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Attorneys for Plaintiff, DARREN MULLER
on behalf of himself and all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SOLANO**

DARREN MULLER on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

PARK MANAGEMENT CORP. dba SIX
FLAGS DISCOVERY KINGDOM a
California corporation; and DOES 1 through
50, inclusive,

Defendants.

Case No. FCS054401

ASSIGNED FOR ALL PURPOSES TO:

JUDGE: Hon. Wendy Getty

DEPT: 8

**DECLARATION OF JAMES R.
HAWKINS IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

I, JAMES R. HAWKINS, declare as follows:

2. On February 21, 2020, Plaintiff Darren Muller (“Muller”) initiated this action in the Superior Court for the County of Solano on behalf of himself and all others similarly situated, styled *Darren Muller v. Park Management Corp.* Solano County Superior Court Case No. FCS054401 (the “Lawsuit”). The Complaint asserts causes of action for; (1) failure to pay lawful wages including overtime wages; (2) failure to provide lawful meal periods or compensation in lieu thereof; (3) failure to pay timely wages; (4) knowing and intentional failure to comply with itemized employee wage statement provisions; (5) violation of 15 USC §1681(b) *et seq.* in conducting employment related background check (6) violation of California Civil Code § 1785 *et seq.* in conducting employment related background check; (7) Violation of California Civil Code § 1786 *et seq.* in conducting employment related background check and; (8) violations of the unfair competition law (Bus. & Prof. Code § 17200 *et seq.*) (the “Action”).

4. Thereafter, the Six Flags and Walker parties attended a private mediation and reached a settlement of the wage and hour class action and PAGA claims in *Walker*. Plaintiff Muller is included in the *Walker* settlement and has released his wage and hour claims against Six Flags. The only claims that remain in the instant action are Plaintiff's background check claims against Defendant

- 2 -

1 employment policies and practices meet the requirements of the Labor Code, United States Code
2 and California Civil Code.

3 6. To date, no motion for class certification has been filed, no class has been
4 certified and the court has not made any findings that Six Flags engaged in any wrongdoing or in
5 violation of any state law, rule or regulation, with respect to the issues presented in the litigation.

6 7. Through informal discovery, Plaintiff and Six Flags have exchanged documents
7 and information related to the claims asserted. Defendant has produced documents regarding the
8 background checks of putative class members. Defendant also provided Plaintiff with class data
9 and information regarding the number of putative class employees during the relevant time
10 period.

11 8. After conducting informal discovery, exchanging relevant information and
12 engaging in numerous discussions regarding the claims alleged, on July 21, 2021, the parties
13 participated in a private mediation with Jeffrey Krivis. During the course of the mediation, the
14 parties exchanged further information and documentation concerning Plaintiff's' claims and Six
15 Flags' defenses thereto, and aggressively advocated for their respective positions.

16 9. At the conclusion of the mediation, the parties reached a settlement of this Action
17 for a maximum settlement amount of \$220,000. Thereafter, the Parties exchanged multiple drafts
18 of the proposed settlement agreement and class notice documents and engaged in
19 communications regarding the settlement terms.

20 10. The final terms and provisions of the settlement agreement were approved and
21 executed by all the parties on or about December 28, 2021. (A true and correct copy of the Joint
22 Stipulation and Settlement of Class and Representative Action ("Settlement Agreement") is
23 attached hereto as Exhibit A.)

24 11. Based on their own respective independent investigations and evaluations and
25 after taking into account the sharply disputed factual and legal issues involved in this matter, the
26 risks attending further prosecution, the informal discovery and investigation conducted to date,
27 Plaintiff and his counsel are of the opinion that settlement for the consideration and on the terms
28 set forth in the Settlement Agreement is fair, reasonable and adequate and is in the best interests

1 of the named Plaintiff and proposed Class Members.

2 12. I have a great deal of experience in wage and hour class action litigation. I have
3 obtained certification of several classes, I have been approved as class counsel in many other
4 wage/hour class actions, and I am currently litigating numerous others. Although not an all-
5 inclusive list, over the years I have prosecuted the following class action matters as lead and/or
6 co-lead counsel, all of which implicated similar law and facts to those associated with this action:

7 a. *Aguilar v. 7-Eleven, Inc., et. al.*, Orange County Superior Court- Case No.: 30-
8 2009-00268714-CU-OE-CXC. Certified Wage and Hour Class action seeking premium wages
9 for meal period and rest periods and resultant penalties. Class Notice pending.

10 b. *Carey, et. al. v. Arthur J. Gallagher, et. al.*, USDC, SOUTHERN DISTRICT-
11 Case No.: 09-cv-0168. Wage and Hour Class action seeking past wages of overtime for mis-
12 classification of insurance claims adjusters employed by Gallagher Bassett, a third party
13 administrator (TPA) in the State of California. Certification granted. Plaintiffs' counsel co-lead
14 counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

15 c. *Dao v. 3M Company, et al.* USDC, CENTRAL DISTRICT, Case No. CV-08-
16 04554. Wage and Hour Class Action case seeking past wages for "off the clock", overtime and
17 meal and rest break violations for production workers in the State of California. Plaintiff's
18 Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and
19 funds fully distributed.

20 d. *Ortiz v. Kmart*, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW.
21 Wage and Hour Class Action case seeking past wages for meal and rest period violations for
22 retail employees in the State of California. Plaintiff's counsel appointed co-lead counsel. Case
23 settled, Final Approval granted, no objections and funds fully distributed.

24 e. *Morgan v. Aramark Campus, LLC*, USDC, CENTRAL DISTRICT, Case No.
25 SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and rest period
26 violations for retail employees in the State of California. Plaintiff's Counsel appointed as Lead
27 Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

28 f. *West v Iron Mountain Information Management, Inc, et. al.*; Los Angeles County

1 Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past wages for
2 overtime, meal and rest break violations for driver employees in the State of California.
3 Settlement for “binding arbitration.” Arbitration Award for Plaintiff Class. Arbitration Award
4 confirmed. Plaintiff’s counsel, lead trial counsel and class counsel.

5 g. *Gonzalez v. Superior Industries Inter, Inc., et al.*, Los Angeles County Superior
6 Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for overtime,
7 meal and rest breaks violations for production employees in the State of California. Plaintiff’s
8 counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds
9 fully distributed.

10 h. *Acosta v. Fleetwood Travel Trailers of California, Inc.*, et al., Riverside County
11 Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past wages for
12 overtime, meal and rest break violations for production employees in the State of California.
13 Plaintiff’s counsel appointed as co-lead counsel. Case settled, Final Approval granted, no
14 objections and funds fully distributed.

15 i. *Walker v. Sharkeez, et al.*, Orange County Superior Court, Case No. 05CC00293.
16 Wage and Hour Class Action seeking past wages for unlawful deductions, meal and rest break
17 violations for restaurant employees in the State of California. Plaintiff’s counsel appointed as
18 lead counsel. Case settled, Final Approval granted and funds fully distributed.

19 j. *Padron v. Universal Protection Service, et al*, Orange County Superior Court,
20 Case No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal and
21 rest break violations for security officers in the State of California. Plaintiff’s counsel appointed
22 as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully
23 distributed.

24 k. *Martinez v. Securitas Security Services USA*, et al., Santa Clara Superior Court,
25 Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action seeking past
26 wages for meal and rest break violations for security officers employed by defendant in the State
27 of California. Plaintiff’s counsel and co-counsel. Case settled, Final Approval granted and funds
28 fully distributed.

1 l. *Velasquez-Lopez v. Hotel Cleaning Services, Inc.* et al., Riverside Superior Court,
2 Case No. RIC 420909. Wage and Hour Class Action seeking past wages for overtime, meal and
3 rest break violations for housekeepers employed by defendant in the State of California.
4 Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections
5 and funds fully distributed.

6 m. *Ruiz, et al. v. Unisource Worldwide, Inc., et al.*, USDC, CENTRAL DISTRICT,
7 Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal and rest
8 period violations for non-exempt employees employed by defendant in the state of California.
9 Case settled. Awaiting Preliminary Approval hearing. Plaintiff has petitioned the Court for Lead
10 Counsel.

11 n. *Herrador v. Culligan International Company, et al.*, USDC, CENTRAL
12 DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past wages for field
13 and branch employees of defendant in the State of California. Plaintiff's counsel appointed as
14 lead counsel. Case settled and awaiting Final Approval.

15 o. *Defries v. Domain Restaurants, et al.*, Orange County Superior Court, Case No.
16 05CC00128. Wage and Hour Class Action seeking past wages for restaurant employees of
17 defendant in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled,
18 Final Approval granted, no objections and funds fully distributed.

19 p. *Denton v. BLB Enterprises, Inc., et al.*, Orange County Superior Court, Case No.
20 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest break
21 violations for security guards employed by defendant in the State of California. Plaintiff's
22 counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds
23 fully distributed.

24 q. *Rios v. Sandberg Furniture Manufacturing Co., Inc, et al.*, Los Angeles Superior
25 Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal and rest break
26 violations for production employees employed by defendant in the State of California. Plaintiff
27 counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds
28 fully distributed.

1 r. *McMurray v. Dave and Busters, Inc.*, et al., Orange County Superior Court, Case
2 No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and rest break
3 violations for restaurant employees employed by defendant in the State of California. Plaintiff's
4 counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and
5 funds fully distributed.

6 s. *Osuna v. DFG Restaurants, Inc.*, et al., Los Angeles Superior Court, Case No. BC
7 330145. Wage and Hour Class Action seeking past wages of overtime for mis-classification of
8 managers employed by Defendant, DBA Carl's Jrs. in the State of California. Plaintiff's counsel
9 appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully
10 distributed.

11 t. *Burns v. Gymboree Operations, Inc.*, et al., San Francisco Superior Court, Case
12 No. CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and rest break
13 violations for retail employees employed by defendant in the State of California. Plaintiff's
14 counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds
15 fully distributed.

16 u. *Willems v. Diedrich Coffee, Inc.*, et al., Orange County Superior Court, Case No.
17 07CC00015. Wage and Hour Class Action seeking past wages of overtime for mis-classification
18 of managers employed by Defendant in the State of California. Plaintiff's counsel appointed lead
19 counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

20 v. *Davila, et al. v. Beckman Coulter, Inc.*, et al., Orange County Superior Court,
21 Case No. 07CC01347. Wage and Hour Class Action seeking past wages for overtime, meal and
22 rest break violations for production workers employed by defendant in the State of California.
23 Plaintiff's counsel appointed lead counsel. Case settled; final approval granted; no objections
24 and funds fully distributed.

25 w. *Perez v. Naked Juice Company of Glendora, Inc.*, Los Angeles Superior Court,
26 Case No. BC387088. Wage and Hour Class Action seeking past wages for overtime, meal and
27 rest period violations for production employees employed by defendant in the State of California.
28 Plaintiff counsel appointed as lead counsel. Case settled, Final Approval granted, no objections

1 and funds fully distributed.

2 13. Ms. Fernandez, my co-counsel on this matter, has been a member of the Florida
3 Bar since January 1996 and member of the California Bar since August 2002. Ms. Fernandez has
4 specialized in employment related litigation including complex wage and hour civil litigation
5 since 2003. Ms. Fernandez has been, and currently is, co-counsel in over 40 wage and hour class
6 action litigations for our firm and has produced excellent results for this firm's clients in the
7 wage and hour class actions.

8 14. Even without the presumption of fairness and reasonableness, the Settlement
9 clearly is within the range of reasonableness. Plaintiff's claims are premised on allegations that
10 Defendants required Plaintiff and Class Members to sign documents purporting to provide
11 disclosure and authorization for Defendants to perform a background check and obtain consumer
12 credit reports. One notice/authorization form is titled "Background Authorization/Release Form
13 Consumer Notification" which is embedded with extraneous information, fails to provide all
14 the requisite information and contains a liability waiver. The other form is titled "Fair Credit
15 Reporting Act Disclosure & Authorization" which Plaintiff contends is non-compliant in that
16 the form fails to mention who the reporting agency is or how to contact them, and contains
17 non-compliant extraneous information.

18 15. The predominant claims in this action arise from alleged violations of the Fair
19 Credit Reporting Act ("FCRA") with respect to the employment related background checks
20 conducted by Defendant. Specifically, Plaintiff alleges that Defendants improperly conducted
21 background checks and obtained consumer credit reports on Plaintiff and Class Members when
22 they applied for employment in violation of 15 USC §1681 *et seq.*

23 16. Six Flags vehemently disputes Plaintiff's claims and maintains that it complied
24 with the disclosure requirements under the FCRA and/or California law. Specifically,
25 Defendant contends that the "Fair Credit Reporting Act Disclosure & Authorization" form
26 complies with the requirements of the FCRA in that the document consists solely of the FCRA
27 required disclosure and an authorization for the employee to execute. Furthermore, Six Flags
28 contends that Plaintiff would be unable to show any recognizable injury. Plaintiff disagrees

1 and contends that the form contains verbiage regarding adverse decisions that may be taken by
2 Defendants based on the consumer reports and rights pertaining to the same which is the type
3 of extraneous information which the *Walker* court concluded may pull the applicant's attention
4 away from the privacy rights protected by the FCRA.

5 17. Moreover, Defendant contends that Plaintiff will not prevail on the "willfulness"
6 requirement as it complied with the FCRA requirement based on the law that existed at the time
7 Defendant provided the disclosure documents to Plaintiff and Class Members. *Mitchell v. WinCo*
8 *Foods, LLC* (9th Cir 2020) 828 Fed. Appx.467

9 18. Based on documents and information produced by Defendant, in preparation for
10 mediation and during settlement negotiations, the number of employee background check
11 conducted by Six Flags is Four Thousand Six Hundred Twenty (4,620). Therefore, Plaintiff's
12 counsel estimated a maximum of statutory damages under the FCRA of \$462,000, if liability
13 were proven. However, taking into consideration Defendant's defenses and the willfulness
14 requirement of this statute, for settlement purposes Plaintiff's counsel reduced this amount to
15 \$220,000.

16 19. Plaintiff also brought claims based on the California statutes: the Investigative
17 Consumer Reporting Agencies Act, Civil Code section 1786, *et seq.* ("ICRAA"). Plaintiff's
18 claims under ICRAA are premised on the same facts alleged in support of the FCRA. However,
19 Defendant argues that under ICRAA, statutory damages are not available on a class wide basis
20 and Plaintiff cannot allege specific facts to substantiate his claim an investigative consumer
21 report was obtained for him. Thus, for purposes of settlement, this claim was given a value of \$0.

22 20. Plaintiff also contends that Defendant violated the Consumer Credit Reporting
23 Agencies Act, Civil Code section 1785, *et seq.* ("CCRAA") by unlawfully attempting to obtain a
24 credit check on Plaintiff and proposed Class Members for employment purposes. As per Lab.
25 Code §1024.5, Plaintiff and Class Members are not within the category of employees for whom
26 an employer or prospective employer may use a consumer credit report for employment
27 purposes. Defendant disputes this claim based and contends it did not obtain any consumer credit
28 reports. Thus, for purposes of settlement, this claim was also valued at \$0.

1 21. Through his counsel, Plaintiff took into consideration the significant risks that
2 even if class certification were granted, a merits decision would not favor the Class. Plaintiff has
3 considered the expense and length of continued proceedings necessary to continue the Action
4 against Six Flags through trial and any possible appeals. Plaintiff is also aware of the burdens of
5 proof necessary to establish liability for the claims asserted in the Action, Six Flags' defenses
6 thereto, and the difficulties in establishing Plaintiff's damages.

7 22. The proposed Settlement requires Defendant to pay each proposed Class Member
8 who does not opt out a portion of the Net Settlement Amount as specifically set forth in the
9 Settlement Agreement. The amount to be paid to the Class is undoubtedly fair, adequate, and
10 reasonable especially in light of the significant risk to Plaintiff and proposed Class Members in
11 continuing with the litigation and not prevailing on class certification or at trial.

12 23. The Settlement Agreement provides for an award to be paid to the proposed Class
13 Representative. The primary purpose is to provide Plaintiff Darren Muller an enhancement
14 payment, taking into consideration the risks, time, effort, and expenses incurred by him in
15 coming forward to provide invaluable information and negotiate and litigate this matter on behalf
16 of all Class Members. Plaintiff has actively participated in this litigation by providing significant
17 supporting documents and information and assisting counsel in developing information necessary
18 to litigate and settle this case which has resulted in a favorable settlement for the putative Class
19 Members.

20 24. Attached to the Settlement Agreement as Exhibit 1 is a true and correct copy of
21 the Notice of Class Action Settlement. ("Class Notice")

22 I declare under penalty of perjury that the foregoing is true and correct. Executed on this
23 8th day of March 2022 at Irvine, California.

24
25 
26 _____
27 James R. Hawkins, Esq.
28

EXHIBIT A

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership
2 Including Professional Corporations
JASON W. KEARNAGHAN, Cal. Bar No. 207707
3 ELYSSA M. STERNBERG, Cal. Bar No. 329481
333 South Hope Street, 43rd Floor
4 Los Angeles, California 90071-1422
Telephone: 213.620.1780
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7 AMANDA E. BECKWITH, Cal. Bar No. 312967
Four Embarcadero Center, 17th Floor
8 San Francisco, California 94111-4109
Telephone: 415.434.9100
9 Facsimile: 415.434.3947
E mail: abeckwith@sheppardmullin.com

10 Attorneys for Defendant
11 PARK MANAGEMENT CORP.

12 *[Additional counsel listed on the following page]*

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF SOLANO

15 DARREN MULLER on behalf of himself and
all others similarly situated,

16 Plaintiff,

17 v.

18 PARK MANAGEMENT CORP. dba SIX
19 FLAGS DISCOVERY KINGDOM a
California corporation; and DOES 1 through
20 50, inclusive,,

21 Defendant.

Case No. FCS054401
Hon. Wendy G. Getty
Dept. 8

**STIPULATION AND SETTLEMENT OF
CLASS AND REPRESENTATIVE
ACTION**

Complaint Filed: February 21, 2020

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Isandra Fernandez, Esq. SBN 220482

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5 Attorneys for Plaintiff, DARREN MULLER
on behalf of himself and all others similarly situated
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STIPULATION AND SETTLEMENT OF CLASS
AND REPRESENTATIVE ACTION

Subject to final approval by the Court, which counsel and the Parties agree to diligently pursue and recommend in good faith, Plaintiff Darren Muller ("Plaintiff"), individually and on behalf of all others similarly situated and alleged aggrieved employees, on the one hand, and Defendant Park Management Corp. ("Defendant"), on the other hand (collectively, the "Parties" and individually, a "Party"), hereby agree to the following binding settlement of the class and representative action designated Darren Muller v. Park Management Corp., Solano County Superior Court Case No. FCS054401 (the "Action"), pursuant to the terms and conditions set forth below (the "Settlement," "Settlement Agreement" or "Agreement"). Upon the Effective Date, and the payment by Defendant of all monies due under the Agreement, Plaintiff shall file with the Court a Satisfaction of Judgment; and (2) a declaration from the Settlement Administrator certifying that all payments have been distributed, as more fully set forth herein.

I. Definitions.

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

A. "Action."

The case entitled Darren Muller v. Park Management Corp., Solano County Superior Court Case No. FCS054401, as amended.

B. "Attorneys' Fees and Costs."

The attorneys' fees agreed upon by the Parties and approved by the Court for Class Counsel's litigation and resolution of the Action, and all costs incurred and to be incurred by Class Counsel in the Action, including, but not limited to, costs associated with documenting the Settlement, providing any notices required as part of the Settlement or Court's Order, securing the Court's approval of the Settlement, administering the Settlement, any expert expenses, and securing dismissal of the Action. Class Counsel will request attorneys' fees not to exceed one-third (1/3) of the Class Settlement Amount of \$220,000.00, which is a total of \$73,333.33. The costs requested to be reimbursed will not exceed \$15,000.00. The Attorneys' Fees and Costs

1 awarded are subject to the Court's approval. Defendant has agreed not to oppose Class Counsel's
2 request for attorneys' fees and reimbursement of costs and expenses as set forth above. Such
3 Attorneys' Fees and Costs shall be paid from the Class Settlement Amount. Class Counsel will be
4 issued an IRS Form 1099 for the Attorneys' Fees and Costs detailed in this Section and shall be
5 solely and legally responsible for paying all applicable taxes on the payment made pursuant to this
6 Section.

7 **C. "Claims Administrator."**

8 ILYM, Inc. shall be the third-party class action settlement claims administrator as
9 agreed to by the Parties and approved by the Court for the purposes of administering this
10 Settlement. The Parties each represent that they do not have any financial interest in the Claims
11 Administrator or otherwise have a relationship with the Claims Administrator that could create a
12 conflict of interest.

13 **D. "Claims Administration Costs."**

14 The costs payable from the Class Settlement Amount to the Claims Administrator
15 for administering this Settlement, including, but not limited to, printing, distributing, and tracking
16 documents for this Settlement, calculating estimated amounts per Class Member, tax reporting,
17 distributing the Class Settlement Amount, providing necessary reports and declarations, and other
18 duties and responsibilities set forth herein to process this Settlement Agreement and as requested
19 by the Parties. The Claims Administration Costs will be paid from the Class Settlement Amount,
20 including, if necessary, any such costs in excess of the amount represented by the Claims
21 Administrator as being the maximum costs necessary to administer the Settlement. The Claims
22 Administration Costs are currently estimated to be \$48,000.00. To the extent actual Claims
23 Administration Costs are greater than \$48,000.00, such excess amount will be deducted from the
24 Class Settlement Amount, subject to the Court's approval. The Claims Administration Costs will
25 be paid no sooner than fifteen (15) calendar days following the Effective Date.

26 **E. "Class Counsel."**

27 James Hawkins, APLC shall be appointed Class Counsel upon approval by the
28 Court.

F. "Class List."

A complete list of all Class Members that Defendant will diligently and in good faith compile from their records and provide to the Claims Administrator within twenty-one (21) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and will include each Class Member's full name, most recent mailing address, telephone number, Social Security number, and any other relevant information needed to calculate settlement payments.

G. "Class Member(s)" or "Settlement Class."

All persons who applied to work for Defendant and/or all persons who are or were employed by Defendant in the state of California during the Class Period and were subjected to Defendants' employment-related background check and/or credit procedures including, but not limited to, executing employment-related background check and/or credit documents.

H. "Class Period."

The period from February 21, 2015 through October 1, 2021.

I. "Class Representative Enhancement Payment."

The amount to be paid to Plaintiff in recognition of his effort and work in prosecuting the Action on behalf of Class Members and for his general release of claims. Subject to the Court granting Final Approval of this Settlement Agreement, Plaintiff will request Court approval of a Class Representative Enhancement Payment of \$5,000 for Plaintiff. Plaintiff will be issued an IRS Form 1099 in connection with his Class Representative Enhancement Payment. Plaintiff shall be solely and legally responsible for paying any and all applicable taxes on this payment and shall hold Defendant harmless from any claim or liability for taxes, penalties or interest arising as a result of the payment. The Class Representative Enhancement Payment will be paid from the Class Settlement Amount and will be in addition to Plaintiff's Individual Settlement Payment paid pursuant to the Settlement, and is conditioned on the execution of a stand-alone settlement agreement and general release of claims. Defendant makes no

1 representations as to the tax treatment or legal effect of the payment called for herein, and Plaintiff
2 is not relying on any statement or representation by Defendant or its counsel in this regard.

3 **J. "Class Settlement Amount."**

4 The sum of no more than \$220,000.00 to be paid by Defendant in full satisfaction
5 of all claims arising from the Action. The Class Settlement Amount includes all Individual
6 Settlement Payments to Class Members, the Class Representative Enhancement Payment to
7 Plaintiff, Claims Administration Costs to the Claims Administrator, and the Attorneys' Fees and
8 Costs. Because there are no wage claims covered by this Agreement, Defendant bears no
9 responsibility to pay any taxes (payroll or otherwise) in addition to the Class Settlement Amount.

10 **K. "Effective Date."**

11 The date on which the Final Award becomes final. For purposes of this Section,
12 the Final Award "becomes final" only after the Court grants the Motion for Final Approval and
13 upon the latter of: (i) if no appeal is filed, the expiration date of the time for the filing or noticing
14 of any appeal from, or other challenge to, the Order Granting Final Approval (this time period
15 shall not be less than sixty (60) calendar days after the Court's Order is entered); (ii) the date of
16 affirmance of an appeal of the Order Granting Final Approval becomes final under the California
17 Rules of Court; or (iii) the date of final dismissal of any appeal from the Order Granting Final
18 Approval or the final dismissal of any proceeding on review of any court of appeal decision
19 relating to the Order Granting Final Approval.

20 **L. "Final Approval" or "Final Award."**

21 The Court entering an Order Granting Final Approval of the Settlement Agreement.

22 **M. "Individual Settlement Payment."**

23 Each Class Member's share of the Net Settlement Amount, which shall be
24 distributed to the Class Members as a result of the payment of the amount allocated to such Class
25 Member as set forth herein.
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1 **N. “Net Settlement Amount.”**

2 The portion of the Class Settlement Amount remaining after deduction of the
3 approved Class Representative Enhancement Payment, Claims Administration Costs, and the
4 Attorneys’ Fees and Costs.

5 **O. “Notice of Class Action Settlement.”**

6 The document substantially in the form attached as Exhibit 1 that will be mailed to
7 Class Members’ last known addresses and which will provide Class Members with information
8 regarding the Action and information regarding the Settlement of the Action.

9 **P. “Notice of Objection.”**

10 A Class Member’s valid and timely written objection to the Settlement Agreement.
11 For the Notice of Objection to be valid, it must include the objector’s full name, signature,
12 address, telephone number and a written statement of all grounds for the objection accompanied
13 by legal support, if any, for such objection. The Notice of Objection must be returned by mail or
14 fax to the Claims Administrator at the specified address or facsimile number and postmarked or
15 faxed on or before the Response Deadline. The date of the postmark or fax receipt confirmation
16 will be the exclusive means to determine whether a Notice of Objection has been timely
17 submitted.

18 Unless granted permission by the court, Class Members who fail to make
19 objections in the manner specified above shall be deemed to have waived any objections and shall
20 be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement
21 Agreement. Neither the Parties nor their counsel will solicit or otherwise encourage Class
22 Members to submit written objections to the Settlement Agreement or appeal from the Order and
23 Judgment. Class Counsel will not represent any Class Members with respect to any such
24 objections to this Settlement. The Claims Administrator shall provide counsel for the Parties with
25 complete copies of all objections received, including the date of postmark or fax receipt
26 confirmation for each objection, within five (5) business days of receipt. Class Counsel will
27 provide copies of any objections and supporting documents to the Court at least sixteen (16) court
28 days before the Preliminary Approval Hearing.

1 **Q. “Notice Packet.”**

2 The Notice of Class Action Settlement and Individual Settlement Payment
3 calculations.

4 **R. “Plaintiff.”**

5 Plaintiff Darren Muller.

6 **S. “Plaintiff’s Released Claims.”**

7 Upon the Effective Date, and as a condition of receiving any portion of his Class
8 Representative Enhancement Payment, Plaintiff shall fully and finally release the Released Parties
9 from any and all claims, known and unknown, under federal, state and/or local law, statute,
10 ordinance, regulation, common law, or other source of law, including but not limited to claims
11 arising from or related to his employment with Defendant and his compensation while an
12 employee of Defendant. Plaintiff’s Released Claims include, but are not limited to, all claims
13 asserted in the Action, arising from or related to the facts and claims alleged in the Action, that
14 could have been alleged in the Action, and/or based on the facts and claims asserted, arising from
15 or related, or could have been alleged in the operative Complaint, as amended, during the Class
16 Period. Plaintiff’s Released Claims include all claims for unpaid wages, including, but not limited
17 to, failure to pay minimum wages, straight time compensation, overtime compensation, double-
18 time compensation, and interest; the calculation of the regular rate of pay; wages related to alleged
19 illegal time rounding; missed meal period, rest period, and recovery period wages/premiums;
20 reimbursement for all necessary business expenses; payment for all hours worked, including off-
21 the-clock work; wage statements; deductions; failure to keep accurate records; failure to provide
22 suitable seating; unfair business practices; penalties, including, but not limited to, recordkeeping
23 penalties, wage statement penalties, minimum-wage penalties, and waiting-time penalties; and
24 attorneys’ fees and costs. Plaintiff’s Released Claims include all claims arising under the
25 California Labor Code (including, but not limited to, sections 200, 201, 201.1, 201.3, 201.5, 202,
26 203, 204, 205.5, 206, 210, 216, 218, 218.5, 218.6, 221, 222, 222.5, 223, 224, 225, 225.5, 226,
27 226.3, 226.7, 226.8, 227.3, 246, 247.5, 248.5, 256, 432, 432.5, 450, 510, 511, 512, 515, 516, 550,
28 551, 552, 558, 1024.5, 1174, 1174.5, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198,

1 1198.5, 2698 *et seq.*, 2699 *et seq.*, and 2802); 15 U.S.C. § 1681; California Civil Code Sections
 2 1785 *et seq.* and 1786 *et seq.*; all claims arising under: the Wage Orders of the California
 3 Industrial Welfare Commission; the California Private Attorneys General Act of 2004 (PAGA) (to
 4 include acting as a PAGA representative); California Business and Professions Code
 5 section 17200, *et seq.*; the California Civil Code, to include sections 3287, 3336 and 3294; 8 CCR
 6 § 11100; California Code of Civil Procedure § 1021.5; the California common law of contract;
 7 claims under the Fair Labor and Standards Act (“FLSA”), including those related to recordkeeping
 8 obligations, 29 U.S.C. §§ 201, *et seq.*; 29 CFR 778.223; 29 CFR 778.315; federal common law;
 9 and the Employee Retirement Income Security Act, 29 U.S.C. §§ 1001, *et seq.* (ERISA).
 10 Plaintiff’s Released Claims also include all claims for lost wages and benefits, emotional distress,
 11 retaliation, punitive damages, and attorneys’ fees and costs arising under federal, state, or local
 12 laws for discrimination, harassment, retaliation, and wrongful termination, such as, by way of
 13 example only, (as amended) 42 U.S.C. § 1981, Title VII of the Civil Rights Act of 1964, the
 14 Americans with Disabilities Act (ADA), and the California Fair Employment and Housing Act
 15 (FEHA); and the law of contract and tort.

16 This release excludes the release of claims not permitted by law.

17 Plaintiff’s Released Claims include all claims, whether known or unknown. Even
 18 if Plaintiff discovers facts in addition to or different from those that he now knows or believes to
 19 be true with respect to the subject matter of Plaintiff’s Released Claims, those claims will remain
 20 released and forever barred. Thus, Plaintiff expressly waives and relinquishes the provisions,
 21 rights and benefits of section 1542 of the California Civil Code, which reads:

22 **A general release does not extend to claims that the creditor or**
 23 **releasing party does not know or suspect to exist in his or her favor at**
 24 **the time of executing the release and that, if known by him or her,**
would have materially affected his or her settlement with the debtor
or released party.

25 **T. “Preliminary Approval.”**

26 The Court’s order granting preliminary approval of the Settlement Agreement.

1 **U. “Qualified Settlement Account.”**

2 The fund established by the Claims Administrator pursuant to Internal Revenue
3 Code Section 1.468B-1.

4 **V. “Released Claims.”**

5 As of the date of the Order Granting Final Approval, all Class Members shall fully
6 and finally release Released Parties of the Released Claims which include, but are not limited to,
7 all claims asserted in the Action, arising from or related to the facts and claims alleged in the
8 Action, that could have been alleged in the Action, and/or based on the facts and claims asserted,
9 arising from or related, or could have been alleged in the operative Complaint, as amended, during
10 the Class Period. The Released Claims include any and all claims regarding background checks
11 and/or credit checks, to include but not limited to, violations of the Fair Credit Reporting Act,
12 violations of the Investigative Consumer Reporting Agencies Act, violations of the Consumer
13 Credit Reporting Agencies Act; the California Private Attorneys General Act of 2004 (PAGA);
14 California Business and Professions Code section 17200, *et seq.* and 17208, *et seq.*, and any and
15 all claims arising under 15 U.S.C. § 1681; California Labor Code sections 432, 432.5 and 1024.5;
16 all claims arising under the California Labor Code relating to the Released Claims; California
17 Civil Code sections 1785 *et seq.*, 1785.1 *et seq.*, and 1786 *et seq.*; all claims arising under the
18 California Civil Code relating to the Released Claims; all claims arising under federal common
19 law; and all claims arising under the California common law of contract.

20 **W. “Released Parties.”**

21 Defendant and each of its past, present and future agents, employees, servants,
22 officers, directors, members, owners (whether direct or indirect), general partners, limited
23 partners, trustees, representatives, shareholders, stockholders, mortgagees or ground lessors,
24 attorneys, parents, subsidiaries, equity sponsors, related and/or affiliated companies/corporations
25 and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, joint
26 venturers, joint employers, alleged joint employers, dual employers, alleged dual employers,
27 temporary staffing agencies, contractors, affiliates, service providers, alter-egos, alleged alter-
28 egos, co-employers, alleged co-employers, vendors, employee benefit plans and fiduciaries

1 thereof, affiliated organizations, and any person and/or entity alleged to have joint liability, and all
2 of its respective past, present and future employees, directors, officers, members, owners, agents,
3 representatives, payroll agencies, attorneys, stockholders, fiduciaries, parents, subsidiaries, other
4 service providers, and assigns and any and all persons acting under, by, through or in concert with
5 any of them, and each and all of them.

6 **1. "Request for Exclusion."**

7 A notice submitted by a Class Member requesting to be excluded from the
8 Settlement. For the Request for Exclusion to be valid, it must include the Class Member's full
9 name, signature, address, telephone number and a written statement requesting to be excluded
10 from this Settlement. The Request for Exclusion must be returned by mail or fax to the Claims
11 Administrator at the specified address or facsimile number and postmarked or faxed on or before
12 the Response Deadline. The date of the postmark or fax receipt confirmation will be the exclusive
13 means to determine whether a Request for Exclusion has been timely submitted. A Class Member
14 who does not submit a timely and valid Request for Exclusion from the Settlement will be deemed
15 a Class Member and will be bound by all terms of the Settlement Agreement if the Settlement is
16 granted Final Approval by the Court. Any Class Members who timely submits a valid Request for
17 Exclusion will not receive payment from the Settlement, and will not be bound by the terms of the
18 Settlement Agreement or Judgment.

19 **X. "Response Deadline."**

20 The deadline by which Class Members must mail or fax to the Claims
21 Administrator valid Requests for Exclusion, Notices of Objection to the Settlement, or disputes.
22 The Response Deadline will be forty-five (45) calendar days from the initial mailing of the Notice
23 Packet by the Claims Administrator, unless the 45th day falls on a Sunday or Federal holiday, in
24 which case the Response Deadline will be extended to the next day on which the U.S. Postal
25 Service is open. The Response Deadline for Requests for Exclusion, Notices of Objection, or
26 disputes will be extended fifteen (15) calendar days for any Class Member who is re-mailed a
27 Notice Packet by the Claims Administrator, unless the 15th day falls on a Sunday or Federal
28 holiday, in which case the Response Deadline will be extended to the next day on which the U.S.

Postal Service is open. The Response Deadline may also be extended by express agreement between Class Counsel and Defendant. Under no circumstances, however, will the Claims Administrator have the authority to unilaterally extend the deadline for Class Members to submit a Request for Exclusion, Notice of Objection to the Settlement, or disputes.

Y. “Satisfaction of Judgment.”

Upon the Effective Date and payment by Defendant of all monies due under the Settlement Agreement and entry of the Order Granting Final Approval, Plaintiff shall file a Satisfaction of Judgment with the Court.

Z. “Settlement Payment Check.”

The payment to Class Members. The back of the Settlement Payment Check shall state, immediately below the space where the check is to be endorsed by the payee: “By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action Settlement.”

II. Funding of the Class Settlement Amount.

1. Within twenty-one (21) calendar days after the Effective Date of the Settlement, Defendant will make a one-time deposit of all approved and claimed amounts from the Class Settlement Amount (a sum of no more than the Class Settlement Amount) into a Qualified Settlement Account to be established by the Claims Administrator. Within fourteen (14) calendar days of the Funding of the Class Settlement Amount, the Claims Administrator will issue payments to: (a) Class Members; (b) Plaintiff; and (c) Class Counsel. The Claims Administrator will also issue a payment to itself for Court-approved services performed in connection with the Settlement. Defendant has no obligation to deposit such funds prior to the deadline set forth herein.

III. Attorneys’ Fees and Costs.

1. Defendant agrees not to oppose or impede any application by Class Counsel for attorneys’ fees of not more than \$73,333.33 or the reimbursement of costs and expenses associated with Class Counsel’s litigation and settlement of the Action not to exceed \$15,000.00. No counsel shall be entitled to attorneys’ fees or costs for work performed in the Action other than as provided

1 in this Settlement Agreement. The instant Settlement Agreement is the exclusive means for
2 recovery of attorneys' fees and costs incurred in the Action by any attorney, law firm and/or other
3 legal services provider.

4 **IV. Class Representative Enhancement Payment.**

5 1. In exchange for a general release and in recognition of Plaintiff's efforts and work
6 in prosecuting the Action on behalf of Class Members, Defendant agrees not to oppose or impede
7 any application or motion for a Class Representative Enhancement Payment in the amount of up to
8 \$5,000.00. The Class Representative Enhancement Payment will be paid from the Class
9 Settlement Amount and will be in addition to Plaintiff's Individual Settlement Payment paid
10 pursuant to the Settlement, and is conditioned on Plaintiff's execution of a stand-alone settlement
11 agreement and general release of claims. Plaintiff will be solely and legally responsible to pay any
12 and all applicable taxes on the payment made pursuant to this Section and will indemnify and hold
13 Defendant harmless from any claim or liability for taxes, penalties, or interest arising as a result of
14 the payment.

15 **V. Claims Administration Costs.**

16 1. The Claims Administrator will be paid for the reasonable costs of administration of
17 the Settlement and distribution of payments from the Class Settlement Amount, which are
18 currently estimated to be \$48,000.00.

19 2. The Parties hereby acknowledge that the Claims Administration Costs may
20 increase above the current estimate of \$48,000.00 and that any such additional Claims
21 Administration Costs that are approved by the Parties' counsel and the Court shall be taken out of
22 the Class Settlement Amount.

23 **VI. Net Settlement Amount.**

24 1. The Net Settlement Amount will be used to satisfy Individual Settlement Payments
25 to Class Members in accordance with the terms of this Settlement.

VII. Individual Settlement Payment Calculations.

1. Individual Settlement Payments will be calculated and apportioned from the Net Settlement Amount based on each Class Member's pro-rata share of the net settlement amount. Each Class Member is entitled to an equal share of the Net Settlement Amount.

2. The Individual Settlement Payments made to Class Members under this Settlement, and any other payments made pursuant to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to, profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

VIII. Claims Administration Process.

1. The Parties agree to cooperate in the administration of the Settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement. The Claims Administrator will provide the following services:

- a. Establish and maintain a Qualified Settlement Account.
- b. Calculate the Individual Settlement Payment each Class Member is eligible to receive. This service will include settlement proceed calculation, printing and issuance of Settlement Payment Checks, and preparation of IRS Form-1099 Tax Forms.
- c. Translate the Notice Packet into Spanish by request of Class Members.
- d. Print and mail the Notice Packet.
- e. Establish and maintain a toll-free information telephone support line to assist Class Members who have questions regarding the Notice Packet.
- f. Conduct additional address searches for mailed Notice Packets that are returned as undeliverable.
- g. Process Requests for Exclusion, field inquiries from Class Members, and administer any Requests for Exclusion.

- 1 h. Issuing to Plaintiff, Class Members, and Class Counsel any IRS Form-1099,
2 or other tax forms as may be required by law for all amounts paid pursuant
3 to this Settlement.
- 4 i. Provide declarations and/or other information to the Court as requested by
5 the Parties and/or the Court.
- 6 j. Provide weekly status reports to counsel for the Parties.
- 7 2. Within fourteen (14) calendar days of Preliminary Approval, Defendant will
8 provide the Class List to the Claims Administrator.
- 9 3. Within fourteen (14) calendar days after receiving the Class List from Defendant,
10 the Claims Administrator will mail a Notice Packet to all Class Members via regular First-Class
11 U.S. Mail, using the last known mailing addresses identified in the Class List.
- 12 4. Prior to mailing, the Claims Administrator will perform a search based on the
13 National Change of Address Database for information to update and correct any known or
14 identifiable address changes. Any Notice Packets returned to the Claims Administrator as non-
15 deliverable on or before the Response Deadline will be sent promptly via regular First-Class U.S.
16 Mail to the forwarding address affixed thereto and the Claims Administrator will indicate the date
17 of such re-mailing on the Notice Packet. If no forwarding address is provided, the Claims
18 Administrator will promptly attempt to determine the correct address using a skip-trace, or other
19 search using the name, address and/or Social Security number of the Class Member involved, and
20 will then perform a single re-mailing. Those Class Members who receive a re-mailed Notice
21 Packet, whether by skip-trace or by request, will have between the later of (a) an additional fifteen
22 (15) calendar days or (b) the Response Deadline to postmark or fax a Request for Exclusion or
23 Notice of Objection to the Settlement.
- 24 5. All Class Members will be mailed a Notice Packet containing the forms attached as
25 Exhibit 1 as approved by the Court.
- 26 6. Class Members will have an opportunity to dispute the information provided in
27 their Notice Packets. To the extent Class Members dispute information provided in their Notice
28 Packets or the amount of their Individual Settlement Payment, Class Members may produce

1 evidence to the Claims Administrator showing that such information is inaccurate. Absent
2 evidence rebutting Defendant's records, Defendant's records will be presumed determinative.
3 However, if a Class Member produces evidence to the contrary, the Claims Administrator will
4 evaluate the evidence submitted by the Class Member and will make the final decision as to the
5 Individual Settlement Payment to which the Class Member may be entitled. The dispute must be
6 returned by mail or fax to the Claims Administrator at the specified address or facsimile number
7 and postmarked or faxed on or before the Response Deadline. The date of the postmark or fax
8 receipt confirmation will be the exclusive means to determine whether a dispute has been timely
9 submitted. All such disputes are to be resolved not later than fourteen (14) calendar days after the
10 Response Deadline.

11 7. Defective Submissions. If a Class Member's Request for Exclusion is defective as
12 to the requirements listed herein, that Class Member will be given an opportunity to cure the
13 defect(s). The Claims Administrator will mail the Class Member a cure letter within three (3)
14 business days of receiving the defective submission to advise the Class Member that his or her
15 submission is defective and that the defect must be cured to render the Request for Exclusion
16 valid. The Class Member will have until the later of (a) the Response Deadline or (b) fifteen (15)
17 calendar days from the date of the cure letter, whichever date is later, to postmark or fax a revised
18 Request for Exclusion.

19 8. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the
20 Settlement Agreement must sign and postmark or fax a written Request for Exclusion to the
21 Claims Administrator within the Response Deadline. The date of the postmark on the return
22 mailing envelope or the fax receipt confirmation will be the exclusive means to determine whether
23 a Request for Exclusion has been timely submitted. All Requests for Exclusion will be submitted
24 to the Claims Administrator, who will certify jointly to Class Counsel and Defendant's Counsel
25 the Requests for Exclusion that were timely submitted. Any Class Member who does not timely
26 seek exclusion will be bound by the terms of this Settlement Agreement. Any Class Members
27 who timely submits a valid Request for Exclusion will not receive payment from the Settlement,
28 and will not be bound by the terms of the Settlement Agreement or Judgment.

1 **IX. NULLIFICATION OF THE SETTLEMENT AGREEMENT.**

2 1. This Agreement is expressly conditioned upon Plaintiff's acknowledgement of and
3 agreement to not to opt out of the Walker Settlement Class¹ which resolves and releases his claims
4 alleging, among other claims, failure to pay lawful wages, failure to provide meal periods, failure
5 to timely pay wages, failure to provide itemized wage statements claims, PAGA penalties, and
6 unfair competition, as alleged in the lawsuit entitled Walker v. Park Management Corp., Solano
7 County Superior Court Case No. FCS050707 (the "Walker case"). The Walker Stipulation and
8 Settlement Agreement is attached as Exhibit 1 and incorporated herein by reference. It is the sole
9 and exclusive responsibility of Plaintiff and/or proposed Class Counsel to ensure compliance with
10 this provision.

11 2. Defendant's Option to Nullify the Settlement Agreement. If five percent (5%) or
12 more of the Class Members opt out of the Settlement (or are otherwise excluded), Defendant, in its
13 sole discretion, shall have the option of nullifying the Settlement Agreement. In such a case, the
14 Parties and any funds to be awarded under this Settlement Agreement shall be returned to their
15 respective statuses as of the date and time immediately prior to the execution of this Agreement,
16 and the Parties shall proceed in all respects as if this Settlement Agreement had not been executed,
17 except that any fees already incurred by the Claims Administrator shall be paid by Defendant.

18 3. Nullification of the Settlement Agreement. In the event: (i) the Court does not
19 enter the Preliminary Approval Order and approve the Released Claims specified herein; (ii) the
20 Court does not finally approve the Settlement as provided herein; (iii) Defendant exercises its
21 option to nullify the Settlement Agreement based on an excessive number of opt-outs, as described
22 in the above Section; (iv) Plaintiff opts out of the Walker Settlement Class; or (v) the Settlement
23 does not become final for any other reason, this Settlement Agreement shall be null and void and
24 any order or judgment entered by the Court in furtherance of this Settlement Agreement shall be
25 treated as void from the beginning, and the Stipulations and Recitals contained herein shall be of
26 no force or effect, and shall not be treated as an admission by the Parties or their counsel. In such
27 _____

28 ¹ When used in reference to the Walker case, "Settlement Class" shall have the meaning ascribed
to it in the Walker Stipulation and Settlement Agreement.

1 a case, the Parties and any funds to be awarded under this Settlement Agreement shall be returned
2 to their respective statuses as of the date and time immediately prior to the execution of this
3 Settlement Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement
4 had not been executed, except that any fees already incurred by the Claims Administrator shall be
5 paid equally by both Parties. Should the Court not approve the requested Attorneys' Fees and
6 Costs and/or Class Representative Enhancement Payment, this Settlement Agreement shall remain
7 valid and binding and any difference between the requested Attorneys' Fees and Costs and/or
8 Class Representative Enhancement Payment shall be allocated to the Net Settlement Amount. A
9 reduction of the requested Attorneys' Fees and Costs and/or Class Representative Enhancement
10 Payment shall not be grounds to nullify the Settlement Agreement. Prior to nullifying the
11 Settlement Agreement, the Party seeking nullification shall notify the other Party in writing at
12 least fifteen (15) business days prior to nullifications. The Parties agree to use their best, good
13 faith efforts to maintain the terms of the Settlement Agreement and agree to meet and confer prior
14 to nullifying the Settlement Agreement.

15 4. Settlement Terms Bind All Class Members Who Do Not Opt Out. Any Class
16 Member who does not affirmatively opt out of the Settlement Agreement by submitting a timely
17 and valid Request for Exclusion will be bound by all its terms, including those pertaining to the
18 Released Claims.

19 **X. Certification Reports Regarding Individual Settlement Payment Calculations.**

20 1. The Claims Administrator will provide Defendant's counsel and Class Counsel a
21 weekly report which certifies: (a) the number of Class Members who have submitted valid
22 Requests for Exclusion; (b) any objections submitted to the Settlement along with a copy of any
23 such objection; and (c) whether any Class Member has submitted a challenge to any information
24 contained in his/her Notice Packet. Additionally, the Claims Administrator will provide to
25 counsel for both Parties any updated reports regarding the administration of the Settlement
26 Agreement as needed or requested.

27 2. Uncashed Settlement Checks. Any checks issued by the Claims Administrator to
28 Class Members will be negotiable for one-hundred eighty (180) calendar days. After one-hundred

1 eighty (180) calendar days from the date of mailing, the checks shall become null and void, and
2 any monies remaining in the distribution account shall be distributed to the Controller of the State
3 of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 et
4 seq., for the benefit of those Settlement Class members who did not cash their checks until such
5 time that they claim their property. The Settling Parties agree that this disposition results in no
6 “unpaid residue” under California Civil Procedure Code § 384, as the entire Settlement Payment
7 will be paid out to Settlement Class members, whether or not all Settlement Class members cash
8 their Settlement Checks. Therefore, Defendant will not be required to pay any interest on said
9 amount.

10 3. Certification of Completion. Upon completion of administration of the Settlement,
11 the Claims Administrator will provide a written declaration under oath to certify such completion
12 to the Court and counsel for all Parties.

13 **XI. Tax Treatment of Individual Settlement Payments.**

14 All Individual Settlement Payments will be allocated as non-wages. The Individual
15 Settlement Payments will be reported on an IRS Form-1099 by the Claims Administrator. The
16 Claims Administrator will issue a check and IRS Form-1099 for the Individual Settlement
17 Payment. Because there are no wage claims asserted, no withholdings shall be made on the
18 Individual Settlement Payments. The Claims Administrator shall determine the eligibility for, and
19 the amounts of, any Individual Settlement Payments under the terms of this Settlement
20 Agreement. Any disputes not resolved by the Claims Administrator concerning the administration
21 of the Settlement will be resolved by the Court, under the laws of the State of California. Prior to
22 any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the
23 dispute without the necessity of involving the Court.

24 **XII. Administration of Taxes by the Claims Administrator.**

25 1. Tax Liability. Defendant makes no representation as to the tax treatment or legal
26 effect of the payments called for hereunder, and Plaintiff and Class Members are not relying on
27 any statement, representation, or calculation by Defendant or by the Claims Administrator in this
28

1 regard. Plaintiff and Class Members understand and agree they will be solely responsible for the
2 payment of their share of any taxes and penalties assessed on the payments described herein.

3 2. Circular 230 Disclaimer. EACH PARTY TO THIS SETTLEMENT
4 AGREEMENT (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY”
5 AND EACH PARTY TO THIS SETTLEMENT AGREEMENT OTHER THAN THE
6 ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES
7 THAT (1) NO PROVISION OF THIS SETTLEMENT AGREEMENT, AND NO WRITTEN
8 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR
9 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY
10 SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE
11 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
12 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
13 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS
14 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
15 ADVICE) IN CONNECTION WITH THIS SETTLEMENT AGREEMENT, (B) HAS NOT
16 ENTERED INTO THIS SETTLEMENT AGREEMENT BASED UPON THE
17 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO
18 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
19 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
20 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
21 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
22 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
23 OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX STRATEGIES (REGARDLESS OF
24 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
25 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
26 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
27 SETTLEMENT AGREEMENT.

1 **XIII. Release by Class Members.**

2 1. No Prior Assignments. The Parties and their counsel represent, covenant, and
3 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to
4 assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,
5 action, cause of action or right herein released and discharged.

6 2. It is the desire of Plaintiff, Class Members (except those who exclude themselves
7 from the Settlement), and Defendant to fully, finally, and forever settle, compromise, and
8 discharge the Released Claims. Upon the Final Approval by the Court of this Settlement
9 Agreement, and except as to such rights or claims as may be created by this Settlement
10 Agreement, the Class Members shall fully release and discharge the Released Parties from any and
11 all Released Claims for the entire Class Period. This release shall be binding on all Class
12 Members who have not timely submitted a valid and complete Request for Exclusion, including
13 each of their respective attorneys, agents, spouses, executors, representatives, guardians ad litem,
14 heirs, successors, and assigns, and shall inure to the benefit of the Released Parties, who shall have
15 no further or other liability or obligation to any Class Member with respect to the Released
16 Claims, except as expressly provided herein.

17 **XIV. Preliminary Approval Hearing.**

18 1. Plaintiff will obtain a hearing before the Court to request Preliminary Approval of
19 the Settlement Agreement and the entry of a Preliminary Approval Order within 5 business days
20 after all signatures on this Settlement Agreement have been obtained for: (a) conditional
21 certification of the Settlement Class for settlement purposes only, (b) Preliminary Approval of the
22 proposed Settlement Agreement, and (c) setting a date for a Final Approval/Settlement Fairness
23 Hearing.

24 2. The Preliminary Approval Order will provide for the Notice Packet to be sent to all
25 Class Members as specified herein. In conjunction with the Preliminary Approval Hearing,
26 Plaintiff will submit this Settlement Agreement and will include the proposed Notice Packet.

27 3. Class Counsel will be responsible for drafting all documents necessary to obtain
28 Preliminary Approval, subject to review and approval by Defendant's counsel. Any failure by the

1 Court to fully and completely approve the Settlement Agreement which has the effect of
2 preventing the full and complete approval of the Settlement Agreement as written and agreed to by
3 the Parties will result in this Settlement Agreement, and all obligations under this Settlement
4 Agreement, being nullified and voided.

5 **XV. Final Settlement Approval Hearing and Entry of Judgment.**

6 1. Upon expiration of the Response Deadline, and with the Court's permission, a
7 Final Approval/Settlement Fairness Hearing will be conducted to determine the Final Approval of
8 the Settlement Agreement along with the amounts properly payable for: (a) Individual Settlement
9 Payments; (b) the Attorneys' Fees and Costs; (c) the Class Representative Enhancement Payment;
10 and (d) all Claims Administration Costs.

11 2. The Final Approval/Settlement Fairness Hearing will be held no later than seventy-
12 five (75) calendar days after the Response Deadline.

13 3. Class Counsel will be responsible for drafting all documents necessary to obtain
14 Final Approval, subject to review and approval by Defendant's counsel. Any failure by the Court
15 to fully and completely approve the Settlement Agreement will result in this Settlement
16 Agreement entered into by the Parties, and all obligations under this Settlement Agreement, being
17 nullified and voided; however, a reduction of the requested Attorneys' Fees and Costs and/or
18 Class Representative Enhancement Payment shall not be grounds to nullify or void the Settlement
19 Agreement. Upon such failure, any order or judgment entered by the Court in furtherance of this
20 Settlement Agreement shall be treated as void from the beginning, and the Stipulations and
21 Recitals contained herein shall be of no force or effect and shall not be treated as an admission by
22 the Parties or their counsel. In such a case, the Parties and any funds to be awarded under this
23 Settlement Agreement shall be returned to their respective statuses as of the date and time
24 immediately prior to the execution of this Settlement Agreement, and the Parties shall proceed in
25 all respects as if this Settlement Agreement had not been executed, except that any fees already
26 incurred by the Claims Administrator shall be paid equally by both Parties.

1 **XVI. Judgment and Continued Jurisdiction.**

2 1. The Court shall retain jurisdiction with respect to the interpretation,
3 implementation, and enforcement of the terms of this Settlement Agreement and all orders and
4 judgments entered in connection therewith, and the Parties and their counsel hereto submit to the
5 jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the Settlement
6 embodied in this Settlement Agreement and all orders and judgments entered in connection
7 therewith.

8 **XVII. Other Provisions.**

9 1. Exhibits Incorporated by Reference. The terms of this Settlement include the terms
10 set forth in any attached Exhibits, which are incorporated by this reference as though fully set
11 forth herein. Any Exhibits to this Settlement are an integral part of the Settlement.

12 2. Entire Agreement. This Settlement Agreement, and Exhibits attached hereto,
13 constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous written
14 or oral agreements may be deemed binding on the Parties, except as to those Exhibits described
15 herein, including Plaintiff's individual settlement agreement.

16 3. Amendment or Modification. This Settlement Agreement may be amended or
17 modified only by a written instrument signed by counsel for all Parties or their successors-in-
18 interest and approved by the Court.

19 4. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant
20 and represent they are expressly authorized by the Parties whom they represent to negotiate this
21 Settlement Agreement and to take all appropriate action required or permitted to be taken by such
22 Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other
23 documents required to effectuate the terms of this Settlement Agreement. The Parties and their
24 counsel will cooperate with each other and use their best efforts to effect the implementation of the
25 Settlement. If the Parties are unable to reach agreement on the form or content of any document
26 needed to implement the Settlement, or on any supplemental provisions that may become
27 necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of Jeffrey
28 Krivis, Esq. (mediator) to resolve such disagreement.

1 5. Binding on Successors and Assigns. This Settlement Agreement will be binding
2 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously
3 defined.

4 6. California Law Governs. All terms of this Settlement Agreement and Exhibits
5 hereto will be governed by and interpreted according to the laws of the State of California.

6 7. Execution and Counterparts. This Settlement Agreement is subject only to the
7 execution of all Parties. However, the Settlement Agreement may be executed in one or more
8 counterparts. All executed counterparts and each of them, including facsimile and scanned copies
9 of the signature page, will be deemed to be one and the same instrument. The Parties agree to the
10 use of authorized electronic signatures (e.g., DocuSign) as an original.

11 8. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe
12 this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have
13 arrived at this Settlement after arm's-length negotiations and in the context of adversarial
14 litigation, taking into account all relevant factors, present and potential. The Parties further
15 acknowledge that they are each represented by competent counsel and that they have had an
16 opportunity to consult with their counsel regarding the fairness and reasonableness of this
17 Settlement.

18 9. Invalidity of Any Provision. Before declaring any provision of this Settlement
19 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest
20 extent possible consistent with applicable precedents so as to define all provisions of this
21 Settlement Agreement valid and enforceable.

22 10. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
23 class certification for purposes of this Settlement only; except, however, that either Party may
24 appeal any Court order that materially alters the terms of this Settlement Agreement.

25 11. Class Action Certification for Settlement Purposes Only. The Parties agree to
26 stipulate to class certification only for purposes of the Settlement. If, for any reason, the
27 Settlement is not approved, the stipulation to certification will be void. The Parties further agree
28 that certification for purposes of the Settlement is not an admission that class action certification is

1 proper under the standards applied to contested certification motions and that this Settlement
2 Agreement will not be admissible in this or any other proceeding as evidence that either: (a) a
3 class action should be certified or (b) Defendant is liable to Plaintiff or any Class Member, other
4 than according to the Settlement's terms.

5 12. Non-Admission of Liability. The Parties enter into this Settlement Agreement to
6 resolve the dispute that has arisen between them and to avoid the burden, expense, and risk of
7 continued litigation. In entering into this Settlement Agreement, Defendant does not admit, but
8 rather specifically denies, it has violated any federal, state, or local law; violated any regulations or
9 guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal
10 requirements; breached any contract; violated or breached any duty; engaged in any
11 misrepresentation or deception; or engaged in any other unlawful conduct with respect to its
12 employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the
13 negotiations connected with it, shall be construed as an admission or concession by Defendant of
14 any such violations or failures to comply with any applicable law. Except as necessary in a
15 proceeding to enforce the terms of this Settlement Agreement, this Settlement Agreement and its
16 terms and provisions shall not be offered or received as evidence in any action or proceeding to
17 establish any liability or admission on the part of Defendant or to establish the existence of any
18 condition constituting a violation of, or non-compliance with, federal, state, local or other
19 applicable law.

20 13. Captions. The captions and section numbers in this Settlement Agreement are
21 inserted for the reader's convenience, and in no way define, limit, construe or describe the scope
22 or intent of the provisions of this Settlement Agreement.

23 14. Waiver. No waiver of any condition or covenant contained in this Settlement
24 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered
25 to imply or constitute a further waiver by such party of the same or any other condition, covenant,
26 right or remedy.

27 15. Enforcement Action. If either Party institutes any legal action or other proceeding
28 against the other Party to enforce the provisions of this Settlement or to declare rights and/or

1 obligations under this Settlement, the successful Party will be entitled to recover from the
2 unsuccessful Party reasonable attorneys' fees and costs, including expert witness fees incurred in
3 connection with any enforcement actions.

4 16. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
5 and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be
6 construed more strictly against one Party than the other merely by virtue of the fact that it may
7 have been prepared by counsel for one of the Parties, it being recognized that, because of the
8 arm's-length negotiations between the Parties, all Parties have contributed to the preparation of
9 this Settlement Agreement.

10 17. Representation by Counsel. The Parties acknowledge that they have been
11 represented by counsel throughout all negotiations that preceded the execution of this Settlement
12 Agreement and that this Settlement Agreement has been executed with the consent and advice of
13 counsel and reviewed in full. Further, Plaintiff and Class Counsel warrant and represent that there
14 are no liens on the Settlement Agreement.

15 18. All Terms Subject to Final Court Approval. All amounts and procedures described
16 in this Settlement Agreement herein will be subject to final Court approval.

17 19. Cooperation and Execution of Necessary Documents. All Parties will cooperate in
18 good faith and execute all documents to the extent reasonably necessary to effectuate the terms of
19 this Settlement Agreement.

20 20. Confidentiality. Neither Plaintiff nor Plaintiff's Counsel shall issue any press
21 release or announcement of any kind related in any way to the Settlement. Plaintiff and Class
22 Counsel agree that, prior to Preliminary Approval of the Settlement, they will keep the terms of
23 this Settlement confidential except for purposes of communicating with Plaintiff only. Plaintiff
24 shall be informed that the Settlement is confidential and shall be advised to keep the Settlement
25 confidential. From and after Preliminary Approval of the Settlement, the Class Members
26 (including Plaintiff and Class Counsel) may: (1) as required by law; (2) as required under the
27 terms of the Settlement; or (3) as required under counsel's duties and responsibilities as Class
28 Counsel, comment regarding the specific terms of the Settlement. In all other cases, Plaintiff and

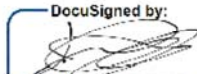
Class Counsel agree to limit their statements regarding the terms of the Settlement, whether oral, written or electronic (including the world wide web), to say the Class Action has been resolved and that Plaintiff and Class Counsel are satisfied with the Settlement terms. Nothing in this Section is intended to interfere with Class Counsel's duties and obligations to faithfully discharge their duties as Class Counsel, including but not limited to, communicating with Class Members regarding the Settlement. This Settlement shall not be advertised or mentioned on any source, including Class Counsel's personal or firm website(s).

21. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement, intend that this Settlement Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

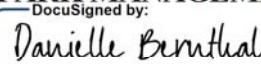
Plaintiff, and not his respective representative(s), must personally execute this Settlement Agreement.

The Settlement Agreement consists of 28 pages.

Dated: 12/28/2021

DocuSigned by:

 CB8F42F7F23744E
 Plaintiff Darren Muller

Dated: 1/27/2022

PARK MANAGEMENT CORP.
 DocuSigned by:

 15790695130F42D...

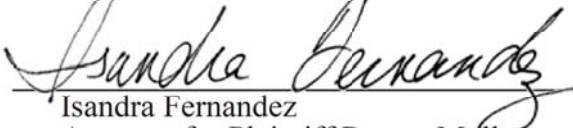
Danielle Bernthal

[Please Print Name of Authorized Signatory]

APPROVED AS TO FORM

JAMES HAWKINS, APLC

Dated: December 28, 2021


 Isandra Fernandez
 Attorney for Plaintiff Darren Muller

1 Dated: January 27, 2022
2
3

**SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP**

4 By: 
5 Jason W. Kearnaghan
6 Attorney for Defendant Park Management
7 Corp.
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EXHIBIT 1

NOTICE OF CLASS ACTION SETTLEMENT

If you applied to work for or worked for Park Management Corp., as a non-exempt employee in California and were subjected to Defendant's employment-related background check and/or credit procedures during the period of February 21, 2015 through October 1, 2021, a class action settlement will affect your rights.

A court authorized this Notice.

Darren Muller v. Park Management Corp., Case No. FCS054401

- Darren Muller filed a putative class action against Park Management Corp. on behalf of current and former employees for (1) violation of 15 USC §1681(b) et seq. in conducting employment-related background checks; (2) violation of California Civil Code §1785 et seq. in conducting employment-related background checks; (3) violation of California Civil Code §1786 et seq. in conducting employment-related background checks; (4) violations of the unfair competition law (Bus. & Prof. Code § 17200 et seq.); and additional claims involving wage and hour allegations (the "*Muller Action*").
- The Court has determined only that there is sufficient evidence to suggest that the proposed settlement of these claims might be fair, adequate, and reasonable, and any final determination of those issues will be made at the final hearing. The wage and hour claims in the *Muller Action* have already been settled separately.
- If you qualify as a Class Member, you could receive money from the settlement.
- Your legal rights are affected whether you act or don't act. Read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	You will be paid your Claim Amount and you will give up any rights to sue for the Released Claims (defined below).
EXCLUDE YOURSELF	Waive all rights, including money, from the settlement. Retain all rights you may have against Defendant, as explained below.
OBJECT	Write to the Claims Administrator about why you don't agree with the settlement. The Court may or may not agree with your objection.

HOW MUCH CAN I GET?	Look at Section 8 of this Notice.
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- Your rights and options – and the deadlines to exercise them – are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after any appeals are resolved.

1. Why Did I Get This Notice Package?

You are not being sued. Plaintiff sued Defendant in a class, collective, and representative action on behalf of similar employees like you.

Defendant's records show that you were employed in California by Park Management Corp. as a non-exempt employee and were subjected to Defendant's employment-related background check and/or credit procedures during the Class Period (February 21, 2015 through October 1, 2021).

You received this Notice because you have a right to know about a proposed settlement of a class action lawsuit and about your options before the Court decides whether to approve the settlement. If the Court approves it, and after any objections and appeals are resolved, a Claims Administrator appointed by the Court will make the payments that the settlement allows.

This Notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them and how to get them.

2. What Are These Lawsuits About?

Plaintiff was employed in California by Park Management Corp. as non-exempt employee and was subjected to Defendant's employment-related background check and/or credit procedures during the Class Period of February 21, 2015 through October 1, 2021

The lawsuits allege that Defendant engaged in practices that violate federal and California laws about background checks. Plaintiff seeks statutory damages and penalties related to the above claims. Defendant denies any liability whatsoever and denies that damages, or penalties are owed, or that it acted contrary to California law or federal law.

3. Do I Need to Hire an Attorney?

You do not need to hire your own attorney. You are already represented by Class Counsel (see Section 16 for contact information). However, you may hire your own attorney at your own expense if you choose to do so.

4. What Is Defendant's Position?

Defendant denies and continues to deny each of the claims and contentions.

Defendant has concluded that any further defense of this litigation would be protracted and expensive for all Parties. Defendant has already spent time, energy, and resources defending this case and, unless this settlement is agreed to, will have to continue to devote time, energy and resources to the defense of the claims asserted by the Class. Defendant has also taken into account the risks of further litigation in reaching its decision. Defendant has, therefore, agreed to settle in the manner and upon the terms set forth in the Settlement Agreement to put to rest the claims as set forth in the Actions.

5. Why Is There a Settlement?

The Court did not decide in favor of Plaintiff or Defendant. After a thorough investigation into the facts of the lawsuits, both sides agreed to a settlement after mediating with a neutral third party mediator. The claims were settled because Class Counsel and Plaintiff believe that the amount of the settlement is fair and reasonable in light of the strength and weaknesses of the claims and other factors.

6. How Do I Know If I Am Part of the Settlement?

You are a member of the Class if you applied to work for or worked for Park Management Corp., in California and were subjected to Defendant's employment-related background check and/or credit procedures including, but not limited to, executing employment-related background check and/or credit documents at any time during the Class Period (February 21, 2015 through October 1, 2021).

7. What Does the Settlement Provide?

Class Members who do not timely submit a signed and valid request for exclusion will receive payments from the Net Settlement Amount. The Net Settlement Amount is the portion of the Class Settlement Amount of \$220,000.00 available for distribution to Class Members who do not timely submit a signed and valid request for exclusion after deduction of the Court-approved Class Representative Enhancement Payments, Class Counsel's Attorneys' Fees and Costs, and Claims Administration Costs.

Deductions for Class Representative Enhancement Payments, Class Counsel's Attorneys' Fees and Costs, and Claims Administration Costs. Class Counsel will ask the Court to award attorneys' fees in the amount of up to \$73,333.33, which represents one-third (1/3) of the Class Settlement Amount, and litigation costs in an amount not to exceed \$15,000 from the Class Settlement Amount. In addition, Class Counsel will ask the Court to authorize Representative Enhancement Payments from the Class Settlement Amount of \$5,000.00 to Darren Muller, to compensate him for the risks, time, and expense of his involvement in the Action. This payment is in addition to whatever payment Plaintiff is otherwise entitled to as a Class Member. The Claims Administrator will also be reimbursed for the expense of notifying the Class Members of the settlement, processing claims and requests for exclusions submitted by Class Members, and distributing Individual Settlement Payments. Claims Administration Costs are estimated not to exceed \$48,000.

8. What Can I Get From the Settlement?

The parties estimate that the likely recovery by the average Class Member would be approximately \$ ____. Class Members who do not opt-out will be paid out of the Net Settlement Amount.

If you do not timely submit a valid Request For Exclusion by the Response Deadline, you will receive your share of the Net Settlement Amount after the Court approves the settlement.

9. How Was My Share Calculated?

To determine the amount of the Net Settlement Amount to which each Class Member is entitled, the Claims Administrator will subtract attorneys' fees, attorneys costs, enhancement and administrative costs from the Net Settlement, and divide equally among all class members.

10. How Can I Get Payment?

You do not need to take any action to qualify for payment. If you do nothing, you will receive your Individual Settlement Payment and be bound by the terms of the settlement (including the Released Claims described in Section 12 below).

California law protects Class Members from retaliation based on their decision to participate in a class action settlement.

11. When Would I Get My Payment?

The Court will hold the Final Approval Hearing on or about <<date>> in Department 8 of the California Superior Court for the County of Solano, at the Old Solano Courthouse, 580 Texas Street, Fairfield, California 94533, to decide whether to approve the settlement.

If the Court approves the settlement, your settlement share will be mailed to you within approximately 90 days from the date of final judgment, unless there are objections, appeals, or other challenges to the final judgment. It is always uncertain when these issues can be resolved, and resolving them can take time.

12. What Rights Do I Give Up If I Participate or Do Nothing?

Unless you exclude yourself, you will remain a Class Member, and you will be bound by the terms of the settlement, including releasing the Released Claims described below. That means that you will be unable to sue, or to continue to sue, or be part of any other lawsuit about the Released Claims. It also means that all of the Court's orders will apply to you and legally bind you.

Released Claims

As of the date of the Order Granting Final Approval, all Class Members shall fully and finally release Released Parties of the Released Claims which include, but are not limited to, all claims asserted in the Action, arising from or related to the facts and claims alleged in the Action, that could have been alleged in the Action, and/or based on the facts and claims asserted, arising from or related, or could have been alleged in the operative Complaint, as amended, during the Class Period. The Released Claims include any and all claims regarding background checks and/or credit checks, to include but not limited to, violations of the Fair Credit Reporting Act, violations of the Investigative Consumer Reporting Agencies Act, violations of the Consumer Credit Reporting Agencies Act; the California Private Attorneys General Act of 2004 (PAGA); California Business and Professions Code section 17200, *et seq.* and 17208, *et seq.*, and any and all claims

arising under 15 U.S.C. § 1681; California Labor Code sections 432, 432.5 and 1024.5; all claims arising under the California Labor Code relating to the Released Claims; California Civil Code sections 1785 *et seq.*, 1785.1 *et seq.*, and 1786 *et seq.*; all claims arising under the California Civil Code relating to the Released Claims; all claims arising under federal common law; and all claims arising under the California common law of contract.

13. How Do I Exclude Myself from the Settlement?

If you do not wish to participate in the settlement, you may exclude yourself (generally called “opting out”) by submitting a Request For Exclusion to the Claims Administrator.

In order to opt-out, you must complete a Request For Exclusion and ensure that your signed statement is faxed or postmarked no later than << Response Deadline >> (“Response Deadline”). Your Request For Exclusion must contain your full name (and former names, if any), current address, telephone number, last four digits of your Social Security number, and signature.

You must sign the Request For Exclusion personally and may not have someone sign for you, nor may you submit a request for exclusion on behalf of a group. Your Request For Exclusion must be signed and returned via fax or United States first class mail postmarked no later than << Response Deadline >> to:

IYLM GROUP, INC.

Address

Phone: (*) ***-******

Facsimile: (*) ***-******

If you submit a timely and valid request for exclusion, then upon its receipt you shall no longer be a member of the Class, you will not receive payment from settlement, you may not object and you shall receive no benefits from the settlement. If you wish, you may pursue, at your own expense, any claims you may have against Defendant. If you do not submit a complete and timely written request for exclusion, you will be included in the Class, and be bound by the terms of the settlement (including the Released Claims described in Section 12 herein).

Do not submit both a Request For Exclusion and an Objection. If you submit both, the request for exclusion will be valid, and you will be excluded from the Class.

14. When Is the Final Approval and Fairness Hearing?

The Court will hold a Final Approval Hearing in Department 8 of the California Superior Court for the County of Solano, at the Old Solano Courthouse, 580 Texas Street, Fairfield, California 94533, on <<date and time>> or such other, later date as the Court may authorize, to determine whether the settlement is fair, reasonable, and adequate; and if there are objections, the Court will consider them. The Court will also be asked to approve Plaintiff’s Class Representative Enhancement Payments, Class Counsel’s request for Attorneys’ Fees and Costs, and the Claims Administration Costs.

The hearing may be continued without further notice to Class Members. It is not necessary for you to appear at this hearing unless you have timely filed an objection or notice of intention to appear with the Court. Notice of the final judgment will be posted on the Claims Administrator's website at [REDACTED].

15. How Do I Object to the Settlement and Appear at the Final Approval and Fairness Hearing?

You may object to the terms of the settlement before the Final Approval Hearing. However, if the Court rejects your objection, you will still be bound by the terms of the settlement. To object, you must fax or mail the Objection to the Claims Administrator (at the address in Section 13 herein). The Objection must contain the reasons for your objection to this settlement. Your objection must also contain your full name, address, telephone number, and signature. To be valid and effective, any Objections to approval of the settlement must be faxed or postmarked no later than << Response Deadline >>. DO NOT TELEPHONE THE COURT.

Class Members who fail to make objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the settlement.

You do not have to attend the hearing, but you may do so at your own expense. If you send an objection, you do not have to come to court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

If the Court approves the settlement despite any objections, you will receive your settlement proceeds and will be bound by the terms of the settlement (including the Released Claims described in section 12 herein).

16. How Do I Get Additional Information?

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you should consult the detailed Stipulation and Settlement of Class and Representative Action ("Settlement Agreement") between Plaintiff and Defendant, which is attached to the Declaration of James Hawkins filed in Support of Plaintiff's Motion for Preliminary Approval. This document is on file with the Clerk of the Court, case number FCS050707. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined at any time during regular business hours at the Office of the Clerk of the California Superior Court for the County of Solano.

If you have any questions, you can call the Claims Administrator at [toll-free number] or Class Counsel (James Hawkins, APLC), whose contact information is listed below.

CLASS COUNSEL	ATTORNEYS FOR DEFENDANT
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JAMES HAWKINS APLC. James Hawkins james@jameshawkinsaplc.com 9880 Research Drive, Suite 200 Irvine, California 92618 Tel: (949) 387-7200; Fax: (888) 387-6676	SHEPPARD, MULLIN, RICHTER & HAMPTON LLP Jason W. Kearnaghan Amanda E. Beckwith Elyssa M. Sternberg 333 South Hope Street, 43rd Floor Los Angeles, California 90071-1448 Tel. (213) 620-1780 Email: jkearnaghan@sheppardmullin.com
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**PLEASE DO NOT WRITE OR TELEPHONE THE COURT OR THE OFFICE OF THE CLERK
FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS.**

BY ORDER OF THE CALIFORNIA SUPERIOR COURT