

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON  
SPOKANE DIVISION**

RAE WHITMAN, individually and on behalf of  
all others similarly situated,

Plaintiff,

v.

WHITMAN COUNTY PUBLIC HOSPITAL  
DISTRICT #3, d/b/a WHITMAN HOSPITAL  
& MEDICAL CENTER,

Defendant.

Case No.: 2:25-cv-00246-SAB

**SETTLEMENT AGREEMENT**

This Settlement Agreement<sup>1</sup> is entered into between Plaintiff, on behalf of herself and the Settlement Class, and Defendant. The Parties hereby agree to the following terms in full settlement of the Action, subject to a Final Approval Order entered by the Court.

**I. Procedural History**

1. Defendant Whitman County Public Hospital District No. 3 d/b/a Whitman Hospital & Medical Clinics<sup>2</sup> provides a full range of medical services, including inpatient and outpatient services, general orthopedic surgery, obstetrics, and various therapies. Defendant collects, maintains, and stores personal and sensitive information in its provision of medical services.

2. On or about February 28, 2025, Defendant became aware of a cybersecurity incident that took place between December 26, 2024, and February 28, 2025, wherein a third party

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<sup>1</sup> All capitalized terms herein shall have the same meanings as those defined in Section II herein.

<sup>2</sup> Defendant was erroneously sued as “Whitman County Public Hospital District #3, d/b/a Whitman Hospital & Medical Center.”

unlawfully accessed Defendant's computer systems and network and gained potential access to Private Information belonging to 64,401 individuals.

3. On April 11, 2025, Defendant began notifying the impacted individuals that their Private Information may have been impacted by the Data Incident.

4. As a result, on May 28, 2025, Plaintiff filed her Class Action Complaint in the Superior Court of Washington for Whitman County, Case No. 25-2-00161-38, against Defendant (the "State Court Action") alleging claims for: (1) negligence, (2) breach of implied contract, (3) unjust enrichment, (4) violation of the Washington Data Breach Statute, Wash. Rev. Code § 19.255.010(1), *et seq.*, and (5) violation of the Washington Uniform Health Care Information Act, Wash. Rev. Code §§ 70.02.020, *et seq.* and 70.02.170, *et seq.*

5. On July 11, 2025, Defendant removed the State Court Action to this Court.

6. In an effort to conserve resources for the benefit of the those impacted in the Data Incident, the Parties initiated early resolution discussions and on July 29, 2025, Plaintiff served Defendant with Informal Discovery Requests pursuant to Federal Rule of Civil Procedure 408 and Washington ER 408.

7. Plaintiff consulted with liability and damage experts and Defendant provided Plaintiff with informal discovery including information related to, among other things, the nature and cause of the Data Incident, the number of individuals impacted by the Data Incident, and the specific type of information potentially accessed.

8. After arms-length negotiations between experienced counsel that took place over the course of approximately three months, the Parties reach agreement on the materials terms of this class-wide Settlement.

9. The Parties now agree to settle the Action entirely, without any admission or

acknowledgement of liability or wrongdoing, with respect to all Released Claims of the Releasing Parties. Defendant has entered into this Agreement to resolve all controversies and disputes arising out of or relating to the allegations made in the Complaint, and to avoid the litigation costs and expenses, distractions, burden, expense, and disruption to its business operations associated with further litigation. Defendant does not in any way acknowledge, admit to, or concede any of the allegations made in the Complaint, and expressly disclaims and denies any fault or liability, or any charges of wrongdoing that have been or could have been asserted in the Complaint. Nothing contained in this Agreement shall be used or construed as an admission of liability, and this Agreement shall not be offered or received in evidence in any action or proceeding in any court or other forum as an admission or concession of liability or wrongdoing of any nature or for any other purpose other than to enforce the terms of this Agreement. Plaintiff has entered into this Agreement to recover on the claims asserted in the Complaint, and to avoid the risk, delay, and uncertainty of continued litigation. Plaintiff does not in any way concede that the claims alleged in the Complaint lack merit or are subject to any defenses. The Parties intend this Agreement to bind Plaintiff, Defendant, and all Settlement Class Members.

NOW, THEREFORE, in light of the foregoing, for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree, subject to approval by the Court, as follows.

## **II. Definitions**

10. “**Action**” means the class action lawsuit entitled: *Rae Whitman v. Whitman County Public Hospital District #3, d/b/a Whitman Hospital & Medical Center*, Case No. 2:25-cv-00246-SAB, pending in the United States District Court for the Eastern District of Washington.

11. “**Agreement**” or “**Settlement**” or “**Settlement Agreement**” means this Settlement

Agreement.

12. “**Application for Attorneys’ Fees, Costs, and Service Award**” means the application made with the Motion for Final Approval of attorneys’ fees and costs for Class Counsel, and Service Award for the Class Representative.

13. “**CAFA Notice**” means the Class Action Fairness Act Notice which the Settlement Administrator shall serve upon the appropriate state and federal officials, providing notice of the proposed Settlement. The Settlement Administrator shall provide a declaration attesting to compliance with 28 U.S.C. § 1715(b), which will be filed with the Motion for Final Approval. Costs for preparation and issuance of the CAFA Notice will be paid from the Settlement Fund.

14. “**Cash Payment**” means compensation paid to Settlement Class Members who submitted a Claim and elected Cash Payment A – Documented Losses, or Cash Payment B – Alternate Cash.

15. “**Cash Payment A – Documented Losses**” means the Settlement Class Member Benefit consisting of a maximum payment of \$5,000.00, that Settlement Class Members, who incurred documented losses, may elect pursuant to Section V herein.

16. “**Cash Payment B – Alternate Cash**” means the Settlement Class Member Benefit in the estimated amount of \$60.00 that Settlement Class Members may elect pursuant to Section V herein.

17. “**Claim**” means the submission of a Claim Form by a Claimant to elect a Cash Payment and Credit Monitoring under the terms of this Settlement Agreement.

18. “**Claim Form**” means the proof of claim form to be used by Settlement Class Members to submit a Settlement Claim under this Settlement Agreement, substantially in the form attached hereto as *Exhibit 3*, which may be modified, subject to the Parties’ approval, to meet the

requirements of the Settlement Administrator.

19. “**Claim Form Deadline**” shall be fifteen (15) days before the initial scheduled Final Approval Hearing and is the last day by which a Claim Form may be submitted to the Settlement Administrator for a Settlement Class Member to be eligible for a Cash Payment and Credit Monitoring.

20. “**Claimant**” means a Settlement Class Member who submits a Claim Form.

21. “**Claims Process**” means the process by which Settlement Class Members may submit Claim Forms online at the Settlement Website or by mail to the Settlement Administrator for the election of Settlement Benefits, including the procedure to approve or reject Claims.

22. “**Class Counsel**” means Kenneth Grunfeld of Kopelowitz Ostrow P.A. and Kaleigh N. Boyd of Tousley Brain Stephens PLLC.

23. “**Class List**” means the list of the names and current or last known mailing address information, to the extent reasonably available, for the approximately 64,401 that Defendant shall prepare and provide to the Settlement Administrator within ten (10) days of Preliminary Approval.

24. “**Class Representative**” means the Plaintiff who is approved by the Court to serve as Class Representative.

25. “**Complaint**” means the Complaint filed by Plaintiff on May 28, 2025.

26. “**Court**” means the United States District Court for the Eastern District of Washington and the Judge(s) assigned to the Action.

27. “**Credit Monitoring**” means the two years of one-bureau of credit monitoring product provided through the Settlement that Settlement Class Members may elect as part of the Settlement Benefits pursuant to Section V herein.

28. “**Data Incident**” means the cybersecurity attack perpetrated on Defendant between

December 26, 2024 and February 28, 2025, which Defendant detected on or around February 28, 2025, and which may have resulted in the unauthorized access to the Private Information of approximately 64,401 individuals.

29. “**Defendant**” means Whitman County Public Hospital District No. 3 d/b/a Whitman Hospital & Medical Clinics.

30. “**Defendant’s Counsel**” means Casie D. Collignon and Logan F. Peppin of Baker & Hostetler LLP.

31. “**Effective Date**” means the day after the entry of the Final Approval Order, provided there are no objections to the Settlement. If there are objections to the Settlement, then the Effective Date shall be the later of: (a) thirty (30) days after entry of the Final Approval Order if no appeals are taken from the Final Approval Order; or (b) if appeals are taken from the Final Approval Order, then the earlier of thirty (30) days after the last appellate court ruling affirming the Final Approval Order or thirty (30) days after the entry of a dismissal of the appeal.

32. “**Escrow Account**” means the interest-bearing account to be established by the Settlement Administrator consistent with the terms and conditions described herein.

33. “**Final Approval**” means the final approval of the Settlement, which occurs when the Court enters the Final Approval Order, without material changes to the Parties’ agreed-upon proposed final approval order and judgment, which finally approves the Settlement Agreement, certifies the Settlement Class, dismisses the Action with prejudice, and is consistent with all material provisions of this Settlement Agreement.

34. “**Final Approval Hearing**” means the hearing held before the Court during which the Court will consider granting Final Approval of the Settlement and the Application for Attorneys’ Fees, Costs, and Service Award, and determine the fairness, adequacy, and

reasonableness of the Settlement. The hearing may be held remotely, and if so, instructions will be posted on the Settlement Website.

35. “**Final Approval Order**” means the final order the Court enters granting Final Approval of the Settlement, substantially in the form attached hereto as *Exhibit 5*.

36. “**Long Form Notice**” means the long form notice of the Settlement, substantially in the form attached hereto as *Exhibit 2*, that shall be posted on the Settlement Website and shall be available to Settlement Class Members by mail on request made to the Settlement Administrator.

37. “**Motion for Final Approval**” means the motion that Plaintiff and Class Counsel shall file with the Court seeking Final Approval of the Settlement, including Class Counsel’s Application for Attorneys’ Fees, Costs, and Service Award.

38. “**Motion for Preliminary Approval**” means the motion that Plaintiff shall file with the Court seeking Preliminary Approval of the Settlement.

39. “**Net Settlement Fund**” means the Settlement Fund after deductions for Settlement Administration Costs, attorneys’ fees, costs, and Service Award.

40. “**Notice**” means the Postcard Notice and Long Form Notice that Plaintiff will ask the Court to approve in connection with the Motion for Preliminary Approval.

41. “**Notice Date**” means the first day by which Notice is issued to the Settlement Class Members and will occur no later than thirty (30) days after the Court’s entry of the Preliminary Approval Order and shall be completed no later than forty-five (45) days before the initial scheduled Final Approval Hearing.

42. “**Notice Program**” means the methods provided for in this Agreement for giving Notice to the Settlement Class and consists of the Postcard Notice, Long Form Notice, Settlement

Website and toll-free Settlement telephone line.

43. “**Notice of Deficiency**” means the notice sent by the Settlement Administrator to a Settlement Class Member who has submitted an invalid Claim.

44. “**Objection Deadline**” means thirty (30) days before the initial scheduled Final Approval Hearing.

45. “**Opt-Out Deadline**” means thirty (30) days before the initial scheduled Final Approval Hearing.

46. “**Party**” means each of the Plaintiff and Defendant, and “**Parties**” means Plaintiff and Defendant, collectively.

47. “**Plaintiff**” means Rae Whitman, the plaintiff in the Complaint.

48. “**Postcard Notice**” means the postcard notice of the Settlement, substantially in the form attached hereto as *Exhibit 1* that the Settlement Administrator shall disseminate to Settlement Class Members by mail.

49. “**Preliminary Approval**” means the preliminary approval of the Settlement, which occurs when the Court enters the Preliminary Approval Order.

50. “**Preliminary Approval Order**” means the order preliminarily approving the Settlement and proposed Notice Program, substantially in the form attached hereto as *Exhibit 4*.

51. “**Private Information**” means some combination of Settlement Class Members’ names, dates of birth, addresses, Social Security numbers, financial account information, diagnosis details, laboratory results, medications, other treatment information, health insurance information, provider names, and/or dates of treatment.

52. “**Related Entities**” means Defendant and its respective past or present parents, subsidiaries, divisions, and related or affiliated entities, and each of its and their respective

predecessors, successors, directors, officers, principals, agents, attorneys, insurers, and reinsurers, and includes, without limitation, any person related to any such entity who is, was, or could have been named as a defendant in this Action, other than any person who is found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Data Incident or who pleads *nolo contendere* to any such charge.

53. “**Releases**” means the releases and waiver set forth in Section XIII of this Agreement.

54. “**Released Claims**” collectively means any and all claims, liabilities, rights, demands, suits, actions, causes of action, obligations, damages, penalties, costs, attorneys’ fees, losses, and remedies of every kind or description—whether known or unknown (including Unknown Claims), existing or potential, suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, legal, statutory, or equitable—that are based on, arise out of, or in any way relate to the Data Incident or any of the facts alleged or claims asserted in the Action (including the Complaint and any amendment thereto), Defendant’s information security policies and practices, or Defendant’s maintenance or storage of Personal Information, regardless of whether such claims arise under federal, state and/or local law, statute, ordinance, regulation, common law, or any of other source of law. Released Claims shall not include the right of any Settlement Class Member, Settlement Class Counsel, or any of the Released Parties to enforce the terms of the settlement contained in this Settlement Agreement, and shall not include the claims of Settlement Class Members who have timely excluded themselves from the Settlement Class.

55. “**Released Parties**” means the Related Entities and each of their past or present parents, subsidiaries, divisions, and related or affiliated entities, including joint ventures and joint

venture partners, and each of their respective predecessors, successors, directors, officers, principals, agents, attorneys, insurers, and reinsurers.

56. “**Releasing Parties**” means Plaintiff and Settlement Class Members and their respective past, present, and future heirs, devisees, beneficiaries, conservators, executors, estates, administrators, assigns, trustees, receivers, agents, attorneys, accountants, financial and other advisors, and any other representatives of any of these persons and entities.

57. “**Service Award**” means the payment the Court may award the Plaintiff for serving as Class Representative, which is in addition to any Settlement Benefit due to Plaintiff as a Settlement Class Member.

58. “**Settlement Administrator**” means Eisner Advisory Group, LLC.

59. “**Settlement Administration Costs**” means the reasonable costs and fees of the Settlement Administrator relating to Notice and Settlement administration.

60. “**Settlement Benefits**” means the benefits for: 1) two years of one-bureau credit monitoring; 2) documented losses; and 3) an alternate cash payment that Settlement Class Members may file Claims for under this Settlement Agreement, as set forth in Section V herein.

61. “**Settlement Class**” means all living individuals residing in the United States whose Private Information was impacted in the Data Incident. Excluded from the Settlement Class are all persons who are: (a) directors, officers, and employees of Defendant, and any entity in which Defendant has a controlling interest; (b) governmental entities; (c) the Judge assigned to the Action, that Judge’s immediate family, and Court staff; (d) any Settlement Class Member who timely and validly opted out of the Settlement; and (e) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Data Incident, or who pleads *nolo contendere* to any such charge.

62. “**Settlement Class Member**” means any member of the Settlement Class who has not timely opted-out of the Settlement.

63. “**Settlement Fund**” means a non-reversionary common fund to be funded by Defendant in the amount of \$500,000.00, which shall be deposited into the Escrow Account pursuant to Section III herein. The Settlement Fund will be used to pay: (a) all Valid Claims for Cash Payments and Credit Monitoring; (b) all Settlement Administration Costs; (c) any Court-awarded Attorneys’ Fees, Costs, and Service Award to Class Representative; and (d) CAFA Notice. Under no circumstances will Defendant have any further monetary payment obligations under this Agreement.

64. “**Settling Parties**” means, collectively Defendant and Plaintiff, individually and on behalf of the Settlement Class Members.

65. “**Settlement Website**” means the website the Settlement Administrator will establish as a means for the Settlement Class Members to submit Claim Forms and obtain notice and information about the Settlement, including hyperlinked access to this Agreement, the Preliminary Approval Order, Long Form Notice, Claim Form, Motion for Final Approval, Application for Attorneys’ Fees, Costs, and Service Award, and Final Approval Order, as well as other documents as the Parties agree to post or the Court orders posted. The Settlement Website shall remain online and operable for at least six months after Effective Date.

66. “**Valid Claim**” means a Claim Form submitted by a Settlement Class Member that is: (a) submitted in accordance with the provisions of the Settlement; (b) accurately, fully, and truthfully completed and executed, with all of the information requested in the Claim Form, by a Settlement Class Member; (c) signed physically or by e-signature by a Settlement Class Member personally, subject to the penalty of perjury; (d) returned via mail and postmarked by the Claim

Form Deadline, or, if submitted online, submitted by 11:59 p.m. Pacific time on the Claim Form Deadline; and (e) determined to be valid by the Settlement Administrator.

### **III. Settlement Fund**

67. Within thirty (30) days of an order granting Preliminary Approval of the Settlement, Defendant shall fund or cause to fund \$250,000.00 in cash to the Escrow Account partially establishing the Settlement Fund. The Settlement Administrator shall provide payment instructions, a properly completed and duly executed IRS Form W-9 to Defendant within seven (7) days of the entry of the Preliminary Approval Order. Within thirty (30) days following Final Approval, the Defendant shall fund or cause to be funded the remaining \$250,000.00 to the Escrow Account to complete the funding of the Settlement Fund. Defendant shall not be responsible for any other payments under the Settlement. In the event there is no Final Approval, or the Effective Date does not occur, following the payment of any outstanding Settlement Administration Costs, all funds remaining in the Settlement Fund shall be returned to the Defendant.

68. The Settlement Fund will be used to pay: (a) all Valid Claims for Cash Payments and Credit Monitoring; (b) all Settlement Administration Costs; (c) any Court-awarded Attorneys' Fees, Costs, and Service Award to Class Representative; and (d) CAFA Notice.

69. The funds in the Escrow Account shall be deemed a "qualified settlement fund" within the meaning of United States Treasury Reg. § 1.468B-1 at all times since creation of the Escrow Account. All interest earned on the Settlement funds shall be for the benefit of the Settlement Class. All taxes (including any estimated taxes, and any interest or penalties relating to them) levied on the income earned by the Escrow Account or otherwise, including any taxes or tax detriments that may be imposed on Defendant, Defendant's Counsel, Plaintiff, and/or Class Counsel with respect to income earned by the Escrow Account, for any period during which the

Escrow Account does not qualify as a “qualified settlement fund” for the purpose of federal or state income taxes or otherwise, shall be paid out of the Escrow Account. Defendant, Defendant’s Counsel, Plaintiff, and Class Counsel shall have no liability or responsibility for any of the taxes. The Escrow Account shall indemnify and hold Defendant, Defendant’s Counsel, Plaintiff, and Class Counsel harmless for all taxes (including, without limitation, taxes payable by reason of any such indemnification).

**IV. Certification of the Settlement Class**

70. In the Motion for Preliminary Approval, Plaintiff shall propose and request to the Court that the Settlement Class be certified for purposes of settlement only. Defendant agrees solely for purposes of the Settlement provided for in this Agreement, and the implementation of such Settlement, that this case shall proceed as a class action; provided however, that if a Final Approval Order is not issued, then any certification shall be null and void and, for the avoidance of doubt, Defendant shall retain all rights to object to any future requests to certify a class. Plaintiff and Class Counsel shall not reference this Agreement in support of any subsequent motion for class certification of any class in the Action.

**V. Settlement Consideration**

71. All Settlement Class Members may submit a Claim for one of two Cash Payment options: (a) Cash Payment A – Documented Losses; or (b) Cash Payment B – Alternate Cash. Additionally, all Settlement Class Members may elect to receive two years of one-bureau Credit Monitoring. Settlement Class Members who fail to submit a Valid Claim or opt-out of the Settlement will release their claims against Defendant without receiving a Cash Payment or Credit Monitoring.

**a. Credit Monitoring**

Settlement Class Members may submit a Claim to receive two years of one-bureau Credit Monitoring. The Credit Monitoring product will provide the following benefits: credit monitoring, real-time alerts, and insurance coverage for up to \$1,000,000 for identity theft. This shall be available to any Settlement Class Member regardless of whether they previously received a credit monitoring product related to the Data Incident or otherwise.

**b. Cash Payment A – Documented Losses**

Settlement Class Members may submit a Claim for a Cash Payment under this section for up to \$5,000.00 per Settlement Class Member upon presentment of documented losses related to the Data Incident. To receive a documented loss payment, a Settlement Class Member must elect Cash Payment A on the Claim Form and attest under penalty of perjury to having incurred documented losses. Settlement Class Members will be required to submit reasonable documentation supporting the losses. Settlement Class Members shall not be reimbursed for expenses if they have been reimbursed for the same expenses by another source in connection with the identity protection and credit monitoring services offered as part of the notification letter provided by Defendant or otherwise. If a Settlement Class Member does not submit reasonable documentation supporting a loss, or if their Claim is rejected by the Settlement Administrator for any reason, and the Settlement Class Member fails to cure his or her Claim, the Claim will be converted to Cash Payment B – Alternate Cash.

Documented Losses eligible for reimbursement under this section include, but are not limited to, the following:

(a) monetary losses as a result of actual identity theft if: (i) the loss is an actual, documented, and unreimbursed monetary loss; (ii) the loss was fairly traceable to the Data

Incident; and (iii) the loss occurred between December 26, 2024 and the date the Claim was submitted;

- (b) postage;
- (c) copying, scanning, faxing;
- (d) mileage and other travel-related charges;
- (e) parking;
- (f) notary charges;
- (g) research charges;
- (h) cell phone charges (only if charged by the minute);
- (i) long distance phone charges;
- (j) data charges (only if charged based on the amount of data used);
- (k) text message charges (only if charged by the message);
- (l) bank fees; and
- (m) professional fees, such as fees for accountants and attorneys.

**c. Cash Payment B – Alternate Cash**

In lieu of electing Cash Payment A – Documented Losses, a Settlement Class Member may elect to receive Cash Payment B – Alternate Cash, which is a cash payment that does not require the submission of any supporting documentation. Cash Payment B will be a *pro rata* amount of the Net Settlement Fund. The current estimated amount is approximately \$60.00, which could be lower or higher based on the number of Valid Claims.

72. ***Pro Rata Adjustments on Cash Payments*** – Settlement Class Cash Payments will be subject to a *pro rata* increase in the event the amount of Valid Claims is insufficient to exhaust the entire Settlement Fund. Similarly, in the event the amount of Valid Claims exhausts the amount

of the Settlement Fund, the amount of the Cash Payments will be reduced *pro rata* accordingly. For purposes of calculating the *pro rata* increase or decrease, the Settlement Administrator must distribute the funds in the Settlement Fund in the following order: (1) Credit Monitoring, (2) Cash Payment A – Documented Losses, and (3) Cash Payment B – Alternate Cash Payments. Any *pro rata* increases or decreases to Cash Payments will be on an equal percentage basis and is designed to exhaust the Settlement Fund.

**VI. Settlement Approval**

73. Within ten (10) days following execution of this Agreement by all Parties and Class Counsel, Class Counsel shall file a Motion for Preliminary Approval. The proposed Preliminary Approval Order shall be attached to the motion as an exhibit and shall be in a form agreed to by Class Counsel and Defendant.

74. The Motion for Preliminary Approval shall, among other things, request the Court to: (1) preliminarily approve the terms of the Settlement as being within the range of fair, adequate, and reasonable; (2) provisionally certify the Settlement Class for settlement purposes only; (3) approve the Notice Program set forth herein and approve the form and content of the Notices of the Settlement; (4) approve the Claim Form and Claim Process; (5) approve the procedures for Settlement Class Members to opt-out of the Settlement or for Settlement Class Members to object to the Settlement; (6) appoint Plaintiff as Class Representative and Kenneth Grunfeld of Kopelowitz Ostrow P.A. and Kaleigh N. Boyd of Tousley Brain Stephens PLLC as Class Counsel for Settlement purposes; (7) stay the Action pending Final Approval of the Settlement; and (8) schedule a Final Approval Hearing for a time and date mutually convenient for the Court, the Parties, Class Counsel, and Defendant's Counsel.

**VII. Settlement Administrator**

75. The Parties agree that, subject to Court approval, Eisner Advisory Group LLC shall be the Settlement Administrator. Class Counsel and Defendant's Counsel shall jointly oversee the Settlement Administrator. The Settlement Administrator shall fulfill the requirements set forth in the Preliminary Approval Order and the Agreement and comply with all applicable laws, including, but not limited to, the Due Process Clause of the United States Constitution.

76. The Settlement Administrator shall administer various aspects of the Settlement as described in the next paragraph and perform such other functions as are specified for the Settlement Administrator elsewhere in this Agreement.

77. The Settlement Administrator's duties include:

a. Completing the Court-approved Notice Program by notifying the Settlement Class by Postcard Notice, sending out Long Form Notices and paper Claim Forms upon request from Settlement Class Members, reviewing Claim Forms, notifying Claimants of deficient Claim Forms using the Notice of Deficiency, and sending Settlement Benefits to Settlement Class Members who submit Valid Claims;

b. Within ten (10) days following the filing of the Motion for Preliminary Approval and pursuant thereto, the Settlement Administrator, on behalf of Defendant, shall cause a CAFA Notice to be served upon the appropriate State and Federal officials. Defendant will cooperate with the Settlement Administrator in preparing and finalizing the CAFA Notice. All expenses incurred in connection with the preparation and service of the CAFA Notice by the Settlement Administrator shall be payable from the Settlement Fund.

c. Establishing and maintaining the Escrow Account approved by the Parties;

d. Establishing and maintaining a post office box to receive opt-out requests from the Settlement Class, objections from Settlement Class Members, and Claim Forms;

e. Establishing and maintaining the Settlement Website to provide important information and to receive electronic Claim Forms;

f. Establishing and maintaining an automated toll-free telephone line for Settlement Class Members to call with Settlement-related inquiries, and answer the frequently asked questions of Settlement Class Members who call with or otherwise communicate such inquiries;

g. Responding to any mailed Settlement Class Member inquiries;

h. Processing all opt-out requests from the Settlement Class;

i. Providing weekly reports to Class Counsel and Defendant's Counsel that summarize the number of Claims submitted, Claims approved and rejected, Notice of Deficiency sent, opt-out requests and objections received that week, the total number of opt-out requests and objections received to date, and other pertinent information;

j. In advance of the Final Approval Hearing, preparing a declaration for the Parties confirming that the Notice Program was completed in accordance with the terms of this Agreement and the Preliminary Approval Order, describing how the Notice Program was completed, indicating the number of Claim Forms received, the number of Claims for each form of Cash Payment, and the number of Claims for Credit Monitoring, providing the names of each Settlement Class Member who timely and properly requested to opt-out from the Settlement Class, indicating the number of objections received, and other information as may be necessary to allow the Parties to seek and obtain Final Approval;

k. Distributing, out of the Settlement Fund, Cash Payments by electronic means or by paper check;

l. Ensuring the dissemination of emails to Settlement Class Members

instructing how to activate the Credit Monitoring product.

m. Paying Court-approved attorneys' fees, costs, and Service Award, out of the Settlement Fund;

n. Paying Settlement Administration Costs out of the Settlement Fund following approval by Class Counsel and Defendant's Counsel; and

o. Any other Settlement administration function at the instruction of Class Counsel and Defendant, including, but not limited to, verifying that the Settlement Fund has been properly administered and that the Cash Payments and Credit Monitoring access information have been properly distributed.

**VIII. Notice to the Settlement Class, Opt-Out Procedures, and Objection Procedures**

78. Defendant will make available to Class Counsel and the Settlement Administrator the Class List no later than ten (10) days after entry of the Preliminary Approval Order.

79. Within thirty (30) days following entry of the Preliminary Approval Order, the Settlement Administrator shall commence the Notice Program using the forms of Notice approved by the Court. Notice shall be made to all Settlement Class Members via US Postal Mail. Before any mailing under this paragraph occurs, the Settlement Administrator shall run the postal addresses of Settlement Class Members through the United States Postal Service ("USPS") National Change of Address database to update any change of address on file with the USPS. In the event that a Postcard Notice is returned to the Settlement Administrator by the USPS because the address of the recipient is no longer valid, and the envelope contains a forwarding address, the Settlement Administrator shall re-send the Postcard Notice to the forwarding address within ten (10) days of receiving the returned Postcard Notice. In the event that subsequent to the first mailing of a Postcard Notice, and at least fourteen (14) days prior to the Objection Deadline and Opt-Out

Deadline, a Postcard Notice is returned to the Settlement Administrator by the USPS because the address of the recipient is no longer valid, i.e., the envelope is marked “Return to Sender” and does not contain a new forwarding address, the Settlement Administrator shall perform a standard skip trace, in the manner that the Settlement Administrator customarily performs skip traces, in an effort to attempt to ascertain the current address of the particular Settlement Class Member in question and, if such an address is ascertained, the Settlement Administrator will re-send the Postcard Notice within seven (7) days of receiving such information. This shall be the final requirement for mailing.

80. The Postcard Notice shall include, among other information: a description of the material terms of the Settlement; how to submit a Claim Form; the Claim Form Deadline; the Opt-Out Deadline for Settlement Class Members to opt-out of the Settlement Class; the Objection Deadline for Settlement Class Members to object to the Settlement and/or the Application for Attorneys’ Fees, Costs and Service Award; the Final Approval Hearing date; and the Settlement Website address at which Settlement Class Members may access this Agreement and other related documents and information. Class Counsel and Defendant’s Counsel shall insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. If the date or time for the Final Approval Hearing changes, the Settlement Administrator shall update the Settlement Website to reflect the new date. No additional notice to the Settlement Class is required if the date or time for the Final Approval Hearing changes.

81. The Settlement Administrator shall establish the Settlement Website no later than the day before Notice is first initiated. The Settlement Administrator shall ensure the Settlement Website makes available the Court-approved online Claim Form that can be submitted directly on

the Settlement Website or in printable version that can be sent by U.S. Mail to the Settlement Administrator.

82. The Long Form Notice also shall include a procedure for Settlement Class Members to opt-out of the Settlement Class, and it shall direct Settlement Class Members to review the Long Form Notice to obtain the opt-out instructions. A Settlement Class Member may opt-out of the Settlement Class at any time before the Opt-Out Deadline by mailing a request to opt-out to the Settlement Administrator postmarked no later than the Opt-Out Deadline. The opt-out request must: (a) be personally signed by the Settlement Class Member; (b) contain the requestor's full name, mailing address, telephone number, and email address (if any); and (c) include a statement indicating a request to be excluded from the Settlement Class. Any Settlement Class Member who does not timely and validly request to opt-out shall be bound by the terms of this Agreement even if that Settlement Class Member does not submit a Valid Claim. "Mass" or "class" opt-outs filed by third parties on behalf of a "mass" or "class" of Settlement Class Members or multiple Settlement Class Members that do not include the required information for each Settlement Class Member that seeks to opt-out, and that has not been signed by each and every individual Settlement Class Member that seeks to opt-out will not be allowed.

83. The Long Form Notice also shall include a procedure for Settlement Class Members to object to the Settlement and/or the Application for Attorneys' Fees, Costs and Service Award, and the Postcard Notice shall direct Settlement Class Members to review the Long Form Notice to obtain the objection instructions. Objections must be filed with the Court, and sent by U.S. Mail to Class Counsel, Defendant's Counsel, and the Settlement Administrator. For an objection to be considered by the Court, the relevant Settlement Class Member must submit the objection by the Objection Deadline, as specified in the Notice, and the relevant Settlement Class

Member must not have excluded herself from the Settlement Class. If submitted by mail, an objection shall be deemed to have been submitted when posted if received with a postmark date indicated on the envelope if mailed first-class postage prepaid. In other words, objections by mail postmarked later than the Objection Deadline are late and will not be considered by the Court. If submitted by courier (e.g., Federal Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label.

84. For an objection to be considered by the Court, the objection must also set forth:
  - a. the objector's full name, mailing address, telephone number, and email address (if any);
  - b. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;
  - c. the number of times the objector has objected to a class action settlement within the 5 years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case;
  - d. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement and/or Application for Attorneys' Fees, Costs, and Service Award;
  - e. the number of times in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the five years preceding the date of the filed objection, the caption of each case in which counsel or the firm has made such objection and a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or

counsel's law firm have objected to a class action settlement within the preceding five years;

f. the identity of all counsel (if any) representing the objector, and whether they will appear at the Final Approval Hearing;

g. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any);

h. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and

i. the objector's signature (an attorney's signature is not sufficient).

Class Counsel and/or Defendant's Counsel may conduct limited discovery on any objector or objector's counsel. This includes taking depositions and requesting documents.

**IX. Claim Form Process and Disbursement of Settlement Benefits**

85. The Notice and the Settlement Website will explain to Settlement Class Members that they may be entitled to a Cash Payment and Credit Monitoring and how to submit a Claim Form.

86. Claim Forms may be submitted online through the Settlement Website or through U.S. Mail by sending them to the Settlement Administrator at the address designated on the Claim Form.

87. The Settlement Administrator shall collect, review, and address each Claim Form received to determine whether the Claim Form meets the requirements set forth in this Settlement and is thus a Valid Claim. The Settlement Administrator shall examine the Claim Form before designating the Claim as a Valid Claim to determine that the information on the Claim Form is reasonably complete. The Settlement Administrator shall have the sole authority to determine whether a Claim by any Claimant is a Valid Claim.

88. The Settlement Administrator shall use all reasonable efforts and means to identify and reject duplicate claims. No Settlement Class Member may submit more than one Claim Form. The Settlement Administrator shall identify any Claim Forms that appear to seek relief on behalf of the same Settlement Class Member. If the Settlement Administrator identifies any Claim Form that appears to be a duplication, the Settlement Administrator shall contact the Settlement Class Member in an effort to determine which Claim Form is the appropriate one for consideration.

89. The Settlement Administrator shall exercise, in its discretion, all usual and customary steps to prevent fraud and abuse and take any reasonable steps to prevent fraud and abuse in the Claim process. The Settlement Administrator may, in its discretion, deny in whole or in part any Claim Form to prevent actual or possible fraud or abuse. By agreement, the Parties can instruct the Settlement Administrator to take whatever steps it deems appropriate if the Settlement Administrator identifies actual or possible fraud or abuse relating to the submission of claims, including, but not limited to, denying in whole or in part any Claim to prevent actual or possible fraud or abuse. If any fraud is detected or reasonably suspected, the Settlement Administrator and Parties may require information from Claimants or deny Claims, subject to the supervision of the Parties and ultimate oversight by the Court.

90. Claim Forms that do not meet the terms and conditions of this Settlement shall be promptly rejected by the Settlement Administrator and the Settlement Administrator shall advise the Claimant or Settlement Class Member of the reason(s) why the Claim Form was rejected. However, if the Claim Form is rejected for containing incomplete or inaccurate information, and/or omitting required information, the Settlement Administrator may send a Notice of Deficiency explaining what information is missing or inaccurate and needed to validate the Claim and have it submitted for consideration. The Settlement Administrator shall notify the Claimant using the

contact information provided in the Claim Form. The additional information and/or documentation can include, for example, answers to questions regarding the validity of the Claimant's physical or e-signature. A Claimant shall have until the Claim Form Deadline, or fifteen (15) days from the date the Notice of Deficiency is sent to the Claimant via mail and postmarked or via email, whichever is later, to reply to the Notice of Deficiency and provide the required information. If the Claimant timely and adequately provides the requested information and/or documentation, the Claim shall be deemed a Valid Claim and processed by the Settlement Administrator. If the Claimant does not timely and completely provide the requested information and/or documentation, the Settlement Administrator shall reduce or deny the Claim unless Defendant and Class Counsel otherwise agree.

91. Where a good faith basis exists, the Settlement Administrator may reduce or reject a Claim for, among other reasons, the following:

- a. Failure to fully complete and/or sign the Claim Form;
- b. Illegible Claim Form;
- c. The Claim Form is fraudulent;
- d. The Claim Form is duplicative of another Claim Form;
- e. The Claimant is not a Settlement Class Member;
- f. The Claimant submitted a timely and valid request to opt out of the Settlement Class;
- g. The person submitting the Claim Form requests that payment be made to a person or entity other than the Claimant for whom the Claim Form is submitted;
- h. Failure to submit a Claim Form by the Claim Form Deadline; and/or
- i. The Claim Form otherwise does not comply with the requirements of this

Settlement.

92. The Settlement Administrator's reduction or denial of a Claim is final, subject to the following dispute resolution procedures:

a. The Settlement Administrator shall have thirty (30) days from the Claim Form Deadline to approve or reject Claims;

b. A request for additional information by sending a Notice of Deficiency shall not be considered a denial for purposes of this Paragraph;

c. If a Claim is rejected, the Settlement Administrator shall notify the Claimant using the contact information provided in the Claim Form. Class Counsel and Defendant's Counsel shall be provided with copies of all such notifications to Claimants; and

d. The Settlement Administrator's determination as to whether to approve, deny, or reduce a Claim shall be final and binding.

93. The Settlement Administrator shall provide all information gathered in investigating Claims, including, but not limited to, copies of all correspondence and email and all notes of the Settlement Administrator, the decision reached, and all reasons supporting the decision, if requested by Class Counsel. Additionally, Class Counsel shall have the right to inspect the Claim Forms and supporting documentation received by the Settlement Administrator at any time upon reasonable notice.

94. No person or entity shall have any claim against Defendant, Defendant's Counsel, Plaintiff, the Settlement Class, Class Counsel, and/or the Settlement Administrator based on any eligibility determinations, distributions, or awards made in accordance with this Settlement.

95. The Settlement Administrator shall distribute the Settlement Benefits no later than forty-five (45) days after the Effective Date.

96. Cash Payments to Settlement Class Members will be made by electronic payment or by paper check. Settlement Class Members will select their preferred method of payment on the Claim Form, with the option to select from alternative forms of electronic payment or paper check. Paper checks must be negotiated within 120 days of issuance. In the event of any complications arising in connection with the issuance of an electronic payment, the Settlement Administrator shall provide written notice to Class Counsel and Defendant's Counsel. Absent specific instructions from Class Counsel and Defendant's Counsel, the Settlement Administrator shall proceed to resolve the dispute using its best practices and procedures to ensure that the funds are fairly and properly distributed to the person or persons who are entitled to receive them, which may include issuing a paper check to the Claimant. In the event the Settlement Administrator is unable to distribute funds to the person or persons entitled to receive them due to incorrect or incomplete information provided to the Settlement Administrator, the funds shall become residual funds, and the Settlement Class Member shall forfeit their entitlement right to the funds.

97. The Settlement Administrator is responsible for ensuring that Settlement Class Members with Valid Claims for Credit Monitoring receive instructions on how to enroll in the Credit Monitoring.

**X. Final Approval Order and Final Judgment**

98. Plaintiff shall file her Motion for Final Approval of the Settlement, inclusive of the Application for Attorneys' Fees, Costs, and Service Award, no later than forty-five (45) days before the initial scheduled Final Approval Hearing. At the Final Approval Hearing, the Court will hear arguments on Plaintiff's Motion for Final Approval of the Settlement and Application for Attorneys' Fees, Costs, and Service Award. In the Court's discretion, the Court will also hear arguments at the Final Approval Hearing from any Settlement Class Members (or their counsel)

who object to the Settlement and/or to the Application for Attorneys' Fees, Costs, and Service Award, provided the objectors submitted timely objections that meet all of the requirements listed in this Agreement.

99. At or following the Final Approval Hearing, the Court will determine whether to enter the Final Approval Order and final judgment thereon, and whether to grant the Application for Attorneys' Fees, Costs, and Service Award. Such proposed Final Approval Order shall, among other things:

- a. Determine that the Settlement is fair, adequate and reasonable;
- b. Finally certify the Settlement Class for settlement purposes only;
- c. Determine that the Notice Program satisfies Due Process requirements;
- d. Bar and enjoin all Releasing Parties from asserting or otherwise pursuing any of the Released Claims at any time and in any jurisdiction, including during any appeal from the Final Approval Order; and retain jurisdiction over the enforcement of the Court's injunctions;
- e. Release Defendant and the other Released Parties from the Released Claims; and
- f. Reserve the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, including Defendant, Plaintiff, all Settlement Class Members, and all objectors, to administer, supervise, construe, and enforce this Agreement in accordance with its terms.

**XI. Service Award, Attorneys' Fees and Costs**

105. *Service Award* – The Class Representative may seek a Service Award of up to \$3,000.00, subject to Court approval. The Service Award approved by the Court shall be paid by the Settlement Administrator to Class Counsel on behalf of the Class Representative out of the Escrow Account by wire transfer to an account designated by Class Counsel within 10 days of the Effective Date.

106. ***Attorneys' Fees and Costs*** – Class Counsel shall apply to the Court for an award of reasonable attorneys' fees of up to one-third of the Settlement Fund, plus reimbursement of reasonable costs. The attorneys' fees and cost awards approved by the Court shall be paid by the Settlement Administrator out of the Escrow Account by wire transfer to an account designated by Class Counsel within 10 days of Effective Date.

107. This Settlement is not contingent on approval of the request for attorneys' fees, costs or Service Award, and if the Court denies the requests or grants amounts less than what were requested, the remaining provisions of the Agreement shall remain in force. The provision for attorneys' fees and costs was negotiated after all material terms of the Settlement.

108. The award of attorneys' fees and costs shall be paid to Class Counsel from the Settlement Fund.

## **XII. Disposition of Residual Funds**

109. In the event there are funds remaining in the Settlement Fund twenty (20) days following a 120-day period to cash checks, following payment of Settlement Class Member Payments, any residual funds shall be distributed to an appropriate mutually agreeable *cy pres* recipient approved by the Court.

## **XIII. Releases**

110. Upon the Effective Date, and in consideration of the settlement relief and other consideration described herein, the Releasing Parties shall be deemed to have, and by operation of the Final Approval Order shall have, fully, finally, and forever released, acquitted, relinquished, and completely discharged the Released Parties from any and all Released Claims, including claims Plaintiff does not know or suspects to exist in his/her favor at the time of the release of the Released Parties that, if known by him or her, might have affected his or her settlement with, and

release of, the Released Parties, or might have affected his or her decision not to object to and/or to participate in this Settlement Agreement. With respect to any and all Released Claims, the Parties stipulate and agree that upon the Effective Date, Plaintiff intends to and expressly shall has, and each of the other Settlement Class Members intend to and shall be deemed to have, and by operation of the Judgment shall have, waived the provisions, rights, and benefits conferred by California Civil Code § 1542, and also any and all provisions, rights, and benefits conferred by any law of any state, province, or territory of the United States (including, without limitation, California Civil Code §§ 1798.80 et seq., Montana Code Ann. § 28-1-1602; North Dakota Cent. Code § 9-13-02; and South Dakota Codified Laws § 20-7-11), which is similar, comparable, or equivalent to California Civil Code §1542, which provides:

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.

Settlement Class Members, including Plaintiff, may hereafter discover facts in addition to, or different from, those that they, and any of them, now know or believe to be true with respect to the subject matter of the Released Claims, but Plaintiffs expressly shall have, and each other Settlement Class Member shall be deemed to have, and by operation of the Judgment shall have, upon the Effective Date, fully, finally and forever settled and released any and all Released Claims. The Parties acknowledge, and Settlement Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver is a material element of the Settlement Agreement of which this release is a part.

112. Settlement Class Members who opt-out of the Settlement by the Opt-Out Deadline do not release their claims and will not obtain any benefits, including any Settlement Benefits,

under the Settlement.

113. Upon the Effective Date: (a) this Settlement shall be the exclusive remedy for any and all Released Claims of Plaintiff and Settlement Class Members; and (b) Plaintiff and Settlement Class Members stipulate to be and shall be permanently barred and enjoined by Court order from initiating, asserting, or prosecuting any Released Claim against the Released Parties, whether on behalf of Plaintiff, any Settlement Class Member or others, in any jurisdiction, including in any federal, state, or local court or tribunal.

**XIV. Termination of Settlement**

114. This Agreement shall be subject to and is expressly conditioned on the occurrence of all of the following events:

- a. Court approval of the Settlement consideration set forth in Section V and the Releases set forth in Section XIII of this Agreement;
- b. The Court has entered the Preliminary Approval Order;
- c. The Court has entered the Final Approval Order, and all objections, if any, are overruled, and all appeals taken from the Final Approval Order are resolved in favor of Final Approval; and
- d. The Effective Date has occurred.

115. If any of the conditions specified in the preceding paragraph are not met, or if the Court otherwise imposes any modification to or condition to approval of the Settlement to which the Parties do not consent, then this Agreement shall be cancelled and terminated.

116. Additionally, Defendant may, in its sole discretion, void the Settlement if the number of opt-outs exceeds 50 Settlement Class Members, by notifying Class Counsel and the Court in writing within ten (10) business days from the date the Settlement Administrator provides

the list of opt-outs to Defendant.

117. In the event this Agreement is terminated or fails to become effective, then the Parties shall return to the *status quo ante* in the Action as if the Parties had not entered into this Agreement, and the Parties shall jointly file a status report in the Court seeking to reopen the Action and all papers filed. In such event, the terms and provisions of this Agreement shall have no further force and effect with respect to the Parties and shall not be used in this Action or in any other action or proceeding for any other purpose, and any order entered by this Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*.

**XV. Effect of Termination**

118. The grounds upon which this Agreement may be terminated are set forth in Section XIV. In the event of a termination, this Agreement shall be considered null and void; all of Plaintiff's, Class Counsel's, Defendant's, Defendant's Counsel's obligations under the Settlement shall cease to be of any force and effect; and the Parties shall return to the *status quo ante* in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement rights, claims, and defenses will be retained and preserved.

119. In the event the Settlement is terminated in accordance with the provisions of this Agreement, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose. In such event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Court.

**XVI. No Admission of Liability**

120. This Agreement reflects the Parties' compromise and settlement of disputed claims.

This Agreement shall not be construed as or deemed to be evidence of an admission or concession of any point of fact or law. Defendant has denied and continues to deny each of the claims and contentions alleged in the Complaint. Defendant specifically denies that a class could or should be certified in the Action for litigation purposes. Defendant does not admit any liability or wrongdoing of any kind, by this Agreement or otherwise. Defendant has agreed to enter into this Agreement to avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation, and to be completely free of any further claims that were asserted or could possibly have been asserted in the Action.

121. Class Counsel believe the claims asserted in the Action have merit, and they have examined and considered the benefits to be obtained under the proposed Settlement set forth in this Agreement, the risks associated with the continued prosecution of this complex, costly, and time-consuming litigation, and the likelihood of success on the merits of the Action. Class Counsel have investigated the facts and law relevant to the merits of the claims, conducted informal discovery, and conducted independent investigation of the alleged claims. Class Counsel concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class Members.

122. This Agreement constitutes a compromise and settlement of disputed claims.

## **XVII. Miscellaneous Provisions**

123. ***Confidentiality.*** To the extent permitted by ethics rules, the Parties and their counsel shall keep confidential all settlement communications, including communications regarding the negotiation and drafting of this Agreement. The Parties will not make any public statement about the Settlement that has not been approved by the other side, except as required or authorized by law. Approval of any proposed public statement of the other side will not be

unreasonably withheld. The Parties will cooperate with each other regarding public statements about the Settlement and may issue a joint statement/press release if they mutually agree to do so. This paragraph shall not be construed to limit or impede the Notice requirements contained in this Agreement, nor shall this paragraph be construed to prevent Class Counsel or Defendant's Counsel from notifying or explaining that the Action has settled or limit the representations that the Parties or their counsel may make to the Court to assist in the Court's evaluation of the Settlement, Preliminary Approval, Final Approval, and any objection to the Settlement's terms. Defendant may also provide information about the Agreement to its customers, attorneys, members, partners, insurers, brokers, agents, and other persons or entities as required by securities laws, other applicable laws and regulations, and as necessary to effect the Settlement.

124. ***Gender and Plurals.*** As used in this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

125. ***Binding Effect.*** This Agreement shall be binding upon, and inure to and for the benefit of, the successors and assigns of the Releasing Parties and the Released Parties.

126. ***Cooperation of Parties.*** The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, seek Court approval, uphold Court approval, and do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

127. ***Obligation to Meet and Confer.*** Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have met and conferred in an attempt to resolve the dispute.

128. ***Integration and No Reliance.*** This Agreement constitutes a single, integrated

written contract expressing the entire agreement of the Parties relative to the subject matter hereof. This Agreement is executed without reliance on any covenant, agreement, representation, or warranty by any Party or any Party's representative other than those expressly set forth in this Agreement. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.

129. **No Conflict Intended.** Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

130. **Governing Law.** Except as otherwise provided herein, the Agreement shall be construed in accordance with, and be governed by, the laws of the state of Washington, without regard to the principles thereof regarding choice of law.

131. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts. Original signatures are not required.

132. **Jurisdiction.** The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice Program and the Settlement Administrator. As part of the agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose. The Court shall retain jurisdiction over the enforcement of the Court's injunction barring and enjoining all Releasing Parties from asserting any of the Released Claims and from pursuing any Released

Claims against the Released Parties at any time and in any jurisdiction, including during any appeal from the Final Approval Order.

133. *Notices.* All notices provided for herein, shall be sent by email with a hard copy sent by overnight mail to:

If to Plaintiff or Class Counsel:

Kenneth Grunfeld  
**Kopelowitz Ostrow P.A**  
One West Las Olas Blvd., Suite 500  
Fort Lauderdale, FL 33301  
grunfeld@kolawyers.com

Kaleigh N. Boyd  
**Tousley Brain Stephens PLLC**  
1200 Fifth Avenue, Suite 1700  
Seattle, WA 98101  
kboyd@tousley.com

If to Defendant or Defendant's Counsel:

Casie D. Collignon  
**Baker & Hostetler LLP**  
1801 California Street, Suite 4400  
Denver, CO 80202  
ccollignon@bakerlaw.com

Logan F. Peppin  
**Baker & Hostetler LLP**  
999 Third Avenue, Suite 3900  
Seattle, WA 98104  
lpeppin@bakerlaw.com

The notice recipients and addresses designated above may be changed by written notice. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice Program.

134. *Modification and Amendment.* This Agreement may not be amended or modified, except by a written instrument signed by Class Counsel and Defendant's Counsel and, if the

Settlement has been approved preliminarily by the Court, approved by the Court.

135. **No Waiver.** The waiver by any Party of any breach of this Agreement by another Party shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

136. **Authority.** Class Counsel (for the Plaintiff and the Settlement Class Members), and Defendant's Counsel, represent and warrant that the persons signing this Agreement on their behalf have full power and authority to bind every person, partnership, corporation, or entity included within the definitions of Plaintiff and Defendant respectively to all terms of this Agreement. Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

137. **Agreement Mutually Prepared.** Neither Plaintiff nor Defendant shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

\* \* **Remainder of page intentionally left blank** \* \*

**PLAINTIFF**

  
Rae Whitman (Jan 8, 2026 12:16:04 PST)  
\_\_\_\_\_  
**Rae Whitman**

Date: Jan 8, 2026

**CLASS COUNSEL (for the Settlement Class):**

*Ken Grunfeld*  
Ken Grunfeld (Jan 8, 2026 13:30:23 EST)  
\_\_\_\_\_  
**Kenneth Grunfeld**  
KOPELOWITZ OSTROW P.A.

Date: Jan 8, 2026

*Kaleigh Boyd*  
Kaleigh Boyd (Jan 8, 2026 12:36:00 PST)  
\_\_\_\_\_  
**Kaleigh N. Boyd**  
TOUSLEY BRAIN STEPHENS PLLC

Date: Jan 8, 2026

**On Behalf of Defendant Whitman County Public Hospital District No. 3 d/b/a Whitman Hospital & Medical Clinics:**

\_\_\_\_\_

Date: \_\_\_\_\_

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

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

**COUNSEL FOR DEFENDANT**

\_\_\_\_\_  
**Casie D. Collignon**  
BAKER & HOSTETLER LLP

Date: \_\_\_\_\_