

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MICHELLE ANDERSON, an individual,
On Behalf of Herself and All Others
Similarly Situated,

Plaintiff,

v.

TRAVELEX INSURANCE SERVICES
INC. and TRANSAMERICA CASUALTY
INSURANCE COMPANY,

Defendants.

Case No. 8:18-cv-00362-JMG-SMB

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

This matter came for hearing on September 22, 2021 (the “Final Approval Hearing”), to determine whether the terms and conditions of the Parties’ Settlement are fair, reasonable, and adequate, and whether final approval should be granted. Due and adequate notice having been given to the Settlement Class in accordance with the terms of the Settlement Agreement (Doc. No. 108-2) and the Court’s Preliminary Approval Order (Doc. No. 109), and the Court having considered all papers filed and proceedings in this Action and otherwise being fully informed, and good cause appearing therefore, IT IS HEREBY ORDERED AND ADJUDGED:

1. This Final Approval Order and Judgment (the “Final Approval Order” or “Order”) incorporates by reference the definitions in the Settlement Agreement, and all capitalized terms used herein shall have the same meanings as set forth in the Settlement Agreement, unless otherwise set forth below.

2. The Court has personal jurisdiction over Plaintiff and Settlement Class Members, the Court has subject matter jurisdiction over the claims asserted in this Litigation and to approve the Settlement, and venue is proper.

3. The Court preliminarily approved the Settlement Agreement by entering the Preliminary Approval Order and notice was given to the Settlement Class pursuant to the terms of the Settlement Agreement and Preliminary Approval Order.

4. The Court finds that the prerequisites for a class action under Federal Rule of Civil Procedure 23 have been satisfied for settlement purposes for each Settlement Class Member in that:

- (a) the Settlement Class is so numerous that joinder of all members is impracticable;
- (b) there are questions of law or fact common to the Settlement Class;
- (c) Plaintiff’s claims are typical of the claims of the Settlement Class;

- (d) Plaintiff and Class Counsel have fairly and adequately protected the interests of the Settlement Class;
- (e) the questions of law or fact common to the Settlement Class Members, and which are relevant for settlement purposes, predominate over the questions affecting only individual Settlement Class Members; and
- (f) certification of the Settlement Class is superior to other available methods for the fair and efficient adjudication of the controversy.

5. In light of these findings and solely for purposes of the Settlement, the Court certifies this Action as a class action pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3). The Settlement Class consists of: all persons in the United States who have been identified by the defendants as insured under a Travel Plan purchased from January 1, 2014 to December 31, 2017, and for whom a claim for trip cancellation benefits was initiated under the Travel Plan. The Parties have acknowledged that the Settlement Administrator identified 96,382 potential Settlement Class Members.

6. Excluded from the Settlement Class are: (i) all persons who previously received a refund of premium from the defendants for any Travel Plan at issue in the Litigation; (ii) all persons who previously entered into a written agreement with the defendants releasing all claims related to a Travel Plan at issue in the Litigation; (iii) all insureds for whom no premium was charged under a Travel Plan; and (iv) all persons who during the Class Period were officers, directors, or employees of either defendant.

7. The Court finally appoints Plaintiff Michelle Anderson as the Class Representative of the Settlement Class.

8. The Court finally appoints Shanon J. Carson, Peter R. Kahana, Lane L. Vines, Y. Michael Twersky, and John G. Albanese of Berger Montague PC as Lead Counsel.

9. Pursuant to Fed. R. Civ. P. 23, the Court gives final approval to the Settlement as set forth in the Settlement Agreement and finds that:

- (A) Plaintiff and Class Counsel have adequately represented the Settlement Class;
- (B) the Settlement was negotiated in good faith and at arm's length;
- (C) the relief provided for the Settlement Class is adequate, taking into account:
 - (i) the costs, risks, and delay of trial and appeal;
 - (ii) the effectiveness of the proposed method of distributing relief to the Settlement Class, including the method of processing Settlement Class Member claims;
 - (iii) the terms of any proposed award of attorney's fees, including timing of payment; and
 - (iv) any agreement required to be identified under Rule 23(e)(3); and
- (D) the Settlement treats class members equitably relative to each other.

10. The Notice was given to the Settlement Class in the manner ordered by the Court. The Notice given was the best notice practicable under the circumstances; constituted notice reasonably calculated to apprise members of the Settlement Class of the pendency of the Litigation, their right to object or exclude themselves from the proposed Settlement Class, and their right to appear at the Final Approval Hearing; included individual notice to all Settlement Class Members who could be identified through reasonable effort; was fair and reasonable, and constituted due and sufficient notice to all persons, including all Settlement Class Members. The form and method of the Notice constituted due and adequate notice of the proceedings and satisfied the requirements of Fed. R. Civ. P. 23, the Due Process Clause of the United States Constitution, the Local Rules of this Court, and any other applicable law. Thus, all Settlement Class Members are bound by this Final Approval Order and Judgment.

11. This Court finds that proper and timely notice of the Settlement has been provided to the appropriate state and federal officials in accord with the Class Action Fairness Act of 2005,

28 U.S.C. § 1715 (“CAFA”), and that more than ninety (90) days have elapsed since Defendants provided the required notice, as required by 28 U.S.C. §1715(d).

12. The distribution plan for the Net Settlement Fund set forth in the Settlement Agreement is approved.

13. The Settlement Agreement, in its entirety, the terms of which are incorporated into this Final Approval Order and Judgment, is finally approved in all respects as fair, reasonable, and adequate, pursuant to Federal Rule of Civil Procedure 23, and any applicable law, and is in the best interest of the Settlement Class Members.

14. The following terms of the Settlement Agreement shall be effective as set forth in the Settlement Agreement.

A. The Release of Claims set forth in Section F of the Settlement Agreement, is effective as of the Effective Date defined in the Settlement Agreement, and the Released Parties are forever released, relinquished and discharged from all Released Claims by the Releasing Parties as set forth below.

1. **Release.** Upon the Effective Date, the Plaintiff and all Settlement Class Members, on behalf of themselves and all of their agents, heirs, estates, executors and administrators, successors, assigns, insurers, attorneys, representatives, and any and all Persons who seek to claim through or in the name or right of any of them (the “Releasing Parties”), expressly and irrevocably release and forever discharge, upon good and sufficient consideration, Defendants and all of their respective present and former administrators, insurers, reinsurers, firms, parents, subsidiaries, and affiliates, and all of Defendants and the foregoing Persons’ respective predecessors, successors, assigns and present and former

officers, directors, shareholders, employees, agents, indemnitees, attorneys, and representatives (collectively, the “Released Parties”), from any and all claims, demands, complaints, disputes, causes of action, rights of action, suits, debts, liabilities, obligations, and damages of every nature whatsoever, on any legal or equitable ground, whether based on federal, state, or local law, statute, ordinance, regulation, common law, private contract, agreement or any other authority, asserted or unasserted, known or unknown, that the Releasing Parties now have, ever had, or may in the future have, arising out of, resulting from, or related in any way to the Litigation or the subject matter of the Litigation, and which were or could have been asserted in the Litigation based upon the facts alleged, including, without limitation, any and all claims for attorneys’ fees, costs, or expenses, and any and all past and present claims, damages, or liability on any legal or equitable ground whatsoever (“Released Claims”). This Release is as a result of the Settlement Class Members’ membership in the Settlement Class and status as Releasing Parties, the Court’s approval process herein, and the occurrence of the Effective Date and is not conditioned on receipt of payment by any particular Settlement Class Member or Releasing Party. The Released Claims do not include either pending or as yet unfiled policyholder claims for trip cancellation benefits under the Travel Plans.

2. All other Release of Claims provisions set forth in Section F of the Settlement Agreement, are further hereby incorporated by reference into, and made a part of, this Final Approval Order and Judgment.

B. The Release of Claims was bargained for and is a material element of the Settlement Agreement.

C. The Release does not affect the rights of members of the Settlement Class who timely and properly submitted a Request for Exclusion from the Settlement Class in accordance with the requirements of the Preliminary Approval Order and Settlement Agreement.

D. The Settlement shall be the exclusive remedy for any and all Settlement Class Members, and the Released Parties shall not be subject to liability or expense for any of the Released Claims to any Settlement Class Member.

E. The Release shall not preclude any action to enforce the terms of the Settlement Agreement, including participation in any of the processes detailed therein. The Release set forth herein and in the Settlement Agreement was not intended to include the release of any rights or duties of the Parties arising out of the Settlement Agreement, including the express warranties and covenants contained therein.

15. **Injunction**. Upon the Effective Date, Plaintiff and the Settlement Class Members who have not timely and properly opted out and excluded themselves from the Settlement shall be permanently barred and enjoined from filing, commencing, prosecuting, intervening in, or participating in (individually or in a representative capacity) any lawsuit, action, or proceeding in any jurisdiction asserting or based upon any claims or causes of action released in the Settlement and Final Approval Order and Judgment; and from soliciting or encouraging any other Class members to participate in any such lawsuit, action, or proceeding.

16. Accordingly, the Court authorizes and directs implementation and performance of all terms of the Settlement Agreement and this Final Approval Order and Judgment. The Court

hereby dismisses the Litigation and the claims asserted in the Litigation with prejudice. The Parties are to bear their own costs except as, and to the extent provided in, the Settlement Agreement and the related Orders of this Court.

17. Upon the Effective Date, as defined in the Settlement Agreement and by operation of this Final Approval Order and Judgment, it is hereby determined that the terms of the Settlement Agreement, including all exhibits thereto, and of this Final Approval Order and Judgment, are forever binding on and shall have res judicata and preclusive effect in all pending and future lawsuits maintained by Settlement Class Members, as well as their agents, heirs, executors, administrators, successors, and assigns, against any of the Released Parties in any forum of any kind. Plaintiff and each Settlement Class Member shall be bound by the terms of the Settlement as set forth in the Settlement Agreement and this Order; shall be deemed to have released, dismissed and forever discharged the Released Claims against the Released Parties, with prejudice and on the merits, without costs to any of the Parties; and shall forever be barred and enjoined from commencing, instituting, prosecuting, or maintaining any of the Released Claims against any of the Released Parties in any forum of any kind, whether directly or indirectly, whether on their own behalf or otherwise.

18. This Final Judgment and the Stipulation of Settlement may be filed in any action against or by any Released Person to support a defense of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

19. In the event that the Settlement does not become final as contemplated by the Stipulation of Settlement, this Final Judgment shall automatically be rendered null and void and

shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void.

20. Neither the Stipulation of Settlement nor this Final Judgment constitutes an admission of liability, fault, or wrongdoing on the part of Defendants.

21. Without affecting the finality of this Final Approval Order and Judgment, in any way, this Court hereby retains exclusive and continuing jurisdiction over the administration, consummation, and enforcement of the Settlement Agreement.

22. There is no just reason for delay in the entry of this Final Approval Order and Judgment and immediate entry by the Clerk of the Court is expressly directed.

SO ORDERED on this _____ day of _____, _____.

Hon. John M. Gerrard
United States District Judge