

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ALI VANDEVAR, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

AMERICAN RENAL ASSOCIATES
HOLDINGS, INC., JOSEPH A.
CARLUCCI, JASON M. BOUCHER,
and JONATHAN L. WILCOX,

Defendants.

Case No. 2:19-cv-09074-ES-MAH
Honorable Esther Salas

STIPULATION AND AGREEMENT OF SETTLEMENT

This Stipulation and Agreement of Settlement (together with all exhibits thereto, the “Stipulation”), dated as of June 25, 2020, which is entered into by and among: (i) Lead Plaintiff City of Hialeah Employees’ Retirement System (“Hialeah” or “Lead Plaintiff”), on behalf of itself and on behalf of the Settlement Class (as defined herein) (collectively, “the Plaintiffs”); and (ii) Defendants American Renal Associates Holdings, Inc. (“ARA” or the “Company”), Joseph A. Carlucci, Jason M. Boucher and Jonathan L. Wilcox (collectively, “Defendants”), by and through their undersigned attorneys, states all of the terms of the settlement and resolution of this matter by the Settling Parties (as defined herein) and is intended by the Settling Parties to fully and finally settle, release, resolve, discharge, and dismiss, now and

forever, the above-captioned action (the “Action”) and all claims asserted therein against Defendants, subject to the approval of the United States District Court for the District of New Jersey (the “Court”).

Throughout this Stipulation, all terms used with initial capitalization, but not immediately defined, shall have the meanings ascribed to them in Section 1 below.

WHEREAS:

A. The Action

This Action was commenced on March 28, 2019 with the filing of an initial class action complaint in the United States District Court for the District of New Jersey, captioned *Vandever v. American Renal Associates Holdings, Inc., et al.*, No. 19-cv-09074 (D.N.J.), alleging claims arising under the Securities Exchange Act of 1934 (the “Exchange Act”). On May 28, 2019, two motions seeking consolidation of *Vandever* with a related action, *Giljohann v. American Renal Associates Holdings, Inc., et al.*, No. 19-cv-10416 (D.N.J.) (filed April 19, 2019), and the appointment of lead plaintiff were filed pursuant to Section 21D of the Exchange Act, in a provision added by the Private Securities Litigation Reform Act of 1995.

On July 2, 2019, the Court issued an Order (ECF No. 22): (i) granting Hialeah’s motion to consolidate the actions under Master File No. 2:19-cv-09074-ES-MAH; (ii) appointing Hialeah as Lead Plaintiff; and (iii) approving Abraham, Fruchter & Twersky, LLP to serve as Lead Counsel and Kantrowitz, Goldhamer &

Graifman, P.C. to serve as liaison counsel (“Liaison Counsel”).

On November 11, 2019, Lead Plaintiff filed the operative Consolidated Amended Complaint (the “Complaint”) in the Action against the Defendants. (ECF No. 34). The Complaint asserts claims under Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder by the U.S. Securities and Exchange Commission, and under Section 20(a) of the Exchange Act. On January 17, 2020, Defendants filed their motion to dismiss the Complaint. (ECF No. 38). On February 24, 2020, Plaintiffs filed their opposition to Defendants’ motion to dismiss. (ECF No. 41). Prior to Defendants submitting a reply brief on their motion to dismiss, a settlement in principle was reached through mediation (*see infra*).

B. The Settlement

While the parties were briefing Defendants’ motion to dismiss, they discussed conducting a mediation to determine whether they could narrow the scope of the litigation or achieve a settlement of the Action. The parties selected as mediator the Honorable Layn R. Phillips (Ret.) of Phillips ADR, a former federal district court judge. Judge Phillips conducted a mediation session attended by counsel for the Settling Parties on February 26, 2020. In advance of that session, Lead Plaintiff and Defendants exchanged mediation statements, with Defendants providing their mediation statement to Lead Plaintiff on February 7, 2020 and Lead Plaintiff providing its mediation statement to Defendants on February 20, 2020. The detailed

mediation statements, which discussed liability, loss causation, and damages, were also submitted to Judge Phillips. The Settling Parties participated in a full-day mediation session and then continued to negotiate with the assistance of Judge Phillips. During the days following the mediation session, Judge Phillips made a mediator's proposal, which was accepted by the Settling Parties and a settlement in principle was reached. That agreement in principle to settle the Action was memorialized in a term sheet executed on March 11, 2020 (the "Term Sheet"). On that same day, the Settling Parties informed the Court of the mediated resolution of the Action (ECF No. 43).

This Stipulation memorializes the agreement between the Settling Parties to fully and finally settle the Action and to fully and finally release all Released Plaintiffs' Claims against Defendants and the Defendants' Releasees with prejudice in return for specified consideration.

C. Claims of Plaintiffs and Benefits of Settlement

Plaintiffs believe that the claims asserted in the Action have merit. Plaintiffs, however, recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Action against Defendants through trial and appeals. Plaintiffs have also considered the uncertain outcome and the risk of any litigation. In particular, Plaintiffs have considered the inherent problems of proof and possible defenses to the federal securities law violations asserted in the Action,

including the defenses that have been, or could be, asserted by Defendants during the litigation, motion to dismiss, motion for summary judgment, motion for class certification, and trial. Based upon their investigation, prosecution, and mediation of the Action, Plaintiffs have therefore determined that the Settlement (defined below) set forth in this Stipulation is fair, adequate, reasonable, and in the best interests of the Settlement Class.

D. The Defendants' Denial of Wrongdoing and Liability

Throughout the course of the Action, in this Stipulation, and as part of this Settlement, Defendants have denied, and continue to deny, each, any, and all allegations of wrongdoing, fault, liability or damage whatsoever that have been asserted in the Action by or on behalf of Plaintiffs and/or any member of the putative Settlement Class. Defendants have also denied, and continue to deny, *inter alia*, all of the allegations supporting the claims that have been asserted by Plaintiffs in the Action, as well as the allegations that Plaintiffs or the Settlement Class have suffered damages or that Plaintiffs or the Settlement Class were harmed by the conduct alleged in the Action, or that such conduct could give rise to legal liability of any kind. Defendants continue to believe the claims asserted against them in the Action are without merit and that the Action itself should not be certified as a class action for purposes of trial and adjudication of liability and damages. Defendants have not conceded or admitted any wrongdoing or liability, are not doing so by entering into

this Stipulation, and shall continue to disclaim and deny any and all wrongdoing and liability whatsoever.

Defendants have agreed to enter into this Stipulation solely to avoid the uncertainties, burden, and expense of further litigation and to put the Released Claims to rest finally and forever. Nothing in this Stipulation, whether or not consummated, shall be construed as, or deemed to be, evidence supporting, or an admission or concession on the part of any Defendant or any of Defendants' Releasees with respect to, any of Plaintiffs' allegations or claims, or of any wrongdoing, fault, liability or damages whatsoever.

NOW, THEREFORE, without any admission or concession on the part of Plaintiffs of any lack of merit of the Action whatsoever, and without any admission or concession on the part of Defendants of liability or wrongdoing, or lack of merit of any defenses to any of Plaintiffs' claims whatsoever, **IT IS HEREBY STIPULATED AND AGREED** by and among Lead Plaintiff (on behalf of itself and each of the Settlement Class Members) and Defendants (by and through their respective undersigned counsel), that, subject to the approval of the Court, in consideration of the benefits flowing to the Settling Parties from the Settlement set forth herein, the Action shall be dismissed fully, finally and with prejudice and all Released Plaintiffs' Claims as against the Defendants' Releasees and all Released Defendants' Claims as against the Plaintiffs' Releasees shall be finally and fully

compromised, settled and released, upon and subject to the terms and conditions of this Stipulation, as follows:

1. Definitions

In addition to the terms defined above, the following capitalized terms, used in this Stipulation, shall have the meanings specified below:

1.1. “Action” means the putative consolidated class action captioned *Vandever v. American Renal Associates Holdings, Inc., et al.*, No. 2:19-cv-09074-ES-MAH (D.N.J.).

1.2. “Administrative Costs” means all costs and expenses associated with providing notice of the Settlement to the Settlement Class and otherwise administering or carrying out the terms of the Settlement. Such costs may include, without limitation: Escrow Agent costs, Taxes and Tax Expenses, the costs of publishing the Summary Notice, the costs of printing and mailing the Notice and Proof of Claim, as directed by the Court, and the costs of allocating and distributing the Net Settlement Fund (as defined in paragraph 7.2(d)) to the Authorized Claimants. Such costs may include costs incurred but not yet paid. Such costs do not include legal fees.

1.3. “Authorized Claimant” means any Settlement Class Member who is a Claimant and whose claim for recovery has been allowed pursuant to the terms of this Stipulation, the exhibits hereto, and any order of the Court concerning

the Settlement.

1.4. “Award to Plaintiff” means an incentive award and/or the requested reimbursement to Lead Plaintiff for its reasonable costs and expenses directly related to Lead Plaintiff’s representation of the Settlement Class in the Action.

1.5. “Business Day” means any day except Saturday or Sunday or any other day on which national banks are authorized by law or executive order to close in the State of New Jersey.

1.6. “Claimant” means any Settlement Class Member who files a Proof of Claim in such form and manner, and within such time, as the Court shall prescribe.

1.7. “Claim” means a Proof of Claim form submitted to the Claims Administrator.

1.8. “Claims Administrator” means Angeion Group, LLC, which, subject to Court approval, shall provide notice to Potential Settlement Class Members and otherwise administer the Settlement.

1.9. “Class Distribution Order” means an order entered by the Court authorizing and directing that the Net Settlement Fund be distributed, in whole or in part, to Authorized Claimants.

1.10. “Class Period” means the period between August 10, 2016

and March 27, 2019, both dates inclusive.

1.11. “Defendants” means ARA and the Individual Defendants.

1.12. “Defendants’ Counsel” means Latham & Watkins LLP.

1.13. “Defendants’ Releasees” means Defendants and Defendants’ Counsel, and each of their respective past or present subsidiaries, parents, affiliates, principals, successors, predecessors, assigns, officers, directors, underwriters, trustees, partners, members, agents, employees, insurers (both as defined herein and undefined), co-insurers, reinsurers, controlling shareholders (including Centerbridge Capital Partners L.P. and its subsidiaries and affiliated entities), attorneys, accountants, auditors, financial or investment advisors or consultants, investment bankers, personal or legal representatives, any entity in which ARA has a controlling interest, and each of the predecessors, successors, and assigns of the foregoing, in their capacities as such.

1.14. “Effective Date” shall have the meaning set forth in ¶ 10.3 of this Stipulation.

1.15. “Escrow Account” means an interest-bearing escrow account established by the Escrow Agent wherein the Settlement Amount shall be deposited and held in escrow. The Escrow Account shall be managed by the Escrow Agent, under the supervision of Lead Counsel, and both subject to the Court’s supervisory authority, for the benefit of Lead Plaintiff and the Settlement Class in

accordance with the terms of the Stipulation and any order of the Court.

1.16. “Escrow Agent” means Angeion Group, LLC. The Escrow Agent shall perform the duties as set forth in this Stipulation and any order of the Court pertaining to the Settlement.

1.17. “Excluded Plaintiffs’ Claims” means (i) any claims of any Person who or which submits a request for exclusion from the Settlement Class that is not determined to be invalid by the Court; and (ii) any claims relating to the enforcement of the Settlement.

1.18. “Final” when referring to the Judgment, or any other court order, means when the last of the following shall occur: (i) the expiration of the time to file a motion to alter or amend the Judgment or order under Federal Rule of Civil Procedure 59(e) without any such motion having been filed; (ii) if no appeal or request for review is filed, the day after the date of expiration of any time for appeal or review of the Judgment or order, or (iii) if a motion to alter or amend the Judgment or order is filed or if there is an appeal from the Judgment or order, (a) the date of final dismissal of all such motions or appeals, or the final dismissal of any proceeding on certiorari or otherwise, or (b) the date the Judgment or order is finally affirmed on a motion or appeal, the expiration of the time to file a petition for writ of certiorari or other form of review, or the denial of a writ of certiorari or other form of review, and if certiorari or other form of review is granted, the date of final

affirmance following review pursuant to that grant. However, any appeal or proceeding seeking subsequent judicial review pertaining solely to an order issued with respect to (i) attorneys' fees, costs or expenses, or (ii) the plan of allocation of Settlement proceeds (as submitted or subsequently modified), shall not in any way delay or preclude the Judgment from becoming Final.

1.19. "Immediate Family Members" means children, stepchildren, grandchildren, parents, stepparents, grandparents, spouses, siblings, mothers-in-law, fathers-in-law, sons-in-law, daughters-in-law, brothers-in-law, and sisters-in-law. As used in this paragraph, "spouse" shall mean a husband, a wife, or a partner in a state-recognized domestic relationship or civil union.

1.20. "Individual Defendants" means Joseph A. Carlucci, Jason M. Boucher, and Jonathan L. Wilcox.

1.21. "Insurers" means, collectively, the primary and excess insurers under director and officer liability policies under which ARA has sought coverage for the Action.

1.22. "Judgment" means the order and judgment to be entered by the Court finally approving the Settlement and dismissing the Action, in the form attached hereto as Exhibit B in all material respects or otherwise agreed to by the Settling Parties.

1.23. "Lead Counsel" means Abraham, Fruchter & Twersky, LLP.

1.24. “Lead Plaintiff” means City of Hialeah Employees’ Retirement System.

1.25. “Notice” means the “Notice of Pendency and Proposed Settlement of Class Action,” which is to be sent to Potential Settlement Class Members substantially in the form attached hereto as Exhibit A-1.

1.26. “Opt-Out” means any one of, and “Opt-Outs” means all of, any Persons who otherwise would be Settlement Class Members and have timely and validly requested exclusion from the Settlement Class in accordance with the provisions of the Preliminary Approval Order and the Notice given pursuant thereto.

1.27. “Person” means an individual, corporation, fund, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and their spouses, heirs, predecessors, successors, representatives, or assigns.

1.28. “Plaintiffs” means Lead Plaintiff City of Hialeah Employees’ Retirement System and the members of the Settlement Class.

1.29. “Plaintiffs’ Counsel” means Lead Counsel, Liaison Counsel, and any other counsel who assists Plaintiffs in the Action and receives a share of the fees awarded in the Fee and Expense Application.

1.30. “Plaintiffs’ Releasees” means Lead Plaintiff, Plaintiffs’ Counsel, and all Settlement Class Members, and each of their respective past or present subsidiaries, parents, affiliates, principals, successors, predecessors, assigns, officers, directors, underwriters, trustees, partners, members, agents, employees, insurers, co-insurers, reinsurers, controlling shareholders, attorneys, accountants, auditors, financial or investment advisors, consultants, experts, investment bankers, personal or legal representatives, any entity in which the above has a controlling interest, and each of the predecessors, successors, and assigns of the foregoing, in their capacities as such.

1.31. “Plan of Allocation” means a plan or formula for allocating the Settlement Fund to Authorized Claimants after payment of Administrative Costs, Taxes and Tax Expenses, and such attorneys’ fees, costs, expenses and Award to Plaintiff as may be awarded by the Court. Any Plan of Allocation is not a condition to the effectiveness of this Stipulation, and the Defendants’ Releasees shall have no rights, responsibility, or liability whatsoever with respect thereto.

1.32. “Preliminary Approval Order” means the proposed order preliminarily approving the Settlement and directing notice thereof to Potential Settlement Class Members, substantially in the form attached hereto as Exhibit A.

1.33. “Proof of Claim” or “Claim Form” means the Proof of Claim and Release Form to be submitted by Claimants, substantially in the form attached

hereto as Exhibit A-2.

1.34. “Released Claims” means all Released Defendants’ Claims and all Released Plaintiffs’ Claims.

1.35. “Released Defendants’ Claims” means any and all claims of every nature and description, including, causes of action, suits, demands, rights, liabilities, damages, costs, restitution, rescission, interest, attorneys’ fees, expert or consulting fees, expenses, matters and issues known or unknown, contingent or absolute, suspected or unsuspected, disclosed or undisclosed, liquidated or unliquidated, matured or unmatured, accrued or unaccrued, apparent or unapparent, and causes of action of every nature and description, including both known claims and Unknown Claims, whether arising under federal, state, local, foreign, statutory or common law or any other law, rule or regulation, that have been or could have been asserted in any forum whatsoever by Defendants’ Releasees, arising out of, relating to, based upon, or in connection with the institution, prosecution or settlement of the claims asserted in the Action.

1.36. “Released Plaintiffs’ Claims” means any and all claims of every nature and description, including, causes of action, suits, demands, rights, liabilities, damages, costs, restitution, rescission, interest, attorneys’ fees, expert or consulting fees, expenses, matters and issues known or unknown, contingent or absolute, suspected or unsuspected, disclosed or undisclosed, liquidated or

unliquidated, matured or unmatured, accrued or unaccrued, apparent or unapparent, and causes of action of every nature and description, including both known claims and Unknown Claims, whether arising under federal, state, local, foreign, statutory or common law or any other law, rule or regulation, including claims under the Securities Act of 1933 or the Securities Exchange Act of 1934 or the securities laws of any state or territory, that have been or could have been asserted in any forum whatsoever by Plaintiffs' Releasees, arising out of, relating to, based upon, or in connection with both (i) any acts, failures to act, disclosures, nondisclosures, omissions, allegations, claims, events, transactions, facts, matters, occurrences, or oral or written representations or statements involved, set forth, alleged, or referred to, or that could have been alleged, in any pleading in this Action, and (ii) any purchase, acquisition, disposition, sale, or holding of ARA common stock during the Class Period, or that otherwise would have been barred by res judicata had the Action been fully litigated to a final judgment, except that the definition of Released Plaintiffs' Claims does not include claims that have been brought, may be brought or could have been brought derivatively on behalf of ARA by holders of ARA common stock, including but not limited to *Johnson v. Carlucci*, No. 2:19-cv-15812-ES-MAH (D.N.J.). Released Plaintiffs' Claims also does not include claims that have been brought or may be brought by the Lead Plaintiff or Settlement Class Members against his, her or its financial or investment advisor, including any stock

broker or entity for which such stock broker is employed, relating to his, her or its investment in ARA common stock.

1.37. “Releasee(s)” means each and any of the Defendants’ Releasees and each and any of the Plaintiffs’ Releasees.

1.38. “Releases” means the releases set forth in ¶ 6 of this Stipulation.

1.39. “Settlement” means the resolution of the Action in accordance with the terms and provisions of the Stipulation.

1.40. “Settlement Amount” means the sum of \$5,775,000 (Five Million Seven Hundred Seventy-five thousand U.S. Dollars) in cash. The Settlement Amount includes all Administrative Costs, Plaintiffs’ Counsel’s attorneys’ fees and expenses (as allowed by the Court), Award to Plaintiff (as allowed by the Court), Settlement Class Member benefits, as well as any other costs, expenses, or fees of any kind whatsoever associated with the Settlement.

1.41. “Settlement Class” means all Persons that, during the Class Period, purchased or otherwise acquired shares of ARA common stock. Excluded from the Settlement Class are: (i) Defendants and their respective successors and assigns; (ii) past and current officers and directors of ARA; (iii) Immediate Family Members of any Individual Defendant; (iv) the legal representatives, heirs, successors or assigns of the Individual Defendants; (v) Centerbridge Capital Partners

L.P. and its subsidiaries and affiliated entities; (vi) any entity in which any of the above excluded Persons have or have had a majority ownership interest; and (vii) Opt-Outs.

1.42. “Settlement Class Member” means any one of the members of the Settlement Class; and, “Settlement Class Members” means all of the members of the Settlement Class.

1.43. “Settlement Fund” means the Settlement Amount, to be transferred to the Escrow Account pursuant to this Stipulation, plus any and all interest or other income earned thereon.

1.44. “Settlement Hearing” means the hearing at or after which the Court will make a final decision pursuant to Rule 23 of the Federal Rules of Civil Procedure as to whether the Settlement contained in the Stipulation is fair, reasonable and adequate, and therefore, should receive final approval from the Court, including any adjournments thereof, with or without further notice to the Settlement Class.

1.45. “Settling Party” means any one of, and “Settling Parties” means all of, the parties to the Stipulation, namely Defendants and Lead Plaintiff (on behalf of itself and the Settlement Class).

1.46. “Summary Notice” means the Summary Notice of Pendency of Class Action and Proposed Settlement, substantially in the form attached hereto

as Exhibit A-3, to be published as set forth in the Preliminary Approval Order.

1.47. “Unknown Claims” means any Released Plaintiffs’ Claims which the Lead Plaintiff or any other Settlement Class Member does not know or suspect to exist in his, her or its favor at the time of the release of such claims, and any Released Defendants’ Claims which any Defendant does not know or suspect to exist in his, her, or its favor at the time of the release of such claims, which, if known by him, her or it, might have affected his, her or its decision(s) with respect to this Settlement. The Settling Parties acknowledge, and each of the other Settlement Class Members shall be deemed by operation of law to have acknowledged, that they may hereafter discover facts in addition to or different from those which he, she, it, or their counsel now knows or believes to be true with respect to the acts or omissions of the Releasees and the Released Claims, but, upon the Effective Date of the Settlement, the Settling Parties shall expressly settle and release, and each Settlement Class Member shall be deemed to have, and by operation of the Judgment shall have, fully and finally and forever settled and released any and all Released Claims without regard to the subsequent discovery or existence of such different or additional facts. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date of the Settlement, Lead Plaintiff and Defendants shall expressly waive, and each of the other Settlement Class Members shall be deemed to have waived, and by operation of the Judgment shall

have expressly waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, which is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

A general release does not extend to claims which the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Lead Plaintiff and Defendants acknowledge, and each of the other Settlement Class Members shall be deemed by operation of law to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement.

2. The Settlement Consideration

2.1. In consideration of the full and final release, settlement and discharge of the Released Plaintiffs' Claims against Defendants and Defendants' Releasees (*see* ¶ 6), which the Settling Parties agree are good and valuable consideration, Defendants shall cause to be paid the Settlement Amount by wire transfer or check into the Escrow Account within fifteen (15) Business Days after both (i) the Court enters the Preliminary Approval Order, and (ii) the Escrow Agent or Plaintiffs' Counsel provides Defendants' Counsel information necessary to

effectuate a transfer of funds to the Escrow Account, including but not limited to, wire transfer instructions, payment address, and a complete and executed Form W-9 for the Settlement Fund that reflects a valid tax identification number. If Defendants believe they have not received the information necessary to effectuate a transfer of funds to the Escrow Account, they shall notify Plaintiffs' Counsel of that belief and shall cause to be paid the Settlement Amount into the Escrow Account within five (5) Business Days of being provided the information necessary to effectuate a transfer of funds to the Escrow Account.

2.2. With the sole exception of Defendants' obligation to pay or cause to be paid the Settlement Amount into the Escrow Account, Defendants and Defendants' Counsel shall have no obligation pursuant to this Stipulation and the Settlement to make or cause to be made any additional payment into the Settlement Fund or Escrow Account or to any Settlement Class Member in connection with the Settlement. Defendants and Defendants' Counsel shall have no responsibility for, interest in, or liability whatsoever with respect to the Settlement Fund or Escrow Account, including, without limitation: (i) any act, omission, or determination by Plaintiffs' Counsel or the Claims Administrator, or any of their respective designees, in connection with the administration of the Settlement or otherwise; (ii) the management, maintenance, supervision, investment, or distribution of the Settlement Fund; (iii) the Plan of Allocation; (iv) the determination, administration,

calculation, or payment of any claims asserted against the Settlement Fund; (v) any loss suffered by, or fluctuation in value of, the Settlement Fund; or (vi) the payment or withholding of any Taxes, Tax Expenses, fees and/or costs incurred in connection with the taxation of the Settlement Fund, distributions or other payments of any amount from the Escrow Account and/or Settlement Fund, or the filing of any federal, state, or local returns, with all such payments, withholdings, costs, liabilities and distributions to be paid from the Escrow Account and Settlement Fund by the Escrow Agent and Claims Administrator, and all such filings to be made by the Escrow Agent and Claims Administrator, under the supervision of Lead Counsel, in accordance with and subject to the terms and provisions of this Stipulation and the Settlement.

3. Handling and Disbursement of Funds by the Escrow Agent

3.1. No monies will be disbursed from the Settlement Fund until after the Effective Date except:

- (a) As provided in ¶ 3.5 below (regarding Administrative Costs);
- (b) As provided in ¶ 8.2 below (regarding attorneys' fees and expenses);
- (c) As provided in ¶ 10.9 below, if applicable (regarding refund of the Settlement Fund); and
- (d) To pay Taxes and Tax Expenses (as defined in ¶ 4.1 below) on

the income earned by the Settlement Fund. Taxes and Tax Expenses shall be paid out of the Settlement Fund and shall be considered to be a cost of administration of the Settlement and shall be timely paid by the Escrow Agent without prior Order of the Court.

3.2. All funds held in the Escrow Account, and all earnings thereon, shall be deemed to be in the custody of the Court (*in custodia legis*), and shall remain subject to the jurisdiction of the Court until such time as the funds have been disbursed or returned to Defendants and/or the Insurers, in proportion to their contribution to the Settlement Fund, pursuant to the terms of this Stipulation, and/or further order of the Court. The Court's custody of such funds shall not in any way limit or restrict the Escrow Agent and Claims Administrator from distributing, or returning to Defendants and/or the Insurers, in proportion to their contribution to the Settlement Fund, such funds in accordance with the terms and provisions of this Stipulation and the Settlement except as may otherwise be ordered by the Court.

3.3. The Escrow Agent shall invest the Settlement Fund in United States Treasury Bills backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. In the event that the yield on United States Treasury Bills is negative, in lieu of purchasing such Treasury Bills, all or any

portion of the funds held by the Escrow Agent may be deposited in any account that is fully insured by the Federal Deposit Insurance Corporation (“FDIC”) or backed by the full faith and credit of the United States. Additionally, if short-term placement of the funds is necessary, all or any portion of the funds held by the Escrow Agent may be deposited in any account that is fully insured by the FDIC or backed by the full faith and credit of the United States. The Escrow Agent shall bear all responsibility and liability for managing the Escrow Account and cannot assign or delegate its responsibilities without approval of the Settling Parties. Defendants, Defendants’ Counsel, and the other Defendants’ Releasees shall have no responsibility for, interest in, or any liability whatsoever with respect to any investment or management decisions executed by the Escrow Agent. The Settlement Fund shall bear all risks related to the investments of the Settlement Amount in accordance with the guidelines set forth in this ¶ 3.2.

3.4. The Escrow Agent shall not disburse the Settlement Fund except as provided in this Stipulation, by an order of the Court, or with the written agreement of counsel for the Settling Parties.

3.5. At any time after the Court grants preliminary approval of the Settlement, the Escrow Agent may, without further approval from Defendants or the Court, disburse at the direction of Lead Counsel up to \$250,000 (Two Hundred Fifty Thousand U.S. Dollars) from the Settlement Fund prior to the Effective Date

to pay Administrative Costs. After the Effective Date, additional amounts actually incurred, totaling up to \$100,000 (One Hundred Thousand Dollars), may be transferred from the Settlement Fund to pay for any necessary additional Administrative Costs without further order of the Court. In the event that the Settlement is terminated pursuant to the terms of this Stipulation, all Administrative Costs paid or incurred, including any related fees, shall not be returned or repaid to Defendants, the Insurers, any of the other Defendants' Releasees, or any other person or entity who or which paid any portion of the Settlement Amount.

4. Taxes

4.1. The Settling Parties agree to treat the Settlement Fund as being at all times a "qualified settlement fund" within the meaning of Treasury Regulation § 1.468B-1. In addition, the Escrow Agent and the Claims Administrator or their designee, under the supervision of Lead Counsel, shall timely make such elections as necessary or advisable to carry out the provisions of this ¶ 4.1, including the "relation-back election" (as defined in Treasury Regulation § 1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent and the Claims Administrator, under the supervision of Lead Counsel, to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to

cause the appropriate filing to occur. Consistent with the foregoing:

(a) For purposes of § 1.468B of the Internal Revenue Code of 1986, as amended, and Treasury Regulation § 1.468B-2(k)(3) promulgated thereunder, the “administrator” shall be the Escrow Agent. The Escrow Agent shall timely and properly file all informational and other tax returns (“Tax Returns”) necessary or advisable with respect to the Settlement Fund (including without limitation the returns described in Treasury Regulation § 1.468B-2(k)). In all events, Defendants, Defendants’ Counsel, and the other Defendants’ Releasees shall have no liability or responsibility whatsoever for the preparation, filing, or non-filing of Tax Returns. Such Tax Returns (as well as the election described in this ¶ 4.1) shall be consistent with this ¶ 4.1 and in all events shall reflect that all Taxes (including any estimated Taxes, interest or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund. Notwithstanding the above, Defendants shall provide to the Escrow Agent all information necessary for the Escrow Agent to prepare and file Tax Returns and to comply with all applicable Treasury Regulations in connection with preparing and filing Tax Returns and paying Taxes.

(b) All Taxes (including any estimated Taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be imposed upon Defendants or their counsel or their Insurers with respect to any income earned by the Settlement Fund for any

period during which the Settlement Fund does not qualify as a “qualified settlement fund” for federal, state, and/or local tax purposes (“Taxes”), and all expenses and costs incurred in connection with the operation and implementation of this ¶ 4.1 (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses or penalties relating to filing (or failing to file) the returns described in this ¶ 4.1) (“Tax Expenses”), shall be paid out of the Settlement Fund, as appropriate. In all events, Defendants, Defendants’ Counsel, and the other Defendants’ Releasees shall have no liability or responsibility whatsoever to pay for the Taxes or the Tax Expenses outside of Defendants’ obligation hereunder to cause to be paid the Settlement Amount into the Escrow Account pursuant to ¶ 2.1 of this Stipulation. Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement and shall be timely paid out of the Settlement Fund without prior order from the Court. The Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants, or from Defendants or their Insurers in the event the Settlement is terminated pursuant to the terms of this Stipulation, any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be withheld under Treasury Regulation § 1.468B-2(1)(2)). Defendants, their counsel, and the other Defendants’ Releasees shall have no responsibility for,

interest in, or any liability whatsoever with respect to the foregoing provided in this ¶ 4.1 outside of Defendants' obligation hereunder to cause to be paid the Settlement Amount into the Escrow Account pursuant to ¶ 2.1 of this Stipulation. The Settling Parties agree to cooperate with each other, and their tax attorneys and accountants, to the extent reasonably necessary to carry out the provisions of this ¶ 4.1.

5. Preliminary Approval Order and Settlement Hearing

5.1. As soon as practicable after execution of this Stipulation, and no later than five (5) Business Days after the execution of the Stipulation, Lead Counsel shall submit this Stipulation and its exhibits to the Court and shall apply for preliminary approval of the Settlement set forth in this Stipulation, entry of a preliminary approval order substantially in the form of Exhibit A, and approval for the mailing and dissemination of notice and Proof of Claim form substantially in the form of Exhibits A-1, A-2, and A-3. The mailed Notice (Exhibit A-1) shall include the general terms of the Settlement and the provisions of the Plan of Allocation, and shall set forth the procedure by which recipients of the Notice may object to the Settlement or the Plan of Allocation or request to be excluded from the Settlement Class. The date and time of the Settlement Hearing shall be added to the Notice before it is mailed or otherwise provided to Potential Settlement Class Members (defined below). Defendants shall not object to, and Defendants and the other Defendants' Releasees shall not have any responsibility for, Lead Counsel's

proposed Plan of Allocation.

5.2. At the time of the submission described in ¶ 5.1 hereof, Lead Plaintiff, through its counsel, shall request that, after the Notice is provided, the Court hold the Settlement Hearing and (i) approve the Settlement as set forth herein and (ii) enter the Judgment as promptly after the Settlement Hearing as possible.

5.3. The Judgment shall contain a bar order (“Bar Order”) substantially in the form set forth in Exhibit B that shall, upon the Effective Date, to the fullest extent provided by law, bar all future claims and claims over by any individual or entity against any of the Defendants’ Releasees, and by the Defendants’ Releasees against any individual or entity, for (a) contribution or indemnity (or any other similar claims or claims over, however denominated on whatsoever theory) arising out of or related to, or premised on the factual allegations underlying the claims asserted by Lead Plaintiff in the Action, or (b) any other claim of any type arising out of, related to, or premised on the factual allegations underlying the claims asserted by Lead Plaintiff in the Action, whether arising under state, federal, common, or foreign law, for which the injury claimed is that person’s or entity’s actual or threatened liability to Lead Plaintiff and/or members of the Settlement Class; *provided, however*, the Bar Order shall not release nor bar any of the Excluded Plaintiffs’ Claims or claims for contribution or indemnity (or any other similar claims or claims over however denominated on whatsoever theory) arising out of,

related to, or premised on the factual allegations underlying the Excluded Plaintiffs' Claims. The Bar Order shall also provide that any final verdict or judgment to which the Bar Order applies (*i.e.*, any final verdict or judgment pertaining to a claim against an individual or entity other than Defendants' Releasees arising out of or related to, or premised on the factual allegations underlying the claims asserted by Lead Plaintiff in the Action) that may be obtained by or on behalf of the Settlement Class or a Settlement Class Member against any individual or entity subject to the Bar Order (*i.e.*, to whom the Bar Order applies) shall be reduced by the greater of: (a) an amount that corresponds to the percentage of responsibility of Defendants for common damages; or (b) the amount paid by or on behalf of Defendants to the Settlement Class or Settlement Class Member for common damages. Inclusion of the Bar Order in the Judgment is material to the Parties' decision to participate in this Stipulation. If the Judgment fails to include the Bar Order, or if appellate review of the Bar Order is sought and on such review the Bar Order is vacated, modified, or reversed, then the conditions of this Stipulation shall not be met and any of the Settling Parties may terminate the Settlement consistent with ¶ 10 below.

6. Releases and Covenants Not To Sue

6.1. The obligations incurred pursuant to this Stipulation are in consideration of: (i) the full and final disposition of the Action against Defendants; (ii) the Releases provided herein; and (iii) the required payment hereunder of the

Settlement Amount to be caused by the Defendants.

6.2. Pursuant to the Judgment, without further action by anyone, upon the Effective Date of the Settlement, Lead Plaintiff and each of the other Settlement Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, representatives, attorneys, agents and assigns in their capacities as such, shall be deemed to have, and by operation of law and of the Judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged, to the fullest extent allowed by law, each and every Released Plaintiffs' Claim (including Unknown Claims) against the Defendants and the other Defendants' Releasees, whether or not such Settlement Class Member executes and delivers the Proof of Claim or shares in the Settlement Fund, and shall forever be barred and enjoined from prosecuting any or all of the Released Plaintiffs' Claims against any of the Defendants' Releasees. Any Proof of Claim that will be executed by a Settlement Class Member shall be deemed to include a release that permanently bars and enjoins such Settlement Class Member from bringing any action asserting any of the Released Plaintiffs' Claims against any and all Defendants' Releasees.

6.3. If the Settlement is approved by the Court and the Effective Date occurs, any Settlement Class Member who or which does not timely and validly request exclusion from the Settlement Class in the manner stated in the Preliminary

Approval Order: (a) shall be deemed to have waived his, her, or its right to be excluded from the Settlement Class; (b) shall be forever barred from requesting exclusion from the Settlement Class in this or any other proceeding; (c) shall be bound by the provisions of this Stipulation, the Settlement, and all proceedings, determinations, orders, and judgments in the Action relating to the Settlement, whether favorable or unfavorable to the Settlement Class, including but not limited to, the Judgment, and the release of the Released Plaintiffs' Claims against Defendants' Releasees provided for therein; and (d) shall be barred and enjoined from commencing, maintaining, or prosecuting any of the Release Plaintiffs' Claims against any of the Defendants' Releasees.

6.4. Pursuant to the Judgment, without further action by anyone, upon the Effective Date of the Settlement, Defendants, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, representatives, attorneys, agents and assigns in their capacities as such, shall be deemed to have, and by operation of law and of the Judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged, to the fullest extent allowed by law, each and every Released Defendants' Claim against Lead Plaintiff and the other Plaintiffs' Releasees, and shall forever be barred and enjoined from prosecuting any or all of the Released Defendants' Claims against any of the Plaintiffs' Releasees.

6.5. Notwithstanding ¶¶ 6.2-6.4 above, the Releases shall not apply to any Opt-Outs. Furthermore, nothing in the Judgment shall bar any action by any of the Settling Parties to enforce or effectuate the terms of this Stipulation or the Judgment.

7. Administration and Calculation of Claims, Final Awards and Supervision and Distribution of the Settlement Fund

7.1. Under the supervision of Plaintiffs' Counsel, acting on behalf of the Settlement Class, and subject to such supervision and direction of the Court as may be necessary or as circumstances may require, the Claims Administrator shall administer and calculate the claims submitted by Settlement Class Members and shall oversee distribution of the Net Settlement Fund (as defined below) to Authorized Claimants. This Settlement is not a claims-made settlement, and if all conditions of the Stipulation are satisfied and the Judgment becomes Final, no portion of the Settlement Fund will be returned to any of the Defendants or the Insurers.

7.2. The Settlement Fund shall be applied as follows:

(a) To pay the Taxes and Tax Expenses described in ¶ 4.1 above;

(b) To pay Administrative Costs;

(c) To pay Plaintiffs' Counsel attorneys' fees with interest and expenses and an Award to Plaintiff (the "Fee and Expense Application"), to the

extent allowed by the Court; and

(d) To distribute the balance of the Settlement Fund, that is, the Settlement Fund less the items set forth in ¶ 7.2(a), (b), and (c) hereof (the “Net Settlement Fund”), plus all accrued interest, to the Authorized Claimants as allowed by this Stipulation, the Plan of Allocation, or the Court.

7.3. Upon and after the Effective Date, the Net Settlement Fund shall be distributed to Authorized Claimants in accordance with the terms of the Plan of Allocation set forth in the Notice and any orders of the Court.

7.4. Except as provided in ¶ 4 above, Defendants, Defendants’ Counsel, and the other Defendants’ Releasees shall have no responsibility for, involvement in, interest in, or liability with respect to the administration of the Settlement or the actions or decisions of the Claims Administrator, and shall have no liability to the Settlement Class in connection with such administration, including with respect to: (i) any act, omission, or determination by Lead Counsel, the Escrow Agent, and/or the Claims Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management or investment of the Settlement Fund or the Net Settlement Fund, or the distribution of the Net Settlement Fund; (iii) the Plan of Allocation; (iv) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by, or fluctuations in value of, the

Settlement Fund; (vi) the payment or withholding of any Taxes, Tax Expenses, and/or costs incurred with the taxation of the Settlement Fund or the filing of any federal, state, or local Tax Returns, with all such payments, withholdings, and costs, to be paid from the Escrow Account and the Settlement Fund by the Escrow Agent and Claims Administrator and all such filings to be made by the Escrow Agent and Claims Administrator, under the supervision of Lead Counsel, in accordance with and subject to the terms and provisions of this Stipulation and the Settlement. No Person shall have any claims against Lead Plaintiff, Plaintiffs' Counsel, the Claims Administrator or any other agent designated by Plaintiffs' Counsel based on distribution determinations or claim rejections made substantially in accordance with this Stipulation and the Settlement contained herein, the Plan of Allocation, or orders of the Court. Lead Plaintiff and Defendants, and their respective counsel, and all other Releasees shall have no liability whatsoever for the investment or distribution of the Settlement Fund or the Net Settlement Fund, the Plan of Allocation approved by the Court, or the determination, administration, calculation, or payment of any claim or nonperformance of the Claims Administrator, the payment or withholding of Taxes (including interest and penalties) owed by the Settlement Fund, or any losses incurred in connection therewith.

7.5. Defendants have no role in the development of the Plan of Allocation. It is understood and agreed by the Settling Parties that any proposed

Plan of Allocation of the Net Settlement Fund including, but not limited to, any adjustments to an Authorized Claimant's claim set forth therein, is not a condition of this Stipulation and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in this Stipulation. Any order or proceedings relating to the Plan of Allocation, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to modify, terminate or cancel this Stipulation, or affect or delay the finality of the Judgment and the Releases contained therein, or any other orders entered pursuant to this Stipulation.

7.6. (a) To assist in dissemination of notice, ARA will reasonably cooperate in obtaining from the Company's transfer records, information concerning the identity of Potential Settlement Class Members, including any names and addresses of Potential Settlement Class Members and nominees or custodians that exists in such transfer records ("Class Information"). The Company shall provide, or cause to be provided, to Plaintiffs' Counsel or the Claims Administrator (at no cost to the Settlement Fund, Plaintiffs, Plaintiffs' Counsel or the Claims Administrator), within five (5) calendar days after the Court signs an order preliminarily approving the Settlement, transfer records in electronic searchable form, such as Excel or other form acceptable to the Claims Administrator, containing the Class Information. (b) The Settling Parties acknowledge and agree that any

information provided to Plaintiffs' Counsel by the Company pursuant to this paragraph shall be treated as confidential and will be used by Plaintiffs' Counsel solely to deliver the Notice and Proof of Claim and/or implement the Settlement, including the Plan of Allocation, and shall not be filed publicly or used for any other purpose without prior permission from the Court. The Settling Parties further acknowledge and agree that such information shall not be given, shown, summarized, revealed, disclosed or made available in any form to any other Person, unless and until the recipient (i) agrees to be bound by these restrictions and (ii) consents to the jurisdiction of the Court for any disputes relating thereto. Notwithstanding the above, Plaintiffs' Counsel and/or the Claims Administrator can summarize the Class Information as part of a Court filing and can use the Class Information to determine the validity of any Claim, and Plaintiffs' Counsel, Defense Counsel and/or the Claims Administrator shall have the right to use the Class Information to investigate any Request for Exclusion or objection to any aspect of the Settlement.

7.7. All persons and entities who are entitled to be Settlement Class Members ("Potential Settlement Class Members") shall have the right to exclude themselves from the Settlement Class. Such Potential Settlement Class Members who wish to exclude themselves from the Settlement Class must submit a request for exclusion that satisfies the requirements set forth in the Notice to the

Claims Administrator by the stated deadline. All Potential Settlement Class Members who validly exclude themselves from the Settlement Class shall be excluded from any and all rights and obligations under the Settlement, but those who do not exclude themselves in the manner and time prescribed in this Stipulation shall be deemed to be members of the Settlement Class regardless of whether such person or entity timely files a Proof of Claim Form. Any dispute among the Settling Parties regarding the validity of a Request for Exclusion shall be submitted to the Court for resolution.

7.8. The Claims Administrator shall receive Claims and determine first, whether the Claim is a valid Claim, in whole or part, and second, each Authorized Claimant's *pro rata* share of the Net Settlement Fund based upon each Authorized Claimant's Recognized Loss compared to the total Recognized Losses of all Authorized Claimants (as set forth in the Plan of Allocation included in the Notice attached hereto as Exhibit 1 to Exhibit A, or in such other plan of allocation as the Court approves).

7.9. Any Settlement Class Member who does not submit a valid Claim Form will not be entitled to receive any distribution from the Net Settlement Fund, but will otherwise be bound by all of the terms of this Stipulation and Settlement, including the terms of the Judgment to be entered in the Action and the releases provided for herein and therein, and will be permanently barred and

enjoined from bringing any action, claim, or other proceeding of any kind against the Defendants' Releasees with respect to the Released Plaintiffs' Claims in the event that the Effective Date occurs with respect to the Settlement.

7.10. Lead Counsel shall be responsible for supervising the administration of the Settlement and the disbursement of the Net Settlement Fund subject to Court approval. No Defendant, or any other Defendants' Releasees, shall be permitted to review, contest or object to any Claim Form, or any decision of the Claims Administrator or Lead Counsel with respect to accepting or rejecting any Claim for payment by a Settlement Class Member. Notwithstanding the foregoing, upon request from Defendants or Defendants' Counsel (without needing to make any showing regarding the basis for such request), the Claims Administrator and/or Lead Counsel shall provide Defendants or Defendants' Counsel any records relating to the Notices that were distributed and the Claim Forms that were submitted and/or approved, provided that such information may only be requested in good faith for use by Defendants or Defendants' Counsel in resolving threatened or asserted litigation arising out of or related to, or premised on the factual allegations underlying the claims asserted by Lead Plaintiff in the Action, and when so produced must only be used by Defendants or Defendants' Counsel for such purpose and must otherwise be kept confidential and shall not be filed publicly or used for any other purpose without prior permission from the Court. Defendants and Defendants'

Counsel further acknowledge and agree that such information shall not be given, shown, summarized, revealed, disclosed or made available in any form to any other Person, unless and until the recipient (i) agrees to be bound by these restrictions and (ii) consents to the jurisdiction of the Court for any disputes relating thereto. Lead Counsel shall have the right, but not the obligation, to waive what it deems to be formal or technical defects in any Claim Forms submitted in the interests of achieving substantial justice. Defendants and Defendants' Counsel shall have no liability, obligation or responsibility for the administration of the Settlement, the allocation of the Net Settlement Fund, or the reviewing or challenging of claims of Class Members.

7.11. For purposes of determining the extent, if any, to which a Settlement Class Member shall be entitled to be treated as an Authorized Claimant, the following conditions shall apply:

(a) Each Settlement Class Member shall be required to submit a Claim Form, substantially in the form attached hereto as Exhibit 2 to Exhibit A, supported by such documents as are designated therein, or such other documents or proof as the Claims Administrator or Lead Counsel, in their discretion, may deem acceptable;

(b) All Claim Forms must be submitted by the date set by the Court in the Preliminary Approval Order and specified in the Notice. Any Settlement Class

Member who fails to submit a Claim Form by such date shall be forever barred from receiving any distribution from the Net Settlement Fund or payment pursuant to this Stipulation (unless by Order of the Court such Settlement Class Member's Claim Form is accepted), but shall in all other respects be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Judgment, and the Releases provided for herein and therein, and will be permanently barred and enjoined from bringing any action, claim or other proceeding of any kind against any Defendants' Releasees with respect to any Released Plaintiffs' Claim. Provided that it is mailed by the claim-submission deadline, a Claim Form shall be deemed to be submitted when postmarked, if received with a postmark indicated on the envelope and if mailed by first-class mail and addressed in accordance with the instructions thereon. In all other cases, the Claim Form shall be deemed to have been submitted on the date when actually received by the Claims Administrator;

(c) Each Claim Form shall be submitted to and reviewed by the Claims Administrator who shall determine in accordance with this Stipulation and the Plan of Allocation the extent, if any, to which each Claim shall be allowed, subject to review by the Court pursuant to subparagraph (e) below as necessary;

(d) Claim Forms that do not meet the submission requirements may be rejected. Prior to rejecting a Claim in whole or in part, the Claims Administrator shall communicate with the Claimant in writing, to give the Claimant the chance to

remedy any curable deficiencies in the Claim Form submitted. The Claims Administrator shall notify, in a timely fashion and in writing, all Claimants whose Claim the Claims Administrator proposes to reject in whole or in part, setting forth the reasons therefor, and shall indicate in such notice that the Claimant whose Claim is to be rejected has the right to a review by the Court if the Claimant so desires and complies with the requirements of subparagraph (e) below; and

(e) If any Claimant whose Claim has been rejected in whole or in part desires to contest such rejection, the Claimant must, within fourteen (14) days after the date of mailing of the notice required in subparagraph (d) above, serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection along with any supporting documentation. If a dispute concerning a Claim cannot be otherwise resolved, the Claimant may thereafter present a request for review to the Court.

7.12. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to the Claimant's Claim, and the Claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided, however, that such investigation and discovery shall be limited to that Claimant's status as a Settlement Class Member and the validity and amount of the Claimant's Claim. No discovery shall be allowed on the merits of this Action or of the Settlement in connection with the processing of Claim Forms.

7.13. Lead Counsel will apply to the Court, on notice to Defendants' Counsel, for a Class Distribution Order: (a) approving the Claims Administrator's administrative determinations concerning the acceptance and rejection of the Claims submitted; (b) approving payment of any administration fees and expenses associated with the administration of the Settlement from the Escrow Account; and (c) if the Effective Date has occurred, directing payment of the Net Settlement Fund to Authorized Claimants from the Escrow Account.

7.14. Payment pursuant to the Class Distribution Order shall be final and conclusive against all Settlement Class Members. All Settlement Class Members whose Claims are not approved by the Court for payment shall be barred from participating in distributions from the Net Settlement Fund, but otherwise shall be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Judgment to be entered in this Action and the Releases provided for herein and therein, and will be permanently barred and enjoined from bringing any action against any and all Defendants' Releasees with respect to any and all of the Released Plaintiffs' Claims.

7.15. Distribution checks shall be void six (6) months from the date they are issued. If any funds remain in the Net Settlement Fund by reason of uncashed checks or otherwise, then, after the Claims Administrator has made reasonable and diligent efforts to have Settlement Class Members who are entitled

to participate in the distribution of the Net Settlement Fund cash their distribution checks, any balance remaining in the Net Settlement Fund six (6) months after the initial distribution of such funds shall be re-distributed, after payment of any unpaid costs or fees incurred in administering the Net Settlement Fund for such redistribution, if Lead Counsel after consulting with the Claims Administrator determines such redistribution to be equitable and an efficient use of the funds, to Settlement Class Members who have cashed their checks and who would receive at least \$20.00 from such re-distribution. If any funds shall remain in the Net Settlement Fund six months after such re-distribution, then such balance shall be contributed to an appropriate non-profit 501(c)(3) organization designated by Plaintiffs' Counsel, such as the Institute for Investor Protection, Loyola University Chicago School of Law or another next-best organization.

7.16. All proceedings with respect to the administration, processing and determination of Claims and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of Claims, shall be subject to the jurisdiction of the Court. Lead Plaintiff and Defendants each expressly waive, and all Settlement Class Members will be deemed to have waived trial by jury (to the extent any such right may exist) and any right of appeal or review with respect to such determinations

7.17. No Person shall have any claim of any kind against the

Defendant's Releasees or Defendants' Counsel with respect to the administration of the Settlement, including without limitation the processing of claims and distributions.

8. Plaintiffs' Counsel's Attorneys' Fees and Reimbursement of Expenses

8.1. Plaintiffs' Counsel may submit Fee and Expense Applications for distributions from the Settlement Fund to Plaintiffs' Counsel for: (i) an award of attorneys' fees with interest from the Settlement Fund; (ii) reimbursement of actual costs and expenses, including the fees and expenses of any experts or consultants, incurred in connection with prosecuting the Action; and (iii) an Award to Plaintiff. Defendants shall take no position with respect to the Fee and Expense Application(s) provided they are consistent with the terms of the Stipulation.

8.2. Except as otherwise provided in this paragraph, the attorneys' fees and reimbursement of expenses awarded by the Court shall be paid to Plaintiffs' Counsel from the Settlement Fund immediately after the date the Court enters the Judgment, and an order awarding such fees and expenses, notwithstanding any objections to or appeals of such order or of the Judgment or collateral attack on the Settlement or any part thereof. Lead Counsel may thereafter allocate the attorneys' fees among other Plaintiffs' Counsel in a manner in which they in good

faith believe reflects the contributions of such counsel to the initiation, prosecution, and resolution of the Action. Defendants' and the other Defendants' Releasees shall have no responsibility for, and no liability whatsoever with respect to, any allocation of any attorneys' fees or expenses. In the event that the Effective Date does not occur, or the Judgment is reversed or modified in any way that affects the award of attorneys' fees and expenses, or the Stipulation is terminated for any other reason, then Plaintiffs' Counsel shall be jointly and severally obligated to refund to the Escrow Account, within thirty (30) Business Days from receiving notice from any of Defendants' Counsel or from a court of appropriate jurisdiction, either the full amount of the fees and expenses or an amount consistent with any modification of the Judgment with respect to the Fee and Expense Application(s). Each Plaintiffs' Counsel receiving any payment of attorneys' fees or reimbursement of expenses, as a condition of receiving such fees and expenses, shall agree that they accept payment subject to the joint and several obligation of each of Plaintiffs' Counsel's (including their respective partners, shareholders, and/or firms) obligation to make repayment to Lead Counsel or to the Settlement Fund of the entire amount paid to them within fifteen (15) Business Days from receiving the notice referenced in this paragraph. Plaintiffs' Counsel shall agree that the law firms and its partners and/or shareholders are subject to jurisdiction of the Court for the purpose of enforcing the provisions of this paragraph, and shall be jointly and severally liable for repayment of all

attorneys' fees and expenses awarded by the Court. Any Award to Plaintiff shall not be paid from the Settlement Fund until after the Effective Date.

8.3. The procedure for, and allowance or disallowance by the Court of, the Fee and Expense Application(s) are not a condition of the Settlement set forth in this Stipulation and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in this Stipulation. Any order or proceeding relating to the Fee and Expense Application(s), or any objection to, motion regarding, or appeal from any order or proceeding relating thereto or reversal or modification thereof, shall not operate to modify, terminate or cancel this Stipulation, or affect or delay the finality of the Judgment or the Releases contained therein or any other orders entered pursuant to this Stipulation. Neither the Lead Plaintiff nor Lead Counsel may cancel or terminate the Settlement based on this Court's or any appellate court's ruling with respect to Fee and Expense Application(s).

8.4. Any award of attorneys' fees and interest and/or reimbursement of expenses to Plaintiffs' Counsel or an Award to Plaintiff shall be paid solely from the Settlement Fund. No Defendant shall have any responsibility for payment of Plaintiffs' Counsel's attorneys' fees and interest, expenses or Award to Plaintiff beyond the obligation of Defendants to cause the funding of the Settlement Amount as set forth in ¶ 2.1 above. Defendants' Releasees shall have no

responsibility for, and no liability whatsoever with respect to, any payments to Plaintiffs' Counsel, Lead Plaintiff, the Settlement Class and/or any other Person who receives payment from the Settlement Fund except for Defendants' obligation to pay the Settlement Amount as set forth herein.

9. Class Certification

9.1. In and pursuant to the Judgment the Settlement Class shall be certified only for purposes of this Settlement, but in the event that the Judgment does not become Final or the Settlement fails to become effective for any reason, then this Action shall revert to its procedural status immediately prior to March 11, 2020, in accordance with ¶ 10.7 herein, in which case all Settling Parties reserve all their rights on all issues, including class certification, and any and all arguments that may be advanced by Plaintiffs and Defendants either for or against class certification shall be preserved in full. For purposes of this Settlement only, in connection with the Judgment, Defendants shall consent to (i) the appointment of Lead Plaintiff as the class representative, (ii) the appointment of Lead Counsel as class counsel, and (iii) the certification of the Class pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure.

10. Conditions of Settlement, Effect of Disapproval, Cancellation or Termination

10.1. Lead Plaintiff, on behalf of the Class, and Defendants shall each have the right to terminate the Settlement and Stipulation by providing written

notice of its or their election to do so (“Termination Notice”) to all other Settling Parties within ten (10) Business Days of:

(i) entry of a Court order declining to enter the Preliminary Approval Order in any material respect;

(ii) entry of a Court order refusing to approve this Stipulation in any material respect;

(iii) entry of a Court order declining to enter the Judgment in any material respect;

(iv) entry of a Court order refusing to dismiss the Action with prejudice;

(v) entry of an order by which the Judgment is modified or reversed in any material respect by any appeal or review;

(vi) failure on the part of any Settling Party to abide, in material respect, with the terms of this Stipulation. In the absence of any of the events enumerated in the preceding sentence, as well as those enumerated in ¶ 10.2, ¶ 10.5 or ¶ 10.6, no Settling Party shall have the right to terminate the Stipulation for any reason.

10.2. If the Settlement Amount is not paid into the Escrow Account in accordance with ¶ 2.1 of this Stipulation, then Lead Plaintiff, on behalf of the Class, shall have the right, in its sole discretion, to (a) terminate the Settlement

and Stipulation by providing written notice to Defendants at any time prior to the Court's entry of the Judgment; or (b) enforce the terms of the Settlement and this Stipulation and seek a judgment effecting the terms herein.

10.3. The Effective Date of this Stipulation ("Effective Date") shall not occur unless and until each of the following events occurs, and it shall be the date upon which the last in time of the following events occurs:

(a) Defendants have not exercised their option to terminate the Settlement pursuant to ¶ 10.5;

(b) The Court has entered the Preliminary Approval Order attached hereto as Exhibit A or an order containing materially the same terms;

(c) The Settlement Amount has been paid into the Escrow Account, as set forth in ¶ 2.1;

(d) The Court has approved the Settlement, following notice to Potential Settlement Class Members and the Settlement Hearing, and has entered the Judgment;

(e) The Judgment has become Final as defined in ¶ 1.17; and

(f) The Action has been dismissed with prejudice.

10.4. Upon the occurrence of the Effective Date, any and all interest or right of Defendants or the Insurers in or to the Settlement Fund, if any, shall be absolutely and forever extinguished, except as set forth in this Stipulation.

10.5. If prior to issuance of the Judgment, Opt-Outs who in the aggregate purchased shares of common stock in an amount greater than the amount specified in a separate Supplemental Agreement between the Settling Parties (the “Supplemental Agreement”), then Defendants shall have the option in their sole discretion to terminate this Stipulation and Settlement in accordance with the requirements and procedures set forth in the Supplemental Agreement. The Settling Parties undertake to keep the Supplemental Agreement confidential, and the Supplemental Agreement shall not be filed with or submitted to the Court unless and until a dispute among the Settling Parties arises concerning its interpretation or application, and then it shall be submitted to the Court in camera or filed under seal if permitted by the Court, unless otherwise required or ordered by the Court.

10.6. None of the Settling Parties, or any of them, shall have any obligation whatsoever to proceed under any terms other than those provided for and agreed herein. If any Settling Party engages in a material breach of the terms hereof, any other Settling Party, provided that it is in substantial compliance with the terms of this Stipulation, may terminate this Stipulation on notice to all the Settling Parties.

10.7. In the event the Stipulation shall terminate, or be canceled, or shall not become effective for any reason, the Settling Parties shall be restored to their respective positions in the Action immediately prior to March 11, 2020, and they shall proceed in all respects as if the Stipulation had not been executed and the

related orders had not been entered, and in that event all of their respective claims and defenses as to any issue in the Action shall be preserved without prejudice.

10.8. In the event that the Stipulation is not approved by the Court or the Settlement set forth in this Stipulation is terminated or fails to become effective in accordance with its terms, the terms and provisions of this Stipulation, except as otherwise provided herein, shall have no further force and effect with respect to the Settling Parties and shall not be used in the Action or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of this Stipulation, including, for the avoidance of doubt, any order or judgment certifying the Settlement Class as described in ¶ 9.1, shall be treated as vacated, *nunc pro tunc*.

10.9. In the event the Stipulation shall be terminated, or be canceled, or shall not become effective for any reason, within thirty (30) Business Days (except as otherwise provided in the Supplemental Agreement) after the occurrence of such event, the Settlement Fund (less Taxes already paid or incurred and any Administrative Costs or Tax Expenses which have either been disbursed, incurred or are determined to be chargeable) shall be refunded by the Escrow Agent to Defendants and/or the Insurers, in proportion to their contribution to the Settlement Fund, plus net interest earned on the Settlement Amount, by check or wire transfer pursuant to written instructions from Defendants and/or the Insurers,

as applicable. Additionally, if the Stipulation shall be terminated, or be canceled, or shall not become effective for any reason, neither the Plaintiffs nor any of Plaintiffs' Counsel shall have any obligation to repay any amounts actually and properly disbursed to the Settlement Class as provided in this Stipulation. In the event that the funds received by Lead Counsel consistent with ¶ 8.2 above have not been refunded to the Settlement Fund within thirty (30) Business Days as specified in this paragraph, those funds shall be refunded by the Escrow Agent to Defendants and/or any entity that paid any portion of the Settlement Amount (or such other persons or entities as Defendants may direct) immediately upon their deposit into the Escrow Account consistent with ¶ 8.2 above. At the request of Defendants or the Insurers, under the circumstances described in this paragraph, the Escrow Agent or its designee shall apply for any tax refund owed on the Settlement Fund and pay the proceeds, after deduction of any fees or expenses incurred in connection with such application(s) for refund, to Defendants or the Insurers pursuant to written direction from Defendants or the Insurers, as applicable.

10.10. No order of the Court or modification or reversal on appeal of any order of the Court concerning the Plan of Allocation or the Fee and Expense Application(s) shall constitute grounds for cancellation or termination of the Stipulation.

11. No Admission of Liability or Wrongdoing

11.1. The Settling Parties covenant and agree that neither this Stipulation, nor the fact nor any terms of the Settlement, nor any communication relating thereto, nor the Supplemental Agreement, is evidence, or an admission, presumption or concession by any Settling Party or their counsel, any Settlement Class Member, or any of the Releasees, of any fault, liability or wrongdoing whatsoever, as to any facts or claims alleged or that have been or could have been asserted in the Action, or in any other actions or proceedings, or as to the validity or merit of any of the claims or defenses alleged or that have been or could have been asserted in any such action or proceeding. This Stipulation is not a finding or evidence of the validity or invalidity of any claims or defenses in the Action, any wrongdoing by any Settling Party, Settlement Class Member, or any of the Releasees, or any damages or injury to any Settling Party, Settlement Class Member, or any Releasees. Neither this Stipulation, nor the Supplemental Agreement, nor any of the terms and provisions of this Stipulation or the Supplemental Agreement, nor any of the negotiations or proceedings in connection therewith, nor any of the documents or statements referred to herein or therein, nor the Settlement, nor the fact of the Settlement, nor the Settlement proceedings, nor any statement in connection therewith, (a) shall (i) be argued to be, used or construed as, offered or received in evidence as, or otherwise constitute an admission, concession,

presumption, proof, evidence, or a finding of any liability, fault, wrongdoing, injury or damages, or of any wrongful conduct, acts or omissions on the part of any Releasee, or of any infirmity or merit of any claim or defense, or of any damages to any Settling Party, including the Lead Plaintiff, or any other Settlement Class Member, or the amount thereof, or (ii) otherwise be used to create or give rise to any inference or presumption against any of the Releasees concerning any fact or any purported liability, fault, or wrongdoing of the Releasees or any injury or damages to any person or entity, or (b) shall otherwise be admissible, referred to or used in any proceeding of any nature, for any purpose whatsoever; provided, however, that the Stipulation or the Supplemental Agreement or the Judgment may be introduced in any proceeding, whether in the Court or otherwise, as may be necessary to, if applicable, enforce the Settlement or Supplemental Agreement or Judgment or as otherwise required by law.

12. Miscellaneous Provisions

12.1. Except in the event of the filing of a Termination Notice pursuant to ¶¶ 10.1, 10.2 or 10.6 of this Stipulation or termination notice in accordance with the Settling Parties' Supplemental Agreement, the Settling Parties shall take all actions necessary to consummate this agreement; and agree to cooperate with each other to the extent reasonably necessary in seeking Court approval of the Preliminary Approval Order and the Settlement, as embodied in this

Stipulation, and to use best efforts to promptly agree upon and execute all such other documentation as may be reasonably required to effectuate and implement all terms and conditions of the Stipulation and to obtain final approval by the Court of the Settlement.

12.2. The Settling Parties and their counsel represent that they will not encourage or otherwise influence (or seek to influence) any Potential Settlement Class Members to request exclusion from, or object to, the Settlement.

12.3. Each of the attorneys executing this Stipulation, any of its exhibits, or any related Settlement documents on behalf of any Settling Party hereto hereby warrants and represents that he or she has been duly empowered and authorized to do so by the Settling Party he or she represents and that they have the authority to take appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

12.4. Defendants warrant that, as to the payments made or to be made by or on behalf of them, at the time of entering into this Stipulation and at the time of such payment they, or to their knowledge any persons or entities contributing to the payment of the Settlement Amount, were not insolvent, nor will the payment required to be made by or on behalf of them render them insolvent, within the meaning of and/or for the purposes of the United States Bankruptcy Code, including §§ 101 and 547 thereof. This representation is made by each of the Defendants and

not by their counsel.

12.5. In the event of the entry of a final order of a court of competent jurisdiction determining the transfer of money to the Settlement Fund or any portion thereof by or on behalf of Defendants to be a preference, voidable transfer, fraudulent transfer or similar transaction and any portion thereof is required to be returned, and such amount is not promptly deposited into the Settlement Fund by others, then, at the election of Lead Plaintiff, Lead Plaintiff and Defendants shall jointly move the Court to vacate and set aside the Releases given and the Judgment entered in favor of Defendants and the other Defendants' Releasees pursuant to this Stipulation, in which event the Releases and Judgment shall be null and void, and the Settling Parties shall be restored to their respective positions in the litigation as provided in ¶ 10.7 above and any cash amounts in the Settlement Fund (less any Taxes paid, due or owing with respect to the Settlement Fund and less any Administration Costs actually incurred, paid or payable) shall be returned as provided in ¶ 10.9.

12.6. Lead Plaintiff and Plaintiffs' Counsel represent and warrant that the Lead Plaintiff is a Settlement Class Member and none of Lead Plaintiff's claims or causes of action asserted against one or more Defendants in the Action have been assigned, encumbered or in any manner transferred in whole or in part.

12.7. This Stipulation, together with the Supplemental Agreement,

constitutes the entire agreement between the Settling Parties related to the Settlement and supersedes any prior agreements. No representations, warranties, promises, inducements or other statements have been made to or relied upon by any Settling Party concerning this Stipulation, other than the representations, warranties and covenants expressly set forth herein and in the Supplemental Agreement. Lead Plaintiff, on behalf of itself and the Settlement Class, as well as all other Settling Parties, acknowledge and agree that any and all other representations and warranties of any kind or nature, express or implied, are specifically disclaimed and were not relied upon in connection with this Stipulation. In entering this Stipulation, the Settling Parties relied solely upon their own knowledge and investigation. Except as otherwise provided herein, each Settling Party shall bear its own costs.

12.8. This Stipulation may not be modified or amended, nor may any of its provisions be waived, except by a writing signed by all Settling Parties or their counsel or their respective successors in interest.

12.9. This Stipulation shall be binding upon, and shall inure to the benefit of, the Settling Parties and their respective agents, successors, executors, heirs, and assigns.

12.10. The Releasees who do not appear on the signature lines below, are acknowledged and agreed to be third party beneficiaries of this Stipulation and Settlement.

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

12.12. This Stipulation may be executed in any number of counterparts by any of the signatories hereto and the transmission of an original signature page electronically (including by facsimile or portable document format) shall constitute valid execution of the Stipulation as if all signatories hereto had executed the same document. Copies of this Stipulation executed in counterpart shall constitute one agreement.

12.13. This Stipulation, the Settlement, the Supplemental Agreement and any and all disputes arising out of or relating in any way to this Stipulation, whether in contract, tort or otherwise, shall be governed by and construed in accordance with the laws of the State of New Jersey without regard to conflict of laws principles.

12.14. The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of this Stipulation, including the Plan of Allocation (or such other plan of allocation as may be approved by the Court), and the Settling Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in this Stipulation and for the purpose of entering orders providing for awards of attorneys' fees and reimbursement of expenses to Plaintiffs' Counsel, an Award to Plaintiff and the

distribution of the Net Settlement Fund to Settlement Class Members.

12.15. The Stipulation shall not be construed more strictly against one Settling Party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Settling Parties, it being recognized that it is the result of arm's-length negotiations between the Settling Parties, and all Settling Parties have contributed substantially and materially to the preparation of this Stipulation.

12.16. All agreements by, between or among the Settling Parties, their counsel and their other advisors as to the confidentiality of information exchanged between or among them shall remain in full force and effect, and shall survive the execution and any termination of this Stipulation and the final consummation of the Settlement, if finally consummated, without regard to any of the conditions of the Settlement.

12.17. The Settling Parties agree not to assert or pursue, and Releasees shall be deemed to agree by operation of law in consideration for the Releasees not to assert or pursue, any action, claim or rights that any Settling Party or other person violated any provision of Rule 11 of the Federal Rules of Civil Procedure and/or the Private Securities Litigation Reform Act of 1995 (the "PSLRA") or any other applicable law, rule, statute, or regulation in connection with this Action, the Settlement, the Stipulation or the Supplemental Agreement. The

Settling Parties agree, and Releasees shall be deemed to agree by operation of law in consideration for the Releases, that the Action was resolved in good faith following arm's-length bargaining, in full compliance with applicable requirements of good faith litigation under the Exchange Act, Rule 11 of the Federal Rules of Civil Procedure and/or the PSLRA, including through a mediation process supervised and conducted by Judge Layn Phillips, and reflect the Settlement that was reached voluntarily after extensive negotiations and consultation with experienced legal counsel, who were fully competent to assess the strengths and weaknesses of their respective clients' claims or defenses. In all events, Lead Plaintiff and its counsel and Defendants and their counsel shall not make, and Releasees shall be deemed to agree by operation of law in consideration for the Releases not to make, any accusations of wrongful or actionable conduct by any of the Settling Parties concerning the prosecution, defense and resolution of the Action, and shall not otherwise suggest that the Settlement constitutes an admission of any claim or defense alleged. The proposed Judgment will contain a statement reflecting that the Settling Parties' complied with Rule 11 of the Federal Rules of Civil Procedure and all other applicable laws, rules, statutes or regulations, and that the Action was filed in good faith in accordance with the PSLRA.

12.18. Any failure by any of the Settling Parties to insist upon the strict performance by any other Settling Party of any of the provisions of the

Stipulation shall not be deemed a waiver of any of the provisions hereof, and such Settling Party, notwithstanding such failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Stipulation to be performed by the other Settling Parties to this Stipulation.

12.19. The waiver, express or implied, by any Settling Party of any breach or default by any other Settling Party in the performance of such Settling Party's obligations under the Stipulation shall not be deemed or construed to be a waiver of any other breach, whether prior, subsequent, or contemporaneous, under this Stipulation.

12.20. If any Settling Party is required to give notice to another Settling Party under this Stipulation, such notice shall be in writing and shall be deemed to have been duly given upon receipt of hand delivery or facsimile or email transmission, with confirmation of receipt. Notice shall be provided as follows:

If to Lead Plaintiff or Lead
Counsel:

Abraham, Fruchter & Twersky, LLP
Attn: Mitchell M.Z. Twersky
One Penn Plaza, Suite 2805
New York, NY 10119
Telephone: (212) 279-5050
Facsimile: (212) 279-3655
Email: mtwersky@aftlaw.com

If to Defendants:

Latham & Watkins LLP
Attn: Jason C. Hegt
885 Third Avenue
New York, NY 10022
Telephone: (212) 906-1200
Facsimile: (212) 751-4864
Email: jason.hegt@lw.com

12.21. The Settling Parties reserve the right to make any reasonable extensions of time that might be necessary to carry out any of the provisions of this Stipulation.

IN WITNESS WHEREOF, the Settling Parties have executed this Stipulation by their undersigned counsel effective as of the date set forth below.

Dated: June 25, 2020

By: /s/ Mitchell M.Z. Twersky
**ABRAHAM, FRUCHTER &
TWERSKY, LLP**
Mitchell M.Z. Twersky (admitted *Pro Hac
Vice*)
Atara Hirsch (admitted *Pro Hac Vice*)
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Sean M. Handron-O'Brien (admitted *Pro
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One Penn Plaza, Suite 2805
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- and -

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11622 El Camino Real, Suite 100
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*Counsel for Lead Plaintiff
City of Hialeah Employees' Retirement
System and Lead Counsel for the Class*

**KANTROWITZ, GOLDHAMER
& GRAIFMAN, P.C.**

Gary S. Graifman
210 Summit Avenue
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Liaison Counsel for the Class

Dated: June 25, 2020

By: 

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Counsel for Defendants

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ALI VANDEVAR, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

AMERICAN RENAL ASSOCIATES
HOLDINGS, INC., JOSEPH A.
CARLUCCI, JASON M. BOUCHER,
and JONATHAN L. WILCOX,

Defendants.

Case No. 2:19-cv-09074-ES-MAH
Honorable Esther Salas

**[PROPOSED] ORDER GRANTING LEAD PLAINTIFF'S UNOPPOSED
MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT**

WHEREAS, a consolidated class action is pending in this Court entitled *Vandever v. American Renal Associates Holdings, Inc., et al.*, No. 19-cv-09074 (the “Action”);

WHEREAS, (i) Lead Plaintiff City of Hialeah Employees’ Retirement System (“Hialeah” or “Lead Plaintiff”), on behalf of itself and on behalf of the Settlement Class (as defined herein) (collectively, “Plaintiffs”) and (ii) Defendants American Renal Associates Holdings, Inc. (“ARA” or the “Company”), Joseph A. Carlucci, Jason M. Boucher and Jonathan L. Wilcox (collectively, “Defendants”), have entered into the Stipulation and Agreement of Settlement, dated as of June 25, 2020 (the “Stipulation”), which is subject to review under Rule 23 of the Federal Rules of Civil Procedure and which, together with the exhibits annexed thereto, sets forth the terms and conditions for the proposed Settlement and complete dismissal with prejudice of the Action;

WHEREAS, unless otherwise defined in this Order, the capitalized terms herein shall have the same meaning as they have in the Stipulation;

WHEREAS, the Court having read and considered the Stipulation and the exhibits thereto and submissions made relating thereto, and finding that substantial and sufficient grounds exist for entering this Order; and the Settling Parties having consented to the entry of this Order;

NOW, THEREFORE, IT IS HEREBY ORDERED, this ____ day of _____, 2020, that:

1. Pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure and for the purposes of the Settlement only, the Action is hereby preliminarily certified as a class action on behalf of all Persons (including, without limitation, their beneficiaries) that purchased or otherwise acquired shares of ARA common stock between August 10, 2016 and March 27, 2019, inclusive, except that excluded from the Settlement Class are: (i) Defendants and their respective successors and assigns; (ii) past and current officers and directors of ARA; (iii) Immediate Family Members of any Individual Defendant; (iv) the legal representatives, heirs, successors or assigns of the Individual Defendants; (v) Centerbridge Capital Partners L.P. and its subsidiaries and affiliated entities; (vi) any entity in which any of the above excluded Persons have or have had a majority ownership interest; and (vii) Opt-Outs.

2. This Court finds, preliminarily and for purposes of this Settlement only, that the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the number of Settlement Class Members is so numerous that joinder of all members of the Settlement Class is impracticable; (b) there are questions of law and fact common to the Settlement Class; (c) the claims of Lead Plaintiff are typical of the claims of

the Settlement Class it seeks to represent; (d) Lead Plaintiff fairly and adequately represents the interests of the Settlement Class; (e) questions of law and fact common to the Settlement Class predominate over any questions affecting only individual members of the Settlement Class; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the Action.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, preliminarily and for the purposes of this Settlement only, Lead Plaintiff is certified as the class representative on behalf of the Settlement Class (“Class Representative”) and Plaintiffs’ Lead Counsel, previously selected by Lead Plaintiff and appointed by the Court, is hereby appointed as Lead Counsel for the Settlement Class (“Class Counsel”).

4. The Court finds that (a) the Stipulation resulted from good faith, arm’s-length negotiations, and (b) the Stipulation is sufficiently fair, reasonable and adequate to the Settlement Class Members to warrant providing notice of the Settlement to Settlement Class Members and holding a Settlement Hearing.

5. The Court hereby preliminarily approves the Settlement, subject to further consideration at a hearing (the “Settlement Hearing”) pursuant to Federal Rule of Civil Procedure 23(e), which is hereby scheduled to be held before the Court on _____ 2020 at ___:___ .m. for the following purposes:

(a) to determine finally whether the applicable prerequisites for class action treatment under Federal Rules of Civil Procedure 23(a) and (b) are satisfied;

(b) to determine finally whether the Settlement is fair, reasonable, and adequate, and should be approved by the Court;

(c) to determine finally whether the Judgment as provided under the Stipulation should be entered, dismissing the Action on the merits and with prejudice, and to determine whether the Releases by the Releasees of the Released Claims, as set forth in the Stipulation, should be ordered, along with a permanent injunction barring efforts to prosecute or to attempt to prosecute any Released Claims extinguished by the Releases against any of the Releasees, as also set forth in the Stipulation;

(d) to determine finally whether the proposed Plan of Allocation for the distribution of the Net Settlement Fund is fair and reasonable and should be approved by the Court;

(e) to consider the application of Class Counsel for an award of attorneys' fees with interest and reimbursement of expenses and an Award to Plaintiff;

(f) to consider, if not previously ruled on, Settlement Class Members' objections to the Settlement, if any, whether submitted previously in

writing or presented orally at the Settlement Hearing by Settlement Class Members (or by counsel on their behalf) provided that they gave proper notice that they intend to appear at the Settlement Hearing; and

(g) to rule upon such other matters as the Court may deem appropriate.

6. The Court reserves the right to adjourn the Settlement Hearing to a later date, to hold the Settlement Hearing via teleconference or videoconference, and to approve the Settlement without modification, or with such modifications as may be agreed to by the Settling Parties, and with or without further notice of any kind. The Court further reserves the right to enter its Judgment approving the Settlement and dismissing the Action, on the merits and with prejudice, regardless of whether it has approved the Plan of Allocation or awarded attorneys' fees and expenses.

7. The Court approves the form, substance and requirements of (a) the Notice, (b) the Summary Notice, and (c) the Proof of Claim, all of which are exhibits to the Stipulation.

8. Class Counsel have the authority to enter into the Settlement on behalf of the Settlement Class and have the authority to act on behalf of the Settlement Class with respect to all acts or consents required by or that may be given pursuant

to the Stipulation or such other acts that are reasonably necessary to consummate the Settlement.

9. For settlement purposes only, Angeion Group, LLC is appointed and approved as the Claims Administrator to supervise and administer the notice procedure as well as the processing of claims.

10. Class Counsel, through the Claims Administrator, shall cause the Notice and the Proof of Claim, substantially in the forms annexed to the Stipulation, to be mailed, by first class mail, postage prepaid, within twenty (20) Business Days of the entry of this Order, to all Potential Settlement Class Members who can be identified with reasonable effort by Class Counsel, through the Claims Administrator.

11. The Escrow Agent may, at any time after entry of this Order and without further approval from Defendants or the Court, disburse at the direction of Class Counsel up to \$250,000 (Two Hundred Fifty Thousand Dollars) from the Settlement Fund prior to the Effective Date to pay Administrative Costs. After the Effective Date, additional amounts actually incurred, totaling up to \$100,000.00 (One Hundred Thousand Dollars), may be transferred from the Settlement Fund to pay for any necessary additional Administrative Costs without further order of the Court.

12. No later than five (5) calendar days after the date of this Order, the Company shall provide and/or cause its transfer agent to provide to the Claims Administrator a list of the record owners of purchasers of ARA common stock during the Class Period in an electronic format (such as an Excel spreadsheet) that is agreed on by the Claims Administrator at no cost to the Settlement Fund, Plaintiffs' Counsel or the Claims Administrator. This information shall be kept confidential and not used for any purpose other than to provide the notice contemplated by this Order and shall not be filed publicly without prior permission from the Court. Furthermore, such information shall not be given, shown, summarized, revealed, disclosed or made available in any form to any other Person, unless and until the recipient (i) agrees to be bound by these restrictions and (ii) consents to the jurisdiction of the Court for any disputes relating thereto. Notwithstanding the above, Plaintiffs' Counsel and/or the Claims Administrator can summarize the Class Information as part of a Court filing and can use the Class Information to determine the validity of any Claim, and Plaintiffs' Counsel, Defense Counsel and/or the Claims Administrator shall have the right to use the Class Information to investigate any request for exclusion or objection to any aspect of the Settlement.

13. Class Counsel, through the Claims Administrator, shall make all reasonable efforts to give notice to nominees or custodians who purchased ARA

common stock during the Class Period as record owners but not as beneficial owners. Such nominees or custodians shall, within ten (10) calendar days of receipt of the Notice and Proof of Claim, either (i) request additional copies of the Notice and Proof of Claim sufficient to send the Notice and Proof of Claim to all beneficial owners for whom they are nominee or custodian, and within ten (10) calendar days after receipt thereof send a copy of each to such beneficial owners; or (ii) provide the Claims Administrator with lists of the names, last known addresses and email addresses (to the extent known) of such beneficial owners, in which event the Claims Administrator shall promptly deliver the Notice and Proof of Claim to such beneficial owners. Nominees or custodians who elect to send the Notice and Proof of Claim to their beneficial owners shall send a written certification to the Claims Administrator confirming that the mailing has been made as directed. Additional copies of the Notice and Proof of Claim shall be made available to any nominee or custodian requesting same for the purpose of distribution to beneficial owners. The Claims Administrator shall, if requested, reimburse nominees or custodians out of the Settlement Fund solely for their reasonable out-of-pocket expenses, up to \$0.75 per unit, incurred in providing notice to beneficial owners, which expenses would not have been incurred except for the sending of such notice, and subject to further order of this Court with respect to any dispute concerning such reimbursement.

14. Class Counsel shall, at least seven (7) calendar days before the Settlement Hearing, serve upon Defendants' Counsel and file with the Court proof of the mailing of the Notice and Proof of Claim as required by this Order.

15. Class Counsel, through the Claims Administrator, shall cause the Stipulation and its exhibits, this Order, and a copy of the Notice and Proof of Claim to be posted on a website developed by the Claims Administrator for this Settlement within thirty (30) calendar days after entry of this Order.

16. Class Counsel, through the Claims Administrator, shall cause the Summary Notice, substantially in the form annexed to the Stipulation as Exhibit A-3, to be published electronically once on the *PR Newswire* or *GlobeNewswire* and in print once in the *Investor's Business Daily* within thirty (30) calendar days after the entry of this Order. Class Counsel shall, at least seven (7) calendar days before the Settlement Hearing, serve upon Defendants' Counsel and file with the Court proof of publication of the Summary Notice.

17. The forms and methods set forth herein of notifying the Potential Settlement Class Members of the Settlement and its terms and conditions meet the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, and 15 U.S.C. § 78u-4, as amended by the Private Securities Litigation Reform Act of 1995, and all other applicable law and rules; constitute the best notice practicable under the circumstances; and constitute due and sufficient notice to all Persons

entitled thereto. No Settlement Class Member will be relieved from the terms and conditions of the Settlement, including the Releases provided for in the Stipulation, based upon the contention or proof that such Settlement Class Member failed to receive actual or adequate notice.

18. In order to be entitled to participate in recovery from the Net Settlement Fund after the Effective Date, each Settlement Class Member shall take the following action and be subject to the following conditions:

(a) A properly completed and executed Proof of Claim must be submitted to the Claims Administrator, at the Post Office Box indicated in the Notice, postmarked no later than 120 calendar days after the entry of this Order. Such deadline may be further extended by Order of the Court. Each Proof of Claim shall be deemed to have been submitted when legibly postmarked (if properly addressed and mailed by first class mail) provided such Proof of Claim is actually received before the filing of a motion for a Class Distribution Order. Any Proof of Claim submitted in any other manner shall be deemed to have been submitted when it was actually received by the Claims Administrator at the address designated in the Notice.

(b) The Proof of Claim submitted by each Settlement Class Member must satisfy the following conditions: (i) it must be properly completed, signed and submitted in a timely manner in accordance with the provisions of the

preceding subparagraph; (ii) it must be accompanied by adequate supporting documentation for the transactions reported therein, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation as is deemed adequate by the Claims Administrator or Class Counsel; (iii) if the person executing the Proof of Claim is acting in a representative capacity, a certification of his or her current authority to act on behalf of the Settlement Class Member must be provided with the Proof of Claim; and (iv) the Proof of Claim must be complete and contain no material deletions or modifications of any of the printed matter contained therein and must be signed under penalty of perjury.

(c) Once the Claims Administrator has considered a timely submitted Proof of Claim, it shall determine whether such claim is valid, deficient or rejected. For each claim determined to be either deficient or rejected, the Claims Administrator shall send a deficiency letter or rejection letter as appropriate, describing the basis on which the claim was so determined. Persons who timely submit a Proof of Claim that is deficient or otherwise rejected shall be afforded a reasonable time (at least ten (10) calendar days) to cure such deficiency if it shall appear that such deficiency may be cured. If any Claimant whose claim has been rejected in whole or in part wishes to contest such rejection, the Claimant

must, within fourteen (14) calendar days after the date of mailing of the notice of rejection, serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's ground for contesting the rejection along with any supporting documentation. If an issue concerning a claim cannot be otherwise resolved, the Claimant may thereafter present the request for review to the Court.

(d) As part of the Proof of Claim, each Settlement Class Member shall submit to the jurisdiction of the Court with respect to the claim submitted, and shall, upon the Effective Date, release all claims as provided in the Stipulation, including on behalf of any Releasees to which it is related. No discovery shall be allowed on the merits of the Action or the Settlement in connection with processing of any Proof of Claim, nor shall any discovery from or of Defendants be allowed on any topic.

19. All Settlement Class Members who do not submit a valid and timely Proof of Claim will be forever barred from receiving any payments from the Net Settlement Fund, but will in all other respects be subject to and bound by the provisions of the Stipulation and the Judgment, if entered, including the release provisions. Notwithstanding the foregoing, Class Counsel shall have the discretion to accept late-submitted Proof of Claims for processing by the Claims Administrator so long as distribution of the Net Settlement Fund is not materially delayed.

20. No Defendant, or any other Defendants' Releasees, shall be permitted to review, contest or object to any Claim Form, or any decision of the Claims Administrator or Class Counsel with respect to accepting or rejecting any Claim for payment by a Settlement Class Member. Notwithstanding the foregoing, upon request from Defendants or Defendants' Counsel (without needing to make any showing regarding the basis for such request), the Claims Administrator and/or Class Counsel shall provide Defendants or Defendants' Counsel any records relating to the Notices that were distributed and the Claim Forms that were submitted and/or approved, provided that such information may only be requested in good faith for use by Defendants or Defendants' Counsel in resolving threatened or asserted litigation arising out of or related to, or premised on the factual allegations underlying the claims asserted by Lead Plaintiff in the Action, and when so produced must only be used by Defendants or Defendants' Counsel for such purpose and must otherwise be kept confidential and shall not be filed publicly or used for any other purpose without prior permission from the Court, and such information shall not be given, shown, summarized, revealed, disclosed or made available in any form to any other Person, unless and until the recipient (i) agrees to be bound by these restrictions and (ii) consents to the jurisdiction of the Court for any disputes relating thereto.

21. Settlement Class Members shall be bound by all determinations and judgments in this Action whether favorable or unfavorable, unless such Persons request exclusion from the Settlement Class in a timely and proper manner, as hereinafter provided. A Settlement Class Member wishing to make such request for exclusion shall mail it, in written form, by first class mail, postage prepaid, or otherwise deliver it, so that it is received no later than thirty-five (35) calendar days prior to the Settlement Hearing (the “Exclusion Deadline”), to the addresses listed in the Notice. In order to be valid, such request for exclusion (A) must clearly indicate the name, address, phone number and e-mail contact information of the Person seeking exclusion, and if an entity, a contact person’s name, address, phone number and e-mail address, and state that the sender specifically “requests to be excluded from the Settlement Class in *Vandevan v. American Renal Associates Holdings, Inc., et al.*, No. 2:19-cv-09074-ES-MAH (D.N.J.)”, (B) state the date, number of shares and dollar amount of each ARA common stock purchase or acquisition, and any sale transactions, and (C) state the number of shares of ARA common stock held by the Person as of the date of the submission of the exclusion request. In order to be valid, such request for exclusion must be submitted with documentary proof (i) of each purchase or acquisition and, if applicable, sale transaction of ARA common stock, and (ii) demonstrating the Person’s status as a beneficial owner of the ARA common stock. Any such request for exclusion must

be signed and submitted by the beneficial owner under penalty of perjury. The request for exclusion shall not be effective unless it provides the required information and documentation, is legible, and is made within the time stated above, or the exclusion is otherwise accepted by the Court. The supporting documentation shall be in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation as is deemed adequate by the Claims Administrator or Class Counsel. Class Counsel may contact any Person filing a request for exclusion, or their attorney if one is designated, to discuss the exclusion.

22. The Claims Administrator shall provide all requests for exclusion and supporting documentation submitted therewith (including untimely requests and revocations of requests) to counsel for the Settling Parties as soon as possible and no later than the Exclusion Deadline or upon the receipt thereof (if later than the Exclusion Deadline). The Settlement Class will not include any Person who delivers a valid and timely request for exclusion. Defendants shall keep such requests for exclusion confidential consistent with ¶ 7.10 of the Stipulation.

23. Any Person that submits a request for exclusion may thereafter submit to the Claims Administrator a written revocation of that request for exclusion, provided that it is received no later than three (3) calendar days before the

Settlement Hearing, in which event that Person will be included in the Settlement Class.

24. All Persons who submit a valid, timely and unrevoked request for exclusion will be forever barred from receiving any payments from the Net Settlement Fund and shall have no rights under the Stipulation.

25. The Court will consider comments and/or objections to the Settlement, the Plan of Allocation, or the Fee and Expense Application (other than from those Persons who timely and validly request exclusion from the Settlement Class), provided, however, that no Settlement Class Member or other Person shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement or, if approved, the Judgment, or any other order relating thereto, including the Plan of Allocation and/or the Fee and Expense Application, unless that Person has served copies of any objections, papers and briefs to each of the following counsel at least twenty-one (21) calendar days prior to the Settlement Hearing date:

CLASS COUNSEL:

Mitchell M.Z. Twersky
ABRAHAM, FRUCHTER & TWERSKY, LLP
One Penn Plaza, Suite 2805
New York, NY 10119

COUNSEL FOR DEFENDANTS:

Jason C. Hegt
LATHAM & WATKINS LLP
885 Third Avenue
New York, NY 10022

and that Person has (at least twenty-one (21) calendar days prior to the Settlement Hearing date) filed said objections, papers and briefs, showing due proof of service upon counsel identified above, with the Clerk of the Court, U.S. District Court, District of New Jersey, 50 Walnut Street, Newark, New Jersey 07101. To be valid, any such objection must contain the Settlement Class Member's (1) name, address, and telephone number, (2) a list of all purchases and sales of ARA common stock in order to show membership in the Settlement Class and documents sufficient to prove membership in the Settlement Class, (3) all grounds for the objection, including any legal and evidentiary support known to the Settlement Class Member and/or his, her, or its counsel, (4) the name, address and telephone number of all counsel who represent the Settlement Class Member, including former or current counsel who may be entitled to compensation in connection with the objection, and (5) the number of times the Settlement Class Member and/or his, her, or its counsel has filed an objection to a class action settlement in the last five years, the nature of each such objection in each case, the jurisdiction in each case, and the name of the issuer of the security or seller of the product or service at issue in each case. Attendance at the Settlement Hearing is not necessary but Persons wishing to be heard orally in opposition to the approval of the Stipulation, the Plan of Allocation,

and/or the Fee and Expense Application are required to indicate in their written objection (or in a separate writing that is submitted in accordance with the deadline) that they intend to appear at the Settlement Hearing and identify any witnesses they may call to testify or exhibits they intend to introduce into evidence at the Settlement Hearing. Settlement Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.

26. Any Settlement Class Member who does not object in the manner prescribed above shall: (i) be deemed to have waived all such objections; (ii) forever be foreclosed from making any objection to the fairness, adequacy or reasonableness of the Settlement, the Judgment to be entered approving the Settlement, the Plan of Allocation, and/or the Fee and Expense Application, unless otherwise ordered by the Court; (iii) be bound by all the terms and provisions of the Stipulation and by all proceedings, orders and judgments in the Action; and (iv) be foreclosed from appealing from any judgment or order entered in this Action.

27. All papers in support of the Settlement, the Plan of Allocation and/or the Fee and Expense Application shall be filed and served no later than twenty-eight (28) calendar days before the Settlement Hearing.

28. Any submissions filed in response to any objections or in further support of the Settlement, the Plan of Allocation and/or the Fee and Expense

Application shall be filed no later than seven (7) calendar days prior to the Settlement Hearing.

29. Defendants, Defendants' Counsel, their Insurers, and other Defendants' Releasees shall have no responsibility for, interest in, or liability whatsoever with respect to the Plan of Allocation, or any Fee and Expense Application submitted by Class Counsel, and such matters will be considered separately from the fairness, reasonableness, and adequacy of the Settlement.

30. Pending final determination of whether the Settlement should be approved, all Releasees shall be enjoined from commencing, prosecuting, or attempting to prosecute any Released Claims in any court or tribunal or proceeding. Unless and until the Stipulation is cancelled and terminated pursuant to the Stipulation, all proceedings in the Action, other than such proceedings as may be necessary to carry out the terms and conditions of the Stipulation, are hereby stayed and suspended until further order of the Court.

31. At or after the Settlement Hearing, the Court shall determine whether the Plan of Allocation proposed by Class Counsel, and any application for attorneys' fees or reimbursement of expenses, and Award to Plaintiff, shall be approved.

32. All reasonable expenses incurred in identifying and notifying Settlement Class Members, as well as administering the Settlement Fund, shall be

paid as set forth in the Stipulation. In the event the Settlement is not approved by the Court, or otherwise fails to become effective, neither the Plaintiffs nor any of Plaintiffs' Counsel nor the Claims Administrator shall have any obligation to repay any amounts actually and properly disbursed from the Settlement Fund.

33. All funds held by the Escrow Agent shall be deemed and considered to be in the custody of the Court in *custodia legis*, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed or returned pursuant to the Stipulation and Plan of Allocation and/or further order(s) of the Court.

34. Class Counsel or their representatives are authorized and directed to prepare any Tax Returns and any other tax reporting form for or in respect to the Settlement Fund, to pay from the Settlement Fund any Taxes owed with respect to the Settlement Fund and to otherwise perform all obligations with respect to Taxes and any reporting or filings in respect thereof without further order of the Court in a manner consistent with the provisions of the Stipulation.

35. Neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an admission or concession by Defendants, Defendants' Counsel, their Insurers, or any of the other Defendants' Releasees of the truth of any of the allegations in the Action, or of any liability, fault, or wrongdoing or any kind and shall not be

construed as, or deemed to be evidence of or an admission or concession that the Class Representative or any Settlement Class Member have suffered any damages, harm, or loss. Further, neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, nor this Order shall be construed as an admission or concession by the Class Representative or Plaintiffs' Releasees of the validity of any factual or legal defense or of the infirmity of any of the claims or facts alleged in this Action or that damages recoverable would not have exceeded the Settlement Amount.

36. In the event the Settlement is not consummated in accordance with the terms of the Stipulation, then the Stipulation and this Order (including any amendment(s) thereof, and except as expressly provided in the Stipulation or by order of the Court) shall be null and void, of no further force or effect, and without prejudice to any Settling Party, and may not be introduced as evidence or used in any action or proceeding by any Person for any purpose against the Settling Parties or the Releasees, and each Settling Party shall be restored to his, her or its respective litigation positions as they existed immediately prior to March 11, 2020, pursuant to the terms of the Stipulation.

37. The Court reserves the right to alter the time or the date of the Settlement Hearing without further notice to the Settlement Class Members, provided that the time or the date of the Settlement Hearing shall not be set at a

time or date earlier than the time and date set forth in ¶ 5 above. The Court retains exclusive jurisdiction over the Action to consider all further matters arising out of, or relating to, the Stipulation, including by way of illustration and not limitation, any dispute concerning any Proof of Claim submitted and any future requests by one or more of the Settling Parties that the Judgment, the Releases and/or the permanent injunction set forth in the Stipulation be enforced.

Dated: _____, 2020

HON. ESTHER SALAS
UNITED STATES DISTRICT
JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ALI VANDEVAR, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

AMERICAN RENAL ASSOCIATES
HOLDINGS, INC., JOSEPH A.
CARLUCCI, JASON M. BOUCHER,
and JONATHAN L. WILCOX,

Defendants.

Case No. 2:19-cv-09074-ES-MAH
Honorable Esther Salas

NOTICE OF PENDENCY AND
PROPOSED SETTLEMENT OF CLASS ACTION

If you purchased or acquired American Renal Associates Holdings, Inc. (“ARA” or the “Company”) common stock between August 10, 2016 and March 27, 2019, inclusive (the “Class Period”), you could get a payment from a proposed class action settlement (the “Settlement”).

**TO CLAIM YOUR SHARE OF THE SETTLEMENT FUND, YOU MUST
SUBMIT A VALID PROOF OF CLAIM POSTMARKED ON OR BEFORE
_____, 2020**

Under law, a federal court has authorized this Notice. This is not attorney advertising.

- If approved by the Court, the Settlement will provide five million seven hundred seventy-five thousand dollars (\$5,775,000) (the “Settlement Amount”) gross, plus interest as it accrues, minus attorneys’ fees, costs, administrative expenses, Award to Plaintiff, and net of any taxes on interest,

to pay claims of investors who purchased or acquired ARA common stock during the Class Period. The Court is scheduled to hold a Settlement Hearing on _____, 2020 to decide whether to approve the Settlement. **Please Note:** The date and time of the Settlement Hearing may change and/or it may be held by teleconference or videoconference, without further written notice to the Class. You should monitor the Court's docket and the website maintained by the Claims Administrator, www._____.com, before making plans to participate in the Settlement Hearing. You may also confirm the date, time, and method of the Settlement Hearing by contacting Class Counsel by phone at 212-279-5050 or by email at info@aftlaw.com.

- Your recovery will depend on the number of shares of ARA common stock you, and other Settlement Class Members who file claims, purchased and sold, and the prices at which you, and the other Settlement Class Members who file claims, purchased and sold those shares. If claims are submitted for 100% of the eligible shares of ARA common stock, the estimated average recovery per share of common stock will be approximately \$0.37 per share before deduction of Court-approved fees, expenses and any Award to Plaintiff, and costs of notice and claims administration. This estimate solely reflects the average recovery per share of ARA common stock. It is not an estimate of the actual recovery per share you should expect. The actual amount per share you receive will depend on a number of factors, including the aggregate losses of all Settlement Class Members and other factors that are explained in the Plan of Allocation, below.
- Attorneys for Plaintiffs (“Plaintiffs’ Counsel”) have not received any payment for their work or reimbursement for expenses incurred in investigating the facts, conducting this litigation and negotiating the Settlement on behalf of the Lead Plaintiff and the Settlement Class (together, “Plaintiffs”). Plaintiffs’ Counsel intends to ask the Court to award them fees of up to 30% plus interest of the Settlement Amount (\$1,732,500.00), reimbursement of litigation expenses of no more than \$100,000.00 and an Award to Plaintiff not to exceed \$7,500.00. Collectively, the attorneys’ fees, reimbursement of expenses and Award to Plaintiff are estimated to average approximately \$0.12 per share. If approved by the Court, these amounts will be paid from the Settlement Fund.
- The Settlement fully and finally resolves the Action (defined below) which claims that defendants (i) ARA, and (ii) Joseph A. Carlucci, Jason M. Boucher and Jonathan L. Wilcox (the “Individual Defendants”) (collectively, ARA and

the Individual Defendants are the “Defendants”), allegedly violated federal securities laws by making misrepresentations and/or omissions of material fact during the Class Period regarding ARA that purportedly had the effect of artificially inflating the price of ARA common stock. Specifically, Plaintiffs allege in the Complaint, among other things, that during the Class Period, Defendants misled investors by issuing financial statements that did not comply with Generally Accepted Accounting Principles (“GAAP”) and ultimately were restated, including statements regarding the effectiveness of its internal accounting controls. Defendants have denied and continue to deny to the fullest extent possible each, any and all allegations of wrongdoing, fault, liability or damage whatsoever asserted by Plaintiffs and maintain that their statements were materially accurate and honestly made. Defendants have also denied, *inter alia*, allegations that Lead Plaintiff or the Settlement Class have suffered damages or that Lead Plaintiff or the Settlement Class were harmed by the conduct alleged in the Action. Defendants continue to believe the claims asserted against them in the Action are without merit.

- Your legal rights will be affected whether you act or do not act. If you do not act, you may permanently forfeit your right to recover on this claim. Therefore, you should read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

SUBMIT A CLAIM FORM NO LATER THAN _____, 2020	The only way to get a payment.
EXCLUDE YOURSELF NO LATER THAN _____, 2020	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against the Defendants or the other Defendants’ Releasees concerning the Released Plaintiffs’ Claims.
OBJECT NO LATER THAN _____, 2020	Write to the Court about why you do not like any aspect of the Settlement.
GO TO A HEARING ON _____, 2020	Ask to speak in Court about the fairness of the Settlement.
DO NOTHING	Get no payment. Give up your right to sue about the claims that are resolved by the

	Settlement and you will be bound by any judgments or orders entered by the Court in the Action.
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INQUIRIES

Please do not contact the Court regarding this Notice. All inquiries concerning this Notice, the Proof of Claim, or any other questions by Settlement Class Members should be directed to:

In re American Renal Associates Holdings, Inc. Securities Litigation
c/o _____
P.O. Box _____

or

ABRAHAM, FRUCHTER & TWERSKY, LLP
One Penn Plaza, Suite 2805
New York, NY 10119
Tel: (212) 279-5050
Fax: (212) 279-3655

DEFINITIONS

All capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation and Agreement of Settlement, dated June 25, 2020 (the “Stipulation”).

COMMON QUESTIONS AND ANSWERS CONCERNING THE SETTLEMENT

1. **Why did I get this Notice?**

You or someone in your family or an investment account for which you serve as a custodian may have purchased or otherwise acquired the publicly-traded common stock of ARA during the Class Period (between August 10, 2016 and March 27, 2019, inclusive). The Court has directed this Notice be sent because, as a Potential Settlement Class Member, you have a right to know about your options before the Court rules on the Settlement. Additionally, you have the right to understand how this class action lawsuit may generally affect your legal rights. If the Court approves the Settlement and the Plan of Allocation (or some other plan of allocation), the Claims Administrator selected by Lead Plaintiff, and approved by the Court, will make payments pursuant to the Settlement after any objections and appeals are resolved. This package explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

2. **What is this lawsuit about?**

The case is known as *Vandever v. American Renal Associates Holdings, Inc., et al.*, No. 2:19-cv-09074- ES-MAH (D.N.J.) (the “Action”). The Court in charge of the case is the United States District Court for the District of New Jersey.

The Action involves a claim that Defendants allegedly violated certain federal securities laws by making misrepresentations or omissions of material fact concerning ARA’s financial information and operations, which allegedly had

the effect of artificially inflating the price of ARA common stock. The putative class includes all persons and entities who purchased or otherwise acquired the publicly-traded common stock of ARA during the Class Period. Lead Plaintiff claims that Settlement Class Members were harmed when Defendants allegedly revealed in several disclosures that certain of its financial statements should no longer be relied upon and would be restated, each of which was followed by a decline in the price of the Company's stock price.

Specifically, Plaintiffs allege in the Complaint, among other things, that during the Class Period, Defendants misled investors by issuing financial statements that did not comply with GAAP and ultimately were restated, and by statements regarding ARA's internal controls. In response to these allegations, Defendants filed a motion to dismiss the Complaint on January 17, 2020, which Plaintiffs opposed by filing an opposition memorandum on February 24, 2020. Prior to Defendants filing a reply memorandum, an agreement was reached to resolve the Action.

Defendants have denied and continue to deny to the fullest extent possible each, any and all allegations of wrongdoing, fault, liability or damage whatsoever asserted in the Action. Defendants believe all of the statements identified in the lawsuit were materially accurate when made and that they genuinely believed, and had a reasonable basis to believe, that they were accurate. Defendants also contend that the declines in the price of ARA stock were not due to any restatement of its financials because the restatement did not occur until after the Class Period. The Settlement shall in no event be construed as, or deemed to be evidence of, liability, fault, wrongdoing, injury

or damages, or of any wrongful conduct, acts or omissions on the part of any of Defendants or Defendants' Releasees, or of any infirmity of any defense, or of any damages to the Plaintiffs or any of Plaintiffs' Releasees. The Settlement fully and finally resolves all of the claims in the Action, as well as certain other claims or potential claims, whether known or unknown.

3. Why is this a class action?

In a class action, one or more persons and/or entities, called plaintiffs, sue on behalf of all persons and/or entities who have similar claims, thus alleviating the need for members of the class to file their own individual lawsuits to recover for the harm alleged. All of these persons and/or entities are referred to collectively as a class, and these individual persons and/or entities are known as class members. Once the class is certified, one court resolves all of the issues for all class members, except for those class members who exclude themselves from the class.

4. Why is there a Settlement?

Plaintiffs and Defendants do not agree regarding the merits of Plaintiffs' allegations and Defendants' defenses with respect to liability or the average amount of damages per share, if any, that would be recoverable if Plaintiffs were to prevail at trial on each claim. The issues on which Plaintiffs and the Defendants disagree include: (1) whether the challenged statements alleged in the Complaint were materially false or misleading or otherwise actionable under federal securities law; (2) the causes of the loss in the value of ARA's common stock; and (3) the amount of alleged damages, if any, that could be recovered at trial.

In early 2020, the Settling Parties agreed to mediate in hopes of narrowing or settling the Action. The Settling Parties selected as mediator the Honorable Layn R. Phillips of Phillips ADR, a former federal district court judge. In advance of mediation, the Settling Parties exchanged mediation statements, with Defendants sending their mediation statement to Plaintiffs on February 7, 2020 and Plaintiffs sending their mediation statement to Defendants on February 20, 2020. The detailed mediation statements, which discussed liability, loss causation and damages, were also submitted to Judge Phillips.

On February 26, 2020, the Settling Parties participated in a mediation session before Judge Phillips. At the mediation, a settlement was not reached; however, the Settling Parties continued to negotiate a possible settlement in the days thereafter, with the assistance of Judge Phillips, and reached an agreement on March 11, 2020.

Lead Plaintiff and Lead Counsel believe that the claims asserted against the Defendants have merit. They recognize, however, the expense and length of continued proceedings necessary to pursue their claims against the Defendants through trial and appeals, as well as the very substantial risks they would face in establishing liability and damages. Such risks include the potential challenges associated with proving that there were material misstatements and omissions in the public statements and public SEC filings at issue. Among other things, Defendants would argue that the restatement made only minor, immaterial revisions to reported financials, that the revisions led to increased results and caused ARA's stock price to increase, and that Defendants did not have the requisite intent to deceive any investors whatsoever. Lead Plaintiff

disagrees, but all of these issues would have needed to be litigated and the outcome was uncertain.

There were also significant risks related to establishing loss causation and damages. Among other things, Defendants would argue that any stock price decrease was not caused by the alleged misstatements or omissions, but by overall market or industry forces. Moreover, in addition to arguing that multiple of the alleged corrective disclosures were insufficient as a matter of law, Defendants would argue that the restatement actually caused ARA's stock price to increase and therefore did not cause any damages. Had any of these arguments been accepted in whole or in part, they could have eliminated or, at a minimum, significantly limited any potential recovery. Further, in order to succeed, Lead Plaintiff would have had to prevail at several stages – on the motion to dismiss, obtaining class certification, on a motion for summary judgment, at trial, and even if Lead Plaintiff prevailed on those, on the appeals that were likely to follow. Thus, there were significant risks attendant to the continued prosecution of the Action, and there was no guarantee that further litigation would have resulted in a higher recovery, or any recovery at all. Even if Plaintiffs were to win at trial, and also prevail on any appeal, Plaintiffs might not be able to collect some, or all, of any judgment they are awarded. The Settlement permits Plaintiffs to avoid the cost and uncertainty of a trial, and permits eligible Settlement Class Members who submit valid claims to receive compensation.

In light of these risks, the uncertainty and the amount of the recovery for the Settlement Class, Lead Plaintiff and Lead Counsel believe that the proposed Settlement is fair, reasonable and adequate, and in the best interests of the

Settlement Class. Lead Plaintiff and Lead Counsel believe that the Settlement provides a substantial benefit to the Settlement Class, as compared to the risk that the claims in the Action against the Defendants might produce a smaller, or no recovery, after the motion to dismiss, summary judgment, trial, and appeals.

Defendants have denied and continue to deny the claims asserted against them in the Action and deny to the fullest extent possible having engaged in any wrongdoing or violation of law of any kind whatsoever. Defendants believe all of the statements identified in the lawsuit were materially accurate when made and that they genuinely believed, and had a reasonable basis to believe, that they were accurate. Defendants also contend that the declines in the price of ARA stock were not due to any restatement of its financials because the restatement did not occur until after the Class Period and thus deny that the Settlement Class has suffered any losses or damages. Defendants have agreed to the Settlement solely to eliminate the burden and expense of continued litigation. Accordingly, the Settlement may not be construed as an admission by the Defendants of any wrongdoing, liability, loss causation or measure of damages.

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

The Settlement Class consists of those persons who purchased or otherwise acquired the common stock of ARA¹ during the Class Period, except for the exceptions from the Settlement Class, which are listed below.

¹ ARA common stock is listed on the New York Stock Exchange under the ticker symbol “ARA.”

6. Are there exceptions to being included?

Yes. Excluded from the Settlement Class are (i) Defendants and their respective successors and assigns; (ii) past and current officers and directors of ARA; (iii) Immediate Family Members of any Individual Defendant; (iv) the legal representatives, heirs, successors or assigns of the Individual Defendants; (v) Centerbridge Capital Partners L.P. and its subsidiaries and affiliated entities; (vi) any entity in which any of the above excluded Persons have or have had a majority ownership interest; and (vii) Opt-Outs.

7. I am still not sure whether I am included.

If you are still not sure whether you are included, you can ask for free help. For more information, you can contact the Claims Administrator, _____, P.O. Box _____, _____ or visit the website at www._____.com or fill out and return the Proof of Claim described in Question 9, to see if you qualify.

8. What does the Settlement provide?

a. What is the Settlement Fund?

The proposed Settlement provides for Defendants to pay, or cause to be paid, five million seven hundred seventy-five thousand dollars (\$5,775,000) into a Settlement Fund. The Settlement is subject to Court approval. Also, subject to the Court's approval, a portion of the Settlement Fund will be used to pay attorneys' fees with interest and reimbursement of reasonable litigation expenses to Plaintiffs' Counsel, and any Award to Plaintiff. A portion of the Settlement Fund also will be used to pay taxes due on interest earned by the

Settlement Fund, if necessary, and the costs of the claims administration, including the costs of printing and mailing this Notice and the costs of publishing notice. After the foregoing deductions from the Settlement Fund have been made, the amount remaining (the “Net Settlement Fund”) will be distributed to Settlement Class Members who submit timely, valid claims, according to the Plan of Allocation to be approved by the Court.

b. What can you expect to receive under the proposed Settlement?

Your share of the Net Settlement Fund will or may depend on: (i) the number of valid claims filed and the amounts of those claims; (ii) the dates you purchased and sold ARA common stock; (iii) the prices of your purchases and sales; and (iv) the number of shares of ARA common stock you purchased.

The Claims Administrator will calculate the amount of your Recognized Loss in accordance with the formula shown below in the Plan of Allocation and determine each Settlement Class Member’s *pro rata* share of the Net Settlement Fund based upon each Settlement Class Member’s valid Recognized Loss. After all Class Members have sent in their Proof of Claim forms, the payment you receive will reflect your Recognized Loss in relation to the Recognized Losses of all Persons submitting valid Proof of Claim forms. The Recognized Loss formula is not intended to be an estimate of the amount that a Settlement Class Member might have been able to recover after a trial; it also is not an estimate of the amount that will be paid to Settlement Class Members pursuant to the Settlement. The Recognized Loss formula is the basis upon which the Net Settlement Fund will be proportionately allocated to the Settlement Class Members with valid claims.

PROPOSED PLAN OF ALLOCATION OF THE NET SETTLEMENT FUND AMONG CLASS MEMBERS

The Settlement Fund is the Settlement Amount plus interest earned. The Settlement Fund less all taxes, approved costs, attorneys' fees and expenses and an Award to Plaintiff is the Net Settlement Fund.

For purposes of determining the amount an Authorized Claimant may recover under the Plan of Allocation, Lead Counsel has consulted with its damages expert. The Plan of Allocation, which reflects an equitable method to distribute the Net Settlement Fund based on an assessment of the damages that Settlement Class Members are estimated to have suffered as a result of the conduct alleged in the Complaint as opposed to losses caused by market-wide or industry-wide factors, or Company-specific factors unrelated to the alleged wrongdoing, subject to Court approval or modification without further notice, is as follows:

A. Determination of Authorized Claimants. The Net Settlement Fund shall be distributed to Settlement Class Members who submit timely and valid Proof of Claim forms ("Authorized Claimants"). A Potential Settlement Class Member who submits a request for exclusion is **not** an Authorized Claimant and will not receive a distribution from the Net Settlement Fund.

B. Determination of Eligible Shares. If there are sufficient funds in the Net Settlement Fund, each Authorized Claimant will receive an amount equal to their loss, as defined below ("Recognized Loss"). If, however, the amount in the Net Settlement Fund is not sufficient to pay the total Recognized Losses of all Authorized Claimants, then each Authorized Claimant will be paid the percentage of the Net Settlement Fund that their Recognized Loss bears to the total of the Recognized Losses of all Authorized Claimants ("pro rata share"). The Recognized Loss will be used for calculating the relative amount of participation by Authorized Claimants in the Net Settlement Fund for purposes of distributing the Net Settlement Fund equitably and does not reflect the actual amount an Authorized Claimant can expect to recover from the Net Settlement Fund. The Claims Administrator will determine each Authorized Claimant's pro rata share of the Net Settlement Fund based on the per share calculations below multiplied by the number of shares purchased or otherwise acquired by Settlement Class Members during the Class Period. Class Period sales, and holdings as of the close of trading on March 27, 2019, will be first matched with any pre-Class Period holdings and then matched with purchases or acquisitions during the Class Period in chronological order ("FIFO Matching"). Sales matched to pre-Class Period

purchases shall have no loss or gain for the purpose of calculating the Recognized Loss. The price per share will not include commissions, taxes and fees, and the purchase or sale date is the trade date or contract date, not the settlement date. If the Authorized Claimant had a market gain from the total of all shares of ARA common stock purchased or otherwise acquired during the Class Period, the value of the Recognized Loss will be zero. A Settlement Class Member's Recognized Loss cannot be greater than the net loss.

Short sales and purchases to cover short sales (whether they occurred before, during, or after the Class Period) are not included when calculating Recognized Loss or market loss (or gain).

C. Allocation of the Net Settlement Fund. The proposed Plan of Allocation generally measures the amount of loss that a Settlement Class Member can claim under the Settlement for the purpose of making pro-rata allocations of the Net Settlement Fund to Settlement Class Members who submit acceptable Proof of Claim forms.

The following proposed Plan of Allocation reflects the dates upon which Lead Plaintiff alleges the Settlement Class suffered economic loss as a result of purchasing or acquiring ARA common stock at artificially inflated prices during the Class Period due to alleged material misrepresentations or omissions by Defendants. These dates ("Event Days" or "Event Dates") are:

- November 12, 2018: The first day of trading after ARA filed its Form 10-Q with the SEC, disclosing an inquiry by the SEC into ARA's revenue recognition practices.
- March 8, 2019: The day ARA filed notification that it would delay the filing of its Form 10-K for the fiscal year ended December 31, 2018 with the SEC.
- March 28, 2019: The first day of trading after ARA announced forthcoming restatements of its financial reports for 2014-2017.

Table 1 below provides the recoverable loss amounts per share of common stock purchased or otherwise acquired during the Class Period and held at the close of trading prior to each Event Day. If any of the eligible shares held just prior to an Event Day were sold on that Event Day, the recoverable loss for that event on the sold shares is the lesser of (i) the full day recoverable loss listed in Table 1 and (ii) the previous day's closing price listed in Table 1 minus the sale price received on

the Event Day (thus, if you sold eligible shares on an Event Day and avoided some of the full day's loss, then your recoverable loss for those shares will be less than the full day recoverable loss listed in Table 1).

Table 1 - Recoverable Loss Calculation Table for Eligible ARA shares – per share loss

Event Date	ARA Close	Previous Trading Date	ARA Previous Close	Per Share Recoverable Loss
11/12/18	\$16.76	11/9/18	\$17.50	\$0.74
3/8/19	\$10.46	3/7/19	\$12.51	\$2.05
3/28/19	\$6.01	3/27/19	\$9.70	\$3.69

The per share recoverable loss amounts listed in Table 1 are additive for eligible shares held across multiple Event Days; that is, a share purchased or otherwise acquired during the Class Period prior to 11/12/18 and held through the end of the Class Period can make a claim for the full recoverable losses for all three events. A Claimants' total Recognized Loss will be the lesser of (i) the aggregate Recognized Loss associated with all Class Period purchases or acquisitions of ARA common stock, (ii) the Claimant's market loss, or (iii) the damage limitations outlined in Section 21(D)(e)(1) and Section 21(D)(e)(2) of the Private Securities Litigation Reform Act of 1995.²

D. Minimum Distribution. No distribution will be made and no distribution check will be sent to any Authorized Claimant who would otherwise be provided an

² Pursuant to Section 21(D)(e)(1) of the Private Securities Litigation Reform Act of 1995, "in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated to the market." The mean (average) closing trading price of ARA common stock during the 90-day period beginning on March 29, 2019 and ending on June 26, 2019 was \$6.57 per share.

Pursuant to Section 21(D)(e)(2) of the Private Securities Litigation Reform Act of 1995, "in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, if the plaintiff sells or repurchases the subject security prior to the expiration of the 90-day period described in paragraph (1), the plaintiff's damages shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the security and the mean trading price of the security during the period beginning immediately after dissemination of information correcting the misstatement or omission and ending on the date on which the plaintiff sells or repurchases the security."

amount less than \$10.00 as their distribution from the Net Settlement Fund. Such Authorized Claimants will be bound by the terms of the Settlement.

E. Remaining Balance in the Settlement Fund. If there is any balance remaining in the Net Settlement Fund after at least six (6) months from the date of distribution of the Net Settlement Fund (whether by reason of tax refunds, uncashed checks or otherwise), Lead Counsel shall, if feasible and economical, reallocate such balance, among Authorized Claimants who have cashed their checks, in an equitable and economic fashion. An additional distribution may be made to Authorized Claimants who have cashed their prior distribution checks and who would receive at least \$20.00 on such additional distribution, if Lead Counsel, in consultation with the Claims Administrator, determines that such additional distribution, after the deduction of any additional fees and expenses that would be incurred with respect to such additional distribution, is cost-effective and equitable. At such time as it is determined that an additional distribution of funds remaining in the Net Settlement Fund is not cost-effective and equitable, the remaining balance of the Net Settlement Fund shall be contributed to non-sectarian, not-for-profit 501(c)(3) organizations designated by Lead Counsel. Defendants retain no interest in or right to any residual amount remaining in the Settlement Fund.

F. Release. Payment pursuant to the Plan of Allocation, or such other plan as may be approved by the Court, shall be conclusive against all Authorized Claimants. No person shall have any claim against Plaintiffs, Lead Counsel, Liaison Counsel, Defendants, Defendants' Counsel, and the other Defendants' Releasees, or the Claims Administrator or other agent designated by Lead Counsel arising from distributions made substantially in accordance with the Stipulation, the plan of allocation approved by the Court, or further Orders of the Court. All Settlement Class Members who fail to complete and file a valid and timely Proof of Claim shall be barred from participating in distributions from the Net Settlement Fund (unless otherwise ordered by the Court), but otherwise shall be bound by all of the terms of the Stipulation, including the terms of any judgment entered and the releases given.

9. How can I get a payment?

To qualify for a payment, you must send in a form entitled "Proof of Claim." This Proof of Claim is attached to this Notice. You may also obtain a Proof of Claim on the Internet at www._____.com. Read

the instructions carefully, fill out the form, sign it in the location indicated, and mail the claim form together with all documentation requested in the form, postmarked no later than _____, 2020, to:

In re American Renal Associates Holdings, Inc. Securities Litigation

c/o _____
P.O. Box _____

The Claims Administrator will process your claim and determine whether you are an Authorized Claimant. Please retain all records of your ownership of and transactions in ARA common stock, as they may be needed to document your Claim. If you request exclusion from the Settlement Class or do not submit a timely and valid Claim Form, you will not be eligible to share in the Net Settlement Fund.

10. What am I giving up to get a payment or stay in the Class?

If you are a Settlement Class Member and you do not exclude yourself from the Settlement Class, you will be bound by the Stipulation and any orders issued by the Court in the Action. If the Settlement is approved, the Court will enter a judgment. Unless you exclude yourself from the Settlement Class by the _____ deadline, you will remain a member of the Settlement Class and will be fully and completely bound by the Releases if the Settlement is approved and judgment entered. That means you and all other Settlement Class Members or your respective heirs, executors, administrators, predecessors, successors, representatives, attorneys, agents and assigns in their capacities as such, shall be deemed to have, and by operation of law and of the judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged, to the fullest extent

allowed by law, each and every Released Plaintiffs' Claim (including Unknown Claims) against the Defendants and the other Defendants' Releasees, whether or not such Settlement Class Member executes and delivers the Proof of Claim or shares in the Settlement Fund, and shall forever be barred and enjoined from prosecuting any or all of the Released Plaintiffs' Claims (as defined in the Stipulation, which is available at www._____) against any of the Defendants' Releasees. It means that all of the Court's orders will apply to you and legally bind you. That means you will accept a share of the Net Settlement Fund as sole compensation for any losses you suffered in the purchase, acquisition, sale or ownership of ARA common stock for the claims that arise out of the allegations asserted in the Action. The specific terms of the release are included in the Stipulation.

11. How do I get out of the Settlement?

If you do not want to receive a payment from this Settlement, and you want to keep any right you may have to sue or continue to sue Defendants or the other Defendants' Releasees on your own about the claims being released in this Settlement, then you must take steps to exclude yourself from the Settlement. To exclude yourself from the Settlement, you must mail an exclusion request that (a) clearly indicates your name, address, phone number and e-mail contact information, and in the case of entities, the name, address, telephone number and e-mail address of the appropriate contact person, (b) states that you (or it) "request to be excluded from the Settlement Class in *Vandever v. American Renal Associates Holdings, Inc., et al.*, No. 2:19-cv-09074-ES-MAH (D.N.J.)," (c) states the date, number of shares and dollar amount of each ARA common stock purchase or acquisition and any sale transactions, and provides appropriate documentary proof of such

purchases/acquisitions and sales, and (d) states the number of shares of ARA common stock held by you as of the date of the submission of your exclusion request. In order to be valid, such request for exclusion must be submitted with documentary proof (i) of each purchase and, if applicable, sale transaction of ARA common stock and (ii) demonstrating your status as a beneficial owner of the ARA common stock. The documentary proof can be in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation as is deemed adequate by the Claims Administrator or Class Counsel. Any such request for exclusion must be signed and submitted by you, as the beneficial owner, under penalty of perjury. You must mail your exclusion request, to be received no later than _____, 2020, to the Claims Administrator at the following address:

In re American Renal Associates Holdings, Inc. Securities Litigation

c/o _____
P.O. Box _____

You cannot exclude yourself by telephone or by e-mail. A request for exclusion shall not be valid and effective unless it provides all the information and documentation called for in this paragraph and is received within the time stated above, or is otherwise accepted by the Court.

If you properly exclude yourself, you will not receive a payment from the Net Settlement Fund, you cannot object to the Settlement, and you will not be legally bound by the judgment in this case.

12. If I do not exclude myself, can I sue Defendants or the other Defendants' Releasees for the same thing later?

No. Unless you follow the procedure outlined in this Notice to exclude yourself, you fully and completely give up any right to sue Defendants or the other Defendants' Releasees for the claims being released in this Settlement. If you have a pending lawsuit related to any Released Claims, speak to your lawyer in that case immediately, since you must exclude yourself from this Settlement Class to continue your own lawsuit.

13. If I Exclude Myself, Can I Receive Money from the Class Action Settlement?

No. If you exclude yourself, do not send in a Proof of Claim.

14. Do I have a lawyer in this case?

The Court appointed Abraham, Fruchter & Twersky, LLP as Lead Counsel to represent you and the other Settlement Class Members. There is also Liaison Counsel for Plaintiffs who have worked on the case. You will not be directly charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense. Contact information for Abraham, Fruchter & Twersky, LLP is provided below.

15. How will the lawyers be paid?

Plaintiffs' Counsel have expended considerable time litigating this Action on a contingent fee basis, and have paid for the expenses of the case themselves. They have not been paid attorneys' fees or reimbursed for their expenses in

advance of this Settlement. Plaintiffs' Counsel have done so with the expectation that, if they are successful in recovering money for the Settlement Class, they will receive attorneys' fees and be reimbursed for their litigation expenses from the Settlement Fund, as is customary in this type of litigation. Plaintiffs' Counsel will not receive attorneys' fees or be reimbursed for their litigation expenses except from the Settlement Fund. Therefore, Plaintiffs' Lead Counsel Abraham, Fruchter & Twersky, LLP, One Penn Plaza, Suite 2805, New York, NY 10119, will file a motion asking the Court at the Settlement Hearing to make an award of attorneys' fees, on behalf of all Plaintiffs' Counsel, in an amount not to exceed 30% of the Settlement Amount (\$1,732,500.00) plus interest. At the same time, Lead Counsel also intends to apply to the Court for reimbursement of litigation expenses of no more than \$100,000.00 and an Award to Plaintiff not to exceed \$7,500.00 for the reasonable costs and expenses incurred by Lead Plaintiff directly related to its representation of the Settlement Class. The attorneys' fees and reimbursement of expenses requested will be the only payment to Plaintiffs' Counsel for their efforts in achieving this Settlement and for their risk in undertaking this representation on a wholly contingent basis. Settlement Class Members are not personally responsible for any such fees or expenses. The Court determines what counsel should receive from the Settlement Fund for fees and reimbursement of expenses and an Award to Plaintiff, and may award less than the amounts requested.

16. How do I tell the Court that I do not like the Settlement?

You can tell the Court you do not agree with the Settlement, any part of the Settlement, Plaintiffs' Counsel's motion for attorneys' fees and reimbursement of expenses and application for an Award to Plaintiff, and that

you think the Court should not approve the Settlement, by mailing a letter and/or other documents stating that you object to the Settlement in the matter of *Vandever v. American Renal Associates Holdings, Inc., et al.*, No. 2:19-cv-09074-ES-MAH (D.N.J.). Be sure to include (1) your name, address, and telephone number, (2) a list of all purchases and sales of ARA common stock in order to show membership in the Settlement Class and documents sufficient to prove membership in the Settlement Class, (3) all grounds for the objection, including any legal and evidentiary support known to you or your counsel, (4) the name, address and telephone number of all counsel, if any, who represent you, including your former or current counsel who may be entitled to compensation in connection with the objection, and (5) the number of times you and/or your counsel has filed, authorized or approved an objection to a class action settlement in the last five years, the nature of each such objection in each case, the jurisdiction in each case, and the name of the issuer of the security or seller of the product or service at issue in each case. Attendance at the Settlement Hearing is not necessary. Objectors wishing to be heard orally at the Settlement Hearing are required to indicate in their written objection (or in a separate writing that is submitted in accordance with the deadline) that they intend to appear at the Settlement Hearing and identify any witnesses they may call to testify or exhibits they intend to introduce into evidence at the Settlement Hearing. Be sure to serve copies of any objections, papers and briefs to **each** of the addresses listed below and file them with the Court, to be received no later than _____, 2020:

Clerk of the Court United States District Court District of New Jersey 50 Walnut Street Newark, NJ 07101	PLAINTIFFS’ COUNSEL: Mitchell M.Z. Twersky ABRAHAM, FRUCHTER & TWERSKY, LLP One Penn Plaza, Suite 2805 New York, NY 10119	DEFENDANTS’ COUNSEL: Jason C. Hegt Latham & Watkins LLP 885 Third Avenue New York, NY 10022
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Unless the Court orders otherwise, any Settlement Class Member who does not object in the manner described above will be deemed to have waived any objection, shall be forever foreclosed from making any objection to the Settlement, the proposed Plan of Allocation or Lead Counsel’s motion for an award of attorneys’ fees and reimbursement of expenses and an Award to Plaintiff, will be bound by all the terms and provisions of the Stipulation and by all proceedings, orders and judgments in the Action and will be foreclosed from appealing from any judgment or order entered in this Action. Settlement Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.

17. What is the difference between objecting and requesting exclusion?

Objecting is simply telling the Court you do not like something about the Settlement or some portion thereof. You can object only if you stay in the Settlement Class. Requesting exclusion is telling the Court you do not want to be part of the Settlement Class and Settlement. If you exclude yourself, you cannot object to the Settlement because it no longer concerns you. If you

stay in the Settlement Class and object, but your objection is overruled, you will not be allowed a second opportunity to exclude yourself.

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

The Court is scheduled to hold a Settlement Hearing on _____, 2020, at ____:____.m., at the United States District Court, District of New Jersey, Martin Luther King Building & U.S. Courthouse, 50 Walnut Street, Courtroom 5A, Newark, New Jersey 07101. **Please Note:** The date and time of the Settlement Hearing may change and/or it may be held by teleconference or videoconference, without further written notice to the Class. You should monitor the Court's docket and the website maintained by the Claims Administrator, www._____.com, before making plans to participate in the Settlement Hearing. You may also confirm the date, time, and method of the Settlement Hearing by contacting Class Counsel by phone at 212-279-5050 or by email at info@aftlaw.com.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and whether to approve the Settlement. If there are objections, the Court will consider them, and the Court will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Plaintiffs' Counsel for attorneys' fees and for the reimbursement of expenses and how much to award Lead Plaintiff. The Court reserves the right to approve the Settlement, the Plan of Allocation, Lead Counsel's motion for an award of attorneys' fees, reimbursement of expenses and an Award to Plaintiff, and/or any other matter related to the Settlement at or after the Settlement Hearing without further notice to the Settlement Class Members.

19. Do I have to come to the Settlement Hearing?

No. Plaintiffs' Counsel will answer any questions the Court may have. However, you are welcome to attend at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mail your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary to do so.

20. What happens if I do nothing at all?

If you do nothing, you will not receive a payment from the Settlement. However, unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants or Defendants' Releasees about the Released Plaintiffs' Claims (as defined in the Stipulation, which is available at www._____) ever again.

21. Are There More Details About the Settlement?

This Notice summarizes the proposed Settlement. More details are in the Stipulation. You can obtain a copy of the Stipulation or more information about the Settlement by visiting www._____.com or by contacting the Claims Administrator or Lead Counsel, as follows:

In re American Renal Associates Holdings, Inc. Securities Litigation

c/o _____

P.O. Box _____

(888) _____

or

Abraham, Fruchter & Twersky, LLP
One Penn Plaza, Suite 2805
New York, NY 10119
Tel: (212) 279-5050
Fax: (212) 279-3655

You can also obtain a copy from the Clerk's office during regular business hours:

Clerk of the Court
UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, New Jersey 07101

DO NOT TELEPHONE THE COURT REGARDING THIS NOTICE

SPECIAL NOTICE TO BANKS, BROKERS, AND OTHER NOMINEES

1. The Court has ordered that if you held any ARA common stock purchased or acquired between August 10, 2016 and March 27, 2019, inclusive, as nominee for a beneficial owner, then, within ten (10) days after you receive this Notice, you must either: (1) request additional copies of the Notice and Proof of Claim, and within ten (10) days of receipt, send a copy of this Notice and the Proof of Claim by first-class mail to all such Persons; or (2) provide a list of the names and addresses of such Persons to the Claims Administrator at:

In re American Renal Associates Holdings, Inc. Securities Litigation
c/o _____

2. If you choose to mail the Notice and Proof of Claim yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing. If you do not intend to comply with the provisions of this section you are to notify the Claims Administrator of that fact at the address listed above.

3. If you choose to complete the mailing yourself, you may obtain reimbursement for reasonable administrative costs (maximum amount of \$0.75 per mailing) actually incurred in connection with forwarding the Notice and which would not have been incurred but for the obligation to forward the Notice, upon submission of appropriate documentation to the Claims Administrator.

DATED:

BY ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT
OF NEW JERSEY

PROOF OF CLAIM AND RELEASE FORM

DEADLINE FOR SUBMISSION: _____

IF YOU PURCHASED OR OTHERWISE ACQUIRED AMERICAN RENAL ASSOCIATES HOLDINGS, INC. (“ARA”) COMMON STOCK BETWEEN AUGUST 10, 2016 AND MARCH 27, 2019, INCLUSIVE, YOU ARE A “SETTLEMENT CLASS MEMBER” AND YOU MAY BE ENTITLED TO SHARE IN THE SETTLEMENT PROCEEDS.

EXCLUDED FROM THE SETTLEMENT CLASS ARE: (I) DEFENDANTS AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS; (II) PAST AND CURRENT OFFICERS AND DIRECTORS OF ARA; (III) IMMEDIATE FAMILY MEMBERS OF ANY INDIVIDUAL DEFENDANT; (IV) THE LEGAL REPRESENTATIVES, HEIRS, SUCCESSORS OR ASSIGNS OF THE INDIVIDUAL DEFENDANTS; (V) CENTERBRIDGE CAPITAL PARTNERS L.P. AND ITS SUBSIDIARIES AND AFFILIATED ENTITIES; (VI) ANY ENTITY IN WHICH ANY OF THE ABOVE EXCLUDED PERSONS HAVE OR HAVE HAD A MAJORITY OWNERSHIP INTEREST; AND (VII) OPT-OUTS.

IF YOU ARE A SETTLEMENT CLASS MEMBER, YOU MUST COMPLETE AND SUBMIT THIS FORM IN ORDER TO BE ELIGIBLE FOR ANY SETTLEMENT BENEFITS.

YOU MUST COMPLETE AND SIGN THIS PROOF OF CLAIM AND RELEASE FORM (“PROOF OF CLAIM”) AND MAIL IT BY FIRST CLASS MAIL, POSTMARKED NO LATER THAN _____, 2020 TO _____, THE CLAIMS ADMINISTRATOR, AT THE FOLLOWING ADDRESS:

In re American Renal Associates Holdings, Inc. Securities Litigation

c/o _____

P.O. Box _____

YOUR FAILURE TO SUBMIT YOUR CLAIM BY _____, 2020 WILL SUBJECT YOUR CLAIM TO REJECTION AND PRECLUDE YOU FROM

RECEIVING ANY MONEY IN CONNECTION WITH THE SETTLEMENT OF THIS ACTION. DO NOT MAIL OR DELIVER YOUR CLAIM TO THE COURT OR TO ANY OF THE PARTIES OR THEIR COUNSEL AS ANY SUCH CLAIM WILL BE DEEMED NOT TO HAVE BEEN SUBMITTED. SUBMIT YOUR CLAIM ONLY TO THE CLAIMS ADMINISTRATOR. IF YOU ARE A SETTLEMENT CLASS MEMBER AND DO NOT SUBMIT A PROPER PROOF OF CLAIM, YOU WILL NOT SHARE IN THE SETTLEMENT BUT YOU NEVERTHELESS WILL BE BOUND BY THE ORDER AND FINAL JUDGMENT OF THE COURT, INCLUDING THE RELEASES, UNLESS YOU EXCLUDE YOURSELF.

SUBMISSION OF A PROOF OF CLAIM DOES NOT ASSURE THAT YOU WILL SHARE IN THE PROCEEDS OF THE SETTLEMENT. THE DISTRIBUTION OF THE NET SETTLEMENT FUND WILL BE GOVERNED BY THE PLAN OF ALLOCATION SET FORTH IN THE NOTICE, IF IT IS APPROVED BY THE COURT, OR BY SUCH OTHER PLAN OF ALLOCATION AS THE COURT APPROVES.

SEPARATE CLAIM FORMS SHOULD BE SUBMITTED FOR EACH SEPARATE LEGAL ENTITY (*E.G.*, AN INDIVIDUAL SHOULD NOT COMBINE HIS OR HER IRA TRANSACTIONS WITH TRANSACTIONS MADE SOLELY IN THE INDIVIDUAL'S NAME). CONVERSELY, A SINGLE CLAIM FORM SHOULD BE SUBMITTED ON BEHALF OF ONE LEGAL ENTITY INCLUDING ALL TRANSACTIONS MADE BY THAT ENTITY ON ONE CLAIM FORM, NO MATTER HOW MANY SEPARATE ACCOUNTS THAT ENTITY HAS (*E.G.*, A CORPORATION WITH MULTIPLE BROKERAGE ACCOUNTS SHOULD INCLUDE ALL TRANSACTIONS MADE IN ALL ACCOUNTS ON ONE CLAIM FORM).

IF YOU PURCHASED OR ACQUIRED ARA COMMON STOCK AND HELD THE CERTIFICATE(S) IN YOUR NAME, YOU ARE THE BENEFICIAL OWNER AS WELL AS THE RECORD HOLDER. IF, HOWEVER, THE CERTIFICATE(S) WERE REGISTERED IN THE NAME OF A THIRD PARTY, SUCH AS A NOMINEE OR BROKERAGE FIRM THROUGH WHICH YOU PURCHASED THE STOCK, YOU ARE THE BENEFICIAL OWNER AND THE THIRD PARTY IS THE RECORD HOLDER.

IF YOU ARE NOT A MEMBER OF THE SETTLEMENT CLASS, DO NOT SUBMIT A PROOF OF CLAIM.

The “Stipulation” has the meaning that is contained in the Notice. The Stipulation and Notice also contain the definitions (some of which are also included below) of many of the defined terms (which are indicated by initial capital letters) used in this Proof of Claim, including “Opt-outs,” “Released Claims,” “Plaintiffs’ Releasees,” “Defendants’ Releasees,” and “Unknown Claims.”

NOTICE REGARDING ELECTRONIC FILES: Certain Claimants with large numbers of transactions may request, or may be requested, to submit information regarding their transactions in electronic files. All Claimants **MUST** submit a manually signed paper Proof of Claim listing all their transactions whether or not they also submit electronic copies. If you wish to file your claim electronically, you must contact the Claims Administrator at (888) _____ or visit their website at www._____.com to obtain the required file layout. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues to the Claimant a written acknowledgment of receipt and acceptance of electronically submitted data.

CLAIMANT'S STATEMENT

1. I (we) purchased American Renal Associates Holdings, Inc. ("ARA") common stock.
2. By submitting this Proof of Claim, I (we) state that I (we) believe in good faith that I am (we are) a Settlement Class Member(s) as defined above and in the Notice of Pendency and Proposed Settlement of Class Action (the "Notice"), or am (are) acting for such person(s); that I am (we are) not a Defendant in the Action or anyone excluded from the Settlement Class; that I (we) have read and understand the Notice; that I (we) believe that I am (we are) entitled to receive a share of the Net Settlement Fund, as defined in the Notice; and that I (we) have not filed a request for exclusion. (If you are acting in a representative capacity on behalf of a Settlement Class Member [e.g., as an executor, administrator, trustee, or other representative], you must submit evidence of your current authority to act on behalf of that Settlement Class Member. Such evidence would include, for example, letters testamentary, letters of administration, or a copy of the trust documents.)
3. I (we) consent to the jurisdiction of the Court with respect to all questions concerning the validity of this Proof of Claim. I (we) understand and agree that my (our) claim may be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to my (our) status as a Settlement Class Member(s) and the validity and amount of my (our) claim. No discovery shall be allowed on the merits of the Action or Settlement in connection with processing of the Proof of Claim.
4. I (we) have set forth where requested below all relevant information with respect to each purchase of ARA common stock, and each sale, if any, of such common stock, and our holdings. I (we) agree to furnish additional information to the Claims Administrator to support this claim if requested to do so.
5. I (we) have enclosed photocopies of the stockbroker's confirmation slips, stockbroker's statements, or other documents evidencing each purchase and sale of ARA common stock listed below in support of my (our) claim. (IF ANY SUCH DOCUMENTS ARE NOT IN YOUR POSSESSION, PLEASE OBTAIN A COPY OR EQUIVALENT DOCUMENTS FROM YOUR BROKER OR TAX ADVISOR BECAUSE THESE DOCUMENTS ARE NECESSARY TO PROVE AND PROCESS YOUR CLAIM.)

6. I (we) understand that the information contained in this Proof of Claim is subject to such verification as the Claims Administrator may request or as the Court may direct, and I (we) agree to cooperate in any such verification. (The information requested herein is designed to provide the minimum amount of information necessary to process most simple claims. The Claims Administrator may request additional information as required to efficiently and reliably calculate your claim. In some cases, the Claims Administrator may condition acceptance of the claim based upon the production of additional information.)
7. Upon the occurrence of the Court's approval of the Settlement, as detailed in the Notice, I (we) agree and acknowledge that my (our) signature(s) hereto shall effect and constitute, on behalf of myself (ourselves), and my (our) respective heirs, executors, administrators, predecessors, successors, representatives, attorneys, agents and assigns in their capacities as such, by operation of law and of the Judgment that I (we) have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged, to the fullest extent allowed by law, each and every Released Plaintiffs' Claim (including Unknown Claims) against the Defendants and the other Defendants' Releasees, and shall forever be barred and enjoined from prosecuting any or all of the Released Plaintiffs' Claims against any of the Defendants' Releasees. This agreement and acknowledgment also applies to any other persons who are Plaintiffs' Releasees, as a result of their association with me (us) (or, if I am (we are) submitting this Proof of Claim on behalf of a corporation, a partnership, estate or one or more other persons, by it, him, her or them, and any other persons who are Plaintiffs' Releasees as a result of their association with me (us)).
8. I (We) acknowledge that the inclusion of "Unknown Claims" in the definition of claims released pursuant to the Stipulation was separately bargained for and is a material element of the Settlement of which this release is a part.

The following definitions apply:

"Defendants' Releasees" means Defendants and Defendants' Counsel, and each of their respective past or present subsidiaries, parents, affiliates, principals, successors, predecessors, assigns, officers, directors, underwriters, trustees, partners, members, agents, employees, insurers (both as defined herein and undefined), co-insurers, reinsurers, controlling shareholders (including Centerbridge Capital Partners L.P. and its subsidiaries and affiliated entities), attorneys, accountants, auditors, financial or investment advisors or consultants, investment bankers, personal or legal

representatives, any entity in which ARA has a controlling interest, and each of the predecessors, successors, and assigns of the foregoing, in their capacities as such.

“Plaintiffs’ Releasees” means Lead Plaintiff, Plaintiffs’ Counsel, and all Settlement Class Members, and each of their respective past or present subsidiaries, parents, affiliates, principals, successors, predecessors, assigns, officers, directors, underwriters, trustees, partners, members, agents, employees, insurers, co-insurers, reinsurers, controlling shareholders, attorneys, accountants, auditors, financial or investment advisors, consultants, experts, investment bankers, personal or legal representatives, any entity in which the above has a controlling interest, and each of the predecessors, successors, and assigns of the foregoing, in their capacities as such.

“Released Plaintiffs’ Claims” means any and all claims of every nature and description, including, causes of action, suits, demands, rights, liabilities, damages, costs, restitution, rescission, interest, attorneys’ fees, expert or consulting fees, expenses, matters and issues known or unknown, contingent or absolute, suspected or unsuspected, disclosed or undisclosed, liquidated or unliquidated, matured or unmatured, accrued or unaccrued, apparent or unapparent, and causes of action of every nature and description, including both known claims and Unknown Claims, whether arising under federal, state, local, foreign, statutory or common law or any other law, rule or regulation, including claims under the Securities Act of 1933 or the Securities Exchange Act of 1934 or the securities laws of any state or territory, that have been or could have been asserted in any forum whatsoever by Plaintiffs’ Releasees, arising out of, relating to, based upon, or in connection with both (i) any acts, failures to act, disclosures, nondisclosures, omissions, allegations, claims, events, transactions, facts, matters, occurrences, or oral or written representations or statements involved, set forth, alleged, or referred to, or that could have been alleged, in any pleading in this Action, and (ii) any purchase, acquisition, disposition, or sale of ARA common stock during the Class Period, and that otherwise would have been barred by res judicata had the Action been fully litigated to a final judgment, except that the definition of Released Plaintiffs’ Claims does not include claims that have been brought, may be brought or could have been brought derivatively on behalf of ARA by holders of ARA common stock, including but not limited to *Johnson v. Carlucci*, No. 2:19-cv-15812-ES-MAH (D.N.J.). Released Plaintiffs’ Claims also does not include claims that have been brought or may be brought by the Lead Plaintiff or Settlement Class Members against his, her or its financial or investment advisor, including any stock broker or entity for which such stock broker is employed, relating to his, her or its investment in ARA common stock.

I. CLAIMANT INFORMATION

Please complete this PART in its entirety. The Claims Administrator will use this information for all communications regarding this Claim Form. If this information changes, you MUST notify the Claims Administrator in writing at the address above.

Name:		
Address:		
City	State	ZIP
Foreign Province	Foreign Country	
Day Phone	Evening Phone	
Email		
Last 4 Digits of Social Security Number (for individuals):	OR	Taxpayer Identification Number (for estates, trusts, corporations, etc.):

II. SCHEDULE OF TRANSACTIONS IN AMERICAN RENAL ASSOCIATES HOLDINGS, INC. COMMON STOCK

Beginning Holdings:

- A. State the total number of shares of American Renal Associates Holdings, Inc. common stock held at the close of trading on August 9, 2016 (*must be documented*). If none, write “zero” or “0.”

--

Purchases/Acquisitions:

B. Separately list each and every purchase or acquisition of American Renal Associates Holdings, Inc. common stock between August 10, 2016 and March 27, 2019, inclusive, and provide the following information (*must be documented*):

Trade Date (List Chronologically) (Month/Day/Year)	Number of Shares Purchased	Price per Share	Total Cost (Excluding Commissions, Taxes, and Fees)

Sales:

C. Separately list each and every sale of American Renal Associates Holdings, Inc. common stock between August 10, 2016 and the date of submission of this form, both dates inclusive, and provide the following information (*must be documented*):

Trade Date (List Chronologically) (Month/Day/Year)	Number of Shares Sold	Price per Share	Amount Received (Excluding Commissions, Taxes, and Fees)

Ending Holdings:

D. State the total number of shares of American Renal Associates Holdings, Inc. common stock held at the close of trading on the date of submission of this form (*must be documented*). If none, write “zero” or “0.”

If additional space is needed, attach separate, numbered sheets, giving all required information, substantially in the same format, and print your name and Social Security or Taxpayer Identification number at the top of each sheet.

III. SUBSTITUTE FORM W-9

Request for Taxpayer Identification Number:

Enter taxpayer identification number below for the Beneficial Owner(s). For most individuals, this is your Social Security Number. The Internal Revenue Service (“I.R.S.”) requires such taxpayer identification number. If you fail to provide this information, your claim may be rejected.

Social Security Number (for individuals)	or	Taxpayer Identification Number (for estates, trusts, corporations, etc.)

IV. CERTIFICATION

I (We) submit this Proof of Claim under the terms of the Stipulation described in the Notice. I (We) also submit to the jurisdiction of the United States District Court for the District of New Jersey with respect to my (our) claim as a Settlement Class Member and for purposes of enforcing the release and covenant not to sue set forth herein. I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment that may be entered in this Action. I (We) have not submitted any other claim covering the same purchases or sales of American Renal Associates Holdings, Inc. common stock and know of no other Person having done so on my (our) behalf.

I (We) certify that I am (we are) NOT subject to backup withholding under the provisions of Section 3406 (a)(1)(c) of the Internal Revenue Code because: (a) I am (We are) exempt from backup withholding; or (b) I (We) have not been notified by the I.R.S. that I am (we are) subject to backup withholding as a result of a failure to report all interest or dividends; or (c) the I.R.S. has notified me (us) that I am (we are) no longer subject to backup withholding.

NOTE: If you have been notified by the I.R.S. that you are subject to backup withholding, please strike out the language that you are not subject to backup withholding in the certification above.

I (We) hereby warrant and represent that I am (we are) not excluded from the Settlement Class.

UNDER THE PENALTIES OF PERJURY UNDER THE LAWS OF THE UNITED STATES, I (WE) CERTIFY THAT ALL OF THE INFORMATION I (WE) PROVIDED ON THIS PROOF OF CLAIM AND RELEASE FORM IS TRUE, CORRECT AND COMPLETE.

Signature of Claimant (If this claim is being made on behalf of Joint Claimants, then each must sign):

(Signature)

(Signature)

(Capacity of person(s) signing, e.g. beneficial purchaser(s), executor, administrator, trustee, etc.)
Check here if proof of authority to file is enclosed

(See Item 2 under Claimant's Statement)

Date: _____

THIS PROOF OF CLAIM MUST BE SUBMITTED NO LATER THAN _____, 2020 AND MUST BE MAILED TO:

In re American Renal Associates Holdings, Inc. Securities Litigation

c/o _____

P.O. Box _____

A Proof of Claim received by the Claims Administrator shall be deemed to have been submitted when posted, if mailed by _____, 2020 and if a postmark is indicated on the envelope and it is mailed first class and addressed in accordance with the above instructions. In all other cases, a Proof of Claim shall be deemed to have been submitted when actually received by the Claims Administrator.

The Claims Administrator will acknowledge receipt of your Proof of Claim by mail or email within 60 days of receipt. Your claim is not deemed filed until you receive such an acknowledgement. If you do not receive an acknowledgement within 60 days, have questions about the Proof of Claim form or need additional copies of the Proof of Claim form, please contact the Claims Administrator by telephone toll free at (888) _____ or visit their website at www._____.com.

As set forth in the Plan of Allocation, each Authorized Claimant shall receive his, her or its pro rata share of the Net Settlement Fund. If the prorated payment to any Authorized Claimant calculates to less than \$10.00, it will not be included in the calculation and no distribution will be made to that Authorized Claimant.

You should be aware that it will take a significant amount of time to process fully all of the Proofs of Claim and to administer the Settlement. This work will be completed as promptly as time permits, given the need to investigate and tabulate each Proof of Claim. Please notify the Claims Administrator of any change of address.

REMINDER CHECKLIST

- Please be sure to sign this Proof of Claim on page _____. If this Proof of Claim is submitted on behalf of joint claimants, then each claimant must sign.
- Please remember to attach supporting documents. Do NOT send any stock certificates. Keep copies of everything you submit.
- Do NOT use highlighter on the Proof of Claim or any supporting documents.
- If you move or change your address, telephone number or email address, please submit the new information to the Claims Administrator, as well as any other information that will assist us in contacting you. NOTE: Failure to submit updated information to the Claims Administrator may result in the Claims Administrator's inability to contact you regarding issues with your claim or deliver payment to you.
- The Claims Administrator will acknowledge receipt of your Claim Form by mail, within 60 days. Your claim is not deemed filed until you receive an acknowledgement postcard. **If you do not receive an acknowledgement postcard within 60 days, please call the Claims Administrator toll-free at _____.**
- If you have any questions or concerns regarding your claim, please contact the Claims Administrator at the address provided above, by email at _____@_____.com, or by toll-free phone at _____ or you may visit www._____.com. DO NOT call Defendants or their counsel with questions regarding your claim.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ALI VANDEVAR, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

AMERICAN RENAL ASSOCIATES
HOLDINGS, INC., JOSEPH A.
CARLUCCI, JASON M. BOUCHER, and
JONATHAN L. WILCOX,

Defendants.

Case No. 2:19-cv-09074-ES-MAH
Honorable Esther Salas

**SUMMARY NOTICE OF PENDENCY AND
PROPOSED CLASS ACTION SETTLEMENT**

**TO: ALL PERSONS WHO PURCHASED OR ACQUIRED AMERICAN
RENAL ASSOCIATES HOLDINGS, INC. COMMON STOCK
BETWEEN AUGUST 10, 2016 AND MARCH 27, 2019, INCLUSIVE**

**PLEASE READ THIS NOTICE CAREFULLY, YOUR RIGHTS WILL BE
AFFECTED BY A CLASS ACTION LAWSUIT PENDING IN THIS COURT.**

YOU ARE HEREBY NOTIFIED, pursuant to an Order of the United States
District Court for the District of New Jersey, that a hearing is scheduled to be held
on _____, 2020, at __:__.m. before the Honorable Esther Salas, United
States District Judge of the District of New Jersey, Martin Luther King Building &

U.S. Courthouse, 50 Walnut Street, Courtroom 5A, Newark, NJ 07101 for the purpose of determining: (1) whether the proposed Settlement¹ of the claims in the above-captioned Action for consideration including the sum of \$5,775,000 should be approved by the Court as fair, reasonable, and adequate; (2) whether the proposed plan to distribute the Net Settlement Fund (the “Plan of Allocation”) is fair, reasonable and adequate and therefore should be approved; (3) whether the application of Plaintiffs’ Counsel for an award of attorneys’ fees not to exceed 30 percent plus interest of the Settlement Amount, reimbursement of expenses of not more than \$100,000, and an Award to Plaintiff of not more than \$7,500.00, should be approved; and (4) whether this Action should be fully and finally dismissed with prejudice as set forth in the Stipulation.

Please Note: The date and time of the Settlement Hearing may change and/or may be held by teleconference or videoconference, without further written notice to the Class. You should monitor the Court’s docket and the website maintained by the Claims Administrator, www._____.com, before making plans to participate in the Settlement Hearing. You may also confirm the date, time, and method of the Settlement Hearing by contacting Class Counsel by phone at 212-279-5050 or by email at info@aftlaw.com.

¹ All capitalized terms not otherwise defined herein have the same meaning as in the Stipulation and Agreement of Settlement filed with the court on June 25, 2020 (ECF No. __) (the “Stipulation”).

If you purchased or otherwise acquired American Renal Associates Holdings, Inc. (“ARA”) common stock between August 10, 2016 and March 27, 2019, inclusive, your rights may be affected by this Settlement, including the full and final release and extinguishment of claims you may possess relating to your purchase, sale and ownership interest in ARA common stock. If you have not received a detailed Notice of Pendency and Proposed Settlement of Class Action (“Notice”) and a copy of the Proof of Claim form, you may obtain copies by writing to In re American Renal Associates Holdings, Inc. Securities Litigation, c/o _____, P.O. Box _____, _____ or calling (888) _____, or by going to the website, www._____.com. If you are a member of the Settlement Class, in order to share in the distribution of the Net Settlement Fund, you must submit a Proof of Claim form postmarked no later than _____, 2020, establishing that you are entitled to recovery. Unless you submit a written exclusion request, you will be bound by any judgment rendered in the Action whether or not you make a claim.

If you desire to be excluded from the Settlement Class, you must submit to the Claims Administrator a request for exclusion so that it is received no later than _____, 2020, in the manner and form explained in the Notice. If you properly exclude yourself from the Settlement Class, you will not be bound by any judgments or orders entered by the Court in the Action and you will not be eligible

to share in the proceeds of the Settlement. All members of the Settlement Class who have not validly requested exclusion from the Settlement Class will be bound by any judgment entered in the Action pursuant to the Stipulation.

Any objection to the Settlement, Plan of Allocation, or Plaintiffs' Counsel's request for an award of attorneys' fees and reimbursement of expenses and an Award to Plaintiff must be in the manner and form explained in the detailed Notice and received no later than _____, 2020, by each of the following:

Clerk of the Court
United States District Court
District of New Jersey
50 Walnut Street
Newark, NJ 07101

CLASS COUNSEL:

Mitchell M.Z. Twersky
ABRAHAM, FRUCHTER & TWERSKY, LLP
One Penn Plaza, Suite 2805
New York, NY 10119

COUNSEL FOR DEFENDANTS:

Jason C. Hegt
LATHAM & WATKINS LLP
885 Third Avenue
New York, New York 10022

If you have any questions about the Settlement, you may contact the Claims Administrator or Plaintiffs' Counsel at the addresses listed above or go to the website at www._____.com.

PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE REGARDING THIS NOTICE.

Dated: _____, 2020

BY ORDER OF THE UNITED
STATES DISTRICT COURT FOR
THE DISTRICT OF NEW JERSEY

EXHIBIT B

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ALI VANDEVAR, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

AMERICAN RENAL ASSOCIATES
HOLDINGS, INC., JOSEPH A.
CARLUCCI, JASON M. BOUCHER,
and JONATHAN L. WILCOX,

Defendants.

Case No. 2:19-cv-09074-ES-MAH
Honorable Esther Salas

[PROPOSED] ORDER AND FINAL JUDGMENT

WHEREAS, a consolidated class action is pending in this Court entitled *Vandever v. American Renal Associates Holdings, Inc., et al.*, No. 19-cv-09074 (the “Action”);

WHEREAS, (i) Lead Plaintiff City of Hialeah Employees’ Retirement System (“Lead Plaintiff”), on behalf of itself and on behalf of the Settlement Class (as defined herein) (collectively, “Plaintiffs”); and (ii) Defendants American Renal Associates Holdings, Inc. (“ARA” or the “Company”), Joseph A. Carlucci, Jason M. Boucher and Jonathan L. Wilcox (collectively, “Defendants”) have entered into a Stipulation and Agreement of Settlement dated as of June 25, 2020 (the “Stipulation”), that provides for a complete dismissal with prejudice of the claims asserted against Defendants in the Action on the terms and conditions set forth in the Stipulation, subject to the approval of the Court (the “Settlement”);

WHEREAS, unless otherwise defined in this Judgment, the capitalized terms herein shall have the same meaning as they have in the Stipulation;

WHEREAS, by Order dated _____, 2020 (the “Preliminary Approval Order”), this Court: (a) found, pursuant to Rule 23(c)(1)(B), that it would likely be able to approve the Settlement as fair, reasonable, and adequate under Rule 23(e)(2); (b) ordered that notice of the proposed Settlement be provided to Potential Settlement Class Members; (c) provided Settlement Class Members with the opportunity either to exclude themselves from the Settlement Class or to object

to the proposed Settlement; and (d) scheduled a hearing regarding final approval of the Settlement;

WHEREAS, due and adequate notice has been given to the Settlement Class;

WHEREAS, the Court conducted a hearing on _____, 2020 (the “Settlement Hearing”) to consider, among other things:

(1) whether the terms and conditions of the Settlement are fair, reasonable and adequate to the Settlement Class and therefore should be approved; (2) whether judgment should be entered dismissing the Action with prejudice; (3) whether to approve the proposed Plan of Allocation as a fair and reasonable method to allocate the Net Settlement Fund among Settlement Class Members; (4) whether and in what amount to award Plaintiffs’ Counsel as fees and reimbursement of expenses; and (5) whether and in what amount to grant an Award to Plaintiff; and

WHEREAS, the Court having reviewed and considered the Stipulation, all papers filed and proceedings held herein in connection with the Settlement, all oral and written comments received regarding the Settlement, and the record in the Action, and good cause appearing therefor:

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. **Jurisdiction** – The Court has jurisdiction over the subject matter of the Action, and all matters relating to the Settlement, as well as personal jurisdiction over all of the Settling Parties and each of the Settlement Class Members.

2. **Incorporation of Settlement Documents** – This Judgment incorporates and makes a part hereof: (a) the Stipulation filed with the Court on June 25, 2020; and (b) the Notice and Summary Notice, both of which were filed with the Court on _____, 2020.

3. **Settlement Class Factors** – The Court finds that, for settlement purposes only, the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that:

(a) the number of Settlement Class Members is so numerous that joinder of all members thereof is impracticable;

(b) there are questions of law and fact common to the Settlement Class;

(c) the claims of the Lead Plaintiff are typical of the claims of the Settlement Class it seeks to represent;

(d) Lead Plaintiff and Plaintiffs' Counsel fairly and adequately represent the interests of the Settlement Class;

(e) questions of law and fact common to the members of the Settlement Class predominate over any questions affecting only individual members of the Settlement Class; and

(f) a class action is superior to other available methods for the fair and efficient adjudication of this Action, considering:

i. the interests of the Settlement Class Members in individually controlling the prosecution of separate actions;

ii. the extent and nature of any litigation concerning the controversy already commenced by Settlement Class Members;

iii. the desirability or undesirability of concentrating the litigation of these claims in this particular forum; and

iv. the difficulties likely to be encountered in the management of the class action.

The Settlement Class is being certified for settlement purposes only.

4. **The Certified Settlement Class** – The Court hereby finally certifies this action as a class action for purposes of the Settlement, pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure, on behalf of all Persons (including, without limitation, their beneficiaries) that purchased or acquired shares of ARA common stock between August 10, 2016 and March 27, 2019, inclusive, except that excluded from the Settlement Class are: (i) Defendants and their

respective successors and assigns; (ii) past and current officers and directors of ARA; (iii) Immediate Family Members of any Individual Defendant; (iv) the legal representatives, heirs, successors or assigns of the Individual Defendants; (v) Centerbridge Capital Partners L.P. and its subsidiaries and affiliated entities; (vi) any entity in which any of the above excluded Persons have or have had a majority ownership interest; and (vii) Opt-Outs.

5. **Class Representative & Class Counsel** – Pursuant to Rule 23 of the Federal Rules of Civil Procedure, for the purposes of this Settlement only, Lead Plaintiff is certified as the class representative on behalf of the Settlement Class (“Class Representative”) and Lead Counsel previously selected by Lead Plaintiff and appointed by the Court are hereby appointed as Class Counsel for the Settlement Class (“Class Counsel”).

6. **Notice** – In accordance with the Court’s Preliminary Approval Order, the Court hereby finds that the forms and methods of notifying the Settlement Class of the Settlement and its terms and conditions met the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the Exchange Act, 15 U.S.C. § 78u-4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995, and all other applicable law and rules; were reasonably calculated, under the circumstances, to apprise Settlement Class Members of (i) the certification of the Settlement Class; (ii) the effect of the

proposed Settlement (including the Releases to be provided thereunder); (iii) the Plan of Allocation, (iv) the Fee and Expense Application, (v) the right to object to any aspect of the Settlement, Plan of Allocation, and/or the Fee and Expense Application, (vi) the right to exclusion from the Settlement Class; and (vii) the right to appear at the Settlement Hearing; constituted the best notice practicable under the circumstances; and constituted due, adequate, and sufficient notice to all Persons entitled to such notice. No Settlement Class Member is relieved from the terms and conditions of the Settlement, including the Releases provided for in the Stipulation, based upon the contention or proof that such Settlement Class Member failed to receive actual or adequate notice. A full opportunity has been offered to the Settlement Class Members to object to the proposed Settlement and to participate in the hearing thereon. The Court further finds that the notice provisions of the Class Action Fairness Act, 28 U.S.C. § 1715, were fully discharged. Thus, it is hereby determined that all Settlement Class Members are bound by this Order and Final Judgment except those persons listed on Exhibit 1 to this Order and Final Judgment.

7. **Final Settlement Approval and Dismissal of Claims** – The Settlement is fully and finally approved as fair, reasonable and adequate under Rule 23 of the Federal Rules of Civil Procedure, and in the best interests of the Settlement Class. This Court further finds that the Settlement set forth in the

Stipulation is the result of good faith, arm's-length negotiations between experienced counsel representing the interests of the Class Representative, Settlement Class Members and Defendants and that the record is sufficiently developed and complete to have enabled the Plaintiffs and the Defendants to have adequately evaluated and considered their positions. Accordingly, the Settling Parties are directed to implement, perform and consummate the Settlement in accordance with the terms and provisions of the Stipulation.

8. Except as to any claims of those Persons (identified in Exhibit 1 attached hereto), who timely and validly requested exclusion from the Settlement Class before the _____, 2020 deadline, the Action and all claims contained therein, as well as all of the Released Claims, are dismissed with prejudice as against the Settling Parties, Defendants' Releasees and Plaintiffs' Releasees. The Settling Parties are to bear their own costs, except as otherwise provided in the Stipulation.

9. Plaintiffs' Releasees, on behalf of themselves, their successors and assigns, and any other Person claiming (now or in the future) through or on behalf of them, regardless of whether any such Plaintiff Releasee ever seeks or obtains by any means, including without limitation by submitting a Proof of Claim form, any disbursement from the Settlement Fund, shall be deemed to have, and by operation of this Order and Final Judgment shall have, fully, finally, and forever released,

relinquished, and discharged all Released Plaintiffs' Claims against Defendants' Releasees. Plaintiffs' Releasees shall be deemed to have, and by operation of this Order and Final Judgment shall have, covenanted not to sue Defendants' Releasees with respect to any and all Released Plaintiffs' Claims in any forum and in any capacity. Plaintiffs' Releasees shall be and hereby are permanently barred and enjoined from asserting, commencing, prosecuting, instituting, assisting, instigating, or in any way participating in the commencement or prosecution of any action or other proceeding, in any forum, asserting any of the Released Plaintiffs' Claims, in any capacity against any of Defendants' Releasees. Nothing contained herein shall, however, bar the Plaintiffs' Releasees from bringing any action or claim to enforce the terms of the Stipulation or this Order and Final Judgment.

10. Defendants' Releasees, on behalf of themselves, their successors and assigns, and any other Person claiming (now or in the future) through or on behalf of them, shall be deemed to have, and by operation of this Order and Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Defendants' Claims against Plaintiffs' Releasees. Defendants' Releasees shall be deemed to have, and by operation of this Order and Final Judgment shall have, covenanted not to sue Plaintiffs' Releasees with respect to any and all Released Defendants' Claims in any forum and in any capacity. Defendants' Releasees shall be and hereby are permanently barred and enjoined

from asserting, commencing, prosecuting, instituting, assisting, instigating, or in any way participating in the commencement or prosecution of any action or other proceeding, in any forum, asserting any of the Released Defendants' Claims, in any capacity, against any of Plaintiffs' Releasees. Nothing contained herein shall, however, bar the Defendants' Releasees from bringing any action or claim to enforce the terms of the Stipulation or this Order and Final Judgment.

11. **Bar Order** – Upon the Effective Date, to the fullest extent permitted by law, Defendants are hereby discharged from and the Court hereby bars all future claims and claims over by any person or entity against any of the Defendants' Releasees, and by the Defendants' Releasees against any Person, for (a) contribution or indemnity (or any other similar claims or claims over, however denominated on whatsoever theory) arising out of, related to, or premised on the factual allegations underlying the claims asserted in the Action, or (b) any other claim of any type arising out of, related to, or premised on the factual allegations underlying the claims asserted by Lead Plaintiff in the Action, whether arising under state, federal, common, or foreign law, for which the injury claimed is that Person's actual or threatened liability to Lead Plaintiff and or members of the Settlement Class (the "Bar Order"); *provided, however*, the Bar Order shall not release nor bar any of the Excluded Plaintiffs' Claims or claims for contribution or indemnity (or any other similar claims or claims over however denominated on

whatsoever theory) arising out of, related to, or premised on the factual allegations underlying the Excluded Plaintiffs' Claims.

12. **Judgment Reduction** – Any final verdict or judgment to which the Bar Order applies (*i.e.*, any final verdict or judgment pertaining to a claim against an individual or entity other than Defendants' Releasees arising out of or related to, or premised on the factual allegations underlying the claims asserted by Lead Plaintiff in the Action) that may be obtained by or on behalf of the Settlement Class or a Settlement Class Member against any Person subject to the Bar Order (*i.e.*, to whom the Bar Order applies) shall be reduced by the greater of: (a) an amount that corresponds to the percentage of responsibility of Defendants for common damages; or (b) the amount paid by or on behalf of Defendants to the Settlement Class or Settlement Class Members for common damages.

13. **Plan of Allocation** – The Court hereby finds that the proposed Plan of Allocation is a fair and reasonable method to allocate the Net Settlement Fund among Settlement Class Members, and Class Counsel and the Claims Administrator are directed to administer the Plan of Allocation in accordance with its terms and the terms of the Stipulation.

14. **Rule 11 Findings** – The Court finds that the Settling Parties and their counsel have complied with all requirements of Rule 11 of the Federal Rules of Civil Procedure and the Private Securities Litigation Reform Act of 1995 in

connection with the institution, prosecution, defense and settlement of the Action and as to all proceedings herein.

15. **No Admissions** – Neither this Order and Final Judgment, the Stipulation (nor the Settlement contained therein), nor any of its terms and provisions, nor any of the negotiations, documents or proceedings connected with them:

(a) is or may be deemed to be, or may be used as an admission, concession, or evidence of, the validity or invalidity of any Released Claims, the truth or falsity of any fact alleged by the Class Representative, the sufficiency or deficiency of any defense that has been or could have been asserted in the Action, or of any wrongdoing, liability, negligence or fault of Defendants, Defendants' Releasees, or each or any of them;

(b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or misrepresentation or omission with respect to any statement or written document attributed to, approved or made by Defendants or Defendants' Releasees in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal;

(c) is or may be deemed to be or shall be used, offered or received against the Settling Parties, the Releasees, or each or any of them, as an admission, concession or evidence of the validity or invalidity of the

Released Claims, the infirmity or strength of any claim raised in the Action, the truth or falsity of any fact alleged by the Lead Plaintiff or the Settlement Class, or the availability or lack of availability of meritorious defenses to the claims raised in the Action; and

(d) is or may be deemed to be or shall be construed as or received in evidence as an admission or concession against Defendants, or Defendants' Releasees, or each or any of them, that any of Class Representative's or Settlement Class Members' claims are with or without merit, that a litigation class should or should not be certified, that damages recoverable in the Action would have been greater or less than the Settlement Fund or that the consideration to be given pursuant to the Stipulation represents an amount equal to, less than or greater than the amount which could have or would have been recovered after trial.

16. The Releasees may file the Stipulation and/or this Order and Final Judgment in any other action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, full faith and credit, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim. The Settling Parties may file the Stipulation and/or this Order and

Final Judgment in any proceedings that may be necessary to consummate or enforce the Stipulation, the Settlement, or this Order and Final Judgment.

17. **Notice to Federal and State Officials** – Defendants have provided notification to all appropriate federal and state officials regarding the Settlement as required by 28 U.S.C. § 1715.

18. **Settlement Payment** – The Court finds that Defendants have satisfied their financial obligation under the Stipulation by paying \$5,775,000 (Five Million Seven Hundred Seventy-five thousand U.S. Dollars) in cash to the Settlement Fund.

19. Except as otherwise provided herein or in the Stipulation, all funds held by the Escrow Agent shall be deemed to be in *custodia legis* and shall remain subject to the jurisdiction of the Court until such time as the funds are distributed or returned pursuant to the Stipulation and/or further order of the Court.

20. Without affecting the finality of this Order and Judgment in any way, this Court hereby retains continuing exclusive jurisdiction over the Settling Parties, the Settlement Class Members, and other Persons for all matters relating to the Action, including the administration, interpretation, effectuation or enforcement of the Stipulation and this Order and Final Judgment, and including any application for fees and expenses incurred in connection with administering and distributing the Settlement proceeds to the Settlement Class Members.

21. Without further approval from the Court, Plaintiffs and the Defendants are hereby authorized to agree to and adopt such amendments or modifications of the Stipulation or any exhibits attached thereto to effectuate the Settlement that: (a) are not materially inconsistent with this Judgment; and (b) do not materially limit the rights of Settlement Class Members in connection with the Settlement. Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

22. **Entry of Final Judgment** – There is no just reason for delay in the entry of this Order and Final Judgment and immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

23. The finality of this Order and Final Judgment shall not be affected, in any manner, by rulings that the Court may make on Class Counsels' Fee and Expense Application, including any Award to Plaintiff.

24. In the event the Settlement is not consummated in accordance with the terms of the Stipulation, then the Stipulation and this Order and Final Judgment (including any amendment(s) thereof, and except as expressly provided in the Stipulation or by order of the Court) shall be null and void, of no further force or effect, and without prejudice to any Settling Party, and may not be introduced as evidence or used in any action or proceeding by any Person against the Settling

Parties or the Releasees, and each Settling Party shall be restored to his, her or its respective litigation positions as they existed immediately prior to March 11, 2020, pursuant to the terms of the Stipulation.

Dated: _____, 2020

SO ORDERED:

HON. ESTHER SALAS
UNITED STATES DISTRICT JUDGE

Exhibit 1

[List of Persons and Entities Excluded from the Settlement Class Pursuant to Request]