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Attorneys for Defendant
SCHENKER, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION

ERIC M. WICKHAM, on behalf of himself, all others similarly situated,

Plaintiff,

vs.

SCHENKER, INC., a New York company; and DOES 1 through 50, inclusive,

Defendant.

Case No. 5:23-cv-00946-PCP

Assigned For All Purposes to the Hon. P. Casey Pitts, Courtroom 8

THIRD AMENDED STIPULATION OF CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

Complaint Filed:	November 20, 2019
FAC Filed:	August 18, 2021
SAC Filed:	March 2, 2023

THIRD AMENDED STIPULATION OF CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This Third Amended Stipulation of Class Action Settlement Agreement and Release of Claims ("Agreement, Stipulation of Settlement" or "Settlement") is made and entered into by and between Plaintiff ERIC M. WICKHAM ("Plaintiff"), individually and on behalf of all others similarly situated, and Defendant SCHENKER, INC.("Defendant") (collectively, the "Parties"), subject to the terms and conditions hereof and the approval of the Court.

By this Agreement, the Parties intend to settle the Action (defined below) and to fully, finally, and forever resolve, discharge, and settle the Released Claims (defined below), subject to judicial approval of the terms set forth herein. If this Agreement is not finally approved, or is otherwise nullified, then the Parties shall return to their positions preceding this Agreement and Defendant shall retain all rights to challenge the Plaintiff's claim and the certification of any class.

1. DEFINITIONS

For purposes of this Agreement, the Parties define the following terms. Each defined term appears throughout in the initial capital letters.

1.1 **"Action," "Class Action," "Lawsuit,"** or **"Complaint"** refers to the civil action initially brought by Plaintiff on November 20, 2019, currently pending in the United States District Court for the Northern District of California, Case No. 5:23-cv-00946-PCP, and styled as *Wickham, et al. v. Schenker, Inc.*

1.2 **"Administrative Costs"** refers to all costs associated with administration of the settlement contemplated by this Agreement, estimated to be $73,000.00. Administrative costs include all fees and costs for, among other things, printing, copying, formatting, postage, envelopes, computer searches to locate addresses, calculation of payments to individual class members, any cost associated with the process for any uncashed checks, costs related to the settlement website, and any other expenses the Settlement Administrator incurs to complete the settlement process according to the terms of this Agreement. Administrative Costs are borne in the first instance by the Settlement Administrator. All Administrative Costs shall be paid exclusively from the Gross Settlement Amount.

1.3 **"Agreement," "Stipulation of Settlement," "Settlement**," or **"Settlement Agreement"** refers to this Stipulation of Class Action Settlement Agreement and Release of Claims, which includes all its Recitals herein and all the attached Exhibits.

1.4 **"CAFA Notice"** means the notice required pursuant to 28 U.S.C § 1715(b).

1.5 **"Class," "Settlement Class," Settlement Class Members"** or **"Class Members"** means all persons residing in the United States who applied for a position with Defendant described by 15 U.S.C. § 1681b(b)(2)(C) between November 20, 2014 and February 28, 2022 and about whom Defendant procured a consumer report. Defendant estimates there are approximately 29,461 class members.

1.6 **"Class Counsel"** means Plaintiff's counsel, Shaun Setareh of the Setareh Law Group.

1.7 **"Class Counsel Payment"** means the amount of attorney's fees and costs that the Court awards to Class Counsel in connection with the resolution of the Action, and in accordance with this Agreement.

1.8 **"Class Period"** is the time period from November 20, 2014 and February 28, 2022.

1.9 **"Class Representative"** or **"Plaintiff"** refers to Plaintiff Eric M. Wickham.

1.10 **"Consideration Period" or "Objection/Opt-Out Deadline"** refers to the 60 calendar days following the date when the Settlement Administrator sends the Notice of Class Action Settlement. The Consideration Period is the period in which a Class Member can submit an Objection or a Request for Exclusion.

1.11 **"Court"** means the United States District Court for the Northern District of California.

1.12 **"Defendant"** refers to Schenker, Inc.

1.13 **"Defendant's Counsel"** means the law firm Littler Mendelson, P.C. For purposes of providing any notices required under this Agreement, Defendant's Counsel refers to Curtis A. Graham (CAGraham@littler.com), Chad Kaldor (ckaldor@littler.com), and Jamie Lee (jylee@littler.com).

1.14 **"Effective Date"** of the Settlement means the date by which this Settlement is finally approved as provided herein and the Superior Court's entry of Judgment becomes final and is no

longer appealable. For purposes of this Stipulation of Settlement, "becomes final" shall mean upon the later of: (i) the day after the last date by which a notice of appeal to the California Court of Appeal of the final judgment or final approval order may be timely filed, and none is filed (*i.e.,* 60 calendar days after service of notice of entry of judgment by the Superior Court on any party); (ii) if an appeal is filed, and the appeal is finally disposed of by ruling, dismissal, denial, or otherwise, the day after the last date for filing a request for further review of the Appellate Court's decision passes, and no further review is requested; or (iii) if an appeal is filed and there is a final disposition by ruling, dismissal, denial, or otherwise by the Appellate Court, and further review of the Appellate Court's decision is requested, the day after the review is finally dismissed or denied with prejudice and/or no further review of the judgment or order can be requested.

1.15 **"Final Approval"** or **"Final Approval Order"** means the final settlement approval order and judgment that will be entered by the Court.

1.16 **"Final Approval Hearing"** or **"Fairness Hearing"** means a hearing set by the Court, to take place for purposes of determining the fairness, adequacy, and reasonableness of the Stipulation of Settlement pursuant to class action procedures and requirements, determining the amount of the Class Counsel Payment, determining the amount of the Service Payment to the Class Representative, and entering Judgment.

1.17 **"Gross Settlement Amount"** or **"Settlement Fund"** means the maximum amount of One Million and Two Hundred Seventy-Five Thousand Dollars and Zero Cents ($1,275,000 .00) that Defendant would pay as a result of the Final Approval of this Stipulation of Settlement. In no event shall Defendant be obligated to pay more than this amount. The Gross Settlement Amount includes: (1) the amounts payable to Participating Class Members; (2) the Service Payment to the Class Representative; (3) the Class Counsel Payment; and (4) the Administrative Costs. All amounts paid to anyone pursuant to this Stipulation of Settlement shall be paid out of a Qualified Settlement Fund.

1.18 **"Individual Settlement Payment"** means the amount calculated by the Settlement Administrator to distribute to each Participating Class Member. The Individual Settlement Payment shall be paid from the Net Settlement Amount.

1.19 **"Judgment"** means the judgment and order of final approval to be entered by the Court pursuant to this Stipulation of Settlement following the Final Approval Hearing.

1.20 **"Mediator"** means Hunter Hughes, Esq.

1.21 **"Net Settlement Amount"** means the portion of the Gross Settlement Amount that remains after accounting for any Class Representative Service Award, Administrative Costs, and the Class Counsel Payment. The Net Settlement Amount shall include all Individual Settlement Payments. This amount will be distributed to Participating Class Members.

1.22 **"Notice," "Notice of Settlement," "Settlement Notice"** or **"Class Notice"** means the Court-approved form of Notice of Class Action Settlement to be provided by the Settlement Administrator after preliminary approval of this Settlement. The Settlement Notice shall be substantially in the same form as **Exhibit A** attached hereto and shall be sent by electronic mail where Defendant's records contain a last-known email address for the Class Member. For those individuals for whom Defendant do not possess a last-known email address or email delivery fails, the Settlement Administrator shall mail the Notice using United States First Class Mail. A separate "Long-Form Notice" or "Long-Form Notice of Settlement" substantially in the same form as **Exhibit B** attached hereto will be made available on the Settlement Website, which shall be kept accessible to the Putative Class Members for the duration of the Settlement through final distribution of the Individual Settlement Payments.

1.23 **"Objection"** means a written statement submitted timely by a Class member to the Settlement Administrator that contains: (1) the name and case number of the Action (or reasonable portion thereof); (2) the full name, and current address of the Class Member making the Objection; (3) the specific reason(s) for the Objection; and (4) all evidence and supporting papers the Class Member submits for the Court to consider. Objections will be considered if they substantially comply with these provisions.

1.24 **"Objector"** refers to a Settlement Class Member who has submitted an objection.

1.25 **"Opt-Out Request"** or **"Request for Exclusion"** means a timely letter or written request submitted by First-Class Mail by a Class Member to the Settlement Administrator that includes: (1) the Class Member's full name and signature; the following statement or something

similar to "I request to be excluded from the class action proceedings in the matter of *Wickham v. Schenker, Inc.*, Case No. 5:23-cv-00946-PCP, pending in the United Stated District Court for Northern District of California."

1.26 **"Participating Class Member"** means a Class Member who does not submit a valid and timely Opt-Out Request/Request for Exclusion.

1.27 **"Parties"** means collectively Plaintiff, the Settlement Class, and Defendant.

1.28 **"Preliminary Approval Order"** means the order entered by the Court following a Motion for Preliminary Approval of the Agreement.

1.29 **"Released Claims"** means the "Released Claims by Class Members" and the "Released Claims By Class Representative" as defined in this Agreement. The Released Claims by Class Members shall apply to all Class Members who do not timely submit a Request for Exclusion. The Parties agree that the Judgment and Released Claims herein shall have *res judicata* effect.

1.30 **"Released Parties"** means: (i) SCHENKER, INC; (ii) Defendant's past, present and future parents, subsidiaries, affiliates, divisions, joint ventures, licensees, franchisees, and any other legal entities, whether foreign or domestic, that are owned or controlled by Defendant; and (iii) the past, present and future shareholders, officers, directors, members, agents, employees, independent contractors, vendors, consultants, representatives, fiduciaries, insurers (including current and former agents), reinsurers, attorneys, legal representatives, predecessors, successors, and assigns of Defendant and the entities listed in (ii).

1.31 **"Service Payment"** means the sum approved by the Court to be paid to Plaintiff ERIC M. WICKHAM in recognition of his efforts in obtaining the benefits of the Settlement in exchange for executing a general release in the Released Claims by Class Representative provided herein. The Service Payment shall not exceed Five Thousand Dollars ($7,500.00). The Court may reduce the Service Payment. If this occurs, the amount by which the Service Payment is reduced shall be wholly reallocated to the Net Settlement Amount.

1.32 **"Settlement Administrator"** means Simpluris, Inc. ("Simpluris"), subject to Court approval.

1.33 **"Settlement Website"** means the website for the Settlement in this Action that will be established and maintained by the Settlement Administrator, where all pleadings, orders, agreements, and other documents necessary to effect the terms of this Settlement and to warrant approval of the Settlement by the Court will be posted at the time the Settlement Administrator sends the Notice of Settlement to the Class, and which shall be accessible to all Class Members through such time as all Settlement funds are finally and fully disbursed pursuant to the Settlement and Final Approval Order.

2. RECITALS AND PROCEDURAL HISTORY

2.1 **Allegations in Class Action Complaint.** On November 20, 2019, Plaintiff Michelle Orpilla filed a putative nationwide class action Complaint in the Superior Court of California, County of Santa Clara. On August 18, 2021, a First Amended Complaint was filed, naming Eric M. Wickham, as the new Plaintiff, captioned *Wickham v. Schenker, Inc.* Thereafter, Plaintiff ERIC M. WICKHAM filed a Second Amended Complaint was filed on March 2, 2023. On March 3, 2023, Defendant removed the Complaint to federal court in the Northern District of California. Plaintiff's Complaint asserts a claim for a violation of 15 U.S.C. § 1681b(b)(2)(A) of the Fair Credit Reporting Act. If the case proceeded, Plaintiff may also have alleged violations of California's Investigative Consumer Reporting Agencies Act, Cal. Civ. Code § 1786, *et seq.* ("ICRAA"), California's Consumer Credit Reporting Agencies Act, Cal. Civ. Code § 1785, *et seq.* ("CCRAA"), and California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.* ("UCL"), based on the allegations in the Complaint.

2.2 **Defendant's Denials.** Defendant denies (1) all material allegations in the Action, (2) that they violated any applicable laws, (3) that they are liable for damages, penalties, interest, restitution, attorneys' fees or costs, or for any other compensation or remedy with respect to anyone on account of the claims asserted in the Action, and (4) that class certification is appropriate as to any claim or proposed class in the Action. Defendant contends that their policies, procedures, and practices comply with all applicable laws asserted or that could have been asserted in the Action. Nonetheless, without admitting any liability or wrongdoing whatsoever and without admitting that class certification is appropriate for any purpose other than for settlement purposes alone, Defendant

have agreed to settle the Action on the terms set forth in this Agreement, to avoid the burden, expense, and uncertainty of litigation. Any statements by Defendant in this Agreement are made for settlement purposes only.

2.3 **Negotiation of Settlement.** Class Counsel engaged in intensive negotiations with Defendant viewed toward achieving substantial benefits for the Class Members, while avoiding the cost, delay, and uncertainty of future litigation. On November 4, 2024, the Parties attended mediation and participated in good faith, arms-length settlement discussions with mediator Hunter Hughes, Esq., a highly respected mediator with expertise in FCRA class actions, and were able to reach an agreement to resolve the claims released herein.

2.4 C**lass Counsel's Investigation and Evaluation.** This Settlement was reached after exchanges of information both before and during the mediation, and is the result of extensive arm's-length negotiations. The Parties participated in a full-day mediation, with Mr. Hughes assisting in facilitating the Settlement as a neutral third-party.

The Parties have conducted an investigation of the facts and law applicable to Plaintiff's claims in the Action and Defendant's defenses thereto, the damages claimed by Plaintiff, and exchanged data, documents, and information regarding the claims prior to the mediation and prior to negotiating the Settlement. In particular, Defendant produced the background check disclosure used during the Class Period in formal discovery, presented information regarding the alleged statute of limitations defense, and confirmed the applicable estimated class size through extensive data analysis. The Parties agree that the foregoing exchange of information and evaluation are sufficient to assess the merits of the respective Parties' position.

Based on the forgoing data and on its own independent investigation and evaluation, Class Counsel is of the opinion that the Settlement for consideration and on the terms set forth in this Stipulation of Settlement is fair, reasonable, and adequate and is in the best interest of the Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, the various defenses asserted by Defendant, and the numerous potential appellate issues. Further, Plaintiff has carefully evaluated the terms of the Settlement, and, based upon that review, has determined that it is fair and reasonable.

3. ALLOCATION OF SETTLEMENT PROCEEDS

3.1 **Gross Settlement Amount.** With the exception of the discretionary escalation under Paragraph 3.1.1 below, Defendant shall pay One Million and Two Hundred Seventy-Five Thousand Dollars and Zero Cents ($1,275,000 .00) as the Gross Settlement Amount as a result of this Stipulation of Settlement. The Gross Settlement Amount includes: the Administrative Costs, the Class Counsel Payment (not to exceed one-third (1/3) of the Gross Settlement Amount) plus costs (not to exceed $24,000.00) as determined by the Court for Class Counsel, the Service Payment to the Class Representative (not to exceed Five Thousand Dollars and Zero Cents ($7,500.00)), with the remainder to pay the Individual Settlement Payments to Participating Class Members.

3.1.1 **Escalator Provision**. The total number of estimated Class Members is stated in Paragraph 1.4 above. If the total number of Class Members, as stated in Paragraph 1.4, increases by more than five percent (5%), then the Gross Settlement Amount shall be augmented by Defendant in proportion to the amount by which the total number of Class Members increased above 5%. Should Defendant decline to increase the Gross Settlement Amount in accordance with this provision, either party may rescind this Agreement at their sole discretion.

3.2 **Service Payment to Class Representative**. The Service Payment to the Class Representative will, subject to Court approval, be paid in an amount not to exceed Seven Thousand Five Hundred Dollars and Zero Cents ($7,500.00) from the Gross Settlement Amount for service and assistance to the Class. Defendant will not oppose the Class Representative's request for a Service Payment not to exceed this amount. Any amount of the requested Service Payment not awarded by the Court will become part of the Net Settlement Amount.

Because the Service Payment represents payment to the Class Representative for service to the Class Members, payroll taxes will not be withheld from the Service Payment. The Settlement Administrator will report the Service Payment on a Form 1099, and any other required tax forms, and will provide them to the Class Representative and to the pertinent taxing authorities as required by law. The Class Representative assumes full responsibility for paying all taxes, federal and state, if any, due as a result of the Service Payment and will indemnify and hold Defendant harmless from

any liability incurred as a result of any failure by the Class Representative to pay any taxes held by any taxing authority to be owed by her.

3.3 **Class Counsel Payment**. Class Counsel shall apply to the Court for an award from the Gross Settlement Amount of reasonable attorneys' fees not to exceed one-third (1/3) of the Gross Settlement Amount (currently $425,000) plus reasonable costs incurred in this Action, not to exceed $24,000.00, which Defendant will not oppose. Any amount of the requested Class Counsel Payment not awarded by the Court will become part of the Net Settlement Amount. The Parties shall have no liability for any other attorneys' fees or costs or any amount outside of the Settlement Fund.

3.4 **Administrative Costs.** The Settlement Administrator shall be paid for the costs of administering of the Settlement from the Gross Settlement Amount.

The actions of the Settlement Administrator shall be governed by the terms of this Stipulation of Settlement and any orders of the Court. The Parties agree that communications to and from the Settlement Administrator will include both Class Counsel and Defendant's Counsel.

In the event that either Defendant's Counsel or Class Counsel takes the position that the Settlement Administrator is not acting in accordance with the terms of the Stipulation of Settlement, such party shall meet and confer first with opposing counsel and/or, if necessary with the Settlement Administrator, to attempt to resolve the issue. Should those efforts fail, Defendant's Counsel and Class Counsel shall jointly request the Court's assistance in resolving the issue.

3.5 **Participating Class Members.** Only Participating Class Members shall be entitled to a Settlement Payment which shall consist of an equal, *pro rata* amount to each Participating Class Member from the Net Settlement Amount. Class Members shall not be required to submit claim forms. Based on the various federal and state claims alleged or that could have been asserted based on the allegations in the Action pertaining to pre-employment background checks, the Parties understand and agree that the payments to each member of the Settlement Class are not wages, not subject to withholdings, and will be reported on an IRS Form 1099 to be issued by the Settlement Administrator. Each member of the Settlement Class will be solely responsible for paying all taxes owed on this payment.

3.6 **The Parties Desire Resolution.** It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all disputes and claims against the Releasees as provided herein. As long as there are no changes to the material terms of this Settlement Agreement (e.g. the amount of money to be paid, the class definitions, and/or the scope of the negotiated releases), the Court may make non-material changes to the terms of this Settlement Agreement as appropriate and/or necessary to approve the Settlement (i.e., procedural matters such as the language contained in the claim form and length of notice to the class).

4. RELEASES

4.1 **Released Claims by All Members of the Settlement Class**. Upon the Effective Date, Plaintiff and each member of the Settlement Class fully release and forever discharge the Released Parties from the Released Claims. Each Settlement Class Member who does not opt out of the Settlement or have their attorney opt out on their behalf shall release: (i) Schenker, Inc.; (ii) Schenker, Inc.'s past, present and future parents, subsidiaries, affiliates, divisions, joint ventures, licensees, franchisees, and any other legal entities, whether foreign or domestic, that are owned or controlled by Defendant; and (iii) the past, present and future shareholders, officers, directors, members, agents, employees, independent contractors, vendors, consultants, representatives, fiduciaries, insurers (including current and former agents), reinsurers, attorneys, legal representatives, predecessors, successors, and assigns of Defendant and the entities listed in (ii) from all claims of any and every kind arising in whole or in part from or in any way related to Defendant's procurement of consumer reports or investigative consumer reports for employment purposes using the background check authorization and disclosure forms in use prior to February 28, 2022, regarding Plaintiff and such Class Members, including all claims brought or that could have been brought under the Fair Credit Reporting Act for statutory, actual and punitive damages, all state equivalent laws (including but not limited to the California Investigative Consumer Reporting Agencies Act and California Credit Reporting Agencies Act (California Civil Code § 1786 et seq. and 1785 et seq., respectively)), express or implied breach of contract, tort, equity, unfair competition, or any other type of claim based on any federal, state or municipal statute, law, ordinance or regulation. The Class Members also shall waive any right to pursue in any forum any such claims on a class or collective

action basis of any kind, including any mass action. This release includes a waiver of California Civil Code § 1542 and like laws in other jurisdictions, and thus releases all known and unknown claims arising from or related to the facts and claims alleged or that could have been alleged in the Complaint.

4.2 **Released Claims by Plaintiff**. In addition to the Released Claims set forth in Section 4.1 of this Agreement, the Class Representative expressly releases any and all claims, known or unknown, they may have against Defendant (and other Released Parties), including but not limited to the claims asserted in the Action, or any other claims that could have been asserted in the Action, through and including the Effective Date, as permitted by law.

4.3 **General Release - Waiver of California Civil Code Section 1542**. As to all of the Released Claims, the Class Representative waives any and all rights provided 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.**

The releases shall extend through the date of Final Approval of the settlement.

4.4 **Settlement is Contingent Upon Release of Claims**. This Agreement is conditioned upon the releases by the Settlement Class and Class Representatives as described herein, and upon covenants by the Settlement Class and Class Representative that they will not participate as plaintiffs, claimants, or absent class members in any actions, lawsuits, proceedings, complaints, or charges in any court or before any administrative body asserting any claims they have released under this Settlement.

5. NOTICE TO CLASS MEMBERS AND CLASS MEMBERS' OPTIONS TO RESPOND

5.1 **Application for Preliminary Approval.** At the earliest practicable time after execution of this Stipulation of Settlement, Class Counsel shall submit to the Court a motion for preliminary approval, and supporting papers, which shall include this Stipulation of Settlement Agreement and Release of Claims. Plaintiff shall be responsible for drafting and filing the motion for preliminary approval. Plaintiff will provide Defendant with a copy of the draft motion for preliminary approval at least five (5) business days before the filing of the motion. The Court's preliminary approval of this Stipulation of Settlement shall be embodied in a Preliminary Approval Order (in a form substantially similar to **Exhibit C**) certifying the Class for settlement purposes only, preliminarily approving the Settlement and approving the Notice of Class Action Settlement to be sent to the Class in the general form attached hereto as **Exhibit A** which will explicitly provide and refer Class Members to a hyperlink to the Settlement Website that will maintain the Long-Form Notice in a form substantially similar to **Exhibit B.** Defendant shall provide the CAFA Notices for the proposed settlement to the state and federal officials as required by the Class Action Fairness Act, 28 U.S.C. § 1715, no later than ten (10) calendar days after Class Counsel files a motion for preliminary approval of this Stipulation of Settlement Agreement and Release of Claims.

5.2 **Notice**

5.2.1 **Class Data for the Settlement Administrator.** Within thirty (30) calendar days after the Court enters the Preliminary Approval Order, Defendant shall provide to the Settlement Administrator a confidential class list containing the names and, where available, last known email and physical mailing addresses of each Class Member. This information shall be used to facilitate the administration of this Agreement. The Settlement Administrator shall keep the class data provided by Defendant strictly confidential and shall use the class data only for the purposes described in this Agreement, and shall return the class data to Defendant or confirm the destruction of same upon completing the settlement administration called for by this Agreement. Upon receipt of the class data, and for any Class Members for whom email delivery of the Notice is not possible, the Settlement Administrator shall run on Accurint (or substantially similar) skip-trace and check with the U.S.

Postal Service National Change of Address Database and update any addresses with any new information found regarding the location of Class Members.

5.2.2 **Content of Class Notice.** The Class Notices shall be substantially in the forms attached as **Exhibit A** (to be sent by e-mail, where available, in the first instance) and **Exhibit B** (to be available on the Settlement Website). Together, the Class Notices shall inform Class Members of the amount of the Settlement, a calculation of the Class Members' anticipated share of the Net Settlement Amount, the full amounts of the Class Counsel Payment and Service Award, the terms of the releases, the procedure to opt out of the Settlement through a Request for Exclusion, the procedure to object to the Settlement, and the date of the Final Approval Hearing. No claim form will be required to participate in the Settlement.

5.2.3 **Delivery of Class Notices to Class Members.** Within 21 calendar days of the receipt of the class data discussed above, the Settlement Administrator will send the Notice of Settlement to the last-known e-mail address for each Class Member. For those individuals for whom Defendant do not possess a last-known e-mail address or e-mail delivery fails, the Settlement Administrator shall mail the Notice using United States First Class Mail. The Settlement Administrator will also establish the Settlement Website, which will include the Stipulation of Settlement and a summary of the settlement terms.

For those Class Notices sent by U.S. Mail, unless the Settlement Administrator receives the Notice of Settlement returned as undeliverable from the U.S. Postal Service, the Notice shall be deemed received by the Class Member to whom it was sent.

For those Class Notices sent by U.S. Mail, if after the first mailing of the Notice and prior to the Final Approval Hearing, any Notice is returned to the Settlement Administrator by the U.S. Postal Service with a forwarding address for the recipient, the Settlement Administrator shall re-mail such notice to that forwarding address as soon as is reasonably practicable.

For those Class Notices sent by U.S. Mail, in the event that after the first mailing of the Notice and prior to the Final Approval Hearing, any Notice is returned to the Settlement Administrator by the U.S. Postal Service without a forwarding address, the Settlement Administrator will make reasonable efforts to locate forwarding addresses, including performing a standard skip-trace using

the Class Member's social security number (when available) and address in an effort to ascertain the current address and/or telephone number of the Class Member. If a current address is ascertained, the Settlement Administrator shall promptly re-mail the Notice.

5.2.4 **Binding Effect of Settlement**. Although a Class Member might not receive the Notice of Class Action Settlement, and might not timely submit an Objection or a Request for Exclusion because of inability to locate the Class Member's current address, that Class Member shall nonetheless be bound by this Agreement.

5.2.5 **Proof of Mailing.** At least twenty (20) calendar days prior to the Final Approval Hearing, the Settlement Administrator shall provide a declaration of due diligence and proof of e-mailing and/or mailing with regarding the Notice of Class Action Settlement. The declaration shall be provided to Class Counsel and Defense Counsel, which they shall in turn provide to the Court.

5.2.6 **Settlement Administrator Updates.** Beginning two weeks after the date the Notices of Settlement are sent, the Settlement Administrator shall provide to Class Counsel and Defendant's Counsel a weekly status report which will be cumulative, reflecting the names and the number of Class Members who have filed Opt-Out Requests or Objections, as well as information about how many Notices have been mailed to forwarding addresses, returned as undeliverable, and/or re-mailed.

5.3 **Requests for Exclusion ("Opt-Out Request").**

5.3.1 **Opt-Out Procedure.** Class Members, except for Plaintiff, will have sixty (60) days from the initial date the Settlement Administrator sends the Notice of Settlement within which to opt-out of the Settlement. Class Members who wish to exercise this option must timely submit, or have their attorney submit on their behalf, an Opt-Out Request to the Settlement Administrator postmarked by the Objection/Opt-Out Deadline. To be valid, a Request for Exclusion must include the Class Member's name and signature, current address, current telephone number, the last four digits of the Class Member's Social Security number and statement affirming the Class Members wishes to opt out of the Settlement. Attorneys representing one or more Class Members may submit requests for exclusion on behalf of their clients. Such requests must clearly identify each client for

whom exclusion is sought, include a signed declaration by the attorney affirming that they have authority to act on behalf of each identified client, and comply with all other requirements for exclusion set forth in this Agreement. Group submissions by attorneys shall be deemed valid provided they meet these criteria. The Settlement Administrator shall not review or consider any Opt-Out Request postmarked after the Objection/Opt-Out Deadline.

5.3.2 **Effect of Number of Opt-Outs.** In the event more than 100 of the Class Members affirmatively opt out of the settlement, Defendant shall have the right to void the Settlement. Neither party nor their counsel shall encourage any Class Member to opt out of the Settlement. To exercise this option, Defendant must send written notification to Class Counsel within fourteen (14) days of receiving a report from the Settlement Administrator informing Defendant that the total number of timely and valid Opt-Out Requests is equal to 100 or more of the Settlement Class. If Defendant choose to exercise this option to rescind the Settlement, the effect will be precisely the same as if Final Judgment did not occur, as discussed herein, and Defendant will retain the entirety of the Gross Settlement Amount, less any fees to be paid to the Settlement Administrator for work performed in connection with their duties under this Agreement.

5.3.3 **Effect of Exclusion Through Opting Out.** Any Class Member who properly requests exclusion using this procedure will not receive any payment from the Settlement and will not be bound by the Stipulation of Settlement or have any right to object, appeal or comment thereon. Class Members who do not submit a valid and timely executed Opt-Out Request shall be part of the Settlement Class and bound by all the terms of the Stipulation of Settlement and any judgment entered in the Action as part of a Final Approval Order entered by the Court. Neither the Parties nor any of their counsel will solicit any Class Member to submit an Opt-Out Request.

5.4 **Objections to Settlement.** The Parties agree that Plaintiff may not file an objection to the Settlement. Class Members, except for Plaintiff, will have sixty (60) days from the date the Notice of Settlement is sent within which to submit an objection to the Settlement. Only Class Members who have not filed an Opt-Out Request may object to the Settlement. To object, a Class Member may submit by First-Class Mail a written objection to the Settlement Administrator postmarked by the Objection/Exclusion Deadline that includes the Class Member's full name,

signature, the reasons for the objection, and whether the Class Member intends to appear at the Final Approval Hearing, and the name of the case: *Wickham v. Schenker, Inc.*, Case No. 5:23-cv-00946-PCP, pending in the United Stated District Court for Northern District of California. The Settlement Administrator shall forward copies of any objections to Class Counsel and Defendant's Counsel within three (3) days of receipt. Class Counsel shall submit copies of any objections received to the Court in conjunction with the filing of the motion for Final Approval of the Settlement. Alternatively, Class Members wishing to object may also elect to do so orally directly to the Court by appearing in person at the Final Approval Hearing without submitting a written objection prior to the hearing. However, only written objections submitted according to the procedure above will be heard at the Final Approval Hearing without the need for the objector to appear at the hearing. The Parties and their counsel agree that they will not solicit, encourage, counsel, or advise any individual to object to the Settlement.

6. FINAL APPROVAL

6.1 Following preliminary approval, notice to the Class, and an opportunity for objection, Plaintiff will move the Court for entry of the Final Approval Order and Judgment. The Final Approval Order and Judgment shall, among other things, (a) find that the Court has personal jurisdiction over all members of the Settlement Class and that the Court has subject matter jurisdiction to approve this Stipulation of Settlement, (b) certify the Class for Settlement purposes only, (b) find the Settlement fair, reasonable, adequate, and in the best interests of the Class Members, (c) approve the Class Counsel Payment, (d) approve the Class Representative's application for Service Payment, (e) approve the payment of the Administrative Costs, and (f) permanently release and bar any further Released Claims by Class Members who do not opt-out of the Settlement. The Parties expressly agree that the Court will retain jurisdiction to enforce the terms of the Settlement and the Final Approval Order. The Parties and their counsel shall make all reasonable efforts to secure entry of the Judgment. The proposed Final Approval Order and Judgment shall be lodged with the Court no later than seven (7) days before the Final Approval Hearing. Plaintiff shall be responsible for drafting and filing the Final Approval Motion and for entry of the Judgment. Plaintiff will provide Defendant with a copy of the motion(s) at least five (5) business days before the filing of the motion.

6.2 Class Representative and Class Counsel agree that they shall draft and file the necessary papers for approval of the Service Payment and Class Counsel Payment. Defendant will not oppose the amount of the Service Payment and Class Counsel Payment sought, as long as they are consistent with this Stipulation of Settlement. If the Court (or any appellate court) awards less than the amount requested for attorneys' fees and/or costs, or less than the amount requested for the Service Payment for the Class Representative, only the awarded amount shall be paid and shall constitute satisfaction of the obligations of Defendant under this Stipulation of Settlement. If Class Counsel files a timely appeal regarding the amount of the Class Counsel Payment and/or costs or Service Payment approved by the Court, the Settlement Administrator shall hold the difference between the amount requested and the amount awarded in escrow, in an interest-bearing account until such appeal has been fully resolved. Any unawarded amounts shall be added to the Net Settlement Amount for distribution to the Participating Class Members.

6.3 The Final Approval Hearing shall be held at the Court's convenience, but not earlier than one hundred (100) days after CAFA Notices are served.

6.4 If Final Approval does not occur, or if this Stipulation of Settlement is terminated or canceled pursuant to its terms, the Parties to this Stipulation of Settlement shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Stipulation of Settlement. Notwithstanding any other provision of this Stipulation of Settlement, no order of the Court, or modification or reversal on appeal of any order of the Court, reducing the amount of any attorneys' fees or costs to be paid by Defendant to Class Counsel, or reducing the amount of the Service Payment paid to the Class Representative, shall constitute grounds for cancellation or termination of the Stipulation of Settlement, or grounds for limiting any other provision of the Judgment.

7. FUNDING AND DISTRIBUTION OF SETTLEMENT PROCEEDS

7.1 Within thirty (30) calendar days after the Effective Date, Defendant shall provide the Gross Settlement Amount to the Settlement Administrator to fund the Settlement as set forth in this Stipulation of Settlement.

7.2 Within forty-five (45) calendar days after the Effective Date, the Settlement Administrator shall issue the Individual Settlement Payments to Class Members in the form of a check, which shall become null and void if not cashed within one hundred eighty (180) days of issuance. The Settlement Administrator will mail all settlement checks to the last known address of each Participating Class Member. No settlement checks will be mailed to those Class Members whose Notice was returned as undeliverable with no valid address ascertained above. Any Class Member who is not mailed an initial Settlement Payment pursuant to this paragraph shall nevertheless be bound by the Judgment and subject to the Released Claims. For all such Class Members, the value of their Settlement Payment shall be included in the Net Settlement Amount to be allocated to Participating Class Members. The settlement check shall contain release language printed on the back of the check. In the event that a Settlement Payment is returned by the U.S. Postal Service with a forwarding address, the Settlement Administrator shall re-mail the check within three (3) days. In the event that a Settlement Payment is returned by the U.S. Postal Service as undeliverable, the Settlement Administrator shall perform a standard skip-trace and shall remail the check within three (3) days if a current address can be ascertained.

7.3 Any checks issued to the Class Members shall remain valid and negotiable for one hundred eighty (180) days from date of their issuance. If any Class Member does not cash his or her settlement check within 180 days, such uncashed check shall be voided.

7.4 There will be a second distribution of the residue from uncashed checks to Class Members who cashed their first check who will have 180 days to cash the second check.

7.5 After the second distribution, unclaimed funds therefrom shall be transmitted to Electronic Privacy Information Center as the *cy pres* recipient, who shall receive all funds remaining unclaimed in this Settlement, subject to Court approval. During the 180-day check-cashing period, the Settlement Administrator shall provide bi-weekly reports to Class Counsel and Defendant's Counsel regarding the number of checks cashed and the total value of Settlement Payment remaining uncashed.

7.6 Within forty-five (30) calendar days of the Effective Date, the Settlement Administrator shall pay the Court-approved Class Counsel Payment to Class Counsel's trust account. Class Counsel shall provide to the Settlement Administrator, with a copy to Defendant, the pertinent taxpayer identification number and IRS Form W-9 within fourteen (14) days after the Effective Date.

7.7 Within forty-five (30) calendar days of the Effective Date, the Settlement Administrator shall send a check by mail for the Court-approved Service Payment to the Class Representative, care of Class Counsel.

7.8 Within two hundred and ten (210) days of issuance of the settlement checks, the Class Administrator shall provide to Class Counsel and Defendant's Counsel a report as to the amount of funds remaining in the Settlement Fund.

8. MISCELLANEOUS

8.1 **Voluntary Nature**. The Parties acknowledge they have entered into this Stipulation of Settlement voluntarily, based on their own judgment and without coercions, duress, or undue influence of any Party, and not in reliance on any promises, representations, or statements made by the other Party other than those contained in this Stipulation of Settlement. Plaintiff has read and fully understood the terms of this Stipulation of Settlement and consulted with her attorney prior to executing this Stipulation of Settlement. Plaintiff and Class Counsel agree that the Defendant have provided all information needed to make an informed decision to enter into this Stipulation of Settlement, and Plaintiff has been given the opportunity to ask any questions which Plaintiff may have regarding this Stipulation of Settlement.

8.2 **No Tax Advice**. Class Counsel and Defendant's Counsel do not intend this Stipulation of Settlement to constitute legal or tax advice regarding any federal, state or local tax issue. To the extent this Settlement or any of its attachments are interpreted to contain or constitute advice regarding any federal, state, or local tax issue, such advice is not intended or written to be used, and cannot be sued, by any person for the purpose of avoiding any tax liability or penalties. The tax issues for each Class Member are unique to him/her, and each Class Member is advised to obtain tax advice from his or her own tax advisor with respect to any payments resulting from this Settlement.

8.3 **Conditional Certification of the Class**. The Parties stipulate and agree to the conditional certification of the Class for purposes of this Settlement only. Should, for whatever reason, the Court not grant Final Approval, the Parties' stipulation to class certification as part of the Settlement shall become null and void and shall have no bearing on, and shall not be admissible in connection with, the issue of whether or not certification would be appropriate in a non-settlement context. Defendant expressly reserve their right and declare that they intend to oppose class certification vigorously should this Settlement not be granted Final Approval.

8.4 **Mutual Full Cooperation**. The Parties and their counsel agree to cooperate fully with each other to accomplish and implement the terms of this Stipulation of Settlement. Such cooperation shall include, but not be limited to, execution of such other documents and the taking of such other action as may reasonably be necessary to fulfill the terms of this Stipulation of Settlement. The Parties to this Stipulation of Settlement shall exercise reasonable efforts, including all efforts contemplated by this Stipulation of Settlement and any other efforts that may become necessary by Court order, or otherwise, to effectuate this Stipulation of Settlement and the terms set forth herein.

8.5 **No Admission**. Nothing contained herein, nor the consummation of this Stipulation of Settlement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or and of the other Released Parties. Each of the Parties hereto has entered into this Stipulation of Settlement with the intention of avoiding further disputes and litigation with the attendant risk, inconvenience and expenses. This Stipulation of Settlement is a settlement document and shall pursuant to the California Evidence Code section 1152 and/or Federal Rule of Evidence 408 and/or any other similar law, be inadmissible as evidence in any proceeding, except an action or proceeding to approve the settlement and/or interpret or enforce this Stipulation of Settlement.

8.6 **Construction**. The Parties hereto agree that the terms and conditions of this Stipulation of Settlement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that this Stipulation of Settlement shall not be construed in favor of or against any party by reason of the extent to which any party or its counsel participated in the drafting of this Stipulation of Settlement.

8.7 **No Publicity or Comments to Media.** The Parties and their counsel agree that no comments of any kind regarding the Stipulation of Settlement, the Settlement-related documents, or the Settlement negotiations, may be made at any time to the press/media, unless the Parties agree otherwise in writing. Notwithstanding the foregoing, Defendant shall have the right to disclose the Settlement and its terms for accounting or public filing purposes, or to otherwise comply with any public reporting duties. The Parties' counsel shall also retain the right to discuss the Settlement with the Parties.

8.8 Plaintiff, by signing this Stipulation of Settlement, is bound by the terms herein and further agrees not to request to be excluded from the Settlement and not to object to any terms of this Stipulation of Settlement. Any such request for exclusion or objection shall therefore be void and of no force or effect. Defendant and Plaintiff waive their rights to file an appeal, writ, or any challenge whatsoever to the terms of this Stipulation of Settlement, except Plaintiff and Class Counsel have the right to appeal any order denying, in whole or in part, their application for the award of attorneys' fees and costs and/or the Service Payment.

8.9 **Amendment or Modification**. This Stipulation of Settlement may not be changed, altered, or modified, except in writing signed by counsel for the Parties and approved by the Court. This Stipulation of Settlement may not be discharged except by performance in accordance with its terms or by a writing used by the Parties hereto.

8.10 **Binding on Successors**. This Stipulation of Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

8.11 **Parties' Authority**. The signatories hereto represent that they are fully authorized to enter into this Stipulation of Settlement and bind the Parties hereto to the terms and conditions hereof.

8.12 **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 released and discharged by this Stipulation of Settlement.

8.13 **Counterparts**. The Parties may execute this Stipulation of Settlement in counterparts,

and execution of counterparts and photocopies thereof shall have the same force and effect as if all Parties had signed the same instrument.

8.14 **Jurisdiction of the Court**. The Court shall retain jurisdiction solely with respect to the implementation and enforcement of the terms of the Stipulation of Settlement and all orders and judgements entered in connection therewith, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation of Settlement and all orders and judgments entered in connection therewith.

8.15 **Governing Law**. This Stipulation of Settlement shall be interpreted, construed, enforced and administered in accordance with the laws of the state of California.

8.16 **Entire Agreement**. This Stipulation of Settlement including Exhibits attached, contains the entire agreement between the Parties relating to the Settlement. All prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

IN WITNESS THEREOF, this Stipulation of Settlement is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

Dated: 1/8/2026, ~~2025~~

ERIC M. WICKHAM

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ERIC M. WICKHAM
Plaintiff

Dated: 1/12/2026, ~~2025~~

SCHENKER, INC.

SCHENKER, INC.
Defendant

By: Andreas Wenger
Title: SVP, CFO North & Latin America

APPROVED AS TO FORM

Dated: 1/8/2026, ~~2025~~

SETAREH LAW GROUP

ID a5ss8V3revmzDJbP5W5gi42M

Shaun Setareh
Attorneys for Plaintiff
ERIC M. WICKHAM

Dated: 1/12/2026, ~~2025~~

LITTLER MENDELSON, P.C.

Curtis A. Graham
Chad Kaldor
Jamie Y. Lee
Attorneys for Defendant
SCHENKER, INC.

eSignature Details

Signer ID:	**fQk8yMiC6qWAqohs2eMxSpyK**
Signed by:	Eric M Wickham
Sent to email:	Susulata19@gmail.com
IP Address:	172.56.212.232
Signed at:	Jan 8 2026, 2:46 pm PST

eSignature Details

Signer ID:	**a5ss8V3revmzDJbP5W5gi42M**
Signed by:	Shaun Setareh
Sent to email:	shaun@setarehlaw.com
IP Address:	12.160.160.211
Signed at:	Jan 8 2026, 3:28 pm PST

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: $1.27M+ Schenker Settlement Resolves Lawsuit Over Background Checks