UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

NANCY TAYLOR, on behalf of herself and all others similarly situated,

Plaintiff,

v.

SERVICE CORPORATION INTERNATIONAL, et al.,

Defendants.

Case No.: 20-CV-60709-RAR

CLASS ACTION
JURY TRIAL DEMANDED

MEMORANDUM IN SUPPORT OF UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Plaintiff Nancy Taylor ("Plaintiff"), individually and on behalf of the proposed Settlement Classes, files this Memorandum in Support of this Unopposed Motion for Preliminary Approval of Class Action Settlement, ECF No. 129, and states as follows:

INTRODUCTION

After substantial investigation, over two years of litigation involving extensive motion practice before this Court, and multiple mediations, the Parties are pleased to report that they have reached this proposed settlement ("The Settlement" or "The Settlement Agreement"), a copy of which is attached as Exhibit A. The Settlement is fair and warrants preliminary approval because it delivers real and substantial relief for Settlement Class Members. First, Defendants have agreed to offer each Settlement Class Member a full refund of the purchase price paid for their contracts, should they choose to exercise their option to cancel those contracts, which was a primary goal of this litigation. Thus, participating Settlement Class Members will be entitled to a refund of approximately $2,400, with no limit on the number of Settlement Class Members that may participate. Second, the Settlement provides for valuable injunctive relief to ensure changed

business practices in the form of additional disclosures about Defendants' financial interest in certain products sold. Third, Defendants will provide an online obituary to all Settlement Class Members who choose not to cancel their contracts. Finally, Defendants have agreed to pay all Settlement administration costs, including the costs of providing notice to Settlement Class Members and administering all claims. If it is finally approved, this Settlement will provide relief to tens of thousands of potential Settlement Class Members and will finally conclude this litigation. "Federal courts have long recognized a strong policy and presumption in favor of class action settlements." *In re Checking Account Overdraft Litig.*, 830 F. Supp. 2d 1330, 1341 (S.D. Fla. 2011).

As set forth below and in the submissions accompanying the Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement, the Court should preliminarily approve the proposed Settlement, certify the proposed Settlement Classes, approve the manner and content of the proposed Class Notice and Claim Form, establish the deadlines for Settlement administration, and set the date for the Final Approval Hearing.

BACKGROUND

I. Procedural History

Plaintiff filed this lawsuit on April 6, 2020, ECF No. 1, and filed her First Amended Complaint on July 10, 2020, ECF No. 43. The Parties briefed and litigated a motion to dismiss the First Amended Complaint, ECF No. 51, which the Court granted on March 31, 2021, ECF No. 82. After Plaintiff filed a Second Amended Complaint, ECF No. 84, the Parties again briefed and litigated a motion to dismiss, ECF No. 88. The Court granted in part and denied in part Defendants' motion to dismiss Plaintiff's Second Amended Complaint on November 1, 2021—over a year-and-a-half after the lawsuit was first filed. The remaining, surviving claims are for Florida Funeral Act Violations (Counts III and IV), Unjust Enrichment (Counts V and VI), and Declaratory

Judgment (Counts VII and VIII).

The Parties exchanged initial discovery requests and responses beginning in August and September 2020. Discovery was stayed until the Court ruled on the motion to dismiss. When discovery resumed, the Parties continued participating in discovery, including with supplemented interrogatory responses and additional document productions. To date, Defendants have produced over 12,000 pages of documents. The parties also exchanged information concerning the putative classes, the claims, and defenses via informal discovery. Plaintiff also sat for her deposition on June 2, 2022.

II. Arms-Length Settlement Negotiations

During the extensive litigation of the motions to dismiss, the Parties conducted two mediation sessions with nationally renowned and experienced mediator Rodney Max on January 28, 2021, and February 12, 2021. No settlement was reached in those mediations. The Parties attended a third mediation, starting on March 24, 2022, with renowned and experienced class action mediator Hunter Hughes, III, informed by the Court's decisions on the motions to dismiss and the progress of ongoing discovery. *See* Ex. B, Ewing Decl. at Ex. 3 (Hughes Decl.) (detailing the mediation process). In between the sessions, the Parties continued to engage in lengthy negotiations to attempt to resolve this matter.

Throughout the mediation sessions and to the present day, Plaintiff and her counsel maintain the strength of her claims and those of the putative classes, and remain confident that she and the classes would prevail if the Parties litigated this case to a final judgment. Plaintiff and her counsel have conducted the necessary legal research and pursued the discovery required to move for class certification and fully build the case for trial. However, the hard-fought motions practice, which resulted in the dismissal of several of her claims and required over a year of litigation,

underscored the risk that Plaintiff and the classes may not prevail at subsequent motion phases, trial or on appeal.

Throughout the mediation sessions and to the present day, Defendants have maintained that they have meritorious defenses to all of Plaintiff's claims, including but not limited to evidence of decades of regulatory approval of the alleged improper practices under the Funeral Act, for them as well as numerous other industry participants. Defendants have further maintained that the preneed contracts at issue have been approved by the Florida Board of Funeral, Cemetery, and Consumer Services, as well as the Division of Funeral, Cemetery and Consumer Services. Defendants have further maintained that Plaintiffs' claims in connection with the TRPP are preempted. Defendants have stated that they have retained various industry experts to substantiate their defenses. Defendants have further stated that Plaintiff or members of the putative classes would not be entitled to full rescission of their contracts, and stated that they believe they have meritorious defenses to the claims and Rule 23 assertions. Thus, Defendants have taken the position they are providing *more* relief than would otherwise be available through the course of litigation in this matter to the proposed class in a good faith effort to resolve this case. However, as several claims survived past the initial, hard-fought motion to dismiss practice and litigation continued through the years, the defense expended tremendous resources in discovery. Defendants thus have stated that they appreciate that litigation is always risky and expensive.

Based on the parties' respective positions, as well as the Court's ruling on the Motions to Dismiss, the Parties remained interested in settlement, and diligently continued to informally mediate and communicate with a renowned class action mediator and negotiated a settlement that would result in meaningful and fair relief for Plaintiff and the Class Members. Because of the Parties' efforts in several rounds of mediation, litigation, discovery, and informal negotiations, the

Parties reached a settlement agreement in principle in late June 2022.

SETTLEMENT TERMS

I. The Settlement Classes

To effectuate the Settlement, and for settlement purposes only, the Settlement provides that the Class Representative (Plaintiff here) will file a Third Amended Complaint adding a new Class Representative, Hazel Benjamin, and a new Defendant, NCS Marketing Services, LLC D/B/A National Cremation Society. Under the Settlement, the Parties propose that the Court certify for purposes of settlement only the following "Settlement Classes" or "Settlement Class Members":

> All persons who, between April 1, 2016 and the present, purchased a Preneed Funeral Agreement and a Retail Merchandise Agreement from Neptune or NCS ("Preneed and Retail Merchandise Plan"), within the State of Florida, excluding all Preneed and Retail Merchandise Plans for which the contracted for cremation services have been performed, and all irrevocable preneed contracts.

AND

> All persons who, between April 1, 2016 and the present, purchased a TRPP from Neptune or NCS, within the State of Florida, excluding all TRPPs where the beneficiary has already been cremated or buried.
>
> Excluded from these classes are Defendants, its affiliates, subsidiaries, agents, board members, directors, officers, and employees. Also excluded from the class are the district judge and magistrate judge assigned to this case, their staff, and their immediate family members.

II. Settlement Relief

The Settlement provides both monetary and non-monetary relief to Settlement Class Members to fully settle all claims in this litigation. Settlement Class Members who timely submit a valid Claim Form will be allowed to cancel their Retail Merchandise Agreement, Preneed Funeral Agreement, and TRPP and receive a full refund of the purchase price paid for each agreement. Based upon the approximately 87,000 estimated Settlement Class Members, Class Counsel estimate that the potential for refunds include a total of approximately $2,400 on average

per Settlement Class Member. Settlement Class Members who choose not to cancel their plans will receive an online obituary and services of Neptune or NCS personnel to work with families to craft the language of the obituary. In addition to the monetary relief, Class Counsel have also secured valuable injunctive relief in the form of changed business practices. Namely, to the extent that Neptune or NCS continue to sell the TRPP in the State of Florida, they will amend the TRPP contract forms sold to include a specific disclaimer that they have a financial interest in an receive compensation based on the sale of the Plan. Defendants will also provide notice to all Settlement Class Members of their existing rights under Florida law to cancel their Preneed Funeral Agreements at any time.

III. Settlement Notice and Administration, Exclusions, and Objections

The Settlement incorporates a robust notice and administration program meant to ensure Due Process. To ensure the best notice practicable, the Settlement calls for individual Notice to be sent directly to Settlement Class Members via First-Class Mail, postage prepaid, 30 days after entry of the Preliminary Approval Order (the Notice Deadline). *See* Ex. A, Settlement Agreement at § VIII. It also requires an interactive Settlement Website dedicated to the Settlement to be established by the Notice Deadline and which will contain pertinent documents, the Individual Notice, a toll-free number where Settlement Class Members can obtain details regarding the Settlement and the Claim Form, and a portal where Claim Forms can be submitted. *Id*.

Settlement Class Members will have the opportunity to exclude themselves from the Settlement or object to its approval. *See* Ex. A, Settlement Agreement at § X. The deadlines for filing Opt-Out Requests and objections are conspicuously listed in the Individual Notice, which will also be on the Settlement Website. *Id*. at § VII, E. The Individual Notice informs Settlement Class Members that the Final Approval Hearing will be the only opportunity for them to appear

and have their objections heard. *Id*. at Ex. 2 (Individual Notice). The Individual Notice also informs Class Members who do not opt out of the Settlement that they will be bound by the release. *Id*. Finally, the Individual Notice (which will also appear on the Settlement Website) will provide information: (i) regarding the material terms of the Settlement; (ii) the proposed awards of attorneys' fees and costs; and (iii) how Class Members can obtain additional information. *Id*.

The Settlement Administrator, a nationally recognized class action administration firm, has concluded that the "Notice Plan is the best notice that is practicable under the circumstances, fully comports with due process and Fed. R. Civ. P. 23." *See* Ex. B, Ewing Decl. at Ex. 4, ¶ 23 (Weisbrot Decl.).

IV. Claims Process

The claims process is straightforward. Claim Forms will be included with the Individual Notices mailed to Settlement Class Members. In addition, the Settlement Administrator will provide claim forms to Settlement Class Members upon request, and claim forms will be published on a website created by the Settlement Administrator relating to the Lawsuit. Claim forms will be submitted by mail or electronically submitted as provided on the website Claim forms will be submitted by mail or electronically submitted as provided on the website for a period of sixty (60) days after the date that the Individual Notice is sent. Settlement Class Members who timely submit claims and return any merchandise in substantially original condition will receive a full refund of the price they paid for the plans. No claim forms are necessary for Settlement Class Members to receive the free online obituary and obituary services.

V. Release of Claims

In exchange for the benefits of the Settlement, Settlement Class Members will be bound to the following releases:

Release by Preneed and Retail Merchandise Plan Settlement Class Members. In consideration of the benefits described and the agreement and covenants contained in this Settlement Agreement, and by operation of the Final Order and Judgment, the Preneed and Retail Merchandise Plan Settlement Classes, the Class Representatives and each Preneed and Retail Merchandise Plan Settlement Class Member, on his, her, its, or their own behalf and on behalf of his or her respective predecessors, successors, assigns, assignors, representatives, attorneys, agents, trustees, insurers, heirs, next of kin, estates, beneficiaries, executors, administrators, and any natural, legal, or juridical person or entity to the extent he, she, or it is entitled to assert any claim on behalf of any Preneed and Retail Merchandise Plan Settlement Class Member hereby release, acquit, forever discharge and hold harmless the Released Persons, and each of them, of and from any and all past, present and future claims, counterclaims, crossclaims, actions, lawsuits, rights or causes of action, liabilities, suits, demands, damages, losses, payments, judgments, debts, dues, sums of money, costs and expenses (including, without limitation, attorneys' fees and costs), accounts, reckonings, bills, covenants, contracts, controversies, agreements, obligations, or promises, in law or in equity, contingent or non-contingent, known or unknown, suspected or unsuspected, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, whether direct, representative, class or individual in nature, in any forum that the Preneed and Retail Merchandise Plan Settlement Class Member, and each of them, had, has, or may have in the future arising from or relating to the Preneed and Retail Merchandise Released Claims, and agree not to institute, maintain, or assert any Preneed and Retail Merchandise Released Claims against the Released Persons.

Release by TRPP Settlement Class Members. In consideration of the benefits described and the agreement and covenants contained in this Settlement Agreement, and by operation of the Final Order and Judgment, the TRPP Settlement Classes, the Class Representatives and each TRPP Settlement Class Member, on his, her, its, or their own behalf and on behalf of his or her respective predecessors, successors, assigns, assignors, representatives, attorneys, agents, trustees, insurers, heirs, next of kin, estates, beneficiaries, executors, administrators, and any natural, legal, or juridical person or entity to the extent he, she, or it is entitled to assert any claim on behalf of any TRPP Settlement Class Member hereby release, acquit, forever discharge and hold harmless the Released Persons, and each of them, of and from any and all past, present and future claims, counterclaims, crossclaims, actions, lawsuits, rights or causes of action, liabilities, suits, demands, damages, losses, payments, judgments, debts, dues, sums of money, costs and expenses (including, without limitation, attorneys' fees and costs), accounts, reckonings, bills, covenants, contracts, controversies, agreements, obligations, or promises, in law or in equity, contingent or non-contingent, known or unknown, suspected or unsuspected, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, whether direct, representative, class or individual in nature, in any forum that the TRPP Settlement Class Member, and each of them, had, has, or may have in the future arising from or relating to the TRPP Released Claims, and agree not to institute, maintain, or assert any TRPP Released Claims against the Released Persons.

VI. Class Counsel Fees and Expenses

Defendants have agreed to pay an Attorneys' Fee Award in a total amount of Five Million, Five Hundred Thousand Dollars ($5,500,000.00), separate and apart from any payments to Settlement Class Members. Plaintiffs will file a petition in support of their fee request prior to the deadline for objecting or opting out of the settlement.

ARGUMENT

Rule 23(e) of the Federal Rules of Civil Procedure requires judicial approval for the compromise of claims brought on a class basis. This process entails certifying the proposed settlement class; preliminarily finding that the proposed settlement is sufficiently fair, reasonable, and adequate that it falls within the range of possible approval; and finding that it is in the best interests of the settlement class that they be given the opportunity to be heard regarding the settlement and the opportunity to exclude themselves from the proposed settlement class. *Fruitstone v. Spartan Race Inc*., No. 20-cv-20836, 2021 WL 354189 (S.D. Fla. Feb. 2, 2021). Considering the strong policy favoring settlement of class actions—combined with the fairness of the Settlement for the proposed Settlement Classes in this case—this Court should find that the Settlement Classes the Parties propose should be preliminary approved.

I. Certification of the Proposed Settlement Classes is Appropriate.

For purposes of this Settlement only, Defendants do not oppose class certification. As in other class settlements involving a global settlement, the Settlement provides for expanded Settlement Classes and adds a class representative and defendant through an amended complaint. *See* Ex. A, Settlement Agreement § I.G; *see also Poertner v. Gillette Co*., 618 Fed. Appx. 624, 625 (11th Cir. 2015) (finding no abuse in discretion in approving settlement involving amended complaint that expands scope of class and affords "global peace"); ECF No. 200 at 16 (finding the

Court may modify class certification "in light of subsequent developments in the litigation"); *Barron v. Snyder's-Lance, Inc.*, No. 13-cv-62496, 2016 WL 3913571, at *1 (S.D. Fla. Feb. 12, 2016) (preliminarily approving settlement including leave to file amended complaint); Fed. R. Civ. P. 23(c)(1)(C). A copy of the proposed Third Amended Complaint is attached as Exhibit C.

In exercising its discretion whether to certify a settlement class, a court must consider all Federal Rule of Civil Procedure 23(a) factors and find at least one subsection of Rule 23(b) is satisfied—"except that the Court need not consider the manageability of a potential trial, since the settlement, if approved, would obviate the need for a trial." *Gottlieb v. CITGO Petroleum Corp.*, No. 16-cv-81911, 2017 WL 6949273, at *2 (S.D. Fla. Aug. 14, 2017) (citing among others, *Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 620 (1997)). In addition, "even though a settlement class must meet the requirements of Rule 23, the 'settlement is a factor in the calculus,' and therefore the certification inquiry is not the same in the settlement context as when certification is for the purposes of trial." *Burrow v. Forjas Taurus S.A.*, No. 16-cv-21606, 2019 WL 13034869, *7 (S.D. Fla. Mar. 15, 2019).

The four requirements of Rule 23(a) are: "(1) the class must be so numerous that joinder of all members is impracticable ('numerosity'); (2) questions of law or fact common to the class must exist ('commonality'); (3) the claims or defenses of the representative parties must be typical of the claims or defenses of the class ('typicality'); and (4) the representative parties must fairly and adequately protect the interests of the class ('adequacy of representation')." *Leszczynski v. Allianz Ins.*, 176 F.R.D. 659, 668 (S.D. Fla. 1997). In addition, the court must find that the case can proceed as a class action for settlement purposes under the express requirements in subparts (1), (2), and/or (3) of Rule 23(b) and/or Rule 23(c)(4). *Sharf v. Fin. Asset Resolution, LLC*, 295 F.R.D. 664, 668–69 (S.D. Fla. 2014); *Williams v. Mohawk Indus., Inc.*, 568 F.3d 1350, 1359-60 (11th Cir.

2009).

The Settlement calls for certification of Rule 23(b)(2) or Rule 23(b)(3) Settlement Classes. Certification is appropriate under Rule 23(b)(2) if "the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." Fed. R. Civ. P. 23(b)(2). Rule 23(b)(3) certification requires a showing of: (1) "predominance" (that "questions of law or fact common to class members predominate over any questions affecting only individual members"); and (2) "superiority" ("that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy"). *Collins v. Erin Capital Mgmt., LLC*, 290 F.R.D. 689, 699 (S.D. Fla. 2013).

II. Rule 23's Requirements, For Settlement Purposes Only, are Satisfied.

a. The Settlement Classes are Ascertainable

"As a threshold issue, Plaintiff must demonstrate that the proposed class is adequately defined and clearly ascertainable." *Northrup v. Innovative Health Ins. Partners, LLC*, 329 F.R.D. 443 (M.D. Fla. 2019). To meet the "ascertainability" requirement, a plaintiff must be able to identify the class members by reference to objective criteria in an administratively feasible way. *Joffe*, 2019 WL 5078228, at *4, n 1 (citing *Karhu v. Vital Pharm., Inc.*, 621 F. App'x 945, 947 (11th Cir. 2015)). The "court need not know the identity of each class member before certification; ascertainability requires only that the court be able to identify class members at some stage of the proceeding." *Karhu*, 621 F. App'x at 952 (concurring opinion). A plaintiff may demonstrate a proposed class is ascertainable by referring to a defendant's records. *See Carriuolo v. Gen. Motors LLC*, No. 14-61429-CIV, 2015 WL 12434325, at *3 (S.D. Fla. July 9, 2015); *see also Rikos v. Procter & Gamble Co.*, 799 F.3d 497, 525–26 (6th Cir. 2015).

Here, both proposed Settlement Classes are limited using objective criteria: Florida residents who purchased a Preneed Funeral Agreement, Retail Merchandise Agreement and/or a TRPP during a specific timeframe. Defendants possess records of purchasers, including the purchasers' name, address, contact information, and purchase history, such that Settlement Class Members can be easily identified by the Settlement Administrator. The ascertainability requirement is satisfied here.

b. The Proposed Classes, For Settlement Purposes Only, Satisfy the Requirements of Rule 23(a).

Rule 23(a)(1)—Numerosity—Is Satisfied.

To satisfy Rule 23(a)(1)'s requirement—numerosity—a movant must show that "the class is so numerous that joinder of all members is impracticable." Fed. R. Civ. P. 23(a)(1). "There is no rigid standard for determining numerosity." *Hicks v. Client Services, Inc.*, 07-61822-CIV, 2008 WL 5479111, at *3 (S.D. Fla. Dec. 11, 2008). "The Court is given discretion to make assumptions…" *Agan v. Katzman & Korr, P.A.*, 222 F.R.D. 692, 696 (S.D. Fla. 2004) (citation omitted). Parties seeking class certification need not know the "precise number of class members," but they "must make reasonable estimates with support as to the size of the proposed class." *Roth*, 2018 WL 9403428 at, *3. The Eleventh Circuit has held, "generally, joinder of fewer than twenty-one plaintiffs is considered practicable and joinder of more than forty impracticable." *See Brink*, 328 F.R.D. at 444 (citation omitted).

Both Settlement Classes satisfy Rule 23(a)(1)'s numerosity requirement because they comprise thousands of members each, as stipulated by the Defendants and shown in formal and/or informal discovery exchanges.

Rule 23(a)(2)—Commonality—Is Satisfied for Settlement Purposes

To satisfy Rule 23(a)(2)'s requirement—commonality—a movant must demonstrate that "there are questions of law or fact common to the class." Fed. R. Civ. P. 23(a)(2). Plaintiffs face a "low hurdle" in bearing this "light" burden, as commonality "does not require that all questions of law and fact raised be common." *Sanchez-Knutson v. Ford Motor Co.*, 310 F.R.D. 529, 537 (S.D. Fla. 2015).

Quantitatively, a single common question "whose resolution will affect all or a significant number of the putative class members" may establish commonality. *Williams v. Mohawk Indus., Inc.*, 568 F.3d 1350, 1355 (11th Cir. 2009); *see also Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011) (finding a single common question satisfies commonality and that a class-wide proceeding must be able to "generate common answers apt to drive the resolution of the litigation" (citation omitted)). Qualitatively, the "common contention [must be] . . . of such a nature that it is capable of class wide resolution—which means that determination of its truth or falsity will resolve issue that is central to the validity of each one of the claims in one stroke." *Id.* This is easily shown when a plaintiff alleges that defendants have engaged in a standardized course of conduct that affects all class members allegedly in violation of a form contract. *See Ruderman ex rel. Schwartz v. Washington Nat. Ins. Co.*, 263 F.R.D. 670, 679 (S.D. Fla. 2010) (standardized course of conduct allegedly in violation of insurance policy that affects all class members satisfied commonality); *Fabricant v. Sears Roebuck*, 202 F.R.D. 310, 313 (S.D. Fla. 2001) (finding substantial common questions of law and fact regarding (1) the standardized forms, procedures and disclosures made or required and (2) the legal effect of those disclosures satisfied commonality).

Here, each Member of the Preneed and Retail Merchandise Agreement Settlement Class has purchased a Preneed Funeral Agreement and a Retail Merchandise Agreement and thus shares

questions capable of class settlement. Plaintiffs' claims involve issues of whether the Defendants' conduct violated the Florida Funeral Act, Chapter 497, Florida Statutes with respect to trusting, disclosure, and other issues, and whether Defendants engaged in unfair or deceptive business practices in their sales of the Agreements. Resolution of these issues would potentially affect all or a significant number of the putative class members. Similarly, TRPP Settlement Class Members share questions capable of class-wide resolution for settlement purposes, including whether Defendants engaged in unfair and deceptive practices in their marketing and sale of the TRPP by materially misrepresenting their financial interest in the sale, or whether they violated the Funeral Act's trusting and disclosure requirements. Since there are common questions of law or fact, these issues surmount the "low hurdle" that the commonality requirement for class settlement purposes.

Furthermore, "[c]ommonality may be established where there are allegations of 'common conduct or standardized conduct by the defendant directed toward members of the proposed class.'" *Strube v. Am. Equity Inv. Life Ins. Co.*, 226 F.R.D. 688, 695 (M.D. Fla. 2005); *see also Tyrell v. Robert Kaye & Assocs., P.A.*, 223 F.R.D. 686, 690 (S.D. Fla. 2004) (Jordan, J.) ("All the potential class members received the same letter, containing the same problematic language. The question of whether the dunning letters failed to provide validation notice is therefore common to all class members."); *Fabricant v. Sears Roebuck*, 202 F.R.D. 310, 313 (S.D. Fla. 2001) (holding that commonality is met where "the allegations involve a common course of conduct by the defendant"); *Miles v. Am. Online, Inc.*, 202 F.R.D. 297, 303 (M.D. Fla. 2001) ("[T]he alleged conduct arises from the same conduct by AOL. Whether AOL's conduct is fraudulent and/or violates the CFAA and/or the unfair and deceptive trade practice statutes involves common questions of fact and law, using the same legal theories and defenses."); *Walco Invs., Inc. v.*

Thenen, 168 F.R.D. 315, 325 (S.D. Fla. 1996) ("[W]here a common scheme of deceptive conduct is alleged, common questions of law and/or fact will exist.").

Here, Plaintiffs claim that Defendants treated all Settlement Class Members in substantially the same way, *to wit*: all Settlement Class Members were deprived of the same necessary disclosures and/or subject to the same course of conduct by Defendants. For purposes of settlement, commonality is satisfied. *See, Burrow*, 2019 WL 13034869 at *6.

Rule 23(a)(3)—Typicality—Is Satisfied for Settlement Purposes.

To satisfy Rule 23(a)(3)'s requirement—typicality—a movant must show that "the claims or defenses of the representative parties are typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). "[T]ypicality measures whether a sufficient nexus exists between the claims of the named representatives and those of the class at large." *Busby v. JRHBW Realty, Inc.*, 513 F.3d 1314, 1322 (11th Cir. 2008). A party seeking class certification satisfies the typicality requirement when it "possess[es] the same interest and suffer[s] the same injury as the class members." *Id.* "Class members' claims need not be identical to satisfy the typicality requirement; rather, there need only exist 'a sufficient nexus . . . between the legal claims of the named class representatives and those of individual class members to warrant class certification.'" *Ault v. Walt Disney World Co.*, 692 F.3d 1212, 1216 (11th Cir. 2012) (alteration in original). "This nexus exists 'if the claims or defenses of the class and the class representative arises from the same event or pattern or practice and are based on the same legal theory.'" *Id.* Further, "[d]ifferences in the amount of damages between the class representative and other class members does not affect typicality." *Kornberg v. Carnival Cruise Lines, Inc.*, 741 F.2d 1332, 1337 (11th Cir. 1984).

Generally, if the representative plaintiff can show that the "same unlawful conduct was directed at or affected both the class representatives and the class itself, then the typicality

requirement is usually met irrespective of varying fact patterns which underlie the individual claims." *Agan v. Katzman & Korr, P.A.*, 222 F.R.D. 692, 698 (S.D. Fla. 2004). For settlement purposes, the Representative Plaintiffs' claims are typical of the Settlement Class Members' claims because Plaintiffs allege that that Defendants committed the same unlawful conduct as to each as to each respective Settlement Class Member. Furthermore, they contend that each Representative Plaintiff was damaged in the same way as each respective Settlement Class Member. Plaintiffs maintain that they, like all Settlement Class Members, were damaged through payment of their money to Defendants based on their deceptive and unlawful omissions inducing them to enter into a contract that they maintain violates public policy.

Rule 23(a)(4)—Adequacy of Representation—Is Satisfied for Settlement Purposes.

To satisfy Rule 23(a)(4)'s requirement—adequacy of representation—a movant must show that the representative parties have and will continue to "fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a)(4). "This requirement applies to both the named plaintiffs and their counsel." *Ruderman*, 263 F.R.D. at 681. "[A] named plaintiff is adequate as long as (1) he is qualified, and (2) he has no substantial conflict of interest with the class." *Sos*, 2019 WL 3854761, at *5. As to the first requirement, "inquiry into a proposed representative's qualifications is not especially stringent." *Id.* As to the second, "a party's claim to representative status is defeated only if the conflict between the representative and the class is a fundamental one, going to the specific issues in controversy." *Carriuolo*, 823 F.3d at 989 (citation omitted). Adequacy of representation by class counsel is usually presumed absent evidence to the contrary. *Sanchez-Knutson*, 310 F.R.D. at 540 (citation omitted).

Plaintiffs have continuously maintained that no actual or potential conflicts exist between Taylor or Benjamin and the Settlement Class Members in this case. Taylor purchased both a

Preneed Funeral Agreement, Retail Merchandise Agreement from Neptune, in addition to a TRPP; she assisted with and reviewed the Complaint; expressed her intention to prosecute the case on behalf of the Class; sat for her deposition in the case on June 2, 2022; and has otherwise participated in the case by communicating with her counsel and producing documents and information relating to her claim. Benjamin purchased a Preneed Funeral Agreement, Retail Merchandise Agreement from NCS, in addition to a TRPP; she assisted with and reviewed the Third Amended Complaint; and expressed her intention to prosecute the case on behalf of the Class. The Court therefore should conclude that Taylor and Benjamin are adequate representatives of the Settlement Classes.

Taylor and Benjamin's adequacy is also bolstered by their choice of qualified counsel. Plaintiffs have retained counsel well versed in complex class litigation, successfully handling class and complex civil cases in this Court and others. *See* Ex. B, Ewing Decl. at Ex. 1 (Korein Tillery Firm Resumé); Ex. 2 (Hilgers Graben Firm Resumé). Both firms have been involved in many class action cases, and brought their knowledge to this matter. Considering this experience, the Court should find Plaintiffs' attorneys are qualified to serve as class counsel pursuant to Rule 23(a)(4) for settlement purposes.

Besides satisfying Rule 23(a)(4) for settlement purposes, Taylor and Benjamin's attorneys satisfy the considerations of Rule 23(g). Rule 23(g)(4) requires the Court to appoint counsel who will fairly and adequately represent the Class, considering, among other things: "(i) the work counsel has done in identifying or investigating potential claims in the action; (ii) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (iii) counsel's knowledge of the applicable law; and (iv) the resources that counsel will commit to representing the class." Fed. R. Civ. P. 23(g)(4). As to (i) and (iii), the Complaint and

the litigation to this point demonstrate the significant work by counsel identifying and investigating the claims, litigating contentious dispositive and non-dispositive motions, negotiating the Settlement Agreement, and counsel's knowledge of the law. *See* Ex. B, Ewing Decl. at ¶ 3-6. Therefore, the adequacy requirements of Rule 23(a)(4) and Rule 23(g)(1)(A) are satisfied. Taylor and Benjamin should be appointed Class Representatives and their counsel appointed counsel for the Settlement Classes.

c. The Proposed Classes Meet the Requirements of Rule 23(b)(2) for Settlement Purposes.

Rule 23(b)(2) generally applies when (1) the class members have been harmed in essentially the same way by the defendant's conduct, and (2) the common injury may be addressed by class-wide injunctive or declaratory relief. *Holmes v. Cont'l Can Co.*, 706 F.2d 1144, 1155 (11th Cir. 1983). Where these requirements are met, the interests of the members of the class are sufficiently cohesive that absent members will be adequately represented. *Id*. at 1155 n.8.

The pleadings, the evidence discussed above, and the reasonable inferences that can be derived from them are sufficient at this juncture to demonstrate, for the purpose of class certification for settlement purposes only, that Defendants allegedly acted or refused to act on grounds generally applicable to all members of the Settlement Classes. Plaintiffs maintain that Plaintiffs' contracts, which were substantially similar, misleadingly omitted material facts and otherwise violated Florida law in ways applicable to all members of the Settlement Classes. Plaintiffs further maintain that the contracts are void for all Settlement Class Members because they violate public policy. Accordingly, the Court should certify the claims of both Settlement Classes for settlement purposes only, pursuant to 23(b)(2).

d. The Proposed Classes Meet the Requirements of Rule 23(b)(3) for Settlement Purposes.

Plaintiffs also seek certification, for settlement purposes only, under Rule 23(b)(3), requiring that "questions of law or fact common to the members of the class predominate over any questions affecting only individuals members" and that "a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." Fed. R. Civ. P. 23(b)(3).

Predominance is Satisfied for Settlement Purposes.

Courts routinely find that cases involving the legal interpretation of a uniform contract satisfy the predominance requirement. Indeed, "[i]nterpretation of uniform material insurance provisions that will determine liability is particularly indicative of predominance." *Roth*, 2018 WL 9403428 at, *5 (citing *Steinberg v. Nationwide Mut. Ins. Co.*, 224 F.R.D. 67, 74 (E.D.N.Y. 2004)). As one court in this district observed in granting class certification of claims involving an automobile insurance policy, "[w]hen viewed in light of Rule 23, claims arising from interpretations of a form contract appear to present the classic case for treatment as a class action, and breach of contract cases are routinely certified as such." *Leszczynski*, 176 F.R.D. 659, 672 (form insurance policy) (quoting *Kleiner v. First Nat. Bank of Atlanta*, 97 F.R.D. 683, 692 (N.D. Ga. 1983)); see also *In re Med. Capital Sec. Litig.*, 2011 WL 5067208, at *3 (C.D. Cal. July 26, 2011) (collecting cases, including Eleventh Circuit cases, noting "[c]ourts routinely certify class actions involving breaches of form contracts"); *Dear v. Q Club Hotel, LLC*, No. 15-cv-60474, 2016 WL 7477734, at *4 (S.D. Fla. Dec. 8, 2016) (predominance found based on alleged violation of form condo declaration). Of course, as set forth above, courts across the country, including this Court, have found predominance in and certified cases in similarly alleged claims for settlement purposes.

Importantly, predominance does not require that "all questions of fact or law be common . . . only that some questions are common and that they predominate over individual questions." *Brink*, 328 F.R.D. at 447 (quoting *Klay v. Humana, Inc.*, 382 F.3d 1241, 1254 (11th Cir. 2004)). The inquiry into whether common questions predominate over individual questions focuses on "whether there are common liability issues which may be resolved efficiently on a class-wide basis." *Agan*, 222 F.R.D. at 700 (citation omitted) (emphasis added). "The existence of a few individual questions will not negate the predominance of common issues." *Id.* (citation omitted). The presence of individualized damages "generally do not defeat a finding that common issues predominate." *Brink*, 328 F.R.D. at 447 (citing *Allapattah Servs., Inc. v. Exxon Corp.*, 333 F.3d 1248, 1261 (11th Cir. 2003)).

For purposes of settlement, predominance is satisfied. As set forth above, Plaintiffs maintain that their claims in this case are subject to proof by generalized evidence on a class-wide basis--such as form disclosures, whether those form disclosures complied with a statute applicable to all class members, and the fair market value of the merchandise that Plaintiffs allege was the motive behind Defendants' alleged unlawful behavior--not individualized inquiries. Plaintiffs maintain that Defendants' allegedly uniform conduct resulted in the same treatment of all Settlement Class Members, and for settlement purposes, there are common issues of law and fact that predominate.

Superiority is Satisfied for Settlement Purposes Only

The Settlement Classes also satisfy the superiority requirement of Rule 23(b)(3), for settlement purposes, which requires a court to consider whether "a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." Fed. R. Civ. P. 23(b)(3). The superiority requirement comes down to whether the class treatment would be advantageous,

makes sense, and is manageable.[1] This factor is closely linked to predominance, "because when common issues predominate over individual issues, a class action lawsuit becomes more desirable as a vehicle for adjudicating the plaintiffs' claims." *Roth*, 2018 WL 9403428 at, *6; *Brink*, 328 F.R.D. at 448 (citation and internal quotation marks omitted). "Accordingly, the conclusion that common issues of law and fact predominate…strongly militates in favor of a class action as a superior means of litigating this case." *Cnty. of Monroe, Fla. v. Priceline.com, Inc.*, 265 F.R.D. 659, 671-72 (S.D. Fla. 2010).

It would make no sense for court after court to construe the same contract provisions and their compliance with the same law, and it "would be neither efficient nor fair to anyone, including [Defendants] . . . to force multiple trials to hear the same [liability] evidence." *Fournigault v. Independence One Mortg. Corp.*, 234 F.R.D. 641, 648 (N.D. Ill. 2006) (quotation omitted); *Moore v. GNC, Holdings, Inc.*, No. 12-cv-61703, 2013 WL 12237784, at *7 (S.D. Fla. Oct. 17, 2013) ("district court acted well within its discretion in concluding that it would be better to handle this case as a class action instead of clogging the federal courts with innumerable individual suits litigating the same issues repeatedly") (citing *Klay*, 382 F.3d at 127); *In re Terazosin Hydrochloride Antitrust Litigation*, 220 F.R.D. 672, 700 (S.D. Fla. 2004) (holding separate trials for claims that could be tried together would be costly, inefficient, and burden the court system by forcing individual plaintiffs to repeatedly prove the same facts and make the same legal arguments before different courts).

[1] Rule 23(b)(3) states several overlapping factors courts review when discerning superiority, however, the list is not exhaustive and other factors are often considered or stated in different terms. *See Walco Invs. v. Thenen*, 168 F.R.D. 315, 337 (S.D. Fla. 1996); *see also Manno v. Healthcare Revenue Recovery Grp., LLC*, 289 F.R.D. 674, 690 (S.D. Fla. 2013) (stating superiority focuses on "advantages" of class treatment).

Here, for purposes of settlement, superiority is satisfied. Given the large number of class members and uniformity of Plaintiffs' alleged issues set forth above, it would be more efficient and cost effective to resolve this matter through this class action. The Settlement Classes therefore easily satisfy the superiority requirement.

III. Preliminary Approval of the Settlement is Appropriate.

The settlement of complex class action litigation is favored by public policy and strongly encouraged. *See Behrens v. Wometco Enters., Inc*., 118 F.R.D. 534, 538 (S.D. Fla. 1988), aff'd, 899 F.2d 21 (11th Cir. 1990); *see also Ass'n for Disabled Ams., Inc. v. Amoco Oil Co*., 211 F.R.D. 457, 466 (S.D. Fla. 2002) (citation omitted). "Determining the fairness of the settlement is left to the sound discretion of the trial court. " *Bennett v. Behring Corp*., 737 F.2d 982, 986 (11th Cir. 1984). The Court's exercise of discretion in this regard should be "informed by the strong judicial policy favoring settlement as well as by the realization that compromise is the essence of settlement." *Perez v. Asurion Corp*., 501 F. Supp. 2d 1360, 1379 (S.D. Fla. 2007). In this vein, a court "should not make a proponent of a proposed settlement 'justify each term of settlement against a hypothetical or speculative measure of what concessions might [be] gained.'" *Amoco Oil Co*., 211 F.R.D. at 467.

Approval of a class action settlement is a two-step process: preliminary approval and a subsequent fairness hearing to determine whether final approval is appropriate. At the preliminary approval stage, the court determines whether the proposed settlement is "'within the range of possible approval"—whether there is "'probable cause'" to give notice of the proposed settlement to class members, and whether the Court will "likely be able to" grant final approval. *Shaw v. Set Enterprises, Inc.*, No. 15-cv-62152, 2017 WL 2954675, at *1 (S.D. Fla. June 30, 2017).

a. Recovery under the circumstances is significant and fair.

The Settlement meets the critical test in gauging its fairness and reasonableness: As detailed above, seen in total, the Settlement provides concrete relief that directly addresses the claimed harm. *See Lipuma v. Am. Express Co.*, 406 F. Supp. 2d 1298, 1323 (S.D. Fla. 2005). Plaintiffs' overarching claim in this lawsuit is that they and class members were induced to enter these contracts under terms they otherwise would not have agreed to as a result of Defendants' alleged non-compliance with statutory disclosure requirements. This alleged harm will be directly remedied under the Settlement, as the Settlement will inform all Settlement Class Members about the nature of the claims, inform Settlement Class Members about the differences in their cancellation rights between cremation services and retail merchandise notwithstanding whatever disclosures were made at the time of purchase, and inform Settlement Class Members that NCS and Neptune were being compensated from the sale of the third-party TRPP.

Defendants will then provide a full refund to every Settlement Class Member who wants to cancel their Preneed Funeral Agreement, Retail Merchandise Agreement, or TRPP. For most of the 87,000 Settlement Class Members, this would be a potential refund of approximately $2,400 on average per class member Settlement Class Members who choose not to cancel their agreements will be provided with entitlement to an online obituary, free of charge. Settlement Class Members do not need to submit a Claim Form to receive this benefit.

The Settlement also provides for valuable injunctive relief in the form of changed business practices. More specifically, to the extent Neptune or NCS continue to sell the TRPP on behalf of MASA in the State of Florida using substantially the same form as that used with the Plaintiffs here, within sixty (60) days of the Effective Date of this Settlement Agreement, Neptune and NCS will amend the TRPP contract forms sold on behalf of MASA to include a specific disclaimer

stating the following or substantially similar language: "As a third party seller of MASA, the seller has a financial interest in and receives compensation based on the sale of this Plan." This Court has approved settlements that provide similar relief. *Ferron v. Kraft Heinz Foods Co.*, No. 20-cv-62136, 2021 WL 2940240, at *27 (S.D. Fla. July 13, 2021) ("The fact that the Settlement secures for the Class significant monetary relief and ensures that Defendant will remove or correct the Challenged Language from its Products weighs heavily in favor of approving the Settlement.").

The Settlement treats Settlement Class Members equitably to one another by providing them with an equal opportunity to obtain both equitable and monetary relief offered. *See Poertner*, 618 Fed. Appx. 624, 628 (11th Cir. 2015) cert. denied 136 S. Ct. 1453 (2016) (approving claims-made settlement noting relief exceeded what class member may receive at trial); *see also Saccoccio v. JP Morgan Chase Bank, N.A.*, 297 F.R.D. 683, 696 (S.D. Fla. 2014) ("Numerous Courts in this district have required claims forms to be submitted by class members."); *Ferron*, 2021 WL 2940240, at *4 (approving settlement providing relief based on submitting a "valid Claim Form"). The Settlement also benefits Class Members by providing immediate relief in lieu of several more months or years of protracted litigation and appeals. *See Lipuma* at 1322; *In re Checking Account Overdraft Litig.*, 830 F. Supp. 2d 1330, 1345 (S.D. Fla. 2011). And no Settlement administration costs or attorneys' fees or costs will be deducted from any relief provided to Settlement Class Members. Ex. A, Settlement Agreement § XIV.

b. The Settlement is the product of serious, informed, non-collusive negotiations, litigation, and adequate representation.

Furthermore, as set forth above, the proposed Settlement resulted from intensive, arm's-length negotiations among very experienced attorneys with the assistance of highly experienced mediators at three mediation sessions (the last of which lasted, on and off, for many months). *See Wilson v. EverBank*, 14-CIV-22264, 2016 WL 457011, at *6 (S.D. Fla. Feb. 3, 2016) (mediator's

involvement showed arm's length negotiation process). The negotiations have produced a result that Plaintiffs and their counsel believe to be in the best interests of the proposed Settlement Classes, taking into account the costs and risks of continued litigation. *See Shaw*, 2017 WL 2954675, at *1 ("courts should [also] give weight to the parties' consensual decision to settle class action cases, because they and their counsel are in unique positions to assess the potential risks.").

Defendants' counsel are experienced in complex and class action litigation. In this case, the Parties negotiated Settlement terms only after extensive and contentious investigation and litigation of the facts and law; document production and review; and a deposition of Plaintiff Taylor. These efforts provided Plaintiffs and their experienced counsel with more than sufficient information to analyze thoroughly the strengths and weaknesses of Plaintiffs' claims, and subsequently negotiate a fair and adequate Settlement to propose to the Court.

The relief terms themselves stated above show the negotiations were at arm's length and the Settlement Classes are adequately represented. *See Gayle v. Meade*, No. 20-21553-CIV, 2021 WL 6101368, at *11 (S.D. Fla. Dec. 3, 2021); *Montoya v. PNC Bank, N.A.*, No. 14-cv-20474, 2016 WL 1529902, at *9 (S.D. Fla. Apr. 13, 2016). Relief is complete. And the Settlement does not improperly grant preferential treatment to segments of the Settlement Classes or the Class Representatives. All Settlement Class Members are entitled to the same relief.

c. The Settlement complies with Due Process requirements.

Finally, the multiple avenues of notice to the Settlement Classes clearly satisfy Rule 23 and Due Process. *See Morgan v. Pub. Storage*, 301 F. Supp. 3d 1237, 1261 (S.D. Fla. 2016). Rule 23(c)(2)(B) provides that "the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." Fed. R. Civ. P. 23(c)(2)(B); *see also* Fed. R. Civ. P. 23(e)(1) & (h)(1). Multi-

tiered notice programs including direct mail and electronic means satisfy these standards. *Id.* at 1262; *see also Perez v. Asurion Corp.*, 501 F. Supp. 2d 1360, 1377 (S.D. Fla. 2007); *In re Checking Account Overdraft Litig.*, 275 F.R.D. 654, 662-63 (S.D. Fla. 2011); *Janicijevic v. Classica Cruise Operator, Ltd.*, No. 20- cv-23223, 2021 WL 2012366, at *2 (S.D. Fla. May 20, 2021) (finding Due Process met through First Class Mail and website notice).

The proposed manner and forms of notice satisfy Rule 23(c)(2)(B) and Due Process. The Settlement calls for the Individual Notice to be sent postage prepaid via First Class Mail, which is the quintessential form of notice courts find satisfies Due Process. In addition, the Settlement Website dedicated to the Settlement, conspicuously referred to in the Individual Notice, will contain relevant documents, information, a toll-free number, and a portal for uploading claims documents. *See* Ex. A, Settlement Agreement § VIII. The Individual Notice defines the Settlement Classes; describes the allegations of the operative complaint; informs Settlement Class Members of their right to opt- out and object, the procedures for doing so, and the time and place of the Final Approval Hearing; informs Settlement Class Members of their rights to enter an appearance through their own counsel, if they desire; notifies them that a judgment would bind them unless they opt out; and tells them how and where they can obtain more information including a toll-free number and the Settlement Website, which will contain, inter alia, a full copy of the Settlement Agreement. *See* Ex. A, Settlement Agreement, Ex. 2 (Individual Notice); *see also* Fed. R. Civ. P. 23(c)(2)(B); *see also Perez*, 501 F. Supp. 2d at 1377; *Ruderman ex rel. Schwartz v. Washington Nat. Ins. Co.*, No. 08- cv-23401-CIV, 2010 WL 11505574, at *4 (S.D. Fla. Nov. 12, 2010).

CONCLUSION

Plaintiff respectfully requests that the Court grant this Motion for preliminary approval of class action settlement and certify the proposed Settlement Classes for purposes of settlement, direct notice be distributed to Settlement Class Members, and award such further relief as the Court deems proper.

CERTIFICATE OF GOOD FAITH CONFERENCE

Pursuant to Local Rule 7.1(a)(3)(A), the undersigned certifies that counsel for Plaintiff has conferred with counsel for the Defendants regarding the relief requested above, which is the relief requested in the Plaintiff's Unopposed Motion for Preliminary Approval of Class Settlement, and the undersigned can certify that the relief requested supported by this memorandum is unopposed.

Dated: September 7, 2022

Respectfully submitted,
/s/ Randall P. Ewing

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Counsel for Plaintiff Nancy Taylor

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was served on all counsel of record who have made an appearance in this matter, through CM/ECF Notice of Electronic Filing on September 7, 2022.

/s/ Alec H. Schultz
Alec H. Schultz

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

NANCY TAYLOR, on behalf of herself and all others similarly situated,

Plaintiff,

v.

SERVICE CORPORATION INTERNATIONAL, et al.,

Defendants.

Case No.: 20-CV-60709-RAR

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

This Class Action Settlement Agreement and Release ("Agreement") is entered into, by and between: (i) Nancy Taylor and Hazel Benjamin, on behalf of themselves and all others similarly situated ("Plaintiffs"); (ii) SCI Direct, Inc. ("SCI Direct"); (iii) Neptune Management Corp. a/k/a Neptune Society Management Corporation d/b/a Neptune Society ("Neptune"); and (iv) NCS Marketing Services, LLC d/b/a National Cremation Society ("NCS"); (SCI Direct, Neptune, and NCS are collectively referred to herein as "Defendants"). Plaintiffs, SCI Direct, Neptune and NCS may be separately referred to herein as a "Party" and collectively referred to herein as the "Parties" and the above-captioned case is referred to herein as the "Lawsuit." This Agreement is intended by the Parties to fully, finally and forever resolve, discharge and settle all the claims specified below, subject to approval by the Court and the settlement terms set forth below.

I. RECITALS

A. Neptune and NCS are engaged in the sale of Preneed Funeral Agreements to provide preneed cremation services and Retail Merchandise Agreements to provide related merchandise throughout the State of Florida. On behalf of Medical Air Services Association of Florida, Inc. ("MASA"), Neptune and NCS also engaged in the sale of Transportation and Relocation Protection Plans ("TRPP") throughout the State of Florida to provide membership in a transportation services plan should the purchaser or beneficiary relocate or be outside of seventy-five (75) miles of his or her residence at the time of passing. Under statutory law, purchasers of preneed funeral services have the right to cancel the agreement and receive a full refund for unused services at any time. Under their current contracts, purchasers of retail merchandise that is delivered have the right to cancel those agreements for thirty (30) days from the date of purchase.

B. On or about August 15, 2017, Plaintiff Taylor purchased a Preneed Funeral Agreement, Retail Merchandise Agreement and TRPP from Neptune.

C. On or about December 22, 2017, Plaintiff Hazel Benjamin purchased a Preneed Funeral Agreement, Retail Merchandise Agreement, and TRPP from NCS.

D. On April 4, 2020, Plaintiff Taylor filed a Class Action Complaint against Service Corporation International, Inc., SCI Direct, SCI Funeral Services of Florida, LLC, S.E. Combined Services of Florida, LLC, NCS Marketing Services, LLC, Neptune and John Does 1-20.

E. On July 10, 2020, Plaintiff Taylor filed an Amended Class Action Complaint against Service Corporation International, SCI Direct, Neptune and John Does 1-20.

F. On May 17, 2021, Plaintiff Taylor filed a Second Amended Class Action Complaint against SCI Direct, Neptune and John Does 1-20.

G. Plaintiff Taylor intends to request leave to file a Third Amended Class Action Complaint adding (subject to the Court's permission) additional Plaintiff Hazel Benjamin and additional Defendant NCS.

H. Plaintiffs allege in the Lawsuit that Defendants violated Florida's Funeral Act, Chapter 497, Florida Statutes, by, among other things, misrepresenting to customers the different statutory rights applicable to preneed services and related merchandise. Plaintiffs also allege that Defendants engaged in unfair and deceptive practices in their marketing and sale of the TRPP by, among other things, materially misrepresenting their financial interest in the sale. Among other things, Plaintiffs ask the Court for the option to rescind some or all of their contracts and all contracts of all those similarly situated.

I. Defendants have asserted substantial legal and factual defenses against Plaintiffs' claims, and deny Plaintiffs' allegations in the Lawsuit. Defendants deny any liability to the Plaintiffs, Settlement Classes, or any Settlement Class Member, for any claims, causes of action, costs, expenses, attorneys' fees, or damages of any kind.

J. On January 28, 2021, the Parties participated in a voluntary mediation with the assistance of mediator Rodney Max, but were unable to agree on the terms of a settlement.

K. On March 24, 2022, the Parties participated in another voluntary (in person) mediation with the assistance of mediator Hunter Hughes, but were still unable to agree on the terms of a settlement.

L. The Parties continued to discuss settlement with the assistance and input of Mr. Hughes over the following weeks and months and, on or about June 19, 2022, agreed on the terms of a settlement, subject to final approval by the Court after notice to the Settlement Classes as defined herein;

M. Plaintiffs and their counsel have concluded that it is in the best interests of the Members of the Settlement Classes to compromise and settle all claims against Defendants for consideration reflected in the terms and benefits of this Settlement Agreement. After arm's length negotiations with counsel for the Defendants, including through the efforts of two mediators, Plaintiffs have considered, among other things: (i) the complexity, expense, and likely duration and distraction due to the litigation; (ii) the stage of the litigation and amount of fact gathering completed; (iii) the potential for the Defendants to prevail on class certification issues and on the merits; and (iv) the range of possible recovery, and have determined that this Settlement Agreement is fair, reasonable, adequate, and in the best interests of the Plaintiffs and the Settlement Classes.

N. The Defendants have concluded that it is in their best interests to compromise and settle all claims brought by Plaintiffs and the Settlement Classes for consideration reflected in the terms and benefits of this Settlement Agreement. After arm's length negotiations with counsel for Plaintiffs, including through the efforts of two mediators, Defendants have considered, among other things: (i) the complexity, expense, and likely duration of the litigation and business disruption due to the litigation; (ii) the stage of the litigation and amount of fact gathering completed; (iii) the potential for the Plaintiffs and the Settlement Classes to prevail on class certification issues and on the merits; and (iv) the range of possible recovery. The Defendants agree with Plaintiffs and their counsel that this Settlement Agreement is a fair, reasonable, and adequate resolution of the claims asserted by Plaintiffs in the Lawsuit.

O. The Parties desire and intend to seek Court review and approval of the Settlement Agreement, and, upon preliminary approval by the Court, the Parties intend to seek a Final Order and Judgment from the Court dismissing with prejudice the Third Amended Class Action Complaint and ordering the dismissal with prejudice of all claims alleged by Plaintiffs, either individually or on behalf of Settlement Class Members.

P. This Settlement Agreement will not be construed as evidence of, or as an admission by, the Defendants of any liability or wrongdoing whatsoever.

NOW, THEREFORE, it is stipulated and agreed that the foregoing recitals are hereby expressly incorporated into this Settlement Agreement and made a part hereof and further, that in consideration of the agreements, promises, and covenants set forth in this Settlement Agreement, including the Releases and Covenants Not to Sue, the entry by the Court of the Final Order and Judgment dismissing the Third Amended Class Action Complaint with prejudice and approving the terms and conditions of the Settlement Agreement, and for other good and valuable

consideration, the receipt and sufficiency of which are hereby acknowledged, this action shall be settled and compromised under the following terms and conditions.

II. DEFINITION OF SETTLEMENT CLASSES

Pursuant to Fed. R. Civ. P. 23(b)(2) and 23(b)(3), the Parties stipulate to certification, for settlement purposes only, of the following Settlement Classes, which may be collectively referred to herein as the "Settlement Classes":

A. Preneed and Retail Merchandise Plan Settlement Class:

All persons who, between April 1, 2016 and the present, purchased a Preneed Funeral Agreement and a Retail Merchandise Agreement from Neptune or NCS ("Preneed and Retail Merchandise Plan"), within the State of Florida, excluding all Preneed and Retail Merchandise Plans for which the contracted for cremation services have been performed, and all irrevocable preneed contracts.

B. TRPP Settlement Class:

All persons who, between April 1, 2016 and the present, purchased a TRPP from Neptune or NCS, within the State of Florida, excluding all TRPPs where the beneficiary has already been cremated or buried.

Also excluded from the Settlement Classes are: (i) SCI Direct, Neptune, NCS, and any of their employees, officers, or directors; (ii) members of the judiciary and their staff to whom these actions are assigned; and (iii) Counsel for the Parties.

III. DEFINITIONS

In addition to terms defined elsewhere in this Agreement, the following terms shall be defined as follows:

A. "Administration Expenses" means expenses associated with administering the settlement, and shall include, but not be limited to, the expenses of the Settlement Administrator.

B. "Agreement" or "Settlement Agreement" means this Settlement Agreement and Release, including all exhibits hereto.

C. "Attorneys' Fee Award" means the total award of attorneys' fees, costs and expenses agreed to by the Parties, sought by Class Counsel and/or allowed by the Court.

D. "Claim Form" means the documentation a Settlement Class Member must submit to be considered for payment under the Agreement as provided in Section IX.

E. "Class Counsel" means the attorneys approved and appointed by the Court to represent the Settlement Classes and the Settlement Class Members as provided in Section VII.

F. "Class Representatives" means Nancy Taylor and Hazel Benjamin.

G. "Confidential Information" means all confidential or proprietary information shared hereunder, or in connection herewith, either prior to, on or after the date of settlement, and any and all prior or subsequent drafts, representations, negotiations, conversations, correspondence, understandings, analyses, proposals, term sheets, and letters, whether oral or written, of any kind or nature, with respect to the subject matter hereof.

H. "Effective Date" means the later of (a) the date defined in Section XIX, or (b) the thirtieth day after entry of the Final Judgment.

I. "Final Approval Hearing" means the hearing to be held to consider final approval of the Settlement as provided in Section XI.

J. "Final Order and Judgment" means the order and judgment fully and finally disposing of all claims asserted in the Lawsuits and all claims settled under this Settlement as provided in Section XI.

K. "Individual Notice" means a Notice of the preliminary approval of this Agreement and the Settlement which will be mailed to potential Settlement Class Members as provided in Section VII.

L. "Legally Authorized Representative" means an administrator/ administratrix, personal representative, or executor/executrix of a deceased Settlement Class Member's estate, a guardian, conservator, or next friend of an incapacitated Settlement Class Member or any other legally appointed Person or entity responsible for the handling of the business affairs of a Settlement Class Member.

M. "Opt-Out" means a member of the Settlement Classes who properly and timely submits a request for exclusion from the Settlement in accordance with the Preliminary Approval Order and/or Section X.

N. "Participating Class Member" means a Settlement Class Member who submits a timely and valid Claim Form.

O. "Person" means any natural person, individual, corporation, association, partnership, trust, or any other type of legal entity.

P. "Preliminary Approval" means the Preliminary Approval Order to be entered by the Court, as provided in Section VII.

Q. "Preneed Funeral Agreement" means an agreement sold by Neptune and/or NCS in the State of Florida to provide preneed cremation services to the purchaser or beneficiary at the time of passing.

R. "Preneed and Retail Merchandise Released Claims" means and includes any and all claims, rights, demands, actions, causes of action, allegations, or suits of whatever kind or nature, whether *ex contractu* or *ex delicto*, debts, liens, contracts, liabilities, agreements, attorneys' fees, costs, penalties, interest, expenses, or damages (including actual, consequential, statutory, extra-contractual, and/or punitive or exemplary damages), known or unknown, arising from or relating to marketing, distribution, sales, or the amount and timing of the placement of funds into trust related to Preneed and Retail Merchandise Agreements by Neptune and/or NCS in the State of Florida, including but not limited to those claims which have been alleged or which could have been alleged by Plaintiffs in the Lawsuit, on behalf of themselves and/or on behalf of the Preneed and Retail Merchandise Plan Settlement Class, against Defendants. Preneed and Retail Merchandise Released Claims do not include any claim for enforcement of this Agreement and/or Final Order and Judgment.

S. "TRPP Released Claims" means and includes any and all claims, rights, demands, actions, causes of action, allegations, or suits of whatever kind or nature, whether *ex contractu* or *ex delicto*, debts, liens, contracts, liabilities, agreements, attorneys' fees, costs, penalties, interest, expenses, or damages (including actual, consequential, statutory, extra-contractual, and/or punitive or exemplary damages), known or unknown, arising from or relating to marketing, distribution, sales or the amount and timing of the placement of funds into trust related to TRPPs by Neptune and/or NCS in the State of Florida, including but not limited to those claims which have been alleged or which could have been alleged by Plaintiffs in the Lawsuit, on behalf of herself and/or on behalf of the TRPP Settlement Class, against Defendants. TRPP Released Claims do not include any claim for enforcement of this Agreement and/or Final Order and Judgment.

T. "Released Persons" means Service Corporation International, SCI Direct, Inc., Neptune Society of America, Inc., Neptune Management Corp. a/k/a Neptune Society Management Corporation d/b/a Neptune Society, NCS Marketing Services, LLC d/b/a National Cremation Society, Medical Air Services Association, Inc., Medical Air Services Association of Florida, Inc., and all of their insurers, and their respective past, present, and future, parents, subsidiaries, affiliates, divisions, predecessors, successors, heirs, legal representatives, legatees, and assigns, together with the past, present, and future officers, directors, board members, shareholders, members, presidents, affiliates, managers, partners, employees, agents, servants, representatives, consultants, in-house or outside counsel, sureties, insurers, and reinsurers of each of the foregoing.

U. "Retail Merchandise Agreement" means an agreement sold by Neptune and/or NCS in the State of Florida for cremation-related merchandise, including a memento

chest, urn, photo keepsake, thank you cards or a planning guide, for delivery to the purchaser at or soon after the time of purchase.

V. "Settlement" means the settlement described in this Settlement Agreement and Release.

W. "Settlement Administrator" means the independent professional service company selected by the Parties to oversee the distribution of Individual Notice as well as the processing and payment of claims to Settlement Class Members as set forth in the Agreement. The Parties have agreed that Angeion Group will serve as Settlement Administrator, subject to the Court's approval and Angeion Group's acceptance of the appointment. In the event the Court does not approve Angeion Group or Angeion Group declines the appointment, the Parties shall submit another mutually agreeable firm to the Court for appointment as Settlement Administrator.

X. "Settlement Class Member" means any Person who is included within the definition of one of the Settlement Classes as defined in Section II above (or succeeds to the interests of such a Person); *provided however* that the term Settlement Class Member as used herein with respect to any right or obligation after the Final Approval date does not include any opt-outs as provided in Section X.

Y. "TRPP" means a Transportation and Relocation Protection Plan sold by Neptune and/or NCS on behalf of Medical Air Services Association of Florida, Inc. and/or Medical Air Services Association, Inc. ("MASA") within the State of Florida to provide a membership for transportation services of a purchaser or beneficiary's remains, should the purchaser or beneficiary relocate or be outside of seventy-five (75) miles of his or her residence at the time of passing. Membership and accrual of benefits in the TRPP is immediate upon purchase.

IV. CONSIDERATION AND BENEFITS TO PARTICIPATING CLASS MEMBERS

A. The Parties have negotiated a compromise of disputed claims, and have agreed on consideration for payment of claims to Participating Class Members, as provided herein, in exchange for a release of Preneed and Retail Merchandise Released Claims and/or TRPP Released Claims to Released Persons by all Settlement Class Members, and Dismissal With Prejudice of the Lawsuit. The option to cancel available to Participating Class Members and entitlement to an online obituary shall be deemed sufficient consideration provided to all Settlement Class Members in exchange for a full release of the Preneed and Retail Merchandise Released Claims and/or TRPP Released Claims.

B. Participating Class Members of the Preneed and Retail Merchandise Plan Settlement Class (defined in Section II(A) above) will have sixty (60) days from the date of the Individual Notice to exercise the option to cancel both their Retail Merchandise Agreement and Preneed Funeral Agreement and receive a full refund of the purchase price paid for each agreement, less any amounts previously refunded. This extended right of cancellation for purchasers of the Retail Merchandise Agreement is contingent upon the Participating Class

Member returning the merchandise received (in substantially original condition) under that agreement. A Participating Class Member cannot exercise this extended right to cancel the Retail Merchandise Agreement without also cancelling the Preneed Funeral Agreement.

C. Participating Class Members of the TRPP Settlement Class (defined in Section II(B) above) will have sixty (60) days from the date of the Individual Notice to cancel their TRPP and receive a full refund of the purchase price paid for that agreement, less any amounts previously refunded. This extended right of cancellation is contingent upon the Participating Class Member also cancelling any Preneed Funeral Agreement and/or Retail Merchandise Agreement he or she purchased for the same beneficiary as the TRPP from Neptune or NCS. In order to cancel their TRPP, all of the Participating Class Member's agreements with NCS or Neptune for the same beneficiary must also be cancelled (and the merchandise must be returned in substantially original condition), and he or she will receive a full refund of the purchase price paid for all the cancelled agreements.

D. To the extent Settlement Class Members choose not to submit a claim to cancel their Agreements, Neptune and/or NCS will provide the beneficiary with entitlement to an online obituary, free of charge. This includes the services of Neptune or NCS personnel to work with families to craft the language of the obituary. Settlement Class Members do not need to submit a Claim Form to receive this benefit. Entitlement to the obituary will be noted in each Settlement Class Member's records, and it, along with the services each Settlement Class Member purchased, will be available to the Settlement Class Member at the time of need.

E. To the extent Neptune or NCS continue to sell the TRPP on behalf of MASA in the State of Florida using substantially the same form as that used with the Plaintiffs here, within sixty (60) days of the Effective Date of this Settlement Agreement, Neptune and NCS will amend the TRPP contract forms sold on behalf of MASA to include a specific disclaimer stating the following or substantially similar language: "As a third party seller of MASA, the seller has a financial interest in and receives compensation based on the sale of this Plan."

F. The Individual Notice sent to all Settlement Class Members shall also include the following disclosure regarding their existing cancellation rights under their Preneed Funeral Agreements, to the extent such an agreement was purchased: "Unless your Preneed Services Agreement has been made irrevocable, it may be cancelled at any time by giving written notice to the seller. Upon providing such notice you shall be entitled to a refund for unused services, cash advance items, and facilities portions of the Agreement as provided by law. *See* Fla. Stat. § 497.459(1)-(2)."

G. The payments/refunds described in this Section IV(B)-(C) are the only payments/refunds to which any Participating Class Members will be entitled under the Settlement. The payments/refunds to Participating Class Members will be deemed to be inclusive of any claims for penalties and interest.

H. The payment of claims and other obligations incurred pursuant to this Agreement shall be in full and final disposition of the Lawsuit, and in consideration for the release of any and all Released Claims as against any and all Released Persons and as between the Parties. The Parties

agree to work together in good faith to expeditiously administer the terms of this Settlement Agreement and settlement called for herein.

V. SETTLEMENT OF ALL CLAIMS AGAINST DEFENDANTS

A. The Settlement settles and resolves with finality the Lawsuit against the Defendants, which includes all claims that have been brought, could have been brought, or could be brought now or at any time in the future, by any Settlement Class Member against any Defendant or Released Person(s) in the Lawsuit, or any other proceeding that arises out of, concerns, is connected with, or otherwise relates, directly or indirectly, to the Lawsuit whether legal or otherwise.

VI. DISMISSAL OF ACTION AND RELEASE OF CLAIMS

A. Release by Preneed and Retail Merchandise Plan Settlement Class Members. In consideration of the benefits described and the agreement and covenants contained in this Settlement Agreement, and by operation of the Final Order and Judgment, the Preneed and Retail Merchandise Plan Settlement Classes, the Class Representatives and each Preneed and Retail Merchandise Plan Settlement Class Member, on his, her, its, or their own behalf and on behalf of his or her respective predecessors, successors, assigns, assignors, representatives, attorneys, agents, trustees, insurers, heirs, next of kin, estates, beneficiaries, executors, administrators, and any natural, legal, or juridical person or entity to the extent he, she, or it is entitled to assert any claim on behalf of any Preneed and Retail Merchandise Plan Settlement Class Member hereby release, acquit, forever discharge and hold harmless the Released Persons, and each of them, of and from any and all past, present and future claims, counterclaims, crossclaims, actions, lawsuits, rights or causes of action, liabilities, suits, demands, damages, losses, payments, judgments, debts, dues, sums of money, costs and expenses (including, without limitation, attorneys' fees and costs), accounts, reckonings, bills, covenants, contracts, controversies, agreements, obligations, or promises, in law or in equity, contingent or non-contingent, known or unknown, suspected or unsuspected, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, whether direct, representative, class or individual in nature, in any forum that the Preneed and Retail Merchandise Plan Settlement Class Member, and each of them, had, has, or may have in the future arising from or relating to the Preneed and Retail Merchandise Released Claims, and agree not to institute, maintain, or assert any Preneed and Retail Merchandise Released Claims against the Released Persons.

B. Release by TRPP Settlement Class Members. In consideration of the benefits described and the agreement and covenants contained in this Settlement Agreement, and by operation of the Final Order and Judgment, the TRPP Settlement Classes, the Class Representatives and each TRPP Settlement Class Member, on his, her, its, or their own behalf and on behalf of his or her respective predecessors, successors, assigns, assignors, representatives, attorneys, agents, trustees, insurers, heirs, next of kin, estates, beneficiaries, executors, administrators, and any natural, legal, or juridical person or entity to the extent he, she, or it is entitled to assert any claim on behalf of any TRPP Settlement Class Member hereby release, acquit, forever discharge and hold harmless the Released Persons, and each of them, of and from any and all past, present and future claims, counterclaims, crossclaims, actions, lawsuits, rights or causes of action, liabilities, suits, demands, damages, losses, payments, judgments, debts, dues, sums of

money, costs and expenses (including, without limitation, attorneys' fees and costs), accounts, reckonings, bills, covenants, contracts, controversies, agreements, obligations, or promises, in law or in equity, contingent or non-contingent, known or unknown, suspected or unsuspected, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, whether direct, representative, class or individual in nature, in any forum that the TRPP Settlement Class Member, and each of them, had, has, or may have in the future arising from or relating to the TRPP Released Claims, and agree not to institute, maintain, or assert any TRPP Released Claims against the Released Persons.

C. Plaintiffs and each Settlement Class Member: (i) represents, warrants, and agrees that such Settlement Class Member waives and is forever estopped from asserting any Preneed and Retail Merchandise Released Claim or TRPP Released Claim against any Released Person; and (ii) covenants that such Settlement Class Member will not now or in the future sue or threaten to sue any Released Person for any Preneed and Retail Merchandise Released Claim or TRPP Released Claim, or otherwise assert or threaten to assert any Preneed and Retail Merchandise Released Claim or TRPP Released Claim against any Released Person.

D. Nothing contained in this Agreement shall: (i) preclude the enforcement of the terms of this Agreement or the Final Order and Judgment; or (ii) preclude Plaintiffs or Settlement Class Members from participating in the claim administration process outlined in this Agreement.

E. Upon entry of the Final Order and Judgment described in Section XI, the Lawsuit will be dismissed by the Court with prejudice, and Plaintiffs, individually and on behalf of the Settlement Classes, will release with prejudice all the Released Persons from all of the Preneed and Retail Merchandise Released Claims and/or TRPP Released Claims.

VII. PRELIMINARY APPROVAL AND CLASS CERTIFICATION

A. No later than September 7, 2022, Class Counsel shall submit this Settlement Agreement to the Court and request entry of the Preliminary Approval Order substantially in the form set forth in **Exhibit "1"** that will, among other things:

(i) Preliminarily certify the Settlement Classes, as defined in Section II, for settlement purposes and designate the following attorneys as Class Counsel for the Settlement Classes:

Randall P. Ewing, Jr.
KOREIN TILLERY LLC
205 North Michigan Plaza, Suite 1950
Chicago, IL 60601
Phone: (312) 641-9750
rewing@koreintillery.com

Alec H. Schultz
HILGERS GRABEN PLLC
1221 Brickell Avenue, Suite 900
Miami, Florida 33131
Phone: 305.630.8304
aschultz@hilgersgraben.com

(ii) Preliminarily approve this Agreement as sufficiently fair and reasonable to warrant sending notice to the Settlement Classes preliminarily certified for settlement purposes;

(iii) Preliminarily enjoin any Settlement Class Member from bringing a new alleged class action or attempting to amend an existing action to assert any class claims that would be released pursuant to this Agreement;

(iv) Grant leave to file the Third Amended Complaint;

(v) Appoint Angeion Group as the Settlement Administrator;

(vi) Determine that distribution of the Individual Notice as described herein, are the reasonable and best practicable notice under the circumstances; are reasonably calculated to apprise Settlement Class Members of the pendency of the Lawsuit and of their right to object or opt-out of the Settlement; constitute due, adequate, and sufficient notice to all persons entitled to receive notice; and meet the requirements of the Federal Rules of Civil Procedure, and requirements of due process under the Florida and United States Constitutions, and the requirements of any other applicable rules or law;

(vii) Preliminarily appoint Nancy Taylor and Hazel Benjamin as the Class Representatives; and

(viii) Schedule a date to conduct the Final Approval Hearing, which shall not be held until after the Opt-Out period has concluded.

B. The Parties agree to jointly request that the Court stay the Lawsuit, and enjoin all Settlement Class Members, unless and until they have been excluded from the Settlement Classes, or until the Court denies approval of the Settlement, or until the Settlement Agreement is otherwise terminated, from filing, commencing, prosecuting, intervening in, participating in and/or maintaining, as plaintiffs, claimants, or class members in, any other lawsuit, including, without limitation, or administrative, regulatory, arbitration, or other proceeding in any jurisdiction (whether state, federal or otherwise), against Released Persons based on, relating to any of the Released Claims or arising out of the claims and causes of action, or the facts and circumstances at issue, in the Lawsuit.

C. The Parties recognize that there may be further pleadings, discovery responses, documents, testimony, or other matters or materials owed by the Parties to each other pursuant to existing pleading requirements, discovery requests, pretrial rules, procedures, orders, decisions, or otherwise. As of the Effective Date of this Agreement, each Party expressly waives any right to receive, inspect, or hear such pleadings, discovery, testimony, or other matters or materials during

the pendency of the settlement proceedings contemplated by this Settlement Agreement and subject to further order of the Court.

D. Preliminary certification of the Settlement Classes and appointment of the Class Representatives and Class Counsel for purposes of this Settlement by the Court shall be binding only with respect to the Settlement. In the event the Settlement is not consummated due to a termination of this Agreement in accordance with its terms, a failure or refusal of the Court to approve the Settlement, or a reversal or modification of the Court's approval of the Settlement on appeal, or for any other reason: (i) the Court shall vacate the certification of the Settlement Classes; (ii) the Parties shall proceed as though the Agreement had never been entered and the Settlement Classes had never been certified; (iii) the terms of this Agreement and the fact that the Parties reached an agreement on resolution shall be inadmissible in any future proceedings; and (iv) Defendants shall have the right to contest the certification of any class herein or as otherwise may be sought in the Lawsuits. Nothing herein shall preclude the Court from considering the merits of any motion for class certification.

E. The Parties shall undertake reasonable best efforts, including all efforts and steps contemplated by and consistent with this Agreement, to effectuate and carry out the terms of this Agreement. No Party shall take any action that directly or indirectly interferes with the effort to obtain entry of the Preliminary Approval Order or Final Order and Judgment, except as specifically provided otherwise in this Agreement.

VIII. NOTICE TO SETTLEMENT CLASS MEMBERS

A. Within thirty (30) days after Preliminary Approval of the Settlement as provided in Section VII above, Defendants shall provide to the Settlement Administrator information and documents in their possession and readily obtainable that include the name and last known address of each potential member of the Settlement Classes that they have been able to identify, after conducting a reasonable search and making a reasonable inquiry of their records. Any spreadsheets or other electronic documents will be provided in their native or similar machine-parsable format.

B. Within fifty-five (55) days after Preliminary Approval of the Settlement, as provided in Section VII above, the Settlement Administrator will send a copy of the Individual Notice and a Claim Form by first-class mail to the last known address of all putative members of the Settlement Classes. For any Individual Notices returned as undeliverable, the Settlement Administrator will utilize the services of a commercial database resources entity (e.g., Accurint, TransUnion, IDI, etc.), and attempt to obtain current mailing addresses for such returned Individual Notice(s), and should the commercial database show a more current address, the Settlement Administrator shall re-send the returned Individual Notice to the more current address; *provided however*, if a determination is made in good faith by the Settlement Administrator that it is not possible to further update any particular Settlement Class Member's address(es) in sufficient time to re-send the Individual Notice(s) at least forty-five (45) days before the scheduled Final Approval Hearing, then the Settlement Administrator need not make any further efforts to provide further Individual Notice to such Settlement Class Member(s).

C. The Individual Notice will be approved as to form and content by the Court and be substantially in the form attached hereto as **Exhibit "2",** unless otherwise modified by agreement

of the Parties and approved by the Court. The mailing to the Settlement Class Members that contains the Individual Notice will also include a copy of the Claim Form, in a format substantially similar to **Exhibit "3".**

D. The Individual Notice and Claim Form will also be made available to all potential Settlement Class Members by request to the Settlement Administrator, who shall send via first class U.S. mail any of these documents as requested from the Settlement Administrator by any potential Settlement Class Member.

E. The Individual Notice and Claim Form and important deadlines will also be published on a website created by the Settlement Administrator relating to the Lawsuit, or as the Court may direct, and further information and details will be available at a toll-free number.

IX. SUBMISSION OF CLAIMS BY SETTLEMENT CLASS MEMBERS AND CLAIMS ADMINISTRATION

A. To obtain the relief set forth in Section IV (B)-(C), Members of the Settlement Classes must timely submit a Claim Form in accordance with this Section.

B. Claim Forms shall be included with the Individual Notices mailed to Settlement Class Members as provided in Section VIII above. In addition, the Settlement Administrator will provide Claim Forms to Settlement Class Members upon request, and Claim Forms will be published on a website created by the Settlement Administrator relating to the Lawsuit. Claim Forms may be submitted on behalf of deceased or incapacitated Settlement Class Members by their Legally Authorized Representatives, who must provide reasonable proof of their authority, as determined solely by the Settlement Administrator. Any rights to settlement payments under this Agreement shall inure solely to the benefit of Settlement Class Members and are not transferable or assignable to others.

C. Claim Forms must affirm that the information contained in it (name and address of the Settlement Class Member) correctly identifies an individual who meets the definition of a Settlement Class Member and be completed under the penalty of perjury. Claim Forms must be mailed to the address of the Settlement Administrator as specified in the Claim Form, and postmarked, or electronically submitted as provided on the website, no later than sixty (60) days after the date the Individual Notice is issued by the Settlement Administrator (the "Claims Deadline"). Claim Forms will not be considered if they are postmarked or received after the Claims Deadline.

D. The Settlement Administrator shall be responsible for reviewing all Claim Forms and for making a determination whether such Claim Forms are timely, complete, and under the penalty of perjury. For any deficient Claim Forms, the Settlement Administrator will assist the Settlement Class Members in curing the deficiency. Any claim that is not substantially in compliance with the instructions on the Claim Form or the terms of this Settlement Agreement after an opportunity to cure any deficiencies, or is postmarked or electronically received later than the Claims Deadline shall be rejected. Following the Claims Deadline, the Settlement Administrator shall provide a report of all accepted or rejected claims to counsel for Defendants and Class Counsel.

E. Participating Class Members who timely submit Claim Forms in accordance with this Section will be eligible to receive the relief set forth in Section IV(B) or (C) above, provided that: (i) a Participating Class Member in the Preneed Retail Merchandise Plan Settlement Class has agreed to cancel both agreements and has returned the merchandise purchased in the Retail Merchandise Agreement in substantially original condition and pursuant to the instructions on the Individual Notice; and (ii) a Participating Class Member in the TRPP Settlement Class has also agreed to cancel any Preneed Funeral Agreement and/or Retail Merchandise Agreement purchased for the same beneficiary, and has returned any merchandise under the Retail Merchandise Agreement, (in substantially original condition and pursuant to the instructions on the Individual Notice).

F. For all Settlement Class Members who do not opt out of the Settlement or timely submit Claims Forms, Neptune and/or NCS will provide the beneficiary with entitlement to an online obituary, free of charge. Entitlement to the obituary will be noted in each Settlement Class Member's records, and it, along with the services the Settlement Class Member purchased, will be available to each Settlement Class Member at the time of need. This includes the services of Neptune or NCS personnel to work with families to craft the language of the obituary.

G. All refunds due under the terms of this Settlement pursuant to Section IV(B) or (C) will be paid within ninety (90) days after the Effective Date.

X. REQUESTS FOR EXCLUSION/OPT OUT AND OBJECTIONS TO THE SETTLEMENT

A. Any Settlement Class Member who wishes to exclude themselves from either of the Settlement Classes, thereby becoming an Opt-Out, must send a written request for exclusion, via First Class Mail to the Settlement Administrator no later than forty-five (45) days after the first date Notice is issued by the Settlement Administrator. To be effective, such a request must include: the above referenced case number; the Settlement Class Member's full name, address, and telephone number; a clear and unequivocal statement that the Settlement Class Member wishes to be excluded from whichever Settlement Class he or she is a member of, and the signature of the Settlement Class Member or, in the case of a Settlement Class Member who is deceased or incapacitated only, the signature of the Legally Authorized Representative of the Settlement Class Member. The Opt-Out request must be postmarked within the forty-five day period set forth above. If the Settlement is finally approved by the Court, all Settlement Class Members who have not opted out by the end of the forty-five day period will be bound by the Settlement, and the relief provided by the Settlement will be their sole and exclusive remedy for the claims alleged by the Settlement Classes. Class Counsel shall file all opt outs with the Court by a date prior to the Final Approval Hearing to be determined by the Court.

B. If the Opt-Out Request is submitted by someone other than the Settlement Class member, the third-party signer (e.g. attorney, billing agent, or Legally Authorized Representative) must include the following attestations on the Opt-Out Request:

> I certify and attest to the Court that the Settlement Class Member on whose behalf this Opt-Out Request is submitted, has been provided a copy of and a reasonable opportunity to read the Class Notice and after

reviewing their own internal records to confirm that they are a Settlement Class Member specifically requested to be excluded from this Settlement Class.

I have also actually advised the Settlement Class Member of the salient terms of the Settlement Agreement, including the monetary terms of the Settlement Agreement and a comparison of recovery based on the monetary terms of the Settlement and what that proposed Settlement Class Member could expect without the Settlement set forth in the Settlement Agreement and that after a full consultation of this information, the proposed Settlement Class Member still desires to opt out of the Settlement.

C. Settlement Class Members who do not timely request to opt out of the Settlement may object to the Settlement. Any Settlement Class Member who has any objection to certification of the Settlement Classes, or to approval of this Settlement or any terms hereof, or to the approval process, must make that objection by the following procedure:

(i) the objection must be in writing;

(ii) the objection must set forth all objections and the reasons therefore, and a statement whether the Settlement Class Member intends to appear at the Final Approval Hearing, either with or without the objector's counsel. The objection must identify any witnesses intended to be called, the subject area of the witnesses' testimony, and all documents to be used or offered into evidence at the Final Approval Hearing;

(iii) the objection must be signed by the individual Settlement Class Member and by his/her/its counsel; an objection signed by counsel alone shall not be sufficient;

(iv) the objection must contain the caption of the Lawsuit and include the name, mailing address, e-mail address, if any (an e-mail address is not required), and telephone number of the objecting Settlement Class Member; and

(v) the objection must be mailed to the Settlement Administrator and must be postmarked no later than thirty (30) days prior to the Final Approval Hearing. Class Counsel shall file all objections with the Court by a date prior to the Final Approval Hearing to be determined by the Court.

(vi) Failure to comply timely and fully with these procedures shall result in the invalidity and dismissal of any objection. Any Settlement Class Member who does not fully and timely comply with these procedures shall waive the right to object or to be heard at the Final Approval Hearing and shall be forever barred from making any objection (whether by appeal or otherwise) to the Settlement. Settlement Class Members have the right to exclude themselves from the Settlement and pursue a separate and independent remedy against Defendants by complying with the exclusion provisions set forth in subsection A, above. Settlement Class Members who object to the Settlement shall remain in the Settlement Classes and will have voluntarily waived their right to pursue an independent remedy against Defendants. To the extent any Settlement Class

Member(s) objects to the Settlement, and such objection is overruled in whole or in part, such Settlement Class Member(s) will be forever bound by the Final Order and Judgment of the Court.

XI. FINAL APPROVAL AND DISMISSAL WITH PREJUDICE

A. After the completion of the mailing and publishing of Individual Notices and the passage of the deadlines for seeking exclusion from the Settlement Classes, Class Counsel will file a motion seeking the Court's final approval of the Settlement at a Final Approval Hearing to be held at the time, date, and location stated in the Individual Notice, and in the Preliminary Approval Order. Plaintiffs shall request that the Court enter final judgment substantially in the form of the Final Order and Judgment attached hereto as **Exhibit "4"** which will, among other things:

(i) Find that the Court has personal jurisdiction over all Settlement Class Members and subject matter jurisdiction to approve the Agreement;

(ii) Approve the Settlement without material alteration and direct the parties and counsel to comply with and consummate the terms of this Agreement;

(iii) Certify the Settlement Classes for settlement purposes only;

(iv) Find Class Counsel and Plaintiffs have adequately represented the Settlement Classes;

(v) Find the terms of this Agreement are fair, reasonable, and adequate to the Settlement Classes;

(vi) Provide that each member of the Settlement Classes shall be bound by the provisions of this Agreement, including the releases in Section VI, and that the Agreement shall have *res judicata* and preclusive effect in all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and any and all other Settlement Class Members;

(vii) Find that the mailing of the Individual Notice approved by the Court were the best practicable notice and satisfied the requirements of the Federal Rules of Civil Procedure and the requirements of due process under the Florida and United States Constitutions, and the requirements of any other applicable rules or law;

(viii) Dismiss all claims in the Lawsuit on the merits and with prejudice, and enter final judgment thereon, without fees or costs to any party except as provided in this Agreement;

(ix) Permanently enjoin Settlement Class Members who have not opted out from filing, commencing, prosecuting, continuing, intervening in, or participating in (as parties and/or class members) any action regarding any Preneed and Retail Merchandise Released Claim or TRPP Released Claim against any Released Person.

(x) Authorize the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Agreement and its implementing documents as: (i) shall be consistent in all material respects with the Final Judgment; or (ii) do not limit the rights of Settlement Class Members;

(xi) Without affecting the finality of the Final Approval Order for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement and interpretation of the Settlement Agreement and the Final Approval Order, and for any other necessary purpose;

(xii) Approve the payment of an Attorneys' Fee Award to Class Counsel in the amount of up to Five Million, Five Hundred Thousand Dollars ($5,500,000.00); and

(xiii) Expressly incorporate the terms of this Settlement Agreement and provide that the Court retains continuing and exclusive jurisdiction over the Parties, the Settlement Class Members and this Settlement Agreement, to interpret, implement, administer and enforce the Settlement Agreement in accordance with its terms.

B. The Parties to this Agreement further agree that any Party to this Agreement, counsel in any capacity in which they may act under the authority of the Agreement, and any employees, representatives, or agents of such law firms or the Parties to the Agreement (including, without limitation, the Settlement Administrator and those employees and independent contractors who may furnish services in connection with the proposed Settlement) shall not be liable for anything done or omitted in connection with the settlement called for in this Agreement, the prosecution and defense of the Lawsuit, and/or the claims administration process under it except for their own willful misconduct. Neither Plaintiffs, Defendants, nor any of their counsel shall be liable for any act or omission of the Settlement Administrator.

XII. REPRESENTATION OF OPT OUTS

A. Class Counsel and their firms agree not to represent, encourage, solicit or otherwise assist, in any way whatsoever, including but not limited to referrals to other counsel, any person to submit written objections to the Settlement, requests for exclusion from the Settlement, or to encourage Settlement Class Members or any persons to appeal from the Preliminary Approval Order and/or the Final Order and Judgment.

XIIII. ADMINISTRATION EXPENSES

A. Defendants shall pay all reasonable costs of Notice to the Settlement Classes, as described in Section VIII above, and all Administration Expenses contemplated by this Agreement, including the reasonable costs of printing, reproducing, and mailing the checks, forms, notices, and responses that they send in connection with the administration of the claims process described above.

XIV. ATTORNEYS' FEE AWARD

A. Defendants recognize that Class Counsel shall be entitled to petition the Court for an award of their reasonable attorneys' fees incurred in the Lawsuit, subject to Court approval. Subject to Court approval, Defendants agree to pay an Attorneys' Fee Award in a total amount of Five Million, Five Hundred Thousand Dollars ($5,500,000.00). Class Counsel agree that they will not seek an Attorneys' Fee Award of more than Five Million, Five Hundred Thousand dollars ($5,500,000.00). Defendants agree not to oppose, or support or encourage anyone else's opposition to, any award of attorneys' fees equal to or less than Five Million, Five Hundred Thousand dollars

($5,500,000.00). The Attorneys' Fees shall be paid to Class Counsel directly and shall not reduce Class Members' recovery. Class Counsel's petition for an Attorneys' Fee Award shall be filed no later than thirty (30) days prior to the deadline for objections set forth above in Section X(B). The payment of any Attorneys' Fee Award shall be separate from and in addition to any payments made to Settlement Class Members. Any Attorneys' Fee Award is subject to the approval of the Court. Each Party shall bear their own costs and expenses from the Litigation.

B. Any approved Attorneys' Fee Award shall be payable to Class Counsel within sixty (60) days after the Effective Date of this Agreement. Other than as set forth in this Section XV(A) above, Class Counsel hereby waives, discharges and releases Defendants and counsel for Defendants of and from any and all other claims for attorneys' fees, costs, and/or expenses of litigation, in connection with any legal or other services provided by Class Counsel in the Lawsuit.

XV. DISAPPROVAL OR TERMINATION OF THE SETTLEMENT

A. This Settlement Agreement shall terminate and cancel, without any further action from any Party, upon the occurrence of any of the following events:

(i) The Court declines to enter the Preliminary Approval Order;

(ii) The Final Approval Hearing is not held by the Court;

(iii) The Final Order and Judgment approving the Settlement in materially the same terms as set forth herein and/or certifying the Settlement Classes as defined herein is not entered by the Court, or is reversed by a higher court;

or

(iv) The Court declines to dismiss with prejudice all claims in the Lawsuit.

B. Defendants will have the option, in their sole discretion, to void this Settlement Agreement and return the Parties back to their pre-settlement positions if more than ten percent (10%) of potential Settlement Class Members who are sent notice validly opt-out of the Settlement Classes.

C. If the Settlement fails for any reason other than a breach by one of the Parties, or if this Agreement is automatically terminated or terminated by Defendants pursuant to Subsection B, above:

(i) This Settlement Agreement and the Settlement shall have no further force or effect, and all proceedings that have taken place with regard to this Agreement and the Settlement shall be without prejudice to the rights and contentions of the parties hereto and any of the putative Settlement Class Members;

(ii) This Settlement Agreement, all of its provisions (including, without limitation, any provisions regarding class certification), and all negotiations, statements and proceedings relating to them shall be without prejudice to the rights of any of the parties, each of

whom shall be restored to their respective positions existing immediately before settlement negotiations and the execution of this Settlement Agreement;

(iii) This Settlement Agreement, any provision of this Settlement Agreement (including without limitation the provisions regarding class certification), and the fact of this Settlement Agreement having been made, shall not be admissible or entered into evidence for any purpose whatsoever and shall not be subject to discovery;

(iv) Any judgment or order entered in the Lawsuit after the date of this Settlement Agreement, including, without limitation, any order certifying the Settlement Classes, will be vacated and will be without any force or effect in any action or proceeding. The Parties hereto agree they will promptly file a joint motion with the Court to vacate all orders entered pursuant to the terms of this Settlement Agreement; and

(v) The Parties hereby agree they will not thereafter argue or raise a claim or defense, including, but not limited to, waiver, estoppel and other similar or related theories, that this Settlement Agreement and related pleadings and filings, any provision of this Settlement Agreement (including without limitation the provisions regarding class certification), the fact of this Settlement Agreement having been made, and any settlement negotiations preclude Defendants from opposing certification or the claims in the Lawsuit, or any other proceeding.

XVI. COURT TO RETAIN JURISDICTION

Notwithstanding any other provision of this Settlement Agreement, the Court shall retain continuing jurisdiction over the Lawsuit, the Settlement Classes, the Settlement Class Members, and the Settlement for the purposes of administering, supervising, construing and enforcing the Settlement. Any disputes or controversies arising out of, or related to, the interpretation, implementation, administration, and enforcement of this Settlement Agreement will be made by motion to the Court. The Parties and each Settlement Class Member hereby submit and consent to the exclusive jurisdiction of this Court for any suit, action, proceeding, or dispute arising out of, or relating to, this Settlement Agreement.

XVII. DENIAL OF WRONGDOING; NO ADMISSION OF LIABILITY

A. This Settlement Agreement, whether or not the Settlement becomes effective, is for settlement purposes only and is to be construed solely as a reflection of the Parties' desire to facilitate a resolution of the Lawsuit. The Defendants expressly deny that they have violated any duty to, breached any obligation to, committed any fraud on, or otherwise engaged in any wrongdoing with respect to the Class Representatives, the Settlement Classes, any Settlement Class Member, or any Opt Out, and expressly deny the allegations asserted in the Lawsuit and deny any and all liability related thereto. Neither this Settlement Agreement nor any actions undertaken by the Defendants or the Released Persons in the negotiation, execution, or satisfaction of this Settlement Agreement will constitute, or be construed as, an admission of any liability or wrongdoing, or recognition of the validity of any claim made by the Class Representatives, the Settlement Classes, any Settlement Class Member, or any Opt Out, or waiver of arbitration defenses for anything other than settlement purposes, in the Lawsuit, or any other action or proceeding.

B. This Settlement Agreement and the Settlement provided for herein, are not, and shall not be construed to be, an admission by any Released Person of any validity of any of the claims asserted in the Lawsuit, the certifiability of any classes or of any liability to the Class Representatives, any Settlement Class Member, or anyone else, or of any wrongdoing whatsoever.

C. The Parties specifically acknowledge and agree that this Settlement Agreement and its exhibits, along with all related drafts, motions, pleadings, conversations, negotiations, correspondence, orders or other documents shall be considered a compromise within the meaning of the Federal Rule of Evidence Rule 408. The Parties also agree that this Settlement Agreement and its exhibits, along with all related drafts, motions, pleadings, conversations, negotiations, correspondence, orders or other documents entered in furtherance of this Settlement, and any acts in the performance of this Settlement are not intended to be, nor shall they in fact be, admissible, discoverable, or relevant in any case or other proceeding against any Released Person: (i) to establish grounds for certification of any class involving any Settlement Class Member; or (ii) as evidence of any obligation that any Party hereto has or may have to anyone.

D. The provisions of this Settlement Agreement, and any orders, pleadings or other documents entered in furtherance of this Settlement, may be offered or received in evidence solely: (i) to enforce the terms and provisions hereof or thereof; (ii) as may be specifically authorized by a court of competent jurisdiction after an adversary hearing upon application of a Party hereto; or (iii) to obtain Court approval of the Settlement.

XVIII. COOPERATION; ROLE OF CLASS

A. The Parties will cooperate, assist, and undertake all reasonable actions to accomplish the steps contemplated by this Settlement Agreement and to implement the Settlement on the terms and conditions provided herein. The Parties agree to take all actions necessary to obtain final approval of the Settlement and entry of a Final Order and Judgment, including the terms and provisions described in this Settlement Agreement, and, upon final approval and entry of such order, an order dismissing the Lawsuit with prejudice as to the Class Representatives, the Settlement Classes, and each Settlement Class Member.

B. The Parties and their counsel agree to support the final approval and implementation of this Settlement Agreement and defend it against objections, appeal, collateral attack or any efforts to hinder or delay its approval and implementation.

XIX. EFFECTIVE DATE

A. The Effective Date of this Settlement shall be the first date on which all of the following statements are true:

(i) All parties have executed this Agreement;

(ii) No party has terminated the Agreement;

(iii) The Court has preliminarily approved this Agreement and the Settlement;

(iv) The Court has entered a Final Order and Judgment substantially in the form of **Exhibit "4"** hereto, approving this Agreement and the Settlement without material alteration, releasing all of the Released Persons from all of the Preneed and Retail Merchandise Released Claims and TRPP Released Claims, and dismissing the Lawsuit with prejudice and without leave to amend; and

(v) Either: (i) The time to file an appeal from the Final Judgment has expired without the filing of any appeal(s) or (ii) if any appeal has been taken from the Final Judgment, then the date on which all appeals therefrom, including petitions for rehearing or reconsideration, petitions for rehearing *en banc*, and petitions for certiorari, or any other form of judicial review have been finally disposed of in a manner that affirms the Final Judgment without material alteration

XX. REPRESENTATIONS AND WARRANTIES

A. Class Counsel represents and warrants as of the date this Agreement is executed that they have authority to enter into this Settlement Agreement on behalf of the Class Representatives and the members of the Settlement Classes.

B. The Class Representatives represent and warrant as of the date this Agreement is executed that they: (i) have agreed to serve as representatives of the Settlement Classes proposed to be certified herein; (ii) are willing, able, and ready to perform all of the duties and obligations as representatives of the Settlement Classes; (iii) are familiar with the pleadings in the Lawsuit, or has had the contents of such pleadings described to them; (iv) are familiar with the terms of this Settlement Agreement, including the exhibits attached to this Settlement Agreement, or has received a description of the Settlement Agreement, including the exhibits attached to this Settlement Agreement, from Class Counsel, and have agreed to its terms; (v) have consulted with, and received legal advice from, Class Counsel about the Lawsuit, this Settlement Agreement (including the advisability of entering into this Settlement Agreement and its Releases and the legal effects of this Settlement Agreement and its Releases), and the obligations of a representative of the Settlement Classes; (vi) have authorized Class Counsel to execute this Settlement Agreement on their behalf; and (vii) will remain in and not request exclusion from the Settlement Classes and will serve as representatives of the Settlement Classes until the terms of this Settlement Agreement are effectuated, this Settlement Agreement is terminated in accordance with its terms, or the Court at any time determines that such Class Representatives cannot represent the Settlement Classes.

C. Each Defendant represents and warrants as of the date this Agreement is executed that: (i) such Defendant has all requisite corporate power and authority to execute, deliver, and perform this Settlement Agreement; (ii) the execution, delivery, and performance of this Settlement Agreement by such Defendant has been duly authorized by all necessary corporate action; (iii) this Settlement Agreement has been duly and validly executed and delivered by such Defendant; and (iv) this Settlement Agreement constitutes a legal, valid, and binding obligation of such Defendant.

XXI. NOTICES

A. Unless otherwise specified, any and all notices or other communications required or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been duly given when personally delivered or delivered by nationally recognized overnight courier (e.g., FedEx) addressed to the parties at the addresses set forth below (or at such other address as any Party may specify by notice to the other Parties):

If to Plaintiffs:
Randall P. Ewing, Jr.
KOREIN TILLERY LLC
205 North Michigan Plaza, Suite 1950
Chicago, IL 60601
rewing@koreintillery.com

If to Defendants:
Service Corporation International
Attn: Albert Lohse and Mary Rose Browder
P.O. Box 130548
Houston, Texas 77219

With a copy to:
Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC
Attn: Nicholas Panayotopoulos
3344 Peachtree Road
Suite 2400
Atlanta, Georgia 30326
npanayo@wwhgd.com

XXII. MISCELLANEOUS

A. Confidentiality of Information Relating to the Settlement. The Parties will treat Confidential Information in conformity with strict confidence and will not disclose Confidential Information to any non-Party (who is not a Released Person) without the prior written consent of the Party that shared the Confidential Information, except: (i) as required by applicable law, regulation, or by order or request of a court of competent jurisdiction, regulator, or self-regulatory organization (including subpoena or document request), provided that the Party that shared the Confidential Information is given prompt written notice thereof and, to the extent practicable, an opportunity to seek a protective order or other confidential treatment thereof, provided further that the Party subject to such requirement or request cooperates fully with the Party that shared the Confidential Information in connection therewith, and only such Confidential Information is disclosed as is legally required to be disclosed in the opinion of legal counsel for the disclosing Party; (ii) under legal (including contractual) or ethical obligations of confidentiality, on an as-needed and confidential basis to such Party's present and future accountants, counsel, insurers, or reinsurers; or (iii) with regard to any information that is already publicly known through no fault of such Party. This Settlement Agreement, all exhibits hereto, any other documents filed in connection with the Settlement, and any information disclosed through a public court proceeding shall not be deemed Confidential Information.

B. Entire Agreement. This Settlement Agreement and its exhibits, attachments, and appendices will constitute the entire agreement and understanding among the Parties and supersedes all prior proposals, negotiations, letters, conversations, agreements, term sheets, and understandings, whether written or oral, relating to the subject matter of this Settlement Agreement. The Parties acknowledge, stipulate, and agree that no covenant, obligation, condition, representation, warranty, inducement, negotiation, agreement, arrangement, or understanding, whether written or oral, concerning any part or all of the subject matter of this Settlement Agreement has been made or relied on except as expressly set forth in this Settlement Agreement. Prior drafts shall not be used to construe this Agreement.

C. Headings. The headings used in this Settlement Agreement are intended for the convenience of the reader only and will not affect the meaning or interpretation of this Settlement Agreement in any manner. Any inconsistency between the headings used in this Settlement Agreement and the text of the Articles and Sections of this Settlement Agreement will be resolved in favor of the text.

D. Incorporation of Exhibits. All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein. Notwithstanding the foregoing, any inconsistency between this Settlement Agreement and any attachments, exhibits, or appendices hereto will be resolved in favor of this Settlement Agreement.

E. Amendments. This Settlement Agreement may be amended or modified only by a written instrument signed by counsel for all Parties. Amendments and modifications may be made without additional notice to the potential Settlement Class Members unless such notice is required by the Court.

F. Mutual Preparation. The Parties have negotiated all of the terms and conditions of this Settlement Agreement at arm's length. No Party or its counsel shall be considered the sole drafter of this Settlement Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement. This Settlement Agreement will be deemed to have been mutually prepared by the Parties and will not be construed against any of them by reason of authorship.

G. Extensions of Time. The Parties may agree in writing, subject to approval of the Court where required, to reasonable extensions of time to implement the provisions of this Settlement Agreement.

H. Execution in Counterparts. This Settlement Agreement may be executed in counterparts, and a facsimile signature will be deemed an original signature for purposes of this Settlement Agreement.

I. Waiver. The waiver by any Party of any breach of this Settlement Agreement by another Party will not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.

J. Governing Law. This Agreement and the Releases herein shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida without regard to conflict of laws principles.

K. Severability. Except as otherwise provided in this Agreement, if any term or provision of this Agreement is invalid, illegal, or unenforceable, then such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision or the Settlement; *provided, however*, that if any fundamental term or provision of this Agreement (including the terms set forth in Section VI (Releases), and Section X (Opt-Out), is declared invalid, illegal, or unenforceable, then the remainder of this Agreement and the Settlement contemplated herein shall be unenforceable. Upon a determination that any term or provision is invalid, illegal, or unenforceable before entry of the Final Order and Judgment, the Parties hereto shall negotiate in good faith to modify this Agreement to affect the original intent of the Parties.

L. This Settlement Agreement shall be deemed to have been executed upon the last date of execution by all the undersigned parties and/or counsel.

IN WITNESS WHEREOF, the Parties hereto have executed this Settlement Agreement pursuant to the effective date stated hereinabove.

[SIGNATURE PAGE FOLLOWS]

NANCY TAYLOR, on behalf of herself, and others similarly situated.

Hazel Benjamin, on behalf of himself/herself, and others similarly situated.

By: _____

Dolores Ramos
PRINT

Vice President
TITLE

SCI DIRECT, INC.

By: _____

Tim Nicholson
PRINT

President
TITLE

NEPTUNE MANAGEMENT CORP., A/K/A NEPTUNE SOCIETY MANAGEMENT CORPORATION

By: _____

GARY SOBCZAK
PRINT

Vice President
TITLE

NCS MARKETING SERVICES, LLC d/b/a NATIONAL CREMATION SOCIETY

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

NANCY TAYLOR and HAZEL BENJAMIN, on behalf of themselves and all others similarly situated, Plaintiffs, v. SCI DIRECT, INC; NEPTUNE SOCIETY MANAGEMENT CORPORATION, and JOHN DOES 1-20, Defendants.	Case No. 0:20-cv-60709-RAR CLASS ACTION JURY TRIAL DEMANDED

ORDER CERTIFYING SETTLEMENT CLASS AND
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

This matter is before the Court upon the Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement. Having reviewed the Settlement Agreement dated September 7, 2022, between Plaintiffs, Nancy Taylor and Hazel Benjamin, individually and as representatives of the Settlement Classes defined below, and Defendants, SCI Direct, Inc. ("SCI Direct"), Neptune Society Management Corporation d/b/a Neptune Society ("Neptune") , and NCS Marketing Services, LLC d/b/a/ National Cremation Society ("NCS," and together with SCI Direct and Neptune "Defendants") (Plaintiffs, SCI Direct, Neptune and NCS may be referred to as a "Party" and collectively referred to as the "Parties") and each of its Exhibits; and the record in this case; and having conducted a preliminary approval hearing on _____, 2022, and being otherwise fully advised of all relevant details, it is hereby **ORDERED AND ADJUDGED** that Plaintiffs' Unopposed Motion for Preliminary Approval of Proposed Class Action Settlement is GRANTED as follows:

Preliminary Approval of the Proposed Settlement

1. The Court finds that it has subject matter jurisdiction over this Action pursuant to 28 U.S.C. § 1332, including jurisdiction to approve and enforce the Settlement and all Orders that have been entered or which may be entered pursuant thereto. The Court also finds that it has personal jurisdiction over the Parties and, for purposes of consideration of the proposed Settlement, over each of the members of the Settlement Classes defined below, and that venue is proper in this District pursuant to 28 U.S.C. § 1391.

2. The Individual Notice to the Settlement Classes, as provided in this Order, further supports the assertion of the Court's jurisdiction, and application of its orders and judgments, over the Settlement Classes. *See* Fed. R. Civ. P. 23; *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797 (1985) (mailed notice provides personal jurisdiction over class members, even those who reside in different states).

3. The Court further finds that: (a) the proposed Settlement resulted from extensive arm's-length negotiations principally through well-known and experienced class-action mediators and was concluded only after Class Counsel had duly investigated the issues raised by Plaintiffs' claims; (b) the proposed Settlement of this Action makes available valuable consideration commensurate with the alleged harm; and (c) the proposed Settlement evidenced by the Settlement Agreement is sufficiently fair, reasonable, and adequate to warrant sending notice of this Action and the proposed Settlement to the Settlement Class Members and holding a full hearing on the proposed Settlement.

Leave of Court to File Amended Complaint

4. Plaintiff Nancy Taylor requests to file a Third Amended Complaint, adding Plaintiff Hazel Benjamin and Defendant NCS, in order to effectuate a global settlement and for

settlement purposes only. Both the current Defendants and NCS do not object to this request. Defendants agree that the claims of Plaintiff Hazel Benjamin and other purchasers of Preneed Funeral Agreements, Retail Merchandise Agreements and/or Transportation and Relocation Protection Plans ("TRPP") from NCS begins as of the date of filing of the Third Amended Complaint. The Court finds that good cause exists to grant leave to file a Third Amended Complaint, which will advance the goals of a global resolution of this matter. Accordingly, the Court deems filed the proposed Third Amended Complaint, ECF No. __.

Certification of the Settlement Classes

5. For purposes of Settlement of this Action, and pursuant to Federal Rules of Civil Procedure 23(b)(2) and (b)(3), this Action is certified as a class action on behalf of the following Settlement Classes:

A. Preneed and Retail Merchandise Plan Settlement Class:

All persons who, between April 1, 2016 and the present, purchased a Preneed Funeral Agreement and a Retail Merchandise Agreement from Neptune or NCS ("Preneed and Retail Merchandise Plan"), within the State of Florida, excluding all Preneed and Retail Merchandise Plans for which the contracted for cremation services have been performed, and all irrevocable preneed contracts.

AND

B. TRPP Settlement Class:

All persons who between April 1, 2016, and present purchased a Transportation and Relocation Protection Plan ("TRPP") from Defendants within the State of Florida ("Class Period"), excluding all TRPPs where the beneficiary has already been cremated or buried.

Excluded from these classes are Defendants, its affiliates, subsidiaries, agents, board members, directors, officers, and employees. Also excluded from the class are the district judge and magistrate judge assigned to this case, their staff, and their immediate family members.

6. All terms and phrases used in this Order shall have the same meaning as in the Settlement Agreement.

7. The Court further finds for purposes of Preliminary Approval and for Settlement of this Action (and only for such purposes, and without an adjudication of the merits or a determination of whether any class should be certified if the Settlement is not approved or does not otherwise become final), that the requirements of the Federal Rules of Civil Procedure and any other applicable law have been met in that: (a) Members of the proposed Settlement Classes are so numerous as to make joinder of all Members impracticable; (b) there are questions of law or fact common to Members of the proposed Settlement Classes; (c) the claims of the Plaintiffs are typical of the claims of the Settlement Class Members they seek to represent; (d) the Plaintiffs and Class Counsel will fairly and adequately protect the interests of the proposed Settlement Class Members they seek to represent; (e) questions of law or fact common to the proposed Settlement Class Members predominate over any questions affecting only individual members; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the Action.

8. In making the findings herein, the Court also notes that, because this action is being settled rather than litigated, the Court need not consider manageability issues that might be presented in this case. *See Amchem Prods., Inc. v. Windsor*, 117 S. Ct. 2231, 2248 (1997). Moreover, the Court does not need to address potential obstacles to certification, such as notices of intent to initiate litigation under Section 627.736 or individualized reasonableness issues, since the Parties have negotiated an alternative claims process under which a negotiated, agreed formula will be applied.

9. In making these findings with respect to certification for settlement purposes of the Settlement Classes, the Court has also considered, among other factors: (i) the interests of members

of the Settlement Classes in individually controlling the prosecution or defense of separate actions; (ii) the impracticability or inefficiency of prosecuting or defending separate actions; (iii) the extent and nature of any litigation concerning these claims already commenced; and (iv) the desirability of concentrating the litigation of the claims in a particular forum.

10. The Court appoints and designates Plaintiffs Nancy Taylor and Hazel Benjamin as the representatives of the Settlement Classes (as defined above) for the purpose of seeking approval of the Settlement of this Action and are referred to herein as "Plaintiffs" or "Class Representatives."

11. The Plaintiffs' attorneys are hereby preliminarily approved as attorneys for the Settlement Classes for purposes of seeking approval of the Settlement of this Action and are referred to herein as "Class Counsel." Class Counsel for the Settlement Classes are as follows: Randall P. Ewing of Korein Tillery LLC; and Alec Schultz of Hilgers Graben, PLLC.

12. The appointment of Angeion Group as the Settlement Administrator, as agreed in the Settlement Agreement, is approved for purposes of providing notice, administering requests for exclusion ("Opt-Out Requests"), administering and verifying claims, other communications with Settlement Class Members, and otherwise administering the proposed Settlement pursuant to the Settlement Agreement and the Order(s) of the Court. The Parties and their representatives are authorized to share with the Settlement Administrator and opposing counsel confidential and privacy-protected business and personal information in connection with the administration of this Settlement. Such information shall remain confidential and private, shall not be used except in connection with the settlement of this case, and shall not be disclosed to any other person absent express authorization from the Court.

Final Approval Hearing

13. A hearing (the "Final Approval Hearing") will be held on _____, 2022, at _____ a.m./p.m., for _____ [hours/minutes], in Courtroom _____ of this Court to determine, among other matters:

(a) Whether this Action should be finally certified as a class action for settlement purposes;

(b) Whether the proposed Settlement of this Action should be approved as fair, reasonable, and adequate;

(c) Whether this Action should be dismissed on the merits and with prejudice pursuant to the terms of the Settlement;

(d) Whether Settlement Class Members should be bound by the Release set forth in the Settlement Agreement; and

(e) Whether Class Counsel's application for an award of attorneys' fees and expenses should be approved.

14. The Court anticipates ruling on the Motion for Final Approval no later than seven days after the Final Approval Hearing.

Pre-Hearing Notice to Settlement Class Members and the Settlement Website

15. Pursuant to the terms of the Settlement Agreement, Defendants shall cause, through the Settlement Administrator, the Notice of Proposed Class Action Settlement and Final Approval Hearing (the "Individual Notice") to be provided to potential members of the Settlement Classes. The Court further directs the Settlement Administrator to follow the procedures set forth in the Settlement Agreement.

(a) **Individual Notice**. The Court approves the Individual Notice without material alteration from Exhibit "2" to the Settlement Agreement. Within thirty (30) days after Preliminary Approval of the Settlement, Defendants shall provide to the Settlement Administrator information and documents in their possession and readily obtainable that include the name and last known address of each potential member of the Settlement Classes that they have been able to identify, after conducting a reasonable search and making a reasonable inquiry of their records. Within fifty-five (55) days of entry of Preliminary Approval, or such time as the Parties may agree, the Settlement Administrator shall print and cause to be mailed by First-Class Mail, postage prepaid, the Individual Notice. Addresses of potential Settlement Class Members identified by Defendants will be run through the National Change of Address database (the "NCOA") prior to mailing. The Settlement Administrator shall check and update all class notice addresses pursuant to an NCOA review prior to mailing.

(b) **Re-mailing**. In the event that a mailing to a Settlement Class Member containing the Individual Notice is returned to the Settlement Administrator, the Settlement Administrator shall resend by First-Class Mail, postage prepaid, the Individual Notice to the forwarding address, if one is provided by the United States Postal Service. In the event that any Individual Notice is returned as undeliverable a second time, no additional mailing shall be required or performed by the Claims Administrator or the Parties. The Parties and their counsel shall not issue additional or supplemental notice absent the consent of all Parties and prior Court approval.

(c) **Proof of Mailing**. No later than fourteen (14) days before the Final Approval Hearing, the Parties or the Settlement Administrator shall file with the Court proof of

mailing of the Individual Notices. The Parties are not required to file a proof of receipt of the Individual Notices by Settlement Class Members pursuant to governing law.

(d) **Settlement Website and Settlement Website Notice**. Notice shall also be provided by establishing a publicly available website containing a copy of the Individual Notice, Settlement Agreement, Claim Form, this Order, and such other supporting documents as set forth in the Settlement Agreement (the "Settlement Website"). The Court approves the Settlement Website and Settlement Website Notice as described in Section VIII (E) of the Settlement Agreement, with the Individual Notice as the Settlement Website Notice without material alteration from Exhibit 2 to the Settlement Agreement. The Settlement Website may be amended during the course of the Settlement as appropriate and agreed to by the Parties, and which shall be maintained for at least 180 days after the conclusion of the Claims Period.

(e) **Toll-Free Phone Number**. The Court directs the Claims Administrator to maintain a toll-free telephone system containing recorded answers to frequently asked questions and live operators.

(f) **Post Office Box**. The Settlement Administrator shall maintain, and Defendants shall pay the costs incurred in maintaining, a post office box to be utilized for receiving correspondence and other communications from Settlement Class Members. Only the Settlement Administrator, Class Counsel, Defendants, Defendants' Counsel and their designated agents shall have access to this post office box, except as otherwise expressly provided in the Settlement Agreement. The Settlement Administrator shall also promptly furnish Class Counsel and Counsel for Defendants copies of any and all objections, written requests for exclusions, motions to intervene, notices of intention to appear, and other communications that come into its possession except as expressly provided in the Settlement Agreement.

(g) **Claim Form**. The Court approves the Claim Form without material alteration from Exhibit 3 to the Settlement Agreement for distribution to Settlement Class Members pursuant to the Settlement Agreement. The Court directs that the Claim Form be distributed with the Individual Notice.

To be considered for possible payment under the Settlement Agreement, Claim Forms must be postmarked or submitted on the Settlement Website no later than sixty (60) days after the first date that the Individual Notice is issued by the Settlement Administrator. A Claim Form submitted on the Settlement Website or postmarked after this date shall be untimely and invalid. Claim Forms must contain the information and comply with the requirements set forth in the Settlement Agreement.

16. Having considered, among other factors, (a) the cost of giving notice by various methods, (b) the resources of the Parties, (c) the stake of each Settlement Class Member, and (d) the possibility that certain Settlement Class Members might desire to exclude themselves from the Settlement Classes or appear individually, the Court finds that notice given in the form and manner provided in this Order meets the requirements of the Federal Rules of Civil Procedure, including Rule 23, and due process, and is the best practicable notice and is reasonably calculated, under the circumstances, to apprise the Settlement Class Members (i) of the pendency and nature of this action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses and the terms of the proposed Settlement; (iv) the right to appear and object to the proposed Settlement; (v) the right to exclude themselves from the Settlement Classes; (vi) the time and manner for requesting exclusion from the Settlement Classes; and (vii) that any judgment, whether favorable or not, will bind all Settlement Class Members who do not request exclusion. The Court further

finds that the Individual Notice is written in plain English and is readily understandable by Settlement Class Members.

In sum, the Court finds that the texts and methodology in the proposed Individual Notice and Settlement Website Notice are reasonable, that they constitute due, adequate, and sufficient notice to all persons entitled to be provided with notice, and that they meet the requirements of the Federal Rules of Civil Procedure, the Constitutions of the United States (including the Due Process Clause) and Florida, and any other applicable rules or law.

Exclusion from Settlement Classes

17. Any Settlement Class Member who wishes to be excluded from the Settlement Classes must comply with the terms set forth in the Settlement Agreement and timely submit an Opt-Out Request to the Settlement Administrator in the manner set forth below.

(a) Opt-Out Requests must identify and include: (i) a prominent identifying reference to *Taylor* as follows: "*Nancy Taylor, et al. v. SCI Direct, Inc. et al.*, Case No. 0:20-cv-60709-RAR;" (ii) the customer's/Settlement Class Member's full legal name; (iii) the Settlement Class Member's address and telephone number; (iv) a clear and unequivocal statement that the Settlement Class Member wishes to be excluded from whichever Settlement Class he or she is a member of; and (v) the signature of the Settlement Class Member or his or her Legally Authorized Representative, indicating the name and position of the signatory. No request for exclusion will be valid unless all of the information described in this paragraph is included.

(b) A separate Opt-Out Request must be individually submitted by each person requesting exclusion from the Settlement. Any Opt-Out Request can only be exercised individually by a Settlement Class Member, not as or on behalf of a group, class, or subclass. Opt-Out Requests may be submitted by a Settlement Class Member's individual Legally Authorized Representative

under the circumstances described herein and in the Settlement Agreement. Each Opt-Out Request must be individually submitted using First-Class U.S. Mail. In other words, only one Opt-Out Request may be submitted per envelope using First-Class U.S. Mail. No Opt-Out Request submitted via any other means will be accepted as valid.

(c) If the Opt-Out Request is submitted by someone other than the Settlement Class Member, including the Settlement Class Member's Legally Authorized Representative, then the third-party signer must include the following attestations on the Opt-Out Request:

> I certify and attest to the Court that the Settlement Class Member on whose behalf this Opt-Out Request is submitted, has been provided a copy of and a reasonable opportunity to read the Class Notice and after reviewing their own internal records to confirm that they are a Settlement Class Member specifically requested to be excluded from this Settlement Class.
>
> I have also actually advised the Settlement Class Member of the salient terms of the Settlement Agreement, including the monetary terms of the Settlement Agreement and a comparison of recovery based on the monetary terms of the Settlement and what that proposed Settlement Class Member could expect without the Settlement set forth in the Settlement Agreement and that after a full consultation of this information, the proposed Settlement Class Member still desires to opt out of the Settlement.

(d) Any written Opt-Out Request must be sent by First-Class mail, postage prepaid, and postmarked no later than forty-five (45) days after the first date Notice is issued by the Settlement Administrator, and addressed to the Settlement Administrator at the address identified in the Individual Notice.

(e) Untimely Opt-Out Requests shall be invalid unless and until expressly accepted as valid by Defendants or the Court.

(f) If the Opt-Out Request does not comply with the requirements of this Order and the Settlement Agreement, it is not valid.

18. At least fourteen (14) days before the Final Approval Hearing, the Parties or Settlement Administrator shall file with the Court all valid Opt-Out Requests complying with this Order, and are therefore recognized Opt-Outs.

19. If the proposed Settlement is approved, any Settlement Class Member who is not deemed by the Court as a recognized Opt-Out shall be bound by the Settlement Agreement and all subsequent proceedings, orders, and judgments in this action, and all their claims shall be dismissed with prejudice and released as provided for in the Settlement Agreement.

20. Defendants will have the option, in their sole discretion, to void the Settlement Agreement and return the Parties back to their pre-settlement positions if more than 10% of potential Settlement Class Members who are sent notice validly opt out of the Settlement Classes.

Objections

21. A Settlement Class Member who has not excluded himself or herself from the Settlement Classes may submit a written objection for the Court's consideration, including without limitation objections to the final certification of the Settlement Classes, the fairness, reasonableness, or adequacy of the proposed settlement, the adequacy of the representation by the Class Representatives or by Class Counsel, or the request of Class Counsel for fees and expenses, in the manner set forth below.

(a) Each objection must be in writing and include: (i) a prominent identifying reference to *Taylor* as follows: "*Nancy Taylor, et al. v. Service Corporation International*, Case No. 0:20-cv-60709-RAR"; (ii) the name and address of the Settlement Class Member objecting, and if represented by counsel, of his/her/their counsel; (iii) a statement listing all objections being made with specificity along with verification that the objector is a Settlement Class Member and identify which Settlement Class(es) the objector is a member; (iv) a statement indicating whether

the objector/Settlement Class Member intends to appear at the Final Approval Hearing (with or without counsel); (v) a statement as to whether the objector/Settlement Class Member is represented by counsel for purposes of objecting; (vi) a list of witnesses whom the objector may call by live testimony and copies of any documents or papers that the objector plans to submit; (vii) a list of all other proposed class settlements where the objector has submitted an objection in the last 5 years; and (viii) the objection must be signed by the objector; an objection signed by counsel alone shall not be sufficient.

(b) The objection must be mailed to the Settlement Administrator no later than thirty (30) days prior to the Final Approval Hearing. Class Counsel shall file all objections with the Court no later than fourteen (14) days before the Final Approval Hearing.

(c) Any Settlement Class Member who submits a timely written objection shall consent to deposition by Class Counsel or the Defendants' Counsel prior to the Final Approval Hearing.

(d) The right to object to the Settlement or to intervene in the Action must be exercised individually by a Settlement Class Member or his or her attorney, and not as a member of a group, class, or subclass, except that such objections may be submitted by a Settlement Class Member's Legally Authorized Representative.

22. Any Settlement Class Member who does not timely file and serve a written objection in the manner described in this Section shall be deemed to have waived any objection and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the Settlement, or the award of any attorney fees.

23. The Parties, their agents or attorneys may not engage in any confidential negotiations to either: (i) withdraw objections; or (ii) pay any objector/Settlement Class Member

or their attorneys any compensation or fees. Neither Class Counsel, counsel for Defendants, the Parties, nor their representatives may pay any compensation to any person or their attorney in exchange for withdrawal of an objection. Neither the Parties, Class Counsel, nor counsel for Defendants may pay, or cause payment of, any fees to any objector/Settlement Class Member unless those fees have been approved by the Court.

Appearances at the Final Approval Hearing

24. Any Settlement Class Member who files and serves a timely, written objection pursuant to the terms of this Order may also appear at the Final Approval Hearing, either in person or through counsel retained at the Settlement Class Member's expense, by complying with the requirements set forth in the Individual Notice.

25. Any Settlement Class Member who does not timely comply with the requirements set forth in the Individual Notice shall not be permitted to appear at the Final Approval Hearing, except for good cause shown.

Tolling

26. Because Settlement Class Members will be eligible to receive compensation through the Settlement instead of having to bring their own lawsuits and because bringing a separate lawsuit would be inconsistent with participation in the Settlement Class, the Court finds that the following tolling order is appropriate:

> The statute of limitations and all other presuit time limits shall be tolled until the Court either grants or denies final approval of the proposed Settlement and such order or judgment becomes final, provided that the tolling shall terminate ten (10) business days after submission of an Opt-Out Request, as indicated by the postmark date of such request submitted to the Settlement Administrator, with respect to any Settlement Class Member that submits a timely, written Opt-Out Request.

Injunction

27. Pursuant to 28 U.S.C. § 1651, Federal Rule of Civil Procedure 23 and the Settlement Agreement, the Court hereby bars and enjoins all Settlement Class Members, unless and until they have timely and properly excluded themselves from the Settlement Classes, and any person acting or purporting to act directly or derivatively on behalf of a Settlement Class Member, or acting on a representative basis or in any other capacity, from commencing, prosecuting, intervening in, or participating in any action, arbitration, or proceeding in any court, arbitration forum or tribunal asserting any claims or causes of action, or the facts and circumstances relating thereto, in this case and/or any of the Released Claims.

Final Approval Hearing

28. A Final Approval Hearing shall be held at _____ a.m./p.m. on _____, 2022, for the purpose of determining, among other matters: (a) whether the Settlement is fair, reasonable, and adequate and should be finally approved by the Court; (b) the merit of any objections to the Settlement; (c) the requested Attorneys' Fee Award to Class Counsel; and (d) entry of final judgment approving the Settlement. This hearing will be held at the United States Federal Building and Courthouse, located at 299 East Broward Boulevard, Fort Lauderdale, Florida, 33301, in Courtroom _____. The Parties shall file their final submissions in support of final approval of the Settlement pursuant to Federal Rule of Civil Procedure 23 on or before _____, 2022.

Other Provisions

29. Capitalized terms used in this Order that are not otherwise defined in this Order have the meanings assigned to them in the Settlement Agreement.

30. This Order shall become null and void *ab initio*, and this Order (and all proceedings that have taken place with respect to the Settlement Agreement) shall be without prejudice to the rights and contentions of the parties, all of whom shall be restored to their respective positions existing immediately before this Court entered this Order, if: (a) the proposed settlement is not finally approved by the Court, or does not become final pursuant to the terms of the Settlement Agreement, or (b) the proposed settlement is terminated in accordance with the Settlement Agreement or does not become effective as required by the terms of the Settlement Agreement for any other reason. In such event, (i) the proposed settlement and Settlement Agreement shall become null and void and be of no further force and effect, (ii) neither the Settlement Agreement nor the Court's orders or findings therein, including this Order, shall be used or referred to for any purpose whatsoever in this or any other action or proceeding, including but not limited to class certification purposes, and (iii) the Parties and this case shall be restored to the status existing prior to execution of the Settlement Agreement.

31. Defendants shall retain the right to communicate with and respond to inquiries from Settlement Class Members and persons who are sent the Individual Notice orally and/or in writing, and they may do so through any appropriate representatives, under the following terms and conditions:

(a) During the notice and claims period following the date of this Order, the Defendants or their designees may in the ordinary course of business continue to process and respond to all inquiries or complaints from Settlement Class Members, notwithstanding the fact that certain inquiries may originate with Settlement Class Members or persons who are sent the Individual Notice.

(b) Communications by the Defendants or their designees about the proposed settlement with Settlement Class Members who are sent the Individual Notice shall only be made jointly or in the presence of Class Counsel, or with Class Counsel's express consent, or as approved by this Court. However, Class Counsel may engage in privileged communications and other advice or respond to inquiries by Settlement Class Members, so long as such communications would not otherwise be inconsistent with the intent of this Subsection that communications similar in content to groups of Settlement Class Members or persons who are sent the Individual Notice be made jointly.

32. This Order shall not be construed or used as an admission, concession, declaration, or finding by or against Defendants of any fault, wrongdoing, breach, liability, or waiver of arbitration defenses for anything other than settlement purposes or of the appropriateness of certifying a class for litigation purposes. Nor shall this Order be construed or used as an admission, concession, declaration, or finding by or against Plaintiffs or the Settlement Class Members that their claims lack merit or that the relief requested in their pleadings is inappropriate, improper, or unavailable, or as a waiver by any party of any defenses or claims he, she or it may have. Other than for purposes to enforce this Order or the Settlement Agreement, if finally approved, neither this Order nor the Settlement Agreement (or any communications or proceedings in connection therewith) shall be offered or received in evidence in this action or any other action or proceeding, or be used or asserted in any way as an admission, concession or evidence of any matter whatsoever except as necessary to enforce its terms. Neither the certification of the Settlement Classes nor the settlement of the Action shall be deemed an admission by Plaintiffs or their attorneys that a litigation class could not properly be certified in this Action, and Plaintiffs shall retain all rights to assert that the Action may be certified as a litigation class.

33. No discovery (except for reasonable confirmatory discovery requested by Class Counsel) with regard to the Settlement Agreement or the proposed Settlement and its administration shall be permitted by any Settlement Class Member or any other Person, other than as may be directed by the Court upon a proper showing seeking such discovery by a motion properly filed with this Court, noticed and served in accordance with the governing rules of procedure. All discovery and other proceedings in this case are further stayed until order of the Court, except as may be necessary to implement the Settlement, to comply with this Order, or to comply with the terms of the Settlement Agreement.

34. The Court may, for good cause, extend any of the deadlines set forth in this Order without further notice to the Settlement Classes. The Court may further continue or adjourn the Final Approval Hearing without further written notice.

DONE AND ORDERED in Chambers in Fort Lauderdale, Florida this _____ day _____, 2022.

_____
Rodolfo A. Ruiz, II, Judge
United States District Court

cc: all attorneys of record

EXHIBIT 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Taylor, et. al. v. Service Corporation International, et al., Case No. 20-CV-60709-RAR
Website URL

If you purchased a Preneed Funeral Agreement and a Retail Merchandise Agreement, or purchased a Transportation and Relocation Protection Plan from Neptune Society or National Cremation Society in Florida from April 1, 2016, to present, a class action settlement may affect your rights.

A court has authorized this notice. This is not a solicitation from a lawyer.

- A settlement has been reached in a class action lawsuit against SCI Direct, Inc. ("SCI Direct"), Neptune Management Corp. a/k/a Neptune Society Management Corporation d/b/a Neptune Society ("Neptune"), and NCS Marketing Services, LLC d/b/a National Cremation Society ("NCS") (collectively referred to herein as "Defendants").

- The Settlement provides an opportunity for you to cancel your Agreements and receive a full refund of the purchase price paid if you return the benefits under the Agreements. If you remain in the Settlement, but do not cancel your Agreements for a refund, you will receive entitlement to a free online obituary from the Defendant with whom you contracted and your Agreements will otherwise remain in full force and effect.

- Your legal rights are affected whether you act or don't act, so please read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:		
SUBMIT A CLAIM FORM	Submit a Claim Form to receive the benefits provided under the Settlement.	Claims must be submitted by **DEADLINE**.
EXCLUDE YOURSELF	Write to the Settlement Administrator to opt out of the Settlement. This is the only option that allows you to be part of any other lawsuit, or your own lawsuit, against the Defendants about the legal claims released in this Settlement, but it means that you will not receive any of the benefits of this Settlement.	Requests for Exclusion must be postmarked by **DEADLINE**.
OBJECT	Write to the Settlement Administrator about why you do not like the Settlement.	Objections must be submitted to the Settlement Administrator and copies mailed postmarked by **DEADLINE.**
GO TO A HEARING	Ask to speak in Court to the judge about the Settlement.	The Court's Fairness Hearing is currently scheduled for **DATE**.

DO NOTHING	Your Agreements will remain in full force and effect. You give up the right to cancel your Retail Merchandise Agreement and/or TRPP (as set forth below, you still retain the right to cancel your Preneed Funeral Agreement) under the Settlement and your right to be part of any other lawsuit against the Defendants about the legal claims released by the Settlement. Receive entitlement to an online obituary from the Defendant you contracted with.	

- These rights and options -- ***and the deadlines to exercise them*** -- are explained in this Notice.
- The Court in charge of this case still must decide whether to approve the Settlement before any benefits can be distributed. Please be patient.

1. Why is there a notice?

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

The Honorable Rodolfo A. Ruiz, II, of the United States District Court, Southern District of Florida, is overseeing this class-action lawsuit, known as *Taylor, et. al. v. Service Corporation International, et al.*, Case No. 0:20-cv-60709-RAR. Nancy Taylor and Hazel Benjamin, the people who brought this litigation, are called the "Plaintiffs" or "Class Representatives," and the companies they sued, SCI Direct, Inc., Neptune Management Corp. a/k/a Neptune Society Management Corporation d/b/a Neptune Society, and NCS Marketing Services, LLC d/b/a National Cremation Society are called the "Defendants."

2. What is the lawsuit about?

Neptune and NCS are engaged in the sale of Preneed Funeral Agreements to provide preneed cremation services and Retail Merchandise Agreements to provide related merchandise throughout the State of Florida. On behalf of Medical Air Services Association of Florida, Inc. ("MASA"), Neptune and NCS also engaged in the sale of Transportation and Relocation Protection Plans ("TRPP") throughout the State of Florida to provide membership in a transportation services plan should the purchaser or beneficiary relocate or be outside of seventy-five (75) miles of his or her residence at the time of passing. Plaintiffs allege in the Lawsuit that Defendants violated Florida's Funeral Act, Chapter 497, Florida Statutes, by, among other things, misrepresenting to customers the different statutory rights applicable to preneed services and related merchandise. Plaintiffs also allege that Defendants engaged in unfair and deceptive practices in their marketing and sale of the TRPP by, among other things, materially misrepresenting their financial interest in the sale. Among other things, Plaintiffs ask the Court for the option to rescind some or all of their contracts and all contracts of all those similarly situated.

The Defendants have asserted substantial legal and factual defenses against Plaintiffs' claims, and deny Plaintiffs' allegations in the Lawsuit. Defendants deny that Plaintiffs' proposed classes may be certified except for settlement purposes and deny any liability to the Plaintiffs, Settlement Classes, or any Settlement Class Member, for any

claims, causes of action, costs, expenses, attorneys' fees, or damages of any kind.

3. Why is this a class action?

In a class action, one or more people called "Class Representatives" assert claims on behalf of people who have similar claims. All of these people are the "Class" or "Class Members." One court resolves the issues for all Class Members, except for those who timely exclude themselves from (or "opt out" of) the Class. The Class Representatives in the Action are the Plaintiffs identified above.

4. Why is there a Settlement?

All parties have agreed to a Settlement to avoid further cost and risk of a trial, and so that the people affected can begin getting benefits in exchange for releasing the Defendants from liability for the claims that were raised or could have been raised in the lawsuit. The Court did not decide which side was right. The Class Representatives and the lawyers representing them think the Settlement is fair and reasonable for the Class.

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

If you have received this Notice, you are a Member of one or both of the following Settlement Classes:

A. Preneed and Retail Merchandise Plan Settlement Class:

All persons who, between April 1, 2016 and the present, purchased a Preneed Funeral Agreement and a Retail Merchandise Agreement from Neptune or NCS ("Preneed and Retail Merchandise Plan") within the State of Florida, excluding all Preneed and Retail Merchandise Plans for which the contracted for cremation services have been performed, and irrevocable preneed contracts.

B. TRPP Settlement Class:

All persons who, between April 1, 2016 and the present, purchased a TRPP from Neptune or NCS, within the State of Florida, excluding all TRPPs where the beneficiary has already been cremated or buried.

Also excluded from the Settlement Classes are: (i) SCI Direct, Neptune, NCS, and any of their employees, officers, or directors; (ii) members of the judiciary and their staff to whom these actions are assigned; and (iii) Counsel for the Parties.

6. What are the benefits of the Settlement?

The Settlement provides the following benefits to Settlement Class Members:

Participating Class Members of the **Preneed and Retail Merchandise Plan Settlement Class** (defined above) will have the option to cancel both their Retail Merchandise Agreement and Preneed Funeral Agreement and receive a full refund of the purchase price paid for each agreement, less any amounts previously refunded. This extended right of cancellation for purchasers of the Retail Merchandise Agreement is contingent upon the Participating Class Member returning the merchandise received (in substantially original condition) under that agreement and giving up their rights under their other Agreement(s). A Participating Class Member cannot exercise this extended right to cancel the Retail Merchandise Agreement without also cancelling the Preneed Funeral Agreement.

Participating Class Members of the **TRPP Settlement Class** (defined above) will have the option to cancel their TRPP and receive a full refund of the purchase price paid for that agreement, less any amounts previously refunded. This extended right of cancellation is contingent upon the Participating Class Member also cancelling any Preneed Funeral Agreement and/or Retail Merchandise Agreement he or she purchased for the same

beneficiary as the TRPP from Neptune or NCS. In order to cancel their TRPP, all of the Participating Class Member's agreements with NCS or Neptune for the same beneficiary must also be cancelled (and the merchandise must be returned in substantially original condition), and he or she will receive a full refund of the purchase price paid for all the cancelled agreements.

Return of Merchandise: Class Members who timely submit a Claim Form as set forth below will receive a prepaid shipping label for the return of their merchandise. They should pack and ship the merchandise using the prepaid label.

Free Obituary for Class Members Who Choose Not to Cancel: To the extent Settlement Class Members choose not to submit a claim to cancel their Agreements, Neptune or NCS will provide the beneficiary with entitlement to an online obituary, free of charge. This includes the services of Neptune or NCS personnel to work with families to craft the language of the obituary. Settlement Class Members do not need to submit a Claim Form to receive this benefit.

7. Notice of Additional Statutory Cancellation Rights

As part of this Settlement, Defendants have agreed to provide the following notice herein to Settlement Class Members of the statutory right for purchasers of Preneed Funeral Agreements to cancel those agreements:

Unless your Preneed Funeral Agreement has been made irrevocable, it may be cancelled at any time prior to receipt of the services by giving written notice to the seller. Upon providing such notice you shall be entitled to a refund for unused services, as provided in more detail by law. See Fla. Stat. § 497.459(1)-(2).

8. What am I giving up in exchange for the Settlement benefits?

If the Settlement becomes final, Settlement Class Members will be releasing the Defendants and the Released Persons from all of the Released Claims described and identified Class Action Settlement Agreement and Release. Please visit **URL** to view the Class Action Settlement Agreement and Release.

9. How do I get the benefits of the Settlement?

If you are a Settlement Class Member and would like to cancel your Agreements and receive a refund of the purchase price you paid (if you return the benefits under the Agreements), you need to complete a Claim Form. You may submit a Claim Form online via the Settlement Website at **URL**. You may also download a Claim Form from the Settlement Website and mail your completed Claim Form to the Settlement Administrator. A Claim Form is also included with this Notice.

Claim Forms must be mailed postmarked or submitted online no later than **DEADLINE.**

If you chose not to cancel your Agreements, the Defendant you contracted with will provide you with entitlement to an online obituary, free of charge. Entitlement to the obituary will be noted in your records, and it, along with the services you purchased, will be available to you at the time of need. You do not need to submit a Claim Form to receive this benefit.

10. When will I get the Settlement benefits?

The Court will hold a hearing on **DATE** at **TIME**, to decide whether to grant final approval to the settlement. If the Court approves the settlement, there may be objections. It is always uncertain whether objections will be filed and, if so, how long it will take to resolve them. As soon as possible after all objections (if any) have been

resolved and the Court grants final approval of the settlement, prepaid labels for the return of merchandise will be sent to Participating Class Members who have submitted valid and timely Claim Forms. Once the merchandise has been returned (in substantially original condition), refund payments will be distributed to Participating Class Members.

Settlement Class Members who choose not to submit a Claim Form to cancel their agreements will receive the entitlement to an online obituary, free of charge, as soon as possible after the Court grants final approval.

11. Can I exclude myself from this Settlement?

Yes. If you want to keep the right to sue or if you are already suing the Defendants in another action over the legal issues in this case, then you must take steps to opt out of this Settlement. This is called asking to be excluded from – sometimes called "opting out" of – the Settlement.

12. If I exclude myself, can I get anything from this Settlement?

No. If you ask to be excluded, you cannot object to the Settlement and you will not receive any of the benefits of the Settlement. But you may sue, continue to sue, or be part of a different lawsuit against the Defendants in the future, including for claims that this Settlement resolves. You will not be bound by anything that happens in this lawsuit.

13. If I don't exclude myself, can I sue later?

No. Unless you exclude yourself, you give up the right to sue the Defendants for the claims that this Settlement resolves.

14. How do I exclude myself from the Settlement?

Settlement Class Members wishing to opt out of the Settlement must send to the Settlement Administrator by U.S. mail a personally signed letter including (a) their full name; (b) current address; (c) telephone number; (d) a clear and unequivocal statement that the Settlement Class Member wishes to be excluded from whichever Settlement Class he or she is a member of; (e) their signature or, in the case of a Settlement Class Member who is deceased or incapacitated only, the signature of the Legally Authorized Representative of the Settlement Class Member; and (f) the case name and case number (*Taylor v. Service Corporation International, et al.*, Case No. 0:20-cv-60709-RAR).

Requests for exclusion must be mailed to the Settlement Administrator at the address below, postmarked on or before **DEADLINE**.

Taylor v. Service Corporation International
c/o Settlement Administrator
Attn: Exclusions
P.O. Box 58220
Philadelphia, PA 19102

Failure to comply with any of these requirements for excluding yourself may result in you being bound by this Settlement.

15. Do I have a lawyer in the case?

Yes, the Court has appointed the following attorneys as Class Counsel for the Settlement Classes:

Alec H. Schultz HILGERS GRABEN PLLC 1221 Brickell Avenue, Suite 900 Miami, Florida 33131	Randall P. Ewing, Jr. KOREIN TILLERY LLC 205 North Michigan Plaza, Suite 1950 Chicago, IL 60601

You will not be charged for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

16. How will the lawyers be paid?

Class Counsel will make a motion to the Court for an Attorneys' Fee Award which will be paid by the Defendants if the settlement is approved and will not affect the relief sought to class members under this Settlement. Class Counsel will seek no more than $5,500,000 in Attorneys' Fees to be paid by Defendants if approved by the Court.

17. How do I tell the Court if I don't like the Settlement?

Settlement Class Members who do not timely request to opt out of the Settlement may object to the Settlement. Any Settlement Class Member who has any objection to certification of the Settlement Classes, or to approval of this Settlement or any terms hereof, or to the approval process, must make that objection by the following procedure:

1. The objection must be in writing;

2. The objection must set forth all objections and the reasons therefore, and a statement whether the Settlement Class Member intends to appear at the Final Approval Hearing, either with or without the objector's counsel. The objection must identify any witnesses intended to be called, the subject area of the witnesses' testimony, and all documents to be used or offered into evidence at the Final Approval Hearing;

3. The objection must be signed by the individual Settlement Class Member and by his/her/its counsel; an objection signed by counsel alone shall not be sufficient;

4. The objection must contain the caption of the Lawsuit and include the name, mailing address, e-mail address, if any (an e-mail address is not required), and telephone number of the objecting Settlement Class Member; and

5. The objection must be mailed to the Settlement Administrator at the address below and must be postmarked no later than **Deadline Date**. Class Counsel shall file all objections with the Court by a date prior to the Final Approval Hearing to be determined by the Court.

6. Failure to comply timely and fully with these procedures shall result in the invalidity and dismissal of any objection. Any Settlement Class Member who does not fully and timely comply with these procedures shall waive the right to object or to be heard at the Final Approval Hearing and shall be forever barred from making any objection (whether by appeal or otherwise) to the Settlement. Settlement Class Members who object to the Settlement shall remain in the Settlement Classes and will have voluntarily waived their right to pursue an independent remedy against Defendants. To the extent any Settlement Class Member(s) objects to the Settlement, and such objection is overruled in whole or in part, such Settlement Class Member(s) will be forever bound by the Final Order and Judgment of the Court.

Mail your completed objection, postmarked no later than **Deadline Date** to: Taylor, et. al. v. Service Corporation International, et. al., c/o Settlement Administrator, Attn: Objections, P.O. Box 58220, Philadelphia,

PA 19102.

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

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement. Excluding yourself is telling the Court that you don't want to be part of the Settlement, and thus do not want to receive any benefits from the Settlement. If you exclude yourself, you have no basis to object because the Settlement no longer affects you.

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

The Court will hold a "Final Approval Hearing" to decide whether to approve the Settlement on **DATE** at **TIME** in Courtroom **XX** located at **COURT ADDRESS**. At this hearing, Judge Ruiz will determine whether the Settlement is fair, adequate, and reasonable and whether the objections by Settlement Class Members, if any, have merit. If you have filed an objection on time, you may attend and ask to speak, but you don't have to. However, Judge Ruiz will only listen to people who have asked to speak at the hearing. At this hearing, Judge Ruiz will also decide the attorney's fees for the lawyers representing the Settlement Classes. We do not know how long the Court's decision will take, and the hearing date may change. Please visit **URL** for updates.

20. Do I need to go to the hearing?

No. Settlement Class Counsel will answer any questions Judge Ruiz may have, but you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mail your valid written objection on time, the Court will consider it. You may also pay another lawyer to attend, but that's not required.

21. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must indicate so when you submit your objection (see Question 17 above). You cannot speak at the hearing if you have excluded yourself from the Settlement.

22. What if I do nothing?

If you do nothing, your agreements will remain in full force and effect. You will give up give up the right to cancel your Retail Merchandise Agreement and/or TRPP and receive a refund for the amounts paid for these Agreements. (you still retain the right to cancel your Preneed Funeral Agreement). You also give up the right to be part of any other lawsuit against the Defendants about the legal claims released by the Settlement. You will receive entitlement to an electronic obituary from the Defendant you contracted with, free of charge.

23. Are there more details about the Settlement?

This notice summarizes the proposed Settlement. More details are in the Class Action Settlement and Release, available at **URL**. You may also contact the Settlement Administrator by mail, email or phone:

Mail: Taylor, et. al., v. Service Corporation International, et. al., c/o Settlement Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103
Email: **EMAIL ADDRESS**
Phone: **(XXX) XXX-XXXX**

QUESTIONS? VISIT URL OR CALL TOLL-FREE (XXX) XXX-XXXX

EXHIBIT 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Taylor, et. al. v. Service Corporation International, et al., Case No. 20-CV-60709-RAR
Website URL

CLAIM FORM INSTRUCTIONS

This Claim Form is for Settlement Class Members and you are in one or both of the Settlement Classes defined below:

A. Preneed and Retail Merchandise Plan Settlement Class:

All persons who, between April 1, 2016 and the present, purchased a Preneed Funeral Agreement and a Retail Merchandise Agreement from Neptune or NCS ("Preneed and Retail Merchandise Plan"), within the State of Florida, excluding all Preneed and Retail Merchandise Plans for which the contracted for cremation services have been performed, and irrevocable preneed contracts.

B. TRPP Settlement Class:

All persons who, between April 1, 2016 and the present, purchased a Transportation and Relocation Protection Plan "TRPP" from Neptune or NCS, within the State of Florida, excluding all TRPPs where the beneficiary has already been cremated or buried.

Also excluded from the Settlement Classes are: (i) SCI Direct, Neptune, NCS, and any of their employees, officers, or directors; (ii) members of the judiciary and their staff to whom these actions are assigned; and (iii) Counsel for the Parties.

How To Complete This Claim Form

1. There are two ways to submit this Claim Form to the Settlement Administrator: (a) online at Website URL; or (b) by U.S. Mail to the following address: Address. Your Claim Form must be submitted by **Deadline Date**. If you submit your claim by U.S. mail, make sure the completed and signed Claim Form is postmarked by **Deadline Date.**

2. You must complete the entire Claim Form. Please type or write your responses legibly.

3. If your Claim Form is incomplete or missing information, the Settlement Administrator may contact you for additional information.

4. You may only submit one Claim Form.

5. If you have any questions, please contact the Settlement Administrator by email at Email Address, by telephone at 1-XXX-XXX-XXXX, or by U.S. mail at the address listed above.

6. **You must notify the Settlement Administrator if your contact or payment information changes after you submit your Claim Form.**

7. **IF YOU DO NOTHING** – If you do not opt out of the Settlement or timely submit Claims Forms, your Agreements will remain in full force and effect, and Neptune and/or NCS will provide the beneficiary with entitlement to an online obituary, free of charge. This includes the services of Neptune or NCS personnel to

work with families to craft the language of the obituary. You will also give up your rights to sue Defendants for the claims in the Lawsuit.

8. **DEADLINE --** If you submit a claim by U.S. mail, the completed and signed Claim Form must be postmarked by **Deadline Date**. If submitting a Claim Form online, you must do so by **Deadline Date.**

Your claim must be submitted online or postmarked by: Deadline Date	**UNITED STATES DISTRICT COURT** **SOUTHERN DISTRICT OF FLORIDA** *Taylor, et. al. v. Service Corporation International, et al.* Case No. 20-CV-60709-RAR Website URL **Claim Form**	**SCI**

I. YOUR CONTACT INFORMATION

Provide your name and contact information below. You must notify the Settlement Administrator if your contact information changes after you submit this form.

First Name **Last Name**

Street Address

City **State** **Zip Code**

( ) -

Current Phone Number **Email Address**

II. LEGALLY AUTHORIZED REPRESENTATIVE

Complete this section only if you are completing this Claim Form on behalf of a Settlement Class Member as his/her/their Legally Authorized Representative.

"Legally Authorized Representative" means an administrator/ administratrix, personal representative, or executor/executrix of a deceased Settlement Class Member's estate, a guardian, conservator, or next friend of an incapacitated Settlement Class Member or any other legally appointed Person or entity responsible for the handling of the business affairs of a Settlement Class Member.

Is the person you are completing the Claim Form on behalf of deceased or incapacitated?

Yes ☐

No ☐

What is the nature of your legal representation of this person?*

*Submit documentation to support your legal representation

Provide the following information about the Settlement Class Member:

First Name **Last Name**

Street Address

City **State** **Zip Code**

( ) -

Phone Number **Email Address**

III. REFUND INFORMATION

Do you want to cancel your Preneed Funeral Agreement and Retail Merchandise Agreement (and give up any benefits otherwise owed to you under such Agreements) you have purchased from Neptune or NCS, return the merchandise purchased in the Retail Merchandise Agreement and receive a full refund of the purchase price paid? (Merchandise must be in substantially original condition. Refer to the Individual Notice for instructions on returning merchandise)	Yes ☐ No ☐
If you bought a TRPP, do you want to cancel it, along with any Preneed Funeral Agreement and Retail Merchandise Agreement (and give up any benefits otherwise owed to you under such Agreements) you have purchased from Neptune or NCS, and receive a full refund of the purchase price paid? In order to cancel your TRPP, all of your Agreements with NCS or Neptune for the same beneficiary must also be canceled and the merchandise must be returned. (Merchandise must be in substantially original condition. Refer to the Individual Notice for instructions on returning merchandise)	Yes ☐ No ☐

IV. AFFIRMATION AND SIGNATURE

By signing below and submitting this Claim Form, I hereby swear under penalty of perjury that I am the person identified above and the information provided in this Claim Form is true and correct.

_____ _____

Signature Date

EXHIBIT 4

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

NANCY TAYLOR and HAZEL BENJAMIN, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

SERVICE CORPORATION INTERNATIONAL, et al.,

Defendants.

Case No.: 20-CV-60709-RAR

FINAL ORDER AND JUDGMENT APPROVING SETTLEMENT, CERTIFYING CLASSES FOR SETTLEMENT PURPOSES, APPOINTING CLASS COUNSEL FOR SETTLEMENT PURPOSES, AWARDING CLASS COUNSEL ATTORNEYS' FEES AND DISMISSING ACTION WITH PREJUDICE

This matter is before the Court upon the Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement ("Motion for Final Approval"), Plaintiffs' Brief in Support of the Motion for Final Approval, Class Counsel's Application for Attorneys' ("Class Counsel's Application for Fees"). The Court has reviewed the Settlement Agreement dated September 7, 2022, between Plaintiffs, Nancy Taylor and Hazel Benjamin, individually and as representatives of the Settlement Classes defined below, and Defendants, SCI Direct, Inc. ("SCI Direct"), Neptune Society Management Corporation d/b/a Neptune Society ("Neptune"), and NCS Marketing Services, LLC d/b/a/ National Cremation Society ("NCS") (SCI Direct, Neptune and NCS may be collectively referred to as "Defendants") (Plaintiffs, SCI Direct, Neptune and NCS may be collectively referred to as a "Party" and collectively referred to as the "Parties"), Plaintiffs' Brief in Support of Motion for Final Approval, Class Counsel's Brief in Support of

their Application for Attorneys' Fees, all exhibits and evidence submitted therewith, and all other evidence of record, and has heard arguments of counsel during the Final Settlement Approval Hearing on _____.

NOW, THEREFORE, the Court, having read and considered all submissions made in connection with the Motion for Final Approval and Class Counsel's Application for Fees, and having reviewed and considered the files and records herein, and all other evidence admitted into evidence at the Final Settlement Approval Hearing, and being otherwise fully advised of all relevant details, finds and concludes as follows:

1. Plaintiffs and Defendants have executed and filed a Class Action Settlement Agreement and Release ("Settlement Agreement"), and exhibits thereto with the Court on September 7, 2022. The Settlement Agreement is hereby incorporated by reference in this Order and all terms defined in the Settlement Agreement shall have the same meanings in this Order.

2. The Settlement Agreement provides for the settlement of this Lawsuit with Defendants on behalf of the representative Plaintiffs and the members of the Settlement Classes, subject to final approval by this Court.

3. On _____, 2022, the Court held a Preliminary Approval Hearing to consider the preliminary approval of the Settlement Agreement. The Court, on _____, 2022, entered the Preliminary Approval Order, preliminarily approving the Settlement, preliminarily certifying, for settlement purposes only, this Lawsuit as a class action, and scheduling a hearing for final approval of the settlement for _____, 2022 at ____.m. ("Final Approval Hearing") to determine, among other things: (a) whether the Settlement of the Lawsuit on the terms and conditions provided for in the Settlement Agreement is fair, reasonable and adequate and should be finally approved by the Court; (b) whether a final

judgment should be entered herein; and (c) whether Class Counsel's Application for Attorneys' Fees should be granted.

4. The Court ordered the Individual Notice and Claim Form, in the forms attached to the Settlement Agreement as Exhibits "2" and "3", be mailed by the Settlement Administrator, _____, by first-class mail, postage prepaid, on or before _____, 2022 (the "Notice Mailing Date") to all potential Settlement Class Members whose names were ascertained by Defendants through a reasonable search of Defendants' data at their last known address, with address updating and verification where reasonably available, and that the website be implemented on or before the Notice Mailing Date.

5. The parties and the Settlement Administrator have satisfactorily demonstrated that such Individual Notice was given in accordance with the terms of the Preliminary Approval Order.

6. On or about _____, 2022, Plaintiffs moved the Court for final approval of the terms of the Proposed Settlement and for the entry of this Final Order and Judgment. In support of that Motion, Plaintiffs submitted, among other things, evidence concerning the dissemination and adequacy of Individual Notice, evidence regarding the names of Settlement Class Members who have submitted timely and valid requests for exclusion from the Settlement Classes and/or objections to the Settlement Classes, evidence regarding the negotiation of the Settlement, evidence regarding the fairness, reasonableness, and adequacy of the substantive terms of the Settlement, and evidence regarding the fairness, reasonableness and adequacy of Class Counsel's Application for Fees. In Support of the Motion for Final Approval, Plaintiffs submitted a Brief in Support of Motion for Final Approval and Class Counsel's

Application for Fees, both of which set forth extensive argument and authority along with various Exhibits attached thereto.

7. In accordance with the Individual Notice, the Final Approval Hearing was duly held before this Court on _____, 2022. At the Final Approval Hearing, the Court considered, among other things: (a) whether certification for settlement purposes only was appropriate under Federal Rule of Civil Procedure 23 ("FRCP 23"); (b) the fairness, reasonableness, and the adequacy of the Settlement Agreement and the relief provided thereunder; and (c) the fairness and reasonableness of Class Counsel's Application for Attorneys' Fees under applicable law. At the Final Approval Hearing, the Court fulfilled its duty to independently evaluate the fairness, reasonableness, and adequacy of the Settlement Agreement and Class Counsel's Application for Attorneys' Fees by considering not only the pleadings and arguments of Plaintiffs, Class Counsel and Defendants and their counsel, but also by rigorously and independently evaluating the Settlement Agreement and the relief provided thereunder and Class Counsel's Application for Fees on behalf of the absent class members, and as such, the Court considered any argument that could reasonably be made against approval of the Stipulation and Class Counsel's Application for Attorneys' Fees, even if such argument was not actually presented to the Court by pleading or oral argument.

8. By performing this independent analysis of the Motion for Final Approval and Class Counsel's Application for Fees, the Court has considered and protected the interests of all absent Settlement Class Members under FRCP 23.

9. The Individual Notice advised Settlement Class Members of the method by which a Settlement Class Member could request exclusion from the Settlement and pursue an

independent legal remedy against Defendants. All Settlement Class Members had the absolute right to opt out and pursue an individual lawsuit against Defendants.

10. Any Settlement Class Member who failed to request exclusion under the terms of the Individual Notice voluntarily waived the right to pursue an independent remedy against Defendants and is be bound by the Settlement, and the relief provided by the Settlement will be their sole and exclusive remedy for the claims alleged by the Settlement Classes and the Settlement Class Members.

11. The Individual Notice advised Settlement Class Members of the method by which a Settlement Class Member could properly file objections and request to be heard at the Final Approval Hearing. The Individual Notice also advised Settlement Class Members that they could remain a member of the class and assert objections, if desired, to the settlement at the Final Approval Hearing.

12. [The Court heard and considered any objections that were presented by Objectors at the Final Approval Hearing and hereby OVERRULES all such objections]. OR [No valid and timely objections were submitted or filed prior to the Final Approval Hearing.]

13. Plaintiffs offered into evidence at the Final Approval Hearing the following evidence in support of the Unopposed Motion for Final Approval and Class Counsel's Application for Fees:

Exhibit No.	**Description**
1	Affidavit of [CLASS REPRESENTATIVE(S)]
2	Affidavit of [ATTORNEY FOR PLAINTIFF]
3	Affidavit of [ADMINISTRATOR REPRESENTATIVE]
4	Order Preliminarily Approving Class Settlement

5	Settlement Agreement

14. As part of its Preliminary Approval Order, the Court certified for settlement purposes Settlement Classes defined as follows:

Preneed and Retail Merchandise Plan Settlement Class:

All persons who, between April 1, 2016 and the present, purchased a Preneed Funeral Agreement and a Retail Merchandise Agreement from Neptune or NCS ("Preneed and Retail Merchandise Plan"), within the State of Florida, excluding all Preneed and Retail Merchandise Plans for which the contracted for cremation services have been performed, and all irrevocable preneed contracts.

TRPP Settlement Class:

All persons who, between April 1, 2016 and the present, purchased a TRPP from Neptune or NCS, within the State of Florida, excluding all TRPPs where the beneficiary has already been cremated or buried.

Also excluded from the Settlement Classes are: (i) SCI Direct, Neptune, NCS, and any of their employees, officers, or directors; (ii) members of the judiciary and their staff to whom these actions are assigned; and (iii) Counsel for the Parties.

The Court hereby affirms these definitions of the Settlement Classes for purposes of this Final Order and Judgment and certifies this Lawsuit, for settlement purposes only, as a Class Action. In so doing, the Court finds, for settlement purposes only, the Lawsuit meets all the requirements of FRCP 23, due process and all other applicable rules and law and can therefore be certified as a settlement class action.

15. On _____, 2022, the parties provided evidence that the Individual Notice, and website, all of which informed members of the Settlement Classes of the terms of the Proposed Settlement, of their opportunity to request exclusion from the Settlement Classes, and of their opportunity to object to the terms of the Settlement, were disseminated in accordance with the Preliminary Approval Order.

16. Specifically, the Court received and admitted affidavits from _____, setting forth the scope and results of the notice campaign. Additionally, the Court was provided with testimony at the Final Approval Hearing concerning the adequacy of the notice program.

17. Based on the Court's review of the evidence admitted and argument of counsel, the Court finds and concludes the Individual Notice as disseminated to members of the Settlement Classes in accordance with provisions of the Preliminarily Approval Order, together with the posting of the Settlement Agreement, Individual Notice, Claim Form, Preliminary Approval Order, and frequently asked questions on the settlement website: (a) constituted the best notice practicable; (b) were reasonably calculated to apprise potential members of the Settlement Classes of the pendency of the Lawsuit, their right to object or exclude themselves from the Settlement and to appear at the Final Approval Hearing, and their right to file a claim to seek the relief provided in the Settlement Agreement; (c) were reasonable and constitute due, adequate, and sufficient notice to all individuals entitled to receive notice; and (d) met all requirements of the Federal Rules of Civil Procedure and the requirements of due process under the Florida and United States Constitutions, and requirements of any other applicable rules or law.

18. Accordingly, the Individual Notice as disseminated is finally approved as fair, reasonable, and adequate. The Court finds and concludes that due and adequate notice of the pendency of the Lawsuit and of the Settlement Agreement has been provided to members of the Settlement Classes, and the Court further finds and concludes that the notice program described in the Preliminary Approval Order and completed by the parties complied fully with the requirements of FRCP 23, the requirements of due process under the Florida and United States Constitutions, and the requirements of any other applicable rules or law. The Court further finds

that the notice campaign undertaken concisely and clearly states in plain, easily understood language:

(a) the nature of the action;

(b) the definition of the classes certified;

(c) the class claims, issues or defenses;

(d) the relief provided through the Settlement, and the process by which Settlement Class Members could file a Claim to obtain the relief;

(e) that a Settlement Class Member may object to the settlement and the process for doing so;

(f) that a Settlement Class Member may enter an appearance and participate at the Settlement Final Approval Hearing in person or through counsel if the member so desires;

(g) that the Court will exclude from the class any Settlement Class Member who requests exclusion, stating when and how members may elect to be excluded;

(h) the date and time of the Settlement Final Approval Hearing; and

(i) the binding effect of the class judgment on Settlement Class Members.

19. Having admitted and reviewed the evidence at the Final Approval Hearing concerning the success of the notice campaign, the Court finds that it is unnecessary to afford any additional opportunity to request exclusion to individual Settlement Class Members who had an earlier opportunity to request exclusion, but did not do so.

20. The Final Approval Hearing and the evidence before the Court clearly support a finding that the Settlement Agreement was entered into in good faith between the Plaintiffs and Defendants, and the Court does hereby so find.

21. The Court finds that the Settlement Agreement is the result of a good faith arm's length negotiation by the Parties thereto. In addition, the Court finds that approval of the Settlement embodied therein will result in substantial savings in time and resources to the Court and the litigants and will further the interests of justice. Further, the Court finds that the Settlement Agreement is fair, reasonable, and adequate to members of the Settlement Classes based on formal and informal discovery, due diligence, and the absence of material objections sufficient to deny approval.

22. The settlement of the Lawsuit on the terms and conditions set forth in the Settlement Agreement is approved and confirmed in all respects as fair, reasonable, and adequate and in the best interest of the Settlement Classes and Settlement Class Members, especially in light of the benefits to the Settlement Classes and the costs and risks associated with the continued prosecution, trial and possible appeal of this complex litigation.

23. The Court, in its evaluation of the fairness, reasonableness, and adequacy of the Settlement Agreement and Class Counsel's Application for Fees, considered all objections that were filed or that could have been raised by any absent Settlement Class Member.

24. The claim process as set forth in the Settlement Agreement is fair, reasonable and adequate to both Settlement Class Members and Defendants. Any Settlement Class Member who did not submit a Claim Form in compliance with the claims process set forth in Section IX of the Settlement Agreement or, alternatively, who did not request exclusion from the Settlement Classes in accordance with Section X of the Settlement Agreement, is forever barred from asserting a Preneed Services and Retail Merchandise Released Claim or TRPP Released Claim against a Released Person (as those terms are defined in the Settlement Agreement) in any other action or proceeding.

25. Defendants have agreed to pay, and Class Counsel has requested Attorneys' Fees in the amount of Five Million, Five Hundred Thousand dollars ($5,500,000.00). Any Attorneys' Fee Award will be paid separate from and in addition to any other payments to the Settlement Class Members. Class Counsel's requests for Five Million, Five Hundred Thousand dollars ($5,500,000.00) in attorneys' fees and expenses are fair, reasonable and adequate.

NOW, THEREFORE, GOOD CAUSE APPEARING THEREFORE, IT IS **ORDERED, ADJUDGED AND DECREED** THAT:

1. The Court possesses jurisdiction over the subject matter of the Lawsuit, the Plaintiffs, Defendants, members of the Settlement Classes, and the Released Persons.

2. The Court certifies the Settlement Classes, for Settlement purposes only, under Fed. R. Civ. P. 23 and all other applicable rules and law.

3. The objections to the Settlement, if any, are hereby overruled.

4. Timely requests for exclusion were submitted by _____ potential members of the Settlement Classes and those potential Settlement Class Members (identified in Exhibit "1" hereto) are excluded from the Settlement Classes. All other potential members of the Settlement Classes are adjudged to be members of the Settlement Classes and are bound by this Final Order and Judgment and by the Settlement Agreement embodied therein, including the releases provided for in the Settlement Agreement and this Final Order and Judgment.

5. The provisions of the Settlement Agreement are fair, reasonable and adequate to the Settlement Classes, and all provisions and terms of the Settlement Agreement are hereby finally approved in all respects. The parties to the Settlement Agreement are hereby directed to comply with and consummate the Settlement Agreement in accordance with its terms.

6. The Court finds that Class Counsel and the Class Representatives adequately, appropriately, and fairly represented and protected the interests of the Settlement Classes for the purposes of entering into and implementing the Settlement. Accordingly, the Court confirms its appointment of the following Class Counsel as counsel for the Settlement Classes pursuant to Fed. R. Civ. P. 23(g):

Randall P. Ewing, Jr.
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7. The Lawsuit is dismissed in its entirety on the merits, with prejudice and without leave to amend, and all members of the Settlement Classes are bound by the terms of the Settlement Agreement and are forever barred and permanently enjoined from starting, continuing, or participating in, litigating or receiving any benefits or other relief from any other lawsuit, arbitration, or administrative or regulatory proceeding or order based on or relating to the claims, facts or circumstances alleged in the Lawsuit and/or the Preneed and Retail Merchandise Released Claims and/or the TRPP Released Claims against the Released Persons, including, but not limited to, Defendants. Accordingly, any future claims arising out of the conduct alleged in the Third Amended Class Action Complaint and claims released herein are barred by res judicata. There shall be no limited to the res judicata effect of this Final Order and Judgment. Any person in contempt of this injunction may be subject to sanctions, including payment of reasonable attorneys' fees incurred to seek enforcement of the injunction.

8. The Court finds that the other requirements for certification of the Settlement Classes under Fed. R. Civ. P. 23 have been met.

9. The mailing of the Individual Notice approved by the Court was the best practicable notice and satisfied the requirements of the Federal Rules of Civil Procedure and the requirements of due process under the Florida and United States Constitutions, and the requirements of any other applicable rules or law

10. Upon the entry of this Final Order and Judgment, each Settlement Class Member shall be conclusively deemed to have fully released and discharged, to the fullest extent permitted by law, any and all of the Released Persons from all of the Preneed and Retail Merchandise Released Claims and TRPP Released Claims.

11. The Parties are hereby authorized, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents as: (a) shall be consistent in all material respects with the Final Order and Judgment; or (b) do not limit the rights of any Settlement Class Members.

12. The Settlement Agreement and this Final Order and Judgment are not deemed admissions of liability or fault by the Defendants or other Released Persons, or a finding of the validity of any claims in the Lawsuit, of any wrongdoing or violation of law by the Defendants or other Released Persons, or of the certifiability of any classes except for settlement purposes. The Settlement Agreement is not a concession or admission by the Parties of any material fact, and neither this Final Order and Judgment nor the Settlement Agreement or any other documents, exhibits or materials submitted in furtherance of the Settlement, shall be offered or received in evidence in any action or proceeding in any court, administrative panel or proceeding, or other tribunal, as an admission or concession of liability or wrongdoing of any

nature on the part of the Released Persons, as an admission or concession that this action may properly be maintained as a litigation class, or for any other purpose, or as waiver of arbitration defenses for anything other than settlement purposes. Nothing in this paragraph shall affect or bar the Parties from using these documents to enforce terms of the Settlement.

13. Neither the Settlement Agreement, nor the negotiations of the Settlement, nor the Settlement procedures, nor any act, statement or document related in any way to the Settlement negotiations or settlement procedures, nor any pleadings, or other document or action related in any way to the Settlement Agreement shall be: (a) offered into evidence in in any other case or proceeding in support of or in opposition to a motion to certify a contested class; or (b) otherwise used in any case or proceeding whatsoever in support of or in opposition to a motion to certify a contested class.

14. Pursuant to Class Counsel's Application for Attorneys' Fees the Court awards Class Counsel the sum of Five Million, Five Hundred Thousand dollars ($5,500,000.00) in attorneys' fees. Defendants shall pay such fees to Class Counsel pursuant to the terms of the Settlement Agreement. The Court hereby finds that this amount is fair and reasonable.

15. As soon as reasonably possible after the completion of all payments to Participating Class Members eligible for payment pursuant to the Settlement Agreement, the parties shall file with the Court a final report, together with a proposed order approving such report, indicating that distribution in accordance with the terms of the Settlement Agreement and the Court's prior Orders have been completed.

16. If the Settlement does not become final in accordance with the terms of the Settlement Agreement, or is terminated pursuant to the Settlement Agreement (including Section

XVI), this Final Order and Judgment shall be rendered null and void to the extent provided by and in accordance with the Settlement Agreement.

17. The terms of the Settlement Agreement are expressly incorporated herein. Without in any way affecting the finality of this Final Order and Judgment for purposes of appeal, this Court shall retain continuing jurisdiction over the Lawsuit for purposes of:

A. All matters relating to the administration, consummation, enforcement and interpretation of the Settlement Agreement and Final Order and Judgment; and

B. Any other matters necessary or appropriate to protect or effectuate this Court and the Final Order and Judgment.

18. There is no just reason to delay the entry of this Final Order and Judgment, an immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

DONE AND ORDERED in Chambers in Fort Lauderdale, Florida this _____ day _____, 2022.

_____
Rodolfo A. Ruiz, II, Judge
United States District Court

cc: all attorneys of record

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

NANCY TAYLOR, on behalf of herself and all others similarly situated,

Plaintiff,

v.

SERVICE CORPORATION INTERNATIONAL, et al.,

Defendants.

Case No.: 20-CV-60709-RAR

DECLARATION OF RANDALL P. EWING

I, Randall P. Ewing, Jr., declare as follows:

1. I am a partner in the law firm of Korein Tillery LLC, counsel of record for Plaintiff Nancy Taylor and proposed Plaintiff Hazel Benjamin ("Plaintiffs"). I am one of the attorneys designated as Class Counsel for Plaintiffs under the Settlement Agreement ("Settlement").[1] I am licensed to practice law before all courts in Illinois and Florida and submit this declaration in support of Plaintiffs' Unopposed Motion For Preliminary Approval of Class Action Settlement. If called upon to testify, I could and would do so competently.

2. Class Counsel are particularly experienced in the litigation, certification, trial, and settlement of nationwide class action cases. *See* Korein Tillery Firm Resumé attached as Exhibit 1; Hilgers Graben Firm Resumé, attached as Exhibit 2.

[1] All capitalized defined terms used herein have the same meanings ascribed in the Settlement.

3. Class Counsel conducted a thorough analysis of Plaintiffs' claims before filing this lawsuit, including a detailed review of the law and an investigation into the facts. The review included interviews with numerous individuals to learn more about Defendants' business practices.

4. Class Counsel actively represented Plaintiffs and Settlement Class Members throughout the litigation and the discovery process, which included review of numerous documents and electronic data.

5. Thus, Class Counsel was well-positioned to confidently evaluate the strengths and weaknesses of Plaintiffs' claims and prospects for success at trial and on appeal.

6. Plaintiffs and Class Counsel believe that the claims asserted are meritorious and that Plaintiffs would prevail if this matter proceeded to trial. However, Defendants argue that Plaintiffs' claims are unfounded, deny any liability, and have shown a willingness to litigate vigorously.

7. The Settlement here is the result of extensive, arm's-length negotiations between experienced attorneys who are familiar with class action litigation and with the legal and factual issues of this lawsuit. *See* Declaration of Hunter Hughes, attached as Exhibit 3.

8. Class Counsel believes the proposed Settlement is exceedingly fair and well within the range of preliminary approval for several reasons. First, the Settlement provides monetary and non-monetary relief to Settlement Class Members to fully settle all claims in this litigation. Settlement Class Members who timely submit a valid Settlement Claim Form will be allowed to cancel their Retail Merchandise Agreement, Preneed Funeral Agreement, and Transportation and Relocation Protection Plan and receive a full refund of the purchase price paid for each agreement. Second, Settlement Class Members who participate in the Settlement

but decide not to cancel their agreements with Defendants will receive a free online obituary, together with Defendants' services and assistance to prepare the obituary. Third, in addition to the monetary relief, Class Counsel have also secured valuable injunctive relief in the form of changed business practices. Namely, Defendants will amend their contracts to include a specific disclaimer notifying future consumers of the complained of conflicts. Finally, Defendants will also provide notice to all Settlement Class Members of their existing rights under Florida law.

9. Class Counsel is confident in the strength of Plaintiffs' case, but are also pragmatic in awareness of the various defenses available to Defendants, and the risks inherent in trial and post-judgment appeal. Thus, Class Counsel concluded that the benefits of the Settlement outweigh the risks and uncertainties attendant to continued litigation, and believe that the Settlement is the best way to get substantial relief to Settlement Class Members in a timely manner.

10. The Claims Process here is straightforward, easy to understand for Settlement Class Members, and designed so that they can easily claim their portion of the Settlement Fund. *See* Declaration of Steven Weisbrot, attached as Exhibit 4.

I declare under penalty of perjury under the law of the United States that the foregoing is true and correct and that this declaration was executed on the 7th day of September, 2022 in Fort Lauderdale, Florida.

/s/ Randall P. Ewing

RANDALL P. EWING, JR.

EXHIBIT 1

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Korein Tillery — based in Chicago and St. Louis — is one of the country's most successful plaintiffs' complex-litigation firms, representing a broad array of clients in high-stakes lawsuits and delivering over $18 billion in verdicts and settlements over the last 14 years. Most of our attorneys have represented both plaintiffs and defendants at some point in their careers, and, combined, we've handled cases covering virtually every conceivable substantive area of the law. We've litigated cases for clients ranging from individuals and certified classes to governmental entities and billion-dollar, multi-national corporations. Collectively, we've tried hundreds of cases to verdict, with several verdicts exceeding 10 figures. Our attorneys have been nominated for numerous regional and national trial lawyer awards, and we've won many landmark decisions in state and federal appellate courts, including the Supreme Court of the United States.

The National Law Journal has consistently deemed Korein Tillery to be one of the country's top plaintiffs' firms by naming it to its "Plaintiffs' Hot List" seven times in the past 15 years. In 2014 and 2015, Korein Tillery was named by the NLJ as a member of its top 50 Elite Trial Lawyers. The American Bar Association's Securities Litigation Journal deemed two of Korein Tillery's cases, *Kircher v. Putnam Funds Trust,* 547 U.S. 633 (2006) and *Merrill Lynch Pierce Fenner & Smth, Inc. v. Dabit,* 547 U.S. 71 (2006), the two most important securities law decisions in 2006. Securities Litigation Journal, *Top 10 Securities Law Decisions of 2006* (Winter 2006). In *Kircher,* Korein Tillery served as lead counsel for the plaintiffs' class from the initial trial court filing to the Supreme Court of the United States, where the Court reversed the Seventh Circuit in a 9-0 decision.

Korein Tillery has been appointed as class counsel in more than fifty class actions and has successfully negotiated some of the country's largest class action settlements. *See, e.g., Parker v. Sears Roebuck & Co.,* Case No. 04-L-716 (Ill. Cir. Ct. Jan. 16, 2008) (settlement valued at $544.5 million); *Cooper v. The IBM Pers. Pension Plan*, 2005 WL 1981501, 35 Employee Benefits Cas. 2488 (S.D. Ill. Aug. 8, 2005) ($325 million settlement); *Sparks v. AT&T Corp.*, 96-LM-983 (Ill. Cir. Ct. Nov. 4, 2002) ($350 million settlement); *Sullivan v. DB Investments, Inc.*, 04-2819 (D.N.J. May 22, 2008) ($323 million settlement); *Folkerts v. Illinois Bell Tel. Co.*, 95-L-912 (Ill. Cir. Ct. July 7, 1998) ($252 million settlement); *Berger v. Xerox Corp. Ret. Income Guar. Plan*, 2004 WL 287902, 32 Employee Benefits Cas. 1362 (S.D. Ill. Jan. 22, 2004) ($240 million settlement); *Malloy v. Ameritech*, 98-488-GPM (S.D. Ill. July 21, 2000) ($180 million settlement); *City of Greenville v. Syngenta Crop Prot., Inc.*, 3:10-CV-188-JPG-PMF, 2012 WL 1948153 (S.D. Ill. May 30, 2012) ($105 million settlement); *In Re: MCI Non-Subscriber Tel.*

Rates Litig., MDL 1275 (S.D. Ill. Apr. 19, 2001) ($99 million settlement); and *Dunn v. BOC Group Pension Plan*, 01-CV-382-DRH (S.D. Ill. Mar. 12, 2004) ($70 million settlement).

Key Team Members:

Randall P. Ewing:

Randall P. Ewing, Jr., is a partner in Korein Tillery's Chicago office. Randall represents clients in all facets of high-stakes, complex litigation in federal and state court, including case investigation, preparing pleadings, taking and defending fact and expert depositions, working alongside experts, managing discovery, briefing dispositive and other legal issues, preparing witnesses for trial, conducting cross-examinations in a federal jury trial, and appeals.

At Korein Tillery, Mr. Ewing's successful representations include:

- Representing the National Credit Union Administration Board in suing various banks in federal courts from New York to California over allegedly misrepresented mortgage-backed securities, which has resulted in recoveries exceeding $5.2 billion;

- Representing a class of investors suing international banks for an alleged global antitrust conspiracy within the markets for foreign currency exchange instruments, which resulted in over $2.2 billion in settlements;

- Representing a class of investors suing international banks for an alleged global antitrust conspiracy in the secondary market for bonds issued by the government-sponsored entities Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Farm Credit Banks, and Federal Home Loan Banks, resulting in $386 million in settlements.

- Representing classes of investors in litigation against banks for improperly delaying or rejecting electronic foreign currency exchange trades, which resulted in a $50 million settlement.

Before joining Korein Tillery, Mr. Ewing worked as a litigation associate at Boies Schiller Flexner LLP. Among other trials, arbitrations, and appeals in which he was involved, Mr. Ewing was part of the team that represented Barclays Bank in relation to multi-billion dollar claims arising from its acquisition of Lehman Brothers during the 2008 financial crisis, which resulted in a complete victory for Barclays after an extended trial and multiple appeals. Randall was also part of the team that a brought a first-of-its-kind federal challenge to a state constitutional amendment banning same-sex marriage (California's Proposition 8), which was tried and found to be unconstitutional, and he was responsible for briefing

dispositive issues in a False Claims Act trial that resulted in the largest relator-only jury verdict in history.

Mr. Ewing earned his J.D., summa cum laude, from the University of Louisville Law School, where he earned the highest grade in nearly half of the classes he took, represented the school at several national moot court competitions, was a member of the Law Review, and interned for federal and state appellate judges. After law school, Randall worked for two years as a law clerk to federal appellate and district court judges.

The Firm's Recent Work:

CLASS ACTION AND COMPLEX LITIGATION

National Credit Union Administration Mortgage-Backed Securities Litigation. The National Credit Union Administration ("NCUA") is the independent federal agency created by the U.S. Congress to regulate, charter, and supervise federal credit unions. On behalf of the NCUA, Korein Tillery and co-counsel Kellogg, Hansen, Todd, Figel & Frederick filed approximately 20 federal lawsuits throughout 2011-2013 alleging that Wall Street investment banks misled credit unions about the quality of certain residential mortgage-backed securities ("RMBS"), causing billions of dollars of losses that the NCUA insured. More specifically, NCUA alleged that these banks violated the Federal Securities Act by representing in federally-regulated offering documents that all loans backing the RMBS complied with originator underwriting guidelines or had sufficient compensating factors to allow exceptions to the guidelines when in fact the majority of the loans did not.

Throughout several years of contentious litigation, involving several successful appeals, Korein Tillery and Kellogg Hansen obtained more than $5.1 billion in legal settlements on NCUA's behalf, including but not limited to:

- *NCUA v. JP Morgan Chase Bank*, 2:13-cv-02012-JWL (D. Kan.) (obtained $1.4 billion settlement in Dec. 2013);
- *NCUA v. RBS Sec., Inc.*, 1:13-cv-06726-DLC (S.D.N.Y.) (accepted offer of judgment for $129.6 million plus fees in Sept. 2015);
- *NCUA v. Barclays Capital, Inc.*, 1:13-cv-06727-DLC (S.D.N.Y.) & 2:12-cv-02631-JWL (D. Kan.) (obtained $325 million combined settlement in Oct. 2015);
- *NCUA v. Wachovia Capital Markets LLC*, 1:13-cv-06719-DLC (S.D.N.Y.) & 2:11-cv-02649-JWL (D. Kan.) (obtained $53 million combined settlement in Oct. 2015);
- *NCUA v. Morgan Stanley & Co., Inc.*, 1:13-cv-06705-DLC (S.D.N.Y.) & 2:13-cv-02418-JWL (D. Kan.) (obtained $225 million combined settlement in Dec. 2015);
- *NCUA v. Goldman Sachs and Co.*, 1:13-cv-06721-DLC (S.D.N.Y.) & 2:11-cv-06521-GW-JEM (C.D. Cal.) (obtained $575 million combined settlement in Apr. 2016);
- *NCUA v. RBS Sec., Inc. et al.*, 11-cv-2340- JWL-JPO (D. Kan.) & 2:11-cv-05887 GW-JEM (C.D. Cal.) (obtained $1.1 billion combined settlement in Sept. 2016);

- *NCUA v. UBS Securities, LLC*, 2:12-cv-02591-JWL (D. Kan.) (obtained $445 million settlement in Mar. 2017); and
- *NCUA v. Credit Suisse Sec. (USA) LLC*, 2:12-cv-02648-JWL (D. Kan.) (obtained $400 million settlement in Mar. 2017).

NCUA was the first federal regulatory agency for depository institutions to recover losses from investments in these securities on behalf of failed financial institutions. NCUA uses the net proceeds to reduce Temporary Corporate Credit Union Stabilization Fund (Stabilization Fund) assessments charged to federally insured credit unions to pay for the losses caused by the failure of five corporate credit unions.

Korein Tillery and Kellogg Hansen continue to prosecute several lawsuits on behalf of the NCUA against certain RMBS trustees regarding their alleged failure to perform their duties.

***In re: Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-07789-LGS (S.D.N.Y.)**

The global foreign exchange ("FX") market for currency is a $1-trillion-per-day market, with the dominant dealers representing over 90 percent of the global FX market. Beginning as early as 2003 and continuing through 2013, these dealers used communications in multiple secret chat rooms to conspire to fix spot prices in dozens of currency pairs, manipulate FX benchmark rates, and exchange key confidential customer information in an attempt to trigger client stop loss orders and limit orders. These dealers constituted some of the largest financial institutions in the world, including Bank of America, Barclays, BNP Paribas, Citigroup, Credit Suisse, Deutsche Bank, Goldman Sachs, HSBC, JPMorgan Chase & Co., Morgan Stanley, Royal Bank of Scotland, and UBS.

Korein Tillery, working with co-counsel Scott+Scott Attorneys at Law, LLP and Hausfeld LLP, developed and filed a class action on behalf of individuals who entered into FX transactions in over-the-counter exchanges and/or on exchanges with these dealers, alleging violations of Sections 1 and 3 of the Sherman Antitrust Act and violations of the Commodity Exchange Act. As a result of nearly 6 years of work by Korein Tillery and its co-counsel costing the firms nearly $30 million in case-related expenses, $2.3 billion in court-approved settlements have been reached with 15 of the 16 defendants, constituting one of the largest antitrust class action recoveries in history. Mediator Kenneth Feinberg concluded that this settlement would "represent[ ] some of the finest lawyering toward a negotiated resolution that I have witnessed in my career" and described Korein Tillery and its co-counsel as "superlative, sophisticated, and determined plaintiffs' lawyers."

***Senne v. The Office of the Comm'r of Baseball*, No. 14-CV-00608-JCS (N.D. Cal.).**

In this action, Korein Tillery is co-lead counsel for a class of minor league baseball players who allege that MLB and MLB's member franchises failed to pay the players minimum wage, required overtime pay, or sometimes any wages at all. The players assert two claims under the federal Fair Labor Standards Act ("FLSA") and an additional thirty-one under the wage-and-hour laws of several states.

Early in the case, the court denied a motion to transfer the action to another venue, and denied a motion to dismiss for purported lack of standing. *See Senne*, 2015 WL 4240716 (N.D. Cal. July 13, 2015). On October 20, 2015, the Court granted the players conditional certification of a collective under the Fair Labor Standards Act. *Senne*, 2015 WL 6152476 (N.D. Cal. Oct. 20, 2015). A court-directed notice was sent, and around 2,300 players joined the collective.

In March 2017, the court certified a Rule 23 class of minor leaguers who played in California. *Senne*, 2017 WL 897338 (N.D. Cal. Mar. 7, 2017). The parties cross-appealed, with MLB arguing that no class should have been certified, and the players arguing that the court should have certified additional classes. On August 16, 2019, the Ninth Circuit agreed with the players. It affirmed the certification of the class of players who worked in California, and it certified additional classes for players who worked during spring training and other periods in Arizona and Florida. MLB petitioned the Ninth Circuit for an en banc re-hearing, which was denied, and then petitioned the U.S. Supreme Court for review, which was also denied. 934 F.3d 918 (9th Cir. 2019), cert. denied, 141 S. Ct. 248 (2020).

In March 2022, the district court issued a landmark summary judgment decision that, for the first time ever, recognized that minor league players are employees under wage-and-hour laws. Less than a month before trial, Korein Tillery negotiated a settlement that resulted in players receiving back pay and MLB rescinding unfair rules and contractual provisions that required players to work long hours without any pay for much of the year. Those contractual rules had been in place for over 50 years. The $185 million settlement on behalf of thousands of minor league baseball players is believed to be one of the five largest wage-and-hour settlements ever.

***United States ex rel. Garbe v. Kmart Corp.*, 3:12-cv-00881-NJR-PMF (S.D. Ill.).**
Since 2004, Kmart pharmacies have charged low, flat-rate prices for certain generic drug prescriptions when those drugs are purchased by customers who paid entirely out of their own pockets with no insurance coverage. Since the beginning of the Medicare Part D drug program on January 1, 2006, however, Kmart has charged higher prices—often significantly higher prices—to customers with Medicare Part D coverage than it charges self-paying customers for the same prescription. For example, Kmart charged cash customers $10 for a 60-day supply of 500 mg Naproxen (available in non-prescription strength as Aleve®), but charged the Government $58.79 for the same prescription.

Korein Tillery and co-counsel Phillips & Cohen filed a False Claims Act case against Kmart after the Government declined to intervene. In the litigation, Kmart never disputed that it charges cash-paying customers lower prices than it charges to the Government. Instead, Kmart contended that it was never required to charge the Government the lower prices because those are not the prices Kmart charges to "the general public." Rather, Kmart claimed its cash-customers are not the "general public" but rather members of an exclusive "club" through which they are offered the discount prices, even though as a practical matter

the discount prices are the prices Kmart charges to all its cash customers. Kmart also has no record of denying any cash-paying customer "membership" in Kmart's "club." The U.S. District Court for the Southern District of Illinois rejected Kmart's arguments and denied its motions for summary judgment. Kmart appealed, but the Seventh Circuit affirmed the district court in large part. *United States ex rel. Garbe v. Kmart Corp.*, 824 F.3d 632 (7th Cir. 2016). After remand, the case settled in late 2017 with Kmart agreeing to pay approximately $59 million.

***Lightfoot v. Arkema, Inc. Ret. Benefits Plan,* CIV. 12-773 JBS/JS (D.N.J.).**
After the court certified a class of present and former retirement benefits plan participants, plaintiffs filed a motion for partial summary judgment on the issue of whether the COLAs the Plan promised to participants who elected annuities were part of participants' "accrued benefit" under ERISA. The Plan countered with a motion for summary judgment arguing the statute of limitations had run on all class members' claims owing to statements in a 1994 Summary Plan Description (SPD) and other plan documents. Although the same judge had previously ruled that the statements in the SPD and Plan were "clear repudiations" in a companion case, Korein Tillery convinced the court to deny the Plan's motion for summary judgment and to grant plaintiffs' motion for partial summary judgment, finding that the COLAs promised annuitants were accrued benefits. 2013 WL 3283951 (D.N.J. June 27, 2013). The case settled in 2014 with the average class member receiving $11,000 in cash that could be rolled into a retirement account.

***City of Greenville v. Syngenta Crop Prot., Inc.,* 3:10-CV-188-JPG-PMF (S.D. Ill.).**
On October 23, 2012, the U.S. District Court for the Southern District of Illinois entered an order approving a $105 million class-action settlement designed to compensate Community Water Systems throughout the United States for the cost of removing the pesticide atrazine from public drinking water. The litigation between class members and Syngenta dated back to July 2, 2004, when Holiday Shores Sanitary District filed six separate lawsuits against manufacturers and distributors of atrazine and atrazine-containing products in the Illinois Circuit Court in Madison County.

Atrazine is used to control broadleaf and grassy weeds in a variety of crops, but is applied primarily to corn fields. Atrazine has been one of the most heavily used pesticides in the U.S. Two of atrazine's key chemical characteristics—that it does not readily bind to soil and that it persists in the environment—dramatically increase atrazine's effectiveness as an herbicide. However, because atrazine does not bind to soil, it easily runs off of fields with rainfall and contaminates surface waters such as rivers, lakes, and reservoirs that act as drinking-water supplies for public water providers.

Plaintiffs alleged that atrazine had continuously entered their water supplies, and, as a result of this contamination, they had to filter atrazine from their water sources. After eight years of litigation, Korein Tillery secured a $105 million settlement fund to be distributed to several hundred community water systems for costs of filtration of atrazine from their

drinking-water supplies. *City of Greenville v. Syngenta Crop Prot., Inc.,* No. 3:10-CV-188-JPG-PMF, 2012 WL 1948153 (S.D. Ill. May 30, 2012); *see also* 904 F. Supp. 2d 902 (S.D. Ill. 2012) (granting final approval of settlement and attorneys' fees). The settlement amounted to approximately 76 percent of the $139 million estimated to be the Class's maximum potential recovery.

To facilitate the settlement claims process, Korein Tillery lawyers collected 20 years of atrazine testing data into a database that was made available to each class member through a settlement website. From there, Claimants were able to view the test data already collected for their system and provide additional evidence of atrazine contamination to claim their share of the settlement fund. Although many class actions experience claims rates of less than 15 percent, in this case virtually all settlement funds were distributed to class members.

Public Justice honored the Korein Tillery lawyers representing the plaintiffs in this case as finalists for its Trial Lawyer of the Year award.

Missouri Utility Tax Litigation

Since 2007, Korein Tillery has represented Missouri municipalities in class action litigation that sought to recover unpaid license taxes. In suits against wireless and wireline carriers, Korein Tillery attorneys recovered hundreds of millions of dollars of license tax revenues—both retrospectively and prospectively—for more than 350 cities throughout Missouri. Korein Tillery has recovered more than $1 billion for Missouri municipalities. As a result of their work in these cases, the Missouri Lawyers Weekly recognized Korein Tillery partners John W. Hoffman and Douglas R. Sprong with awards in the "largest plaintiff wins" category in 2007, 2009, 2010, 2015, and 2017.

In 2012, Korein Tillery was successful in persuading the Supreme Court of Missouri to issue an extraordinary writ (mandamus) declaring unconstitutional a state statute that sought to sweep away this litigation by barring cities and towns from serving as class representatives. *State ex rel. Collector of Winchester v. Jamison*, 357 S.W.3d 589 (Mo. 2012).

***Mansfield v. ALPA*, 06-cv-6869 (N.D. Ill.).**

Beginning in 2001, United Airlines encountered financial difficulties that ultimately culminated in its filing for bankruptcy protection. During the course of United's reorganization in bankruptcy, United sought to terminate its pilots' defined benefit pension plan. In exchange for ALPA's agreement not to oppose the termination of the pension plan, United agreed to provide ALPA with $550 million in convertible notes. ALPA, through its United Airlines Master Executive Council ("MEC"), was tasked with allocating the proceeds from the sale of the convertible notes among the pilots. The MEC selected an allocation method that divided the note proceeds based upon each pilot's lost accrued benefits and lost projected benefits.

Korein Tillery filed this case in 2006 contending that ALPA breached its duty of fair representation in discriminating between its members in allocating the proceeds from the

sale of $550 million in convertible notes. Korein Tillery prevailed on a number of complex and novel issues in the trial court. For example, ALPA moved to exclude retirees from the class, arguing that a union owes no duties to retired pilots under the Railway Labor Act. The court denied ALPA's motion, agreeing with plaintiffs that because ALPA represented the retirees when it negotiated the convertible notes, it owed them a duty even though the retirees were no longer a part of the bargaining unit. *Mansfield v. ALPA*, 2007 WL 2903074 (N.D. Ill. Oct. 1, 2007). After Korein Tillery also successfully opposed motions for summary judgment, 2009 WL 2386281 (N.D. Ill. Jul. 29, 2009), and to decertify the class, 2009 WL 2601296 (N.D. Ill. Aug. 20, 2009), the parties reached a settlement two weeks before trial. Per the settlement, ALPA funded an aggregate settlement fund of $44 million to be paid directly to class members. *Mansfield v. ALPA*, No. 06C6869 (N.D. Ill. Dec. 14, 2009). The settlement is believed to be one of the largest ever in a duty of fair representation case, in which unions are sued over their responsibility to fairly represent their members.

***Williams v. Rohm & Haas Pension Plan*, 4:04-cv-0078-SEB-WGH (S.D. Ind.).** Korein Tillery filed this class action in 2002 alleging that the Rohm & Haas Pension Plan violated ERISA by failing to include the value of future cost-of-living adjustments (COLA) in calculating lump-sum distributions from the Plan. After eight years of litigation, Korein Tillery obtained one of the largest settlements in the history of ERISA—$180 million. In 2006, the case was certified and Korein Tillery won summary judgment convincing the district court that the terms of the Plan violated ERISA because a COLA is an "accrued benefit" requiring that it be included in lump-sum distributions. The district court's decision was affirmed on interlocutory appeal. *Williams v. Rohm & Haas Pension Plan*, 497 F.3d 710, 714 (7th Cir. 2007) ("If a defined benefit pension plan entitles an annuitant to a COLA, it must also provide the COLA's actuarial equivalent to a participant who chooses instead to receive his pension in the form of a one-time lump sum distribution."), *cert. denied*, 128 S. Ct. 1657 (2008). Settlement approval and the fee award were later affirmed. 658 F.3d 629 (7th Cir. 2011).

***Parker v. Sears, Roebuck & Co.*, Case No.: 04-L-716 (Ill. Cir. Ct. Sept. 18, 2007).** Korein Tillery brought this action against Sears in 2004 to remedy Sears's failure to install anti-tip safety devices, which prevent ranges from tipping over and severely burning or injuring unsuspecting consumers, on ranges that it sold, delivered, and set-up in customers' homes. In the 1960s and 1970s, kitchen range manufacturers started reducing the weight of metal in an effort to competitively lower the price of kitchen ranges. Over the course of several years, advances in materials allowed manufacturers to produce ranges which were durable and light weight. However, because the oven doors on the front of the ranges serve as a lever and fulcrum, the light weight of the new ranges created an extremely dangerous tipping hazard. For example, if a person were to place a turkey roaster on an open and horizontal oven door, the added weight would cause these newly designed ranges to tip forward, spilling the hot contents onto anyone standing in the vicinity. Children who opened the range and used the door as a step could unwittingly tip boiling liquids onto themselves. Dozens of people had been killed and hundreds had been maimed as a result of this problem.

Recognizing the need for a solution to this dangerous hazard, manufacturers and regulators began requiring installation of an anti-tip bracket that could be attached to the wall or floor at the back end of the range, preventing any forward tipping and maintaining complete stability. The installation is simple and the lightweight bracket costs pennies. The rule making bodies of most codes (BOCA Code, National Electrical Code; numerous other industry codes) thereafter required the installation of anti-tip brackets in all range installations in the United States. Even Sears acknowledged that a properly installed anti-tip bracket completely eliminates the hazards of tipping stoves.

Sears, Roebuck & Company at the time was the largest retail seller of kitchen ranges in the United States—averaging more than 800,000 ranges sold every year. When selling a gas or electric range, Sears generally includes delivery, installation, and hookup in customers' homes; thus, Sears became the largest installer of kitchen ranges in the United States. To increase its profits, Sears adopted a policy of refusing to install anti-tip brackets during normal installation unless the customer agreed to incur a substantial cost. At the same time, Sears failed to disclose the hazards associated with forgoing anti-tip bracket installation.

In January 2008, the Court granted final approval of a settlement which provided complete relief to the class by requiring Sears to install anti-tip brackets for the affected members of the class as well as requiring the installation of such brackets in the future. The settlement is valued at more than $544.5 million.

This settlement was touted by the public interest organization Public Citizen as an example of how consumer class actions benefit society. Public Citizen nominated Stephen Tillery as Trial Lawyers for Public Justice's Trial Lawyer of the Year based upon his role in this case.

***Hoormann v. SmithKline Beecham Corp.*, 04-L-715 (Ill. Cir. Ct. May 17, 2007).**
In July 2004, Korein Tillery filed suit on behalf of a nationwide class of purchasers alleging that SmithKline Beecham promoted Paxil® and Paxil CR™ for prescription to children and adolescents despite having actual knowledge that these drugs exposed children and adolescents to dangerous side effects while failing to treat their symptoms. Following three years of litigation, Korein Tillery obtained a settlement that established a $63.8 million dollar fund to reimburse class members 100 percent of their out-of-pocket expenses. This case was featured in The American Lawyer, Aruna Viswanatha, *King & Spalding Lawyer Stirs State Judge's Ire*, [29] 1 Am.Law., Jan. 2007, at 50, and mentioned in the National Law Journal. *The Plaintiffs' Hot List*, 30 Nat'l L.J. S8 (Nov. 22, 2007).

CUNA Mutual Mortgage-Backed Securities Litigation.
CMFG Life Insurance Company, CUMIS Insurance Society, Inc., and MEMBERS Life Insurance Company (collectively referred to as "CUNA Mutual") are financial services and insurance firms that offer insurance, investment, and retirement products and services to credit unions and their members. Korein Tillery and Kellogg Hansen filed a series of individual lawsuits in 2011 and 2013 on behalf of CUNA Mutual against eight Wall Street

investment banks seeking to recover losses on $300 million of RMBS purchases using the novel common-law theory of contract rescission.

As in NCUA, CUNA Mutual alleged that the banks misrepresented in offering documents that all loans backing the RMBS complied with originator underwriting guidelines or had sufficient compensating factors to allow exceptions to the guidelines. CUNA Mutual also alleged that the banks misrepresented that it conducted due diligence to verify the accuracy of its offering document representations. In mid-2015, an appellate court issued a favorable opinion in CUNA Mutual's bellwether case approving of CUNA Mutual's primary litigation arguments. *CMFG Life Ins. Co. v. RBS Sec., Inc.*, 799 F.3d 729 (7th Cir. 2015). On remand, the case settled in December 2015 for a confidential amount. CUNA Mutual eventually settled its remaining RMBS cases over the next two years for confidential amounts. *See, e.g.*, *CMFG Life Ins. Co. v. Credit Suisse Sec. (USA) LLC*, 3:14-cv-00249-wmc (W.D. Wis.) (settled in Oct. 2017); *CMFG Life Ins. Co. v. Morgan Stanley & Co., LLC*, 3:13-cv-00577-jdp (W.D. Wis.) (settled in Sept. 2017); *CMFG Life Ins. Co. v. J.P. Morgan Sec, LLC*, 3:13-cv-00580-wmc (W.D. Wis.) (settled in Mar. 2016).

***Axiom Investment Advisors, LLC v. Barclays Bank PLC*, No. 15-cv-9323-LGS (S.D.N.Y.)**

From 2008 to 2015, Barclays Bank PLC acted as both a buyer and seller of various foreign and domestic currencies through various trading platforms. Instead of executing foreign exchange orders placed by Barclays' customers on these platforms, Barclays instituted a secret "last look" policy that delayed execution of matched trades for several hundred milliseconds or even several seconds which allowed Barclays to determine through its algorithms whether the trade would be unfavorable to its position. If the matched trade would be unfavorable, Barclays reneged on the agreed price and rejected the trade or placed the order at a worse price. Barclays used last look to reject millions of trades that would otherwise have been executed.

Korein Tillery, along with its co-counsel Scott+Scott, Attorneys at Law, LLP and Hausfeld LLP, filed a class action against Barclays Bank PLC regarding its use of "last look," raising breach of contract and other claims. The court appointed Korein Tillery and Scott+Scott as class counsel. Counsel was successful in securing a $50 million settlement from Barclays on behalf of the class, which the court ultimately approved.

ANTITRUST LITIGATION

In re GSE Bonds Antitrust Litig.: Korein Tillery, along with co-counsel, alleged antitrust violations arising from coordinated price-fixing in the secondary market for bonds issued by the government-sponsored entities Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Farm Credit Banks, and Federal Home Loan Banks ("GSE Bonds"). Plaintiffs defeated two motions to dismiss and reached a settlement with all defendants, including Deutsche Bank Securities Inc., First Tennessee Bank, N.A., FTN Financial Securities Corp., Goldman Sachs & Co. LLC, Barclays Capital Inc., BNP Paribas

Securities Corp., Cantor Fitzgerald & Co., Citigroup Global Markets Inc., Credit Suisse Securities (USA) LLC, HSBC Securities (USA) Inc., J. P. Morgan Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Inc., Morgan Stanley & Co., LLC, Nomura Securities International, Inc., SG Americas Securities LLC, TD Securities (USA) LLC, and UBS Securities LLC. The combined settlement provided $386.5 million to class members and was approved by the court on June 18, 2020.

Sullivan v. DB Investments, Inc.: Korein Tillery represented a nationwide class of diamond purchasers in an antitrust case against the country's largest diamond distributor. That case was consolidated with others in the Eastern District of Pennsylvania and Korein Tillery was appointed co-lead counsel. In that role, the firm helped negotiate injunctive relief and a nationwide settlement that created a $323 million fund to compensate diamond purchasers.

In re In re Google Digital Publisher Antitrust Litigation: Korein Tillery has been appointed interim co-lead counsel representing a class of online publishers that sell ad space on their websites using tools that they purchase from Google. Plaintiffs allege that Google engaged in a series of mutually reinforcing anticompetitive acts in adjoining markets to acquire and maintain monopoly power over the markets for these tools, in violation of the Sherman Act and California's Unfair Competition Law.

In re: Google Play Consumer Antitrust Litigation: Korein Tillery, working with co-counsel, filed the first consumer class action in the nation alleging that Google's operation of Google Play Store and Google Play Billing, among other actions, created a wrongful monopoly over the distribution of applications and payment for in-application purchases in the Android ecosystem. Over ten similar complaints followed and are now consolidated before Judge James Donato in the Northern District of California, where Korein Tillery serves as a member of the consumer class steering committee.

***Litovich v. Bank of America Corp., et al.*, 1:20-cv-03154-LJL (S.D.N.Y.)**
The United States corporate bond market is among the world's largest and deepest sources of business capital, with over 16.5 million trades for over $8.6 trillion in par value occurring in 2019 alone. In this market, retail investors in odd lots of corporate bonds (bond trades involving less than 1,000 bonds, or that are less than $1 million in par value, which represent as many as 90% of the total number of trades in corporate bonds) receive inferior prices when they buy and sell bonds compared to investors trading in round lots (trades involving increments of 1,000 bonds, or that are greater than and divisible by $1 million in par value). This disparity has cost odd-lot investors billions of dollars. This state of affairs exists and has been perpetuated by ten of the world's largest banks/corporate bond dealers, who have engaged in a group boycott of all electronic platforms that have threatened to improve odd-lot pricing, increase competition on pricing for odd lots, or offer all-to-all trading in odd lots of U.S. corporate bonds.

Korein Tillery was named Interim Co-Lead Class Counsel (with Scott+Scott Attorneys at Law LLP) in this antitrust class action against ten banks seeking to recover damages in an

amount conservatively estimated to be in excess of $10 billion dollars. The case is currently pending before the Hon. Lewis J. Liman in the United States District Court for the Southern District of New York, where the parties are currently engaged in briefing on the defendants' joint motion to dismiss.

EXHIBIT 2

Hilgers Graben

An Introduction to Hilgers Graben PLLC

www.HilgersGraben.com

SEPTEMBER 2022

Hilgers Graben

Introduction

- Hilgers Graben PLLC is a boutique litigation firm founded by alumni of the Dallas office of Fish & Richardson—a nationally renowned IP and commercial litigation firm.
- Firm lawyers include veterans from other elite "Big Law" firms, including Jones Day, Gibson Dunn, Irell & Manella, Winston & Strawn, Hogan Lovells, Jones Day, DLA Piper, WilmerHale, Boies Schiller, Sullivan & Cromwell, Bartlit Beck, and similar AmLaw 100/top firms. The team is primarily comprised of graduates of top law schools, many of whom served as federal appellate and district court clerks, and all of whom provide first-class service and representation to our clients.
- We represent clients ranging from start-ups to Fortune 500 corporations—specializing in litigating complex commercial and IP disputes (patent, trademark, copyright) throughout the United States for Fortune 50 to start-up companies.

Hilgers Graben

Introduction

- Because of our ability to leverage low-cost locations, our rates are substantially lower than most firms – for the same quality/credentialed lawyers offered by Big Law at anywhere from twice to four times the price.
- The Firm has offices in: Atlanta, Chicago, Dallas, Denver, Lincoln, Miami, Omaha, St. Louis, San Diego, Washington, D.C., and West Palm Beach (but we litigate around the country).
- We also have an e-discovery team, called Edge, that can provide low-cost discovery counsel services for our projects or by partnering with other law firms.

Hilgers Graben

Litigation

- Our lawyers (at the firm or at prior firms) have litigated complex commercial and IP claims around the country. While most litigation settles, we believe that once a case is filed, the firm must be ready to litigate the matter through trial. Every step we take is designed to maximize leverage so that our clients are in the best position to win the case should trial be necessary.
- We recognize that sometimes litigation requires a "name brand" to operate as trial counsel. Not a problem. We also often work as co-counsel with some of the largest law firms in the country and we are at ease in such situations.
- The Firm has a captive e-discovery team and data processing company (HG Edge) that provide discovery-related services to our clients. These services have *dramatically* reduced the cost of e-discovery for our clients due to our proprietary methods and tools. We often partner with “Big Law” to deliver these discovery counsel services, giving the client the best of both worlds.

Hilgers Graben

Litigation

- Our lawyers have handled and tried cases involving:
  - Business litigation (business tort, breach of contract, etc.)
  - Patent disputes (competitor cases, NPEs, etc.), trademark enforcement, copyrights
  - Trade secret litigation
  - Restrictive covenant litigation
  - TCPA
  - Antitrust
  - Class Actions
  - White-collar investigations/defense

Hilgers Graben

Alec Schultz

- Alec Schultz is an experienced trial lawyer who has represented some of the largest companies in the world, Alec has successfully obtained multi-million dollar judgments on behalf of his clients in both the courtroom and in arbitration proceedings.
- Alec's experience handling some of the largest litigations in the country also allows him to craft litigation strategies on behalf of his clients that achieve the desired results without an unnecessary expenditure of client resources. His success in this area is evident from the fact that large, institutional entities routinely return to seek his counsel on subsequent matters they encounter. Additionally, as an experienced appellate litigator, Alec handles matters for his clients from the start of litigation through the completion of the appellate process, which allows for seamless advocacy of his clients' interests.
- Prior to joining Hilgers Graben, Alec practiced as Leon Cosgrove LLP and Boies Schiller Flexner LLP. He served as a law clerk to United States District Judge Donald Middlebrooks of the Southern District of Florida.

JD, University of Chicago Law School, Victor McQuistion Scholar

Georgetown University, BSFS, International Economics, *cum laude*

EXHIBIT 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

NANCY TAYLOR, et. al., on behalf of herself and all others similarly situated,

Plaintiff,

v.

SERVICE CORPORATION INTERNATIONAL, et al.,

Defendants.

Case No.: 20-CV-60709-RAR

CLASS ACTION
JURY TRIAL DEMANDED

DECLARATION OF HUNTER R. HUGHES

I, HUNTER R. HUGHES, declare as follows:

1. My name is Hunter R. Hughes. I am over the age of 18 and competent to give testimony. The statements contained in this Declaration are based upon my personal knowledge and are true and correct. I submit this Declaration in my capacity as the mediator in connection with the proposed settlement of the above-captioned action. While the mediation process is confidential, the parties have authorized me to inform the Court of the procedural and substantive matters set forth herein in support of approval of the Settlement. My statements and those of the parties during the mediation process are subject to a confidentiality agreement and Federal Rule of Evidence 408, and there is no intention on either my part or the Parties' part to waive the agreement or the protections of Rule 408.

I. BACKGROUND AND QUALIFICATIONS

2. I graduated with high honors from the University of Virginia School of Law. I am past Chairman and Vice Chairman of the EEO Committee Administrative Section of the ABA. I was also President of the Corporate Counsel Section of the Atlanta Bar Association and served

as Program Co-Chair of the EEO Committee of Labor Section of the American Bar Association. I am past Program Chairman of the American Employment Law Council. I also serve as an arbitrator on the American Arbitration Association Commercial and Employment Panels.

3. I am a Distinguished Fellow in the American College of Civil Trial Mediators and have been selected for inclusion in multiple editions of Woodward/White's "Best Lawyers in America," Chambers' USA "America's Leading Lawyers for Business," "Who's Who in American Law, Law & Politics," Atlanta Magazine's Top 10 and Top 100 "Georgia Super Lawyers Top 10 and Top 100" and Georgia Trend's "Legal Elite."

4. I have served as lead trial counsel in hundreds of cases, including nationwide class and mass actions. I have also acted as lead counsel in arbitrations and numerous proceedings before state and federal agencies.

5. I have served as a neutral in and successfully mediated dozens of national class, collective, and mass actions across the country, including mass tort, business, employment, insurance coverage and securities fraud disputes.

6. I have written numerous articles on alternate dispute resolution and negotiation strategies, including: "How Our Subconscious Bias Impacts the Negotiations," American Journal of Mediation; Chapter 26, "Mediating Class Actions: How Mediators Operate and What They Want," How ADR Works, BNA Books; and "Class Actions in Arbitrations," A Treatise Project of the American Bar Association Labor and Employment Law Section.

7. I am an Adjunct Professor at the University of Virginia Law School and also have been a speaker throughout the country at several hundred seminars and conferences on various topics, including trial practice, alternate dispute resolution, settlement strategies, damages, negotiations skills and a wide range of substantive matters.

II. THE ARM'S-LENGTH SETTLEMENT NEGOTIATIONS IN THIS CASE

8. I have been informed that on January 28, 2021, the parties conducted a mediation via Zoom Video conference with mediator Rodney A. Max. During that mediation, the parties were unable to settle.

9. I was thereafter retained by counsel for the parties in this matter for the purpose of mediating this case a second time and to assist in reaching a global resolution, if possible. In that capacity, I considered myself to be a neutral, representing neither Plaintiff nor Defendants. On March 24, 2022, the parties conducted a second, in-person mediation before me, at the Defendants' counsel's office in Atlanta, Georgia. The participants included counsel and certain party representatives.

10. Prior to the mediation, the parties submitted to me detailed mediation statements that addressed class certification issues, liability and damages of the merits of the case, and the evidence discovery had yielded to support their claims. I also had detailed telephone conferences with counsel for both parties to discuss the facts of the case, its procedural posture and the parties' respective positions. I was also provided information about how the applicable regulators treat the conduct at issue. I also reviewed certain court filings from the case, including Orders of this Court.

11. I found the parties' mediation statements and extensive, numerous telephone conferences to be extremely valuable in helping me understand the merits of each party's positions, issues related to the certifiability of any classes, and to identify the issues that were likely to serve as the primary drivers and obstacles to achieving a settlement. Counsel for both parties presented significant arguments regarding their clients' positions, and it was apparent to me that both sides possessed strong, non-frivolous arguments, and that neither side was assured

of victory on all the claims.

12. Because the parties submitted their mediation statements and arguments in the context of a confidential mediation process pursuant to Federal Rule of Civil Procedure 408, I cannot reveal their content. I can say, however, that the arguments and positions asserted by all involved were the product of much hard work, and they were complex and adversarial.

13. After reviewing all of the written mediation statements and exhibits and speaking to counsel for the parties, I believed that the negotiation would be a difficult and adversarial process through which all involved would hold strong to their convictions that they had the better legal and substantive arguments, and that a resolution without further litigation or trial was by no means certain.

14. At the March 24, 2022 mediation, the parties engaged in contentious negotiations, with the session ending with the parties having made significant progress, but no formal settlement reached. In the ensuing months, I engaged in extensive further discussions with counsel for both parties whereby potential terms of a settlement were further discussed. During those months, I participated in more than a dozen telephonic discussions with counsel for Plaintiff and Defendants in an effort to resolve this litigation. These discussions allowed the parties to candidly express their respective views as to the strengths and weaknesses of their positions in the case. I never witnessed or sensed ay collusiveness between the parties. To the contrary, the settlement process was conducted at arm's length at each point in the negotiations and, while professionally conducted, was at times very adversarial.

15. These discussions resulted in an agreement in principle on the terms of a global class action settlement in June 2022. Both parties agreed that they were settling the case to avoid further costs and risks associated with the action, including contested issues about liability, the

certifiability of any classes, and Defendants' defenses.

16. The relief for the members of the settlement classes was the focus of the majority of the settlement negotiations, and both parties made strong presentations in favor of their clients. Plaintiff's counsel made it clear that any settlement needed to provide substantial benefits to all members of the class, and I believe that the settlement does so.

17. The provisions of the settlement agreement providing for payment of attorneys' fees to class counsel was negotiated separately and independently by the parties apart from the class settlement provisions and material substantive relief to be provided to the Settlement Class members. The attorneys' fees are being paid directly by Defendants, and do not reduce the relief available to the members of the class.

17. Based on my experience, I believe that this settlement represents an outcome that is reasonable and fair for the Settlement Classes and all parties involved. The settlement, including the relief provided to the Settlement Classes, is a fair and non-collusive settlement that was conducted at arm's length by counsel for the parties by skilled, well-informed lawyers with sufficient investigation and discovery prior to the mediation. The settlement is the direct result of all counsel's experience, reputation, and ability in these types of complex class actions. As such, I strongly support the approval of the settlement in all respects.

I declare under penalty of perjury under the laws of the United States of America, that the foregoing facts are true and correct.

Executed this 7th day of September, 2022.

Hunter R. Hughes

EXHIBIT 4

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

NANCY TAYLOR, on behalf of herself and all others similarly situated,

Plaintiff,

v.

SERVICE CORPORATION INTERNATIONAL, et al.,

Defendants.

Case No.: 20-CV-60709-RAR

DECLARATION OF STEVEN WEISBROT, ESQ. RE: ANGEION GROUP, LLC QUALIFICATIONS AND IMPLEMENTATION OF THE NOTICE PLAN

I, Steven Weisbrot, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am the President and Chief Executive Officer at the class action notice and claims administration firm Angeion Group, LLC ("Angeion"). Angeion specializes in designing, developing, analyzing, and implementing large-scale, un-biased, legal notification plans.

2. I have personal knowledge of the matters stated herein. In forming my opinions regarding notice in this action, I have drawn from my extensive class action experience, as described below.

3. I have been responsible in whole or in part for the design and implementation of hundreds of court-approved notice and administration programs, including some of the largest and most complex notice plans in recent history. I have taught numerous accredited Continuing Legal Education courses on the Ethics of Legal Notification in Class Action Settlements, using Digital Media in Due Process Notice Programs, as well as Claims Administration, generally. I am the author of multiple articles on Class Action Notice, Claims Administration, and Notice Design in publications such as Bloomberg, BNA Class Action Litigation Report, Law360, the ABA Class Action and Derivative Section Newsletter, and I am a frequent speaker on notice issues at conferences throughout the United States and internationally.

4. I was certified as a professional in digital media sales by the Interactive Advertising Bureau ("IAB") and I am co-author of the Digital Media section of Duke Law's *Guidelines and Best Practices—Implementing 2018 Amendments to Rule 23* and the soon to be published George Washington Law School Best Practices Guide to Class Action Litigation.

5. I have given public comment and written guidance to the Judicial Conference Committee on Rules of Practice and Procedure on the role of direct mail, email, broadcast media, digital media, and print publication, in effecting Due Process notice, and I have met with representatives of the Federal Judicial Center to discuss the 2018 amendments to Rule 23 and offered an educational curriculum for the judiciary concerning notice procedures.

6. Prior to joining Angeion's executive team, I was employed as Director of Class Action services at Kurtzman Carson Consultants, an experienced notice and settlement administrator. Prior to my notice and claims administration experience, I was employed in private law practice.

7. My notice work comprises a wide range of class actions that include data breach, mass disasters, product defect, false advertising, employment discrimination, antitrust, tobacco, banking, firearm, insurance, and bankruptcy cases.

8. I have been at the forefront of infusing digital media, as well as big data and advanced targeting, into class action notice programs. Courts have repeatedly recognized my work in the design of class action notice programs. A comprehensive summary of judicial recognition Angeion has received is attached hereto as **Exhibit A**.

9. By way of background, Angeion is an experienced class action notice and claims administration company formed by a team of executives that have had extensive tenures at five other nationally recognized claims administration companies. Collectively, the management team at Angeion has overseen more than 2,000 class action settlements and distributed over $15 billion to class members. The executive profiles as well as the company overview are available at https://www.angeiongroup.com/our_team.php.

10. As a class action administrator, Angeion has regularly been approved by both federal and state courts throughout the United States and abroad to provide notice of class actions and claims

processing services.

11. This declaration will describe the Notice Plan for the Class that, if approved by the Court, Angeion will implement in this matter, including the considerations that informed the development of the plan and why we believe it will provide due process to Class Members. In my professional opinion, the proposed Notice Plan described herein is the best practicable notice under the circumstances and fulfills all due process requirements, fully comporting with Fed. R. Civ. P. 23.

OVERVIEW OF THE NOTICE PLAN

12. The proposed Notice Plan provides for individual direct notice via mail to all reasonably identifiable Class Members, combined with implementation of a dedicated settlement website and toll-free telephone line where Class Members can learn more about their rights and options pursuant to the terms of the Settlement.

DIRECT NOTICE

Mailed Notice

13. Angeion will send direct notice via first-class U.S. mail, postage pre-paid, to Class Members for whom a mailing address is provided. The direct mailed notice packet consists of the full notice and claim form (collectively, the "Notice").

14. In administering the mailed notice portion of the Notice Plan in this action, Angeion will employ the best practices described below to increase the deliverability rate of the mailed notices.

15. Angeion will cause the mailing address information for members of the Class to be updated utilizing the National Change of Address ("NCOA") database, which provides updated address information for individuals or entities who have moved during the previous four years and filed a change of address with the USPS.

16. Notices returned to Angeion by the USPS with a forwarding address will be re-mailed to the new address provided by the USPS and the class member database will be updated accordingly.

17. Notices returned to Angeion by the USPS without forwarding addresses will be subjected to an address verification search (commonly referred to as "skip tracing") utilizing a wide variety of

data sources, including public records, real estate records, electronic directory assistance listings, etc., to locate updated addresses.

18. For any Class Members where a new address is identified through the skip trace process, the class member database will be updated with the new address information and a Notice will be re-mailed to that address.

SETTLEMENT WEBSITE & TOLL-FREE TELEPHONE SUPPORT

19. The Notice Plan will also implement the creation of a case-specific website, where Class Members can easily view general information about this class action Settlement, review relevant Court documents, and view important dates and deadlines pertinent to the Settlement. The Settlement Website will be designed to be user-friendly and make it easy for Class Members to find information about the case. The Settlement Website will also have a "Contact Us" page whereby Class Members can send an email with any additional questions to a dedicated email address. Likewise, Class Members will also be able to submit a claim form online via the Settlement Website.

20. A toll-free hotline devoted to this case will be implemented to further apprise Class Members of their rights and options pursuant to the terms of the Settlement. The toll-free hotline will utilize an interactive voice response ("IVR") system to provide Class Members with responses to frequently asked questions and provide essential information regarding the Settlement. This hotline will be accessible 24 hours a day, 7 days a week. Additionally, Class Members will be able to request a copy of the Notice or Claim Form via the toll-free hotline. Class Members can also speak with a live agent during normal business hours.

NOTICE PURSUANT TO THE CLASS ACTION FAIRNESS ACT OF 2005

21. Within ten days of the filing of the Settlement Agreement with this Court, Angeion will cause notice to be disseminated to the appropriate state and federal officials pursuant to the requirements of the Class Action Fairness Act, 28 U.S.C. §1715.

CONCLUSION

22. The Notice Plan outlined above includes direct notice to all reasonably identifiable Class Members via mail combined with the implementation of a dedicated settlement website and toll-free hotline to further inform Class Members of their rights and options in the Settlement.

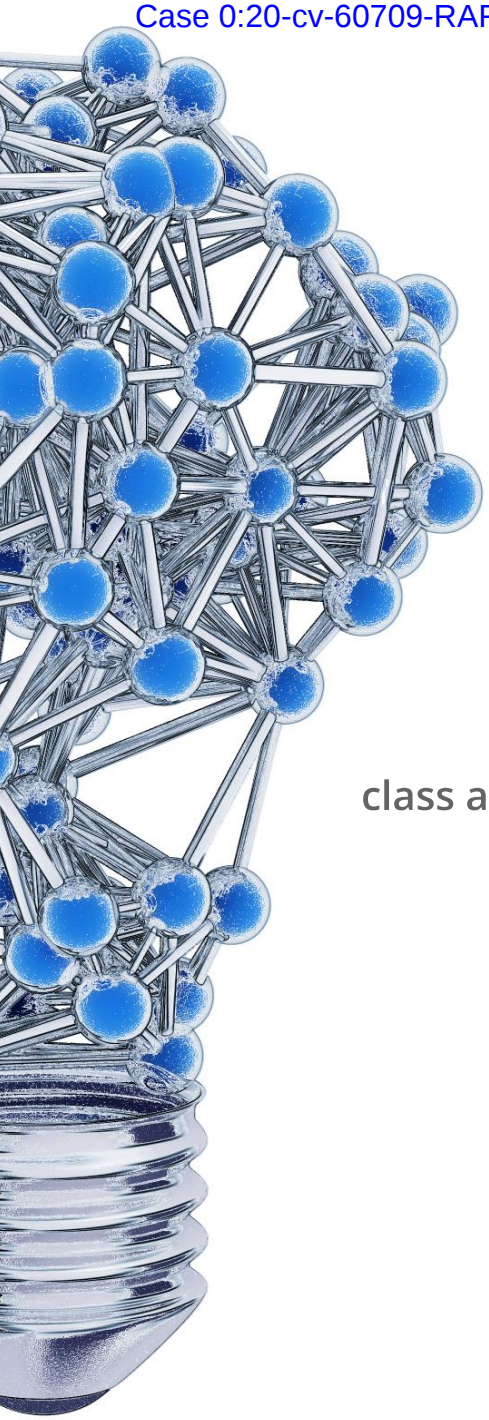
23. In my professional opinion, the Notice Plan described herein will provide full and proper notice to Class Members before the claims, opt-out, and objection deadlines. Moreover, it is my opinion that the Notice Plan is the best notice that is practicable under the circumstances, fully comports with due process and Fed. R. Civ. P. 23. After the Notice Plan has concluded, Angeion will provide a final report verifying its effective implementation to this Court.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: September 1, 2022

STEVEN WEISBROT

Exhibit A



INNOVATION
IT'S PART OF OUR DNA

class action | mass tort | legal noticing | litigation support

ANGEION GROUP
Changing the Rules

Judicial Recognition

JUDICIAL RECOGNITION

IN RE: APPLE INC. DEVICE PERFORMANCE LITIGATION

Case No. 5:18-md-02827

The Honorable Edward J. Davila, United States District Court, Northern District of California (March 17, 2021): Angeion undertook a comprehensive notice campaign…The notice program was well executed, far-reaching, and exceeded both Federal Rule of Civil Procedure 23(c)(2)(B)'s requirement to provide the "best notice that is practicable under the circumstances" and Rule 23(e)(1)(B)'s requirement to provide "direct notice in a reasonable manner."

IN RE: TIKTOK, INC., CONSUMER PRIVACY LITIGATION

Case No. 1:20-cv-04699

The Honorable John Z. Lee, United States District Court, Northern District of Illinois (October 1, 2021): The Court approves, as to form and content, the proposed Class Notices submitted to the Court. The Court finds that the Settlement Class Notice Program outlined in the Declaration of Steven Weisbrot on Settlement Notices and Notice Plan (i) is the best practicable notice; (ii) is reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action and of their right to object to or to exclude themselves from the proposed settlement; (iii) is reasonable and constitutes due, adequate and sufficient notice to all persons entitled to receive notice; and (iv) meets all requirements of applicable law, Federal Rule of Civil Procedure 23, and due process.

IN RE: GOOGLE PLUS PROFILE LITIGATION

Case No. 5:18-cv-06164

The Honorable Edward J. Davila, United States District Court, Northern District of California (January 25, 2021): The Court further finds that the program for disseminating notice to Settlement Class Members provided for in the Settlement, and previously approved and directed by the Court (hereinafter, the "Notice Program"), has been implemented by the Settlement Administrator and the Parties, and such Notice Program, including the approved forms of notice, is reasonable and appropriate and satisfies all applicable due process and other requirements, and constitutes best notice reasonably calculated under the circumstances to apprise Settlement Class Members…

IN RE: FACEBOOK INTERNET TRACKING LITIGATION

Case No. 5:12-md-02314

The Honorable Edward J. Davila, United States District Court, Northern District of California (March 31, 2022): The Court approves the Notice Plan, Notice of Proposed Class Action Settlement, Claim Form, and Opt-Out Form, which are attached to the Settlement Agreement as Exhibits B-E, and finds that their dissemination substantially in the manner and form set forth in the Settlement Agreement meets the requirements of Federal Rule of Civil Procedure 23 and due process, constitutes the best notice practicable under the circumstances, and is reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Actions, the effect of the proposed Settlement (including the releases contained therein), the anticipated Motion for a Fee and Expense Award and for Service Awards, and their rights to participate in, opt out of, or object to any aspect of the proposed Settlement.

CITY OF LONG BEACH v. MONSANTO COMPANY

Case No. 2:16-cv-03493

The Honorable Fernando M. Olguin, United States District Court, Central District of California (March 14, 2022): The court approves the form, substance, and requirements of the class Notice, (Dkt.278-2, Settlement Agreement, Exh. I). The proposed manner of notice of the settlement set forth in the Settlement Agreement constitutes the best notice practicable under the circumstances and complies with the requirements of due process.

STEWART v. LEXISNEXIS RISK DATA RETRIEVAL SERVICES, LLC

Case No. 3:20-cv-00903

The Honorable John A. Gibney Jr., United States District Court, Eastern District of Virginia (February 25, 2022): The proposed forms and methods for notifying the proposed Settlement Class Members of the Settlement and its terms and conditions meet the requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process, constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons and entities entitled to notice…Based on the foregoing, the Court hereby approves the notice plans developed by the Parties and the Settlement Administrator and directs that they be implemented according to the Agreement and the notice plans attached as exhibits.

WILLIAMS v. APPLE INC.

Case No. 3:19-cv-0400

The Honorable Laurel Beeler, United States District Court, Northern District of California (February 24, 2022): The Court finds the Email Notice and Website Notice (attached to the Agreement as Exhibits 1 and 4, respectively), and their manner of transmission, implemented pursuant to the Agreement (a) are the best practicable notice, (b) are reasonably calculated, under the circumstances, to apprise the Subscriber Class of the pendency of the Action and of their right to object to or to exclude themselves from the proposed settlement, (c) are reasonable and constitute due, adequate and sufficient notice to all persons entitled to receive notice, and (d) meet all requirements of applicable law.

CLEVELAND v. WHIRLPOOL CORPORATION

Case No. 0:20-cv-01906

The Honorable Wilhelmina M. Wright, United States District Court, District of Minnesota (December 16, 2021): It appears to the Court that the proposed Notice Plan described herein, and detailed in the Settlement Agreement, comports with due process, Rule 23, and all other applicable law. Class Notice consists of email notice and postcard notice when email addresses are unavailable, which is the best practicable notice under the circumstances…The proposed Notice Plan complies with the requirements of Rule 23, Fed. R. Civ. P., and due process, and Class Notice is to be sent to the Settlement Class Members as set forth in the Settlement Agreement and pursuant to the deadlines above.

RASMUSSEN v. TESLA, INC. d/b/a TESLA MOTORS, INC.

Case No. 5:19-cv-04596

The Honorable Beth Labson Freeman, United States District Court, Northern District of California (December 10, 2021): The Court has carefully considered the forms and methods of notice to the Settlement Class set forth in the Settlement Agreement ("Notice Plan"). The Court finds that the Notice Plan constitutes the best notice practicable under the circumstances and fully satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure, the requirements of due process, and the requirements of any other applicable law, such that the terms of the Settlement Agreement, the releases provided for therein, and this Court's final judgment will be binding on all Settlement Class Members.

CAMERON v. APPLE INC.

Case No. 4:19-cv-03074

The Honorable Yvonne Gonzalez Rogers, United States District Court, Northern District of California (November 16, 2021): The parties' proposed notice plan appears to be constitutionally sound in that plaintiffs have made a sufficient showing that it is: (i) the best notice practicable; (ii) reasonably calculated, under the circumstances, to apprise the Class members of the proposed settlement and of their right to object or to exclude themselves as provided in the settlement agreement; (iii) reasonable and constitute due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) meet all applicable requirements of due process and any other applicable requirements under federal law.

RISTO v. SCREEN ACTORS GUILD-AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS

Case No. 2:18-cv-07241

The Honorable Christina A. Snyder, United States District Court, Central District of California (November 12, 2021): The Court approves the publication notice plan presented to this Court as it will provide notice to potential class members through a combination of traditional and digital media that will consist of publication of notice via press release, programmatic display digital advertising, and targeted social media, all of which will direct Class Members to the Settlement website…The notice plan satisfies any due process concerns as this Court certified the class under Federal Rule of Civil Procedure 23(b)(1)…

JENKINS v. NATIONAL GRID USA SERVICE COMPANY, INC.

Case No. 2:15-cv-01219

The Honorable Joanna Seybert, United States District Court, Eastern District of New York (November 8, 2021): Pursuant to Fed. R. Civ. P. 23(e)(1) and 23(c)(2)(B), the Court approves the proposed Notice Plan and procedures set forth at Section 8 of the Settlement, including the form and content of the proposed forms of notice to the Settlement Class attached as Exhibits C-G to the Settlement and the proposed procedures for Settlement Class Members to exclude themselves from the Settlement Class or object. The Court finds that the proposed Notice Plan meets the requirements of due process under the United States Constitution and Rule 23, and that such Notice Plan—which includes direct notice to Settlement Class Members sent via first class U.S. Mail and email; the establishment of a Settlement Website (at the URL, www.nationalgridtcpasettlement.com) where Settlement Class Members can view the full settlement agreement, the detailed long-form notice (in English and Spanish),

and other key case documents; publication notice in forms attached as Exhibits E and F to the Settlement sent via social media (Facebook and Instagram) and streaming radio (e.g., Pandora and iHeart Radio). The Notice Plan shall also include a paid search campaign on search engine(s) chosen by Angeion (e.g., Google) in the form attached as Exhibits G and the establishment of a toll-free telephone number where Settlement Class Members can get additional information—is the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto.

NELLIS v. VIVID SEATS, LLC

Case No. 1:20-cv-02486

The Honorable Robert M. Dow, Jr., United States District Court, Northern District of Illinois (November 1, 2021): The Notice Program, together with all included and ancillary documents thereto, (a) constituted reasonable notice; (b) constituted notice that was reasonably calculated under the circumstances to apprise members of the Settlement Class of the pendency of the Litigation…(c) constituted reasonable, due, adequate and sufficient notice to all Persons entitled to receive notice; and (d) met all applicable requirements of due process and any other applicable law. The Court finds that Settlement Class Members have been provided the best notice practicable of the Settlement and that such notice fully satisfies all requirements of law as well as all requirements of due process.

PELLETIER v. ENDO INTERNATIONAL PLC

Case No. 2:17-cv-05114

The Honorable Michael M. Baylson, United States District Court, Eastern District of Pennsylvania (October 25, 2021): The Court approves, as to form and content, the Notice of Pendency and Proposed Settlement of Class Action (the "Notice"), the Proof of Claim and Release form (the "Proof of Claim"), and the Summary Notice, annexed hereto as Exhibits A-1, A-2, and A-3, respectively, and finds that the mailing and distribution of the Notice and publishing of the Summary Notice, substantially in the manner and form set forth in ¶¶7-10 of this Order, meet the requirements of Rule 23 and due process, and is the best notice practicable under the circumstances and shall constitute due and sufficient notice to all Persons entitled thereto.

BIEGEL v. BLUE DIAMOND GROWERS

Case No. 7:20-cv-03032

The Honorable Cathy Seibel, United States District Court, Southern District of New York (October 25, 2021): The Court finds that the Notice Plan, set forth in the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order: (i) was the best notice practicable under the circumstances; (ii) was reasonably calculated to provide, and did provide, due and sufficient notice to the Settlement Class regarding the existence and nature of the Action…and (iii) satisfied the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and all other applicable law.

JUDICIAL RECOGNITION

QUINTERO v. SAN DIEGO ASSOCIATION OF GOVERNMENTS

Case No. 37-2019-00017834-CU-NP-CTL

The Honorable Eddie C. Sturgeon, Superior Court of the State of California, County of San Diego (September 27, 2021): The Court has reviewed the class notices for the Settlement Class and the methods for providing notice and has determined that the parties will employ forms and methods of notice that constitute the best notice practicable under the circumstances; are reasonably calculated to apprise class members of the terms of the Settlement and of their right to participate in it, object, or opt-out; are reasonable and constitute due, adequate, and sufficient notice to all persons entitled to receive notice; and meet all constitutional and statutory requirements, including all due process requirements and the California Rules of Court.

HOLVE v. MCCORMICK & COMPANY, INC.

Case No. 6:16-cv-06702

The Honorable Mark W. Pedersen, United States District Court for the Western District of New York (September 23, 2021): The Court finds that the form, content and method of giving notice to the Class as described in the Settlement Agreement and the Declaration of the Settlement Administrator: (a) will constitute the best practicable notice; (b) are reasonably calculated, under the circumstances, to apprise the Settlement Class Members of the pendency of the Action…(c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class Members and other persons entitled to receive notice; and (d) meet all applicable requirements of law, including but not limited to 28 U.S.C. § 1715, Rule 23(c) and (e), and the Due Process Clause(s) of the United States Constitution.

CULBERTSON T AL. v. DELOITTE CONSULTING LLP

Case No. 1:20-cv-03962

The Honorable Lewis J. Liman, United States District Court, Southern District of New York (August 27, 2021): The notice procedures described in the Notice Plan are hereby found to be the best means of providing notice under the circumstances and, when completed, shall constitute due and sufficient notice of the proposed Settlement Agreement and the Final Approval Hearing to all persons affected by and/or entitled to participate in the Settlement Agreement, in full compliance with the notice requirements of Rule 23 of the Federal Rules of Civil Procedure and due process of law.

PULMONARY ASSOCIATES OF CHARLESTON PLLC v. GREENWAY HEALTH, LLC

Case No. 3:19-cv-00167

The Honorable Timothy C. Batten, Sr., United States District Court, Northern District of Georgia (August 24, 2021): Under Rule 23(c)(2), the Court finds that the content, format, and method of disseminating Notice, as set forth in the Motion, the Declaration of Steven Weisbrot filed on July 2, 2021, and the Settlement Agreement and Release, including notice by First Class U.S. Mail and email to all known Class Members, is the best notice practicable under the circumstances and satisfies all requirements provided in Rule 23(c)(2)(B) and due process.

IN RE: BROILER CHICKEN GROWER ANTITRUST LITIGATION (NO II)

Case No. 6:20-md-02977

The Honorable Robert J. Shelby, United States District Court, Eastern District of Oklahoma (August 23, 2021): The Court approves the method of notice to be provided to the Settlement Class as set forth in Plaintiffs' Motion and Memorandum of Law in Support of Motion for Approval of the Form and Manner of Class Notice and Appointment of Settlement Administrator and Request for Expedited Treatment and the Declaration of Steven Weisbrot on Angeion Group Qualifications and Proposed Notice Plan...The Court finds and concludes that such notice: (a) is the best notice that is practicable under the circumstances, and is reasonably calculated to reach the members of the Settlement Class and to apprise them of the Action, the terms and conditions of the Settlement, their right to opt out and be excluded from the Settlement Class, and to object to the Settlement; and (b) meets the requirements of Federal Rule of Civil Procedure 23 and due process.

ROBERT ET AL. v. AT&T MOBILITY, LLC

Case No. 3:15-cv-03418

The Honorable Edward M. Chen, United States District Court, Northern District of California (August 20, 2021): The Court finds that such Notice program, including the approved forms of notice: (a) constituted the best notice that is practicable under the circumstances; (b) included direct individual notice to all Settlement Class Members who could be identified through reasonable effort, as well as supplemental notice via a social media notice campaign and reminder email and SMS notices; (c) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the nature of this Action ...(d) constituted due, adequate and sufficient notice to all persons entitled to notice; and (e) met all applicable requirements of Federal Rule of Civil Procedure 23, Due Process under the U.S. Constitution, and any other applicable law.

PYGIN v. BOMBAS, LLC

Case No. 4:20-cv-04412

The Honorable Jeffrey S. White, United States District Court, Northern District of California (July 12, 2021): The Court also concludes that the Class Notice and Notice Program set forth in the Settlement Agreement satisfy the requirements of due process and Rule 23 and provide the best notice practicable under the circumstances. The Class Notice and Notice Program are reasonably calculated to apprise Settlement Class Members of the nature of this Litigation, the Scope of the Settlement Class, the terms of the Settlement Agreement, the right of Settlement Class Members to object to the Settlement Agreement or exclude themselves from the Settlement Class and the process for doing so, and of the Final Approval Hearing. Accordingly, the Court approves the Class Notice and Notice Program and the Claim Form.

WILLIAMS ET AL. v. RECKITT BENCKISER LLC ET AL.

Case No. 1:20-cv-23564

The Honorable Jonathan Goodman, United States District Court, Southern District of Florida (April 23, 2021): The Court approves, as to form and content, the Class Notice and Internet Notice submitted by the parties (Exhibits B and D to the Settlement Agreement or Notices

substantially similar thereto) and finds that the procedures described therein meet the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process, and provide the best notice practicable under the circumstances. The proposed Class Notice Plan -- consisting of (i) internet and social media notice; and (ii) notice via an established a Settlement Website -- is reasonably calculated to reach no less than 80% of the Settlement Class Members.

NELSON ET AL. v. IDAHO CENTRAL CREDIT UNION

Case No. CV03-20-00831, CV03-20-03221

The Honorable Robert C. Naftz, Sixth Judicial District, State of Idaho, Bannock County (January 19, 2021): The Court finds that the Proposed Notice here is tailored to this Class and designed to ensure broad and effective reach to it…The Parties represent that the operative notice plan is the best notice practicable and is reasonably designed to reach the settlement class members. The Court agrees.

IN RE: HANNA ANDERSSON AND SALESFORCE.COM DATA BREACH LITIGATION

Case No. 3:20-cv-00812

The Honorable Edward M. Chen, United States District Court, Northern District of California (December 29, 2020): The Court finds that the Class Notice and Notice Program satisfy the requirements of due process and Rule 23 of the Federal Rules of Civil Procedure and provide the best notice practicable under the circumstances.

IN RE: PEANUT FARMERS ANTITRUST LITIGATION

Case No. 2:19-cv-00463

The Honorable Raymond A. Jackson, United States District Court, Eastern District of Virginia (December 23, 2020): The Court finds that the Notice Program…constitutes the best notice that is practicable under the circumstances and is valid, due and sufficient notice to all persons entitled thereto and complies fully with the requirements of Rule 23(c)(2) and the due process requirements of the Constitution of the United States.

BENTLEY ET AL. v. LG ELECTRONICS U.S.A., INC.

Case No. 2:19-cv-13554

The Honorable Madeline Cox Arleo, United States District Court, District of New Jersey (December 18, 2020): The Court finds that notice of this Settlement was given to Settlement Class Members in accordance with the Preliminary Approval Order and constituted the best notice practicable of the proceedings and matters set forth therein, including the Litigation, the Settlement, and the Settlement Class Members' rights to object to the Settlement or opt out of the Settlement Class, to all Persons entitled to such notice, and that this notice satisfied the requirements of Federal Rule of Civil Procedure 23 and of due process.

IN RE: ALLURA FIBER CEMENT SIDING PRODUCTS LIABILITY LITIGATION

Case No. 2:19-mn-02886

The Honorable David C. Norton, United States District Court, District of South Carolina (December 18, 2020): The proposed Notice provides the best notice practicable under the

circumstances. It allows Settlement Class Members a full and fair opportunity to consider the proposed settlement. The proposed plan for distributing the Notice likewise is a reasonable method calculated to reach all members of the Settlement Class who would be bound by the settlement. There is no additional method of distribution that would be reasonably likely to notify Settlement Class Members who may not receive notice pursuant to the proposed distribution plan.

ADKINS ET AL. v. FACEBOOK, INC.

Case No. 3:18-cv-05982

The Honorable William Alsup, United States District Court, Northern District of California (November 15, 2020): Notice to the class is "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Central Hanover Bank & Tr. Co., 399 U.S. 306, 314 (1650).*

IN RE: 21ST CENTURY ONCOLOGY CUSTOMER DATA SECURITY BREACH LITIGATION

Case No. 8:16-md-02737

The Honorable Mary S. Scriven, United States District Court, Middle District of Florida (November 2, 2020): The Court finds and determines that mailing the Summary Notice and publication of the Settlement Agreement, Long Form Notice, Summary Notice, and Claim Form on the Settlement Website, all pursuant to this Order, constitute the best notice practicable under the circumstances, constitute due and sufficient notice of the matters set forth in the notices to all persons entitled to receive such notices, and fully satisfies the of due process, Rule 23 of the Federal Rules of Civil Procedure, 28 U.S.C. § 1715, and all other applicable laws and rules. The Court further finds that all of the notices are written in plain language and are readily understandable by Class Members.

MARINO ET AL. v. COACH INC.

Case No. 1:16-cv-01122

The Honorable Valerie Caproni, United States District Court, Southern District of New York (August 24, 2020): The Court finds that the form, content, and method of giving notice to the Settlement Class as described in paragraph 8 of this Order: (a) will constitute the best practicable notice; (b) are reasonably calculated, under the circumstances, to apprise the Settlement Class Members of the pendency of the Action, the terms of the proposed Settlement, and their rights under the proposed Settlement, including but not limited to their rights to object to or exclude themselves from the proposed Settlement and other rights under the terms of the Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class Members and other persons entitled to receive notice; and (d) meet all applicable requirements of law, including but not limited to 28 U.S.C. § 1715, Rule 23(c) and (e), and the Due Process Clause(s) of the United States Constitution. The Court further finds that all of the notices are written in plain language, are readily understandable by Settlement Class Members, and are materially consistent with the Federal Judicial Center's illustrative class action notices.

BROWN v. DIRECTV, LLC

Case No. 2:13-cv-01170

The Honorable Dolly M. Gee, United States District Court, Central District of California (July 23, 2020): Given the nature and size of the class, the fact that the class has no geographical limitations, and the sheer number of calls at issue, the Court determines that these methods constitute the best and most reasonable form of notice under the circumstances.

IN RE: SSA BONDS ANTITRUST LITIGATION

Case No. 1:16-cv-03711

The Honorable Edgardo Ramos, United States District Court, Southern District of New York (July 15, 2020): The Court finds that the mailing and distribution of the Notice and the publication of the Summary Notice substantially in the manner set forth below meet the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process and constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all Persons entitled to notice.

KJESSLER ET AL. v. ZAAPPAAZ, INC. ET AL.

Case No. 4:18-cv-00430

The Honorable Nancy F. Atlas, United States District Court, Southern District of Texas (July 14, 2020): The Court also preliminarily approves the proposed manner of communicating the Notice and Summary Notice to the putative Settlement Class, as set out below, and finds it is the best notice practicable under the circumstances, constitutes due and sufficient notice to all persons and entities entitled to receive such notice, and fully satisfies the requirements of applicable laws, including due process and Federal Rule of Civil Procedure 23.

HESTER ET AL. v. WALMART, INC.

Case No. 5:18-cv-05225

The Honorable Timothy L. Brooks, United States District Court, Western District of Arkansas (July 9, 2020): The Court finds that the Notice and Notice Plan substantially in the manner and form set forth in this Order and the Agreement meet the requirements of Federal Rule of Civil Procedure 23 and due process, is the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all Persons entitled thereto.

CLAY ET AL. v. CYTOSPORT INC.

Case No. 3:15-cv-00165

The Honorable M. James Lorenz, United States District Court, Southern District of California (June 17, 2020): The Court approves the proposed Notice Plan for giving notice to the Settlement Class through publication, both print and digital, and through the establishment of a Settlement Website, as more fully described in the Agreement and the Claims Administrator's affidavits (docs. no. 222-9, 224, 224-1, and 232-3 through 232-6). The Notice Plan, in form, method, and content, complies with the requirements of Rule 23 and due process, and constitutes the best notice practicable under the circumstances.

GROGAN v. AARON'S INC.

Case No. 1:18-cv-02821

The Honorable J.P. Boulee, United States District Court, Northern District of Georgia (May 1, 2020): The Court finds that the Notice Plan as set forth in the Settlement Agreement meets the requirements of Fed. R. Civ. P. 23 and constitutes the best notice practicable under the circumstances, including direct individual notice by mail and email to Settlement Class Members where feasible and a nationwide publication website-based notice program, as well as establishing a Settlement Website at the web address of www.AaronsTCPASettlement.com, and satisfies fully the requirements the Federal Rules of Civil Procedure, the U.S. Constitution, and any other applicable law, such that the Settlement Agreement and Final Order and Judgment will be binding on all Settlement Class Members.

CUMMINGS v. BOARD OF REGENTS OF THE UNIVERSITY OF NEW MEXICO, ET AL.

Case No. D-202-CV-2001-00579

The Honorable Carl Butkus, Second Judicial District Court, County of Bernalillo, State of New Mexico (March 30, 2020): The Court has reviewed the Class Notice, the Plan of Allocation and Distribution and Claim Form, each of which it approves in form and substance. The Court finds that the form and methods of notice set forth in the Agreement: (i) are reasonable and the best practicable notice under the circumstances; (ii) are reasonably calculated to apprise Settlement Class Members of the pendency of the Lawsuit, of their rights to object to or opt-out of the Settlement, and of the Final Approval Hearing; (iii) constitute due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) meet the requirements of the New Mexico Rules of Civil Procedure, the requirements of due process under the New Mexico and United States Constitutions, and the requirements of any other applicable rules or laws.

SCHNEIDER, ET AL. v. CHIPOTLE MEXICAN GRILL, INC.

Case No. 4:16-cv-02200

The Honorable Haywood S. Gilliam, Jr., United States District Court, Northern District of California (January 31, 2020): Given that direct notice appears to be infeasible, the third-party settlement administrator will implement a digital media campaign and provide for publication notice in People magazine, a nationwide publication, and the East Bay Times. SA § IV.A, C; Dkt. No. 205-12 at ¶¶ 13–23. The publication notices will run for four consecutive weeks. Dkt. No. 205 at ¶ 23. The digital media campaign includes an internet banner notice implemented using a 60-day desktop and mobile campaign. Dkt. No. 205-12 at ¶ 18. It will rely on "Programmatic Display Advertising" to reach the "Target Audience," Dkt. No. 216-1 at ¶ 6, which is estimated to include 30,100,000 people and identified using the target definition of "Fast Food & Drive-In Restaurants Total Restaurants Last 6 Months [Chipotle Mexican Grill]," Dkt. No. 205-12 at ¶ 13. Programmatic display advertising utilizes "search targeting," "category contextual targeting," "keyword contextual targeting," and "site targeting," to place ads. Dkt. No. 216-1 at ¶¶ 9–12. And through "learning" technology, it continues placing ads on websites where the ad is performing well. Id. ¶ 7. Put simply, prospective Class Members will see a banner ad notifying them of the settlement when they search for terms or websites that are similar to or related to Chipotle, when they browse websites that are categorically relevant to Chipotle (for example, a website related to fast casual dining or Mexican food), and when they browse websites that include a relevant keyword (for example, a fitness

website with ads comparing fast casual choices). Id. ¶¶ 9–12. By using this technology, the banner notice is "designed to result in serving approximately 59,598,000 impressions." Dkt. No. 205-12 at ¶ 18.

The Court finds that the proposed notice process is "'reasonably calculated, under all the circumstances,' to apprise all class members of the proposed settlement." Roes, 944 F.3d at 1045 (citation omitted).

HANLEY v. TAMPA BAY SPORTS AND ENTERTAINMENT LLC

Case No. 8:19-cv-00550

The Honorable Charlene Edwards Honeywell, United States District Court, Middle District of Florida (January 7, 2020): The Court approves the form and content of the Class notices and claim forms substantially in the forms attached as Exhibits A-D to the Settlement. The Court further finds that the Class Notice program described in the Settlement is the best practicable under the circumstances. The Class Notice program is reasonably calculated under the circumstances to inform the Settlement Class of the pendency of the Action, certification of a Settlement Class, the terms of the Settlement, Class Counsel's attorney's fees application and the request for a service award for Plaintiff, and their rights to opt-out of the Settlement Class or object to the Settlement. The Class notices and Class Notice program constitute sufficient notice to all persons entitled to notice. The Class notices and Class Notice program satisfy all applicable requirements of law, including, but not limited to, Federal Rule of Civil Procedure 23 and the Constitutional requirement of Due Process.

CORCORAN, ET AL. v. CVS HEALTH, ET AL.

Case No. 4:15-cv-03504

The Honorable Yvonne Gonzalez Rogers, United States District Court, Northern District of California (November 22, 2019): Having reviewed the parties' briefings, plaintiffs' declarations regarding the selection process for a notice provider in this matter and regarding Angeion Group LLC's experience and qualifications, and in light of defendants' non-opposition, the Court APPROVES Angeion Group LLC as the notice provider. Thus, the Court GRANTS the motion for approval of class notice provider and class notice program on this basis.

Having considered the parties' revised proposed notice program, the Court agrees that the parties' proposed notice program is the "best notice that is practicable under the circumstances." The Court is satisfied with the representations made regarding Angeion Group LLC's methods for ascertaining email addresses from existing information in the possession of defendants. Rule 23 further contemplates and permits electronic notice to class members in certain situations. See Fed. R. Civ. P. 23(c)(2)(B). The Court finds, in light of the representations made by the parties, that this is a situation that permits electronic notification via email, in addition to notice via United States Postal Service. Thus, the Court APPROVES the parties' revised proposed class notice program, and GRANTS the motion for approval of class notice provider and class notice program as to notification via email and United States Postal Service mail.

PATORA v. TARTE, INC.

Case No. 7:18-cv-11760

The Honorable Kenneth M. Karas, United States District Court, Southern District of New York (October 2, 2019): The Court finds that the form, content, and method of giving notice to the Class as described in Paragraph 9 of this Order: (a) will constitute the best practicable notice; (b) are reasonably calculated, under the circumstances, to apprise the Settlement Class Members of the pendency of the Action, the terms of the Proposed Settlement, and their rights under the Proposed Settlement, including but not limited to their rights to object to or exclude themselves from the Proposed Settlement and other rights under the terms of the Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class Members and other persons entitled to receive notice; and (d) meet all applicable requirements of law, including but not limited to 28 U.S.C. § 1715, Rule 23(c) and (e), and the Due Process Clauses of the United States Constitution. The Court further finds that all of the notices are written in simple terminology, are readily understandable by Settlement Class Members, and are materially consistent with the Federal Judicial Center's illustrative class action notices.

CARTER, ET AL. v. GENERAL NUTRITION CENTERS, INC., and GNC HOLDINGS, INC.

Case No. 2:16-cv-00633

The Honorable Mark R. Hornak, United States District Court, Western District of Pennsylvania (September 9, 2019): The Court finds that the Class Notice and the manner of its dissemination described in Paragraph 7 above and Section VII of the Agreement constitutes the best practicable notice under the circumstances and is reasonably calculated, under all the circumstances, to apprise proposed Settlement Class Members of the pendency of this action, the terms of the Agreement, and their right to object to or exclude themselves from the proposed Settlement Class. The Court finds that the notice is reasonable, that it constitutes due, adequate and sufficient notice to all persons entitled to receive notice, and that it meets the requirements of due process, Rule 23 of the Federal Rules of Ci vii Procedure, and any other applicable laws.

CORZINE v. MAYTAG CORPORATION, ET AL.

Case No. 5:15-cv-05764

The Honorable Beth L. Freeman, United States District Court, Northern District of California (August 21, 2019): The Court, having reviewed the proposed Summary Notice, the proposed FAQ, the proposed Publication Notice, the proposed Claim Form, and the proposed plan for distributing and disseminating each of them, finds and concludes that the proposed plan will provide the best notice practicable under the circumstances and satisfies all requirements of federal and state laws and due process.

MEDNICK v. PRECOR, INC.

Case No. 1:14-cv-03624

The Honorable Harry D. Leinenweber, United States District Court, Northern District of Illinois (June 12, 2019): Notice provided to Class Members pursuant to the Preliminary Class Settlement Approval Order constitutes the best notice practicable under the circumstances, including individual email and mail notice to all Class Members who could be identified

through reasonable effort, including information provided by authorized third-party retailers of Precor. Said notice provided full and adequate notice of these proceedings and of the matter set forth therein, including the proposed Settlement set forth in the Agreement, to all persons entitled to such notice, and said notice fully satisfied the requirements of F.R.C.P. Rule 23 (e) and (h) and the requirements of due process under the United States and California Constitutions.

GONZALEZ v. TCR SPORTS BROADCASTING HOLDING LLP, ET AL.

Case No. 1:18-cv-20048

The Honorable Darrin P. Gayles, United States District Court, Southern District of Florida (May 24, 2019): The Court finds that notice to the class was reasonable and the best notice practicable under the circumstances, consistent with Rule 23(e)(1) and Rule 23(c)(2)(B).

ANDREWS ET AL. v. THE GAP, INC., ET AL.

Case No. CGC-18-567237

The Honorable Richard B. Ulmer Jr., Superior Court of the State of California, County of San Francisco (May 10, 2019): The Court finds that (a) the Full Notice, Email Notice, and Publication constitute the best notice practicable under the circumstances, (b) they constitute valid, due, and sufficient notice to all members of the Class, and (c) they comply fully with the requirements of California Code of Civil Procedure section 382, California Rules of Court 3.766 and 3.769, the California and United States Constitutions, and other applicable law.

COLE, ET AL. v. NIBCO, INC.

Case No. 3:13-cv-07871

The Honorable Freda L. Wolfson, United States District Court, District of New Jersey (April 11, 2019): The record shows, and the Court finds, that the Notice Plan has been implemented in the manner approved by the Court in its Preliminary Approval Order. The Court finds that the Notice Plan constitutes: (i) the best notice practicable to the Settlement Class under the circumstances; (ii) was reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of this..., (iii) due, adequate, and sufficient notice to all Persons entitled to receive notice; and (iv) notice that fully satisfies the requirements of the United States Constitution (including the Due Process Clause), Fed. R. Civ. P. 23, and any other applicable law.

DIFRANCESCO, ET AL. v. UTZ QUALITY FOODS, INC.

Case No. 1:14-cv-14744

The Honorable Douglas P. Woodlock, United States District Court, District of Massachusetts (March 15, 2019): The Court finds that the Notice plan and all forms of Notice to the Class as set forth in the Settlement Agreement and Exhibits 2 and 6 thereto, as amended (the "Notice Program"), is reasonably calculated to, under all circumstances, apprise the members of the Settlement Class of the pendency of this action, the certification of the Settlement Class, the terms of the Settlement Agreement, and the right of members to object to the settlement or to exclude themselves from the Class. The Notice Program is consistent with the

requirements of Rule 23 and due process, and constitutes the best notice practicable under the circumstances.

IN RE: CHRYSLER-DODGE-JEEP ECODIESEL MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY LITIGATION

Case No. 3:17-md-02777

The Honorable Edward M. Chen, United States District Court, Northern District of California (February 11, 2019): Also, the parties went through a sufficiently rigorous selection process to select a settlement administrator. See Proc. Guidance for Class Action Sett. ¶ 2; see also Cabraser Decl. ¶¶ 9-10. While the settlement administration costs are significant – an estimated $1.5 million – they are adequately justified given the size of the class and the relief being provided.

In addition, the Court finds that the language of the class notices (short and long-form) is appropriate and that the means of notice – which includes mail notice, electronic notice, publication notice, and social media "marketing" – is the "best notice…practicable under the circumstances." Fed. R. Civ. P. 23(c)(2)(B); see also Proc. Guidance for Class Action Sett. ¶¶ 3-5, 9 (addressing class notice, opt-outs, and objections). The Court notes that the means of notice has changed somewhat, as explained in the Supplemental Weisbrot Declaration filed on February 8, 2019, so that notice will be more targeted and effective. See generally Docket No. 525 (Supp. Weisbrot Decl.) (addressing, inter alia, press release to be distributed via national newswire service, digital and social media marketing designed to enhance notice, and "reminder" first-class mail notice when AEM becomes available).

Finally, the parties have noted that the proposed settlement bears similarity to the settlement in the Volkswagen MDL. See Proc. Guidance for Class Action Sett. ¶ 11.

RYSEWYK, ET AL. v. SEARS HOLDINGS CORPORATION and SEARS, ROEBUCK AND COMPANY

Case No. 1:15-cv-04519

The Honorable Manish S. Shah, United States District Court, Northern District of Illinois (January 29, 2019): The Court holds that the Notice and notice plan as carried out satisfy the requirements of Rule 23(e) and due process. This Court has previously held the Notice and notice plan to be reasonable and the best practicable under the circumstances in its Preliminary Approval Order dated August 6, 2018. (Dkt. 191) Based on the declaration of Steven Weisbrot, Esq. of Angeion Group (Dkt. No. 209-2), which sets forth compliance with the Notice Plan and related matters, the Court finds that the multi-pronged notice strategy as implemented has successfully reached the putative Settlement Class, thus constituting the best practicable notice and satisfying due process.

MAYHEW, ET AL. v. KAS DIRECT, LLC, and S.C. JOHNSON & SON, INC.

Case No. 7:16-cv-06981

The Honorable Vincent J. Briccetti, United States District Court, Southern District of New York (June 26, 2018): In connection with their motion, plaintiffs provide the declaration of Steven Weisbrot, Esq., a principal at the firm Angeion Group, LLC, which will serve as the notice and settlement administrator in this case. (Doc. #101, Ex. F: Weisbrot Decl.) According to Mr.

Weisbrot, he has been responsible for the design and implementation of hundreds of class action administration plans, has taught courses on class action claims administration, and has given testimony to the Judicial Conference Committee on Rules of Practice and Procedure on the role of direct mail, email, and digital media in due process notice. Mr. Weisbrot states that the internet banner advertisement campaign will be responsive to search terms relevant to "baby wipes, baby products, baby care products, detergents, sanitizers, baby lotion, [and] diapers," and will target users who are currently browsing or recently browsed categories "such as parenting, toddlers, baby care, [and] organic products." (Weisbrot Decl. ¶ 18). According to Mr. Weisbrot, the internet banner advertising campaign will reach seventy percent of the proposed class members at least three times each. (Id. ¶ 9). Accordingly, the Court approves of the manner of notice proposed by the parties as it is reasonable and the best practicable option for confirming the class members receive notice.

IN RE: OUTER BANKS POWER OUTAGE LITIGATION

Case No. 4:17-cv-00141

The Honorable James C. Dever III, United States District Court, Eastern District of North Carolina (May 2, 2018): The court has reviewed the proposed notice plan and finds that the notice plan provides the best practicable notice under the circumstances and, when completed, shall constitute fair, reasonable, and adequate notice of the settlement to all persons and entities affected by or entitled to participate in the settlement, in full compliance with the notice requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process. Thus, the court approves the proposed notice plan.

GOLDEMBERG, ET AL. v. JOHNSON & JOHNSON CONSUMER COMPANIES, INC.

Case No. 7:13-cv-03073

The Honorable Nelson S. Roman, United States District Court, Southern District of New York (November 1, 2017): Notice of the pendency of the Action as a class action and of the proposed Settlement, as set forth in the Settlement Notices, was given to all Class Members who could be identified with reasonable effort, consistent with the terms of the Preliminary Approval Order. The form and method of notifying the Class of the pendency of the Action as a class action and of the terms and conditions of the proposed Settlement met the requirements of Rule 23 of the Federal Rules of Civil Procedure, due process, and any other applicable law in the United States. Such notice constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

HALVORSON v. TALENTBIN, INC.

Case No. 3:15-cv-05166

The Honorable Joseph C. Spero, United States District Court, Northern District of California (July 25, 2017): The Court finds that the Notice provided for in the Order of Preliminary Approval of Settlement has been provided to the Settlement Class, and the Notice provided to the Settlement Class constituted the best notice practicable under the circumstances, and was in full compliance with the notice requirements of Rule 23 of the Federal Rules of Civil Procedure, due process, the United States Constitution, and any other applicable law. The Notice apprised the members of the Settlement Class of the pendency of the litigation;

of all material elements of the proposed settlement, including but not limited to the relief afforded the Settlement Class under the Settlement Agreement; of the res judicata effect on members of the Settlement Class and of their opportunity to object to, comment on, or opt-out of, the Settlement; of the identity of Settlement Class Counsel and of information necessary to contact Settlement Class Counsel; and of the right to appear at the Fairness Hearing. Full opportunity has been afforded to members of the Settlement Class to participate in the Fairness Hearing. Accordingly, the Court determines that all Final Settlement Class Members are bound by this Final Judgment in accordance with the terms provided herein.

IN RE: ASHLEY MADISON CUSTOMER DATA SECURITY BREACH LITIGATION

MDL No. 2669/Case No. 4:15-md-02669

The Honorable John A. Ross, United States District Court, Eastern District of Missouri (July 21, 2017): The Court further finds that the method of disseminating Notice, as set forth in the Motion, the Declaration of Steven Weisbrot, Esq. on Adequacy of Notice Program, dated July 13, 2017, and the Parties' Stipulation—including an extensive and targeted publication campaign composed of both consumer magazine publications in People and Sports Illustrated, as well as serving 11,484,000 highly targeted digital banner ads to reach the prospective class members that will deliver approximately 75.3% reach with an average frequency of 3.04 —is the best method of notice practicable under the circumstances and satisfies all requirements provided in Rule 23(c)(2)(B) and all Constitutional requirements including those of due process.

The Court further finds that the Notice fully satisfies Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process; provided, that the Parties, by agreement, may revise the Notice, the Claim Form, and other exhibits to the Stipulation, in ways that are not material or ways that are appropriate to update those documents for purposes of accuracy.

TRAXLER, ET AL. v. PPG INDUSTRIES INC., ET AL.

Case No. 1:15-cv-00912

The Honorable Dan Aaron Polster, United States District Court, Northern District of Ohio (April 27, 2017): The Court hereby approves the form and procedure for disseminating notice of the proposed settlement to the Settlement Class as set forth in the Agreement. The Court finds that the proposed Notice Plan contemplated constitutes the best notice practicable under the circumstances and is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action and their right to object to the proposed settlement or opt out of the Settlement Class in full compliance with the requirements of applicable law, including the Due Process Clause of the United States Constitution and Rules 23(c) and (e). In addition, Class Notice clearly and concisely states in plain, easily understood language: (i) the nature of the action; (ii) the definition of the certified Settlement Class; (iii) the claims and issues of the Settlement Class; (iv) that a Settlement Class Member may enter an appearance through an attorney if the member so desires; (v) that the Court will exclude from the Settlement Class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3).

IN RE: THE HOME DEPOT, INC., CUSTOMER DATA SECURITY BREACH LITIGATION

Case No. 1:14-md-02583

The Honorable Thomas W. Thrash Jr., United States District Court, Northern District of Georgia (March 10, 2017): The Court finds that the form, content, and method of giving notice to the settlement class as described in the settlement agreement and exhibits: (a) constitute the best practicable notice to the settlement class; (b) are reasonably calculated, under the circumstances, to apprise settlement class members of the pendency of the action, the terms of the proposed settlement, and their rights under the proposed settlement; (c) are reasonable and constitute due, adequate, and sufficient notice to those persons entitled to receive notice; and (d) satisfy the requirements of Federal Rule of Civil Procedure 23, the constitutional requirement of due process, and any other legal requirements. The Court further finds that the notice is written in plain language, uses simple terminology, and is designed to be readily understandable by settlement class members.

ROY v. TITEFLEX CORPORATION t/a GASTITE and WARD MANUFACTURING, LLC

Case No. 384003V

The Honorable Ronald B. Rubin, Circuit Court for Montgomery County, Maryland (February 24, 2017): What is impressive to me about this settlement is in addition to all the usual recitation of road racing litanies is that there is going to be a) public notice of a real nature and b) about a matter concerning not just money but public safety and then folks will have the knowledge to decide for themselves whether to take steps to protect themselves or not. And that's probably the best thing a government can do is to arm their citizens with knowledge and then the citizens can make decision. To me that is a key piece of this deal. ***I think the notice provisions are exquisite*** [emphasis added].

IN RE: LG FRONT LOADING WASHING MACHINE CLASS ACTION LITIGATION

Case No. 2:08-cv-00051

The Honorable Madeline Cox Arleo, United States District Court, District of New Jersey (June 17, 2016): This Court further approves the proposed methods for giving notice of the Settlement to the Members of the Settlement Class, as reflected in the Settlement Agreement and the joint motion for preliminary approval. The Court has reviewed the notices attached as exhibits to the Settlement, the plan for distributing the Summary Notices to the Settlement Class, and the plan for the Publication Notice's publication in print periodicals and on the internet, and finds that the Members of the Settlement Class will receive the best notice practicable under the circumstances. The Court specifically approves the Parties' proposal to use reasonable diligence to identify potential class members and an associated mailing and/or email address in the Company's records, and their proposal to direct the ICA to use this information to send absent class members notice both via first class mail and email. The Court further approves the plan for the Publication Notice's publication in two national print magazines and on the internet. The Court also approves payment of notice costs as provided in the Settlement. The Court finds that these procedures, carried out with reasonable diligence, will constitute the best notice practicable under the circumstances and will satisfy.

FENLEY v. APPLIED CONSULTANTS, INC.

Case No. 2:15-cv-00259

The Honorable Mark R. Hornak, United States District Court, Western District of Pennsylvania (June 16, 2016): The Court would note that it approved notice provisions of the settlement agreement in the proceedings today. That was all handled by the settlement and administrator Angeion. The notices were sent. The class list utilized the Postal Service's national change of address database along with using certain proprietary and other public resources to verify addresses. the requirements of Fed.R.Civ.P. 23(c)(2), Fed.R.Civ.P. 23(e) (l), and Due Process....

The Court finds and concludes that the mechanisms and methods of notice to the class as identified were reasonably calculated to provide all notice required by the due process clause, the applicable rules and statutory provisions, and that the results of ***the efforts of Angeion were highly successful and fulfilled all of those requirements*** [emphasis added].

FUENTES, ET AL. v. UNIRUSH, LLC d/b/a UNIRUSH FINANCIAL SERVICES, ET AL.

Case No. 1:15-cv-08372

The Honorable J. Paul Oetken, United States District Court, Southern District of New York (May 16, 2016): The Court approves, as to form, content, and distribution, the Claim Form attached to the Settlement Agreement as Exhibit A, the Notice Plan, and all forms of Notice to the Settlement Class as set forth in the Settlement Agreement and Exhibits B-D, thereto, and finds that such Notice is the best notice practicable under the circumstances, and that the Notice complies fully with the requirements of the Federal Rules of Civil Procedure. The Court also finds that the Notice constitutes valid, due and sufficient notice to all persons entitled thereto, and meets the requirements of Due Process. The Court further finds that the Notice is reasonably calculated to, under all circumstances, reasonably apprise members of the Settlement Class of the pendency of the Actions, the terms of the Settlement Agreement, and the right to object to the settlement and to exclude themselves from the Settlement Class. The Parties, by agreement, may revise the Notices and Claim Form in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting for publication.

IN RE: WHIRLPOOL CORP. FRONTLOADING WASHER PRODUCTS LIABILITY LITIGATION

MDL No. 2001/Case No. 1:08-wp-65000

The Honorable Christopher A. Boyko, United States District Court, Northern District of Ohio (May 12, 2016): The Court, having reviewed the proposed Summary Notices, the proposed FAQ, the proposed Publication Notice, the proposed Claim Form, and the proposed plan for distributing and disseminating each of them, finds and concludes that the proposed plan for distributing and disseminating each of them will provide the best notice practicable under the circumstances and satisfies all requirements of federal and state laws and due process.

SATERIALE, ET AL. v. R.J. REYNOLDS TOBACCO CO.

Case No. 2:09-cv-08394

The Honorable Christina A. Snyder, United States District Court, Central District of California (May 3, 2016): The Court finds that the Notice provided to the Settlement Class pursuant to

the Settlement Agreement and the Preliminary Approval Order has been successful, was the best notice practicable under the circumstances and (1) constituted notice that was reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Action, their right to object to the Settlement, and their right to appear at the Final Approval Hearing; (2) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (3) met all applicable requirements of the Federal Rules of Civil Procedure, Due Process, and the rules of the Court.

FERRERA, ET AL. v. SNYDER'S-LANCE, INC.

Case No. 0:13-cv-62496

The Honorable Joan A. Lenard, United States District Court, Southern District of Florida (February 12, 2016): The Court approves, as to form and content, the Long-Form Notice and Short- Form Publication Notice attached to the Memorandum in Support of Motion for Preliminary Approval of Class Action Settlement as Exhibits 1 and 2 to the Stipulation of Settlement. The Court also approves the procedure for disseminating notice of the proposed settlement to the Settlement Class and the Claim Form, as set forth in the Notice and Media Plan attached to the Memorandum in Support of Motion for Preliminary Approval of Class Action Settlement as Exhibits G. The Court finds that the notice to be given constitutes the best notice practicable under the circumstances, and constitutes valid, due, and sufficient notice to the Settlement Class in full compliance with the requirements of applicable law, including the Due Process Clause of the United States Constitution.

IN RE: POOL PRODUCTS DISTRIBUTION MARKET ANTITRUST LITIGATION

MDL No. 2328/Case No. 2:12-md-02328

The Honorable Sarah S. Vance, United States District Court, Eastern District of Louisiana (December 31, 2014): To make up for the lack of individual notice to the remainder of the class, the parties propose a print and web-based plan for publicizing notice. The Court welcomes the inclusion of web- based forms of communication in the plan. The Court finds that the proposed method of notice satisfies the requirements of Rule 23(c)(2)(B) and due process. The direct emailing of notice to those potential class members for whom Hayward and Zodiac have a valid email address, along with publication of notice in print and on the web, is reasonably calculated to apprise class members of the settlement. Moreover, the plan to combine notice for the Zodiac and Hayward settlements should streamline the process and avoid confusion that might otherwise be caused by a proliferation of notices for different settlements. Therefore, the Court approves the proposed notice forms and the plan of notice.

SOTO, ET AL. v. THE GALLUP ORGANIZATION, INC.

Case No. 0:13-cv-61747

The Honorable Marcia G. Cooke, United States District Court, Southern District of Florida (June 16, 2015): The Court approves the form and substance of the notice of class action settlement described in ¶ 8 of the Agreement and attached to the Agreement as Exhibits A, C and D. The proposed form and method for notifying the Settlement Class Members of the settlement and its terms and conditions meet the requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process, constitute the best notice practicable under the circumstances, and shall

constitute due and sufficient notice to all persons and entities entitled to the notice. The Court finds that the proposed notice is clearly designed to advise the Settlement Class Members of their rights.

OTT v. MORTGAGE INVESTORS CORPORATION OF OHIO, INC.

Case No. 3:14-cv-00645

The Honorable Janice M. Stewart, United States District Court, District of Oregon (July 20, 2015): The Notice Plan, in form, method, and content, fully complies with the requirements of Rule 23 and due process, constitutes the best notice practicable under the circumstances, and is due and sufficient notice to all persons entitled thereto. The Court finds that the Notice Plan is reasonably calculated to, under all circumstances, reasonably apprise the persons in the Settlement Class of the pendency of this action, the terms of the Settlement Agreement, and the right to object to the Settlement and to exclude themselves from the Settlement Class.

EXHIBIT C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

NANCY TAYLOR and HAZEL BENJAMIN, on behalf of themselves and all others similarly situated, Plaintiffs, v. SCI DIRECT, INC. (f.k.a. THE NEPTUNE SOCIETY, INC.); NEPTUNE SOCIETY MANAGEMENT CORPORATION; NCS MARKETING SERVICES, LLC D/B/A NATIONAL CREMATION SOCIETY, and JOHN DOES 1-20, Defendants.	Case No. 20-cv-60709 **CLASS ACTION** **JURY TRIAL DEMANDED**

THIRD AMENDED COMPLAINT

Plaintiffs Nancy Taylor and Hazel Benjamin, on behalf of themselves and all others similarly situated, sues SCI Direct Inc. (f.k.a. The Neptune Society, Inc.) ("SCI Direct"); Neptune Society Management Corporation (individually "NSMC" and together with SCI Direct "Neptune Society"); NCS Marketing Services, LLC d/b/a National Cremation Society ("NCS"); and John Does 1-20 (collectively "Defendants"), alleging on personal knowledge and otherwise on information and belief in this class action complaint as follows:

INTRODUCTION

1. "Preplanning cremation is a gift of love for your family that allows you to live a richer and fuller life with one less thing to worry about…. In addition, by prearranging with National Cremation, you lock in today's prices. This means that your future won't be at the mercy

of rising funerary prices."[1] Defendants tout these and other features in their respective advertising and websites as benefits of prepaid cremation services, including "peace of mind," "affordability," "simplicity," and "flexibility."[2] Recognizing that the prepaid nature of such services and the targeted audience of mostly senior citizens provide ripe grounds for exploitation, the State of Florida has enacted statutory protections regarding prepaid cremation services that require providers, like Defendants, to deposit a significant percentage of their customers' prepaid funds into a state-supervised trust for later disbursement and permits indefinite cancellation and refund of and for those services. This case details how Defendants have intentionally evaded those statutory protections and misled consumers about them, thereby endangering the benefits paid for by Plaintiffs and members of the proposed classes, and restricting the availability and amount of refunds to which Plaintiffs and members of the proposed classes are entitled in the event they later choose to cancel the contract.

2. Approximately 200,000 Floridians die every year.[3] And tens of thousands of the over 5.5 million senior citizens[4] in the State of Florida plan for their inevitable deaths by prepaying for cremation services. These so-called "preneed contracts" allow consumers to purchase in advance (and at current costs) cremation services and related merchandise (urns, flowers, memorial guest books, etc.). Such agreements allow the purchaser to plan their own cremation arrangement and spare their loved ones from the expense and stress of managing the purchaser's cremation in the immediate aftermath of their death.

[1] National Cremation, "Why Choose Cremation?" https://www.nationalcremation.com/why-choose-cremation (last visited March 15, 2020).
[2] *Id.*
[3] *See* https://www.cdc.gov/nchs/data/nvsr/nvsr68/nvsr68_09-508.pdf (at Table 12).
[4] *See* http://elderaffairs.state.fl.us/doea/pubs/stats/County_2018_projections/Counties/Florida.pdf (2018 estimate, defining senior citizen as anyone 60+).

3. Preneed cremation services, however, have inherent risks – specifically the risk that when the cremation services are needed years or even decades in the future, the service provider who sold the preneed agreement is no longer in business and is thus unable to perform the contracted-for services. Alternatively, a customer who bought preneed cremation services from a specific provider in their local area may move to another part of the country (making the provider impractical for their cremation services) or may decide that they no longer wish to be cremated, making it important to customers purchasing preneed cremation services to be entitled to a refund on their preneed cremation services (and to understand beforehand how much of their purchase price is refundable) if they cancel because their life circumstances change.

4. To address these concerns, Florida passed laws regulating preneed contracts that require preneed service providers to place all (or a portion) of funds paid on a preneed contract within a trust. Under the statutory option elected by Defendants in selling preneed contracts, Defendants were required to deposit in a trust a minimum of:

a. 70% of the purchase price for preneed cremation-related services;

b. 100% of funds collected for cash advance items (including taxes, fees, gratuities and other out-of-pocket expenses which will be paid to third parties); and

c. for undelivered merchandise, the greater of:

i. 30% of the applicable merchandise retail sale price; or

ii. 110% of the wholesale cost of such merchandise (as determined by Florida statutes).

Additionally, the purchaser is entitled by law to cancel the contract at any time and receive a refund of 100% of the purchase price of preneed cremation services.

5. In order to ensure that consumers are accurately informed about the services and merchandise purchased and their statutory rights, the Florida legislature imposed detailed and specific requirements on preneed providers as to the type and form of contracts that they are permitted to use with customers. This includes, among other things, a requirement for a preneed licensee to provide, "on the signature page of the written contract, clearly and conspicuously in boldfaced 10-point type or larger": (a) "The words 'purchase price'"; (b) "The amount to be trusted"; (c) "The amount to be refunded upon contract cancellation"; and (d) "A statement that the customer shall have 30 days from the date of execution of contract to cancel the contract and receive a total refund of all moneys paid for items not used."

6. Defendants have wrongfully exploited the differential statutory treatment of preneed cremation services and preneed merchandise in Florida to decrease the amount of money placed into trust, decrease the refund amount on preneed cremation services to which the purchaser is entitled when cancelling (thereby discouraging cancellations, as customers who do cancel would lose a large portion of the amount they paid), and increase the amount of prepaid money they can put in their own pockets, all to create larger windfalls and immediate profits for Defendants and all to the detriment of their customers. Despite advertising on Neptune Society's and NCS's websites and elsewhere that "Your money is placed into a state-required trust fund," Defendants utilize a bait-and-switch to induce customers to enter into agreements in which a majority of their money is not placed into trust and is not refundable to them in the event of cancellation.

7. The crux of this scheme is Neptune Society's Standard Neptune Plan[5] and NCS's Plan—packages that Defendants advertise on their respective websites and elsewhere to customers

[5] NCS's plans, contracts, and activities are substantially similar to Neptune Society's plans, contracts, and activities. For ease of reference, in some places this complaint uses the Neptune Society's plans, contracts, and activities to represent NCS's contracts, and activities as well.

as a bundled discount on a set of cremation services and merchandise compared to Defendants' a la carte General Price List prices for those same services and compared to Defendants' Direct Cremation Plan. Defendants lure customers into purchasing the Standard Neptune Plan or NCS Plan—as virtually all of its preneed cremation customers do—by charging the same or slightly more than the customer would ordinarily pay for just the cremation services. However, through the ruse of the Standard Neptune Plan or NCS Plan, Defendants artificially and dramatically reallocate over half the price of the entire transaction from fully-refundable cremation services to 30-day non-refundable merchandise. The net result? Consumer refunds are cut nearly in half if they choose to cancel the contract after 30 days, making it extremely damaging to consumers who through living circumstances or change of preference decide they no longer need preneed cremation services in the state of Florida. In contrast, once that 30-day period expires, Defendants can now immediately book over $1,300 more than they could have if the customer purchased just the cremation services, utterly free from the trust requirement or any risk of refund due to cancellation.

8. Defendants' sales pitch is that the customer will essentially receive the merchandise for free or for just a small increase in the price. But as outlined herein, the merchandise actually has high and hidden costs under the Standard Neptune Plan or NCS Plan because customers are precluded from recouping the true value of their preneed cremation services if they exercise their statutory right to cancel the contract in the future, making cancellation more harmful to those consumers than it should be under Florida's laws. Should customers decide they need to cancel (because, for example, they relocate away from the State of Florida and Defendants' service area to live near family elsewhere as they age or they decide they want burial rather than cremation), Defendants' scheme leaves them with a smaller amount available as a refund. Many consumers,

faced with losing hundreds of dollars if they exercise their cancellation rights, stay in a plan that they do not want and should not be required to keep under Florida's laws governing preneed cremation contracts.

9. When customers choose the Standard Neptune Plan or NCS Plan, Defendants require them to execute two separate but tied contracts with Neptune Society or NCS—a "Preneed Funeral Agreement" and a separate "Retail Merchandise Agreement." Even though the wholesale cost of the merchandise is less than or equal to $25.00, and the actual retail value not much higher, Defendants then arbitrarily apportion the *majority* of the payments made under the Standard Neptune Plan and NCS Plan ($1,000 or more) to the merchandise.

10. As a direct result of this bookkeeping sleight-of-hand under the Standard Neptune Plan or NCS Plan, Defendants place in trust barely 50% of the amount they would be required to contribute for the sale of cremation services alone without the merchandise. Hence, Defendants immediately increase their cash flow and bottom line.

11. The result for consumers is quite the opposite. The Florida statutes mandate indefinite consumer refunds for prepaid services when cancelled, but not for delivered, prepaid merchandise. By allocating more than 50% of payments under the Standard Neptune Plan to merchandise, Defendants reduce—by nearly half—the amounts consumers can receive as a refund in the event of cancellation beyond 30 days, the amount they can transfer to another funeral services provider, and the amounts placed in trust to protect consumers in the event of Defendants' future default. This traps the consumer into preneed cremation contracts with Defendants, as the consumer stands to lose hundreds of dollars should they exercise their cancellation rights under the contract and Florida law.

12. Nor can customers keep just the prepaid services under the Standard Neptune Plan or NCS Plan and return the merchandise for a full refund on the merchandise's listed price (something permitted under Florida law within 30 days of executing an agreement). Defendants foreclose such an avenue by inserting a clause into the Retail Merchandise Agreement that a return of merchandise cancels not only the Retail Merchandise Agreement, but also the ostensibly separate Preneed Funeral Agreement—"Your return pursuant to this section is the cancellation of this Agreement ***and also operates as Purchaser's written request to cancel their Preneed Funeral Agreement***, unless the Preneed Funeral Agreement has been made irrevocable." (emphasis added)

13. Even worse, Defendants violated their statutory obligations by deceiving customers into believing that it did not matter how Defendants allocated the amounts in the contract—even though under the statute it very much does matter—by representing to customers that their right to an indefinite refund was the same no matter how Defendants allocated the total purchase price even though the statutorily mandated language requires disclosure of this very fact.

14. Whereas the Florida legislature required Defendants to disclose the amount that would be refunded if the customer cancels at any time and that the remainder (merchandise) can be refunded only if the customer cancels within 30 days, Defendants in their contracts never told Plaintiffs and the class how much they would be entitled to if they cancelled the contract at any time. Instead, Defendants deceptively told them that both the merchandise and the services would be refunded in their entirety only if cancelled within 30 days. Whereas a customer provided with the proper statutory disclosures would be informed that how Defendants allocate the purchase price to services and merchandise mattered because the former would be fully refundable indefinitely and the latter would be refunded only if cancelled within 30 days, Plaintiffs and the class were told it did not matter how Defendants allocated the purchase price between the services

and the merchandise because the right to a refund was the same no matter what. As a result, Plaintiffs and the class acquiesced to Defendants' gross over-allocation of large amounts of the purchase price to merchandise with little value because they were wrongly told that it did not matter.

15. The contracts that Defendants required Plaintiffs and class members to execute as part of their purchase of the Standard Neptune Plan are void as against public policy, insofar as they conflict with and frustrate the purposes of Florida statutes, specifically Fla. Stat. §§ 497.450-497.468, which govern the sale of preneed cremation contracts, the trust treatment of funds received for preneed cremation contracts, and the refunds of such funds in the event of cancellation.

16. Defendants' bait-and-switch and deceptive sales and accounting practices related to the Standard Neptune Plan and NCS Plan violate the Florida Deceptive and Unfair Trade Practices Act ("FDUTPA") and the Florida Funeral, Cemetery, and Consumer Services Act.

17. Furthermore, preneed cremation services are primarily (though not exclusively) purchased by those over the age of 60, including Plaintiffs. Indeed, the Neptune Society contracts customers are required to execute under the Standard Neptune Plan require the consumer/beneficiary to indicate their date of birth. Defendants' deceptive and unfair trade practices related to the Standard Neptune Plan therefore also qualify for FDUTPA's enhanced civil penalties (of up to $15,000 for each such violation) for "willfully using… a method, act, or practice in violation of [FDUTPA] which victimizes or attempts to victimize a senior citizen."

18. Additionally, the actual fair-market value of the merchandise sold to customers is, in and of itself, a deceptive and unfair trade practice. Customers who purchase a preneed contract from Defendants are not provided a sample of the applicable merchandise, nor are they provided

an opportunity to examine any part of the merchandise prior to purchase. As a result, customers do not know that the retail fair market value of such merchandise is close to zero, and the written descriptions of such merchandise are, at best, grossly misleading.

19. Defendants compound their deceptive practices by selling, as an addendum to the Standard Neptune Plan and NCS Plan, a Transportation and Relocation Protection Plan that "protects the Beneficiary of the Preneed Funeral Agreement from incurring additional out-of-pocket expenses if death occurs while beneficiary is traveling anywhere in the world or if Beneficiary relocates within the contiguous United States." The Transportation and Relocation Protection Plan is marketed as covering the logistics of dealing with cremating the purchaser's remains should they unexpectedly die outside of the service area of one of Defendants' providers.

20. Defendants' practices in selling the Transportation and Relocation Protection Plan are unlawful, unfair, and deceptive in a manner that harms Florida consumers in at least two ways. First, the Transportation and Relocation Protection Plan states that "Neptune Society [or NCS] is a third party seller for MASA," or Medical Air Services Association of Florida, Inc., for the Plan. Yet, Defendants conceal their own financial interest in selling this plan, creating the impression that the cost of the Transportation and Relocation Protection Plan is a pass-through fee in which Defendants have no financial interest.

21. In reality, when Defendants sell a Transportation and Relocation Protection Plan, they collect the money from the customer and then pay MASA a set rate (less than $165, or 1/3 of the standard amount charged), regardless of how much Defendants charged the customer. On information and belief, the portion that Defendants retain is the majority of the cost charged to the customer for these plans, constituting a financial interest that Defendants fail to disclose to consumers, all while instead providing the false net impression that all of their money is sent to

MASA. Defendants collecting the Transportation and Relocation Protection plan fee charged to the customer, and then paying MASA a set rate for the plan regardless of what Defendants charged the customer, harms consumers like Plaintiffs, and Defendants' retention of that undisclosed financial interest constitutes a separate violation of FDUTPA. Defendants conduct here is wholly separate and distinct from any price, route, or service of MASA, as the illegal retention of the majority of a consumer's purchase price has no relation to any service that MASA may provide.

22. Second, despite the Transportation and Relocation Protection Plan being a "service offered or provided in connection with the final disposition, memorialization, interment, entombment, or inurnment of human remains or cremated remains" under Fla. Stat. § 497.005(9), on information and belief Defendants do not deposit the required 70% of the purchase price of the Transportation and Relocation Protection Plan within a preneed trust and, per the contract itself, limits full refunds on the Transportation and Relocation Protection Plan to only the first 30 days after the date of sale.

23. All of these activities have harmed Plaintiffs and the proposed classes of consumers under FDUTPA and the Funeral, Cemetery, and Consumer Services Act because Defendants' misconduct has caused Plaintiffs and each member of the proposed classes to have suffered: (a) reduced preneed amounts placed in trust for their benefit; (b) lower refundable amounts if they cancelled their preneed contract than what they should have been entitled to; and (c) out-of-pocket losses through the undisclosed receipt of a substantial amount of the price paid for the Transportation and Relocation Protection Plan.

PARTIES, JURISDICTION, AND VENUE

24. Plaintiff Nancy L. Taylor is an individual who is a citizen and resident of West Palm Beach, Florida. At the time she purchased the Neptune Society's Standard Neptune Plan and Transportation and Relocation Protection Plan from Defendants, Ms. Taylor was 69 years old.

25. Plaintiff Hazel Benjamin is an individual who is a citizen and resident of Homosassa, Florida. At the time she purchased the NCS Plan and Transportation and Relocation Protection Plan from Defendants, Ms. Benjamin was 64 years old.

26. Defendant SCI Direct, Inc. is a Florida corporation with its principal executive offices at 1929 Allen Parkway, Houston, Texas, 77019 and its principal place of business in Florida at 1250 S. Pine Island Road, Suite 500, Plantation, Florida, 33324. SCI Direct, Inc. was formerly known as The Neptune Society, Inc., but changed its name with the Florida Division of Corporations to SCI Direct, Inc. effective December 17, 2013. During the times mentioned herein, SCI Direct, Inc. conducted business throughout the State of Florida, including within Broward County, either directly or through control of one of its subsidiaries or alter egos. SCI Direct, Inc. is 100% owned by Service Corporation International, and is now, and at all times relevant to this action was, a subsidiary of Service Corporation International.

27. SCI Direct operates and directly employs people in Florida to sell cremation services and merchandise provided by NSMC.

28. Defendant Neptune Society Management Corporation is a California corporation with its principal address at 1929 Allen Parkway, Houston, Texas, 77019. During the times mentioned herein, Neptune Society Management Corporation conducted business throughout the State of Florida, either directly or through control of one of its subsidiaries or alter egos. Neptune Society Management Corporation is now, and at all times relevant to this action was, a subsidiary

of Service Corporation International. The registered fictitious business name of Neptune Society Management Corporation is "Neptune Society."

29. Defendant NCS Marketing Services, LLC is a Florida Corporation with its principal address at 1929 Allen Parkway, Houston, Texas, 77019. During the times mentioned herein, NCS Marketing Services, LLC conducted business throughout the State of Florida, either directly or through control of one of its subsidiaries or alter egos. NCS Marketing Services, LLC is now, and at all times relevant to this action was, a subsidiary of Service Corporation International. The registered fictitious business name of NCS Marketing Services, LLC is "National Cremation Society."

30. Defendants John Does 1-20 are subsidiaries or affiliates offering prepaid cremation services and merchandise within the State of Florida.

31. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2)(A) because this is a class action for a sum exceeding $5,000,000.00, exclusive of interest and costs, and in which at least one class member is a citizen of a state different from at least one Defendant.

32. Defendants are subject to personal jurisdiction in the State of Florida because SCI Direct was incorporated in Florida and maintains its principal place of business in Florida, NSMC is a foreign corporation registered with the Florida Division of Corporations as authorized to transact business in Florida, NCS was incorporated in Florida, and all Defendants regularly transact business in both Florida and this judicial district by, among other things, offering their services and products in Florida and this judicial district either directly or through subsidiaries, and employing individuals in the State of Florida to market and sell their services and products in the State of Florida and in this judicial district. In addition, Defendants have committed tortious

acts in this judicial district or directed such actions from its subsidiaries' and/or other Defendants' corporate offices located in this judicial district.

33. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(1) because Defendants are deemed to "reside" in this district as a result of their contacts within this district.

34. Venue is also proper pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events and/or omissions giving rise to Plaintiffs' claims occurred in this district or were directed from this district.

35. Finally, venue is proper under 28 U.S.C. § 1391(b)(3) because Defendants are subject to personal jurisdiction in this district and have committed tortious acts in this judicial district.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

I. Preneed Funeral Services and the Florida Statutes Governing Them

36. Funeral services, including cremation services, are sold in two ways: (1) "at-need" services are funeral services sold to survivors for the funeral of a loved one who has just died; and (2) "preneed" services are funeral services sold in advance for a specified beneficiary before that beneficiary's death.

37. The consumer base for preneed services is dominated by senior citizens over the age of 60, who purchase preneed plans as part of estate and end-of-life planning. Indeed, preneed service providers such as Defendants extensively market their services to senior citizens through online and print advertising. Neptune Society's and NCS's websites for preneed services prominently feature pictures of silver-haired (apparent) senior citizens, the target consumers for preneed services. On information and belief, Neptune Society and NCS also place advertisements extensively in publications and on websites directed to senior citizen audiences.

38. When a Florida consumer purchases preneed funeral services, the consumer typically pays for or agrees to pay for the services at the time of purchase, either by full payment up-front or through an installment contract, even though services are not provided until the intended beneficiary has died.

39. Fla. Stat. § 497.005(61) defines a preneed contract as "any arrangement or method, of which the provider of funeral merchandise or services has actual knowledge, whereby any person agrees to furnish funeral merchandise or service in the future." These "preneed contracts" allow consumers to purchase in advance (and at current costs):

a. burial/cremation *services*, defined under Fla. Stat. § 497.005(9) as "any service offered or provided in connection with the final disposition, memorialization, interment, entombment, or inurnment of human remains or cremated remains"; and

b. burial/cremation *merchandise*, defined under Fla. Stat. § 497.005(7) as "any personal property offered or sold by any person for use in connection with the final disposition, memorialization, interment, entombment, or inurnment of human remains or cremated remains, including, but not limited to, caskets, outer burial containers, alternative containers, cremation containers, cremation interment containers, urns, monuments, private mausoleums, flowers, benches, vases, acknowledgment cards, register books, memory folders, prayer cards, and clothing."

40. Under applicable Florida statutes, there are two types of preneed trust contracts, *i.e.*, revocable and irrevocable. In the case of revocable preneed trusts, the purchaser has the right to (i) cancel the applicable contract at any time and receive a full refund of the purchase price for

the preneed services (but not the merchandise or cash advance items already purchased or funds expended), or (ii) transfer the preneed services refund to a different funeral and/or cremation services provider. On the other hand, in the case of irrevocable trusts, purchasers have no right of cancellation, but retain only the right to transfer the preneed services refund to a different provider.

41. Because consumers may purchase preneed funeral services years, or even decades, in advance of death, there is a significant risk that the services purchased will not be available when needed. A funeral services provider might go out of business in the intervening years—a risk Defendants are acutely aware of, as they petitioned the State of Florida's funeral board for permission to remove preneed funds from a trust fund during a time of financial distress in 2000.

42. Alternatively, the needs or wishes of the beneficiary may change. The beneficiary might move out of the provider's service area and wish to establish a preneed contract with a funeral services provider in their new location, or they might wish to change the type of funeral (burial vs. cremation) for their remains and thus no longer desire the preneed services for which they paid. Other customers may simply decide that they want a different funeral home or cremation services provider to handle their cremation. Florida law provides consumers the right to change their mind, for any reason at all, and move their preneed funds from one provider to another or obtain a full refund (minus applicable processing fees) of the purchase price of preneed cremation services.

43. In order to protect consumers in Florida from the risk of non-performance, and to provide consumers portability of prepaid services and the ability to obtain refunds should their preneed cremation plans change, Florida passed statutory protections designed to regulate the sale of preneed contracts for funeral, burial, and cremation services and merchandise. *See* Florida Statutes, Chapter 497, Part IV. Included in these provisions are requirements that the bulk of the

proceeds received for a preneed contract be placed in trust, with preneed providers able to select among various specific means for compliance.

44. Defendants placed the proceeds from preneed contracts in trust pursuant to Fla. Stat. § 497.458: "Any person who is paid, collects, or receives funds under a preneed contract for funeral services or merchandise or burial services or merchandise shall deposit an amount at least equal to the sum of 70 percent of the purchase price collected for all services sold and facilities rented; 100 percent of the purchase price collected for all cash advance items sold; and 30 percent of the purchase price collected or 110 percent of the wholesale cost, whichever is greater, for each item of merchandise sold."[6]

45. The Florida statute also sets refund terms for preneed contracts, understanding that the ability for consumers to obtain full refunds (minus applicable processing fees) on preneed contracts should their life circumstances change was important to protect consumers. Under Fla. Stat. § 497.459(1), a purchaser "may cancel a preneed contract within 30 days of the date that the contract was executed provided that the burial rights, merchandise, and services have not been used" and is "entitled to a complete refund of the amount paid, except for the amount allocable to any burial rights, merchandise or services that have been used."

46. With respect to refunds sought after 30 days, the Florida statute differentiates between services and merchandise, again allowing a full refund for services, but limiting merchandise refunds to those items which the preneed provider cannot, or does not, deliver. *Compare* Fla. Stat. § 497.459(2)(a) (entitles any purchaser of a preneed contract to "cancel the services, facilities, and cash advance items portions of a preneed contract ***at any time***, and…be

[6] Neptune Society's Standard Neptune Plan and NCS's Plan state that "Seller shall deposit into trust an amount at least equal to the sums of 70% of the purchase price collected for all services sold and facilities rented."

entitled to a full refund of the purchase price allocable to such items" (emphasis added)), *with* Fla. Stat. § 497.459(2)(b) (purchaser can "cancel the *merchandise* portion of a preneed contract" but is only "entitled to a full refund of the purchase price allocable to the specific item or items of merchandise that the preneed licensee *cannot or does not deliver*" (emphasis added)).

47. Also included in these statutes are provisions prohibiting any advertising that is deceptive, misleading, omits relevant information, or has a capacity or tendency to mislead, deceive, or create false or unjustified expectations.

48. In order to inform customers prior to executing the contract that there were significant differences in the trust requirements and refund rights between preneed services purchased and preneed merchandise purchased, the statute requires Defendants to make certain disclosures in the contract. The statute provides that "[a] preneed licensee offering to provide burial rights, merchandise, or services to the public shall:

> (7) In a manner established by rule of the licensing authority, provide on the signature page of the written contract, clearly and conspicuously in boldfaced 10-point type or larger, the following:
>
> a) The words 'purchase price.'
>
> b) The amount to be trusted.
>
> c) The amount to be refunded upon contract cancellation.
>
> d) The amounts allocated to merchandise, services, and cash advances.
>
> e) The toll-free number of the department which is available for questions or complaints.
>
> f) A statement that the customer shall have 30 days from the execution of contract to cancel the contract and receive a total refund of all moneys paid for items not used.

49. As a result, any customer who is purchasing both preneed services and merchandise at the same time (*i.e.*, 99% of Defendants' customers) is required to be provided in one single place with the information necessary to understand how the purchase price was being allocated between

services and merchandise, that the amount to be trusted depended on that allocation, and that the amounts allocated to services would be fully refundable indefinitely whereas the amounts allocated to merchandise would be refundable only within 30 days.

II. Defendants' Bait-and-Switch

50. Aware of the above differences in Florida law, Defendants engage in a series of deceptive and unfair practices and statutory violations to induce customers to purchase a plan that arbitrarily maximizes the upfront cash received by Defendants while minimizing the amounts placed in trust and available for refund should customers decide to cancel after 30 days or transfer their services to another provider.

51. First, Defendants price a Direct Cremation Standard Plan as somewhere in the range of $2,000-$2,300. This includes everything that is necessary for a cremation but without any merchandise. Were a customer to purchase this plan alone, 70% of the money would be placed into trust, and the customer would be entitled to a 100% refund at any time.

52. Next, Defendants provide a la carte prices for merchandise that are incredibly high: $498.00 for a memory chest, $329.00 for an urn, $199.00 for a keepsake plaque, and, remarkably, $185.00 for a "planning guide."[7] The wholesale cost of these items is equal to, or less than, approximately $25, and the fair market retail value not much higher. If Defendants deliver these items to the customer upon or before cancellation, the customer is entitled to no refund for the merchandise after 30 days. Few, if any, customers purchase merchandise from Defendants a la carte.

53. Instead, almost all customers purchase the Standard Neptune Plan or NCS Plan, consisting of direct cremation services and all the merchandise listed above, for either the same

[7] On information and belief, the planning guide is a PDF file that Defendants email to customers or print for customers, and thus has *de minimis* marginal cost to reproduce.

price as, or a slightly higher ($100-$200) price than, the direct cremation services alone. By including vastly inflated figures in its price list for merchandise, Neptune Society and NCS steer consumers towards the Neptune Society's Standard Neptune Plan or the NCS Plan, which provide the over-priced merchandise in combination with all of the ordinary and standard cremation services at what appears to be a bargain discount at either the same price or only slightly more than the direct cremation services alone.

54. As a result of these sales tactics, virtually all customers purchase the Standard Neptune Plan with Neptune Society, and the same is true for NCS. While Plaintiffs does not yet have the figures for Florida, a recently filed complaint by the California Attorney General against Defendants reveals that in California, a state in which Defendants have operations similar in scope to Florida and in which Defendants engage in the same sales tactics, 99% of Defendants' customers chose the Standard Neptune Plan. The numbers are likely substantially similar in Florida.

55. Throughout this time period, the Standard Neptune Plan and its price were placed prominently on the first page of Neptune Society's General Price List. The subsequent pages of the General Price List set forth itemized selections that customers can purchase a la carte under two categories: (1) "Services (Sold on a preneed basis)" and (2) "Merchandise." Each itemized selection has a listed price if purchased separately. These itemized pages of the General Price List also indicate (with an asterisk) the services and merchandise included in the Standard Neptune Plan. According to the General Price List, "[i]f purchased separately, total cost of these items [in the Standard Neptune Plan] is $3,607.00-$3,757.00." NCS had a similar list.

56. Only at the time of contract signing does Neptune Society or NCS reveal to the customer that the Standard Neptune Plan or NCS Plan—marketed by Defendants as a single package and a single transaction—will actually consist of two contracts with Neptune Society or

NCS that are tied so they cannot be executed or cancelled individually: (1) a "Preneed Funeral Agreement" contract covering the cremation services that is substantially discounted from the price listed on the price sheet; and (2) a "Retail Merchandise Agreement" contract in which the customer will pay the full, vastly-inflated, list prices for the merchandise.

57. Neptune Society and NCS make it impossible to execute only one half of these two contracts—to obtain the Standard Neptune Plan or NCS Plan you must execute both. Indeed, Neptune Society and NCS affirmatively and inextricably ties the two contracts together so that you cannot cancel the merchandise contract and keep the services agreement within the 30-day merchandise cancellation window The Retail Merchandise Agreements requires that any cancellation of the ostensibly separate Retail Merchandise Agreement within 30 days also cancels the Preneed Funeral Agreement for cremation services.

58. Defendants' sales and marketing practices create the impression that customers lose nothing and gain valuable merchandise by purchasing the Neptune Society's Standard Neptune Plan or NCS Plan in lieu of a Direct Cremation Standard Plan. However, the reality is markedly different. By splitting the plan into two tied contracts with Neptune Society or NCS that are not available individually, and then heavily discounting the cremation services and vastly overcharging for the merchandise via those contracts with Neptune Society or NCS, Defendants harm the customer by placing only a fraction of the value of the cremation services into trust and dramatically lowering the amount the consumer can have refunded or transferred to another provider if they decide to cancel with Defendants after 30 days have elapsed.

59. This practice not only reduces the protection afforded against Defendants' default, it also reduces the portability of the preneed contract because it results in a substantially lower refund should the customer cancel after 30 days. As the chart below illustrates, a customer

purchasing the Standard Neptune Plan with Neptune Society would have only $783.30 placed in trust against Neptune Society's future default and would have only $1,119.00 available for refund after 30 days. In contrast, a customer purchasing the identical set of cremation and shipping services (minus the merchandise) through a combination of the Direct Cremation Standard Plan plus Packaging and Shipping of Cremated Remains would have $1,488.90 placed in trust and their full purchase price of $2,127.00 available for refund if they should move or choose to change providers.

60. The following chart shows the prices, amounts paid in trust, and amounts subject to refund under: (1) the Standard Neptune Plan; (2) the Direct Cremation Standard Plan plus Packaging and Shipping of Cremated Remains (which amounts to the same set of cremation services provided under the Standard Neptune Plan); and (3) the Price List prices for the same services and merchandise purchased a la carte.

Services	Standard Neptune Plan	Direct Cremation, Standard Plan (Plus Packaging/Shipping Cremated Remains) ($)	General Price List A La Carte ($)
Basic Services of Funeral Director and Staff	Included	Included	950.00
Transportation within Service Area	Included	Included	329.00
Climate Controlled Holding Facility	Included	Included	339.00
Cremation/Crematory Fee	Included	Included	359.00
Alternative Container (Cardboard Receptacle)	Included	Included	95.00
Non-Shipping Services Sub-Total		**1,977.00**	**2,072.00**
Packaging and Shipping Cremated Remains	Included	150.00	150.00
All Services (incl. Shipping) Sub-Total		**2,127.00**	**2,222.00**
High Gloss Memento Chest	Included		498.00
Urn (Brown Burl Finish or Biodegradable)	Included		329.00
Forever Love Candle Plaque Keepsake	Included		199.00
Thank You Cards (25)	Included		25.00
A Planning Guide	Included		185.00
Making Everlasting Memories (online memorial)	Included		149.00
Merchandise Sub-Total			**1,385.00**
Total Price of Plan[8]	**2,504.00**	**2,127.00**	**3,607.00**
Amounts Placed in Trust (70% of Services, 30% of Non-Delivered Merchandise)	**783.30**	**1,488.90**	**1,555.40**
Amounts Refundable After 30 days (100% of Services, 0% Delivered Merchandise)	**1,119.00**	**2,127.00**	**2,222.00**

61. This structure benefits and unjustly enriches Defendants because they place only $783.30 into the trust for the entire package of services and merchandise and will only have to refund $1,119 to the consumer if the contract is cancelled after 30 days. In contrast, if the same services are purchased under the Direct Cremation Standard Plan plus a la carte Packaging and

[8] Plan refers to: (1) the Standard Neptune Plan vs. (2) the Direct Cremation Standard Plan plus Packaging and Shipping of Cremated Remains (but no merchandise) vs. (3) purchasing all services/merchandise included in the Standard Neptune Plan a la carte based on General Price List prices.

Shipping of Remains, $1,488.90 are placed into trust, and the full amount of $2,127.00 is refunded if cancelled after 30 days.

62. This structure improperly traps consumers who may wish to cancel their preneed contracts due to a move out of state, or a desire to change from cremation to burial–if they exercise their right, guaranteed under Florida statute, to cancel the contract, it will mean they forfeit hundreds of dollars to Defendant. This damages consumers by constraining their choices concerning cancelling or transferring preneed cremation contracts to other providers, and is directly contrary to the public policy of Florida, which intended to make preneed cremation contracts readily cancellable and refundable should consumers change their mind or need to change providers.

63. Defendants' advertising on their respective websites and elsewhere is deceptive, misleading, has the capacity or tendency to deceive or mislead, creates false or unjustified expectations, and omits relevant facts required not to make it materially misleading because Defendants advertise that a consumer's money will be placed into trust, that a consumer who purchases the Standard Neptune Plan or NCS Plan is purchasing a single integrated plan for one price, and that the Standard Neptune Plan or NCS Plan is better or equivalent to purchasing or negotiating the price of the Direct Cremation Plan with no meaningful drawbacks.

64. When comparing the Direct Cremation Plan and the Standard Neptune Plan or NCS Plan, a consumer would want to know how the two plans differ on the terms of cancellation (including specifically the amount eligible for a refund in the event of cancellation) and the amounts placed in trust. A close examination reveals that the two plans contain substantively distinct trust protections and provide widely disparate cancellation refunds.

65. Consumers are injured because only a fraction of the true cost of cremation services is placed into trust and made available to them if Defendants should go bankrupt or default on the provision of services. Moreover, with respect to refunds after 30 days, purchasers of the Standard Neptune Plan or NCS Plan will receive only $1,119.00 on their outlay of $2,504.00, while purchasers of the Direct Cremation Standard Plan plus a la carte Packaging and Shipping of Remains will receive 100% of the $2,127.00 they paid.

66. To put this another way, Defendants received $1,385.00 for the "merchandise" sold under its bait-and-switch – merchandise that had a *de minimis* wholesale cost to Defendants and a value that was incidental at best to the consumer (as the merchandise was merely an add-on to the actual cremation services being purchased). This amount was not refundable even if the customer cancelled the preneed contract because the merchandise was delivered by Defendants within weeks of signing.

67. Thus, because of Neptune Society's and NCS's wrongful, deceptive, and unfair method of apportioning the Standard Neptune Plan or NCS Plan discount, customers who purchased the Standard Neptune Plan or NCS Plan paid approximately $1,200.00 for merchandise they would not have otherwise purchased. The same is true for NCS's customers.

68. Notably missing from the General Price List or Neptune Society's or NCS's description of the Standard Neptune Plan or NCS Plan is any statement that Defendants will place far fewer funds ($783.30 versus $1,488.90) into a preneed, fully refundable trust under the Standard Neptune Plan or NCS Plan as they would if the same services were purchased under the Direct Cremation Standard Plan plus Shipping. Nor is there any indication that the refund amount available under the Standard Neptune Plan ($1,119.00) is barely more than half that available under the Direct Cremation Standard Plan plus shipping ($2,127.00). These are material terms of

the agreements, and consumers need this information in order to evaluate and compare the transactions being offered, as Neptune Society's own advertisements compare them side-by-side.

69. Rather, consumers are led to believe, by Neptune Society's and NCS's General Price Lists as well as Defendants' sale practices and marketing, that other than the purported savings they obtain through the purchase of the Standard Neptune Plan or NCS Plan, there is no difference between the Standard Neptune Plan or NCS Plan and purchasing the stand-alone direct cremation services and merchandise a la carte via the General Price List.

70. Indeed, Neptune Society's brochure for the Standard Neptune Plan, provided to consumers in Florida should they inquire about preneed cremation services through websites operated by Defendants, creates the opposite impression, stating that "Your pre-paid plan is protected" as "Your monies are placed into a state-required trust fund, held and invested for future need, in accordance with state law." The same brochure notes that Neptune Society will provide a "Review of all state-regulated protections guaranteed to you."

71. And yet Defendants never disclose that consumers purchasing the Standard Neptune Plan or NCS Plan do not receive the same trust treatment and amounts recoverable as a refund in the event of cancellation of the preneed contract as they would have if they had purchased the services and merchandise a la carte, or if they had purchased just the direct cremation packages and obtained any desired merchandise from someone else, or at a later time point closer in time to when it is needed.

72. Neptune Society's and NCS's deceptions do not stop there, because they willfully discarded their statutory obligations by affirmatively misleading customers in their contracts to believe that it did not matter how Defendants allocated the price of the Standard Neptune Plan or NCS Plan because the amounts to be refunded upon cancellation were the same for both the

merchandise and the services. The statute required Defendants to disclose to customers in one place on the signature page prior to executing the contract the total amount to be paid, how that amount was allocated between merchandise and services, and to inform customers that they would receive all of the amount allocated to services if cancelled indefinitely whereas they would receive the amounts allocated to the items only if not used and cancelled within 30 days.

73. Instead of providing all this information in one place in the form required by Florida statute, Defendants spread part of this information across several pages (some of which is not on either of the signature pages) and, even worse, partially omit and affirmatively misrepresent the most important of the required disclosures—the information informing the customers that how Defendants allocate the purchase price between merchandise and services impacts how much will be refunded upon cancellation after 30 days or how much can be transferred to another provider.

74. Defendants nowhere provide customers with the amount that will be refunded upon cancellation at any time (*i.e.*, the amount allocated to services). Defendants instead mislead customers by telling them that both the services and the items would be refunded only if cancelled within 30 days. Defendants' customers are therefore deceived into believing that it does not matter for purposes of cancellation and refunds after 30 days how Defendants allocate the purchase price between merchandise and services, or that Defendants are commercially motivated to allocate as much for the merchandise as they can hopefully get away with. Whereas customers should have been informed by the statutory disclosures of a significant motivation to negotiate the amounts allocated to merchandise and services, Plaintiffs and the class were deceived into believing that it made no difference.

75. And Defendants do not permit a customer to cancel just the Retail Merchandise Agreement within 30 days (and receive a full refund on the listed price of that merchandise),

because its ostensibly separate (but in fact inextricably linked and tied) Retail Merchandise Agreement contract mandates that should a customer return the merchandise within 30 days for a full refund, the "return pursuant to this section is the cancellation of this [Retail Merchandise] Agreement ***and also operates as Purchaser's written request to cancel their Preneed Funeral Agreement***, unless the Preneed Funeral Agreement has been made irrevocable." (emphasis added)

76. Upon information and belief, Defendants also do not remit sales tax to the State of Florida for the merchandise purchased in the Retail Merchandise Agreement. The Retail Merchandise Agreement contains a line for sales tax, but on Ms. Taylor's contract (and on contracts of other members of the class) this line was left blank. Additionally, NSMC (which currently operates Neptune Society as a registered fictitious business name) is not registered with the State of Florida as a payer of sales tax. This is either: (a) an admission by Defendants as they filled out the Neptune Society contract forms that the provision of merchandise as part of the Standard Neptune Plan was really a service offered in connection with the cremation services; (b) an admission that the merchandise's actual retail value was zero; and/or (c) a representation to the consumer that no sales tax was collected on the Standard Neptune Plan, thereby creating the deceptive or misleading impression or unjustified expectation that the purchase of the Standard Neptune Plan was one agreement for the provision of services and no different or worse for the consumer than purchasing the direct cremation plan.

77. On information and belief, Defendants repeated this bait-and-switch conduct across thousands (if not tens or hundreds of thousands) of Standard Neptune Plan contracts with Neptune Society and plans of NCS sold in the State of Florida during the Class Period.

78. Defendants' bait-and-switch and deceptive accounting related to the Standard Neptune Plan and NCS's plan is a violation of FDUTPA and the Florida Funeral, Cemetery, and Consumer Services Act.

III. Defendants' Bait-and-Switch Scheme With the Standard Neptune Plan and NCS Plan was Knowingly and Willfully Targeted at Senior Citizens

79. As mentioned above, the primary consumers of preneed contracts in the State of Florida, including the plans marketed and sold by Defendants, are senior citizens over the age of 60.

80. Defendants actively and aggressively market their plans to senior citizens on their respective websites on the internet and in other advertising.

81. When consumers purchase a plan sold or advertised by Defendants, they are required to provide the beneficiary's date of birth when filling out the application.

82. Defendants therefore know, at the time of sale, whether the beneficiary of the plan that is being purchased is over the age of 60.

83. Despite this knowledge, Defendants continue to employ their bait-and-switch tactic in regards to their plans to the detriment of Floridian senior citizens.

84. As such, Defendants' violation of FDUTPA includes a violation of Fla. Stat. 501.2077, which states that a "person who is willfully using, or has willfully used, a method, act, or practice in violation of [FDUTPA] which victimizes or attempts to victimize a senior citizen or a person who has a disability is liable for a civil penalty of not more than $15,000 for each such violation if she or he knew or should have known that her or his conduct was unfair or deceptive."

85. On information and belief, Defendants repeated this bait-and-switch conduct across thousands (if not tens of thousands) of contracts sold to senior citizens in the State of Florida during the Class Period.

IV. Defendants Collect An Undisclosed Financial Interest for Sales of the Transportation and Relocation Protection Plan.

86. Along with the Standard Neptune Plan or NCS Plan, Neptune Society and NCS also offers an additional Transportation and Relocation Protection Plan that "protects the Beneficiary of the Preneed Funeral Agreement from incurring additional out-of-pocket expenses if death occurs while Beneficiary is traveling anywhere in the world or if Beneficiary relocates within the contiguous United States."

87. The Transportation and Relocation Protection Plan appears on the first page of Neptune Society's General Price List, directly under the Standard Neptune Plan, and is advertised there as being "only offered at the time of prearrangement."

88. The Transportation and Relocation Protection Plan was available for $549.00 according to Neptune Society's General Price List effective as of June 1, 2019.

89. In the event a beneficiary travels outside of the 75-mile radius of the beneficiary's home and dies, the Transportation and Relocation Protection Plan protects the beneficiary from the costs involved in returning the beneficiary's body or remains to the local service provider for further cremation services (and/or in arranging to provide those same services at the location where the beneficiary is traveling before transporting the remains back to the local service provider).

90. Neptune Society and NCS force every customer who purchases a Neptune Society Standard Neptune Plan or NCS Plan to elect to either purchase or decline to purchase the Transportation and Relocation Protection Plan – a box on the Transportation and Relocation Protection Plan contract is included for the preneed customer to decline the plan by writing their initials, which states: "I hereby decline the above mentioned Plan. In the event that death of Beneficiary occurs outside of Neptune [Society]'s Service Area, I understand that there will be additional charges. **Furthermore, I understand that I will not have the opportunity to**

purchase this Plan at a later date." (emphasis in original). This representation is false, as a customer could in actuality purchase this or an identical plan at a later date.

91. This contract language and the marketing of the Transportation and Relocation Protection Plan by Defendants is intended to create the net impression that the Transportation and Relocation Protection Plan is in the preneed customer's best interest and that there is some requirement that the customer must decide now whether or not to purchase the plan.

92. And because Defendants sell the Transportation and Relocation Protection Plan along with and at the same time that they sell the Standard Neptune Plan or NCS Plan, they are aware whether the beneficiary of the plan being purchased is a senior citizen over the age of 60, as purchase of the Standard Neptune Plan or NCS Plan requires the purchaser to indicate the beneficiary's date of birth.

93. According to the Transportation and Relocation Protection Plan, Neptune Society or NCS "is a third party seller for MASA"—or Medical Air Services Association of Florida, Inc. By telling the customer it is a "third-party," Neptune Society and NCS inform the customer and/or creates the impression that Neptune Society and NCS have no financial interest in the plan.

94. Indeed, the contract language for the plan requires the purchaser, when signing, to "acknowledge that [the Transportation and Relocation Protection Plan] is being sold separately on behalf of MASA on its own independent contract. Coverage begins at the time of contracting and it is not considered part of any other contract nor is it a trust funded preneed funeral service or good."

95. Furthermore, the contract language for the plan states that if the consumer cancels their preneed funeral agreement with Neptune Society or NCS, the Transportation and Relocation Protection Plan is "portable through MASA to any new preneed funeral service provider."

96. At no point in its marketing or in the contract language of the Transportation and Relocation Protection Plan do Defendants indicate that they have a significant financial interest in the sale of the plan.

97. Indeed, the contract language above creates and is intended to create the false net impression in the consumer that the price of the Transportation and Relocation Protection Plan is a pass-through fee, *i.e.*, a fee that is passed on in its entirety to another entity (in this case MASA) and for which Defendants have no purported financial interest.

98. The net impression of Neptune Society's and NCS's representations and omissions to consumers is that, when consumers purchase the Transportation and Relocation Protection Plan, the funds to cover the plan's cost go to MASA. In other words, Neptune Society's and NCS's representations and omissions to its customers during the purchase process—including the language in the contract of the Transportation and Relocation Protection Plan itself—convey the misleading impression that the cost of the plan is a pass-through fee, where Defendants merely collect the money for the plan from the consumer and forwards it on to the actual provider MASA, without any profit interest in the fee.

99. However, when Defendants collect the money for the Transportation and Relocation Protection Plan from the customer, they retain an undisclosed financial interest of between 50-65% of the total cost for every Transportation and Relocation Protection Plan sold on behalf of MASA in violation of FDUTPA.

100. This undisclosed financial interest varies because regardless of the price charged to the customer and collected by Neptune Society, Defendants only transmit a set fee (believed to be less than $165) to MASA for each plan sold. Thus, if Defendants charge and collect from a customer a higher price (such as the $549 on Neptune Society's price list), Defendants receive a

larger profit as a percentage because the ultimate real cost of the Transportation and Relocation Protection Plan remitted to MASA is fixed.

101. As the price of the Transportation and Relocation Protection Plan charged to the customer includes this undisclosed financial interest collected by Defendants before paying out the fixed set fee to MASA, consumers (including Plaintiffs and members of the Transportation and Relocation Protection Plan Purchaser Class) who bought the Transportation and Relocation Protection Plan were overcharged and/or were induced to purchase the plan because it was being solicited as advantageous by a party that was purportedly financially uninterested and unbiased in its sale. Plaintiffs and the class members are entitled to a full return of the undisclosed financial interest that they unknowingly paid and/or the right to rescind the purchase in its entirety.

102. Defendants have never disclosed to Plaintiffs, or any of the class members, the true nature of their relationship with MASA, and specifically have not disclosed the fact that they retain a substantial portion of the Transportation and Relocation Protection Plans they sell. Whether an ostensibly independent third-party has an undisclosed financial interest in a product it is soliciting a consumer to purchase from another entity is a material fact.

103. These activities have harmed Plaintiffs and the proposed class of consumers while benefiting Defendants. On information and belief, Defendants retained millions of dollars in undisclosed financial interests as part of their sale of the Transportation and Relocation Protection Plans to thousands (if not tens or hundreds of thousands) of Florida consumers.

V. Plaintiffs Were Harmed By Defendants When They Purchased Preneed Plans and Transportation and Relocation Protection Plan.

104. Plaintiff Nancy Taylor purchased a Standard Neptune Plan and Transportation and Relocation Protection Plan from Neptune Society on approximately August 15, 2017.

105. The plans were sold to Taylor by Defendants' agent, and the contracts for the plans were signed in person by Taylor in front of Defendants' agent in Taylor's home, after Taylor submitted a request through Neptune Society's website. The identity of Defendants' agent involved in selling Taylor's plans is known to Defendants, and is believed to be Scott Smiley.

106. At the time of purchase of the Standard Neptune Plan and Transportation and Relocation Protection Plan, Taylor was 69 years old. Taylor disclosed this fact to Defendants by providing her date of birth (May 6, 1948) on Neptune Society's contract when buying the plans.

107. At the time of Taylor's purchase, Neptune Society's General Price List advertised the Standard Neptune Plan with a price of $2,344.00, and the Transportation and Relocation Protection Plan with a price of $499.00, for a total cost of $2,843.00.

108. Because Taylor paid in full at the time of purchase and purchased both the Standard Neptune Plan and the Transportation and Relocation Protection Plan, she was able to negotiate additional adjustments and discounts from Defendants, and thus paid a total of $2,643.00, broken down as follows: $1,030.05 for services, $1,149.05 for merchandise, and $463.90 for the Transportation and Relocation Protection Plan.

109. Taylor executed the Standard Neptune Plan via two separate but tied contracts with Neptune Society: a Preneed Funeral Agreement for services and a Retail Merchandise Agreement for merchandise.

110. Taylor's Retail Merchandise Agreement with Neptune Society, which was filled out by Defendants' agent at the time of sale and Taylor's signing of the contract, left blank a line for "Sales Tax."

111. Taylor's Retail Merchandise Agreement with Neptune Society also included the provision mandating that if Taylor returned her merchandise within 30 days for a full refund (as

required by law), it would operate as her written request to cancel the Preneed Funeral Agreement for services.

112. Taylor's Preneed Funeral Agreement with Neptune Society failed to include on its signature page in boldfaced typeface 10-point type or larger, as required under Florida Stat. 497.468(7), the specific amount to be trusted and the amounts to be refunded upon contract cancellation if cancelled (with no time limitation).

113. Instead, the signature page of Taylor's Preneed Funeral Agreement did not disclose what amount of the Preneed Funeral Agreement would be held in trust, and said only that Taylor "shall have 30 days from the execution of this Agreement to cancel this Agreement. Refund upon cancellation is 100% of the purchase price allocable to services, if the services have not yet been provided." This created the false net impression that Taylor could only receive a refund of the Preneed Funeral Agreement purchase price if she cancelled within 30 days.

114. Thus, via Defendants' sales and marketing practices and contractual bait-and-switch, Defendants were able to induce Taylor to purchase the Standard Neptune Plan with Neptune Society and then have her sign two ostensibly separate but in fact tied contracts with Neptune Society that vastly inflated the value of the merchandise she was provided, vastly decreased the amount of money that was put into trust on her behalf, and vastly reduced the amount of money to which she would be entitled in the event she cancelled the contract (while also telling her that she had to cancel within 30 days even though Florida law permits her to cancel at any time).

115. If Taylor had known that Defendants' allocation of the purchase price to merchandise and services impacted the amount she would have received if cancelling the contract after 30 days (including, but not limited to, should she move out of state), and/or of the true value

of the merchandise, she would not have executed the contracts that she did at the prices she did and/or would have been motivated to negotiate that allocation so as to attribute more of the price to the fully refundable services rather than the non-refundable (and near-worthless) merchandise.

116. Taylor also purchased a Transportation and Relocation Protection Plan from Neptune Society (as third-party seller for MASA) on approximately August 15, 2017, and paid $463.90 for that policy.

117. Upon information and belief, between 50-65% of that $463.90 price constituted an undisclosed financial interest that Defendants retained prior to paying MASA its set, fixed price for each plan.

118. After paying for her Standard Neptune Plan and Transportation and Relocation Protection Plan, Taylor received a letter dated September 2, 2017, from Neptune Society's Dolores Ramos, SVP of Operations, notifying her that her account had been paid in full. According to records filed with the Florida Division of Corporations, Dolores Ramos is registered as a Vice President with SCI Direct, Inc.

119. After paying for her Standard Neptune Plan and Transportation and Relocation Protection Plan, Taylor received a letter dated September 2, 2017, from Neptune Society's Tim Nicholson, President & CEO, confirming her plan acceptance. According to records filed with the Florida Division of Corporations, Tim Nicholson is registered as President and Director of SCI Direct, Inc., and President, Secretary, and Director of Neptune Society Management Corporation.

120. Plaintiff Hazel Benjamin purchased a NCS Plan and Transportation and Relocation Protection Plan from NCS on approximately December, 2017.

121. The plans were sold to Benjamin by Defendants' agent, and the contracts for the plans were signed in person by Benjamin in front of Defendants' agent in Benjamin's home, after

Benjamin submitted a request through NCS's website. The identity of Defendants' agent involved in selling Benjamin's plans is known to Defendants, and is believed to be Louis McDermott.

122. At the time of purchase of the NCS Plan and Transportation and Relocation Protection Plan, Benjamin was 64 years old. Benjamin disclosed this fact to Defendants by providing her date of birth (November 11, 1953) on NCS's contract when buying the plans.

123. Benjamin was able to negotiate additional adjustments and discounts from Defendants, and thus paid a total of $2,662.60, broken down as follows: $1,030.60 for services, $1,149.66 for merchandise, and $482.34 for the Transportation and Relocation Protection Plan.

124. Benjamin executed the NCS Plan via two separate but tied contracts with NCS: a Preneed Funeral Agreement for services and a Retail Merchandise Agreement for merchandise.

125. Benjamin's Retail Merchandise Agreement with NCS also included the provision mandating that if Benjamin returned her merchandise within 30 days for a full refund (as required by law), it would operate as her written request to cancel the Preneed Funeral Agreement for services.

126. Benjamin's Preneed Funeral Agreement with NCS failed to include on its signature page in boldfaced typeface 10-point type or larger, as required under Florida Stat. 497.468(7), the specific amount to be trusted and the amounts to be refunded upon contract cancellation if cancelled (with no time limitation).

127. Instead, the signature page of Benjamin's Preneed Funeral Agreement did not disclose what amount of the Preneed Funeral Agreement would be held in trust, and said only that Benjamin "shall have 30 days from the execution of this Agreement to cancel this Agreement. Refund upon cancellation is 100% of the purchase price allocable to services, if the services have

not yet been provided." This created the false net impression that Benjamin could only receive a refund of the Preneed Funeral Agreement purchase price if she cancelled within 30 days.

128. Thus, via Defendants' sales and marketing practices and contractual bait-and-switch, Defendants were able to induce Benjamin to purchase the NCS Plan with NCS and then have her sign two ostensibly separate but in fact tied contracts with NCS that vastly inflated the value of the merchandise she was provided, vastly decreased the amount of money that was put into trust on her behalf, and vastly reduced the amount of money to which she would be entitled in the event she cancelled the contract (while also telling her that she had to cancel within 30 days even though Florida law permits her to cancel at any time).

129. If Benjamin had known that Defendants' allocation of the purchase price to merchandise and services impacted the amount she would have received if cancelling the contract after 30 days (including, but not limited to, should she move out of state), and/or of the true value of the merchandise, she would not have executed the contracts that she did at the prices she did and/or would have been motivated to negotiate that allocation so as to attribute more of the price to the fully refundable services rather than the non-refundable (and near-worthless) merchandise.

130. Benjamin also purchased a Transportation and Relocation Protection Plan from NCS (as third-party seller for MASA) on approximately December 22, 2017, and financed $482.34 for that policy.

131. Upon information and belief, between 50-65% of that $482.34 price constituted an undisclosed financial interest that Defendants retained prior to paying MASA its set, fixed price for each plan.

CLASS ACTION ALLEGATIONS

132. Plaintiffs bring this lawsuit as a class action pursuant to Federal Rule of Civil Procedure 23.

Class Definition

133. Plaintiffs seeks to represent the following classes:

Standard Neptune Plan or NCS Plan Purchasers Class
All persons who (a) within four (4) years of the present purchased a Standard Neptune Plan or NCS Plan from Defendants within the State of Florida or (b) made a payment on a Standard Neptune Plan or NCS Plan purchased from Defendants within the State of Florida within two (2) years of the present (the "Class Period"), excluding all Standard Neptune Plans or NCS Plan for which Defendants have performed the contracted for cremation services.

Transportation and Relocation Protection Plan Purchasers Class
All persons who purchased a Transportation and Relocation Protection Plan from Defendants within the State of Florida within four (4) years of the present or made a payment on a Transportation and Relocation Protection Plan purchased from Defendants within the State of Florida within (2) years of the present (the "Class Period").

Excluded from these classes are Defendants, its affiliates, subsidiaries, agents, board members, directors, officers, and employees. Also excluded from the class are the district judge and magistrate judge assigned to this case, their staff, and their immediate family members.

134. This class action is brought pursuant to Rule 23(b)(1)(A) because inconsistent or varying adjudications with respect to individual class members could establish incompatible standards of conduct for Defendants.

135. This class action is also brought pursuant to Rule 23(b)(2) because Defendants have acted or refused to act on grounds generally applicable to all the members of the class, thereby making final injunctive relief or declaratory relief concerning the class appropriate.

136. This class action is also brought pursuant to Rule 23(b)(3) because the questions of law or fact common to Plaintiffs' claim and the class members' claims predominate over any question of law or fact affecting only individual class members, and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

137. Defendants have subjected Plaintiffs and the members of the classes to the same unfair, unlawful, and deceptive practices and harmed them in the same manner. The conduct described above is Defendants' standard business practice.

138. All of the members of the class, by transacting with Defendants, were subject to the same choice of law provisions within the Standard Neptune Plan or NCS Plan and/or Transportation and Relocation Protection Plan dictating that any disputes over transactions between customers and Neptune Society related to those agreements were to be "governed by the laws of the State of Florida." All of the members of the class also transacted with Defendants within the State of Florida as Florida consumers.

A. Numerosity

139. The individual class members are so numerous that joinder of all members in a single action is impracticable. Defendants have sold thousands of Standard Neptune Plans and/or NCS Plans and/or Transportation and Relocation Protection Plans to Florida consumers during the Class Period.

140. While Plaintiffs estimate the proposed class members are in the thousands, the exact number of class members, as well as the class members' names and addresses, can be identified from Defendants' business records.

B. Commonality/Predominance

141. Common questions of law and fact exist as to Plaintiffs' and the class members' claims. These common questions predominate over any questions solely affecting individual class members, including, but not limited to, the following:

a. Whether Defendants engaged in a deceptive and unfair business practice by misleading the Standard Neptune Plan or NCS Plan Purchasers Class about the Standard Neptune

Plan or NCS Plan being one discounted agreement, only to then execute it via two separate contracts where the discount was nearly entirely apportioned to the services portion of the agreement, resulting in a lower (potential or actual) refundable amount for the customer and less funds placed in trust by Defendants for the preneed cremation services;

b. Whether Defendants willfully used the deceptive and unfair business practices alleged in regards to the Standard Neptune Plan or NCS Plan with knowledge that Plaintiffs and members of the Standard Neptune Plan or NCS Plan Purchasers Class were over the age of 60;

c. Whether Defendants have an undisclosed financial interest in the sale of the Transportation and Relocation Protection Plan prior to remitting to MASA a set, fixed cost;

d. Whether the representations and omissions made about the Transportation and Relocation Protection Plan costs collected by Defendants would lead the reasonable customer to believe it was a pass-through fee that Defendants were paying to MASA;

e. Whether Defendants willfully used the deceptive and unfair business practices alleged in regards to the Transportation and Protection Plan with knowledge that Plaintiffs and members of the Transportation and Protection Plan were over the age of 60;

f. Whether and to what extent Defendants' conduct has caused injury to the Plaintiffs and the members of the classes;

g. Whether Defendants unlawfully enriched itself at the expense of the classes;

h. Whether Defendants engaged in a civil conspiracy to commit the wrongful actions alleged herein; and

i. Whether the amounts to which a customer would be entitled to receive as a refund and the amounts that would be trusted are material facts to consumers considering purchasing the

Standard Neptune Plan or NCS Plan or comparing the Standard Neptune Plan's or NCS Plan's benefits to the direct cremation plan or to Defendants' a la carte services and merchandise.

C. Typicality

142. Plaintiffs' claims are typical of the putative classes' members' claims because of the similarity, uniformity, and common purpose of Defendants' unlawful conduct. Plaintiffs, like all Standard Neptune Plan Purchaser class members, was damaged through Defendants apportioning her payment of money for a preneed cremation contract in a manner that reduced both the portion of the payment that was held in trust and the portion that would be refundable. Likewise, Plaintiffs, like all Transportation and Relocation Protection Plan Purchaser class members, was damaged through her payment of money to Defendants that Defendants deceptively presented as a pass-through fee to MASA, when in fact Defendants enriched themselves in this process by collecting an undisclosed financial interest above the set, fixed price for the plan that Defendants remitted to MASA.

143. Each member of Standard Neptune Plan or NCS Plan Purchaser class and the Transportation and Relocation Protection Plan Purchaser class has sustained, and will continue to sustain, damages in the same manner as Plaintiffs as a result of Defendants' wrongful and deceptive conduct.

D. Adequacy

144. Plaintiffs will fairly and adequately protect and represent the interest of each member of the Standard Neptune Plan or NCS Plan Purchaser class and the Transportation and Relocation Protection Plan Purchaser class because she has suffered the same wrongs as the respective class members.

145. Plaintiffs is fully cognizant of her responsibilities as class representative and has retained Korein Tillery LLC and Hilgers Graben PLLC to prosecute this case. Korein Tillery and Hilgers Graben are experienced in complex class action litigation, including litigation related to unfair and deceptive trade practices, and have the financial and legal resources to meet the costs of and understand the legal issues associated with this type of litigation.

146. Class action treatment is superior to the alternatives, if any, for the fair and efficient adjudication of the controversy alleged herein because such treatment will permit a large number of similarly-situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of evidence, effort, and expense that numerous individual actions would engender.

E. The Prerequisites of Rule 23(b)(1)(A) Are Satisfied.

147. The prerequisites to maintaining a class action pursuant to Federal Rule of Civil Procedure 23(b)(1)(A) is satisfied because prosecuting separate actions by individual class members against Defendants would create a risk of inconsistent or varying adjudications with respect to individual class members that could establish incompatible standards of conduct for Defendants as the parties opposing the class.

F. The Prerequisites of Rule 23(b)(2) Are Satisfied.

148. The prerequisites to maintaining a class action for injunctive and equitable relief pursuant to Federal Rule of Civil Procedure 23(b)(2) exist as Defendants have acted or refused to act on grounds generally applicable to the classes, thereby making appropriate final injunctive and equitable relief with respect to the classes as a whole.

149. Defendants' actions are generally applicable to the classes as a whole, and Plaintiffs seeks, among other things, equitable remedies with respect to the classes as a whole.

F. The Prerequisites of Rule 23(b)(3) Are Satisfied.

150. The questions of law and fact enumerated above predominate over questions affecting only individual members of the classes, and class actions are the superior method for fair and efficient adjudication of the controversy.

151. The likelihood that individual members of the classes will prosecute separate actions, and their interest in so doing, is small due to the extensive time and considerable expense necessary to conduct such litigation relative to the amounts at stake for each individual class member.

152. This action will be prosecuted in a fashion to ensure the Court's able management of this case as class actions on behalf of the classes. Plaintiffs knows of no difficulty likely to be encountered in the management of this action that would preclude its maintenance as class actions.

COUNT I
VIOLATION OF THE FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT ("FDUTPA")
The Standard Neptune Plan

153. Plaintiffs incorporate paragraphs 1-138 above as if fully set forth herein and further alleges the following.

154. This count is brought pursuant to the Florida Deceptive and Unfair Trade Practices Act ("FDUTPA").

155. At all times material hereto, Plaintiffs and all members of the Standard Neptune Plan or NCS Plan Purchaser class were consumers within the meaning of Fla. Stat. § 501.203, and are entitled to relief under FDUTPA in accordance with Fla. Stat. § 501.211.

156. At all times material hereto, Defendants conducted trade and commerce within the meaning of Fla. Stat. § 501.203.

157. Defendants have engaged in unlawful schemes and courses of conduct through one or more of the unfair and deceptive acts and practices alleged above.

158. The misrepresentations, deceptions, and concealment and omissions of material facts alleged in the preceding paragraphs occurred in connection with Defendants' trade and commerce in Florida.

159. Defendants' unfair and deceptive acts and practices violate FDUTPA, Fla. Stat. §§ 501.201 and 501.211.

160. The contracts that Defendants required Plaintiffs and each member of the Standard Neptune Plan or NCS Plan Purchaser class to execute as part of their purchase of the Standard Neptune Plan or NCS Plan are void as against public policy, insofar as they conflict with and frustrate the purposes of Florida statutes, specifically Fla. Stat. §§ 497.450-497.468, which govern the sale of preneed cremation contracts, the trust treatment of funds received for preneed cremation contracts, and the refunds of such funds in the event of cancellation.

161. Defendants were also aware that their unfair and deceptive acts and practices in violation of FDUTPA were directed at senior citizens, insofar as they marketed the Standard Neptune Plan or NCS Plan to senior citizens, and had knowledge that customers to which they were selling the plans were themselves over the age of 60 because the forms that customers filled out required them to provide the beneficiary's date of birth.

162. As a direct and proximate result of Defendants' FDUTPA violations, Plaintiffs and members of the Standard Neptune Plan or NCS Plan Purchaser class have been damaged in an amount to be proven at trial, and have monetary, out-of-pocket losses or potential losses for which they are entitled to damages and/or injunctive relief, as they paid money to Defendants as a result of its deceptive conduct.

163. Plaintiffs and members of the Standard Neptune Plan or NCS Plan Purchaser class and are entitled to actual damages, declaratory and injunctive relief, attorneys' fees and costs, and all other remedies available under FDUTPA.

164. Furthermore, civil penalties under Fla. Stat. § 501.2077 in an amount not to exceed $15,000 for each such violation against Plaintiffs and all other senior citizen members of the classes should be assessed against Defendants, and made payable as required to "the Legal Affairs Revolving Trust Fund of the Department of Legal Affairs and allocated solely to the Department of Legal Affairs for the purpose of preparing and distributing consumer education materials, programs, and seminars to benefit senior citizens, persons who have a disability, and military service members or to further enforcement efforts."

COUNT II
VIOLATION OF THE FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT ("FDUTPA")
The Transportation and Relocation Protection Plan

165. Plaintiffs incorporate paragraphs 1-138 above as if fully set forth herein and further alleges the following.

166. This count is brought pursuant to the Florida Deceptive and Unfair Trade Practices Act ("FDUTPA").

167. At all times material hereto, Plaintiffs and all members of the Transportation and Relocation Protection Plan class were consumers within the meaning of Fla. Stat. § 501.203, and are entitled to relief under FDUTPA in accordance with Fla. Stat. § 501.211.

168. At all times material hereto, Defendants conducted trade and commerce within the meaning of Fla. Stat. § 501.203.

169. Defendants have engaged in unlawful schemes and courses of conduct through one or more of the unfair and deceptive acts and practices alleged above.

170. The misrepresentations, deceptions, and concealment and omissions of material facts alleged in the preceding paragraphs occurred in connection with Defendants' trade and commerce in Florida.

171. Defendants' unfair and deceptive acts and practices violate FDUTPA, Fla. Stat. §§ 501.201 and 501.211.

172. The Transportation and Relocation Protection Plan contracts that Defendants required Plaintiffs and each member of the Transportation and Relocation Protection Plan class to execute as part of their purchase are void as against public policy, insofar as they conflict with and frustrate the purposes of Florida statutes, specifically Fla. Stat. §§ 497.450-497.468, which govern the sale of preneed cremation contracts, the trust treatment of funds received for preneed cremation contracts, and the refunds of such funds in the event of cancellation.

173. Defendants were also aware that their unfair and deceptive acts and practices in violation of FDUTPA were directed at senior citizens, insofar as they marketed the Transportation and Relocation Protection Plan to senior citizens, and had knowledge that customers to which they were selling the plans were themselves over the age of 60 because the Neptune Society forms that customers filled out required them to provide the beneficiary's date of birth.

174. As a direct and proximate result of Defendants' FDUTPA violations, Plaintiffs and members of the Transportation and Relocation Protection Plan class have been damaged in an amount to be proven at trial, and have monetary, out-of-pocket losses or potential losses for which they are entitled to damages and/or injunctive relief, as they paid money to Defendants as a result of its deceptive conduct.

175. Plaintiffs and members of the Transportation and Relocation Protection Plan class and are entitled to actual damages, declaratory and injunctive relief, attorneys' fees and costs, and all other remedies available under FDUTPA.

176. Furthermore, civil penalties under Fla. Stat. § 501.2077 in an amount not to exceed $15,000 for each such violation against Plaintiffs and all other senior citizen members of the classes should be assessed against Defendants, and made payable as required to "the Legal Affairs Revolving Trust Fund of the Department of Legal Affairs and allocated solely to the Department of Legal Affairs for the purpose of preparing and distributing consumer education materials, programs, and seminars to benefit senior citizens, persons who have a disability, and military service members or to further enforcement efforts."

COUNT III
VIOLATION OF THE FLORIDA FUNERAL, CEMETERY, AND CONSUMER SERVICES ACT
The Standard Neptune Plan

177. Plaintiffs incorporate paragraphs 1-138 above as if fully set forth herein and further alleges the following.

178. The Florida Funeral, Cemetery, and Consumer Services Act, FL. Stat. 497.001, *et seq.*, provides a private right of action for any consumer against a person or entity violating its provisions, or regulations promulgated thereunder by the Florida Division of Funeral, Cemetery, and Consumer Services.

179. Defendants have violated the Florida Funeral, Cemetery, and Consumer Services Act and its associated regulations by, *inter alia*, advertising their goods and services in a deceptive and/or misleading manner, by advertising their goods and services in a manner that omits material information, by advertising their goods and services in a manner that has a capacity or tendency to mislead or deceive by making only a partial disclosure of relevant facts, by advertising their goods

or services in a manner that has the capacity or tendency to create false or unjustified expectations, and by advertising in a manner that contains, false, deceptive, or misleading representations relating to the quality of goods or services offered.

180. Neptune Society and NCS advertises to their customers pre-purchase that their funds will be placed into a trust fund, that the cremation merchandise included in the Standard Plan has a retail value of more than $1,000, and that a customer's purchase of a Standard Plan is equivalent to or better than a purchase of the direct cremation plan and comprises a single package, when in reality the merchandise is nearly worthless, the customer will have to sign two separate but tied contracts with Neptune Society and NCS, and Neptune Society and NCS will reach the desired price by heavily discounting the cremation services that are trustable and cancellable anytime while simultaneously requiring the purchase of grossly inflated merchandise that is not cancellable after thirty days and that is not trustable.

181. Defendants further deceive, mislead, and/or create unjustified expectations by not indicating that they are charging any sales tax on the Retail Merchandise Agreement (and not paying sales tax to the state) for the merchandise purchase, which provides the indication and/or is an admission that the merchandise purchase is collateral to the purchase of the cremation services and/or has no true retail value.

182. Defendants also violate the Florida Funeral, Cemetery, and Consumer Services Act by failing to include on the Neptune Society signature page in boldfaced typeface 10-point type or larger, as required under Fla. Stat. § 497.468(7), the specific amount to be trusted and the specific amounts to be refunded upon contract cancellation if cancelled after 30 days.

183. Indeed, the cancellation language on the signature page of Neptune Society's and NCS's Preneed Funeral Agreement creates the deceitful, misleading, and/or unjustified

expectation that a full refund of the services portion of the Standard Neptune Plan is only available if it is cancelled within 30 days.

184. The Neptune Society and NCS contracts that Defendants required Plaintiffs and each member of the Standard Neptune Plan or NCS Plan Purchaser class to execute as part of their purchase of the Standard Neptune Plan or NCS Plan are void as against public policy, insofar as they conflict with and frustrate the purposes of Florida statutes, specifically Fla. Stat. §§ 497.450-497.468, which govern the sale of preneed cremation contracts, the trust treatment of funds received for preneed cremation contracts, and the refunds of such funds in the event of cancellation.

185. As a result of Defendants' violations above, Plaintiffs were deceived, misled, and/or had unjustified expectations. Plaintiffs believed the purchase of the Standard Neptune Plan or NCS Plan were equivalent to or better than the purchase of the advertised direct cremation package with no appreciable downsides and that the included merchandise was not worthless or nearly worthless. Plaintiffs also believed that they could only receive a full refund if they cancelled the Preneed Funeral Agreement within 30 days, despite state law requiring that a full refund (minus certain processing fees) of the services portion of a preneed agreement be available upon cancellation at any time.

186. As a result, Plaintiffs contracted to purchase the Standard Neptune Plan or NCS Plan and thereby suffered damage by being induced to enter contracts they otherwise would not have agreed to, and is unable to cancel the contract(s) at any time and receive the amounts to which she would have been entitled had she purchased the direct cremation package.

187. Plaintiffs and members of the Standard Neptune Plan or NCS Plan Purchaser class are entitled to actual damages, declaratory and injunctive relief, attorneys' fees and costs, and all other remedies available.

COUNT IV
VIOLATION OF THE FLORIDA FUNERAL, CEMETERY, AND CONSUMER SERVICES ACT
The Transportation and Relocation Protection Plan

188. Plaintiffs incorporate paragraphs 1-138 above as if fully set forth herein and further alleges the following.

189. The Florida Funeral, Cemetery, and Consumer Services Act, FL. Stat. 497.001, *et seq.*, provides a private right of action for any consumer against a person or entity violating its provisions, or regulations promulgated thereunder by the Florida Division of Funeral, Cemetery, and Consumer Services.

190. The Transportation and Relocation Protection Plan is a burial service because it is a "service offered in connection with the final disposition, memorialization, internment, entombment, inurnment, or other disposition of human remains or cremated remains." Fl. Stat. § 497.005(5). It is a preneed contract because it is an "arrangement or method, of which the provider of funeral merchandise or services has actual knowledge, whereby any person agrees to furnish funeral merchandise or service in the future." Fl. Stat. § 497.005(61).

191. Defendants have violated the Florida Funeral, Cemetery, and Consumer Services Act and its associated regulations by, *inter alia*, advertising their goods and services in a deceptive and/or misleading manner, by advertising their goods and services in a manner that omits material information, by advertising their goods and services in a manner that has a capacity or tendency to

mislead or deceive by making only a partial disclosure of relevant facts, by advertising their goods or services in a manner that has the capacity or tendency to create false or unjustified expectations, and by advertising in a manner that contains, false, deceptive, or misleading representations relating to the quality of goods or services offered.

192. Neptune Society advertises to their customers pre-purchase that the funds paid for the Transportation and Relocation Protection Plan are being paid to MASA, thereby also implying to consumers that Defendants have no financial interest in the sale of the plan. In reality, the vast majority of the funds are being paid to Defendants.

193. Defendants violate the Florida Funeral, Cemetery, and Consumer Services Act by not placing amounts received for the Transportation and Relocation Protection Plan into trust, by not informing customers that the Transportation and Relocation Protection Plan is fully refundable at any time, and by misrepresenting to customers that the Transportation and Relocation Protection Plan can only be cancelled with a full refund within 30 days.

194. If the Transportation and Relocation Protection Plan is a service being offered by MASA and not Defendants, MASA is not a licensed provider of preneed services, and Defendants violate the Florida, Funeral, Cemetery, and Consumer Services Act by aiding and abetting MASA to practice a profession or obligation without a required license, Fla Stat. § 497.152(5)(d), a violation which "shall be presumed to be irreparable harm to the public health, safety, or welfare," Fla Stat. § 497.157(4).

195. Defendants also violate the Florida Funeral, Cemetery, and Consumer Services Act by failing to include on the Transportation and Relocation Protection Plan signature page in boldfaced typeface 10-point type or larger, as required under Fla. Stat. § 497.468(7), the specific

amount to be trusted and the specific amounts to be refunded upon contract cancellation with no time limitation.

196. Indeed, the cancellation language on the signature page of the Transportation and Relocation Protection Plan contract creates the deceitful, misleading, and/or unjustified expectation that a full refund of the services portion of the Transportation and Relocation Protection Plan is only available if it is cancelled within 30 days.

197. The Neptune Society or NCS contracts that Defendants required Plaintiffs and each member of the Transportation and Relocation Protection Plan class to execute as part of their purchase of are void as against public policy, insofar as they conflict with and frustrate the purposes of Florida statutes, specifically Fla. Stat. §§ 497.450-497.468, which govern the sale of preneed cremation contracts, the trust treatment of funds received for preneed cremation contracts, and the refunds of such funds in the event of cancellation.

198. As a result of Defendants' violations above, Plaintiffs weredeceived, misled, and/or had unjustified expectations. Plaintiffs believed the Transportation and Relocation Protection Plan was being offered by Defendants, the funds were not required to be placed into trust, and that the Transportation and Relocation Protection Plan was only refundable within 30 days, when none of that was true.

199. As a result, Plaintiffs contracted to purchase the Transportation and Relocation Protection Plan and thereby suffered damage by being induced to enter contracts they otherwise would not have agreed to.

200. Plaintiffs and members of the Transportation and Relocation Protection Plan class are entitled to actual damages, declaratory and injunctive relief, attorneys' fees and costs, and all other remedies available.

COUNT V
UNJUST ENRICHMENT
The Standard Neptune Plan

201. Plaintiffs incorporate paragraphs 1-138 above as if fully set forth herein and further alleges the following.

202. Plaintiffs and each member of the Standard Neptune Plan or NCS Plan Purchaser class conferred a direct benefit on Defendants through their payment for a preneed contract, which Defendants enriched themselves with to the detriment of the classes by wrongfully attributing an excessive amount of that payment towards non-refundable "merchandise" rather than towards refundable "services," which would have required 70% of which held in trust, and by not informing customers that the amount allocated to services can be cancelled and fully refunded at any time.

203. The Neptune Society or NCS contracts that Defendants required Plaintiffs and each member of the Standard Neptune Plan Purchaser class to execute as part of their purchase of the Standard Neptune Plan are void as against public policy, insofar as they conflict with and frustrate the purposes of Florida statutes, specifically Fla. Stat. §§ 497.450-497.468, which govern the sale of preneed cremation contracts, the trust treatment of funds received for preneed cremation contracts, and the refunds of such funds in the event of cancellation.

204. Defendants appreciated, accepted, and retained these benefits from the Standard Neptune Plan, as they garnered substantial profits by virtue of these schemes.

205. Under the circumstances, it would be unjust and inequitable to allow Defendants to retain these benefits, as they were obtained through deceptive representations and illegal conduct.

206. Plaintiffs and the class suffered damages as a result of Defendants' unjust enrichment.

COUNT V
UNJUST ENRICHMENT

The Transportation and Relocation Protection Plan

207. Plaintiffs incorporate paragraphs 1-138 above as if fully set forth herein and further alleges the following.

208. Plaintiffs and each member of the Transportation and Relocation Protection Plan class conferred a direct benefit on Defendants through Defendants' receipt of funds that were represented to be paid to MASA, through their failure to place to required amounts in trust, and through their misrepresentation to Plaintiffs and the class that the Transportation and Relocation Protection Plan could only be cancelled for a full refund within 30 days.

209. The Neptune Society or NCS contracts that Defendants required Plaintiffs and each member of the Transportation and Relocation Protection Plan class to execute as part of their purchase of are void as against public policy, insofar as they conflict with and frustrate the purposes of Florida statutes, specifically Fla. Stat. §§ 497.450-497.468, which govern the sale of preneed cremation contracts, the trust treatment of funds received for preneed cremation contracts, and the refunds of such funds in the event of cancellation.

210. Defendants appreciated, accepted, and retained these benefits from the Transportation and Relocation Protection Plan, as they garnered substantial profits by virtue of these schemes.

211. Under the circumstances, it would be unjust and inequitable to allow Defendants to retain these benefits, as they were obtained through deceptive representations and illegal conduct.

212. Plaintiffs and the class suffered damages as a result of Defendants' unjust enrichment.

COUNT VII
DECLARATORY JUDGMENT
The Standard Neptune Plan

213. Plaintiffs incorporate paragraphs 1-138 above as if fully set forth herein and further alleges the following.

214. Under 28 U.S.C. §§ 2201 and 2202, this Court has jurisdiction to declare the rights and other legal relations of the parties in dispute. This Court sitting in diversity also has the power under Fla. Stat. § 86.012 to provide declaratory judgment regarding any question of construction or validity arising under a contract (such as the contracts involved in the Standard Neptune Plan) affected by a statute.

215. Plaintiffs and the Standard Neptune Plan or NCS Purchaser class seek a declaratory judgment that Defendants' practice of utilizing two separate but tied Neptune Society or NCS contracts to discount the amount paid for cremation services that are trustable, cancellable, and fully refundable anytime while simultaneously requiring the purchase of grossly inflated merchandise that is neither cancellable after 30 days nor trustable violates public policy and the Florida Funeral, Cemetery, and Consumer Services Act, Fla. Stat. § 497.001, *et seq.*

216. An actual case or controversy exists regarding Plaintiffs' and class members' rights and Defendants' obligations to allocate appropriate amounts into trust, and to refund Plaintiffs and class members the amounts that should have been, but were not, properly allocated to preneed cremation services in the event of cancellation.

217. Plaintiffs and the Standard Neptune Plan or NCS Plan Purchaser class should be awarded declaratory relief that: (1) Defendants' contracts under the Neptune Society Standard Neptune Plan violate public policy and the Florida Funeral, Cemetery, and Consumer Services Act, Fla. Stat. § 497.001, *et seq.*; (2) that Defendants should be required to allocate the appropriate amounts into trust; (3) that Plaintiffs and Class members should be entitled to a full refund of the amount that should have been properly allocated to preneed cremation services in the event of

cancellation; and (4) any other declaratory and/or injunctive relief that is warranted pursuant to such declaratory judgment.

COUNT VIII
DECLARATORY JUDGMENT
The Transportation and Relocation Protection Plan

218. Plaintiffs incorporate paragraphs 1-138 above as if fully set forth herein and further alleges the following.

219. Under 28 U.S.C. §§ 2201 and 2202, this Court has jurisdiction to declare the rights and other legal relations of the parties in dispute. This Court sitting in diversity also has the power under Fla. Stat. § 86.012 to provide declaratory judgment regarding any question of construction or validity arising under a contract (such as the Transportation and Relocation Protection Plan contract) affected by a statute.

220. Plaintiffs and the Transportation and Relocation Protection Plan seek a declaratory judgment that Defendants' practice of not placing into trust amounts received by virtue of the purchase of the Transportation and Relocation Protection Plan and practice of informing customers that the Transportation and Relocation Protection Plan is only refundable if cancelled within 30 days violates public policy and the Florida Funeral, Cemetery, and Consumer Services Act, Fla. Stat. § 497.001, *et seq.*

221. An actual case or controversy exists regarding Plaintiffs' and class members' rights and Defendants' obligations to allocate appropriate amounts into trust, and to refund Plaintiffs and class members the amounts that should have been, but were not, properly allocated to preneed cremation services in the event of cancellation.

222. Plaintiffs and the Transportation and Relocation Protection Plan class should be awarded declaratory relief that: (1) Defendants' contract violate public policy and the Florida

Funeral, Cemetery, and Consumer Services Act, Fla. Stat. § 497.001, *et seq.*; (2) that Defendants should be required to allocate the appropriate amounts into trust; (3) that Plaintiffs and Class members should be entitled to cancel the contract and receive a full refund at any time; and (4) any other declaratory and/or injunctive relief that is warranted pursuant to such declaratory judgment.

PRAYER FOR RELIEF

Named Plaintiffs and the plaintiff class request the following relief:

a. Certification of the class;

b. A jury trial and judgment against Defendants;

c. An order requiring Defendants to make an accounting of all preneed contracts that they entered into with the Standard Neptune Plan or NCS Purchaser class, and to reapportion the amounts collected properly between fully refundable services and merchandise and deposit such funds as necessary following such an accounting in trust;

d. An order requiring Defendants to make an accounting of all contracts they or MASA entered into with the Transportation and Relocation Protection Plan class, and to place the proper amounts into trust;

e. An order entitling every member of the Standard Neptune Plan or NCS Plan Purchaser class to rescission of their agreements and restitution of the full purchase price of said plans (minus the wholesale cost to Defendants of any merchandise provided);

f. An order entitling every member of the Transportation and Relocation Protection Plan Purchaser class to rescission of their agreements and restitution of the full purchase price of said plans;

g. An order refunding the amounts paid on behalf of any merchandise for any Standard Neptune Plan or NCA Plan Purchaser class member who cancelled their prepaid cremation services within the class period;

h. An order requiring Defendants to make full disclosure to consumers of its receipt or retention of profits from the sale of the Transportation and Relocation Protection Plan, and the amount of such undisclosed financial profits;

i. Entry of a Declaratory Judgment as follows: Defendants' practice of utilizing two separate contracts to discount the amount paid for cremation services that are trustable, cancellable, and fully refundable anytime while simultaneously requiring the purchase of grossly inflated merchandise that is neither cancellable after 30 days nor trustable violates public policy and the Florida Funeral, Cemetery, and Consumer Services Act, FL. Stat. 497.001, *et seq.*, and every member of the Standard Neptune Plan or NCS PlanPurchaser class is entitled to reformation of their agreements to reapportion the amounts collected properly between fully refundable services and merchandise, and is entitled to a refund of the amount properly allocated to cremation services in the event of cancellation;

j. Entry of a Declaratory Judgment as follows: The Transportation and Relocation Protection Plan is a preneed burial or cremation service such that the amounts paid by members of the Transportation and Relocation Protection Plan class

must be placed into trust as required by statute and that every class member is entitled to cancel the Transportation and Relocation Protection Plan at any time and receive a full refund;

k. The costs of suit, including reasonable attorneys' fees, in accordance with FDUTPA, the Funeral, Cemetery, and Consumer Services Act and otherwise;

l. General, actual, and compensatory and exemplary damages in an amount to be determined at trial, including but not limited to the civil penalties authorized under Fla. Stat. § 501.2077 for each violation involving a senior citizen over the age of 60;

m. Restitution of the amount Defendants were unjustly enriched as a result of the wrongs alleged herein, in an amount to be determined at trial;

n. Pre-judgment and post-judgment interest at the maximum rate permitted by applicable law; and

o. Such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial as to all claims so triable.

Dated: September 7, 2022

Respectfully submitted,

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