

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”) IS HEREBY STIPULATED AND AGREED TO by and between Plaintiff Michala Kazda (“Plaintiff” or “Kazda”), on behalf of herself and the proposed Class and Defendant Aetna Life Insurance Company (“Aetna”) (Plaintiff and Aetna are hereinafter referred to as the “Parties”), by and through their respective counsel. The proceeding in the United States District Court for the Northern District of California, *Michala Kazda v. Aetna Life Insurance Company*, Case No. 3:19-cv-02512-WHO (“Kazda Action”) and matters raised by and related to the Kazda Action, as described herein, are settled fully and finally and compromised on the terms and conditions set forth in this Settlement Agreement (“Agreement”) and the attached exhibits.

### RECITALS

1. On May 9, 2019, Plaintiff filed the class action Complaint for Recovery of ERISA Plan Benefits; Enforcement and Clarification of Rights; and Breach of Fiduciary Duty in the Kazda Action seeking benefits, clarification of rights, and breach of fiduciary duty under the Employment Retirement Income Security Act of 1974, 29 U.S.C. § 1001, *et seq.* (“ERISA”) against Aetna over its denial of her request for coverage of liposuction surgery to treat lipedema, on behalf of herself and all others similarly situated. A First Amended Complaint was filed on September 26, 2019.
2. Effective August 28, 2020, Aetna published a new version of its Coverage Policy Bulletin 0211, which provides that Aetna considers liposuction to treat lipedema medically necessary when certain criteria are met.
3. On December 7, 2021, Plaintiff filed a motion for class certification.
4. On April 26, 2022, the Court certified the following class: “All persons covered

under ERISA health plans, self-funded or fully insured, that are administered by Aetna and whose claims for liposuction treatment of their lipedema were denied as cosmetic.

The Court also appointed Michala Kazda as Class Representative and Gianelli & Morris as Class Counsel.

5. On January 25, 2023, Plaintiff filed a motion for summary judgment.

6. On March 24, 2023, Aetna filed a motion to decertify the class.

7. On November 6, 2023, the Court denied Plaintiff's motion for summary judgment and Aetna's motion to decertify the class.

8. Plaintiff, through Class Counsel, represents that she has investigated the allegations asserted in the Kazda Action and has closely analyzed the merits of the alleged claims and the alleged damages suffered by the Class; that she has considered the facts, law, and potential defenses regarding the claims alleged against Aetna; that her investigation has been adequate; and that this Settlement is fully informed. Aetna does not contest those representations.

9. After investigation, discovery, and litigation, the Parties have agreed to settle the Kazda Action. The Parties have conducted discussions and arm's-length negotiations with each other regarding the claims asserted in the Litigation.

#### **Aetna's Denials of Wrongdoing and Liability**

10. Aetna denies each and every claim and contention alleged or otherwise made or pursued against it by Plaintiff in the Litigation. Aetna denies all charges of wrongdoing or liability against it arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Litigation.

11. Aetna denies any and all liability and enters into this settlement solely for the purpose of avoiding the burden, expense, risk, and uncertainty of continuing the proceedings.

### **Benefits of the Settlement to the Class**

12. Class Representative and Class Counsel believe that the Settlement provides fair, reasonable, and adequate recovery for the Class based on the claims asserted and the evidence developed and what might be proven by Class Representative and the Class in the Litigation.

13. Class Representative and Class Counsel further recognize and acknowledge the expense and time of prosecuting the Kazda Action through trial and appeal. Class Representative and Class Counsel also have considered the uncertain outcome and the risk of litigation, including the risk that the Class might obtain no relief, especially in a complex action such as this one, as well as the difficulties and delays inherent in any complex litigation.

**THEREFORE**, it is stipulated and agreed by and among the Parties to this Agreement, through their respective attorneys, in consideration of the benefits to the Parties from the Settlement, the adequacy of which is acknowledged by the Parties, and subject to (1) approval of the Court, and (2) the other conditions set forth in this Agreement, that the Released Claims against the Released Parties will be finally and fully compromised, settled, and released.

### **DEFINITIONS**

14. In addition to the definitions set forth elsewhere in this Agreement, the following terms used in this Agreement will have the meanings specified below.

a. “Aetna’s Counsel” means the law firm of Baker Botts LLP, and its partners, associates, paralegals, and employees, and its successors and assigns.

b. “Aetna Plan” refers to ERISA-governed health benefit plans issued or administered by Aetna, including both fully insured and self-insured plans.

c. “Class Counsel” means the law firm of Gianelli & Morris, A Law Corporation, and its shareholders, members, partners, associates, paralegals, and employees, and

its successors and assigns.

d. “Class” means all persons covered under ERISA Health plans, self-funded or fully insured, that are administered by Aetna and whose pre-authorization or post-service claims for liposuction for treatment of their lipedema were denied as cosmetic, experimental or investigational between May 9, 2015 and September 1, 2020.

e. “Class Members” means persons who meet the definition of the Class who are mailed the Notice referenced herein, and who do not properly exclude themselves from the Class under Paragraph 36 below.

f. “Class Representative” means collectively Plaintiff and her successors and assigns.

g. “Effective Date” means the first day following the date all of the following events have occurred:

i. entry of the Preliminary Approval Order;

ii. the deadlines for exercising an option to terminate the settlement, as set forth in Paragraphs 39 and 47, have expired, without any such option having been exercised;

iii. approval by the Court of the Settlement following class notice and a hearing and entry of Judgment; and

iv. Final Approval.

h. “Final Approval” means the expiration of the time for appeal or review of the Judgment or any part of the Judgment, including when any form of further review or appeal has been finally disposed and the time for any further appeal or review has expired. If there are no objections filed by a Class Member, Final Approval will be the date the Court grants final approval of the Settlement.

i. “Final Approval Hearing” means the final hearing held by the Court to approve this Settlement.

j. “Judgment” means the order and final judgment, in the form attached here as Exhibit C, which provides, among other terms, for approval of the Settlement, unless the Parties agree in writing to another form of the order and final judgment.

k. “Lipedema Surgery” means liposuction to treat lipedema.

l. “Notice” means the “Notice of Proposed Settlement of Class Action and Final Approval Hearing” substantially in the form attached as Exhibit A.

m. “Person” means any individual, corporation, partnership, limited liability partnership, limited liability company, association, affiliate, joint stock company, estate, trust, trustee, unincorporated association, entity, government and any political subdivision, or any other type of business or legal entity, any legal representative, and their spouses, heirs, predecessors, successors, representatives, agents, members, managers, or assignees.

n. “Preliminary Approval Order” means the Order Preliminarily Approving Settlement and Providing for Notice that the Class Representatives and Aetna will seek from the Court, substantially in the form attached as Exhibit B.

o. “Affiliated Entities” means (i) any current, former, or future direct or indirect parents, subsidiaries, or affiliates of Defendant; (ii) any employees, agents, representatives, contractors, administrators, officers, or directors of Defendant or their direct or indirect parents, shareholders (all natural persons in the definition of Affiliated Entities are collectively referred to as “Affiliated Individuals”); (iii) any corporations in which any such Affiliated Entity or Affiliated Individual is a shareholder in excess of 5%; (iv) any partnerships or any other unincorporated forms of business, or limited liability companies, in which any Affiliated Entity or Affiliated Individual

owns an interest in excess of 5%; (v) any employee welfare benefits plans (including any self-funded or insured plans) in which any Plaintiff or Settlement Class Member participates or participated; (vi) any fiduciary, record keeper, claims administrator, plan sponsor, or plan administrator of such employee welfare benefits plans; (vii) any trusts of which any Affiliated Entity or Affiliated Individual is a grantor, trustee, or beneficiary; and (viii) any independent review organization that reviewed any claims for benefits or requests for coverage for Lipidemia Surgery for any Class Member. Affiliated Entities also means any corporations, business entities, partnerships or other unincorporated forms of business, or limited liability companies, that are controlled directly or indirectly by Defendant, Affiliated Entities, or Affiliate Individuals, or that are directly or indirectly under “common control” with Defendant, Affiliated Entities, or Affiliated Individuals as that term is defined under ERISA Section 4001(a)(14)(B), 29 U.S.C. § 1301(a)(14)(B).

p. “Released Claims” means any and all actual or potential claims, actions, demands, rights, obligations, liabilities, damages, attorneys’ fees, expenses, costs, and causes of action, whether arising under local, state, or federal law, whether by statute, contract, common law, equity, or otherwise, whether brought in an individual or representative capacity, whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, that occurred prior to or during the Class Periods only, asserted against the Released Parties, that:

(i) are based on the facts alleged in the Complaint or First Amended Complaint, specifically, by reason of or arising out of Aetna’s denial of any request (whether pre-service or post-service) for Lipedema Surgery on the grounds that the procedure is cosmetic, experimental or investigational under ERISA-governed plans, either fully insured or self-insured;

(ii) would be barred by the principles of res judicata or collateral estoppel had the claims asserted in the Complaint or First Amended Complaint been fully litigated and resulted in a final judgment; or

(iii) seek attorneys' fees or costs related to the Kazda Action in addition to the Attorneys' Fees and Costs specified in Paragraphs 24 through 26 below.

Released Claims do not include:

(i) Any reimbursement claims or requests for coverage, as described below, that were initially denied by Aetna after September 1, 2020.

(ii) Any request for reimbursement for a Lipedema Surgery that took place after September 1, 2022.

(iii) Any request for coverage by a former Aetna member, as described below, who has not yet had Lipedema Surgery.

q. "Released Parties" means Aetna and its Affiliated Entities.

r. "Settlement" means the collective settlement terms set forth in the Agreement.

s. "Settlement Administrator" means the entity, with experience handling class action settlements involving Protected Health Information ("PHI") as defined by 45 C.F.R. § 160.103 and applicable state laws, that the Parties agree upon and request be appointed by the Court (1) to disseminate notice of the pendency of the Litigation and the proposed Settlement to the Class; (2) and to determine Reimbursement and Coverage Claims for Class Members as set forth in this Agreement; and (3) to otherwise administer the Settlement as set forth in this Agreement following entry of the Preliminary Approval Order and Final Approval by the Court.

## ENTRY OF JUDGMENT

15. If this Settlement is approved by the Court at or after the Final Approval Hearing, Class Counsel and Aetna's Counsel will request that the Court enter the Judgment substantially in the form attached here as Exhibit C.

## THE SETTLEMENT

16. **Clinical Policy Bulletin Addressing Lipedema Surgery.** Effective August 28, 2020, Aetna revised its clinical policy bulletin 0211 on Abdominoplasty, Suction Lipectomy and Ventral Hernia Repair to state that Lipedema Surgery is considered medically necessary when certain criteria are met, as set forth in the New Clinical Policy Bulletin attached as Exhibit D. The New Clinical Policy Bulletin will remain in effect in substantially its present form and publicly posted for two years after the date class notice is sent, but the content of the New Clinical Policy Bulletin may be updated or revised based upon a good faith review of any new scientific evidence as part of Aetna's standard review process, which considers generally accepted standards of medical practice that are based on credible scientific evidence published in peer-reviewed medical literature generally recognized by the relevant medical community, national physician specialty society recommendations, and the views of medical practitioners practicing in relevant clinical areas, and any other relevant factors (such as FDA approval status).

17. **Reimbursement Claims.** Class Members who paid out of pocket for Lipedema Surgery for surgeries that took place after and as a result of the member's request for Lipedema Surgery that Aetna denied on or before September 1, 2020 (and while the member had coverage under an Aetna plan), and which surgery occurred on or before September 1, 2022, may seek reimbursement under this settlement, to the extent that the Class Member's out-of-pocket payments have not been paid or reimbursed by other health plans, insurers, Medicare, or other

reimbursement sources for which the Class Members owe no reimbursement obligation. If a Class Member's Lipedema Surgery was covered by another health plan, insurer, or Medicare, the Class Member's copay or coinsurance obligation under that separate coverage will not qualify as a reimbursable out-of-pocket expense. Class Member Reimbursement Claims are subject to an aggregate cap of \$650,000.00 ("Aggregate Cap").

The Settlement Administrator will review each Reimbursement Claim and determine whether each Class Member seeking reimbursement is entitled to reimbursement, and the amount of reimbursement. To be entitled to reimbursement, the Class Member must submit:

a. the claim form substantially in the form of Exhibit E, which shall include an attestation that the out-of-pocket payments have not been paid or reimbursed by other health plans, insurers, Medicare, or other reimbursement sources for which the Class Member owes no reimbursement obligation.

b. documentation sufficient to show that the Class Member had a Lipedema Surgery (such as an operative report, other clinical records, or sufficiently detailed payment records) prior to September 1, 2022,

c. proof of payment (checks, wire transfer receipts, invoices reflecting actual payment, or other reasonable proof substantiating payment) showing net out-of-pocket payments to medical providers for the surgery, and

d. a statement of the specific amount of unreimbursed out-of-pocket costs for which the Class Member seeks reimbursement.

e. If due to the passage of time, certain medical records are unavailable for submission of a reimbursement claim under this Paragraph 17, the Settlement Administrator will make a good faith decision based on all reasonably available documentation provided by the Class

Member. The information described above in Paragraphs 17.c and 17.d will be required in all instances.

Class Members who are no longer covered by an Aetna plan will be treated the same as current Aetna members so long as their Lipedema Surgery denial by Aetna occurred on or before September 1, 2020 (and while the member had coverage under an Aetna plan), and their surgery occurred after and as a result of such denial and on or before September 1, 2022. The amount payable to a Class Member may be reduced to account for the cost-share the member would have paid under the member's plan with Aetna, in the year they were denied. No class member shall be reimbursed more than they paid out-of-pocket, and Aetna's total payment to all class members shall not exceed \$650,000. The \$650,000 amount is a cap not a common fund.

If, at the completion of the claim process (including any reconsideration under paragraph 20), the total funds payable under all Reimbursement Claims is greater than the Aggregate Cap, then each Class Member that satisfies the Reimbursement Claim requirements in this paragraph 17 will receive payment for a percentage of unreimbursed out-of-pocket payments up to the Individual Cap. Each such Class Member's payment will be reduced by an equal percentage sufficient to reduce the sum of all Reimbursement Claims to the Aggregate Cap, rounded to the nearest cent.

Each Class Member seeking reimbursement under this Agreement must submit a claim form within ninety (90) days of Final Approval. The Settlement Administrator will make and communicate a decision about whether any claim for reimbursement will be reimbursed within ninety (90) days of receiving such a claim. The Settlement Administrator will distribute each Class Member's settlement check within sixty (60) days of the completion of the reconsideration process set forth in Paragraph 20 below.

After the Reimbursement Claim process is complete and the total amounts payable to Class Members under this paragraph is known, Aetna will within 30 days provide the necessary funding for the Settlement Checks to the Settlement Administrator so that the Settlement Administrator can timely issue and distribute the Settlement Checks in accordance with this Agreement.

Each Class Member will have one hundred and eighty (180) days from the date appearing on the face of the check issued by the Settlement Administrator to negotiate the payment for that Class Member's Reimbursement Claim, after which any uncashed Settlement Check will be distributed to the unclaimed property fund of the respective state where the Class Member resides (last known address). No Settlement Checks will revert back to Aetna.

Aetna will play no role in, and will have no liability for, the Settlement Administrator's determinations as to the sufficiency of each Reimbursement Claim or the amounts payable under each Reimbursement Claim.

Any reimbursement request that is denied, in whole or in part, will be subject to the reconsideration process in paragraph 20.

Class Members who had Lipedema Surgery after September 1, 2022, will not be entitled to reimbursement for that Lipedema Surgery under the terms of the Agreement, but will not release any claims against Aetna.

18. **New Requests for Coverage for Current Members of Aetna.** Class Members who are covered under an Aetna Plan as of the Effective Date and have not yet had Lipedema Surgery can submit new coverage requests for Lipedema Surgery pursuant to the terms of their current Aetna Plan and the New Clinical Policy Bulletin. Aetna will review those coverage requests for Lipedema Surgery in accordance with the New Clinical Policy Bulletin and the terms of the Class Members' existing Aetna Plans. Any post-service reimbursement for Lipedema

Surgery will be made in accordance with Class Members' existing Aetna Plans. The benefit determinations will be made within the timeframes set forth in the member's Aetna Plan in effect at the time. Any new coverage request that is denied, in whole or in part, will be subject to the appeal or review process in the Class Member's current Aetna Plan, and ERISA law and regulations.

19. **Statute of Limitations Tolling.** Class Members who do not have health coverage insured or administered by Aetna as of the filing of the preliminary approval motion, and who have not had Lipedema Surgery, are not eligible to submit new requests for coverage under paragraph under paragraph 18. But these Class Members release no claims, and any statute of limitations that may apply to their individual ERISA claims relating to Aetna's adjudication of their coverage requests, if any, is tolled from May 9, 2019 (the date Plaintiff filed the Kazda Action) to the Effective Date.

20. **Reconsideration of Reimbursement and New Coverage Claims.** If the Settlement Administrator denies a Reimbursement Claim on the basis that the Class Member has not supplied a required piece of documentation, *e.g.*, a medical bill or medical record, the Settlement Administrator will advise the Class Member of the deficiency and will give the Class Member sixty (60) days to cure it. Class Members who receive an unfavorable decision in whole or in part on a Reimbursement or New Coverage decision by the Settlement Administrator may seek reconsideration of the decision. The Class Member will have sixty (60) days to notify the Settlement Administrator of their intent to seek reconsideration in writing by letter or email, or by telephone. The Settlement Administrator will promptly notify both Class Counsel and Aetna's Counsel of any request for reconsideration. If a Class Member seeks reconsideration, Class Counsel and Aetna's Counsel will meet and confer within thirty (30) days of receiving the request

and attempt to resolve it. If the issue remains unresolved, Class Counsel and Aetna's Counsel will, within thirty (30) days of the unsuccessful meet and confer, jointly present the matter to the Court for a final resolution in a joint statement no longer than 5 pages per side, excluding any exhibits. The Court's decision on the Class Member's request will be final. Neither the Class Member nor Aetna may appeal or contest the Court's resolution.

### **RELEASE OF CLAIMS**

21. Plaintiff and each Class Member, on behalf of themselves and their current, former and future spouses, heirs, beneficiaries, executors, administrators, successors, predecessors, representatives, attorneys, agents and assigns, hereby fully, finally, and forever compromises, settles, releases, resolves, relinquishes, waives, and discharges any and all Released Claims against the Released Parties. The obligations incurred under this Settlement will be the full and final disposition of all Released Claims against the Released Parties.

22. Effective immediately, Plaintiff and each Class Member, on behalf of themselves and their current, former and future spouses, heirs, beneficiaries, executors, administrators, successors, predecessors, representatives, attorneys, agents and assigns, agree and covenant not to sue or prosecute, or institute or cooperate in the institution, commencement, filing, or prosecution of any suit or proceeding in any forum based upon any Released Claim(s) against any Released Party, except that nothing in this Agreement shall be deemed to limit Plaintiff's or any Class Member's rights to enforce this Agreement. Plaintiff and each Class Member expressly agree that this release may be raised as a complete defense to, and will preclude any action or proceeding relating to, the Released Claims.

23. The Class Representatives represent and warrant that they are the sole and exclusive owners of the claims they are releasing under this Agreement. The Class Representatives further

acknowledge that they have not assigned, pledged, or in any manner whatsoever sold, transferred, assigned, or encumbered any right, title, interest, or claim arising out of or in any way whatsoever pertaining to the Litigation, including, without limitation, any claim for benefits, proceeds, or value under the Litigation.

#### **ATTORNEYS' FEES AND COSTS**

24. Class Counsel will apply to the Court for an award of total attorneys' fees in an amount not to exceed \$675,000.00 and litigation costs in an amount not to exceed \$46,162.84, which includes any fees and costs incurred through Final Approval. Any award of attorneys' fees and costs shall be paid separate and apart from the settlement consideration awarded to the Class.

25. Aetna and the other Released Parties will not oppose any application for payment of attorneys' fees in an amount up to \$675,000.00 or reimbursement of litigation costs in an amount up to \$46,162.84. Nothing in this Settlement prevents Aetna from opposing any requests for fees or costs above these amounts on any grounds.

26. The attorneys' fees and litigation costs approved by the Court will be paid by wire transfer to Class Counsel within thirty (30) days of the Final Approval and Aetna's receipt of an IRS W-9 tax form in the name of the payees.

#### **INCENTIVE AWARD FOR CLASS REPRESENTATIVES**

27. Class Counsel will seek Court approval of an incentive award in the amount of \$17,000 for Plaintiff Michala Kazda, based on the time and effort she devoted to the Litigation. Aetna and the other Released Parties will not oppose any application for payment of any incentive award to the Class Representatives, up to the amounts stated in this paragraph. Nothing in this Settlement prevents Aetna from opposing any requests for incentive awards above these amounts on any grounds. The incentive award approved by the Court will be paid to Plaintiff

within thirty (30) days of the Final Approval and Aetna's receipt of an IRS W-9 tax form in the name of the payee.

#### **NOTICE OF PENDENCY AND PROPOSED SETTLEMENT**

28. No later than thirty-five (35) days after the entry of the Preliminary Approval Order, the Settlement Administrator will mail notices of the proposed Settlement to the Class Members. Aetna will provide to the Settlement Administrator a list of the last known addresses of each Class Member available from its records no later than twenty (20) days after the entry of the Preliminary Approval Order. The Preliminary Approval Order will, among other things, authorize Aetna and its counsel to disclose PHI from its records necessary for settlement administration to the Settlement Administrator in order to effectuate notice and implement the Settlement.

29. Before Aetna's disclosure of Class Member names and last known addresses to the Settlement Administrator, the Settlement Administrator will sign an acknowledgment and agreement to be bound by the November 1, 2019, Stipulated Protective Order entered in the Kazda Action, and will enter into a Business Associate Agreement with Aetna under 45 C.F.R. Part 164. The Settlement Administrator will keep PHI of Class Members confidential from all persons, except as authorized in writing by a Class Member or as ordered by the Court. The Settlement Administrator will maintain a unique member identifier system so that it can communicate with Class Members, Class Counsel, Aetna, and Aetna's counsel to the extent needed to facilitate settlement administration. Any permitted disclosures of Class Member information under this section or any other section of the Settlement will be limited to the minimum necessary to satisfy the requirements of the Settlement. Within sixty (60) days after completion of all duties under this Settlement, the Settlement Administrator will destroy all identifiable Class Member information

and any PHI related to the Settlement and will provide a written certification of same to Class Counsel and Aetna's counsel.

30. The Settlement Administrator will send notice using the Court-approved Notice, sent by first-class mail (the "Mailed Notice").

31. The Settlement Administrator will check and update the mailing list using the National Change of Address database maintained by the United States Postal Service before mailing the Mailed Notice.

32. The Settlement Administrator will perform a skip-trace search for persons whose notices are returned as undeliverable and will re-send returned mail to new addresses found for those persons.

33. Each Class Member will be deemed to have submitted to the jurisdiction of the Court regarding his or her participation in the Settlement.

34. Aetna will pay the cost of administering the Settlement, including the cost of providing notice to Class Members and to state and federal officials as required by 28 U.S.C. Section 1715.

35. All controversies and proceedings regarding the administration of the Settlement and distribution of attorneys' fees and costs to Class Counsel are subject to the jurisdiction of the Court.

#### **REQUESTS FOR EXCLUSION FROM THE CLASS**

36. Each Class Member will be bound by all determinations and judgments in the Litigation concerning the Settlement unless the member sends to the Settlement Administrator, by first-class mail, a written request for exclusion from the Class. To be valid, the request for exclusion must: (1) be postmarked no later than sixty (60) days from the date the Class Notice was sent to the

Class; and (2) state all of the following: (a) the name, address, and telephone number of the person requesting exclusion; and (b) a clear and unequivocal statement that the person wishes to be excluded from the Class.

37. All persons who submit valid and timely requests for exclusion in the manner described in Paragraph 36 will have no rights under this Agreement, will not share in the Settlement, and will not be bound by the Agreement or the Judgment.

38. The Settlement Administrator will scan and email copies of each request for exclusion in PDF format (or any other agreed format) to Aetna's Counsel and to Class Counsel not more than five (5) business days after the Settlement Administrator receives such a request. As part of the motion papers in support of Final Approval of the Settlement, the Settlement Administrator or Class Counsel will provide a list of all the persons who have requested exclusion from the Class.

39. If more than five (5) Class Members submit a timely request for exclusion, Aetna may, in its sole discretion, nullify this Agreement. If Aetna exercises this option, the Settlement and this Agreement will become null and void and will have no further force and effect, and the terms of Paragraphs 48 and 49 will apply.

### **OBJECTIONS TO SETTLEMENT**

40. Any Class Member who wishes to object to the fairness, reasonableness, or adequacy of this Agreement or the proposed Settlement must deliver to Class Counsel and to Aetna's Counsel, and file with the Court, no later than sixty (60) days from the date the Class Notice was sent to the Class, or as the Court otherwise may direct, a written statement of the objection(s), as well as the specific reason(s), if any, for each objection, including any legal support the Class Member wishes to bring to the Court's attention and any evidence or other information the Class Member wishes to introduce in support of the objection(s). Class Members may object

either on their own or through an attorney retained at their own expense. The written objection must also contain the Class Member's name, address, signature, and telephone number.

41. Any Class Member who files and serves a written objection, as described in Paragraph 40, may appear at the Final Approval Hearing, either in person or through counsel retained at the Class Member's expense, to object to the fairness, reasonableness, or adequacy of this Agreement or the proposed Settlement. Class Members or their attorneys who intend to make an appearance at the Final Approval Hearing must deliver a notice of intention to appear to Class Counsel and to Aetna's Counsel and file that notice with the Court, no later than forty-five (45) calendar days before the Final Approval Hearing, or as the Court may otherwise direct.

42. Any Class Member who fails to comply with the provisions of this Section will waive and forfeit any and all rights he or she may have to appear separately and object and will be bound by all the terms of this Agreement and by all proceedings, orders, and judgments, including, but not limited to, the Release in the Litigation.

43. Any Class Member who objects to the Settlement will be entitled to all of the benefits of the Settlement if it is approved, as long as the objecting Class Member complies with all requirements of this Agreement.

#### **CLASS ACTION FAIRNESS NOTICE**

44. Aetna will comply with 28 U.S.C. Section 1715 by serving or arranging to serve, not later than ten (10) days after the proposed settlement of a class action is filed in court, notice of the proposed settlement upon the appropriate state officials of each state in which a class member resides and the appropriate federal official.

#### **PRELIMINARY APPROVAL ORDER**

45. Class Counsel will promptly file the Agreement and its exhibits with the Court and apply for entry of the Preliminary Approval Order substantially in the form attached here as Exhibit B.

**SETTLEMENT PROCESS SCHEDULE**

46. The dates for the events contemplated by this Settlement Agreement are as follows:

<b>Event</b>	<b>Event Date</b>
Aetna provides the notice required under 28 U.S.C. Section 1715.	Within 10 days after Plaintiff files a motion for preliminary approval
Aetna provides a list of the last known addresses of each person in the Class available from its records to the Settlement Administrator	20 days after the date of the Preliminary Approval Order
The Administrator mails the notice of the proposed Settlement	35 days after the date of the Preliminary Approval Order
Class Counsel files a motion for an award of attorneys' fees and costs	35 days after the date of the Preliminary Approval Order
Deadline for postmarking of exclusions, objections, and requests to be heard at the Final Approval Hearing	95 days after the date of the Preliminary Approval Order
Class Counsel to file notice specifying those who have objected, together with a declaration of the Settlement Administrator	105 days after the date of the Preliminary Approval Order
Class Counsel to file motion for final approval	28 days prior to the Final Approval Hearing
Final Approval Hearing	To be set by the Court, at least 132 days after the date of the Preliminary Approval Order

**TERMINATION OF THE SETTLEMENT**

47. Either Party will have the option to terminate this Agreement on ten (10) days' notice to the other if any of the following occurs:

- a. The Court enters any order that is materially inconsistent with the terms of this Agreement;

- b. The Court does not enter the Preliminary Approval Order;
- c. The Court does not approve the Settlement or any material part of it as reflected in this Agreement (although the Parties do not concede that every term of the Settlement or of this Agreement is material for these purposes);
- d. The Court does not enter the Judgment;
- e. The Judgment is vacated, modified, or reversed in any material respect by an appellate court of competent jurisdiction; or
- f. The Effective Date does not occur for any reason.

48. If this Agreement is terminated, the Settlement and this Agreement will become null and void and will have no further force and effect.

49. If this Agreement is terminated, the Parties to this Agreement will be deemed to have reverted *nunc pro tunc* to their respective status in the Litigation as of the date and time immediately before the execution of this Agreement. Except as otherwise expressly provided, the Parties will proceed in all respects as if this Agreement and any related orders had not been entered and without any prejudice in any way from the negotiation, fact, or terms of the Settlement or this Agreement, and this Agreement may not be used in the Litigation or in any other proceeding for any purpose, and any Judgment or order entered by the Court in accordance with the terms of this Agreement will be treated as vacated, *nunc pro tunc*.

#### **NO ADMISSION OF WRONGDOING**

50. Whether or not the Settlement is approved by the Court, and whether or not it is consummated, the fact and terms of this Agreement, including the exhibits, all negotiations, discussions, drafts, and proceedings in connection with the Settlement, and any act performed, or document signed in connection with the Settlement:

a. may not be construed, offered, or received against Aetna or any other Released Party as a presumption, concession, or admission about the truth of any fact alleged by Plaintiff, the validity of any claim that was or could have been asserted in the Litigation or in any litigation, that the Class should have been certified, or the deficiency of any defense that was or could have been asserted in the Litigation or in any litigation; and

b. may not be construed, offered, or received against Plaintiff or any Class Member as a presumption, concession, or admission that any of their claims are or were without merit or that any damages recoverable under the Complaint would not have exceeded any benefits provided under this Settlement.

51. Once approved by the Court, the Settlement reflected in this Agreement may be pleaded as a full and complete defense by any of the Released Parties to any action, suit, or other proceeding that may be instituted, prosecuted, or attempted regarding any of the Released Claims. The Released Parties may offer the Agreement or the Judgment from the Litigation in any other action that may be brought against them by any identified Class Member in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good-faith settlement, judgment bar or reduction, or any similar defense or counterclaim.

#### **MISCELLANEOUS PROVISIONS**

52. The Parties agree to work together in good faith to accomplish, as soon as reasonably practical, all of the prerequisites for the Effective Date, including the Preliminary Approval Order, approval by the Court of the Settlement, and the Judgment.

53. The headings and paragraph titles in this Agreement are used for the purpose of convenience only and are not meant to have legal effect.

54. All of the exhibits attached to the Agreement are incorporated by reference. If there is a conflict or inconsistency between the terms of this Agreement and the terms of any exhibit, the terms of this Agreement will prevail.

55. This Agreement may not be modified or amended, nor may any of its provisions be waived, except by a writing signed by all Parties or their successors-in-interest.

56. The Parties to this Agreement intend the Settlement to be a final and complete resolution of all disputes asserted or that could be asserted by Plaintiff and the Class Members against any of the Released Parties with respect to the Released Claims.

57. The Parties to this Agreement agree that the terms of the Settlement were negotiated at arm's length in good faith by the Parties and reflect a settlement that was reached voluntarily based on adequate information and after consultation with experienced legal counsel.

58. The waiver by one Party of any breach of this Agreement by any other Party will not be deemed a waiver of any other prior or subsequent breach of this Agreement.

59. This Agreement and its exhibits constitute the entire agreement among the Parties regarding the Settlement and supersede all prior and contemporaneous arrangements, oral and written agreements, and discussions or negotiations between or among the Parties or their agents or attorneys. No promise, representation, or warranty by any Party, or attorney or agent of any Party, regarding the Settlement that is not expressly contained or referred to in this Agreement or its exhibits will be valid or binding on that Party. The Parties have included this paragraph to preclude the introduction of parole evidence to vary, supplement, or contradict the terms of this Agreement.

60. This Agreement may be executed by electronic signature (as indicated by an "s/"), and in one or more counterparts, including by signature transmitted by facsimile, or by a .pdf or

.tiff image of the signature transmitted by email. All executed counterparts will be deemed to be one and the same instrument.

61. The Parties and their respective counsel agree that they will use their best efforts to obtain all necessary approvals of the Court required for the Settlement by this Agreement.

62. Each person signing this Agreement represents that they have all necessary authority to sign this Agreement and bind the Party on whose behalf they sign.

63. This Agreement will be binding on the Parties, including any and all Released Parties and any corporation, partnership, or other entity into or with which any Party may merge, consolidate, or reorganize. No assignment will relieve any Party of any obligation under this Settlement.

64. Notices required by this Agreement (other than the Mailed Notice) will be submitted both (1) by email and (2) either by (a) any form of overnight mail or (b) in person to:

Joshua S. Davis  
GIANELLI & MORRIS, A Law Corporation  
12121 Wilshire Blvd, Suite 505  
Los Angeles, CA 90025  
joshua.davis@gmlawyers.com  
*Attorneys for Plaintiff*

and

Earl Austin  
Baker Botts, LLP  
30 Rockefeller Plaza  
New York, NY 10112-4498  
[earl.austin@bakerbotts.com](mailto:earl.austin@bakerbotts.com)  
*Attorneys for Defendant*

Notice will be deemed effective on sending the notice as described in this paragraph.

65. The administration, consummation, and enforcement of the Settlement in this Agreement will be under the authority of the Court, and the Parties intend that the Court retain

jurisdiction for the purpose of entering orders, providing for approval of attorneys' fees and costs to Class Counsel, and enforcing the terms of the Settlement and this Agreement.

66. The construction, interpretation, operation, effect, and validity of this Agreement, and all documents necessary to effectuate it, will be governed by the laws of the State of California without regard to conflicts of law principles.

67. This Agreement will not be construed more strictly against one Party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Parties. This Agreement is the result of arm's length negotiations between the Parties and all Parties have contributed substantially and materially to the preparation of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates written below.

**ACCEPTED AND AGREED:**

Date: Dec. 16, 2025

**Plaintiff Michala Kazda**

Signed: 

Date: \_\_\_\_\_

**Defendant Aetna Life Insurance Company**

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Approved as to Form:

jurisdiction for the purpose of entering orders, providing for approval of attorneys' fees and costs to Class Counsel, and enforcing the terms of the Settlement and this Agreement.

66. The construction, interpretation, operation, effect, and validity of this Agreement, and all documents necessary to effectuate it, will be governed by the laws of the State of California without regard to conflicts of law principles.

67. This Agreement will not be construed more strictly against one Party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Parties. This Agreement is the result of arm's length negotiations between the Parties and all Parties have contributed substantially and materially to the preparation of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates written below.

**ACCEPTED AND AGREED:**

Date: \_\_\_\_\_

**Plaintiff Michala Kazda**

Signed: \_\_\_\_\_

Date: 12/17/25

**Defendant Aetna Life Insurance Company**

Signed:  \_\_\_\_\_

Name: Sara Goldfarb

Title: Vice President and Senior Counsel

Approved as to Form:

**GIANELLI & MORRIS, A Law Corporation**

Dated: 12/19/25



---

Joshua S. Davis  
Counsel for Plaintiff

**BAKER BOTTS LLP**

Dated: 12/18/25



---

Earl Austin  
Counsel for Defendant  
Aetna Life Insurance Company