

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

CRAIG KROMREY, *et al.*,)
on behalf of themselves and all)
similarly situated individuals,)

Plaintiffs,)

Civil Action No. 3:24cv575

V.)

CAPITAL ONE, N.A.,)

Defendant.)

SETTLEMENT AGREEMENT AND RELEASE

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This Settlement Agreement and Release (the “Settlement Agreement”) is entered into by and between Plaintiffs Craig Kromrey (“Kromrey”) and Gregory Miller (“Miller”) (together, Plaintiffs”), for themselves and the Settlement Class Members (as defined below), on the one hand, and, on the other hand, Capital One, N.A., (“Capital One”). Plaintiffs and Capital One are referred to collectively in this Settlement Agreement as the “Parties.”

1 RECITALS

1.1 On August 13, 2024, Plaintiff Craig Kromrey and former Plaintiff Zaher Murray filed a class action in the Eastern District of Virginia against Capital One, captioned *Kromrey v. Capital One, N.A.*, Case No. 3:24-cv-00575 (E.D. Va.). Plaintiffs filed their First Amended Class Action Complaint on October 21, 2024. The First Amended Complaint alleged, among other things, that Capital One erroneously reported consumers to the credit reporting agencies as deceased in violation of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1682s-2(b).

1.2 Capital One denies each allegation of wrongful conduct and damages contained in the First Amended Complaint and has numerous defenses to the Named Plaintiffs’ claims. Capital One specifically denies that it violated the FCRA and disclaims any wrongdoing or liability. Capital One further denies that this matter satisfies the requirements to be tried as a class action under Federal Rule of Civil Procedure 23.

1.3 This Settlement Agreement resulted from good faith, arm’s-length settlement negotiations, including an in-person mediation session before the Hon. John A. Gibney, Senior U.S. District Judge for the U.S. District Court for the Eastern District of Virginia.

1.4 The Parties recognize that the outcome of this matter is uncertain and that a final resolution through the litigation process would require protracted adversarial litigation and appeals, substantial risk and expense, the distraction and diversion of Defendant’s personnel and resources, and the expense of any possible future litigation raising similar or duplicative claims;

and the Named Plaintiffs, Defendant, and their respective counsel have agreed to resolve this matter as a class action settlement according to the terms of this Settlement Agreement.

1.5 The Parties believe that this Settlement Agreement is fair, reasonable, and adequate in its resolution of the claims brought because it: (1) provides for certification of a “Settlement Class,” even though Defendant maintains that certification of any class for trial purposes would not be proper under Federal Rule of Civil Procedure 23; (2) provides that Capital One will clarify its policies and procedures to ensure ongoing compliance with the FCRA; (3) provides for a monetary payment to the Settlement Class Members, all in exchange for releases tailored to the claims made against Defendant.

1.6 It is the intention of the Parties to resolve the disputes and claims which they have between them on the terms set forth below.

NOW, THEREFORE, in consideration of the promises, covenants, and agreements herein described and for other good and valuable consideration acknowledged by each of the Parties to be satisfactory and adequate, and intending to be legally bound, the Parties do hereby mutually agree as follows:

2 DEFINITIONS

As used in all parts of this Agreement, including the recitals above, and the exhibits hereto, the following terms have the meanings specified below:

2.1 “Action” means the proceeding captioned *Kromrey v. Capital One, N.A.*, Case No. 3:24-cv-00575 (E.D. Va.).

2.2 “Administrative Costs” means all reasonable costs and expenses incurred by the Settlement Administrator in carrying out its duties under this Agreement.

2.3 “Agreement” or “Settlement Agreement” means this Settlement Agreement and Release and all of its attachments and exhibits, which the Parties understand and agree set forth all

material terms and conditions of the Settlement of the Action between them and which is subject to approval by the Court.

2.4 “Attorneys’ Fees” means the attorneys’ fees that Class Counsel request the Court to approve for payment from the Settlement Fund as compensation for Class Counsel’s work in prosecuting and settling the Action.

2.5 “Business Days” means Monday, Tuesday, Wednesday, Thursday, and Friday, excluding holidays observed by the U.S. federal government.

2.6 “Capital One” means Capital One, National Association.

2.7 “Capital One’s Counsel” means Capital One’s counsel of record in the Action from the law firm of McGuireWoods LLP.

2.8 “Class Counsel” means Kristi Kelly, Andrew Guzzo, Casey Nash, Pat McNichol and Matt Rosendahl of Kelly Guzzo, PLC, and E. Michelle Drake and Joseph Hashmall of Berger Montague PC.

2.9 “Class List” means the list of class members of the Settlement Class that will be generated by Defendant and verified by Class Counsel, as further described in Section 9.2.

2.10 “Complaint” means the First Amended Class Action Complaint, at Docket Entry Number 21, filed in the Action on October 21, 2024.

2.11 “Court” means the Richmond Division of the United States District Court for the Eastern District of Virginia, where the Action is pending.

2.12 “Debt Collectors” means the law firms that have contracted with Capital One to collect debt on Capital One credit card accounts in the United States.

2.13 “Defendant” means Capital One.

2.14 “Effective Date” means the date on which a Judgment for the Settlement Class becomes final for all purposes because either: (a) no objection has been made to the settlement and no party has sought to intervene; (b) if any objection or motion to intervene was made, no appeal has been filed and thirty (30) days have lapsed since entry of the Final Judgment and Order; or (c) if a timely appeal has been filed, the appeal is finally resolved, with no possibility of further appellate or other review, resulting in final judicial approval of the settlement.

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

2.16 “Expenses” means the reasonable costs and expenses incurred in litigating the Action that Class Counsel request the Court to approve for payment from the Settlement Fund.

2.17 “Final Approval” means entry of a Final Approval Order and Judgment.

2.18 “Final Approval Hearing” means the hearing to be conducted before the Court to determine the fairness, adequacy, and reasonableness of the Agreement pursuant to Federal Rule of Civil Procedure 23 and whether to enter a Final Approval Order and Judgment.

2.19 “Final Approval Order and Judgment” means an order and judgment that the Court enters after the Final Approval Hearing, substantially similar to that attached as **Exhibit A**, which finally approves the Agreement, certifies the Settlement Class, dismisses the Defendants with prejudice, and otherwise satisfies the settlement-related provisions of Federal Rule of Civil Procedure 23 in all respects.

2.20 “Funding Date” means five (5) business days from the Effective Date.

2.21 “Judgment” means the Final Approval Order and Judgment.

2.22 “Named Plaintiffs” means Craig Kromrey and Gregory Miller.

2.23 “Notice” means the notice (in a form substantially similar to that attached as **Exhibit B** and approved by the Court) that will be emailed or mailed to the Settlement Class, as further described in Section 10.

2.24 “Notice Costs” means all reasonable costs and expenses incurred in connection with implementing and executing the Notice Plan.

2.25 “Notice Plan” means the Settlement notice program to be presented by Class Counsel to the Court for approval in connection with a motion seeking a Preliminary Approval Order.

2.26 “Parties” means the Settlement Class Representatives, on behalf of themselves and the Settlement Class, and Capital One.

2.27 “Parties’ Counsel” means Class Counsel and Capital One’s Counsel.

2.28 “Preliminary Approval Order” means an order, substantially similar to that attached as **Exhibit C**, finding that the Court has Article III jurisdiction over the Action, determining that the Court will likely be able to approve the Settlement under Federal Rule of Civil Procedure 23(e)(2), and concluding that the Court will likely be able to certify the Settlement Class for purposes of entering a Judgment. The Preliminary Approval Order will include, among other things, (i) a procedure for Settlement Class Members to object to or request exclusion from the Settlement, (ii) the date and time of the Final Approval Hearing, and (iii) pertinent information from the Notice Plan.

2.29 “Released Parties” means Defendant and its predecessors, successors, and assigns, as well as each of their present and former members, principals, partners, officers, directors, control persons, employees, insurers, shareholders, representatives, and attorneys.

2.30 “Service Award” means the one-time payment to the Named Plaintiffs, for the time and resources that they have put into representing the Settlement Class, as set forth in Section 6.

2.31 “Settlement” means the settlement of the Action by and between the Parties, and the terms and conditions thereof as stated in this Agreement.

2.32 “Settlement Administrator” means, subject to Court approval, American Legal Claim Services, LLC.

2.33 “Settlement Class Representatives” means the Named Plaintiffs in this Action, Craig Kromrey and Gregory Miller.

2.34 “Settlement Class Website” means the Internet website to be established by the Settlement Administrator, as part of the Notice Plan.

2.35 “Settlement Fund” means the monetary relief which Defendant has agreed to provide for the benefit of the Settlement Class, as further described in Section 3.

3 SETTLEMENT FUND

3.1 By the Funding Date, Capital One agrees to make a non-reversionary settlement payment of two million four hundred thousand United States Dollars (\$2,400,000) and deposit that settlement payment into the Settlement Fund into the Escrow Account.

3.2 The Settlement Fund shall be used to pay for (i) Notice Costs; (ii) Administrative Costs; (iii) Service Awards approved by the Court; (iv) Attorneys’ Fees and Expenses approved by the Court; and (v) funds to pay out the Settlement Class Members’ statutory and punitive damages under 15 U.S.C. § 1681n on a *pro rata* basis. In no event shall Capital One be obligated to pay more than two million four hundred thousand United States Dollars (\$2,400,000) in connection with the Settlement of the Action, including with respect to all Notice Costs and Administrative Costs. In no event shall any funds revert to Capital One.

4 SETTLEMENT FUND ACCOUNT

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

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

4.3 All (a) Taxes (including any estimated Taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be imposed upon the Released Parties with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund do not qualify as a “qualified settlement fund” for federal or state income tax purposes (“Taxes”), and (b) expenses and costs incurred in connection with the operation and implementation of this Subsection (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and

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

4.4 All interest or other economic benefits derived from the Settlement Fund shall be included in the definition of the Settlement Fund and shall not be used to provide benefits or income to any third parties.

5 ATTORNEYS’ FEES AND EXPENSES

5.1 Class Counsel shall submit a request to the Court for payment of Attorneys’ Fees, expressed as a percentage of the value conferred by the Settlement on the Settlement Class, and for reimbursement of Expenses incurred in prosecuting and settling the Action. No later than forty-five (45) days before the Final Approval Hearing, Class Counsel shall file any request for Attorneys’ Fees and Expenses must be filed with the Court. If approved by the Court, such Attorneys’ Fees and Expenses shall be paid by the Settlement Administrator from the Settlement

Fund within fourteen (14) Business Days of the Effective Date, provided, however, that one half of the Attorneys' Fees awarded shall not be paid prior to January 1, 2026. For the avoidance of doubt, Capital One shall not under any circumstances be responsible for the payment of any Attorneys' Fees and Expenses.

5.2 Capital One agrees not to oppose any request to the Court for Attorneys' Fees and Expenses, provided such a request does not seek a fee in excess of thirty-three percent (33%) of the Settlement Fund, not including Expenses. Expenses shall also be paid out of the Settlement Fund. Notwithstanding the foregoing, Capital One shall have the right to file a response to any request for Attorneys' Fees and Expenses to address any misstatements or material omissions made therein.

5.3 The Parties agree that the effectiveness of this Agreement is not contingent upon the Court's approval of the payment of any Attorneys' Fees and Expenses. If the Court declines to approve, in whole or in part, a request for Attorneys' Fees and Expenses, all remaining provisions in this Agreement shall remain in full force and effect. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the payment of Attorneys' Fees and Expenses, or the amount thereof, shall be grounds for cancellation or termination of this Agreement.

6 SERVICE AWARDS

6.1 The Settlement Class Representatives and Class Counsel shall submit a request to the Court for payment of Service Awards, not to exceed ten thousand United States Dollars (\$10,000) per individual, to the Settlement Class Representatives. No later than forty-five (45) days prior to the Final Approval Hearing, the Named Plaintiffs shall make their request for Service Awards with the Court. If approved by the Court, such Service Awards shall be paid by the Settlement Administrator from the Settlement Fund within the later of: (1) five (5) business days

after the Effective Date; or (2) fourteen (14) days after receipt by Defendant and the Settlement Administrator of the Named Plaintiffs' properly completed W-9 forms. For the avoidance of doubt, Capital One shall not under any circumstances be responsible for the payment of any Service Awards.

6.2 Capital One agrees not to oppose any request to the Court for Service Awards, provided such request does not seek more than ten thousand United States Dollars (\$10,000) per individual.

6.3 The Parties agree that the effectiveness of this Agreement is not contingent upon the Court's approval of the payment of any Service Awards. If the Court declines to approve, in whole or in part, a request for Service Awards, all remaining provisions in this Agreement shall remain in full force and effect. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the payment of Service Awards, or the amount thereof, shall be grounds for cancellation or termination of this Agreement.

7 BUSINESS PRACTICE CLARIFICATIONS

7.1 In addition to the monetary relief provided by the Settlement Fund as contemplated in Section 3, Capital One has agreed to implement certain business practice clarifications. Capital One will implement these clarifications within 30 days after the Effective Date. Capital One will continue to implement these clarifications for a period of two years.

7.2 Capital One agrees to clarify its policies and procedures governing its Debt Collectors' use of business account information to search death records, such as the Social Security Administration's Death Master File, and report that consumers are deceased to Capital One. Specifically, Capital One will clarify its policies and procedures governing its Debt Collectors as follows:

7.2.a. Capital One will prohibit Debt Collectors from reporting a consumer as deceased to Capital One based solely on information that a business linked to a consumer is “deceased.” This includes instances when a Debt Collector’s records indicate that a consumer is deceased because he or she is the personal guarantor of or co-debtor on an account for a business that has been marked as “deceased.”

7.3 Capital One further agrees to provide its Debt Collectors with policies and procedures that reflect the clarifications described in this Section.

7.4 Capital One will require that, each time a Debt Collector reports a consumer as deceased to Capital One, the Debt Collector must also inform Capital One of the source(s) it used to determine that the consumer is deceased.

7.5 The business practice clarifications set forth in this Section apply only to Capital One-branded credit card accounts. These clarifications do not apply to any Discover Bank (“Discover”)-branded accounts, whether these accounts were originated before or after the merger between Capital One and Discover completed on May 18, 2025.

8 PRELIMINARY APPROVAL

8.1 As soon as reasonably practicable, the Named Plaintiffs shall file with the Court a Motion for Preliminary Approval of the Proposed Settlement; Conditional Certification of the Settlement Class, Appointment of Class Counsel; Approval and Direction of the Settlement Class Notice Plans; and Appointment of the Settlement Administrator. The Motion shall seek entry of an Order that would, for settlement purposes only:

8.1.a. preliminarily approve this Settlement Agreement;

8.1.b. preliminarily certify a settlement class under Federal Rule of Civil Procedure 23(b)(3), comprised of the Settlement Class Members;

8.1.c. appoint the Named Plaintiffs and Class Counsel to represent the Settlement Class;

8.1.d. approve the proposed Settlement Class Notice Plan, and

8.1.e. appoint the Settlement Administrator.

8.2 Defendant contends that this Litigation, and each of the respective classes alleged therein, could not be certified, for trial purposes, as a class action under Federal Rule of Civil Procedure. Nothing in this Settlement Agreement shall be construed as an admission by Defendant that this Litigation or any similar case is amenable to class certification for trial purposes. To the contrary, Defendant and its Affiliates believe that certification of the Settlement Class through a contested motion for class certification in the non-settlement context would be improper. Furthermore, nothing in this Settlement Agreement shall prevent Defendant from opposing class certification or seeking de-certification of the conditionally-certified, tentative Settlement Class if Final Approval of this Settlement Agreement is not obtained or not upheld on appeal, including review by the Supreme Court of the United States, for any reason, or if any of the conditions exist that permit Defendant to terminate this Settlement Agreement in accordance with Section 16.

9 SETTLEMENT CLASS

9.1 For purposes of settlement only, and upon the express terms and conditions set forth in this Settlement Agreement, the Named Plaintiffs and Defendant agree to seek certification of a Settlement Class in the Litigation, which shall be defined as:

All natural persons (1) who were reported as deceased by Capital One to the CRAs based on information related to their credit card accounts and (2) about whose credit card accounts Capital One received one or more disputes from the CRAs that were submitted between August 13, 2019, and the date when the Court grants preliminary approval of the class settlement; and (3) in response to one or more of those disputes, Capital One did not correct its deceased reporting.

The phrase “credit card accounts,” as used in this definition, includes only Capital One-branded credit card accounts and excludes Discover-branded accounts, whether they were originated prior to or after the merger completed on May 18, 2025. With regard to element (3) of the class definition, Capital One will be considered to have corrected its deceased reporting if, in response to a particular dispute, it submitted an Equal Credit Opportunity (“ECOA”) code other than “X” or deleted the disputed tradeline. The Settlement Class will not include consumers who were deceased at the time of Capital One’s deceased reporting on their account(s).

9.2 Within ten days after Preliminary Approval, the Class List will be provided to Class Counsel and Settlement Administrator, which will include the following information for each Settlement Class Member:

9.2.a. the Settlement Class Member’s name;

9.2.b. the Settlement Class Member’s last known postal address;

9.2.c. the Settlement Class Member’s date of birth;

9.2.d. the last four digits of the Settlement Class Member’s Social Security Number; and

9.2.e. the Settlement Class Member’s e-mail address used to open or receive information regarding his or her accounts with Defendant.

9.3 Upon request of the Settlement Administrator in order to comply with federal tax law, Capital One will provide Class Members’ full Social Security Numbers.

9.4 The Named Plaintiffs, Class Counsel, and the Settlement Class hereby acknowledge and agree that Defendant is providing the information referenced in this Section to Class Counsel and the Settlement Administrator solely for the purpose of effecting the terms of this Settlement Agreement, and that such information shall not be used, disseminated, or disclosed

by or to any other person for any other purpose. Defendant's inclusion of these individuals' personal information during this process is in no way an admission of liability by Defendant with respect to these individuals. If the Settlement is terminated for any of the reasons identified in Section 16, the Named Plaintiffs and Class Counsel shall immediately destroy any and all copies of the information referenced in this Section and any materials the Named Plaintiffs or Class Counsel gathered in connection with the lists referenced above. The provisions regarding the compilation and treatment of the lists referenced above are material terms of this Settlement Agreement.

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

10 NOTICE PLAN

10.1 The Named Plaintiffs, Defendant, and the Settlement Administrator have agreed that they will jointly recommend the Notice to the Court for approval. After the Court enters Preliminary Approval and within thirty (30) days of receiving the Class List from the parties, the Settlement Administrator will send the Notice via electronic mail and regular mail. Prior to mailing, the Settlement Administrator shall utilize the U.S. Postal Office's National Change of Address System.

10.2 For up to sixty (60) days following the mailing of the Notice via U.S. Mail (if applicable), the Settlement Administrator will re-mail the Notice via standard U.S. Mail, postage prepaid, to those Settlement Class Members whose notices were returned as undeliverable to the extent an alternative mailing address can be reasonably located. The Settlement Administrator will first attempt to re-mail the Notice to the extent that it received an address change notification from the U.S. Postal Service. If an address change notification form is not provided by the U.S. Postal Service, the Settlement Administrator may attempt to obtain an updated address using reasonable and appropriate methods to locate an updated address.

10.3 No later than forty-five (45) days before the Final Approval Hearing, the Settlement Administrator will file proof of the mailing of the Notice with the Court. Neither the parties nor the Settlement Administrator will have any further obligation to send notice of the settlement to the Settlement Class Members.

10.4 The Settlement Administrator also will create and maintain the Settlement Class Website to be activated no later than five (5) days prior to the mailing of the Notice described above. The Settlement Administrator's responsibilities will also include securing an appropriate URL. Before procuring an appropriate URL, the Settlement Administrator must first obtain approval of the URL from both Class Counsel and Defendant. The URL shall not contain the name "Capital One." The Settlement Class Website will post important settlement documents, such as the operative Complaint, the Notice, the Settlement Agreement, and the Preliminary Approval Order. In addition, the Settlement Class Website will include a section for frequently asked questions and procedural information regarding the status of the Court-approval process, such as an announcement when the Final Approval Hearing is scheduled, when the Final Judgment and Order has been entered, when the Effective Date is expected or has been reached, and when

payment will likely be mailed. Defendant shall be entitled to review and approve any content posted to the Settlement Class Website, as well as any scripts, talking points, or the like provided to the toll-free telephone line representatives.

10.5 The Settlement Administrator will terminate the Settlement Class Website either: (1) one hundred twenty-seven (127) days after the Effective Date; or (2) thirty (30) days after the date on which the Settlement is terminated or otherwise not approved by the Court.

11 CAFA

11.1 The Parties agree that the Defendant shall serve notice of the settlement that meets the requirements of CAFA, 28 U.S.C. § 1715, on the appropriate federal and state officials not later than ten (10) days after the filing of this Settlement Agreement with the Court.

12 RELEASES

12.1 Upon the Effective Date, each member of the Settlement Class who has not validly excluded himself or herself, on behalf of themselves and their respective spouses, heirs, executors, administrators, representatives, attorneys, successors, predecessors, assigns, and all those acting or purporting to act on their behalf, acknowledge full satisfaction of, and shall be conclusively deemed to have fully, finally, and forever settled, released, and discharged all the Released Parties of and from all claims, rights, causes of action, suits, demands, liabilities, controversies, costs, expenses, and attorneys' fees of any nature whatsoever for statutory and punitive damages under the FCRA, 15 U.S.C. § 1681n, state equivalents, or common law, and any other claims that relate to the reporting of a consumer as deceased to the credit bureaus arising before the Effective Date whether known or unknown, matured or unmatured, foreseen or unforeseen, suspected or unsuspected, accrued or unaccrued ("the Released Claims"). This release explicitly excludes any claims that were or could have been brought for actual damages under 15 U.S.C. §§ 1681o, 1681n. This release also explicitly excludes the release of any debt collectors or CRAs.

12.2 Subject to the Court's approval, the Settlement Class Members' Released Claims shall be dismissed with prejudice and released as against the Released Parties, even if the Settlement Class Member never received actual notice of the settlement prior to the Final Approval Hearing or never cashed a check received in connection with this settlement.

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

13 OPT-OUT PROCESS

13.1 All Settlement Class Members shall be given the opportunity to opt out of the Settlement Class by submitting a "Request for Exclusion." All Requests for Exclusion must be in writing, sent to the Settlement Administrator and postmarked no later than thirty (30) days before the Final Approval Hearing. To be valid, a Request for Exclusion must be personally signed and either in the form of in the form of **Exhibit D** or another email or letter and must include: (1) the individual's name, address and telephone number; and (2) a statement substantially to the effect that: "I request to be excluded from the Settlement Class in *Craig Kromrey et al. v. Capital One, N.A.*, No. 3:24cv575, United States District Court, Eastern District of Virginia."

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

13.3 The Settlement Administrator shall provide copies of the Requests for Exclusion to the Parties no later than ten (10) days after they are received by the Settlement Administrator. No

later than twenty-one (21) days before the Final Approval Hearing, the Settlement Administrator shall provide to Class Counsel (with a copy to Defendant), who shall file it with the Court, a declaration verifying that notice has been provided to the Settlement Class as set forth herein and listing all of the valid opt-outs received.

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

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

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

14 PAYMENT SCHEDULE

14.1 Attorneys' Fees and Expenses, subject to Court approval, shall be paid in the amount approved by the Court within fourteen (14) business days after the Effective Date. The Service Award, subject to Court approval, shall be paid in the amount approved by the Court within the later of: (1) five (5) business days after the Effective Date; or (2) fourteen (14) days after receipt by Defendant and the Settlement Administrator of the Named Plaintiffs' properly completed W-9 forms.

14.2 Within thirty (30) days after the Funding Date, the Settlement Administrator shall mail equal payments out of the Settlement Fund, less Notice Costs; Administrative Costs; Service Awards approved by the Court; and Attorneys' Fees and Expenses approved by the Court, to each Settlement Class Member via U.S. Mail to the last known address reflected in the Class List or the updated address previously used during the Settlement Class Notice Plan set forth in Section 10. Each settlement check will be negotiable for ninety (90) days after it is issued. The payment notices accompanying the payment check shall notify the recipients that the checks must be cashed within ninety (90) days from the date on enclosed check and that the enclosed check shall not be valid after that date. Upon request by a claimant, the Settlement Administrator may reissue settlement checks, provided that such reissued checks will be negotiable for forty-five (45) calendar days after the date of re-issuance.

14.3 After the negotiation period for all checks issued and reissued as described in Section 14.2 has expired, the Settlement Administrator will reissue and deliver settlement checks

to the Settlement Class Members who did not cash their earlier checks. The reissued checks will be negotiable for ninety (90) days after it is issued. The Settlement Administrator will take the steps that are, in its discretion, most likely to result in the remaining funds being received by Settlement Class Members.

14.4 Any checks from the distribution that are not cashed by the stale dates referenced above, or funds remaining as a result of checks that were undeliverable, shall revert to the Escrow Account and be paid to Central Virginia Legal Aid Society.

15 ENTRY OF FINAL JUDGMENT AND ORDER

15.1 The Parties shall jointly seek entry by the Court of a Final Judgment and Order, which will include the following provisions (among others):

15.1.a. granting final approval of this Settlement Agreement, and directing its implementation pursuant to its terms and conditions;

15.1.b. ruling on Class Counsel's applications for Attorneys' Fees and Expenses;

15.1.c. discharging and releasing the Released Parties, and each of them, from the Released Claims, as provided in Section 12;

15.1.d. permanently barring and enjoining all Settlement Class Members from instituting, maintaining, or prosecuting, either directly or indirectly, any lawsuit that asserts released claims;

15.1.e. directing that the Litigation be dismissed with prejudice and without costs;

15.1.f. stating pursuant to Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directing that the Final Judgment and Order is a final, appealable order; and

15.1.g. reserving to the Court continuing and exclusive jurisdiction over the Parties with respect to the Settlement Agreement and the Final Judgment and Order.

16 TERMINATION

16.1 Defendant's willingness to settle this Litigation on a class action basis and to agree to the accompanying preliminary certification of the Settlement Class is dependent upon achieving finality in this Litigation and the desire to avoid the expense of this and other litigation. Consequently, Defendant has the right to terminate this Settlement Agreement, declare it null and void, and have no further obligations under this Settlement Agreement to the Named Plaintiffs or to members of the Settlement Class if any of the following conditions subsequent occurs:

16.1.a. the Parties fail to obtain and maintain Preliminary Approval consistent with the provisions of this Settlement Agreement;

16.1.b. the Court fails to enter a Final Judgment and Order consistent with the provisions of this Settlement Agreement;

16.1.c. the settlement of the Settlement Class claims, or the Final Judgment and Order, is not upheld on appeal, including review by the Supreme Court of the United States;

16.1.d. the Named Plaintiffs or Class Counsel commit a material breach of the Settlement Agreement before entry of the Final Judgment and Order; or

16.1.e. the Effective Date does not occur for any reason, including but not limited to the entry of an order by any court that would require either material modification or termination of the Settlement Agreement.

16.2 The failure of the Court or any appellate court to approve in full the request by Class Counsel for Attorneys' Fees and Expenses shall not be grounds for the Named Plaintiffs, the Settlement Class, or Class Counsel to cancel or terminate this Settlement Agreement. The failure of the Court or any appellate court to approve in full the request of the Named Plaintiffs for their Service Awards shall not be grounds for the Named Plaintiffs, the Settlement Class, or Class Counsel to cancel or terminate this Settlement Agreement.

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

17 CONFIDENTIALITY

17.1 The Parties and the Parties' Counsel agree that the terms of this Settlement shall remain confidential and not be disclosed until the Agreement is publicly filed in connection with the Settlement Class Representatives' motion seeking a Preliminary Approval Order.

18 NOTICES

18.1 All notices to Class Counsel provided for in this Agreement shall be sent by e-mail and First Class mail to the following:

Kristi Cahoon Kelly
Kelly Guzzo PLC
3925 Chain Bridge Road
Suite 202
Fairfax, VA 22030
Email: kkelly@kellyguzzo.com

E. Michelle Drake
Berger Montague PC
1229 Tyler Street NE
Suite 205
Minneapolis, MN 55413
Email: emdrake@bm.net

Joseph Christopherson Hashmall
Berger Montague PC
1229 Tyler Street NE
Suite 205
Minneapolis, MN 55413

Email: jhashmall@bm.net

18.2 All notices to Capital One or Capital One's Counsel provided for in this Agreement shall be sent by e-mail and First Class mail to the following:

Heidi Siegmund
McGuireWoods LLP
800 East Canal Street
Richmond, VA 23219
Email: hsiegmund@mcguirewoods.com

Bryan Alan Fratkin
McGuireWoods LLP
Gateway Plaza
800 East Canal Street
Richmond, VA 23219
Email: bfratkin@mcguirewoods.com

Hannah Rose Gourdie
McGuireWoods LLP
200 South 10th Street
800 E. Canal Street
Richmond, VA 23219
Email: hgourdie@mcguirewoods.com

18.3 The notice recipients and addresses designated in this Section may be changed by written notice posted to the Settlement website.

19 MISCELLANEOUS PROVISIONS

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

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

19.2.a. offered or received by or against any party as evidence of, or be construed as or deemed to be evidence of, any presumption, concession, or admission by a party of

the truth of any fact alleged by the Named Plaintiffs or defense asserted by Defendant, of the validity of any claim that has been or could have been asserted in the Litigation, or the deficiency of any defense that has been or could have been asserted in the Litigation, or of any liability, negligence, fault, or wrongdoing on the part of the Named Plaintiffs or Defendant;

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

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

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

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

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

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

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

19.7 In the event that any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable, or void, with the exception of release in Section 12, this Agreement shall continue in full force and effect without said provision to the extent Defendant does not exercise its right to terminate under Section 16.

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

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

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

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

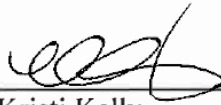
Named Plaintiffs:

Craig Kromrey



Gregory Miller

**Counsel for Named Plaintiffs and
Settlement Class:**



Kristi Kelly
Andrew Guzzo
Casey Nash
Kelly Guzzo PLC
3925 Chain Bridge Road
Suite 202
Fairfax, VA 22030

E. Michelle Drake
Joseph Hashmall
Berger Montague PC (MN-NA)
1229 Tyler Street NE
Suite 205
Minneapolis, MN 55413

Defendant:

Capital One, N.A.

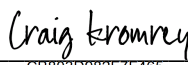
Name: _____

Title: _____

Counsel for Defendant:

Bryan Fratkin
Heidi Siegmund
Hannah Gourdie
McGuireWoods LLP
800 East Canal Street
Richmond, VA 23219

Named Plaintiffs:

DocuSigned by:

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Craig Kromrey

Gregory Miller

**Counsel for Named Plaintiffs and
Settlement Class:**

Kristi Kelly
Andrew Guzzo
Casey Nash
Kelly Guzzo PLC
3925 Chain Bridge Road
Suite 202
Fairfax, VA 22030

E. Michelle Drake
Joseph Hashmall
Berger Montague PC (MN-NA)
1229 Tyler Street NE
Suite 205
Minneapolis, MN 55413

Defendant:

Capital One, N.A.

Name: _____

Title: _____

Counsel for Defendant:

Bryan Fratkin
Heidi Siegmund
Hannah Gourdie
McGuireWoods LLP
800 East Canal Street
Richmond, VA 23219

Named Plaintiffs:

Craig Kromrey

Gregory Miller

**Counsel for Named Plaintiffs and
Settlement Class:**

Kristi Kelly
Andrew Guzzo
Casey Nash
Kelly Guzzo PLC
3925 Chain Bridge Road
Suite 202
Fairfax, VA 22030

E. Michelle Drake
Joseph Hashmall
Berger Montague PC (MN-NA)
1229 Tyler Street NE
Suite 205
Minneapolis, MN 55413

Defendant:

DocuSigned by:

Wes Perkins

BD929C9B432A4A8

Capital One, N.A.

Name: Wes Perkins

Title: Managing Vice President

Counsel for Defendant:

/s/Bryan Fratkin
Bryan Fratkin
Heidi Siegmund
Hannah Gourdie McGuire Woods
LLP
800 East Canal Street Richmond,
VA 23219

EXHIBIT A

3. Defendant has timely filed notification of this settlement with the appropriate officials pursuant to the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1715. The Court has reviewed such notification and accompanying materials and finds that Defendant’s notification complies fully with the applicable requirements of CAFA.

4. The Settlement Agreement was arrived at as a result of arm’s-length negotiations conducted in good faith by counsel for the parties and is supported by the parties.

5. The settlement as set forth in the Settlement Agreement is fair, reasonable, and adequate to the members of the Settlement Class in light of the complexity, expense, and duration of litigation and the risks involved in establishing liability, damages and in maintaining the class action through trial and appeal.

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

7. The persons listed on **Exhibit 1** hereto have validly excluded themselves from the Settlement Class in accordance with the provisions of the Preliminary Approval Order.

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

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

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

10. This action is a class action against Defendant Capital One, N.A., on behalf of a class of consumers that has been defined as follows:

All natural persons (1) who were reported as deceased by Capital One to the CRAs based on information related to their credit card accounts and (2) about whose credit card accounts Capital One received one or more disputes from the CRAs that were submitted between August 13, 2019, and the date when the Court grants preliminary approval of the class settlement; and (3) in response to one or more of those disputes, Capital One did not correct its deceased reporting.

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

12. This Action is hereby dismissed on the merits, with prejudice and without costs.

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

14. Without affecting the finality of this judgment, the Court hereby reserves and retains jurisdiction over this Settlement, including the administration and consummation of the Settlement. In addition, without affecting the finality of this judgment, the Court retains exclusive jurisdiction over Defendant and each member of the Settlement Class for any suit, action, proceeding, or dispute arising out of or relating to this Order, the Settlement Agreement, or the applicability of the Settlement Agreement. Without limiting the generality of the foregoing, any dispute concerning the Settlement Agreement, including, but not limited to, any suit, action, arbitration or other proceeding by a Settlement Class Member in which the provisions of the

Settlement Agreement are asserted as a defense in whole or in part to any claim or cause of action or otherwise raised as an objection, shall constitute a suit, action or proceeding arising out of or relating to this Order. Solely for purposes of such suit, action or proceeding, to the fullest extent possible under applicable law, the parties hereto and all Settlement Class Members are hereby deemed to have irrevocably waived and agreed not to assert, by way of motion, as a defense or otherwise, any claim or objection that they are not subject to the jurisdiction of this Court, or that this Court is, in any way, an improper venue or an inconvenient forum.

15. Upon consideration of Class Counsel's application for Attorneys' Fees and Expenses, the Court awards \$XXX,XXX as reasonable attorneys' fees and reimbursement for reasonable out-of-pocket expenses.

16. Upon consideration of the application for an individual settlement and Service Award, the Named Plaintiffs, Craig Kromrey and Gregory Miller, are each awarded the sum of ten thousand dollars (\$10,000), to be paid from the Settlement Fund, for the service they have performed for and on behalf of the Settlement Class.

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

BY THE COURT:

HON. ROBERT E. PAYNE
UNITED STATES DISTRICT JUDGE

DATED: _____

EXHIBIT B

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA

A proposed class action settlement may affect your rights.

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

- There is a proposed settlement in a class action lawsuit entitled *Craig Kromrey et al. v. Capital One, N.A.*, No. 3:24cv575, which claims that Capital One, N.A. (“Capital One”) violated the Fair Credit Reporting Act (“FCRA”). The Plaintiffs allege claims on behalf of a class of similarly situated individuals, asserting that Capital One violated the FCRA by failing to investigate certain credit card holders’ disputes that they were erroneously reported deceased to the credit reporting agencies. Capital One denies the Plaintiffs’ allegations and denies that Capital One is liable to the Plaintiffs or any of the putative settlement class members.
- **If you do not opt out of the proposed settlement, you will receive a cash payment. Whether you act or not, your legal rights are affected by the proposed settlement. Your rights and options—and the deadlines to exercise them—are explained in this notice. Please read this notice carefully in its entirety.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS PROPOSED SETTLEMENT		
Your Rights and Options	What to Do	Deadlines to Do It
Object to the Settlement	Write to the Court about why you do not like the proposed settlement; for more information regarding objecting, please read Section 10 below.	Postmarked on or before _____, 2025
Opt out of the Settlement	Write to the Settlement Administrator stating that you do not wish to participate in the proposed settlement. See Section 7 below. If you validly opt out, you will not receive any monetary payments from the settlement.	Postmarked on or before _____, 2025
Do Nothing	You are not required to take any action to receive the automatic benefits of the proposed settlement. If the proposed settlement is finally approved and you do not opt out, then you will be bound by the Court’s final judgment and the release of claims in the Settlement Agreement.	None

Questions – call toll-free 1-800-000-0000 or visit www.____.com
 Para una notificación en Español, llamar o visitar nuestro sitio web.

1. Does this Notice apply to me?

If Capital One reported you as deceased to the credit reporting agencies; Capital One received one or more disputes submitted to the credit reporting agencies between August 13, 2019, and [DATE OF PRELIMINARY APPROVAL] about your Capital One credit card account(s); and in response to one or more of those disputes, Capital One did not correct its deceased reporting, this Notice applies to you. Records from Capital One indicate you would be a class member.

This Notice informs you about the proposed settlement and your rights. Before any final judgment is entered, the Court will have a hearing to decide whether to approve the proposed settlement. The proposed settlement will be finally approved only after any objections or appeals are resolved. If the proposed settlement is finally approved, then you will benefit from the relief provided by the proposed settlement. Once the proposed settlement is final, you will also be bound by the release and other provisions of the proposed settlement.

This notice is only a summary of the proposed settlement. More details about the proposed settlement, the date when appeals are no longer allowed and the settlement is final, deadlines for certain actions, and your options are available in a longer document called the Settlement Agreement. You can get a copy of the Settlement Agreement by visiting www._____.com.

The class action lawsuit is known as *Craig Kromrey et al. v. Capital One, N.A.*, Case No. 3:24cv575, and is pending in the United States District Court for the Eastern District of Virginia, with Judge Robert E. Payne presiding. The individual who sued is called the Plaintiff; the company that he sued is called the Defendant. The Plaintiffs are Craig Kromrey and Gregory Miller. The Defendant is Capital One.

2. What is this lawsuit about?

The lawsuit alleges that Capital One violated the FCRA by failing to investigate certain credit card holder's disputes that they were erroneously reported deceased to the credit reporting agencies. Capital One denies the Plaintiffs' allegations and denies that Capital One is liable to the Plaintiffs or any of the putative settlement class members. The Court has not decided whether either side is right or wrong. Instead, both sides agreed to settle the case and provide benefits to the class.

The Named Plaintiffs here, Craig Kromrey and Gregory Miller, filed this case as a proposed class action. When the parties reached this proposed settlement, the Court had not decided whether the case could be a class action. As part of the proposed settlement, the Court certified a tentative class action for settlement purposes only, under Federal Rule of Civil Procedure 23(b)(3). If the proposed settlement is not finally approved, then the Court may later determine if the case may proceed as a class action.

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

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

All natural persons (1) who were reported as deceased by Capital One to the CRAs based on information related to their credit card accounts and (2) about whose credit card accounts Capital One received one or more disputes from the CRAs that were submitted between August 13, 2019, and the date when the Court grants preliminary approval of the

class settlement; and (3) in response to one or more of those disputes, Capital One did not correct its deceased reporting.

Because you have received this Notice, you have been identified as a class member based on the business records maintained by Capital One.

4. What benefits does the proposed settlement provide?

The proposed settlement benefits provide a monetary payment. The settlement fund contains \$2,400,000 from which Settlement Class Members will receive payments. The amount you receive will depend on the number of Settlement Class Members. Pursuant to the Court's approval, the Settlement Fund will also be used to pay a Service Award of up to \$10,000 for each Class Representative, attorneys' fees awarded to Class Counsel, reimbursement of Class Counsel's litigation expenses and costs, and Administrative Costs of the Settlement Administrator.

You are not releasing any claim you may have against a consumer reporting agency. If you would like to understand your rights and potential claims against a consumer reporting agency, you can contact Class Counsel.

Any Residual Funds that are not feasible and practical to distribute to individual Settlement Class Members will be provided to Central Virginia Legal Aid Society.

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

6. How does the proposed settlement affect my rights?

In general terms, if the proposed settlement is finally approved by the Court, then you will be giving up the right to file a lawsuit against Capital One for claims resulting from, arising out of, or regarding Capital One's investigations of disputes you made during the class period. You will not give up your right to bring a claim for actual damages under the FCRA based on Capital One's investigations of these disputes. You will be giving up all such claims whether or not you know about them.

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

The Court's order will apply to you even if you object to the settlement or have any other claim, lawsuit, or proceeding pending against Capital One for violations of the FCRA. If you have any questions about the release, then you should visit www._____.com for more information or consult with a lawyer. See Section 8 below for more information regarding your options in seeking legal advice concerning the settlement.

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

Yes. You have the opportunity to opt out of the Settlement by submitting a written Request for Exclusion to at _____, postmarked no later than thirty (30) days before the Final Approval Hearing in this action. To be valid, a Request for Exclusion must be personally signed and must include:

(i) your name, address and telephone number; (ii) and a statement substantially to the effect that: “I request to be excluded from the File Disclosure Settlement Class in *Craig Kromrey et al. v. Capital One, N.A.*, No. 3:24cv575, United States District Court, Eastern District of Virginia.” Notwithstanding the foregoing, no person within the Settlement Class may submit a Request for Exclusion for any other person in the Settlement Class.

If you timely submit a valid Request for Exclusion, you will exclude yourself from the Settlement Class and will not be bound by further orders or judgments in the Litigation, subject to Court approval. You will preserve your ability to independently pursue, at your own expense, any individual, non-class, non-representative claims that you claim to have against Capital One. No person who has opted out of the settlement may object to any part of the Settlement Agreement.

8. Do I have a lawyer in this case?

Yes. The Court approved the following individuals to represent you and other Settlement Class Members:

- Kristi Kelly, Andrew Guzzo, Casey Nash, Pat McNichol and Matt Rosendahl of Kelly Guzzo, PLC at 3925 Chain Bridge Road, Suite 202, Fairfax, Virginia 22030. Telephone: (703) 424-7570.
- E. Michelle Drake and Joseph Hashmall of Berger Montague PC, 1229 Tyler Street NE, Suite 205, Minneapolis, MN 55413. Telephone: (800) 424-6690.

The Court has appointed these lawyers as Class Counsel. You will not be charged for these lawyers. You may hire your own attorney, if you choose, but you will be personally responsible for your attorney’s fees and expenses. **If you have questions about potential claims that you may have against the consumer reporting agencies, you can reach out to Class Counsel to understand your rights.**

9. How will the lawyers be paid? What will the Class Representatives receive?

The attorneys representing the class have handled this case on a contingency basis. To date, they have not been paid anything for their work. Class Counsel will request that the Court award attorneys’ fees and expenses for the time and effort they have spent on this case. The amount that will be requested by Class Counsel will be \$[AMOUNT], and a service award for each of the Named Plaintiffs of up to \$10,000.

Any approved attorneys’ fees and expenses or the Named Plaintiffs’ service award will be paid separately from the Settlement Funds, and no Settlement Class Member will owe or pay anything directly for the attorneys’ fees and expenses of Class Counsel. If the Court approves this request, it will not reduce the amount you are eligible to receive as part of the settlement.

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

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

To object to this Settlement Agreement, you must file your objection in writing with the Clerk of Court no later than thirty (30) days prior to the final approval hearing. You must also provide a copy of your objection to the Settlement Administrator (_____), identified above). The objection must include the following: (1) your full name, address and current telephone number; (2) the name and telephone number of your counsel, if you are represented by an attorney and if counsel intends to submit a request for

fees, and all factual and legal support for that request; (3) all objections and the basis for any such objections stated with specificity, including a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (4) the identity of any witnesses you may call to testify; (5) a listing of all exhibits you intend to introduce into evidence at the Final Approval Hearing, if any, as well as true and correct copies of all exhibits; and (6) a statement of whether you intend to appear at the Final Approval Hearing, either with or without counsel. If you fail to timely file and serve a written objection, you shall not be permitted to object to the approval of the settlement or Settlement Agreement and shall be foreclosed from seeking any review of the settlement or the terms of the Settlement Agreement by appeal or other means.

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

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

The Court will hold a final approval hearing on [REDACTED], 2025, before the Hon. Robert E. Payne, in the United States District Court for the Eastern District of Virginia in Richmond, Virginia.

At this hearing, the Court will consider whether the proposed settlement is fair, reasonable, and adequate. The Court will consider all timely and proper objections. You do not have to attend the hearing.

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

The Court may change the date of the final approval hearing without further notice to the Class. You should check the website, [www.\[REDACTED\].com](http://www.[REDACTED].com), after [REDACTED] 2025, to confirm the hearing date, the court-approval process, and the Effective Date.

12. How do I get more information?

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

Exhibit C

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

CRAIG KROMREY, *et al.*,
*on behalf of themselves and all
similarly situated individuals,*

Plaintiffs,

V.

CAPITAL ONE, N.A.,

Defendant.

Civil Action No. 3:24cv575

**[PROPOSED] ORDER PRELIMINARILY APPROVING SETTLEMENT AND
DIRECTING NOTICE TO CLASS**

The Court, having reviewed the Settlement Agreement entered by the parties, hereby

Orders that:

1. The Court has considered the proposed settlement of the claim asserted under the Fair Credit Reporting (“FCRA”) by a class of consumers. Defined terms used in this Order have the meaning provided in the Settlement Agreement. The proposed settlement class is defined as follows (the “Settlement Class”):

All natural persons (1) who were reported as deceased by Capital One to the CRAs based on information related to their credit card accounts and (2) about whose credit card accounts Capital One received one or more disputes from the CRAs that were submitted between August 13, 2019, and the date when the Court grants preliminary approval of the class settlement; and (3) in response to one or more of those disputes, Capital One did not correct its deceased reporting.

2. The Settlement Agreement entered between the parties as of [DATE] (ECF No. []), appears, upon preliminary review, to be fair, reasonable, and adequate to the Settlement Class. Accordingly, for settlement purposes only, the proposed settlement is preliminarily approved, pending a Final Approval Hearing, as provided for herein.

3. The prerequisites to a class action under Federal Rule of Civil Procedure 23(a) have been preliminarily satisfied, for settlement purposes only, in that:

- a. the Settlement Class consists of approximately [REDACTED] members;
- b. the claims of the Named Plaintiffs are typical of those of the other members of the Settlement Class;
- c. there are questions of fact and law that are common to all members of the Settlement Class; and
- d. the Named Plaintiffs will fairly and adequately protect the interests of the Settlement Class and has retained Class Counsel experienced in consumer class action litigation who have and will continue to adequately represent the Settlement Class.

4. For settlement purposes only, the Court finds that this action is preliminarily maintainable as a class action under Federal Rule of Civil Procedure 23(b)(3) because: (1) a class action is a fair and efficient adjudication of this controversy; and (2) questions of fact and law common to the members of the Settlement Class predominate over any questions affecting only individual members.

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

6. The Court appoints Craig Kromrey and Gregory Miller as the Settlement Class Representatives. The Court also appoints Kristi Kelly, Andrew Guzzo, and Casey Nash of Kelly Guzzo, PLC and E. Michelle Drake and Joseph Hashmall of Berger Montague PC as counsel for the Class (“Class Counsel”).

7. The Court appoints [REDACTED] as the Settlement Administrator.

8. The Court will hold a Final Approval Hearing pursuant to Federal Rule of Civil Procedure 23(e) on [REDACTED], 2025, (*at least 120 days after entry of Preliminary Approval Order*) at the United States District Court for the Eastern District of Virginia, at the Spottswood W. Robinson III and Robert R. Merhige, Jr., Federal Courthouse, 701 East Broad Street Richmond, VA, at [TIME] for the following purposes:

- a. To determine whether the proposed settlement is fair, reasonable, and adequate and should be granted final approval by the Court;
- b. To determine whether a final judgment should be entered dismissing the claims of the Settlement Class with prejudice, as required by the Settlement Agreement;
- c. To consider the application of Class Counsel for an award of attorneys’ fees, costs, and expenses, and for a service award to the class representative; and
- d. To rule upon other such matters as the Court may deem appropriate.

9. As is provided in Section 9.2 of the Settlement Agreement, Class Counsel and Defendant shall provide a Class List of the Settlement Class Members to the Settlement Administrator, who shall send the agreed upon Notices to the Settlement Class Members in accordance with the Settlement Class Notice Plan set forth in the Settlement Agreement no later

than ten days following the entry of this Order. The Court also approves the parties' Notice, which is attached to the Settlement Agreement as Exhibit B. To the extent the parties or Settlement Administrator determine that ministerial changes to the Notice are necessary before disseminating it to the Settlement Class Members, they may make such changes without further application to the Court. Not later than forty-five (45) days before the Final Approval Hearing, the Settlement Administrator will cause a declaration to be filed with the Court that the Notice described above was given as required herein.

10. The Court finds this manner of giving notice fully satisfies the requirements of Federal Rule of Civil Procedure 23 and due process, constitutes the best notice practicable under the circumstances, including its use of individual notice to all members who can be identified through reasonable effort, and shall constitute due and sufficient notice to all persons entitled thereto.

11. If a Settlement Class Member chooses to opt-out of the class, such class member is required to submit a request for exclusion to the Settlement Administrator, post-marked on or before the date specified in the Notice, which shall be no later than thirty (30) days before the date of the Final Approval Hearing. The request for exclusion must include the items identified in the Settlement Agreement pertaining to requests for exclusion. A Settlement Class Member who submits a valid request for exclusion using the procedure identified above shall be excluded from the class for any and all purposes. No later than twenty-one (21) days prior to the Final Approval Hearing, the Settlement Administrator shall prepare a declaration listing all of the valid opt-outs received and shall provide the declaration and list to Class Counsel and Defendant's counsel, with Class Counsel then reporting the names appearing on this list to the Court before the Final Approval Hearing.

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

13. Any Settlement Class Member who wishes to be heard orally at the Final Approval Hearing, and/or who wishes for any objection to be considered, must file a written notice of objection to be filed with the Court no later than thirty (30) days prior to the Final Approval Hearing. The notice of objection shall be sent by First Class United States Mail to the Settlement Administrator and the Clerk of the Court. The objection must include the following: (1) the Settlement Class Member's full name, address and current telephone number; (2) if the individual is represented by counsel, the name and telephone number of counsel, if counsel intends to submit a request for fees, and all factual and legal support for that request; (3) all objections and the basis for any such objections stated with specificity, including a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (4) the identity of any witnesses the objector may call to testify; (5) a listing of all exhibits the objector intends to introduce into evidence at the Final Approval Hearing, if any, as well as true and correct copies of such exhibits; and (6) a statement of whether the objector intends to appear at the Final Approval Hearing, either with or without counsel. Any Settlement Class Member who fails to timely file and serve a written objection pursuant to the terms of this paragraph shall not be permitted to object to the approval of the settlement or the Settlement Agreement and shall be foreclosed from seeking any review of the settlement or the terms of the Settlement Agreement by appeal or other means.

14. All briefs, memoranda, petitions, and affidavits to be filed in support of a Service Award to the Named Plaintiffs and in support of Class Counsel's application for Attorneys' Fees and Expenses, shall be filed not later than forty-five (45) days before the Final Approval Hearing. All other briefs, memoranda, petitions and affidavits that Class Counsel intends

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

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

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

BY THE COURT:

HON. ROBERT E. PAYNE
UNITED STATES DISTRICT JUDGE

DATED: _____

Exhibit D

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Case No. 3:24cv575**

EXCLUSION REQUEST FORM

Must be postmarked by **XXXX**



THIS IS NOT A CLAIM FORM. This form removes you from the settlement.

If you submit this form, you will not be eligible for any benefits, including a cash payment.

COMPLETE AND RETURN THIS FORM BY **XXXX** only if you do **not** want to be part of the settlement of the case, or if you intend to file a separate lawsuit on your own about the claim in this class action case. If you exclude yourself, the attorneys for the class will no longer represent you in this case.

BY COMPLETING THIS FORM, you are **excluding** yourself from participating in the settlement of this case, and you will not receive any money. If you submit this form and want to obtain any money, you will then have to file your own lawsuit. You may need to get your own attorney. You must file your own lawsuit before time runs out, so you should contact your own attorney to make sure you file a complaint in the appropriate court before the deadline set by the applicable statutes of limitations.

Section I: Exclusion



request to be excluded from the Class Settlement *Craig Kromrey et al. v. Capital One, N.A.*, 3:24cv575.

Section II: Contact Information

Full Name: _____ Current

Address: _____

Phone Number: _____

Last Four Digits of SSN: _____

Section III: Signature

Signature: _____

Date: _____

Exclusion Request Forms must be mailed to: **XXXXXX**