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7 Attorneys for Plaintiffs

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN DIEGO-CENTRAL DIVISION

10 VERNON BARNETT, individually and)
11 as an aggrieved employee pursuant to)
12 the Private Attorneys General Act)
13 (“PAGA”) on behalf of the State of)
14 California and other aggrieved)
15 employees,)

16 Plaintiffs,

17 vs.

18 QW INSURANCE SOLUTIONS, LLC,)
19 a Washington limited liability company;)
20 LENDINGTREE INC., a Delaware)
21 corporation; LENDINGTREE LLC, a)
22 Delaware limited liability company; and)
23 DOES 3 through 50,)

24 Defendants.

Case No.: 37-2022-00019924-CU-OE-CTL

Judge: Hon. Katherine Bacal
Dept. C-69

DECLARATION OF THOMAS D. RUTLEDGE ISO PLAINTIFFS’ MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Judge: Hon. Katherine Bacal
Dept.: C-69
Hearing Date: March 22, 2024
Hearing Time: 1:30 p.m.

Complaint Filed: May 25, 2022
Trial Date: NA
Discovery Cutoff: NA

[Not. of Mot., [Proposed] Order, and
Mem. of P&As filed concurrently
herewith]

I, THOMAS D. RUTLEDGE, declare and state as follows:

1. I am counsel of record for the named Plaintiff, indirectly for the Aggrieved Employees, and a quasi-assistant attorney general for the State of California (Plaintiffs) via the PAGA in this matter. As such, I am fully familiar with the facts, pleadings, and history of this matter. The following facts are within my own personal knowledge, and if called as a witness, I could testify competently to the matters stated herein.

2. This declaration is submitted in support of Plaintiffs' Motion for Court Approval of Class Settlement per the terms of the Settlement Agreement, a true and correct copy of which is attached hereto and marked as **Exhibit 1**.

3. The Law Office of Thomas D. Rutledge consists of me, one associate, and various support staff during all times relevant to this litigation.

4. At all times, I have been the attorney of record in the above-entitled action for the Plaintiffs.

5. I am the originating and senior attorney primarily in charge of prosecuting this case.

6. I have had the privilege of practicing law for more than 28 years.

7. I have served the public during most of my adult life.

8. Before practicing law, from about April 1987 to April 1994, at the age of 21, I proudly served in the U.S. Army National Guard in various capacities: first, as a Private First Class in a combat engineer's unit; and in 1990, after receiving my commission from the Commonwealth of Massachusetts's State Officers' Candidate School, as a field artillery officer, mortar platoon leader, and infantry company executive officer in the Commonwealth of Pennsylvania (1992-1994) and Massachusetts (1987-1992) Army National Guard.

9. In 1990, I received a B.A. in History and Political Science from the

University of Massachusetts, Boston, Massachusetts.

10. In 1992, I received a C.S.S. in Management and Administration from Harvard University, Cambridge, Massachusetts.

11. In 1995, I received a J.D. from Temple University and became a member of the State Bars of Florida and Massachusetts.

12. In 1999, I obtained admission to the California Bar.

13. I am a former active member in the San Diego County Bar Association (and several committees therein, such as the Labor and Employment Law Section, Litigation Section, and Family Law Section), a current member of the California Employment Lawyers Association, Consumer Attorneys of San Diego (CASD), and National Employment Lawyers Association.

14. I am the former Co-Chairman to the San Diego County Bar Association Labor and Employment Law Section.

15. I am a former Board of Director for CASD (served 2013-2016).

16. I am a former U.S. Navy Judge Advocate General's (JAG) Corps attorney.

17. From 1995 to 2002, I served in various capacities on active duty as a prosecutor, defense attorney, and staff judge advocate in the U.S. Navy JAG Corps handling hundreds of criminal and civil litigation matters and personally preparing and filing more than 5000 tax returns.

18. I served a total of 20 years in the U.S. military honorably retiring from the U.S. Naval Reserve in 2008.

19. From 2002 to 2004, I was a litigation associate at Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro LLP in Los Angeles, California, a firm of more than 100 lawyers at that time, working on complex litigation.

20. From 2004 to 2009, I was a litigation associate for Branton & Wilson, APC, a firm of more than 15 lawyers at the time, working mostly on employment law matters (defense and plaintiff).

21. From 2009 to the present, I have focused my practice exclusively on prosecuting employment law claims on behalf of employee-plaintiffs, with a very small amount of my practice devoted to personal injury, landlord-tenant, and family law matters.

22. All my employee-plaintiffs' cases, including this case, are accepted on a nothing down contingency fee basis.

23. I personally have represented thousands of class members and aggrieved employees in well over 40 class and/or representative (Private Attorney General Act) actions prosecuting wage and hour claims, more than 20 of which were certified as class actions. (See, e.g., *Julio, et al. v. Express Tires*, San Diego Superior Court Case No.: 37-2010-00097801; *Epton v. ADP TotalSource, et al.*, U.S.D.C. Case No.: 11cv0856-JM; *Tuter, et al. v. King's Seafood Company, LLC, et al.*, San Diego Superior Court Case No.: 37-2011-00084756; *Crosby v. CHMB*, San Diego Superior Court Case No.: 37-2011-0087583-CU-OE-CTL; *Diego v. JMS Properties LLC, et al.*, San Diego Superior Court Case No.: 37-2013-00056177-CU-0E-CTL; *Mitchell, et al. v. Phone Ware Inc., et al.*, San Diego Superior Court Case No.: 37-2014-00008449-CU-OE-CTL; *Long, et al. v. Stanley Black & Decker, Inc., et al.*, U.S.D.C. Case No.: 14CV1246 JLS BGS; *Villagrana v. 7-Eleven*, San Diego Superior Court Case No.: 37-2014-00008449-CU-OE-CTL; *Parnell, et al. v. Harte-Hanks Shoppers, Inc., et al.*, Orange Superior Court Case No.: 10-2014-00736236-CU-OE-CXC; *Martz v. T.R.L. Systems, Inc.*, San Bernardino Superior Court Case No.: CIVDS1515312; *Rosentein v. Pratt and Whitney, et al.*, U.S.D.C. Case No.: 15CV2183 JM/JLB; *Don v. Penn*, San Diego Superior Court Case No.: 37-2016-00025005; *Ramirez v. Coastal Trans. Serv.*, San Diego Superior Court Case No.: 37-2016-00020248; *Velez v. CoWorx Staffing Services LLC*, San Bernardino Superior Court Case No.: CIVDS1803229; *Martz v. HCI Systems Inc.*, San Bernardino Superior Court Case No.: CIVDS1607545, and many more.)

24. I have attended dozens of lectures presented by legal professionals on the

1 topic of prosecuting class action litigation in the last 28 years, I have tried wage and
2 hour cases in Superior Court, I have appeared before the Labor Commissioner on
3 scores of wage claims, and I have handled the representation of parties in dozens of
4 mediations before well-known mediators, such as Mark Rudy, Jeff Ross, Mike
5 Dickstein, David Rotman, Robert Kaplan, and Judge Herbert B. Hoffman (Ret.)

6 **Procedural History & Settlement Negotiations.**

7 25. During the prosecution of the case, Plaintiffs obtained the named
8 Plaintiff's personnel file and payroll records and my office spent months investigating
9 this case.

10 26. We also engaged in extensive written discovery and had multiple
11 discussions over a 12-month period regarding the merits of Plaintiffs' claims and the
12 underlying facts, as well as Defendants' potential defenses.

13 27. The foregoing led the Parties to agree to attend an all-day private
14 mediation in an attempt to come to an early resolution of this matter.

15 28. To foster settlement discussions, Defendants provided us information
16 concerning the FCRA disclosure forms Defendants used; Defendants' employee
17 handbooks; a substantial sampling of Class Members' payroll information,
18 timesheets, and similar records; records concerning Defendants' hiring practices
19 including, the type of correspondence Defendants sent to Plaintiffs and Class
20 Members regarding the background check process; the number of individuals in the
21 putative Class; and the number of workweeks putative Class Members worked and
22 how many consumer reports the Defendants procured, among other things.

23 29. This information was critical for our analysis of liability and damages.

24 30. On May 23, 2023, the Parties participated in an all-day private mediation
25 before Mr. Mark Rudy, Esquire, a highly sought and reputable private mediator based
26 out of San Francisco.

27 31. Before the mediation, the Parties submitted detailed briefs outlining our
28 respective positions.

1 32. At the conclusion of the mediation, the parties entered a memorandum of
2 understanding.

3 33. On August 30, 2023, all Parties signed the Settlement Agreement. See
4 **Exhibit 1.**

5 **Reasons for the Settlement (*Kullar* Analysis).**

6 34. The Settlement was reached only after extensive arm's-length settlement
7 negotiations that took place over a period of months.

8 35. During the Parties' settlement discussions, the Parties explored all
9 aspects of this litigation, including Defendants' defenses to liability and class
10 certification.

11 36. Additionally, attorneys' fees and a service payment for the Plaintiffs
12 were not discussed until all other material settlement terms had been agreed upon,
13 eliminating the possibility of a trade-off between compensation for the Class and
14 compensation for me or the named Plaintiff.

15 37. As for the FCRA Subclass, there are only 1023 putative Class Members.

16 38. As far as our reasoning is concerned consistent with the *Kullar* analysis,
17 the 10% allocation to the FCRA Class is based on the low damage provisions of the
18 FCRA, which generally provides only \$100 to \$1,000 per negatively affected person
19 unless Class Member can prove actual damages (something very difficult in FCRA
20 cases).

21 39. The lower allocation to the FCRA Class is also attributed to the recent
22 case law on this subject that requires plaintiff-consumers to prove concrete harm. *See*
23 *Limon v. Circle K Stores Inc.*, 84 Cal. App. 5th 671 (2022).

24 40. We valued Plaintiffs' FCRA claim on the high side to be worth no more
25 than \$1,023,000 (1023 x \$1,000) and on the realistic low side of \$0 given the *Limon*
26 case.

27 41. Thus, the net amount of \$22,450 for the FCRA Subclass members is
28 incredibly good in my opinion.

1 42. As for the Labor Code Subclass, there are only 53 putative Class
2 Members all who worked a total of 2816 workweeks.

3 43. Plaintiffs alleged nine Labor Code class claims (minimum wage,
4 overtime, meal break, rest break, Labor Code § 203, Labor Code § 226, Labor Code §
5 2802, failure to maintain records, and B&P § 17200), but only four of these claims
6 have a chance for certification.

7 44. Plaintiffs only alleged the B&P § 17200 class claim to extend the statute
8 of limitations to four years and, as such, it has no independent value.

9 45. As for Plaintiffs' unpaid minimum wage claim, alleged under
10 information and belief and premised on only *Huff v. Securitas Security Services USA,*
11 *Inc.* (2018) 23 Cal.App.5th 745, there was no evidence of minimum wage or regular
12 wage violations, thus this claim was given no value.

13 46. As for Plaintiffs' overtime claim, this involved a variety of aspects, such
14 as how the Defendants did not include things like bonus/commission payments into
15 the regulate rate for overtime pay calculations.

16 47. Before mediation we were in possession of a substantial portion of the
17 putative Class's wage records.

18 48. Upon close inspection of the putative Class's wage records, less than
19 65% of the Class were negatively affected by Plaintiffs' theories of overtime pay
20 violations and damages for each of the putative Class Members was often less than \$5
21 for each pay period, meaning the total value of the claim was less than \$100,000.

22 49. As for Plaintiffs' meal and rest break claims, Plaintiffs valued this claim
23 for settlement purposes at less than \$50,000, which is based on a small percentage of
24 nonexempt employees whose records show meal break violations (less than 20%) and
25 our case investigation.

26 50. Defendants pointed out how their written policies were lawful and, as
27 such, class certification would be near impossible under *Brinker Rest. Corp. v. Super.*
28 *Ct.* (2012) 53 Cal.4th 1004, 1053.

51. These and many other defenses Defendants raised and continue to assert played a large part in the settlement amount accepted by the Plaintiffs.

52. As for Plaintiffs' unpaid reimbursement claim, Plaintiffs' estimate putative Class damages for unreimbursed cell phone expenses is only about \$7.96 per each negatively affected putative Class Member who worked remotely.

53. This figure is based on the monthly average cost of cell phones of \$65 per month (see <https://www.nerdwallet.com/blog/utilities/att-cell-phone-plans>), substantially discounted by personal use of the phone compared to work-related use. (See *Cochran v. Schwan's Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140 [the reimbursement amount is a reasonable percentage of the employee's phone bill].)

54. These calculations are illustrated as follows:

Cell Phone LC § 2802 Calcs		Math Formulas
Avg. Price of Cell Phone Plan Per month	\$65.00	
Avg. Price of Cell Phone Plan Per workweek	\$16.25	$\$65/4$
Avg. # of Actual Hours Using Phone on Job During workweek	2.5	
Actual cost of phone for work usage per workweek	\$0.15	$2.5/16.25$
Total Workweeks for the Class	2816	
Total Owed to the Class for Cell Phone Usage	\$422.40	$2816 * .15$
Owed Per Class Member	\$7.96	$\$422/53$

55. Thus, 100% of the total value of Plaintiffs' unpaid reimbursement claim is \$422 for cell phone usage assuming no defense.

56. As for unreimbursed home internet expenses, we gave it a value of \$35,200.

57. These calculations are illustrated as follows:

Cell Phone LC § 2802 Calcs		Math Formulas
Avg. Price of internet plan per month	\$50.00	
Avg. Price of internet plan Per workweek	\$12.5	$\$50/4$
Total Workweeks for the Class	2816	

Total Owed to the Class for internet plan \$35,200 2816*\$12.5
Owed Per Class Member **\$664** \$35,200/53

See <https://www.cnet.com/home/internet/best-internet-providers-in-los-angeles-ca> for the average cost of internet in California.

58. The value of the two remaining viable class claims, i.e., Plaintiffs' Labor Code §§ 203 and 226 claims, were discounted by the difficult legal requirements of having to prove "willfulness" in connection with Plaintiffs' Labor Code § 203 claim and "injury" with respect to their Labor Code § 226 claim.

59. These are not foregone conclusions.

60. The Lab. Code § 226 violations stem from Defendants' failure to pay the correct amount of overtime and break premiums.

61. The estimated statutory damages for Lab. Code § 226 violations are \$50,750 for the 508 pay periods.

62. This is calculated as: [49 pay periods] x [\$100/pay period] + [1 pay period] x [\$50/pay period] = \$50,750.

63. While Plaintiffs believe their Labor Code § 226 claim is one of their best claims, Defendants are quick to point out how it is highly technical and consists more of a "got you" type claim that many courts abhor than a claim involving concrete harm and proof of injury.

64. As for Plaintiffs' Labor Code § 203 claim, of the 53 Class Members, 34 are former employees – i.e., those who left employment with Defendants during the class period.

65. The average rate of pay for Defendants' employees was about \$34.

66. Thus, the average waiting time penalty per former employee is about \$8,160 for a total value of this claim of more than \$277,000.

67. Based on the foregoing, Plaintiffs estimate Defendants total exposure for the Labor Code class claims to be about \$512,000 assuming no defenses and 100% success on all claims.

68. This Settlement provides the gross sum of \$405,000 to the Labor Code Subclass, which is almost 80% of the estimated best case outcome for the Plaintiffs.

69. As for Plaintiffs' PAGA claim, we recognize that PAGA penalties are left to the court's discretion to award per the Labor Code.

70. A court can award the maximum amount of PAGA penalties, nothing, or somewhere in the middle depending on the circumstances.

71. In limiting Defendants' exposure to PAGA penalties, Plaintiffs took into account the immediate remedial measures Defendants voluntarily undertook that would likely have lent Defendants huge support in requesting the Court to award the Plaintiffs low or even no PAGA penalties if this case went to trial.

72. In considering whether to reduce PAGA penalties, courts may evaluate factors such as whether the employer's violations were harmless, whether the violations occurred because the employer simply lacked awareness of the violations, whether the employer took prompt measures to comply with the law upon being notified of its violations, and the employer's inability to pay. *See Thurman v. Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th 1112, at 1135-36 (2012) (affirming a 30% reduction of a PAGA award where employer was not financially able to pay the penalties); *Liv. A Perfect Day Franchise, Inc.*, 2012 WESTLAW 2236752, *15 (N.D. Cal., 2012) (denying PAGA penalties for violation of California Labor Code § 226 as redundant with recovery on a class basis of wage statement penalties pursuant to California Labor Code § 226(e)); *Carrington v. Starbucks Corp.*, 30 Cal.App.5th 504 (2018) (upholding a lower court's significant reduction of PAGA penalties); *Kaanaana et al. v. Barrett Business Services Inc.*, Case No. BC496090 (Super Ct. Los Angeles Cty., Cal.) (reducing PAGA penalties from \$409,950 to \$53,294 after finding the maximum statutory penalty amount to be unjust, arbitrary, oppressive, or confiscatory); *Aguirre v. Genesis Logistics*, 2013 WESTLAW 10936035, *3 (C.D. Cal. 2013) (reducing PAGA penalty for past wage statement violations by nearly 75% where the full penalty amount would have been punitive and PAGA penalties were

1 largely duplicative of wage statement penalties); *Fleming v. Covidien, Inc.*, 2011
2 WESTLAW 7563047, *4 (C.D. Cal. 2011) (reducing PAGA penalties by more than
3 80% where the "aggrieved employees suffered no injury due to the erroneous wage
4 statements, and made no complaint of the errors or omissions contained therein prior
5 25 to filing suit.").

6 73. Here, many of the foregoing factors are present because Defendants'
7 violations were generally harmless, the violations occurred because Defendants
8 simply lacked awareness of the violations, once this suit was filed, Defendants took
9 prompt measures to comply with the law upon being notified of its violations.

10 74. During all times relevant, my office has taken the required steps to keep
11 the LWDA informed and to exhaust all of Plaintiffs' administrative remedies.

12 75. In particular, on May 25, 2022, I personally filed the complaint with the
13 LWDA and was issued LWDA Case No. LWDA-CM-885767-22 as Plaintiffs' case
14 number.

15 76. On August 16, 2022, I took the required steps to file an amended notice
16 with the LWDA adding two new defendants.

17 77. On October 4, 2022, I took the required steps to file Plaintiff's FAC with
18 the LWDA.

19 78. On July 21, 2023, I took the required steps to file Plaintiff's SAC with
20 the LWDA.

21 79. On December 4, 2023, I took the required steps to file Plaintiff's TAC
22 with the LWDA.

23 80. On December 12, 2023, I took the required steps to file these papers with
24 the LWDA.

25 81. So far, the LWDA has given no notice to the Parties of their intent to
26 take this case over and prosecute the claims alleged herein.

27 **Plaintiffs' Counsel's Recommendation.**

28 82. Based on the foregoing, I believe the Settlement is fair and reasonable.

1 83. This belief is based on a variety of factors, such as the disputed factual
2 and legal issues involved in the Action, the risks and substantial expenses involved in
3 the further prosecution of this case, and the benefits Aggrieved Employees will
4 receive via the Settlement.

5 84. Defendants deny each and every one of Plaintiffs' allegations asserted in
6 the operative Complaint and assert they have no liability.

7 85. Nonetheless, Defendants told us they similarly believe there are benefits
8 associated with settling the Action.

9 86. After taking into account the disputed factual and legal issues involved in
10 the Action, the expense and burden of protracted litigation, and their desire to put the
11 controversy to rest, Defendants said they believe the Settlement is in Defendants' best
12 interests and is fair and reasonable.

13 **Enhancement Award.**

14 87. The named Plaintiff very respectfully requests \$10,000 as an
15 Enhancement Award.

16 88. The named Plaintiff played a vital role in this litigation and has the right
17 to receive an Enhancement Award for his services as the representative of the
18 Settlement Class and for the risks assumed by serving as the named Plaintiff, such as
19 liability for costs and stigma to his reputation for suing a former employer.

20 89. Defendants do not oppose the requested Enhancement Award.

21 90. While the details of his services will be briefed more fully when
22 Plaintiffs file their Motion Seeking Attorneys' Fees and an Enhancement Award for
23 the Plaintiff during the final approval process, I can attest that Plaintiff spent
24 considerable time assisting us in the case, was well aware of his duties of serving the
25 putative Class, how he always put his duty to the putative Class over his own interest,
26 and how he likewise was negatively affected by the class claims asserted in this case.

27 91. Plaintiff spent hours communicating with my office frequently,
28 providing us documents, names of witnesses, locations where events took place, and

1 was an invaluable participant in the strategy for and success of the settlement
2 negotiations.

3 92. Plaintiff risked having to succumb to extensive discovery and to the
4 payment of costs if he lost this case.

5 93. Plaintiff also assumed the risk of retaliation in his industry for suing a
6 former employer.

7 94. Via this settlement, Plaintiff will cause members of the Settlement Class
8 to receive money they otherwise would not have received but for this litigation.

9 95. Because the requested Enhancement Payment is reasonable, Plaintiff
10 very respectfully requests the Court to approve the Enhancement Award.

11 96. The named Plaintiffs also very respectfully request \$15,000 as
12 consideration for his Civil Code § 1542 release.

13 97. The foregoing amounts are fair and reasonable because the named
14 Plaintiff maintains he has individual claims, i.e., Labor Code and the Investigative
15 Consumer Reporting Agencies Act (ICRAA) under Civ. Code § 1786, *et seq.*, the
16 total value of which for each well exceed \$30,000 if this case were to go to trial.

17 98. Under the ICRAA alone, the named Plaintiff has the right to recover
18 “actual damages sustained by the consumer as a result of the failure or, except in the
19 case of class actions, \$10,000, whichever sum is greater.” Civ. Code § 1786.50(a)(1).

20 99. For a willful or grossly negligent violations the named Plaintiff may
21 recover punitive damages. Civ. Code § 1786.50(b).

22 100. And under either case, the named Plaintiff may recover costs and
23 attorneys’ fees. Civ. Code § 1786.50(a)(2).

24 101. As the Third Amended Complaint alleges, the question is not whether
25 Defendants violated the ICRAA, but how many times.

26 102. Plaintiff maintains the Defendants violated the ICRAA in many different
27 ways, each violation warrants the imposition of \$10,000 in statutory damages.

28 103. Plaintiff also suffered many Labor Code violations where if his case

1 went to trial, the total amount he could recover would exceed \$25,000 if he prevailed.

2 **Class Counsel's Proposed Fees and Costs.**

3 104. Per the Settlement, my office will seek, and Defendants do not oppose,
4 an award of fees not to exceed 33.33% of the gross settlement and costs not to exceed
5 \$20,000.

6 105. The requested fees and costs are fair compensation for undertaking
7 complex, risky, expensive, and time-consuming litigation solely on a contingency
8 basis.

9 106. Further, the requests are in line with other attorneys' fees awards in
10 California for wage and hour putative class actions.

11 107. As will be demonstrated in Plaintiffs' Counsel's moving papers, which
12 will be filed concurrently with Plaintiffs' Motion for Final Approval, Plaintiffs'
13 Counsel's requested fees are also consistent with his lodestar.

14 **Class Notice.**

15 108. Attached as **Exhibits A and B to Exhibit 1** are copies of the draft notices
16 we request the Court to approve following preliminary approval of the settlement.

17 109. Class Members will receive one or both versions of the Notice of Class
18 Action Settlement depending the Subclass they are in

19 **Conclusion.**

20 For all the foregoing reasons, the parties very respectfully request this Court to
21 judicially approve the Class Settlement and sign the [Proposed] Order filed herewith.

22 Except as to those matters made upon information and belief, I declare under
23 penalty of perjury under the laws of the State of California that the foregoing is true
24 and correct.

25 Executed this day of December 12, 2023, in San Diego, California

26 Thomas D. Rutledge
27 /s/Declarant
28

Exhibit 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Vernon Barnett (“Barnett”) and Defendants, QW Insurance Solutions, LLC (“QWIS” or the “Company”), LendingTree, Inc. and LendingTree, LLC (collectively, “Defendants”). The Agreement refers to Barnett and Defendants collectively as “Parties.” or individually as a “Party.”

1. DEFINITIONS.

- 1.1 “Action” means consolidated San Diego Superior Court Case Nos. 37-2022-00019924-CU-OE-CTL (Lead Case) and 37-2022-00039614-CU-OE-CTL, with the Lead Case titled Vernon Barnett v. QW Insurance Solutions, LLC and initiated in this Court on or about May 25, 2022.
- 1.2 “Administrator” or “Settlement Administrator” means Phoenix Settlement Administrators, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3 “Administration Expenses Payment” means the Court-approved amount the Administrator will be paid from the GSF to reimburse its reasonable fees and expenses.
- 1.4 “Agreement” means this Settlement Agreement.
- 1.5 “Aggrieved Employees” means all persons who are employed or were previously employed by QWIS and/or LendingTree, LLC, and who worked in California and were classified as non-exempt at any time during the PAGA Period.
- 1.6 “Class Action Claims” means all class claims set forth in the Amended Complaint.
- 1.7 “Class Counsel” means Thomas D. Rutledge, Esquire.
- 1.8 “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the Court-approved amounts allocated to Class Counsel for payment and reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action, pursuant to Paragraph 3.2.2.

- 1.9 “Class and Aggrieved Employee Data” means a list of all Class Members and Aggrieved Employees that shall include the name, last known address, and social security number of each such person.
- 1.10 “Class Member” or “Settlement Class Member” means a member of the Wage and Hour Class and/or FCRA Class, as either a Participating Class Member or Non-Participating Class Member.
- 1.11 “Class Member and Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Class Members’ and Aggrieved Employees’ current mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members and Aggrieved Employees.
- 1.12 “Class Notice” means the separate Notices sent out to the Wage and Hour Class and FCRA Class.
- 1.13 “Class Representative” means Barnett.
- 1.14 “Class Representative Enhancement Payment” means the Court-approved enhancement award to the Class Representative for initiating the Action and providing services in support of the Actions pursuant to Paragraph 3.2.1.1.
- 1.15 “Court” means the Superior Court of California, County of San Diego.
- 1.16 “Defense Counsel” means Attorneys David A. Wimmer and Allison R. Musante at Swerdlow Florence Sanchez Swerdlow & Wimmer, ALC, the attorneys representing Defendants in the Action.
- 1.17 “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment becomes final. The Judgment becomes final as of the latest of the following occurrences: (1) if no Participating Class Member objects to the Settlement, sixty one (61) calendar days following the date the Court enters an order granting Final Approval of the Settlement, assuming no appeal or objection is filed; (2) or if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or (3) if a timely appeal from the Judgment is filed, the

day after the appellate court affirms the Judgment and issues a remittitur.

- 1.18 “FCRA” means the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*
- 1.19 “FCRA Class” means 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 during the FCRA Class Period.
- 1.20 “FCRA Class Claims” or “FCRA Class Action Complaint” or “FCRA Class Lawsuit” means the pleadings and individual and class-action claims for obtaining consumer reports without proper disclosure and obtaining consumer reports without proper authorization that have been asserted or that could have been asserted under the FCRA in the Action.
- 1.21 “FCRA Class Notice” means the COURT APPROVED NOTICE OF FCRA CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to FCRA Class Members in English in the form, without material variation, attached as Exhibit B and incorporated by reference into this Agreement.
- 1.22 “FCRA Class Period” means the period from May 25, 2020, through the date on which the Court issues its Preliminary Approval Order.
- 1.23 “Final Approval” means the Court’s Order granting final approval of the Settlement.
- 1.24 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.25 “Final Judgment” means the Judgment entered by the Court upon granting Final Approval of the Settlement.
- 1.26 “General Release Payment” means the payment Defendants will make to Barnett on account of Barnett providing a general release of any and all claims against Defendants and all Released Parties, including a waiver of rights under California Civil Code Section 1542, as discussed in Paragraph 3.2.1.2.
- 1.27 “Gross Settlement Amount” or “Gross Settlement Fund” or “GSF” means Four Hundred Fifty Thousand Dollars and Zero Cents

(\$450,000.00), which is the total amount Defendants agree to pay under the Settlement, except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay the Individual Wage and Hour Class Payments, Individual FCRA Class Payments, Individual PAGA Payments to Aggrieved Employees, LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Enhancement Payment, and Administration Expenses Payment. The GSF does not include the employer-side payroll taxes that shall be separately paid by the Defendants on the portion of the settlement proceeds allocated as back wages to the Wage and Hour Class.

- 1.28 “Individual FCRA Class Payment” means a Participating FCRA Class Member’s share of the Net Settlement Amount apportioned to the FCRA Class, as discussed in Paragraph 3.3.3. Payments to the FCRA Class Members will be divided equally among the participating FCRA Class Members.
- 1.29 “Individual PAGA Payment” means an Aggrieved Employee’s share of 25% of the PAGA Award, which will be paid to the Aggrieved Employees on a pro rata, payroll period basis, as discussed in Paragraph 3.3.1.
- 1.30 “Individual Wage and Hour Class Payment” means a Participating Wage and Hour Class Member’s share of the Net Settlement Amount apportioned to the Wage and Hour Class, which will be paid to the Wage and Hour Class Members on a pro rata basis per workweek, as discussed in Paragraph 3.3.2.
- 1.31 “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.32 “LWDA” means the California Labor and Workforce Development Agency.
- 1.33 “LWDA PAGA Payment” means the 75% of the PAGA Award paid to the LWDA under Labor Code Section 2699, subd. (i), as discussed in Paragraph 3.3.1.
- 1.34 “Net Settlement Amount” or “Net Settlement Fund” or “NSF” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Class Representative Enhancement

Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The Net Settlement Amount is to be distributed to the LWDA, the Aggrieved Employees, and the Participating Wage and Hour Class Members and Participating FCRA Class Members as outlined in this Agreement.

- 1.35 “Non-Participating Class Member” means any Class Member who opts out of the Settlement of the Wage and Hour and/or FCRA Class Action Claims by sending the Administrator a valid and timely Request for Exclusion. A Non-Participating Class Member who is also an Aggrieved Employee cannot opt out of the PAGA Award.
- 1.36 “PAGA” means the Labor Code Private Attorneys General Act of 2004 (Labor Code §§ 2698. *et seq.*).
- 1.37 “PAGA Award” means Twenty Thousand Dollars and Zero Cents (\$20,000.00), which is the total amount of alleged but disputed PAGA civil penalties to be paid from the Net Settlement Amount, allocated 25% to the Aggrieved Employees (\$5,000.00) and 75% to the LWDA (\$15,000.00), pursuant to Paragraph 3.3.1.
- 1.38 “PAGA Claims” means the individual and representative claims for civil penalties set forth in the Action.
- 1.39 “PAGA Notice” collectively means: (1) Plaintiffs’ March 25, 2022 Letter, to QWIS and the LWDA providing notice pursuant to California Labor Code Section 2699.3, subd. (a), of Plaintiffs’ alleged claims for civil penalties; and (2) the August 16, 2022, Amended Letter to LendingTree, Inc. and LendingTree, LLC, and the LWDA, providing notice pursuant to California Labor Code Section 2699.3, subd.(a), of Plaintiffs’ alleged claims for civil penalties.
- 1.40 “PAGA Period” means the period from May 25, 2021, through the date on which the Court issues its Preliminary Approval Order.
- 1.41 “Participating Class Member” means a Wage and Hour Class Member or FCRA Class Member who does not submit a valid and timely Request for Exclusion.
- 1.42 “Parties” means Barnett and Defendants.
- 1.43 “Plaintiffs” mean Barnett on behalf of himself and the Aggrieved Employees and/or the Class Members.

- 1.44 “Preliminary Approval” or “Preliminary Approval Order” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.45 “Related Cases” means the FCRA Class Lawsuit and the Wage and Hour Class Action and PAGA Lawsuit.
- 1.46 “Released FCRA Class Claims” means the claims being released as described in Paragraph 6.2 below.
- 1.47 “Released PAGA Claims” means the claims being released as described in Paragraph 6.3 below.
- 1.48 “Released Wage and Hour Class Claims” means the claims being released as described in Paragraph 6.2 below.
- 1.49 “Released Parties” means QWIS, Lending Tree, LLC, Lending Tree, Inc., and its and their divisions, subsidiaries, partnerships, parents, affiliated corporations, trusts, or other related entities, past and present, and each of them, as well as its and their directors, officers, shareholders, partners, members, representatives, executors, trustees, administrators, beneficiaries, assignees, successors, business managers, agents, contractors, insurers, benefit plans, attorneys, and employees, past and present, and each of them and their marital community.
- 1.50 “Request for Exclusion” means a Class Member’s submission of a written request, signed by the Class Member, to be excluded from the Settlement of Class Action Claims, pursuant to Paragraph 8.5.
- 1.51 “Response Deadline” means 45 days after the Administrator mails Notice to Class Members and Aggrieved Employees pursuant to Paragraph 8.5, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 15 calendar days or 45 calendar days from the original mailing, whichever is earlier, from when the Response Deadline has expired.
- 1.52 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.53 “Third Amended Complaint” or “Operative Complaint” means the Third Amended Class Action and PAGA Complaint Barnett filed in the

Action via joint Stipulation with Defendants on August 1, 2023, in this Court and approved by the Court by signed Order on August 3, 2023.

- 1.54 “Wage and Hour Class” means 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 during the Wage and Hour Class Period.
- 1.55 “Wage and Hour Class Action and PAGA Claims,” “Wage and Hour Claims,” “Wage and Hour Class Action and PAGA Complaint,” “Wage and Hour Class Action and PAGA Lawsuit,” or “Wage and Hour Class Action” means the pleadings and individual and class-action claims that have been asserted or that could have been asserted in Case No. 37-2022-00019924-CU-OE-CTL.
- 1.56 “Wage and Hour Class/PAGA Notice” means the COURT APPROVED NOTICE OF CLASS ACTION AND PAGA SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to the Wage and Hour Class Members in English in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.57 “Wage and Hour Class Period” means the period from May 25, 2018, through the date on which the Court issues its Preliminary Approval Order.

2. RECITALS.

- 2.1 On May 25, 2022, Plaintiffs filed a letter with the LWDA alleging that QWIS violated numerous provisions of the California Labor Code and was seeking to recover penalties under PAGA. That same day, on May 25, 2022, Plaintiffs filed an individual and class-action lawsuit, which included representative claims for civil penalties under PAGA, against QWIS in this Court alleging: (1) failure to pay minimum/regular wages; (2) failure to pay state overtime; (3) failure to comply with meal break laws; (4) failure to comply with rest break laws; (5) failure to reimburse expenses; (6) failure to provide accurate wage statements; (7) failure to pay wages timely; (8) failure to provide and maintain records; (9) violations of the California Investigative Consumer Reporting Agencies Act (the “ICRAA”); and (10) violation of the Business and Professions Code (the Wage and Hour Class Action and PAGA Complaint). On July 18, 2022, QWIS timely answered denying all allegations.

- 2.2 On August 16, 2022, Plaintiffs filed an amended letter with the LWDA, alleging that LendingTree, Inc. and LendingTree, LLC, also violated PAGA by failing to comply with numerous provisions of the California Labor Code.
- 2.3 On August 18, 2022, Plaintiffs filed form amendments in the Wage and Hour Class Action naming defendants LendingTree, Inc. and LendingTree, LLC as DOES 1 and 2 respectively. On September 20, 2022, LendingTree, Inc. and Lending Tree, LLC, timely answered, denying all allegations.
- 2.4 On October 4, 2022, Plaintiffs filed a separate individual and class-action lawsuit against Defendants alleging two causes of action under the FCRA for (1) obtaining consumer reports without proper disclosure; and (2) obtaining consumer reports without proper authorization (the FCRA Class Action Complaint). Plaintiffs filed a notice of related cases with the Court relating this lawsuit with the Wage and Hour Class Action.
- 2.5 On November 28, 2022, Defendants filed a Demurrer to the FCRA Class Action Complaint. On May 1, 2023, instead of opposing the Demurrer, Plaintiffs filed a First Amended FCRA Complaint against Defendants, alleging the same class action and individual claims under the FCRA as in the initial complaint, as well as now adding a third claim for common law violation of the right to privacy. Defendants' response and/or removal deadline was May 31, 2023.
- 2.6 On May 23, 2023, the Parties participated in an all-day mediation presided over by Mark S. Rudy, an experienced mediator.
- 2.7 Before mediation, Plaintiffs obtained, through informal discovery, payroll and timekeeping data for employees at QWIS and LendingTree, LLC for the time period of May 25, 2018, through January 4, 2023. Defendants also produced data regarding the number of applicants who completed background check disclosures between May 23, 2020, and May 25, 2022. from Checkr, Inc., the private company Defendants contracted with to perform background checks during this time period.
- 2.8 At mediation, the Parties settled the Action. This settlement was initially documented by a Memorandum of Agreement signed by the Parties, which was fully executed as of May 25, 2023.

- 2.9 As part of the Memorandum of Agreement, Defendants warranted and represented that the data files Defendants provided to Barnett via counsel via Dropbox sharing before mediation were true and accurate and that the mediation privilege as to these Dropbox-shared data files would not apply in the event of a dispute over this warranty and representation. Additionally, Defendant LendingTree, Inc. warranted and represented that, standing alone and without regard to any allegation of it being a joint employer or alter ego with any other Defendant or Released Party, it currently did not have and has had no California-based employee during the Wage and Hour Class Period, the FCRA Class Period, and/or the PAGA Period and, if it did, Defendant LendingTree, Inc. would not be a Released Party as to the Wage and Hour Class only.
- 2.10 As part of their settlement and the Memorandum of Agreement, the Parties agreed to stay all litigation except that which is needed to effectuate this Agreement.
- 2.11 As part of their settlement, Plaintiffs agreed to file an Amended Complaint that included all individual, class and/or representative claims that have been asserted or that have threatened to be asserted in the Action. In addition, the Amended Complaint also had to include all other amendments necessary to give full effect to this settlement. Defendants stipulated to the filing of an Amended Complaint for settlement purposes only, and reserved their rights and declared they would and will oppose Plaintiffs' attempt to file an amended complaint for other than settlement purposes should the Court fail to issue its Final Approval.
- 2.12 On June 9, 2023, the Parties attended a Case Management Conference (the "CMC") for the Related Cases. At the CMC, the Parties advised the Court of the settlement. The Court then consolidated the Related Cases for settlement purposes only, with Case No. 37-2022-00019924-CU-OE-CTL being the Lead Case, and ordered Plaintiffs to file, via Stipulation, an Amended Complaint in the Action for settlement purposes only. The Court further ordered that the Stipulation should include that Defendants are not required to answer or otherwise respond to the Amended Complaint because of the pending settlement of the Action.
- 2.13 On or about July 18, 2023, the Parties filed a joint stipulation, which included the filing of Plaintiffs' Second Amended Complaint. On July

21, 2023, the Court signed the accompanying Order ordering that (1) Case No. 37-2022-00019924-CU-OE-CTL and Case No. 37-2022-00039614-CU-OE-CTL are hereby consolidated for settlement purposes only, with Case No. 37-2022-00019924-CU-OE-CTL being the Lead Case (the “Consolidated Action”); (2) the Second Amended Complaint was filed for settlement purposes only; and (3) Defendants are not required to answer or otherwise respond to the Second Amended Complaint because of the pending settlement of the Consolidated Action.

- 2.14 On or about August 1, 2023, the Parties filed another joint stipulation, which included the filing of Plaintiffs’ Third Amended Complaint; this was filed to correct an error in the Second Amended Complaint. On August 3, 2023, the Court signed the accompanying Order, which stated that (1) the Third Amended Complaint was filed for settlement purposes; and (2) Defendants are not required to answer or otherwise respond to the Third Amended Complaint because of the pending settlement of the Consolidated Action.
- 2.15 At the CMC, the Court set the Hearing for Plaintiffs’ Motion for Preliminary Approval of the Settlement for October 20, 2023.
- 2.16 Defendants deny any and all allegations raised in the Action, deny any failure to comply with the laws identified in the Action, and deny any and all liability for the causes of actions alleged in the Action.
- 2.17 The Court has not yet granted class certification in the Action.
- 2.18 The Parties, Class Counsel and Defense Counsel represent they are unaware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendants shall pay the Gross Settlement Amount as provided in this Agreement. Defendants, however, have no obligation to pay the GSF before the deadline stated in Paragraph 4.2 of this Agreement. The Administrator will disburse the entire GSF without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the GSF will revert to Defendants. Any amounts not received via mail and/or not timely

negotiated by any Class Member or Aggrieved Employee will be transmitted by the Administrator pursuant to governing law to the California Controller's Office, Unclaimed Property Fund, as set forth in Paragraph 4.3.4 of this Agreement.

- 3.2 Payments from the GSF. The Administrator will make and deduct the following payments from the GSF, in the amounts specified and approved by the Court in the Final Approval:

3.2.1 To Barnett:

3.2.1.1 Defendants will not oppose a Class Representative Enhancement Payment to the Class Representative of not more than Ten Thousand Dollars and Zero Cents (\$10,000.00) (in addition to Barnett's General Release Payment and any Individual Wage and Hour Class Payment, Individual FCRA Class Payment, and Individual PAGA Payment which the Class Representative has the right to receive as a Participating Class Member) if Class Representative signs the Agreement, does not submit a Request for Exclusion, and does not take any action, directly or indirectly, to undercut this settlement, subject to final approval by the Court.

3.2.1.2 A General Release payment of Fifteen Thousand Dollars and Zero Cents (\$15,000.00) on account of Barnett providing a general release of any and all claims against the Defendants and all Released Parties, including a waiver of rights under California Civil Code Section 1542. Defendants will make this payment if Barnett signs the Agreement, does not submit a Request for Exclusion, and does not take any action, directly or indirectly, to undercut this settlement.

3.2.1.3 As part of Plaintiffs' Motion for Approval of Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Plaintiffs will seek Court approval for the Class Representative Enhancement Payment no later than

16 court days before the Final Approval Hearing. The Parties agree the Court's approval of the Class Representative Enhancement Payment is not a condition of the settlement and will not be grounds for terminating the Agreement.

3.2.1.4 In the event of any appeal of the amount of the Class Representative Enhancement Payment (if any) approved by the Court, if, after the exhaustion of any such appellate review, additional amounts are distributable to the Class Members, the cost of administration of the additional payments to them will be paid out of such additional amounts and not by Defendants.

3.2.1.5 If the Court approves a Class Representative Enhancement Payment less than the amount requested, the Administrator will add the remainder to the Net Settlement Fund for distribution to the Class Members.

3.2.1.6 The Administrator will issue an IRS Form 1099 to Barnett for the Class Representative Enhancement Payment and the General Release Payment. Barnett assumes full responsibility and liability for all taxes owed on the Class Representative Enhancement Payment and General Release Payment.

3.2.2 To Class Counsel: Defendants will not oppose a Class Counsel Fees Payment of not more than thirty-three percent (33%) of the GSF, which is currently estimated to be One Hundred Forty Eight Thousand Five Hundred Dollars and Zero Cents (\$148,500.00), and a Class Counsel Litigation Expenses Payment of not more than Twenty Thousand Dollars and Zero Cents (\$20,000).

3.2.2.1 Plaintiffs will file a motion for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment no later than 16 court days before the Final Approval Hearing.

3.2.2.2 If the Court awards any amount less than that requested by Class Counsel, it will not be grounds for Barnett or his counsel terminating the Agreement, but may be subject to appeal by them. In the event of such an appeal, final funding and administration of the portion of the attorneys' fees and/or costs award in dispute will be segregated by the Administrator and stayed pending the exhaustion of appellate review regarding these payments to Class Counsel. After the exhaustion of any such appellate review, any amount not awarded as the Class Counsel Fees Payment or Class Counsel Litigation Expenses Payment shall be added to the NSF for distribution to the Class Members per the terms of this Agreement. If there are further costs of administration regarding these additional payments, those administrative costs will be the sole responsibility of Class Counsel and not of Defendants.

3.2.2.3 Class Counsel may elect to have the Settlement Administrator, directly or indirectly, disburse all or part of his Court-approved attorneys' fees award paid to him in periodic payments, through a structured settlement and/or to an assignee. Class Counsel will bear any and all costs, fees, and expenses of administration for any periodic payments of such award and shall be fully responsible for any taxes, costs, liabilities, attorneys' fees, and/or penalties resulting from any issues, claims, and/or disputes arising out of, related to, or incurred in connection with any such periodic payments, including without limitation, any such issues, claims, and/or disputes brought by the state or federal government concerning the payment of taxes thereon. Class Counsel shall indemnify, defend, and hold Defendants and Defense Counsel harmless for any and all taxes, costs, liabilities, attorneys' fees, and/or penalties resulting from any issues, claims, and/or disputes arising out of, related to, or incurred in connection with any such periodic payments.

3.2.2.4 Released Parties shall have no liability to Class Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment.

3.2.2.5 The Administrator will issue an IRS Form 1099 to Class Counsel for the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants and Defense Counsel harmless, and indemnifies Defendants and Defense Counsel from any dispute or controversy regarding any division or sharing of any or all of the Class Counsel Fees Payment and/or Class Counsel Litigation Expenses Payment.

3.2.3 To the Administrator: Administration Expenses Payment not to exceed \$12,000.00, except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$12,000.00, the Administrator will add the remainder to the Net Settlement Fund for distribution to the Class Members.

3.3 Payment From the Net Settlement Fund: The NSF is the remaining amount from the GSF after the payments to Barnett, Class Counsel, and the Administrator have been made as per Paragraph 3.2. The Administrator shall make the following payments from the NSF, subject to the Court's Final Approval:

3.3.1 PAGA Award: Twenty Thousand Dollars and Zero Cents (\$20,000.00) of the NSF shall be considered the PAGA Award and will be distributed to the LWDA and Aggrieved Employees as follows:

3.3.1.1 Seventy-five percent (75%) (i.e., Fifteen Thousand Dollars and Zero Cents (\$15,000.00)) of the PAGA Award shall be paid to the LWDA.

3.3.1.2 Twenty-five percent (25%) (i.e., Five Thousand Dollars and Zero Cents (\$5,000.00)) will be paid to the Aggrieved Employees on a pro rata, payroll period basis during the PAGA Period. All such PAGA Award amounts shall be reported by the Settlement Administrator by year's end via IRS Form 1099.

3.3.1.3 If the Court approves a PAGA Award of less than the amount requested, the Administrator will retain the remainder in the NSF.

3.3.2 Wage and Hour Class Payments: Ninety percent (90%) of the NSF after payment of the PAGA Award (see Paragraph 3.3.1 *supra*) shall be considered to be settlement payments to the Wage and Hour Class, of which eighty percent (80%) shall be paid on account of alleged but disputed liquidated damages, civil and statutory penalties and interest, with such amount to be reported by the Settlement Administrator by year's end via IRS Form 1099, and the remaining twenty percent (20%) shall be paid as alleged but disputed back wages subject to payroll withholdings and deductions, with such amount to be reported by the Settlement Administrator by year's end via IRS Form W-2.

3.3.2.1 The settlement proceeds will be paid to the Participating Wage and Hour Class Members on a pro-rata basis per workweek during the Wage and Hour Class Period.

3.3.2.2 Employer-side payroll taxes shall be separately paid by the Defendants on the portion of the settlement proceeds allocated as back wages to the Wage and Hour Class.

3.3.3 FCRA Class Payments. Ten percent (10%) of the NSF after payment of the PAGA Award (see Paragraph 3.3.1 *supra*) shall be considered to be settlement payments to the FCRA Class, all of which shall be paid as alleged and disputed liquidated damages, statutory penalties and interest, with such amount to be reported by the Settlement Administrator by year's end via IRS Form 1099.

3.3.3.1 Payments to the Participating FCRA Class Members will be divided equally among the Participating FCRA Class Members.

3.3.4 Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Wage and Hour Class Payments and/or Individual FCRA Class Payments. The Administrator will

retain amounts equal to their Individual Class Payments in the NSF for distribution to Participating Class Members of the class for which they were members per the terms of this Agreement.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 Class and Aggrieved Employee Data.

4.1.1 FCRA Class Members Background Checks. Based on a review of its records, Defendants represent there are 1,023 people who completed background check disclosures between May 23, 2020, and May 25, 2022.

4.1.2 Wage and Hour Class Data and Aggrieved Employee Data. Defendants represent the total estimated number of weeks worked by Wage and Hour Class Members from May 25, 2018, through January 4, 2023, is approximately 2816 workweeks.

4.1.3 Data to the Administrator. Within 30 days following the Court granting Preliminary Approval, Defendants shall provide to the Administrator a list of all persons who comprise the Wage and Hour Class, the FCRA Class, and the Aggrieved Employees, as well as the number of workweeks worked by the Wage and Hour Class during the Wage and Hour Class Period and the relevant payroll periods for the Aggrieved Employees during the PAGA Period. These lists shall also include the name, last known address, and social security number of each Class Member and/or Aggrieved Employee, shall not be provided to Class Counsel, and shall be used only by the Administrator. To protect privacy rights, the Administrator must maintain the Class and Aggrieved Employee Data in confidence, use it only for purposes of this Settlement and for no other purpose, and restrict access to the Class and Aggrieved Employee Data to Administrator employees who need access to the data to perform their duties and responsibilities under this Agreement.

4.2 Funding of GSF. None of the GSF will be payable by Defendants before the Final Approval and the Effective Date of the Settlement. Once those occur, Defendants will be obligated to fully fund the GSF by transmitting the funds to the Administrator no later than 30 days after the Effective Date.

4.3 Payments from the GSF and the NSF. Within 30 days after Defendants fund the GSF, the Administrator will mail checks for all Individual Wage and Hour Class Payments, all Individual FCRA Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the Class Representative Enhancement Payment, and the General Release Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the Administration Expenses Payment, and the Class Representative Enhancement Payment shall not precede disbursement of Individual Wage and Hour Class Payments, Individual FCRA Class Payments, Individual PAGA Payments, and the General Release Payment.

4.3.1 The Administrator will mail a check for Barnett's General Release Payment to Class Counsel when it sends Class Counsel the Class Representative Enhancement Payment.

4.3.2 The Administrator will issue checks for the Individual Wage and Hour Class Payments, Individual FCRA Class Payments, and Individual PAGA Payments and will send these checks to all Participating Class Members (including those for whom Class Notice was returned undelivered) and all Aggrieved Employees, including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Aggrieved Employees a single check combining any Class Member payments with the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.3.3 The Administrator will send all checks via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date.

4.3.4 The Administrator must conduct a Class Member and Aggrieved Employee Address Search for all Class Members and Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within seven business days of receiving a

returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member and Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Class Members and Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member or Aggrieved Employee whose original check was lost or misplaced if requested by the Class Member or Aggrieved Employee before the void date.

4.3.5 For any Class Member or Aggrieved Employee whose Individual Wage and Hour Class Payment check, Individual FCRA Class Check, or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member or Aggrieved Employee, thereby leaving no "unpaid residue" in the GSF or NSF subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

4.3.6 The payment of Individual Wage and Hour Class Payments, Individual FCRA Class Payments, and Individual PAGA Payments shall not obligate Defendants to confer any additional benefits or make any additional payments to Class Members and Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement. Such payments also shall not effect the regular rate of pay for any such person.

6. **RELEASES OF CLAIMS.** Upon Final Approval of the Settlement, entry of Judgment, and payments by Defendants of the full GSF thereon to the Administrator, Barnett, Participating Class Members, Aggrieved Employees, the LWDA and Class Counsel will release claims against all Released Parties as follows:

6.1 Barnett's General Release. In exchange for Barnett's General Release Payment, and for other good and valuable consideration, the receipt of which is hereby acknowledged, Barnett for himself and for his respective spouses, domestic partners, marital community, children, estates, heirs, trusts, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, personal representatives, and assignees does forever and completely release and

discharge and covenant not to sue the Released Parties with respect to any and all claims, demands, liens, agreements, contracts, grievances, covenants, actions, suits, causes of action, wages, obligations, debts, liquidated damages, penalties, interest, costs, expenses, attorneys' fees, damages, judgments, orders and liabilities of whatever kind or nature in law, equity or otherwise, whether now known or unknown, suspected or unsuspected, concealed or hidden, which Barnett now owns or holds or has at any time heretofore owned or held as against said Released Parties, or any of them. Such released claims include specifically, but not exclusively and without limiting the generality of the foregoing, any and all claims, demands, agreements, grievances, obligations and causes of action, known or unknown, suspected or unsuspected, concealed or hidden, including but not limited to all claims arising out of, based upon, relating to, or in any way connected with:

- 6.1.1 Barnett's application for, conditional offer of, employment at, and separation from, Defendants;
- 6.1.2 Any allegation in the Action, including in the Third Amended Complaint;
- 6.1.3 Any transactions, occurrences, acts or omissions set forth, or facts alleged, in any and all charges, complaints, claims, grievances or pleadings filed by Barnett against any Released Party before the Effective Date with any city, county, state or federal agency, commission, office or tribunal whatsoever, including, but not limited to, the California Civil Rights Department, State of California, the Equal Employment Opportunity Commission, the United States Department of Labor, the LWDA, the federal and/or California Occupational Safety and Health Administration, and the National Labor Relations Board; and/or
- 6.1.4 Any transactions, occurrences, acts or omissions occurring before the Effective Date, including specifically without limiting the generality of the foregoing any claim under Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Employee Retirement Income Security Act, the National Labor Relations Act, the Fair Labor Standards Act, the Family and Medical Leave Act, the California Constitution, the California Labor Code, the California Civil Code, the California Government Code, the California Business & Professions Code, or any other federal, state, or local statute or regulation.

6.1.5 Barnett agrees that there is a risk that any injury that he may have suffered by reason of the Released Parties' relationship with him might not now be known, and there is a further risk that said injuries, whether known or unknown, suspected or unsuspected, concealed or hidden, at the date of this Agreement, might possibly become progressively worse, and that as a result thereof further damages may be sustained. Nevertheless, Barnett agrees to forever and fully release and discharge the Released Parties, and understands that by the execution of this Agreement no further claim for any such injuries that existed at the time of the execution of this Agreement may ever be asserted by Barnett with respect to any and all claims arising in the time period from the beginning of time to the execution of this Agreement.

6.1.6 Barnett's Waiver of Rights Under California Civil Code Section 1542. For purposes of Barnett's Release, Barnett expressly waives and relinquishes the provisions, rights, and benefits, if any, of Section 1542 of the California Civil Code, which reads:

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at 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."

Barnett acknowledges that Barnett may hereafter discover claims or facts in addition to or different from those which Barnett now knows or believes to exist with respect to the subject matter of this Agreement and which, if known or suspected at the time of executing this Agreement, may have materially affected this settlement. Nevertheless, Barnett hereby waives any right, claim or cause of action that might arise as a result of such different or additional claims or facts. Barnett acknowledges that Barnett understands the significance and consequence of such release and such specific waiver of Section 1542.

6.2 Release by Participating Class Members.

6.2.1 Release by Participating Wage and Hour Class Members: All Participating Wage and Hour Class Members are deemed to forever and completely release and discharge and covenant not to sue, on behalf of themselves and their respective former and

present representatives, agents, attorneys, spouses, domestic partners, children, marital community, estates, heirs, trusts, administrators, successors, and assigns, the Released Parties from the Released Wage and Hour Class Claims. The “Released Wage and Hour Class Claims” include, without limitation, any and all claims, demands, rights, liabilities, and causes of action that were or could have been pleaded under local, state or federal law based on the facts alleged in the Wage and Hour Class Action and PAGA Complaint and the Third Amended Complaint against Defendants and the Released Parties arising during the Wage and Hour Class Period, including, but not limited, to claims for (1) failure to pay minimum/regular wages; (2) failure to pay state overtime; (3) failure to comply with meal break laws; (4) failure to comply with rest break laws; (5) failure to reimburse expenses; (6) failure to provide accurate wage statements; (7) failure to pay wages timely; (8) failure to provide and maintain records; and (9) violation of the Business and Professions Code. “Released Wage and Hour Class Claims” also include any claims that arise from, are related to, or are otherwise reasonably connected with the facts alleged in the Wage and Hour Class Action and PAGA Complaint and the Third Amended Complaint.

- 6.2.2 Release by Participating FCRA Class Members: All Participating FCRA Class Members are deemed to forever and completely release and discharge and covenant not to sue, on behalf of themselves and their respective former and present representatives, agents, attorneys, spouses, domestic partners, children, marital community, estates, heirs, trusts, administrators, successors, and assigns, the Released Parties from the Released FCRA Class Claims. The “Released FCRA Class Claims” include, without limitation, any and all claims, demands, rights, liabilities, and causes of action that were or could have been pleaded under local, state or federal law based on the facts alleged in the FCRA Class Action and the Third Amended Complaint against Defendants and the Released Parties arising during the FCRA Class Period, including, but not limited to, the alleged claims under the Fair Credit Reporting Act and the common law violation of the right to privacy. “Released FCRA Class Claims” also include any claims that arise from, are related to, or are otherwise reasonably connected with the facts alleged in the

FCRA Class Action Complaint and the Third Amended Complaint.

6.2.3 It is the intent of the Parties that the Final Judgment entered by the Court shall have full equitable estoppel and res judicata effect and be final and binding upon the Class Representative and the Participating Wage and Hour Class Members regarding the Released Wage and Hour Class Claims.

6.2.4 It is the intent of the Parties that the Final Judgment entered by the Court shall have full equitable estoppel and res judicata effect and be final and binding upon the Class Representative and the Participating FCRA Class Members regarding the Released FCRA Class Claims.

6.2.5 Each Participating Wage and Hour Class Member and Participating FCRA Class Member will be deemed to have made the foregoing Release as if by manually signing it.

6.3 Release by Aggrieved Employees and the LWDA: All Aggrieved Employees (whether a Participating Class Member or a Non-Participating Class Member), including Barnett, standing in the shoes of the Labor Commissioner/LWDA to the extent permitted by law, and on behalf of the State of California and all Aggrieved Employees, are deemed to forever and completely release and discharge and covenant not to sue, on behalf of themselves and their respective former and present representatives, agents, attorneys, spouses, domestic partners, children, marital community, estates, heirs, trusts, administrators, successors, and assigns, the Released Parties from the Released PAGA Claims. The “Released PAGA Claims” means any and all claims, demands, rights, liabilities, and causes of action for civil penalties that were or could have been pleaded under local, state or federal law, based on the facts alleged in the Plaintiffs’ PAGA Notice, the Wage and Hour Class Action and PAGA Complaint, and the Third Amended Complaint against Defendants and the Released Parties arising during the PAGA Period, including, but not limited to, all claims for civil penalties arising under California Labor Code Sections 96, 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, 213, 221, 222, 222.5, 223, 224, 226, 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, 231, 232, 232.5, 233, 234, 351, 353, 403, 404, 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800,

850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1174, 1194, 1197, 1197.1, 1197.5, 1198, 1198.3, 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, 1695, 1695.5, 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, 2673, 2673.1, 2695.2, 2699, 2699.3, 2800, 2801, 2802, 2806, 2810, 2929, 3073.6, 6310, 6311, and 6399.7.

“Released PAGA Claims” also include any claims for civil penalties that arise from, are related to, or are otherwise reasonably connected with the facts alleged in the Wage and Hour Class Action and PAGA Complaint and the Third Amended Complaint.

6.3.1 It is the intent of the Parties that the Final Judgment entered by the Court shall have full equitable estoppel and res judicata effect and be final and binding upon the Plaintiff, the LWDA, and the Aggrieved Employees regarding the Released PAGA Claims.

6.3.2 Each Aggrieved Employee and the LWDA will be deemed to have made the foregoing Release as if by manually signing it.

7. **MOTION FOR PRELIMINARY APPROVAL.** Barnett shall prepare and file a Motion for Preliminary Approval (“Motion for Preliminary Approval”).

7.1 **Class Counsel’s Responsibilities.**

7.1.1 Not later than thirty (30) business days before the filing of their Motion for Preliminary Approval, Class Counsel will submit a near-final draft (including all supporting papers and proposed order) to Defense Counsel for their review and approval. Specifically, Class Counsel will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support of, the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)) (“Approval of PAGA Settlement”); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) draft proposed Class Notices (one for the Wage and Hour Class and one for the FCRA Class); and (iv) a signed declaration from Class Counsel attesting to his

competency to represent the Class Members and Aggrieved Employees and that he has timely transmitted to the LWDA all necessary PAGA documents (i.e., the initial notice of violations (Labor Code section 2699.3, subd. (a)), the Operative Complaint (Labor Code section 2699, subd. (1)(1)), and this Agreement (Labor Code section 2699, subd. (1)(2))).

7.1.2 Class Counsel is responsible for expeditiously drafting, finalizing and filing the Motion for Preliminary Approval and complying with and meeting all deadlines related to the hearing date on the Motion for Preliminary Approval, which has been set by the Court for October 20, 2023.

7.1.3 Class Counsel is responsible for sending the Administrator a copy of the Court's Preliminary Approval Order.

7.1.4 Class Counsel will timely comply with California Labor Code Section 2699(1)(2) by submitting the Motion for Preliminary Approval of the Settlement to the LWDA concurrently with Plaintiffs' submission to the Court.

7.2 Joint Responsibilities. Class Counsel and Defense Counsel are jointly responsible for appearing in Court to advocate in favor of the Motion for Preliminary Approval.

7.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement (but not increasing the GSF) and otherwise satisfy the Court's concerns.

8. SETTLEMENT ADMINISTRATION.

8.1 Selection of Administrator. Plaintiffs have selected Phoenix Settlement Administrators to serve as the Administrator and verified that, as a condition of appointment, Phoenix Settlement Administrators agrees to be bound by this Agreement and to perform, as a fiduciary, all duties

specified in this Agreement in exchange for payment of the Administration Expenses Payment. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

8.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of providing reports to state and federal tax authorities.

8.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

8.4 Notice to Class Members.

8.4.1 No later than three (3) business days after receipt of the Class and Aggrieved Employee Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Wage and Hour Class Members, FCRA Class Members, and Aggrieved Employees in the Class and Aggrieved Employee Data.

8.4.2 Not later than 14 days after receiving the Class and Aggrieved Employee Data, the Administrator will: (1) send to all Wage and Hour Class Members and Aggrieved Employees (if applicable) identified in the Class and Aggrieved Employee Data, via first-class United States Postal Service ("USPS") mail, the Wage and Hour Class/PAGA Notice substantially in the form attached to this Agreement as Exhibit A; and (2) send to all FCRA Class Members identified in the Class and Aggrieved Employee Data, via first-class United States Postal Service ("USPS") mail, the FCRA Class Notice substantially in the form attached to this Agreement as Exhibit B. The first page of the Wage and Hour Class/PAGA Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and Individual PAGA Payment payable, respectively, to the Wage and Hour Class Member and Aggrieved Employee and/or the method used to calculate these amounts. The first page of the FCRA Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment payable to the FCRA Class Member and/or the method used to calculate these amounts. Before mailing Class Notices, the Administrator shall

update Class Member and Aggrieved Employee addresses using the National Change of Address database.

8.4.3 Not later than 5 business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member and Aggrieved Employee Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members and Aggrieved Employees whose Class Notice is returned by the USPS a second time.

8.4.4 The deadlines for Class Members' written objections, challenges to payments, and Requests for Exclusion will be extended an additional 15 days or 45 days from the original mailing, whichever is earlier, if the Class Member's notice was re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

8.4.5 If the Administrator, Defendants or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class and Aggrieved Employee Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith in an effort to agree on whether to include them as Class Members and/or Aggrieved Employees. If the Parties agree, such persons will be Class Members and Aggrieved Employees (if applicable) entitled to the same rights as other Class Members and Aggrieved Employees, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 15 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever is later.

8.5 Requests for Exclusion (Opt-Outs).

8.5.1 Class Members who wish to exclude themselves (i.e., opt-out of) from the Settlement of the Wage and Hour Class Action Claims and/or FCRA Class Claims must send the Administrator, by fax,

email, or mail, a written Request for Exclusion by the Response Deadline. A Request for Exclusion is any written correspondence from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement of Wage and Hour Class Action Claims and/or FCRA Class Claims and includes the Class Member's name, address, and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

- 8.5.2 Aggrieved Employees may not exclude themselves from the Settlement of the Released PAGA Claims.
- 8.5.3 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Wage and Hour Class/PAGA Notice and/or FCRA Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- 8.5.4 Every Wage and Hour Class Member and FCRA Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 6 of this Agreement, regardless of whether the Participating Class Member actually receives the Wage and Hour Class/PAGA Notice or FCRA Class Notice or objects to the Settlement.
- 8.5.5 Every Wage and Hour Class Member and/or FCRA Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member for that Class and shall not receive an Individual Class Payment for that Class or have the right to object to the Settlement of those Class Action Claims.

8.5.6 Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment.

8.6 Challenges to Calculation of Payments. Each Class Member shall have until the Response Deadline to challenge the Individual Class Payment allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the calculation contained in the Class Notice is correct so long as it is consistent with the Class and Aggrieved Employee Data. The Administrator's determination of each Individual Wage and Hour Class Payment and Individual FCRA Class Payment shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculations to Defense Counsel and Class Counsel and the Administrator's determination of any challenges.

8.7 Objections to Settlement.

8.7.1 Only Participating Class Members may object to the class-action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Enhancement Payment.

8.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so by the Response Deadline.

8.7.3 Non-Participating Class Members have no right to object to any of the class-action components of the Settlement.

- 8.8 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.
- 8.8.1 Email Address and Toll-Free Number. The Administrator will maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.
- 8.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion submitted (whether valid or invalid).
- 8.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to payments received and/or resolved, and checks mailed for Individual Wage and Hour Class Payments, Individual FCRA Class Payments, and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 8.8.4 Calculation Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of workweeks and/or pay periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 8.8.5 Administrator’s Declaration. Not later than 14 days before the date by which Plaintiffs are required to provide the near-final

draft of the Motion for Final Approval of the Settlement to Defense Counsel, the Administrator will provide to Class Counsel and Defense Counsel a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notices, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), and the number of written objections. The Administrator will also attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

- 8.8.6 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the GSF and the NSF, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

9. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE.

- 9.1 Wage and Hour Class. Defendants have represented that the estimated weeks worked by Wage and Hour Class Members from May 25, 2018, through January 4, 2023, is estimated to be approximately 2816 workweeks. In the event that the actual number of workweeks worked by all Wage and Hour Class Members during the foregoing period increases by 10% or more, then Defendants shall increase the NSF allocated to the settlement of the Wage and Hour Class Claims on a proportional basis in excess of ten percent (i.e., if there were a twelve percent (12%) increase in the number of workweeks during the foregoing period, then Defendants will increase the NSF allocated to the settlement of the Wage and Hour Class Claims by two percent (2%)).

9.2 FCRA Class. Defendants have represented that there are 1,023 people who completed background check disclosures between May 23, 2020, and May 25, 2022. In the event the number of background check disclosures during the forgoing period increases by more than 10% (i.e., by more than 102 background check disclosures), then the NSF allocated to the settlement of the FCRA Class Claims shall be increased proportionally by the number of background check disclosures in excess of 1,125 background check disclosures multiplied by the “Background Check Value.” The Background Check Value shall be calculated by dividing the originally agreed-upon NSF allocated to the settlement of the FCRA Class Claims by 1,023, which amounts to a Background Check Value. Thus, for example, should there be 1,130 background check disclosures during the forgoing period, then Defendants shall increase the NSF allocated to the settlement of the FCRA Class Claims by the amount this is $[(1,130 - 1,125) \times \text{the Background Check Value}]$.

10. DEFENDANTS’ RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds ten percent (10%) of the total of all Class Members in either the Wage and Hour Class or FCRA Class, Defendants may, but are not obligated to, elect to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be void *ab initio*, have no force or effect whatsoever, that neither Party will have any further obligation to perform under this Agreement and that the Second and Third Amended Complaint shall be stricken from the Court’s pleadings and be of no further force or effect; provided, however, Defendants will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the Court of its election to withdraw not later than 7 days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

11. MOTION FOR FINAL APPROVAL. Not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court a Motion for Final Approval of the Settlement that includes a request for approval of the PAGA settlement under California Labor Code Section 2699, subd. (1), and will provide the Court a Proposed Final Approval Order and a proposed Judgment (collectively the “Motion for Final Approval”). Plaintiffs shall provide near-final drafts of these documents to Defense Counsel not later than thirty (30) business days before filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

- 11.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days before the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 11.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members and/or Aggrieved Employees), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Enhancement Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administration Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 11.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 11.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Representative Enhancement Payment, the Class Counsel Fees Payment, and the Class Counsel Litigation Expenses Payment set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Gross Settlement Amount or Net Settlement Amount.

- 11.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Wage and Hour Class Members, FCRA Class Members and Aggrieved Employees), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Enhancement Payment or any payments to Class Counsel or the Administrator shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the GSF remains unchanged.
- 11.6 LWDA. Class Counsel will timely comply with California Labor Code Section 2699(1)(3) by providing the LWDA with the Court's Judgment or order granting Final Approval of the Settlement.
- 11.7 Permanent Enjoinment. Upon final approval of the settlement, Barnett, all Class Members, except for those who opted out of the class-action claims, all Aggrieved Employees and the LWDA will be permanently enjoined and restrained by the Court from and against initiating or pursuing any claims settled and released by the settlement.
12. **AMENDED JUDGMENT.** If any amended judgment is required under California Code of Civil Procedure Section 384, the Parties will work together in good faith to jointly submit a proposed amended judgment.
13. **ADDITIONAL PROVISIONS.**
- 13.1 No Admission of Liability. This Agreement represents a compromise and settlement of highly disputed claims. The Parties agree that the settlement of this matter, including the Memorandum of Agreement that the Parties executed, does not constitute an admission by Defendants of any violation of federal, state, or local law, ordinance or regulation or of any violation of Defendants' policies, procedures, or of any liability or wrongdoing whatsoever. Consistent therewith, Defendants have denied, and continue to deny, any allegation made by Plaintiffs and Defendants have further denied, and continue to deny, that Plaintiffs or any Class Member or Aggrieved Employee has been damaged in any way or is

entitled to any remedy in any form, whether legal or equitable. Neither this Agreement nor anything contained herein nor the Memorandum of Agreement shall be construed to be or shall be admissible in any proceeding as evidence of liability or wrongdoing by Defendants or any Released Party. Moreover, nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Action have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendants' defenses in the Action have merit.

13.2 Class Certification or Representative Manageability for Other Purposes.

The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason, the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserve the right to contest certification of any class for any reasons and challenge representative status for any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest Defendants' defenses. The Settlement, this Agreement and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

13.3 Confidentiality Before Preliminary Approval. Barnett, Class Counsel, Defendants and Defense Counsel agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, media, or other entity except: (1) to the Parties' attorneys, accountants, expert consultants, spouses or domestic partners, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; (5) Defendants' insurers; or (6) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendants and

Defense Counsel also agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that “the matter was resolved,” “the Action has been settled on terms mutually agreeable to the Parties,” or words to that effect. Before the filing of the Motion For Preliminary Approval. Class Counsel shall not discuss the settlement with Class Members other than Barnett and, where required, the LWDA. This paragraph does not restrict Class Counsel’s communications with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.

- 13.4 No Declaratory Relief. Other than ordering the payment provided for in this Agreement, no injunctive or declaratory relief will be ordered by the Court against Defendants in final approval of the Settlement, which will otherwise be grounds for Defendants rescinding and terminating the Settlement.
- 13.5 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s ability to communicate with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.
- 13.6 Agreement Not To Initiate Further PAGA Action. Barnett agrees not to present any further or additional letters to the LWDA pursuant to California Labor Code Section 2699(a) relating to Defendants and the Released Parties. Barnett further agrees not to assert in any other forum any claim for civil penalties arising under PAGA, whether individually or in a representative capacity, relating to Defendants and the Released Parties.
- 13.7 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party, including the Memorandum of Agreement executed by the Parties on May 24 and 25, 2023.
- 13.8 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent they are authorized by Barnett and Defendants,

respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

- 13.9 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 13.10 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 13.11 No Tax Advice. Neither Barnett, Class Counsel, Defendants nor Defense Counsel is providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 13.12 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 13.13 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.14 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

- 13.15 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 13.16 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during the Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 13.17 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code Section 1152, and all copies and summaries of the Class and Aggrieved Employee Data provided to Class Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Barnett and Class Counsel shall destroy all paper and electronic versions of Class and Aggrieved Employee Data received from Defendants unless, before the Court's discharge of the Administrator's obligation, Defendants make a written request to Class Counsel for the return, rather than the destructions, of Class and Aggrieved Employee Data.
- 13.18 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 13.19 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 13.20 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs:

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091-4606
Telephone: (619) 886-7224

To Defendants:

David A. Wimmer, Esq.
Allison R. Musante, Esq.
Swerdlow Florence Sanchez Swerdlow & Wimmer,
A Law Corporation
10877 Wilshire Boulevard, Suite 1650
Los Angeles, CA 90024

13.21 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (e.g., DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

13.22 Stay of Litigation. The Parties agree that, upon the execution of this Agreement, the Action shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that, upon the signing of this Agreement, pursuant to California Code of Civil Procedure Section 583.330, to extend the date to bring a case to trial under California Code of Civil Procedure Section 583.310 for the entire period of this settlement process.

EXECUTED this 28th day of August 2023 at Riverside County,
California.

Vernon Barnett

Vernon Barnett

EXECUTED this 28th day of August 2023, at Mecklenburg County,
North Carolina.

QW INSURANCE SOLUTIONS, LLC,
LENDINGTREE, INC. AND LENDINGTREE, LLC

By: 
Valentyna DeCristo, Esq.
Their: Assistant General Counsel

APPROVED AS TO FORM:

THOMAS RUTLEDGE

By: TOM RUTLEDGE Dated: Aug 28, 2023
Thomas Rutledge, Esq.
Attorneys for Vernon Barnett and Plaintiffs

APPROVED AS TO FORM:

SWERDLOW FLORENCE SANCHEZ
SWERDLOW & WIMMER, A LAW CORPORATION

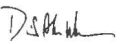
By:  Dated: Aug 28, 2023
David A. Wimmer, Esq.
Attorneys for Defendants, QW Insurance
Solutions, LLC, LendingTree, Inc. and
LendingTree, LLC

Exhibit A

EXHIBIT A

COURT APPROVED NOTICE OF WAGE AND HOUR CLASS ACTION AND PAGA SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

(Vernon Barnett v. QW Insurance Solutions, LLC, San Diego Superior Court Case
No. 37-2022-00019924-CU-OE-CTL)

*The Superior Court for the State of California authorized this Notice.
Read it carefully! It's not junk mail, spam, an advertisement, or solicitation by a
lawyer. You are not being sued.*

You may be eligible to receive money from an employment class-action and representative-action lawsuit against QW Insurance Solutions, LLC (“QWIS” or the “Company”), LendingTree, Inc., and LendingTree, LLC (collectively, “Defendants”) for alleged violations of California wage and hour laws (the “Action”). The Action was filed by a former employee of QWIS, Vernon Barnett (“Barnett” or “Plaintiff”), and seeks, among other things, payment of alleged but disputed liquidated damages, civil and statutory penalties and interest, and alleged but disputed back wages, for 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, through March 22, 2024 [date of Preliminary Approval]) (“Wage and Hour Class Period”). This group is called the “Wage and Hour Class.” The Action also seeks alleged but disputed civil penalties under the California Private Attorney General Act (“PAGA”) for all persons who are employed or were previously employed by QWIS and/or LendingTree, LLC, and who worked in California and were classified as non-exempt at any time from May 25, 2021, through March 22, 2024 [date of Preliminary Approval]) (the “PAGA Period”). This group is called the Aggrieved Employees. “Plaintiffs” mean Barnett, individually, and the Aggrieved Employees and/or the Wage and Hour Class.

For purposes of this Notice, the proposed Settlement has two main parts: (1) a class-action settlement requiring Defendants to fund Individual Wage and Hour Class Payments to the Wage and Hour Class, and (2) a PAGA Settlement requiring Defendants to fund Individual PAGA Payments to Aggrieved Employees and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendants’ records, and Plaintiffs’ and Defendants’ (the “Parties”) current assumptions, **your Individual Wage and Hour Class Payment**

is estimated to be \$ _____ and/or your Individual PAGA Payment is estimated to be \$ _____. The actual amount you may receive could be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment then, according to Defendants' records, you are not eligible for an Individual PAGA Payment under the Settlement because you were not employed during the PAGA Period.)

The above estimates are based on Defendants' records showing that you worked _____ workweeks during the Wage and Hour Class Period and/or that you worked ____ payroll periods during the PAGA Period. If you believe that you worked more workweeks or payroll periods during either the Wage and Hour Class Period or PAGA Period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court already has preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Barnett and Plaintiffs' attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendants to make payments under the Settlement and requires Wage and Hour Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendants.

If you worked for Defendants during the Wage and Hour Class Period and/or the PAGA Period, you have two basic options under the Settlement:

(1) **Do Nothing.** You do not have to do anything to participate in the proposed Settlement and be eligible for an Individual Wage and Hour Class Payment and an Individual PAGA Payment (if any).

(2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Settlement of the Wage and Hour Class Action Claims (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement of the Wage and Hour Class Action Claims, you will not receive an Individual Wage and Hour Class Payment. You will, however, preserve your right to personally pursue Wage and Hour Class Claims against Defendants. If you are an Aggrieved Employee, you will receive an Individual PAGA Payment

whether or not you opt out of the Settlement. You cannot opt-out of the proposed Settlement of the PAGA Claims.

Defendants will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Wage and Hour Class Member, eligible for an Individual Wage and Hour Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the Wage and Hour Class Action Claims against Defendants that are covered by this Settlement (Released Claims). All Aggrieved Employees must participate in the Settlement of the PAGA Claims.
You Can Opt-out of the Wage and Hour Class Settlement, but not the PAGA Settlement The Opt-out Deadline is _____	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Settlement of Wage and Hour Class Action Claims by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Wage and Hour Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the proposed Settlement of the PAGA Claims. Defendants must pay Individual PAGA Payments to all Aggrieved Employees, and the Aggrieved Employees must give up their rights to pursue Released PAGA Claims (defined below).
Participating Wage and Hour Class Members Can Object to the Wage and Hour Class Settlement but not the PAGA Settlement Written Objections	All Wage and Hour Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff, who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Barnett reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or

Must be Submitted by 	Barnett if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____, 2023. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost) in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by 	The amount of your Individual Wage and Hour Class Payment and Individual PAGA Payment (if any) depends on if you worked for Defendants during the Class Period and/or the PAGA Period, respectively. If you disagree with the amount of your payment, you must challenge it by _____, 2023. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Barnett is a former non-exempt employee of QWIS. In the Action, Barnett brings individual claims, representative claims under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"), and/or class-action claims against Defendants for violating California labor laws by failing to pay minimum/regular wages; failure to pay state overtime; failure to comply with meal break laws; failure to comply with rest break laws; failure to reimburse expenses; failure to provide accurate wage statements; failure to pay wages timely; failure to provide and maintain records; violations of the California Business and Professions Code, Bus. & Prof. Code §§ 17200, *et seq.*; and violations of the California

Investigative Consumer Reporting Agencies Act, CA Civil Code §§ 1786, *et seq.* Barnett and Plaintiffs are represented by Thomas D. Rutledge, Esquire (“Class Counsel.”)

Defendants strongly deny violating any laws or failing to pay any wages. Defendants contend they complied with all applicable laws.

*Barnett has brought additional class-action claims against Defendants challenging the background check disclosure forms he completed as part of the application process when applying for a job at QWIS (the “FCRA Class Claims”). The FCRA Class Claims are the subject of a separate FCRA Class Action Settlement Notice. If you are a member of the FCRA Class (“FCRA Class Member”), you will separately receive that Class Action Notice.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination as to whether Defendants or Plaintiffs are correct on the merits. In the meantime, Barnett and Defendants hired an experienced, neutral mediator in an effort to resolve the Action and negotiate an end to the case by agreement (i.e., settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Barnett and Defendants have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

Barnett and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendants have agreed to pay a fair, reasonable and adequate amount considering the strengths and weaknesses of the claims and the risks and uncertainties of continued litigation; and (2) the Settlement is in the best interests of the Wage and Hour Class Members, Aggrieved Employees, and FCRA Class Members. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

A. Defendants Will Pay \$450,000 as the Gross Settlement Amount (Gross Settlement). Defendants have agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Wage and Hour Class Payments, Individual PAGA Payments, Class Representative Enhancement Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). The Administrator will also use the Gross Settlement to pay Individual FCRA Class Payments that are being made to FCRA Class Members, which are detailed in a separate FCRA Class Action Settlement Notice, as well as a General Release payment to Barnett for providing a general release of any and all claims against the Defendants and all Released Parties, including a waiver of rights under California Civil Code Section 1542. Defendants will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court become final. The Judgment will be final 61 days after the Court enters Judgment, or at a later date if one or more Participating Class Members object to the proposed Settlement or the Judgment is appealed.

B. Deductions from Gross Settlement. The Administrator will pay Barnett a General Release Payment of \$15,000.00 on account of Barnett providing a general release of any and all claims against Defendants and all Released Parties, including a waiver of rights under California Civil Code Section 1542. In addition, at the Final Approval Hearing, Barnett and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

A. Up to \$148,500.00 (33% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$20,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. Up to \$10,000.00 to Barnett as a Class Representative Enhancement Payment for filing the Action, working with Class Counsel and representing the Class.

C. The Class Representative Enhancement Payment and the General Release Payment will be the only monies Barnett will receive other than any Individual Wage and Hour Class Payment, Individual FCRA Class Payment, and any Individual PAGA Payment that Barnett may receive.

C. Up to \$12,000.00 to the Administrator for services administering the Settlement.

Participating Class Members have the right to object to any of these Court-approved deductions. The Court will consider all objections.

C. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the remaining money is called the “Net Settlement.” The Administrator will distribute the Net Settlement as follows:

i. \$20,000.00 will be considered the PAGA Award, which will be distributed and allocated as follows: 75% to the LWDA for the LWDA PAGA Payment (\$15,000.00); and 25% to the Aggrieved Employees as Individual PAGA Payments (\$5,000.00). Individual PAGA Payments to Aggrieved Employees shall be paid on a pro rata, payroll period basis during the PGA Period from the \$5,000.00.

ii. After the PAGA Award is paid, ninety percent (90%) of the Net Settlement will be paid to Participating Wage and Hour Class Members by making Individual Wage and Hour Class Payments. These settlement proceeds will be paid to the Participating Wage and Hour Class Members on a pro-rata basis per workweek during the Wage and Hour Class Period.

iii. After the PAGA Award is paid, ten percent (10%) of the Net Settlement will be paid to Participating FCRA Class Members as Individual FCRA Class Payments. Payments to the FCRA Class Members will be divided equally among the Participating FCRA Class Members. Information concerning the FCRA Class and Individual FCRA Class Payments are detailed in a separate FCRA Class Action Notice, which FCRA Class Members will receive.

D. Taxes Owed on Payments to Wage and Hour Class Members. For the Individual Wage and Hour Class Payments, (80%) of the payment will be considered alleged but disputed liquidated damages, civil and statutory penalties and interest, with such amount to be reported by the Settlement Administrator by year’s end via IRS form 1099. The remaining twenty percent (20%) will be considered alleged but disputed back wages subject to payroll withholdings and deductions, with such amount to be reported by the Settlement Administrator by year’s end via IRS Form W-2. Employer-side payroll taxes shall be separately paid by the Defendants on the portion of the settlement proceeds allocated as back wages to the Wage and Hour Class.

Although Barnett and Defendants have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

E. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Wage and Hour Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you do not cash the check by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

If the monies represented by your check are sent to the Controller's Unclaimed Property Fund, you should consult the rules of the Fund for instructions on how to retrieve your money.

F. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Settlement, unless you notify the Administrator in writing, not later than _____, 2023 (45 days from today's date), that you wish to opt-out of the Settlement of the Wage and Hour Class Action Claims. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the _____ Response Deadline. The Request for Exclusion should be a letter from a Wage and Hour Class Member or his/her representative setting forth a Wage and Hour Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement of the Wage and Hour Class Action Claims. Excluded Wage and Hour Class Members (i.e., Non-Participating Class Members) will not receive Individual Wage and Hour Class Payments, but will preserve their rights to personally pursue their individual Wage and Hour Class Action Claims against Defendants.

You cannot opt-out of the PAGA portion of the Settlement. Wage and Hour Class Members and/or FCRA Class Members who exclude themselves from the Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendants based on the facts alleged in the Action that took place during the PAGA Period.

G. The Proposed Settlement Will be Void if the Court Denies Final Approval.

It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Defendants have agreed that, in either case, the Settlement will be void: Defendants will not pay any money, and Class Members and Aggrieved Employees will not release any claims against Defendants.

H. Administrator. The Court has appointed a neutral company, Phoenix Settlement Administrators (the “Administrator”), to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member and Aggrieved Employee challenges over payments, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.

I. Participating Class Members’ Release. After the Judgment is final and Defendants have fully funded the Gross Settlement, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Settlement of the Wage and Hour Class Action Claims, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or related entities that arose during the Wage and Hour Class Period, as alleged in the Action and resolved by this Settlement.

The Wage and Hour Participating Class Members will be bound by the following release:

All Participating Wage and Hour Class Members are deemed to forever and completely release and discharge and covenant not to sue, on behalf of themselves and their respective former and present representatives, agents, attorneys, spouses, domestic partners, children, marital community, estates, heirs, trusts, administrators, successors, and assigns, the Released Parties from the Released Wage and Hour Class Claims. The “Released Wage and Hour Class Claims” include, without limitation, any and all claims, demands, rights, liabilities, and causes of action that were or could have been pleaded under local, state or federal law based on the facts alleged in the Wage and Hour Class Action and PAGA Complaint and the Third Amended Complaint against Defendants and the Released Parties arising during the Wage and Hour Class Period, including, but not limited, to claims

for (1) failure to pay minimum/regular wages; (2) failure to pay state overtime; (3) failure to comply with meal break laws; (4) failure to comply with rest break laws; (5) failure to reimburse expenses; (6) failure to provide accurate wage statements; (7) failure to pay wages timely; (8) failure to provide and maintain records; and (9) violation of the Business and Professions Code. “Released Wage and Hour Class Claims” also include any claims that arise from, are related to, or are otherwise connected with the facts alleged in the Wage and Hour Class Action and PAGA Complaint and the Third Amended Complaint.

It is the intent of the Parties that the Final Judgment entered by the Court shall have full equitable estoppel and res judicata effect and be final and binding upon Barnett and the Participating Wage and Hour Class Members regarding the Released Wage and Hour Class Claims. Each Participating Wage and Hour Class Member will be deemed to have made the foregoing Release as if by manually signing it.

J. Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and Defendants has fully funded the Gross Settlement, all Aggrieved Employees will be barred from asserting PAGA claims against Defendants, whether or not they exclude themselves from the Settlement of Wage and Hour and/or FCRA Class Claims. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Settlement of any Class Action Claims, cannot sue, continue to sue, or participate in any other PAGA claim against Defendants or its related entities based on the facts alleged in the Action to have occurred during the PAGA Period and resolved by this Settlement.

The Aggrieved Employees’ Releases for Participating and Non-Participating Class Members are as follows:

All Aggrieved Employees (whether a Participating Class Member or a Non-Participating Class Member), including Barnett, standing in the shoes of the Labor Commissioner/LWDA to the extent permitted by law, and on behalf of the State of California and all Aggrieved Employees, are deemed to forever and completely release and discharge and covenant not to sue, on behalf of themselves and their respective former and present representatives, agents, attorneys, spouses, domestic partners, children, marital community, estates, heirs, trusts, administrators, successors, and assigns, the Released

Parties from the Released PAGA Claims. The “Released PAGA Claims” means any and all claims, demands, rights, liabilities, and causes of action for civil penalties that were or could have been pleaded under local, state or federal law, based on the facts alleged in the Plaintiffs’ PAGA Notice, the Wage and Hour Class Action and PAGA Complaint, and the Third Amended Complaint against Defendants and the Released Parties arising during the PAGA Period, including, but not limited to, all claims for civil penalties arising under California Labor Code Sections 96, 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, 213, 221, 222, 222.5, 223, 224, 226, 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, 231, 232, 232.5, 233, 234, 351, 353, 403, 404, 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1174, 1194, 1197, 1197.1, 1197.5, 1198, 1198.3, 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, 1695, 1695.5, 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, 2673, 2673.1, 2695.2, 2699, 2699.3, 2800, 2801, 2802, 2806, 2810, 2929, 3073.6, 6310, 6311, and 6399.7. “Released PAGA Claims” also include any claims for civil penalties that arise from, are related to, or are otherwise reasonably connected with the facts alleged in the Wage and Hour Class Action and PAGA Complaint and the Third Amended Complaint.

It is the intent of the Parties that the Final Judgment entered by the Court shall have full equitable estoppel and res judicata effect and be final and binding upon the Plaintiff, the LWDA, and the Aggrieved Employees regarding the Released PAGA Claims.

Each Aggrieved Employee and the LWDA will be deemed to have made the foregoing Release as if by manually signing it.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

- A. Individual Wage and Hour Class Payments. The Administrator will calculate Individual Wage and Hour Class Payments on a pro-rata basis per workweek during the Wage and Hour Class Period.
- B. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments on a pro rata, payroll period basis during the PAGA Period from the \$5,000 PAGA distribution amount.
- C. Calculation Challenges. Your payment calculation(s) are on the first page of this Notice. You have until , 2024 to challenge these calculations. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of your proof of improper calculations. The Administrator will accept Defendants' calculation as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve the dispute based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendants' Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

- A. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) of the Settlement of Wage and Hour Class Action Claims, including those who also qualify as Aggrieved Employees. The single check will combine the Individual Wage and Hour Class Payment and the Individual PAGA Payment. It will also include any Individual FCRA Class Payment. If you are entitled to such a payment, you will be sent a separate Class Notice regarding the FCRA Class.
- B. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Settlement of any of the Class Action Claims (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as

possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement of the Wage and Hour Class Action Claims. The Administrator will exclude you based on any writing communicating your request to be excluded. Be sure to personally sign your request, identify the Action as Vernon Barnett v. QW Insurance Solutions, LLC, San Diego Superior Court Case No. 37-2022-00019924-CU-OE-CTL, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by _____, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement of the Wage and Hour Class Action Claims. Before deciding whether to object, you may wish to see what Barnett is asking the Court to approve. At least 16 days before the Final Approval Hearing, Class Counsel and/or Barnett will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Class Counsel Litigation Expenses and Enhancement Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Barnett is requesting as a Class Representative Enhancement Payment. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Court's website _____.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Class Counsel Litigation Expenses Payment and Enhancement Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Barnett are too high or too low. **The deadline for sending written objections to the Administrator is _____.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action as Vernon Barnett v. QW Insurance Solutions,

LLC, San Diego Superior Court Case No. 37-2022-00019924-CU-OE-CTL, and include your name, current address, telephone number, and approximate dates you applied for employment with Defendants and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at _____ in Department C-69 of the San Diego Superior Court, located at 330 West Broadway, San Diego, CA 92101. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via _____. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website _____ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendants and Barnett have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<https://roa.sdcourt.ca.gov/roa/>) and entering the Case Number for the Action, Case No. 37-2022-00019924-CU-OE-CTL. You can also make an appointment to personally review court documents in the Clerk's Office at the Courthouse by calling (619) 450-7275.

**DO NOT TELEPHONE THE SUPERIOR COURT OR DEFENSE
COUNSEL TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.**

Class Counsel:

Thomas D. Rutledge

Name of Firm: Thomas D. Rutledge, Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091
Telephone: (619) 886-7224
thomasrutledgelaw@gmail.com

Settlement Administrator:

Name of Company: Phoenix Settlement Administrators
Email Address: info@phoenixclassaction.com
Mailing Address: P.O. Box 7208, Orange, CA, 92863
Telephone: (800) 523-5773

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the *State Controller's* Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

Exhibit B

EXHIBIT B

COURT APPROVED NOTICE OF FCRA CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

(Vernon Barnett v. QW Insurance Solutions, LLC, San Diego Superior Court Case
No. 37-2022-00019924-CU-OE-CTL)

*The Superior Court for the State of California authorized this Notice.
Read it carefully! It's not junk mail, spam, an advertisement, or solicitation by a
lawyer. You are not being sued.*

You may be eligible to receive money from an employment class-action lawsuit against QW Insurance Solutions, LLC (“QWIS” or the “Company”), LendingTree, Inc., and LendingTree, LLC (collectively, “Defendants”), for alleged violations of federal law involving background checks procured by Defendants (the “Action”). The Action was filed by a former employee of QWIS, Vernon Barnett (“Barnett” or “Plaintiff”), who completed background check disclosure forms authorizing background checks as part of the application process. Barnett seeks, among other things, damages for all persons who are or were applicants and/or employees of QWIS and/or LendingTree, LLC, anywhere in the United States and completed background check disclosures at any time from May 25, 2020, through March 22, 2024 [the date of Preliminary Approval] (the “FCRA Class Period”). This group of applicants and employees make up the “FCRA Class Members.” “Plaintiffs” mean Barnett, individually, and the FCRA Class Members.

For purposes of this Notice, the proposed Settlement is a class-action settlement requiring Defendants to fund Individual FCRA Class Payments.

Based on Defendants’ records, and Plaintiffs’ and Defendants’ (the “Parties”) current assumptions, **your Individual FCRA Class Payment is estimated to be \$_____**. The actual amount you may receive could be different and will depend on a number of factors.

The above estimates are based on Defendants’ records showing that you completed background check disclosures during the FCRA Class Period. If you believe this information is incorrect, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Barnett and Plaintiffs' attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendants to make payments under the Settlement and requires FCRA Class Members to give up their rights to assert certain claims against Defendants.

If you completed background check disclosures for Defendants during the FCRA Class Period, you have two basic options under the Settlement:

(1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual FCRA Class Payment.

(2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Settlement of the FCRA Class Claims (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement of the FCRA Class Claims, you will not receive an Individual FCRA Class Payment. You will, however, preserve your right to personally pursue FCRA Class Claims against Defendants.

Defendants will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating FCRA Class Member, eligible for an Individual FCRA Class Payment. In exchange, you will give up your right to assert the FCRA Class Claims against Defendants that are covered by this Settlement (Released Claims).
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You Can Opt-out of the FCRA Class Settlement. The Opt-out Deadline is _____	If you do not want to fully participate in the proposed Settlement, you can opt-out of the Settlement of FCRA Class Claims by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual FCRA Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.
Participating FCRA Class Members Can Object to the Class Settlement. Written Objections Must be Submitted by _____	All FCRA Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Barnett who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Barnett, but every dollar paid to Class Counsel and Barnett reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Barnett if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the _____ Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on _____, 2023. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Payment. Written Challenges Must be Submitted by _____	The amount of your Individual FCRA Class Payment depends on if you completed background check disclosures for Defendants during the FCRA Class Period. If you disagree with the amount of your payment, you must challenge it by _____, 2023. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Barnett is a former employee of QWIS. As part of the application process at QWIS, Barnett completed background check disclosure forms authorizing a third-party company, Checkr, Inc., to perform background checks. The Action accuses Defendants of violating federal laws governing background checks by obtaining consumer reports without proper disclosure and obtaining consumer reports without proper authorization. The Action also includes a claim for common law violation of the right to privacy. Barnett and Plaintiffs are represented by Thomas D. Rutledge, Esquire (“Class Counsel.”)

Defendants strongly deny violating any laws, contend the background checks it conducted were lawful, and contend they complied with all applicable laws.

*Barnett has brought additional class-action and representative claims in the Action for alleged wage and hour violations (the “Wage and Hour Class Claims”). The Wage and Hour Class Claims are the subject of a separate Wage and Hour Class Action and PAGA Settlement Notice. If you are a member of the Wage and Hour Class or an Aggrieved Employees in the Wage and Hour Class Action and PAGA Lawsuit, you will separately receive that Class Action and PAGA Notice.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination as to whether Defendants or Plaintiffs are correct on the merits. In the meantime, Barnett and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (i.e., settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Barnett and Defendants have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

Barnett and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendants have agreed to pay a fair, reasonable and adequate amount considering the strengths and weaknesses of the claims and the risks and uncertainties of continued litigation; and (2) the Settlement is in the best interests of the FCRA Class Members, as well as the Wage and Hour Class

Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

A. Defendants Will Pay \$450,000 as the Gross Settlement Amount (Gross Settlement). Defendants have agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual FCRA Class Payments, Class Representative Enhancement Payment, Class Counsel's attorney's fees and expenses, and the Administrator's expenses. The Administrator will also use the Gross Settlement to pay Individual Wage and Hour Class Payments, Individual PAGA Payments, and penalties to the California Labor and Workforce Development Agency ("LWDA") (which are all detailed in a separate Wage and Hour Class Action and PAGA Settlement Notice), as well as a General Release payment to Barnett for providing a general release of any and all claims against the Defendants and all Released Parties, including a waiver of rights under California Civil Code Section 1542. Defendants will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court become final. The Judgment will be final 61 days after the Court enters Judgment, or at a later date if one or more Participating Class Members object to the proposed Settlement or the Judgment is appealed.

B. Deductions from Gross Settlement. The Administrator will pay Barnett a General Release Payment of \$15,000.00 on account of Barnett providing a general release of any and all claims against Defendants and all Released Parties, including a waiver of rights under California Civil Code Section 1542. In addition, at the Final Approval Hearing, Barnett and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

- i. Up to \$148,500.00 (33% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$20,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
- ii. Up to \$10,000.00 to Barnett as a Class Representative Enhancement Payment for filing the Action, working with Class Counsel and representing the Class.

iii. The Class Representative Enhancement Payment and the General Release Payment will be the only monies Barnett will receive other than any Individual FCRA Class Payment, Individual Wage and Hour Class Payment, and any Individual PAGA Payment that Barnett may receive.

iv. Up to \$12,000.00 to the Administrator for services administering the Settlement.

Participating Class Members have the right to object to any of these Court-approved deductions. The Court will consider all objections.

C. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the remaining money is called the “Net Settlement.” The Administrator will distribute the Net Settlement as follows:

i. \$20,000.00 will be considered the PAGA Award, which will be distributed and allocated as follows: 75% to the LWDA for the LWDA PAGA Payment (\$15,000.00); and 25% to the Aggrieved Employees as Individual PAGA Payments (\$5,000.00). Individual PAGA Payments to Aggrieved Employees shall be paid on a pro rata, payroll period basis during the PAGA Period from the \$5,000.00. Information concerning the PAGA Award and Individual PAGA Payments are detailed in a separate Wage and Hour Class Action and PAGA Settlement Notice, which Aggrieved Employees will receive.

ii. After the PAGA Award is paid, ten percent (10%) of the Net Settlement will be paid to Participating FCRA Class Members as Individual FCRA Class Payments. Payments to the FCRA Class Members will be divided equally among the Participating FCRA Class Members.

iii. After the PAGA Award is paid, ninety percent (90%) of the Net Settlement will be paid to Participating Wage and Hour Class Members by making Individual Wage and Hour Class Payments. These settlement proceeds will be paid to the Participating Wage and Hour Class Members on a pro-rata basis per workweek during the Wage and Hour Class Period. Information concerning the Wage and Hour Class and Individual Wage and Hour Class Payments are detailed in a separate Wage and Hour Class Action and PAGA Settlement Notice, which Wage and Hour Class Members will receive.

D. Taxes Owed on Payments to FCRA Class Members. For the Individual FCRA Class Payments, the entire amount will be considered alleged and disputed liquidated damages, statutory penalties and interest, with such amount to be reported by the Settlement Administrator by year's end via IRS Form 1099.

Although Barnett and Defendants have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

E. Need to Promptly Cash Payment Checks. The front of every check issued for Individual FCRA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California State Controller's Unclaimed Property Fund in your name.

If the monies represented by your check is sent to the Controller's Unclaimed Property Fund, you should consult the rules of the Fund for instructions on how to retrieve your money.

F. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Settlement, unless you notify the Administrator in writing, not later than _____, 2023 (45 days from today's date), that you wish to opt-out of the Settlement of the FCRA Class Claims. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the _____ Response Deadline. The Request for Exclusion should be a letter from a FCRA Class Member or his/her representative setting forth a FCRA Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement of the FCRA Class Claims. Excluded FCRA Class Members (i.e., Non-Participating Class Members) will not receive Individual FCRA Class Payments, but will preserve their rights to personally pursue their individual FCRA Class Claims against Defendants.

G. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Defendants have agreed that, in either case, the

Settlement will be void: Defendants will not pay any money, and Class Members and Aggrieved Employees will not release any claims against Defendants.

H. Administrator. The Court has appointed a neutral company, Phoenix Settlement Administrators (the “Administrator”), to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member and Aggrieved Employee challenges over payments, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.

I. Participating Class Members’ Release. After the Judgment is final and Defendants have fully funded the Gross Settlement, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Settlement of the FCRA Class Claims, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or related entities that arose during the FCRA Class Period, as alleged in the Action and resolved by this Settlement.

The Participating FCRA Class Members will be bound by the following release:

All Participating FCRA Class Members are deemed to forever and completely release and discharge and covenant not to sue, on behalf of themselves and their respective former and present representatives, agents, attorneys, spouses, domestic partners, children, marital community, estates, heirs, trusts, administrators, successors, and assigns, the Released Parties from the Released FCRA Class Claims. The “Released FCRA Class Claims” include, without limitation, any and all claims, demands, rights, liabilities, and causes of action that were or could have been pleaded under local, state or federal law based on the facts alleged in the FCRA Class Action and the Third Amended Complaint against Defendants and the Released Parties arising during the FCRA Class Period, including, but not limited to, any and all claims under the Fair Credit Reporting Act and the common law violation of the right to privacy. “Released FCRA Class Claims” also include any claims that arise from, are related to, or are otherwise connected with the facts alleged in the FCRA Class Action Complaint and the Third Amended Complaint.

It is the intent of the Parties that the Final Judgment entered by the Court shall have full equitable estoppel and res judicata effect and be final and binding upon Barnett and the Participating FCRA Class Members regarding the Released FCRA Class Claims. Each Participating FCRA Member will be deemed to have made the foregoing Release as if by manually signing it.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

- A. Individual FCRA Class Payments. The Administrator will calculate Individual FCRA Class Payments by dividing the Net Settlement distributed to FCRA Class Members equally among the Participating FCRA Class Members.
- B. Calculation Challenges. Your payment calculation(s) are on the first page of this Notice. You have until _____, 2023 to challenge these calculations. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of your proof of improper calculations. The Administrator will accept Defendants' calculation as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve the dispute based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendants' Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

- A. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) of the Settlement of FCRA Class Claims. The single check will combine the Individual FCRA Class Payment with any Individual Wage and Hour Class Payment and/or Individual PAGA Payment. If you are entitled to an Individual Wage and Hour Class Payment and/or Individual PAGA Payment, you will be sent a separate Wage and Hour Class Action and PAGA Settlement Notice.

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

- B. Non-Participating Class Members. Non-Participating FCRA Class Members will not receive a check from the Administrator for an Individual FCRA Class Payment.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement of the FCRA Class Claims. The Administrator will exclude you based on any writing communicating your request to be excluded. Be sure to personally sign your request, identify the Action as Vernon Barnett v. QW Insurance Solutions, LLC, San Diego Superior Court Case No. 37-2022-00019924-CU-OE-CTL, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. The Administrator must be sent your request to be excluded by _____, or it will be invalid. Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement of the FCRA Class Claims. Before deciding whether to object, you may wish to see what Barnett is asking the Court to approve. At least 16 days before the Final Approval Hearing, Class Counsel and/or Barnett will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Class Counsel Litigation Expenses Payment and Enhancement Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Barnett is requesting as a Class Representative Enhancement Payment. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Court's website _____.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Class Counsel Litigation

Expenses Payment and Enhancement Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Barnett are too high or too low. The deadline for sending written objections to the Administrator is _____. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action as Vernon Barnett v. QW Insurance Solutions, LLC, San Diego Superior Court Case No. 37-2022-00019924-CU-OE-CTL, and include your name, current address, telephone number, and approximate dates you applied for employment with Defendants and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at _____ in Department C-69 of the San Diego Superior Court, located at 330 West Broadway, San Diego, CA 92101. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via _____. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website _____ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendants and Barnett have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<https://roa.sdcourt.ca.gov/roa/>) and entering the Case Number for the Action, Case No. 37-2022-00019924-CU-

OE-CTL. You can also make an appointment to personally review court documents in the Clerk's Office at the Courthouse by calling (619) 450-7275.

**DO NOT TELEPHONE THE SUPERIOR COURT OR DEFENSE
COUNSEL TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.**

Class Counsel:

Thomas D. Rutledge, Esquire
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091
Telephone: (619) 886-7224
Email Address: thomasrutledgelaw@gmail.com

Settlement Administrator:

Name of Company: Phoenix Settlement Administrators
Email Address: info@phoenixclassaction.com
Mailing Address: P.O. Box 7208, Orange, CA, 92863
Telephone: (800) 523-5773

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If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the State Controller's Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise

PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

I, THOMAS D. RUTLEDGE, the undersigned, am employed in the County of San Diego, State of California; I am over the age of 18 and not a party to the within action; my business address is 16956 Via de Santa Fe, Suite 1847, Rancho Santa Fe, California 92091-4606.

On December 12, 2023, I served the foregoing document(s) described as:

**DECLARATION OF THOMAS D. RUTLEDGE ISO PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

on the interested parties to this action by placing a copy thereof enclosed in a sealed envelope addressed as follows: **See Attached List.**

☒ **(BY MAIL)** I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. This correspondence was deposited with the United States Postal Service this same day in the ordinary course of business at our Firm's office address in San Diego, California. Service made pursuant to this paragraph, upon motion of a party served, shall be presumed invalid if the postal cancellation date of postage meter date on the envelope is more than one day after the date of deposit for mailing contained in this affidavit.

☒ **(BY E-MAIL via E-file)** I am readily familiar with the business practice for collection and processing of correspondence for emailing with the Court authorized third-party vendor. This correspondence was sent via email via this third-party vendor pursuant to the vendor's policies and practices.

☐ **(BY OVERNIGHT DELIVERY SERVICE)** I served the foregoing document by Federal Express, an express service carrier which provides overnight delivery, as follows. I placed true copies of the foregoing document in sealed envelopes or packages designated by the express service carrier, addressed to each interested party as set forth above, with fees for overnight delivery paid or provided for.

☐ **(BY PERSONAL SERVICE)** I caused such envelope to be delivered by hand to the offices of the above named addressee(s).

☐ **(BY FACSIMILE)** I caused such documents to be delivered via facsimile to the offices of the addressee(s) at the following facsimile number:

Executed December 12, 2023, at San Diego, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

THOMAS D. RUTLEDGE
/s/THOMAS D. RUTLEDGE

SERVICE LIST

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Los Angeles, CA 90024
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Attorneys for Defendants