

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

HELEN HANKS on behalf of herself and all  
others similarly situated,

Plaintiff,

vs.

VOYA RETIREMENT INSURANCE AND  
ANNUITY COMPANY,

Defendant.

Case No. 16-cv-6399

**DECLARATION OF KIMBERLY K. NESS IN CONNECTION WITH PLAINTIFFS'  
MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

I, KIMBERLY K. NESS, declare as follows:

1. I am a Director at JND Legal Administration LLC (“JND”). JND is a legal administration services provider with its headquarters located in Seattle, Washington. JND has extensive experience with all aspects of legal administration and has administered settlements in hundreds of class action cases. This Declaration is based on my personal knowledge, as well as upon information provided to me by experienced JND employees, and if called upon to do so, I could and would testify competently thereto.

2. JND is serving as the Settlement Administrator<sup>1</sup> in the above-captioned litigation (“Action”) for the purposes of administering the Joint Stipulation and Settlement Agreement preliminarily approved by the Court in its Order Preliminarily Approving Class Action Settlement (“Order”), dated February 3, 2022. I previously submitted the declaration to confirm the mailing of the Short-Form Notice and the posting of the Long-Form Notice on the Website, dated March 18, 2022, and the declaration to report on the Settlement Administration Expenses dated April 4, 2022.

3. This additional declaration is being filed to report on the implementation of the Settlement notice program.

#### **CLASS NOTICE**

4. Pursuant to the terms of the Order, on March 4, 2022, JND mailed the Short-Form Notice (“Notice”) via first-class regular mail, postage prepaid, to 47,381 potential Settlement Class Member addresses.

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<sup>1</sup> Capitalized terms used and not otherwise defined herein shall have the meanings given such terms in the Joint Stipulation and Settlement Agreement.

5. As of June 7, 2022, of the 47,381 Short-Form Notices mailed, 1,840 were returned as undeliverable and 491 Notices were promptly forwarded to updated addresses by the United States Postal Service (“USPS”). Of the undeliverable Notices, 117 Notices were returned with updated addresses from USPS and were subsequently forwarded. Of the undeliverable Notices that were not returned with updated address information, JND conducted advanced address skip-trace research and received updated address information for 553 records. JND re-mailed the Short-Form Notice to the 553 records accordingly. Of the 553 Short-Form Notices remailed, 86 were returned a second time.

6. As a result of the efforts outlined in paragraph 5 above, of the 47,381 Short-Form Notices mailed, a total of 46,125 were not returned as undeliverable. This represents 97.3% of the Notices mailed.

**TOLL-FREE INFORMATION LINE**

7. On March 4, 2022, JND updated the case-specific toll-free number with information about this Settlement, 1-833-759-2984, for potential Settlement Class Members to call to obtain information about the Settlement. The telephone line is available 24 hours day, seven (7) days a week.

8. As of June 7, 2022, JND has received 220 calls.

9. JND has worked with Class Counsel to promptly respond to all questions and inquiries from potential Settlement Class Members (whether received via mail, telephone, or otherwise).

**WEBSITE**

10. On March 4, 2022, JND updated the Website ([www.VoyaCOILitigation.com](http://www.VoyaCOILitigation.com)) to provide information about this Settlement to potential Settlement Class Members and answer frequently asked questions. Viewers of the Website can download a copy of the Long-Form Notice, Short-Form/Postcard Notice, Order Preliminarily Approving Class Action Settlement, Joint Stipulation and Settlement Agreement, as well as other important documents. The Website also provides important information about the Settlement deadlines and gives potential Settlement Class Members the opportunity to learn more about their options.

11. JND, with the assistance of Class Counsel, has promptly updated the class website's "Important Documents" section with documents filed during the class notice and approval periods. This includes Class Counsel's "Motion for Attorneys' Fees, Reimbursement of Litigation Expenses, and Incentive Award," which was uploaded on April 5, 2022.

12. As of June 7, 2022, the Class Website has tracked 1,337 unique users with 3,940 page views.

**SETTLEMENT ADMINISTRATION EXPENSES**

13. Settlement Administration Expenses includes all Class Notice and administrative fees, costs, or expenses incurred in administering the Settlement. As of April 30, 2022, JND has incurred \$65,840.64 in Settlement Administration Expenses.

14. JND estimates that its remaining Settlement Administration Expenses are expected to be approximately \$93,821.02, including work in connection with benefit distribution and administration completion.

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

Executed on June 9, 2022, at Seattle, Washington.

By: Kimberly K. Ness  
Kimberly K. Ness

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing instrument has been served on the following counsel, this June 9, 2022.

Alan B. Vickery  
Boies Schiller Flexner LLP  
333 Main Street  
Armonk, New York 10504  
Tel: (914) 749-8200  
Fax: (914) 749-8300  
avickery@bsflp.com  
efruchter@bsflp.com

John F. LaSalle  
Andrew Villacastin  
Boies Schiller Flexner LLP  
55 Hudson Yards  
20th Floor  
New York, NY 10001  
Tel: (212) 446-2300  
Fax: (212) 446-2350  
jlasalle@bsflp.com  
avillacastin@bsflp.com

Motty Shulman  
Robin A. Henry  
Glenn L. Radecki  
Bryan McIntyre  
Fried, Frank, Harris, Shriver & Jacobson LLP  
One New York Plaza  
New York, New York 10004-1980  
(212) 859-8000 (telephone)  
(212) 859-4000 (facsimile)  
motty.shulman@friedfrank.com  
robin.henry@friedfrank.com  
glenn.radecki@friedfrank.com

*Attorneys for Voya Retirement Insurance and Annuity Company, formerly known as Aetna Life Insurance and Annuity Company*

/s/ Nicholas N. Spear  
Nicholas N. Spear