

1 Myron D. Rumeld\*  
mrumeld@proskauer.com  
2 Neil V. Shah\*  
nshah@proskauer.com  
3 Anastasia S. Gellman\*  
agellman@proskauer.com  
4 PROSKAUER ROSE LLP  
Eleven Times Square  
5 New York, NY 10036  
Tel.: 212.969.3000  
6 Fax: 212.969.2900

7 Scott P. Cooper (SBN 96905)  
scooper@proskauer.com  
8 Jennifer L. Roche (SBN 254538)  
jroche@proskauer.com  
9 PROSKAUER ROSE LLP  
2029 Century Park East, Suite 2400  
10 Los Angeles, California 90067  
Tel.: 310.557.2900  
11 Fax: 310.557.2193

12 Jani K. Rachelson\*  
jrachelson@cwsny.com  
13 Evan R. Hudson-Plush\*  
ehudson-plush@cwsny.com  
14 COHEN, WEISS AND SIMON LLP  
900 Third Avenue, Suite 2100  
15 New York, NY 10022-4869  
Tel.: 212.563.4100  
16 Fax: 646.473.8254

17 \* *admitted pro hac vice*

18 *Attorneys for Defendants*

19 UNITED STATES DISTRICT COURT

20 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

21 EDWARD ASNER, *et al.*,

22 Plaintiffs,

23 vs.

24 THE SAG-AFTRA HEALTH FUND,  
25 *et al.*,

26 Defendants.

Case No. 2:20-cv-10914-CAS-JEM

**DECLARATION OF MYRON D.  
RUMELD IN SUPPORT OF  
DEFENDANTS' OPPOSITION TO  
CLASS COUNSEL'S MOTION FOR  
ATTORNEYS' FEES**

Date: September 11, 2023

Time: 10:00 a.m.

Courtroom: 8D

Judge: Hon. Christina A. Snyder

Action Filed: December 1, 2020

1 I, Myron D. Rumeld, hereby declare and state as follows:

2 1. I am a partner of Proskauer Rose LLP, and I represent Defendants in the  
3 above-captioned matter. I am submitting this Declaration in support of Defendants'  
4 opposition to Class Counsel's motion for attorneys' fees (ECF No. 141),<sup>1</sup> and  
5 specifically to provide the factual basis for arguments made in Defendants'  
6 memorandum of points and authorities in opposition to Class Counsel's motion for  
7 attorneys' fees. The information provided below is based on my personal knowledge  
8 and on information obtained from the Plan.

9 **Discovery Efforts Preceding the Settlement**

10 2. Although a formal settlement agreement was not entered into in this case  
11 until April 2023 (ECF No. 128-1), the parties reached a tentative agreement on the  
12 principal monetary terms of settlement in the Fall of 2022, and agreed to an informal  
13 stay of discovery while they sought to complete the other terms of the agreement. Had  
14 we not agreed to the informal stay at that time, and continued to expend legal fees on  
15 defense costs, we would have risked losing the commitment of Defendants' fiduciary  
16 liability insurance carriers to pay \$7.5 million toward the Settlement.

17 3. At the time of the informal stay, this case was in the early stages of fact  
18 discovery—Plaintiffs had not yet produced any documents in response to Defendants'  
19 March 8, 2022 requests for production; depositions had not yet been noticed; and even  
20 though Defendants had spent considerable time collecting and reviewing a large  
21 volume of electronic documents from the Plan and the Trustee Defendants, most of  
22 these documents had not yet been produced for Plaintiffs' review.

23 **Monetary Terms of Settlement**

24 4. The monetary relief provided for in the Settlement Agreement constitutes a  
25 small fraction of the monetary relief originally claimed by Plaintiffs. Attached as

26 \_\_\_\_\_  
27 <sup>1</sup> Any capitalized terms not defined herein are as defined in the Class Action  
28 Settlement Agreement. (ECF No. 128-1 § 2.)

1 **Exhibit 1** is a true and correct copy of Plaintiffs’ Initial Disclosures Pursuant to Rule  
2 26(a)(1) of the Federal Rules of Civil Procedure, dated March 10, 2022, which states,  
3 *inter alia*, that the Trustee Defendants’ fiduciary breaches with respect to the Merger  
4 and Amendments each “resulted in plan losses likely to exceed \$100 million,” for a  
5 total of over \$200 million. (Ex. 1 at 20.)

6 5. The principal monetary portion of the Settlement consists of \$15 million in  
7 payments and HRA Plan allocations, with \$7.5 million to be funded by Defendants’  
8 fiduciary liability insurance carriers and \$7.5 million to be funded by the Plan. (ECF  
9 No. 128-1 § 7.) The Settlement Agreement contemplates that, after payment of Class  
10 Counsel’s Attorneys’ Fees and Costs and Administrative Expenses, the remaining  
11 proceeds of this \$15 million will be distributed by check to, or allocated into the HRA  
12 Accounts of, Senior Performers and spouses impacted by the Amendments, in one of  
13 four targeted amounts: \$400, \$1,100, \$2,200, or \$4,400. (*Id.* § 8.2 & Ex. 6.) Class  
14 Member data from the Plan that was submitted to the Settlement Administrator shows  
15 that, out of 11,904 Senior Performers and spouses slated to receive these Settlement  
16 payments or allocations, 10,797 are slated to receive the targeted amount of \$400, and  
17 only 561 are slated to receive the targeted amount of \$4,400.

18 6. The \$7.5 million that Defendants’ fiduciary liability insurance carriers  
19 agreed to contribute toward the Settlement represents a small fraction of the available  
20 insurance proceeds. After deducting the \$7.5 million payment toward the Settlement  
21 and the amounts spent by the carriers on defense costs (in this case and other matters  
22 covered by the same insurance policies), Defendants’ fiduciary liability insurance  
23 policies still had approximately \$27.5 million in available coverage at the time the  
24 Settlement was reached.

25 7. The Settlement Agreement also provides for annual allocations into the  
26 HRA Accounts of Qualified Senior Performers for a period of up to eight years, up to a  
27 maximum aggregate allocation of \$700,000 in any one year, and subject to a cessation  
28

1 of payments if certain financial triggers are hit. (*Id.* § 10.) Based on the number of  
2 Senior Performers who have thus far enrolled in the HRA Plan or communicated an  
3 intent to enroll, the Plan anticipates that it will make additional allocations to fewer  
4 than 270 Qualifying Senior Performers for 2023, and the total amount allocated for that  
5 year will be under \$450,000.

6 **Non-Monetary Terms of Settlement**

7 8. The non-monetary relief provided for by the Settlement includes the Plan’s  
8 agreement to retain a Cost Consultant, who “will provide an oral report and issue a  
9 written report advising on potential cost-saving measures (in areas other than those in  
10 which the Plan has already achieved cost-savings in recent years, as indicated in the  
11 memorandum attached to Exhibit 5 [of the Settlement Agreement]).” (*Id.* § 11.3.)  
12 Attached as **Exhibit 2** is a true and correct copy of the memorandum regarding cost-  
13 saving initiatives already undertaken by the Plan, which was omitted from Exhibit 5 of  
14 the version of the Settlement Agreement filed by Plaintiffs.

15 **Defense Counsel’s Legal Fees**

16 9. In an apparent effort to deter Defendants from opposing their application  
17 for attorneys’ fees, Class Counsel communicated last week their intention to pursue  
18 further their argument that their fee request was justified by the amount of fees that  
19 Defendants’ counsel were paid in this case, and toward that end, requested that I  
20 disclose to them the total amount of fees received by Defendants’ counsel, inclusive of  
21 any fees that may have been received from sources other than Defendants’ insurance. I  
22 refused to provide that information because I felt it was both confidential and irrelevant  
23 to Class Counsel’s claim for fees based on a percentage-of-recovery calculation. But in  
24 light of Class Counsel’s apparent desire to try to draw nefarious implications from my  
25 refusal to provide this information, I will represent that the total fees that are expected  
26 to be received by Defendants’ counsel in connection with the defense and settlement of  
27 this lawsuit are below \$5 million.

1 I declare under penalty of perjury that the foregoing is true and accurate to the  
2 best of my knowledge, information, and belief.

3 Executed this 21<sup>st</sup> day of August, 2023, in New York, NY.

4 /s/ Myron D. Rumeld  
5 Myron D. Rumeld  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# **EXHIBIT 1**

Neville L. Johnson (SBN 66329)  
Douglas L. Johnson (SBN 209216)  
**Johnson & Johnson LLP**  
439 North Canon Drive, Suite 200  
Beverly Hills, California 90210  
Tel: 310-975-1080  
Fax: 310-975-1095  
njohnson@jllplaw.com  
djohnson@jllplaw.com

Steven. A Schwartz\*  
**Chimicles Schwartz Kriner  
& Donaldson-Smith LLP**  
361 West Lancaster Avenue  
Haverford, PA 19041  
Tel.: 610-642-8500  
Fax: 610-649-3633  
steveschwartz@chimicles.com

Robert J. Kriner, Jr.\*  
Emily L. Skaug\*  
**Chimicles Schwartz Kriner  
& Donaldson-Smith LLP**  
2711 Centerville Road, Suite 201  
Wilmington, DE 19808  
rjk@chimicles.com  
els@chimicles.com

Edward Siedle\*  
**Law Offices of Edward Siedle**  
17789 Fieldbrook Circle West  
Boca Raton, FL 33496  
Tel.: 561-703-5958  
esiedle@aol.com

*\*admitted pro hac vice*

*Attorneys for Plaintiffs and the Classes*

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

EDWARD ASNER, *et al.*,  
  
Plaintiffs,  
  
v.  
  
THE SAG-AFTRA HEALTH FUND,  
*et al.*,  
  
Defendants.

Case No. 2:20-cv-10914-CAS (JEM)

**PLAINTIFFS' INITIAL  
DISCLOSURES PURSUANT TO  
RULE 26(a)(1) OF THE  
FEDERAL RULES OF CIVIL  
PROCEDURE**

Pursuant to Rule 26(a)(1)-(2) of the Federal Rules of Civil Procedure, Plaintiffs, Edward Asner, Michael Bell, Raymond Harry Johnson, Sondra James Weil, David Jolliffe, Robert Clotworthy, Thomas Cook, Audrey Loggia, Deborah White and Donna Lynn Leavy (“Plaintiffs”), by and through their undersigned counsel, make the following Initial Disclosures to Defendants, the SAG-AFTRA Health Fund, the SAG-AFTRA Health Fund Board of Trustees, the SAG-Producers

Health Plan Board of Trustees, Daryl Anderson, Helayne Antler, Amy Aquino, Timothy Blake, Jim Bracchitta, John Carter Brown, Duncan Crabtree-Ireland, Barry Gordon, J. Keith Gorham, James Harrington, David Hartley-Margolin, Harry Isaacs, Robert W. Johnson, Sheldon Kasdan, Matthew Kimbrough, Lynne Lambert, Allan Linderman, Carol A. Lombardini, Stacy K. Marcus, Richard Masur, John T. McGuire, Diane P. Mirowski, Paul Muratore, Tracy Owen, Michael Pniewski, Ray Rodriguez, Marc Sandman, Shelby Scott, Sally Stevens, Gabriela Teissier, Lara Unger, Ned Vaughn, David Weissman, Russell Wetanson, David P. White, and Samuel P. Wolfson (“Defendants”).

These Initial Disclosures are based upon information currently known to Plaintiffs and their counsel, and are made without prejudice to providing during discovery or at trial information, documentation or data that are: (1) subsequently discovered and determined to be relevant; (2) a product of ongoing investigation and evaluation; or (3) responsive to defenses asserted by Defendants during the course of litigation.

Plaintiffs have excluded from these Initial Disclosures any information protected from disclosure by any applicable privileges, including but not limited to the attorney/client and attorney work product privileges. In addition, Plaintiffs’ investigation is ongoing, and, therefore, Plaintiffs reserve the right to supplement these Initial Disclosures as discovery and investigation continue as permitted by the Federal Rules of Civil Procedure and any scheduling orders entered by the Court.

**Rule 26(a)(1)(A)(i): The name and, if known, the address and telephone number of each individual likely to have discoverable information - along with the subjects of that information - that the disclosing parties may use to support their claims or defenses, unless the use would be solely for impeachment.**

1. Plaintiffs Michael Bell, Raymond Harry Johnson, David Jolliffe, Robert Clotworthy, Thomas Cook, Audrey Loggia, Deborah White and Donna Lynn

Leavy have discoverable information as and relating to their status as participants in the SAG Health Plan and the SAG-AFTRA Health Plan and relating to the actions and transactions of the plans and the trustees of the plans which are the subject matter of the First Amended Class Action Complaint (“Complaint,” or “FAC”), and other general information relevant to this litigation. Plaintiffs should only be contacted through their undersigned counsel of record.

2. The SAG-AFTRA Health Fund, current and former trustees of the SAG-AFTRA Health Fund, including but not limited to Daryl Anderson, Amy Aquino, Timothy Blake, Jim Bracchitta, John Carter Brown, Duncan Crabtree-Ireland, Barry Gordon, David Hartley-Margolin, Matthew Kimbrough, Lynne Lambert, Richard Masur, John T. McGuire, D.W. Moffett, Michael Pniewski, Ray Rodriguez, Shelby Scott, Sally Stevens, Kim Sykes, Ned Vaughn and David P. White, Helayne Antler, Ann Calfas, J. Keith Gorham, James Harrington, Harry Isaacs, Marla Johnson, Robert W. Johnson, Sheldon Kasdan, Allan Linderman, Carol Lombardini, Stacy K. Marcus, Diane P. Mirowski, Paul Muratore, Tracy Owen, Marc Sandman, Lara Unger, David Weissman, Russell Wetanson, Samuel P. Wolfson and Joyce Gordon, c/o Defense Counsel. Current and former employees and staff of the SAG-AFTRA Health Fund, including but not limited to Michael Estrada, Odele Kohlstrand, Donna Anderson, Amanda Bernard, Victoria Ballesteros, Robert Carruth, Michelle DeGrand, Gokul Sheshadri, Karen Quintus, Natalie Fujiki, Sameer Joshi, Gene Kalpakian, Kelly Kuykendall, Brian Lee, Karen Louie, Mallery Lucchesi, S.A. Narayanan, Melineh Irani, Johnson Kosgei, Kenneth Moon, Amy Talebizadeh, Brian Yoshimura, Peter Lee, Hovik Leon, Adrienne Hisoler, Daniel Lee, Galen Haws and Aileen Torres-Mumby. It is expected that these entities and persons have possession, custody or control of documents and/or knowledge concerning the operations, governance, management and administration of the Plan

following the health plans merger, including asset management, continuation value and reserves, the sustainability of the benefit structure, disclosure of financial and other plan information to the participants and their representatives, and the consideration and adoption of benefit modifications, in the matters which are the subject of the FAC.

3. The SAG Health Plan and its successor, the SAG-AFTRA Health Fund, former trustees of the SAG Health Plan, including but not limited to Daryl Anderson, Amy Aquino, Timothy Blake, Jim Bracchitta, John Carter Brown, Duncan Crabtree-Ireland, Mandy Fabian, Leigh French, Barry Gordon, Bob Kaliban, Richard Masur, John T. McGuire, D.W. Moffett, Michael Pniewski, Ray Rodriguez, John H. Sucke, Kim Sykes, Ned Vaughn, David P. White, Eryn M. Doherty, Gary M. Elliott, Nicole Gustafson, Marla Johnson, Robert W. Johnson, Sheldon Kasdan, Shelley Landgraf, Allan Linderman, Carol A. Lombardini, Stacy K. Marcus, Diane P. Mirowski, Paul Muratore, Alan H. Raphael, John E. Rhone, David Silberman, David Weissman, Russell Wetanson and Samuel P. Wolfson, c/o Defense Counsel. Former employees and staff of the SAG Health Plan including but not limited to Christopher S. Dowdell, Gary Mathis, Craig Simmons, Nader Karimi, Michael Estrada, Odele Kohlstrand, Donna Anderson, Amanda Bernard, Victoria Ballesteros, Robert Carruth, Michelle DeGrand, Gokul Sheshadri, Karen Quintus, Arthur Bradford, Michael Chavez, Melissa Deeton, Kevin Donnellan, Lesleigh Egan, Wanda Gong, Cherie Payne, Kelly Kuykendall, Patti Ochab, Galen Haws, Nora Sham and Nancy Morgan. It is expected that these entities and persons have possession, custody or control of documents and/or knowledge concerning the Plan and its governance, operations, management and administration, including the consideration and study of a potential merger with the AFTRA Health Plan, including but not limited to the respective costs and benefits of a health plan

merger, the sustainability of the health benefit structure for participants in a merged plan, the management of plan assets, revenue and costs in anticipation of a potential merger, actions and decisions affecting the trustees' adopted goal to provide a 20-year retiree reserve in separately allocated and managed assets to fund the plan's retirement benefit obligation, whether a merger or alternative transaction or actions were in the best interests of the plan participants, financial and other plan information disclosed to participants, public statements by then-trustee David White and then-SAG-AFTRA President Gabrielle Carteris following the agreement to merge concerning the pre-merger work and objectives of the respective trustees concerning a potential merger and the expected strength of the merged plan and expected comprehensiveness of benefits for all participants ensured by the merger, in the matters which are the subject of the FAC.

4. David Viviano, SAG-AFTRA Chief Economist. In addition, an as yet unidentified former SAG-AFTRA employee and member of Viviano's staff who claims he or she witnessed or otherwise detected misconduct by Viviano in the handling, calculation and reporting of earnings, roles and other data and reported the perceived issues to Viviano, and claims in one instance Viviano instructed this person to delete the analysis that this person claims showed problems. It is expected that these persons have knowledge concerning the integrity of data reported to members concerning the plan and used in contract valuation models during collective bargaining.

5. Craig Simmons, former head of HR at the SAG Health Plan. It is expected that he has knowledge concerning plan finances, assets and reporting in anticipation of a potential merger and the information known by or available to the health plan trustees concerning these issues, in the matters which are the subject of the FAC.

6. Alex M. Brucker, Brucker and Morra, 10866 Wilshire Blvd., Los Angeles California, 10866 Wilshire Blvd., 10th Floor, Los Angeles, California 90024. Brucker is an ERISA attorney who submitted a declaration in support of the plaintiffs in *Sheen v. SAG, et al*, regarding the due diligence SAG conducted and provided to SAG members concerning the then-proposed merger of SAG and AFTRA. It is expected Brucker has knowledge concerning the statements made by the defendants and their experts in *Sheen*, some of whom are Defendants here, regarding the determinations and investigations that would be undertaken by the SAG Health Plan trustees prior to determining whether to merge the plan with the AFTRA Health Plan, in the matters which are the subject of the FAC.

7. SAG-AFTRA, 5757 Wilshire Blvd., Los Angeles, California 90036. It is expected this entity has possession, custody or control of documents and/or knowledge concerning the identities of persons who participated along with SAG-AFTRA Health Plan trustees and the information provided to or by the health plan trustees and others in connection with the 2019 Commercials agreement, 2020 Netflix agreement and 2020 TV/Theatrical agreement and the negotiations, approvals and ratifications of the agreements, in the matters which are the subject of the FAC.

8. Persons with knowledge regarding SAG-AFTRA's negotiations, approvals and ratifications of collective bargaining agreements, including but not limited to the 2019 Commercials agreement, the 2020 Netflix agreement and the 2020 TV/Theatrical agreement. Plaintiffs believe such persons include, without limitation, Gabrielle Carteris, David White, Ray Rodriguez, John McGuire, David Hartley-Margolin, Michael Pniewski, Linda Powell, John Carter Brown, David Jolliffe, and such other SAG-AFTRA staff and persons appointed by the SAG-AFTRA National Board to participate as team members or alternates, and such

other members of the National Board who voted whether to approve the collective bargaining agreements. It is expected that these persons have knowledge concerning information provided or available to, and/or withheld from, Plan participants and their representatives regarding the condition and needs of the plan in connection with the collective bargaining, what action or strategy was undertaken in connection with collective bargaining to address the plan's condition and needs and what action and strategy would have been undertaken by participants and their representatives armed with more plan information in connection with the collective bargaining, in matters which are the subject of the FAC.

9. Current and/or former employees and representatives of the following service providers with knowledge of services provided to the SAG Health Plan, the AFTRA Health Plan, and/or the SAG-AFTRA Health Plan:

- a. Milliman, Inc., 2175 N California Blvd # 810, Walnut Creek, California 94596, including Sean Silva, John Botsford, Robert Schmidt, and other as yet unidentified individuals with knowledge of Milliman's services provided to the SAG-AFTRA Health Plan. Documents produced by Defendants and publicly available Form 5500s indicate Milliman provided actuarial services to the SAG-AFTRA Health Plan the period 2017 through 2020.
- b. Horizon Actuarial Services, LLC, 5200 Lankershim Blvd, Suite 740, North Hollywood, California 91601, including Cary Franklin, Dee Shaw, Kathy Coda, and other as yet unidentified individuals with knowledge of Horizon's services provided to the SAG Health Plan. Documents produced by Defendants and publicly available Form 5500s indicate Horizon provided consulting services to the SAG Health Plan relating to a potential merger with the AFTRA plan during

the period 2012 through 2016.

- c. The Segal Group, 500 North Brand Boulevard, Suite 1400, Glendale, California 91203, including but not limited to Thomas M. Morrison, Jr. and other as yet unidentified individuals with knowledge of Segal's services provided to the SAG Health Plan and the SAG-AFTRA Health Plan. Documents produced by Defendants and publicly available Form 5500s indicate Segal provided consulting services to the plans during the period 2012-2020.
- d. The Segal Company, 180 Howard Street, Suite 1100, San Francisco, California 94105 including but not limited to Thomas M. Morrison, Jr. and other as yet unidentified individuals with knowledge of Segal Company's services provided to the health plans. Documents produced by Defendants and publicly available Form 5500s indicate Segal Company provided actuarial services to the SAG Health Plan for the period between 2012 and 2016, and provided consulting services to the SAG-AFTRA Health Plan for 2017 and 2020.
- e. Segal Consulting, 330 N. Brand Blvd, Suite 1100, Glendale, California 91203, including but not limited to Thomas M. Morrison, Jr. and other as yet unidentified individuals with knowledge of Segal Consulting's services provided to the health plans. Documents produced by Defendants and publicly available Form 5500s indicate Segal Consulting provided consulting services to the SAG Health Plan for the period between 2013 and 2016, and provided consulting services to the SAG-AFTRA Health Plan for the period between 2017 and 2020.
- f. Segal Benz, 275 9th St., San Francisco, California 94103, including as

yet unidentified individuals with knowledge of Segal Benz's services provided to the SAG-AFTRA Health Plan. Documents produced by Defendants and publicly available Form 5500s indicate Segal Benz provided consulting services to the SAG-AFTRA Health Plan for 2020.

- g. WithumSmith+Brown PC (f/k/a Bond Beebe), 4600 East-West Highway, Suite 900, Bethesda, Maryland 20814, including David P. Dorsey, Scott M. Price, Aaron Slaughter and other as yet unidentified individuals with knowledge of Withum's services provided to the health plan(s). Documents produced by Defendants and publicly available Form 5500s indicate WithumSmith+Brown provided accounting (including auditing) services to the SAG Health Plan for the period 2012 to 2016, and the SAG-AFTRA Health Plan during the period 2017 through 2020.
- h. Genesis Consulting Group LLC, 51173 Marbella Ct, La Quinta, California 92253, including Bruce L. Dow, Sharman Dow and other as yet unidentified individuals with knowledge of Genesis's services provided to the SAG Health Plan. Documents produced by Defendants and publicly available Form 5500s indicate Genesis provided consulting services to the SAG Health Plan for the period including 2012 and 2013.
- i. Merrill Lynch Consulting Services, 2049 Century Park E, Suite 1100, Los Angeles, California 90067, including Mark A. Jacoby, Michael G. Starratt and other as yet unidentified individuals with knowledge of Merrill Lynch's services provided to the SAG Health Plan. Documents produced by Defendants and publicly available Form 5500s indicate

Merrill Lynch provided plan investment advisory services to the SAG Health Plan for the period 2012 through the health plans merger.

- j. NEPC, LLC, 255 State Street, Boston, Massachusetts 02109, including Daniel Hennessy and other as yet unidentified individuals with knowledge of NEPC's services provided to the SAG Health Plan. Documents produced by Defendants and publicly available Form 5500s indicate NEPC provided plan investment advisory services to the SAG Health Plan for the period 2012 through the health plans merger.
- k. Buck Consulting Group, LLC, including as yet unidentified individuals with knowledge of Buck's services provided to the SAG Health Plan. Documents produced by Defendants and publicly available Form 5500s indicate Buck provided consulting services to the SAG Health Plan and the AFTRA plan relating to a potential merger with the AFTRA plan.
- l. Meketa Investment Group, Inc., 5796 Armada Dr, Carlsbad, California 92008, including Ted Benedict, Alan Spatrack and other as yet unidentified individuals with knowledge of Meketa's services provided to the health plan(s). Documents produced by Defendants and publicly available Form 5500s indicate Meketa provided to the SAG-AFTRA Health Plan consulting and plan investment advisory services for 2017, and investment management services for the period between 2018 and 2020.
- m. Willis Towers Watson PLC, 800 North Glebe Road, Floor 10, Arlington, Virginia 22203, including Brian Tenner, Joe Andrews, Michelle Hill and other as yet unidentified individuals with knowledge

of Willis Towers Watson's services provided to the SAG-AFTRA Health Plan. Documents produced by Defendants and publicly available Form 5500s indicate Willis Towers Watson provided Medicare vendor services to the SAG-AFTRA Health Plan and plan participants beginning in 2019.

- n. Top Tier Consulting LLC (a/k/a T2C), a Cognizant Company, 21550 West Oxnard Street, 3rd Floor, Woodland Hills, California 91367, including Ross Erlebacher and other as yet unidentified individuals with knowledge of T2C's services provided to the SAG-AFTRA Health Plan. Documents produced by Defendants and publicly available Form 5500s indicate T2C provided consulting services to the SAG-AFTRA Health Plan following the merger.
- o. Cognizant Technology Solutions, 500 Frank W. Burr Blvd, Teaneck, New Jersey, 07666, including Ross Erlebacher and other as yet unidentified individuals with knowledge of Cognizant's services provided to the SAG-AFTRA Health Plan. Documents produced by Defendants and publicly available Form 5500s indicate Cognizant provided consulting services to the SAG-AFTRA Health Plan following the merger.
- p. Seyfarth Shaw LLP, 2029 Century Park East, Suite 3500, Los Angeles, California 90067, including Carrie J. Grove, Mitchel D. Whitehead and other as yet unidentified individuals with knowledge of Seyfarth Shaw's services provided to the SAG Health Plan. Documents produced by Defendants and publicly available Form 5500s indicate Seyfarth Shaw provided legal services to the SAG Health Plan for 2013.

- q. Proskauer Rose LLP, Eleven Times Square (Eighth Avenue & 41st Street), New York, New York 10036, including Robert M. Projansky and other as yet unidentified individuals with knowledge of Proskauer Rose's services provided to the SAG-AFTRA Health Plan. Documents produced by Defendants and publicly available Form 5500s indicate Proskauer Rose provided legal services to the SAG-AFTRA Health Plan for the period between 2017 and 2020.
- r. Bush Gottlieb, 801 N Brand Blvd, Suite 950, Glendale, California 91203, including Robert Bush, Pete Dickinson, Erica Deutsch and other as yet unidentified individuals with knowledge of Bush Gottlieb's services provided to the health plans. Documents produced by Defendants and publicly available Form 5500s indicate Bush Gottlieb provided legal services to the SAG Health Plan for the period between 2012 and 2016, and to the SAG-AFTRA Health Plan for the period between 2017 and 2020.
- s. Cohen, Weiss and Simon LLP, 900 Third Ave, Suite 2100, New York, New York 10022, including Jani K. Rachelson, Lisa M. Gomez and other as yet unidentified individuals with knowledge of Cohen, Weiss and Simon's services provided to the SAG-AFTRA Health Plan. Documents produced by Defendants and publicly available Form 5500s indicate Bush Gottlieb provided legal services to the SAG-AFTRA Health Plan for the period between 2017 and 2020.
- t. MikeWorldWide (f/k/a MWWPR), 6255 Sunset Blvd, Los Angeles, California 90028, including as yet unidentified individuals with knowledge of MikeWorldWide's services provided to the SAG-AFTRA Health Plan. Documents produced by Defendants and publicly

available Form 5500s indicate MikeWorldWide provided consulting services to the SAG-AFTRA Health Plan for 2020.

10. To the extent not already included above, any individuals or entities identified by Defendants in their initial disclosures, interrogatories or other discovery responses.

11. Any witnesses needed to establish the foundation or admissibility of any document or exhibit.

12. Plaintiffs have not yet retained expert witnesses in this matter but, if they do, Plaintiffs will identify and disclose these witnesses in accordance with the Federal Rules of Civil Procedure and any applicable Order of the Court.

13. Plaintiffs reserve the right to supplement this disclosure as necessary, based upon facts discovered in their ongoing investigation and discovery. By disclosing the names of persons likely to have discoverable information that Plaintiffs may use to support their claims or defenses, and the subjects of such information, Plaintiffs do not waive any privilege or protection (such as the attorney-client privilege or work-product) or any objection that they may have concerning the production or admissibility of such information

**Rule26(a)(1)(A)(ii): A copy - or description by category and location - of all documents, electronically stored information, and tangible things that the disclosing parties have in their possession, custody, or control, and may use to support their claims or defenses, unless the use would be solely for impeachment.**

Plaintiffs and/or their counsel have in their possession, custody and control, the following categories of documents and things that they may use to support their claims:

1. Documents from Plaintiffs' files regarding the SAG Health Plan, the AFTRA Health Plan, and the SAG-AFTRA Health Plan, and the subject matter of the FAC.

2. Documents from Plaintiffs' files that were provided to Plaintiffs by the Defendants

3. Documents obtained from publicly-available sources concerning the SAG Health Plan, the AFTRA Health Plan, and the SAG-AFTRA Health Plan, and the subject matter of the FAC.

4. Documents identified or referred to in the FAC and any amended complaint that may be filed.

5. Documents produced by Defendants or non-parties pursuant to document requests and subpoenas served by Plaintiffs pursuant to Federal Rules of Civil Procedure 34 and 45.

All such documents are located with Plaintiffs or their counsel, and to the extent discoverable, not privileged and not publicly available or already in Defendants' possession, will be produced upon a reasonable request, pursuant to Federal Rule of Civil Procedure 34, at a mutually convenient time and place, and subsequent to entry of a Stipulation and Order Regarding Confidential Information in this action. Plaintiffs' identification of these documents and categories of documents shall not be construed as a waiver of any objections as to their production or use. The identification of document categories does not waive any privilege or work product protection that may apply. Discovery has not concluded, and Plaintiffs have not completed their investigation of all facts or issues in this action. Accordingly, Plaintiffs reserve the right to disclose further documents as soon as reasonably practicable as such documents become known to them.

**Rule 26(a)(1)(A)(iii): A computation of each category of damages claimed by the disclosing parties – who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which computation is based, including materials bearing on the nature and extent of injuries suffered.**

Any computation or estimate of any category of damages or losses in this

action is premature at this stage of the litigation. Information contained in records and other documents concerning the claims and the members of the Classes and the damages and losses recoverable, within the possession, custody, and control of Defendants and/or third parties including the SAG-AFTRA Health Plan, has not yet been produced to Plaintiffs. Such information is necessary for Plaintiffs to reasonably calculate an accurate estimate of damages and losses to the plans, Plaintiffs and the Classes.

Based on publicly available information provided to Plaintiffs prior to the filing of the FAC, the FAC alleges that the trustees of the SAG Health Plan failed prudently to investigate and disclose the potential merger and whether a merger was in the best interests of the participants and would result in a sustainable benefit structure, or knew otherwise and nevertheless proceeded while publicly stating the merger would do so, in breach of ERISA fiduciary duties. Based on documents produced by Defendants after the FAC, the SAG Health Plan trustees imprudently mismanaged plan assets and failed to act to protect and maintain plan assets in anticipation of the merger, resulting in losses likely to exceed \$100 million, and doomed the merged plan and the participants to further losses.

The FAC alleges following the merger, the SAG-AFTRA Health Plan trustees soon recognized the deteriorating financial condition of the merged plan and that the benefit structure was not sustainable by plan income and reserves, and secretly plotted for years to address the deteriorating imbalance by eliminating participants 65 and older from the health coverage as plan reserves continued to diminish while participants and their representatives were kept in the dark as three major collective bargaining agreements that could have addressed the dire funding crisis were negotiated and approved, in beach of ERISA fiduciary duties. The breaches resulted in plan losses likely to exceed \$100 million. The FAC further alleges that plan

participants suffered sudden draconian benefit cuts in the midst of the COVID-19 pandemic, as a result of the trustees' breaches.

Plaintiffs seek all available damages and losses recoverable in an amount to be determined at trial, plus attorneys' fees, interest, and any other monetary and equitable relief the Court deems appropriate including but not limited to the removal of trustees. Plaintiffs reserve their right to supplement this initial disclosure upon completion of their ongoing evaluation of damages and losses suffered by the Plan, Plaintiffs and the members of the proposed Classes, and at the appropriate time and in accordance with the Court's orders, will make disclosure of expert testimony pursuant to Federal Rule of Civil Procedure 26(a)(2) and the Court's orders regarding scheduling.

**Rule 26(a)(1)(A)(iv): For inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy part or all of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.**

Plaintiffs are not liable to the Defendants, and, therefore, have no applicable or implicated insurance policies.

Dated: March 10, 2022

**CHIMICLES SCHWARTZ KRINER  
& DONALDSON-SMITH LLP**

By: /s/ Robert J. Kriner, Jr.

Robert J. Kriner, Jr.\*  
Emily L. Skaug\*  
2711 Centerville Road, Suite 201  
Wilmington, DE 19808  
rjk@chimicles.com  
els@chimicles.com

Steven. A Schwartz\*  
**CHIMICLES SCHWARTZ KRINER  
& DONALDSON-SMITH LLP**  
361 West Lancaster Avenue  
Haverford, PA 19041  
Tel.: 610-642-8500  
Fax: 610-649-3633  
steveschwartz@chimicles.com

Neville L. Johnson  
Douglas L. Johnson  
**Johnson & Johnson LLP**  
439 N. Canon Drive, Suite 200  
Beverly Hills, CA 90210  
Tel.: 310-9751080  
Fax.:310-975-1095  
njohnson@jjllplaw.com  
djohnson@jjllplaw.com

*and*

Edward Siedle\*  
**Law Offices of Edward Siedle**  
17789 Fieldbrook Circle West  
Boca Raton, FL 33496  
Tel.: 561-703-5958  
esiedle@aol.com

*\*Admitted Pro Hac Vice*

*Attorneys for Plaintiffs and the Classes*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 10, 2022, a copy of the foregoing Plaintiffs' Initial Disclosures was served via electronic mail on the following counsel:

Myron D. Rumeld  
mrumeld@proskauer.com  
Neil V. Shah  
nshah@proskauer.com  
Anastasia S. Gellman  
agellman@proskauer.com  
PROSKAUER ROSE LLP  
Eleven Times Square  
New York, NY 10036  
Tel.: 212.969.3000  
Fax: 212.969.2900

Jani K. Rachelson  
jrachelson@cwsny.com  
Evan R. Hudson-Plush  
ehudson-plush@cwsny.com  
COHEN, WEISS AND SIMON  
LLP  
900 Third Avenue, Suite 2100  
New York, NY 10022-4869  
Tel.: 212.563.4100  
Fax: 646.473.8254

Scott P. Cooper (SBN 96905)  
scooper@proskauer.com  
Jennifer L. Jones (SBN 284624)  
jljones@proskauer.com  
PROSKAUER ROSE LLP  
2029 Century Park East, Suite  
2400  
Los Angeles, California 90067  
Tel.: 310.557.2900  
Fax: 310.557.2193

*/s/ Robert J. Kriner, Jr.*

Robert J. Kriner, Jr.

# **EXHIBIT 2**

**Memorandum**

To: Counsel

From: Michael Estrada

Date: December 2, 2022

Re: SAG-AFTRA Health Plan Cost Savings Initiatives

A health plan's largest expenses are the cost of medical care, that is, the amount paid to doctors, hospitals and other medical providers, as well as prescription drugs. In calendar year 2021, the SAG-AFTRA Health Plan spent \$399.5 million in benefits, and in 2022, it was projected, as of the end of October, to spend \$380 million. It is therefore critical to procure and maintain the most competitive discounts and programs available in the market.

As part of these efforts, the Health Plan retained The Segal Company to perform a comprehensive RFP/competitive bid with regard to the Plan's self-funded medical/hospital preferred provider network, which was at the time provided by Anthem, to be effective January 1, 2023. The RFP looked at both the current jointly administered (JAA) arrangement with Anthem, pursuant to which the Plan processes claims using the discount pricing provided by Anthem, and a comprehensive outsourced administrative services (ASO) contract. As reported by Segal, the bids "included administrative fees, plan design deviations, discounts, network access results, network statistics, questionnaire responses, underwriting conditions and financial ratings from bidding carriers". Segal sent the RFP to six carriers, two of whom declined to bid, and Segal then negotiated best and final offers from the remaining carriers and ultimately presented its analysis of the three finalists offering the best network discounts and lowest administrative costs.

In May, 2022, the Board of Trustees accepted the Plan Staff's and Segal's joint recommendation to retain Anthem as the Plan's hospital and medical network provider under an ASO agreement, effective January 1, 2023. The RFP analysis confirmed that Anthem provided the highest provider discounts (i.e., lowest pricing) for the Health Plan, compared to the other national carriers included in the RFP. And, through the negotiations, the Health Plan was able to obtain participant care management programs, healthcare inflation protection and reduced administrative fees. The healthcare inflation protection guarantee has the potential to save the Plan approximately \$8.1 million over the three-year contract period. An additional \$1.2 million a year in administrative costs savings are projected from transitioning to the Anthem ASO model. The savings result from not having to replace a 20-year-old medical claims adjudication system as well as a reduction in plan staff, since Anthem will now process the claims. The outsourcing also eliminates the need for the Plan to implement upgrades and enormous technological changes that would have been required in order to comply with the No Surprises Act, and other constantly changing health plan regulation.

Prescription drugs represent another significant expense for this Plan, like any plan. The Plan is part of a coalition with other entertainment industry health plans, called the Entertainment Industry Pharmacy Purchasing Coalition (EIPPC), which has retained Segal to assist in its retention and monitoring of its pharmacy benefit manager (PBM). In 2020, as part of its historic three-year cycle, the EIPPC conducted an RFP, which led to the Plan's change from Express Scripts to CVS Caremark as the Plan's new PBM, effective January 1, 2022. As a result of the RFP, the Plan also implemented the CVS Advance Control Formulary, which was determined to provide the most competitive drug pricing and rebates, available in the market. The consultant projected that the switch to CVS Caremark would generate annual savings of \$4.7 million. In 2022, Segal conducted a market check with CVS Caremark on behalf of the EIPPC, which resulted in an additional \$1.4 million in savings from CVS Caremark, driven primarily by improved guaranteed minimum rebates and improved terms for new-to-market specialty drugs, as well as a two-year contract extension. There will be another RFP starting in 2023 for implementation in 2025. It is too soon to do an RFP before then.

The Plan also implemented the following CVS programs: Health Advisor, Accordant Care, Prudent Rx Copay Assistance Program and Drug Savings Review Program, which reduce the Plan's cost by a projected \$4.5 million annually, while also reducing participant cost and improving health outcomes. This is on top of prior authorization, step therapy and other programs implemented by the Trustees.

The Plan has taken the additional steps outlined below to manage benefit expenses.

The Plan began promoting cost transparency tools to reduce benefit expenses further. It implemented RxSavings Solutions, a drug price transparency and personalized participant engagement strategy, in April 2021. The Plan's consultants project savings of \$900,000 a year due to this program.

In 2022, the Plan implemented Transcarent Surgery Care, which reduces certain types of elective surgery cost for participants to \$0 through bundled care from a narrow network of high-quality, low-cost providers, for projected savings of \$1 million a year.

For behavioral health, the Plan conducted an RFP in 2019, as a result of which, even though the Trustees remained with Beacon Health, the Plan obtained various enhancements to its contract, including video and telephone conferencing with providers for outpatient appointments at no additional cost and a concierge service for participants to assist in finding network providers.

In early 2020, the Plan contracted with WellRithms to perform medical reviews and negotiate all out-of-network and complex in-network high-dollar claims. This resulted in an estimated savings of \$5.6 million in 2021 and recurrent savings in subsequent years.

In the future, the Plan will be looking into hospital cost variations and assessing additional ways to drive participants to high-quality, low-cost providers through improved transparency and potential incentives.