

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

MARTIN SILVERSTEIN,
Plaintiff,

v.

Civil No. 3:23cv684 (DJN)

GENWORTH LIFE INSURANCE COMPANY,
Defendant.

ORDER
(Awarding Attorneys' Fees, Expenses and Service Award)

This matter comes before the Court on Lead Plaintiff Martin Silverstein's ("Plaintiff") Motion for Attorneys' Fees, Costs, and Service Award. (ECF No. 67.) For the reasons stated herein, the Court hereby GRANTS WITH MODIFICATION Plaintiff's Motion.

The Parties to this class action executed a Settlement Agreement and Release. By separate Order, the Court has granted final approval to the Settlement, which created a \$5,100,000 common fund and provided for non-monetary relief for class members that Class Counsel values at roughly \$3,097,438. Class Counsel now moves for an award of attorneys' fees in the amount of \$1,700,00, the reimbursement of expenses in the amount of \$168,992.28, and the payment of a service award in the amount of \$25,000 for the Class Representative — all to be paid from the Settlement Fund.

On January 3, 2025, the undersigned conducted a final approval hearing during which the Court considered the request for attorneys' fees, expenses, and service award. For the reasons stated from the bench and for the reasons set forth below, the Court hereby ORDERS:

1. Class Counsel shall be awarded attorneys' fees in the amount of \$1,275,000, which constitutes one-fourth of the common fund. In rejecting Class Counsel's request for \$1,700,000,

the Court has considered the submitted lodestar amount with fee rates beyond those normally prevailing in the Richmond Division, where this lawsuit was filed. Yet, even accepting these inflated rates, the award of \$1,275,000 constitutes 2.19 times the amount of the lodestar rate. When cross-checked against the percentage of the recovery for the common fund for the class — 25%, the Court finds that the amount of \$1,275,000 to be a more appropriate fee for the work performed by Class Counsel. This fee shall be paid from the Settlement Fund in accordance with the terms of the Settlement.

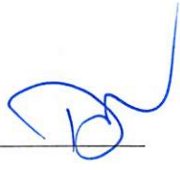
2. Class Counsel shall be reimbursed for litigation expenses in the amount of \$168,992.28, such amounts to be paid from the Settlement Fund in accordance with the terms of the Settlement. Class Counsel’s requested expenses are made up of “those reasonable out-of-pocket expenses incurred by the attorney which are normally charged to a fee-paying client, in the course of providing legal services,” and are therefore appropriately reimbursed. *Spell v. McDaniel*, 852 F.2d 762, 771 (4th Cir. 1988) (internal quotations omitted).

3. The Class Representative shall be awarded a service award in the amount of \$25,000 to be paid from the Settlement Fund in accordance with the terms of the Settlement. This award recognizes the significant efforts of the Class Representative in achieving a benefit for the thousands of Settlement Class Members, and it is consistent with service awards granted by district courts in the Fourth Circuit. *See, e.g., Roldan v. Bland Landscaping Co., Inc.*, 2022 WL 17824035, at *7 (W.D.N.C. Dec. 19, 2022) (\$25,000 service award); *McCurley v. Flowers Foods, Inc.*, WL 6650138, at *8 (D.S.C. Sept. 10, 2018) (\$25,000 service award); *Loudermilk Servs., Inc. v. Marathon Petroleum Co. LLC*, 623 F. Supp. 2d 713, 727 (S.D. W. Va. 2009)

(awarding each of the five class representatives a \$25,000 service award).

Let the Clerk file a copy of this Order electronically and notify all counsel of record.

It is so ORDERED.


_____/s/_____
David J. Novak
United States District Judge

Richmond, Virginia
Dated: January 3, 2025