UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Keir Milan, individually and on behalf of the Class; Cristin Morneau and Kelly Strange, individually and jointly as successors-in-interest to Carolyn A. Morneau, and on behalf of the Estate of Carolyn A. Morneau and the Class v. Protective Life Insurance Company and West Coast Life Insurance Company

Morneau · No. 3:22-cv-01861-AHG · Decided October 24, 2025

SUMMARY

The United States District Court for the Southern District of California denied absent class members' counsel's motion for attorney fees and reimbursement of expenses. The court held that counsel had not shown that their work in a related action meaningfully benefited the class or contributed to the settlement fund. The order addresses fee awards to non-lead counsel in class actions under Federal Rule of Civil Procedure 23(h).

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Allison H. Goddard
JURISDICTION	United States District Court for the Southern District of California
DECIDED	October 24, 2025
DOCKET	3:22-cv-01861-AHG
DISPOSITION	other
PROCEDURAL POSTURE	Counsel for absent putative class members moved for an award of attorney fees and reimbursement of expenses from the class settlement fund. The district court denied the motion.
STANDARD OF REVIEW	The Court evaluated whether the requesting counsel established entitlement to a reasonable fee award under Federal Rule of Civil Procedure 23(h), including whether counsel's specific services meaningfully benefited the class or the common fund.
PRECEDENTIAL VALUE	unpublished

TOPICS

attorney fees | class actions | insurance | civil procedure

PRACTICE AREAS

class action attorney fees | insurance litigation | civil procedure

QUESTIONS PRESENTED

1. Whether counsel for absent class members were entitled to attorney fees and expenses from the class settlement fund based on work performed in a separate, related class action.
2. Whether the requesting counsel demonstrated that their specific services meaningfully benefited the settlement class or created, increased, protected, or preserved the common fund.

HOLDINGS

1. Counsel seeking fees from a class settlement fund bears the burden of establishing entitlement to compensation by demonstrating that counsel's specific services meaningfully benefited the class or created, increased, protected, or preserved the fund.

KEY QUOTATIONS

> *"It is well established that an award of attorney[] fees from a common fund depends on whether the attorneys' specific services benefited the fund—whether they tended to create, increase, protect or preserve the fund."* (Legal Standard)

> *"The Ninth Circuit has held that the "central issue" when determining an award of attorney fees to non-lead counsel is "whether [counsel's] efforts meaningfully benefited the class.""* (Legal Standard)

> *"But [Schmidt Counsel's] efforts do not entitle them to compensation [] when the record indicates that they did not perform work that benefited the class[.]"* (Conclusion)

> *"Here, Schmidt Counsel did not meet their burden to show that they meaningfully benefited the class."* (Conclusion)

FACTUAL BACKGROUND

The settlement resolved claims concerning lapsed life insurance policies and effectively combined the Morneau and Allen actions. Counsel for absent class members had separately litigated the Schmidt action but did not participate in the mediations that produced the settlement in the Allen and Morneau actions. They sought a portion of the settlement-related attorney fee award based on their prior experience, discovery and class-certification work, proposed class theory, and allegedly stronger complaint.

PROCEDURAL HISTORY

Morneau and Strange filed the action in San Francisco Superior Court on July 5, 2022. Defendants removed the action and it was transferred to the Southern District of California on November 28, 2022. The action was later amended to merge the Allen action and add Keir Milan as a class representative; the Court preliminarily approved the settlement on April 22, 2025. Counsel for absent class members filed the fee motion, and the Court held a hearing on October 24, 2025, before denying it.

DISPOSITION

other

CASES CITED

- Allen v. Protective Life Insurance Co., et al., No. 1:20-cv-530-JLT-CDB (E.D. Cal.)
- Schmidt v. Standard Insurance Company, et al., No. 1:21-cv-1784-JLT-CDB (E.D. Cal.)
- Class Plaintiffs v. Jaffe & Schlesinger, P.A., 19 F.3d 1306, 1308 (9th Cir. 1994)
- In re Kia Hyundai Vehicle Theft Litig., No. 8:22-ml-03052-JVS-KES, 2024 WL 4602700, at *2, *4 (C.D. Cal. Oct. 9, 2024)
- In re Cendant Corp. Sec. Litig., 404 F.3d 173, 197 (3d Cir. 2005)
- Hill v. Volkswagen Grp. of Am., Inc. (In re Volkswagen "Clean Diesel" Mktg., Sales Practices, & Prod. Liab. Litig.), 914 F.3d 623, 642 (9th Cir. 2018)
- Victor v. Argent Classic Convertible Arbitrage Fund L.P., 623 F.3d 82, 87 (2d Cir. 2010)
- Bentley v. United of Omaha Life Insurance Co., No. 15-cv-7870-DMG-AJWx, 2018 WL 3357458 (C.D. Cal. May 1, 2018)
- In re Wells Fargo & Co. Shareholder Derivative Litig., 445 F. Supp. 3d 508, 533 (N.D. Cal. 2020)
- Arkin v. Pressman, Inc., 38 F.4th 1001, 1009 (11th Cir. 2022)
- Small v. Allianz Life Ins. Co. of N. Am., 122 F.4th 1182, 1202 (9th Cir. 2024)
- Moriarty v. Am. Gen. Life Ins. Co.
- Sobel v. Hertz Corp., 53 F. Supp. 3d 1319, 1333 (D. Nev. 2014)