

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

VIDA LONGEVITY FUND, LP, on behalf of  
itself and all others similarly situated,

Plaintiff,

-against-

LINCOLN LIFE & ANNUITY COMPANY  
OF NEW YORK,

Defendant.

Civil Action No. 1:19-cv-06004-ALC-DCF

**PROPOSED ORDER**

WHEREAS, on March 31, 2022 the Court certified the breach of contract claim in the above-captioned action to proceed as a class action against Defendant Lincoln Life & Annuity Company of New York (“LLANY”) on behalf of a class consisting of all current or former owners of SUL I, SUL IV, UL I, UL II, UL III, and UL LPR policies issued by Defendant that were assessed a COI charge at any time on or after June 27, 2013<sup>1</sup> and appointed Susman Godfrey LLP as class counsel (“Class Counsel”) pursuant to Federal Rule of Civil Procedure 23(g).

WHEREAS, pursuant to Federal Rule of Civil Procedure 23(c), Class Counsel has moved the Court for an Order approving the proposed form and content of the notices to be disseminated to the Class, as well as the proposed manner for disseminating notice;

WHEREAS, LLANY does not oppose this motion;

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<sup>1</sup> Excluded from the Class are Defendant Lincoln Life & Annuity Company of New York, its officers and directors, members of their immediate families, and the heirs, successors or assigns of any of the foregoing, and the policy numbers 7143647, 7150005, 7150984, 7155997, 7163495, and 7163710.

WHEREAS, the Court has reviewed the proposed notices submitted by Class Counsel, as well as the accompanying motion, supporting documents, and declarations describing the form and manner of notice, and has found good cause for entering the following Order.

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

1. The Court approves the form and contents of the Short-Form and Long-Form Notices (collectively, the “Notices”) attached as Exhibits A and B, respectively, to the Declaration of Jennifer M. Keough, filed on April 19, 2022. The Notices shall be amended prior to mailing to update the placeholders (identified by brackets) currently in the Notices.

2. The proposed form and content of the Notices meet the requirements of Federal Rule of Civil Procedure 23(c)(2)(B) because they “clearly and concisely state in plain, easily understood language: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3).” The form and content of the notices, as well as the manner of dissemination described below, therefore meet the requirements of Rule 23 and due process, constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons and entities entitled thereto.

3. The Court approves the retention of JND Legal Administration LLC (“JND”) as the Notice Administrator.

4. By no later than thirty (30) days after the entry of this Order, LLANY must complete production to Class Counsel of a list of Class Members and their last known address.

5. Within twenty-one (21) days of receiving a final list with addresses of Class members from LLANY, JND shall cause the Short-Form Notice attached as Exhibit A to the aforementioned Keough Declaration to be mailed, by first-class mail, postage prepaid, to all Class Members included on the list of Class members LLANY provides (the “Notice Date”). Prior to mailing JND will update the addresses using the National Change of Address database, and JND will re-mail any Short-Form Notices returned by the United States Postal Service with a forwarding address.

6. Within seven (7) days after mailing the notice, JND will also cause the Short-Form Notice to be published in *The Wall Street Journal*, *The New York Times*, *Financial Times*, *USA Today*, and to be transmitted electronically via *PR Newswire*.

7. JND shall simultaneously cause a copy of the Long-Form Notice attached as Exhibit B to the aforementioned Keough Declaration to be posted on the website designed for this lawsuit, from which Class members may download copies of the Long-Form Notice.

8. The Long-Form Notice will advise owners of record that are securities intermediaries for an entitlement holder that they should forward the notice to their entitlement holder or request from the notice administrator copies of the notice to forward. The Court approves this method to provide notice to the entitlement holder of a securities intermediary.

9. JND will establish and maintain an automated toll-free number that Class Members may call to obtain information about the litigation.

10. Class Members will be legally bound by all Court orders and judgment made in this class action and will not be able to maintain a separate lawsuit against LLANY for the same legal claims that are the subject of this lawsuit.

11. Class Members who wish to be excluded from the Class must send a letter to JND requesting exclusion from the *Vida Longevity Fund, LP v. Lincoln Life & Annuity Company of New York* class action, with his, her, or its name, address, telephone number, email address and signature, and must identify the LLANY insurance policy or policies to be excluded. A Class Member with multiple LLANY policies included in the Class may request to exclude some policies while participating in the Class with respect to other policies. The exclusion request must be postmarked no later than forty-five (45) days after the Notice Date (the “Exclusion Deadline”).

12. Class Counsel shall file with the Court proof of mailing of the Short-Form Notice and proof of website posting for the Long-Form Notice within fourteen (14) days of the Notice Date.

13. This Order may be modified by the Court upon motion by either or both parties, for good cause shown.

**IT IS SO ORDERED.**

Dated: August 19, 2022



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VALERIE FIGUEREDO  
United States Magistrate Judge