

EXHIBIT 1

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Settlement Agreement”) is made and entered into by and between Plaintiff, Tiffany Jade Smith, individually and as representative of the Settlement Class as defined below (“Plaintiff”) and Defendant, e-Verifile.com, Inc. (“Defendant”). Plaintiff and Defendant are collectively referred to as the “Parties.” This Settlement Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle all released rights and claims to the extent set forth below, subject to the terms and conditions set forth herein.

RECITALS

WHEREAS, Defendant provides employment background screening reports throughout the United States, including with respect to consumers residing in the State of Ohio, and is a Consumer Reporting Agency (“CRA”) as that term is defined in the Fair Credit Reporting Act (“FCRA”); and

WHEREAS, on March 22, 2016, Plaintiff commenced the lawsuit in the United States District Court for the Northern District of Ohio, Eastern Division styled *Tiffany Smith v. Sterling Infosystems-Ohio, Inc., et al.*, Case No. 1:16-cv-00714-PAG, alleging that Defendant failed to comply with the notification procedures required by the FCRA, specifically 15 U.S.C. § 1681k, § 1681b(b)(3) as well as § 1681e. (“Litigation”); and

WHEREAS, on June 27, 2016, Plaintiff filed her First Amended Class Action Complaint for Violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.* against Defendant; and

WHEREAS on February 7, 2017, the parties participated in a settlement conference in front of Judge Gaughan and ultimately reached an agreement in principle to resolve their disputes; and

WHEREAS, the Parties are willing to enter into this Settlement Agreement to settle the

claims of the Settlement Class because of, among other reasons, the attendant expense, risks, difficulties, delays, and uncertainties of continued litigation; and

WHEREAS, Plaintiff and Class Counsel believe that this Settlement Agreement provides fair, reasonable, and adequate relief to the Settlement Class, and it is in the best interests of the Settlement Class to have their class claims settled, compromised, and dismissed on the merits and with prejudice as to Defendant on the terms set forth below, subject to the approval of the Court; and

WHEREAS, Defendant denies all claims asserted against them in the Litigation, denies that class certification would be appropriate if the putative class claims asserted in the Litigation were litigated rather than settled, denies all allegations of wrongdoing and liability, and denies that anyone was harmed by the conduct alleged, but nevertheless desires to settle the Litigation on the terms and conditions set forth in this Settlement Agreement solely for the purpose of avoiding the burden, expense, risk and uncertainty of continuing the proceedings on those issues in the Litigation and putting to rest the controversies engendered.

NOW THEREFORE, IT IS AGREED, by and among the Parties, without (a) any admission or concession of the lack of merit of the Litigation whatsoever on the part of Plaintiff, or (b) any admission or concession of liability or wrongdoing or the lack of merit of any defense whatsoever by Defendant, that the Litigation and all claims of the Settlement Class be settled, compromised, and dismissed on the merits and with prejudice as to Defendant on the terms set forth below, subject to the approval of the Court.

The recitals stated above are true and accurate and are hereby made a part of the Settlement Agreement.

I. DEFINITIONS

As used in this Settlement Agreement, the terms defined below shall have the meanings assigned to them when capitalized in the same fashion as in this Section I. Any other terms that relate to the consumer reporting industry shall have the customary meaning accorded to those terms in the consumer reporting industry.

1.1 “Settlement Class” means all natural persons residing in the United States who were the subject of one or more background reports furnished to a third party by e-Verifile.com, Inc. for employment purposes, which report(s) contained a record of criminal or traffic arrest or conviction or other criminal history, during the period from March 21, 2014 through March 21, 2016.

1.2 “Notice Class Members” means all members of the Settlement Class who were the subject of a background report that contained a record of criminal or traffic arrest or conviction or other criminal history and Defendant’s records show were not mailed a copy of a notice pursuant to 15 U.S.C. § 1681k(a)(1). Defendant estimates there are 756 Members of this Class. This is a material term of this Settlement.

1.3 “PAAN Class Members” means all members of the Settlement Class who were not given a copy of the report and/or written summary of rights pursuant to 15 U.S.C. § 1681b(b)(3) during the period from March 21, 2014 through March 21, 2016, whose eRailsafe applications were denied as a result of a background report, and who later appealed such denial. Defendant estimates there are 1,129 Members of this Class. This is a material term of this Settlement.

1.4 “Class Counsel” means Matthew A. Dooley and Stephen M. Bosak, Jr. of O’Toole McLaughlin Dooley & Pecora Co LPA; John C. Bazaz of the Law Offices of John C. Bazaz, PLC; and Leonard Bennett and Craig Marchiando of Consumer Litigation Associates, P.C.

1.5 “Named Plaintiff” means Tiffany Jade Smith.

1.6 “Litigation” means *Tiffany Smith v. Sterling Infosystems-Ohio, Inc., et al.*, Case No. 1:16-cv-00714-PAG (N.D. Ohio).

1.7 “Claim” means any and all actions, causes of action, proceedings, adjustments, executions, offsets, contracts, judgments, obligations, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, variances, covenants, trespasses, damages, demands (whether written or oral), agreements, promises, liabilities, controversies, costs, expenses, attorneys’ fees and losses whatsoever, whether in law, in admiralty or in equity and whether based on any federal law, state law, foreign law or common law right of action or otherwise, foreseen or unforeseen, matured or unmatured, known or unknown, accrued or not accrued, existing now or to be created in the future.

1.8 “Consumer” means a natural person residing in the United States of America or its territories for whom Defendant issued a e-RAILSAFE report for employment purposes on or after March 21, 2014 but on or before March 21, 2016.

1.9 “Court” means the United States District Court for the Northern District of Ohio.

1.10 “Defendant” means e-Verifile.com, Inc.

1.11 “Effective Date” is the date on which this Court’s entry of the Final Approval Order and this Court’s order regarding Attorneys’ Fees have all become final because either (i) no appeal of the Final Approval Order or the Court’s order referenced above have been filed and the time provided in the applicable rules of procedure within which an appeal may be filed has lapsed, or (ii) if one or more timely appeals have been filed, all such appeals are finally resolved, with no possibility of further appellate review, resulting in final judicial approval of this Settlement. For purposes of this definition, the term “appeal” includes writ proceedings.

1.12 “Defense Counsel” means Henry M. Perlowski and Megan P. Mitchell of Arnall

Golden Gregory, LLP and Michael S. Glassman of Dinsmore & Shohl, LLP.

1.13 “FCRA” means the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.*, and any subsequent amendments thereto.

1.14 “FCRA State Equivalents” means any statute or regulation of any state, U.S. territory, the District of Columbia, or Puerto Rico, that has the purpose *or* effect of regulating the collection or reporting of consumer information and related actions.

1.15 “Attorneys’ Fees” means the attorneys’ fees and expenses applied for by Class Counsel relating to this Settlement Agreement and approved by the Court.

1.16 “Final Approval” means the approval of the Settlement Agreement by the Court at or after the Final Approval Hearing, and entry on the Court’s docket of the Final Approval Order.

1.17 “Final Approval Order” means a final order and judgment in substantially the form attached hereto as Exhibit A entered by the Court giving Final Approval of the Settlement Agreement and dismissing with prejudice Plaintiff’s claims and entering a judgment according to the terms set forth in this Settlement Agreement.

1.18 “Final Approval Hearing” or “Final Fairness Hearing” means the hearing at which the Court will consider and finally decide whether to approve this Settlement, enter the Judgment, and make such other rulings as are contemplated by this Settlement Agreement. The Final Approval Hearing shall not be scheduled for a date less than 90 days following CAFA Notice as set forth in Section VII.

1.19 “Mail Notices” means the notices (in forms substantially similar to that attached hereto as Exhibits B and approved by the Court) that will be mailed to Notice Class Members pursuant to the Notice Plan.

1.20 “Mail Notices and Claim Forms” means the forms (substantially similar to that attached hereto as Exhibits C and approved by the Court) that will be mailed to the PAAN Class Members (but not the Notice Class Members).

1.21 “Notice Plan” means the plan for disseminating notice to Settlement Class members as described in Section IV hereof.

1.22 “Parties” means Tiffany Smith and e-Verifile.com, Inc.

1.23 “Preliminary Approval” means the preliminary approval of the Settlement Agreement by the Court, conditional certification of the Settlement Class, and approval of the method and content of notice to the Settlement Class.

1.24 “Released Claims” means those Claims released as set forth in Section 9 below.

1.25 “Released Parties” means and refers to: e-Verifile.com, Inc. and its parents, subsidiaries, and affiliates, and its and their present, former and future officers, directors, partners, employees, agents, attorneys, servants, heirs, administrators, executors, members, member entities, managers, shareholders, predecessors, successors, representatives, trustees, principals, insurers, and assigns, individually, jointly and severally. The Parties do not intend by this release to include other unnamed consumer reporting agencies or any of the Defendant’s customers.

1.26 “Settlement” means the agreement between Named Plaintiff, on behalf of herself and as the proposed representative of the Settlement Class, and Defendant, to settle and compromise Named Plaintiff’s and the Settlement Class Members’ claims in the Litigation, as memorialized in this Settlement Agreement and the accompanying documents attached hereto, fully, finally, and forever.

1.27 “Settlement Administrator” shall mean the administrator for the Settlement Agreement that Class Counsel will identify and propose as described in Section 3.2.

1.28 “Settlement Agreement” means this Settlement Agreement and Release.

1.29 “Settlement Fund” means the amount paid pursuant to Section 8.1 herein.

1.30 “Settlement Website” means the internet website established by the Settlement Administrator for purposes of facilitating notice to, and communicating with, the Settlement Class and for receipt of online claims.

1.31 “Valid Claim” means a claim filed by a PAAN Class Member pursuant to Section 6.1 that the Settlement Administrator determines to be valid pursuant to Section 6.2.

1.32 “Initial Report Availability Period” means the period for the Notice Class Members beginning on the Notice Date and ending on the Report Request Deadline.

1.33 “Notice Date” means the day the Class Settlement Administrator will place in the United States mail notice to the Settlement Class members which can be no later than thirty (30) days following preliminary approval of this settlement.

1.34 “Opt-Out Deadline” means the date on which any Settlement Class Member electing to Opt Out of the settlement pursuant to FED. R. CIV. P. 23(c)(2) must so elect, no later than sixty (60) days following the Notice Date.

1.35 “Objection Deadline” means the date on which any Settlement Class Member electing to object to the settlement must serve on Class Counsel and Defense Counsel his or her written objection to the Settlement, no later than sixty (60) days following the Notice Date.

1.36 “Report Request Deadline” means the date six months after the Effective Date.

II. NO ADMISSION OF LIABILITY OR ELEMENTS OF CLASS CERTIFICATION

2.1 Defendant’s Denial Of Wrongdoing Or Liability

Defendant has asserted and continues to assert many defenses to this Litigation and has expressly denied and continues to deny any fault, wrongdoing or liability whatsoever arising out of the conduct alleged in the Litigation. Defendant expressly denies any fault, wrongdoing or

liability whatsoever, as well as denying the validity of each of the claims and prayers for relief asserted in the Litigation. The Parties expressly acknowledge and agree that neither the fact of, nor any provision contained in, this Settlement Agreement nor any of the implementing documents or actions taken under them, shall constitute or be construed as any admission of the validity of any claim, any status, or any fact alleged in the Litigation or any fault, wrongdoing, violation of law, or liability of any kind on the part of Defendant, or any admission by Defendant of any claim or allegation made in any action or proceeding against Defendant. Defendant has denied and continues to deny each and all of the claims and allegations in the Litigation. Neither this Settlement Agreement nor any document referred to herein, nor any action taken to carry out this Settlement Agreement and/or the Settlement, or its willingness to enter into this Settlement Agreement, nor any or all negotiations, communications, and discussions associated with them are, or may be construed as, or may be used in any proceeding as, an admission by Defendant of any fault, wrongdoing or liability whatsoever, or any infirmity of any defenses asserted by Defendant.

2.2 No Admission by Defendant of Elements of Class Certification

Defendant contends that this Litigation could not be certified as a class action under FED. R. CIV. P. 23. Nothing in this Settlement Agreement shall be construed as an admission by Defendant that this Litigation or any similar case is amenable to class certification for trial purposes. Furthermore, nothing in this Settlement Agreement shall prevent Defendant from opposing class certification or seeking de-certification of the conditionally certified Settlement Class if Final Approval of this Settlement is not obtained, or not upheld on appeal, including review by any appellate court.

III. MOTION FOR PRELIMINARY APPROVAL

3.1 In accordance with the Minute Order entered into by Judge Gaughan on February

9, 2017, Class Counsel shall file, on or before March 31, 2017, this Settlement Agreement and a Motion for Preliminary Approval that seeks entry of an order that would, for settlement purposes only: (i) certify a conditional Settlement Class under FED. R. CIV. P. 23 composed of the Settlement Class Members; (ii) preliminarily approve the proposed Settlement Agreement; (iii) approve the proposed Notices to the Settlement Class in forms substantially similar to those attached hereto as Exhibits B and C; (iv) certify the Named Plaintiff as representative of the Settlement Class; (v) appoint Class Counsel; and, (vi) appoint the Settlement Administrator.

3.2 No later than five (5) days after the filing of this Settlement Agreement, Class Counsel shall identify and propose to Defendant a Settlement Administrator. Defendant shall not unreasonably deny approval of the administrator Class Counsel proposes. If the Parties are not able to agree on a proposed Settlement Administrator, the Court shall appoint a Settlement Administrator.

IV. NOTICE PLAN

4.1 Preparation and Production of List of Class Members from Defendant's Files

4.1.1 Defendant agrees to use their best reasonable efforts to provide to the Settlement Administrator a list of names and identifying information for each member of the Settlement Class, which includes the Notice Class Members and the PAAN Class Members.

4.1.2 In addition, Defendant shall update the class list through its databases and other appropriate products. The costs of any third-party vendor used to obtain information to create or to update the class list by or on behalf of the Class Settlement Administrator shall be paid by the Class Settlement Administrator and included as costs of notice and administration.

4.1.3 Defendant will provide the class list described in Sections 4.1.1 and 4.1.2 to Class Counsel within ten (10) business days following preliminary approval of this Settlement. Class Counsel will then have three business days to review and approve the construction and content of

the Class List. Once Class Counsel approves the Class List, it will forward the list to the Settlement Administrator on or before the next business day.

4.2 Notice Process

4.2.1 For purposes of providing Court-approved class notices and establishing that the best practicable notice has been given, the provision of class notice will be accomplished in accordance with the following provisions.

4.2.2 Mail Notices and Claim Forms For PAAN Class Members

On or before the Notice Date, the Settlement Administrator shall cause Mail Notices and Claim Forms attached as Exhibit C to be sent via first class U.S. mail, postage prepaid requesting either forwarding service or change service to each PAAN Class Members identified on the Class List. The Mail Notices for the PAAN Class Members shall also include a tear-away, postage prepaid, pre-addressed (to the Settlement Administrator) Claim Form and shall bear a stamped claim number unique for each recipient which shall state that each PAAN Class Members must return the Claim Form to be eligible to receive a payment. Not later than twenty (20) days before the Final Fairness Hearing, the Settlement Administrator shall cause proof of the mailing of the Mail Notice and Claim Forms For PAAN Class Members to be filed with the Court. Neither the Parties nor the Settlement Administrator shall have any further obligation to send notice of the Settlement to PAAN Class Members.

4.2.3 Mail Notices For Notice Class Members

On or before the Notice Date, the Settlement Administrator shall cause Mail Notices attached as Exhibit B to be sent via first class U.S. mail, postage prepaid requesting either forwarding service or change service to each Notice Class Member identified on the Class List. Not later than twenty (20) days before the Final Fairness Hearing, the Settlement Administrator

shall cause proof of the mailing of the Mail Notice For Notice Class Members to be filed with the Court. Neither the Parties nor the Settlement Administrator shall have any further obligation to send notice of the Settlement to Notice Class Members.

4.2.4 Internet Notice

The Settlement Administrator shall establish an internet website containing information about the Settlement. The Settlement Website will be accessible no later than five (5) days prior to the mailing of the Mail Notices described above. The Settlement Website will set forth the following information: (i) the full text of the Settlement Agreement; (ii) the Mail Notices; (iii) the Preliminary Approval Order and other relevant orders of the Court; and, (iv) contact information for Class Counsel and the Settlement Administrator. The Settlement Website shall also receive online claims in accordance with Section 6.1, and shall provide Class Members with the ability to submit changes in address to the Settlement Administrator. Not later than twenty (20) days before the Final Fairness Hearing, the Settlement Administrator shall cause proof of the establishment and maintenance of the Settlement Website to be filed with the Court.

4.2.5 Telephone Assistance Program

The Settlement Administrator will establish a toll-free telephone number, which will be staffed by the Settlement Administrator, to answer questions from Settlement Class Members. The toll-free number will provide access to live support, a voice response unit (“VRU”) or a combination of live support and VRU. Not later than seven (7) days before the Final Fairness Hearing, the Settlement Administrator will cause proof of the establishment and maintenance of the Telephone Assistance Program to be filed with the Court.

4.3 Expenses of Notice and Administration

4.3.1 All notice, claims and other administration costs, excluding the costs associated

with Defendant's creation of the class list pursuant to Section 4.1, Defendant's obligations under Section 8.10 and the CAFA Notice as described in Section 4.4, shall be invoiced by the Settlement Administrator and paid promptly by Defendant in an amount not to exceed \$5,000.

4.3.2 Within thirty (30) days after the Effective Date, the Settlement Administrator will provide to the Class Counsel and Defense Counsel a detailed statement of the costs that will be incurred. Within sixty (60) days after the Effective Date and subject to approval of Class Counsel, the Settlement Administrator shall invoice Defendant for such costs up to a maximum amount of \$5,000, with the remaining costs, if any, to be paid from the Settlement Fund.

4.3.3 The total expenses associated with notice, claims, and other administration costs, excluding the costs associated with Defendant's creation of the class list pursuant to Section 4.1, Defendant's obligations under Section 8.10 and the CAFA Notice as described in Section 4.4, shall not increase the amount paid by Defendant as part of the Settlement under any circumstances.

4.4 Notice Under Class Action Fairness Act of 2005 ("CAFA Notice")

Defendant will send, at its expense and not as part of the notice-related payments described in Paragraphs 4.3.1–4.3.3, CAFA Notice to the appropriate federal and state officials identified in 28 U.S.C. § 1715(a), not later than ten (10) days after this Settlement Agreement is filed with the Court.

V. PROCEDURES FOR OPT-OUTS AND OBJECTIONS

5.1 Opt-Out Procedures for Settlement Class Members

5.1.1 The Mail Notices shall contain information about how a Settlement Class Member may opt-out of the Settlement, as well as the potential implications of doing so, including that opting out may preclude later participation in any class action against Defendant. The mail notice shall also include an Opt-Out Form that Class Members may complete and return to the Settlement Administrator.

5.1.2 A Settlement Class Member may request to be excluded from the Settlement Class by sending a written request for exclusion to “Exclusion Requests – *e-Verifile.com, Inc.* Settlement Administrator.” The proposed Settlement Class Member’s opt-out request must contain the class member’s original signature, current postal address and telephone number, the last four digits of the class member’s Social Security number, and a specific statement that the proposed Settlement Class Member wants to be excluded from the Settlement Class. Opt-outs must be postmarked no later than the Opt-Out Deadline. Alternately, Settlement Class Members may complete and return the Opt-Out Form attached to the Class Notice.

5.1.3 In no event shall persons who purport to opt out of the Settlement Class as a group, aggregate, or class involving more than one consumer be considered valid opt-outs. Requests for exclusion that do not comply with any of the foregoing requirements are invalid.

5.2 List of Opt Outs

No later than seven (7) business days after the deadline for submission of opt-out requests, the Settlement Administrator shall provide to Class Counsel and Defense Counsel a complete list of all persons who have properly opted out of the Settlement together with copies of the opt-out requests.

5.3 Representation of Opt-Outs

If asked, Class Counsel may refer opt-outs to the applicable state bar or other referral organization to obtain representation.

5.4 Objections from Settlement Class Members

5.4.1 Any Class Member who does not opt out, but who instead wishes to object to the Settlement or any other matters as described in the Notices, may do so by filing with the Court a notice of their intention to object (which shall set forth each objection and the basis therefore and

containing the objecting Class Member's signed verification of membership in the Settlement Class), with any papers in support of their position, and serve copies of all such papers upon Class Counsel and Defense Counsel. Objections must be filed and served so that Class Counsel and Defense Counsel receive them by no later than the Opt-Out Deadline. Finally, the written objection must indicate whether the Class Member and/or his lawyer(s) intend to appear at the Final Fairness Hearing. Any lawyer who intends to appear at the Final Fairness Hearing must enter a written Notice of Appearance of Counsel with the Clerk of the Court no later than the date set by the Court in its order preliminarily approving this Settlement Agreement and shall include the full caption and case number of each previous class action case in which that counsel has represented an objector.

VI. SETTLEMENT PROCESS

6.1 Claims Process

6.1.1 PAAN Class Members who elect to submit a claim may submit claims by the Reservation Date, by returning the completed claim form attached to the Mail Notice and Claim Form for PAAN Class Members to the Settlement Administrator, via U.S. mail.

6.1.2 Submission of claims shall be permitted commencing on the first day on which notice is disseminated.

6.1.3 Deceased Claimants. Claims may be filed by deceased PAAN Class Members through representatives of their estates if appropriate documentation is provided. Any claim paid to a deceased consumer shall be made payable to the estate of the deceased PAAN Class Member.

6.2 Determining Validity of Claims

6.2.1 Claim forms that do not meet the requirements as set forth in this Settlement Agreement and in the claim form instructions shall be rejected. This shall include but is not limited

to any failure to provide accurate information, any failure to make the required representations and attestations concerning membership in the PAAN Class, and any failure to sign a claim form submitted by U.S. Mail.

6.2.2 The Settlement Administrator shall have the authority, subject to the provisions of this Settlement Agreement, to determine whether a claim made by any PAAN Class Member is a Valid Claim. The Settlement Administrator's determinations in this regard shall be final and non-appealable unless Defense Counsel or Class Counsel disagree, in which case the determination shall be made by United States District Court Judge Patricia Gaughan. Any PAAN Class Member whose Claim is determined to be a Non-Valid Claim shall not be entitled to any monetary relief.

6.2.3 The Settlement Administrator shall notify, in a timely fashion, any claimant whose Claim has been rejected, setting forth the reasons therefore. The Settlement Administrator shall timely provide copies of all rejection notices to Class Counsel and to Defense Counsel.

6.2.4 **No Liability for Determinations Relating to Validity of Claims.** No person shall have any claim against Defendant, Plaintiff, the Settlement Class, Class Counsel, Defense Counsel, or the Settlement Administrator based on any claims determinations made in accordance with this Settlement Agreement.

6.3 **Confidentiality.** The Settlement Administrator (and any person retained by the Settlement Administrator) shall sign a confidentiality agreement in a form agreed to by Defense Counsel and Class Counsel. The confidentiality agreement will provide that the Settlement Administrator (and any person retained by the Settlement Administrator) shall treat as confidential the names, addresses, and other identifying information concerning Settlement Class Members. The confidentiality agreement will further provide that the Settlement Administrator (and any person retained by the Settlement Administrator) shall use such information only for purposes of

fulfilling the Settlement Administrator's duties and responsibilities as provided for under this Settlement Agreement.

VII. FINAL FAIRNESS HEARING AND FINAL APPROVAL

7.1 Final Fairness Hearing

The Parties will jointly request that the Court hold the Final Fairness Hearing to consider approval of the Settlement of the Litigation as provided for herein approximately one hundred (100) days after Preliminary Approval. On or before a date at least ten (10) days prior to the Final Fairness Hearing, Class Counsel shall file a motion for entry of the Final Approval Order. The Parties agree that the Final Approval Order constitutes a final judgment dismissing the Litigation with prejudice.

7.2 Final Approval

All relief contemplated by this Settlement Agreement is expressly contingent upon the Settlement Agreement receiving the Court's Final Approval.

VIII. SETTLEMENT FUND

8.1 Creation of and Deposit Into Settlement Fund

On or before September 22, 2017, the Defendant shall cause to be deposited with a bank selected by Class Counsel and approved by Defendant, which approval shall not be unreasonably withheld, an amount equal to one hundred and fifty-six thousand dollars (\$156,000). The Settlement Fund may not be commingled with any other funds and may be held in cash, cash equivalents, certificates of deposit or instruments insured by an arm of or backed by the full faith and credit of the United States Government. Interest earned on the Settlement Fund shall be for the benefit of the Settlement Class.

8.3 Attorneys' Fees

8.3.1 No later than fourteen (14) days before the Final Approval Hearing, Class Counsel shall file an application or applications to the Court for reimbursement of Attorneys' Fees and costs from the Settlement Fund. The application or applications shall be noticed to be heard at the Final Fairness Hearing. Defendant does and will not oppose such a request.

8.3.2 The application or applications for Attorneys' Fees, and any and all matters related thereto, shall not be considered part of the Settlement Agreement, and shall be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the Settlement. Plaintiff and Class Counsel agree that this Settlement Agreement is not conditional on the Court's approval of Attorneys' Fees in any amount whatsoever. The Court's ruling on the application or applications for such fees shall not operate to terminate or cancel the Settlement.

8.3.3 Defendant shall have no responsibility for, or any liability with respect to, the payment of Attorneys' Fees to the Class Counsel beyond the Settlement Fund. The sole source of any payment of Attorneys' Fees shall be the Settlement Fund.

8.3.4 Payment of Attorneys' Fees

Attorneys' Fees, in the amount approved by the Court, will be paid through distribution from the Settlement Fund by the Settlement Administrator within ten (10) days after the Effective Date.

8.4 Notice Class Member Payments

8.4.1 The Notice Class Members are entitled to receive an automatic payment, which the Parties estimate to be approximately Seventy-Five dollars (\$75.00) after a pro rata deduction from the Settlement Fund for attorneys' fees and costs approved by the Court.

8.4.2 All Notice Class Members payments shall be funded through the Settlement Fund.

8.5 PAAN Class Claimant Payments

8.5.1 The PAAN Class Members who submit a Valid Claim are entitled to receive a payment, which the Parties estimate to be approximately Four Hundred Eighteen dollars and Ninety-Five cents (\$418.95) after a pro rata deduction from the Settlement Fund for attorneys' fees and costs approved by the Court.

8.5.2 All PAAN Class Members payments shall be funded through the Settlement Fund.

8.6 Service Award.

The Named Plaintiff may submit a claim for a Service Award. If she does so and it is approved by the Court, this award will be paid from the Settlement Fund.

8.7 Use and Disbursement of Settlement Fund

The Settlement Fund shall be used only in the manner and for the purposes provided for in this Section. No portion of the Settlement Fund shall be disbursed except as expressly provided for herein.

8.7.1 Upon Preliminary Approval, Settlement Administrator shall seek reimbursement for the costs of notice and related administrative expenses incurred with respect to effecting the Notice Plan as provided in Section 4 in an amount not to exceed \$5,000.00 from Defendant.

8.8 Distribution Plan

Within twenty (20) days after the Effective Date, the Settlement Administrator shall mail payments to the Settlement Class in the amounts set forth in Sections 8.4, 8.5 and 8.6 via U.S. mail. The payment check shall notify the recipients that the checks must be cashed within sixty (60) days from the issuance date the check shall not be valid after that date. Sixty (60) days after the date on the check, if the check has not been deposited or cashed, the amount of the check shall remain in the Settlement Fund for further distribution pursuant to this Settlement Agreement.

8.9 Capped Fund

In addition of Defendant's costs of the CAFA Notice and costs associated with Section 8.10, Defendant shall pay up to \$5,000.00 towards notice and administration costs. The Parties and their respective counsel agree that under no circumstances will Defendant pay or cause to be paid more than the one hundred and fifty-six thousand dollars (\$156,000) into the Settlement Fund and five thousand dollars (\$5,000) in settlement administration costs.

8.10 Availability of Free Consumer Reports

During the Initial Report Availability Period, a Notice Class Member may request Defendant to provide a report reflecting the criminal history information that was included in the actual eRailsafe report(s) provided to the participating railroad during the class period. If the consumer so requests, this historic report shall be made available online or by e-mail or by mail. Defendant will make a good faith effort to provide the report within 10 days but in no event later than 45 days after the request. The Parties will further confer about the exact format of the historical reports to be provided.

IX. RELEASE OF CLAIMS

9.1 The Settlement Class members will release all claims under the Federal Fair Credit Reporting Act ("FCRA") and under comparable state law, including the FCRA State Equivalents, except as otherwise provided in section 9.2 below. All such claims will be released in full in favor of Defendant and its parents, subsidiaries, and affiliates, and its and their present, former and future officers, directors, partners, employees, agents, attorneys, servants, heirs, administrators, executors, members, member entities, managers, shareholders, predecessors, successors, representatives, trustees, principals, insurers, and assigns, individually, jointly and severally. Defendant will provide to Class Counsel a current list of its parents, subsidiaries and affiliates.

The Parties do not intend by this release to include other unnamed consumer reporting agencies other than those disclosed to Class Counsel. This release is not intended to apply to Defendant's customers. Notwithstanding the language herein, Settlement Class members do not hereby release their claims, if any, otherwise available under 15 U.S.C. § 1681e(b).

9.2 Waiver of California Civil Code Section 1542

Plaintiff, for herself and for each Settlement Class Member, acknowledges that she is aware that she may hereafter discover facts in addition to or different from those that she or Class Counsel now knows or believes to be true with respect to the subject matter of these releases, but it is her intention to, and she does hereby, upon the Effective Date of this Settlement Agreement, fully, finally and forever settle and release any and all Released Claims, without regard to the subsequent discovery or existence of such different or additional facts. Plaintiff, for herself and for each Settlement Class Member, waives any and all rights and benefits afforded by California Civil Code Section 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Plaintiff and Class Counsel understand and acknowledge the significance of this waiver of California Civil Code Section 1542 and/or of any other applicable federal or state law relating to limitations on releases.

X. TERMINATION AND SUSPENSION

10.1 Rights to Terminate Agreement

Defendant's willingness to settle this Litigation on a class-action basis and to agree to the certification of conditional Settlement Class is dependent upon achieving finality in this Litigation,

the desire to avoid the expense of this and other litigation. Consequently, Defendant shall have the unilateral and unfettered right to individually terminate this Settlement Agreement, declare it null and void, and have no further obligations under this Settlement Agreement to the Plaintiff, Settlement Class Members, or Class Counsel if any of the following conditions subsequently occurs:

- a. The Court fails or declines to grant Preliminary Approval;
- b. More than ten percent (10%) of all Settlement Class Members elect to Opt Out of the settlement pursuant to FED. R. CIV. P. 23(c)(2);
- c. The Court materially modifies the Final Approval Order such that it is not acceptable to Defendant;
- d. The Effective Date does not occur for any reason, including the entry of an order by any court that would require either material modification or termination of the Settlement.

10.1.1 The failure of any Court to approve the Attorneys' Fees in the requested amounts, or any amounts whatsoever, shall not be grounds for Named Plaintiff or Class Counsel to terminate this Settlement Agreement.

10.2 Effect of Termination on This or Future Litigation

If this Settlement Agreement is terminated:

- a. The class-certification portions of the Settlement Agreement shall have no further force and effect and shall not be offered in evidence or used in the Litigation or in any other proceeding;
- b. Counsel for the Parties shall seek to have any Court orders, filings, or other entries in the Court's file that result from this Settlement Agreement set aside, withdrawn, and stricken from the record;

c. the Settlement Agreement and all negotiations, proceedings, and documents prepared, and statements made in connection with either of them, shall be without prejudice to any Party and shall not be deemed or construed to be an admission or confession by any Party of any fact, matter, or proposition of law; and

d. the Parties shall stand in the same procedural position as if the Settlement Agreement had not been negotiated, made, or filed with the Court.

10.3 Effect of Termination on Monies Paid by Defendant Pursuant to Settlement Agreement

If this Settlement Agreement is terminated, the Settlement Fund, including interest earned, less Taxes, Tax Expenses, and notice, claims, and other administration costs (including fees, costs, and other expenses of the Settlement Fund as contemplated by this Settlement Agreement) that have been properly disbursed pursuant to this Settlement Agreement, shall be returned to Defendant.

XI. PUBLIC STATEMENTS

11.1 The Parties will negotiate and agree upon any language that may be used in press releases and other forms of public statements concerning the Settlement that may be issued prior to entry by the Court of the Final Approval Order.

11.2 Class Counsel agree to make no public statements at any time regarding the Settlement without the consent of the Defendant. This provision is not intended to limit communications of Class Counsel with any client, Settlement Class Member, the Settlement Administrator or other person involved in this case.

XII. MISCELLANEOUS PROVISIONS

12.1 Admissibility of Settlement Agreement

This Settlement Agreement shall not be offered or be admissible in evidence in any action

or proceeding except (1) the hearings necessary to obtain and implement Court approval of this Settlement; or (2) any hearing to enforce the terms of this Settlement Agreement or any related order by the Court.

12.2 Successors and Assigns

The terms of this Settlement Agreement shall apply to and bind the Parties as well as her, its and their respective heirs, successors and assigns.

12.3 Communications Relating to Settlement Agreement

All notices or other formal communications under this Settlement Agreement shall be in writing and sent by mail to counsel for the Party to whom the notice is directed at the following addresses:

If to Plaintiff

Matthew A. Dooley
Stephen M. Bosak
O'TOOLE McLAUGHLIN DOOLEY &
PECORA, CO. LPA
5455 Detroit Road
Sheffield Village, Ohio 44054

Leonard A. Bennett
Craig Marchiando
CONSUMER LITIGATION ASSOCIATES, PC
763 J. Clyde Morris Blvd.
Suite 1-A
Newport News, VA 23601

John C. Bazaz
LAW OFFICES OF JOHN C. BAZAZ, PLC
4000 Legato Road, Suite 1100
Fairfax, Virginia 22033

If to Defendant

Henry M. Perlowski
Megan P. Mitchell
ARNALL GOLDEN GREGORY LLP
171 17th Street NW
Suite 2100
Atlanta, GA 30363

Michael S. Glassman
DINSMORE & SHOHL LLP
255 East Fifth Street,
Suite 1900
Cincinnati, Ohio 45202

Any Party may, by written notice to all the other Parties, change its designated recipient(s) or notice address provided above.

12.4 Defendant's Communications with Consumers in the Ordinary Course of Business

Defendant reserves the right to continue communicating with its customers and Consumers, including Settlement Class Members, in the ordinary course of business. To the extent Consumers initiate communications regarding this Settlement Agreement, Defendant may confirm the fact of a settlement and refer inquiries to the Settlement Administrator. Nothing herein is intended to prohibit Defendant from communicating with Consumers regarding disputes relating to the provision of consumer reports for employment purposes.

12.5 Efforts to Support Settlement

The Parties and their counsel agree to cooperate fully in seeking Court approval for this Settlement Agreement and to use their respective best efforts to effect the consummation of the Settlement and to protect the Settlement Agreement by applying for appropriate orders enjoining others from initiating or prosecuting any action arising out of or related to facts or claims alleged in the Litigation, if so required.

12.6 Procedures for Disputes Between Parties Relating to the Settlement Agreement

To the extent any disputes or issues arise with respect to documenting or effecting the Settlement Agreement, the Parties agree to use their best efforts to informally resolve any such disputes or issues; but in the event any such dispute or issue cannot be resolved informally, to bring any such dispute or issue to the Court for resolution.

12.7 Entire and Voluntary Agreement

The Parties intend the Settlement Agreement to be a final and complete resolution of the Litigation. The Parties agree that the terms of the Settlement Agreement were negotiated at arm's length and in good faith and were reached voluntarily after consultation with competent legal

counsel. There shall there be no presumption for or against any Party that drafted all or any portion of this Settlement Agreement. This Settlement Agreement contains the entire agreement and understanding concerning the subject matter between the Parties and supersedes all prior negotiations and proposals, whether written or oral. No other party or any agent or attorney of any other party has made any promise, representation or warranty whatsoever not contained in this Settlement Agreement and the other documents referred to in this Settlement Agreement to induce them to execute the same. The Parties represent that they have not executed this instrument or the other documents in reliance on any promise, representation or warranty not contained in this Settlement Agreement and the other documents referred to in this Settlement Agreement.

12.8 Headings for Convenience Only

The headings in this Settlement Agreement are for the convenience of the reader only and shall not affect the meaning or interpretation of this Settlement Agreement.

12.9 Settlement Agreement Controls

All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein. To the extent that there is any conflict between the terms of this Settlement Agreement and the exhibits attached hereto, this Settlement Agreement shall control.

12.10 Amendments

The Settlement Agreement may be amended or modified only by a written instrument signed by Defense Counsel and Class Counsel, or their respective successors-in-interest.

12.11 Authorization of Counsel

12.11.1 Class Counsel, on behalf of the Settlement Class, are expressly authorized by Plaintiff to take all appropriate action required or permitted to be taken by the Settlement Class pursuant to the Settlement Agreement to effectuate its terms, and also are expressly authorized to

enter into any modifications or amendments to the Settlement Agreement on behalf of the Settlement Class that they deem necessary or appropriate.

12.11.2 Each attorney executing the Settlement Agreement on behalf of any Party hereto hereby warrants that such attorney has the full authority to do so.

12.12 Confidentiality

All agreements made and Orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Settlement Agreement.

12.13 Court's Jurisdiction

The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Settlement Agreement.

12.14 Construction

Each of the Parties has cooperated in the drafting and preparation of this Settlement Agreement. Hence, in any construction to be made of this Settlement Agreement, the same shall not be construed against any of the Parties. Before declaring any provision of this Settlement Agreement invalid, a court should first attempt to construe the provision valid to the fullest extent possible consistent with applicable precedent so as to find all provisions of this Settlement Agreement valid and enforceable.

12.15 No Claims Arising from this Settlement Agreement

No person shall have any claim against Defendant, Defense Counsel, Named Plaintiff or Class Counsel based on distribution of benefits made substantially in accordance with this Settlement Agreement or any Settlement Agreement-related order(s) of the Court.

12.16 Applicable Law

This Settlement Agreement shall, in all respects, be interpreted, construed and governed

by and under the laws of the United States of America. To the extent state law applies for any reason, the laws of the State of Ohio shall be applied. All judicial proceedings regarding this Settlement Agreement shall be brought only in the Court. Any notice period set forth in this Settlement Agreement shall be calculated pursuant to the Federal Rules of Civil Procedure and the Northern District of Ohio's Civil Local Rules.

12.17 Counterparts

This Settlement Agreement may be executed in one or more counterparts and by facsimile. All executed counterparts and each of them shall be deemed to be one and the same instrument. Counsel for the Parties shall exchange among themselves signed counterparts, and a complete set of executed counterparts shall be filed with the Court.

Date: April 14, 2017

By: /s/ Matthew A. Dooley
Matthew A. Dooley
Counsel for Plaintiff

Date: April 14, 2017

By: /s/ Henry M. Perlowski
Henry M. Perlowski
Counsel for Defendant