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12 *Attorneys for Plaintiff*

13 UNITED STATES DISTRICT COURT  
14 DISTRICT OF ARIZONA  
15

16 Jesus Caballero,  
17  
Plaintiff,  
18  
v.  
19  
Economy Preferred Insurance Company, et  
20 al.,  
21  
Defendants.  
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Case No. 2:22-cv-02023-PHX-MTL

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

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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. Proposed Class Counsel spent significant time and resources investigating *Franklin v. CSAA General Insurance Co.*, and the related cases, with the intention of coordinating litigation efforts across the cases.

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

5. On February 21, 2023, CSAA, the defendant in *Franklin*, similarly filed a supplemental brief.

6. In response to that briefing, four insurance companies and two insurance groups, including Economy Preferred Insurance Company (“Economy Preferred”), filed a total of five amicus briefs in support of CSAA, totaling seventy-four pages of briefing.

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

8. The Slavicek Law Firm, co-counsel in this case, filed a separate amicus brief on behalf of several separately represented plaintiffs, including Jesus Caballero.

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.

1           11. Plaintiff issued fifteen requests for production, twenty-three interrogatories  
2 to Economy Preferred, and one request for admission.

3           12. Economy Preferred issued nine requests for production and eight  
4 interrogatories to Plaintiff.

5           13. As part of this discovery, Economy Preferred produced over 800  
6 documents totaling over 10,000 pages—including policy forms, claims handling practices  
7 and procedures, internal correspondence regarding compliance, and claim file  
8 documents—which Plaintiff has reviewed.

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

14           15. Plaintiff also deposed Economy Preferred’s claim adjuster who handled  
15 evaluation and payment for Plaintiff’s UM/UIM claim.

16           16. Economy Preferred produced extensive data regarding the claims of  
17 putative class members and claim payments in other UM/UIM and bodily injury claims.

18           17. Plaintiff undertook substantial expert discovery in connection with all of  
19 this evidence.

20           18. A damages and statistics expert analyzed the claim-related data and  
21 produced an expert report setting forth Plaintiff’s damages methodology, which was  
22 disclosed to Economy Preferred in accordance with the case schedule.

23           19. An expert on insurance standards and practices also analyzed the evidence  
24 in this case and produced an expert report in support of Plaintiff’s allegations that the bad  
25 faith claim could be proven on a classwide basis, using common evidence.

26           20. This report was disclosed to Economy Preferred in accordance with the  
27 case schedule.

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1           21. Over a period of many days, the parties participated in settlement  
2 discussions with the assistance of respected mediator the Hon. Wayne Andersen (ret.).

3           22. The parties negotiated over the amount of a common fund and on May 24,  
4 2024, the parties and were able to agree on the key terms of a settlement.

5           23. Class Counsel will submit more detailed proof during the final approval  
6 process but using a conservative methodology—the mid-point between the center and  
7 lower bound of the confidence interval of the Kaplan-Meier curve—Plaintiff’s statistics  
8 expert estimated classwide damages of \$1,545,037.00.

9           24. Class Counsel, with the assistance of experts, previously estimated  
10 counterfactual settlement payments using statistical techniques such as Kaplan–Meier,  
11 two variations of Weibull data, log-rank analysis, curve analysis and maximum  
12 likelihood estimation of censored claim data.

13           25. This experience shows that there is a strong relationship between unpaid  
14 loss and the available insurance funds. Moreover, this relationship varies by claim time  
15 and individual insurance limit. Loss ranges between 10-80% of available incremental  
16 insurance limits, depending on claim type and coverage limits.

17           26. When this relationship is applied to class data, the estimated amount that  
18 would have been paid to class members, had the appropriate limits been applied, is  
19 approximately \$1.55 million.

20           27. Based on similar, recent settlement, Class Counsel estimates the costs of  
21 notice and distribution to be approximately \$16,000.

22           28. Through July 22, 2024, Class Counsel has advanced costs of \$53,987.85.

23           29. Plaintiff assisted with drafting his factual allegations in the Complaint,  
24 responded to Economy Preferred’s discovery, and was involved in the settlement process.

25           30. The Initial Allocation will be based on the proportional valuation of each  
26 Settlement Class Member’s damages, any submitted medical bills and other economic  
27 damages, the proportion of such damages relative to policy limits, as well as payments  
28 already received by the Settlement Class Members.

1 31. For purposes of determining the aggregate award, Class Counsel considered  
2 a variety of methodologies to estimate the payments Economy Preferred would have paid  
3 had stacked limits been applied.

4 32. Class Counsel also considered and/or developed several statistical models  
5 including Kaplan–Meier curves, maximum likelihood estimations of censored claim data  
6 (product limit estimators), single and double component Weibull distributions, and mixed  
7 models designed to fit case data and other settlement data.

8 33. The results of these efforts were then adjusted to reflect proper policy  
9 limits.

10 34. Using the aggregate number, Class Counsel will develop and apply a  
11 reasonable formula to allocate each Settlement Class Member an appropriate share the  
12 aggregate recovery.

13 35. Using data provided by Economy Preferred, that formula will, at a  
14 minimum, account for the date of the claim, the amount of UM/UIM coverage available,  
15 and the relative value of the claim.

16 36. Class Counsel ran several models to predict the settlement value, including  
17 models for other cases, and used those models to cross-check the value of this settlement.

18 I declare under penalty of perjury of the laws of the United States that the  
19 foregoing is true and correct.

20 DATED August 14, 2024.

21 HAGENS BERMAN SOBOL SHAPIRO LLP

22 By:  \_\_\_\_\_

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