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**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

JACKLYN FEIST and ANGELICA  
ZIMMER, Individually and on Behalf  
of All Others Similarly Situated,

Plaintiffs,

v.

PETCO ANIMAL SUPPLIES, INC.,  
and DOES 1 through 10, inclusive,

Defendant.

Case No. 3:16-cv-01369-H-DHB

**STIPULATION FOR CLASS  
ACTION SETTLEMENT**

1 **RECITALS**

2 Plaintiffs Jacklyn Feist and Angelica Zimmer (collectively, "Plaintiffs"),  
3 individually and on behalf of the proposed Settlement Class, and Defendant Petco  
4 Animal Supplies, Inc. ("Petco" or "Defendant") (collectively, the "Parties"), hereby  
5 enter into this Stipulation for Class Action Settlement ("Settlement" or "Settlement  
6 Agreement" or "Agreement").  
7

8 **A. Procedural History.**

9  
10 On May 5, 2016, Plaintiffs filed this proposed class action against Petco in the  
11 Superior Court for the State of California, County of San Diego. Plaintiffs alleged  
12 that Defendant violated the Fair Credit Reporting Act ("FCRA") by: (1) procuring  
13 consumer reports respecting Plaintiffs and Class Members without providing them  
14 with a clear and conspicuous disclosure, in a document that consists solely of the  
15 disclosure, that a consumer report may be obtained for employment purposes as  
16 required under 15 U.S.C. §1681b(b)(2), and (2) by failing to comply with FCRA's  
17 pre-adverse action requirements set forth in 15 U.S.C. §1681b(b)(3). On June 7,  
18 2016, Defendant removed the case to the United States District Court for the  
19 Southern District of California on the basis of federal-question jurisdiction. On  
20 June 13, 2016 Defendant filed a motion to dismiss, in response to which Plaintiffs  
21 filed their First Amended Complaint ("FAC") on July 1, 2016. Defendant moved to  
22 dismiss the FAC, which the Court denied. In answering the FAC, Defendant denied  
23 its material allegations and asserted numerous affirmative defenses.  
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1 On December 22, 2017, the Parties attended a full day mediation before the  
2 Honorable Leo S. Papas (Ret.). The Parties provided Judge Papas with confidential,  
3 detailed mediation statements setting forth their positions on the merits of Plaintiffs'  
4 claims, the prospects for class certification, and their views on an appropriate  
5 settlement. At the end of the mediation, the Parties signed a Memorandum of  
6 Understanding outlining the principal terms of a nationwide class settlement.  
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8

9 **B. Investigation And Negotiations.**

10 The Parties and their respective attorneys have conducted significant  
11 investigation of the facts and law relevant to the Action. Counsel also researched  
12 and analyzed the applicable law regarding the claims and defenses in the case, as  
13 well as calculated and evaluated potential liability and damages. As set forth below,  
14 counsel concluded, after taking into account the sharply disputed factual and legal  
15 issues involved in this Action, the risks attending further prosecution, the discovery  
16 to be completed, the experts to be retained, the costs of litigation to be incurred in  
17 the future, and the substantial benefits to be received pursuant to this Agreement,  
18 that settlement on the terms hereinafter set forth is in the best interest of the Class  
19 Members. Counsel have balanced their evaluation of the validity and strength of the  
20 asserted claims against the problem of proof and the legal standards governing class  
21 certification of the claims alleged. Based on the Parties' respective analyses of the  
22 above-described investigations and negotiations, the Parties reached a settlement  
23 after engaging in extensive arms-length negotiations at a private mediation and  
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1 before a private mediator whose fees were paid by both sides. Plaintiffs' counsel  
2 believes that the settlement reached is fair to the Class and confers substantial  
3 benefits to the Class, offering all Class Members the opportunity to receive  
4 recoveries in the near term. Based on this evaluation, Plaintiffs' counsel determined  
5 that the Settlement set forth in this Agreement is in the best interest of the Class.  
6

7  
8 **C. Non-Admission; Denial Of Wrongdoing.**

9 Defendant denies the Class Representatives' claims in their entirety as to  
10 liability and damages, as well as the class action allegations, and does not waive, but  
11 rather expressly reserves, all rights to challenge all such claims and allegations upon  
12 all legal, procedural and factual grounds. This Settlement reflects a compromise  
13 reached to end litigation. Defendant's execution of this Agreement will not be  
14 deemed an admission of any wrongdoing, liability or unlawful action by Defendant.  
15  
16

17 **D. Conditional Settlement.**

18 The Parties enter into this Settlement Agreement on a conditional basis. In  
19 the event the Court does not enter an Order of Final Approval, or in the event that  
20 such Order of Final Approval does not become final for any reason, or in the event  
21 that the Effective Date, as defined herein, does not occur, this Settlement Agreement  
22 will be deemed null and void *ab initio*, and will be of no force or effect whatsoever,  
23 and will not be referred to or utilized for any purpose whatsoever.  
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1                   **E. Benefits Of Settlement.**

2           Class Representatives and their counsel recognize the uncertainty and risk of  
3 the outcome of further litigation, and the difficulties and delays inherent in such  
4 litigation. Class Representatives are also aware of the burdens of proof necessary to  
5 establish liability for the claims asserted in the Action, the defenses thereto, the  
6 uncertainty in the law relating to the claims, the uncertainty of class certification,  
7 and other difficulties inherent in the litigation. Based on the foregoing, Class  
8 Representatives have, with their counsel, determined that the Settlement set forth in  
9 this Agreement is fair, adequate and reasonable, and is in the best interest of the  
10 Class Members. Defendant has concluded that any further defense of this Action  
11 would be protracted and expensive, and the results uncertain. Substantial amounts  
12 of time and resources have been, and will continue to be, devoted to the defense of  
13 this case unless this Settlement is made. Therefore, the Parties have agreed to a  
14 settlement in the manner and upon the terms set forth in this Agreement to fully and  
15 finally resolve and dispose of the Action.  
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21                   **SUMMARY OF SETTLEMENT ALLOCATION**

22           The following summary is intended for the convenience of the Court and  
23 other interested parties reviewing this Agreement. The Settlement will be fully  
24 funded by Defendant through a Common Fund in the amount of \$1,200,000.00, and  
25 none of the Common Fund shall revert to Defendant. All Class Members who do  
26 not opt out of the Settlement will be sent settlement payments from the Net  
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1 Common Fund. Any uncashed settlement payments to Class Members will be sent  
2 to a mutually agreeable *cy pres* recipient.

3  
4 The estimated allocation of the Common Fund is as follows:

5 Net Common Fund (Payments to Participating Class Members)	\$793,274.74
6 Class Representative Enhancements as Awarded by the Court	\$10,000.00
7 Attorneys' Fees as Awarded by the Court	\$300,000.00
8 Costs of Suit as Awarded by the Court	\$15,725.26
9 <u>Administrative Costs</u>	<u>\$81,000.00</u>
10 Common Fund (or Total Settlement Amount)	\$1,200,000

### 11 STIPULATION AND AGREEMENT

12 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by  
13 and between Class Representatives, on their own behalf and on behalf of the Class  
14 Members, and Defendant, and subject to approval by the Court, that the Action is  
15 hereby being compromised and settled pursuant to the following terms and  
16 conditions:  
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#### 19 **I. DEFINITIONS.**

20 (A) “**Action**” means this action entitled *Feist, et al. v. Petco Animal*  
21 *Supplies, Inc.*, Case No. 3:16-cv-01369 pending in the United States District Court  
22 for the Southern District of California.

23  
24 (B) “**Agreement**” and “**Settlement Agreement**” and “**Settlement**” mean  
25 this Stipulation and Agreement for Class Action Settlement, which the Parties  
26 acknowledge sets forth all material terms and conditions of the Settlement between  
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1 them, and which is subject to Court approval.

2 (C) “**Class**” and “**Class Members**” mean all persons regarding whom  
3  
4 Defendant procured or caused to be procured a consumer report for employment  
5 purposes during the period from May 1, 2014 through December 31, 2015 (also  
6 sometimes referred to as the “**Disclosure Class**” or “**Disclosure Class Members**”).  
7  
8 Included in the Settlement Class is a subclass consisting of those against whom  
9 Petco took an adverse action subsequent to procuring a consumer report and did not  
10 receive a pre-adverse action notification letter (also sometimes referred to as the  
11 “**Adverse Action Class**” or “**Adverse Action Class Members**”). Petco estimates  
12 that, to the best of its knowledge, the Settlement Class comprises approximately  
13 37,279 individuals all of whom are Disclosure Class members and approximately 52  
14 of whom are also Adverse Action Class Members. Plaintiffs shall file a proposed  
15  
16 Second Amended Complaint (“SAC”) concurrently with their Motion for  
17 Preliminary Approval to conform the class definition therein to the class definition  
18 contained in this Agreement.  
19

20  
21 (D) “**Class Counsel**” means Lionel Z. Glancy, Marc L. Godino and Mark  
22 S. Greenstone of Glancy Prongay & Murray LLP. Defendant stipulates to the  
23 appointment of the aforementioned law firm as Class Counsel for settlement  
24 purposes only.  
25

26 (E) “**Class List**” means the list of names, last known residential addresses,  
27 last known telephone numbers, and social security numbers of Class Members for  
28

1 whom Defendant possesses such information at the time of entry of the Court's  
2 Order of Preliminary Approval.

3  
4 (F) "**Class Representatives**" and "**Named Plaintiffs**" means Plaintiffs  
5 Jacklyn Feist and Angelica Zimmer.

6 (G) "**Common Fund**" means \$1,200,000.00, which amount will be non-  
7 reversionary and fully funded by Defendant and includes: (i) a Net Common Fund  
8 (or payments to the Participating Class Members); (ii) settlement administrative  
9 costs pursuant to the terms of this Agreement; (iii) payment of attorneys' fees and  
10 costs as approved by the Court; and (iv) an Enhancement to the Class  
11 Representatives as approved by the Court.  
12

13  
14 (H) "**Court**" means the United States District Court for the Southern  
15 District of California.  
16

17 (I) "**Effective Date**" means the date by which this Settlement is finally  
18 approved as provided herein and the Court's Judgment becomes final. For purposes  
19 of the meaning of "Effective Date," the Court's Judgment becomes final upon the  
20 later of: (a) the date of final affirmance on appeal of the Judgment, the expiration of  
21 the time for a petition to review the Judgment, and, if review is granted, the date of  
22 final affirmance of the Judgment following review; (b) the date of final dismissal of  
23 any appeal from the Judgment or the final dismissal of any proceeding to review the  
24 Judgment; or (c) if no appeal is filed, the expiration date for filing any appeal from  
25 the Judgment. Notwithstanding the foregoing, if no objections to the Settlement are  
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1 filed or submitted, the Effective Date shall be the date that the Court's Judgment is  
2 entered.

3  
4 (J) **“Enhancement”** means that portion of the Common Fund paid to the  
5 Named Plaintiffs for their service in connection with being a Class Representative.

6 (K) **“Escrow Account”** means the separate, interest-bearing escrow  
7 account to be established by the Settlement Administrator under terms agreed upon  
8 by Class Counsel and Defendant at a depository institution that is insured by the  
9 Federal Deposit Insurance Corporation. The costs of establishing and maintaining  
10 the Escrow Account shall be paid from the Settlement Fund.  
11

12  
13 (L) **“Final Approval Hearing”** means a hearing set by the Court for the  
14 purpose of determining the fairness, adequacy and reasonableness of this Settlement  
15 pursuant to class action procedures and requirements.  
16

17 (M) **“Individual Settlement Payment”** means the gross amount to be paid  
18 to a Participating Class Member as set forth herein.  
19

20 (N) **“Net Common Fund”** means that portion of the Common Fund  
21 allocated for payment of Individual Settlement Payments to Participating Class  
22 Members (as defined below), which shall be the Common Fund minus the agreed-  
23 upon amounts to be requested for attorneys' fees and costs, Enhancements, and  
24 settlement administrative costs, as specified in this Agreement. The Parties estimate  
25 that the Net Common Fund will be approximately \$793,274.74. In the event that the  
26 Court awards less than the Enhancements requested by the Class Representative  
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1 and/or less than the attorneys' fees requested by Class Counsel and/or less than the  
2 costs requested by Class Counsel and/or the administrative costs of settlement are  
3 less than estimated, any excess funds resulting will be added to the Net Common  
4 Fund and will be made available for distribution to Participating Class Members.  
5

6 (O) **"Notice of Class Action Settlement"** and **"Class Notice"** mean a  
7 notice entitled "Notice of Class Action Settlement" in the form substantially similar  
8 to that attached hereto as Exhibit "A."

9  
10 (P) **"Order of Final Approval"** and **"Judgment"** mean an order executed,  
11 filed and entered by the Court granting final approval to the Settlement. Said Order  
12 of Final Approval will be in the form substantially similar to that attached hereto as  
13 Exhibit "B."

14  
15 (Q) **"Order of Preliminary Approval"** means an order executed, filed and  
16 entered by the Court granting preliminary approval to the Settlement. Said Order of  
17 Preliminary Approval will be in the form substantially similar to that attached hereto  
18 as Exhibit "C."

19  
20 (R) **"Participating Class Member"** means any Class Member who does  
21 not timely opt out of this Settlement.  
22

23 (S) **"Preliminary Approval Date"** means the date on which the Court  
24 executes, files and enters the Order of Preliminary Approval.  
25

26 (T) **"Released Claims For Class Members"** means all claims, damages,  
27 losses, demands, penalties, liabilities, fees, interest, causes of action, complaints or  
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1 suits that are or could have been brought by Plaintiffs in this Action based upon the  
2 facts alleged in the SAC. Released Claims for Class Members include, without  
3 limiting the foregoing, all claims based on the failure to provide a proper disclosure  
4 and/or obtain a proper authorization and/or provide a pre-adverse action notification  
5 letter, in connection with an employment-related background check under the FCRA  
6 and all related, analogous or corresponding federal or state laws, which any  
7 Participating Class Member has ever had, or hereafter may claim to have, against  
8 the Released Parties relating to consumer reports procured by Defendant during the  
9 period from May 1, 2014 through December 31, 2015. All Class Members, except  
10 for any Class Member who timely opted out of the settlement, shall be deemed to  
11 have released, waived and forever discharged the Released Parties from the  
12 Released Claims.  
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17 (U) **“Released Parties”** means Petco Animal Supplies, Inc., Petco Animal  
18 Supplies Stores, Inc., and their past and present parents, subsidiaries, affiliated  
19 and/or related corporations, third-party vendors, predecessors, successors, and  
20 assigns, including each of their employees, officers, directors, members,  
21 shareholders, agents, representatives, consultants, attorneys, insurers, underwriters,  
22 and divisions, whether previously or hereinafter affiliated in any manner.  
23  
24

25 (V) **“Settlement Administrator”** means KCC LLC.  
26  
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1 **II. SETTLEMENT AMOUNTS.**

2 Upon the occurrence of the Effective Date, and after all conditions precedent  
3 have occurred as set forth in this Agreement, Defendant will make or cause to be  
4 made all disbursements required by the Settlement in accordance with the schedules  
5 and terms set forth herein.  
6

7  
8 **A. The Common Fund.**

9 1. The "Common Fund" will be \$1,200,000.00 and will be fully  
10 funded and all-inclusive, including: (i) a Net Common Fund (for payments to the  
11 Participating Class Members), (ii) Enhancements to the Named Plaintiffs as  
12 awarded by the Court; (iii) costs of settlement administration; and (iv) the payment  
13 of attorneys' fees and costs to Class Counsel as awarded by the Court.  
14

15  
16 2. Within thirty (30) days after the Court's entry of final judgment,  
17 provided there are no objectors to the settlement, Defendant shall pay into the  
18 Escrow Account the entirety of the Common Fund.  
19

20 3. If a class member objects, Defendant shall pay into the Escrow  
21 Fund the entirety of the Common Fund thirty (30) days after the Court's entry  
22 of judgment becomes final and nonappealable by any party or class member.  
23

24 **B. The Net Amount Of The Common Fund (Amounts Paid To The**  
25 **Participating Class Members).**

26 1. Upon Final Approval by the Court, each Participating Class  
27 Member will receive a payment subject to and in accordance with the provisions set  
28

1 forth below (the "Individual Settlement Payment"). Individual Settlement Payments  
2 shall be sent automatically without any claims process.

3  
4 2. One hundred percent (100%) of the Net Common Fund will be  
5 distributed to Participating Class Members as follows: Each Adverse Action Class  
6 Member shall be entitled to a payment of \$150 plus any amount to which they are  
7 entitled as Disclosure Class Members, computed as described in this paragraph. The  
8 adverse action claim total (\$150 x the number of Adverse Action Class Members)  
9 shall be deducted from the Net Common Fund. The remaining amount shall be  
10 distributed *pro rata* to Disclosure Class Members.

11  
12  
13 3. Each Individual Settlement Payment from the Net Common  
14 Fund will be allocated 100% to alleged penalties under the FCRA.

15  
16 4. Individual Settlement Payments will not count as earnings or  
17 compensation for purposes of any benefit plan (*e.g.*, 401(k) plan; retirement plan;  
18 etc.), company bonus, contest, paid time off, or any other benefit or agreement  
19 sponsored by Defendant. Participating Class Members will receive a Form 1099  
20 relating to such payment and be solely liable for and pay any and all taxes thereon.

21  
22 5. Each Participating Class Member will be responsible for  
23 remitting to federal, state, and local taxing authorities any taxes that may be due and  
24 owing as a result of his or receipt of an Individual Settlement Payment. Defendant  
25 and the Released Parties are not, and will not in any way be, obligated to compute,  
26 estimate, or pay any taxes on behalf of any Participating Class Member relating to  
27  
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1 an Individual Settlement payment.

2           6. In the event a Participating Class Member does not cash his/her  
3 Individual Settlement Payment, following the void date for that check, the  
4 Settlement Administrator shall pay the sum of any uncashed settlement payments to  
5 Class Members to a mutually agreeable *cy pres* recipient.  
6

7           7. No person, including, without limitation, a Participating Class  
8 Member, will have any claim against Class Counsel, the Class Representatives, the  
9 Released Parties, and Defendant's Counsel, or the Settlement Administrator based  
10 on distributions and payments made in accordance with this Agreement.  
11

12  
13           **C. Class Representative Enhancement.**

14           1. Class Counsel will submit an application to the Court for an  
15 award of an Enhancement to each of the Class Representatives in the amount of Five  
16 Thousand Dollars and No Cents (\$5,000.00). Such application will be set for  
17 hearing concurrently with the Motion for Final Approval. The Enhancements are to  
18 compensate Class Representatives for their service, involvement, and risk in  
19 connection with being a Class Representative.  
20

21           2. Defendant will not object to a request for approval of such  
22 Enhancements.  
23

24           3. The Enhancements are in addition to the Individual Settlement  
25 Payment allocated to Class Representatives under this Settlement. Class  
26 Representatives agree that they will not opt out of or object to the Settlement, and  
27  
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1 further agree that they will not encourage any other Class Member to opt out of or  
2 object to the Settlement.

3  
4 4. Any Enhancement awarded by the Court will not be treated as  
5 wages and will not count as earnings or compensation for purposes of any benefit  
6 plans (e.g., 401(k) plan; retirement plan; etc.) sponsored by Defendant. Class  
7 Representatives will receive a Form 1099 relating to such payment and be solely  
8 liable for and pay any and all taxes thereon.

9  
10 5. The Class Representatives will be responsible for remitting to  
11 federal, state, and local taxing authorities any taxes that may be due and owing as a  
12 result of a receipt of an Enhancement. Defendant and the Released Parties are not,  
13 and will not in any way be, obligated to compute, estimate, or pay any taxes on  
14 behalf of any Class Representative relating to a Class Representative Enhancement.  
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16  
17 6. Neither Class Representative will have any claim against Class  
18 Counsel, the Released Parties, and Defendant's Counsel, or the Settlement  
19 Administrator based on distributions and payments made in accordance with this  
20 Agreement.  
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22 7. The Net Common Fund will increase by any amount of the  
23 allocated Enhancements not awarded by the Court.  
24

25 **D. Class Counsel's Attorneys' Fees And Costs.**

26 1. Class Counsel will file a motion with the Court for an award of  
27 attorneys' fees in an amount not to exceed 25% of the settlement fund (or \$300,000  
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1 for fees), and up to \$15,725.26 for costs. Such motion will be set for hearing  
2 concurrently with the Motion for Final Approval.

3  
4 2. Defendant and its counsel will not object to Class Counsel's  
5 motion for an award of up to \$300,000 for fees and up to \$15,725.26 for costs.

6  
7 3. As a condition of this Settlement, Class Counsel agrees to pursue  
8 attorneys' fees and costs only in the amounts and manner reflected herein.

9  
10 4. The Net Common Fund will increase by any amount of the  
11 attorneys' fees and costs allocated hereunder which are not awarded by the Court.

12 **E. Costs Of Settlement Administration.**

13 The agreed-upon Settlement Administrator is KCC LLC. All fees of the  
14 Settlement Administrator will be paid out of the Common Fund. The total fees of  
15 the Settlement Administrator are estimated at \$81,000. The Net Common Fund will  
16 increase or decrease by any amounts less or more than \$81,000.

17  
18 **III. SETTLEMENT APPROVAL AND PAYMENT PROCEDURES.**

19  
20 **A. Request For Preliminary And Final Approval.**

21 The Parties will cooperate fully in requesting preliminary and final approval  
22 of this Settlement by the Court, including a determination by the Court that this  
23 Settlement is fair, reasonable, and adequate. The Parties will also cooperate fully in  
24 promptly requesting that, as provided for in this Agreement, the Court approve the  
25 proposed forms of notices, orders, and other documents necessary to implement this  
26 Settlement.  
27  
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1           **B. Class List To Be Provided By Defendant To The Settlement**  
2           **Administrator.**

3           Within fifteen (15) business days after entry and service of an Order of  
4 Preliminary Approval regarding this Settlement, Defendant will provide a Class List  
5 to the Settlement Administrator that will identify each Class Member, his or her  
6 social security number, last known residential address, and last known phone  
7 number.  
8

9           **C. Distribution Of Notices To Class Members.**

10           1. No later than five (5) business days after the Settlement  
11 Administrator receives the Class List from Defendant, the Settlement Administrator  
12 will first update all addresses using the National Change of Address System  
13 (NCOA) and then mail to all Class Members, via first-class United States Mail, a  
14 Notice of Class Action Settlement (“Class Notice”), Exhibit “A.”  
15

16           2. At the same time that the Class Notice is sent, the Settlement  
17 Administrator shall establish a Settlement website which shall contain information  
18 relevant to Class Members, including, but not limited to, all applicable deadlines,  
19 the Settlement Agreement, the Class Notice, all papers filed by the Parties in support  
20 of the settlement, orders of the court pertaining to the settlement, and contact  
21 information for reaching the Settlement Administrator via toll-free number,  
22 facsimile, email and U.S. mail. The Parties shall use good faith, reasonable efforts to  
23 agree on all information and documents to be posted on the Settlement website, and  
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1 no information shall be posted or provided on the Settlement website without the  
2 Parties' express approval. The Settlement website shall be rendered inactive ninety  
3  
4 (90) calendar days after the Effective Date.

5           3. In the event that a Class Notice is returned to the Settlement  
6 Administrator with a forwarding address, the Settlement Administrator will re-send  
7 the Class Notice to the forwarding address affixed thereto. If no forwarding address  
8 is provided, then the Settlement Administrator will promptly conduct a "standard  
9 search," sometimes called, "Skip Traces" or "Credit Header" searches, to locate a  
10 better address. If a better address is found, the Settlement Administrator will  
11 promptly re-send the Class Notice. If the standard search does not provide a better  
12 address or the Class Notice is returned a second time without a forwarding address,  
13 the Settlement Administrator shall perform a manual "in-depth search" to locate a  
14 better address. If a better address is found, the Settlement Administrator will  
15 promptly re-send the Class Notice. If a Class Notice is re-mailed to a better address  
16 within thirty (30) days of the Request For Exclusion/Opt Out or Objection  
17 Deadlines, the Class Member will be provided a minimum of thirty (30) days after  
18 the re-mailing to postmark or deliver a request for exclusion, or an objection, to the  
19 Settlement Administrator subject to the time limits in Section III.E.4 below.  
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25           4. If, at any time prior to the Request For Exclusion/Opt Out or  
26 Objection Deadlines, a Class Member contacts the Settlement Administrator, or if  
27 Class Counsel does so on his or her behalf, to advise of a change in address, the  
28

1 Class Notice will be re-mailed to the address the Class Member (or Class Counsel)  
2 provides, and the Class Member will have thirty (30) days after the subsequent  
3 mailing of the Class Notice to submit a request for exclusion or an objection, to the  
4 Settlement Administrator, subject to the time limits in Section III.E.4 below.  
5

6           5. In no event will any Class Member be allowed to postmark or  
7 deliver a request for exclusion, or an objection, to the Settlement Administrator  
8 more than ninety (90) days from the date the Class Notices are initially mailed.  
9

10           6. In the event the procedures set forth herein are followed and the  
11 intended recipient of a Class Notice still does not receive the Class Notice, the  
12 intended recipient will be a Participating Class Member and will be bound by all  
13 terms of the Settlement and the Order of Final Approval entered by the Court.  
14

15           7. Pursuant to 28 U.S.C. § 1715, not later than ten (10) days after  
16 the Agreement is filed with the Court, the Settlement Administrator has agreed to  
17 serve upon the Attorneys General of each U.S. State in which Settlement Class  
18 Members reside, the Attorney General of the United States, and other required  
19 government officials, notice of the proposed settlement as required by the Class  
20 Action Fairness Act (“CAFA”), 28 U.S.C. § 1715(d)(b).  
21  
22

23  
24           **D. Participating Class Members.**

25           1. Only Participating Class Members can receive a portion of the  
26 Net Common Fund.  
27

28           2. In order to be deemed a Participating Class Member, a Class

1 Member must not be deemed excluded from this Settlement through the Opt Out  
2 process in Section III.E below.

3  
4 3. In the event the Settlement does not receive final approval, the  
5 Parties agree that any joinders shall be void and nullified *ab initio*.

6 **E. Requests For Exclusion (“Opt Out”).**

7  
8 The Notice of Class Action Settlement will notify all Class Members of their  
9 right to opt out of the Settlement.

10 1. Any Class Member who wishes to be excluded (opt out) from the  
11 Settlement, must: submit a written statement requesting exclusion from the Class  
12 (“Request for Exclusion”) on or before the Request For Exclusion/Opt Out Deadline  
13 Date. Such written Request for Exclusion must contain the name, address,  
14 telephone number and social security number of the person requesting exclusion,  
15 and must be returned by mail to the Settlement Administrator at a specified address  
16 and must be postmarked on or before the Request for Exclusion/Opt Out Deadline  
17 Date. The date of the postmark on the return mailing envelope shall be the  
18 exclusive means used to determine whether a Request for Exclusion has been timely  
19 submitted.  
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24 2. The foregoing requirements shall be strictly construed, and  
25 substantial compliance shall not be sufficient. Any Class Member who does not  
26 satisfy all of the foregoing requirements will be conclusively deemed a Participating  
27 Class Member fully bound by the terms of the Settlement to the extent permitted by  
28

1 law.

2           3. Any Class Member who mails a valid and timely Request for  
3 Exclusion will, upon receipt by the Settlement Administrator of the Request for  
4 Exclusion, no longer be a Class Member, and will receive no benefit or payment  
5 from this Settlement and none of his or her claims, causes of action or rights will be  
6 released by virtue of this Settlement.  
7

8           4. The Request for Exclusion/Opt Out Deadline Date shall be sixty  
9 (60) days after the date the Class Notice is first mailed by the Settlement  
10 Administrator.  
11

12           **F. Objections To This Settlement**

13           The Notice of Class Action Settlement will notify Class members of their  
14 right to object to the settlement.  
15

16           1. Any Class Member who intends to object to the fairness,  
17 reasonableness, or adequacy of the Settlement must file a copy of the objection in  
18 writing with the Court no later than the Objection Deadline. Any Class Members  
19 who objects must set forth in his or her written objection:  
20

21                   (a) his or her full name;

22                   (b) his or her current address;

23                   (c) his or her phone number;

24                   (d) a written statement of his or her objection, and the reasons for  
25 each objection;

26                   (e) a statement of whether he or she intends to appear at the Final  
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- Fairness Hearing (with or without counsel);
- (f) his or her signature; and,
- (g) the case name and number of the Action.

2. The Parties shall request that the Court allow any interested party to file a reply to any objection no later than seven (7) calendar days before the Final Fairness Hearing, or as the Court otherwise may direct.

3. The Objection Deadline Date shall be sixty (60) days after the date the Class Notice is first mailed by the Settlement Administrator.

**G. Verification Of Dissemination Of Notice Of Class Action Settlement.**

The Settlement Administrator will verify, in writing, that the Class Notices have been disseminated in accordance with the Court's Order of Preliminary Approval, and will provide such verification to Class Counsel to file with the Court on or before the date of the Final Fairness Hearing.

**H. Reporting Schedule.**

Every seven (7) days during the administration of this Settlement, the Settlement Administrator will provide written notice to Class Counsel and Defendant's attorneys of all objections to the Settlement, the number of address searches conducted, and the number of Class Members who have submitted Requests for Exclusion.

1           **I. No Encouraging Class Members Not To Participate.**

2           No Party will directly or indirectly, through any person or entity, encourage  
3  
4 any Class Member not to participate in this Settlement.

5           **J. Final Fairness Hearing.**

6           On the date set forth in the Notice of Class Action Settlement, which will be  
7  
8 approximately one hundred and twenty (120) days after the initial mailing of the  
9 Notice of Class Action Settlement, a Final Fairness Hearing will be held before the  
10 Court in order to: (1) review this Settlement Agreement and determine whether the  
11 Court should give it final approval; and (2) consider any timely objections to the  
12 Settlement and all responses by the Parties to such objections. At the Final Fairness  
13 Hearing, the Parties will ask the Court to approve the Settlement Agreement and to  
14 enter judgment. The Court shall retain jurisdiction over the parties to enforce the  
15 terms of the judgment.  
16  
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18           **K. Dates And Methods Of Payment Of The Common Fund.**

19           1.       Within thirty (30) days after the Court's entry of final judgment,  
20 provided there are no objectors to the Settlement, Defendant shall pay into the  
21 Escrow Account the entirety of the Common Fund. If a Class Member objects,  
22 Defendant shall pay into the Escrow Account the entirety of the Common Fund  
23 thirty (30) days after the Court's entry of judgment becomes final and nonappealable  
24 by any party or Class Member. The tenth (10) calendar day after Defendant pays to  
25 the Settlement Administrator the Common Fund will be known as the "Payment  
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1 Date.”

2           2.     On or before the Payment Date, the Settlement Administrator  
3  
4 will prepare and mail settlement checks for each Participating Class Member in the  
5 amount of his or her Individual Settlement Payment. The checks will indicate on  
6 their face that they are void if not negotiated within one hundred and eighty (180)  
7 days of their issuance. In the event a settlement check is returned to the Settlement  
8 Administrator with a forwarding address, the settlement check will be forwarded to  
9 the forwarding address. In the event a settlement check is returned to the Settlement  
10 Administrator without a forwarding address or is otherwise undeliverable, the  
11 Settlement Administrator will conduct an in-depth search and re-mail the returned  
12 check if possible. If within that one hundred and eighty (180)-day period a  
13 Participating Class Member contacts Defendant or the Settlement Administrator, or  
14 if Class Counsel does so on his or her behalf, the settlement check will be re-mailed  
15 to the address the Participating Class Member (or Class Counsel) provides. Any  
16 such re-mailed settlement checks will indicate on their face that they are void if not  
17 negotiated within one hundred and eighty (180) days of their issuance.  
18  
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22           3.     One hundred percent (100%) of the Net Common Fund will be  
23 distributed to the Participating Class Members.  
24

25           4.     The sum of the Net Common Fund that is not distributed to  
26 Participating Class Members for any reason (e.g., any uncashed checks or checks  
27 that are undeliverable), will be sent to a mutually agreeable *cy pres* recipient.  
28



1           **L. Dates And Methods Of Payments of Enhancements, Attorneys'**  
2           **Fees And Costs.**

3           1.     On or before the Payment Date, the Settlement Administrator  
4 will pay the Class Representatives from the Common Fund the Enhancements  
5 approved by the Court. The payments will be made by sending to Class Counsel a  
6 check for each of the Court-approved Enhancements, payable to Named Plaintiffs.  
7

8           2.     On or before the Payment Date, the Settlement Administrator  
9 will pay from the Common Fund to Class Counsel, its Court-approved attorneys'  
10 fees and costs.  
11

12           3.     Any Class Representative Enhancement or Class Counsel  
13 attorneys' fees or costs amount not approved by the Court will be included in the  
14 Net Common Fund and distributed to the Class Members.  
15

16           **M. Deadlines.**

17           If any deadline specified in this Agreement falls on a Saturday, Sunday, or  
18 court holiday, the deadline will be automatically extended to the next regular  
19 business day. Unless specified otherwise, all references to "days" shall mean  
20 calendar days.  
21  
22

23           **IV. RELEASES BY CLASS MEMBERS.**

24           **A. Terms Of Release.**

25           In exchange for the consideration recited in this Settlement Agreement, all  
26 Participating Class Members, on behalf of themselves and on behalf of their current,  
27  
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1 former, and future heirs, executors, administrators, attorneys, agents, and assigns, do  
2 hereby and forever release, waive, acquit and discharge the Released Parties from  
3  
4 the Released Claims as set forth in this Agreement. This Release does not apply to  
5 any claims for workers' compensation, unemployment insurance, employment  
6 discrimination or to any other claims Class Members may have against the  
7  
8 Defendant which are unrelated to the Action.

9 **B. California Civil Code Section 1542.**

10 Solely with respect to the claims released by this Settlement, and upon the  
11  
12 Effective Date, all Participating Class Members will be deemed to have, and by  
13 operation of the Order of Final Approval will have, expressly waived and  
14 relinquished, to the fullest extent permitted by law, the provisions, rights, and  
15 benefits of section 1542 of the California Civil Code, pertaining to the Released  
16  
17 Claims as set forth in this Agreement. Civil Code section 1542, provides as follows:

18 "A general release does not extend to claims which the  
19 creditor does not know or suspect to exist in his or her  
20 favor at the time of executing the release, which if known  
21 by him or her must have materially affected his or her  
22 settlement with the debtor."

23 The Participating Class Members are deemed by operation of the Order of Final  
24 Approval to have agreed not to sue or otherwise make a claim against any of the  
25 Released Parties for all claims released by this Settlement.  
26  
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1           **C.    Claims By Class Members Based On Stipulation And Agreement.**

2           In addition to the terms of the Releases outlined above, no Participating Class  
3 Member will have any claim against any of the Released Parties, Defendant's  
4 attorneys of record, the Settlement Administrator, any Named Plaintiff, any other  
5 Class Member, or Class Counsel based on errors in administrating claims or  
6 performing the mailing and skip-tracing requirements under this Agreement.  
7  
8

9           **V.    CLASS CERTIFICATION.**

10           The Parties stipulate and agree to certification of the Action solely for  
11 purposes of this Settlement.  Should, for whatever reason, the Settlement not  
12 become final, the fact that the Parties stipulate and agree to the above will have no  
13 bearing on, and will not be admissible in connection with, the issue of whether a  
14 class should be certified in a non-settlement context in this Action, and will have no  
15 bearing on, and will not be admissible in connection with, the issue of whether a  
16 class should be certified in any other lawsuit.  Defendant expressly reserves its  
17 rights to oppose class certification should this Settlement not become final.  
18  
19

21           **VI.  ENFORCEMENT AND CONTINUING JURISDICTION OF THE COURT.**

22           The Court shall retain jurisdiction with respect to implementation and  
23 enforcement of the terms of the Settlement, and all Parties hereto submit to the  
24 jurisdiction of the Court for purposes of implementing and enforcing the Settlement.  
25  
26 Even after the Order of Final Judgment and notwithstanding it, this Court will have  
27  
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1 and retain continuing jurisdiction over the Action and over all Parties and Class  
2 Members, to the fullest extent necessary or convenient to enforce and effectuate the  
3 terms and intent of this Settlement and all matters provided for in it, and to interpret  
4 it.  
5

## 6 **VII. MUTUAL FULL COOPERATION.**

7  
8 The Parties will fully cooperate with each other to accomplish the terms of  
9 this Settlement Agreement, including, but not limited to, execution of such  
10 documents and taking such other action as may be reasonably necessary or  
11 convenient to implement it. In the event the Parties or their counsel are unable to  
12 resolve any dispute regarding the form or content of any document needed to  
13 implement this Agreement, or regarding any other matter that may become  
14 necessary or convenient to implement it, the Parties agree to seek the assistance of  
15 the Court in resolving such dispute.  
16  
17

## 18 **VIII. NO ADMISSIONS.**

19  
20 Nothing in this Settlement Agreement will constitute or be considered an  
21 admission by or on behalf of Defendant, or any Released Party, of any wrongdoing  
22 or liability or of the accuracy of any allegation made in connection with this Action.  
23

## 24 **IX. WITHDRAWAL, NULLIFICATION, INVALIDATION.**

### 25 **A. Effective Date Of Defendant's Obligations Under This Agreement.**

26 Defendant's obligations under this Settlement Agreement will become final  
27 and effective only upon occurrence of all of the following events:  
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1. Execution and filing by the Court of an Order of Preliminary Approval;
2. Certification of the Class for settlement purposes;
3. Appointment of Lionel Z. Glancy, Marc L. Godino and Mark S. Greenstone of Glancy Prongay & Murray LLP as Class Counsel;
4. The Court conducting a Final Fairness Hearing;
5. Execution and filing by the Court of the Order of Final Approval;
6. Entry of Final Judgment; and
7. Occurrence of the Effective Date.

In the event that any of the conditions specified in this Settlement Agreement are not satisfied, or in the event that the Court does not approve this Settlement for any reason, all matters covered by this Agreement will be null and void. In such event, neither this Agreement nor any negotiations leading to this Settlement will be used or construed by or against either Party as a determination, admission, or concession of any issue of law or fact in the litigation; and the Parties hereto do not waive, and instead expressly reserve, their respective rights regarding the prosecution and defense of the litigation, including all available claims and affirmative defenses, and challenging any claim that the Action could be certified as a class action, as if this Settlement Agreement never existed.

1           **B.    Withdrawal.**

2           1.    If prior to the Final Fairness Hearing, persons who otherwise  
3  
4 would be members of the Class have filed timely requests to opt out as outlined  
5 herein, and if such persons in the aggregate amount to a number greater than five  
6 percent (5%) of the total number of Class Members, Defendant will have the sole  
7 and absolute discretion to withdraw from this Settlement without any liability or  
8 expense. Defendant will provide notice of any such withdrawal in writing to Class  
9 Counsel prior to the date set for the Final Approval Hearing. In the event Defendant  
10 elects to so withdraw, it will not be responsible for paying any settlement amounts,  
11 Enhancements, or attorneys' fees or costs. Defendant, however, will pay any  
12 Administration costs. In the event Defendant elects to withdraw pursuant to this  
13 Section, such withdrawal will have the same effect as would non-approval pursuant  
14 to Section IX.C.  
15  
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18           **C.    Nullification.**

19  
20           If (a) the Court should for any reason fail to approve any material term of this  
21 Settlement; or (b) the Court should for any reason fail to enter the Order of Final  
22 Judgment; or (c) the Court's Order of Final Judgment is reversed or modified as to  
23 any material term, or declared or rendered void as to any material term; then (1) this  
24 Settlement Agreement will be considered null and void; (2) neither this Settlement  
25 Agreement nor any of the related negotiations or proceedings will be of any force or  
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1 effect; and (3) Class Counsel will make repayment of any attorneys' fees and costs,  
2 and the Named Plaintiffs will repay any Enhancement received from Defendant.

3  
4 **D. Invalidation.**

5 Invalidation of any material term of this Settlement Agreement will invalidate  
6 this Agreement in its entirety unless the Parties subsequently agree in writing that  
7 the remaining provisions will remain in full force and effect.

8  
9 **E. Appeal From Judgment.**

10 In the event of a timely appeal from the Order of Final Judgment, the Order of  
11 Final Judgment will be stayed, and the Individual Settlement Payments, any other  
12 payments required hereunder by Defendant, and the Effective Date, will not occur  
13 pending the completion and final resolution of the appeal, and any payment  
14 thereafter will (1) occur only if the Order of Final Judgment is upheld after all  
15 appeals; and (2) be in a manner that is provided for in this Settlement Agreement  
16 and in the Order of Final Judgment.

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19  
20 **X. GENERAL PROVISIONS.**

21 **A. Confidentiality.**

22 The Parties intend this Settlement Agreement to be and remain confidential  
23 until the Motion for Preliminary Approval is filed. Neither Party may disclose this  
24 Settlement Agreement or the Parties' settlement terms to any third party (except to  
25 the agreed-upon Claims Administrator) in any manner until the date of the filing of  
26 the Motion for Preliminary Approval. The Parties further agree that there will be no  
27  
28

1 press release or other communication to any media source about the settlement other  
2 than for purposes of effectuating the Settlement.

3  
4 **B. Entire Agreement.**

5 This Settlement Agreement constitutes the entire integrated agreement  
6 between the Parties relating to the settlement of the Action, and no oral  
7 representations, warranties or inducements have been made to any Party concerning  
8 this Settlement Agreement other than the representations, warranties and covenants  
9 contained and memorialized in this Settlement Agreement.

10  
11  
12 **C. Authorization To Act.**

13 Class Counsel warrant and represent that they are authorized by Class  
14 Representative, and counsel of record for Defendant warrant that they are authorized  
15 by Defendant, to take all appropriate action required or permitted to be taken by  
16 such Parties pursuant to this Settlement Agreement to effectuate its terms, and to  
17 execute any other documents required to effectuate the terms of this Settlement  
18 Agreement, except for any documents, including but not limited to this Settlement  
19 Agreement, that are required to be executed by the Parties.

20  
21  
22 **D. Modification Only In Writing.**

23 This Settlement Agreement may be amended or modified only by a written  
24 instrument signed by all Parties or their successors in interest.  
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1           **E.    Binding On Successors.**

2           This Settlement Agreement is binding upon and will inure to the benefit of the  
3  
4 Parties to this Agreement, as well as their respective attorneys, past, present, and  
5 future predecessors, successors, shareholders, officers, directors, employees, agents,  
6 trustees, representative, administrators, fiduciaries, assigns, insurers, executors,  
7  
8 partners, parents, subsidiaries, and related or affiliated entities.

9           **F.    No Prior Assignments.**

10           The Participating Class Members are deemed by operation of the Order of  
11  
12 Final Approval to represent, covenant, and warrant that they have not directly or  
13 indirectly assigned, transferred, encumbered, or purported to assign, transfer, or  
14 encumber to any person or entity any portion of any liability, claim, demand, cause  
15  
16 of action or rights herein released and discharged.

17           **G.    Governing Law.**

18           All terms of this Settlement Agreement will be governed by and interpreted  
19  
20 according to the laws of the State of California, without giving effect to conflicts of  
21 laws principles.

22           **H.    Counterparts.**

23  
24           This Settlement Agreement may be executed in one or more counterparts. All  
25 executed counterparts and each of them will be deemed to be one and the same  
26 instrument. Counsel for the Parties will exchange among themselves signed  
27  
28 counterparts.

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**I. Headings For Convenience Only.**

The descriptive headings of any paragraphs or sections of this Settlement Agreement are inserted for convenience of reference only and do not constitute a part of this Settlement Agreement.

**J. Construction Of This Agreement.**

The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of arms-length negotiations between the Parties and that this Settlement Agreement will not be construed in favor of or against any Party by reason of the extent to which any Party, or his, her or its counsel participated in the drafting of this Agreement. Except as expressly provided herein, this Settlement Agreement has not been executed in reliance upon any other oral or written representations or terms and no such extrinsic oral or written representations or terms will modify, vary or contradict the terms of this Settlement Agreement. In entering this Settlement Agreement, the Parties hereto explicitly recognize California Civil Code section 1625 and California Code of Civil Procedure section 1856(a), which provide that a written agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence. The Class Representatives and Defendant participated in the negotiation and drafting of this Settlement Agreement and had available to them the advice and assistance of independent counsel. As such, no Participating Class Member nor Defendant may

1 claim that any ambiguity in this Settlement Agreement should be construed against  
2 the other.

3  
4 **K. Corporate Signatories.**

5 Any person executing this Settlement Agreement or any related document on  
6 behalf of a corporate signatory hereby warrants and promises for the benefit of all  
7 Parties hereto that such person has been duly authorized to execute this Settlement  
8 Agreement or any related document.

9  
10 **L. Representation By Counsel.**

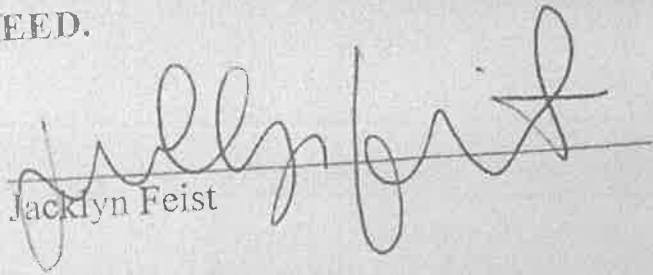
11 The Parties hereto acknowledge that they have been represented by counsel  
12 throughout all negotiations which preceded the execution of this Settlement  
13 Agreement and that this Agreement has been executed with the consent and advice  
14 of counsel.

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16  
17 **M. Attorneys' Fees And Costs.**

18 Except as otherwise provided herein, the Parties hereto will bear  
19 responsibility for their own attorneys' fees and costs, taxable or otherwise, incurred  
20 by them or arising out of this Action and will not seek reimbursement thereof from  
21 any Party to this Settlement Agreement. In the event that legal action arises out of  
22 this Agreement or is necessary to enforce any of the terms or provisions of this  
23 Settlement, the prevailing party in the Action will recover its attorneys' fees and  
24 costs.  
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1 IT IS SO STIPULATED AND AGREED.

2  
3 Dated: 4, 6, 2018

  
Jacklyn Feist

4  
5  
6 Dated: \_\_\_\_\_, 2018

\_\_\_\_\_  
Angelica Zimmer

7  
8  
9 Dated: \_\_\_\_\_, 2018

Petco Animal Supplies, Inc.

10 By: \_\_\_\_\_

11 Its: \_\_\_\_\_

12  
13  
14 APPROVED AS TO FORM

15  
16 Dated: \_\_\_\_\_, 2018

GLANCY PRONGAY & MURRAY LLP

17 By: \_\_\_\_\_

18 Lionel Z. Glancy  
19 Marc L. Godino  
20 Mark S. Greenstone  
21 1925 Century Park East, Suite 2100  
22 Los Angeles, CA 90067  
23 Telephone: (310) 201-9150  
24 Facsimile: (310) 201-9160  
25 lglancy@glancylaw.com  
26 mgodinno@glancylaw.com  
27 mgreenstone@glancylaw.com

28 *Counsel for Plaintiffs*

1 **IT IS SO STIPULATED AND AGREED.**

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Dated: \_\_\_\_\_, 2018

\_\_\_\_\_  
Jacklyn Feist

Dated: 4.5, 2018

Angelica Zimmer  
Angelica Zimmer

Dated: \_\_\_\_\_, 2018

Petco Animal Supplies, Inc.  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

APPROVED AS TO FORM

Dated: \_\_\_\_\_, 2018

GLANCY PRONGAY & MURRAY LLP  
By: \_\_\_\_\_  
Lionel Z. Glancy  
Marc L. Godino  
Mark S. Greenstone  
1925 Century Park East, Suite 2100  
Los Angeles, CA 90067  
Telephone: (310) 201-9150  
Facsimile: (310) 201-9160  
lglancy@glancylaw.com  
mgodinno@glancylaw.com  
ingreenstone@glancylaw.com  
  
*Counsel for Plaintiffs*

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**IT IS SO STIPULATED AND AGREED.**

Dated: \_\_\_\_\_, 2018

\_\_\_\_\_  
Jacklyn Feist

Dated: \_\_\_\_\_, 2018

\_\_\_\_\_  
Angelica Zimmer

Dated: April 5, 2018

Petco Animal Supplies, Inc.

By:

Its: Associate General Counsel, Employment

**APPROVED AS TO FORM**

Dated: \_\_\_\_\_, 2018

**GLANCY PRONGAY & MURRAY LLP**

By: \_\_\_\_\_

Lionel Z. Glancy  
Marc L. Godino  
Mark S. Greenstone  
1925 Century Park East, Suite 2100  
Los Angeles, CA 90067  
Telephone: (310) 201-9150  
Facsimile: (310) 201-9160  
lglancy@glancylaw.com  
mgodinno@glancylaw.com  
mgreenstone@glancylaw.com

*Counsel for Plaintiffs*

1 **IT IS SO STIPULATED AND AGREED.**

2  
3 Dated: \_\_\_\_\_, 2018

\_\_\_\_\_  
Jacklyn Feist

4  
5  
6 Dated: \_\_\_\_\_, 2018

\_\_\_\_\_  
Angelica Zimmer

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8  
9  
10 Dated: \_\_\_\_\_, 2018

Petco Animal Supplies, Inc.

11 By: \_\_\_\_\_

12 Its: \_\_\_\_\_

13  
14 **APPROVED AS TO FORM**

15  
16 Dated: 4-9, 2018

GLANCY PRONGAY & MURRAY LLP

17 By:   
Lionel Z. Glancy

18 Marc L. Godino

19 Mark S. Greenstone

20 1925 Century Park East, Suite 2100

21 Los Angeles, CA 90067

22 Telephone: (310) 201-9150

23 Facsimile: (310) 201-9160

24 lglancy@glancylaw.com

25 mgodinno@glancylaw.com

26 mgreenstone@glancylaw.com

27 *Counsel for Plaintiffs*

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Dated: April 5, 2018

WILSON TURNER KOSMO LLP

By: 

Frederick W. Kosmo, Jr.  
Marissa L. Lyftogt  
Hali M. Anderson  
550 West C Street, Suite 1050  
San Diego, CA 92101  
Telephone: (619) 236-9600  
Facsimile: (619) 236-9669  
fkosmo@wilsonturnerkosmo.com  
mlyftogt@wilsonturnerkosmo.com  
handerson@wilsonturnerkosmo.com

*Counsel for Defendant*



# EXHIBIT A

# NOTICE OF CLASS ACTION SETTLEMENT

In The Matter of

*Feist et al. v. Petco Animal Supplies, Inc.*

United States District Court for the Southern District of California, Case No.: 3:16-cv-01369-H-DHB

*A court authorized this notice. This is not a solicitation.  
This is not a lawsuit against you and you are not being sued.  
However, your legal rights are affected whether you act or don't act.*

**IMPORTANT: YOU MAY BE ENTITLED TO MONEY IF THE COURT APPROVES THE SETTLEMENT DESCRIBED HEREIN**

## NOTICE OF PENDENCY OF CLASS ACTION, PROPOSED SETTLEMENT, YOUR RIGHTS AND OPTIONS FOR YOU TO CONSIDER

This Notice relates to a proposed Settlement in a class action lawsuit that alleges that Petco Animal Supplies, Inc. ("Petco" or "Defendant") violated the Fair Credit Reporting Act ("FCRA") by failing to provide required background check related disclosures and notices to people who applied for employment with Petco. Petco denies that it violated the law in any fashion whatsoever and has asserted numerous affirmative defenses.

There are two proposed Settlement Classes, which are defined in detail within this notice. The first Class is comprised of everyone with respect to whom Petco procured a consumer report for employment purposes during the period from May 1, 2014 through December 31, 2015. The parties estimate that this Class consists of approximately 37,279 individuals who will receive approximately \$21 each. The second Class is comprised of approximately 52 individuals in the first Class against whom an adverse action was taken based upon a consumer report but who were not provided with a pre-adverse action notification letter. This small number of individuals who are also members of the second Class will receive an additional \$150.

Your eligibility for a Settlement payment will be based upon Petco's records and any payment will be sent to you automatically provided you do not choose to opt out of the Settlement. There is no need to submit a claim.

***PLEASE READ THIS NOTICE CAREFULLY***

### WHAT THIS NOTICE CONTAINS

NOTICE OF CLASS ACTION SETTLEMENT .....	1
I. WHAT IS THE PURPOSE OF THIS NOTICE? .....	2
II. WHAT IS THE LAWSUIT ABOUT? .....	2
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**I. WHAT IS THE PURPOSE OF THIS NOTICE?**

This Notice is to let you know that there is a class action pending in the United States District Court for the Southern District of California, that you may be a member of the Settlement Class for this lawsuit, AND THAT YOU MAY BE ENTITLED TO A PAYMENT AS PART OF THE CLASS SETTLEMENT OF THIS LAWSUIT.

This Notice advises you of the benefits that may be available to you under the proposed Settlement and your rights and options as a potential Class Member, and notifies you that court hearings will be held to approve the Settlement.

**II. WHAT IS THE LAWSUIT ABOUT?**

On May 5, 2016, Plaintiffs Jacklyn Feist and Angelica Zimmer (“Plaintiffs”), as individuals and on behalf of all others similarly situated, filed a class action complaint entitled “*Feist, et al. v. Petco Animal Supplies, Inc.*,” in San Diego Superior Court. On June 7, 2016, Petco removed the case to the United States District Court for the Southern District of California, No.: 3:16-cv-01369-H-DHB (the “Action”).

The Action alleges that Petco violated the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681, *et seq.* in two ways. First, Plaintiffs allege that Petco violated the FCRA by procuring consumer reports on Plaintiffs and class members for employment purposes without providing a proper stand-alone disclosure, and without obtaining a proper authorization, as required by the FCRA. These individuals are “Disclosure Class Members.” It is estimated that there are approximately 37,279 Disclosure Class Members on whom Petco procured consumer reports during the Class Period, which is defined as the period from May 1, 2014 through December 31, 2015. Second, Plaintiffs allege that Petco failed to provide a required pre-adverse action notification letter to a small number of Disclosure Class Members against whom it took an adverse action on the basis of information contained within a consumer report. These individuals are “Adverse Action Class Members.” It is estimated that approximately 52 of the Disclosure Class Members are also Adverse Action Class Members. You have received this Notice because Petco’s records indicate that Petco procured your consumer report during the period from May 1, 2014 through December 31, 2015. You are therefore considered to be a Class Member.

Petco denies and continues to deny that it has done anything wrong, and denies that any Class Member has been injured or suffered damages. Considering the risks, uncertainties, inconvenience, and expense associated with the Action, the Parties and their counsel have concluded that it is in the best interests of the Parties and the Class Members to settle the Action on the terms summarized in this notice, and that the Settlement is fair, adequate and reasonable.

On \_\_\_\_\_, 2018, United States District Court Judge Marilyn Huff held a hearing and determined on a preliminary basis that the Settlement is fair, adequate and reasonable and in the best interests of the Class, subject to a final fairness hearing discussed below.

**III. WHY DID I GET THIS NOTICE?**

You received this Notice because Petco’s records identify you as a member of the Settlement Class.

**IV. WHO ARE THE PARTIES IN THIS CLASS ACTION?**

The Plaintiffs are Jacklyn Feist and Angelica Zimmer (“Class Representatives”), who applied for employment with

Defendant during the period from May 1, 2014 through December 31, 2015 . The Class Representatives are pursuing the case on behalf of all other similarly situated individuals such as yourself.

Petco Animal Supplies, Inc. is the Defendant.

#### V. WHO ARE THE ATTORNEYS FOR THE PARTIES?

Counsel for Plaintiffs  
Mark S. Greenstone  
**GLANCY PRONGAY & MURRAY LLP**  
1925 Century Park East, Suite 2100  
Los Angeles, CA 90067  
Phone: (888) 773-9224/Fax: (310) 201-9160

Counsel for Defendant  
Frederick W. Kosmo, Jr.  
**WILSON TURNER KOSMO LLP**  
550 West C St., Suite 1050  
San Diego, California 92101  
Phone: (619) 236-9600/Fax: (619) 236-9669

#### VI. WHAT IS THE PROPOSED SETTLEMENT?

The Parties have agreed to the Settlement generally described below:

Without admitting any wrongdoing, Defendant has agreed to pay \$1,200,000 (the "Common Fund") to resolve the Action. The Common Fund will be distributed as follows. First, court approved attorneys' fees and costs, settlement administration expenses and Class Representative Enhancements (if any) will be deducted. It is estimated that Class Counsel will seek approximately \$300,000 in attorneys' fees and \$15,725.26 in costs, that settlement administration expenses will be \$81,000 and that the Class Representative Enhancement will be \$10,000 (\$5,000 to each Plaintiff). The remaining Net Settlement Fund, estimated to be \$793,274.74, will be distributed to the Settlement Class. It is estimated that each Disclosure Class Member will receive approximately \$21 each. Each Disclosure Class Member who is also an Adverse Action Class Member will receive an additional \$150.

Please note that the above is a summary of the Settlement provisions. The specific and complete terms of the proposed Settlement are stated in the Stipulation of Settlement for Class Action Settlement, ("Settlement"), a copy of which is filed with the Clerk of the Court. You may obtain a copy of the Settlement as well as other documents relating to the Settlement that are filed with the Court (e.g., Plaintiffs' Motion for Preliminary approval, Plaintiffs' Motion for Final Approval, etc.) free of charge by contacting Plaintiffs' counsel listed in Section V above. You may also obtain copies of documents filed with the Court on pacer.gov for a fee.

#### Individual Settlement Payments To All Participating Class Members.

Each member of the Settlement Class who does not opt out of the settlement as described in Section IX, below, will receive an Individual Settlement Payment. **The estimated amount of your Individual Settlement Payment is indicated on the first page of this Notice and immediately above in Section VI. This is just an estimate of the minimum payment you could be eligible to receive under the Settlement.** Your payment could vary depending on the amounts that the Court ultimately approves for attorneys' fees and costs, settlement administration expenses, Class Representative Enhancements and the number of opt-outs.

Settlement payments will be distributed **automatically** approximately \_\_\_\_\_ ( ) days after the Effective Date of the Settlement. **There is no need to submit a claim.**

**No Effect On Employee Benefit Plans.** Neither the Class Settlement nor any amounts paid under the Class Settlement will form the basis of additional contributions to, benefits under, or any other monetary entitlement under, any employer-sponsored benefit plans, policies or bonus programs.

#### VII. RELEASE OF CLAIMS.

Effective upon entry of a Court order granting Final Approval of the proposed Class Settlement and Judgment, Class Members who have not validly exercised their right to opt out will be deemed to have waived and released all claims,

damages, losses, demands, penalties, liabilities, fees, interest, causes of action, complaints or suits that are or could have been brought by Plaintiffs in this Action based upon the facts alleged in Plaintiffs' Second Amended Complaint. Released Claims for Class Members include, without limiting the foregoing, all claims based on the failure to provide a proper disclosure and/or obtain a proper authorization and/or provide a pre-adverse action notification letter, in connection with an employment-related background check under the FCRA and all related, analogous or corresponding federal or state laws, which any Participating Class Member has ever had, or hereafter may claim to have, against the Released Parties relating to consumer reports procured by Defendant during the period from May 1, 2014 through December 31, 2015. All Class Members, except for any Class Member who timely opted out of the settlement, shall be deemed to have released, waived and forever discharged the Released Parties from the Released Claims.

This Release does not apply to any claims for workers' compensation, unemployment insurance, employment discrimination or to any other claims Class Members may have against the Defendant which are unrelated to the Action.

### VIII. WHEN IS THE FINAL FAIRNESS HEARING?

A final hearing will be held before the Honorable Marilyn Huff on \_\_\_\_\_, 2018 to determine whether the proposed Settlement is fair, reasonable and adequate and should be finally approved by the Court. The hearing will take place in Courtroom 15A of the United States District Court for the Southern District of California located at 333 West Broadway, San Diego, California 92101. **You are not required to attend the hearing in order to participate in the Settlement.**

### IX. WHAT ARE MY RIGHTS WITH REGARD TO THIS MATTER?

If you fit the description of a Disclosure Class Member and/or an Adverse Action Class Member as set forth in this notice, you have three options. Each option has its own consequences, which you should understand before making your decision. Your rights regarding each option, and the procedure you must follow to select each option, are set forth below.

A. Option One. You Can Do Nothing, Participate in the Settlement, Release Your Claims As Stated Above And Receive A Settlement Payment.

If you do nothing, you will automatically choose this option. Class Counsel, appointed and approved by the Court for Settlement purposes only, will represent your interests. You will receive a settlement payment after the Settlement has been finally approved by the Court. The judgment will bind all Class Members who do not request exclusion (Option Two below).

B. Option Two. You Can Exclude Yourself ("Opt Out") From The Settlement.

If you do not wish to participate in or be bound by the Settlement, you must submit a written statement by mail to the Settlement Administrator (address in Section X below) requesting to be excluded from the Class ("Request For Exclusion") on or before [DATE] ("Request For Exclusion/Opt Out Deadline"). Such a written Request for Exclusion must contain your name, address, telephone number and Social Security number and the location and date of when you sought employment by Petco Animal Supplies, Inc., and must be sent by mail to the Settlement Administrator, XXXXXXXX, at the address listed at the bottom of this Notice. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted.

If you request exclusion, you will not receive any money from the Settlement, nor will you be considered to have released your claims alleged in the Action. If you request exclusion from the Settlement, you may not pursue any recovery under the Settlement. You may, however, pursue other remedies separate and apart from the Settlement that may be available to you.

C. Option Three. You May Object to the Settlement.

If you are a Class Member, and you do not exclude yourself from the Settlement (opt out), you may object to the Settlement before final approval of the Settlement by the Court. If you choose to object to the Settlement, you may enter an appearance *in propria persona* (meaning you choose to represent yourself), or through an attorney that you hire and pay for yourself.

In order to object to the Settlement, or any portion of it, you must file a copy of the objection in writing with the United States District Court, Southern District of California, 221 West Broadway, San Diego, CA 92101 on or before [DATE]. Your objection must set forth the following information: full name; current address; current phone number; a written statement of the reason(s) for the objection; a statement of whether the you intend to appear at the Final Fairness hearing (with or without counsel); a signature; and, the case name and number of the action.

No Class Member will be entitled to object to the Settlement if they do not object by the method specified above on or before the Objection Deadline. If the Court approves the Settlement despite any objections, you still will receive your share of the Settlement proceeds unless you exclude yourself in a timely manner according to Option Two above.

X. WHO CAN I CONTACT IF I HAVE FURTHER QUESTIONS?

The court-appointed Administrator for this Settlement is as follows:

*Feist et al v. Petco Animal Supplies Class Action Settlement*

\_\_\_\_\_  
[ADDRESS]  
[TELEPHONE NUMBER]

If you have questions, you may call the Settlement Administrator, toll free at [TELEPHONE NUMBER]. Ask about the *Feist et al v. Petco Animal Supplies Class Settlement*. You may also call or e-mail any of the attorneys for Plaintiffs listed in Section V above. **PLEASE DO NOT CALL THE COURT.**

# EXHIBIT B

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF CALIFORNIA

3  
4 JACKLYN FEIST and ANGELICA  
5 ZIMMER, Individually and on Behalf of  
6 All Others Similarly Situated,

7 Plaintiffs,

8 v.

9 PETCO ANIMAL SUPPLIES, INC.,  
10 and DOES 1 through 10, inclusive,

11 Defendants.

Case No.: 3:16-cv-01369-H-DHB

**ORDER OF FINAL APPROVAL  
and  
JUDGMENT**

12 Based on the Plaintiffs' Motion for Final Approval of the Proposed  
13 Settlement and supporting papers, the arguments presented at Final Fairness  
14 Hearing, and for good cause shown, IT IS HEREBY ORDERED:

15 1. The Stipulation for Class Action Settlement, including its exhibits (the  
16 "Agreement" or "Settlement Agreement"), and the definition of words and terms  
17 contained therein are incorporated by reference in this Order. The terms of this  
18 Court's Preliminary Approval Order are also incorporated by reference in this  
19 Order.  
20

21  
22 2. The Court reaffirms its certification of the following Settlement Classes  
23 for settlement purposes, which was provisionally certified for settlement purposes in  
24 this Court's Preliminary Approval Order:  
25

26 All persons regarding whom Defendant procured or caused to be  
27 procured a consumer report for employment purposes during the  
28 period from May 1, 2014 through December 31, 2015 ("Disclosure  
Class"). Included in that settlement class is a subclass consisting of



1 those against whom Petco took an adverse action subsequent to  
2 procuring a consumer report and did not receive a pre-adverse action  
3 notification letter (“Adverse Action Class”).

4 The Court incorporates by reference its findings and conclusions regarding class  
5 certification contained in the Preliminary Approval Order, and reaffirms those  
6 findings and conclusions for purposes of final approval of the Settlement.

7  
8 3. The Court hereby finds that the Settlement Agreement is the product of  
9 arm’s length settlement negotiations among Plaintiffs, Class Counsel, and  
10 Defendant.

11  
12 4. The Court hereby finds and concludes that Class Notice was  
13 disseminated to members of the Settlement Classes in accordance with the terms set  
14 forth in Section III.C of the Settlement Agreement in compliance with this Court’s  
15 Preliminary Approval Order.

16  
17 5. The Court further finds and concludes that the Class Notice and  
18 Settlement Award distribution procedures set forth in Sections III.C & K of the  
19 Settlement Agreement fully satisfy the requirements of due process, were the best  
20 notice practicable under the circumstances, and provided individual notice to all  
21 members of the Settlement Classes who could be identified through reasonable  
22 effort.  
23  
24

25 6. The Court hereby finally approves the Settlement Agreement and the  
26 Settlement contemplated thereby, and finds that the terms and conditions constitute,  
27  
28

1 in all respects, a fair, adequate, and reasonable settlement as to all Settlement Class  
2 Members, and directs its consummation pursuant to its terms and conditions.

3  
4 7. The Court reserves jurisdiction over all matters arising out of the  
5 Settlement Agreement, including for purposes of enforcing the terms of the  
6 Settlement Agreement, which are hereby incorporated into the Court's Judgment.

7  
8 8. The Court approves Class Counsel's application for \$ \_\_\_\_\_  
9 in attorneys' fees, \$ \_\_\_\_\_ in litigation costs and settlement administration  
10 expenses, and for a service award to the Named Plaintiffs in the amount of  
11 \$ \_\_\_\_\_ each.

12  
13 9. This Order of Final Approval and Judgment shall constitute a final  
14 judgment that is binding on the parties and the Settlement Classes. The Clerk of the  
15 Court is directed to enter this Order and Judgment on the docket forthwith.

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18 Dated:

\_\_\_\_\_  
Hon. Marilyn L. Huff

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# EXHIBIT C

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF CALIFORNIA

3  
4 JACKLYN FEIST and ANGELICA  
5 ZIMMER, Individually and on Behalf of  
6 All Others Similarly Situated,

7 Plaintiffs,

8 v.

9 PETCO ANIMAL SUPPLIES, INC.,  
10 and DOES 1 through 10, inclusive,

11 Defendants.

Case No.: 3:16-cv-01369-H-DHB

**ORDER PRELIMINARILY  
APPROVING SETTLEMENT**

12 Based on the Plaintiffs' unopposed Motion for Preliminary Approval of the  
13 Proposed Settlement and good cause shown therein, IT IS HEREBY ORDERED

14 THAT:

15 1. Preliminary Approval of Proposed Settlement. The Stipulation for  
16 Class Action Settlement, including its exhibits (the "Agreement" or "Settlement  
17 Agreement"), and the definitions of words and terms contained therein are  
18 incorporated by reference in this Order. The Settlement Agreement, including all  
19 exhibits thereto, is preliminarily approved as fair, reasonable, and adequate and  
20 within the range of reasonableness for preliminary settlement approval. The Court  
21 finds that: (a) the Agreement resulted from extensive arm's length negotiations; and  
22 (b) the Agreement is sufficient to warrant notice of the Settlement to those persons  
23 in the Settlement Class and a full hearing on the approval of the Settlement.  
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1           2.    Class Certification For Settlement Purposes Only. The Court  
2 provisionally certifies, for settlement purposes only, the following Settlement  
3  
4 Classes:

5           All persons regarding whom Defendant procured or caused to be  
6 procured a consumer report for employment purposes during the  
7 period from May 1, 2014 through December 31, 2015 (“Disclosure  
8 Class”). Included in that Settlement Class is a subclass consisting of  
9 those against whom Petco took an adverse action subsequent to  
procuring a consumer report and did not receive a pre-adverse action  
notification letter (“Adverse Action Class”).

10 The parties stipulate that there are approximately 37,279 Disclosure Class Members,  
11 approximately 52 of whom are also Adverse Action Class Members. In connection  
12 with this provisional certification, the Court makes the following preliminary  
13 findings for settlement purposes only:  
14

- 15           a.    There are ascertainable classes composed of the members of the  
16 Settlement Classes defined above.  
17  
18           b.    It is not practicable to bring all members of those ascertainable  
19 classes before the Court.  
20  
21           c.    The questions of law or fact common to the claims of the  
22 ascertainable classes are substantially similar, and predominate  
23 over questions that affect each individual member of the classes.  
24  
25           d.    The claims of the Plaintiffs named above are typical of the  
26 claims of the ascertainable classes.  
27  
28

1 e. The Plaintiffs named above will fairly and adequately protect the  
2 interests of the classes.

3  
4 3. Class Counsel. The Court conditionally appoints Glancy Prongay &  
5 Murray LLP as Class Counsel.

6 4. Class Representatives. The Court conditionally appoints Jacklyn Feist  
7 and Angelica Zimmer as Class Representatives.

8  
9 5. Settlement Administrator. The Court conditionally appoints KCC LLC  
10 as the Settlement Administrator.

11  
12 6. Class Notice. The Parties' Notice of Class Action Settlement is  
13 approved for distribution in accordance with the schedule set forth in the Settlement  
14 Agreement.

15  
16 7. Requests For Exclusion/Opt-Outs. Any Class Member who wishes to  
17 be excluded (opt out) from the Settlement, must:

18 a. Submit a written statement requesting exclusion from the Class  
19 on or before the Exclusion Deadline, which shall be sixty (60)  
20 days after the date the Class Notice is first mailed by the  
21 Settlement Administrator. Such written Request for Exclusion  
22 must contain the name, address, telephone number and social  
23 security number of the person requesting exclusion and must be  
24 returned by mail to the Settlement Administrator at the address  
25 specified in the Class Notice and must be postmarked on or  
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1 before the Request For Exclusion/Opt Out Deadline Date. The  
2 date of the postmark on the return mailing envelope shall be the  
3 exclusive means used to determine whether a Request for  
4 Exclusion has been timely submitted.  
5

6 b. The foregoing requirements shall be strictly construed, and  
7 substantial compliance shall not be sufficient. Any Class  
8 Member who does not satisfy all of the foregoing requirements  
9 will be conclusively deemed a Participating Class Member fully  
10 bound by the terms of the Settlement to the extent permitted by  
11 law.  
12

13 c. Any Class Member who mails a valid and timely Request for  
14 Exclusion will, upon receipt by the Settlement Administrator of  
15 the Request for Exclusion, no longer be a Class Member, and  
16 will receive no benefit or payment from this Settlement and none  
17 of his or her claims, causes of action or rights will be released by  
18 virtue of this Settlement.  
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22 8. Objections. Any Class Member who wishes to object to the Settlement  
23 must file a copy of the objection in writing with the Court no later than the  
24 Objection Deadline, which shall be sixty (60) days after the date the Class Notice is  
25 first mailed by the Settlement Administrator. Any Class Member who objects must  
26 set forth in his or her written objection:  
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- (a) his or her full name;
- (b) his or her current address;
- (c) his or her phone number;
- (d) a written statement of his or her objection, and the reasons for each objection;
- (e) a statement of whether he or she intends to appear at the Final Fairness Hearing (with or without counsel);
- (f) his or her signature; and,
- (g) the case name and number of the Action.

9. Final Approval Hearing. A Final Approval Hearing is set for \_\_\_\_\_, 2018 in Courtroom 15A at the United States District Court for the Southern District of California, 333 West Broadway, San Diego, California 92101.

Dated: \_\_\_\_\_  
Hon. Marilyn L. Huff