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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

MICHELL T. FRANKLIN, KARA
SAMPSON, CYBELE A. MUNSON, on
behalf of themselves and all persons
similarly situated,

Plaintiff,

vs.

MIDWEST RECOVERY SYSTEMS,
LLC, ET AL.,

Defendant.

Case No.: 8:18-cv-02085-SB-DFMx

**CLASS ACTION SETTLEMENT
AGREEMENT AND RELEASE**

This Settlement Agreement and Release (the “Settlement Agreement” or “Agreement”) is entered into by and between Plaintiffs Kara Sampson and Cybele A. Munson (collectively, “Plaintiffs”), for themselves and the Settlement Class Members (as defined below), and Defendants Midwest Recovery Systems, LLC (“Midwest”), Kenny Conway (“Conway”), Brandon Tumber (“Tumber”), and Joseph Smith (“Smith”) (collectively, “Defendants”). Plaintiffs and Defendants are referred to collectively in this Settlement Agreement as the “Parties.”

1 **I. RECITALS**

2 Subject to Court approval as required by the applicable provisions of the
3 Federal Rules of Civil Procedure, and as provided in this Agreement, the Parties
4 stipulate and agree that, in consideration for the promises and covenants set forth in
5 this Agreement and upon entry by the Court of a Final Judgment and Order
6 Approving Settlement and the occurrence of the Effective Date, the Action shall be
7 settled and compromised upon the terms and conditions contained in this Agreement.

8 The Parties state the following:

9 **A.** On July 11, 2018, Michele Franklin filed a putative class action lawsuit
10 on behalf of herself and all others similarly situated in the Orange County Superior
11 Court in the State of California. Ms. Franklin asserted a single claim under the
12 California Consumer Credit Reporting Agencies Act, Civil Code § 1785 et. seq. on
13 allegations that certain payday loan debt she incurred was “void” or “illegal” under
14 California law and, therefore, should not have been reported to credit reporting
15 agencies. Midwest removed the matter to the United States District Court for the
16 Central District of California on November 21, 2018 where it is currently pending
17 under the matter styled *Franklin, et al. v. Midwest Recovery Systems, LLC, et al.*, Case
18 No. 8:18-cv-02085-SB-DFMx (the “Action”).

19 **B.** On February 13, 2019, Michele Franklin filed a First Amended
20 Complaint which added the following additional defendants: Cooper Financial, LLC,
21 Mark Gray, National Credit Adjusters, LLC, and Debt Management, LLC.

22 **C.** On July 5, 2019, a Second Amended Complaint was filed which added
23 Kara Sampson and Cybele Munson as parties and added an additional claim for an
24 alleged violation of California’s Unfair Competition Law, Business and Professions
25 Code § 17200. Plaintiffs Sampson and Munson sought to represent a subclass of
26 individuals who allegedly paid money to Midwest after certain information was
27 allegedly reported to credit reporting agencies.

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1 **D.** On November 9, 2019, a Third Amended Complaint was filed. The
2 Third Amended Complaint added Joseph Smith, Brandon Tumber, Kenny Conway,
3 Jeff Marshall, and Armen L. Tumanayan as Defendants.

4 **E.** The Third Amended Complaint alleged a “Main Class” with the
5 following definition:

6 All California residents whose SUBJECT LOAN DEBT
7 INFORMATION was furnished by Defendant Midwest to
8 consumer reporting agencies during the past two years from
9 filing of the original complaint. For purposes of this
10 definition, “SUBJECT LOAN DEBT INFORMATION”
11 means information that a debt was allegedly owed to any of
12 the following original creditors: VIP PDL Services, LLC
13 a/k/a VIP Loan Shop; SCS Processing, LLC, a/k/a Everest
14 Cash Advance; Action PDL Services, LLC, a/k/a Action
15 Payday; BD PDL Services, LLC, a/k/a Bottom Dollar
16 Payday, Integrity PDL Services, LLC, a/k/a Integrity Payday
17 Loans, a/k/a IPL Today; My Quick Funds d/b/a Sierra
18 Financial, LLC; Fast EFunds a/k/a FastEFunds.com.

16 **F.** The Third Amended Complaint further alleged a “Restitution Subclass”
17 with the following definition: “All members of the Main Class who paid money to
18 Defendant Midwest after Midwest furnished the SUBJECT LOAN DEBT
19 INFORMATION to consumer reporting agencies.”

20 **G.** In an Order dated February 5, 2021, the Court granted in part and denied
21 in part a motion for class certification. Specifically, the Court denied certification of
22 the “Main Class” but granted certification of the “Restitution Subclass.”

23 **H.** For settlement purposes only, the Parties have agreed to a modification of
24 the “Restitution Subclass” as follows:

25 All California residents who paid money to Defendant
26 Midwest for the SUBJECT LOAN DEBT after Midwest
27 furnished information to credit reporting agencies regarding
28 the SUBJECT LOAN DEBT.

1 For purposes of this definition, “SUBJECT LOAN DEBT”
2 means debt that was allegedly owed to any of the following
3 original creditors: VIP PDL Services, LLC a/k/a VIP Loan
4 Shop; SCS Processing, LLC, a/k/a Everest Cash Advance;
5 Action PDL Services, LLC, a/k/a Action Payday; BD PDL
6 Services, LLC, a/k/a Bottom Dollar Payday, Integrity PDL
7 Services, LLC, a/k/a Integrity Payday Loans, a/k/a IPL
8 Today; My Quick Funds d/b/a Sierra Financial, LLC; Fast
9 EFunds a/k/a FastEFunds.com.

10 **I.** Defendants deny all claims asserted in the Action and deny that the
11 Restitution Subclass was properly certified. Defendants also deny all allegations of
12 wrongdoing and liability in this Action. Defendants seek to settle this Action for the
13 sole purpose of avoiding the burden and expense of continuing to litigate this Action.

14 **J.** The Parties and their counsel have conducted investigations of the facts
15 and law underlying the claims asserted in this Action. In addition, the Parties and
16 their counsel have conducted discovery, including written discovery and depositions.
17 The Parties and their counsel have also conducted a thorough assessment of the
18 strengths and weaknesses of their respective cases.

19 **K.** The Parties and their counsel have engaged in arm’s-length negotiations
20 concerning the settlement of the claims asserted in the Action.

21 **L.** Plaintiffs and their counsel have concluded, based upon their
22 investigation and thorough assessment, and taking into account Defendants’ defenses,
23 the expense and time necessary to continue to litigate the Action through trial, the
24 risks and costs associated with any further proceedings and potential appeals, the
25 uncertainties of proving the claims asserted in the Action, and the benefits to be
26 received pursuant to this Settlement Agreement, that a settlement with Defendants and
27 the terms of this Settlement Agreement are fair and reasonable, as well as in the best
28 interest of Plaintiffs and the Settlement Class Members.

M. Plaintiffs, on behalf of themselves and the Settlement Class Members,
and their counsel agree to the terms of this Settlement Agreement and to have

1 judgment entered without trial or adjudication of any factual or legal issue. Plaintiffs
2 and their counsel also agree that this Settlement Agreement, including any of its
3 exhibits, does not constitute any evidence against, or any admission by Defendants.
4 To avoid any doubt, in no event shall this Settlement Agreement, or any part thereof,
5 be construed or deemed to be evidence of an admission or concession on the part of
6 Defendants of any fault or wrongdoing of any kind, nor an admission or concession of
7 liability of any kind, whether for damages or equitable or declaratory relief or any
8 other form of legal remedy, or a concession of any infirmity in any of the defenses
9 that have been asserted or could have been asserted in the Action.

10 **THEREFORE**, the Parties hereby stipulate and agree that, in consideration of
11 the agreements, promises, and covenants set forth in this Settlement Agreement, and
12 subject to approval of the Court, the Action shall be completely, fully, and finally
13 settled and dismissed with prejudice as follows:

14 **II. DEFINITIONS**

15 The following capitalized terms have the meanings set forth below, unless
16 provided otherwise in this Settlement Agreement:

17 A. “Class Administrator” means the third-party, CPT Group of Irvine,
18 subject to Court approval, to prepare and send notice to the Class and to administer the
19 Settlement, including issuing payments to eligible Settlement Class Members.

20 B. “Class Counsel” means Jeffrey Wilens of Lakeshore Law Center and
21 Jeffrey Spencer of The Spencer Law Firm, Inc.

22 C. “Class Member” means a member of the following Class:

23 All California residents who paid money to Defendant
24 Midwest for the SUBJECT LOAN DEBT after Midwest
25 furnished information to credit reporting agencies regarding
26 the SUBJECT LOAN DEBT.

27 For purposes of this definition, “SUBJECT LOAN DEBT”
28 means debt that was allegedly owed to any of the following
original creditors: VIP PDL Services, LLC a/k/a VIP Loan

1 Shop; SCS Processing, LLC, a/k/a Everest Cash Advance;
2 Action PDL Services, LLC, a/k/a Action Payday; BD PDL
3 Services, LLC, a/k/a Bottom Dollar Payday, Integrity PDL
4 Services, LLC, a/k/a Integrity Payday Loans, a/k/a IPL
5 Today; My Quick Funds d/b/a Sierra Financial, LLC; Fast
6 EFunds a/k/a FastEFunds.com.

7 D. "Court" means the United States District Court for the Central District of
8 California.

9 E. "Effective Date" means the fifth day after the later of the following
10 events:

- 11 a. The final disposition of any appeals from or review of the Final
12 Approval Order; or
- 13 b. In the case of no appeal or review being filed, expiration of the
14 applicable appellate period.

15 F. "Final Approval Hearing" means the hearing held by the Court to
16 determine whether to finally approve the Settlement, and whether to approve Class
17 Counsel's requested fees and expenses and the amount of the service awards to
18 Plaintiffs.

19 G. "Final Approval Order" means the order and judgment that the Court
20 enters after finally approving the Settlement, substantially in the same form as Exhibit
21 3.

22 H. "Notice" means the notice that will be mailed to Class Members pursuant
23 to Section VI of this Settlement Agreement, substantially in the same form as Exhibit
24 1.

25 I. "Notice Plan" means the proposed plan of sending notice to the Class
26 Members of the proposed Settlement as set forth in Section VI of this Settlement
27 Agreement.

28 J. "Objection Deadline" means 60 calendar days from the Settlement
Notice Date.

1 K. "Opt-Out Deadline" means 60 calendar days from the Settlement Notice
2 Date.

3 L. "Preliminary Approval Order" means the order that the Court enters upon
4 preliminarily approving the Settlement, substantially in the same form as Exhibit 2.

5 M. "Released Claims" means all claims to be released as set forth in Section
6 X of this Settlement Agreement.

7 N. "Released Parties" means Defendants Midwest Recovery Systems, LLC,
8 Kenny Conway, Brandon Tumber, and Joseph Smith and their parents, subsidiaries,
9 predecessors, successors, affiliates, agents, employees, officers, directors, insurers,
10 and assigns. It is expressly understood that, to the extent a Released Party is not a
11 Party to the Agreement, all such Released Parties are intended third-party
12 beneficiaries of this Agreement.

13 O. "Settlement" means the settlement contemplated by this Settlement
14 Agreement.

15 P. "Settlement Award" means a cash payment that may be available to
16 eligible Settlement Class Members.

17 Q. "Settlement Class Members" means all Class Members who do not
18 timely request to be excluded from this Settlement.

19 R. "Settlement Fund" means the total cash sum of \$208,743 to be paid by
20 Defendants pursuant to Section III of this Settlement Agreement. The Settlement Fund
21 will be maintained in an escrow account managed by the Class Administrator. The
22 Class Administrator will act in accordance with the terms of this Settlement
23 Agreement, the orders of the Court, and the directions of Class Counsel.

24 S. "Settlement Notice Date" means the date the Notices are first sent
25 pursuant to the Notice Plan.

26 T. "Settlement Website" means the website that will be established and
27 maintained by the Class Administrator as set forth in this Settlement Agreement.
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1 **III. SETTLEMENT CONSIDERATION**

2 A. Settlement Fund. Defendants shall pay a total of \$208,743 in full and
3 complete satisfaction of all obligations under this Settlement. The Settlement Fund
4 shall be non-reversionary. The Settlement Fund shall be allocated to Settlement
5 Awards, service awards to Plaintiffs, attorneys' fees and costs, and settlement
6 administration expenses, subject to approval by the Court. If the Court awards
7 anything less than the amounts requested for Plaintiffs' service awards or attorneys'
8 fees and costs, then the difference shall be allocated to payment of Settlement Awards.
9 Under no circumstances shall Defendants be liable for any amounts more than the
10 Settlement Fund. Unless and until the Final Approval Order is entered and the
11 Effective Date Occurs, no portion of the Settlement Fund may be used for any purpose
12 except for costs incurred by the Class Administrator.

13 B. Payment. Within forty-five (45) calendar days from the date of the
14 Preliminary Approval Order, Defendants will pay the Class Administrator the full
15 amount of the Settlement Fund (\$208,743) to be held in escrow in a non-interest-
16 bearing account pending entry of the Final Approval Order and Effective Date. If this
17 Settlement is terminated, for any cause, the Settlement Fund will be returned to
18 Defendants by the Class Administrator, less costs incurred by the Class Administrator
19 which have been capped at \$9,000.

20 C. Distributions to Settlement Class Members. Each Settlement Class
21 Member will be mailed a Settlement Award in the form of a business check valid for
22 90 days within 15 days after the Effective Date. The amount of the Settlement Award
23 will be specified in the Notice and will be based on the Class List. The amount of the
24 Settlement Award may be greater than that specified in the Notice if any of the
25 amounts requested for service awards to Plaintiffs, attorneys' fees and costs, and Class
26 Administrator's expenses are not approved by the Court. In that case, any amounts
27 remaining from the Settlement Fund after deducting Settlement Awards, approved
28 service awards, approved attorneys' fees and costs, and approved Class

1 Administrator's expenses shall be distributed in equal shares to each Settlement Class
2 Member.

3 D. Unclaimed or Undeliverable Settlement Funds. Settlement Award checks
4 that cannot successfully be mailed to a Settlement Class Member or which are not
5 cashed within 90 days after the issue date on the check shall be voided. The Class
6 Administrator will comply with California law regarding unclaimed property and
7 forward those funds to the State of California pursuant to California law.

8 **IV. AWARDS TO PLAINTIFFS AND ATTORNEYS' FEES AND COSTS**

9 A. Payment to Plaintiffs. Plaintiffs may move the Court for service awards
10 for their time and effort in connection with this Action. Plaintiffs will ask the Court to
11 approve service awards in an amount of not more than \$5,000 for each Plaintiff. The
12 Class Administrator shall issue any approved service awards from the Settlement
13 Fund to Plaintiffs within two (2) days after the Effective Date. It is understood that
14 each Plaintiff is solely responsible for the tax treatment of any service award received.
15 Defendants shall not be responsible for Plaintiffs' tax responsibilities related to any
16 amounts received as part of this Settlement Agreement. The service awards will be
17 paid out of the Settlement Fund.

18 B. Litigation Expenses and Attorney's Fees. Class Counsel will move the
19 Court for an award of reasonable attorneys' fees and expenses to be paid from the
20 Settlement Fund of not more than \$86,000.21. Class Counsel will file their motion for
21 an award of attorneys' fees, costs, and service awards to Plaintiffs within 30 days of
22 the Settlement Notice Date. The Class Administrator will post on the Settlement
23 Website Class Counsel's motion for an award of fees, costs, and service awards within
24 one business day after it is filed with the Court. The Class Administrator shall issue
25 the award of attorneys' fees and expenses from the Settlement Fund to Class Counsel
26 within two (2) days after the Effective Date. As part of their motion for an award of
27 attorneys' fees, costs, and service awards, Plaintiffs shall disclose the amount of
28 attorneys' fees that are to be paid pursuant to an individual settlement agreement with

1 Plaintiff Franklin. The award of attorneys' fees and expenses, if any, in addition to
2 any attorneys' fees and expenses paid pursuant to the individual settlement agreement
3 with Plaintiff Franklin, shall constitute complete consideration for all work performed
4 and all expenses, costs, and disbursements incurred by Class Counsel to date and for
5 all work to be performed and all expenses, costs, and disbursements to be incurred
6 through the Effective Date with respect to the completion of the Action and the
7 Settlement.

8 C. The Released Parties shall not be liable for any costs, fees,
9 disbursements, expenses, and assessments of any of Plaintiffs' or Settlement Class
10 Members' respective attorneys, experts, advisors, agents, or representatives, but all
11 such costs, fees, disbursements, expenses, and assessments, as approved by the Court,
12 shall be paid out of the Settlement Fund. Notwithstanding anything to the contrary
13 contained in this Settlement Agreement, in no event shall Defendants' total financial
14 commitment or obligation pursuant to the terms of this Settlement Agreement exceed
15 the Settlement Fund.

16 **V. PRELIMINARY APPROVAL**

17 A. Motion for Preliminary Approval. Within fifteen (15) days of execution
18 of this Settlement Agreement, Plaintiffs will move the Court for entry of an order
19 granting preliminary approval of the Settlement and authorizing Notice of the
20 Settlement to the Class Members, in substantially the form of Exhibit 1.

21 **VI. ADMINISTRATION AND NOTICE**

22 A. Class Administrator. CPT Group, 50 Corporate Park, Irvine, CA 92606
23 shall be the Class Administrator, subject to Court approval, and shall be responsible
24 for administration of this Settlement. The Class Administrator shall be allowed to
25 communicate freely with the Parties' counsel, and will provide updates on a monthly
26 basis to and as requested by the Parties' counsel.

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1 B. Payment of Administration and Notice. All costs of administering this
2 Settlement, including the costs of CAFA Notice, will be paid from the Settlement
3 Fund.

4 C. Class List. Within ten (10) calendar days of execution of the Settlement
5 Agreement, Defendants shall provide Class Counsel with current or last known
6 contact information for each Class Member and the amounts collected from each
7 Class Member. It is understood and agreed by the Parties that this Settlement
8 Agreement and the terms and provisions contained herein applying to the entire Class
9 List is a material term. Within five (5) days after the Court enters the Preliminary
10 Approval Order, Class Counsel shall review that data and make any updates based on
11 information known to Class Counsel and shall then provide the Class List to the Class
12 Administrator. Defendants have no responsibility with respect to any updates made
13 by Class Counsel. It is agreed that any updates made by Class Counsel shall not have
14 any effect on the scope of the Release contained herein. Class Counsel shall be solely
15 liable for erroneous, improper, or inaccurate updates to the Class List and all damages
16 stemming therefrom.

17 D. Notice and Fund Distribution Plan. The Class Administrator shall provide
18 Notice as detailed below within thirty (30) calendar days after the issuance of the
19 Preliminary Approval Order:

- 20 1. Notice by U.S. Mail. The Class Administrator will provide
21 individual Notice through:
- 22 a. U.S. mail to the most recent address for each Class Member
23 reflected in the records produced by Defendants, and
24 corrected through the National Change of Address or
25 equally reliable database.
 - 26 b. For each Notice returned undeliverable with a forwarding
27 address, the Class Administrator shall re-mail Notice to the
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Class Member at the new address shown on the returned Notice.

c. For each Notice returned undeliverable without a forwarding address, the Class Administrator shall complete at least one advanced address search or skip trace and re-mail the notice to any new address identified for a Class Member. The Class Administrator may perform additional address searches at the direction of Class Counsel.

2. Settlement Website. Within fourteen (14) calendar days from entry of the Preliminary Approval Order, the Class Administrator will also establish and maintain the Settlement Website, with a domain name mutually acceptable to the Parties, which will display, at a minimum, the operative Complaint, Notice, this Settlement Agreement, opt-out form, and the Preliminary Approval Order. Within one business day after Class Counsel files a motion for an award of attorneys' fees, costs and service awards to Plaintiffs, that motion will also be displayed on the Settlement Website.

E. Upon request by Class Counsel or Defendants' Counsel, the Class Administrator shall provide reports totaling: (a) the number of individuals who properly and timely exercised their right to opt-out of the Class pursuant to the terms of this Settlement Agreement and (b) such other information as reasonably required for Defendants or Class Counsel to exercise their rights under this Settlement Agreement. Information regarding Class Members provided to the Class Administrator shall be kept confidential. The Class Administrator also shall provide reports and such other information as the Court may require.

F. CAFA Notice. Within 10 days after Plaintiffs file their Motion for Preliminary Approval, the Class Administrator shall provide to the Attorney General

1 of California and the Attorney General of the United States the notice required under
2 28 U.S.C. § 1715.

3 **VII. OPT-OUT PROCESS**

4 A. Opt-Out Requirements. Class Members may exclude themselves from the
5 Settlement by advising the Class Administrator in writing no later than the Opt-Out
6 Deadline that they do not want to be a Settlement Class Member. All such writings
7 must include the name and address of the individual opting out, and must be
8 postmarked no later than the Opt-Out Deadline. All Class Members will be bound by
9 this Settlement and judgments of this Court in this Action unless they exclude
10 themselves in writing by the Opt-Out Deadline. Opt-Outs that are postmarked after the
11 Opt-Out Deadline will be considered invalid and of no effect.

12 B. Any Class Member who timely and properly excludes themselves from
13 the Settlement shall not: (a) be bound by any orders or the Final Approval Order nor
14 by the Release contained herein; (b) be entitled to any relief under this Agreement; (c)
15 gain any rights by virtue of this Agreement; or (d) be entitled to object to any aspect
16 of this Agreement.

17 C. Retention of Opt-Outs. The Class Administrator shall provide the Parties'
18 counsel with a final list of timely Opt-Outs received by the Class Administrator within
19 five (5) business days after the Opt-Out Deadline Date.

20 D. Each person requesting exclusion from the Class must personally sign his
21 or her own individual Opt-Out. No person may opt-out of the Class for any other
22 person, or be opted-out by any other person, and no person shall be deemed opted out
23 of the Class through any purported "mass" or "class" opt-outs.

24 E. Defendants' willingness to enter into this Settlement Agreement is
25 conditioned upon this Settlement Agreement providing adequate protections that the
26 Settlement will resolve all or substantially all of the Class Members' claims against
27 them. Defendants retain the right to withdraw from this Settlement Agreement if the
28 Class Administrator receives Opt-Outs for which the cumulative number of Class

1 Members who opt-out exceeds five (5). In the event that Defendants intend to exercise
2 their right to withdraw from this Settlement Agreement pursuant to this provision,
3 they must notify the Parties' counsel of its/their intention to withdraw from this
4 Settlement Agreement and terminate this Settlement Agreement in writing, within ten
5 (10) calendar days after receipt of the Class Administrator's report regarding "Opt-
6 Outs."

7 **VIII. OBJECTIONS**

8 A. Right to Object. Any Settlement Class Member who desires to object to
9 the fairness of this Settlement must file a written objection with the Court by the
10 Objection Deadline. In order to object, the Settlement Class Member must provide to
11 the Class Administrator a hand-signed document that includes:

- 12 1. The name, address, telephone number, and email address of the
13 person objecting, and if represented by counsel, of his/her counsel;
- 14 2. Specify, in writing, all objections;
- 15 3. A statement of his/her membership in the Class; and
- 16 4. A detailed list of any other objections submitted by the Settlement
17 Class Member, and/or his/her counsel, to any class actions in any
18 court, whether state or otherwise, in the United States in the
19 previous five (5) years. If the Settlement Class Member or his/her
20 counsel has not objected to any other class action settlement in any
21 court in the United States in the previous five (5) years, he/she
22 shall affirmatively state so in the written materials in connection
23 with the objection to this Settlement.

24 B. Any Settlement Class Member who fails to make a timely written
25 objection and serve it upon the Class Administrator shall not be permitted to object to
26 the Settlement and shall be foreclosed from seeking any review of the Settlement or
27 the terms of the Agreement by any means, including but not limited to an appeal.

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1 C. The Class Administrator shall provide the Parties with a final list of
2 timely Objections to the Settlement received by the Class Administrator within five
3 (5) business days after the Objection Deadline Date.

4 D. Right to Appear at Final Approval Hearing. Anyone who properly
5 objects, as described herein, may appear at the Final Approval Hearing, including
6 through an attorney hired at the objector's expense. Such objectors or their attorneys
7 intending to appear at the Final Approval Hearing must file a notice of appearance
8 with the Court no later than ten (10) days before the Final Approval Hearing. Any
9 Settlement Class Member who fails to comply with the provisions herein shall waive
10 and forfeit any and all rights to appear and/or object separately, and shall be bound by
11 the terms of this Settlement and the orders and judgments of the Court.

12 **IX. FINAL APPROVAL**

13 A. Declaration of Notice by Class Administrator. Not later than twenty-one
14 (21) calendar days before the Final Approval Hearing, the Class Administrator shall
15 provide to the Parties' counsel a declaration stating that the Notice required by this
16 Settlement Agreement has been completed pursuant to the Preliminary Approval
17 Order.

18 B. Motion for Final Approval Order. After completion of the Notice Plan
19 and the expiration of the Opt-Out and Objection Deadlines, and no later than fourteen
20 (14) calendar days prior to the Final Approval Hearing, Class Counsel shall move the
21 Court to enter the Final Approval Order. Class Counsel shall file a memorandum
22 addressing any valid objections, and Defendants' counsel may, but is not required to,
23 file an additional memorandum in response. The Parties' responses addressing such
24 objections shall be filed no later than fourteen (14) days prior to the Final Approval
25 Hearing.

26 C. Final Approval Order. This Settlement Agreement is subject to and
27 conditioned upon the issuance by the Court of a Final Approval Order that grants
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1 approval of this Settlement. The Final Approval Order shall be substantially in the
2 form attached as Exhibit 3 and shall:

- 3 1. Find that the notice under the Notice Plan satisfies the
4 requirements of Due Process and Rule 23 of the Federal Rules of
5 Civil Procedure;
- 6 2. Find that the Settlement Agreement is fair, reasonable, and
7 adequate to the Settlement Class Members;
- 8 3. Find that Plaintiffs and Class Counsel have adequately represented
9 the Settlement Class Members;
- 10 4. Find that each Settlement Class Member shall be bound to this
11 Settlement Agreement, including the release and covenant not to
12 sue in Section X;
- 13 5. Approve this Settlement;
- 14 6. Dismiss on the merits with prejudice all claims of the Settlement
15 Class Members asserted in this Action and subject to the Release
16 in this Settlement Agreement;
- 17 7. Decree that neither the Final Approval Order nor this Agreement
18 constitutes an admission by Defendants of any liability or
19 wrongdoing whatsoever; and
- 20 8. Retain jurisdiction of all matters relating to the administration,
21 implementation, interpretation, and enforcement of this Settlement.

22 **X. RELEASE OF CLAIMS**

23 A. Release. As of the Effective Date, Plaintiffs and each Settlement Class
24 Member, and their respective heirs, executors, administrators, representatives, agents,
25 attorneys, partners, affiliates, successors, predecessors-in-interest, and assigns hereby
26 release, resolve, relinquish, and discharge forever each of the Released Parties and
27 their respective directors, officers, employees, heirs, executors, administrators,
28 representatives, agents, attorneys, partners, affiliates, successors, parents, subsidiaries,

1 predecessors-in-interest, insurers, reinsurers, and assigns from each of the Released
2 Claims as defined below.

3 B. Plaintiffs represent and warrant that they are the sole and exclusive
4 owner of all claims that they are personally releasing under this Agreement. Plaintiffs
5 further acknowledge that they have not assigned, pledged, or in any manner
6 whatsoever, sold, transferred, assigned, or encumbered any right, title, interest, or
7 claim arising out of or in any way whatsoever pertaining to the claims subject to the
8 Release, including without limitation, the Released Claims and any claim for benefits,
9 proceedings, or value under the Action.

10 C. Released Claims. Released Claims means any and all claims of liability
11 whether known or unknown, suspected or unsuspected, asserted or unasserted,
12 foreseen or unforeseen, actual or contingent, liquidated or unliquidated, punitive or
13 compensatory, that were brought or that could have been brought in the Action as of
14 the date this Agreement is executed, relating to Defendants' alleged furnishing of
15 information to credit reporting agencies regarding debt owed to VIP PDL Services,
16 LLC a/k/a VIP Loan Shop; SCS Processing, LLC, a/k/a Everest Cash Advance;
17 Action PDL Services, LLC, a/k/a Action Payday; BD PDL Services, LLC, a/k/a
18 Bottom Dollar Payday, Integrity PDL Services, LLC, a/k/a Integrity Payday Loans,
19 a/k/a IPL Today; My Quick Funds d/b/a Sierra Financial, LLC; or Fast EFunds a/k/a
20 FastEFunds.com and/or payments made to Defendants as a result of such furnishing,
21 including, but not limited to, claims based on a violation of the California Consumer
22 Credit Reporting Agencies Act, Fair Credit Reporting Act, California Unfair
23 Competition Law, and any other statutory or common law claim.

24 D. Covenant Not to Sue. Plaintiffs agree and covenant, and each Settlement
25 Class Member will be deemed to have agreed and covenanted, not to sue any Released
26 Party with respect to any of the Released Claims, or otherwise to assist others in doing
27 so, and agree to be forever barred from doing so, in any court of law or equity, or any
28 other forum.

1 E. With respect to any and all Released Claims, and upon entry of the Final
2 Approval Order without further action, for good and valuable consideration, Plaintiffs,
3 on behalf of themselves, shall have expressly to the fullest extent permitted by law,
4 fully, finally, and forever expressly waived and relinquished with respect to the
5 Released Claims, effective as of the Effective Date, any and all provisions, rights, and
6 benefits conferred by any law or regulation of any state or territory of the United
7 States or principle of common law that is similar to, comparable to, or the equivalent
8 of Section 1542 of the California Civil Code, which provides:

9 **A GENERAL RELEASE DOES NOT EXTEND TO**
10 **CLAIMS THAT THE CREDITOR OR RELEASING**
11 **PARTY DOES NOT KNOW OR SUSPECT TO EXIST**
12 **IN HIS OR HER FAVOR AT THE TIME OF**
13 **EXECUTING THE RELEASE AND THAT, IF**
14 **KNOWN BY HIM OR HER, WOULD HAVE**
15 **MATERIALLY AFFECTED HIS OR HER**
16 **SETTLEMENT WITH THE DEBTOR OR RELEASED**
17 **PARTY.**

16 F. The Parties hereby agree and acknowledge that the provisions of this
17 Release together constitute an essential and material term of the Agreement and shall
18 be included and referred to in any Final Approval Order entered by the Court.

19 G. This Agreement shall be the sole and exclusive remedy for any and all
20 Released Claims of all Plaintiffs and Settlement Class Members against all Released
21 Parties.

22 **XI. TERMINATION OF AGREEMENT**

23 A. The Parties' Right to Terminate Settlement. The Parties shall have the
24 right to unilaterally terminate this Settlement Agreement by providing written notice
25 of their/its election to do so to the other Parties within fourteen (14) calendar days of
26 any of the following events:

- 27 1. The Court rejects, materially changes or modifies, or declines
28 preliminary or final approval of the Settlement Agreement. A

1 material change or modification shall include a change to the
2 Settlement Fund or the Released Claims; provided, however, the
3 Settlement Agreement may not be terminated on the basis that the
4 Court did not award any Plaintiffs' service award or attorneys' fee
5 and cost award or that the Court awarded a lesser service award or
6 attorneys' fee and cost award than requested;

- 7 2. Class Counsel notifies Defendants' counsel that any individual
8 identified in the Class List is not a Class Member;
- 9 3. A termination pursuant to Section VII;
- 10 4. An Appellate Court reverses the Final Approval Order;
- 11 5. The Effective Date does not occur;
- 12 6. Any state attorney general, or any federal or state agency,
13 regulator, or authority (a) formally objects to any aspect or term of
14 this Agreement or the Settlement; or (b) requires any modification
15 to this Agreement or the Settlement, including, without limitation,
16 expansion of the scope of the contemplated relief that Defendants,
17 in their sole discretion, deem reasonably material; or
- 18 7. A Party, its counsel or the Class Administrator breaches the terms
19 of this Settlement Agreement prior to the Effective Date.

20 B. In the event this Settlement Agreement terminates for any reason, all
21 Parties shall be restored to their respective positions as of immediately prior to the
22 date of execution of this Settlement Agreement and this Settlement Agreement shall
23 otherwise be null and void.

24 **XII. NO ADMISSION OF LIABILITY**

25 A. Denial of Liability. Defendants deny any liability or wrongdoing of any
26 kind in connection with the claims alleged in this Action. Defendants have denied and
27 continue to deny each and every material factual allegation in this Action and deny
28 that the Class was properly certified. Nothing in this Settlement Agreement nor any

1 acts performed in furtherance of this Settlement Agreement shall constitute an
2 admission by Defendants of wrongdoing or liability in this Action. Nothing in this
3 Settlement Agreement nor any acts performed in furtherance of this Settlement
4 Agreement shall constitute an admission by Defendants of the truth of any factual
5 allegations in this Action. While Defendants deny any liability, they have concluded
6 that further litigating this Action would be expensive and a waste of time and
7 resources. Thus, Defendants have concluded that it is desirable to fully and finally
8 settle this Action.

9 B. Federal Rule of Evidence 408. Pursuant to Rule 408 of the Federal Rules
10 of Evidence, this Settlement Agreement and any related documents filed or created in
11 connection with this Settlement Agreement shall be inadmissible as evidence in any
12 proceeding, except as necessary to approve, interpret, or enforce this Settlement
13 Agreement. Nothing in this Agreement shall affect the application of Federal Rule of
14 Evidence 408 in this or in any subsequent litigation.

15 **XIII. GENERAL PROVISIONS**

16 A. Entire Agreement. This Settlement Agreement and its exhibits constitute
17 the entire agreement between the Parties with regard to the subject matter of this
18 Settlement Agreement and shall supersede any previous agreements, representations,
19 communications, and understandings among the Parties with respect to the subject
20 matter of this Agreement. The Parties acknowledge, stipulate, and agree that no
21 covenant, obligation, condition, representation, warranty, inducement, negotiation, or
22 undertaking concerning any part or all of the subject matter of this Agreement has
23 been made or relied upon except as expressly set forth herein.

24 B. Good Faith. The Parties acknowledge that each of them intends to
25 implement the Settlement. The Parties shall act in good faith, cooperate, and assist
26 with and undertake all reasonable actions and steps in order to accomplish all required
27 events on the schedule set by the Court, and shall use reasonable efforts to implement
28 all terms and conditions of this Agreement.

1 C. Jurisdiction. This Court shall retain continuing and exclusive jurisdiction
2 over the Parties to this Settlement Agreement, including the Settlement Class
3 Members, and the administration and enforcement of this Settlement Agreement.

4 D. No Construction Against Drafter. This Settlement Agreement will be
5 deemed to have been drafted by the Parties, and any rule that a document shall be
6 interpreted against the drafter will not apply.

7 E. Waiver. The waiver by one Party of any provision or breach of this
8 Agreement shall not be deemed a waiver of any other provision or breach of this
9 Agreement.

10 F. No Oral Modifications. This Settlement Agreement may not be amended
11 or modified in any manner except by a writing signed by Defendants, Plaintiffs, and
12 Class Counsel, and approved by the Court.

13 G. No Assignment. No party to this Settlement Agreement has heretofore
14 assigned, transferred, or granted, or attempted to do so, any of the claims or causes of
15 action disposed of by this Settlement Agreement.

16 H. Agreement Binding on Successors in Interest. This Settlement
17 Agreement is binding on and shall inure to the benefit of the respective heirs,
18 successors, and assigns of the Parties.

19 I. Agreement Constitutes a Complete Defense. To the extent permitted by
20 law, this Agreement may be pleaded as a full and complete defense to, and may be
21 used as the basis for, an injunction against any action, suit, or other proceeding that
22 may be instituted, prosecuted, or attempted in breach of or contrary to this Agreement.

23 J. Resolution of Disputes. Any disputes regarding the administration of this
24 Settlement Agreement that the Parties cannot resolve between themselves will be
25 decided by the Court.

26 K. Execution in Counterparts. This Settlement Agreement may be executed
27 in any number of counterparts, each of which shall be deemed an original, but all of
28 which shall constitute one and the same instrument.

1 L. Severability. In the event that any provisions or portion of this
2 Agreement shall be determined by a Court to be invalid, illegal, or unenforceable, the
3 remaining provisions or portions of this Agreement shall continue in full force and
4 effect, unless such severability would frustrate the purpose of this Agreement.

5 M. Notices. All notices to counsel provided herein shall be sent by electronic
6 mail with a hard copy sent by overnight mail to:

7 As to Plaintiffs and Settlement Class Members:

8 Jeffrey Wilens
9 Lakeshore Law Center
10 18340 Yorba Linda Blvd.
11 No. 107-610
12 Yorba Linda, CA 92886
jeff@lakeshorelaw.org

13 As to Defendants:

14 F Brenden Coller
15 Cozen O'Connor
16 One Liberty Place
17 1650 Market Street, Suite 2800
18 Philadelphia, PA 19103
bcoller@cozen.com

19 IN WITNESS HEREOF the undersigned, being duly authorized, have caused
20 this Settlement Agreement to be executed on the dates shown below.

21
22 KARA SAMPSON

23
24 By: _____
25 Plaintiff

_____ Date

1 L. Severability. In the event that any provisions or portion of this
2 Agreement shall be determined by a Court to be invalid, illegal, or unenforceable, the
3 remaining provisions or portions of this Agreement shall continue in full force and
4 effect, unless such severability would frustrate the purpose of this Agreement.

5 M. Notices. All notices to counsel provided herein shall be sent by electronic
6 mail with a hard copy sent by overnight mail to:

7 As to Plaintiffs and Settlement Class Members:

8 Jeffrey Wilens
9 Lakeshore Law Center
10 18340 Yorba Linda Blvd.
11 No. 107-610
12 Yorba Linda, CA 92886
jeff@lakeshorelaw.org

13 As to Defendants:

14 F Brenden Coller
15 Cozen O'Connor
16 One Liberty Place
17 1650 Market Street, Suite 2800
18 Philadelphia, PA 19103
bcoller@cozen.com

19 IN WITNESS HEREOF the undersigned, being duly authorized, have caused
20 this Settlement Agreement to be executed on the dates shown below.

21
22 KARA SAMPSON

23
24 By:  4/13/21
25 Plaintiff Date

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CYBELE MUNSON

By: Cybele Munson
Plaintiff

4/13/21
Date

LAKESHORE LAW CENTER

By: _____
Counsel for Plaintiffs

Date

THE SPENCER LAW FIRM

By: _____
Counsel for Plaintiffs

Date

MIDWEST RECOVERY SYSTEMS, LLC

By: _____
Defendant

Date

KENNY CONWAY

By: _____
Defendant

Date

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CYBELE MUNSON

By: _____
Plaintiff

Date

LAKESHORE LAW CENTER

By: Jeffrey Wilens
Counsel for Plaintiffs

April 13, 2021
Date

THE SPENCER LAW FIRM

By: _____
Counsel for Plaintiffs

Date

MIDWEST RECOVERY SYSTEMS, LLC

By: _____
Defendant

Date

KENNY CONWAY

By: _____
Defendant

Date

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CYBELE MUNSON

By: _____
Plaintiff

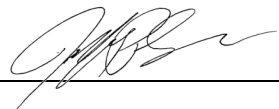
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LAKESHORE LAW CENTER

By: _____
Counsel for Plaintiffs

Date

THE SPENCER LAW FIRM

By:  _____
Counsel for Plaintiffs

4/14/21

Date

MIDWEST RECOVERY SYSTEMS, LLC

By: _____
Defendant

Date

KENNY CONWAY

By: _____
Defendant

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CYBELE MUNSON

By: _____
Plaintiff

Date

LAKESHORE LAW CENTER

By: _____
Counsel for Plaintiffs


Date

THE SPENCER LAW FIRM

By: _____
Counsel for Plaintiffs


Date

MIDWEST RECOVERY SYSTEMS, LLC

By:  _____
Defendant

04/14/21 | 6:38 PM EDT
Date

KENNY CONWAY

By:  _____
Defendant

04/14/21 | 3:05 PM PDT
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BRANDON TUMBER

By:  _____

Defendant

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Date

JOSEPH SMITH

By:  _____

Defendant

04/14/21 | 4:16 PM PDT

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BRANDON TUMBER

By: _____

Defendant

Date

JOSEPH SMITH

By: _____

Defendant

Date