

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**FRANK APODACA, PERSONAL
REPRESENTATIVE OF THE ESTATE
OF YVONNE APODACA, on behalf of
Yvonne Apodaca's estate and all others similarly situated,**

Plaintiff,

vs.

No. CIV 18-0399 KK-JMR

**YOUNG AMERICA INSURANCE
COMPANY,**

Defendant.

**THOMAS SWIECH, individually and on behalf of
all other similarly situated individuals,**

Plaintiff,

v.

No. 1:25-cv-00047 KK-JMR

LOYA INSURANCE COMPANY,

Defendant.

SETTLEMENT AGREEMENT

This Settlement Agreement, dated October 13, 2025, is made and entered into by and among Plaintiffs Frank Apodaca, as personal representative of the Estate of Yvonne Apodaca (“Apodaca”) and Thomas Swiech (“Swiech”) (collectively, “Plaintiffs” or “Class Representatives”) and Defendants Young America Insurance Company (“YAIC”) and Loya Insurance Company (“LIC”) (together with the Released Parties, “Loya”) (collectively, with Plaintiffs, the “Parties”). The Settlement is intended to fully resolve the above-captioned class action lawsuits, subject to the approval of the Court and the terms and conditions set forth in this Settlement.

I. RECITALS/BACKGROUND

1. This consolidated litigation arises from Plaintiffs’ allegations that the Underinsured Motorist (“UIM”) component of the Uninsured/Underinsured Motorist (“UM/UIM”) coverage they purchased from YAIC and LIC, respectively, was “illusory,” valueless, or misleading by virtue of Loya’s application of or failure to adequately inform them about the implications of New Mexico’s statutory offset law, which allows an insurer to reduce the amount of any UIM payment by the insured’s recovery from the at-fault driver’s liability insurance coverage. This is commonly referred to as the “*Schmick* offset,” stemming from the New Mexico Supreme Court’s reading of New Mexico’s UM/UIM statute, NMSA § 66-5-301. *See Schmick v. State Farm Mut. Auto. Ins. Co.*, 1985-NMSC-073, 103 N.M. 216, 704 P.2d 1092.

2. Plaintiffs each were offered and elected to purchase UM/UIM coverage from YAIC and LIC, respectively, at the state-minimum limits of \$25,000 per-person/\$50,000 per accident for bodily injury and \$10,000 per accident for property damage.

3. On January 23, 2017, Apodaca was injured in a motor vehicle collision caused by a third-party, Ben Shriver. Shriver carried liability coverage in the amount of \$25,000 per person/\$50,000 per accident for bodily injury and \$10,000 per accident for property damage. After the collision, Apodaca made a claim with Shriver's insurer and received the full extent of Shriver's \$25,000 bodily injury coverage. Apodaca also received \$7,559.87 from Shriver's insurer for damage to her vehicle.

4. After settling with Shriver's insurer, Apodaca made a claim with YAIC for UIM benefits under her policy. YAIC paid Apodaca \$2,440.13 in UIM property damage benefits after deducting the \$7,559.87 Apodaca received from Shriver's insurer for damage to Apodaca's vehicle from her \$10,000 UMPD limit pursuant to the *Schmick* offset. YAIC, however, denied additional payment to Apodaca for bodily injury under her UIM Coverage because of the *Schmick* offset arising from the \$25,000 payment Apodaca received from Shriver's insurer.

5. On February 19, 2018, Apodaca filed suit against YAIC in the Second Judicial District in the State of New Mexico, County of Bernalillo. YAIC timely removed the case to this Court.

6. Apodaca claims the UIM portion of her UM/UIM coverage was "illusory", without value, or misleading by virtue of YAIC's application of *Schmick* offset and YAIC's failure to adequately inform her about the limitations of UIM coverage due to the *Schmick* offset, which resulted in YAIC's denial of her UIM bodily injury claim. Apodaca asserted the following claims against YAIC: (1) negligent misrepresentation; (2) violations of New Mexico's Unfair Trade Practices Act; (3) violations of New Mexico's Unfair Insurance Practices Act; (4) breach of contract and claim for UIM coverage; (5) breach of the covenant

of good faith and fair dealing; (6) injunctive relief; (7) declaratory judgment; and (8) punitive damages.

7. Yvonne Apodaca passed away on or about May 13, 2023. On October 3, 2025 the District Court entered an order granting Class Counsel’s unopposed motion for her estate to be substituted in as plaintiff in her Action. (Doc. 23.)

8. On December 6, 2024, Swiech sued LIC in the Second Judicial District in the State of New Mexico, County of Bernalillo. LIC timely removed the case to this Court.

9. Like Apodaca, Swiech alleges that the UIM portion of his UM/UIM coverage was “illusory”, without value, or misleading and that LIC failed to adequately inform him about the limitations of UIM coverage due to the *Schmick* offset. Swiech asserted the following claims against LIC: (1) negligence; (2) Violations of the New Mexico Unfair Trade Practices Act; (3) violations of the New Mexico Unfair Insurance Practices Act; (4) breach of the covenant of good faith and fair dealing; (5) negligent misrepresentation; (6) unjust enrichment; and (7) declaratory judgment.

10. On October 4, 2021, the New Mexico Supreme Court issued *Crutcher v. Liberty Mutual Insurance Company*, No. S-1-SC-37478, 501 P.3d 433 (N.M. 2021). In *Crutcher*, the Court held that minimum-limits UIM coverage “was illusory in that it may mislead minimum UM/UIM policyholders to believe that they will receive underinsured motorist benefits, when in reality they may never receive such benefit.” Thus, the court determined that “an insurer must adequately disclose the limitations of minimum limits UM/UIM coverage—namely, that . . . a policyholder may never receive underinsurance motorist coverage” because of the *Schmick* offset. *Id.* at *1. The Court held that “hereafter, the insurer shall bear the burden of disclosure to the policyholder that a purchase of the

statutory minimum of UM/UIM insurance may come with the counterintuitive exclusion of UIM insurance if the insured is in an accident with a tortfeasor who carries minimum liability insurance As such, we will now require every insurer to adequately disclose the limitations of minimum limits UM/UIM policies in the form of an exclusion in its insurance policy.” *Id.*

11. Following *Crutcher*, in February 2022, YAIC and LIC instituted revised UM/UIM selection forms and policy jackets incorporating the necessary disclosure and exclusion required by *Crutcher*.

12. On June 5, 2025, the Parties, through nationally recognized class action and insurance mediator Michael Ungar, engaged in good faith, arm’s-length settlement negotiations, agreeing on the key terms of the Settlement. To further settlement discussions, YAIC and LIC provided Plaintiffs with certain data, including the aggregate UM/UIM coverage premiums earned by the YAIC and LIC between October 2010 and February 2022. The Parties thereafter worked with a nationally recognized settlement administrator to finalize the terms of this Settlement Agreement and the proposed notice Exhibits attached hereto.

13. Plaintiffs, through Class Counsel, believe that the Settlement confers substantial benefits on the Settlement Class and is in the best interest of the Settlement Class. It is also understood that Plaintiffs, through Class Counsel, believe their claims have substantial merit. Nonetheless, Plaintiffs, through Class Counsel, recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Action against Loya through motions practice, trial, and potential appeals. They have also considered the uncertain outcome and risks of further litigation, as well as the difficulties

and delays inherent in such litigation. Class Counsel is experienced in insurance litigation and knowledgeable regarding the relevant claims, remedies, and defenses at issue generally in such litigation and specifically in this Action. Class Counsel has determined that the Settlement set forth in this Settlement Agreement is fair, reasonable, and adequate, and in the best interest of the Settlement Class.

14. YAIC and LIC continue to deny each and all of the claims and contentions alleged against them in the respective Actions. YAIC and LIC deny all charges of wrongdoing or liability as alleged, or which could be alleged, in the Actions. However, YAIC and LIC have concluded that further litigation would be protracted and costly. YAIC and LIC have each considered the uncertainty and risks inherent in any litigation, and YAIC and LIC have therefore determined that it is desirable and beneficial that the Actions be settled in the manner and upon the terms and conditions set forth in this Settlement Agreement.

NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, it is hereby agreed by the Class Representatives, individually and on behalf of the Settlement Class, and YAIC and LIC that, subject to the approval of the Court, the Actions be forever resolved, settled, compromised, and dismissed with prejudiced on the following terms and conditions:

II. DEFINITIONS

15. The terms used in this Settlement Agreement, and listed in this section, shall have the following meanings:

a. “Actions” means *Frank Apodaca, personal representative of the Estate of Yvonne Apodaca v. Young America Insurance Company*, United States District Court for the

District of New Mexico, Case No. 18-cv-00399, and *Thomas Swiech v. Loya Insurance Company*, United States District Court for the District of New Mexico, Case No. 25-cv-00047.

b. “Agreement,” “Settlement Agreement,” or “Settlement” means this Settlement Agreement, Exhibits, and the settlement terms embodied herein.

c. “Claim” means a claim for Claim Readjustment Payments made under the terms of this Settlement Agreement.

d. “Claim Form” means the document, substantially in the form attached hereto as Exhibit A, which will be available on the Settlement Website for electronic completion or available to receive by mail for a mailed submission, that certain Settlement Class Members must submit to potentially receive a Claim Readjustment Payment, as set forth in and subject to the provisions of this Agreement.

e. “Claimant” means a Settlement Class Member who makes a Claim for benefits under this Settlement Agreement.

f. “Claim Deadline” means the final date by which a Settlement Class Member must submit a Claim for Settlement Class payments. The Claim Deadline shall be ninety (90) days after the Notice Date.

g. “Claim Readjustment Payment” means any payment made to a Class Member for a Valid Claim under Section IV, Paragraph 22 of this Agreement.

h. “Class Counsel” means Kedar Bhasker of Law Offices of Kedar Bhasker, Corbin Hildebrandt of Corbin Hildebrandt P.C., Geoffrey Romero, Nikko Harada and Christopher Winters of Romero, Harada & Winters, LLC, and Andrea D. Harris and Matthew Zamora of Valle, O’Cleireachain, Zamora & Harris.

- i. “Class Representatives” means the Plaintiffs.
- j. “Complaints” means the Class Action Complaints filed by Apodaca and Swiech on February 19, 2018, and December 6, 2024, respectively, in the Second Judicial District Court, Bernalillo County, New Mexico, which form the basis of the Actions, and any amendments thereto.
- k. “Court” means the United States District Court for the District of New Mexico.
- l. “Direct Premium Refund Fund” means the portion of the Settlement Fund remaining after the following amounts are deducted: (i) Attorneys’ Fee Award and Costs approved by the Court; (ii) Service Award Payments approved by the Court; (iii) Notice and Administrative Expenses incurred; (iv) Taxes and Tax-Related Expenses; (v) payment of Valid Claims for Claim Readjustment Payments; and (vi) estimated Notice and Administrative Expenses necessary to effectuate the Direct Premium Refund Payments as determined by the Settlement Administrator.
- m. “Effective Date of Settlement” or “Effective Date” means the date upon which the Settlement in the Action shall become effective and final, and occurs when each and all of the following conditions have occurred:
 - i. This Settlement Agreement has been fully executed by all Parties and their counsel;
 - ii. Orders have been entered by the Court certifying the Settlement Class, granting preliminary approval of this Settlement, and approving the Notice (described below);
 - iii. The Notice program has been executed in accordance with the Preliminary

Approval Order;

- iv. The Court has entered a Final Order and Judgment finally approving the Settlement; and
- v. The Final Judgment, as defined below, has been entered and all times to appeal therefrom have expired with (1) no appeal or other review proceeding having been commenced; (2) one business day following entry of the Final Order and Judgment, if no parties have standing to appeal; or (3) an appeal or other review proceeding having been commenced, and such appeal or other review having been concluded such that it is no longer subject to review by any court, whether by appeal, petitions for rehearing or re-argument, petitions for rehearing *en banc*, petitions for writ of certiorari, or otherwise, and such appeal or other review has been resolved in a matter that affirms the Final Judgment in all material respects.

n. “Evaluation Record” means the record described in Paragraphs 36 and 37, which YAIC and LIC shall use for adjusting Valid Claims for Claim Readjustment Payments.

o. “Final Fairness Hearing” means the hearing to be conducted by the Court after the Notice Program is complete, at which time Class Counsel and Loya’s Counsel will request that the Court grant final approval of the Settlement set forth herein.

p. “Final Approval Order and Judgment” means an order and judgment that the Court enters after the Final Fairness Hearing, which finally approves the Settlement Agreement, certifies the Settlement Class, dismisses the Actions with prejudice, and otherwise satisfies the settlement-related provisions of Federal Rule of Civil Procedure 23,

and is consistent with all material provisions of this Agreement, substantially in the form attached hereto as Exhibit B.

q. “Motor vehicle” means any motor vehicle as defined by NMSA 1978, § 66-1-4.11(H).

r. “Neutral Evaluation on Appeal” means the neutral Referee’s resolution of a Settlement Class Member’s appeal of a Notice of Determination.

s. “Non-Profit *Cy Pres* Recipient” means Equal Justice Foundation, Inc. subject to the Court’s approval.

t. “Notice” means the mailed or emailed notice, substantially in one of the two forms shown in Exhibit C hereto (depending on whether the notice is mailed or emailed), to the Settlement Class Members, notifying them of the Settlement and inviting Settlement Class Members to make a Claim for Settlement Class Payments.

u. “Notice and Administrative Expenses” means all of the expenses incurred in the administration of this Settlement, including, without limitation, all expenses or costs associated with providing Notice to the Settlement Class, locating Settlement Class Members, determining the eligibility of any person to be a Settlement Class Member, any Neutral Evaluation on Appeal, including, but not limited to, expenses charged or incurred by the Referee, and administering, calculating, and distributing the Settlement Fund to Settlement Class Members. Administrative Expenses also includes all third-party fees and expenses incurred by the Settlement Administrator in administering the terms of this Agreement. Administrative Expenses do not include internal costs associated with YAIC and LIC’s readjustment of Valid Readjustment Claims.

v. “Notice Date” means the first date upon which the Notice is mailed or

emailed to the Settlement Class Members.

w. “Notice of Determination” means the notice sent by Loya to a Settlement Class Member who makes a Valid Claim for Claim Readjustment Payment (described in Paragraph 38) of Loya’s determination of the adjustment of their Claim.

x. “Notice of Determination Appeal” means an appeal by a Settlement Class Member of a Notice of Determination.

y. “Parties” means (i) Class Representatives, on behalf of themselves, and the Settlement Class; (ii) YAIC; and (iii) LIC.

z. “Plaintiffs” means the Estate of Yvonne Apodaca and Thomas Swiech.

aa. “Loya’s Counsel” means Baker & Hostetler LLP, O’Brien & Padilla, P.C., and Allen Law Firm, LLC.

bb. “Preliminary Approval Order” means the proposed order preliminary approving the Settlement and directing mailed and e-mailed Notice to the Settlement Class Members of the pendency of the Action and of the Settlement, to be entered by the Court.

cc. “Referee” means the designated neutral third party appointed by the Court who has been selected and agreed to by Class Counsel and Loya, who will be assigned to resolve a Class Member’s appeal, if any, of a Notice of Determination pursuant to the procedures set forth herein for the Neutral Evaluation on Appeal.

dd. “Released Claims” means any and all claims, rights, demands, charges, complaints, causes of action, liabilities, and damages of any and every kind and nature that either has been asserted, was asserted, or could have been asserted, by any of the Releasing Parties against any of the Released Parties in the Actions or in any other action or proceeding before any court, arbitrator(s), tribunal, or administrative body, regardless of

whether they are known or unknown, accrued or unaccrued, foreseen or unforeseen, suspected or unsuspected, liquidated or unliquidated, fixed or contingent, direct or derivative, class or individual, arising out of, or related or connected in any way with the claims and causes of action of every kind and description that were brought, alleged, argued, raised or asserted in any pleading or court filing in the Actions, including, without limitation, (a) any and all claims that arise out of the alleged facts, circumstances, and occurrences underlying the allegations as set forth in the Complaints filed in the Actions; (b) any and all claims disputing the value of UM/UIM coverage or premiums based on the *Schmick* offset or New Mexico being a “gap theory” state with respect to the payment of UIM benefits; (c) any and all claims related to or arising out of UIM benefits being reduced or denied due to a *Schmick* offset; (d) any and all claims for penalties arising from or relating to late payment, non-payment, or underpayment of benefits for UM/UIM claims; and (e) any and all claims arising from or relating to the claim readjustment process provided for in this Agreement, including, but not limited to, any claims that Loya readjusted, determined, or paid a Valid Claim for Claim Readjustment Payment improperly, in bad faith, or in violation of any statute, regulation, or other applicable law. Released Claims shall not include the right of any Settlement Class Member or any of the Released Parties to enforce the terms of the Settlement contained in this Settlement Agreement.

ee. “Released Parties” or “Released Party” means, Young America Insurance Company, Loya Insurance Company, and each of their respective past and present parent companies, subsidiaries, affiliates, related entities, successors, assigns, officers, directors, partners shareholders, members, agents, employees, representatives, attorneys, administrators, and any person related to such entities or individuals who is, was, or could

have been named as a defendant in the Actions, and each of their respective past and present predecessors, successors, assigns, officers, directors, partners, shareholders, members, agents, employees, representatives, attorneys, administrators, and any person related to such entities or individuals who is, was, or could have been named as a defendant in the Actions.

ff. “Releasing Parties” means the Class Representatives and the Settlement Class Members, and each of their respective heirs, executors, administrators, representatives, agents, partners, successors, attorneys, and assigns, excluding those Settlement Class Members who submit a valid Request for Exclusion prior to the Opt Out Deadline.

gg. “Settlement Administrator” shall mean Epiq, subject to Court approval.

hh. “Settlement Class” means all YAIC and LIC policyholders and insureds between October 1, 2010 and February 28, 2022, who

- i. resided in New Mexico; and
- ii. purchased or otherwise paid premium for an insurance policy that included UM/UIM coverage, and/or
- iii. made a claim for UIM benefits after October 1, 2010 under an insurance policy that did not include the disclosure and exclusion required by *Crutcher* and had benefits reduced or denied due to a *Schmick* offset. To identify the scope of the Settlement Class, YAIC and LIC agree to search for:
 1. Any YAIC and LIC policyholder who resided in New Mexico and paid premium for UM/UIM coverage at any time between October 1, 2010 and February 28, 2022; and
 2. Any individual who resided in New Mexico and made a UIM claim to

YAIC or Loya after October 1, 2010 under an insurance policy that did not include the exclusion required by *Crutcher*, and who has the following code entered in Loya's electronic records: UM/UIM;

3. YAIC and LIC will de-duplicate the results of this search. The results of this search shall constitute the Settlement Class.

- iv. The Settlement Class specifically excludes (1) any claimant who has separately filed suit against YAIC or LIC up to the Notice Date, the subject of which suit includes the reduction or denial of benefits on the basis of a *Schmick* offset; 2) any individual who has settled a claim for benefits reduced or denied on the basis of a *Schmick* offset, whose claim was adjusted or readjusted without applying a *Schmick* offset, and signed a final release prior to the Notice Date; 3) any claimant for whom, at claimant's request, YAIC or LIC has already re-adjusted a claim for benefits reduced or denied on the basis of the *Schmick* offset prior to the Notice Date; 4) the Judge(s) presiding over this Actions; and 5) any employees of the Released Parties.

ii. "Settlement Class Member(s)" or "Member(s)" means a Person(s) who falls within the definition of the Settlement Class.

jj. "Settlement Class Payments" means payments to be made to Settlement Class Members, as described in Section IV below.

kk. "Settlement Fund" means the sum of One-Million-Nine-Hundred-Fifty-Thousand Dollars and Zero Cents (\$1,950,000.00) to be paid by or on behalf of Loya as specified in Section IV. The Settlement Fund is the limit and extent of the monetary

obligations of YAIC and LIC, and their respective predecessors, successors, assigns, parents, subsidiaries, divisions, affiliates, departments, and any and all of their past, present, and future officers, directors, members, managers, employees, shareholders, partners, servants, agents, successors, attorneys, representatives, insurers, reinsurers, subrogees and assigns of any of the foregoing, and any other Released Parties, with respect to this Agreement and the settlement of the Actions.

ll. “Settlement Website” means the website that the Settlement Administrator will establish as soon as practicable following entry of the Preliminary Approval Order, but prior to dissemination of the Notice, as a means for Settlement Class Members to obtain notice of and information about the Actions and Settlement, relevant case documents and deadlines, and (in the case of certain Class Members) to submit a Claim Form. The Settlement Website shall contain relevant documents, including, but not limited to, the Complaints, the Notice attached as Exhibit B, the long-form notice attached as Exhibit D, this Agreement, Plaintiff’s Motion for Preliminary Approval of the Settlement, the Preliminary Approval Order, Plaintiffs’ Motion for an Award of Attorney Fees, Costs, and Expenses, and Incentive Award. The Settlement Website shall also include a toll-free number, email address, and mailing address through which Settlement Class Members may contact the Settlement Administrator directly. The Settlement Website shall not include any advertising and shall remain operational until at least sixty (60) days after all Settlement Class Payments have been distributed.

mm. “Taxes and Tax-Related Expenses” means any and all applicable taxes, duties, and similar charges imposed by a government authority (including any estimated taxes, interest or penalties) arising in any jurisdiction, if any, with respect to the

income or gains earned by or in respect of the Settlement Fund, including, without limitation, any taxes that may be imposed upon Loya with respect to any income or gains earned by or in respect of the Settlement Fund for any period while it is held in the Settlement Fund.

nn. “Unclaimed Funds” means the value of checks not cashed or funds that were otherwise not claimed by Settlement Class Members for Direct Premium Refund Payments and/or Claim Readjustment Payments.

oo. “Valid Claims” means the Claims for Settlement Class Payments in an amount approved by Loya or the Settlement Administrator, as described in Section VI below.

III. SETTLEMENT FUND

16. **Establishment of Settlement Fund.** Within fourteen (14) days of the later of the entry of Preliminary Approval Order and the creation of an account established and administered by the Settlement Administrator, Loya shall deposit or cause to be deposited an amount equal to the Settlement Administrator’s expected costs into the account established by and administered by the Settlement Administrator; the Settlement Administrator shall provide Loya the amount of such expected costs upon its creation of the account that it will administer. Then, within thirty (30) days of the Court’s entry of a Final Approval Order and Judgment, Loya shall deposit or cause to be deposited an amount equal to the difference between One-Million-Nine-Hundred-Fifty-Thousand Dollars and Zero Cents (\$1,950,000.00) and the amount Loya deposited or caused to be deposited into the account established and administered by the Settlement Administrator such that the total amount Loya will have deposited into the account is One-Million-Nine-Hundred-Fifty-Thousand

Dollars and Zero Cents (\$1,950,000.00).

17. **Non-Reversionary.** The Settlement Fund is non-reversionary. As of the Effective Date, all rights of Loya in or to the Settlement Fund shall be extinguished, except in the event this Settlement Agreement is terminated, as described in Paragraph 69. In the event the Settlement Agreement is terminated pursuant to Paragraph 69, the Settlement Administrator shall return to Loya within ten (10) days any amounts remaining in the Settlement Fund, less any expenses the Settlement Administrator has already incurred pursuant to the Settlement Agreement, which the Settlement Administrator shall be entitled to retain.

18. **Qualified Settlement Fund.** The Parties agree that the Settlement Fund is intended to be maintained as qualified settlement fund within the meaning of Treasury Regulation § 1.468 B-1, and that the Settlement Administrator shall invest the Settlement Fund exclusively in instruments or accounts backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, including a U.S. Treasury Fund or a bank account that is either (a) fully insured by the Federal Deposit Insurance Corporation (“FDIC”) or (b) secured by instruments backed by the full faith and credit of the United States Government. Loya and Loya’s Counsel shall have no responsibility for, interest in, or liability whatsoever with respect to investment decisions executed by the Settlement Administrator. All risks related to the investment of the Settlement Fund shall be borne solely by the Settlement Fund and its Escrow Agent. Further, the Settlement Administrator, within the meaning of Treasury Regulation § 1.468 B-2(k)(3), shall be responsible for filing tax returns and any other tax reporting for or in respect of the Settlement Fund and paying from the Settlement Fund any Taxes and Tax-Related Expenses

owed with respect to the Settlement Fund. The Parties agree that the Settlement Fund shall be treated as a qualified settlement fund from the earliest date possible and agree to any relation-back election required to treat the Settlement Fund as a qualified settlement fund from the earliest date possible. The Settlement Administrator shall provide an accounting of any and all funds in the Settlement Fund, including any interest accrued thereon and payments made pursuant to this Agreement, upon request of any of the Parties.

19. **Custody of Settlement Fund.** The Settlement Fund shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the entirety of the Settlement Fund is distributed pursuant to this Settlement Agreement or the balance returned to those who paid the Settlement Fund in the event this Settlement Agreement is terminated.

20. **Use of the Settlement Fund.** As further described in this Settlement, the Settlement Fund shall be used by the Settlement Administrator to pay for the following: (i) Notice and Administrative Expenses; (ii) Taxes and Tax-Related Expenses; (iii) Claim Readjustment Payments; (iv) Direct Premium Refund Payments; (v) Service Award Payments approved by the Court; and (vi) Attorneys' Fee Award and Costs approved by the Court. In no event shall YAIC, LIC, or any other Released Party have any payment obligations to the Settlement Class, Plaintiffs, Class Counsel, the Settlement Administrator, or to any other person or entity beyond the Settlement Fund.

21. **Taxes and Representations.** Taxes and Tax-Related Expenses relating to the Settlement Fund shall be considered Notice and Administrative Expenses and shall be timely paid by the Settlement Administrator out of the Settlement Fund without prior order of the Court. Further, the Settlement Fund shall indemnify and hold harmless the Parties, their

counsel, and their insurers and reinsurers for Taxes and Tax-Related Expenses (including, without limitation, taxes payable by reason of any such indemnification payments). The Parties and their respective counsel have made no representation or warranty with respect to the tax treatment by any Class Representative or any Settlement Class Member of any payment or transfer made pursuant to this Agreement or derived from or made pursuant to the Settlement Fund. Each Class Representative and Settlement Class Member shall be solely responsible for the federal, state, and local tax consequences to him, her, or it of the receipt of funds from the Settlement Fund pursuant to this Agreement.

IV. BENEFITS TO SETTLEMENT CLASS MEMBERS

22. **Claim Readjustment Payments.** YAIC and LIC will readjust the UIM claims for Settlement Class Members who make a Valid Claim for Claim Readjustment. To be a Valid Claim, the Settlement Class Member must have (a) been insured by YAIC or LIC between October 1, 2010 and February 28, 2022 under an automobile policy that included UIM coverage, but did not include the disclosure/exclusion required by *Crutcher*, (b) been in an accident and made a claim to YAIC or LIC for UIM coverage benefits after October 1, 2010, and (c) had such claim for UIM coverage benefits reduced or denied by YAIC or LIC pursuant to a *Schmick* offset. Readjusted payments will be equal to the amount of any *Schmick* offset taken, subject to applicable UIM bodily injury or property damage limits (“Claim Readjustment Payment”). Claim Readjustment Payments will be subject to an aggregate cap of Eight Hundred Thousand Dollars (\$800,000.00) for all Class Members who make a Valid Claim for a Claim Readjustment Payment. If the aggregate value of Valid Claims made for Claim Readjustment Payments exceeds \$800,000.00, Settlement Class Members who submit Valid Claims under the Claim Readjustment Payment shall have their

payments reduced, and each such Class Member will be paid a pro rata share of \$800,000.00 based on their respective payment amounts. If the aggregate value of Valid Claims for Claim Readjustment Payments is less than Eight Hundred Thousand Dollars (\$800,000.00), the “Residue” (the difference between \$800,000.00 and the aggregate Claim Readjustment Payment value) shall be included in the Direct Premium Refund Fund and distributed to those Class Members entitled to receive a Direct Premium Refund Payment.

23. **Direct Premium Refund Payments.** Those Settlement Class Members who purchased a policy with or paid premium for UM/UIM coverage between October 1, 2010 and February 28, 2022, and who do not make a Valid Claim for a Claim Readjustment Payment, shall be directly paid a pro rata share of the Direct Premium Refund Fund (the “Direct Premium Refund Payment”). For those Settlement Class Members entitled to a Direct Premium Refund Payment, each such Class Member’s pro rata share of the Direct Premium Refund Fund shall be based on the total UM/UIM premiums paid by such persons between October 1, 2010 and February 28, 2022 (i.e., aggregate amount of UM/UIM premium paid by an eligible Settlement Class Member/the total Direct Premium Refund Fund = pro rata percentage of Direct Premium Refund Fund).

V. NOTICE PROGRAM

24. Notice of the pendency of the Lawsuit and the Settlement (the “Notice Program”) shall be made as provided in this Section.

25. **Sending the Notice:** Within 45 days after the entry of the Preliminary Approval Order, the Class Notice, in one of the two forms substantially similar to those attached hereto as Exhibit C, shall be emailed to each Settlement Class Member’s last known email address. If Loya does not have a valid email address, notice shall be sent in

one of the two forms substantially similar to those attached hereto as Exhibit C, by first class mail to those Settlement Class Members' last known address. The last known address shall be determined from information reasonably available in Loya's files, which will be run by the Settlement Administrator through the United States Postal Service's national change of address database prior to mailing by the Settlement Administrator. For those Settlement Class Members who make a Valid Claim for Claim Readjustment Payment, the Settlement Administrator shall offer various options to receive a Settlement Class Payment (*e.g.*, check, Paypal, Venmo) should Loya and/or the Referee determine that such Class Member is entitled to a Claim Readjustment Payment.

26. A copy of the Claim Form, substantially in the form hereto as Exhibit A, will be available on the Settlement Website identified in the Class Notice and can be requested to be received in the mail from the Settlement Administrator.

27. Loya and the Settlement Administrator shall have no duty to perform any additional search for, or otherwise attempt to verify, email or mailing addresses of Settlement Class Members, including as to returned, undelivered Class Notices. However, any Class Notices that are returned with a listed forwarding email or mailing address shall then promptly be sent or mailed a Notice to the listed forwarding address. If an email notice is returned as undeliverable, the Settlement Administrator shall mail a Class Notice to the Settlement Class Member's last known mailing address. However, the Claims Deadline shall not be adjusted due to re-mailing of a Class Notice to a forwarding address or mailing of a Class Notice to Settlement Class Members whose emails were returned as undeliverable.

28. Unless otherwise ordered by the Court, or agreed by the Parties, the Class Notice will be sent solely to Settlement Class Members and not to any attorney or counsel

who may represent them with regard to a UM/UIM claim or who have represented the Settlement Class Members with regard to any previous claim.

29. **Toll Free Hotline and Website:** Loya, through the Settlement Administrator, will establish a toll-free telephone number with a live operator, which any Settlement Class Member may call to receive the Agreement, Class Notice and a Claim Form, as well as all information included on the Settlement Website. The Settlement Website shall contain information about this Agreement, including printable copies of the Agreement, the Notice, and the Claim Form, which shall be maintained by the Settlement Administrator. This Settlement Website shall also contain a list of Frequently Asked Questions to give further information regarding this Agreement. The toll-free number and Settlement Website referred to herein will be established and operational by a date no later than the date the Class Notice is initially mailed and will remain operational until sixty (60) days after the Settlement Administrator has made final distribution of Settlement Class Payments to Settlement Class Members.

30. **Costs of Notice:** Costs of administration (including printing and mailing the Class Notice, providing the Settlement Website, establishing a toll-free telephone number, printing and distributing Settlement Class Payments to Settlement Class Members and all postage relating to the foregoing) will be paid out of the Settlement Fund. Under no circumstances shall Loya be required under this Agreement to incur or pay any fees or expenses beyond the establishment of the Settlement Fund.

VI. ADMINISTRATION OF CLAIMS

31. **Class Notice and Claims Deadline:** Settlement Class Members must submit a Claim for Claim Readjustment by the Claim Deadline, meaning all Settlement Class

Members shall have ninety (90) days after the Notice Date to submit a Claim for Claim Readjustment Payments. All deadlines for Class Notice shall be determined based on postmark of communication or, for email Notice, the date the email is sent.

A. Claims Adjusting Process for Valid Claims for Claim Readjustment Payments.

32. The process in this subsection applies to Claims made for Claim Readjustment Payments.

33. The Settlement Administrator will receive all Claims and make the initial determination of whether a Claim is a Valid Claim. The Settlement Administrator may consult with Loya to determine whether the claim was or would have been governed under an insurance policy issued by LIC or YAIC that did not include the disclosure/exclusion required by *Crutcher*. If the Claim is subject to an insurance policy that included the *Crutcher* exclusion, such Claim shall not be considered a Valid Claim and is not eligible for a Claim Readjustment Payment.

34. All Valid Claims for Claim Readjustment Payments will be processed by Loya's claims department and shall be adjusted as promptly as it would be in the ordinary course of business.

35. Loya will determine the dollar amount, if any, of the UIM benefits each Settlement Class Member who makes a Valid Claim for Claim Readjustment Payment would have been paid but for Loya's reduction or denial of UM/UIM benefits based on a *Schmick* offset, if any.

36. In adjusting Claims for a Claim Readjustment Payment pursuant to this Agreement, Loya shall consider: (i) any claim files or other documentation already in its

possession pertaining to the applicable Settlement Class Member's claim for UIM benefits; (ii) the information or documentation, if any, provided by the Settlement Class Member in the Claim Form or with the Claim Form; and/or (iii) any additional information or documentation provided by the Settlement Class Member and/or requested or obtained by Loya from the Settlement Class Member and/or third-party sources during the claims adjustment process before the adjuster renders a determination. The documents and information described in this Paragraph and Paragraph 37 below, are referred to collectively as the "Evaluation Record."

37. In adjusting claims for a Claim Readjustment Payment pursuant to this Agreement, Loya shall be entitled to request and receive from any Settlement Class Member, or obtain from any third-party source, any information or documentation Loya reasonably determines will assist its review. The Settlement Class Member shall reasonably cooperate with Loya by providing documents or information requested by Loya, including, but not limited to, signing authorizations, such as medical and/or wage authorizations for release of medical and/or employment information, and allowing Loya to obtain relevant information directly from health care providers, employers, or government entities. This includes, but is not limited to, information potentially relevant to liens or reimbursement claims or rights by, for example and without limitation, health insurers, medical providers, or government programs such as Medicare or Medicaid. Loya shall promptly provide the Settlement Class Member with all information and/or documents obtained by Loya from any third parties. The Settlement Class Member must submit the additional documents or materials no later than thirty (30) days after any request is made by Loya. If Loya does not receive a timely response, it may deny all or part of the claim on the basis of insufficient

documentation.

38. Within the later of (a) 180 days after the Effective Date of this Agreement or (b) thirty (30) days after Loya has a complete Evaluation Record, or (c) thirty (30) days after Loya has not timely received a response for documentation necessary for the Evaluation Record, Loya or the Settlement Administrator shall advise the Settlement Class Member in writing of Loya's claims adjustment determination (hereafter referred to as the "Notice of Determination"), which shall set forth: (i) the amounts (if any) of the Settlement Class Payment to be paid; (ii) where not otherwise obvious, a brief explanation of the calculation and basis for the determination of those amounts; and (iii) if any claims or dollar amounts are rejected, a brief explanation of the reasons for the rejection. If any Settlement Class Payment is determined by Loya to be due, a payment by check will be included with the Notice of Determination, unless the Settlement Class Member has elected a payment method other than check (*e.g.*, PayPal, Venmo). The Notice of Determination shall also inform the Settlement Class Member that he or she is free to immediately cash any check regardless of whether the Settlement Class Member plans to appeal the Notice of Determination to a Referee for a Neutral Evaluation on Appeal as provided in subsection B below, and that under no circumstances will the Settlement Class Member be required to reimburse Loya or the Settlement Fund for any of the money received as part of the Notice of Determination.

The Settlement Class Members hereby waive and release any challenge to the Settlement Claim Readjustment process set forth herein, for any reason. Neither Loya, nor any of its Counsel, nor any Released Parties, nor Class Counsel, nor the Plaintiffs, shall have any liability to any Settlement Class Member (including, but not limited to, allegations of breach of the implied covenant of good faith and fair dealing, unfair claims handling

practices or unfair trade practices), for the way in which any claim made pursuant to this Agreement is adjusted, determined or paid, beyond the amount of the Claim Readjustment Payment, if any, determined by Loya and/or by the Referee.

B. Appeal of Notice of Determination for Valid Claims for Claim Readjustment Payment.

39. A Settlement Class Member may appeal the Notice of Determination but must do so according to the procedures described herein.

40. The Parties will request that as part of the Court's order entering Final Judgment, the Court appoint a designated Referee, who is a neutral third party that has been selected and agreed to by both Class Counsel and Loya. The Referee shall have a duty to recuse himself or herself upon learning of the existence of any grounds that would require the mandatory recusal of a judge under the New Mexico Code of Judicial Conduct. In the event the Referee recuses himself or herself, Loya and Class Counsel shall agree on an alternate Referee. Neither Loya, nor the Plaintiffs, nor any of the Parties' counsel, shall be liable for any act, or failure to act, of the Referee(s).

41. To initiate an appeal, the Settlement Class Member must, within thirty (30) days from the date on which his or her Notice of Determination is postmarked or emailed, submit a demand for a Neutral Evaluation on Appeal in writing similar to the form to be provided with the Notice of Determination and attached hereto as **Exhibit E** (hereafter referred to as the "Notice of Determination Appeal") to the Settlement Administrator (at the address provided in the Class Notice) with a payment of a Fifty Dollar (\$50.00) appeal fee. The fifty Dollar (\$50.00) appeal fee shall be refunded to the Settlement Class Member if the Referee determines the appeal in the Class Member's favor. The Fifty Dollar (\$50.00) appeal fee shall

be applied towards the costs of the Neutral Evaluation on Appeal, which costs shall be borne entirely by Settlement Fund.

42. The Notice of Determination Appeal must include a written statement providing all reasons and facts supporting the Settlement Class Member's assertion that Loya's Notice of Determination is not an accurate adjustment of the Settlement Class Member's claim for Claim Readjustment Payment.

43. Within five (5) days of receipt of a Notice of Determination Appeal, the Settlement Administrator shall provide the Notice of Determination Appeal to Loya's Counsel and Class Counsel. Loya's Counsel and Class Counsel will have fourteen (14) days to meet and confer about a resolution of the Notice of Determination Appeal. If both Counsel agree on a resolution, Counsel shall submit the resolution to the Settlement Administrator. The Settlement Administrator shall then have fourteen (14) days to notify the Settlement Class Member of such resolution, including any additional settlement amounts. The Parties' resolution of a Notice of Determination Appeal will be final and not appealable.

44. For any Notices of Determination Appeals that cannot be resolved by the Parties' Counsel within fourteen days of receipt, the Settlement Administrator shall forward the Notice of Determination Appeal, and the Evaluation Record, to the Referee who will resolve it within thirty (30) days, or any longer period as may be agreed upon by the Parties. The Referee shall have the discretion to contact Loya, through Loya's Counsel, or the Settlement Class Member submitting the Notice of Determination Appeal, at any time. The Referee shall not award any amount in excess of the applicable policy limits less the amount of any prior payments by Loya. Nor shall the Referee award any amount for attorneys' fees, interest, costs, or for alleged bad faith, unfair claims practices, unfair trade practices, or other

extra-contractual, statutory and/or punitive damages or fines based on or arising out of Loya's conduct, including but not limited to, in handling claims submitted by Settlement Class Members, either previously or in conjunction with this Agreement. Any determination by the Referee shall be final and non-appealable. The Referee shall mail or email Loya, Loya's Counsel, the Settlement Administrator, Class Counsel and the Settlement Class Member of the Referee's decision. Loya or the Settlement Administrator shall mail any additional payments awarded to the Settlement Class Member by the Referee within forty-five (45) days of the date the Referee's decision is post-marked or emailed.

C. Payment of Direct Premium Refund Payments.

39. Within thirty (30) days after the final Claim Readjustment Payment is made, Loya and the Settlement Administrator shall determine the amount of the Direct Premium Refund Fund.

40. All Direct Premium Refund Payments will be processed by the Settlement Administrator based on Loya's data. Settlement Class Members receiving Direct Premium Refund Payments shall be paid a pro rata share of the Direct Premium Refund Fund.

41. Settlement Class Members do not need to make a claim to be entitled to a Direct Premium Refund Payment.

42. Direct Premium Refund Payments to those Settlement Class Members entitled to such payments shall be made within the later of (a) 210 days after the Effective Date of this Agreement or (b) forty-five (45) days after Loya and the Settlement Administrator determine the amount of the Direct Premium Refund Fund. The Direct Premium Refund Payments shall be made by the Settlement Administrator by check made payable to the Settlement Class Member and mailed to such Member's last known address.

The last known address shall be determined from information reasonably available in Loya's files, which will be run through the United States Postal Service's national change of address database prior to mailing by the Settlement Administrator.

D. General Payment Provisions

43. If a check is issued to a Settlement Class Member, cashing the settlement check is a condition precedent to the Settlement Class Member's right to receive a Settlement Class Payment. All settlement checks shall be void ninety (90) days after issuance and shall bear the language: "This check must be cashed within 90 days, after which time it is void." If a check becomes void, the Settlement Class Member shall have until thirty (30) days after the date the issued check becomes void to request re-issuance. If no request for re-issuance is made within this period, the Settlement Class Member will have failed to meet a condition precedent for recovery of Settlement benefits, the Settlement Class Member's right to receive monetary relief shall be extinguished, the check shall be deemed never to have been the Settlement Class Members' property, and Loya shall have no obligation to make payments to the Settlement Class Member for Settlement Class Payments or any other type of monetary relief. The same provisions shall apply to any re-issued check. For any checks that are issued or re-issued for any reason more than 365 days after the Effective Date, requests for re-issuance need not be honored after such checks become void. If a check is returned with a forwarding address, the check shall be forwarded to that address. If no forwarding address exists, the check shall become void. Loya reserves the right, at its sole discretion, to reissue any check that is deemed void as provided in this Paragraph, and the reissuance of any such check is not a waiver of this Paragraph, nor does it require Loya to reissue any other checks to other Settlement Class Members.

44. For any Member who makes a Valid Claim for Claim Readjustment Payment but fails to identify a payment method to allow the Settlement Administrator to make timely payment, the Settlement Class Member's right to receive monetary relief shall be extinguished, the check or other payment form shall be deemed never to have been the Settlement Class Member's property, Loya and the Settlement Administrator shall have no obligation to make any payment to the Settlement Class Member under this Agreement or to provide any other type of monetary relief, and the amount that would have been paid to the Settlement Class Member will be deemed unclaimed and part of the Unclaimed Funds. If the Settlement Administrator's payment through the payment method the Class Member identifies fails for any reason, the Settlement Administrator shall contact the Member through email, if available, to request a new payment option. The Member shall then have until thirty (30) days after the Settlement Administrator sends such email notice to respond with a new payment option. If the Member does not respond during this period—or if the new payment option the Member provides does not allow for the Settlement Administrator to make the Claim Readjustment Payment—the Settlement Class Member's right to receive monetary relief shall be extinguished, the check or other form of payment shall be deemed never to have been the Settlement Class Member's property, Loya and the Settlement Administrator shall have no obligation to make any payment to the Settlement Class Member under this Agreement or to provide any other type of monetary relief, and the amount that would have been paid to the Settlement Class Member will be deemed unclaimed and part of the Unclaimed Funds. If the Settlement Administrator does not have an email for a Member whose selected payment option fails to process payment (either through the initial list Loya provides or else from the Member when selecting a payment

option), the Settlement Class Member's right to receive monetary relief shall be extinguished, the check or other payment form shall be deemed never to have been the Settlement Class Member's property, Loya and the Settlement Administrator shall have no obligation to make any payment to the Settlement Class Member under this Agreement or to provide any other type of monetary relief, and the amount that would have been paid to the Settlement Class Member will be deemed unclaimed and part of the Unclaimed Funds.

45. Once the time to cash all initially issued settlement checks and any reissued settlement checks has passed, the Settlement Administrator shall determine the aggregate amount of Unclaimed Funds—*i.e.*, the net amount of uncashed checks and any other unclaimed amounts in the Settlement Fund (the "Aggregate Remainder"). The Settlement Administrator shall distribute the Aggregate Remainder in the Settlement Fund to the Non-Profit *Cy Pres* Recipient, subject to the restrictions in Paragraph 46 below.

46. In the event the estimated Notice and Administrative Expenses to effectuate payment of the Direct Premium Refund Payments are lower than the actual Notice and Administrative Expenses incurred to effectuate the Direct Premium Refund Payments, the remaining funds shall be added to the Aggregate Remainder; however, in the event the Notice and Administrative Expenses necessary to effectuate the Direct Premium Refund Payments exceed the estimate provided by the Settlement Administrator, those excess fees shall be deducted from the Aggregate Remainder prior to any disbursement to the Non-Profit *Cy Pres* Recipient

47. All Settlement Class Members are subject to and bound by the provisions of the Settlement Agreement the releases contained herein, and the Final Judgment.

E. Claim Status Reports.

48. Loya or the Settlement Administrator shall provide weekly reports to Loya, Loya's Counsel, and Class Counsel indicating (1) the number of Claims received; and (2) the Notice of Determination of any adjustment of Claims.

VII. STIPULATED CLASS ACTION SETTLEMENT CERTIFICATION

49. Loya does not consent to certification of any class for any purpose other than effectuating this Settlement and disputes that any class should or could be certified for any other purpose. Solely for the purposes of effectuating the Settlement, the Class Representatives, Class Counsel, and Loya agree and stipulate to certification of the Settlement Class as defined in this Agreement. Class Representative, Class Counsel, and Loya further agree and stipulate that, subject to Court approval, Class Counsel shall act as counsel for the Settlement Class. If the Court does not approve this Settlement, either preliminarily or finally, or the Settlement Agreement terminates as provided below, and the Parties do not otherwise reach an amended agreement (i) this Agreement shall be automatically of no force or effect; (ii) any Preliminary Approval Order and all of its provisions shall be vacated; (iii) no term or draft of this Agreement, or any aspect of the Parties' settlement discussions, negotiations, documentation, or confirmatory discovery (including without limitation any declarations and briefs filed in support of the motions for preliminary and/or final approval) shall have any effect or be admissible into evidence for any purposes in this Litigation or any other proceeding.

50. The Class Representatives, Class Counsel, and Loya agree and stipulate that the Settlement should be approved by the Court, and that the Court should make a determination that the Settlement is fair, reasonable, adequate, and made in good faith.

VIII. RELEASES

51. Upon the Effective Date, and without any further action, in consideration of the Settlement benefits described herein, (a) Plaintiffs' claims and Complaints against YAIC and LIC shall be released and dismissed with prejudice, and (b) Plaintiffs and each Settlement Class Member shall be deemed to have released, acquitted, and forever discharged YAIC, LIC, and all other Released Parties from any and all Released Claims from October 1, 2010 to the date of preliminary approval by this Court.

52. Upon entry of the Final Approval Order and Judgment, Plaintiffs and other Settlement Class Members shall be enjoined from prosecuting any claim they have released in the preceding paragraphs in any proceeding against any of the Released Parties or based on any actions taken by any of the Released Parties that are authorized or required by this Agreement or by the Final Approval Order and Judgment. It is further agreed that the Settlement may be pleaded as a complete defense to any proceeding subject to this action.

53. The obligations incurred under this Settlement shall be in full and final disposition of the Action and of any and all Released Claims against all Released Parties.

54. Plaintiffs further agree not to assist knowingly and voluntarily, in any way, any third party in commencing or maintaining any suit against the Released Parties relating to any Released Claim.

IX. OPT-OUT PROCEDURES

55. Under the procedure set forth in the Notice, potential Settlement Class Members have the right and ability to exclude themselves from the Settlement Class as set forth in the proposed Preliminary Approval Order. In order to validly be excluded from the Settlement, the potential Settlement Class Member must send a letter that says he or she wants to be excluded from the Settlement in *Apodaca v. Young America Insurance*

Company, et al., United States District Court for the District of New Mexico, Case No. 18-cv-00399, and *Swiech v. Loya Insurance Company*, United States District Court for the District of New Mexico, Case No. 25-cv-00047, to the Settlement Administrator, Loya and Class Counsel at the addresses identified in the Notice and include his or her name, address, and signature by the date set by the Court and as outlined in the Notice, to be set for forty-five (45) days after the Notice Date. Class Counsel shall provide this information to the Court before the final approval hearing. If the opt-out is untimely or otherwise fails to comply with any of the provisions for a valid opt-out, it shall not be considered a valid opt-out.

56. Loya shall have the right to terminate the Settlement if more than 200 persons opt out of the Settlement Class. If Loya chooses to exercise this provision, the case will resume as if the Settlement never took place.

X. OBJECTION PROCEDURES

57. The Notice will inform the Settlement Class Members that they may send in a written objection in this Action. To be valid, an objection must state: (a) the objector's full name, address, telephone number, and email address (if any); (b) information identifying the objector as a Settlement Class Member; (c) a written statement of all grounds for the objection, accompanied by any legal support the objector cares to submit; (d) the identity of all lawyers (if any) representing the objector; (e) the identity of all of the objector's lawyers (if any) who will appear at the Final Fairness Hearing; (f) a list of all persons who will be called to testify at the Final Fairness Hearing in support of the objection; (g) a statement confirming whether the objector intends to personally appear and/or testify at the Final Fairness Hearing; and (h) the objector's signature or the signature of the objector's duly

authorized lawyer or other duly authorized representative (along with documentation setting forth such representation).

58. In addition to the foregoing, objections should also provide the following information: (a) a list, by case name, court, and docket number, of all other cases in which the objector (directly or through a lawyer) has filed an objection to any proposed class action settlement within the last three (3) years; (b) a list, by case name, court, and docket number, of all other cases in which the objector’s lawyer (on behalf of any person or entity) has filed an objection to any proposed class action settlement within the last three (3) years; and (c) a list, by case number, court, and docket number, of all other cases in which the objector has been a named plaintiff in any class action or served as a lead plaintiff or class representative.

59. The long form notice substantially in the form of Exhibit D hereto will further inform Settlement Class Members that to be considered timely, any valid objection in the appropriate form must be **filed** with the Clerk of the United States District Court for the District of New Mexico, no later than the date set by the Court and outlined in the Notice, to be set at forty-five (45) days after Notice. The long form notice will inform Settlement Class Members that they must **mail** a copy of their objection to the following three different places postmarked no later than the date set by the Court and outlined in the Notice:

COURT	CLASS COUNSEL	LOYA’S COUNSEL
US District Court District of New Mexico Pete V. Domenici U.S. Courthouse 333 Lomas Blvd NW, Suite 270 Albuquerque, NM 87102	Kedar Bhasker LAW OFFICE OF KEDAR BHASKER, LLC 2741 Indian School Rd. NE Albuquerque, NM 87106	Michael E. Mumford BAKER & HOSTETLER LLP 127 Public Square, Suite 2000 Cleveland, OH 44114

60. The Parties agree that Plaintiffs will take the lead in drafting the response to

any objections to the Settlement, including any appeals filed by the objectors. However, both Parties retain their right to make any argument(s) in response to any objector.

XI. ATTORNEYS' FEES AND EXPENSES AND PAYMENTS TO THE CLASS REPRESENTATIVES

61. The Parties did not discuss the payment of attorneys' fees, costs, expenses, and/or Incentive Awards to Plaintiffs until after the substantive terms of the Settlement had been agreed upon.

62. At least twenty-eight (28) days before the Final Fairness Hearing, Class Counsel will file a motion for an award of attorneys' fees and costs. Loya agrees not to object to Class Counsel's seeking and Loya paying, upon Court approval (a) an award of attorney fees and New Mexico gross receipts tax (7.625%) in the amount of \$699,492.54, which is comprised of thirty-three and one-third [33 1/3] percent of the sum of the Settlement Fund, and (b) an award of costs in the amount up to \$10,000. The Parties agree that, subject to Court approval, attorneys' fees and costs will be paid in an amount approved by the Court. The Parties further agree that the court-approved attorneys' fees and costs will be paid from the Settlement Fund.

63. At least twenty-eight (28) days before the Final Fairness Hearing, Class Counsel shall file a motion for a Service Award. Loya agrees not to object to Class Counsel's seeking and Loya paying, upon Court approval, a service or incentive award to each Plaintiff of up to \$10,000 (the "Incentive Awards"). The Parties further agree that the court-approved Incentive Awards will be paid to Plaintiffs from the Settlement Fund.

64. Payment of these fees discussed in this sub-section that the Court awards, if any, shall be due thirty (30) calendar days after the Effective Date.

65. Unless otherwise ordered by the Court, Class Counsel shall have the sole and absolute discretion to allocate any Court-approved attorney fee award and costs amongst Class Counsel. Loya shall have no liability or other responsibility for allocation of any such attorneys' fees and costs.

XII. PRELIMINARY APPROVAL AND FINAL APPROVAL OF SETTLEMENT

66. As soon as practicable after the execution of the Settlement Agreement, or other date ordered by the Court, Class Counsel shall submit this Settlement Agreement to the Court and file a Motion for Preliminary Approval of the Settlement with the Court requesting entry of the Preliminary Approval Order attached to Plaintiffs' Motion for Preliminary Approval, or an order substantially similar to such form, requesting, *inter alia*:

- a. Preliminary approval of the Settlement Agreement as set forth herein; and
- b. Approval of the Notice, which includes a notice to be individually mailed or emailed to the Settlement Class.

67. If the Preliminary Approval Order is entered by the Court, Class Counsel will move the Court for a Final Approval Order and Judgment of this Settlement, to be issued following the Final Fairness hearing. Such Motion for Final Approval Order and Judgment shall be filed within a reasonable time after the Notice Deadline, Objection Deadline, and Opt-Out Deadline, and at least ninety (90) days after Loya notifies the appropriate government officials of this Settlement Agreement pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715. In connection with the motion for preliminary approval, counsel shall request that the Court set a date for the Final Fairness Hearing that is no earlier than 100 days after entry of the Preliminary Approval Order.

68. Class Counsel and Loya's Counsel agree to recommend approval of the Settlement by the Court and to undertake their best efforts and cooperate fully with one another in seeking Court approval of the Preliminary Approval Order and the Settlement and to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval by the Court of the Settlement the entry of the Final Approval Order and Judgment.

XIII. TERMINATION

69. If the Effective Date of Settlement does not occur, or if the Settlement is terminated or fails to become effective for any reason, then (a) the Parties shall be restored to their respective positions in the Action and shall jointly request that all scheduled litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Party or Party's counsel; and (b) the terms and provisions of the Settlement Agreement and statements made in connection with seeking approval of the Agreement shall have no further force and effect with respect to the Parties and shall not be used in the Action or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*. The Settlement Administrator shall return the Settlement Fund to Loya, less any amounts due to the Settlement Administrator.

XIV. NO ADMISSION OF WRONGDOING OR LACK OF MERIT

70. The terms of this Settlement (whether the Settlement becomes final or not), the negotiations leading up to this Settlement, the fact of the Settlement, and the proceedings taken pursuant to the Settlement, shall not: (a) be construed as an admission of liability or an admission of any claim or defense on the part of any Party, in any respect; (b) be construed

as an admission by Loya regarding the appropriateness of certification of any class other than the Settlement Class (defined above), solely for settlement purposes; (c) form the basis for any claim of estoppel by any third-party against any of the Released Parties; or (d) be admissible in any action, suit, proceeding, or investigation as evidence, or an admission of any wrongdoing or liability whatsoever by any Party, or as evidence of the truth of any of the claims or allegations in the Complaints.

XV. INCAPACITATED AND DECEASED SETTLEMENT CLASS MEMBERS

71. Claims may be submitted by any attorney or interested person on behalf of an incapacitated Settlement Class Member eligible for a Claim Readjustment Payment.

72. Claims may also be submitted by non-minor, non-incapacitated, asserted heirs of, or on behalf of the estate of, a deceased Settlement Class Member eligible for a Claim Readjustment Payment.

XVI. PROVISION FOR MEDICAL OR ATTORNEYS' LIENS

73. All Settlement Class Members eligible for a Claim Readjustment Payment receiving a Settlement Class Payment pursuant to this Agreement shall be responsible for the discharge of: (i) any subrogation or reimbursement claim or lien for any medical treatment of that Settlement Class Member eligible for a Claim Readjustment Payment arising out of the accident which is the subject of the Settlement Class Member's claim, including hospital or medical liens of any medical provider, plan, insurer, or governmental entity, including but not limited to, Medicare, CMS, or Medicaid, and/or (ii) any attorneys' lien arising out of the accident which is the subject of the Settlement Class Member's claim, and the Settlement Class Member eligible for a Claim Readjustment Payment agrees to provide Loya with

written evidence of the discharge or satisfaction of such claims. Any Settlement Class Member receiving a Settlement Class Payment pursuant to this Agreement agrees to indemnify and hold harmless the Released Parties from the Settlement Class member's failure to satisfy such claim or lien and any ensuing impairment action brought against the Released Parties by any entity. No medical or attorneys' liens shall be created by any of the Parties' efforts in attempting to effectuate the terms of this Agreement.

74. Loya, the Released Parties, Loya's Counsel, and Class Counsel shall not be responsible in any way for attorneys' liens or medical lien(s) submitted for any Settlement Class Member(s), nor shall any such lien(s) be created by any of the efforts of the Parties or effectuate any of the terms of this Agreement.

XVII. CAFA NOTICE REQUIREMENTS

75. Loya shall serve notice of the proposed settlement, in accordance with the requirements of 28 U.S.C. § 1715(b), on the appropriate representatives of the Attorney General of the United States and of the New Mexico Superintendent of Insurance. The Parties agree that for purposes of such notice it is not feasible to provide the names of all Settlement Class Members pursuant to 28 U.S.C. § 1715(b)(7)(A) and, therefore, that the procedure set forth in 28 U.S.C. § 1715(b)(7)(B) will be utilized.

XVIII. MISCELLANEOUS PROVISIONS

76. **Integration of Exhibits.** All of the Exhibits attached hereto are incorporated by reference as though fully set forth herein.

77. **Entire Agreement.** This Agreement, including all exhibits thereto, shall constitute the entire Agreement among the Parties regarding the subject matter hereof and shall supersede all previous agreements, representations, communications and

understandings among the Parties. This Agreement may not be changed, modified, or amended except in writing signed by all Parties, subject to Court approval; provided however, that, after entry of the Preliminary Approval Order, the Parties may, by written agreement, effect such amendments, modifications, or expansions of this Agreement and its implementing documents (including all exhibits hereto) without further notice to the Settlement Class or approval by the Court if such changes are consistent with the Court's Preliminary Approval Order and do not materially alter, reduce, or limit the rights of Settlement Class Members under this Agreement.

78. **Complete Resolution.** The Parties to the Settlement intend and agree that the Settlement is a final and complete resolution of all disputes related to the Action by the Plaintiff and the Settlement Class Members.

79. **Voluntary and Informed Settlement.** The Parties agree that the benefits provided herein, and the other terms of the Settlement were negotiated at arm's length in good faith by the Parties to the Settlement with the assistance of an experienced and independent mediator and reflect a settlement that was reached voluntarily after consultation with experienced legal counsel.

80. **Jurisdiction.** Until the Actions are finally and fully dismissed with prejudice, the Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation, and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of this Agreement. After the

Actions are finally and fully dismissed with prejudice, the Parties may enforce the terms of the Agreement in the United States District Court for the District of New Mexico.

81. **Headings.** The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

82. **Singular and Plurals.** As used in this Agreement, all references to the plural shall also mean the singular and to the singular shall also mean the plural whenever the context so indicates.

83. **Deadlines.** If any of the dates or deadlines specified herein falls on a weekend or legal holiday, the applicable date or deadline shall fall on the next business day. All reference to “days” in this Agreement shall refer to calendar days unless otherwise specified.

84. **No Strict Construction.** For purposes of construing or interpreting this Agreement, the Parties agree that this Agreement is to be deemed to have been drafted equally by all Parties hereto and shall not be construed strictly for or against any Party.

85. **Cooperation of Parties.** The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, defend Court approval, and to do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

86. **Obligation to Meet and Confer.** Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have consulted in good faith.

87. **No Conflict Intended.** Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

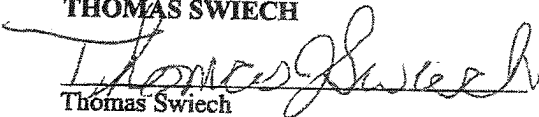
88. **Governing Law.** The construction, interpretation, operation, effect, and validity of the Settlement, and all documents necessary to effectuate it, shall be governed by the laws of the State of New Mexico, without regard to conflicts of laws, except to the extent that federal law requires that federal law govern. The Parties understand and agree, that any disputes arising out of the Settlement shall be governed and construed by and in accordance with the laws of the State of New Mexico, regarding reference or regard to choice-of-law principles.

89. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all signatories do not sign the same counterparts. Original signatures are not required. Any signature submitted electronically, by facsimile, or through email of an Adobe PDF shall be deemed an original. The Parties may use electronic-signature programs, like DocuSign, to execute this Agreement.

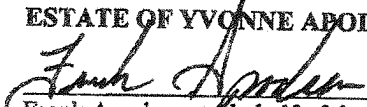
90. **Authority.** The Parties acknowledge that each has read and understands this Agreement and that the execution hereof is not induced by any representation other than as expressly contained herein, that the person executing this Agreement on behalf of the respective party has been duly authorized to execute and deliver this Agreement and that this Agreement is the legally binding obligation of such party.

IN WITNESS WHEREOF, the Parties have executed this Settlement as of the date first above written.

THOMAS SWIECH


Thomas Swiech

ESTATE OF YVONNE APODACA


Frank Apodaca, on behalf of the
Estate of Yvonne Apodaca

Dated: 10/14/25

Dated: 10/14/2025

Approved as to form and content by counsel for Plaintiffs and the Settlement Class:

By: 

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Attorneys for Plaintiffs and the Settlement Class


YOUNG AMERICA INSURANCE COMPANY

By: 
Edgar Meza

Title: Vice President of Claims

Dated: 10/13/25

LOYA INSURANCE COMPANY

By: 
Edgar Meza

Title: Vice President of Claims

Dated: 10-13-25

Approved as to form and content by counsel for Loya:

By: 

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Attorneys for Loya

Exhibit A

Swiech v. Loya Insurance Company and
Apodaca v. Young America Insurance Company
Claim Form

**CLAIM FORM INSTRUCTIONS FOR SETTLEMENT CLASS MEMBERS ELIGIBLE
FOR UIM CLAIM READJUSTMENT PAYMENT**

IMPORTANT: PLEASE READ BEFORE COMPLETING THIS CLAIM FORM

If you are a member of the Settlement Class eligible for an Uninsured Motorist (UIM) Claim Readjustment Payment and would like to receive a payment from the Settlement, you must fill out and submit this claim form online or by mail.

You are a Settlement Class Member eligible for a UIM Claim Readjustment Payment if you: (1) were a resident of New Mexico and insured by Young America Insurance Company ("YAIC") or Loya Insurance Company ("LIC") between October 1, 2010 and February 28, 2022; (2) made a claim to YAIC or LIC for Underinsured Motorist (UIM) benefits after October 1, 2010 under an automobile insurance policy that included Uninsured/Underinsured Motorist (UM/UIM) coverage but did not include the disclosure or exclusion required by *Crutcher v. Liberty Mutual Insurance Company*, No. S-1-SC-37478, 501 P.3d 433 (N.M. 2021); and (3) had UIM benefits reduced or denied due to the offset of the insurance coverage limits of a third party responsible for your injuries and/or property damage.

If you believe you made a UIM claim to Young America or Loya after October 1, 2010 for an automobile accident that may have been subject to an offset in coverage due to the insurance coverage limits of a third party responsible for your injuries or property damage, the only way to have your UIM claim readjusted without this offset and receive a settlement payment is by fully completing and signing this Claim Form and returning it to the Settlement Administrator online at www.XXXXXXXXXX.com or by mailing it to the address below:

Swiech and Apodaca v. Loya
c/o Epiq Settlement Administration
P.O. Box XXXXX
City, State XXXXX-XXXX

YOUR CLAIM MUST BE SUBMITTED ONLINE OR POSTMARKED BY [DATE].

If you wish to submit a claim for UIM Claim Readjustment Payment, you need to provide all of the information requested below. We will use this information to contact you and process your claim. It will not be used for any other purpose.

If you do not clearly provide the requested information, and indicate that you qualify for and would like to receive benefits from the settlement, your claim form will be deemed invalid and your claim will be denied. If any of the following information changes, you must promptly notify the Settlement Administrator using the contact section of the Settlement Website or by writing to the address above.

Exhibit B

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**FRANK APODACA, personal representative of
the Estate of Yvonne Apodaca, on behalf of Yvonne Apodaca's
estate and all others similarly situated,**

Plaintiff,

vs.

No. CIV 18-0399 KK-JMR

**YOUNG AMERICA INSURANCE
COMPANY,**

Defendant.

**THOMAS SWIECH, individually and on behalf of
Other similarly situated individuals,**

Plaintiff,

v.

No. 1:25-cv-00047 KK-JMR

LOYA INSURANCE COMPANY,

Defendant.

**FINAL STIPULATED ORDER APPROVING SETTLEMENT AND JUDGMENT
OF DISMISSAL WITH PREJUDICE**

The Court preliminarily approved the Class Settlement in this case on **DATE**. Since that time, the Parties have completed the Notice process and now seek final approval of the Settlement Agreement (“Agreement”). Through this Motion For Final Approval of Class Settlement and a separately filed Motion for Fees and Costs, they seek, among other things, that the Court: (1) grant final certification of the settlement Class; (2) approve the Agreement as fair, reasonable, and adequate; (3) rule that the Notice process was reasonable and the best practicable under the circumstances; and (4) grant Plaintiffs’ unopposed request for attorneys’ fees, and the Class

Representative incentive awards. For the reasons stated below, the Motions are granted.

On DATE, the matter of the Court's final approval of the Agreement submitted on DATE by the Unopposed Motion for Order Preliminarily Approving Settlement, Approving Notice to Class Members, and Setting Date for Settlement Fairness Hearing, came before the Court for consideration. Appearing on behalf of Plaintiff and the Settlement Class were Kedar Bhasker, LAW OFFICE OF KEDAR BHASKER, LLC, 2741 Indian School Rd. NE, Albuquerque, NM 87106, Corbin Hildebrandt, CORBIN HILDEBRANDT, P.C., 2741 Indian School Rd. NE, Albuquerque, NM 87106, Geoffrey Romero, Romero, Harada, and Winters, LLC, 4801 All Saints Rd., Albuquerque, NM 87120, Andrea D. Harris and Matthew J. Zamora, VALLE, O'CLEIREACHAIN, ZAMORA & HARRIS, 1805 Rio Grande Blvd. NW, Albuquerque NM 87104, ("Class Counsel"). **Appearing on behalf of Defendants were Michael Mumford, BAKER & HOSTETLER LLP,** Key Tower 127 Public Square, Suite 2000, Cleveland, OH.

WHEREAS, the Named Plaintiffs, Thomas Swiech and **Frank Apodaca**, personal representative of the Estate of Yvonne Apodaca, on behalf of themselves and the proposed Settlement Class, and Defendants Young America Insurance Company ("YAIC") and Loya Insurance Company ("LIC") (collectively, "Loya"), individually and on behalf of all other Released Parties, , have executed and filed the Settlement Agreement with the Court on **DATE**; and

WHEREAS, all capitalized terms used herein shall have the same meaning as set forth in the Settlement Agreement and are hereby incorporated by reference; and

WHEREAS, the Court, on DATE, entered the Order Re: Preliminary Approval of Settlement and Approval of Notice of Pendency of Settlement of Class Action to Class Members

(“Preliminary Approval Order”), preliminarily approving the proposed Settlement and conditionally certifying these Actions, for settlement purposes only, as a class action; and

WHEREAS, Thomas Swiech and Frank Apodaca on behalf of the estate of Yvonne Apodaca, were approved in the Preliminary Approval Order as the Class Representatives; and

WHEREAS, the Court, as part of its Preliminary Approval Order, directed that a plan for disseminating notice of the Settlement (“Notice Plan”) be implemented, and scheduled a hearing to be held on DATE, to determine whether the Proposed Settlement should be approved as fair, reasonable and adequate; and

WHEREAS, Loya and Class Counsel have satisfactorily demonstrated to the Court that the Notice Plan was followed; and

WHEREAS, a Final Settlement Hearing was held on DATE, at which all interested persons were given an opportunity to be heard, and all objections to the settlement, if any, were duly considered.

NOW, THEREFORE, the Court, having read and considered all submissions made in connection with the Proposed Settlement, and having reviewed and considered the files and records herein, finds and concludes as follows:

1. The Complaint filed in this consolidated Action allege generally that Defendants sold “illusory” or misleading uninsured/underinsured motorists (“UM/UIM”) coverage in New Mexico automobile insurance policies (the “Policies”) by failing to adequately explain the effect of an offset against UIM coverage of the tortfeasor’s liability coverage pursuant to *Schmick v. State Farm Mutual Automobile Insurance Company*, 1985-NMSC-073, 103 N.M. 216, 704 P.2d 1092.

2. Pursuant to Federal Rule of Civil Procedure 23, this Court certifies, solely for purposes of effectuating the Settlement, these Actions as class actions on behalf of the Settlement Class, defined as:

All YAIC and LIC policyholders and insureds between October 1, 2010 and February 28, 2022, who (i) resided in New Mexico and (ii) purchased or otherwise paid premium to Young America or Loya for an insurance policy that included UM/UIM coverage; and/or (iii) made a claim for UIM benefits to YAIC or LIC after October 1, 2010 under an insurance policy that included UM/UIM coverage but did not include the disclosure or exclusion required by *Crutcher v. Liberty Mutual Insurance Company*, No. S-1-SC-37478, 501 P.3d 433 (N.M. 2021), and had UIM benefits reduced or denied due to the *Schmick offset*. Excluded from the Class are: (A) any claimant who has separately filed suit against YAIC or LIC up to the Notice Date, the subject of which suit includes the reduction or denial of UIM benefits on the basis of the *Schmick offset*, (B) any individual who has settled a claim for UIM benefits reduced or denied on the basis of the *Schmick offset*, whose claim was adjusted or readjusted without applying the *Schmick offset*, and signed a final release prior to the Notice Date, (C) any claimant whom, at the claimant's request, YAIC or LIC has already readjusted a claim for UIM benefits reduced or denied on the basis of the *Schmick offset*, (D) the judge(s) presiding over these Actions, and (E) any employees of the Released Parties.

3. The Court hereby affirms this definition of the Settlement Class for purposes of this Final Judgment.

4. For purposes of Settlement only, the Named Plaintiffs possess standing and the proposed Settlement Class is adequately defined and ascertainable. The Settlement Class is adequately defined because the class definition is clear and precise, is based on objective criteria, and, because it only includes insureds who also suffered redressable harm, it is not overbroad.

5. For purposes of Settlement only, the Class is sufficiently numerous, there are questions of law and fact common to the Settlement Class (including whether Defendants' UM/UIM coverage was illusory or misleading), and Plaintiffs' claims are typical of the Settlement Class. In addition, both Plaintiffs and Class Counsel are adequate representatives of the Settlement Class and have fairly and adequately protected and will continue to protect the interests of the Settlement Class. Thus, the requirements to certify a class prescribed by Fed. R. Civ. P. 23(a) are satisfied as to the Settlement Class for purposes of settlement.

6. For purposes of Settlement only, the Settlement Class is certifiable under Rule 23(b)(3) because common issues predominate over individual issues and class treatment is superior to other alternatives for adjudicating the claims at issue.

7. The Plaintiffs and Loya have entered into the Agreement which has been filed with the Court. The Agreement provides for the Settlement of these Actions with Defendants on behalf of the Plaintiffs and the Settlement Class Members, subject to approval by the Court of its terms. The Court scheduled a hearing to consider the approval of the Settlement and directed that the Class Notice be disseminated in accordance with the terms of the Preliminary Approval Order.

8. In accordance with the terms of the Settlement and the Preliminary Approval Order, the Parties implemented the Notice Plan approved by the Court. Loya's counsel and Class Counsel have confirmed to the Court that the Parties complied with the Notice Plan.

9. The Court hereby finds that the Notice Plan and the Class Notice constituted the best notice practicable under the circumstances, and constituted valid, due and sufficient notice to members of the Settlement Class.

10. Plaintiffs and Loya have applied to the Court for final approval of the terms of the Proposed Settlement and for the entry of this Final Judgment. Pursuant to the Class Notice, a Final Fairness Hearing was held on _____, _____, to determine whether the proposed Settlement of the Actions should be finally approved as fair, reasonable, and adequate, and whether the Final Judgment approving the Settlement and dismissing all claims in the Action on the merits, with prejudice and without leave to amend should be entered.

11. The Court hereby finds that final approval of the Agreement and the Settlement embodied therein will result in substantial savings of time and money to the Court and the litigants and will further the interests of justice.

12. The Court hereby finds that the Proposed Settlement is the result of good faith arm's length negotiations by the Parties thereto, and is fair, reasonable, and adequate.

NOW, THEREFORE, GOOD CAUSE APPEARING THEREFOR, IT IS ORDERED, ADJUDGED AND DECREED THAT:

13. The Court possesses jurisdiction over the subject matter of these Actions, the Plaintiffs, the Settlement Class Members, Defendants, and the Released Parties. Venue is proper in this Court.

14. This Order incorporates and makes a part hereof: (a) the Agreement, dated **DATE**, including the definitions in the Agreement, (b) the Notices attached as Exhibits thereto, respectively, and (c) the Court's **DATE** Order Preliminarily Approving Settlement, Approving Notice to Settlement Class Members, and Setting Date for Final Approval Hearing.

15. _____ Class Members filed timely and valid requests for exclusion. All other Settlement Class Members are therefore bound by this Final Judgment and by the Agreement and the Settlement embodied therein, including the Releases. There were **no objections** to the Settlement.

16. All provisions and terms of the Settlement are hereby found to be fair, reasonable and adequate as to the Settlement Class Members and the Named Plaintiffs and are in compliance with due process and federal and New Mexico law, and all provisions and terms of the Settlement are hereby finally approved in all respects.

17. The Court finds that the dissemination of Notice to the Settlement Class Members (a) was implemented in accordance with the Preliminary Approval Order, (b) constituted the best notice practicable under the circumstances, (c) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of (i) the pendency of the Actions; (ii) their right to submit a claim (where applicable) by submitting a Claim Form; (iii) their right to exclude themselves from the Settlement Class; (iv) the effect of the proposed Settlement (including the releases to be provided thereunder); (v) Class Counsel's motion for a fee award and costs and for incentive awards to the Class Representatives; (vi) their right to object to any aspect of the Settlement, and/or Class Counsel's motion for a fees award and costs and incentive awards to Class Representatives; and (vii) their right to appear at the Final Approval Hearing; (d) constituted due, adequate, and sufficient notice to all natural persons entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Constitution of the United States (including the Due Process Clause), and all other applicable laws and rules.

18. All claims in these consolidated Actions, as well as the Actions themselves, are dismissed in their entirety, on the merits, with prejudice and without leave to amend, and all members of the Settlement Class and their respective heirs, executors, administrators, partners, agents, and the successors and assigns of each of them, shall be forever barred and permanently enjoined from asserting, either directly or indirectly, individually, or in a representative capacity or on behalf of or as part of a class, and whether under State or Federal statutory or common law, any Released Claims against any of the Released Parties.

19. As of the Effective Date, by operation of the entry of the Final Judgment, the Releasing Parties shall be deemed to have fully released, waived, relinquished and discharged, to the fullest extent permitted by law, all Released Claims that the Releasing Parties may have against all the Released Parties. Plaintiffs and Settlement Class Members are hereby barred and permanently enjoined from instituting, asserting, or prosecuting any or all of the Released Claims against any of the Released Parties.

20. The releases, including Released Claims, Released Persons, and Releasing Parties, as set forth in Paragraphs _____ and Section _____ of the Agreement are expressly incorporated herein in all respects. The releases are effective as of the Effective Date. Accordingly, this Court orders pursuant to this Order, without further action by anyone, upon the Effective Date of the Settlement, as provided in the Agreement, that Plaintiffs and each and every member of the Settlement Class shall have released the Released Claims against the Released Persons. Notwithstanding the foregoing, nothing in this Order shall bar any action by any of the Parties to enforce or effectuate the terms of the Agreement or this Order.

21. The fact of the Settlement, the Agreement, and this Final Judgment do not constitute admissions of liability, wrongdoing, or fault by Defendants, or a finding of the validity of any

claims in the Actions or of any wrongdoing or violation of law by Defendants, or an admission of the appropriateness of class certification for trial or dispositive motion practice. Nothing related to the Settlement or Agreement shall be offered or received in evidence as an admission, concession, presumption, or inference against Defendants or any of the Released Parties in any proceeding. The Agreement and Settlement are not a concession by the Parties and, to the extent permitted by law, neither this Final Judgment nor the Settlement, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall not: (a) be construed as an admission of liability or an admission of any claim or defense on the part of any party, in any respect; (b) be construed as an admission by Loya regarding the appropriateness of certification of any class other than the Settlement Class denied above, solely for settlement purposes; (c) form the basis for any claim of estoppel by any third party against any of the Released Parties; or (d) be admissible in any action, suit, proceeding, or investigation as evidence, or an admission of any wrongdoing or liability whatsoever by any party, or as evidence of the truth of any of the claims or allegations in the Complaints. However, Defendants may use the Agreement or the exhibits thereto, and the Settlement, and/or any related document, in any action that may be brought against it 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 other theory of claim preclusion or issue preclusion relating to the Released Claims set out in the Agreement.

22. Only to the extent that it is otherwise not violative of any applicable rules governing the practice of law, Class Counsel agree that any representation, encouragement, solicitation or other assistance, including, but not limited to, referral to other counsel, of any Opt Out or any other person seeking to litigate with any of the Released Parties over any of the Released Claims or to represent any form of opt-out class, could place Class Counsel in an untenable conflict of interest

with the Class. Accordingly, Class Counsel and their respective firms shall not (only to the extent that it is otherwise not violative of any applicable rules governing the practice of law) represent, encourage, solicit or otherwise assist, in any way whatsoever (including, but not limited to referrals to other counsel) any Opt Out or any form of opt-out class, except that referring such person to the Notice or suggesting to any such person the option of obtaining separate counsel, without specifically identifying options for such counsel, shall be permitted.

23. The Court has considered the request for a Class Representative incentive awards, and hereby approves and awards the Plaintiffs an amount of \$ _____, each to be paid by the Settlement Fund.

24. The Court has considered Class Counsel's request for an Attorneys' Fees award for the prosecution of these Actions, and hereby makes an Attorneys' Fees and costs award in the amount of \$ _____ to be paid by the Settlement Fund.

25. This Final Judgment is a final order in the Actions within the meaning and for the purposes of the Federal Rules of Civil Procedure as to all claims among Defendants on the one hand, and the Plaintiffs, Class Representatives and all Settlement Class Members, on the other, and there is no just reason to delay enforcement or appeal.

26. If the Settlement is terminated as provided in the Agreement or the Effective Date of the Settlement otherwise fails to occur, this Order shall be vacated, rendered null and void, and be of no further force and effect, except as otherwise provided by the Agreement, and this Order shall be without prejudice to the rights of Plaintiffs, Settlement Class Members, and Defendants, and the Parties shall be deemed to have reverted *nunc pro tunc* to their respective litigation positions in the Action immediately prior to the execution of the Agreement.

27. The Clerk of this Court is directed to enter a judgment of dismissal and close this case.

28. Without in any way affecting the finality of this Final Judgment, this Court shall retain continuing jurisdiction over these Actions for purposes of:

- A. The implementation, enforcement, and performance of the Agreement and the Settlement;
- B. Any suit, action, proceeding or dispute arising out of or relating to the Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties;
- C. The administration, consummation, and enforcement of Agreement; and
- B. Hearing and determining any application by any Party to the Settlement for a settlement bar order; and
- C. Any other matters related or ancillary to any of the foregoing.

IT IS SO ORDERED.

DATED: _____, 2025

**JUDGE KIRTAN KHALSA
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

Exhibit C

Front

*Frank Apodaca on behalf of the Estate of
Yvonne Apodaca v. Young America
Insurance Company*

*Thomas Swiech v. Loya Insurance
Company.*

United States District Court for the District of New Mexico

Case Nos. CIV 18-0399, 25-cv-00047

**You may be eligible for a payment
from a class action settlement if you
purchased Uninsured/Underinsured
Motorist Coverage or were in an
automobile accident and were denied
underinsured motorist (UIM)
coverage or received a reduced UIM
payment from Young America or
Loya in New Mexico**

You can learn more about the settlement and
how to be a part of it by visiting [website
address], calling [number], or by scanning
the QR code.

*Si desea recibir esta notificación en español,
llámenos o visite nuestra página web.*

Back

A settlement has been reached in a pair of class action lawsuits brought against **Young America Insurance Company** (“YAIC”) and **Loya Insurance Company** (“LIC”) (collectively with the Released Parties defined in the Settlement Agreement, “Loya”) relating to allegations that Loya violated New Mexico law by failing to disclose the limitations of or otherwise misrepresenting underinsured motorist coverage (“UIM coverage”) and applying an offset due to the insurance coverage limits of third parties responsible for bodily injuries or property damage (the “Actions”). YAIC and LIC deny all claims in the Actions and allege that they did nothing wrong.

Who is Included? Loya’s records show that you may be a “Settlement Class Member” because you may have purchased UIM coverage from or made a claim for UIM coverage with YAIC or LIC in New Mexico.

Settlement Benefits. The settlement provides a variety of benefits to Settlement Class Members.

- **READJUSTMENT OF BODILY INJURY AND/OR PROPERTY DAMAGE UIM CLAIMS** - If you made a UIM claim to YAIC or LIC after October 1, 2010 for bodily injuries and/or property damage that was subject to an offset in coverage due to the insurance coverage limits of a third party responsible for your injuries and/or property damage, then you can submit a settlement claim to have your UIM claim readjusted. Benefits under this option are subject to an \$800,000 cap for all valid claims for UIM claim readjustment. To be a valid claim, the claimant must have been insured under a YAIC or LIC policy that included UIM coverage at the time of the loss, but which did not include the disclosure or exclusion required by the New Mexico Supreme Court in *Crutcher v. Liberty Mutual et al.*, No. S-1-SC-37478 (Oct. 4, 2021). Fred Loya will process claims made under this option through its ordinary claims process.
- **RETURN OF UM/UIM PREMIUMS** - If you paid premiums to Young America or Loya for Uninsured/Underinsured Motorist (“UM/UIM”) Coverage between October 1, 2010 and February 28, 2022 (the “Class Period”) and are not eligible for a UIM claim readjustment described above, or are eligible for claim readjustment but choose not to make a claim, you may be entitled to a refund of a portion of all premiums paid for Uninsured/Underinsured Motorist (“UM/UIM”) coverage during the Class Period. The amount of your benefit will be based on the amount of UM/UIM premiums paid by you during the Class Period and the amount of the premium refund settlement fund, which will be determined after payment of settlement administration costs, attorney fees, costs and expenses, incentive awards to the Class Representatives, and valid claims for UIM claim readjustments.

Your Options:

1. YOU CAN SUBMIT A CLAIM FOR UIM CLAIM READJUSTMENT PAYMENT. To get a Claim Form, visit the website or call 1-XXX-XXX-XXXX. The claim deadline is **Month Day, 202_**. If you submit a claim for claim readjustment, you will remain in the class and be bound by the decisions of the Court and give up your rights to sue Young America and Loya for the claims resolved by this Settlement. You must submit a claim form in order to be eligible to receive a claim readjustment payment. Making a claim does not guarantee payment; the claim must be adequately supported and must otherwise qualify for UIM coverage under the applicable policy.

2. DO NOTHING TO RECEIVE A RETURN OF UM/UIM PREMIUMS PREVIOUSLY PAID. If you paid UM/UIM premiums to Fred Loya during the Class Period and do not make a valid claim for a UIM claim readjustment, no action is required on your part to receive a partial refund of UM/UIM premiums. If the settlement is approved, the settlement administrator will issue a check to your last known address. If you do nothing for a return of UM/UIM premiums, you will remain in the class and be bound by the decisions of the Court and give up your rights to sue Loya for the claims resolved by this Settlement.

3. OTHER OPTIONS. If you do not want to be legally bound by the Settlement, you must exclude yourself (opt-out of the Settlement Class) by **Month Day, 2025**. If you stay in the Settlement, you may object to it by **Month Day, 202_**. A more detailed notice is available on the website explaining how to opt-out or object.

This is only a summary. Please visit the website, scan the QR code, or call X-XXX-XXX-XXXX for a copy of the more detailed notice and more information. On **Month Day, 2025**, the Court will hold a Final Fairness Hearing to determine whether to approve the Settlement, Class Counsel's request for attorneys' fees, costs, and expenses not to exceed \$699,492.54, and an incentive award of \$10,000 apiece for the two Class Representatives. The Motion for attorneys' fees will be posted on the website after it is filed. You or your own lawyer, if you have one, may ask to appear and speak at the hearing at your own cost, but you do not have to.

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO



You may be eligible for a payment from a class action settlement if you purchased Underinsured Motorist (UIM) Coverage or were in an automobile accident and denied UIM coverage or received a reduced UIM benefits from Loya Insurance Company or Young America Insurance Company in New Mexico

Si desea recibir esta notificación en español, llámenos o visite nuestra página web.

A settlement has been reached in a pair of class action lawsuits brought against **Young America Insurance Company** (“YAIC”) and **Loya Insurance Company** (“LIC”) (collectively with the Released Parties defined in the Settlement Agreement, “Loya”) relating to allegations that Loya violated New Mexico law by failing to disclose the limitations of or otherwise misrepresenting underinsured motorist coverage (“UIM coverage”) and applying an offset due to the insurance coverage limits of third parties responsible for bodily injuries or property damage (the “Actions”). Young America and Loya deny all claims in the Actions and allege that they did nothing wrong. The Actions are titled *Frank Apodaca on behalf of the Estate of Yvonne Apodaca v. Young America Insurance Company*, United States District Court for the District of New Mexico, Case No. CIV 18-399 and *Thomas Swiech v. Loya Insurance Company*, United States District Court for the District of New Mexico, Case No. CIV 25-47.

WHO IS INCLUDED? Loya’s records show that you may be a “Settlement Class Member” because you may have purchased UIM coverage from or made a claim for UIM benefits with YAIC or LIC in New Mexico.

SETTLEMENT BENEFITS. The settlement provides a variety of benefits to Settlement Class Members.

1. **READJUSTMENT OF BODILY INJURY AND/OR PROPERTY DAMAGE UIM CLAIMS** - If you made a UIM claim to YAIC or LIC after October 1, 2010 for bodily injuries and/or property damage that was subject to an offset in coverage due to the insurance coverage limits of a third party responsible for your injuries and/or property damage, then you can submit a claim to have your UIM claim readjusted without application of the previously applied offset. Benefits under this option are subject to an \$800,000 cap for all valid claims for UIM claim readjustment. To be a valid claim, the claimant must have been insured under a YAIC or LIC policy that included UIM coverage at the time of the loss, but which did not include the disclosure or exclusion required by the New Mexico Supreme Court in *Crutcher v. Liberty Mutual et al.*, No. S-1-SC-37478 (Oct. 4, 2021). Loya will process claims made under this option through its ordinary claims process.
2. **RETURN OF UM/UIM PREMIUMS** - If you paid premiums to YAIC or LIC for Uninsured/Underinsured Motorist (“UM/UIM”) Coverage between October 1, 2010 and February 28, 2022 (the “Class Period”) and are not eligible for a UIM claim readjustment described above, or are eligible for UIM claim readjustment but choose not to make a claim, you are entitled to a refund of a portion of all premiums paid for Uninsured/Underinsured Motorist (“UM/UIM”) coverage during the Class Period. The amount of your benefit will be based on the amount of UM/UIM premiums paid by you during the class period and the amount of the premium refund settlement fund, which will be determined after payment of settlement administration costs, attorney fees, costs and expenses, incentive awards to the Class Representatives, and valid claims for UIM claim readjustments.

YOUR OPTIONS:

1. **YOU CAN SUBMIT A CLAIM FOR UIM CLAIM READJUSTMENT PAYMENT.** To get a Claim Form, visit the website or call 1-XXX-XXX-XXXX. The claim deadline is **Month Day, 2026**. If you submit a claim for claim readjustment, you will remain in the class and be bound by the decisions of the Court and give up your rights to sue Loya for the claims resolved by this Settlement. You must submit a claim form in order to be eligible to receive a claim readjustment payment. Making a claim does not guarantee payment; the claim must be adequately supported and must otherwise qualify for UIM coverage under the applicable policy.
2. **DO NOTHING TO RECEIVE A RETURN OF UM/UIM PREMIUMS PREVIOUSLY PAID.** If you paid UM/UIM premiums to YAIC or LIC Loya during the Class Period and do not make a valid claim for a UIM claim readjustment, no action is required on your part to receive a partial refund of UM/UIM premiums. If the settlement is approved, the settlement administrator will issue a check to your last known address. If you do nothing for a return of UM/UIM premiums, you will remain in the class and be bound by the decisions of the Court and give up your rights to sue Loya for the claims resolved by this Settlement.
3. **OTHER OPTIONS. OPT-OUT OF OR OBJECT TO THE CLASS SETTLEMENT.** If you do not want to be legally bound by the Settlement, you must exclude yourself (opt-out of the Settlement) by **Month Day, 2026**. If you stay in the Settlement, you may object to it by **Month Day, 2026**. A more detailed notice is available on the settlement website explaining how to opt-out or object.

This is only a summary. Please visit the website or call 1-XXX-XXX-XXXX for a copy of the more detailed notice and more information. On **Month Day, 202__**, the Court will hold a Final Fairness Hearing to determine whether to approve the Settlement, Class Counsel's request for attorneys' fees, costs, and expenses not to exceed \$699,492.54 and an incentive award of \$10,000 apiece for the two Class Representatives. The Motion for attorneys' fees will be posted on the website after it is filed. You or your own lawyer, if you have one, may ask to appear and speak at the hearing at your own cost, but you do not have to.

www.XXXXXXXXXX.com

1-XXX-XXX-XXXX

Exhibit D

United States District Court for the
District of New Mexico



***Frank Apodaca as Personal Representative of the
Estate of Yvonne Apodaca v. Young America Insurance
Company, Case No. 18-399 KK/JMR***

***Thomas Swiech v. Loya Insurance Company, Case No.
25-47 KK/JMR***

Notice of Class Action Settlement Involving Certain Insureds Who Purchased Uninsured/Underinsured Motorist (UM/UIM) Coverage from or Made a Claim for Underinsured Motorist (UIM) Benefits with Young America Insurance Company or Loya Insurance Company

- The United States District Court for the District of New Mexico has authorized this Notice. This is not a solicitation from a lawyer.
- A Settlement has been reached in the above-referenced class actions against Young America Insurance Company ("YAIC") and Loya Insurance Company ("LIC"), respectively (collectively, with the Released Parties defined in the Settlement Agreement, "Loya") relating to allegations that Loya violated New Mexico law by failing to disclose the limitations of or otherwise misrepresenting the value of underinsured motorist (UIM) coverage and applying an offset due to the insurance coverage limits of third parties responsible for bodily injuries or property damage (the "Actions" or "Litigation").
- This Settlement establishes a process for certain individuals to receive automatic payments and others to make claims for monetary payments. This is true even if you are no longer insured with YAIC or LIC.

You are receiving this Notice because you may be a member of the group of people affected, called the "class."

This Notice explains the terms of the proposed Settlement, who is a member of the class, the benefits available to class members, the rights and options class members have, including how to submit a claim or how you may otherwise receive an automatic payment, how to object to the Settlement, how to exclude yourself from the Settlement, upcoming deadlines, a hearing on the proposed Settlement, and many other details about your legal rights and options in this Settlement.

PLEASE CAREFULLY READ THIS COURT-AUTHORIZED NOTICE.

ALL OF ITS TERMS MAY AFFECT YOUR RIGHTS.

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I. Basic Information

1. Why did I get this notice?

The Court in the Actions known as *Frank Apodaca as Personal Representative of the Estate of Yvonne Apodaca v. Young America Insurance Company*, United States District Court for the District of New Mexico, Case No. 18-399 KK/JMR and *Thomas Swiech v. Loya Insurance Company*, United States District Court for the District of New Mexico, Case No. 25-cv-00047 KK/JMR, authorized this Notice because you have the right to know about a proposed settlement of these class action lawsuits and about all of your rights and options before the Court decides whether to approve the Settlement. This Notice explains the Actions, the Settlement, your legal rights, what benefits are available to you and how to get them, and who may be eligible.

The Actions are pending in the United States District Court for the District of New Mexico before federal Magistrate Judge Kirtan Khalsa, who entered an Order preliminarily approving this Settlement on **Month Day, 20__**. A Final Fairness Hearing, at which the Court will consider whether the Settlement is fair, reasonable, adequate, in the best interests of the class, and whether to approve it, is scheduled for **Month Day, 20__**. For questions about this Settlement or the Actions, do not contact Judge Khalsa or the Clerk of the Court.

2. Where can I get additional information about the Settlement?

This Notice is intended to summarize the Settlement. More details are set forth in a Settlement Agreement. If you want a copy of the Settlement Agreement, or have questions, call 1-XXX-XXX-XXXX or visit www.XXXXXX.com.

3. What is the significance of capitalized words in this Notice?

The significance of capitalized words in this Notice is that they correspond to terms that are defined in the Settlement Agreement at paragraphs 15.a. through 15.oo. Certain of those defined terms are also set out in this Notice, but for those that are not, you can refer to the Settlement Agreement, which can be obtained by visiting www.XXXXXX.com.

II. Who Is Included In The Settlement?

1. How do I know if I am part of the Settlement?

You are part of the Settlement Class if:

- you were a policyholder of YAIC or LIC between October 1, 2010 and February 28, 2022, who (i) resided in New Mexico, and (b) purchased or otherwise paid premium to YAIC or LIC for an insurance policy that included UM/UIM coverage; and/or
- you were insured under a YAIC or LIC policy between October 1, 2010 and February 28, 2022 and made a claim to YAIC or LIC for UIM benefits after October 1, 2010 under an insurance policy that included UM/UIM coverage but did not include the disclosure or exclusion required by *Crutcher v. Liberty Mutual Insurance Company*, No. S-1-SC-37478, 501 P.3d 433 (N.M. 2021), and had UIM benefits reduced or denied due to the offset of the insurance coverage limits of a third party responsible for your injuries and/or property damage.

2. Are there exceptions to being included in the Settlement?

Yes. Excluded from the Settlement Class are: (1) any claimant who has separately filed suit against Young America or Loya up to the Notice Date, the subject of which suit includes the reduction or denial of UIM benefits on the basis of the offset described in Section I.5 above, (2) any individual who has settled a claim for UIM benefits reduced or denied on the basis of the offset described in Section I.5 above, whose claim was adjusted or readjusted without applying the offset described above, and signed a final release prior to the Notice Date, (3) any claimant whom, at the claimant's request, Loya has already re-adjusted a claim for UIM benefits reduced or denied on the basis of the offset described in Section I.5 above, (4) the Judge(s) presiding over the Lawsuits, and (5) Loya and any employee of Loya or the other Released Parties.

3. What if I am still not sure whether I am part of the Settlement?

If you are still not sure whether you are a Settlement Class Member and part of the Settlement Class, you may go to the Settlement Website at www.XXXXXXX.com, call Fred Loya's toll-free number of 1-XXX-XXX-XXXX, or call Class Counsel at 1-XXX-XXX-XXXX.

III. The Settlement Benefits – What You Get If You Qualify

1. What does the Settlement provide?

Loya has agreed to create a settlement fund in the amount of \$1,950,000.00 (the "Settlement Fund"). The Settlement Fund will be used to provide the benefits to Settlement Class Members summarized below. It will also be used to pay the costs and attorney fees of Class Counsel approved by the Court, incentive awards to Plaintiffs approved by the Court, and the cost of administering the Settlement.

Summary of Settlement Class Benefits:

- **READJUSTMENT OF BODILY INJURY AND/OR PROPERTY DAMAGE UIM CLAIMS** – If you made a UIM claim to YAIC or LIC after October 1, 2010 for bodily injuries and/or property damage that was subject to an offset in coverage due to the insurance coverage limits of a third party responsible for your injuries and/or property damage, then you can submit a claim to have your UIM claim readjusted. This benefit is subject to an \$800,000 cap for all valid claims for UIM claim readjustment. To be a Valid Claim, you must have been insured under a YAIC or LIC policy sometime between October 1, 2010 and February 28, 2022 that included UIM coverage at the time of the accident or loss, but which policy did not include the disclosure or exclusion required by the New Mexico Supreme Court in *Crutcher v. Liberty Mutual Insurance Company*, No. S-1-SC-37478, 501 P.3d 433 (N.M. 2021).

Loya will process all Valid Claims for a UIM claim readjustment through its ordinary claims process. Making a claim does not guarantee payment. You must submit all reasonable, required supplemental documents concerning your UIM claim in order to obtain any additional UIM benefit payment. The claim must also otherwise qualify for UIM coverage under the applicable insurance policy. Any Class Member who submits a Valid Claim is not entitled to duplicate recovery of any monies previously paid by Loya to such person in connection with the accident or loss for which such person is seeking a UIM claim readjustment.

If you make a claim for UIM claim readjustment, Loya will send you a Notice of Determination, which will set forth (i) the amount(s) (if any) of the Settlement Class Payment to be paid, (ii) where not otherwise obvious, a brief explanation of the calculation and basis for the determination of those amounts, and (iii) if any claims or dollar amounts are rejected, a brief explanation of the reasons for the rejection.

If you disagree with Loya's Notice of Determination, you may appeal to a court-appointed neutral Referee by mailing a demand for a Neutral Evaluation on Appeal to the Settlement Administrator at:

SETTLEMENT ADMINISTRATOR ADDRESS

The Neutral Evaluation on Appeal form is available at www.XXXXXX.com. With your demand, you must provide a check made out to XXXXXX for Fifty Dollars (\$50.00) to cover the Referee's fee. Your demand must be post-marked within 30 days from the date on which the Notice of Determination was postmarked or emailed. The \$50.00 appeal fee will be refunded to you if the Referee determines the appeal in your favor.

- RETURN OF UM/UIM PREMIUMS – If you are a YAIC or LIC policyholder who paid premiums to YAIC or LIC for Uninsured/Underinsured Motorist (UM/UIM) coverage between October 1, 2010 and February 28, 2022 (the "Class Period"), and are not eligible for a UIM claim readjustment, or are eligible for UIM claim readjustment but choose not to make a claim, you are entitled to a refund of a portion of all premiums paid for UM/UIM coverage during the Class Period. The amount of payment will be based on the amount of UM/UIM premiums

paid by you during the Class Period and the amount of the Direct Premium Refund Settlement Fund, which will be determined after payment of settlement administration costs, attorney fees, costs and expenses to Class Counsel, incentive fee awards to the Class Representatives, and Valid Claims for UIM claim readjustments. Class members eligible for a return of UM/UIM premiums do **not** have to submit a claim to receive a premium refund. If the Settlement is approved, the Settlement Administrator will issue a check to your last known address.

If there is any money left over in the Settlement Fund after payments of all valid claims for UIM claim readjustment and UM/UIM premium refunds, attorney fees, costs, expenses, incentive awards to Class Representatives, and settlement administration costs, it will be donated to Equal Access for Justice, Inc.

2. What am I giving up to receive Settlement benefits or stay in the Settlement Class?

Unless you exclude yourself (*i.e.*, opt out), you are choosing to remain in the Settlement Class. If the Settlement is approved and becomes final, all of the Court's orders will apply to you and legally bind you. You will not be able to sue, continue to sue, or be part of any other lawsuit against Young America or Loya and Released Parties about the legal issues in the Lawsuits that are released by this Settlement. The specific rights you are giving up are called "Released Claims."

3. What are the Released Claims?

The Settlement Agreement, in Section VIII and Paragraphs 15.dd., 15.ee. and 15.ff., describes the Release, Released Claims and the Released Parties in necessary legal terminology, so please read these sections carefully. The Settlement Agreement is available at www.XXXXXX.com or in the public court records on file in the Lawsuits. For questions regarding Releases and what they mean, you can also contact Class Counsel for free, or you can talk to our own lawyer at your own expense.

IV. Deciding What to Do

1. What do I do next?

Your rights and options—**and the deadlines to exercise them**—are summarized below.

		Deadline
Submit a Claim Form	<p>If you were insured under a LIC or YAIC policy at any time between October 1, 2010 and February 28, 2022 and made a claim to LIC or YAIC for UIM benefits after October 1, 2010 under an insurance policy that included UM/UIM coverage, but did not include the disclosure or exclusion required by <i>Crutcher v. Liberty Mutual Insurance Company</i>, No. S-1-SC-37478, 501 P.3d 433 (N.M. 2021), and had UIM benefits reduced or denied due to the offset of the insurance coverage limits of a third party responsible for your injuries and/or property damage, the only way to obtain a UIM claim readjustment and potentially receive additional UIM benefits is to submit a claim form to the Settlement Administrator.</p> <p>If you do submit a claim form for</p>	Month DD, 202__

	<p>a UIM claim readjustment, you may be contacted by Loya concerning your claim. Loya may request additional documentation concerning your UIM claim.</p> <p>You must submit all reasonable, required supplemental documentation concerning your UIM claim in order to obtain any additional UIM benefit payment.</p> <p>If you submit a claim form for UIM claim readjustment, you will remain in the Class, be bound by the Settlement, and give up your rights to sue YAIC, LIC and the other Released Parties for the Released Claims.</p>	
Do Nothing	<p>If you are YAIC or LIC policyholder who paid premiums to YAIC or LIC for UM/UIM coverage at any point during the Class Period, and are not eligible for a UIM claim readjustment, or are eligible for UIM claim readjustment but choose not to make a claim, you do not have to submit a claim to receive a refund of UM/UIM premiums. You will remain in the Class, be bound by the Settlement, and give up your rights to sue YAIC, LIC, and the other Released Parties for the Released Claims.</p>	
Exclude Yourself (Opt Out)	<p>Get no Settlement benefits or payment.</p> <p>Keep your right to file your own lawsuit against Fred Loya about the same issues in the Lawsuits.</p>	Month DD, 20__

Object	Tell the Court why you do not like the Settlement. You will still be bound by the Settlement if the Court approves it. You may still file a Claim Form.	Month DD, 20__
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Read on to understand the specifics of what each choice would mean for you.

V. How to Get Benefits from the Settlement

1. How do I get a payment if I am a class member?

Settlement Class members entitled to a UM/UIM premium refund do **not** need to make a claim to receive payment.

If you wish to have your UIM claim readjusted and potentially receive additional UIM benefit payment, you must complete and submit a valid Claim Form to the Settlement Administrator, postmarked or submitted online on or before **Month Day, 20__**. Claim Forms may be submitted online at www.XXXXXX.com, or downloaded and printed from the website and mailed to the Settlement Administrator at the address on the form. The quickest way to submit a claim is online. Claim Forms and tax documentation are also available by calling 1-XXX-XXX-XXXX or by writing to:

[Settlement Administrator]
[Street address]
[City, State, Zip Code]
[Phone Number]

2. When will I receive my Settlement benefits?

If you make a Valid Claim for a UIM claim readjustment, payment will be provided by the Settlement Administrator after the Settlement is approved by the Court and becomes final, including the end of any dates to appeal the final approval of the Settlement. The date of payment will vary depending on whether you are required to submit

additional documents to Loya, and whether you appeal a claim readjustment determination. Though payment dates vary, many Valid Claims should be paid within 180 days of the date the Settlement becomes final. Payments of UM/UIM premium refunds will only be paid after the Settlement is approved by the Court and becomes final, payments of Valid Claims for UIM claim readjustments, and the Settlement Administrator determines the portion of the Settlement Fund available for direct UIM premium refunds.

It may take time for the Settlement to be approved and become final. Please be patient and check www.XXXXXXX.com for updates.

VI. The Lawyers Representing You

1. Do I have a lawyer in these Lawsuits?

Yes, in a class action, the court appoints class representatives and lawyers to work on the case and represent the interests of all the class members. For this settlement, the Court has appointed the following lawyers as Class Counsel to represent you and the Settlement Class for the purposes of this Settlement.

Your lawyers: KEDAR BHASKER, 2741 Indian School Rd. NE, Albuquerque, NM 87106, Phone: (505) 407-2088, kedar@bhaskerlaw.com, CORBIN HILDEBRANDT, P.C., 2741 Indian School Rd. NE Albuquerque, NM 87106, Phone: (505) 998-6626, corbin@hildebrandtlawnm.com, Geoffrey Romero, ROMERO, HARADA, WINTERS, LLC, 4801 All Saints Road NW Ste. A, Albuquerque, NM 87120, Phone: (505) 247-3338, geoff@RHWLAWNM.com, Andrea D. Harris, Matthew J. Zamora, VALLE, O'CLEIREACHAIN, ZAMORA & HARRIS, 1805 Rio Grande Blvd. NW, Suite 2, Albuquerque, NM 87104, Phone: (505) 888-4357, adh@vozhlaw.com, mz@vozhlaw.com

These are the lawyers who negotiated this settlement on your behalf.

You may hire your own lawyer at your own cost and expense if you want someone other than Class Counsel to represent you.

2. Do I have to pay the lawyers in this lawsuit?

Lawyers' fees and costs will be paid from the Settlement Fund. **You will not have to pay the lawyers directly.**

To date, your lawyers have not been paid any money for their work or the expenses that they have paid for the Actions. To pay for some of their time and risk in bringing this case without any guarantee of payment unless they were successful, your lawyers will request, as part of the final approval of this Settlement, that the Court approve a payment of up to \$649,935 total in attorneys' fees plus the reimbursement of out-of-pocket expenses and state gross receipt tax of 7.625%.

Lawyers' fees and expenses will only be awarded if approved by the Court as a fair and reasonable amount. You have the right to object to the lawyers' fees even if you think the settlement terms are fair. If approved by the Court, Class Counsel's fees, expenses, costs and state gross receipt taxes will be paid out of the Settlement Fund.

Your lawyers will also ask the Court to approve a payment of \$10,000.00 apiece to the Class Representatives for the time and effort they contributed to the case. If approved by the Court, the Service Awards will be paid from the Settlement Fund.

Class Counsel's application for attorneys' fees, expenses, and service awards will be made available on the Settlement website at www.XXXXXX.com before the deadline for you to comment or object to the Settlement.

VII. Opting Out of the Settlement

1. What if I don't want to be part of this Settlement?

If you are a Settlement Class Member and want to keep the right you may have to sue or continue to sue Young America, Loya or the Released Parties on your own based on the claims raised in the Lawsuits or released by the Released Claims, then you can exclude yourself from – or “opt out” - of the Settlement

You cannot exclude yourself by telephone or email.

2. If I opt out, can I still get anything from the Settlement?

No. If you exclude yourself, you are telling the Court you do not want to be a part of the Settlement. You will not receive any payment and cannot object to the Settlement. However, you will not be bound or

affected by anything that happens in the Actions. That means you keep the right to sue or be part of another case against YAIC, LIC, or the other Released Parties about the issues in the Lawsuits.

Unless you exclude yourself, you give up the right to sue YAIC, LIC, and the other Released Parties for the claims this Settlements resolves relating to the Lawsuits. You must exclude yourself from this Settlement to continue your own lawsuit. **If you have a pending lawsuit against LIC and/or YAIC, you should speak to your lawyer in that case immediately.**

3. How do I opt out?

To opt out of the settlement, you must fully complete and sign the opt out form included with this notice and mail it by **[date]** to all of the following:

[Settlement Administrator] [Street address] [City, State, Zip Code] [Phone Number]	Insert Class Counsel Address	INSERT LOYA ADDRESS
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Be sure to include your name, address, telephone number, and signature. The opt our form must be **postmarked** by Month Day, 20__.

VIII. Objecting to the Settlement

1. How do I tell the Court that I disagree with the Settlement?

If you are a Settlement Class Member, you can tell the Court that you do not agree with all or any part of the Settlement or the requested attorneys' fees and expenses. You can also give reasons why you think the Court should not approve the Settlement or attorneys' fees and expenses. To object, you must timely file with the Clerk of the United States District Court for the District of New Mexico written notice as provided below no later than **Month Day, 20__**, stating you object to the Settlement in *Apodaca v. Young America Insurance Company*, United States District Court for the District of New Mexico, Case No. 18-399 KK/JMR, and *Swiech v. Loya Insurance Company*, United States District

Court for the District of New Mexico, Case No. 25-00047 KK/JMR.

To be valid, an objection must state:

- (1) your full name, address, telephone number, and email address (if any);
- (2) information identifying yourself as a Settlement Class Member;
- (3) a written statement of all grounds for the objection, accompanied by any legal support the objector cares to submit;
- (4) the identity of all lawyers (if any) representing you;
- (5) the identity of all of your lawyers (if any) who will appear at the Final Fairness Hearing in support of your objection;
- (6) a list of all persons who will be called to testify at the Final Fairness Hearing in support of your objection;
- (7) a statement confirming whether you intend to personally appear and/or testify at the Final Fairness Hearing; and
- (8) your signature or the signature of your duly authorized lawyer or other duly authorized representative (along with documentation setting forth such representation).

In addition to the foregoing, any objection should also provide the following information:

- (1) a list, by case name, court, and docket number, of all other cases in which you (directly or through a lawyer) have filed an objection to any proposed class action settlement within the last three (3) years;
- (2) a list, by case name, court, and docket number, of all other cases in which your lawyer (on behalf of any person or entity) has filed an objection to any proposed class action settlement within the last three (3) years; and
- (3) a list, by case number, court, and docket number, of all other cases in which you have been a named plaintiff in any class action or served as a lead plaintiff or class representative.

To be timely, written notice in the appropriate form containing the case name and docket number of the Actions must be filed with the Clerk of the Court (address below) and mailed to the following:

Court	Class Counsel	Fred Loya's Counsel
U.S. District Court District of New Mexico Pete V. Domenici U.S. Courthouse 333 Lomas Blvd NW Suite 270 Albuquerque, NM 87102	[insert names and addresses]	Michael E. Mumford Baker Hostetler LLP 127 Public Square Suite 2000 Cleveland, OH 44114

Any Settlement Class Member who fails to comply with the requirements for objecting in Section X of the Settlement Agreement shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders and judgments in the Lawsuits.

2. What is the difference between objecting and opting out?

Objecting is simply telling the Court you do not like something about the Settlement or requested attorneys' fees and expenses. You can object only if you stay in the Settlement Class (that is, do not opt out and exclude yourself). Opting out is telling the court you do not want to be a part of the Settlement Class or the Settlement. If you exclude yourself, you cannot object to the Settlement.

IX. Doing Nothing

1. What are the consequences of doing nothing?

If you do nothing, you will not receive any payment for a UIM claim readjustment and will be bound by the Settlement and its release provisions. If you do nothing and are a policyholder Settlement Class Member entitled to a UM/UIM premium refund, you will receive a partial refund of UM/UIM premiums and will be bound by the Settlement and its release provisions. That means you won't be able to start, continue, or be part of any other lawsuit against LIC, YAIC, or the other Released Parties about the issues in the Actions. A full

description of the claims and persons and entities who will be released if this Settlement is approved can be found at www.XXXXX.com.

X. The Final Fairness Hearing

1. When and where will the Court decide whether to approve the Settlement?

Because the settlement of a class action decides the rights of all members of the proposed class, the Court must give final approval to the Settlement before it can take effect. Payments will only be made if the Court approves the Settlement.

The Court will hold a Final Fairness Hearing on **Month Day, 20__**, at **X:XX a.m. before Magistrate Judge Kirtan Khalsa, United States District Court, Pete V. Domenici U.S. Court house, 333 Lomas Blvd. NW, Suite __, Albuquerque, NM 87102**

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and decide whether to approve: the Settlement, Class Counsel's application for attorneys' fees, costs and expenses, and the incentive awards to Plaintiffs. If there are objections, the Court will consider them. The Court will also listen to people who have asked to speak at the hearing.

Note: The date of the hearing are subject to change without further notice to members of the Settlement Class. The Court may also decide to hold the hearing via Zoom or by phone. Any change will be posted at www.XXXXX.com.

2. Do I have to attend the Final Fairness Hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend at your own expense. If you send an objection, you do not have to come to Court to speak about it. As long as you file your written objection on time the Court will consider it.

If the Court does not approve the settlement or the parties decide to end it, it will be void and the Actions will continue.

3. May I speak at the Final Fairness Hearing?

Yes, as long as you do not exclude yourself, you can (but do not have to) participate and speak for yourself. This is called making an appearance. You also can have your own lawyer speak for you, but you will have to pay the lawyer yourself.

If you want to appear, or if you want your lawyer instead of Class Counsel to speak for you, you must follow all of the procedures for objecting to the Settlement listed above—and specifically include a statement whether you and your counsel will appear at the Final Fairness Hearing.

XI. Key Resources

1. How do I get more information?

This notice summarizes the proposed Settlement. Complete details are provided in the Settlement Agreement. To get a copy of the Settlement Agreement or get answers to your questions:

- contact Class Counsel (information below)
- visit the case website at www.XXXXXX.com
- call 1-XXX-XXX-XXXX
- write to the Settlement Administrator (information below); or
- access the Court’s [eCourt Public Portal] online or visit the Clerk’s office of the Court (address below). **Please do not telephone the Court or the Court’s Clerk’s office regarding this Notice.**

Resource	Contact Information
Case website	[website]
Settlement Administrator	[Settlement Administrator] [Street address] [City, State, Zip Code] [Phone Number]
Your Lawyers	[Law Firm]

	[Law Firm email address] [Street address] [City, State, Zip Code]
Court (DO NOT CALL)	[U.S. District Court] [Name of Courthouse] [Street address] [City, State, Zip Code]

2. [Optional sample instructions for accessing eCourt Public Portal]

[To access the Court's eCourt Public Portal online found at [web address], you will need to create an account. You can then access documents by clicking on "Searches," on the next page clicking on "Case Number Search," then entering the case number [insert number] and clicking "Search." On the following page, click the link [case name]. You may then download images of every document filed in the case for a fee. You may also view images of case documents for free at one of the computer terminal kiosks at court locations.]

Exhibit E

Frank Apodaca as Personal Representative of the Estate of Yvonne Apodaca v.
Young America Insurance Company, Case No. 18-399 KK/JMR

Thomas Swiech v. Loya Insurance Company, Case No. 25-47 KK/JMR

Neutral Evaluation on Appeal Form

**TO REQUEST A NEUTRAL EVALUATION ON APPEAL BY A NEUTRAL
EVALUATOR OF LOYA'S NOTICE OF DETERMINATION OF YOUR CLAIM FOR
UIM CLAIM READJUSTMENT PAYMENT, THIS FORM MUST BE COMPLETED AND
POSTMARKED
WITHIN 30 DAYS FROM THE DATE ON WHICH YOUR NOTICE OF
DETERMINATION WAS POSTMARKED OR EMAILED TO YOU.**

If your claim for UIM Claim Readjustment Payment has been denied or you dispute the amount in which your claim was approved, you may appeal Loya's Notice of Determination by completing this form and mailing it, along with a check in the amount of Fifty Dollars (\$50.00) made payable to **Epiq Settlement Administration, to the Settlement Administrator at the address below.**

Swiech and Apodaca v. Loya

**c/o Epiq Settlement Administration
P.O. Box XXXXX
City, State XXXXX-XXXX**

THIS FORM, ALONG WITH YOUR \$50,00 PAYMENT, MUST BE POSTMARKED WITHIN 30 DAYS FROM THE DATE ON WHICH YOUR NOTICE OF DETERMINATION WAS POSTMARKED OR EMAILED TO YOU.

The \$50.00 appeal fee will be refunded to you if the neutral evaluator determines the appeal in your favor. You are free to immediately cash the check or spend any funds provided to you pursuant to this Notice of Determination regardless of whether you plan to submit a Neutral Evaluation on Appeal Form. If you request a neutral evaluation, Class Counsel and Loya's Counsel will attempt to resolve the dispute within 14 days of receipt. If the dispute is resolved between those Counsel, that resolution will be binding. If the dispute cannot be resolved by Counsel, the neutral evaluation will proceed.

All information listed below is required. We will use this information to contact you and process your appeal. It will not be used for any other purpose. If any of the following information changes, you must promptly notify the Settlement Administrator using the contact section of the Settlement Website or by writing to the address above.

1. NAME:	First	Middle Initial	Last
	<input type="text"/>	<input type="text"/>	<input type="text"/>

2. MAILING ADDRESS:	Street Address
	<input type="text"/>
	Street Address 2
	<input type="text"/>
	City
<input type="text"/>	
State	<input type="text"/>
Zip	<input type="text"/> - <input type="text"/>

3. PHONE NUMBER:	<input type="text"/> - <input type="text"/> - <input type="text"/>
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4. EMAIL ADDRESS:	<input type="text"/>
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5. Class Member ID (on the notice mailed to you)	<input type="text"/> (Example: XXXXXXXXXXXXXXX)
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6. Basis for appeal	Please list below all reasons and facts supporting your assertion that Loya's Notice of Determination is not an accurate adjustment of your claim for UIM Claim Readjustment Payment:
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Signature	
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Signature:	Dated:
Print Name:	