

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

PHT HOLDING II LLC, on behalf of itself)	Case No. 4:18-cv-00368-SMR-HCA
and all others similarly situated,)	
)	
Plaintiff,)	ORDER ON PRELIMINARY
)	APPROVAL OF CLASS ACTION
v.)	SETTLEMNT
)	
NORTH AMERICAN COMPANY FOR)	
LIFE AND HEALTH INSURANCE,)	
)	
Defendant.)	

Plaintiff PHT Holding II, LLC (“PHT”), on behalf of itself and the Class has moved for an order preliminarily approving the terms and conditions of the Settlement with Defendant North American Company for Life and Health Insurance (“North American”), as set forth in the Joint Stipulation and Settlement Agreement (“Agreement”) that is attached as Exhibit 2 to the Declaration of Steven Sklaver (“Sklaver Declaration”);

The Settlement requires, among other things, that all Released Claims against Released Parties be settled and compromised; The Motion is unresisted by North American; and The Court has considered the Agreement and the attached Exhibits, PHT’s Motion for Preliminary Approval of the Settlement and all filing in support of the Motion.

Pursuant to Federal Rule of Civil Procedure 23(e), it is ORDERED that:

1. The capitalized terms used herein shall have the meanings set forth in the Agreement.
2. Pursuant to Rule 23(e)(1)(B)(i), the Court finds that it will likely be able to approve the Settlement under Rule 23(e)(2), and therefore preliminarily approves the Settlement as set forth in the Agreement, including the releases contained therein, as being fair, reasonable and adequate to

the Class under the relevant factors set forth in Rule 23(e)(2) and *Van Horn v. Trickey*, 840 F.2d 604, 607 (8th Cir. 1988), subject to the right of any Class Member to challenge the fairness, reasonableness or adequacy of the Agreement and to show cause, if any exists, why a final judgment dismissing the Action against North American, and ordering the release of the Released Claims against Releasees, should not be entered after due and adequate notice to the Class as set forth in the Agreement and after a hearing on final approval.

3. The Court finds that the Agreement was entered into at arm's length by highly experienced counsel with the assistance of a mediator and is sufficiently within the range of reasonableness that notice of the Agreement should be given as provided in the Agreement.

4. The Court finds that the proposed plan of allocation, attached as Exhibit 7 to the Sklaver Declaration, is sufficiently fair and reasonable that notice of the distribution plan should be given as provided in the Notice.

5. The Court appoints JND Legal Administration LLC ("JND") as the Settlement Administrator. Funds required to pay the Settlement Administrator may be paid from the Settlement Fund as they become due as set forth in the Agreement. The Settlement Administrator shall be responsible for receiving requests for exclusion from the Class Members.

6. As of the date of this Preliminary Approval Order, all proceedings in the above-captioned class action shall be stayed and suspended until further order of the Court, except as may be necessary to implement the Settlement or comply with the terms of the Agreement.

7. Pursuant to Rule 23(e)(1)(B), the Court directs that notice be provided to Class Members through the Notices, attached as Exhibits B and C to the Declaration of Gina M. Intrepido-Bowden ("Intrepido-Bowden Declaration"), and through the notice program described in described in Section 4 of the Agreement and Paragraphs 15–20 and 31–37 of the Intrepido-Bowden

Declaration. The Court finds that the manner of distribution of the Notices constitutes the best practicable notice under the circumstances as well as valid, due and sufficient notice to the Class and complies fully with the requirements of Federal Rule of Civil Procedure 23 and the due process requirements of the United States Constitution.

8. Upon entry of this Preliminary Approval Order, the parties shall begin implementation of the notice program as outlined in Section 4 of the Agreement and Paragraphs 15–20 and 31–37 of the Intrepido-Bowden Declaration.

9. The Settlement Administrator will run an update of the last known addresses in the Notice List provided by Class Counsel through the National Change of Address database before initially mailing the short-form Class Notice. If a Class Notice is returned to the Settlement Administrator as undeliverable, the Settlement Administrator will endeavor to: (i) re-mail any Class Notice so returned with a forwarding address; and (ii) make reasonable efforts to attempt to find an address for any returned Class Notice that does not include a forwarding address. The Settlement Administrator will endeavor to re-mail the Class Notice to every person and entity in the Notice List for which it obtains an updated address. If any Class Member is known to be deceased, the Class Notice will be addressed to the deceased Class Member’s last known address and “To the Estate of [the deceased Class Member].” The mailing of a Class Notice to a person or entity that is not in the Class shall not render such person or entity a part of the Class or otherwise entitle such person to participate in this Settlement.

10. A copy of the Notice shall also be posted on the Internet at the following website address: www.coiclassaction-na.com. Any Court-approved changes to the Agreement, or to any filings made in connection with the Agreement, may be posted to that website address, and by

doing so, will be deemed due and sufficient notice to Class Members in compliance with Due Process and Rule 23 of the Federal Rules of Civil Procedure.

11. Class Members may object to this Settlement by filing a written objection with the Court and serving any such written objection on counsel for the respective Parties (as identified in the Class Notice) no later than 45 calendar days after the Notice Date. The objection must contain: (1) the full name, address, telephone number, and email address, if any, of the Class Member; (2) Policy number; (3) a written statement of all grounds for the objection accompanied by any legal support for the objection (if any); (4) copies of any papers, briefs, or other documents upon which the objection is based; (5) a list of all persons who will be called to testify in support of the objection (if any); (6) a statement of whether the Class Member intends to appear at the Fairness Hearing; and (7) the signature of the Class Member or his/her counsel. If an objecting Class Member intends to appear at the Fairness Hearing through counsel, the written objection must also state the identity of all attorneys representing the objecting Class Member who will appear at the Settlement Hearing. Class Members who do not timely make their objections as provided in this Paragraph will be deemed to have waived all objections and shall not be heard or have the right to appeal approval of the Settlement.

12. Any Class Member that wishes to be excluded from the Class must submit to the Settlement Administrator a written request for exclusion sent by U.S. mail and postmarked no later than 45 calendar days after the Notice Date. Exclusion requests must: (i) clearly state that the Class Member desires to be excluded from the Class for the Settlement; (ii) must identify by policy number the Policy(ies) to be excluded; and (iii) be signed by such person or entity or by a person providing a valid power of attorney to act on behalf of such person or entity.

13. Any Class Member who does not submit a timely, written request for exclusion from the Class shall be bound by all proceedings, orders, and judgments in the Action. A list reflecting all valid requests for exclusion shall be filed with the Court, by Class Counsel, prior to the Fairness Hearing.

14. The Court will set a Final Fairness Hearing to occur on November 28, 2023, at 10:00 am before the Honorable Stephanie M. Rose in United States District Court for the Southern District of Iowa, United States Courthouse, Courtroom 145, 123 East Walnut Street, Des Moines, IA 50309, to determine whether (i) the proposed Settlement as set forth in the Agreement, should be finally approved as fair, reasonable and adequate pursuant to the Federal Rule of Civil Procedure 23(e)(2); (ii) the class shall remain certified for purposes of judgment on the proposal, (iii) an order approving the Agreement and a Final Judgment should be entered; (iv) an order approving a proposed plan of allocation should be approved; and (v) the application of Class Counsel for an award of attorneys’ fees, expense reimbursements, and service award (“Fee and Expense Request”) in this matter should be approved.

15. The Court hereby adopts the following schedule for events and Court submissions which must be completed prior to the Fairness hearing. All time periods run from the date of this Preliminary Approval Order:

Event	Days from Preliminary Approval
Deadline to send notice to Class Members	September 15, 2023
Deadline to file motion for award of attorney’s fees, expenses, and service awards	October 30, 2023
Opt-Out and Objection Deadline	October 30, 2023
Deadline to file Final Approval motion	November 13, 2023

Deadline to file any reply brief in support of any motion	November 13, 2023
Final Approval Hearing	November 28, 2023

16. Neither this Order, the Agreement, the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Agreement or Settlement is or may be used as an admission or evidence (i) of the validity of any claims, alleged wrongdoing or liability of North American or (ii) of any fault or omission of North American in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal.

17. Neither this Order, the Agreement, the Settlement contained therein, nor any act performed, or document executed pursuant to or in furtherance of the Settlement is or may be used as an admission or evidence that the claims of PHT or the Class lacked merit in any proceeding.

18. If the Settlement or the Agreement fails to be approved, fails to become effective, or otherwise fails to be consummated, is declared void, or if there is no Final Settlement Date, then the parties will be returned to status quo ante as of June 17, 2023, as if this Agreement had never been negotiated or executed, with the right to assert in the Action any argument or defense that was available to it at that time, except that each Party shall bear one-half of the Settlement Administration Expenses and all interest earned on the funds in the Settlement Escrow Account shall be paid to North American.

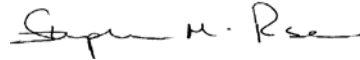
19. The Settlement Escrow Account to be established pursuant to the Settlement Agreement is approved as a Qualified Settlement Fund pursuant to Internal Revenue Code Section 468B and the Treasury Regulations promulgated thereunder.

20. No later than ten (10) days after the Motion for Preliminary Approval of the Settlement has been filed with the Court, North American will serve the Class Action Fairness Act (“CAFA”)

Notice on the Attorney General of the United States and the appropriate state officials as required by 28 U.S.C. § 1715(b). Thereafter, North American will serve any supplemental CAFA Notice as appropriate.

IT IS SO ORDERED.

Dated this 25th day of August, 2023.



STEPHANIE M. ROSE, CHIEF JUDGE
UNITED STATES DISTRICT COURT