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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 Martin FLEISHER, as trustee of  
4 the Michael Moss Irrevocable  
5 Life Insurance Trust II, and  
6 Jonathan Berck, as trustee of  
7 the John L. Loeb, Jr.  
8 Insurance Trust, on behalf of  
9 themselves and others  
10 similarly situated,

11 Plaintiffs,

12 v.

11 CV 8405 (CM)

13 PHOENIX LIFE INSURANCE  
14 COMPANY,

15 Defendant.

16 September 9, 2015

17 10:16 a.m.

18 Before:

19 HON. COLLEEN MCMAHON,

20 District Judge

21 APPEARANCES

22 SUSMAN GODFREY, LLP  
23 Attorneys for Plaintiffs

24 BY: STEVEN G. SKLAVER  
25 SETH ARD

EDISON MCDOWELL & HETHERINGTON, LLP  
Attorneys for Defendant

BY: THOMAS F.A. HETHERINGTON  
ERIN E. BENNETT

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1 (Case called)

2 MR. SKLAVER: Good morning, your Honor. Steven  
3 Sklaver of Susman Godfrey for the plaintiffs.

4 MR. ARD: Good morning, your Honor. Seth Ard, Susman  
5 Godfrey, for plaintiffs.

6 MR. HETHERINGTON: Tom Hetherington and Erin Bennett  
7 for the defendants.

8 THE COURT: Have a seat. I think we can probably make  
9 short work of this.

10 Other than my friends who are going to trial in a week  
11 and a half, I've been advised that there are no objectors. Are  
12 there any objectors here?

13 MR. SKLAVER: Your Honor, there are no objectors.  
14 Who's in the courtroom are -- the class representatives are  
15 here. And I checked in with the claims administrator this  
16 morning, Rust Consulting, and they still have not received any  
17 objections, even as of last night.

18 THE COURT: Mr. Fleisher?

19 MR. FLEISHER: Yes.

20 THE COURT: I just wanted to see who you were.

21 And Mr. Berck?

22 MR. BERCK: Right here.

23 THE COURT: Good morning.

24 And who's here from Tiger?

25 MR. SKLAVER: Tiger is not a class representative.

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1       SPRR is our representative.   SPRR are here.

2               THE COURT:   I was looking at Mr. Fleisher and  
3       Mr. Berck for a long time.   Okay.

4               So, fine, let me just put a few things on the record.

5               The settlement is approved, and motion for attorneys  
6       fees is granted.   There's an opinion.   I'll hand you the  
7       opinion, and we'll post it on ECF today.

8               I want to say publicly that I think this is an  
9       excellent settlement.   I think this is a superb -- this may be  
10      the best settlement pound for pound for the class that I've  
11      ever seen.   And the fact that it comes literally at the 11th  
12      hour and 59th minute, when the case has been fully litigated,  
13      except in front of the jury, when you all know everything that  
14      there is to know about the strength and weaknesses of each  
15      other's cases, is a factor that weighs very, very, very  
16      heavily.   I've only seen one other case like this, and that's  
17      City of Providence.   And you were even closer to trial than the  
18      City of Providence people.   And it gives me complete cognizance  
19      that this is a fair settlement; that this is a good resolution.  
20      Nobody comes out of it with everything, and everybody comes out  
21      of it with something.   But I think it's an excellent, excellent  
22      result for the class.   And I'm very happy to sign off on it.

23              I want to thank everyone for the hard work that the  
24      back table have done, but I want to thank everybody for all the  
25      hard work that you have put into this case from the beginning.

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1 And I will sign this opinion, and I will post it. And I will  
2 give you copies.

3 And you are free to go.

4 MR. SKLAVER: Thank you, your Honor.

5 MR. ARD: Thank you, your Honor.

6 MR. HETHERINGTON: Thank you, your Honor.

7 THE COURT: And as to the rest, I guess on the 21st I  
8 will see you folks.

9 MR. HETHERINGTON: You'll see us on the 17th for our  
10 final pretrial.

11 THE COURT: Okay. Thank you, everybody.

12 (Adjourned)

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