

Class Action Settlement Agreement – Daugherty v. Credit Bureau Services Association

CLASS ACTION SETTLEMENT AGREEMENT

Jerrold Daugherty (“Plaintiff”) and Credit Bureau Services Association (“Defendant”) enter into this arm’s-length class action settlement agreement (“Agreement”).

1. Recitals:

- 1.1. On May 10, 2023, Plaintiff filed a class action complaint against Defendant, styled *Daugherty v. Credit Bureau Services Association*, Case No. 4:23-cv-01728 (S.D. Tex.) (the “Lawsuit”), through which Plaintiff alleges that Defendant violated the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227.
- 1.2. Defendant denies the material allegations included in the Lawsuit.
- 1.3. Plaintiff and Defendant now intend to settle and finally resolve all claims Plaintiff asserts through the Lawsuit.
- 1.4. Aware of the substantial expense, delay, and inherent risk associated with litigation, Plaintiff and his counsel recognize that in light of the recovery that results from the settlement memorialized by this Agreement, continued litigation is not in the best interest of members of the settlement class that is the subject of this Agreement.
- 1.5. Also aware of the substantial expense, delay, and inherent risk associated with litigation, Defendant intends to buy peace by entering into the settlement memorialized by this Agreement.
- 1.6. Plaintiff and his counsel believe that the settlement memorialized by this Agreement is fair, adequate, and reasonable.
- 1.7. Plaintiff and Defendant agree to undertake all steps necessary to secure court approval of the settlement memorialized by this Agreement.
- 1.8. This Agreement is not to be construed as an admission or concession by Plaintiff that there is any infirmity in the claims he asserts through the Lawsuit.
- 1.9. The settlement memorialized by this Agreement is not to be construed as an admission or concession by Defendant regarding liability or wrongdoing, and Defendant denies any liability, denies that it violated the TCPA, and denies any other wrongdoing.

2. Definitions:

- 2.1. “Approved Claim Form” means a claim form that a Settlement Class Member (defined below) timely submits, and that the Claims Administrator (defined below) approves for payment.

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- 2.2. “Claims Administrator,” subject to the Court’s (defined below) approval, means Verita Global, LLC.
- 2.3. “Claim Form” means the form that Settlement Class Members must submit to obtain a monetary recovery in connection with the Settlement (defined below).
- 2.4. “Class Counsel” means Greenwald Davidson Radbil PLLC.
- 2.5. “Class Notice” means the notice that the Court approves in a form substantially similar to Exhibit 1 to this Agreement, which includes a postcard notice with detachable claim form, and a question-and-answer notice to appear on the dedicated settlement website.
- 2.6. “Court” means the United States District Court for the Southern District of Texas.
- 2.7. “Fairness Hearing” means the hearing that the Court conducts under Federal Rule of Civil Procedure 23 to consider the fairness, adequacy, and reasonableness of the Settlement.
- 2.8. “Finality Date” means the date after which the Court enters a final order and judgment and the time to appeal the final order and judgment expires without appeal, or any appeal is dismissed, or the final order and judgment is affirmed and not subject to review by any court.
- 2.9. “Final Order and Judgment” means the final order and judgment that the Court enters in a form substantially similar to Exhibit 3 to this Agreement.
- 2.10. “Order Preliminarily Approving the Settlement” means the order, in a form substantially similar to Exhibit 2 of this Agreement, preliminarily approving the Settlement and authorizing the dissemination of class notice.
- 2.11. “Preliminary Approval Date” means the date the Court enters the Order Preliminarily Approving the Settlement.
- 2.12. “Released Party” means Credit Bureau Services Association, and its respective employees, officers, directors, predecessors, successors, insurers Convex Insurance UK Limited, Convex North America Insurance Services, Inc., Convex North American Insurance Services, LLC and Socius Insurance Services, Inc., and counsel The Plank Law Firm and Gordon Rees Scully Mansukhani, LLP.
- 2.13. “Released Claims” means all claims under the TCPA, and all related state and/or federal laws that prohibit or restrict the making or placing of telephone calls in connection with which an artificial or prerecorded voice is used, that Plaintiff and the Settlement Class Members asserted or could have asserted against Defendant—consisting of all known and unknown charges, complaints, claims, grievances, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties, fees, wages, medical

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costs, pain and suffering, mental anguish, emotional distress, expenses (including attorneys’ fees and costs actually incurred), and punitive damages, of any nature whatsoever, known or unknown, which either the Plaintiff has, or may have had, against the Defendant, whether or not apparent or yet to be discovered, or which may hereafter develop—which stem from the calls at issue in the Lawsuit that Defendant placed from December 2, 2019 through the Preliminary Approval Date.

- 2.14. “Releasers” means Plaintiff and every Settlement Class Member, for themselves and for their assigns, agents, representatives, attorneys, heirs, executors, administrators, beneficiaries, and privies, who does not timely and validly exclude himself from the Settlement Class.
- 2.15. “Settlement” means the settlement memorialized by this Agreement.
- 2.16. “Settlement Class” means the class that the Court certifies for settlement purposes, the definition of which the parties propose as:

All persons throughout the United States to whose cellular telephone number Credit Bureau Services Association placed an artificial or prerecorded voice call from December 2, 2019 through [the date the Court preliminarily approves the parties’ class action settlement].

- 2.17. “Settlement Class Members” mean all members of the Settlement Class.

3. Jurisdiction:

- 3.1. The parties agree that the Court has, and will continue to have, jurisdiction to issue any order necessary to effectuate, consummate, and enforce the terms of the Settlement, to approve attorneys’ fees, costs, expenses, and an incentive award, and to supervise the administration and distribution of proceeds associated with the Settlement.

4. Certification:

- 4.1. Plaintiff and Defendant agree to certification of the Settlement Class for settlement purposes only.
- 4.2. Plaintiff and Defendant estimate there are approximately 91,709¹ Settlement Class Members.

¹ 87,438 plus the unique telephone numbers to which CBSA placed artificial or prerecorded voice calls from August 29, 2023 through the date the court preliminarily approves the parties’ class action settlement.

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- 4.3. To the extent Defendant identifies more than 91,709² cellular telephone numbers that fall within the Settlement Class, Defendant will pay an additional \$9.27—on top of the \$850,000 referenced below—for each such telephone number above the 91,709 figure.
- 4.3 Defendant will deliver to Class Counsel, within seven business days after the Preliminary Approval Date (i) a list in Excel format of the unique cellular telephone numbers to which it placed an artificial or prerecorded voice call from August 29, 2023 through the Preliminary Approval Date, and the names and addresses (and email addresses if available) Defendant associates with them, and (ii), the names and addresses (and email addresses if available) Defendant associates with the 87,438 telephone numbers—which Plaintiff identified for Defendant in Excel format—to which it placed an artificial or prerecorded voice call from December 2, 2019 through August 28, 2023.

5. Preliminary Approval:

- 5.1. Plaintiff will file an unopposed motion to preliminarily approve the Settlement.
- 5.2. Through his motion to preliminarily approve the Settlement, Plaintiff will request that:
- A. The Court preliminarily certify the Settlement Class for settlement purposes only, appoint Plaintiff as the representative for the Settlement Class, and appoint Class Counsel as counsel for the Settlement Class;
 - B. The Court preliminarily approve the Settlement as fair, reasonable, and adequate, and within the reasonable range of possible final approval;
 - C. The Court approve the Class Notice and find that the proposed notice plan constitutes the best notice practicable under the circumstances, and that it satisfies due process and Rule 23 of the Federal Rules of Civil Procedure;
 - D. The Court set the date and time for the Fairness Hearing; and
 - E. The Court set the deadline for Settlement Class Members to file Claim Forms and to submit exclusions and objections to the Settlement.
- 5.3. Neither Plaintiff nor Defendant will take any action inconsistent with Plaintiff's motion to preliminarily approve the Settlement.

² This number is an approximation for purposes of finalizing the essential terms of this Agreement. Subsequent to the Preliminary Approval Date the Parties will inform this Court of the approximate number of cellular telephone numbers identified as part of the Settlement Class and present same for this Court's approval in connection with Plaintiff's Motion for Final Approval.

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6. Class Action Fairness Act Notice:

- 6.1. Defendant will be responsible for serving the Class Action Fairness Act (“CAFA”) notice required by 28 U.S.C. § 1715 within ten days after Plaintiff files his unopposed motion to preliminarily approve the Settlement.
- 6.2. Defendant will provide Class Counsel with a copy of the CAFA notice no later than two days after it is served.
- 6.3. Defendant will also file with the Court, at least thirty days prior to the Fairness Hearing, a notice attesting to its compliance with CAFA.

7. Notice to Members of the Settlement Class:

- 7.1. The Claims Administrator will be responsible for all matters relating to the administration of the Settlement.
- 7.2. The Claims Administrator’s responsibilities will include, but will not be limited to:
 - A. Disseminating notice to potential Settlement Class Members;
 - B. Performing a cellular telephone number scrub for certain telephone numbers Plaintiff and Defendant provide to it;
 - C. Sending direct mail notice by postcard, with the Claim Form, to potential Settlement Class Members, where possible;
 - D. Establishing both a dedicated website through which Settlement Class Members can submit claims and a toll-free telephone number for informational purposes;
 - E. Fielding inquiries about the Settlement;
 - F. Processing settlement claims;
 - G. Acting as a liaison between Settlement Class Members, Class Counsel, and counsel for Defendant;
 - H. Approving settlement claims, and rejecting settlement claims where there is evidence of fraud;
 - I. Directing the mailing of settlement checks to Settlement Class Members; and
 - J. Performing any other tasks reasonably required of it.

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- 7.3. The addresses of potential Settlement Class Members obtained by the Claims Administrator may be subject to confirmation or updating as follows:
 - A. The Claims Administrator may check each address obtained against the United States Post Office National Change of Address Database;
 - B. The Claims Administrator may conduct a reasonable search to locate an updated address for any potential Settlement Class Member whose notice is returned as undeliverable;
 - C. The Claims Administrator will update addresses based on any forwarding information received from the United States Post Office; and
 - D. The Claims Administrator will update addresses based on any requests received from Settlement Class Members.
- 7.4. The Claims Administrator will provide weekly updates to Class Counsel and counsel for Defendant regarding the status of its administration.
- 7.5. Not later than thirty days following the Preliminary Approval Date, or as otherwise directed by the Court, the Claims Administrator will mail the Class Notice and a Claim Form to potential Settlement Class Members, where possible;
- 7.6. The postcard the Claims Administrator uses to mail the Class Notice and Claim Form to potential Settlement Class Members must include a notation requesting address correction.
- 7.7. If any Class Notice is returned with a new address, the Claims Administrator must resend the Class Notice and a Claim Form to the new address.
- 7.8. Subject to Section 7.9 of this Agreement, Defendant is responsible for any amounts due to the Claims Administrator prior to the date on which the Settlement Fund (defined below) is established and funded.
- 7.9. Defendant will be entitled to an offset for any payments it makes to the Claims Administrator prior to the date on which the Settlement Fund is established and funded, from the Settlement Fund once it is established and funded.
- 7.10. The parties will not make statements of any kind to any third party regarding the Settlement prior to the filing of a motion for preliminary approval with the Court, with the exception of potential claims administrators. The parties may make public statements to the Court as necessary to obtain preliminary or final approval of the Settlement, and Class Counsel will not be prohibited from communicating with any Settlement Class Member regarding the Lawsuit or the Settlement.

8. Publication of Class Notice:

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- 8.1. Not later than thirty days following the Preliminary Approval Date, or as otherwise directed by the Court, the Claims Administrator will arrange for publication of the Class Notice.

9. Settlement Website:

- 9.1. The Claims Administrator will build and maintain a dedicated website that includes downloadable information and documents necessary to submit claims. The settlement website will be live not later than fourteen days following the Preliminary Approval Date, or as otherwise directed by the Court.
- 9.2. At a minimum, the downloadable information and documents on the settlement website must include, when available, this Agreement, the Class Notice, a Claim Form, Plaintiff's petition for attorneys' fees, expenses, and costs, the Order Preliminarily Approving the Settlement, Plaintiff's class action complaint, and the Final Order and Judgment.
- 9.3 The Settlement Website domain will be www.CBSAclassactionsettlement.com.

10. Final Approval:

- 10.1. At least ten days prior to the Fairness Hearing, the Class Administrator will provide a sworn declaration attesting to proper service of the Class Notice and Claim Forms, and state the number of claims, objections, and exclusions, if any.
- 10.2. Prior to the Fairness Hearing, Plaintiff will file an unopposed motion to finally approve the Settlement.
- 10.3. Neither Plaintiff nor Defendant will take any action inconsistent with Plaintiff's motion to finally approve the Settlement.

11. Consideration:

- 11.1. Defendant will create a non-reversionary common fund in the amount of \$850,000.00, less any amounts paid to the Claims Administrator per Sections 7.8 and 7.9, to compensate members of the Settlement Class ("Settlement Fund"). The Settlement Fund will be held in escrow at Huntington Bank as described in paragraph 11.3, and may be interest bearing.
- 11.2. In consultation with the claims administrator, Defendant will fund the Settlement Fund within thirty days of the Court's issuance of the Order Preliminarily Approving the Settlement.
- 11.3. The Claims Administrator will place the Settlement Fund at Huntington Bank in an Intrafi Cash Service (ICS) account, which is 100% backed by the FDIC (the

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“Account”), created by order of the Court intended to constitute a “qualified settlement fund” (“QSF”) within the meaning of Section 1.468B-1 of the Treasury Department Regulations (“Treasury Regulations”) promulgated under Section 1.468B of the Internal Revenue Code of 1986, as amended (the “Code”). Defendant will be the “transferor” to the QSF within the meaning of Section 1.468B-1(d)(1) of the Treasury Regulations with respect to the Settlement Fund or any other amount transferred to the QSF pursuant to this Settlement Agreement. The Claims Administrator will be designated as the “administrator” of the QSF within the meaning of Section 1.468B-2(k)(3) of the Treasury Regulations, responsible for causing the filing of all tax returns required to be filed by or with respect to the QSF, paying from the QSF any taxes owed by or with respect to the QSF, and complying with any applicable information reporting or tax withholding requirements imposed by Section 1.468B-2(l)(2) of the Treasury Regulations or any other applicable law on or with respect to the QSF. The Claims Administrator will provide any statements or make any elections or filings necessary or required by applicable law for satisfying the requirements for qualification as a QSF, including any relation-back election within the meaning of Section 1.468B-1(j) of the Treasury Regulations. The parties agree to the tax treatment of the QSF as set forth in Section 21.

11.4. Paid from the Settlement Fund will be:

- A. Compensation to Settlement Class Members who timely submit a valid Claim Form;
- B. All costs, fees, and any other charges invoiced by the Claims Administrator, including the cost of notice to potential Settlement Class Members, and claims administration for the Settlement Class;
- C. Litigation costs and expenses associated with the Settlement Class, for which Class Counsel will petition the Court;
- D. Reasonable attorneys’ fees, calculated as a percentage of the Settlement Fund, for which Class Counsel will petition the Court;
- E. An incentive award to Plaintiff, for which Plaintiff will petition the Court.

11.5. Each Settlement Class Member who submits an Approved Claim Form, which provides his or her name, address, and telephone number, either online no later than seventy-five days after the Preliminary Approval Date, or by U.S. Mail with a postmark of no later than seventy-five days after the Preliminary Approval Date, will be entitled to a *pro rata* share of the non-reversionary Settlement Fund after deducting:

- A. Costs and expenses of administrating the Settlement;
- B. Class Counsel’s attorneys’ fees, subject to the Court’s approval;

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- C. Class Counsel's costs and expenses not to exceed \$15,000.00, subject to the Court's approval; and
 - D. Plaintiff's incentive award, not to exceed \$7,500.00, subject to the Court's approval.
- 11.6. A Settlement Class Member may submit only one claim, regardless of how many times Defendant called the Settlement Class Member.
- 11.7. Each settlement check issued to a Settlement Class Member will be negotiable for one-hundred-twenty days after it is issued.
- 11.8. Any funds not ultimately paid out as the result of uncashed settlement checks will be paid out as a *cy pres* award to the Texas Access to Justice Foundation, subject to the Court's approval.

12. Exclusions:

- 12.1. Any Settlement Class Member who wishes to exclude himself or herself from the Settlement must mail a written request for exclusion personally signed by the Settlement Class Member to the Class Administrator, postmarked no more than seventy-five days after the Preliminary Approval Date.
- 12.2. Through his or her request for exclusion, and subject to the Court's approval, a member of the Settlement Class must include his or her:
- A. Full name;
 - B. Address;
 - C. Telephone number called by Defendant; and
 - D. A statement that he or she wishes to be excluded from the Settlement.
- 12.3. Any Settlement Class Member who submits a valid and timely request for exclusion will neither be bound by the terms of this Agreement, nor receive any of the benefits of the Settlement. Every Settlement Class Member who does not timely and properly submit a written request for exclusion from the Settlement Class will be bound by all proceedings, orders, and judgments in the Lawsuit. The satisfaction of all the Released Claims against Defendant, as well as entry of the Final Order and Judgment, will be binding upon all Settlement Class Members.
- 12.4. The Claims Administrator will provide a list of the names of each Settlement Class Member who submitted a valid and timely request for exclusion to Class Counsel and counsel for Defendant within ten days after the deadline for exclusions.

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- 12.5. Settlement Class Members may exclude themselves on an individual basis only.
- 12.6. “Mass” or “class” exclusions submitted by third parties on behalf of a “mass” or “class” of Settlement Class Members are not allowed, and will not be considered valid.

13. Objections:

- 13.1. Any Settlement Class Member who wishes to object to the Settlement must mail a written notice of objection to the Class Administrator, Class Counsel, counsel for Defendant, and to the Court, postmarked no more than seventy-five days after the Preliminary Approval Date.
- 13.2. Through his or her notice of objection, and subject to the Court’s approval, a Settlement Class Member must include his or her:
 - A. Full name;
 - B. Address;
 - C. Telephone number to which CBSA placed an artificial or prerecorded voice call from December 2, 2019 through [the date the Court preliminarily approves the parties’ class action settlement], to demonstrate that the objector is a member of the Settlement Class;
 - D. A statement of the objection;
 - E. A description of the facts underlying the objection;
 - F. A description of the legal authorities that support each objection;
 - G. A statement noting whether the objector intends to appear at the Fairness Hearing;
 - H. A list of all witnesses that the objector intends to call by live testimony, deposition testimony, or affidavit or declaration testimony;
 - I. A list of exhibits that the objector intends to present at the Fairness Hearing; and
 - J. A signature from the Settlement Class Member.
- 13.3. Settlement Class Members who do not submit a valid and timely objection will be barred from seeking review of the Settlement by appeal, or otherwise.
- 13.4. If a Settlement Class Member submits both an objection and an exclusion, he or she will be considered to have submitted an exclusion (and not an objection).

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- 13.5 Any Settlement Class Member who fails to comply with the provisions of Section 13 will waive and forfeit any and all rights the Settlement Class Member may have to appear separately and/or to object, and will be bound by all the terms of the Agreement and by all proceedings, orders, and judgments in the Lawsuit.

14. Release:

- 14.1. Upon the Court's entry of the Final Order and Judgment, Releasers release and forever discharge the Released Party from the Released Claims.
- 14.2 Plaintiff and Releasers agree and covenant, and each Releaser will be deemed to have agreed and covenanted, not to sue the Released Party with respect to any of the Released Claims, and agree to be forever barred from doing so, in any court of law, equity, or any other forum.
- 14.3 The Releasers acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of this release, but that it is their intention to finally and forever settle and release the Released Claims and that, notwithstanding the discovery or existence of any such additional or different facts, as to which the Releasers expressly assume the risk, they freely and voluntarily give the release as set forth herein.

15. Exclusive Remedy:

- 15.1. The relief included in this Agreement is the exclusive remedy of recovery for the Released Claims.

16. Attorneys' Fees, Costs, Expenses, and Incentive Award:

- 16.1. Class Counsel will submit to the Court a request for attorneys' fees to be paid from the Settlement Fund.
- 16.2. Class Counsel will submit to the Court a request for reimbursement of reasonable litigation costs and expenses not to exceed \$15,000.00 to be paid from the Settlement Fund.
- 16.3. Plaintiff will submit to the Court a request for an incentive award not to exceed \$7,500.00 to be paid from the Settlement Fund.
- 16.4. The Court's order regarding Class Counsel's request for attorneys' fees, costs, and expenses, and Plaintiff's request for an incentive award, will not affect the finality of the Settlement.
- 16.5. In the event that the Court declines Class Counsel's request for attorneys' fees, costs, and expenses, or Plaintiff's request for an incentive award, or awards less than the

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amounts sought, the Settlement will continue to be effective and enforceable by the parties.

17. No Admission of Liability:

17.1. This Agreement will not be construed or deemed to be evidence of an admission or concession on the part of the Defendant with respect to any claim, fault, liability, wrongdoing, or damage whatsoever. Defendant expressly denies all charges of wrongdoing or liability against Defendant arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Lawsuit, and Defendant continue to believe the claims asserted against Defendant in the Lawsuit are without merit.

18. Representations and Warranty:

18.1. Class Counsel believes that the Settlement is in the best interests of the Settlement Class Members.

18.2. Plaintiff warrants that on the date this Agreement is executed, he owns the claims that he asserts in connection with this matter, and that he has not assigned, pledged, sold or otherwise transferred his claims (or an interest in such claims), and that on the Finality Date he will own his claims free and clear of any and all liens, claims, charges, security interests or other encumbrances of any nature whatsoever, except for any contingent legal fees and expenses.

19. Appeals:

19.1. If a Settlement Class Member appeals the Final Order and Judgment, Plaintiff and Defendant agree to support the Settlement on appeal.

19.2. Nothing contained in this Agreement is intended to preclude Plaintiff, Defendant, or Class Counsel, from appealing any order inconsistent with this Agreement.

20. Distribution of the Settlement Fund:

20.1. Within thirty days of the Finality Date, the Claims Administrator will mail a settlement check to each Settlement Class Member who submitted an Approved Claim Form.

20.2. Within five days of the Finality Date, the Claims Administrator will pay to Plaintiff from the Settlement Fund the incentive award approved by the Court.

20.3. Within five days of the Finality Date, the Claims Administrator will pay to Class Counsel from the Settlement Fund the attorneys' fees, costs, and expenses approved by the Court.

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- 20.4. If any money remains in the non-reversionary Settlement Fund after the date that all initial settlement checks are voided due to non-deposit (*i.e.* checks that Settlement Class Members do not cash), and if the amount that remains is sufficient to issue second checks of at least \$5.00 to each Settlement Class Member who cashed an initial settlement check after accounting for the associated expenses of such a distribution, the Claims Administrator will mail a second settlement check, calculated on a *pro rata* basis considering the remaining amount of the non-reversionary Settlement Fund, to each Settlement Class Member who cashed an initial settlement check.
- 20.5. If any money remains in the Settlement Fund after the date that all settlement checks (*i.e.*, initial settlement checks, and if applicable, second settlement checks), are voided due to non-deposit (*i.e.* checks that Settlement Class Members do not cash), this amount will be paid as a *cy pres* award to the Texas Access to Justice Foundation, subject to the Court’s approval.

21. Taxes:

- 21.1. Plaintiff and Defendant agree that the account into which the Settlement Fund is deposited is intended to be and will at all times constitute a “qualified settlement fund” within the meaning of Treas. Reg. § 1.468B-1. The Claims Administrator will timely make elections as necessary or advisable to carry out required duties including, if necessary, the “relation back election” (as defined in Treas. Reg. § 1.468B-1(j)(2)) back to the earliest permitted date. These elections will be made in compliance with the procedures and requirements contained in applicable Treasury Regulations promulgated under the Code. It is the responsibility of the Claims Administrator to cause the timely and proper preparation and delivery of the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.
- 21.2. For the purpose of Section 468B of the Code and the Treasury Regulations thereunder, the Claims Administrator will be designated as the “administrator” of the Settlement Fund. The Claims Administrator will cause to be timely and properly filed all informational and other tax returns necessary or advisable with respect to the non-reversionary Settlement Fund (including, without limitation, tax returns described in Treas. Reg. § 1.468B-2(k)). These returns will reflect that all taxes (including any estimated taxes, interest or penalties) on the income earned by the non-reversionary Settlement Fund are to be paid out of the Settlement Fund.
- 21.3. All taxes arising in connection with income earned by the Settlement Fund, including any taxes or tax detriments that may be imposed upon Defendant with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a “qualified settlement fund” for federal or state income tax purposes will be paid by the Claims Administrator from the Settlement Fund.
- 21.4. Any person or entity that receives a distribution from the Settlement Fund will be solely responsible for any taxes or tax-related expenses owed or incurred by that person or

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entity by reason of that distribution. These taxes and tax-related expenses will not be paid from the Settlement Fund.

22. Stay:

- 22.1. Plaintiff and Defendant stipulate that all proceedings in connection with this matter will be stayed until the Court issues its decision regarding final approval of the Settlement.
- 22.2. The stipulated stay of proceedings will not prevent the filing of any motions, affidavits, and other matters necessary to obtain and preserve preliminary and final approval of the Settlement.

23. Miscellaneous Provisions:

- 23.1. This Agreement is the entire agreement between Plaintiff and Defendant. All antecedent and contemporaneous extrinsic representations, warranties, or collateral provisions concerning the negotiation and preparation of this Agreement are intended to be discharged and nullified.
- 23.2. Neither Plaintiff nor Defendant may modify this Agreement, except by a writing that Plaintiff and Defendant execute and that the Court approves.
- 23.3. All notices required by this Agreement, between Plaintiff, Defendant, Class Counsel, and counsel for Defendant, must be sent by first class U.S. mail, by hand delivery, or by electronic mail, to:

Aaron D. Radbil
Greenwald Davidson Radbil PLLC
5550 Glades Road
Suite 500
Boca Raton, Florida 33431
aradbil@gdrllawfirm.com

(counsel for Plaintiff and the Settlement Class)

Andrew M. Scott
Gordon Rees Scully Mansukhani, LLP
1900 West Loop South, Suite 1000
Houston, TX 77027
ascott@grsm.com

(counsel for Defendant)

- 23.4. Section headings in this Agreement are for convenience and reference only, and are not to be taken to be a part of the provisions of this Agreement, and do not control or affect meanings, constructions or the provisions of this Agreement.

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- 23.5. Plaintiff and Defendant will exercise their best efforts, take all steps, and expend all efforts that may become necessary to effectuate this Agreement.
- 23.6. Plaintiff and Defendant drafted this Agreement equally, and it should not be construed strictly against Plaintiff or Defendant.
- 23.7. This Agreement binds successors and assigns of the parties.
- 23.8. Plaintiff, Defendant, Class Counsel, and counsel for Defendant, may sign this Agreement in counterparts, and by electronic signature, and the separate signature pages may be combined to create a binding document, which constitutes one instrument.
- 23.11. Should any court declare or determine any provision of this Agreement to be illegal or invalid, the validity of the remaining parts, terms, or provisions will not be affected thereby and the illegal or invalid part, term, or provision will be deemed not to be a part of this Agreement.
- 23.12. A waiver by one party of any provision or breach of this Agreement by any other party will not constitute a waiver of any other provision or breach of this Agreement.
- 23.13. This Agreement is made and entered into within and will be governed by, construed, interpreted, and enforced in accordance with the laws of the State of Texas, without regard to the principles of conflicts of laws.
- 23.14. This Court shall retain continuing and exclusive jurisdiction over the parties to this Agreement, including the Plaintiff and all Settlement Class Members, for purposes of the administration and enforcement of this Agreement.

24. Termination:

- 24.1. Either party has the right to unilaterally terminate this Agreement by providing written notice to the other party within ten days of any of the following occurrences:
 - A. The Court rejects or declines to preliminarily or finally approve this Agreement, after all reasonable efforts are made to obtain preliminary or final approval;
 - B. A higher court reverses the Final Approval Order, and this Agreement is not reinstated by the Court on remand without material change or change agreed to by the parties; or
 - C. The Finality Date does not occur.

However, prior to termination, Plaintiff and Defendant must negotiate in good faith to attempt to modify the terms of the Agreement in order to revive the Settlement.

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24.2 If either Plaintiff or Defendant terminates this Agreement as provided herein, the Agreement will be of no force and effect and the parties' rights and defenses will be restored, without prejudice, to their respective positions as if this Agreement had never been executed, and any orders entered by the Court in connection with this Agreement will be vacated. However, any payments made to the Claims Administrator for services rendered to the date of termination will not be refunded to Defendant.

25. Survival:

25.1. The Settlement will be unaffected by any subsequent change in law regarding the TCPA, its interpretation, and its application, whether from Congress, the Federal Communications Commission, the Consumer Financial Protection Bureau, any other agency, courts, or otherwise.

26. Dismissal:

26.1 The Final Order and Judgment submitted to the Court will include a provision dismissing this Lawsuit with prejudice.


27. Signatures:

27.1. Signatures appear on the following page.

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Jerrold Daugherty

Date


Jerrold Daugherty (Sep 24, 2024 14:18 CDT)

Sep 24, 2024

Aaron D. Radbil
Counsel for Jerrold Daugherty

Date


Aaron D. Radbil (Sep 24, 2024 14:19 CDT)

Sep 24, 2024

Credit Bureau Services Association

Date

Andrew M. Scott
Counsel for Credit Bureau Services Association

Date

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Jerrold Daugherty

Date

Aaron D. Radbil
Counsel for Jerrold Daugherty

Date

Credit Bureau Services Association

Date



9/27/2024

Andrew M. Scott
Counsel for Credit Bureau Services Association

Date



9/30/2024