

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

BRIGHTON TRUSTEES, LLC,
AS TRUSTEE, et al.,

Plaintiffs,

v.

GENWORTH LIFE AND ANNUITY
INSURANCE COMPANY.

Defendant

Civil Action No. 3:20-cv-240 (DJN)

**DECLARATION OF ANDREW S. FRIEDMAN IN SUPPORT OF APPLICATION
FOR AWARD OF ATTORNEYS' FEES, EXPENSES AND SERVICE AWARD**

ANDREW S. FRIEDMAN hereby declares as follows:

1. I am an attorney licensed to practice law in the State of Arizona and a member of the law firm of Bonnett Fairbourn Friedman & Balint, PC (“BFFB” or the “Firm”), legal counsel of record for Plaintiff/Settlement Class Representative Ronald Daubenmier in the above-captioned class action (the “Genworth Litigation”).

2. In March 2020, Plaintiff Ronald Daubenmier received a form letter from Defendant Genworth Life and Annuity Insurance Company (“Genworth”) announcing that Genworth would be increasing the “cost of insurance” (“COI”) charges withdrawn from his Genworth insurance policy. After consulting with his brother (a former actuary), Mr. Daubenmier became concerned that the proposed COI increase disadvantaged him economically. Mr. Daubenmier, his wife, and his brother then reached out unsolicited to BFFB, based on our Firm’s past success in challenging such COI increases, and retained us on a purely contingent basis to challenge the legitimacy of the Genworth increase.

3. In researching the matter, BFFB became aware of the Litigation, which had been earlier commenced by Brighton Trustees, LLC (“Brighton”) to challenge the same COI increase. Accordingly, after drafting and filing the Daubenmier complaint to protect against any limitations defense, BFFB promptly agreed with Brighton’s counsel (“Lead Counsel”) that the two plaintiffs would work cooperatively through consolidated proceedings.

4. Over the two-year course of the consolidated litigation, BFFB assumed primary responsibility for responding to all discovery requests directed to Mr. Daubenmier, which included initial and supplemental answers to Genworth interrogatory and objections and responses to Genworth document request, including meet and confer sessions with defense counsel. BFFB also assumed the lead in defending Mr. Daubenmier’s video deposition in 2011.

5. A copy of the BFFB firm resume is attached as Exhibit A. The resume summarizes the background, experience, and qualifications of the current and former BFFB personnel involved in the Genworth Litigation.

6. The information in this declaration regarding BFFB's time and expenses is taken from time and expense reports and supporting documentation prepared and maintained by the Firm in the ordinary course of business, which are available on request. I reviewed these reports (and backup documentation where necessary) in connection with the preparation of this declaration. The purpose of this review was to confirm both the accuracy of the entries on the reports as well as the necessity for, and reasonableness of, the time and expenses committed by BFFB to the Genworth Litigation.

7. As a result of this review, I made reductions to both time and expenses in the exercise of billing judgment. For example, I removed from the lodestar calculation (a) all time of the BFFB timekeepers who billed fewer than ten hours total to this matter, and (b) all time expended in support of the application for recovery of fees and expenses. I also excluded any expenses not of the type that would normally be charged to a fee-paying client in the private legal marketplace.

8. The time reflected in BFFB's lodestar calculation and the expenses for which payment is sought herein were both reasonable and necessary for the effective and efficient prosecution and resolution of the matter.

9. After the reductions referred to above, the total number of hours spent on the Litigation by BFFB attorneys and paralegals through May 26, 2022, the date the Court entered the Preliminary Approval Order, is 191.1 hours, resulting in a total lodestar of \$130,155.00. A breakdown of the lodestar by timekeeper, hours expended and hourly rates is as follows:

NAME	POSITION/ TITLE	HOURS	HOURLY RATE	LODESTAR
Andrew S. Friedman	Partner	32.6	\$800.00	\$26,080.00
Francis J. Balint, Jr.	Partner	120.9	\$800.00	\$96,720.00
Rose Creech	Paralegal	21.1	\$200.00	\$4,220.00
David J. Streyle	Paralegal	16.5	\$190.00	\$3,135.00
TOTAL		191.1		\$130,155.00

10. The hourly rates shown above are the usual and customary rates set by BFFB. *See, e.g., Sonoma Sol LLLP v. Truck Ins. Exch.*, No. CV-20-00069-PHX-DJH, 2021 WL 5238711, at *6 (D. Ariz. Nov. 9, 2021) (finding BFFB's lodestar reasonable when calculated using BFFB hourly rates); *Thompson v. Transamerica Life Ins. Co.*, No. 218CV05422CASGJSX, 2020 WL 6145104, at *3 (C.D. Cal. Sept. 16, 2020) (same), *appeal dismissed*, No. 20-56088, 2021 WL 1546066 (9th Cir. Apr. 14, 2021). For personnel whose rates were increased during the two-year pendency of the Litigation, the hourly rates of such person are based upon his or her most recent hourly rates.

11. BFFB's expense items are recorded separately, and are not duplicated in the Firm's hourly rates. The reasonably incurred litigation expenses incurred by BFFB in connection with the prosecution of this Litigation are:

CATEGORY	AMOUNT
Filing Fees (Complaint and Pro Hac Vice Application)	\$475.00
Deposition Transcript (Plaintiff Ronald Daubenmier)	\$962.01
Electronic Research (Westlaw, Pacer)	\$1,907.95
Overnight Delivery (FedEx)	\$37.12
TOTAL	\$3,382.08

The foregoing litigation expenses incurred by BFFB are accurately reflected in the Firm's corporate books and records, which are prepared from receipts, expense vouchers, check records, and other original source documents.

12. Finally, as counsel for Mr. Daubenmier we respectfully request Court approval of a \$25,000 service award to him as the only individual policyowner who came forward to be named as plaintiff and proposed representative for the benefit of the putative class of all Genworth Policyowners subjected to the challenged COI increase. Mr.

Daubenmier is a retired truckdriver, who has never before been involved in any class litigation (other than once as an absent class member). Concerned about the economic impact of Genworth's COI Increase on the Policyowners, Mr. Daubenmier on his own initiative sought legal counsel and volunteered to serve as a named plaintiff. With his brother he located and retained highly experienced counsel to vet the potential class claims. From that point forward, Mr. Daubenmier remained personally involved in the litigation and devoted many hours to its success. In particular, Mr. Daubenmier personally:

- (a) was interviewed at length by BFFB regarding the factual background of his claims,
- (b) reviewed and suggested changes to drafts of his initial Complaint for factual accuracy,
- (c) consulted with BFFB regarding his responsibilities as a putative class representative,
- (d) reviewed his paper and electronic files for pertinent documents and correspondence,
- (e) produced and discussed those materials with BFFB,
- (f) reviewed and suggested changes to drafts of the Consolidated Complaint for factual accuracy,
- (g) assisted in the preparation of initial disclosures required under the applicable rules of civil procedure,
- (h) discussed confidentiality issues and concerns with BFFB,
- (i) reviewed and provided verified initial responses to interrogatories served on him by Genworth,
- (j) reviewed and provided initial responses to document requests served on him by Genworth,
- (k) engaged in renewed search efforts to locate any possible additional documents and communications within the broad scope of Genworth's discover requests,

- (l) reviewed and provided supplemental responses to document requests served on him by Genworth,
- (m) reviewed and provided verified supplemental responses to interrogatories served on him by Genworth,
- (n) met with us and Lead Counsel to prepare for his deposition noticed by Genworth,
- (o) gave testimony under oath in a deposition taken October 11, 2021, subjecting himself to questioning that in some instances went well beyond the scope of the contract interpretation issues in dispute,
- (p) reviewed his deposition transcript for corrections,
- (q) reviewed the papers submitted in support of Plaintiffs' motion for class certification,
- (r) consulted with BFFB and Lead Counsel regarding the scheduled mediation and potential resolution of the putative class claims, and
- (s) otherwise kept himself apprised of case status and strategies (frequently at his own initiative).

Under these circumstances, we respectfully submit that a \$25,000 service award is fully appropriate and warranted. *See, e.g., Binotti v. Duke Univ.*, No. 1:20-CV-470, 2021 WL 5366877, at *5 (M.D.N.C. Aug. 30, 2021) (approving \$65,000 service award where, among other things, “no others came forward as named plaintiffs, and Dr. Binotti sought out contingent representation to investigate and prosecute claims on behalf of the [class]”).

In accordance with 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 7th day of July, 2022, at Phoenix, Arizona.

/s/Andrew S. Friedman
Andrew S. Friedman

EXHIBIT A



ABOUT THE FIRM

Bonnett Fairbourn Friedman & Balint, PC has developed a recognized practice in the area of complex commercial litigation, including major class actions and is widely regarded as the preeminent firm in Arizona representing plaintiffs in class action proceedings. Over the last thirty years, the firm has successfully handled more than 100 class action lawsuits. We have represented consumers and victims in a wide range of class action proceedings, including actions alleging antitrust claims, securities fraud, civil rights claims and consumer fraud.

Our antitrust practice includes the prosecution of class claims on behalf of direct purchasers of products as well as indirect purchaser claims. These antitrust cases include, among others, class actions against Microsoft, MasterCard, Apple Computer and sellers of products such as polyester and rubber chemicals, waste management services, financial products and other industries. In addition to our class action practice, the firm also has represented plaintiffs in individual litigation asserting antitrust claims, including Culligan International.

Bonnett Fairbourn Friedman & Balint has taken a leading role in numerous important actions on behalf of consumers and investors, and we have been responsible for many outstanding results that have yielded dozens of multi-million dollar recoveries for class members in Arizona and throughout the United States.

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PRACTICE AREAS

CLASS ACTION

Bonnett Fairbourn Friedman & Balint represents consumers and investors in major class action cases in federal and state courts throughout the United States. Under the direction of Andrew S. Friedman, the firm's class action section represents plaintiff classes in the following areas:

Securities Fraud: Protects institutional shareholders and individual investors from corporate fraud and mismanagement.

Consumer Protection: Protects consumers from defective products and fraudulent marketing practices.

Antitrust: Protects individuals and businesses from price fixing, unfair business practices and other anticompetitive conduct.

False Claims and Whistleblowers: Provides for awards to individuals who uncover false claims for payment submitted to the federal government.

SECURITIES

Bonnett Fairbourn Friedman & Balint has extensive experience in plaintiffs' class action securities cases in and out of the State of Arizona. Its attorneys have recovered substantial verdicts and settlements in various high-profile cases representing bondholders who have suffered significant losses due to the criminal activities of individuals in the securities and banking industries, including victimized investors in the Lincoln Savings scandal.

APPELLATE LITIGATION

Bonnett Fairbourn Friedman & Balint has extensive appellate experience at all levels of the state and federal court systems. Attorneys from the firm have appeared before the Arizona Court of Appeals, the Arizona Supreme Court, and numerous U.S. Circuit Courts. Decisions to appeal a matter are not made lightly by the firm; we carefully analyze the likelihood of a positive result for the client against the potential cost of an unfavorable outcome. Although we draw on the clerking and practical experience of many of our attorneys in making this analysis, a fully informed client is always an integral part of this process.



ANDREW S. FRIEDMAN heads the firm's class action, securities fraud, and consumer fraud practice groups. Mr. Friedman is admitted to the State Bar of Arizona and is admitted to practice before the U.S. District Court for the District of Arizona, U.S. Court of Appeals for the Ninth Circuit and the U.S. Supreme Court.

Mr. Friedman's practice is devoted primarily to litigation of major class action cases in federal and state courts in Arizona and throughout the United States. He has represented plaintiff classes in major consumer, securities fraud, antitrust, civil rights and insurance sales practices cases and other complex commercial litigation.

Securities Fraud

Mr. Friedman and other members of the firm served as Arizona counsel for the plaintiff class of investors in *In re American Continental Corp./Lincoln Savings and Loan Sec. Litig.*, MDL 834 (D. Ariz.). Mr. Friedman was one of the team of lawyers who represented the class of investors who purchased debentures and/or stock in American Continental Corp., the parent company of the now-infamous Lincoln Savings & Loan. The suit charged Charles Keating, Jr., other corporate insiders, three major accounting firms, law firms and others with racketeering and violations of the securities laws. Plaintiffs' counsel actively participated in bankruptcy proceedings, multi-district litigation and, ultimately, a jury trial in Tucson, Arizona. Plaintiffs successfully recovered \$240 million of the \$288 million in losses sustained by the investors. After trial, the jury rendered verdicts exceeding \$1 billion against Keating and other defendants.

Mr. Friedman also served, along with other members of the firm, on the court-appointed Executive Committee in the *Prudential Limited Partnerships Multi-District Litigation*, representing investors in limited partnerships sponsored by Prudential Securities. This action, which alleged racketeering and securities fraud claims on behalf of a nationwide class, resulted in a settlement providing more than \$125 million in benefits to defrauded investors.

Mr. Friedman has served as plaintiffs' counsel in many other securities fraud class actions, including the following major cases: *Persky v. Pinnacle West Corp., et al.* (securities fraud class action - \$35 million settlement); *Culligan International Company v. United Catalysts, Inc.* (Antitrust Action); *Sitgraves, et al. v. Allied Signal, Inc.*; *Stein v. Residential Resources, et al.* (Securities Fraud Class Action); *Gould v. Pinnacle West Corp., et al.*; *Shields v. Del Webb Corp., et al.* (Securities Fraud Class and Derivative Suit); *Hoexter v. Valley National Bank, et al.* (Securities Fraud Class Action); *Friedman, et al. v. Emerald Mortgage Investment Corporation, et al.* (Securities Fraud Class Action); *Marks, et al. v. Circle K* (Securities Fraud Class Action); *Krause v. Sierra Tucson, et al.* (Securities Fraud Class Action); *Braunstein, et al. v. Tucson Electric, et al.* (Derivative Suit); *Krause v. Sierra Pacific, et al.* (Securities Fraud Class Action); *Blinn v. Bech, et al.* (Securities Fraud Class Action); *Voss v. Cobra Industries, et al.* (Securities Fraud Class Action); *Hollywood Park Securities Litigation* (Securities Fraud Class Action); *In re America West Sec. Fraud Litig.* (Securities Fraud Class Action); *Orthologic Securities Fraud Litig.* (Securities Fraud Litigation); and *In re Vitamins Antitrust Litigation* (Antitrust Class Action).

Mr. Friedman also served as lead counsel in a number of class action cases seeking relief on behalf of investors victimized by fraudulent investment schemes, brought against professional defendants who allegedly substantially assisted in the fraud. Mr. Friedman served as co-lead counsel for investors in *Facciola, et al. v. Greenberg Traurig LLP, et al.*, a class action asserting claims against law firms and an auditor for allegedly aiding and abetting a Ponzi scheme leading to the collapse of Mortgages, Ltd.

After class certification was granted and at the conclusion of discovery, Plaintiffs secured settlements with the defendants totaling \$89 million. At the conclusion of the case, the Hon. Frederick J. Martone observed:

Class counsel were retained on a purely contingent basis in a complex case fraught with uncertainty. Counsel advanced litigation costs in excess of \$1.5 million in order to prosecute this action, shouldering the risk of non-payment. Absent class counsels' willingness to advance these litigation costs, there likely would have been no common fund. Finally, counsel have demonstrated outstanding expertise, diligence, and professionalism at every stage of this litigation.

Mr. Friedman also served as lead counsel in *Gordon Noble, et al. v. Greenberg Traurig LLP, et al.*, a class action in the California Superior Court asserting claims on behalf of investors against law firms, auditors and a lender for their involvement in an alleged Ponzi scheme orchestrated by a hard money lender. After several years of hotly contested litigation, plaintiffs obtained settlements for the investor class members totaling \$83 million.

Mr. Friedman and other members of the firm served as class counsel in *In re Apollo Group, Inc. Securities Litig.*, an open market securities fraud case seeking redress for allegedly false statements made by the Apollo Group, Inc. in publicly filed registration statements. After trial, the jury returned a verdict of \$275 million for the Apollo shareholders, one of the largest jury verdicts ever obtained in a securities fraud case prosecuted through trial. At the conclusion of the trial, the presiding judge commented:

[trial counsel] brought to this courtroom just extraordinary talent and preparation ... [F]or the professionalism and the civility that you – and the integrity that you have all demonstrated and exuded throughout the handling of this case, it has just, I think, been very, very refreshing and rewarding to see that...[W]hat I have seen has just been truly exemplary.

Deceptive Marketing of Insurance Products

Mr. Friedman served as co-lead counsel for the certified nationwide plaintiff classes in *In re Conseco Life Insurance Company Cost of Ins. Litig.*, MDL 1610 (C.D. Cal.). The suit charged that Conseco breached the terms of life insurance policies owned by over 90,000 class members. After nearly two years of litigation against an entrenched adversary, the class recovered over \$400 million in damages.

Mr. Friedman and the firm were key members of a team of lawyers that brought landmark cases against major life insurance companies challenging the deceptive manner in which life insurance products were marketed to consumers during the 1980's. The first of these cases, against New York Life Insurance Co., arose from events uncovered in Arizona and resulted in a ground-breaking settlement providing benefits to class members exceeding \$250 million. This settlement has been praised by regulators and commentators as an innovative solution to sales practice abuses. Subsequently, Mr. Friedman and co-counsel for plaintiffs prosecuted class actions and secured settlements against a host of other major insurance companies, including settlements with *Prudential Life Insurance Company* (exceeding \$2 billion), *Metropolitan Life Insurance Company* (exceeding \$1 billion), *Manulife* (exceeding \$500 million) and more than 20 other companies. Mr. Friedman was instrumental in the prosecution of these actions, was a member of the settlement negotiating team and briefed and argued class certification issues at the trial level and in the appellate courts.

Mr. Friedman served as co-lead counsel in a series of class actions against insurance companies challenging the sale of deferred annuities to senior citizens. These cases alleged RICO claims and other theories to obtain redress for allegedly false and misleading representations inducing elderly

purchasers to invest their life savings in illiquid and poorly performing annuity products. Mr. Friedman and co-counsel for plaintiffs prosecuted class actions and secured settlements benefitting thousands of elderly consumers, including settlements with *Allianz Life Insurance Company of North America* (\$251 million), *American Equity Investment Life Insurance Company* (\$129 million), *Midland National Life Insurance Company* (\$80 million), as well as settlements with *Fidelity and Guaranty Life Insurance Company*, *National Western Life Insurance Company*, *Conseco Insurance Company*, *Jackson National Life Insurance Company*, and *American International Group, Inc.*

Universal Life Cost of Insurance Increases

Mr. Friedman served as co-lead counsel for the Plaintiff in *Yue v. Conseco Life Ins. Co.*, CV08-1506 and *Yue v. Conseco Life Ins. Co.*, CV11-9506, class actions challenging the legality of cost of insurance (“COI”) increases imposed on universal life policies. These cases alleged that Conseco Insurance Company unlawfully increased the COI charges in violation of the provisions of the universal life policies allowing such increases based only on worsening mortality experience. The actions alleged that mortality has improved, not worsened over the years (because people are living longer). Conseco withdrew the COI increases during the pendency of the first case but then sought to impose a new increase shortly thereafter. Accordingly, the Plaintiff initiated a new action against Conseco challenging the new COI increase. The Court certified the proposed class of policyholders and issued an injunction halting the challenged increase. Plaintiff thereafter moved for summary judgment against Conseco. A settlement was ultimately reached which required Conseco to roll back the challenged COI increases, thereby providing settlement benefits to class members with a total projected value of \$65 million.

Mr. Friedman served as co-lead counsel for the Plaintiffs in *Feller, et al. v. Transamerica Life Insurance Company*, a class action challenging increases to the monthly deduction rates (“MDR”) imposed by Transamerica on various universal life policies. Plaintiffs alleged that the MDR increases implemented by Transamerica breached a uniform, express contractual term in the standardized Policies prohibiting MDR increases that recoup past losses. The district court certified a nationwide class of Policyholders and a California state law class of Policyholders. A settlement was ultimately reached which included a monetary payment to class members and a five-year moratorium on any future MDR increases. The monetary relief provided under the settlement totaled over \$100 million.

Captive Reinsurance Transactions

Mr. Friedman represented plaintiffs in cases asserting that life insurance companies have offloaded insurance liabilities to affiliated captive reinsurance companies to weaken policy reserves and falsely inflate reported surplus. Plaintiffs alleged that the defendant insurance companies used these fraudulent practices to misrepresent their true financial condition to induce consumers to purchase annuities and other insurance products. These cases, which asserted claims under the federal anti-racketeering statutes, included *Ludwick v. Harbinger Group, et al.* and *Hudson v. Athene Annuity and Life Company, et al.*

Health Insurance

Mr. Friedman served as co-lead counsel representing health care providers in *In re Managed Care Litigation*, an MDL proceeding against major managed care companies seeking recovery for allegedly improper claims payment practices. Mr. Friedman represented the American Psychological Association, the American Podiatric Medical Society, the Florida Chiropractic Association and numerous individual providers in cases against Humana, Inc., CIGNA, numerous Blue Cross and Blue

Shield companies and other managed care companies. Mr. Friedman and his co-counsel secured settlements against CIGNA (\$72 million) and Humana, Inc. (\$20 million) in these MDL proceedings.

Mr. Friedman also is representing health care providers in proceedings against several major health care companies arising from the use of the Ingenix database to improperly reduce payments to patients, physicians and other providers. Defendants in these class action proceedings include Aetna, CIGNA and WellPoint, Inc. Mr. Friedman represents the New Jersey Psychological Association, the American Podiatric Medical Association, the California Chiropractic Association and the California Psychological Association, among other plaintiffs, in these actions.

Mr. Friedman also represented plaintiffs in class action proceedings in California against Blue Shield of California Life & Health Insurance Company for engaging in postclaims underwriting. Postclaims underwriting is a practice by which insurance companies fail to conduct underwriting before accepting insurance applications but seek to find grounds to rescind health insurance policies when a claim for payment is submitted by the patient or doctor.

Mr. Friedman currently represents plaintiffs in a class action against Magellan and Blue Shield of California for violation of ERISA arising out of defendants' denial or reduction in hours of Applied Behavior Analysis ("ABA") for the treatment of Autistic Spectrum Disorder ("ASD"). Plaintiffs allege that Defendants breached their fiduciary duties by adopting and utilizing medical necessity criteria and claims determination guidelines that are far more restrictive than those that are generally accepted medical practice for the treatment of ASD by the mental health community and the prevailing well-documented scientific research.

Civil Rights

Mr. Friedman and the firm, along with several other law firms, have represented African-American policy holders in class action proceedings against life insurance companies seeking relief under the Federal Civil Rights Act for racial discrimination in the sale and administration of life insurance policies. For many decades, life insurance companies routinely charged higher premiums to non-Caucasians for inferior life insurance policies. The first such action, against *American General Life & Accident Company*, resulted in a \$250 million settlement providing benefits that included cash refunds, increased death benefits and reduced future premiums. Mr. Friedman and the firm also represent plaintiffs in similar race discrimination class actions against other life insurance companies, including *Metropolitan Life*, *Liberty National*, *American National*, *Monumental Life*, *Western & Southern Life* and *Jefferson-Pilot Life Insurance Company*.

Mr. Friedman served as lead or co-lead counsel in many other actions seeking to hold financial institutions responsible for racial discrimination against minorities. He served as co-lead counsel on behalf of proposed classes of African-American and Latino borrowers asserting claims against mortgage lenders for racial discrimination in violation of the Equal Credit Opportunity Act and the Fair Housing Act. The bank defendants in these actions, among others, include: *Countrywide Financial Corporation*; *Wells Fargo Bank, N.A.*; *GreenPoint Mortgage Funding, Inc.*; *GE Money Bank*; *First Franklin Financial Corp.*; *JP Morgan Chase & Chase Bank, U.S.A., N.A.*; *H&R Block, Inc.*; *IndyMac Bank, F.S.B.*; *HSBC Finance Co.*, and *Option One Mortgage Co.* Mr. Friedman also has represented Plaintiffs in cases challenging the use of credit scoring by insurance companies and lenders in a manner that adversely impacts minority consumers.

Data Breach Litigation

Mr. Friedman and other lawyers of the firm have represented consumers and health care patients in cases arising from cyber-attacks against companies resulting in the theft of personal information, including credit card and personal health information.

Mr. Friedman represented the Chapter 7 trustee for CardSystems Solutions, Inc. in two separate actions in the Pima County Superior Court. CardSystems was a major credit and debit card processor that collapsed into bankruptcy in 2006. CardSystems failed to properly encrypt credit card data and was the victim of a hacking intrusion resulting in the disclosure of confidential information and identity theft. The CardSystems security breach, which was the largest reported breach of personal data (exposing as many as 40 million credit cards), sparked a national scandal and hearings before the U.S. Senate. After obtaining a judgment against former officers of CardSystems in the amount of \$7.5 million, Mr. Friedman represented the bankruptcy trustee in an action against the insurance company and ultimately secured a payment of \$1.25 million.

Professional Associations

Mr. Friedman has lectured at numerous continuing legal education programs, including panel discussions and presentations on the Private Securities Litigation Reform Act (1996 Federal Bar Convention), prosecution of nationwide class actions in state courts (1996 ABA Annual Convention), litigation of life insurance market conduct cases (1997, 1999 and 2000 PLI conferences), class action best practices (2011 Arizona State Bar), consumer rights litigation (2008), the Arizona Securities Act (2013 Arizona State Bar), mediation of complex cases (2016 American Bar Association) and other litigation programs sponsored by the Practising Law Institute, ALI-ABA, American Bar Association, National Academy of Elder Law Attorneys .

Mr. Friedman testified before the U.S. Congress in connection with proposed legislation to limit the rights of consumers in class action cases. He also has testified before the Arizona Legislature in connection with legislation on the Arizona Anti-Racketeering Act, the Arizona Securities Fraud Act and proposed legislation to limit the ability of consumers to obtain relief through class actions.

Mr. Friedman received his Bachelor of Arts Degree from the University of Rochester in 1975 (high distinction) and his Law Degree from Duke University School of Law in 1978 (Order of the Coif, high distinction). He serves as a Board member of Public Justice, a public interest organization and is also a member of the American Association of Justice and Consumer Attorneys of California. Mr. Friedman was a finalist for the Public Justice Trial Lawyer of the Year in 2008 and a finalist for the CAOC Consumer Attorney of the Year in 2009.

Mr. Friedman served as a Board member of the Public Justice Foundation and currently serves as a Board member of Public Citizen. Mr. Friedman has performed *pro bono* services on behalf of non-profit organizations, including the Jewish Children and Family Services and private litigants.

Mr. Friedman is a founding member of Bonnett Fairbourn Friedman & Balint.



FRANCIS J. BALINT, JR.'s practice focuses on consumer class action litigation, qui tam actions under the federal False Claims Act, insurance coverage and defense matters, and appellate work. He has represented clients in class litigation involving federal and state securities laws, deceptive insurance sales practices, and other consumer claims.

In particular, Mr. Balint served as counsel for the relator in *Todarello v. Beverly Enterprises*, (D. Ariz. & N.D. Cal.) a qui tam action which led to a recovery by the United States Government of \$170 million. Successful appellate decisions include: *Atchison, Topeka and Santa Fe Ry. Co. v. Brown & Bryant, Inc.*, 159 F.3d 358 (9th Cir. [Cal.] Oct. 14, 1998); *Taylor AG Industries v. Pure-Gro*, 54 F.3d 555 (9th Cir. [Ariz.], Apr. 24, 1995); *Ranch 57 v. City of Yuma*, 152 Ariz. 218, 731 P.2d 113 (Ariz. App. Div. 1, Sept. 2, 1986).

Mr. Balint served as co-counsel for the Lead Plaintiffs and the investor class in the litigation arising out of the collapse of the Baptist Foundation of Arizona, the largest charitable institution fraud case in United States history. The recovery achieved for investors, after four years of highly adversarial litigation, exceeded \$250 million.

Mr. Balint also served as co-counsel for the Lead Plaintiff, the Policemen's Annuity and Benefit Fund of Chicago, and a class of shareholders seeking relief under Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5. *In re Apollo Group, Inc.*, CV-04-2147-PHX-JAT (D. Ariz.) was one of only six such cases to have been taken to trial since the passage of the PSLRA. Lead Plaintiff successfully obtained a verdict of approximately \$275 million for Apollo shareholders.

Mr. Balint also served as co-counsel for the class of policyowners in successive class actions seeking relief from so-called "cost of insurance" ("COI") increases brought and favorably resolved in *Feller, et al. v. Transamerica Life Insurance Company*, and *Thompson, et al. v. Transamerica Life Insurance Company*. Plaintiffs in these actions alleged that the COI increases implemented by Transamerica breached a uniform, express contractual term in the standardized Policies prohibiting COI increases that recoup past losses. The district court in *Feller* certified a nationwide class of policyholders and a California state law class of policyholders. A settlement was ultimately reached which included a monetary payment to class members and a five-year moratorium on any future COI increases. The monetary relief provided under the settlement totaled over \$100 million. The *Thompson* action too was ultimately settled, with class monetary relief of approximately \$96 million and a seven-year moratorium.

Other class action cases which Mr. Balint has litigated include *Cheatham v. ADT LLC* (Consumer Protection); *Harshbarger v. The Penn Mutual Life Insurance Company* (Policyholder Protection); *Bacchi v. Massachusetts Mutual Life Insurance Company* (Policyholder Protection); *The Apple iPod iTunes Anti-Trust Litigation* (Antitrust); *Facciola v. Greenberg Traurig* (Securities Fraud); *In Re: Prudential Insurance Company of America SGLI/VGLI Contract Litigation* (Policyholder Protection); *Yue v. Conseco Life Insurance Company* (Policyholder Protection); *Orthologic Securities Fraud Litigation*. (Securities Fraud); *In re Skymall* (Securities Fraud); *Rogers v. American Family* (Policyholder Protection); *Foster v. 1st Global Capital, LLC* (Securities Fraud); *Durkee v. Alaska Airlines* (Travel Insurance); and *Fruitstone v. Spartan Race Inc.* (Consumer Protection).

Mr. Balint has in particular frequently assisted individual policyholders in securing relief from their insurance and mortgage servicing companies, including in *Zhou v. Security Life of Denver Insurance Company* (underpaid interest on pre-issuance premium payments), *LSCC v. Wilco Life Insurance Company* (underpaid benefits under earlier class settlement agreement); *Labrecque v. NewRez LLC* (RESPA enforcement).

Mr. Balint has also represented individual clients in numerous disputes successfully resolved without the need for litigation, both as potential plaintiffs and potential defendants.

Mr. Balint is a former President of the Arizona Association of Defense Counsel (1999-2000), a former member of its board of directors and former chairman of its Amicus Committee.

Mr. Balint received his Bachelor of Arts Degree with high distinction from the University of Virginia in 1979. He received his law degree in 1982 from the University of Virginia. Mr. Balint was admitted to the Bar in the Commonwealth of Virginia in 1982, the District of Columbia in 1982, the State of Arizona in 1983, and the Commonwealth of Massachusetts in 2010; he is admitted to practice before the U.S. Supreme Court, the U.S. Court of Appeals for the Fourth, Fifth, Seventh, Ninth and Tenth Circuits, and the U.S. District Court for the District of Arizona, the District of Colorado, the Eastern District of Virginia, the Central District of Illinois and the District of Massachusetts.

Mr. Balint was a sole practitioner in Virginia for a short period of time before becoming associated with Evans, Kitchel & Jenkes, P.C., a large Phoenix law firm. In 1984, Mr. Balint became a founding member of Bonnett Fairbourn Friedman & Balint, PC.

BONNETT FAIRBOURN FRIEDMAN & BALINT, PC

ATTORNEYS

ANDREW S. FRIEDMAN, born Plainfield, New Jersey, September 26, 1953; admitted to bar, 1978, Arizona; U.S. Court of Appeals, Ninth Circuit; U.S. District Court, District of Arizona; U.S. Supreme Court. Education: University of Rochester (B.A., with high distinction, 1975); Duke University (J.D., with high distinction, 1978). Order of the Coif. Member: State Bar Committee on Civil Practice and Procedure (1980-1984); State Bar Committee on Bench-Bar Relations (1991); State Bar Bankruptcy Section; National Association of Commercial Trial Attorneys (1991-present); American Bar Association, Trial Practice Committee, Subcommittees and Class and Derivative Actions.

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