No. 20-1008

IN THE

Supreme Court of the United States

STATE FARM LIFE INSURANCE COMPANY,
Petitioner,

v.

MICHAEL G. VOGT,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

MOTION FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE* AND BRIEF OF THE AMERICAN COUNCIL OF LIFE INSURERS AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

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MOTION OF THE AMERICAN COUNCIL OF LIFE INSURERS FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

Pursuant to this Court's Rule 37.2, the American Council of Life Insurers (ACLI) respectfully moves this Court for leave to file the attached brief as *amicus curiae* in support of the petition for a writ of certiorari to review the judgment of the Court of Appeals for the Eighth Circuit in *Vogt* v. *State Farm Life Insurance Co.*, 963 F.3d 753 (8th Cir. 2020).

ACLI is the largest life insurance trade association in the United States, representing the interests of hundreds of member companies. ACLI's member companies are the leading providers of financial and retirement security products covering individual and group

markets, including life, annuity, disability income, and long-term care insurance products. ACLI's members account for 95 percent of the life insurance industry's total assets, premiums, and annuity considerations, and serve 90 million families.

ACLI has a direct and substantial interest in this case and this Court's review. This case is one example of a recent surge of litigation retrospectively challenging life insurance companies' calculation of so-called "cost-of-insurance" rates in universal life insurance products. Universal life insurance policies are a significant part of the life insurance industry. At the end of 2018, more than 19.3 million universal life insurance policies—with a combined face value of $2.5 trillion—were in force. ACLI Research Department, *ACLI Product Line Report Life Insurance*, tbl. 2 (June 2020). These policies amounted to roughly 1 in 7 active individual life insurance policies. And as the lead trade association representing the life insurance industry, ACLI has a unique perspective on and a significant interest in the proper judicial resolution of these lawsuits, including the critical issue of class certification. ACLI has accordingly filed several *amicus* briefs in cost-of-insurance cases, including at both the merits and petition for rehearing stages before the Eighth Circuit below and in cost-of-insurance litigation pending in the Southern District of New York, *see* Dkt. 478, *In re: AXA Equitable Life Ins. Co.*, No. 1:16-cv-00740-JMF (S.D.N.Y. Feb. 8, 2021). ACLI respectfully believes that its unique perspective as the voice of the life insurance industry will assist this Court's consideration of this petition for certiorari.

Counsel for ACLI notified counsel of record for the parties to this case of ACLI's intention of filing this brief on February 17, 2021. Both parties have consent-

ed to the filing of this brief. Although the parties received notice nine days in advance of this brief's due date (one day after undersigned counsel for ACLI were engaged for this matter), one day less than the 10 days required under this Court's Rule 37.2(a), neither party was prejudiced—as evidenced by the fact that both parties have consented to the filing of this brief. Additionally, respondent on February 19, 2021, sought an extension of time to file a brief in opposition, and this Court granted the request on February 22. As such, respondent will have ample opportunity to respond to the points raised in ACLI's brief.

Accordingly, ACLI respectfully requests that the Court grant this motion for leave to file a brief as *amicus curiae*.

Respectfully submitted.

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QUESTIONS PRESENTED

1. Whether Rule 23 allows class certification where the damages model offered by the class representative would harm a substantial number of class members and leave many class members unable to prove damages as an element of their claims, thus creating an intraclass conflict.

2. Whether a district court faced with an inherent intraclass conflict may cure that conflict by defining out of the class—and thus excluding from the judgment—members with no net damages who cannot succeed on the merits of their claims, thereby creating a "fail-safe class" that leaves the defendant exposed to future litigation by excluded class members.

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The American Council of Life Insurers (ACLI) respectfully submits this brief in support of the petition for a writ of certiorari filed by State Farm Life Insurance Company, Inc. (State Farm).[1]

INTEREST OF *AMICUS CURIAE*

ACLI is the largest life insurance trade association in the United States, representing the interests of hundreds of member companies. ACLI's member companies are the leading providers of financial and retirement security products covering individual and group markets, including life, annuity, disability income, and long-term care insurance products. ACLI's members account for 95 percent of the life insurance industry's total assets, premiums, and annuity considerations, and serve 90 million families.

ACLI has a direct and substantial interest in this case and this Court's review. This case is one example of a recent surge of litigation retrospectively challenging life insurance companies' calculation of so-called "cost-of-insurance" rates in universal life insurance products designed decades ago. Combining flexible premium payments with an adjustable death benefit, universal life insurance products provide many ad-

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[1] No counsel for a party authored this brief in whole or in part, and no entity or person, other than ACLI, its members, and its counsel made a monetary contribution intended to fund the preparation or submission of this brief. Counsel of record for the parties received notice of ACLI's intent to file this brief on February 17, 2021, nine days prior to its due date, and all parties consented to the filing of this brief. Because counsel of record for the parties received notice of ACLI's intent to file this brief less than ten days before the due date, ACLI has filed the accompanying motion for leave to file this *amicus* brief.

vantages for consumers in return for cost-of-insurance charges that help maintain the policies.

Universal life insurance policies are a significant part of the life insurance industry. At the end of 2018, more than 19.3 million universal life insurance policies—with a combined face value of $2.5 trillion—were in force. ACLI Research Department, *ACLI Product Line Report Life Insurance*, tbl. 2 (June 2020). These policies amounted to roughly 1 in 7 active individual life insurance policies, and many have been in force for decades. Yet these universal life insurance policies have been the subject of increasing litigation, in putative class action lawsuits (like this one) alleging that an insurer has determined cost-of-insurance rates incorrectly from the policies' inception and, in a separate line of suits, alleging that an insurer improperly increased cost-of-insurance rates while these policies were in force.

As the lead trade association representing the life insurance industry, ACLI has a unique perspective on and a significant interest in the proper judicial resolution of these lawsuits, including the critical issue of class certification. ACLI has accordingly filed several *amicus* briefs in cost-of-insurance cases, including at both the merits and petition for rehearing stages before the Eighth Circuit below and in cost-of-insurance litigation pending in the Southern District of New York, *see In re: AXA Equitable Life Ins. Co.*, No. 16-cv-00740, Dkt. 478 (S.D.N.Y. Feb. 8, 2021).

INTRODUCTION AND SUMMARY OF ARGUMENT

This case involves claims that State Farm improperly determined cost-of-insurance rates over a period of more than two decades in connection with a particular

type of life insurance product, called universal life insurance. Consumers purchase universal life insurance products for a number of reasons, including: to protect their dependents against financial hardship if the insured dies prematurely (through the payment of a death benefit); to accumulate tax-advantaged savings during the life of the insured that can be used in a time of financial need; and for estate-planning purposes. *See, e.g.*, National Association of Insurance Commissioners, *Life Insurance* (Sept. 3, 2020).[2] These products give policyholders the flexibility to adjust monthly premium payments and death benefit amounts over time, depending on their specific needs and objectives. *See, e.g.*, ACLI, *What You Should Know About Buying Life Insurance* 3 (2018).[3]

The State Farm policy here is a type of universal life insurance product, issued to the class plaintiff in 1999. That policy included a cost-of-insurance charge as a so-called "non-guaranteed element" of the policy, meaning that although there was a guaranteed maximum rate, any rate below the maximum was not guaranteed and could be adjusted consistent with the terms of the policy. After paying the cost-of-insurance charge without complaint for 14 years, and surrendering the policy for cash in 2013, plaintiff alleged in 2016 that the cost-of-insurance rate had violated the terms of the policy.

Plaintiff's liability theory, both for himself and as a basis for purported classwide liability, does not allege that State Farm changed over time the way it determined his cost-of-insurance charge, or that State Farm

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[2] Available at https://tinyurl.com/ycb47c93.

[3] Available at https://tinyurl.com/yr46dtpf.

improperly raised those rates while his policy was in force. Nor has plaintiff alleged that State Farm charged cost-of-insurance rates above the maximum rates permitted by the policy. Rather, plaintiff contends that State Farm breached the contract as soon as it was issued, by calculating cost-of-insurance rates based in part on factors—such as expenses and profit margin—that were not expressly set forth in the policy.

The district court certified a class of "[a]ll persons who own or owned a universal life insurance policy issued by State Farm on Form 94030 in the State of Missouri." Pet. App. 37a. The district court certified the class over State Farm's objections that there was an inherent conflict among class members because: 1) some class members benefitted from, while others were disadvantaged by, the methodologies for setting alternative cost-of-insurance rates used in the damages model that plaintiff's expert offered and, 2) some proposed class members were demonstrably not injured at all. Pet. App. 14a, 16a. The court rejected State Farm's objections, reasoning that this conflict could be solved by "identif[ying] and exclud[ing]" class members without damages "from the class." Pet. App. 43a.

Having certified a class, the court granted plaintiff's oral motion for summary judgment[4] and held a

[4] ACLI filed an *amicus* brief before the Eighth Circuit explaining why the district court's summary judgment ruling misunderstood the essential economic bargain of insurance and overlooked important interpretive context, including actuarial principles and state regulation of insurance that govern cost-of-insurance rates. *See* ACLI *Amicus* Br. 5-19, *Vogt* v. *State Farm Life Ins. Co.*, Nos. 18-3419, 3434 (8th Cir. Feb. 5, 2019). Those merits issues, although not directly encompassed by the questions presented, underscore the practical importance of classwide challenges to cost-of-insurance rates in cases such as this.

trial on damages, resulting in a jury verdict of more than $34,000,000. Pet. App. 6a. After the jury returned its verdict, the district court denied State Farm's motion to decertify the class. *Id.* State Farm had argued that the district court's exclusion of class members who were not damaged would improperly create a fail-safe class. State Farm's Suggestions In Support Of Its Motion To Decertify The Class 5, *Vogt* v. *State Farm Life Ins. Co.*, No. 16-cv-04170, Dkt. 353 (W.D. Mo. June 6, 2018). The district court, however, "conclude[d] that it [was] within the interest of fairness, common-sense, and efficiency to identify the … policy owners [without damages] and exclude them from the class to avoid any technical dispute." Pet. App. 68a.

ACLI agrees with State Farm that the Eighth Circuit erred in upholding the district court's class certification decision. The Eighth Circuit's decision resolves important questions of class action law—whether a class may include members who are not injured and whether (and at what point in the proceedings) a fail-safe class may be used to define away intraclass conflicts—that warrant this Court's review, as State Farm persuasively explains.

ACLI writes separately because the district court's failure to adhere to Rule 23's requirements for class certification is not only wrong, but raises issues of fundamental importance to the life insurance industry going forward. Left standing, overly permissive approaches to class certification in cost-of-insurance cases—such as the Eighth Circuit's approval of the district court's failure appropriately to account for intraclass conflicts and its creation of a fail-safe class—open the door to outsized damages awards or *in terrorem* settlements in cost-of-insurance cases pending around the nation. Permitting classwide liability based on a court's

or jury's second-guessing of historical cost-of-insurance rate-setting also risks conflict with the actuarial principles and state insurance regulations that govern cost-of-insurance provisions. This Court's review is accordingly needed to resolve the important legal questions presented and to ensure that class certification decisions uniformly adhere to Rule 23's bedrock requirements in dozens of cost-of-insurance cases pending in jurisdictions across the nation.

ARGUMENT

I. CLASS ACTIONS INVOLVING COST-OF-INSURANCE PROVISIONS ARE PROLIFERATING AND POSE A SIGNIFICANT CHALLENGE TO THE LIFE INSURANCE INDUSTRY

This case centers on allegations that State Farm violated the terms of its universal life insurance policy by considering factors such as reserves, taxes, expenses, or profit in setting cost-of-insurance rates. *See* Pet. App. 4a. Although cost-of-insurance provisions vary by policy, they are common in universal life insurance policies, and are the subject of increasing litigation around the country. As we explain below, these cost-of-insurance cases present significant challenges to the insurance industry.

A. Cost-Of-Insurance Provisions Are Essential Tools Used By Insurers To Maintain The Fundamental Bargain Of Life Insurance

A brief background on cost-of-insurance provisions helps to underscore the practical significance of cost-of-insurance litigation to the life insurance industry.

At a basic level, insurance provides benefits to policyholders based on the economic pooling of risks and the sharing of the collective costs of insuring against

those risks. *See* 2 *Appleman on Insurance* § 11.01, at 11-2 (Law Library ed. 2018) ("The essence of insurance is … the creation of a common fund which protects participants by using the law of large numbers to spread risk."). In the case of life insurance in particular, policyholders receive protection against mortality risks and other insurance benefits in exchange for premium payments that cover the collective costs of providing those benefits and that allow a reasonable profit margin for the insurer. *See* 1 *Appleman on Insurance* § 1.01[1], at 1-4 (Law Library ed. 2018). This is the essential bargain of any insurance policy. *See id.*

When it comes to a universal life insurance policy specifically, like State Farm's at issue here, an insured may make flexible premium payments that are credited to the "account value" of the policy. *See generally* Shechtman, *New Concepts in Life Insurance Planning*, 13 Cumb. L. Rev. 219 (1982). Each month, an insurer deducts from the account certain charges, including the cost-of-insurance charge (subject to guaranteed maximums), and the insurer provides the policyholder with certain credits, such as interest (subject to guaranteed minimums). The insurance policy continues so long as the account value is sufficient to cover the deductions each month.

Like most (if not all) universal life insurance policies, State Farm's policy contains a cost-of-insurance provision. Pet. App. 3a. These provisions are an important contractual mechanism by which life insurers may set cost-of-insurance rates designed, among other things, to cover the various costs of providing insurance (to the pool of policyholders who create the insurance risks), while also generating a profit that will enable insurers to continue to operate as a going-concern—and thus to pay out promised benefits, typically decades af-

ter the policies are issued. Insurers' costs of providing insurance and the business need to obtain a profit margin depend on numerous factors other than simply the mortality expectations with respect to the pool of policyholders who have purchased a particular insurance product. As such, universal life insurance carriers, including State Farm in this case, ordinarily factor in economic viability and profitability considerations when setting cost-of-insurance rates. *See* Pet. App. 4a.

Insurers do not pick these cost-of-insurance rates out of thin air. Instead, they are selected based on established actuarial practices and are subject to close supervision by state insurance regulators, as ACLI has previously explained. *See, e.g.*, ACLI *Amicus* Br. 5-19, *Vogt* v. *State Farm Life Ins. Co.*, Nos. 18-3419, 3434 (8th Cir. Feb. 5, 2019) (discussing actuarial practices governing and state regulatory oversight of insurers' setting of cost-of-insurance rates).

B. Class Action Suits Challenging Cost-Of-Insurance Rates Are Proliferating, Seeking Substantial Damages Against Insurers For Utilizing Cost-of-Insurance Provisions

Despite the important role that cost-of-insurance rates play in preserving the fundamental economic bargain of life insurance, and notwithstanding the benefits of universal life policies for consumers, plaintiffs' attorneys have brought a flood of cost-of-insurance cases, typically as putative class actions. This case is thus just one example of the "rise in class actions involving claims based on the cost of insurance component of universal life insurance policies." Murray et al., *An Emerging Strategic Framework: As Universal Life Insurance Premiums Increase, So Does Class Action Lit-*

igation, DRI For The Defense (Aug. 2018).[5] Indeed, State Farm alone "is facing eight additional cost of insurance class actions across the country." Pet. 25; *see, e.g.*, *Bally* v. *State Farm Life Ins. Co.*, 335 F.R.D. 288 (N.D. Cal. 2020) (certifying a class in one such case).

These cases pose a significant challenge to the life insurance industry—in terms of litigation costs, resource diversion, and potential liability (notwithstanding the claims' lack of merit), as well as the potential effects these classwide rulings might have on cost-of-insurance rate-setting going forward. *See, e.g.*, ACLI, Annual Meeting Litigation Panel Update, 2019 ACLI Compliance and Legal Sections 1-2 (July 26, 2019) (collecting cost-of-insurance cases, verdicts, settlements, etc.) ("*ACLI Litigation Panel*").[6] This litigation is important in part because universal life insurance policies are a significant aspect of the total life insurance industry: At the end of 2018, more than 19.3 million universal life insurance policies—with a combined face value of $2.5 trillion—were in force. ACLI Research Department, *ACLI Product Line Report Life Insurance*, tbl. 2 (June 2020). These policies amounted to roughly 1 in 7 active individual life insurance policies and, as noted above, many of these policies have been in force for decades.

These cost-of-insurance cases typically have significant stakes for insurers, especially when large classes of policyholders are certified. This case, where the jury returned a roughly $34 million verdict for policies written in just one state, and which could increase in size, *see* Pet. App. 3a ("Following a jury trial, the jury re-

[5] Available at https://tinyurl.com/2w0cbsna.

[6] Available at https://tinyurl.com/8xpjxrfk.

turned a $34 million verdict in the class's favor."); Pet. iii (noting that district court on remand from Eighth Circuit granted plaintiff prejudgment interest, and that this order is currently on appeal), is just one such example. In addition to exposing insurers to the risk of significant damages, cost-of-insurance cases are also significant to the life insurance industry because they amount to retrospective attempts to superintend rate-setting by insurers that has been governed by actuarial principles and state insurance regulation. As State Farm explains, these cases could also interfere with insurers' setting of cost-of-insurance rates going forward. *See* Pet. 24.

State Farm is not alone in facing these class action lawsuits; they affect many life insurance companies. In fact, although some courts have rightly denied class certification, federal courts across the country have certified several classes in cost-of-insurance cases just over the last year. *See, e.g.*, *Hanks* v. *Lincoln Life & Annuity Co. of New York*, 330 F.R.D. 374 (S.D.N.Y. 2019); *Spegele* v. *USAA Life Ins. Co.*, 336 F.R.D. 537, 547-559 (W.D. Tex. 2020), *appeal pending*, No. 20-50909 (5th Cir.); *Advance Tr. & Life Escrow Servs., LTA* v. *Security Life of Denver Ins. Co.*, 2021 WL 62339, at *7-*9 (D. Colo. Jan. 6, 2021). And numerous other settlement classes have been certified—and final approval granted—in still more cases resulting in eight-figure monetary awards, underscoring the *in terrorem* pressures these cases may exert. *See infra* p.14.

II. THIS COURT'S REVIEW IS NEEDED TO DECIDE THE IMPORTANT QUESTIONS PRESENTED AND TO ENSURE THE PROPER ADMINISTRATION AND FAIR RESOLUTION OF COST-OF-INSURANCE CASES

The legal questions presented by State Farm's petition relating to intraclass conflicts and the use of fail-safe classes (as well as the question of what constitutes a fail-safe class) are important as questions of generalized class-action law, as State Farm cogently explains. *See* Pet. 16-18. But this Court's review of those questions is particularly important in the specific context of cost-of-insurance class actions in view of the proliferation of those suits and the significant class damages sought. Ensuring proper application of Rule 23 is thus very important to the life insurance industry generally, but especially so in cost-of-insurance cases such as this. Otherwise, as the ruling below demonstrates, improper class certification could jeopardize the rights of class members; result in large and inappropriate damages awards; or create *in terrorem* settlement pressures even where merits claims are weak.

This Court has recognized that Rule 23's requirements are demanding. "To obtain certification of a class action for money damages … a plaintiff must satisfy Rule 23(a)'s … prerequisites of numerosity, commonality, typicality, and adequacy." *Amgen, Inc.* v. *Connecticut Retirement Plan & Tr. Funds*, 568 U.S. 455, 460 (2013). Compliance with those prerequisites, this Court has made clear, is necessary to "effectively 'limit the class claims to those fairly encompassed by the named plaintiff's claims.'" *General Tel. Co. of Sw.* v. *Falcon*, 457 U.S. 147, 156 (1982). And Rule 23's requirements ensure that class members' claims are capable of "classwide resolution." *Wal-Mart Stores, Inc.* v. *Dukes*, 564 U.S. 338, 350 (2011). Inherent in Rule

23(a)'s adequacy requirement, moreover, is a limitation on "conflicts of interest" between a class representative and a class. *Amchem Prod., Inc.* v. *Windsor*, 521 U.S. 591, 625 (1997). These requirements work hand-in-hand to ensure, as State Farm explains, that class certification is fair to defendants and class members alike. *See* Pet. 5-6. Given the important functions played by Rule 23(a)'s requirements, this Court has "[r]epeatedly … emphasized" that district courts must conduct "'a rigorous analysis'" before deeming those requirements met. *Comcast Corp.* v. *Behrend*, 569 U.S. 27, 33 (2013).

The Rule 23(a) requirements were not satisfied here, as State Farm explains. The Eighth Circuit improperly affirmed the district court's class certification decision, notwithstanding: 1) intraclass conflicts involving both policyholders who benefitted from and policyholders who were harmed by the alternative rate methodologies used in plaintiff's damages model to support class liability, and 2) the use of a fail-safe class to mitigate some of those intraclass conflicts. *See* Pet. 16-17. That affirmance was flawed because, as State Farm also explains, the intraclass conflicts defeated the commonality, typicality, and adequacy of the proposed class under Rule 23(a)'s standards. Pet. 23.

The life insurance industry has a substantial stake in having these questions resolved (especially given the threat posed by cost-of-insurance cases, *see supra* pp. 9-10), and in this Court reaffirming the importance of faithful application of Rule 23's requirements in cost-of-insurance litigation. In particular, clarity on the impermissibility of the use of fail-safe class actions and as to what counts as a fail-safe class action is important to plaintiffs, class members, and life insurance company defendants alike.

What is more, the district court's weakening of Rule 23's standards by certifying a class that, as State Farm explains, is rife with intraclass conflicts will make class certification in these cases easier going forward. That comes with real social costs. The potential for massive liability from class actions—regardless of the merits of the underlying claims—distorts litigation incentives for both plaintiffs and defendants. Large damages awards encourage meritless litigation. The "benefits to class members are often nominal and symbolic, with persons other than class members becoming the chief beneficiaries." *Deposit Guar. Nat'l Bank* v. *Roper*, 445 U.S. 326, 339 (1980). These "chief beneficiaries" are often class counsel, as "class action attorneys are the real principals, and the class representative/clients their agents." Rubenstein, 1 *Newberg on Class Actions* § 3:52, at 327 (5th ed. 2011). And because class counsel takes a proportional share of any recovery, even a small fraction of massive awards is a significant incentive to pursue class actions, regardless of merit. The greater the potential damages, the greater the incentive to bring a weak class action with little chance of success in the hopes of extracting an *in terrorem* settlement.

This Court has recognized the deleterious effects improper class certification can have. When a class is certified, "[f]aced with even a small chance of a devastating loss, defendants will be pressured into settling questionable claims." *AT&T Mobility LLC* v. *Concepcion*, 563 U.S. 333, 350 (2011); *accord Stoneridge Inv. Partners* v. *Scientific-Atlanta*, 552 U.S. 148, 163 (2008) ("extensive discovery and the potential for uncertainty and disruption in a lawsuit allow plaintiffs with weak claims to extort settlements from innocent companies"); *see also Halliburton Co.* v. *Erica P. John Fund, Inc.*,

573 U.S. 258, 296 n.7 (2014) (Thomas, J., concurring). In these circumstances, it is the "decision to certify a class" which "places pressure on the defendant to settle," not the merits of the underlying claim. *Shady Grove Orthopedic Assocs., P.A.* v. *Allstate Ins. Co.*, 559 U.S. 393, 445 n.3 (2010) (Ginsburg, J., dissenting).

These settlement pressures have already manifested themselves in cost-of-insurance cases. In fact, cost-of-insurance litigation has "spawned significant class action settlements." *ACLI Litigation Panel* at 2. For example, a class settlement in the Central District of California finally approved in 2020 was worth more than $82 million, *Thompson* v. *Transamerica Life Ins. Co.*, 2020 WL 6145105, at *16 (C.D. Cal. Sept. 16, 2020), *appeal pending*, No. 20-56088 (9th Cir.), and a $130 million class settlement was approved in the Southern District of New York in 2015, *Fleisher* v. *Phoenix Life Ins. Co.*, 2015 WL 10847814, at *1-*2 (S.D.N.Y. Sept. 9, 2015); *see also, e.g.*, *Thompson* v. *Transamerica Life Ins. Co.*, 2020 WL 6145104, at *6 (C.D. Cal. Sept. 16, 2020) (citing examples of more eight-figure class settlements courts have approved over the last several years). Getting class certification right in this context is thus of substantial importance to the life insurance industry.

In summary, as State Farm has explained, the decision below misconstrued Rule 23's requirements in approving the certification of a class here. This Court's review is needed to resolve the important legal questions presented and to clarify how Rule 23 applies in cost-of-insurance litigation such as this, ensuring fair and appropriate outcomes for class members and life insurance company defendants alike in cost-of-insurance litigation across the nation.

CONCLUSION

The petition for certiorari should be granted. In the alternative, the Court should hold the petition, pending resolution of *TransUnion LLC* v. *Ramirez*, No. 20-297, as State Farm explains.

Respectfully submitted.

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