
**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH – CENTRAL DIVISION**

BENJAMIN GARCIA, on behalf of himself
and all others similarly situated,

Plaintiff,

vs.

BRIGHAM YOUNG UNIVERSITY d/b/a
BYU BROADCASTING,

Defendant.

**CLASS ACTION SETTLEMENT
AGREEMENT**

Case No. 1:24-cv-00188-AMA-DAO

Judge: Hon. Ann Marie McIff Allen
Magistrate Judge: Hon. Daphne A. Oberg

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Agreement” or “Settlement Agreement”) is entered into by and among (i) Plaintiff, Benjamin Garcia (the “Plaintiff,” *see* Paragraph 1.22, *infra*), on behalf of himself and as representative of the Settlement Class (as defined herein); and (ii) Defendant, Brigham Young University d/b/a BYU Broadcasting (“Defendant,” *see* Paragraph 1.10, *infra*). Plaintiff and Defendant are collectively referred to herein as the “Parties,” or individually as “Party.” This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined herein), upon and subject to the terms and conditions of this Agreement, and subject to the final approval of the Court.

RECITALS

A. WHEREAS, this putative class action was filed on November 12, 2024 in the United States District Court for the District of Utah, alleging Defendant disclosed its subscribers’ personally identifiable information (PII) to Meta (formerly Facebook) via the Meta Pixel (a piece of code installed on Defendant’s website) without obtaining consent in violation of the Video Privacy Protection Act, 18 U.S.C. § 2710 (“VPPA”). *See* ECF No. 1.

B. WHEREAS, on January 17, 2025, Defendant filed a motion to dismiss Plaintiff’s complaint under Rule 12(b)(6) arguing that Plaintiff failed to state a claim upon which relief could be granted. (ECF No. 22.) Plaintiff filed his opposition brief on February 14, 2025 (ECF No. 23), and Defendant filed its reply on February 28, 2025 (ECF No. 27).

C. WHEREAS, subsequent to completion of the briefing on Defendant’s motion to dismiss, Plaintiff and Defendant agreed to participate in mediation while a decision on Defendant’s motion remained pending.

D. WHEREAS, the Parties, through their respective counsel, participated in extensive arms-length negotiations in efforts to settle the disputes, including an in-person mediation on May 9, 2025, before former United States District Judge Freda L. Wolfson, formerly of the U.S. District Court, District of New Jersey.

E. WHEREAS, as part of the mediation, and in order to competently assess their relative negotiating positions, the Parties exchanged informal discovery on issues such as the size and scope of the putative class, and certain facts related to the strength of Plaintiff's claims and Defendant's defenses. The Parties also exchanged information about settlements in similar cases. As a result, the Parties had sufficient information to assess the strengths and weaknesses of their respective claims and defenses and the reasonableness of a proposed settlement that resulted in this Agreement.

F. WHEREAS, at the conclusion of the May 9, 2025 in-person mediation session with Judge Wolfson, Plaintiff and Defendant reached agreement on the material terms of a class action settlement and executed a term sheet, which are reflected in this Settlement Agreement.

G. WHEREAS, at all times, Defendant has denied and continues to deny any wrongdoing whatsoever and has denied and continues to deny that it committed, or threatened or attempted to commit, any wrongful act or violation of law or duty alleged in the Action, including without limitation any violation of the VPPA. Nonetheless, accounting for the uncertainty and risks inherent in any litigation, Defendant has concluded it is desirable and beneficial that the Action be fully and finally settled and terminated in the manner and upon the terms and conditions set forth in this Agreement. This Agreement is a compromise, and the Agreement, any related documents, and any negotiations resulting in it shall not be construed as or deemed to be evidence of or an admission or concession of

liability or wrongdoing on the part of Defendant, or any of the Released Parties (defined below), with respect to any claim of any fault or liability or wrongdoing or damage whatsoever.

H. WHEREAS, Plaintiff and Class Counsel believe that the claims asserted in the Action against Defendant have merit and that Plaintiff would have prevailed at summary judgment and/or trial. Nonetheless, Plaintiff and Class Counsel recognize that Defendant has raised factual and legal defenses that present a risk that Plaintiff may not prevail. Plaintiff and Class Counsel also recognize the expense and delay associated with continued prosecution of the Action against Defendant through class certification, summary judgment, trial, and any subsequent appeals. Plaintiff and Class Counsel have also taken into account the uncertain outcome and risks of litigation, especially in complex class actions, as well as the difficulties inherent in such litigation. Therefore, Plaintiff believes it is desirable that the Released Claims be fully and finally compromised, settled, and resolved with prejudice. Based on their evaluation, Class Counsel have concluded that the terms and conditions of this Agreement are fair, reasonable, and adequate to the Settlement Class, and that it is in the best interests of the Settlement Class to settle the claims raised in the Action pursuant to the terms and provisions of this Agreement.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Plaintiff, the Settlement Class, and each of them, and Defendant, by and through its undersigned counsel that, subject to final approval of the Court after a hearing or hearings as provided for in this Settlement Agreement, in consideration of the benefits flowing to the Parties from the Agreement set forth herein, that the Action and the Released Claims shall be finally and fully compromised, settled, and released, and the Action shall be dismissed with prejudice, upon and subject to the terms and conditions of this Agreement.

AGREEMENT

1. DEFINITIONS.

As used in this Settlement Agreement, the following terms have the meanings specified below:

1.1 “Action” means *Garcia v. Brigham Young University d/b/a BYU Broadcasting*, Case No. 1:24-cv-00188-AMA-DAO (the “Action”), pending in the United States District Court for the District of Utah.

1.2 “Approved Claim” means a Claim Form submitted by a Settlement Class Member that: (a) is submitted timely and in accordance with the directions on the Claim Form and the provisions of the Settlement Agreement; (b) is fully and truthfully completed by a Settlement Class Member with all of the information requested in the Claim Form; (c) is signed by the Settlement Class Member, physically or electronically; and (d) is approved by the Settlement Administrator pursuant to the provisions of this Agreement. To receive a *pro rata* cash payment, each claimant must fill out an attestation that they (1) had a Facebook account during the Class Period; (2) had a subscription (i.e., login credentials) to <http://www.byutv.org> during the Class Period; and (3) viewed videos on www.byutv.org during the Class Period.

1.3 “Claim Form” means the document substantially in the form attached hereto as Exhibit A, as approved by the Court. The Claim Form, to be completed by Settlement Class Members who wish to file a Claim, shall be available in electronic and paper format in the manner described below.

1.4 “Claims Deadline” means the date by which all Claim Forms must be postmarked or received to be considered timely and shall be set as a date no later than sixty (60) days after the Notice Date. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order as well as in the Notice and the Claim Form.

1.5 “Class Counsel” means Carney, Bates & Pulliam, PLLC, including Allen Carney, Hank Bates, and Sam Jackson, Anderson & Karrenberg, P.C., including Jacob D. Barney, and Levi & Korsinsky LLP, including Mark Reich.

1.6 “Class Period” means from November 12, 2022, to and including May 9, 2025.

1.7 “Class Representative” means the named Plaintiff in this Action, Benjamin Garcia, a resident of Utah.

1.8 “Court” means the United States District Court for the District of Utah.

1.9 “Defendant” means Brigham Young University, a Utah nonprofit corporation.

1.10 “Defendant’s Counsel” means Jeffrey Landis and Michael Bleicher of ZwillGen PLLC; James Jardine and Michael Erickson of Ray Quinney & Nebeker PC; and David Andersen, Stephen Craig, and Scott Halvorsen of the BYU Office of General Counsel.

1.11 “Effective Date” means ten (10) days after all the events and conditions specified in Paragraph 9.1 have been met and have occurred.

1.12 “Escrow Account” means the separate, interest-bearing escrow account to be established by the Settlement Administrator under terms acceptable to all Parties at a depository institution insured by the Federal Deposit Insurance Corporation. The Settlement Fund shall be deposited by Defendants into the Escrow Account in accordance with the terms of this Agreement and the money in the Escrow Account shall be invested in the following types of accounts and/or instruments and no other: (i) demand deposit accounts and/or (ii) time deposit accounts and certificates of deposit, in either case with maturities of forty-five (45) days or less. The costs of establishing and maintaining the Escrow Account

shall be paid from the Settlement Fund. The Escrow Account shall be maintained by the Settlement Administrator.

1.13 “Fairness Hearing” means the hearing before the Court at or after which the Court will make a final decision whether to approve the proposed Settlement set forth herein as fair, reasonable, and adequate.

1.14 “Fee and Expense Award” means the amount of attorneys’ fees, costs, and expenses awarded by the Court to Class Counsel, which will be paid out of the Settlement Fund.

1.15 “Final” means 12:00 a.m. on the day following the latest of the following: (i) the date upon which the time expires for filing or noticing any appeal of the Court’s Final Judgment approving the Settlement Agreement; (ii) if there is an appeal or appeals, other than an appeal or appeals solely with respect to the Fee and Expense Award, the date of completion, in a manner that finally affirms and leaves in place the Final Judgment without any material modification, of all proceedings arising out of the appeal or appeals (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for review and/or certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal or appeals following decisions on remand); or (iii) if there is an appeal that involves the Fee and Expense award in addition to other issues, the date of final dismissal of any appeal or the final dismissal of any proceeding on certiorari.

1.16 “Final Judgment” means the Final Judgment and Order to be entered by the Court approving the Agreement.

1.17 “Notice” means the notice of this proposed Class Action Settlement Agreement, which is to be sent to the Settlement Class substantially in the manner set forth in this Agreement, is consistent

with the requirements of Due Process, Federal Rule of Civil Procedure 23(c)(2), and is substantially in the form of Exhibits B and C hereto.

1.18 “Notice Date” means the date by which the Notice set forth in Paragraph 4.1 is commenced, which shall be no later than thirty (30) days after Preliminary Approval.

1.19 “Objection/Exclusion Deadline” means the date by which a written objection to this Settlement Agreement or a request for exclusion submitted by a Person within the Settlement Class must be made, which shall be designated as a date no later than sixty (60) days after the Notice Date.

1.20 “Person” shall mean, without limitation, any individual, corporation, partnership, limited partnership, limited liability company, 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 spouses, heirs, predecessors, successors, representatives, or assigns. “Person” is not intended to include any governmental agencies or governmental actors, including, without limitation, any state Attorney General office.

1.21 “Plaintiff” means Benjamin Garcia.

1.22 “Preliminary Approval Order” means the Order entered by the Court: (i) preliminarily certifying the Settlement Class; (ii) preliminarily approving the terms and conditions of this Agreement; (iii) appointing the Class Representative and Class Counsel; (iv) directing the manner and timing of providing Notice to the Settlement Class; and (v) setting the dates and deadlines for effectuating the settlement, including the date of the sending of Notice, the Claim Period, and the date of the Fairness Hearing, if one is scheduled.

1.23 “Released Claims” means any and all actual, potential, filed, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected, claims, demands, liabilities, rights,

causes of action, contracts or agreements, extra-contractual claims, damages, punitive, exemplary or multiplied damages, expenses, costs, attorneys' fees and or obligations, whether in law or in equity, accrued or un-accrued, direct, individual or representative, of every nature and description whatsoever, whether based on the VPPA or other state, federal, local, statutory or common law or any other law, rule or regulation, against the Released Parties, or any of them, arising out of any facts, transactions, events, matters, occurrences, acts, disclosures, statements, representations, omissions or failures to act regarding the alleged disclosure of the Settlement Class Members' personally identifiable information and viewing information of any sort to any third party, including any and all claims arising directly or indirectly out of, or in any way relating to, the claims that actually were brought or could have been brought in the Action. Nothing herein is intended to release any claims any governmental agency or governmental actor has against Defendant.

1.24 "Released Parties" means Defendant Brigham Young University, as well as any and all of its past and present agents, advisors, attorneys, employees, representatives, partners, partnerships, corporations, companies, joint venturers, predecessors, trustees, estates, heirs, executors, administrators, officers, directors, principals, members, managers, owners, direct or indirect security holders, shareholders, parents, subsidiaries, affiliates, related companies, former companies, divisions, successors and assigns, fiduciaries, contractors, insurers, co-insurers, reinsurers, and any person in legal privity with them.

1.25 "Releasing Parties" means Plaintiff, those Settlement Class Members who do not timely opt out of the Settlement Class, and all of their respective present or past heirs, executors, estates, administrators, predecessors, successors, assigns, subsidiaries, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors,

officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations.

1.26 “Service Award” means any amount awarded by the Court to the Class Representative as a service award in recognition of his efforts and commitment on behalf of the Settlement Class, which will be paid out of the Settlement Fund and shall not exceed \$5,000.

1.27 “Settlement Administration Expenses” means the fees and expenses incurred by the Settlement Administrator in providing Notice, processing claims, responding to inquiries from members of the Settlement Class, distributing payments, and related services, which shall be paid from the Settlement Fund.

1.28 “Settlement Administrator” means a reputable administration company that has been selected by the Parties and approved by the Court to oversee the distribution of Notice, as well as the processing and payment of Approved Claims to the Settlement Class as set forth in this Agreement.

1.29 “Settlement Class” means all individuals who, as persons in the United States, (1) had a Facebook account during the Class Period; (2) had a subscription (i.e., login credentials) to <http://www.byutv.org> during the Class Period; and (3) viewed videos on www.byutv.org during the Class Period. Excluded from the Settlement Class shall be counsel to the Settling Parties, and their employees, legal representatives, heirs, successors, assigns, or any members of their immediate family; any government entity; Defendant, any entity in which Defendant has a controlling interest, any of Defendant’s subsidiaries, parents, affiliates, and officers, directors, employees, legal representatives, heirs, successors, or assigns, or any members of their immediate family; any persons who, as of the date of this Agreement, have asserted claims against Defendant under the VPPA through counsel other than

Class Counsel; any persons who have released claims relating to the Action; the Hon. Freda Wolfson; and any persons who properly execute and timely request exclusion from the Settlement Class.

1.30 “Settlement Class Member” means a Person who falls within the definition of the Settlement Class as set forth above and who has not submitted a valid request for exclusion.

1.31 “Settlement Class Size” means Settlement Class Members meeting the criteria of the Settlement Class. The current Settlement Class Size is estimated at 126,450, or 68% of all United States Persons who had a subscription to <http://www.byutv.org> and viewed videos on <http://www.byutv.org> during the Class Period (based on an analysis estimating 68% of American adults have a Facebook account).

1.32 “Settlement Fund” means the non-reversionary cash fund that shall be established by or on behalf of Defendant in the total amount of one million and two-hundred and fifty thousand dollars (\$1,250,000 USD) to be deposited into the Escrow Account, according to the schedule set forth herein, plus all interest earned thereon. If at final calculation, the Settlement Class Size increases more than 5% from 126,450 (the number reflected in Paragraph 1.31 above), the Settlement Fund will increase *pro rata* for each Settlement Class Member above 126,450. From the Settlement Fund, the Settlement Administrator shall pay all Approved Claims made by Settlement Class Members, Settlement Administration Expenses, any Service Award to the Class Representative, and any Fee and Expense Award to Class Counsel. The Settlement Fund shall be kept in the Escrow Account with permissions granted to the Settlement Administrator to access said funds until such time as the above-listed payments are made. The Settlement Fund includes all interest that shall accrue on the sums deposited in the Escrow Account. The Settlement Administrator shall be responsible for all tax filings with respect to any earnings on the Settlement Fund and the payment of all taxes that may be due on such earnings. The

Settlement Fund represents the total extent of Defendant's monetary obligations under this Agreement. In no event shall Defendant's total monetary obligation with respect to this Agreement exceed or be less than the Settlement Fund.

1.33 "Unknown Claims" means claims that could have been raised in the Action and that any or all of the Releasing Parties do not know or suspect to exist, which, if known by him or her, might affect his or her agreement to release the Released Parties or the Released Claims or might affect his or her decision to agree, object or not to object to the Settlement. Upon the Effective Date, the Releasing Parties 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 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.

Upon the Effective Date, the Releasing Parties also shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable, or equivalent to California Civil Code § 1542. 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 this release, but that it is their intention to finally and forever settle and release the Released Claims, notwithstanding any Unknown Claims they may have, as that term is defined in this Paragraph.

2. SETTLEMENT RELIEF.

2.1 Payments to Settlement Class Members.

(a) Within thirty (30) days of the Court's entry of the Preliminary Approval Order, Defendant shall pay or cause to be paid into the Escrow Account the amount of the Settlement Fund as specified in Paragraph 1.32 of this Agreement.

(b) Each Settlement Class Member that submits an Approved Claim will receive a *pro rata* portion of the Settlement Fund as a cash payment after the amounts of the Settlement Administration Expenses, any Fee and Expense Award, and any Service Award have been deducted from the Settlement Fund.

(c) The Settlement Administrator shall pay the cash payments for all Approved Claims from the Settlement Fund via check, Zelle, Venmo, or PayPal.

(d) A maximum of one claim, submitted on a single Claim Form, may be submitted by each Settlement Class Member. Each Approved Claim must confirm that, at the time the Settlement Class Member viewed a video on <http://www.byutv.org>, he or she had a Facebook account.

(d) All cash payments issued to Settlement Class Members via check will state on the face of the check that it will expire and become null and void unless cashed within one hundred and twenty (120) days after the date of issuance. To the extent that any checks issued to a Settlement Class Member are not cashed within one hundred twenty (120) days after the date of issuance, such uncashed check funds shall be redistributed on a pro rata basis (after first deducting any necessary settlement administration expenses from such uncashed check funds) to all Settlement Class Members who cashed checks during the initial distribution, but only to the extent each Settlement Class Member would receive at least \$5.00 in any such secondary distribution and if otherwise feasible. To the extent each Settlement Class Member would receive less than \$5.00 in any such secondary distribution or if a

secondary distribution would be otherwise infeasible, any uncashed check funds shall, subject to Court approval, shall be paid to the United Way of Utah County, a not-for-profit organization, or such other not-for-profit organization(s) recommended by counsel for the Parties and approved by the Court.

(e) Upon payment of the Settlement Fund into the Escrow Account, all risk of loss with respect to the cash portion of the Settlement shall pass to the Escrow Account, and any and all remaining interest or right of Defendant in or to the Escrow Account, if any, shall be extinguished.

2.2 Prospective Relief. Within 60 (sixty) days of the Court's entry of Final Approval, Defendant shall suspend operation of the Meta Pixel on any page on its website that includes video content and has a URL that substantially identifies the video content viewed, unless and until the VPPA is amended, repealed, or otherwise invalidated by judicial decision as applied to the use of web site pixel technology, or until Defendant obtains VPPA-compliant consent that would apply to disclosure of the video content viewed to Meta. Nothing herein shall prohibit the use of the Meta Pixel where the disclosure of information to Meta does not identify specific video materials that a user has viewed.

3. RELEASE.

3.1 The obligations incurred pursuant to this Settlement Agreement shall be a full and final disposition of the Action and any and all Released Claims, as against all Released Parties.

3.2 Upon the Effective Date, the Releasing Parties, and each of them, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties, and each of them. Further, upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, shall, either directly, indirectly, representatively, or in any capacity, be permanently barred and enjoined from filing, commencing, prosecuting, intervening in, or participating (as a class member or

otherwise) in any lawsuit, action, or other proceeding in any jurisdiction (other than participation in the Settlement as provided herein) against any Released Party based on the Released Claims, provided, however, that the Releasing Parties shall be permitted to comply with a valid subpoena or court order concerning the Released Claims.

4. NOTICE TO THE SETTLEMENT CLASS.

4.1 The Notice Plan shall consist of the following:

(a) *List of Potential Settlement Class Members.* No later than fourteen (14) days after the Preliminary Approval Order, Defendant shall produce an electronic list from its records that includes the names and e-mail addresses belonging to individuals who had subscriptions to <http://www.byutv.org> during the Class Period, a subset of whom will be members of the Settlement Class. Class Counsel's assent to this Agreement shall constitute consent on behalf of all such individuals to disclose this information, consistent with the written consent provisions of the VPPA. This electronic document shall be called the "Class List," and shall be provided to the Settlement Administrator.

(b) *Direct Notice.* No later than the Notice Date, the Settlement Administrator shall send Notice via email substantially in the form attached as Exhibit B (the "Email Notice"), including as to the subject line and sender email address, along with an electronic link to the Claim Form, to all individuals on the Class List for whom a valid email address is available. In the event transmission of the Email Notice results in any "bounce-backs," the Settlement Administrator shall, where reasonable, correct any issues that may have caused the "bounce-back" to occur and make a second attempt to re-send the Email Notice.

(c) *Reminder Notice.* Thirty (30) days after the Notice Date, the Settlement Administrator shall again send the Email Notice (with minor, non-material modifications to indicate that

it is a reminder email rather than an initial notice), along with an electronic link to the Claim Form, to all individuals on the Class List who possess a valid email address and who have not yet submitted a Claim Form.

(d) *Additional Notice.* If deemed necessary by Class Counsel in consultation with the Settlement Administrator and Defendant, the Parties agree to discuss whether an additional notice and/or means of notice is appropriate, including, but not limited to, publication notice or sending a third Email Notice.

(e) *Settlement Website.* Within thirty (30) days from entry of the Preliminary Approval Order, Notice shall be provided on a case-specific settlement website at www.garciavideoprivacyclassaction.com which shall be administered and maintained by the Settlement Administrator and shall include the ability to file Claim Forms online. The Notice provided on the Settlement Website shall be substantially in the form of Exhibit C hereto.

(f) *Toll-Free Number.* Within thirty (30) days from entry of the Preliminary Approval Order, the Settlement Administrator shall implement, oversee, and maintain a toll-free number with an Interactive Voice Response (“IVR”) system to provide Settlement Class Members with responses to frequently asked questions and provide essential information regarding the Action.

(g) *CAFA Notice.* Pursuant to 28 U.S.C. § 1715, not later than ten (10) days after the Agreement is filed with the Court, the Settlement Administrator shall cause to be served upon the Attorneys General of each U.S. State in which Settlement Class members reside, the Attorney General of the United States, and other required government officials, notice of the proposed settlement as required by law.

(h) *Contact from Class Counsel.* Class Counsel, in their capacity as counsel to Settlement Class Members, may from time-to-time contact Settlement Class Members to provide information about the Settlement Agreement, answer any questions Settlement Class Members may have about the Settlement Agreement, and assist Settlement Class Members with filing claims insofar as such communication or correspondence is directly related to administering the Settlement.

4.2 The Notice shall advise the Settlement Class of their rights, including the right to be excluded from, comment upon, and/or object to the Settlement Agreement or any of its terms. The Notice shall specify that any objection to the Settlement Agreement, and any papers submitted in support of said objection, shall be considered by the Court only if, on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice, the Person making the objection files notice of an intention to do so and at the same time files copies of such papers he or she proposes to be submitted at any scheduled Fairness Hearing with the Clerk of the Court, or alternatively, if the objection is from a Settlement Class Member represented by counsel, files any objection through the Court's CM/ECF system.

4.3 Any Settlement Class Member who intends to object to this Agreement must present the objection in writing, which must be personally signed by the objector, and must include: (1) the objector's full name and mailing address; (2) an explanation of the basis upon which the objector claims to be a Settlement Class Member, including an attestation that the objector had a Facebook account during the Class Period; (3) all grounds for the objection, including all citations to legal authority and evidence supporting the objection; (4) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection (the "Objecting

Attorneys”); and (5) a statement indicating whether the objector intends to appear at any scheduled Fairness Hearing (either personally or through counsel who files an appearance with the Court in accordance with the Local Rules). So-called “mass” or “class” objections shall not be permitted.

4.4 If a Settlement Class Member or any of the Objecting Attorneys has objected to any class action settlement where the objector or the Objecting Attorneys asked for or received any payment in exchange for dismissal of the objection, or any related appeal, without any modification to the settlement, then the objection must include a statement identifying each such case by full case caption and amount of payment received. Any challenge to the Settlement Agreement, the Final Order, or the Final Judgment shall be pursuant to appeal under the Federal Rules of Appellate Procedure and not through a collateral attack.

4.5 A Settlement Class Member may request to be excluded from the Settlement Class by sending a written request postmarked on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice. To exercise the right to be excluded, a Person in the Settlement Class must timely send a written request for exclusion to the Settlement Administrator as specified in the Notice, providing his/her full name and mailing address, a signature, the name of the case, and a statement that he or she wishes to be excluded from the Settlement Class for purposes of this Settlement. A request to be excluded that does not include all of this information, or that is sent to an address other than that designated in the Notice, or that is not postmarked within the time specified, shall be invalid, and the Person(s) serving such a request shall be a member(s) of the Settlement Class and shall be bound as a Settlement Class Member by this Agreement, if approved. Any member of the Settlement Class who validly elects to be excluded from this Agreement shall not: (i) be bound by any orders, the Final Judgment, or the terms of the Agreement; (ii) be entitled to relief under this Settlement Agreement; (iii)

gain any rights by virtue of this Agreement; or (iv) be entitled to object to any aspect of this Agreement of the Settlement. The request for exclusion must be personally signed by the Person requesting exclusion. So-called “mass” or “class” opt-outs shall not be permitted. Opt-out requests seeking exclusion on behalf of more than one individual shall be deemed invalid by the Settlement Administrator. To be valid, a request for exclusion must be postmarked or received by the date specified in the Notice. The Settlement Administrator shall forward copies of all requests for exclusion to Class Counsel and Defendant’s Counsel no later than seven (7) days after receipt.

4.6 The Fairness Hearing, if any, shall be no earlier than ninety (90) days after the Notice Date.

4.7 Any Settlement Class Member who does not, using the procedures set forth in this Agreement and the Notice, either seek exclusion from the Settlement Class or timely file a valid Claim Form shall not be entitled to receive any payment or benefits pursuant to this Agreement, but will otherwise be bound by all of the terms of this Agreement, including the terms of the Final Judgment to be entered in the Action and the Releases provided for in the Agreement, and will be barred from bringing any action against any of the Released Parties concerning the Released Claims.

5. SETTLEMENT ADMINISTRATION.

5.1 The Settlement Administrator shall, under the supervision of the Court, administer the relief provided by this Settlement Agreement by processing Claim Forms in a rational, responsive, cost effective, and timely manner. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as are required by applicable law in accordance with its normal business practices and such records will be made available to Class Counsel and Defendant’s Counsel upon request. The Settlement Administrator

shall also provide reports and other information to the Court as the Court may require. The Settlement Administrator shall provide Class Counsel and Defendant's Counsel with information concerning Notice, administration, and implementation of the Settlement Agreement. Should the Court request, the Parties shall submit a timely report to the Court summarizing the work performed by the Settlement Administrator, including a report of all amounts from the Settlement Fund paid to Settlement Class Members on account of Approved Claims. Without limiting the foregoing, the Settlement Administrator shall:

- (a) Forward to Defendant's Counsel, with copies to Class Counsel, all original documents and other materials received in connection with the administration of the Settlement, and all copies thereof, within thirty (30) days after the date on which all Claim Forms have been finally approved or disallowed in accordance with the terms of this Agreement;
- (b) Receive requests to be excluded from the Settlement Class and other requests and promptly provide to Class Counsel and Defendant's Counsel copies thereof. If the Settlement Administrator receives any exclusion forms or other requests after the deadline for the submission of such forms and requests, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Defendant's Counsel;
- (c) Provide weekly reports to Class Counsel and Defendant's Counsel, including, without limitation, reports regarding the number of Claim Forms received, the number approved by the Settlement Administrator, and the categorization and description of Claim Forms rejected, in whole or in part, by the Settlement Administrator; and
- (d) Make available for inspection by Class Counsel or Defendant's Counsel the Claim Forms received by the Settlement Administrator at any time upon reasonable notice.

5.2 The Settlement Administrator shall be obliged to employ reasonable procedures to screen claims for abuse or fraud and deny Claim Forms where there is evidence of abuse or fraud or bulk submission from a single IP Address or series of IP Addresses. The Settlement Administrator will reject any claim that does not comply in any material respect with the instructions on the Claim Form or the terms of Paragraph 1.4, above, or is submitted after the Claims Deadline. Each claimant who submits an invalid Claim Form to the Settlement Administrator must be given a notice of the Claim Form's deficiency and an opportunity to cure the deficiency within twenty-one (21) days of the date of the notice. The Settlement Administrator may contact any Person who has submitted a Claim Form to obtain additional information necessary to verify the Claim Form.

5.3 Defendant's Counsel and Class Counsel shall have the right to challenge the acceptance or rejection of a Claim Form submitted by Settlement Class Members and to obtain and review supporting documentation relating to such Claim Form. The Settlement Administrator shall follow any agreed decisions of Class Counsel and Defendant's Counsel as to the validity of any disputed submitted Claim Form. To the extent Class Counsel and Defendant's Counsel are not able to agree on the disposition of a challenge, the disputed claim shall be submitted to the Honorable Freda L. Wolfson for binding determination.

5.4 In the exercise of its duties outlined in this Agreement, the Settlement Administrator shall have the right to reasonably request additional information from the Parties or any Settlement Class Member.

6. TERMINATION OF SETTLEMENT.

6.1 Notwithstanding Paragraphs 9.1-9.3 below, Defendant or the Class Representative on behalf of the Settlement Class, shall have the right to terminate this Agreement by providing written

notice of the election to do so (“Termination Notice”) to all other Parties hereto within twenty-one (21) days of any of the following events: (i) the Court rejects, materially modifies, or materially amends or changes the terms of the Settlement as embodied in this Settlement Agreement; (ii) the Court declines to enter, without material change, the material terms in the proposed Preliminary Approval Order or the proposed Final Approval Order and Judgment; (iii) the date upon which the Final Judgment is modified or reversed in any material respect by the Court of Appeals or the Supreme Court; or (iv) the date upon which an Alternative Judgment, as defined in Paragraph 9.1(d) of this Agreement is modified or reversed in any material respect by a court of appeal.

6.2 In the event of a termination of this Settlement Agreement based on an occurrence specified above, Class Counsel and Counsel for Defendant agree to negotiate in good faith in an attempt to reach an appropriate, amended settlement agreement.

6.3 To avoid ambiguity, the Parties agree that the Court’s failure to approve, in whole or in part, the Fee and Expense Award payment to Class Counsel and/or the Service Award payment set forth in Paragraph 8 below shall not prevent the Agreement from becoming effective, nor shall it be grounds for termination. The procedures for any application for approval of attorneys’ fees, expenses, or Service Award are to be considered by the Court separately from the Court’s consideration of the fairness, reasonableness and adequacy of the Settlement.

6.4 Notwithstanding Paragraphs 9.1-9.3 below, Defendant shall have the right (but not the obligation) to terminate the Settlement Agreement if individuals comprising more than 1,000 Settlement Class members opt out and/or object to the Settlement Agreement at any time prior to the filing of a motion for final approval.

6.5 If Defendant seeks to terminate the Agreement on the basis of 6.4 above, the Parties agree that any dispute as to whether Defendant may invoke section 6.4 to terminate the Agreement that they cannot resolve on their own after reasonable, good faith efforts, will be submitted to the Honorable Freda L. Wolfson of JAMS for binding determination.

7. PRELIMINARY APPROVAL AND FINAL ORDER.

7.1 Promptly after the execution of this Agreement, Class Counsel shall submit this Agreement, together with its exhibits, to the Court and shall move the Court for Preliminary Approval of the Settlement, preliminary certification of the Settlement Class for settlement purposes only; appointment of Class Counsel and the Class Representative; and entry of a Preliminary Approval Order. The Preliminary Approval Order, shall, among other things: (a) approve as to form and content the Proposed Notice and Claim Form, substantially in the form of Exhibits A, B, and C hereto, (b) direct the sending of the Notice and Claim Form to the Settlement Class Members, providing the Settlement Class Members an opportunity to file a claim, file an objection, or submit a request to be excluded from the settlement; and (c) certify the Settlement Class for settlement purposes. The Preliminary Approval Order shall also authorize the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all exhibits to this Agreement) so long as they are consistent in all material respects with the terms of the Settlement Agreement and do not limit or impair the rights of the Settlement Class.

7.2 Defendant's agreement as to certification of the Settlement Class is solely for purposes of effectuating the Settlement and no other purpose. Defendant retains all of its objections, arguments, and defenses with respect to class certification and any other issue, and reserves all rights to contest class

certification and any other issue of the Settlement set out in this Agreement if the Court denies the Preliminary Approval Motion or does not enter a Final Judgment and Dismissal as provided herein; if the Court's approval is reversed or vacated on appeal; if this Settlement is terminated as provided herein, or if the Settlement set forth in this Settlement Agreement otherwise fails to become effective. The Parties acknowledge that there has been no stipulation to any classes or certification of any classes for any purpose other than effectuating the Settlement, and that if the Settlement set forth in this Settlement Agreement is not finally approved, if the Court's approval is reversed or vacated on appeal, if this Settlement Agreement is terminated as provided herein, or if the Settlement set forth in this Settlement Agreement otherwise fails to become effective, this agreement as to certification of the Settlement Class becomes null and void *ab initio*, and this Settlement Agreement or any other settlement-related statement may not be cited regarding certification of the Class, or in support of an argument for certifying any class for any purpose related to this Action or any other proceeding.

7.3 At the time of the submission of this Agreement as to the Court as described above, Class Counsel shall request that, after Notice is given, the Court approve the Settlement of the Action as set forth herein. The Court shall have discretion to schedule and hold a Fairness Hearing.

7.4 After Notice is given, the Parties shall request and seek to obtain from the Court a Final Judgment, which will (among other things):

- a) find that the Court has personal jurisdiction over all Settlement Class Members and that the Court has subject matter jurisdiction to approve the Agreement, including all exhibits thereto;
- b) approve the Settlement Agreement and the proposed settlement as fair, reasonable, and adequate as to, and in the best interests of, the Settlement Class Members; direct the

Parties and their counsel to implement and consummate the Agreement according to its terms and provisions; and declare the Agreement to be binding on, and have *res judicata* and preclusive effect in all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and Releasing Parties;

c) find that the Notice implemented pursuant to the Agreement (1) constitutes the best practicable notice under the circumstances; (2) constitutes notice that is reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action, their right to object to or exclude themselves from the proposed Agreement, and to appear at the Final Approval Hearing; (3) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; and (4) meets all applicable requirements of the Federal Rules of Civil Procedure, the Due Process Clause of the United States Constitution, and the rules of the Court;

d) find that the Class Representative and Class Counsel adequately represent the Settlement Class for purposes of entering into and implementing the Agreement;

e) dismiss the Action (including all individual claims and Settlement Class Claims presented thereby) on the merits and with prejudice, without fees or costs to any party except as provided in the Settlement Agreement;

f) incorporate the Release set forth above, make the Release effective as of the date of the Effective Date, and forever discharge the Released Parties as set forth herein;

g) permanently bar and enjoin all Settlement Class Members who have not been properly excluded from the respective Settlement Class from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in, any lawsuit or other action in any jurisdiction based on the Released Claims;

h) without affecting the finality of the Final Judgment for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement, and interpretation of the Settlement Agreement and the Final Judgment, and for any other necessary purpose; and

i) incorporate any other provisions, as the Court deems necessary and just.

7.5 If the Court declines to enter the Preliminary Approval Order, unless the Parties jointly agree to seek reconsideration of the ruling, to seek appellate review, or to seek Court approval of a renegotiated settlement, the Litigation will resume as if no settlement had been attempted. The Parties retain all rights with respect to whether the Litigation should be maintained as a class action or collective action and with respect to the merits of the claims and defenses being asserted in the Litigation.

7.6 The Parties will work together, diligently and in good faith, to expeditiously obtain a Preliminary Approval Order, Final Judgment, and Dismissal.

8. CLASS COUNSEL'S ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES; SERVICE AWARD.

8.1 Defendant agrees that Class Counsel shall be entitled to an award of reasonable attorneys' fees and costs in an amount determined by the Court as the Fee and Expense Award. With no consideration given or received, Class Counsel will limit its petition for attorneys' fees, costs, and expenses to no more than one-third of the Gross Settlement Fund deposited into the Escrow Account. Provided that Class Counsel limits its request for a Fee and Expense Award to this amount, Defendant shall not oppose Class Counsel's request for the Fee and Expense Award. This Settlement is not conditioned upon the Court awarding any attorneys' fee and expense award, and should the Court decline to make a Fee and Expense Award, or approve an award less than that sought by Class Counsel, the remaining provisions of the Settlement shall be binding and effective.

8.2 The Fee and Expense Award shall be payable within five (5) days after the Effective Date. Payment of the Fee and Expense Award shall be made by wire transfer to Carney, Bates & Pulliam, PLLC in accordance with wire instructions to be provided to the Settlement Administrator by Carney, Bates & Pulliam, PLLC and completion of necessary forms, including but not limited to W-9 forms. Carney, Bates & Pulliam, PLLC shall be responsible for distributing the Fee Award between and amongst Class Counsel pursuant to any applicable agreements.

8.3 Class Counsel intends to file a motion for Court approval of a Service Award for the Class Representative, to be paid out of the Settlement Fund, in addition to any funds the Class Representative stand to otherwise receive from the Settlement Fund. With no consideration having been given or received for this limitation, the Class Representative will seek no more than \$5,000 as a Service Award.

9. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION

9.1 The Effective Date of this Settlement Agreement shall not occur unless and until each of the following events occurs and shall be the date upon which the last (in time) of the following events occurs:

- (a) The Parties and their counsel have executed this Agreement;
- (b) The Court has entered the Preliminary Approval Order;
- (c) The Court has entered an order finally approving the Agreement, following Notice to the Settlement Class (and a Fairness Hearing if required by the Court), and has entered the Final Judgment, or a judgment consistent with this Agreement in all material respects; and

(d) The Final Judgment has become Final, as defined above, or, in the event that the Court enters an order and judgment in a form other than that provided above (“Alternative Judgment”) and that has the consent of the Parties, such Alternative Judgment becomes Final.

9.2 If any of the conditions specified in Paragraph 9.1 are not met, or in the event that this Agreement is not approved by the Court, or the Settlement set forth in this Agreement is terminated or fails to become effective in accordance with its terms, then this Settlement Agreement shall be canceled and terminated subject to Paragraph 6.1 unless Class Counsel and Defendant's Counsel mutually agree in writing to proceed with this Agreement. If any Party is in material breach of the terms hereof, and fails to cure such material breach within 30 days of notice, any other Party, provided that it is in substantial compliance with the terms of this Agreement, may terminate this Agreement on notice to all of the Settling Parties.

9.3 If this Agreement is terminated or fails to become effective for the reasons set forth in Paragraphs 6.1 and 9.1-9.2 above, the Parties shall be restored to their respective positions in the Action as of the date of the signing of this Agreement. In such event, any Final Judgment or other order entered by the Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*, and the Parties shall be returned to the status quo ante with respect to the Action as if this Agreement had never been entered into.

10. MISCELLANEOUS PROVISIONS.

10.1 The Parties (a) acknowledge that it is their intent to consummate this Settlement Agreement; and (b) agree, subject to their fiduciary and other legal obligations, to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement, to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this

Agreement, to secure approval, and to defend the Final Judgment through any and all appeals. Class Counsel and Defendant's Counsel agree to cooperate with one another in seeking Court approval of the Settlement Agreement, entry of the Preliminary Approval Order, and the Final Judgment, and promptly to agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Agreement.

10.2 The Parties intend this Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Released Claims by Plaintiffs, the Settlement Class, and each or any of them, on the one hand, against the Released Parties, and each or any of the Released Parties, on the other hand. Accordingly, the Parties agree not to assert in any forum that the Action was brought by Plaintiffs or defended by Defendant, or each or any of them, in bad faith or on a frivolous basis.

10.3 The Parties have relied upon the advice and representation of counsel, selected by them, concerning their respective legal liability for the claims hereby released. The Parties have read and understand fully the above and foregoing agreement and have been fully advised as to the legal effect thereof by counsel of their own selection and intend to be legally bound by the same.

10.4 Whether or not the Effective Date occurs or the Settlement Agreement is terminated, neither this Agreement nor the Settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of this Agreement or the Settlement:

(a) is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them, as an admission, concession or evidence of, the validity of any Released Claims, the truth of any fact alleged by Plaintiff and the Settlement Class, the deficiency of any defense that has been or could have been asserted in the Action, the violation of any law or statute, the

reasonableness of the settlement amount or the Fee Award, or of any alleged wrongdoing, liability, negligence, or fault of the Released Parties, or any of them;

(b) is, may be deemed, or shall be used, offered, or received against Defendant, as an admission, concession, or evidence of any fault, misrepresentation or omission with respect to any statement or written document approved or made by the Released Parties, or any of them;

(c) is, may be deemed, or shall be used, offered, or received against the Released Parties, or each or any of them, as an admission or concession with respect to any liability, negligence, fault, or wrongdoing as against any Released Parties, in any civil, criminal, or administrative proceeding in any court, administrative agency or other tribunal. However, the Settlement, this Agreement, and any acts performed and/or documents executed in furtherance of or pursuant to this Agreement and/or Settlement may be used in any proceedings as may be necessary to effectuate the provisions of this Agreement. Further, if this Settlement Agreement is approved by the Court, any Party or any of the Released Parties may file this Agreement and/or the Final Judgment in any action that may be brought against such Party or Parties 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;

(d) is, may be deemed, or shall be construed against Plaintiff, the Settlement Class, the Releasing Parties, or each or any of them, or against the Released Parties, or each or any of them, as an admission or concession that the consideration to be given hereunder represents an amount equal to, less than or greater than that amount that could have or would have been recovered after trial; and

(e) is, may be deemed, or shall be construed as or received in evidence as an admission or concession against Plaintiff, the Settlement Class, the Releasing Parties, or each and any of

them, or against the Released Parties, or each or any of them, that any of Plaintiff's claims are with or without merit or that damages recoverable in the Action would have exceeded or would have been less than any particular amount.

10.5 The headings used herein are used for the purpose of convenience only and are not meant to have legal effect.

10.6 The waiver by one Party of any breach of this Agreement by any other Party shall not be deemed as a waiver of any other prior or subsequent breaches of this Agreement.

10.7 All of the Exhibits to this Agreement are material and integral parts thereof and are fully incorporated herein by this reference.

10.8 This Agreement and its Exhibits set forth the entire agreement and understanding of the Parties with respect to the matters set forth herein, and supersede all prior negotiations, agreements, arrangements, and undertakings with respect to the matters set forth herein. No representations, warranties or inducements have been made to any Party concerning this Settlement Agreement or its Exhibits other than the representations, warranties and covenants contained and memorialized in such documents. This Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest. Notwithstanding the provisions of this paragraph, all representations by Plaintiff, Defendant, and their respective counsel set forth in the Parties' Term Sheet shall remain binding.

10.9 Except as otherwise provided herein, each Party shall bear its own costs.

10.10 Plaintiff represents and warrants that he has not assigned any claim or right or interest therein as against the Released Parties to any other Person or Party and that they are fully entitled to release the same.

10.11 Each counsel or other Person executing this Settlement Agreement, any of its Exhibits, or any related settlement documents on behalf of any Party hereto, hereby warrants and represents that such Person has the full authority to do so and has the authority to take appropriate action required or permitted to be taken pursuant to the Agreement to effectuate its terms. Class Counsel in particular warrants that they are authorized to execute this Settlement Agreement on behalf of Plaintiff and the Settlement Class (subject to final approval by the Court after notice to all Settlement Class Members), and that all actions necessary for the execution of this Settlement Agreement have been taken.

10.12 This Agreement may be executed in one or more counterparts. Signature by digital means, facsimile, or in PDF format will constitute sufficient execution of this Agreement. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of original executed counterparts shall be filed with the Court if the Court so requests.

10.13 This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto and the Released Parties.

10.14 While the Action shall be dismissed with prejudice, the Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in this Agreement.

10.15 This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

10.16 This Agreement is deemed to have been prepared by counsel for all Parties, as a result of arm's-length negotiations among the Parties. Because all Parties have contributed substantially and

materially to the preparation of this Agreement, it shall not be construed more strictly against one Party than another.

10.17 Where this Agreement requires notice to the Parties, such notice shall be sent to the undersigned counsel: For Class Counsel: Allen Carney, Carney, Bates & Pulliam, PLLC, One Allied Drive, Suite 1400, Little Rock, AR 72202; and for Defendant's Counsel: Jeffrey Landis, ZwillGen PLLC, 1900 M Street NW, Suite 250, Washington, D.C. 20036.

10.18 Plaintiff and/or Class Counsel shall not, at any time, issue press releases or make other public statements regarding the Settlement or the Action other than those required to effectuate the Settlement (e.g., filings with the Court as necessary to obtain Approval of the Settlement) unless Defendant agrees to such press releases or public statements in advance. This provision shall not prohibit Class Counsel from communicating with any person in the Settlement Class regarding the Settlement (subject to compliance with any and all applicable confidentiality obligations).

10.19 Plaintiff and Class Counsel agree not to disparage Defendant or its affiliates, their practices, or any products or services they provide, offer, or sell, whether in public or private, whether written or oral, and whether truthful or untruthful.

IT IS AGREED TO BY THE PARTIES:

Dated: _____

BENJAMIN GARCIA

By: _____
Benjamin Garcia, individually and as Class
Representative

Dated: _____

BRIGHAM YOUNG UNIVERSITY

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM:

Dated: _____

CARNEY BATES & PULLIAM, PLLC

By: _____

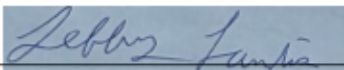
Allen Carney (*pro hac vice*)
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Hank Bates (*pro hac vice*)
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Samuel Randolph Jackson (*pro hac vice*)
sjackson@cbplaw.com
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ANDERSON & KARRENBURG, P.C.

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LEVI & KORSINSKY LLP

Mark Reich (to apply for *pro hac vice*)
mreich@zlk.com
33 Whitehall Street, 17th Floor
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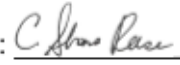
*Class Counsel*Dated: June 23, 2023**ZWILLGEN PLLC**By:  _____

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jeff@zwillgen.com
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A-360 ASB
Provo, Utah 84602
Telephone: (801) 422-4722

Attorneys for Defendant

IT IS AGREED TO BY THE PARTIES:Dated: 06/23/2025**BENJAMIN GARCIA**By: 
Benjamin Garcia, individually and as Class
RepresentativeDated: 06/23/2025**BRIGHAM YOUNG UNIVERSITY**By: 
Name: C. Shane Reese
Title: President**APPROVED AS TO FORM:**Dated: 06/23/2025**CARNEY BATES & PULLIAM, PLLC**By: 
Allen Carney (*pro hac vice*)
acarney@cbplaw.com
Hank Bates (*pro hac vice*)
hbates@cbplaw.com
Samuel Randolph Jackson (*pro hac vice*)
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Little Rock, AR 72202
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Facsimile: (501) 312-8505**ANDERSON & KARRENBURG, P.C.**Jacob D. Barney (#16777)
50 W. Broadway, Suite 600
Salt Lake City, UT 84101
Telephone: (801) 534-1700
Fax: (801) 364-7497**LEVI & KORSINSKY LLP**Mark Reich (to apply for *pro hac vice*)
mreich@zlk.com
33 Whitehall Street, 17th Floor
New York, NY, 10004
Tel: (212) 363-7500
Fax: (212) 363-7171

Dated: _____

Class Counsel

ZWILLGEN PLLC

By: _____

Michael Bleicher (*pro hac vice*)
michael.bleicher@zwillgen.com

Jeff Landis (*pro hac vice*)

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Provo, Utah 84602

Telephone: (801) 422-4722

Attorneys for Defendant

Executed Settlement Agreement - Plaintiff

Final Audit Report


2025-06-23

Created:	2025-06-23
By:	Rachel Edwards (redwar22@byu.edu)
Status:	Signed
Transaction ID:	CBJCHBCAABAAtkkN2m0WziiBsb4jwYfTyb1iJ0f5dh1-


"Executed Settlement Agreement - Plaintiff" History

 Document created by Rachel Edwards (redwar22@byu.edu)

2025-06-23 - 10:12:51 PM GMT- IP address: 128.187.112.15

 Document emailed to shane_reese@byu.edu for signature


2025-06-23 - 10:15:47 PM GMT

 Email viewed by shane_reese@byu.edu

2025-06-23 - 10:16:02 PM GMT- IP address: 128.187.112.19

 Signer shane_reese@byu.edu entered name at signing as C. Shane Reese

2025-06-23 - 10:16:32 PM GMT- IP address: 128.187.112.19

 Document e-signed by C. Shane Reese (shane_reese@byu.edu)

Signature Date: 2025-06-23 - 10:16:34 PM GMT - Time Source: server- IP address: 128.187.112.19

 Agreement completed.

2025-06-23 - 10:16:34 PM GMT

EXHIBIT A

Benjamin Garcia v. Brigham Young University d/b/a BYU Broadcasting

In the United States District Court for the District of Utah

Case No. 1:24-cv-00188-AMA-DAO

Settlement Claim Form

If you are a Settlement Class Member and wish to receive a payment, your completed Claim Form must be postmarked on or before [REDACTED], or submitted online on or before [REDACTED].

Please read the full notice of this settlement (available at [hyperlink]) carefully before filling out this Claim Form.

To be eligible to receive any benefits from the settlement obtained in this class action lawsuit, you must submit this completed Claim Form online or by mail:

ONLINE: www.garciavideoprivacyclassaction.com

MAIL: [ADDRESS]

PART ONE: CLAIMANT INFORMATION

Provide your name and contact information below. It is your responsibility to notify the Settlement Administrator of any changes to your contact information after the submission of your Claim Form.

FIRST NAME

LAST NAME

STREET ADDRESS

CITY

STATE

ZIP CODE

E-MAIL ADDRESS

If you received Notice about the Settlement by email, please provide the Unique ID located on the Notice you received to assist the Settlement Administrator in validating your claim. Please be sure to include the full Unique ID, including all letters and/or numbers that appear.

UNIQUE ID

PART TWO: COMPENSATION AND PROOF OF MEMBERSHIP

PROOF OF FACEBOOK ACCOUNT: To qualify for a Cash Payment under the Settlement, you must have had a Facebook account. By signing this form, you hereby submit, under penalty of perjury of the laws of the United States of America, that you had a Facebook account during the time period November 12, 2022 to May 9, 2025.

FORM OF CASH PAYMENT: You may be entitled to receive a Cash Payment of \$x.xx. You may select the form in which you wish to receive the Cash Payment below.

Method of Cash Payment:

Venmo	<input type="checkbox"/>	Venmo Username: _____
PayPal	<input type="checkbox"/>	Paypal Email: _____
Zelle	<input type="checkbox"/>	Zelle Email: _____
Check	<input type="checkbox"/>	Address: _____

PART THREE: ATTESTATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury under the laws of the United States of America that between November 12, 2022 through May 9, 2025, I (1) had a Facebook account, (2) had a subscription (i.e., login credentials) to www.byutv.org, and (3) viewed a video on www.byutv.org; and that all of the information on this Claim Form is true and correct to the best of my knowledge. I also declare under penalty of perjury that the Facebook account identified in this form belongs to me and no one else. I understand that my Claim Form may be subject to audit, verification, and Court review.

SIGNATURE

DATE

Please keep a copy of your Claim Form for your records.

EXHIBIT B

From: info@garciavideoprivacyclassaction.com (BYUtv Settlement)
To: JonQClassMember@domain.com
Re: Legal Notice of Class Action Settlement

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT
Benjamin Garcia v. Brigham Young University d/b/a BYU Broadcasting
Case No. 1:24-cv-00188-AMA-DAO
(U.S. District Court for the District of Utah)

**Records Indicate You May Be Entitled to a Payment From a Class Action Settlement Because
You Have a Subscription to BYUtv**

Click [HERE] to File a Claim for Payment
Claims Must Be Submitted no later than [Claims Deadline]

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

This notice is to inform you that a settlement (the “Settlement”) has been reached in a class action lawsuit (the “Action”) filed by a BYUtv account holder (“Plaintiff”) alleging that Brigham Young University d/b/a BYUtv (“Defendant” or “BYUtv”) disclosed its subscribers’ personally identifiable information (PII) about audio visual materials viewed to Meta (formerly Facebook) via the Meta Pixel without consent, in violation of the 1988 Video Privacy Protection Act (VPPA), 18 U.S.C. § 2710, which governs “video tape service providers.” BYUtv disagrees and maintains that the VPPA does not apply to BYUtv, that BYUtv did not share any PII with Meta, and that no violation of privacy occurred. The Court has not decided who is right, and there has been no finding of wrongdoing. Rather, the parties have agreed to settle the matter to avoid costly and lengthy litigation. Because you have a BYUtv account, if you also have a Facebook account, you might qualify as a Settlement Class Member and may be able to apply for remuneration from a Settlement Fund.

Am I a Class Member? Our records indicate you may be a Settlement Class Member. Settlement Class Members are all persons in the United States who, at any time between November 12, 2022, through May 9, 2025, simultaneously: (1) had a Facebook account, (2) had a registered account (i.e., login credentials) with BYUtv, and (3) viewed one or more videos on www.byutv.org.

What Can I Get? If approved by the Court, BYUtv will create a Settlement Fund of at least \$1.25 million for the benefit of the Settlement Class. The Settlement Fund will be distributed on a pro rata basis to those who qualify as Settlement Class Members and who file a timely and complete claim, after deducting from the Settlement Fund any Court-approved attorneys’ fees and expenses of Plaintiff’s counsel, a service award for the class representative, and the costs of settlement administration. The Settlement also requires BYUtv to suspend operation of a marketing tool called the Meta Pixel on any BYUtv website page that includes video content and has a URL that substantially identifies the video content viewed, unless and until either (1) the VPPA is amended, repealed, or otherwise invalidated by judicial decision as applied to the use of website pixel technology, or (2) BYUtv obtains VPPA-compliant consent that would apply to disclosure of the video content viewed to Facebook.

How Do I Get a Payment? You must submit a timely and complete Claim Form no later than [claims deadline]. You can file a claim by clicking [here.] If you qualify, your payment will come by check unless you elect to receive payment electronically by Venmo, Zelle, PayPal, etc.

If you do not want emails about this matter, please unsubscribe [_____].

What are My Other Options? You may exclude yourself from the Settlement Class by sending a letter to the Settlement Administrator no later than **[objection/exclusion deadline]**. If you exclude yourself, you cannot get a settlement payment, but you will keep any rights you may have to sue BYUtv regarding the issues in the lawsuit. Alternatively, if you remain in the Settlement Class, you may object to the proposed Settlement, and you and/or your lawyer have the right to appear before the Court. Your written objection must be filed no later than **[objection/exclusion deadline]**. Specific instructions about how to exclude yourself from, or object to, the Settlement are available at www.garciavideoprivacyclassaction.com (the “Settlement Website”). If you file a claim or do nothing, and the Court approves the Settlement, you will be bound by all of the Court’s orders and judgments. In addition, your claims against BYUtv relating to issues in this case will be released.

Who Represents Me? The Court has appointed Allen Carney, Hank Bates, and Sam Jackson of Carney, Bates & Pulliam, PLLC, Jacob D. Barney of Anderson & Karrenberg, P.C., and Mark Reich of Levi & Korsinsky LLP to represent the Settlement Class. These attorneys are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

When Will the Court Consider the Proposed Settlement? The Court will hold the Final Approval Hearing at ____m. on [date] in Courtroom 2B at the St. George Courthouse, 206 Tabernacle Street, St. George UT 84770 or 351 S. West Temple, Salt Lake City UT 84101. The purpose of the hearing will be for the Court to determine whether to approve the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class; to consider Class Counsel’s request for attorneys’ fees and expenses; and to consider the request for a Service Award to the Class Representative. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the Settlement.

How Do I Get More Information? This notice contains only a summary of the Settlement and the proceedings to date. Complete copies of public pleadings, Court rulings, and other filings are available for review and copying at _____ between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding Court holidays. Additional information is also available on the Settlement Website, or by contacting the Settlement Administrator at XXX-XXX-XXXX or info@garciavideoprivacyclassaction.com.

If you do not want emails about this matter, please unsubscribe [_____].

EXHIBIT C

U.S. District Court for the District of Utah

Benjamin Garcia v. Brigham Young University d/b/a BYU Broadcasting

Case No. 1:24-cv-00188-AMA-DAO

Records Indicate You May Be Entitled to a Payment From a Class Action Settlement Because You Have a Subscription to BYUtv.

Claims Must be Submitted no later than [Claims Deadline]

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

- A settlement (“Settlement”) has been reached in a class action lawsuit (the “Action”) filed by a BYUtv account holder claiming that Brigham Young University d/b/a BYUtv (“Defendant” or “BYUtv”) disclosed subscribers’ personally identifiable information (“PII”) about audio visual materials viewed to Meta (formerly Facebook) via the Meta Pixel without consent, in violation of the 1988 Video Privacy Protection Act (“VPPA”), 18 U.S.C. § 2710, which governs “video tape service providers.” BYUtv disagrees and maintains that the VPPA does not apply to BYUtv, that BYUtv did not share any PII with Meta, and that no violation of privacy occurred. The Court has not decided who is right, and there has been no finding of wrongdoing. Rather, the parties have agreed to settle the matter to avoid costly and lengthy litigation.
- You are included in the Settlement Class Settlement if you are a person in the United States who, at any time between November 12, 2022, through May 9, 2025, simultaneously: (1) had a Facebook account, (2) had a registered account (i.e., login credentials) with BYUtv, and (3) viewed one or more videos on www.byutv.org.
- If the Settlement is approved by the Court, BYUtv will create a Settlement Fund of at least \$1.25 million for the benefit of the Settlement Class. The Settlement Fund will be distributed on a *pro rata* basis to those who qualify as Settlement Class Members and who file a timely and complete claim, after deducting from the Settlement Fund any Court-approved attorneys’ fees and expenses of Plaintiff’s counsel, a service award for the class representative, and the costs of settlement administration. The Settlement also requires BYUtv to suspend operation of the Meta Pixel on any BYUtv website page that includes video content and has a URL that substantially identifies the video content viewed, unless and until either (1) the VPPA is amended, repealed, or otherwise invalidated by judicial decision as applied to the use of website pixel technology, or (2) BYUtv obtains VPPA-compliant consent that would apply to disclosure of the video content viewed to Meta.
- **Read this notice carefully.** It explains your rights and options, as well as the deadlines to exercise them. Your legal rights are affected whether you act or don’t act.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM BY [DATE]	This is the only way to receive a Cash Payment. Claim Forms can be found and submitted at the Settlement Website, www.garciavideoprivacyclassaction.com
EXCLUDE YOURSELF BY [DATE]	You will receive no benefits, but you will retain any rights you currently have to sue the Defendant about the claims in this case.
OBJECT BY [DATE]	Write to the Court explaining why you don't like the Settlement.
GO TO THE HEARING BY [DATE]	Ask to speak in Court about your objection to the Settlement.
DO NOTHING	You won't get a share of the Settlement benefits and will give up your rights to sue the Defendant about the claims in this case.

BASIC INFORMATION

1. Why was this Notice issued?

A Court authorized this notice because you have a right to know about a proposed Settlement of this class action lawsuit and about all of your options, before the Court decides whether to give final approval to the Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

The Honorable Ann Marie McLiff Allen of the United States District Court for the District of Utah, is overseeing this case. The case is called *Garcia v. Brigham Young University d/b/a BYU Broadcasting*, Case No. 1:24-cv-00188-AMA-DAO. The person who sued is called the Plaintiff. The entity being sued, BYU d/b/a BYUtv, is called the Defendant.

2. What is a class action?

In a class action, one or more people called the class representatives (in this case, Plaintiff Benjamin Garcia) sue on behalf of a group or a "class" of people who have similar claims. In a class action, the court resolves the issues for all class members, except for those who exclude themselves from the Class.

3. What is this lawsuit about?

This lawsuit claims that BYUtv violated the 1988 VPPA by disclosing its subscribers' personally identifiable information ("PII") to Meta via the Meta Pixel (a piece of code Defendant installed across its website) without consent. The VPPA defines PII to include

information which identifies a person as having requested or obtained specific video materials or services from a video tape service provider. Defendant denies that it violated any law or that the VPPA applies to it. The Court has not determined who is right. Rather, the parties have agreed to settle the matter to avoid the uncertainties and expenses associated with continuing the Action.

4. Why is there a Settlement?

The Court has not decided whether the Plaintiff or the Defendant should win this case. Instead, both sides agreed to a Settlement. That way, they avoid the uncertainties and expenses associated with ongoing litigation, and Class Members will get compensation sooner rather than, if at all, after the completion of a trial.

WHO'S INCLUDED IN THE SETTLEMENT?

5. How do I know if I am in the Settlement Class?

The **Settlement Class** is defined as:

All persons in the United States who, at any time between November 12, 2022, through May 9, 2025, simultaneously: (1) had a Facebook account, (2) had a registered account (i.e., login credentials) with BYUtv, and (3) viewed one or more videos on www.byutv.org.

Excluded from the Settlement Class are counsel to the Settling Parties and their employees, legal representatives, heirs, successors, assigns, or any members of their immediate family; any government entity; BYU, any entity in which BYU has a controlling interest, any of BYU's subsidiaries, parents, affiliates, and officers, directors, employees, legal representatives, heirs, successors, or assigns, or any members of their immediate family; any persons who, as of the date of this Agreement, have provided notice to BYU of claims relating to the Action; any persons who have released claims relating to the Action; and any persons who timely opt-out of the Settlement Class.

THE SETTLEMENT BENEFITS

6. What does the Settlement provide?

Monetary Relief: Defendant will create a Settlement Fund of at least \$1.25 million for the benefit of the Settlement Class. The Settlement Fund will be distributed on a *pro rata* basis to those who qualify as Settlement Class Members and who file a timely and complete claim, after deducting the costs for notice and settlement administration, any Court-approved attorneys' fees and expenses, and a service award for the Class Representative (*see* Question 13).

Prospective Changes: In addition to this monetary relief, the Settlement also requires Defendant to suspend operation of the Meta Pixel on any BYUtv website page that includes

video content and has a URL that substantially identifies the video content viewed, unless and until either (1) the VPPA is amended, repealed, or otherwise invalidated by judicial decision as applied to the use of website pixel technology, or (2) Defendant obtains VPPA-compliant consent that would apply to disclosure of the video content viewed to Facebook.

A detailed description of the settlement benefits can be found in the Settlement Agreement. [insert hyperlink]

7. How much will my payment be?

As noted above, Defendant will create a Settlement Fund of at least \$1.25 million for the benefit of the Settlement Class. The Settlement Fund will be distributed on a *pro rata* basis to those who qualify as Settlement Class Members and who file a timely and complete claim, after deducting costs for notice and settlement administration, any Court-approved attorneys' fees and expenses, and a service award for the Class Representative. This means each Settlement Class Member who submits a valid claim will be paid an equal share from the Net Settlement Fund. The amount of the payments to individual Class Members will depend on the number of valid claims that are filed. Because the final payment amount cannot be calculated before all claims are received and verified, it will not be possible to provide an accurate estimate of the payment amount before the deadline to file claims. **You must submit a Claim Form** in order to receive any compensation under the Settlement.

8. When will I get my payment?

The hearing to consider the fairness of the settlement is scheduled for [DATE]. If the Court approves the Settlement, eligible Class Members whose claims were approved by the Settlement Administrator will receive their Cash Payment 45 days after the Settlement has been finally approved and/or any appeals process is complete. The Cash Payments will be made in the form of a check or payment by Zelle, PayPal, or Venmo, at your election.

HOW TO GET BENEFITS

9. How do I get a payment?

If you are a Class Member and you want to get a Cash Payment, you **must** complete and submit a Claim Form by **[Claims Deadline]**. Claim Forms can be found and submitted by clicking here [hyperlink], or by printing and mailing a paper Claim Form, copies of which are available for download here [hyperlink].

Settlement Class Members are encouraged to submit claims online. Not only is it easier and more secure, but it is completely free and takes only minutes!

REMAINING IN THE SETTLEMENT

10. What am I giving up if I stay in the Settlement Class?

If the Settlement becomes final, you will give up your right to sue Defendant for the claims this Settlement resolves. The Settlement Agreement describes the specific claims you are giving up against the Defendant. You will be “releasing” the Defendant and certain of its affiliates (the “Released Parties”) regarding the Released Claims as described and defined in paragraphs 1.25 and 1.26 of the Settlement Agreement. Unless you exclude yourself (*see* Question 14), you are “releasing” the claims, regardless of whether you submit a claim or not. The Settlement Agreement is available through the “court documents” tab on the website.

The Settlement Agreement describes the Released Claims with specific descriptions (*see* paragraphs 1.24-1.26 and 3.1-3.2 of the Settlement Agreement), so read it carefully. If you have any questions you can talk to the lawyers listed in Question 12 for free or you can, of course, talk to your own lawyer if you have questions about what this means.

11. What happens if I do nothing at all?

If you do nothing, you won’t get any benefits from this Settlement. But, unless you exclude yourself, you won’t be able to start a lawsuit or be part of any other lawsuit against the Defendant for the claims being resolved by this Settlement.

THE LAWYERS REPRESENTING YOU

12. Do I have a lawyer in the case?

The Court has appointed Allen Carney, Hank Bates, and Sam Jackson of Carney Bates & Pulliam, PLLC, Jacob Barney of Anderson & Karrenberg, and Mark Reich of Levi & Korsinsky LLP to be the attorneys representing the Settlement Class. They are called “Class Counsel.” They believe, after conducting an extensive investigation, that the Settlement Agreement is fair, reasonable, and in the best interests of the Settlement Class. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

13. How will the lawyers be paid?

Class Counsel’s attorneys’ fees, costs, and expenses will be paid from the Gross Settlement Amount in an amount determined and awarded by the Court. Class Counsel is entitled to seek up to one-third of the \$1.25 million Gross Settlement Amount, but the Court may award less than this amount.

Class Counsel may also seek a Service Award of up to \$5,000 for the Class Representative for his service in helping to bring and settle the case, but the Court may award less than this

amount. The Service Award will be paid out of the Gross Settlement Fund.

EXCLUDING YOURSELF FROM THE SETTLEMENT

14. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must mail or otherwise deliver a letter (or request for exclusion) stating that **you want to be excluded** from the *Garcia v. Brigham Young University d/b/a BYU Broadcasting*, Case No. 1:24-cv-00188-AMA-DAO settlement. Your letter or request for exclusion must also include your full name, your mailing address, your handwritten or electronically imaged written signature, the name and number of this case, and a statement that you wish to be excluded. You must mail or deliver your exclusion request, postmarked no later than **[objection/exclusion deadline]**, to:

BYUtv VPPA Settlement
0000 Street
City, ST 00000

15. If I don't exclude myself, can I sue the Defendant for the same thing later?

No. Unless you exclude yourself, you give up any right to sue the Defendant for the claims being resolved by this Settlement. If you exclude yourself, do not submit a Claim Form to ask for benefits.

OBJECTING TO THE SETTLEMENT

17. How do I object to the Settlement?

If you're a Settlement Class Member, you can object to the Settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must file with the Court a letter or brief stating that you object to the Settlement in *Garcia v. Brigham Young University d/b/a BYU Broadcasting*, Case No. 1:24-cv-00188-AMA-DAO and identify all your reasons for your objections (including citations and supporting evidence) and attach any materials you rely on for your objections. Your letter or brief must also include the following information: your full name and mailing address; an explanation of the basis upon which you claim to be a Settlement Class Member, including your affirmation that you were a Facebook member during the class period; the name and contact information of any and all attorneys representing, advising, or in any way assisting you in connection with your objection, and your handwritten or electronically imaged written signature. If you, or an attorney assisting you with your objection, have ever objected to any class action settlement where you or the objecting attorney has asked for or received payment in exchange for dismissal of the objection (or any related appeal) without modification to the settlement, you must also include a statement in your objection identifying each such case by full case caption. You must also mail or deliver a copy of your letter or brief to Class Counsel and Defendant's Counsel listed below.

Class Counsel will file with the Court and post on this website its request for attorneys' fees by [two weeks prior to objection deadline].

If you want to appear and speak at the Final Approval Hearing regarding your objection to the Settlement, with or without a lawyer (explained below in answer to Question Number 21), you must say so in your letter or brief. You must file the objection with the Court no later than **[objection deadline]**. The Court's address, as well as the addresses for Class Counsel and Defendant's Counsel, are:

Court	Class Counsel	Defendant's Counsel
United States District Court for the District of Utah	Allen Carney Carney Bates & Pulliam, PLLC One Allied Drive, Suite 1400 Little Rock, AR 72202 Telephone: (501) 312-8500 Facsimile: (501) 312-8505	Jeffrey Landis ZwillGen PLLC 1900 M Street NW, Suite 250 Washington, DC 20036 Telephone: (202) 706-5203 Facsimile: (202) 706-5298

18. What's the difference between objecting and excluding myself from the Settlement?

Objecting simply means telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself from the Settlement Class is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object or file a Claim Form because the case no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

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

The Court will hold the Final Approval Hearing at **[DATE AND TIME]** in Courtroom 2B at the St. George Courthouse, 206 Tabernacle Street, St. George UT 84770 or 351 S. West Temple, Salt Lake City UT 84101. The purpose of the hearing will be for the Court to determine whether to approve the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class; to consider the Class Counsel's request for attorneys' fees and expenses; and to consider the request for a service award to the Class Representative. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the Settlement.

The hearing may be postponed to a different date or time without notice, so it is a good idea to check [www.garciavideoprivacyclassaction.com] or contact Class Counsel at 1-888-551-9944. If, however, you timely objected to the Settlement and advised the Court that you intend to appear and speak at the Final Approval Hearing, you will receive notice of any change in the date of such Final Approval Hearing.

20. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to come at your own expense. If you send an objection or comment, you don't have to come to Court to talk about it. As long as you filed and mailed your written objection on time, the Court will consider it. You may also pay another lawyer to attend (at your own expense), but it's not required.

21. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must include in your letter or brief objecting to the Settlement a statement saying that you or your attorney intend to appear at the Final Approval Hearing (see Question 17).

GETTING MORE INFORMATION

22. Where do I get more information?

This Notice summarizes the Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at www.garciavideoprivacyclassaction.com You may also write with questions to BYU VPPA Settlement, P.O. Box 0000, City, ST 00000. You can call the Settlement Administrator at 1-800-000-0000 or Class Counsel at 501-312-8500, if you have any questions. Before doing so, however, please read this full Notice carefully. You may also find additional information elsewhere on the Settlement Website.

PLEASE DO NOT CONTACT THE COURT, THE CLERK'S OFFICE, DEFENDANT, OR DEFENDANT'S COUNSEL TO ASK QUESTIONS ABOUT THIS ACTION OR THIS NOTICE. THEY CANNOT ANSWER ANY QUESTIONS OR DISCUSS THE ACTION.

**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH – CENTRAL DIVISION**

BENJAMIN GARCIA, on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

BRIGHAM YOUNG UNIVERSITY d/b/a BYU
BROADCASTING

Defendant.

Case No.: 1:24-cv-00188-AMA-DAO

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL TO CLASS
ACTION SETTLEMENT**

Judge: Hon: Ann Marie McLiff Allen

Mag. Judge: Hon. Daphne A. Oberg

This matter is before the Court on Plaintiff's unopposed Motion for Preliminary Approval of Class Action Settlement (the "Motion"). The Motion attaches and incorporates a Class Action Settlement Agreement (the "Settlement" or "Settlement Agreement") that, together with the exhibits thereto, sets forth the terms and conditions for the settlement of claims, on a classwide basis, against Defendant Brigham Young University d/b/a/ BYUtv ("Defendant" or "BYU", and together with Plaintiff, the "Parties").

Having carefully considered the Motion, the Settlement Agreement together with all exhibits and attachments thereto, the record in this matter, and the briefs and arguments of counsel, and the Court determining that it likely will be able to approve the Settlement as fair, reasonable, and adequate under Fed. R. Civ. P. 23(e)(2), that it will likely be able to certify a class for purposes of judgment on the Settlement under Rules 23(a) and (b)(3), and that the proposed plan of notice (the "Notice Program") to the Settlement Class is the best notice practicable under the circumstances and consistent with the requirements of due process and Federal Rule of Civil Procedure 23(c)(2), and that a hearing should and will be held after notice to the Settlement Class to confirm that the Settlement is fair, reasonable, and adequate, and to determine whether this Court should enter a judgment approving the Settlement and an order of dismissal of this action based upon the Settlement,

IT IS HEREBY ORDERED as follows:

1. Unless otherwise defined herein, all terms that are capitalized herein shall have the same meaning ascribed to those terms in the Settlement Agreement.
2. The Court has jurisdiction over the subject matter of this action and personal jurisdiction over the Parties and the members of the Settlement Class.

PRELIMINARY APPROVAL OF THE PROPOSED SETTLEMENT

3. The Court finds that, subject to the Fairness Hearing, the Court will likely be able to approve the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class. The Court further finds that the Settlement substantially fulfills the purposes and objectives of the class action and provides beneficial relief to the Settlement Class, especially considering the risks and delay of continued litigation. The Court also finds that the Settlement Agreement: (a) is the result of arm's-length negotiations involving experienced counsel, with the assistance of a mediator, the Honorable Freda L. Wolfson (Ret.); (b) is sufficient to warrant notice of the Settlement and the Fairness Hearing to the Settlement Class; (c) meets all applicable requirements of law, including Federal Rule of Civil Procedure 23 and the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715; and (d) is not a finding or admission of liability by Defendant.

CERTIFICATION OF THE SETTLEMENT CLASS

4. Under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, and solely for purposes of judgment on the proposed Settlement, the Court preliminarily approves the following Settlement Class:

All persons in the United States who: (1) had a Facebook account during the Class Period; (2) had a subscription (i.e., login credentials) to <http://www.byutv.org> during the Class Period; and (3) viewed videos on www.byutv.org during the Class Period.¹

5. Excluded from the Settlement Class are (1) any persons who have asserted claims against Defendant under the VPPA prior to the date of this settlement through counsel other than Class Counsel; (2) any Judge or Magistrate presiding over this Action and members of their families; (3) the Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former

¹ "Class Period" is defined as the period from November 12, 2022, to and including May 9, 2025.

officers, directors, agents, and attorneys; (4) persons who properly execute and file a timely request for exclusion from the Settlement Class; and (5) the legal representatives, successors or assigns of any such excluded persons.

6. All Persons who are members of the Settlement Class who have not submitted a timely request for exclusion are referred to collectively as “Settlement Class Members” or individually as a “Settlement Class Member.”

7. For purposes of settlement only, the Court finds that it will likely be able to certify the Settlement Class under Federal Rules of Civil Procedure 23(a) and (b)(3), as the prerequisites thereunder have been met, including (1) that the Settlement Class is so numerous that joinder of all members is impracticable; (2) that there are questions of law and fact common to members of the Settlement Class that predominate over questions affecting only individual members (e.g., whether Defendant unlawfully disclosed to third parties, including Meta (formerly Facebook), Plaintiff’s and Settlement Class Members’ personally identifiable information without consent in a manner that violated the Video Privacy Protection Act, 18 U.S.C. § 2710, and whether Plaintiff and Settlement Class Members are entitled to uniform statutory damages under the VPPA); (3) that Plaintiff’s claims are typical of the claims of the Settlement Class; that Plaintiff and his counsel will fairly and adequately protect the interests of the Settlement Class; and (4) that a settlement class action is a superior method of fairly and efficiently adjudicating this Action.

8. Under Federal Rule of Civil Procedure 23, and for settlement purposes only, Plaintiff Benjamin Garcia is hereby appointed Class Representative and the following are hereby appointed as Class Counsel: Allen Carney, Hank Bates, and Sam Jackson of Carney Bates & Pulliam, PLLC; Jacob D. Barney of Anderson & Karrenberg, P.C.; and Mark Reich of Levi & Korsinsky LLP.

9. The Court finds that the above attorneys are competent and capable of exercising the responsibilities of Class Counsel and that Plaintiff will adequately protect the interests of the Settlement Class defined above.

NOTICE AND ADMINISTRATION

10. The Court directs the Settlement Administrator to perform the functions and duties set forth in the Settlement Agreement—including providing notice to the Settlement Class, processing Claim Forms, and administering distributions from the Settlement Fund—and to provide such other administration services as are reasonably necessary to facilitate the completion of the Settlement.

11. The Court has carefully considered the forms and methods of notice to the Settlement Class set forth in the Settlement (“Notice Program”). The Court finds that the Notice Program is reasonably calculated to apprise members of the Settlement Class of the pendency of this Action, the terms of the Settlement, and the right to object to the Settlement and to exclude themselves from the Settlement Class. The Court finds that the Notice Program constitutes the best notice practicable under the circumstances and fully satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure, the requirements of due process, and the requirements of any other applicable law, such that the terms of the Settlement, the releases provided for therein, and this Court’s final judgment will be binding on all Settlement Class Members. The Court further finds that the Notice Program constitutes valid, due, and sufficient notice to all persons entitled thereto, and meets the requirements of due process. Accordingly, the Court finds that no notice other than that specifically identified in the Settlement is necessary in this Action.

12. The Court hereby approves the Notice Program and the form, content, and requirements of the Email Notice attached as Exhibit B to the Settlement Agreement, the Long

Form Notice attached as Exhibit C to the Settlement Agreement, and the Claim Form attached as Exhibit A to the Settlement Agreement. The Parties, by agreement, may revise the Notices and Claim Form in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting, consistent with this Order.

13. The Settlement Administrator shall cause the Notice Program to be executed within thirty (30) days following the entry of this Order (the “Notice Date”). Class Counsel, prior to the Fairness Hearing, shall file with the Court a declaration executed by the Settlement Administrator attesting to the timely completion of the Notice Program. The Settlement Administrator shall maintain the Settlement Website to provide full information about the Settlement and allow for the filing of claims online.

SUBMISSION OF CLAIMS AND REQUESTS FOR EXCLUSIONS

14. Settlement Class Members who wish to receive benefits under the Settlement must complete and submit a timely and valid Claim Form in accordance with the instructions contained therein. To be timely, Claim Forms must be postmarked or received online by the Settlement Administrator by _____, 2025. Settlement Class Members who do not submit a claim and those who do not submit a timely and valid claim will not receive a payment under the Settlement, but they will be bound by the Settlement.

15. The Settlement Administrator shall review all claims to determine their validity and shall employ reasonable procedures to screen claims for abuse and fraud, and to deny claims where there is evidence of abuse or fraud. The Settlement Administrator may reject any claim that is not submitted by a Settlement Class Member; that does not comply in any material respect with the instructions on the Claim Form; or that is submitted after the Claims Deadline.

16. Each and every member of the Settlement Class who does not timely and validly

submit a claim shall be forever barred from participating in any distributions of the Settlement Fund, and shall be bound by all determinations and orders pertaining to the Settlement, including the release of all claims to the extent set forth in the Settlement, unless such person requests exclusion from the Settlement in a timely and proper manner, as hereinafter provided.

17. A member of the Settlement Class wishing to request exclusion (or “opt-out”) from the Settlement shall mail a request for exclusion to the Settlement Administrator. The request for exclusion must be in writing, must be mailed to the Settlement Administrator at the address specified in the Class Notice, must be postmarked no later than sixty (60) days following the Notice Date, must include the name and number of the case, and must clearly state the Settlement Class member’s desire to be excluded from the Settlement Class, as well as the Settlement Class member’s full name, mailing address, and signature. The request for exclusion shall not be effective unless it provides the required information and is made within the time stated above. No member of the Settlement Class, or any person acting on behalf of or in concert or in participation with a member of the Settlement Class, may request exclusion of any other member of the Settlement Class from the Settlement.

18. Members of the Settlement Class who timely request exclusion from the Settlement will relinquish their rights to benefits under the Settlement and will not release any claims against Defendant.

19. All members of the Settlement Class who do not timely and validly request exclusion shall be bound by all terms of the Settlement Agreement and by the Final Order and Judgment even if they have previously initiated or subsequently initiate individual litigation or any other proceedings against Defendant.

20. The Settlement Administrator shall promptly provide all Parties with copies of any

exclusion requests, and Plaintiff shall file a list of all persons who have validly opted out of the Settlement with the Court prior to the Fairness Hearing.

APPEARANCES AND OBJECTIONS

21. Any member of the Settlement Class who does not file a timely request for exclusion, but who wishes to object to approval of the proposed Settlement, to the award of attorneys' fees and costs, or to the Service Award to the Class Representative must file with the Court a written statement (along with any supporting papers), postmarked or filed on or before sixty (60) days following the Notice Date, that includes: a caption or title that identifies it as "Objection to Class Settlement in *Garcia v. Brigham Young University d/b/a BYU Broadcasting*, Case No. 1:24-cv-188-AMA-DAO"; the Settlement Class Member's full name and mailing address; all grounds for the objection, including all citations to legal authority and evidence supporting the objection; the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection (the "Objecting Attorneys"); a statement indicating whether the objector intends to appear at the Fairness Hearing (either personally or through counsel who files an appearance with the Court in accordance with the Local Rules); and the objector's handwritten or electronically imaged written signature.

22. If a Settlement Class Member or any of the Objecting Attorneys has objected to any class action settlement where the objector or the Objecting Attorneys asked for or received any payment in exchange for dismissal of the objection, or any related appeal, without any modification to the settlement, then the objection must include a statement identifying each such case by full case caption and amount of payment received. Any challenge to the Settlement Agreement or the Final Order and Judgment shall be pursuant to appeal under the Federal Rules

of Appellate Procedure and not through a collateral attack.

23. A Settlement Class Member who has timely filed a written objection stating the Settlement Class Member's intention to appear at the Fairness Hearing as set forth above may appear at the Fairness Hearing in person or through counsel to be heard orally regarding his or her objection. It is not necessary, however, for a Settlement Class Member who has filed a timely objection to appear at the Fairness Hearing. No Settlement Class Member wishing to be heard orally in opposition to the approval of the Settlement and/or the request for attorneys' fees and costs and/or the request for Service Award to the Class Representative will be heard unless that Settlement Class Member has filed a timely written objection as set forth above, including a statement that the Settlement Class Member intends to appear at the Fairness Hearing. No non-party, including members of the Settlement Class who have timely opted out of the Settlement, will be heard at the Fairness Hearing.

24. Any Settlement Class Member who does not make an objection to the Settlement in the manner provided herein shall be deemed to have waived and forfeited any and all rights he or she may have to object, appear, present witness testimony, and/or submit evidence; shall be barred from appearing, speaking, or introducing any testimony or evidence at the Fairness Hearing; shall be precluded from seeking review of the Settlement by appeal or other means; and shall be bound by all terms of the Settlement and by all proceedings, orders, and judgments in the Action.

FAIRNESS HEARING

25. The Federal Rule of Civil Procedure 23(e) Fairness Hearing is hereby scheduled to be held before this Court on _____, 2025 at __:__.m for the following purposes: (i) to finally determine whether the applicable prerequisites for settlement class action treatment under Federal Rules of Civil Procedure 23(a) and (b)(3) are met; (ii) to determine whether the

Settlement is fair, reasonable, and adequate, and should be given final approval by the Court; (iii) to determine whether the judgment as provided under the Settlement Agreement should be entered; (iv) to consider the application for an award of attorneys' fees and expenses of Class Counsel; (v) to consider the application for a Service Award to the Class Representative; (vi) to consider the distribution of the Settlement benefits under the terms of the Settlement Agreement; and (vii) to rule upon such other matters as the Court may deem appropriate.

26. On or before forty-five (45) days after the Notice Date, Class Counsel shall file any application for attorneys' fees and expenses and Service Award to the Class Representative (the "Fee Petition"). Defendant may, but is not required to, file a response to Class Counsel's Fee Petition with the Court no later than twenty-one (21) days before the Fairness Hearing. Class Counsel may file a reply in support of their Fee Petition with the Court no later than fourteen (14) days before the Fairness Hearing.

27. On or before forty-five (45) days after the Notice Date, Plaintiff shall file papers in support of final approval of the settlement. Papers in response to any objections shall be filed no later than fourteen (14) days before the Fairness Hearing.

28. The Fairness Hearing may be postponed, adjourned, transferred, or continued by order of the Court without further notice to the Settlement Class. At, or following, the Fairness Hearing, the Court may enter a Final Order and Judgment in accordance with the Settlement Agreement that will adjudicate the rights of all Settlement Class Members.

29. For clarity, the deadlines the Parties and members of the Settlement Class shall adhere to are as follows:

EVENT	DATE
Notice Date	30 days after Preliminary Approval

Class Counsel's Fee Petition	45 days after the Notice Date
Plaintiff's Motion for Final Approval	45 days after the Notice Date
Claims Deadline	60 days after the Notice Date
Objection/Exclusion Deadline	60 days after the Notice Date
Fairness Hearing	At the Court's convenience, but at least 90 days after the Notice Date

30. Settlement Class Members do not need to appear at the Fairness Hearing or take any other action to indicate their approval.

FURTHER MATTERS

31. All discovery and other pretrial proceedings in the Action as between the Plaintiff and Defendant are stayed and suspended until further order of the Court except such actions as may be necessary to implement the Settlement and this Order.

32. In order to protect its jurisdiction to consider the fairness of the Settlement and to enter a Final Order and Judgment having binding effect on all Settlement Class Members, the Court hereby enjoins all members of the Settlement Class, and anyone who acts or purports to act on their behalf, from pursuing or continuing to pursue all other proceedings in any state or federal court or any other proceeding that seeks to address Releasing Parties' or any Settlement Class member's rights or claims relating to, or arising out of, any of the Released Claims.

33. The Settlement does not constitute an admission, concession, or indication by the Parties of the validity of any claims or defenses in the Action or of any liability, fault, or wrongdoing of any kind by Defendant, whom vigorously denies all of the claims and allegations raised in the Action.

34. In the event that the Settlement is terminated under the terms of the Settlement, or if for any reason whatsoever the approval of it does not become final and no longer subject to appeal, then: (i) the Settlement shall be null and void, including any provisions related to the award of attorneys' fees and costs, shall have no further force and effect with respect to any party in this Action, and may not be referred to or used as evidence or for any other purpose whatsoever in the Action or any other action or proceeding; (ii) all negotiations, proceedings, documents prepared, and statements made in connection therewith shall be without prejudice to any person or party hereto, shall not be deemed or construed to be an admission by any party of any act, matter, or proposition, and shall not be used in any manner of or for any purpose in any subsequent proceeding in this Action or in any other action in any court or other proceeding, provided, however, that the termination of the Settlement shall not shield from subsequent discovery any factual information provided in connection with the negotiation of this Settlement that would ordinarily be discoverable but for the attempted settlement; (iii) this Order shall be vacated and of no further force or effect whatsoever, as if it had never been entered; and (iv) any party may elect to move the Court to implement the provisions of this paragraph, and none of the non-moving parties (or their counsel) shall oppose any such motion. This Order shall not be construed or used to show that certification of one or more classes would or would not be appropriate if the Action were to be litigated rather than settled.

35. The Court retains jurisdiction to consider all further matters arising out of or connected with the Settlement. The Court may approve the Settlement, with such modifications as may be agreed to by the Parties, if appropriate, without further notice to the Settlement Class.

IT IS SO ORDERED.

Dated: _____, 20__

HON. ANN MARIE MCIFF ALLEN
UNITED STATES DISTRICT COURT
JUDGE