

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL  
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2020-020117-CA-01

SECTION: CA44

JUDGE: Lisa Walsh

**All X-Ray Diagnostic Services, Corp**

Plaintiff(s)

vs.

**Geico Indemnity Company**

Defendant(s)

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**FINAL ORDER AND JUDGMENT APPROVING CLASS ACTION SETTLEMENT AND  
DISMISSING CLASS ACTION CLAIMS WITH PREJUDICE**

THIS CAUSE came before the Court on February 7, 2025 for a duly noticed Final Approval Hearing pursuant to Florida Rule of Civil Procedure 1.220(e). The Court, having considered the record and the arguments of counsel and being otherwise advised in the premises, states:

WHEREAS, the Plaintiffs, and the Defendants have entered into a class action Settlement Agreement filed with this Court (“Settlement Agreement”) on July 31, 2024 [Dkt. No.145], together with related documents attached as Exhibits; and

WHEREAS, the Court entered an Order Certifying Settlement Class and Preliminarily Approving Class Action Settlement and Notice of Final Approval Hearing on August 12, 2024, 2024 [Dkt. No. 146] (the “Preliminary Approval Order”), certifying a class in this action for settlement purposes; preliminarily approving the proposed Settlement; ordering notice to potential class members; providing those persons with an opportunity either to exclude themselves from the Settlement Class or to object to the proposed settlement; and scheduling a Final Approval Hearing; and

WHEREAS, the Court held a duly noticed Final Approval Hearing on February 7, 2024 to

determine whether to finally approve the proposed Settlement; and

WHEREAS, the Parties have complied with the Preliminary Approval Order and the Court finds that the Settlement Agreement is fair, adequate, and reasonable, and that it should be finally approved.

NOW THEREFORE, based on the submissions of the Parties and Settlement Class Members, any objections, any testimony adduced at the Final Approval Hearing, the pleadings on file, and the argument of counsel, the Court hereby finds, and it is hereby

ORDERED and ADJUDGED, as follows:

- 1. Incorporation of Defined Terms.** Except where otherwise noted, all capitalized terms used in this Final Order and Judgment (the “Final Approval Order”) and in the Release set forth below in this Final Approval Order shall have the meanings set forth in the definitions set forth in the Settlement Agreement filed in this case. *See* Dkt. 145.
- 2. Jurisdiction.** The Court has personal jurisdiction over all Settlement Class Members and has subject matter jurisdiction over the Action, including, without limitation, jurisdiction to approve the proposed Settlement, to grant final certification of the Settlement Class, to settle and release all claims arising out of the transactions alleged in the Action or the Released Claims, and to dismiss the claims in this Action on the merits and with prejudice.
- 3. Final Class Certification.** The Settlement Class that this Court previously certified in its Preliminary Approval Order is hereby finally certified for settlement purposes under Florida Rule of Civil Procedure 1.220(b)(3). The Court adopts and incorporates its class certification findings as set forth in its Preliminary Approval Order. The Settlement Class consists of:

All Florida healthcare providers who are/were the assigns or assignees of covered insureds under an automobile insurance policy issued by the GEICO Companies as described in s. 627.736, Fla. Stat., who at any time during the Class Period submitted bills to the GEICO Companies for payment of PIP benefits for all

services, supplies or care described by the assigned CPT code for which the GEICO Companies allowed an amount that is less than the Highest Allowable Amount Under Medicare Part B for 2007 and issued payment based thereon. The “Highest Allowable Amount Under Medicare Part B for 2007” is defined to mean the greater of 200% of the 2007 non-facility OPPS amount or 200% of the non-facility limiting charge with neither including the budget neutrality adjustment (BNA) applied to the work RVU.

Excluded from the Settlement Class are persons and/or entities who timely opt-out of the Settlement Class using the correct protocol for opting-out that will be formally established by the Court; the GEICO Companies; any subsidiary or affiliate of the GEICO Companies; the directors, officers and employees of the GEICO Companies or their subsidiaries or affiliates; any entity in which any excluded person or entity has a controlling interest; the legal representatives, heirs, successors and assigns of any excluded person or entity; and the judge assigned to this case along with any persons within the third degree of consanguinity to such judge.

The following claims of Settlement Class Members shall be outside of the scope of the Settlement Agreement and the Released Claims, but shall not otherwise affect membership in the Settlement Class: (1) any claims resolved by separate settlement, dismissal with prejudice, or full payment in response to a demand letter; (2) any claims that are the subject of a lawsuit that has been filed and remains pending as of the Court’s Preliminary Approval Order; (3) any claims where insurance benefits exhausted prior to the Effective Date or the date a timely Settlement Claim Form is deemed submitted, whichever is later; and (4) any claims that are denied during the settlement claims process on coverage or other grounds not related to the Litigated Issues.

When a PIP or other No-fault claim includes both medical services within the scope of the Settlement Agreement and others outside the scope of the Settlement Agreement, the Settlement Agreement and Release will apply, but only to those medical services within the scope of the Settlement Agreement.

The “Class Period” means September 18, 2015 through August 12, 2024.

**4. Adequacy of Representation.** The Court finds that Class Counsel and Plaintiff have fully and adequately represented the Settlement Class for purposes of entering into and implementing the Settlement and have satisfied the requirements of Florida Rule of Civil Procedure 1.220(a).

**5. Class Notice.** The Court finds that the content and distribution of the Notice of Proposed Class Action Settlement and Final Approval Hearing (“Class Notice”), in accordance with the terms of the Settlement Agreement and this Court’s Preliminary Approval Order, and as explained in the declarations filed at or before the Final Approval Hearing:

- a. constituted the best practicable notice to Settlement Class Members under the circumstances of this Action;
- b. were reasonably calculated, under the circumstances, to apprise Settlement Class Members of: (i) the pendency of this class action; (ii) their right to exclude themselves from the Settlement Class and the proposed Settlement; (iii) their right to object to any aspect of the proposed settlement (including without limitation final certification of the Settlement Class, the fairness, reasonableness or adequacy of the proposed settlement, the adequacy of the Settlement Class’ representation by Plaintiffs or Class Counsel, the award of attorneys’ fees and expenses to Class Counsel and/or the award of incentive payments to the named Plaintiffs); (iv) their right to appear at the Final Approval Hearing (either on their own or through counsel hired at their own expense) if they did not exclude themselves from the Settlement Class; and (v) the binding effect of the orders and Final Approval Order in this Action, whether favorable or unfavorable, on all persons or entities who do not request exclusion from the Settlement Class;
- c. were reasonable and constituted due, adequate and sufficient notice to all Persons or entities entitled to be provided with notice; and
- d. fully satisfied the requirements of the United States Constitution, the Florida Constitution, the Florida Rules of Civil Procedure, and any other applicable rules or law.

The Court adopts and incorporates herein the Exhibit B of the Initial Declaration of Kimberly Ness

of JND (“JND Init. Dec.”; Dkt. 367) with the list of Settlement Class Members who were provided Direct Mail Notice of the Settlement and are therefore bound by this Final Approval Order. *See* Dkt. 367, at Ex. “C”.

**6. Settlement Website Notice.** The Court finds that the content of the publicly available Settlement Website complied with the Preliminary Approval Order and provided additional notice and information regarding the Settlement consistent with the Notice Program.

**7. Opt-Outs.** The Court accepts and adopts Exhibit C of the JND Init. Dec., (Dkt. 367) which identifies 1,105 health care providers with unique tax identification that were deemed to have submitted valid and timely opt outs that met the requirements set forth in the Settlement Agreement and approved by the Court in the Preliminary Approval Order (Dkt. 146 at 9-18) as of the filing of the JND Init. Dec. These Opt-Out Requests all identified the required GEICO claim information under this Court’s requirements established in the Preliminary Approval Order.

The Claims Administrator, JND, advises that it is continuing to process Opt Out Requests from individual providers and purported Settlement Class Members, and anticipates completing its processing of these Opt Out Requests by February 28, 2025 after which time JND shall file a Supplemental Declaration containing the following exhibits: (1) a list of the timely and valid Requests for Exclusion by Provider Name and TIN; (2) the GEICO Companies’ insurance claim information that was identified on the timely and valid Opt Out Requests submitted by the Providers identified on Exhibit C to the JND In. Dec. and the additional Opt Out Requests that JND continues to process; (3) the Invalid Requests for Exclusion by Provider Name and TIN; and (4) the untimely Opt Out Requests identified by Provider name and TIN. *See* Dkt. 367, at ¶ 38. The Court therefore recognizes that the healthcare providers identified on Exhibit C to JND Init. Dec. are excluded as Recognized Opt Outs not bound as Settlement Class Members for those GEICO

Companies' insurance claims to be identified on the forthcoming Supplemental Declaration from JND. *See* Dkt. 367, JND Init. Dec.

The Parties may subsequently submit one or more stipulated filings identifying additional Opt Out Requests that they agree should be treated as valid, and those Persons or entities shall be deemed excluded from the Settlement Class as Recognized Opt Outs as of the date of the stipulated filing or as otherwise provided therein.

8. The forthcoming Supplemental Declaration from JND will also identify Opt Out requests that did not comply with the requirements set forth in the Preliminary Approval Order and therefore rejected as untimely or otherwise invalid.
9. This Court retains jurisdiction over this matter to issue further orders to incorporate the information that will be provided in the Supplemental Declaration(s).
10. **Final Settlement Approval.** The terms and provisions of the Settlement Agreement, including all amendments and exhibits, have been entered into in good faith and are hereby fully and finally approved as fair, reasonable and adequate as to, and in the best interests of Plaintiffs and the Settlement Class Members, and in full compliance with all applicable requirements of the Florida Rules of Civil Procedure, and any other applicable rules or law. The Court finds that the Settlement was consummated at arm's length after mediation sessions conducted by Rodney Max, who is highly experienced in complex and class action litigation, and after each Party had thoroughly investigated and litigated its position in the case.

The Settlement provides relief which in many cases exceeds the relief that many claims members would otherwise be able to obtain, and provides Settlement Class Members a claims process simpler than the demand letter process that would otherwise be required to obtain additional PIP benefits. The Court further notes that no objections to class certification or the

Settlement are pending as of the Final Approval Hearing. The Parties and Settlement Class Members are hereby directed to implement and consummate the Settlement Agreement according to its terms and provisions.

11. **Binding Effect.** The terms of the Settlement Agreement and of this Final Approval Order shall be forever binding on Plaintiffs and all other Settlement Class Members, as well as their heirs, representatives, executors and administrators, successors and assigns, and those terms shall have *res judicata* and full preclusive effect in all pending and future claims, lawsuits or other proceedings maintained by or on behalf of any such persons or entities, to the extent those claims, lawsuits or other proceedings involve matters that were or could have been raised in this Action or are otherwise encompassed by the Release described in the next paragraph of this Final Approval Order.

12. **Release.** Upon the Effective Date, the following Release shall be valid and binding:

Upon the Effective Date, Plaintiffs and all other Settlement Class Members who have not been recognized by the Court as excluded from the Settlement Class, hereby expressly acknowledge and agree, on their own behalf and on behalf of each of their respective heirs, trustees, executors, administrators, principals, beneficiaries, representatives, agents, and present and former officers, directors, employees, insureds, attorneys, contractors, predecessors, successors, parent companies, subsidiaries, divisions, affiliates, and assigns, and/or anyone claiming through them or acting or purporting to act for them or on their behalf, that they release and discharge the Released Parties of and from all Released Claims and shall not now or hereafter initiate, maintain, or assert against any of the Released Parties, either directly or indirectly, derivatively, on their own behalf, on behalf of the Settlement Class, or on behalf of any other person or entity any right, liability, claim, or cause of action arising out of or relating to the Released Claims.

“Released Parties” means The GEICO Companies, any person or entity covered or insured

by The GEICO Companies, and any third party that provided medical bill review or audit services to The GEICO Companies and that provided those services with respect to the claims raised in the Action, and each of their respective present and former affiliates and related companies, officers, directors, employees, insurers, insureds, attorneys, predecessors, successors, assigns, and/or anyone acting or purporting to act for them or on their behalf.

“Released Claims” means any and all claims, actions, demands, lawsuits, rights, liabilities, declarations, damages, losses, attorneys’ fees, interest, expenses, costs and causes of action, whether accrued or unaccrued, known or unknown, alleged or unalleged, fixed or contingent, including without limitation contractual or extra-contractual claims or damages (inclusive of bad faith claims), claims or damages at law or in equity, or penalties and punitive claims or damages of any kind or description which now exist or heretofore existed, by or on behalf of any Settlement Class Member against the Released Parties arising from the Released Parties’ interpretation of and payments pursuant to the Limiting Charge, OPPS and BNA payment methodologies.

Nothing in this Release shall preclude any action to enforce the terms of the Settlement Agreement, including participation in any of the dispute resolution processes detailed therein.

**13. Bar to Asserting Released Claims.** Upon the Effective Date, the Plaintiffs and all Settlement Class Members and their respective claims which have not been recognized by the Court as Recognized Opt Outs, whether or not they return a Settlement Claim Form within the time and in the manner provided for and whether or not they acknowledge receipt of Class Notice, are hereby permanently barred from asserting any Released Claims against the Released Parties.

**14. Permanent Injunction.** All Settlement Class Members and their respective claims which have not been recognized by the Court as validly excluded from the Settlement Class as Recognized Opt Outs are hereby permanently barred and enjoined from:  
(i) filing, commencing, prosecuting, continuing to prosecute, maintaining, intervening



in, participating in (as class members or otherwise), or receiving any benefits or other relief from, any other lawsuit, arbitration, or administrative, regulatory or other proceeding or order in any jurisdiction based on or relating to the claims and causes of action, or the facts and circumstances relating thereto, in the Action and/or the Released Claims; (ii) organizing or soliciting the participation of any Settlement Class Members in a separate class for purposes of pursuing as a purported class action (including by seeking to amend a pending complaint to include class allegations, or by seeking class certification in a pending action) any lawsuit or other proceeding based on the Released Claims; and (iii) assigning to any other person the Released Claims under this Final Approval Order. The Court finds that issuance of this permanent injunction is necessary and appropriate in aid of the Court's jurisdiction over the Action and to protect and effectuate the Court's Final Approval Order. In the event any Settlement Class Member who has not been recognized by the Court as validly excluded from the Settlement Class as a Recognized Opt Out serves upon the GEICO Companies a notice of intent to initiate litigation under Chapter 627 of the Florida Statutes or a civil remedy notice under Chapter 624 of the Florida Statutes, the GEICO Companies shall cause to be sent to such Settlement Class Member a form response in substantially the form attached as Exhibit "B" to the Joint Motion for Final Approval of Proposed Class Action Settlement (Dkt. 376), advising the Settlement Class Member of this permanent injunction and the Released Claims as described herein in the Release set forth in this Final Approval Order.

**15. Enforcement of Settlement.** Nothing in this Final Approval Order or any order entered in connection herewith shall preclude any action to enforce the terms of this Final Approval Order or the Settlement Agreement.

**16. Attorneys' Fees and Expenses. Attorneys' Fees and Expenses.** Class Counsel are hereby awarded attorneys' fees and costs as set forth below. The Coyle Law Firm,

P.A., Buchalter Hoffman & Dorchak, and Phillips Tadros, P.A. are awarded a total collective payment of attorneys' fees and expenses in the amount of Two Million Nine Hundred Ninety Thousand Dollars [\$2,990,000]. In awarding this amount, the Court has considered the applicable factors in determining the reasonableness of this fee award **set forth in** *Kuhnlein v. Department of Revenue*, 662 So.2d 309 (Fla. 3<sup>rd</sup> DCA 1995), and determines that the hourly rate sought by each counsel and the hours sought are reasonable and that a multiplier of up 2.5 is appropriate. The total amount of agreed-upon attorneys' fees and costs represents approximately 17% of the settlement's cash value. *See Camden I Condo. Ass'n, Inc. v. Dunkle*, 946 F.2d 768 (11th Cir. 1991). The GEICO Companies shall fulfill their payment obligation according to the terms set forth in the Settlement Agreement or as otherwise agreed by Class Counsel.

17. **No Other Payments.** Paragraph 14 of this Final Approval Order covers and shall be the GEICO Companies sole obligation for any and all claims for attorneys' fees and expenses, costs or disbursements to be paid to Class Counsel or any other counsel representing Plaintiff or Settlement Class Members, or incurred by Plaintiff or the Settlement Class Members, or any of them, in connection with or related in any manner to the Action, the Settlement of the Action, the administration of such Settlement, and/or the Released Claims except to the extent otherwise specified in this Final Approval Order and the Settlement Agreement.

18. **No Admissions.** Neither this Final Approval Order, nor the Settlement Agreement (nor any other document referred to herein, nor any action taken to negotiate, effectuate and implement the Settlement Agreement) is, may be construed as, or may be used as an admission or concession by or against any Party hereto as to the validity or invalidity of any claim or defense, or of any actual or potential fault or liability, or of any lack of fault or liability. Additionally, neither the Settlement Agreement nor

any negotiations, actions, or proceedings related to it, shall be offered or received in evidence in any action or proceeding against any party hereto or the GEICO Companies in any court, administrative agency or other tribunal for any purpose whatsoever, except to enforce the provisions of this Final Order and Judgment and the Settlement Agreement; provided, however, that this Final Approval Order and the Settlement Agreement may be filed and used in any action, arbitration or other proceeding against or by the GEICO Companies to support a defense of *res judicata*, collateral estoppel, release, waiver, good-faith settlement, judgment bar or reduction, full faith and credit, or any other theory of claim preclusion, issue preclusion or similar defense or counterclaim.

**19. No Representations Regarding Taxes.** The Court finds that the Parties and their counsel have expressed no opinions concerning the tax consequences of the Settlement to Settlement Class Members and have made no representations, warranties or other assurances regarding any such tax consequences. No opinions, representations, warranties, or other assurances shall be deemed to have been made by the Parties or their counsel with respect to any such tax consequences by virtue of the Settlement Agreement or by effectuating the Settlement, and the Parties and their counsel shall not be responsible or liable for any such tax consequences that may occur.

**20. Discovery.** The confidentiality provisions of the Court's Preliminary Approval Order shall remain in force. No discovery with regard to the Settlement Agreement or the proposed Settlement and its administration, including the manner in which Direct Mail and Settlement Website Notice are provided to Settlement Class Members, shall be permitted by any Settlement Class Members or other Persons, other than as may be directed by this Court after the party seeking such discovery properly files a motion with this Court and served pursuant to the governing rules of procedure.

**21. Dismissal of Claims.** The claims asserted in the Action, including all claims alleged

therein and those identified as Released Claims, are hereby dismissed on the merits and with prejudice against Plaintiffs and all other Settlement Class Members, without fees or costs to any Persons except as specifically provided in this Final Approval Order.

**22. Retention of Jurisdiction.** Without affecting the finality of this Final Approval Order, the Court shall have exclusive and continuing jurisdiction over the implementation, interpretation, execution, and enforcement of the Settlement Agreement; of any orders and this Final Approval Order entered by the Court; to issue any orders necessary due to the filing of the supplemental declaration of the settlement administrator updating the Opt-outs that has been accepted; of any questions regarding membership or exclusion from the Settlement Class and/or of the conduct or the policies and procedures described herein, with respect to all Parties hereto and all beneficiaries hereof, including all Settlement Class Members.

**DONE** and **ORDERED** in Chambers at Miami-Dade County, Florida on this 12th day of February, 2025.

2020-020117-CA-01 02-12-2025 5:01 PM  


2020-020117-CA-01 02-12-2025 5:01 PM

Hon. Lisa Walsh

**CIRCUIT COURT JUDGE**

Electronically Signed

Final Order as to All Parties SRS #: 12 (Other)

THE COURT DISMISSES THIS CASE AGAINST ANY PARTY NOT LISTED IN THIS FINAL ORDER OR PREVIOUS ORDER(S). THIS CASE IS CLOSED AS TO ALL PARTIES.

**Electronically Served:**

Barry Evan Aronin Esq., PIPLIT@LABOVICK.COM  
Barry Evan Aronin Esq., BARONIN@LABOVICK.COM  
Benjamin C Mordes, benjamin@jmmlawfirm.com  
Benjamin C Mordes, inservice@jmmlawfirm.com  
Chris Tadros, service@phillipstadros.com  
Daniel Diego Castro, daniel@jmmlawfirm.com  
Daniel Diego Castro, Benjamin@jmmlawfirm.com  
Drew Krieger, dkrieger@sgrlaw.com  
Drew Krieger, Drew.Krieger@rivkin.com  
Edward Cottrell, Edward.Cottrell@rivkin.com  
Edward K. Cottrell, ecottrell@sgrlaw.com  
Jacob Berger, pip@codolaw.com  
John Marino, John.Marino@rivkin.com  
John Marino, Laura.Carnley@rivkin.com  
John P Marino, John.Marino@rivkin.com  
John P Marino, Laura.Carnley@rivkin.com  
Kenneth Dorchak, kdorchak@bhdldlawfirm.com  
Kenneth J Dorchak, pleadings@bhdldlawfirm.com  
Kenneth J Dorchak, kdorchak@bhdldlawfirm.com  
Kristen L. Wenger, Kristen.Wenger@rivkin.com  
Kristen L. Wenger, Drew.Krieger@rivkin.com  
Kristen L. Wenger, Barbara.Puccio@rivkin.com  
Kristen L. Wenger, kwenger@sgrlaw.com  
Mac S Phillips, service@phillipstadros.com  
Mac S Phillips, mphilips@phillipstadros.com  
Mac S Phillips, mphilips@thephillipslawgroup.com  
Marc J. Semago, filings@fllegalattorneys.com  
Marc J. Semago, mjsemago@fllegalattorneys.com  
Mark Andrew Krieger IV, drew.krieger@rivkin.com  
Mark Andrew Krieger IV, cynthia.erwin@rivkin.com  
Melisa Coyle, servicethecoylelawfirm@gmail.com  
Melisa Coyle, Esq., service@thecoylelawfirm.com  
Melisa Coyle, Esq., mcoyle@thecoylelawfirm.com  
Neil M Gonzalez Jr, MiamiPIPpleadingservice@ngonzalezlaw.com  
Neil M Gonzalez Jr, janerys.giralt@ngonzalezlaw.com  
Neil M Gonzalez Jr, Filing@ngonzalezlaw.com  
Richard Shuster, richshuster@gmail.com  
Richard Shuster, assistant2richardshuster@gmail.com  
Rocco Joseph Scarfone, service@scarfonelawgroup.com  
Rocco Joseph Scarfone, rocco@scarfonelawgroup.com  
Rocco Joseph Scarfone, sushant@scarfonelawgroup.com  
Rodney A. Max Max, LMosher@uww-adr.com  
Sal Coppolino, sal.coppolino@rivkin.com  
Seth Michael Alper, service.salperlaw@gmail.com  
Seth Michael Alper, salperlaw@gmail.com  
Seth Michael Alper, assistant.salperlaw@gmail.com

**Physically Served:**