (emphasis in original). Common issues “need not be ‘dispositive of the action or determinative of the liability issues,’” and courts conducting a predominance inquiry “need only decide that common issues ‘constitute a *significant part* of the individual cases.’” Id. at 694 (citations omitted); see id. (“A single overriding common issue may be enough to tip the scale in favor of certification.”).

In this case, common questions of law and fact predominate. The key to commonality (and predominance) is the *pro rata* distribution framework set forth in Section 2.2 of the MCIC Settlement Agreement:

Section 2.2. The Defendant agrees that if in addition to the insurance coverage disclosed by Insurers and confirmed by their affidavits, Exhibits A1 through A6, inclusive, other insurance is discovered which would be applicable to claims made, the Defendant will promptly notify Participating Plaintiffs' Counsel and arrange for a pro rata distribution to them for payment to the Plaintiffs identified in Exhibit B.

Figure 1: Extract of MCIC Settlement Agreement (Ex. 3).

Whatever additional insurance coverage might have been available had Defendants successfully moved to enforce the MCIC Settlement Agreement, that additional insurance coverage would have been distributed *pro rata* among the settlement beneficiaries. [REDACTED]

[REDACTED]

[REDACTED].

Because determination of any given MCIC Settlement Beneficiary's *pro rata* share of additional insurance would require computation of the total pool that could be distributed, the damages analysis in this case necessarily is common and suitable for resolution on a class-wide basis. See, e.g., Zwicky v. Diamond Resorts Mgmt. Inc., 343 F.R.D. 101, 124 (D. Ariz. 2022) (predominance satisfied where agreement provided a "uniform pro rata apportionment formula," whereby each member would receive a percentage of the settlement fund based on that class member's pro rata share of timeshare assessments against the class members during a particular period of time); In re Cablevision Consumer Litig., No. 10-CV-4992 (JS)(AKT), 2014 WL 1330546, at *10 (E.D.N.Y. March 31, 2014) (predominance satisfied where plaintiffs alleged that "Terms of Service obligated Cablevision to provide a *uniform* pro rata credit of monthly subscriber fees for the disruption of [certain] Channels").

Plaintiffs developed their class-wide damage methodology in collaboration with Christopher Makuc, an expert with decades of experience in the asbestos claims industry. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Plaintiffs have demonstrated that damages can be established on a class-wide basis. All other material issues, from the proper construction of the MCIC Settlement Agreement to the existence of operations coverage without aggregate limits to Defendants’ alleged conduct, are uniform within the Class. As the Court found, because “there are common questions of law [and] fact that predominate over any individual issues,” Tr. of Prelim. Approval Hearing (**Ex. 11**) at 16:17-18, the predominance requirement is satisfied.

Superiority. Unlike other requirements for class certification, the final requirement for a Maryland Rule 2-231(c)(3) class—superiority—specifies factors that the Court must consider:

(A) the interest of members of the class in individually controlling the prosecution of separate actions, (B) the extent and nature of any litigation concerning the controversy already commenced by members of the class, (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum, [and] (D) the difficulties likely to be encountered in the management of a class action.

Each of these factors is satisfied in this case. First, because common issues predominate over any individual issues, the proof in separate trials would be duplicative, and the Class Members

arguably have little interest in controlling the prosecution of separate actions. See Coleman ex rel. Bunn v. District of Columbia, 306 F.R.D. 68, 87-88 (D.D.C. 2015) (“‘If there are genuinely common issues, issues identical across all the claimants, issues ... the accuracy of the resolution of which is unlikely to be enhanced by repeated proceedings, then it makes good sense, especially when the class is large, to resolve those issues in one fell swoop.’ In these situations, it is reasonable to assume that ‘the class members’ interests in individually controlling the prosecution or defense of separate actions’ are limited because their ‘claims may be so closely related to the claims of others that litigation by others will achieve their ends without the need for their involvement.’” (citations omitted)). The facts that only sixteen Class Members out of a Class of more than 10,000 opted out, and that none of those sixteen opt-outs indicated that they intend to pursue separate litigation against Defendants, are further indication that the Class Members are not interested in controlling the litigation.

Second, apart from this class action, only two other cases have been filed making similar allegations—Estate of Roche v. Doe Atty 1, No. C-03-CV-19-005012 (Balt. Cty. Cir. Ct.), a case brought by one family that settled shortly after filing; and Estate of Cheatom v. Angelos, No. 24-C-21-001240 (Balt. City Cir. Ct.), a case litigated on behalf of a handful of estates managed by a single estate representative that resolved in 2022. “[M]any courts have held that a complete lack of other litigation concerning the matter at hand supports the conclusion that a class action would be superior to individual litigation,” and the “presence of a few other suits does not undercut that conclusion as the filing of but a few cases indicates that a minute percentage of the class has an interest in individual litigation.” 2 Newberg § 4:70 (footnotes omitted).

Third, there is no better forum for litigating Plaintiffs’ claims than the Circuit Court for Baltimore City—the same court where Abate I was litigated more than thirty years ago; where

the Motion to Enforce and the Tort Action were litigated; and where the overwhelming majority of asbestos cases in Maryland and, indeed, a large share of such cases nationwide, likewise have been litigated. See Michelle Potter & Megan Shockley, Baltimore City, MD: A Jurisdiction in the Asbestos Litigation Unlike Any Other, KCIC (Jan. 6, 2020), <https://www.kcic.com/trending/feed/baltimore-city-md-a-jurisdiction-in-the-asbestos-litigation-unlike-any-other/>.

Fourth, while the elements of legal malpractice and the underlying tort and contract claims may not be difficult for the Court to manage in a class action, serial trials would be cumbersome and potentially wasteful. Because Section 2.2 of the MCIC Settlement Agreement requires all additional insurance proceeds to be distributed *pro rata* within the Class of settlement beneficiaries, there is no efficient way for a court, while remaining faithful to the text of the MCIC Settlement Agreement, to allow an individual damage methodology that does not involve proof of the full damage “pie”. Yet separate efforts by individual plaintiffs to prove up the total pool of additional insurance proceeds or tort damages would be resource-intensive and expensive and would result in cumulative evidence and, potentially, inconsistent findings from case to case.

Finally, because Defendants’ 2004-05 malpractice coverage (the only coverage year for which a carrier stepped up to provide a defense) is limited to a \$10 million “wasting” policy, where defense costs deplete coverage, even a handful of cases would severely erode that coverage. See Declarations Page, Lawyers Prof’l Liab. Policy, attached as **Exhibit 18** (“THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES OR SETTLEMENTS SHALL BE REDUCED AND MAY BE EXHAUSTED BY ANY PAYMENT OF ‘DEFENSE EXPENSES.’”). Indeed, nearly half of the proceeds of that policy were spent down as of the mediation, principally in connection with the defense of this action. Class certification will

avoid depletion of limited insurance in favor of claimants who race to the courthouse, and will ensure that all MCIC Settlement Beneficiaries receive a fair share. As the Court found at the Preliminary Approval Hearing, “the class action is superior to any other available method of fair and efficient adjudication of this controversy, taking into account all the factors set forth in [Maryland Rule 2-231(c)(3)].” Tr. of Prelim. Approval Hearing (**Ex. 11**) at 16:19-22.

Conclusion

The Court should grant final approval of the Proposed Class Settlement and enter the attached Final Judgment Approving Settlement and Certifying Settlement Class. A proposed Final Judgement Approving Settlement and Certifying Settlement Class is attached. Assuming the Court grants this motion, Plaintiffs would appreciate the Court entering the attached Order on the date of the hearing.

Respectfully submitted,

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Class Counsel

Date: November 12, 2024

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12th day of November, 2024, a copy of the foregoing Motion for Final Settlement Approval, together with the request for hearing, supporting memorandum, appendices/exhibits, and proposed order and proposed final judgment, was served via the MDEC system and/or by e-mail on the following counsel for Defendants:

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IN THE CIRCUIT COURT FOR BALTIMORE CITY

CYNTHIA M. CLARK as successor personal
representative of THE ESTATES OF WALTER
F. KACALA and HELEN M. KACALA, *et al.*,

Plaintiffs,

v.

PETER G. ANGELOS, ESQ., *et al.*,

Defendants.

Case No. 24-C-21-000847 OT

* * * * *

EXHIBIT LIST FOR
MEMORANDUM IN SUPPORT OF MOTION FOR FINAL
SETTLEMENT APPROVAL

Exhibit 1. Extract of June 3, 1993 Mem. Op. and Order

[REDACTED]

[REDACTED]

Exhibit 3. MCIC Settlement Agreement

Exhibit 4. Aug. 23, 1991 letter fr. W. Smiley to B. Chapper

Exhibit 5. Extract of Nov. 20, 2012 Mem.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Exhibit 8. Anderson v. Royal Indem. Co., No. 1962, slip op. at 23 (Md. Ct. Spec.
App. May 15, 2006)

Exhibit 9. Mar. 20, 2018 letter fr. A. Weiner to C. Clark

Exhibit 10. Decl. of Paul W. Grimm

Exhibit 11. Extract of Tr. of Aug. 28, 2024 Hearing on Consent Motion for
Preliminary Approval

Exhibit 12. Extract of Tr. of Oct. 13, 2023 Dep. of W. McCarthy

Exhibit 13. Extract of Tr. of Nov. 15, 2023 Dep. of N. Loverde

- Exhibit 14.** Extract of Tr. of Nov. 14, 2023 Dep. of C. Clark
- Exhibit 15.** Sole objector's objection letter
- Exhibit 16.** Extract of List of MCIC Settlement Beneficiaries
- Exhibit 17.** Extract of List of Tort Action Plaintiffs
- Exhibit 18.** Declarations Page, Lawyers Prof'l Liab. Policy

IN THE CIRCUIT COURT FOR BALTIMORE CITY

CYNTHIA M. CLARK as successor personal
representative of THE ESTATES OF WALTER
F. KACALA and HELEN M. KACALA, *et al.*,

Plaintiffs,

v.

PETER G. ANGELOS, ESQ., *et al.*,

Defendants.

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Case No. 24-C-21-000847 OT

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APPENDIX A

IN THE CIRCUIT COURT OF MARYLAND FOR BALTIMORE CITY

CYNTHIA M. CLARK as successor personal
representative of THE ESTATES OF WALTER
F. KACALA and HELEN M. KACALA, *et al.*,

Plaintiffs,

v.

PETER G. ANGELOS, ESQ., *et al.*,

Defendants.

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Case No. 24-C-21-000847 OT

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SETTLEMENT AGREEMENT

APPENDIX
A

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CYNTHIA M. CLARK as successor personal representative of **THE ESTATES OF WALTER F. KACALA** and **HELEN M. KACALA, et al.,**

V.

Defendants.

Case No. 24-C-21-000847 OT

This Settlement Agreement (this “**Agreement**”) is entered into as of the Effective Date (defined below) by Cynthia M. Clark, as successor personal representative of the Estates of Walter F. Kacala and Helen M. Kacala; Norman J. Loverde, as successor personal representative of the Estates of Stephen J. Loverde, Sr. and Mary Anna Loverde; and Maria M. McCarthy and William J. McCarthy, Jr., as personal representatives of the Estate of Anne Major and successor personal representatives of the Estate of Bernard L. Major, individually and on behalf of all others similarly situated (collectively, “**Class Representatives**” or “**Plaintiffs**”), on the one hand; and the Estate of Peter G. Angelos, through its duly appointed personal representative (the “**Angelos Estate**”); and The Law Offices of Peter G. Angelos, P.C. (the “**Law Firm**”) (collectively, “**Defendants**”), on the other hand (together, Class Representatives and Defendants shall be referred to as the “**Parties**”). The Parties agree to this Agreement to fully and finally resolve Cynthia M. Clark ex rel. Estates of Walter F. Kacala & Helen M. Kacala, et al. v. Peter G. Angelos, et al., Case No. 24-C-21-000847 (the “**Case**”), pending in the Circuit Court for Baltimore City, on the following terms.

RECITALS

1. On February 26, 2021, Class Representatives, on behalf of the Putative Class, filed a Class Action Complaint in the Case against Defendants, and Gary J. Ignatowski and Armand J. Volta, Jr. (“**Former Defendants**”). Plaintiffs amended the Class Action Complaint on May 21, 2021 (First Amended Class Action Complaint); November 18, 2022 (Second Amended Class Action Complaint); and March 6, 2023 (the operative Third Amended Class Action Complaint). The claims against Former Defendants have been dismissed with prejudice.

2. Plaintiffs’ operative Third Amended Class Action Complaint includes three claims for legal malpractice against the remaining Defendants. In Count I, Plaintiffs allege that Defendants failed to move timely to enforce their rights and the rights of thousands of similarly situated Angelos clients under the 1994 MCIC Settlement Agreement. In Count II, Plaintiffs allege that Defendants failed to pursue timely fraudulent and negligent misrepresentation claims on behalf of Plaintiffs and thousands of similarly situated Angelos clients against MCIC and its insurers. In Count III, Plaintiffs allege that Defendants failed to challenge a buyback by Reliance Insurance Co., prior to the 1994 settlement, of CGL coverage it had issued to MCIC, thereby depleting the pool of coverage for the settling claimants.

3. The Parties engaged in vigorous discovery and extensive motion practice. Pursuant to an agreed schedule, on May 8, 2023, Plaintiffs filed their initial Motion for Class Certification. On February 2, 2024, following a period for class-related discovery, Plaintiffs filed a Superseding Motion for Class Certification. Defendants filed their Opposition on March 8, 2024, and Plaintiffs filed a Reply on April 8, 2024. A hearing on the Superseding Motion for Class Certification had been set for May 31, 2024.

4. Defendant Peter G. Angelos, Esq. passed away on March 23, 2024, at which time the Angelos Estate became the appropriate Defendant. A Notice of Death and Substitution of Party was filed by counsel for the Angelos Estate on May 15, 2024.

5. With the class certification hearing date on the horizon and, desiring to explore a fair and reasonable out-of-court resolution of the dispute, the Parties engaged the Honorable Paul W. Grimm, a retired federal judge for the U.S. District Court for the District of Maryland, to facilitate a mediation.

6. The Parties appeared for a mediation session on April 19, 2024. The Parties engaged in fruitful settlement negotiations, with the thoughtful assistance and guidance of Judge Grimm.

7. Through these settlement negotiations, the Parties reached a settlement in principle, which was itself then subject to many weeks of further arm's-length negotiations.

8. Following these extensive negotiations, the Parties executed a Term Sheet effective June 3, 2024, memorializing many of the essential terms of the settlement.

9. The Class Representatives and Defendants have concluded that they desire to settle the Case to obtain relief for the Putative Class and to resolve finally the matters settled herein.

10. Plaintiffs' counsel have taken into account the uncertain outcome and risks of the litigation, as well as the difficulties and delays inherent in such litigation and the potential for protracted appeals. Plaintiffs' counsel have determined that the settlement set forth in this Agreement is in the best interests of the Class Representatives and the Putative Class, and the Class Representatives concur in that determination.

11. Defendants do not admit any liability by entering into this Agreement. The settlement of this dispute is based, in part, on Defendants' assessment of the risks of litigation, to include the cost of defending same. Defendants also recognize the inherent economic uncertainty of complex litigation. Accordingly, Defendants believe that settlement is in their best interests.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and representations, covenants and releases contained herein and for other good and valuable consideration, the receipt and sufficiency of which the Parties now acknowledge, the undersigned Parties stipulate and agree that all Claims of the Class Representatives and the Putative Class against Defendants shall be finally settled, discharged, and resolved on the terms and conditions set forth below:

Definitions

1. **Definitions.** As used in this Agreement, including in the Recitals stated above, and in the Notice, the following terms shall have the defined meanings set forth below. Where appropriate, terms used in the singular shall be deemed to include the plural and vice versa.

(a) "Abate I" means the cases of over 8,500 plaintiffs with asbestos claims against MCIC and other defendants that were consolidated in 1992 for a common-issues trial in the Circuit Court for Baltimore City.

(b) "Administrator" means Paul Mulholland and Strategic Claims Services, located in Media, Pennsylvania, whose appointment shall be subject to Court approval.

(c) "Agreement" and "Class Settlement" mean this Agreement entered into as of the Effective Date.

(d) “Angelos Estate” means the Estate of Peter G. Angelos, through its personal representative, Georgia Angelos.

(e) “Case” means the pending litigation filed in the Circuit Court for Baltimore City, Maryland, captioned Cynthia M. Clark ex rel. Estates of Walter F. Kacala & Helen M. Kacala, et al. v. Peter G. Angelos, et al., Case No. 24-C-21-000847.

(f) “Claims” means the causes of action asserted by Plaintiffs, as well as the allegations and subject matters, in the operative Third Amended Class Action Complaint in the Case, or that could have been asserted by Plaintiffs relating to the subject matter thereof.

(g) “Class,” “Putative Class,” and “Class Members” mean only those persons included within the class defined in Paragraph 4, below, including MCIC Settlement Beneficiaries and Surviving Family Members. All references to such persons shall include and be construed (unless the context of this Agreement requires otherwise) to include any person or entity that has an interest, whether legal, equitable, or otherwise, in that person’s testamentary estate, trust, marital trust, or similar estate or trust, or next of kin where no estate is open. The Class does not include those plaintiffs in the Tort Action who were listed on exhibit 3 to the third amended complaint in the Tort Action. Class Counsel has considered whether those listed on exhibit 3 could have viable claims in this action and determined that they did not.

(h) “Class Counsel,” “Plaintiffs’ Counsel,” and “Counsel for Plaintiffs” mean Paul S. Caiola, Esq., Joseph C. Dugan, Esq., Brian T. Tucker, Esq., Sarah R. Simmons, Esq., and Victoria S. Trocchia, Esq., all of Gallagher Evelius & Jones LLP.

(i) “Class Representatives” and “Plaintiffs” mean Plaintiffs Cynthia M. Clark, as successor personal representative of the Estates of Walter F. Kacala and Helen M. Kacala; Norman J. Loverde, as successor personal representative of the Estates of Stephen J. Loverde, Sr.

and Mary Anna Loverde; and Maria M. McCarthy and William J. McCarthy, Jr., as personal representatives of the Estate of Anne Major and successor personal representatives of the Estate of Bernard L. Major.

(j) “Court” means the Circuit Court of Maryland for Baltimore City.

(k) “*Cy Pres* Fund” refers to the fund created by the Administrator, consisting of any balance of the portion of the Settlement Amount transferred from the Fund to the QSF remaining in the QSF after the Administrator (i) pays any court-approved attorneys’ fees, expenses, and incentive payments; and (ii) makes commercially reasonable efforts to locate and deliver payments to the Settlement Class Members.

(l) “*Cy Pres* Recipients” refers to University of Maryland Francis King Carey School of Law’s clinical law program; University of Baltimore School of Law’s Fannie Angelos Program for Academic Excellence; Associated Catholic Charities Inc.’s Esperanza Center; Public Justice Center, Inc.; and Franciscan Center, Inc.

(m) “Defendants” means the Law Firm and the Angelos Estate.

(n) “Disbursement Agreement” means the agreement governing the Fund, the terms of which will be mutually acceptable to the Angelos Estate and Gallagher Evelius & Jones LLP, and to which Gallagher Evelius & Jones LLP or its agent will be a party.

(o) “Effective Date” means the date of final approval of the settlement.

(p) “Final Approval Hearing” means the hearing at which the Court will determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be given final approval by the Court.

(q) “Final Approval Date” means the date the Court enters the Final Approval Order.

(r) “Final Approval Order” means the final order signed by the Court following the Final Approval Hearing, approving the settlement, certifying the Class, and authorizing distributions of the Qualified Settlement Fund.

(s) “Former Defendants” means Gary J. Ignatowski and Armand J. Volta, Jr.

(t) “Fund” means the restricted account to be established by the Angelos Estate at Goldman Sachs to hold the settlement funds to be distributed to the Settlement Class Members, Class Counsel, and Class Representatives.

(u) “Judge Grimm” refers to the Honorable Paul W. Grimm, retired federal judge for the U.S. District Court for the District of Maryland.

(v) “Law Firm” means The Law Offices of Peter G. Angelos, P.C.

(w) “MCIC” means MCIC, Inc., formerly known as McCormick Asbestos Company, a now-defunct asbestos insulation installer.

(x) “MCIC Settlement Agreement” means the 1994 settlement agreement entered into on behalf of thousands of the Abate I plaintiffs and other asbestos injury claimants, on the one hand, and MCIC and its insurers, on the other hand.

(y) “MCIC Settlement Beneficiary” means an individual listed on the MCIC Settlement Beneficiary List, or such a person’s estate representative.

(z) “MCIC Settlement Beneficiary List” means the list appended as **Exhibit 1** to this Agreement (a list of approximately 7,609 individuals as determined from the records of the Law Firm), identifying all those individuals represented by the Law Firm who participated in the MCIC Settlement Agreement but excluding (i) any individuals who brought separate actions against and received settlement payments from MCIC for the same claims resolved through the

MCIC Settlement Agreement; and (ii) any individuals who settled separate legal malpractice actions against any of the Defendants.

(aa) “Media” refers to mass media sources such as newspapers; news radio, broadcast news, and cable news channels; and websites affiliated with the foregoing.

(bb) “Motion to Enforce” means the Motion to Enforce the Settlement Agreement filed by Defendants on behalf of the MCIC settlement beneficiaries in the Circuit Court for Baltimore City, No. 24-X-89-236705, on October 17, 2002.

(cc) “Notice” means the Notice of the Class Action Settlement to be provided to the Class as provided herein. The “Date of Notice” means the date upon which the Notice is mailed following preliminary approval of the settlement.

(dd) “Parties” means the Class Representatives and Defendants.

(ee) “Person” means an individual, corporation, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government, or any political subdivision or agency thereof, and any business or legal entity, and any spouses, heirs, predecessors, successors, representatives, or assignees of the foregoing.

(ff) “Preliminary Approval Date” means the date the Court enters the Preliminary Approval Order.

(gg) “Preliminary Approval Order” means the order preliminarily approving the settlement, certifying the Class, and approving the Notice to Class Members.

(hh) “Qualified Settlement Fund” and “QSF” mean the settlement fund established by the Administrator for the purpose of paying Settlement Administration Expenses

and paying settlement funds net of those expenses to the Settlement Class Members, Class Counsel, and Class Representatives.

(ii) “Settlement Administration Expenses” means administrative costs associated with funding the Administrator’s Notice to the Settlement Class and distribution of the payments to the Settlement Class Members, Class Counsel, and Class Representatives.

(jj) “Settlement Class Member” and “Settlement Class” mean and include all Class Members, including MCIC Settlement Beneficiaries and Surviving Family Members, who do not timely and validly exclude themselves from the Class Settlement as provided for in the Agreement. All references to such persons shall include and be construed (unless the context of this Agreement requires otherwise) to include any person or entity that has an interest, whether legal, equitable, or otherwise, in that person’s testamentary estate, trust, marital trust, or similar estate or trust, or next of kin where no estate is open.

(kk) “Settlement Payment” means the sum of Fifty-Seven Million Dollars and 00/100 (\$57,000,000) that will be paid on behalf of Defendants to the Settlement Class pursuant to the terms of this Agreement.

(ll) “Surviving Family Member” means an individual listed on the Surviving Family Member List, or such a person’s estate representative.

(mm) “Surviving Family Member List” means the list appended as **Exhibit 2** to this Agreement (a list of approximately 2,606 individuals as determined from the records of the Law Firm), identifying all those family members of MCIC Settlement Beneficiaries who brought claims against MCIC in the Tort Action as Surviving Spouses or Surviving Children of MCIC Settlement Beneficiaries but excluding (i) any individuals who brought or whose associated MCIC Settlement Beneficiary brought separate actions against and received settlement payments

from MCIC for the same claims resolved through the MCIC Settlement Agreement; and (ii) any individuals who settled or whose associated MCIC Settlement Beneficiary settled separate legal malpractice actions against any of the Defendants.

(nn) “Term Sheet” refers to the Term Sheet entered into by the Class Representatives, Defendants, and Former Defendants. As stated therein, the effective date of the Term Sheet is June 3, 2024.

(oo) “Tort Action” means the case filed by Defendants on behalf of the MCIC settlement beneficiaries in the Circuit Court for Baltimore City, No. 24-C-05-005067, on May 10, 2005, against MCIC and certain insurers alleging, *inter alia*, fraudulent and negligent misrepresentation.

(pp) “Void Date” refers to the date—one hundred twenty (120) calendar days after issuance—on which a check issued by the Administrator to Class Members pursuant to this Agreement shall be deemed void if not negotiated.

(qq) As used in this Agreement, the plural of any defined term includes the singular thereof and vice versa, except where the context requires otherwise.

Certification of Settlement Class

2. **Full and Final Settlement Between the Settlement Class and Defendants.** It is the intent and purpose of this Agreement to effect a full and final settlement of all Claims in the Case against Defendants. To effectuate that purpose, the Class Representatives and Defendants agree to cooperate and use their best efforts to obtain Court approval of the settlement in an expeditious manner.

3. **Authority of Class Counsel.** The Parties acknowledge and agree that Class Counsel, on behalf of the Class, are authorized to take all appropriate actions required or

permitted to be taken by the Class pursuant to this Agreement to effectuate its terms, and also are authorized to enter into any modifications or amendments to this Agreement on behalf of the Class.

4. **Definition of Class.** The Parties stipulate and agree that, exclusively for purposes of this settlement, the Case is maintainable as a class action under Md. Rule 2-231(c)(3). For the purposes of this settlement, the Class is defined as follows:

All persons (or their estate representatives or next of kin) represented at any time by Defendants in connection with the Motion to Enforce and/or the Tort Action who are identified on the MCIC Settlement Beneficiary List and the Surviving Family Member List.

5. **Exclusions.** Excluded from the Class are:

(a) All directors, officers, employees, and shareholders of the Law Firm, and their immediate family members;

(b) All attorneys for Defendants in the current matter, and their immediate family members;

(c) Each and every judge assigned to this action and all members of those judges' staffs, and their immediate family members;

(d) Those persons who previously settled or whose associated MCIC Settlement Beneficiary previously settled legal malpractice claims against Defendants equivalent to any of the Claims asserted in the Case;

(e) For the avoidance of doubt, all persons listed on Exhibit 3 to the third amended complaint in the Tort Action; and

(f) Those persons who affirmatively opt out of the Class.

6. **No Contest.** For the purpose of this settlement and its implementation, Defendants do not contest or challenge the definition of the Class.

7. **Failure to Obtain Approval.** In the event this Settlement is not approved by the Court or otherwise is not fully implemented in accordance with its terms, the Parties shall revert to their respective positions in this litigation as of April 19, 2024, and the Parties shall reserve all rights and objections with respect to the viability of the Case as a class action or the propriety of the Class definition.

Settlement Payment

8. **Settlement Payment.** Subject to Court approval, and as consideration for dismissal of the Claims and the releases provided herein, and for the benefit of all Parties and to avoid the cost, time, and uncertainty of litigation, the Angelos Estate will cause to be deposited into the Fund the Settlement Payment of Fifty-Seven Million Dollars and 00/100 (\$57,000,000). The Settlement Payment is composed of the following components:

(a) The Law Firm shall instruct Executive Risk Indemnity Inc. d/b/a the Chubb Insurance Company (“**Chubb**”), as insurer of the Law Firm, to deposit \$100,000 in cash into the Fund (either directly or via one of the Law Firm’s attorney’s trust accounts) within ten (10) calendar days after the Preliminary Approval Order, which amount shall be disbursed in accordance with paragraph 10 below.

(b) The Law Firm shall instruct Chubb to deposit all available cash proceeds under the policy currently responding to the Case into the Fund (either directly or via one of the Law Firm attorney’s trust accounts) within fourteen (14) calendar days after the Final Approval Date, and the Angelos Estate will cause to be deposited the balance between that amount and \$14,900,000 into the Fund within fourteen (14) calendar days after the Final Approval Date. These amounts will be disbursed in accordance with paragraph 10 below.

(c) Within fourteen (14) calendar days after the Final Approval Date, the Angelos Estate will cause to be deposited \$42,000,000 in cash into the Fund, to be disbursed in accordance with paragraph 10 below.

9. **Disbursement Agreement.** The Fund will be governed by an escrow, disbursement, or other similar agreement (“**Disbursement Agreement**”), the terms of which will be mutually agreeable to the Angelos Estate and Gallagher Evelius & Jones LLP, and to which Gallagher Evelius & Jones LLP or its agents will be a party. Any interest earned on the Fund shall be disbursed to the Angelos Estate or its designees.

10. **Qualified Settlement Fund.** The Administrator will establish a QSF for the purpose of paying costs of administration and paying the Settlement Class, Class Counsel, and Class Representatives. The Disbursement Agreement will authorize transfer of the funds described above in paragraph 8 from the Fund to the QSF as follows:

(a) \$100,000 shall be transferred fourteen (14) calendar days after the Preliminary Approval Date, for the purpose of funding the Administrator’s Notice to the Class and other Settlement Administration Expenses.

(b) \$14,900,000 shall be transferred:

i. if no objection to the Motion for Final Approval is filed (and hence no appeal can be filed), seventeen (17) calendar days after the Final Approval Date; or alternatively,

ii. if an objection to the Motion for Final Approval is filed, thirty-one (31) calendar days after the Final Approval Date.

(c) Four annual installments of \$10,500,000 each shall be transferred on or before the first, second, third, and fourth anniversaries of the Final Approval Date.

11. **Payment Subgroups.** For purposes of recovering a share of the Settlement Payment only, MCIC Settlement Beneficiaries shall be divided into four subgroups corresponding to the disease categories set forth in the MCIC Settlement Agreement, which categories are incorporated herein by reference:

Subgroup A. All MCIC Settlement Beneficiaries who participated (or estate representatives whose decedents participated) in the MCIC Settlement Agreement as **non-malignancy (i.e., ALD)** claimants, as determined from the records of the Law Firm.

Subgroup B. All MCIC Settlement Beneficiaries who participated (or estate representatives whose decedents participated) in the MCIC Settlement Agreement as **other cancer** claimants, as determined from the records of the Law Firm.

Subgroup C. All MCIC Settlement Beneficiaries who participated (or estate representatives whose decedents participated) in the MCIC Settlement Agreement as **lung cancer** claimants, as determined from the records of the Law Firm.

Subgroup D. All MCIC Settlement Beneficiaries who participated (or estate representatives whose decedents participated) in the MCIC Settlement Agreement as **mesothelioma** claimants, as determined from the records of the Law Firm.

12. **Distributions.** After Plaintiffs' approved attorneys' fees and expenses and any approved incentive fees are disbursed, the balance of the Fund, as deposited into the QSF pursuant to paragraph 10, shall be disbursed by the Administrator *pro rata* to each MCIC Settlement Beneficiary based on their individual disease categories as set forth above in paragraph 11. Surviving Family Members shall not be eligible for separate payment, as the MCIC Settlement Agreement provided payment for principal asbestos victims only, and not for family members who released derivative claims such as loss of consortium and wrongful death in consideration of an MCIC Settlement Beneficiary's payment.

13. **Distribution Formula.** Subject to any adjustments that may be necessary and the approval of the Court, and before accounting for any attorneys' fees, expenses, or incentive payments that the Court may approve, each member of Subgroup A, Subgroup B, Subgroup C,

and Subgroup D shall be eligible to receive approximately the gross payments from the QSF as set forth below, divided into five installments and distributed in accordance with the timing provisions set forth below in paragraph 15:

Subgroup A. Approximately \$5,110.27

Subgroup B. Approximately \$7,665.41

Subgroup C. Approximately \$21,718.67

Subgroup D. Approximately \$48,457.61

In no event shall the total distribution, including payment of attorneys' fees and expenses, exceed the total Settlement Payment (\$57,000,000.00).

14. **No Further Contribution.** Under no circumstances shall Defendants be required to contribute funds in excess of the amount of the Settlement Payment.

15. **Timing of Payment Installments.** The gross payments described above shall be divided into five installments ("**Payment Installment(s)**"), consistent with the five transfers from the Fund to the QSF described in paragraph 10. The Administrator will disburse payments to all MCIC Settlement Beneficiaries who do not opt out of the Class pursuant to the Final Approval Order in accordance with the following schedule:

(a) Within sixty (60) calendar days after the Final Approval Date ("**First Annual Installment**");

(b) Within thirty (30) calendar days after the first anniversary of the Final Approval Date ("**Second Annual Installment**");

(c) Within thirty (30) calendar days after the second anniversary of the Final Approval Date ("**Third Annual Installment**");

(d) Within thirty (30) calendar days after the third anniversary of the Final Approval Date (“**Fourth Annual Installment**”); and

(e) Within thirty (30) calendar days after the fourth anniversary of the Final Approval Date (“**Fifth Annual Installment**”).

16. **Method of Distribution.** Payment for each MCIC Settlement Beneficiary shall be in the form of a check drawn on the QSF, and issued by the Settlement Administrator, which shall be made payable to “[Name of MCIC Settlement Beneficiary].” Each check issued pursuant to this Agreement shall be void if not negotiated within one hundred twenty (120) calendar days after its date of issue, and shall contain a legend to that effect. Checks that are not negotiated by the Void Date shall not be reissued unless otherwise ordered by the Court. All payments that are unclaimed by Settlement Class Members, including all returned Settlement Checks, all undeliverable checks, and all Settlement Checks not cashed by the Void Date, shall revert to the QSF, and be distributed to the *Cy Pres* Recipients as described in paragraph 17.

17. **Cy Pres.**

(a) The Parties agree that a *Cy Pres* Fund will be created by the Administrator, consisting of any balance of the Settlement Amount remaining in the QSF after the Administrator (i) pays any court-approved attorneys’ fees, expenses, and incentive payments; and (ii) makes commercially reasonable efforts to locate and deliver payments to the MCIC Settlement Beneficiaries. Class Counsel and the Administrator will propose, in the Motion for Preliminary Approval of Class Settlement, a plan to maximize the likelihood that the Administrator will locate and deliver payments to the MCIC Settlement Beneficiaries. The Law Firm will have no responsibility associated with this paragraph.

(b) Any funds that cannot be delivered to the Settlement Class after one hundred twenty (120) calendar days following distribution of a Payment Installment will become *cy pres* funds and will be deposited into the *Cy Pres* Fund. If the Administrator is unable to deliver the First Annual Installment to any Settlement Class Member after 120 days, the remaining payments due to that MCIC Settlement Beneficiary under subsequent Payment Installments will automatically become *cy pres* funds and will be delivered into the *Cy Pres* Fund on or about each installment date. Notwithstanding the preceding sentence, if Class Counsel or the Administrator later learn of the location of an MCIC Settlement Beneficiary, that MCIC Settlement Beneficiary shall be entitled to any subsequent Payment Installments.

(c) Subject to approval of the Court, the *Cy Pres* Fund shall be donated on an annual basis to the following Baltimore non-profit organizations ("***Cy Pres* Recipients**") in the following percentages:

- i. 23.5% to the University of Maryland Francis King Carey School of Law for purposes of sponsoring the clinical law program;
- ii. 23.5% to the University of Baltimore School of Law for purposes of sponsoring the Fannie Angelos Program for Academic Excellence;
- iii. 23.5% to Public Justice Center, Inc., a nonprofit corporation organized under the laws of Maryland;
- iv. 23.5% to Associated Catholic Charities Inc., a nonprofit corporation organized under the laws of Maryland, for use by the Esperanza Center; and
- v. 6% to Franciscan Center, Inc., a nonprofit corporation organized under the laws of Maryland.

(d) The Administrator will target disbursement of the remaining funds from the *Cy Pres* Fund to the *Cy Pres* Recipients in accordance with the following schedule:

- i. Within two hundred forty (240) calendar days after the First Annual Installment;
- ii. Within one hundred eighty (180) calendar days after the Second Annual Installment;
- iii. Within one hundred eighty (180) calendar days after the Third Annual Installment;
- iv. Within one hundred eighty (180) calendar days after the Fourth Annual Installment; and
- v. Within one hundred eighty (180) calendar days after the Fifth Annual Installment.

Provided, however, if an MCIC Settlement Beneficiary dies, and the Administrator needs additional time to authenticate the proper representative of that MCIC Settlement Beneficiary, the Administrator may hold back *cy pres* funds and extend the deadlines in this paragraph 17(d) until due diligence on the representative is completed.

(e) The method of payment shall be in accordance with the directions provided by the *Cy Pres* Recipients.

18. Incentive Fee to Class Representatives. Class Counsel will file, and Defendants agree not to oppose, a request that the Court approve an incentive fee out of the Fund to the Class Representatives in the amount of \$10,000 each. These payments will be disbursed in five equal installments corresponding to the Payment Installments from the Fund to the QSF, described above in paragraph 10, and then further disbursed from the QSF to the Class Representatives.

The incentive fees payable to the Class Representatives shall be paid by check drawn on the QSF and issued no later than thirty (30) calendar days after the Payment Installments.

19. **Class Counsel Attorneys' Fees and Costs.** Class Counsel shall submit a fee petition with their Motion for Final Approval. Class Counsel's attorneys' fees and expenses will be disbursed from the Fund to the QSF, and then further disbursed from the QSF to Class Counsel in such amount as may be allowed and approved by the Court. Defendants agree not to oppose Class Counsel's fee petition requesting (i) an amount equal to thirty-three percent (33%) of the Fund as attorneys' fees in this matter; plus (ii) litigation expenses incurred by Gallagher Evelius & Jones LLP to prosecute the Claims. Payment of Class Counsels' approved attorneys' fees and costs shall be disbursed by the Administrator by wire to an account to be specified by Class Counsel. All costs incurred in prosecuting the Claims, approved by the Court, shall be reimbursed out of the first Payment Installment. Any additional costs incurred after Final Approval by Class Counsel in connection with this Class Settlement can be reimbursed only upon approval of the Court, and shall be paid from the QSF. Payments of attorneys' fees shall correspond to the Payment Installments, described above in paragraph 15, with each payment representing the court-approved percentage of each total Payment Installment.

20. **Settlement Administration Expenses.** The Settlement Class is responsible for any Settlement Administration Expenses that exceed \$100,000, such amounts to be paid from the balance of funds held in the QSF. The Settlement Administrative Expenses are estimated to total \$500,000, and shall not exceed \$550,000 without consent of the Court.

21. **Duties of Law Firm.** The Law Firm shall assist the Administrator in delivering payment to the Settlement Class in the following respects:

(a) The Law Firm will not charge any existing Law Firm clients who are among the Settlement Class Members any estate administration fees in connection with legal work associated with payments to them pursuant to this agreement, notwithstanding any right it would otherwise have to charge such fees under any arrangements it has with its clients.

(b) Nothing herein shall restrict the Law Firm from charging fees consistent with its normal fee practice and/or approved under Section 7-601 *et seq.* of the Estates and Trusts Article of the Maryland Code to the extent it is asked by former clients or their next of kin to play any role, including but not necessarily limited to serving (a) as personal representative or special administrator of an estate, or (b) as counsel to an estate representative for purposes of assisting with processing payments.

Preliminary Approval

22. **Motion for Preliminary Approval.** As soon as is practicable following execution of this Agreement, Plaintiffs will file a Motion for Preliminary Approval requesting that the Court preliminarily approve the settlement, and will submit the proposed Preliminary Approval Order attached hereto as **Exhibit 3**.

23. **Date of Final Approval Hearing.** At the Preliminary Approval Hearing, Class Counsel will request that the Court set a hearing date on the forthcoming Motion for Final Approval of the Class Settlement no sooner than eighty (80) days after entry of the Preliminary Approval Order.

Notice to the Class

24. **Notice.** The Parties agree to work with the Administrator to prepare a mutually agreeable plan for providing notice to the Class Members of this proposed Class Settlement, including a description of the dismissal and release provided herein, as well as a mechanism for Class Members to opt out of the proposed Class Settlement. The Notice shall be subject to Court approval and implemented in accordance with the terms of the Preliminary Approval Order.

25. **Mailing of Notice.** Within the timeframe set forth in the Preliminary Approval Order, the Administrator will mail to all persons on the final Class List, via U.S. Mail (first-class delivery), a copy of a Notice with content substantially the same as set forth in **Exhibit 4**. The Parties agree that Exhibit 4 is calculated and adequate to inform the Class of the terms of the Settlement and to notify the Class of the opportunity to participate in or opt out of the Settlement.

26. **Declaration by Administrator.** At least ten (10) calendar days in advance of the Final Approval Hearing, the Administrator shall file with the Court and serve upon Class Counsel and Counsel for Defendants an affidavit or declaration, under oath, setting forth the manner in which the Administrator complied with the dissemination of the Notice to the Class.

27. **Maintenance of Website.** For a period of five (5) years after the Effective Date, the Administrator shall maintain a website for this matter and dedicated email address, and will also be reachable by telephone.

28. **Cooperation.** All counsel shall reasonably cooperate with one another so that both sides may adequately assure and monitor the performance of all aspects of this Agreement.

29. **Joint Communication.** The Parties have prepared the joint communication attached as **Exhibit 5**, encouraging all Class Members to participate in this proposed Class

Settlement and not to opt out. The joint communication will be delivered to the Class Members by the Administrator, together with the Notice approved by the Court.

30. **Questions from Class Members.** Consistent with the Notice, if Class Members have questions about the proposed class settlement, the Administrator or Judge Grimm will respond to their questions. By responding to inquiries from Class Members, neither the Administrator nor Judge Grimm will be deemed to be providing legal advice or entering into an attorney-client relationship with any Class Members. The Angelos Estate agrees to pay any fees billed by Judge Grimm and agrees to fully indemnify the Administrator and/or Judge Grimm with regard to any claim arising out of their responses to inquiries from Class Members regarding the proposed Class Settlement.

Opt-Out Requests

31. **Opt-Out Rights.** Except for the Class Representatives, and subject to the limitations set forth in paragraph 32 below, any member of the Class may elect to opt out of this Agreement, relinquishing their rights to benefits hereunder. The Class Representatives agree that they will not opt out of the settlement. Consistent with paragraph 24 herein, the right to opt out shall be described in the Notice as approved by the Court.

32. **Opt-Out Method.** Persons who wish to opt out must send to the Administrator, within forty-five (45) calendar days after the Date of Notice (the “**Opt-Out Deadline**”), a submission stating their intent to opt out of the settlement (an “**Opt-Out Notice**”). The Opt-Out Notice shall be provided in a form and manner compliant with the instructions in the Notice. The Administrator shall provide Class Counsel and counsel for Defendants on a timely basis, via e-mail, a copy of all Opt-Out Notices. All persons within the Class who fail to submit a valid

and timely request to opt out containing all information required as set forth in the Notice shall be bound by all terms of this Agreement and the Final Judgment.

33. **Waiver of Benefits.** Any person within the Class who submits a valid and timely request to opt out shall be deemed to have waived any rights or benefits under this Agreement.

34. **Excessive Opt-Out Requests.** In either a circumstance in which more than one hundred (100) MCIC Settlement Beneficiaries make valid requests to opt out of the Settlement Class, or a circumstance in which more than one hundred fifty (150) MCIC Settlement Beneficiaries and Surviving Family Members make valid requests to opt out of the Settlement Class, the Angelos Estate, in its sole discretion, may, but is not obligated to, elect to withdraw from the settlement. The Parties agree that, if the Angelos Estate withdraws from the settlement under either of these circumstances, the settlement shall be canceled as of the withdrawal date and will have no further force and effect whatsoever, and no Party will have any further obligation to perform under this Agreement. The Angelos Estate must notify Class Counsel, the Law Firm, and the Court of its election to withdraw no later than fourteen (14) calendar days after the Administrator sends via email the final opt-out list to the Parties; late or incomplete elections will have no effect. If the Angelos Estate elects to withdraw from the settlement, the Administrator will transfer any then-remaining administration funds from the QSF to the Fund.

Final Approval

35. **Final Approval Order.** After entry of the Preliminary Approval Order and expiration of the time for filing of objections, Plaintiffs will seek, and Defendants will not oppose, entry by the Court of a Final Approval Order that includes provisions:

(a) Granting final approval of this Agreement, and directing its implementation pursuant to its terms and provisions;

(b) Granting final approval of the incentive fee to the Class Representatives and of Class Counsel's application for attorneys' fees, costs, and other expenses;

(c) Directing that the Case be dismissed with prejudice as to all Defendants upon the later of (i) the expiration of the time for appeal following the entry by the Court of the Final Approval Order; or (ii) the issuance of a final appellate court ruling either dismissing the appeal or affirming the Final Approval Order; and

(d) Reserving to the Court continuing and exclusive jurisdiction over the Parties with respect to the interpretation, effectuation, implementation, and enforcement of this Agreement and the Final Approval Order.

36. **No Objections.** The Parties agree that no Party to this Agreement, other than Settlement Class Members who file a timely objection with the Court as set forth in the Notice, may object to the final approval of the settlement.

37. **Approval by Court.** This Agreement is subject to final approval by the Court. If the Court does not approve this Agreement and enter the Final Approval Order requested herein, or if the Court enters the orders provided for herein but said orders are materially modified by the Court or reversed or materially modified upon appellate review, then this Agreement shall be canceled and terminated unless counsel for all settling parties, within ten (10) business days from the receipt of a ruling or written notice of circumstances giving rise to termination, agree in writing to proceed with this Agreement under the modified circumstances presented.

38. **Termination of Agreement by Parties.** This Agreement shall only be terminable at the option of any Party: (a) if the Court fails to approve the settlement; (b) if the Court (or any appellate court) materially modifies, or proposes to materially modify, this Agreement as a condition of approving the settlement; or (c) upon written agreement signed by

all Parties. Any dispute as to the materiality of any modification or proposed modification of this Agreement by the Court shall be resolved by the Court. This Agreement additionally shall be terminable at the option of the Angelos Estate only if a sufficient number of Class Members validly opt out of this Agreement, as set forth in paragraph 34.

39. **Effect of Termination of Agreement.** If this Agreement is terminated or canceled as set forth herein, all of the Parties hereto shall be deemed to have reverted to their respective status as of April 19, 2024, and they shall proceed in all respects as if this Agreement had not been negotiated and executed and the related orders had not been signed and/or entered, preserving in that event all of their respective claims and defenses in this Case.

40. **Benefits of Settlement.** Defendants' performance of each of their obligations under this Agreement will entitle them to the full and complete benefits of this Agreement. If any Class Members do not obtain benefits as a result of their failure to comply with the Notice, their failure to obtain benefits will not affect the release of all of the Class Representatives' Claims and Class claims herein, and this Agreement will retain its full, binding effect.

Releases

41. **Releases.** Upon disbursement of the payment described in paragraph 10(b) from the Fund to the QSF, the Parties agree to a mutual release, as follows:

(a) The Class Representatives and Settlement Class Members, for themselves, their heirs, personal representatives, agents, successors, assigns, and affiliates, release and forever discharge Defendants and Former Defendants, individually and jointly, for themselves, their heirs, personal representatives, agents, successors, assigns, beneficiaries, and each of their affiliated trusts, entities, and/or companies, from all known and unknown charges, complaints, claims, grievances, liabilities, obligations, promises, agreements, controversies, damages,

actions, causes of actions, suits, rights, demands, costs, losses, debts, penalties, fees, wages, medical costs, pain and suffering, mental anguish, emotional distress, expenses (including attorneys' fees and costs actually incurred) and punitive damages, of any nature whatsoever, whether at law or in equity, or arising under the law or regulation of the United States or any state or locality or otherwise, which the Class Representatives and Settlement Class Members have, or may have had, against Defendants or Former Defendants, or any of their heirs, personal representatives, agents, successors, assigns, beneficiaries, or their affiliated trusts, entities, and/or companies, whether or not apparent or yet to be discovered, as of the effective date of the Term Sheet, concerning any transactions, claims, or matters concerning MCIC, the MCIC settlement, operations coverage with respect to MCIC or its insurance, or the Claims.

(b) Defendants, for themselves, their heirs, personal representatives, agents, successors, assigns, beneficiaries, and affiliated trusts, entities, and/or companies, release and forever discharge the Class Representatives and Settlement Class Members, individually and jointly, for themselves, their heirs, personal representatives, agents, successors, assigns, beneficiaries, and affiliates, from all known and unknown charges, complaints, claims, grievances, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of actions, suits, rights, demands, costs, losses, debts, penalties, fees, wages, medical costs, pain and suffering, mental anguish, emotional distress, expenses (including attorneys' fees and costs actually incurred) and punitive damages, of any nature whatsoever, whether at law or in equity, or arising under the law or regulation of the United States or any state or locality or otherwise, which Defendants have, or may have had, against the Class Representatives or Settlement Class Members, or any of their heirs, personal representatives, agents, successors, assigns, beneficiaries, or affiliates, whether or not apparent or yet to be discovered, as of the effective

date of the Term Sheet, concerning any transactions, claims, or matters concerning MCIC, the MCIC settlement, operations coverage with respect to MCIC or its insurance, or the Claims.

Miscellaneous Provisions

42. **Appeal Bond.** In the event an objection to the Motion for Final Approval is filed, the Court overrules the objection, and the objector appeals, the appealing objector shall be required to post an appeal bond in an amount sufficient to cover all appeal costs including reasonable attorneys' fees projected to be incurred in defending the appeal.

43. **Jurisdiction.** The Parties agree that the Court shall maintain jurisdiction over the implementation and interpretation of this Agreement, which shall be interpreted under Maryland law, without giving effect to its choice of law rules.

44. **Mediation Costs.** The Class Representatives and the Angelos Estate shall retain, and share equally in the cost of, the services of Judge Grimm as mediator to facilitate the settlement process.

45. **No Interference.** Defendants agree that neither they nor their agents or employees will interfere with or otherwise hinder consummation of this proposed Class Settlement or threaten to terminate their representation of any Class Members on the basis that this settlement would require such termination. For the avoidance of doubt, nothing in this Agreement shall restrict the right of the Law Firm to terminate its representation of any Class Member for legitimate reasons other than the Class Member's mere participation in the Class Settlement. The Law Firm shall respond to all reasonable inquiries from the Administrator about address information for Class Members.

46. **Statements to the Media.** Following entry of the Final Approval Order, the Parties may release to the Media an agreed statement. The Parties agree that no statements or

comments to the Media will be made about the proposed Class Settlement until the Final Approval Order is entered, and no statements or comments will be made to the Media after the Final Approval Order other than the joint statement created under this paragraph. Any other statements or comments to the Media must be approved by all Parties.

47. **Headings.** The headings contained in the Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

48. **Dispute Resolution.** Prior to entry of the Final Approval Order, any dispute that arises under this Agreement that the Parties are unable to resolve, including but not limited to the interpretation or meaning of any term in this Agreement, shall be resolved by the Court. Following entry of the Final Approval Order, the Parties agree that the Court shall have jurisdiction over all disputes arising from or relating to the Order.

49. **Modifications.** This Agreement may be amended or modified only by a written instrument signed by all Parties to the Agreement.

50. **Binding Nature.** This Agreement shall be binding upon and inure to the benefit of the settling Parties hereto and their present, former, and respective heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, assigns, employees, and insurers.

51. **Entire Agreement.** This Agreement constitutes the entire Agreement of the Class Representatives, on the one hand, and Defendants, on the other hand, and no representations, warranties, or inducements have been made from the Class Representatives to Defendants, or vice versa, concerning this Agreement or its exhibits other than the representations, warranties, and covenants contained and memorialized in such documents. By entering into this Agreement, the Parties acknowledge and agree that the Term Sheet is merged

into this Agreement such that this Agreement is the sole source of the Parties' rights and obligations pertaining to its subject matter. Notwithstanding the foregoing, however, the Term Sheet shall continue to govern as among Former Defendants on the one hand, and Plaintiffs on the other.

52. **Counterparts.** This Agreement may be executed in one or more counterparts. All executed counterparts shall be deemed to be one and the same instrument. Counsel for the parties hereto shall exchange among themselves executed counterparts, and a complete set of executed counterparts shall be filed with the Circuit Court for Baltimore City in connection with the motion to approve the settlement.

53. **Construction of the Agreement.** The Parties agree that no Party shall be deemed to have solely drafted this Agreement.

54. **No Rescission on Grounds of Mistake.** The Parties acknowledge that they have made their own investigations of the matters covered by the Agreement to the extent they have deemed it necessary to do so. Therefore, the Parties agree that they will not seek to set aside any part of the Agreement on the grounds of mistake. Furthermore, the Parties understand, agree, and expressly assume the risk that any fact not recited, contained, or embodied in the Agreement may turn out hereinafter to be other than, different from, or contrary to the facts now known to them, or believed by them to be true, and further agree the Agreement shall be effective in all respects notwithstanding, and shall not be subject to termination, modification, or rescission by reason of any such difference in facts.

55. **Competency; Independent Counsel.** Each Party to this Agreement represents and warrants that he, she, or it is competent to enter into this Agreement and in doing so is acting upon his, her, or its independent judgment and upon the advice of his, her, or its own counsel and

not in reliance upon any warranty or representation, express or implied, or any nature or kind by any other party, other than the warranties and representations expressly set forth in this Agreement itself.

[signatures on following pages]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by authorized individuals, as of the Effective Date.

THE ESTATE OF PETER G. ANGELOS by its duly appointed personal representative
GEORGIA K. ANGELOS

Georgia K. Angelos, Personal Representative

THE LAW OFFICES OF PETER G. ANGELOS, P.C.

By: _____

William J. Murphy
Court-Appointed Conservator

COUNSEL FOR THE LAW FIRM

Stein Sperling Bennett De Jong Driscoll PC

By: _____

Thompson Hine LLP

By: _____

COUNSEL FOR THE ANGELOS ESTATE

Rosenberg Martin Greenberg, LLP

By: _____

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executed by authorized individuals, as of the Effective Date.

**THE ESTATE OF PETER G. ANGELOS by its duly appointed personal representative
GEORGIA K. ANGELOS**

THE LAW OFFICES OF PETER G. ANGELOS, P.C.

By: William Murphy (JB)
William J. Murphy
Court-Appointed Conservator

COUNSEL FOR THE LAW FIRM

Stein Sperling Bennett De Jong Driscoll PC

By: _____

Thompson Hine LLP

By: _____

COUNSEL FOR THE ANGELOS ESTATE

Rosenberg Martin Greenberg, LLP

By: _____

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GEORGIA K. ANGELOS**

THE LAW OFFICES OF PETER G. ANGELOS, P.C.

By: William Murphy (JB)
William J. Murphy
Court-Appointed Conservator

COUNSEL FOR THE LAW FIRM

Stein Sperling Bennett De Jong Driscoll PC

By: Jeff Schwaber
Jeff Schwaber (Aug 15, 2024 16:02 EDT)

Jeff Schwaber

Thompson Hine LLP

By: _____

COUNSEL FOR THE ANGELOS ESTATE

Rosenberg Martin Greenberg, LLP

By: _____

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executed by authorized individuals, as of the Effective Date.

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GEORGIA K. ANGELOS**

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By: William Murphy (JB)
William J. Murphy
Court-Appointed Conservator

COUNSEL FOR THE LAW FIRM

Stein Sperling Bennett De Jong Driscoll PC

By: _____

Thompson Hine LLP

By: David A. Wilson

David A. Wilson

COUNSEL FOR THE ANGELOS ESTATE

Rosenberg Martin Greenberg, LLP

By: _____

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GEORGIA K. ANGELOS**

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By: _____
William J. Murphy
Court-Appointed Conservator

COUNSEL FOR THE LAW FIRM

Stein Sperling Bennett De Jong Driscoll PC

By: _____

Thompson Hine LLP

By: _____

COUNSEL FOR THE ANGELOS ESTATE

Rosenberg Martin Greenberg, LLP

By:  _____

**CYNTHIA M. CLARK as successor personal representative of THE ESTATES OF
WALTER F. KACALA AND HELEN M. KACALA**

Signed by:

3CD806AA9321431...

**NORMAN J. LOVERDE as successor personal representative of THE ESTATES OF
STEPHEN J. LOVERDE, SR. AND MARY ANNA LOVERDE**

**MARIA M. MCCARTHY and WILLIAM J. MCCARTHY, JR. as personal
representatives of THE ESTATE OF ANNE MAJOR and successor personal
representatives of THE ESTATE OF BERNARD L. MAJOR**

COUNSEL FOR PLAINTIFFS
Gallagher Evelius & Jones LLP

By: _____

FOR THE ADMINISTRATOR
Strategic Claims Services, Inc.

By: _____

**CYNTHIA M. CLARK as successor personal representative of THE ESTATES OF
WALTER F. KACALA AND HELEN M. KACALA**

**NORMAN J. LOVERDE as successor personal representative of THE ESTATES OF
STEPHEN J. LOVERDE, SR. AND MARY ANNA LOVERDE**



**MARIA M. MCCARTHY and WILLIAM J. MCCARTHY, JR. as personal
representatives of THE ESTATE OF ANNE MAJOR and successor personal
representatives of THE ESTATE OF BERNARD L. MAJOR**

COUNSEL FOR PLAINTIFFS
Gallagher Evelius & Jones LLP

By: _____

FOR THE ADMINISTRATOR
Strategic Claims Services, Inc.

By: _____

**CYNTHIA M. CLARK as successor personal representative of THE ESTATES OF
WALTER F. KACALA AND HELEN M. KACALA**

**NORMAN J. LOVERDE as successor personal representative of THE ESTATES OF
STEPHEN J. LOVERDE, SR. AND MARY ANNA LOVERDE**

**MARIA M. MCCARTHY and WILLIAM J. MCCARTHY, JR. as personal
representatives of THE ESTATE OF ANNE MAJOR and successor personal
representatives of THE ESTATE OF BERNARD L. MAJOR**

DocuSigned by:
Maria M. McCarthy
A5383E89A7AF4A7...
Signed by:
William J. McCarthy, Jr.
C2F385C91A12427...

COUNSEL FOR PLAINTIFFS
Gallagher Evelius & Jones LLP

By: _____

FOR THE ADMINISTRATOR
Strategic Claims Services, Inc.

By: *Paul Mulholland*
5EC8AE44C92E496
Paul Mulholland

**CYNTHIA M. CLARK as successor personal representative of THE ESTATES OF
WALTER F. KACALA AND HELEN M. KACALA**

**NORMAN J. LOVERDE as successor personal representative of THE ESTATES OF
STEPHEN J. LOVERDE, SR. AND MARY ANNA LOVERDE**

**MARIA M. MCCARTHY and WILLIAM J. MCCARTHY, JR. as personal
representatives of THE ESTATE OF ANNE MAJOR and successor personal
representatives of THE ESTATE OF BERNARD L. MAJOR**

COUNSEL FOR PLAINTIFFS
Gallagher Evelius & Jones LLP

By: 
Paul Caiola

FOR THE ADMINISTRATOR
Strategic Claims Services, Inc.

By: _____

IN THE CIRCUIT COURT FOR BALTIMORE CITY

CYNTHIA M. CLARK as successor personal
representative of THE ESTATES OF WALTER
F. KACALA and HELEN M. KACALA, *et al.*,

Plaintiffs,

v.

PETER G. ANGELOS, ESQ., *et al.*,

Defendants.

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Case No. 24-C-21-000847 OT

* * * * *

APPENDIX B

IN THE CIRCUIT COURT FOR BALTIMORE CITY

CYNTHIA M. CLARK as successor personal
representative of THE ESTATES OF WALTER
F. KACALA and HELEN M. KACALA, *et al.*,

Plaintiff,

v.

PETER G. ANGELOS, ESQ., *et al.*,

Defendants.

Case No: 24-C-21-000847 OT

**DECLARATION OF CORNELIA VIEIRA CONCERNING THE MAILING OF THE
NOTICE TO SETTLEMENT CLASS MEMBERS AND REPORT ON OBJECTIONS**

I, Cornelia Vieira, declare as follows:

1. I am a Project Manager of Strategic Claims Services (“SCS”), a nationally recognized class action administration firm. I have over seven years of experience specializing in the administration of class action cases. SCS was established in April 1999 and has administered over five hundred and fifty (550) class action settlements since its inception. I am over 21 years of age and am not a party to this litigation. I have personal knowledge of the facts set forth herein.

2. Pursuant to the Court’s Order Preliminarily Approving Settlement, Certifying Class for Settlement Purposes, and with Respect to Notice, Settlement Hearing, and Administration, dated August 28, 2024 (the “Preliminary Approval Order”), SCS was appointed as Settlement Administrator¹ to administer the Notice procedure in connection with the proposed settlement of the above litigation.

¹ All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed to them in the Settlement Agreement, dated August 28, 2024 (the “Settlement Agreement”) or the Preliminary Approval Order.

3. I respectfully submit this declaration in order to provide the Court and the Parties information regarding the mailing of the Notice to inform Class Members of the settlement.

MAILING OF THE NOTICE

4. In preparation for Notice mailing, SCS received multiple excel spreadsheets from Defendants and Class Counsel listing names, addresses, and expected payment subgroups corresponding to the Class Members' disease categories included in the MCIC Settlement Agreement. Based on the class lists received, 7,609 Class Members and 2,606 Surviving Family Members were identified to receive Notice. Pursuant to the Preliminary Approval Order, on September 11, 2024, SCS caused the Notice to be mailed, by first class mail, postage prepaid, to the 7,609 Class Members and 2,606 Surviving Family Members.

5. In an effort to reach all Class Members and Surviving Family Members, a number of Notices were mailed to multiple addresses and multiple potential Personal Representatives, for a total of 14,161 Notices mailed. Prior to mailing, the class data was "skip-traced" and run through the United States Postal Service National Change of Address service to obtain current address information. Attached as **Exhibit A** is a copy of the Notice as mailed, and **Exhibit B** is a copy of an insert to those recipients where Notice was sent to multiple addresses.

6. Of the 14,161 Notices mailed, 1,451 were returned as undeliverable. Of these, the United States Postal Service provided forwarding addresses for five, and SCS immediately mailed another Notice to the Class Members or Surviving Family Members at the updated addresses. Out of the remaining 1,446 Notices returned as undeliverable, only 458 represented Notices returned from recipients where only one Notice was sent or where all Notices sent to the same recipient were returned, and for which SCS therefore did not have a valid address on file. Following additional efforts by Class Counsel to find alternate addresses via Thomson Reuters PeopleMap, SCS remailed 245 Notices on October 18, 2024 to addresses obtained by Class Counsel.

TOLL-FREE PHONE LINE AND EMAILS

7. SCS maintains a toll-free telephone number (1-866-274-4004) and an email address (info@strategicclaims.net) for individuals to obtain information about the settlement, as well as to confirm or update their address information. SCS has promptly responded to each telephone and email inquiry and will continue to address inquiries.

WEBSITE

8. Pursuant to the Settlement Agreement as approved by the Preliminary Approval Order, as of September 11, 2024, SCS has updated and maintains the website www.LegalMalpracticeClassAction.com to provide Class Members and Surviving Family Members with information about the Settlement of the Case. The website is accessible 24 hours a day, 7 days a week. The website contains a home page with information from the Notice; frequently asked questions; information about Class Counsel; contact information for SCS; and downloadable copies of (i) the Settlement Agreement including Exhibits, (ii) the Third Amended Class Action Complaint, (iii) Exhibit 3 to the operative complaint in the Tort Action-excluded persons, and (iv) the Opt-Out request form.

REPORT ON OBJECTIONS

9. As per the Court-ordered Notice, Class Members seeking to object to the Class Settlement were required to send a letter stating their objection to the Clerk of the Court, as well as to Class Counsel, Defense Counsel, and SCS at the addresses listed in the Notice, to be postmarked no later than October 28, 2024. As of the date of this declaration, SCS has received one objection, a copy of which SCS has provided to Class Counsel and Defense Counsel, and a copy of which is also attached hereto as **Exhibit C**.

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

Signed this 7th day of November 2024, in Media, Pennsylvania.

A handwritten signature in black ink, appearing to read 'C. Vieira', written over a horizontal line.

Cornelia Vieira

EXHIBIT A

**AN IMPORTANT MESSAGE FROM
GALLAGHER EVELIUS & JONES LLP,
THE LAW OFFICES OF PETER G. ANGELOS, P.C., AND
THE ESTATE OF PETER G. ANGELOS**

September 11, 2024

Mail ID: [addressID]
[addressname1]
[addressname2] [addressname3]
[addressCareOf]
[addresspart1] [addresspart2]
[addresscity], [addressState] [addresszip]

Re: Proposed class action settlement

Dear [addressname1]:

If you are receiving this packet of information, you or your family member (or a person whose estate you represent) has been identified as a member of a class of clients of The Law Offices of Peter G. Angelos, P.C., with the right to participate in a class action settlement. The Court in Cynthia M. Clark ex rel. Estates of Walter F. Kacala & Helen M. Kacala, et al. v. Peter G. Angelos, et al., No. 24-C-21-000847 (Balt. City Cir. Ct.), has certified a class in a case involving allegations of legal malpractice in connection with a 1994 settlement agreement with Baltimore-based asbestos installer MCIC, Inc. and its insurers. The Court also has preliminarily approved a class settlement, which will entitle eligible participants to receive **thousands of dollars**, depending on their injury category in that 1994 settlement.

Although the Angelos Firm and the Estate of the late Peter G. Angelos deny liability, they have determined that a class settlement is an appropriate outcome of this litigation, as the settlement recognizes Peter Angelos's legendary devotion to his clients and his determination to achieve the best possible outcomes for the thousands of workers he represented who were impacted by exposure to asbestos. Gallagher Evelius & Jones LLP, the law firm that has represented the lead plaintiffs and that will serve as class counsel, also has determined that the proposed settlement is fair and reasonable and will benefit thousands of class members.

Please review the enclosed materials carefully. These materials explain how much money you or your eligible family member may receive and the timing of those payments. The materials also explain your right to opt out of the proposed settlement if you so desire, but **we strongly urge you not to opt out**. All lawyers involved in the litigation believe the proposed settlement is the best way to ensure that you or your family receive adequate compensation for the claims asserted in the class action. If you were to opt out, the cost of individual litigation easily could exceed the value of any recovery, and you might encounter obstacles such as a time bar due to the statute of limitations.

Be assured that by participating in the class settlement, you run no risk of losing any ongoing representation by the Angelos Firm. The Firm and its lawyers are pleased to have reached a fair and reasonable resolution of this dispute.

Should you have any questions, please visit www.legalmalpracticeclassaction.com or contact the class administrator, Strategic Claims Services, at 866-274-4004.

Very truly yours,



Paul S. Caiola, Esq.
Gallagher Evelius & Jones LLP



Jay D. Miller, Esq., General Counsel
The Law Offices of Peter G. Angelos, P.C.



Georgina K. Angelos
Personal representative of The Estate of Peter G. Angelos

SENT BY ORDER OF THE CIRCUIT COURT
FOR BALTIMORE CITY

If you or your loved one was represented by The Law Offices of Peter G. Angelos, P.C. in connection with a 1994 settlement agreement with MCIC, Inc. (McCormick Asbestos Company), you could be part of a class action settlement.

*The Circuit Court for Baltimore City authorized this Notice.
This is not a solicitation from a lawyer.*

- Through a proposed class action settlement, several individuals¹ (the “Class Representatives” or “Plaintiffs”²), on the one hand, and the Estate of Peter G. Angelos, through its duly appointed personal representative (the “Angelos Estate”), and The Law Offices of Peter G. Angelos, P.C. (the “Angelos Law Firm”) (collectively, “Defendants,” and together with Plaintiffs, the “Parties”), on the other hand, have agreed to settle a class action lawsuit.
- The lawsuit resolved by the Class Settlement is Cynthia M. Clark ex rel. Estates of Walter F. Kacala & Helen M. Kacala, et al. v. Peter G. Angelos, et al., Case No. 24-C-21-000847 (the “Case”), pending in the Circuit Court for Baltimore City (the “Court”).
- In the Case, the Class Representatives alleged that Defendants committed legal malpractice when they failed to pursue claims timely against MCIC, Inc. (“MCIC”) and certain of its insurers, thereby costing the beneficiaries of a 1994 settlement with MCIC millions of dollars in additional insurance proceeds that they likely would have recovered but for the malpractice.
- Defendants deny Plaintiffs’ allegations but have agreed to the Class Settlement to avoid the cost and uncertainty of litigation. Defendants have agreed to pay a combined total of **\$57 million** into a Qualified Settlement Fund, which will be distributed in gross to eligible Settlement Class Members in five annual installments following final approval of the Class Settlement by the Court. There are more than 7,000 MCIC Settlement Beneficiaries in the Class who may receive payments under the Settlement Agreement.

¹ The Class Representatives are: Cynthia M. Clark, as successor personal representative of the Estates of Walter F. Kacala and Helen M. Kacala; Norman J. Loverde, as successor personal representative of the Estates of Stephen J. Loverde, Sr. and Mary Anna Loverde; and Maria M. McCarthy and William J. McCarthy, Jr., as personal representatives of the Estate of Anne Major and successor personal representatives of the Estate of Bernard L. Major.

² Capitalized terms not defined in this Notice are defined in the Settlement Agreement, a copy of which can be found at www.LegalMalpracticeClassAction.com.

QUESTIONS? CALL 1-866-274-4004 TOLL FREE, OR VISIT www.LegalMalpracticeClassAction.com

- The Class Settlement also provides that the Settlement Class is releasing Defendants, as well as Former Defendants Gary J. Ignatowski and Armand J. Volta, Jr., from all Claims that the Class Representatives brought or could have brought in the Case relating to the MCIC Settlement Agreement. The Release is Paragraph 41 of the Settlement Agreement, which is posted on www.LegalMalpracticeClassAction.com.
- Court-appointed lawyers for the Class also will ask the Court to approve an attorneys' fee award equal to 33% of the Qualified Settlement Fund plus out-of-pocket litigation expenses for investigating the facts, litigating the Case, and negotiating the Class Settlement; and the three Class Representative families will ask the Court to approve an incentive payment of \$10,000 each in consideration of their representation of the Class in this Case.
- The two sides disagree on whether Plaintiffs would have won; or how much, if any, money could have been won if the Case had proceeded to trial.
- Details of the background of the Case against Defendants, as well as specifics regarding the proposed Class Settlement, can be found at www.LegalMalpracticeClassAction.com.
- Your legal rights are affected whether you act or don't act. Read this Notice carefully. Here are your choices:

| | |
|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DO NOTHING | If you do nothing, you will remain a member of the Class, and you or the appropriate representative of an MCIC Settlement Beneficiary will receive payments from the Qualified Settlement Fund. You will give up your right to separately pursue Defendants and Former Defendants for the claims raised in this Case or for other claims relating to the subject matter of the Case. |
| OPT OUT | Get no settlement benefits. This is the only option that may allow you to file your own lawsuit against Defendants and/or Former Defendants for the legal malpractice claims in this Case. You may have very little time to act before any remaining claims expire due to the statute of limitations. |
| OBJECT | Write to the Court about why you don't like the Class Settlement. |
| ATTEND A HEARING | Ask to speak in open court about the fairness of the Class Settlement. |

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Class Settlement. Payments will be made to the Settlement Class if the Court approves the Class Settlement and after any appeals are resolved. Please be patient.
- Any questions? Read on, call the Settlement Administrator at 1-866-274-4004, or visit the official website for this Class Settlement: www.LegalMalpracticeClassAction.com. In responding to inquiries, the Administrator (who is not an attorney) will not be deemed to be providing legal advice or entering into an attorney-client relationship with the inquirer.
- Please note that, as of the mailing of this Notice, the Court expects to hold the final hearing on the fairness of the Class Settlement via Zoom. HOWEVER, the Court may decide to hold the final hearing at the Baltimore City Circuit Court's Mitchell Courthouse, or some other location. Please check the website www.LegalMalpracticeClassAction.com frequently for updates and additional information.

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BASIC INFORMATION

1. Why did I get this Notice?

Defendants' records show that you were—or someone in your family, someone whose estate you represent, or someone for whom you are next of kin was—a beneficiary of the 1994 MCIC Settlement Agreement between MCIC and a number of its insurers, on the one hand, and the Angelos Law Firm and several other firms, on the other hand; and that attorneys from the Angelos Law Firm represented you in pursuing claims against MCIC.

The Court authorized this Notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options, before the Court decides whether to approve the Class Settlement. If the Court approves the Class Settlement, the Administrator appointed by the Court will provide the benefits that the Class Settlement allows.

This Notice explains the lawsuit, the Class Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the Case is the Circuit Court for Baltimore City. The Honorable John S. Nugent is overseeing this Class Settlement. The asbestos victims who sued in this Case are called the Plaintiffs, and the lawyer and law firm that they sued—the Angelos Estate and the Angelos Law Firm—are called the Defendants.

2. What is this Case about?

In 1994, the Angelos Law Firm reached a settlement agreement with a Baltimore-based asbestos installer named MCIC, Inc. (formerly known as McCormick Asbestos Company) and its insurers, settling thousands of its clients' asbestos injury claims against MCIC for between \$1,000 and \$9,500 each (depending on the progress of disease at that time). In the MCIC Settlement Agreement, MCIC and its insurers agreed that the settlement was for all available insurance, and they promised that if any additional insurance was discovered that was applicable to the settlement beneficiaries' claims, they would arrange to distribute that additional insurance to the beneficiaries on a *pro rata* basis.

Some time during or before 1998, Defendants discovered that there was, in fact, substantial additional insurance applicable to the claims. Defendants demanded that MCIC and its insurers honor their agreement to distribute that additional insurance, and when they failed to do so, Defendants brought two actions in court in Maryland—a Motion to Enforce the MCIC Settlement Agreement filed in 2002, and a Tort Action filed in 2005. Unfortunately, the Maryland courts determined that Defendants had waited too long to bring these actions, and both actions were dismissed as time barred.

This Case alleges the following three claims for legal malpractice against all Defendants:

1. In Count I, Plaintiffs allege that Defendants did not move timely to enforce their rights and the rights of thousands of similarly situated Angelos Law Firm clients under the MCIC Settlement Agreement.

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2. In Count II, Plaintiffs allege that Defendants did not pursue timely fraud and negligent misrepresentation claims on behalf of Plaintiffs and thousands of similarly situated Angelos Law Firm clients against MCIC and its insurers.
3. In Count III, Plaintiffs allege that Defendants failed to challenge a buyback by Reliance Insurance Co., prior to the 1994 settlement, of insurance coverage it had issued to MCIC, thereby depleting the pool of coverage for the settling claimants.

Defendants deny that they committed legal malpractice.

Additional information about the Case is available in the Court files, which are kept at the clerk's office for the Circuit Court of Baltimore City, located at 111 North Calvert Street, Room 412, Baltimore, Maryland 21202. You may view any unsealed records in person at the clerk's office by providing the clerk with the Case number (24-C-21-000847) and requesting to view the Case records. You may also request a copy of unsealed documents in the file. There is a fee for copies.

3. Why is this a class action?

In a class action lawsuit, one or more people called "class representatives" or "named plaintiffs" sue on behalf of other people who have similar claims.

The Class Representatives in this case are: Cynthia M. Clark, as successor personal representative of the Estates of Walter F. Kacala and Helen M. Kacala; Norman J. Loverde, as successor personal representative of the Estates of Stephen J. Loverde, Sr. and Mary Anna Loverde; and Maria M. McCarthy and William J. McCarthy, Jr., as personal representatives of the Estate of Anne Major and successor personal representatives of the Estate of Bernard L. Major.

Together, the Class Representatives and the MCIC Settlement Beneficiaries and Surviving Family Members they represent are a "Class" or "Class Members." One court resolves the issues for everyone in the Class—except for those people who choose to opt out of the Class.

In order for a case to proceed as a class action, the court overseeing the case must "certify" the class—*i.e.*, the court must rule that the case can proceed as a class action, rather than as many individual cases or as one case with many plaintiffs. There are many factors a court must consider when determining whether or not a class should be certified.

At the time the Parties agreed to the proposed Class Settlement in this Case, the Court had not yet certified the Class. However, the Court now has conditionally certified the Class for purposes of the Class Settlement. If the Class Settlement is not ultimately given final approval by the Court, the conditional certification will no longer stand, and the Parties will have to litigate whether the Class should be certified in this Case.

4. Why is there a Class Settlement?

The Court did not decide in favor of Plaintiffs or Defendants. The Class Representatives think the Class could have recovered a substantial amount if the Class won at trial. The Defendants think they would have prevailed in the Case. But there was no trial. Instead, both sides agreed to a Class Settlement. That way, they avoid the cost and uncertainty of a trial, and the people affected will get compensation. The Class Representatives and Class Counsel think the Class Settlement is best for all Class Members.

WHO IS IN THE CLASS SETTLEMENT?

5. How do I know if I am part of the Class Settlement?

The Circuit Court for Baltimore City has decided for purposes of the proposed Class Settlement that everyone who fits this description is a Class Member:

All persons (or their estate representatives or next of kin) represented at any time by Defendants in connection with the Motion to Enforce and/or the Tort Action who are identified on the MCIC Settlement Beneficiary List and the Surviving Family Member List.

“MCIC Settlement Beneficiary” means an individual listed on the MCIC Settlement Beneficiary List, or such a person’s estate representative. “Surviving Family Member” means an individual listed on the Surviving Family Member List, or such a person’s estate representative.

Both the MCIC Settlement Beneficiary List and the Surviving Family Member List are attached to the Settlement Agreement, which can be found at www.LegalMalpracticeClassAction.com.

If you are the recipient listed on this Notice, Class Counsel have determined that you fit the Class Member description and therefore are a Class Member, subject to the exclusions listed below.

6. Are there exceptions to being included?

Yes. Excluded from the Class are:

- a. All directors, officers, employees, and shareholders of the Angelos Law Firm, and their immediate family members;
- b. All attorneys for the Defendants in the current matter, and their immediate family members;
- c. Each and every judge assigned to this action and members of those judges’ staffs, and their immediate family members;
- d. Those persons who previously settled or whose associated MCIC Settlement

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Beneficiary previously settled legal malpractice claims against Defendants equivalent to any of the Claims asserted in the Case;

- e. For the avoidance of doubt, all persons listed on exhibit 3 to the third amended complaint in the Tort Action (a list of persons who did not participate in the MCIC Settlement Agreement, which is available for viewing at www.LegalMalpracticeClassAction.com); and
- f. Those persons who affirmatively opt out of the Class.

7. I am still not sure if I am included.

If you are not sure whether you are included, you can ask for free help. You can call 1-866-274-4004 or visit www.LegalMalpracticeClassAction.com for more information. In responding to inquiries, the Administrator, who is not an attorney, will not be deemed to be providing legal advice or entering into an attorney-client relationship with the inquirer.

THE SETTLEMENT BENEFITS—WHAT YOU GET

8. What does the Class Settlement provide?

Defendants have agreed to pay a total of \$57 million (the “Settlement Payment”) to the Class. This money will be paid into a Qualified Settlement Fund and then distributed in gross to certain of the Settlement Class Members in five annual installments, following final approval of the Class Settlement by the Court.

A. Which Settlement Class Members will receive payment?

Every Settlement Class Member’s family is eligible to receive payments from the Qualified Settlement Fund, but not every individual Settlement Class Member is eligible to receive payments.

Every Settlement Class Member is either an MCIC Settlement Beneficiary or a Surviving Family Member of an MCIC Settlement Beneficiary (or an estate representative of the foregoing).

Only MCIC Settlement Beneficiaries are eligible to receive payments from the Qualified Settlement Fund. If you are a Surviving Family Member, you personally will not be the member of your family who receives the settlement checks. However, so long as the MCIC Settlement Beneficiary with whom you are associated does not opt out of the Class Settlement, your family will be compensated.

B. Why are Surviving Family Members not eligible for their own payment?

Surviving Family Members are not eligible for separate payment because the MCIC Settlement Agreement provided payment for principal asbestos victims only, and not for family members

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who released derivative claims such as loss of consortium and wrongful death in consideration of an MCIC Settlement Beneficiary's payment.

C. The MCIC Settlement Beneficiary's Expected Payment Subgroup

For the purposes of receiving a share of the Settlement Payment, MCIC Settlement Beneficiaries will be divided into the following four subgroups, corresponding to the disease categories included in the MCIC Settlement Agreement:

- **Subgroup A** includes all MCIC Settlement Beneficiaries who participated in the 1994 settlement as a result of their **non-malignant condition** (*e.g.*, asbestos lung disease).
- **Subgroup B** includes all MCIC Settlement Beneficiaries who participated in the 1994 settlement as a result of their **cancer other than lung cancer**.
- **Subgroup C** includes all MCIC Settlement Beneficiaries who participated in the 1994 settlement as a result of their **lung cancer**.
- **Subgroup D** includes all MCIC Settlement Beneficiaries who were participated in the 1994 settlement as a result of their **mesothelioma**.

According to Defendants' records, the MCIC Settlement Beneficiary with whom you are associated is identified as a member of Subgroup [insert subgroup letter], for purposes of receiving payments from the Settlement Fund.

This is because Defendants' records show that the MCIC Settlement Beneficiary in your family was an MCIC Settlement Beneficiary as a result of [insert disease category].

We understand that the asbestos disease from which the MCIC Settlement Beneficiary suffered may have progressed since the time of the 1994 MCIC Settlement Agreement. However, that is not relevant for purposes of this Class Settlement. MCIC Settlement Beneficiaries are eligible for payments based on their disease category at the time of the MCIC Settlement Agreement. That is what the MCIC Settlement Agreement requires.

D. Approximate Payment to Each MCIC Settlement Beneficiary

Every MCIC Settlement Beneficiary within each Subgroup will receive a *pro rata* share of the Settlement Payment based on their injury category at the time of the MCIC Settlement Agreement. MCIC and its insurers paid the following amounts to the beneficiaries of the MCIC Settlement Agreement, based on disease category:

| Disease Category per MCIC Settlement Agreement | 1994 Payment per Case |
|---------------------------------------------------------|------------------------------|
| Non-Malignancies (<i>e.g.</i> , asbestos lung disease) | \$1,000.00 |
| Other Cancers | \$1,500.00 |
| Lung Cancer | \$4,250.00 |
| Mesothelioma | \$9,500.00 |

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In addition to what they received in 1994, and based on the *pro rata* schedule established in the MCIC Settlement Agreement, each MCIC Settlement Beneficiary can expect to receive approximately the following amounts, which are net of attorneys' fees and expenses that the Court will be asked to approve, administrative costs, and incentive fees to the Class Representatives:

| Disease Category per MCIC Settlement Agreement | Subgroup in this Class Settlement | Total Class Settlement Payment per Settlement Class Member |
|---------------------------------------------------------|------------------------------------------|-------------------------------------------------------------------|
| Non-Malignancies (<i>e.g.</i> , asbestos lung disease) | A | \$3,340.51 |
| Other Cancer | B | \$5,010.76 |
| Lung Cancers | C | \$14,197.15 |
| Mesothelioma | D | \$31,734.80 |

These amounts will be divided into five annual Payment Installments, the first of which is largest. Thus, each MCIC Settlement Beneficiary can expect to receive five payments in total, in approximately the following amounts:

| Subgroup | Payment 1 | Payment 2 | Payment 3 | Payment 4 | Payment 5 |
|-----------------|------------------|------------------|------------------|------------------|------------------|
| A | \$846.71 | \$623.45 | \$623.45 | \$623.45 | \$623.45 |
| B | \$1,270.04 | \$935.18 | \$935.18 | \$935.18 | \$935.18 |
| C | \$3,598.43 | \$2,649.68 | \$2,649.68 | \$2,649.68 | \$2,649.68 |
| D | \$8,043.56 | \$5,922.81 | \$5,922.81 | \$5,922.81 | \$5,922.81 |

These amounts are estimates only. Because some Class Members may opt out of the Class Settlement, and because the costs of administration are not yet final, these dollar amounts may be adjusted up or down.

E. Additional Amounts to be Paid from the Settlement Fund

The following costs and expenses will also be paid from the \$57 million Qualified Settlement Fund:

I. Counsel Fees and Expenses

Class Counsel have prosecuted the Case for more than three years without receiving any attorneys' fees, and without any assurance of receiving attorneys' fees, and also have advanced all of the costs necessary to prosecute the Case. In these circumstances, Class Counsel will ask the Court to award them 33% of the gross Qualified Settlement Fund as attorneys' fees, plus reimbursement of out-of-pocket costs. The requested fee award is typical of many cases in which plaintiffs' firms represent their clients on a contingency basis. Counsel fees and expenses are subject to Court approval.

II. Payment of Administrative Costs of the Class Settlement

All costs associated with the administration of the Class Settlement will be paid from the Qualified Settlement Fund. Given the thousands of members of the Class, and the cost, in some instances, associated with locating members with whom the Angelos Law Firm has not communicated recently, the Settlement Administration Expenses are estimated to total at least \$500,000.

III. Incentive Payment for Class Representatives

Class Counsel will seek an incentive payment of \$10,000 for each of the three Class Representatives—Ms. Clark, Mr. Loverde, and the McCarthys—to compensate them for the substantial time they devoted to the pursuit of this Case. The incentive payments (\$30,000 in the aggregate) will be funded from the Qualified Settlement Fund and will be paid in five equal installments over the course of five years. The incentive payments are subject to Court approval.

F. Remaining Funds / *Cy Pres*

The Settlement Agreement recognizes and accounts for the possibility that some Settlement Class Members cannot be located or have died, and therefore there may be some money remaining in the Qualified Settlement Fund each year after all Settlement Class Members who can be located are paid. If any money is remaining in the Qualified Settlement Fund in a given year following that year's payment to all MCIC Settlement Beneficiaries in the Settlement Class, then the balance will be paid into a *Cy Pres* Fund that will distribute monies annually to not-for-profit organizations that serve the greater Baltimore community where many of the MCIC Settlement Beneficiaries and Surviving Family Members once lived or still live today.

With the approval of the Court, the *Cy Pres* Fund will be donated on an annual basis to the following entities, in the following percentages:

- (a) 23.5% to the University of Maryland Francis King Carey School of Law for purposes of sponsoring the clinical law program (which provides law students with hands-on experience in a variety of crucial legal fields);
- (b) 23.5% to the University of Baltimore School of Law for purposes of sponsoring the Fannie Angelos Program for Academic Excellence, which serves underrepresented student populations;
- (c) 23.5% to Public Justice Center, Inc., which advocates on behalf of social justice causes;
- (d) 23.5% to Associated Catholic Charities Inc., for use by the Esperanza Center (an immigration law clinic); and
- (e) 6% to Franciscan Center, Inc., which provides free meals and other services to Baltimoreans in need.

9. How many Settlement Checks will my family receive?

The MCIC Settlement Beneficiary in your family will receive five Settlement Checks: one per year for five years, beginning after the Class Settlement is approved by the Court.

10. After the Court approves the Class Settlement, will I forfeit pending asbestos claims I have asserted against MCIC because my asbestos injury worsened after 1994?

No. This Class Settlement will have no effect on any claims you may have against MCIC based on an asbestos injury you contracted or that worsened after 1994.

11. If I participate in the Class Settlement, will the Angelos Law Firm still represent me with respect to asbestos claims asserted against companies other than MCIC?

Yes. The parties have agreed that your participation in this Class Settlement will not impact any ongoing legal representation you have with the Angelos Law Firm.

HOW YOU RECEIVE A SETTLEMENT CHECK

12. Do I need to file a claim?

No. Because our records reflect that you are a member of the Class, you or the MCIC Settlement Beneficiary with whom you are associated will receive payments from the Settlement Fund after the Court considers and approves the Settlement, unless the MCIC Settlement Beneficiary with whom you are associated opts out of the Class.

The Court will hold a hearing on November 22, 2024, to decide whether to approve the Class Settlement. If the Court approves the Class Settlement after that, and there are no appeals, all MCIC Settlement Beneficiaries who do not opt out will be sent their first annual settlement check by the Settlement Administrator within sixty days of the Court's approval, and further settlement checks each of the four years thereafter.

13. What am I giving up by staying in the Class?

Unless you opt out of the Class, you will be a member of the Settlement Class, and that means that you can't sue, continue to sue, or be part of any other lawsuit against Defendants or Former Defendants concerning any transactions, claims, or matters concerning MCIC, the MCIC settlement, operations coverage with respect to MCIC or its insurance, or the Claims. In the Settlement Agreement, "Claims" means the causes of action asserted by Class Representatives in the operative Third Amended Class Action Complaint in the Case, or that could have been asserted by Plaintiffs relating to the subject matter thereof. Staying in the Class also means that all of the Court's Orders will apply to you and legally bind you.

QUESTIONS? CALL 1-866-274-4004 TOLL FREE, OR VISIT www.LegalMalpracticeClassAction.com

If you have a pending lawsuit against any of the Defendants or Former Defendants for legal malpractice related to the 1994 MCIC Settlement Agreement, speak to your lawyer in that case immediately. In order to continue your own lawsuit, you must opt out of this Class within 45 days of this Notice, as described below.

OPTING OUT OF THE CLASS SETTLEMENT

If you don't want to be part of this Class Settlement because you want to maintain your right to sue or continue to file your own lawsuit against any or all of the Defendants or Former Defendants concerning the legal issues in this Case, then you must take steps to opt out.

14. How do I opt out of the Class Settlement?

To opt out of the Class Settlement, you must complete the form entitled "Request to Opt Out of the Settlement Class", a copy of which is available by visiting www.LegalMalpracticeClassAction.com. You must complete the form in its entirety, sign it where indicated, and send it by certified mail, return receipt requested, so that it is **received** no later than 45 calendar days from the date of this Notice by the Administrator at the following address:

Angelos Settlement
c/o Strategic Claims Services
P.O. Box 230
600 N. Jackson Street, Suite 205
Media, PA 19063

You may not opt out of the Settlement by phone or email. You must send the opt-out form to the Administrator by certified mail to opt out of the Class Settlement. If you have any questions about the opt-out form, please call the Administrator toll-free at 1-866-274-4004 or visit www.LegalMalpracticeClassAction.com. In responding to inquiries, the Administrator, who is not an attorney, will not be deemed to be providing legal advice or entering into an attorney-client relationship with the inquirer.

15. If I opt out, can I get benefits from this Class Settlement?

No. If you opt out, you cannot be part of this Class Settlement. You will not be eligible for any payments from the Qualified Settlement Fund, and you cannot object to the Class Settlement. You will not be legally bound by anything that happens in this Case.

If you opt out, you may sue, continue to sue, or be part of a different lawsuit against any or all of the Defendants or Former Defendants about the legal issues in this Case in the future. You will assume the risk of failure of any such litigation, which may quickly become time-barred (if it is not already time-barred) due to the statute of limitations. You may wish to consult with independent counsel before opting out of this Class Settlement.

QUESTIONS? CALL 1-866-274-4004 TOLL FREE, OR VISIT www.LegalMalpracticeClassAction.com

16. If I don't opt out, can I sue any or all of the Defendants for the same thing later?

No. See Question 13, above.

THE LAWYERS REPRESENTING YOU

17. Do I have a lawyer in this case?

The Court decided that the law firm of Gallagher Evelius & Jones LLP ("GEJ") in Baltimore, Maryland will represent you and all Settlement Class Members in this Case. The Court appointed GEJ attorneys Paul S. Caiola, Joe Dugan, Brian T. Tucker, Sarah R. Simmons, and Tory S. Trocchia as Class Counsel. More information about the law firm, its practice, the attorneys serving as Class Counsel, and their experience is available at www.LegalMalpracticeClassAction.com.

If you want to be represented by your own lawyer, you may hire one at your own expense. You may enter an appearance in the case through that attorney, if you so desire. **The cost of engaging private counsel and pursuing your individual claims outside this class action is likely to exceed the value of those claims.**

18. How will the lawyers be paid?

Class Counsel will ask the Court to approve a payment for legal fees equal to 33% of the Qualified Settlement Fund, as well as payment of the litigation expenses Class Counsel incurred to prosecute the Case. The attorneys' fees would pay Class Counsel for investigating the facts, litigating the Case for years, and negotiating the Class Settlement, all of which Class Counsel did without any guarantee of a single dollar of compensation. Any award of attorneys' fees and expenses will be paid out of the Qualified Settlement Fund. Defendants have agreed not to oppose a Court award of attorneys' fees and expenses.

OBJECTING TO THE CLASS SETTLEMENT

You can tell the Court that you don't agree with the settlement or some part of it.

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

If you're a Settlement Class Member, you can object to the Class Settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter saying that you object to the Class Settlement. Be sure to include your name, address, telephone number, signature, and the reasons you object to the settlement. Mail the objection to all of the parties listed below, postmarked no later than October 28, 2024.

QUESTIONS? CALL 1-866-274-4004 TOLL FREE, OR VISIT www.LegalMalpracticeClassAction.com

1. **Court**
Clerk of the Court
Circuit Court for Baltimore City
111 N. Calvert St., Room 412
Baltimore, MD 21202
2. **Class Counsel**
Paul S. Caiola
Gallagher Evelius & Jones LLP
218 N. Charles St., Suite 400
Baltimore, MD 21201
3. **Defense Counsel**
Benjamin Rosenberg
Rosenberg Martin Greenberg, LLP
25 S. Charles St., 21st Floor
Baltimore, MD 21201
4. **Defense Counsel**
Jeffrey M. Schwaber
Stein Sperling Bennett De Jong Driscoll PC
1101 Wootton Parkway, Suite 700
Rockville, MD 20852
5. **Defense Counsel**
David A. Wilson
Thompson Hine LLP
1919 M Street NW, Suite 700
Washington, DC 20036
6. **Settlement Administrator**
Paul Mulholland
Strategic Claims Services, Inc.
600 N. Jackson St., Suite 205
Media, PA 19063

20. What is the difference between objecting and opting out?

Objecting is simply telling the Court that you don't like something about the Class Settlement. You can object only if you stay in the Class. Opting out is telling the Court that you don't want to be part of the Class. If you opt out, you have no basis to object because the Case no longer affects you.

THE FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the Class Settlement. You may attend, but you don't have to. If you attend, you may ask to speak. If you did not give timely notice as discussed in questions 19 and 23, however, the Court may not allow you to speak in opposition to the Settlement.

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

The Court will hold a Final Approval Hearing at 9:00 AM on November 22, 2024, remotely via Zoom.

At this hearing, the Court will consider whether the Class Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. During or after the hearing, the Court will decide whether to approve the Class Settlement. We do not know how long these decisions will take.

We will post information on www.LegalMalpracticeClassAction.com about how to attend and, if appropriate, participate in the remote hearing.

22. Do I have to come to the Final Approval Hearing?

No, **you do not have to come** to the hearing to receive the benefits of the settlement. But, you are welcome to attend. If you send a written objection, you don't have to come to Court to talk about it. As long as you mailed your objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

23. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. **You must send a letter** saying that it is your "Notice of Intention to Appear in Cynthia M. Clark, et al. v. Peter G. Angelos, et al., Case No. 24-C-21-000847." Be sure to include your name, address, telephone number, and your signature. If you intend to object to or oppose any aspect of the Class Settlement, you must also indicate the basis for your objection or opposition and provide any supporting documentation. Your Notice of Intention to Appear must be postmarked no later than October 28, 2024, and must be sent to the Clerk of the Court, Class Counsel, Defense Counsel, and the Settlement Administrator at the six addresses in question 19.

If you do not send this letter, the Court may not allow you to speak at the hearing. You also may not speak at the hearing if you opt out of the Class.

IF YOU DO NOTHING

24. What happens if I do nothing at all?

If you do nothing, you will be a Settlement Class Member. You or the MCIC Settlement Beneficiary with whom you are associated will receive five annual settlement checks from the Qualified Settlement Fund, so long as Court approves the Class Settlement, and so long as the MCIC Settlement Beneficiary does not opt out.

However, you won't be able to file a lawsuit of your own, continue with a lawsuit of your own, or be part of any other lawsuit against any of Defendants or Former Defendants about the legal issues in this Case.

GETTING MORE INFORMATION

26. Are there more details about the Settlement?

This Notice summarizes the proposed Class Settlement. More details are included in a Settlement Agreement. You can get a copy of the Settlement Agreement by visiting www.LegalMalpracticeClassAction.com.

27. How do I get more information?

You can call the Settlement Administrator, Strategic Claims Services, Inc., at 1-866-274-4004 toll free, or visit the website at www.LegalMalpracticeClassAction.com, where you will find answers to common questions about the Class Settlement and other information.

In responding to inquiries, the Administrator, who is not an attorney, will not be deemed to be providing legal advice or entering into an attorney-client relationship with the inquirer.

**SENT BY ORDER OF
THE CIRCUIT COURT FOR BALTIMORE CITY**

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Angelos Settlement
c/o Strategic Claims Services
600 N. Jackson Street, Suite 205
Media, PA 19063

IMPORTANT LEGAL NOTICE – PLEASE FORWARD

Mail ID: [addressID]
[addressname1]
[addressname2] [addressname3]
[addressCareOf]
[addresspart1] [addresspart2]
[addresscity], [addressState] [addresszip]

EXHIBIT B

ATTENTION:

The Settlement Administrator sent the enclosed Notice to you at multiple addresses because the Administrator could not determine your current address from the information available to it. If the Class Settlement receives final approval from the Court following the November 22, 2024 hearing, the Settlement Administrator will send payments to all MCIC Settlement Beneficiaries.

To ensure that settlement payments reach you, YOU MUST take the following action:

- Send an email to info@strategicclaims.net, with the subject line:
Angelos Class Action – Class Member Address Update
- In the body of the email, include the following information:
 1. Your name;
 2. The name of the MCIC Settlement Beneficiary to whom you are related or whose estate you represent. You can find this person's name on the address line of the Notice you received. If you are the MCIC Settlement Beneficiary, write **Class Member: Self**;
 3. The MAIL ID number shown on the Notice you received;
 4. The address(es) at which you received the Notice; and
 5. Your preferred mailing address for receipt of settlement payments, or, if you are not the right person to receive mail on behalf of the MCIC Settlement Beneficiary, then the name and preferred mailing address of the appropriate person to receive this mail.

EXHIBIT C

October 7, 2024

Mr. Paul S. Caiola
Gallagher Evelius & Jones LLP
218 N. Charles Street, Suite 400
Baltimore, MD 21201

Reference: Proposed Class Action Settlement – Annette P Isaac, Personal Representative for the Estate of Belton Isaac, Sr.

Dear Mr. Paul S. Caiola:

I would like to thank your law firm for representing us in this Proposed class action settlement. However, in response to your letter dated September 11, 2024, I had a concern about the signature of Georgia K. Angelos, Personal representative of The Estate of Peter G. Angelos; as you can see the signature does not look authentic. I would like to confirm the signature is authentically, Georgia K. Angelos please.

On page 12, number III. Incentive Payment for Class Representatives. I **OBJECT** to the \$30,000.00 that is requested (\$10,000.000 for each of the three Class Representatives – Ms. Clark, Mr. Loverde, and the McCarthys to compensate them for the substantial time they devoted to the pursuit of this Case); in addition to the 33% of the gross Qualified Settlement Fund as attorneys' fees, plus reimbursement of out-of-pocket costs, and Administrative fees is unreasonable. This amount (\$30,000.00) is taking from the beneficiaries that have taken care of loved ones as a result of the medical injuries sustained as a result of Asbestos, Other Cancers, Lung Cancer or Mesothelioma. There is no price tag that could replace ones' health, nonetheless, the substantial impact on those who have cared for or may still be caring for their loved ones can be financially stressful; therefore, I **OBJECT** to the \$30,000.00 Incentive Payment.

Sincerely,

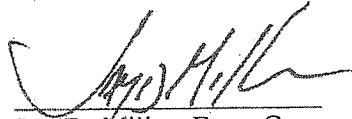

Annette P. Isaac


Should you have any questions, please visit www.legalmalpracticeclassaction.com or contact the class administrator, Strategic Claims Services, at 866-274-4004.

Very truly yours,



Paul S. Caiola, Esq.
Gallagher Evelius & Jones LLP



Jay D. Miller, Esq., General Counsel
The Law Offices of Peter G. Angelos, P.C.



Georgia K. Angelos
Personal representative of The Estate of Peter G. Angelos

cc: Paul S. Caiola, Class Counsel
Benjamin Rosenberg, Defense Counsel
Jeffrey M. Schwaber, Defense Counsel
David Wilson, Defense Counsel
Paul Mulholland, Strategic Claims Svc., Inc.
Circuit Court for Baltimore City

Exhibit 1



OCT 30 2024

BALTIMORE MD 212
28 OCT 2024 PM 2
As in past
USPS is
if you choose
please mail early
FOREVER USA

Settlement Administrator
Paul Mulholland
Strategic Claims Services, Inc.
600 N Jackson St., Suite 205
Medina, PA 19063

19063-256455



IN THE CIRCUIT COURT FOR BALTIMORE CITY

CYNTHIA M. CLARK as successor personal
representative of THE ESTATES OF WALTER
F. KACALA and HELEN M. KACALA, *et al.*,

Plaintiffs,

v.

PETER G. ANGELOS, ESQ., *et al.*,

Defendants.

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Case No. 24-C-21-000847 OT

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APPENDIX C

IN THE CIRCUIT COURT FOR BALTIMORE CITY

CYNTHIA M. CLARK as successor personal
representative of THE ESTATES OF WALTER
F. KACALA and HELEN M. KACALA, *et al.*,

Plaintiffs,

v.

PETER G. ANGELOS, ESQ., *et al.*,

Defendants.

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Case No. 24-C-21-000847 OT

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DECLARATION OF PAUL CAIOLA

I, Paul Caiola, being of sound mind and above age eighteen, make this Declaration based on personal knowledge and information provided to me in the course of my professional duties:

1. I am a partner at Gallagher Evelius & Jones LLP, a Baltimore-based firm that has served our community for over six decades. I have led the trial team in the above-captioned litigation since the outset of the case and have personal knowledge about the work that each trial team member did to further the litigation.

Trial Team

2. I have extensive experience with complex commercial litigation, particularly in cases (like this one) with insurance coverage issues. I served as lead counsel in a federal action that spanned more than nine years, Deluxe Building Systems, Inc. v. Constructamax, Inc. et al., No. 06 Civ. 2996 (D.N.J.). In that litigation, our team was successful in obtaining summary judgment on behalf of Whitlock Mills, LP as to liability against a large insurance company that had issued a performance bond to a contractor and later took over the work pursuant to a takeover agreement when the contractor defaulted. After the court ruled that due to breaches of

the takeover agreement, Whitlock Mills could obtain damages from the insurance company in excess of the penal sum of the bond (one of the first such rulings in the country), Whitlock Mills obtained a \$27 million settlement from the insurer.

3. I also led a team that served, in collaboration with the Public Justice Center, as plaintiffs' counsel in Gorres v. Robinson, No. GLR-21-3029 (D. Md.), a putative class action filed by unemployed Marylanders against the Maryland Department of Labor. After we filed both the complaint and a motion for class certification, the parties entered into a months'-long mediation process facilitated by the Honorable Susan K. Gauvey. The parties eventually reached a settlement, making critical reforms to address delays and interruptions in benefits payments and ensure fair process related to overpayments.

4. I graduated from the University of Maryland Francis King Carey School of Law, *summa cum laude*, Order of the Coif, in 1995. Prior to joining Gallagher, I served as a judicial law clerk to United States District Judge Walter E. Black, Jr.

5. I am familiar with the work and reputation of Brian Tucker. Mr. Tucker, who was involved with this litigation since its inception, has extensive experience with liability insurance coverage claims and disputes on behalf of both insureds and insurers, and routinely provides advice on wide-ranging insurance and contract interpretation issues as coverage counsel and outside general counsel to organizations. Mr. Tucker's practice involves pursuing insurance coverage for clients for catastrophic personal injury claims in a variety of jurisdictions, including for cases involving claims and policies from decades ago. Over the past five years alone, Mr. Tucker has represented numerous clients as coverage counsel on many such matters, with alleged damages and occurrence-based policies across multiple insurers in excess of \$100 million.

6. Gallagher is general counsel to a Maryland based insurance company, and for the past nine years Mr. Tucker has been its lead attorney. He has protected the interests of this insurer in a variety of insurance coverage disputes, including handling first-party and third-party coverage issues and defending and pursuing claims.

7. Mr. Tucker graduated from the University of Maryland Francis King Carey School of Law, Order of the Coif, in 2002. Prior to joining Gallagher, Mr. Tucker served as a judicial law clerk to the Honorable Richard D. Bennett of the United States District Court for the District of Maryland.

8. I am familiar with the work and reputation of Joe Dugan. Mr. Dugan graduated *summa cum laude* from Indiana University Maurer School of Law in 2015. After graduating, Mr. Dugan clerked first for Hon. James K. Bredar of the U.S. District Court for the District of Maryland, and then for Hon. David F. Hamilton of the U.S. Court of Appeals for the Seventh Circuit. Following his clerkships, Mr. Dugan served as a trial attorney with the U.S. Department of Justice, Civil Division, Federal Programs Branch, and then joined Gallagher in 2019.

9. While at Gallagher, Mr. Dugan has worked on many complex commercial cases, including cases involving intellectual property, employment law, contract and corporate governance principles, and constitutional issues. He also has done work in connection with putative class actions. Mr. Dugan defended a putative class action against a property management company, which resulted in a favorable settlement agreement, and he currently is defending two additional class actions involving housing-related claims. Mr. Dugan also is part of a team of lawyers defending one of many parties in multidistrict litigation that encompasses putative class claims.

10. I am familiar with the work and reputation of Sarah Simmons. Ms. Simmons is a mid-level associate at Gallagher with experience in commercial civil litigation in the areas of construction, real estate, tort claims, and general commercial contract disputes. Ms. Simmons was also part of the plaintiffs' counsel's team in Gorres v. Robinson, the putative class action discussed above.

11. Prior to joining Gallagher in 2021, Ms. Simmons clerked for the Honorable Judge Kathryn Grill Graeff on the Appellate Court of Maryland (2019-2021). Ms. Simmons graduated *summa cum laude* in 2019 from the University of Baltimore School of Law. During law school, Ms. Simmons served as Executive Editor of the University of Baltimore Law Review. In summer 2018, she served as a judicial intern to the Honorable Clayton Greene Jr. on the Maryland Supreme Court, and in spring 2019, she clerked for the Maryland Office of the Attorney General with the Legislative Affairs Director. Ms. Simmons also worked as a legal intern for Hopeworks, which helps survivors of domestic violence obtain protective orders and access resources in Howard County, Maryland.

12. I am familiar with the work and reputation of Tory Trocchia, an associate at Gallagher with experience in commercial civil litigation. While at Gallagher, Ms. Trocchia has had the opportunity to work on several complex commercial cases, including cases involving contract disputes, employment law, insurance coverage claims, and constitutional issues. Ms. Trocchia currently is part of a team of lawyers defending one of many parties in multidistrict litigation that encompasses putative class claims.

13. Prior to earning her JD from the University of Maryland Francis King Carey School of Law, where she graduated *magna cum laude*, Order of the Coif, in 2022, Ms. Trocchia spent five years at a Baltimore-based investment firm (2014-2019), where she worked first as a

relationship manager for institutional clients and subsequently on the fixed income investment team. During law school, Ms. Trocchia competed in mock trial competitions as a member of Maryland Law's National Trial Team and honed her appellate brief-writing and research skills as a student attorney in the Juvenile Lifer Advocacy Clinic. Before joining Gallagher in 2023, she served as a judicial law clerk to the Honorable R. M. Nazarian of the Appellate Court of Maryland (2022-2023).

Litigation Strategy

14. This litigation required years of hard work and creative lawyering. The trial team's efforts included researching and drafting three lengthy complaints, and successfully avoiding motions to dismiss as to each; defeating an early motion to strike Plaintiffs' class allegations, successfully moving to dismiss Defendants' subsequent interlocutory appeal, and successfully resisting Defendants' petition for a writ of certiorari to the Maryland Supreme Court; obtaining over 470,000 pages of discovery material from Defendants following three successful motions to compel; coordinating with an industry expert to analyze the Class damages and determine the settlement value of asbestos injury claims in the absence of insurance limits; and conducting fact investigation outreach to absent Class Members, receiving and reviewing more than 1,000 questionnaires from absent Class Members, and avoiding Defendants' attempt to restrain that outreach through a TRO motion.

15. To build our case, the trial team painstakingly reviewed the documents described in the underlying litigation as the Nagle and Chapper Documents, together with briefs and discovery material from the underlying proceedings. The team engaged no fewer than seven experts to assist with various aspects of the case. We served sixty interrogatories and 158 requests for admission in this lawsuit, and we took or defended nine depositions.

16. We also have played an important role in ascertaining contact information for the absent Class Members. We started this effort long before the Court entered its Order preliminarily approving the Proposed Class Settlement. More recently, Tory Trocchia has spearheaded this effort.

17. In mid-2023, we determined that our fact investigation should include contacting absent class members to survey them on information relevant to class certification and the merits of the case.

18. Using public filings from the underlying 2005 Tort Action, we ascertained the names and social security numbers of all 7,185 MCIC Settlement Beneficiaries who received payment in 1994 (the “1994 Payee Beneficiaries,” and together with the personal representatives of their estates, the “1994 Payees”), as well as the names and addresses of the personal representatives of the estates of many of the 1994 Payee Beneficiaries.

19. For the 1994 Payee Beneficiaries for whom the public filings in the Tort Action did not list addresses or personal representative information, we undertook additional efforts to ascertain this information. Specifically, between March and September 2023, a group of Gallagher’s administrative assistants and paralegals conducted searches using Thompson Reuters PeopleMap and the Maryland Register of Wills website to determine: which 1994 Payee Beneficiaries were still alive; the addresses of the living 1994 Payee Beneficiaries; and the names and addresses of the personal representatives of the deceased 1994 Payee Beneficiaries.

20. Once we had generated a list of addresses for all 7,185 1994 Payees, we engaged Jeffrey Izes and his firm, Izes Consulting Services (together with Jeffrey Izes, “ICS”), a full-service call center consulting company, to “skip-trace” the data to obtain current address information. ICS first arranged for the data of a sample group of approximately 800 1994

Payees to be “skip-traced” in September 2023, and later arranged for the data of the remaining 1994 Payees to be skip-traced in October 2023.

21. We also engaged ICS to act as a call center. In September 2023, using the skip-traced data, we mailed a letter (the “Pilot Mailing”) to a sample group of approximately 800 1994 Payees. In this letter, we informed recipients of the filing of this lawsuit and asked them to call the ICS call center during the weeks of October 2 and October 9, 2023 if they were willing to provide our firm with information related to the case. ICS received calls from approximately 150 1994 Payees who received the Pilot Mailing, asked callers a specified list of questions drafted by Gallagher regarding their or their loved one’s exposure to MCIC’s asbestos products and their contact information, and shared callers’ answers to these questions with Gallagher.

22. Following the Pilot Mailing, we decided to cease using the ICS call center and to instead collect additional information from 1994 Payees via a written questionnaire. In November 2023, we mailed a letter to all 1994 Payees who either had not received the Pilot Mailing or had received the Pilot Mailing but had not called the call center to answer our questions. Enclosed with this Second Mailing was a copy of Plaintiffs’ Third Amended Class Action Complaint in this case, a questionnaire, and an authorization for release of information. The letter requested that willing recipients complete the survey and authorization and return it to Gallagher via mail or email.

23. For 1994 Payees whose Second Mailings were returned as undeliverable and for addresses for which Gallagher received reports that the intended recipient was no longer residing there, Gallagher’s legal administrative assistants used Thompson Reuters PeopleMap and the Maryland Register of Wills website to attempt to identify new addresses or, in the case of deceased 1994 Payees, the names and addresses for alternate personal representatives or

appropriate next of kin. In cases where we were successful in identifying new addresses, we mailed copies of the Second Mailing to those addresses. In cases where we were unsuccessful, the addresses on record were marked as bad addresses for recordkeeping purposes.

24. Even now, many months later, we continue to receive occasional calls, emails, and completed questionnaires and authorizations in response to the Second Mailing. Through these calls, emails, and returned questionnaires and surveys, we have been able to confirm as good the addresses for more than 1,200 Class Members.

25. On April 19, 2024, the parties attended a full-day mediation session and reached a tentative agreement in principle on the terms of a class-wide settlement. During subsequent settlement negotiations, the parties agreed to engage Strategic Claims Services (“SCS”), a nationally recognized class action settlement administration firm, to administer the settlement, including mailing the Notice to all Class Members and mailing settlement checks to all MCIC Settlement Beneficiaries who do not opt out of the Class.

26. To facilitate SCS’s mailing process, the parties agreed on the class member lists and provided SCS with those lists as well as their lists of vetted addresses. Gallagher’s vetted address list included information about which addresses had been confirmed as good and which had been confirmed as bad by prior skip-tracing efforts, returned mail, and caller reports. SCS skip-traced all of the addresses provided and ran them through the United States Postal Service National Change of Address Service to obtain current address information. In cases where the Law Firm’s contact information for a Class Member conflicted with Gallagher’s and neither was ruled out by SCS’s address updating procedures, SCS sent the Notice to both sets of addresses.

27. In October 2024, SCS provided Gallagher with a list of several hundred Class Members for whom it determined that all addresses were undeliverable. Gallagher undertook

efforts to find alternate addresses for these Class Members via Thomson Reuters PeopleMap and Accurant, which resulted in new addresses being identified for, and new Notices mailed to, 245 Class Members.

28. SCS and Gallagher recently have engaged in discussions regarding the appropriate process for identifying addresses for the approximately 200 payee Class Members for whom all known addresses have been determined to be undeliverable, as well as for any payee Class Members for whom SCS later determines that all addresses on file are bad. SCS and Gallagher preliminarily have agreed that, in order to maximize the number of Settlement Class Members who receive settlement payments, SCS will run searches on the Maryland Register of Wills website to identify new contact information and addresses where possible. The costs of this effort will be charged to the subset of Class Members who require additional effort to find them, rather than to the full Class.

Time Investment and Billing Records

29. I am familiar with the contemporaneous billing records maintained by timekeepers at Gallagher who recorded time to the above-captioned matter, as well as in the related case of Norman J. Loverde ex rel. Estates of Stephen J. Loverde, Sr. & Mary Anna Loverde, et al. v. Georgia K. Angelos, et al., No. 24-C-23-005142 OG (Balt. City Cir. Ct.).

30. Through the assistance of a senior paralegal, our firm has prepared a summary, by quarter, of the hours billed, the general work performed, and the value of the time (computed pursuant to our actual historical rates and our current rates) across the two matters. This information is set forth in the tables below.

31. The following table represents the period April 2019 through September 2019:

| Date | Summary of Work Completed | Value of Time |
|----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| 2 nd Quarter 2019 (April – June) | Undertook initial factual and legal investigation into possible malpractice class action; | \$18,941.50 |
| 3 rd Quarter 2019 (July – September) | Continued investigation into potential malpractice claims, conferred with potential named plaintiffs, and discussed case strategy; | \$2,047.00 |
| | Total | \$20,988.50 |

32. The following table represents the period October 2019 through September 2020:

| Date | Summary of Work Completed | Value of Time |
|------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| 4 th Quarter 2019 (October – December) | Reviewed select materials in underlying cases obtained from clerk's office; | \$841.00 |
| 1 st Quarter 2020 (January – March) | Continued investigation into potential malpractice claims and discussions concerning case strategy; | \$8,284.50 |
| 2 nd Quarter 2020 (April – June) | Continued investigation into potential malpractice claims and discussions concerning case strategy; | \$5,106.00 |
| 3 rd Quarter 2020 (July – September) | Conducted research related to legal malpractice and settlement fraud litigation; Continued investigation into potential malpractice claims and discussions concerning case strategy; | \$11,964.00 |
| | Total | \$26,195.50 |

33. The following table represents the period October 2020 through September 2021:

| Date | Summary of Work Completed | Value of Time |
|------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| 4 th Quarter 2020 (October – December) | Continued research related to legal malpractice, Maryland asbestos litigation, and settlement fraud litigation; Continued investigation into potential malpractice claims; Team discussions concerning class certification and case strategy; | \$20,893.00 |

| | | |
|----------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 1 st Quarter 2021 (January – March) | Continued research related to legal malpractice, Maryland asbestos litigation, and settlement fraud litigation; Prepared class action complaint; Conferred with team regarding complaint, class action claims issues, prior malpractice action against defendants, and case strategy; | \$59,579.00 |
| 2nd Quarter 2021 (April – June) | Strategized with team regarding discovery and class certification discovery issues; Drafted briefs; Prepared discovery and first amended complaint; Continued research related to legal malpractice class actions, class certification, privilege issues and class certification discovery; Developed ESI protocol and conferred with opposing counsel; | \$92,730.00 |
| 3 rd Quarter 2021 (July – September) | Strategized with team and prepared briefs; Continued research related to legal malpractice class actions, class certification, insurance claims, and appeal issues; Continued team discussions regarding discovery issues, case strategy, motion hearing strategy, and appeal briefing strategy; | \$129,782.00 |
| | Total | \$302,984.00 |

34. The following table represents the period October 2021 through September 2022:

| Date | Summary of Work Completed | Value of Time |
|------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| 4 th Quarter 2021 (October – December) | Strategized with team and prepared briefs in support of motions, oppositions, and answer to petition for writ of certiorari; Continued research related to legal malpractice claims; Analyzed discovery documents; Prepared discovery materials; Continued team discussions regarding discovery issues, insurance coverage issues, and case strategy; Conferred with opposing counsel regarding case issues; | \$122,777.00 |
| 1 st Quarter 2022 (January – March) | Continued research related to legal issues concerning legal malpractice class actions, class certification, and insurance claims; Analyzed discovery documents; Prepared briefs in support of motions; Conferred with opposing counsel | \$125,087.00 |

| | | |
|----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| | regarding discovery issues and stipulated confidentiality order; Continued team discussions regarding discovery, insurance issues, and case strategy; | |
| 2nd Quarter 2022 (April – June) | Continued research related to legal issues concerning legal malpractice class actions and insurance claims, and class members’ contact information; Analyzed discovery documents; Prepared briefs in connection with motion practice; Prepared discovery materials; Continued team discussions regarding discovery and insurance issues, discovery disputes, expert witnesses, and case strategy; | \$198,666.00 |
| 3 rd Quarter 2022 (July – September) | Continued team discussions and work on discovery, insurance issues, class certification issues, expert issues, bankruptcy cases, damage analysis and case strategy; Prepared for and represented clients at motions hearing and discovery conference; Continued research related to legal malpractice class actions and insurance claims; Prepared second amended complaint, briefs in support of motions, and discovery materials; | \$242,389.00 |
| | Total | \$688,919.00 |

35. The following table represents the period October 2022 through September 2023:

| Date | Summary of Work Completed | Value of Time |
|------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| 4 th Quarter 2022 (October – December) | Continued team discussion and work on discovery, insurance issues, class certification, expert issues, bankruptcy cases, damage analysis, and case strategy; Continued research related to legal malpractice class actions, class certification, and insurance claims; Continued developing second amended complaint and briefs in connection with motion practice; Prepared for and represented clients at motions hearing; | \$350,057.50 |

| | | |
|----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| 1 st Quarter 2023 (January – March) | Initiated search for class member contact information; Continued team discussions and work on discovery, expert issues, class certification, insurance issues, bankruptcy cases, damage analysis, and case strategy; Continued research related to legal malpractice class actions, federal jurisdiction, class certification, damages, and insurance claims; Prepared third amended complaint and briefs in connection with motion practice; Prepared for and represented clients at motions hearing; | \$292,003.50 |
| 2nd Quarter 2023 (April – June) | Began drafting materials for outreach to class members in furtherance of fact investigation; Continued work on discovery, expert issues, and compiling class member contact information; Prepared briefs in connection with motion practice; Prepared for and represented clients at motions hearing and discovery conference; Continued team discussions regarding discovery and insurance issues, class certification, expert witnesses, and case strategy; | \$383,040.00 |
| 3 rd Quarter 2023 (July – September) | Initiated class member outreach effort for fact investigation; Continued work on discovery, outreach effort, and expert issues; Prepared briefs in connection with motion practice; Prepared for and represented clients at status conference and motions hearing; Continued team discussions regarding class discovery issues, outreach efforts, class certification, expert witnesses and case strategy; | \$309,002.00 |
| | Total | \$1,334,103 |

36. The following table represents the period October 2023 through September 2024:

| Date | Summary of Work Completed | Value of Time |
|------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|---------------|
| 4 th Quarter 2023 (October – December) | Continued team discussions and work on discovery, expert issues, insurance issues, fact investigation program, class | \$351,209.10 |

| | | |
|----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| | certification, fact investigation issues and case strategy; Prepared for and attended depositions; Prepared fraudulent conveyance complaint and briefs in connection with motion practice; Prepared for and represented clients at motions hearings and discovery conference; | |
| 1 st Quarter 2024 (January – March) | Continued team discussions and work on discovery, class certification, expert issues, fact investigation program, asset issues, mediation, insurance issues, fact investigation issues, and case strategy; Prepared briefs in connection with motion practice; Prepared and filed superseding class certification motion; Prepared for and attended depositions; Analyzed Abate I trial transcript; | \$415,020.00 |
| 2nd Quarter 2024 (April – June) | Continued team discussions and work on discovery issues, class certification, asset issues, mediation, settlement issues, insurance issues, fact investigation program, and case strategy; Prepared reply in support of superseding class certification motion; Prepared for and represented clients at mediation; Conferred with settlement beneficiaries regarding case status; | \$306,167.00 |
| 3 rd Quarter 2024 (July – September) | Initiated team discussions and work on settlement agreement, disbursement agreement, class notices, tolling agreement; Continued team discussions on settlement issues, class certification, and case strategy; Prepared motion for preliminary approval of class settlement; Prepared for and represented clients at motions hearing; Conferred with settlement beneficiaries regarding case status; | \$203,364.00 |
| | Total | \$1,275,760.10 |

37. The following table represents the period October 2024 through November 11, 2024:

| Date | Summary of Work Completed | Value of Time |
|-----------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| 4 th Quarter 2024 (October 1 – November 11, 2024) | Continued work with third party on settlement and disbursement agreement, class member contact tracking, and class notices; Prepared briefs in connection with motion for final settlement approval, fee petition, and related filings; Conferred with settlement beneficiaries regarding settlement and case status; Continued team discussions regarding disbursement agreement, settlement issues, class members and class notice issues, fee petition, and case strategy; | \$76,482.00 |
| | Total | \$76,482.00 |

38. In total, as of November 11, 2024, Gallagher timekeepers recorded 3,401 hours to this matter, totaling \$3,725,432.10 at our actual historical rates; and \$4,193,016.00 at our current rates.

39. Based on my experience, Gallagher's rates, which are the standard hourly rates actually charged to, and paid by, clients of our firm, are consistent with if not substantially lower than the prevailing market rates charged by other law firms in the Baltimore area for attorneys and paraprofessionals of comparable experience, expertise, and qualifications.

40. Gallagher is a highly respected firm, with an established reputation for providing quality legal work throughout the region. In Reaching Hearts Int'l, Inc. v. Prince George's County, 478 F. App'x 54, 58-60 (4th Cir. 2012), the U.S. Court of Appeals for the Fourth Circuit affirmed an award of attorneys' fees for a multiyear case that included full hourly rates for Gallagher attorneys for the entire period at the then-current rates.

41. Gallagher staff who are not timekeepers also played a major role in this litigation, more so than on a typical litigation matter. While we cannot precisely quantify that time investment, it was substantial.

42. In addition to our time, Gallagher advanced \$330,012.50 in litigation costs across the two matters. Those costs are summarized in the table below:

| Category of Expenses | Value of Time |
|------------------------------------------------------------|---------------------|
| Deliveries, Postage, Outside Photocopies | \$32,877.91 |
| Deposition Service and Transcripts | \$23,988.94 |
| Filing, Service and Recording Fees, and Document Retrieval | \$2,807.45 |
| IT Related Services (exclusive of Westlaw legal research) | \$21,132.57 |
| Mediation Fee | \$12,352.28 |
| Experts and Outside Consultants | \$236,853.35 |
| Total | \$330,012.50 |

43. Gallagher's investment in this litigation was amply justified, given the value of the Class claims. Based on the analysis of our damages expert, Christopher Makuc, we computed a base case for damages of just shy of \$93 million.

44. Historically (without accounting for this case), the bulk of Gallagher's litigation practice has involved hourly billable matters, with contingency work representing a fairly small part of our overall practice.

45. The trial team was honored to invest our time, talent, and resources in this litigation that we believe will benefit thousands of Maryland families. Many Class Members who responded to our Fall 2023 fact investigation expressed gratitude for our work and enthusiasm about our efforts on the case.


46. The Class Members appear to be satisfied with the settlement, insofar as SCS received only fourteen valid/timely opt-out requests, as well as two untimely opt-out requests

that the parties nevertheless have agreed to treat as valid. Fifteen of the opt-out requests were from MCIC Settlement Beneficiaries, while one was from a Surviving Family Member. SCS also received one valid/timely objection. This is out a Class of 10,215 MCIC Settlement Beneficiaries and Surviving Family Members.

47. Gallagher invested in this case because we believed in our clients and their claims, and also because we saw an opportunity to bring a benefit to deserving Angelos clients who may not be able to afford private representation (and for whom the cost of hourly litigation would not make sense given their stakes in the case), while also achieving economic success for Gallagher.

I SOLEMNLY AFFIRM under the penalties for perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Date: November 12, 2024



Paul S. Caiola

In Re: BALTIMORE CITY * IN THE CIRCUIT COURT
PERSONAL INJURY * FOR BALTIMORE CITY
AND WRONGFUL DEATH *
ASBESTOS CASES * Consolidated File
* 89236705
*

ABATE, et al. *
Plaintiffs *

v. *

ACANDS, INC., et al. *
Defendants *

MEMORANDUM OPINION AND ORDER

Marshall A. Levin

Judge Marshall A. Levin
Circuit Court for Baltimore City

Filed: JUN 3 1993

EXHIBIT

1

PGA003017

LOPA 019763

memoranda contain more than 1400 pages. Additionally, the parties who filed these motions have "favored" this court with more than 10,000 pages of exhibits.

A. Procedural Background

The plaintiffs, as users and bystanders of asbestos-containing products, sought to establish that during certain time-frames, six defendants (who remained after settlements) were liable to them for the manufacture, sale, distribution, and/or installation of these asbestos-containing products. Their cases were based on theories of negligence and strict liability. In addition these plaintiffs sought to establish that they were entitled to punitive damages which were to be calculated according to certain ratios. This aspect of the trial involved only the common issues of liability and punitive damages. The issues of whether any of these common-issues plaintiffs had sustained an asbestos related disease; whether they contracted it because of exposure to an asbestos-containing product manufactured, sold, distributed and/or installed by

the defendants; whether that exposure was a substantial contributing factor in causing the asbestos related disease; and whether they were entitled to compensatory damages, were to be decided in future mini-trials. These mini-trials would be held later and before different juries.

The six Illustrative plaintiffs, however, proceeded on a unitary all-issues basis. That is, they had to prove disease, substantial exposure, and damages. No separate liability finding was necessary, inasmuch as that would have been established in the Common-Issues phase of the trial, if the jury so found. In addition, various cross-claims were resolved in the trial.

The length and complexity of this asbestos trial stems directly from the staggering number of claims for damages for personal injury and/or wrongful death allegedly caused by exposure to asbestos. Unless these thousands of claims can be managed fairly and efficiently they can impair, or even destroy, a judicial system.

the dates of the defendants' negligence and/or strict liability for the various products with respect to foreseeable Users¹² and Bystanders.¹³

The jury was also asked similar questions relating to the two cross-defendants, W. R. Grace and Owens-Illinois (two of the settled defendants).

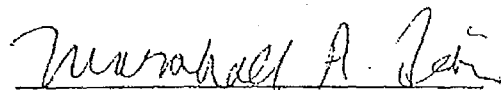
On July 13, 1992, the jury returned a verdict finding all six defendants liable to the common-issues plaintiffs as to all of their asbestos-containing products in both negligence and strict liability with respect to both foreseeable Users and foreseeable Bystanders.

It found ACandS negligent with regard to Users from 1938 to 1972 and, as to Bystanders, from 1938 to 1972. It found it strictly liable from 1957 to the present as to Users and from 1957 to the present as to Bystanders.

The jury found GAF negligent from 1938 to 1981 as to Users and from 1938 to 1981 as to Bystanders. It found it strictly liable from 1938 to the present as to Users and from 1938 to the present

otherwise in this Memorandum Opinion and Order.

However, apart from these common contentions, all of the parties have also raised a myriad of other specific claims of error by motions for new trial, judgment NOV, motions to revise and alter, for remittitur, and other motions based on evidentiary rulings, substantive rulings, trial procedure, and jury instructions. While this court will not specifically address each of these claims, nonetheless, this court has carefully reviewed and considered every claim of error and denies all of the parties' motions for new trial, judgment NOV, and other motions based on such claims, except to the extent indicated otherwise in this Memorandum Opinion and Order.



Marshall A. Levin, Judge

Date:

JUN 3 1993

**CYNTHIA M. CLARK as successor personal
representative of THE ESTATES OF WALTER
F. KACALA and HELEN M. KACALA, et al.,**

V.

Defendants.

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Case No. 24-C-21-000847 OT

* * * * *

Please note that **Exhibits 2, 6, and 7** attached to the Memorandum in Support of Motion for Final Settlement Approval, and **Exhibits 2 and 8** attached to the Memorandum in Support of Motion for Approval of Attorneys' Fees and Expenses to Class Counsel, were filed under seal on November 12, 2024, accompanied by a Motion to Seal Portions of Plaintiffs' Memorandum in Support of Motion for Award of Attorneys' Fees and Expenses to Class Counsel and Portions of Plaintiffs' Memorandum in Support of Motion for Final Settlement Approval.

I certify that on November 12, 2024, a copy of the exhibits identified above were served on counsel for all parties.

Respectfully submitted,

GALLAGHER EVELIUS & JONES LLP

/s/ Joe Dugan

Paul S. Caiola (AIS # 9512120109)

Brian T. Tucker (AIS # 0306180261)

Joe Dugan (AIS # 1812110109)

Sarah R. Simmons (AIS # 1912180151)

Tory S. Trocchia (AIS # 2211290231)

218 North Charles Street, Suite 400

Baltimore MD 21201

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pcaiola@gejlaw.com

btucker@gejlaw.com

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ssimmons@gejlaw.com

ttrocchia@gejlaw.com

Attorneys for Plaintiffs

Date: November 12, 2024

SETTLEMENT AGREEMENT

BETWEEN

MCIC, INC.

**UNITED STATES FIDELITY AND GUARANTY COMPANY
ROYAL INSURANCE COMPANY
CONTINENTAL INSURANCE COMPANY
THE HARTFORD INSURANCE GROUP
LUMBERMENS MUTUAL CASUALTY COMPANY**

AND

**THE LAW OFFICES OF PETER G. ANGELOS
GOODMAN, MEAGHER & ENOCH
ASHCRAFT & GEREL
VERDERAIME & DUBOIS, P.A.
GOLDMAN, SKEEN & WADLER, P.A.
THE LAW OFFICES OF CLIFFORD W. CUNIFF
NOLAN, PLUMHOFF & WILLIAMS, CHARTERED**

EXHIBIT

3

PRIVATE AND CONFIDENTIAL

SETTLEMENT AGREEMENT (this "Agreement") dated as of _____, 1994, between the Law Offices of Peter G. Angelos, Goodman, Meagher & Enoch, Ashcraft & Gerel, Verderaime & DuBois, P.A., Goldman, Skeen & Wadler, P.A., The Law Offices of Clifford W. Cuniff, and Nolan, Plumhoff & Williams, Chartered, (collectively referred to as "Participating Plaintiffs' Counsel"), MCIC, Inc., formerly known as McCormick Asbestos Company ("Defendant"), and United States Fidelity and Guaranty Company, Royal Insurance Company, Continental Insurance Company¹, The Hartford Insurance Group, and Lumbermens Mutual Casualty Company ("Insurers"), (collectively referred to as "the Parties").

WHEREAS, Participating Plaintiffs' Counsel have named Defendant in certain product liability actions filed or to be filed in the State and/or federal courts of Maryland, the Commonwealth of Pennsylvania, and the District of Columbia alleging bodily injury and/or wrongful death allegedly as a result of exposure to asbestos-containing products sold,

¹Seaboard Fire & Marine Mutual Insurance Company is one of the companies which insured Defendant for the type of claims made in the Present Cases. Seaboard Fire & Marine Mutual Insurance Company is a former subsidiary of Continental Insurance Company.

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distributed and/or applied by Defendant ("Actions")²; and

WHEREAS, the Defendant and Insurers have tendered what they believe to be the total aggregate, bodily injury liability insurance coverage available for payment of such Actions (\$12,351,000.00), the Insurers, each having executed affidavits which are attached herewith as Exhibits A1 through A6, inclusive, confirming such coverage; and

WHEREAS, Defendant and Participating Plaintiffs' Counsel desire to settle such Actions on behalf of the Plaintiffs;

NOW, THEREFORE, in consideration of the mutual promises contained herein, and intending to be legally bound thereby, the Parties agree as follows:

Section 1. Representations

Section 1.1. Participating Plaintiffs' Counsel represent that they are counsel in the Actions listed on Exhibit B (Primary Schedule) and Exhibit C (Secondary Schedule) attached hereto and made a part hereof, that Defendant is named or will be named as a

²Defendant has represented to Participating Plaintiffs' Counsel that it has also been named as a Third-party Defendant by Bethlehem Steel Corporation and Sea-Land Service, Inc. in certain maritime cases filed by Leonard C. Jaques, Esquire in the MARDOC dockets of the Federal Courts located in the Districts of Northern Ohio and Michigan. Counsel for those parties were put on notice that discussions/meetings were going to be held to negotiate a global settlement of all claims against Defendant, and were invited to participate in same. However, they declined and are not participating in this Agreement. Participating Plaintiffs' Counsel have not acknowledged this representation to be a fact, however.

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defendant in each such Action and that, to the best of Participating Plaintiffs' Counsel's knowledge, Exhibits B and C include every Action brought or to be brought against Defendant as of November 15, 1993, in which Participating Plaintiffs' Counsel remain as either primary or co-counsel as of the date of execution of this Agreement, whether or not service of process has been perfected.

Section 1.2. This Agreement applies to those Actions listed on Exhibits B and C and to any other Action filed by Participating Plaintiffs' Counsel against Defendant in any court (state or federal within the State of Maryland, the Commonwealth of Pennsylvania, and the District of Columbia on or before November 15, 1993, (collectively, "Present Cases"), (except any such Action that has previously been settled or dismissed with prejudice as to Defendant with respect to the disease process alleged). For purposes of this Agreement, the claim of a Plaintiff and that, if any, of a Plaintiff's spouse for loss of consortium, shall collectively mean and be considered one Action.

Section 1.3. Participating Plaintiffs' Counsel represent that they have authority from their clients to enter into settlement negotiations and make recommendations regarding the settlement of individual cases. Participating Plaintiffs' Counsel further represent that they will recommend that their clients accept the settlement terms set forth in this Agreement. If a Plaintiff elects not to participate in this Agreement, then

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the Plaintiff and the Defendant shall maintain each and every legal right they had as of the effective date of this Agreement.

Section 2. Payment Terms

Section 2.1. Defendant agrees to pay for all present cases by disease process as follows:

| | | | |
|-------|--------------------------------|---|------------------------|
| 101 | Mesotheliomas at \$9,500.00 | = | \$ 959,500.00 |
| 812 | Lung Cancers at \$4,250.00 | = | \$ 3,451,000.00 |
| 441 | Other Cancers at \$1,500.00 | = | \$ 661,500.00 |
| 7,279 | Non Malignancies at \$1,000.00 | = | <u>\$ 7,279,000.00</u> |
| | | | <u>\$12,351,000.00</u> |

Section 2.2. The Defendant agrees that if in addition to the insurance coverage disclosed by Insurers and confirmed by their affidavits, Exhibits A1 through A6, inclusive, other insurance is discovered which would be applicable to claims made, the Defendant will promptly notify Participating Plaintiffs' Counsel and arrange for a pro rata distribution to them for payment to the Plaintiffs identified in Exhibit B.

Section 3. Settlement Procedure

Section 3.1. Each Present Case submitted for settlement must be accompanied by:

- a. An executed release as described below:
 - (i) For Actions alleging the presence of a non-malignant asbestos-related condition, the form of

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release shall be a present disease, pro tanto type release as per Exhibit D.

- (ii) For Actions alleging any malignant asbestos-related condition, the form of release shall be an all-disease pro tanto type release as per Exhibit E.

b. As of the date of this Agreement, Participating Plaintiffs' Counsel will have each submitted to Defendant a "Primary Schedule" (Exhibit B) of all of their clients who are participating in this Agreement. Said ~~schedules contain the~~ names of each claimant worker, his/her social security number, the disease process of the claimant worker, the date(s) of exposure to asbestos-containing products or date claimant was diagnosed with an asbestos-related disease, and, where applicable, the case number. Participating Plaintiffs' Counsel represent that the information contained in said schedules is accurate and current with respect to each Present Case, as of November 15, 1993. Each Participating Plaintiffs' Counsel will have also submitted to Defendant a "Secondary Schedule" (Exhibit C) of their clients who did not meet the established cutoff date under this Agreement of November 15, 1993, and of their clients from Exhibit B who claim a different disease process. In the event that a claimant listed on a Primary Schedule "opts out" of this Agreement (Opt-out Claimant) then that claimant's counsel will select an individual from that firm's Secondary Schedule to take the Opt-out Claimant's share of this Agreement. Counsel will immediately notify Defendant of the Opt-out Claimant's name

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as well as the name of the "Substitute Claimant".

Section 3.2. Upon receipt of the Primary and Secondary Schedules, Defendant and Insurers will issue drafts representing a single payment to each Participating Plaintiffs' Counsel, said payment equal to the aggregate amount to be paid to claimants listed on that firm's Primary Schedule. Said drafts will be made payable in a form substantially as follows, "To the Law Office of "X", in trust ~~for the Claimants~~ listed in Schedule "Y", and incorporated by reference herein."

Section 3.3. Participating Plaintiffs' Counsel agree to assume the responsibility of ensuring that the funds paid by Defendant and Insurers, as set forth in Sections 2.1 and 3.2, will be distributed to all Present Cases or Substitute Claimants. In the event that there is a dispute over the payment to a particular claimant who has not opted-out and who was designated to receive a share of the monies paid by Defendant and Insurers, said claimant's only recourse will be against his/her respective counsel, and without recourse against Defendant and/or its insurers. Further, Participating Plaintiffs' Counsel agree to indemnify and hold harmless Defendant and Insurers from any and all claims/disputes which may arise over distribution of settlement proceeds to their respective clients who do not opt-out, following full payment by Defendant and Insurers pursuant to Sections 2.1 and 3.2, supra.

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Section 4. Severance

In order to fully carry out the intent of this Agreement, Defendant intends to move the Circuit Court for Baltimore City to sever all claims pending against it and schedule them for a future trial date.

Section 5. General Terms

Section 5.1. The Parties expressly ~~acknowledge and agree~~ that this Agreement is entered into, and the consideration referenced herein is provided, for the sole purpose of resolving and settling disputed claims, and that nothing contained in this Agreement shall constitute or be deemed to be an admission of liability, fault or entitlement, or of any fact or opinion by any Party.

Section 5.2. The values assigned to the disease processes are for settlement purposes only and shall not constitute liquidated values of claims in the event the Defendant fails to make payments by the terms of this Agreement.

Section 5.3. This Agreement shall be filed under seal with the Circuit Court for Baltimore City and in each Court in which an Action subject to this Agreement is filed, and its terms, and the documentation completed by any Plaintiff or any Party to fulfill its terms, shall be and remain confidential. The Parties to this Agreement and the Plaintiffs whose claims are subject to this Agreement shall not disclose the terms of this Agreement or

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documentation developed in connection with this Agreement without the written consent of Defendant, Participating Plaintiffs' Counsel, any Plaintiff directly affected, and Insurers, except as may be ordered by a court of competent jurisdiction after notice to Defendant, Participating Plaintiffs' Counsel, and Insurers, or in any proceeding initiated by either Defendant, Participating Plaintiffs' Counsel or Insurers to enforce the terms of the Agreement. _____

Section 6. Miscellaneous

All notices, consents and other communications required under this Agreement shall be in writing and shall be effective when received. Notices shall be sent by registered mail, return receipt requested, to the appropriate addresses set forth below:

A. Notice to Plaintiffs' Counsel:

THE LAW OFFICES OF PETER G. ANGELOS
300 East Lombard Street
Baltimore, MD 21202

GOODMAN, MEAGHER & ENOCH
111 North Charles Street, Seventh Floor
Baltimore, MD 21201

ASHCRAFT & GEREL
10 East Baltimore Street
Baltimore, MD 21202

VERDERAIME & DUBOIS, P.A.
1231 North Calvert Street
Baltimore, MD 21202

GOLDMAN, SKEEN & WADLER, P.A.
1123 Munsey Building
7 North Calvert Street
Baltimore, MD 21202

PRIVATE AND CONFIDENTIAL

THE LAW OFFICES OF CLIFFORD W. CUNIFF
207 East Redwood Street, Suite 612
Baltimore, MD 21202

NOLAN, PLUMHOFF & WILLIAMS, CHARTERED
Suite 700, Court Towers
210 West Pennsylvania Avenue
Towson, MD 21204

B. Notice to Defendant:

MCIC, INC.
11424 Cronhill Road
Owings Mills, MD 21117

Section 6.2. Any time period hereunder may be extended by the Parties by mutual agreement. The Parties shall cooperate with each other reasonably and in good faith as to requests for extensions of time.

Section 6.3. Subject to the provisions of Section 1.3., each person executing this Agreement warrants his or her authority to execute and enter into this Agreement and thereby binds the respective Parties for which each person signs.

Section 6.4. This Agreement shall be governed by and construed in accordance with Maryland law applicable to agreements made and to be performed in Maryland.

Section 6.5. This Agreement shall not be modified except by a writing executed by the Parties hereto.

Section 6.6. Section headings are for convenience of reference only. In the event of a conflict between a heading and the content of a section, the content of the section shall control.

Section 6.7. All Exhibits attached hereto are incorporated

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herein as integral parts of this Agreement.

Section 6.8. The Parties agree that upon execution and approval of this Agreement pursuant to Section 6.10 infra, the Parties shall dismiss all appeals and cross appeals, as they relate to MCIC, Inc. only, filed in Abate, et al. v. ACandS, Inc., et al., No. 89236704-05, Circuit Court for Baltimore City and related appeals, if any, in the Circuit Court for Baltimore City and ~~Circuit Court for~~ Baltimore County.

Section 6.9. Defendant agrees to waive any claim for indemnity it may have against Owens-Corning Fiberglas Corporation or any of its subsidiary, predecessor or successor corporations.

Section 6.10. This Agreement shall be effective upon execution by the Parties and approval by the Honorable Joseph H.H. Kaplan, Administrative Judge, Circuit Court for Baltimore City who shall conclusively resolve any and all disputes arising under this Agreement.

Section 6.11. Upon settlement of a Present Case and payment to claimant(s) of same, counsel for such claimant(s) shall file a Notice of Dismissal, with prejudice, as to Defendant only, in the court in which the Present Case was filed or is pending.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the ____ day of _____, 1994.

MCIC, INC.

BY: _____

Treasurer

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UNITED STATES FIDELITY & GUARANTY CO.

BY: Minda Rubia Ellis
Claims Specialist

ROYAL INSURANCE COMPANY

BY: Michael E. Johnson
Technical Analyst

THE HARTFORD INSURANCE GROUP

BY: Richard F. Catell
Senior Engineer

CONTINENTAL INSURANCE COMPANY

BY: Gary R. Kereyas
SR. ENVIRONMENTAL CLAIMS ANALYST

LUMBERMENS MUTUAL CASUALTY COMPANY

BY: William A. Olund
Claim Administrator

LAW OFFICES OF PETER G. ANGELOS

BY: Thomas V. Friedman

GOODMAN, MEAGHER & ENOCH

BY: John Amato, IV
JD

ASHCRAFT & GEREL

BY: Pat T. Pittell

PRIVATE AND CONFIDENTIAL

VERDERAIME, DUBOIS, P.A.

BY: William D. Kurtz
(DK)

GOLDMAN, SKEEN & WADLER, P.A.

BY: Harold Gold
Harold Gold

LAW OFFICES OF CLIFFORD W. CUNIFF

BY: Clifford W. Cuniff
Clifford W. Cuniff

NOLAN, PLUMHOFF & WILLIAMS, CHARTERED

BY: Elizabeth Nolan
Elizabeth Nolan

APPROVED:

Joseph H. Kaplan 8/10/94
JUDGE JOSEPH H. KAPLAN
ADMINISTRATIVE JUDGE
DATE August 10, 1994
wp\asbestos\settlem\mglob11.agr



Royal Insurance

August 23, 1991

Environmental Claim Unit
9140 Arrowpoint Blvd
Suite 440
Charlotte NC 28273

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Hecht & Chapper
1317 Fidelity Building
210 North Charles Street
Baltimore, Maryland 21201

Attention: Bruce Chapper, Esq.

Re: MCIC, Inc. (f/k/a McCormick Asbestos Co.)
Maryland Asbestos Litigation

Dear Mr. Chapper:

The following is the updated position of the Royal Insurance Company (hereinafter referred to as "Royal") with respect to the application of MCIC, Inc. (formerly known as McCormick Asbestos Company) for insurance coverage of the asbestos bodily injury suits pending in Maryland. In brief review, Royal affords certain policies of insurance to MCIC as follows:

POLICY NUMBER

POLICY PERIOD

| | |
|----------|-------------------------------------|
| P811254 | February 1, 1946 - February 1, 1947 |
| P92710 | February 1, 1947 - February 1, 1948 |
| RX5846 | February 1, 1948 - February 1, 1949 |
| RLC7533 | February 1, 1949 - February 1, 1950 |
| RLC7546 | February 1, 1950 - February 1, 1951 |
| RLC9424 | February 1, 1951 - February 1, 1952 |
| RLC9438 | February 1, 1952 - February 1, 1953 |
| RLC13577 | February 1, 1953 - February 1, 1954 |
| RLC16915 | February 1, 1954 - February 1, 1955 |
| RLC16902 | February 1, 1955 - February 1, 1956 |
| RLC26239 | February 1, 1956 - February 1, 1957 |
| RLC26358 | February 1, 1957 - February 1, 1958 |
| RLC29612 | February 1, 1958 - February 1, 1959 |

A In June of 1981, Royal received initial information concerning a suit against MCIC in which the plaintiff alleged injuries as a result of exposure to asbestos. By letter dated August 28, 1981, incorporated herein by reference, Royal advised you of its position concerning coverage for this matter. Royal, in part, specifically advised that based upon the information provided by MCIC, products liability and completed operations coverage were not included in the policies issued to MCIC by Royal. Royal therefore declined to afford MCIC a defense with respect to this matter.

• Royal Insurance Company of America
• Royal Indemnity Company
• Globe Indemnity Company
• Safeguard Insurance Company
• Newark Insurance Company
• American and Foreign Insurance Company
• Milbank Insurance Company

EXHIBIT

4

Although the position of Royal has not changed since its August 28, 1981 letter, Royal has learned of thousands of additional asbestos suits which have been filed against MCIC in Maryland courts since 1981. Royal is unaware of the identities of all plaintiffs and the precise number of these suits. MCIC's defense counsel has advised that these suits currently number approximately 6,000.

Royal's investigation into the existing policy and underwriting materials relative to the previously cited Royal policies has confirmed that Royal only provided manufacturers and contractors liability coverage to MCIC. These policies did not afford coverage for products and completed operations.

While Royal's investigation and coverage consideration was in progress, discussions concerning the defense and indemnification of MCIC took place. Royal had, in good faith, participated in these discussions and, in fact, at one point offered to contribute towards the defense and indemnity of MCIC. Royal's offer has been rejected and will, due to the reasons discussed below, not be renewed.

Royal has continued its review of the pending Maryland asbestos litigation. This review has included auditing a sample of the litigation files being maintained by MCIC's defense counsel.

The courts of Maryland, the natural venue for the resolution of any insurance coverage disputes relative to the asbestos bodily injury suits pending in Maryland, have recently addressed the issue of "trigger of coverage" in the context of asbestos bodily injury suits. In Maryland Casualty Company v. Lloyd E. Mitchell, Inc., No. 7948, slip. op. (MD Cir. Ct. Harford Cty Oct. 9, 1990), the court held that it is the manifestation of an asbestos-related injury which constitutes the "occurrence" for purposes of determining which insurance policy must respond to a particular case.

In adopting a manifestation "trigger of coverage" for asbestos claims, the Mitchell court followed decisions of other Maryland courts which had ruled on "trigger of coverage" in various contexts. In Hartford Mutual Insurance Company v. Jacobson, 73 Md. App. 670, 536 A.2d 12 (1988), the court adopted a manifestation trigger with respect to an underlying lead paint poisoning case. Similarly, in a case arising out of the clean-up of hazardous substances, the court in Mraz v. Canadian Universal Insurance Co., Ltd., 804 F.2d 1325 (4th Cir. 1986) determined that the date of occurrence is judged by the time the leakage and damage was first discovered.

The Mitchell court found the rule set forth in the Hartford Mutual Insurance Company v. Jacobson decision to be controlling and therefore applied the manifestation trigger as well. The Mitchell court specifically held that "[t]he facts of this case clearly set forth that the asbestos-associated problems did not manifest until after the policies had expired. Applying the rule of Jacobson to the case at bar, this court must conclude that the alleged occurrence complained of took place after the lapse of the insurance policies in question and are thus not within the coverage they provided." Mitchell at 10.

Royal does not espouse any particular "trigger of coverage" theory as its corporate philosophy or practice. The policies issued by Royal stand on their own; their interpretation must be gleaned from the plain meaning of their terms. However, since the courts of Maryland have now ruled on the issue of "trigger of coverage", Royal's policy is to follow that determination with respect to the asbestos suits pending against MCIC.

On the basis of the controlling Maryland case law, Royal herewith advises that its defense and indemnity obligations, if any, are limited to those cases where the asbestos-related injury first manifests itself during the February 1, 1946 to February 1, 1959 policy periods. Royal is not obligated to defend or indemnify MCIC with respect to any claims where the asbestos-related injury first manifest itself after February 1, 1959.

For purposes of your own planning, we wish to advise that it is unlikely that any plaintiff who has asserted an asbestos bodily injury claim against MCIC first manifests its injury during any of the Royal policy periods. The practical effect of the application of Maryland's manifestation "trigger of coverage" is to preclude coverage on the asbestos claims pending against MCIC under the policies issued by Royal. This position, together with our reservation based on the type of coverage provided and the exclusion of products and completed operations coverage makes it clear that Royal owes no duty to defend or idemnify MCIC with respect to the asbestos bodily injury suits pending against MCIC.

Page 4
Chapper

We trust that you understand the position of the Company in this regard. If you have any questions, or wish to discuss this matter further, please do not hesitate to contact us.

Very truly yours,

Wayne M. Smiley

Wayne M. Smiley
Environmental Claims Unit

cc: Mr. Robert Hamilton
United States Fidelity & Guaranty Co.
P. O. Box 13576
17 Commerce Street
Baltimore, Maryland 21203

WMS/ab/chapper

LOPA 00000607

MCIC 0679

WILLIAM LOWE, et al.
Plaintiffs

v.

CONTINENTAL INSURANCE
COMPANY, et al.
Defendants

*

*

*

*

*

IN THE

CIRCUIT COURT

FOR BALTIMORE CITY

CASE NO.: 24-C-05-005067

* * * * *

MEMORANDUM

Now pending before the court are several motions for summary judgment filed by defendants. The motions have been fully briefed and a hearing was held on November 7 and November 8, 2012. This Memorandum sets forth the court's reasons for the rulings on these motions. The rulings will be effectuated by a separate order.

I. INTRODUCTION

The claims that are before the court in this action are asserted in complaints filed on behalf of four groups of plaintiffs, each represented by a different law firm. The initial complaint was filed by the Law Offices of Peter Angelos. Subsequently, leave to intervene was granted to plaintiffs represented by, respectively, the law firm of Goodman, Meagher & Enoch and Clifford W. Cuniff, the law firm of Ashcraft & Gerel, and the law firm of Skeen, Goldman, LLP. The complaints that are now operative are the Third Amended Complaint filed on behalf of the Angelos plaintiffs (No. 149), the Third Amended Complaint filed on behalf of the GME/Cuniff/Goldman plaintiffs (No. 161), and the Third Amended Complaint filed on behalf of the Ashcraft & Gerel plaintiffs (No. 159).¹

¹ A complaint was also filed by intervening plaintiff Melvin El-Amin, who has not filed any response to the motions for summary judgment.

possession of the firm and within easy access of the firm, that there is no basis for a genuine dispute that the firm had the policy materials.

The Content of the Policy-Related Materials

“Fragmentary” though they may have been, the policy-related materials made available to plaintiffs in 1993, specifically declarations pages and insuring agreements, are consistent and clear in their treatment of the hazards that are subject to aggregate limits. The Lumbermens policy is a representative example. The declaration page of the policy provides an “Occurrence Limit” of \$1,000,000, and an “Aggregate Limit” of \$1,000,000. The insuring agreement for that same policy states, under “Section I: Coverage,” that coverage includes personal injury damages that the insured becomes obligated to pay. “Section II: Limits of Liability” describes that the general “total limit of the company’s liability for any one occurrence shall be . . . only up to the amount stated in the declarations as the occurrence limit[.]” The Section immediately goes on to explain an exception to this general occurrence limit:

the company’s liability is further limited to the amount stated in the declarations as the aggregate limit, with respect to all ultimate net loss resulting from one or more occurrences during each annual period while this policy is in force . . . and arising out of either (1) products-completed operations liability, or (2) occupational diseases of employees . . .

Aggregate limits, therefore, explicitly apply only to liability for bodily injuries arising out of products-completed operations hazards. “Section IV: Other Definitions” gives the definitions of the two kinds of limits. “‘Occurrence’ means an accident, or a continuous or repeated exposure to conditions which results, during the policy period, in personal injury[.]” “‘Products-completed operations liability’ means liability arising out of (a) . . . goods or products

The court finds this reasoning to be dubious. The injury that plaintiffs allegedly suffered by reason of the nondisclosure of these policies is separate and distinct from the injury that they allegedly suffered due to the misrepresentation of limits. Defendants' theory is that if plaintiffs had investigated the other injury in a timely fashion, they would have discovered this separate injury. That is an unusual application of the inquiry notice rule, and defendants have supplied the court with no authority to support it.

On the facts before the court, and given the briefing that the court has reviewed, the court does not believe it appropriate to conclude as a matter of law that limitations bars these counts (assuming that under *Allied Investment* the counts are subject to dismissal based on limitations).

For these reasons, the motions will not be granted as to Counts Five through Seven.

CONCLUSION

For the reasons stated, the motions will be granted as to Counts One through Four and denied as to Counts Five through Seven.

Dated: November 20, 2012

Judge's Signature appears on the
original document

Judge W. Michel Pierson

CYNTHIA M. CLARK as successor personal
representative of **THE ESTATES OF WALTER
F. KACALA** and **HELEN M. KACALA**, *et al.*,

V.

Defendants.

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Case No. 24-C-21-000847 OT

* * * * *

Please note that **Exhibits 2, 6, and 7** attached to the Memorandum in Support of Motion for Final Settlement Approval, and **Exhibits 2 and 8** attached to the Memorandum in Support of Motion for Approval of Attorneys' Fees and Expenses to Class Counsel, were filed under seal on November 12, 2024, accompanied by a Motion to Seal Portions of Plaintiffs' Memorandum in Support of Motion for Award of Attorneys' Fees and Expenses to Class Counsel and Portions of Plaintiffs' Memorandum in Support of Motion for Final Settlement Approval.

I certify that on November 12, 2024, a copy of the exhibits identified above were served on counsel for all parties.

Respectfully submitted,

GALLAGHER EVELIUS & JONES LLP

/s/ Joe Dugan

Paul S. Caiola (AIS # 9512120109)

Brian T. Tucker (AIS # 0306180261)

Joe Dugan (AIS # 1812110109)

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Attorneys for Plaintiffs

Date: November 12, 2024

CYNTHIA M. CLARK as successor personal
representative of **THE ESTATES OF WALTER
F. KACALA** and **HELEN M. KACALA, et al.,**

V.

Defendants.

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Case No. 24-C-21-000847 OT

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Attorneys for Plaintiffs

Date: November 12, 2024

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1962

September Term, 2004

HARRY C. ANDERSON, et al.,

v.

ROYAL INDEMNITY COMPANY, et al.

Meredith,
Woodward,
Thieme, Raymond G., Jr., Retired,
Specially Assigned

JJ.

Opinion by Meredith, J.

Filed: May 15, 2006

EXHIBIT
8

The appellants in this appeal were the plaintiffs in certain asbestos litigation against MCIC, Inc. (formerly known as McCormick Asbestos Company). The appellants' motions seeking additional benefits pursuant to a 1994 settlement agreement were denied and dismissed by the Circuit Court for Baltimore City upon cross motions for summary judgment. We agree with the ruling of Judge Joseph H.H. Kaplan that the claims were time-barred as a matter of law, and we shall affirm the judgment of the circuit court.

Overview

In the summer of 1994, counsel for over 8,000 plaintiffs who had claims against MCIC entered into a settlement agreement with five insurance carriers ("the Insurers," appellees herein) who were believed to have insurance coverage for the plaintiffs' claims. The agreement recited that "[MCIC] and Insurers have tendered what they believe to be the total aggregate, bodily injury liability insurance coverage available for payment of [plaintiffs' claims,] (\$12,351,000.00), the Insurers[] each having executed affidavits which are attached ... confirming such coverage." The agreement further recited that the participating plaintiffs' counsel desired to settle the actions.

In Section 1.3 of the settlement agreement, participating plaintiffs' counsel represented "that they have authority from their clients to enter into settlement negotiations and make recommendations regarding the settlement of individual cases."

In Section 2.2, which is the provision that is the focus of the present appeal, the agreement provided as follows:

The Defendant [i.e., MCIC] agrees that if in addition to the insurance coverage disclosed by Insurers and confirmed by their affidavits, Exhibits A1 through A6, inclusive, other insurance is discovered which would be applicable to claims made, the Defendant will promptly notify Participating Plaintiffs' Counsel and arrange for a pro rata distribution to them for payment to the Plaintiffs identified in Exhibit B.

The settlement agreement also provided in Section 6.10:

This Agreement shall be effective upon execution by the Parties and approval by the Honorable Joseph H.H. Kaplan, Administrative Judge, Circuit Court for Baltimore City who shall conclusively resolve any and all disputes arising under this Agreement.

Judge Kaplan approved and signed the agreement on August 10, 1994.

Eight years later, on October 17, 2002, the plaintiffs represented by the Law Offices of Peter G. Angelos ("the Angelos Firm") filed a motion entitled "Motion to Enforce Settlement Agreement, Request for Show Cause and Request for Hearing." (Plaintiffs represented by the other participating plaintiffs' counsel subsequently filed similar motions to enforce the 1994 settlement agreement.) In its motion, the Angelos Firm averred that, "[i]n order to reach a settlement with the Plaintiffs ..., the [Insurers] represented that they were tendering the total aggregate limits of the general liability insurance policies issued to MCIC as follows: ..., " quoting the recital set forth above, and also quoting from the affidavits provided by the Insurers. The motion further asserted that, as a result of a bankruptcy court decision filed February 20, 2002, the plaintiffs "believe and

therefore allege that the insurance policies issued by the [Insurers] contained additional other [sic] insurance than as represented by the [Insurers] in their affidavits and in the Settlement Agreement." The motion prayed for the court to order each Insurer to tender the full insurance coverage available.

The Insurers filed oppositions to the motions to enforce the settlement agreement, and summary judgment motions were eventually filed. The motions for summary judgment were heard by Judge Joseph H.H. Kaplan, who ultimately ruled that the claims for additional benefits under the 1994 settlement agreement were time-barred.

Appellees' Motion to Dismiss This Appeal

Preliminarily, we note that the appellees have renewed their motion(s) to dismiss the appeal.¹ Appellees argue that no appeals were permitted by the 1994 settlement agreement because Section 6.10 of the agreement expressly provided that Judge Joseph H.H. Kaplan "shall conclusively resolve any and all disputes arising under this Agreement." Appellees argue that Judge Kaplan's resolution of the dispute between the plaintiffs and the Insurers regarding any liability for additional insurance coverage should be

¹One of the Insurers named in the motion to enforce, viz., Liberty Mutual, had not been a party to the 1994 settlement agreement. Liberty Mutual moved in the circuit court to be dismissed from the proceedings on the motions to enforce, and, by separate order on February 5, 2004, the circuit court dismissed Liberty Mutual. Nonetheless, the civil appeal information report filed by the Angelos Firm listed Liberty Mutual as an appellee. Liberty Mutual again moved to be dismissed from these proceedings. At oral argument in this Court on January 12, 2006, appellants confirmed in open court that they did not object to the dismissal of Liberty Mutual from this appeal, and this Court has issued a separate order effectuating the dismissal of Liberty Mutual.

deemed conclusive, and therefore, not subject to further judicial review.

We find appellees' argument very persuasive. The provision empowering Judge Kaplan to conclusively resolve any and all disputes was adopted by the parties in the context of a settlement agreement that had, as its *sine qua non*, the goal of avoiding further litigation expenses. Under the circumstances, Judge Kaplan was not merely an arbitrator of potential disputes, such as the decision-makers in the cases cited by appellants. It is generally expected that there can be no appeal from a settlement agreement, and it appears that the parties in this case wanted to provide a minimal-cost avenue for resolving any disputes that might arise without incurring the costs of further litigation and appeals. As such, Judge Kaplan was specifically designated by the parties to be the person who would "conclusively resolve any and all disputes." (Emphasis added.)

In *MD.-Nat'l Cap. P. & P. v. Wash. Nat'l Arena*, 282 Md. 588 (1978), the Court of Appeals noted: "At common law, agreements providing for the settlement of future legal disputes by means other than through conventional judicial proceedings were considered bargains obstructing the administration of justice and were consequently deemed unenforceable at law or in equity." *Id.* at 609. Nonetheless, the Court upheld such a resolution clause, noting that the old rule "simply does not comport with contemporary thinking about the use of extrajudicial modes of dispute

resolution." *Id.* In particular, the Court cited *U.S. v. Moorman*, 338 U.S. 457 (1950), and said "[t]he thrust of these and other modern decisions is that unless clearly prohibited by statute, contractual limitations on judicial remedies will be enforced, absent a positive showing of fraud, misrepresentation, overreaching, or other unconscionable conduct on the part of the party seeking enforcement." *Id.* at 611. In the fifty-plus years since *Moorman* was decided, extrajudicial modes of dispute resolution have become much more widespread, and alternative dispute resolution proceedings now play an increasingly important role in helping the courts deal with over-crowded dockets.

In *Maslow v. Vanguri*, ___ Md. App. ___, No. 564, September Term, 2005 (filed April 11, 2006), this Court reviewed a settlement agreement that contained an express provision that there would be no appeals. The party that ignored that provision argued that the "no appeals" provision was not an essential term of the settlement agreement. We disagreed. Judge Hollander wrote for the Court, Slip op. at 27-28:

[W]e agree with appellee that the "no appeals" provision was a central element of the Agreement, and appellant's appeal of the jury's verdict constituted a material, "substantial breach tending to defeat the object of the contract." *Vincent [v. Palmer]*, 179 Md. [365,] at 373 [(1941)].

Indeed, appellant's conduct went "to the root of the contract." *Traylor [v. Grafton]*, 273 Md. [649,] at 687 [(1975)]. In direct contravention of the terms of the Agreement, appellant took an appeal in which she clearly sought "a second bite at the apple," in order to recover

more than the \$250,000 due under the Agreement. As appellee posits, the parties sought "two closely related things: limitation of their exposure risks and finality. The finality component is integral to the limitation of the risk. If the risk limitation is open to future alteration on appeal, then the risk still exists, and the limitation is meaningless."

In *Maslow*, we agreed with the non-appealing party's contention that a fundamental purpose of the settlement agreement in that case was "to limit the parties' exposure to prescribed parameters *once and for all*. Finality [wa]s integral to the whole point of this contract, as is the case in nearly all settlement agreements." *Id.*, slip op. at 44.

Had Judge Kaplan given any indication that, in ruling upon the motions in this case, he was acting pursuant to Section 6.10 of the settlement agreement, or that he considered his rulings upon these motions to be unappealably conclusive, we would have agreed with the appellees and dismissed this appeal. As the appellants correctly point out, however, Judge Kaplan's ruling presupposed an appeal from his rulings. Judge Kaplan stated that he would endeavor to address the appellant's motion for reconsideration in part because it would be "helpful for the purpose of appeal." Accordingly, we infer that it was Judge Kaplan's intent in addressing this particular dispute that the appellants would have the right to appeal his ruling that their claims for additional benefits were time-barred. It would be inconsistent for us to rule that no appeal is permitted because Judge Kaplan's decision was conclusive, and at the same time, fail to give any effect to the

language in Judge Kaplan's ruling that treated this decision as appealable. We will therefore deny the motion to dismiss, and will address the merits of this appeal.

Questions Presented

Appellants present a total of seven questions for review, which we have reworded slightly, as follows:

1. Did the trial court err in holding that limitations began to run no later than the meeting with Bruce Chapper, Esq., counsel for MCIC, on April 22, 1998?

A. Did MCIC discover additional insurance as a result of the April 22, 1998, meeting between Mr. Chapper and counsel for Plaintiffs?

B. Even if MCIC had discovered the additional insurance, would Section 2.2's condition precedent have been satisfied and have caused the limitations to begin to run?

2. Did the trial court err in holding that the plaintiffs had knowledge of the existence of nonaggregated operations coverage?

3. Did the trial court err in holding that laches barred the plaintiff's claims?

4. Are the Insurers equitably estopped from claiming a violation of the statute of limitations and/or laches?

5. Can the plaintiffs represented by GME/CUNIFF be barred by laches if they were not involved in the 1998 meeting or the Wallace & Gale case?

6. Did the trial court err in finding that the settlement agreement was not a contract under seal, and therefore that the relevant statute of limitations was three years instead of twelve?

7. Did the trial court err in finding that, because appellants failed to raise the issue until the reconsideration stage, appellants had waived any argument regarding MCIC's forfeited corporate charter and its effect (if any) on the motion to enforce?

Standard of Review

A party may move for summary judgment "at any time" on the grounds that "there is no genuine dispute as to any material fact and that the party is entitled to judgment as a matter of law." Md. Rule 2-501(a). This Court reviews grants of summary judgment on a *de novo* basis. In determining whether a grant of summary judgment by the circuit court was legally correct, we consider the facts in the light most favorable to the party against whom summary judgment was granted. *Green v. H & R Block*, 355 Md. 488, 502 (1999).

As this Court stated in *Meeks v. Dashiell*, ___ Md. App. ___, slip op. at 11-12, No. 638, September Term, 2004, (filed January 26, 2006):

When a motion court grants a motion for summary judgment, we first review the record to determine whether there was a genuine dispute as to any material fact. In making that assessment, all facts, including all reasonable inferences therefrom, must be viewed in a light most favorable to the non-moving party. *Teamsters v. Corroon Corp.*, *supra*, 369 Md. at 728. Unless the

dispositive facts are free from genuine dispute, the motion court must deny the motion. *Frederick Road v. Brown & Sturm*, 360 Md. 76, 93-94 (2000); *Pittman v. Atlantic Realty*, 359 Md. 513, 537-39 (2000). "In reviewing the propriety of [a judgment granting] a summary judgment motion, we cannot consider evidence or claims asserted after the motion court's ruling." *Baltimore v. Ross*, 365 Md. 351, 361 (2001). See also *Flaherty v. Weinberg*, 303 Md. 116, 139 n.9 (1985) (appellate court disregards documents that were not before the court at the time of the ruling on the demurrer "[r]egardless of the persuasiveness of the documents"). Cf. Maryland Rule 2-501(f) ("The court shall enter judgment in favor of or against the moving party **if the motion and response show** that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law.") (emphasis added).

If the motion court has granted the motion for summary judgment, after we confirm that there was no genuine dispute as to any fact, we then review the motion court's ruling for legal error. "In appeals from grants of summary judgment, Maryland appellate courts, as a general rule, will consider only the grounds upon which the lower court relied in granting summary judgment." *PaineWebber v. East*, 363 Md. 408, 422 (2001). In making our review of the grant of a motion for summary judgment, we need not defer to the motion court's determination of questions of law. *Helinski v. Harford Memorial*, 376 Md. 606, 614 (2003); *Comptroller v. Gannett*, 356 Md. 699, 707 (1999).

Background Facts

Although the appellants take issue with Judge Kaplan's ultimate conclusion that they were on inquiry notice of their potential claims for additional coverage more than three years before they filed their respective motions to enforce the settlement agreement, the parties have pointed to no genuine dispute of material facts in the record of this case that would have precluded disposition of the pending claims by way of summary

judgment. In Judge Kaplan's Memorandum and Opinion dated August 5, 2004, he summarized the pertinent facts, stating:

The following facts material to the resolution of this motion are undisputed:

Beginning in the late 1980's, seven plaintiffs' law firms, including the Law Offices of Peter G. Angelos (the "Angelos Firm"), filed thousands of actions against MCIC, Inc., (formerly known as McCormick Asbestos Company) ("MCIC") alleging personal injury based on exposure to asbestos-containing products. In 1994, these law firms entered into a settlement with MCIC and five of its insurers: Royal Indemnity Company, Hartford Accident and Indemnity Company, Continental Insurance Company, Lumbermens Mutual Casualty Company and United States Fidelity & Guaranty Insurance Company (the "Insurers"). This settlement successfully resolved more than 8,500 of the asbestos-related claims against MCIC and was approved by this court on August 10, 1994.

At the time the parties executed the Settlement Agreement, the participating Insurers tendered what they represented as their limits of liability under the known insurance policies (the "Settled Policies"). Collectively, the Insurers paid out over \$12 million in settlement funds to the more than 8,500 claimants who signed on to the settlement. During the negotiation of the Settlement Agreement, Plaintiffs and the Angelos Firm received schedules of insurance set forth in sworn affidavits that listed each Insurers' policies and the remaining limits under each policy that the Insurers represented as being applicable to the Plaintiffs' claims. See Ex. A to the Motion to Enforce (Settlement Agreement, Exs. A1-A6) (Benton Aff., Ex.1).

As of 1994, no Maryland court had determined whether personal injury claims arising from exposure to asbestos during the installation of asbestos containing materials were subject to the aggregate limits in contractors general liability policies or whether such injuries fell outside of the products completed operations hazard and were subject only to per occurrence limits. This theory of coverage, known variously as the "premises-operations" or "non-products" or "installation" theory of coverage was recognized in Maryland as early as 1997 by the Court of Special Appeals. See *Union Ins. Co. v. Porter Hayden Co.*, 116 Md. App. 605, 692, 698 A.2d 1167, 1209 (noting that "it is evident that [the installer] could be held

liable" under "installation theory"), *cert. denied*, 348 Md. 205, 703 A.2d 147 (1997). By 2002, the theory was explicitly confirmed by the Federal District Court of Maryland in *In re Wallace & Gale Co.*, 275 B.R. 557 (D. Md. 2002), and *appeal pending*, Nos. 02-2389 & 02-2437 (4th Cir.)

On April 22, 1998, counsel for the Angelos plaintiffs met with counsel for MCIC at plaintiffs' counsel's request. At that meeting, lawyers from the Angelos firm explained to MCIC that "recent court decisions had interpreted old policies containing provisions for contractors' general liability so as not to have any total limit on the policies." See Insurers' Opposition to Defendant Law Offices of Peter G. Angelos, P.C.'s Motion for Partial Summary Judgment on the Issue of Statute of Limitations/Laches, Ex. 1 (April 22, 1998, Chapper Mem. to File). On that date plaintiffs' counsel informed MCIC that the "insurance carriers may be liable for considerably more than the insurance carriers had certified in the affidavits which accompanied the settlement." *Id.*

More than four years later, on June 11, 2002, the Angelos firm sent a demand letter to MCIC's Insurers and, relying on the recent holding in *Wallace & Gale*, asserted that MCIC was entitled to "much more extensive coverage" under the settled policies than what the parties had negotiated in the 1994 Settlement. Volta Letter at 2. The Angelos plaintiffs' claims were based on Section 2.2 of the Settlement Agreement which states:

"The Defendant agrees that if in addition to the insurance coverage disclosed by the Insurers and confirmed by their affidavits, Exhibits A1 through A6, inclusive, other insurance is discovered which would be applicable to claims made, the Defendant will promptly notify Participating Plaintiffs' Counsel and arrange for a pro rata distribution to them for payment to the Plaintiffs identified in Exhibit B."

Royal, through its representative, Thomas N. Janzen, replied to the Demand Letter by letter of June 19, 2002, and, with the exception of Continental Insurance Company, the other Defendant insurers, through representatives, replied to the Demand Letter by either rejecting the Demand or by acknowledging receipt with the assurance of a later reply.

On October 17, 2002 the Angelos parties filed a Motion to Enforce the Settlement Agreement, naming the Insurers, along with MCIC as defendants. The relevant portion of the Angelos plaintiffs' motion setting forth their allegation is reproduced in full below: [indentation added]

"13. As a result of Judge Messitte's opinion and order filed on February 20, 2002 in *In re Wallace & Gale Co. (Debtor)*, Bankruptcy No. 85-A-0092 (Chapter 11) and in *Aetna Casualty and Surety Company v. Wallace & Gale Co.*, Civ. No. PJM94-2327, Plaintiffs believe and therefore allege that the insurance policies issued by the Insurance Carriers contained additional other insurance than as represented by the Insurance Carriers in their affidavits and in the Settlement Agreement. Judge Messitte's opinion is attached hereto and made a part hereof as Exhibit 2. Also, attached hereto as Exhibit 3 is Judge Messitte's revised Opinion and Order dated September 18, 2002.

14. By letter dated June 11, 2002, each Insurance Carrier was advised of Judge Messitte's opinion and advised that the Law Offices of Peter G. Angelos believed that additional other insurance has been discovered. Also, the Insurance Carriers were requested to fully compensate the Plaintiffs who were part of the Settlement Agreement."

With respect to the Chapper memorandum that purported to give an account of a meeting between counsel for MCIC and counsel from the Angelos Firm that transpired on April 22, 1998, the two counsel from the Angelos Firm who were identified as attending the meeting filed affidavits in this case. Although the attorneys from the Angelos Firm specifically denied receiving any documents from Chapper, they did not dispute that the meeting with Chapper took place on April 22, 1998, and they did not in any way dispute the accuracy of any of the statements that Chapper attributed to them

regarding "recent court decisions [that] had interpreted old policies containing provisions for contractors' general liability so as not to have any total limit on the policies."

Further, with respect to the Wallace & Gale bankruptcy litigation that culminated in an opinion dated February 20, 2002, attorney Leslie Benton, from the law firm of Hogan & Hartson, L.L.P., submitted an affidavit in support of the Insurers' motion for summary judgment, to which she attached a consultant's report dated May 4, 1998, ("the Gilbert report") that had been filed by the Angelos Firm in the Wallace & Gale action in 1998. The Gilbert report discussed in detail the impact of the 1997 *Porter Hayden* decision upon insurance coverage for asbestos claims under contractors' general liability policies. The plaintiffs made no effort in this case to dispute the existence of the Gilbert report or the Angelos Firm's use of the information in the report in the Wallace & Gale litigation.

At the time of the 1994 settlement, the claims against MCIC were treated as product liability claims, which were subject to the aggregate limits. It was not clear at the time that a general liability insurer could be liable for asbestos-related injuries under coverages such as premises-operations coverage that had no aggregate limits, but that possibility has since been noted by some courts, including this one.

On August 29, 1997, this Court decided the case of *Commercial Union v. Porter Hayden*, 116 Md. App. 605, cert. denied, 348 Md. 205

(1997). In that case, Porter Hayden, an insulation contractor, was seeking a declaratory judgment to compel its contractor's general liability ("CGL") insurer to provide coverage. The insurer, Commercial Union, asserted that because the claims against Porter Hayden were products-related, Commercial Union owed no duty to defend or indemnify the insulation contractor against the claims. This Court, however, affirmed the circuit ruling that had held there was exposure for claims beyond products claims, and that there was at least a duty to defend. Judge Moylan wrote for this Court:

Commercial Union contends that Judge [Hilary] Caplan initially, and then Judge Angeletti in adopting Judge Caplan's rulings as his own, erred in determining that Porter Hayden enjoyed coverage for the asbestos-related claims because the policies only provided coverage for third party bodily injury liability occurring during Porter Hayden's operations, i.e., "premises-operations" coverage. Commercial Union argues that the asbestos-related claims against Porter Hayden are all, in essence, products liability claims because they deal with the hazards posed by a product, and thus, would only be covered if "products hazard" coverage had been purchased, which Porter Hayden concedes had not been purchased.

Commercial Union, however, is putting the cart before the horse. It is anticipating the ultimate issue of an actual duty to indemnify rather than focusing on the more intermediate and tentative issue of a potential duty to indemnify. Only the ultimate trial on the merits of the individual claims of asbestos-related injury can determine whether the injury occurred as a result of mere exposure to hazardous products or as a more direct result of Porter Hayden's installation operation while it still had control of a particular premises.

Id. at 688. After reviewing the allegations in the complaint that asserted claims beyond the products liability claim, we concluded, *id.* at 692-93 (emphasis in original):

From those selected portions of the Master Complaint, it is evident that Porter Hayden could be held liable for the manner in which it conducted its operations in installing the asbestos-containing products. In that light, it is not solely covered by the "Products Hazard" insurance it declined to purchase. The "Products Hazard" insurance covers claims and liabilities relating to:

(1) the handling or use of, the existence of any condition in or a warranty of goods or products manufactured, sold, handled or distributed by the named insured ... if the accident occurs after the insured has relinquished possession thereof to others and away from premises owned, rented or controlled by the insured ...; (2) operations, if the accident occurs after such operations have been completed or abandoned at the place of occurrence thereof....

(Emphasis supplied).

The "Products Hazard" insurance is concerned with injury occurring after possession of the goods or the product has been relinquished or the operation has been completed or abandoned. The nature of some of the allegations in the Master Complaint, however, concern exposure and injury occurring during the operation, such as the emission of asbestos dust during the installation process.

We affirm the ruling of Judge Angeletti that, as a matter of law, there is a potentiality that the asbestos-related claims are covered and that there is, therefore, a duty on Commercial Union to defend and, depending on the ultimate findings on the merits, potentially to indemnify.

A New York decision filed December 22, 1997, (approximately four months after the above *Porter Hayden* decision), reached a similar conclusion regarding the possibility of additional coverage under CGL policies. *Frontier Insulation Contractors, Inc., v. Merchants Mutual Insurance Co.*, 690 N.E. 2d 866, 870 (N.Y. 1997).

On or about May 4, 1998, the Angelos Firm filed the Gilbert report in the Wallace & Gale bankruptcy proceedings. Mr. Gilbert described his qualifications as an expert in the representation of mass tort defendants and "the application of insurance to mass tort claims." Mr. Gilbert asserted, "I believe that I have represented more asbestos policyholders in the United States than any other single attorney." He noted that he "lecture[s] frequently on insurance coverage and dispute resolution issues at domestic and international conferences, including seminars at the law schools of University of Michigan and the University of Virginia."

In the report, Mr. Gilbert noted that the policies issued by Travelers to Wallace & Gale "provide no aggregate limits for those bodily injury claims that may be classified as general liability or 'nonproducts' claims" After noting that "[n]one of these [Travelers] policies has an aggregate limit for 'nonproducts' claims," Mr. Gilbert observed that "[t]he language of the Travelers Policies follows the standard form language used by the Insurance Services Office ('ISO'). Since 1973, ISO has written standard CGL form policies used by insurers throughout the United States." Citing, among other cases, the 1997 *Porter Hayden* opinion from this Court, Mr. Gilbert opined that, "Under Maryland law, it is highly likely that these key [coverage] issues will be resolved favorably to [Wallace & Gale]."

Mr. Gilbert further opined that under settled Maryland law, there would be no aggregate limits applicable to the vast majority

of the claims against Wallace & Gale because most of the claims were of the "non-products" category:

48. ... For all covered claims except those falling within the products or completed operations hazard, these policies pay without aggregate limits. The vast majority of the claims against [Wallace & Gale] do not fall into the products/completed operations hazard because they involve exposure to asbestos released at the time that [Wallace & Gale] was installing asbestos products. These so-called "installation claims" are not within the products/completed operations hazard as defined in the Travelers Policies....

49. The Maryland courts have adopted the view that asbestos installation claims are nonproducts claims not subject to aggregate limits. In a case directly on point, the Maryland Court of Special Appeals has held that, for purposes of assessing the duty to defend, asbestos bodily injury claims arising from asbestos installation activities are nonproducts claims. See Commercial Union Ins. Co v. Porter Hayden Co., 698 A.2d 1167, 1209 (Md. Ct. Spec. App.)....

50. The only other court to have considered the issue has agreed that coverage for claims based on injury resulting from installation activities is not included in the products hazard, and is not subject to aggregate policy limits for claims arising from such installation activities. See Frontier Insulation Contractors, Inc. v. Merchants Mut. Ins. Co., 690 N.E.2d 866, 870 (N.Y. 1997).... Consistent with Porter Hayden II and Frontier Insulation and with my understanding that [Wallace & Gale's] liability is almost exclusively based on its historical involvement in the business of installing asbestos insulation, the vast majority of [Wallace & Gale's] Asbestos Claims should be classified as nonproducts claims, and therefore should not be subject to the aggregate limits applicable to products completed operations claims.

Mr. Gilbert also observed that "[t]he availability of unlimited coverage under policies that have only occurrence limits is not hypothetical," citing cases to support his opinion.

Consistent with the Gilbert report, the U.S. District Court for the District of Maryland issued a ruling in February 2002, in *In re Wallace & Gale Co. (Debtor)*, Bankruptcy No. 85-A-0092 (Chapter 11), 275 B.R. 223, *vacated in part*, 284 B.R. 557 (D. Md. 2002), *aff'd*, 385 F.3d 820 (4th Cir. 2004). In the District Court, Judge Messitte wrote:

By the same token[,] to the extent that injuries, beginning with exposure, may be considered as occurring before operations were completed they would, by definition, be excluded from the completed operations clause. There would be no aggregate limits under the policies then in effect. Case law is not inconsistent with this view.

275 B.R. at 238-39.²

2

The portion of Judge Messitte's ruling that dealt with aggregate limits was ultimately affirmed by the 4th Circuit Court of Appeals. The appellate court stated, 385 F.3d at 833-34:

A part of the district court's decision in *In re: Wallace & Gale Co.*, 275 B.R. 223, 237-241 (D.Md.2002), subjected some of the claims of the intervenors to aggregate limits under the policy provisions.

If a claimant's initial exposure occurred while Wallace & Gale was still conducting operations, policies in effect at that time will not be subject to any aggregate limit. If, however, initial exposure is shown to have occurred after operations were concluded or if exposure that began during operations continued after operations were complete, then the aggregate limits of any policy that came into effect after operations were complete will apply. Where a given claimant falls within this framework will have to be considered on a case-by-case basis. 275 B.R. at 241.

The policy provisions involved are from Hartford's policy, which is typical.

* * *

The argument of intervenors is "The Completed Operations Hazards Do Not Apply To The Asbestos-Related Claims Because 'The Bodily Injury' Did Not Begin To Occur After Completion of Wallace & Gale's Operations." Br. p. 47.

In October 2002, the Angelos Firm filed its motion seeking additional benefits under the 1994 settlement agreement. The Insurers replied that the motion was time-barred, as the plaintiffs had discovered no new facts, but merely a new legal theory that was evident at least as early as when this Court's opinion in the *Porter Hayden* case was issued in August of 1997. The Insurers noted that, although the actual policies were not available, the policies in question were understood to be "standard" contractor general liability policies.

After hearing arguments, by opinion and order dated August 5, 2004, Judge Kaplan granted the Insurers' motions for summary judgment, ruling that the claims asserted by the plaintiffs were time-barred. Judge Kaplan concluded it was undisputed that "the 'fact' that this additional coverage existed was known to [the Angelos Firm] as early as the decisions in" 1997 in *Porter Hayden* and *Frontier Insulation*.

The plaintiffs filed motions to alter or amend the judgment, and on September 27, 2004, Judge Kaplan denied those motions

That argument, however, on its face is far broader than the district court's decision we have quoted just above from 275 B.R. at 241. For example, a claimant's initial exposure which occurred while Wallace & Gale was still conducting operations was not subject to any aggregate limit for policies in effect at that time even if the exposure extended beyond the operations of Wallace & Gale. Also, if exposure which began during operations continued after operations were completed, the aggregate limits of policies which came into effect after operations would apply, but, as stated, the aggregate limits would not apply to those policies in effect at the time of the exposure during Wallace & Gale's operations.

Accord Nat'l Union Fire Ins. Co. of Pittsburgh v. Porter Hayden Co., 331 B.R. 652, 666-67 (D.Md. 2005).

without a further hearing, commenting that "the Court ... remains convinced that the doctrine of laches bars Plaintiffs' recovery." In that order Judge Kaplan explained that the bar of laches applied to all participating plaintiffs' counsel, including those who were not from the Angelos Firm, noting that their absence from the 1998 Chapper meeting "is of no moment since 1998 was the latest date on which the Angelos Plaintiffs or the Intervening Plaintiffs should have 'discovered' the purported existence of 'additional insurance.' ... the Intervening Plaintiffs' counsel, likewise are charged with knowledge of the law, ..., yet they made no effort to inquire of MCIC or the Insurers until 2004.... The Intervening Plaintiffs[] have failed to diligently press their claims and their motions to enforce are consequently barred by laches."

In the opinion issued September 27, 2004, Judge Kaplan further addressed the issue of whether the settlement agreement was a contract under seal, which had been raised in the motion to alter or amend filed by the GME plaintiffs. He began by noting that neither the settlement agreement itself nor the affidavits of the insurance companies were executed under seal. He acknowledged that some of the individual releases signed by some plaintiffs were executed under seal, but concluded that those releases are not part of and were not incorporated into the agreement, and that "plaintiffs have moved to enforce the settlement agreement not the individual releases." Judge Kaplan also: rejected the suggestion that the Insurers' 1994 affidavits had somehow impeded the earlier

filing of the claims for additional coverage; rejected the assertion that MCIC had somehow revived an action on the settlement agreement; and ruled that any issue regarding the forfeiture of MCIC's corporate charter had been waived.

Analysis

1. The appellants' claims were barred by laches.

The controlling issue on appeal, which subsumes the first three questions presented, is the question of knowledge and timing.

The circuit court began its analysis of the time bar question by reiterating that "the relief sought, specific performance, is an equitable remedy ... and is therefore governed by the doctrine of laches." It then quoted from *Finch v. Hughes Aircraft Co.*, 57 Md. App. 190 (1984), cert. denied, 300 Md. 88 (1984), reconsid'n denied, 301 Md. 41 (1984), cert. denied, 469 U.S. 1215 (1985), on the subject of laches:

Courts of equity view stale claims with disfavor and through application of the equitable doctrine of laches, deny relief to those who have slept upon their rights. *Cunningham v. Davidoff*, 188 Md. 437, 442, 53 A.2d 777 (1947); *Syester v. Brewer*, 27 Md. 288, 319 (1867); *Chew v. Farmers Bank of Maryland*, 9 Gill 361, 377 (1850); *Skeen v. McCarthy*, 46 Md. App. 434, 438, 418 A.2d 1214, cert. den., 289 Md. 740 (1980). "The doctrine of laches is an application of the general principles of estoppel and consists of two elements - negligence or lack of diligence on the part of plaintiff in failing to assert his right, and prejudice or injury to the defendant." *Staley v. Staley*, 251 Md. 701, 703, 248 A.2d 655 (1968). Therefore, whether plaintiff's claim is barred by laches depends on the facts and circumstances of the particular

case. *Bowie v. Ford*, 269 Md. 111, 122-23, 304 A.2d 803 (1973).

As a general rule, mere passage of time will not constitute laches where the delay has not prejudiced defendant. *Salisbury Beauty Schools v. State Board of Cosmetologists*, 268 Md. 32, 63, 300 A.2d 367 (1973). However, **prejudice to defendant need not be shown if an analogous action at law would be barred by the applicable statute of limitations.** *Salisbury Beauty Schools v. State Board of Cosmetologists*, 268 Md. at 63; *Rockshire Civic Ass'n. v. Mayor and Council of Rockville*, 32 Md. App. 22, 28, 358 A.2d 570, cert. den., 289 Md. 740 (1976). In such a case, **the Court will apply the appropriate statute of limitations by analogy.** *Hall v. Barlow Corp.*, 255 Md. 28, 41-42, 255 A.2d 873 (1969); *Stevens v. Bennett*, 234 Md. 348, 199 A.2d 221 (1964).

Id., 57 Md. App. at 243-44 (emphasis added).

Judge Kaplan further noted that "[t]he legal cause of action analogous to the Angelos Plaintiffs' demand for specific performance is breach of contract, which under Maryland law is subject to a three-year statute of limitations. See Md. Code Cts. & Jud. proc. § 5-101; *Rouse-Teachers v. MD. Casualty*, 358 Md. 575, 592 (2000)."

The Court of Appeals has made it plain that "Maryland applies the 'discovery rule' in determining when an action accrues... Under that rule, the statute of limitations begins to run when 'the plaintiff has knowledge of circumstances which would cause a reasonable person in the position of the plaintiff to undertake an investigation which, if pursued with reasonable diligence, would have led to knowledge of the alleged [cause of action].'" *Bank of New York v. Sheff*, 382 Md. 235, 244 (2004) (internal citations

omitted). The Court of Appeals has further confirmed that the issue can be appropriately decided by summary judgment, stating, if "the question of whether the plaintiffs were on inquiry notice more than three years before their suit was filed can be determined as a matter of law, summary judgment on that issue is, indeed, appropriate." *Id.*

We are persuaded, based upon *Bank of New York v. Sheff*, that the appellants were on inquiry notice of their potential claims for additional insurance coverage under the 1994 settlement agreement well over three years before they filed their respective motions to enforce in 2002 (and beyond). When we filed the reported opinion in the *Porter Hayden* case in August of 1997, and that case became part of the public domain, any Maryland attorney whose practice involved asbestos litigation and insurance coverage for such cases was on notice that there might be nonproducts liability, and correspondingly, insurance coverage for such nonproducts liability, that exceeded the liability and coverage previously assumed to be applicable. The Gilbert report makes it clear that by May of 1998, this development in the asbestos field was widely known, and that the prospect of insurance coverage that was not subject to aggregate limits was not ignored by asbestos plaintiffs' attorneys.

Accordingly, we agree with Judge Kaplan's conclusion that the appellants' "claim for further additional insurance under the [1994] Settlement Agreement is time-barred." We shall therefore

affirm the judgment of the circuit court. We shall, however, briefly address the additional issues raised by appellants.

2. Remaining Issues.

The appellants contend that the Insurers' affidavits of coverage issued in connection with the 1994 settlement agreement were fraudulent, and that the Insurers should therefore be estopped from claiming laches. Appellants allege that the Insurers knew in 1994 that they were on the hook for more coverage than they disclosed in the affidavits, and that they hid that information from the plaintiffs, knowingly filing false affidavits in order to coerce an unjust settlement. The appellants contend: "The doctrine of unclean hands applies in these circumstances and 'the ancient maxim that no one should profit from his own conscious wrong' forecloses Insurers as a matter of basic fairness from the defense of statute of limitations and/or laches."

There was, however, no evidence of knowingly false representations proffered to Judge Kaplan, who rejected the plaintiffs' vague accusations of fraud, noting, "As of 1994, no Maryland court had determined whether personal injury claims arising from exposure to asbestos fell outside of the products/completed operations hazard and were subject only to per occurrence limits." Aside from suspicion and speculation, there was nothing presented to Judge Kaplan to support the plaintiffs'

bald assertion that the Insurers knew in 1994 what the courts were going to decide in 1997 regarding asbestos coverage under CGL policies. The only evidence offered by the appellants to support the accusation of fraud is the fact that some or all of the Insurers currently concede that the MCIC policies contained unaggregated operations coverage, as did, apparently, all standard CGL policies of the time. But there was no evidence that any of the Insurers would have made such a concession prior to the *Porter Hayden* decision, let alone any evidence that any of the Insurers (or, for that matter, any persons anywhere) were of that opinion at the time the Insurers executed the affidavits attached to the 1994 settlement agreement.

Moreover, in his opinion issued September 27, 2004, denying the plaintiffs' motions to alter or amend, Judge Kaplan commented that even if he assumed, *arguendo*, that the affidavits were fraudulent when made, that would not have altered his conclusion that plaintiffs were on inquiry notice of their potential claims for additional coverage no later than 1998. He stated:

The Court did not directly address the role of the allegedly fraudulent affidavits in its opinion because the Court does not believe that the affidavits impeded the bringing of Plaintiffs' claim. In 1998, the Angelos Plaintiffs met with MCIC and explained that recent court decisions had interpreted contractors' general liability policies as having no aggregate limits on claims arising from the installation of asbestos containing materials. As a result, the Angelos Firm claims, the Insurers may be liable for more than they had originally stated in their sworn affidavits. Plaintiffs asserted this exact claim in their Motion to Enforce in 2002, more than four years

after their meeting with MCIC, yet they learned no new fact in the interim.

The Angelos Plaintiffs now argue that the "fact" that they learned between 1998 and 2002 was the fact that the particular policies at issue actually provided unaggregated coverage and that that fact had been fraudulently concealed by the Insurers' affidavits. It seems to the court, however, that the Angelos claim was motivated not by the discovery of the "fact" that previously existing, but concealed, insurance coverage had been discovered, but instead by the explicit endorsement of the "installation theory" of coverage by the court in *Wallace & Gale*.^{FN1} The Angelos Firm's demand letter and their subsequently filed Motion to Enforce cite *Wallace & Gale* as the genesis of their claim. It was as a result of the holding in *Wallace & Gale*, says the Angelos Firm, that they believed additional insurance coverage to "now exist."^{FN2} The Angelos Plaintiffs now

^{FN1} [At this point Judge Kaplan inserted a footnote that stated as follows:] In *Wallace & Gale*, the United States District Court for the District of Maryland held that: "If a claimant's initial exposure occurred while *Wallace & Gale* was still conducting operations, policies in effect at that time will not be subject to any aggregate limit. If, however, initial exposure is shown to have occurred after operations were concluded or if exposure that began during operations continued after operations were complete, then the aggregate limits of any policy that came into effect after operations were complete will apply. Where a given claimant falls within this framework will have to be considered on a case-by-case basis."

^{FN2} [At this point Judge Kaplan inserted a footnote that stated as follows:] The Court believes it is helpful to reproduce the following excerpt from the Angelos Demand Letter, dated June 11, 2002, "We believe that such additional coverage does now, in fact, exist. We enclose herewith, as Attachment 'B', Judge Masetti's [sic] opinion and order filed on February 20, 2002 in In re Wallace & Gale Co. (Debtor), Bankruptcy No. 85-A-0092 (Chapter 11) and in Aetna Casualty and Surety Company v. Wallace & Gale Co., Civ. No. PJM94-2327. As you will see in that opinion, asbestos contractors, such as *Wallace & Gale* and MCIC, are afforded much more extensive coverage under standard CGL policies than what you and the other insurance carriers represented

shift course and assert that this revelation did not occur until after Hartford's "admission" in the course of the Wallace & Gale litigation that unaggregated operations coverage was provided for in the particular general liability policies at issue and that such coverage applied to claims stemming from the installation of asbestos containing materials. Argument is no substitute for evidence, however, and the evidence before the court, including the Chapper Memorandum, the Volta Letter and the Motion to Enforce itself all indicate that the impetus for seeking further additional insurance proceeds was the endorsement by Maryland courts of the so called "installation theory" of coverage. As the Insurers note, this Court gave the Plaintiffs the benefit of the doubt when it assumed, for sake of analysis, that the subsequent development of a legal theory could constitute the "fact" of discovery of additional insurance under Section 2.2 of the Settlement Agreement. This theory, however, was known by the Angelos Plaintiffs and, significantly, by MCIC no later than 1998.

The plaintiffs' attorneys' knowledge that MCIC had CGL policies that might provide additional coverage is demonstrated by the uncontroverted portion of the 1998 Chapper memorandum, which stated:

On 4/22/98 I met with Armond Volta and Gary Ignatowski from the law offices of Peter Angelos. The meeting had been requested by them pursuant to the terms of the global settlement agreement in which MCIC has specifically agreed to turn over to the plaintiffs information relating to additional insurance assets which may be discovered. ***Specifically, they explained that recent court decisions had interpreted old policies containing provisions for contractors general liability so as not to have any total limit on the policies. Thus,***

in the Settlement Agreement. In light of the Wallace & Gale decision and your familiarity therewith, we assume that you have undertaken a review of your policies and discovered that additional coverage now exists to fully compensate all previous (Schedule "B" and "C") and pending claims against your insured."

they contended that the insurance carriers may be liable for considerably more than the insurance carriers had certified in the affidavits which accompanied the settlement agreement.

(Emphasis added.)

Accordingly, we agree with Judge Kaplan that the plaintiffs' attorneys were on inquiry notice that the Insurers' affidavits may have been erroneous representations of coverage no later than 1998, and that the motions filed in 2002 (and later) seeking additional coverage were therefore barred by laches.

The plaintiffs' allegations of 1994 fraud in the inducement would not toll any applicable period of limitations beyond the point in time when plaintiffs' attorneys were on inquiry notice that they had relied upon incorrect information. There was no allegation of any conduct that constituted unclean hands on the part of the Insurers in 1998, or thereafter, that had lulled the plaintiffs' attorneys into holding off on pursuing their claims for additional payments under the settlement agreement. As the Court of Appeals stated in *Nyitrai v. Bonis*, 266 Md. 295, 300 (1972), "It has been recognized that in order for estoppel to plead the statute of limitations to be effective against a defendant, the plaintiff must have instituted the appropriate legal proceedings seasonably after becoming aware that such proceedings would be required." See also *Booth Glass Co., Inc. v. Huntingfield Corp.*, 304 Md. 615, 624 (1985) ("equitable estoppel will not toll the running of limitations absent a showing that the defendant 'held out any inducements not

to file suit or indicated that limitations would not be pleaded,'" quoting *Nyitrai, supra*, 266 Md. at 300).

The GME/Cuniff firms claim that they should not be held to have had knowledge of the new theory of coverage because they were not present at the 1998 Chapper meeting. However, as has been noted above, the meeting itself was not the moment when the new theory of coverage came to light, nor was it the event that put appellants on inquiry notice. The Chapper meeting, and the subsequent Gilbert report filed by the Angelos Firm in the *Wallace & Gale* litigation, made it clear that the new theory of coverage was based upon the 1997 *Porter Hayden* opinion. As Judge Kaplan noted in his opinion, citing *Moreland v. Aetna, supra*, 152 Md. App. at 288, all of the participating plaintiffs' attorneys are "charged with knowledge of the law."

The GME/Cuniff firms have also asserted that the relevant period of limitations was twelve years, not three, because, they allege, the 1994 settlement agreement was a "contract under seal." All parties agree, however, that the settlement agreement itself was not signed under seal. The question is whether the fact that some of the releases signed by individual plaintiffs who took advantage of the settlement agreement were signed under seal converts the overall settlement agreement to one under seal. The case of *Goodwin & Boone v. Choice Hotels*, 346 Md. 153, 159-60 (1996), persuades us that it is the document as to which the obligations are being enforced that determines whether a contract

is under seal. Here, it is the settlement agreement that was the subject of the motions to enforce, and, as we have already noted, that agreement was not a contract under seal.

The settlement agreement itself determines the rights of the parties, and the only mention of releases occurs in section 3.1, which states that "Each present case submitted for settlement must be accompanied by: a. An executed release as described below: (i) For Actions alleging the presence of a non-malignant asbestos-related condition, the form of release shall be a present disease, pro tanto type release as per Exhibit D." This language merely prescribes the form of the releases.³

Appellants contend that the releases were incorporated into the settlement agreement by Section 6.7, which states: "All Exhibits attached hereunto are incorporated herein as integral parts of this Agreement." Exhibits D and E, however, are merely *sample* releases; the actual releases were not even in existence at the time that the settlement agreement was executed; consequently, the actual releases were not exhibits and were not incorporated into the settlement agreement.

³The release shown in the record extract provided at E 837 does not show a physical seal or "any other written or printed mark which clearly appears intended by the person using it to be his or her seal." See 68 Am. Jur. 2d Seals § 6 (2005). It contains the signature of the individual plaintiff, the signatures of two witnesses, and the words "we have hereunto set our hands and our seals." In *Goodwin, supra*, 346 Md. at 155, the Court of Appeals treated a franchise agreement which contained the language "the parties have hereunto set their hands and their seals" but which did not contain any actual seals, as an unsealed document (although eventually finding that another, sealed document, controlled the statute of limitations in that case). However, there were presumably over 8,000 releases, and if the circuit court assumed that at least one was signed under seal, we shall make the same assumption.

The appellants also argue that "the 'seal' language appeared on the form release appended to the Settlement Agreement... indicating that the other parties to the Settlement Agreement intended, once a given plaintiff signed, that it was to be regarded as a contract under seal." We decline to apply such tortured reasoning to contradict the plain language of the settlement agreement, negotiated by experienced counsel, and approved by Judge Kaplan. Moreover, to the extent the reference to the releases created any potential inference that the entire settlement "agreement was under seal," we would defer to Judge Kaplan's resolution of that issue as conclusive.

Finally, appellants contend that the circuit court erred in finding that any argument relating to MCIC's corporate status had been waived because it was not presented before the reconsideration phase. Given the lengthy history of this case, we find no abuse of discretion on the part of Judge Kaplan in refusing to reconsider his prior decision on the basis of such an untimely argument. As we stated in *Steinhoff v. Sommerfelt*, 144 Md. App. 463, 484 (2002):

With respect to the denial of a Motion to Alter or Amend ... the discretion of the trial judge is more than broad; it is virtually without limit. What is, in effect, a post-trial motion to reconsider is not a time machine in which to travel back to a recently concluded trial in order to try the case better with hindsight.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE CITY AFFIRMED.
COSTS TO BE PAID BY APPELLANTS.**

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Camille G. Fesche (MD, DC, NY, NJ)
Laurence Levitan[†]
John C. Reith (Nonlawyer/Consultant)

March 20, 2018

Cynthia M. Clark
P.R. Of the Estate Of
Walter Kacala
535 Spruce Avenue
Westminster, Md 21157

Re: *Decision in the Action Against MCIC and its Insurers*
Client: Walter Kacala

Dear Cynthia M. Clark:

I am writing at the request of the Law Offices of Peter G. Angelos, PC (the “Firm”) to inform you that the lawsuit commenced by the Firm on your behalf in 2005 against MCIC (an asbestos supplier and installer that had gone out of business), and five of its insurance companies, has come to an end. The 2005 complaint against MCIC (“the MCIC Complaint”) alleged that MCIC and the five insurers had misrepresented the amount of the available insurance coverage when they entered into a 1994 settlement of asbestos-related claims with the Firm. The Firm, and the additional lawyers, including myself, who were brought into the case in 2008 at the request of the Firm, were confident that the Firm would prevail. On September 22, 2017, however, Maryland’s highest Court disagreed. The Court let stand the finding of the intermediate appellate court that this 2005 MCIC Complaint filed on your behalf by the Firm was not filed in a timely fashion. (Copies of the Opinion and Order from Maryland’s two highest Courts are attached.) Accordingly, additional funds sought from MCIC and/or its insurers cannot be obtained. The case has been dismissed.

Although the Firm continues to believe strongly that the case was properly brought, and disagrees with the conclusion of the Maryland courts, the Firm and its clients are bound by that decision. The Firm, and Peter Angelos in particular, are extremely disappointed in this outcome. Mr. Angelos has dedicated his legal career to pursuing justice for asbestos victims against defendant companies large and small. Since the Firm first identified MCIC as a defendant in the 1980s, it has

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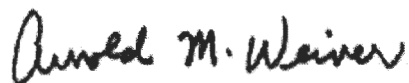
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vigorously pursued the Company and its insurers. In 1994, the Firm obtained an MCIC settlement, and the proceeds were distributed to the above individual or their representatives/beneficiaries and other MCIC claimants represented by the Firm. Later, however, the Firm, suspecting that there was reason to believe that MCIC's insurers had misrepresented the amount of potentially available insurance, sued MCIC and its insurers to try to make additional funds available to you and other clients. During the pendency of the 2005 case, the Firm unearthed two additional MCIC insurance policies, and the proceeds of those policies were sent to the above client or their representatives/beneficiaries and other MCIC claimants represented by the Firm.

In the meantime, in light of the decision by the Maryland courts described above, the Firm may not advise you further about the action relating to the MCIC settlement except to advise you to seek separate legal counsel concerning any further options you may have as to potential claims against MCIC or its insurers, or as to a potential claim against the Firm by reason of its late filing. If, after you have had the opportunity to consult separate counsel, the Firm does not hear from you, the Firm will assume that you wish the Firm to continue to represent you and advise you with regard to your other asbestos claims against different asbestos defendant companies and their insurers. If you notify the Firm that you do not want the Firm to represent you in those different claims, the Firm will then take steps to withdraw from representing you.

If you have questions about this letter, call 1-833-821-2275 at the Law Offices of Peter G. Angelos, PC.

Sincerely,

A handwritten signature in black ink that reads "Arnold M. Weiner". The signature is written in a cursive, slightly slanted style.

Arnold M. Weiner

Enclosure

233 Md.App. 1
Court of Special Appeals of Maryland.

ESTATE OF Harold L. ADAMS, et al.
v.
CONTINENTAL INSURANCE COMPANY, et al.

No. 1065, Sept. Term, 2014
June 1, 2017

Synopsis

Background: After settlement of plaintiffs' claims in asbestos-related personal injury litigation against installer of asbestos products, plaintiffs brought action against installer and its insurers, alleging negligent misrepresentation, fraudulent misrepresentation, and fraud by concealment regarding extent of available insurance coverage. The Circuit Court, Baltimore City, W. Michel Pierson, J., dismissed claims as time-barred. Plaintiffs appealed.

Holdings: The Court of Special Appeals, Beachley, J., held that:

- ^[1] plaintiffs were not required to know mental states of installer and insurer in order to be on inquiry notice of their fraudulent misrepresentation claims;
- ^[2] plaintiffs were on inquiry notice of their claims no later than time at which case law was published holding that asbestos installation claims were nonproducts claims not subject to aggregate limits; and
- ^[3] limitations period was not tolled by fraudulent concealment.

Affirmed.

West Headnotes (16)

- ^[1] **Limitation of Actions**
In general; what constitutes discovery

In determining when an action accrues, state's

courts recognize the discovery rule. Md. Code Ann., Cts. & Jud. Proc. § 5-101.

Cases that cite this headnote

- ^[2] **Limitation of Actions**
In general; what constitutes discovery

Under the concept of inquiry notice, as would determine when limitations begins to run pursuant to the discovery rule, a claimant should know of the wrong if the claimant has knowledge of circumstances which ought to have put a person of ordinary prudence on inquiry, thus charging the claimant with notice of all facts which such an investigation would in all probability have disclosed if it had been properly pursued. Md. Code Ann., Cts. & Jud. Proc. § 5-101.

Cases that cite this headnote

- ^[3] **Limitation of Actions**
In general; what constitutes discovery

A claimant is on inquiry notice, as would commence running of limitations pursuant to the discovery rule, when the claimant has knowledge of circumstances which would cause a reasonable person in the position of the claimant to undertake an investigation which, if pursued with reasonable diligence, would have led to knowledge of the alleged tort. Md. Code Ann., Cts. & Jud. Proc. § 5-101.

Cases that cite this headnote

- ^[4] **Fraud**
Statements recklessly made; negligent misrepresentation

A claim for negligent misrepresentation requires

Declaration of Paul W. Grimm

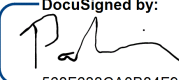
1. My name is Paul W. Grimm. I am over 21 years old and competent to testify to the matters contained in this Declaration, which are based on my personal knowledge. This Declaration is submitted in connection with the following case: Cynthia M. Clark ex rel Estates of Walter F. Kacala & Helen M. Kacala et al. v. Peter G. Angelos, et al., No. 24-C-21-0000847, Circuit Court for Baltimore City, the Honorable John S. Nugent, presiding. (Hereinafter, “Clark”).
2. Qualifications:
 - a. I am a retired United States District Judge for the District of Maryland. I served as a District Judge from 2012 until my retirement in December, 2022. From 1997 until 2006 I was a United States Magistrate Judge for the District of Maryland. From 2006 until 2012 I served as the Chief United States Magistrate Judge for the District of Maryland.
 - b. As a United States Magistrate Judge, I estimate that I conducted in excess of 1,000 settlement conferences of civil cases, including many class action cases. As a United States District Judge, I presided over numerous class action cases, and conducted preliminary and final fairness hearings in connection with many such cases. I also ruled on class action certification motions in cases assigned to me and resolved complicated *Daubert* motions related to the qualifications of expert witnesses in connection with class action cases. I am thoroughly familiar with the law regarding class certification, the standards for preliminary and final approval of class certification settlements, and the admissibility of expert testimony.
 - c. For approximately 13 years prior to being appointed a United States Magistrate Judge, I was in private practice in Maryland, concentrating on civil litigation in both State and Federal Court. Among the cases that I frequently handled were lawsuits in Maryland and Federal court involving professional liability of attorneys and other professionals. I both prosecuted and defended these types of cases. I therefore am very familiar with the law surrounding the prosecution and defense of attorney professional liability cases. Further, as a federal judge, I was assigned cases asserting professional liability involving professionals, including attorneys, and am familiar with the law governing these cases.
 - d. Following my retirement as a United States District Judge on December 30, 2022, I began my post-retirement career as a member of the faculty of Duke Law School in Durham North Carolina. I currently am the David F. Levi Professor of the Practice of Law and Director of the Bolch Judicial Institute at Duke Law School. Additionally, since January, 2024, I have been affiliated with the Judicial Arbitration and Mediation Service (“JAMS”) where I conduct mediation of civil cases.
3. In March 2023, the Clark case was assigned to me by JAMS to mediate this class action case. From March 23, 2024 through mid-May, 2024, I worked very closely with counsel for the Clark plaintiffs, counsel for the individual defendants, and counsel for the estate of Peter Angelos. In addition to reviewing *ex parte* mediation statements provided by counsel, I reviewed key filings (including the voluminous filings and associated exhibits relating to the motion to certify the case as a class action). I conducted an in-person mediation conference with counsel and the parties on April 19, 2024, which lasted 11

hours, and many hours of telephone and zoom conferences with counsel for all the parties. I also reviewed numerous versions of the settlement terms sheet as counsel for the parties worked diligently to revise, refine, and finalize the terms of the settlement. In total, I recorded 33.9 hours spent in connection with this mediation. These are the total hours billed, but I estimate that I spent at least an additional 10 hours working to facilitate the settlement for which I did not bill my time.

4. I have spent nearly a half century as a practicing attorney and federal judge. The attorneys who represented the parties in the Clark case are among the best attorneys I have seen. The issues in this case were immensely complex and included very challenging procedural as well as substantive issues. Some of these issues were of first impression. For example, the filings involving the motion for class certification totaled nearly 300 pages of memoranda and exhibits, all of which I read carefully. The filings by both plaintiffs' counsel and defense counsel were excellent. From my review of these filings and based on my experience as a federal judge and practicing attorney, I was convinced that this was a very close case, and that there was substantial litigation risk that both the plaintiffs and defendants faced if the case proceeded to resolution. I thereby reached the firm opinion that it was very much in the best interest of both the plaintiffs' class and the defendants that this case be settled in a manner that was fair and equitable to all the parties. My objective as a mediator was to assist the parties in reaching such a settlement.
5. It is important to keep in mind that the proposed settlement that was reached in this case was the product of arms-length negotiation, conducted by superbly competent counsel who were thoroughly familiar with the background facts, having conducted substantial pretrial discovery. The issues associated with class certification and the merits of the claims were extremely well developed, and counsel for all parties were completely conversant with the governing law. Each side faced substantial litigation risks if the case proceeded. And the costs that would be incurred if the case went forward would be substantial.
6. But while all counsel agreed that settlement was the desired outcome, this was a challenging and difficult case to settle. While counsel were completely professional at all times, the negotiations were tough, and many areas of disagreement had to be worked through. This explains why the negotiations that led up to the motion for preliminary class certification spanned several months.
7. As I worked with counsel and the parties, I paid particular attention to the substantive terms that defined what relief the class plaintiffs would receive, the benefits the defendants would receive, and the proposed compensation for plaintiffs' counsel. Based on my experience, this is one of the most successful class action settlements that I have seen, providing substantial economic benefit to the entire class, while at the same time benefitting the defendants significantly. And the proposed attorney's fees for counsel for the plaintiffs are fair, and fall squarely within the legal criteria for approval, whether judged by the difficulty of the case, the number of hours spent in the investigation and pretrial phase of the case, or the excellent result obtained.
8. For all the above reasons, I believe that the proposed class settlement set forth in the accompanying motion for preliminary approval convincingly meets all the legal criteria for both preliminary and final approval, and is noteworthy for its fairness to all parties,

but especially to the proposed plaintiffs' class. I therefore respectfully recommend that the motion for preliminary approval be granted.

I solemnly declare under penalty of perjury that the content of this Declaration is true and based upon my personal knowledge.

DocuSigned by:

568F633CA0B84F9...
Paul W. Grimm
Signed: 7/5/2024

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IN THE CIRCUIT COURT FOR
BALTIMORE CITY, MARYLAND

CYNTHIA CLARK, ET AL.,
Plaintiffs,
vs.
PETER ANGELOS, ESQ., ET AL, Case No. 24-C-21-000847
Defendants.

_____/

OFFICIAL TRANSCRIPT OF PROCEEDINGS
Motions Hearing

Baltimore, Maryland
August 28, 2024

BEFORE: HONORABLE JOHN S. NUGENT, Associate Judge

APPEARANCES:

For the Plaintiffs: Paul Caiola, Esquire
Joe Dugan Esquire
Sarah Simmons, Esquire
Tory Trocchia, Esquire
For the Defendants: Ben Rosenberg, Esquire
Daniel Petrocelli, Esquire
Jeff Schwaber, Esquire
Judy Cornwell, Esquire

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1 PROCEEDINGS

2 (On the record - 9:01:59 a.m.)

3 THE COURT: All right. Good morning, everyone.
4 We are on the record. This is Cynthia Clark, et al., vs.
5 Peter Angelos, et al., Case 24-C-21-000847. Counsel,
6 identify yourselves for the record, please.

7 MR. CAIOLA: Your Honor, Paul Caiola from
8 Gallagher, Evelius & Jones on behalf of the plaintiffs, and
9 my colleagues, Joe Dugan and Sarah Simmons and Tory
10 Trocchia are here today with me.

11 THE COURT: Good morning to all.

12 MR. ROSENBERG: Benjamin Rosenberg, Your Honor,
13 on behalf of the defendant, the estate of Peter Angelos,
14 and my colleague Daniel Petrocelli is here as well. He
15 will not be participating in the hearing. I will.

16 THE COURT: All right. Mr. Rosenberg, good
17 morning. Thank you.

18 MR. SCHWABER: Good morning, Your Honor. Jeff
19 Schwaber with Stein Sperling on behalf of the Law Offices
20 of Peter Angelos and Judy Cornwell and Joseph Moeller from
21 my firm as well as David Wilson are on with us. You'll
22 also see some Zoom boxes for our clients, the firm
23 representatives, who are dealing with some accident on 95
24 and asked me to apologize to the Court, but they'll be
25 putting on their camera as soon as they get out of their

1 car.

2 THE COURT: No problem. Thank you, Mr. Schwaber.

3 MR. CAIOLA: Your Honor, Paul Caiola. I just
4 wanted to introduce also Paul Mulholland. You'll see him
5 in one of the screens. He's the principal of Strategic
6 Claims Services which is proposed to serve as the
7 administrator for the class.

8 THE COURT: Thank you. All right. I believe
9 that covers everyone. This matter is before the Court this
10 morning for preliminary approval, a class action
11 settlement. Is that correct?

12 MR. CAIOLA: Yes.

13 THE COURT: All right. So Mr. Caiola, I'll start
14 with you, I guess, for (inaudible, 9:03:55).

15 MR. CAIOLA: Sure. Judge Nugent, good morning.
16 We're happy to report that the parties have reached a
17 settlement after long and difficult negotiations.

18 THE COURT: I am happy to hear that, Mr. Ciaola.

19 MR. CAIOLA: Yeah. We're here today seeking
20 preliminary approval of the class settlement. In the memo
21 supporting the motion seeking preliminary approval, we set
22 out the background facts about the case and explained why
23 we believe the Court can preliminarily approve the class
24 settlement. To provide preliminary approval, the Court
25 need only find that the settlement is within the range of

1 possible approval or that there is probable cause to notify
2 the class of the proposed settlement.

3 We've emailed Chambers a courtesy electronic copy of a
4 consolidated motion and exhibits. It's a 438-page PDF. I
5 was going to highlight a few of the provisions for the
6 Court this morning. This will only take a few minutes. I
7 don't know if you have -- I won't refer to the PDF pages
8 unless you are using that version, which we emailed, but if
9 you are, I'm happy to make those references for you, Your
10 Honor.

11 THE COURT: I am using whatever was emailed to
12 me, so --

13 MR. CAIOLA: Great. Okay. So it's a PDF. It's
14 a consolidated filing that's 438 pages. On page 7 of the
15 memo, which is at page 18 of the PDF, we describe the
16 negotiations that led to the settlement. The parties
17 engaged retired federal judge Paul Grimm as a mediator.
18 After holding a full-day mediation in Mr. Rosenberg's
19 office, the parties continued to negotiate for six weeks
20 with Judge Grimm's assistance before signing the term sheet
21 on June 3rd, 2024.

22 The long form settlement agreement was executed on
23 August 16 after 10 weeks of further negotiation. Exhibit
24 13 to the memo, which is PDF page 126, it's a declaration
25 from Judge Grimm. Paragraphs 5 to 8 of his declaration

1 provide testimony regarding Judge Grimm's involvement in
2 the settlement negotiations.

3 In paragraph 7, he states, "Based on my experience,
4 this is one of the most successful class action settlements
5 that I have seen, providing substantial economic benefit to
6 the entire class, while at the same time, benefiting the
7 defendants significantly."

8 And then Judge Grimm concludes in paragraph 8, "I
9 believe the proposed class settlement set forth in the
10 accompanying motion for preliminary approval convincingly
11 meets all the legal criteria for both preliminary and final
12 approval and is noteworthy for its fairness to all parties,
13 but especially to the proposed plaintiffs' class. I
14 therefore respectfully recommend that the motion for
15 preliminary approval be granted."

16 It's not always we get a retired federal judge to
17 recommend action by the Court, so we appreciated his
18 willingness to sign a declaration.

19 The settlement agreement is attached as Appendix A to
20 the consent motion and begins on PDF page 160. Some of the
21 key terms I'm going to highlight, paragraph 4, which is at
22 PDF 173, provides a definition of the class. The
23 definition is "all persons or their estate representatives
24 or next of kin, represented at any time by defendants in
25 connection with the motion to enforce and/or the tort

1 action" -- those are defined terms that are defined in the
2 settlement agreement -- who are identified on the MCIC
3 settlement beneficiary list and the surviving family member
4 list.

5 Those lists, which have been generated based on
6 Angelo's firm records, are attached as Exhibits 1 and 2 to
7 the settlement agreement. There are 7,609 class members on
8 the MCIC settlement beneficiaries list, that's Exhibit 1,
9 and there are an additional 2,606 class members on the
10 surviving family member list, which is Exhibit 2. That's a
11 total of 10,215 class members.

12 Paragraph 8, which is at PDF 174, describes the \$57
13 million settlement payment, and paragraph 13 describes the
14 amount the class members will receive. We're working with,
15 as I mentioned earlier, with a third-party settlement
16 administrator, Strategic Claims Services. It's principal,
17 Mr. Mulholland, is with us here today and is happy to
18 answer any questions Your Honor may have for him.

19 Strategic Claims Services has a long track record of
20 administering large class settlements and will work hard to
21 maximize the number of class members to whom we are able to
22 successfully deliver notice and, subject to the Court's
23 final approval, payment over the ensuing four-year period
24 in which payments will be made in the class settlement.

25 The provisions describing notice to the class begin in

1 the settlement agreement at paragraph 24, which is PDF page
2 183. The proposed notice itself is attached as Exhibit 4
3 to the settlement agreement at PDF 409. It is written in a
4 question and answer format to make it more accessible to
5 the class members.

6 The estimated timeline, Your Honor, is at Appendix B
7 to the memo. It's at PDF 429. It contemplates an order
8 being entered today providing preliminary approval. Notice
9 will go out within two weeks. The administrator has been
10 working for weeks with the cooperation of all of the
11 defendants and our firm to finalize a list of best
12 addresses for each class member.

13 We have somewhat of an advantage because the Angelos
14 firm has represented each of these class members either
15 previously or even currently, so we have their address list
16 that they provided to the administrator.

17 We also have done some searches of our own and then
18 the administrator has done some public record searches as
19 well with respect to folks we're not sure we have a good
20 address for. Where we have more than one address, the
21 administrator intends to send the notice to multiple
22 addresses in an effort to be sure we can reach all of the
23 class members.

24 The opt-out deadline for the class is -- it will be 45
25 days, if the Court grants the proposed order, after the

1 notice is mailed. A final approval hearing is scheduled
2 for November 22 and is already on the Court's calendar
3 thanks to an email exchange last week. The proposed order
4 we are asking the Court to issue starts at PDF page 431.
5 It is quite detailed. It includes 23 paragraphs
6 establishing the preliminary approval and next steps.

7 Again, the parties ask the Court, if possible, to
8 enter -- if the Court grants the relief we're requesting
9 jointly today, to enter the order on the Court's docket
10 today so that we may proceed according to the estimated
11 timeline.

12 That is all I've prepared today, Your Honor. Unless
13 you have any questions, I'll stop talking and let others
14 speak up.

15 THE COURT: Certainly I'll let the others address
16 the Court as well. My only question, Mr. Caiola, was there
17 -- is a provision in which the defendants can withdraw from
18 the settlement if there are more than 100 opt-outs? Is
19 that my understanding? Do you want to address that piece?

20 MR. CAIOLA: Yeah, sure. There's an opt-out, a
21 basically tipping point number, of 100 of the first
22 category, the MCIC settlement beneficiaries, over a total
23 of 150 of the combined groups. That isn't a mandatory, you
24 know, termination of the settlement. You really should
25 address it with Mr. Rosenberg because it's the estate that

1 has the right to opt out.

2 The defendants, of course, are concerned about not
3 wanting to have another case. We have drafted a joint
4 letter to send along with a notice to all the class
5 members, Your Honor. We've attached that. It's Appendix A
6 to the settlement agreement. It's on -- let me just check
7 the page number. It's on page 427. And the purpose of the
8 joint letter is to encourage all of these Peter Angelos
9 clients who not opt out.

10 You may remember, there are issues around prior
11 communications to the Angelos clients that might have some
12 people feeling that they have to opt out in order to keep
13 the Angelos firm as its lawyers. That is no longer the
14 case, and the joint letter makes that clear. So we're
15 hoping there aren't may opt-outs, but of course, this is a
16 concern for us. It's a provision that was important to the
17 estate and you can address it with them.

18 THE COURT: All right. Thanks.

19 All right. Maybe I'll go to Mr. Rosenberg next.

20 MR. ROSENBERG: I'm happy to talk about it, Your
21 Honor. As Mr. Caiola pointed out, the ability of the
22 estate to terminate this settlement is optional. That is,
23 it doesn't have to terminate it if there are 150 potential
24 plaintiffs who opt out, but it has the right to do that.

25 And the reason is also, as Mr. Caiola articulated, the

1 reason is we believe that this settlement is absolutely in
2 the best interest of the vast majority of the class members
3 who are actually still clients of the Angelos Law Firm, and
4 the underlying driving premise of the settlement was that
5 this was something that Peter Angelos would want to have
6 done in order to benefit thousands of people who were his
7 clients.

8 So that's kind of a long way of saying that we regard
9 the possibility of hundreds of people opting out of the
10 settlement to be remote at worst. Very, very unlikely, but
11 because it is a possibility and because we needed to make
12 sure that what we were buying with the settlement, in
13 addition to tremendous benefit, benefits of the clients of
14 Mr. Angelos was peace.

15 THE COURT: That's very helpful. Thank you, Mr.
16 Rosenberg.

17 Anything further about the proposal or anything else
18 you want to address before I go to Mr. Schwaber?

19 Okay. Mr. Schwaber, good morning.

20 MR. SCHWABER: Good morning. Your Honor, I'll
21 start by my apologies for not introducing Bill Murphy, who
22 needs no introduction to this Court, but is also in this
23 kind of weird setup, I guess, our client as well as the
24 firm, the Court-appointed conservator of the law firm, so
25 Mr. Wilson and I with our teams have been dealing with

1 representatives of the successor law firm as well as with
2 Mr. Murphy and his colleague, Mr. Bernstein, as we've moved
3 forward and have been involved in the process.

4 And as the Court probably has seen in the way it was
5 structured, in terms of the relationship, we have been
6 actively involved in the settlement process throughout and
7 are here to indicate our support for the motion.

8 THE COURT: Thank you.

9 MR. MURPHY: Good morning, Your Honor.

10 THE COURT: Mr. Murphy, good morning. All right.
11 Anyone else wish to address the Court this morning?

12 Mr. Caiola, anything further before the Court renders
13 its findings regarding preliminary approval?

14 MR. CAIOLA: No, Your Honor.

15 THE COURT: Okay. All right. Well, I greatly
16 appreciate everyone's work in this case. I think as most
17 counsel know, the Court is quite familiar with this matter.
18 Pending before the Court this morning is a request for
19 preliminary approval of a class action settlement. At this
20 stage, as Mr. Caiola noted, the Court need only find that
21 the settlement is within the range of approval or that
22 there is probable cause to notify the class of the proposed
23 settlement.

24 The Court looks at whether it will likely be able to
25 approve the proposal pursuant to Maryland Rule 2231 and

1 certify the class for purposes of judgment. The proposal
2 at this stage need only be sufficiently within the range of
3 reasonableness. The Court looks at both the procedural
4 fairness of the settlement process as well as the
5 settlement's substantive fairness and adequacy.

6 The Court borrows from the federal rules as to the
7 factors that it considers. First, whether the class
8 representatives and class counsel have adequately
9 represented the class. The Court notes in this case that
10 this matter has been intensely litigated for several years.
11 Plaintiffs have engaged in extensive discovery including
12 obtaining thousands of pages of records.

13 They have filed and responded to numerous motions and
14 appeared and argued before this Court and before many of my
15 colleagues on numerous occasions. The named plaintiffs
16 have sat for depositions, answered interrogatories. This
17 factor weighs heavily in favor of preliminary approval.

18 Whether the proposal was negotiated at arm's length,
19 the proposal in this case results from good faith
20 bargaining among the parties. The parties participated in
21 an extensive mediation settlement process before the
22 Honorable Paul Grimm, one of the most well-respected
23 federal judges here in the State of Maryland.

24 The records indicates, I believe, that there were 18
25 drafts of a term sheet exchanged among the parties. This

1 factor also weighs heavily in favor of preliminary
2 approval.

3 The Court further considers whether the relief
4 provided for the class is adequate taking into account the
5 cost, risk, and delay of trial and appeal, the
6 effectiveness of any proposed method of distributing relief
7 to the class including the method of processing class
8 member claims, the terms of any proposed award of
9 attorneys' fees, and whether the proposal treats class
10 members equitably relative to each other.

11 In this case, the Court is mindful of the strengths of
12 Plaintiffs' case, but also the potential difficulties they
13 would face if this litigation moved forward, including the
14 enormous costs of continued discovery, dispositive motions
15 practice including motions regarding expert witnesses,
16 trial, and appeal.

17 Moreover, the proposal treats class members equitably
18 and the method of distributing relief is effective. The
19 MCIC settlement agreement and the underlying litigation
20 entitle the beneficiaries to a pro rata share of additional
21 insurance proceeds. The identity of all beneficiaries are
22 known to the parties or obtainable through public records
23 as they were litigants again in the underlying litigation.

24 Therefore, the Court will preliminarily approve the
25 proposed settlement as fair, reasonable, and adequate. The

1 Court finds that the requirements of both Maryland Rule
2 2231B and C3 are satisfied for purposes of preliminary
3 approval. Specifically, the Court finds that the class is
4 readily ascertainable as the settlement beneficiaries were
5 represented by the law firm and are a matter of public
6 record. The Court finds that the class is so numerous that
7 joinder would be impractical as there are over 10,000 MCIC
8 settlement beneficiaries and surviving family members.

9 The Court further finds that there are questions of
10 law in fact common to the class including questions
11 regarding the defendants' breach of the duty of care and
12 causation, and that the claims of the named plaintiffs are
13 typical of class claims, if not almost identical. The
14 Court further finds that plaintiffs and their counsel --
15 the named plaintiffs and their counsel will fairly and
16 adequately protect the interests of the class and that
17 there are common questions of law in fact that predominate
18 over any individual issues.

19 Finally, the Court finds that the class action is
20 superior to any other available method for the fair and
21 efficient adjudication of this controversy, taking into
22 account all the factors set forth in Maryland Rule 2231C3.
23 Therefore, the Court will approve and notice will be sent
24 to all class members pursuant to the agreement of parties.

25 I will appoint the named plaintiffs as class

1 representatives and their attorneys of record, plaintiffs'
2 counsel of record, as class counsel. Strategic Claims
3 Services, Incorporated, of Media, Pennsylvania will be
4 appointed as the settlement administrator, and the Court
5 will approve the notice and opt-out procedures as agreed to
6 by the parties, and finally, I will set in a final approval
7 hearing as already selected by the parties for November
8 22nd for final approval of the class action settlement.

9 Mr. Caiola, did I cover everything?

10 MR. CAIOLA: Yes. Just Your Honor -- just the
11 issue of the order there. The order again is at the end -
12 - very end of that long PDF. It's long, but what we're
13 hoping is that the Court could review it and if the Court
14 agrees, I think basically what you've just recited is
15 running through the elements of the order, notice, etc. If
16 you could sign it and enter it on the docket as soon as
17 possible, we would appreciate it.

18 THE COURT: So I have it right in front of me. I
19 will sign it, enter it on the docket today. I will have my
20 staff email a copy to the parties and then I will contact
21 the Clerk's office and ask them to immediately docket.

22 MR. CAIOLA: We appreciate that. Thank you, Your
23 Honor.

24 THE COURT: You're welcome.

25 Anything further anyone wishes to address before the

1 Court?

2 MR. CAIOLA: Not from us, Your Honor.

3 MR. ROSENBERG: Thank you, Your Honor.

4 THE COURT: If there's nothing further, I thank
5 everyone for their time this morning and that will conclude
6 our hearing. Thank you all.

7 MR. ROSENBERG: Thanks, Your Honor.

8 MR. CAIOLA: Thank you, Your Honor.

9 (Off the record - 9:24:14 a.m.)

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CERTIFICATE OF TRANSCRIBER

I hereby certify that the proceedings in the matter of Cynthia Clark, et al. v. Peter Angelos, Esq., et al., case number 24-C-21-000847, heard in Circuit Court for Baltimore City on August 28, 2024, were recorded by means of audio recording.

I hereby certify that the proceedings herein contained were transcribed by me or under my direction. That said transcript is a true and accurate record to the best of my ability and constitutes the official transcript thereof.

I further certify that I am neither a relative to nor an employee of any attorney or party herein, and that I have no interest in the outcome of this case.

In witness whereof, I have affixed my signature this 29th day of September 2024.

Courtney Montgomery

Courtney Montgomery

Transcriptionist

1 IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

2 - - - - -x

3 CYNTHIA M. CLARK, et :

4 al., :

5 Plaintiffs, : Case No.

6 v. : 24-C-21-000847

7 PETER G. ANGELOS, :

8 ESQUIRE, et al., :

9 Defendants. :

10 - - - - -x

12 Deposition of WILLIAM J. McCARTHY, JR.

13 Conducted Virtually

14 Friday, October 13, 2023

15 10:03 a.m. EST

20 Job No.: 507670

21 Pages: 1 - 213

22 Reported By: Cynthia A. Whyte

1 Complaint?

2 A Well, obviously I saw the Complaint
3 before it was filed and I saw the Amended
4 Complaints before they were filed.

5 Q Were you ever asked to answer any
6 questions related to this lawsuit?

7 A Yes. You mean Interrogatories, those
8 questions?

9 Q I do. You know the word for it. Do you
10 remember when you were asked to answer those?

11 A I don't remember specifically. I suspect
12 it was at the time they were submitted.

13 Q About how long did you spend on those
14 Interrogatories?

15 A I don't recall.

16 Q Was it more than an hour?

17 A I can't be that precise. I forget. I
18 remember the nature of them. I didn't review them
19 for this deposition. I remember them at the time.

20 Q And let me ask a perhaps better question.
21 I'm wondering if you worried about these
22 Interrogatories for days and it took you on and

1 Q Did the Gallagher firm contact you about
2 this at all or did you contact them?

3 A No, I contacted them.

4 Q I'm going to show you what will be marked
5 as Exhibit 5.

6 (McCarthy Deposition Exhibit 5 marked for
7 identification and is attached to the transcript.)

8 Q This is a Complaint filed in this case;
9 right, Mr. McCarthy?

10 A Yes.

11 Q And do you see the caption at the top
12 where it has Ms. Clark as the representative and
13 then an et al.? Do you see that?

14 A Yes.

15 Q You in your capacity as the purported
16 estate representative are a party to this lawsuit;
17 right?

18 A Yes.

19 Q Why did you decide to become a party to
20 this lawsuit?

21 A I think a couple reasons. I think, one,
22 as a fiduciary I have a responsibility to pursue

1 actions on behalf of the estate. Second, thinking
2 of Uncle Bernie and the other people, his peers,
3 his colleagues, people that he worked with over
4 the years, that have been harmed, that it was the
5 right thing to do.

6 Q You mentioned the people that had been
7 harmed. How had people been harmed?

8 A People died, Mr. Foxx. People suffered.
9 Thousands of people suffered and died. I was
10 there the day Uncle Bernie died. He suffered and
11 died.

12 Q Of asbestos exposure; correct?

13 A Well, he had prostate cancer. Yes, he
14 died a painful death. And others died -- and
15 others have suffered as well. And when I think of
16 Uncle Bernie and I think of all the other people
17 similar to him, I thought this was important and I
18 thought this is what he would want us to do.

19 Q So it seems like your concern is to
20 vindicate people that were exposed to asbestos.
21 Is that fair?

22 A I think that was the original intent and

1 A No. It's my -- you know, the people that
2 participated in the settlement of the MCIC case
3 would have had more resources available to be part
4 of the global settlement of that case had these
5 insurance coverages and these insurance policies
6 been included in the pool of the global
7 settlement.

8 Q So all of the plaintiffs, unnamed
9 plaintiffs, purported plaintiffs, in this case are
10 going to have to prove asbestos exposure?

11 A No, they're not.

12 MS. SIMMONS: Objection.

13 Q Why do you say, no, they're not?

14 A Because under the settlement agreement it
15 calls that everybody named and participated in
16 that settlement agreement is entitled to recover
17 any additional insurance it says on a pro rata
18 basis. It says that others would be entitled to
19 share in that coverage, any coverage that was
20 related to the underlying tort.

21 Q So --

22 A But maybe I'm -- that's your case; I'm

1 A The alleged malpractice that occurred in
2 this case is that the Angelos law firm settled
3 this case without having pursued all or having
4 discovered and pursued all sources of payment for
5 the thousands of victims in this case. They
6 settled, you know, with the policies that were
7 disclosed by the defendants, subsequently found
8 out later there was additional insurance that was
9 not included, and tried to collect on that. They
10 were late.

11 Q So did the Angelos firm seek operations
12 coverage timely?

13 MS. SIMMONS: Objection; calls for a
14 legal conclusion.

15 A I don't know.

16 Q In order to recover any operations
17 coverage for Mr. Major, they would have to have
18 shown that he was exposed to asbestos during
19 installation operations; right?

20 MS. SIMMONS: Objection. You've asked.
21 We have been through this already.

22 A I don't know.

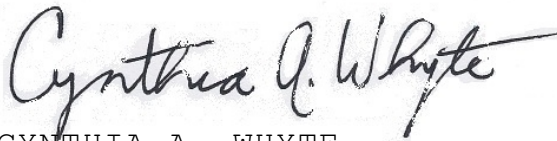
1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2 I, Cynthia A. Whyte, the officer before whom
3 the foregoing deposition was taken, do hereby
4 certify that the foregoing transcript is a true
5 and correct record of the testimony given; that
6 said testimony was taken by me stenographically
7 and thereafter reduced to typewriting under my
8 supervision; that reading and signing was not
9 requested; and that I am neither counsel for,
10 related to, nor employed by any of the parties to
11 this case and have no interest, financial or
12 otherwise, in its outcome.

13 IN WITNESS WHEREOF, I have hereunto set
14 my hand and affixed my notarial seal this 25th day
15 of October, 2023.

16
17 My commission expires:

18 October 30, 2026

19


20 CYNTHIA A. WHYTE

21 NOTARY PUBLIC IN AND FOR THE

22 STATE OF MARYLAND

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IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

- - - - - x

CYNTHIA M. CLARK, et al., :
Plaintiffs, : Case No.
v. : 24-C-21-000847
PETER G. ANGELOS, ESQ., :
et al., :
Defendants. :

- - - - - x

Deposition of NORMAN J. LOVERDE
Conducted Remotely via Zoom
Wednesday, November 15, 2023
9:32 a.m.

Job No.: 514715
Pages: 1 - 145
Reported By: SANDRA A. ROBERTSON, CCR

1 A Maybe 20 minutes.

2 Q Was it just the one preparation session?

3 A Yes.

4 Q Have you talked with anyone besides your
5 attorneys about this case?

6 A My wife.

7 Q What have you and your wife talked about
8 this case?

9 A Just about -- you know, what wasn't
10 handled and why we are where we are today. Other
11 than that, no real details because I don't know
12 specific details.

13 Q Explain to me why we are where we are
14 today.

15 A My understanding is when we received the
16 letter from -- I don't remember the name of that
17 attorney -- for Angelos stating that they had
18 tried to get the court to allow them to I guess
19 file against MCI because they had located some
20 other insurances that weren't disclosed, insurance
21 policies, but that the court had thrown that out,
22 and that they said that Angelos's firm didn't file

1 in a timely fashion. I guess the statute of
2 limitations had run out.

3 That's whatever was being -- whatever that
4 trial or whatever that case may have been was not
5 being able to move forward. Again, I don't know
6 details of exactly what that is or was.

7 Q I am going to share my screen again and
8 show you what has been marked Exhibit 2.

9 MS. SIMMONS: Are we starting any new
10 exhibits?

11 MR. FOXX: These are all almost all
12 separate exhibits, so they will not be marked.

13 Q Do you recognize this letter, Mr. Loverde?

14 A Yes.

15 Q What is it?

16 A This was the letter -- this was the letter
17 about the complaint against MCI. Insurers had
18 misrepresented the amount. This is the letter.
19 What I said, that they -- not filed in a timely
20 fashion, right. Okay. Again, although the
21 Angelos firm believed that they were right in
22 doing what they did, the Court filed against them

CERTIFICATE OF SHORTHAND REPORTER

NOTARY PUBLIC

I, Sandra Robertson, Certified Court Reporter and Notary Public, the officer before whom the foregoing deposition was taken, do hereby certify that the foregoing transcript is a true and correct record of the proceedings; that said testimony was taken by me stenographically and thereafter reduced to typewriting under my supervision; that reading and signing was not requested; and that I am neither counsel for nor related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 29th day of November, 2023.

My commission expires November 18, 2024.



Notary Number: 2108796

License Expiration: 6/30/24

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IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

- - - - - x

CYNTHIA M. CLARK, et al., :
 Plaintiffs, : Case No.
 v. : 24-C-21-000847
PETER G. ANGELOS, ESQ., :
et al., :
 Defendants. :

- - - - - x

Deposition of CYNTHIA M. CLARK
Conducted Remotely via Zoom
Tuesday, November 14, 2023
9:32 a.m.

Job No.: 514714
Pages: 1 - 146
Reported By: SANDRA A. ROBERTSON, CCR

1 Q The Smouse.

2 A No, I don't know what Smouse is. I am not
3 familiar with that word.

4 Q Did you get a letter from the law firm of
5 Rifkin, Weiner & Livingston in 2018?

6 A Yes.

7 Q Do you remember what that letter
8 contained?

9 A It was about the MCIC matter. They stated
10 that -- it was from Arnold Weiner. He stated that
11 they had lost a dispute -- I am trying to remember
12 the letter. They had lost a dispute regarding the
13 insurance I think. They said they disagreed with
14 the Court's decision and they were unable to
15 recover any money. And that's about all I
16 remember. There was a decision or something
17 attached to it.

18 Q What did you think when you got that
19 letter?

20 A I thought they made a mistake, but I
21 didn't fully understand it as I do now.

22 Q Did you get the letter in the mail?

1 Q Who was the first?

2 A I don't believe so. I'm sorry. I didn't
3 hear your question.

4 Q Who was the first named plaintiff in this
5 case?

6 A I do not know.

7 Q You mentioned that you're father's estate
8 was damaged. Did I understand that right?

9 A Well, yes.

10 Q How was it damaged?

11 A As explained in the complaint, there was a
12 sum of money that should have been obtained from
13 these insurance companies. Angelos missed filing
14 deadlines twice, as far as I know. So, yes. The
15 estate was entitled to funds that it did not
16 receive because Angelos messed up.

17 Q What was that sum of money?

18 A I don't know.

19 Q I am going to go back to something,
20 because I find it a little confusing.

21 You say this matter came on your radar
22 before the pandemic. Did I hear that right?

1 that, because it's not something I really need to
2 understand. So I really couldn't say.

3 Q You don't --

4 A There is some -- I'm sorry. Go ahead.

5 Q You don't think it's important to
6 understand the people you are asking to be a
7 representative of?

8 MR. DUGAN: Objection.

9 Q That is a bad question. Let me ask a
10 better question.

11 Do you understand who you are supposed to
12 be a named plaintiff?

13 A Well, I understand that there are 10,000
14 people affected by these mistakes and things that
15 happened in this case, almost 10,000 I believe.
16 And so, yeah, that's a lot of people. I
17 understand that much, but I'm not the only one,
18 along with the other plaintiffs who have suffered
19 damages, a loss because of this. So that much I
20 understand. That's all I really need to
21 understand but. I couldn't explain what --

22 Q Do you think that's all you need to

CERTIFICATE OF SHORTHAND REPORTER

NOTARY PUBLIC

I, Sandra Robertson, Certified Court Reporter and Notary Public, the officer before whom the foregoing deposition was taken, do hereby certify that the foregoing transcript is a true and correct record of the proceedings; that said testimony was taken by me stenographically and thereafter reduced to typewriting under my supervision; that reading and signing was not requested; and that I am neither counsel for nor related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 27th day of November, 2023.

My commission expires November 18, 2024.



Notary Number: 2108796

License Expiration: 6/30/24

October 7, 2024

Mr. Paul S. Caiola
Gallagher Evelius & Jones LLP
218 N. Charles Street, Suite 400
Baltimore, MD 21201

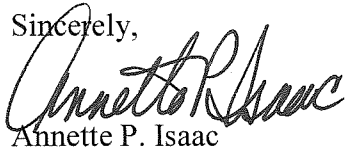
Reference: Proposed Class Action Settlement – Annette P Isaac, Personal Representative for the Estate of Belton Isaac, Sr.

Dear Mr. Paul S. Caiola:

I would like to thank your law firm for representing us in this Proposed class action settlement. However, in response to your letter dated September 11, 2024, I had a concern about the signature of Georgia K. Angelos, Personal representative of The Estate of Peter G. Angelos; as you can see the signature does not look authentic. I would like to confirm the signature is authentically, Georgia K. Angelos please.

On page 12, number III. Incentive Payment for Class Representatives. I **OBJECT** to the \$30,000.00 that is requested (\$10,000.000 for each of the three Class Representatives – Ms. Clark, Mr. Loverde, and the McCarthys to compensate them for the substantial time they devoted to the pursuit of this Case); in addition to the 33% of the gross Qualified Settlement Fund as attorneys' fees, plus reimbursement of out-of-pocket costs, and Administrative fees is unreasonable. This amount (\$30,000.00) is taking from the beneficiaries that have taken care of loved ones as a result of the medical injuries sustained as a result of Asbestos, Other Cancers, Lung Cancer or Mesothelioma. There is no price tag that could replace ones' health, nonetheless, the substantial impact on those who have cared for or may still be caring for their loved ones can be financially stressful; therefore, I **OBJECT** to the \$30,000.00 Incentive Payment.

Sincerely,



Annette P. Isaac

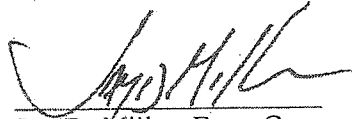
443-635-7187

Should you have any questions, please visit www.legalmalpracticeclassaction.com or contact the class administrator, Strategic Claims Services, at 866-274-4004.

Very truly yours,



Paul S. Caiola, Esq.
Gallagher Evelius & Jones LLP



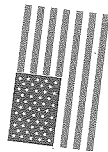
Jay D. Miller, Esq., General Counsel
The Law Offices of Peter G. Angelos, P.C.



Georgia K. Angelos
Personal representative of The Estate of Peter G. Angelos

cc: Paul S. Caiola, Class Counsel
Benjamin Rosenberg, Defense Counsel
Jeffrey M. Schwaber, Defense Counsel
David Wilson, Defense Counsel
Paul Mulholland, Strategic Claims Svc., Inc.
Circuit Court for Baltimore City

Exhibit 1



Annette Isaac
3516 Woodmoor Rd.
Gwynn Oak, MD 21207-4527

OCT 30 2024

BALTIMORE MD 212
28 OCT 2024 PM 2
As in past
USPS is
If you choose
please mail early mail,
FOREVER USA

Settlement Administrator
Paul Mulholland
Strategic Claims Services, Inc.
600 N Jackson St., Suite 205
Mediag, PA 19063

19063-255455

| CLIENT | SOC. SEC. # SPOUSE | DOCKET | DISEASE | EXPOSURE |
|----------------------------------------------|---------------------------------------------|-----------------|---------|-----------|
| 3285) LONG, HERBERT H. | [REDACTED] LUELLA LONG | 90208517 | ALD | 1957-1989 |
| 3286) LONG, HOWARD M. | [REDACTED] DOROTHEA LONG | 89216527 | ALD | 1951-1988 |
| 3287) LONG, JOHN PAUL | [REDACTED] | 87CG1361/38/31 | ALD | 1947-1981 |
| 3288) LONG, JOSEPH E. | [REDACTED] | 87CG3652/45/122 | ALD | 1951-PRES |
| 3289) LONG, LEROY R. | [REDACTED] CHARLOTTE LONG | 89340521 | ALD | 1952-1984 |
| 3290) LONG, NORTHERN SR. (D) | [REDACTED] FARRIE LONG | 90012509 | ALD | 1953-1980 |
| 3291) LONG, SYLVESTER JR. (D) | [REDACTED] DAISY M. LONG | 88091024 | ALD | 1953-1984 |
| 3292) LONG, WILLIE J. | [REDACTED] ERNESTINE LONG | 87114514 | ALD | 1948-1978 |
| 3293) LONGFELLOW, JOSEPH JR. | [REDACTED] | 91171501 | ALD | 1964-PRES |
| 3294) LONGFELLOW, JOSEPH W. | [REDACTED] LUCIA R. LONGFELLOW | 89-CA06266 | ALD | 1937-1986 |
| 3295) LONSCAK, PAUL | [REDACTED] GLORIA A. LONSCAK | 92311515 | ALD | 1967-PRES |
| 3296) LOONEY, OTHA LEE JR. | [REDACTED] MADELINE E. LOONEY | 87278704 | ALD | 1956-PRES |
| 3297) LOPRESTO, CHARLES | [REDACTED] CONNIE LOPRESTO | 87CG3708/45/178 | ALD | 1939-1982 |
| 3298) LOPRESTO, PAUL J. | [REDACTED] | 88CG405/51/5 | ALD | 1947-1977 |
| 3299) LOSS, STEVE (D) | [REDACTED] | 91064505 | ALD | 1944-1977 |
| 3300) LOTSEY, WELFORD | [REDACTED] ANNA LOTSEY | 87198546 | ALD | 1950-PF |
| 3301) LOUGH, GARY H. | [REDACTED] SUZANNE LOUGH | 91213539 | ALD | 1969-PRES |
| 3302) LOUIS, BENEDICT | [REDACTED] GENEVA LOUIS | 93197521 | ALD | 1969-PRES |
| 3303) LOUKONEN, DAVID | [REDACTED] LOUISE LOUKONEN | 92311516 | ALD | 1940-1981 |
| 3304) LOVE, CHARLIE | [REDACTED] SADIE L. LOVE | 88071565 | ALD | 1950-1983 |
| 3305) LOVELACE, LARRY D. | [REDACTED] ALICE J. LOVELACE | 93197524 | ALD | 1963-PRES |
| 3306) LOVELESS, GEORGE | [REDACTED] CATHERINE LOVELESS | 89026541 | ALD | 1943-1976 |
| 3307) LOVELL, DELMAR E. | [REDACTED] OLIVE M. LOVELL | 89251535 | ALD | 1947-1981 |
| 3308) LOVERDE, STEPHEN J. SR. | [REDACTED] MARY ANNA LOVERDE | 87CG3090/43/160 | ALD | 1947-P |
| 3309) LOWE, JAMES D. | [REDACTED] RUTH LOWE | 88057531 | ALD | 1942-1976 |
| 3310) LOWE, JOSEPH S. (D) | [REDACTED] DOROTHY LOWE | 88(90)CG689/52/ | ALD | 1940-1978 |
| 3311) LOWE, WILLIAM C. | [REDACTED] CARMEN B. LOWE | 86CG4240/33/161 | ALD | 1946-PRES |
| 3312) LOWERY, WILLIAM (D) | [REDACTED] WILLREIUM LOWERY | 87212516 | ALD | 1948-1979 |
| 3313) LOWMAN, ALVIN E. (D) | [REDACTED] | 87CG1207/37/227 | ALD | 1942-1967 |
| 3314) LOWMAN, FRANCIS M. | [REDACTED] LOUISE LOWMAN | 88155542 | ALD | 1945-1981 |
| 3315) LOWMAN, HARRY D. SR. | [REDACTED] DOROTHY D. LOWMAN | 90012549 | ALD | 1958-PRES |
| 3316) LOYAL, ALFRED (D) | [REDACTED] ANNABELLE LOYAL | 89237550 | ALD | 1945-1976 |
| 3317) LOZZI, EDWARD J. | [REDACTED] MARY LOZZI | 88148534 | ALD | 1958-PRES |
| 3318) LUBINSKI, ANDREW M. | [REDACTED] | 91184546 | ALD | 1939-1978 |
| 3319) LUBINSKI, THOMAS C. | [REDACTED] FRANCES S. LUBINSKI | 91310511 | ALD | 1965-PRES |
| 3320) LUBY, VINCENT D. (D) | [REDACTED] DORA E. LUBY | 89104528 | ALD | 1946-1980 |
| 3321) LUCAS, ALFONZA | [REDACTED] | 89188525 | ALD | 1949-1983 |
| 3322) LUCAS, MICHAEL A. SR. | [REDACTED] MARGUERITE LUCAS | 90187537 | ALD | 1966-PRES |
| 3323) LUDNICK, VICTOR F. | [REDACTED] ARLENE LUDNICK | 87CG1493/38/163 | ALD | 1951-PRI |
| 3324) LUKASEVICH, STANLEY J. | [REDACTED] ROSE M. LUKASEVICH | 90194537 | ALD | 1954-PRES |
| 3325) LUKASZEWSKI, FRANICS J. | [REDACTED] | 90348516 | ALD | 1959-PRES |
| 3326) LUNDY, CHARLIE L. | [REDACTED] THOMISENIA LUNDY | 89188526 | ALD | 1952-1985 |
| 3327) LUNDY, JOHN MCKINLEY | [REDACTED] | 89307514 | ALD | 1954-PRES |
| 3328) LUNN, JAMES C. | [REDACTED] DOROTHY L. LUNN | 87278604 | ALD | 1946-1983 |
| 3329) LUNQUEST, JAMES (D) | [REDACTED] EARLINE LUNQUEST | 88CG455/51/55 | ALD | 1943-1983 |
| 3330) LUNTER, MATTEUS | [REDACTED] GLORIA LUNTER | 87CG1206/37/226 | ALD | 1954-P |
| 3331) LUNZ, GEORGE J. | [REDACTED] CAROLYN A. LUNZ | 89216528 | ALD | 1955-PRES |
| 3332) LUSCO, JOHN E. | [REDACTED] MARY LUSCO | 88179513 | ALD | 1949-PRES |
| 3333) LYMAN, WALTER | [REDACTED] BETTY LYMAN | 87CG629/35/399 | ALD | 1930-1983 |
| 3334) LYNCH, CHARLES W. SR. | [REDACTED] CATHERINE M. LYNCH | 90187538 | ALD | 1939-1970 |
| 3335) LYNCH, GEORGE W. JR. | [REDACTED] | 88155537 | ALD | 1952-1988 |
| 3336) LYNCH, ROBERT E. DISMISSED w/o PAYMENT | [REDACTED] THELMA LYNCH WITH PREJUDICE 7/79 | 90089508 | ALD | 1958-PRES |
| 3337) LYON, LEWIS W. | [REDACTED] EMMA LYON | 90045531 | ALD | 1953-1983 |

THE LAW OFFICES

ETER G. ANGELOS

| CLIENT | SOC. SEC. # SPOUSE | DOCKET | DISEASE | EXPOSURE |
|----------------------------------|-----------------------|-----------------|---------|------------|
| 3338) LYON, ROBERT L. | | 91171520 | ALD | 1960-1965 |
| 3339) LYONS, CLARENCE E. | | 87198578 | ALD | 1945-1986 |
| 3340) LYONS, FRANCIS A. | | 89244516 | ALD | 1959-PRES |
| 3341) LYONS, THEODORE J. JR. | MAXINE LYONS | 87CG1367/38/37 | ALD | 1951-1980 |
| 3342) MAAS, WALTER A. | ETHEL LYONS | 91179530 | ALD | 1952-1983 |
| 3343) MABE, WARREN G. | LAWANDA MAAS | 89125512 | ALD | 1953-PRES |
| 3344) MACH, ALBERT F. | MADGE W. MABE | 90215539 | ALD | 1946-1976 |
| 3345) MACHALA, AUGUST JOSEPH | C. MARIE MACH | 92258534 | ALD | 1946-1980 |
| 3346) MACIN, EDWARD C. | IRENE H. MACHALA | 89076531 | ALD | 1939-1986 |
| 3347) MACK, EDDIE | | 89195521 | ALD | 1951-1987 |
| 3348) MACK, LEE L. | HANNAH L. MACK | 88103509 | ALD | 1937-1976 |
| 3349) MACK, MITCHELL | JULIA MACK | 90250515 | ALD | 1957-1982 |
| 3350) MACKAY, ALLAN I. | | 89104539 | ALD | 1968-1984 |
| 3351) MADDEN, THOMAS J. (D) | GERTRUDE B. MADDEN | 91102503 | ALD | 1931-1977 |
| 3352) MADDOX, CORNELIUS | JUANITA MADDOX | 89166521 | ALD | 1969-PRES |
| 3353) MADDOX, JAMES V. | DOLORES MADDOX | 87198504 | ALD | 1937-1 |
| 3354) MADERA, HENRY P. | | 88041544 | ALD | 1941-1955 |
| 3355) MADISON, GEORGE T. | JACQUELINE MADISON | 87294550 | ALD | 1953-PRES |
| 3356) MADONNA, WILLIAM | PHYLIS MADONNA | 87079529 | ALD | 1957-1984 |
| 3357) MAGASKIE, LEON FRANCIS (D) | | 90033524 | ALD | 1955-1987 |
| 3358) MAGILL, PAUL D. | | 87CG3643/45/113 | ALD | 1951-1981 |
| 3359) MAGWOOD, MARSHALL | | 88328508 | ALD | 1952-1984 |
| 3360) MAHOMES, HOWARD JR. | BERTHA MAHOMES | 88071566 | ALD | 1942-PRES |
| 3361) MAHONE, LUTHER | ELEANOR MAHONE | 89076532 | ALD | 1956-1969 |
| 3362) MAI, WILLIAM J. | JOANN MAI | 87CG3103/43/173 | ALD | 1950-PRES |
| 3363) MAIN, WILLIAM F. | NANCY L. MAIN | 87278506 | ALD | 1948-1984 |
| 3364) MAITH, ROBERT J. | DOROTHY MAITH | 92304540 | ALD | 1950-1981 |
| 3365) MAJEWSKI, ALFRED SR. | DOLORES MAJEWSKI | 89111508 | ALD | 1948-1981 |
| 3366) MAJOR, BERNARD (D) | ANNE MAJOR | 87CG3093/43/163 | ALD | 1946-1983 |
| 3367) MAJOR, JAMES | VIRGINA MAJOR | 87CG1339/38/9 | ALD | 1936-1982 |
| 3368) MAKAR, DANIEL S. | | 90033525 | ALD | 1968-PRES |
| 3369) MALATESTA, JOHN B. (D) | OMA MALATESTA | 88057532 | ALD | 1948-1983 |
| 3370) MALCZEWSKI, DANIEL J. | IRIS G. MALCZEWSKI | 92258526 | ALD | 1940s-1986 |
| 3371) MALCZEWSKI, STANLEY J. | MARY MALCZEWSKI | 87106505 | ALD | 1943-1973 |
| 3372) MALINOW, IRVIN | | 89111512 | ALD | 1955-1981 |
| 3373) MALINOWSKI, EDWARD N. | JOANNE MALINOWSKI | 91171512 | ALD | 1971-PRES |
| 3374) MALINOWSKI, RICHARD L. | CAROLYN R. MALINOWSKI | 89188527 | ALD | 1953-PRES |
| 3375) MALLONEE, CHARLES E. (D) | | 87CG1384/38/54 | ALD | 1937-1974 |
| 3376) MALLORY, BRYANT M. | GLENDA SUE MALLORY | 89202510 | ALD | 1952-19 |
| 3377) MALONE, EARL | SHIRLEY MALONE | 87CG2495/41/165 | ALD | 1952-P |
| 3378) MALONE, HERBERT R. | WALLACIA V. MALONE | 87187518 | ALD | 1959-PRES |
| 3379) MALONE, NORMAN F. | | 88281513 | ALD | 1942-1979 |
| 3380) MALOZI, ANTHONY C. | ANNA MALOZI | 89251536 | ALD | 1945-1955 |
| 3381) MALOZI, LOUIS | EVA MALOZI | 86CG1589/25/179 | ALD | 1952-P |
| 3382) MANDLEY, FREDERICK N. | MARY LYNNE MANDLEY | 89209528 | ALD | 1959-PRES |
| 3383) MANGUM, EFON PATRIC | | 87065554 | ALD | 1956-P |
| 3384) MANGUM, WILLIAM | VERNADETTE MANGUM | 87187537 | ALD | 1955-1980 |
| 3385) MANKIN, CHARLES JR. | JILL M. MANKIN | 88-CA01917 | ALD | 1961-PRES |
| 3386) MANLEY, THOMAS SR. | BERTHA MANLEY | 92304541 | ALD | 1957-1992 |
| 3387) MANNING, LEROY H. | | 89094528 | ALD | 1948-1984 |
| 3388) MANNING, LOUIS C. | ANNA LEE MANNING | 90229536 | ALD | 1949-PRES |
| 3389) MANNING, WAYNE E. | RENO MANNING | 91109513 | ALD | 1969-PRES |
| 3390) MANNONE, FRANK | BETTY M. MANNONE | 88CG533/51/133 | ALD | 1947-1983 |

| CLIENT | SOC. SEC. # SPOUSE | DOCKET | DISEASE | EXPOSURE |
|----------------------------------|-------------------------|-----------------|-----------------|-----------|
| 195) JOHNSON, THOMAS (D) | ETHEL JOHNSON | 86CG1011/23/41 | COLON/GI CANCER | 1943-1974 |
| 196) JOHNSON, VIRGIL (D) | HELEN E. JOHNSON | 89006528 | OTHER CANCER | 1942-1981 |
| 197) JOHNSTON, JAMES ANGUS (D) | HELEN JOHNSTON | 88091506 | OTHER CANCER | 1941-1973 |
| 198) JONES, OSCAR (D) | BETTY JONES | 88148529 | OTHER CANCER | 1939-1972 |
| 199) JONES, ROBERT | BRENDA JONES | 89188517 | OTHER CANCER | 1960-PRES |
| 200) JONES, WILLIAM L. (D) | SUSIE JONES | 89307513 | COLON/GI CANCER | 1937-1979 |
| 201) JONES, WILLIS E. (D) | MARGARET JONES | 87278514 | OTHER CANCER | 1947-1985 |
| 202) JORDON, WILLIS L. (D) | | 87303520 | COLON/GI CANCER | 1950-1979 |
| 203) KACALA, WALTER (D) | | 93095520 | COLON/GI CANCER | 1940-1975 |
| 204) KANE, HOWARD A. | | 89244513 | COLON/GI CANCER | 1951-PRES |
| 205) KAVANAGH, EDWARD | | 87CG1418/38/88 | OTHER CANCER | 1941-1983 |
| 206) KEARNEY, GEORGE (D) | SHIRLEY KEARNEY | 88091510 | OTHER CANCER | 1960-1987 |
| 207) KEARNEY, JOHN ROBERT (D) | ROSALIE G. KEARNEY | 90124513 | COLON/GI CANCER | 1946-1979 |
| 208) KEARSON, JUDGE H. (D) | VIOLA KEARSON | 88309501 | OTHER CANCER | 1939-1979 |
| 209) KELCH, GEORGE W. | AMELIA KELCH | 92311514 | COLON/GI CANCER | 1941-1979 |
| 210) KENNEDY, THOMAS M. JR. (D) | BERTHA V. KENNEDY | 92318515 | OTHER CANCER | 1941-1981 |
| 211) KING, RALPHUS (D) | LUCILLE KING | 89279521 | OTHER CANCER | 1940-1970 |
| 212) KINGER, PETER P. (D) | GENEVIEVE KINGER | 89251532 | COLON/GI CANCER | 1941-1979 |
| 213) KIRBY, ROBERT R. (D) | SHIRLEY M. KIRBY | 88CG560/51/160 | COLON/GI CANCER | 1954-PRES |
| 214) Klapka, WILLIAM SR. (D) | CHARLSIE Klapka | 90229510 | COLON/GI CANCER | 1948-1986 |
| 215) KNELL, EDWIN | | 84CG217/1/217 | COLON/GI CANCER | 1953-1984 |
| 216) KNIGHT, LEROY (D) | SUSIE KNIGHT | 89317514 | OTHER CANCER | 1946-1984 |
| 217) KORZENIEWSKI, JOSEPH | JULIA KORZENIEWSKI | 87313502 | OTHER CANCER | 1952-1982 |
| 218) KRZYZANIAK, JOHN (D) | MARY REBECCA KRZYZANIAK | 87CG3554/45/24 | COLON/GI CANCER | 1947-PRES |
| 219) KURPECK, BERNARD (D) | SYLVIA KURPECK | 90229533 | COLON/GI CANCER | 1947-1982 |
| 220) LADANYI, ALBERT E. (D) | EVA LADANYI | 86CG1400/24/240 | OTHER CANCER | 1957-P |
| 221) LAROSA, ROCCO (D) | BERNICE LAROSA | 89104529 | COLON/GI CANCER | 1947-1987 |
| 222) LAVERY, DANIEL J. SR. | | 90068522 | COLON/GI CANCER | 1936-1979 |
| 223) LAWRENCE, THEOPHILUS | SYBIL LAWRENCE | 87CG1504/38/174 | COLON/GI CANCER | 1969-PRES |
| 224) LEWIS, RAYMOND | LILLIE LEWIS | 88103510 | OTHER CANCER | 1936-1970 |
| 225) LIBERATORE, ORLANDO (D) | MADLINE LIBERATORE | 87301501 | COLON/GI CANCER | 1935-1985 |
| 226) LIGHTNER, WALLACE G. | KATHERINE LIGHTNER | 89216526 | OTHER CANCER | 1947-1981 |
| 227) LINDSEY, FRANCIS D. | HELEN LINDSEY | 87278709 | COLON/GI CANCER | 1947-1980 |
| 228) LINDSEY, M. C. (D) | ETHEL LINDSEY | 90236517 | OTHER CANCER | 1952-PRES |
| 229) LINN, LOUIS L. | | 90313507 | OTHER CANCER | 1942-1944 |
| 230) LINSEBIGLER, ROBERT A. (D) | INEZ JEAN LINSEBIGLER | 88155517 | COLON/GI CANCER | 1951-1979 |
| 231) LIVOLSI, ANGELO P. (D) | NAOMI LIVOLSI | 88309503 | COLON/GI CANCER | 1941-1976 |
| 232) LOCKMAN, CHARLES | RUTH LOCKMAN | 87CG1501/38/171 | OTHER CANCER | 1956-1981 |
| 233) LOVELL, CHRISTOPHER L. (D) | ANNA LOVELL | 85CG575/7/210 | OTHER CANCER | 1929-1971 |
| 234) LOWERY, WILLIAM A. (D) | | 87303523 | COLON/GI CANCER | 1936-1976 |
| 235) LOYALL, JAMES (D) | LILLIAN LOYALL | 89069506 | COLON/GI CANCER | 1947-1982 |
| 236) LYNEN, FRED H. | ANN LYNEN | 87154504 | OTHER CANCER | 1941-1984 |
| 237) MACKEY, BENJAMIN F. JR. (D) | MAE MACKEY | 88155518 | COLON/GI CANCER | 1961-1981 |
| 238) MARCANTONIO, EMEIO (D) | MARTHA MARCANTONIO | 87CG1489/38/159 | COLON/GI CANCER | 1930-1980 |
| 239) MARINO, CHARLES M. SR. | MARY MARINO | 90285502 | COLON/GI CANCER | 1942-1975 |
| 240) MARRELLA, SALVATORE A. | ISABELLE MARRELLA | 87313506 | COLON/GI CANCER | 1946-1978 |
| 241) MARTIN, JOSEPH C. | VELMA V. MARTIN | 88CG536/51/136 | COLON/GI CANCER | 1939-1974 |
| 242) MASSEY, EUGENE | CARRIE MASSEY | 87313505 | COLON/GI CANCER | 1937-1978 |
| 243) MATEEN, ELMO A. (D) | AMERICA L. THOMAS | 87303528 | COLON/GI CANCER | 1959-1985 |
| 244) MCCORMICK, PURDIE L. (D) | VERA MCCORMICK | 88148536 | COLON/GI CANCER | 1943-PRES |
| 245) MCCROSKEY, RANDEL R. | GERLENE MCCROSKEY | 91109514 | OTHER CANCER | 1950-PRES |
| 246) MCCULLOUGH, MELVIN (D) | ADLEE MCCULLOUGH | 90019523 | OTHER CANCER | 1952-1985 |
| 247) MCDANIEL, JACK WILLIAM | | 87CG3648/45/118 | OTHER CANCER | 1951-1987 |

Robert Judy, Jr., Personal Representative of the Estate of Robert L. Judy

4710 Ilkley Moor Lane
Ellicott City MD 21043

Gary Judy, Personal Representative of the Estate of Robert L. Judy

8006 Ridgely Oak Road
Baltimore MD 21235

Paul G. Jurak

107 Fifth Avenue
Halethorpe MD 21227

Mary Journey, Personal Representative of the Estate of John K. Journey

2257 Mission Hills Drive
Lakeland FL 33810

Mary Journey, Surviving Spouse of John K. Journey

2257 Mission Hills Drive
Lakeland FL 33810

Richard Justice, Personal Representative of the Estate of Pricy Justice

5865 Weathered Brick Drive
Sykesville MD 21784

William E. Justice Iii & Shirley Justice

2016 Birch Road
Baltimore MD 21221

Kirkwood L. Justis & Phyllis May Justis

2525 Glencoe Road
Baltimore MD 21234

Ronald Mayhew, Personal Representative of the Estate of Walter Kacala

5330 Windsor Lake Circle
Sanford FL 32773

Raymond Kaczorowski, Personal Representative of the Estate of Frank R. Kaczorowski

2532 Uniontown Road
Westminster MD 21158

James Kaczorowski, Personal Representative of the Estate of Peter P. Kaczorowski

430 Wynridge Drive
Charlottesville VA 22901

Deborah Fuchsluger, Personal Representative of the Estate of Carl W. Kaese

1308 First Road
Baltimore MD 21220

EXHIBIT

17

Larry D. Lovelace & Alice Lovelace

756 Firetower Road
Colora MD 21917

Valerie Lovell, Personal Representative of the Estate of Christopher L. Lovell

1706 D Landmark Drive
Forest Hill MD 21050

Olive Lovell, Surviving Spouse of Delmar E. Lovell

862 Great Egret Circle Unit Ea
Sunset Beach NC 28468

Phyllis Foust, Personal Representative of the Estate of John H. Lovell Sr

2705 Mercer Drive
Baldwin MD 21013

John Freel, Personal Representative of the Estate of Frank Loverde Sr

1437 Overlook Way
Bel Air MD 21014

Frank Loverde, Jr., Personal Representative of the Estate of Frank Loverde Sr

Route 1 Box 215H
Pamplin VA 23958

Stephen Loverde, Jr., Personal Representative of the Estate of Stephen J. Loverde Sr

6016 Edmondson Avenue
Baltimore MD 21228

Mary Anna Loverde, Surviving Spouse of Stephen J. Loverde Sr

8810 Walther Blvd, Apt 3106
Baltimore MD 21234

Patricia Beall, Personal Representative of the Estate of James D. Lowe

210 Second Avenue, S.W.
Glen Burnie MD 21061

Ruth Lowe, Surviving Spouse of James D. Lowe

1416 Isted Road
Glen Burnie MD 21060

Dorothy Lowe, Personal Representative of the Estate of Joseph S. Lowe

420 Riverdale Road
Severna Park MD 21146

Dorothy Lowe, Surviving Spouse of Joseph S. Lowe

420 Riverdale Road
Severna Park MD 21146

Bertha Mahomes, Surviving Spouse of Howard Mahomes Jr

3425 Parklawn Avenue

Baltimore MD 21213

Eleanor Mahone, Personal Representative of the Estate of Luther Mahone

824 Central Avenue, Apt. 808

Charleston WV 25312

Eleanor Mahone, Surviving Spouse of Luther Mahone

824 Central Ave, Apt 808

Charleston WV 25312

William J. Mai & Joann Mai

2025 Garden Drive

Forest Hill MD 21050

William F. Main & Nancy Main

7906 Kavanagh Road

Baltimore MD 21222

Abraham Adler, Personal Representative of the Estate of Robert J. Maith

36 S. Charles St. Suite 1515

Baltimore MD 212013103

Dorothy Maith, Surviving Spouse of Robert J. Maith

7521 Gum Spring Road

Baltimore MD 212373706

Linda Lanham, Personal Representative of the Estate of Alfred Majewski

1622 Gray Haven Court

Dundalk MD 21222

Dolores Majewski, Surviving Spouse of Alfred Majewski

1622 Gray Haven Ct.

Baltimore MD 21222

Anne Major, Personal Representative of the Estate of Bernard Major

2 Southerly Court Apt 302

Towson MD 21286

Anne Major, Surviving Spouse of Bernard Major

2 Southerly Ct., Apt. 302

Towson MD 21286

Elizabeth Vanni, Personal Representative of the Estate of Colay J. Major Sr

117 Lake Front Drive

Hunt Valley MD 21030

Executive Risk Indemnity Inc.
Home Office
The Prentice-Hall Corporation System, Inc.
1013 Centre Road
Wilmington, DE 19805-1297

Administrative Offices/Mailing Address:
82 Hopmeadow Street
Simsbury, Connecticut 06070-7683



**THIS IS A CLAIMS MADE AND REPORTED INDEMNITY POLICY
WITH DEFENSE EXPENSES INCLUDED IN THE LIMIT OF LIABILITY.**

PLEASE READ THE ENTIRE POLICY CAREFULLY.

DECLARATIONS

LAWYERS PROFESSIONAL LIABILITY POLICY

RENEWAL OF
8165-7836

POLICY NUMBER
8165-7836

NOTICE: THIS IS A CLAIMS MADE AND REPORTED INDEMNITY POLICY WHICH APPLIES ONLY TO ANY "CLAIM" FIRST MADE AGAINST AN "INSURED" AND REPORTED TO THE UNDERWRITER DURING THE "POLICY PERIOD" OR ANY APPLICABLE EXTENDED REPORTING PERIOD FOR A "WRONGFUL ACT." THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES OR SETTLEMENTS SHALL BE REDUCED AND MAY BE EXHAUSTED BY ANY PAYMENT OF "DEFENSE EXPENSES." THIS POLICY DOES NOT PROVIDE FOR ANY DUTY BY THE UNDERWRITER TO DEFEND ANY INSURED.

ITEM 1. INSURED FIRM - NAME AND PRINCIPAL ADDRESS:

Law Offices Of Peter G. Angelos, P.C.
One Charles Center
100 North Charles Street, 22nd Floor
Baltimore, MD 21201

Predecessor Firm(s):

N/A

Address(es):

ITEM 2. POLICY PERIOD:

(a) Inception Date: May 10, 2004

(b) Expiration Date: May 10, 2005
at 12:01 a.m. both dates at the Principal
Address in ITEM 1.

ITEM 3. LIMIT OF LIABILITY (Inclusive of Defense Expenses):

\$10,000,000.00

ITEM 4. RETENTIONS:

(a) \$250,000.00 Each and every Claim.

(b) N/A Aggregate.

ITEM 5. PREMIUM:

\$ 585,000.00 Premium.

Due 45 days from the end of the month in which the
premium is effective

ITEM 6. EXTENDED REPORTING PERIOD:

365 day at \$ 1,170,000.00 of Additional Premium.

ENDORSEMENTS ATTACHED AT ISSUANCE:

C23460 (2/97 ed.)

Maryland Amendatory Endorsement

D25146 (9/97 ed.)

Defense Expenses Only Coverage for Disciplinary Proceedings; Subject to Sub-Limit of
Liability Endorsement

D25467 (12/97 ed.)

Exclusion (E) Endorsement

D32938 (1/03 ed.)

Amend Definition of "Claim" Endorsement

QPANG (7/00 ed.)

LAW OFFICES OF PETER ANGELOS ADDITONAL COVERAGE ENDORSEMENT

QPANG3 (1/01 ed.)

AMEND DEFINITION AND APPLICATION OF "CONTROLLED ENTERPRISES" AND
"KNOWN CIRCUMSTANCES"

RCM&D

Riggs, Counselman, Michaels & Downes, Inc.
555 Fairmount Avenue, Baltimore, Maryland 21286
(410) 339-7263

Policy reviewed by _____

**EXHIBIT
18**

IN THE CIRCUIT COURT FOR BALTIMORE CITY

CYNTHIA M. CLARK as successor personal
representative of THE ESTATES OF WALTER
F. KACALA and HELEN M. KACALA, *et al.*,

Plaintiffs,

v.

PETER G. ANGELOS, ESQ., *et al.*,

Defendants.

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Case No. 24-C-21-000847 OT

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**FINAL JUDGMENT APPROVING SETTLEMENT AND CERTIFYING
SETTLEMENT CLASS**

UPON REVIEW AND CONSIDERATION of the Proposed Class Settlement Agreement (“Settlement Agreement”) relating to claims asserted by Plaintiffs¹ against The Law Offices of Peter G. Angelos, P.C. (the “Law Firm”) and the Estate of Peter G. Angelos (together with the Law Firm, “Defendants”) in the above-captioned litigation, and of Plaintiffs’ unopposed Motion for Final Settlement Approval; and in consideration of the memoranda and arguments of counsel,

NOW, upon the application of Plaintiffs, it is **ORDERED** and **ADJUDGED** as follows:

1. Pursuant to Maryland Rule 2-231, the Court **APPROVES** the settlement of this action, as embodied in the terms of the Settlement Agreement, and **FINDS** that the settlement is, in all respects, fair, reasonable, and adequate and in the best interest of the Class Members in light of the factual, legal, practical, and procedural considerations raised by this case. The Settlement Agreement is the product of good faith, arm’s-length negotiations among the parties,

¹ Cynthia M. Clark, as successor personal representative of the Estates of Walter F. Kacala and Helen M. Kacala; Norman J. Loverde, as successor personal representative of the Estates of Stephen J. Loverde, Sr. and Mary Anna Loverde; and Maria M. McCarthy and William J. McCarthy, Jr., as personal representatives of the Estate of Anne Major and successor personal representatives of the Estate of Bernard L. Major, individually and on behalf of a Class of similarly situated Angelos clients.

each of which was represented by experienced counsel. The relief provided for the Class in the settlement is adequate, and the proposal treats Class Members equitably relative to one another. The Settlement Agreement is incorporated by reference into this Final Judgment (with capitalized terms as set forth in the Settlement Agreement) and is hereby adopted as an Order of this Court. In the event of a conflict between the text of this Final Judgment and the text of the Settlement Agreement, the text of the Settlement Agreement shall control.

2. In accordance with the Settlement Agreement, and pursuant to Maryland Rule 2-231(b) and (c)(3), the Court **CERTIFIES** the following Class:

All persons (or their estate representatives or next of kin) represented at any time by Defendants in connection with the Motion to Enforce and/or the Tort Action who are identified on the MCIC Settlement Beneficiary List and the Surviving Family Member List, Exhibits 1 and 2 to the Settlement Agreement.

Excluded from the Class are:

(a) All directors, officers, employees, and shareholders of the Law Firm, and their immediate family members;

(b) All attorneys for Defendants in the current matter, and their immediate family members;

(c) Each and every judge assigned to this action and all members of those judges' staffs, and their immediate family members;

(d) Those persons who previously settled or whose associated MCIC Settlement Beneficiary previously settled legal malpractice claims against Defendants equivalent to any of the Claims asserted in the Case;

(e) For the avoidance of doubt, all persons listed on exhibit 3 to the third amended complaint in the Tort Action; and

(f) Those persons who opted out of the Class timely and validly, as set forth in the Administrator's list docketed on October 31, 2024, together with A383 Colbert D. Bert and A0069 The Estate of Frances Allmond through P.R. Victoria McNair, both of whom opted out untimely but whose opt-out requests the parties have agreed to honor.

3. The Court **FINDS** that the Notices dispatched to the Class Members were in compliance with the Court's August 28, 2024 Order Preliminarily Approving Settlement, Certifying Class for Settlement Purposes, and with Respect to Notice, Settlement Hearing, and Administration, and further **FINDS** that those Notices constituted the best notice practicable under the circumstances in satisfaction of the requirements of due process and Md. Rule 2-231(f).

Elements of Certifiable Class

4. The Court **FINDS** that all requirements for class certification under Maryland Rule 2-231(b) and (c)(3) are satisfied:

(a) ***Ascertainability.*** The Court **FINDS** that the Class is readily ascertainable, as the universe of settlement beneficiaries represented by the Law Firm is a matter of public record;

(b) ***Numerosity.*** The Court **FINDS** that the Class, which amounts to more than 10,000 MCIC Settlement Beneficiaries and Surviving Family Members, is so numerous that joinder of all members would be impracticable;

(c) ***Commonality.*** The Court **FINDS** that material questions of law and fact are common to the Class, including questions relating to Defendants' breach of the duty of care, causation, and the framework for apportioning damages;

(d) **Typicality.** The Court **FINDS** that the claims of Plaintiffs (individually or through estate representatives) are typical of the class claims, as Plaintiffs were injured in the same manner as the absent Class Members due to the Law Firm's negligence;

(e) **Adequacy.** The Court **FINDS** that Plaintiffs and their counsel will fairly and adequately protect the interests of the Class, as Plaintiffs' claims are not contrary to or inconsistent with any absent Class Members' claims, and as Plaintiffs' counsel have demonstrated that they possess the subject-matter expertise and experience to zealously advocate for the Class;

(f) **Predominance.** The Court **FINDS** that common questions of law and fact predominate over any individual issues given that the Law Firm's malpractice uniformly impacted the MCIC Settlement Beneficiaries, and given that the MCIC Settlement Agreement requires that any additional proceeds recovered pursuant to that agreement must be distributed *pro rata* to the beneficiaries based on preexisting disease category, and as such a class action is the only logical means of adjudicating the Class Members' claims; and

(g) **Superiority.** The Court **FINDS** that a class action is superior to any other available method for the fair and efficient adjudication of this controversy, including because (i) given the commonality of factual and legal issues, the interests of Class Members in individually controlling the prosecution of separate actions are minimal; (ii) the only other actions known to the Court that implicate the subject matter of this case were not class actions, were prosecuted by a small number of Defendants' clients, and have resolved out of court; (iii) the Circuit Court for Baltimore City, where the underlying asbestos cases were litigated, is a suitable forum for resolution of the class claims; and (iv) a class action would be more efficient than individual

actions presenting the same legal and factual issues repeatedly, and the Court anticipates that the management of a class action would present no unusual difficulties.

Appointment of Class Representatives and Class Counsel

5. The Court **APPOINTS** Plaintiffs Cynthia M. Clark, Norman J. Loverde, Maria M. McCarthy, and William J. McCarthy, Jr. as Class Representatives, having found that they meet the requirements of Maryland Rule 2-231(b)(4).

6. The Court **APPOINTS** Plaintiffs' counsel of record as Class Counsel, having found that they meet the requirements of Maryland Rule 2-231(b)(4). The lawyers representing the Class are:

Paul S. Caiola (lead counsel)
Brian T. Tucker
Joe Dugan
Sarah R. Simmons
Tory S. Trocchia
GALLAGHER EVELIUS & JONES LLP
218 N. Charles St., Ste. 400
Baltimore, MD 21201

Fair, Reasonable, and Adequate Settlement

7. Because the Settlement Agreement will bind all members of the Class, the Court must determine that the settlement is fair, reasonable, and adequate, taking into account both procedural and substantive considerations:

(a) ***Adequate representation.*** Class Counsel and the Class Representatives zealously advocated for the rights of the absent Class Members in this hotly contested litigation. Class Counsel devoted thousands of hours and millions of dollars of time value to build and litigate the case. Class Counsel's efforts included: (i) researching and drafting three lengthy complaints, and successfully avoiding motions to dismiss as to each; (ii) defeating an early motion to strike Plaintiffs' class allegations, successfully moving to dismiss Defendants'

subsequent interlocutory appeal, and successfully resisting Defendants' petition for a writ of certiorari to the Maryland Supreme Court; and (iii) obtaining over 470,000 pages of discovery material from Defendants following three successful motions to compel. Class Counsel's collective professional experience and skill enabled counsel to craft a winning strategy in this complex case. The Class Representatives also successfully advocated for the rights of the Class. They collected and produced documents, answered interrogatories, and appeared for depositions at which they expressed an appropriate understanding of the claims and their good-faith motivations for pursuing them. The Court **FINDS** that Class Counsel and the Class Representatives adequately represented the Class.

(b) *Arm's-length negotiation.* Plaintiffs and their counsel zealously advocated on behalf of the Class, ensuring a procedurally fair litigation process. The mediation and settlement process also was procedurally fair. The parties' arm's-length negotiations and related legal work took many weeks and hundreds of hours of attorney time, and the parties collectively exchanged at least eighteen drafts of a term sheet as part of that process. Along the way, counsel for Plaintiffs, for the Law Firm, and for the Angelos Estate repeatedly engaged with retired federal judge Hon. Paul Grimm as mediator. The Court **FINDS** that the settlement was achieved through an arm's-length negotiation.

(c) *Adequate relief.* The Court **FINDS** that the relief provided to the Class is adequate considering (i) the relative strength of the plaintiffs' case on the merits and the existence of any difficulties of proof or strong defenses the plaintiffs would likely encounter if the case went to trial; (ii) the anticipated duration and expense of additional litigation; (iii) the solvency of the defendants and the likelihood of recovery on a litigated judgment; (iv) the degree

of opposition to the settlement; (v) the effectiveness of the proposed method of distributing relief to the Class; and (vi) the terms and timing of payment of counsel fees:

i. Relative strength of Plaintiffs' case and difficulties of proof.

While Plaintiffs had a strong case for liability and damages, Plaintiffs would have faced significant obstacles had litigation proceeded. As of the May 16, 2024 stay of litigation to facilitate settlement negotiations, Defendants' three summary judgment motions remained pending, and Defendants also had moved to strike Plaintiffs' principal damages expert. Moreover, Plaintiffs' damages assessment was predicated on the unproven assumptions that 100% of MCIC Settlement Beneficiaries were exposed to MCIC's asbestos operations and that operations coverage was available to MCIC for each year in the settlement beneficiaries' exposure windows. Since those assumptions might not have held up in light of further discovery and motion practice, settlement at a figure materially less than Plaintiffs' best case at trial is entirely appropriate.

ii. Anticipated expense and duration of litigation. Absent settlement,

further discovery disputes would have been likely, and the parties also would have undertaken extensive expert discovery. Trial would have required two weeks or longer, and given the novelty of some of the issues, appellate proceedings would have been likely regardless of the trial outcome. Inevitably, counsel would have invested millions of dollars of additional time and litigation expenses had the case not settled.

iii. Solvency and likelihood of collection after judgment. In the event

that Plaintiffs were to prevail at trial and on appeal and secure a judgment for the Class, Plaintiffs might have encountered uncertainty around collection, given major events that have taken place at the Law Firm and in the Angelos family since this case was filed (including the death of Peter

Angelos, the publicly announced sale of the Law Firm, and the transfer of the Angelos family's ownership interest in the Baltimore Orioles to a new ownership group).

iv. Degree of opposition. The absent Class Members had a forty-five day window, following mailing of the Notice, to submit an opt-out request or a notice of objection pursuant to the instructions in the Notice. The Administrator received a total of sixteen opt-out requests and one objection, out of a Class of 10,215 MCIC Settlement Beneficiaries and Surviving Family Members. Some of the opt-out requestors stated that they simply did not want to go to the trouble of reopening an estate. The objector's concern, which related to her views about the \$10,000 incentive payments to the Class Representatives as discussed in paragraph 13 below, is not a basis to reject or modify the settlement.

v. Effectiveness of method of distributing relief. Since the identities of all settlement beneficiaries who make up the Class are known to the parties, and since their contact information should in most instances either be known to the Law Firm or ascertainable from public records, no claim process is needed in this case. For all MCIC Settlement Beneficiaries with confirmed addresses, the Administrator will issue payment beginning in or about January 2025. For MCIC Settlement Beneficiaries whose addresses are unconfirmed, the Administrator will take further action to attempt to confirm the addresses before issuing payment, but will nevertheless issue the initial payment within the timeframes set forth in the Settlement Agreement.

vi. Terms and timing of payment of counsel fees. Class Counsel have requested an award of attorneys' fees in the amount of 33% of the gross settlement proceeds. Class Counsel also have requested reimbursement of their expenses. The requested award is approved as it is within the range of fees that courts approve in high-value class actions.

Moreover, Class Counsel's fee will be paid out pursuant to the same distribution schedule as the payments to the Class, with Class Counsel's proposed fee equaling 33% of each payment. This feature of the agreement adds to the fairness of the proposed fee arrangement.

(d) ***Equitable treatment.*** The Court **FINDS** that the Settlement Agreement treats Class Member equitably relative to one another. The 1994 MCIC Settlement Agreement established a *pro rata* payment schedule based on injury category, with the largest group of settlement beneficiaries (those with non-malignant conditions) receiving \$1,000 each, and the smallest group (those with mesothelioma) receiving \$9,500 each. The Settlement Agreement mirrors the structure of the 1994 agreement, with the net settlement proceeds divided *pro rata* based on the injury categories of the MCIC Settlement Beneficiaries as set forth in that original agreement. This approach makes the most sense and is the most equitable approach to payment, because the underlying litigation involved efforts to enforce the Class Members' rights in connection with the MCIC Settlement Agreement.

8. After due consideration of the status of proceedings and the posture of the case at the time settlement was proposed; the circumstances surrounding settlement negotiations; the experience of counsel; the relative strength of Plaintiffs' case on the merits; the existence of difficulties of proof and defenses Plaintiffs would be likely to encounter if the case went to trial; the anticipated duration and expense of additional litigation; solvency considerations; the virtual lack of Class Member objections to the settlement; the limited opt-out requests by the Class Members; and affidavits and arguments of counsel, and after notice and a hearing, the Court **FINDS** that the settlement is fair, adequate, and reasonable.

9. Accordingly, the Settlement Agreement should be and is **APPROVED** and shall govern all issues regarding the settlement and all rights of the Parties to the settlement, including

the Settlement Class Members. Each Settlement Class Member shall be bound by the Settlement Agreement, including the releases in the agreement.

Further Actions

10. The Parties are **DIRECTED** to promptly carry out their respective obligations under the Settlement Agreement, and the Administrator, Strategic Claims Services, is **DIRECTED** to make payments to those MCIC Settlement Beneficiaries entitled to payments under the Settlement Agreement consistent with the terms of the agreement.

11. Consistent with paragraph 19 of the Settlement Agreement, payments totaling \$57,000,000 **SHALL BE TRANSFERRED** from the Fund to the ANGELOS CLASS ACTION QSF held at The Huntington National Bank on the schedule set forth in the Settlement Agreement.² From there, Strategic Claims Services shall pay Gallagher Evelius & Jones LLP an amount equal to one-third of each Payment Installment, shall reimburse Gallagher Evelius & Jones LLP for expenses incurred in litigating this case in the total amount of \$330,012.50, and shall pay the Class Members consistent with the terms of the Settlement Agreement.

12. The Settlement Administration Expenses shall be paid out of the funds on deposit in the ANGELOS CLASS ACTION QSF held at The Huntington National Bank, subject to the requirement of paragraph 20 of the Settlement Agreement that any amounts exceeding \$550,000 require approval of the Court, and subject to the further requirement that future costs incurred by the Administrator to search for Class Members for whom no valid address presently is known to the Parties shall be charged only to the subset of Class Members who require additional effort to find them, rather than to the full Class.

² The parties anticipate that the Fund will be held on deposit at Goldman Sachs.

13. Consistent with paragraph 18 of the Settlement Agreement, and contemporaneously with each Payment Installment, Strategic Claims Services **SHALL CAUSE TO BE PAID** out of the corpus of the Payment Installment an amount equal to \$2,000 to each of the Class Representatives, namely: Cynthia M. Clark; Norman J. Loverde; and William J. McCarthy, Jr. and Maria M. McCarthy (together as one unit). These payments, which add up to \$10,000 for each Class Representative unit over the course of five payments, constitute the court-approved Incentive Fees for the Class Representatives' service as named Plaintiffs.

14. The Court **APPROVES** the protocol for distributing the *cy pres* funds provided for in paragraph 17 of the Settlement Agreement as fair, reasonable, and warranted under the circumstances. Pursuant to that provision, the *cy pres* recipients shall be the University of Maryland Francis King Carey School of Law, for purposes of sponsoring the clinical law program (23.5%); the University of Baltimore School of Law, for purposes of sponsoring the Fannie Angelos Program for Academic Excellence (23.5%); Public Justice Center, Inc. (23.5%); Associated Catholic Charities, Inc., for use by the Esperanza Center (23.5%); and Franciscan Center, Inc. (6%).

15. All released Claims of each Settlement Class Member (as those terms are defined in the Settlement Agreement) are hereby **DISMISSED WITH PREJUDICE**.

16. Each and every Settlement Class Member is permanently **ENJOINED** from bringing, joining, assisting in, or continuing to prosecute against any of the released persons (as identified in paragraph 41 of the Settlement Agreement) any of the released Claims.

17. This Court retains jurisdiction over all matters relating to the interpretation, administration, implementation, effectuation, and enforcement of the Settlement Agreement. The Court further retains jurisdiction to enforce this Judgment.

Date: _____

Hon. John S. Nugent, Judge in Charge, Civil
Circuit Court for Baltimore City

IN THE CIRCUIT COURT FOR BALTIMORE CITY

CYNTHIA M. CLARK as successor personal
representative of THE ESTATES OF WALTER
F. KACALA and HELEN M. KACALA, *et al.*,

Plaintiffs,

v.

PETER G. ANGELOS, ESQ., *et al.*,

Defendants.

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Case No. 24-C-21-000847 OT

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[PROPOSED] ORDER

For the reasons stated on the record at the November 22, 2024 hearing, and in light of the Court's entry of the Final Judgment Approving Settlement and Certifying Settlement Class, it is hereby ORDERED:

1. Plaintiffs'¹ Motion for Final Settlement Approval be and is GRANTED;
2. Plaintiffs' Motion for Incentive Award be and is GRANTED;
3. Plaintiffs' Motion for *Cy Pres* Award be and is GRANTED;
4. Plaintiffs' Motion for Award of Attorneys' Fees and Expenses to Class Counsel be and is GRANTED; and
5. The Clerk is DIRECTED to SEND a copy of this Order to all counsel of record.

¹ Cynthia M. Clark, as successor personal representative of the Estates of Walter F. Kacala and Helen M. Kacala; Norman J. Loverde, as successor personal representative of the Estates of Stephen J. Loverde, Sr. and Mary Anna Loverde; and Maria M. McCarthy and William J. McCarthy, Jr., as personal representatives of the Estate of Anne Major and successor personal representatives of the Estate of Bernard L. Major, individually and on behalf of a Class of similarly situated Angelos clients.

Date: _____

Hon. John S. Nugent, Judge in Charge, Civil
Circuit Court for Baltimore City

IN THE CIRCUIT COURT FOR BALTIMORE CITY

CYNTHIA M. CLARK as successor personal
representative of THE ESTATES OF WALTER
F. KACALA and HELEN M. KACALA, *et al.*,

Plaintiffs,

v.

PETER G. ANGELOS, ESQ., *et al.*,

Defendants.

Case No. 24-C-21-000847 OT

* * * * *

REQUEST FOR HEARING

Plaintiffs¹ respectfully request a hearing on their Motion for Final Settlement Approval
and accompanying motions, as previously scheduled for November 22, 2024.

¹ Cynthia M. Clark, as successor personal representative of the Estates of Walter F. Kacala and Helen M. Kacala; Norman J. Loverde, as successor personal representative of the Estates of Stephen J. Loverde, Sr. and Mary Anna Loverde; and Maria M. McCarthy and William J. McCarthy, Jr., as personal representatives of the Estate of Anne Major and successor personal representatives of the Estate of Bernard L. Major, individually and on behalf of a Class of similarly situated Angelos clients.

Respectfully submitted,

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/s/ Joe Dugan

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