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17 Attorneys for Plaintiffs

18 ARTHUR BODNER and MICHAEL FELKER,  
19 On behalf of themselves and all others similarly situated

20 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
21 FOR THE COUNTY OF LOS ANGELES, SPRING STREET COURT

22	ARTHUR BODNER and MICHAEL	)	CASE NO. BC516868, CCW
23	FELKER, on behalf of themselves and all	)	Assigned to Honorable Elihu M. Berle, Dept. 6
24	others similarly situated	)	
25		)	<b>DECLARATION OF KATHRYN M.</b>
26	Plaintiffs,	)	<b>TREPINSKI IN SUPPORT OF MOTION</b>
27		)	<b>FOR AN ORDER GRANTING: (1) FINAL</b>
28	v.	)	<b>APPROVAL OF CLASS-ACTION</b>
		)	<b>SETTLEMENT; (2) ATTORNEY FEES,</b>
	BLUE SHIELD OF CALIFORNIA LIFE	)	<b>LITIGATION EXPENSES, CLASS</b>
	AND HEALTH INSURANCE COMPANY,	)	<b>REPRESENTATIVE INCENTIVE</b>
	Does 1 through 25, Inclusive,	)	<b>AWARDS, AND (3) SETTLEMENT</b>
		)	<b>ADMINISTRATIVE EXPENSES</b>
	Defendants.	)	
	_____	)	Date: May 28, 2020
		)	Time: 10:00 a.m.
		)	Place: Department 6

1 **DECLARATION OF KATHRYN M. TREPINSKI**

2 I, KATHRYN M. TREPINSKI, declare as follows:

3 1. I am a member in good standing of the Bar of the State of California, admitted to practice  
4 before all of the courts in this state. I have personal knowledge of the facts set forth in this  
5 declaration and, if called as a witness, I could and would testify competently thereto.

6 **EDUCACTION AND EMPLOYMENT BACKGROUND**

7 2. I am one of the attorneys representing Plaintiffs in this case, Arthur Bodner and Michael  
8 Felker.

9 3. My background and experience are as follows. I received an A.B. degree in Psychology  
10 from Miami University at Oxford, Ohio in 1981. I received my law degree from Southwestern  
11 University School in 1984. I was admitted to the California bar shortly after I graduated.

12 4. I have 35 years of experience litigating and managing insurance issues, both as  
13 a litigator and as an insurance company executive.

14 5. From 1990 to 2000, I was Special Counsel with Sedgwick LLP in the firm's Los Angeles  
15 office. My practice was devoted to representing insurance companies in litigation and in  
16 coverage disputes, preparing coverage opinions, acting as coverage counsel, and representing  
17 carriers in declaratory judgment actions and bad faith lawsuits. My caseload also involved class  
18 action work.

19 6. From May 2000 to December 2009, I was an employee of Farmers Group, Inc.

20 7. I began working for Farmers as Senior Corporate Counsel, Class Action Litigation  
21 Division. I worked with a team of seven attorneys who oversaw a docket of 100 to 125 class  
22 actions and representative actions. As a member of this team, my work included the following:

- 23 • supervising outside counsel;
- 24 • developing case strategy and company positions from time of filing of complaint  
25 through trial, appeal, or other resolution;
- 26 • coordinating case strategies across state lines and across subsidiaries on class  
27 actions that presented common issues;
- 28

- 1 • reviewing, editing, or drafting all documents that were filed or served, including all
- 2 pleadings, motions, discovery and appellate briefs;
- 3 • formulating class definitions;
- 4 • representing the company at key depositions;
- 5 • attending trials and critical pre-trial hearings;
- 6 • representing the company in mediations and settlement conferences; and
- 7 • selecting and supervising class action claims administrators.

8 A partial but representative list of my class action cases while at Farmers as follows:

9 *Sikes v. Farmers Group, Inc., et al.*, Case No. CJ-03-1149

10 *Randy Hill v. Farmers Insurance Group of Companies*, Case No. CV 2004-00966

11 *Domangue v. Mid-Century Insurance Company of Texas*, Case No. 02-0082

12 *In Re Farmers Colossus Litigation*, Case No. BC 289250

13 *Akiyama v. Farmers Group Inc., et al.*, Case No. 02CC03124

14 *MacGuire v. Fire Insurance Exchange, et al.*, Case No. BC 217062

15 *Burgess v. Farmers Insurance Co., et al.*, Case No. BC 451649

16 *Lebrilla v. Farmers Insurance Exchange*, Case No. 00-CC-07185.

17 8. In May of 2006, I moved to the company's Regulatory and Governmental Affairs  
18 Department. In June 2007, I was promoted to the executive position of Assistant Vice President,  
19 Regulatory Affairs. I served in that position until December 2009. In this role, I represented  
20 various Farmers entities in their dealings with state Departments of Insurance and the National  
21 Association of Insurance Commissioners. I gained an understanding of regulatory matters,  
22 including billing practices, premium issues, drafting policy language, insurance loss ratios, and  
23 policy approval processes.

#### 24 **CONSUMER CLASS ACTION EXPERIENCE**

25 9. In 2010, I started my own practice. The first case I filed, *Katz v. Anthem Blue Cross*, Los  
26 Angeles Superior Court Case No. BC 451649, was a class action that challenged Anthem's cap  
27 on outpatient treatment for the mentally ill. The case was one of first impression, based on the  
28 California Mental Health Parity Act and the California Unruh Civil Rights Act. This matter was

1 settled on November 14, 2012. The Honorable Ronald Sohigian approved a settlement of  
2 \$3,000,000, along with Anthem's agreement to eliminate its cap on treatment. The monetized  
3 value of the settlement was \$30,000,000 over three years.

4 10. In 2013, I settled another class action I had filed, *Kreuzhage v. Anthem Blue Cross*, Los  
5 Angeles Superior Court Case No. BC 470460. The *Kreuzhage* case challenged a variety of  
6 Anthem's billing and payment business practices, including charging its customers a fee for  
7 receiving invoices. The case settled for \$6,186,575.75, with a monetized value of \$24,317,147.

8 11. On May 1, 2018, Judge Maren Nelson granted class certification in the case of  
9 *Rea v. Blue Shield*, Los Angeles Superior Court Case No. BC 468900, on which I am co-counsel.  
10 The *Rea* case alleges that Blue Shield improperly denied treatment to patients with eating  
11 disorders under an unlawful residential treatment exclusion. This case has been extensively  
12 litigated and resulted in the publication of a case of first impression, *Rea v. Blue Shield of Cal.*,  
13 226 Cal. App. 4<sup>th</sup> 1209 (2014). On January 15, 2019 this case was reassigned to the Honorable  
14 Amy D. Hogue. On May 23, 2019, Judge Hogue ruled in favor of Plaintiffs on a Motion for  
15 Summary Adjudication, issuing a Declaration that Blue Shield's residential treatment exclusion  
16 was unlawful and that it could not be applied to eating disorder claims. The parties agreed to a  
17 resolution of this case based on Blue Shield's agreement to reprocess claims for residential  
18 treatment that were improperly denied or not authorized.

19 12. On January 22, 2019, Judge Maren Nelson entered judgment in a class action that I  
20 initiated, *Kerr v. Kaiser Foundation Health Plan, Inc.*, Los Angeles Superior Court Case No.  
21 BC556863. The *Kerr* case alleged that Kaiser had a pattern and practice of placing its most  
22 psychiatrically ill patients in conservatorships and requiring them to cancel their Kaiser  
23 coverage. Kaiser then facilitated their enrollment in Medi-Cal and placed these patients in  
24 County treatment facilities, in violation of the California Mental Health Parity Act. The  
25 settlement required Kaiser to cease its disenrollment practice; to offer its cancelled members the  
26 opportunity to reenroll; to train its psychiatric personnel not to cancel coverage and to place  
27 these patients in Kaiser facilities; and to contract with other psychiatric facilities in the event that  
28 Kaiser did not have a bed available. In addition, the County of Los Angeles stopped accepting

1 Kaiser patients in its psychiatric facilities. The value of this injunctive relief was \$79,396 per  
2 patient, per treatment episode, for an aggregate value in excess of \$10,000,000.

3 13. On March 5, 2020, Judge Amy Hogue preliminarily approved of a class settlement in  
4 another case that I initiated, *Ames v. Anthem Blue Cross Life & Health Ins. Co.*, Los Angeles  
5 Superior Court Case No. BC591623. This case challenged an improper 30-day psychiatric  
6 visit/treatment limitation imposed by Anthem, and its practice of classifying “dual diagnoses”  
7 patients, who have a diagnosis of a severe mental illness coupled with a substance use disorder,  
8 as substance use patients only. In so doing, Anthem avoided paying for treatment for the  
9 patients’ severe mental illnesses. The proposed settlement corrects these unlawful business  
10 practices and offers financial relief for the class. Plaintiff’s health economist estimates the  
11 monetized value of this settlement as exceeding \$16,000,000 over the course of four years.

12 14. I am also currently involved in other health insurance actions, as follows:

- 13 a) *Banken v. Anthem Blue Cross*, Los Angeles Superior Court Case No. BC550193  
14 (SSC Dept. 11);
- 15 b) *Oppel v. Anthem Blue Cross*, Los Angeles Superior Court Case No. BC518736  
16 (SSC Dept. 11);
- 17 c) *Bailey v. Anthem Blue Cross Life and Health Ins. Co.*, USDC Northern District  
18 Case No. 16-cv-04439-LB (class action); and
- 19 d) *Moura v. Kaiser Foundation Health Plan, Inc.*, USDC Northern District Case No.  
20 3:17-cv-02475-JSW.

21 **PROFESSIONAL ASSOCIATIONS**

22 15. I have been a member of the Board of Governors of CAALA, the Consumer  
23 Attorneys Association of Los Angeles, from 2013 to the present. I have held the following  
24 positions:

- 25 a) From 2012 – 2014, I served as the Vice Chair of the Government Relations  
26 Committee.
- 27 b) In 2018, I was the Chair of the CAALA Case Referral Task Force.
- 28 c) From 2018 to the present, I have been a member of the CAALA Code of Conduct

1 and Ethics Committee.

2 d) In 2019, I was named the Co-Chair of the CAALA Wellness Committee, a task  
3 force devoted to providing resources and member support for mental health issues  
4 and substance issues.

5 16. I have been a member of CAOC, the Consumer Attorneys of California, since 2010. In  
6 2011, I was a finalist for CAOC's "Woman Consumer Advocate of the Year" for my advocacy  
7 work on Senate Bill 100 which extended regulatory oversight to private surgery centers. In  
8 2013, I was a finalist for the "Streetfighter of the Year" award for my work in *Katz v. Anthem*  
9 ("Making an insurer change a policy harmful to the mentally ill."). In 2020, I was nominated for  
10 CAOC's "Consumer Attorney of the Year" award for my work in *Kerr v. Kaiser*.

11 17. I was a Director for NAMI-Westside LA, one of the twelve local chapters of the  
12 National Alliance for Mental Illness, from 2014 to 2016. I served as the Chair of the  
13 Governance Committee during that time.

14 18. I have been a member of The Kennedy Forum since 2014. The Kennedy Forum is  
15 a nonprofit organization founded by former Representative Patrick Kennedy, the lead sponsor of  
16 the Mental Health Parity and Addiction Equity Act bill ("MHPAEA"). The Kennedy Forum is  
17 dedicated to providing educational and enforcement support for MHPAEA.

18 **ATTORNEY TIME SPENT ON THIS MATTER: LODESTAR ANALYSIS**

19 19. This action was pursued on a fully contingent basis. Up to and including March 16,  
20 2020, I billed a total of 386.50 hours. I prepared my timesheets contemporaneously in the  
21 ordinary course of business providing descriptions of my activities and the time spent on each  
22 task. My rate in this matter is \$900. This results in a lodestar value of \$347,850. I anticipate  
23 spending another 10 hours on this matter through judgment, for an estimated total of \$356,850.  
24 My costs are \$4,904 through the settlement.

25 20. The foregoing rates are reasonable and align when compared to the prevailing rates in  
26 California. I base this in part on the rates of the Zuckerman Spaeder LLP, a law firm whose  
27 attorneys' practices are closest to mine; that is, class action insurance coverage and mental health  
28 benefits cases. The Zuckerman firm's most recently published rates are available in *Weil v.*

1 *Cigna Health and Life Insurance Co. et al.*, U.S. District Court for the Central Dist. of  
 2 California, Case No. CV 15-07074 MWF (JPR), Order Approving Class Action Settlement and  
 3 Dismissing this Action with Prejudice, filed Aug. 29, 2017 (Doc. 86). In approving the  
 4 settlement in that matter, the district court allowed the following hourly rates as part of its  
 5 lodestar cross-check:

	<b>Bar Admittance or Law School Graduation</b>	<b>Rates</b>
<b>2017 Rates:</b>	1985	\$1,025
	1998	\$875
	1998-2006; 2011-2018	\$750

9  
 10 My rate is \$125.00 lower than the Zukerman firm's comparable attorney rate from three years ago.

11 **REASONABLENESS OF TIME SPENT ON THIS MATTER**

12 21. The services I performed were reasonably necessary in the prosecution of this action.

13 The following chart reflects my work on the major components of the litigation.

Category of Work	1	2	3	4	5	6	7	TOTAL
Time Spent	16.25	25.75	96.5	167.50	46.0	34.0	.50	386.50

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 17  
 18 Category 1: Research, review, analyze issues and case subject matter

19 Category 2: Pleadings, pleading challenges, research re same

20 Category 3: Law and motion, filings, motions for class certification and final approval

21 Category 4: Investigation, informal and formal discovery, meeting and conferring

22 Category 5: Prepare for and attend hearings

23 Category 6: Mediation, settlement activities

24 Category 7: Settlement administration

25 This chart is based on my time sheets. I coded each time entry, then tallied the time spent on the  
 26 seven categories of work.

27 22. I worked primarily on the documents in this case. I sent two Public Records Requests to  
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The California Department of Insurance, one on December 14, 2013 and one on February 25, 2014. I requested “All original filings, form filings, actuarial memoranda, communications (to and from the Department) and comment letters and responses during the period January 1, 2007 to December 31, 2013 regarding the following policies:

1. Blue Shield Vital Shield 2900, Individual Policy; and
2. Blue Shield Vital Plus 400 Generic Rx, Individual Policy.”

The Department produced 7,103 documents, which I reviewed and analyzed. I also spent a considerable amount of time reviewing and analyzing Plaintiff Michael Felker’s records from Blue Shield. Blue Shield produced two sets of documents on Mr. Felker totaling 892 pages. I outlined the contents of these documents, and cross-referenced them against each other, to give them context and to understand the history of Blue Shield’s administering of Mr. Felker’s Vital Shield policy. I also assisted in preparing Plaintiffs for their depositions, and in developing the strategy for their depositions. Finally, I worked with a health economist to create a claim statistical model relative to this case.

I declare under penalty of perjury of the law of the State of California that the statements above are true and correct.

Signed March 23, 2020 at Beverly Hills, California.



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KATHRYN M. TREPINSKI



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2  
3 **PROOF OF SERVICE**

*Bodner v. Blue Shield*

*Case No. BC516868*

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3 **STATE OF CALIFORNIA,  
COUNTY OF LOS ANGELES**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action; my business address is 550 South Hope Street, Suite 1645, Los Angeles, CA 90071.

On **March 30, 2020**, I served the foregoing document described as

**DECLARATION OF KATHRYN M. TREPINSKI IN SUPPORT OF MOTION FOR AN ORDER GRANTING: (1) FINAL APPROVAL OF CLASS-ACTION SETTLEMENT; (2) ATTORNEY FEES, LITIGATION EXPENSES, CLASS REPRESENTATIVE INCENTIVE AWARDS, AND (3) SETTLEMENT ADMINISTRATIVE EXPENSES**

on the interested parties in this action by placing a true copy of the original thereof enclosed in a sealed envelope addressed as follows:

**SEE ATTACHED**

**By Electronic Service**, I caused a true and correct copy of the above-entitled documents to be electronically transferred onto **CASE ANYWHERE FILE AND SERVE** via the Internet, which constitutes service, pursuant to *Order Authorizing Electronic Service dated 11/15/2013*.

**(State)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **March 30, 2020** at Los Angeles, California.

*Shayn Adamson*  
\_\_\_\_\_  
SHAYN ADAMSON

**SERVICE LIST**

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MICHAEL FELKER, on behalf of  
themselves and all others similarly  
situated

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LIFE AND HEALTH INSURANCE  
COMPANY