# Exhibit A

**IN THE UNITED STATES DISTRICT COURT**
**DISTRICT OF MINNESOTA**

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| *In re Eisner Advisory Group Data Breach Litigation* | Civil Action No. 0:25-cv-01409-LMP-DTS |

# CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement, dated as of May 1, 2026, is entered into by and among the following Settling Parties: (i) Plaintiffs Christopher Niosi, Ryan Hiatt, Andrew Marston, Robert Crist, Rebecca L. Lemmons, David Fallen, Chris Ouellette, Hannah Watzka and Timothy Rushing (collectively, **"Representative Plaintiffs"** or **"Class Representatives"**), individually and on behalf of all other similarly situated individuals (the **"Settlement Class"** or **"Class Members,"**, by and through their counsel of record **("Class Counsel,")** and (ii) Defendants EisnerAmper LLP and Eisner Advisory Group LLC ( "**Eisner**" or "**Defendants**"), by and through their counsel of record (**"Defendants' Counsel,")**, and Plaintiffs/Class Representatives together with Defendants are defined as "**the Settling Parties**"). This Settlement Agreement is subject to preliminary and final Court approval and is intended by the Settling Parties to fully, finally, and forever resolve, discharge, and settle the Action and the Released Claims. As provided herein, Defendants and the Class Representatives hereby stipulate and agree that, in consideration of the promises and covenants set forth in this Agreement and upon entry by the Court of a final order and judgment, all claims of the Settlement Class against the Defendants in connection with the Data Security Incident as alleged in the action titled *In re Eisner Advisory Group Data Breach Litigation*, pending in the United States District Court for the District of Minnesota (No. 25-cv-01409-LMP-DTS), shall be settled, compromised, and released upon the terms and conditions contained herein.

## I. RECITALS

A. **WHEREAS**, on or around September 9, 2023, Eisner became aware of suspicious activity with respect to a limited set of information. Eisner then launched an investigation into the nature and scope of the incident. The investigation determined that there was unauthorized access to this limited set of information between September 4, 2023, and September 9, 2023. In response, Eisner conducted a detailed review of the files determined to be at risk to identify the types of information involved and to whom that information was related. Eisner determined that personally identifiable information ("PII") could have been subject to unauthorized access, including name, Social Security number, financial account information, date of birth, medical information, and health insurance information.

B. **WHEREAS**, Eisner identified approximately 82,459 individuals whose Private Information may have been impacted by the Data Incident, and notice was sent to those individuals beginning on April 8, 2025.

C. **WHEREAS,** after Eisner's announcement of the Data Incident, on April 8, 2025, Plaintiff Christopher Niosi initiated the first-filed action against Eisner in Minnesota seeking to remedy the alleged injuries caused by the Data Breach, entitled *Niosi v. Eisner Advisory Group*, 25-cv-1409 (D. Minn.). Subsequently, Plaintiffs Robert Crist, Rebecca Lemmons, Ryan Hiatt and Andrew Marston each filed their own actions in the District of Minnesota based on the same Data Incident giving rise to Plaintiff Niosi's action. On May 27, 2025, the Minnesota court entered an Order granting the Minnesota Plaintiffs' Motion to Consolidate Cases and Appoint Counsel. Thereafter, on July 8, 2025, Plaintiffs Niosi, Crist, Lemmons, Hiatt, and Marston (the "Minnesota Plaintiffs") filed a Consolidated Class Action Complaint, captioned *In re Eisner Advisory Group Data Breach Litigation,* 25-cv-1409 (D. Minn).

D. **WHEREAS**, on April 11, 2025, Plaintiff David Fallen was first to file a action lawsuit naming Eisner as a Defendant related to the Data Incident in the Southern District of New York, entitled *Fallen v. Eisner Advisory Group, LLC* 25-cv-03044 (S.D.N.Y). Subsequently, Plaintiffs Chris Ouellette, Hannah Watzka, and Timothy Rushing each filed their own actions in the Southern District of New York based on the same Data Incident giving rise to Plaintiff Fallen's action. On May 1, 2025, the Southern District of New York court entered an Order granting the New York Plaintiffs' Motion to Consolidate Cases and Appoint Counsel. Thereafter, on November 21, 2025, Plaintiffs Fallen, Ouellette, Watzka and Rushing (the "New York Plaintiffs") filed a Consolidated Class Action Complaint. On December 19, 2025, Eisner filed in the Southern District of New York a Motion to Transfer the New York Plaintiffs' case to the District of Minnesota. On February 19, 2026, the New York Plaintiffs filed a non-opposition to the Motion to Transfer. On February 25, 2026, the Court in the Southern District of New York transferred the consolidated action to the United States District Court for the District of Minnesota. On April 8, 2026, Plaintiffs Andrew Marston, Robert Crist, David Fallen, Timothy Rushing, Christopher Niosi, Chris Ouellette, Hannah Watzka, Ryan Hiatt, and Rebecca L. Lemmons filed a Consolidated Amended Class Action Complaint, which is a superseding Consolidated Complaint that incorporates both the Minnesota Action and the Southern District of New York Action.

E. **WHEREAS,** the New York Plaintiffs' Consolidated Complaint alleged claims against Eisner for negligence, breach of third-party beneficiary contract, breach of implied contract, unjust enrichment, and declaratory judgment, and the Minnesota Plaintiffs' Consolidated Complaint, and the Amended Consolidated Class Action Complaint filed in the District of Minnesota by all Plaintiffs, alleged claims against Eisner for negligence, breach of third-party beneficiary contract, breach of fiduciary duty, breach of confidence, unjust enrichment, and violation of the California Consumer Privacy Act, Calif. Civil Code § 1798.100 (on behalf of Plaintiff Robert Crist and all other California citizens).

F. **WHEREAS,** Eisner denies each and all of the claims and contentions alleged against it in the actions filed by the Minnesota and New York Plaintiffs, denies any and all liability or wrongdoing of any kind, and denies all charges of wrongdoing or liability as alleged, or which could be alleged.

G. **WHEREAS,** shortly after the various actions were filed, the Parties began discussing possible settlement and informal discovery. Thereafter, Eisner provided Plaintiffs with informal discovery and the Parties prepared detailed mediation statements.

H. **WHEREAS,** on September 25, 2025, counsel for the Parties participated in a full-day mediation session before mediator Hon. David E. Jones (Ret.) of Resolute Systems, LLC. While the mediation did not result in a resolution, the Parties continued their negotiations in the months thereafter. Eventually, the Parties reached an agreement in principle. The terms of this agreement are memorialized in this Settlement Agreement, which was negotiated in good-faith and at arms' length by capable and experienced counsel with full knowledge of the law, facts, and the inherent risks of litigation.

I. **WHEREAS,** the Parties did not discuss Attorneys' Fees and Expense Awards or Service Awards for the Class Representatives prior to reaching an agreement as to the material terms of the relief for the Settlement Class. Discussion was limited to the creation of a common fund, defined further below as the Settlement Fund.

J. **WHEREAS**, the Settling Parties have concluded that further litigation would be protracted and expensive, have considered the uncertainty and risks inherent in litigation, and have determined that it is desirable to effectuate a full and final settlement of the claims asserted in the above-referenced actions on the terms set forth below to avoid the associated burdens, risks, and extensive costs.

K. **WHEREAS**, Eisner denies any wrongdoing whatsoever, and this Agreement shall in no event be construed or deemed to be evidence of or an admission or concession on the part of Eisner with respect to any claim of any fault, liability, wrongdoing, or damage whatsoever, nor any infirmity in the defenses or arguments that Eisner has asserted or would assert.

L. **WHEREAS**, based on their investigation and their substantial experience in data breach cases, Class Counsel has concluded that the terms and conditions of this Agreement are fair, reasonable, and adequate to Settlement Class Members and are in their best interests, and they have agreed to settle the claims that were asserted or could have been asserted in the Action arising out of or relating to the Data Incident pursuant to the terms and provisions of this Agreement after considering, (a) the substantial benefits that Settlement Class Members will receive from the Settlement, (b) the uncertain outcome and attendant risks of litigation, (c) the delays inherent in litigation, and (d) the desirability of permitting the settlement of this litigation to be consummated as provided by this Agreement.

M. **WHEREAS**, Parties now agree to settle this Action in its entirety, without any admission of liability with respect to all Released Claims of the Settlement Class. The Parties intend this Agreement to bind the Class Representatives, Defendants, and all Settlement Class Members who do not timely and properly exclude themselves from the Settlement.

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED,** by and among Representative Plaintiffs, individually and on behalf of the Settlement Class, Class Counsel, and Eisner that, subject to the Court's approval, when Judgment becomes Final (as defined herein), the Action (as defined below) and the Released Claims shall be finally and fully compromised, settled, and released, and the Action (as defined below) shall be dismissed with prejudice as to the Settling Parties, the Settlement Class, and the Settlement Class Members, except those Settlement Class Members who lawfully opt out of the Settlement Agreement, upon and subject to the terms and conditions of this Settlement Agreement.

## II. DEFINITIONS

In addition to the terms defined at various points within this Agreement, the following defined terms apply throughout this Agreement:

1. "**Action**" means or refers to the matter titled *In re Eisner Advisory Group Data Breach Litigation*, pending in the United States District Court for the District of Minnesota (No. 25-cv-01409-LMP-DTS), as well as any cause of action that was asserted, or could have been asserted, against Eisner relating to the Data Incident, by the New York Plaintiffs and the Minnesota Plaintiffs, individually and on behalf of the Settlement Class and/or the California Subclass.

2. "**Agreement**" or "**Settlement Agreement**" means this Settlement Agreement and Release, including its attached Exhibits (which are an integral part of this Settlement Agreement and Release and are incorporated in their entirety herein by reference).

3. "**Attorneys' Fees and Expenses Award**" means the amount awarded by the Court, if any, to be paid to Class Counsel from the Settlement Fund, with such amount, if any, to be in full and complete satisfaction of Class Counsel's claim or request for payment of attorney's fees, costs, expenses, disbursements, and compensation in the Action.

4. "**California Subclass**" means Settlement Class Members, as defined below, within California. Excluded from the Settlement Class are the Judge assigned to this Action, the Judge's immediate family, Court staff, the officers and directors of Defendants, and persons who timely and validly request exclusion from the Settlement Class.

5. "**California Subclass Member**" shall mean an individual who falls within the definition of the California Subclass.

6. **"Claims Administrator"** means Verita Global, LLC ("Verita"), a notice and claims administrator with recognized expertise in class action notice and claims generally and data security litigation specifically, as jointly agreed upon by the Settling Parties and approved by the Court.

7. "**Claims Deadline**" means the postmark or online submission deadline for Valid Claims (as defined below), which is ninety (90) days after Notice is mailed to Settlement Class Members.

8. "**Claim Form**" means the form utilized by the Settlement Class Members to submit a Settlement Claim (as defined below) for reimbursement. The Claim Form will be substantially in a form as shown in **Exhibit A** attached hereto, which will be available on both the Settlement Website (as defined below) and in paper format, if specifically requested by Settlement Class Members.

9. **"Claims Period"** means the ninety (90) day period of time during which Settlement Class Members may submit Claim Forms to receive Settlement benefits, which will end on the Claims Deadline.

10. "**Class Counsel**" means:

Philip J. Krzeski
**CHESTNUT CAMBRONNE PLLC**
100 Washington Ave. S., Suite 1700
Minneapolis, MN 55401

David Goodwin
**GUSTAFSON GLUEK PLLC**
Canadian Pacific Plaza
120 South 6th Street, Suite 2600
Minneapolis, MN 55402
Telephone: (612) 333-8844
dgoodwin@gustagsongluek.com

Raina Borrelli
**STRAUSS BORRELLI PLLC**
980 N. Michigan Avenue, Suite 1610
Chicago, Illinois 60611

William B. Federman
**FEDERMAN & SHERWOOD**
10205 N. Pennsylvania Ave.
Oklahoma City, Oklahoma 73120

11. **"Costs of Claims Administration"** means all reasonable, actual costs associated with or arising from Claims Administration.

12. **"Court"** means the United States District Court for the District of Minnesota.

13. "**Class List**" shall mean the list generated by Eisner containing the full names, current or last known addresses for all persons who fall under the definition of the Settlement Class, which Eisner shall provide to the Claims Administrator within fourteen (14) days after the Court's entry of the Preliminary Approval Order.

14. "**Class Representatives**" or "**Plaintiffs**" mean plaintiffs Christopher Niosi, Ryan Hiatt, Andrew Marston, Robert Crist, Rebecca L. Lemmons, David Fallen, Chris Ouellette, Hannah Watzka and Timothy Rushing.

15. "**CCPA**" means the California Consumer Privacy Act, Cal. Civ. Code. § 1798.100, *et seq.*

16. "**CCPA Payment**" means a cash payment made to a California Subclass Member in the amount of $50.00 in recognition of the claim under the CCPA that the California Subclass has brought, to the extent the California Subclass Member submits a Valid Claim for the CCPA Payment.

17. "**Complaint**" means the Consolidated Amended Class Action Complaint filed April 8, 2026, in the District of Minnesota by Plaintiffs in the Action.

18. "**Court**" means the United States District Court for the District of Minnesota.

19. "**Data Security Incident**" or "**Data Incident**" means the data security incident affecting Eisner on or around September 4 through September 9, 2023.

20. "**Defendants' Counsel**" means:

Claudia D. McCarron
Jordan S. O'Donnell
MULLEN COUGHLIN LLC
426 W. Lancaster Avenue, Suite 200
Devon, PA 19333
Telephone: (267) 930-4787
cmccarron@mullen.law
jsodonnell@mullen.law

Ryan C. Ellis
LIND, JENSEN, SULLIVAN & PETERSON
901 Marquette Avenue South, Suite 1900
Minneapolis, MN 55402
Telephone: (612) 333-3637
ryan.ellis@lindjensen.com

21. **"Dispute Resolution"** means the process for resolving disputed Settlement Claims as set forth in this Agreement.

22. "**Effective Date**" means fifteen (15) days after the date when each and all of the following conditions have occurred: (i) This Settlement Agreement has been fully executed by all Settling Parties and their counsel, (ii) the Court has entered the Preliminary Approval Order without material change; (iii) the Court-approved Short Notice has been sent and the Settlement Website has been duly created and maintained as ordered by the Court, (iv) Eisner has not exercised its option to terminate the Settlement Agreement, (v) the Court has entered the Judgment granting the final approval to the Settlement as set forth herein (and in substantially the same form as **Exhibit E**), and (vi) the Judgment has become Final.

23. **"Final"** means the occurrence of all of the following events: (i) the settlement pursuant to this Settlement Agreement is finally approved by the Court; (ii) the Court has entered a

Judgment (as defined below); and (iii) the time to appeal or seek permission to appeal from the Judgment has expired or, if appealed, the appeal has been dismissed in its entirety, or the Judgment has been affirmed in its entirety by the court of last resort to which such appeal may be taken, and such dismissal or affirmance has become no longer subject to further appeal or review. Notwithstanding the above, any order modifying or reversing any attorneys' fee award or service award made in this case shall not affect whether the Judgment is "Final" or any other aspect of the Judgment.

24. "**Final Approval**" means the date that the Court enters an order and judgment granting final approval of the Settlement and dismissing the Action with prejudice after the Final Approval Hearing, and determines the Attorneys' Fees and Expenses Award for Class Counsel and the amount of the Service Awards. In the event that the Court issues separate orders addressing the foregoing matters, then Final Approval means the date of the last of such orders.

25. "**Final Approval Order**" **or "Judgment"** means the order and judgment that the Court enters upon Final Approval. In the event that the Court issues separate orders addressing the matters constituting Final Approval, then Final Approval Order includes all such orders. Class Counsel and Eisner's Counsel will work together on a proposed Judgment, which Eisner must approve before filing.

26. "**Long Form Notice**" means the content of the notice substantially in the form as **Exhibit B,** which is the detailed, long form notice that will be posted on the Settlement Website that will include robust details about the Settlement.

27. "**Net Settlement Fund**" means the amount of funds that remain in the Settlement Fund after funds are paid from or allocated for payment from the Settlement Fund for the following: (i) Notice and Administrative Expenses, (ii) Taxes and Tax-Related Expenses, (iii) Service Awards payments approved by the Court, and (iv) the Attorneys' Fees and Expenses Award approved by the Court.

28. "**Notice**" means notice of the proposed class action Settlement to be provided to Settlement Class Members pursuant to the Preliminary Approval Order. Notice includes the Short Notice and Long Notice, which is to be provided substantially in the manner set forth in this Settlement Agreement, including **Exhibit B** (Long Form) and **Exhibit C** (Short Form), and is consistent with the requirements of Due Process.

29. **"Notice and Administrative Expenses" or "Administrative Expenses"** means all of the expenses incurred in the administration of this Settlement, including, without limitation, all expenses or costs associated with preparing and sending the required notices to appropriate state and federal officials under the Class Action Fairness Act of 2005, providing Notice to the Settlement Class, locating Settlement Class Members, processing claims, determining the eligibility of any person to be a Settlement Class Member, and administering, calculating and distributing the Settlement Fund to Settlement Class Members. Administrative Expenses also includes all reasonable third-party fees and expenses incurred by the Settlement Administrator in administering the terms of this Agreement.

30. "**Notice Date**" or "**Notice Deadline**" means thirty (30) days after entry of the Preliminary Approval Order and is the date by which the Claims Administrator shall establish the Settlement Website, toll-free telephone line, and commence the initial mailing of the Short Notice.

31. "**Notice Program**" means the notice methods provided for in this Agreement and consists of (1) Notice to all Settlement Class Members via one or more summary postcard notice(s) via United States Postal Service or via email and (2) Notice posted on the Settlement Website. The forms of Notice shall be substantially in the forms attached as **Exhibit B** (Long Form) and **Exhibit C** (Short Form) to this Agreement and approved by the Court, and the Notice Program shall be affected in substantially the manner provided in Section VIII.

32. "**Objection Deadline**" or **"Objection Date"** means sixty (60) days after the Notice Deadline and is the date by which Settlement Class Members must mail their objection to the settlement to the Claims Administrator for that objection to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes.

33. "**Opt-Out Deadline**" or **"Opt-Out Date"** means sixty (60) days after the Notice Deadline and is the date by which Settlement Class Members must mail their requests to be excluded from the Settlement Class to the Claims Administrator for that request to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes.

34. **"Person"** means an individual, corporation, partnership, limited partnership, limited liability company or partnership, association, joint stock company, estate, legal representative trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity, and their respective spouses, heirs, predecessors, successors, representatives, or assignees.

35. "**Preliminary Approval Order**" means an order preliminarily approving the Settlement, directing issuance of Notice to Settlement Class Members, determining that the Court will likely be able to approve the Settlement, and determining that the Court will likely be able to certify the Settlement Class and California Subclass for purposes of judgment, the proposed form of which is attached as **Exhibit D**.

36. "**Private Information**" or "**PII**" means names, Social Security numbers, driver's license numbers or state identification information, financial account information, dates of birth, medical information, health insurance information, and other personally identifiable information.

37. "**Released Claims**" shall mean any and all past, present, and future rights, liabilities, actions, demands, damages, penalties, costs, attorneys' fees, losses, remedies, claims, and causes of action including, without limitation, any causes of action arising under or premised upon any statute, constitution, law, ordinance, treaty, regulation, or common law of any country, state, province, county, city, or municipality, consumer protection statutes in effect in any states in the United States. violations of the California Consumer Privacy Act, Calif. Civil Code § 1798.100; violations of any federal or state data breach notification statute; negligence; negligence *per se*; breach of contract; breach of third-party beneficiary contract; breach of implied contract;

breach of fiduciary duty; breach of confidence; invasion of privacy; fraud; misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment; wantonness; failure to provide adequate notice pursuant to any breach notification statute or common law duty; and including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys' fees and expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, and/or the appointment of a receiver, whether known or unknown, liquidated or unliquidated, existing or potential, accrued or unaccrued, fixed or contingent, direct or derivative, and any other form of legal statutory, or equitable relief that either has been asserted, was asserted, or could have been asserted, by any Settlement Class Member against any of the Released Parties (including, but not limited to, assigned claims and any and all "Unknown Claims" as defined below) based on, relating to, concerning or arising out of the Data Incident or the allegations, transactions, occurrences, facts, or circumstances alleged in or otherwise described in the Action and/or the Complaint. Released Claims shall not include the right of any Settlement Class Member or any of the Released Parties to enforce the terms of the settlement contained in this Settlement Agreement and shall not include the claims of Settlement Class Members who have timely excluded themselves from the Settlement Class consistent with the terms and requirements of this Agreement.

38. "**Released Parties**" means Defendants, Eisner Amper LLP, Lurie LLP, and any and all of their present, past, or future parent companies, partnerships, subsidiaries, affiliates, divisions, employees, contractors, agents, servants, members, managers, providers, partners, principals, directors, shareholders, successors, assigns, owners, and customers ("Released Entities"), and all of their direct or indirect heirs, executors, estates, affiliates, divisions, predecessors, successors, assigns, parents, or subsidiaries, owners, associates, employers, employees, agents, consultants, contractors, independent contractors, vendors, attorneys, accountants, clients, customers, insurers, their third-party administrators, coinsurers, reinsurers, as well as successors in interest, assigns, firms, trustees, trusts, corporations, officers, directors, general or limited partners of the aforementioned Released Entities, any Eisner managed entities, and any and all other entities in which Eisner has a controlling interest or that are affiliated with it, , and including, without limitation, any Person related to any such entity who is, was, or could have been named as a defendant in the Action.

39. "**Releasing Parties**" means the Class Representatives, any Settlement Class Member who does not timely and properly opt out from the Settlement, and any person claiming or receiving a benefit under this Settlement, and their respective past, present, and future heirs, devisees, beneficiaries, conservators, executors, estates, administrators, assigns, trustees, receivers, successors-in-interest, and agents.

40. "**Reminder Notice**" means a notice, substantially in the form of the Short Form Notice. The Settlement Administrator shall also have the option, if requested by Class Counsel, to send a Reminder Notice to Settlement Class Members who have not yet submitted a Claim Form if the claims rate is less than 3.0% forty-five (45) days prior to the Claims Deadline. Any such Reminder Notice shall be sent via email to individuals in the Settlement Class and California Subclass to the extent email addresses are available, and via postcard to the last known address of

individuals in the Settlement Class and California Subclass to the extent a physical address is available.

41. **"Request for Exclusion"** means the written communication by or on behalf of a Settlement Class Member in which he or she requests to be excluded from the Settlement Class in the form and manner provided for in the Notice.

42. "**Service Award**" means an amount to be awarded by the Court that is intended to compensate the Class Representatives for their efforts in the litigation and commitment on behalf of the Settlement Class.

43. **"Settling Parties"** means, collectively, Eisner and Plaintiffs, individually and on behalf of the Settlement Class.

44. "**Settlement**" means this settlement into which the Parties have entered to resolve the Action. The terms of the Settlement are as set forth in this Agreement, including the exhibits hereto.

45. **"Settlement Claim"** means a claim for settlement benefits made under the terms of this Settlement Agreement.

46. "**Settlement Class**" means all persons who were affected by the Data Incident, including but not limited to those who were sent a notice letter by Eisner concerning the Data Incident discovered in September of 2023. The Settlement Class specifically excludes: (i) Eisner, any entity in which Eisner has a controlling interest, and Eisner's officers, directors, legal representatives, successors, subsidiaries, and assigns; (ii) any judge, justice, or judicial officer presiding over this matter and members of their immediate families and their judicial staff; (iii) all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; (iv) the attorneys representing the Settling Parties in the Action; and (v) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the Data Incident, or who pleads *nolo contendere* to any such charge. These individuals constitute the "Settlement Class" solely for purposes of certifying a settlement class in this Action.

47. **"Settlement Class Member**" means an individual who falls within the definition of the Settlement Class.

48. "**Settlement Fund**" shall mean a non-reversionary common fund in the amount of one million fifty thousand dollars and 00/100 cents ($1,050,000.00) that Eisner agrees to create to resolve the claims of the Settlement Class, and to fund all relief to the Settlement Class as described herein, including the Notice and Administrative Expenses, Service Awards, and the Attorneys' Fees and Expenses Award. The Settlement Fund is the full and complete limit and extent of Eisner's obligations with respect to the Settlement.

49. “**Settlement Payment**” means the payment to be made via mailed check and/or electronic payment from the Settlement Fund to Class Members who submitted Valid Claims from the Settlement Administrator.

50. “**Settlement Website**” means the website that the Settlement Administrator will establish as soon as practicable following entry of the Preliminary Approval Order, but prior to the commencement of the Notice Program, as a means for Settlement Class Members to obtain notice of and information about the Settlement, through access to this Agreement, the Notice, Preliminary Approval Order, the Claim Forms, the Consolidated Complaint filed in the Action and such other documents as Class Counsel and Defendants mutually agree to post or that the Court orders posted on the website. The URL of the Settlement Website shall be mutually agreed upon by Class Counsel and Eisner. Settlement Class Members shall be able to submit Claim Forms electronically via the Settlement Website. The Settlement Website shall not include any advertising and shall remain operational until at least five (5) business days after the last payment or credit under this Settlement is made or the Settlement is terminated.

51. “**Short Form Notice**” means the postcard notice that will be mailed or emailed to each available Class Member attached as **Exhibit C**. The Short Notice will direct recipients to the Settlement Website and inform Settlement Class Members, among other things, of the Claims Deadline, the Opt-Out Date, the Objection Date, the requested attorneys’ fees, and the date of the Final Fairness Hearing. The Short Notice shall also contain a “tear-off” summary claim form, with business reply mail (BRM) postage, that will allow Settlement Class Members to claim the pro rata cash payment and credit monitoring offered.

52. “**Taxes and Tax-Related Expenses**” means any and all applicable taxes, duties, and similar charges imposed by a government authority (including any estimated taxes, interest or penalties) arising in any jurisdiction, if any, with respect to the income or gains earned by or in respect of the Settlement Fund; however, any taxes that may be imposed upon Eisner with respect to any income or gains earned by or in respect of the Settlement Fund for any period while it is held in the Settlement Fund shall be deducted from the Settlement Fund, as described in Paragraph 27 regarding the Net Settlement Fund.

53. “**United States**” as used in this Settlement Agreement includes all 50 states, the District of Columbia, and all territories and/or United States possessions.

54. “**Unknown Claims**” means any of the Released Claims that any Settlement Class Member, including Plaintiffs, does not know or suspect to exist in his/her favor at the time of the release of the Released Parties that, if known by him or her, might have affected their settlement with, and release of, the Released Parties, or might have affected his or her settlement with, and release of, the Released Parties, or might have affected his or her decision not to object to and/or to participate in this Settlement Agreement. With respect to any and all Released Claims, the Settling Parties stipulate and agree that upon the Effective Date, Plaintiffs intend to and expressly shall have, and each of the other Settlement Class Members intend to and shall be deemed to have, and by operation of the Judgment shall have, waived the provisions, rights, and benefits conferred by California Civil Code § 1542, and also any and all provisions, rights, and benefits conferred by any statute of any state, province, or territory of the United States (including, without limitation,

California Civil Code §§ 1798.80 *et seq.*, Montana Code § 28-1-1602; North Dakota Cent. Code § 9-13-02; and South Dakota Codified Laws § 20-7-11), which is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

> **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

Settlement Class Members, including Plaintiffs, may hereafter discover facts in addition to, or different from, those that they, and any of them, now know or believe to be true with respect to the subject matter of the Released Claims, but Plaintiffs expressly shall have, and each other Settlement Class Member shall be deemed to have, and by operation of the Judgment shall have, upon the Effective Date, fully, finally and forever settled and released any and all Released Claims, including but not limited to any Unknown Claims they may have. The Settling Parties acknowledge, and Settlement Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver is a material element of the Settlement Agreement of which this release is a part.

55. "**Valid Claims**" means Settlement Claims in an amount approved by the Claims Administrator or found to be valid through the claims processing and/or Dispute Resolution process, or through the process for review and challenge set forth within Paragraph 68 of this Agreement.

## III. SETTLEMENT CLASS

56. The Settling Parties agree, for purposes of this settlement only, to the certification of the Settlement Class and the California Subclass. If (1) the Court does not issue the Preliminary Approval Order or the Judgment; (2) the Effective Date does not occur, (3) the Settlement Agreement is terminated or cancelled pursuant to the terms of the Settlement Agreement, or (4) the settlement set forth in this Settlement Agreement is not finally approved by the Court, this Settlement Agreement, and the certification of the Settlement Class provided for herein, will be vacated and the Action shall proceed as though the Settlement Class had never been certified, without prejudice to any Person's or Settling Party's position on the issue of class certification or any other issue. The Settling Parties' agreement to the certification of the Settlement Class is also without prejudice to any position asserted by the Settling Parties in any other proceeding, case, or action, as to which all of their rights are specifically preserved.

57. Plaintiffs will move for certification of the Class contemporaneously with their motion for Preliminary Approval of the Settlement.

## IV. SETTLEMENT BENEFITS

58. **Establishment of Settlement Fund**. Within thirty (30) days of the Effective Date, Eisner will cause to be paid to the Settlement Administrator to fund the relief provided under the Settlement Agreement: the sum of one million fifty thousand dollars ($1,050,000.00), constituting the entirety of what Eisner shall be required to pay under this Settlement Agreement, minus the amounts advanced for Notice and Administrative Expenses as described in the next sentence. An initial up-front amount, representing a reasonable estimate by the Settlement Administrator and agreed to by Eisner of the costs of notice and claims administration, shall be paid to the Settlement Administrator to cover the initial notice and administration costs, within thirty (30) days after the Court enters a Preliminary Approval Order and upon receipt of payment instructions from the Settlement Administrator. The Settlement Administrator shall provide Defendants' Counsel with an invoice and W-9 within ten (10) days of the entry of the Preliminary Approval Order. To the extent this Settlement Agreement is not finally approved, Eisner will be entitled to the return of any amounts, including amounts incurred by the Settlement Administrator in connection with Settlement Administration. Following payment of the Settlement Fund monies as described herein, Eisner shall have no responsibility, financial obligation, or liability whatsoever with respect to the selection of the Escrow Account, investment of Settlement Fund account funds, payment of federal, state, and local income, employment, unemployment, excise, and any other Taxes or Tax-Related Expenses imposed on the Settlement Fund account or its distributions, or payment of the administrative, legal, accounting, or other costs occasioned by the use or administration of the Settlement Fund.

59. **Escrow Account**. The Settlement Payment is to be deposited into an interest-bearing bank escrow account administered by the Settlement Administrator (the "Escrow Account"). The Escrow Account shall be held in a Qualified Settlement Fund (defined below).

60. **Interest**. All interest on the funds in the Escrow Account shall accrue to the benefit of Eisner. Any interest shall not be subject to withholding and shall, if required, be reported appropriately to the Internal Revenue Service by the Settlement Administrator. The Administrator is responsible for the payment of all taxes.

61. **Non-Reversionary**. The Settlement Fund is non-reversionary. As of the Effective Date, all rights of Eisner in or to the Settlement Fund shall be extinguished, except in the event this Settlement Agreement is terminated, or as otherwise provided for by statute or Court of appropriate jurisdiction.

62. **Qualified Settlement Fund**. The Settling Parties agree that the Settlement Fund is intended to be maintained as a qualified settlement fund within the meaning of Treasury Regulation § 1.468 B-1, and that the Settlement Administrator, within the meaning of Treasury Regulation § 1.468 B-2(k)(3), shall be responsible for filing tax returns and any other tax reporting for or in respect of the Settlement Fund and paying from the Settlement Fund any Taxes and Tax-Related Expenses owed with respect to the Settlement Fund. The Settling Parties agree that the Settlement Fund shall be treated as a qualified settlement fund (QSF) from the earliest date possible and agree to any relation-back election required to treat the Settlement Fund as a QSF from the

earliest date possible. Any and all funds held in the Settlement Fund shall be held in an interest-bearing account and must be insured by the Federal Deposit Insurance Corporation. The Settlement Administrator shall select the financial institution at which the QSF is to be created and held, subject to approval of the Settling Parties. Funds may be placed in a non-interest-bearing account as may be reasonably necessary during the check clearing process. The Settlement Administrator shall provide an accounting of any and all funds in the Settlement Fund, including any interest accrued thereon and payments made pursuant to this Agreement, upon request of any of the Settling Parties.

63. **Custody of Settlement Fund**. The Settlement Fund shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the entirety of the Settlement Fund is distributed pursuant to this Settlement Agreement or the balance returned to those who paid the Settlement Fund in the event this Settlement Agreement is voided, cancelled, or terminated in accordance with this Agreement.

64. **Use of the Settlement Fund**. As further described in this Agreement, the Settlement Fund shall be used by the Settlement Administrator to pay for the following, in the following order: (i) all Costs of Claims Administration; (ii) Taxes and Tax-Related Expenses; (iii) Service Awards approved by the Court; (iv) Attorneys' Fees and Expense Awards; (v) Settlement Class Member Benefits to those Settlement Class Members who submit a Valid Claim. No amounts may be withdrawn from the Settlement Fund unless authorized by this Agreement or approved by the Court.

65. **Taxes and Representations**. The Settling Parties and their respective counsel have made and make no representation or warranty with respect to the tax treatment by any Class Representative or any Settlement Class Member of any payment or transfer made pursuant to this Agreement or derived from or made pursuant to the Settlement Fund. Each Class Representative and Settlement Class Member shall be solely responsible for the federal, state, and local tax consequences to him, her, or it of the receipt of funds from the Settlement Fund pursuant to this Agreement. However, where a Settlement Class Member who is entitled to $2,000.00 or more fails to submit an IRS Form W-9 (or equivalent tax document), the Settlement Administrator shall consult with counsel to determine how to remit payment to the Settlement Class Member (*i.e.*, capped below $2,000.00 or withholding necessary taxes and sending the remainder to the Settlement Class Member).

## V. BENEFITS TO SETTLEMENT CLASS MEMBERS

66. The Settlement Administrator will agree to make the following benefits available to Settlement Class Members who submit valid and timely claim forms from the Settlement Fund. Claims will be subject to review for completeness and plausibility by a Settlement Administrator.

a. **Reimbursement of Documented Monetary Losses:** Settlement Class Members may submit a Claim for a cash payment under this paragraph for up to $5,000.00 per Settlement Class Member upon presentment of documented losses related to the Data Incident. Settlement Class Members may submit a claim form for reimbursement of documented monetary losses, fairly traceable to the Data Security Incident up to $5,000 per Settlement Class Member ("Documented Monetary Losses"). To receive a payment for Documented Monetary Losses, a Settlement Class Member must attest that the losses or expenses were incurred as a result of the Data Incident. Settlement Class Members will be required to submit reasonable third-party documentation supporting the losses. Documented Monetary Losses may include but are not limited to; (i) unreimbursed out of pocket credit monitoring costs that were incurred on or after September 4, 2023, through the Claims Deadline; (ii) unreimbursed losses associated with actual fraud or identity theft; and (iii) unreimbursed bank fees, long distance phone charges, postage, or gasoline for local travel. This list of reimbursable documented out-of-pocket expenses is not meant to be exhaustive, rather it is exemplary. Settlement Class Members may make claims for any documented unreimbursed out-of-pocket losses reasonably related to the Data Incident or to mitigating the effects of the Data Incident. Settlement Class Members shall not be reimbursed for expenses if they have been reimbursed for the same expenses by another source, including compensation provided in connection with the credit monitoring and identity theft protection product offered as part of the notification letter provided by Eisner or otherwise. If a Settlement Class Member does not submit reasonable documentation supporting a loss, or if their Claim is rejected by the Claims Administrator for any reason, and the Settlement Class Member fails to cure his or her Claim, the Claim will be rejected and the Settlement Class Member's Claim will be treated as if he or she elected a Pro Rata Cash Payment only. "Self-prepared" documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support other submitted documentation.

b. **<u>Identity Theft Protection and Credit Monitoring:</u>** Settlement Class Members may submit a claim for two (2) years of single-bureau credit monitoring and at least $1,000,000 of identity theft insurance. Settlement Class Members must affirmatively request Identity Theft Protection and Credit Monitoring by indicating such request on the Claim Form, and codes will be sent either to an email address provided by the Settlement Class Member or, if they do not have an email address, mailed to the address provided on the Claim Form.

c. **<u>Pro Rata Cash Payment</u>**: Settlement Class Members may submit a claim for a Pro Rata Cash Payment estimated at $100 per claimant. Settlement Class Cash Payments will be subject to a pro rata increase from the Settlement Fund in the event the amount of Valid Claims is insufficient to exhaust the entire Settlement Fund. Similarly, in the event the amount of Valid Claims exhausts the amount of the Settlement Fund, the amount of the Cash Payments may be reduced pro rata accordingly. The final amount of this benefit shall be determined pro rata based on the amount remaining in the Settlement Fund following payment of the Attorney's Fees and Expenses Award, Service Awards, Notice and Administrative Expenses, costs of Identity Theft Protection and Credit Monitoring, claims for Documented Monetary Losses, and claims for CCPA Payments. There will be no maximum payment amount for Pro Rata Cash Payments. Any pro rata increases or decreases to Pro Rata Cash Payments will be on an equal percentage basis.

d. **CCPA Payment**. In addition to all other Settlement benefits, California Subclass Members may submit a claim for a fifty-dollar ($50.00) cash payment for the CCPA claim they have brought as California residents against Eisner. The CCPA Payment may be *pro rata* decreased if insufficient funds remain following the payment of any Attorneys' Fees and Expenses Award, any Service Awards, Costs of Claims Administration, claims for Documented Monetary Losses, and the costs for Identity Theft Protection and Credit Monitoring.

e. **Business Practice Enhancements**: The Settling Parties agree that as part of the settlement consideration, Eisner has adopted, paid for, implemented, and will maintain certain business practice changes related to information security to safeguard personal information on its systems ("Business Practice Changes"). Eisner will detail these business practice changes to Class Counsel in a confidential declaration.

67. **Assessing Claims for Documented Monetary Losses**. The Settlement Administrator shall verify that each person who submits a Claim Form is a Settlement Class Member. The Settlement Administrator shall have the sole discretion and authority to determine whether and to what extent documentation for Documented Monetary Losses reflects valid losses actually incurred that are fairly traceable to the Data Security Incident but may consult with Class Counsel in making individual determinations. In assessing what qualifies as "fairly traceable," the Parties agree to instruct the Settlement Administrator to consider (i) whether the timing of the loss occurred on or after September 4, 2023; and (ii) whether the personal information used to commit identity theft or fraud consisted of the same type of personal information that was potentially accessed from Eisner's systems. The Settlement Administrator is authorized to contact any Settlement Class Member (by e-mail, telephone, or U.S. mail) to seek clarification regarding a submitted claim prior to making a determination as to its validity.

68. **Disputes.** The Claims Administrator, in its sole discretion to be reasonably exercised, will determine whether: (i) the claimant is a Settlement Class Member; (ii) the claimant has provided all information needed to complete the Claim Form, including any documentation that may be necessary to reasonably support the expenses described in Paragraph 66(a) above; and (iii) the information submitted could lead a reasonable person to conclude that more likely than not the claimant has suffered the claimed losses as a result of the Data Incident. In assessing what losses qualify as more likely than not caused by the Data Incident, the Claims Administrator will consider (i) whether the timing of the loss occurred on or after September 4, 2023; and (ii) whether the personal information used to commit identity theft or fraud consisted of the type of personal information identified in Eisner's mailed notices regarding the Data Incident. The Claims Administrator may, at any time, request from the claimant, in writing, additional information as the Claims Administrator may reasonably require to evaluate the claim, *e.g.*, documentation requested on the Claim Form, and required documentation regarding the claimed losses. The Claims Administrator's initial review will be limited to a determination of whether the claim is complete and plausible. For any claims that the Claims Administrator determines to be implausible, the Claims Administrator will submit those claims to counsel for the Settling Parties. If the Settling Parties do not agree with the Claims Administrator's determination, after meeting and conferring, then the claim shall be referred to a claims referee for resolution. The Settling Parties will mutually agree on the claims referee should one be required.

69. To the extent the Settlement Administrator determines a Claim is deficient in whole or part, within a reasonable time of making such a determination, the Settlement Administrator shall notify the Settlement Class Member of the deficiencies and give the Settlement Class Member twenty-one (21) days to cure the defect before rejecting the claim. Such notifications shall be sent via e-mail, unless the claimant did not provide an e-mail address, in which case such notifications shall be sent via U.S. mail. If the Settlement Class Member attempts to cure the deficiencies but, at the sole discretion and authority of the Settlement Administrator, fails to do so, the Settlement Administrator shall notify the Settlement Class Member of that determination within ten (10) days of the determination. The Settlement Administrator may consult with Class Counsel in making such determinations. If, after reviewing the claim and all documentation submitted by the claimant, the Claims Administrator determines that such a claim is facially valid, then the claim shall be paid. If the Claims Administrator determines that such a claim is not facially valid because the claimant has not provided all information needed to complete the Claim Form and enable the Claims Administrator to evaluate the claim, then the Claims Administrator may reject the claim without any further action.

70. If any dispute is submitted to the claims referee, the claims referee may approve the Claims Administrator's determination by making a ruling within fifteen (15) days of the claims referee's receipt of the submitted dispute. The claims referee may make any other final determination of the dispute or request further supplementation of a claim within thirty (30) days of the claims referee's receipt of the submitted dispute. The claims referee's determination shall be based on whether the claims referee is persuaded that the claimed amounts are reasonably supported in fact and were more likely than not caused by the Data Incident. The claims referee shall have the power to approve a claim in full or in part. The claims referee's decision will be final and non-appealable. Any claimant referred to the claims referee shall reasonably cooperate with the claims referee, including by either providing supplemental information as requested or, alternatively, signing an authorization allowing the claims referee to verify the claim through third-party sources, and failure to cooperate shall be grounds for denial of the claim in full. The claims referee shall make a final decision within thirty (30) days of the latter of the following events: its receipt of the submitted dispute and receipt of all supplemental information requested.

71. **Duties of Claims Administrator.** The Claims Administrator shall perform the functions and duties necessary to effectuate the Settlement and as specified in this Agreement, including, but not limited to, the following:

a) Administering and overseeing the Settlement funds provided by Eisner to pay approved Valid Claims.

b) Obtaining the Settlement Class List for the purpose of disseminating Notice to Settlement Class Members;

c) Performing National Change of Address searches and/or skip tracing on the Settlement Class List;

d) Providing Notice to Settlement Class Members via U.S. mail and/or email;

e) Prepare and provide timely notice required by the Class Action Fairness Act ("CAFA") allowing for pre-approval of the notice by Eisner;

f) Establishing and maintaining the Settlement Website;

g) Establishing and maintaining a toll-free telephone line for Settlement Class Members to call with Settlement-related inquiries, and answering the questions of Settlement Class Members who call with or otherwise communicate such inquiries within one (1) business day;

h) Responding to any mailed or emailed Settlement Class Member inquiries within one (1) business day;

i) Reviewing, determining the validity of, and processing all claims submitted by Settlement Class Members and transmitting to Class Counsel and Eisner's Counsel a list of Approved Claims, both periodically during the Claims Period and after the Claims Deadline;

j) Receiving Requests for Exclusion and Objections from Settlement Class Members and providing Class Counsel and Eisner's Counsel a copy thereof immediately upon receipt. If the Claims Administrator receives any Requests for Exclusion, objections, or other requests from Settlement Class Members after the Opt-Out and Objection Deadlines, the Claims Administrator shall promptly provide copies thereof to Class Counsel and to Eisner's Counsel;

k) Working with the provider(s) of Credit Monitoring Services to receive and send activation codes within thirty (30) days of the Effective Date;

l) After the Effective Date, processing and transmitting Settlement Payments to Settlement Class Members;

m) Providing bi-weekly or other periodic reports to Class Counsel and Eisner's Counsel that include information regarding the number of Settlement Checks mailed and delivered or checks sent via electronic means, Settlement Checks cashed, undeliverable information, and any other requested information relating to Settlement Payments;

n) In advance of the Final Approval Hearing, preparing an affidavit to submit to the Court that: (i) attests to implementation of Notice in accordance with the Preliminary Approval Order; and (ii) identifies each Settlement Class Member who timely and properly submitted a Request for

Exclusion; and

o) Performing any function related to Settlement Administration at the agreed-upon instruction of Class Counsel or Eisner's Counsel, including, but not limited to, verifying that Settlement Payments have been distributed.

72. **Limitation of Liability.** The Settling Parties, Class Counsel, and Eisner's Counsel shall not have any liability whatsoever with respect to (i) any act, omission or determination of the Claims Administrator, or any of its respective designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the formulation, design or terms of the disbursement of the Settlement funds; (iii) the determination, administration, calculation or payment of any claims asserted against the Settlement funds; or (iv) the payment or withholding of any taxes and tax-related expenses.

73. **Notice and Administration Expenses**. The Settlement Fund amount provided by Defendants, or on behalf of Defendants, will pay the entirety of reasonable Notice and Administrative Expenses, including the cost of Notice. The Parties agree to review competitive bids for the Notice and Administration Expenses, all in order to contain the administration costs while still providing effective notice to the Class. Notice and Administrative Expenses shall be paid through the Settlement Fund.

74. Defendants will reasonably cooperate on establishing the appropriateness of the Settlement, including, but not limited to, the information relied upon for the initial notice of the Data Incident to aid in identification of Settlement Class Members and their email and physical addresses to the extent available.

75. Provided that Final Approval of this Settlement Agreement is granted by the Court, without material change, material amendment, or material modification, the Settlement Fund will be used to satisfy Valid Claims for Class Members in exchange for a full, fair, and complete release of all Released Parties from Released Claims, and dismissal of the entire Action with prejudice.

76. The Settlement Fund represents the total extent of Eisner's monetary obligations under the Settlement Agreement. Eisner shall have no obligation to make further payments into the Settlement Fund and shall have no financial responsibility or obligation relating to the Settlement beyond creating the Settlement Fund.

## VI. PAYMENTS TO SETTLEMENT CLASS MEMBERS

77. **Payment Timing**. The Claims Administrator shall administer and calculate the claims submitted by Settlement Class Members. Payments for Valid Claims for reimbursement for Documented Monetary Losses, Pro Rata Cash Payments, and CCPA Payments shall be issued in the form of an electronic payment, or upon request, a check mailed ("Settlement Check"), within thirty (30) days of the Effective Date, or within twenty-one (21) days of the date that the claim is approved, whichever is later. Activation codes for the Identity Theft Protection and Credit Monitoring shall be emailed or mailed within thirty (30) days of the Effective Date, or within

twenty-one (21) days of the date that the claim is approved, whichever is later. The Claims Administrator's and/or claims referee's, as applicable, determination of whether a Settlement Claim is a Valid Claim shall be binding, subject to the dispute resolution process set forth herein. All settlement checks shall be void ninety (90) days after issuance and shall bear the language: "This check must be cashed within ninety (90) days, after which time it is void." Settlement Checks shall bear in the legend that they expire if not negotiated within ninety (90) days of their date of issue. If a Participating Settlement Class Member fails to successfully negotiate a settlement check for whatever reason, Defendant nevertheless shall have no obligation to make payments to the Participating Settlement Class Member for compensation or loss reimbursement or to make any other type of monetary relief to the Participating Settlement Class Member. Such Settlement Class Members remain bound by all terms of the Settlement Agreement.

78. **Returned Checks**. For any Settlement Check returned to the Settlement Administrator as undeliverable (including, but not limited to, when the intended recipient is no longer located at the address), the Settlement Administrator shall make reasonable efforts to locate a valid address and resend the Settlement Payment within thirty (30) days after the check is returned to the Settlement Administrator as undeliverable. In attempting to locate a valid address, the Settlement Administrator is authorized to send an e-mail and/or place a telephone call to that Settlement Class Member to obtain updated address information. Any replacement Settlement Checks issued to Settlement Class Members shall remain valid and negotiable for forty-five (45) days from the date of their issuance and may thereafter automatically be canceled if not cashed by the Settlement Class Member within that time. Any replacement Settlement Check must bear the legend, "This check must be cashed within forty-five (45) days, after which time it is void."

79. **Uncashed Checks**. To the extent that a Settlement Check is not cashed within ninety (90) days after the date of issue, the Settlement Administrator shall undertake the following actions: (1) attempt to contact the Settlement Class Member by e-mail and/or telephone to discuss how to obtain a reissued check; (2) if those efforts are unsuccessful, make reasonable efforts to locate an updated address for the Settlement Class Member using advanced address searches or other similar reasonable methods; and (3) reissuing a check or mailing the Settlement Class Member a postcard (either to an updated address if located or the original address if not) providing information regarding how to obtain a reissued check. Any reissued Settlement Checks issued to Settlement Class Members shall remain valid and negotiable for forty-five (45) days from the date of their issuance and may thereafter automatically be canceled if not cashed by the Settlement Class Members within that time.

80. **Unclaimed Funds**. No portion of the Settlement Fund shall revert or be repaid to Eisner after the Effective Date. To the extent any monies remain in the Net Settlement Fund more than one hundred and fifty (150) days after the distribution of Settlement payments to the Settlement Class Members, or thirty (30) days after all reissued Settlement Checks are no longer negotiable, whichever occurs later or as otherwise agreed to by the Settling Parties, any remaining monies shall be divided *pro rata* and disbursed in a secondary distribution to the Class Members who submitted Valid Claims for a Pro Rata Cash Payment, except that if the remaining monies (after covering additional costs of administration) are insufficient to provide a secondary distribution of at least five dollars and no/100 cents ($5.00) per eligible recipient, then the

remaining monies shall be distributed as required by state law or to the non-profit organization to be agreed as a *cy pres* distribution.

81. **Deceased Class Members**. If the Settlement Administrator is notified that a Settlement Class Member is deceased, the Settlement Administrator shall reissue the Settlement Check to the Settlement Class Member's estate upon receiving proof the Participating Settlement Class Member is deceased and proof of Settlement Class Member's estate and after consultation with Class Counsel.

82. All Settlement Class Members who fail to timely submit a claim for any benefits hereunder within the time frames set forth herein, or such other period as may be ordered by the Court, or otherwise expressly allowed by law or the Settling Parties' written agreement, shall be forever barred from receiving any payments or benefits pursuant to the settlement set forth herein, but will in all other respects be subject to, and bound by, the provisions of the Settlement Agreement, the releases contained herein and the Judgment.

83. No Person shall have any claim against the Claims Administrator, claims referee, Eisner, Released Parties, Class Counsel, Plaintiffs, Plaintiffs' Counsel, and/or Defendant's Counsel based on distributions of benefits to Settlement Class Members or any alleged failure by Eisner to implement the Business Practice Changes.

84. Information submitted by Settlement Class Members in connection with submitted claims under this Settlement Agreement shall be deemed confidential and protected as such by the Claims Administrator, claims referee, Class Counsel, and Eisner's Counsel.

## VII. CLAIMS, CAPS, AND DISTRIBUTION OF SETTLEMENT FUNDS

85. **Submission of Electronic and Hard Copy Claims**. Settlement Class Members may submit Claim Forms to the Settlement Administrator via return postcard, electronically via the Settlement Website or otherwise physically by mail to the Settlement Administrator. Claim Forms must be submitted electronically or postmarked during the Claims Period and on or before the Claims Deadline.

86. **Individual Caps**. Settlement Class Members are subject to an individual aggregate cap of five thousand dollars and no/100 cents ($5,000.00) for Documented Monetary Loss payments made under the Settlement. Settlement Class Members may submit claims for Documented Monetary Loss Payments, Pro Rata Cash Payments, and CCPA Payments.

87. **Order of Distribution of Funds**. The Settlement Administrator must first use the funds available in the Net Settlement Fund to make payments for Valid Claims for Documented Monetary Losses, then to fund Valid Claims for Identity Theft Protection and Credit Monitoring, and then to CCPA Payments. The Settlement Administrator shall then utilize the remaining funds to make *pro rata* distributions for Pro Rata Cash Payments.

88. **Pro-Rata Contingencies**. In the event that the aggregate amount of all claims for settlement benefits exceeds the total amount of the Net Settlement Fund, then the value of such payments shall be reduced on a *pro rata* basis, such that the aggregate value of all payments for benefits do not exceed the Net Settlement Fund. In the event that the aggregate amount of Valid Claims for all benefits does not total the Net Settlement Fund, then the value of each Settlement Class Members' Cash Payment shall be increased on a pro rata basis such that the aggregate value of all Valid Claims to the greatest extent feasible, exhaust the Net Settlement Fund. All *pro rata* determinations required by this Paragraph shall be performed by the Settlement Administrator.

## VIII. CLASS NOTICE, OPT-OUTS, AND OBJECTIONS

89. **Notice**. Notice shall be provided to Settlement Class Members by the Claims Administrator in a manner that satisfies constitutional requirements and due process. The notice plan shall be subject to approval by the Court as meeting the requirements of Rule 23 of the Federal Rules of Civil Procedure and constitutional due process requirements.

a. Within fourteen (14) days after the date of the Preliminary Approval Order, Eisner shall provide the Settlement Class List to the Claims Administrator.

b. Within thirty (30) days after the Preliminary Approval Order, the Settlement Administrator shall disseminate Notice to the members of the Settlement Class. Notice shall be disseminated via summary postcard to Settlement Class members identified on the Settlement Class List via email or U.S. mail. In addition, if Class Counsel requests, the Settlement Administrator shall provide a Reminder Notice to any member of the Settlement Class or California Subclass.

c. The Claims Administrator shall provide direct and individual notice to Settlement Class Members via U.S. Mail or email, to the extent mailing addresses or email addresses are available, by the Notice Deadline by mailing the Short Notice to the last known mailing addresses for Settlement Class Members. Prior to mailing, the Claims Administrator shall check and update all addresses through the National Change of Address ("NCOA") Database. Where postcards are returned with a forwarding address prior to the claims deadline, the Claims Administrator shall forward the postcards to the forwarding address. Where postcards are returned with no forwarding address prior to the claims deadline, the Claims Administrator shall undertake reasonable means to ascertain a valid forwarding address and forward the postcard.

90. **<u>Opt-Outs</u>**. The Notice shall explain the procedure for Settlement Class Members to exclude themselves or "opt-out" of the Settlement. Each Person wishing to opt-out of the Settlement Class shall individually sign and timely submit written notice of such intent to the designated Post Office box established by the Claims Administrator. The written notice must

clearly manifest a Person's intent to be excluded from the Settlement Class. To be effective, this written notice (a Request for Exclusion) must be postmarked no later than the Opt-Out Date. The Request for Exclusion must include the name of the proceeding, the individual's full name, current address, telephone number, e-mail address (if any), personal signature, and the words "Request for Exclusion" or a comparable statement that the individual does not wish to participate in the Settlement at the top of the communication. The Notice must state that any Settlement Class Member who does not submit a timely request for exclusion in accordance with this Paragraph will lose the opportunity to exclude himself or herself from the Settlement and will be bound by the Settlement.

91. All Persons who submit valid and timely Requests for Exclusion, referred to herein as "Opt-Outs," shall not receive any benefits of and/or be bound by the terms of this Settlement Agreement. All Persons falling within the definition of the Settlement Class who do not request to be excluded from the Settlement Class shall be bound by the terms of this Settlement Agreement and Judgment entered thereon.

92. In the event after the Opt-Out Date within ten (10) days of receiving notice from the Claims Administrator of the number of exclusions, if there have been Requests for Exclusion totaling more than one hundred (100) individuals, then Eisner shall have the right to terminate the Settlement Agreement in its entirety.

93. No person shall purport to exercise any exclusion rights of any other person, or purport (a) to opt-out Settlement Class Members as a group, in the aggregate, or as a class involving more than one Settlement Class Member; or (b) to opt-out more than one Settlement Class Member on a single paper, or as an agent or representative. Any such purported requests to Opt-Out as a group or in the aggregate shall be void, and the Settlement Class Member(s) who is or are the subject of such purported Requests for Exclusion shall be treated as a Settlement Class Member and be bound by this Settlement Agreement, including the Release contained herein, and judgment entered thereon, unless he or she submits a valid and timely Request for Exclusion.

94. **Objections**. The Notice shall explain the procedure for Settlement Class Members to object to the Settlement. Each Settlement Class Member desiring to object to the Settlement Agreement shall submit a timely written notice of his or her objection by the Objection Date. Such notice shall state: (i) the objector's full name, address, telephone number, and e-mail address (if any); (ii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of notice, copy of original notice of the Data Incident); (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (iv) a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (v) the identity of any and all counsel representing the objector in connection with the objection; (vi) a statement as to whether the objector and/or his or her counsel will appear at the Final Fairness Hearing; (vii) a list of all settlements to which the objector and/or their counsel have objected in the preceding three (3) years; and (viii) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation). To be timely, written notice of an objection to the designated Post Office box

established by the Claims Administrator by the Objection Date.

95. Any Settlement Class Member who fails to comply with the requirements for objecting in Paragraph 94 shall waive and forfeit any and all rights he or she may have to appear separately or to object to the Settlement Agreement, and the Settlement Class Member shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders, and judgments in the Action. The exclusive means for any challenge to the Settlement Agreement shall be through the provisions of Paragraph 94.

96. **Limitation of Liability**. The Parties, Class Counsel, and Defendants' Counsel shall not have any liability whatsoever with respect to (i) any act, omission or determination of the Claims Administrator, or any of its respective designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management, investment or distribution of the Settlement Fund; (iii) the formulation, design or terms of the disbursement of the Settlement funds; (iv) the determination, administration, calculation or payment of any claims asserted against the Settlement funds; (v) any losses suffered by or fluctuations in the value of the Settlement funds; or (vi) the payment or withholding of any Taxes and Tax-Related Expenses.

97. **Indemnification.** The Settlement Administrator shall indemnify and hold harmless the Parties, Class Counsel, and Defendants' Counsel for (i) any act or omission or determination of the Claims Administrator, or any of Claims Administrator's designees or agents, in connection with the Notice Program and the administration of the Settlement; (ii) the management, investment or distribution of the Settlement Fund; (iii) the formulation, design or terms of the disbursement of the Settlement Fund; (iv) the determination, administration, calculation or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by, or fluctuations in the value of the Settlement Fund; or (vi) the payment or withholding of any Taxes and Tax-Related Expenses.

## X. PRELIMINARY APPROVAL, FINAL APPROVAL, AND JURISDICTION

98. **Preliminary Approval**. As soon as practicable after the execution of the Settlement Agreement, Class Counsel shall submit this Settlement Agreement to the Court, and Class Counsel will file a motion for preliminary approval of the settlement with the Court, which subject to Defendants counsel's review and approval, will not be opposed, requesting entry of a Preliminary Approval Order in the form attached hereto as **Exhibit D,** or an order substantially similar to such form in both terms and cost, requesting, among other things:

a) certification of the Settlement Class for settlement purposes only;

b) preliminary approval of the Settlement Agreement as set forth herein;

c) appointment of Class Counsel;

d) appointment of Plaintiffs Christopher Niosi, Ryan Hiatt, Andrew Marston, Robert Crist, Rebecca L. Lemmons, David Fallen, Chris Ouellette, Hannah Watzka and Timothy Rushing as Class Representatives;

e) approval of the Short Notice to be mailed by U.S. mail to Settlement Class Members in a form substantially similar to **Exhibit D**, attached hereto.

f) approval of the Long Notice to be posted on the Settlement Website in a form substantially similar to **Exhibit B**, attached hereto, which, together with the Short Notice, in a form substantially similar to **Exhibit C**, attached hereto shall include a fair summary of the Settling Parties' respective litigation positions, the general terms of the settlement set forth in the Settlement Agreement, instructions for how to object to or opt-out of the settlement, the process and instructions for making claims to the extent contemplated herein, the requested attorneys' fees, and the date, time and place of the Final Fairness Hearing;

g) the approved Claim Form to be available on the Settlement Website for submitting claims and available, upon request, in a form substantially similar to **Exhibit A**, attached hereto; and

h) appointment of Verita as the Claims Administrator.

99. **Final Approval**. After entry by the Court of a Preliminary Approval Order, and no later than fourteen (14) days before the Final Approval Hearing, the Settlement Class Representatives shall file a motion seeking final approval of the Settlement and entry of a Final Approval Order, including a request that the preliminary certification of the Settlement Class for settlement purposes be made final.

100. **Final Approval Hearing.** The Parties will recommend the Final Approval Hearing be scheduled no earlier than one hundred and twenty (120) days after the entry of the Preliminary Approval Order.

101. **Appearances at Final Approval Hearing.** Any Settlement Class Member who wishes to appear at the Final Approval hearing must mail to the Court or file a notice of appearance in the Action by the Objection Deadline, as well as take actions required in the Long Notice or as otherwise required by the Court.

102. **Request for Final Approval Order**. The Parties shall ask the Court to enter a Final Approval Order including the following provisions:

a. A finding that the Notice Program fully and accurately informs all Settlement Class Members entitled to notice of the material elements of the Settlement, constitutes the best notice practicable under the circumstances, constitutes valid, due, and sufficient notice, and complies fully with Federal Rule of Civil Procedure 23, the United States Constitution, and any other applicable law;

b. A finding that after proper notice to the Settlement Class, and after sufficient opportunity to object, no timely objections to this Settlement have been made, or a finding that all timely objections have been considered and overruled;

c. Approval of the Settlement, as set forth in this Agreement, as fair, reasonable, adequate, and in the best interests of the Settlement Class, in all respects, finding that the Settlement is in good faith and ordering the parties to perform the Settlement in accordance with the terms of this Agreement;

d. A finding that neither the Final Approval Order, the Settlement, or the Agreement constitutes an admission of liability by the Parties;

e. A finding that Plaintiffs shall have been deemed to fully and finally release, relinquish, and discharge the Released Parties from the Released Claims;

f. A finding that all Settlement Class Members who have not properly opted out of the Settlement Class are, following entry of the Final Approval Order, deemed to have fully and finally released, relinquished, or discharged the Released Parties from the Released Claims; and

g. If and when the Final Approval Order is entered, the claims against Eisner in the Action shall be dismissed with prejudice.

103. **Jurisdiction**. The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Settlement Agreement, and all parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in the Settlement Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice and the Settlement Administrator. As part of its agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose.

104. Within seven (7) days after the Opt-Out Date, the Claims Administrator shall furnish to Class Counsel and to Defendant's Counsel a complete list of all timely and valid Requests for Exclusion ("Opt-Out List").

105. In the event that the Settlement Agreement or the releases are not approved by the Court or the settlement set forth in the Settlement Agreement is terminated in accordance with its terms: (i) the Settling Parties shall be restored to their respective positions in the Action and shall jointly request that all scheduled deadlines within the Action be reasonably extended by the Court to avoid prejudice to any Settling Party or Settling Party's counsel; and (ii) the terms and provisions

of the Settlement Agreement shall have no further force and effect with respect to the Settling Parties and shall not be used in the Action or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*. Notwithstanding any statement in this Settlement Agreement to the contrary, no order of the Court or modification or reversal on appeal of any order reducing the amount of attorneys' fees, costs, expenses, and/or service awards shall constitute grounds for cancellation or termination of the Settlement Agreement.

106. **Discretionary Termination.** Notwithstanding the above, if more than 100 members of the Settlement Class exclude themselves from the Settlement Class (i.e., opt-out), Defendants, in their sole discretion, may terminate this Settlement Agreement. For the avoidance of doubt, Defendants will not be obligated to pay Attorneys' Fees and Expenses Award or Service Awards if Defendants terminate the settlement under this provision.

## XII. RELEASES

107. **The Release**. Upon the Effective Date, and in consideration of the Settlement benefits described herein, each Settlement Class Member, including Plaintiffs, and each of their respective heirs, executors, administrators, representatives, agents, predecessors, successors, and assigns, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims including Unknown Claims, against each of the Released Parties. Further, upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, including Plaintiffs, and each of their respective heirs, executors, administrators, representatives, agents, predecessors, successors, and assigns, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than participation in the settlement as provided herein) in which any of the Released Claims is asserted.

108. **Unknown Claims**. The Released Claims include the release of Unknown Claims (as defined in Section II). Upon the Effective Date, Plaintiffs, the Settlement Class, and any Releasing Party shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR OR RELEASING PARTY 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 OR RELEASED PARTY.

Upon the Effective Date, each of the Releasing Parties shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state, the District of Columbia or territory of the United States, by federal law, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to Section 1542 of the California Civil Code. Class Representatives, the Settlement Class, and the Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of the Release, but that it is their intention to finally and forever settle and release the Released Claims, including but not limited to any Unknown Claims they may have, as that term is defined in this Paragraph. The Parties acknowledge, and the Released Parties shall be deemed by operation of the Agreement to have acknowledged, that the foregoing waiver is a material term of the Agreement. Settlement Class Representatives and Class Counsel acknowledge, and each Settlement Class Member who does not submit a valid Request for Exclusion prior to the Opt-Out Deadline by operation of law shall be deemed to have acknowledged, that the inclusion of unknown claims in the Release was separately bargained for and was a key element of the Settlement Agreement.

109. Each Releasor waives any and all claims, defenses, rights, and benefits that may be derived from the provisions of applicable law in any jurisdiction that, absent such waiver, may limit the extent or effect of the release contained in this Settlement Agreement.

110. **Mutual Understanding.** The Parties understand that if the facts upon which this Agreement is based are found hereafter to be different from the facts now believed to be true, each Party expressly assumes the risk of such possible difference in facts, and agrees that this Agreement, including the releases contained herein, shall remain effective notwithstanding such difference in facts. The Parties agree that in entering this Agreement, it is understood and agreed that each Party relies wholly upon its own judgment, belief, and knowledge and that each Party does not rely on inducements, promises, or representations made by anyone other than those embodied herein.

111. **Release of Class Representatives and Class Counsel**. As of the Effective Date, Eisner shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged, Plaintiffs, each and all of the Settlement Class Members and Plaintiffs' Counsel of all claims, including Unknown Claims, based upon or arising out of the institution, prosecution, assertion, settlement, or resolution of the Action or the Released Claims, except for enforcement of the Settlement Agreement. Any other claims or defenses Eisner may have against such Persons including, without limitation, any claims based upon or arising out of any debtor-creditor, contractual, or other business relationship with such Persons that are not based upon or do not arise out of the institution, prosecution, assertion, settlement, or resolution of the Action or the Released Claims are specifically preserved and shall not be affected by the preceding sentence.

112. Notwithstanding any term herein, neither Eisner nor their Released Parties, shall have or shall be deemed to have released, relinquished or discharged any claim or defense against any Person other than Plaintiffs, each and all of the Settlement Class Members and Plaintiffs' Counsel.

113. **Bar to Future Suits.** Upon entry of the Final Approval Order, the Releasing Parties shall be enjoined from prosecuting any Released Claims in any proceeding against Eisner and/or

the Released Parties or prosecute claims based on any actions taken by any of the Released Parties that are authorized or required by this Agreement or by the Final Approval Order. Likewise, the Released Parties shall be enjoined from prosecuting any Released Claim in the preceding paragraphs in any proceeding against Settlement Class Representative and Class Counsel or prosecuting claims based on any actions taken by Settlement Class Representatives and Class Counsel that are authorized or required by this Agreement or by the Final Approval Order. It is further agreed that the Settlement may be pleaded as a complete defense to any proceeding subject to this section.

## XII. SERVICE AWARDS AND ATTORNEYS' FEES, COSTS, EXPENSES

114. The Settling Parties did not discuss the payment of attorneys' fees, costs, expenses and/or service award to Plaintiffs until after the substantive terms of the settlement had been agreed upon, other than that Eisner would not object to a request for reasonable attorneys' fees, costs, expenses, and a service award to each Plaintiff as may be ordered by the Court.

115. **Service Awards**. No later than fourteen (14) days before the Opt-Out and Objection Deadlines, Class Counsel will file a motion seeking a Service Award payment for the Class Representatives in recognition for their contributions to this Action. Eisner agrees not to oppose Class Counsel's request for a service award not to exceed two thousand five hundred dollars and 00/100 cents ($2,500.00) per representative. The Settlement Administrator shall make the Service Award payments to the Class Representatives from the Settlement Fund. Such Service Award Payment shall be paid by the Settlement Administrator, in the amount approved by the Court, no later than fourteen (14) days after the Effective Date.

116. **No Effect on Agreement**. In the event the Court declines to approve, in whole or in part, the payment of Service Awards in the amount requested, the remaining provisions of this Agreement shall remain in full force and effect. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the amount of the Service Awards shall constitute grounds for termination of this Agreement.

117. **Attorneys' Fees and Expenses Award**. No later than fourteen (14) days before the Opt-Out and Objection Deadlines, Class Counsel will file a motion for an Attorneys' Fees and Expenses Award to be paid from the Settlement Fund. Class Counsel may petition the court for attorneys' fees not to exceed one-third (1/3) of the Settlement Fund ($350,000), plus reimbursement of reasonable out-of-pocket litigation expenses. Eisner will not object to the request for reasonable attorneys' fees, costs, and expenses. Prior to the disbursement or payment of the Attorneys' Fees and Expenses Award, Class Counsel shall provide the Settlement Administrator a properly completed and duly executed IRS Form W-9.

118. **Allocation**. Unless otherwise ordered by the Court, Class Counsel shall have the sole and absolute discretion to allocate any approved Attorneys' Fees and Expenses Award amongst Class Counsel and any other attorneys for Plaintiffs. Eisner shall have no liability or other responsibility for allocation of the Attorneys' Fees and Expenses Award.

119. **No Effect on Agreement**. Any award of attorneys' fees, costs, and expenses, and the service award to Plaintiffs, are intended to be considered by the Court separately from the

Court's consideration of the fairness, reasonableness, and adequacy of the settlement. These payments will not in any way reduce the consideration being made available to the Settlement Class as described herein. No order of the Court, or modification or reversal or appeal of any order of the Court, concerning the amount(s) of any attorneys' fees, costs, expenses, and/or service awards ordered by the Court to Class Counsel or Plaintiffs shall affect whether the Judgment is Final or constitute grounds for cancellation or termination of this Settlement Agreement. For the avoidance of doubt, no ruling by a Court modifying attorneys' fees or service awards can increase the total amount to be paid by Eisner for a full release of all claims.

120. **Payment**. The Attorneys' Fees and Expenses Award ordered by the Court shall be paid by the Settlement Administrator from the Settlement Fund no later than fifteen (15) days after the Effective Date unless the award of Fees and Expenses are being appealed.

## XV. NO ADMISSION OF LIABILITY

121. **No Admission of Liability**. The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

122. **No Use of Agreement**. Neither the Settlement Agreement, nor the settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the settlement (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity or lack thereof of any Released Claim, or of any wrongdoing or liability of any of the Released Parties; or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Parties in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Any of the Released Parties may file the Settlement Agreement and/or the Judgment in any action that may be brought against them or any of them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

## XVI. MISCELLANEOUS

123. The Settling Parties intend this settlement to be a final and complete resolution of all disputes between them with respect to the Litigation. The settlement compromises claims that are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling Parties each agree that the settlement was negotiated in good faith by the Settling Parties and reflects a settlement that was reached voluntarily after consultation with competent legal counsel. The Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum that the Litigation was brought or defended in bad faith or without a reasonable basis. It is agreed that no Party shall have

any liability to any other Party as it relates to the Action, except as set forth in the Settlement Agreement.

124. **Integration of Exhibits**. The exhibits to this Agreement are a material part of the Settlement and are incorporated and made a part of the Agreement.

125. **Entire Agreement/Integration**. This Agreement contains the entire understanding between Eisner and Plaintiffs regarding the payment to settle the Action and supersedes all previous negotiations, agreements, commitments, understandings, and writings between Eisner provided herein. This Agreement supersedes all previous agreements made between Eisner and Plaintiffs. Any agreements reached between Eisner, Plaintiffs, and any third party, are expressly excluded from this provision. The Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest, subject to Court approval.

126. The Parties contemplate that, subject to Court approval or without such approval where legally permissible, the exhibits to this Agreement may be modified by subsequent Agreement of counsel for the Settling Parties prior to dissemination of the Notice to the Settlement Class.

127. **Deadlines**. If any of the dates or deadlines specified herein falls on a weekend or legal holiday, the applicable date or deadline shall fall on the next business day. All reference to "days" in this agreement shall refer to calendar days unless otherwise specified.

128. **Singular and Plurals**. As used in this Agreement, all references to the plural shall also mean the singular and to the singular shall also mean the plural whenever the context so indicates.

129. **Headings**. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

130. **Binding Effect**. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto. No assignment of this Settlement Agreement will be valid without the other party's prior, written permission. Each counsel or other Person executing the Settlement Agreement on behalf of any party hereto warrants that such Person has the full authority to do so.

131. Class Counsel, on behalf of the Settlement Class, are expressly authorized by Plaintiffs to take all appropriate actions required or permitted to be taken by the Settlement Class pursuant to the Settlement Agreement to effectuate its terms, and also are expressly authorized to enter into any modifications or amendments to the Settlement Agreement on behalf of the Settlement Class which they deem appropriate in order to carry out the spirit of this Settlement Agreement and to ensure fairness to the Settlement Class.

132. **Construction**. This Agreement shall be deemed to have been drafted by the Settling Parties, and any rule that a document shall be interpreted against the drafter shall not apply to this

Agreement. Plaintiffs and Eisner each acknowledge that each have been advised and are represented by legal counsel of their own choosing throughout the negotiations preceding execution of this Agreement and have executed the Agreement after having been so advised.

133. Should any part, term, or provision of this Agreement be declared or determined by any court or tribunal to be illegal or invalid, the Parties agree that the Court may modify such provision to the extent necessary to make it valid, legal, and enforceable. In any event, such provision shall be separable and shall not limit or affect the validity, legality or enforceability of any other provision hereunder.

134. All dollar amounts are in United States dollars (USD).

135. **Cooperation of Parties**. In good faith, the Settling Parties (i) acknowledge that it is their intent to consummate this Settlement Agreement; and (ii) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Settlement Agreement, and (iii) to exercise their best efforts to accomplish the terms and conditions of this Settlement Agreement.

136. **Obligation to Meet and Confer**. Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Settling Parties shall consult with each other and certify to the Court that they have consulted in good faith.

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

138. **Confidentiality**. To the extent permitted by ethics rules, the Parties agree that all drafts, discussions, negotiations, documentation or other information prepared in relation to this Agreement, including the Parties' communications regarding settlement negotiations and the drafting of this Agreement, shall be treated as strictly confidential and may not, absent a court order, be disclosed to any person other than the Parties' counsel, and only for purposes of the Action and Settlement. This paragraph shall not be construed to limit or impede the Notice requirements contained in this Agreement, nor shall this paragraph be construed to prevent Class Counsel or Defendants' Counsel from notifying or explaining that the action has settled or limit the representations that the Parties or their counsel may make to the Court to assist in the Court's evaluation of the Settlement, Preliminary Approval, Final Approval, and any objection to the Settlement's terms. Eisner may also provide information about the Agreement to its attorneys, members, partners, insurers, brokers, agents, and other persons or entities as required by securities laws, other applicable laws and regulations, and as necessary to effect the Settlement. All agreements made and orders entered during the course of the Action relating to the confidentiality of information shall survive this Settlement Agreement.

139. **Governing Law**. The Agreement shall be construed in accordance with, and be governed by, the laws of the State of Minnesota, without regard to the principles thereof regarding choice of law.

140. **Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all signatories do not sign the same counterparts. Original signatures are not required. Any signature submitted electronically, by facsimile, or through e-mail of an Adobe PDF shall be deemed an original.

141. **Notices**. All notices to Class Counsel provided for herein, shall be sent by overnight mail and email to:

Philip J. Krzeski
**CHESTNUT CAMBRONNE PLLC**
100 Washington Ave. S., Suite 1700
Minneapolis, MN 55401

David Goodwin
**GUSTAFSON GLUEK PLLC**
Canadian Pacific Plaza
120 South 6th Street, Suite 2600
Minneapolis, MN 55402
Telephone: (612) 333-8844
dgoodwin@gustagsongluek.com

Raina Borrelli
**STRAUSS BORRELLI PLLC**
980 N. Michigan Avenue, Suite 1610
Chicago, Illinois 60611

William B. Federman
**FEDERMAN & SHERWOOD**
10205 N. Pennsylvania Ave.
Oklahoma City, Oklahoma 73120

All notices to Eisner provided for herein, shall be sent by overnight mail and email to:

Claudia D. McCarron
Jordan S. O'Donnell
**MULLEN COUGHLIN LLC**
426 W. Lancaster Avenue, Suite 200
Devon, PA 19333
Telephone: (267) 930-4787
cmccarron@mullen.law
jsodonnell@mullen.law

Ryan C. Ellis
**LIND, JENSEN, SULLIVAN & PETERSON**

901 Marquette Avenue South, Suite 1900
Minneapolis, MN 55402
Telephone: (612) 333-3637
ryan.ellis@lindjensen.com

The notice recipients and addresses designated above may be changed by written notice.

142. **Authority**. Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

Signed by:
By: ____________________ Date: 5/12/2026
F090BCD67E1C4D1...
Christopher Niosi and Timothy Rushing

Signed by:
By: Ryan Hiatt Date: 5/12/2026
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Ryan Hiatt

By: ____________________ Date: ____________________
Andrew Marston

By: ____________________ Date: ____________________
Robert Crist

By: ____________________ Date: ____________________
Rebecca L. Lemmons

By: ____________________ Date: ____________________
David Fallen

By: Chris Ouellette (May 4, 2026 11:53:05 PDT) Date: ____________________
Chris Ouellette

By: ____________________ Date: ____________________
Hannah Watzka

By: ____________________ Date: ____________________
Timothy Rushing

901 Marquette Avenue South, Suite 1900
Minneapolis, MN 55402
Telephone: (612) 333-3637
ryan.ellis@lindjensen.com

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By: ____________________________ Date: __________________
Christopher Niosi and Timothy Rushing

By: ____________________________ Date: __________________
Ryan Hiatt

Signed by:
Andy Marston
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By: ____________________________ Date: 5/12/2026 | 7:32 PM PDT
Andrew Marston

By: ____________________________ Date: __________________
Robert Crist

By: ____________________________ Date: __________________
Rebecca L. Lemmons

By: ____________________________ Date: __________________
David Fallen

By: Chris Ouellette (May 4, 2026 11:53:05 PDT) Date: __________________
Chris Ouellette

By: ____________________________ Date: __________________
Hannah Watzka

By: ____________________________ Date: __________________
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By: ____________________________ Date: __________________
Christopher Niosi and Timothy Rushing

By: ____________________________ Date: __________________
Ryan Hiatt

By: ____________________________ Date: __________________
Andrew Marston

By: Robert Crist Date: May 4, 2026
Robert Crist

By: ____________________________ Date: __________________
Rebecca L. Lemmons

By: ____________________________ Date: __________________
David Fallen

By: ____________________________ Date: __________________
Chris Ouellette

By: ____________________________ Date: __________________
Hannah Watzka

By: ____________________________ Date: __________________
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Christopher Niosi and Timothy Rushing

By: ____________________ Date: ____________
Ryan Hiatt

By: ____________________ Date: ____________
Andrew Marston

By: ____________________ Date: ____________
Robert Crist

Signed by:
By: Rebecca L. Lemmons Date: 5/2/2026
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Rebecca L. Lemmons

By: ____________________ Date: ____________
David Fallen

By: ____________________ Date: ____________
Chris Ouellette

By: ____________________ Date: ____________
Hannah Watzka

By: ____________________ Date: ____________
Timothy Rushing

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Andrew Marston

By: ____________________________ Date: __________________
Robert Crist

By: ____________________________ Date: __________________
Rebecca L. Lemmons

By: David Fallen Date: __________________
David Fallen

By: ____________________________ Date: __________________
Chris Ouellette

By: ____________________________ Date: __________________
Hannah Watzka

By: ____________________________ Date: __________________
Timothy Rushing

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Ryan Hiatt

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Andrew Marston

By: ____________________________ Date: __________________
Robert Crist

By: ____________________________ Date: __________________
Rebecca L. Lemmons

By: ____________________________ Date: __________________
David Fallen

By: Chris Ouellette (May 4, 2026 11:53:05 PDT) Date: __________________
Chris Ouellette

By: ____________________________ Date: __________________
Hannah Watzka

By: ____________________________ Date: __________________
Timothy Rushing

901 Marquette Avenue South, Suite 1900
Minneapolis, MN 55402
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By: ______________________________ Date: ____________________
Christopher Niosi and Timothy Rushing

By: ______________________________ Date: ____________________
Ryan Hiatt

By: ______________________________ Date: ____________________
Andrew Marston

By: ______________________________ Date: ____________________
Robert Crist

By: ______________________________ Date: ____________________
Rebecca L. Lemmons

By: ______________________________ Date: ____________________
David Fallen

By: ______________________________ Date: ____________________
Chris Ouellette

By: Hannah Watzka (May 4, 2026 22:35:32 EDT) Date: ____________________
Hannah Watzka

By: ______________________________ Date: ____________________
Timothy Rushing

901 Marquette Avenue South, Suite 1900
Minneapolis, MN 55402
Telephone: (612) 333-3637
ryan.ellis@lindjensen.com

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By: ____________________________ Date: __________________
Christopher Niosi and Timothy Rushing

By: ____________________________ Date: __________________
Ryan Hiatt

By: ____________________________ Date: __________________
Andrew Marston

By: ____________________________ Date: __________________
Robert Crist

By: ____________________________ Date: __________________
Rebecca L. Lemmons

By: ____________________________ Date: __________________
David Fallen

By: ____________________________ Date: __________________
Chris Ouellette

By: ____________________________ Date: __________________
Hannah Watzka

By: ____________________________ Date: 05 / 05 / 2026
Timothy Rushing

DocuSigned by:
Phil Krzeski
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By: ____________________________ Date: 5/13/2026 | 4:10 AM PDT
Philip J. Krzeski
**CHESTNUT CAMBRONNE PLLC**

By: ____________________________ Date: __________________
David Goodwin
**GUSTAFSON GLUEK PLLC**

By: ____________________________ Date: __________________
Raina Borrelli
**STRAUSS BORRELLI PLLC**

By: ____________________________ Date: __________________
William B. Federman
**FEDERMAN & SHERWOOD**

*Settlement Class Counsel*

By: ____________________________ Date: __________________
Philip J. Krzeski
**CHESTNUT CAMBRONNE PLLC**

By: ____________________________ Date: May 4, 2026
David Goodwin
**GUSTAFSON GLUEK PLLC**

By: Raina Borrelli Date: 05 / 13 / 2026
Raina Borrelli
**STRAUSS BORRELLI PLLC**

By: ____________________________ Date: __________________
William B. Federman
**FEDERMAN & SHERWOOD**

*Settlement Class Counsel*

By: ____________________________ Date: __________________
Philip J. Krzeski
**CHESTNUT CAMBRONNE PLLC**

By: ____________________________ Date: __________________
David Goodwin
**GUSTAFSON GLUEK PLLC**

By: ____________________________ Date: __________________
Raina Borrelli
**STRAUSS BORRELLI PLLC**

By: ____________________________ Date: 5/5/2026
William B. Federman
**FEDERMAN & SHERWOOD**

*Settlement Class Counsel*

By: ______________________________ Date: _5/5/26________________
EisnerAmper LLP and Eisner Advisory Group LLC

By: ______________________________ Date: 5/11/2026
Claudia D. McCarron

*Counsel for Defendants*

# — EXHIBIT A —

# CLAIM FORM

***In re Eisner Advisory Group Data Breach Litigation***
***Case No. 0:25-cv-01409-LMP-DTS***
***United States District Court District of Minnesota***

**USE THIS FORM TO MAKE A CLAIM FOR A PRO RATA CASH PAYMENT AND/OR DOCUMENTED MONETARY LOSSES PAYMENT**

For more information, call 1-888-888-8888, email XXX@XXXXXX.com or visit www.website.com

**The DEADLINE to submit this Claim Form online (or have it postmarked for mailing) is**

**[XXXX XX, 2026]**

## I. GENERAL INSTRUCTIONS

If you were notified that your private information was potentially subject to unauthorized access in a Data Security Incident experienced by Defendants, EisnerAmper LLC and Eisner Advisory Group LLC ("Eisner" or "Defendants"), you are a Settlement Class Member. The event that caused your data to be potentially subject to unauthorized access is referred to here as the "Data Incident."

The Settlement establishes a $1,050,000.00 fund to resolve the claims of the Settlement Class, and to fund all relief of the Settlement Class, including the Notice and Administrative Expenses, Service Awards, and the Attorneys' Fees and Expenses Award. As a Settlement Class Member, you are eligible for cash payments as reimbursement for your time and money spent in response to the Data Incident (such as money spent on credit monitoring), as well as for any money you lost as a result of incidents of fraud or identity theft caused by the Data Incident. You must fill out this Claim Form to receive these benefits. **You may submit a claim for one or more of these benefits. All payments for Valid Claims under the Settlement, including those for Pro Rata Cash Payment and Documented Monetary Losses, may be reduced pro rata based on the total number of Valid Claims.**

The benefits are as follows:

### a. Documented Monetary Losses

Settlement Class Members may submit a Claim Form for reimbursement of Documented Monetary Losses, fairly traceable to the Data Security Incident up to $5,000 per Settlement Class Member ("Documented Monetary Losses"). To receive a payment for Documented Monetary Losses, a Settlement Class Member must attest that the losses or expenses were incurred as a result of the Data Incident and will be required to submit reasonable third-party documentation. This includes:

- Unreimbursed losses relating to fraud or identity theft;
- Professional fees including attorneys' fees, accountants' fees, and fees for credit repair services;
- Costs associated with freezing or unfreezing credit with any credit reporting agency;
- Credit monitoring costs that were incurred on or after the Data Incident through the date of claim submission;
- Parking expenses or other transportation expenses for trips to a financial institution to address fraudulent charges or receive a replacement payment card;
- Instances of verified fraud such as fraudulent bank or credit card charges, fraudulent tax filings, fraudulent opening/closing of bank or credit accounts, unemployment filings, or other fraudulent actions taken using your information from the Data Incident;
- Miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges; and

- Other expenses that are reasonably attributable to the Data Incident that were not reimbursed.

These Monetary Losses must be documented. You must submit copies of documents supporting your claims, such as receipts or other documentation. "Self-prepared" documents, such as handwritten receipts, will not count as documentation, but you can submit them as clarification to other, official documents.

**b. Identity Theft Protection and Credit Monitoring**

Settlement Class Members may submit a claim for two (2) years of single-bureau credit monitoring and at least $1,000,000 of identity theft insurance. Settlement Class Members must affirmatively request Identity Theft Protection and Credit Monitoring by indicating such request on the Claim Form, and codes will be sent either to an email address provided by the Settlement Class Member or, if they do not have an email address, mailed to the address provided on the Claim Form.

**c. Pro Rata Cash Payment**

Settlement Class Members may submit a claim for a Pro Rata Cash Payment estimated at $100 per claimant. Settlement Class Cash Payments will be subject to a pro rata increase from the Settlement Fund in the event the amount of Valid Claims is insufficient to exhaust the entire Settlement Fund. Similarly, in the event the amount of Valid Claims exhausts the amount of the Settlement Fund, the amount of the Cash Payments may be reduced pro rata accordingly. The final amount of this benefit shall be determined pro rata based on the amount remaining in the Settlement Fund following payment of the Attorney's Fees and Expenses Award, Service Awards, Notice and Administrative Expenses, costs of Identity Theft Protection and Credit Monitoring, claims for Documented Monetary Losses, and claims for CCPA Payments. There will be no maximum payment amount for Pro Rata Cash Payments. Any pro rata increases or decreases to Pro Rata Cash Payments will be on an equal percentage basis.

**d. CCPA Payment**

In addition to all other Settlement benefits, California Subclass Members may submit a claim for a fifty-dollar ($50.00) cash payment for the CCPA claim they have brought as California residents against Eisner. The CCPA Payment may be pro rata decreased if insufficient funds remain following the payment of any Attorneys' Fees and Expenses Award, any Service Awards, Costs of Claims Administration, claims for Documented Monetary Losses, and the costs for Identity Theft Protection and Credit Monitoring.

**Completing the Claim Form**

This Claim Form may be submitted online at **(WEBSITE HERE)** or completed and mailed to the address below. Please type or legibly print all requested information in blue or black ink. If submitting by U.S. mail, mail your completed Claim Form, including any supporting documentation, to:

In Re Eisner Advisory Group Data Breach
Settlement Administrator
P.O. Box XXXX XXXXX, XX XXXXX

## II. CLAIMANT INFORMATION

The Settlement Administrator will use this information for all communications regarding this Claim Form and the Settlement. If this information changes prior to distribution of cash payments, you must notify the Settlement Administrator in writing at the address above.

Claimant Name: ______________________________ ______________________________

First Name MI Last Name

Street Address:

______________________________________________________________

Street Address Second Line:

______________________________________________________________

City: ______________________________ State: ___ ___ Zip Code: ___ ___ ___

Class Member ID:

______________________________________________________________

If you received a notice of this Settlement by U.S. mail, your Class Member ID is on the envelope or postcard.
If you received a notice of this Settlement by email, your Class Member ID is in the email.

E-mail Address: ______________________________

[optional] Daytime Phone Number: ( ___ ___ ___ ) ___ ___ ___ - ___ ___ ___ ___

[optional] Evening Phone Number: ( ___ ___ ___ ) ___ ___ ___ - ___ ___ ___ ___

**<u>You may submit a claim for one or more of these benefits</u>:**

### 1) CASH PAYMENT

☐ Please check this box here if would you like to receive a cash payment under the Settlement?

** The payment under this option will be increased or decreased pro rata based on the balance of the Settlement Fund after the payment of other benefits and attorneys' and settlement administrator fees and expenses, and the number of Settlement Class Members who submit valid claims for payment.

### 2) IDENTITY THEFT AND CREDIT MONITORING

☐ Please check this box here if you are requesting to receive two (2) years of single-bureau credit monitoring services and at least $1,000,000 of identity theft insurance.

### 3) CCPA PAYMENT

☐ Please check this box here if you are a California Subclass Members requesting a claim for a fifty-dollar ($50.00) cash payment for the CCPA claim they have brought as California residents against Eisner.

### 4) REIMBURSEMENT FOR DOCUMENTED MONETARY LOSSES

☐ Please check this box here if you are electing to seek reimbursement for unreimbursed **Documented Monetary Losses** and such claimed losses above will total no more than $5,000.00. You must provide reasonable documentation of the claimed Documented Monetary Losses. Self-attested documentation will not suffice.

**Making a Claim for Documented Monetary Losses**

In order to make a claim for Documented Monetary Losses, **you must** (i) fill out the information below or fill out a separate sheet to be submitted with this Claim Form; (ii) sign the Certification at the end of this Claim Form (section III); and (iii) include reasonable documentation supporting each claimed loss along with this Claim Form. Documented Monetary Losses need to be deemed fairly traceable to the Data Incident by the Settlement Administrator based on the documentation you provide and the facts of the Data Incident.

**Failure to meet the requirements of this section may result in your claim being rejected by the Settlement Administrator.**

| **Documented Monetary Loss Type** (Fill all that apply) | **Approximate Date of Loss** | **Amount of Loss** | **Description of Supporting Reasonable Documentation** (Identify what you are attaching and why) |
|---|---|---|---|
| ☐ Unreimbursed fraud losses or charges. | __/__/__ (mm/dd/yy) | $ ____.__ | *Examples: Account statement with unauthorized charges highlighted; Correspondence from financial institution declining to reimburse you for fraudulent charges.* Your documents: ______________ |
| ☐ Professional fees incurred in connection with identity theft or falsified tax returns. | __/__/__ (mm/dd/yy) | $ ____.__ | *Examples: Receipt for hiring service to assist you in addressing identity theft; Accountant bill for re-filing tax return.* Your documents: ______________ |
| ☐ Credit freeze. | __/__/__ (mm/dd/yy) | $ ____.__ | *Example: Receipts or account statements reflecting purchases made for credit monitoring and insurance services.* Your documents: ______________ |
| ☐ Credit Monitoring ordered after receipt of the Data Incident Notice. | __/__/__ (mm/dd/yy) | $ ____.__ | *Example: Receipts or account statements reflecting purchases made for credit monitoring and insurance services.* Your documents: ______________ |
| ☐ Miscellaneous expenses such as notary, fax, postage, gas, copying, mileage, and long-distance telephone charges. | __/__/__ (mm/dd/yy) | $ ____.__ | *Examples: Example: Phone bills, gas receipts, postage receipts; detailed list of locations to which you traveled (i.e. police station, IRS office) why you traveled there (i.e. police report or letter from IRS re: falsified tax return) and number of miles you traveled to remediate or address issues related to the Data Incident.* Your documents: ______________ |
| ☐ Lost interest or other damages resulting from a delayed state and/or federal tax refund in connection with fraudulent tax return filing. | __/__/__ (mm/dd/yy) | $ ____.__ | *Examples: Letter from IRS or state about tax fraud in your name; Documents reflecting length of time you waited to receive federal and/or state tax refund and the amount of any tax refund that you did not receive due to the tax fraud.* Your documents: ______________ |

| | | | |
|---|---|---|---|
| ☐ Other (provide detailed description). | __ __ / __ __ / __ __ (mm/dd/yy) | $ __ __ __ __ . __ __ | *Please provide detailed description below or in a separate document submitted with this Claim Form.* Your documents: ________________ |
| ☐ Fraudulent bank or credit card charges. | __ __ / __ __ / __ __ (mm/dd/yy) | $ __ __ __ __ . __ __ | *Examples: Account statement with unauthorized charges highlighted; correspondence with credit card company disputing the charges.* Your documents: ________________ |
| ☐ Fraudulent tax filings. | __ __ / __ __ / __ __ (mm/dd/yy) | $ __ __ __ __ . __ __ | *Examples: Letter from IRS or state about tax fraud in your name; Accountant bill for re-filing tax return.* Your documents: ________________ |
| ☐ Opening of bank accounts and/or credit cards in your name. | __ __ / __ __ / __ __ (mm/dd/yy) | $ __ __ __ __ . __ __ | *Examples: Notification from bank of new credit card or account; correspondence with bank about closing the account.* Your documents: ________________ |
| ☐ Government benefits taken in your name. | __ __ / __ __ / __ __ (mm/dd/yy) | $ __ __ __ __ . __ __ | *Examples: Notification of unemployment benefits being taken; correspondence with agency regarding issue.* Your documents: ________________ |

If you **do not submit** reasonable documentation supporting a claim for Documented Monetary Losses, or your claim for an Documented Monetary Losses payment is rejected by the Settlement Administrator for any reason and you do not cure the defect, only your claim for a Pro Rata Cash Payment, if such claim is made, will be considered.

## III. CERTIFICATION

By submitting this Claim Form, I certify that I am eligible to make a claim in this Settlement and that the information provided in this Claim Form and any attachments are true and correct. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I understand that this claim may be subject to audit, verification, and Court review and that the Settlement Administrator may require supplementation of this Claim or additional information from me. I also understand that all claims for payments under this Settlement are subject to the availability of settlement funds and may be reduced in part or in whole, depending on the type of claim and the determinations of the Settlement Administrator. If your claim for a monetary benefit is approved, please select your preferred payment method below:

☐ Check
☐ PayPal
☐ Venmo

Signature: ________________________________ Date: ______________________

Print Name: _______________________________

# — EXHIBIT B —

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

# If you were an individual who was affected by the Eisner Advisory Data Incident discovered in September 2023, including but not limited to those who were sent a notice letter by Eisner concerning the Data Incident, you may be eligible for benefits from a class action Settlement.

*A federal court authorized this Notice. This is not a solicitation from a lawyer.*

- A Settlement has been reached in a class action lawsuit against EisnerAmper LLP and Eisner Advisory Group LLC ("Eisner" or "Defendants") arising from the Action, which alleged claims for negligence, breach of third-party beneficiary contract, breach of implied contract, unjust enrichment, declaratory judgment, breach of fiduciary duty, breach of confidence, and violation of the California Consumer Privacy Act, Calif. Civil Code § 1798.100.
- You are included in the "Settlement Class" if you were impacted by the "Data Incident" affecting Eisner on or around September 4 through September 9, 2023, including but not limited to those who were sent a notice letter by Eisner concerning the Data Incident.
- Your legal rights are affected whether you act or do not act. Read this notice carefully.

| YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT | |
|---|---|
| DO NOTHING | If you do nothing, you will not receive benefits. You will also give up your rights to be part of any other lawsuit against the Defendants for the legal claims made in this case and released by the Settlement Agreement. |
| SUBMIT A CLAIM FORM | If you want to be eligible to receive benefits, you must submit a Claim Form. Claim Forms must be submitted electronically via the Settlement Website by **Month XX, 2026** or postmarked no later than **Month XX, 2026**. |
| EXCLUDE YOURSELF FROM THE SETTLEMENT | If you exclude yourself or "Opt-Out", you will not receive benefits. This is the only option that allows you to be part of any other lawsuit against the Defendants for the legal claims made in this case and released by the Settlement Agreement. |
| OBJECT TO THE SETTLEMENT | If you object, you must write to the Court with reasons why you do not agree with the Settlement. |
| GO TO THE FINAL APPROVAL HEARING | You may ask the Court for permission for you or your attorney to speak about your objection at the Final Approval Hearing. |

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. If the Court denies final approval, the Settlement will be void and the litigation will continue against the Defendant.

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## BASIC INFORMATION

### 1. Why is this Notice being provided?

The Court directed that this Notice be provided because you have a right to know about a proposed Settlement that has been reached in a class action lawsuit and about all of your options before the Court decides whether to grant final approval to the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The case is titled *In re Eisner Advisory Group Data Breach Litigation*, pending in the United States District Court for the District of Minnesota (No. 0:25-cv-01409-LMP-DTS), and refers to any cause of action that was asserted, or could have been asserted, against the Defendants relating to the Data Incident, by Plaintiffs individually and on behalf of the Settlement Class and/or the California Subclass. This is referred to as the "Action." The people who filed the lawsuit are called Plaintiffs and the organizations they sued, EisnerAmper LLP and Eisner Advisory Group LLC (collectively, "Eisner"), are called Defendants.

### 2. What is this lawsuit about?

Eisner determined that there was unauthorized access to a limited set of information between September 4, 2023, and September 9, 2023, and that personally identifiable information ("PII") could have been subject to unauthorized access, including name, Social Security number, financial account information, date of birth, medical information, and health insurance information.

The Amended Consolidated Class Action Complaint filed in the District of Minnesota by all Plaintiffs, alleged claims against Eisner for negligence, breach of third-party beneficiary contract, breach of fiduciary duty, breach of confidence, unjust enrichment, and violation of the California Consumer Privacy Act, Calif. Civil Code § 1798.100 (on behalf of Plaintiff Robert Crist and all other California citizens).

### 3. What is a class action?

In a class action, one or more people called "Class Representatives" or "Plaintiffs" (in this Action, Christopher Niosi, Ryan Hiatt, Andrew Marston, Robert Crist, Rebecca L. Lemmons, David Fallen, Chris Ouellette, Hannah Watzka and Timothy Rushing) sue on behalf of people who have similar claims. Together, all these people are called the Settlement Class. One court resolves the issues for all Settlement Class Members, except for those who exclude themselves from the Class.

### 4. Why is there a Settlement?

The Court did not decide in favor of the Plaintiffs or the Defendants. Instead, the Plaintiffs negotiated a Settlement with Eisner that allows them to avoid the risks and costs of lengthy and uncertain litigation and the uncertainty of a trial. The Class Representatives and their attorneys think the Settlement is best for all Class Members.

## WHO IS INCLUDED IN THE SETTLEMENT?

### 5. How do I know if I am part of the Settlement?

The Settlement includes all persons who were affected by the Data Incident, including but not limited to those who were sent a notice letter by Eisner concerning the Data Incident discovered in September of 2023.

A "California Subclass Member" means Settlement Class Members, as defined above, who reside in California.

### 6. Are there exceptions to being included in the Settlement?

Yes, the Settlement Class specifically excludes: (i) Eisner, any entity in which Eisner has a controlling interest, and Eisner's officers, directors, legal representatives, successors, subsidiaries, and assigns; (ii) any judge, justice, or judicial officer presiding over this matter and members of their immediate families and their judicial staff; (iii) all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; (iv) the attorneys representing the Settling Parties in the Action; and (v) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the Data Incident, or who pleads nolo contendere to any such charge.

### 7. I am still not sure if I am included.

If you are still not sure whether you are included, call 1-___-___-____, email XXXX@XXXXXXX.COM or visit www.website.com for more information.

## THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

### 8. What does the Settlement provide?

The Defendants have agreed to pay a total of $1,050,000 to settle the Action. The "Settlement Fund" will be used to resolve the claims of the Settlement Class, and to fund all relief to the Settlement Class as described herein, including the Notice and Administrative Expenses, Service Awards, and the Attorneys' Fees and Expenses Award.

### 9. What can I get from the Settlement?

If you are a Settlement Class Member, you may file a claim to receive benefits from the Settlement Fund. The following benefits will be available to Settlement Class Members who submit valid and timely claim forms.

a. Reimbursement of Documented Monetary Losses: Settlement Class Members may submit a claim form for reimbursement of documented monetary losses, fairly traceable to the Data Incident up to $5,000 per Settlement Class Member ("Documented Monetary Losses"). To receive a payment for Documented Monetary Losses, a Settlement Class Member must attest that the losses or expenses were incurred as a result of the Data Incident and will be required to submit reasonable third-party documentation. Documented Monetary Losses may include but are not limited to: (i) unreimbursed out of pocket credit monitoring costs that were incurred on or after September 4, 2023, through the Claims Deadline; (ii) unreimbursed losses associated with actual fraud or identity theft; and (iii) unreimbursed bank fees, long distance phone charges, postage, or gasoline for local travel. Settlement Class Members shall not be reimbursed for expenses if they have been reimbursed for the same expenses from another source.

b. Identity Theft Protection and Credit Monitoring: Settlement Class Members may submit a claim for two (2) years of single-bureau credit monitoring and at least $1,000,000 of identity theft insurance. Settlement Class Members must affirmatively request Identity Theft Protection and Credit Monitoring by indicating such request on the Claim Form, and codes will be sent either to an email address or mailed to the address provided on the Claim Form.

c. Pro Rata Cash Payment: Settlement Class Members may submit a claim for a Pro Rata Cash Payment estimated at $100 per claimant. Settlement Class Cash Payments will be subject to a pro rata increase from the Settlement Fund in the event the amount of Valid Claims is insufficient to exhaust the entire Settlement Fund. Similarly, in the event the amount of Valid Claims exhausts the amount of the Settlement Fund, the amount of the Cash Payments may be reduced pro rata accordingly.

d. CCPA Payment: In addition to all other Settlement benefits, California Subclass Members may submit a claim for a $50 cash payment for the CCPA claim they have brought as California residents against Eisner. The CCPA Payment may be *pro rata* decreased if insufficient funds remain following the payment of any Attorneys' Fees and Expenses Award, any Service Awards, Costs of Claims Administration, claims for Documented Monetary Losses, and the costs for Identity Theft Protection and Credit Monitoring.

e. Business Practice Enhancements: The Settling Parties agree that as part of the settlement consideration, Eisner has adopted, paid for, implemented, and will maintain certain business practice changes related to information security to safeguard personal information on its systems ("Business Practice Changes"). Eisner will detail these business practice changes to Class Counsel in a confidential declaration.

## HOW TO GET SETTLEMENT BENEFITS

### 10. How do I get Settlement benefits?

You must file a Settlement Claim within 90 days of the Notice Date to be eligible to receive benefits. Settlement Class Members may submit Claim Forms to the Settlement Administrator via return postcard, electronically via the Settlement Website or otherwise physically by mail to the Settlement Administrator. Claim Forms must be submitted electronically or postmarked no later than **Month XX, 2026**.

### 11. When will I get my benefits?

The Court will hold a Fairness Hearing at __:_0 _.m. on Month XX, 2026, to determine whether the Settlement Agreement should receive Final Approval by the Court. If the Court approves the Settlement, there may be appeals. It is always uncertain whether any appeals can be resolved favorably, and resolving them can take time, perhaps more than a year. Settlement benefits will be distributed after the Settlement is approved and becomes final.

### 12. What am I giving up to get Settlement benefits or stay in the Settlement?

Unless you exclude yourself from the Settlement, you will give up your right to sue, continue to sue, or be part of any other lawsuit against Defendants and certain Released Parties for any claim related to the Action or released by the Settlement Agreement. You will be legally bound by all of the Court's orders, as well as the "Released Claims," below.

"Released Parties" means Defendants, Eisner Amper LLP, Lurie LLP, and any and all of their present, past, or future parent companies, partnerships, subsidiaries, affiliates, divisions, employees, contractors, agents, servants, members, managers, providers, partners, principals, directors, shareholders, successors, assigns, owners, and customers ("Released Entities"), and all of their direct or indirect heirs, executors, estates, affiliates, divisions, predecessors, successors, assigns, parents, or subsidiaries, owners, associates, employers, employees, agents, consultants, contractors, independent contractors, vendors, attorneys, accountants, clients, customers, insurers, their third-party administrators, coinsurers, reinsurers, as well as successors in interest, assigns, firms, trustees, trusts, corporations, officers, directors, general or limited partners of the aforementioned Released Entities, any Eisner managed entities, and any and all other entities in which Eisner has a controlling interest or that are affiliated with it, and including, without limitation, any Person related to any such entity who is, was, or could have been named as a defendant in the Action.

### 13. What are the Released Claims?

"Released Claims" mean any and all past, present, and future rights, liabilities, actions, demands, damages, penalties, costs, attorneys' fees, losses, remedies, claims, and causes of action including, without limitation, any causes of action arising under or premised upon any statute, constitution, law, ordinance, treaty, regulation, or common law of any country, state, province, county, city, or municipality, consumer protection statutes in effect in any states in the United States. violations of the California Consumer Privacy Act, Calif. Civil Code § 1798.100; violations of any federal or state data breach notification statute; negligence; negligence *per se*; breach of contract; breach of third-party beneficiary contract; breach of implied contract; breach of fiduciary duty; breach of confidence; invasion of privacy; fraud; misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment; wantonness; failure to provide adequate notice pursuant to any breach notification statute or common law duty; and including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys' fees and expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, and/or the appointment of a receiver, whether known or unknown, liquidated or unliquidated, existing or potential, accrued or unaccrued, fixed or contingent, direct or derivative, and any other form of legal statutory, or equitable relief that either has been asserted, was asserted, or could have been asserted, by any Settlement Class Member against any of the Released Parties (including, but not limited to, assigned claims and any and all "Unknown Claims" as defined below) based on, relating to, concerning or arising out of the Data Incident or the allegations, transactions, occurrences, facts, or circumstances alleged in or otherwise described in the Action and/or the Complaint. Released Claims shall not include the right of any Settlement Class Member or any of the Released Parties to enforce the terms of the settlement contained in this Settlement Agreement and shall not include the claims of Settlement Class Members who have timely excluded themselves from the Settlement Class consistent with the terms and requirements of this Agreement. More information about the Released Claims can be found in the Settlement Agreement and Release, available at www.website.com.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

### 14. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must individually sign and timely submit written notice of the intent to opt out to the designated Post Office box established by the Claims Administrator. The written notice must clearly manifest a Person's intent to be excluded from the Settlement Class.

The request must include: The individual's full name, current address, telephone number, e-mail address, personal signature, and the words "Request for Exclusion" or a comparable statement that the individual does not wish to participate in the Settlement at the top of the communication.

To be effective, all Requests for Exclusions must be postmarked no later than **Month XX, 2026**, to:

*In re Eisner Advisory Group Data Breach Litigation* Settlement Administrator
P.O. Box _____
City, ST _____-____

### 15. If I exclude myself, can I still get benefits from the Settlement?

No. If you exclude yourself from the Settlement, you will not receive benefits because you will no longer be eligible for them.

### 16. If I do not exclude myself, can I sue the Defendants for the same thing later?

No. If you stay in the Settlement (*i.e.*, do nothing or do not exclude yourself from the Settlement), you give up any right to separately sue the Defendants or Released Parties for the claims released by the Settlement Agreement and Release.

## THE LAWYERS REPRESENTING YOU

### 17. Do I have a lawyer in this case?

Yes. The Court appointed Philip Krzeski of Chestnut Cambronne PLLC, David Goodwin of Gustafson Gluek PLLC, Raina Borrelli of Strauss Borrelli PLLC, and William Federman of Federman & Sherwood to represent you and other Settlement Class Members. These lawyers are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

### 18. How will Class Counsel be paid?

If the Settlement is approved and becomes final, Class Counsel will ask the Court to award attorneys' fees of up to 1/3 of the Settlement Fund ($350,000) plus reimbursement of reasonable out-of-pocket litigation expenses, as well as a $2,500 service award for each of the Class Representatives. If approved, these amounts will be deducted from the Settlement Fund before making payments to Class Members who submit Valid Claims.

## OBJECTING TO THE SETTLEMENT

### 19. How do I tell the Court that I do not like the Settlement?

If you are a Class Member, you can object to the Settlement if you do not like it or a portion of it. You can give reasons why you think the Court should not approve the Settlement. The Court will consider your views before making a decision. To object, you must file a written objection with the Court, and mail copies to Class Counsel, Defense Counsel, and the Settlement Administrator. Your objection must be filed and postmarked by **Month XX, 2026**.

Your objection must include:

1) the objector's full name, address, telephone number, and e-mail address;
2) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of notice, copy of original notice of the Data Incident);
3) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable;
4) a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class;
5) the identity of any and all counsel representing the objector in connection with the objection;
6) a statement as to whether the objector and/or his or her counsel will appear at the Final Fairness Hearing;
7) a list of all settlements to which the objector and/or their counsel have objected in the preceding three (3) years; and
8) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation).

Your objection must be filed with the Court and copies must be mailed to Class Counsel, Defense Counsel and the Settlement Administrator using the addresses below.

| Court | Class Counsel | Defense Counsel | Settlement Administrator |
|---|---|---|---|
| United States District Court for the District of Minnesota<br>316 N. Robert Street<br>St. Paul, MN 55101 | Philip Krzeski<br>Chestnut Cambronne PLLC<br>100 Washington Ave. S., Suite 1700<br>Minneapolis, MN 55401<br>David Goodwin<br>Gustafson Gluek PLLC<br>Canadian Pacific Plaza<br>120 South 6th Street, Suite 2600<br>Minneapolis, MN 55402<br><br>Raina Borrelli<br>Strauss Borrelli PLLC<br>980 N. Michigan Avenue, Suite 1610<br>Chicago, IL 60611<br><br>William B. Federman | Claudia D. McCarron<br>Jordan S. O'Donnell<br>Mullen Coughlin LLC<br>426 W. Lancaster Avenue, Suite 200<br>Devon, PA 19333<br><br>Ryan C. Ellis<br>Lind, Jensen, Sullivan & Peterson<br>901 Marquette Avenue South, Suite 1900<br>Minneapolis, MN 55402 | *In re Eisner Advisory Group Data Breach Litigation*<br>Settlement Administrator<br>P.O. Box _____<br>City, ST _____-____ |

| | | | |
|---|---|---|---|
| | Federman & Sherwood<br>10205 N. Pennsylvania Ave.<br>Oklahoma City, OK 73120 | | |

### 20. What is the difference between objecting to and excluding myself from the Settlement?

Objecting is telling the Court that you do not like something about the Settlement. Excluding yourself is telling the Court that you do not want to be part of the Class in this Settlement. If you exclude yourself from the Settlement, you have no basis to object because the Settlement no longer applies to you.

## THE COURT'S FINAL APPROVAL HEARING

### 21. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing at __:_0 _.m. on Month __, 2026, to determine whether the Settlement Agreement should receive Final Approval by the Court at the United States District Court for the District of Minnesota 316 N. Robert Street, St. Paul, Minnesota, 55101. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will take into consideration any properly-filed objections and may also listen to people who have asked to speak at the hearing (*see* Question 22). The Court will also decide whether to approve payments of attorneys' fees, costs, and service awards.

### 22. Do I have to come to the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have, but you are welcome to come at your own expense. If you file an objection, you do not have to come to Court to talk about it. You may also hire your own lawyer to attend, at your own expense, but you are not required to do so.

### 23. May I speak at the Final Approval Hearing?

Yes. You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must follow the instructions provided in Question 19 above. You cannot speak at the hearing if you exclude yourself from the Settlement.

## IF YOU DO NOTHING

### 24. What happens if I do nothing?

If you do nothing, you will not receive any benefits from this Settlement and you will be bound by the terms of the Settlement Agreement and Release if it is approved and becomes final. This means you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants or the Released Parties about the issues resolved by this Settlement and released by the Settlement Agreement.

## GETTING MORE INFORMATION

### 25. How do I get more information?

More details are in the Settlement Agreement and Release, which is available at www.website.com. You may also call 1-___-___-___, email xxxx@xxxxxxx.com, or write to the *In re Eisner Advisory Group Data Breach Litigation* Settlement Administrator, P.O. Box _____, City, ST _____-____.

***Please do not call the Court or the Clerk of the Court for additional information. They cannot answer any questions regarding the Settlement or the Action.***

# — EXHIBIT C —

**NOTICE OF CLASS ACTION LAWSUIT AND PROPOSED SETTLEMENT**

THE COURT AUTHORIZED THIS NOTICE. THIS IS NOT A SOLICITATION FROM A LAWYER.

YOU MAY BE ENTITLED TO RECEIVE BENEFITS.

*In re Eisner Advisory Group Data Breach Litigation*
Settlement Administrator
P.O. Box XXXXXX
Los Angeles, CA XXXXX-XXXX

«Barcode»
Postal Service: Please do not mark barcode

ESN: ClaimID: «ClaimID»
PIN: «PIN»
«First1» «Last1»
«CO»
«Addr2»
«Addr1»
«City», «St» «ZIP»
«Country»

Placeholder QR code for website

VISIT THE SETTLEMENT WEBSITE BY SCANNING THE PROVIDED QR CODE

**ESN**

## Claim Form

**TO RECEIVE BENEFITS FROM THIS SETTLEMENT, YOU MUST PROVIDE ALL OF THE INFORMATION BELOW AND YOU MUST SIGN THIS CLAIM FORM. IF THIS CLAIM FORM IS SUBMITTED ONLINE, YOU MUST SUBMIT AN ELECTRONIC SIGNATURE. If mailed, mail this form to:**
***In re Eisner Advisory Group Data Breach Litigation*** **Settlement Administrator, P.O. Box XXXXXX, Los Angeles, CA XXXXX-XXXX.**

**YOUR CLAIM FORM MUST BE SUBMITTED ELECTRONICALLY OR POSTMARKED ON OR BEFORE MONTH XX, 2026.**

**1. CLAIMANT INFORMATION**

**Claimant Name:**

**Street Address:**

**City:** **State:** **ZIP:**

**Phone Number:** — —

**Class Member ID (if you received a notice by U.S. mail, your ID is on the envelope or postcard; if you received a notice by email, your ID is in the email.):**

**E-mail Address:** **Phone Number:**

**2. AFFIRMATION**

By signing below, I swear or attest that the information above is true and accurate. If I am not the above-named person, I swear that I am acting on that person's behalf and have authority to act on his or her behalf. This Claim Form may be researched and verified by the Claims Administrator.

Signature Date (mm/dd/yyyy)

**QUESTIONS? VISIT www.website.com, EMAIL XXXX@XXXXXX.com or CALL 1-XXX-XXX-XXXX**

<<BARCODE>>

**ESN-**<<ClaimID>>

**What is this?** This is notice of a proposed settlement in a class action lawsuit, captioned *In re Eisner Advisory Group Data Breach Litigation*, Case No. 0:25-cv-01409-LMP-DTS (USDC D. Minn.).

**What is this lawsuit about?** Defendants EisnerAmper LLP and Eisner Advisory Group LLC ("Eisner" or "Defendants") determined that there was unauthorized access to a limited set of information between September 4, 2023, and September 9, 2023 and that personally identifiable information ("PII") could have been subject to unauthorized access, including name, Social Security number, financial account information, date of birth, medical information, and health insurance information. The operative Amended Consolidated Class Action Complaint filed in the District of Minnesota, alleged claims against Eisner for negligence, breach of third-party beneficiary contract, breach of fiduciary duty, breach of confidence, unjust enrichment, and violation of the California Consumer Privacy Act, Calif. Civil Code § 1798.100 (on behalf of Plaintiff Robert Crist and all other California citizens).

**Why am I getting this Notice?** The Court directed that this Notice be provided because you have a right to know about a proposed Settlement that has been reached in a class action lawsuit and about all of your options before the Court decides whether to grant final approval to the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. The case is titled *In re Eisner Advisory Group Data Breach Litigation*, pending in the United States District Court for the District of Minnesota (No. 0:25-cv-01409-LMP-DTS), and refers to any cause of action that was asserted, or could have been asserted, against Eisner relating to the Data Incident, by the Plaintiffs, individually and on behalf of the Settlement Class and/or the California Subclass. This is referred to as the "Action."

**What does the Settlement provide?** Eisner has agreed to pay a total of $1,050,000 to settle the Action. The "Settlement Fund" will be used to resolve the claims of the Settlement Class, and to fund all relief to the Settlement Class as described herein, including the Notice and Administrative Expenses, Service Awards, and the Attorneys' Fees and Expenses Award. If you are a Settlement Class Member, you may file a claim to receive benefits from the Settlement Fund. The following benefits will be available to Settlement Class Members who submit valid and timely claim forms.

a. Reimbursement of Documented Monetary Losses: Settlement Class Members may submit a claim form for reimbursement of documented monetary losses, fairly traceable to the Data Incident up to $5,000 per Settlement Class Member ("Documented Monetary Losses"). To receive a payment for Documented Monetary Losses, a Settlement Class Member must attest that the losses or expenses were incurred as a result of the Data Incident and will be required to submit reasonable third-party documentation. Documented Monetary Losses may include but are not limited to: (i) unreimbursed out of pocket credit monitoring costs that were incurred on or after September 4, 2023, through the Claims Deadline; (ii) unreimbursed losses associated with actual fraud or identity theft; and (iii) unreimbursed bank fees, long distance phone charges, postage, or gasoline for local travel. Settlement Class Members shall not be reimbursed for expenses if they have been reimbursed for the same expenses from another source.

b. Identity Theft Protection and Credit Monitoring: Settlement Class Members may submit a claim for two (2) years of single-bureau credit monitoring and at least $1,000,000 of identity theft insurance. Settlement Class Members must affirmatively request Identity Theft Protection and Credit Monitoring by indicating such request on the Claim Form, and codes will be sent either to an email address or mailed to the address provided on the Claim Form.

c. Pro Rata Cash Payment: Settlement Class Members may submit a claim for a Pro Rata Cash Payment estimated at $100 per claimant. Settlement Class Cash Payments will be subject to a pro rata increase from the Settlement Fund in the event the amount of Valid Claims is insufficient to exhaust the entire Settlement Fund. Similarly, in the event the amount of Valid Claims exhausts the amount of the Settlement Fund, the amount of the Cash Payments may be reduced pro rata accordingly.

d. CCPA Payment: In addition to all other Settlement benefits, California Subclass Members may submit a claim for a $50 cash payment for the CCPA claim they have brought as California residents against Eisner. The CCPA Payment may be pro rata decreased if insufficient funds remain following the payment of any Attorneys' Fees and Expenses Award, any Service Awards, Costs of Claims Administration, claims for Documented Monetary Losses, and the costs for Identity Theft Protection and Credit Monitoring.

e. Business Practice Enhancements: The Settling Parties agree that as part of the settlement consideration, Eisner has adopted, paid for, implemented, and will maintain certain business practice changes related to information security to safeguard personal information on its systems ("Business Practice Changes"). Eisner will detail these business practice changes to Class Counsel in a confidential declaration.

**How can I receive benefits from the Settlement?** You must file a Settlement Claim within 90 days of the Notice Date to be eligible to receive benefits. Settlement Class Members may submit Claim Forms to the Settlement Administrator via return postcard, electronically via the Settlement Website or otherwise physically by mail to the Settlement Administrator. Claim Forms must be submitted electronically or postmarked no later than Month XX, 2026.

**Do I have to be included in the Settlement?** If you do not want any benefits from this Settlement and you want to keep the right to pursue or continue to pursue these claims against Eisner on your own, then you must exclude yourself from the Settlement. To exclude yourself from the Settlement, you must individually sign and timely submit written notice of the intent to opt out to the designated Post Office box established by the Claims Administrator. The written notice must clearly manifest a Person's intent to be excluded from the Settlement Class. The request must include: The individual's full name, current address, telephone number, e-mail address, personal signature, and the words "Request for Exclusion" or a comparable statement that the individual does not wish to participate in the Settlement at the top of the communication. To be effective, all Requests for Exclusions must be postmarked no later than Month XX, 2026, to: *In re Eisner Amper Data Breach Litigation* Settlement Administrator; P.O. Box____, City, ST_____-____

**If I do not like something about the Settlement, how do I tell the Court?** If you are a Class Member, you can object to the Settlement if you do not like it or a portion of it. You can give reasons why you think the Court should not approve the Settlement. The Court will consider your views before making a decision. To object, you must file a written objection with the Court, and mail copies to Class Counsel, Defense Counsel, and the Settlement Administrator. Your objection must be filed and postmarked by Month XX, 2026. Your objection must include: (i) the objector's full name, address, telephone number, and e-mail address; (ii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of notice, copy of original notice of the Data Incident); (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (iv) a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (v) the identity of any and all counsel representing the objector in connection with the objection; (vi) a statement as to whether the objector and/or his or her counsel will appear at the Final Fairness Hearing; (vii) a list of all settlements to which the objector and/or their counsel have objected in the preceding three (3) years; and (viii) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation). Your objection must be filed with the Court and copies must be mailed to Class Counsel, Defense Counsel and the Settlement Administrator. You may also appear at the final approval hearing and orally object even if you have not filed a written objection. If you file an objection, in order to remain eligible to receive a payment, you must also submit a Settlement Claim Form.

**What if I do nothing?** If you do nothing, you will not receive any benefits from this Settlement and you will be bound by the terms of the Settlement Agreement and Release if it is approved and becomes final. This means you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendant or the Released Parties about the issues resolved by this Settlement and released by the Settlement Agreement.

**The Final Approval Hearing** The Court will hold a Fairness Hearing in this case at XX:XX x.m. on Month XX, 2026, at the 300 S 4th St. #202 Minneapolis, MN 55415. You may hire your own attorney to appear and speak at the hearing at your own expense, but it is not necessary.

**How do I get more information about the Settlement?** More details are in the Settlement Agreement and Release, which is available at www.website.com. You may also call 1 ---------------- , email xxxx@xxxxxxx.com, or write to the *In re Eisner Advisory Group Data Breach Litigation* Settlement Administrator, P.O. Box ______, City, ST______-_____.

___________________________________

___________________________________

___________________________________

**ESN**

PLACE

STAMP

HERE

IN RE EISNER ADVISORY GROUP
DATA BREACH LITIGATION
SETTLEMENT ADMINISTRATOR
P.O. BOX XXXXXX
LOS ANGELES, CA XXXXX-XXXX

# — EXHIBIT D —

**UNITED STATES DISTRICT COURT**

**DISTRICT OF MINNESOTA**

| | |
|---|---|
| *In re Eisner Advisory Group Data Breach Litigation* | Case No. 0:25-cv-01409-LMP-DTS<br><br>**PROPOSED ORDER FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** |

This matter is before the Court on Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement, to Authorize Class Notice, and Schedule a Final Approval Hearing. Plaintiffs Christopher Niosi, Andrew Marston, Robert Crist, Rebecca L. Lemmons, David Fallen, Chris Ouellette, Hannah Watzka and Timothy Rushing (collectively "Plaintiffs"), for themselves and on behalf of the Settlement Class, presented this unopposed motion for consideration of whether the Settlement reached by the parties should be preliminarily approved, the proposed Settlement Class preliminarily certified, and the proposed plan for notifying the Settlement Class approved. Having reviewed the proposed Settlement, together with its exhibits, and based upon the relevant papers and all prior proceedings in this matter, the Court has determined the proposed Settlement satisfies the criteria for preliminary approval, the proposed Settlement Class should be preliminarily certified, and the proposed notice plan approved.[1] Accordingly, good cause appearing in the record, Plaintiffs' Motion is GRANTED, and **IT IS HEREBY ORDERED THAT**:

[1] Unless otherwise indicated, capitalized terms used herein have the same meaning as in the Settlement.

**<u>Provisional Certification of the Settlement Class</u>**

(1) The Court provisionally certifies the following Settlement Class:

> All persons who were affected by the Data Incident, including but not limited to those who were sent a notice letter by Eisner concerning the Data Incident discovered in September of 2023.

("Settlement Class"). The Court also provisionally certifies the following California Subclass:

> Members of the Settlement Class, as previously defined, within California.

("California Subclass")

Excluded from the Settlement Class are: (i) Defendants, any entity in which Defendants have a controlling interest, and Defendants' officers, directors, legal representatives, successors, subsidiaries, and assigns; (ii) any judge, justice, or judicial officer presiding over this matter and members of their immediate families and their judicial staff; (iii) all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; (iv) the attorneys representing the Settling Parties in the Action; and (v) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the Data Incident, or who pleads *nolo contendere* to any such charge.

This Settlement Class is provisionally certified for purposes of settlement only.

(2) The Court determines that for settlement purposes the proposed Settlement Class meets all the requirements of Federal Rule of Civil Procedure 23(a) and (b)(3), namely that the class is so numerous that joinder of all members is impractical; that there

are common issues of law and fact; that the claims of the class representatives are typical of absent class members; that the class representatives will fairly and adequately protect the interests of the class as they have no interests antagonistic to or in conflict with the class and have retained experienced and competent counsel to prosecute this matter; that common issues predominate over any individual issues; and that a class action is the superior means of adjudicating the controversy.

(3) Plaintiffs Christopher Niosi, Andrew Marston, Robert Crist, Rebecca L. Lemmons, David Fallen, Chris Ouellette, Hannah Watzka and Timothy Rushing are designated and appointed as the Settlement Class Representatives.

(4) The following lawyers, who were previously appointed by the Court as interim Co-lead Counsel, are designated as Settlement Class Counsel pursuant to Fed. R. Civ. P. 23(g): Raina Borrelli of Strauss Borrelli PLLC, Philip J. Krzeski of Chestnut Cambronne PLLC, David Goodwin of Gustafson Gluek PLLC, and William B. Federman of Federman & Sherwood. The Court finds that these lawyers are experienced and will adequately protect the interests of the Settlement Class.

**Preliminary Approval of the Proposed Settlement**

(5) Upon preliminary review, the Court finds the proposed Settlement is fair, reasonable, and adequate, otherwise meets the criteria for approval, and warrants issuance of notice to the Settlement Class. Accordingly, the proposed Settlement is preliminarily approved.

**Final Approval Hearing**

(6) A Final Approval Hearing shall take place before the Court on _______________, 2026, at ___ a.m./p.m. in Courtroom 3B before the Honorable Laura Provinzino, United States District Court Judge, United States Courthouse, 316 N. Robert Street, St. Paul, Minnesota to determine, among other things, whether: (a) the proposed Settlement Class should be finally certified for settlement purposes pursuant to Federal Rule of Civil Procedure 23; (b) the Settlement should be finally approved as fair, reasonable and adequate and, in accordance with the Settlement's terms, all claims in the Consolidated Class Action Complaint and Litigation should be dismissed with prejudice; (c) Settlement Class Members should be bound by the releases set forth in the Settlement; (d) the proposed Final Approval Order and Judgment should be entered; (e) the application of Class Counsel for an award of attorneys' fees, costs, and expenses should be approved; and (f) the application for Service Awards should be approved. Any other matters the Court deems necessary and appropriate will also be addressed at the hearing.

(7) Class Counsel shall submit their application for fees, costs, and expenses and the application for Service Awards 30 days before the Final Approval Hearing. Objectors, if any, shall file any response to Class Counsel's motions no later than 17 days prior to the Final Approval Hearing. By no later than 10 days prior to the Final Approval Hearing, responses shall be filed, if any, to any filings by objectors, and any replies in support of final approval of the Settlement and/or Class Counsel's application for attorneys' fees, costs, and expenses and for Service Awards shall be filed.

(8) Any Settlement Class Member that has not timely and properly excluded itself from the Settlement Class in the manner described below, may appear at the Final Approval Hearing in person or by counsel and be heard, to the extent allowed by the Court, regarding the proposed Settlement; provided, however, that no Settlement Class Member that has elected to exclude itself from the Settlement Class shall be entitled to object or otherwise appear, and, further provided, that no Settlement Class Member shall be heard in opposition to the Settlement unless the Settlement Class Member complies with the requirements of this Order pertaining to objections, which are described below.

**Administration**

(9) Verita Global, LLC is appointed as the Settlement Administrator, with responsibility for Claims Administration, the Notice Program, and all other obligations of the Claims Administrator as set forth in the Settlement. The Settlement Administrator's fees, as well as all other costs and expenses associated with notice and administration, will be paid out of the Settlement Fund, as provided in the Settlement.

**Notice to the Class**

(10) The Notice Program set forth in the Settlement, including the forms of notice set forth therein, as well as the Notice and Claim Form attached as exhibits to the Settlement Agreement, satisfy the requirements of Federal Rule of Civil Procedure 23 and due process and thus are approved. Non-material modifications to the exhibits may be made without further order of the Court. The Settlement Administrator is directed to carry out the Notice Program in conformance with the Settlement and to perform all other tasks that the Settlement requires.

(11) The Court finds that the form, content, and method of giving notice to the Settlement Class as described in the Settlement and exhibits: (a) constitute the best practicable notice to the Settlement Class; (b) are reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the action, the terms of the proposed Settlement, and their rights under the proposed Settlement; (c) are reasonable and constitute due, adequate, and sufficient notice to those persons entitled to receive notice; and (d) satisfy the requirements of Federal Rule of Civil Procedure 23, the constitutional requirement of due process, and any other legal requirements. The Court further finds that the notice is written in plain language, uses simple terminology, and is designed to be readily understandable by Settlement Class Members.

**Exclusions from the Class**

(12) Any Settlement Class Member that wishes to be excluded from the Settlement Class must mail a written notification of the intent to exclude itself to the Settlement Administrator, Class Counsel, and Defendants' Counsel at the addresses provided in the Notice, postmarked no later than the Opt-Out Date as defined in the Settlement Agreement, and sent via first class postage prepaid United States mail. The written notification must include the name of this Litigation *In re Eisner Advisory Group Data Breach Litigation* Case No. 0:25-cv-01409-LMP-DTS (D. Minn.); the full name, address, and telephone number of the Settlement Class Member; the name, address, email address, telephone number, position, and signature of the individual who is acting on behalf of the Settlement Class Member; and the words "Request for Exclusion" at the top of the document or a statement in the body of the document requesting exclusion from the

Settlement. If the Settlement Class Member fails to provide all of the required information on or before the deadlines specified in the Settlement and fails to cure any deficiency within the time allowed in the Settlement, then its attempt to opt out shall be invalid and have no legal effect, and the Settlement Class Member shall be bound by the Settlement, including the releases, if finally approved.

(13) All Settlement Class Members who submit valid and timely notices of their intent to be excluded from the Settlement shall not receive any benefits of or be bound by the terms of the Settlement. Any Settlement Class Member that does not timely and validly exclude itself from the Settlement shall be bound by the terms of the Settlement. If final judgment is entered, any Settlement Class Member that has not submitted a timely, valid written notice of exclusion from the Settlement (in accordance with the requirements of the Settlement) shall be bound by all subsequent proceedings, orders and judgments in this matter, the Settlement, including but not limited to the releases set forth in the Settlement, and the Final Approval Order and Judgment.

(14) The Settlement Administrator shall provide the parties with copies of all opt-out notifications promptly upon receipt, and a final list of all that have timely and validly excluded themselves from the Settlement Class in accordance with the terms of the Settlement, which Class Counsel may move to file under seal with the Court no later than ten (10) days prior to the Final Approval Hearing.

**Objections to the Settlement**

(15) A Settlement Class Member that complies with the requirements of this Order may object to the Settlement, the request of Class Counsel for an award of attorneys' fees, costs, and expenses, and/or the request for Service Awards.

(16) No Settlement Class Member shall be heard, and no papers, briefs, pleadings, or other documents submitted by any Settlement Class Member shall be received and considered by the Court, unless the objection is (a) electronically filed with the Court by the Objection Deadline; or (b) mailed first-class postage prepaid to the Clerk of Court, Class Counsel, and Defendants' Counsel, at the addresses listed in the Notice, and postmarked by no later than the Objection Deadline defined in Paragraph 32 of the Settlement Agreement, and as specified in the Notice. Objections shall not exceed twenty-five (25) pages. For the objection to be considered by the Court, the objection shall set forth:

a. the name of the Litigation (*In re Eisner Advisory Group Data Breach Litigation* Case No. 0:25-cv-01409-LMP-DTS (D. Minn.));

b. the objector's full name, address, telephone number, and e-mail address (if any);

c. information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of notice, copy of original notice of the Data Incident);

d. a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable;

e. a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class;

f. the identity of any and all counsel representing the objector in connection with the objection;

g. a statement as to whether the objector and/or his or her counsel will appear at the Final Fairness Hearing;

h. a list of all settlements to which the objector and/or their counsel have objected in the preceding three (3) years; and

i. the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation).

(17) In addition, any Settlement Class Member that objects to the proposed Settlement must make themself available to be deposed regarding the grounds for its objection and must provide along with its objection the dates when the objector will be available to be deposed during the period from when the objection is filed through the date five days before the Final Approval Hearing.

(18) Any Settlement Class Member that fails to comply with the provisions in this Order will waive and forfeit any and all rights it may have to object, and shall be bound by all the terms of the Settlement, this Order, and by all proceedings, orders, and judgments, including, but not limited to, the releases in the Settlement, if finally approved. Any Settlement Class Member who both objects to the Settlement and opts out will be deemed to have opted out and the objection shall be deemed null and void.

**Claims Process and Distribution Plan**

(19) The Settlement establishes a process for assessing and determining the validity and value of claims and a methodology for paying Settlement Class Members that submit a timely, valid Claim Form. The Court preliminarily approves this process.

(20) Settlement Class Members that qualify for and wish to submit a Claim Form shall do so in accordance with the requirements and procedures specified in the Notice and the Claim Form. If the Settlement is finally approved, all Settlement Class Members that qualify for any benefit under the Settlement but fail to submit a claim in accordance with the requirements and procedures specified in the Notice and Claim Form shall be forever barred from receiving any such benefit, but will in all other respects be subject to and bound by the provisions of the Settlement, including the releases included in the Settlement, and the Final Approval Order and Judgment.

**Termination of the Settlement and Use of this Order**

(21) This Order shall become null and void and shall be without prejudice to the rights of the Parties, all of which shall be restored to their respective positions existing immediately before this Court entered this Order if the Settlement is not finally approved by the Court or is terminated in accordance with the terms of the Settlement. In such event, the Settlement shall become null and void and be of no further force and effect, and neither the Settlement (including any Settlement-related filings) nor the Court's orders, including this Order, relating to the Settlement shall be used or referred to for any purpose whatsoever.

(22) If the Settlement is not finally approved or there is no Effective Date under the terms of the Settlement, then this Order shall be of no force or effect; shall not be construed or used as an admission, concession, or declaration by or against Defendants of any fault, wrongdoing, breach, or liability; shall not be construed or used as an admission, concession, or declaration by or against any Settlement Class Representative or any other Settlement Class Member that its claims lack merit or that the relief requested is inappropriate, improper, unavailable; and shall not constitute a waiver by any party of any defense (including without limitation any defense to class certification) or claims it may have in this Litigation or in any other lawsuit.

**Stay of Proceedings**

(23) Except as necessary to effectuate this Order, this matter and any deadlines set by the Court in this matter are stayed and suspended pending the Final Approval Hearing and issuance of the Final Approval Order and Judgment, or until further order of this Court.

**Continuance of Final Approval Hearing**

(24) The Court reserves the right to adjourn or continue the Final Approval Hearing and related deadlines without further written notice to the Settlement Class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the website maintained by the Settlement Administrator.

**Actions by Settlement Class Members**

(25) The Court stays and enjoins, pending Final Approval of the Settlement, any actions, lawsuits, or other proceedings brought by Settlement Class Members against Defendants related to the Data Incident.

**Summary of Deadlines**

(26) The Settlement, as preliminarily approved in this Order, shall be administered according to its terms pending the Final Approval Hearing. Deadlines arising under the Settlement and this Order include but are not limited to the following:

- Notice Deadline: [30 days after entry of this Order]
- Objection and Opt-Out Deadline: [60 days after the Notice Deadline]
- Claims Deadline: [90 days after the Notice Deadline]
- Final Approval Hearing: [a date to be set by the Court no earlier than 120 days after entry of this order]
- Application for Attorneys' Fees, Expenses and Service Awards ("Fee Application") [14 days before the Objection and Opt-Out Deadline]
- Motion for Final Approval of the Settlement ("Final Approval Motion"): [14 days before the Final Approval Hearing]
- Objectors', if any, Response to Final Approval Motion and Fee Application [__ days before the Final Approval Hearing]

IT IS SO ORDERED this ____ day of _________, 2026.

______________________________
The Honorable Laura Provinzino
United States District Court Judge

District of Minnesota

# — EXHIBIT E —

**UNITED STATES DISTRICT COURT**

**DISTRICT OF MINNESOTA**

| | |
|---|---|
| *In re Eisner Advisory Group Data Breach Litigation* | Case No. 0:25-cv-01409-LMP-DTS<br><br>**[PROPOSED] ORDER FOR FINAL APPROVAL AND JUDGMENT** |

**WHEREAS,** Plaintiffs Christopher Niosi, Andrew Marston, Robert Crist, Rebecca L. Lemmons, David Fallen, Chris Ouellette, Hannah Watzka, and Timothy Rushing (collectively "Plaintiffs"), on behalf of themselves and all others similarly situated ("Settlement Class Members"), having moved this Court for an Order granting Final Approval Of Class Action Settlement, and Defendants EisnerAmper LLP and Eisner Advisory Group LLC (collectively, "Defendants" or "Eisner"), having appeared at the Final Approval Hearing before this Court on ________________ ____, 202_;

**WHEREAS,** this Court granted preliminary approval of the parties' Settlement Agreement in the above-captioned action ("Litigation") on _________________ ____, 2026 ("Preliminary Approval Order");

**WHEREAS,** notice to the settlement class members ("Settlement Class Members") was sent in accordance with the Preliminary Approval Order providing an opportunity for Settlement Class Members to receive benefits under the Settlement Agreement, opt-out, or submit objections;

**WHEREAS,** ___ Settlement Class Members submitted an objection to the Settlement, and ___ Settlement Class Members have opted-out of the Settlement;

**NOW,** upon the reading of the Settlement Agreement and annexed exhibits and memorandum of law in support of Plaintiffs' Motion for Final Approval Of Class Action Settlement, and after hearing counsel for all of the parties at the Final Approval Hearing and after due deliberation having been held thereon, the Court grants final approval of the Settlement Agreement, and hereby find and orders for purposes of settlement only:

1. Capitalized terms used in this Order and Judgment and not otherwise defined herein shall have the definitions assigned to them in the Settlement Agreement.

2. This Court has jurisdiction over the subject matter of the Litigation and over all parties to the Litigation, including all Class Members with respect to the following Settlement Class and California Subclass certified under Fed. R. Civ. P. 23:

> <u>Settlement Class</u>
> All persons who were affected by the Data Incident, including but not limited to those who were sent a notice letter by Eisner concerning the Data Incident discovered in September of 2023.
>
> <u>California Subclass</u>
> Members of the Settlement Class, as previously defined, within California.

Excluded from the Class are: (i) Defendants, any entity in which Defendants have a controlling interest, and Defendants' officers, directors, legal representatives, successors, subsidiaries, and assigns; (ii) any judge, justice, or judicial officer presiding over this matter and members of their immediate families and their judicial staff; (iii) all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; (iv) the attorneys representing the Settling Parties in the Action; and (v) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the Data Incident, or who pleads *nolo contendere* to any such charge.

3. The Court hereby fully, finally, and unconditionally approves the Settlement embodied in the Settlement Agreement as a fair, reasonable and adequate settlement and compromise of the claims asserted in the Litigation.

4. The Settlement was entered into in good faith following arm's length negotiations and is non-collusive. The Settlement is in the best interests of the Settlement Class and is therefore approved. The Court finds that the Parties faced significant risks, expenses, delays, and uncertainties as to the outcome, including on appeal, of continued litigation of this complex matter, which further supports the Court's finding that the Settlement Agreement is fair, reasonable, adequate, and in the best interests of the Settlement Class Members. The Court finds that the uncertainties of continued litigation in both the trial and appellate courts, as well as the expense associated with it, weigh in favor of approval of the settlement reflected in the Settlement Agreement.

5. The Court readopts and incorporates herein by reference its preliminary conclusions as to the satisfaction of Federal Rule of Civil Procedure 23(a) and (b)(3) set forth in the Preliminary Approval Order and notes that, because this certification of the Settlement Class is in connection with the Settlement Agreement rather than litigation, the Court need not address any issues of manageability that may be presented by certification of the class proposed in the Settlement Agreement.

6. The terms of the Settlement Agreement are fair, adequate, and reasonable and are hereby approved, adopted, and incorporated by the Court. Notice of the terms of the Settlement, the rights of Settlement Class Members under the Settlement, the Final Fairness Hearing, Plaintiffs' application for attorneys' fees, costs, and expenses, and the Service Award payment to the Class Representatives have been provided to Settlement Class Members as directed by this Court's Orders, and proof of Notice has been filed with the Court.

7. The Settlement Class Members have been given proper and adequate notice of the Settlement, Final Approval Hearing, and Class Counsel's application for attorneys' fees, expenses, and service awards to the Plaintiffs.

8. A declaration detailing the Settlement Administrator's compliance with the Notice process has been filed with the Court. The Notice plan, as set forth in the Settlement Agreement and ordered in the Preliminary Approval Order, constituted the best notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in accordance with the requirements of Fed. R. Civ. P. 23.

9. The Court hereby orders that the Settlement Agreement shall be implemented in accordance with its terms and conditions.

10. The Court grants final approval to Plaintiffs Christopher Niosi, Andrew Marston, Robert Crist, Rebecca L. Lemmons, David Fallen, Chris Ouellette, Hannah Watzka and Timothy Rushing as Class Representatives and finds them to be adequate.

11. The Court grants final approval to Raina Borrelli of Strauss Borrelli PLLC, Philip J. Krzeski of Chestnut Cambronne PLLC, David Goodwin of Gustafson Gluek

PLLC, and William B. Federman of Federman & Sherwood as Class Counsel and finds each of them to be adequate, experienced, and well-versed in class action litigation, including data breach litigation.

12. After due consideration of the arguments set out in Plaintiffs' Motion for an Award of Attorneys' Fees, Reimbursement of Costs and Expenses, and Service Awards and in accordance with the Settlement Agreement, Class Counsel is hereby awarded attorneys' fees in the amount of $350,000.00 and reimbursement of litigation expenses in the amount of $__________. The Court finds this amount to be fair and reasonable. Payment shall be made from the Settlement Fund pursuant to the procedures in the Settlement Agreement.

13. After due consideration of the arguments set out in Plaintiffs' Motion for an Award of Attorneys' Fees, Reimbursement of Litigation Costs, and Service Awards and in accordance with the Settlement Agreement, each Plaintiff is hereby awarded a Service Award of $2,500.00. The Court finds this amount is justified by the Class Representatives' service to the Settlement Class. Payment shall be made from the Settlement Fund as directed by Class Counsel in accordance with the Settlement Agreement.

14. Upon the Effective Date, the Litigation shall be, and hereby is dismissed with prejudice in its entirety as to Eisner, with each party to bear their own costs and attorneys' fees, except as provided in the Settlement Agreement, and all of the claims of the Settlement Class Members shall be, and hereby are, dismissed and released pursuant to the Settlement Agreement.

15. Each Settlement Class Member is bound by this Judgment and Order, including, without limitation, the release of certain claims against the Released Parties as set forth in the Settlement Agreement, which includes as follows:

> [A]ny and all past, present, and future claims, demands, rights, actions or causes of action, liabilities, damages, losses, obligations, judgments, suits, penalties, remedies, matters, and issues of any kind or nature, whether known or unknown, contingent or absolute, existing or potential, suspected or unsuspected, disclosed or undisclosed, matured or unmatured, liquidated or unliquidated, legal, statutory, or equitable, in the Action, or in any court, tribunal, or proceeding by or on behalf of the Class Representatives or any Settlement Class Members, arising out of, or relating to the Data Security Incident, and which have been asserted or could have been asserted against any of the Released Parties whether based on federal, state, local, statutory, common law, or any other law, rule or regulation, including the law of any jurisdiction outside the United States, against any or all of the Released Parties, which the Class Representatives or any member of the Settlement Class ever had, now has, or hereinafter may have, prior to entry of the Final Approval Order. Released Claims shall not include the right of Class Representatives, Settlement Class Members, or any Released Person to enforce the terms of the Settlement Agreement.

16. As of the final date of the Opt-Out Deadline, ___ potential Settlement Class Members submitted a valid request to be excluded from the Settlement. These individuals are not bound by this Final Order and Judgment, as set forth in the Settlement Agreement.

17. The Court has considered all of the documents filed in support of the Settlement, and has fully considered all matters raised, all exhibits and declarations filed, all evidence received at the Final Approval Hearing, all other papers and documents comprising the record herein, and all oral arguments presented to the Court.

18. This Judgment and Order, and the Settlement Agreement, and all papers related thereto, are not, and shall not be construed to be, an admission by the Eisner of any liability, claim or wrongdoing in this Litigation or any other proceeding.

19. In the event that the Settlement Agreement does not become effective in accordance with the Settlement Agreement, then this Judgment and Order shall be rendered null and void to the extent provided by and in accordance with the Settlement Agreement and shall be vacated, and in such event, all orders entered in connection herewith shall be null and void to the extent provided by and in accordance with the Settlement Agreement.

20. The Court hereby finds that there is no just reason for delay of entry of this Judgment and hereby directs its entry.

Without affecting the finality of this Judgment in any way, this Litigation shall remain open, and the Court hereby retains continuing jurisdiction over (a) implementation of this Settlement Agreement; (b) disposition of the settlement funds; and (c) all parties hereto for the purpose of construing, enforcing and administering the Settlement Agreement and this Judgment.

**IT IS SO ORDERED** this ___ day of _______________, 202_.

______________________________
UNITED STATES DISTRICT JUDGE