

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA**

JUANITA WILLIAMS, on behalf of  
herself and others similarly situated,

Plaintiff,

Case No. 1:23-cv-00292-RAH-KFP

CLASS ACTION

v.

CHOICE HEALTH INSURANCE  
LLC,

Defendant.

**DECLARATION OF BRIAN K. MURPHY IN SUPPORT OF  
MOTION FOR FINAL APPROVAL**

I, Brian K. Murphy, declare under penalty of perjury as follows:

1. I am an attorney duly admitted to practice in Ohio, I am over 18 years of age, I am competent to testify, and I make this declaration on personal knowledge. I have extensive experience in the prosecution of class actions on behalf of consumers.

2. I am a partner with the law firm of Murray Murphy Moul + Basil LLP, one of the firms designated as Class Counsel for Plaintiff under the Class Action Settlement Agreement (“Agreement”) entered into with Defendant and attached as Exhibit 1 to Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement. (Doc. 35-1.) I submit this declaration in support of Plaintiff’s and Class Counsel’s Motion for Final Approval of Class Action

Settlement. Except as otherwise noted, I have personal knowledge of the facts set forth in this declaration and could testify competently to them if called upon to do so.

3. The Parties recognize and acknowledge the expense, time, and risk associated with continued prosecution of the Litigation through class certification, trial, and any subsequent appeals.

4. Class Counsel has taken into account the strength of Defendant's defenses, difficulties in obtaining class certification and proving liability, the uncertain outcome and risk of the Litigation, especially in complex actions such as this one, the inherent delays in such litigation, and the risk that a change in the law could nullify some or all of Representative Plaintiff's claims.

5. Class Counsel devoted significant time and resources to investigating the claims against Defendant, researching and developing the legal claims at issue, preparing for and attending mediation, negotiating and drafting the Settlement Agreement, drafting the preliminary approval documents, and attending to all actions required thereafter pursuant to the Preliminary Approval Order. Class Counsel also spent considerable time researching and navigating Defendant's defenses. As such, Class Counsel's analysis and understanding of the legal obstacles positioned them to evaluate the strengths and weaknesses of Representative Plaintiff's claims, the appropriate basis upon which to settle them,

Defendant's defenses, as well as the range and amount of damages that were potentially recoverable if the litigation proceeded to judgment on a class-wide basis.

6. The Parties engaged in extensive, arm's-length negotiations with the assistance of a mediator to resolve the case with a view toward achieving substantial benefits for the Class as a whole, while avoiding the cost, delay, and uncertainty of further litigation, trial, and appellate practice. Representative Plaintiff's counsel believes that the proposed Settlement confers substantial and immediate monetary and non-monetary benefits upon the Settlement Class, whereas continued and protracted litigation, even if successful, may have ultimately delivered none.

7. Based on their evaluation, Plaintiff and Class Counsel have concluded that the terms and conditions of this Settlement are fair, reasonable, and adequate for the Settlement Class and that it is in the best interests of the Settlement Class to settle the Released Claims pursuant to the terms and provisions of this Settlement.

8. Apart from the risks, continued litigation would have involved substantial delay and expense, which further counsels in favor of final approval. The uncertainties and delays from this process would have been significant.

9. The Settlement is an extremely fair and reasonable recovery for the Settlement Class in light of Defendant's defenses, including specifically its

consent defense, and the challenging and unpredictable path of litigation Representative Plaintiff and any certified class would have faced absent the Settlement. Class Counsel strongly endorses the Settlement given the significant risks in proceeding with litigating this case.

10. Pursuant to the Settlement Agreement, Defendant will cause to be created a common fund in the amount of \$7,000,000. Moreover, as a result of the Litigation, Defendant has also agreed to terminate its relationship with the data provider who sold Defendant the Class Member data used to make the calls at issue. This remedial relief has a value of at least \$2,278,460 for Settlement Class Members, bringing the Settlement's total value to \$9,278,460.

11. The monetary relief on a per Class Member basis and the remedial relief agreed to by Defendant place the Settlement well within the range of similar settlements. The total Settlement Sum available to the Class to resolve this matter is \$7,000,000, and Class Members submitting Approved Claims will receive up to \$33.79.

12. The Settlement Class consists of 276,177 individuals.

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

Executed on this 24<sup>th</sup> day of June, 2024 in Columbus, Ohio.

/s/ Brian K. Murphy  
Brian K. Murphy