

United States Court of Appeals For the First Circuit

No. 24-2139

ALLAN M. LEAVITT, Individually, and as Class Representative,

Plaintiff - Appellant,

JOHN DOE 1-100, Individually, and as Class Representatives,

Plaintiff,

v.

UNITED SERVICES AUTOMOBILE ASSOCIATION, a Texas Department of Insurance
Regulated Reciprocal Inter-insurance Exchange and Subsidiary; GEICO INDEMNITY
COMPANY; THE COMMERCE INSURANCE COMPANY,

Defendants - Appellees,

J. ROE 1-100,

Defendant.

Before

Gelpí, Montecalvo, and Rikelman,
Circuit Judges.

JUDGMENT

Entered: November 12, 2025

Plaintiff-appellant Allan Leavitt ("appellant") appeals from the judgment of the district court dismissing his complaint and imposing sanctions. The defendant-appellees ("appellees") have moved for summary disposition. See generally Local Rule 27.0(c).

After our own careful review of the record, we affirm, for substantially the reasons set forth in the district court's January 19 and December 11, 2024, Memoranda and Orders.

Having reviewed his many filings in this appeal, we conclude that appellant has failed to demonstrate any reversible error or abuse of discretion with his contentions, including with any

argument that the Rooker-Feldman doctrine does not bar the underlying federal suit due to appellant's inclusion in the operative complaint of conspiracy claims and/or claims on behalf of a putative class. See Klimowicz v. Deutsche Bank Nat'l Tr. Co., 907 F.3d 61, 66–67 (1st Cir. 2018) ("Put simply, a federal court's application of the Rooker-Feldman doctrine is not contingent upon an identity between the issues actually litigated in the prior state-court proceedings and the issues proffered in the subsequent federal suit. Instead, the critical datum is whether the plaintiff's federal suit is, in effect, an end-run around a final state-court judgment.").

The fact that appellant pled the underlying suit as a putative class action does not alter this conclusion, and, despite his arguments to the contrary, appellant has failed to demonstrate any error in the district court's decision to grant dismissal prior to making an express ruling on the matter of class certification. As the district court observed, appellant did not file an appropriate motion for class certification prior to the district court's adjudication of the dismissal motion, and, in any event, the complaint lacked allegations sufficient to demonstrate that class certification might be warranted. See generally Fed. R. Civ. P. 23(a) & (b).

We have considered the remaining arguments set out in appellant's papers and find them unconvincing, including any challenge to the district court's sanctions ruling. See In re Ames, 993 F.3d 27, 34 (1st Cir. 2021) (court generally reviews sanctions rulings for abuse of discretion and defers to the district court due to the context-dependent nature of the call).¹

Appellees' motion for summary disposition is granted, and the judgment of the district court is affirmed in all respects. All remaining pending motions or requests, to the extent not mooted by the foregoing, are denied. Appellant and his counsel are strongly cautioned, for the second time, against the filing of additional frivolous or repetitive motions in proceedings before this court. See Appeal 21-1561, judgment entered April 7, 2022 (first warning by this court).

By the Court:

Anastasia Dubrovsky, Clerk

cc:

William J. Ruotolo, Daniel P. Tighe, Nathaniel R. B. Koslof, Pietro Alfredo Conte, Kevin P. Zimmerman, Rodger L. Eckelberry, James L. Tuxbury, Barry I. Levy, Brian L. Bank, John R. Callahan

¹ Just after the court entered a briefing schedule, appellees moved for summary disposition pursuant to Local Rule 27.0(c). Upon further motion, the court then stayed briefing pending decision on the motion for summary disposition. Appellant filed a response to the motion for summary disposition and has made dozens of other filings in this appeal. Because appellant responded to the motion for summary disposition and because it is clear to us that appellant has been given a full and fair opportunity to present his arguments on appeal, we conclude that summary disposition is appropriate at this juncture. See generally Fed. R. App. P. 2 (authorizing sua sponte suspension of procedural rules under appropriate circumstances).

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Allan M. Leavitt , Individually, and as Class Representative, and	:	
J. Doe, 1- 100 , Individually, and as Class Representatives,	:	C.A. 1-23-CV-0000-AA
<i>Plaintiffs</i>	:	
	:	COMPLAINT FOR
	:	DECLARATORY
v.	:	JUDGMENT
	:	
	:	COMPLAINT FOR
UNITED SERVICES AUTOMOBILE ASSOCIATION ,	:	DAMAGES
A Texas Department of Insurance Regulated	:	
Reciprocal Inter-insurance Exchange and Subsidiaries,	:	_____
GEICO INDEMNITY COMPANY ,	:	
THE COMMERCE INSURANCE COMPANY, INC. , and	:	CLASS/MASS ACTION
J. Roe, 1 - 100 ,	:	Jury Demand
<i>Defendants</i>	:	

CLASS/MASS ACTION COMPLAINT

1. The Class Members and Plaintiffs request that this Court act as a fiduciary for the Class from the inception of this law suit and declare the law as it has been long observed by the Federal Judicial Center that:

Perhaps from the outset of the litigation...“the district judge must protect the class’s interest by acting as a fiduciary for the class.”

Managing Class Action Litigation: A Pocket Guide for Judges, Third Edition, Barbara J. Rothstein Thomas E. Willging, Federal Judicial Center 2010 quoting *In re Rite Aid Corp. Securities Litigation*, 396 F.3d 294, 307 (3d Cir. 2005).

The Plaintiffs and Class Members in this Complaint demand that the law be declared.

2. The entirety of this Class Action hinges and rests on the following proposition and plea for declaration by the Class Members which is, and has been, denied by these Defendants:

Proposition and Plea for Declaration: Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP¹ provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Massachusetts.

The Defendants deny this proposition and refuse to afford these promised coverages but refuse to request the Courts declare their position is the law. The demand that this law be declared is a threshold question to the entirety of the counts in this Complaint. If this plea is not the law, it must be declared so and the case dismissed. If it is the law, it must be declared so at which time due process requires all other Counts be adjudicated.

3. Plaintiffs, individually and on behalf of all other similarly situated policyholders and/or beneficiaries under said policies from September 16, 2003 to the present and continuing, and who are entitled to a declaration of Massachusetts law which holds **Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance** and were injured persons from **September 16, 2003² and continuing to this day** who were either injured

- [A] in Massachusetts;
- [B] while occupying a non-Massachusetts resident motor vehicle;
- [C] which was insured by the Defendants,

or were injured;

- [D] in Massachusetts;
- [E] while a pedestrian;
- [F] by a non-Massachusetts resident automobile;
- [G] which was insured by the Defendants,

as these Plaintiffs are entitled to PIP Provisions for Massachusetts statute, since January 1, 1971, requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP

¹ “PIP” is an acronym for “Personal Injury Protection” provisions as defined in M.G.L. ch. 90 § 34A. PIP is a liability coverage required to be “maintained” in a policy of liability insurance by out-of-state motor vehicle owners. The proposition and demand for declaration extends to that which is described in the **PRAYER FOR RELIEF, A, [1] – [9]**.

² Representing the statute of limitations under contract in one jurisdiction from where a contract was entered.

provisions as part of their policy of liability insurance, by and through undersigned counsel, hereby file this Class/Mass Action Complaint, based on Plaintiffs' personal knowledge and upon information and belief as to Plaintiffs and the Class, against Defendants' **UNITED SERVICES AUTOMOBILE ASSOCIATION ("USAA")**, **GEICO INDEMNITY COMPANY ("GEICO")**, and **THE COMMERCE INSURANCE COMPANY ("CIC")**, and allege as follows:

4. This Court must preside over a demand to ensure the due process rights of the Class Plaintiffs and Class Members by ensuring disputed Massachusetts law is declared as described above and over the claims which have arisen and continue to accrue by virtue of the Defendants' acts of *suppression* of the law as enacted by the Commonwealth of Massachusetts to the detriment of the policyholders and those who are beneficiaries thereunder and which Class is in the multiple tens of millions of individuals, whose claims are common, whose claims are typical, and of which the amount in controversy exceeds \$570,000,000.00 (exclusive of interest) and for which injunctive relief will put an end to the illegal practices of the Defendants *suppressing* the law and thereby terminating this dispute and uncertainty in the law.

5. Crimes have *suppressed* this **Landmark Legal Discovery**. Suit here unfolds in three parts: a complaint:

- [A] for declaratory relief;
- [B] for causes of action arising from:
 - [i] the conduct of the Defendants for breach of contract (negligently or intentionally) and failing to pay PIP from September 16, 2003 to September 16, 2013; and
 - [ii] the *suppression* of the law from being declared in the September 16, 2013 litigation to this date by the Defendants **"GEICO," USAA, and CIC**;³ and
- [C] in Equity.

³ The Plaintiffs aver that the acts of the Defendants *suppressing* the Plaintiffs' and Class Members' rights and all other violations outlined in this Complaint continue to this day as does the pattern of corruption, obstruction of justice, etc. The statute of limitations is extended daily as the "insurers" continue to refuse to provide assurances that they will abide Massachusetts law.

PARTIES AND NON-DEFENDANT PERSONS OF IMPORTANCE

6. Plaintiff, **ALLAN M. LEAVITT**, is an individual and Class Member whose current address is, and was at all times relevant to this law suit, 27 Conant Square, Brandon, VT 05733. He is a policyholder of “**GEICO**” (policy # 6039156739) under his contract dated 2023 and a veteran and member of **USAA** (member # 4000247) in 2023.

7. Plaintiffs, **J. Doe, 1- 100** are individuals and Class Members whose current addresses are unknown to the identified Plaintiff in this action⁴ but known to Defendants, and are individuals who are policyholders of Defendants, **USAA, GEICO Indemnity Company**, and **CIC** or beneficiaries under said policies of insurance of Defendants, **USAA, GEICO Indemnity Company**, and **CIC**.

8. **Class Definition and Sub-Classes.** There are two sub-classes of Plaintiffs entitled to relief. The Class represents everyone entitled to a declaration. Sub-Classes distinguish those deprived before and after the Defendants *suppressing* a declaration of the law.

Class Definition consists of all those who were, are, and will be entitled to PIP protections as a result of being injured and who are entitled to a declaration of the law.

- [A] in Massachusetts
- [B] while occupying a non-Massachusetts resident motor vehicle
- [C] which was insured by the Defendants

or (in addition to, and independent of, the foregoing) were injured:

- [D] in Massachusetts
- [E] while a pedestrian
- [F] by a non-Massachusetts resident automobile
- [G] which was insured by the Defendants

⁴ A demand was made to these Defendants to provide the names of present policyholders as well as policyholders dating back to 2003 along with the names of those persons injured in Massachusetts that are described within and who were entitled to PIP protections. The Class Members indicated “this communication represents the continuing work this office has done to identify and/or investigate potential claims which present in this action. Other class counsel will make identical demands at the Class Representative's request” in accordance with FRCP Rule 23(g). There was no response from any of these Defendants.

as they are entitled to PIP provisions for Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance. The Class Members here involve millions of persons who have common claims which are typical. For example, each of the 7,000,000 to 8,000,000 Massachusetts residents who are injured as a pedestrian by a non-Massachusetts resident motor vehicle or while occupying one when injured in the Commonwealth of Massachusetts are represented in this Class. In short, everyone included in this law suit and everyone from around the world who will be traveling on the roads Massachusetts is entitled to a declaration of the law.

Sub-Class A include persons who were physically injured and have been, are, and continue to be, denied PIP Protections⁵ from **September 16, 2003 to September 16, 2013** who were injured:

- [A] in Massachusetts
- [B] while occupying a non-Massachusetts resident motor vehicle
- [C] which was insured by the Defendants

or (in addition to, and independent of, the foregoing) were injured:

- [D] in Massachusetts
- [E] while a pedestrian
- [F] by a non-Massachusetts resident automobile
- [G] which was insured by the Defendants

and denied these protections as the Defendants in this law suit *suppressed* the law from being declared and each Member of this Class had a right under their contracts as insured or beneficiaries to these Defendants acting in good faith. The Class Members here involve tens of thousands of persons who have common claims and rights which are typical.

⁵ The Massachusetts Department of Transportation has indicated that the 2015 and 2016 statistics reveal that there are approximately 7,500 persons injured per year in Massachusetts that fall into the classes named in this communication. As of the date of this Complaint, approximately 73,000 persons have been injured since notice on, or around, September 16, 2013 that PIP was, and is, required as described herein. A total unpaid PIP provisions since that notice represents approximately \$570,000,000.00 in denied PIP provisions based on your conduct. These numbers do not include those to whom you refused your obligation to pay dating back 10 years from September 16, 2013.

Sub-Class B include those who have been physically injured and were denied PIP Protections from **September 16, 2013 and continuing to this day** who were injured:

- [A] in Massachusetts
- [B] while occupying a non-Massachusetts resident motor vehicle
- [C] which was insured by the Defendants

or (in addition to, and independent of, the foregoing) were injured:

- [D] in Massachusetts
- [E] while a pedestrian
- [F] by a non-Massachusetts resident automobile
- [G] which was insured by the Defendants

and denied these protections as the Defendants in this law suit *suppressed* the law from being declared and each Member of this Class had a right under their contracts as insured or beneficiaries to these Defendants acting in good faith. The Class Members here involve tens of thousands of persons who have common claims and rights which are typical.

9. Defendant, **USAA, A TEXAS DEPARTMENT OF INSURANCE REGULATED RECIPROCAL INTER-INSURANCE EXCHANGE AND SUBSIDIARIES (USAA)**, is an organization that has its principal place of business located at 9800 Fredericksburg Road, San Antonio, TX 78288, and is an association organized under the laws of the State of Texas whose registered agent for service of process is believed to be CT Corporation System, 350 N. St. Paul St., Ste. 2900, Dallas, TX 75201 and which organization denies that Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance and secreting it from their policyholders and others.

10. Defendant, **GEICO** is believed to be a wholly owned subsidiary of Defendant, **BERKSHIRE HATHAWAY, INC.**, which is a Delaware Corporation whose principal place of business is at 5260 Western Avenue, Chevy Chase, MD 20815-3799 and whose registered agent

for Service of Process is The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801 and a corporation which denies that Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance and which has *suppressed* a declaration of the law and their denial of this proposition as law since 2013 secreting it from their policyholders and others.

11. Defendant, **CIC**, is the insurance company that provides automobile liability insurance coverage under a Massachusetts Automobile Insurance Policy, to the best of the Plaintiffs' knowledge and belief, and is a Domestic Profit Corporation incorporated in Massachusetts, ID Number, 042495247, with its principal place of business located at 211 Main Street, Webster, MA 01570, and whose Registered Agent for Service of Process is Daniel P. Olohan, 211 Main Street, Webster, MA 01570 and is a corporation which denies that Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance and which has *suppressed* a declaration of their position as law since 2013 secreting it from their policyholders and others.

12. Defendants, **J. Roe, 1- 100** are individuals and/or Class Members whose current addresses are known to Defendants,⁶ and are individuals who are policyholders of Defendants, **USAA, GEICO Indemnity Company, and CIC**, or are attorneys who have participated in *suppressing* the law as employees, agents, servants, independent contractors, or co-conspirators over whom these Defendants had the right to control and/or knowledge of their conduct in *suppressing* the law. They include the individuals who are Members of **USAA** whose obligation it was to insure one another. They did not.

⁶ See footnote supra.

JURISDICTION AND VENUE

13. Venue in the United States District Court for the District of Massachusetts is proper for the following reasons:

[A] the claims involve complete diversity and claims in excess of \$75,000.00;

[B] the acts were committed in Massachusetts, and the claims involve;

[C] contract law of states other than Massachusetts;

[D] Massachusetts statutory law;

[E] citizens from different states and countries;

[F] cases and controversies involving the Constitutional Guarantees of the United States Constitution and Constitutions of all states including Massachusetts; and

[G] jurisdiction is proper under 28 U.S.C. § 1331 and 28 U.S.C. § 1332. The Plaintiffs have standing as they have:

[i] an injury-in-fact;

[ii] has suffered an invasion of a legally protected interest;

[iii] that interest is traceable to the challenged conduct of the Defendants; and

[iv] that interest is likely to be redressed by a favorable decision by this Court as contemplated by *Spokeo, Inc. v. Robins*, 578 U.S. ___, 136 S. Ct. 1540, 194 L. Ed. 2D 635 (2016);

[v] the Plaintiffs and Class Members are entitled to a declaration of the law to which they claim to be protected and under which these Defendants deny that they are protected.

The Plaintiffs are entitled to declaration of law pertaining to Massachusetts statute and insurance contract(s). They are entitled to their rights under M.G.L. ch. 231A §§ 1 – 3 for a declaration of the disputed law.

LAW

14. The following law is at issue in this case: M.G.L. ch. 90 § 3, M.G.L. ch. 90, § 34A, M.G.L. ch. 231A §§ 1 – 3 and the Fourteenth Amendment to the Constitution.

FACTUAL BACKGROUND

15. This suit pleads for the Class Members [A] declaratory relief, [B] causes of action arising from the conduct of the Defendants in and during the litigation commenced in 2013 where the Plaintiffs and Class Members aver Defendants *suppressed* their rights, breached duties owed to the Class Members, and/or participated in violating their rights under contract or at law in that litigation, and [C] a Complaint in Equity.

FACTS AND CIRCUMSTANCES REQUIRED BY FED. R. CIV. P. RULE 9(b)

16. The Plaintiffs and Class Members rely on judicial notice of all prior proceedings involving prior law suits seeking declaration herein from September 16, 2013 up until October, 2022. Those law suits were filed September 16, 2013 in state court and November 30, 2020 in federal court and averred **Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance**. However, that proposition and request for a declaration of that as the law was *suppressed* at the request of these Defendants. Those facts reflect a systemic linkage through continuing coordination of an attempt to *suppress, conspiracy*⁷ to *suppress*, and actual *suppression*, of Plaintiffs' and Class Members' rights to a declaration of law, to due process, to

⁷ The Plaintiffs and Class Members reserve the right to amend this Complaint to add and include any Defendants the Court deems necessary parties to the claims of conspiracy raised in this Complaint.

equal protection, and contract rights with the intent to commit fraud. They also reflect the Defendants' knowledge of, encouragement and participation in, a *conspiracy* which gives rise to all Counts raised in this Complaint on behalf of the Plaintiffs and Class Members in this law suit.

17. All facts relating to events involving the 2013 action contained in all papers, motions, transcripts, rulings, reported decisions, and unreported decisions, audio recordings of hearings, motions, and trial, communications to and from the Court in any form including the post, electronically, or voice recordings (i.e, everything which occurred involving the 2013 action), filed in the 2013 and 2020 litigation involving these Defendants and complaint for declaratory and injunctive relief and are incorporated herein by reference and represent facts or circumstances constituting fraud or mistake against the Plaintiffs herein and all Class Members as well as the *suppression* of the Class Members' rights under their contracts with these Defendants. They pertain to all Counts herein.

18. The Plaintiffs and Class Members aver the following facts, plead clearly, show, and are sufficient to raise, a right to relief above the speculative level on the assumption that all the allegations in the complaint are true. They present enough facts to raise a reasonable expectation that Discovery will reveal a plausible suggestion of *conspiracy to suppress* and actual *suppression*⁸ of the Plaintiffs' and Class Members' rights to a declaration of law from 2013 to the present giving rise to all counts raised herein. The following facts allow the Court to draw a reasonable inference that the Defendants are liable for the conduct herein alleged which reflect a plausible suggestion that the Defendants *conspired to suppress* and actually *suppressed* the Plaintiffs' and Class Members' right to a declaration of law and rights in all Counts in the 2013 action in Massachusetts state court and 2020 action in District Court which involved duties owed to the Plaintiffs and Class Members by the Defendants under their contracts of insurance. The

⁸ Conduct which is not only civilly actionable, but also criminal in nature and not a legitimate defense strategy.

source of the information and reasons for belief that the Plaintiffs' and Class Members' right to a declaration of law was actually *suppressed* and that there was a *conspiracy to suppress* their rights are found in the fact that they had a right to a declaration of law and rights of due process and equal protection and there is *no declaration of law* despite pleas for one. The Plaintiffs and Class Members were denied those rights.

The following facts are sufficient to satisfy Rule 8, Rule 9(b), *Twombly*, and *Iqbal*.⁹ They clearly show:

[A] **Fact:** There was a *conspiracy to suppress* and actual *suppression* of the Plaintiffs' and Class Members' right to a declaration of law and rights of due process and equal protection in all prior litigation of the demand for a declaration of the law as described above;

[B] **Fact:** There was never a declaration of law that Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance or, in the alternative, it did not;

[C] **Fact:** There is continued uncertainty as to the statute and contracts;

[D] **Fact:** No rights relating to the Plaintiffs and Class Members in this action were adjudicated in the 2013 litigation as there was no declaration of law. Nor could there be. Yet they were all entitled to a declaration of the law as their contracts demanded;

[E] **Fact:** A strong *common* motive on behalf of the Defendants existed to *suppress* a declaration of law, due process, equal protection, and claims brought in the 2013 action;¹⁰

[F] **Fact:** The Defendant insurers never moved for declaration and insure 30 - 35 million persons;¹¹

⁹ *Bell Atlantic v. Twombly*, 550 U.S. 44 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009).

¹⁰ The "insurers" would be required to pay PIP to 7,500 persons per year. And prior claims for breach of contract.

¹¹ Though these insurers denied both that the statute requires PIP and their policies provided PIP in their Answers to the prior complaints, they never moved for a declaration for these Class Members.

[G] **Fact:** Defendants never mentioned the word “declaration” except once by accident in seven years of litigation in a state court action and almost a thousand pages of hearing transcripts – as if that former plaintiff never filed a complaint for declaration; A declaration of law was never addressed by the District Court claiming it was adjudicated in state court but clearly never was leaving the law still in dispute and rights in uncertainty;

[H] **Fact:** Defendants requested that prior courts, which had been presented with a demand for declaration, refuse to declare the law which they knew amounted to *suppression* of the law;

[I] **Fact:** In prior litigation against them, Defendants and the Court never denied complaints that they were *suppressing* a declaration of law and rights of due process and equal protection;

[J] **Fact:** In prior litigation Defendants and Court never denied the averments that their *suppression* of a declaration of law, due process, equal protection were, in fact, criminal acts;

[K] **Fact:** There was every opportunity available to the Defendants to honor their obligations under their contracts with the Plaintiffs and Class Members herein and under the out-of-state coverage clause and other promises under contracts with the Class Members to pay by going forward with a request that the Court declare that Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance or, in the alternative, that it did not require PIP. They failed to do so at any time from 1971, since September 16, 2013 in state court, and more recently in 2020 in federal District Court. Rather, the action that they took was a deliberate attempt to *suppress*

the law by colluding and conspiring with one another to prevent a declaration of the law as stated above on behalf of all Class Members;

[L] **Fact:** In prior litigation against these Defendants they engaged in ex parte communications from at least March 5, 2014 and ongoing between the Defendants and the Court;¹²

[M] **Fact:** There is only one way there was no declaration of law in prior litigation and that is by way of a *conspiracy* between Defendants to *suppress* and actual *suppression* of a declaration of law as stated above as all had the same obligations to their policyholders under contract;

[N] **Fact:** Plaintiffs and Class Members were, and are entitled to PIP protections¹³ associated with non-resident motor vehicle policies of liability insurance as they travel into Massachusetts routinely. But the law was never declared;

[O] **Fact:** In litigation commenced in 2013 and 2020, the the averment that Massachusetts statute requires *non-resident* motor vehicle “owners” to “maintain” Massachusetts “Personal Injury Protection” (PIP) “provisions” as part of their “policy of liability insurance” was made. The Defendants' policyholders' (Class Members here) policies of liability insurance becomes the equivalent of a Massachusetts Compulsory Automobile Liability Polices. But **GEICO** and **USAA** denied these averments and never moved for a declaration of their position on behalf of their policyholders who are Class Members here despite their out-of-state coverage clause which promises to pay these protections required by the state in which their policyholder travels despite their contractual obligation to do so in light of their promise;

¹² In prior litigation which affected these Plaintiffs and Class Members, “**GEICO**” objected to a motion to reveal ex parte communications. A plausible suggestion there were ex parte communications under the rules of judicial and professional conduct. The same conduct occurred in federal court.

¹³ PIP “protections” are entitlements intended to be “quick and efficient” payments. *Pinnick v. Cleary*, 360 Mass. 1, 22, 271 N.E.2d 592 (1971). They have been rendered nonsense by “**GEICO**,” **USAA**, **Commerce**.

[P] **Fact:** The Massachusetts state court agreed the Massachusetts statute requires PIP. It refused to declare the law. It did not agree with the Defendants and their denial that the statute does not require PIP;

[Q] **Fact:** At no time from the filing of litigation in a prior case on September 16, 2013 or November 30, 2020 did any Defendant move for a declaration of law as to the Plaintiffs' and/or Class Members' rights nor did they support the the Plaintiffs' and/or Class Members' right to a declaration of the law;

[R] **Fact:** The the Plaintiffs and Class Members aver *suppression* of the law in prior law suits could only have been as successful as it was if there was a *conspiracy* between all Defendants among themselves;

[S] **Fact:** All Defendants in this suit knew of those persons or entities (and encouraged them) who were *suppressing* the Plaintiffs' and Class Members' rights by way of written communications since 2015 or by direct participation,¹⁴ but failed to take any action to prevent those acts or to intervene and stop the *conspiracy to suppress* the the Plaintiffs' and Class Members' right to a declaration of that law, due process, and equal protection or the actual *suppression* of those rights. In fact, they encouraged those acts.

[T] **Fact:** Further proof of *conspiracy* between the Defendants is found in the uses by the Defendants and the Court of selective, purportedly dispositive “facts;”

[U] **Fact:** There is no declaration of law.

[V] **Fact:** There is no declaration that Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance evincing a plausible suggestion of *conspiracy*. The Plaintiffs

¹⁴ And knew of their obligation to convert the 2013 suit to a mandatory class action for their policyholders. And further knew their failure to seek declaration would result in injury and death of their policyholders and children.

and Class Members are now herein required to litigate to terminate the uncertainty of their rights, duties, status, and other legal relations.¹⁵

[W] **Fact:** Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance. The following facts and circumstances clearly show a systemic linkage through continuing coordination of the attempt to *suppress*, *conspiracy to suppress*, and actual *suppression*, of the Plaintiffs' and/or Class Members' rights in prior litigation, by the Defendants and Judiciary in the 2013 action, to a declaration of law, to due process, to equal protection with the intent to commit fraud. Such facts are that **GEICO** and **USAA** were released from the 2013 breach of contract case based on:

(i) “facts” **GEICO** and **USAA** were obligated by contract to investigate in 2010 but never did (as far as we know);

(ii) “facts” which were requested from **GEICO** and **USAA** which they denied him;

(iii) “facts” which their the Plaintiffs' and/or Class Members' were entitled to from **GEICO** and **USAA** in Discovery but they denied to provide;¹⁶

(iv) “facts” which the Court, at all times, knew were not the facts on November 24, 2010 (the date of the auto collision) as there is no indication that the insurers complied with their contractual obligations to investigate those facts;

(v) “facts” which thereafter Fabricant, J. denied to the then Plaintiff on March 6, 2014 by ex parte oral motion by the Defendants staying (denying) Discovery;

¹⁵ The 2013 claims that were filed changed the rights, duties, status of all Defendants in that suit. But it was ignored.

¹⁶ There can be no determination of a breach of contract claim without the contract. Denial of Discovery of these documents to the Plaintiff reflects a plausible suggestion of a *conspiracy* to commit fraud, *suppression*, etc. raised herein. A denial of Discovery of those contracts by “**GEICO**” and **USAA** sealed the Plaintiffs' fate in 2013.

(vi) “facts” which thereafter Wilkins, J. ruled were required (bearing on PIP benefits from **GEICO**);

(vii) “facts” which thereafter Fabricant, J. ruled had “no apparent bearing on the claim for PIP benefits from **GEICO**;”

(viii) “facts” which thereafter Wilkins, J. ruled were dispositive (bearing on PIP benefits from **GEICO**) dismissing claims against **GEICO** (and **USAA**);

(ix) “facts” disallowed as evidence under *Canavan v. Hanover Insurance Company*, 356 Mass. 88, 248 N.E.2d 271 (1969) since 1969;

(x) “facts” irrelevant to either a declaration of law, coverage, or breach of contract;

(xi) “facts” which reflect the Massachusetts Judiciary, at all levels, *refused* to address a declaration of law or a even the right to one at the request of the Defendants; *and ultimately*;

(xii) [inadmissible “newly discovered” and misleading] “facts” used by conspirators as a diversion from their real objective. The obstruction of justice. Crimes incapable of commission by accident. The foregoing averments were made to the Superior Court, Appeals Court,¹⁷ SJC and Defendants. Not one made any response. Not one denied these were facts which reflected crimes or *suppression* of the Plaintiffs' and Class Members' rights. *Suppression* of a declaration of law was *suppression* of all the Plaintiffs and Class Members' rights.

(xiii) The 2020 federal District Court action was completely unadjudicated by the District Court which claimed that all counts and defendants had been litigated in state court which conclusion was knowingly untruthful.

¹⁷ The case was imprisoned in Superior Court for 979 days *after* trial ended before appeal. A plausible suggestion of a *conspiracy to suppress* and actual *suppression* of a declaration of law and the Plaintiffs' rights. The Appeals Court's Rule 1:28 Decision confirmed the statute requires PIP on non-resident vehicles and policies by “**GEICO**” and **USAA** provide PIP. These Defendants did not appeal those findings in Superior Court.

Count I - Declaratory Relief Against GEICO, USAA, CIC, and J. Roe, 1 - 100

19. The Plaintiffs and Class Members re-allege, re-aver and incorporate herein by reference the facts, circumstances, and allegations set forth above and seek relief in this Count under Fed. R. Civ. P. Rule 57 and 28 U.S.C. § 2201.

20. The Plaintiffs and Class Members demand that this Court:

[A] declare that Massachusetts statute (M.G.L. ch. 90, § 3 and M.G.L. ch. 90, § 34A) requires *non-resident* motor vehicle owners to “maintain” Massachusetts PIP¹⁸ “provisions” as part of their “policy of liability insurance;”

[B] declare that policies of liability insurance issued by **GEICO, USAA** and **CIC** provide Massachusetts PIP “protection;”

[C] as well as other declarations referenced in the Prayer for Relief infra or, in the alternative, issue certified questions to the Massachusetts Supreme Judicial Court as requested in the Prayer for Relief. **GEICO** and **USAA** deny the aforementioned averments and **CIC** participated in no litigation from 2013 to weigh in the argument for fear they would be required to pay. However, the Massachusetts Judiciary agreed with the now Plaintiffs' and Class Members' position. The Plaintiffs and Class Members are entitled to a declaration of their rights under statute and insurance contracts by virtue of their presence in Massachusetts as a pedestrian and “traveller” on its roads. Should this Court issue certified questions to the Supreme Judicial Court and it refuse to answer certified questions, the Plaintiffs and Class Members request Mandamus issue to them for them to do so.

¹⁸ The requirement is that out-of-state vehicle maintain protections “as defined in” the statute section 34A. In short, that is “Compulsory” insurance which includes PIP.

21. On information and belief the **GEICO** policy of insurance¹⁹ **SECTION I – Liability Coverage, Your Protection Against Claims From Others, Bodily Injury Liability, Property Damage Liability** states:

When the policy applies to the operation of a motor vehicle outside of *your* state, we agree to increase **your** coverages to the extent required of out-of-state motorists by local law.

However, **GEICO** refuses to honor that policy language by honoring their obligation to have the Courts determine any dispute as to what is required by local law.

22. On information and belief the **USAA** policy provided **OUT OF STATE COVERAGE** and appears in **PART A – LIABILITY COVERAGE**:

If an auto accident to which this policy applies occurs in any state or province other than the one in which your covered auto is principally garaged, your policy will provide at least the minimum amounts and types of coverages required by law.

However, **USAA** refuses to honor that policy language by honoring their obligation to have the Courts determine any dispute as to what is required by local law.

23. The Plaintiffs and Class Members are Members of **USAA** and policyholders of “**GEICO**” as well as beneficiaries of both and are frequent “traveller(s)” on the roads of Massachusetts as pedestrians or occupants of non-resident motor vehicles. They are entitled to the “protections” mandated by M.G.L. ch. 90, § 3 and M.G.L. ch. 90, § 34A. They have a right under M.G.L. ch. 231A, §§ 1 – 3 to a declaration of the law²⁰ pertaining to statute and contract that [A] Massachusetts statute (M.G.L. ch. 90, § 3 and M.G.L. ch. 90, § 34A) requires *non-*

¹⁹ No certified copy of the **GEICO** or **USAA** policies were ever produced in the 2013 state court litigation or the 2020 United States District Court litigation due to *suppression*. The actual language of both of these policies on the date of filing suit on September 16, 2013 is unknown. The quoted language applies to the present policy the Plaintiff has with **GEICO** as he is a current policyholder. That no contract was allowed to be Discovered in the 2013 action when the claims were for breach of contract should shock the conscience as clear evidence of a *conspiracy to suppress* and *suppression* of a declaration of the Plaintiffs' rights. The Court and Defendants intended from March 6, 2014 (when Discovery in a state Court action was stayed via oral motion by the Defendants) to *suppress* a declaration of law and rights. They did so by *ex parte* agreement on March 5, 2014.

²⁰ I.e. a declaration of their rights under Massachusetts statute and their contracts of automobile liability insurance.

resident motor vehicle owners to “maintain” Massachusetts PIP “provisions” as part of their “policy of liability insurance” *and* [B] policies of liability insurance provide Massachusetts PIP “protection” which are denied by “**GEICO,**” **USAA,** and **CIC.**

24. Under their policies of insurance, **GEICO,** **USAA,** and **CIC** have contractual obligations, and obligations at law, to the Plaintiffs and Class Members to provide peace of mind and the “protections” promised by contract and mandated by Massachusetts law. They include Massachusetts PIP protections on non-resident vehicles. They promise to increase and afford coverages under their out-of-state coverage clause in accord with its insurance policies and M.G.L. ch. 90, § 3 and M.G.L. ch. 90, § 34A. **GEICO,** **USAA,** and **CIC** deny these averments. The Plaintiffs and Class Members are entitled to a declaration of law to “terminate” the “uncertainty” of the statute and insurance contract under M.G.L. ch. 231A, §§ 1 – 3.

25. WHEREFORE, Plaintiffs and Class Members request that this Court enter judgment and declaration of law as plead in the paragraph below titled PRAYER FOR RELIEF against these Defendants.

Count II - Breach Of Contract Against GEICO, USAA, CIC, and J. Roe, 1 - 100

26. The Plaintiffs and Class Members re-allege, re-aver, and incorporate herein all paragraphs above.

27. Defendants **GEICO,** **USAA,** **CIC,** and **J. Roe, 1 - 100** had duties and obligations to all Class Members under their contracts and at law from September 16, 2003 that they would honor all rights under their contracts, pay what is owed, seek legal resolution of any difference in interpretation of the law and or insurance contract, defend any claims made against them under their contracts with them as Class Members in good faith and refrain from *conspiring to suppress,* and actually *suppressing,* rights in any litigation to a declaration of law, due process,

and equal protection. Those duties were breached from September 16, 2013 and continuing as evidenced in all facts enumerated in this Complaint, all prior pleadings in state and federal court attempting to have the law declared, and in the *suppression* of a declaration of rights. There is proximate causation to the Defendants' conduct involving *conspiring to suppress* and *suppressing* the Plaintiffs' and Class Members' rights in the 2013 and 2020 litigation and damages resulting as there is no declaration of law and the Plaintiffs' and Class Members must litigate herein to determine their rights.

28. In defending prior law suits attempting to have the law declared either to agree or disagree that Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance, these Defendants had duties and obligations to honor their contracts. They breached those obligations. The Defendants breached their obligations under their contracts in that they *conspired to suppress* and actually *suppressed* the Plaintiffs' and Class Members' rights to a declaration of law and resolution of their dispute concerning the law pertaining to Massachusetts statute and their insurance contracts since 2013 when they were on notice of claims against them for these very coverages promised under contract and required by Massachusetts law. The Defendants knew they defended in bad faith, conspired with others, and *suppressed* Plaintiffs' and Class Members' rights to terminate the uncertainty of the law then their rights.

29. As a result of the actions of the Defendants which continue to this date, the Plaintiffs and Class Members were caused, and continue, to suffer financial harm including compensatory damages, attorney's fees, costs, and expenses associated with litigating this claim.

30. WHEREFORE, Plaintiffs and Class Members request that this Court enter judgment as plead in the paragraph below titled PRAYER FOR RELIEF.

Count III - Fraud, Conspiracy to Commit Fraud, Attempt to Commit Fraud, and Misrepresentation Against Defendants, GEICO, USAA, CIC, and J. Roe, 1 - 100

31. The Plaintiffs and Class Members re-allege, re-aver, and incorporate herein all paragraphs above.

32. The Defendants had a duty and obligation to refrain from conspiring to commit fraud, attempting to commit fraud, committing fraud, and misrepresentation during the prior 2013 and 2020 litigation involving a Class Member and knew, were reckless in not knowing, or took steps to ensure they would not know or would not be kept informed, or should have known of the conduct of *suppression* of the Plaintiffs' and Class Members rights with intent to defraud was ongoing in that litigation. It directly constituted fraud against the Class Members in this action. These Defendants had an obligation to know, and/or had a financial interest in, the actions of their employees, agents, etc. These Defendants had the right to control those employees, agents, etc. in their acts of *suppression* of the Plaintiffs' and Class Members rights and did not intervene to prevent that *suppression*. In fact, these Defendants encouraged those employees and profited by their employees' actions. Thereby, these Defendants failed to prevent the *conspiracy to suppress*, actual *suppression* of the Plaintiffs' and Class Members right to a declaration of that law, due process, equal protection in the 2013 law suit. These Defendants had been provided written notice of such *suppression* in the 2013 suit of the Conspiracy to Commit Fraud, Attempt to Commit Fraud, Misrepresentation, and Fraud.

33. Fed. R. Civ. P. Rule 9(b) provides “....a party must state with particularity the circumstances constituting fraud or mistake.” Accordingly, the Plaintiffs and Class Members state with particularity the facts and circumstances constituting fraud and/or mistake are found in every act, action, and omission,²¹ of each Defendant and/or every motion, pleading, paper,

²¹ The Plaintiffs and Class Members aver the *conspiracy to suppress*, and actual *suppression* of the right to a declaration of law was the intent of all actions by the Defendants named herein and all motions, oppositions and

transcript, docket entry, fact or circumstance, which occurred in all prior litigation concerning this issue of law or associated with it. The facts and circumstances constituting fraud are found in the *suppressing* and *conspiring to suppress* the Plaintiffs' and Class Members' rights at law and to a declaration of law. Those facts are iterated supra and in all prior litigation wherein the law seeking a declaration that Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance. The Plaintiffs and Class Members, relying on these facts and circumstances aver the following:

(A) the Defendants intentionally misrepresented material facts in the 2013 litigation (in moving for Summ. Judg., etc.) and also in the 2020 (refusal to respond to request for assurances) contract of insurance with **GEICO** in that they made promises of insurance coverage which the facts reflect they had no intention to keep depriving the Class Members of their rights;

(B) those misrepresented facts in the 2013 litigation (specifically that a Summ. Judg. was sufficient to address the breach of contract claims) and the 2020 contract with **GEICO** which promised out-of-state protections, were known to be false when made. This included moving for Summ. Judg.s that would not declare the rights or determine the breach of contract claims and offering the 2020 policy of liability insurance with no intent to pay PIP provisions depriving the Class Members of their rights;

(C) those facts were not open to that Plaintiffs' and Class Members' knowledge and still are not depriving the Class Members of their rights;

papers filed by them in all prior litigation against them attempting to have the law declared as stated above. And their intent to *suppress* a declaration of the Plaintiffs' and Class Members' rights was exactly what occurred.

(D) that Plaintiffs and Class Members acted in reliance on those facts and continues to do so.

34. As a result of the actions of the Defendants described in this Count which continue to this date, as well as their inactions, the Plaintiffs and Class Member have set forth, with particularity, a claim of Fraud, Conspiracy to Commit Fraud, Attempt to Commit Fraud, and Misrepresentation by all Defendants involving a *conspiracy to suppress* and *suppression* of the Plaintiffs' and Class Members' rights, including facts and circumstances constituting fraud which will be made available in Discovery. The Plaintiffs and Class Members were, and continue to be, caused financial harm including compensatory damages, attorney's fees, costs, and expenses associated with litigating this claim and deprived of their rights.

35. WHEREFORE, the Plaintiffs and Class Members request that this Court enter judgment as plead in the paragraph below titled PRAYER FOR RELIEF.

Count IV - Negligent, Willful, Wanton, and Intentional Interference With Contractual Relations Against GEICO, USAA, CIC, and J. Roe, 1 - 100

36. The Plaintiffs and Class Members re-allege, re-aver and incorporate herein all paragraphs above.

37. The Plaintiffs and Class Members had, and continue to have, contractual relationships with USAA, GEICO, CIC, and J. Roe, 1 - 100.

38. These Defendants named in this Count had duties and obligations to refrain from interference with contractual relations of the Plaintiffs and Class Members and negligently, willfully, wantonly, and intentionally interfered with those contractual relations and rights at law by *conspiring to suppress* and actually *suppressing*, the Plaintiffs' and Class Members' right to a declaration of law in prior litigation. The Defendants knew of those actions aforementioned, profited by them, and encouraged others to engage in them. They had the right to control their

employees' conduct and failed to prevent the acts of *conspiring to suppress* and *suppression* of the Plaintiffs' and Class Members' rights in the 2013 and 2020 litigation by **suppressing** a declaration of law that protected their rights. Those actions are enumerated in the entirety of this Complaint.

39. As a result of the actions described in this Complaint involving *suppression* of the Plaintiffs' and Class Members' rights by these Defendants which continue to this date, as well as their inactions, and breaches of duties owed by these Defendants, the Defendants have engaged in Negligent, Willful, Wanton and Intentional Interference With Contractual Relations resulting in the Plaintiffs and Class Members being denied their rights under contract, their rights of due process, their right to a declaration of the law and insurance policy contract contested by these Defendants, and a right to terminate the uncertainty concerning the statute and the contract language causing the Plaintiffs and Class Members to suffer monetary loss, loss of income, earnings, or earning opportunity, expenses, and attorney's fees.

40. WHEREFORE, Plaintiffs and Class Members request that this Court enter judgment as plead in the paragraph below titled PRAYER FOR RELIEF.

Count V - Aiding and Abetting Against GEICO, USAA, CIC, and J. Roe, 1 - 100

41. The Plaintiffs and Class Members re-allege, re-aver and incorporate herein all paragraphs above.

42. These Defendants had duties and obligations to refrain from aiding and abetting in the acts of *conspiracy to suppress* and *suppression* of the Plaintiffs' and Class Members' rights in prior litigation which attempted and demanded a declaration of the law. They knew, or took steps to ensure they would not know or would not be kept informed or should have known, that a *conspiracy to suppress* and actual *suppression* of a declaration of law, due process, and equal

protection was ongoing in that litigation. The Defendants knew they were profiting by the *suppression* or gave substantial assistance or encouragement to those *suppressing* the Plaintiffs' and Class Members' rights. They aided and abetted those engaged in *suppression* as evidenced in all actions in prior litigation attempting to declare the law. The Defendants' conduct was a substantial factor in causing harm to the Plaintiffs and Class Members in the form of *suppression* of their rights to this day.

43. The facts plead with particularity in the entirety of this Complaint clearly show the existence of a *conspiracy to suppress* and actual *suppression* of the Plaintiffs' and Class Members' rights. They show a conspiracy to commit fraud, fraud-in-fact, attempts to commit fraud and substantially assisted the advancement of the commission of that fraud. *See De Sole v. Knoedler Gallery, LLC*, 137 F. Supp. 3d 387, 411 (S.D.N.Y. 2015). The Plaintiffs and Class Members claim their right under the crime-fraud doctrine to pierce the attorney-client privilege without the burden of proof necessary to prove a tort where the furtherance of a crime is involved as there was in all prior litigation and continuing. The Plaintiffs and Class Members, based on the facts and circumstances alone presented herein, present a clear *prima facie* showing that:

- (A) the Defendants were engaged in criminal or fraudulent behavior when the communications between them took place in furtherance of a *conspiracy to suppress* and *suppression* of the Plaintiffs' and Class Members' rights; and
- (B) that the communications between them were intended by Defendants to engage and/or conceal the crime or fraud as contemplated by *U.S. v. Gorski*, No. 14-1963, 2015 WL 8285086, 807 F.3d 451 (1st Cir. Dec. 9, 2015) as fraud is not limited to the criminal context and is applicable to contract and tort law.

See RESTATEMENT (SECOND) OF TORTS §§ 526-528, 530, 538 (1976) dealing with misrepresentation and the RESTATEMENT (SECOND) OF CONTRACTS §§ 159-162 (1979) dealing with definitions pertaining to misrepresentation, concealment, etc.

44. As a result of the actions of the Defendants described in this Complaint involving *conspiracy to suppress* and *suppression* of the Plaintiffs' and Class Members' rights and the Defendants' aiding and abetting that *suppression*, the Plaintiffs and Class Members were denied their rights under contract, rights of due process in all prior litigation. The Plaintiffs and Class Members were denied their right to a declaration of statutory law as well as the law concerning the insurance policy contract contested by the Defendants and were injured as a direct consequence. They were denied their right to proper procedure in the form of due process. All conduct was aided and abetted by all three Defendants in this action causing the Plaintiffs and Class Members to suffer loss of income, loss of earnings or earning opportunity, bodily injury, financial damages, expenses, and attorney's fees.

45. WHEREFORE, Plaintiffs and Class Members request that this Court enter judgment as plead in the paragraph below titled PRAYER FOR RELIEF.

Count VI - Breach Of Fiduciary Duty Against GEICO, USAA, CIC, and J. Roe, 1 - 100

46. The Plaintiffs and Class Members re-allege, re-aver and incorporate herein all paragraphs above.

47. The Plaintiffs and Class Members aver **GEICO, USAA, CIC, and J. Roe, 1 - 100** owed fiduciary duties and obligations to the Plaintiffs and Class Members because, as insurers (fidelity institutions), they promise to step into the shoes of the insured and/or beneficiary and pay *obligations required by statute*. For, by its very nature, the Massachusetts statute is intended not just to protect the person insured but is also intended to protect the "innocent traveller"²² on the road injured by his *negligence* (before 1971). And (after 1971) it is also intended to protect a person by virtue of his standing as an "obligor" (no-fault liability) in addition to negligence. That is, the insurers promise to step into the shoes of their policyholder for "protections" which are

²² See *O'roak v. Lloyds Casualty Company*, 285 Mass. 532, 536 (1934).

intended to promote “human welfare and public safety.” For “[t]he purpose of the compulsory motor vehicle insurance law is not, like ordinary insurance, to protect the owner or operator alone from loss, but rather is to provide compensation to persons injured through the operation of the automobile insured by the owner.” *Wheeler v. O’Connell*, 297 Mass. 549, 553, 9 N.E.2d 544 (1937). Thus, when the insurers agreed to insure the Plaintiffs and Class Members, they *stood in the shoes of the persons they promised* and who were bound by statute to provide the “purpose” of compulsory insurance which is to protect the persons injured through the operation of their automobile, **GEICO, USAA, CIC, and J. Roe, 1 - 100**, had the fiduciary duties of care and loyalty in defending any denial of such statutory coverages claimed. They owed the duty of good faith not to *conspire to suppress* and actually *suppress* the Plaintiffs' and Class Members' rights. They had an obligation not to engage in fraud and/or to conspire with the Judiciary and others to *suppress* the Plaintiffs' and Class Members' rights to a declaration of law.

48. The Defendants named in this Count breached their fiduciary obligations by *conspiring to suppress*, and *suppressing* in fact, the Plaintiffs' and Class Members' right to a declaration of law, due process and equal protection of the laws in all of their actions in all prior litigation attempting to have the disputed law as described above, declared. As a result of the actions and inactions of the Defendants, **GEICO, USAA, CIC, and J. Roe, 1 - 100**, the Plaintiffs and Class Members were denied their rights under contract, rights of due process, right to a declaration of the statutory law and the law pertaining to their insurance contracts, causing the Plaintiffs and Class Members to suffer loss of income, loss of earnings or earning opportunity, bodily injury, financial damages, expenses, and attorney’s fees.

49. WHEREFORE, Plaintiffs and Class Members request that this Court enter judgment as plead in the paragraph below titled PRAYER FOR RELIEF.

Count VII - Violations of the Racketeer Influenced Corrupt Organizations ((RICO)) Act 18 U.S.C. § 1961, et seq. Against GEICO, USAA, and CIC

50. The Plaintiffs and Class Members re-allege, re-aver and incorporate herein all paragraphs above.

51. **The Schemes.** There are two RICO schemes alleged in this Count. The Plaintiffs and Class Members reserve the right to update this Count based on facts and circumstances unveiled in Discovery. Some conduct may overlap. The schemes victimized the Plaintiffs and Class Members and Beneficiaries of these Defendant Insurers. They victimize all persons entitled to PIP “protections” under Massachusetts law. Since 1971.

52. **Scheme I.** One scheme involves the Defendants' conduct in the 2013 and 2020 law suits pertaining to pursuit of a declaration of law which represented a *suppression* of the Plaintiffs' and Class Members' rights as well as a conspiracy to commit mail and wire fraud.

53. **Scheme II.** The second scheme involves these Defendant Insurers selling false promises to consumers that they will pay statutory “protections” in the form of PIP coverages without any intent to pay or even allow a policyholder un-corrupted litigation in Courts of law.

54. Both schemes involve illegally *conspiring* and *suppressing* the law with the intent that their Class Member policyholders and beneficiaries have no knowledge of coverages to which they are entitled, pay dearly for, and by which they and their children are adversely affected.

55. The facts supporting a plausible suggestion that these Defendants are RICO enterprises lie in the *conspiracy to suppress* and *suppression* by them of the Plaintiffs' and Class Members' rights to a declaration of law, due process, and equal protection in the 2013 law suit as well as the 2020 law suit. Those facts include the Defendants engaging in mail and wire fraud,

obstruction of justice, and possibly bribery in that action. All Defendants²³ had an obligation to refrain from conducting and/or participating in (as contemplated by *Reves v. Ernst Young*, ___ U.S., 113 S.Ct. 1163, 122 L.Ed.2d 525 (1993)) a conspiracy to commit and/or actual committing mail and wire fraud and obstruction of justice as a pattern of racketeering activity which included a *conspiracy to suppress* and actual *suppression* of the Plaintiffs' and Class Members rights in the 2013 and 2020 actions. The Plaintiffs and Class Members aver the Defendants in the 2013 and 2020 law suit were “participants” in *suppression* of their rights to a declaration of law. The Defendants engaged in a *conspiracy to suppress* and *suppression* of the Plaintiffs' and Class Members' rights after soliciting monies in the form of premiums. This represents more than common law mail fraud (18 U.S.C.A. § 1341) and wire fraud (18 U.S.C.A. § 1343)²⁴ in that it includes the predicate conduct of mail and wire fraud under § 1962(c) (attempting to defraud the Plaintiffs and Class Members by filing Summary Judgment motions and other papers in the 2013 and 2020 law suits they knew would not address their rights in declaration of contract or statute which were in dispute) in addition to *conspiracy* to commit mail and wire fraud under § 1962(c). It also includes claiming the 2020 claims and defendants alleged in the federal action had been previously litigated. They had not. It represents more than common law fraud in that it includes obstruction of justice in preventing testimony of those who had knowledge of the names of individuals who engaged in ex parte communications with the Judiciary and those who conspired with them to *suppress* the Plaintiffs' and Class Members' rights.²⁵ And finally, it represents more

²³ To include all culpable “person”(s) who conduct the affairs of a distinct “enterprise” through a “pattern” of “racketeering” in a way that proximately caused injury to the Plaintiff yet to be identified due to fraud.

²⁴ Both mail and wire fraud pertain to the Plaintiffs and all persons insured by **GEICO, USAA** and **CIC** as well as all persons injured as pedestrians entitled to PIP under Massachusetts law by vehicles insured by these insurers.

²⁵ This Pleading avers that the conduct of the Defendants makes this RICO count based on more than simply frivolous, fraudulent, or baseless litigation activities in a single law suit. Rather, it involves a pattern of conduct of *suppression*, fraud, and obstruction of justice combined with mail and wire fraud falling squarely within the intent of Congress sought to prohibit. They represent racketeer-influenced acts in which the Defendants continue to engage in mail and wire fraud in that they sell promises under policies of liability insurance they do not intend to honor, refuse to provide assurances that they will honor, and will continue to engage in obstruction of justice. It involves filing papers in Court that intend to deceive policyholders out of their rights under statute and contract. In short, it is

than common law fraud in that it includes obstruction of justice in *suppressing*²⁶ a declaration of law, due process, and equal protection of the law in all Counts raised in the 2013 and 2020 law suits. The prohibited conduct alleged here occurred at the time and place of each event which occurred in the 2013 and 2020 actions. Both schemes of the Defendants involved every act of the Defendants in furtherance of a *conspiracy to suppress* the Plaintiffs' and Class Members' rights from 2013 up until the present time. This conduct injured, and continues to injure the Plaintiffs and Class Members, and involved:

- (A) conduct;
- (B) of an enterprise;²⁷
- (C) through a pattern;
- (D) of racketeering activity

as contemplated by 18 U.S.C. §§ 1961-1968 (*Sedima, S.P.R.L. v. Imrex Co., Inc.*, 473 U.S. 479, 496 (1985)). **GEICO**, **USAA** and **CIC** are enterprises affecting interstate commerce within the meaning of 18 U.S.C. § 1962(c). The Plaintiffs and Class Members aver the facts and circumstances presented herein clearly reflect that the Defendants in this Court engaged in prohibited conduct under the RICO statute since September 16, 2013 in an attempt to defraud the Plaintiffs and Class Members. The Defendants intended for them to rely on the lie they perpetrated which was that Summary Judgment would resolve the claims in the 2013 and 2020

alleged in this Complaint the predicate acts “amount [] to far more than mere 'litigation activities,' and...[involve] extensive and broader schemes to defraud” and that they actually involve a fraudulent criminal scheme “entirely external to, and independent of, any of the particular disputes between the litigants in the civil actions that was filed and litigated by the ... defendants in execution of their scheme” in that they intend *suppression* of a declaration of law to prevent payment of the statutory protections to 29 million other paying policyholders. See *Kim v. Kimm*, 884 F.3d (2d Cir. 2018) and *United States v. Eisen*, 974 F.2d 246 (2d Cir. 1992). That which these “insurers” sell is not “insurance.” They have no intention of paying PIP protections and every intention of deceiving policyholders to give the insurers their hard-earned money so insurers may invest in their fraudulent scheme. *Suppressing* a declaration of law and contract perpetuates uncertainty. Such conduct is found in facts and circumstances in this Complaint.

²⁶ At no time from January 8, 2013 to the present, has Plaintiffs' Counsel been allowed to Discover whether “**GEICO**” or **USAA** ever investigated the then Plaintiff's rights under their contract with respect to PIP benefits. These enterprises were held untouchable from on high: the Massachusetts Judiciary, it is believed.

²⁷ “**GEICO**” and **USAA** are “enterprise”(s) that promised “insurance” with no intention to pay (either before September 16, 2013 or after) in order to invest premiums in the stock market and other ventures. They do not pay claims, delay payment of claims, conspire with other insurers to defraud policyholders and third-parties, make collection of monies owed impossible to recover due to the bad faith defense of legitimate claims, etc.

actions. It would not and did not. It could not. The Plaintiffs and Class Members further allege the monies unlawfully obtained by the Defendants since at least September 16, 2013 for premiums in the form of liability insurance from policyholders, has been used to fund continued *suppression*²⁸ of the Plaintiffs' and Class Members' right to a declaration of law, due process, and equal protection of the law in all of the Plaintiffs' and Class Members' claims. They did so to prevent payment to Class Members who are entitled to Massachusetts PIP protections for which **GEICO, USAA, and CIC** were statutorily and contractually liable.

56. The Defendants violated their duties and engaged (willfully or with knowledge and encouragement of the illegal activities) in fraudulent conduct, aided and abetted fraudulent conduct, engaged in mail and wire fraud and obstructed justice, from at least 2013 to the present. They did so in a pattern of illegal and continuous activity in a scheme involving *suppression* of the Plaintiffs' and Class Members' rights that threatens to continue and affects the enterprises **GEICO, USAA, and CIC**. The Plaintiffs and Class Members aver the facts and circumstances enumerated herein show:

[A] the existence of an enterprise or enterprises involving **GEICO, USAA, and CIC**;

[B] That these enterprises engaged in, or its activities affected, interstate commerce;

²⁸ The Plaintiff avers in support of his RICO claims that there is no evidence in the 2013 action and all documents associated therewith that “**GEICO**” and/or **USAA** attempted to provide liability “insurance” to the Plaintiff in the form of Massachusetts PIP protections or a determination of his rights under the statute or contracts. And **Commerce** participated in the *suppression* of a declaration of law. “Insurance” was just a ruse for these RICO enterprises to gather capital in the form of premiums and use those premiums to engage in mail and wire fraud, *suppression* of policyholder rights, obstruction of justice, possibly bribery, and all other acts which constitute RICO predicates enumerated in this Complaint. **Fact:** For, there is no indication “insurance” was provided to the Plaintiff as there is no declaration of law, no declaration of the Plaintiffs' rights, no adjudication of his breach of contract claims, no indication whether “**GEICO**” or **USAA** conducted a coverage investigation. But there is every indication that they communicated with the Court *ex parte* in order to prevent the Plaintiff from making any Discovery into whether any factual or coverage investigation was conducted for purposes of the breach of contract Count.

[C] That those persons named as Defendants in this action were employed by or were associated with those enterprises;

[D] That the Defendants named in this Count knowingly conducted the affairs of those enterprises or knowingly participated, directly or indirectly, in the conduct of those enterprises' affairs and had knowledge of the fraudulent scheme and that scheme involved the *suppression* of the Plaintiffs' and Class Members' rights to a declaration of law, due process, and equal protection of the law in all of their rights and claims in the 2013 and 2020 litigation;

[E] That said Defendants named in this Complaint knowingly conducted or participated in, directly or indirectly, a pattern of racketeering activity as alleged in this Complaint;

[F] That the Class Members remain policyholders of “**GEICO**” (policy # 6039156739) and a members of **USAA** (member # 4000247) and a Notice under Fed. R. Civ. P. Rule 65 (on September 4, 2020) and a demand for assurances (sent to them on October 8, 2020) which met with no response. The schemes includes selling purported “polic[ies] of liability insurance” with no intention to pay (either before September 16, 2013 or after)²⁹ or in the alternative to “delay paying legitimate claims, including acting in bad faith.” And thereafter investing premiums for profit without an intention to pay³⁰ for years and investing in the

²⁹ Defendants had every obligation to convert the 2013 action into a class action for tens of millions paying policyholders who are Class Members in light of the fact that their policies promise to pay that which is owed by law (out-of-state coverage clause) and what their policies promise. The failure of the insurers to convert to a mandatory class action proves they are RICO enterprises. If “**GEICO**,” **USAA**, and **CIC** were legitimate insurers, they would have filed a complaint for declaratory relief or motion for one if there was even a remote possibility they owed coverage (protections) to their tens of millions policyholders and their children. If they were honest that the statute did not require PIP, they would have gone in on a declaratory judgment requesting the Courts declare no PIP was required on non-resident motor vehicles. But they are RICO enterprises who gather capital to invest with no intention to pay PIP provisions. Since 2013.

³⁰ The Plaintiff avers the scheme to defraud included “**GEICO**” and **USAA** working together and with **CIC** through their agents, representatives, attorneys, or someone under their direction and control (or independent contractors not under their direction and control but whose illegal or unethical actions were, at all times, known to “**GEICO**,” **USAA** and **CIC**, those who manage and direct them) and all “participants” in the scheme to defraud the Plaintiff, with those in charge and control at “**GEICO**,” **USAA** and **CIC** having full knowledge and encouragement of those actions while at the same time that scheme was never divulged to the Plaintiff. The scheme violated contractual and ethical obligations to the Plaintiff.

establishment and operation of their enterprise,³¹ which was engaged in or its activities affected commerce. The Plaintiffs and Class Members aver that the *suppression* of their rights was, and continues to be a crime and not a legitimate defense strategy. Their schemes were, and are, to pretend to offer “insurance” and “protection” while the entity's real motive is to gather capital to invest in the stock market and withhold otherwise lawful payments to policyholders and third-parties in order to grow profits. The Plaintiffs' and Class Members' claims are “cognizable” as “the defendant’s alleged violation(s) proximately caused the plaintiff’s injury” in forcing them to litigate in a corrupted Judiciary with no chance of declaration. *See Anza v. Ideal Steel Supply Corp.*, 547 U.S. 451, 461-62 (2006). The proximate cause of the Plaintiffs' and Class Members' damages exhibit a “direct relation between the injury asserted and the injurious conduct alleged.” *Holmes v. Sec. Investor Prot. Corp.*, 503 U.S. 258, 268 (1992). Here, the Plaintiffs and Class Members aver a *conspiracy to suppress* and actual *suppression* of their rights to a declaration of law, due process, and equal protection of the laws by the Defendants participating in the *conspiracy* with the intent to *suppress* all claims in the 2013 and 2020 law suits causing them to litigate needlessly. The evidence here is that there is no declaration that [a] Massachusetts statute (M.G.L. ch. 90, § 3 and M.G.L. ch. 90, § 34A) has required non-resident motor vehicle owners to “maintain” Massachusetts PIP “provisions” as part of their “policy of liability insurance” *or* [b] policies of liability insurance provide Massachusetts PIP “protection.”

57. As a result of said violations of said violations of the statute plead herein for which the Defendants are directly liable and/or vicariously liable, the Plaintiffs and Class Members were caused to suffer bodily injury, injury to their business or property by the conduct

³¹ *See United States v. Vogt*, 910 F.2d 1184 (4th Cir. 1990); *United States v. Carlock*, 806 F.2d 535 (5th Cir. 1986).

constituting the violations identified above by reason of a violation of the statute and investment of the proceeds of their racketeering activity and by reason of the Defendants' maintenance of an interest in and control of their enterprise to include financial loss, compensatory damages, attorney's fees, costs, and expenses associated with litigating claims from September 16, 2013 to the present as well as compensatory damages, attorney's fees, costs, and expenses associated with claims filed on September 16, 2013 and November 30, 2020 and any treble damages and other remedies this Court deems just and meet.

58. WHEREFORE, Plaintiffs and Class Members request that this Court enter judgment as plead in the paragraph below titled PRAYER FOR RELIEF.

Count VIII - Specific Performance Against GEICO, USAA, CIC, and J. Roe, 1 - 100

59. The Plaintiffs and Class Members re-allege, re-aver and incorporate herein all paragraphs above.

60. Children are out there along with the Plaintiffs and other Class Members. On the streets of Massachusetts. As pedestrians and in vehicles from other states. And Massachusetts law protects them. They are being injured. Daily. **GEICO, USAA, CIC, and J. Roe, 1 - 100** refuse to pay them what the law requires and what their contracts promise and intentionally *suppress* the law from being declared. They refuse to permit the Plaintiffs and Class Members to know their rights. Defendants, **GEICO, USAA, CIC, and J. Roe, 1 - 100**, write automobile policies of liability insurance in all contiguous states in the United States upon information and belief. Millions of the vehicles they insure are registered and insured by them in states other than Massachusetts, many of which travel into Massachusetts every day. Those automobile policies of liability insurance include a liberalization clause captioned “out-of-state” coverage or “other states” coverage, or something similar. That liberalization clause promises to provide the

amounts, types, or limits of financial responsibility required of those non-resident automobiles under their policy of liability insurance should they be present in a jurisdiction other than that in which their vehicle is registered, insured and operating. The policy of liability insurance promises peace of mind that the “insured”/policyholder will be in compliance with liability laws of any state into which they travel with their vehicle (or as an operator/covered person). Since 2013, these Defendants have *suppressed* a declaration of their obligations under Massachusetts law and their contract of liability insurance. But the Massachusetts Court agrees its statute requires PIP be maintained on non-resident vehicles and these “insurers” disagree.

61. The Plaintiffs and Class Members are residents of all 50 states and from around the world. They frequent Massachusetts daily, are pedestrians on the streets of the Commonwealth and travel in vehicle registered and insured in jurisdictions other than Massachusetts.

62. The Plaintiffs and Class Members have averred that:

- [A] Massachusetts statute (M.G.L. ch. 90, § 3 and M.G.L. ch. 90, § 34A) requires *non-resident* motor vehicle owners to “maintain” Massachusetts PIP “provisions” as part of their “policy of liability insurance;” *and*
- [B] policies of liability insurance provide Massachusetts PIP “protection.”

GEICO, USAA, CIC, and J. Roe, 1 - 100 have denied these averments since 2013 and continue to deny these averments. The Massachusetts Judiciary agrees with the Plaintiffs and Class Members but refuses to declare the law at request of the Defendants in this law suit. The Plaintiffs and Class Members remain in a state of “uncertainty”³² as to their rights, duties, status, and other legal obligations. They seek **GEICO, USAA, CIC, and J. Roe, 1 - 100** to specifically perform their contract as these Defendants refuse to provide assurances with respect to their policies of liability insurance and continue to deny the law and payment of PIP protections under

³² Disputed statute and contracts, without declaration, are unknowable. The complete opposite of their very purpose.

their policies of liability insurance issued on vehicles registered and insured by them in states other than Massachusetts. Because the law pertaining to the statute and the policies of liability insurance issued by **GEICO, USAA, CIC, and J. Roe, 1 - 100** remain unresolved (and they have a present and future interest in “termination” of the “uncertainty” of both statute and contract), the Plaintiffs and Class Members seeks specific performance of the contracts with these Defendants in order to terminate the uncertainty, prevent the Plaintiffs and Class Members from being unprotected by insurance required by the statute since 1971. They seeks to prevent further attorney's fees, costs, expenses, compensatory damages, bodily injury etc. from continued denial by them. The Plaintiffs and Class Members were, are, and shall always be, “entitled to know and be granted [their] rights” as to what the law is despite the Defendants' request that the Court *suppress* that law. *Cantell v. Commissioner of Correction*, 87 Mass.App.Ct. 629, 33 N.E.3d 1255 (2015), Rubin, J. quoting *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 96 S.Ct. 1236, 47 L.Ed.2d 483 (1976), at 636. The Plaintiffs and Class Members demand a declaration of law as described above as the Massachusetts Court has “found” in the Summary Judgment rulings in this case.

63. WHEREFORE, Plaintiffs and Class Members request that this Court enter judgment as plead in the paragraph below titled PRAYER FOR RELIEF.

PRAYER FOR RELIEF

The Plaintiffs and Class Members request the following relief:

A. The Court to:

[1] **Declare** M.G.L. ch. 90, § 3 and M.G.L. ch. 90, § 34A requires *non-resident* motor vehicle owners to maintain Massachusetts PIP protections on their *non-resident* motor vehicles when operating in Massachusetts;

[2] **Declare** that *non-resident* policies of liability insurance issued by **GEICO, USAA, CIC** and **J. Roe, 1 - 100** do, in fact, provide Massachusetts PIP protections on their *non-resident* motor vehicles when operating on the roads of Massachusetts;

[3] **Declare** that Massachusetts PIP is a liability coverage and terminating the uncertainty and dispute between the Parties;

[4] **Declare** that liability coverages issued under the policies of liability insurance issued by **GEICO, USAA, CIC, and J. Roe, 1 - 100** provide primary and excess liability coverages which include Massachusetts PIP and terminating the uncertainty and dispute between the Parties;

[5] **Declare** that both a motor vehicle owner and non-owner liability policyholder, is required to maintain PIP provisions for himself/herself as an “obligor” under Massachusetts law when in Massachusetts and terminating the uncertainty and dispute between the Parties;

[6] **Declare** that “on more than thirty days in the aggregate in any one year” means exactly what it says and that once that threshold is met, a non-resident motor vehicle “owner” must “maintain[] in full force a policy of liability insurance providing indemnity for or protection to him, and to any person responsible for the operation of such motor vehicle or trailer with his express or implied consent, against loss by reason of the liability to pay damages to others for bodily injuries, including death at any time resulting therefrom, caused by such motor vehicle or trailer, at least to the amount or limits required in a motor vehicle liability policy as defined in section thirty-four A” and that there is no expiration date wherein such liability coverages must be maintained thereafter thereby terminating the uncertainty and dispute between the Parties;

[7] **Declare** that the “owner thereof” is the intended subject required to “maintain” a policy of liability insurance under Massachusetts statute and that liability coverage follows, not the automobile, but the person and terminating the uncertainty and dispute between the Parties;

[8] **Declare** the thirty day period in M.G.L. ch. 90, § 3 is void as unconstitutional and violative of the due process and equal protection clauses of the Constitution of the United States and Article IV of the Constitution; **And/or**

[9] issue a certified question(s) to the SJC as certified questions pursuant to S. J. C. Rule 1:03, and appearing in 382 Mass. 700 (1981) to declare **i – viii** above and/or should the SJC refuse to answer certified questions, issue a mandamus to the SJC to declare the law in **i – ix** above as federal constitutional rights are involved;

B. That this Court enter judgment in favor of Plaintiffs and Class Members on each of the Counts in this Complaint for compensatory damages, attorney's fees, costs, and expenses associated with litigating their claims in this case including treble damages and those damages allowed by statute for each claim raised in each Count;

C. That the Court exercise its equitable powers to compel **GEICO, USAA, CIC, and J. Roe, 1 - 100** [i] to specifically perform their contracts and to provide peace of mind and certainty requiring these Defendants to affirm that [a] Massachusetts statute (M.G.L. ch. 90, § 3 and M.G.L. ch. 90, § 34A) has required non-resident motor vehicle owners to “maintain” Massachusetts PIP “provisions” as part of their “policy of liability insurance” *and* [b] policies of liability insurance issued by them provide Massachusetts PIP “protection” and require them to specifically perform their obligations as provided in their contracts and to provide assurances and specific performance that the Plaintiffs and Class Members are being treated in a manner equal to

that of all other policyholders or beneficiaries **GEICO, USAA, CIC, and J. Roe, 1 - 100** insure. The Plaintiffs and Class Members request this Court exercise its equitable powers to order [ii] specific performance to affirm that **GEICO, USAA, CIC, and J. Roe, 1 - 100** will not deny that [a] Massachusetts statute (M.G.L. ch. 90, § 3 and M.G.L. ch. 90, § 34A) requires *non-resident* motor vehicle owners to “maintain” Massachusetts PIP “provisions” as part of their “policy of liability insurance” *and* that they will not deny [b] their policies of liability insurance provide Massachusetts PIP “protection” for the Plaintiffs and Class Members when the travel the roads of Massachusetts or, in the alternative, while they are occupying a non-resident vehicle insured by them while traveling on the roads of Massachusetts, [iii] award damages for attorney's fees, costs and expenses associated with this law suit and the 2013 law suit, and [iv] if specific performance not be granted, that the Plaintiffs and Class Members be awarded attorney's fees, costs, and expenses associated with this law suit.

D. That this “...court...order a speedy hearing of a declaratory judgment action” as provisioned by Fed. R. Civ. P. Rule 57.

E. Awarding Plaintiffs and Class Members' Attorney fees, costs, and expenses associated with this suit; *and*

F. Granting Plaintiffs and Class Members such other and further relief as the Court deems just and proper. For this is a **Landmark Legal Discovery**. This is history.

PLAINTIFFS AND CLASS MEMBERS DEMAND TRIAL BY JURY ON ALL COUNTS.

Respectfully Submitted,

Plaintiff, Allan M. Leavitt, Individually and as
Representative for the Class Members,
J. Doe, 1 – 100, Individually and as
Representative for the Class Members,
By Their Attorney and
Counsel of Record,

/s/ William J. Ruotolo

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Dated: June 8, 2023

VERIFICATION

I, Allan M. Leavitt, hereby state under the pains and penalties of perjury that I am the Plaintiff for the Class Members in the above-titled action, that I have read the allegations of the Verified Complaint, and state that those allegations are true and correct to the best of my knowledge, information, and belief.

Allan M. Leavitt
Plaintiff, Individually and as
Representative for the Class Members

Respectfully Submitted,

Plaintiff, Allan M. Leavitt, Individually and as
Representative for the Class Members,
J. Doe, 1 – 100, Individually and as
Representative for the Class Members,
By Their Attorney and
Counsel of Record,

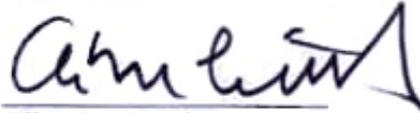


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williamjruotolo@gmail.com
Dated: June 8, 2023

VERIFICATION

I, Allan M. Leavitt, hereby state under the pains and penalties of perjury that I am the Plaintiff for the Class Members in the above-titled action, that I have read the allegations of the Verified Complaint, and state that those allegations are true and correct to the best of my knowledge, information, and belief.



Allan M. Leavitt
Plaintiff, Individually and as
Representative for the Class Members

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ALLAN M. LEAVITT,¹

Plaintiff,

v.

UNITED SERVICES AUTOMOBILE
ASSOCIATION, GEICO INDEMNITY
COMPANY, and THE COMMERCE
INSURANCE COMPANY, INC.,

Defendants.

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Civil Action No. 4:23-cv-11341-IT

MEMORANDUM & ORDER

January 19, 2024

TALWANI, D.J.

Pending before the court in this putative class action are Motions to Dismiss [Doc. Nos. 31, 53, 56] Plaintiff Allan Leavitt’s Complaint [Doc. No. 1] brought by the United Services Automobile Association (“USAA”), GEICO Indemnity Company (“GEICO”), and The Commerce Insurance Company (“Commerce,” and collectively, “Defendants”). Also pending are GEICO’s and USAA’s Motions for Sanctions [Doc. Nos. 58, 89] and Plaintiff’s Motions for Sanctions [Doc. Nos. 72, 87, 118, 123]. For the following reasons, Defendants’ Motions to

¹ Plaintiff Allan Leavitt’s counsel purports to represent Leavitt individually and as a class representative, and unnamed J. Does 1-100, and styles the case caption and signature line of his pleadings accordingly. See, e.g., Compl. 1 [Doc. No. 1]; Third Motion for Sanctions 1–2 [Doc. No. 123]. As this court has stated previously, see Elec. Orders [Doc. Nos. 98, 99, 100, 101, 102], filings on behalf of “Class Members” or “J. Doe, 1- 100,” are improper where no class has yet been certified, counsel has not been appointed class counsel or designated as interim class counsel, and counsel may not represent individuals unknown to him absent class certification. See also Mem. & Order 2 [Doc. No. 126] (citing Fed. R. Civ. P. 23(c), (g)). The case caption is corrected in this order to reflect the sole Plaintiff before the court in this action.

Dismiss are GRANTED for lack of subject matter jurisdiction and for failure to state a claim, GEICO's and USAA's Motions for Sanctions are GRANTED, and Plaintiff's Motions for Sanctions are DENIED.

I. BACKGROUND

This action follows litigation commenced in 2013 in state court and in 2020 in this court.²

A. The 2013 State Court Action

This court has previously set forth the factual background and the procedural history of the state court proceedings (the "2013 State Court Action") and incorporates that discussion by reference here. See Leavitt v. United Servs. Auto. Ass'n, No. 1:20-cv-12130-IT, 2021 WL 3025863, at *1–5 (D. Mass. July 16, 2021), aff'd, No. 21-1561, 2022 WL 2355473 (1st Cir. Apr. 7, 2022), cert. denied, 143 S. Ct. 201, 214 L. Ed. 2d 76 (2022). The state court action concluded with the United States Supreme Court denying Leavitt's petition for writ of certiorari. Leavitt v. Phillips, et al., 140 S. Ct. 1216 (2020).

B. The 2020 Federal Court Action

On November 30, 2020, Leavitt filed a federal action ("2020 Federal Court Action") in the District of Massachusetts. On February 11, 2021, Leavitt filed an Amended Complaint against the same Defendants named here (USAA, GEICO, and Commerce) and others. Am. Compl. ("2021 Complaint"), No. 20-cv-12130, Doc. No. 17.

² Leavitt requests judicial notice of the documents filed in and associated with his 2013 state court litigation in Massachusetts and in his 2020 litigation before this court. Compl. ¶ 16 ("The Plaintiffs and Class Members rely on judicial notice of all prior proceedings involving prior law suits seeking declaration herein from September 16, 2013 up until October, 2022. Those law suits were filed September 16, 2013 in state court and November 30, 2020 in federal court.").

Leavitt's 2021 Complaint demanded in Count I that the court issue a declaratory judgment that: (i) Mass. Gen. Laws ch. 90, §§ 3 and 34A "require[] non-resident motor vehicle owners to 'maintain' Massachusetts PIP 'provisions' as part of their 'policy of liability insurance,'" and that (ii) "policies of liability insurance issued by 'GEICO' and USAA provide Massachusetts PIP 'protection.'" Id. ¶ 32 (emphasis in original). The 2021 Complaint also asserted claims for breach of contract against GEICO and USAA (counts II–III); fraud, conspiracy, and misrepresentation against GEICO, USAA, Commerce, and others (Count VIII); negligent, willful, wanton, and intentional interference with contractual relations against GEICO, USAA, Commerce, and others (Count IX); aiding and abetting suppression of his rights against GEICO, USAA, Commerce, and others (Count X); breach of fiduciary duty against GEICO and USAA (Count XI); breach of fiduciary duty and aiding and abetting against unnamed J. Does, GEICO, and USAA (Count XIII); and RICO violations against all defendants (Count XIV). Id. ¶¶ 38–102. The 2021 Complaint also sought specific performance against GEICO and USAA (Count XV). Id. ¶¶ 103–11.

GEICO, USAA, Commerce, and the other defendants filed motions to dismiss the 2021 Complaint. This court granted the motions, finding that the 2021 Complaint was based upon the same underlying events at issue in the 2013 State Court Action, Leavitt, 2021 WL 3025863, at *5, and that "[u]nder the Rooker-Feldman doctrine, this court does not have jurisdiction to revisit substantially the same issues already decided by the Superior Court and the Appeals Court," id. at *8. This court reasoned that it made no difference that Plaintiff added claims about "a vast conspiracy with the state courts to deny him access to justice" because the Rooker-Feldman doctrine was "not contingent upon an identity between the issues actually litigated in the prior state-court proceedings and the issues proffered in the subsequent federal suit." Id. Instead, "the

critical datum is whether the plaintiff’s federal suit is, in effect, an end-run around a final state-court judgment.” Id. (quoting Klimowicz v. Deutsche Bank, 907 F.3d 61, 66–67 (1st Cir. 2018)). This court further noted that “Leavitt has had his day in court and has exhausted all the review to which he is entitled.” Id.

Leavitt appealed and, after a “careful review of the record,” the First Circuit affirmed “for substantially the reasons set forth in the district court’s July 16, 2021 decision.” Leavitt v. United Servs. Auto. Ass’n, No. 21-1561, 2022 WL 2355473, at *1 (1st Cir. Apr. 7, 2022). The First Circuit concluded that Plaintiff’s “contentions on appeal, including his contention that the Rooker-Feldman doctrine does not bar his federal court suit due to the inclusion of non-identical claims and/or additional parties, are unconvincing.” Id. The Supreme Court denied certiorari. Leavitt v. United Servs. Auto. Ass’n, 143 S. Ct. 201 (2022).

C. The Present Action

On June 15, 2023, Leavitt initiated the action now before the court. See generally Compl. (“2023 Complaint”) [Doc. No. 1]. The 2023 Complaint is fashioned as a class action with one putative class representative, Leavitt. It asserts the following claims: Declaratory Judgment (Count I), id. ¶¶ 19–25; Breach of Contract (Count II), id. ¶¶ 27–28; Fraud and Civil Conspiracy (Count III), id. ¶¶ 32–33; Interference with Contractual Relations (Count IV), id. ¶¶ 36–40; Aiding and Abetting (Count V), id. ¶¶ 41–45; Breach of Fiduciary Duty (Count VI), id. ¶ 48; RICO violations (Count VII), id. ¶¶ 50–58; and Specific Performance (Count VIII), id. ¶ 60.

All Defendants moved to dismiss the complaint. USAA moved to dismiss the complaint for lack of subject matter jurisdiction due to res judicata, the Rooker-Feldman doctrine, and lack of Article III standing, and for failure to state a claim. Mot. to Dismiss [Doc. No. 31], Mem. in Support [Doc. No. 32]; see also Fed. R. Civ. P. 12(b)(1), (6). Commerce moved to dismiss for similar reasons and the additional reason that Leavitt’s Complaint did not contain a short and

plain statement of the claim, warranting dismissal under Rule 8(a)(2) of the Federal Rules of Civil Procedure. Am. Mot. To Dismiss [Doc. No. 53], Mem. in Support [Doc. No. 52]; see also Fed. R. Civ. P. 8(a)(2). GEICO also moved to dismiss for similar reasons. Mot. to Dismiss [Doc. No. 56], Mem. in Support [Doc. No. 57]. Leavitt has opposed all three motions. Opps. [Doc. Nos. 40, 68, 70].

Parties on both sides have filed motions for sanctions. GEICO moved for sanctions based on Leavitt's filing of the complaint. Mot. for Sanctions [Doc. No. 58]; Mem. in Support [Doc. No. 59]. Leavitt has opposed this motion, Opp. [Doc. No. 71], and has filed three motions for sanctions against GEICO: [First] Motion for Sanctions against GEICO ("Leavitt's First Sanctions Motion against GEICO") [Doc. No. 72]; Second Motion for Sanctions against GEICO ("Leavitt's Second Sanctions Motion against GEICO") [Doc. No. 87]; Third Motion for Sanctions against GEICO ("Leavitt's Third Sanctions Motion against GEICO") [Doc. No. 123]. In support of these motions, Leavitt argues that GEICO's Motion to Dismiss and Motion for Sanctions are "clearly frivolous" and were filed "with no good-faith basis." See generally Memo. ISO Mot. for Sanctions Against GEICO 14–15 [Doc. No. 73]; Memo. ISO Mot. for Sanctions Against GEICO 14–15 [Doc. No. 88]; Memo. ISO Mot. for Sanctions Against GEICO 14–15 [Doc. No. 124]. GEICO has opposed each motion. Opps. [Doc. Nos. 79, 94, 131].

Meanwhile, USAA also moved for sanctions based on Leavitt's complaint. Mot. for Sanctions [Doc. No. 89]; Mem. in Support [Doc. No. 90]. Leavitt has opposed this motion, Opp. [Doc. No. 91], and has filed a Motion for Sanctions against Defendant USAA ("Leavitt's Sanctions Motion against USAA") [Doc. No. 118]. Leavitt's motion does not seem to be targeted at a particular pleading, although Leavitt argues that USAA's Motion for Sanctions should be

denied. Memo. ISO Motion for Sanctions Against USAA 1, 20 [Doc. No. 119]. USAA has opposed this motion. Response [Doc. No. 125].

II. STANDARD OF REVIEW

A. Lack of Subject Matter Jurisdiction

“Rule 12(b)(1) is the proper vehicle for challenging a court’s subject matter jurisdiction.” Valentin v. Hospital Bella Vista, 254 F.3d 358, 362–63 (1st Cir. 2001). A motion to dismiss for lack of constitutional standing is properly brought as a challenge to the court’s subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1). See Katz v. Pershing, LLC, 672 F.3d 64, 70 (1st Cir. 2012). Federal courts are courts of limited jurisdiction, so federal jurisdiction is never presumed. Viqueira v. First Bank, 140 F.3d 12, 16 (1st Cir. 1998). The party asserting jurisdiction has the burden of demonstrating the existence of federal jurisdiction. Id. On a motion to dismiss, the court should treat all well-pleaded facts as true and provide the plaintiff the benefit of all reasonable inferences. Fothergill v. United States, 566 F.3d 248, 251 (1st Cir. 2009). Dismissal is appropriate only when the facts alleged in the complaint, taken as true, do not support a finding of federal subject matter jurisdiction. Id. A challenge to the court’s subject matter jurisdiction must be addressed before addressing the merits of a case. See Acosta-Ramirez v. Banco Popular de Puerto Rico, 712 F.3d 14, 18 (1st Cir. 2013).

B. Failure to State a Claim

In evaluating a motion to dismiss for failure to state a claim, the court assumes “the truth of all well-pleaded facts” and draws “all reasonable inferences in the plaintiff’s favor.” Nisselson v. Lernout, 469 F.3d 143, 150 (1st Cir. 2006). To survive dismissal, a complaint must contain sufficient factual material to “state a claim to relief that is plausible on its face.” Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). “While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations . . . [f]actual allegations must be enough to

raise a right to relief above the speculative level” *Id.* at 555 (internal citations omitted). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). In ruling on a motion to dismiss, “a judge can mull over ‘documents incorporated by reference in [the complaint], matters of public record, and other matters susceptible to judicial notice.’” *Lydon v. Local 103, Int’l Bhd. of Elec. Workers*, 770 F.3d 48, 53 (1st Cir. 2014) (quoting *Giragosian v. Ryan*, 547 F.3d 59, 65 (1st Cir. 2008)) (alteration in original).

III. DISCUSSION

A. Motions to Dismiss

1. *Res judicata and the Rooker-Feldman doctrine bar the claims Plaintiff brought, or could have brought, in the 2013 State Court Action and 2020 Federal Court Action.*

The doctrine of res judicata or claim preclusion “prevents parties from raising issues that could have been raised and decided in a prior action—even if they were not actually litigated.” *Lucky Brand Dungarees, Inc. v. Marcel Fashions Grp., Inc.*, 140 S. Ct. 1589, 1594 (2020). Under Massachusetts law, a party is prohibited from re-litigating an issue when “(1) there was a final judgment on the merits in the prior adjudication; (2) the party against whom preclusion is asserted was a party (or in privity with a party) to the prior adjudication; and (3) the issue in the prior adjudication was identical to the issue in the current adjudication.” *Kobrin v. Bd. of Registration in Medicine*, 444 Mass. 837, 843 (2005) (quoting *Tuper v. North Adams Ambulance Serv., Inc.*, 428 Mass. 132, 134 (1998)). Under 28 U.S.C. § 1738, “a judgment rendered in a state court is entitled to the same preclusive effect in federal court as it would be given within the state in which it was rendered.” *In re Sonus Networks*, 499 F.3d 47, 56 (1st Cir. 2007).

This doctrine bars Leavitt’s claims in the 2023 Complaint for declaratory judgment (Count I), breach of contract (Count II), interference with contractual relations (count IV), breach of fiduciary duty (Count VI), and specific performance (Count VIII)—except to the extent that these claims are based on allegations of ongoing fraud or other conduct continuing to the present day. First, the Suffolk Superior Court issued a final judgment on the merits in the 2013 State Court Action and that judgment was affirmed on appeal by the Massachusetts Appeals Court. Second, the preclusion is asserted against Leavitt, who was a party to the prior adjudication. Third, these claims are “sufficiently identical,” Banco Santander de P.R. v. Lopez-Stubbe (In re Colonial Mortg. Bankers Corp.), 324 F.3d 12, 16 (1st Cir. 2003), to the issue spurring the causes of action in the 2013 State Court Action: the denial of Leavitt’s request for personal injury protection (“PIP”) coverage as a passenger in an out-of-state motor vehicle following a motor vehicle accident in the Commonwealth of Massachusetts in 2010. They either were or could have been brought in the 2013 State Court Action. See 2021 Federal Compl., No. 20-cv-12130, Doc. No. 17, ¶¶ 31–111 [breach of contract (counts II–III); fraud, conspiracy, and misrepresentation (Count VIII); negligent, willful, wanton, and intentional interference with contractual relations (Count IX); aiding and abetting suppression of his rights (Count X); breach of fiduciary duty (Count XI); breach of fiduciary duty and aiding and abetting (Count XIII); RICO violations (Count XIV); specific performance (Count XV)].

In the alternative, the court holds that those claims, as well as Plaintiff’s non-fraud claims that span the period from the 2020 Federal Court Action to the present day, are barred under the Rooker-Feldman doctrine. Under the Rooker-Feldman doctrine, lower federal courts are barred from hearing de facto appeals from state-court judgments. See generally Rooker v. Fid. Trust Co., 263 U.S. 413 (1923); D.C. Ct. App. v. Feldman, 460 U.S. 462 (1983); Wilson v. Shumway,

264 F.3d 120 (1st Cir. 2001). The doctrine bars Plaintiff from coming to federal court “complaining of an injury caused by the state-court judgment,” or seeking relief “predicated upon a conviction that the state court was wrong.” Tyler v. Supreme Judicial Court of Massachusetts, 914 F.3d 47, 50 (1st Cir. 2019). This is because only the United States Supreme Court has jurisdiction over appeals of final state court judgments. Rooker, 263 U.S. at 420; Feldman, 460 U.S. at 469. The Rooker-Feldman bar applies not just to claims explicitly raised in a prior state court action, but also to any claims that are “‘inextricably intertwined’ with questions previously adjudicated by a state court, such that the federal district court would be in the unseemly position of reviewing a state court decision for error.” Mills v. Harmon L. Offs., P.C., 344 F.3d 42, 44 (1st Cir. 2003) (citing Hill v. Town of Conway, 193 F. 3d 33, 39 (1st Cir. 1999)).

Leavitt seeks to have this court adjudicate questions previously presented to the Massachusetts Court of Appeals. 2023 Compl. ¶ 2 [Doc. No. 1]. He alleges:

The entirety of this Class Action hinges and rests on the following proposition and plea for declaration by the Class Members which is, and has been, denied by these Defendants:

Proposition and Plea for Declaration: Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Massachusetts.

. . . The demand that this law be declared is a threshold question to the entirety of the counts in this Complaint.

If this plea is not the law, it must be declared so and the case dismissed.

Id. He concedes that he has previously presented this issue to the court and complains about a “conspiracy” that purportedly prevented a resolution of this issue. 2023 Compl. ¶ 18 (Plaintiff “had a right to a declaration of law and rights of due process and equal protection and there is *no declaration of law* despite pleas for one”) (emphasis in original); id. ¶ 18M (“There is only one

way there was no declaration of law in prior litigation and that is by way of a *conspiracy* between Defendants to *suppress* and *actual suppression* of a declaration of law . . .”) (emphasis in original); *id.* ¶ 18.W (alleging that the conspiracy is shown by the fact that “GEICO and USAA were released from the 2013 breach of contract case”).

But Plaintiff’s report that there was no resolution or that the Massachusetts Court of Appeals failed to “declare the law” is incorrect. The Court first explained that the Statute at issue “require[s] nonresidents to purchase the requisite motor vehicle insurance *only* during the year in which they have driven a motor vehicle in the Commonwealth for more than thirty days in the aggregate.” *Leavitt*, 2019 WL 4019952, at *2 (emphasis added). The Court then noted that Plaintiff sought a declaratory judgment, and the Court therefore “declares the rights of the parties, instead of dismissing the claim,” concluding that “[t]he Court **DECLARES** that USAA has no obligation to provide PIP coverage for the November 24, 2010 accident at issue in this case.” *Id.* at *3 (emphasis in original). What Plaintiff is seeking is not an answer to an unresolved issue, but a different answer than the one that he received. The present action—predicated on the notion that Massachusetts law requires out-of-state motorists to obtain PIP coverage if their vehicles have *ever* been operated in Massachusetts for more than thirty days in *any* year—is thus “inextricably intertwined” with the 2013 State Court Action.

Leavitt argues that the 2023 Complaint contains new legal theories that he did not present in the 2013 State Court Action and that the Rooker-Feldman doctrine therefore does not apply. Leavitt’s Opp. to USAA’s Mot. to Dismiss 4, 7, 9–13 [Doc. No. 40]. However, “a plaintiff cannot escape the Rooker-Feldman bar through the simple expedient of introducing a new legal theory in the federal forum that was not broached in the state courts.” Klimowicz v. Deutsche Bank National Trust Company, 907 F.3d 61, 66 (1st. Cir. 2018). Leavitt has essentially filed “a

federal suit seeking an opposite result” from that reached in the 2013 State Court Action, which makes the present action “an impermissible attempt to appeal the state judgment to the lower federal courts.” Federacion de Maestros de Puerto Rico v. Junta de Relaciones del Trabajo de Puerto Rico, 410 F.3d 17, 24 (1st Cir. 2005).

This court said in its order granting the Defendants’ motion to dismiss the 2020 Federal Court Action that “[t]his case was fully litigated in the Massachusetts courts,” and Leavitt “has had his day in court and has exhausted all the review to which he is entitled.” Leavitt, 2021 WL 3025863, at *8. What was true about Leavitt’s second bite at the apple in 2021 is no less true as to this *third* bite at the apple in 2023.

2. Plaintiff does not have standing as to claims stemming from an insurance policy contract in 2023 because he has alleged no concrete harm.

In seeking to distinguish the present action from the 2013 State Court Action, Leavitt states that the 2013 State Court Action was based upon bodily injuries incurred in a 2010 car accident, see Pl.’s Resp. to GEICO’s Obj. to Lack of Relatedness Designation 5–6 [Doc. No. 20], while the present action is based upon “a contract and Membership in 2023,” id. at 6. But this attempt to assert a claim that is not barred by the prior actions undermines any standing Leavitt has to bring an action.

Article III of the Constitution imposes a “threshold requirement” of standing upon “those who seek to invoke the power of the federal courts,” namely that they “must allege an actual case or controversy.” O’Shea v. Littleton, 414 U.S. 488, 493 (1974) (citing U.S. Const. Art. III, § 2, cl. 1); see also Lujan v. Defs. of Wildlife, 504 U.S. 555, 560–61 (1992). Standing consists of three elements: “[t]he plaintiff must have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision.” Spokeo, Inc. v. Robins, 578 U.S. 330, 338 (2016), as revised (May 24, 2016)

(quoting Defs. of Wildlife, 504 U.S. at 560–61). “The standing inquiry is claim-specific: a plaintiff must have standing to bring each and every claim that she asserts.” Katz v. Pershing, LLC, 672 F.3d 64, 71 (1st Cir. 2012) (citing Pagán v. Calderón, 448 F.3d 16, 26 (1st Cir. 2006)).

To establish the first element of standing, an injury-in-fact, a plaintiff must demonstrate “an invasion of a legally protected interest” that is “concrete and particularized” and “actual or imminent, not conjectural or hypothetical.” Defs. of Wildlife, 504 U.S. at 560. To the extent that Plaintiff seeks to litigate this action based on insurance contracts unrelated to the 2010 car accident, he lacks standing to do so because he has presented no concrete harm and, consequently, no injury-in-fact. “Only those plaintiffs who have been *concretely harmed* by a defendant’s statutory violation may sue that private defendant over that violation in federal court.” TransUnion LLC v. Ramirez, 594 U.S. 413, 427 (2021).

In Count I (Declaratory Judgment), Leavitt asks the court to “declare that Massachusetts statute (M.G.L. ch. 90, § 3 and M.G.L. ch. 90, § 34A) requires non-resident motor vehicle owners to ‘maintain’ Massachusetts PIP ‘provisions’ as part of their ‘policy of liability insurance;’” and “declare that policies of liability insurance issued by GEICO, USAA, and [Commerce] provide Massachusetts PIP ‘protection’[.]” See 2023 Compl. ¶¶ 19–25. In Count 2 (Breach of Contract), Leavitt alleges that from September 16, 2003, and “continuing,” id. ¶ 27, the “defendants breached their obligations under their contracts in that they conspired to suppress and actually suppressed the Plaintiffs’ and Class Members’ rights to a declaration of law and resolution of their dispute concerning the law pertaining to Massachusetts statute and their insurance contracts” See id. ¶ 28 (emphasis in original).

But even if Plaintiff were correct that Defendants are violating the Massachusetts statutes, he is not “concretely harmed” by such conduct. Leavitt has not alleged that he has filed

any claim with an insurance company defendant—let alone that such a claim was denied. If an uninjured plaintiff who “has not suffered any physical, monetary, or cognizable intangible harm” initiates a lawsuit, that plaintiff is “not seeking to remedy any harm to herself but instead is merely seeking to ensure a defendant’s ‘compliance with regulatory law.’” TransUnion LLC, 594 U.S. at 427–28 (quoting Spokeo, Inc. v. Robins, 578 U. S. 330, 365 (2016) (Thomas, J., concurring)).

In summary, Plaintiff does not have Article III standing to bring claims that are predicated merely upon being a party to a 2023 insurance contract. Therefore, to the extent that Plaintiff’s counts of Declaratory Judgment (Count I) and Breach of Contract (Count 2) are not based on the 2010 car accident, they are dismissed because Leavitt has presented no injury-in-fact as to himself.

3. *Plaintiff fails to state a claim for fraud, civil conspiracy, or RICO violations.*

The 2023 Complaint alleges that the Defendants “were reckless in not knowing, or took steps to ensure they would not know . . . of suppression of the Plaintiffs’ and Class Members rights with intent to defraud . . . in [the State Action and First Federal Action].” See 2023 Compl. ¶ 32 (emphasis in original). In addition, he alleges that the Defendants “failed to prevent the conspiracy to suppress, actual suppression [sic] of the Plaintiffs’ and Class Members right to a declaration . . . in the 2013 law suit [sic].” See id. (emphasis in original). The 2023 Complaint also alleges that Defendants “intentionally misrepresented materials facts” in the [State Action] by asserting “that a Summ. Judg. was sufficient to address the breach of contract claims” and “in the 2020 (refusal to respond to request for assurances) contract of insurance with GEICO in that they made promises of insurance coverage which the facts reflect they had no intention to keep . . .” See id. ¶ 33. The 2023 Complaint alleges that the Defendants’ actions “continue to this date.” Id. ¶ 34.

When a plaintiff brings claims sounding in fraud, there is an exception to Rule 12(b)(6)'s general plausibility pleading standard. See N. Am. Catholic Educ. Programming Found., Inc. v. Cardinale, 567 F.3d 8, 15 (1st Cir. 2009) (holding that the particularity requirement applies not only to actual fraud claims but also to “associated claims where the core allegations effectively charge fraud”). Pursuant to Rule 9(b) of the Federal Rules of Civil Procedure, a party must state “with particularity the circumstances constituting fraud or mistake.” Fed. R. Civ. P. 9(b). “The circumstances to be stated with particularity under Rule 9(b) generally consist of the who, what, where, and when of the allegedly misleading representation.” Lee v. Conagra Brands, Inc., 958 F.3d 70, 74 (1st Cir. 2020) (quoting Kaufman v. CVS Caremark Corp., 836 F.3d 88, 91 (1st Cir. 2016)). The purpose of this requirement is to “give notice to defendants of the plaintiffs’ claim, to protect defendants whose reputation may be harmed by meritless claims of fraud, to discourage ‘strike suits,’ and to prevent the filing of suits that simply hope to uncover relevant information during discovery.” Doyle v. Hasbro, Inc., 103 F.3d 186, 194 (1st Cir. 1996).

Under Massachusetts law, to plead a fraud cause of action, a plaintiff must allege that: “(1) defendant made a false representation with knowledge of its falsity for the purpose of inducing plaintiffs to act thereon; (2) [] plaintiffs relied upon the representation as true and acted upon it to their detriment; and (3) [] plaintiffs’ reliance was reasonable under the circumstances.” Famm Steel, Inc. v. Sovereign Bank, 571 F.3d 93, 105–06 (1st Cir. 2009) (citing Rodi v. S. New Eng. Sch. of Law, 532 F.3d 11, 15 (1st Cir. 2008)).

First, Leavitt fails to specifically allege any false representation at all. Leavitt points to no policy provision or representation indicating that any Defendant promised coverage that they later denied. In fact, the 2023 Complaint fails to identify even one purported misrepresentation by time, place, or content. See generally 2023 Compl. Second, the Complaint fails to allege that

Leavitt or anyone else actually *relied* upon a purported misrepresentation by a Defendant. Third, even if Leavitt had made such a showing, he would need to additionally allege that such reliance was reasonable—given Massachusetts law “require[s] nonresidents to purchase the requisite motor vehicle insurance [with PIP coverage] *only* during the year in which they have driven a motor vehicle in the Commonwealth for more than thirty days in the aggregate.” Leavitt, 2019 WL 4019952, at *2.

To the extent that Plaintiff bases his claims of fraud upon the Defendants “not knowing, or [taking] steps to ensure they would not know . . . of suppression of the Plaintiffs’ and Class Members rights,” 2023 Compl. ¶ 32, the allegations do not meet the scienter requirement for a fraud claim. The First Circuit requires that beyond pleading “the false statements and by whom they were made,” a plaintiff must also identify “the basis for inferring scienter.” N. Am. Catholic Educ. Programming Found., 567 F.3d at 13. In practice, plaintiffs must put forth “specific facts that make it reasonable to believe that defendant knew that a statement was materially false or misleading.” Id. Plaintiff has not done so, and as stated above, Massachusetts law supports Defendants’ provisions of policy coverage.

Plaintiff also fails to state a claim for civil conspiracy (Count III). Civil conspiracy under Massachusetts law requires “a common design or an agreement, although not necessarily express, between two or more persons to do a wrongful act and, second, proof of some tortious act in furtherance of the agreement.” Aetna Cas. Sur. Co. v. P & B Autobody, 43 F.3d 1546, 1565 (1st Cir. 1994). Because Leavitt fails to plausibly allege a claim for fraud, he has not alleged any wrongful or tortious act that would be a prerequisite to a claim for civil conspiracy. Moreover, the Complaint does not allege any “common design or agreement” amongst the defendants.

For similar reasons, the complaint fails to state a cause of action for RICO violations (Count VII). Under 18 U.S.C. § 1962(c), to state a viable civil RICO claim, a plaintiff must allege “(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.” Lerner v. Colman, 26 F.4th 71, 84 (1st Cir. 2022). A plaintiff must have been “injured in his business or property by reason” of the alleged RICO violation. 18 U.S.C. § 1964(c).

The 2023 Complaint purports to allege two separate RICO schemes in one cause of action. See 2023 Compl. ¶¶ 50–58. The first scheme “involves the Defendants’ conduct in the 2013 and 2020 [lawsuits] pertaining to pursuit of a declaration of law which represented a suppression of the Plaintiffs’ and Class Members’ rights as well as conspiracy to commit mail and wire fraud.” See id. ¶¶ 50–54 (emphasis in original). The second scheme “involves these Defendant Insurers selling false promises to consumers that they will pay statutory ‘protections’ in the form of PIP coverages without any intent to pay or even allow a policyholder un-corrupted litigation in Courts of law.” See id. The 2023 Complaint alleges that both RICO schemes “involved every act of the Defendants in furtherance of a conspiracy to suppress the Plaintiffs’ and Class Members’ rights from 2013 up until the present time.” Id. ¶ 55.

First, Plaintiff was *not* “injured in his business or property by reason” of the alleged RICO violation. 18 U.S.C. § 1964(c). As to the first RICO scheme, Plaintiff has failed to allege with the requisite particularity which of his “rights” Defendants suppressed—particularly given that the Massachusetts Court of Appeals did declare the law and did so in favor of Defendants—or how they acted in furtherance of a conspiracy. As to the second RICO scheme, to the extent Plaintiff is basing his claims on the insurance policies continuing to the present day, the sheer existence of an insurance policy contract does not present a concrete harm for Article III standing as described *supra*.

Second, Plaintiff has failed to plead a RICO “enterprise.” An enterprise is statutorily defined as “any individual, partnership, corporation, association or other legal entity, and any union or group of individuals associated in fact although not a legal entity.” 18 U.S.C. § 1961(4). Plaintiff alleges that “GEICO, USAA, and [Commerce] are enterprises affecting interstate commerce within the meaning of 18 USC § 1962(c). 2023 Compl. ¶ 30. But an individual defendant cannot constitute the RICO “enterprise” because “the defendant and the enterprise must be distinct.” Bessette v. Avco Fin. Servs., Inc., 230 F.3d 439, 448 (1st Cir. 2000). In fact, failure to “identify any enterprise, distinct from a named person defendant, is fatal under RICO.” Doyle v. Hasbro, Inc., 103 F.3d 186, 191 (1st Cir. 1996).

Third, Plaintiff fails to plead a “pattern of racketeering activity.” The “predicate conduct of mail and wire fraud under § 1962(c)” that Plaintiff alleges is “attempting to defraud the Plaintiffs and Class Members by filing Summary Judgment motions and other papers in the 2013 and 2020 law suits they knew would not address their rights in declaration of contract or statute which were in dispute.” 2023 Compl. ¶ 55. But these acts are not cognizable acts of illegality—let alone fraudulent. See, e.g., D’Orange v. Feely, 877 F. Supp. 152, 156 (S.D.N.Y. 1995) (holding litigation documents “cannot be considered predicate acts because they constitute legitimate conduct of attorneys acting on behalf of a client in the course of pending litigation”).

In summary, to the extent that the present action is meaningfully different from the 2013 State Court Action and the 2020 Federal Court Action because it contains counts sounding in fraud regarding conduct in and involving the previous actions, Plaintiff has failed to state a claim on any of those counts. Because Plaintiff has failed to state a claim involving any such tortious act, his aiding-and-abetting claim (Count V) necessarily fails. Therefore, all eight counts merit

dismissal as to the Plaintiff on the basis of res judicata, the Rooker-Feldman doctrine, the lack of an injury-in-fact, or failure to state a claim.

4. *Plaintiff may not bring claims on behalf of others when he is unable to bring any claim on his own behalf.*

To the extent that Plaintiff is suing on behalf of purported class members who would not be barred by res judicata or the Rooker-Feldman doctrine, he may not do so absent an injury to himself. “The particularization element of the injury-in-fact inquiry reflects the commonsense notion that the party asserting standing must not only allege injurious conduct attributable to the defendant but also must allege that he, himself, is among the persons injured by that conduct.” Hochendoner v. Genzyme Corp., 823 F.3d 724, 731–32 (1st Cir. 2016).

“This is no less true with respect to class actions than with respect to other suits.” Lewis v. Casey, 518 U.S. 343, 357 (1996). “[E]ven named plaintiffs who represent a class ‘must allege and show that they personally have been injured, not that injury has been suffered by other, unidentified members of the class to which they belong and which they purport to represent.’” Simon v. Eastern Ky. Welfare Rights Organization, 426 U.S. 26, 40 & n. 20 (1976) (quoting Warth v. Seldin, 422 U.S. 490, 502 (1975)).

To defeat the motion to dismiss and to be appointed class representative, Leavitt first needed to demonstrate that he has been injured and had standing to bring a claim in his own right. However, this court has concluded that Leavitt cannot bring any claim in his own right. Therefore, this court also cannot entertain Leavitt’s action as a purported class representative.

The Defendants’ Motions to Dismiss [Doc. Nos. 31, 53, 56] are GRANTED.

B. Motions for Sanctions

Rule 11 is designed to discourage the filing of frivolous and unsupported claims by “impos[ing] a duty on counsel to investigate their clients’ claims before making any filings and to reassess them throughout the litigation.” Kale v. Combined Ins. Co. of Am., 861 F.2d 746, 758 (1st Cir. 1988). Accordingly, Rule 11(b) requires that an attorney certify that “the factual contentions [in any pleading, written motion, or other paper] have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.” Fed. R. Civ. P. 11(b)(3). Under the Rule, “[p]rior to signing a pleading, a litigant must fulfill the affirmative duty to conduct a reasonable inquiry into the facts and the law.” Navarro-Ayala v. Nunez, 968 F.2d 1421, 1426 (1st Cir. 1992) (quotation and citations omitted).

A litigant may bring a motion for sanctions for violations of Rule 11(b) by another party or its attorney. Fed. R. Civ. P. 11(c). A sanctions motion “must describe the specific conduct that allegedly violates Rule 11(b).” Id. at 11(c)(1). Rule 11 sets forth a specific procedure for such motions. “Under Rule 11, a party’s motion for sanctions ‘must’ be served on all parties as required by Rule 5.” Triantos v. Guaetta & Benson, LLC, 52 F.4th 440, 447 (1st Cir. 2022); see Fed. R. Civ. P. 11(c)(2). The motion “must not be filed or be presented to the court if the challenged paper . . . is withdrawn or appropriately corrected within 21 days after service or within another time the court sets.” Id. The failure to serve a Rule 11 motion on all parties at least 21 days prior to filing “disqualif[ies] Rule 11 as a basis for sanctions.” Lamboy-Ortiz v. Ortiz-Velez, 630 F.3d 228, 244 (1st Cir. 2010).

Sanctions are warranted if a litigant continues “insisting upon a position after it is no longer tenable.” Fed. R. Civ. P. 11 Advisory Committee’s note. At the same time, “the filing of a motion for sanctions is itself subject to the requirements of the rule and can lead to sanctions.”

Id. The decision to impose sanctions under Rule 11 is based upon “an objective standard of reasonableness under the circumstances.” Cruz v. Savage, 896 F.2d 626, 631 (1st Cir. 1990).

1. Leavitt’s Motions for Sanctions.

Leavitt has filed four Motions for Sanctions [Doc. Nos. 72, 87, 118, 123]. Leavitt’s first two Motions for Sanctions [Doc. Nos. 72, 87] are DENIED for failing to comply with Rule 11’s procedural requirements.³ Leavitt’s Third Sanctions Motion against GEICO [Doc. No. 123] and Sanctions Motion against USAA [Doc. No. 118] are DENIED as without merit. In the Sanctions Motion against USAA [Doc. No. 118], Plaintiff first asserts that sanctions should be imposed because, according to Plaintiff, USAA committed “overt criminal acts” by arguing that the interpretation of Massachusetts law was “previously adjudicated.” Memo. ISO Mot. for Sanctions against USAA 2 [Doc. No. 119]. He also argues that sanctions are appropriate because “an inherent conflict of interest exists between [attorneys] representing USAA and the Members

³ Leavitt failed to serve his First Sanctions Motion against GEICO [Doc. No. 72] prior to filing. Instead, Plaintiff’s counsel simply emailed counsel for all parties indicating his intention to file a Motion for Sanctions against GEICO without attaching a copy of the motion or offering a basis for the motion. Aff. of William Ruotolo [Doc. No. 73-3]; September 12, 2023 E-mail [Doc. No. 73-2]. While parties may provide informal notice prior to serving a Rule 11 motion, “this informal notice is not a substitute for actual service of the motion.” Triantos, 52 F.4th at 447. “Only service of the motion triggers the 21-day safe harbor period.” Id. Even if Plaintiff’s counsel had included the eventually filed motion against Defendant GEICO with his email, that would not have sufficed as the email was sent only ten (10) days prior to the filing of Plaintiff’s First Sanctions Motion against GEICO on September 22, 2023.

Leavitt’s Second Sanctions Motion against GEICO [Doc. No. 87] is also procedurally infirm. Plaintiff’s counsel has attached to his motion a letter, dated October 6, 2023, with a heading “VIA EMAIL,” addressed to GEICO’s counsel, stating that Plaintiff’s counsel seeks to confer as required under Local Rule 7.1. See Letter [Doc. No. 88-1]. His Affidavit, however, makes no reference to serving this letter, and instead, merely repeats that he served the September 12, 2023 email. [Second] Aff. of William Ruotolo [Doc. No. 88-3]. GEICO’s counsel, in turn, avers that he and his co-counsel never received the October 6, 2023 letter. Dec. of James L. Tuxbury [Doc. No. 95]. Moreover, even if Plaintiff’s counsel had emailed his letter to GEICO’s counsel on October 6, 2023, service would still not be sufficient under Rule 11 because a copy of the actual motion was not included with the letter.

of USAA based on the causes of action raised in the Class Action Complaint.” See id. at 3–9. Plaintiff also contends that USAA should be sanctioned because of its “untruthful” argument that this case is a “rehash of two prior lawsuits filed by Leavitt against USAA.” Id. at 10.

Similarly, in the Third Sanctions Motion against GEICO [Doc. No. 123], Plaintiff argues that GEICO’s arguments regarding the application of the Rooker-Feldman doctrine and res judicata are sanctionable because, among other things, the inclusion of a Declaratory Judgment cause of action in the present action sufficiently differentiates this action from Plaintiff’s prior actions. See Memo. ISO Mot. for Sanctions against GEICO 7 [Doc. No. 124]. Second, Plaintiff seems to argue that GEICO’s refusal to acknowledge the “rights” of putative class members in its Motion to Dismiss and Motion for Sanctions is sanctionable. See id. at 4–9. Finally, Plaintiff argues that the references in GEICO’s Motion to Dismiss and Motion for Sanctions to Leavitt’s prior actions involving the 2010 accident and seeking similar relief are sanctionable because the present action is not related to the 2010 accident or the earlier actions. See id. at 7–9.

These arguments are all without merit. First, Plaintiff has failed to demonstrate that the arguments were “frivolous, legally unreasonable, without factual foundation, or asserted for an improper purpose.” Salois v. Dime Sav. Bank of New York, FSB, 128 F.3d 20, 28 (1st Cir. 1997) (quotations omitted). Moreover, as this court has held in III.A. *supra*, the Defendants’ Motions to Dismiss are granted—that is, the arguments in them are meritorious. This court agrees with the Defendants that several counts in the present action are related to the prior actions and therefore bound by the Rooker-Feldman doctrine and res judicata. This court has also already found that there is “no conflict of interest warranting disqualification” between USAA and its counsel. Elec. Order [Doc. No. 101].

In sum, Leavitt's Motions for Sanctions [Doc. Nos. 72, 87, 118, 123] against Defendants GEICO and USAA are all DENIED.

2. *Defendants' Motions for Sanctions*

By presenting a signed pleading, motion, or other paper to the Court, the attorney certifies that:

- (1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
- (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;
- (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

Fed. R. Civ. P. 11(b)(1)–(3). The Defendants' Motions for Sanctions [Doc. Nos. 58, 89] are GRANTED because the 2023 Complaint and Plaintiff's litigation conduct fail all three prongs of Rule 11(b).

Starting with the second prong, the claims and legal contentions in the 2023 Complaint are not warranted by existing law or a nonfrivolous argument for extending the law. Sanctions are warranted if a litigant continues "insisting upon a position after it is no longer tenable." Fed. R. Civ. P. 11 Advisory Committee's note. Plaintiff and his counsel participated in both the 2013 State Court Action and the 2020 Federal Court Action. Accordingly, they are fully aware, based upon the lengthy decision by this court, that the present action is barred by the Rooker-Feldman doctrine and res judicata. In dismissing the 2020 Federal Court Action, this court advised Plaintiff and his counsel that "[t]his case was fully litigated in the Massachusetts courts." Leavitt, 2021 WL 3025863, at *8. "A Superior Court judge granted USAA and GEICO's motions for summary judgment, concluding that Leavitt had no right to PIP benefits under Mass. Gen. Laws ch. 90, 3." Id. On appeal, the Massachusetts Appeals Court "conducted a thorough analysis of the

issues raised and upheld the Superior Court judgment, concluding that Leavitt’s statutory argument ‘would produce absurd results’ and that he was not entitled to PIP benefits.” Id. at *22–23.

Other courts have found sanctions to be appropriate where a plaintiff persists in filing an action “that she knew that the district court lacked jurisdiction under the Rooker-Feldman doctrine to entertain.” See Woodhull v. Mascarella, 699 F. App’x 872, 876 (11th Cir. 2017); Hutchinson v. Kelling, No. 20-CV-1264, 2021 U.S. Dist. LEXIS 110600 (E.D. Wis. June 14, 2021); Dahlgren v. Palone (In re Dahlgren), No. 09-18982 (RTL), 2010 U.S. Dist. LEXIS 133723 (D.N.J. Dec. 16, 2010); Dietrich v. Grosse Pointe Park, No. 16-11049, 2017 U.S. Dist. LEXIS 27638, at *16 (E.D. Mich. Feb. 28, 2017); J. Edward Kloian Found. v. Findling, No. 13-13684, 2013 U.S. Dist. LEXIS 180933, at *21 (E.D. Mich. Dec. 30, 2013). Because Plaintiff and his counsel persisted in filing the present action after “it [was] no longer tenable,” sanctions are warranted.

Turning to the third prong, the factual contentions in the 2023 Complaint are also unsupported by evidence and Plaintiff has not identified what evidentiary support would be gained from discovery. For example, the 2023 Complaint alleges that USAA and the other Defendants “engaged in ex parte communications” with the prior state and federal courts. See 2023 Compl. ¶¶ 18[L], 18[W](v), 55, n.12, n.28. But the state court and federal courts have already rejected this assertion.

In the 2013 State Court Action, the state appellate court reviewed Plaintiff’s “allegations of judicial misconduct” and “ex parte communications” but held that these assertions “are without foundation” and “thus without merit.” Leavitt, 2019 WL 4019952, at *4. In the 2020 Federal Court Action, Plaintiff repeated his allegations of “ex parte communications” and moved

the court to disclose such communications. See Leavitt, No. 1:20-cv-12130-IT, Mot. for Judge Talwani to Discl. Ex Parte Comm's [Doc. No. 93]. But this court denied that motion because Plaintiff "offers no facts supporting any claim that this court or the state courts have engaged in impermissible ex parte communications" and because "Plaintiff's demands appear based solely on his dissatisfaction with court rulings." See Leavitt, No. 1:20-cv-12130-IT, Elec. Order [Doc. No. 102]. This court reiterated that "there is no basis or cause for Plaintiff's assumption that impermissible ex parte communications have occurred" when denying Plaintiff's motion for judicial recusal. See Leavitt, No. 1:20-cv-12130-IT, Elec. Order [Doc. No. 106]; see also Pl.'s Mot. for Recusal [Doc. No. 104].

In the present action, Plaintiff contends that impermissible ex parte communications must have occurred on the grounds that "it would be an inhuman feat to have read hundreds of pages filed in this Class Action by this Judge and to issue ruling amounting to only an endorsement without application of law to facts within less than a 24 hour period." Pl.'s Memo. ISO Mot. for Recusal [Doc. No. 109]. Such conjecture is plainly insufficient and does not meet the Twombly-Iqbal standard of plausibility. Plaintiff's allegations instead "appear [to be] based solely on his dissatisfaction with court rulings." Leavitt, No. 1:20-cv-12130-IT, Elec. Order [Doc. No. 102].

As another example, the 2023 Complaint repeatedly asserts that the Massachusetts state court "refused to declare the law," 2023 Compl. ¶ 18[P]. However, in the 2013 State Court Action, the state court explicitly did so. Leavitt, 2014 WL 7895125, at *3 ("The Court **DECLARES** that USAA has no obligation to provide PIP coverage for the November 24, 2010 accident at issue in this case."). The intermediate state court also explained to Plaintiff that his characterization of the superior court's actions was factually incorrect. See Leavitt, 2019 WL 4019952, at *2 n.8 (rejecting Plaintiff's contention that the superior court "refus[ed] to consider

his requests for declaratory relief before granting summary judgment” because “[r]equests for declaratory relief are frequently resolved at the summary judgment stage, and the judge properly declared Leavitt’s rights when granting summary judgment.”). And this court also warned Plaintiff’s counsel that that argument “appear[ed] disingenuous” because the state “Appeals Court clearly held that Mass. Gen. Laws ch. 90, § 3 ‘exempts most nonresidents from having to comply with the Commonwealth’s motor vehicle insurance requirements’ except ‘during the year in which they have driven a motor vehicle in the Commonwealth for more than thirty days in the aggregate.’” Leavitt, 2021 WL 3025863, at *8 (quoting Leavitt, 2019 WL 4019952, *2). In light of these repeated rejections of Plaintiff’s argument and explanations to him of prior rejections of his argument, the unsupported repetition in the 2023 Complaint that the law has not yet been declared is not just unsupported by evidence—it is squarely contradicted by the record.

Turning back to the first prong, Plaintiff’s litigation strategy has caused unnecessary delay and increased the cost of litigation. Plaintiff and his counsel have been warned at least *three* different times to stop filing frivolous and baseless motions. In the 2013 State Court Action, the Supreme Judicial Court denied Plaintiff’s request that “every justice . . . ‘recuse and disclose’” and cautioned Leavitt and his counsel:

At this juncture, we take this opportunity to remind counsel, going forward, to consider his professional obligations and the consequences that can ensue, not only under rule 11 and like court rules but also under the Massachusetts Rules of Professional Conduct, if they are violated.

Leavitt, 2021 WL 3025863, at *5. In the 2020 Federal Court Action, in response to Defendants’ request for attorneys’ fees or sanctions, this court agreed that “Leavitt has failed to meet Rule 11’s requirement” and noted that counsel was previously warned against such conduct by the Massachusetts state courts. Leavitt, No. 1:20-cv-12130, Mem. & Order on Confl. of Interest & Ex Parte Comm’s 7 [Doc. No. 125]. This court declined to impose sanctions but stated that

“Defendants may follow the procedure set forth in Rule 11(c)(2) to seek sanctions if Leavitt and his counsel continue to file baseless motions.” *Id.* On appeal, the First Circuit also “strongly caution[ed] Leavitt and his counsel against the filing of additional frivolous motions in this now-adjudicated appeal.” *Leavitt*, 2022 WL 2355473, at *1.

For the reasons described above in granting the Defendants’ Motions to Dismiss, Plaintiff’s 2023 Complaint was itself baseless. In addition, Plaintiff has continued filing numerous frivolous and baseless motions in the present action. *See, e.g.*, Mot. to Vacate USAA’s counsel’s pro hac vice order [Doc. Nos. 30, 33]; Mot. for Speedy Hearing and Speedy Trial [Doc. Nos. 41, 42]; Mot. Seeking Disc. of Putative Class Members’ Contact Info. [Doc. Nos. 66–67]. Plaintiff also continued filing motions on behalf of a class before a class had been certified or interim class counsel had been appointed, and *after* this court had warned Plaintiff’s counsel that further filings on behalf of a class or unidentified John Doe plaintiffs would be stricken from the docket. *See* Mem. & Order on Mots. for Conflict of Interest, Recusal, and Ex Parte Comm’s 5 [Doc. No. 126] (“Any further filings, other than a Notice of Appeal of this Memorandum and Order, submitted on behalf of class members or unidentified Doe Plaintiffs before a class is certified or counsel has been appointed class counsel or interim class counsel will be stricken from the docket.”); *see also* Elec. Order [Doc. No. 130] (striking Joint Statement [Doc. No. 128] submitted on behalf of a class and unidentified Doe plaintiffs).

Therefore, the Defendants USAA and GEICO’s Motions for Sanctions [Doc. Nos. 58, 89] for reasonable attorneys’ fees and costs incurred in defending this case are GRANTED.

IV. CONCLUSION

For the foregoing reasons, Defendants’ Motions to Dismiss [Doc. Nos. 31, 53, 56] are GRANTED; Plaintiff’s Motions for Sanctions against Defendants GEICO and USAA [Doc. Nos.

72, 87, 118, 123] are DENIED; and Defendants GEICO and USAA's Motions for Sanctions [Doc. Nos. 58, 89] are GRANTED. USAA and GEICO shall submit affidavits and other supporting material to support the amount of attorneys' fees and costs sought within fourteen (14) days of the entry of this order.

IT IS SO ORDERED.

January 19, 2024

/s/ Indira Talwani
United States District Judge

United States Court of Appeals For the First Circuit

No. 24-2139

ALLAN M. LEAVITT, Individually, and as Class Representative,

Plaintiff - Appellant

J. DOE 1-100,

Plaintiff,

v.

UNITED SERVICES AUTOMOBILE ASSOCIATION, a Texas Department of Insurance Regulated Reciprocal Inter-insurance Exchange and Subsidiary; GEICO INDEMNITY COMPANY; THE COMMERCE INSURANCE COMPANY, INC.,

Defendants - Appellees,

J. ROE 1-100,

Defendant.

**On Appeal From A Judgment In A Civil Case Entered In The United States
District Court for the District of Massachusetts on January 19, 2024 and
December 11, 2024**

**PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS'
TWENTY-FIFTH MOTION FOR THE COURT TO TRY ONE OF THE
PLAINTIFFS' AND CLASS MEMBERS' MOTIONS**

Submitted On Behalf Of, ALLAN M. LEAVITT, etc.,

By their attorney: WILLIAM J. RUOTOLO

PO Box 111, North Scituate, RI 02857, (401) 489-1051

TELL US WHAT THE LAW IS - STOP PRETENDING - STOP DEFRAUDING

Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Massachusetts

This plea for a declaration of the law in this Class Action law suit is, and has been, **denied** by GEICO and USAA and not acknowledged by The Commerce Insurance Company as the law. These insurers are not paying these statutory protections. They have *suppressed* the law announced above in this **Landmark Legal Discovery** since September 16, 2013. They have *suppressed* even the right to a declaration of the law announced in this **Landmark Legal Discovery** since September 16, 2013. The Class Members do not know their rights.¹

EX PARTE COMMUNICATIONS. Prior to any ruling on any motion now before the Court, the Plaintiffs and Class Members demand the Judges involved in ruling in this appeal REVEAL ANY EX PARTE COMMUNICATIONS not permitted by the Code of Conduct for United States Judges, cannon 3(a)(4), and its commentary in accordance with their motion which has been filed. Sadly, this Court has, so far, never ruled on the motion to reveal ex parte communications.

¹ The travel of this **Landmark Legal Discovery** is found in Exhibit 9 attached. In no action was the law as stated above declared to be what was pled by the Plaintiffs and Class Members or the law as denied by GEICO and USAA.

The Plaintiffs and Class Members have filed, inter alia, the following motions since this appeal was entered. None have met with a ruling. Instead, the Court has seen fit to allow the Appellees' motion to stay the briefing schedule.

1. MOTION FOR THE COURT TO ORDER DEFENDANTS' COUNSEL WHO ENTERED AN APPEARANCE IN DISTRICT COURT TO NOTICE APPEARANCE IN THIS COURT IF THEY HAVE NOT ALREADY DONE SO
2. MOTION FOR EACH JUDGE TO FILE A DISCLOSURE STATEMENT AS REQUIRED BY FRCP RULE 7.1 AND THE CODE OF CONDUCT FOR UNITES STATES JUDGES, etc.
3. MOTION FOR THE JUDGES TO REVEAL ANY EX PARTE COMMUNICATIONS NOT PERMITTED BY THE CODE OF CONDUCT FOR UNITED STATES JUDGES, CANNON 3(A) (4) (AND ITS COMMENTARY) AND MASSACHUSETTS RULES OF PROFESSIONAL CONDUCT
4. MOTION FOR THE PARTIES AND COUNSEL TO REVEAL ANY EX PARTE COMMUNICATIONS NOT PERMITTED BY THE CODE OF CONDUCT FOR UNITED STATES JUDGES, CANNON 3(A)(4) (AND ITS COMMENTARY), etc.
5. PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' (FIRST, ETC.), MOTION FOR THE COURT TO TRY ONE OF THE PLAINTIFFS' AND CLASS MEMBERS' MOTIONS
6. PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' MOTION FOR THE COURT TO REVEAL THE NAMES OF THE JUDGES ASSIGNED TO THIS APPEAL, ETC.

The Plaintiffs and Class Members believe the Court's conduct in refusing to even address their motions while catering to the Appellees in this **Landmark Legal Discovery** is suspicious. Accordingly, Plaintiffs and Class Members move

this Court try one of their motions and apply law to fact rather than summary adjudication as they did with the show cause appeal and all Appellees' motions.

THE CLASS ACTION PLED:²

Massachusetts (Mass.) statute requires non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass.

GEICO, USAA, and The Commerce Insurance Company (CIC) disagree. All claim that law has been declared for the Plaintiff and Class Members³ (**res judicata**) and that those rights were declared in a state court action (**Rooker-Feldman**). Not even the most incompetent review of the state court Complaint reveals the law as pled above was declared at any time. Furthermore, not one count in that 2013 Complaint is pled in this Class Action. **Res judicata** and **Rooker-Feldman** cannot apply. See Exhibit 8 and compare each count therein with the Class Action.

IT IS A LIE. That **res judicata** or **Rooker-Feldman** apply is a lie. Such comments can only be made by the terribly incompetent. Or terribly corrupt. **There is no declaration of law that declares** “**Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance when their vehicles are**

2 Not one count in the Class Action Complaint was ever addressed by the Court.

3 The corrupted District Court judge, Indira Talwani, actually struck papers filed by Class Members after refusing to address whether there was a Class to be certified under Rule 23. Without reason, justification, or excuse.

operated in the Commonwealth of Massachusetts” or that it does not. The corrupted judge, Indira Talwani, Appeals Court Judges in the 2021 and 2024 (interlocutory) appeals as well as GEICO, USAA, and CIC all refused to say **where** (in what declaration) that law was declared and **what that law is**. See Exhibit 3, p. 21, line 7 et seq..⁴

THE PLAINTIFFS AND CLASS MEMBERS STILL IN THE DARK. What were Allan M. Leavitt's rights (a 76 year-old war-era veteran and native of Mass. attempting to protect his grandchildren who live in Mass.), and all others, the day after the corrupt District Court judge, Indira Talwani, (with the Appellees) ruled the law was declared and he and Class Members traveled into Mass. from other states?

The Complaint demanded **“The Plaintiffs and Class Members demand that this Court: [A] declare that Massachusetts statute (M.G.L. ch. 90, § 3 and M.G.L. ch. 90, § 34A) requires non-resident motor vehicle owners to “maintain” Massachusetts PIP “provisions” as part of their “policy of liability insurance;” [B] declare that policies of liability insurance issued by GEICO, USAA and CIC provide Massachusetts PIP “protection;” [C] as well as other**

⁴ Because this is a civil action, the Plaintiffs, Class Members, and their Counsel find that remaining silent by the corrupted judge, Indira Talwani, and corrupted GEICO, USAA, and CIC, when demanded to say in what ruling the law was declared and what that law is, represents an **admission of guilt** that they, with intent, engaged in the crime of conspiracy to *suppress* the law and *suppression* of the law in this Class Action. See Exhibit 3, p. 21, line 7 et seq..

declarations referenced in the Prayer for Relief infra or, in the alternative, issue certified questions to the Massachusetts Supreme Judicial Court as requested in the Prayer for Relief...” See Exhibit 2, page 17, paragraph 20.

A declaration of the above has never been made in a state court action. How it could have been made for Class Members invoking *Rooker-Feldman* is absurd.

The emperor has no clothes. Or, in the alternative, no brains.⁵

And **what is the law** they say has been declared? This Court will answer that question as the corrupted District Court judge, GEICO, USAA, and CIC refuse to. See Exhibit 3, p. 21, line 7 et seq.. Otherwise, this Court will join their corruption and present the clearest evidence of public corruption in a petition for certiorari.

PROVIDENTIAL. It turns out to be providential that the Plaintiffs and Class Members have shared, and will be sharing, this courts' rulings with *Lawyers Weekly* as well as other publications and that this matter has also been reported to the FBI for investigation into public corruption. For the Public needs to know what has become of their rights under the Constitution and of their judges in Mass..

SUPREME COURT (SCOTUS). Ironically, SCOTUS Chief Judge Roberts' warning that “elected officials from across the political spectrum have raised the specter of open disregard for federal court rulings” is, in fact, the practice of the

⁵ “Against stupidity we are defenseless. Neither protests nor the use of force accomplish anything here; reasons fall on deaf ears.” Bonhoeffer, Dietrich. *Letters and Papers from Prison*. Arguing stupidity is more dangerous than evil.

judges in the state and federal courts in Mass. at the trial and appellate level revealing he clearly knows the Courts' encourage such disregard of their own rulings (*Lance v. Dennis*, 546 U.S. 459, 463 ((2006))⁶ which this 2021 court also ignored along with the SCOTUS Petition) rendering its own rulings worthless.

Justice Roberts' comments ring true in his annual address and speak volumes. It confirms that he knows his rulings will be disregarded. Otherwise, he would not have issued the warning.

OBVIOUS PRIOR AGREEMENT. It seems likely that summary disposition was agreed upon in advance by GEICO, USAA, and CIC with this Court in order to protect one another from having to answer to the crimes committed in District Court as will be raised in the issues on appeal in this case. For the issues raised in Exhibit 7 make it clear there are numerable issues for appeal.

DELIBERATE IGNORANCE. The Appellees' motion for summary disposition does not address the issues to be raised on appeal and identified in Exhibit 7.

The Court is demanded by the Plaintiffs and Class Members to address each

⁶ In the 2020 law suit Warren Buffet, Berkshire Hathaway, Inc. and many others were dismissed on the grounds of *res judicata* and *Rooker-Feldman*. Yet, they were never sued before. Claims were never made against them before. And declarations of law were never sought against them before. Dismissed in direct violation of the SCOTUS ruling in *Lance v. Dennis*, 546 U.S. 459, 463 (2006). A case never mentioned by the corrupted judge, Indira Talwani, nor this Court in No. 21-1561. The SCOTUS petition for certiorari was DENIED. One wonders how much Warren Buffet and Berkshire Hathaway, Inc. (and others) paid for that? Corrupted judge, Indira Talwani, never even mentioned their names.

issue raised in Exhibit 7 if it even thinks summary disposition is the way to go. The failure by GEICO, USAA, CIC, and this Court to respond to the allegations herein will represent irrefutable proof of their conspiracy to *suppress* a declaration of law.⁷

THE RULE:

...the court may dismiss the appeal or other request for relief or affirm and enforce the judgment or order below if the court lacks jurisdiction, or **if it shall clearly appear that no substantial question is presented**

Exhibit 7 reflects substantial questions presented all dealing with the fact that the Plaintiffs or Class Members do not know what the law is as pled above.

IGNORED CLASS ACTION COMPLAINT. The Defendants' motion for summary disposition lacks any reference to the Class Action Complaint to reflect where even one count was pled in a state court action or that even one count has been adjudicated and is **res judicata**. Substantial issues on appeal? These are crimes.

THOROUGH REVIEW OF ISSUES REQUIRED. In this Court's ruling on the motion for summary disposition, it must review each issue raised in Exhibit 7 state that it clearly appear that no substantial question is presented in each issue.

⁷ Proof of conspiracy is found, inter alia, in [a] GEICO's and USAA's refusal to respond to the Rule 65 demand preceding the 2020 action with [b] corrupted judge, Indira Talwani's, refusal to address the count for an injunction. Within nine days after the 2020 three hundred eighty-two page law suit was filed, the corrupted judge issued a threat that [a] (though she hadn't read ["screened"] it) the suit failed to state a claim and [b] **Rooker-Feldman** barred jurisdiction. Conspiracy. For no un-corrupted judge would conceive of something so inane.

VERY HIGH STANDARD. To obtain summary disposition in the United States Court of Appeals for the First Circuit, a movant must clearly, and without question, be entitled to relief on the merits. There must be no “substantial” question for the court to address and rule upon with respect to whether the law has been properly applied in the trial court and that the merits of the case must be so clear that plenary briefing, oral argument, and the traditional collegiality of the decisional process would not affect the decision.

The Defendants should be embarrassed by filing a motion that does not even begin to approach the standard whereby the movant for summary disposition must clearly be entitled to relief on the merits and there must be no “substantial” question for the court to decide. Unless, of course, they had advanced knowledge of the Court's position. This appeal is fraught with “substantial” questions.

And, indeed, the Court, in its September 11, 2024 denial of the interlocutory appeal indicated the Plaintiffs and Class Members have a right to full appeal when the matter in District Court was resolved. Those comments apparently have no meaning to the Appellees. The Appellees, having engaged in **summary process** for well over a decade now with respect to a declaration of that has never been made by any Court, seek summary process once again. Out of sheer desperation having engaged in crimes of *suppressing* the law with the judiciaries in Mass..

Notwithstanding, it is predicted, this Court will engage summary process to “plead the fifth.” For themselves and all who participated in these crimes. It wont work.

Horrified but not dissuaded. *Suppressed* but not silenced. Lied to but not deceived. Threatened but steadfast for Due Process and Democracy.⁸

G.L. c. 90, § 3 + G.L. c. 90, § 34A = PIP⁹

FOR THE INNOCENTS. Dedicated to those children injured and lost during a time of great madness on Gallows Hill since rejection of this **Landmark Legal Discovery** in 2013. We let you down.

THE DEATH OF DEMOCRACY. Mass. law and due process itself have been *suppressed* since 2013. By GEICO, USAA, CIC and their attorneys.¹⁰ In conspiracy¹¹ with Mass. state and federal judges. *See* Exhibit 1. The Constitution,

8 For Mr. Leavitt, the Class Members, and their Counsel believe “The only thing necessary for the triumph of evil is for good men to do nothing.” Author unknown.

9 For those Judges inexperienced in matters involving compulsory automobile insurance law or the 14th Amendment of the Constitution, sometimes pictures help. This algebraic image summarizing this **Landmark Legal Discovery** clearly shows Count I seeking declaratory judgment is neither **res judicata** nor jurisdictionally barred by the **Rooker-Feldman** Doctrine. Two incomprehensibly lame arguments made by GEICO, USAA, CIC and the corrupted District Court judge. More than once since the year 2020.

10 With the exception of CIC, the insurers (and other Defendants sued, but not required to answer) have engaged different counsel for the state court action, the 2020 District Court Action, and the Class Action. Because the state court action, the 2020 District Court action, and the Class Action all involved the fraud of these insurers as committed through their then-counsel in the previous action(s).

11 Mass. is drowning in a culture of conspiracy. As it did in Salem, 1692.

the Mass. statute, pleas, and issues brought before the Court, were all ignored. And *suppressed*. By those who acted above the law. 2013: The year GEICO, USAA, CIC, and the Mass. state and federal judiciaries began their descent into treason.

Crimes which have no equal in American Jurisprudence. At any time.

Therefore, this motion is directed to Chief Judge of the United States Court of Appeals for the First Circuit, David J. Barron, J. as well as: Sandra L. Lynch, Kermit V. Lipez, Jeffrey R. Howard, O. Rogeriee Thompson, William J. Kayatta, Jr., Gustavo A. Gelpi, Lara E. Montecalvo, Julie Rikelman, Lance E. Walker, Leo T. Sorokin, Joseph N. Laplantem Silvia Carreno-Coll, Mary S. McElroy should they be appointed. The Court of Appeals website contains conflicting information as to who are the judges appointed to the Court. This is no surprise.

The Plaintiffs and Class Members believe this Court's failure to act on the motions represents this Court's involvement in the *suppression* of this **Landmark Legal Discovery** and a declaration as far back as 2021 (*See* 21-1561 - Exhibit 4).

SUPPRESSED. Since suit has been pled in 2013, the Courts have not declared whether the following plea by the Class is the law, or is not:

Plea for Declaration: Mass. statute requires non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass..

And those who *suppressed* that law should be ashamed of themselves.

DISGRACE. The summary dismissal of the 21-1561 appeal without any referencing or addressing of the *issues raised on appeal* represents a sad chapter in American Jurisprudence as the law pled remains undeclared and no-one knows their rights. *See Exhibit 4. “Confusion now hath made his masterpiece.”*¹²

Sadder still is the fact that the Appeals Court Judges cannot tell their grandchildren whether **Mass. statute requires non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass.** or that it does not. And that is their job.

Such conduct should not be viewed as a compliment.¹³

The matter before the Court involves *suppression* of the Plaintiffs' and Class Members' rights of due process and equal protection in a declaration of law

¹²Shakespeare, William. *Macbeth*, Act II, Scene 3.

¹³This Court must tell the Plaintiffs and Class Members whether the law is as they have pled in Count I et seq.. The claims that these rights have been declared before (**res judicata**) in a state court action (**Rooker-Feldman**) represent fraud by these Appellees and the corrupted District Court Judge. They ask this Court to join them in their fraud once again. If those averments of **res judicata** and **Rooker-Feldman** are legitimate, this Court must show the Plaintiffs and Class Members exactly what document reflects that Mass. statute requires non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass.. Or that it does not.

involving urgent matters¹⁴ of “human welfare and public safety.” *O’roak v. Lloyds Casualty Company*, 285 Mass. 532, 536 (1934). And though the District Court has *suppressed* addressing a declaration of law as well as whether there exists a Class, shockingly, the *suppression* continues in the Court of Appeals for the First Circuit violating the Plaintiffs' and Class Members' due process and equal protection rights.

HISTORY OF SUPPRESSION. The Complaint in this Class Action clearly pled in Count I:

The entirety of this Class Action hinges and rests on the following proposition and plea for declaration¹⁵ by the Class Members which is, and has been, denied by these Defendants:

Proposition and Plea for Declaration: Mass. statute requires non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass..

See Exhibit 2. The plea was that the District Court *declare* that plea (pages 36 – 38). Yet, that plea was *suppressed* and ignored. Without any application of law to fact. Without reason, justification, or excuse. See G.L. c. 231A, § 3 which requires

14As of today, over four thousand four hundred and fifty-six days have passed since filing suit pleading this **Landmark Legal Discovery**. The 2015 and 2016 statistics reflect approximately 91,348 persons have been injured, entitled to personal injury protection coverages (\$730,784,000), and deprived by the corrupt and criminal acts of those listed in Exhibit 1. Those deprived include children. They include special-needs children. A stain that will never wash off.

15A declaration of the disputed law must be made for it is intended as a prospective trigger of coverage, rights, duties, and obligations; it is not a retrospective test. And people are entitled to know their rights.

a reason “state[d] in the record” should the Court refuse to declare the law. Not declaring the law deprives persons of knowing and being granted their rights. That is exactly what the judiciaries have done since September 16, 2013.

And all the corrupted District Court Judge needed to do was to declare Mass. statute DOES NOT require non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass.. She refused to do so.¹⁶ *See* Exhibit 3, p. 21, line 7 et seq.. Because the law was exactly as the Plaintiffs and Class Members have pled. And Truth never lies.

She was required to declare the law as a matter of due process. However, she intended to *suppress* a declaration of law and rights of due process. The corrupted judge, Indira Talwani, ruled (in D.E. 136) that the matters pled above by the Class and Class Representative have been declared before in a state court action (fraudulent grounds for dismissal by the Court at GEICO's, USAA's, and CIC's request were **res judicata** and *Rooker-Feldman* – neither were remotely justified).

THE COURT KNOWS THIS IS A CLASS ACTION. This Court knows well that the corrupted District Court judge, Indira Talwani, *suppressed* the rights of the Plaintiffs and Class Members by failing and refusing to address [a] whether there

¹⁶The same is true for the State Court. All judges have refused to do so because they cannot.

exists a Class,¹⁷ [b] whether the law as pled in the Complaint has been addressed, [c] whether the Plaintiffs' and Class Members' rights to due process and equal protection of the law have been violated by failing and refusing to address those rights among other rights which warrant interlocutory appeal for the reasons stated below, [d] whether there was a Class, [e] whether there was entitlement to a declaration of law by the Plaintiffs and Class Members, [f] whether the Plaintiff, ALLAN M. LEAVITT, was, is, and will always have, standing as a Class Representative, [g] among many other issues unaddressed by the trial court and for which the Class Members have reasons for which they can argue on appeal.

INSULT TO JUSTICE. What a profound insult to justice for the Court of Appeals for the First Circuit to ORDER the Plaintiffs and Class Members to “move for voluntary dismissal of the appeal pursuant to Fed. R. App. P. 42(b), or to show cause, in writing, why this appeal should not be dismissed for lack of jurisdiction” when, in fact, this Court knows (and has known since 2021 in the 21-1561 appeal) that the matters before the Court involve *suppression* of the plea for declaratory relief which claims that **Mass. statute requires...etc.** See all Complaints attached as Exhibits 2, 5, and 6. That law has never been declared. When the Plaintiffs and Class Members demanded the corrupted judge, Indira Talwani, inform them where that

¹⁷ Rule 23 requires the Court to issue a Certification Order “At an early practicable time after a person sues... the court must determine by order whether to certify the action as a class action.” No effort was ever made by the District Court.

law has been declared and what that law is that the Defendants claimed had been “declared,” the corrupted judge, Indira Talwani, refused to do so. Thereafter, she even refused to order GEICO, USAA, and CIC to do so. *See* Exhibit 3, page 21, at 7, et seq. evincing corrupted judge, Indira Talwani, pleading the fifth. And then the interlocutory appeal, 24-1115, was dismissed without the application of law to fact.

THE LAW AS PLED. A declaration of law which states, but is undeclared that: **Mass. statute requires non-Mass. resident motor vehicle owners to maintain Mass. Personal Injury Protection (PIP) provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass.** has been *suppressed* by the judges. *See* Exhibit 1.

CLEAR ONGOING COLLUSION. This Class Action was filed on June 15, 2023. Nothing was done (i.e. there were no rulings on numerous motions filed) for almost 5 months then the case was summarily dismissed by the same corrupted judge,¹⁸ Indira Talwani, who dismissed other pleas for a declaration of law without

18 This corrupted judge, Indira Talwani, [A] ignored the Counts in the Complaint, [B] the arguments by the Plaintiffs and Class Members, [C] refused to allow the Public (Class Members) to listen telephonically to the December 13, 2023 hearing, [D] refused to reveal *ex parte* communications not permitted by the *Code of Conduct for United States Judges* when requested to do so by the Plaintiffs and Class Members, and [E] struck papers from the record filed by the Class Members which included the Plaintiffs – without adjudication, without application of law to fact. Far from impartial adjudication. In the 2020 law suit, corrupt judge, Indira Talwani, subjected Mr. Leavitt (a 76 year-old war-era veteran and *in forma pauperis* litigant who was not a prisoner and who had experienced legal counsel), to review his Complaint under the prisoner litigation

any application of law to fact (5, 6). Here she did so again for the Plaintiffs and entire Class without ever determining whether there exists a Class... (See within).

REASONABLY QUESTIONED. Witness the judges' actual obligations in 28 U.S.C. § 455. “Any justice, judge, or magistrate, of the United States shall disqualify himself/herself in any proceeding in which his/her *impartiality might reasonably be questioned.*” It was. Yet, corrupted judge, Indira Talwani, never disqualified herself despite her impartiality objectively clearly questioned. Repeatedly. She never addressed whether she engaged in ex parte communications and “denied” addressing the motion. Never answered where the law was declared and what it is. She refused to address the Counts in the Complaint. And refused to apply law to fact. Worse, this Class Action pled conduct involving a “conspiracy to suppress and actual suppression of the Plaintiffs' and Class Members' rights to a declaration of law... in the ... 2020 action in District Court.” See Exhibit 2, page 10, etc. The 2020 law suit in which corrupted Class Action judge, Indira Talwani, was adjudicator. Incredibly, in the 2023 Class Action she awarded \$50,000 in sanctions to GEICO and USAA *against Class Counsel* in order to reward her 2020 co-conspirators

reform act. She then dismissed his claims as **res judicata** and **Rooker-Feldman.** The Class Action was dismissed on the same grounds, however, neither Judge Guzman nor the corrupted judge, Indira Talwani, reviewed Mr. Leavitt's Class Action under the prisoner litigation reform act. Insurers never moved she do so.

(GEICO/USAA).¹⁹ Such conduct represents a corrupted judge attempting to cover up her crimes. For no un-corrupted judge would ever do something so despicable.²⁰

The Plaintiffs and Class Members demand the Court refrain from summary disposition^{21, 22} in this appeal as they did in the interlocutory appeal and the 2021 appeal (21-1561).²³ Either plead the Fifth,²⁴ or address the allegations herein. For, if there is anything redemptive in Humanity, it has to be the pursuit of Truth.²⁵

The Plaintiffs and Class Members move this Court, for the twenty-fifth time, to try one of their motions and apply law to fact rather than summary adjudication for **Mass. statute requires non-Mass. resident motor vehicle owners to maintain**

19 Co-conspirator CIC did not move for sanctions in the Class Action.

20 Justice Sotomayor's recent observation sums up our current judicial dilemma. "The due process clause represents 'the principle that ours is a government of laws, not of men, and that we submit ourselves to rulers only if under rules.' *Youngstown Sheet & Tube Co. v. Sayers*, 343 U.S. 579, 646 (1952) (Jackson, J., concurring). **By rewarding lawlessness, the Court once again undermines that foundational principle.**" *Department of Homeland Security, et al., v. D.V.D., et al*, 606 U.S. ____ (2025), Sotomayor, J. dissenting. *Emphasis added.*

21 Abide due process and the law. In keeping with this democratic principle, Justice Jackson wrote recently concerning universal injunctions: "But, in my view, if this country is going to persist as a Nation of laws and not men, the Judiciary has no choice but to deny it. Stated simply, **what it means to have a system of government that is bounded by law is that everyone is constrained by the law, no exceptions.**" *Donald J. Trump, President of the United States, et al. v. Casa, Inc., et al.*, 606 U.S. __ (2025). Jackson, J. dissenting. *Emphasis added. This includes corrupted judges.*

22 Justices Sotomayor and Jackson - appointed by Democratic Presidents. Irony.

23 As well as the interlocutory appeal 24-1115.

24 This pertains to this Court and all those listed in Exhibit 1.

25 The Court is advised to acquiesce to that famous phrase "the competition of the market." *Abrams v. United States*, 250 U.S. 616 (1919). Don't *suppress* Truth.

Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass. and has never been declared in any Court in a devastating blow to Democracy. Accordingly,

The wrongs which we seek to condemn and punish have been so calculated, so malignant, and so devastating, that Civilization cannot tolerate their being ignored, for it cannot survive their being repeated.

Jackson, Robert H. *Opening Statement*, Nuremberg Trials, November, 1945.

THE BURDEN OF KNOWING.²⁶ This is a Class Action. Finish out your crimes. For there is nothing that this Court, GEICO, USAA, or CIC can do to restore the faith of Mr. Leavitt, the Class Members, or their Counsel. What's done is done. And can't be undone. This is a **Landmark Legal Discovery.**^{27, 28} This is history.^{29, 30}

Attached is a Reply to Bar Counsel's "complaint." It is Exhibit 10.

-
- 26 **The burden of knowledge** represents the difficulty of adding new knowledge in a scientific field for it involves understanding and assimilating the vast amount of previous work. **The burden of knowing** adds a moral perspective.
- 27 "From his pen, or in his head, slowly or swiftly as his capacities admit, out of the murk the pattern emerges, his pattern, the expression of what he has seen and what he has therefore made, the impress of his self upon the not-self, upon the hitherto formless material of which he was once but a part, and over which he has now become the master." Billings Learned Hand. From **Learned Hand, The Man and the Judge** by Gerald Gunther, Knopf (1994), 402.
- 28 More important than the **Landmark Legal Discovery** is the **Landmark Legal Revelation** of how our judiciaries work for RICO enterprises voiding our due process rights and Democracy. And disrespecting every immigrant who came to this country and sacrificed themselves for Democracy.
- 29 Exhibit 9 reflects a summary of each law suit filed since 2013.
- 30 There are approximately 29,000 homeless on the streets of Mass.. Some are children. Some special-needs children. Soon, you will think differently of them.

CODA: BEHIND THE EYES OF THE MEN.

Quitting time at the plant. Time for supper now. Time for families. Time for a cool drink on a porch. Time for the quiet rustle of leaf-laden trees that screen out the Moon. And underneath it all, behind the eyes of the men, hanging invisible over the summer night, is a horror without words. For this is the stillness before storm. This is the eve of the end.³¹

Serling, Rodman Edward. **Third from the Sun.** Twilight Zone, Season 1, Episode 15 (January 8, 1960).

CONCLUSION

WHEREFORE, the Appellants and Class Members move this Court, for the twenty-fifth time, to try one of the Plaintiffs' and Class Members' motions.

William J. Ruotolo
/s/ William J. Ruotolo
BBO #628288, 1st Cir. #39922
PO Box 111
North Scituate, RI 02857-0111
Tel: (401) 489-1051
williamjruotolo@gmail.com

Dated: November 9, 2025

31 For the Massachusetts Superior Court, the Massachusetts Appeals Court, the Massachusetts Supreme Judicial Court, the United States District Court for the District of Massachusetts, the United States Court of Appeals for this First Circuit, and the Supreme Court of the United States have proven, beyond reasonable doubt, the Truth of the proposition that “The longer you stare into the abyss, the abyss begins to stare back.” Nietzsche, Friedrich Wilhelm.

**CERTIFICATE OF SERVICE
CASE: 24-2139**

I hereby certify that these documents consisting of:

PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' TWENTY-FIFTH MOTION FOR THE COURT TO TRY ONE OF THE PLAINTIFFS' AND CLASS MEMBERS' MOTIONS

and filed through the CM/ECF system have been sent electronically to the registered participants as identified on the NEF and paper copies will be sent to those indicated as non registered participants on:

November 9, 2025

The participants electronically notified are:

GEICO INDEMNITY COMPANY, by its attorneys, James L. Tuxbury, Esq., HINCKLEY, ALLEN & SNYDER, LLP 28 State Street Boston, MA 02109, jtuxbury@hinckleyallen.com and Barry I. Levy, Esq., RIVKIN RADLER LLP, 926 RXR Plaza, Uniondale, New York 11556, Barry.Levy@Rivkin.com, and Brian L. Bank, Esq., RIVKIN RADLER LLP, 926 RXR Plaza, Uniondale, New York 11556, Brian.Bank@Rivkin.com;

THE COMMERCE INSURANCE COMPANY, by its attorney, John Callahan, Esq., FINNEGAN, UNDERWOOD, RYAN & TIERNEY, 101 Federal Street, Suite 1900, Boston, MA 02110, jrc@furlaw.com, and

UNITED SERVICES AUTOMOBILE ASSOCIATION, by its attorneys, Daniel P. Tighe and Nathaniel R.B. Koslof, DONNELLY CONROY & GELHAAR, 260 Franklin Street, Suite 1600, Boston, MA 02110, dpt@dcglaw.com, nrbk@dcglaw.com, and Rodger L. Eckelberry, Esq. And Kevin P. Zimmerman, Esq., BAKER & HOSTETLER LLP, 200 South Civic Center Drive, Suite 1200, Columbus, OH 43215-4138, kzimmerman@bakerlaw.com, reckelberry@bakerlaw.com, pac@dcglaw.com.

/s/ William J. Ruotolo

Dated: November 9, 2025

William J. Ruotolo

EXHIBIT 1

JUDGES WHO PARTICIPATED IN LITIGATION INVOLVING SUPPRESSION OF THE LAW SINCE 2013

which states, but is undeclared:

Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Massachusetts

- (1) 2015-J-0368 - Massachusetts Appeals Court
 01. Cypher, Elspeth B.
 02. Davis, Brian

- (2) 2016-J-0126 – Massachusetts Appeals Court
 03. Meade
 04. Douglas H. Wilkins
 05. Sullivan

- (3) SJ-2016-0143 – Massachusetts Supreme Judicial Court
 05. Duffly, Fernande R.V.
 06. Budd

- (4) SJC-12122 – Massachusetts Supreme Judicial Court
 07. By the Court

- (5) 1384CV03280 - Massachuestts Superior Court
 08. Connors
 09. Fabricant, Judith
 10. Davis, Brian

Anonymous. On March 6, 2014 in a hearing before the judge assigned (Judith Fabricant), there appeared another judge sitting with her on the bench to hear arguments involving whether Massachusetts requires Massachusetts Compulsory insurance on non-Massachusetts motor vehicles. That judge was from the Appeals Court or the Supreme Judicial Court. He was neither introduced nor said a word during the proceeding. Motions were filed demanding the Court and the Defendants and their attorneys identify that unnamed person. The motions were denied. He was never identified. His presence on the Superior Court was prohibited by the rules of conduct for judges in Massachuestts.

- (6) 2018-P-1132 – Massachusetts Appeals Court
 11. McDonough
 12. Sacks
 13. Massing
 14. Vuono
 15. Maldonado

16. Neyman
 17. Lemire
- (7) FAR-27070 – Massachusetts Supreme Judicial Court
18. Gants, Ralph
 19. Lowy, David A.
Lenk, Barbara A. (did not participate)
 20. Kafker, Scott J.
 21. Gaziano, Frank M.
- (8) 19-7152 – Supreme Court of the United States – Petition for Certiorari
- (9) C.A. 1-20-cv-12130-IT – United States District Court for the District of Massachusetts
22. Talwani, Indira
- (10) No. 21-1561 – United States Court of Appeals for the First Circuit
23. Lynch
 24. Thompson
 25. Gelpi
- (11) C.A. 4:23-cv-11341-MRG – United States District Court for the District of Massachusetts
26. Guzman
- (12) C.A. 1-23-cv-11341-IT – United States District Court for the District of Massachusetts
27. Talwani, Indira
- (13) No. 24-1115 – United States Court of Appeals for the First Circuit
- Prejudgment orders
28. David J. Barron
 29. Bruce Selya
 30. Sandra L. Lynch
 31. Kermit V. Lipez
 32. Jeffrey R. Howard
 33. O. Rogeriee Thompson
 34. William J. Kayatta, Jr.
 35. Gustavo A. Gelpi
 36. Lara E. Montecalvo
 37. Julie Rikelman
- Judgment
38. Kayatta, Gelpi and Aframe, Circuit Judges

**LAWYERS AND THEIR CLIENTS WHO PARTICIPATED AND/OR WERE SUED
IN LITIGATION INVOLVING
SUPPRESSION OF THE LAW SINCE 2013**

which states, but is undeclared:

Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Massachusetts

It is important to note that in the C.A. 1-20-cv-12130-IT – United States District Court for the District of Massachusetts, Defendants such as Warren Buffet, Berkshire Hathaway, Inc., the Board of Directors for GEICO, USAA, and The Commerce Insurance Company were sued for, inter alia, fraud, and were released from having to provide one word in defense. They were never adjudicated and dismissed from the law suit by a corrupted federal court judge.

Notice, in some instances, were sent to the Massachusetts Attorney General who responded to the offers to join in the prosecution of this Landmark Legal Discovery affecting every constituent by stating the Attorney General declined to participate in the litigation.

(1) 2015-J-0368 - Massachusetts Appeals Court

Defendant, CYNTHIA A. PHILLIPS, through her attorney, Mark Darling, Esq., Fuller, Rosenberg, Palmer & Beliveau, LLP, Counsellors At Law, 339 Main Street, Worcester, MA 01608;

Defendant, MELISSA AEBERSOLD, through her attorney, Ronald E. Harding, Esq., Westin Patrick, 84 State Street, Boston, MA 02109;

Defendant, THE COMMERCE INSURANCE COMPANY, through their attorney, John Callahan, Esq., Philip Tierney, Esq., Finnegan, Underwood, Ryan & Tierney, Attorneys At Law, 22 Battery March Street, Boston, MA 02109;

Defendant, GEICO INSURANCE COMPANY, and, through their attorney, David Brink, Esq., Smith & Brink, P.C., 350 Granite Street, Suite 2303, Braintree, MA 02184; and

Defendant, UNITED SERVICES AUTOMOBILE ASSOCIATION, through their attorney, Cathryn Spaulding, Esq., Lamontagne, Spaulding & Hayes, LLP, One Hollis Street, Suite 425, Wellesley, MA 02482.

(2) 2016-J-0126 – Massachusetts Appeals Court

Defendant, CYNTHIA A. PHILLIPS, through her attorney, Mark Darling, Esq., FULLER, ROSENBERG, PALMER & BELIVEAU, LLP, Counsellors At Law, 339 Main Street, Worcester, MA 01608;

Defendant, MELISSA AEBERSOLD, through her attorney, Ronald E. Harding, Esq., WESTIN PATRICK, 84 State Street, Boston, MA 02109;

Defendant, THE COMMERCE INSURANCE COMPANY, through their attorney, John Callahan, Esq., Philip Tierney, Esq., FINNEGAN, UNDERWOOD, RYAN & TIERNEY, ATTORNEYS AT LAW, 22 Batterymarch Street, Boston, MA 02109;

Defendant, GEICO INSURANCE COMPANY, and, through their attorney, David Brink, Esq., SMITH & BRINK, P.C., 350 Granite Street, Suite 2303, Braintree, MA 02184;

Defendant, UNITED SERVICES AUTOMOBILE ASSOCIATION, through their attorney, Cathryn Spaulding, Esq., LAMONTAGNE, SPAULDING & HAYES, LLP, One Hollis Street, Suite 425, Wellesley, MA 02482

(3) SJ-2016-0143 – Massachusetts Supreme Judicial Court

Defendant, CYNTHIA A. PHILLIPS, through her attorney, Mark Darling, Esq., FULLER, ROSENBERG, PALMER & BELIVEAU, LLP, Counsellors At Law, 339 Main Street, Worcester, MA 01608;

Defendant, MELISSA AEBERSOLD, through her attorney, Ronald E. Harding, Esq., WESTIN PATRICK, 84 State Street, Boston, MA 02109;

Defendant, THE COMMERCE INSURANCE COMPANY, through their attorney, John Callahan, Esq., Philip Tierney, Esq., FINNEGAN, UNDERWOOD, RYAN & TIERNEY, ATTORNEYS AT LAW, 22 Batterymarch Street, Boston, MA 02109;

Defendant, GEICO INSURANCE COMPANY, and, through their attorney, David Brink, Esq., SMITH & BRINK, P.C., 350 Granite Street, Suite 2303, Braintree, MA 02184;

Defendant, UNITED SERVICES AUTOMOBILE ASSOCIATION, through their attorney, Cathryn Spaulding, Esq., LAMONTAGNE, SPAULDING & HAYES, LLP, One Hollis Street, Suite 425, Wellesley, MA 02482

(4) SJC-12122 – Massachusetts Supreme Judicial Court

Defendant, CYNTHIA A. PHILLIPS, through her attorney, Mark Darling, Esq., FULLER, ROSENBERG, PALMER & BELIVEAU, LLP, Counsellors At Law, 339 Main Street, Worcester, MA 01608;

Defendant, MELISSA AEBERSOLD, through her attorney, Ronald E. Harding, Esq., WESTIN PATRICK, 84 State Street, Boston, MA 02109;

Defendant, THE COMMERCE INSURANCE COMPANY, through their attorney, John Callahan, Esq., Philip Tierney, Esq., FINNEGAN, UNDERWOOD, RYAN & TIERNEY, ATTORNEYS AT LAW, 22 Batterymarch Street, Boston, MA 02109;

Defendant, GEICO INSURANCE COMPANY, and, through their attorney, David Brink, Esq., SMITH & BRINK, P.C., 350 Granite Street, Suite 2303, Braintree, MA 02184;

Defendant, UNITED SERVICES AUTOMOBILE ASSOCIATION, through their attorney, Cathryn Spaulding, Esq., LAMONTAGNE, SPAULDING & HAYES, LLP, One Hollis Street, Suite 425, Wellesley, MA 02482

(5) 1384CV03280 - Massachuestts Superior Court

Defendant, CYNTHIA A. PHILLIPS, through her attorney, Mark Darling, Esq., Fuller, Rosenberg, Palmer & Beliveau, LLP, Counsellors At Law, 339 Main Street, Worcester, MA 01608;

Defendant, MELISSA AEBERSOLD, through her attorney, Ronald E. Harding, Esq., Westin Patrick, 84 State Street, Boston, MA 02109;

Defendant, THE COMMERCE INSURANCE COMPANY, through their attorney, John Callahan, Esq., Philip Tierney, Esq., Finnegan, Underwood, Ryan & Tierney, Attorneys At Law, 101 Federal Street, Suite 1900, Boston, MA 02110;

Defendant, GEICO INSURANCE COMPANY, and, through their attorney, David Brink, Esq., Smith & Brink, P.C., 350 Granite Street, Suite 2303, Braintree, MA 02184; and

Defendant, UNITED SERVICES AUTOMOBILE ASSOCIATION, through their attorney, Cathryn Spaulding, Esq., Lamontagne, Spaulding & Hayes, LLP, One Hollis Street, Suite 425, Wellesley, MA 02482

(6) 2018-P-1132 – Massachusetts Appeals Court

Defendant, CYNTHIA A. PHILLIPS, through her attorney, Mark Darling, Esq., Fuller, Rosenberg, Palmer & Beliveau, LLP, Counsellors At Law, 339 Main Street, Worcester, MA 01608;

Defendant, MELISSA AEBERSOLD, through her attorney, Ronald E. Harding, Esq., Westin Patrick, 84 State Street, Boston, MA 02109;

Defendant, THE COMMERCE INSURANCE COMPANY, through their attorney, John Callahan, Esq., Philip Tierney, Esq., Finnegan, Underwood, Ryan & Tierney, Attorneys At Law, 22 Batterymarch Street, Boston, MA 02109;

Defendant, GEICO INSURANCE COMPANY, and, through their attorney, David Brink, Esq., Smith & Brink, P.C., 350 Granite Street, Suite 2303, Braintree, MA 02184;

Defendant, UNITED SERVICES AUTOMOBILE ASSOCIATION, through their attorney, Cathryn Spaulding, Esq., Lamontagne, Spaulding & Hayes, LLP, One Hollis Street, Suite 425, Wellesley, MA 02482

(7) FAR-27070 – Massachusetts Supreme Judicial Court

Appellee, CYNTHIA A. PHILLIPS, through her attorney, Mark Darling, Esq., FULLER, ROSENBERG, PALMER & BELIVEAU, LLP, Counsellors At Law, 339 Main Street, Worcester, MA 01608, mdarling@frpb.com and Amanda Joy Cox, Esq., Modern Law, PLLC, PO Box 8128, Worcester, MA 04614, ajcox@modern-law.net;

Appellee, MELISSA AEBERSOLD, through her attorney, Ronald E. Harding, Esq., HARDING GURLEY, LLP, 65 William Street, Suite 207, Wellesley, MA 02481, reh@wpwr.com, reh@westonpatrick.com;

Appellee, THE COMMERCE INSURANCE COMPANY, through their attorney, John Callahan, Esq., Philip Tierney, Esq., FINNEGAN, UNDERWOOD, RYAN & TIERNEY, ATTORNEYS AT LAW, 22 Batterymarch Street, Boston, MA 02109, jrc@furlaw.com;

Appellee, “GEICO INSURANCE COMPANY,” through their attorney, David Brink, Esq., SMITH & BRINK, P.C., 350 Granite Street, Suite 2303, Braintree, MA 02184, dbrink@smithbrink.com, dmcinnis@smithbrink.com, lmccarthy@smithbrink.com; and

Appellee, UNITED SERVICES AUTOMOBILE ASSOCIATION, through their attorney, Cathryn Spaulding, Esq., LAMONTAGNE, SPAULDING & HAYES, LLP, One Hollis Street, Suite 425, Wellesley, MA 02482, cspaulding@lshattorneys.com and Karen M. Connors, Esq., One Hollis Street, Suite 425, Wellesley, MA 02482, kconnors@lshattorneys.com.

(8) 19-7152 – Supreme Court of the United States – Petition for Certiorari

Cynthia A. Phillips through her Attorney Mark Darling, Esq., FULLER, ROSENBERG, PALMER & BELIVEAU, LLP, Counsellors At Law, 339 Main Street, Worcester, MA 01608, mdarling@frpb.com and Attorney Amanda Joy Cox, Esq., MODERN LAW, PLLC, PO Box 8128, Worcester, MA 04614, ajcox@modern-law.net; and

Melissa Aebersold through her Attorney Ronald E. Harding, Esq., HARDING GURLEY, LLP, 65 William Street, Suite 207, Wellesley, MA 02481, reh@hardinggurley.com;
and

The Commerce Insurance Company through its Attorney John Callahan, Esq., Philip Tierney, Esq., FINNEGAN, UNDERWOOD, RYAN & TIERNEY, Attorneys At Law, 101 Federal Street, Suite 1900, Boston, MA 02110, jrc@furlaw.com; and

“GEICO” Insurance Company through its Attorneys Lynn McCarthy, Esq. And David Brink, Esq., SMITH & BRINK, P.C., 350 Granite Street, Suite 2303, Braintree, MA 02184, dbrink@smithbrink.com, lmccarthy@smithbrink.com; and

United Services Automobile Association through its Attorneys Cathryn Spaulding, Esq. and Karen Connors, Esq., LAMONTAGNE, SPAULDING & HAYES, LLP, One Hollis Street, Suite 425, Wellesley, MA 02482, cspaulding@lshattorneys.com, kconnors@lshattorneys.com; and

The Honorable Maura Healey, Massachusetts Attorney General, 1 Ashburton Place, Boston, MA 02108

(9) C.A. 1-20-cv-12130-IT – United States District Court for the District of Massachusetts

James W. McGarry, Esq., GOODWIN PROCTOR, LLP, 100 Northern Avenue, BOSTON, MA 02210, jmcgarry@goodwinlaw.com, for Defendants, **United Services Automobile Association**, Defendant, **Stuart Parker**, Defendant, **Wayne Peacock**, and Defendant, **Board of Directors of United Services Automobile Association**;

Edwin F. Landers, Esq., MORRISON MAHONEY, LLP, 250 Summer Street, Boston, MA 02210-1181, elanders@morrisonmahoney.com, for Defendants, **LAMONTAGNE, SPAULDING & HAYES, LLP**, and **Cathryn Spaulding**;

Jocelyn M. Sedney, Esq., BRODY, HARDOON, PERKINS & KESTIN, LLP, 699 Boylston Street, 12th Floor, Boston, MA 02116, jsedney@bhpklaw.com for Defendants, **Tony Nicely, Individually and as Chairman, etc., of GEICO, Tony Nicely, as Member of Board of Berkshire, Warren Buffet, GEICO Indemnity Company, Board of Directors of GEICO Indemnity Company, Berkshire Hathaway, Inc. and The Board of Directors, Berkshire Hathaway, Inc.**;

Deidre Brennan Regan, Esq., BRODY, HARDOON, PERKINS & KESTIN, LLP, 699 Boylston Street, 12th Floor, Boston, MA 02116, dregan@bhpklaw.com for Defendants, **Tony Nicely, Individually and as Chairman, etc., of GEICO, Tony Nicely, as Member of Board of Berkshire, Warren Buffet, GEICO Indemnity Company, Board of Directors of GEICO Indemnity Company, Berkshire Hathaway, Inc. and The Board of Directors, Berkshire Hathaway, Inc.**;

Kristyn M. Kelley, Esq., Peabody & Arnold, LLP, Federal Reserve Plaza, 600 Atlantic Avenue, Boston, MA 02210, kkelley@peabodyarnold.com for Defendant, **Ronald E. Harding**;

William R. Covino, Esq., Peabody & Arnold, LLP, Federal Reserve Plaza, 600 Atlantic Avenue, Boston, MA 02210, wcovino@peabodyarnold.com for Defendant, **Ronald E. Harding**;
William Bogaert, Esq., WILSON ELSER MOSKOWITZ, EDELMAN & DICKER LLP, 260 Franklin Street, 14th Floor, Boston, MA 02110-3112, william.bogaert@wilsonelser.com, for Defendants, **Smith & Brink P.C., David Brink, and Lynn McCarthy**;

Samantha Puckett, Esq., WILSON ELSER MOSKOWITZ, EDELMAN & DICKER LLP, 260 Franklin Street, 14th Floor, Boston, MA 02110-3112, Samantha.Puckett@wilsonelser.com, for Defendants, **Smith & Brink P.C., David Brink, and Lynn McCarthy**;

Mark Darling, Esq., FULLER, ROSENBERG, PALMER & BELIVEAU, LLP, Counsellors At Law, 339 Main Street, Worcester, MA 01608, mdarling@frpb.com, for Defendant, **Cynthia A. Phillips**;

John Callahan, Esq., FINNEGAN, UNDERWOOD, RYAN & TIERNEY, 101 Federal Street, Suite 1900, Boston, MA 02110, jrc@furlaw.com, for Defendant, **The Commerce Insurance Company**.

(10) No. 21-1561 – United States Court of Appeals for the First Circuit

James W. McGarry, Esq., GOODWIN PROCTOR, LLP, 100 Northern Avenue, BOSTON, MA 02210, jmcgarry@goodwinlaw.com, for Defendants, **United Services Automobile Association**, Defendant, **Stuart Parker**, Defendant, **Wayne Peacock**, and Defendant, **Board of Directors of United Services Automobile Association**;

Edwin F. Landers, Esq., MORRISON MAHONEY, LLP, 250 Summer Street, Boston, MA 02210-1181, elanders@morrisonmahoney.com, for Defendants, **LAMONTAGNE, SPAULDING & HAYES, LLP**, and **Cathryn Spaulding**;

Jocelyn M. Sedney, Esq., BRODY, HARDOON, PERKINS & KESTIN, LLP, 699 Boylston Street, 12th Floor, Boston, MA 02116, jsedney@bhpklaw.com for Defendants, **Tony Nicely, Individually and as Chairman, etc., of GEICO, Tony Nicely, as Member of Board of Berkshire, Warren Buffet, GEICO Indemnity Company, Board of Directors of GEICO Indemnity Company, Berkshire Hathaway, Inc. and The Board of Directors, Berkshire Hathaway, Inc.**;

Deidre Brennan Regan, Esq., BRODY, HARDOON, PERKINS & KESTIN, LLP, 699 Boylston Street, 12th Floor, Boston, MA 02116, dregan@bhpklaw.com for Defendants, **Tony Nicely, Individually and as Chairman, etc., of GEICO, Tony Nicely, as Member of Board of Berkshire, Warren Buffet, GEICO Indemnity Company, Board of Directors of GEICO Indemnity Company, Berkshire Hathaway, Inc. and The Board of Directors, Berkshire Hathaway, Inc.**;

Kristyn M. Kelley, Esq., Peabody & Arnold, LLP, Federal Reserve Plaza, 600 Atlantic Avenue, Boston, MA 02210, kkelley@peabodyarnold.com for Defendant, **Ronald E. Harding**;

William R. Covino, Esq., Peabody & Arnold, LLP, Federal Reserve Plaza, 600 Atlantic Avenue, Boston, MA 02210, wcovino@peabodyarnold.com for Defendant, **Ronald E. Harding**;

William Bogaert, Esq., WILSON ELSER MOSKOWITZ, EDELMAN & DICKER LLP, 260 Franklin Street, 14th Floor, Boston, MA 02110-3112, william.bogaert@wilsonelser.com, for Defendants, **Smith& Brink P.C., David Brink**, and **Lynn McCarthy**;

Samantha Puckett, Esq., WILSON ELSER MOSKOWITZ, EDELMAN & DICKER LLP, 260 Franklin Street, 14th Floor, Boston, MA 02110-3112,

Samantha.Puckett@wilsonelser.com, for Defendants, **Smith& Brink P.C., David Brink**, and **Lynn McCarthy**;

Mark Darling, Esq., FULLER, ROSENBERG, PALMER & BELIVEAU, LLP, Counsellors At Law, 339 Main Street, Worcester, MA 01608, mdarling@frpb.com, for Defendant, **Cynthia A. Phillips**;

John P. Donohue, Esq., FULLER, ROSENBERG, PALMER & BELIVEAU, LLP, Counsellors At Law, 339 Main Street, Worcester, MA 01608, mdarling@frpb.com, for Defendant, **Cynthia A. Phillips**;

John Callahan, Esq., FINNEGAN, UNDERWOOD, RYAN & TIERNEY, 101 Federal Street, Suite 1900, Boston, MA 02110, jrc@furlaw.com, for Defendant, **The Commerce Insurance Company**.

- (11) C.A. 4:23-cv-11341-MRG – United States District Court for the District of Massachusetts

GEICO INDEMNITY COMPANY, by its attorneys, James L. Tuxbury, Esq., HINCKLEY, ALLEN & SNYDER, LLP 28 State Street Boston, MA 02109, jtuxbury@hinckleyallen.com;

THE COMMERCE INSURANCE COMPANY, by its attorney, John Callahan, Esq., Finnegan, Underwood, Ryan & Tierney, 101 Federal Street, Suite 1900, Boston, MA 02110, jrc@furlaw.com, and

UNITED SERVICES AUTOMOBILE ASSOCIATION, by its attorneys, Daniel P. Tighe and Nathaniel R.B. Koslof, DONNELLY CONROY & GELHAAR, 260 Franklin Street, Suite 1600, Boston, MA 02110, dpt@dcglaw.com, nrbk@dcglaw.com, and Rodger L. Eckelberry, Esq. and Kevin P. Zimmerman, Esq., BAKER & HOSTETLER LLP, 200 South Civic Center Drive, Suite 1200, Columbus, OH 43215-4138, kzimmerman@bakerlaw.com, reckelberry@bakerlaw.com.

- (12) C.A. 1-23-cv-11341-IT – United States District Court for the District of Massachusetts

GEICO INDEMNITY COMPANY, by its attorneys, James L. Tuxbury, Esq., HINCKLEY, ALLEN & SNYDER, LLP 28 State Street Boston, MA 02109, jtuxbury@hinckleyallen.com;

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UNITED SERVICES AUTOMOBILE ASSOCIATION, by its attorneys, Daniel P. Tighe and Nathaniel R.B. Koslof, DONNELLY CONROY & GELHAAR, 260 Franklin Street, Suite 1600, Boston, MA 02110, dpt@dcglaw.com, nrbk@dcglaw.com, and Rodger L. Eckelberry, Esq. and Kevin P. Zimmerman, Esq., BAKER & HOSTETLER LLP, 200 South Civic Center Drive, Suite 1200, Columbus, OH 43215-4138, kzimmerman@bakerlaw.com, reckelberry@bakerlaw.com, Pietro A. Conte (BBO # 707055), DONNELLY CONROY & GELHAAR LLP, 260 Franklin Street, Suite 1600, Boston, MA 02110, Telephone: 617-720-2880, Facsimile: 617-720-3554, pac@dcglaw.com.

(13) No. 24-1115 – United States Court of Appeals for the First Circuit

GEICO INDEMNITY COMPANY, by its attorneys, James L. Tuxbury, Esq., HINCKLEY, ALLEN & SNYDER, LLP 28 State Street Boston, MA 02109, jtuxbury@hinckleyallen.com and Barry I. Levy, Esq., RIVKIN RADLER LLP, 926 RXR Plaza, Uniondale, New York 11556, Barry.Levy@Rivkin.com, and Brian L. Bank, Esq., RIVKIN RADLER LLP, 926 RXR Plaza, Uniondale, New York 11556, Brian.Bank@Rivkin.com;

THE COMMERCE INSURANCE COMPANY, by its attorney, John Callahan, Esq., Finnegan, Underwood, Ryan & Tierney, 101 Federal Street, Suite 1900, Boston, MA 02110, jrc@furlaw.com, and

UNITED SERVICES AUTOMOBILE ASSOCIATION, by its attorneys, Daniel P. Tighe and Nathaniel R.B. Koslof, DONNELLY CONROY & GELHAAR, 260 Franklin Street, Suite 1600, Boston, MA 02110, dpt@dcglaw.com, nrbk@dcglaw.com, and Rodger L. Eckelberry, Esq. and Kevin P. Zimmerman, Esq., BAKER & HOSTETLER LLP, 200 South Civic Center Drive, Suite 1200, Columbus, OH 43215-4138, kzimmerman@bakerlaw.com, reckelberry@bakerlaw.com.



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United States District Court
District of Massachusetts (Worcester)
CIVIL DOCKET FOR CASE #: 4:23-cv-11341-IT

Leavitt et al v. United Services Automobile
Association et al
Assigned to: Judge Indira Talwani
Demand: \$9,500,000

Case in other court: USCA - First Circuit, 24-01115

USCA - First Circuit, 24-02139

Cause: 18:1962 Racketeering (RICO) Act

Date Filed: 06/15/2023

Date Terminated: 12/11/2024

Jury Demand: Plaintiff

Nature of Suit: 470

Racketeer/Corrupt Organization

Jurisdiction: Diversity

Plaintiff

Allan M Leavitt

*Individually, and as Class
Representative*

represented by **William J. Ruotolo**

Law Office of William J. Ruotolo
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401-489-1051
Email: williamjruotolo@gmail.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

J. Doe 1 - 100

*Individually, and as Class
Representatives*

represented by **William J. Ruotolo**

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

**United Services Automobile
Association**

*A Texas Department of Insurance
Regulated Reciprocal Inter-
insurance Exchange and
Subsidiaries*

represented by **Rodger L Eckelberry**

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Defendant

GEICO Indemnity Company

represented by **James L. Tuxbury**

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Defendant

**The Commerce Insurance
Company, Inc.**

represented by **John R. Callahan**
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Tierney
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617-342-7015
Email: jcallahan@mapfreusa.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

J. Roe, 1 - 100

Date Filed	#	Docket Text
06/15/2023	1	COMPLAINT against <i>All Defendants</i> (Fee Status: IFP requested), filed by J. Doe 1 - 100, Allan M Leavitt. (Attachments: # 1 Civil Cover Sheet, # 2 Category Form, # 3 Proposed Summons - USAA, # 4 Proposed Summons - GEICO, # 5 Proposed Summons - The Commerce Insurance Company, # (6) motion to proceed)(Ruotolo, William) Modified on 6/15/2023: IFP Motion removed, and docketed as its own entry. SEE ENTRY 2. (de Oliveira, Flaviana). (Entered: 06/15/2023)
06/15/2023	2	MOTION for Leave to Proceed in forma pauperis by Allan M Leavitt. (de Oliveira, Flaviana) (Entered: 06/15/2023)
06/15/2023	3	Case transferred to Central Division (Worcester). (de Oliveira, Flaviana) (Entered: 06/15/2023)
06/15/2023	4	Case transferred in from Eastern Division (Boston) on 6/15/2023 Case Number 1:23-cv-11341. (Alba, Robert) (Entered: 06/15/2023)
06/15/2023	5	ELECTRONIC NOTICE of Case Assignment. District Judge Margaret R. Guzman assigned to case. If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge David H. Hennessy. (Alba, Robert) (Entered: 06/15/2023)
06/16/2023	6	NOTICE issued to Counsel regarding mandatory use of ECF in compliance with Local Rule 5.4. Failure to comply may result in the imposition of sanctions. (Barrows, Jennifer) (Entered: 06/16/2023)
06/28/2023	7	ACKNOWLEDGMENT OF SERVICE Executed by Allan M Leavitt. United Services Automobile Association served on 6/20/2023, answer due 7/11/2023. Acknowledgment filed by Allan M Leavitt., SUMMONS Returned Executed by Allan M Leavitt. United Services Automobile Association served on 6/20/2023, answer due 7/11/2023. (Attachments: # 1 Exhibit A)(Ruotolo, William) (Entered: 06/28/2023)
06/28/2023	8	ACKNOWLEDGMENT OF SERVICE Executed by Allan M Leavitt. GEICO Indemnity Company served on 6/22/2023, answer due 7/13/2023. Acknowledgment filed by Allan M Leavitt., SUMMONS Returned Executed by Allan M Leavitt. GEICO Indemnity Company served on

		6/22/2023, answer due 7/13/2023. (Attachments: # 1 Exhibit A)(Ruotolo, William) (Entered: 06/28/2023)
06/28/2023	9	ACKNOWLEDGMENT OF SERVICE Executed by Allan M Leavitt. The Commerce Insurance Company, Inc. served on 6/17/2023, answer due 7/10/2023. Acknowledgment filed by Allan M Leavitt., SUMMONS Returned Executed by Allan M Leavitt. The Commerce Insurance Company, Inc. served on 6/17/2023, answer due 7/10/2023. (Attachments: # 1 Exhibit A)(Ruotolo, William) (Entered: 06/28/2023)
07/10/2023	10	Notice of Withdrawal of Acknowledgement of Service by Allan M Leavitt.(Ruotolo, William) Modified docket text on 7/11/2023 (Burgos, Sandra). (Entered: 07/10/2023)
07/10/2023	11	MOTION to Reassign Case <i>GEICO Indemnity Company's Objection to Lack of Relatedness Designation, Motion for Reassignment, and Motion to Strike</i> by GEICO Indemnity Company.(Tuxbury, James). (Entered: 07/10/2023)
07/10/2023	12	MEMORANDUM in Support re 11 MOTION to Reassign Case <i>GEICO Indemnity Company's Objection to Lack of Relatedness Designation, Motion for Reassignment, and Motion to Strike</i> filed by GEICO Indemnity Company. (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Tuxbury, James) (Entered: 07/10/2023)
07/10/2023	13	WAIVER OF SERVICE Returned Executed by Allan M Leavitt. (Ruotolo, William) Modified docket text on 7/11/2023 (Burgos, Sandra). (Entered: 07/10/2023)
07/11/2023	14	MOTION to Alter Judgment , MOTION issuance of signed and sealed summonses (Responses due by 7/25/2023) by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 07/11/2023)
07/12/2023	15	District Judge Margaret R. Guzman: ELECTRONIC ORDER entered granting 2 Motion for Leave to Proceed in forma pauperis. (Castles, Martin) (Entered: 07/12/2023)

07/12/2023	16	District Judge Margaret R. Guzman: ELECTRONIC ORDER entered finding as moot 14 Motion to issue summons. IFP motion was granted, and summons will issue.(Castles, Martin) (Entered: 07/12/2023)
07/12/2023	17	Summons Issued as to All Defendants. Counsel receiving this notice electronically should download this summons, complete one for each defendant and serve it in accordance with Fed.R.Civ.P. 4 and LR 4.1. Summons will be mailed to plaintiff(s) not receiving notice electronically for completion of service. (Barrows, Jennifer) (Entered: 07/12/2023)
07/12/2023	18	ACKNOWLEDGMENT OF SERVICE Executed by Allan M Leavitt. Acknowledgment filed by Allan M Leavitt., WAIVER OF SERVICE Returned Executed by Allan M Leavitt. (Ruotolo, William) (Entered: 07/12/2023)
07/17/2023	19	SUMMONS Returned Executed by Allan M Leavitt. United Services Automobile Association served on 7/17/2023, answer due 8/7/2023. (Attachments: # 1 exhibit 1, # 2 certificate of service)(Ruotolo, William) Modified docket text on 7/20/2023 (Burgos, Sandra). (Entered: 07/17/2023)
07/21/2023	20	Opposition re 11 MOTION to Reassign Case <i>GEICO Indemnity Company's Objection to Lack of Relatedness Designation, Motion for Reassignment, and Motion to Strike</i> MOTION to Strike filed by Allan M Leavitt. (Attachments: # 1 exhibit 1, # 2 exhibit 2, # 3 exhibit 3, # 4 certificate of service)(Ruotolo, William) (Entered: 07/21/2023)
07/22/2023	21	SUMMONS Returned Executed United Services Automobile Association served on 7/18/2023, answer due 8/8/2023. (Attachments: # 1 exhibit 1, # 2 certificate of service)(Ruotolo, William) Modified docket text on 7/24/2023 (Burgos, Sandra). (Entered: 07/22/2023)
07/24/2023	22	SUMMONS Returned Executed United Services Automobile Association by Allan M Leavitt. (Attachments: # 1 exhibit 1, # 2 certificate of service)(Ruotolo, William) Modified docket text on 7/25/2023 (Burgos, Sandra). (Entered: 07/24/2023)

07/26/2023	23	NOTICE of Appearance by Nathaniel R. B. Koslof on behalf of United Services Automobile Association (Koslof, Nathaniel) (Entered: 07/26/2023)
07/26/2023	24	NOTICE of Appearance by Daniel P. Tighe on behalf of United Services Automobile Association (Tighe, Daniel) (Entered: 07/26/2023)
07/26/2023	25	CORPORATE DISCLOSURE STATEMENT by United Services Automobile Association. (Koslof, Nathaniel) (Entered: 07/26/2023)
08/03/2023	26	MOTION for Leave to Appear Pro Hac Vice for admission of Rodger L. Eckelberry Filing fee: \$ 125, receipt number AMADC-9976239 by United Services Automobile Association.(Koslof, Nathaniel) (Entered: 08/03/2023)
08/03/2023	27	MOTION for Leave to Appear Pro Hac Vice for admission of Kevin P. Zimmerman Filing fee: \$ 125, receipt number AMADC-9976256 by United Services Automobile Association.(Koslof, Nathaniel) (Entered: 08/03/2023)
08/04/2023	28	<p>District Judge Margaret R. Guzman: ELECTRONIC ORDER entered granting 26 Motion for Leave to Appear Pro Hac Vice Added Rodger L. Eckelberry.</p> <p>Attorneys admitted Pro Hac Vice must have an individual PACER account, not a shared firm account, to electronically file in the District of Massachusetts. To register for a PACER account, go the Pacer website at https://pacer.uscourts.gov/register-account. You must put the docket number on your form when registering or it will be rejected.</p> <p>Pro Hac Vice Admission Request Instructions https://www.mad.uscourts.gov/caseinfo/nextgen-pro-hac-vice.htm.</p> <p>A Notice of Appearance must be entered on the docket by the newly admitted attorney.</p> <p>(Burgos, Sandra) (Entered: 08/04/2023)</p>

08/04/2023	29	<p>District Judge Margaret R. Guzman: ELECTRONIC ORDER entered granting 27 Motion for Leave to Appear Pro Hac Vice Added Kevin P. Zimmerman.</p> <p>Attorneys admitted Pro Hac Vice must have an individual PACER account, not a shared firm account, to electronically file in the District of Massachusetts. To register for a PACER account, go the Pacer website at https://pacer.uscourts.gov/register-account. You must put the docket number on your form when registering or it will be rejected.</p> <p>Pro Hac Vice Admission Request Instructions https://www.mad.uscourts.gov/caseinfo/nextgen-pro-hac-vice.htm.</p> <p>A Notice of Appearance must be entered on the docket by the newly admitted attorney.</p> <p>(Burgos, Sandra) (Entered: 08/04/2023)</p>
08/04/2023	30	<p>MOTION to Vacate <i>Order #29</i> (Responses due by 8/18/2023) by Allan M Leavitt. (Attachments: # 1 memorandum in support, # 2 certificate of service)(Ruotolo, William) Modified on 8/7/2023 (Burgos, Sandra). (Entered: 08/04/2023)</p>
08/07/2023	31	<p>MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by United Services Automobile Association.(Koslof, Nathaniel) (Entered: 08/07/2023)</p>
08/07/2023	32	<p>MEMORANDUM in Support re 31 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by United Services Automobile Association. (Attachments: # 1 Prior Federal Case Complaint, # 2 Comparison Appendix)(Koslof, Nathaniel) (Entered: 08/07/2023)</p>
08/07/2023	33	<p>Memorandum in Support re 30 MOTION to Alter Judgment MOTION to Vacate <i>Order #29</i> (Responses due by 8/21/2023) by Allan M Leavitt.(Ruotolo, William) Modified docket text on 8/7/2023 (Burgos, Sandra). (Entered: 08/07/2023)</p>
08/07/2023	34	<p>NOTICE of Appearance by John R. Callahan on behalf of The Commerce Insurance Company, Inc. (Callahan, John) (Entered: 08/07/2023)</p>

08/07/2023	35	CORPORATE DISCLOSURE STATEMENT by The Commerce Insurance Company, Inc.. (Callahan, John) (Entered: 08/07/2023)
08/10/2023	36	NOTICE of Appearance by Kevin P. Zimmerman on behalf of United Services Automobile Association (Zimmerman, Kevin) (Entered: 08/10/2023)
08/10/2023	37	NOTICE of Appearance by Rodger L Eckelberry on behalf of United Services Automobile Association (Eckelberry, Rodger) (Entered: 08/10/2023)
08/14/2023	38	Opposition re 30 MOTION to Alter Judgment MOTION to Vacate <i>Order #29</i> filed by United Services Automobile Association. (Tighe, Daniel) (Entered: 08/14/2023)
08/14/2023	39	Amended Opposition re 30 MOTION to Alter Judgment MOTION to Vacate <i>Order #29 - Amended to Include Attached Exhibit A</i> - filed by United Services Automobile Association. (Attachments: # 1 Exhibit A)(Tighe, Daniel) (Entered: 08/14/2023)
08/18/2023	40	Opposition re 31 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Allan M Leavitt. (Attachments: # 1 Certificate of Service)(Ruotolo, William) (Entered: 08/18/2023)
08/24/2023	41	MOTION speedy hearing and speedy trial by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 08/24/2023)
08/24/2023	42	MEMORANDUM in Support re 41 MOTION speedy hearing and speedy trial filed by Allan M Leavitt. (Ruotolo, William) (Entered: 08/24/2023)
08/24/2023	43	MOTION for Leave to Appear Pro Hac Vice for admission of Barry I. Levy by GEICO Indemnity Company. (Attachments: # 1 Ex. A - Certificate of Attorney Barry I. Levy)(Tuxbury, James) (Entered: 08/24/2023)
08/24/2023	44	MOTION for Leave to Appear Pro Hac Vice for admission of Brian L. Bank Filing fee: \$ 125, receipt number AMADC-10006939 by GEICO Indemnity Company. (Attachments: # 1 Ex. A - Certificate of Attorney Brian L. Bank)(Tuxbury, James) (Entered: 08/24/2023)

08/24/2023	45	NOTICE OF ATTORNEY PAYMENT OF FEES as to 43 MOTION for Leave to Appear Pro Hac Vice for admission of Barry I. Levy by Defendant GEICO Indemnity Company. Filing fee \$ 125, receipt number AMADC-10007234. Payment Type : PRO HAC VICE. (Tuxbury, James) (Entered: 08/24/2023)
08/25/2023	46	RESPONSE to Motion re 44 MOTION for Leave to Appear Pro Hac Vice for admission of Brian L. Bank Filing fee: \$ 125, receipt number AMADC-10006939, 43 MOTION for Leave to Appear Pro Hac Vice for admission of Barry I. Levy filed by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 08/25/2023)
08/25/2023	47	MOTION for Leave to File <i>Reply in Support of Motion to Dismiss</i> by United Services Automobile Association. (Attachments: # 1 Exhibit A - Proposed Reply)(Tighe, Daniel) (Entered: 08/25/2023)
08/25/2023	48	RESPONSE to Motion re 47 MOTION for Leave to File <i>Reply in Support of Motion to Dismiss</i> filed by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 08/25/2023)
09/05/2023	49	Opposition re 41 MOTION speedy hearing and speedy trial filed by United Services Automobile Association. (Koslof, Nathaniel) (Entered: 09/05/2023)
09/07/2023	50	MEMORANDUM in Opposition re 41 MOTION speedy hearing and speedy trial filed by GEICO Indemnity Company. (Tuxbury, James) (Entered: 09/07/2023)
09/08/2023	51	DISREGARD SEE ENTRY 53 MOTION to Dismiss for Lack of Jurisdiction <i>Plaintiff's Complaint</i>, MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM (Responses due by 9/22/2023) by The Commerce Insurance Company, Inc..(Callahan, John) Modified on 9/11/2023 (Burgos, Sandra). (Entered: 09/08/2023)
09/08/2023	52	MEMORANDUM in Support re 51 MOTION to Dismiss for Lack of Jurisdiction <i>Plaintiff's Complaint</i> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by The Commerce Insurance Company, Inc.. (Attachments: # 1 Exhibit Plaintiff's Original State Court Complaint, # 2 Exhibit State Court Litigation docket, # 3 Exhibit Brief of Appellant

		Leavitt - MA Appeals Ct, # 4 Exhibit Plaintiff Complaint - First Federal lawsuit)(Callahan, John) (Entered: 09/08/2023)
09/08/2023	53	Amended MOTION to Dismiss for Lack of Jurisdiction <i>Plaintiff's Complaint</i> , MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>Amended to correct title of motion</i> (Responses due by 9/22/2023) by The Commerce Insurance Company, Inc..(Callahan, John) (Entered: 09/08/2023)
09/11/2023	54	<p>District Judge Margaret R. Guzman: ELECTRONIC ORDER entered granting 43 Motion for Leave to Appear Pro Hac Vice Added Barry I. Levy.</p> <p>Attorneys admitted Pro Hac Vice must have an individual PACER account, not a shared firm account, to electronically file in the District of Massachusetts. To register for a PACER account, go the Pacer website at https://pacer.uscourts.gov/register-account. You must put the docket number on your form when registering or it will be rejected.</p> <p>Pro Hac Vice Admission Request Instructions https://www.mad.uscourts.gov/caseinfo/nextgen-pro-hac-vice.htm.</p> <p>A Notice of Appearance must be entered on the docket by the newly admitted attorney.</p> <p>(Burgos, Sandra) (Entered: 09/11/2023)</p>
09/11/2023	55	<p>District Judge Margaret R. Guzman: ELECTRONIC ORDER entered granting 44 Motion for Leave to Appear Pro Hac Vice Added Brian L. Bank.</p> <p>Attorneys admitted Pro Hac Vice must have an individual PACER account, not a shared firm account, to electronically file in the District of Massachusetts. To register for a PACER account, go the Pacer website at https://pacer.uscourts.gov/register-account. You must put the docket number on your form when registering or it will be rejected.</p> <p>Pro Hac Vice Admission Request Instructions https://www.mad.uscourts.gov/caseinfo/nextgen-pro-hac-vice.htm.</p>

		A Notice of Appearance must be entered on the docket by the newly admitted attorney. (Burgos, Sandra) (Entered: 09/11/2023)
09/11/2023	56	MOTION to Dismiss <i>the Complaint for Lack of Subject Matter Jurisdiction</i> by GEICO Indemnity Company.(Tuxbury, James) (Entered: 09/11/2023)
09/11/2023	57	MEMORANDUM in Support re 56 MOTION to Dismiss <i>the Complaint for Lack of Subject Matter Jurisdiction</i> filed by GEICO Indemnity Company. (Tuxbury, James) (Entered: 09/11/2023)
09/11/2023	58	MOTION for Sanctions by GEICO Indemnity Company.(Tuxbury, James) (Entered: 09/11/2023)
09/11/2023	59	MEMORANDUM in Support re 58 MOTION for Sanctions filed by GEICO Indemnity Company. (Tuxbury, James) (Entered: 09/11/2023)
09/11/2023	60	AFFIDAVIT in Support re 59 Memorandum in Support of Motion . (Attachments: # 1 Exhibit 1)(Tuxbury, James) (Entered: 09/11/2023)
09/11/2023	61	NOTICE by GEICO Indemnity Company re 58 MOTION for Sanctions [<i>Proposed</i>] Order Granting GEICO's Motion for Sanctions (Tuxbury, James) (Entered: 09/11/2023)
09/11/2023	62	CORPORATE DISCLOSURE STATEMENT by GEICO Indemnity Company. (Tuxbury, James) (Entered: 09/11/2023)
09/12/2023	63	CERTIFICATE OF CONSULTATION pursuant to LR 7.1 re 58 MOTION for Sanctions by James L. Tuxbury on behalf of GEICO Indemnity Company by on behalf of GEICO Indemnity Company. Related document: 58 MOTION for Sanctions filed by GEICO Indemnity Company.(Tuxbury, James) (Entered: 09/12/2023)
09/12/2023	64	NOTICE of Appearance by Brian L. Bank on behalf of GEICO Indemnity Company (Bank, Brian) (Entered: 09/12/2023)
09/13/2023	65	NOTICE of Appearance by Barry I. Levy on behalf of GEICO Indemnity Company (Levy, Barry) (Entered: 09/13/2023)

09/18/2023	66	MOTION For the court to order the defendants to provide policyholder names by Allan M Leavitt.(Ruotolo, William) (Entered: 09/18/2023)
09/18/2023	67	MEMORANDUM in Support re 66 MOTION For the court to order the defendants to provide policyholder names filed by Allan M Leavitt. (Attachments: # 1 Exhibit 1 - Docket 20-1, # 2 Certificate of Service)(Ruotolo, William) (Entered: 09/18/2023)
09/21/2023	68	Opposition re 53 Amended MOTION to Dismiss for Lack of Jurisdiction <i>Plaintiff's Complaint</i> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>Amended to correct title of motion</i> filed by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 09/21/2023)
09/22/2023	69	DISREGARD SEE 70 - Opposition re 56 MOTION to Dismiss for Lack of Jurisdiction filed by Allan M Leavitt. (Ruotolo, William) Modified on 9/22/2023 (Burgos, Sandra). (Entered: 09/22/2023)
09/22/2023	70	Opposition re 56 MOTION to Dismiss for Lack of Jurisdiction filed by Allan M Leavitt. (Attachments: # 1 certificate of service - 69)(Ruotolo, William) (Entered: 09/22/2023)
09/22/2023	71	Opposition re 58 MOTION for Sanctions filed by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 09/22/2023)
09/22/2023	72	MOTION for Sanctions by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 09/22/2023)
09/22/2023	73	MEMORANDUM in Support re 72 MOTION for Sanctions filed by Allan M Leavitt. (Attachments: # 1 Exhibit exh 1, # 2 Exhibit exh 2, # 3 affidavit, # 4 notice by plaintiffs, # 5 certificate of consultation, # 6 certificate of service)(Ruotolo, William) (Entered: 09/22/2023)
09/25/2023	74	Opposition re 66 MOTION For the court to order the defendants to provide policyholder names filed by United Services Automobile Association. (Tighe, Daniel) (Entered: 09/25/2023)

09/26/2023	75	First MEMORANDUM in Opposition re 66 MOTION For the court to order the defendants to provide policyholder names filed by GEICO Indemnity Company. (Tuxbury, James) (Entered: 09/26/2023)
09/27/2023	76	Motion to Rule on Outstanding Motion and to Schedule Oral Argument by Allan M Leavitt.(Ruotolo, William) Modified docket text on 9/28/2023 (Burgos, Sandra). (Entered: 09/27/2023)
09/27/2023	77	MEMORANDUM in Support re 76 MOTION Motion to Rule on Outstanding Motion and to Schedule Oral Argument filed by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 09/27/2023)
10/05/2023	78	RESPONSE to Motion re 76 MOTION Motion to Rule on Outstanding Motion and to Schedule Oral Argument filed by United Services Automobile Association. (Tighe, Daniel) (Entered: 10/05/2023)
10/06/2023	79	Opposition re 72 MOTION for Sanctions filed by GEICO Indemnity Company. (Tuxbury, James) (Entered: 10/06/2023)
10/10/2023	80	MOTION to Remove Pro Hac Counsel for USAA, etc. by Allan M Leavitt.(Ruotolo, William) Modified docket text on 10/11/2023 (Burgos, Sandra). (Entered: 10/10/2023)
10/10/2023	81	MEMORANDUM in Support re 80 MOTION Motion to Remove Pro Hac Counsel for USAA, etc. filed by Allan M Leavitt. (Attachments: # 1 exhibit 1, # 2 certificate of service)(Ruotolo, William) (Entered: 10/10/2023)
10/17/2023	82	RESPONSE to Motion re 80 MOTION to Remove Pro Hac Counsel for USAA, etc. filed by United Services Automobile Association. (Attachments: # 1 Motion to Address the Conflict Of Interest Involving United Services Automobile Association and Memorandum in Support, Case No. 20-cv-12130, Dkt. 53-54)(Koslof, Nathaniel) (Entered: 10/17/2023)
10/18/2023	83	MOTION to reveal any ex parte communications by Allan M Leavitt.(Ruotolo, William) Modified docket text on 10/19/2023 (Burgos, Sandra). (Entered: 10/18/2023)

10/18/2023	84	MEMORANDUM in Support re 83 MOTION <i>to reveal any ex parte communications</i> filed by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 10/18/2023)
10/19/2023	85	MOTION MOTION FOR THE COURT TO SET THIS MATTER DOWN FOR A MANDATORY SCHEDULING CONFERENCE AS REQUIRED BY LR 16.1 by Allan M Leavitt.(Ruotolo, William) (Entered: 10/19/2023)
10/19/2023	86	MEMORANDUM in Support re 85 MOTION MOTION FOR THE COURT TO SET THIS MATTER DOWN FOR A MANDATORY SCHEDULING CONFERENCE AS REQUIRED BY LR 16.1 filed by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 10/19/2023)
10/28/2023	87	Second MOTION for Sanctions by Allan M Leavitt.(Ruotolo, William) (Entered: 10/28/2023)
10/28/2023	88	Second MEMORANDUM in Support re 87 Second MOTION for Sanctions filed by Allan M Leavitt. (Attachments: # 1 Exhibit 3, # 2 Exhibit 1, # 3 Affidavit, # 4 Notice, # 5 Certainly of Consultation, # 6 Certificate of Service)(Ruotolo, William) Modified on 12/14/2023: corrected docket text to properly reflect motion memo is in support of (Kelly, Danielle). (Entered: 10/28/2023)
10/30/2023	89	MOTION for Sanctions by United Services Automobile Association. (Attachments: # 1 Text of Proposed Order, # 2 Affidavit Declaration of Kevin P. Zimmerman)(Koslof, Nathaniel) (Entered: 10/30/2023)
10/30/2023	90	MEMORANDUM in Support re 89 MOTION for Sanctions filed by United Services Automobile Association. (Koslof, Nathaniel) (Entered: 10/30/2023)
10/30/2023	91	Opposition re 89 MOTION for Sanctions filed by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 10/30/2023)
10/30/2023	92	RESPONSE to Motion re 83 MOTION to reveal any ex parte communications filed by United Services Automobile Association. (Koslof, Nathaniel) (Entered: 10/30/2023)

10/30/2023	93	RESPONSE to Motion re 85 MOTION MOTION FOR THE COURT TO SET THIS MATTER DOWN FOR A MANDATORY SCHEDULING CONFERENCE AS REQUIRED BY LR 16.1 filed by United Services Automobile Association. (Koslof, Nathaniel) (Entered: 10/30/2023)
11/10/2023	94	MEMORANDUM in Opposition re 87 Second MOTION for Sanctions filed by GEICO Indemnity Company. (Tuxbury, James) (Entered: 11/10/2023)
11/10/2023	95	DECLARATION re 94 Memorandum in Opposition to Motion <i>Tuxbury Declaration ISO Memo in Opposition to Second Motion for Sanctions</i> by GEICO Indemnity Company. (Tuxbury, James) (Entered: 11/10/2023)
11/13/2023	96	District Judge Margaret R. Guzman: ELECTRONIC ORDER entered granting 11 Motion to Reassign Case and finding as moot 11 Motion to Strike. The Court finds that under Local Rule 40.1(g), Plaintiffs' action was required to have been designated as related to the Leavitt v. USAA action. Accordingly, Defendant GEICO's motion for reassignment is GRANTED and its motion to strike is DENIED as moot. (Dkt. No. 11.) The Clerk shall designate this action as related to 20-cv-12130-IT, Leavitt v. United Servs. Auto. Ass'n, and shall, upon her consent, reassign this matter to Judge Talwani. (Castles, Martin) (Entered: 11/13/2023)
11/13/2023	97	ELECTRONIC NOTICE of Reassignment. Judge Indira Talwani added. District Judge Margaret R. Guzman no longer assigned to case. (Burgos, Sandra) (Entered: 11/13/2023)
11/14/2023	98	Judge Indira Talwani: ELECTRONIC ORDER on Plaintiff's <u>Motion to Vacate Order #29 Granting Pro Hac Vice Motion as an Objection and Response are Being Prepared and are Due on August 17, 2023 and Which Such Objection and [Response] May Aid the Court in [Determining] the Pro Hac Vice Motion 30</u> . To the extent that counsel purports to file the motion on behalf of "Class Members," the filing is improper where no class has yet been certified, counsel has not been appointed class counsel, and the court has not designated counsel as interim class counsel to act on behalf of the putative class. See Fed. R. Civ. P. 23(c), (g), (h). As to Plaintiff Leavitt's motion, the motion is

		DENIED. Plaintiff contends that he is “preparing an objection and response” to the motion for leave to appear pro hac vice, that he is entitled to file the response within 14 days of the filing of the motion seeking admission pro hac vice, and that this objection “will assist the Court in its determination as to the motions filed pro hac vice.” Mem. in Support 33 . But where Plaintiff did not support his motion to vacate with any substantive basis for the objection and did not file an amended motion to vacate by August 17, 2023 (the date 14 days after the motion for admission pro hac vice was filed and the date when Plaintiff contended objections were due) with a substantive basis for the objection, Plaintiff has failed to provide cause to vacate Order 29 . (Kelly, Danielle) (Entered: 11/14/2023)
11/14/2023	99	Judge Indira Talwani: ELECTRONIC ORDER on Plaintiff’s <u>Motion for Speedy Hearing and Speedy Trial</u> 41 , <u>Motion for the Court to Set this Matter Down for a Mandatory Scheduling Conference as Required by LR 16.1</u> 85 , and <u>Motion for the Court to Order the Defendants to Provide the Names and Other Contact Information of their Policyholders to the Plaintiffs, Class Members, and their Counsel for Purposes of Notification of this [Lawsuit]</u> 66 . To the extent that counsel purports to represent and file the motions on behalf of “Class Members,” the filing is improper where no class has yet been certified, counsel has not been appointed class counsel, and the court has not designated counsel as interim class counsel to act on behalf of the putative class. See Fed. R. Civ. P. 23(c), (g), (h). To the extent that counsel purports to represent and file motions on behalf of “J. Doe, 1-100,” the filing is improper where counsel may not represent individuals unknown to him absent class certification. As to Plaintiff Leavitt’s motions, the request for a speedy hearing and trial after ruling on the motions to dismiss 41 and the request for information 66 are DENIED as premature where those motions to dismiss are pending and no scheduling conference has been held. The request for a Rule 16 scheduling conference 85 is granted, and a scheduling conference will be set by the clerk. (Kelly, Danielle) (Entered: 11/14/2023)
11/14/2023	100	Judge Indira Talwani: ELECTRONIC ORDER on Plaintiff’s <u>Motion to Rule on Outstanding Motions and to Schedule Oral Argument</u> 76 . To the extent that counsel purports to represent and file the motions on

		<p>behalf of “Class Members,” the filing is improper where no class has yet been certified, counsel has not been appointed class counsel, and the court has not designated counsel as interim class counsel to act on behalf of the putative class. See Fed. R. Civ. P. 23(c), (g), (h). To the extent that counsel purports to represent and file motions on behalf of “J. Doe, 1-100,” the filing is improper where counsel may not represent individuals unknown to him absent class certification. As to Plaintiff Leavitt’s motion, the motion is moot as to those motions that have now been ruled on and is denied without prejudice where the court will address the outstanding motions in due course and will set them for hearing if the court concludes a hearing is needed. (Kelly, Danielle) (Entered: 11/14/2023)</p>
11/14/2023	101	<p>Judge Indira Talwani: ELECTRONIC ORDER on Plaintiff’s <u>Motion 1 to Remove Pro Hac Counsel for USAA and 2 for the Court to Require USAA to Appoint Separate Counsel for its Members 80</u> . To the extent that counsel purports to represent and file the motions on behalf of “Class Members,” the filing is improper where no class has yet been certified, counsel has not been appointed class counsel, and the court has not designated counsel as interim class counsel to act on behalf of the putative class. See Fed. R. Civ. P. 23(c), (g), (h). To the extent that counsel purports to represent and file motions on behalf of “J. Doe, 1-100,” the filing is improper where counsel may not represent individuals unknown to him absent class certification. As to Plaintiff Leavitt, the motion is DENIED where the court finds no conflict of interest warranting disqualification. (Kelly, Danielle) (Entered: 11/14/2023)</p>
11/14/2023	102	<p>Judge Indira Talwani: ELECTRONIC ORDER on Plaintiff’s <u>Motion that the Court Reveal any Ex Parte Communications Not Permitted by the Code of Conduct for United States Judges, [Canon] 3(A)(4), and its Commentary 83</u> . To the extent that counsel purports to represent and file the motions on behalf of “Class Members,” the filing is improper where no class has yet been certified, counsel has not been appointed class counsel, and the court has not designated counsel as interim class counsel to act on behalf of the putative class. See Fed. R. Civ. P. 23(c), (g), (h). To the extent that counsel purports to represent and file motions on behalf of “J. Doe, 1-100,” the filing is improper</p>

		<p>where counsel may not represent individuals unknown to him absent class certification. As to Plaintiff Leavitt's motion, the motion is DENIED as moot where it seeks information from Judge Guzman and the case is no longer assigned to her. (Kelly, Danielle) (Entered: 11/14/2023)</p>
11/14/2023	103	<p>SEE attached NOTICE of Scheduling Conference, with attached PROPOSED ORDER TEMPLATE. When filing the Joint Statement, counsel must attach a separate, proposed scheduling order using the template attached to this Notice. Scheduling Conference set for 12/14/2023 02:15 PM in Courtroom 9 (Remote only) before Judge Indira Talwani.</p> <p>This conference will be conducted by video conference. Counsel of record will receive a video conference invite at the email registered in CM/ECF. If you have technical or compatibility issues with the technology, please notify the courtroom deputy of the session as soon as possible.</p> <p>Audio access to the hearing may be available to the media and public. Please check the Court schedule. In order to gain access to the hearing, you must sign up at the following address: https://forms.mad.uscourts.gov/courtlist.html.</p> <p>For questions regarding access to hearings, you may refer to the general orders and public notices of the Court available on www.mad.uscourts.gov or contact media@mad.uscourts.gov.</p> <p>(MacDonald, Gail) (Entered: 11/14/2023)</p>
11/16/2023	104	<p>MOTION MOTION FOR JUDGE TALWANT TO ADDRESS THE CONFLICT OF INTEREST BETWEEN INDIRA TALWANI AND [A] THE PLAINTIFFS, [B] THE CLASS MEMBERS AND [C] THE COUNTS THAT HAVE BEEN PLEAD THE CLASS ACTION COMPLAINT by Allan M Leavitt.(Ruotolo, William) (Entered: 11/16/2023)</p>
11/16/2023	105	<p>MEMORANDUM in Support re 104 MOTION MOTION FOR JUDGE TALWANT TO ADDRESS THE CONFLICT OF INTEREST BETWEEN INDIRA TALWANI AND [A] THE PLAINTIFFS, [B] THE CLASS MEMBERS AND [C] THE COUNTS THAT HAVE BEEN PLEAD THE CLASS ACTION COMPLAINT filed by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 11/16/2023)</p>

11/16/2023	106	MOTION For Judge Talwani to reveal any ex parte communications by Allan M Leavitt.(Ruotolo, William) (Entered: 11/16/2023)
11/16/2023	107	MEMORANDUM in Support re 106 MOTION For Judge Talwani to reveal any ex parte communications filed by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 11/16/2023)
11/16/2023	108	MOTION for Recusal by Allan M Leavitt.(Ruotolo, William) (Entered: 11/16/2023)
11/16/2023	109	MEMORANDUM in Support re 108 MOTION for Recusal filed by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 11/16/2023)
11/16/2023	110	MOTION <i>MOTION FOR JUDGE GUZMAN TO REVEAL ANY EX PARTE COMMUNICATIONS</i> by Allan M Leavitt.(Ruotolo, William) (Entered: 11/16/2023)
11/16/2023	111	MEMORANDUM in Support re 110 MOTION <i>MOTION FOR JUDGE GUZMAN TO REVEAL ANY EX PARTE COMMUNICATIONS</i> filed by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 11/16/2023)
11/17/2023	112	MOTION <i>MOTION FOR THE COURT TO PUBLISH THE COURT'S PHONE NUMBER FOR THE PUBLIC, PLAINTIFFS, AND CLASS MEMBERS TO LISTEN TO THE DECEMBER 14, 2023 SCHEDULING CONFERENCE</i> by Allan M Leavitt.(Ruotolo, William) (Entered: 11/17/2023)
11/17/2023	113	MEMORANDUM in Support re 112 MOTION <i>MOTION FOR THE COURT TO PUBLISH THE COURT'S PHONE NUMBER FOR THE PUBLIC, PLAINTIFFS, AND CLASS MEMBERS TO LISTEN TO THE DECEMBER 14, 2023 SCHEDULING CONFERENCE</i> filed by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 11/17/2023)
11/20/2023	114	NOTICE Resetting a Hearing. Scheduling Conference set for 12/14/2023 02:15 PM in Courtroom 9 reset to in person only before Judge Indira Talwani.

		Counsel shall refer to the Notice at 103 for the PROPOSED ORDER TEMPLATE that must be filed as an attachment to the Joint Statement. (MacDonald, Gail) (Entered: 11/20/2023)
11/20/2023	115	Judge Indira Talwani: ELECTRONIC ORDER on Plaintiff's Motion to Publish Phone Number 112 . To the extent that counsel purports to represent and file this motion on behalf of "class members," the filing is improper where no class has yet been certified and counsel has not been appointed as class counsel or designated as interim class counsel. To the extent that the motion is filed on behalf of Plaintiff Leavitt, the motion is moot where the remote scheduling conference has now been reset to an in person conference. (MacDonald, Gail) (Entered: 11/20/2023)
11/20/2023	116	Second MOTION FOR THE COURT TO PUBLISH THE COURT'S PHONE NUMBER FOR THE PUBLIC, PLAINTIFFS, AND CLASS MEMBERS TO LISTEN TO THE DECEMBER 14, 2023 SCHEDULING CONFERENCE by Allan M Leavitt.(Ruotolo, William) (Entered: 11/20/2023)
11/20/2023	117	Second MEMORANDUM in Support re 116 Second MOTION FOR THE COURT TO PUBLISH THE COURT'S PHONE NUMBER FOR THE PUBLIC, PLAINTIFFS, AND CLASS MEMBERS TO LISTEN TO THE DECEMBER 14, 2023 SCHEDULING CONFERENCE filed by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 11/20/2023)
11/21/2023	118	Second MOTION for Sanctions by Allan M Leavitt.(Ruotolo, William) (Entered: 11/21/2023)
11/21/2023	119	Second MEMORANDUM in Support re 118 Second MOTION for Sanctions <i>against USAA</i> filed by Allan M Leavitt. (Attachments: # 1 exh 1, # 2 affidavit, # 3 notice, # 4 certificate of consultation, # 5 certificate of service)(Ruotolo, William) (Entered: 11/21/2023)
11/21/2023	120	Judge Indira Talwani: ELECTRONIC ORDER denying without prejudice United Services Automobile Association's 47 Motion for Leave to File Reply in Support of Motion to Dismiss. The court anticipates setting the Motion to Dismiss 31 for hearing and will request additional

		briefing only if necessary following that hearing. (Kelly, Danielle) (Entered: 11/21/2023)
11/21/2023	121	Judge Indira Talwani: ELECTRONIC ORDER denying Plaintiff's Second Motion for the Court to Publish the Court's Phone Number for the Public, Plaintiffs, and Class Members to Listen to the December 14, 2023 Scheduling Order 116 . To the extent that counsel purports to represent and file this motion on behalf of "class members," the filing is improper where no class has yet been certified and counsel has not been appointed as class counsel or designated as interim class counsel. To the extent the motion is brought on Plaintiff's behalf, the motion is DENIED where Local Rule 83.3 prohibits broadcasting of court proceedings, and where the courtroom will be open to the public for the scheduling conference. (Kelly, Danielle) (Entered: 11/21/2023)
11/22/2023	122	ELECTRONIC NOTICE Setting Hearing on Motions: 31 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM ; 53 Amended MOTION to Dismiss for Lack of Jurisdiction <i>Plaintiff's Complaint</i> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>Amended to correct title of motion</i> ; and, 56 MOTION to Dismiss for Lack of Jurisdiction. Motion Hearing set for 12/8/2023 02:30 PM in Courtroom 9 (In person only) before Judge Indira Talwani. (MacDonald, Gail) (Entered: 11/22/2023)
12/01/2023	123	Third MOTION for Sanctions <i>against GEICO</i> by Allan M Leavitt.(Ruotolo, William) (Entered: 12/01/2023)
12/01/2023	124	Third MEMORANDUM in Support re 123 Third MOTION for Sanctions <i>against GEICO</i> filed by Allan M Leavitt. (Attachments: # 1 exh 1, # 2 exh 2, # 3 affidavit, # 4 notice, # 5 certificate of consultation, # 6 certificate of service)(Ruotolo, William) (Entered: 12/01/2023)
12/05/2023	125	RESPONSE to Motion re 118 Second MOTION for Sanctions filed by United Services Automobile Association. (Koslof, Nathaniel) (Entered: 12/05/2023)

12/06/2023	126	<p>Judge Indira Talwani: ORDER entered. MEMORANDUM AND ORDER. Leavitt's <u>Motion for Judge Talwan[i] to Address the Conflict of Interest Between Indira Talwani and [A] the Plaintiffs, [B] the Class Members and [C] the Counts that Have Been Plead [in] the Class Action Complaint</u> [Doc. No. 104]; <u>Motion that Judge Talwani Reveal any Ex Parte Communications</u> [Doc. No. 106]; <u>Motion for Recusal</u> [Doc. No. 108], and <u>Motion for Judge Guzman to Reveal any Ex Parte Communications</u> [Doc. No. 110] are DENIED. Any further filings, other than a Notice of Appeal of this Memorandum and Order, submitted on behalf of class members or unidentified Doe Plaintiffs before a class is certified or counsel has been appointed class counsel or interim class counsel will be stricken from the docket.</p> <p>IT IS SO ORDERED. Please see attached. (Kelly, Danielle) (Entered: 12/06/2023)</p>
12/06/2023	127	<p>ELECTRONIC NOTICE Resetting Hearing on Motion 53 Amended MOTION to Dismiss for Lack of Jurisdiction <i>Plaintiff's Complaint</i> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>Amended to correct title of motion</i>, 31 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , 56 MOTION to Dismiss for Lack of Jurisdiction: Motion Hearing set for 12/8/2-23, RESET for 12/13/2023 11:00 AM in Courtroom 9 (In person only) before Judge Indira Talwani. (MacDonald, Gail) (Entered: 12/06/2023)</p>
12/07/2023	128	<p>This document has been STRICKEN from the record pursuant to Electronic Order [#130]. JOINT STATEMENT re scheduling conference .(Attachments: # 1 certificate of service)(Ruotolo, William) Modified on 12/8/2023 (Kelly, Danielle). (Entered: 12/07/2023)</p>
12/07/2023	129	<p>Proposed Document(s) submitted by Allan M Leavitt. Document received: Proposed Order. (Attachments: # 1 proposed order)(Ruotolo, William) (Entered: 12/07/2023)</p>
12/08/2023	130	<p>Judge Indira Talwani: ELECTRONIC ORDER regarding JOINT STATEMENT re scheduling conference [Doc. No. 128]. The court previously advised Plaintiff Allan Leavitt's counsel that "[a]ny further filings, other than a Notice of Appeal of this Memorandum and Order, submitted on behalf of class members or unidentified Doe Plaintiffs before a class is certified or counsel has been appointed class</p>

		counsel or interim class counsel will be stricken from the docket." Mem. & Order 5 [Doc. No. 126]. Mr. Leavitt's counsel nonetheless submitted the Joint Statement [Doc. No. 128] on behalf of Mr. Leavitt "as Representative for the Class Members, " and "J. Doe, 1- 100, Individually and as Representative for the Class Members." Joint Statement 8 [Doc. No. 128]. No class has yet been certified and counsel has not been appointed as class counsel or designated as interim class counsel. Therefore, the JOINT STATEMENT re scheduling conference [Doc. No. 128] is hereby STRICKEN from the docket. (Kelly, Danielle) (Entered: 12/08/2023)
12/12/2023	131	MEMORANDUM in Opposition re 123 Third MOTION for Sanctions <i>against GEICO</i> filed by GEICO Indemnity Company. (Tuxbury, James) (Entered: 12/12/2023)
12/13/2023	132	<p>Electronic Clerk's Notes for proceedings held before Judge Indira Talwani: Motion Hearing held on 12/13/2023 re 31 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by United Services Automobile Association, 53 Amended MOTION to Dismiss for Lack of Jurisdiction <i>Plaintiff's Complaint</i> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by The Commerce Insurance Company, Inc., 56 MOTION to Dismiss for Lack of Jurisdiction filed by GEICO Indemnity Company.</p> <p>Case called. Court heard argument from counsel. Motions to Dismiss to be granted; Order to issue. Motions for sanctions remain under advisement. Counsel for The Commerce Ins Co. moved that atty Ruotolo be required to have any future claims against the company be reviewed prior to filing; the Court will instead enforce Rule 11.</p> <p>Defense counsel moved to continue the Scheduling Conference set for 12/14/2023; granted; sched conference may be reset if appropriate.</p> <p>(Court Reporter: Robert Paschal at rwp.reporter@gmail.com.) (Attorneys present: William J. Ruotolo; Barry I. Levy; James L. Tuxbury; John R. Callahan; Rodger L Eckelberry; Nathaniel R. B. Koslof) (MacDonald, Gail) (Entered: 12/13/2023)</p>
01/11/2024	133	Transcript of Motion Hearing held on December 13, 2023, before Judge Indira Talwani. The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through

		PACER after it is released. Court Reporter Name and Contact Information: Robert Paschal at rwp.reporter@gmail.com. Redaction Request due 2/1/2024. Redacted Transcript Deadline set for 2/12/2024. Release of Transcript Restriction set for 4/10/2024. (McDonagh, Christina) (Entered: 01/12/2024)
01/11/2024	134	NOTICE is hereby given that an official transcript of a proceeding has been filed by the court reporter in the above-captioned matter. Counsel are referred to the Court's Transcript Redaction Policy, available on the court website at https://www.mad.uscourts.gov/caseinfo/transcripts.htm (McDonagh, Christina) (Entered: 01/12/2024)
01/19/2024	135	Judge Indira Talwani: ORDER entered. MEMORANDUM AND ORDER. For the foregoing reasons, Defendants' <u>Motions to Dismiss</u> [Doc. Nos. 31 , 53 , 56] are GRANTED; Plaintiff's <u>Motions for Sanctions</u> against Defendants GEICO and USAA [Doc. Nos. 72 , 87 , 118 , 123] are DENIED; and Defendants GEICO and USA's <u>Motions for Sanctions</u> [Doc. Nos. 58 , 89] are GRANTED. USAA and GEICO shall submit affidavits and other supporting material to support the amount of attorneys' fees and costs sought within fourteen (14) days of the entry of this order. IT IS SO ORDERED. Please see attached. (Kelly, Danielle) (Entered: 01/19/2024)
01/27/2024	136	NOTICE OF APPEAL as to 135 Memorandum & ORDER,, by J. Doe 1 - 100, Allan M Leavitt NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov MUST be completed and submitted to the Court of Appeals. Counsel shall register for a First Circuit CM/ECF Appellate Filer Account at http://pacer.psc.uscourts.gov/cmecf. Counsel shall also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at http://www.ca1.uscourts.gov/cmecf. US District Court Clerk to deliver official record to Court of Appeals by 2/16/2024. (Attachments: # 1 Certificate of Service)(Paine, Matthew) (Entered: 01/29/2024)

01/30/2024	137	Certified and Transmitted Abbreviated Electronic Record on Appeal to US Court of Appeals re 136 Notice of Appeal. (Paine, Matthew) (Entered: 01/30/2024)
01/30/2024	138	USCA Case Number 24-1115 for 136 Notice of Appeal, filed by Allan M Leavitt, J. Doe 1 - 100. (Paine, Matthew) (Entered: 01/30/2024)
02/02/2024	139	MOTION for Attorney Fees by United Services Automobile Association.(Koslof, Nathaniel) (Entered: 02/02/2024)
02/02/2024	140	MEMORANDUM in Support re 139 MOTION for Attorney Fees filed by United Services Automobile Association. (Koslof, Nathaniel) (Entered: 02/02/2024)
02/02/2024	141	AFFIDAVIT in Support re 139 MOTION for Attorney Fees (<i>Rodger L. Eckelberry</i>) filed by United Services Automobile Association. (Koslof, Nathaniel) (Entered: 02/02/2024)
02/02/2024	142	AFFIDAVIT in Support re 139 MOTION for Attorney Fees (<i>Kevin P. Zimmerman</i>) filed by United Services Automobile Association. (Koslof, Nathaniel) (Entered: 02/02/2024)
02/02/2024	143	AFFIDAVIT in Support re 139 MOTION for Attorney Fees (<i>Daniel P. Tighe</i>) filed by United Services Automobile Association. (Koslof, Nathaniel) (Entered: 02/02/2024)
02/02/2024	144	MOTION for Attorney Fees by GEICO Indemnity Company. (Attachments: # 1 Affidavit Barry Levy Affidavit in Support of GEICO Request for Attorneys' Fees and Costs, # 2 Exhibit 1, # 3 Exhibit 2, # 4 Exhibit 3)(Tuxbury, James) (Entered: 02/02/2024)
02/05/2024	145	Judge Indira Talwani: ELECTRONIC ORDER On January 19, 2024, the court entered a <u>Memorandum and Order</u> [Doc. No. 135] granting Defendants' <u>Motions to Dismiss</u> [Doc. Nos. 31 , 53 , 56] and denying Plaintiff's <u>Motions for Sanctions</u> [Doc. Nos. 72 , 87 , 118 , 123]. The court also granted Defendant GEICO Indemnity Company's ("GEICO") and Defendant United Services Automobile Association's ("USAA") <u>Motions for Sanctions</u> [Doc. Nos. 58 , 89] for reasonable attorneys' fees and costs. The court directed USAA and GEICO to file by February 2, 2024, affidavits and other supporting material to support the amount of attorneys' fees and costs sought. On February 2, 2024,

		<p>Defendants timely filed their <u>Motions for Attorney's Fees</u> [Doc. Nos. 139 , 144] and supporting material.</p> <p>Meanwhile, on January 27, 2024, although the court has not yet entered an Order of Dismissal, Plaintiff filed a <u>Notice of Appeal</u> [Doc. No. 136]. In light of the pending interlocutory appeal, the court will defer considering the pending <u>Motions for Attorney's Fees</u> [Doc. Nos. 139 , 144] until the matter is remanded. Plaintiff's time to respond to the <u>Motions for Attorney's Fees</u> [Doc. Nos. 139 , 144] is stayed until two weeks after the matter is remanded.</p> <p>(Kelly, Danielle) (Entered: 02/05/2024)</p>
02/05/2024	146	<p>MOTION FOR GEICO AND USAA TO PRODUCE DOCUMENTS, AFFIDAVITS, AND RESPOND TO REQUESTS FOR ADMISSIONS <i>related to their motion for sanctions</i> by Allan M Leavitt.(Ruotolo, William) (Entered: 02/05/2024)</p>
02/05/2024	147	<p>MEMORANDUM in Support re 146 MOTION FOR GEICO AND USAA TO PRODUCE DOCUMENTS, AFFIDAVITS, AND RESPOND TO REQUESTS FOR ADMISSIONS <i>related to their motion for sanctions</i> filed by Allan M Leavitt. (Attachments: # 1 exhibit 1, # 2 certificate of service)(Ruotolo, William) (Entered: 02/05/2024)</p>
02/06/2024	148	<p>Judge Indira Talwani: ELECTRONIC ORDER regarding Motion 146 and Memorandum in Support 147 . Pursuant to Fed. R. Civ. Proc. 62.1, where a motion has been filed in district court while an appeal is pending, the court may defer consideration of the motion, deny the motion, or state that the court would grant the motion if the case is remanded or that the motion raises a substantial issue. Here, the court DENIES the Motion 146 without prejudice. The court previously advised Plaintiff Allan Leavitt's counsel that "[a]ny further filings, other than a Notice of Appeal of this Memorandum and Order, submitted on behalf of class members or unidentified Doe Plaintiffs before a class is certified or counsel has been appointed class counsel or interim class counsel will be stricken from the docket." Mem. & Order 5 [Doc. No. 126]. Mr. Leavitt's counsel nonetheless submitted the Motion 146 and Memorandum in Support 147 on behalf of Mr. Leavitt "as Representative for the Class Members, " and "J. Doe, 1- 100, Individually and as Representative for the Class Members." Motion 2 [Doc. No. 146]; Mem. 8 [Doc. No. 147]. No class has yet been</p>

		certified and counsel has not been appointed as class counsel or designated as interim class counsel. Rather than striking motion, however, the court will DENY the nonconforming Motion 146 without prejudice. (Kelly, Danielle) (Entered: 02/06/2024)
02/16/2024	149	This document has been STRICKEN from the record pursuant to Electronic Order [#150]. MEMORANDUM in Opposition re 144 MOTION for Attorney Fees , 139 MOTION for Attorney Fees filed by J. Doe 1 - 100, Allan M Leavitt. (Attachments: # 1 exh 1, # 2 certificate of service)(Ruotolo, William) Modified on 2/26/2024 (Kelly, Danielle). (Entered: 02/16/2024)
02/26/2024	150	<p>Judge Indira Talwani: ELECTRONIC ORDER striking <u>Opposition and Response 149</u> to GEICO's <u>Motion for Attorney's Fees 144</u> and USAA's <u>Motion for Attorney's Fees 139</u> .</p> <p>The court previously advised Plaintiff Allan Leavitt’s counsel that “[a]ny further filings, other than a Notice of Appeal of this Memorandum and Order, submitted on behalf of class members or unidentified Doe Plaintiffs before a class is certified or counsel has been appointed class counsel or interim class counsel will be stricken from the docket.” Mem. & Order 5 [Doc. No. 126]. Review of the signature line of the <u>Opposition and Response 149</u> shows Mr. Leavitt’s counsel once again submitting a document as attorney and counsel of record for “Plaintiff, Allan M. Leavitt, Individually and as Representative for the Class Members, J. Doe, 1- 100, Individually and as Representative for the Class Members.” Opp. & Resp. 10 149 . No class has yet been certified and counsel has not been appointed as class counsel or designated as interim class counsel. Therefore, the <u>Opposition and Response 149</u> is HEREBY STRICKEN from the docket.</p> <p>In light of the pending appeal, the court has previously stayed Plaintiff’s time to respond to the <u>Motions for Attorney's Fees</u> [Doc. Nos. 139 , 144] until two weeks after the matter is remanded. That stay remains in effect and, accordingly, a new response and opposition that complies with the court’s order may be filed no later than two weeks after the matter is remanded within that time frame. The court notes that since Rule 11 allows the court to award sanctions against a party, his attorney, or both, separate responses to the <u>Motions for Attorney’s Fees</u> [Doc. Nos. 139 , 144] may be filed on behalf of Mr. Leavitt and on behalf of Attorney William J. Ruotolo.</p> <p>(Kelly, Danielle) (Entered: 02/26/2024)</p>

09/11/2024	151	USCA Judgment as to 136 Notice of Appeal, filed by Allan M Leavitt, J. Doe 1 - 100. APPEAL DISMISSED... (Paine, Matthew) (Entered: 09/12/2024)
09/22/2024	152	MOTION PLAINTIFF, ALLAN M. LEAVITT'S, MOTION FOR THE COURT TO COMPLY WITH RULE 23 by Allan M Leavitt.(Ruotolo, William) (Entered: 09/22/2024)
09/22/2024	153	MEMORANDUM in Support re 152 MOTION PLAINTIFF, ALLAN M. LEAVITT'S, MOTION FOR THE COURT TO COMPLY WITH RULE 23 filed by Allan M Leavitt. (Attachments: # 1 exhibit 1, # 2 exhibit 2, # 3 exhibit 3, # 4 exhibit 4, # 5 exhibit 5, # 6 exhibit 6, # 7 exhibit 7)(Ruotolo, William) (Entered: 09/22/2024)
09/22/2024	154	ADDENDUM re 152 MOTION PLAINTIFF, ALLAN M. LEAVITT'S, MOTION FOR THE COURT TO COMPLY WITH RULE 23 filed by Allan M Leavitt. (Ruotolo, William) (Entered: 09/22/2024)
09/22/2024	155	MOTION PLAINTIFF, ALLAN M. LEAVITT'S, MOTION TO IDENTIFY THE PARTY SANCTIONED AND THE REASONS THEREFOR by Allan M Leavitt.(Ruotolo, William) (Entered: 09/22/2024)
09/22/2024	156	MEMORANDUM in Support re 155 MOTION PLAINTIFF, ALLAN M. LEAVITT'S, MOTION TO IDENTIFY THE PARTY SANCTIONED AND THE REASONS THEREFOR filed by Allan M Leavitt. (Ruotolo, William) (Main Document 156 replaced on 9/24/2024) (Kelly, Danielle). (Additional attachment(s) added on 9/24/2024: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Certificate of Service) (Kelly, Danielle). <u>Modified on 9/24/2024:</u> Replaced main document to correct document provided by counsel. Original document was a duplicate copy of the motion. Added exhibits to entry provided by counsel; Counsel unable to file exhibits due to receiving error message. (Kelly, Danielle). (Entered: 09/22/2024)
09/22/2024	157	MOTION PLAINTIFF, ALLAN M. LEAVITT'S, MOTION TO PRODUCE DOCUMENTS, AFFIDAVITS, BE SUBJECT TO DEPOSITION, AND RESPOND TO REQUESTS FOR ADMISSIONS WITH RESPECT TO THE

		PURPORTED FEES AND EXPENSES by Allan M Leavitt.(Ruotolo, William) (Entered: 09/22/2024)
09/22/2024	158	MEMORANDUM in Support re 157 MOTION PLAINTIFF, ALLAN M. LEAVITT'S, MOTION TO PRODUCE DOCUMENTS, AFFIDAVITS, BE SUBJECT TO DEPOSITION, AND RESPOND TO REQUESTS FOR ADMISSIONS WITH RESPECT TO THE PURPORTED FEES AND EXPENSES filed by Allan M Leavitt. (Attachments: # 1 exhibit 1, # 2 exhibit 2, # 3 certificate of service)(Ruotolo, William) (Entered: 09/22/2024)
09/22/2024	159	Opposition re 144 MOTION for Attorney Fees , 139 MOTION for Attorney Fees filed by Allan M Leavitt. (Attachments: # 1 exhibit 1, # 2 exhibit 2, # 3 certificate of service)(Ruotolo, William) (Entered: 09/22/2024)
09/30/2024	160	Judge Indira Talwani: ELECTRONIC ORDER: this matter is stayed pending receipt of the Mandate from the United States Court of Appeals for the First Circuit. (Kelly, Danielle) (Entered: 09/30/2024)
10/03/2024	161	MANDATE of USCA as to 136 Notice of Appeal, filed by Allan M Leavitt, J. Doe 1 - 100. Appeal 136 Terminated (Paine, Matthew) (Entered: 10/04/2024)
10/07/2024	162	NOTICE of Appearance by Pietro A. Conte on behalf of United Services Automobile Association (Conte, Pietro) (Entered: 10/07/2024)
10/07/2024	163	Opposition re 157 MOTION PLAINTIFF, ALLAN M. LEAVITT'S, MOTION TO PRODUCE DOCUMENTS, AFFIDAVITS, BE SUBJECT TO DEPOSITION, AND RESPOND TO REQUESTS FOR ADMISSIONS WITH RESPECT TO THE PURPORTED FEES AND EXPENSES , 152 MOTION PLAINTIFF, ALLAN M. LEAVITT'S, MOTION FOR THE COURT TO COMPLY WITH RULE 23 , 155 MOTION PLAINTIFF, ALLAN M. LEAVITT'S, MOTION TO IDENTIFY THE PARTY SANCTIONED AND THE REASONS THEREFOR filed by United Services Automobile Association. (Conte, Pietro) (Entered: 10/07/2024)
10/07/2024	164	Opposition re 155 MOTION PLAINTIFF, ALLAN M. LEAVITT'S, MOTION TO IDENTIFY THE PARTY SANCTIONED AND THE REASONS THEREFOR

		filed by GEICO Indemnity Company. (Tuxbury, James) (Entered: 10/07/2024)
10/07/2024	165	Opposition re 152 MOTION PLAINTIFF, ALLAN M. LEAVITT'S, MOTION FOR THE COURT TO COMPLY WITH RULE 23 filed by GEICO Indemnity Company. (Tuxbury, James) (Entered: 10/07/2024)
10/07/2024	166	Opposition re 157 MOTION PLAINTIFF, ALLAN M. LEAVITT'S, MOTION TO PRODUCE DOCUMENTS, AFFIDAVITS, BE SUBJECT TO DEPOSITION, AND RESPOND TO REQUESTS FOR ADMISSIONS WITH RESPECT TO THE PURPORTED FEES AND EXPENSES filed by GEICO Indemnity Company. (Tuxbury, James) (Entered: 10/07/2024)
10/07/2024	167	Judge Indira Talwani: ELECTRONIC ORDER lifting stay where the Mandate 161 of the United States Court of Appeals has now issued. (Kelly, Danielle) (Entered: 10/07/2024)
10/10/2024	168	<p>Judge Indira Talwani: ELECTRONIC ORDER denying Plaintiff Allan M. Leavitt's <u>Motion for the Court to Comply with Rule 23</u> [Doc. No. 152] (the "Motion").</p> <p>Plaintiff objects to the court not allowing him to proceed as class representative of a putative class or allowing his attorney to file pleadings as class counsel and demands that the court "immediately comply with Rule 23 in all aspects." Mem. ISO Mot. at 12 [Doc. No. 153]. It is Plaintiff's counsel, not the court, that has failed to comply with Rule 23.</p> <p>Notably, Plaintiff failed to file a motion for class certification and appointment of class counsel prior to dismissal of his claims. <u>See</u> Mem. & Order [Doc. No. 135].</p> <p>Nor has Plaintiff made any showing in the instant motion to suggest that class certification would have been proper here had a timely motion been filed. "The class action is 'an exception to the usual rule that litigation is conducted by and on behalf of the individual named parties only.'" <u>Comcast Corp. v. Behrend</u>, 569 U.S. 27, 33 (2013) (quoting <u>Califano v. Yamasaki</u>, 442 U.S. 682, 700701 (1979)). "To come within the exception, a party seeking to maintain a class action 'must affirmatively demonstrate his compliance' with Rule 23." <u>Id.</u> (quoting <u>Wal-Mart Stores, Inc. v. Dukes</u>, 564 U.S. 338, 350 (2011)). A plaintiff seeking class certification thus bears the burden of demonstrating each element of Rule 23, including the prerequisites of numerosity, commonality, typicality, and adequacy of representation, as well as at least one of the provisions of Rule 23(b). <u>Id.</u></p>

		<p>The instant <u>Motion</u> does not even mention these requirements let alone show that Plaintiff is prepared to present evidence to demonstrate how he satisfies them.</p> <p>Moreover, Rule 23(g)(2) mandates that a court may appoint an applicant as class counsel "only if the applicant is adequate under Rule 23(g)(1) and (4)." Plaintiff has made no such showing.</p> <p>For the foregoing reasons, the <u>Motion</u> [Doc. No. 152] is DENIED. (Kelly, Danielle) (Entered: 10/10/2024)</p>
10/28/2024	169	<p>MOTION MOTION FOR JUDGE INDIRA TALWANI TO RULE ON OUTSTANDING MOTIONS AND FINISH OUT THE CRIMES AGAINST ALLAN M. LEAVITT AND THE CLASS THAT SHE AND HER COADJUTANTS, GEICO, USAA, COMMERCE INSURANCE COMPANY, AND THEIR ATTORNEYS, HAVE ENGAGED SUPPRESSING MASSACHUSETTS LAW WHICH REQUIRES NON-MASSACHUSETTS RESIDENT MOTOR VEHICLE OWNERS TO MAINTAIN PERSONAL INJURY PROTECTION PROVISIONS ON THEIR POLICY OF LIABILITY INSURANCE WHEN THEIR VEHICLES ARE OPERATED IN THE COMMONWEALTH OF MASSACHUSETTS by Allan M Leavitt.(Ruotolo, William) (Entered: 10/28/2024)</p>
10/29/2024	170	<p>MEMORANDUM in Support re 169 MOTION MOTION FOR JUDGE INDIRA TALWANI TO RULE ON OUTSTANDING MOTIONS AND FINISH OUT THE CRIMES AGAINST ALLAN M. LEAVITT AND THE CLASS THAT SHE AND HER COADJUTANTS, GEICO, USAA, COMMERCE INSURANCE COMPANY, AND THEIR ATTORNEYS, HAVE ENGAGED SUPPRESSING filed by Allan M Leavitt. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Certificate of Service)(Kelly, Danielle) (Entered: 10/29/2024)</p>
11/12/2024	171	<p>MOTION PLAINTIFF, ALLAN M. LEAVITT'S, SECOND MOTION FOR JUDGE INDIRA TALWANI TO RULE ON OUTSTANDING MOTIONS AND FINISH OUT THE CRIMES AGAINST ALLAN M. LEAVITT AND THE CLASS THAT SHE AND HER COADJUTANTS, GEICO, USAA, THE COMMERCE INSURANCE COMPANY, AND THEIR ATTORNEYS, HAVE ENGAGED SUPPRESSING MASSACHUSETTS LAW WHICH REQUIRES NON-MASSACHUSETTS RESIDENT MOTOR VEHICLE OWNERS TO MAINTAIN MASSACHUSETTS PERSONAL INJURY PROTECTION</p>

		PROVISIONS ON THEIR POLICY OF LIABILITY INSURANCE WHEN THEIR VEHICLES ARE OPERATED IN THE COMMONWEALTH OF MASSACHUSETTS by Allan M Leavitt.(Ruotolo, William) (Entered: 11/12/2024)
11/12/2024	172	MEMORANDUM in Support re 171 MOTION PLAINTIFF, ALLAN M. LEAVITT'S, SECOND MOTION FOR JUDGE INDIRA TALWANI TO RULE ON OUTSTANDING MOTIONS AND FINISH OUT THE CRIMES AGAINST ALLAN M. LEAVITT AND THE CLASS THAT SHE AND HER COADJUTANTS, GEICO, USAA, THE COMMERCE INSURANCE COMPAN filed by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 11/12/2024)
11/25/2024	173	MOTION PLAINTIFF, ALLAN M. LEAVITT'S, THIRD MOTION FOR JUDGE INDIRA TALWANI TO RULE ON OUTSTANDING MOTIONS AND FINISH OUT THE CRIMES AGAINST ALLAN M. LEAVITT AND THE CLASS THAT SHE AND HER COADJUTANTS, GEICO, USAA, THE COMMERCE INSURANCE COMPANY, AND THEIR ATTORNEYS, HAVE ENGAGED SUPPRESSING MASSACHUSETTS LAW WHICH REQUIRES NON-MASSACHUSETTS RESIDENT MOTOR VEHICLE OWNERS TO MAINTAIN MASSACHUSETTS PERSONAL INJURY PROTECTION PROVISIONS ON THEIR POLICY OF LIABILITY INSURANCE WHEN THEIR VEHICLES ARE OPERATED IN THE COMMONWEALTH OF MASSACHUSETTS by Allan M Leavitt.(Ruotolo, William) (Entered: 11/25/2024)
11/25/2024	174	MEMORANDUM in Support re 173 MOTION PLAINTIFF, ALLAN M. LEAVITT'S, THIRD MOTION FOR JUDGE INDIRA TALWANI TO RULE ON OUTSTANDING MOTIONS AND FINISH OUT THE CRIMES AGAINST ALLAN M. LEAVITT AND THE CLASS THAT SHE AND HER COADJUTANTS, GEICO, USAA, THE COMMERCE INSURANCE COMPANY, filed by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 11/25/2024)
12/07/2024	175	MOTION PLAINTIFF, ALLAN M. LEAVITT'S, FOURTH MOTION FOR JUDGE INDIRA TALWANI TO RULE ON OUTSTANDING MOTIONS AND FINISH OUT THE CRIMES AGAINST ALLAN M. LEAVITT AND THE CLASS THAT SHE AND HER COADJUTANTS, GEICO, USAA, THE COMMERCE INSURANCE COMPANY, AND THEIR ATTORNEYS, HAVE ENGAGED

		SUPPRESSING MASSACHUSETTS LAW WHICH REQUIRES NON-MASSACHUSETTS RESIDENT MOTOR VEHICLE OWNERS TO MAINTAIN MASSACHUSETTS PERSONAL INJURY PROTECTION PROVISIONS ON THEIR POLICY OF LIABILITY INSURANCE WHEN THEIR VEHICLES ARE OPERATED IN THE COMMONWEALTH OF MASSACHUSETTS by Allan M Leavitt.(Ruotolo, William) (Entered: 12/07/2024)
12/07/2024	176	MEMORANDUM in Support re 175 MOTION PLAINTIFF, ALLAN M. LEAVITT'S, FOURTH MOTION FOR JUDGE INDIRA TALWANI TO RULE ON OUTSTANDING MOTIONS AND FINISH OUT THE CRIMES AGAINST ALLAN M. LEAVITT AND THE CLASS THAT SHE AND HER COADJUTANTS, GEICO, USAA, THE COMMERCE INSURANCE COMPANY filed by Allan M Leavitt. (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 12/07/2024)
12/11/2024	177	Judge Indira Talwani: ORDER entered. MEMORANDUM AND ORDER. For the foregoing reasons, USAA's <u>Application for Attorney's Fees</u> and GEICO's <u>Application for Attorney's Fees</u> are GRANTED in part, Plaintiff's <u>Motion to Identify</u> is GRANTED in part and DENIED in part, and Plaintiff's <u>Motion to Compel</u> is DENIED.USAA and GEICO are each awarded \$25,000 in sanctions to be paid by Attorney William J. Ruotolo. Allan M. Leavitt shall pay a sanction of \$405 to the court and shall include a copy of this order with any further application to proceed in forma pauperis filed in the District of Massachusetts. IT IS SO ORDERED. (Cook, Savannah) (Entered: 12/11/2024)
12/11/2024	178	Judge Indira Talwani: ELECTRONIC ORDER denying Plaintiff's Motions [Doc. Nos. 155 , 157 , 169 , 171 , 173 , 175]. Where the complaint has been dismissed, see Mem. & Order 135 , Plaintiff's repeated requests for a declaratory judgment, objection that the court purportedly is not protecting the rights of class members, and meritless allegations of ex parte communications are frivolous. Where Plaintiff seeks a determination on the Defendants' attorney's fees applications and Plaintiff's related actions, the court has issued its decision on all of these motions, see Mem. & Order 177 , and the motions are now moot.(Cook, Savannah) (Entered: 12/11/2024)

12/11/2024	179	Judge Indira Talwani: ORDER entered. <u>ORDER DISMISSING CASE.</u> (Cook, Savannah) (Entered: 12/11/2024)
12/15/2024	180	NOTICE OF APPEAL 179 ORDER DISMISSING CASE by Allan M Leavitt Fee Status: IFP granted. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov MUST be completed and submitted to the Court of Appeals. Counsel shall register for a First Circuit CM/ECF Appellate Filer Account at http://pacer.psc.uscourts.gov/cmecf. Counsel shall also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at http://www.ca1.uscourts.gov/cmecf. US District Court Clerk to deliver official record to Court of Appeals by 1/6/2025. (Attachments: # 1 certificate of service)(Ruotolo, William) Modified on 12/15/2024 (Paine, Matthew). (Entered: 12/15/2024)
12/15/2024	181	Certified and Transmitted Abbreviated Electronic Record on Appeal to US Court of Appeals re 180 Notice of Appeal. (Paine, Matthew) (Entered: 12/15/2024)
12/16/2024	182	USCA Case Number 24-2139 for 180 Notice of Appeal, filed by Allan M Leavitt. (Paine, Matthew) (Entered: 12/16/2024)
12/17/2024	183	TRANSCRIPT ORDER FORM by Allan M Leavitt before Judge Indira Talwani, (Attachments: # 1 certificate of service)(Ruotolo, William) (Entered: 12/17/2024)
11/12/2025	184	USCA Judgment as to 180 Notice of Appeal filed by Allan M Leavitt. AFFIRMED... (MAP) (Entered: 11/13/2025)
12/04/2025	185	MANDATE of USCA as to 180 Notice of Appeal filed by Allan M Leavitt. Appeal 180 Terminated (MAP) (Entered: 12/05/2025)

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United States Court of Appeals For the First Circuit

No. 24-2139

ALLAN M. LEAVITT, Individually, and as Class Representative,

Plaintiff - Appellant

J. DOE 1-100,

Plaintiff,

v.

UNITED SERVICES AUTOMOBILE ASSOCIATION, a Texas Department of Insurance Regulated Reciprocal Inter-insurance Exchange and Subsidiary; GEICO INDEMNITY COMPANY; THE COMMERCE INSURANCE COMPANY, INC.,

Defendants - Appellees,

J. ROE 1-100,

Defendant.

On Appeal From A Judgment In A Civil Case Entered In The United States District Court for the District of Massachusetts on January 19, 2024 and December 11, 2024

PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' FOURTH MOTION FOR JUDGES TO DISQUALIFY UNDER 28 U.S.C. § 455 IF THEIR "IMPARTIALITY MIGHT REASONABLY BE QUESTIONED"

Submitted On Behalf Of, ALLAN M. LEAVITT, etc.,

By their attorney: WILLIAM J. RUOTOLO

PO Box 111, North Scituate, RI 02857, (401) 489-1051

TELL US WHAT THE LAW IS - STOP PRETENDING - STOP DEFRAUDING

Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Massachusetts

This plea for a declaration of the law in this Class Action law suit is, and has been, **denied** by GEICO and USAA and not acknowledged by The Commerce Insurance Company as the law. These insurers are not paying these statutory protections. They have *suppressed* the law announced above in this **Landmark Legal Discovery** since September 16, 2013. They have *suppressed* even the right to a declaration of the law announced in this **Landmark Legal Discovery** since September 16, 2013. The Class Members do not know their rights.¹

EX PARTE COMMUNICATIONS. Prior to any ruling on any motion now before the Court, the Plaintiffs and Class Members demand the Judges involved in ruling in this appeal REVEAL ANY EX PARTE COMMUNICATIONS not permitted by the Code of Conduct for United States Judges, cannon 3(a)(4), and its commentary in accordance with their motion which has been filed. Sadly, this Court has, so far, never ruled on the motion to reveal ex parte communications.

¹ The travel of this **Landmark Legal Discovery** is found in Exhibit 9 attached. In no action was the law as stated above declared to be what was pled by the Plaintiffs and Class Members or the law as denied by GEICO and USAA.

The Plaintiffs and Class Members have filed, inter alia, the following motions since this appeal was entered. None have met with a ruling. Instead, the Court has seen fit to allow the Appellees' motion to stay the briefing schedule.

1. MOTION FOR THE COURT TO ORDER DEFENDANTS' COUNSEL WHO ENTERED AN APPEARANCE IN DISTRICT COURT TO NOTICE APPEARANCE IN THIS COURT IF THEY HAVE NOT ALREADY DONE SO
2. MOTION FOR EACH JUDGE TO FILE A DISCLOSURE STATEMENT AS REQUIRED BY FRCP RULE 7.1 AND THE CODE OF CONDUCT FOR UNITES STATES JUDGES, etc.
3. MOTION FOR THE JUDGES TO REVEAL ANY EX PARTE COMMUNICATIONS NOT PERMITTED BY THE CODE OF CONDUCT FOR UNITED STATES JUDGES, CANNON 3(A) (4) (AND ITS COMMENTARY) AND MASSACHUSETTS RULES OF PROFESSIONAL CONDUCT
4. MOTION FOR THE PARTIES AND COUNSEL TO REVEAL ANY EX PARTE COMMUNICATIONS NOT PERMITTED BY THE CODE OF CONDUCT FOR UNITED STATES JUDGES, CANNON 3(A)(4) (AND ITS COMMENTARY), etc.
5. PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' (FIRST, ETC.), MOTION FOR THE COURT TO TRY ONE OF THE PLAINTIFFS' AND CLASS MEMBERS' MOTIONS
6. PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' MOTION FOR THE COURT TO REVEAL THE NAMES OF THE JUDGES ASSIGNED TO THIS APPEAL, ETC.

The Plaintiffs and Class Members believe the Court's conduct in refusing to even address their motions while catering to the Appellees in this **Landmark Legal Discovery** is suspicious. Accordingly, Plaintiffs and Class Members move

for judges to disqualify under 28 U.S.C. § 455 if their “impartiality might reasonably be questioned.”

THE CLASS ACTION PLED:²

Massachusetts (Mass.) statute requires non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass.

GEICO, USAA, and The Commerce Insurance Company (CIC) disagree. All claim that law has been declared for the Plaintiff and Class Members³ (**res judicata**) and that those rights were declared in a state court action (**Rooker-Feldman**). Not even the most incompetent review of the state court Complaint reveals the law as pled above was declared at any time. Furthermore, not one count in that 2013 Complaint is pled in this Class Action. **Res judicata** and **Rooker-Feldman** cannot apply. See Exhibit 8 and compare each count therein with the Class Action.

IT IS A LIE. That **res judicata** or **Rooker-Feldman** apply is a lie. Such comments can only be made by the terribly incompetent. Or terribly corrupt. **There is no declaration of law that declares** “Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance when their vehicles are

2 Not one count in the Class Action Complaint was ever addressed by the Court.

3 The corrupted District Court judge, Indira Talwani, actually struck papers filed by Class Members after refusing to address whether there was a Class to be certified under Rule 23. Without reason, justification, or excuse.

operated in the Commonwealth of Massachusetts” or that it does not. The corrupted judge, Indira Talwani, Appeals Court Judges in the 2021 and 2024 (interlocutory) appeals as well as GEICO, USAA, and CIC all refused to say **where** (in what declaration) that law was declared and **what that law is**. See Exhibit 3, p. 21, line 7 et seq..⁴

THE PLAINTIFFS AND CLASS MEMBERS STILL IN THE DARK. What were Allan M. Leavitt's rights (a 76 year-old war-era veteran and native of Mass. attempting to protect his grandchildren who live in Mass.), and all others, the day after the corrupt District Court judge, Indira Talwani, (with the Appellees) ruled the law was declared and he and Class Members traveled into Mass. from other states?

The Complaint demanded **“The Plaintiffs and Class Members demand that this Court: [A] declare that Massachusetts statute (M.G.L. ch. 90, § 3 and M.G.L. ch. 90, § 34A) requires non-resident motor vehicle owners to “maintain” Massachusetts PIP “provisions” as part of their “policy of liability insurance;” [B] declare that policies of liability insurance issued by GEICO, USAA and CIC provide Massachusetts PIP “protection;” [C] as well as other**

⁴ Because this is a civil action, the Plaintiffs, Class Members, and their Counsel find that remaining silent by the corrupted judge, Indira Talwani, and corrupted GEICO, USAA, and CIC, when demanded to say in what ruling the law was declared and what that law is, represents an **admission of guilt** that they, with intent, engaged in the crime of conspiracy to *suppress* the law and *suppression* of the law in this Class Action. See Exhibit 3, p. 21, line 7 et seq..

declarations referenced in the Prayer for Relief infra or, in the alternative, issue certified questions to the Massachusetts Supreme Judicial Court as requested in the Prayer for Relief...” See Exhibit 2, page 17, paragraph 20.

A declaration of the above has never been made in a state court action. How it could have been made for Class Members invoking *Rooker-Feldman* is absurd.

The emperor has no clothes. Or, in the alternative, no brains.⁵

And **what is the law** they say has been declared? This Court will answer that question as the corrupted District Court judge, GEICO, USAA, and CIC refuse to. See Exhibit 3, p. 21, line 7 et seq.. Otherwise, this Court will join their corruption and present the clearest evidence of public corruption in a petition for certiorari.

PROVIDENTIAL. It turns out to be providential that the Plaintiffs and Class Members have shared, and will be sharing, this courts' rulings with *Lawyers Weekly* as well as other publications and that this matter has also been reported to the FBI for investigation into public corruption. For the Public needs to know what has become of their rights under the Constitution and of their judges in Mass..

SUPREME COURT (SCOTUS). Ironically, SCOTUS Chief Judge Roberts' warning that “elected officials from across the political spectrum have raised the specter of open disregard for federal court rulings” is, in fact, the practice of the

⁵ “Against stupidity we are defenseless. Neither protests nor the use of force accomplish anything here; reasons fall on deaf ears.” Bonhoeffer, Dietrich. *Letters and Papers from Prison*. Arguing stupidity is more dangerous than evil.

judges in the state and federal courts in Mass. at the trial and appellate level revealing he clearly knows the Courts' encourage such disregard of their own rulings (*Lance v. Dennis*, 546 U.S. 459, 463 ((2006))⁶ which this 2021 court also ignored along with the SCOTUS Petition) rendering its own rulings worthless.

Justice Roberts' comments ring true in his annual address and speak volumes. It confirms that he knows his rulings will be disregarded. Otherwise, he would not have issued the warning.

OBVIOUS PRIOR AGREEMENT. It seems likely that summary disposition was agreed upon in advance by GEICO, USAA, and CIC with this Court in order to protect one another from having to answer to the crimes committed in District Court as will be raised in the issues on appeal in this case. For the issues raised in Exhibit 7 make it clear there are numerable issues for appeal.

DELIBERATE IGNORANCE. The Appellees' motion for summary disposition does not address the issues to be raised on appeal and identified in Exhibit 7.

The Court is demanded by the Plaintiffs and Class Members to address each

⁶ In the 2020 law suit Warren Buffet, Berkshire Hathaway, Inc. and many others were dismissed on the grounds of *res judicata* and *Rooker-Feldman*. Yet, they were never sued before. Claims were never made against them before. And declarations of law were never sought against them before. Dismissed in direct violation of the SCOTUS ruling in *Lance v. Dennis*, 546 U.S. 459, 463 (2006). A case never mentioned by the corrupted judge, Indira Talwani, nor this Court in No. 21-1561. The SCOTUS petition for certiorari was DENIED. One wonders how much Warren Buffet and Berkshire Hathaway, Inc. (and others) paid for that? Corrupted judge, Indira Talwani, never even mentioned their names.

issue raised in Exhibit 7 if it even thinks summary disposition is the way to go. The failure by GEICO, USAA, CIC, and this Court to respond to the allegations herein will represent irrefutable proof of their conspiracy to *suppress* a declaration of law.⁷

THE RULE:

...the court may dismiss the appeal or other request for relief or affirm and enforce the judgment or order below if the court lacks jurisdiction, or **if it shall clearly appear that no substantial question is presented**

Exhibit 7 reflects substantial questions presented all dealing with the fact that the Plaintiffs or Class Members do not know what the law is as pled above.

IGNORED CLASS ACTION COMPLAINT. The Defendants' motion for summary disposition lacks any reference to the Class Action Complaint to reflect where even one count was pled in a state court action or that even one count has been adjudicated and is **res judicata**. Substantial issues on appeal? These are crimes.

THOROUGH REVIEW OF ISSUES REQUIRED. In this Court's ruling on the motion for summary disposition, it must review each issue raised in Exhibit 7 state that it clearly appear that no substantial question is presented in each issue.

⁷ Proof of conspiracy is found, inter alia, in [a] GEICO's and USAA's refusal to respond to the Rule 65 demand preceding the 2020 action with [b] corrupted judge, Indira Talwani's, refusal to address the count for an injunction. Within nine days after the 2020 three hundred eighty-two page law suit was filed, the corrupted judge issued a threat that [a] (though she hadn't read ["screened"] it) the suit failed to state a claim and [b] **Rooker-Feldman** barred jurisdiction. Conspiracy. For no un-corrupted judge would conceive of something so inane.

VERY HIGH STANDARD. To obtain summary disposition in the United States Court of Appeals for the First Circuit, a movant must clearly, and without question, be entitled to relief on the merits. There must be no “substantial” question for the court to address and rule upon with respect to whether the law has been properly applied in the trial court and that the merits of the case must be so clear that plenary briefing, oral argument, and the traditional collegiality of the decisional process would not affect the decision.

The Defendants should be embarrassed by filing a motion that does not even begin to approach the standard whereby the movant for summary disposition must clearly be entitled to relief on the merits and there must be no “substantial” question for the court to decide. Unless, of course, they had advanced knowledge of the Court's position. This appeal is fraught with “substantial” questions.

And, indeed, the Court, in its September 11, 2024 denial of the interlocutory appeal indicated the Plaintiffs and Class Members have a right to full appeal when the matter in District Court was resolved. Those comments apparently have no meaning to the Appellees. The Appellees, having engaged in **summary process** for well over a decade now with respect to a declaration of that has never been made by any Court, seek summary process once again. Out of sheer desperation having engaged in crimes of *suppressing* the law with the judiciaries in Mass..

Notwithstanding, it is predicted, this Court will engage summary process to “plead the fifth.” For themselves and all who participated in these crimes. It wont work.

Horrified but not dissuaded. *Suppressed* but not silenced. Lied to but not deceived. Threatened but steadfast for Due Process and Democracy.⁸

G.L. c. 90, § 3 + G.L. c. 90, § 34A = PIP⁹

FOR THE INNOCENTS. Dedicated to those children injured and lost during a time of great madness on Gallows Hill since rejection of this **Landmark Legal Discovery** in 2013. We let you down.

THE DEATH OF DEMOCRACY. Mass. law and due process itself have been *suppressed* since 2013. By GEICO, USAA, CIC and their attorneys.¹⁰ In conspiracy¹¹ with Mass. state and federal judges. *See* Exhibit 1. The Constitution,

8 For Mr. Leavitt, the Class Members, and their Counsel believe “The only thing necessary for the triumph of evil is for good men to do nothing.” Author unknown.

9 For those Judges inexperienced in matters involving compulsory automobile insurance law or the 14th Amendment of the Constitution, sometimes pictures help. This algebraic image summarizing this **Landmark Legal Discovery** clearly shows Count I seeking declaratory judgment is neither **res judicata** nor jurisdictionally barred by the **Rooker-Feldman** Doctrine. Two incomprehensibly lame arguments made by GEICO, USAA, CIC and the corrupted District Court judge. More than once since the year 2020.

10 With the exception of CIC, the insurers (and other Defendants sued, but not required to answer) have engaged different counsel for the state court action, the 2020 District Court Action, and the Class Action. Because the state court action, the 2020 District Court action, and the Class Action all involved the fraud of these insurers as committed through their then-counsel in the previous action(s).

11 Mass. is drowning in a culture of conspiracy. As it did in Salem, 1692.

the Mass. statute, pleas, and issues brought before the Court, were all ignored. And *suppressed*. By those who acted above the law. 2013: The year GEICO, USAA, CIC, and the Mass. state and federal judiciaries began their descent into treason.

Crimes which have no equal in American Jurisprudence. At any time.

Therefore, this motion is directed to Chief Judge of the United States Court of Appeals for the First Circuit, David J. Barron, J. as well as: Sandra L. Lynch, Kermit V. Lipez, Jeffrey R. Howard, O. Rogeriee Thompson, William J. Kayatta, Jr., Gustavo A. Gelpi, Lara E. Montecalvo, Julie Rikelman, Lance E. Walker, Leo T. Sorokin, Joseph N. Laplantem Silvia Carreno-Coll, Mary S. McElroy should they be appointed. The Court of Appeals website contains conflicting information as to who are the judges appointed to the Court. This is no surprise.

The Plaintiffs and Class Members believe this Court's failure to act on the motions represents this Court's involvement in the *suppression* of this **Landmark Legal Discovery** and a declaration as far back as 2021 (*See* 21-1561 - Exhibit 4).

SUPPRESSED. Since suit has been pled in 2013, the Courts have not declared whether the following plea by the Class is the law, or is not:

Plea for Declaration: Mass. statute requires non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass..

And those who *suppressed* that law should be ashamed of themselves.

DISGRACE. The summary dismissal of the 21-1561 appeal without any referencing or addressing of the *issues raised on appeal* represents a sad chapter in American Jurisprudence as the law pled remains undeclared and no-one knows their rights. *See Exhibit 4. “Confusion now hath made his masterpiece.”*¹²

Sadder still is the fact that the Appeals Court Judges cannot tell their grandchildren whether **Mass. statute requires non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass.** or that it does not. And that is their job.

Such conduct should not be viewed as a compliment.¹³

The matter before the Court involves *suppression* of the Plaintiffs' and Class Members' rights of due process and equal protection in a declaration of law

¹²Shakespeare, William. *Macbeth*, Act II, Scene 3.

¹³This Court must tell the Plaintiffs and Class Members whether the law is as they have pled in Count I et seq.. The claims that these rights have been declared before (**res judicata**) in a state court action (*Rooker-Feldman*) represent fraud by these Appellees and the corrupted District Court Judge. They ask this Court to join them in their fraud once again. If those averments of **res judicata** and *Rooker-Feldman* are legitimate, this Court must show the Plaintiffs and Class Members exactly what document reflects that Mass. statute requires non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass.. Or that it does not.

involving urgent matters¹⁴ of “human welfare and public safety.” *O’roak v. Lloyds Casualty Company*, 285 Mass. 532, 536 (1934). And though the District Court has *suppressed* addressing a declaration of law as well as whether there exists a Class, shockingly, the *suppression* continues in the Court of Appeals for the First Circuit violating the Plaintiffs' and Class Members' due process and equal protection rights.

HISTORY OF SUPPRESSION. The Complaint in this Class Action clearly pled in Count I:

The entirety of this Class Action hinges and rests on the following proposition and plea for declaration¹⁵ by the Class Members which is, and has been, denied by these Defendants:

Proposition and Plea for Declaration: Mass. statute requires non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass..

See Exhibit 2. The plea was that the District Court *declare* that plea (pages 36 – 38). Yet, that plea was *suppressed* and ignored. Without any application of law to fact. Without reason, justification, or excuse. See G.L. c. 231A, § 3 which requires

14As of today, over four thousand four hundred and fifty-one days have passed since filing suit pleading this **Landmark Legal Discovery**. The 2015 and 2016 statistics reflect approximately 91,245 persons have been injured, entitled to personal injury protection coverages (\$729,964,000), and deprived by the corrupt and criminal acts of those listed in Exhibit 1. Those deprived include children. They include special-needs children. A stain that will never wash off.

15A declaration of the disputed law must be made for it is intended as a prospective trigger of coverage, rights, duties, and obligations; it is not a retrospective test. And people are entitled to know their rights.

a reason “state[d] in the record” should the Court refuse to declare the law. Not declaring the law deprives persons of knowing and being granted their rights. That is exactly what the judiciaries have done since September 16, 2013.

And all the corrupted District Court Judge needed to do was to declare Mass. statute DOES NOT require non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass.. She refused to do so.¹⁶ See Exhibit 3, p. 21, line 7 et seq.. Because the law was exactly as the Plaintiffs and Class Members have pled. And Truth never lies.

She was required to declare the law as a matter of due process. However, she intended to *suppress* a declaration of law and rights of due process. The corrupted judge, Indira Talwani, ruled (in D.E. 136) that the matters pled above by the Class and Class Representative have been declared before in a state court action (fraudulent grounds for dismissal by the Court at GEICO's, USAA's, and CIC's request were **res judicata** and *Rooker-Feldman* – neither were remotely justified).

THE COURT KNOWS THIS IS A CLASS ACTION. This Court knows well that the corrupted District Court judge, Indira Talwani, *suppressed* the rights of the Plaintiffs and Class Members by failing and refusing to address [a] whether there

¹⁶The same is true for the State Court. All judges have refused to do so because they cannot.

exists a Class,¹⁷ [b] whether the law as pled in the Complaint has been addressed, [c] whether the Plaintiffs' and Class Members' rights to due process and equal protection of the law have been violated by failing and refusing to address those rights among other rights which warrant interlocutory appeal for the reasons stated below, [d] whether there was a Class, [e] whether there was entitlement to a declaration of law by the Plaintiffs and Class Members, [f] whether the Plaintiff, ALLAN M. LEAVITT, was, is, and will always have, standing as a Class Representative, [g] among many other issues unaddressed by the trial court and for which the Class Members have reasons for which they can argue on appeal.

INSULT TO JUSTICE. What a profound insult to justice for the Court of Appeals for the First Circuit to ORDER the Plaintiffs and Class Members to “move for voluntary dismissal of the appeal pursuant to Fed. R. App. P. 42(b), or to show cause, in writing, why this appeal should not be dismissed for lack of jurisdiction” when, in fact, this Court knows (and has known since 2021 in the 21-1561 appeal) that the matters before the Court involve *suppression* of the plea for declaratory relief which claims that **Mass. statute requires...etc.** See all Complaints attached as Exhibits 2, 5, and 6. That law has never been declared. When the Plaintiffs and Class Members demanded the corrupted judge, Indira Talwani, inform them where that

¹⁷ Rule 23 requires the Court to issue a Certification Order “At an early practicable time after a person sues... the court must determine by order whether to certify the action as a class action.” No effort was ever made by the District Court.

law has been declared and what that law is that the Defendants claimed had been “declared,” the corrupted judge, Indira Talwani, refused to do so. Thereafter, she even refused to order GEICO, USAA, and CIC to do so. *See* Exhibit 3, page 21, at 7, et seq. evincing corrupted judge, Indira Talwani, pleading the fifth. And then the interlocutory appeal, 24-1115, was dismissed without the application of law to fact.

THE LAW AS PLED. A declaration of law which states, but is undeclared that: **Mass. statute requires non-Mass. resident motor vehicle owners to maintain Mass. Personal Injury Protection (PIP) provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass.** has been *suppressed* by the judges. *See* Exhibit 1.

CLEAR ONGOING COLLUSION. This Class Action was filed on June 15, 2023. Nothing was done (i.e. there were no rulings on numerous motions filed) for almost 5 months then the case was summarily dismissed by the same corrupted judge,¹⁸ Indira Talwani, who dismissed other pleas for a declaration of law without

18 This corrupted judge, Indira Talwani, [A] ignored the Counts in the Complaint, [B] the arguments by the Plaintiffs and Class Members, [C] refused to allow the Public (Class Members) to listen telephonically to the December 13, 2023 hearing, [D] refused to reveal *ex parte* communications not permitted by the *Code of Conduct for United States Judges* when requested to do so by the Plaintiffs and Class Members, and [E] struck papers from the record filed by the Class Members which included the Plaintiffs – without adjudication, without application of law to fact. Far from impartial adjudication. In the 2020 law suit, corrupt judge, Indira Talwani, subjected Mr. Leavitt (a 76 year-old war-era veteran and *in forma pauperis* litigant who was not a prisoner and who had experienced legal counsel), to review his Complaint under the prisoner litigation

any application of law to fact (5, 6). Here she did so again for the Plaintiffs and entire Class without ever determining whether there exists a Class... (See within).

REASONABLY QUESTIONED. Witness the judges' actual obligations in 28 U.S.C. § 455. “Any justice, judge, or magistrate, of the United States shall disqualify himself/herself in any proceeding in which his/her *impartiality might reasonably be questioned.*” It was. Yet, corrupted judge, Indira Talwani, never disqualified herself despite her impartiality objectively clearly questioned. Repeatedly. She never addressed whether she engaged in ex parte communications and “denied” addressing the motion. Never answered where the law was declared and what it is. She refused to address the Counts in the Complaint. And refused to apply law to fact. Worse, this Class Action pled conduct involving a “conspiracy to suppress and actual suppression of the Plaintiffs' and Class Members' rights to a declaration of law... in the ... 2020 action in District Court.” *See* Exhibit 2, page 10, etc. The 2020 law suit in which corrupted Class Action judge, Indira Talwani, was adjudicator. Incredibly, in the 2023 Class Action she awarded \$50,000 in sanctions to GEICO and USAA *against Class Counsel* in order to reward her 2020 co-conspirators

reform act. She then dismissed his claims as **res judicata** and **Rooker-Feldman.** The Class Action was dismissed on the same grounds, however, neither Judge Guzman nor the corrupted judge, Indira Talwani, reviewed Mr. Leavitt's Class Action under the prisoner litigation reform act. Insurers never moved she do so.

(GEICO/USAA).¹⁹ Such conduct represents a corrupted judge attempting to cover up her crimes. For no un-corrupted judge would ever do something so despicable.²⁰

The Plaintiffs and Class Members demand the Court refrain from summary disposition^{21, 22} in this appeal as they did in the interlocutory appeal and the 2021 appeal (21-1561).²³ Either plead the Fifth,²⁴ or address the allegations herein. For, if there is anything redemptive in Humanity, it has to be the pursuit of Truth.²⁵

The Plaintiffs and Class Members move for judges to disqualify under 28 U.S.C. § 455 if their “impartiality might reasonably be questioned” for **Mass. statute requires non-Mass. resident motor vehicle owners to maintain Mass.**

19 Co-conspirator CIC did not move for sanctions in the Class Action.

20 Justice Sotomayor's recent observation sums up our current judicial dilemma. “The due process clause represents 'the principle that ours is a government of laws, not of men, and that we submit ourselves to rulers only if under rules.' *Youngstown Sheet & Tube Co. v. Sayers*, 343 U.S. 579, 646 (1952) (Jackson, J., concurring). **By rewarding lawlessness, the Court once again undermines that foundational principle.**” *Department of Homeland Security, et al., v. D.V.D., et al*, 606 U.S. ____ (2025), Sotomayor, J. dissenting. *Emphasis added.*

21 Abide due process and the law. In keeping with this democratic principle, Justice Jackson wrote recently concerning universal injunctions: “But, in my view, if this country is going to persist as a Nation of laws and not men, the Judiciary has no choice but to deny it. Stated simply, **what it means to have a system of government that is bounded by law is that everyone is constrained by the law, no exceptions.**” *Donald J. Trump, President of the United States, et al. v. Casa, Inc., et al.*, 606 U.S. __ (2025). Jackson, J. dissenting. *Emphasis added. This includes corrupted judges.*

22 Justices Sotomayor and Jackson - appointed by Democratic Presidents. Irony.

23 As well as the interlocutory appeal 24-1115.

24 This pertains to this Court and all those listed in Exhibit 1.

25 The Court is advised to acquiesce to that famous phrase “the competition of the market.” *Abrams v. United States*, 250 U.S. 616 (1919). Don't *suppress* Truth.

PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass. and has never been declared in any Court in a devastating blow to Democracy. Accordingly,

The wrongs which we seek to condemn and punish have been so calculated, so malignant, and so devastating, that Civilization cannot tolerate their being ignored, for it cannot survive their being repeated.

Jackson, Robert H. *Opening Statement*, Nuremberg Trials, November, 1945.

THE BURDEN OF KNOWING.²⁶ This is a Class Action. Finish out your crimes. For there is nothing that this Court, GEICO, USAA, or CIC can do to restore the faith of Mr. Leavitt, the Class Members, or their Counsel. What's done is done. And can't be undone. This is a **Landmark Legal Discovery.**^{27, 28} This is history.^{29, 30}

Attached is a Reply to Bar Counsel's "complaint." It is Exhibit 10.

-
- 26 **The burden of knowledge** represents the difficulty of adding new knowledge in a scientific field for it involves understanding and assimilating the vast amount of previous work. **The burden of knowing** adds a moral perspective.
- 27 "From his pen, or in his head, slowly or swiftly as his capacities admit, out of the murk the pattern emerges, his pattern, the expression of what he has seen and what he has therefore made, the impress of his self upon the not-self, upon the hitherto formless material of which he was once but a part, and over which he has now become the master." Billings Learned Hand. From **Learned Hand, The Man and the Judge** by Gerald Gunther, Knopf (1994), 402.
- 28 More important than the **Landmark Legal Discovery** is the **Landmark Legal Revelation** of how our judiciaries work for RICO enterprises voiding our due process rights and Democracy. And disrespecting every immigrant who came to this country and sacrificed themselves for Democracy.
- 29 Exhibit 9 reflects a summary of each law suit filed since 2013.
- 30 There are approximately 29,000 homeless on the streets of Mass.. Some are children. Some special-needs children. Soon, you will think differently of them.

CODA: BEHIND THE EYES OF THE MEN.

Quitting time at the plant. Time for supper now. Time for families. Time for a cool drink on a porch. Time for the quiet rustle of leaf-laden trees that screen out the Moon. And underneath it all, behind the eyes of the men, hanging invisible over the summer night, is a horror without words. For this is the stillness before storm. This is the eve of the end.³¹

Serling, Rodman Edward. **Third from the Sun.** Twilight Zone, Season 1, Episode 15 (January 8, 1960).

CONCLUSION

WHEREFORE, the Appellants and Class Members move for judges to disqualify under 28 U.S.C. § 455 if their “impartiality might reasonably be questioned.”

William J. Ruotolo
/s/ William J. Ruotolo
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PO Box 111
North Scituate, RI 02857-0111
Tel: (401) 489-1051
williamjrutolo@gmail.com

Dated: November 22, 2025

31 For the Massachusetts Superior Court, the Massachusetts Appeals Court, the Massachusetts Supreme Judicial Court, the United States District Court for the District of Massachusetts, the United States Court of Appeals for this First Circuit, and the Supreme Court of the United States have proven, beyond reasonable doubt, the Truth of the proposition that “The longer you stare into the abyss, the abyss begins to stare back.” Nietzsche, Friedrich Wilhelm.

**CERTIFICATE OF SERVICE
CASE: 24-2139**

I hereby certify that these documents consisting of:

PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' FOURTH MOTION FOR JUDGES TO DISQUALIFY UNDER 28 U.S.C. § 455 IF THEIR "IMPARTIALITY MIGHT REASONABLY BE QUESTIONED."

and filed through the CM/ECF system have been sent electronically to the registered participants as identified on the NEF and paper copies will be sent to those indicated as non registered participants on:

November 22, 2025

The participants electronically notified are:

GEICO INDEMNITY COMPANY, by its attorneys, James L. Tuxbury, Esq., HINCKLEY, ALLEN & SNYDER, LLP 28 State Street Boston, MA 02109, jtuxbury@hinckleyallen.com and Barry I. Levy, Esq., RIVKIN RADLER LLP, 926 RXR Plaza, Uniondale, New York 11556, Barry.Levy@Rivkin.com, and Brian L. Bank, Esq., RIVKIN RADLER LLP, 926 RXR Plaza, Uniondale, New York 11556, Brian.Bank@Rivkin.com;

THE COMMERCE INSURANCE COMPANY, by its attorney, John Callahan, Esq., FINNEGAN, UNDERWOOD, RYAN & TIERNEY, 101 Federal Street, Suite 1900, Boston, MA 02110, jrc@furlaw.com, and

UNITED SERVICES AUTOMOBILE ASSOCIATION, by its attorneys, Daniel P. Tighe and Nathaniel R.B. Koslof, DONNELLY CONROY & GELHAAR, 260 Franklin Street, Suite 1600, Boston, MA 02110, dpt@dcglaw.com, nrbk@dcglaw.com, and Rodger L. Eckelberry, Esq. And Kevin P. Zimmerman, Esq., BAKER & HOSTETLER LLP, 200 South Civic Center Drive, Suite 1200, Columbus, OH 43215-4138, kzimmerman@bakerlaw.com, reckelberry@bakerlaw.com, pac@dcglaw.com.

/s/ William J. Ruotolo

Dated: November 22, 2025

William J. Ruotolo

United States Court of Appeals For the First Circuit

No. 24-2139

ALLAN M. LEAVITT, Individually, and as Class Representative,

Plaintiff - Appellant

J. DOE 1-100,

Plaintiff,

v.

UNITED SERVICES AUTOMOBILE ASSOCIATION, a Texas Department of Insurance Regulated Reciprocal Inter-insurance Exchange and Subsidiary; GEICO INDEMNITY COMPANY; THE COMMERCE INSURANCE COMPANY, INC.,

Defendants - Appellees,

J. ROE 1-100,

Defendant.

**On Appeal From A Judgment In A Civil Case Entered In The United States
District Court for the District of Massachusetts on January 19, 2024 and
December 11, 2024**

**PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS'
FOURTH MOTION FOR THE NAMES OF THE JUDGES WHO
DISQUALIFIED UNDER 28 U.S.C. § 455**

Submitted On Behalf Of, ALLAN M. LEAVITT, etc.,

By their attorney: WILLIAM J. RUOTOLO

PO Box 111, North Scituate, RI 02857, (401) 489-1051

TELL US WHAT THE LAW IS - STOP PRETENDING - STOP DEFRAUDING

Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Massachusetts

This plea for a declaration of the law in this Class Action law suit is, and has been, **denied** by GEICO and USAA and not acknowledged by The Commerce Insurance Company as the law. These insurers are not paying these statutory protections. They have *suppressed* the law announced above in this **Landmark Legal Discovery** since September 16, 2013. They have *suppressed* even the right to a declaration of the law announced in this **Landmark Legal Discovery** since September 16, 2013. The Class Members do not know their rights.¹

EX PARTE COMMUNICATIONS. Prior to any ruling on any motion now before the Court, the Plaintiffs and Class Members demand the Judges involved in ruling in this appeal REVEAL ANY EX PARTE COMMUNICATIONS not permitted by the Code of Conduct for United States Judges, cannon 3(a)(4), and its commentary in accordance with their motion which has been filed. Sadly, this Court has, so far, never ruled on the motion to reveal ex parte communications.

¹ The travel of this **Landmark Legal Discovery** is found in Exhibit 9 attached. In no action was the law as stated above declared to be what was pled by the Plaintiffs and Class Members or the law as denied by GEICO and USAA.

The Plaintiffs and Class Members have filed, inter alia, the following motions since this appeal was entered. None have met with a ruling. Instead, the Court has seen fit to allow the Appellees' motion to stay the briefing schedule.

1. MOTION FOR THE COURT TO ORDER DEFENDANTS' COUNSEL WHO ENTERED AN APPEARANCE IN DISTRICT COURT TO NOTICE APPEARANCE IN THIS COURT IF THEY HAVE NOT ALREADY DONE SO
2. MOTION FOR EACH JUDGE TO FILE A DISCLOSURE STATEMENT AS REQUIRED BY FRCP RULE 7.1 AND THE CODE OF CONDUCT FOR UNITES STATES JUDGES, etc.
3. MOTION FOR THE JUDGES TO REVEAL ANY EX PARTE COMMUNICATIONS NOT PERMITTED BY THE CODE OF CONDUCT FOR UNITED STATES JUDGES, CANNON 3(A) (4) (AND ITS COMMENTARY) AND MASSACHUSETTS RULES OF PROFESSIONAL CONDUCT
4. MOTION FOR THE PARTIES AND COUNSEL TO REVEAL ANY EX PARTE COMMUNICATIONS NOT PERMITTED BY THE CODE OF CONDUCT FOR UNITED STATES JUDGES, CANNON 3(A)(4) (AND ITS COMMENTARY), etc.
5. PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' (FIRST, ETC.), MOTION FOR THE COURT TO TRY ONE OF THE PLAINTIFFS' AND CLASS MEMBERS' MOTIONS
6. PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' MOTION FOR THE COURT TO REVEAL THE NAMES OF THE JUDGES ASSIGNED TO THIS APPEAL, ETC.

The Plaintiffs and Class Members believe the Court's conduct in refusing to even address their motions while catering to the Appellees in this **Landmark**

Legal Discovery is suspicious. Accordingly, Plaintiffs and Class Members move this Court for the names of the judges who disqualified under 28 U.S.C. § 455.

THE CLASS ACTION PLED:²

Massachusetts (Mass.) statute requires non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass.

GEICO, USAA, and The Commerce Insurance Company (CIC) disagree. All claim that law has been declared for the Plaintiff and Class Members³ (**res judicata**) and that those rights were declared in a state court action (**Rooker-Feldman**). Not even the most incompetent review of the state court Complaint reveals the law as pled above was declared at any time. Furthermore, not one count in that 2013 Complaint is pled in this Class Action. **Res judicata** and **Rooker-Feldman** cannot apply. See Exhibit 8 and compare each count therein with the Class Action.

IT IS A LIE. That **res judicata** or **Rooker-Feldman** apply is a lie. Such comments can only be made by the terribly incompetent. Or terribly corrupt. **There is no declaration of law that declares** “**Massachusetts statute requires non-Massachusetts resident motor vehicle owners to maintain Massachusetts PIP provisions as part of their policy of liability insurance when their vehicles are**

2 Not one count in the Class Action Complaint was ever addressed by the Court.

3 The corrupted District Court judge, Indira Talwani, actually struck papers filed by Class Members after refusing to address whether there was a Class to be certified under Rule 23. Without reason, justification, or excuse.

operated in the Commonwealth of Massachusetts” or that it does not. The corrupted judge, Indira Talwani, Appeals Court Judges in the 2021 and 2024 (interlocutory) appeals as well as GEICO, USAA, and CIC all refused to say **where** (in what declaration) that law was declared and **what that law is**. See Exhibit 3, p. 21, line 7 et seq..⁴

THE PLAINTIFFS AND CLASS MEMBERS STILL IN THE DARK. What were Allan M. Leavitt's rights (a 76 year-old war-era veteran and native of Mass. attempting to protect his grandchildren who live in Mass.), and all others, the day after the corrupt District Court judge, Indira Talwani, (with the Appellees) ruled the law was declared and he and Class Members traveled into Mass. from other states?

The Complaint demanded **“The Plaintiffs and Class Members demand that this Court: [A] declare that Massachusetts statute (M.G.L. ch. 90, § 3 and M.G.L. ch. 90, § 34A) requires non-resident motor vehicle owners to “maintain” Massachusetts PIP “provisions” as part of their “policy of liability insurance;” [B] declare that policies of liability insurance issued by GEICO, USAA and CIC provide Massachusetts PIP “protection;” [C] as well as other**

⁴ Because this is a civil action, the Plaintiffs, Class Members, and their Counsel find that remaining silent by the corrupted judge, Indira Talwani, and corrupted GEICO, USAA, and CIC, when demanded to say in what ruling the law was declared and what that law is, represents an **admission of guilt** that they, with intent, engaged in the crime of conspiracy to *suppress* the law and *suppression* of the law in this Class Action. See Exhibit 3, p. 21, line 7 et seq..

declarations referenced in the Prayer for Relief infra or, in the alternative, issue certified questions to the Massachusetts Supreme Judicial Court as requested in the Prayer for Relief...” See Exhibit 2, page 17, paragraph 20.

A declaration of the above has never been made in a state court action. How it could have been made for Class Members invoking *Rooker-Feldman* is absurd.

The emperor has no clothes. Or, in the alternative, no brains.⁵

And **what is the law** they say has been declared? This Court will answer that question as the corrupted District Court judge, GEICO, USAA, and CIC refuse to. See Exhibit 3, p. 21, line 7 et seq.. Otherwise, this Court will join their corruption and present the clearest evidence of public corruption in a petition for certiorari.

PROVIDENTIAL. It turns out to be providential that the Plaintiffs and Class Members have shared, and will be sharing, this courts' rulings with *Lawyers Weekly* as well as other publications and that this matter has also been reported to the FBI for investigation into public corruption. For the Public needs to know what has become of their rights under the Constitution and of their judges in Mass..

SUPREME COURT (SCOTUS). Ironically, SCOTUS Chief Judge Roberts' warning that “elected officials from across the political spectrum have raised the specter of open disregard for federal court rulings” is, in fact, the practice of the

⁵ “Against stupidity we are defenseless. Neither protests nor the use of force accomplish anything here; reasons fall on deaf ears.” Bonhoeffer, Dietrich. *Letters and Papers from Prison*. Arguing stupidity is more dangerous than evil.

judges in the state and federal courts in Mass. at the trial and appellate level revealing he clearly knows the Courts' encourage such disregard of their own rulings (*Lance v. Dennis*, 546 U.S. 459, 463 ((2006))⁶ which this 2021 court also ignored along with the SCOTUS Petition) rendering its own rulings worthless.

Justice Roberts' comments ring true in his annual address and speak volumes. It confirms that he knows his rulings will be disregarded. Otherwise, he would not have issued the warning.

OBVIOUS PRIOR AGREEMENT. It seems likely that summary disposition was agreed upon in advance by GEICO, USAA, and CIC with this Court in order to protect one another from having to answer to the crimes committed in District Court as will be raised in the issues on appeal in this case. For the issues raised in Exhibit 7 make it clear there are numerable issues for appeal.

DELIBERATE IGNORANCE. The Appellees' motion for summary disposition does not address the issues to be raised on appeal and identified in Exhibit 7.

The Court is demanded by the Plaintiffs and Class Members to address each

⁶ In the 2020 law suit Warren Buffet, Berkshire Hathaway, Inc. and many others were dismissed on the grounds of *res judicata* and *Rooker-Feldman*. Yet, they were never sued before. Claims were never made against them before. And declarations of law were never sought against them before. Dismissed in direct violation of the SCOTUS ruling in *Lance v. Dennis*, 546 U.S. 459, 463 (2006). A case never mentioned by the corrupted judge, Indira Talwani, nor this Court in No. 21-1561. The SCOTUS petition for certiorari was DENIED. One wonders how much Warren Buffet and Berkshire Hathaway, Inc. (and others) paid for that? Corrupted judge, Indira Talwani, never even mentioned their names.

issue raised in Exhibit 7 if it even thinks summary disposition is the way to go. The failure by GEICO, USAA, CIC, and this Court to respond to the allegations herein will represent irrefutable proof of their conspiracy to *suppress* a declaration of law.⁷

THE RULE:

...the court may dismiss the appeal or other request for relief or affirm and enforce the judgment or order below if the court lacks jurisdiction, or **if it shall clearly appear that no substantial question is presented**

Exhibit 7 reflects substantial questions presented all dealing with the fact that the Plaintiffs or Class Members do not know what the law is as pled above.

IGNORED CLASS ACTION COMPLAINT. The Defendants' motion for summary disposition lacks any reference to the Class Action Complaint to reflect where even one count was pled in a state court action or that even one count has been adjudicated and is **res judicata**. Substantial issues on appeal? These are crimes.

THOROUGH REVIEW OF ISSUES REQUIRED. In this Court's ruling on the motion for summary disposition, it must review each issue raised in Exhibit 7 state that it clearly appear that no substantial question is presented in each issue.

⁷ Proof of conspiracy is found, inter alia, in [a] GEICO's and USAA's refusal to respond to the Rule 65 demand preceding the 2020 action with [b] corrupted judge, Indira Talwani's, refusal to address the count for an injunction. Within nine days after the 2020 three hundred eighty-two page law suit was filed, the corrupted judge issued a threat that [a] (though she hadn't read ["screened"] it) the suit failed to state a claim and [b] **Rooker-Feldman** barred jurisdiction. Conspiracy. For no un-corrupted judge would conceive of something so inane.

VERY HIGH STANDARD. To obtain summary disposition in the United States Court of Appeals for the First Circuit, a movant must clearly, and without question, be entitled to relief on the merits. There must be no “substantial” question for the court to address and rule upon with respect to whether the law has been properly applied in the trial court and that the merits of the case must be so clear that plenary briefing, oral argument, and the traditional collegiality of the decisional process would not affect the decision.

The Defendants should be embarrassed by filing a motion that does not even begin to approach the standard whereby the movant for summary disposition must clearly be entitled to relief on the merits and there must be no “substantial” question for the court to decide. Unless, of course, they had advanced knowledge of the Court's position. This appeal is fraught with “substantial” questions.

And, indeed, the Court, in its September 11, 2024 denial of the interlocutory appeal indicated the Plaintiffs and Class Members have a right to full appeal when the matter in District Court was resolved. Those comments apparently have no meaning to the Appellees. The Appellees, having engaged in **summary process** for well over a decade now with respect to a declaration of that has never been made by any Court, seek summary process once again. Out of sheer desperation having engaged in crimes of *suppressing* the law with the judiciaries in Mass..

Notwithstanding, it is predicted, this Court will engage summary process to “plead the fifth.” For themselves and all who participated in these crimes. It wont work.

Horrified but not dissuaded. *Suppressed* but not silenced. Lied to but not deceived. Threatened but steadfast for Due Process and Democracy.⁸

G.L. c. 90, § 3 + G.L. c. 90, § 34A = PIP⁹

FOR THE INNOCENTS. Dedicated to those children injured and lost during a time of great madness on Gallows Hill since rejection of this **Landmark Legal Discovery** in 2013. We let you down.

THE DEATH OF DEMOCRACY. Mass. law and due process itself have been *suppressed* since 2013. By GEICO, USAA, CIC and their attorneys.¹⁰ In conspiracy¹¹ with Mass. state and federal judges. *See* Exhibit 1. The Constitution,

8 For Mr. Leavitt, the Class Members, and their Counsel believe “The only thing necessary for the triumph of evil is for good men to do nothing.” Author unknown.

9 For those Judges inexperienced in matters involving compulsory automobile insurance law or the 14th Amendment of the Constitution, sometimes pictures help. This algebraic image summarizing this **Landmark Legal Discovery** clearly shows Count I seeking declaratory judgment is neither **res judicata** nor jurisdictionally barred by the **Rooker-Feldman** Doctrine. Two incomprehensibly lame arguments made by GEICO, USAA, CIC and the corrupted District Court judge. More than once since the year 2020.

10 With the exception of CIC, the insurers (and other Defendants sued, but not required to answer) have engaged different counsel for the state court action, the 2020 District Court Action, and the Class Action. Because the state court action, the 2020 District Court action, and the Class Action all involved the fraud of these insurers as committed through their then-counsel in the previous action(s).

11 Mass. is drowning in a culture of conspiracy. As it did in Salem, 1692.

the Mass. statute, pleas, and issues brought before the Court, were all ignored. And *suppressed*. By those who acted above the law. 2013: The year GEICO, USAA, CIC, and the Mass. state and federal judiciaries began their descent into treason.

Crimes which have no equal in American Jurisprudence. At any time.

Therefore, this motion is directed to Chief Judge of the United States Court of Appeals for the First Circuit, David J. Barron, J. as well as: Sandra L. Lynch, Kermit V. Lipez, Jeffrey R. Howard, O. Rogeriee Thompson, William J. Kayatta, Jr., Gustavo A. Gelpi, Lara E. Montecalvo, Julie Rikelman, Lance E. Walker, Leo T. Sorokin, Joseph N. Laplantem Silvia Carreno-Coll, Mary S. McElroy should they be appointed. The Court of Appeals website contains conflicting information as to who are the judges appointed to the Court. This is no surprise.

The Plaintiffs and Class Members believe this Court's failure to act on the motions represents this Court's involvement in the *suppression* of this **Landmark Legal Discovery** and a declaration as far back as 2021 (*See* 21-1561 - Exhibit 4).

SUPPRESSED. Since suit has been pled in 2013, the Courts have not declared whether the following plea by the Class is the law, or is not:

Plea for Declaration: Mass. statute requires non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass..

And those who *suppressed* that law should be ashamed of themselves.

DISGRACE. The summary dismissal of the 21-1561 appeal without any referencing or addressing of the *issues raised on appeal* represents a sad chapter in American Jurisprudence as the law pled remains undeclared and no-one knows their rights. *See Exhibit 4. “Confusion now hath made his masterpiece.”*¹²

Sadder still is the fact that the Appeals Court Judges cannot tell their grandchildren whether **Mass. statute requires non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass.** or that it does not. And that is their job.

Such conduct should not be viewed as a compliment.¹³

The matter before the Court involves *suppression* of the Plaintiffs' and Class Members' rights of due process and equal protection in a declaration of law

¹²Shakespeare, William. *Macbeth*, Act II, Scene 3.

¹³This Court must tell the Plaintiffs and Class Members whether the law is as they have pled in Count I et seq.. The claims that these rights have been declared before (**res judicata**) in a state court action (*Rooker-Feldman*) represent fraud by these Appellees and the corrupted District Court Judge. They ask this Court to join them in their fraud once again. If those averments of **res judicata** and *Rooker-Feldman* are legitimate, this Court must show the Plaintiffs and Class Members exactly what document reflects that Mass. statute requires non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass.. Or that it does not.

involving urgent matters¹⁴ of “human welfare and public safety.” *O’roak v. Lloyds Casualty Company*, 285 Mass. 532, 536 (1934). And though the District Court has *suppressed* addressing a declaration of law as well as whether there exists a Class, shockingly, the *suppression* continues in the Court of Appeals for the First Circuit violating the Plaintiffs' and Class Members' due process and equal protection rights.

HISTORY OF SUPPRESSION. The Complaint in this Class Action clearly pled in Count I:

The entirety of this Class Action hinges and rests on the following proposition and plea for declaration¹⁵ by the Class Members which is, and has been, denied by these Defendants:

Proposition and Plea for Declaration: Mass. statute requires non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass..

See Exhibit 2. The plea was that the District Court *declare* that plea (pages 36 – 38). Yet, that plea was *suppressed* and ignored. Without any application of law to fact. Without reason, justification, or excuse. See G.L. c. 231A, § 3 which requires

14As of today, over four thousand four hundred and fifty-one days have passed since filing suit pleading this **Landmark Legal Discovery**. The 2015 and 2016 statistics reflect approximately 91,245 persons have been injured, entitled to personal injury protection coverages (\$729,964,000), and deprived by the corrupt and criminal acts of those listed in Exhibit 1. Those deprived include children. They include special-needs children. A stain that will never wash off.

15A declaration of the disputed law must be made for it is intended as a prospective trigger of coverage, rights, duties, and obligations; it is not a retrospective test. And people are entitled to know their rights.

a reason “state[d] in the record” should the Court refuse to declare the law. Not declaring the law deprives persons of knowing and being granted their rights. That is exactly what the judiciaries have done since September 16, 2013.

And all the corrupted District Court Judge needed to do was to declare Mass. statute DOES NOT require non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass.. She refused to do so.¹⁶ See Exhibit 3, p. 21, line 7 et seq.. Because the law was exactly as the Plaintiffs and Class Members have pled. And Truth never lies.

She was required to declare the law as a matter of due process. However, she intended to *suppress* a declaration of law and rights of due process. The corrupted judge, Indira Talwani, ruled (in D.E. 136) that the matters pled above by the Class and Class Representative have been declared before in a state court action (fraudulent grounds for dismissal by the Court at GEICO's, USAA's, and CIC's request were **res judicata** and *Rooker-Feldman* – neither were remotely justified).

THE COURT KNOWS THIS IS A CLASS ACTION. This Court knows well that the corrupted District Court judge, Indira Talwani, *suppressed* the rights of the Plaintiffs and Class Members by failing and refusing to address [a] whether there

¹⁶The same is true for the State Court. All judges have refused to do so because they cannot.

exists a Class,¹⁷ [b] whether the law as pled in the Complaint has been addressed, [c] whether the Plaintiffs' and Class Members' rights to due process and equal protection of the law have been violated by failing and refusing to address those rights among other rights which warrant interlocutory appeal for the reasons stated below, [d] whether there was a Class, [e] whether there was entitlement to a declaration of law by the Plaintiffs and Class Members, [f] whether the Plaintiff, ALLAN M. LEAVITT, was, is, and will always have, standing as a Class Representative, [g] among many other issues unaddressed by the trial court and for which the Class Members have reasons for which they can argue on appeal.

INSULT TO JUSTICE. What a profound insult to justice for the Court of Appeals for the First Circuit to ORDER the Plaintiffs and Class Members to “move for voluntary dismissal of the appeal pursuant to Fed. R. App. P. 42(b), or to show cause, in writing, why this appeal should not be dismissed for lack of jurisdiction” when, in fact, this Court knows (and has known since 2021 in the 21-1561 appeal) that the matters before the Court involve *suppression* of the plea for declaratory relief which claims that **Mass. statute requires...etc.** See all Complaints attached as Exhibits 2, 5, and 6. That law has never been declared. When the Plaintiffs and Class Members demanded the corrupted judge, Indira Talwani, inform them where that

¹⁷ Rule 23 requires the Court to issue a Certification Order “At an early practicable time after a person sues... the court must determine by order whether to certify the action as a class action.” No effort was ever made by the District Court.

law has been declared and what that law is that the Defendants claimed had been “declared,” the corrupted judge, Indira Talwani, refused to do so. Thereafter, she even refused to order GEICO, USAA, and CIC to do so. *See* Exhibit 3, page 21, at 7, et seq. evincing corrupted judge, Indira Talwani, pleading the fifth. And then the interlocutory appeal, 24-1115, was dismissed without the application of law to fact.

THE LAW AS PLED. A declaration of law which states, but is undeclared that: **Mass. statute requires non-Mass. resident motor vehicle owners to maintain Mass. Personal Injury Protection (PIP) provisions as part of their policy of liability insurance when their vehicles are operated in the Commonwealth of Mass.** has been *suppressed* by the judges. *See* Exhibit 1.

CLEAR ONGOING COLLUSION. This Class Action was filed on June 15, 2023. Nothing was done (i.e. there were no rulings on numerous motions filed) for almost 5 months then the case was summarily dismissed by the same corrupted judge,¹⁸ Indira Talwani, who dismissed other pleas for a declaration of law without

18 This corrupted judge, Indira Talwani, [A] ignored the Counts in the Complaint, [B] the arguments by the Plaintiffs and Class Members, [C] refused to allow the Public (Class Members) to listen telephonically to the December 13, 2023 hearing, [D] refused to reveal *ex parte* communications not permitted by the *Code of Conduct for United States Judges* when requested to do so by the Plaintiffs and Class Members, and [E] struck papers from the record filed by the Class Members which included the Plaintiffs – without adjudication, without application of law to fact. Far from impartial adjudication. In the 2020 law suit, corrupt judge, Indira Talwani, subjected Mr. Leavitt (a 76 year-old war-era veteran and *in forma pauperis* litigant who was not a prisoner and who had experienced legal counsel), to review his Complaint under the prisoner litigation

any application of law to fact (5, 6). Here she did so again for the Plaintiffs and entire Class without ever determining whether there exists a Class... (See within).

REASONABLY QUESTIONED. Witness the judges' actual obligations in 28 U.S.C. § 455. “Any justice, judge, or magistrate, of the United States shall disqualify himself/herself in any proceeding in which his/her *impartiality might reasonably be questioned.*” It was. Yet, corrupted judge, Indira Talwani, never disqualified herself despite her impartiality objectively clearly questioned. Repeatedly. She never addressed whether she engaged in ex parte communications and “denied” addressing the motion. Never answered where the law was declared and what it is. She refused to address the Counts in the Complaint. And refused to apply law to fact. Worse, this Class Action pled conduct involving a “conspiracy to suppress and actual suppression of the Plaintiffs' and Class Members' rights to a declaration of law... in the ... 2020 action in District Court.” See Exhibit 2, page 10, etc. The 2020 law suit in which corrupted Class Action judge, Indira Talwani, was adjudicator. Incredibly, in the 2023 Class Action she awarded \$50,000 in sanctions to GEICO and USAA *against Class Counsel* in order to reward her 2020 co-conspirators

reform act. She then dismissed his claims as **res judicata** and **Rooker-Feldman.** The Class Action was dismissed on the same grounds, however, neither Judge Guzman nor the corrupted judge, Indira Talwani, reviewed Mr. Leavitt's Class Action under the prisoner litigation reform act. Insurers never moved she do so.

(GEICO/USAA).¹⁹ Such conduct represents a corrupted judge attempting to cover up her crimes. For no un-corrupted judge would ever do something so despicable.²⁰

The Plaintiffs and Class Members demand the Court refrain from summary disposition^{21, 22} in this appeal as they did in the interlocutory appeal and the 2021 appeal (21-1561).²³ Either plead the Fifth,²⁴ or address the allegations herein. For, if there is anything redemptive in Humanity, it has to be the pursuit of Truth.²⁵

The Plaintiffs and Class Members move for the names of the judges who disqualified under 28 U.S.C. § 455 for **Mass. statute requires non-Mass. resident motor vehicle owners to maintain Mass. PIP provisions as part of their policy of**

19 Co-conspirator CIC did not move for sanctions in the Class Action.

20 Justice Sotomayor's recent observation sums up our current judicial dilemma. "The due process clause represents 'the principle that ours is a government of laws, not of men, and that we submit ourselves to rulers only if under rules.' *Youngstown Sheet & Tube Co. v. Sayers*, 343 U.S. 579, 646 (1952) (Jackson, J., concurring). **By rewarding lawlessness, the Court once again undermines that foundational principle.**" *Department of Homeland Security, et al., v. D.V.D., et al*, 606 U.S. ____ (2025), Sotomayor, J. dissenting. *Emphasis added.*

21 Abide due process and the law. In keeping with this democratic principle, Justice Jackson wrote recently concerning universal injunctions: "But, in my view, if this country is going to persist as a Nation of laws and not men, the Judiciary has no choice but to deny it. Stated simply, **what it means to have a system of government that is bounded by law is that everyone is constrained by the law, no exceptions.**" *Donald J. Trump, President of the United States, et al. v. Casa, Inc., et al.*, 606 U.S. __ (2025). Jackson, J. dissenting. *Emphasis added. This includes corrupted judges.*

22 Justices Sotomayor and Jackson - appointed by Democratic Presidents. Irony.

23 As well as the interlocutory appeal 24-1115.

24 This pertains to this Court and all those listed in Exhibit 1.

25 The Court is advised to acquiesce to that famous phrase "the competition of the market." *Abrams v. United States*, 250 U.S. 616 (1919). Don't *suppress* Truth.

liability insurance when their vehicles are operated in the Commonwealth of Mass. and has never been declared in any Court in a devastating blow to Democracy. Accordingly,

The wrongs which we seek to condemn and punish have been so calculated, so malignant, and so devastating, that Civilization cannot tolerate their being ignored, for it cannot survive their being repeated.

Jackson, Robert H. *Opening Statement*, Nuremberg Trials, November, 1945.

THE BURDEN OF KNOWING.²⁶ This is a Class Action. Finish out your crimes. For there is nothing that this Court, GEICO, USAA, or CIC can do to restore the faith of Mr. Leavitt, the Class Members, or their Counsel. What's done is done. And can't be undone. This is a **Landmark Legal Discovery.**^{27, 28} This is history.^{29, 30}

Attached is a Reply to Bar Counsel's "complaint." It is Exhibit 10.

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- 26 **The burden of knowledge** represents the difficulty of adding new knowledge in a scientific field for it involves understanding and assimilating the vast amount of previous work. **The burden of knowing** adds a moral perspective.
- 27 "From his pen, or in his head, slowly or swiftly as his capacities admit, out of the murk the pattern emerges, his pattern, the expression of what he has seen and what he has therefore made, the impress of his self upon the not-self, upon the hitherto formless material of which he was once but a part, and over which he has now become the master." Billings Learned Hand. From **Learned Hand, The Man and the Judge** by Gerald Gunther, Knopf (1994), 402.
- 28 More important than the **Landmark Legal Discovery** is the **Landmark Legal Revelation** of how our judiciaries work for RICO enterprises voiding our due process rights and Democracy. And disrespecting every immigrant who came to this country and sacrificed themselves for Democracy.
- 29 Exhibit 9 reflects a summary of each law suit filed since 2013.
- 30 There are approximately 29,000 homeless on the streets of Mass.. Some are children. Some special-needs children. Soon, you will think differently of them.

CODA: BEHIND THE EYES OF THE MEN.

Quitting time at the plant. Time for supper now. Time for families. Time for a cool drink on a porch. Time for the quiet rustle of leaf-laden trees that screen out the Moon. And underneath it all, behind the eyes of the men, hanging invisible over the summer night, is a horror without words. For this is the stillness before storm. This is the eve of the end.³¹

Serling, Rodman Edward. **Third from the Sun.** Twilight Zone, Season 1, Episode 15 (January 8, 1960).

CONCLUSION

WHEREFORE, the Appellants and Class Members move for judges to disqualify under 28 U.S.C. § 455 if their “impartiality might reasonably be questioned.”

William J. Ruotolo
/s/ William J. Ruotolo
BBO #628288, 1st Cir. #39922
PO Box 111
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Dated: November 23, 2025

31 For the Massachusetts Superior Court, the Massachusetts Appeals Court, the Massachusetts Supreme Judicial Court, the United States District Court for the District of Massachusetts, the United States Court of Appeals for this First Circuit, and the Supreme Court of the United States have proven, beyond reasonable doubt, the Truth of the proposition that “The longer you stare into the abyss, the abyss begins to stare back.” Nietzsche, Friedrich Wilhelm.

CERTIFICATE OF SERVICE
CASE: 24-2139

I hereby certify that these documents consisting of:

PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' FOURTH MOTION FOR THE NAMES OF THE JUDGES WHO DISQUALIFIED UNDER 28 U.S.C. § 455

and filed through the CM/ECF system have been sent electronically to the registered participants as identified on the NEF and paper copies will be sent to those indicated as non registered participants on:

November 23, 2025

The participants electronically notified are:

GEICO INDEMNITY COMPANY, by its attorneys, James L. Tuxbury, Esq., HINCKLEY, ALLEN & SNYDER, LLP 28 State Street Boston, MA 02109, jtuxbury@hinckleyallen.com and Barry I. Levy, Esq., RIVKIN RADLER LLP, 926 RXR Plaza, Uniondale, New York 11556, Barry.Levy@Rivkin.com, and Brian L. Bank, Esq., RIVKIN RADLER LLP, 926 RXR Plaza, Uniondale, New York 11556, Brian.Bank@Rivkin.com;

THE COMMERCE INSURANCE COMPANY, by its attorney, John Callahan, Esq., FINNEGAN, UNDERWOOD, RYAN & TIERNEY, 101 Federal Street, Suite 1900, Boston, MA 02110, jrc@furlaw.com, and

UNITED SERVICES AUTOMOBILE ASSOCIATION, by its attorneys, Daniel P. Tighe and Nathaniel R.B. Koslof, DONNELLY CONROY & GELHAAR, 260 Franklin Street, Suite 1600, Boston, MA 02110, dpt@dcglaw.com, nrbk@dcglaw.com, and Rodger L. Eckelberry, Esq. And Kevin P. Zimmerman, Esq., BAKER & HOSTETLER LLP, 200 South Civic Center Drive, Suite 1200, Columbus, OH 43215-4138, kzimmerman@bakerlaw.com, reckelberry@bakerlaw.com, pac@dcglaw.com.

/s/ William J. Ruotolo

Dated: November 23, 2025

William J. Ruotolo

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ALLAN M. LEAVITT, Individually and as)
Class Representative, and J. Doe,)
1-100, Individually and as Class)
Representatives,)

Plaintiffs,)

v.)

UNITED SERVICES AUTOMOBILE)
ASSOCIATION, GEICO INDEMNITY COMPANY,)
and THE COMMERCE INSURANCE COMPANY,)
INC.,)

Defendants.)

Civil Action No.
4:23-cv-11341-IT

BEFORE THE HONORABLE INDIRA TALWANI, DISTRICT JUDGE

MOTION HEARING

Wednesday, December 13, 2023
11:11 a.m.

John J. Moakley United States Courthouse
Courtroom No. 9
One Courthouse Way
Boston, Massachusetts

Robert W. Paschal, RMR, CRR
Official Court Reporter
rwp.reporter@gmail.com

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1 MR. ECKELBERRY: Good morning, Your Honor. Roger
2 Eckelberry, also for USAA.

3 THE COURT: Good morning.

4 So we are here on defendants' motions to dismiss,
5 and my procedure is usually to go back and forth. I'll start
6 with the moving party and proceed back and forth. I guess
7 there's three -- three motions. I don't have a preference of
8 which one of you starts.

9 MR. LEVY: I guess since I'm closest, I'll start,
10 Your Honor.

11 The arguments by the defendants are relatively
12 similar across the board. As Your Honor is aware from the
13 prior ruling several years ago, what we have here is a
14 remanufacture of a case that was filed in this court in 2020
15 that's now been restyled as a class action.

16 Fundamentally, the issues in this case are no
17 different than they were in 2020, which deal with the
18 question of whether or not Mr. Leavitt has an entitlement to
19 PIP benefits under policies of insurance that the variance
20 insurance companies wrote dating back to an accident that
21 occurred in 2010.

22 THE COURT: So I think that plaintiff asserts that
23 there are several differences in this action than the 2020.
24 As best as I understand, one is the allegations of the class,
25 and the other is an allegation of continuing suppression of a

1 legal decision.

2 What's your response to those two things?

3 MR. LEVY: As far as the class allegation is
4 concerned, that's a red herring. And the reason it's a red
5 herring, Your Honor, is very simple. In order for
6 Mr. Leavitt to be a class representative, which is a
7 threshold determination, he has to have individual rights and
8 sustain individual harm that he could bring on behalf of the
9 class.

10 I mean, in some of the rulings that Your Honor has
11 recently issued in response to the filings that plaintiff has
12 made, it has made it very clear that you are not a class
13 representative; you are not yet the person who can represent
14 the class.

15 And fundamentally, he would need to have standing
16 on that particular issue in order for him to proceed. His
17 rights have already been adjudicated. They were adjudicated
18 in 2014 and 2015. He had the opportunity to appeal to the
19 Massachusetts Appellate Court, which he did. He petitioned
20 the Supreme Court in Massachusetts unsuccessfully, filed the
21 petition for cert with the United States Supreme Court, and
22 then turned around and tried to relitigate the issue here
23 three years ago.

24 So he has lost this particular issue individually
25 all along the way; and, so, therefore, the fact that he

1 brands himself a class representative is immaterial as far as
2 this case is concerned.

3 THE COURT: And on the second point that there is a
4 continuing violation that he has a right to have addressed?

5 MR. LEVY: Again, I believe that that is an
6 absolute red herring, and not only that, but it's a
7 mischaracterization. When you talk about continuing
8 suppression rights, again, his rights have been adjudicated.
9 He had an opportunity to fairly and adequately present his
10 position in the state court proceeding, all the way up
11 through the appellate court.

12 He had the ability to argue, and he did argue in
13 the 2020 litigation before Your Honor essentially the same
14 thing, that his rights were being suppressed, that he was
15 entitled to a determination different from what had happened
16 in the state court. Under *Rooker-Feldman*, this Court
17 correctly held that it was not within this Court's
18 jurisdiction to go back and relitigate that issue.

19 And don't forget he also took that -- an appeal of
20 that decision to the First Circuit, which affirmed for
21 exactly the same reasons that this Court decided to dismiss
22 his case on a 12(b)(1). So I believe that that argument is
23 covered by the prior determinations as well.

24 THE COURT: Okay. Mr. Ruotolo, do you want to
25 respond?

1 MR. RUOTOLO: Yes. Thank you, Judge.

2 When counsel refers to the 2013 collision and
3 lawsuit --

4 THE COURT: He didn't. He didn't say anything
5 about that. That didn't happen right now.

6 MR. RUOTOLO: I believe he said that it was a
7 rehashing of the 2013 lawsuit, if --

8 THE COURT: Yes, but he didn't mention anything
9 about the collision. So let's start with the two points I
10 asked him, and maybe you could respond to those.

11 The two differences that you seem to be asserting,
12 and maybe there's some further, but between this case and the
13 2020 case, is that this is a class action and, therefore, you
14 think that gives a different posture; and second -- or that's
15 being filed as a class action -- and the second that you
16 suggest there's an ongoing violation.

17 Do I correctly understand those two arguments?

18 MR. RUOTOLO: You are, with the addition that
19 Mr. Leavitt is here and has filed this class action under a
20 2013 contract with GEICO not adjudicated anywhere.
21 Res judicata does not apply.

22 THE COURT: Wait, wait, wait. So there's a third
23 argument that you're saying is different than the other two,
24 and the third argument is that there is -- there were things
25 that were brought up in 2013 that have yet to be adjudicated?

1 MR. RUOTOLO: Is a brand-new contract --

2 THE COURT: There's a brand-new contract in 2013?

3 MR. RUOTOLO: With GEICO. It's an renewal
4 contract. Correct.

5 THE COURT: Wait. I'm not understanding you. If
6 it's 2013, how is it a brand-new contract?

7 MR. RUOTOLO: I'm sorry. 2023.

8 THE COURT: Okay. So he has a 2023 contract with
9 GEICO. Does that claim have anything to do with Commerce?

10 MR. RUOTOLO: Yes.

11 THE COURT: And what's the connection between that
12 contract with GEICO and Commerce?

13 MR. RUOTOLO: Commerce and GEICO promised to pay
14 out-of-state coverages which are required, for instance, in
15 Massachusetts.

16 THE COURT: Wait, wait, wait. He has a contract
17 with GEICO in which Commerce is making a promise?

18 MR. RUOTOLO: Commerce has an obligation under the
19 policies that they write --

20 THE COURT: Wait. Maybe I'm misunderstanding.
21 Does -- Commerce and GEICO, are they the same? I'm not
22 following you.

23 MR. RUOTOLO: Not to my knowledge, no. No one --

24 THE COURT: So he has a contract with GEICO under
25 which Commerce has made a promise to him? I'm just not

1 following you.

2 MR. RUOTOLO: I didn't say that.

3 THE COURT: I think that is what you said. So,
4 please, just help me here again on this third point, which is
5 that you say he has a contract with GEICO.

6 MR. RUOTOLO: Correct.

7 THE COURT: My question is does that third point
8 also apply to your claims against Commerce?

9 MR. RUOTOLO: With respect to the law that needs to
10 be declared, yes.

11 THE COURT: Okay. So that's -- I don't -- I don't
12 want to be disrespectful, but that doesn't follow contract
13 law, right? So if you have a contract, you can ask a judge
14 to consider that contract, and I'm just trying to figure out
15 how a contract with GEICO would give rise to a claim against
16 Commerce.

17 MR. RUOTOLO: There's no -- there's no claim in the
18 lawsuit that that's the case. In fact, the Court's invited
19 to look at Count 1 specifically, and it seeks a declaration
20 of --

21 THE COURT: So, Mr. Ruotolo, we can't have this
22 conversation if we're not -- if you're not hearing my
23 questions. I asked what were the differences between these
24 other things. And we had two, which we'll come back to, that
25 one is you say there's an ongoing problem, and the second is

1 that you say there's a class action, and then you said
2 there's also a 2023 contract with GEICO.

3 And so my question was -- as to this "also," this
4 2023 contract with GEICO, my question is does that have
5 anything to do with the -- Commerce as a defendant or only
6 the first two arguments? I'm just trying to piece together
7 what your arguments are here.

8 MR. RUOTOLO: And I'll say, for purposes of how I
9 understand your question, I don't think so.

10 THE COURT: Okay.

11 MR. RUOTOLO: The issue here and the plaintiff's
12 position is whether or not the statute requires Massachusetts
13 compulsory insurance on non-Massachusetts vehicles.

14 THE COURT: Okay.

15 MR. RUOTOLO: And that has not been subject to --

16 THE COURT: Okay. So -- so I think that comes -- I
17 think I'm understanding correctly that you are asserting that
18 there's a difference here from the prior suits, that you're
19 claiming there's a difference here from the prior suits first
20 because you have filed this as a class action; secondly,
21 because you think that there still needs to be -- that
22 there's an ongoing issue that you have an ongoing right to
23 do; and, third, that you have a 2023 breach of contract claim
24 against GEICO.

25 Am I correctly just getting the lay of the land

1 here?

2 MR. RUOTOLO: You are, except with respect to your
3 point, your second point. Because Mr. Leavitt is here today
4 in the Commonwealth of Massachusetts, he's entitled to
5 protections and a declaration of the law as pled in Count 1
6 of the complaint.

7 His presence makes him vulnerable to the statute,
8 which he indicates requires Massachusetts compulsory
9 insurance on nonresident vehicles should he be struck by a
10 nonresident vehicle as a pedestrian or if he's injured in a
11 vehicle in Massachusetts. And that's been the case, and it
12 will repeat daily until that law is cleared, which, again, is
13 what the insurance company has denied.

14 THE COURT: Okay. So let's start with the first
15 point, which is your assertion that this differs from the
16 prior litigation because you're bringing it as a class
17 action. And defendants argue, and I think my electronic
18 orders are consistent with that, that regardless of claims
19 that class members may have, in order for Mr. Leavitt to
20 proceed, he has to have a claim. And he can't rest his
21 standing and he can't be beat back a motion to dismiss based
22 on class.

23 Do you have any authority to counter that?

24 MR. RUOTOLO: I'm sorry; do I --

25 THE COURT: Anything to say in counter to that?

1 MR. RUOTOLO: Only the statute, which says, number
2 one, he's entitled to relief; and, therefore, he --

3 THE COURT: I'm sorry; tell me -- tell me -- again,
4 please help me here, because I'm trying to not have every
5 question I have simply have the same answer. I'm trying to
6 actually unravel this. Okay?

7 So I have broken this down, and I'm asking you a
8 very focused question here now, which is do you have any
9 disagreement that Mr. Leavitt has to have standing in his own
10 right, and he can't withstand their motions to dismiss based
11 on the rights of class members?

12 So if I were, for example, to say, okay, this other
13 person over here might have some rights, that wouldn't help
14 Mr. Leavitt, correct? And if you disagree with that, on what
15 authority?

16 MR. RUOTOLO: I don't understand your question.

17 THE COURT: Okay. Let me try again. You argue in
18 your papers that what you're doing here in 2023 differs --
19 is -- you're entitled to proceed, and you say in opposition
20 to their motions to dismiss that you're entitled to proceed.
21 And you claim to being entitled to proceed for a number of
22 reasons.

23 One of the reasons that you claim to be entitled to
24 proceed is because now you have filed this as a putative
25 class action, whereas before, Mr. Leavitt was proceeding

1 alone. I understand there are other arguments, and we're
2 going to get to them. But as to this class action claim, do
3 you have any argument in response to what I have said and
4 what defendants have said, which is that a person who wants
5 to be the class representative has to have a claim in their
6 own right?

7 MR. RUOTOLO: I think I understand your question.
8 I believe he has standing individually as it indicates in the
9 complaint, but I also --

10 THE COURT: I understand we're going to get to
11 that.

12 MR. RUOTOLO: Yeah, also --

13 THE COURT: I'm going to let you get to that. My
14 question -- I don't know if -- I'm not quite sure. You're a
15 licensed member of the bar, and I can't talk to you as if
16 you're a pro se litigant. I have to assume, as an attorney,
17 you can handle these concepts.

18 So the concept I am trying to have you handle is
19 put aside for one moment whether he does or doesn't have
20 standing. And I'm asking you this question, you know,
21 whether you want to call it a hypothetical: If he doesn't
22 have standing, do you agree with me that he can't say, "Well,
23 I still get to come based on some other class member's
24 claim"?

25 MR. RUOTOLO: I agree.

1 THE COURT: Okay. So the class issue is completely
2 off the table, and today we're talking about Mr. Leavitt and
3 whether Mr. Leavitt has a claim. Fair enough?

4 MR. RUOTOLO: We would disagree with that approach,
5 but if that's what you rule --

6 THE COURT: In what way -- I'm giving you an
7 opportunity to tell me what's wrong with that approach. If
8 you think he can base his standing on standing of class
9 members, please speak up and explain it to me, because every
10 case that I understand and the way the statute is written,
11 everything else, other than your opening paragraph that a
12 case is a class action before it's certified somehow, I know
13 of no authority to support that.

14 So I just want to make sure that we're on the same
15 page here, that what we're doing here today is figuring out
16 whether Mr. Leavitt can bring this claim, because he can't
17 proceed if he can't bring the claim. He can't rest on the
18 class. And you said to me you disagree with that approach,
19 so tell me what's wrong.

20 MR. RUOTOLO: And for the record, he is entitled to
21 bring a claim on behalf of the class because he's entitled to
22 the statutory provisions today here in this lawsuit and the
23 day that he filed the lawsuit.

24 THE COURT: So, Mr. Leavitt -- I'm sorry --
25 Mr. Ruotolo, do you understand that you have asserted two or

1 three different arguments? I'm trying to figure out whether
2 they are different arguments or whether you are throwing the
3 same thing up against the wall each time.

4 And so my question to you -- if you could just
5 answer it in a straightforward way, I would really appreciate
6 it -- if you claim that he can proceed simply because maybe
7 other class members could proceed, if that is your argument,
8 what is your authority?

9 MR. RUOTOLO: That is not the argument.

10 THE COURT: Okay. So then we're going to talk now
11 for the rest of the time here about whether Mr. Leavitt can
12 proceed, because that's the issue that has to be figured out,
13 right?

14 MR. RUOTOLO: Clearly, we are not understanding one
15 another.

16 THE COURT: Okay.

17 MR. RUOTOLO: Mr. Leavitt -- Mr. Leavitt is
18 entitled to statutory provisions.

19 THE COURT: Okay. Statutory provisions, meaning
20 you think that he has some right to bring some claim in his
21 own name, correct?

22 MR. RUOTOLO: On behalf of himself.

23 THE COURT: Okay. So then let's figure if that
24 part is correct.

25 MR. RUOTOLO: Is there a question?

1 THE COURT: No, I'm just -- you're suggesting that
2 my approach is wrong, and that's my approach --

3 MR. RUOTOLO: No.

4 THE COURT: -- which is does he have a right to
5 bring a claim?

6 MR. RUOTOLO: I think it's incomplete because he
7 isn't -- he has an entitlement under the statute to be
8 protected by Massachusetts compulsory insurance -- he, and
9 according to the statute, everyone else. That's the
10 argument.

11 THE COURT: Mr. Ruotolo, can you bring a claim --
12 you're a licensed attorney in this court. Are you allowed to
13 bring a claim on behalf of other people who aren't here,
14 absent class certification?

15 MR. RUOTOLO: Yes, because it's a class action.
16 Class certification comes after --

17 THE COURT: So have you ever succeeded on a class
18 action in your -- you've been a lawyer for awhile, right?

19 MR. RUOTOLO: Thirty years.

20 THE COURT: Have you ever had a class certified?

21 MR. RUOTOLO: No.

22 THE COURT: Have you ever been appointed class
23 counsel, interim class counsel, proposed class counsel?

24 MR. RUOTOLO: I -- no idea the importance of the
25 question, Judge, but the answer is no.

1 THE COURT: Okay. Do you have any authority for
2 the notion that when someone writes "class action" on a
3 complaint, that creates a class action rather than a putative
4 class action?

5 MR. RUOTOLO: I do.

6 THE COURT: And what's your authority for that?

7 MR. RUOTOLO: Federal Judicial --

8 THE COURT: I'm sorry?

9 MR. RUOTOLO: The Federal Judicial Center.

10 THE COURT: The line that you've been quoting,
11 which says that I have an obligation to protect those people
12 who you are trying to represent but haven't yet found,
13 correct?

14 MR. RUOTOLO: That's correct.

15 THE COURT: And you -- and that is the sole basis,
16 and you don't understand or credit the notion that you have
17 to have a determination that it would be proper to proceed?
18 Because let's assume for a moment that you are correct that
19 other people, your putative class members, have some rights
20 here. And you proceed with what you call a class action, and
21 I rule against this based on Mr. Leavitt not having a claim;
22 and thereby, all those putative class members will lose all
23 of their rights.

24 Is that how I should protect them?

25 MR. RUOTOLO: It's doubtful to me that that's the

1 case.

2 THE COURT: Okay. All right. Let's go on and move
3 on to Mr. Leavitt. I think I've exhausted the class
4 question.

5 On the point about the assertion that he is
6 entitled to an adjudication of rights, wouldn't it be fair to
7 say that that was what you were asking for in 2020 also; that
8 you felt in 2020, when you came into this court, that the
9 state courts hadn't adjudicated his rights; and you came to
10 this Court and said there's no adjudication of his rights, he
11 has a right to have his rights declared? Isn't that what you
12 asked of me before?

13 MR. RUOTOLO: To have his rights declared? Yeah, I
14 would imagine, in light of the fact that it was a lawsuit.

15 THE COURT: Yeah, and that you argued at that time
16 that the courts had suppressed his right to have a
17 declaration, right? Isn't that what you argued in 2020?

18 MR. RUOTOLO: I believe it was that the defendants
19 did.

20 THE COURT: That the defendants suppressed his
21 rights --

22 MR. RUOTOLO: In fact, that's what's pled in this
23 class action; and, that is, that the defendants conspired to
24 suppress a declaration of what the Massachusetts law is.

25 THE COURT: And that's what you argued in 2020,

1 right?

2 MR. RUOTOLO: We did.

3 THE COURT: And I ruled on it. You think that my
4 ruling was incorrect, but I did rule on your complaint,
5 correct?

6 MR. RUOTOLO: You indicated that those claims that
7 were brought in district court were already decided in state
8 court.

9 THE COURT: Okay. And you thought I was wrong?
10 Yes?

11 MR. RUOTOLO: Yeah.

12 THE COURT: And you appealed it.

13 MR. RUOTOLO: We did.

14 THE COURT: And you appealed it all the way up to
15 the First Circuit, and then you filed a cert petition, right?

16 MR. RUOTOLO: That's right.

17 THE COURT: And you stand here today and say, okay,
18 so I did all of that, but I still think that you were right
19 and the Court was wrong, so you're going to just keep
20 refiling, right?

21 I mean, it's, essentially -- I see where you say
22 this is -- the 2020 case was different from the 2017. I can
23 understand you're saying that those were slightly different
24 things. And I said, well, *Rooker-Feldman* means you have a
25 broader number of things that are excluded than exactly what

1 you argued. It's a broader -- a broader thing. And you
2 thought I was wrong about that, and you appealed it.

3 But how is this case -- I get how you can say the
4 2017 and -- the 2020 and 2017 were different. How does this
5 case differ from the 2020 case, other than the class
6 allegations?

7 MR. RUOTOLO: Mr. Leavitt's rights still are not
8 declared. You are invited, Judge, to tell him what the law
9 is in Massachusetts, whether or not it requires Massachusetts
10 compulsory insurance on non-Massachusetts motor --

11 THE COURT: So --

12 MR. RUOTOLO: -- vehicle policies, liability
13 insurance, which the insurance companies deny and have
14 denied --

15 THE COURT: And so --

16 MR. RUOTOLO: -- for decades, and which, Judge,
17 respectfully, has not been declared, is not --

18 THE COURT: So --

19 MR. RUOTOLO: -- res judicata, nor is it
20 *Rooker-Feldman*.

21 THE COURT: Have you read my decision from 2021?

22 MR. RUOTOLO: Of course I did.

23 THE COURT: Okay. So the decision from 2021 goes
24 through pages 2 through --

25 MR. RUOTOLO: 19?

1 THE COURT: -- 2 through 4, and talks about what
2 happens in Superior Court, and pages 5 through 7 and what
3 happens through the Mass appellate courts.

4 So to the extent that Mr. Leavitt wants to know
5 about his rights, it's laid out there. It's shorthand of
6 what happened in the state court, and it's sort of set forth
7 there. To the extent you're saying I should independently
8 decide whether the state court is right or wrong as to what
9 they said about his rights, that's *Rooker-Feldman*. Right?

10 MR. RUOTOLO: No.

11 THE COURT: And why not?

12 MR. RUOTOLO: The law has not been declared.

13 THE COURT: And the reason you say the law has not
14 been declared is because there was no declaratory judgment
15 action --

16 MR. RUOTOLO: That --

17 THE COURT: -- or because you don't like what they
18 said the law was?

19 MR. RUOTOLO: That, and because there's no ruling
20 that declares that either the statute requires these
21 provisions or it does not. The people of the commonwealth
22 and the people coming in protected by the laws of the
23 commonwealth --

24 THE COURT: So tell me, when I read --

25 MR. RUOTOLO: -- have a right --

1 THE COURT: So when I read the Court of Appeals'
2 decision and the Court of Appeals' decision seems to me to
3 say that, if you lived in a state some years earlier, those
4 30 days doesn't create this obligation for insurance and that
5 it's limited to the year of the -- related to the incident or
6 issue in question, why is that not a declaration of what the
7 rights are and what the statute requires?

8 MR. RUOTOLO: It's not what was pled in the
9 complaint. It's the same thing --

10 THE COURT: It's not what was pled in the
11 complaint?

12 MR. RUOTOLO: Either the statute requires these
13 provisions on nonresident vehicles or it does not.

14 THE COURT: So what you're saying is you don't like
15 what the Court of Appeals declared?

16 MR. RUOTOLO: I'm saying they did not declare the
17 law.

18 THE COURT: Okay.

19 MR. RUOTOLO: Neither did the Superior Court
20 declare the law, and that was not the issue on appeal,
21 whether or not the law was declared.

22 THE COURT: Okay.

23 MR. RUOTOLO: The issue on appeal in the appeals
24 court was whether or not Mr. Leavitt's rights of due process
25 and equal protection were violated in a refusal to declare

1 law.

2 THE COURT: Okay. So, again, we get to the problem
3 here, though, which is this is what you asked to have happen
4 before. And frankly, whether I was right or wrong, you're
5 entitled to have the judge consider it, and then you're
6 entitled to go up on appeal. And whether they're right or
7 wrong, that's kind of the end of the day. You don't get to
8 keep saying, "No, I think I'm right; therefore, I can keep
9 filing," right?

10 I mean, essentially, that's what we're here about
11 today, is that when you were here in 2020, you didn't like
12 what had happened at the state court.

13 MR. RUOTOLO: I disagree. In fact, in 2020, a
14 count in the complaint was very similar to the one here in
15 this class action. And it requested and demanded this Court
16 declare the law or in the alternative --

17 THE COURT: Okay. And maybe I should have -- maybe
18 I should --

19 MR. RUOTOLO: -- the Supreme Judicial Court to get
20 clarification as to whether or not the statute requires these
21 provisions.

22 THE COURT: And I made a ruling that ended the
23 case. You don't like that ruling.

24 MR. RUOTOLO: What you said was --

25 THE COURT: So you appeal it. That's what you did.

1 That's your remedy.

2 MR. RUOTOLO: What you said was that the entirety
3 of the district court action on November 30, 2020, was
4 brought in state court and decided there.

5 THE COURT: Okay. And you thought I was wrong.

6 MR. RUOTOLO: I did.

7 THE COURT: And you appealed it.

8 MR. RUOTOLO: I did.

9 THE COURT: And I was affirmed. You won't -- you
10 won't agree with that, that I was affirmed?

11 MR. RUOTOLO: Well, if --

12 THE COURT: I mean, do I need to read you the
13 First Circuit --

14 MR. RUOTOLO: Procedurally, that's what happened.
15 It was affirmed. That's right.

16 THE COURT: I just -- you know, I don't know what
17 would possibly motivate -- I can hear that you think very
18 much so that you're right, but you're an attorney. You have
19 an obligation --

20 MR. RUOTOLO: Send me home, Judge. Send me home.
21 Let them or you tell Mr. Leavitt what the statute is in
22 Massachusetts, what his rights are when he walks out this
23 door.

24 THE COURT: So --

25 MR. RUOTOLO: Let him know. Tell them.

1 THE COURT: So --

2 MR. RUOTOLO: Tell them to let him know. Do they
3 cover him if he's struck by a nonresident motor vehicle that
4 they ensure? The statute says yes. They say no, it doesn't.
5 Ask them now.

6 THE COURT: So I think what people normally do in
7 these circumstances is they ask their lawyer, who they've
8 hired, to go and look at what was said and done in the case
9 and come back and say, "This is what I can advise you." And
10 I think you have enough information there. You have those
11 answers. I don't think there is any basis for this game
12 you're playing.

13 Does your client understand that there are pending
14 motions for sanctions that could reach him as well as you?
15 Have you discussed that with him?

16 MR. RUOTOLO: You know I have.

17 THE COURT: Okay. Explain -- one other thing I
18 want, and then I will just see if there's anything else that
19 we need to finish up here, GEICO is -- you claim you have a
20 current contract with GEICO. And USAA, you say he's a
21 member.

22 I can't figure out why -- other than the 2013 car
23 accident, I can't figure out why Commerce is here.

24 MR. RUOTOLO: Conspiracy to suppress the law in
25 2020.

1 THE COURT: Okay.

2 MR. RUOTOLO: Those are the counts in the lawsuit
3 which clearly conflict with your adjudication in this class
4 action.

5 THE COURT: Yeah. Okay. Okay.

6 I don't -- anything else you want to add at this
7 point?

8 MR. RUOTOLO: To what?

9 THE COURT: To what you've argued here so far?

10 MR. RUOTOLO: Well, first of all, the motions by
11 the defendants, all three of them claim *res judicata* and
12 *Rooker-Feldman*. Neither argument affects jurisdiction. They
13 offered nothing. They've pointed to no count in this lawsuit
14 in which they indicate it has been adjudicated anywhere, no
15 law. They won't tell us what the law is. Their arguments
16 fail completely.

17 THE COURT: Okay.

18 MR. RUOTOLO: And, obviously, you can't have a 2023
19 contract or claims in 2020 haven't been adjudicated in 2013
20 in a lawsuit then. So that's all I have to add.

21 THE COURT: Okay. Anything from counsel?

22 MR. LEVY: Let me just address just briefly,
23 Your Honor, this whole notion for the first time that now he
24 has a contract in 2023. First of all, that's found nowhere
25 in the complaint. That's not what's pled, so this is

1 information -- secondly, under *TransUnion* -- I would invite
2 Mr. Ruotolo to read *TransUnion* -- he has to have standing.
3 In other words, there has to be something that would trigger
4 an obligation under the insurance policy to pay a claim.

5 The fact that somebody buys a policy of insurance,
6 until there's an event that triggers coverage, doesn't give
7 somebody standing. And *TransUnion*, which the Supreme Court
8 decided two years ago, and all the cases that have come out
9 at the district court level since that make that very clear.

10 The other thing is this: As far as I know, this
11 gentleman is a Vermont resident. Okay? The appeals court
12 in -- back in, I think it was, 2016, and This Honor's
13 decision from two years ago, make it very clear this is not a
14 situation like what happened in 2010 when he was a passenger
15 in a vehicle, right?

16 I mean, he has his own coverage. The appeals court
17 made it very clear that if you're going to drive into the
18 commonwealth, you have an affirmative obligation to purchase
19 the coverage. So what are we talking about here in terms of
20 where his legal rights are?

21 The obligation is on him, if he's going to drive
22 into the commonwealth, to buy the coverage. Has he done it?
23 I have no idea, but it's largely irrelevant.

24 THE COURT: I think the declaration I think he's
25 asking for is if he shows up in -- here, he could be a

1 pedestrian, and he gets hit by someone else, what obligations
2 do they have? I think that's his question. But, of course,
3 then that doesn't try to your contract.

4 MR. LEVY: That doesn't tie to my contract. That
5 would tie to somebody else's contract, presumably.

6 And, secondly, even if that is his question, the
7 appeals court has already made clear that -- what the
8 circumstances are under which someone is obligated to afford
9 themselves of that coverage.

10 The distinction that he drew, which is it doesn't
11 make a difference if you drive in your entire lifetime,
12 moreover, a defined period of time, this 30 days, you're
13 obligated for coverage, that's not what the law is as decided
14 by the intermediate appellate court. You know, don't forget
15 that the Supreme Judicial Court of Massachusetts declined to
16 take an appeal of the determination in that case.

17 So the law is declared at this point in
18 Massachusetts on what that issue is. And that's all I would
19 add on this point, Your Honor. Thank you very much.

20 MR. RUOTOLO: Can I respond to that, Judge?

21 THE COURT: Certainly.

22 MR. RUOTOLO: First of all, with respect to the
23 claims that Mr. Leavitt can't sue, et cetera, anybody that
24 finds themselves in the Commonwealth of Massachusetts has a
25 right to bring an action against any insurance company.

1 THE COURT: So where do you have that? Under what
2 standing -- what basis for standing? So you're saying that,
3 rather than having cases and controversies that are sort of
4 focused on a particular dispute, anybody can walk into my
5 courtroom and say, "Hey, tell me what" --

6 MR. RUOTOLO: Yeah.

7 THE COURT: -- "they are"? And where do you get
8 that? You're an attorney.

9 MR. RUOTOLO: From the fact that they denied the
10 statute requires these provisions. So someone out on the
11 street --

12 THE COURT: But, Mr. Ruotolo, again, you're an
13 attorney. You're not a pro se litigant. Do you understand
14 that if you have a gripe about just general policies,
15 et cetera, you can go to your legislature; but you can't go
16 to a court and say, "I want -- in the absence of a particular
17 dispute, I want rights declared." There's no authority for
18 that.

19 MR. RUOTOLO: There's no authority if you don't
20 have standing and if there's no --

21 THE COURT: And you have no standing -- you can't
22 just go and buy an insurance contract and say, "I now have
23 standing." You know, let's -- supposing you want to know if
24 it's going to rain and your roof starts leaking what coverage
25 you'll have. And you go into court, and you say, "I have a

1 house. I have a roof. I have an insurance policy. Tell me,
2 if it rains next week, whether I'll have coverage."

3 Do you think you could bring that claim?

4 MR. RUOTOLO: Yes.

5 THE COURT: Okay. So you're mistaken.

6 MR. RUOTOLO: I don't think so, because they've
7 already denied the Massachusetts statute requires PIP on --
8 and compulsory insurance on non-Massachusetts vehicles.

9 Let me make my second point with respect to the
10 claims that it's not Mr. Leavitt's vehicle, it's somebody
11 else's. That's a -- that's a limited understanding of the
12 insurance contract. Liability policies are primary, and some
13 are secondary.

14 If the vehicle that Mr. Leavitt is in happens to
15 have denied coverage because they didn't pay, nonpayment, and
16 he's injured but his vehicle is at home up in Vermont, he has
17 coverage. He has liability coverage because when he's in the
18 commonwealth, he is required to carry personal injury
19 protections provisions or compulsory insurance on his motor
20 vehicle policy and liability.

21 THE COURT: Great. Then you don't have any further
22 questions. You seem to know an answer to it.

23 MR. RUOTOLO: Well, I understand the issue with
24 primacy of coverages and what was stated by counsel is
25 incorrect.

1 THE COURT: Okay. Anything else?

2 MR. LEVY: Just as a -- if my co-counsel have
3 anything to add? Unfortunately -- I just want to make sure
4 they have an opportunity --

5 MR. ECKELBERRY: Your Honor, just briefly, with
6 respect to USAA, Mr. Ruotolo is incorrect that the Superior
7 Court did not declare the law. This is from the judgment,
8 because -- quote, "Because Count 9 seeks a declaratory
9 judgment, the Court declares the rights of the parties,
10 instead of dismissing the claim."

11 And the Superior Court concluded, quote, "The Court
12 declares that USAA has no obligation to provide PIP coverage
13 for the November 24, 2010, accident at issue in this case,"
14 closed quote.

15 It has been declared. And for all the reasons
16 Your Honor said and counsel said earlier, it was rejected in
17 2020, and I feel like this is a catch-22, Your Honor.

18 MR. RUOTOLO: It was a summary judgment. What was,
19 quote, "declared" by the judge in the summary judgment was
20 not requesting he declare USAA's rights or obligations, but
21 that the statute either does or does not require
22 Massachusetts compulsory insurance on non-Massachusetts
23 vehicles. It is not a declaration of law, either way, either
24 that it does or it doesn't.

25 MR. CALLAHAN: Your Honor, briefly, on behalf of

1 Commerce, the appeals court also said in its decision in 2016
2 the judge properly declared Leavitt's rights. So all of
3 Leavitt's rights were declared in the state court action. As
4 to Commerce, Commerce never ensured Mr. Leavitt, never had a
5 contract with him. We've just been along for this
6 unfortunate ride for many years now, and it doesn't look like
7 it's going to end.

8 Mr. Ruotolo has said in his pleadings, if this
9 Court rules against him, he's going to try again. He's going
10 to keep on trying, and he's going to keep on including
11 Commerce in this. And that is just -- I don't know how
12 that -- how that stops if we're just continuing to have to
13 come into court and file an opposition to a -- or file a
14 motion to dismiss.

15 But I would request on behalf of Commerce that if
16 the Court makes any rulings in this case, that if the
17 plaintiff intends to file a new complaint, that he has to go
18 through some sort of screening process to determine if
19 there's a valid claim against my client.

20 He's impermissibly grouped Commerce in as the
21 "defendants," end quotes, in all of his pleadings. He's
22 accused me, my firm, my client of criminal acts. He included
23 the defense counsel in the 2013 action as defendants in
24 his -- in his -- in his prior cases. And there's just no
25 evidence for this. There's nothing in the complaint that

1 makes out any case that Commerce has been involved in any
2 conspiracy.

3 And Your Honor had asked him whether the courts
4 were involved in this as well. He wouldn't answer
5 Your Honor's question, but he has accused the Court of being
6 involved in criminal acts. He's accused the judges of the
7 Massachusetts Supreme Judicial Court of being involved. He
8 accused the Court of having a mystery judge, as he termed it,
9 sitting on the bench at a hearing in 2014.

10 I've been involved in this case since the get-go,
11 since the very beginning of the case, and the allegations
12 have become more and more off the rails as we've moved along.

13 And I would request on behalf of my client that
14 Your Honor put a stop to this and somehow order that
15 Mr. Ruotolo have some good faith basis to make a claim
16 against my client if he's going to file some other lawsuit
17 down the road, because I think that's going to happen,
18 because he's said it's going to happen.

19 MR. RUOTOLO: Not once did Mr. Callahan mention
20 what the law is, what the law sought to be declared is. No
21 allegations were made with respect to future lawsuits by
22 Mr. Leavitt, but that there will be future lawsuits, it's
23 obvious. If the statute requires these provisions, why
24 aren't they having the law declared? Why aren't they
25 protecting people?

1 There are children out on that street now, Judge --
2 let me finish -- that need the protections for whom their
3 policyholders pay billions. Why won't they acknowledge the
4 law? Why won't they take it on themselves to have law
5 declared?

6 And when I say that, I mean, if the statute doesn't
7 require PIP, just tell Attorney Ruotolo to go home, you don't
8 know what you're talking about. But they never did that, and
9 they won't do that, because what they did was suppress the
10 law.

11 THE COURT: So I don't find any record of the law
12 being suppressed. I find what appears to be an inability of
13 counsel to read the decisions that have issued. So I will --
14 I will get out a written order, but I will be granting these
15 motions to dismiss and --

16 MR. LEVY: Just one housekeeping matter,
17 Your Honor: There's a scheduling conference that's scheduled
18 for tomorrow. Several of us are here from out of town, came
19 up for today's argument at the request of Your Honor. We're
20 happy to do so. Would it be possible if we would request
21 that the scheduling conference be put off pending a decision
22 from the Court on the motions to dismiss?

23 THE COURT: That request is allowed. The
24 scheduling conference set for tomorrow is canceled and will
25 be reset as appropriate, if appropriate. And I will also --

1 I have the -- I think it's seven pending motions for
2 sanctions that I will address as well.

3 With regard to the screening order, I appreciate
4 why you may be asking for it. In general, we -- when we've
5 issued those screening orders, we've dealt with those with
6 pro se litigants. I think here, the more -- the more
7 appropriate way for me to proceed is to consider Mr. Ruotolo
8 as an attorney and to consider whether he's meeting or not
9 his obligations under Rule 11.

10 MR. CALLAHAN: Thank you, Your Honor.

11 THE COURT: So I don't think a screening order is
12 particularly helpful here. It is -- I have the Rule 11
13 standard.

14 MR. CALLAHAN: Thank you, Your Honor.

15 THE COURT: We are in recess.

16 (Court in recess at 11:55 a.m.)
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CERTIFICATE OF OFFICIAL REPORTER

1
2
3
4 I, Robert W. Paschal, Registered Merit Reporter and
5 Certified Realtime Reporter, in and for the United States
6 District Court for the District of Massachusetts, do hereby
7 certify that pursuant to Section 753, Title 28, United States
8 Code, the foregoing pages are a true and correct transcript
9 of the stenographically reported proceedings held in the
10 above-entitled matter and that the transcript page format is
11 in conformance with the regulations of the Judicial
12 Conference of the United States.

13
14 Dated this 11th day of January, 2024.

15
16
17
18
19 /s/ Robert W. Paschal

20 _____
21 ROBERT W. PASCHAL, RMR, CRR
22 Official Court Reporter
23
24
25

General Docket
United States Court of Appeals for the First Circuit

Court of Appeals Docket #: 24-2139 Nature of Suit: 4470 RICO Leavitt v. United Services Automobile Association, et al Appeal From: District Court of MA, Worcester Fee Status: in forma pauperis	Docketed: 12/19/2024 Termed: 11/12/2025																				
Case Type Information: 1) civil 2) private 3) other statutes																					
Originating Court Information: District: 0101-4 : 4:23-cv-11341-IT Lead: 4:23-cv-11341-IT Court Reporter: Robert W. Paschal Trial Judge: Margaret R. Guzman, U.S. District Judge Ordering Judge: Indira Talwani, U.S. District Judge Date Filed: 06/15/2023 <table style="width: 100%; border: none;"> <tr> <td style="width: 25%;">Date Order/Judgment:</td> <td style="width: 25%;">Date Order/Judgment EOD:</td> <td style="width: 25%;">Date NOA Filed:</td> <td style="width: 25%;">Date Rec'd COA:</td> </tr> <tr> <td>12/11/2024</td> <td>12/11/2024</td> <td>12/15/2024</td> <td>12/15/2024</td> </tr> </table>		Date Order/Judgment:	Date Order/Judgment EOD:	Date NOA Filed:	Date Rec'd COA:	12/11/2024	12/11/2024	12/15/2024	12/15/2024												
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12/11/2024	12/11/2024	12/15/2024	12/15/2024																		
Prior Cases: <table style="width: 100%; border: none;"> <tr> <td style="width: 25%;">21-1561</td> <td style="width: 25%;">Date Filed: 07/30/2021</td> <td style="width: 25%;">Date Disposed: 04/07/2022</td> <td style="width: 25%;">Disposition: Affirmed</td> </tr> <tr> <td>24-1115</td> <td>Date Filed: 02/13/2024</td> <td>Date Disposed: 09/11/2024</td> <td>Disposition: Dismissed</td> </tr> </table>		21-1561	Date Filed: 07/30/2021	Date Disposed: 04/07/2022	Disposition: Affirmed	24-1115	Date Filed: 02/13/2024	Date Disposed: 09/11/2024	Disposition: Dismissed												
21-1561	Date Filed: 07/30/2021	Date Disposed: 04/07/2022	Disposition: Affirmed																		
24-1115	Date Filed: 02/13/2024	Date Disposed: 09/11/2024	Disposition: Dismissed																		
Current Cases: <table style="width: 100%; border: none;"> <thead> <tr> <th style="width: 15%;"></th> <th style="width: 15%;">Lead</th> <th style="width: 15%;">Member</th> <th style="width: 15%;">Start</th> <th style="width: 15%;">End</th> </tr> </thead> <tbody> <tr> <td>Related</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td>24-2139</td> <td>25-1979</td> <td>10/21/2025</td> <td></td> </tr> <tr> <td></td> <td>25-1253</td> <td>25-1979</td> <td>10/21/2025</td> <td></td> </tr> </tbody> </table>			Lead	Member	Start	End	Related						24-2139	25-1979	10/21/2025			25-1253	25-1979	10/21/2025	
	Lead	Member	Start	End																	
Related																					
	24-2139	25-1979	10/21/2025																		
	25-1253	25-1979	10/21/2025																		
Panel Assignment: Not available																					

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v.	
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ALLAN M. LEAVITT, Individually, and as Class Representative,

Plaintiff - Appellant,

JOHN DOE 1-100, Individually, and as Class Representatives,

Plaintiff,

v.

UNITED SERVICES AUTOMOBILE ASSOCIATION, a Texas Department of Insurance Regulated Reciprocal Inter-insurance Exchange and
Subsidiary; GEICO INDEMNITY COMPANY; THE COMMERCE INSURANCE COMPANY,

Defendants - Appellees,

J. ROE 1-100,

Defendant.

12/19/2024	<input type="checkbox"/> 	CIVIL CASE docketed. Notice of appeal (doc. #180) filed by Appellant Allan M. Leavitt. Appearance form, Docketing Statement, and Transcript Report/Order form due 01/02/2025 . [24-2139] (AVN) [Entered: 12/19/2024 10:45 AM]
12/19/2024	<input type="checkbox"/> 	NOTICE of appearance on behalf of Appellant Allan M. Leavitt and Not Party John Doe 1-100 filed by Attorney William J. Ruotolo. Served on 12/19/2024. [24-2139] (WJR) [Entered: 12/19/2024 11:53 AM]
12/19/2024	<input type="checkbox"/> 	TRANSCRIPT report/order form filed by Appellant Allan M. Leavitt and Not Party John Doe 1-100 indicating transcripts are being ordered. Served on 12/19/2024. [24-2139] CLERK'S NOTE: The wrong PDF file was attached. The correct form is available to be downloaded from this court's website. THE FILER IS DIRECTED TO RE-FILE THE DOCUMENT WITHIN TWO DAYS (12/23) . (WJR) [Entered: 12/19/2024 11:56 AM]
12/19/2024	<input type="checkbox"/> 	DOCKETING statement filed by Appellant Allan M. Leavitt. Served on 12/19/2024. [24-2139] CLERK'S NOTE: Party selection was incorrect. Correction made by clerk's office. No further action required. (WJR) [Entered: 12/19/2024 12:37 PM]
12/19/2024	<input type="checkbox"/> 	TRANSCRIPT report/order form filed by Appellant Allan M. Leavitt indicating transcripts are being ordered. Served on 12/19/2024. [24-2139] CLERK'S NOTE: Party selection was incorrect. Correction made by clerk's office. No further action required. (WJR) [Entered: 12/19/2024 05:42 PM]
12/22/2024	<input type="checkbox"/> 	MOTION FOR EACH JUDGE TO FILE A DISCLOSURE STATEMENT AS REQUIRED BY FRCP RULE 7.1 AND THE CODE OF CONDUCT FOR UNITES STATES JUDGES CANON 3C(1)(c) filed by Appellant Allan M. Leavitt. Served on 12/22/2024. [24-2139] (WJR) [Entered: 12/22/2024 05:49 AM]
12/22/2024	<input type="checkbox"/> 	MOTION FOR THE PARTIES AND COUNSEL TO REVEAL ANY EX PARTE COMMUNICATIONS NOT PERMITTED BY THE CODE OF CONDUCT FOR UNITED STATES JUDGES, CANNON 3(A)(4) (AND ITS COMMENTARY) AND MASSACHUSETTS RULES OF PROFESSIONAL CONDUCT filed by Appellant Allan M. Leavitt. Served on 12/22/2024. [24-2139] (WJR) [Entered: 12/22/2024 05:52 AM]
12/22/2024	<input type="checkbox"/> 	MOTION FOR THE JUDGES TO REVEAL ANY EX PARTE COMMUNICATIONS NOT PERMITTED BY THE CODE OF CONDUCT FOR UNITED STATES JUDGES, CANNON 3(A)(4) (AND ITS COMMENTARY) AND MASSACHUSETTS RULES OF PROFESSIONAL CONDUCT filed by Appellant Allan M. Leavitt. Served on 12/22/2024. [24-2139] (WJR) [Entered: 12/22/2024 05:55 AM]
12/22/2024	<input type="checkbox"/> 	MOTION FOR THE COURT TO ORDER THE CLERK TO ISSUE THE BRIEFING SCHEDULE filed by Appellant Allan M. Leavitt. Served on 12/22/2024. [24-2139] (WJR) [Entered: 12/22/2024 05:57 AM]
12/27/2024	<input type="checkbox"/> 	NOTICE of appearance on behalf of Appellee United Services Automobile Association filed by Attorney Kevin P. Zimmerman. Served on 12/27/2024. [24-2139] (KPZ) [Entered: 12/27/2024 02:14 PM]
12/27/2024	<input type="checkbox"/> 	NOTICE of appearance on behalf of Appellee United Services Automobile Association filed by Attorney Rodger L. Eckelberry. Served on 12/27/2024. [24-2139] (RLE) [Entered: 12/27/2024 02:16 PM]
12/30/2024	<input type="checkbox"/> 	NOTICE of appearance on behalf of Appellee GEICO Indemnity Company filed by Attorney Barry I. Levy. Served on 12/30/2024. [24-2139] (BIL) [Entered: 12/30/2024 10:57 AM]
12/30/2024	<input type="checkbox"/> 	NOTICE of appearance on behalf of Appellee GEICO Indemnity Company filed by Attorney Brian L. Bank. Served on 12/30/2024. [24-2139] (BLB) [Entered: 12/30/2024 11:00 AM]
12/30/2024	<input type="checkbox"/> 	NOTICE of appearance on behalf of Appellee Commerce Insurance Company filed by Attorney John R Callahan. Served on 12/30/2024. [24-2139] (JRC) [Entered: 12/30/2024 01:47 PM]
12/30/2024	<input type="checkbox"/> 	TRANSCRIPT report/order form filed by Appellant Allan M. Leavitt indicating all necessary transcripts have already been filed in district court. Served on 12/30/2024. [24-2139] (WJR) [Entered: 12/30/2024 04:22 PM]
12/31/2024	<input type="checkbox"/> 	MOTION for counsel who entered an appearance in District Court to enter an appearance in this Court if they have not already done so filed by Appellant Allan M. Leavitt. Served on 12/31/2024. [24-2139] CLERK'S NOTE: Docket entry was edited to modify the docket text. (WJR) [Entered: 12/31/2024 03:34 AM]
12/31/2024	<input type="checkbox"/> 	BRIEFING schedule set. Brief and Appendix due 02/10/2025 for appellant Allan M. Leavitt. Pursuant to F.R.A.P. 31(a), appellees' brief(s) will be due 30 days following service of appellant's brief and appellant's reply brief will be due 21 days following service of appellees' brief(s). [24-2139] (AVN) [Entered: 12/31/2024 08:49 AM]
12/31/2024	<input type="checkbox"/> 	NOTICE of appearance on behalf of Appellee United Services Automobile Association filed by Attorney Pietro A. Conte. Served on 12/31/2024. [24-2139] (PAC) [Entered: 12/31/2024 09:44 AM]

- 01/02/2025  NOTICE of appearance on behalf of Appellee United Services Automobile Association filed by Attorney Daniel P. Tighe. Served on 01/02/2025. [24-2139] (DPT) [Entered: 01/02/2025 12:05 PM]
1 pg, 114.83 KB
- 01/02/2025  RESPONSE filed by Appellee United Services Automobile Association to motion for miscellaneous relief [[6689249-2](#)]. Served on 01/02/2025. [24-2139] (RLE) [Entered: 01/02/2025 01:35 PM]
15 pg, 174.81 KB
- 01/02/2025  NOTICE of *Correction to Docketing Statement* filed by Appellee United Services Automobile Association. Served on 01/02/2025. [24-2139] (RLE) [Entered: 01/02/2025 01:36 PM]
4 pg, 80.7 KB
- 01/03/2025  RESPONSE filed by Appellant Allan M. Leavitt to notice [[6690805-2](#)]. Served on 01/03/2025. [24-2139] (WJR) [Entered: 01/03/2025 04:06 AM]
18 pg, 160.25 KB
- 01/03/2025  REPLY filed by Appellant Allan M. Leavitt to response [[6690804-2](#)]. Served on 01/03/2025. [24-2139] (WJR) [Entered: 01/03/2025 04:09 AM]
18 pg, 162.59 KB
- 01/07/2025  JOINT MOTION for summary disposition filed by Appellees Commerce Insurance Company, GEICO Indemnity Company and United Services Automobile Association. Served on 01/07/2025. [24-2139] **CLERK'S NOTE: Party selection was incomplete. Correction made by clerk's office. No further action required.** (RLE) [Entered: 01/07/2025 01:43 PM]
25 pg, 168.88 KB
- 01/07/2025  JOINT MOTION to stay *Briefing Schedule* filed by Appellees Commerce Insurance Company, GEICO Indemnity Company and United Services Automobile Association. Served on 01/07/2025. [24-2139] **CLERK'S NOTE: Party selection was incomplete. Correction made by clerk's office. No further action required.** (RLE) [Entered: 01/07/2025 01:46 PM]
9 pg, 99.93 KB
- 01/08/2025  MOTION (*SECOND*) FOR THE COURT TO ORDER DEFENDANTS' COUNSEL WHO ENTERED AN APPEARANCE IN DISTRICT COURT TO NOTICE APPEARANCE IN THIS COURT IF THEY HAVE NOT ALREADY DONE SO filed by Appellant Allan M. Leavitt. Served on 01/08/2025. [24-2139] (WJR) [Entered: 01/08/2025 03:57 AM]
21 pg, 170.62 KB
- 01/09/2025  RESPONSE filed by Appellee United Services Automobile Association to motion [[6691804-2](#)]. Served on 01/09/2025. [24-2139] (RLE) [Entered: 01/09/2025 01:25 PM]
5 pg, 98.86 KB
- 01/09/2025  REPLY filed by Appellant Allan M. Leavitt to response [[6692066-2](#)]. Served on 01/09/2025. [24-2139] **CLERK'S NOTE: Docket entry was edited to modify the docket text.** (WJR) [Entered: 01/09/2025 06:12 PM]
22 pg, 171.28 KB
- 01/12/2025  RESPONSE filed by Appellant Allan M. Leavitt to motion for summary disposition [[6691669-2](#)]. Served on 01/12/2025. [24-2139] (WJR) [Entered: 01/12/2025 04:32 AM]
600 pg, 5.28 MB
- 01/12/2025  RESPONSE filed by Appellant Allan M. Leavitt to motion to stay [[6691670-2](#)]. Served on 01/12/2025. [24-2139] (WJR) [Entered: 01/12/2025 04:34 AM]
5 pg, 98.27 KB
- 01/15/2025  DISCLOSURE statement filed by Appellee GEICO Indemnity Company. Served on 01/15/2025. [24-2139] (BIL) [Entered: 01/15/2025 01:02 PM]
2 pg, 1.77 MB
- 01/15/2025  REPLY filed by Appellees Commerce Insurance Company, GEICO Indemnity Company and United Services Automobile Association to response [[6692360-2](#)]. Served on 01/15/2025. [24-2139] **CLERK'S NOTE: The ECF filer did not select the option that best describes the document. Correction made by clerk's office. No further action required.** (RLE) [Entered: 01/15/2025 01:44 PM]
12 pg, 189.44 KB
- 01/15/2025  DISCLOSURE statement filed by Appellee United Services Automobile Association. Served on 01/15/2025. [24-2139] (RLE) [Entered: 01/15/2025 03:53 PM]
4 pg, 84.24 KB
- 01/15/2025  DISCLOSURE statement filed by Appellee Commerce Insurance Company. Served on 01/15/2025. [24-2139] (JRC) [Entered: 01/15/2025 04:20 PM]
3 pg, 81.45 KB
- 01/16/2025  ORDER entered by Seth Robert Aframe, Appellate Judge: Upon consideration, Appellees United Services Automobile Association, GEICO Indemnity Company, and The Commerce Insurance Company's opposed motion to stay briefing pending the court's decision on the motion for summary disposition is granted. [24-2139] (AVN) [Entered: 01/16/2025 09:38 AM]
1 pg, 10.28 KB
- 01/17/2025  RESPONSE filed by Appellee United Services Automobile Association to motion for miscellaneous relief [[6691804-2](#)]. Served on 01/17/2025. [24-2139] (RLE) [Entered: 01/17/2025 12:59 PM]
5 pg, 111.17 KB
- 01/20/2025  MOTION FOR THE COURT TO TRY ONE OF THE PLAINTIFFS' AND CLASS MEMBERS' MOTIONS filed by Appellant Allan M. Leavitt. Served on 01/20/2025. [24-2139] (WJR) [Entered: 01/20/2025 06:28 AM]
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- 01/31/2025  MOTION PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' SECOND MOTION FOR THE COURT TO TRY ONE OF THE PLAINTIFFS' AND CLASS MEMBERS' MOTIONS filed by Appellant Allan M. Leavitt. Served on 01/31/2025. [24-2139] (WJR) [Entered: 01/31/2025 03:36 AM]
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- 01/31/2025 CASE submitted. Panel: Gustavo A. Gelpi, Jr., Appellate Judge; Lara E. Montecalvo, Appellate Judge; Julie Rikelman, Appellate Judge. [24-2139] (KPC) [Entered: 11/13/2025 08:50 AM]
- 02/11/2025  MOTION PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' THIRD MOTION FOR THE COURT TO TRY ONE OF THE PLAINTIFFS' AND CLASS MEMBERS' MOTIONS filed by Appellant Allan M. Leavitt. Served on 02/11/2025. [24-2139] (WJR) [Entered: 02/11/2025 03:34 AM]
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- 02/22/2025  MOTION FOR THE COURT TO TRY ONE OF THE PLAINTIFFS' AND CLASS MEMBERS' MOTIONS filed by Appellant Allan M. Leavitt. Served on 02/22/2025. [24-2139] **CLERK'S NOTE: Docket entry was edited to modify the docket text.** (WJR) [Entered: 02/22/2025 03:09 AM]
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- 03/05/2025  MOTION PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' FIFTH MOTION FOR THE COURT TO TRY ONE OF THE PLAINTIFFS' AND CLASS MEMBERS' MOTIONS filed by Appellant Allan M. Leavitt. Served on 03/05/2025. [24-2139] (WJR) [Entered: 03/05/2025 03:16 AM]
600 pg, 5.28 MB
- 03/18/2025  MOTION PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' SIXTH MOTION FOR THE COURT TO TRY ONE OF THE PLAINTIFFS' AND CLASS MEMBERS' MOTIONS filed by Appellant Allan M. Leavitt. Served on 03/18/2025. [24-2139] (WJR) [Entered: 03/18/2025 03:55 AM]
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- 04/01/2025  MOTION PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' SEVENTH MOTION FOR THE COURT TO TRY ONE OF THE PLAINTIFFS' AND CLASS MEMBERS' MOTIONS filed by Appellant Allan M. Leavitt. Served on 04/01/2025. [24-2139] (WJR) [Entered: 04/01/2025 04:05 AM]
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- 04/15/2025  MOTION PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' EIGHTH MOTION FOR THE COURT TO TRY ONE OF THE PLAINTIFFS' AND CLASS MEMBERS' MOTIONS filed by Appellant Allan M. Leavitt. Served on 04/15/2025. [24-2139] (WJR) [Entered: 04/15/2025 03:40 AM]
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- 04/26/2025  MOTION PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' NINTH MOTION FOR THE COURT TO TRY ONE OF THE PLAINTIFFS' AND CLASS MEMBERS' MOTIONS filed by Appellant Allan M. Leavitt. Served on 04/26/2025. [24-2139] (WJR) [Entered: 04/26/2025 04:35 AM]
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- 05/07/2025  MOTION PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' TENTH MOTION FOR THE COURT TO TRY ONE OF THE PLAINTIFFS' AND CLASS MEMBERS' MOTIONS filed by Appellant Allan M. Leavitt. Served on 05/07/2025. [24-2139] (WJR) [Entered: 05/07/2025 03:33 AM]
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- 05/31/2025  MOTION PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' TWELFTH MOTION FOR THE COURT TO TRY ONE OF THE PLAINTIFFS' AND CLASS MEMBERS' MOTIONS filed by Appellant Allan M. Leavitt. Served on 05/31/2025. [24-2139] (WJR) [Entered: 05/31/2025 01:49 AM]
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- 06/17/2025  MOTION PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' THIRTEENTH MOTION FOR THE COURT TO TRY ONE OF THE PLAINTIFFS' AND CLASS MEMBERS' MOTIONS filed by Appellant Allan M. Leavitt. Served on 06/17/2025. [24-2139] (WJR) [Entered: 06/17/2025 03:07 AM]
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- 06/28/2025  MOTION PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' FOURTEENTH MOTION FOR THE COURT TO TRY ONE OF THE PLAINTIFFS' AND CLASS MEMBERS' MOTIONS filed by Appellant Allan M. Leavitt. Served on 06/28/2025. [24-2139] (WJR) [Entered: 06/28/2025 03:29 AM]
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6 pg, 93.99 KB
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09/09/2025	 628 pg, 5.69 MB	MOTION PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' TWENTIETH MOTION FOR THE COURT TO TRY ONE OF THE PLAINTIFFS' AND CLASS MEMBERS' MOTIONS filed by Appellant Allan M. Leavitt. Served on 09/09/2025. [24-2139] (WJR) [Entered: 09/09/2025 02:22 AM]
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09/16/2025	 64 pg, 1.69 MB	MOTION PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' FIFTH MOTION FOR THE COURT TO REVEAL THE NAMES OF THE JUDGES ASSIGNED TO THIS APPEAL, ETC. filed by Appellant Allan M. Leavitt. Served on 09/16/2025. [24-2139] (WJR) [Entered: 09/16/2025 03:43 AM]
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11/08/2025	<input type="checkbox"/> 	MOTION <i>THIRD MOTION FOR THE PARTIES AND COUNSEL TO REVEAL ANY EX PARTE COMMUNICATIONS NOT PERMITTED BY THE CODE OF CONDUCT FOR UNITED STATES JUDGES, CANNON 3(A)(4) (AND ITS COMMENTARY) AND MASSACHUSETTS RULES OF PROFESSIONAL CONDUCT</i> filed by Appellant Allan M. Leavitt. Served on 11/08/2025. [24-2139] (WJR) [Entered: 11/08/2025 02:42 AM]
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11/09/2025	<input type="checkbox"/> 	MOTION <i>PLAINTIFF, ALLAN M. LEAVITT, PLAINTIFFS', AND CLASS MEMBERS' THIRD MOTION FOR THE NAMES OF THE JUDGES WHO DISQUALIFIED UNDER 28 U.S.C. 455</i> filed by Appellant Allan M. Leavitt. Served on 11/09/2025. [24-2139] (WJR) [Entered: 11/09/2025 02:15 AM]
	628 pg, 5.7 MB	
11/12/2025	<input type="checkbox"/> 	JUDGMENT entered by Gustavo A. Gelpí, Jr., Appellate Judge; Lara E. Montecalvo, Appellate Judge and Julie Rikelman, Appellate Judge. Appellees' motion for summary disposition is <u>granted</u> , and the judgment of the district court is <u>affirmed</u> in all respects. All remaining pending motions or requests, to the extent not mooted by the foregoing, are <u>denied</u> . Appellant and his counsel are strongly cautioned, for the second time, against the filing of additional frivolous or repetitive motions in proceedings before this court. <u>See</u> Appeal 21-1561, judgment entered April 7, 2022 (first warning by this court). [24-2139] (AVN) [Entered: 11/12/2025 02:39 PM]
	2 pg, 76.29 KB	
12/04/2025	<input type="checkbox"/> 	MANDATE issued. [24-2139] (GB) [Entered: 12/04/2025 08:35 AM]
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ALLAN M. LEAVITT,

Plaintiff,

v.

UNITED SERVICES AUTOMOBILE
ASSOCIATION, GEICO INDEMNITY
COMPANY, and THE COMMERCE
INSURANCE COMPANY, INC.,

Defendants.

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Civil Action No. 4:23-cv-11341-IT

ORDER OF DISMISSAL

December 11, 2024

TALWANI, D.J.

Pursuant to the court’s Memorandum & Order [Doc. No. 135] granting Defendants’ Motions to Dismiss [Doc. Nos. 31, 53, 56], Plaintiff’s Complaint [Doc. No. 1] is dismissed. This case is CLOSED.

IT IS SO ORDERED.

/s/ Indira Talwani
United States District Judge