

## SETTLEMENT AGREEMENT

This Settlement Agreement is entered into between plaintiff Demetrius Robinson (“Plaintiff”), on behalf of himself and the Class Members (as defined below), and defendant Nationstar Mortgage LLC (“Nationstar”).

### RECITALS

WHEREAS, on November 21, 2014, Plaintiff filed a putative class action lawsuit in the United States District Court for the District of Maryland entitled *Robinson et al. v. Nationstar Mortgage LLC*, No. TDC-14-3667 (D. Md.) (the “Action”); and

WHEREAS, on October 16, 2015, Plaintiff filed an Amended Complaint, Dkt. 26-1; and

WHEREAS, the Action asserts claims under 12 C.F.R. § 1024.41 and the Maryland Consumer Protection Act; and

WHEREAS, on September 9, 2019, the Court issued a Memorandum Opinion and Order granting in part and denying in part Nationstar’s Motion for Summary Judgment; denying Nationstar’s Motion to Strike; and granting in part and denying in part Plaintiff’s Motion for Class Certification, Dkts. 232-33. The Court granted class certification as to (1) Plaintiff’s claims under 12 C.F.R. § 1024.41(b)(2)(i)(B), 12 C.F.R. § 1024.41(c)(1)(ii), and 12 C.F.R. § 1024.41(b)(1) on behalf of the nationwide class, defined as “All persons in the United States that submitted a loss mitigation application to Nationstar after January 10, 2014 and through the date of the Court’s certification order”; and (2) Plaintiff’s claims under Md. Code Ann., Com. L. § 13-316(c) on behalf of the Maryland Subclass, defined as “All persons in the State of Maryland that submitted a loss mitigation application to Nationstar after January 10, 2014 and through the date of the Court’s certification order.” The Court appointed Plaintiff as Class Representative and Plaintiff’s counsel as Class Counsel; and

WHEREAS, the Court referred the case to a settlement conference before Magistrate Judge Timothy J. Sullivan on April 28, 2017; and

WHEREAS, the parties mediated before Judge Sullivan on April 9, 2019, at which time the parties did not reach an agreement; and

WHEREAS, the parties continued to engage in extensive, good-faith, and arms’-length settlement negotiations through Judge Sullivan since that time, including submitting confidential settlement conference briefs on January 20, 2020 in advance of a March 2020 settlement conference that was canceled due to the COVID-19 pandemic; and

WHEREAS, the parties reached an agreement on material terms on June 19, 2020, which is memorialized herein; and

WHEREAS, the parties understand that, if litigated further, the Action would require the resolution of numerous issues of law, fact, and procedure, with the possibility of appeals; and

WHEREAS, Nationstar denies the allegations asserted in the Action and denies that Plaintiff or the Class has suffered any damages as a result of Nationstar’s actions or omissions; however, the parties desire to settle the Action finally on the terms and conditions set forth herein to avoid the burden, expense, and uncertainty of continued litigation;

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, the parties, Nationstar Mortgage LLC and Demetrius Robinson, on behalf of himself and the Nationwide Class and Maryland Subclass, agree to settlement of the Action, subject to Court approval, under the following terms and conditions.

## I. Definitions

As used in this Settlement Agreement, the terms set forth in this section in boldface type will have the following meanings:

1.1 **Action:** The lawsuit entitled *Robinson v. Nationstar Mortgage LLC*, Case No. TDC-14-3667 (D. Md.), pending in the United States District Court for the District of Maryland.

1.2 **Agreement or Settlement Agreement:** This document, including the text and any exhibits, which has been signed by Plaintiff, Class Counsel, Nationstar, and Nationstar's counsel.

1.3 **Attorneys' Fees and Expenses:** Such funds as may be awarded to Class Counsel by the Court to compensate them for fees and expenses incurred by Plaintiff or Class Counsel in connection with the Action.

1.4 **Claim Form:** The form that Class Members must fill out and submit by the Response Deadline in order to receive monetary benefits under the Settlement, in substantially the form of Exhibit 1.

1.5 **Claimant:** Any Class Member who submits a Claim Form.

1.6 **Class Counsel:** Tycko & Zavareei LLP and The Bestor Law Firm.

1.7 **Class:** All persons in the United States who submitted a loss mitigation application to Nationstar between January 10, 2014, and September 9, 2019.

1.8 **Class Member:** A member of the Class or Subclass.

1.9 **Class Notice:** Subject to Court approval, the Postcard Notice, Longform Notice, Email Notice, attached hereto as Exhibits 2, 3, and 4, respectively, and the Settlement Website.

1.10 **Class Period:** January 10, 2014 through September 9, 2019.

1.11 **Class Representative:** Demetrius Robinson.

1.12 **Court:** The Honorable Theodore D. Chuang, United States District Court for the District of Maryland, or such other judge or magistrate judge of the United States District Court for the District of Maryland to whom the Action may hereafter be assigned. The address of the Court is 6500 Cherrywood Lane, Greenbelt, MD 20770.

1.13 **Distribution Plan:** the plan for distributing payments to class members who submit valid claims described in further detail in section 4.

1.14 **Effective Date:** Five (5) business days after both of the following have occurred:

a. The Court enters a judgment fully approving the Settlement of the Action in a manner consistent with the terms and intent of this Agreement; and

b. Either: (a) Thirty-five (35) calendar days have passed after Final Approval, and within such time no appeal is taken nor any extension for such appeal is granted, or (b) if an appeal is taken with respect to Final Approval, the appellate court has by final order affirmed the Court's judgment finally approving the Settlement, or denied review, and the appellant otherwise has exhausted all appellate remedies.

1.15 **Eligible Claimant:** Claimants who submit timely Claim Forms and are eligible to receive a Settlement Share according to the mathematical formula set forth in Section 4 below.

1.16 **Email Notice:** Notice substantially in the form of Exhibit 4, subject to Court Approval.

1.17 **Fairness Hearing:** The hearing at which the Court considers (a) any motion or Final Approval of the Settlement; (b) Class Counsel's request for an award of Attorneys' Fees and Expenses; (c) a Service Award to the Class Representative; and (d) any objections or opposition to the Settlement or such requests for Attorneys' Fees and Expenses and Service Award. In connection with the Fairness Hearing, the parties will request entry of the Final Approval Order and Judgment in substantially the form attached as Exhibit 5 unless otherwise directed by the Court.

1.18 **Final Approval:** The entry of the Final Judgment finally approving the Settlement in accordance with the terms and conditions of this Settlement Agreement.

1.19 **Final Approval Order and Judgment:** The Final Approval Order and Judgment to be entered by the Court consistent with this Agreement, substantially in the form of the proposed order attached as Exhibit 5.

1.20 **Longform Notice:** Notice substantially in the form of Exhibit 3, subject to Court Approval.

1.21 **Net Settlement Fund:** The Settlement Fund less Notice and Administrative Costs, and such Attorneys' Fees and Expenses and Service Award as the Court approves.

1.22 **Notice and Administrative Costs.** The reasonable and authorized costs and expenses of disseminating the Class Notice in accordance with the Preliminary Approval Order, and all reasonable and authorized costs and expenses incurred by the Settlement Administrator in administering the Settlement, including, but not limited to, costs and expenses associated with performing the obligations imposed by the Settlement Agreement; assisting Class Members, the parties, and counsel for the parties; administering the Settlement Fund; and issuing and distributing settlement payments.

1.23 **Notice Date:** The date that Class Notice is distributed to the Class.

1.24 **Parties:** The Class Representative and Nationstar.

1.25 **Party:** One or more of the Parties.

1.26 **Preliminary Approval Order:** The order of the Court preliminarily approving the terms and conditions of the Settlement Agreement, in substantially the form of the proposed order attached as Exhibit 6.

1.27 **Point Multiplier:** the Point Multiplier is defined by the mathematical formula in the Distribution Plan.

1.28 **Postcard Notice:** Notice substantially in the form of Exhibit 2, subject to Court Approval.

1.29 **Released Parties:** Nationstar and its parents, subsidiaries, members, affiliates, vendors, agents, successors, assignors, assignees, and/or assigns, and their respective subsidiaries, affiliates, members, vendors, agents, successors, assignors, assignees, and/or assigns, and each of their respective present, former, or future officers, directors, shareholders, employees, representatives, consultants, accountants, and attorneys.

1.30 **Response Deadline:** One hundred (100) days after entry of the Preliminary Approval Order, or such other deadline as the Court may establish for Class Members to submit claims, request exclusion, or object to the proposed settlement

1.31 **Service Award.** Compensation to the Class Representative for his time and effort in the Action as awarded by the Court.

1.32 **Settlement:** The Settlement of this Action in accordance with the terms and conditions of this Settlement Agreement.

1.33 **Settlement Administrator.** Subject to Court approval, Epiq Class Action & Claims Solutions, Inc.

1.34 **Settlement Class List.** The list of Class Members that Nationstar provided to Class Counsel on March 16, 2020.

1.35 **Settlement Class Member.** A Class Member who is not properly excluded under the terms of the Settlement, as approved by the Court.

1.36 **Settlement Fund:** The relief with an aggregate value of three million dollars, from which all (a) payments to Settlement Class Members, (b) Notice and Administrative Costs, (c) any Service Award as authorized by the Court, and (d) any award of Attorneys' Fees and Expenses as authorized by the Court, shall be paid pursuant to the terms of this Agreement and with Court approval. Nationstar shall not be required to pay more than three million dollars toward the Settlement Fund under any circumstance.

1.37 **Settlement Share:** The amount of the Settlement Fund to be paid to each Class Member who submits a timely Claim Form, to be calculated according to the mathematical formula set forth in Section 4 below.

1.38 **Settlement Website:** The website to be established and maintained by the Settlement Administrator, where important documents related to the Action and the Settlement will be available. The documents to be posted on the Settlement Website include the Amended Complaint; this Settlement Agreement; the Court's Memorandum Opinion and Order granting in part and denying in part Nationstar's motion for summary judgment, denying Nationstar's motion to strike, and granting in part and denying in part Plaintiff's motion for class certification; Plaintiff's motion for entry of the Preliminary Approval Order; the Preliminary Approval Order entered by the Court; any petition for Attorneys' Fees and Expenses and Service Award; and the Final Approval Order and Judgment entered by the Court. The Settlement Website will also include the Longform Notice, an electronic Claim Form, and a telephone number Class Members may call to learn more about the Settlement.

1.39 **Subclass:** All persons in Maryland who submitted a loss mitigation application to Nationstar between January 10, 2014, and September 9, 2019.

## II. Settlement Procedures

2.1 **Preliminary Approval.** As soon as possible after the execution of this Agreement, the Class Representative will move the Court for entry of the Preliminary Approval order: (a) preliminarily approving this Agreement as within the range of possible final approval and as fair, adequate, and reasonable; (b) setting a Fairness Hearing date, at least 100 days after the filing of the motion for entry of the Preliminary Approval Order, as well as deadlines for opt-outs and objections; and (c) approving the manner and form of Class Notice.

2.2 **Fairness Hearing.** On a hearing date established in the Preliminary Approval Order, the Court shall conduct the Fairness Hearing. Prior to the Fairness Hearing, the Parties shall move the Court for entry of the Final Approval Order and Judgment.

2.3 **Motion for Attorneys' Fees and Expenses and Service Award.** At least 28 days prior to the Response Deadline, the Class Representative will file a motion for approval of Attorneys' Fees and Expenses and a Service Award.

2.4 **CAFA Notice.** Nationstar, through the Settlement Administrator, shall ensure that timely notice is provided to any state and federal officials of the pendency of the Settlement as required by the Class Action Fairness Act (28 U.S.C. § 1715).

## III. Classwide Settlement Relief

3.1 **Monetary consideration.** In consideration for the release set forth in section 4 below, Nationstar shall provide the following relief to Settlement Class Members:

3.1.1 Nationstar shall pay the total amount of \$3,000,000 in relief, which shall comprise the Settlement Fund.

3.1.2 The Settlement Administrator will distribute the Settlement Fund as set forth in Section 4.

3.1.3 All costs, expenses, fees, relief, and/or payments of any kind in connection with this Settlement shall be paid from the Settlement Fund, including, but not limited to, (a) payments to Settlement Class Members, (b) Notice and Administrative Costs, (c) any Service Award, and (d) any award of Attorneys' Fees and Expenses.

3.2 **Payment of Notice and Administrative Costs.** On or before twenty-one (21) calendar days after entry of the Preliminary Approval Order, Nationstar shall pay the estimated Notice and Administrative Costs to the Settlement Administrator. On or before ten (10) business days after the Effective Date, Nationstar shall provide the remainder of the Settlement Fund to the Settlement Administrator that was not already provided pursuant to the preceding sentence. The Settlement Administrator shall provide the Parties with timely notice of all Notice and Administrative Costs. The Settlement Administrator shall keep an accurate accounting of all payments made by Nationstar to cover Notice and Administrative Costs and shall properly deduct all Notice and Administrative Costs from the Settlement Fund in order to determine the Net Settlement Fund. All Notice and Administrative Costs shall be paid from the Settlement Fund, and Nationstar shall have no separate responsibility for paying such costs.

3.3 **Class Member benefits.** Class Members shall be eligible to receive monetary benefits from the Net Settlement Amount in accordance with the Distribution Plan set forth in Section 4.

3.4 **Service Award.**

3.4.1 On or before twenty-one (28) days prior to the Response Deadline, Class Counsel may apply to the Court for a Service Award from the Settlement Fund for the Class Representative, not to exceed five thousand dollars (\$5,000), in recognition of his service to the Class, in addition to any other relief to which he is entitled as a Settlement Class Member. Nationstar shall not oppose such application.

3.4.2 If the Court approves the Service Award, then no later than fifteen (15) days after the Effective Date, the Settlement Administrator shall mail a check made out to Demetrius Robinson in the amount approved by the Court to Plaintiff care of Jonathan K. Tycko, Tycko & Zavareei LLP, 1828 L Street NW, Suite 1000, Washington, D.C. 20036. However, the Settlement Administrator shall have no obligation to mail the check in the preceding sentence until the Settlement Administrator has received a signed Form W-9 for the Class Representative. If the Settlement Administrator has not received a signed Form W-9 within fifteen (15) days after the Effective Date, then the Settlement Administrator must mail a check made out to Demetrius Robinson in the amount approved by the Court to Plaintiff care of Jonathan K. Tycko, Tycko & Zavareei LLP, 1828 L Street NW, Suite 1000, Washington, D.C. 20036 within ten business days of receipt of a signed Form W-9 for the Class Representative.

3.4.3 This Settlement is not conditioned upon the Court awarding the amount sought by the Class Representative as a Service Award. If the amount awarded by the Court is less than what was sought by the Class Representative, the remaining provisions of the Settlement Agreement are binding and effective.

### 3.5 Attorneys' Fees and Expenses.

3.5.1 On or before twenty-eight (28) days prior to the Response Deadline, Class Counsel may apply to the Court for an award of Attorneys' Fees and Expenses to be paid from the Settlement Fund. Class Counsel will apply for an award of Attorneys' Fees and Expenses not to exceed their lodestar as of the date of the application and costs actually expended in the litigation of the Action. Nationstar agrees not to oppose this request provided that the amount requested does not exceed \$1,300,000. If the motion for Attorneys' Fees and Costs is approved, then within fifteen (15) days of the Effective Date, the Settlement Administrator shall pay to Tycko & Zavareei LLP the amount approved by the Court. However, the Settlement Administrator shall have no obligation to pay the Attorneys' Fees and Expenses until it receives the Form W-9 (or Form W-9s, as applicable) and payment instructions from Tycko & Zavareei LLP. If the Settlement Administrator has not received the Form W-9 (or Forms W-9, as applicable) and payment instructions within fifteen (15) days of the Effective Date, then the Settlement Administrator must pay forward the Attorneys' Fees and Expenses to Tycko & Zavareei LLP within ten business days of the Form W-9 (or Forms W-9, as applicable) and payment instructions.

3.5.2 Tycko & Zavareei LLP shall be solely responsible for paying any monies due to any and all other counsel for Plaintiff and the Class, out of the Attorneys' Fees and Expenses approved by the Court. Nationstar shall not be liable for any claims ensuing from the distribution of the Attorneys' Fees and Expenses.

3.5.3 Class Counsel and the Class Representative expressly disclaim any right to recover attorneys' fees and costs in the Action in excess of the amount awarded by the Court from any person or entity. Class Counsel and the Class Representative agree that the amounts of such Attorneys' Fees and Expenses awarded shall compensate them for all legal work in the Action up to and including the Effective Date, as well as for all legal work and costs that may be incurred in the Action after the Effective Date.

3.5.4 This Settlement is not conditioned upon the Court awarding the amounts sought by Class Counsel as an award of Attorneys' Fees and Expenses. If the amount awarded by the Court is less than what was sought by Class Counsel, the remaining provisions of this Settlement Agreement shall be binding and effective.

3.6 **No Additional Amounts Due.** In no event shall Nationstar be required to pay more than three million dollars (\$3,000,000) under this Agreement.

3.7 **No Tax Liability.** Nationstar is not and will not be obligated to compute, estimate, or pay any taxes on behalf of the Class Representative, any Class Member, Class Counsel, and/or the Settlement Administrator.

## IV. Payment and Distribution of the Settlement Fund

4.1 **Payments from Settlement Fund.** The Settlement Fund shall be used to pay, in the following order: (1) all Notice and Administrative Expenses, up to \$300,000; (2) any award of Attorneys' Fees and Expenses approved by the Court; (3) any Service Award to the Class Representative as approved by the Court; and (4) Valid Claims of Claimants. In the event that

Notice and Administration Expenses exceed \$300,000 for any reason, Nationstar shall bear no responsibility for paying such additional Notice and Administration Expenses.

4.2 **Claimant Settlement Award Calculations.** The awards to Claimants shall be calculated and apportioned as follows.

4.2.1 The “Total Points Claimed” shall be calculated by the Settlement Administrator by adding the total number of “points” from Valid Claims submitted by Claimants. “Points” are available pursuant to the following formula:

a) Question 1 on the Claim Form will read substantially as follows:

<p><b>Did you experience <u>at least one</u> of the following? If <u>YES</u>, you are eligible to receive benefits. If <u>NO</u>, you will not receive benefits.</b></p> <p>- Nationstar didn't send me a letter within 5 days of getting my loss mitigation application.</p> <p>- Nationstar didn't make a decision on my loan modification application within 30 days.</p> <p>- Nationstar didn't tell me I could appeal its decision.</p> <p>- Nationstar asked me to submit documents I had already submitted.</p> <p style="text-align: center;">___ Yes    ___ No</p>
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b) Each Claimant who selects “No” in response to Question 1 will not receive a Settlement Share.

c) Each Claimant who selects “Yes” in response to Question 1 on the Claim Form is eligible for one (1) point. If a Claimant selects both “Yes” and “No” the Claimant will be eligible for a Settlement Share and will receive one (1) point.

d) Question 2 on the Claim Form will read substantially as follows:

<p><b><u>IF YES</u>, did you incur expenses as a result?</b></p> <p>___ No    ___ Yes, under \$50    ___ Yes, \$50 or more</p>
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e) Each Claimant who selects only “No” to Question 2 will receive no additional points. Each Claimant who selects only “Yes, under \$50” will receive one (1) additional point. Each Claimant who selects only “Yes, \$50 or more” will receive two (2) additional points.

f) If, in response to Question 2, a Claimant (1) selects both “Yes, under \$50” and “Yes, \$50 or more,” or (2) selects both “No” and “Yes, \$50 or more”, or (3) selects all three options, that Claimant will be treated as though he or she had selected “Yes, \$50 or more,” and receive two (2) additional points.

g) If, in response to Question 2, a Claimant selects both “No” and “Yes, under \$50,” that Claimant will be treated as though he or she had selected “Yes, under \$50” and receive one (1) additional point.

h) If a Claimant answers “No” in response to Question 1, that Claimant will not receive any points for responding to Question 2, and is not eligible for monetary benefits under the Settlement even if that Claimant selects “Yes, under \$50” or “Yes, \$50 or more” in response to Question 2.

4.2.2 The “Point Multiplier” will be calculated by dividing the Net Settlement Amount by the Total Points Claimed.

4.2.3 The Settlement Share for each Eligible Claimant will be calculated by the number of valid points the Claimant claimed, multiplied by the Point Multiplier.

4.3 **Claim Form Submission.** At the election of the Class Member, Claim Forms may be submitted in paper via first class mail or online at the Settlement Website. Paper Claim Forms will be attached to the Postcard Notice. For Claim Forms that are submitted online, the Class Member will be sent an email confirmation of the submitted Claim Form showing the information entered and the date and time the Claim Form was submitted.

4.4 **One Claim Per Loan.** Class Members who are co-borrowers or joint borrowers on the same loan may only file one (1) Claim Form. If more than one Class Member co-borrower or joint borrower on a loan submits a timely Claim Form, the Settlement Administrator shall use the Claim Form that entitles the Class Members on the Loan to the greatest number of points for purposes of calculating the Total Points Claimed above.

4.5 **Only Timely Claim Forms Considered.** To be eligible for a Settlement Share, Class Members must submit a Claim Form by no later than the Response Deadline. If sent by mail, the Claim Form must be postmarked by the Response Deadline. If submitted electronically, the Claim Form must be submitted by no later than 11:59 p.m. on the Response Deadline.

4.6 **Claim Form Review.** The Settlement Administrator shall review all submitted Claim Forms within a reasonable time to verify that each Claimant is a Class Member. The Settlement Administrator may contact Claimants for additional information to verify that the Claimant is a Class Member.

4.7 **Deficient Claims.** Prior to rejection of a Claim Form, the Settlement Administrator shall communicate with the Claimant in an effort to remedy curable deficiencies in the Claim Form submitted, unless the Claim Form is untimely or clearly fraudulent (e.g., a Claim submitted by “John Doe”). The Settlement Administrator may contact the Claimant using the information provided on the Claim Form or in the Class List. Untimely and clearly fraudulent Claim Forms shall be rejected without cure attempt.

4.8 **Manner of Communicating Deficiency.** Within thirty (30) days after the Response Deadline, the Settlement Administrator shall email all Class Members with an email address provided in the Class List, or who have provided an email address to the Settlement Administrator, to state the reason for denial of their claims. The Settlement Administrator’s determination of whether a Claim Form is valid, if not disputed by the Parties, shall be final and not subject to review.

4.9 **Disputes about Deficiency.** If the Parties and the Settlement Administrator cannot collectively agree about how to resolve disputed Claim Forms, then such disputes will be resolved by the Court. Any disputes regarding payments to Claimants, such as a dispute about a payment or proper recipient of a payment, will be resolved in the following manner: Class Counsel and counsel for Nationstar will meet and confer in good faith in an attempt to resolve the dispute. If the dispute cannot be resolved informally, the Court will resolve the dispute, and such resolution will be final and binding on the Claimant.

4.10 **Payments to be Made on a Per-Loan Basis.** Payments to Eligible Claimants will be made per loan, such that the Settlement payment on any loan with more than one Class Member borrower shall be made payable jointly to all Class Member borrowers on that loan. Thus, for each loan for which more than one borrower on that loan is a Settlement Class Member, the Settlement Administrator shall make a single allocation to that loan payable to all co-borrowers or joint borrower Settlement Class Members on that loan.

4.11 **Distribution of Settlement Shares.** The Settlement Administrator shall pay all Eligible Claimants who submitted timely Claim Forms by check. The Settlement Administrator shall mail payments to Eligible Claimants no later than thirty (30) days following the Effective Date. In the event that there is more than one borrower indebted on a loan and either one of those borrowers is an Eligible Claimant, the check shall be made jointly to all borrowers. Prior to mailing checks under the Settlement, the Settlement Administrator will attempt to update the last known addresses of the Settlement Class Members through the National Change of Address database. Class Members’ checks returned with a forwarding address shall be re-mailed to the new address within twenty-one (21) calendar days. If a Class Member’s check is returned as undeliverable without a forwarding address, the Settlement Administrator shall return a skip trace search and shall make one attempt to re-mail the check within twenty-one (21) calendar days. Any checks which are not cashed within 180 days shall be voided and the money returned to the Settlement Fund. For good cause shown by the Eligible Claimant, the Settlement Administrator may re-issue a check for up to an additional 90-day period following the original 180-day period. The Parties will confer in good faith to determine whether good cause has been shown.

4.12 **Secondary Distribution and *Cy Pres*.** If there is any amount in the Settlement Fund that remains following the distribution of checks to Eligible Claimants as a result of checks

that are returned undeliverable or which are not cashed within 180 days, that amount will be distributed on a *pro rata* basis to Eligible Claimants who cashed their checks, according to the formula set forth in Section 4.2 above. If there is any amount in the Settlement Fund that remains following the secondary distribution, or there are not enough funds to make a secondary distribution economically feasible, then upon approval by the Court, pursuant to the *cy pres* doctrine, the remaining amount shall be paid to Public Justice Foundation, within 60 days after the last void date of the checks and upon certification by the Settlement Administrator that the administration of the Settlement is complete.

4.13 **Deceased Eligible Claimant.** If a Class Member is deceased and a death certificate is provided to the Settlement Administrator prior to the Effective Date, and a timely Claim Form is submitted on behalf of the Class Member, the Settlement Administrator shall pay the applicable Settlement Share to the deceased Class Member's estate.

4.14 **All Class Members Bound.** Each Class Member who does not timely and validly request exclusion from the Settlement as required in this Settlement Agreement shall be bound by this Settlement Agreement and the Final Judgment when entered. Any Class Member who does not submit a completed Claim Form by the Response Deadline shall be deemed to have waived any claim to relief from the Settlement Fund.

## V. Settlement Administration

5.1 **Responsibilities of Settlement Administrator.** The Settlement Administrator shall administer the Settlement in accordance with the Settlement Agreement and as approved by the Court, and shall do so in a cost-effective and timely manner. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all records as are required by applicable law in accordance with its normal business practices and such records shall be made available to counsel for the Parties upon request. Without limiting any of its other obligations as stated herein, the Settlement Administrator shall be responsible for the implementation and effectuation of Class Notice; establishing and maintaining the Settlement Website; receiving and maintaining on behalf of the Court any correspondence regarding requests for exclusion and/or objections to the Settlement; distributing the Settlement Fund to Settlement Class Members who submit valid Claim Forms; paying Court-approved Attorneys' Fees and Expenses, and Service Award; and providing all other related support, reporting, and administration as further stated in this Agreement. The Parties may direct the Settlement Administrator to assist with various additional administrative tasks in implementing the Settlement as the Parties deem appropriate.

5.2 **Qualified Settlement Fund.** The Settlement Fund at all times shall be deemed a "qualified settlement fund" within the meaning of United States Treasury Reg. § 1.468B-1. All taxes (including any estimated taxes, and any interest or penalties relating to them) arising with respect to the income earned by the Settlement Fund or otherwise, including any taxes or tax detriments that may be imposed on Defendant or its counsel or Plaintiffs and Class Counsel with respect to income earned by the Settlement Fund during any period during which the Settlement Fund does not qualify as a "qualified settlement fund" for the purpose of federal or state income taxes or otherwise (collectively "Taxes"), shall be paid out of the Settlement Fund. Defendant and

its counsel and/or Plaintiffs and Class Counsel shall have no liability or responsibility for any of the Taxes.

**5.3 Parties to Cooperate with Settlement Administrator.** The Parties will cooperate with the Settlement Administrator to provide Class Notice, as set forth in this Agreement. The Settlement Administrator shall administer the Settlement in accordance with the terms of this Agreement and, without limiting the foregoing, shall treat any and all documents, communications, and other information and materials received in connection with administration of the Settlement as confidential, and shall not disclose any or all such documents, communications, or other information to any person or entity except as provided in this Settlement Agreement, or as required to respond to inquiries from Class Members regarding their participation in the Settlement, or by Court Order.

**5.4 Settlement Administrator Reporting.**

**5.3.1 Settlement Administrator Interim Reports.** Starting one week after the deadline to begin providing Class Notice, the Settlement Administrator shall provide weekly reports to Class Counsel and counsel for Nationstar concerning the Claim Forms received during the prior week and the Total Points Claimed to date. The report shall also identify the number of valid requests for exclusions received and transmit any received objections.

**5.3.2 Final Claims Accounting.** No later than fourteen (14) days before the filing date for the Class Representative's motion for entry of the Final Approval Order and Judgment, the Settlement Administrator will provide Class Counsel and counsel for Nationstar with a report indicating, among other things, the number of timely and valid Claim Forms submitted and the Total Points Claimed associated with such forms.

**5.3.3 Final Exclusion and Objection Accounting.** Within five (5) calendar days of the Response Deadline, unless otherwise agreed by the Parties, the Settlement Administrator shall provide Class Counsel and counsel for Nationstar with a report of requests for exclusion received, objections received, and confirming which requests for exclusion are timely and untimely. No later than fourteen (14) days before the filing date for the Class Representative's motion for entry of the Final Approval Order and Judgment, the Settlement Administrator will serve upon Class Counsel and counsel for Nationstar a declaration indicating, among other things, the number of valid requests for exclusion and copies of any objections received.

**5.3.4 Post Distribution Accounting.** The Settlement Administrator shall provide the parties with a reconciliation and accounting of the Settlement Fund at each of the following times: (1) no later than ten (10) calendar days after checks are mailed to Eligible Claimants, and (2) no later than ten (10) calendar days after the expiration of the 180-day period for negotiating checks issued under this Settlement.

**5.5 Termination of Agreement.** If the Settlement is terminated, canceled, or voided for any reason as provided herein, then all Settlement Funds paid by Nationstar shall be refunded to Nationstar, net of any disbursements for Notice and Administrative Costs.

## VI. Class Notice

6.1 **Manner of Giving Notice.** Subject to Court approval, the Settlement Administrator will provide the Class Notice to all Class Members after the Preliminary Approval Order is entered by the Court. The cost of such Notice shall be paid from the Notice and Administrative Costs. No further notice shall be required after the Court enters a judgment finally approving the Settlement of the Action.

6.1.1 **Email Notice.** As soon as practicable, but starting no later than forty-five (45) days from entry of the Preliminary Approval Order, the Settlement Administrator shall send the Email Notice to all Class Members for whom Nationstar has provided an email address. It will be conclusively presumed that the intended recipients received the Email Notice if the Settlement Administrator did not receive a hard bounce-back message.

6.1.2 **Postcard Notice.** As soon as practicable, but starting no later than forty-five (45) days from entry of the Preliminary Approval Order, the Settlement Administrator shall send the Postcard Notice, by first class mail, to all Class Members for whom Nationstar has provided a physical address. Before mailing the Postcard Notice, the Settlement Administrator will update the addresses provided by Nationstar with the National Change of Address database. If the Postcard Notice is returned as undeliverable, the Settlement Administrator shall perform a skip trace search and shall make one attempt to re-mail the Postcard Notice as soon as possible before the Response Deadline. It will be conclusively presumed that the intended recipients received the Postcard Notice if the mailed Postcard Notices have not been returned to the Settlement Administrator as undeliverable within fifteen (15) days of mailing.

6.1.3 **Longform Notice.** The Settlement Administrator shall mail or email the Longform Notice to any Class Member who requests a copy.

6.1.4 **Settlement Website.** Prior to the date on which the Settlement Administrator initiates the Class Notice, the Settlement Administrator shall also establish the Settlement Website. The Parties shall meet and confer and choose a mutually acceptable URL for the Settlement Website. The Settlement Website shall remain accessible until thirty (30) days after the Settlement Administrator has completed its obligations under the Settlement Agreement. The Settlement Website shall contain:

- a) The Longform Notice in downloadable PDF format;
- b) The Longform Notice in HTML format with a clickable table of contents, described on the Settlement Website as answers to frequently asked questions;
- c) A contact information page that includes the address for the Settlement Administrator and addresses and telephone numbers for Class Counsel and Nationstar's counsel;
- d) The Settlement Agreement;

- e) The publicly filed motion for entry of the Preliminary Approval Order, and all declarations and other exhibits publicly filed in support thereof;
- f) The signed Preliminary Approval Order;
- g) A downloadable and online version of the Claim Form; and
- h) (when they become available) the publicly filed motion for Attorneys' Fees and Expenses and Service Award and motion for entry of the Final Approval Order and Judgment, along with any declarations and exhibits publicly filed in support thereof.

6.1.5 **Toll Free Phone Number.** Prior to the date on which the Settlement Administrator initiates the Class Notice, the Settlement Administrator shall establish a toll-free number to call to obtain recorded information about the Settlement and request a mailed or emailed version of the Longform Notice.

## **VII. Objections and Requests for Exclusion**

7.1 **Requests for Exclusion.** As set forth below, Class Members shall have the right to opt out of the Class and this Settlement.

7.1.1 **Notification of Right to Request Exclusion.** The Longform Notice, Email Notice, and Postcard Notice shall advise Class Members of their rights to forego the benefits of the Settlement and pursue an individual claim. The Longform Notice will also provide that any Class Member wishing to exclude themselves who fails to properly or timely file or serve the requested information and/or documents will be precluded from doing so.

7.1.2 **Requirements for Exclusion.** If a Class Member wishes to be excluded from the Settlement and not be bound by the Settlement Agreement, that person must, prior to the Response Deadline, sign and mail in a notice of intention to opt out of the Settlement to the Settlement Administrator. The notice must (1) be postmarked on or before the Response Deadline; (2) include the Class Member's name, address, and telephone number; (3) be personally signed and dated by the Class Member; and (4) contain a clear request that the individual would like to opt out or be excluded, by use of those or other words clearly indicating a desire not to participate in the Settlement. Any Class Member who properly and timely requests exclusion in compliance with these requirements will not be entitled to receive payment from the Net Settlement Amount and will not be bound by this Settlement Agreement or the Final Approval Order and Judgment.

7.1.3 **Submission of Claim Form and Request for Exclusion.** If a Class Member submits both a Claim Form and an exclusion request, the Claim Form shall take precedence and be considered valid and binding, and the exclusion request will be deemed to have been sent by mistake and rejected. If more than one Class Member is a co-borrower or joint borrower on a loan, and one or more co-borrower or joint borrower submits a Claim Form and one or more co-borrower or joint borrower submits a request for exclusion, the

Claim Form shall take precedence and be considered valid and binding, and the exclusion request will be deemed to have been sent by mistake and rejected.

**7.1.4 Exclusion Applies to All Borrowers.** Any timely written request for exclusion submitted by any co-borrower or joint borrower will have the effect of excluding all other co-borrowers or joint borrowers in that loan, none of whom thereafter will be treated as Settlement Class Members, unless any other joint borrower or co-borrower submits a Claim Form.

**7.2 Objections to the Settlement.** As set forth below, any Class Member who has not submitted a timely request for exclusion may object to this Settlement Agreement, the motion for Attorneys' Fees and Expenses, and/or the motion for a Service Award.

**7.2.1 Notification of the Right to Object.** The Longform Notice, Email Notice, and Postcard Notice shall all advise Class Members of their right to object to this Settlement Agreement, the motion for Attorneys' Fees and Expenses, and/or the motion for a Service Award. The Longform Notice will also provide that any Class Members wishing to object who fail to properly do so will be precluded from objecting.

**7.2.2 Objection Requirements.** Any Class Member who has not submitted a timely request for exclusion and who wishes to object must do so in writing and any papers submitted in support of such objection shall be received by the Court at the Final Approval Hearing only if the Person making an objection shall, on or before the Response Deadline, file notice of his or her intention to do so and at the same time (a) file copies of such papers he or she proposes to submit at the Final Approval Hearing with the Clerk of the Court, (b) file copies of such papers through the Court's CM/ECF system if the objection is from a Class Member represented by counsel, who must also file an appearance in the Action, and (c) send copies of such papers via mail, hand, or overnight delivery service to both Class Counsel and Nationstar's Counsel. The objection must set forth: (1) the objecting Settlement Class Member's full name, current address, and telephone number; (2) the last four digits of his or her loan number, and/or the objector's Claim ID as set forth on the Postcard Notice and Email Notice; (3) a statement of the position the objector wishes to assert, including the factual and legal grounds for the position; (4) the identity of any witnesses that the objector may call in connection with his or her objection and a summary of their testimony; (5) the name(s) of any attorney(s) representing the objector; (6) the name, court, and docket number of any class action litigation in which the objector has previously appeared as an objector or provided legal assistance with respect to an objection; (7) the name, court, and docket number of any class action litigation in which the objector's attorney(s) have previously appeared as objectors or provided legal assistance with respect to an objection; (8) copies of all documents that the objector wishes to submit in support of his or her position; and (9) a statement whether the objection applies only to the objector, to a specific subset of the class, or to the entire class. Subject to Court approval, any objecting Settlement Class Member may appear at the Fairness Hearing, in person or through counsel, to show cause why the proposed Settlement should not be approved.

**7.2.3 Submission of Request for Exclusion and Objection.** Only Settlement Class Members may submit objections. A Class Member who submits a request for

exclusion shall not be entitled to object to the Settlement, and if both a request for exclusion and an objection are submitted, the request for exclusion shall control and the objection shall be deemed invalid.

**7.2.4 Submission of Claim Form and Objection.** A Settlement Class Member who objects to the Settlement may also submit a Claim Form on or before the Response Deadline, which shall be processed in the same manner as all other Claim Forms. A Settlement Class Member shall not be entitled to an extension of the Response Deadline merely because the Settlement Class Member has also submitted an objection.

**7.2.5 Failure to Object.** Any Class Member who does not provide a timely written objection or who does not make a record of his or her objection at the Final Approval Hearing shall be deemed to have waived any objection and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the proposed Settlement, the motion for Attorneys' Fees and Expenses, the motion for a Service Award, the award of Attorneys' Fees and Expenses, or the awarded Service Award.

**7.2.6 Responding to Objections.** The Class Representative, Class Counsel, and/or Nationstar may file responses to any timely written objection(s) no later than seven (7) days before the date of the Fairness Hearing.

## **VIII. Release of Claims**

**8.1 Class Claims.** Upon entry of the Final Approval Order and Judgment, each Settlement Class Member, and each of their respective executors, representatives, heirs, successors, bankruptcy trustees, guardians, and all those who claim by or through them or who assert claims on their behalf, will be deemed to have completely released and forever discharged the Released Parties, and each of them, from all actions, causes of action, claims, demands, obligations, or liabilities of any and every kind that were or could have been asserted by the Class Representative or Class Members in connection with the submission of loss mitigation applications during the Class Period. This release includes, but is not limited to, claims for statutory or regulatory violations, the Real Estate Settlement Procedures Act, Regulation X, the Maryland Consumer Protection Act, unfair, abusive, or deceptive act or practice claims, tort, contract, or other common law claims, or violations of any other related or comparable federal, state, or local law, statute, or regulation, and any damages (including compensatory damages, special damages, consequential damages, punitive damages, statutory penalties, attorneys' fees, costs) proximately caused by or attributable thereto, directly or indirectly, and any equitable, declaratory, injunctive, or any other form of relief arising thereunder, whether or not currently known, arising out of, based upon, or in any way related to the Settlement Class Members' applications for loss mitigation submitted during the Class Period. Nothing in this Release or in the Agreement otherwise alters or affects the rights or obligations of any Class member and/or Nationstar with respect to any relationship with Nationstar, including, but not limited to, any Class Member's continuing obligations on his or her residential mortgage loan serviced by Nationstar, or Nationstar's rights with respect to such loan.

**8.2 Release by Class Representative.** The Class Representative on behalf of himself and his spouse, heirs, executors, estates, predecessors, successors, assigns, agents and



representatives, hereby releases any and all claims, liens, demands, causes of action, obligations, damages, and liabilities, known or unknown, suspected or unsuspected, fixed or contingent, which he has or may have against any of the Released Parties that arose before the date this Agreement is executed. The release is intended to be a general one covering all existing claims or demands of any nature whatsoever.

8.3 **Unknown Claims.** The Class Representative and Settlement Class members may hereafter discover facts other than or different from those they knew or believe to be true with respect to the subject matter of the claims released pursuant to the terms of Sections 8.1 and 8.2, but each of those individuals expressly agrees that, upon entry of the Final Judgment, he or she shall have waived and fully, finally, and forever settled and released any known or unknown, suspected or unsuspected, asserted or unasserted, contingent or non-contingent, claim with respect to the claims released pursuant to sections 8.1 and 8.2, whether or not concealed or hidden, without regard to subsequent discovery of such different or additional facts. Each of those individuals further agrees and acknowledges that he or she is bound by this Agreement, including the releases contained in this section and sections 8.1 and 8.2, and that all of their claims in the Action shall be dismissed with prejudice and released, whether or not such claims are concealed or hidden, without regard to subsequent discovery of different or additional facts and subsequent changes in the law. In connection with the foregoing releases, the Class Representative and each Settlement Class Member shall be deemed, as of the entry of the Final Judgment, to have waived any and all provisions, rights, benefits conferred by Section 1542 of the California Civil Code, and any statute, rule and legal doctrine similar, comparable, or equivalent to California Civil Code Section 1542, which provides that:

**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.**

## **IX. Dismissal of Action**

9.1 The Class Representative, on behalf of himself and the Class, consents to dismissal of the Action with prejudice upon entry of the Final Approval Order and Judgment and in accordance with the terms of the Agreement and the Parties stipulate to the entry of final judgment.

## **X. Continuing Jurisdiction**

10.1 In the event any Party reasonably believes in good faith that another Party is not meeting its obligations, that Party will engage in a good-faith meet-and-confer through counsel for the purposes of attempting to resolve those issues. If the Parties cannot resolve the issues informally, they will attempt to mediate the issues with the assistance of an agreed-upon mediator.

10.2 The Court will retain jurisdiction to enforce the terms of the Agreement. Nothing in this provision is intended to prevent the Court from exercising its authority to inquire about the bases for settlement, settlement terms, implementation of the Settlement, the information provided to the Court in connection with preliminary or final approval, or anything else.

## XI. Notices

11.1 Any communication, verification, or notice sent by any Party in connection with the Agreement shall be sent by email and overnight mail as follows:

<u>To Class Representative:</u>  Jonathan K. Tycko TYCKO & ZAVAREEI LLP 1828 L Street NW, Suite 1000 Washington, D.C. 20036 jtycko@tzlegal.com	<u>To Nationstar:</u>  Mark D. Lonergan SEVERSON & WERSON, P.C. One Embarcadero Center, Suite 2600 San Francisco, CA 94111 mdl@severson.com
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## XII. Termination of Settlement

12.1 **Invalidity on Modification or Disapproval.** If the Court suggests any modifications to the Agreement or conditions entry of the Preliminary Approval Order or Final Approval Order and Judgment on modifications to the Agreement, the Parties shall work in good faith and consistent with the Agreement to attempt to cure such deficiencies identified by the Court. But, the Parties shall not be obligated to make any additions or modifications to the Agreement that would affect the benefits provided to Settlement Class Members, the cost or burden to Nationstar, the content or extent of the Class Notice, or the scope of the proposed release. If the Court orders or proposes such additions or modifications, the Parties will each have the right to terminate the Settlement Agreement as set forth below in section 12.2 within twenty-one (21) days from the date of the Court's order or proposal unless otherwise agreed in writing by the Parties.

12.2 **Nationstar's Option to Terminate.** If the number of Settlement Class Members who properly and timely exercise their right to opt out of the Settlement Class exceeds 200 Settlement Class Members, Nationstar shall have the right, at its sole discretion, to terminate this Agreement without penalty or sanction by providing written notice of the election to do so to all other Parties hereto within ten (10) days after learning from the Settlement Administrator that the number of valid opt outs exceeds 200 Settlement Class Members.

12.3 **Manner of Termination.** This Settlement may be terminated by either Nationstar or Class Counsel by serving on counsel for the opposing Party and filing with the Court a written notice of termination within 21 days of any of the following occurrences:

- a. The Court rejects, materially modifies, or materially amends or changes the Settlement Agreement;
- b. The Court conditions entry of the Preliminary Approval Order or Final Approval Order and Judgment on modifications to the Settlement Agreement;
- c. The Court declines to preliminarily or finally approve the Settlement;

d. An appellate court reverses the Final Approval Order and the Settlement is not reinstated without material changes by the Court on remand;

e. The Court modifies, amends, or changes the Preliminary Approval Order, Final Approval Order and Judgment, or Settlement in a way that either Party reasonably considers material;

f. The Effective Date does not occur; or

g. Any other ground for termination provided elsewhere in this Agreement.

12.4 In the event of termination of the Settlement, the Parties shall retain all of their pre-Settlement rights, claims, and defenses.

### **XIII. Miscellaneous**

13.1 **Entire Agreement.** This Agreement contains the entire agreement between the Parties and supersedes all prior understandings, agreements, or writings concerning the subject matter of this Agreement. No representations, oral or otherwise, express or implied, other than those specifically referred to in this Settlement Agreement, have been made by any party hereto.

13.2 **No Liability.** This Agreement does not constitute, is not intended to constitute, and will not under any circumstances be deemed to constitute, an admission by any Party as to the merits, validity, or accuracy, or lack thereof, of any of the allegations or claims in this Action. This agreement does not constitute a waiver of any defense or affirmative defenses that Nationstar may be entitled to assert in any future litigation.

13.3 **Amendment.** This Agreement may be amended or modified before Final Approval only by a written instrument signed by each Party (or his, her, or its successor in interest or duly authorized representative). After entry of the Final Approval Order and Judgment any amendments or modifications will be subject to Court approval.

13.4 **Termination of Discovery and Motion Practice.** By signing this Settlement Agreement, the Parties agree not to serve any discovery or proceed with any motion after the date of this Settlement Agreement, except for motions related to the approval of the Settlement, unless the Parties are ordered to do so by the Court or the Final Approval Order and Judgment is not entered and this Settlement becomes void.

### **XIV. Representations and Warranties**

14.1 **Parties Authorized to Enter into Agreement.** The Class Representative and Nationstar represent and warrant that they are fully authorized to enter into this Agreement and carry out the obligations provided for herein. Each Party further represents and warrants that he, she, or it intends to be bound fully by the terms of the Agreement.

14.2 **No Attempt by Parties to Object.** The Class Representative and Nationstar and Class Counsel each represent and warrant that they have not attempted to, nor will they attempt to,

void this agreement in any way, or solicit, encourage, or assist in any fashion in any effort by any person (natural or legal) to object to the Settlement.

14.3 **Best Efforts.** The Parties agree that the terms of the Settlement Agreement reflect a good-faith settlement of disputed claim. Class Counsel, Class Representative, and Nationstar consider the Settlement to be fair, reasonable, and adequate, and will use their best efforts to support the Settlement and seek approval by the Court according to its terms without modification, and in responding to any objectors, intervenors, or other persons or entities seeking to preclude the final approval of this Settlement Agreement. The Parties further agree to cooperate and work together in good faith throughout the administration of the Settlement and to adhere to the terms of this Agreement.

14.4 **Time Periods.** The time periods and dates provided herein are subject to Court approval and modification by the Court or by written stipulation of Class Counsel and counsel for Nationstar.

14.5 **Governing Law.** This Agreement is intended to be and shall be bound by the laws of the State of Maryland.

14.6 **No Construction Against Drafter.** This Agreement shall be deemed to have been drafted by the Parties, and any rule that a document shall be interpreted against the drafter shall not apply to this agreement. Class Representative and Nationstar acknowledge that each has been advised and is represented by legal counsel of his or her own choosing throughout the negotiations preceding execution of this Agreement and have executed the Agreement after having been so advised.

14.7 **Agreement Binding on Successors in Interest.** This Agreement shall be binding on and inure to the benefit of the Parties' heirs, successors, and assigns.

14.8 **Execution in Counterparts.** This Agreement shall become effective upon its execution by the Parties, Class Counsel, and counsel for Nationstar. The Agreement may be executed in counterparts. Each counterpart shall be deemed an original, and execution of the counterparts shall have the same force and effect as if all Parties had signed the same instrument.

14.9 **Headings and Captions.** Headings, captions, and numbers have been set forth in this Agreement for convenience only and are not to be used in construing the Settlement Agreement.

[signatures on following page]

**CLASS REPRESENTATIVE**

DATED:

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Demetrius Robinson

**DEFENDANT**

DATED: August 14, 2020



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Nationstar Mortgage LLC,

By: LeAllen Frost  
Vice President

**APPROVED AS TO FORM:**

DATED:

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TYCKO & ZAVAREEI LLP

BY: Jonathan K. Tycko

DATED:

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THE BESTOR LAW FIRM

BY: Geoffrey Bestor

*Attorneys for Plaintiff and the Class*

DATED:

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SEVERSON & WERSON

BY: Mark D. Lonergan

DATED:

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TROUTMAN SANDERS LLP

BY: John C. Lynch

*Attorneys for Defendant*