

EXHIBIT 2

Robert B. Carey (SBN 011186)
John M. DeStefano (SBN 025440)
HAGENS BERMAN SOBOL SHAPIRO LLP
11 West Jefferson Street, Suite 1000
Phoenix, Arizona 85003
Telephone: (602) 840-5900
Facsimile: (602) 840-3012
Email: rob@hbsslaw.com
Email: johnd@hbsslaw.com

Evan S. Goldstein (SBN 011866)
GOLDSTEIN WOODS
706 E Bell Rd., Ste. 200
Phoenix, AZ 85022
Telephone: 602.569.8200
Email: egoldstein@gwfirnaz.com

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Taylor Doyle, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

Pekin Insurance Company,

Defendant.

Case No. 2:22-cv-00638-JJT

**DECLARATION OF ROBERT B.
CAREY IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT AND
CERTIFICATION OF SETTLEMENT
CLASS**

(Assigned to the Honorable John J. Tuchi)

DECLARATION OF ROBERT B. CAREY

I Robert B. Carey, declare and state:

1. I am a partner at Hagens Berman Sobol Shapiro, LLP, counsel of record for Plaintiffs in the above-entitled action. I make this declaration in support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and Certification of the Settlement Class.

2. I have personal knowledge of the matters set forth in this declaration and if called to testify to the facts stated herein, I could and would do so completely.

3. Class Counsel spent significant time and resources investigating the theory, legislative history, and industry information, as well as *Franklin* and the aforementioned related cases, all with the intention of coordinating litigation efforts across the cases.

4. On February 21, 2023, Class Counsel Hagens Berman filed Franklin's Supplemental Brief Regarding Certified Questions with the Arizona Supreme Court.

5. The defendant in *Franklin* also filed a supplemental brief that same day.

6. In response to that briefing, four insurance companies and two insurance groups filed a total of five amicus briefs in support of CSAA, totaling seventy-four pages of briefing.

7. Class Counsel Hagens Berman filed a combined response to all five amicus briefs, which consisted of thirty-eight pages of additional briefing.

8. Class Counsel at the Slavicek Law Firm, on behalf of separate multiple represented plaintiffs, filed a separate amicus brief.

9. The Arizona Supreme Court held oral argument on the certified questions on April 18, 2023.

10. John DeStefano of Hagens Berman argued those certified questions before the court.

11. The parties engaged in significant discovery. In total, Plaintiff issued forty-nine requests for production, twenty-one interrogatories to Pekin, and nine requests for admission.

1 12. As part of this discovery, Pekin produced hundreds of documents including
2 policy forms, claims handling practices and procedures, internal correspondence
3 regarding compliance, and claim file documents—which Plaintiff has reviewed.

4 13. Plaintiff also issued a Rule 30(b)(6) deposition notice and deposed two
5 corporate witnesses for Pekin on topics ranging across Pekin’s claims handling practices,
6 its policy language, its understanding of the duties of insurers in Arizona, and the
7 structure and availability of insurance claim-related data maintained by Pekin in the
8 ordinary course of its insurance business.

9 14. Plaintiff also deposed Pekin’s claim adjuster who handled evaluation and
10 payment for Plaintiff’s UM/UIM claim.

11 15. Pekin produced extensive data regarding the claims of putative class
12 members and claim payments in other UM/UIM and bodily injury claims.

13 16. Plaintiff and Plaintiff’s expert reviewed and developed a damages model
14 from this data.

15 17. On September 12, 2024, the parties participated in a full day of settlement
16 discussions with the assistance of respected mediator the Michael N. Ungar.

17 18. Over the following weeks, the parties continued negotiating and on
18 September 23, 2024, the parties and were able to agree on the key terms of a settlement.

19 19. The parties agreed to a defined universe for the Class.

20 20. This eliminates the risk of any insured who is not identified inadvertently
21 having their claim released through this settlement. This settlement resolves the claims of
22 what is understood to be the complete universe of those who could bring a stacking
23 claim, so the release and payments due are limited to those insureds known to the parties.

24 21. Class Counsel have developed extensive statistical evidence and other
25 proof confirming that this settlement amount is fair, reasonable, and adequate in relation
26 to the projected value of the insurance claims themselves. Class Counsel will submit
27 more detailed proof during the final approval process but using a conservative
28 methodology—calculating the conditional mean based on claims that exceed the single

1 policy limit and adjusting the conditional mean based on the stacked policy limit—
2 Plaintiff's statistics expert estimates that the model's low range would be \$8,678,957.
3 While higher ranges could be accepted, this figure is within Plaintiff's expected damages
4 and supports the fairness of the settlement

5 22. To evaluate damages, Class Counsel, with the assistance of experts,
6 estimated counterfactual settlement payments using various statistical models including
7 models based on Kaplan–Meier statistical techniques, two variations of Weibull data,
8 log-rank analysis, curve analysis and maximum likelihood estimation of censored claim
9 data.

10 23. This evaluation shows that there is a strong relationship between unpaid
11 loss and the available insurance funds. This relationship does vary by claim time and
12 individual insurance limit: Loss ranges between 10-80% of available incremental
13 insurance limits, depending on claim type and coverage limits. This \$8,678,957 valuation
14 means the Class is getting approximately 143% of the benefits they would have received
15 had their claims been adjusted under the stacked policy limits at the time of their losses,
16 instead of being capped by the single limit and ignoring for the moment the value of the
17 other claims released.

18 24. In making this settlement, Class Counsel considered the risks of going to
19 trial including the possibility that a trial could result in a smaller or zero recovery for the
20 Settlement Class, the time and resources that would be expended by both parties and the
21 Court, and the possibility of delay caused by any appeal if Plaintiff did prevail. And
22 while Plaintiff may have recovered more at trial, there is always a risk of losing at trial
23 (even with a meritorious case) for any number of reasons. There are also risks relating to
24 admissibility of evidence and class certification. If Plaintiff prevails at trial, the delay and
25 other financial risks of an appeal are still considerable, and appeals are commonplace in
26 insurance cases. Finally, early resolution of this case avoids significant litigation costs
27 and expert fees, greater attorneys' fees, and further loss of the time value of money on
28 any recovery.

1 25. Class Counsel estimates the costs of notice and distribution to be
2 approximately \$18,000. Through October 31, 2024, Class Counsel has advanced costs of
3 \$12,194.86. Class Counsel will request a fee award of up to 30% of the total Settlement
4 Fund.

5 26. Plaintiff spent significant time assisting Class Counsel in investigating and
6 prosecuting this action. Plaintiff assisted with drafting her factual allegations in the
7 Complaint and was involved in the settlement process.

8 27. The Initial Allocation is based on the relative valuation of each Settlement
9 Class Member's damages, an assessment of economic losses, the statistical estimate
10 taking into account the time of loss and limits of the respective policies, as well as
11 payments already received by the Settlement Class Members.

12 28. For purposes of determining the aggregate award, Class Counsel considered
13 a variety of methodologies to estimate the payments Pekin would have paid had
14 appropriate available-benefits limits been applied.

15 29. Class Counsel relied on several customized statistical models that drew on
16 Kaplan–Meier curves, maximum likelihood estimations of censored claim data (product
17 limit estimators), single and double component Weibull distributions, and mixed models
18 designed to fit case data and other settlement data to the appropriate curves.

19 30. The results of these efforts were then stratified to reflect policy limits and
20 the date of loss for each claim.

21 31. To distribute the aggregate recovery, Class Counsel determined individual
22 allocations for each Settlement Class Member, relying on an expert in economics and
23 statistics, experience in the class action settlement and insurance fields, and the data
24 provided by Defendant.

25 32. The distribution approach, at a minimum and to account for the length of
26 deprivation of funds, considers the date of the claim, the amount of UM/UIM coverage
27 available, and the relative value of the claim.

33. Class Counsel ran several models to predict the settlement value, and used those models to cross-check the value of this Settlement.

34. Class Counsel also took into account the nature of the policies and Class relative to the experience gained in evaluating other cases based on this theory. Counsel has seen various demographics, market niches, and loss estimates, and used that insight to help value these claims.

DATED November 1, 2024.

HAGENS BERMAN SOBOLEW SHAPIRO LLP

By: ZTC