

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY  
LEXINGTON DIVISION

HANNA ALBINA and AUSTIN WILLARD,  
individually and on behalf of others similarly  
situated,

Plaintiffs,

vs.

THE ALIERA COMPANIES, INC.,  
TRINITY HEALTHSHARE, INC., and  
ONESHARE HEALTH, LLC d/b/a UNITY  
HEALTHSHARE, LLC,

Defendants.

Case No.: 5:20-CV-00496-JMH

**ELECTRONICALLY FILED**

**PLAINTIFFS' MOTION TO CERTIFY CLASS  
AGAINST THE ALIERA COMPANIES, INC.**

\* \* \* \* \*

COME the Plaintiffs, by counsel, on behalf of themselves and the class they seek to represent, and hereby move the Court to certify the following class of Plaintiffs against Defendant The Alieria Companies, Inc. ("Alieria"), pursuant to FRCP 23:

All persons who, while a Kentucky resident, purchased or were covered by a plan from The Alieria Companies, Inc., and Trinity HealthShare, Inc., that purported to be a "health care sharing ministry."

As grounds for this motion, Plaintiffs state that Alieria is in default and therefore has waived its defenses to this lawsuit. In order to avoid prejudice to the class members, who are Kentucky residents, judgment should be entered forthwith on a classwide basis as that is the only way the Kentucky class members can meaningfully participate in the Alieria's ongoing liquidation process currently being carried out under Georgia law through an "Assignment for

Benefit of Creditors” that has been made to Asset Recovery Associates Alieria, LLC. Furthermore, Plaintiff has made a motion for default judgment against Alieria [DE 64] that will be ripe for entry seven days after notice is given to Alieria. Default judgment may be entered on behalf of a class, but only if the class is certified before the default judgment is entered by the Court (as opposed to the entry of default by the Clerk). Skeway v. China Nat. Gas, Inc., 304 F.R.D. 467, 472 (D. Del. 2014). Therefore, this class certification should be made expeditiously and before default judgment is entered.

The class should be certified because, based upon the allegation admitted by Alieria’s default, Plaintiffs have satisfied all criteria for certification pursuant to FRCP 23(a) and have further satisfied the additional criteria for class certification under FRCP 23(b)(3).

A memorandum in support of this motion is filed herewith.

Respectfully submitted,

ATTORNEYS FOR PLAINTIFF

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**CERTIFICATE OF SERVICE**

I hereby certify that, on November 4, 2021, I have served this document on all counsel of record through the Court's CM/ECF system, and in addition I have mailed by United States Postal Service the document to the following non-CM/ECF participants, as well as electronically mailed to Katie Goodman:

The Alieria Companies Inc.  
990 Hammond Dr. NE, Suite 700  
Atlanta, GA 30328

The Alieria Companies Inc.  
c/o CT Corporation System, Registered Agent  
306 W. Main Street, Suite 512  
Frankfort, Ky 40601

Assignee for The Alieria Companies, Inc., *et al.*  
c/o Katie Goodman Asset Recovery Associates Alieria, LLC  
3155 Roswell Road NE, Suite 120  
Atlanta, GA 30305  
[kgoodman@gggpartners.com](mailto:kgoodman@gggpartners.com)

I further certify that I have electronically mailed the document to the Alieria's former counsel:

Benjamin B. Coulter, [bcoulter@burr.com](mailto:bcoulter@burr.com)

BY: /s/ Jerome P. Prather  
Jerome P. Prather, Esq.

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HANNA ALBINA and AUSTIN WILLARD,  
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Defendants.

Case No.: 5:20-CV-00496-JMH

**ELECTRONICALLY FILED**

**MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION  
TO CERTIFY CLASS AGAINST THE ALIERA COMPANIES, INC.**

\* \* \* \* \*

COME the Plaintiffs, by counsel, on behalf of themselves and the class they seek to represent, and in support of their motion to certify the proposed class against Defendant The Alieria Companies, Inc., pursuant to FRCP 23(b)(3), hereby submit this memorandum.

**INTRODUCTION**

Plaintiffs and several hundred other unsuspecting Kentucky residents have been sold illegal health insurance by Defendants The Alieria Companies, Inc. ("Alieria"), and Trinity Healthshare, Inc. ("Trinity"). Because of the automatic bankruptcy stay entered with regard to Trinity, this class certification is sought only against Alieria, once the discretionary stay of claims against Alieria has been lifted by this Court.<sup>1</sup> Alieria created Trinity to market, sell, and administer

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<sup>1</sup> See DE 64, Plaintiffs' pending motion to lift the stay and for other relief.

its sham healthcare product. Trinity was described as, and purported to be, an authorized health care sharing ministry (“HCSM”) and thus exempt from state and federal insurance codes. But it was not an authorized HCSM and Plaintiffs and many other Kentucky residents were duped into buying such a product that was actually insurance (although very poor insurance that did not comply with state or federal applicable laws governing health insurance).

Federal law requires that in order to qualify as a HCSM, the entity must have “been in existence at all times since December 31, 1999,” and that medical expenses of its members must have been “shared continuously and without interruption since at least December 31, 1999.” 26 U.S.C. § 5000A(d)(2)(B)(ii). Alieria created Trinity on June 27, 2018, which made its eligibility as an authorized HCSM impossible. Neither Alieria nor Trinity has ever been a valid HCSM and each has defrauded hundreds of customers into buying insurance under the guise of an HCSM.

This case is well-suited for litigation as a class action. Plaintiffs, like all members of the class they seek to represent, purchased insurance plans from Trinity and/or Alieria. Defendants claim those plans qualify as HCSM products. Pursuant to FRCP 23(a), litigation of these claims is appropriate for class certification because they are numerous, the questions of law and fact are common to the claims of all putative class members, the claims made by the putative class members are representative of the whole class, and the representative Plaintiffs and their counsel would adequately represent the class in pursuit of these claims. Furthermore, in compliance with FRCP 23(b)(3), the common questions of law relating to the fraudulent victimization of Plaintiffs and the putative class predominate over any claims that may affect any individual member and pursuing these claims via class litigation is the superior method of adjudication.

Most importantly, Plaintiffs request that class certification be granted immediately. In order to pursue the class members’ claims effectively against Alieria, which has recorded a deed

of assignment for the benefit of creditors under Georgia law, the putative class must have a liquidated judgment in its favor against Alieria before the limitations period for making claims expires on January 11, 2022. Thus, Plaintiffs respectfully request this Court to grant its motion for class certification immediately.

### **PROPOSED CLASS DEFINITION**

Plaintiffs request certification of the following class to resolve their claims against Alieria for illegal contracts, violation of Kentucky's unfair competition law, insurance bad faith and Kentucky Unfair Claims Settlement Practices Act; Kentucky false advertising law, as well as breach of fiduciary duty and unjust enrichment:

All persons who, while a Kentucky resident, purchased or were covered by a plan from The Alieria Companies, Inc., and Trinity HealthShare, Inc., that purported to be a "health care sharing ministry."

[Complaint, DE 1, ¶ 21.]

The four prerequisites for certification under FRCP 23(a) and the predominance and superiority requirements of FRCP 23(b)(3) are met as explained below. Accordingly, the Plaintiffs' motion for immediate class certification should be granted.

### **ARGUMENT**

#### **A. Class certification is appropriate with entries of default judgment.**

Concurrent with this motion, Plaintiffs have filed with the Court a motion to lift the stay, deny all pending motions, and enter a default judgment against Alieria, as well as a motion to expedite decision of these motions. Alieria is unrepresented in this matter and the case law of this Court and the Sixth Circuit have consistently held that a corporation cannot appear in the federal courts without counsel and that a default judgment is the appropriate procedural remedy. Harris v. Akron Dep't of Pub. Health, 10 F. App'x 316, 319 (6th Cir. 2001) (*citing* Ginger v. Cohn, 426

F.2d 1385, 1386 (6th Cir. 1970)); HMP Auto. Consultants, LLC v. Pierce Prop. Grp., LLC, No. 5:15-CV-226-KKC, 2018 WL 2050135, at \*2 (E.D. Ky. May 2, 2018); *see also In re Classicstar Mare Lease Litig.*, Civil Action Nos. 5:7-cv-353-JMH, 5:07-349-JMH, 2009 WL 1468474, at \*1 (E.D. Ky. May 13, 2009) (“Clearly, as a corporation, [the defendant] cannot appear before this Court except through a licensed attorney, and, in the absence of counsel, [the defendant corporation] is in default.”).

Even when default is entered against a defendant, the Court must still determine class certification, separately from (and before) entry of the default judgment. *See Biery v. Beneficial Ky., Inc. (In re Biery)*, Bankr. No. 10-23338, 2013 WL 4602698, at \*1 (Bankr. E.D. Ky. Aug. 29, 2013) (“Moreover, the failure of the Defendants to answer Debtors’ complaint is no obstacle to this Court probing the legal sufficiency of Debtors’ claims.”); Skeway v. China Nat. Gas, Inc., 304 F.R.D. 467, 472 (D. Del. 2014) (certifying a class after the defendant failed to respond to or answer the complaint); Telford v. Ideal Mortg. Bankers, Ltd., No. CV 09-5518, 2010 WL 3924790, at \*3-4 (E.D.N.Y. Aug. 17, 2010) (Rule 23 imposes an independent duty on the district court to determine class certification, even when a default judgment has been issued). Therefore, both the entry of default judgment and Plaintiffs’ motion for class certification should be simultaneously granted.

**B. The requirements for class certification under FRCP 23(a) are satisfied.**

In order to be certified as a class, “a class must satisfy all four of the Rule 23(a) prerequisites—numerosity, commonality, typicality, and adequate representation—and fall within one of the three types of class actions listed in Rule 23(b).” Young v. Nationwide Mut. Ins. Co., 693 F.3d 532, 537 (6th Cir. 2012) (citing Sprague v. Gen. Motors Corp., 133 F.3d 388, 397 (6th Cir. 1998) (en banc)). As explained below, these requirements are satisfied.



## 1. Numerosity

Federal Rule of Civil Procedure 23(a)(1) requires that a class must be “so numerous that joinder of all members is impracticable.” There is no specific number of members that necessarily makes joinder impracticable. Powell v. Tosh, 280 F.R.D. 296, 303 (W.D. Ky. 2012) (citing In re Am. Med. Sys., 75 F.3d 1069, 1079 (6th Cir. 1996)). Beyond the number of potential parties, the court may also consider the geographic proximity among the class members, judicial economy by avoiding multiple actions, the amount of each individual class member’s claim, knowledge of the names and existence of potential class members, among other considerations. *Id.* (citing Golden v. City of Columbus, 404 F.3d 950, 965 (6th Cir. 2005)).

In this case, Trinity’s Chief Reconstruction Officer in its bankruptcy case has submitted a declaration establishing that there were 378 households in Kentucky who were members or Alieria/Trinity. [Exh. A, Luria Decl. ¶ 10.] Because joinder of this many persons across the state in a single action would be impracticable, the numerosity requirement is satisfied.

## 2. Commonality

There must be “questions of law or fact common to the class.” FRCP 23(a)(2). To satisfy this, it must be proven that the claims “depend upon a common contention . . . of such a nature that it is capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.” In re Countrywide Fin. Corp. Mortg. Lending Practices Litig., 708 F.3d 704, 707 (6th Cir. 2013) (quoting Wal-Mart Stores, Inc. v. Dukes, 564 U.S. 3383, 350 (2011)). This element does not require that all questions of law or fact be the same, but rather that a “common issue the resolution of which will advance the litigation.” Sprague, 133 F.3d at 397.

Here, there are many questions that are common to the class sufficient to satisfy this requirement. Most fundamental is the question of whether the health plans that Alieria created, marketed, sold, and administered through Trinity to Plaintiffs and other putative class members were compliant with the requirements for an HCSM under 26 U.S.C. § 5000A. Other questions common to the class include (1) whether Kentucky insurance laws and regulations forbid the creation, marketing, sale, and administration of health care insurance without authorization or other legal exception; and (2) whether Alieria failed to obtain proper authorization for the products it sold to customers in Kentucky. These questions are common to all members of the class and the resolution of any or all of these questions would advance the litigation for all members of the proposed class. Therefore, the commonality element is satisfied.

### **3. Typicality**

The typicality requirement ensures that the claims and defenses of the representative plaintiffs are typical of the claims and defenses of all members of the proposed class. FRCP 23(a)(3). Although often merged with the commonality requirement, the typicality requirement requires that the “representative’s interests will be aligned with those of the represented group.” Young, 693 F.3d at 542 (*quoting Sprague*, 133 F.3d at 399). Furthermore,

Typicality determines whether a sufficient relationship exists between the injury to the named plaintiff and the conduct affecting the class, so that the court may properly attribute a collective nature to the challenged conduct. In other words, when such a relationship is shown, a plaintiff’s injury arises from or is directly related to a wrong to a class, and that wrong includes the wrong to the plaintiff. Thus, a plaintiff’s claim is typical if it arises from the same event or practice or course of conduct that gives rise to the claims of other class members, and if his or her claims are based on the same legal theory.

Am. Med. Sys., 75 F.3d at 1082 (*quoting* 1 Herbert B. Newberg & Alba Conte, *Newberg on Class Actions*, §3-13 (3d ed. 1992)).

The claims being pursued by the Plaintiffs here are nearly identical of one another and of the claims of all other proposed class members. Each of them has been sold an illegal insurance health plan, designed, marketed, sold, and administered by Alieria, in violation of federal and Kentucky insurance laws. All of the members of the class were misled to believe they had purchased membership in an authorized, valid HCSM. All of the contracts were governed by the terms set out in a common “Member Guide” issued by Alieria.<sup>2</sup> Because the Plaintiffs and the class they seek to represent are pursuing nearly identical claims, the categories of damages sought by each will be nearly identical as well. Accordingly, the typicality requirement is satisfied.

#### **4. Adequacy of Representation**

##### **a. Class representatives**

To satisfy the requirements of FRCP 23(a)(4), the Plaintiffs must demonstrate (1) that they have “common interests with unnamed members of the class,” and (2) that they will “vigorously prosecute the interests of the class through qualified counsel.” Am. Med. Sys., 75 F.3d at 1083 (*quoting Senter v. Gen. Motors Corp.*, 532 F.2d 511, 525 (6th Cir. 1976)).

First, the Plaintiffs here are similarly situated with all other unnamed members of the class. As described above, all of them have been sold an illegal health care insurance plan under the guise of an HCSM plan. Both of the Plaintiffs have filed suit against Alieria and stand ready to prosecute their claims—vigorously—for themselves and all other Kentucky residents who have been duped by Alieria’s scheme. Plaintiffs Albina and Willard first purchased coverage from Alieria when Alieria sold plans offered by the Defendant Unity. Plaintiff Willard was later

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<sup>2</sup> Although there were various revisions of the Member Guide over time, at each revision the current Member Guide purported to apply to all current customers of the health insurance products (identified falsely as HCSM plans) sold by Alieria.

transitioned to a plan Alieria sold that was offered by Defendant Trinity.<sup>3</sup> Plaintiff Albina made few claims and would likely seek rescission damages. Plaintiff Willard made claims and has unpaid claims in excess of his payments to Alieria. Collectively, these two Plaintiffs are representative of the various scenarios faced by other class members and have incentive to maintain all viable claims of the class. Because Plaintiffs here are willing to represent the class in pursuit of the claims against Defendants, this prong of the adequacy of representation requirement is satisfied.

#### **b. Class counsel**

Second, the counsel representation Plaintiffs in this action are well-qualified for litigation of class actions. Many of the counsel of record which have been admitted *pro hac vice* are pursuing similar class actions against Alieria in other jurisdictions. Additionally, some of the counsel of record in this case have been retained by the Committee of Members in the Sharity bankruptcy to represent the interests of all Sharity/Trinity members in that proceeding. [Exh. B.] All attorneys for the Plaintiffs have experience representing clients in class action litigation.

The undersigned, and his firm, Garmer & Prather, PLLC, is currently class counsel, as appointed by the Madison Circuit Court, in Held v. Hitachi Automotive Systems Americas, Inc., Madison Cir. Ct. Civil Action No. 18-CI-00294 (representing more than 200 class members with claims under the Kentucky Prevailing Wage Act.). Garmer & Prather, PLLC, is currently lead class counsel, as appointed by the Fayette Circuit Court, in Hensley, et al. v. Haynes Trucking, LLC, et al., Fayette Cir. Ct. Civil Action No. 10-CI-3986 (representing an estimated 120 or more class members for alleged failure to pay employees properly under the Kentucky prevailing wage statute). In that case, Garmer & Prather, PLLC, obtained a decision of the Kentucky Supreme Court allowing the matter to proceed as a class action, which is now a leading Kentucky case

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<sup>3</sup> There is conflicting evidence whether Mr. Albina's plan was transitioned from Unity to Trinity.

relating to class certification. Hensley v. Haynes Trucking, LLC, 549 S.W.3d 430 (Ky. 2018). In addition, Garmer & Prather, PLLC, and its member Jerome P. Prather, were appointed class counsel in Powell v. Tosh, *supra*, in representing some 400 class members on battery, nuisance, and trespass claims relating to odor pollution from an industrial hog farm. The firm's qualifications and class action experience are outlined in more detail in the declaration of Jerome P. Prather [Exh. C.]

Attorneys at Varellas & Varellas have significant experience with class action and other complex litigation. James J. Varellas III began his career as a law clerk to the Honorable Jennifer Coffman of the U.S. District Courts for the Eastern and Western Districts of Kentucky. As an attorney at Cravath, Swaine & Moore in New York, he was a member of the trial team in the four-month class action trial in the case of In re Vivendi Universal, S.A. Securities Litigation, 02 civ. 5571 (S.D.N.Y.), one of the largest and most complex securities litigation matters ever tried to a verdict. He represented Johnson & Johnson in the matter of Burton v. Ellberger, 08 civ. 116452 (N.Y. Sup. Ct.) (class action lawsuit seeking to enjoin the \$447 million acquisition of Omrix Biopharmaceuticals, Inc.). As an attorney at Fenwick & West in San Francisco, he represented Diamond Foods in In re Diamond Foods, Inc. Securities Litigation, 11 civ. 5386 (N.D. Cal.) (shareholder class action lawsuit alleging securities fraud); the law firm of Greenberg Traurig in Noble v. Greenberg Traurig LLP, 11 civ. 593201 (Cal. Super. Ct.) (shareholder class action lawsuit alleging aiding and abetting of securities fraud committed by real estate investment companies); and Symantec in Gordon v. Symantec Corp., 12 civ. 231541 (Cal. Super. Ct.) (class action lawsuit seeking to enjoin vote on executive compensation at annual meeting of shareholders). D. Todd Varellas began his career as a law clerk to the Honorable Mary Noble of the Kentucky Supreme Court. He tried six cases to a verdict in the five years before the onset of

the COVID-19 pandemic. Todd has been recognized as a Super Lawyer Rising Star, serves as a member of the Board of Governors of the Kentucky Justice Association, and has taught as an Adjunct Professor of Law at the University of Kentucky David J. Rosenberg College of Law. The firm's qualifications and class action experience are outlined in more detail in the declaration of D. Todd Varellas. [Exh. D.]

Sirianni Youtz Spoonemore Hamburger PLLC, including its attorneys Richard Spoonemore and Eleanor Hamburger, is highly experienced in class action litigation and is currently serving as counsel on behalf of Plaintiffs with Claims against Alera and Trinity in courts in five different cases pending in as many states (outlined in subsection (C)(2) below), including this one. The firm has extensive experience relating to the particular issues in this case among these same Defendants. The firm's qualifications and extensive class action experience are outlined in more detail in the declaration of Richard Spoonemore [Exh. E.] Mr. Spoonemore has been designated as lead class counsel in at least 10 class actions involving an aggregate total of more than 1 million class members. Ms. Hamburger has been named class counsel in more than 25 class actions. *Id.*

Handley Farah & Anderson has a team of lawyers with extensive experience litigating class action claims. The attorneys from Handley Farah & Anderson have been appointed co-lead counsel and class counsel in class actions across the country that, like this one, advocate for protecting consumers who have been hurt by corporations' bad acts. Several examples of class actions successfully prosecuted include: True v. American Honda Motor Co., Case No. 07-cv-00287 (C.D. Cal.) (Mr. Anderson spearheaded this first-of-its-kind class action regarding fuel efficiency and battery issues in Honda Civic Hybrid vehicles, which, after several years of contentious litigation, produced a settlement with actual cash benefits realized of well over \$50

million); Friedman v. Guthy-Renker, Case No. 2:14-cv-06009 (C.D. Cal.) (Mr. Anderson served as co-lead counsel in this class action alleging hair loss and scalp irritation caused by haircare products, which resulted in a \$26.25 million cash settlement with no reversion, resulting in payments to class members of as much as \$20,000 each); Alea v. Wilson Sporting Goods Co., Case No. 1:17-cv-00498 (N.D. Ill.) (Handley Farah & Anderson served as lead counsel in this litigation, which resulted in a settlement providing warranty extensions and offering free inspection and new replacement bats for thousands of consumers). Examples of pending cases include those against Ford Motor Company for excessive oil consumption (Lyman v. Ford Motor Company, E.D. Mich.), AspenPointe for a data breach that exposed confidential personal information of hundreds of thousands of patients receiving mental health services (Coursey v. AspenPointe, Inc., 4th District Court, Colorado), and SquareTrade for failure to reimburse consumers pursuant to protection plans that they purchased (Shuman v. SquareTrade, Inc., N.D. Cal.). Handley Farah & Anderson has also been appointed as co-lead counsel and class counsel in Jien, et al. v. Perdue Farms, et al. (D. Md.), which accuses major poultry processors of conspiring to depress their workers' compensation. And Handley Farah & Anderson has been appointed as co-lead counsel and class counsel in Albert, et al. v. Global Tel\*Link, et. al. (D. Md.), which accuses providers of inmate calling services from fixing the prices of these calls, in violation of the antitrust laws and of RICO. The firm's qualifications and class action experience are outlined in more detail in the declaration of William H. Anderson [Exh. F.]

**C. Certification of the class is appropriate under FRCP 23(b)(3).**

A class action may be certified when all of the above-explained requirements are satisfied, and when common questions of law or fact affecting all class members predominate

over questions affecting only individual members and if litigation as a class is superior to alternative methods of adjudication. Both are discussed in turn.

**1. Common issues predominate in this case.**

The predominance requirement considers whether common questions of law or fact predominate over individual questions. FRCP 23(b)(3). To evaluate whether this prong is met, “[p]redominance is usually decided on the question of liability, and if the liability issue is common to the class, common issues are held to predominate over individual questions.” Powell v. Tosh, 280 F.R.D. at 309 (citing In re Revco Secs. Litig., 142 F.R.D. 659, 662 (N.D. Ohio 1992)). “An individual question is one ‘where members of a proposed class will need to present evidence that varies from member to member,’ while a common question is one where ‘the same evidence will suffice for each member to make a prima facie showing [or] the issue is susceptible to generalized, class-wide proof.’” Tyson Foods, Inc. v. Bouaphakeo, 577 U.S. 442, 453 (2016) (citations omitted).

The crux of the action here sought to be certified on behalf of a Plaintiffs’ class is the liability of Alera for falsely selling purported Health Care Sharing Ministry plans that did not provide the coverage they promised and that, contrary to Alera’s representations, qualified as insurance under Kentucky law and therefore were subject to the laws and regulations governing health insurance. All claims to be pursued on behalf of putative class members center on whether Alera or any of its subsidiaries marketed, sold, and/or administered illegal health plans in Kentucky under the guise of an HCSM. This question deals solely with Alera’s conduct and not that of any individualized class member. The operative facts are the same in each of the claims by Plaintiffs and the proposed class: Alera purported to sell and administer a product that qualified as an HCSM and was exempt from federal and state insurance requirements; the



customers paid monthly premiums that lined the pockets of Alieria and its officers and directors; Alieria then denied payment on the customers' health claims and left the customers to pay out-of-pocket for these expenses. But what Alieria sold was never a qualified HCSM and Alieria knew that. These common facts and legal issues are predominantly what this case is about; any individualized issues that stem therefrom are minute compared to this overarching issue of Alieria's misrepresentation.

Furthermore, because the claims of all class members are nearly identical, the damages can be resolved among the entirety of the class as well. The plans Defendants sold were insurance and not entitled to an HCSM exception; therefore, the contracts in which Plaintiffs and the proposed class entered were fraught with fraud. When a contract is illegally formed, the available remedies to the injured party include rescission of the contract. Beattie v. Friddle, 174 S.W.2d 246, 248 (Ky. 1929) ("In some cases the breach may be of such complete character as to justify the conclusion that there was never any intention of performance, which constituted fraud at the inception of the contract, affording a just basis for rescission."); *see also* Cherry Valley Iron Works v. Florence Iron River Co., 64 F. 569, 573 (6th Cir. 1894) ("An absolute rescission implies that the parties are to be restored to their former position, and this would involve, among other things the repayment of the excess of purchase price then in the hands of the vendor."); Thomas v. City of Richmond, 79 U.S. 349, 356 (1870) (where the parties to an illegal contract are not *in pari delicto*, justice requires that the persons intended to be protected by the law should be able to recover the money or other consideration paid). As the Chief Reconstruction Officer for the Sharity bankruptcy proceeding explains, the Sharity/Alieria records indicate that the rescission damages for Kentucky residents enrolled in Sharity/Alieria plans amount to \$2,189,003. [Exh. A, Luria Decl. ¶ 11.]

Although reformation of a contract is usually an available remedy as well, because both Trinity (now known as Sharity) and Alieria will not resume business operations, this does not exist as a viable remedy for Plaintiffs or members of the putative class. Instead, the Court should consider an aggregate damages analysis for reformation. As the Chief Reconstruction Officer for the Sharity bankruptcy has stated, the gross unpaid medical expenses for Kentucky residents enrolled in Sharity/Alieria plans is \$3,112,951. *Id.* ¶ 12. The precise amount of unpaid medical expenses may turn out to be higher than this, because there may be members who have additional claims that should have been paid had Trinity and Alieria complied with applicable insurance laws, but the claims were never submitted to Trinity because the member guide appeared to exclude them. Nevertheless, this would be a suitable model for calculating class-wide damages. *See Rodney v. Northwest Airlines, Inc.*, 146 F. App'x 783, 791 (6th Cir. 2005) (“A plaintiff seeking class certification must present a damages model that functions on a class-wide basis.”).

Due to the predominance of the legal issues and methods for recovery for all members of the proposed class, the predominance requirement is satisfied.

**2. A class action is the superior method of adjudication.**

Another requirement for certification of a class action under FRCP 23(b)(3) is that the class action must be a superior method of adjudicating the claims presented by the Plaintiffs and members of the proposed class. As noted in FRCP 23(b)(3), the relevant factors for consideration include:

- (A) the class members' interests in individually controlling the prosecution or defense of separate actions;
- (B) the extent and nature of any litigation concerning the controversy already begun by or against class members;

(C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and

(D) the likely difficulties in managing a class action.

Consideration of each of these factors justifies certification of the class.

As to the first factor, FRCP 23(b)(3)(A), many enrollees in Alieria's sham health insurance plans would not want to control this litigation nor would bring an individual claim because of the expenses involved. Proceeding as a class would be a superior method of adjudication because "a group composed of consumers ... typically will be unable to pursue their claims on an individual basis because the cost of doing so exceeds any recovery they might secure." 7A Wright, Miller & Kane, Federal Practice and Procedure § 1779 (3d ed.); see also Young, 693 F.3d at 545 ("The policy at the very core of the class action mechanism is to overcome the problem that small recoveries do not provide the incentive for any individual to bring a solo action prosecuting his or her rights." (*quoting Amchem Prods. Inc. v. Windsor*, 521 U.S. 591, 617 (1997))). This is a prime explanation of why proceeding as a class is superior; pursuing many individual actions would not be an efficient or reasonable use of the Court's resources and litigating individual actions would dramatically reduce individual plaintiffs' chance for recovery, especially given the unique posture of this case with Alieria already in Georgia state-law liquidation procedures.

The second factor for consideration likewise favors class certification. Counsel is aware of no existing litigation by any of the putative class members seeking the same relief sought by the Plaintiffs here. There have been other state-specific cases filed against Alieria in Colorado, Missouri, California, and Washington, but the remedies sought in those cases are specific to those respective states' laws. Duncan v. The Alieria Companies, Inc.; Trinity Healthshare Inc.; OneShare Health LLC, No. 2:20-cv-867-TLM-KJM (E.D. Cal.) (Nunley, J.); Kelly et al. v. The

Aliera Companies, Inc.; Trinity Healthshare Inc., No. 3:20-cv-05038-MDH (W.D. Mo.) (Harpool, J.); Smith et al., v. The Aliera Companies, Inc.; Trinity Healthshare Inc.; OneShare Health LLC, No. 1:20-cv-02130-RBJ (D. Colo.) (Jackson, J.); and Jackson et al. v. The Aliera Companies, Inc.; Aliera Healthcare, Inc.; and Trinity Healthshare, Inc., No. 2:19-cv-01281-BJR (W.D. Wash.) (Rothstein, J.).<sup>4</sup>

The third factor, FRCP 23(b)(3)(C), also recognizes a class action as the superior method of adjudication. This proposed class in this case is limited to enrollees of Aliera's plans who were residents of Kentucky. Accordingly, remedies recognized under Kentucky law are sought. The parties are in this Court under diversity jurisdiction, which plainly exists. It is certainly desirable to concentrate the litigation in this Court instead of dividing the claims of the aggrieved putative class members into other Kentucky forums. This would undermine the purpose of class litigation. Therefore, pursuing these claims in the United States District Court for the Eastern District of Kentucky is desirable and ideal.

The final factor, FRCP 23(b)(3)(D), considers the difficulties of managing the case as a class action. This factor is primarily about judicial economy. Certifying the class would be the superior method of adjudication because it will use less of the Court's scarce judicial resources and time than would the pursuit of individual actions by individual plaintiffs. The members of the class should be easily identifiable as well by use of records maintained by Sharity (formerly Trinity) and which are available through its Chief Reconstruction Officer, which would alleviate any possible management difficulties of proceeding as a class.

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<sup>4</sup> Plaintiffs' counsel is aware of an action pending in the United States District Court for the Northern District of Georgia, *LeCann v. Aliera Companies*, No. 1:20-cv-2429, that seeks certification of a nationwide class, but no class has been certified in that case.

### **CONCLUSION**

This case satisfies all of the requirements for certification as a class, pursuant to FRCP 23(a), and FRCP 23(b)(3). For the reasons stated above, Plaintiffs respectfully request that this Court certify the Plaintiffs' class against Alera as defined above, appoint Plaintiffs Hanna Albina and Austin Willard, and appoint Garmer & Prather, PLLC, Varellas & Varellas, Sirianni Youtz Spoonemore Hamburger PLLC, and Handley Farah & Anderson PLLC, as class counsel.

Respectfully submitted,

ATTORNEYS FOR PLAINTIFF

BY: /s/ Jerome P. Prather

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rchang@hfajustice.com

\* Admitted *pro hac vice*

**CERTIFICATE OF SERVICE**

I hereby certify that, on November 4, 2021, I have served this document on all counsel of record through the Court's CM/ECF system, and in addition I have mailed by United States Postal Service the document to the following non-CM/ECF participants, as well as electronically mailed to Katie Goodman:

The Alieria Companies Inc.  
990 Hammond Dr. NE, Suite 700  
Atlanta, GA 30328

The Alieria Companies Inc.  
c/o CT Corporation System, Registered Agent  
306 W. Main Street, Suite 512  
Frankfort, Ky 40601

Assignee for The Alieria Companies, Inc., *et al.*  
c/o Katie Goodman Asset Recovery Associates Alieria, LLC  
3155 Roswell Road NE, Suite 120  
Atlanta, GA 30305  
[kgoodman@gggpartners.com](mailto:kgoodman@gggpartners.com)

I further certify that I have electronically mailed the document to the Alieria's former counsel:

Benjamin B. Coulter, [bcoulter@burr.com](mailto:bcoulter@burr.com)

BY: /s/ Jerome P. Prather  
Jerome P. Prather, Esq.

**EXHIBIT**

**A**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY  
LEXINGTON DIVISION**

HANNA ALBINA and AUSTIN WILLARD,  
individually and on behalf of others similarly  
situated,

Plaintiffs,

vs.

THE ALIERA COMPANIES, INC.,  
TRINITY HEALTHSHARE, INC., and  
ONESHARE HEALTH, LLC d/b/a UNITY  
HEALTHSHARE, LLC,

Defendants.

Case No.: 5:20-CV-00496-JMH

**ELECTRONICALLY FILED**

\* \* \* \* \*

I, Neil F. Luria, declare under penalty of perjury and in accordance with the laws of the United States that:

1. I am the President of SOLIC Capital Advisors, LLC (“SOLIC”) and the Head of its Restructuring and Distressed Asset Support Services divisions. SOLIC is a professional services firm engaged in the business of providing financial advisory and distressed asset management services, with offices located at 425 West New England Avenue, Suite 300, Winter Park, Florida 32789.

2. Immediately prior to joining SOLIC in 2014, I was a Managing Director of Navigant Capital Advisors, LLC. Before that, I served as Director at Casas Benjamin & White, LLC from 1999 to 2005. From 1998 to 1999, I was Executive Vice President and General Counsel, and subsequently the President, of BMJ Medical Management, Inc. During the earlier part of my career (1992-1998), I was an attorney with the law firm of Jones Day Reavis & Pogue. I have obtained both a Bachelor of Arts degree in American History and a Bachelor of



Science in Economics degree from the University of Pennsylvania, the latter of which was earned at the Wharton School. I have also obtained a Juris Doctor from Boston University.

3. I specialize in capital restructuring and alternative recovery strategies on behalf of SOLIC's clients. I have served as a chief restructuring officer or chief wind-down officer in numerous matters, both in and out of court-supervised Chapter 11 bankruptcy cases.

4. On July 8, 2021, Sharity Ministries Inc. ("Sharity") filed for bankruptcy in the U.S. Bankruptcy Court for the District of Delaware. *See In re Sharity Ministries, Inc.*, No. 21-11001 (JTD). Sharity had previously changed its name from Trinity Healthshare, Inc., and is the same company as the entity previously known as Trinity Healthshare, Inc.

5. In the Sharity bankruptcy proceeding, I am appointed as the Chief Restructuring Officer ("CRO") for Sharity and such retention has been approved by the United States Bankruptcy Court for the District of Delaware. No employees remain at Sharity and the remaining independent directors of the Sharity board have delegated substantially all authority regarding Sharity to me.

6. Sharity will not continue as a going concern, but will be liquidated if the current Plan of Liquidation is confirmed as anticipated at a hearing currently scheduled for December 2, 2021.

7. In conjunction with my work as CRO of Sharity, I have access to certain data and records that were provided by affiliates of the Alieria Companies, Inc. Such data and records relate to, among other things, (a) the members of Sharity, (b) the total monthly payments made by each member and (c) the total amount of unpaid health care claims for medical expenses that were submitted to Sharity.

8. At the request of Mr. Albina's and Mr. Willard's counsel, Jerome Prather, I reviewed Sharity's records related to Austin Willard.

9. According to the Sharity records the total monthly payments made to Sharity and Alieria by Austin Willard was \$16,038.75. The total amount of unpaid "share requests" submitted by Mr. Willard and outstanding is \$16,255.24.

10. Mr. Prather also requested that, based upon the Sharity records, I provide the total number of Kentucky Alieria/Trinity/Sharity members, which is 378 unique households.

11. Mr. Prather also requested the total amount of monthly payments received from Kentucky residents for Alieria/Trinity/Sharity health plans. That total amount, according to Sharity/Alieria's records, was \$2,189,003.

12. Mr. Prather further requested the total amount of gross unpaid medical claims (called "Share Requests" by Sharity) for Kentucky residents enrolled in the Alieria/Trinity/Sharity health plans. That total amount, according to Sharity/Alieria's records, was \$3,112,951.

13. Before Sharity's filed its petition for Chapter 11 bankruptcy protection and while Sharity was still paying affiliates of the Alieria Companies, Inc. for various services:

- (i) approximately 58-60% of the monthly membership fees (the "Member Payments") paid by Sharity's members were paid directly to certain subsidiaries of the Alieria Companies, Inc.,
- (ii) approximately 10% of the Member Payments were retained by Sharity to cover its administrative costs, and
- (iii) approximately 30-32% of the Member Payments were deposited into a "Sharebox" that Sharity maintained for payment of members' medical claims.

14. Sharity retained a third-party firm to conduct an annual financial audit for the 2018 year that was subsequently withdrawn by the auditor and never reissued. No audit has been conducted on any year after the 2018 audit withdrawal.

15. My firm has obtained the roster of members for Alieria/Sharity, including members of Alieria/Sharity in Kentucky. A claims administrator has been retained to notify Alieria/Sharity members about the Sharity Bankruptcy, and the vast majority of the bankruptcy notices were distributed by email. If a class is certified in the *Albina, et ux. v. Alieria* matter, class counsel could effectuate class notice to Kentucky Alieria/Sharity members by moving the

Bankruptcy Court to direct SOLIC and the bankruptcy court claims administrator to provide the member roster (names, addresses, email addresses) for Kentucky residents to Class Counsel so that Class counsel can distribute the required class notice.

DATED: November 2, 2021, at Winter Park, Florida.



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NEIL F. LURIA

**EXHIBIT  
B**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

SHARITY MINISTRIES, INC.,<sup>1</sup>

Debtor.

Chapter 11 (Subchapter V)

Case No. 21-11001 (JTD)

Related to ECF No. 212

**ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION OF  
SIRIANNI YOUTZ SPOONEMORE HAMBURGER, PLLC, AND MEHRI & SKALET  
PLLC AS CO-COUNSEL TO THE OFFICIAL MEMBERS' COMMITTEE,  
EFFECTIVE AS OF AUGUST 26, 2021**

UPON CONSIDERATION of the Application of Official Members' Committee ("**Committee**") for Order Authorizing Employment and Retention of Sirianni Youtz Spoonemore Hamburger PLLC and Mehri & Skalet, PLLC as Co-Counsel (the "**Application**"), seeking an order pursuant to section 1103 of Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the "**Bankruptcy Code**"), Rule 2014(a) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and Rule 2014-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), authorizing the Committee to employ and retain the law firms of Sirianni Youtz Spoonemore Hamburger, PLLC ("**SYSH**") and Mehri & Skalet, PLLC ("**M&S**") as co-counsel, effective as of August 26, 2021; and upon consideration of the Declarations of Eleanor Hamburger, Jay Angoff and Cyrus Mehri (the "**Declarations**") submitted with the Application; and the Court being satisfied that SYSH and M&S neither hold nor represent any interest adverse to the Members' interests with respect to the matters upon which the firm is to be engaged, and that the employment of SYSH and M&S is necessary and in the best interests of the Committee; and notice of the Application having been given to the Office of the United States Trustee, the Subchapter V Trustee, counsel to the Debtor, the United States Attorney's Office for the District of Delaware,

<sup>1</sup> The last four digits of the Debtor's federal tax identification number is 0344. The Debtor's mailing address is 821 Atlanta Street, Suite 124, Roswell, GA 30075.

the Internal Revenue Service, Regulatory Authorities, and all parties who, as of the filing of this Application, have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002 and Local Rule 2002-1; and no other notice being required; and after due deliberation and sufficient cause appearing therefore, it is

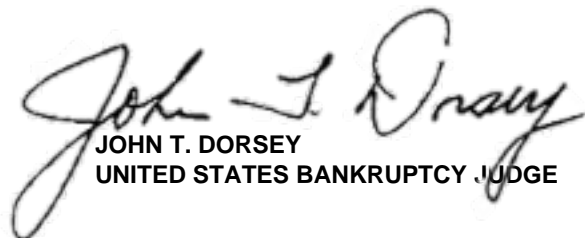
**ORDERED** that the Application is **GRANTED as set forth in this order**; and it is further

**ORDERED** that pursuant to section 1103 of the Bankruptcy Code the Committee is authorized to employ and retain SYSH and M&S as co-counsel in this case on the terms and conditions set forth in the Application, the Retention Agreement and Addendum and the Declarations, effective as of August 26, 2021; for the avoidance of doubt, this Order takes no position on any Post Confirmation Terms detailed in the Addendum or other agreements that may be entered into in the future by SYSH, M&S and the anticipated Liquidating Trust; and it is further

**ORDERED** that SYSH and M&S shall apply for approval of the fees incurred for professional services rendered, and the reimbursement of expenses incurred, pursuant the procedures set forth in section 330 and 331 of the Bankruptcy Code, *the Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals* at D.I. 134, the Bankruptcy Rules, and the Local Rules. Approval of fees and expenses shall be as determined by this Court, but SYSH and M&S shall defer payment of approved fees for professional services rendered as described in the Addendum to the Retention Agreement; and it is further

**ORDERED** that this Court shall retain jurisdiction over any and all matters arising from or relating to the interpretation of implementation of this order.

Dated: October 12th, 2021  
Wilmington, Delaware

  
JOHN T. DORSEY  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT**

**C**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY  
LEXINGTON DIVISION

HANNA ALBINA and AUSTIN WILLARD,  
individually and on behalf of others similarly  
situated,

Plaintiffs,

vs.

THE ALIERA COMPANIES, INC.,  
TRINITY HEALTHSHARE, INC., and  
ONESHARE HEALTH, LLC d/b/a UNITY  
HEALTHSHARE, LLC,

Defendants.

Case No.: 5:20-CV-00496-JMH

**ELECTRONICALLY FILED**

**DECLARATION OF JEROME PARK PRATHER  
IN SUPPORT OF MOTION FOR CLASS CERTIFICATION**

Pursuant to 28 U.S.C. § 1746, I verify under penalty of perjury, as follows:

1. I am a member of Garmer & Prather, PLLC. Along with Varellas & Varellas, Sirianni Youtz Spoonemore Hamburger, PLLC, and Handley Farah & Anderson PLLC, my firm represents the named Plaintiffs in this case.

2. I submit this declaration to provide the Court with information supporting Plaintiffs' request that the Court appoint Garmer & Prather, PLLC, along its co-counsel, to serve as Class Counsel in this matter.

3. Garmer & Prather, PLLC, concentrates its practice in providing high-quality representation to Plaintiffs with complex claims in the areas of personal injury, wrongful death, labor and employment, contractual disputes, and related areas of litigation.

4. Garmer & Prather, PLLC, has significant experience in class action in both Kentucky and Federal courts. Garmer & Prather, PLLC, is currently lead class counsel, as appointed by the Fayette Circuit Court, in Hensley, et al. v. Haynes Trucking, LLC, et al., Fayette Cir. Ct. Civil Action No. 10-CI-3986, (representing an estimated 120 or more class members for alleged failure to pay employees properly under the Kentucky prevailing wage statute). In that case, Garmer & Prather, PLLC, obtained a decision of the Kentucky Supreme Court reinstating a trial court order and allowing the matter to proceed as a class action. Hensley v. Haynes Trucking, LLC, 549 S.W.3d 430, 27 Wage & Hour Cas.2d (BNA) 1357 (Ky. 2018). In addition, Garmer & Prather, PLLC, and Jerome P. Prather were appointed class counsel in Held, et ux. v. Hitachi Automotive Systems Americas, Inc., which is currently pending in Madison Circuit Court, Case No. 18-CI-00294 (representing a class of more than 200 Supervisors in claims seeking proper payment for overtime worked, brought under the Kentucky Wage and Hour Act), and Powell v. Jimmy Tosh, et al., United States District Court for the Western District of Kentucky Civil Action 5:09-CV-121-TB (representing some 400 class members on battery, nuisance, and trespass claims relating to odor pollution from an industrial hog farm).

5. Garmer & Prather, PLLC's attorney Jerome Prather is well-recognized in the profession. Jerome Prather is a district vice-president and long-time governor of the Kentucky Justice Association. He is an adjunct professor of law at the University of Kentucky David J. Rosenberg College of Law, where he teaches medical liability. He has been named a Super Lawyer (and previously a Super Lawyers Rising Star) every year since 2015, and is AV-rated by Martindale-Hubbell. I have tried numerous jury trials and bench trials to verdict or judgment, including multiple trials as lead attorney for the Plaintiff. My experience as lead trial counsel is predominantly in the complex area of medical negligence.

6. Furthermore, attached to this motion are true and correct copies of the following exhibits filed in support of this motion:

a. Exhibit B: Order Authorizing the Employment and Retention of Sirianni Youtz Spoonemore Hamburger, PLLC, and Mehri & Skalet PLLC as Co-Counsel to the Official Members' Committee, Effect As Of August 26, 2021

Dated this 4<sup>th</sup> day of November, 2021.

/s/ Jerome P. Prather

JEROME P. PRATHER



**EXHIBIT**

**D**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY  
LEXINGTON DIVISION

HANNA ALBINA and AUSTIN WILLARD,  
individually and on behalf of others similarly  
situated,

Plaintiffs,

vs.

THE ALIERA COMPANIES, INC.,  
TRINITY HEALTHSHARE, INC., and  
ONESHARE HEALTH, LLC d/b/a UNITY  
HEALTHSHARE, LLC,

Defendants.

Case No.: 5:20-CV-00496-JMH

**ELECTRONICALLY FILED**

**DECLARATION OF D. TODD VARELLAS**

\*\*\*\*\*

I, D. Todd Varellas, declare under penalty of perjury and in accordance with the laws of the United States that:

1. I am a partner at the law firm of Varellas & Varellas. Along with Garmer & Prather PLLC, Sirianni Youtz Spoonemore Hamburger PLLC, and Handley Farah & Anderson PLLC, our firm represents the Plaintiffs in this case. The statements set forth in this affidavit are based on my personal knowledge, about which I could and would testify competently if called upon to do so.

2. I submit this declaration in order to provide information to the Court in support of Plaintiffs' request that the Court appoint my firm along with Garmer & Prather PLLC, Sirianni Youtz Spoonemore Hamburger PLLC, and Handley Farah & Anderson PLLC, to serve as Class

Counsel in this matter. Garmer & Prather PLLC, Sirianni Youtz Spoonemore Hamburger PLLC, and Handley Farah & Anderson PLLC are submitting separate affidavits detailing their qualifications to serve as Class Counsel.

3. Varellas & Varellas concentrates its practice on representing plaintiffs in complex civil cases in a number of areas of law, including personal injury, wrongful death, medical malpractice, insurance bad faith, consumer fraud, and related areas of litigation. Attorneys at the firm have significant experience with class action litigation and bankruptcy.

4. As an attorney at Cravath, Swaine & Moore in New York, James J. Varellas III was a member of the trial team in the four-month class action trial in the case of In re Vivendi Universal, S.A. Securities Litigation, 02 civ. 5571 (S.D.N.Y.), one of the largest and most complex securities litigation matters ever tried to a verdict, and he represented clients in a number of other class action and complex litigation matters, including Johnson & Johnson in the matter of Burton v. Ellberger, 08 civ. 116452 (N.Y. Sup. Ct.) (class action lawsuit seeking to enjoin the \$447 million acquisition of Omrix Biopharmaceuticals, Inc.). As an attorney at Fenwick & West in San Francisco, he continued to represent clients in a range of class action and complex litigation matters, including Diamond Foods in the matter of In re Diamond Foods, Inc. Securities Litigation, 11 civ. 5386 (N.D. Cal.) (shareholder class action lawsuit alleging securities fraud); the law firm of Greenberg Traurig in Noble v. Greenberg Traurig LLP, 11 civ. 593201 (Cal. Super. Ct.) (shareholder class action lawsuit alleging aiding and abetting of securities fraud committed by real estate investment companies); and Symantec in Gordon v. Symantec Corp., 12 civ. 231541 (Cal. Super. Ct.) (class action lawsuit seeking to enjoin shareholder vote on executive compensation at annual meeting of shareholders).

5. Since beginning my career as a law clerk to the Honorable Mary Noble of the Kentucky Supreme Court, I have practiced as an attorney at Varellas & Varellas and have also had significant experience litigating complex litigation matters. I tried six cases to a verdict in the five years before the onset of the COVID-19 pandemic. I have been recognized as a Super Lawyer Rising Star, I serve as a member of the Board of Governors of the Kentucky Justice Association, and I have taught as an Adjunct Professor of Law at the University of Kentucky College of Law.

DATED: November 4, 2021, at Lexington, Kentucky.

  
\_\_\_\_\_  
D. Todd Varellas

**EXHIBIT  
E**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY  
LEXINGTON DIVISION

HANNA ALBINA and AUSTIN WILLARD,  
individually and on behalf of others similarly  
situated,

Plaintiffs,

vs.

THE ALIERA COMPANIES, INC.,  
TRINITY HEALTHSHARE, INC., and  
ONESHARE HEALTH, LLC d/b/a UNITY  
HEALTHSHARE, LLC,

Defendants.

Case No.: 5:20-CV-00496-JMH

**ELECTRONICALLY FILED**

**DECLARATION OF RICHARD E. SPOONEMORE  
IN SUPPORT OF MOTION FOR CLASS CERTIFICATION**

I, Richard E. Spoonemore, declare under penalty of perjury that:

1. I am a partner at Sirianni Youtz Spoonemore Hamburger PLLC and am one of the attorneys for plaintiff in this action.

2. *Experience.* The experience of proposed class counsel from my firm is described below:

**Richard Spoonemore**

3. I have been a practicing attorney for 28 years. I am "AV" rated by Martindale-Hubbell and have been named a "Super Lawyer" by WASHINGTON LAW AND POLITICS in 2005-2020. I was voted one of "WASHINGTON'S TOP 100" in the "Super Lawyer" list in 2011, 2014, 2015, 2016, 2017 and 2018. I emphasize complex litigation, including ERISA, health, disability and securities class and derivative actions. I obtained the nation's largest judgment under Section 16(b) of the United States' 1934

Securities Act – over \$247 million – in *Dreiling v. Jain*, 281 F. Supp. 2d 1234 (W.D. Wash. 2003). (In a prior action against Stiles Kellett, a former director of MCI/WorldCom, I obtained the third largest recovery under Section 16(b).) In addition to the *Jain* litigation, I was lead counsel in *Hoffman v. Regence*, a health insurance class action that resulted in a recovery of over \$31 million for thousands of Washington State participants and beneficiaries. I was also counsel in *Judd v. AT&T*, a case that resolved after a judgment on liability for \$45 million. I am the author of a number of articles on ERISA, health and securities matters, and I have taught and lectured on health insurance at the University of Washington School of Law, as well as before community groups, and through CLE courses for other attorneys.

4. ***Class Action Experience.*** I have been designated as lead class counsel in class actions involving more than one million class members and have obtained tens of millions of dollars for class members in judgments or settlements. Some of the larger health insurance class cases in which I was named lead counsel, or co-lead counsel with another partner in our firm, include the following:

Name	Jurisdiction	Size	Resolution
<i>Hoffman v. Regence BlueShield</i>	Federal District Court, Western District of Washington at Seattle, Cause No. C98-1078P	More than 500,000	Declaratory relief and a contested \$16,884,160 judgment after the Washington Supreme Court ruled in favor of the class in <i>Hoffman v. Regence BlueShield</i> , 140 Wn.2d 121 (2000) in response to certified questions from the federal court.
<i>McGlothin v. Premera Blue Cross</i>	Federal District Court, Western District of Washington at Seattle, Cause No. C00-828R	7,985	Settlement for \$2,950,000.



<b>Name</b>	<b>Jurisdiction</b>	<b>Size</b>	<b>Resolution</b>
<i>Manson v. Services Group of America</i>	Federal District Court, Western District of Washington at Seattle, Cause No. C01-1583R	1,646	Settlement for \$1,950,000.
<i>Smiley v. Northwest Washington Medical Bureau</i>	Washington State, King County Superior Court, Cause No. 01-2-13976-2 SEA	45,000	Settlement for \$2,900,000.
<i>West v. Group Health Cooperative</i>	Federal District Court, Western District of Washington at Seattle, Cause No. C01-716P	Over 400,000	Settlement for \$4,507,467 and changes in GHC coverage approaches.
<i>Bowen v. Principal Mutual Life Insurance Company</i>	Washington State, King County Superior Court, Cause No. 95-2-27104-9	16,000	Settlement after injunction and summary judgment entered for plaintiff's class.
<i>Holman v. Regence Blue Shield</i>	Washington State, King County Superior Court, Cause No. 00-2-02033-3 SEA	More than 100,000	Declaratory relief and a contested \$13,515,840 judgment.
<i>Severson v. Premera Blue Cross</i>	Washington State, King County Superior Court, Cause No. 98-2-29588-1 SEA	7,985 (with <i>McGlothlin</i> class)	Declaratory relief and settlement for \$2,950,000 with <i>McGlothlin</i> class.
<i>Stone v. Group Health Cooperative</i>	Washington State, King County Superior Court, Cause No. 01-2-14261-5 SEA	Over 100,000	Settlement for \$2,253,733 and changes in GHC coverage approaches.
<i>Stanford v. Foamex</i>	Federal District Court, Eastern District of Pennsylvania, Cause No. 07-cv-04225	Over 600	Settlement for \$3,600,000.

**Eleanor Hamburger**

5. Ms. Hamburger has worked her entire career representing individuals and classes regarding access to health care and health benefits. She graduated from New York University School of Law where she was a Root-Tilden-Snow scholar. After law school, she worked at the Office of the Public Advocate in Newark, New Jersey and

at Consumers Union's West Coast Regional Office in San Francisco, California before moving to Seattle, Washington.

6. She worked at Columbia Legal Services from 1998 to 2004 as a staff attorney in its Tacoma and Seattle offices. Her practice there included representing low-income elderly and disabled individuals to obtain access to Medicaid services. During her tenure at Columbia Legal Services, she also taught the Disability Law Clinic at the University of Washington School of Law, supervising legal interns as they represented individuals in disputes involving Medicaid benefits from the Washington Department of Social and Health Services.

7. In 2004, she joined the law firm of Sirianni Youtz Meier & Spoonemore, now Sirianni Youtz Spoonemore Hamburger LLP, representing clients in business litigation, insurance coverage disputes, ERISA health/disability and pension/profit-sharing litigation, and securities fraud. She continues to represent Medicaid beneficiaries, often on a *pro bono* basis. In 2009, she became a partner in the law firm.

8. She is also a co-founder and former president of the Northwest Health Law Advocates, a nonprofit health law and advocacy organization dedicated to increasing access to health care and health coverage in Washington state.

9. Her advocacy on behalf of persons with disabilities has been recognized by the Arc of Washington, Washington Autism Advocacy and Alliance, and Autism Speaks. (Our firm has been recognized by Columbia Legal Services for its dedication to representation of low-income persons for its work on behalf of indigent patients in *Lopez v. Health Management Associates*, a class action lawsuit brought by Ms. Hamburger and me together with Columbia Legal Services.)

10. She is, or has been, class counsel, along with other co-counsel at our firm and/or other law firms, in the following class actions: *J.R. v. Blue Cross Blue Shield of Illinois*, No. 2:18-cv-01191-JLR, Federal District Court, Western District of Washington; *D.T v. NECA/IBEW Family Care Plan, et al.*, No. C17-00004 RAJ, Federal District Court,

Western District of Washington; *B.E. v. Teeter*, No. 2:16-cv-00227-JCC, Federal District Court, Western District of Washington; *N.C. v. Wash. Health Care Auth.*, No. 16-2-08002-2 SEA, King County Superior Court, Seattle, Washington; *Morton v. Group Health*, No. 16-2-02011-9 SEA, King County Superior Court, Seattle, Washington; *A.D. v. T-Mobile*, No. 2:15-cv-00180-RAJ, Federal District Court, Western District of Washington; *Lopez v. HMA, Inc.*, No. 13-2-03580-3, Yakima County Superior Court; *Carr v. United Health Care et al.*, No. 2:15-cv-1105 MJP, Federal District Court, Western District of Washington; *Dunakin v. Quigley*, No. C14-0567-JRL, Federal District Court, Western District of Washington; *P.S. v. State of Oregon and Oregon PEBB*, No. 14C15068, Marion County Circuit Court, Salem Oregon; *C.S. v. Boeing*, No. 2:14-cv-00574-RSM, Federal District Court, Western District of Washington; *M.T.E. v. Washington Dep't. of Social and Health Svcs.*, No. 11-2-01209-1, Thurston County Superior Court, Olympia, Washington; *A.M. v. Moda Health Plan Inc.*, No. 2:14-cv-1191-TSZ, Federal District Court, Western District of Washington; *A.E. v. King County*, No. 2:14-cv-00280-TSZ, Federal District Court, Western District of Washington; *R.H. v. Premera Blue Cross*, No. 2:13-cv-00097-RAJ, Federal District Court, Western District of Washington; *K.M. v. Regence BlueShield*, No. 2:13-cv-01214-RAJ, Federal District Court, Western District of Washington; *Z.D. v. Group Health Cooperative*, No. 2:11-CV-01119-RSL, Federal District Court, Western District of Washington; *Elkins v. Dreyfus*, No. 2:10-cv-01366-MJP, Federal District Court, Western District of Washington; *Gabriel, et al. v. Nationwide Life Ins. Co.*, Federal District Court, Western District of Washington, No. 09-CV-00508-JCC; *Washington Education Association et al., v. Washington Department of Retirement Systems, et al.*, No. 11-2-02213-4, Thurston County Superior Court; *O.S.T. v. Regence BlueShield*, No. 11-2-34187-9 SEA, King County Superior Court; *D.M. v. Group Health Cooperative*, No. 10-2-28618-7 SEA, King County Superior Court; *D.F. v. Washington State Health Care Authority, et al.*, No. 10-2-29400-7 SEA; King County Superior Court; *A.G. v. Premera Blue Cross*, No. 11-2-30233-4 SEA, King County Superior Court; *J.P. v. Premera Blue Cross*, No. 12-2-33676-8



SEA, King County Superior Court; and *Rockey v. The Center for Counseling and Health Resources, et al.*, Snohomish County Superior Court, No. 09-2-02242-7.

11. She has also represented many individuals who challenge denials of coverage for health care services by their third-party payors or insurers. *See, e.g., Stabelfeldt v. Kaiser*, No. 18-2-00939-1 SEA (King County Superior Court 2018); *A.A. v. Blue Cross Blue Shield of Ill.*, No. 2:13-cv-00357-RSM, Federal District Court, Western District of Washington (2014); *Roberts v. Regence BlueShield*, No. 09-2-38690-1 SEA (King Co. Superior Court 2010); *K.J. v. Regence BlueShield*, No. 09-2-17149-1 SEA (King Co. Superior Court, 2009); *K.F. v. Regence BlueShield*, 2008 WL 4223613 (W.D. Wash. 2008); *Murch v. Prudential*, No. C05-0992P (W.D. Wash. 2006); and *Caffell v. Regence BlueShield*, No. C03-3374-RSM (W.D. Wash. 2005).

12. **Resources.** My firm has committed significant resources to this litigation and will continue to do so. We have spent a considerable amount of time investigating the claims and defenses in this case.

13. **Other Cases.** I do not know of any other lawsuit against Defendants in Kentucky asserted on behalf of a class of Kentucky residents alleging the claims brought in the present action. My law firm is co-counsel in four other putative class action cases against Defendants Alera and Trinity brought on behalf of residents who enrolled in defendants' health plans in California, Colorado, Missouri, and Washington.

14. **Conflicts.** Proposed class counsel has no legal conflicts of interest that prevent us from aggressively representing the interests of the class representatives and the class.

DATED: Wednesday, November 03, 2021, at Seattle, Washington.

/s/ Richard E. Spoonemore  
Richard E. Spoonemore

**EXHIBIT**

**F**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY  
LEXINGTON DIVISION

HANNA ALBINA and AUSTIN WILLARD,  
individually and on behalf of others similarly  
situated,

Plaintiffs,

vs.

THE ALIERA COMPANIES, INC.,  
TRINITY HEALTHSHARE, INC., and  
ONESHARE HEALTH, LLC d/b/a UNITY  
HEALTHSHARE, LLC,

Defendants.

Case No.: 5:20-CV-00496-JMH

**ELECTRONICALLY FILED**

**DECLARATION OF WILLIAM H. ANDERSON  
IN SUPPORT OF MOTION FOR CLASS CERTIFICATION**

I, William H. Anderson, declare under penalty of perjury that:

1. I am a member of the firm Handley Farah & Anderson PLLC, (“HFA”) and make this Declaration in support of Plaintiffs’ Motion for Class Certification pursuant to Fed. R. Civ. P. 23, and in support of counsels’ request to be appointed class counsel.

**A. Background Information About Myself and My Firm.**

1. HFA is a nationally recognized law firm specializing complex class action litigation. The firm’s partners have successfully litigated numerous class action matters before courts throughout the United States.

2. Before founding HFA in 2018, I was a Partner at Cuneo Gilbert & LaDuca, LLP, a 20-attorney law firm specializing in class and complex litigation, headquartered in Washington, D.C. Through nearly 20 years in practice, I have litigated a broad range of consumer class

actions. In these cases, along with my colleagues and partners, we have sued companies for selling defective products, including those that physically harm consumers; for making false statements in their advertisements about their products; for failing to honor their warranties when their products have malfunctioned; for discriminating in the provision of housing and for violating United States antitrust laws. In these and other cases, we have worked to halt deceptive and dangerous business practices and recovered hundreds of millions of dollars for consumers that were harmed by them. For example, lawyers at HFA have served as lead, co-lead or counsel in the following cases:

- *True v. American Honda Motor Co.*, (C.D. Cal.) I spearheaded this first-of-its-kind class action regarding fuel efficiency and battery issues in Honda Civic Hybrid vehicles. Anderson served as class counsel in the lawsuit, which, after several years of contentious litigation, produced a settlement with actual cash benefits realized of well over \$50 million.
- *Friedman v. Guthy-Renker*, (C.D. Cal.): I served as co-lead counsel in this class action alleging hair loss and scalp irritation caused by haircare products. After years of contentious litigation, in 2017 the Court approved a \$26.25 million cash settlement with no reversion, resulting in payments to class members of as much as \$20,000 each.
- *Gornstein v. TimberTech*, (D. Mass) I served as co-lead counsel in this action alleging a defect in certain decking manufactured by TimberTech. After protracted negotiations, a settlement providing free replacement decking and a \$4.50 per square foot labor reimbursement was approved by the Court.
- *Alea v. Wilson Sporting Goods Co.* (N.D. Ill.): I served as lead counsel in this litigation. After years of contentious litigation, Mr. Anderson secured a settlement providing warranty extensions and offering free inspection and new replacement bats for

thousands of consumers.

- *Precht v. Kia Motors America* (C.D. Cal.): I served as co-lead counsel in this litigation, which resulted in a recall and repair for thousands of vehicles with allegedly defective electronic brake systems.
- *Hadley v. Subaru of America, Inc.* (D. N.J.): I led this litigation concerning defective safety latches that were releasing without warning at highway speeds and shattering windshields. The litigation resulted in a worldwide recall for the defective hood latches, which saved lives.
- *In re LivingSocial Marketing and Sales Practices Litig.* (D.D.C.): In this MDL, Mr. Anderson and the litigation team recovered \$4.5 million for purchasers of LivingSocial products that were subject to gift card restrictions alleged to be unfair and illegal.
- *In re Global Concepts Limited, Inc.*, (S.D. Fla.) I served as co-lead counsel in this litigation concerning more than three million falsely advertised pest control devices. Along with co-counsel, Anderson negotiated a nationwide settlement providing full refunds to class members with no cap on claims or risk of pro rata reduction. The settlement was finally approved from the bench without the filing of a single objection.
- *Ardon v. City of Los Angeles*, (L.A. Sup. Ct.) I served as counsel in this case challenging the improper collection of telephone taxes by the City of Los Angeles. The settlement, included the establishment of a settlement fund of \$92,500,000.
- *Sloan v. United States*, (D. D.C.) This litigation involved the illegal collection of taxes on long-distance telephone service by the IRS. After the filing of the case, the IRS acknowledged the inapplicability of the tax and established a program that has returned more than \$8 billion dollars to American taxpayers (albeit through unilateral action, not

through a settlement). I was part of the small team at his prior firm that aggressively litigated the case on behalf of taxpayers.

- *Jien v. Perdue Farms, Inc.* (D. Md.): HFA is co-lead in this pending antitrust class action alleging that the leading poultry processors in the United States conspired to fix and depress the compensation of processing plant workers in violation of the Sherman Act, and has already achieved tens of millions in settlement monies.
- *Albert v. Global Tel\*Link Corp.* (D. Md.): HFA is co-lead in this pending antitrust class action alleging that leaders in the prison telecommunications industry conspired to fix unlawfully high prices for collect calls made by incarcerated individuals in jails and prisons throughout the United States.
- *Moehrl v. National Association of Realtors* (D. Ill): HFA is counsel in this pending antitrust class action alleging that the National Association of Realtors and the four largest real estate brokerages conspired to inflate the commissions charged to sellers of homes.
- *Burrell v. Lackawanna County* (M.D. Pa): HFA is co-lead counsel in this collective and class action, presently on its second appeal to the Third Circuit, alleging that civilly-detained debtors were forced to work at a private recycling center, in violation of RICO and both federal and Pennsylvania minimum wage laws.

6. Attached hereto as Exhibit 1 to this declaration is the HFA Firm Resume.

I declare pursuant to 28 U.S.C. §1746 that the foregoing is true and correct.

Dated: November 3, 2021  
Boulder, Colorado

/s/ William H. Anderson  
William H. Anderson  
**HANDLEY FARAH & ANDERSON PLLC**

# EXHIBIT 1



Handley Farah & Anderson PLLC

## About the Firm

Handley Farah & Anderson PLLC (HFA) seeks to improve the world. The law firm litigates cases against large corporations and other powerful interests that have unlawfully harmed people. The firm vigorously pursues such cases to halt unjust practices, hold wrongdoers accountable and recover financial damages for victims.

HFA has particular expertise prosecuting class actions against multinational corporations whose policies and practices have systematically harmed workers, consumers, farmers, or others. Most of the lawsuits filed by HFA are class actions that could not have been effectively pursued on an individual basis, and the firm's lawyers have extraordinary experience litigating complex class actions from inception through trial.

When determining which cases to pursue, HFA chooses to fight for those who need our help most: underpaid workers, mistreated farmers, overcharged consumers, rejected tenants, courageous whistleblowers, persons with disabilities, defrauded investors, and victims of discrimination. The resources of these clients are vastly outmatched by those of the defendants—but HFA's gifted lawyers level the playing field.

## Lawyers at Handley Farah & Anderson PLLC

HFA is comprised of eight lawyers, a licensed private investigator and a paralegal located in offices in Washington, DC; New York, NY; Boulder, CO and London, England. The firm's lawyers have graduated from top law schools, clerked for federal and state court judges, litigated groundbreaking cases, recovered hundreds of millions of dollars, published books and articles, been interviewed on dozens of television programs, and received multiple awards.

Yet beyond their impressive résumés, the lawyers at HFA are creative and inspired litigators. They employ innovative legal strategies to overcome obstacles, and they fearlessly litigate cases as long as necessary to secure justice for their clients. While they come from different backgrounds, those lawyers are united by a singular purpose: to use their law degrees and legal talents to help those in need.

HFA's lawyers have been repeatedly recognized for their extraordinary work and skills. For example, founding partner Matthew Handley was a 2018 Finalist for Public Justice's Trial Lawyer of the Year for successfully representing a class of same-sex spouses denied health insurance coverage by Wal-Mart. That same year, Mr. Handley's legal efforts on behalf of trafficked workers was featured prominently in the book, *The Girl from Kathmandu, Twelve Dead Men and a Woman's Quest for Justice*, by award-winning journalist Cam Simpson.

## Uncovering Injustices

Unlike many plaintiffs' firms, HFA rarely pursues cases on the heels of government indictments or cases that other firms have already filed. Instead, HFA labors to uncover, examine, and prosecute injustices that no one else has discovered.



The lawyers at HFA are particularly adept at investigating and developing compelling cases. They collaborate with nonprofit organizations and private investigators to unearth corporate abuses around the world and identify viable legal claims for the injured parties.

## Practice Areas

Leveraging the diverse legal backgrounds and unique investigative skills of its lawyers, HFA litigates complex matters across a broad range of practice areas, including:

- Antitrust
- Commodity Manipulation
- Consumer Protection
- Disability Rights
- Employment Discrimination
- Exploited Foreign Labor
- Fair Housing
- Mistreated Farmers
- Police Misconduct
- Securities Litigation
- Wage Theft
- Whistleblower/False Claims Act

In litigating such cases, the lawyers at HFA have recovered—through settlement and trial verdicts—hundreds of millions of dollars for plaintiffs. The firm has also secured critical injunctive relief that has halted discriminatory misconduct, reconfigured corporate policies, modified unsafe products and reinvigorated competitive markets.

## Consumer Protection

One of the largest practice areas at HFA is devoted to consumer protection. The firm's attorneys have considerable experience litigating class actions that allege violations of consumer protection statutes.

HFA's lawyers have also litigated dozens of class actions against multinational corporations that have made fraudulent misrepresentations to the detriment of consumers. In litigating such cases involving deceptive business practices, lawyers at HFA have alleged violations of numerous state and federal consumer protection statutes. For example, lawyers at HFA have served as lead, co-lead or counsel in the following cases:

- *True v. American Honda Motor Co.*, (C.D. Cal.) Founding Partner William Anderson spearheaded this first-of-its-kind class action regarding fuel efficiency and battery issues in Honda Civic Hybrid vehicles. Anderson served as class counsel in the lawsuit, which, after several years of contentious litigation, produced a settlement with actual cash benefits realized of well over \$50 million.
- *Friedman v. Guthy-Renker*, (C.D. Cal.): Mr. Anderson served as co-lead counsel in this class action alleging hair loss and scalp irritation caused by haircare products. After years of contentious litigation, in 2017 the Court approved a \$26.25 cash settlement with no reversion, resulting in payments to class members of as much as \$20,000 each.

- *Gornstein v. TimberTech*, (D. Mass) Mr. Anderson served as co-lead counsel in this action alleging a defect in certain decking manufactured by TimberTech. After protracted negotiations, a settlement providing free replacement decking and a \$4.50 per square foot labor reimbursement was approved by the Court.
- *Alea v. Wilson Sporting Goods Co.* (N.D. Ill.): Mr. Anderson served as lead counsel in this litigation. After years of contentious litigation, Mr. Anderson secured a settlement providing warranty extensions and offering free inspection and new replacement bats for thousands of consumers.
- *Precht v. Kia Motors America* (C.D. Cal.): Mr. Anderson served as co-lead counsel in this litigation, which resulted in a recall and repair for thousands of vehicles with allegedly defective electronic brake systems.
- *Hadley v. Subaru of America, Inc.* (D. N.J.): Mr. Anderson's litigation concerning defective safety latches that were releasing without warning at highway speeds and shattering windshields resulted in a worldwide recall for the defective hood latches, which saved lives.
- *In re LivingSocial Marketing and Sales Practices Litig.* (D.D.C.): In this MDL, Mr. Anderson and his team recovered \$4.5 million for purchasers of LivingSocial products that were subject to gift card restrictions alleged to be unfair and illegal.
- *In re Global Concepts Limited, Inc.*, (S.D. Fla.) Mr. Anderson served as co-lead counsel in this litigation concerning more than three million falsely advertised pest control devices. Along with co-counsel, Anderson negotiated a nationwide settlement providing full refunds to class members with no cap on claims or risk of pro rata reduction. The settlement was finally approved from the bench without the filing of a single objection.
- *Ardon v. City of Los Angeles*, (L.A. Sup. Ct.) Mr. Anderson served as counsel in this case challenging the improper collection of telephone taxes by the City of Los Angeles. The settlement, which included the establishment of a settlement fund of \$92,500,000, was approved by the Court.
- *Sloan v. United States*, (D. D.C.) This litigation involved the illegal collection of taxes on long-distance telephone service by the IRS. After the filing of the case, the IRS acknowledged the inapplicability of the tax and established a program that has returned more than \$8 billion dollars to American taxpayers (albeit through unilateral action, not through a settlement). Mr. Anderson was part of the small team at his prior firm that aggressively litigated the case on behalf of taxpayers.
- *Jien v. Perdue Farms, Inc.* (D. Md.): HFA is co-lead in a pending antitrust class action alleging that the leading poultry processors in the United States conspired to fix and depress the compensation of processing plant workers in violation of the Sherman Act.

- *Moehrl v. National Association of Realtors* (D. Ill): HFA is counsel in this pending antitrust class action alleging that the National Association of Realtors and the four largest real estate brokerages conspired to inflate the commissions charged to sellers of homes.
- *Burrell v. Lackawanna County* (M.D. Pa): HFA is co-lead counsel in this pending collective and class action alleging that civilly-detained debtors were forced to work at a private recycling center, in violation of RICO and both federal and Pennsylvania minimum wage laws.

# WILLIAM ANDERSON

## PARTNER

Boulder, CO  
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303-800-9109



**William Anderson** is a partner at Handley Farah & Anderson. Mr. Anderson's practice primarily focuses on advancing the rights of consumers who have been harmed by companies as well as representing victims of antitrust violations by large corporations.

Since entering private practice 14 years ago, Mr. Anderson has successfully advocated for consumers in state and federal courts across the country. In so doing, Mr. Anderson has litigated consumer and antitrust class actions against some of the largest corporations in the world and achieved excellent results for his clients.

Mr. Anderson has litigated a broad range of consumer class actions. He has sued companies for selling defective products, including those that physically harm consumers; for making false statements in their advertisements about their products; and for failing to honor their warranties when their products have malfunctioned. In these and other cases, Mr. Anderson has halted deceptive and dangerous business practices and recovered hundreds of millions of dollars for consumers that were harmed by them.

For example, in *Lockabey, et al. v. American Honda Motor Co., Inc.*, Mr. Anderson recovered more than \$50 million for thousands of consumers who purchased Honda Civic Hybrid vehicles, after Honda had made false statements about the vehicle's fuel efficiency and hybrid batteries. Similarly, in *Friedman, et al. v. Guthy-Renker LLC*, Mr. Anderson recovered \$26.25 million for thousands of consumers who purchased a falsely advertised haircare product that caused widespread hair loss and scalp irritation.

Mr. Anderson has also litigated nationwide antitrust class actions. He is currently counsel in *Moehrl v. National Association of Realtors, et al.*, which alleges that the National Association of Realtors and the four largest real estate brokerages conspired to inflate the commissions charged to sellers of homes. He is also currently counsel in *Jien et al v. Perdue Farms, Inc. et al*, which alleges that the leading chicken processors conspired to depress the wages of chicken processing plant workers.

Before co-founding Handley Farah & Anderson, Mr. Anderson was a partner with the law firm Cuneo Gilbert & LaDuca, one of the premier consumer law firms in the country. At Cuneo Gilbert & LaDuca, Mr. Anderson acted as lead or co-lead counsel in numerous consumer class actions.

### EDUCATION

- American University, Washington College of Law, J.D., 2004
- The George Washington University, B.A., *cum laude*, 2001

### CLERKSHIP

- Law clerk to Judge Rhonda Reid Winston of the District of Columbia Superior Court

### AWARDS

- Selected as a District of Columbia "Rising Star" (2014-2018)

### ADMISSIONS

- District of Columbia
- Colorado
- Pennsylvania
- U.S. District Court for the District of Columbia
- U.S Court of Appeals for the DC Circuit
- U.S. District Court for the District of Colorado

Mr. Anderson obtained his undergraduate degree, with honors, from The George Washington University in 2001, and he earned his law degree at America University, Washington College of Law in 2004. Immediately after graduating from law school, he worked as a law clerk to Judge Rhonda Reid Winston in the District of Columbia Superior Court, handling a felony 1 trial calendar of the most severe murder and sexual abuse cases.

Mr. Anderson was recognized as a Rising Star by Super Lawyers from 2014-2018. He has also lectured and written on class action litigation strategy and tactics.

Mr. Anderson lives in Boulder, Colorado with his wife and two children. Beyond the practice of law, Mr. Anderson is an avid skier and mountain biker. He is also active in his community, coaching children's sports and participating in the Boulder Rotary Club. He speaks Spanish, having lived in Spain and Chile.

### **Notable Cases**

- *True v. American Honda Motor Co.* (C.D. Cal.): Mr. Anderson spearheaded this first-of-its-kind class action regarding fuel efficiency and battery issues in Honda Civic Hybrid vehicles. Anderson served as class counsel in the lawsuit, which, after several years of contentious litigation, produced a settlement with actual cash benefits realized of well over \$50 million.
- *Friedman v. Guthy-Renker* (C.D. Cal.): Mr. Anderson served as co-lead counsel in this class action alleging hair loss and scalp irritation caused by haircare products. After years of contentious litigation, in 2017 the Court approved a \$26.25 million cash settlement with no reversion, resulting in payments to class members of as much as \$20,000 each.
- *Gornstein v. TimberTech* (D.C. Mass): Mr. Anderson served as co-lead counsel in this class action alleging a defect in certain decking manufactured by TimberTech. After protracted negotiations, a settlement providing free replacement decking and a \$4.50 per square foot labor reimbursement was approved by the Court.
- *Alea v. Wilson Sporting Goods Co.* (N.D. Ill.): Mr. Anderson served as lead counsel in this class action alleging the sale of defective baseball bats. After years of contentious litigation, Mr. Anderson secured a settlement providing warranty extensions and offering free inspection and new replacement bats for thousands of consumers.
- *Precht v. Kia Motors America* (C.D. Cal.): Mr. Anderson served as co-lead counsel in this class action alleging the sale of vehicles with defective electronic brake systems. Co-lead counsel secured a settlement that resulted in a recall and repair of vehicles for thousands of consumers.
- *Hadley v. Subaru of America, Inc.* (D. N.J.): Mr. Anderson served as co-lead counsel in this class action alleging that certain Subaru vehicles contained defective safety latches. The litigation resulted in a worldwide recall, thus saving many lives.
- *In re Global Concepts Limited, Inc.* (S.D. Fla.): Mr. Anderson served as co-lead counsel in this class action concerning more than three million falsely advertised pest control devices. Along with co-counsel, he negotiated a nationwide settlement providing full refunds to class members with no cap on claims or risk of pro rata reduction.
- *Ardon v. City of Los Angeles* (L.A. Sup. Ct.): Mr. Anderson served as counsel in this case challenging the improper collection of telephone taxes by the City of Los Angeles. The settlement, which included the establishment of a settlement fund of \$92,500,000, was approved by the Court.
- *Jien et al v. Perdue Farms, Inc. et al* (D. MD): Mr. Anderson is co-lead in a pending antitrust class action alleging that the leading poultry processors in the United States conspired to fix and depress the compensation of processing plant workers in violation of the Sherman Act.

- *Moehrl v. National Association of Realtors, et al.* (D. Ill): Mr. Anderson is counsel in a pending antitrust class action alleging that the National Association of Realtors and the four largest real estate brokerages conspired to inflate the commissions charged to sellers of homes.
- *Burrell et. al. v. Lackawanna County et. al* (M.D. Pa): Mr. Anderson is counsel in a pending collective and class action alleging that civilly detained debtors were forced to work at a private recycling center, in violation of RICO and both federal and Pennsylvania minimum wage laws.



# MATTHEW HANDLEY

## PARTNER

Washington, DC  
mhandley@hfajustice.com  
202-559-2411



**Matthew Handley** is a partner at Handley Farah & Anderson. For more than fifteen years, Mr. Handley has dedicated his legal career to securing justice for victims of corporate and government wrongdoing. He has successfully litigated individual and class action cases in courts around the country. The cases brought by Mr. Handley have returned millions of dollars to people injured and exploited by corporations and governments.

In the course of his legal career, Mr. Handley has principally pursued cases that have championed three categories of rights: worker rights, civil rights and investor rights.

As a lawyer for workers, Mr. Handley has pursued more than one hundred cases against corporations that have refused to pay lawful wages or required benefits to their employees. Domestically, he has represented workers across a range of industries—from construction to restaurant to janitorial services—who were systematically denied the minimum wage, overtime pay or lawful benefits. He has also represented workers in the United States who were victimized by conspiracies to fix and depress wages in violation of the federal antitrust laws and by conspiracies to detain workers in violation of RICO.

Additionally, Mr. Handley has represented workers around the world who have been exploited by corporations. This work has included representing foreign laborers who were trafficked, injured or killed while employed by U.S. contractors or subcontractors abroad. Mr. Handley's work on behalf of trafficked laborers is featured prominently in the 2018 book, *The Girl from Kathmandu, Twelve Dead Men and a Woman's Quest for Justice*, by award-winning journalist Cam Simpson. In *Adhikari v. Daoud & Partners*, the lawsuit chronicled in that book, the Southern District of Texas noted that the "herculean efforts of Plaintiffs' counsel have been in the highest traditions of the bar. No lawyer or group of lawyers could have done more or done better." Mr. Handley has appeared before the United Nations Human Rights Council arguing for stronger protections for the segment of the global workforce that is most vulnerable to trafficking abuses.

As a civil rights lawyer, Mr. Handley has pursued cases that have targeted various forms of discrimination, including employment discrimination, housing discrimination, disability discrimination and police misconduct. He has represented blind employees who were denied equal access to government services, educational facilities and technologies; tenants who were denied housing based on their race and lawful source of income; persons who were denied employment based on racially or sexually discriminatory policies and practices; and persons with disabilities who were denied access to restaurants and other places of public accommodation. These cases have recovered millions of dollars for the victims and changed the policies and practices that gave rise to the cases.

### EDUCATION

- University of Texas School of Law, J.D., *high honors*, 2002
- Princeton University, B.S.E., 1997

### CLERKSHIP

- Judge William Wayne in U.S. District Court for Western District of Texas

### AWARDS

- 2018 Finalist for Public Justice's Trial Lawyer of the Year
- 2009 Advocate of the Year – Human Rights Organization of Nepal

### ADMISSIONS

- District of Columbia
- New York
- U.S. District Court for the District of Maryland
- U.S. District Court for the District of Columbia
- U.S. District Court for the Southern District of New York
- U.S. District Court for the Eastern District of New York
- U.S. Court of Appeals for the Second Circuit

In pursuing these civil rights cases, Mr. Handley has often collaborated with and represented nonprofit organizations committed to exposing and eliminating unlawful discrimination. Mr. Handley has also been a frequent advocate before city councils and state legislatures for the expansion of civil rights protections in the workplace, testifying in support of stronger civil rights protections for the most vulnerable members of our communities.

Finally, as a securities lawyer, Mr. Handley has litigated national cases against publicly-traded corporations that defrauded thousands of investors with false and misleading statements. He has worked on multiple securities class actions that recovered hundreds of millions of dollars for investors, including pensions funds, mutual funds and individuals.

Prior to founding Handley Farah & Anderson, Mr. Handley was the Director of Litigation at the Washington Lawyers' Committee for Civil Rights and Urban Affairs, one of the nation's preeminent civil rights non-profit law firms, where he directed the Committee's active litigation docket. Prior to joining the Committee, Mr. Handley was a partner at the law firm of Cohen Milstein Sellers & Toll, one of the most respected firms in the country fighting against corporate abuses. Before joining Cohen Milstein Sellers & Toll, Mr. Handley was a litigation associate at the law firm of Covington & Burling.

Mr. Handley graduated from Princeton University in 1997 with a degree in civil engineering. He subsequently joined the Peace Corps as a volunteer in Nepal, where he served for two years as a rural construction engineer. When he returned to the United States, he earned his law degree at the University of Texas School of Law in 2002. After graduating from law school, he served as a law clerk for the Honorable William Wayne Justice, United States District Judge for the Western District of Texas.

Mr. Handley was a 2018 Finalist for Public Justice's Trial Lawyer of the Year. He was named Advocate of the Year by the Human Rights Organization of Nepal. He has been recognized by Super Lawyers magazine as a Rising Star.

He lives in Takoma Park, Maryland with his wife and two children.

### **Notable Cases**

- *Jien et al v. Perdue Farms, Inc. et al* (D.MD): An antitrust class action alleging that the leading poultry processors in the United States conspired to fix and depress the compensation of processing plant workers in violation of the Sherman Act.
- *Burrell et. al. v. Lackawanna County et. al* (M.D. Pa): A pending collective and class action alleging that civilly-detained debtors were forced to work at a private recycling center, in violation of RICO and both federal and Pennsylvania minimum wage laws.
- *Stanley, et al. v. Barbri* (N.D. Tex.): A disability rights case that successfully compelled the country's leading bar exam preparation course to make its on-line course accessible to blind students.
- *Little, et al. v. Washington Metro Area Transit Authority* (D.D.C.): A class action on behalf of thousands of African American applicants for employment at Washington DC's mass transit system who were rejected because of a racially discriminatory criminal record screening policy. The case resulted in a policy change and a \$6.5 million fund to compensate victims.
- *Equal Rights Center v. Archstone* (D. Md.) and *Equal Rights Center v. Equity Residential* (D. Md.): Fair Housing Act cases litigated on behalf of a disability-rights organization alleging that housing developers failed to design and construct housing accessible to the disability community. The case resulted in thousands of apartment units across the country being made accessible.



- *Adhikari et al. v. Daoud; Lama v. Blue Marine Services; Dahal v. Supreme Food Services* (OALJ): Cases brought on behalf of foreign workers who were trafficked, injured or killed while working for U.S. contractors or subcontractors abroad, returning millions of dollars to victims and their families.
- *American Council of the Blind, et al. v. General Services Administration* (D.D.C.): A disability rights case that compelled the U.S. government agency in charge of accessibility to make its own website portal accessible to thousands of blind government contractors.
- *Ayala, et al. v. Tito Contractors* (D.D.C.): A wage theft collective action returning over half a million dollars to construction workers denied lawful wages by their employer.
- *Provost v. First Guaranty Bank* (E.D.LA): A case alleging that a bank made fraudulent misrepresentations to the United States Department of Agriculture, in violation of RICO, in order to reduce loan payments to an African-American sugarcane farmer.

GEORGE FARAH

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PARTNER



**George Farah** is a Partner at Handley Farah & Anderson. He develops and litigates cases against powerful corporate interests in pursuit of justice. He has represented a broad array of clients with limited resources—including workers, farmers, consumers, unions, small businesses and whistleblowers—that have been significantly harmed by corporate abuses. On their behalf, he has halted unjust business practices and recovered substantial financial damages.

Mr. Farah is particularly adept at investigating and developing morally compelling class action cases. He collaborates with nonprofit organizations and private investigators to uncover hidden corporate misconduct and identify viable legal claims.

In addition to conceiving and initiating cutting-edge class action cases, Mr. Farah also vigorously litigates them. He has successfully litigated a broad range of important cases around the country:

#### EDUCATION

- Harvard Law School, J.D., 2005
- Princeton University, B.A., 2000

#### AWARDS

- Selected “Super Lawyer” (2016-2018)
- The Paul and Daisy Soros Fellowship

#### SELECT PUBLICATIONS

- Book: “No Debate: How the Republican and Democratic Parties Secretly Control the Presidential Debates,” Seven Stories (2004)
- “Prominent Market Definition Issues in Pharmaceutical Antitrust Cases,” Antitrust Magazine, Fall 2015 (with Laura Alexander)
- “A Moral and Economic Case for a Living Wage Law,” The Washington Post, May 4, 2006 (with Clayton Sinyai)

#### ADMISSIONS

- District of Columbia
- New York
- U.S. District Court for the Southern District of New York
- U.S. District Court for the Eastern District of New York
- U.S. District Court for the Northern District of New York
- U.S. Court of Appeals for Second Circuit

• **Antitrust Violations:** He has prosecuted many nationwide class actions against large corporations that have violated the antitrust laws. He has successfully represented thousands of consumers and small businesses that were overcharged due to price-fixing conspiracies or unlawful monopolies, recovering hundreds of millions of dollars in damages.

• **RICO Violations:** He has litigated multiple RICO actions alleging that corporations engaged in unlawful patterns of racketeering activity. In particular, he has prosecuted RICO claims against corporations that have made harmful fraudulent misrepresentations to government agencies.

• **Depressed Wages:** He has litigated claims on behalf workers who were wrongly deprived of compensation. Through both class and collective actions, he has represented restaurant and construction workers around the country who were denied minimum wages, overtime pay, or lawful benefits.

• **Whistleblowers:** He has represented employees who have courageously blown the whistle on corporations that defrauded the federal government. He has specifically represented whistleblowers in cases alleging that healthcare companies and for-profit colleges made misrepresentations to collect millions of dollars in taxpayer funds.

In each of these cases, Mr. Farah aggressively litigated claims against well-resourced defendants for as long as necessary to secure the best recovery. For example, in approving a \$40 million settlement in *Carlin v. Dairy America, Inc.* for a class of dairy farmers victimized by RICO violations, after more than a decade of litigation under Mr. Farah’s leadership, the Eastern District of California held that “the Court takes a favorable view of the breadth and depth of experience of Plaintiffs’ Counsel, recognizes the extraordinary efforts they made on behalf of the class, and ... finds the settlement amount extraordinary.”

Mr. Farah has also zealously engaged in pro bono litigation to safeguard our democracy and protect human rights. He sued President Trump for violating the Emoluments Clause of the Constitution. He represented Holocaust survivors in actions against companies who profited from Nazi-era slave labor. He obtained political asylum for applicants who were tortured in Nepal. He represented Greenpeace against corporations that spied on and infiltrated the nonprofit. He provided legal counsel to an affordable housing campaign pursued by Tenants and Workers United.

Prior to co-founding Handley Farah & Anderson, Mr. Farah was a partner at the law firm of Cohen Milstein Sellers & Toll, where he focused on antitrust and human rights litigation for 14 years. He has repeatedly been named a “Super Lawyer” by Super Lawyers magazine.

Before practicing law, Mr. Farah obtained his undergraduate degree in international relations from Princeton University and earned his law degree at Harvard Law School. He was also the recipient of a Paul and Daisy Soros Fellowship.

In addition to litigating, Mr. Farah has advocated for policies to strengthen democracy and address income inequality. He founded and directed the nonprofit Open Debates to improve the presidential debate process, and he served as Treasurer and General Counsel of the Campaign for a Living Wage, which raised wages for low-income public employees. He currently serves on the board of The Modern Classrooms Project, which improves the education of low-income students, and on the board of the American Independent Business Alliance, which supports locally-owned businesses and the communities in which they operate.

Mr. Farah is the author of the book *No Debate: How the Republican and Democratic Parties Secretly Control the Presidential Debates* from Seven Stories Press. His articles on legal and electoral issues have appeared in *The Washington Post*, *The Boston Globe*, *The Philadelphia Inquirer*, *Antitrust Magazine*, *Extra! Magazine*, *The Denver Post* and other publications. PBS called Mr. Farah a “remarkable author” who exposed the “secretive process by which party handlers ensure there won’t be a real discussion of the issues” at the presidential debates.

Mr. Farah has appeared on over 50 television programs and hundreds of radio programs to discuss legal and political matters, including “Nightline,” “20/20,” “NOW with Bill Moyers,” “CBS Evening News,” “NBC Nightly News,” “CNN Lou Dobbs Tonight,” “Lester Holt Live,” “FOX and Friends,” and “Countdown.” He has also given several talks about the political process and electoral reform issues at colleges and universities.

He lives in New York City with his wife and two children.

### **Notable Cases**

- *Jien et al v. Perdue Farms, Inc. et al* (D.MD): Mr. Farah currently serves as co-lead counsel in this antitrust class action, which alleges that the leading poultry processors in the United States conspired to fix and depress the compensation of processing plant workers.
- *Carlin v. Dairy America, Inc.* (E.D. Cal.): Mr. Farah served as lead counsel in this class action, which accused several dairy processors of misreporting data to the federal government—in violation of RICO—for the purpose of depressing compensation to dairy farmers. Lead counsel secured a \$40 million settlement for the class.
- *In re: OSB Antitrust Litigation* (E.D. Pa.): Mr. Farah served as co-lead counsel in this antitrust action, which alleged that manufacturers of oriented standard board conspired to reduce supply and increase prices. Lead counsel secured a \$120 million settlement for the class of purchasers.
- *In re Hydrogen Peroxide Antitrust Litigation* (E.D. Pa.): Mr. Farah served as co-lead counsel in this antitrust action, which alleged a price-fixing conspiracy by manufacturers of hydrogen peroxide. Lead counsel secured a \$100 million settlement for the class of purchasers.

- *Allen v. Dairy Farmers of America, Inc.* (D. Vt.): Mr. Farah served as co-lead counsel in this antitrust class action, which accused Dairy Farmers of America and Dairy Marketing Services of conspiring to depress raw milk prices. Lead counsel secured a \$80 million settlement for the class of dairy farmers.
- *In re: Nexium Antitrust Litigation* (D. Ma.): Mr. Farah served as co-lead counsel in this pay-for-delay lawsuit alleging that AstraZeneca PLC, the brand manufacturer of the drug Nexium, paid rival manufacturers to substantially delay the introduction of generic versions of the drug.
- *In re: Publication Paper Antitrust Litigation* (D. Ct.): Mr. Farah served as co-lead counsel in this antitrust class action, which alleged that the two largest manufacturers of publication paper had fixed prices. Plaintiffs certified a class and defeated summary judgment, and the case was settled on the eve of trial.
- *Moehrl v. National Association of Realtors, et al.* (N.D. Ill): Mr. Farah is currently counsel in this antitrust class action, which alleges that the National Association of Realtors and the four largest real estate brokerages conspired to inflate the commissions charged to sellers of homes.
- *Burrell et. al. v. Lackawanna County et. al* (M.D. Pa): Mr. Farah is currently counsel in this class action, which alleges that civilly detained debtors were forced to work at a private recycling center, in violation of RICO and minimum wage laws.
- *Provost v. First Gauranty Bank* (E.D. La): Mr. Farah serves as counsel in this lawsuit, which alleges that a bank made fraudulent misrepresentations to the United States Department of Agriculture, in violation of RICO, in order to reduce loan payments to an African-American sugarcane farmer.
- *Belle et al v. The City of New York* (S.D. NY): Mr. Farah currently serves as counsel in this class action, which alleges that the New York City Police Department engages in the unconstitutional practice of detaining people to conduct record searches when no reasonable suspicion exists to do so.
- *CREW, et al. v. Trump* (S.D.N.Y.): Mr. Farah serves as counsel in this lawsuit against President Trump for violating the Emoluments Clause of the Constitution by accepting payments from foreign and domestic governments.

# REBECCA CHANG

## ASSOCIATE

New York, NY  
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**Rebecca Chang** is an Associate Attorney at Handley Farah & Anderson, where she represents workers, consumers and vulnerable populations who have been harmed by corporate misconduct and government abuse.

Ms. Chang litigates class actions around the country involving antitrust violations, consumer fraud, and civil rights violations. She also litigates the individual claims of whistleblowers who disclose fraudulent activity.

As an antitrust lawyer, Ms. Chang is currently counsel in several major antitrust actions, including *Jien et al v. Perdue Farms, Inc. et al*, which alleges that poultry processors conspired to depress the compensation of processing plant workers, and *Moehrl v. National Association of Realtors, et al.*, which alleges that the National Association of Realtors and four largest real estate brokerages conspired to inflate commissions charged to sellers of homes.

As a lawyer for consumers, Ms. Chang is counsel in multiple nationwide class actions alleging that companies made material misrepresentations about their products, breached their warranties, and/or sold defective products. Those cases involve some of the most widely used consumer products in the country, including Ford-F150 trucks, Apple iPhones, Volkswagen vehicles, Samsung smartwatches, and Jeep vehicles.

Ms. Chang also has substantial experience representing whistleblowers under the False Claims Act and SEC's whistleblower program. She has litigated whistleblower claims involving Medicare fraud, private equity fraud, accounting schemes, misleading financial product sales, and violations of the Stark anti-kickback laws.

Ms. Chang obtained her undergraduate degree from Yale University and her law degree from Harvard Law School, where she was an editor-in-chief of the Harvard Civil Rights-Civil Liberties Law Review and a Dean's Scholar in Corporations, Property and Taxation. Ms. Chang was also an Honors Program Intern in the Office of General Counsel at the SEC in Washington, DC, and a Ford Foundation Public Interest Fellow at the National Consumer Law Center.

Prior to Harvard Law, Ms. Chang worked in Hong Kong, helping oversee a multi-million-dollar portfolio of philanthropic grants and social enterprise investments. She also worked as a program manager in an economic policy research group.

Ms. Chang is fluent in Mandarin Chinese, and admitted to the bar in New York and Washington, DC.

### EDUCATION

- Harvard Law School, J.D., cum laude, 2016
- Yale University, B.A., cum laude, 2008

### AWARDS

- Ford Foundation Fellowship
- Heyman Fellowship

### ADMISSIONS

- New York
- District of Columbia
- U.S. District Court for the Northern District of New York

## Notable Cases

- *Jien et al v. Perdue Farms, Inc. et al* (D.MD): Ms. Chang currently serves as co-lead counsel in this antitrust class action, which alleges that the leading poultry processors in the United States conspired to fix and depress the compensation of processing plant workers.
- *Moehrl v. National Association of Realtors, et al.* (N.D. Ill): Ms. Chang is currently counsel in this antitrust class action, which alleges that the National Association of Realtors and the four largest real estate brokerages conspired to inflate the commissions charged to sellers of homes.
- *Orshan v. Apple Inc.* (N.D. Ca): Ms. Chang is counsel in this consumer class action, which alleges that certain Apple devices, including iPads and iPhones with 16 GB of memory, possess materially less storage than promised.
- *Carter v. Ford Motor Company* (S.D. Fla): Ms. Chang is counsel in this consumer class action, which alleges that certain Ford F-150 vehicles suffer from a defect that warps the dashboard.
- *Clemmons et. al. v. Samsung Electronics America, Inc* (D. N.J.): Ms. Chang is counsel in this consumer class action, which alleges the Samsung Gear S Smartwatch does not live up to Samsung's assertions concerning battery life.
- *Dickinson v. Volkswagen Group of America, Inc.* (N.D. N.Y): Ms. Chang is counsel in this consumer class action, which alleges that certain Volkswagen vehicles suffer from a defect that causes them to abruptly stop.
- *Shuman v. SquareTrade* (N.D. Cal.): Ms. Chang is counsel in this consumer class action, which alleges that SquareTrade systematically failed to pay consumers their entitled reimbursements under their Protection Plans.
- *Flores v. FCA US, LLC* (E.D. Mich.): Ms. Chang is counsel in this consumer class action, which alleges that 2015-2017 Jeep Renegade and Ram ProMaster City vehicles were falsely advertised and possess defective cooling fans.
- *Wyse v. Gerard Roof Products, LLC* (N.D. Fla.): Ms. Chang is counsel in this consumer class action, which alleges that stone-coated metal roofing sold by Gerard Roof Products, LLC was falsely advertised and suffers from a significant defect.
- *Belle et al v. The City of New York* (S.D. NY): Ms. Chang currently serves as counsel in this class action, which alleges that the New York City Police Department engages in the unconstitutional practice of detaining people to conduct record searches when no reasonable suspicion exists to do so.



# RACHEL NADAS

## ASSOCIATE

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**Rachel Nadas** is an Associate Attorney at Handley Farah & Anderson, where she represents a variety of clients harmed by corporate misconduct and government abuse. She litigates both individual and class action cases involving wage theft, exploited foreign labor, antitrust violations, consumer fraud, housing discrimination, employment discrimination and other civil rights violations.

Prior to joining HFA, Ms. Nadas was a Staff Attorney in the Economic Justice and Immigrant Advocacy programs at the Legal Aid Justice Center in Virginia. While at the Legal Aid Justice Center, Ms. Nadas developed and litigated claims involving violations of the Fair Debt Collection Practices Act and the civil rights of immigrants. She also represented low-income individuals sued by debt buyers, medical providers, and banks as well as immigrants in bond and removal proceedings. Prior to joining Legal Aid Justice Center Ms. Nadas clerked for the Honorable Frank Montalvo in the United States District Court for the Western District of Texas.

### EDUCATION

- American University Washington College of Law, J.D., magna cum laude, 2015
- Brandeis University, B.A., magna cum laude, 2009

### CLERKSHIP

- Judge Frank Montalvo in U.S. District Court for Western District of Texas

### PUBLICATIONS

- "Damaged Bodies, Damaged Lives: Immigrant Worker Injuries as Dignity Takings," 92 CHICAGO-KENT L. REV. 1155 (2017) (with Jayesh Rathod)
- "Justice for Workplace Crimes: An Immigration Law Remedy," 19 HARV. LATINO L. REV. 137 (2016)

### ADMISSIONS

- Virginia

Ms. Nadas has had a longstanding commitment to worker and immigrant rights. Prior to law school, she worked at the D.C. Employment Justice Center and the Legal Aid Society of D.C. During law school, she interned for the Southern Poverty Law Center's Immigrant Justice Project and the East Bay Community Law Center.

Ms. Nadas is the author of *Damaged Bodies, Damaged Lives: Immigrant Worker Injuries as Dignity Takings*, 92 Chicago-Kent L. Rev. 1155 (2017) (with Jayesh Rathod) and *Justice for Workplace Crimes: An Immigration Law Remedy*, 19 Harv. Latino L. Rev. 137 (2016).

Ms. Nadas received her B.A., magna cum laude, from Brandeis University. She attended law school at American University Washington College of Law, where she was a Public Interest/Public Service Scholar and graduated Order of the Coif, magna cum laude. Upon graduation from law school, Ms. Nadas was awarded the Dean's Award for Professional Responsibility for her clinical work and the Washington College of Law Alumni Award for her contributions to student activities and the progress of the law school.

Ms. Nadas lives in Washington, D.C. Outside of work she enjoys long distance running, visiting national parks, and baking. Ms. Nadas speaks Spanish.

Ms. Nadas is admitted to practice only in Virginia. She is not yet admitted in the District of Columbia and is practicing under the supervision of a member of the D.C. Bar.

## Notable Cases

- *Burrell et. al. v. Lackawanna County et. al* (M.D. Pa): A pending collective and class action alleging that civilly-detained debtors were forced to work at a private recycling center, in violation of RICO and both federal and Pennsylvania minimum wage laws.
- *Jien et al v. Perdue Farms, Inc. et al* (D.MD): An antitrust class action alleging that the leading poultry processors in the United States conspired to fix and depress the compensation of processing plant workers in violation of the Sherman Act.
- *Martin v. Apartment Investment Management Corporation et. al* (D.C. Super. Ct.): A class action alleging unlawful source of income discrimination against Section 8 voucher holders.
- *Opiotennione v. Facebook* (N.D. Cal): A class action alleging that Facebook unlawfully discriminated against women and older people in disseminating advertising for financial services products.
- *Housing Rights Initiative et. al. v. Bozutto et. al.* (D.M.D): A class action alleging that several property management companies unlawfully discriminated against older people in their advertisements to prospective tenants on Facebook.
- *Provost v. First Guaranty Bank* (E.D.LA): A case alleging that a bank made fraudulent misrepresentations to the United States Department of Agriculture, in violation of RICO, in order to reduce loan payments to an African-American sugarcane farmer.



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY  
LEXINGTON DIVISION

HANNA ALBINA and AUSTIN WILLARD,  
individually and on behalf of others similarly  
situated,

Plaintiffs,

vs.

THE ALIERA COMPANIES, INC.,  
TRINITY HEALTHSHARE, INC., and  
ONESHARE HEALTH, LLC d/b/a UNITY  
HEALTHSHARE, LLC,

Defendants.

Case No.: 5:20-CV-00496-JMH

**ELECTRONICALLY FILED**

**ORDER CERTIFYING CLASS PURSUANT TO  
FEDERAL RULE OF CIVIL PROCEDURE 23**

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The Plaintiffs having filed a Motion to Certify Class as to The Alieria Companies, Inc., the Plaintiffs having submitted memoranda in support of their motion, the Defendant The Alieria Companies, Inc., not being represented by counsel, and the Court having considered the matter herein and otherwise being sufficiently advised, for the reasons discussed below, IT IS NOW THEREFORE ORDERED AND ADJUDGED that Plaintiffs' motion to certify the class is GRANTED. The Court certifies the class as follows:

All persons who, while a Kentucky resident, purchased or were covered by a plan from The Alieria Companies, Inc., and Trinity HealthShare, Inc., that purported to be a "health care sharing ministry."

The Class is certified only against Defendant The Alieria Companies, Inc.

The Court further issues the following Findings of Fact and Conclusions of Law relating to class certification:

### **FINDINGS OF FACT**

1. Plaintiffs and those they seek to represent were sold health care plans which Defendant The Alera Companies, Inc. (“Alera”) is in the business of marketing, selling, and administering health plans, including plans issued by a purported HCSM, Trinity HealthShare, Inc. (now known as Sharity Ministries, Inc.).

2. Alera, acting through its officers, directors, shareholders, or employees, created Trinity Healthshare, Inc. (“Trinity”). Trinity issued health care plans that purported to be an authorized health care sharing ministry (“HCSM”) and thus exempt from state and federal insurance codes.

3. To qualify as an HCSM, federal law requires the entity to have “been in existence at all times since December 31, 1999,” and that the medical expenses of its members must have been “shared continuously and without interruption since at least December 31, 1999.” 26 U.S.C. § 5000A(d)(2)(B)(ii). Plaintiffs allege that Alera created Trinity on June 27, 2018 and is thus ineligible to qualify as an authorized HCSM under federal law.

4. Kentucky defines insurance as “a contract whereby one undertakes to pay or indemnify another as to loss from certain specified contingencies or perils called ‘risks’ or to pay or grant a specified amount or determinable benefit or annuity in connection with ascertainable risk contingencies, or to act as surety.” KRS 304.1-303. Plaintiffs allege that the Trinity plans marketed, sold, and administered by Alera qualified as insurance under Kentucky law. Plaintiffs further allege that said plans do not qualify as a “religious organization” that is exempted from the provisions of the Kentucky Insurance Code pursuant to KRS 304.1-120(7). If Plaintiffs

allegations are true, the health plans sold by Alieria and Trinity would be subject to the provisions of the Kentucky Insurance Code.

5. The above, standing alone, constitute a common legal issue that predominates over any individual questions in this case and is best suited for resolution on a class-wide basis. Therefore, the Court need not decide at this stage which other issues in the case also may be resolved on a class-wide basis.

6. According to the uncontroverted evidence provided by Trinity's chief restructuring officer, Alieria sold health care plans to 378 unique Kentucky households since 2018.

7. Alieria is in default in this action because it is a corporation that is not represented by counsel and a corporation may not appear *pro se* in the federal courts. The Court previously allowed Alieria's former counsel to withdraw and allowed Alieria 30 days to obtain new counsel. That time has elapsed and no other attorney has entered an appearance for Alieria.

8. Alieria has begun liquidation procedures under Georgia law, Ga. Code. Ann. §§ 18-2-40 *et seq.*, by recording a deed of assignment for the benefit of creditors and has assigned its remaining assets and debts to Asset Recovery Associates Alieria, LLC, with a claims-barred date of January 11, 2022, which will allow Alieria to disperse its remaining assets outside the protections afforded to creditors by the United States Bankruptcy Code.

### **CONCLUSIONS OF LAW**

The Court may certify a class against a party that is in default as long as a default judgment has not yet been entered against that party. *Skeway v. China Nat. Gas, Inc.*, 304 F.R.D. 467, 472 (D. Del. 2014) ("where a defendant failed to appear, an entry of default by the clerk of

the court has not prevented district courts from considering whether to certify a class prior to the entry of a default judgment against a defendant”).

The Court concludes that class certification against The Alera Companies, Inc., is appropriate in this case for the following reasons.

#### **A. Class Certification Standard**

The proposed class defined above should be certified because all requirements of Federal Rule of Civil Procedure 23 are satisfied, including those of FRCP 23(a) and FRCP 23(b)(3).

#### **B. FRCP 23(a) Requirements**

Plaintiffs meet all four requirements of FRCP 23(a)—numerosity, commonality, typicality, and adequacy of representation.

##### **1. Numerosity**

Plaintiffs have presented uncontroverted evidence that Alera sold Trinity contracts to 378 unique households in Kentucky. Plaintiffs’ claims cover all purchasers of the contracts as well as any other persons covered under the contracts. It would be unwieldy and not in the interest of judicial efficiency if the Court were required to litigate at least 378 separate claims arising from the same subject matter. Therefore, the Court finds that Plaintiffs’ proposed class is sufficiently numerous to satisfy FRCP 23(a)(1).

##### **2. Commonality**

Federal Rule of Civil Procedure 23(a)(2) requires that Plaintiffs show that there are common questions of law or fact common to the class. The overarching contention asserted by Plaintiffs in this case is that the health plans marketed, sold, and administered by Alera and Trinity were not authorized HCSM plans and were actually health care insurance plans. Other common questions include (1) whether Kentucky insurance laws and regulations forbid the

creation, marketing, sale, or administration of health care insurance without authorization or other legal exception; and (2) whether Alieria failed to obtain proper authorization for the products it sold to Kentucky customers.

Each of these questions is a common question of the class members, and more importantly, is subject to common answers. The factual and legal issues presented by the class members are common questions of law and fact capable of class-wide resolution. Therefore, this Court finds that the class members' claims are sufficiently common per FRCP 23(a)(2).

### **3. Typicality**

The typicality prerequisite requires Plaintiffs to demonstrate that the claims and defenses of the representative plaintiffs are typical of the claims and defenses of all members of the proposed class.

Here, the type of harm suffered by Plaintiffs is the same harm that has been suffered by the entire class. Each of the Plaintiffs and putative class members was sold an illegal health insurance plan designed, marketed, sold, and administered by Alieria, in violation of federal and Kentucky insurance laws, under the guise of an HCSM. Because the claims being pursued are nearly identical among Plaintiffs and putative class members, the damages sought by each of them is nearly identical, too. Therefore, the Court finds that the typicality prong of FRCP 23(a)(3) is satisfied.

### **4. Adequacy of Representation**

To satisfy the requirements of FRCP 23(a)(4), Plaintiffs must demonstrate that that they have common interests with unnamed members of the class and that they will prosecute the interests of the class by qualified counsel.

All Plaintiffs and putative class members are similarly situated. All had purchased or were covered by an allegedly illegal health care insurance plan that was designed, marketed, sold, and administered by Alieria under the guise of an authorized HCSM. There are no apparent conflicts between the class representatives and any class member in this case. Plaintiffs are willing and able to actively participate in this litigation to protect the interests of the class members and have retained attorneys competent and experienced in class actions and other complex litigation.

Therefore, the Court finds that Plaintiffs are adequate representatives of the class, and their counsel will be adequate class counsel, satisfying the requirements of FRCP 23(a)(4).

### **C. FRCP 23(b)(3) Requirements**

In addition to the requirements identified in FRCP 23(a), Plaintiffs seeking certification of a class must also establish, pursuant to FRCP 23(b)(3) the following: (1) that questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and (2) that a class action is superior to other available methods of adjudicating the controversy. Both are satisfied.

#### **1. Common Questions Predominate**

The Court finds that Plaintiffs have satisfied the requirement of FRCP 23(b)(3) that questions of law or fact common to the class predominate over questions affecting only individual class members. The primary contention in this case is that Alieria is liable for marketing, selling, and administering health care insurance plans under the guise of an authorized HCSM that did not provide the coverage the plans promised and were subject to Kentucky and federal insurance laws and regulations. This common question deals exclusively with Alieria's conduct and not that of any individual class member. All class members share the

same contention against Alieria. Furthermore, the claims are of a contractual nature and the damages alleged by Plaintiffs constitute either (a) the return of payments made to Alieria under the contract of payment, or (b) claims submitted to Alieria that should have been paid but were not. Those matters of individualized damages can easily be ascertained by reference to the books of Alieria or Trinity. The books of Trinity appear to be in possession of a restructuring officer appointed by the United States Bankruptcy Court for the District of Delaware and are readily available to the Court.

The forgoing findings indicate that common legal issues predominate over any individualized issues of damages, and establishes that the predominance requirement is satisfied.

## **2. Superiority**

When considering whether a class action is the superior method of adjudicating the claims presented, the Court should consider the four non-exhaustive factors identified in FRCP 23(b)(3)(A)-(D), all of which favor maintaining the instant litigation as a class action:

- (A) the class members' interests in individually controlling the prosecution or defense of separate actions;
- (B) the extent and nature of any litigation concerning the controversy already begun by or against class members;
- (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and
- (D) the likely difficulties in managing a class action.

Given the significant cost of pursuing these claims individually as compared to the possible recovery by any individual class member, class litigation is superior because few individuals possess a rational interest in pursuing their claims in separate actions. Furthermore, in this case Alieria has already entered liquidation proceedings under Georgia law, and the claims-barred date is January 11, 2022. There is little practical chance at this point that

individual class members could file their own suit and reduce their claims to judgment in time to file claims against Alera before the claims-barred date, but there is a realistic possibility that the class representatives will be able to do so on behalf of the class.

Furthermore, while other purported class actions have been filed in other jurisdictions, the determinations of law and the remedies sought are specific to the respective states' insurance laws. The Court is aware of no existing litigation by any putative class member, or any other proposed class action in Kentucky, seeking the same relief as Plaintiffs here.

This Court is the appropriate forum because the health care plans were marketed, sold, and administered to class members living in Kentucky. Both Plaintiffs reside in the Eastern District of Kentucky.

There will be no undue difficulty in managing the litigation as a class action, especially when compared to the complications of managing more than 378 separate actions by individual persons aggrieved by the alleged conduct of Alera.

Therefore, the Court finds that the proposed class meets the requirements of FRCP 23(b)(3) because common questions of fact and law predominate and because a class action is the superior method of adjudication. Accordingly, certification of the proposed class is warranted.

### **ORDER**

For the reasons set forth above, the Court finds Plaintiffs have satisfied their requirements under FRCP 23(a) and FRCP 23(b)(3), and, pursuant to FRCP 23(c)(1), the Court hereby GRANTS their motion for class certification for the class against The Alera Companies, Inc., defined as follows:

All persons who, while a Kentucky resident, purchased or were covered by a plan from The Alera Companies, Inc., and Trinity



HealthShare, Inc., that purported to be a “health care sharing ministry.”

The Court further designates Hanna Albina and Austin Willard as Class Representatives, for the reasons set forth above.

The Court further designates Jerome P. Prather, Garmer & Prather, PLLC; James J. Varellas III and D. Todd Varellas, Varellas & Varellas; Richard E. Spoonemore and Eleanor Hamburger, Sirianni Youtz Spoonemore Hamburger PLLC; and William H. Anderson, George Farah, Rebecca P. Chang, and Stephen Pearson, Handley Farah & Anderson, PLLC, as Class Counsel.

IT IS SO ORDERED.