

In re Genworth Financial Inc. Securities Litigation

U.S. Securities Litigation

Role	BFA represented Court-appointed Co-Lead Plaintiff AIMCo.
Background	Plaintiffs alleged that Defendants misrepresented the profitability of the company's core business and reported false financial results by grossly understating long-term care insurance reserves.
Court	U.S. District Court for the Eastern District of Virginia
Case Number	14-CV-00682
Status	Settled

BFA represented Court-appointed Co-Lead Plaintiff AIMCo. In November 2014, the Court approved AIMCo's selection of BFA to serve as Co-Lead Counsel for the putative class.

Plaintiffs alleged that Defendants misrepresented the profitability of the company's core business and reported false financial results by grossly understating long-term care insurance reserves. When Genworth announced a \$531 million charge to its reserves, the company's stock price fell more than 55%—wiping out billions in market capitalization—and credit rating agencies downgraded the company and its corresponding debt to "junk" status.

Notably, BFA secured one of the most thoroughly-reasoned, investor-oriented decisions after the then-recent decision in *Omnicare v. Laborers District Council Construction Industry Pension Fund*, 135 S. Ct. 1318 (2015). The District Court ruled that Lead Plaintiffs had sufficiently pled that Defendants' statements were intended to mislead investors and to provide false assurances regarding the company's reserves. The District Court also largely sustained allegations that Defendants falsely certified that the company's internal controls were adequate.

On March 10, 2016, Genworth announced a proposed settlement of \$219 million, the largest ever securities class action recovery achieved in Virginia, and as much as 44% of recoverable damages available at trial. BFA and AIMCo sought and

achieved a significant contribution from the company beyond available insurance; despite significant liquidity issues, the company paid \$69 million, and the remaining \$150 million was funded by insurance.

The settlement was reached after 15 months of intense and complex litigation. The Eastern District of Virginia is known as the "rocket docket" for its rapid disposition of cases and strict adherence to scheduled deadlines. In December 2014, Lead Plaintiffs filed a consolidated complaint and, in February 2015, Defendants filed a motion to dismiss. Partner Joseph Fonti successfully argued against the motion on April 28, 2015, and the securities fraud claims were sustained on May 1, 2015. Lead Plaintiffs filed their motion for class certification on December 3, 2015; fact discovery closed on January 15, 2016; and expert discovery closed on February 11, 2016. In effect, BFA conducted two to four years of litigation in just 15 months. This effort included more than 20 depositions, extensive trial preparation, and full briefing on motions for class certification and summary judgment. At the time of settlement, BFA attorneys were preparing for trial, which was scheduled to begin on May 9, 2016.