IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY

DAVID B. KARR, individually and on behalf of others similarly situated,	)	
	)	Case No. 1916-CV26645
Plaintiff,	)	
	)	Division 14
vs.	)	
KANSAS CITY LIFE INSURANCE COMPANY	)	
Defendant.	)	

FILED
DIVISION 14
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CIRCUIT COURT OF JACKSON COUNTY, MO
BY

ORDER GRANTING PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON COUNTS I, II AND III AND DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Before the Court is Plaintiff David B. Karr's Motion for Partial Summary Judgment and Defendant Kansas City Life Insurance Company's Motion for Summary Judgment, both filed on July 8, 2021. Defendant moves for summary judgment asserting: Plaintiff's claims are barred by the statute of limitations, Plaintiff is required to prove his subjective understanding of the contract in support of his claim for breach of the cost of insurance ("COI") rates provision, and Plaintiff's conversion claim fails because Plaintiff is neither the owner of the funds in his policy account nor did he identify a specific sum converted. Plaintiff moves for partial summary judgment on behalf of the certified class (the "Class") on Defendant's liability on Counts I-III of the Petition and on Defendant's affirmative statute of limitations defense. After having considered the Motions, related briefing, the record in this case, oral argument, and applicable law, the Court **GRANTS** Plaintiff's Motion for Partial Summary Judgment and **DENIES** Defendant's Motion for Summary Judgment in all respects for the following reasons:

FACTUAL AND PROCEDURAL BACKGROUND

A. The life insurance contracts between Defendant and the Class.

Each class member purchased from Defendant a "Flexible Premium Adjustable Death Benefit Life Policy - Nonparticipating" ("Policies").[1] Defendant administers the Policies, including collecting premiums and setting and collecting the various charges assessed under the Policies. The Policies are valid and enforceable contracts between the class members, on one hand, and Defendant, on the other hand. The Policies' terms are not subject to individual negotiation and cannot be altered by the agent's representations at the time of sale, or by any other discussions. The Policies provide that only an officer of Defendant has authority to waive or change any policy provisions, including the monthly COI rates provisions or the expenses charge provisions, and then only in writing. In short, these are form contracts not subject to variation.

B. The Policies identify the specific charges Defendant is authorized to deduct from Cash Values.

The Policies are unlike traditional whole or term life insurance policies with bundled premium payments made periodically. Instead, the Policies provide for both a death benefit as well as a savings or investment component called the "Cash Value" or "Accumulated Value." Policyholders pay premiums which accrue at policy-provided interest (less the premium expense charge) in the Cash Value. The Policies explicitly identify the separate, unbundled "Monthly Deduction" Defendant is permitted to take from the Cash Value each month. Specifically, as relevant here, the Policies authorize Defendant to take through each Monthly Deduction the COI charge and a separately identified monthly expense charge.

[1] The Policies are the Better Life Plan, Better Life Plan Qualified, LifeTrack, AGP, MGP, PGP, Chapter One, Classic, Rightrack (89), Performer (88), Performer (91), Prime Performer, Competitor (88), Competitor (91), Executive (88), Executive (91), Protector 50, LewerMax, Ultra 20 (93), Competitor II, Executive II, Performer II, and Ultra 20 (96).

The COI charge is determined using a monthly COI rate. The Policies state the monthly COI rates are based on certain characteristics of insureds that bear on their mortality risk (i.e., age, sex, risk class, etc.), and that COI rates "will be determined by [Defendant] based on [Defendant's] expectations as to future mortality experience." Defendant is also permitted to deduct an expense charge each month to cover Defendant's expenses. The monthly expense charge is explicitly set forth in the Policies' schedule pages. For example, one class policy states the monthly expense charge is "$2.75 per month." All Policies have a specific monthly expense charge.

C. Defendant does not determine COI rates based on its expectations as to future mortality experience.

Defendant admits it uses non-mortality factors in setting monthly COI rates, including but not limited to expense-recovery factors. Additionally, while Defendant's mortality expectations have improved since it last determined COI rates for the Policies, Defendant has not incorporated these mortality improvements into the COI rates. This results in higher COI rates that increase the COI charges deducted from each policyholder's Cash Value. Because the Cash Value earns interest, higher COI charges mean that policyholders lose not just the amount deducted, but Policy-provided investment earnings as well. Policies stay in-force only so long as the Cash Value is sufficient to cover Defendant's deductions. Overcharges can therefore result in the termination of the Policies and loss of the death benefit.

DISCUSSION

A. Legal standard

Summary judgment is proper if there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. *Doe Run Res. Corp. v. Am. Guar. & Liab. Ins.*, 531 S.W.3d 508 (Mo. banc 2017); *Ameristar Jet Charter, Inc. v. Dodson Int'l Parts, Inc.*, 155 S.W.3d 50, 58 (Mo. banc 2005); Mo. Sup. Ct. R. 74.04. "[T]o overcome a properly made motion

for summary judgment, the opposing party must demonstrate the existence of a factual question that would permit a reasonable jury to return a verdict for the opposing party." *Martin v. City of Washington*, 848 S.W.2d 487, 492 (Mo. banc 1993). "A factual question exists if evidentiary issues are actually contested, are subject to conflicting interpretations, or if reasonable persons might differ as to their significance." *Id.*

B. Breach of Contract

Plaintiff alleges three claims for breach of contract (Counts I-III) on behalf of the certified Class. To prove breach of contract, the Class must show (1) the existence of a valid contract; (2) Defendant's obligation under the contract; (3) Defendant's breach of that obligation; and (4) resulting damages. *See Clayborne v. Enter. Leasing Co. of St. Louis, LLC*, 524 S.W.3d 101, 106 (Mo. App. E.D. 2017) (citing *C-H Building Assocs., LLC v. Duffey*, 309 S.W.3d 897, 899 (Mo. App. W.D. 2010)); *see also Kieffer v. Icaza*, 376 S.W.3d 653, 657 (Mo. banc 2012). The first element is not disputed, as Defendant admits that the Policies are valid and enforceable contracts between policyholders and Defendant.

In construing the terms of an insurance policy under Missouri law, the Court "must interpret [the insurance policy] in accordance with the general rules of contract construction," and must give each provision a reasonable meaning and avoid interpretations that "render some provisions useless or redundant." *Vogt v. State Farm Life Ins. Co.*, No. 2:16-cv-04170-NKL, 2018 WL 1747336, at *3 (W.D. Mo. Apr. 10, 2018) (quoting *Farmland Indus., Inc. v. Republic Ins. Co.*, 941 S.W.2d 505, 508 (Mo. banc 1997)); *Dibben v. Shelter Ins. Co.*, 261 S.W.3d 553, 556 (Mo. App. W.D. 2008). The Court also "must give the Policy's terms their ordinary meaning, that is, the meaning the average layperson would reasonably understand." *Vogt*, 2018 WL 1747336, at *3; *see also Vogt v. State Farm Life Ins. Co.*, 963 F.3d 753, 863 (8th Cir. 2020) ("[p]olicy terms are given the meaning which would be attached by an ordinary person of average understanding if

purchasing insurance") (quoting *Westchester Surplus Lines Ins. Co. v. Interstate Underground Warehouse & Storage, Inc.*, 946 F.3d 1008, 1010 (8th Cir. 2020) (citations and internal quotations marks omitted)); *Burns v. Smith*, 303 S.W.3d 505, 509 (Mo. banc 2010) (holding the court is to apply "the meaning which would be attached by an ordinary person of average understanding if purchasing insurance, and resolves ambiguities in favor of the insured") (citing *Seeck v. Geico Gen. Ins. Co.*, 212 S.W.3d 129, 132 (Mo. banc 2007); *Martin v. U.S. Fidelity & Guaranty Co.*, 996 S.W.2d 506, 508 (Mo. banc 1999)). Under Missouri law, if there is an ambiguity in an insurance policy "it must be construed against the insurance company." *Vogt*, 2018 WL 1747336, at *4; *see also Ritchie v. Allied Prop. & Cas. Ins. Co.*, 307 S.W.3d 132, 135 (Mo. banc 2009) ("In construing the terms of an insurance policy, this Court . . . resolves ambiguities in favor of the insured.").

COUNT I

Count I alleges that Defendant repeatedly breached the COI rates provision, which promises the monthly COI rates are to be "based on" a list of insured attributes related to mortality risk and "will be determined by [Defendant] based on [Defendant's] expectations as to future mortality experience." And the "Cost of Insurance Charge" is defined as "[t]he charge [Defendant] make[s] for providing pure insurance protection using the current cost of insurance rates for this policy." Plaintiff asserts Defendant breaches this provision by adding undisclosed, non-mortality factors into its monthly COI rates to increase monthly COI charges.

Numerous courts have construed similar COI rates provisions and determined this language prohibits the insurer from using undisclosed non-mortality factors in determining COI rates. *See Jeanes v. Allied Life Ins. Co.*, 168 F. Supp. 2d 958, 973 (S.D. Iowa 2001) (holding COI rates "based on our expectations as to future mortality experience" is "unambiguous and acted to restrict Allied

from increasing the COI for reasons other than changes in expectations of future mortality"), *aff'd in part, rev'd in part on other grounds*, 300 F.3d 938 (8th Cir. 2002); *Yue v. Conseco Life Ins. Co.*, No. CV 08–1506 AHM, 2011 WL 210943, at *8-9 (C.D. Cal. Jan. 19, 2011) (holding that COI rates "based on [the insurer's] expectations as to future mortality experience" did not permit the insurance company to take into account factors other than its mortality expectations in determining COI rates); *Yue v. Conseco Life Ins. Co.*, 282 F.R.D. 469, 483 (C.D. Cal. 2012) (stating "[n]o reasonable policyholder could expect the plain language of the COI provision as permitting Defendant to change the COI rate in an 'infinite' number of ways," and concluding the insurer's interpretation of the phrase "based on" as giving it discretion to use undisclosed factors in determining the COI rate so long as the disclosed factor was used "conflicts [] with the ordinary and popular meaning of the phrase 'based on'"); *Lincoln Nat'l Life Ins. Co. v. Bezich*, 33 N.E.3d 1160, 1168 (Ind. App. 2015), *transfer granted, opinion vacated*, 37 N.E.3d 493 (Ind. 2015) ("An ordinary policyholder of average intelligence would read the COI rate provision to say that the COI rate is calculated using the factors enumerated and only those factors."); *see also Fairlie v. Transam. Life Ins. Co.*, No. C18-32-LTS, 2018 WL 3381405, at *4, *6-9 (N.D. Iowa July 11, 2018) (rejecting life insurance company's argument that provision in policy stating "[t]he [monthly deduction rate] for a policy month is determined based on our projections of future mortality experience" permits the company to consider non-mortality factors, such as its past losses, in adjusting the monthly deduction rates).

Under Missouri law, the *Vogt* court analyzed a similar COI rates provision and held "a lay person would not understand that [the insurer] expected to derive profit from the COI." *Vogt*, 2018 WL 1747336, at *4, *aff'd*, 963 F.3d at 764 ("If State Farm wanted the freedom to collect a COI fee based on factors other than those enumerated in the policy, it could have drafted the policy

language to unambiguously achieve this aim."). The Court agrees and holds the COI rates provision here does not permit Defendant to take non-mortality factors into account in setting monthly COI rates.[2]

Defendant argues that the COI rates provision is ambiguous, and thus, the Court must consider extrinsic evidence of the parties' intent. Specifically, Defendant argues that Plaintiff "is unable [to] provide his own understanding . . . of what [Defendant] agreed to with respect to the determining of COI rates," and thus, his breach of contract claim fails. Def.'s Mot. at 11. Defendant's argument is unavailing for two reasons.

First, the Court finds the COI rates language is unambiguous as it does not authorize Defendant to consider non-mortality factors in setting monthly COI rates. Indeed, Defendant concedes that "[i]f the contract is **unambiguous**, 'the intent of the parties is to be discerned from the contract alone.'" Def.'s Opp. to Pl.'s Mot. at 11 (emphasis in original) (quoting *DeBaliviere Place Ass'n v. Veal*, 337 S.W.3d 670, 676 (Mo. banc 2011)); *see also Maritz Holdings, Inc. v. Fed. Ins. Co.*, 298 S.W.3d 92, 99 (Mo. App. E.D. 2009) ("When the policy language is unambiguous, we will not resort to extrinsic evidence."). For this reason alone, because the COI rates provision is unambiguous, extrinsic evidence (such as, expert opinions, statements issued to policyholders that refer to COI rates as "mortality rates," or the parties' subjective intent) as to what the provision means is irrelevant; instead, the provision must be applied as written.

[2] Because the other factors specified in the Policies' COI provision (*i.e.*, age, sex, risk class) are mortality factors, or factors that in the context of a life insurance policy would commonly be understood to bear on the mortality risk or the "expectations as to future mortality experience" for an insured, the specification of these factors further confirms that Defendant's mortality expectations are the only consideration specified for determining COI rates. *See, e.g.*, *Vogt*, 2018 WL 1955425, at *1 (W.D. Mo. Apr. 24, 2018) (holding that age, sex, and applicable rate class, are "factors [] commonly used to determine mortality expectations for an insured or group of insureds").

Second, even if the Court determined the COI rates language was ambiguous, Defendant's reading of Missouri law is incorrect. Missouri law is clear: an ambiguity in an insurance policy "must be construed against the insurance company." *Vogt*, 2018 WL 1747336 at *4; *see also Burns*, 303 S.W.3d at 509 (citing *Seeck*, 212 S.W.3d at 132; *Martin*, 996 S.W.2d at 508); *Ritchie*, 307 S.W.3d at 135; *Niswonger v. Farm Bureau Town & Country Ins. Co. of Missouri*, 992 S.W.2d 308, 317 (Mo. App. E.D. 1999). Consequently, even if the Policies' COI rates provision were ambiguous, extrinsic evidence may not be considered to resolve the ambiguity, as it would be construed against Defendant as a matter of law.

Although the COI rates provision prohibits Defendant from using non-mortality factors in setting its COI rates, Defendant breaches this obligation by taking into account non-mortality factors—like profits and expenses—to determine COI rates. Indeed, Defendant admits "that expenses and profits are considered in setting those [COI] rates." Def.'s Statement at 5 (Aug. 17, 2021); *see also id.* at 7 ("All of the rates for a product are determined so that, in aggregate, based on the actuarial assumptions made, the company could pay death claims, other policy benefits, other expenses, and earn a reasonable profit in exchange for providing a valuation product to its customers"). Thus, because Defendant's COI rates take into account non-mortality factors, Defendant breaches the COI rates provision.

COUNT II

Count II alleges Defendant breached the monthly expense charge provision by including hidden monthly expense charges in the COI charges. Each policy provides a specific monthly expense charge. The Policies' monthly expense charges are defined by the Policies as the monthly charges covering Defendant's expenses. Plaintiff contends Defendant breaches the monthly

expense charge provision by deducting expenses from policyholders' Cash Values each month in excess of the amounts stated in the Policies' monthly expense charge provision.

Here, because the Policies define the monthly expense charge as "the amount" or "the charge" that covers Defendant's expenses, and further identify a specific dollar amount each month, the Court concludes that no reasonable layperson would understand the contract to permit Defendant to deduct expenses from the Cash Value each month in excess of $2.75 per month where the monthly expense charge is "$2.75 per month."[3] *See Vogt*, No. 2:16-cv-04170-NKL, Doc. 335 (W.D. Mo. June 2, 2018) (interpreting monthly expense charge provision to hold that State Farm was not permitted to deduct more than $5.00 in expenses each month because the policy stated the "monthly expense charge is $5.00"); *Bezich v. The Lincoln Nat'l Life Ins. Co.*, No. 02C01-0906-PL-73, 2013 WL 12349081, at *5, at ¶ 13 (Ind. Cir. Ct. Jan. 14, 2013) (rejecting insurer's argument that expense charge provision stating the monthly administrative charge "is equal to $6.00 per month" allowed it to charge administrative expenses greater than $6.00 per month by recovering expenses through the COI charge, stating "[g]iving this provision its plain and ordinary meaning, an ordinary policyholder of average intelligence would not interpret this provision to mean that administrative fees can exceed $6.00/month or that these administrative fees can be tacked on to the [COI] rate").

In addition, construing the Policies to permit Defendant to deduct expense amounts in excess of the stated monthly expense charge by deducting expenses through the COI charge, would render the monthly expense charge provision meaningless. Thus, this provision unambiguously

[3] Likewise, if the policy's monthly expense charge is "$5.00 per month" or "$18.50 per month for the first policy year" and $2.50 per month thereafter, then the average insured would expect Defendant to charge no more than $5.00 per month or $18.50 per month for the first policy year and $2.50 per month thereafter.

prohibits Defendant from deducting more than the stated amount in the monthly expense charge provision per month in expenses.

Despite this prohibition, it is undisputed that, in addition to the monthly expense charge, Defendant deducts additional expenses each month through the COI charge. Because Defendant's undisclosed deduction of expenses through the COI charge in addition to the monthly expense charge exceeds the amount specified for monthly expenses by the terms of the Policies, Defendant breaches the monthly expense charge provision. *See Vogt*, Doc. 335 (determining State Farm breached the monthly expense charge provision as a matter of law when "it charged policyholders not only $5.00 a month, but also additional, unspecified expenses that were factored into the COI rates").

COUNT III

Count III asserts Defendant further breached the COI rates provision, which promises the monthly COI rates "will be determined by [Defendant] based on [Defendant's] expectations as to future mortality experience," by failing to reduce its COI rates where its expectations as to future mortality experience have improved. Here, the Policies promise the COI rates used *will* be determined by Defendant, confirming that this provides an ongoing obligation for all COI rates used throughout the life of each Policy. Thus, where Defendant's expectations as to future mortality experience have materially improved, its COI rates are required to be changed within a reasonable period thereafter—otherwise, the COI rates charged are no longer based on Defendant's expectations as to future mortality experience.

But Defendant has admitted that its expectations as to future mortality experience for the Policies have been updated every few years since at least 2000, and further admits that it established new mortality expectations, at least, in 2000, 2005, 2011, and 2015 or 2016.

Nonetheless, no new COI rates have been determined for any Policy since 1996, and some have not been updated since the mid-1980s. Furthermore, Defendant has admitted that its expectations as to future mortality experience were at least lower in 2000 and 2005 than they previously had been. Thus, since at least 2000, Defendant has breached the COI rates provision by failing to determine its COI rates based on its then-current expectations as to future mortality experience.

Because there is no genuine dispute as to the first three elements of the breach of contract claims, Plaintiff and the Class are entitled to partial summary judgment on Counts I, II, and III because they established (1) the existence of a valid contract, (2) Defendant's obligation under the contract, and (3) Defendant's violation of its obligation. In addition, because these elements are established as a matter of law, Plaintiff and the Class are likewise entitled to summary judgment on the declaratory judgment claim at Count V. The fourth breach of contract element, damages, will be determined by a jury.

COUNT IV

Defendant seeks summary judgment on Plaintiff's claim for conversion arguing: (1) the premiums paid by policyholders are owned by Defendant, not policyholders, and policyholders do not have an "immediate right to possession" of the funds in their Cash Values, and (2) Plaintiff does not allege a specific and identifiable sum converted. These arguments lack merit. Defendant KCL is not entitled to summary judgment on Plaintiff's claim for conversion. Plaintiffs have not sought partial summary judgment on their conversion claim under Rule 74.04.

COUNT V

Plaintiffs argue that they are entitled to summary judgment on Count V of their Petition. Count V seeks a declaratory judgment in favor of Plaintiffs and seeks relief on behalf of the class members. The issues relating to Count V are closely related to those addressed with regard to

Counts I – III above. However, the Court finds and concludes that the parties have not fully briefed or argued the issues surrounding the DJA pled in Count V. Consequently, this issue is not ripe for determination at this time.

C. Statute of Limitations

Under Missouri law, a five-year statute of limitations applies to claims for breach of contract, conversion, and requests for declaratory judgment, and the statute begins to run at the time when the action accrues. *See Vogt*, 2018 WL 1747336, at *6 (citing Mo. Rev. Stat. §§ 516.120(1), (2), & (4)). "The cause of action is deemed to accrue not when the wrong is done or the technical breach of contract or duty occurs, but when the damage resulting therefrom is sustained and capable of ascertainment, and, if there is more than one item of damage, then, when the last item of damage is sustained and capable of ascertainment, so that all resulting damage may be recovered, and full and complete relief may be obtained." *Id.* (citing Mo. Rev. Stat. § 516.100). Thus, "the mere occurrence of an injury itself does not necessarily coincide with the accrual of a cause of action." *Id.* (quoting *Martin v. Crowley, Wade & Milstead, Inc.*, 702 S.W.2d 57 (Mo. banc. 1985) (citing *Anderson v. Griffin, Taylor, Penner & Lay, P.C.*, 684 S.W.2d 858 (Mo. App. W.D. 1984))). Rather, "the statute of limitations begins to run when the 'evidence was such [as] to place a reasonably prudent person on notice of a potentially actionable injury.'" *Id.* (quoting *Powel v. Chaminade Coll. Prep., Inc.*, 197 S.W.3d 576, 582 (Mo. banc. 2006)).

Defendant argues that Plaintiff was on notice of his claims because Defendant provided Plaintiff "Annual Reports" that show rising COI charges and because Plaintiff was "concerned" about the increasing charges. But the Annual Reports or rising COI charges, as a matter of law, would not put a reasonable policyholder on notice of their claims.

The unrebutted evidence demonstrates that Defendant never provides either its current

monthly COI rates[4] or its expectations as to future mortality experience to policyholders, including in its Annual Reports. Because Defendant did not provide monthly COI rates or its mortality expectations to policyholders, including Plaintiff, a reasonable policyholder would not be on notice of a potentially actionable injury, as a matter of law.

Because the Court finds that Plaintiff's claims are not time barred, the Court denies Defendant's motion for summary judgment on this affirmative defense and grants Plaintiff's motion for summary judgment on this affirmative defense.

D. Primary Jurisdiction Doctrine

Defendant contends this case should be stayed pending referral to the Missouri Department of Insurance under the doctrine of primary jurisdiction. "Prior to 2009, the doctrine of primary jurisdiction stood for the proposition that a trial court lacked subject matter jurisdiction to 'decide a controversy involving a question within the jurisdiction of an administrative tribunal until after the tribunal has rendered its decision.'" *Pierce v. Zurich American Ins. Co.*, 441 S.W.3d 208, 211-12 (Mo. App. W.D. 2014) (quoting *Evans v. Empire Dist. Elec. Co.*, 346 S.W.3d 313, 316 (Mo. App. W.D. 2011)). Defendant relies on pre-2009 authority. After the Missouri Supreme Court issued its decision in *J.C.W. ex rel. Webb v. Wyciskalla*, 275 S.W.3d 249 (Mo. banc 2009), the doctrine of "primary jurisdiction" no longer related to subject matter jurisdiction, but rather became "a question of whether the trial court has a statutory right to proceed." *Evans*, 346 S.W.3d at 316.

In light of this change, it is important to note that the primary jurisdiction doctrine is almost

[4] Defendant argues that, if a policyholder requested, it "could" provide them its monthly COI rates; however, it has presented no evidence that it ever disclosed its COI rates to any class member. In any event, Defendant does not dispute that it has not disclosed its "expectations as to future mortality experience" to any policyholder.

exclusively invoked in the context of Workers Compensation. This is because Missouri's Workers' Compensation Law includes an "exclusivity provision" (Mo. Rev. Stat. § 287.120.2) which provides that if an "injury" comes within the definition of the term "accident" in the Missouri Workers' Compensation law, "then it is included within the exclusivity provisions of the act, and recovery can be had, if at all, only under the terms set out in the act."

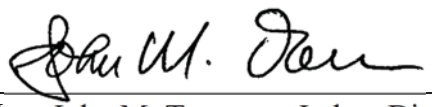
The Missouri Insurance Code has no such exclusivity provision. The Missouri Insurance Code does not even provide an administrative remedy for policyholders in the event an insurance company breaches its obligations, nor does it purport to contemplate one. *See, e.g.*, Missouri Insurance Code, chapter 374. Defendant has failed to offer a single demonstrative case where the primary jurisdiction doctrine resulted in a court determining it had no statutory right to proceed on a private, state common law action as a result of the Missouri Insurance Code and the Department of Insurance's exclusive jurisdiction over the matter. Therefore, the Court finds the primary jurisdiction doctrine inapplicable to this case.

CONCLUSION

IT IS THEREFORE ORDERED that Defendant's Motion for Summary Judgment is **DENIED** in all respects and Plaintiff's Motion for Partial Summary Judgment is **GRANTED** with respect to Counts I - III. In accordance with the above, the trial of this matter shall proceed as to damages only on Counts I – III.

IT IS SO ORDERED.

February 22, 2022
Date



Hon. John M. Torrence, Judge, Division 14