

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PATRICIA MCINTYRE,

Plaintiff,

v.

REALPAGE, INC. d/b/a ON-SITE,

Defendant.

Case No. 2:18-CV-03934

CLASS SETTLEMENT AGREEMENT AND RELEASE

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This Class Settlement Agreement and Release (“Settlement Agreement”) is made and entered into by the Parties and their counsel as of October 26, 2022, in the case captioned *Patricia McIntyre v. RealPage, Inc. d/b/a On-Site*, No. 2:18-cv-03934, pending in the United States District Court for the Eastern District of Pennsylvania, and it is submitted to the Court for approval pursuant to Rule 23 of the Federal Rules of Civil Procedure.

1. RECITALS

WHEREAS, on September 12, 2018, Named Plaintiff, Patricia McIntyre, brought a proposed class action in the United States District Court for the Eastern District of Pennsylvania (the “Litigation”), alleging that RealPage, Inc. and RP On-Site LLC (collectively, the “Defendant”), willfully violated the Fair Credit Reporting Act, 15 U.S.C. §§ 1681, *et seq.* (“FCRA”) by, among other things, failing to report up-to-date information pertaining to the disposition of certain eviction cases in class members’ tenant screening reports;

WHEREAS, on August 25, 2020, the Court certified a single nationwide class of consumers in this Litigation, (Dkt. No. 64), which was defined as follows:

For the period beginning two (2) years prior to the filing of the Class Action Complaint and continuing through the date of judgment, all natural persons with an address in the United States and its Territories who were (a) the subject of a tenant screening report prepared by Defendant that (b) contained information about an eviction proceeding, but which (c) failed to state that the eviction proceeding had been withdrawn, dismissed, vacated, satisfied or otherwise resulted in a favorable disposition or had no judicial finding against the consumer who was the subject of a tenant screening report, as that eviction proceeding is reflected in court records publicly available at the time of Defendant’s tenant screening report (the “Class”).

Excluded from the Settlement Class are counsel of record (and their respective law firms) for any of the Parties, employees of Defendants, and employee of the Federal judiciary.

WHEREAS, Defendant denies each and every one of the allegations of wrongful conduct and damages made by Named Plaintiff; Defendant disclaims any wrongdoing or liability whatsoever; and Defendant further denies that this matter satisfies the requirements to be certified or tried as a class action under Federal Rules of Civil Procedure, Rule 23;

WHEREAS, this Settlement Agreement has been reached after the Parties exchanged voluminous discovery and documents, testimony, and it is the product of sustained, arm's-length settlement negotiations and formal mediation;

WHEREAS, the Parties recognize that the outcome of this matter is uncertain, and that a final resolution through the litigation process would require protracted adversarial litigation and appeals; substantial risk and expense; and

WHEREAS, the Parties believe that this Settlement Agreement is fair, reasonable, and adequate in its resolution of the claims brought because it: (1) provides certain injunctive relief tailored to the specific claims made against the Defendant; (2) provides for a monetary payment to the members of the Class; and (3) provides relief to the Class in exchange for releases that also are tailored to the specific claims made against the Defendant;

NOW, THEREFORE, it is hereby stipulated and agreed by the undersigned on behalf of Named Plaintiff, the Class, and the Defendant that this matter and all claims of the Class be settled, compromised, and dismissed on the merits and with prejudice as to Defendant, subject to Court approval, as required by Rule 23 of the Federal Rules of Civil Procedure, on the terms and conditions set forth herein.

The recitals above are true and accurate and are a part of this Settlement Agreement.

2. DEFINITIONS

For the purposes of this Settlement Agreement, including the recitals stated above, the following terms will have the following meanings:

2.1 “CAFA Notice” means notice of this settlement to the appropriate federal and state officials, as provided by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, and as further described in Section 4.1.5.

2.2 “Class Counsel” means James Francis, John Soumilas, Lauren Brennan, and Jordan Sartell of Francis Mailman Soumilas, P.C., representing the Named Plaintiff and the Class.

2.3 “Class List” or “List” shall mean the list of 11,823 individuals that counsel for Defendant provided to counsel for Plaintiff on May 26, 2022.

2.4 “Class” or “Class Members” means the individuals that were included in the Class List that counsel for Defendant provided to counsel for Plaintiff on May 26, 2022. The Class does not include counsel of record (and their respective law firms) for any of the Parties, employees of Defendants, or employees of the Federal judiciary.

2.5 “Class Injunctive Relief Order” means the consent order attached as **Exhibit A** to this Settlement Agreement and proposed by the Parties for entry by the Court, which is intended to require and accomplish the injunctive relief provided for therein, and which in no way imposes any obligation, duty, or responsibility on the Defendant or creates a right on behalf of the Class beyond what is described in that order.

2.6 “Class Notice Plan” means the plan for providing notice of this settlement to the Class under Federal Rules of Civil Procedure, Rule 23(c)(2)(A) and (e)(1), as set forth in Section 4.1.

2.7 “Class Released Claims” means those claims that the Class Members are releasing against the Released Parties, as set forth in Section 4.3.

2.8 “Class Website” means the Internet website to be established by the Settlement Administrator, as part of the Class Notice Plan, as set forth in Section 4.1.4.

2.9 “Court” means the United States District Court for the Eastern District of Pennsylvania.

2.10 “Defendant” means RealPage, Inc. and RP On-Site LLC, collectively.

2.11 “Effective Date” is the date on which this Court’s entry of the Final Approval Order and this Court’s order regarding attorneys’ fees have all become final because each of the following has occurred: (A) the expiration of three (3) business days after the time to file a motion to alter or amend the Final Approval Order under Federal Rule of Civil Procedure 59(e) has passed without any such motion having been filed; (B) the expiration of three (3) business days after the time in which to appeal the Final Approval Order under both Federal Rule of Appellate Procedure 4(a)(1) and (5) (*i.e.*, a sixty day aggregate period) has passed without any appeal having been filed, or unless the day falls on a weekend or a Court holiday, in which case the date for purposes of this Settlement shall be deemed to be the next business day; and (C) if such motion to alter or amend is filed, or if an appeal is taken, three (3) business days after a final determination of any such motion or appeal that permits the consummation of the Settlement. For purposes of this definition, the term “appeal” includes all writ proceedings, including review by the United States Supreme Court.

2.12 “Escrow Account” means an interest-bearing account at a financial institution to be identified by Class Counsel and approved by Defendant in which the Settlement Fund shall be deposited.

2.13 “Eviction Proceeding” means any record that appeared: (1) in the “Landlord Tenant Court Records” section of an RP On-Site LLC screening report; and/or (2) in the “Suits & Judgments for Eviction, Possession, and/or Non-Payment of Rent Report” section of a RealPage, Inc. screening report.

2.14 “FCRA” means the federal Fair Credit Reporting Act, 15 U.S.C. §§ 1681-1681x.

2.15 “Funding Date” means five (5) days after the Effective Date.

2.16 “Final Approval Hearing” is the hearing the Court schedules to make a final determination as to whether this settlement is fair, reasonable, and adequate.

2.17 “Final Judgment” or “Final Judgment and Order” means a final judgment and order of dismissal entered by the Court in this Litigation, in the form of **Exhibit B** hereto, granting final approval of this Settlement Agreement (including addressing Class Counsel’s request for attorneys’ fees, costs, and other expenses and Named Plaintiff’s request for a Service Award), and entering a judgment according to the terms in this Settlement Agreement.

2.18 “Litigation” means *Patricia McIntyre v. RealPage, Inc., d/b/a On-Site*, No. 2:18-cv-03934-CFK, which is currently pending in the United States District Court for the Eastern District of Pennsylvania.

2.19 “Named Plaintiff” means Patricia McIntyre.

2.20 “Notice” means the notice (in a form substantially similar to that attached as **Exhibit C** and approved by the Court) that will be emailed or mailed to the Class, as further described in Section 4.1.3.

2.21 “Party” and “Parties” mean the Named Plaintiff, the Class, and the Defendant.

2.22 “Preliminary Approval” and “Preliminary Approval Order” mean the Court’s order in the form attached hereto as **Exhibit D**, preliminarily approving the proposed settlement, approving and directing the Class Notice Plan, and appointing a Settlement Administrator.

2.23 “Released Parties” means the Defendant and its respective past and present employees, parents and subsidiaries and affiliate corporations or other business entities, including but not limited to their current members, officers, directors, employees, agents, personal representatives, contractors, vendors, resellers, suppliers, insurers, attorneys and assigns.

2.24 “Service Award” means the one-time payment to the Named Plaintiff, for the time and resources that she has put into representing the Class, as set forth in Section 5.3.

2.25 “Settlement Administrator” means, subject to Court approval, Continental DataLogix, LLC.

2.26 “Settlement Agreement” means this Settlement Agreement and Release, including all attached Exhibits.

2.27 “Settlement Fund” means the monetary relief which Defendant has agreed to provide for the benefit of the Class, as further described in Section 4.2.2, 4.2.2.1, and 5.1.

3. PRELIMINARY APPROVAL

3.1 Preliminary Approval Order

As soon as reasonably practicable, the Named Plaintiff shall file with the Court a Motion for Preliminary Approval of the Settlement; Approval and Direction of the Class Notice Plans; and Appointment of the Settlement Administrator. The Motion shall seek entry of an Order, attached as **Exhibit D**, that would:

- a) preliminarily approve this Settlement Agreement;
- b) approve the proposed Class Notice Plan, including the form of Notice substantially similarly to that attached as **Exhibit C**; and
- c) appoint the Settlement Administrator.

The Parties agree that Defendant may also file a response in further support of the Motion for Preliminary Approval of the Settlement.

3.2 Class Certification

The Court previously certified a class in this case in 2020. Defendant contends that this Litigation should not have been certified as a class action under Federal Rules of Civil Procedure, Rule 23, for trial purposes. Nothing in this Settlement Agreement shall be construed as an

admission by Defendant that this Litigation or any similar case is amenable to class certification for trial purposes. Further, nothing in this Settlement Agreement shall prevent Defendant from seeking de-certification of the Class if final approval of this Settlement Agreement is not obtained, or not upheld on appeal, including review by the United States Court of Appeals for the Third Circuit or the United States Supreme Court, for any reason, or if any of the conditions exist that permit Defendant to terminate this Settlement Agreement in accordance with Section 7.

4. CLASS SETTLEMENT TERMS

4.1 Class Notice Plan

4.1.1 Class List

The Class List is comprised of the 11,823 Class Members who were included on the list that counsel for Defendant provided to counsel for Plaintiff on May 26, 2022. Within seven (7) days after Preliminary Approval, the Class List will be provided to the Settlement Administrator.

The Named Plaintiff, Class Counsel, and Class hereby acknowledge and agree that Defendant is providing the information referenced in this Section to the Settlement Administrator solely for the purpose of effecting the terms of this Settlement Agreement, and that such information shall not be used, disseminated, or disclosed by or to any other person for any other purpose. If the settlement is terminated for any of the reasons identified in Section 7, the Settlement Administrator shall immediately destroy any and all copies of the information referenced in this Section. The provisions regarding the compilation and treatment of the lists referenced above are material terms of this Settlement Agreement. The Parties and the Settlement

Administrator also agree to treat the Class List as “Confidential” under the terms of the existing Stipulated Protective Order and Approved Confidentiality Agreement. (Dkt. No. 22.)

4.1.2 Court Appointment and Retention of Settlement Administrator

At the Preliminary Approval hearing, the Parties will propose that the Court appoint the Settlement Administrator, as defined above. The Settlement Administrator’s responsibilities shall include, but are not limited to, giving notice, obtaining new addresses for returned mail, setting up and maintaining a Settlement Website and toll-free telephone number, fielding inquiries about the Settlement Agreement, directing the mailing of payments to Class Members, and any other tasks reasonably required to effectuate Settlement. The Settlement Administrator will provide monthly updates on the status of disbursements and cashed checks to counsel for the Parties.

4.1.3 Class Notice

Named Plaintiff, Defendant, and the Settlement Administrator have agreed that they will jointly recommend the Notice, substantially in the form attached as **Exhibit C**, to the Court for approval. Within twenty-one (21) days after Preliminary Approval, the Settlement Administrator will send the Notice via electronic mail to the last known email address reflected in the Class List, if there is an email address associated with a Class Member.

If there is no email address associated with a Class Member, or if an email bounce back is received upon attempted transmission, then the Settlement Administrator will send the Notice to Class Members via U.S. mail, postage prepaid, also requesting either forwarding service or change service to the last known address reflected in the Class List. Prior to mailing, the Settlement Administrator shall utilize the U.S. Postal Office’s National Change of Address System.

For those Class Members whose notice is ultimately delivered by U.S. Mail, and for up to forty-five (45) days following the mailing of the Notice via U.S. Mail (if applicable), the Settlement Administrator will re-mail the Notice via standard U.S. Mail, postage prepaid, to those

Class Members whose notices were returned as undeliverable to the extent an alternative mailing address can be reasonably located. The Settlement Administrator will first attempt to re-mail the Notice to the extent that it received an address change notification from the U.S. Postal Service. If an address change notification form is not provided by the U.S. Postal Service, the Settlement Administrator may attempt to obtain an updated address using reasonable and appropriate methods to locate an updated address.

No later than forty-five (45) days before the Final Approval Hearing, the Settlement Administrator will file proof of the mailing of the Notice with the Court.

Neither the Parties nor the Settlement Administrator will have any further obligation to send notice of the settlement to the Class Members other than the requirements that are outlined in this agreement.

4.1.4 Settlement Website

The Settlement Administrator also will create, own, and maintain the Class Website to be activated no later than five (5) days prior to the mailing of the Notice described above. The URL for the website will be: www.McIntyreClassAction.com. The Class Website will post important settlement documents, such as the operative Complaint, the Notice, the Settlement Agreement, and the Preliminary Approval Order. In addition, the Class Website will include a section for frequently-asked questions, and procedural information regarding the status of the Court-approval process, such as an announcement when the Final Approval Hearing is scheduled, when the Final Judgment and Order has been entered, when the Effective Date is expected or has been reached, and when payment will likely be mailed.

The Settlement Administrator will terminate the Class Website either: (1) one hundred and eighty (180) days after the Effective Date; or (2) thirty (30) days after the date on which the settlement is terminated or otherwise not approved by the Court.

4.1.5 CAFA Notice

The Parties agree that the Defendant shall serve notice of the settlement that meets the requirements of CAFA, 28 U.S.C. § 1715 on the appropriate federal and state officials no later than ten (10) days after the filing of this Settlement Agreement with the Court. Defendant may use a third-party to serve the CAFA Notice, at Defendant's discretion.

4.1.6 Costs and Expenses

Under no circumstances will Defendant have any payment obligations pursuant to this Settlement Agreement that exceed six million, three hundred and fifty thousand dollars (\$6,350,000).

Within fourteen (14) days after Preliminary Approval, Defendant will advance twenty-five thousand dollars (\$25,000) to the Settlement Administrator to effectuate the Class Notice Plan. Defendant shall receive a full credit for this payment if and when the Settlement Fund is funded, as discussed in Section 5.

4.2 Settlement Consideration

4.2.1 Class Injunctive Relief

Subject to the terms and conditions of this Settlement Agreement, the Named Plaintiff, the Class, and Defendant have agreed to move jointly for the Court to enter an injunction applicable to Defendant by consent. The Court will be asked to adopt the Class Injunctive Relief Order attached as **Exhibit A** to this Settlement Agreement, which shall include the following terms.

4.2.1.1 Eviction Proceedings with No Disposition Information After Fourteen Months

Defendant will agree to not report records of Eviction Proceedings that, after fourteen months from the date of the case filing, do not contain any information about the disposition of the

action. Defendant shall implement this injunctive relief within sixty (60) days of the Effective Date.

4.2.1.2 Dispute Monitoring

As an additional form of injunctive relief, Defendant shall generate monthly reports regarding the volume of disputes regarding Eviction Proceedings received from consumers. Defendant shall take commercially reasonable action to address any identified trends or systemic issues regarding the accuracy of the records of Eviction Proceedings that are internally identified because of that monitoring. Defendant shall also communicate with its vendor(s) of records of Eviction Proceedings regarding the volume of those disputes that implicate the data of Eviction Proceedings provided to Defendant by the vendor(s). Defendant shall implement this additional form of injunctive relief within sixty (60) days of the Effective Date.

4.2.1.3 Time Period

Defendant shall agree to maintain the injunctive relief set forth in Sections [4.2.1.1 and 4.2.1.2] for a period beginning sixty (60) days after the Effective Date and continuing for two (2) years thereafter.

4.2.1.4 Changes in Law

If during the agreed-upon periods of the injunctive relief Defendant believes that changes have occurred in federal, state or local law, or through other applicable regulations or administrative actions, that alter its obligations with respect to the requirements under 15 U.S.C. § 1681e(b) as they pertain to court records of Eviction Proceedings, Defendant may petition the Court to request modification of the procedure(s) discussed in Sections 4.2.1.1 and/or 4.2.1.2 in the manner it deems necessary to maintain compliance with the law. At the time of any such petition, Defendant must provide notice of the proposed modification of the procedure(s) to Class Counsel. Thereafter, Defendant must petition the Court for approval of the proposed

change(s). Defendant shall continue to implement the injunctive relief during the period of time that it awaits a ruling from the Court.

4.2.1.5 Third Party Settlements

The Parties have studied, developed, and proposed the injunctive relief Section [4.2.1.1 and 4.2.1.2] and believe it is appropriate. In the event Class Counsel settles with another entity engaged in tenant screening on behalf of a substantially congruent class that includes business practice change injunctive relief that is different from the injunctive relief set forth in this settlement, Defendant may petition the Court to request modification of the procedure(s) discussed in Sections 4.2.1.1 and/or 4.2.1.2. At the time of any such petition, Defendant must provide notice of the proposed modification of the procedure(s) to Class Counsel. Thereafter, Defendant must petition the Court for approval of the proposed change(s). Defendant shall continue to implement the injunctive relief during the period of time that it awaits a ruling from the Court.

4.2.1.6 Disputes

If any Class Member has a claim or dispute regarding Defendant's compliance with the injunctive relief set forth in Section [4.2.1.1 and 4.2.1.2], then the Class Member first must submit, *pro se* or through counsel, his or her dispute directly to Defendant before taking any other action. Upon receipt of such a dispute, Defendant will advise Class Counsel of the dispute. Defendant will investigate the dispute and respond to the Class Member within thirty (30) days, with a copy of its response to Class Counsel. Defendant's response must state the results of Defendant's investigation of the allegation of non-compliance with the injunctive relief and any action taken or to be taken to address the Class Member's dispute; or, if additional information is required for Defendant to complete their investigation, Defendant's response must identify the specific additional information that is required. Upon the submission of all the additional information required (as set forth in Defendant's response), Defendant will have twenty-one (21) days to

complete its investigation of the Class Member's dispute regarding the allegation of non-compliance with the injunctive relief and to provide a response containing the results of its investigation and any action taken or to be taken to address the dispute. Notwithstanding this provision, if Defendant is unable to comply with this deadline, Defendant may move the Court for a reasonable extension of time sufficient to permit completion of the investigation upon submission of an application to the Court showing good cause for the extension. If, after the dispute resolution process described above has been completed, the Class Member disagrees with the results of Defendant's investigation into the allegation of non-compliance, the Class Member may submit his or her dispute regarding the allegation of non-compliance with the injunctive relief to the Court under the caption for this action. The Class Member's submissions to the Court must include copies of all correspondence between the Class Member and Defendant regarding the dispute prior to the submission. The Court shall then have exclusive and sole jurisdiction to resolve the dispute.

4.2.2 Class Monetary Relief

The Settlement Fund shall consist of \$6.35 million. The Settlement Fund shall be used to make automatic payments to each Class Member, as outlined in Section 4.2.2.1.

4.2.2.1 Automatic Payments to Class Members

Each Class Member is entitled to a *pro rata* portion of the total amount in the Settlement Fund, less any amount the Court awards in attorneys' fees, a Service Award, costs, administrative fees, notice expenses, and any other expenses. Distributions to Class Members shall be made pursuant to the structure and payment schedule set forth in Section 5.3.1.

4.3 Class Release

4.3.1 Release of All Claims

Upon the Effective Date, each Class Member who has not validly excluded himself or herself from the settlement class, on behalf of themselves and their respective spouses, heirs,

executors, administrators, representatives, agents, attorneys, partners, successors, predecessors, assigns, and all those acting or purporting to act on their behalf, acknowledge full satisfaction of, and shall be conclusively deemed to have fully, finally, and forever settled, released, and discharged all the Released Parties of and from all claims, rights, causes of action, suits, obligations, debts, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses, and attorneys' fees of any nature whatsoever arising before the effective date of the settlement, whether known or unknown, matured or unmatured, foreseen or unforeseen, suspected or unsuspected, accrued or unaccrued which he or she ever had or now has under the Section 1681e(b) of the FCRA, state equivalents, or common law, resulting from, arising out of, or regarding the inclusion of records of eviction proceedings in reports published by Defendant (the "Class Released Claims").

Subject to the Court's approval, the Class Members shall be bound by the settlement and all their Class Released Claims shall be dismissed with prejudice and released as against the Released Parties, even if the Class Member never received actual notice of the settlement prior to the Final Approval Hearing, never submitted a Claim Form, or never cashed a check received.

4.3.2 Waiver of Unknown Claims; General Release

Class Members acknowledge that they are aware that they may hereafter discover facts in addition to or different from those that they or Class Counsel now know or believe to be true with respect to the subject matter of this Litigation and the Class Released Claims, but it is their intention to, and they do upon the Effective Date of this Settlement Agreement, fully, finally, and forever settle and release any and all Class Released Claims, without regard to the subsequent discovery or existence of such different additional facts, whether known or unknown.

4.3.2.1 Waiver of California Civil Code § 1542

Class Members waive all rights and benefits afforded by California Civil Code § 1542, which provides as follows:

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

Class Members, and Class Counsel understand and acknowledge the significance of this waiver of California Civil Code § 1542 and/or of any other applicable federal or state law relating to limitations on releases with respect to the Class Released Claims.

4.3.3 Binding Release

Upon the Effective Date, no default by any person in the performance of any covenant or obligation under this Settlement Agreement or any order entered in connection with such shall affect the dismissal of the Litigation, the *res judicata* effect of the Final Judgment and Order, the foregoing releases, or any other provision of the Final Judgment and Order; provided, however, that all other legal and equitable remedies for violation of a court order or breach of this Settlement Agreement shall remain available to all Parties.

4.3.4 Opt-Out from Class

4.3.4.1 Requests for Exclusion

All Class Members shall be given the opportunity to opt out of the Class by submitting a “Request for Exclusion.” All Requests for Exclusion must be in writing, sent to the Settlement Administrator and postmarked no later than thirty (30) days before the Final Approval Hearing. To be valid, a Request for Exclusion must be personally signed and must include: (1) the individual’s name, address and telephone number; and (2) a statement substantially to the effect

that: “I request to be excluded from the Class in *Patricia McIntyre v. RealPage, Inc., d/b/a On-Site.*”

Notwithstanding the foregoing, no person within the Class, or any person acting on behalf of or in concert or participation with that person, may submit a Request for Exclusion of any other person within the Class.

Because Class Counsel believes the settlement is fair, reasonable, and adequate, Class Counsel has no present intention to represent any individual who submits a Request for Exclusion against the Released Parties with respect to a Class Released Claim. Accordingly, Class Counsel shall, if contacted, refer any such opt-outs to the applicable state bar association or other referral organization for other appropriate counsel in any subsequent litigation of claims by such opt-outs against Defendant.

4.3.4.2 Verification of Opt-Outs by Settlement Administrator

The Settlement Administrator shall provide copies of the Requests for Exclusion to the Parties no later than three (3) days after they are received by the Settlement Administrator. No later than fourteen (14) days before the Final Approval Hearing, the Settlement Administrator shall provide to Class Counsel (with a copy to Defendant), who shall file it with the Court, a declaration verifying that notice has been provided to the Class as set forth herein and listing all of the valid opt-outs received.

4.3.4.3 Effect of Opt-Out from Class

All individuals within the Class who timely submit a valid Request for Exclusion will, subject to Court approval, exclude themselves from the Class and preserve their ability to independently pursue, at their own expense, any individual claims he or she claims to have against Defendant, subject to any further defenses that can be advanced by Defendant. Any such individual within the Class who so opts out will not be bound by further orders or judgments in

the Litigation as they relate to the Class. Because the settlement is being reached as a compromise to resolve this litigation, including before a final determination of the merits of any issue in this case, no individual who opts out of the Class shall be able to invoke the doctrines of *res judicata*, collateral estoppel, or any state law equivalents to those doctrines in connection with any further litigation against Defendant in connection with the claims asserted by the Class.

4.3.4.4 Objections from Class Members

Any Class Member who has not opted-out in accordance with the terms above and who intends to object to this Settlement Agreement must file the objection in writing with the Clerk of Court no later than thirty (30) days prior to the Final Approval Hearing, and must concurrently serve the objection on the Settlement Administrator. The objection must include the following: (1) the Class Member's full name, address and current telephone number; (2) if the individual is represented by counsel, the name and telephone number of counsel, if counsel intends to submit a request for fees and all factual and legal support for that request; (3) all objections and the basis for any such objections stated with specificity, including a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (4) the identity of any witnesses the objector may call to testify; (5) a listing of all exhibits the objector intends to introduce into evidence at the Final Approval Hearing, as well as true and correct copies of such exhibits; and (6) a statement of whether the objector intends to appear at the Final Approval Hearing, either with or without counsel.

Any Class Member who fails to timely file and serve a written objection pursuant to this Section shall not be permitted to object to the approval of the settlement or this Settlement Agreement and shall be foreclosed from seeking any review of the settlement or the terms of the Settlement Agreement by appeal or other means.

5. SETTLEMENT FUND

5.1 Settlement Fund

By the Funding Date, Defendant shall fund the Settlement Fund, less the amount provided for in Section 4.1.6. Defendant shall deposit this amount in the Escrow Account.

The Settlement Fund includes all potential amounts awarded by the Court as the total monetary consideration to the Class, inclusive of any and all payment of attorneys' fees, Service Award, costs, administrative fees, notice expenses, and any other expenses described herein.

Defendant shall not be ordered or required to pay any other award or any other fees, costs, or expenses aside from the Settlement Fund as provided for herein.

5.2 Settlement Fund Tax Status

5.2.1 The Parties agree to treat the Settlement Fund as being at all times a “qualified settlement fund” within the meaning of Treas. Reg. § 1.468B-1. In addition, the Settlement Administrator shall timely make such elections as necessary or advisable to carry out the provisions of this Subsection, including the “relation back election” (as defined in Treas. Reg. § 1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Settlement Administrator to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

5.2.2 For the purpose of Treasury Regulation § 1.468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” shall be the Settlement Administrator. The Settlement Administrator shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treas. Reg. § 1.468B-2(k)). Such returns shall be consistent with this Subsection and in all events shall reflect that all Taxes (including any

estimated Taxes, interest or penalties) on the income earned by the Settlement Fund shall be paid out of the respective settlement fund as provided herein.

5.2.3 All (a) Taxes (including any estimated Taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be imposed upon the Released Parties with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund do not qualify as a “qualified settlement fund” for federal or state income tax purposes (“Taxes”), and (b) expenses and costs incurred in connection with the operation and implementation of this Subsection (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns (“Tax Expenses”)), shall be paid out of the respective settlement fund for which the income was earned or expense or cost incurred; in no event shall the Released Parties have any responsibility for or liability with respect to the Taxes or the Tax Expenses. The Settlement Administrator shall indemnify and hold the Released Parties harmless for Taxes and Tax Expenses (including, without limitation, Taxes payable by reason of any such indemnification). Further, Taxes and Tax Expenses shall be timely paid by the Settlement Administrator out of the Settlement Fund without prior order from the Court, and the Settlement Administrator shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(1)); the Released Parties are not responsible therefore nor shall they have any liability with respect thereto. The Parties hereto agree to cooperate with the Settlement Administrator, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out this Section.

5.3 Attorneys' Fees, Service Award, Costs, and Other Expenses

No later than forty-five (45) days prior to the Final Approval Hearing, Class Counsel shall make an application to the Court for an award of attorneys' fees, costs, and other expenses for their representation of the Class. That application will be posted to the Settlement Website by the Settlement Administrator within one business day of filing with the Court. The amount that will be requested by Class Counsel shall be no greater than \$2,116,666.67, which Defendant agrees not to oppose. No later than the time Class Counsel files the application above, Class Counsel shall provide to the Settlement Administrator a properly-completed W-9 Form pertaining to Class Counsel.

No later than forty-five (45) days prior to the Final Approval Hearing, Named Plaintiff shall make an application to the Court for the Court's approval of a Service Award of \$10,000 to be paid from the Settlement Fund, which Defendant agrees not to oppose. No later than the time Class Counsel files the application above, Class Counsel shall provide to the Settlement Administrator a properly-completed W-9 Form pertaining to the Named Plaintiff.

To the extent the Court approves an award of attorneys' fees or Service Award in an amount less than the requested amount, the difference shall remain in the Settlement Fund and then be disbursed for the benefit of the Class Members consistent with the other terms of the Settlement Agreement.

5.3.1 Payment Schedule

Attorneys' fees and costs and the Service Award, subject to Court approval, shall be paid in the amount approved by the Court within five (5) days after the Funding Date.

In addition, before commencing distribution to the Class Members, the Settlement Administrator shall determine the funds necessary to cover the remaining costs of notice and administration that the Settlement Administrator has already incurred, and reasonably expects to

incur, in completing the Class Notice Plan set forth in this Section. The Settlement Administrator shall submit that estimate to Class Counsel and Defendant's counsel for approval. Once approved, the Settlement Administrator should withhold the estimated amount from further distribution from the Settlement Fund to cover costs of notice and administration. Each of these costs, expenses, and distributions above should be borne from the Settlement Fund.

Within thirty (30) days after the Funding Date, the Settlement Administrator shall mail equal payments out of the Settlement Fund to each Class Member via U.S. mail to the last known address reflected in the Class List or the updated address previously used during the Class Notice Plan set forth in Section 4.1.3. The payment notices accompanying the payment check shall notify the recipients that the checks must be cashed within sixty (60) days from the date on enclosed check and that the enclosed check shall not be valid after that date.

If funds remain after the initial round of automatic *pro rata* payments, a second distribution shall be made on a *pro rata* basis to the Class Members who cashed their initial check, unless the second distribution would result in a payment of less than \$25 per Class Member. The payment notices accompanying the second check shall notify the recipients that the checks must be cashed within sixty (60) days from the date on the enclosed check and that the enclosed check shall not be valid after that date.

Any checks from the second distribution that are not cashed by the stale date referenced above or that were returned as undeliverable shall revert to the Escrow Account. These remaining funds shall be paid to the Tenant Union Representative Network, as a *cy pres* award, subject to agreement in writing by the Tenant Union Representative Network that the *cy pres* award will not be used for litigation. The funds shall be distributed within fifteen (15) days of the final stale date referenced above. Class Counsel represents that the Tenant Union Representative Network is not

a referral source or expected referral source to Class Counsel for FCRA litigation matters or matters otherwise related to tenant screening.

6. ENTRY OF FINAL JUDGMENT AND ORDER

The Parties shall jointly seek entry by the Court of a Final Judgment and Order in the form of **Exhibit B** hereto, which includes the following provisions (among others):

- a) granting final approval of this Settlement Agreement, and directing its implementation pursuant to its terms and conditions;
- b) ruling on Class Counsel's applications for attorneys' fees, costs, and other expenses;
- c) enjoining Defendant according to the specific terms as provided in Section 4.2.1;
- d) discharging and releasing the Released Parties, and each of them, from the Class Released Claims, as provided in Section 4.3;
- e) permanently barring and enjoining all Class Members from instituting, maintaining, or prosecuting, either directly or indirectly, any lawsuit that asserts Class Released Claims;
- f) directing that the Litigation be dismissed with prejudice and without costs;
- g) stating pursuant to Federal Rules of Civil Procedure, Rule 54(b) that there is no just reason for delay and directing that the Final Judgment and Order is a final, appealable order; and
- h) reserving to the Court continuing and exclusive jurisdiction over the Parties with respect to the Settlement Agreement and the Final Judgment and Order as provided in Section 8.3.

7. TERMINATION

Defendant has the right to terminate this Settlement Agreement, declare it null and void, and have no further obligations under this Settlement Agreement to the Named Plaintiff or to members of the Class if any of the following conditions subsequent occurs:

- a) more than 200 individuals opt out of the proposed Class;
- b) the Court fails to enter a Final Judgment and Order substantially consistent with the provisions of this Settlement Agreement;
- c) the settlement of the Class claims, or the Final Judgment and Order, is not upheld on appeal, including review by the United States Supreme Court;
- d) the Named Plaintiff or Class Counsel commit a material breach of the Settlement Agreement before entry of the Final Judgment and Order; or
- e) the entry of an order by any court that would require either material modification or termination of the Settlement Agreement.

The failure of the Court or any appellate court to approve in full the request by Class Counsel for attorneys' fees, costs, and other expenses shall not be grounds for the Named Plaintiff, the Class, or Class Counsel to cancel or terminate this Settlement Agreement. The failure of the Court or any appellate court to approve in full the request of the Named Plaintiff for his Service Award shall not be grounds for the Named Plaintiff, the Class, or Class Counsel to cancel or terminate this Settlement Agreement.

If the Settlement Agreement is not finally approved, is not upheld on appeal, or is otherwise terminated due to the reasons set forth in this Section 7: then the Settlement Agreement and all negotiations, proceedings, and documents prepared, and statements made in connection therewith, shall be without prejudice to any Party and shall not be deemed or construed to be an admission or confession by any Party of any fact, matter, or proposition of law; and all Parties shall stand in

the same procedural position as if the Settlement Agreement had not been negotiated, made, or filed with the Court.

8. MISCELLANEOUS PROVISIONS

8.1 Best Efforts to Obtain Court Approval

Named Plaintiff and Defendant, and the Parties' counsel, agree to use their best efforts to obtain Court approval of this Settlement Agreement, subject, however, to Defendant's rights to terminate the Settlement Agreement, as provided herein.

8.2 No Admission

This Settlement Agreement, whether or not it shall become final, and any and all negotiations, communications, and discussions associated with it, shall not be:

a) offered or received by or against any Party as evidence of, or be construed as or deemed to be evidence of, any presumption, concession, or admission by a Party of the truth of any fact alleged by Named Plaintiff or defense asserted by Defendant, of the validity of any claim that has been or could have been asserted in the Litigation, or the deficiency of any defense that has been or could have been asserted in the Litigation, or of any liability, negligence, fault, or wrongdoing on the part of Named Plaintiff or Defendant;

b) offered or received by or against Named Plaintiff or Defendant as a presumption, concession, admission, or evidence of any violation of the FCRA or any state or common law equivalent of the FCRA, or any state or federal statute, law, rule, or regulation or of any liability or wrongdoing by Defendant, or of the truth of any of the allegations in the Litigation, and evidence thereof shall not be directly or indirectly admissible, in any way, (whether in the Litigation or in any other action or proceeding), except for purposes of enforcing this Settlement Agreement and the Final Judgment and Order including, without limitation, asserting as a defense the release and waivers provided herein;

c) offered or received by or against Named Plaintiff or Defendant as evidence of a presumption, concession, or admission with respect to a decision by any court regarding the certification of a class, or for purposes of proving any liability, negligence, fault, or wrongdoing, or in any way referred to for any other reason as against Defendant, in any other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Settlement Agreement; provided, however, that if this Settlement Agreement is finally approved by the Court, then Named Plaintiff or Defendant may refer to it to enforce their rights hereunder; or

d) construed as an admission or concession by Named Plaintiff, the Class, or Defendant that the consideration to be given hereunder represents the relief that could or would have been obtained through trial in the Litigation.

8.3 Court's Jurisdiction

The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Settlement Agreement. The Court also shall retain exclusive jurisdiction over any determination of whether a subsequent suit is released by the Settlement Agreement.

8.4 Settlement Notices

Except for the Class Notice Plan, as provided for in Section 4.1 above, all other notices or formal communications under this Settlement Agreement shall be in writing and shall be given, with a copy by email: (1) by hand delivery; (2) by registered or certified mail, return receipt requested, postage pre-paid; or (3) by overnight courier to counsel for the Party to whom notice is directed at the following addresses:

For the Named Plaintiff and the Class:

James A. Francis
John Soumilas
FRANCIS MAILMAN SOUMILAS, P.C.

1600 Market Street, Suite 2510
Philadelphia, PA 19103
Tel. (215) 735-8600
Fax. (215) 980-8000
jfrancis@consumerlawfirm.com
jsoumilas@consumerlawfirm.com

For Defendant:

Ronald I. Raether, Jr., Esq.
TROUTMAN PEPPER HAMILTON SANDERS, LLP
5 Park Plaza, Suite 1400
Irvine, CA 92614
ron.raether@troutman.com

Timothy St. George, Esq.
TROUTMAN PEPPER HAMILTON SANDERS, LLP
1001 Haxall Point
Richmond, VA 23219
timothy.st.george@troutman.com

Counsel may designate a change of the person to receive notice or a change of address, from time to time, by giving notice to all Parties in the manner described in this Section.

8.5 Taxes

Named Plaintiffs and Class Counsel shall be responsible for paying all federal, state, and local taxes due on any payments made to them pursuant to the Settlement Agreement.

8.6 Parties' Costs

Except as otherwise provided for herein, Named Plaintiff and the Defendant shall be solely responsible for her or its own costs and expenses.

8.7 Confidentiality of Discovery Materials and Information

The Parties, their counsel, and any retained or consulting experts in this Litigation, agree that they remain subject to the Court's Stipulated Protective Order, as appropriate.

8.8 Communications with Customers, Businesses, and Members of the Public

Defendant reserves the right to communicate with its customers, business contacts, and members of the public about the Settlement Agreement in the ordinary course of its business. The Parties further agree to cooperate with each other and the Settlement Administrator in connection with any mass communications to respective Class Members or others, as may be necessary to effectuate the terms of this Settlement Agreement. Otherwise, Plaintiff and Class Counsel agree not to make any public statements regarding the settlement or the Litigation as to any matters not contained in the public record of the Litigation that are inconsistent with the Class Notice or this Settlement Agreement.

8.9 Complete Agreement

This Settlement Agreement is the entire, complete agreement of each and every term agreed to by and among Named Plaintiff, the Class, and their counsel. In entering into this Settlement Agreement, no Party has made or relied on any warranty or representation not specifically set forth herein. This Settlement Agreement shall not be modified except by a writing executed by all the Parties.

8.10 Headings for Convenience Only

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

8.11 Severability

In the event that any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable, or void, with the exception of release in Section 4.3, this Agreement shall continue in full force and effect without said provision to the extent Defendant does not exercise its right to terminate under Section 7.

8.12 No Party Is the Drafter

None of the Parties to this Settlement Agreement shall be considered to be the primary drafter of this Settlement Agreement or any provision hereof for the purpose of any rule of interpretation or construction that might cause any provision to be construed against the drafter.

8.13 Binding Effect

This Settlement Agreement shall be binding according to its terms upon, and inure to the benefit of, the Named Plaintiff, the Class, the Defendant, the Released Parties, and their respective successors and assigns.

8.14 Authorization to Enter Settlement Agreement


The individual signing this Settlement Agreement on behalf of the Defendant represents that he or she is fully authorized by the Defendant to enter into, and to execute, this Settlement Agreement on its behalf. Class Counsel represent that they are fully authorized to conduct settlement negotiations with counsel for Defendant on behalf of Named Plaintiff, and to enter into, and to execute, this Settlement Agreement on behalf of the Class, subject to Court approval pursuant to Federal Rules of Civil Procedure, Rule 23(e). The Named Plaintiff enters into and executes this Settlement Agreement on behalf of herself, and as a representative of and on behalf of the Class, subject to Court approval pursuant to Federal Rules of Civil Procedure, Rule 23(e).

8.15 Execution in Counterparts

Named Plaintiff, Class Counsel, Defendant, and Defendant's counsel may execute this Settlement Agreement in counterparts, and the execution of counterparts shall have the same effect as if all Parties had signed the same instrument. Facsimile, electronic and scanned signatures shall be considered as valid signatures as of the date signed, although the original signature pages shall thereafter be appended to the Settlement Agreement. This Settlement Agreement shall not be

deemed executed until signed by all Named Plaintiff, by all Class Counsel, and by counsel for and representatives of Defendant.

Named Plaintiff:


Patricia McIntyre (Nov 1, 2022 14:39 EDT)

Patricia McIntyre

Defendant

RealPage, Inc. and RP On-Site LLC

Name: _____

Title: _____

Counsel for Named Plaintiff and Class:

James A. Francis
John Soumilas
Francis Mailman Soumilas, P.C.
1600 Market Street, Suite 3600
Philadelphia, PA 19103
Tel. 215.735.8600
Fax. 215.980.8000
jfrancis@consumerlawfirm.com
jsoumilas@consumerlawfirm.com

Counsel for Defendant

Ronald I. Raether, Jr.
TROUTMAN PEPPER HAMILTON
SANDERS LLP
5 Park Plaza Ste 1400
Irvine, CA 92614
Telephone: (949) 622-2722
Facsimile: (949) 622-2739
ronald.raether@troutman.com

deemed executed until signed by all Named Plaintiff, by all Class Counsel, and by counsel for and representatives of Defendant.

Named Plaintiff:

Defendant

Patricia McIntyre

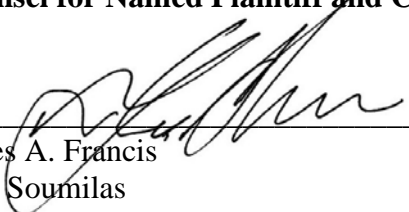
RealPage, Inc. and RP On-Site LLC

Name: _____

Title: _____

Counsel for Named Plaintiff and Class:

Counsel for Defendant


James A. Francis

John Soumilas

Francis Mailman Soumilas, P.C.

1600 Market Street, Suite 3600

Philadelphia, PA 19103

Tel. 215.735.8600

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Ronald I. Raether, Jr.

TROUTMAN PEPPER HAMILTON

SANDERS LLP

5 Park Plaza Ste 1400

Irvine, CA 92614

Telephone: (949) 622-2722

Facsimile: (949) 622-2739

ronald.raether@troutman.com

deemed executed until signed by all Named Plaintiff, by all Class Counsel, and by counsel for and representatives of Defendant.

Named Plaintiff:

Patricia McIntyre

Defendant

DocuSigned by:
David Monk

RealPage, Inc. and RP On-Site LLC
Name: David Monk
Title: EVP, CLO

Counsel for Named Plaintiff and Class:

James A. Francis
John Soumilas
Francis Mailman Soumilas, P.C.
1600 Market Street, Suite 3600
Philadelphia, PA 19103
Tel. 215.735.8600
Fax. 215.980.8000
jfrancis@consumerlawfirm.com
jsoumilas@consumerlawfirm.com

Counsel for Defendant

RR

Ronald I. Raether, Jr.
TROUTMAN PEPPER HAMILTON
SANDERS LLP
5 Park Plaza Ste 1400
Irvine, CA 92614
Telephone: (949) 622-2722
Facsimile: (949) 622-2739
ronald.raether@troutman.com

EXHIBIT A

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

PATRICIA MCINTYRE,

Plaintiff,

v.

Civil Action No. 2:18-CV-03934-CFK

REALPAGE, INC. d/b/a ON-SITE,

Defendant.

CONSENT INJUNCTIVE RELIEF ORDER

On October 26, 2022, Defendant RealPage, Inc. and RP On-Site LLC (collectively, “Defendant”) and Plaintiff Patricia McIntyre entered into a Settlement Agreement and Release. (Dkt. No. __.) The defined terms herein shall have the same meaning as in the Settlement Agreement and Release.

Pursuant to the Settlement and Release Agreement, Defendant, without admitting any of the allegations in the Complaint, consents to the entry of this Order:

1. Defendant will agree to not report records of Eviction Proceedings that, after fourteen months from the date of the case filing, do not contain any information about the disposition of the action. Defendant shall implement this injunctive relief within sixty (60) days of the Effective Date.

2. As an additional form of injunctive relief, Defendant shall generate monthly reports regarding the volume of disputes regarding Eviction Proceedings received from consumers. Defendant shall take commercially reasonable action to address any identified trends or systemic issues regarding the accuracy of the records of Eviction Proceedings that are internally identified because of that monitoring. Defendant shall also communicate its vendor(s) of records of Eviction Proceedings regarding the volume of those disputes that implicate the data of Eviction Proceedings

provided to Defendant by the vendor(s). Defendant shall implement this additional form of injunctive relief within sixty (60) days of the Effective Date.

3. Defendant shall agree to maintain the injunctive relief set forth in Paragraphs 1 and 2 of this Order for a period beginning sixty (60) days after the Effective Date and continuing for two (2) years thereafter.

4. If during the agreed-upon periods of the injunctive relief Defendant believes that changes have occurred in federal, state or local law, or through other applicable regulations or administrative actions, that alter its obligations with respect to the requirements under 15 U.S.C. § 1681e(b) as they pertain to court records of Eviction Proceedings, Defendant may petition the Court to request modification of the procedure(s) discussed in Paragraphs 1 or 2 above in the manner it deems necessary to maintain compliance with the law. At the time of any such petition, Defendant must provide notice of the proposed modification of the procedure(s) to Class Counsel. Thereafter, Defendant must petition the Court for approval of the proposed change(s). Defendant shall continue to implement the injunctive relief during the period of time that it awaits a ruling from the Court.

5. In the event Class Counsel settles with another entity engaged in tenant screening on behalf of a substantially congruent class that includes business practice change injunctive relief that is different from the injunctive relief set forth in this settlement, Defendant may petition the Court to request modification of the procedure(s) discussed in Paragraphs 1 or 2 above. At the time of any such petition, Defendant must provide notice of the proposed modification of the procedure(s) to Class Counsel. Thereafter, Defendant must petition the Court for approval of the proposed change(s). Defendant shall continue to implement the injunctive relief during the period of time that it awaits a ruling from the Court.

6. If any Class Member has a claim or dispute regarding Defendant's compliance with the injunctive relief set forth in Paragraphs 1 or 2 of this Order, then the Class Member first must submit, *pro se* or through counsel, his or her dispute directly to Defendant before taking any other action. Upon receipt of such a dispute, Defendant will advise Class Counsel of the dispute. Defendant will investigate the dispute and respond to the Class Member within thirty (30) days, with a copy of its response to Class Counsel. Defendant's response must state the results of Defendant's investigation of the allegation of non-compliance with the injunctive relief and any action taken or to be taken to address the Class Member's dispute; or, if additional information is required for Defendant to complete their investigation, Defendant's response must identify the specific additional information that is required. Upon the submission of all the additional information required (as set forth in Defendant's response), Defendant will have twenty-one (21) days to complete its investigation of the Class Member's dispute regarding the allegation of non-compliance with the injunctive relief and to provide a response containing the results of its investigation and any action taken or to be taken to address the dispute. Notwithstanding this provision, if Defendant is unable to comply with this deadline, Defendant may move the Court for a reasonable extension of time sufficient to permit completion of the investigation upon submission of an application to the Court showing good cause for the extension. If, after the dispute resolution process described above has been completed, the Class Member may submit his or her dispute regarding the allegation of non-compliance with the injunctive relief to the Court under the caption for this action. The Class Member's submissions to the Court must include copies of all correspondence between the Class Member and Defendant regarding the dispute prior to the submission. The Court shall then have exclusive and sole jurisdiction to resolve the dispute.

IT IS SO ORDERED

ENTERED this ____ day of _____, 2022.

United States District Judge

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PATRICIA MCINTYRE,

Plaintiff,

v.

REALPAGE, INC. d/b/a ON-SITE,

Defendant.

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Civil Action No. 2:18-cv-03934

FINAL APPROVAL ORDER

This matter, having come before the Court on Plaintiff's Motion for Final Approval of the proposed class action settlement with Defendant, RealPage, Inc., d/b/a On-Site; the Court having considered all papers filed and arguments made with respect to the settlement, and having certified, by Order on August 25, 2020 (Dkt. No. 64), a class (the "Class"), and the Court, being fully advised finds that:

1. On _____, the Court held a Final Approval Hearing, at which time the parties were afforded the opportunity to be heard in support of or in opposition to the settlement. The Court received _____ objections regarding the settlement.

2. Notice to the Class required by Rule 23(e) of the Federal Rules of Civil Procedure has been provided in accordance with the Court's Preliminary Approval Order. Such Notice has been given in an adequate and sufficient manner; constitutes the best notice practicable under the circumstances, including the dissemination of individual notice to all members who can be identified through reasonable effort; and satisfies Rule 23(e) and due process.

3. The Defendant has timely filed notification of this settlement with the appropriate officials pursuant to the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1715.

4. The terms of the Settlement Agreement are incorporated fully into this Order by reference. The Court finds that the terms of Settlement Agreement are fair, reasonable, and adequate in light of the complexity, expense and duration of litigation and the risks involved in establishing liability, damages, and in maintaining the class action through trial and appeal.

5. The Court has considered the factors enumerated in Rule 23(e)(2) and finds they counsel in favor of final approval.

6. The Court finds that the relief provided under the settlement constitutes fair value given in exchange for the release of claims.

7. The parties and each Class Member have irrevocably submitted to the jurisdiction of this Court for any suit, action, proceeding, or dispute arising out of the Settlement Agreement.

8. The Court finds that it is in the best interests of the parties and the Class and consistent with principles of judicial economy that any dispute between any Class Member (including any dispute as to whether any person is a Class Member) and any Released Party which, in any way, relates to the applicability or scope of the Settlement Agreement or the Final Judgment and Order should be presented exclusively to this Court for resolution by this Court.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

9. This action is a class action against Defendant, RealPage, Inc., d/b/a On-Site, on behalf of a class of consumers that has been defined as follows:

For the period beginning two (2) years prior to the filing of the Class Action Complaint and continuing through February 28, 2022, all natural persons with an address in the United States and its Territories who were (a) the subject of a tenant screening report prepared by Defendant that (b) contained information about an eviction proceeding, but which (c) failed to state that the eviction proceeding had been withdrawn, dismissed, vacated, satisfied or otherwise resulted in a favorable disposition or had no judicial finding against the consumer who was the subject of a tenant screening report, as that eviction proceeding is reflected in court records publicly available at the time of Defendant's tenant

screening report (the “Class”).

Excluded from the Class are counsel of record (and their respective law firms) for any of the Parties, employees of Defendants, and employee of the Federal judiciary.

10. The Settlement Agreement submitted by the parties for the Class is finally approved pursuant to Rule 23(e) of the Federal Rules of Civil Procedure as fair, reasonable, and adequate and in the best interests of the Class. The Settlement Agreement, including the monetary and injunctive relief set forth therein, shall be deemed incorporated herein and shall be consummated in accordance with the terms and provisions thereof, except as amended or clarified by any subsequent order issued by this Court.

11. As further consideration supporting settlement, the Court will also enter and approve a Consent Injunctive Relief Order consistent with the injunctive relief agreed to in Section 4.2 of the Settlement Agreement.

12. As agreed by the parties in the Settlement Agreement, upon the Effective Date, the Released Parties shall be released and discharged in accordance with the Settlement Agreement.

13. As agreed by the parties in the Settlement Agreement, upon the Effective Date, each Class Member is enjoined and permanently barred from instituting, maintaining, or prosecuting, either directly or indirectly, any lawsuit that asserts Class Released Claims.

14. Upon consideration of Class Counsel’s application for fees and costs and other expenses, the Court awards \$2,166,666.67 as reasonable attorneys’ fees and reimbursement for reasonable out-of-pocket expenses, which shall be paid from the Settlement Fund.

15. Upon consideration of the application for an individual settlement and service award, the Named Plaintiff, Patricia McIntyre, is awarded the sum of ten thousand dollars (\$10,000), to be paid from the Settlement Fund, for the service she has performed for and on behalf of the Class.

16. The Court overrules any objections to the settlement. After carefully considering each objection, the Court concludes that none of the objections create questions as to whether the settlement is fair, reasonable, and adequate.

17. Neither this Final Judgment and Order, nor the Settlement Agreement, shall be construed or used as an admission or concession by or against the Defendant or any of the Released Parties of any fault, omission, liability, or wrongdoing, or the validity of any of the Class Released Claims. This Final Judgment and Order is not a finding of the validity or invalidity of any claims in this lawsuit or a determination of any wrongdoing by the Defendant or any of the Released Parties. The final approval of the Settlement Agreement does not constitute any opinion, position, or determination of this Court, one way or the other, as to the merits of the claims and defenses of Plaintiff, the Class Members, or the Defendant.

18. Without affecting the finality of this judgment, the Court hereby reserves and retains jurisdiction over this settlement, including the administration and consummation of the settlement. In addition, without affecting the finality of this judgment, the Court retains exclusive jurisdiction over Defendant and each member of the Class for any suit, action, proceeding or dispute arising out of or relating to this Order, the Settlement Agreement or the applicability of the Settlement Agreement. Without limiting the generality of the foregoing, any dispute concerning the Settlement Agreement, including, but not limited to, any suit, action, arbitration or other proceeding by a Class member in which the provisions of the Settlement Agreement are asserted as a defense in whole or in part to any claim or cause of action or otherwise raised as an objection, shall constitute a suit, action or proceeding arising out of or relating to this Order. Solely for purposes of such suit, action or proceeding, to the fullest extent possible under applicable law, the parties hereto and all Class Members are hereby deemed to have irrevocably waived and agreed not to assert, by way of motion, as a defense or otherwise, any claim or

objection that they are not subject to the jurisdiction of this Court, or that this Court is, in any way, an improper venue or an inconvenient forum.

19. This action is hereby dismissed on the merits, in its entirety, with prejudice and without costs.

20. The Court finds, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, that there is no just reason for delay, and directs the Clerk to enter final judgment.

21. The persons listed on **Exhibit 1** hereto have validly excluded themselves from the Class in accordance with the provisions of the Settlement Agreement and Preliminary Approval Order and are thus excluded from the terms of this Order. Further, because the settlement is being reached as a compromise to resolve this litigation, including before a final determination of the merits of any issue in this case, none of the individuals reflected on Exhibit 1 may invoke the doctrines of *res judicata*, collateral estoppel, or any state law equivalents to those doctrines in connection with any further litigation against Defendant in connection with the claims settled by the Class.

BY THE COURT:

HONORABLE CHAD F KENNEY
UNITED STATES DISTRICT JUDGE

Dated: _____

EXHIBIT C

A proposed class action settlement may affect your rights.

A federal court authorized this notice. This is not a solicitation from a lawyer. You are not being sued.

- There is a proposed settlement in a class action lawsuit entitled *Patricia McIntyre v. RealPage, Inc., d/b/a On-Site*, No. 2:18-CV-03934, which claims that RealPage, Inc. and/or RP On-Site LC (collectively, “RealPage”) violated the Fair Credit Reporting Act (“FCRA”).
- The plaintiff alleges claims on behalf of a certified class (the “Class”) asserting that RealPage willfully violated the FCRA by failing to report up-to-date information pertaining to the disposition of certain eviction cases. RealPage denies plaintiff’s allegations, and it denies that RealPage is liable to plaintiff or any of the class members.
- If you do not opt-out of the proposed settlement, then you will receive a cash payment. Whether you act or not, your legal rights are affected by the proposed settlement. Your rights and options – and the deadlines to exercise them – are explained in this notice. Please read this notice carefully in its entirety.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS PROPOSED SETTLEMENT		
Your Rights and Options	What to Do	Deadlines to Do It
Object to the settlement	Write to the Court about why you do not like the proposed settlement; for more information regarding objecting, please read Section 10 below.	Postmarked on or before _____, 2022
Opt out of the settlement	Write to the Settlement Administrator stating that you do not wish to participate in the proposed settlement. If you validly opt out, you will not receive any monetary payments from the settlement.	Postmarked on or before _____, 2022
Do Nothing	You are not required to take any action to receive the benefits of the proposed settlement. If the proposed settlement is finally approved and you do not opt out, then you will receive payment and be bound by the Court's final judgment and the release of claims in the Settlement Agreement.	None

1. Does this Notice apply to me?

If, from September 12, 2016 to February 28, 2022, you were the subject of a tenant screening report sold by RealPage that contained information about an eviction proceeding, but which failed to state that the eviction proceeding had been withdrawn, dismissed, vacated, satisfied or otherwise resulted in a favorable disposition or had no judicial finding against you, as that eviction proceeding is reflected in court records publicly available at the time of the report, then you are included in this settlement as a “Class Member.” Records from RealPage reflect that you are a Class Member.

This notice informs you about the proposed settlement and your rights. Before any final judgment is entered, the Court will have a hearing to decide whether to finally approve the proposed settlement. The proposed settlement will be only finally approved after any objections or appeals are resolved. If the proposed settlement is finally approved, then you will benefit from the relief provided by the proposed settlement. If the proposed settlement is final approved, then you will also be bound by the release and other provisions of the proposed settlement. This notice is only a summary of the proposed settlement. More details about the proposed settlement are available in a longer document called the Settlement Agreement. You can get a copy of the Settlement Agreement by visiting www._____.com.

2. What is this lawsuit about?

The class action lawsuit is known as *Patricia McIntyre v. RealPage, Inc., d/b/a On-Site*, Case No. 2:18-CV-03934, and is pending in the United States District Court for the Eastern District of Pennsylvania, with Judge Chad Kenney presiding. The individual who sued is called the Plaintiff; the company that she sued is called the Defendant. The Plaintiff is Patricia McIntyre. The Defendant is RealPage, Inc. d/b/a On-Site.

The lawsuit alleges that RealPage willfully violated the FCRA by failing to report up-to-date information pertaining to the disposition of certain eviction cases. RealPage denies plaintiff’s allegations and denies that RealPage is liable to plaintiff or any of the class members. RealPage has asserted many defenses, including that it followed reasonable procedures in obtaining and reporting eviction information. The Court has not decided whether either side is right or wrong. Instead, both sides agreed to the settlement to resolve the case and provide benefits to the class.

3. How do I know if I am part of the proposed settlement?

The Court previously decided that everyone who fits the following description is a Class Member:

For the period beginning two (2) years prior to the filing of the Class Action Complaint and continuing through February 28, 2022, all natural persons with an address in the United States and its Territories who were (a) the subject of a tenant screening report prepared by Defendant that (b) contained information about an eviction proceeding, but which (c) failed to state that the eviction proceeding had been withdrawn, dismissed, vacated, satisfied or otherwise resulted in a favorable disposition or had no judicial finding against the consumer who was the subject of a tenant screening report, as that eviction proceeding is reflected in court records publicly available at the time of Defendant’s tenant screening report (the “Class”).

Because you have received this notice, you have been identified as a Class Member based on the business records maintained by RealPage.

Questions -- call toll-free 1-800-_____ or visit www.McIntyreClassAction.com
Para una notificación en Español, llamar o visitar nuestro sitio web

4. What benefits does the proposed settlement provide?

The proposed settlement benefits include both monetary and injunctive relief. An injunction occurs when a court orders a person to do or not to do something. In particular, the settlement provides for the following benefits.

The proposed settlement establishes a settlement fund (the “Settlement Fund”) for payments to Class Members. The Settlement Fund will contain \$6,350,000 and, net of any award of attorneys’ fees and costs, costs of notice and administration, and service award, shall be automatically divided between all Class Members. Your estimated payment will be at least \$300. The proposed settlement also provides that RealPage will agree to make the certain changes to its practices, which are described in the “Consent Injunctive Relief Order” available on the settlement website.

No class members will have to pay or buy anything to benefit from the relief provided by the settlement.

5. How does the proposed settlement affect my rights?

In general terms, if the proposed settlement is finally approved by the Court, then you will be giving up the right to file a lawsuit against RealPage, Inc. or its related companies (including RP On-Site LLC) for certain claims regarding the reporting of up-to-date information pertaining to the disposition of certain eviction cases. Specifically, you will be giving up the right to bring any claims resulting from, arising out of, or regarding the accuracy of certain eviction cases disposition information, in tenant screening reports published by RealPage during the class period. You will be giving up all such claims whether or not you know about them.

The precise terms of the dismissal and release are explained in the full Settlement Agreement, which you can view on the settlement website, www.McIntyreClassAction.com.

The Court’s order will apply to you even if you object to the settlement or have any other claim, lawsuit, or proceeding pending against RealPage. If you have any questions about the release, then you should visit www.McIntyreClassAction.com for more information or consult with a lawyer. See Section 7 below for more information regarding your options in seeking legal advice concerning the settlement.

6. Can I choose not to be in the proposed settlement?

Yes. You have the opportunity to “opt out” of the proposed settlement by submitting a written request for exclusion to _____ at _____, postmarked no later than thirty (30) days before the Final Approval Hearing in this action. To be valid, a request for exclusion must be personally signed and must include: (i) your name, address and telephone number; (ii) and a statement substantially to the effect that: “I request to be excluded from the Class in *Patricia McIntyre v. RealPage, Inc., d/b/a – On-Site*, No. 2:18-CV-03934, United States District Court, Eastern District of Pennsylvania.” Notwithstanding the foregoing, no person within the Class may submit a request for exclusion for any other person in the Class.

If you timely submit a valid request for exclusion, then you will exclude yourself from the Class and will not be bound by further orders or judgments in the Litigation, subject to Court approval. You will preserve your ability to independently pursue, at your own expense, any individual, non-class, non-representative

claims that you claim to have against RealPage. No person who has opted out of the settlement may object to any part of the settlement or its proposed approval.

Additionally, because the settlement is being reached as a compromise to resolve this litigation, including before a final determination of the merits of any issue in this case, if you exclude yourself from the class, you will not be able to invoke the doctrines of *res judicata*, collateral estoppel, or any state law equivalents to those doctrines in connection with any further litigation against Defendant in connection with the claims being settled. Please consult legal counsel for further clarification in this regard, as needed.

7. Do I have a lawyer in this case?

Yes. The Court approved the following individuals to represent you and the other Class Members: James Francis, John Soumilas, Lauren Brennan, and Jordan Sartell of Francis Mailman Soumilas, P.C. at 1600 Market Street, Suite 2510, Philadelphia, Pennsylvania 19103. They can be reached by telephone: (215) 735-8600.

The Court has appointed these lawyers as “Class Counsel.” You will not be charged for these lawyers.

You may hire your own attorney, if you so choose, but you will be personally responsible for your attorney’s fees and expenses.

8. How will the lawyers be paid? What will the Named Plaintiff receive?

The attorneys representing the Class have handled this case on a contingency basis. To date, they have not been paid anything for their work. Class Counsel will request that the Court award attorneys’ fees and expenses for the time and effort they have spent on this case.

The amount that will be requested by Class Counsel will be \$2,116,666.67, and a Named Plaintiff service award for the Named Plaintiff of \$10,000.

Any approved amount of attorneys’ fees and expenses or Named Plaintiff service awards will be paid from the settlement fund, and no Class Member will owe or pay anything directly for the attorneys’ fees and expenses of Class Counsel.

9. How do I tell the Court if I do not agree with the proposed settlement?

If you are a Class Member, then you can object to the proposed settlement if you do not like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views.

To object to the settlement, you must file your objection in writing with the Clerk of Court no later than thirty (30) days prior to the final approval hearing. You must also provide a copy of your objection to the Settlement Administrator, Continental DataLogix, LLC. The objection must include the following: (1) your full name, address and current telephone number; (2) the name and telephone number of your counsel, if you are represented by an attorney; (3) all objections and the basis for any such objections stated with specificity, including a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (4) the identity of any witnesses you may call to testify; (5) a listing of all exhibits you intend to introduce into evidence at the Final Approval Hearing, if any, as well as true and

correct of copies of all exhibits; and (6) a statement of whether you intend to appear at the Final Approval Hearing, either with or without counsel.

If you fail to timely file and serve a written objection, you shall not be permitted to object to the approval of the settlement and shall be foreclosed from seeking any review of the settlement or the terms of the Settlement Agreement by appeal or other means.

You will not be permitted to object to the settlement if you decide to timely exclude yourself from the settlement.

10. When and where will the Court decide whether to finally approve the proposed settlement?

The Court will hold a final approval hearing on _____, 2023, at _____.m., before the Hon. Chad Kenney, in the United States District Court for the Eastern District of Pennsylvania in Philadelphia, Pennsylvania. At this hearing, the Court will consider whether the proposed settlement is fair, reasonable, and adequate. The Court will consider all timely and proper objections. You do not have to attend the hearing.

The Court may also decide how much to award Class Counsel and the Named Plaintiff. After the hearing, the Court will decide whether to finally approve the proposed settlement.

The Court may change the date of the final approval hearing without further notice to the Class. You should regularly check the website to check on the hearing date, the court-approval process, and the Effective Date.

11. How do I get more information?

This notice is only a summary of the proposed settlement. More details about the proposed settlement, the date when appeals are no longer allowed and the settlement is final, deadlines for certain actions, and your options are available in a longer document called the Settlement Agreement. You can get a copy of the Settlement Agreement by visiting www.McIntyreClassAction.com. The website also contains answers to common questions about the proposed settlement. In addition, some of the key documents in the case will be posted on the website. You can also write or call Class Counsel at the contact information listed above.

PLEASE DO NOT CONTACT THE COURT OR DEFENDANT'S COUNSEL.

PLEASE DIRECT ALL INQUIRIES TO THE SETTLEMENT ADMINISTRATOR AND/OR CLASS COUNSEL LISTED ABOVE.

EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PATRICIA MCINTYRE,

Plaintiff,

v.

Civil Action No. 2:18-CV-03934

REALPAGE, INC., d/b/a On-Site

Defendant.

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**ORDER PRELIMINARILY APPROVING SETTLEMENT
AND DIRECTING NOTICE TO CLASS**

The Court, having reviewed the Settlement Agreement, hereby Orders that:

1. The Court has considered the proposed settlement of the claim asserted under the Fair Credit Reporting Act (“FCRA”) by a class of consumers defined as follows (the “Class”), which was previously certified by the Court in August 2020 (Dkt. No. 64):

For the period beginning two (2) years prior to the filing of the Class Action Complaint and continuing through February 28, 2022, all natural persons with an address in the United States and its Territories who were (a) the subject of a tenant screening report prepared by Defendant that (b) contained information about an eviction proceeding, but which (c) failed to state that the eviction proceeding had been withdrawn, dismissed, vacated, satisfied or otherwise resulted in a favorable disposition or had no judicial finding against the consumer who was the subject of a tenant screening report, as that eviction proceeding is reflected in court records publicly available at the time of Defendant’s tenant screening report (the “Class”).

Excluded from the Class are counsel of record (and their respective law firms) for any of the Parties, employees of Defendants, and employee of the Federal judiciary.

2. The Settlement Agreement entered between the parties as of October 26, 2022 (Dkt. No. __), appears, upon preliminary review, to be fair, reasonable, and adequate to the Class. The terms of the Settlement Agreement are incorporated fully herein into this Order by reference.

3. Accordingly, for settlement purposes only, the proposed settlement is preliminarily approved, pending a Final Approval Hearing, as provided for herein.

4. The Parties agree that the Class List contains 11,823 persons, and that it is comprised of the 11,823 Class Members who were included on the list that counsel for Defendants provided for Plaintiff on May 26, 2022.

5. The Court has previously appointed Patricia McIntyre as the class representative.

6. The Court has also previously appointed James Francis, John Soumilas, Lauren Brennan, and Jordan Sartell of Francis Mailman Soumilas, P.C. as counsel for the Class (“Class Counsel”).

7. The Court appoints Continental DataLogix, LLC as the Settlement Administrator.

8. The Court will hold a Final Approval Hearing pursuant to Fed. R. Civ. P. 23(e) on _____, 2023, at the United States District Court, Eastern District of Pennsylvania, at 11613 U.S. Courthouse, 601 Market Street, Philadelphia, PA, at _____.m. for the following purposes:

(a) To determine whether the proposed settlement is fair, reasonable, and adequate and should be granted final approval by the Court;

(b) To determine whether a final judgment should be entered dismissing the claims of the Class with prejudice, as required by the Settlement Agreement; and

(c) To consider the application of Class Counsel for an award of attorney’s fees, costs, and expenses, and for a service award to the class representative.

9. As is provided in Section 4.1.1 of the Settlement Agreement, Class Counsel and Defendant have agreed on a Class List of the Class Members, and will provide this list to the

Settlement Administrator, who shall send the agreed upon Notices to the Class Members in accordance with the terms of the Settlement Agreement.

10. The Court also approves the parties' Notice, which is attached to the Settlement Agreement as Exhibit C. To the extent the parties or Settlement Administrator determine that ministerial changes to the Notice are necessary before disseminating it to the Class Members, they may make such changes without further application to the Court.

11. The Court approves the parties' Notice plan, as set forth in Section 4.1.3 of the Settlement Agreement. The Court finds this manner of giving notice fully satisfies the requirements of Fed. R. Civ. P. 23 and due process.

12. If a Class Member chooses to opt-out of the class, such class member is required to submit a request for exclusion to the Settlement Administrator, post-marked on or before the date specified in the Notice, which shall be no later than thirty (30) days before the date of the Final Approval Hearing. The request for exclusion must include the items identified in the Settlement Agreement pertaining to requests for exclusion. A Class Member who submits a valid request for exclusion using the procedure identified above, and does not otherwise submit a Claim Form, shall be excluded from the class for all purposes. No later than fourteen (14) days prior to the Final Approval Hearing, the Settlement Administrator shall prepare a declaration listing all the valid opt-outs received and shall provide the declaration and list to Class Counsel and Defendant's counsel, with Class Counsel then reporting the names appearing on this list to the Court before the Final Approval Hearing.

13. A Class Member who does not file a timely and valid request for exclusion shall be bound by all subsequent proceedings, orders, and judgments in this action.

14. (a) Any Class Member who wishes to be heard orally at the Final Approval Hearing, and/or who wishes for any objection to be considered, must file a written notice of objection to be filed with the Court no later than thirty (30) days prior to the Final Approval Hearing. The notice of objection shall be sent by First Class United States Mail to the Settlement Administrator and the Clerk of the Court.

(b) The objection must include the following: (1) the Class Member's full name, address and current telephone number; (2) if the individual is represented by counsel, the name and telephone number of counsel, if counsel intends to submit a request for fees, and all factual and legal support for that request; (3) all objections and the basis for any such objections stated with specificity, including a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (4) the identity of any witnesses the objector may call to testify; (5) a listing of all exhibits the objector intends to introduce into evidence at the Final Approval Hearing, if any, as well as true and correct copies of such exhibits; and, (6) a statement of whether the objector intends to appear at the Final Approval Hearing, either with or without counsel. Any Class Member who fails to timely file and serve a written objection pursuant to the terms of this paragraph shall not be permitted to object to the approval of the settlement or the Settlement Agreement and shall be foreclosed from seeking any review of the settlement or the terms of the Settlement Agreement by appeal or other means.

15. All briefs, memoranda, petitions, and affidavits to be filed in support of an individual service award to the Named Plaintiff and/or in support in support of Class Counsel's application for fees, costs and expenses, shall be filed not later than forty-five (45) days before the Final Approval Hearing. All other briefs, memoranda, petitions and affidavits that Class Counsel

intends to file in support of final approval shall be filed not later than twenty-one (21) days before the Final Approval Hearing.

16. Neither this Preliminary Approval Order, nor the Settlement Agreement, shall be construed or used as an admission or concession by or against the Defendant or any of the Released Parties of any fault, omission, liability, or wrongdoing, or the validity of any of the Class Released Claims. This Preliminary Approval Order is not a finding of the validity or invalidity of any claims in this lawsuit or a determination of any wrongdoing by the Defendant or any of the Released Parties. The preliminary approval of the Settlement Agreement does not constitute any opinion, position, or determination of this Court, one way or the other, as to the merits of the claims and defenses of Plaintiff, the Class Members, or the Defendant.

17. If the Settlement Agreement is not finally approved, is not upheld on appeal, or is otherwise terminated for any reason, the Settlement Agreement and all negotiations, proceedings, and documents prepared, and statements made in connection therewith, shall be without prejudice to any Party and shall not be deemed or construed to be an admission or confession by any Party of any fact, matter, or proposition of law; and all Parties shall stand in the same procedural position as if the Settlement Agreement had not been negotiated, made, or filed with the Court.

18. The Court retains exclusive jurisdiction over this action to consider all further matters arising out of or connected with the Settlement Agreement.

BY THE COURT:

HONORABLE CHAD F. KENNEY
UNITED STATES DISTRICT JUDGE

Dated: _____