

1 ROBERT S. GIANELLI, SB# 82116
2 JOSHUA S. DAVIS, SB# 193187
3 GIANELLI & MORRIS, A Law Corporation
4 550 South Hope Street, Suite 1645
5 Los Angeles, California 90071
6 Tel: (213) 489-1600; Fax: (213) 489-1611

7 ANTONY STUART, SB# 89375
8 STUART LAW FIRM
9 801 South Grand Avenue, 11th Floor
10 Los Angeles, California 90017-4613
11 (213) 612-0009 Tel; (213) 489-0225 Fax

12 KATHRYN M. TREPINSKI, SB# 118378
13 LAW OFFICE OF KATHRYN TREPINSKI
14 8840 Wilshire Boulevard, Suite 333
15 Beverly Hills, California 90211
16 (310) 201-0022 Tel; (866) 201-2251 Fax

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 COURTHOUSE

22	ARTHUR BODNER and MICHAEL	)	CASE NO. BC516868
23	FELKER, on behalf of themselves and all	)	Assigned to Honorable Elihu M. Berle, D 6, Rm
24	others similarly situated	)	211
25)	
26	Plaintiffs,	)	DECLARATION OF ANTONY STUART IN
27		)	SUPPORT OF MOTION FOR AN ORDER
28	v.	)	GRANTING: (1) FINAL APPROVAL OF
		)	CLASS-ACTION SETTLEMENT; (2)
	BLUE SHIELD OF CALIFORNIA LIFE	)	ATTORNEY FEES, LITIGATION
	AND HEALTH INSURANCE COMPANY,	)	EXPENSES, CLASS REPRESENTATIVE
	Does 1 through 25, Inclusive,	)	INCENTIVE AWARDS, AND (3)
		)	SETTLEMENT ADMINISTRATIVE
	Defendants.	)	EXPENSES

29 Date: May 28, 2020
30 Time: 10:00 a.m.
31 Place: Department 6

1 California's Top 20 Attorneys," and in 2000, Editors and Publishers magazine named me one of
2 "The Three Kings of Privacy" for my work in media litigation. My reputation as a trial lawyer has
3 engendered frequent invitations to speak at the continuing legal education seminars of Consumer
4 Attorneys of California, the Consumer Attorneys Association of Los Angeles, the American Bar
5 Association, and Pepperdine University and Loyola University Schools of Law, to name a few. At
6 these events I have spoken on topics ranging from professional ethics, to jury selection, to health
7 insurance litigation.

8 8. In 2003, I became involved in litigation against the Mega Life & Health Insurance
9 Company, its parent, UICI (later renamed HealthMarkets, Inc.) and various associations through
10 which HealthMarkets health insurance was sold. The cases alleged fraud in the sale of health
11 insurance and were filed in various jurisdictions across the country including in Oregon, Montana,
12 Texas, North Carolina, and Utah. My involvement in these cases enabled me to develop expertise
13 about the legal issues involved in the design and marketing of health insurance products.

14 **CONSUMER CLASS ACTION EXPERIENCE**

15 9. Though limited in comparison to my colleagues in this case, my class action experience
16 has been rich. In early 2010, I joined with the consumer advocacy organization, Consumer
17 Watchdog, in the prosecution of the action, *Mary Feller and Randy Freed v. Blue Cross of*
18 *California*, Ventura County Case No. 56-2010-00368587-CU-BT-VTA. The case alleged a 'death
19 spiral' phenomenon occurring with certain Anthem Blue Cross policies. On August 26, 2011, a
20 settlement was approved by the Court enabling about 150,000 Californians to obtain premium
21 relief by moving, without medical underwriting, to other Anthem health insurance policies.

22 10. In 2011, I filed the action *David A. Cohen, et al. v. Facebook, Inc.*, Los Angeles Superior
23 Court Case No. BC444482, which alleged a putative class of minor children whose names and
24 likenesses were being used by Facebook for commercial purpose without legal consent. The
25 *Cohen v. Facebook* case was followed by the filing of similar class action cases throughout the
26 country, some alleging the same unlawful practice for the names and likenesses of all Facebook
27 members, not just children. Ultimately, these cases were deemed related and venue moved to the
28 U.S. District Court for the Northern District of California, under the lead action, *Angel Fraley, et*

1 *al., v. Facebook, Inc.*, Case No. CV-11-01726 RS. As that case moved toward settlement, I joined
2 with my co-counsel for the sub-class of minors, objecting to the settlement terms. Litigation of this
3 issue continued through to the Ninth Circuit U.S. Court of Appeals and was ultimately lost by a
4 memorandum opinion dated October 30, 2015. *C.M.D. v. Facebook, Inc.*, D.C. No. 3:12-cv-
5 01216-RS. Disappointed as I am in the outcome of the Facebook litigation, I am proud to have
6 initiated it, and of the work I did on behalf of the millions of children who use Facebook. It was a
7 case before its time.

8 **PROFESSIONAL ASSOCIATIONS AND BAR LEADERSHIP**

9 11. I have been a member of Consumer Attorneys Association of Los Angeles (CAALA),
10 and Consumer Attorney of California (CAOC) for forty years. I served on the Board of Governors
11 of CAOC beginning in 1990, and then in 2011, I served as the Secretary of CAOC, and am now a
12 Governor Emeritus of that organization. In 1994, in my capacity as a representative of CAOC, I
13 was instrumental in the negotiation and legislative enactment of restrictions for attorney
14 advertising in electronic media, codified at Business & Professions Code sections 6148 to 6159.2.
15 I rose through the chairs of leadership in CAALA, serving as its president in 2004. In 2003, I was
16 appointed by the Chair of the California Judicial Council to serve on the Blue Ribbon Panel on the
17 Fair and Efficient Administration of Civil Cases. This Panel made recommendations for reform of
18 the rules of judicial management of civil cases, liberalizing the grounds for continuance of civil
19 trials. In 2001, I was named to the AB 2069 Subcommittee of the Committee on Professional
20 Responsibility and Conduct (COPRAC) of the California State Bar Board of Governors. The
21 Subcommittee made recommendations for ethical rules pertaining to conflicts of interest arising
22 with individuals represented by attorneys appointed by insurance carriers.

23 **PUBLICATIONS**

24 12. I have authored various articles over the years, including, "In Support of Informing
25 California Juries About the MICRA Limit," *Consumer Attorneys Association of Los Angeles*
26 *Advocate*, Vol. 33, No. 2, February, 2006; "Despite Hanif, the Collateral Source Rule Is Alive and
27 Well," *Consumer Attorneys of California Forum*, Vol. 32, No. 6, July/August, 2002; "Vulture
28 Video: Protecting the Consumer," published in 1995 in *Consumer Attorneys of California Forum*

1 magazine, Vol. 25, No. 2, "Attorney Advertising and the Civil Justice System," California Trial
2 Lawyers Association Forum, Vol. 24, No. 2, 1994, "Don't Be a Target: Learn To Identify the Red
3 Flags for Malpractice," Consumer Attorneys Association of Los Angeles Advocate, October,
4 2012, "Jury Selection: The New Paradigm," Consumer Attorneys Association of Los Angeles
5 Advocate, January, 2017, and "Memo to the Bench: Civil Jury Selection is Different," Los
6 Angeles Daily Journal, October 10, 2017.

7
8 **ATTORNEY TIME SPENT ON THIS MATTER: LODESTAR ANALYSIS**

9 13. This action was pursued on a fully contingent basis. Up to and including March 11,
10 2020, I billed a total of 317.3 hours. I prepared my timesheets contemporaneously, in the ordinary
11 course of business, recording descriptions of my activities and the time spent on each task. My
12 hourly rate in this matter is \$900. This results in a lodestar value of \$285,570. I anticipate
13 spending another 10 hours on this matter through judgment, for an estimated total of \$294,570.
14 Costs incurred for the case are \$4,106.75.

15 14. The services I performed were reasonably necessary in the prosecution of this action.
16 The following chart reflects my work on the major components of the litigation.

17

Category of Work	1	2	3	4	5	6	7	TOTAL
Time Spent	80.4	12.6	45.5	99.8	17.4	61.6	0	317.3

18
19

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

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

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

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

24 Category 5: Prepare for and attend hearings

25 Category 6: Mediation, settlement activities

26 Category 7: Settlement administration

27 ///

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

3 15. I conceived of, and initiated this case, after plaintiff Michael Felker contacted me in
4 January of 2012. Mr. Felker had concerns about why his health insurer, Blue Shield, was refusing
5 to provide coverage for the cost of certain medical expenses he had incurred. I began investigating
6 Mr. Felker's "Vital Shield 400 Generic" insurance policy to determine how the policy worked, and
7 how its terms were being interpreted and applied by Blue Shield. I recognized how unusual the
8 policy provisions were, and why Mr. Felker was perplexed that he wasn't receiving the coverage
9 he thought he had. Because of my work with Consumer Watchdog on the *Feller/Freed* class
10 action against Anthem, I recruited my colleagues there to join with me in the analysis and
11 investigation of Mr. Felker's circumstances. We spent several months identifying the policy's
12 problems and researching applicable law. During the work, we were contacted by plaintiff Arthur
13 Bodner. Mr. Bodner was complaining of similar problems under his "Vital Shield 2900" policy.

14 16. Ultimately, Consumer Watchdog decided not to join with me in the prosecution of legal
15 action by Mr. Bodner and Mr. Felker, so I filed the instant case myself. Soon thereafter, I joined
16 with my co-counsel herein, Ms. Trepinski, and later with Mr. Gianelli, because of their expertise
17 in matters related to health insurance and because of their class action experience. Since then I
18 have collaborated with both of them to devise litigation strategy, to understand the vagaries of the
19 Blue Shield insurance policies at hand, to prepare the plaintiffs for their deposition and trial
20 testimony, working with our expert witnesses, and assisting in the drafting and revision of various
21 pleadings in the case, including the opposition to Blue Shield's summary judgment motion, and its
22 potentially case-dispositive Motion In Limine No. 1.

23 17. I declare under penalty of perjury that the foregoing is true and correct.

24 Dated, March 28, 2020, at Los Angeles, California.

25 

26 _____
Antony Stuart

SERVICE LIST

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Antony Stuart
STUART LAW FIRM
801 South Grand Avenue, 11th Floor
Los Angeles, California 90017-4613
Tel: (213) 612-0009; Fax (213) 489-0225
ts@stuartlaw.us

Kathryn M. Trepinski
LAW OFFICE OF KATHRYN TREPINSKI
8840 Wilshire Boulevard, Suite 333
Beverly Hills, California 90211
Tel: (310) 201-0022; Fax: (866) 201-2251
ktrepinski@trepinskilaw.com

John T. Fogarty
Gregory N. Pimstone
John M. LeBlanc
MANATT, PHELPS & PHILLIPS, LLP
11355 West Olympic Boulevard
Los Angeles, California 90064-1614
Tel: (310) 312-4000; Fax (310) 312-4224
jfogarty@manatt.com
gpimstone@manatt.com
jleblanc@manatt.com

COUNSEL FOR PLAINTIFFS
ARTHUR BODNER and
MICHAEL FELKER, on behalf of
themselves and all others similarly
situated

COUNSEL FOR DEFENDANTS
BLUE CROSS OF CALIFORNIA
LIFE AND HEALTH INSURANCE
COMPANY