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16 **UNITED STATES DISTRICT COURT**
 17 **NORTHERN DISTRICT OF CALIFORNIA**
 18 **OAKLAND DIVISION**

19 JAMES L. BUSH

20 Plaintiff,

21 VS.

22 LIBERTY LIFE ASSURANCE COMPANY
 23 OF BOSTON; HYUNDAI MOTOR
 24 AMERICA.

25 Defendants.

Case No: 14-cv-1507 YGR (EDL)

**[PROPOSED] ORDER GRANTING
 PLAINTIFF'S MOTION FOR FINAL
 APPROVAL OF SETTLEMENT BETWEEN
 PLAINTIFF AND DEFENDANT LIBERTY
 LIFE AND FINAL JUDGMENT**

26 WHEREAS Plaintiff, on behalf of the proposed Settlement Class and the Settlement
 27 Subclass, and Defendant Liberty Life Assurance Company of Boston ("Liberty Life") entered into a
 28 class action Settlement Agreement dated August 12, 2016 to settle all claims alleged in the

1 Complaint and the Amended Complaint except those against Defendant Hyundai Motor America
2 (“Hyundai”);

3 WHEREAS, on September 27, 2016, the Court entered an Order preliminarily approving the
4 Settlement Agreement, certifying the Settlement Classes for settlement purposes only, ordering the
5 Class Settlement Notice to be sent to Liberty Life’s group policyholders for distribution to
6 participants and the Subclass Settlement Notice to be sent to members of the Settlement SubClass,
7 scheduling a Final Approval Hearing for February 28, 2017, and setting deadlines for members of
8 the Settlement Classes to object to the proposed Settlement and for the Settlement Subclass to
9 request exclusion from the proposed Settlement (“Preliminary Approval Order”);

10 WHEREAS Plaintiff and Defendant Liberty Life have complied with the Preliminary
11 Approval Order;

12 WHEREAS, on February 28, 2017, the Court held a Final Approval Hearing to determine
13 whether to give final approval to the proposed Settlement and the Court has heard and considered all
14 submissions in connection with the proposed Settlement and the files and records herein, including
15 Plaintiff’s Unopposed Motion for Final Approval of Settlement, Class Counsel’s Unopposed Motion
16 for an Award of Attorneys’ Fees and Expenses, as well as the arguments of counsel; and

17 WHEREAS the Court is of the opinion that the Settlement Agreement is fair, adequate, and
18 reasonable and that it should be approved;

19 It is hereby **ORDERED, ADJUDGED, AND DECREED** that:

20 1. The Court has personal jurisdiction over Plaintiff, Liberty Life, and members of the
21 Settlement Classes and subject-matter jurisdiction over this action, including but not limited to
22 jurisdiction to finally approve the proposed Settlement, to grant final certification of the Settlement
23 Classes, to settle and release claims pursuant to the Settlement Agreement, and to dismiss claims
24 alleged in the Complaint and the Amended Complaint on the merits and with prejudice;

25 2. The Liberty Life Settlement Class that the Court previously certified for settlement
26 purposes pursuant to the Preliminary Approval Order is hereby finally certified for settlement
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1 purposes under Rule 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure as to Counts III, IV,
2 VI, X, and XII. The Liberty Life Settlement Class consists of:

3 (a) Veterans who were honorably discharged from service in the United States
4 Armed Forces and who are participants in ERISA-governed employee welfare benefit
5 plans that provide LTD benefits insured by group LTD policies issued by Liberty
6 Life; and

7 (b) the beneficiaries of such participants.

8 3. The Liberty Life Settlement Subclass that the Court previously certified for
9 settlement purposes pursuant to the Preliminary Approval Order is hereby finally certified for
10 settlement purposes under Rule 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure as to
11 Count I. The Liberty Life Settlement Subclass consists of:

12 Members of the Settlement Class whose LTD benefits were reduced or offset by the
13 amount of VA benefits paid or payable to that Settlement Subclass Member from
14 January 1, 2008 through the Settlement Effective Date.

15 4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure and after considering the
16 requisites set forth therein, the Court confirms its prior appointment of R. Joseph Barton of Block &
17 Leviton LLP as Lead Class Counsel and Michelle Roberts of Roberts Bartolic LLP as Liaison Class
18 Counsel, and Plaintiff James L. Bush and Absentee Settlement Class Member Adam Ripka as the
19 Class Representatives. The Court finds that Class Counsel has fully and adequately represented the
20 interests of the Settlement Classes for purposes of entering into and implementing the Settlement
21 Agreement and has satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure.

22 5. The Court finds that the distribution of the Settlement Class Notice and the
23 Settlement Subclass Notice was in accordance with the terms of the Settlement Agreement and the
24 Court's Preliminary Approval Order and

25 (a) constituted the best practicable notice to members of the Settlement Classes under the
26 circumstances of this action;

- 1 (b) was reasonably calculated, under the circumstances, to apprise members of the
2 Settlement Classes of (i) the pendency of this class action; (ii) their right to object to
3 any aspect of the proposed Settlement, including final certification of the settlement
4 classes, the fairness, reasonableness or adequacy of the Settlement Classes’
5 representation by Plaintiff’s counsel, the award of attorneys’ fees and expenses,; (iii)
6 their right to appear at the Final Approval Hearing; and (iv) the binding effect of the
7 orders and Final Judgment as to all claims against Defendant Liberty Life in this
8 action, whether favorable or unfavorable, on all members of the Settlement Classes;
- 9 (c) was reasonable and constituted due, adequate and sufficient notice to all persons
10 entitled to be provided with notice; and
- 11 (d) fully satisfied the requirements of the Federal Rules of Civil Procedure (including
12 Rules 23(c)(2) and (e)), the United States Constitution (including the Due Process
13 Clause), and any other applicable law.

14 6. Based on the submission by Defendant Liberty Life, the Court finds that Defendant
15 Liberty Life has fully satisfied its obligations under the Class Action Fairness Act (“CAFA”), 28
16 U.S.C. § 1715(b).

17 7. The Court finds that the Settlement resulted from arm’s length negotiations and the
18 terms and provisions of the Settlement Agreement have been entered into in good faith and are
19 hereby fully approved as fair, reasonable, and adequate as to, and in the best interests of, Plaintiff
20 and members of the Settlement Classes, and in full compliance with all applicable requirements of
21 the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process
22 Clause), and any other applicable law. Plaintiff, Defendant Liberty Life, and members of the
23 Settlement Classes are hereby directed to implement and consummate the Settlement Agreement
24 according to its terms and provisions.

25 8. The terms of the Settlement Agreement and of this Order and the accompanying Final
26 Judgment as to all claims against Defendant Liberty Life in this action shall be forever binding on
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1 Plaintiff, all members of the Settlement Classes, Defendant Liberty Life, as well as their respective
2 Releasees (defined in Section 8 of the Settlement Agreement).

3 9. The terms of the Settlement Agreement, including those set forth in Sections 3 and 4,
4 are expressly incorporated herein in all respects and are effective as of the date of this Order and the
5 accompanying Final Judgment.

6 10. The Releases contained in Section 8 of the Settlement Agreement are expressly
7 incorporated herein in all respects, and are effective as of the date of this Order and the
8 accompanying Final Judgment.

9 11. The Motion for Final Approval of Settlement is granted, and the Settlement
10 Agreement is finally approved as fair, reasonable, and adequate to members of the Settlement
11 Classes pursuant to Rule 23 of the Federal Rules of Civil Procedure.

12 12. The Court has considered the following factors, among others, to determine the
13 amount of fees to award to Class Counsel in this case: (1) the time and labor required; (2) the
14 novelty and difficulty of the questions involved; (3) the skill requisite to perform the legal services;
15 (4) the amount involved and the results obtained; (5) the experience, reputation and ability of the
16 attorneys; and (6) awards in similar cases. After consideration of these factors, Class Counsel's
17 Motion for an Award of Attorneys' Fees and Expenses is granted, and the Court awards Class
18 Counsel attorneys' fees and expenses of \$425,000.00.

19 13. The Court has jurisdiction to enter this Order and the accompanying Final Judgment.
20 Without affecting the finality of this Order and Final Judgment in any way, this Court expressly
21 retains continuing jurisdiction as to all matters relating to the administration, consummation,
22 enforcement, and interpretation of the Settlement Agreement and of this Order and the
23 accompanying Final Judgment.

24 14. All claims alleged in the Complaint and the Amended Complaint, including all
25 individual and class claims, against Defendant Liberty Life and the Releasees (including the Liberty
26 Life Released Parties and the Released Plan Administrators) identified in Section 8 are hereby
27 dismissed with prejudice by Plaintiff and all other members of the Settlement Classes, without fees

1 or costs to Plaintiff, the Settlement Classes, or Defendant Liberty Life (or any of the Releasees)
2 except as otherwise provided in this Order and Final Judgment.

3 15. There is no reason for delay. Accordingly, pursuant to Rule 54(b) of the Federal
4 Rules of Civil Procedure, the Clerk of the Court is directed to enter this Order and Final Judgment as
5 to all claims against Defendant Liberty Life in this action.

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7 DONE AND ORDERED THIS 1st DAY OF March , 2017

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9
10 **HON. YVONNE GONZALEZ ROGERS**
UNITED STATES DISTRICT JUDGE

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