

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

GERARD R. GUNTHERT and ABBY B.  
GUNTHERT, individually and on behalf of all  
those similarly situated,

Plaintiffs,

v.

BANKERS STANDARD INSURANCE  
COMPANY,

Defendant.

CIVIL ACTION NO. 5:16-CV-00021 (MTT)

**ORDER GRANTING PLAINTIFFS' UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

This matter comes before the Court upon unopposed motion by Plaintiffs Gerard R. Gunthert and Abby B. Gunthert (the “Guntherts” or “Class Plaintiffs”) under Federal Rule of Civil Procedure 23 for preliminary approval of the Class Action Settlement Agreement and Release (“Settlement Agreement”) entered into between Plaintiffs on behalf of themselves and a settlement class of similarly-situated persons (defined below as the “Settlement Class”) and Defendant Bankers Standard Insurance Company (“Bankers Standard,” and together with the Class Plaintiffs, the “Parties”) resolving the Action. Good cause appearing, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Settlement Agreement.
2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 and has personal jurisdiction over the Parties. Venue is proper in this District.

3. This Action is provisionally certified as a class action, for the purposes of settlement only, pursuant to Fed. R. Civ. P. 23(a), 23(b)(3) and 23(e). The Settlement Class is defined as follows:

All insureds of Bankers Standard who pursued a claim under their homeowners policy for covered losses to their real property located in Georgia due to fire, water, mold, or foundation/structural damage occurring between January 15, 2010 and May 1, 2018.

Specifically excluded from the Settlement Class are: (a) Defendant's employees, officers, directors, agents, and representatives; (b) federal judges who have presided over this case and any member of the Court's staff and immediate family; and (c) all Persons who have timely opted-out of the Settlement Class pursuant to the requirements in the Settlement Agreement.

"Settlement Class Member" as used herein means any person in the Settlement Class who is not properly opted out of or otherwise excluded from the Settlement Class.

4. Certification of the Settlement Class shall be solely for settlement purposes and without prejudice to the Parties in the event the Settlement Agreement is not finally approved by this Court or otherwise does not take effect.

5. The Court preliminarily approves the proposed Settlement Agreement as fair, reasonable and adequate, entered into in good faith, free of collusion and within the range of possible judicial approval.

6. The Court appoints the Guntherths as the Class Representatives of the Settlement Class pursuant to Rule 23 of the Federal Rules of Civil Procedure. The Court finds that Class Plaintiffs have fairly and adequately represented the interests of the Settlement Class and will continue to do so.

7. The Court appoints the following counsel as Class Counsel for the Settlement Class pursuant to Rule 23 of the Federal Rules of Civil Procedure: Michael J. Brickman, James

C. Bradley, Nina Fields Britt, and Kimberly Keevers Palmer of Richardson, Patrick, Westbrook & Brickman, LLC; Richard Kopelman and Clint W. Sitton of Kopelman Sitton Law Group, LLC; Adam P. Princenthal of Princenthal & May, LLC; and C. Cooper Knowles of Law Offices of C. Cooper Knowles. The Court finds that Class Counsel have fairly and adequately represented the interests of the Settlement Class and will continue to do so.

8. The Court appoints Angeion Group, LLC to serve as the settlement administrator (“Administrator”) and directs the Administrator to carry out all duties and responsibilities of the settlement administrator specified in the Settlement Agreement.

9. The Court approves the proposed program for disseminating notice to the Settlement Class set forth in the Settlement Agreement (the “Notice Program”). The Court approves the form and content of the proposed forms of notice (“Notices”), in the forms attached as **Attachments A-1 to A-3** to the Settlement Agreement. The Court finds that the proposed Notices are clear and readily understandable by Settlement Class Members and are reasonably calculated to apprise the Settlement Class Members of the pendency of this case and of the right to object to or request exclusion from the proposed Settlement. The Court finds that the Notice Program, including the proposed Notices, constitutes the best notice practicable under the circumstances; constitutes valid, due and sufficient notice to the Settlement Class in full compliance with the requirements of applicable law, including Fed. R. Civ. P. 23 and the Due Process Clause of the United States Constitution; and is the only notice to the Settlement Class of the Settlement Agreement that is required.

10. Within **ten (10) days** after the entry of this Order, Defendant will provide the Administrator with a Settlement Class List that includes names and mailing addresses associated with the subject insurance policies for each potential Settlement Class Member based on a search

of Defendant's records. Following receipt of the list of potential Settlement Class Members from Bankers Standard, the Administrator will attempt to verify and/or update the address of each such person using the National Change of Address ("NCOA") database.

11. The "Notice Date" shall be **thirty (30) days** following the entry of this Order.

12. By no later than the Notice Date, Bankers Standard will cause the Administrator to send a copy of the Mail Notice, substantially in the form attached to the Settlement Agreement as **Attachment A-1**, by first class mail to each potential Settlement Class Member and shall post the Long Form Notice, substantially in the form attached to the Settlement Agreement as **Attachment A-2**, on the Settlement Website. Bankers Standard and/or the Administrator will notify Class Counsel of compliance with the mailing of the Mail Notice. For any Mail Notice that is returned undeliverable without forwarding address information, the Administrator shall perform a reasonable skip trace search using a third party address database such as LexisNexis, or similarly effective search, for a more current address for the potential Class Member and re-send the returned Mail Notice to the potential Class Member by first class mail. If the Administrator is unable to reach more than ten (10) percent of the Settlement Class through Mail Notice after skip tracing and other public records searches as appropriate, the Administrator shall initiate Publication Notice by publishing the Publication Notice, substantially in the form attached to the Settlement Agreement as **Attachment A-3**, in the *Savannah Morning News* and *Atlanta Journal Constitution*. Such Publication Notice shall be in addition to the Mail Notice described herein.

13. Any Class Member who wishes to be excluded from the Settlement Class must submit a written request for exclusion as described in the Long Form Notice attached to the Settlement Agreement as **Attachment A-2**. To be effective, the exclusion request must follow the instructions outlined in the Long Form Notice, be mailed to the Administrator at the address provided

in the Long Form Notice, and be postmarked by the date specified in the Long Form Notice, which will be **forty-five (45) days** prior to the date for the Final Approval Hearing set in the Mail Notice and the Long Form Notice. If two or more persons have an ownership interest in a claim, and one or more of them opt out of the Settlement Class, then all such persons shall be deemed to have opted out of the Settlement Class for that claim. If the Settlement Agreement is finally approved as defined in the Settlement Agreement, any Class Member who does not send a timely and valid request for exclusion shall be a Settlement Class Member and shall be bound by all subsequent proceedings, orders, and judgments in the Action, including, but not limited to, the release provisions set forth in the Settlement Agreement. Pending determination whether the Settlement should be finally approved, all Settlement Class Members are hereby barred and enjoined from commencing or prosecuting any of the Released Claims against any of the Released Parties in any action, arbitration, or proceeding in any court, arbitration forum or tribunal unless and until any Settlement Class Members timely exclude themselves from the Settlement.

14. Any party exercising his/her/their right to request exclusion shall have a right to rescind the request for exclusion and participate in the Settlement by notifying the Administrator in writing, postmarked no later than **ten (10) days** prior to the date for the Final Approval Hearing set in the Mail Notice and the Long Form Notice. To be effective, the rescission of the request for exclusion must set forth the full name and current address of the Settlement Class Member seeking to rescind the request for exclusion, be signed by the Settlement Class Member(s) or his/her or their legally authorized representative, and contain a sentence stating: “The undersigned hereby rescinds his or her request for exclusion from the Class Settlement Agreement and Release in the Gunthert Action.” If two or more persons having an ownership

interest in a claim have opted out of the Settlement Class, all such persons must rescind the request for exclusion in order for the rescission to be effective.

15. Any Settlement Class Member who does not request exclusion from the proposed Settlement may object to the Settlement Agreement, Class Counsel's request for attorneys' fees and costs ("Fee Application"), and/or any request for a service award for the Class Plaintiffs. To be considered, a notice of intent to object to the proposed Settlement must be filed in this case with the Clerk of the Court, and served upon Class Counsel and Bankers Standard's counsel, no later than **forty-five (45) days** prior to the date for the Final Approval Hearing set in the Mail Notice and the Long Form Notice and be sent to the Administrator by first class mail, postmarked no later than **forty-five (45) days** prior to the date for the Final Approval Hearing set in the Mail Notice and the Long Form Notice. The notice of intent to object must contain all of the information described in the Settlement Agreement and the Long Form Notice. Any Settlement Class Member who does not object in the foregoing manner shall be deemed to have waived all objections and shall be foreclosed from making any objections to the Settlement Agreement, Class Counsel's Fee Application, and any request for service awards for the Class Plaintiffs.

16. Any Settlement Class Member who submits a timely and valid written objection may appear at the Final Approval Hearing, either in person or through personal counsel hired at the Settlement Class Member's own expense, if they properly notify the Court and all counsel of their intent to appear at the Final Approval Hearing as described in the Settlement Agreement and the Long Form Notice. If the Class Member requests permission to speak at the Final Approval Hearing, the notice of intent to object must contain the additional information described in the Settlement Agreement and the Long Form Notice.

17. The Administrator shall log each request for exclusion it receives and provide copies of the log and all such requests for exclusion to counsel for the Parties on a weekly basis. The Administrator shall provide a copy of any rescission of requests for exclusion to counsel for the Parties no later than **one (1) business day** after receipt of the rescission. The Administrator shall provide a copy of any notice of intent to object to Plaintiffs' Counsel and Bankers Standard's Counsel no later than **one (1) business day** after receipt of the notice of intent to object.

18. Within **ten (10) days** of completion of the Notice process described in Section 10.2 of the Settlement Agreement, the Administrator shall provide to the Court, Counsel for Bankers Standard, and Class Counsel an affidavit or declaration and other evidence adequately demonstrating to the Court that the procedures for Class Notice have been completed.

19. The Court directs that the Fairness and Final Approval Hearing be scheduled for March 5, 2019, at 10 o'clock a.m. to assist the Court in determining whether the proposed Settlement Agreement should be finally approved as fair, reasonable and adequate to the Settlement Class Members; whether Final Judgment should be entered dismissing the Actions with prejudice; whether Class Counsel's Fee Application should be approved; and whether any request for service awards for the Plaintiffs should be approved.

20. Not later than **thirty (30) days** prior to the Final Approval Hearing, Class Counsel will file a motion seeking the Court's Final Approval of the proposed Settlement. Class Counsel also shall file their Fee Application and any requests for incentive awards for the Plaintiffs by no later than **thirty (30) days** prior to the Final Approval Hearing.

21. The Court reserves the right to adjourn and/or reschedule the Final Approval Hearing without further notice of any kind; therefore, any Settlement Class Member intending to

attend the Final Approval Hearing should (in addition to complying with all instructions and requirements above) confirm the date, time and location of the Final Approval Hearing with Class Counsel.

22. This Order shall become null and void and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing immediately before the Court entered this Order, if: (a) the Settlement Agreement is not finally approved by the Court; or (b) the Settlement Agreement is terminated in accordance with the Settlement Agreement.

23. Pending the final determination of whether the Settlement Agreement should be approved, all non-settlement related proceedings in this Action are hereby stayed. If the Settlement Agreement is terminated or the Settlement Agreement is not finally approved, the stay shall be terminated.

24. The following chart summarizes the dates and deadlines set by this Order:

Date by which Bankers Standard will provide the Settlement Class List to the Administrator	<b>October 27, 2018</b>
Date by which the Administrator will provide Mail Notice to the Settlement Class	<b>November 16, 2018</b>
Date by which the Administrator shall submit an affidavit or declaration demonstrating that the procedures for class notice have been completed	<b>November 26, 2018</b>
Date Set for Final Approval Hearing	<b>March 5, 2019</b>
Opt-Out Deadline (Last day for Settlement Class Members to submit written request to be excluded from the Settlement Class)	<b>January 19, 2019</b>

Objection Deadline (Last day for Settlement Class Members to file objections to the Settlement)	<b>January 19, 2019</b>
Last day for: (a) the Parties to file any motions in support of final approval of the Settlement Agreement; and (b) Class Counsel to file a petition for fees and costs and service awards for the Class Plaintiffs	<b>February 3, 2019</b>
Last day for any Settlement Class Member who has objected to the Settlement and wishes to appear at the Final Approval Hearing to file and serve a notice of appearance	<b>February 13, 2019</b>
Exclusion Rescission Deadline (Last day for any Settlement Class Member who exercised his/her/their right to opt out of the Settlement to rescind the request for exclusion)	<b>February 23, 2019</b>

**SO ORDERED**, this 17th day of October, 2018.

S/ Marc T. Treadwell  
MARC T. TREADWELL, JUDGE  
UNITED STATES DISTRICT COURT