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[PROPOSED] FINAL ORDER AND JUDGMENT

[PROPOSED] FINAL ORDER AND JUDGMENT

This matter came on for hearing on September 6, 2024, at 1:30 p.m. in Department C-69 of the above-captioned court on the Motion for Final Approval of Class Action Settlement and PAGA Settlement, upon the terms and conditions set forth in the Class Action and PAGA Settlement Agreement and Class Notice (the “Agreement”) by and between Plaintiff Vernon Barnett (the “Named Plaintiff”) and Defendants QW Insurance Solutions, LLC (“QWIS”), LendingTree, Inc. and LendingTree, LLC (collectively “Defendants”). A copy of the Agreement is attached as Exhibit 1 to the Declaration of Thomas Rutledge filed concurrently with the Motion for Final Approval of Class Action and PAGA Settlement (the “Motion”) and incorporated herein by reference as though part of this Order.

The Court, having fully reviewed the Motion; the Memorandum of Points and Authorities and Declarations filed in support thereof; the Agreement; the declarations in support thereof regarding the proposed settlement, and having heard the argument of Counsel for the respective parties, hereby **ORDERS, ADJUDGES AND DECREES AS FOLLOWS:**

1. All terms used herein shall have the same meaning as defined in the Settlement Agreement.

2. Consistent with the definitions provided in the Agreement, the Settlement shall consist of the following two classes:

a. The “FCRA Class” is defined as all persons who are or were applicants and/or employees of QWIS and/or LendingTree, LLC, anywhere in the United States who completed background check disclosures at any time from May 25, 2020, to March 25, 2024.

b. The “Wage and Hour Class” is defined as all persons who are employed or were previously employed by QWIS, LendingTree, LLC, or both, and who worked in California as a non-exempt employee at any time from May 25, 2018, to March 25, 2024.

1 c. The term “Class Member” or “Settlement Class Member” means a
2 member of the Wage and Hour Class and/or FCRA Class, as either a Participating
3 Class Member or Non-Participating Class Member.

4 d. “Participating Class Member” means a Wage and Hour Class
5 Member or FCRA Class Member who does not submit a valid and timely Request for
6 Exclusion, as defined in the Agreement.

7 3. Consistent with the definitions provided in the Agreement, “Aggrieved
8 Employees” are defined as all persons who are employed or were previously
9 employed by QWIS and/or LendingTree, LLC, and who worked in California and
10 were classified as non-exempt at any time from May 25, 2021 through March 25,
11 2024.

12 4. Aggrieved Employees may not opt out of the Settlement, even if they
13 submitted a Request for Exclusion from the Wage and Hour Class, FCRA Class or
14 both.

15 5. All Participating Class Members and all Aggrieved Employees are
16 covered by and included within the Settlement and this Final Order and Judgment.

17 6. This Court has jurisdiction over the subject matter of this Action and
18 over all Parties to this Action, including all Settlement Class Members and Aggrieved
19 Employees.

20 7. Distribution of (a) the Notice of Wage and Hour Class Action and PAGA
21 Settlement and (b) the Notice of FCRA Class Action Settlement, which were directed
22 to the Settlement Class Members and Aggrieved Employees as set forth in the
23 Agreement, has been completed by the Administrator in conformity with the Court’s
24 Preliminary Approval Order. Settlement Class Members and Aggrieved Employees
25 were identified through good faith and reasonable efforts. The Notices provided due
26 and adequate notice of the proceedings and of the matters set forth therein, including
27 the proposed Settlement set forth in the Agreement, and they were sent to all persons
28 entitled to such Notices. The Notices fully satisfied the requirements of due process.

1 8. The Court hereby finds the Settlement was entered into in good faith
2 pursuant to and within the meaning of California Code of Civil Procedure § 877.6.

3 9. The Court further finds that the Settlement is fair, adequate, and
4 reasonable and that the Plaintiffs have satisfied the standards and applicable
5 requirements for final approval of this class-action and representative settlement
6 under California law, including the provisions of California Code of Civil Procedure
7 § 382.

8 10. The Court hereby approves the Settlement set forth in the Agreement and
9 finds that the Settlement is, in all respects, fair, adequate and reasonable, and directs
10 the Parties to effectuate the Settlement according to its terms. The Court finds that
11 the Settlement has been reached based on intensive, serious and non-collusive arms-
12 length negotiations. The Court further finds that the Parties have conducted extensive
13 investigation and research, and counsel for the Parties are able to reasonably evaluate
14 their respective positions. The Court also finds that Settlement at this time will avoid
15 additional substantial costs, as well as avoid the delay and risks that would be
16 presented by the further prosecution of the Action. The Court has reviewed the
17 benefits that are being granted as part of the Settlement and recognizes the significant
18 value to the Settlement Class Members and Aggrieved Employees. The Court also
19 finds that the FCRA Class and Wage and Hour Class are properly certified as classes
20 for settlement purposes only.

21 11. Upon the Effective Date as defined in the Agreement, Plaintiff, the
22 Participating Class Members and the Aggrieved Employees shall be deemed to have,
23 by operation of this Order and Final Judgment, fully and irrevocably released and
24 fully discharged the Released Parties from the Released PAGA Claims, Released
25 FCRA Class Claims, and Released Wage and Hour Class Claims as more fully set
26 forth in the Agreement.

27 a. “Released Parties” are defined as QWIS, Lending Tree, LLC,
28 Lending Tree, Inc., and its and their divisions, subsidiaries, partnerships, parents,

1 affiliated corporations, trusts, or other related entities, past and present, and each of
2 them, as well as its and their directors, officers, shareholders, partners, members,
3 representatives, executors, trustees, administrators, beneficiaries, assignees,
4 successors, business managers, agents, contractors, insurers, benefit plans, attorneys,
5 and employees, past and present, and each of them and their marital community.

6 b. All Participating Wage and Hour Class Members are deemed to
7 forever and completely release and discharge and covenant not to sue, on behalf of
8 themselves and their respective former and present representatives, agents, attorneys,
9 spouses, domestic partners, children, marital community, estates, heirs, trusts,
10 administrators, successors, and assigns, the Released Parties from the Released Wage
11 and Hour Class Claims. The “Released Wage and Hour Class Claims” include,
12 without limitation, any and all claims, demands, rights, liabilities, and causes of
13 action that were or could have been pleaded under local, state or federal law based on
14 the facts alleged in the Wage and Hour Class Action and PAGA Complaint and the
15 Third Amended Complaint against Defendants and the Released Parties arising during
16 the Wage and Hour Class Period, including, but not limited, to claims for (1) failure
17 to pay minimum/regular wages; (2) failure to pay state overtime; (3) failure to comply
18 with meal break laws; (4) failure to comply with rest break laws; (5) failure to
19 reimburse expenses; (6) failure to provide accurate wage statements; (7) failure to pay
20 wages timely; (8) failure to provide and maintain records; and (9) violation of the
21 Business and Professions Code. “Released Wage and Hour Class Claims” also
22 include any claims that arise from, are related to, or are otherwise reasonably
23 connected with the facts alleged in the Wage and Hour Class Action and PAGA
24 Complaint and the Third Amended Complaint.

25 c. All Participating FCRA Class Members are deemed to forever and
26 completely release and discharge and covenant not to sue, on behalf of themselves
27 and their respective former and present representatives, agents, attorneys, spouses,
28 domestic partners, children, marital community, estates, heirs, trusts, administrators,

1 successors, and assigns, the Released Parties from the Released FCRA Class Claims.
2 The “Released FCRA Class Claims” include, without limitation, any and all claims,
3 demands, rights, liabilities, and causes of action that were or could have been pleaded
4 under local, state or federal law based on the facts alleged in the FCRA Class Action
5 and the Third Amended Complaint against Defendants and the Released Parties
6 arising during the FCRA Class Period, including, but not limited to, the alleged
7 claims under the Fair Credit Reporting Act and the common law violation of the right
8 to privacy. “Released FCRA Class Claims” also include any claims that arise from,
9 are related to, or are otherwise reasonably connected with the facts alleged in the
10 FCRA Class Action Complaint and the Third Amended Complaint.

11 d. All Aggrieved Employees (whether a Participating Class Member
12 or a Non-Participating Class Member), including the Named Plaintiff, standing in the
13 shoes of the Labor Commissioner/LWDA to the extent permitted by law, and on
14 behalf of the State of California and all Aggrieved Employees, are deemed to forever
15 and completely release and discharge and covenant not to sue, on behalf of
16 themselves and their respective former and present representatives, agents, attorneys,
17 spouses, domestic partners, children, marital community, estates, heirs, trusts,
18 administrators, successors, and assigns, the Released Parties from the Released
19 PAGA Claims. The “Released PAGA Claims” means any and all claims, demands,
20 rights, liabilities, and causes of action for civil penalties that were or could have been
21 pleaded under local, state or federal law, based on the facts alleged in the Plaintiffs’
22 PAGA Notice, the Wage and Hour Class Action and PAGA Complaint, and the Third
23 Amended Complaint against Defendants and the Released Parties arising during the
24 PAGA Period, including, but not limited to, all claims for civil penalties arising under
25 California Labor Code Sections 96, 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1,
26 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, 213,
27 221, 222, 222.5, 223, 224, 226, 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4,
28 230.7, 230.8, 231, 232, 232.5, 233, 234, 351, 353, 403, 404, 432.2, 432.5, 432.7, 435,

1 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851,
2 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102,
3 1102.5, 1153, 1174, 1194, 1197, 1197.1, 1197.5, 1198, 1198.3, 1199, 1199.5, 1290,
4 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1,
5 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, 1695, 1695.5, 1695.55,
6 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26,
7 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815,
8 2651, 2673, 2673.1, 2695.2, 2699, 2699.3, 2800, 2801, 2802, 2806, 2810, 2929,
9 3073.6, 6310, 6311, and 6399.7. “Released PAGA Claims” also include any claims
10 for civil penalties that arise from, are related to, or are otherwise reasonably
11 connected with the facts alleged in the Wage and Hour Class Action and PAGA
12 Complaint and the Third Amended Complaint.

13 12. By operation of this Order and Final Judgment, Plaintiff shall be deemed
14 to have fully and irrevocably released and fully discharged the Released Parties from
15 all claims as set forth in the Agreement. As part of that release, Plaintiff expressly
16 waives and relinquishes the provisions, rights, and benefits, if any, of Section 1542 of
17 the California Civil Code.

18 13. No Settlement Class Members objected to the terms of the Settlement.

19 14. One settlement class member requested to be excluded from the terms of
20 the Settlement and are excluded from this Judgment.

21 15. The Court hereby orders Defendants to fund the Qualified Settlement
22 Fund with the Gross Settlement Amount of \$450,000 no later than sixty (60) days
23 after the Effective Date of the Agreement. The Court further hereby orders that the
24 Gross Settlement Amount will be used to pay the Individual Wage and Hour Class
25 Payments, Individual FCRA Class Payments, Individual PAGA Payments to
26 Aggrieved Employees, the California Labor and Workforce Development Agency
27 (“LWDA”) PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation
28 Expenses Payment, Class Representative Enhancement Payment, General Release

1 Payment, and Administration Expenses Payment. The Gross Settlement Amount does
2 not include the employer-side payroll taxes that shall be separately paid by the
3 Defendants on the portion of the settlement proceeds allocated as back wages to the
4 Wage and Hour Class. The calculations and the payments shall be made and
5 administered in accordance with the terms of the Agreement.

6 16. Pursuant to the terms of the Settlement, and the authorities, evidence and
7 argument submitted by Class Counsel, the Court hereby awards a Class Counsel Fees
8 Payment in the amount of \$148,500 and a Class Counsel Litigation Expenses
9 Payment in the amount of \$16,028 from the Gross Settlement Amount as final
10 payment for and complete satisfaction of any and all attorneys' fees and costs
11 incurred by and/or owed to Class Counsel and any other person or entity related to the
12 Action.

13 17. The Court hereby approves and orders a Class Representative
14 Enhancement Payment of \$10,000 to the Named Plaintiff and Class Representative
15 Vernon Barnett from the Gross Settlement Amount in accordance with the terms of
16 the Agreement.

17 18. The Court hereby approves and orders a General Release Payment of
18 \$15,000 to Plaintiff and Class Representative Vernon Barnett from the Gross
19 Settlement Amount on account of the Named Plaintiff providing a general release of
20 any and all claims against the Defendants and all Released Parties, including a waiver
21 of rights under California Civil Code Section 1542, in accordance with the terms of
22 the Agreement.

23 19. The Court also hereby approves and orders payment from the Gross
24 Settlement Amount for an Administration Expenses Payment for actual settlement
25 administration expenses incurred by the Settlement Administrator, Phoenix
26 Settlement Administration Company, in the amount of \$12,000.

27 20. After the Class Counsel Fees Payment, Class Counsel Litigation
28 Expenses Payment, Class Representative Enhancement Payment, General Release

1 Payment, and Administration Expenses Payment, the remaining amount is the Net
2 Settlement Fund. From the Net Settlement Fund, the Court hereby approves and
3 orders the following:

4 a. The Court hereby approves and orders the PAGA Award of
5 \$20,000, 75% of which (\$15,000) will be distributed to the LWDA for penalties
6 arising under the Private Attorneys General Act of 2004 (“PAGA”). The remaining
7 \$5,000 (25% of \$20,000) shall be distributed to the Aggrieved Employees on a pro
8 rata, payroll period basis covering the PAGA Period.

9 b. The Court hereby approves and orders that, after payment of the
10 PAGA Award, ninety percent (90%) of the remaining Net Settlement Fund shall be
11 considered to be settlement payments to the Wage and Hour Class, of which eighty
12 percent (80%) shall be paid on account of alleged but disputed liquidated damages,
13 civil and statutory penalties and interest, with such amount to be reported by the
14 Settlement Administrator by year’s end via IRS Form 1099, and of which the
15 remaining twenty percent (20%) shall be paid as alleged but disputed back wages
16 subject to payroll withholdings and deductions, with such amount to be reported by
17 the Settlement Administrator by year’s end via IRS Form W-2. The settlement
18 proceeds will be paid to the Participating Wage and Hour Class Members on a pro-
19 rata basis per workweek covering the Wage and Hour Class Period. Employer-side
20 payroll taxes shall be separately paid by the Defendants on the portion of the
21 settlement proceeds allocated as back wages to the Wage and Hour Class.

22 c. The Court hereby approves and orders that, after payment of the
23 PAGA Award, ten percent (10%) of the remaining Net Settlement Fund shall be
24 considered to be settlement payments to the FCRA Class, all of which shall be paid as
25 alleged and disputed liquidated damages, statutory penalties and interest, with such
26 amount to be reported by the Settlement Administrator by year’s end via IRS Form
27 1099. Payments to the Participating FCRA Class Members will be divided equally
28 among the Participating FCRA Class Members.

1 21. Within 30 days after Defendants fund the GSF, the Administrator will
2 mail checks for all Individual Wage and Hour Class Payments, all Individual FCRA
3 Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the
4 Administration Expenses Payment, the Class Counsel Fees Payment, the Class
5 Counsel Litigation Expenses Payment, the Class Representative Enhancement
6 Payment, and the General Release Payment. Disbursement of the Class Counsel Fees
7 Payment, the Class Counsel Litigation Expenses Payment, the Administration
8 Expenses Payment, and the Class Representative Enhancement Payment shall not
9 precede disbursement of Individual Wage and Hour Class Payments, Individual
10 FCRA Class Payments, Individual PAGA Payments, and the General Release
11 Payment.

12 22. The Court also hereby approves and orders that, for any Class Member
13 or Aggrieved Employee whose Individual Wage and Hour Class Payment check,
14 Individual FCRA Class Check, or Individual PAGA Payment check is uncashed and
15 cancelled after the void date, the Administrator shall transmit the funds represented
16 by such checks to the California Controller's Unclaimed Property Fund in the name
17 of the Class Member or Aggrieved Employee, thereby leaving no "unpaid residue" in
18 the Gross Settlement Fund or Net Settlement Fund, subject to the requirements of
19 California Code of Civil Procedure Section 384, subd. (b).

20 23. The Court hereby orders that this Order and Judgment shall have full
21 equitable estoppel and res judicata effect and shall be final and binding upon the Class
22 Representative and the Participating Wage and Hour Class Members regarding the
23 Released Wage and Hour Class Claims.

24 24. The Court hereby orders that this Order and Judgment shall have full
25 equitable estoppel and res judicata effect and shall be final and binding upon the Class
26 Representative and the Participating FCRA Class Members regarding the Released
27 FCRA Class Claims.

28 25. The Court hereby orders that this Order and Judgment shall have full

1 equitable estoppel and res judicata effect and shall be final and binding upon the
2 Named Plaintiff, the LWDA, and the Aggrieved Employees regarding the Released
3 PAGA Claims.

4 26. The Court hereby orders that neither the Settlement nor any of the terms
5 set forth in the Agreement is an admission by Defendants, or any of the other Released
6 Parties, nor is this Final Order and Judgment a finding of the validity of any claims in
7 the Action or of any wrongdoing by Defendants, or any of the other Released Parties.
8 Neither this Final Order and Judgment, the Agreement, nor any document referred to
9 herein, nor any action taken to carry out the Agreement is, may be construed as, or may
10 be used as, an admission by or against Defendants, or any of the other Released
11 Parties, of any fault, wrongdoing or liability whatsoever. The entering into or carrying
12 out of the Agreement, and any negotiations or proceedings related thereto, shall not in
13 any event be construed as, or deemed to be evidence of, an admission or concession
14 with regard to the denials or defenses by Defendants, or any of the other Released
15 Parties, and shall not be offered in evidence in any action or proceeding in any court,
16 administrative agency or other tribunal for any purpose whatsoever other than to
17 enforce the provisions of this Final Order and Judgment, the Agreement, the Released
18 Claims, or any related agreement or release. Notwithstanding these restrictions,
19 Defendants and any of the Released Parties may file in the Action, or submit in any
20 other proceeding, or present to any other person, the Final Order and Judgment, the
21 Agreement, and/or any other papers and records on file in the Action as evidence of the
22 Settlement to support a defense of res judicata, collateral estoppel, release, or other
23 theory of claim or issue preclusion or similar defense as to the Released Claims.
24 Additional, Defendants and any Released Parties may present to any person or submit
25 in any forum the Final Order and Judgment, the Agreement, and/or any other papers
26 and records on file in the Action, to establish that the Action was settled without any
27 admission of liability and that the Court found no such liability on the part of
28 Defendants or any Released Parties.

1 27. Without affecting the finality of this Judgment, the Court shall retain
2 continuing jurisdiction over this action and the parties, including all Settlement Class
3 Members and Aggrieved Employees, and over all matters pertaining to the
4 implementation and enforcement of the terms of the Agreement pursuant to California
5 Rule of Court 3.769(h) and California Code of Civil Procedure § 664.6. Except as
6 provided to the contrary herein, any disputes or controversies arising with or with
7 respect to the interpretation, enforcement, or implementation of the Agreement shall
8 be presented to the Court for resolution.

9 **IT IS SO ORDERED. LET JUDGMENT BE ENTERED**
10 **ACCORDINGLY.**

11
12 Dated: _____

Hon. Katherine Bacal
Judge of the Superior Court of California
County of San Diego