IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
The Hertz Corporation, *et al.*,[1]	Case No. 20-11218 (MFW)
Debtors.	(Jointly Administered)
	Obj. Deadline: April 9, 2021 at 4:00 p.m. (ET) **Hearing Date: April 16, 2021 at 10:30 a.m. (ET)**

THE DEBTORS' OMNIBUS MOTION PURSUANT TO SECTIONS 105 AND 363 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 9019 AND 7023 TO APPROVE CERTAIN SETTLEMENT AGREEMENTS PURSUANT TO BANKRUPTCY RULE 9019, RULE 7023, AND FEDERAL RULE OF CIVIL PROCEDURE 23, AND GRANT RELATED RELIEF

[1] The last four digits of The Hertz Corporation's tax identification number are 8568. The location of the Debtors' service address is 8501 Williams Road, Estero, FL 33928. Due to the large number of Debtors in these chapter 11 cases, which are jointly administered for procedural purposes, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' proposed claims and noticing agent at https://restructuring.primeclerk.com/hertz.

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The debtors and debtors in possession (collectively, the "**Debtors**," and, together with their non-Debtor affiliates, the "**Company**") in the above-captioned cases hereby file this motion (the "**Motion**") pursuant to sections 105 and 363 of title 11 of the United States Code (the "**Bankruptcy Code**"), Rules 7023 and 9019 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and Rule 23 of the Federal Rules of Civil Procedure (the "**FRCP**"), applicable hereto by Bankruptcy Rule 7023, for the entry of orders substantially in the form attached hereto as **Exhibits 1–5** (the "**Proposed Orders**"): (a) approving the settlement and release agreements, as attached to each Proposed Order (the "**Settlement Agreements**"), pursuant to Bankruptcy Rule 9019, among the Debtors, the official committee of unsecured creditors (the "**Official Committee**"), and certain purported class representatives of uncertified, prepetition class actions pending against certain Debtor entities, including Bamidele Aiyekusibe ("**Aiyekusibe**"), LaTonya Campbell ("**Campbell**"), Janice Dawson ("**Dawson**"), Mark Graham ("**Graham**"), Polat Kemal ("**Kemal**"), Pawan Lal ("**Lal**"), Peter Lee ("**Lee**"), and Dean Reece ("**Reece**") (collectively the "**Named Plaintiffs**,"[2] and together with the Debtors and the Official Committee, the "**Parties**"); and (b) certifying the classes, as described herein, for settlement purposes only (individually the "**Class**" and, collectively, the "**Classes**"), appointing the designated class counsel for each purported class action ("**Class Counsel**"), appointing the proposed class representatives of each of the proposed settlement classes (individually the "**Class**

[2] Aiyekusibe and Lal are the named plaintiffs in *Aiyekusibe v. The Hertz Corporation*, No. 18-cv-00816-MRM (M.D. Fla.) (the "**Aiyekusibe Litigation**"); Dawson is the named plaintiff in *Dawson v. Hertz Transportation, Inc.*, No. 17-cv-08766 (C.D. Cal.) (the "**Dawson Litigation**"); Graham is the named plaintiff in *Graham v. The Hertz Corporation*, No. 1:20-cv-00339 (E.D. Cal.) and *Graham v. The Hertz Corporation*, No. 2020-01140867 (Cal. Super. Ct., Orange Cnty.) (collectively, the "**Graham Litigation**"); Kemal is the named plaintiff in *Kemal v. The Hertz Corporation*, 19-cv-05461-RWL (S.D.N.Y.) (the "**Kemal Litigation**"); Lee and Campbell are the named plaintiffs in *Lee (Campbell) v. The Hertz Corporation*, No. 18-cv-07481-RS (N.D. Cal.) (the "**Lee Litigation**"); and, Reece is the named plaintiff in *Reece v. The Hertz Corporation*, 4:20-cv-02991 (N.D. Cal.) (the "**Reece Litigation**") (all collectively, the "**Purported Class Actions**").

Representative" and, collectively, "**Class Representatives**"). In support of this Motion, the Debtors, by and through their undersigned counsel, state as follows:

PRELIMINARY STATEMENT

1. As previously addressed with this Court on several occasions, the Debtors conducted business in the pre-petition period with tens of millions of customers and employed hundreds of thousands of employees across the United States. As an unfortunate by-product of doing that business, the Debtors have, from time to time, been subjected to state and federal putative class action proceedings brought on behalf of customers, consumers, and current and former employees. Outside of bankruptcy, the Debtors were able to address and manage that litigation as part of their ongoing businesses without significant economic consequence. That situation shifted somewhat when the Debtors commenced these Chapter 11 Cases and became subject to rules, statutes, and procedures applicable to chapter 11 debtors.

2. As also previously addressed with this Court in other settings, the class action landscape has presented certain additional challenges to these Debtors. First, given the velocity of the ongoing reorganization, the Debtors simply do not have the traditional runway (which often lasts years) to manage its prepetition class action caseload. Second, the Debtors' collective actions tend to involve small individual claims that can theoretically aggregate in the hundreds of millions or billions of dollars—amounts that could materially impact a plan distribution scheme pending allowance or disallowance of a filed class claim. Third, in the absence of an affirmative objection by the Debtors, each of the purported class claims would be deemed allowed under allowed under section 502(a), thereby requiring that the Debtors litigate. Fourth, the Official Committee, whose membership includes two tort claimants, expressed an early interest in

participating in the Debtors' management of its prepetition class actions, bringing with it additional economic and procedural considerations.

3. The Debtors, in response, rapidly adopted a proactive approach to their class action conundrum. First, the Debtors adopted specific bar date procedures, imploring each member of a putative class to file a claim, and executed a comprehensive notice program in part designed expressly to reach putative class members.[3] Second, in conjunction with the Official Committee, the Debtors proposed a mediation program applicable and made available to any claimant purporting to file claims on behalf of a class of similarly situated creditors in an attempt to avoid having to litigate the more than eighteen such classes which the Debtors had identified. *See Motion of the Debtors for an Entry of an Order (I) Approving the Mediation Stipulation Regarding Claims Arising From Prepetition Representative Actions: (A) Appointing a Mediator, (B) Referring Certain Matters to Mediation, and (C) Approving the Mediation Procedures, and (II) Granting Related Relief* [D.I. 2160] (the "**Mediation Process**"). To that end, on January 14, 2021, this Court approved the Mediation Process and related procedures for the Debtors to address specific proofs of claim (or groups of claims) in which the claimant was purporting to assert claims on behalf of other prepetition creditors in some representative capacity. *See Order (I) Approving the Mediation Stipulation Regarding Claims Arising from Prepetition Representative Actions: (A) Appointing a Mediator, (B) Referring Certain Matters to Mediation and (C) Approving the Mediation Procedures, and (II) Granting Related Relief* [D.I. 2450] (the "**Mediation Stipulation**"). This formal Mediation Process concluded on February 23, 2021 with

[3] For example, to reach putative members of prepetition employment actions, the Debtors mailed notice of the Bar Date to the last known address of all individuals who were current or former Debtor employees as of January 1, 2014 to the present. *See Affidavit/Declaration of Mailing of Richard Allen Regarding Notice of Deadlines for Filing Proofs of Claim, Including Claims Arising Under Section 503(b)(9) of the Bankruptcy Code, Against Debtors and Proof of Claim Form* (Sept. 28, 2020) [D.I. 1376].

the Debtors reaching resolution, subject to this Court's approval, with all but one claimant. *See Debtors' Preliminary Objection to Enrico Moretti's Motion Seeking Entry of an Order (I) Applying Bankruptcy Rule 7023 To Class Proofs Of Claim, and (II) Certifying the Purported Class For Purposes of the Claims Administrative Process* (Mar. 10, 2021) [D.I. 3158].

4. By this Motion, the Debtors seek to obtain the Court's approval for five Settlement Agreements reached as a result of the Mediation Process, which (if approved) will fully and finally resolve several employment-related Purported Class Actions pending against the Debtors.[4]

5. Specifically by this Motion, the Debtors request entry of the Proposed Orders attached hereto, approving five Settlement Agreements: (1) permitting the Debtors to allow certain general unsecured claims and 507(a)(4) priority unsecured claims against particular Debtor entities—or in the case of one Settlement Agreement, a cash payment—in full satisfaction of any and all claims asserted by the Class Representatives on behalf of themselves and on behalf of a putative class or asserted by other individual employee and employee-candidate class members (the "**Class Members**"); (2) providing for a mutual release of all claims arising in connection with the Purported Class Actions asserted by the Class Representatives and the related proofs of claim; (3) certifying the Classes for settlement purposes only; and (4) a determination by this Court that (a) creditors who did not file proofs of claim shall not gain any rights by reason of the Settlement Agreements; (b) the Settlement Agreements shall not be admissible and/or used in any fashion in any action by any creditors who did not file proofs of claim; (c) the Bar Date remains in effect and has not, and will not be tolled with respect to

[4] Three employment actions have been successfully mediated, but are not addressed in this Motion; the Debtors plan to file separate Rule 9019 motions regarding those settlements in the coming days or weeks.

creditors who did not file proofs of claim; and (d) the Debtors reserve all of their rights and defenses with respect to any creditors who did not file proofs of claims, including rights and defenses relating to the merits of class certification. To be clear, the Debtors dispute that class claim treatment under Rule 7023 is, under the circumstances present in these Cases, appropriate for many of the reasons identified above. But, when faced with having to choose to litigate all issues related to allowance versus resolving claims on economically rational terms, the Debtors have agreed to certify settlement classes solely to reach closure. The Debtors do, however, reserve all rights to object to any attempt to impose on them or their estates class treatment for any particular purported class claim.

6. The Settlement Agreements described herein are all the products of a heavily-negotiated, Court-approved mediation process (described in greater detail in Section II below), involving the Debtors, the Official Committee, each of the Class Representatives, and consensually appointed mediators. As noted above, the Mediation Process was intended to resolve putative class and representative actions (including the Purported Class Actions relevant to these Settlement Agreements) that were pending against the Debtors at the time of the petition date. While the Debtors vigorously dispute that any class-wide issues existed or that any of the purported classes would have been certified in this Court (absent consensual resolution), the Debtors and the Official Committee have recognized the risks and costs in litigating class claims, and so agreed, along with the multitude of lead claimants of the Purported Class Actions, to develop an organized mediation process as a swift, cost-effective means of potentially resolving all these purported class claims without substantial litigation.

7. The Mediation Process has, as the Debtors hoped, been a materially efficient use of estate resources. Between February 3 and February 23, 2021, the Debtors participated in

single-day mediation sessions with respect to each of the purported class claims. With the involvement and approval of Official Committee counsel at every step, the Debtors have successfully (and commercially) resolved seventeen of the mediated actions, five of which are the Settlement Agreements subject to this Motion.[5]

8. If approved, these five Settlement Agreements would result in the withdrawal and expungement of more than $171,000,000.00 in disputed claims in exchange for allowed claims (or as to the Kemal Settlement, an immediate cash payment) against various Debtor entities in the aggregate amount of $7,100,000.00. The chart below demonstrates the extent of the Class Representatives' original claims and/or damages claims, as compared to the discount at which the Debtors were able to settle these claims:[6]

[5] Of the eighteen cases that entered the Mediation Process, seventeen have been successfully resolved, pending final documentation and approval of this Court. The Debtors submitted the first four settlement agreements for approval on February 24, 2021. [D.I. 2868]. No objections were received and on March 12, 2021 the Court approved the first four settlements. [D.I. 3212]. Simultaneously with this Motion, the Debtors have submitted three additional settlement agreements to this Court pursuant to Bankruptcy Rule 9019. The Debtors will also submit an additional three final settlement agreements to this Court pursuant to Bankruptcy Rule 9019 in the coming days or weeks. In addition, Daniel Ramirez, the named plaintiff in *Ramirez v. Hertz Local Edition Corp*., et al., No. 2:20-cv-00061 (C.D. Cal.), has simply agreed to withdraw (i) the proofs of claim he filed as representative of a putative class against Debtor entities Hertz Local Edition Corp. and Hertz Local Edition Transporting, Inc. (Claim Nos. 12179 and 14478, respectively) and (ii) the *Motion for Leave to File Class Proof of General Unsecured, Priority and Administrative Expense Claims, or, In the Alternative, to Establish a Consensual Process for Collective Adjudication* (Dec. 21, 2020) [D.I. 2226]. Professor Enrico Moretti ("**Prof. Moretti**"), the claimant with whom the Debtors did not reach resolution, was the named plaintiff in an uncertified, prepetition class action filed against the Debtors in *Moretti v. The Hertz Corp. et al.*, No. 14-cv-00469-LPS (D. Del.). Prof. Moretti asked this Court to exercise its discretion under Bankruptcy Rule 9014 to apply Bankruptcy Rule 7023 through FRCP 23 to his thirty proofs of claim, and permit him to assert and prosecute various prepetition causes of action on behalf of thousands of prepetition creditors who did not individually file proofs of claim in these Chapter 11 Cases [D.I. 1945]. On March 10, the Debtors filed *Debtors' Preliminary Objection to Enrico Moretti's Motion Seeking Entry of an Order (I) Applying Bankruptcy Rule 7023 To Class Proofs Of Claim, and (II) Certifying the Purported Class For Purposes of the Claims Administrative Process*. [D.I. 3158] (the "**Moretti Objection**").

[6] Dawson filed Proofs of Claim commensurate with her prepetition Settlement Agreements. As the Parties agreed to honor that agreement, no mediation was warranted. The Dawson Litigation was settled for $1,550,000.00 against Hertz Transporting, Inc. ($1,500,000.00 as a general unsecured claim, and

Named Plaintiff	Proof of Claim Amount	Amount Proposed in Settlement	Difference Between Claim and Settlement ($)	Difference Between Claim and Settlement (%)
Aiyekusibe	$75,790,427.94	$3,300,000.00 general unsecured nonpriority claim $750,000.00 in a 507(a)(4) priority unsecured claim	**($71,740,427.94)**	5.34%
Graham/ Reece	Unspecified/ $19,928,720.00	$1,100,000.00 general unsecured nonpriority claim	**($18,828,720.00)**	5.52%
Kemal	$47,929,764.00	$200,000.00 cash	**($47,729,764.00)**	0.42%
Lee	$27,960,000.00	$1,750,000.00 general unsecured nonpriority claim	**($26,210,000.00)**	6.26%
Totals	**$171,608,911.94**	**$7,100,000.00**	**($164,508,911.94)**	**4.14%**

9. In the Debtors' business judgment, the terms of the Settlement Agreements are patently fair and reasonable. Moreover, the Debtors and the Official Committee have determined that the terms of the Settlement Agreements and the resolutions contained therein are well within the range of reasonableness.

10. In light of the large demands set forth in the purported class proofs of claim, as well as the inherent uncertainties associated with litigating the class certification issues (and avoiding the costs the Debtors would incur if these proofs of claim were fully litigated, leaving aside the amounts incurred by other parties in interest participating in or monitoring the disputes), approval of the Settlement Agreements is in the best interest of the Debtors' estates,

$50,000.00 as a § 507(a)(4) priority unsecured claim). Accordingly, that agreement is not reflected on the chart below.

will enhance the feasibility of the Plan, and clearly meets the applicable standards for approval in this Circuit.

11. The Settlement Agreements are also fair and reasonable to the Class Members in each Purported Class Action. Resolving these actions via settlement provides the Class Members (including many of the Debtors' current and former employees and candidates for employment) with treatment under a plan of reorganization that will provide them pro rata distribution in an allowed claim or an immediate payment.[7] Without approval of these Settlement Agreements, the Class Members face an uncertain outcome in the claims resolution process.

12. It is also appropriate to certify the respective Classes for settlement purposes and appoint Class Counsel, as described herein, for each Purported Class Action. Solely for purposes of the Settlement Agreements (and subject to the caveats expressed infra), the Parties agree that the proposed Classes meet the requirements of Bankruptcy Rule 7023.

13. Accordingly, the Debtors respectfully request that the Court approve these Settlement Agreements, pursuant to sections 105(a) and 363 of the Bankruptcy Code and Bankruptcy Rules 9019 and 7023.

[7] If the Court denies approval of the Settlement Agreements, the Parties have reserved all rights with respect to the underlying litigations and the Proofs of Claim. The Debtors will argue, as they have in the Moretti Objection, that other than the Class Representatives in their individual capacities and those individual employees who filed their own proofs of claims, the purported class proofs of claim filed by the Class Representatives were improperly filed under Bankruptcy Rule 3001 and the operative bar date order. Accordingly, absent class members who decided not to file their own proofs of claim (although the Debtors provided actual notice of the bar date, as defined herein, to the last known address of all current and former employees dating back to January 1, 2014) would not be entitled to receive any distribution from the Debtors.

14. Based on the foregoing, and as set forth more fully below, the Debtors, the Official Committee, Class Representatives, and Class Counsel request that the Court approve the Settlement Agreements and the procedures proposed herein.

RELIEF REQUESTED

15. By this Motion, the Debtors seek entry of the Order, pursuant to sections 105(a) and 363 of the Bankruptcy Code and Bankruptcy Rules 9019 and 7023, approving the Settlement Agreements in all respects.

JURISDICTION, VENUE, AND PREDICATES FOR RELIEF

16. This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding under 28 U.S.C. § 157(b). Venue is proper before the Court under 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are section 105(a) of the Bankruptcy Code, Bankruptcy Rule 9019 and 7023, and FRCP 23.

17. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, the Debtors consent to the entry of a final judgment or order with respect to this Motion if it is determined that this Court lacks Article III jurisdiction to enter such final order or judgment absent consent of the parties.

BACKGROUND

I. Overview of Commencement of Chapter 11 Cases

18. On May 22, 2020 (the "**Petition Date**"), the Debtors each commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code (collectively, the jointly

administered "**Chapter 11 Cases**"). The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On June 11, 2020, the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**") appointed the Official Committee in these Chapter 11 Cases.

19. Additional background and information regarding the Company, including its business operations, its corporate and capital structure, its restructuring activities, and the events leading to the commencement of these Chapter 11 Cases, is set forth in detail in the *Declaration of Jamere Jackson In Support of Debtors' Petitions and Requests for First Day Relief* [D.I. 28], which is adopted and incorporated by reference in the *Declaration of Kenny Cheung in Further Support of Debtors' Chapter 11 Cases* [D.I. 1516].

II. Background Specific to the Mediation Process

20. Prior to the Petition Date, the Debtors were defendants in a variety of purported representative actions under state and/or federal law in various jurisdictions throughout the United States. Although varying in subject matter, these actions included: (1) putative, uncertified consumer class actions; (2) putative, uncertified employee class actions purportedly brought on behalf of the general public pursuant to the authority of the California Labor and Workforce Development Agency under the California Private Attorneys General Act Cal. Labor Code § 2698 *et seq.* ("**PAGA**"); (3) putative, uncertified employee class actions and/or collective actions purportedly brought under the New York Labor Law ("**NYLL**") and the U.S. Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 2698 *et seq.* ("**FLSA**"); (4) two employee class and PAGA actions settled prepetition; and (5) a putative, uncertified securities class action.

21. On August 26, 2020, the Debtors filed a motion asking this Court to set the bar date and approve the procedures for filing proofs of claim (the "**Bar Date Motion**") [D.I. 1140].

Attached to the Bar Date Motion was a proposed form of order granting the relief requested in the Motion ("**Proposed Bar Date Order**"). On September 3, 2020, the Ad Hoc Group of Litigation Creditors (the "**Ad Hoc Group**")—a group comprised of numerous plaintiffs with pending litigation claims against the Debtors nationwide, including individual claims, class actions, and otherwise—filed a statement with respect to the Debtors' proposed bar date and filing procedures (the "**Reservation of Rights**") [D.I. 1189]. The Reservation of Rights purported to reserve all rights with respect to the notice procedures (the "**Notice Procedures**") set forth in the Proposed Bar Date Order, and described them as "relatively standard procedures for the submission of proofs of claim in these cases." *See id.* at ¶ 1. In its Reservation of Rights, the Ad Hoc Group explained that "lead plaintiffs in many Representative Actions will file proposed class proofs of claim by the applicable bar date(s) in these Chapter 11 cases, and will commence appropriate proceedings under Bankruptcy Rule 7023 or otherwise in connection with such class proofs of claim." *Id.* at ¶ 2.

22. Following the filing of the Reservation of Rights, on September 8, 2020, the Debtors filed an updated version of the Proposed Bar Date Order (the "**Revised Order**") [D.I. 1230], which incorporated the changes negotiated between the Debtors, the Ad Hoc Group, and were ultimately approved by the Official Committee. Specifically, the Debtors made clear, in language quoted below, that they were reserving all rights with respect to any proof of claim filed by lead litigation plaintiffs who purported to file class proofs of claim.

23. Following a hearing and additional comments from the Court, the Court granted the relief sought in the Bar Date Motion, including approving the Notice Procedures, on September 9, 2020 (the "**Bar Date Order**") [D.I. 1240]. The Bar Date Order established October 21, 2020 at 5:00 P.M. (prevailing Eastern Time) as the general bar date (the "**Bar**

Date"). No further objections were raised regarding the Bar Date Order or Notice Procedures, and the claims administration process is now well underway.

24. Paragraph 7 of the Bar Date Order states:

> Any person or entity (including, without limitation, each individual partnership, joint venture, corporation, estate, trust, and governmental unit, whether or not such person or entity is or may be included in or represented by a purported class action, class suit, or similar representative action filed, or that may be filed, against the Debtors (collectively, "**Representative Actions**") that holds or seeks to assert a claim against the Debtors that arose, or is deemed to have arisen prior to the Petition Date, no matter how remote, contingent or unliquidated, including without limitation, secured claims, claims arising under section 503(b)(9) of the Bankruptcy Code, unsecured priority claims, and unsecured non-priority claims (the holder of any such claim, the "**Claimant**") must properly file a Proof of Claim on or before the applicable Bar Date. The Debtors, the Committee, and all other parties in interest, including but not limited to the members of the Ad Hoc Group of Litigation Creditors, reserve all rights with respect to any Representative Action, including without limitation with respect to (A) whether any Proof of Claim in respect of a Representative Action (a "**Representative Claim**") has been properly and timely filed by the applicable Bar Date, (b) any objection or other right with respect to any Representative Action or Representative Claim, (c) the composition or membership of any class or group with respect to such Representative Action or Claim, and (d) whether the proper and timely filing of a Representative Claim, if any shall be deemed a proper and timely Proof of Claim made by each member of the related class or group of creditors.

25. Pursuant to the Bar Date Order, the Debtors executed the Notice Procedures. Within five business days after entry of the Bar Date Order, the Debtors served the Bar Date Notice, together with a copy of the Proof of Claim Form (the "**Bar Date Package**"), by first-class United States mail to thousands of individuals and businesses, including (1) all individuals who were current or former Debtor employees as of January 1, 2014 to the present (including the vast majority of the Class Members in the Settlement Agreements); and (2) named plaintiffs and

counsel of record in every class or representative action pending against a Debtor. *See Affidavit/Declaration of Mailing of Richard Allen Regarding Notice of Deadlines for Filing Proofs of Claim, Including Claims Arising Under Section 503(b)(9) of the Bankruptcy Code, Against Debtors and Proof of Claim Form* (Sept. 28, 2020) [D.I. 1376].

26. The Debtors also implemented a robust publication notice program in order to provide constructive notice to all other creditors, including the Debtors' 40 million North American customers and others, like candidates for employment, each of whom could theoretically believe they have a claim against the Debtors or could be a member of one of the consumer class actions. Pursuant to paragraph 22 of the Bar Date Order, this included the publication of the Court-approved Publication Notice in three national newspapers in the United States (*USA Today*, *The Wall Street Journal*, *The New York Times*) and one in Canada (*The Globe and Mail*) [D.I. 1396]. In addition, and in accordance with the Bar Date Order, the Debtors deemed it appropriate to publish the Bar Date Notice in supplemental local newspapers. Among other considerations, when selecting which supplemental papers in which to publish the Bar Date Notice, the Debtors considered the venue of the prepetition purported class and representative actions. The Debtors ultimately published in nine local newspapers across the United States and Canada, including: (1) *The Naples Daily News*; (2) *The Philadelphia Inquirer*; (3) *Le Journal de Montréal* (French-language); (4) *The Chicago Tribune*; (5) *The San Diego Union-Tribune*; (6) *El Diario de El Paso* (Spanish-language); (7) *The Arizona Republic*; (8) *The San Francisco Chronicle*; and (9) the *Los Angeles Times* [D.I. 1572].

27. Nearly a month after the Bar Date had passed, a representative of a purported class action not subject to this Motion filed a motion to apply Bankruptcy Rule 7023 to his purported class proofs of claim. Almost immediately thereafter, the Debtors, the Official

Committee, and representatives of the Ad Hoc Group began to discuss the possibility of a mediation process to resolve all of the purported class proofs of claim in an expeditious and efficient manner.

28. Although the Debtors disputed the allowability of any of the class proofs of claim, on December 16, 2020, the Debtors, together with the Official Committee and representatives of each of the five Purported Class Actions subject to this motion and thirteen other prepetition actions, agreed to the Mediation Process. The Mediation Process and related procedures were approved by this Court on January 14, 2021 pursuant to the Mediation Stipulation.

29. As a precondition to participation in the Mediation Process, representatives of each of the Purported Class Actions were required to file a motion to apply Bankruptcy Rule 7023 to their purported class proof of claim on or before December 21, 2020 (collectively, the "**Rule 7023 Motions**"). Counsel for claimants in the Purported Class Actions subject to this Motion filed their respective Rule 7023 Motions at that time.[8]

III. Background Specific to the Purported Class Actions and the Settlement Agreements

30. Each of the Purported Class Actions subject to this Motion involves prepetition litigation brought by a claimant or claimants seeking to assert class claims on behalf of unnamed

[8] *Motion by Bamidele Aiyekusibe and Pawan Lal for Entry of an Order Applying Bankruptcy Rule 7023 Class Proof of Claim* (Dec. 21, 2020) [D.I. 2219] (the "**Aiyekusibe Rule 7023 Motion**"); *Plaintiff's Motion for Entry of an Order (I) Applying Bankruptcy Rule 7023 to Class Proof of Claim, and (II) Certifying the Class for Purposes of the Class Proof of Claim* (Dec. 20, 2020) [D.I. 2198] (the "**Graham Rule 7023 Motion**"); *Motion by Polat Kemal for Entry of an Order (I) Applying Bankruptcy Rule 7023 Class Proof of Claim and (II) Certifying the Class for Purposes of the Class Proof of Claim* (Dec. 21, 2020) [D.I. 2214] (the "**Kemal Rule 7023 Motion**"); *Criminal History Discrimination Plaintiff's Motion for Entry of an Order (I) Applying Bankruptcy Rule 7023 to Class Proof of Claim, and (II) Certifying the Class for Purposes of the Class Proof of Claim* (Dec. 18, 2020) [D.I. 2165] (the "**Lee (Campbell) Rule 7023 Motion**"); and, *Motion for Class Certification* (Dec. 21, 2020) [D.I. 2235] (the "**Reece Rule 7023 Motion**"). Per the Mediation Stipulation, Dawson was not required to file a Rule 7023 motion. *See* D.I. 2450, Ex. 1 at 5 n.4.

current and former employees or candidates for employment against one or more of the Debtors in state or federal court. The specifics of each are set forth more fully below.

A. *Aiyekusibe v. The Hertz Corporation*, No. 2:18-cv-00816 (M.D. Fla.)

31. On December 13, 2018, Aiyekusibe filed a collective action complaint against The Hertz Corporation ("**Hertz**") and DTG Operations, Inc. in the United States District Court for the Middle District of Florida, alleging that Hertz and DTG Operations improperly classified Location Managers as exempt employees under the FLSA, thus denying them overtime pay in violation of the FLSA. Aiyekusibe sought back pay for unpaid overtime hours, liquidated damages, interest on award, award of fees for the Named Plaintiffs' efforts, and attorneys' fees, among others.

32. The Complaint sought to obtain recoveries on behalf of a class consisting of individuals employed by Hertz or DTG Operations as Function Managers, Functional Managers, Location Managers or Location Manager Trainees at any Airport location in the United States at any time within the three years preceding the lawsuit to the day of trial.

33. On February 19, 2020 the parties to the Aiyekusibe Litigation stipulated to proceed as a collective action, and 538 individuals had filed timely opt-in consent forms by May 19, 2020, the last day of the mandatory opt-in period.

34. As of the Petition Date, the class had been conditionally certified in the Middle District of Florida, but final certification was still pending. The parties had scheduled a mediation to resolve the claims on a class-wide basis when the case was stayed due to these Chapter 11 Cases.

35. On October 21, 2020, Aiyekusibe filed two proofs of claim against Hertz—an individual proof of claim and a proof of claim on behalf of the collective (Claim Nos. 12884 and

12555, respectively), together requesting over $75,800,000.00 in damages. Lal, an opt-in plaintiff to the Aiyekusibe Litigation, also filed a proof of claim seeking a priority claim under section 507(a)(4) of the Bankruptcy Code on behalf of others similarly situated, in addition to his individual proof of claim (Claim Nos. 13147 and 13137, respectively). Lal's representative proof of claim requested over $5,200,000.00 in damages, in addition to what was already asserted in Aiyekusibe's proof of claim on behalf of the collective.

36. On December 21, 2020, Aiyekusibe filed a Rule 7023 Motion. Aiyekusibe's Rule 7023 motion named Lal as a new plaintiff.

37. On February 19, 2021, the Debtors, the Official Committee, and Aiyekusibe's counsel met with a neutral mediator to negotiate the settlement and full release of both Aiyekusibe's proofs of claim and the claims in the Aiyekusibe Litigation. Over many hours, the parties engaged in hard-fought, arms' length negotiations over an appropriate resolution, and at the end of mediation, reached an initial agreement. That initial agreement was a binding contract between the Debtors and Aiyekusibe, approved by the Official Committee, and by its terms contemplated that the parties would reach definitive documentation and seek Court approval.

38. On or about March 24, 2021, this resolution was further memorialized in a settlement agreement (the "**Aiyekusibe Settlement**"), attached hereto as Exhibit 1A to Exhibit 1. Pursuant to the Aiyekusibe Settlement, among other terms and as more fully set forth therein, in exchange for a full release of any claim for damages in the underlying action or that may be asserted by the Class Representatives, individually or on behalf of the Class, the Debtors will allow a $3,300,000.00 general, unsecured, nonpriority claim, and a $750,000.00 priority unsecured claim, pursuant to section 507(a)(4) of the Bankruptcy Code, solely against Hertz in

favor of Class Members, to be distributed by a third-party claims administrator appointed by Class Counsel in accordance with the terms of the Aiyekusibe Settlement.

39. The essential terms of the Aiyekusibe Settlement are described below[9]:

Allowed Claim	In full and final settlement of the Released Claims (defined below), the Parties agree that Proof of Claim No. 12555 shall be allowed as a general unsecured nonpriority claim against Hertz in the amount of $3,300,000.00 and a priority unsecured claim under section 507(a)(4) of the Bankruptcy Code against Hertz in the amount of $750,000.00 to the Class Representatives, and the Debtors shall pay to the applicable government agency the employers' share of all required state and federal payroll tax withholdings.
Released Claims	Except for the rights arising out of, provided for or reserved in this Settlement Agreement, Class Members, for and on behalf of themselves and their respective predecessors, successors, agents, attorneys, heirs, representatives, assigns, affiliates and subsidiaries, do hereby fully and forever release and discharge the Debtor Defendant, the Debtors, and their affiliates, subsidiaries, predecessors, parent(s), successors, assigns, officers, directors, shareholders, agents, employees, partners, members, insurers, accountants, attorneys, representatives and other agents, and all of their respective predecessors, successors and assigns of and from any and all claims, demands, debts, liabilities, obligations, liens, actions and causes of action, costs, expenses, attorneys' fees and damages of whatever kind or nature, at law, in equity and otherwise, whether known or unknown, anticipated, suspected or disclosed, that the Releasing Parties may have had, now have or hereafter may have against the Released Parties, whether or not asserted in the Aiyekusibe Litigation and the Proofs of Claim, excluding any potential Class Members who are part of the Kemal class settlement, upon approval of the Court, (the "**Released Claims**"). On the Effective Date, all Released Claims are deemed settled, released, withdrawn and dismissed in their entirety, on the merits, with prejudice.
Certification of Class	For purposes of this Settlement Agreement only, the Proposed Class shall include all individuals who were employed by the Debtor Defendants as Location Managers, also known as Counter Managers or Functional Managers, within the United States at any time within the three years preceding the Aiyekusibe Litigation, who joined the Aiyekusibe Litigation by (i) timely executing a consent-to-join form

[9] Capitalized terms, used here and in other Settlement Agreement summaries but not otherwise defined, shall have the meanings ascribed to them in each respective Settlement Agreement. In the event of a conflict or inconsistency between the Settlement Agreements, as described in this Motion, and the terms of the Settlement Agreements themselves, the terms of the Settlement Agreements shall control.

	within the notice period in the underlying litigation, including all class members whose consent-to-join forms were timely executed but were not filed due to the stay imposed in the Aiyekusibe Litigation by the suggestion of bankruptcy filed by Debtors, and (ii) individuals on whose behalf Class Counsel filed Individual Claims. For purposes of this Settlement Agreement only, Shavitz Law Group, P.A. and Feldman Legal Group shall be appointed Class Counsel.
Withdrawal of Proofs of Claim and Class Certification Motion	The Class Representatives will voluntarily dismiss all claims in the Aiyekusibe Litigation with prejudice and withdraw or cause to be withdrawn all other Proofs of Claim with prejudice within three business days of the Effective Date.
Procedures for Notice and Distribution of the Settlement Payment	The Settlement Payment will be delivered to a third-party claims administrator appointed by Class Counsel, as a common fund for allocation by the Settlement Administrator towards the following: (i) cash payments to the Class Members; (ii) the administration of notice and distribution to individual class members; (iii) payment of Class Professional Fees, Litigation Costs and Expenses; and (iv) reasonable service awards to Plaintiffs and certain opt-in Plaintiffs as identified by Class Counsel. The payments to Class Members will be paid from the Settlement Fund net of Class Counsel's approved attorney's fees and costs, federal and state tax withholdings, and the incurred costs of the Settlement Administrator. Service awards will be made to Aiyekusibe, Lal, Mischele Higginson, Chantal Brown-Winn, and Daniel Figueroa in the sum of $7,500.00 each for class service awards to be deducted from the Settlement Fund for their role as class representatives in the underlying action and in the Chapter 11 Cases. Class Counsel is to be paid attorney's fees in the amount of 33.33% of the Settlement Payment finally approved. In addition, the professional fees of Dundon Advisers, LLC, as financial and strategic adviser to the Class Representative and Class Counsel, will be paid solely out of the Settlement Fund and are not to exceed 8.5% of the first $300,000.00 of the Settlement Fund, and 5.0% of the balance of the Settlement Fund (provided that Dundon Advisers, LLC shall refund to the Administrative Agent for distribution to the Class Members one-half of the excess over $75,000.00 of the fair value, reasonably determined by Dundon Advisers, LLC, of such distributions). In addition, Class Counsel shall be reimbursed for all costs and expenses incurred in the Aiyekusibe Litigation and these Chapter 11 Cases, including those costs and expenses associated with mediation(s), and prior third-party administration of notice by JND or Class Counsel to all Class Members.

	Further, the costs of the administration of the Settlement Fund, including the expenses associated with hiring and contracting with the Settlement Administrator, shall also be deducted from the Settlement Payment. Class Counsel will determine amongst themselves the allocation or split of the Class Counsel Feels and Litigation Costs and Expenses awarded or approved by the Court, and the Settlement Administrator will disburse accordingly. The Settlement Administrator may deliver reimbursements for the Class Professional Fees and Litigation Costs and Expenses to the Class Professionals at any time after the Effective Date and distribution of the Settlement Payment. The Settlement Administrator shall make settlement share payments allocated pro rata to Class Members pursuant the following formula: Net Settlement Fund /total number of Class Member workweeks, multiplied by each Class Member's respective number of workweeks. The Settlement Administrator shall make settlement share payments to each Class Member in two checks; one, a payroll check, and the other, a 1099 check.

B. *Dawson v. Hertz Transporting, Inc.*, No. 17-cv-08766 (C.D. Cal.)

40. On November 2, 2017 Dawson filed a class action complaint in the California Superior Court, Los Angeles County, alleging that Hertz Transporting, Inc. ("**HTI**") failed to provide minimum wages, overtime, paid meal-and-rest breaks, wage accounting, and separation wages in violation of PAGA. The complaint asserted claims for unpaid overtime compensation, restitution of withheld wages, the equivalent of one hour of pay for each work day that a meal period was not provided, the equivalent of one hour of pay for each work day that a rest period was not provided, interest, costs and attorneys' fees, as well as penalties.

41. On December 5, 2017, HTI removed the Dawson Litigation to the United States District Court for the Central District of California.

42. The Dawson Litigation sought to represent a class constituting all individuals employed by HTI in a non-exempt, hourly-paid position within four years prior to the filing of the original complaint until the date of certification, as well as a subclass consisting of all

individuals employed by Hertz in a non-exempt, hourly-paid position within one year prior to the filing of the original complaint until the date of certification.

43. Dawson and HTI engaged in extensive formal discovery as well as arms-length negotiations in mediation concerning settlement of the claims asserted.

44. On November 4, 2019, Dawson and HTI filed the *Third Amended Class Action Settlement Agreement* (C.D. Cal., Case No. 17-cv-8766, ECF No. 78-1, at p. 13 *et seq.*) (the "**Dawson Prepetition Settlement**").

45. On October 21, 2020, Dawson filed a representative proof of claim as representative of a putative class against HTI for $1,550,000.00 (Claim No. 12477) and two proofs of claim as PAGA representative for $1,550,000.00 and $15,000.00.00, also against HTI (Claims No. 14447 and 14451, respectively). Dawson also filed an individual proof of claim (Claim No. 14445) for $10,000.00.

46. Due to the Dawson Prepetition Settlement, Dawson did not file a Rule 7023 Motion, per the terms of the Mediation Stipulation.

47. On or about March 23, 2020, this resolution was further memorialized in a settlement agreement (the "**Dawson Settlement**"), attached hereto as Exhibit 2A to Exhibit 2. Pursuant to the Dawson Settlement, among other terms and as more fully set forth therein, in exchange for a full release of any claim for damages in the underlying action or that may be asserted by the Class Representative, individually or on behalf of the Class, and any Class Member who does not affirmatively opt-out of the Dawson Settlement Agreement, the Debtors will allow a nonpriority general unsecured claim in the amount of $1,500,000.00 and a section 507(a)(4) priority unsecured claim in the amount of $50,000.00, solely against HTI. As set forth

in the agreement, the Dawson Settlement is contingent upon the approval of this Court. The essential terms of the Dawson Settlement are described below:

Allowed Claim	In full and final settlement of the Released Claims (defined below), the Parties agree that Proof of Claim No. 12477 shall be allowed as a general unsecured claim upon HTI in the amount of $1,500,000.00 and a section 507(a)(4) priority unsecured claim upon HTI in the amount of $50,000.00 to the Class Representative, and Debtors shall pay the employer's share of all required state and federal payroll tax.
Released Claims	Except for the rights arising out of, provided for, or reserved in this Settlement Agreement, the Class Representative and the Settlement Class, for and on behalf of themselves and their respective predecessors, successors, agents, attorneys, heirs, representatives, assigns, affiliates and subsidiaries, do hereby ratify and agree to be bound by all releases granted to all persons by the Prepetition Settlement or, to the extent applicable generally to allowed section 507(a)(4) and general unsecured creditors of HTI, under a confirmed and effective Plan (the "**Released Claims**"). On the Effective Date, as to the releases of the Prepetition Settlement, and the effective date of the Plan, as to the releases under the Plan, all Released Claims are deemed settled, released, withdrawn and dismissed in their entirety, on the merits, with prejudice.
Certification of Class	For purposes of this Settlement Agreement only, the Settlement Class shall be defined as set forth in Section 8 of the Dawson Prepetition Settlement, as attached hereto as Exhibit A to Exhibit 2A to Exhibit 2. For purposes of this Settlement Agreement only, Barrera & Associates and Calderone Law Firm shall be appointed Class Counsel.
Withdrawal of Proofs of Claim and Class Certification Motion	The Class Representative will voluntarily dismiss all claims in the Dawson Class Action with prejudice and withdraw, or cause to be withdrawn, all other Proofs of Claim with prejudice within three business days of the Effective Date.
Procedures for Notice and Distribution of the Settlement Payment	The Settlement Payment will be made to the Settlement Administrator (as defined in the Dawson Prepetition Settlement). When the Settlement Administrator holds cash upon the Settlement Payment (either as a result of cash distributions upon the Settlement Claim, or upon the liquidation of non-cash recoveries upon the Settlement Claim), it shall itself or by way of the Settlement Administrator dispose of such cash as follows: (a) any cash cost of exercise of any rights, warrants, options to whomever advanced such costs or such advancing party's assignee, together with any fees or interest due in connection with such advance, (b) an incentive award of $10,000.00 to the Plaintiff, (c) fees and expenses to the Settlement Administrator not to exceed $20,000.00, (d) a fee of 35% of the total

	gross value of the Settlement Claim's recovery to Class Counsel, (e) a fee of 4.25% of the Gross Value to Dundon Advisers LLC as Class Counsel and Plaintiff's financial and strategic adviser, (f) expenses of Class Counsel not to exceed $35,000, (g) $15,000 multiplied by the fraction the numerator of which is Gross Value and the denominator of which is $1,550,000.00 to the California Labor and Workforce Development Agency and (h) the balance to the Settlement Class, and with respect to withholdings of the portion allocated to wages, the relevant taxing authorities, in the proportion and manner provided for distribution of the Net Settlement Fund in the Prepetition Settlement.

C. *Graham v. The Hertz Corporation*, No. 1:20-cv-00339 (E.D. Cal.); *Graham v. The Hertz Corporation*, No. 2020-01140867 (Super. Ct. Cal. Orange Cnty.); *Reece v. The Hertz Corporation*, No. 4:20-cv-02991 (N.D. Cal.)

48. On March 4, 2020, Graham filed a class complaint against Hertz in the United States District Court for the Eastern District of California, and a complaint invoking PAGA, based on the same allegations on May 26, 2020, against Hertz in *Graham v. The Hertz Corp.*, No. 2020-01140867, in the Superior Court of California, Orange County. In the Graham Litigation, Graham asserted that Hertz unlawfully misclassified Damage Appraisers as exempt from the overtime provisions of the FLSA and the protections of the California Labor Code.

49. Graham sought to represent an FLSA opt-in class constituting all individuals who are or previously were employed by Hertz as a Damage Appraiser and were classified as exempt at any time during the period beginning on the date three years before the filing of the complaint and ending on a date determined by the court.

50. Graham also sought to represent a class pursuant FRCP 23(b)(3) of all individuals who are or previously were employed by Hertz as a Damage Appraiser and were classified as exempt at any time during the period beginning on the date four years before the filing of the complaint.

51. As of the Petition Date, the class had not been certified and Graham had not moved for class certification.

52. On May 1, 2020, Reece filed a class action complaint in the United States District Court for the Central District of California against Hertz, alleging that Hertz misclassified Appraisers as exempt from the overtime provisions of the FLSA and the California Labor Code. Reece further alleged that Hertz knowingly and willingly failed to provide minimum and overtime wages, provide meal and rest periods, pay compensation due upon termination, and provide accurate itemized wage statements, in violation of the California Labor Code, the California Business and Professions Code, and PAGA. The complaint requested damages for unpaid overtime compensation, damages and premiums for missed meal and rest periods, and separation pay, as well as statutory penalties for failing to provide accurate, itemized statements (up to $4,000.00 for each member), and for failing to pay wages due at termination (up to thirty days of pay).

53. Reece sought to represent an FLSA collective constituting of appraisers who worked for Hertz anywhere in the United States, who Hertz classified as "exempt" during the period commencing three years prior to the filing of the complaint, and who timely consented to join the action.

54. Reece also sought to represent a class constituting of all persons who are or have been employed by Hertz as appraisers in California during the period from April 1, 2016 through class certification.

55. As of the Petition Date, the class had not been certified and Reece had not moved for class certification.

56. On October 21, 2020, Graham filed four proofs of claim against Hertz—one proof of claim on behalf of a putative class (Claim No. 12479), one proof of claim as a PAGA representative (Claim No. 12550), one proof of claim as an FLSA representative (Claim No. 12547), and an individual proof of claim (Claim No. 12281). All four proofs of claim were filed for unspecified amounts.

57. On October 21, 2020, Reece filed four proofs of claim against Hertz—two proofs of claim on behalf of a putative class for $19,928,720.00 and $8,086,000.00 (Claim Nos. 12225 and 12518, respectively), a proof of claim as PAGA representative for $156,000.00 (Claim No. 12233), and an individual proof of claim for $213,769.33 (Claim No. 12569).

58. On December 20, 2020, Graham filed a Rule 7023 Motion.

59. On December 21, 2020, Reece filed a Rule 7023 Motion.

60. On February 22, 2021 the Debtors, the Official Committee, Graham's counsel, and Reece's counsel met with a neutral mediator to negotiate the settlement and full release of both Graham and Reece's proofs of claim and the claims in the Graham Litigation and the Reece Litigation. Over many hours, the parties engaged in hard-fought, arms' length negotiations over an appropriate resolution, and at the end of mediation, reached an initial agreement. That initial agreement was a binding contract between the Debtors and Graham and Reece, approved by the Official Committee, and by its terms contemplated that the parties would reach definitive documentation.

61. On or about March 26, 2021, this resolution was further memorialized in a settlement agreement (the "**Graham/Reece Settlement**"), attached hereto as Exhibit 3A to Exhibit 3. Pursuant to the Graham/Reece Settlement, among other terms and as more fully set forth therein, in exchange for a full release of any claim for damages in both underlying actions

or that may be asserted by the Class Representatives, individually or on behalf of the Classes, the Debtors will allow a $1,100,000.00 general, unsecured, nonpriority claim solely against Hertz in favor of Class Members, to be distributed by Class Counsel in accordance with the terms of the Graham/Reece Settlement. As set forth in the agreement, the Graham/Reece Settlement is contingent upon the approval of this Court.

62. The essential terms of the Graham/Reece Settlement are described below:

Allowed Claim	In full and final settlement of the Released Claims (defined below), the Parties agree that Proof of Claim No. 12479 shall be allowed as a general unsecured nonpriority claim against The Hertz Corporation in the aggregate amount of $1,100,000.00 to the Class Representatives, the Hertz Corporation will pay the employers' share of the payroll taxes, which shall not be drawn from the Settlement Claim, provided that the amount assigned to wages by the Plaintiffs does not exceed 20% of the total amount of the Settlement Claim.
Released Claims	Except for the rights arising out of, provided for or reserved in this Settlement Agreement, the Class Representatives and the Settlement Class, for and on behalf of themselves and their respective predecessors, successors, agents, attorneys, heirs, representatives, assigns, affiliates and subsidiaries, do hereby fully and forever release and discharge the Debtor Defendant, the Debtors, and their affiliates, subsidiaries, predecessors, parent(s), successors, assigns, officers, directors, shareholders, agents, employees, partners, members, insurers, accountants, attorneys, representatives and other agents, and all of their respective predecessors, successors and assigns of and from any and all claims, demands, debts, liabilities, obligations, liens, actions and causes of action, costs, expenses, attorneys' fees and damages of whatever kind or nature, at law, in equity and otherwise, that were alleged in the Graham/Reece Litigations and the Proofs of Claim or which could reasonably have been alleged under California or federal law based on or related to the allegations contained in the Graham/Reece Litigations, including any claims for unpaid overtime pay, meal and rest period pay, incorrect record-keeping or incorrect wage statements, beginning on March 4, 2016 up to and including February 28, 2021. The release includes, but is not limited to any claims for restitution, equitable relief, wages, bonuses or incentive payments, penalties, interest, and/or attorneys' fees and costs of any kind arising under California or federal law for the claims asserted in the Graham/Reece Litigations or that could have been alleged under California or federal law based on the alleged facts in any of the complaints filed in any of the Graham/Reece

	Litigations, including without limitation, Wage Order 4-2001, Business and Professions Code sections 17200-17208, and California Labor Code sections 200-203, 216, 226, 226.3, 226.7, 510, 512, 1194 and 2698-2699.5 (the California Private Attorneys General Act) and 29 U.S.C. §§ 201 et seq. (collectively, "**Released Claims**"). Each Settlement Class Member (excluding Opt-Outs) acknowledges and agrees that his or her claims for wage statement and/or rest period violations and other claims alleged in the Graham/Reece Litigations, or claims that could have been alleged which relate to or arise from the Graham/Reece Litigations or Proofs of Claim, are disputed in good faith and California Labor Code section 206.5 is therefore not applicable. On the Effective Date, all Released Claims are deemed settled, released, withdrawn and dismissed in their entirety, on the merits, with prejudice.
Certification of Class	For purposes of this Settlement Agreement only, the Proposed Class shall include (i) all individuals who are or previously were employed by the Debtor Defendant in the United States, other than in the state of California, as a Damage Appraiser and were classified as exempt at any time during the period beginning on the date three years before the filing of the complaint in the Graham Litigations and ending on a date determined by the Court, and (ii) all individuals who are or previously were employed by the Debtor Defendant as a Damage Appraiser in the state of California and were classified as exempt at any time during the period beginning on the date four years before the filing of the complaint in the Graham Litigations and ending on a date determined by the Court. For purposes of this Settlement Agreement only, Bradley/Grombacher LLP, James Hawkins APLC, and Leonard Carder LLP shall be appointed Class Counsel.
Withdrawal of Proofs of Claim and Class Certification Motion	The Class Representatives will voluntarily dismiss all claims in the Graham/Reece Litigations with prejudice and withdraw or cause to be withdrawn all other Proofs of Claim with prejudice within three business days of the Effective Date.
Procedures for Notice and Distribution of the Settlement Payment	The Settlement Payment will be allocated towards the following: (i) cash payments to Settlement Class Members; (ii) payment of Class Professionals' (as defined below) fees, costs, and expenses (to the extent provided for below); (iii) enhancements of $10,000 paid to each of the Class Representatives; (iv) agreed-to payments with any Class Member who timely filed an Individual Claim; (v) payment of $10,000 to LWDA of claims for statutory penalties; and (vi) the administration of notice and distribution to individual class members paid to ILYM Group in the amount of up to $10,000. Class Counsel fees are to be paid solely out of the Settlement Payment and are not to exceed thirty-three and one-third percent (33 1/3 %) of the

	Settlement Payment amount. Class Counsel's reasonable litigation costs and expenses, also to be paid solely out of the Settlement Payment, are not to exceed $20,000. Furthermore, the professional fees of Dundon Advisers, LLC, as financial and strategic adviser to the Class Representative and Class Counsel, are to be paid solely out of the Settlement Payment and are not to exceed 8.5% of the Settlement Payment amount Class counsel have selected ILYM Group to perform customary duties of settlement administrator. In the event Class Counsel determine that another company would better serve the needs of the class, they have authority to select an alternate settlement administrator. The settlement administrator will send to the Class Members the notice of proposed settlement in the form of Notice attached as Exhibit B to the Settlement Agreement.

D. *Kemal v. The Hertz Corporation*, No. 1:19-cv-05461-RWL (S.D.N.Y.)

63. On June 11, 2019, Kemal filed a class action complaint against Hertz in the United States District Court for the Southern District of New York, alleging that Hertz improperly classified Location Managers as exempt employees and thus denied them overtime pay in violation of the NYLL. Kemal sought unpaid overtime, liquidated damages, an incentive for the Named Plaintiff, pre- and post-judgment interest, and attorneys' fees, among others.

64. The complaint sought to obtain recoveries on behalf of a class consisting of individuals employed as Location Managers, also known as Counter Managers or Functional Managers, by Hertz in New York at any time from the period beginning six years prior to the filing of the Kemal Litigation through the date of final judgment.

65. Initially, Hertz contended in discovery that the Kemal class involved just employees at non-airport locations. On December 23, 2019, a separate but similar class action was asserted against Hertz by Tracey Jeffrey, seeking to cover airport locations. That case was dismissed under the first-filed rule on March 31, 2020, but Hertz agreed that Kemal could

include airport-based managers. The putative class was composed of 265 members, 114 of whom worked at non-airport locations.

66. After engaging in some written discovery, during which Kemal was deposed, the lawsuit was stayed temporarily on March 11, 2020, pending a projected mediation in June 2020. However, the Kemal action was stayed following the filing of these Chapter 11 Cases.

67. As of the Petition Date, the class had not been certified and Kemal had not moved for class certification.

68. On October 20, 2020, Kemal filed two proofs of claim against Hertz—an individual proof of claim and a proof of claim on behalf of a putative class (Claim Nos. 12715 and 13188, respectively), requesting damages in excess of $47,900,000.00 for the class.

69. On December 21, 2020, Kemal filed a Rule 7023 Motion.

70. On February 19, 2021, the Debtors, the Official Committee, and Kemal's counsel met with a neutral mediator to negotiate the settlement and full release of both Kemal's proofs of claim and the claims in the Kemal Litigation. Over many hours, the parties engaged in hard-fought, arms' length negotiations over an appropriate resolution, and at the end of mediation, reached an initial agreement. That initial agreement was a binding contract between the Debtors and Kemal, approved by the Official Committee, and by its terms contemplated that the parties would reach definitive documentation.

71. On or about March 24, 2021, this resolution was further memorialized in a settlement agreement (the "**Kemal Settlement**"), attached hereto as Exhibit 4A to Exhibit 4. As set forth in the agreement, the Kemal Settlement is contingent upon the approval of this Court. Pursuant to the Kemal Settlement, among other terms and as more fully set forth therein, in exchange for a full release of any claim for damages in the underlying action or that may be

asserted by the Class Representative, individually or on behalf of the Class, Hertz will pay $200,000.00 in cash to be distributed by Class Counsel in accordance with the terms of the Kemal Settlement, the essential terms of which are below:

Allowed Claim	Within fourteen business days of the Effective Date, the Parties agree that in full satisfaction of the Released Claims (defined below), Hertz will pay (a) $200,000.00 in cash to the Plaintiff's selected third part Settlement (Claims) Administrator, such as JND or another similar entity who is in the business of class action settlement and claims administration, and (b) to the appropriate government agency the employers' share of the payroll taxes for the wages portion of the cash payment.
Released Claims	Except for the rights arising out of, provided for or reserved in this Settlement Agreement, Class Members, for and on behalf of themselves and their respective predecessors, successors, agents, attorneys, heirs, representatives, assigns, affiliates and subsidiaries, do hereby fully and forever release and discharge the Debtor Defendants, the Debtors, and their affiliates, subsidiaries, predecessors, parent(s), successors, assigns, officers, directors, shareholders, agents, employees, partners, members, insurers, accountants, attorneys, representatives and other agents, and all of their respective predecessors, successors and assigns of and from any and all claims, demands, debts, liabilities, obligations, liens, actions and causes of action, costs, expenses, attorneys' fees and damages of whatever kind or nature, at law, in equity and otherwise, whether known or unknown, anticipated, suspected or disclosed, that the Releasing Parties may have had, now have or hereafter may have against the Released Parties, whether or not asserted in the Kemal Litigation and the Proofs of Claim (the "**Released Claim**s"). On the Effective Date, all Released Claims are deemed settled, released, withdrawn and dismissed in their entirety, on the merits, with prejudice.
Certification of Class	For purposes of this Settlement Agreement only, the Proposed Class shall include all individuals who were employed as Location Managers, also known as Counter Managers or Functional Managers, by Hertz within New York at any time commencing June 11, 2013, and concluding on the effective date of the sale of the Debtor's operating assets and who did not file opt-in consent forms in the action, *Aiyekusibe v. The Hertz Corporation, et al*., No. 2:18-cv-00816-MRM. For purposes of this Settlement Agreement only, Shavitz Law Group, P.A. and Feldman Legal Group shall be appointed Class Counsel.
Withdrawal of Proofs of Claim and Class Certification Motion	The Class Representative and Debtor Defendant will jointly seek to dismiss the Kemal Litigation with prejudice, and the Class Representative shall withdraw the Proofs of Claim with prejudice. Any

	and all claims asserted by the Class Representative or Class Members, including but not limited to the Proofs of Claim, or that could have been asserted by the Class Representative or Class Members in any proof of claim filed with the Court shall be withdrawn with prejudice from the Chapter 11 Cases and expunged.
Procedures for Notice and Distribution of the Settlement Payment	The Settlement Payment will be made to Settlement Administrator, for allocation towards the following: (i) reasonable service awards to the Class Representative and other named plaintiffs identified by Class Counsel; (ii) the administration of notice and distribution to individual class members; and (iii) payment of fees of Class Counsel and Dundon Advisors, and costs and expenses. Class Counsel's fees shall be one-third of the Settlement Payment and Class Counsel shall also be entitled to reimbursement of their out-of-pocket costs for the Kemal Litigation. The Debtors will not object to the method and allocation of the Settlement Payment, and to the extent any separate application or motion to the Court is necessary for Class Counsel to receive this agreed upon percentage in attorney's fees, Debtors will not oppose Class Counsel's application for attorney's fees in the sum of 33.33% of the Settlement Payment. Additionally, Dundon Advisors shall be paid 8.5% of the Settlement Payment for their professional services.

E. *Lee (Campbell) v. The Hertz Corporation*, No. 18-cv-07481 (N.D. Cal.)

72. On December 12, 2018, Lee filed a class action complaint in the United States District Court for the Northern District of California alleging that Hertz's use of a blanket criminal background check regardless of relevance of criminal background to the open position, and automatic disqualification of any applicant with a record, violated Title VII because it resulted in the disproportional screening of minority job applicants. The complaint sought injunctive relief, such as policy revisions, third-party training, reporting and monitoring obligations, and monetary relief.

73. The complaint sought to represent a putative class constituted of all African American and Latino applicants for employment in a nonexempt position at a U.S.-based retail Hertz location who, from November 9, 2013 to present were denied employment based in whole

or in part on Hertz's policy of denying employment to individuals with criminal histories. The putative class was estimated to be comprised of 1,000 to 2,000 individuals.

74. The parties proceeded with discovery and had scheduled briefing on class certification by the time Hertz filed for bankruptcy. As of the Petition Date, the class had not been certified.

75. On October 21, 2020, Lee filed two proofs of claim, one on behalf of a purported class against Hertz (Claim No. 14464) and another on behalf of a purported class against Dollar Thrifty Automotive Group, Inc. ("**DTAG**") (Claim No. 12563), both claiming $27,900,000.00. Lee also filed two individual proofs of claims against Hertz and DTAG (Claim Nos. 14463 and 14461, respectively) for an unspecified amount.[10]

76. On December 18, 2020, Lee filed a Rule 7023 Motion.

77. On February 8, 2021, the Debtors, the Official Committee, and Lee's counsel met with a neutral mediator to negotiate the settlement and full release of both Lee's Proofs of Claim and the claims in the Lee Litigation. Over many hours, the Parties engaged in hard-fought, arms' length negotiations over an appropriate resolution, and at the end of mediation, reached an initial agreement. That initial agreement was a binding contract between the Debtors and Lee, approved by the Official Committee, and by its terms contemplated that the Parties would reach definitive documentation.

78. On or about March 26, 2021, this resolution was further memorialized in a settlement agreement (the "**Lee Settlement**"), attached hereto as Exhibit 5A to Exhibit 5. Pursuant to the Lee Settlement, among other terms and as more fully set forth therein, in

[10] Class Representative LaTonya Campbell also filed two individual proofs of claim against Hertz and DTAG (Claim Nos. 11455 and 14458, respectively).

exchange for a full release of any claim for damages in the underlying action or that may be asserted by the Class Representative, individually or on behalf of the Class, the Debtors will allow a $1,750,000.00 nonpriority general unsecured claim solely against Hertz to be distributed by Class Counsel in accordance with the terms of the Lee Settlement. The Debtors also agreed to two years of programmatic relief, with Class Counsel to provide semi-annual oversight, as described in the Lee Settlement. As set forth in the agreement, the Lee Settlement is contingent upon the approval of this Court.

79. The essential terms of the Lee Settlement are below:

Allowed Claim	In full and final settlement of the Released Claims (defined below), the Parties agree that Proof of Claim No. 14464 shall be allowed as a general unsecured nonpriority claim against The Hertz Corporation in the aggregate amount of $1,750,000.00 to Class Representatives.
Released Claims	Except for the rights arising out of, provided for or reserved in this Settlement Agreement, Class Members, for and on behalf of themselves and their respective predecessors, successors, agents, attorneys, heirs, representatives, assigns, affiliates and subsidiaries, do hereby fully and forever release and discharge the Debtor Defendants, the Debtors, and their affiliates, subsidiaries, predecessors, parent(s), successors, assigns, officers, directors, shareholders, agents, employees, partners, members, insurers, accountants, attorneys, representatives and other agents, and all of their respective predecessors, successors and assigns of and from any and all claims, demands, debts, liabilities, obligations, liens, actions and causes of action, costs, expenses, attorneys' fees and damages of whatever kind or nature, at law, in equity and otherwise, whether known or unknown, anticipated, suspected or disclosed, that the Releasing Parties have against the Released Parties, including any claims that relate to the Debtors' consideration of criminal background history information for determining employment, or which arise from the claims in the Lee Litigation and the Proofs of Claim (the "**Released Claims**"). On the Effective Date, all Released Claims are deemed settled, released, withdrawn and dismissed in their entirety, on the merits, with prejudice. However, nothing in this Settlement Agreement shall be deemed to constitute a waiver of any claims arising from Debtor's consideration of criminal background check information in the hiring process that takes place after the Effective Date of this Agreement.

Certification of Class	For purposes of this Settlement Agreement only, the Proposed Class shall include all African American applicants for employment in a nonexempt position at a U.S.-based retail location of the Debtors who, from November 9, 2013, to February 20, 2019, were denied employment based in whole or in part based on the individuals' criminal histories. The Proposed Class definition in this Settlement Agreement differs from the definition sought in the Lee Litigation because (i) the Parties accounted for Hertz's position that there has been no adverse impact as to Latino applicants for employment in a nonexempt position; (ii) Hertz changed its written background check policy to eliminate any categorical exclusions as of February 20, 2019; and (iii) the Bar Date is not tolled or otherwise extended for any creditors who did not file an individual proof of claim. For purposes of this Settlement Agreement only, Outten & Golden LLP shall be appointed class counsel.
Withdrawal of Proofs of Claim and Class Certification Motion	The Class Representatives will voluntarily dismiss all claims in the Lee Litigation with prejudice and withdraw or cause to be withdrawn all other Proofs of Claim with prejudice within three business days of the Effective Date.
Procedures for Notice and Distribution of the Settlement Payment, and Administration of Programmatic Relief	The Settlement Payment will be made to Class Counsel, for allocation towards the following: (i) cash payments to the Class Members; (ii) the administration of notice and distribution to individual class members; (iii) payment of $10,000 service awards to Class Representatives and (iv) payment of Class Counsel's fees, costs and expenses. Debtors will not object to the method and allocation of the Settlement Payment. Debtors shall pay all taxes an employer is required to pay pursuant to federal, state, and/or local law arising out of or based upon the payment of employment compensation in this Litigation. Employer Payroll Taxes shall be paid separate from, and in addition to, the Settlement Payment. Within thirty days of the Effective Date, Class Counsel will retain a settlement administrator to administer the distribution of the Settlement Payment to Class Members. Among other things, the settlement administrator will mail each Class Member a settlement notice combined with a check for each Class Member's pro rata share of the Settlement Payment. Upon emergence from bankruptcy, unless otherwise expressly provided, the Debtor Defendants will engage in programmatic relief. Class Counsel will provide semi-annual oversight of compliance with the programmatic relief for two years from the Debtors' emergence from bankruptcy. During this oversight period, the Debtors will provide

	Class Counsel a written progress report every six months that shows the number of individuals who received a conditional offer of employment and the subset of those individuals whose conditional offer was rescinded due to the Debtor's evaluation of the offeree's criminal background check information. The report will be provided within sixty days of the end of the relevant six-month period.

ARGUMENT

I. The Court Should Approve the Settlement Agreements Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure

80. Bankruptcy Rule 9019 provides, in relevant part, that "[o]n motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement." FED. R. BANKR. P. 9019(a). Compromises are favored in bankruptcy because they minimize the costs of litigation and further the parties' interests in expediting administration of a bankruptcy estate. *In re Martin*, 91 F.3d 389, 393 (3d Cir. 1996); *see also* 10 COLLIER ON BANKRUPTCY, 9019.01 (15th ed. rev. 2006). In deciding whether to approve a compromise under Bankruptcy Rule 9019, the court must determine if the settlement is "fair, reasonable, and in the interest of the estate." *In re Key3Media Grp., Inc.*, 336 B.R. 87, 92 (Bankr. D. Del. 2005) (citing *In re Louise's, Inc.*, 211 B.R. 798, 801 (D. Del. 1997)).

81. Courts within the Third Circuit have considered the following four factors, referred to as the "Martin factors," to determine whether to approve a particular compromise or settlement as fair and equitable: (1) the probability of success in litigation concerning the subject matter of the settlement; (2) the projected difficulty in collecting after obtaining a judgment in such litigation; (3) the complexity of the issues involved, and the expense, inconvenience, and delay that would therefore attend such litigation; and (4) the paramount interest of holders of claims against and interests in the debtor. *See Martin*, 91 F.3d at 393 (expressly following *Protective Comm. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424–25

(1968) and clarifying the four-factor test); *see also In re Nutraquest, Inc.*, 434 F.3d 639, 644–45 (3d Cir. 2006); *In re RNI Wind Down Corp*., 348 B.R. 286, 297 (Bankr. D. Del. 2006); *In re Kaiser Aluminum Corp*., 339 B.R. 91, 96–97 (D. Del. 2006).

82. A proposed compromise need not be the best result that a debtor could have achieved, but only must fall within the reasonable range of litigation possibilities. *See, e.g.*, *Key3Media*, 336 B.R. at 92–93 (court is not required to determine that settlement is best possible compromise); *see also In re Sea Containers Ltd*., No. 06-11156, 2008 Bankr. Lexis 2363, at *15 (Bankr. D. Del. Sept. 19, 2008); *In re Pa. Truck Lines, Inc.*, 150 B.R. 595, 598 (E.D. Pa. 1992), *aff'd*, 8 F.3d 812 (3d Cir. 1993); *In re Energy Corp.*, 886 F.2d 921, 929 (7th Cir. 1989). The Court should determine whether a settlement "falls above the lowest point in the range of reasonable litigation possibilities." *In re SemCrude, L.P.*, No. 08-11525, 2010 Bankr. Lexis 4160, at *9 (Bankr. D. Del. Nov. 19, 2010) (citations omitted).

83. Analysis of the *Martin* factors reflect that the Settlement Agreements are fair and equitable, fall well within the range of reasonableness, and are in the best interests of the Debtors' estates, such that the Settlement Agreements should be approved by the Court.[11]

84. Here, the Mediation Process that led to these Settlement Agreements was negotiated, agreed-to, and presented to the Court for approval because the Debtors, the Official Committee, and the Class Representatives hoped to achieve commercial resolutions—like these five Settlement Agreements—in a streamlined process without draining estate resources in discovery and legal fees and expenses related to thorny class certification issues.

[11] This section discusses both the first and third *Martin* factors—uncertainty of success and complexity of litigation—because these two issues are intertwined in these cases. The second *Martin* factor—the likely difficulties in collection—does not apply here. *See In re Nutraquest*, 434 F.3d at 646 (noting that the second *Martin* factor did not apply when considering the settlement of a claim against a debtor).

85. Although the Debtors are confident in their legal and factual positions with respect to the class issues (absent resolution in the form of the Settlement Agreements), litigation is inherently uncertain. Further, litigating the Rule 7023 Motions and class certification issues to final judgment could impose significant cost on the Debtors and further consume resources better allocated to other aspects of the Debtors' business and these Chapter 11 Cases. For example, absent a settlement and per the Mediation Stipulation, the Debtors would be required to file an objection to each of the Class Representatives' Rule 7023 Motions. If, in response to that objection, the Court were to find the claims timely filed, the Parties would have to address whether the Court should exercise its discretionary authority provided under Bankruptcy Rule 9014(c) to extend Bankruptcy Rule 7023 to the claims allowance process as to these proofs of claim. And, if the Court decided to so exercise its discretion, then the Parties would have to engage in full FRCP 23 class certification proceedings as to the merits of each purported class (including targeted discovery with respect thereto), and would potentially proceed to expedited discovery and a trial on each of the Class Representatives' proofs of claim and the Debtors' objections thereto. Given the size of the claims in dispute, the Debtors anticipate that the Official Committee would have actively participated in that entire process, requiring even further expenditures by the estate. All told, with respect to each of the proofs of claim at issue in this Motion, the Debtors' estates would have incurred significant fees and expenses, in many cases far in excess of the settled amounts of the claims at issue here.

86. Importantly, the Official Committee, which actively participated in each mediation at issue, has formally supported each of the Settlement Agreements and the rationale behind them. The terms embodied in the Settlement Agreements provide a resolution that all sides found commercial, reasonable, and appropriate.

87. The Parties further submit that the terms of the Settlement Agreements provide other significant benefits for the Debtors' estates. The Debtors believe that the settlement of the Purported Class Actions for the allowed claims or cash payment reflected in each Settlement Agreement are very favorable results, particularly in light of the potential claims asserted by the Class Representatives if the Claims were successful. The full, customary releases—especially when coupled with the request in this Motion that the Court determine the Bar Date remains in effect and has not, and will not, be tolled with respect to creditors who did not file proofs of claim—provides beneficial finality for all parties in interest. Each Settlement Agreement also provides that the costs and expenses associated with notice and distribution to Class Members will be paid from the allowed claims, and the administrative burdens will be borne by the claimants. The class procedures will be managed either by Class Counsel or settlement administrators of the Class Representatives' choosing. In addition, pursuant to the terms of each Settlement Agreement, the Class Representatives have agreed to support a plan for reorganization put forth by the Debtors.[12] Accordingly, the Settlement Agreements provide a fair and practical resolution of disputes that will facilitate confirmation and consummation of a plan of reorganization in a timely and efficient manner.

88. In sum, the Debtors believe that each of the Settlement Agreements achieve positive, beneficial finality for all Parties and thus are in the best interests of each of the effected Debtor estate. Accordingly, the Debtors respectfully request that the Court approve the Settlement Agreements.

[12] Because Class Representatives Aiyekusibe, Dawson, Graham, Reece, and Lee are, or may be, Committee Members, those Settlement Agreements provide that the Class Representatives (and their respective Class Counsel) will not act, directly or indirectly to interfere with a Plan, provided however, that they can provide and fulfill their fiduciary duties to the Committee.

II. The Court Should Certify the Classes and Approve Each Settlement Agreement As Fair and Reasonable

89. The Bankruptcy Code and Rules favor compromise. Here, the Debtors, Official Committee, and Class Representatives developed and agreed to a Court-approved Mediation Process as a means to reach class-wide resolutions to the Purported Class Actions and purported class proofs of claim. The Settlement Agreements subject to this Motion do just that. The certification of the Classes in the Settlements are fair, reasonable and adequate and satisfy the requirements of FRCP 23 and should be approved by this Court.

90. When, as here, the court has not certified a class before approving a class settlement, the court must determine whether a proposed settlement class satisfies the certification requirements of FRCP 23. *See In re Kaiser Grp., Int'l*, 278 B.R. 58, 64–65 (Bankr. D. Del. 2002); *see also Amchem v. Windsor*, 521 U.S. 591, 620 (1997); *In re Cmty. Bank of N. Va.*, 418 F.3d 277, 300 (3d Cir. 2005). "[A]ll Federal Circuits recognize the utility of [FRCP] 23(b)(3) settlement classes." *Amchem*, 521 U.S. at 618; *Cmty. Bank*, 418 F.3d at 299 ("The settlement class action device offers defendants the opportunity to engage in settlement negotiations without conceding any of the arguments they may have against class certification.").

91. To certify a class for settlement purposes, a court must determine that the four requirements of FRCP 23(a) are satisfied—(1) numerosity, (2) commonality, (3) typicality, and (4) adequacy—as well as FRCP 23(b)(1), (b)(2), or (b)(3). *See Amchem*, 521 U.S. at 613–14; *In re UA Theatre Co.*, 410 B.R. 385, 391 (Bankr. D. Del. 2009); *In re Google, Inc. Cookie Placement Consumer Privacy Litig.*, 934 F.3d 316, 320 (3d Cir. 2019). Here the Parties have

agreed to request certification, for settlement purposes only, under FRCP 23(b)(3),[13] which requires a court to make two additional findings, predominance and superiority.

92. ***Numerosity***—FRCP 23(a)(1) requires that the class be "so numerous that joinder of all members is impracticable…." FED. R. CIV. P. 23(a)(1). Joinder is impracticable when it would be "inefficient, costly, time-consuming, and probably confusing." *United Cos. Fin. Corp.*, 277 B.R. 596, 603 (Bankr. D. Del. 2002) (citation omitted). Courts can make common sense assumptions when making a finding of numerosity. *See id.* (citation omitted); *see also Kaiser Grp.*, 278 B.R. at 64; *Johnston v. HBO Film Mgmt.*, 265 F.3d 178, 184 (3d Cir. 2001) (finding that "thousands of potential class members" would make joinder impracticable). Satisfaction of this requirement does not require a specific minimum number of class members; however, generally, if there are forty or more members in the potential class, the numerosity requirement is routinely found to have been satisfied. *See, e.g.*, *Stewart v. Abraham*, 275 F.3d 220, 226–27 (3d Cir. 2001) ("[G]enerally if the named plaintiff demonstrates that the potential number of

[13] As set forth in the Lee Settlement, the Parties have agreed that the proposed class, as defined therein, shall be certified, for settlement purposes only, pursuant to Rule 23(b)(2) and (b)(3). The Lee Settlement is the only Settlement Agreement which seeks certification of its Class by way of this Motion under FRCP 23(b)(2). FRCP 23(b)(2) requires that the party "opposing the class," (here, the Debtors) have allegedly "acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." FED. R. CIV. P. 23(b)(2); *see also Wal-Mart Store Stores, Inc. v. Dukes*, 564 U.S. 338, 360 (2011) ("Rule 23(b)(2) applies only when a single injunction or declaratory judgment would provide relief to each member of the class."). An FRCP 23(b)(2) class is one that: (1) meets the requirements of Rule 23(a) (*e.g.*, numerosity, commonality, typicality, and adequacy of representation); (2) is sufficiently cohesive, such that any remedy would provide simultaneous classwide relief; and (3) can be described by a "readily discernible, clear, and precise statement of the parameters defining the class" with "no additional requirements need[ing] to be satisfied." *Shelton v. Bledsoe*, 775 F.3d 554, 563 (3d Cir. 2015) (discussing *Barnes v. Am. Tobacco Co.*, 161 F.3d 127, 143 (3d Cir. 1998) and *Wachtel v. Guardian Life Ins. Co. of Am.*, 453 F.3d 179, 184 (3d Cir. 2006)); *see also UA Theatre*, 410 B.R. at 397 (certification under FRCP 23(b)(2) appropriate when all members of the proposed class suffered identical injury and sought injunctive relief, not individualized damages). The requirements of FRCP 23(b)(2), as applied to the Lee Settlement Agreement, are set forth separately below.

plaintiffs exceeds 40, the first prong of Rule 23(a) has been met."); *UA Theatre*, 410 B.R. at 392 (same).

93. ***Commonality***—FRCP 23(a)(2) requires that there be "questions of law or fact common to the class…." FED. R. CIV. P. 23(a)(2); *see also Dukes*, 564 U.S. at 350 ("That common contention … must be of such a nature that it is capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke."). The commonality requirement is satisfied where "the named plaintiffs share at least one question of fact or law with the grievances of the prospective class." *In re Schering Plough Corp. ERISA Litig.*, 589 F.3d 585, 597 (3d Cir. 2009) (citation omitted). Further, "[c]ommonality does not require an identity of claims or facts among the class members." *Johnston*, 265 F.3d at 184. Rather, "[t]he commonality requirement will be satisfied if the named plaintiffs share at least one question of fact or law with the grievances of the prospective class." *Baby Neal v. Casey*, 43 F.3d 48, 56 (3d Cir. 1994).

94. ***Typicality***—FRCP 23(a)(3) requires that the "claims or defenses of the representative parties are typical of the claims or defenses of the class...." FED. R. CIV. P. 23(a)(3). In evaluating typicality, courts look to "whether the named plaintiffs' claims are typical, in common-sense terms, of the class, thus suggesting that the incentives of the plaintiffs are aligned with those of the class." *Beck v. Maximus, Inc.*, 457 F.3d 291, 295–96 (3d Cir. 2006) (citation omitted). A court must determine whether the named plaintiffs' personal circumstances are notably different, or if the legal theory underlying the named plaintiffs' claims is different, from those of the class members. *See Johnston*, 265 F.3d at 184 (citation omitted). As long as the claims of the named plaintiffs and the claims of the purported class members involve the same conduct, the typicality requirement is satisfied, regardless of any factual differences

between the claims. *See id.*; *see also Kaiser Grp.*, 278 B.R. at 66 ("Much like commonality, the typicality requirement does not mandate that all class members share identical claims.").

95. ***Adequacy of Representation***—FRCP 23(a)(4) requires that the class representative "fairly and adequately protect the interests of the class." FED. R. CIV. P. 23(a)(4). The adequacy inquiry "assures that the named plaintiff's claims are not antagonistic to the class and that the attorneys for the class representatives are experienced and qualified to prosecute claims on behalf of the entire class." *Beck*, 457 F.3d at 296. The court must determine "whether the representatives' interests conflict with those of the class and whether the class attorney is capable of representing the class." *Johnston*, 265 F.3d at 185.

96. ***Predominance***—Rule 23(b)(3) requires that "questions of law or fact common to class members predominate over any question affecting only individual members." FED. R. CIV. P. 23(b)(3). The predominance inquiry "asks whether the common, aggregation-enabling, issues in the case are more prevalent or important than the non-common, aggregation-defeating, individual issues." *Tyson Foods, Inc. v. Bouaphakeo*, 136 S. Ct. 1036, 1045 (2016). Predominance tests whether the proposed class is sufficiently cohesive to warrant adjudication by representation. *See Amchem*, 521 U.S. at 623–24; *Cmty. Bank*, 418 F.3d at 308–09. A "predominance analysis is similar to the requirement of Rule 23(a)(3) that claims or defenses of the named representatives must be typical of the claims or defenses of the classes." *Cmty. Bank*, 418 F.3d at 309.

97. ***Superiority***—Rule 23(b)(3) requires the Court to determine "that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." FED. R. CIV. P. 23(b)(3). The superiority requirement asks the court to balance, considering "fairness and efficiency," the merits of a class action as compared to the merits of other adjudicative

methods. *Georgine v. Amchem Prods.*, 83 F.3d 610, 632 (3d Cir. 1996). The rule provides courts with a list of relevant factors to consider: (1) the interest of class members in individually controlling the prosecution or defense of separate actions; (2) the extent and nature of litigation regarding the controversy already begun by or against class members; (3) the desirability or undesirability of concentrating the litigation in the particular forum; and (4) the difficulties likely to be encountered in managing a class action. *See* FED. R. CIV. P. 23(b)(3); *see also Kaiser Grp.*, 278 B.R. at 67 (citing *Johnson*, 265 F.3d at 194). However, when a class certification is being considered for settlement purposes only, the difficulties in managing a class action are not considered.

98. Certification, solely for the purpose of settlement,[14] is warranted here because each proposed Class, as set forth in the respective Settlement Agreements, meets the requirements of FRCP 23(a)(1)–(4) and (b)(3):

- ***Aiyekusibe Settlement***
  - *Numerosity:* The number of Class Members is approximately 600.
  - *Commonality:* Fundamental issues of law and fact regarding the alleged improper classification of Function and Location Managers as exempt employees and denial of overtime, applicability of the several defenses, and the measure of damages are common to all Class Members.
  - *Typicality:* Class Representatives allege they suffered the same harm as a result of the same conduct that allegedly injured all absentee class members—that the Debtors improperly classified Function and Location Managers as exempt employees and denied them overtime.
  - *Adequacy:* Class Representatives are fully aligned with Class Members and Class Counsel is qualified. Class Counsel Shavitz Law Group, P.A.,

[14] The Debtors' consensual stipulations on the FRCP 23 factors here are drawn from the allegations as to the appropriateness of class certification as put forth in the Rule 7023 Motions and should not be interpreted as a concession or admission of how these factors might be addressed in a non-consensual setting.

has been appointed class counsel in approximately fifty employment and wage classification-related actions and has litigated and settled approximately 100 similar claims, and Feldman Legal Group also specializes in FLSA-related actions.

- *Predominance:* The common issue of alleged improper classification and overtime pay predominates over any individual damages questions.
- *Superiority:* The merits of the class settlement mechanism are preferable to protracted litigation with Class Representatives or litigation or using the claims administration process to address the myriad Class Members' relatively small claims in these Chapter 11 Cases.

- ***Dawson Settlement***
  - *Numerosity:* The number of Class Members is approximately 2,000.
  - *Commonality:* Fundamental issues of law and fact regarding alleged unpaid overtime and meal-and-rest-breaks for certain non-exempt employees, applicability of the several defenses, and the measure of damages are common to all Class Members.
  - *Typicality:* Class Representatives allege they suffered the same harm as a result of the same conduct that allegedly injured all absentee class members—that Debtors failed to fully compensate certain non-exempt employees for overtime and meal-and-rest-breaks.
  - *Adequacy:* Class Representatives are fully aligned with Class Members and Class Counsel is qualified. Barrera & Associates and Calderone Law Firm specialize in employment law, with an emphasis in wage and hour/meal and rest period actions.
  - *Predominance:* The common issue of alleged unpaid overtime and meal-and-rest-breaks predominate over any individual damages questions of the Class Members.
  - *Superiority:* The merits of a the class settlement mechanism are preferable to protracted litigation with Class Representatives or litigation or using the claims administration process to address the myriad Class Members' relatively small claims in these Chapter 11 Cases.
- ***Graham/Reece Settlement***
  - *Numerosity:* The number of Class Members is approximately 125.
  - *Commonality:* Fundamental issues of law and fact regarding alleged improper classification as exempt employees and denial of minimum and overtime wages and other non-wage compensation, applicability of the several defenses, and the measure of damages are common to all Class Members.

- *Typicality:* Class Representatives allege they suffered the same harm as a result of the same conduct that allegedly injured all absentee class members—that the Debtors improperly classified Damage Appraisers as exempt employees and denied them minimum and overtime wages and other non-wage compensation.
- *Adequacy:* Class Representatives are fully aligned with Class Members and Class Counsel is qualified. Bradley/Grombacher, LLP James Hawkins APLC, and Leonard Carder LLP specialize in employment law, with an emphasis on wage and hour class action cases and Class Counsel has partnered with bankruptcy firm Cousins Law LLC.
- *Predominance:* The common issue of alleged unpaid minimum and overtime wages and other non-wage compensation predominate over any individual damages questions.
- *Superiority:* The merits of a the class settlement mechanism are preferable to protracted litigation with Class Representatives or litigation or using the claims administration process to address the myriad Class Members' relatively small claims in these Chapter 11 Cases.

- ***Kemal Settlement***
  - *Numerosity:* The number of Class Members is approximately 265.
  - *Commonality:* Fundamental issues of law and fact regarding the alleged improper classification of Location Managers as exempt employees and thus denying overtime wages, the applicability of the several defenses, and the measure of damages are common to all Class Members.
  - *Typicality:* Class Representatives allege they suffered the same harm as a result of the same conduct that allegedly injured all absentee class members—that the Debtors improperly classified Location Managers as exempt employees and thus denied them overtime wages.
  - *Adequacy:* Class Representatives are fully aligned with Class Members and Class Counsel Shavitz Law Group P.A. and Feldman Legal Group specialize in employment law, with an emphasis in wage and hour/meal and rest period actions.
  - *Predominance:* The common issue of alleged improper classification and overtime pay predominate over any individual damages questions.
  - *Superiority:* The merits of a the class settlement mechanism are preferable to protracted litigation with Class Representatives or litigation or using the claims administration process to address the myriad Class Members' relatively small claims in these Chapter 11 Cases.
- ***Lee Settlement***
  - *Numerosity:* The number of Class Members is approximately 1,400.

- *Commonality*: Fundamental issues of law and fact regarding the alleged use of a blanket criminal background check when hiring new employees which automatically disqualified any applicant with past convictions, pending charges, or who failed to fully disclosure their criminal history, the applicability of the several defenses, and the measure of damages are common to all Class Members.
- *Typicality*: Class Representatives allege they suffered the same harm as a result of the same conduct that allegedly injured all absentee class members—Debtors denied employment to applicants seeking employment in nonexempt positions at U.S.-based retail locations of the Debtors, based in whole or in part on their criminal histories background check policy, resulting in a disparate impact on African-American applicants.
- *Adequacy*: Class Counsel, Outten & Golden LLP, is well-known in employment and civil rights-related actions.
- *Predominance*: The common issue of the alleged use of a background check policy that applied to all applicants and the need for common statistical proof to show the disparate impact on Class Members predominate over any individual damages questions.
- *Superiority*: The merits of the class settlement mechanism are preferable to protracted litigation with Class Representatives or litigation or using the claims administration process to address the myriad Class Members' relatively small claims in these Chapter 11 Cases.
- *FRCP 23(b)(2):*
    - The Class meets the requirements of FRCP 23(a), as set forth above.
    - The Class is sufficiently cohesive, as the limited injunctive/programmatic relief contemplated under the Lee Settlement applies to all Class Members equally and would not result in any individualized remedy, nor does the programmatic relief provide any monetary relief to Class Members.
    - The Class, and the Proposed Order for the Lee Settlement Agreement, attached hereto as Exhibit 5, includes a readily discernible, clear, and precise statement of the parameters defining the class, which is all African American applicants for employment in a nonexempt position at a U.S.-based retail location of the Debtors who, from November 9, 2013, to February 20, 2019, were denied employment based in whole or in part based on the individuals' criminal histories, as a result of the Debtors' alleged use of a standard criminal background check for all new applicants.

99. Under FRCP 23(e), the settlement of a class action requires court approval based on a finding that the settlement is "fair, reasonable, and adequate…." FED. R. CIV. P. 23(e)(2); *see also Halley v. Honeywell Int'l, Inc.*, 861 F.3d 481, 488 (3d Cir. 2017) ("[A] class action cannot be settled without the approval of the court and a determination that the proposed settlement is fair, reasonable, and adequate.") (citation omitted); *In re NFL Players Concussion Injury Litig.*, 821 F.3d 410, 436 (3d Cir. 2016) (same).

100. "In deciding the fairness of a proposed settlement … the evaluating court must, of course, guard against demanding too large a settlement based on its views of the merits of the litigation; after all, settlement is a compromise, a yielding of the highest hopes in exchange for certainty and resolution." *In re Prudential Ins. Co. Am. Sales Practice Litig.*, 148 F.3d 283, 316–17 (3d Cir. 1998) (citation omitted). Courts in the Third Circuit consider the nine non-exclusive factors set forth in *Girsh v. Jepson*, 521 F.2d 153, 156–57 (3d Cir. 1975) in determining whether to approve a proposed class action settlement, referred to as the "*Girsh* factors," including: "(1) the complexity, expense, and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings and the amount of discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining the class action throughout the trial; (7) the ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation." *Halley*, 861 F.3d at 488 (quoting *Girsh*, 521 F.2d at 156–57); *see also Google, Inc.*, 934 F.3d at 322 (same).

101. The following *Girsh* factors strongly favor approval of the Settlement Agreements:

- Litigation in the Purported Class Actions would be complicated, protracted and expensive for the Debtors and the Classes. The negotiations that resulted in the Settlement Agreements subject to this Motion occurred at arm's length as part of this Court's approved Mediation Process and related procedures. The Mediation Process was developed by the Parties specifically to set up a swift, cost-effective means of resolving the Purported Class Actions without substantial litigation.

- The Settlement Agreements were reached after the essential facts had been considered by Class Counsel, the Debtors, and the Official Committee, and shared with a neutral mediator who advised the parties of the perceived strengths and weaknesses of their respective positions. The Parties engaged in hard-fought, arms' length negotiations over an appropriate resolution, and at the end of mediation, reached the initial terms embodied in each settlement.

- The Class Representatives support the Settlement Agreements and were ably advised by Class Counsel, each of whom are competent and experienced in the subject matter at issue and in class action advocacy, particular in employment-related matters.

- There is considerable risk that Class Representatives would not be able to establish liability because of the various defenses available to the Debtors, including, but not limited to, whether class claims were timely filed and whether class certification outside of settlement would be appropriate as to the Class Members.

- When considered in light of the best possible recovery and the attendant risks, the Settlement Agreements fall well within the range of reasonableness, especially given the procedural posture of the underlying actions and the context of these Chapter 11 Cases. This is particularly true for those absentee Class Members who did not file an individual proof of claim prior to the Bar Date, as the Debtors will argue that the purported class proofs of claim filed by the Class Representatives were not properly filed under Bankruptcy Rule 3001 and the Bar Date Order. Accordingly, absent class members who decided not to file their own proofs of claim (though the Debtors provided actual notice of the Bar Date to the last known address of all current and former employees dating back to January 1, 2014), would not be entitled to receive any distribution from the Debtors.

102. Additionally, each Settlement Agreement subject to this Motion satisfies the further requirements of class settlements. Each Settlement Agreement states that either Class Counsel or a settlement administrator will provide adequate notice to all Class Members with the

information specified under the Federal Rules, including (i) the nature of the action; (ii) the definition of the class, the claims, issues, or defenses; (iii) the procedures for opting-out, (iv) the fees to be paid to class professionals, (iv) details about the terms of the settlements; and (v) the binding nature of the Settlement Agreements. *See* FED. R. CIV. P. 23 (e)(1)(B)("[T]he Court must direct notice in a reasonable manner to all class members who would be bound by the proposal if giving notice is justified by the parties showing that the court will likely be able to (ii) certify the class for purposes of judgment on the proposal."); FED. R. CIV. P. 23(c)(2)(B) ("For any class certified under Rule 23(b)(3)—or upon ordering notice under Rule 23(e)(1) to a class proposed to be certified for purposes of settlement under Rule 23(b)(3)—the court must direct to class members the best notice that is practicable under the circumstances.").

103. In sum, the Settlement Agreements provide the Class Members with certain value that would otherwise be unlikely (if not impossible) for employee and employee-candidate claimants and are in the best interests of each effected Debtor estate. Considered in light of the cost and risk of protracted litigation, the five Settlement Agreements subject to this Motion are "fair, reasonable, and adequate" as to the Classes. *See Halley*, 861 F.3d at 488. The Settlement Agreements should therefore be approved pursuant to FRCP 23(e).

NOTICE

104. Notice of this Motion has been provided to the following parties, or, in lieu thereof, their counsel: (i) the U.S. Trustee; (ii) the U.S. Notes Agent; (iii) the Senior Credit Agreement Agent; (iv) the agent under the L/C Facility; (v) the administrative agent under the ALOC Facility; (vi) the successor trustee under the Promissory Notes; (vii) Deutsche Bank AG, New York Branch, as the U.S. ABS Agent; (viii) the indenture trustee under the HFLF ABS Notes; (ix) the administrative agent and collateral agent under the U.S. Vehicle RCF; (x) the

indenture trustee and collateral agent under the Hertz Canadian Securitization Notes; (xi) the lenders under the Donlen Canada Securitization Program; (xii) the indenture trustee and collateral agent under the 2L Notes; (xiii) the ad hoc group of certain holders of the Company's Senior Notes; (xiv) the Official Committee of Unsecured Creditors; (xv) the Internal Revenue Service; (xvi) the Securities and Exchange Commission; (xvii) the United States Attorney for the District of Delaware; (xviii) the state attorneys general for all states in which the Debtors conduct business; (xix) the indenture trustee and collateral agent under the HVF II ABS Notes; (xx) the MTN Steering Committee; (xxi) counsel to the lenders under the Debtors' debtor-in-possession financing facility; (xxii) the Named Plaintiffs; and (xxiii) any such other party entitled to receive notice pursuant to Bankruptcy Rule 2002.

105. The Debtors submit that, in view of the facts and circumstances, such notice is sufficient and no other or further notice need be provided.

NO PRIOR REQUEST

106. No previous request for the relief sought herein has been made to this or any other court.

CONCLUSION

107. WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Orders, substantially in the form attached hereto as **Exhibits 1–5**, granting the relief requested in this Motion, and granting such other and further relief as the Court deems just and proper.

Dated: March 26, 2021

/s/ Brett M. Haywood

RICHARDS, LAYTON & FINGER, P.A.
Mark D. Collins (No. 2981)
Robert J. Stearn, Jr. (No. 2915)
John H. Knight (No. 3848)
Brett M. Haywood (No. 6166)
Christopher M. De Lillo (No. 6355)
J. Zachary Noble (No. 6689)
One Rodney Square
920 N. King Street
Wilmington, DE 19801
Telephone: (302) 651-7700
Facsimile: (302) 651-7701
Collins@rlf.com
Stearn@rlf.com
Knight@rlf.com
Haywood@rlf.com
DeLillo@rlf.com
Noble@rlf.com

—and—

WHITE & CASE LLP
Thomas E. Lauria (admitted *pro hac vice*)
Matthew C. Brown (admitted *pro hac vice*)
200 South Biscayne Boulevard, Suite 4900
Miami, FL 33131
Telephone: (305) 371-2700
tlauria@whitecase.com
mbrown@whitecase.com

J. Christopher Shore (admitted *pro hac vice*)
David M. Turetsky (admitted *pro hac vice*)
Samuel P. Hershey (admitted *pro hac vice*)
Erin M. Smith (admitted *pro hac vice*)
1221 Avenue of the Americas
New York, NY 10020
Telephone: (212) 819-8200
cshore@whitecase.com
david.turetsky@whitecase.com
sam.hershey@whitecase.com
erin.smith@whitecase.com

Jason N. Zakia (admitted *pro hac vice*)
111 South Wacker Drive
Chicago, IL 60606
Telephone: (312) 881-5400
jzakia@whitecase.com

Ronald K. Gorsich (admitted *pro hac vice*)
Aaron Colodny (admitted *pro hac vice*)
Andrew Mackintosh (admitted *pro hac vice*)
Doah Kim (admitted *pro hac vice*)
555 South Flower Street, Suite 2700
Los Angeles, CA 90071
Telephone: (213) 620-7700
rgorsich@whitecase.com
aaron.colodny@whitecase.com
amackintosh@whitecase.com
doah.kim@whitecase.com

Co-Counsel to the Debtors and Debtors-in-Possession

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
The Hertz Corporation, *et al.*,[1]	Case No. 20-11218 (MFW)
Debtors.	(Jointly Administered)
	Obj. Deadline: April 9, 2021 at 4:00 p.m. (ET) **Hearing Date: April 16, 2021 at 10:30 a.m. (ET)**

NOTICE OF MOTION AND HEARING

PLEASE TAKE NOTICE that, on March 26, 2021, the debtors and debtors in possession (collectively, the "**Debtors**") in the above-captioned cases filed the *Omnibus Motion Pursuant to Sections 105 and 363 of the Bankruptcy Code and Bankruptcy Rules 9019 and 7023 to Approve Certain Settlement Agreements Pursuant to Bankruptcy Rule 9019, Rule 7023 and Federal Rule of Civil Procedure 23, and Grant Related Relief* (the "**Motion**") with the United States Bankruptcy Court for the District of Delaware (the "**Court**").

PLEASE TAKE FURTHER NOTICE that objections or responses to the relief requested in the Motion, if any, must be made in writing and filed with the Court on or before **April 9, 2021 at 4:00 p.m. (prevailing Eastern Time)** and shall be served on: (a) the undersigned co-counsel to the Debtors; (b) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, DE 19801 (Attn: Linda Richenderfer, Esq.); (c) counsel to the Official Committee of Unsecured Creditors: Kramer Levin Naftalis & Frankel LLP (Attn: Thomas Moers Mayer,

[1] The last four digits of The Hertz Corporation's tax identification number are 8568. The location of the Debtors' service address is 8501 Williams Road, Estero, FL 33928. Due to the large number of Debtors in these chapter 11 cases, which are jointly administered for procedural purposes, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' proposed claims and noticing agent at https://restructuring.primeclerk.com/hertz.

Esq., Amy Caton, Esq., and Alice J. Byowitz, Esq.) and Benesch, Friedlander, Coplan & Aronoff LLP (Attn: Jennifer R. Hoover, Esq., Kevin M. Capuzzi, Esq., and John C. Gentile, Esq.); and (d) counsel to Barclays Bank PLC: Mayer Brown LLP (Attn: Brian Trust, Esq.) and Morris, Nichols, Arsht & Tunnell LLP (Attn: Eric W. Moats, Esq.).

PLEASE TAKE FURTHER NOTICE that, if any objections to the Motion are received, a hearing with respect to the Motion will be held before The Honorable Mary F. Walrath, United States Bankruptcy Judge for the District of Delaware, at the Court, 824 North Market Street, 5th Floor, Courtroom 4, Wilmington, Delaware 19801, on **April 16, 2021 at 10:30 a.m. (prevailing Eastern Time)**.

PLEASE TAKE FURTHER NOTICE THAT, IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: March 26, 2021

/s/ Brett M. Haywood

RICHARDS, LAYTON & FINGER, P.A.
Mark D. Collins (No. 2981)
Robert J. Stearn, Jr. (No. 2915)
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mbrown@whitecase.com

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Samuel P. Hershey (admitted *pro hac vice*)
Erin Smith (admitted *pro hac vice*)
1221 Avenue of the Americas
New York, NY 10020
Telephone: (212) 819-8200
cshore@whitecase.com
david.turetsky@whitecase.com
sam.hershey@whitecase.com
erin.smith@whitecase.com

Jason N. Zakia (admitted *pro hac vice*)
111 South Wacker Drive
Chicago, IL 60606
Telephone: (312) 881-5400
jzakia@whitecase.com

Ronald K. Gorsich (admitted *pro hac vice*)
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555 South Flower Street, Suite 2700
Los Angeles, CA 90071
Telephone: (213) 620-7700
rgorsich@whitecase.com
aaron.colodny@whitecase.com
amackintosh@whitecase.com
doah.kim@whitecase.com

Co-Counsel to the Debtors and Debtors-in-Possession

EXHIBIT 1

Aiyekusibe Proposed Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
The Hertz Corporation, *et al.*,[1]	Case No. 20-11218 (MFW)
Debtors.	(Jointly Administered)

ORDER PURSUANT TO BANKRUPTCY RULES 9019 AND 7023 APPROVING THE SETTLEMENT AGREEMENT BETWEEN THE DEBTORS AND BAMIDELE AIYEKUSIBE AND PAWAN LAL

Upon the motion (the "**Motion**")[2] of the Debtors for entry of an order (this "**Order**") pursuant to sections 363 and 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019(a) and 7023 approving the settlements between The Hertz Corporation, on behalf of certain Debtor entities, and named plaintiffs Bamidele Aiyekusibe and Pawan Lal in the Aiyekusibe Litigation (as defined in the Motion), substantially in the form of the agreement attached hereto as **Exhibit 1A (**the "**Aiyekusibe Settlement**"), as described more fully in the Motion; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper

[1] The last four digits of The Hertz Corporation's tax identification number are 8568. The location of the Debtors' service address is 8501 Williams Road, Estero, FL 33928. Due to the large number of Debtors in these chapter 11 cases, which are jointly administered for procedural purposes, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' proposed claims and noticing agent at https://restructuring.primeclerk.com/hertz.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion and the Settlement Agreement; and this Court having held a hearing, if necessary, to consider the relief requested in the Motion (the "**Hearing**"); and upon the record of the Hearing, if any; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein. Any objections or reservations of rights filed in respect of the Motion are overruled, with prejudice.

2. The Aiyekusibe Settlement is APPROVED in its entirety, including but not limited to the waivers and releases contained therein and consideration provided therefor as if set forth herein.

3. The parties are authorized to take any steps as may be required or necessary to implement the Aiyekusibe Settlement.

4. The Debtors are entitled to allow Proof of Claim No. 12555 as a general unsecured nonpriority claim solely upon The Hertz Corporation in the amount of $3,300,000 and a priority unsecured claim under Section 507(a)(4) of the Bankruptcy Code solely upon The Hertz Corporation in the amount of $750,000.

5. The Class Representatives will voluntarily dismiss all claims in the Aiyekusibe Litigation with prejudice and withdraw or cause to be withdraw all other Proofs of Claim with prejudice within three (3) business days of the Effective Date, as defined in the Aiyekusibe Settlement.

6. The Proposed Class shall be certified as a class/collective action as to the Proposed Class's claims in the Aiyekusibe Litigation and Proofs of Claim, provided, however that such Proposed Class shall be certified for settlement purposes only pursuant to 29 U.S.C. § 216(b) of the Fair Labor Standards Act as modified by and made applicable to these proceedings by Bankruptcy Rules 7023 and 9014. This will be a one-stage approval process to determine fairness and will not require both preliminary and final approval.

7. For purposes of the Aiyekusibe Settlement only, the Settlement Class shall include all individuals who were employed by The Hertz Corporation and DTG Operations, Inc. as Location Managers, also known as Counter Managers or Functional Managers, within the United States at any time within the three years preceding the Aiyekusibe Litigation, who joined the Aiyekusibe Litigation by (i) timely executing a consent-to-join form within the notice period in the underlying litigation, including all class members whose consent-to-join forms were timely executed but were not filed due to the stay imposed in the Aiyekusibe Litigation by the suggestion of bankruptcy filed by Debtors, and (ii) individuals on whose behalf Class Counsel filed Individual Claims, as defined in the Aiyekusibe Settlement.

8. The Settlement Payment will be delivered to a third-party claims administrator appointed by Class Counsel, as a common fund for allocation by the Settlement Administrator towards the following: (i) cash payments to the Class Members; (ii) the administration of notice and distribution to individual class members; (iii) payment of Class Professional Fees, Litigation

Costs and Expenses; and (iv) reasonable service awards to Plaintiffs and certain opt-in Plaintiffs as identified by Class Counsel. The payments to Class Members will be paid from the Settlement Fund net of Class Counsel's approved attorney's fees and costs, federal and state tax withholdings, and the incurred costs of the Settlement Administrator, as set forth fully in Sections 11–13, 15 of the Aiyekusibe Settlement.

9. The Court is not tolling or otherwise extending the Bar Date for any creditors who did not file an individual proof of claim.

10. No creditor other than the Class Members defined in the Purported Class Action shall gain any rights by reason of the Aiyekusibe Settlement. Nor shall the Aiyekusibe Settlement be admissible and/or used in any fashion in any action by any creditors.

11. The Debtors reserve all of their rights and defenses with respect to any creditor other than the Class Members.

12. This Court shall, and hereby does, retain jurisdiction with respect to all matters arising from or in relation to the interpretation and implementation of the Aiyekusibe Settlement, and all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Exhibit 1A

[Aiyekusibe Settlement]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
The Hertz Corporation, *et al.*,[1]	Case No. 20-11218 (MFW)
Debtors.	(Jointly Administered)

Settlement Agreement and Release

This Settlement Agreement and Release (the "**Settlement Agreement**") is made and entered into as of March 24, 2021 by and between the plaintiffs Bamidele Aiyekusibe and Pawan Lal (the "**Plaintiffs**") on their own behalf and on behalf of others asserted to be similarly situated (together with the Plaintiffs, the Proposed Class (defined below)), by and through their undersigned counsel, Shavitz Law Group, P.A. and Feldman Legal Group ("**Class Counsel**"), The Hertz Corporation and DTG Operations, Inc. (the "**Debtor Defendants**") on behalf of themselves and the other debtors in the above-captioned action (collectively, the "**Debtors**"), and the official committee of unsecured creditors in the Chapter 11 Cases, as defined herein (the "**Committee**"). The Plaintiffs, the Debtors, and the Committee are referred to collectively as the "**Parties**" or individually as a "**Party**." The Parties, by and through their respective counsel, stipulate and agree as follows:

Recitals

WHEREAS, Plaintiff Aiyekusibe filed a complaint on December 13, 2018, which, after amendments, was against the Debtor Defendants, entitled *Aiyekusibe v. The Hertz Corporation, et al.*, No. 2:18-cv-00816-MRM in the United States District Court for the Middle District of Florida (hereinafter the "**Aiyekusibe Litigation**"), to which Plaintiff Lal opted in on May 15, 2020;

WHEREAS, in the Aiyekusibe Litigation, the Plaintiffs asserted that the Debtor Defendants unlawfully misclassified certain employees ("**Location Managers**") as exempt from the overtime provisions of the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* ("**FLSA**") and sought back pay for unpaid overtime hours and liquidated damages, among other relief;

[1] The Debtors include the following entities: The Hertz Corporation, Hertz Global Holdings, Inc., Thrifty Rent-A-Car System, LLC, Thrifty, LLC, Dollar Thrifty Automotive Group, Inc., Firefly Rent A Car LLC, CMGC Canada Acquisition ULC, Hertz Aircraft, LLC, Dollar Rent A Car, Inc., Dollar Thrifty Automotive Group Canada Inc., Donlen Corporation, Donlen FSHCO Company, Hertz Canada Limited, Donlen Mobility Solutions, Inc., DTG Canada Corp., DTG Operations, Inc., Hertz Car Sales LLC, DTG Supply, LLC, Hertz Global Services Corporation, Hertz Local Edition Corp., Hertz Local Edition Transporting, Inc., Donlen Fleet Leasing Ltd., Hertz System, Inc., Smartz Vehicle Rental Corporation, Thrifty Car Sales, Inc., Hertz Technologies, Inc., TRAC Asia Pacific, Inc., Hertz Transporting, Inc., Rental Car Group Company, LLC, Rental Car Intermediate Holdings, LLC.

WHEREAS, the Aiyekusibe Litigation sought to certify a collective action under Section 16(b) of the FLSA consisting of all individuals who were employed by the Debtor Defendants as Location Managers, also known as Counter Managers or Functional Managers, within the United States at any time within the three years preceding the Aiyekusibe Litigation to the day of trial (the "**Proposed Class**");

WHEREAS, the Plaintiffs and the Debtor Defendants filed a stipulated motion to conditionally certify the Aiyekusibe Litigation as an FLSA collective action on August 29, 2019, which was granted after amendment on March 13, 2020, and members of the Proposed Class were required to opt-in before May 19, 2020;

WHEREAS, the Plaintiffs and the Debtor Defendants had scheduled a mediation to seek to resolve the claims of all opt-in plaintiffs, which did not occur prior to the Petition Date (defined below);

WHEREAS, on May 22, 2020 (the "**Petition Date**"), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") with the United States Bankruptcy Court for the District of Delaware (the "**Court**") thereby commencing the chapter 11 cases (the "**Chapter 11 Cases**") which cases are being administered jointly pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**");

WHEREAS, the Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, on June 11, 2020, the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**") appointed the Committee pursuant to section 1102 of the Bankruptcy Code;

WHEREAS, on September 9, 2020, the Court entered the *Order Establishing Bar Dates and Related Procedures for Filing Proofs of Claim, Including Claims Arising Under Section 503(b)(9) of the Bankruptcy Code, and Approving the Form and Manner of Notice Thereof* [D.I. 1240] (the "**Bar Date Order**"), and the Debtors filed the *Notice of Deadlines for Filing Proofs of Claim, Including Claims Arising Under Section 503(b)(9) of the Bankruptcy Code Against Debtors* [D.I. 1243] (the "**Bar Date Notice**") establishing October 21, 2020 at 5:00 p.m. (prevailing Eastern Time) as the general bar date (the "**Bar Date**");

WHEREAS, pursuant to the Bar Date Order, each person that holds or seeks to assert a claim against the Debtors, whether or not such person is or may be included in or represented by a purported class, collective, or similar representative action, was required to properly file a proof of claim on or before the established Bar Date;

WHEREAS, pursuant to the Bar Date Order, the Debtors served the Bar Date Notice to all known, potential claimants, including providing actual notice to Class Counsel, and also engaged in robust publication notice informing potential claimants of the Bar Date, which constituted constructive notice to any absent claimants in the Aiyekusibe Litigation;

WHEREAS, prior to or on the Bar Date, certain individuals within the Proposed Class, including those who opted in the Aiyekusibe Litigation, filed individual proofs of claim asserting claims that are duplicative of, or subsumed by the claims asserted in the Aiyekusibe Litigation and/or arise out of the same or similar facts (the "**Individual Claims**"), and the Plaintiffs filed proofs of claim on behalf of the Proposed Class (Claim Nos. 12555 and 13147, the "**Purported Class Claims**"), as well as individual proofs of claim on their own behalf (Claim Nos. 12884 and 13137, the "**Plaintiffs' Individual Claims**," together with the Individual Claims and the Purported Class Claims the "**Proofs of Claim**") against the Debtor Defendants;

WHEREAS, on December 16, 2020, the Debtors, the Committee, and the Plaintiffs, together with other representatives of the several class actions, agreed to a mediation process (the "**Mediation Process**");

WHEREAS, on December 21, 2020, in furtherance of the agreed-to Mediation Process, the Plaintiffs filed a motion to apply Bankruptcy Rule 7023 [D.I. 2219] (the "**Rule 7023 Motion**") to the Plaintiffs' Purported Class Claims to allow for class treatment by the Court;

WHEREAS, the Mediation Process and related procedures were approved by the Bankruptcy Court on January 14, 2021 in the *Order (I) Approving the Mediation Stipulation Regarding Claims Arising from Prepetition Representative Actions: (A) Appointing a Mediator, (B) Referring Certain Matters to Mediation and (C) Approving the Mediation Procedures, and (II) Granting Related Relief* [D.I. 2450] (the "**Mediation Order**");

WHEREAS, the Parties submitted the Aiyekusibe Litigation to non-binding mediation, subject to the terms and conditions set forth in the Mediation Order to determine the validity, amount, and priority of claims that have been or may be asserted by the Plaintiffs individually and/or on behalf of their Proposed Class in the Chapter 11 Cases;

WHEREAS, on February 19, 2021 the Parties met for mediation and engaged in good faith, arm's length negotiations, in order to resolve the Proofs of Claim against the Debtor Defendant in the Aiyekusibe Litigation, limit the bankruptcy claims against the Debtor Defendant's estates, and prevent the costs, delays and uncertainties of protracted litigation in these Chapter 11 Cases, and the Plaintiffs and the Debtors arrived at an initial, written agreement of proposed settlement terms signed by them on February 25, 2021 (the "**Initial Agreement**"), attached hereto as Exhibit A, which agreement contemplates entry into this more definitive agreement;

WHEREAS, the Debtors shall propose a joint chapter 11 plan of reorganization (including all exhibits thereto and as amended, modified, or supplemented, or replaced, the "**Plan**"), which shall provide treatment for all prepetition claims allowed in these Chapter 11 Cases and a disclosure statement for the Plan (together with all schedules and exhibits thereto, and as may be amended, modified, or supplemented, or replaced, the "**Disclosure Statement**") pursuant to section 1125 of the Bankruptcy Code, which shall be used to solicit votes to accept and reject the Plan;

WHEREAS, the Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334; this is a core proceeding pursuant to 28 U.S.C. § 157(b); and venue for this matter is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and;

NOW, THEREFORE, in consideration of the mutual covenants, the promises and other good and valuable consideration, the sufficiency of which hereby are acknowledged, the undersigned Parties agree as follows:

1. This Settlement Agreement will be binding on the Parties from the date of its execution, but is expressly subject to and contingent upon entry of a final non-appealable order of the Court approving the Settlement Agreement and the Parties' obligations hereunder (the "**Approval Order**").

2. Promptly upon the mutual execution and delivery of this Settlement Agreement, the Debtors shall file a motion with the Court seeking entry of the Approval Order pursuant to Bankruptcy Rule 9019 (the "**Rule 9019 Motion**"), which motion may include proposed settlements with other mediation parties.

3. The Debtors shall use commercially reasonable efforts to achieve entry of the Approval Order as soon as reasonably practicable, including by working in good faith to promptly resolve all formal and informal objections, if any, to the Rule 9019 Motion. If requested by the Debtors, the Plaintiffs and their counsel, and the Committee shall take reasonable actions in support of the entry of the Approval Order and shall not take any Court action inconsistent with obtaining the Approval Order.

4. The Settlement Agreement will become effective when the Approval Order becomes final and no longer subject to appeal (the "**Effective Date**"). If the Court denies approval of this Settlement Agreement and the Effective Date does not occur, with the exception of provisions related to the manner of voting with respect to the Purported Class Claims as set forth herein (which for the avoidance of doubt, shall be binding and effective as of the date of signing of this Settlement Agreement), the Settlement Agreement, and the Initial Agreement, will be null and void and will be of no force and effect, and the rights and defenses of the Debtors, or any successor thereto, including any and all rights of the Debtors to object to the Proofs of Claim on any grounds permitted under applicable law, shall be reserved and retained. Upon such event, all parties reserve all rights and remedies with respect to the Aiyekusibe Litigation and the Proofs of Claim.

5. The Proposed Class shall be certified as a class/collective action as to the Proposed Class's claims in the Aiyekusibe Litigation and Proofs of Claim, provided, however that such Proposed Class shall be certified for settlement purposes only pursuant to 29 U.S.C. § 216(b) of the Fair Labor Standards Act as modified by and made applicable to these proceedings by Bankruptcy Rules 7023 and 9014. This will be a one-stage approval process to determine fairness and will not require both preliminary and final approval. For the avoidance of doubt, in the event the Settlement Agreement is not approved or not consummated for any reason and the Effective Date does not occur, the Debtors shall retain any and all rights to contest and object to the certification of any purported class of claims related to the Aiyekusibe Litigation.

6. For purposes of this Settlement Agreement only, the Proposed Class shall include all individuals who were employed by the Debtor Defendants as Location Managers, also known as Counter Managers or Functional Managers, within the United States at any time within the three years preceding the Aiyekusibe Litigation, who joined the Aiyekusibe Litigation by (i) timely executing a consent-to-join form within the notice period in the underlying litigation, including all class members whose consent-to-join forms were timely executed but were not filed due to the stay imposed in the Aiyekusibe Litigation by the suggestion of bankruptcy filed by Debtors, and (ii) individuals on whose behalf Class Counsel (defined below) filed Individual Claims (the "**Class Members**").

7. For purposes of this Settlement Agreement only, the Plaintiffs shall be appointed as class representatives of the Proposed Class (the "**Class Representatives**").

8. For purposes of this Settlement Agreement only, Shavitz Law Group, P.A. and Feldman Legal Group shall be appointed Class Counsel.

9. In full and final settlement of the Released Claims (defined below), the Parties agree that Proof of Claim No. 12555 shall be allowed as a general unsecured nonpriority claim against The Hertz Corporation in the amount of $3,300,000 and a priority claim under Section 507(a)(4) of the Bankruptcy Code against The Hertz Corporation in the amount of $750,000 (the "**Settlement Claim**") to the Class Representatives, and the Debtors shall pay to the applicable government agency the employers' share of all required state and federal payroll tax withholdings, and the Class Representatives will voluntarily dismiss all claims in the Aiyekusibe Litigation with prejudice and withdraw or cause to be withdrawn all other Proofs of Claim with prejudice within three business days of the Effective Date.

10. The Settlement Claim shall be administered in accordance with the terms of any plan of reorganization confirmed in the Chapter 11 Cases or other disposition of the Chapter 11 Cases (the "**Settlement Payment**"). The Debtors make no representations that there will be sufficient funds in the estate to pay the allowed claims in full or in part.

11. The Settlement Payment will be delivered to a third-party claims administrator appointed by Class Counsel (the "**Settlement Administrator**"), as a common fund (the "**Settlement Fund**") for allocation by the Settlement Administrator towards the following: (i) cash payments to the Class Members; (ii) the administration of notice and distribution to individual class members; (iii) payment of Class Professional Fees, Litigation Costs and Expenses; and (iv) reasonable service awards to Plaintiffs and certain opt-in Plaintiffs as identified by Class Counsel. The payments to Class Members will be paid from the Settlement Fund net of Class Counsel's approved attorney's fees and costs, federal and state tax withholdings, and the incurred costs of the Settlement Administrator (the "**Net Settlement Fund**").

12. Subject to Court approval, payments will be made to Aiyekusibe, Pawan Lal, Mischele Higginson, Chantal Brown-Winn, and Daniel Figueroa in the sum of $7,500.00 each for class service awards to be deducted from the Settlement Fund for their role as class representatives in the underlying action and in the Chapter 11 Cases. The service award payments may be made by overnight express mail by US postal service or commercial carrier

such as Federal Express or UPS.

13. Class Counsel is to be paid attorney's fees in the amount of 33.33% of the Settlement Payment finally approved ("**Class Counsel Fees**"). In addition, the professional fees of Dundon Advisers, LLC as financial and strategic adviser to the Class Representative and Class Counsel (together with Class Counsel, the "**Class Professionals**"), will be paid solely out of the Settlement Fund and are not to exceed 8.5% of the first $300,000[2] of the Settlement Fund, and 5.0% of the balance of the Settlement Fund (provided that Dundon Advisers, LLC shall refund to the Administrative Agent for distribution to the Class Members one-half of the excess over $75,000 of the fair value, reasonably determined by Dundon Advisers, LLC, of such distributions) (together with the Class Counsel Fees, the "**Class Professional Fees**"). In addition, Class Counsel shall be reimbursed for all costs and expenses incurred in the Aiyekusibe Litigation and these Chapter 11 Cases, including those costs and expenses associated with mediation(s), and prior third-party administration of notice by JND or Class Counsel to all Class Members (the "**Litigation Costs and Expenses**"). To the extent necessary, in order to obtain the approval of the payment of Class Professional Fees and Litigation Costs and Expenses, the Class Professionals may file a separate motion for approval of Class Professional Fees and/or Class Counsel may file as exhibits to the Rule 9019 Motion, declarations detailing their expertise and indicating why they are qualified to serve as a Class Professional. The Class Professionals agree to be bound by the Bankruptcy Court's determination as to the terms of payment and the final and complete amount of Class Professional Fees and Litigation Costs and Expenses as final and non-appealable, and the Class Professionals will not seek approval from any other court. For the avoidance of doubt, the Debtors shall not be liable to the Class Professionals for any fees, costs or expenses and the Class Professionals agree that their fees, costs and expenses as set forth herein shall have recourse only to the Settlement Fund. To the extent any motion to approve the Class Professional Fees is necessary, the Debtors and the Committee agree not to oppose any motion consistent with this Settlement Agreement. The Administrative Agent shall distribute the Class Professional Fees pursuant to this paragraph.

Further, the costs of the administration of the Settlement Fund, including the expenses associated with hiring and contracting with the Settlement Administrator, shall also be deducted from the Settlement Payment. Class Counsel will determine amongst themselves the allocation or split of the Class Counsel Feels and Litigation Costs and Expenses awarded or approved by the Court, and the Settlement Administrator will disburse accordingly. The Settlement Administrator may deliver reimbursements for the Class Professional Fees and Litigation Costs and Expenses to the Class Professionals at any time after the Effective Date and distribution of the Settlement Payment.

14. The Debtors will not object to the method and allocation of the Settlement Payment and Settlement Fund.

15. The Settlement Administrator shall make settlement share payments allocated pro rata to Class Members pursuant the following formula: Net Settlement Fund /total number of Class Member workweeks, multiplied by each Class Member's respective number of

[2] Dundon Advisors is, by agreement, also receiving 8.5% of the $200,000 settlement fund in the Kemal settlement agreement.

workweeks. The Settlement Administrator shall make settlement share payments to each Class Member in two checks; one, a payroll check, and the other, a 1099 check. The individual Class Member will be responsible for the taxes associated with the 1099 check. Debtors agree to supply and provide Class Counsel with the names, addresses and weeks worked for all participating Class Members in excel or .csv format within 14 days of the Effective Date.

16. Class Counsel represents and warrants that, upon certification of the class by the Court, they have the authority to release claims on behalf of the Proposed Class.

17. Except for the rights arising out of, provided for or reserved in this Settlement Agreement, Class Members, for and on behalf of themselves and their respective predecessors, successors, agents, attorneys, heirs, representatives, assigns, affiliates and subsidiaries (collectively the "**Releasing Parties**"), do hereby fully and forever release and discharge the Debtor Defendant, the Debtors, and their affiliates, subsidiaries, predecessors, parent(s), successors, assigns, officers, directors, shareholders, agents, employees, partners, members, insurers, accountants, attorneys, representatives and other agents, and all of their respective predecessors, successors and assigns (collectively, the "**Released Parties**") of and from any and all claims, demands, debts, liabilities, obligations, liens, actions and causes of action, costs, expenses, attorneys' fees and damages of whatever kind or nature, at law, in equity and otherwise, whether known or unknown, anticipated, suspected or disclosed, that the Releasing Parties may have had, now have or hereafter may have against the Released Parties, whether or not asserted in the Aiyekusibe Litigation and the Proofs of Claim, excluding any potential Class Members who are part of the Kemal class settlement, upon approval of the Court, (the "**Released Claims**"). On the Effective Date, all Released Claims are deemed settled, released, withdrawn and dismissed in their entirety, on the merits, with prejudice.

18. In connection with the Rule 9019 Motion, the Debtors will seek to have the Court determine that the Bar Date is not tolled or otherwise extended for any creditors who did not file an individual proof of claim.

19. In connection with solicitation related to the Debtors' Plan, the Class Members shall have a single vote in the amount of the Settlement Claim, for voting purposes only. On the solicitation date, Prime Clerk LLC, the Debtors' solicitation agent in the Chapter 11 Cases, will serve on Class Counsel a solicitation package and a preprinted ballot in respect of Proof of Claim No. 12555, which shall count as one vote in the amount of $4,050,000 if it is returned in compliance with the applicable solicitation procedures (the "**Solicitation Procedures**").[3] To the extent that the Court does not approve this Settlement Agreement or the Settlement Agreement terminates for any reason and the Debtors have not objected to the Purported Class Claims on or before the solicitation date set in the Solicitation Procedures, Class Counsel shall have a general unsecured nonpriority claim worth one (1) vote in the amount of $1.00. For the avoidance of doubt, this paragraph 16 of the Settlement Agreement shall be binding and effective as of the date of this Settlement Agreement and shall survive the termination of this Settlement Agreement.

20. The Class Representatives and Class Counsel, on behalf of all Class Members,

[3] The Solicitation Procedures will be filed with the Debtors' motion to approve the Disclosure Statement.

agree that they will not, directly or indirectly, object to, impede, or take any other action to interfere with acceptance, implementation, or consummation of the Plan or file with any court (including the Court) any motion, pleading, or other document that is not, in whole or in part, materially consistent with the Settlement Agreement or the Plan, provided, however, that if the Class Representative is a Committee member, this Agreement does not bar or otherwise restrict any actions the Class Representative may take in that capacity.

21. The Parties agree that they are compromising and settling disputed claims. Each of the Parties agrees it shall not commence or continue any contested matter, adversary proceeding, lawsuit or arbitration which contests, disputes or is inconsistent with any provision of this Settlement Agreement.

22. Neither this Settlement Agreement nor any of its provisions, nor evidence of any negotiations or proceedings related to this Settlement Agreement, shall be offered or received in evidence in these Chapter 11 Cases, or any other action or proceeding, as an admission or concession of liability or wrongdoing of any nature on the part of any of the Released Parties, or anyone acting on their behalf, and the Debtor Defendants specifically deny any such liability or wrongdoing. The Settlement Agreement is intended to settle and dispose of claims which are contested and denied. Nothing herein shall be construed as an admission by any Party of any liability of any kind to any other Party.

23. Nothing herein shall prevent any Party from seeking to offer this Settlement Agreement in evidence after the entry of the Approval Order for the purpose of enforcing the terms of this Settlement Agreement. This Settlement Agreement is confidential until it is filed with the Court, subject to the Debtors sharing it with the Committee and the U.S. Trustee in advance of filing.

24. All notices or other communications hereunder shall be deemed to have been duly given and made if (i) in writing and if served by personal delivery upon the Party for whom it is intended, (ii) delivered by registered or certified mail, return receipt requested, (iii) by electronic mail, as long as its delivery is confirmed through a receipt issued by the machine used by the sender and notice is also provided by one of the other means set forth in this Section 24 as promptly as practicable thereafter, or (iv) by an national courier service, to the person at the address set forth below, or such other address as may be designated in writing hereafter, in the same manner, by such person:

If to the Debtors:

Randy White
VP, Labor & Employment Law
The Hertz Corporation
8501 Williams Road
Estero, FL 33928
(239) 301-7019
rwhite@hertz.com

If to the Plaintiffs:

Greg I. Shavitz
Shavitz Law Group, P.A.
951 Yamato Road, Suite 285
Boca Raton, FL 33431
(561) 447-8888
gshavitz@shavitzlaw.com

AND

Mitchell L. Feldman
Feldman Legal Group
6940 W. Linebaugh Ave. Suite 101
Tampa, FL 33625
(813) 639-9366
mfeldman@flandgatrialattorneys.com

If to the Committee:

Philip Bentley
Kramer Levin LLP
1177 6th Ave.
New York, NY 10036
(212) 715-9505
pbentley@kramerlevin.com

25. This Settlement Agreement shall be construed pursuant to the laws of the State of Delaware and the Bankruptcy Code.

26. The Court shall have exclusive jurisdiction to determine as a core proceeding any dispute or controversy with respect to the interpretation or enforcement of this Settlement Agreement.

27. The headings of paragraphs herein are included solely for convenience of reference and shall not control the meaning or interpretation of any of the provisions of this Settlement Agreement.

28. This Settlement Agreement reflects the entire agreement and understanding of the Parties and supersedes, replaces, and renders void and unenforceable all prior contemporaneous agreements, representations and statements associated with, or in any matter related to, the subject matter of this Settlement Agreement, including all negotiations that led to the Settlement Agreement. No modifications or amendments of this Settlement Agreement are effective unless in writing and signed by the Parties.

29. In the event of litigation for breach of any terms of this Settlement Agreement, the prevailing party in such litigation shall be entitled to recover its reasonable legal fees, costs and expenses of litigation.

30. The Parties each acknowledge that they are entering into this Settlement

Agreement freely, knowingly, voluntarily and with a full understanding of its terms. The Parties each acknowledge that in executing this Settlement Agreement, each Party is not relying on any inducements, statements, promises, or representations made by any other Party, or their agents, employees, or representatives, other than the consideration set forth herein. The Parties acknowledge that they have consulted with counsel of their own choosing concerning this Settlement Agreement and that they were given reasonable time to review and consider the terms of this Settlement Agreement. Each Party affirmatively represents to have the capacity to sign this Settlement Agreement and that there has been no assignment of any of the matters that are subject of the releases set forth above.

31. This Settlement Agreement is the product of negotiation and preparation by and among each Party and its respective attorneys. The Parties acknowledge and agree that this Settlement Agreement shall not be deemed prepared or drafted by one Party or another and should be construed accordingly.

32. If any provision or provisions of this Settlement Agreement shall be deemed invalid, illegal, or unenforceable, the validity, legality, and/or enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

33. The terms and provisions of this Settlement Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, successors and assigns.

34. This Settlement Agreement may be executed in counterparts and all so executed shall constitute one Settlement Agreement, which shall be binding upon all Parties hereto, notwithstanding that all of the Parties' signatures do not appear on the same page. It is further agreed that signatures may be transmitted by fax or e-mail and are binding.

IN WITNESS WHEREOF, this Settlement Agreement shall be deemed executed on the date of this Settlement Agreement.

On Behalf of the Plaintiffs

By: Pawan Lal Dated: 03/24/2021

Its: _____

On Behalf of the Debtors

By: _____ Dated: March 24, 2021

Its: _____

expenses of litigation.

30. The Parties each acknowledge that they are entering into this Settlement Agreement freely, knowingly, voluntarily and with a full understanding of its terms. The Parties each acknowledge that in executing this Settlement Agreement, each Party is not relying on any inducements, statements, promises, or representations made by any other Party, or their agents, employees, or representatives, other than the consideration set forth herein. The Parties acknowledge that they have consulted with counsel of their own choosing concerning this Settlement Agreement and that they were given reasonable time to review and consider the terms of this Settlement Agreement. Each Party affirmatively represents to have the capacity to sign this Settlement Agreement and that there has been no assignment of any of the matters that are subject of the releases set forth above.

31. This Settlement Agreement is the product of negotiation and preparation by and among each Party and its respective attorneys. The Parties acknowledge and agree that this Settlement Agreement shall not be deemed prepared or drafted by one Party or another and should be construed accordingly.

32. If any provision or provisions of this Settlement Agreement shall be deemed invalid, illegal, or unenforceable, the validity, legality, and/or enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

33. The terms and provisions of this Settlement Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, successors and assigns.

34. This Settlement Agreement may be executed in counterparts and all so executed shall constitute one Settlement Agreement, which shall be binding upon all Parties hereto, notwithstanding that all of the Parties' signatures do not appear on the same page. It is further agreed that signatures may be transmitted by fax or e-mail and are binding.

IN WITNESS WHEREOF, this Settlement Agreement shall be deemed executed on the date of this Settlement Agreement.

On Behalf of the Plaintiffs

By: Bamidele Aiyekusibe (Mar 23, 2021 11:48 PDT) Dated: Mar 23, 2021

Its: _____

On Behalf of the Debtors

By: _____ Dated: _____

Its: _____

On Behalf of the Committee

By: /s/ Philip Bentley Dated: March 24, 2021

Its: Counsel for the Official Committee of Unsecured Creditors

EXHIBIT A

Proposed Settlement Agreement: Aiyekusibe v. The Hertz Corp., U.S. District Court, Middle District of Florida, Case No. 18-cv-00816-MRM

1. The Parties agree that in full satisfaction of (1) all claims asserted by the Plaintiffs (Aiyekusibe and Lal), or that could have been asserted by the any of the Opt In Plaintiffs in any proof of claim filed with the Bankruptcy Court either directly or on behalf of a putative collective, and (2) all individual proofs of claims filed with the Bankruptcy Court by persons who opted into the collective pre-petition pursuant to the FLSA (together with Plaintiffs, "the Collective"), the Debtors will agree to allow a $ 3.3 million general, unsecured, nonpriority claim and a $750,000 507(a)(4) priority claim against The Hertz Corporation in favor of members of the Collective asserted in such proofs of claim. In addition, Debtors shall pay the employer's share of all required state and federal payroll tax withholdings upon settlement payments.

2. The Parties agree that the allowed claims described in paragraph 1 are the sole source of recovery for any claims asserted by the members of the Collective in the pre-petition litigation and bankruptcy proofs of claim and is in full release of any related misclassification claims (of the sorts included in the Collective eligibility provisions of the *Aiyekusibe* conditional certification order) of any members of the Collective. The payment in paragraph 1 will also cover all expenses associated with noticing and distribution to the Collective in procedures approved by the Bankruptcy Court.[1] Debtors will not object to the noticing process and distribution of funds selected by Plaintiffs' counsel, including the amount of any fees and costs sought. The Parties also agree that reasonable service awards will be paid to Plaintiffs and certain opt-in Plaintiff(s), including Daniel Figueroa, which Plaintiffs' Counsel will identify in the settlement agreement, as to which the Debtors will not oppose.

3. The Plaintiffs agree that upon such allowance, the Plaintiffs will voluntarily dismiss all claims in the above-captioned action with prejudice and withdraw their proofs of claim with prejudice, excluding the Plaintiffs' proposed collective claims which will be allowed and the vehicle for the payments agreed hereby.

4. The Parties will exchange customary releases, and discontinuation of litigation. The Plaintiffs' releases will bind the other members of the Collective. The Plaintiffs understand that Debtors will assert that persons who could have joined the Collective by timely executing a consent to join form within the underlying Court approved Notice Period, but neither joined the Collective, nor filed proofs of claim of their own by the general bar date, nor are members of the Kemal class, are foreclosed from any recourse to Debtors in respect of the allegations made by the Plaintiffs, including but not limited to participation in the settlement net funds, and will not object to such assertion.

5. The Parties and the Committee agree to negotiate in good faith and use commercially reasonable efforts to execute and implement any definitive documents that are consistent with this stipulation.

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[1] The Debtors are willing to discuss a structure that would entail assigning a particular claim amount to each particular proof of claim.

6. Debtors' counsel will be responsible for preparing settlement approval papers. The Debtors will defer to Plaintiffs' counsel on all issues related to the collective for settlement purposes. The Parties will finalize the settlement documents to be on schedule to move for approval on or before May 1, 2021.

7. Once the Parties enter into definitive documentation, the Parties will make best efforts to file a motion to approve the settlement pursuant to Bankruptcy Rules 9019 and 7023 respectively.

8. The terms of this stipulation are confidential until it is filed with the Bankruptcy Court. The only exception to this confidentiality provision is that the Debtors may share this Proposed Settlement Agreement with the Unsecured Creditors Committee and the U.S. Trustee in advance of filing.

9. This agreement is subject to and contingent upon entry of a final, nonappealable order by the Bankruptcy Court approving the settlement. In the event that approval is not obtained, this agreement is void.

On Behalf of the Plaintiff

By: _____ Dated: 2/25/2021

Its: Lead Plaintiff Counsel

On Behalf of the Debtors

By: _____ Dated: 2/25/2021

Its: SVP and Assoc Gen'l Counsel

EXHIBIT 2

Dawson Proposed Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
The Hertz Corporation, *et al.*,[1]	Case No. 20-11218 (MFW)
Debtors.	(Jointly Administered)

ORDER PURSUANT TO BANKRUPTCY RULES 9019 AND 7023 APPROVING THE SETTLEMENT AGREEMENT BETWEEN THE DEBTORS AND JANICE DAWSON

Upon the motion (the "**Motion**")[2] of the Debtors for entry of an order (this "**Order**") pursuant to sections 363 and 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019(a) and 7023 approving the settlement between The Hertz Corporation, on behalf of certain Debtor entities, and named plaintiff Janice Dawson in the Dawson Litigation (as defined in the Motion), substantially in the form of the agreement attached hereto as **Exhibit 2A** (the **"Dawson Settlement**"), as described more fully in the Motion; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this

[1] The last four digits of The Hertz Corporation's tax identification number are 8568. The location of the Debtors' service address is 8501 Williams Road, Estero, FL 33928. Due to the large number of Debtors in these chapter 11 cases, which are jointly administered for procedural purposes, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' proposed claims and noticing agent at https://restructuring.primeclerk.com/hertz.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion and the Settlement Agreement; and this Court having held a hearing, if necessary, to consider the relief requested in the Motion (the "**Hearing**"); and upon the record of the Hearing, if any; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein. Any objections or reservations of rights filed in respect of the Motion are overruled, with prejudice.

2. The Dawson Settlement is APPROVED in its entirety, including but not limited to the waivers and releases contained therein and consideration provided therefor as if set forth herein.

3. The parties are authorized to take any steps as may be required or necessary to implement the Dawson Settlement.

4. The Debtors are entitled to allow Proof of Claim No. 12477 as a general unsecured claim solely upon Hertz Transporting, Inc. in the amount of $1,500,000 and a 507(a)(4) priority unsecured claim solely upon Hertz Transporting, Inc. in the amount of $50,000.

5. The Class Representative will voluntarily dismiss all claims in the Dawson Class Action with prejudice and withdraw, or cause to be withdrawn, all other Proofs of Claim with prejudice within three (3) business days of the Effective Date.

6. The Dawson Settlement Class is certified as a class action as to the Settlement Class's claims in the Dawson Class Action and Proofs of Claim for settlement purposes, as defined in the Dawson Settlement. The Settlement Class shall be defined as set forth in Section 8 of the Dawson Prepetition Settlement, attached hereto as Exhibit A to Exhibit 2A.

7. The Settlement Payment will be made to the Settlement Administrator, as defined in Section 11 of the Dawson Prepetition Settlement, attached hereto as Exhibit A to Exhibit 2A.

8. The Settlement Administrator shall distribute the Settlement Payment as costs to exercise any rights, warrants, options to whomever advanced such costs, an incentive award to the Named Plaintiff, fees and expenses to the Settlement Administrator, fees and expenses to Class Counsel and other professionals, an amount to the California Labor and Workforce Development Agency, and the balance to the Settlement Class, as set forth fully in Section 16 of the Dawson Settlement.

9. The Court is not tolling or otherwise extending the Bar Date for any creditors who did not file an individual proof of claim.

10. No creditor other than the Class Members defined in the Purported Class Action shall gain any rights by reason of the Dawson Settlement. Nor shall the Dawson Settlement be admissible and/or used in any fashion in any action by any creditors.

11. The Debtors reserve all of their rights and defenses with respect to any creditor other than the Class Members.

12. This Court shall, and hereby does, retain jurisdiction with respect to all matters arising from or in relation to the interpretation and implementation of the Dawson Settlement, and all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Exhibit 2A

[Dawson Settlement]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
The Hertz Corporation, *et al.*,[1]	Case No. 20-11218 (MFW)
Debtors.	(Jointly Administered)

Settlement Agreement and Release

This Settlement Agreement and Release (the "**Settlement Agreement**") is made and entered into as of March 23, 2021 by and between the plaintiff Janice Dawson (the "**Plaintiff**") on her own behalf and on behalf of others similarly situated (together with the Plaintiff, the Settlement Class (as defined below)), by and through undersigned counsel, Barrera & Associates and Calderone Law Firm (collectively, "**Class Counsel**"), and Hertz Transporting, Inc.("**HTI**" or the "**Debtor Defendant**") on behalf of itself and the other debtors in the above-captioned action (collectively, the "**Debtors**"), and the official committee of unsecured creditors in the Chapter 11 Cases, as defined herein (the "**Committee**"). The Plaintiff, the Debtors, and the Committee are referred to collectively as the "**Parties**" or individually as a "**Party**." The Parties, by and through their respective counsel, stipulate and agree as follows:

Recitals

WHEREAS, the Plaintiff filed a class complaint on December 5, 2017 against the Debtor Defendant in *Dawson v. Hertz Transporting, Inc.*, Case No. BC679588 in the California Superior Court for the County of Los Angeles, which was subsequently removed to federal court as Case No. 2:17-cv-08766 in the United States District Court for the Central District of California (the "**Dawson Class Action**");

WHEREAS, in the Dawson Class Action, the Plaintiff alleged that the Debtor Defendant failed to pay employee wages for all hours worked (e.g. unpaid minimum wages, unpaid regular wages, unpaid overtime wages), failed to provide meal periods and rest periods, provided inaccurate wage statements as required by applicable Industrial Welfare Commission Wage Orders and in violation of California law including the California Labor Code and the Private Attorneys General Act of 2004 (Cal. Labor Code § 2698, et seq.) ("**PAGA**"), and allegedly engaged in unfair

[1] The Debtors include the following entities: The Hertz Corporation, Hertz Global Holdings, Inc., Thrifty Rent-A-Car System, LLC, Thrifty, LLC, Dollar Thrifty Automotive Group, Inc., Firefly Rent A Car LLC, CMGC Canada Acquisition ULC, Hertz Aircraft, LLC, Dollar Rent A Car, Inc., Dollar Thrifty Automotive Group Canada Inc., Donlen Corporation, Donlen FSHCO Company, Hertz Canada Limited, Donlen Mobility Solutions, Inc., DTG Canada Corp., DTG Operations, Inc., Hertz Car Sales LLC, DTG Supply, LLC, Hertz Global Services Corporation, Hertz Local Edition Corp., Hertz Local Edition Transporting, Inc., Donlen Fleet Leasing Ltd., Hertz System, Inc., Smartz Vehicle Rental Corporation, Thrifty Car Sales, Inc., Hertz Technologies, Inc., TRAC Asia Pacific, Inc., Hertz Transporting, Inc., Rental Car Group Company, LLC, Rental Car Intermediate Holdings, LLC.

business practices pursuant to Business and Professions Code Section 17200, *et seq.* The Debtor Defendant has denied and continues to deny all of the allegations that have been, or could be, asserted by the Plaintiff;

WHEREAS, the Plaintiff and the Debtor Defendant engaged in extensive formal discovery as well as arms-length negotiations in mediation concerning settlement of the claims asserted in the Dawson Class Action;

WHEREAS, on November 4, 2019, the Plaintiff and the Debtor Defendant filed the *Third Amended Class Action Settlement Agreement* (C.D. Ca. 17-cv-8766 D.I. 78-1 at p. 13 *et seq.*), attached hereto as Exhibit A (the "**Prepetition Settlement**");

WHEREAS, the Prepetition Settlement defined a class for settlement purposes, which class consisted of four subclasses of HTI employees who were entitled to certain meal and/or rest periods, as defined and set forth more fully in Section 8 therein (the "**Settlement Class**");

WHEREAS, pursuant to the Prepetition Settlement and as set forth more fully therein, the Debtor Defendant agreed to pay $1,550,000 to a Gross Settlement Fund[2] in consideration for a general release of all claims by the Plaintiff and all Class Members which were, or could have been, alleged in the Dawson Class Action;

WHEREAS, notice having been given to the class pursuant to the preliminary approval of the Prepetition Settlement and notice having been given as required under the Class Action Fairness Act, and no objection or opt-outs having been received;

WHEREAS, on December 13, 2019 the Prepetition Settlement was preliminarily approved by the District Court;

WHEREAS, on May 22, 2020 (the "**Petition Date**"), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") with the United States Bankruptcy Court for the District of Delaware (the "**Court**") thereby commencing the chapter 11 cases (the "**Chapter 11 Cases**") which cases are being administered jointly pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**");

WHEREAS, the Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, on June 11, 2020, the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**") appointed the Committee pursuant to section 1102 of the Bankruptcy Code;

WHEREAS, on September 9, 2020, the Court entered the *Order Establishing Bar Dates and Related Procedures for Filing Proofs of Claim, Including Claims Arising Under Section 503(b)(9) of the Bankruptcy Code, and Approving the Form and Manner of Notice Thereof* [D.I. 1240] (the "**Bar Date Order**"), and the Debtors filed the *Notice of Deadlines for Filing Proofs of Claim, Including Claims Arising Under Section 503(b)(9) of the Bankruptcy Code Against Debtors*

[2] Capitalized terms not otherwise defined herein shall have the meaning given in the Prepetition Settlement.

[D.I. 1243] (the "**Bar Date Notice**") establishing October 21, 2020 at 5:00 p.m. (prevailing Eastern Time) as the general bar date (the "**Bar Date**");

WHEREAS, pursuant to the Bar Date Order, each person that holds or seeks to assert a claim against the Debtors, whether or not such person is or may be included in or represented by a purported class, collective, or similar representative action, was required to properly file a proof of claim on or before the established Bar Date;

WHEREAS, pursuant to the Bar Date Order, Debtors served the Bar Date Notice to all known, potential claimants, including providing actual notice to Class Counsel, and also engaged in robust publication notice informing potential claimants of the Bar Date, which constituted constructive notice to any absent claimants in the Dawson Class Action ;

WHEREAS, prior to or on the Bar Date, certain individuals within the Settlement Class may have filed individual proofs of claim asserting claims that are duplicative of or subsumed by the claims asserted in the Dawson Class Action and/or arise out of the same or similar facts (the "**Individual Claims**"), and the Plaintiff filed proofs of claim on behalf of the Settlement Class (Claim Nos. 12477, 14447, and 14451, the "**Purported Class Claims**"), as well as an individual proof of claim on her own behalf (Claim No. 14445, the "**Plaintiff's Individual Claim**," together with the Individual Claims and the Purported Class Claims, the "**Proofs of Claim**") against HTI;

WHEREAS, on December 16, 2020, the Debtors, the Committee, and the Plaintiff, together with other representatives of the several class actions, agreed to a mediation process (the "**Mediation Process**");

WHEREAS, the Mediation Process and related procedures were approved by the Bankruptcy Court on January 14, 2021 in the *Order (I) Approving the Mediation Stipulation Regarding Claims Arising from Prepetition Representative Actions: (A) Appointing a Mediator, (B) Referring Certain Matters to Mediation and (C) Approving the Mediation Procedures, and (II) Granting Related Relief* [D.I. 2450] (the "**Mediation Order**");

WHEREAS, as part of the Mediation Process the Debtors and the Plaintiff agreed not to file a Rule 7023 Motion, and to negotiate in good faith a settlement agreement for approval under Rule 9019;

WHEREAS, the Debtors shall propose a joint chapter 11 plan of reorganization (including all exhibits thereto and as amended, modified, or supplemented, or replaced, the "**Plan**"), which shall provide treatment for all prepetition claims allowed in these Chapter 11 Cases and a disclosure statement for the Plan (together with all schedules and exhibits thereto, and as may be amended, modified, or supplemented, or replaced, the "**Disclosure Statement**") pursuant to section 1125 of the Bankruptcy Code, which shall be used to solicit votes to accept and reject the Plan;

WHEREAS, the Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334; this is a core proceeding pursuant to 28 U.S.C. § 157(b); and venue for this matter is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and

NOW, THEREFORE, in consideration of the mutual covenants, the promises and other good and valuable consideration, the sufficiency of which hereby are acknowledged, the undersigned Parties agree as follows:

1. To the extent that any terms or conditions of this Settlement Agreement vary from the Prepetition Settlement, the terms and conditions of this Settlement Agreement shall govern and the Prepetition Settlement shall be deemed supplemented and/or amended by the Settlement Agreement as applicable. Except as otherwise provided herein, upon the Effective Date (as defined below), any mutual obligation or liability set forth in the Prepetition Settlement shall be void and no longer have any force or effect.

2. This Settlement Agreement will be binding on the Parties from the date of its execution, but is expressly subject to and contingent upon entry of a final non-appealable order of the Court approving the Settlement Agreement and the Parties' obligations hereunder (the "**Approval Order**").

3. Promptly upon the mutual execution and delivery of this Settlement Agreement, the Debtors shall file a motion with the Court seeking entry of the Approval Order pursuant to Bankruptcy Rule 9019 (the "**Rule 9019 Motion**"), which motion may include proposed settlements with other mediation parties.

4. The Debtors shall use commercially reasonable efforts to achieve entry of the Approval Order as soon as reasonably practicable, including by working in good faith to promptly resolve all formal and informal objections, if any, to the Rule 9019 Motion. If requested by the Debtors, the Plaintiff and her counsel, and the Committee shall take reasonable actions in support of the entry of the Approval Order and shall not take any Court action inconsistent with obtaining the Approval Order.

5. The Settlement Agreement will become effective when the Approval Order becomes final and no longer subject to appeal (the "**Effective Date**"). If the Court denies approval of this Settlement Agreement and the Effective Date does not occur, with the exception of provisions related to the manner of voting with respect to the Settlement Claim as set forth herein (which, for the avoidance of doubt, shall be binding and effective as of the date of signing of this Settlement Agreement) the Settlement Agreement, and the Prepetition Settlement, will be null and void and will be of no force and effect, and the rights and defenses of the Debtors, or any successor thereto, including any and all rights of the Debtors to object to the Proofs of Claim on any grounds permitted under applicable law, shall be reserved and retained. Upon such event, all parties reserve all rights and remedies with respect to the Dawson Class Action and the Proofs of Claim.

6. For purposes of this Settlement Agreement only, the Settlement Class shall be defined as set forth in Section 8 of the Prepetition Statement.

7. The Settlement Class shall be certified as a class action as to the Settlement Class's claims in the Dawson Class Action and Proofs of Claim, provided, however, that such Settlement Class shall be certified for settlement purposes only pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure as made applicable to these proceedings by Bankruptcy Rules 7023 and 9014. For the avoidance of doubt, in the event the Settlement Agreement is not approved or not consummated for any reason and the Effective Date does not occur, Debtors shall retain any and

all rights to contest and object to the certification of any purported class of claims related to the Dawson Class Action.

8. For purposes of this Settlement Agreement only, the Plaintiff shall be appointed as class representative of the Settlement Class (the "**Class Representative**").

9. For purposes of this Settlement Agreement only, Barrera & Associates and Calderone Law Firm shall be appointed Class Counsel.

10. Class Counsel represents and warrants that, upon certification of the class by the Court, they have the authority to release claims on behalf of the Settlement Class.

11. In full and final settlement of the Released Claims (defined below), the Parties agree that Proof of Claim No. 12477 shall be allowed as a general unsecured claim upon HTI in the amount of $1,500,000 and a 507(a)(4) priority unsecured claim upon HTI in the amount of $50,000 (collectively the "**Settlement Claim**") to the Class Representative, Debtors shall pay the employer's share of all required state and federal payroll tax withholdings (the "**Employers' Share of Payroll Taxes**"), and the Class Representative will voluntarily dismiss all claims in the Dawson Class Action with prejudice and withdraw, or cause to be withdrawn, all other Proofs of Claim with prejudice within three business days of the Effective Date. If the Dawson Class Action Court is unable to enter dismissal of the Dawson Class Action, the Parties shall cooperate to obtain a final disposition in that matter. The Settlement Claim supersedes, replaces, and renders void and unenforceable any representation or obligation with respect to the Gross Settlement Fund set forth in the Prepetition Settlement.

12. Except for the rights arising out of, provided for, or reserved in this Settlement Agreement, the Class Representative and the Settlement Class, for and on behalf of themselves and their respective predecessors, successors, agents, attorneys, heirs, representatives, assigns, affiliates and subsidiaries (collectively the "**Releasing Parties**"), do hereby ratify and agree to be bound by all releases granted to all persons (collectively, the "**Released Parties**") by the Prepetition Settlement or, to the extent applicable generally to allowed 507(a)(4) and general unsecured creditors of HTI, under a confirmed and effective Plan (the "**Released Claims**"). On the Effective Date, as to the releases of the Prepetition Settlement, and the effective date of the Plan, as to the releases under the Plan, all Released Claims are deemed settled, released, withdrawn and dismissed in their entirety, on the merits, with prejudice.

13. The Settlement Claim and the Employers' Share of Payroll Taxes shall be administered in accordance with the terms of any plan of reorganization confirmed in the Chapter 11 Cases or other disposition of the Chapter 11 Cases (the "**Settlement Payment**"). The Debtors make no representations that there will be sufficient funds in the estate to pay the allowed claims in full or in part.

14. The Settlement Payment will be made to the Settlement Administrator (as defined in the Prepetition Settlement).

15. If final distributions at HTI under the Plan on account of the Settlement Claim are in a form other than cash, such distribution shall be held in the Settlement Administrator in such form, and liquidated upon the direction of Class Counsel at such time and in such matter as Class

Counsel shall direct in its discretion. Without limitation of the foregoing, Class Counsel shall be entitled to, but not obliged to, exercise (cashlessly or otherwise) or sell, any rights, warrants or options distributed upon the Claim.

16. When the Settlement Administrator holds cash upon the Settlement Payment (either as a result of cash distributions upon the Settlement Claim, or upon the liquidation of non-cash recoveries upon the Settlement Claim), it shall itself or by way of the Settlement Administrator dispose of such cash as follows: (a) any cash cost of exercise of any rights, warrants, options to whomever advanced such costs or such advancing party's assignee, together with any fees or interest due in connection with such advance, (b) an incentive award of $10,000 to the Plaintiff, (c) fees and expenses to the Settlement Administrator not to exceed $20,000, (d) a fee of 35% of the total gross value of the Settlement Claim's recovery (the "Gross Value") to Class Counsel, (e) a fee of 4.25% of the Gross Value to Dundon Advisers LLC as Class Counsel and Plaintiff's financial and strategic adviser, (f) expenses of Class Counsel not to exceed $35,000, (g) $15,000 multiplied by the fraction the numerator of which is Gross Value and the denominator of which is $1,550,000 to the California Labor and Workforce Development Agency and (h) the balance to the Settlement Class, and with respect to withholdings of the portion allocated to wages, the relevant taxing authorities, in the proportion and manner provided for distribution of the Net Settlement Fund in the Prepetition Settlement.

17. The Debtors shall provide to Class Counsel and the Settlement Administrator all data concerning the Settlement Class and otherwise necessary for the distribution to the Settlement Class as contemplated in the prior paragraph.

18. For the consideration of, and subject to the receipt of, each item and amount of recovery which shall become due to holders of HTI general unsecured claims and priority unsecured claims in these Chapter 11 Cases by way of a confirmed and effective Plan or otherwise, each of the Released Parties is released as provided in the Prepetition Settlement. Such releases shall be in addition to any releases provided to any person under any confirmed Plan.

19. In connection with solicitation related to the Debtors' Plan, the Settlement Class shall have a single vote in the amount of the Settlement Claim, for voting purposes only. On the solicitation date, Prime Clerk LLC, the Debtors' solicitation agent in the Chapter 11 Cases, will serve on Class Counsel a solicitation package and a preprinted ballot in respect of Proof of Claim No. 12477, which shall count as one vote in the amount of $1,550,000 if it is returned in compliance with the applicable solicitation procedures (the "**Solicitation Procedures**").[3] To the extent that the Court does not approve this Settlement Agreement or the Settlement Agreement terminates for any reason and the Debtors' have not objected to the Purported Class Claims on or before the solicitation date set in the Solicitation Procedures, Class Counsel shall have a general unsecured claim worth one (1) vote in the amount of $1.00. For the avoidance of doubt, this paragraph 19 of the Settlement Agreement shall be binding and effective as of the date of this Settlement Agreement and shall survive the termination of this Settlement Agreement.

20. The Class Representative and Class Counsel agree that they will not, directly or indirectly, take any action that is not, in whole or in part, materially consistent with the Settlement

[3] The Solicitation Procedures will be filed with the Debtors' motion to approve the Disclosure Statement.

Agreement.

21. The Parties agree that they are compromising and settling disputed claims. Each of the Parties agrees it shall not commence or continue any contested matter, adversary proceeding, lawsuit or arbitration which contests, disputes or is inconsistent with any provision of this Settlement Agreement.

22. Neither this Settlement Agreement nor any of its provisions, nor evidence of any negotiations or proceedings related to this Settlement Agreement, shall be offered or received in evidence in these Chapter 11 Cases, or any other action or proceeding, as an admission or concession of liability or wrongdoing of any nature on the part of any of the Released Parties, or anyone acting on their behalf, and the Debtor Defendant specifically denies any such liability or wrongdoing. The Settlement Agreement is intended to settle and dispose of claims which are contested and denied. Nothing herein shall be construed as an admission by any Party of any liability of any kind to any other Party.

23. Nothing herein shall prevent any Party from seeking to offer this Settlement Agreement in evidence after the entry of the Approval Order for the purpose of enforcing the terms of this Settlement Agreement.

24. This Settlement Agreement is confidential until it is filed with the Court, subject to Debtors sharing it with the Committee and the U.S. Trustee in advance of filing.

25. All notices or other communications hereunder shall be deemed to have been duly given and made if (i) in writing and if served by personal delivery upon the Party for whom it is intended, (ii) delivered by registered or certified mail, return receipt requested, (iii) by electronic mail, as long as its delivery is confirmed through a receipt issued by the machine used by the sender and notice is also provided by one of the other means set forth in this Section 25 as promptly as practicable thereafter, or (iv) by a national courier service, to the person at the address set forth below, or such other address as may be designated in writing hereafter, in the same manner, by such person:

If to the Debtors:

Randy White
Vice President, Labor & Employment Law
The Hertz Corporation
8501 Williams Road
Estero, FL 33928
(239) 301-7019
rwhite@hertz.com

If to the Plaintiff:

Ashley A. Davenport
Barrera & Associates
2298 E. Maple Avenue
El Segundo, CA 90245
(310) 802-1500

davenport@baattorneys.com

AND

Vincent Calderone
Calderone Law Firm
2321 Rosencrans Avenue, #1265
El Segundo, California 90245
(424) 348-8290
vcalderone@calemploymentattorney.com

If to the Committee:

Philip Bentley
Kramer Levin LLP
1177 6th Ave.
New York, NY 10036
(212) 715-9505
pbentley@kramerlevin.com

26. This Settlement Agreement shall be construed pursuant to the laws of the State of Delaware and the Bankruptcy Code.

27. The Court shall have exclusive jurisdiction to determine as a core proceeding any dispute or controversy with respect to the interpretation or enforcement of this Settlement Agreement.

28. The headings of paragraphs herein are included solely for convenience of reference and shall not control the meaning or interpretation of any of the provisions of this Settlement Agreement.

29. This Settlement Agreement reflects the entire agreement and understanding of the Parties and supersedes, replaces, and renders void and unenforceable all prior contemporaneous agreements, representations and statements associated with, or in any matter related to, the subject matter of this Settlement Agreement, including all negotiations that led to the Settlement Agreement. No modifications or amendments of this Settlement Agreement are effective unless in writing and signed by the Parties.

30. In the event of litigation for breach of any terms of this Settlement Agreement, the prevailing party in such litigation shall be entitled to recover its reasonable legal fees, costs and expenses of litigation.

31. The Parties each acknowledge that they are entering into this Settlement Agreement freely, knowingly, voluntarily and with a full understanding of its terms. The Parties each acknowledge that in executing this Settlement Agreement, each Party is not relying on any inducements, statements, promises, or representations made by any other Party, or their agents, employees, or representatives, other than the consideration set forth herein. The Parties acknowledge that they have consulted with counsel of their own choosing concerning this Settlement Agreement and that they were given reasonable time to review and consider the terms of this Settlement Agreement. Each Party affirmatively represents to have the capacity to sign this

Settlement Agreement and that there has been no assignment of any of the matters that are subject of the releases set forth above.

32. This Settlement Agreement is the product of negotiation and preparation by and among each Party and its respective attorneys. The Parties acknowledge and agree that this Settlement Agreement shall not be deemed prepared or drafted by one Party or another and should be construed accordingly.

33. If any provision or provisions of this Settlement Agreement shall be deemed invalid, illegal, or unenforceable, the validity, legality, and/or enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

34. The terms and provisions of this Settlement Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, successors and assigns.

35. This Settlement Agreement may be executed in counterparts and all so executed shall constitute one Settlement Agreement, which shall be binding upon all Parties hereto, notwithstanding that all of the Parties' signatures do not appear on the same page. It is further agreed that signatures may be transmitted by fax or e-mail and are binding.

IN WITNESS WHEREOF, this Settlement Agreement shall be deemed executed on the date of this Settlement Agreement.

On Behalf of the Plaintiff

By: Ashley Davenport Dated: 3/23/21

Its: Attorney

On Behalf of the Debtors

By: David Catalina Dated: 3/23/21

Its: EVP / General Counsel

On Behalf of the Committee

By: */s/ Philip Bentley* Dated: March 24, 2021

Its: Counsel for the Official Committee of Unsecured Creditors

EXHIBIT A

THIRD AMENDED CLASS ACTION SETTLEMENT AGREEMENT

INTRODUCTION AND RECITALS

1. Plaintiff Janice Dawson ("Plaintiff"), and Defendant Hertz Transporting, Inc. ("Defendant") enter into this Third Amended Class Action Settlement Agreement ("Agreement") of the civil action pending in the United States District Court for the Central District of California (hereafter "Court"), Dawson v. Hertz Transporting, Inc., Case No. 2:17-cv-08766-GW-JEM (hereinafter the "Class Action").

2. **WHEREAS**, in the Class Action, the Plaintiff alleges that the Defendant failed to pay employee wages for all hours worked (e.g., unpaid minimum wages, unpaid regular wages, unpaid overtime wages), failed to provide meal periods and rest periods, provided inaccurate wage statements as required by applicable Industrial Welfare Commission Wage Orders and in violation of California law including the California Labor Code and the Private Attorneys General Act of 2004 (Cal. Labor Code §2698, et seq.) ("PAGA"), and allegedly engaged in unfair business practices pursuant to Business and Professions Code Section 17200, et. seq. Defendant has denied and continues to deny all of the allegations that have been or could be asserted by Plaintiff.

3. **WHEREAS**, Plaintiff and Plaintiff's counsel and the proposed settlement class, as defined below, and Defendant and their counsel have engaged in extensive formal discovery, including the exchange of substantial documentation including a timecard sample, depositions of Defendant's designated Person Most Knowledgeable and other representatives, and arms-length negotiations in mediation with Kelly Knight, Esq. of Judicate West concerning settlement of the claims asserted in the Class Action.

4. **WHEREAS**, Plaintiff and Plaintiff's counsel have performed a thorough study of

the law and facts relating to the claims asserted in the Class Action and have concluded, based upon their investigation and discovery, and taking into account the sharply contested issues involved, the expense and time necessary to pursue the Class Action through trial, the risks and costs of further prosecution of the Class Action, the uncertainties of complex litigation, and the substantial benefits to be received by Plaintiff and the members of the settlement class pursuant to this Agreement, that a settlement with Defendant on the terms set forth herein is fair, reasonable, adequate and in the best interests of the settlement classes, Plaintiff, on her own behalf and on behalf of the settlement classes, has agreed to settle the Class Action with Defendant on the global terms set forth herein.

5. **WHEREAS,** Defendant has concluded that, because of the substantial expense of litigating the Class Action, the length of time necessary to resolve the issues presented herein, the inconvenience involved and the concomitant disruption to its business operations, the settlement provided herein is fair and reasonable, and it is in its best interests to settle on the global terms set forth in this Agreement.

6. **WHEREAS,** Defendant has denied and continues to deny each of the allegations and the claims asserted against it in the Class Action. Specifically, Defendant contends that Defendant did not fail to pay employees their wages for all hours worked and for all work performed, unpaid minimum wages, unpaid regular wages, unpaid overtime wages, did not fail to provide meal and rest breaks, or fail to pay for missed meal and/or rest breaks, did not untimely pay wages, did not provide inaccurate wage statements as required by applicable Industrial Welfare Commission Wage Orders, did not violate California law including the California Labor Code and the Private Attorneys General Act of 2004 (Cal. Labor Code §2698, et seq.) ("PAGA"), and did not engage in unfair business practices pursuant to Business and

Professions Code Section 17200, et seq. Notwithstanding the foregoing, Defendant nevertheless desires to settle the Class Action and all claims that were asserted by Plaintiff or otherwise could have been asserted claiming that Defendant failed to comply with laws relating to wages and hours of work or committed any other violations of California law as detailed above (hereinafter "Labor Code and Wage Order Claims"). Defendant elects to settle the Class Action for the purpose of avoiding the burden, expense, and uncertainty of continuing litigation and for the purpose of putting to rest the controversies engendered by the Class Action. This settlement shall not be construed as an admission of wrongdoing as to anything that was or that could have been alleged against Defendant. Defendant expressly denies all allegations and denies that it is liable for any wages, damages, liquidated damages, penalties, attorneys' fees, or costs of litigation to Plaintiff or any others similarly situated.

7. **WHEREAS,** The Settlement described in this Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Settlement is intended or will be construed as an admission by Defendant that Plaintiff's claims have any merit or that it has any liability to Plaintiff, the settlement class, or the State on those claims, or as an admission by Plaintiff that Defendant's defenses have any merit. This Agreement is intended to fully, finally, and forever compromise, release, resolve, discharge, and settle the released claims subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the undersigned that the claims asserted in the Class Action against the Defendant shall be settled, compromised, and resolved subject to the approval of the Court, upon and subject to the following terms and conditions:

SETTLEMENT TERMS

8. PARTIES AND SETTLEMENT CLASS DEFINED

This Agreement is entered into between and among Plaintiff, on behalf of herself and all others similarly situated, and Defendant (hereinafter "the Parties"):

(a) In order to effectuate a class settlement, the Parties hereby conditionally stipulate to certify the following classes for purposes of settlement only:

> All persons who are or were employed by Defendant in a non-exempt, hourly-paid position in California from January 1, 2018 until the date of preliminary approval who were subjected to the meal and rest break policy and payment of wages policy implemented by Defendant (e.g., were employed on or since January 1, 2018 while Procedure 2-53 entitled "California Meal and Rest Periods" was in effect) (the "2018 Subclass")
>
> All persons who are or were employed by Defendant in a non-exempt, hourly-paid position in California at Defendant's location at LAX airport, subject to Defendant's auto-deduction of a thirty-minute meal period from October 16, 2013 until the date of preliminary approval. (the "LAX Auto-Deduct Subclass")
>
> All persons who are or were employed by Defendant in a non-exempt, hourly-paid position in California subject to the meal and rest break and payment of wages policies contained in the Collective Bargaining Agreement between Hertz Transporting, Inc. (Los Angeles/Burbank/Lancaster, California) and Teamsters Automotive, Industrial and Allied Workers Local No. 495 from October 16, 2013 until the date of preliminary approval. (the "LA/Burbank/Lancaster CBA Subclass")
>
> All persons who are or were employed by Defendant in a non-exempt, hourly-paid position in California subject to the meal and rest break and payment of wages policies contained in the Collective Bargaining Agreements between Hertz Transporting, Inc. (Long Beach and Orange County) and Teamsters Automotive, Industrial and Allied Workers Local No. 495 from October 16, 2013 until the date of preliminary approval. (the "Long Beach/Orange County CBA Subclass")

(b) Plaintiff represents and agrees that the classes described in Section 8(a) above include all of Defendant's hourly-paid employees who have received one or more wage

statements from Defendant: (1) in California at any time from January 1, 2018 to the date of preliminary approval and thus were subject to Procedure No. 2-53 titled California Meal Periods and Rest Periods; (2) at LAX at any time during the period October 16, 2013 to the date of preliminary approval and thus were subject to an auto-deduction of a 30-minute meal period; and/or (3) in California at any time during the period October 16, 2013 to the date of preliminary approval at any location covered by any collective bargaining agreement between Defendant and Teamsters Automotive, Industrial and Allied Workers Local No. 495.

(c) Defendant Hertz Transporting, Inc. and its corporate parents or subsidiaries, including without limitation, Hertz Transporting, Inc., The Hertz Corporation and Hertz Global Holdings, Inc. and their subsidiaries (arising only out of or related to employment with Hertz Transporting, Inc.) are referred to collectively as "Released Parties."

9. **EFFECTIVE DATE**

"Effective Date" means the day five days after the date when the Agreement is finally approved and is no longer subject to judicial challenge, i.e., when any of the following events have occurred: (1) If no objections to the settlement have been filed, or if there were objections filed but withdrawn before the Final Approval Hearing, then the date the Court enters judgment granting Final Approval; (2) If an objection to the settlement has been filed, then the date on which time expires to file an appeal of the Court's grant of Final Approval of settlement; (3) If an objection was filed and a Notice of Appeal of the Court's grant of Final Approval of settlement was timely filed, then the date the appeal is finally resolved or withdrawn, with the Final Approval unaffected; and (4) If an appeal was filed pertaining solely to the payment of the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Class Representative Payments, or Administrative Costs, then the date the appeal is finally resolved or withdrawn, with the Final Approval unaffected.

10. **SETTLEMENT CONSIDERATION AND GENERAL RELEASE**

The Parties hereby agree to do all things necessary and appropriate to obtain the Court's approval of this Agreement in consideration for: (a) payment by Defendant of the Gross Settlement Fund, One Million Five Hundred and Fifty Thousand Dollars ($1,550,000.00) ("Gross Settlement Fund") consideration described herein, subject to the terms, conditions and limitations of this Agreement; (b) the general release by Plaintiff and the release by all Class Members who do not exclude themselves from the settlement of all claims related to Labor Code and Wage Order Claims pleaded in the Class Action, and claims related to Labor Code and Wage Order Claims which were or could have been alleged in the Class Action as set forth in greater detail below; and (c) other valuable monetary and non-monetary consideration as set forth herein.

11. **ADMINISTRATION OF THE SETTLEMENT**

The Parties agree to use the services of a class action settlement administrator, Rust Consulting, ("Settlement Administrator") to assist in the administration of the settlement. The Parties agree to request that the Court appoint the Settlement Administrator, to provide the Court-facilitated notice to members of the settlement class and to administer the settlement as set forth herein. The costs and fees of the administration of the settlement, estimated at not more than $20,000, shall be paid from the Gross Settlement Fund described in paragraph 10.

Establishment of Settlement Account. The Settlement Administrator shall establish a Settlement Account within five (5) days of the Effective Date and notify the Parties when the Settlement Account has been established. Within twenty-one (21) days of the Effective Date, Defendant shall pay into the Settlement Account the Gross Settlement Fund of $1,550,000. The employer's share of payroll taxes will be paid by Defendant separate and apart from the Gross Settlement Fund.

Settlement Shares. Subject to the terms and conditions of this Settlement, the Settlement Administrator will calculate the Individual Settlement Payments for each Participating Class Member, i.e., those who did not opt-out. The Individual Settlement Payments for each Participating Class Member will be calculated by providing each class member who does not opt-out of the settlement with a proportional payment based upon the Class Member's number of workweeks worked during the Class Period relative to the total weeks worked by the entire Class during the Class Period.

12. **COOPERATION IN OBTAINING COURT APPROVAL**

The Parties shall cooperate in good faith and Plaintiff shall present to the Court, for its consideration in connection with the approval of the Agreement, any and all evidence as may be requested by the Court under the appropriate standards for approving the settlement of class claims and/or facilitating notice.

13. **MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT**

Plaintiff's counsel shall promptly move the Court for an order granting Preliminary Approval of the settlement pursuant to this Agreement; approving the Class Notice to be provided to Class Members; establishing a procedure and approving the form for potential Class Members to opt out; and scheduling a hearing on final approval.

The Parties have stipulated that Plaintiff will file, subject to the Court's approval, a Second Amended Complaint in the Class Action. A copy of the Second Amended Complaint is attached hereto as Exhibit "A," which filing is contingent on the Court's preliminary approval of the settlement. The Second Amended Complaint shall be deemed filed as of the Preliminary Approval Date. Defendant will not be required to respond to the Second Amended Complaint. Any and all costs and fees associated with the filing of the amended complaint, including but not

limited to filing fees and attorney's fees, shall be part of the costs and fees paid to Plaintiff and her counsel from the Gross Settlement Fund.

Should the Court not approve the class action settlement for whatever reason, the Parties agree that the hearing for Plaintiff's Motion for Leave to File Second Amended Complaint will be rescheduled for hearing with the Court approval. Upon the Court rescheduling this Motion, the parties agree that they have not waived any of their rights, arguments, or legal positions as to the propriety of the Court allowing for the filing of the Second Amended Complaint.

14. **LIST OF CLASS MEMBERS**

Within ten (10) days after preliminary approval of this Agreement, Defendant shall provide the Settlement Administrator with a list of all potential members of the Class. The list will identify each Class Member's name, last four digits of each Class Member's social security number, last known address as recorded in Defendant's records, and the beginning and ending dates of that employee's period of employment with Defendant (within the Class Period).

If any or all of the Class Members' information is unavailable to Defendant, Defendant will so inform Plaintiff's counsel prior to the date on which Defendant is required to submit the list to the Settlement Administrator and the Parties will make their best efforts to reconstruct or otherwise agree upon the Class Members' information prior to when it must be submitted to the Settlement Administrator. If the Parties are unable to agree, the dispute will be resolved by the Settlement Administrator as provided in Paragraph 22. This Class Member information will otherwise remain confidential and will not be disclosed to anyone, except as required to applicable taxing authorities or as required to carry out the reasonable efforts to identify Class Member information described in Paragraph 16, pursuant to Defendant's express written authorization, or by order of the Court.

15. **SETTLEMENT COMPENSATION FORMULA**

Within ten (10) days of the Defendant's payment of the Gross Settlement Fund as set forth above, the Settlement Administrator shall pay each Participating Class Member who has not opted out of the Settlement a monetary sum, less required withholdings, for each work week that the eligible class member worked for Defendant (as defined herein) during the respective class periods on each class and the date of preliminary approval. Total Gross Settlement Fund ("Gross Settlement Fund") of $1,550,000, less attorneys' fees of up to $542,500, litigation costs not to exceed $35,000, administration costs not to exceed $20,000, service award in the amount of $10,000 for Plaintiff Janice Dawson, or as approved by the Court, 75 percent of the the PAGA penalty payment of $20,000 (i.e., the payment of $15,000 to the Labor and Workforce Development Agency (LWDA) under PAGA), which leaves the balance for distribution to the Class ("Net Settlement Fund"). All allocations of attorneys' fees, litigation costs, service award, and PAGA penalty payments are subject to the Court's approval. Each Individual Settlement Payment will represent wages, interest, and penalties allocated using the following formula: 50% as wages (reported via Form W-2), and 25% for interest and 25% for non-wage payments (reported via Form 1099).

The Parties agree that the Net Settlement Fund shall be used to fund payments to Class Members who do not opt out of the Settlement (referred to herein as "Individual Settlement Payments"). The Parties agree that the Net Settlement Fund shall be divided among all Participating Class Members based on the number of workweeks the Participating Class Member worked for Defendant in any of the four classes, with each class representing a separate workweek. Each class is assigned a separate point value, based on the claims addressed by each class. The "2018 Subclass," "LA/Burbank/Lancaster CBA Subclass" and "Long Beach/Orange County Subclass" are each assigned three points per workweek, and the LAX Auto-Deduct

Subclass is also assigned two points per workweek. To arrive at an Original Point Value, the Net Settlement Fund will be divided by the total number of Original Point Values worked by all Class Members in all of the Classes during the respective Class Periods. The Original Point Value will be used to calculate the minimum amount each Class Member will receive based on the number of workweeks each individual Class Member worked in any of the four classes during the Class Period, which will be included in the Class Members' Notice Packets. If a Participating Class Member worked any day during a workweek in any of the four classes, it will be counted as a workweek for purposes of calculating the Individual Settlement Payment.

After the Effective Date, and in accordance with the terms of this Agreement, the Net Settlement Fund will be dispersed among Participating Class Members (those who did not opt-out). No amount of the Gross Settlement Fund shall revert back to Defendant. If any potential class member opts out of the Settlement, the Settlement Administrator shall proportionately increase the Individual Settlement Payment for each Participating Class Member based on workweeks attributed to those class members that have opted out of the Settlement.

16. **NOTICE TO CLASS MEMBERS**

Class Members will be provided with notice of the terms and conditions of this Agreement in a form of notice approved by Plaintiff's counsel, Defendant's counsel and the Court and attached hereto as Exhibit "B." After conducting a Change of Address search on all Class Members and making the address corrections indicated thereby, the Settlement Administrator shall mail said notice by first class U.S. Mail within twenty (20) days after preliminary approval of this Agreement ("Initial Mailing"). As Defendant maintained employment records on the putative class members, the identity of the class members are all known and service of the notice by U.S. Mail is the most likely to give actual notice to the greatest number of Class Members. Furthermore, one skip trace follow-up and re-mailing shall

be completed by the Settlement Administrator on any returned notice packets. Class Members will be informed that they are to receive a share of the settlement proceeds unless they submit a valid request to opt-out of the Class in accordance with the terms of this Agreement.

17. **OPT-OUT AND OBJECTIONS**

The Class Notice contains instructions to Class Members regarding opting out of the Class and making objections to the Agreement. Class Members shall have sixty (60) days from Initial Mailing to send their letters opting out of the Class to the Settlement Administrator. Class Members shall have sixty (60) days from Initial Mailing to submit written objections to the Settlement Administrator. Only Class Members who do not opt-out of the Class may submit objections. To be valid, a request to opt out or an objection must be timely post-marked and must be received by the Settlement Administrator no later than the 60th day after the mailing of the initial notice. To state a valid objection to any portion of the settlement, a Class Member also must provide the following information in the objection: (a) the full name and address of the Class Member; (b) a written statement of all of the grounds for the objection accompanied by any legal support for the objection; (c) a statement as to whether the Class Member intends to appear at the final approval hearing; and (d) the signature of the Class Member or his/her counsel. The Settlement Administrator will distribute any objection received to the Court and all counsel. Plaintiff's counsel and Defendant's counsel may, at least five (5) calendar days (or such other number of days as the Court may specify) before the final approval hearing, file responses to any written objections filed with the Court. Class Members who do not timely object to this Agreement shall have no right to appeal the final approval order or judgment. The Parties and their respective counsel agree not to solicit or encourage any Class Member to object to the settlement or to appeal the final approval order or judgment.

Defendant may in its discretion withdraw from this Settlement if more than 6% of the Class Members opt out of the Settlement. In the event this Settlement does not become final and effective for any reason, the Settlement shall be considered void *ab initio,* shall be of no force or effect whatsoever, shall not be referred to or utilized for any purpose whatsoever, and any conditional certification granted with respect to the settlement shall not be relied upon or offered as evidence to support any future motion for class certification. Plaintiff is prohibited from opting out of this Settlement. If Defendant exercises its option to rescind the Settlement, it will be responsible for the Settlement Administrator's fees.

18. **CHALLENGES TO INDIVIDUAL PAYMENTS**

A Class Member may challenge his or her Individual Settlement Payment by writing to the Settlement Administrator regarding the number of workweeks he or she contends to have worked for Defendant as a Class Member during the Class Period, and timely submitting it with any accompanying supporting documentation or other evidence to the Settlement Administrator. If the Class Member does not provide any documents or other evidence, his/her challenge may be rejected by the Settlement Administrator. All other challenges will be resolved at the exclusive discretion and authority of the Settlement Administrator after seeking input from counsel for the Parties.

19. **ORDER APPROVING SETTLEMENT**

The Parties shall jointly submit to the Court a proposed order granting final approval of this Agreement as just, fair, equitable, reasonable, adequate and in the best interests of the Class Members as a whole, and directing the Parties to carry out the provisions of this Agreement forthwith.

20. **CLASS ADMINISTRATOR'S CERTIFICATIONS**

Prior to the hearing on the motion or final approval of this Agreement, the Settlement Administrator shall (1) file with the Court, under penalty of perjury, a verification that it has sent the Court-approved Class Notice to the last known addresses of all Class Members, and (2) attach a list of names of all Class Members who timely opted out in the Class Action.

21. **PARTICIPATING CLASS MEMBER**

A Class Member who does not timely opt out of the Class with the Settlement Administrator shall be referred to herein as a "Participating Class Member."

22. **DISPUTE RESOLUTION PROCEDURE**

Should any Party and/or Class Member dispute the timeliness or validity of an opt-out request, counsel for Plaintiff and counsel for Defendant shall negotiate in good faith. If the matter cannot be resolved, then it shall be submitted for resolution to the Court.

Should the parties have a dispute about the terms and conditions of the settlement which they cannot resolve themselves, the dispute shall be submitted to the mediator, Kelly Knight, for resolution before addressing the matter with the Court.

23. **JUDGMENT**

The Parties shall also jointly request that, after the hearing on final approval on this Agreement, the Court shall enter a judgment or order in the Class Action, declare that Plaintiff and all Class Members who have not opted out of the Class Action are bound by the release of claims described in the Class Notice, and reserve the Court's continuing jurisdiction over the construction, interpretation, implementation, and enforcement of this Agreement in accordance with its terms and over the administration and distribution of the settlement proceeds.

24. **PAYMENT TO CLASS MEMBERS AND UNPAID FUNDS**

(a) Within ten (10) days after Defendant's payment of the Gross Settlement Fund and following the Effective Date, as set forth in Paragraph 9 above, the Settlement Administrator shall distribute the payments described in Paragraph 15 to each Participating Class Member, by mailing a check, by first class mail, to each such Participating Class Member at the address provided. The Settlement Administrator will issue a Form W-2 for the wage portion of the Individual Settlement Payments and a Form 1099 for the interest and penalty portions of the Individual Settlement Payments.

(b) If payment cannot be mailed to any Participating Class Member or is returned to the Administrator after mailing, the Settlement Administrator shall conduct a change of address search and resend the payment to the newly identified address, and also provide a report of such returned or unmailed payments to Plaintiff's and Defendant's counsel. Participating Class Members shall have one hundred eighty (180) days from the date their Individual Settlement Payment checks are dated to cash their settlement checks. Any checks that are not cashed upon the expiration of that 180-day time period shall be distributed to the State of California State Controller's Office Unclaimed Property Fund in the name and for the benefit of the individual Class Member. If the Settlement Administrator is unable to obtain a valid mailing address through this process, the monies represented by the check shall be distributed to the State of California State Controller's Office Unclaimed Property Fund in the name and for the benefit of the individual Class Member.

25. **SERVICE AWARD TO CLASS REPRESENTATIVES**

Within ten (10) days of Defendant's payment of the Gross Settlement Fund and following the Effective Date, as set forth in Paragraph 9 above, and subject to Court approval, the Settlement Administrator shall provide Plaintiff's counsel with a check made payable to the

Named Plaintiff Janice Dawson in the amount of $10,000.00, or in the amount approved by the Court. The Service Award shall be paid out of the Gross Settlement Fund and shall not constitute payment to any Participating Class Member. This check represents Court approved enhancement for Plaintiff serving as the class representative and taking on the risk of litigation. Because it is the intent of the Parties that the service award represents payment to the Named Plaintiff for her service to the Class Members, and not wages, the Settlement Administrator will not withhold any taxes from the Service Award. The Service Award will be reported on a Form 1099, which the Settlement Administrator will provide to the Named Plaintiff and to the pertinent taxing authorities as required by law.

26. **PAYMENT TO LWDA**

Within ten (10) days of Defendant's payment of the Gross Settlement Fund and following the Effective Date, as set forth in Paragraph 9 above, the Settlement Administrator will pay to the LWDA Fifteen Thousand Dollars ($15,000.00) as the LWDA's Twenty Thousand Dollar ($20,000.00) portion of the settlement designated as PAGA penalties, which shall be deducted from the Gross Settlement Fund and which the Parties believe in good faith is a fair and reasonable apportionment.

27. **CERTIFICATIONS BY THE ADMINISTRATOR OF DISTRIBUTION OF SETTLEMENT CHECKS AND NOTICES**

Within one-hundred (100) days of the Defendant's payment of the Gross Settlement Fund following the Effective Date, as set forth in Paragraph 9 above, the Settlement Administrator shall file with the Court a declaration verifying, under penalty of perjury, that it has mailed the settlement checks and provided any required notice or reports pursuant to this Agreement.

28. **ATTORNEYS' FEES AND COSTS**

Plaintiff agrees to seek and Defendant agrees not to oppose Plaintiff's request for

attorneys' fees up to thirty-five percent (35%) of the Gross Settlement Fund ($542,500) and up to thirty-five thousand dollars ($35,000.00) in costs to Plaintiff's counsel, all of which shall come out of the Gross Settlement Fund. Within ten (10) days of Defendant's payment of the Gross Settlement Fund and following the Effective Date, as set forth in Paragraph 9 above, the Settlement Administrator shall provide Plaintiff's counsel with a check made payable to counsel in the amount of attorneys' fees and costs awarded by the Court.

29. **RELEASE BY NAMED PLAINTIFF AND PARTICIPATING CLASS MEMBERS**

As of the Effective Date of this Settlement, except as to the rights and obligations created by this Agreement, all Class Members who have not timely opted out (and Plaintiff herself), hereby release, dismiss and forever discharge Defendant Hertz Transporting, Inc., and its corporate parents or subsidiaries, including The Hertz Corporation and Hertz Global Holdings, Inc. and their subsidiaries (collectively "Released Parties") from all claims for unpaid wages, premiums, and civil and statutory penalties under the applicable California Labor Code, Wage Orders, regulations, and/or provisions of federal or state law governing wages and hours of work that were asserted in the Action, or that arise from or could have been asserted based on any of the facts, circumstances, transactions, events, occurrences, acts, disclosures, statements, omissions or failures to act alleged in Plaintiff's Second Amended Complaint arising out of or related to the Class Member's employment with HTI, regardless of whether such claims arise under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law that occurred during the Class Period, including but not limited to: (1) claims for failure to pay wages earned pursuant to California Labor Code §§1194, 1194.2, 1198 or the Industrial Welfare Commission ("IWC") Wage Orders; (2) claims for failure to pay overtime pursuant to California Labor Code §§510, 1194 or the IWC Wage Orders; (3) claims for failure to pay

overtime under Labor Code §§1197, 1199 or the IWC Wage Orders; (4) claims for failure to pay at least minimum wages in violation of California Labor Code §§1194, 1197, 1197.1 or the IWC Wage Orders; (5) claims for the failure to issue complete and accurate wage statements pursuant to California Labor Code §226(a) or the IWC Wage Orders, and failure to maintain records and information pursuant to California Labor Code §§226(a), 1174, 1175 or the IWC Wage Orders; (6) claims for the failure to timely pay wages upon termination pursuant to California Labor Code §§201, 202 or 203; (7) claims for the failure to timely pay wages pursuant to California Labor Code §§204, 216 or 225.5; (8) claims for meal period and/or rest period violations under California Labor Code §§226.7, 226.7(b), or 512(a) or the IWC Wage Orders; (9) claims for reporting time pay violations under California Labor Code §1198 or the IWC Wage Orders; (10) incorporated or related claims asserted through California Labor Code §§2699, *et seq*. ("PAGA") or § 558; (11) claims under the Fair Labor Standards Act related to the claims asserted in this Action; (12) claims for time shaving; (13) claims for related penalties (e.g., under California Labor Code §§210); and (14) incorporated or related claims asserted through California Business and Professions Code §§17200, *et seq*. As a result of the Settlement Agreement, Class Members will be deemed to no longer be aggrieved employees for purposes of PAGA.

30. **RELEASE BY NAMED PLAINTIFF**

Plaintiff Janice Dawson agrees to a general release and waiver, described herein, in consideration for Defendant paying her a sum of $10,000.00 (or whatever lesser amount is set by the Court). Upon the date the Court grants Final Approval of the Settlement, and with the exception of any claim for workers compensation arising from an auto accident asserted to have occurred on or about December 27, 2017, Plaintiff Dawson, for herself, her successors, assigns, agents, executors, heirs and personal representatives, spouse and attorneys, and any and all of them (collectively, the "Plaintiff Releasers"), voluntarily and with the advice of counsel, waive

and release any and all claims, obligations, demands, actions, rights, causes of action, and liabilities against Defendant and any of the Released Parties of whatever kind and nature, character, and description, whether in law or equity, whether sounding in tort, contract, federal, state and/or local law, statute, ordinance, regulation, constitution, common law, or other source of law or contract, whether known or unknown, and whether anticipated or unanticipated, including all claims arising from or relating to any and all acts, events and omissions occurring prior to the date Plaintiff signs this Agreement including, but not limited to, all claims which relate in any way to Plaintiff's employment with or termination of employment from Defendant or any of the other Released Parties ("Named Plaintiff Individual Released Claims"). Plaintiff further releases all unknown claims against Defendant and any of the Released Parties, covered by California Civil Code Section 1542, which states:

> **"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."**

31. **TAX TREATMENT**

The Class Representative and Participating Class Members shall be exclusively liable for any and all of their respective tax liability, if any. The Class Representative and Participating Class Members should consult with their tax advisors concerning the tax consequences of the payments they receive under the Settlement Agreement. The settlement payments received by Participating Class Members will be reported as required to the state and federal taxing authorities on IRS forms 1099 and W-2 or similar forms. Each Participating Class Member will be responsible for paying all applicable state, local, and federal income taxes on all amounts the Participating Class Member receives pursuant to this Agreement.

32. **NO IMPACT ON BENEFIT PLANS.**

It is expressly understood and agreed that the receipt of an Individual Settlement Payment will not entitle any Participating Class Member to additional compensation or benefits under any company bonus, contract, incentive plan, contest or other compensation or benefit plan or agreement in place during the Class Period, nor will it entitle any Settlement Class Member to any increased retirement, 401(k) or matching benefits, or deferred compensation benefits. Plaintiffs and Defendant agree that any payments made to Participating Class Members under the terms of this Agreement do not represent any modification of previously credited length of service or other eligibility criteria under any bonus plan, incentive plan, contract, employee pension benefit plan or employee welfare plan sponsored by any of the Released Parties or to which any of the Released Parties are required to make contributions. All individual Settlement Payments shall be deemed to be paid to Participating Class Members solely in the year in which such payments actually are received by Participating Class Members. Further, any payments made under this Agreement shall not be considered compensation in any year for purposes of determining eligibility for, or benefit accrual within, any employee pension benefit plan or employee welfare benefit plan sponsored by any of the Released Parties or to which any of the Released Parties are required to make contributions. It is the Parties' intent that the Settlement Payments provided for in the Agreement are the sole payments to be made by Defendant to the Participating Class Members, and that the Participating Class Members are not entitled to any new or additional compensation or benefits as a result of having received the individual Settlement Payments (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the Class Period).

33. **NOTICES**

All notices, requests, and demands and other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be delivered personally or mailed, postage prepaid, by first-class mail, to the undersigned persons at their respective addresses as set forth herein:

Counsel for Plaintiff:

Patricio T.D. Barrera
Ashley Davenport
BARRERA & ASSOCIATES
2298 E. Maple Avenue
El Segundo, CA 90245
Tel: (310) 802-1500

Vincent Calderone
CALDERONE LAW FIRM
2321 Rosecrans Avenue, Suite 1265
El Segundo, CA 90245
Tel: (424) 348-8290

Counsel for Defendant:

Robert A. Dolinko
NIXON PEABODY LLP
One Embarcadero Center, 32nd Floor
San Francisco, CA 9411
Tel: (415) 984-8200

34. **REPRESENTATION BY COUNSEL**

The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement and that this Agreement has been executed with the consent and advice of counsel.

35. **NO ADMISSION OF LIABILITY**

Defendant denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, or has any liability to anyone under the claims asserted in the Class Action. This Settlement is entered into solely for the purpose of compromising highly disputed claims. This Agreement and the settlement it contains are a compromise and shall not be construed as an admission of liability at any time or for any purpose, under any circumstance, by

the Parties to this Agreement or anyone else. The Parties further acknowledge and agree that this Agreement shall not be used to suggest an admission of liability in any dispute the Parties may have now or in the future with respect to any person or entity. Neither this Agreement nor anything herein, nor any part of the negotiations had in connection herewith, shall be offered or used as evidence with respect to any issue or dispute, except to enforce the terms of this Agreement.

Whether or not the Judgment becomes Final, neither the Settlement, any document, statement, proceeding or conduct related to the Settlement, nor any reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Defendant or any other beneficiary of the releases granted under this Settlement (the "Released Parties"), including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against any of the Released Parties, in any further proceeding in the Class Action, or any other civil, criminal or administrative action or proceeding except for purposes of effectuating this Settlement.

Notwithstanding the immediately preceding paragraphs of this Settlement, any and all provisions of this Settlement may be admitted in evidence and otherwise used in any and all proceedings to enforce any or all terms of this Settlement, or in defense of any claims released or barred by this Settlement, should it become final and approved.

36. **MODIFICATION OF AGREEMENT**

This Agreement may not be modified or amended, except in writing signed by the respective counsel of record for the Parties, and as approved by the Court if necessary.

37. **FURTHER COOPERATION**

The Parties and their respective counsel shall proceed diligently to prepare and execute all documents, to seek the necessary Court approvals, and to do all things reasonably necessary or convenient to consummate the Agreement as expeditiously as possible.

38. **PUBLIC DISCLOSURE AND NO MEDIA**

(a) **Public Disclosure**. Plaintiff and Class Counsel agree that they will not make any public disclosure of the Settlement until after the Settlement is preliminarily approved by the Court.

(b) **No Media.** Plaintiff and Class Counsel agree that they will not have any communications with the media utilizing Defendant's identity (directly or indirectly), other than to direct the media to the public records of the Action on file with the Court in response to an unsolicited inquiry from such media. Class Counsel further agrees not to use the Settlement or the Settlement terms for any marketing purposes utilizing Defendant's identity (directly or indirectly), including but not limited to not posting the settlement or notice of it on counsel's websites.

39. **NO TAX OR LEGAL ADVICE**

The Parties understand and agree that Defendant is neither providing tax or legal advice, nor making representations regarding tax obligations or consequences, if any, related to this Agreement, and that Class Members will assume any such tax obligations or consequences that may arise from this Agreement, and that Class Members shall not seek any indemnification from Defendant or any of the Released Parties in this regard. The Parties agree that, in the event that any taxing body determines that additional taxes are due from any Class Member, such Class Member assumes all responsibility for the payment of any such taxes.

40. **CONSTRUCTION AND INTERPRETATION**

This Agreement constitutes the entire agreement between the Parties. Except as expressly provided herein, this Agreement has not been executed in reliance upon any other oral or written representations or terms, and no such extrinsic oral or written representations or terms shall modify, vary or contradict the terms of the Agreement. In entering into this Agreement, the Parties agree that this Agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence. This Agreement shall be subject to, governed by, construed, enforced and administered in accordance with the law of the State of California, both in its procedural and substantive aspects, and without regard for the principle of conflict of laws, and shall be subject to the continuing jurisdiction of the United States District Court, Central District of California. This Agreement shall be construed as a whole according to its fair meaning and intent, and not strictly for or against the party drafting this Agreement. Plaintiff and Defendant participated in the negotiation and drafting of this Agreement and had available to them the advice and assistance of independent counsel. As such, neither Plaintiff nor Defendant may claim that any ambiguity in this Agreement should be construed against the other.

41. **COUNTERPARTS**

This Agreement, any amendments or modifications to it, and any other documents required or contemplated to be executed in order to consummate this Agreement, may be executed in one or more counterparts, each of which shall be deemed an original of this Agreement. Facsimile and scanned PDF signatures will be presumptive evidence of execution of the original, which shall be produced on reasonable request. Any executed counterpart will be admissible to prove the existence and contents of this Settlement.

42. **BINDING EFFECT**

This Agreement is binding upon the Parties to this Agreement, and shall inure to the benefit of their respective predecessors, successors, shareholders, officers, directors, employees, agents, trustees, representatives, administrators, fiduciaries, assigns, insurers, attorneys, subrogees, executors, partners, parents, subsidiaries, and privies. Without limiting the foregoing, this Agreement specifically shall be binding upon the spouses, children, heirs, assigns, successors and offspring of Plaintiff and Class Members who do not opt out of the Class Action.

43. **AUTHORITY OF COUNSEL**

Counsel for Plaintiff, identified below, warrants, and represents that they are expressly authorized by Plaintiff to take all appropriate action required or permitted to be taken pursuant to this Agreement in order to effectuate its terms. Counsel for Defendant warrants and represents that they are authorized to take all appropriate action required or permitted to be taken by Defendant pursuant to this Agreement in order to effectuate its terms. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties will seek the assistance of the Court, and in all cases all such documents, supplemental provisions and assistance of the Court will be consistent with this Settlement.

44. **NO PRIOR ASSIGNMENTS**

The Parties hereto represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein.

45. **NO OTHER ACTIONS OR CLAIMS**

Plaintiff represents and warrants that, other than the Class Action, she does not have any pending legal or administrative action or claim against Defendant or any other party released herein, nor have any such other actions or claims been filed at any time after the Class Action were filed, other than claims arising from Ms. Dawson's auto accident on December 27, 2017, which are or may be covered by workers' compensation.

46. **CONTINUING JURISDICTION**

The Court shall have continuing jurisdiction solely for the purpose to construe, interpret and enforce the provisions of this Agreement; to supervise the administration and distribution of the resulting settlement funds; and to hear and adjudicate any dispute or litigation arising from this Agreement.

Provided that the Judgment is consistent with the terms and conditions of this Settlement, Plaintiff and Defendant hereby waive any and all rights to appeal from the Judgment. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings or post-judgment proceedings.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the date indicated below:

DATED: Janice Dawson 10/21/19
Plaintiff Janice Dawson

Defendant Hertz Transporting, Inc.

DATED: By:_____
Its: _____

45. **NO OTHER ACTIONS OR CLAIMS**

Plaintiff represents and warrants that, other than the Class Action, she does not have any pending legal or administrative action or claim against Defendant or any other party released herein, nor have any such other actions or claims been filed at any time after the Class Action were filed, other than claims arising from Ms. Dawson's auto accident on December 27, 2017, which are or may be covered by workers' compensation.

46. **CONTINUING JURISDICTION**

The Court shall have continuing jurisdiction solely for the purpose to construe, interpret and enforce the provisions of this Agreement; to supervise the administration and distribution of the resulting settlement funds; and to hear and adjudicate any dispute or litigation arising from this Agreement.

Provided that the Judgment is consistent with the terms and conditions of this Settlement, Plaintiff and Defendant hereby waive any and all rights to appeal from the Judgment. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings or post-judgment proceedings.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the date indicated below:

DATED: _____

Plaintiff Janice Dawson

Defendant Hertz Transporting, Inc.

DATED: October 24, 2019

By: _____

Its: EVP + GC

APPROVED AS TO FORM:

BARRERA & ASSOCIATES

DATED: 10/24/19

Ashley A. Davenport, Esq.
Counsel for Plaintiff and Proposed Class

CALDERONE LAW FIRM

DATED: October 24, 2019

Vincent Calderone, Esq.
Counsel for Plaintiff and Proposed Class

NIXON PEABODY LLP

DATED:

Robert A. Dolinko, Esq.
Counsel for Defendant

APPROVED AS TO FORM:

BARRERA & ASSOCIATES

DATED:

Ashley A. Davenport, Esq.
Counsel for Plaintiff and Proposed Class

CALDERONE LAW FIRM

DATED:

Vincent Calderone, Esq.
Counsel for Plaintiff and Proposed Class

NIXON PEABODY LLP

DATED: October 24, 2019

Robert A. Dolinko, Esq.
Counsel for Defendant

EXHIBIT 4

[Kemal Proposed Order]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
The Hertz Corporation, *et al.*,[1]	Case No. 20-11218 (MFW)
Debtors.	(Jointly Administered)

ORDER PURSUANT TO BANKRUPTCY RULES 9019 AND 7023 APPROVING THE SETTLEMENT AGREEMENT BETWEEN THE DEBTORS AND POLAT KEMAL

Upon the motion (the "**Motion**")[2] of the Debtors for entry of an order (this "**Order**") pursuant to sections 363 and 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019(a) and 7023 approving the settlements between The Hertz Corporation ("**Hertz**"), on behalf of certain Debtor entities, and named plaintiff Polat Kemal in the Kemal Litigation (as defined in the Motion), substantially in the form of the agreement attached hereto as **Exhibit 4A (**the "**Kemal Settlement**"), as described more fully in the Motion; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this

[1] The last four digits of The Hertz Corporation's tax identification number are 8568. The location of the Debtors' service address is 8501 Williams Road, Estero, FL 33928. Due to the large number of Debtors in these chapter 11 cases, which are jointly administered for procedural purposes, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' proposed claims and noticing agent at https://restructuring.primeclerk.com/hertz.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion and the Settlement Agreement; and this Court having held a hearing, if necessary, to consider the relief requested in the Motion (the "**Hearing**"); and upon the record of the Hearing, if any; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein. Any objections or reservations of rights filed in respect of the Motion are overruled, with prejudice.

2. The Kemal Settlement is APPROVED in its entirety, including but not limited to the waivers and releases contained therein and consideration provided therefor as if set forth herein.

3. The parties are authorized to take any steps as may be required or necessary to implement the Kemal Settlement.

4. Within fourteen business days of the Effective Date, the Parties agree that in full satisfaction of the Released Claims (as defined in the Kemal Settlement, attached hereto as Exhibit 4A), Hertz will pay $200,000 in cash to the Plaintiff's selected third party Settlement (Claims) Administrator, such as JND or another similar entity who is in the business of class

action settlement and claims administration, as set forth fully in Section 9 of the Kemal Settlement.

5. The Class Representative and Hertz will jointly seek to dismiss the Kemal Litigation with prejudice and the Class Representative shall withdraw the Proofs of Claim with prejudice. Any and all claims asserted by the Class Representative or Class Members, including but not limited to the Proofs of Claim, or that could have been asserted by the Class Representative or Class Members in any proof of claim filed with the Court shall be withdrawn with prejudice from the Chapter 11 Cases and expunged.

6. The Proposed Class shall be certified as a class action as to the Proposed Class's claims in the Kemal Litigation and Proofs of Claim, provided, however that such Proposed Class shall be certified for settlement purposes only pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedures as modified by and made applicable to these proceedings by Bankruptcy Rules 7023 and 9014.

7. For purposes of the Kemal Settlement only, the Proposed Class shall include all individuals who were employed as Location Managers, also known as Counter Managers or Functional Managers, by Hertz within New York at any time commencing June 11, 2013, and concluding on the effective date of the sale of the Debtor's operating assets and who did not file opt-in consent forms in the action, *Aiyekusibe v. The Hertz Corporation, et al.,* No. 2:18-cv-00816-MRM, (the "**Class Members**").

8. The Settlement Payment will be made to the Settlement Administrator for allocation towards the following: (i) reasonable service awards to the Class Representative and other named plaintiffs identified by Class Counsel; (ii) the administration of notice and

distribution to individual class members; and (iii) payment of fees of Class Counsel and Dundon Advisors, and costs and expenses, as set forth fully in Sections 10–11 of the Kemal Settlement.

9. The Settlement Administrator shall mail a notice to the Class Members via first class mail which shall advise each Class Member of their individual settlement shares. Class Members shall have the opportunity to opt out of this Settlement Agreement by filing a written request for exclusion with the Settlement Administrator by no later than 30 days from the date of the mailing of the settlement notice. All Class Members who do not submit a written and timely request for exclusion will receive their individual settlement payment and will release the claims against Debtors, as set forth fully in Section 11 of the Kemal Settlement.

10. The Court is not tolling or otherwise extending the Bar Date for any creditors who did not file an individual proof of claim.

11. No creditor other than the Class Members defined in the Purported Class Action shall gain any rights by reason of the Kemal Settlement. Nor shall the Kemal Settlement be admissible and/or used in any fashion in any action by any creditors.

12. The Debtors reserve all of their rights and defenses with respect to any creditor other than the Class Members.

13. This Court shall, and hereby does, retain jurisdiction with respect to all matters arising from or in relation to the interpretation and implementation of the Kemal Settlement, and all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Exhibit 4A

[Kemal Settlement]

Execution Version

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
The Hertz Corporation, *et al.*,[1]	Case No. 20-11218 (MFW)
Debtors.	(Jointly Administered)

Settlement Agreement and Release

This Settlement Agreement and Release (the "**Settlement Agreement**") is made and entered into as of March 24, 2021 by and between the plaintiff Polat Kemal (the "**Plaintiff**") on his own behalf and on behalf of others asserted to be similarly situated (together with the Plaintiff, the Proposed Class (defined below)), by and through their undersigned counsel, Shavitz Law Group P.A. and Feldman Legal Group ("**Class Counsel**"), and The Hertz Corporation ("**Hertz**" or "**Debtor Defendant**") on behalf of itself and the other debtors in the above-captioned action (collectively, the "**Debtors**"), and the official committee of unsecured creditors in the Chapter 11 Cases, as defined herein (the "**Committee**"). The Plaintiff, the Debtors, and the Committee are referred to collectively as the "**Parties**" or individually as a "**Party**." The Parties, by and through their respective counsel, stipulate and agree as follows:

Recitals

WHEREAS, the Plaintiff filed a class complaint on June 11, 2019, against the Debtor Defendant in *Kemal v. The Hertz Corporation*, No. 1:19-cv-05461-RWL in the United States District Court for the Southern District of New York (hereinafter the "**Kemal Litigation**");

WHEREAS, in the Kemal Litigation, the Plaintiff alleged that the Debtor Defendant had improperly classified certain employees ("**Location Managers**") as exempt employees in violation of New York Labor Law, Article 19, § 650, *et seq.* and sought unpaid overtime pay and liquidated damages, and penalties for improper wage notices, among other relief;

WHEREAS, the Kemal Litigation sought to certify a class comprised of all individuals who have worked as Location Managers, also known as Counter Managers or Functional Managers, by the Debtor Defendant in New York at any time from the period beginning six

[1] The Debtors include the following entities: The Hertz Corporation, Hertz Global Holdings, Inc., Thrifty Rent-A-Car System, LLC, Thrifty, LLC, Dollar Thrifty Automotive Group, Inc., Firefly Rent A Car LLC, CMGC Canada Acquisition ULC, Hertz Aircraft, LLC, Dollar Rent A Car, Inc., Dollar Thrifty Automotive Group Canada Inc., Donlen Corporation, Donlen FSHCO Company, Hertz Canada Limited, Donlen Mobility Solutions, Inc., DTG Canada Corp., DTG Operations, Inc., Hertz Car Sales LLC, DTG Supply, LLC, Hertz Global Services Corporation, Hertz Local Edition Corp., Hertz Local Edition Transporting, Inc., Donlen Fleet Leasing Ltd., Hertz System, Inc., Smartz Vehicle Rental Corporation, Thrifty Car Sales, Inc., Hertz Technologies, Inc., TRAC Asia Pacific, Inc., Hertz Transporting, Inc., Rental Car Group Company, LLC, Rental Car Intermediate Holdings, LLC.

years prior to the filing of the Kemal Litigation through the date of final judgment (the "**Proposed Class**");

WHEREAS, the Plaintiff and the Debtor Defendant were engaged in ongoing discovery and production of documents and other evidence in the Kemal Litigation, and had scheduled a mediation to seek to resolve the claims on a class-wide basis, which did not occur prior to the Petition Date (defined below);

WHEREAS, on May 22, 2020 (the "**Petition Date**"), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") with the United States Bankruptcy Court for the District of Delaware (the "**Court**") thereby commencing the chapter 11 cases (the "**Chapter 11 Cases**") which cases are being administered jointly pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**");

WHEREAS, the Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, on June 11, 2020, the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**") appointed the Committee pursuant to section 1102 of the Bankruptcy Code;

WHEREAS, on September 9, 2020, the Court entered the *Order Establishing Bar Dates and Related Procedures for Filing Proofs of Claim, Including Claims Arising Under Section 503(b)(9) of the Bankruptcy Code, and Approving the Form and Manner of Notice Thereof* [D.I. 1240] (the "**Bar Date Order**"), and the Debtors filed the *Notice of Deadlines for Filing Proofs of Claim, Including Claims Arising Under Section 503(b)(9) of the Bankruptcy Code Against Debtors* [D.I. 1243] (the "**Bar Date Notice**") establishing October 21, 2020 at 5:00 p.m. (prevailing Eastern Time) as the general bar date (the "**Bar Date**");

WHEREAS, pursuant to the Bar Date Order, each person that holds or seeks to assert a claim against the Debtors, whether or not such person is or may be included in or represented by a purported class, collective, or similar representative action, was required to properly file a proof of claim on or before the established Bar Date;

WHEREAS, pursuant to the Bar Date Order, the Debtors served the Bar Date Notice to all known, potential claimants, including providing actual notice to Class Counsel, and also engaged in robust publication notice informing potential claimants of the Bar Date, which constituted constructive notice to any absent claimants in the Kemal Litigation;

WHEREAS, prior to or on the Bar Date, certain individuals within the Proposed Class may have filed individual proofs of claim asserting claims that are duplicative of, or subsumed by the claims asserted in the Kemal Litigation and/or arise out of the same or similar facts (the "**Individual Claims**"), and the Plaintiff filed a proof of claim on behalf of the Proposed Class (Claim No. 13188, the "**Purported Class Claim**"), as well as an individual proof of claim on his own behalf (Claim No. 12715, the "**Plaintiff's Individual Claim**," together with the Individual

Claims and the Purported Class Claim the "**Proofs of Claim**") against debtor The Hertz Corporation;

WHEREAS, on December 16, 2020, the Debtors, the Committee, and the Plaintiff, together with other representatives of the several class actions, agreed to a mediation process (the "**Mediation Process**");

WHEREAS, on December 21, 2020, in furtherance of the agreed-to Mediation Process, the Plaintiff filed a motion to apply Bankruptcy Rule 7023 [D.I. 2214] (the "**Rule 7023 Motion**") to the Plaintiff's Purported Class Claim to allow for class treatment by the Court;

WHEREAS, the Mediation Process and related procedures were approved by the Bankruptcy Court on January 14, 2021 in the *Order (I) Approving the Mediation Stipulation Regarding Claims Arising from Prepetition Representative Actions: (A) Appointing a Mediator, (B) Referring Certain Matters to Mediation and (C) Approving the Mediation Procedures, and (II) Granting Related Relief* [D.I. 2450] (the "**Mediation Order**");

WHEREAS, the Parties submitted the Kemal Litigation to non-binding mediation, subject to the terms and conditions set forth in the Mediation Order to determine the validity, amount, and priority of claims that have been or may be asserted by the Plaintiff individually and/or on behalf of his Proposed Class in the Chapter 11 Cases;

WHEREAS, on February 19, 2021 the Parties met for mediation and engaged in good faith, arm's length negotiations, in order to resolve the Proofs of Claim against the Debtor Defendant in the Kemal Litigation, limit the bankruptcy claims against the Debtor Defendant's estates, and prevent the costs, delays and uncertainties of protracted litigation in these Chapter 11 Cases, and the Plaintiff and the Debtors arrived at an initial, written agreement of proposed settlement terms signed by them on February 26, 2021 (the "**Initial Agreement**"), attached hereto as Exhibit A, which agreement contemplates entry into this more definitive agreement;

WHEREAS, the Debtors shall propose a joint chapter 11 plan of reorganization (including all exhibits thereto and as amended, modified, or supplemented, or replaced, the "**Plan**"), which shall provide treatment for all prepetition claims allowed in these Chapter 11 Cases and a disclosure statement for the Plan (together with all schedules and exhibits thereto, and as may be amended, modified, or supplemented, or replaced, the "**Disclosure Statement**") pursuant to section 1125 of the Bankruptcy Code, which shall be used to solicit votes to accept and reject the Plan;

WHEREAS, the Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334; this is a core proceeding pursuant to 28 U.S.C. § 157(b); and venue for this matter is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and;

NOW, THEREFORE, in consideration of the mutual covenants, the promises and other good and valuable consideration, the sufficiency of which hereby are acknowledged, the undersigned Parties agree as follows:

1. This Settlement Agreement will be binding on the Parties from the date of its

execution, but is expressly subject to and contingent upon entry of a final non-appealable order of the Court approving the Settlement Agreement and the Parties' obligations hereunder (the "**Approval Order**").

2. Promptly upon the mutual execution and delivery of this Settlement Agreement, the Debtors shall file a motion with the Court seeking entry of the Approval Order pursuant to Bankruptcy Rule 9019 (the "**Rule 9019 Motion**"), which motion may include proposed settlements with other mediation parties.

3. The Debtors shall use commercially reasonable efforts to achieve entry of the Approval Order as soon as reasonably practicable, including by working in good faith to promptly resolve all formal and informal objections, if any, to the Rule 9019 Motion. If requested by the Debtors, the Plaintiff and his counsel, and the Committee shall take reasonable actions in support of the entry of the Approval Order and shall not take any Court action inconsistent with obtaining the Approval Order.

4. The Settlement Agreement will become effective when the Approval Order becomes final and no longer subject to appeal (the "**Effective Date**"). If the Court denies approval of this Settlement Agreement and the Effective Date does not occur, the Settlement Agreement, and the Initial Agreement, will be null and void and will be of no force and effect, and the rights and defenses of the Debtors, or any successor thereto, including any and all rights of the Debtors to object to the Proofs of Claim on any grounds permitted under applicable law, shall be reserved and retained. Upon such event, all parties reserve all rights and remedies with respect to the Kemal Litigation and the Proofs of Claim.

5. The Proposed Class shall be certified as a class action as to the Proposed Class's claims in the Kemal Litigation and Proofs of Claim, provided, however that such Proposed Class shall be certified for settlement purposes only pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedures as modified by and made applicable to these proceedings by Bankruptcy Rules 7023 and 9014. For the avoidance of doubt, in the event the Settlement Agreement is not approved or not consummated for any reason and the Effective Date does not occur, the Debtors shall retain any and all rights to contest and object to the certification of any purported class of claims related to the Kemal Litigation.

6. For purposes of this Settlement Agreement only, the Proposed Class shall include all individuals who were employed as Location Managers, also known as Counter Managers or Functional Managers, by Hertz within New York at any time commencing June 11, 2013, and concluding on the effective date of the sale of the Debtor's operating assets and who did not file opt-in consent forms in the action, *Aiyekusibe v. The Hertz Corporation, et al.*, No. 2:18-cv-00816-MRM, (the "**Class Members**").

7. For purposes of this Settlement Agreement only, the Plaintiff shall be appointed as class representative of the Proposed Class (the "**Class Representative**").

8. For purposes of this Settlement Agreement only, Shavitz Law Group, P.A. and Feldman Legal Group shall be appointed Class Counsel.

9. Within fourteen business days of the Effective Date, the Parties agree that in full satisfaction of the Released Claims (defined below), (i) Hertz will pay (a) $200,000 in cash to the Plaintiff's selected third party Settlement (Claims) Administrator, such as JND or another similar entity who is in the business of class action settlement and claims administration (the "**Settlement Payment**"), and (b) to the appropriate government agency the employers' share of the payroll taxes for the wages portion of the cash payment; (ii) the Class Representative and Debtor Defendant will jointly seek to dismiss the Kemal Litigation with prejudice; and (iii) the Class Representative shall withdraw the Proofs of Claim with prejudice. Any and all claims asserted by the Class Representative or Class Members, including but not limited to the Proofs of Claim, or that could have been asserted by the Class Representative or Class Members in any proof of claim filed with the Court shall be withdrawn with prejudice from the Chapter 11 Cases and expunged.

10. The Settlement Payment will be made to Settlement Administrator, for allocation towards the following: (i) reasonable service awards to the Class Representative and other named plaintiffs identified by Class Counsel; (ii) the administration of notice and distribution to individual class members; and (iii) payment of fees of Class Counsel and Dundon Advisors, and costs and expenses. Class Counsel's fees shall be one-third of the Settlement Payment and Class Counsel shall also be entitled to reimbursement of their out-of-pocket costs for the Kemal Litigation. The Debtors will not object to the method and allocation of the Settlement Payment, and to the extent any separate application or motion to the Court is necessary for Class Counsel to receive this agreed upon percentage in attorney's fees, Debtors will not oppose Class Counsel's application for attorney's fees in the sum of 33.33% of the Settlement Payment. Additionally, Dundon Advisors shall be paid 8.5% of the Settlement Payment for their professional services.

11. Within five days of the Effective Date, Debtors shall provide to the Settlement Administrator and Class Counsel a list in excel format containing the names, addresses, dates of employment as Location, Counter, and/or Functional Managers in the state of New York, for all Class Members (the "**Class Data**"). The Debtors shall also provide the employee identification number of the Class Members to the Settlement Administrator. After deducting the reasonable service awards to Polat Kemal and Tracy Jeffrey, the cost for the Settlement Administrator, and the fees and costs of Class Counsel and advisors, the amount remaining of the Settlement Payment is the "**Net Fund**". The Settlement Administrator shall calculate the amount of the Net Fund due to each Class Members using the Class Data. The calculation shall be based upon the weeks that each Class Member worked from June 11, 2013 to the effective date of the sale of the Debtor's operating assets. Each workweek during this period shall be valued at the same amount and Class Members' individual payments shall be determined based upon weeks they worked during this period. The Settlement Administrator shall mail a notice to the Class Members via first class mail which shall advise each Class Member of their individual settlement shares. Class Members shall have the opportunity to opt out of this Settlement Agreement by filing a written request for exclusion with the Settlement Administrator by no later than 30 days from the date of the mailing of the settlement notice. All Class Members who do not submit a written and timely request for exclusion will receive their individual settlement payment and will release the claims against Debtors as set forth herein. The Settlement Administrator shall be responsible for calculating all payments to Class Members, responding to inquiries by telephone and e-mail from

Class Members, processing and distributing payments for Class Members and attorneys' and advisors' fees and costs, calculating and handling tax payments to the appropriate tax or governmental agencies, and other tasks as appropriate to administer this settlement. Payments to Class Members shall be made via first class mail. Service award payments of $5,000.00 each to Polat Kemal and Tracy Jeffrey shall be made by federal express.

12. Class Counsel represents and warrants that, upon certification of the class by the Court, they have the authority to release claims on behalf of the Proposed Class.

13. Except for the rights arising out of, provided for or reserved in this Settlement Agreement, Class Members, for and on behalf of themselves and their respective predecessors, successors, agents, attorneys, heirs, representatives, assigns, affiliates and subsidiaries (collectively the "**Releasing Parties**"), do hereby fully and forever release and discharge the Debtor Defendants, the Debtors, and their affiliates, subsidiaries, predecessors, parent(s), successors, assigns, officers, directors, shareholders, agents, employees, partners, members, insurers, accountants, attorneys, representatives and other agents, and all of their respective predecessors, successors and assigns (collectively, the "**Released Parties**") of and from any and all claims, demands, debts, liabilities, obligations, liens, actions and causes of action, costs, expenses, attorneys' fees and damages of whatever kind or nature, at law, in equity and otherwise, whether known or unknown, anticipated, suspected or disclosed, that the Releasing Parties may have had, now have or hereafter may have against the Released Parties, whether or not asserted in the Kemal Litigation and the Proofs of Claim (the "**Released Claims**"). On the Effective Date, all Released Claims are deemed settled, released, withdrawn and dismissed in their entirety, on the merits, with prejudice.

14. In connection with the Rule 9019 Motion, the Debtors will seek to have the Court determine that the Bar Date is not tolled or otherwise extended for any creditors who did not file an individual proof of claim.

15. The Parties agree that they are compromising and settling disputed claims. Each of the Parties agrees it shall not commence or continue any contested matter, adversary proceeding, lawsuit or arbitration which contests, disputes or is inconsistent with any provision of this Settlement Agreement.

16. Neither this Settlement Agreement nor any of its provisions, nor evidence of any negotiations or proceedings related to this Settlement Agreement, shall be offered or received in evidence in these Chapter 11 Cases, or any other action or proceeding, as an admission or concession of liability or wrongdoing of any nature on the part of any of the Released Parties, or anyone acting on their behalf, and the Debtor Defendant specifically denies any such liability or wrongdoing. The Settlement Agreement is intended to settle and dispose of claims which are contested and denied. Nothing herein shall be construed as an admission by any Party of any liability of any kind to any other Party.

17. Nothing herein shall prevent any Party from seeking to offer this Settlement Agreement in evidence after the entry of the Approval Order for the purpose of enforcing the terms of this Settlement Agreement.

18. This Settlement Agreement is confidential until it is filed with the Court, subject to the Debtors sharing it with the Committee and the U.S. Trustee in advance of filing.

19. All notices or other communications hereunder shall be deemed to have been duly given and made if (i) in writing and if served by personal delivery upon the Party for whom it is intended, (ii) delivered by registered or certified mail, return receipt requested, (iii) by electronic mail, as long as its delivery is confirmed through a receipt issued by the machine used by the sender and notice is also provided by one of the other means set forth in this Section 19 as promptly as practicable thereafter, or (iv) by an national courier service, to the person at the address set forth below, or such other address as may be designated in writing hereafter, in the same manner, by such person:

If to the Debtors:

Leslie Simoneau
Assistant General Counsel
The Hertz Corporation
8501 Williams Road
Estero, FL 33928
(239) 301-7298
leslie.simoneau@hertz.com

If to the Plaintiff:

Gregg I. Shavitz
Shavitz Law Group, P.A.
951 Yamato Road, Suite 285
Boca Raton, FL 33431
(561) 447-8888
gshavitz@shavitzlaw.com

AND

Mitchell Feldman
Feldman Legal Group
6940 West Linebaugh Ave., Suite 101
Tampa, FL 33625
(813) 639-9366
mlf@feldmanlegal.us

If to the Committee:

Philip Bentley
Kramer Levin LLP
1177 6th Ave.
New York, NY 10036
(212) 715-9505

pbentley@kramerlevin.com

20. This Settlement Agreement shall be construed pursuant to the laws of the State of Delaware and the Bankruptcy Code.

21. The Court shall have exclusive jurisdiction to determine as a core proceeding any dispute or controversy with respect to the interpretation or enforcement of this Settlement Agreement.

22. The headings of paragraphs herein are included solely for convenience of reference and shall not control the meaning or interpretation of any of the provisions of this Settlement Agreement.

23. This Settlement Agreement reflects the entire agreement and understanding of the Parties and supersedes, replaces, and renders void and unenforceable all prior contemporaneous agreements, representations and statements associated with, or in any matter related to, the subject matter of this Settlement Agreement, including all negotiations that led to the Settlement Agreement. No modifications or amendments of this Settlement Agreement are effective unless in writing and signed by the Parties.

24. In the event of litigation for breach of any terms of this Settlement Agreement, the prevailing party in such litigation shall be entitled to recover its reasonable legal fees, costs and expenses of litigation.

25. The Parties each acknowledge that they are entering into this Settlement Agreement freely, knowingly, voluntarily and with a full understanding of its terms. The Parties each acknowledge that in executing this Settlement Agreement, each Party is not relying on any inducements, statements, promises, or representations made by any other Party, or their agents, employees, or representatives, other than the consideration set forth herein. The Parties acknowledge that they have consulted with counsel of their own choosing concerning this Settlement Agreement and that they were given reasonable time to review and consider the terms of this Settlement Agreement. Each Party affirmatively represents to have the capacity to sign this Settlement Agreement and that there has been no assignment of any of the matters that are subject of the releases set forth above.

26. This Settlement Agreement is the product of negotiation and preparation by and among each Party and its respective attorneys. The Parties acknowledge and agree that this Settlement Agreement shall not be deemed prepared or drafted by one Party or another and should be construed accordingly.

27. If any provision or provisions of this Settlement Agreement shall be deemed invalid, illegal, or unenforceable, the validity, legality, and/or enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

28. The terms and provisions of this Settlement Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, successors and assigns.

29. This Settlement Agreement may be executed in counterparts and all so executed shall constitute one Settlement Agreement, which shall be binding upon all Parties hereto,

notwithstanding that all of the Parties' signatures do not appear on the same page. It is further agreed that signatures may be transmitted by fax or e-mail and are binding.

IN WITNESS WHEREOF, this Settlement Agreement shall be deemed executed on the date of this Settlement Agreement.

On Behalf of the Plaintiff

By: Robert Kinscherf Dated: 03/24/2021

Its: _____

On Behalf of the Debtors

By: _____ Dated: March 24, 2021

Its: EVP/General Counsel

On Behalf of the Committee

By: */s/ Philip Bentley* Dated: March 24, 2021

Its: Counsel for the Official Committee of Unsecured Creditors

EXHIBIT A

Proposed Settlement Agreement: Kemal v. The Hertz Corp., U.S. District Court, Southern District of New York, Case No. 19-cv-05461-RWL.

1. The Parties agree that in full satisfaction of all claims asserted by the Plaintiff Kemal, or that could have been asserted by the Plaintiff, in the case noted above or in any proof of claim filed with the Bankruptcy Court either directly or on behalf of a putative class or collective, the Debtors will pay $200,000 in cash and the employer to pay the employer's share of any required payroll taxes for the wages portion of the $200,000 payment. This payment is the sole source of recovery for any such claims asserted by the Plaintiff, or that could be asserted by the Plaintiff in the above-captioned case or in any proof of claim and is in full release of any related claims of any purported class member. The Debtors will not object to the noticing process and distribution of funds selected by Plaintiffs' counsel, including the amount of attorney and advisor fees and costs sought. The Parties also agree that reasonable service awards will be paid to Plaintiffs Polat Kemal and Tracy Jeffrey.

2. The Debtors will make the payment to the qualified settlement fund custodian, settlement administrator or other person designated in the definitive documents of the settlement within 14 days of the Bankruptcy Court's entry of a non-appealable order approving the settlement agreement. The Plaintiff agrees that within three business days of payment from the Debtors, the Plaintiff will voluntarily dismiss all claims in the above-captioned action with prejudice and withdraw his proofs of claim with prejudice.

3. The Parties will exchange full and customary releases and discontinuation of litigation, and representations regarding no future litigation against any of the Debtors in any way arising from the above-captioned case and related bankruptcy claims.

4. The Parties and the Committee agree to negotiate in good faith and use commercially reasonable efforts to execute and implement any definitive documents that are consistent with this stipulation,

5. Once the parties enter into definitive documentation, the parties will make best efforts to promptly file a motion to approve the settlement pursuant to Rule 9019.

6. This proposed settlement agreement is confidential and definitive documentation of this agreement will remain confidential until it is filed with the Bankruptcy Court, subject to the Debtors sharing it with the Unsecured Creditors Committee and the U.S. Trustee in advance of filing.

On Behalf of the Plaintiff

By: _____ Dated: 2/26/21

Its: counsel for plaintiff

On Behalf of the Debtors

By: _____ Dated: 2/26/21

Its: SVP & Assoc Gen'l Counsel

EXHIBIT 5

[Lee Proposed Order]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
The Hertz Corporation, *et al.*,[1]	Case No. 20-11218 (MFW)
Debtors.	(Jointly Administered)

ORDER PURSUANT TO BANKRUPTCY RULES 9019 AND 7023 APPROVING THE SETTLEMENT AGREEMENT BETWEEN THE DEBTORS AND LATONYA CAMPBELL AND PETER LEE

Upon the motion (the "**Motion**")[2] of the Debtors for entry of an order (this "**Order**") pursuant to sections 363 and 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019(a) and 7023 approving the settlements between The Hertz Corporation, on behalf of certain Debtor entities, and named plaintiffs LaTonya Campbell and Peter Lee in the Lee Litigation (as defined in the Motion), substantially in the form of the agreement attached hereto as **Exhibit 5A (**the "**Lee Settlement**"), as described more fully in the Motion; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this

[1] The last four digits of The Hertz Corporation's tax identification number are 8568. The location of the Debtors' service address is 8501 Williams Road, Estero, FL 33928. Due to the large number of Debtors in these chapter 11 cases, which are jointly administered for procedural purposes, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' proposed claims and noticing agent at https://restructuring.primeclerk.com/hertz.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion and the Settlement Agreement; and this Court having held a hearing, if necessary, to consider the relief requested in the Motion (the "**Hearing**"); and upon the record of the Hearing, if any; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein. Any objections or reservations of rights filed in respect of the Motion are overruled, with prejudice.

2. The Lee Settlement is APPROVED in its entirety, including but not limited to the waivers and releases contained therein and consideration provided therefor as if set forth herein.

3. The parties are authorized to take any steps as may be required or necessary to implement the Lee Settlement.

4. The Debtors are entitled to allow Proof of Claim No. 14464 as a general unsecured nonpriority claim solely upon the Hertz Corporation in the amount of $1,750,000.00

5. The Class Representatives will voluntarily dismiss all claims in the Lee Litigation with prejudice and withdraw or cause to be withdraw all other Proofs of Claim with prejudice within three (3) business days of the Effective Date, as defined in the Lee Settlement.

6. The Lee Settlement Class is certified for settlement purposes only pursuant to Rules 23(b)(2) and (b)(3) of the Federal Rules of Civil Procedure as modified by and made applicable to these proceedings by Bankruptcy Rules 7023 and 9014. For purposes of the Settlement Agreement only, the Settlement Class shall include all African American applicants for employment in a nonexempt position at a U.S.-based retail location of the Debtors who, from November 9, 2013, to February 20, 2019, were denied employment based in whole or in part based on the individuals' criminal histories.

7. Upon emergence from bankruptcy, unless otherwise provided, or otherwise agreed to by the Parties, the Debtor Defendants will engage in programmatic relief, as set forth fully in Section 13 of the Lee Settlement.

8. The Settlement Payment will be made to Class Counsel for allocation towards cash payments to the Class Members, the administration of notice and distribution to individual class members, payment of service awards to Class Representatives, and payment of Class Counsel's fees, costs and expenses, as set forth fully in Section 11 of the Lee Settlement.

9. Class Counsel will retain a settlement administrator to administer the distribution of the Settlement Payment to Class Members, as set forth more fully in Section 12 of the Lee Settlement.

10. The settlement administrator will provide Class Members notice of the Lee Settlement combined with a check for each Class Member's pro rata share of the Settlement Payment, as set forth more fully in Section 12 of the Lee Settlement.

11. The Court is not tolling or otherwise extending the Bar Date for any creditors who did not file an individual proof of claim.

12. No creditor other than the Class Members defined in the Purported Class Action shall gain any rights by reason of the Lee Settlement. Nor shall the Lee Settlement be admissible and/or used in any fashion in any action by any creditors.

13. The Debtors reserve all of their rights and defenses with respect to any creditor other than the Class Members.

14. This Court shall, and hereby does, retain jurisdiction with respect to all matters arising from or in relation to the interpretation and implementation of the Lee Settlement, and all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Exhibit 5A

[Lee Settlement]

Execution Version

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
The Hertz Corporation, *et al.*,[1]	Case No. 20-11218 (MFW)
Debtors.	(Jointly Administered)

Settlement Agreement and Release

This Settlement Agreement and Release (the "**Settlement Agreement**") is made and entered into as of March 26, 2021, by and between the plaintiffs Peter Lee and LaTonya Campbell on their own behalf and on behalf of others similarly situated (together, the "**Plaintiffs**"), by and through their undersigned counsel, Outten & Golden LLP ("**Class Counsel**", and The Hertz Corporation and Dollar Thrifty Automotive Group, Inc. (the "**Debtor Defendants**") on behalf of themselves and the other debtors in the above-captioned action (collectively, the "**Debtors**"), and the official committee of unsecured creditors in the Chapter 11 Cases, as defined herein (the "**Committee**"). The Plaintiffs, the Debtors, and the Committee are referred to collectively as the "**Parties**" or individually as a "**Party**." The Parties, by and through their respective counsel, stipulate and agree as follows:

Recitals

WHEREAS, the Plaintiffs filed a class complaint on December 12, 2018, against certain Debtors in *Lee, et al. vs. The Hertz Corporation, et al.*, No. 3:18-cv-07481-RS in the United States District Court for the Northern District of California (hereinafter the "**Lee Litigation**");

WHEREAS, in the Lee Litigation, the Plaintiffs asserted disparate impact claims against the Debtors under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.* relating to allegations stemming from the Debtors hiring processes;

WHEREAS, the Plaintiffs sought to certify a class comprised of all African American and Latino applicants for employment in a nonexempt position at a U.S.-based retail location of the Debtors who, from November 9, 2013, to the present, were denied employment based in

[1] The Debtors include the following entities: The Hertz Corporation, Hertz Global Holdings, Inc., Thrifty Rent-A-Car System, LLC, Thrifty, LLC, Dollar Thrifty Automotive Group, Inc., Firefly Rent A Car LLC, CMGC Canada Acquisition ULC, Hertz Aircraft, LLC, Dollar Rent A Car, Inc., Dollar Thrifty Automotive Group Canada Inc., Donlen Corporation, Donlen FSHCO Company, Hertz Canada Limited, Donlen Mobility Solutions, Inc., DTG Canada Corp., DTG Operations, Inc., Hertz Car Sales LLC, DTG Supply, LLC, Hertz Global Services Corporation, Hertz Local Edition Corp., Hertz Local Edition Transporting, Inc., Donlen Fleet Leasing Ltd., Hertz System, Inc., Smartz Vehicle Rental Corporation, Thrifty Car Sales, Inc., Hertz Technologies, Inc., TRAC Asia Pacific, Inc., Hertz Transporting, Inc., Rental Car Group Company, LLC, Rental Car Intermediate Holdings, LLC.

whole or in part, on the Debtors' alleged policy of denying employment to individuals with criminal histories (the "**Proposed Class**");

WHEREAS, the Plaintiffs and the Debtors were engaged in ongoing discovery and production of documents and other evidence in the Lee Litigation prior to the Petition Date (defined below);

WHEREAS, on May 22, 2020 (the "**Petition Date**"), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") with the United States Bankruptcy Court for the District of Delaware (the "**Court**") thereby commencing the chapter 11 cases (the "**Chapter 11 Cases**") which cases are being administered jointly pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**");

WHEREAS, the Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, on June 11, 2020, the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**") appointed the Committee pursuant to section 1102 of the Bankruptcy Code;

WHEREAS, on September 9, 2020, the Court entered the *Order Establishing Bar Dates and Related Procedures for Filing Proofs of Claim, Including Claims Arising Under Section 503(b)(9) of the Bankruptcy Code, and Approving the Form and Manner of Notice Thereof* [D.I. 1240] (the "**Bar Date Order**"), and the Debtors filed the *Notice of Deadlines for Filing Proofs of Claim, Including Claims Arising Under Section 503(b)(9) of the Bankruptcy Code Against Debtors* [D.I. 1243] (the "**Bar Date Notice**") establishing October 21, 2020 at 5:00 p.m. (prevailing Eastern Time) as the general bar date (the "**Bar Date**");

WHEREAS, pursuant to the Bar Date Order, Debtors' position is that each person that holds or seeks to assert a claim against the Debtors, whether or not such person is or may be included in or represented by a purported class, collective, or similar representative action, was required to properly file a proof of claim on or before the established Bar Date;

WHEREAS, pursuant to the Bar Date Order, Debtors served the Bar Date Notice to all known, potential claimants, including providing actual notice to Class Counsel, and also engaged in robust publication notice informing potential claimants of the Bar Date;

WHEREAS, prior to or on the Bar Date, certain individuals within the Proposed Class may have filed individual proofs of claim asserting claims that are duplicative of, or subsumed by the claims asserted in the Lee Litigation and/or arise out of the same or similar facts (the "**Individual Claims**"), and the Plaintiffs filed proofs of claim on behalf of the Proposed Class (Claim Nos. 12563 and 14464, the "**Purported Class Claims**"), as well as individual proofs of claim on their own behalf (Claim Nos. 14455, 14458, 14461, and 14463, the "**Plaintiffs' Individual Claims,**" together with the Individual Claims, Purported Class Claims the "**Proofs of Claim**") against debtors Dollar Thrifty Automotive Group, Inc., and The Hertz Corporation;

WHEREAS, on December 16, 2020, the Debtors, the Committee, and Plaintiffs, together with other representatives of the several class actions, agreed to a mediation process (the "**Mediation Process**");

WHEREAS, on December 18, 2020, in furtherance of the agreed-to Mediation Process, the Plaintiffs filed a motion to apply Bankruptcy Rule 7023 [D.I. 2165] (the "**Rule 7023 Motion**") to the Plaintiffs' Purported Class Claims to allow for class treatment by the Court;

WHEREAS, the Mediation Process and related procedures were approved by the Bankruptcy Court on January 14, 2021 in the *Order (I) Approving the Mediation Stipulation Regarding Claims Arising from Prepetition Representative Actions: (A) Appointing a Mediator, (B) Referring Certain Matters to Mediation and (C) Approving the Mediation Procedures, and (II) Granting Related Relief* [D.I. 2450] (the "**Mediation Order**");

WHEREAS, the Parties submitted the Lee Litigation to non-binding mediation, subject to the terms and conditions set forth in the Mediation Order to determine the validity, amount, and priority of claims that have been or may be asserted by plaintiffs individually and/or on behalf of their Proposed Class in the Chapter 11 Cases;

WHEREAS, on February 8, 2021 the Parties met for mediation and engaged in good faith, arm's length negotiations, in order to resolve the Proofs Of Claim against the Debtor Defendants in the Lee Litigation, limit the bankruptcy claims against the Debtor Defendants' estates, and prevent the costs, delays and uncertainties of protracted litigation in these Chapter 11 Cases, the Parties arrived at an initial, written agreement of proposed settlement terms signed by the Parties on February 12, 2021 (the "**Initial Agreement**"), attached hereto as Exhibit A, which agreement contemplates entry into this more definitive agreement;

WHEREAS, the Debtors proposed a joint chapter 11 plan of reorganization (including all exhibits thereto and as amended, modified, or supplemented, or replaced, the "**Plan**"), which shall provide treatment for all prepetition claims allowed in these Chapter 11 Cases and a disclosure statement for the Proposed Plan (together with all schedules and exhibits thereto, and as may be amended, modified, or supplemented, or replaced, the "**Disclosure Statement**") pursuant to section 1125 of the Bankruptcy Code, which shall be used to solicit votes to accept and reject the Plan;

WHEREAS, the Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334; this is a core proceeding pursuant to 28 U.S.C. § 157(b); and venue for this matter is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and;

NOW, THEREFORE, in consideration of the mutual covenants, the promises and other good and valuable consideration, the sufficiency of which hereby are acknowledged, the undersigned Parties agree as follows:

1. This Settlement Agreement will be binding on the Parties from the date of its execution, but is expressly subject to and contingent upon entry of a final non-appealable order of the Court approving the Settlement Agreement and the Parties' obligations hereunder (the "**Approval Order**").

2. Promptly upon the mutual execution and delivery of this Settlement Agreement, the Debtors shall file a motion with the Court, drafted with input from Class Counsel, seeking entry of the Approval Order pursuant to Bankruptcy Rule 9019 ("**Rule 9019 Motion**"), which motion may include proposed settlements with other mediation parties.

3. Debtors shall use commercially reasonable efforts to achieve entry of the Approval Order as soon as reasonably practicable, including by working in good faith to promptly resolve all formal and informal objections, if any, to the Approval Order. If requested by the Debtors, the Plaintiffs and their counsel, and the Committee shall take reasonable actions in support of the entry of the Approval Order and shall not take any Court action inconsistent with obtaining the Approval Order.

4. The Settlement Agreement will become effective when the Approval Order becomes final and no longer subject to appeal (the "**Effective Date**"). If the Court denies approval of this Settlement Agreement and the Effective Date does not occur, with the exception of provisions related to the manner of voting with respect to the Purported Class Claims as set forth herein (which for the avoidance of doubt, shall be binding and effective as of the date of signing of this Settlement Agreement), the Settlement Agreement, and the Initial Agreement, will be null and void and will be of no force and effect, and the rights and defenses of the Debtors, or any successor thereto, including any and all rights of the Debtors to object to the Proofs of Claim on any grounds permitted under applicable law, shall be reserved and retained. Upon such event, all parties reserve all rights and remedies with respect to the Lee Litigation and the Proofs of Claim.

5. The Proposed Class shall be certified as a class action as to the Proposed Class's claims in the Lee Litigation and Proofs of Claim, provided, however that such Proposed Class shall be certified for settlement purposes only pursuant to Rule 23(b)(2) and (b)(3) of the Federal Rules of Civil Procedures as modified by and made applicable to these proceedings by Bankruptcy Rules 7023 and 9014. For the avoidance of doubt, in the event the Settlement Agreement is not approved or not consummated for any reason and the Effective Date does not occur, Debtors shall retain any and all rights to contest and object to the certification of any purported class of claims related to the Lee Litigation.

6. For purposes of this Settlement Agreement only, the Proposed Class shall include all African American applicants for employment in a nonexempt position at a U.S.-based retail location of the Debtors who, from November 9, 2013, to February 20, 2019, were denied employment based in whole or in part based on the individuals' criminal histories (the "**Class Members**"). The Proposed Class definition in this Settlement Agreement differs from the definition sought in the Lee Litigation because (i) the Parties accounted for Hertz's position that there has been no adverse impact as to Latino applicants for employment in a nonexempt position; (ii) Hertz changed its written background check policy to eliminate any categorical exclusions as of February 20, 2019; and (iii) the Bar Date is not tolled or otherwise extended for any creditors who did not file an individual proof of claim.

7. For purposes of this Settlement Agreement only, Plaintiffs shall be appointed as class representatives of the Proposed Class (the "**Class Representatives**").

8. For purposes of this Settlement Agreement only, Outten & Golden LLP shall be appointed class counsel ("**Class Counsel**").

9. In full and final settlement of the Released Claims (defined below in paragraph 17), the Parties agree that Proof of Claim No. 14464 shall be allowed as a general unsecured nonpriority claim against The Hertz Corporation in the aggregate amount of $1,750,000 (the "**Settlement Claim**") to Class Representatives and the Class Representatives will voluntarily dismiss all claims in the Lee Litigation with prejudice and withdraw or cause to be withdrawn all other Proofs of Claim with prejudice within three business days of the Effective Date.

10. The Settlement Claim shall be administered in accordance with the terms of any plan of reorganization confirmed in the Chapter 11 Cases or other disposition of the Chapter 11 Cases (the "**Settlement Payment**"). The Debtors make no representations that there will be sufficient funds in the estate to pay the allowed claims in full or in part.

11. The Settlement Payment will be made to Class Counsel, for allocation towards the following: (i) cash payments to the Class Members; (ii) the administration of notice and distribution to individual class members; (iii) payment of $10,000 service awards to Class Representatives and (iv) payment of Class Counsel's fees, costs and expenses. Debtors will not object to the method and allocation of the Settlement Payment. Debtors shall pay all taxes an employer is required to pay pursuant to federal, state, and/or local law arising out of or based upon the payment of employment compensation in this Litigation ("**Employer Payroll Taxes**"). Employer Payroll Taxes shall be paid separate from, and in addition to, the Settlement Payment.

12. Within 30 days of the Effective Date, Class Counsel will retain a settlement administrator to administer the distribution of the Settlement Payment to Class Members. Among other things, the settlement administrator will mail each Class Member a settlement notice combined with a check for each Class Member's pro rata share of the Settlement Payment. The settlement administrator shall also maintain a website and/or a phone number where Class Members may submit questions about the settlement.

13. Upon emergence from bankruptcy, unless otherwise expressly provided, or otherwise agreed to by the Parties, the Debtor Defendants will engage in programmatic relief as follows:

A. Debtors agree that they will not implement categorical barriers to employment as a result of misdemeanor or felony convictions or pending charges, including but not limited to convictions or pending charges for a felony or misdemeanor involving assault, violence, sale of controlled substances or theft.

B. Debtors agree that their criminal history processes will:

i. Include the specific factors that Debtors consider in evaluating criminal history and how to use those factors to evaluate risk and job-relatedness;

ii. Evaluate pending charges under the same framework as convictions (e.g., taking into account risk, job-relatedness etc.). Where Debtors'

assessment of risk, job-relatedness, and other factors leads to a denial of employment, Debtors will establish a process to reconsider the candidate's criminal history once the pending charge is final, providing the applicant with an opportunity to submit new and/or updated information about the charge and considering such information in its evaluation, providing the applied-for position remains open and available; and

iii. Request and consider (if provided) an applicant's evidence of rehabilitation before determining whether an applicant's criminal history would disqualify them for employment and before sending a pre-adverse action letter. Debtors can only consider this information if the candidate provides it.

C. Debtors will retain APTMetrics to provide a one-time training on best practices for screening for criminal history in the hiring process (https://aptmetrics.com/). Debtors will hold this training within a reasonable period of time after Debtors emerge from bankruptcy (or at an earlier time agreed to by the Parties) and the training will be provided to (i) talent acquisition employees who are involved with evaluating criminal background check information and (ii) those employees responsible for revising the Debtors' policies related to evaluating employment candidates' criminal histories. After the training is completed, Debtors will advise Class Counsel that they have complied with this provision.

D. To the extent Debtors continue to ask applicants to self-disclose criminal history (in addition to screening for criminal history as part of the consumer reporting agency background check), Debtors agree not to deny employment solely because of an applicant's failure to disclose their complete criminal history.

E. Debtors agree to allow Class Members to reapply to work for Debtors, which shall be solely in the form of an opportunity to apply, and not any priority or preferential hiring obligation.

F. Within 60 days after the Effective Date of this Settlement Agreement, (or an earlier time agreed to by the Parties) Debtors and their attorneys agree to meet (via video conference) with Class Counsel to explain the process they use to evaluate candidate criminal history. Any discussion that takes place during the meeting will be confidential, will not be disclosed to any third-party, and shall not be used or relied on for any purpose whatsoever other than administration of this Settlement Agreement. At the meeting, Debtors will provide its current policy to Class Counsel which will establish that it has complied with the programmatic relief provisions of Paragraph 13(A)-13(D), above. In the event Class Counsel determines Debtors' current policy does not comply with the provisions of Paragraphs 13(A)-(D), Class Counsel will propose revisions to bring the policy into compliance within 14 days of their meeting with Debtors and their attorneys. The Parties will meet again 60 days (via video conference) after Class Counsel submits their revisions and Debtors will consider in good faith whether to

implement Class Counsel's proposed changes. Nothing in this provision shall require Debtors to change their criminal background check evaluation process based on Class Counsel's proposals.

14. Class Counsel will provide semi-annual oversight of compliance with the programmatic relief for two years from Debtors' emergence from bankruptcy. During this oversight period, Debtors will provide Class Counsel a written progress report every six months that shows the number of individuals who received a conditional offer of employment and the subset of those individuals whose conditional offer was rescinded due to Debtor's evaluation of the offeree's criminal background check information. The report will be provided within 60 days of the end of the relevant six-month period.

15. The Debtors will pay Class Counsel, as a post-petition administrative expense, up to $200,000 for legal fees incurred in respect of programmatic undertaking to be paid to Class Counsel for documented, reasonable fees.

16. Class Counsel represent and warrant that, upon certification of the class by the Court, and approval of the Settlement by the Court, they have the authority to release claims on behalf of the Proposed Class (the contours of this release is provided in Paragraph 17).

17. Except for the rights arising out of, provided for or reserved in this Settlement Agreement, Class Members, for and on behalf of themselves and their respective predecessors, successors, agents, attorneys, heirs, representatives, assigns, affiliates and subsidiaries (collectively the "**Releasing Parties**"), do hereby fully and forever release and discharge the Debtor Defendants, the Debtors, and their affiliates, subsidiaries, predecessors, parent(s), successors, assigns, officers, directors, shareholders, agents, employees, partners, members, insurers, accountants, attorneys, representatives and other agents, and all of their respective predecessors, successors and assigns (collectively, the "**Released Parties**") of and from any and all claims, demands, debts, liabilities, obligations, liens, actions and causes of action, costs, expenses, attorneys' fees and damages of whatever kind or nature, at law, in equity and otherwise, whether known or unknown, anticipated, suspected or disclosed, that the Releasing Parties have against the Released Parties, including any claims that relate to the Debtors' consideration of criminal background history information for determining employment, or which arise from the claims in the Lee Litigation and the Proofs of Claim (the "**Released Claims**"). On the Effective Date, all Released Claims are deemed settled, released, withdrawn and dismissed in their entirety, on the merits, with prejudice. However, nothing in this Settlement Agreement shall be deemed to constitute a waiver of any claims arising from Debtor's consideration of criminal background check information in the hiring process that takes place after the Effective Date of this Agreement.

18. In connection with the 9019 Motion, the Debtors will seek to have the Court determine that the Bar Date is not tolled or otherwise extended for any creditors who did not file an individual proof of claim.

19. In connection with solicitation related to the Debtors' Plan, the Proposed Class shall have a single vote in the amount of the Settlement Claim, for voting purposes only. On the solicitation date, Prime Clerk LLC, the Debtors' solicitation agent in the Chapter 11 Cases, will

serve on Class Counsel a solicitation package and a preprinted ballot in respect of Proof of Claim No. 14464, which shall count as one vote in the amount of $1,750,000 if it is returned in compliance with the applicable solicitation procedures (the "**Solicitation Procedures**").[2] To the extent that the Court does not approve this Settlement Agreement or the Settlement Agreement terminates for any reason and the Debtors' have not objected to the Purported Class Claims on or before the solicitation date set in the Solicitation Procedures, Class Counsel shall have a general unsecured Claim worth one (1) vote in the amount of $1.00. For the avoidance of doubt, this paragraph 18 of the Settlement Agreement shall be binding and effective as of the date of this Settlement Agreement and shall survive the termination of this Settlement Agreement.

20. The Class Representatives and Class Counsel agree that they will not, directly or indirectly, object to, impede, or take any other action to interfere with acceptance, implementation, or consummation of the Plan or file with any court (including the Court) any motion, pleading, or other document that is not, in whole or in part, materially consistent with the Settlement Agreement or the Plan, provided however, that either of the Class Representatives is a Committee Member, this Settlement Agreement does not bar or otherwise restrict any actions the Class Representative may take in that capacity.

21. The Parties agree that they are compromising and settling disputed claims. Each of the Parties agrees it shall not commence or continue any contested matter, adversary proceeding, lawsuit, arbitration, or file other proofs of claim in these Chapter 11 Cases which contests, disputes or is inconsistent with any provision of this Settlement Agreement. Class Counsel for the firm of Outten & Golden LLP states and represents that it does not have any clients regarding any claims brought in these Chapter 11 cases except for their Clients in the Lee Litigation and in *S. Sharma, O. Molina, and P. Bobadilla v. The Hertz Corporation*, No. 19CV359023. Nothing in this provision specifically, or this Settlement Agreement generally, shall or can be interpreted to violate the right to practice law.

22. Neither this Settlement Agreement nor any of its provisions, nor evidence of any negotiations or proceedings related to this Settlement Agreement, shall be offered or received in evidence in these Chapter 11 Cases, or any other action or proceeding, as an admission or concession of liability or wrongdoing of any nature on the part of any of the Released Parties, or anyone acting on their behalf, and the Debtor Defendant specifically denies any such liability or wrongdoing. The Settlement Agreement is intended to settle and dispose of claims which are contested and denied. Nothing herein shall be construed as an admission by any Party of any liability of any kind to any other Party.

23. Nothing herein shall prevent any Party from seeking to offer this Settlement Agreement in evidence after the entry of the Approval Order for the purpose of enforcing the terms of this Settlement Agreement.

24. This Settlement Agreement is confidential until it is filed with the Court, subject to Debtors sharing it with the Committee and the U.S. Trustee in advance of filing.

25. All notices or other communications hereunder shall be deemed to have been duly

[2] The Solicitation Procedures will be filed with the Debtors' motion to approve the Disclosure Statement.

given and made if (i) in writing and if served by personal delivery upon the Party for whom it is intended, (ii) delivered by registered or certified mail, return receipt requested, (iii) by electronic mail, as long as its delivery is confirmed through a receipt issued by the machine used by the sender and notice is also provided by one of the other means set forth in this Section 25 as promptly as practicable thereafter, or (iv) by an national courier service, to the person at the address set forth below, or such other address as may be designated in writing hereafter, in the same manner, by such person:

If to the Debtors:

Leslie Simoneau
Assistant General Counsel
The Hertz Corporation
8501 Williams Road
Estero, FL 33928
(239)-301-7298
leslie.simoneau@hertz.com

If to the Plaintiffs:

Christopher McNerney
Outten & Golden LLP
685 3rd Ave., 25th Fl.
New York, NY 10017
(212) 245-1000
cmcnerney@outtengolden.com

Jahan Sagafi
Adam Koshkin
Outten & Golden LLP
One California Street, 12th Fl.
San Francisco, CA 94111
akoshkin@outtengolden.com
jsagafi@outtengolden.com

If to the Committee:

Philip Bentley
Kramer Levin LLP
1177 6th Ave.
New York, NY 10036
(212) 715-9505
pbentley@kramerlevin.com

26. This Settlement Agreement shall be construed pursuant to the laws of the State of Delaware and the Bankruptcy Code.

27. The Court shall have exclusive jurisdiction to determine as a core proceeding any dispute or controversy with respect to the interpretation or enforcement of this Settlement Agreement.

28. The headings of paragraphs herein are included solely for convenience of reference and shall not control the meaning or interpretation of any of the provisions of this Settlement Agreement.

29. This Settlement Agreement reflects the entire agreement and understanding of the Parties and supersedes, replaces, and renders void and unenforceable all prior contemporaneous agreements, representations and statements associated with, or in any matter related to, the subject matter of this Settlement Agreement, including all negotiations that led to the Settlement Agreement. No modifications or amendments of this Settlement Agreement are effective unless in writing and signed by the Parties.

30. In the event of litigation for material breach of any terms of this Settlement Agreement, the prevailing party in such litigation shall be entitled to recover its reasonable legal fees, costs and expenses of litigation.

31. The Parties each acknowledge that they are entering into this Settlement Agreement freely, knowingly, voluntarily and with a full understanding of its terms. The Parties each acknowledge that in executing this Settlement Agreement, each Party is not relying on any inducements, statements, promises, or representations made by any other Party, or their agents, employees, or representatives, other than the consideration set forth herein. The Parties acknowledge that they have consulted with counsel of their own choosing concerning this Settlement Agreement and that they were given reasonable time to review and consider the terms of this Settlement Agreement. Each Party affirmatively represents to have the capacity to sign this Settlement Agreement and that there has been no assignment of any of the matters that are subject of the releases set forth above.

32. This Settlement Agreement is the product of negotiation and preparation by and among each Party and its respective attorneys. The Parties acknowledge and agree that this Settlement Agreement shall not be deemed prepared or drafted by one Party or another and should be construed accordingly.

33. If any provision or provisions of this Settlement Agreement shall be deemed invalid, illegal, or unenforceable, the validity, legality, and/or enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

34. The terms and provisions of this Settlement Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, successors and assigns.

35. This Settlement Agreement may be executed in counterparts and all so executed shall constitute one Settlement Agreement, which shall be binding upon all Parties hereto, notwithstanding that all of the Parties' signatures do not appear on the same page. It is further agreed that signatures may be transmitted by fax or e-mail and are binding.

IN WITNESS WHEREOF, this Settlement Agreement shall be deemed executed on the date of this Settlement Agreement.

Execution Version

On Behalf of the Plaintiffs

By: _____ Dated: March 26, 2021

Its: Counsel

On Behalf of the Debtors

By: _____ Dated: March 26, 2021

Its: EVP / General Counsel

On Behalf of the Committee

By: */s/ Philip Bentley* Dated: March 26, 2021

Its: Counsel for the Official Committee of Unsecured Creditors

EXHIBIT A

Proposed Settlement Agreement: Lee v. The Hertz Corporation

1. The Parties agree that in full satisfaction of all claims asserted by the Plaintiffs, or that could have been asserted by the Plaintiffs in any proof of claim filed with the Bankruptcy Court either directly or on behalf of a putative class, the Debtors will agree to allow a 1.75 million dollar general, unsecured claim against The Hertz Corporation.

2. The Parties agree that The Hertz Corporation and Dollar Thrifty Automotive Group ("Hertz") will engage in programmatic relief consistent with that set out in the Plaintiffs' mediation statement February 3, 2021, to be memorialized in the parties' settlement agreement. The Parties agree that Plaintiffs' attorneys will provide semi-annual oversight of compliance with the programmatic relief, for two years. The Parties agree that the Debtors will pay as a post-petition administrative expense up to $200,000 for legal fees incurred in respect of programmatic undertakings to be paid to Plaintiffs for documented, reasonable fees. The Debtors will seek authority to pay such claim as part of the settlement approval papers.

3. The Parties agree that the payments described in paragraphs 1 and 2 are the sole source of recovery for any claims asserted by the Plaintiffs and is in full release of any related claims of any purported class member. The payment in paragraph 1 will also cover all expenses associated with noticing and distribution to putative class members as defined in the Plaintiffs' proofs of claim. Debtors will not object to the noticing process and distribution of funds selected by Plaintiffs counsel.

4. The Plaintiffs agree that within three business days of payment from the Debtors, the Plaintiffs will voluntarily dismiss all claims in the underlying action with prejudice and withdraw their proofs of claim with prejudice.

5. The Parties will exchange customary releases, and discontinuation of litigation.

6. Plaintiffs agree to vote to accept the Chapter 11 Plan with respect to its Claim. Plaintiffs shall not, directly or indirectly, object to, impede, or take any other action to interfere with acceptance, implementation, or consummation of the Chapter 11 Plan or file with any court (including the Bankruptcy Court) any motion, pleading, or other document that is not, in whole or in part, materially consistent with this stipulation or the Chapter 11 Plan. It is the intention of the Parties to enter into definitive documentation, a draft to be sent to Plaintiffs within five business days, memorializing all of the foregoing. The Parties agree to negotiate in good faith and use commercially reasonable efforts to execute and implement any definitive documents that are consistent with this stipulation.

7. The Parties agree to negotiate in good faith and use commercially reasonable efforts to execute and implement any definitive documents that are consistent with this stipulation, including with respect to appropriate programmatic relief.

8. Debtors' counsel will be responsible for preparing settlement approval papers. The Debtors will defer to Plaintiffs' counsel on all issues related to class certification for settlement purposes.

9. Once the parties enter into definitive documentation, the parties will make best efforts to file the settlement so that it is heard at the next available omnibus hearing that involved minimum notice requirements.

10. This Proposed Settlement Agreement is confidential until it is filed with the Bankruptcy Court, subject to Debtors sharing it with the Unsecured Creditors Committee and the U.S. Trustee in advance of filing.

11. This agreement is subject to and contingent upon entry of a final, nonappealable order by the Bankruptcy Court approving the settlement. In the event that approval is not obtained, this agreement is void.

IT IS SO AGREED:

For Plaintiffs Peter Lee and Latonya Campbell

Date: Feb. 11, 2021

Plaintiff's Counsel
Christopher McNerney

Date: Feb. 12, 2021

For Defendant The Hertz Corporation

Defendant's Counsel