

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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IN RE: INSURANCE BROKERAGE : MDL No. 1663
ANTITRUST LITIGATION :
 : Civil No. 04-5184; Civil No. 05-1079
APPLIES TO ALL ACTIONS : and Civil No. 05-5533

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IN RE: EMPLOYEE-BENEFIT INSURANCE : Hon. Garrett E. Brown, Jr.
BROKERAGE ANTITRUST LITIGATION :
 :
APPLIES TO ALL ACTIONS :

(Filed Electronically)

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**SECOND AMENDED STIPULATION OF SETTLEMENT BETWEEN CLASS
PLAINTIFFS AND ARTHUR J. GALLAGHER & CO. DEFENDANTS**

WHEREAS, the Gallagher Defendants¹ and Class Plaintiffs entered into a Settlement Agreement on December 29, 2006; and

WHEREAS, the Settlement Agreement was filed with the Court on December 29, 2006; and

WHEREAS, the First Amended Stipulation of Settlement Between Class Plaintiffs and the Arthur J. Gallagher & Co. Defendants, dated February 28, 2007, was filed with the Court on that same day, and described the modifications made to the Settlement Agreement and certain of its exhibits, as well as the fact that certain additional exhibits had been completed, and confirmed that the aforementioned amended and/or additional exhibits were also being filed with the Court;

¹ All capitalized terms used in this Second Amended Stipulation of Settlement Between Class Plaintiffs and the Arthur J. Gallagher & Co. Defendants shall (unless otherwise noted) have the meaning ascribed to them in the Settlement Agreement dated December 29, 2006.

and

WHEREAS, the Gallagher Defendants and Class Plaintiffs wish to modify certain substantive sections of the Settlement Agreement, and the following sections have been modified (as set forth more fully below): Section 1.3 ("Bar Order") and Sections 20.3-20.6 ("Stay of Proceedings") and an additional section, Section 20.7, has been added; and

WHEREAS, the modifications to certain sections of the Settlement Agreement as set forth above require that Exhibit F ("Order Approving Settlement") and Exhibit I ("Findings and Order Preliminarily Certifying a Class For Settlement Purposes and Preliminarily Approving Proposed Settlement") also be modified, said Exhibits in modified form being attached hereto and also filed with the Court; and

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among Class Plaintiffs and the Gallagher Defendants, by and through their duly authorized counsel, that the Settlement Agreement shall be amended as follows:

1. Section 1.3 of the Settlement Agreement ("Bar Order") shall be deleted in its entirety and the following "Section 1.3" shall be inserted in its place:

1.3. "Bar Order" means that portion of the proposed Final Judgment and Order Approving Settlement that is set out in paragraph 12 of such Order, a copy of which is attached as Exhibit F to this Settlement Agreement.

2. Section 20.3 of the Settlement Agreement shall be deleted in its entirety and the following "Section 20.3" shall be inserted in its place:

20.3. The Settlement Class Members and the Gallagher Defendants shall request that the Court include in the Preliminary Approval Order a preliminary injunction that will enjoin all Settlement Class Members and all Persons from commencing or prosecuting any action against any of the Releasees that is based upon, arises out of, asserts or relates to any Released Claim and staying any actions or proceedings against any of the Releasees brought by any or on behalf of any Settlement Class Members that are based upon, arise out of, assert or relate to any Released Claims.

The Settlement Class Members and the Gallagher Defendants shall request that the Court include in the Final Judgment and Order Approving Settlement a complete Bar Order (as set out in paragraph 12 of Exhibit F to this Settlement Agreement) which shall provide as follows:

3. Section 20.4 of the Settlement Agreement shall be deleted in its entirety and the following "Section 20.4" shall be inserted in its place:

20.4. Any and all Persons and entities are permanently barred, enjoined and restrained from commencing, prosecuting or asserting any claim against any Releasee arising under state, federal or common law, however styled (whether for indemnification or contribution or otherwise denominated, including, without limitation, claims for breach of contract and for misrepresentation), where the alleged injury or damage to such Person or entity is that Person's or entity's alleged liability to the Settlement Class or a Settlement Class Member, whether such claim is based upon, arises out of, or relates to any Released Claim belonging to the Settlement Class or a Settlement Class Member, including, but not limited to, any claim that is based upon, arises out of or relates to the Action, or the transactions and occurrences referred to in the complaints in the Action, whether such claims are legal or equitable, known or unknown, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, including, without limitation, any claim in which a Person or entity seeks to recover from any of the Releasees (i) any amounts such Person or entity may become liable to pay to the Settlement Class or any of the Settlement Class Members and/or (ii) any costs, expenses, or attorneys' fees from defending any claim by the Settlement Class or any of the Settlement Class Members. All such claims are hereby extinguished, discharged, satisfied and unenforceable, subject to a hearing to be held by the Court, if necessary. The provisions of this paragraph 20.4 are intended to preclude any liability of any of the Releasees to any Person or entity for indemnification, contribution, or otherwise on any claim based upon, arising out of, or relating to any Released Claim belonging to the Settlement Class or a Settlement Class Member, where the alleged injury or damage to such Person or entity is that Person's or entity's alleged liability to the Settlement Class or a Settlement Class Member in the Action, including, but not limited to, any claim that is based upon, arises out of or relates to the Action, or the transactions and occurrences referred to in the complaints in the Action; *provided* that, with respect to any judgment against any Person or entity on behalf of the Settlement Class or such Settlement Class Member based upon, arising out of, or relating to any Released Claim belonging to the Settlement Class or a Settlement Class Member, including, but not limited to, any claim that is based upon, arises out of or relates to the Action, or the transactions and occurrences referred to in the complaints in the Action, that Person or entity shall be entitled to a credit of the greater of (i) an amount that corresponds to the

percentage of responsibility of the Gallagher Defendants for the loss to the Settlement Class or such Settlement Class Member or (ii) the Settlement Amount. If any provision of this paragraph 20.4 is subsequently held to be unenforceable, such provision shall be substituted with such other provision as may be necessary to afford all of the Releasees the fullest protection permitted by law from any claim that arises out of or relates to any Released Claim belonging to the Settlement Class or a Settlement Class Member, including, but not limited to, any claim that is based upon, arises out of or relates to the Action, or the transactions and occurrences referred to in the complaints in the Action.

4. Section 20.5 of the Settlement Agreement shall be deleted in its entirety and the following "Section 20.5" shall be inserted in its place:

20.5. Each and every Releasee is permanently barred, enjoined and restrained from commencing, prosecuting or asserting any claim against any Person or entity (including any other Releasee) arising under state, federal, or common law, however styled (whether for indemnification or contribution, or otherwise denominated, including, without limitation, claims for breach of contract and for misrepresentation), where the alleged injury or damage to the Releasee is the Releasee's alleged liability to the Settlement Class or a Settlement Class Member, whether such claim is based upon, arises out of, or relates to any Released Claim belonging to the Settlement Class or a Settlement Class Member, including, but not limited to, any claim that is based upon, arises out of or relates to the Action, or the transactions and occurrences referred to in the complaints in the Action, whether such claims are legal or equitable, known or unknown, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, including, without limitation, any claim in which the Releasee seeks to recover from any Person or entity, including another Releasee (i) any amounts such Releasee has or may become liable to pay to the Settlement Class or any of the Settlement Class Members and/or (ii) any costs, expenses, or attorneys' fees from defending any claim by the Settlement Class **or** any of the Settlement Class Members. All such claims are hereby extinguished, discharged, satisfied and unenforceable. However, notwithstanding anything stated in the Bar Order or in the Settlement Agreement, if any Person or entity commences against any of the Releasees any action asserting a claim that is based upon, arises out of, or relates to any Released Claim belonging to the Settlement Class or a Settlement Class Member, including, but not limited to, any claim that is based upon, arises out of or relates to the Action, or the transactions and occurrences referred to in the complaints in the Action, and if such claim is not barred by a court pursuant to paragraph 20.4 above or is otherwise not barred by the Bar Order, neither the Bar Order nor the Settlement Agreement shall bar claims by that Releasee against such Person or entity.

5. Section 20.6 of the Settlement Agreement shall be deleted in its entirety and the following "Section 20.6" shall be inserted in its place:

20.6. Notwithstanding the Bar Order or anything else in the Settlement Agreement or in the Final Judgment and Order Approving Settlement that is attached as Exhibit F to this Settlement Agreement, nothing shall release, interfere with, limit or bar the assertion by any Releasee of any claim for insurance coverage under any insurance or indemnity policy that provides coverage respecting the conduct at issue in the Action.

6. A new Section 20.7 of the Settlement Agreement shall be added to the Settlement Agreement and shall read as follows:

20.7. If any term of the Bar Order entered by the Court is held to be unenforceable after the date the Court enters the Bar Order, such provision shall be substituted with such other provision as may be necessary to afford all of the Releasees and other Persons or entities protected by the Bar Order the fullest protection permitted by law from any claim that is based upon, arises out of, or relates to any Released Claims.

7. As noted above, Exhibits F ("Order Approving Settlement") and Exhibit I ("Findings and Order Preliminarily Certifying a Class For Settlement Purposes and Preliminarily Approving Proposed Settlement") of the Settlement Agreement have also been modified by the Settling Parties. The modified and final form of said exhibits are attached hereto and shall be substituted for Exhibits F and I to the Settlement Agreement; *provided* that to avoid any confusion, the Exhibits shall be identified by the same letters as identified in the Settlement Agreement.

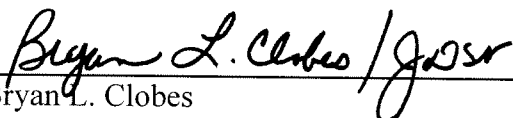
Agreed to as of this 20th day of March, 2007.

WHATLEY, DRAKE & KALLAS, LLC

Handwritten signature of Edith M. Kallas in cursive, written over a horizontal line.

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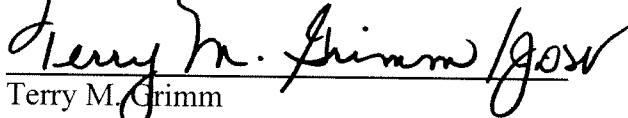
CAFFERTY FAUCHER LLP

Handwritten signature of Bryan L. Clobes in cursive, written over a horizontal line.

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On Behalf of the Class Plaintiffs

WINSTON & STRAWN LLP

Handwritten signature of Terry M. Grimm in cursive, written over a horizontal line.

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On Behalf of the Gallagher Defendants