

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

MARTIN FLEISHER, AS TRUSTEE OF THE  
MICHAEL MOSS IRREVOCABLE LIFE  
INSURANCE TRUST II and JONATHAN  
BERCK, AS TRUSTEE OF THE JOHN L.  
LOEB, JR. INSURANCE TRUST, on behalf of  
themselves and all others similarly situated,

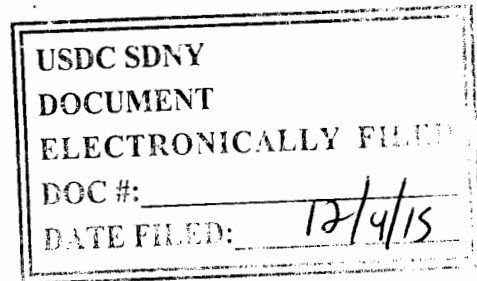
Plaintiff,

vs.

PHOENIX LIFE INSURANCE COMPANY,

Defendant.

Civil Action No. 11-cv-8405 (CM)



SPRR LLC, on behalf of itself and all others  
similarly situated,

Plaintiff,

vs.

PHL VARIABLE INSURANCE CO.,

Defendant.

Civil Action No. 14-cv-8714 (CM)

ORDER DENYING REQUEST OF ROSALYN BINDAY TO BE INCLUDED  
IN THE "LAPSE CLASS" AND PARTICIPATE IN SETTLEMENT

McMahon, J.:

For substantially the reasons set forth in the Defendants' Response in Opposition to the Submission by Rosalyn Bindow (Docket # 57), the court concludes that Mrs. Bindow – whose Phoenix policy lapsed in July 2011, before notice was sent to putative class members, and was not ever reinstated – is not a member of the “lapse class,” has no common question of fact in common with the “lapse class,” and is not entitled to participate in the \$2 million settlement fund established under the Distribution Plan.

Dated: December 4, 2015



U.S.D.J.

BY ECF TO ALL COUNSEL