

**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 No. 3:20cv240 (DJN)

**DECLARATION OF KATHLEEN J.L. HOLMES**

I, Kathleen J.L. Holmes, do hereby declare and state as follows:

1. I am a partner in the law firm Holmes Costin & Marcus, PLLC (“HCM”). HCM was engaged to serve as local counsel with the firm Sussman Godfrey, LP (“Lead Counsel”) to represent Brighton Trustees, LLC, on behalf of and as trustee for Diamond LS Trust (“Brighton Trustees”); Bank of Utah, solely as securities intermediary for Diamond LS Trust (“Bank of Utah”); and, following the filing of the consolidated complaint, Ronald Daubenmier (collectively, “Plaintiffs”) in the above-captioned litigation. I make this declaration in support of Class Counsel’s request for an award of the attorneys’ fees and costs from the Settlement Fund preliminary approved by the Court on June 3, 2022 (ECF 136).

2. I am an attorney licensed to practice law in Virginia and the District of Columbia. I am a member of the bars of the United States District Court for the Eastern District of Virginia, United States District Court for the Western District of Virginia, the United States District Court for the District of Columbia, the United States Court of Appeals for the Fourth Circuit, the United States Court of Appeals for the District of Columbia, and the United States Court of International Trade.

3. I am a founding member of Holmes Costin & Marcus PLLC (“HCM”), a law firm located in Alexandria, Virginia. HCM represents clients in complex business litigation in federal and state courts in the greater Washington, D.C. area, including in the United States District Courts for the District of Columbia and Eastern District of Virginia, and in mediations and arbitrations throughout the country.

4. I have been representing individual and corporate clients in complex business disputes in federal and state courts across the country for nearly 30 years. After obtaining a M.S. degree from the University of Chicago, I graduated from the George Mason University School of Law (now Antonin Scalia School of Law) in 1992, working full time at the U.S. Department of Commerce within the Office of the Administrative Law Judge. Upon graduating, I served as a law clerk for Judge Leonie M. Brinkema of the United States District Court for the Eastern District of Virginia. I then worked as an associate at Richards McGettigan Reilly & West, P.C. in Alexandria, Virginia, and at Williams Mullen in Tysons, Virginia. I co-founded Holmes & Costin in 2010.

5. My law partner Ellen D. Marcus assisted in representing Plaintiffs. Ms. Marcus is licensed to practice law in Virginia and the District of Columbia. She is a member of the bars of the United States District Court for the Eastern District of Virginia, the United States District Court for the District of Columbia, the U.S. Court of Appeals for the Fourth Circuit, the U.S. Court of Appeals for the District of Columbia, the U.S. Court of Appeals for the Second Circuit, the U.S. Court of Appeals for the Federal Circuit, and a number of other federal district and appellate courts.

6. Ms. Marcus has been representing individual and corporate clients in complex business disputes in federal and state courts across the country for over 20 years. She graduated from Columbia Law School in 1999, where she was a senior editor of the *Columbia Law Review* and a Harlan Fiske Stone Scholar. Upon graduating, she served as a law clerk for Judge Leonie

M. Brinkema of the United States District Court for the Eastern District of Virginia. She then worked as an associate at Debevoise & Plimpton in Washington, D.C., and at Zuckerman Spaeder LLP in Washington, D.C. Before co-founding HCM in 2014, she was for seven years a partner at Zuckerman Spaeder LLP.

7. The adjusted Laffey Matrix for attorneys like my law partner and me who are practicing civil law in the Washington, D.C. metropolitan area with more than 20 years of experience for the period June 1, 2019 to June 1, 2022 indicates a hourly rate that ranges from \$899 to \$919. See <http://www.laffeymatrix.com/see.html>.

8. Ms. Marcus and I undertook the representation acting as local counsel for Lead Counsel pursuant to Local Rule 83.1. Accordingly, we undertook the obligation to review all pleadings prior to their being filed with the Court, to appear with Lead Counsel at all hearings, and to provide guidance to Lead Counsel on local rules, practices and customs. This work necessitated the review of complicated insurance contracts and complex damages calculations, as well as familiarity with Fed.R.Civ.P. 23.

9. The table below is a summary reflecting the amount of time spent, through May 31, 2022, by my law partner, Ms. Marcus, and me, and the lodestar calculation using HCM's 2022 billing rates. The following table was prepared from daily time records regularly prepared and maintained by HCM, which are available at the request of the Court. Time expended in preparing this application for fees and reimbursement of expenses are excluded and not reflected below.

<b>Attorneys</b>	<b>Current Rate</b>	<b>Hours</b>	<b>Value</b>
Kathleen Holmes (Partner)	\$850.00	75.7	\$64,345.00
Ellen Marcus (Partner)	\$850.00	19.7	\$16,745.00
Coralie Chu (Law Clerk)	\$250.00	2.2	\$550.00
<b>Totals</b>		<b>95.4</b>	<b>\$81,640.00</b>

10. Through May 31, 2022, the total hours of work performed by me in this litigation is 77.2 hours; the total hours of work performed by Ms. Marcus in this litigation is 19.7 hours; our law clerk, Coralie Chu (who graduated from the George Mason University Antonin Scalia School of Law in June 2022) performed 2.2 total hours of work. Our work has continued beyond May 31, 2022. In my professional judgment, the time expended, services rendered and overall fees charged are fair, reasonable and necessary in light of the legal and factual issues in this litigation.

11. Ms. Marcus and I worked with Lead Counsel to complete filings, to issue subpoenas duces tecum and monitor responses, to advise on matters of procedure under the Local Rules, to attend hearings and to discuss strategy on various aspects of the litigation. We reviewed all filed pleadings and tracked the progress of the litigation. Throughout the litigation, we reviewed discovery responses, accessed document productions and monitored discovery disputes and their resolution.

12. Through May 31, 2022, the expenses incurred by HCM in this litigation total \$990.15 for filing fees, courier expenses and document download charges.

13. In compliance with the Court's Order preliminarily approving the Settlement [ECF 136] in this litigation, I intend to submit a supplemental declaration on the fees and expenses incurred since May 31, 2022.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 8th day of July 2022

/s/ Kathleen J.L. Holmes

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**CERTIFICATE OF SERVICE**

I certify that on this 8th day of July 2022, I electronically filed a copy of the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to all counsel of record.

*/s/ Kathleen J.L. Holmes*

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