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**CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

BENJAMIN D. FONGERS, individually and)
on behalf of similarly situated individuals,)
)
 Plaintiff,)
)
 v.)
)
 CAREERBUILDER, LLC, a Delaware)
 limited liability company, APOLLO)
 GLOBAL MANAGEMENT, INC., a)
 Delaware corporation,)
)
 Defendants.)
)
 _____)

No. 2019-CH-12804

Hon. Thaddeus L. Wilson

Calendar 1

NOTICE OF MOTION

PLEASE TAKE NOTICE that on November 14, 2022 at 11:00 a.m., or as soon thereafter as this matter may be heard, counsel for Plaintiff shall appear before the Honorable Thaddeus L. Wilson, or any other judge sitting in that judge’s stead, in courtroom 2307 at the Richard J. Daley Center, 50 W. Washington St., Chicago, Illinois, and present *Plaintiff’s Motion and Incorporated Memorandum of Law in Support of Approval of Attorneys’ Fees, Expenses & Service Award*, a copy of which is attached hereto and herby served upon you. Pursuant to the Court’s Standing Order, the hearing will be conducted in-person in Courtroom 2307 and simultaneously via Zoom. The Parties may use the following Zoom meeting info to appear remotely:

Meeting ID: 876 8729 8501
Passcode: 926987
Calendar 1 Email: ccc.chancerycalendar1@cookcountyil.gov
Tel.: (312) 603-6840

Dated: September 21, 2022

Respectfully submitted,

BENJAMIN FONGERS, individually and
on behalf of similarly situated individuals

By: /s/ Paul T. Geske

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 21, 2022 a copy of the foregoing *Plaintiff's Motion and Incorporated Memorandum of Law in Support of Approval of Attorneys' Fees, Expenses & Service Award* was filed electronically with the Clerk of Court, with a copy served on the following counsel of record by electronic mail:

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Under penalties as provided by law, pursuant to Section 1-109 of the Civil Code of Civil Procedure, the undersigned certifies that the statements set forth in the above certificate of service are true and correct, except as to matters therein stated to be on information and believe and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

/s/ Paul T. Geske

**CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

BENJAMIN D. FONGERS, individually and)
on behalf of similarly situated individuals,)

Plaintiff,)

v.)

CAREERBUILDER, LLC, a Delaware)
limited liability company, APOLLO)
GLOBAL MANAGEMENT, INC., a)
Delaware corporation,)

Defendants.)

No. 2019-CH-12804

Hon. Thaddeus L. Wilson

Calendar 1

**PLAINTIFF’S MOTION AND INCORPORATED MEMORANDUM OF LAW IN
SUPPORT OF APPROVAL OF ATTORNEYS’ FEES, EXPENSES & SERVICE AWARD**

Dated: September 21, 2022

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I. INTRODUCTION

The Court preliminarily approved the Parties' class action Settlement¹ on June 7, 2022, bringing an end to nearly two and a half years of hard-fought litigation. In advance of the upcoming final approval hearing scheduled for November 14, 2022, Plaintiff submits this Motion in support of an award of reasonable attorneys' fees and reimbursable litigation expenses for Class Counsel, as well as a Service Award for Plaintiff in recognition of his service as Class Representative.

Plaintiff is pleased to report that the Settlement's notice plan was implemented successfully following preliminary approval, and the Settlement has been met with enthusiastic support from the Class Members. As of the date of this filing, **more than 71% of the Class Members have submitted claims, and Class Counsel have not received *any* opt-out requests or objections to the Settlement.** The absence of any opposition to the Settlement, coupled with the robust claims rate, demonstrate that the Class Members overwhelmingly support the Settlement and view its terms as fair.

The Class Members' positive response is not unexpected, because the Settlement that Class Counsel achieved in this case is an exceptional result. As explained previously, the Settlement establishes a fund of up to \$3,787,500.00, which will be used to make cash payments to all Class Members who submit valid claims. Based on current claims data, many Class Members are expected to receive a meaningful payment in the thousands of dollars, and some are eligible to receive a payment in the tens of thousands. Indeed, the anticipated per-person payment for claims received to date is, on average, more than \$7,000—an impressive amount.² The Settlement has

¹ Unless stated otherwise, capitalized terms that are not otherwise defined herein are intended to have the meanings assigned to them in the definitions section of the Parties' Settlement Agreement, a true and accurate copy of which is attached hereto as Exhibit A.

² As explained below, individual Settlement payments vary from person-to-person, and all payment amounts are subject to change because the claims period is still ongoing. (Exh. A ¶¶ 5.2.1.-5.2.6.).

thus enabled the Class Members to recover very substantial monetary relief that they otherwise could not have obtained on their own.

With this Motion, Plaintiff requests a Service Award of \$15,000, and a fee award for Class Counsel in the amount of 33% of the Settlement Fund, or \$1,249,875, plus reimbursement of costs and litigation expenses in the amount of \$48,532.52. As explained in detail below, the requested awards are reasonable and well-earned in light of the outstanding Settlement achieved here, and they are consistent with fee awards granted in similar class action settlements in Illinois. Additionally, the lack of any opposition to the Settlement from the Class Members—including to the proposed fee award and Service Award, which were both fully disclosed in the Settlement Agreement and Notices—strongly supports the reasonableness and fairness of the amounts sought.

The requested awards are also warranted given the significant risk and complexity involved in this Litigation. Plaintiff and Class Counsel have devoted substantial time and effort to prosecuting the Class Members' claims in the face of staunch defenses and an uncertain outcome. Those efforts continued throughout the COVID-19 pandemic despite logistical challenges for the Parties and their counsel. Notwithstanding these challenges, Class Counsel's relentless efforts and capable lawyering have led to the prompt and just resolution of this litigation for the well-deserved benefit of the Class Members.

Accordingly, the requested fee award and Service Award are reasonable and amply justified when taking into consideration the excellent result achieved for the Class Members, Class Counsel's investment of time and effort, and the risks of continued litigation. Plaintiff therefore respectfully requests that the Court approve a total award of attorneys' fees and litigation expenses in the amount of \$1,298,407.52 as well as a Service Award of \$15,000.

II. BACKGROUND

A. Relevant Factual Background.

As explained in prior filings, the claims in this matter arise out of a 2019 change to employee compensation at CareerBuilder that negatively impacted many of CareerBuilder's sales representatives. (*See generally* Class Action Complaint ¶¶ 1-10). Prior to 2019, Plaintiff and other similarly situated CareerBuilder sales representatives were generally paid a base salary plus commissions of 4% of net revenue recognized from most products and services. (*Id.* ¶ 21). However, starting in March 2019, Plaintiff's and other sales representatives' commissions were retroactively reduced from 4% to as little as 0% – .25%. (*Id.* ¶¶ 24-26).

The Complaint further alleged that in July 2019, CareerBuilder announced that it was changing its compensation terms yet again, and reducing commissions for all prior sales to 0%. (*Id.* ¶ 27). Plaintiff claims that this change retroactively eliminated much of the commissions that he and other sales representatives had expected to receive for deals they had previously closed in reliance on prior compensation terms. (*Id.*).

Plaintiff subsequently brought suit, asserting claims both individually and on behalf of a putative class of other CareerBuilder sales representatives. Plaintiff's Complaint pleads claims against Defendants under five counts: (I) common law breach of contract; (II) common law breach of implied contract; (III) common law unjust enrichment; (IV) violation of the Illinois Sales Representative Act (ISRA), 820 ILCS 120/1, *et seq.*; and (V) violation of the Illinois Wage and Payment Collection Act (IWPCA), 820 ILCS 115/1, *et seq.*

B. Procedural History Leading Up To Settlement.

As the Court is aware, this Litigation has spanned both state and federal court, and it has been lengthy and contentious in both courts. Plaintiff filed his Complaint in the Circuit Court for

Cook County almost three years ago, on November 1, 2019, and the case was initially assigned to the Honorable Michael T. Mullen.

On December 5, 2019, Defendants removed this case to the United States District Court for the Northern District of Illinois pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d), where it was assigned to the Honorable Charles R. Norgle, Sr. Defendants' removal led to protracted proceedings and motion practice before the federal court. For example, on January 6, 2020, Plaintiff filed a motion to remand, requesting that the Litigation be returned to state court on the grounds that Defendants' removal was improper and factually unsupported. Defendants opposed Plaintiff's request, and the Parties fully briefed the motion. On October 21, 2020, Judge Norgle granted Plaintiff's motion to remand.

However, the Parties' motion practice in federal court continued even after remand. On March 8, 2021, Plaintiff filed a fee motion before Judge Norgle, seeking an award of attorneys' fees incurred as a result of Defendants' removal pursuant to 28 U.S.C. § 1447(c). Like the motion to remand, Plaintiff's fee motion was contested and fully briefed. On December 13, 2021, Judge Norgle entered an order granting Plaintiff's fee motion.

After remand to state court, this case was returned to Judge Mullen's calendar. Following initial proceedings, Plaintiff propounded discovery on CareerBuilder on May 21, 2021. On June 11, 2021, Defendants each filed separate motions to dismiss Plaintiff's Complaint pursuant to 735 ILCS § 5/2-615. Defendant CareerBuilder also filed a motion for protective order requesting that the Court stay discovery pending resolution of the motions to dismiss.

In response to Defendants' motions to dismiss, Plaintiff moved to strike CareerBuilder's motion, which led to both Defendants filing amended motions to dismiss on June 25, 2021. Plaintiff opposed Defendants' amended motions and filed response briefs on July 23, 2021.

Defendants subsequently filed replies in support of their motions to dismiss on August 13, 2021.

Following briefing on Defendants' amended motions to dismiss, the Parties conferred and agreed to explore the possibility of resolution. To that end, a mediation was scheduled and the Parties filed a joint stipulation on August 5, 2021 to stay the Litigation pending the outcome of mediation.

C. The Parties' Settlement Negotiations.

The Parties agreed to select the Honorable James R. Epstein (Ret.) of JAMS Chicago as mediator. Judge Epstein is a former Illinois Appellate Court Judge with over 40 years of experience, including 15 years of judicial service, and he has presided over and resolved numerous class action cases.

In advance of the mediation, Plaintiff and CareerBuilder exchanged a substantial amount of employee compensation data and other information to facilitate the negotiations process. Plaintiff's counsel also engaged a damages expert to assist with creation of a damages model to estimate both the total exposure and per-person damages based on the unpaid or underpaid compensation at issue.

On October 21, 2021, Plaintiff and CareerBuilder and their counsel participated in an arms-length, full-day mediation session before Judge Epstein. They did not reach a resolution, but they nonetheless made progress and agreed to attend two follow-up mediation sessions on December 14 and 20, 2021. While the second and third mediation sessions were likewise productive, the Parties were again unable to reach an agreement to resolve the Litigation. Accordingly, the Parties requested that the Court lift the stay and set a hearing on Defendants' pending motions to dismiss.

On January 5, 2022, Judge Mullen lifted the stay and scheduled a hearing on Defendants'

motions to dismiss for February 7, 2022.³ On February 7, 2022, this Court held a hearing on Defendants' pending motions to dismiss and Defendant CareerBuilder's motion for protective order staying discovery. At the conclusion of the hearing, the Court granted CareerBuilder's motion for protective order and took Defendants' motions to dismiss under advisement.

After the February 7, 2022 hearing, the Parties continued their attempts to resolve the Litigation and ultimately reached an agreement in principle to finally and fully settle the Litigation. Over the weeks and months that followed, the Parties negotiated the contours of the Settlement Agreement, including the compensation structure, the form of class notice, the claims submission process, and the various provisions governing implementation of the Settlement Agreement. Once negotiations concluded, the Parties executed the final Settlement Agreement, which was submitted to the Court along with Plaintiff's preliminary approval motion on June 1, 2022. The Court held a preliminary approval hearing and granted preliminarily approval on June 7, 2022. (A true and accurate copy of the Court's June 7, 2022 Preliminary Approval Order is attached hereto as Exhibit B).

D. Class Counsel's Continuing Efforts Since Preliminary Approval.

Class Counsel has continued to invest significant time and effort in this action following preliminary approval. (Declaration of Paul T. Geske in Support of Plaintiff's Motion for Approval of Attorneys' Fees, Expenses & Service Award ¶¶ 17-19, hereinafter "Geske Decl.," attached hereto as Exhibit C). Class Counsel have been actively involved in supervising and managing all aspects of the Settlement Administrator's administration of the notice program and claims process. (*Id.*). Prior to the start of the notice period, Class Counsel reviewed and revised the content of the

³ After Judge Mullen scheduled the February 7, 2022 hearing, the Litigation was reassigned to calendar 1 before the Honorable Thaddeus L. Wilson pursuant to General Administrative Order No. 2021-10. The Parties received notice of the reassignment in early January 2022, and the Litigation has proceeded on calendar 1 since then.

Notices, the Settlement Website, and the online claim submission module to ensure that they were accurate and easy to understand. (*Id.* ¶ 18) Once the notice period began, Class Counsel worked to ensure a smooth notice process by monitoring claims activity, responding to inquiries and phone calls from Class Members, and regularly communicating with the Settlement Administrator. (*Id.* ¶¶ 17-19, 30).

Class Counsel will continue to devote their time and effort as the claims process continues, including by preparing the final approval submissions, responding to inquiries from Class Members, and overseeing the distribution of settlement payments by the Settlement Administrator. (*Id.* ¶ 28).

III. THE SETTLEMENT APPROVED BY THE COURT

A. The Settlement Class.

In its Preliminary Approval Order, this Court certified the Settlement Class as defined as follows:

All individuals who (1) were employed by CareerBuilder as an Account Executive, Senior Account Executive, Major Account Executive, National Account Executive, or Key Account Executive; (2) were compensated at least in part under either of CareerBuilder's "Revenue Rep" plans dated January 1, 2018 and/or August 1, 2018; (3) and who closed a sale of a contract, product, or service before March 1, 2019 that generated revenue on or after March 1, 2019.

(Preliminary Approval Order at 2); (Exh. A ¶ 4.2). In accordance with the Parties' Settlement Agreement, expressly excluded from the Settlement Class are the Court and staff to whom this case is assigned, and any immediate family members of the Court or its staff, as well as all persons who submit a timely and valid request to be excluded from the Settlement Class. (Exh. A ¶ 4.3). These exclusions are standard in class action settlements and do not materially affect the size or makeup of the Settlement Class.

B. The Settlement Is On Track To Deliver Outstanding Monetary Relief To The Class Members.

Plaintiff's and Class Counsel's efforts have yielded a Settlement that will provide significant monetary compensation to the Class Members. As stated above, the Settlement entails creation of a fund of up to \$3,787,500.00, and every Class Member who timely submits a valid claim will be eligible to receive a meaningful payment from the Fund. (*Id.* ¶¶ 5.1.1, 5.2.1).

The claims period is still ongoing, but as of the date of this filing more than 71% of the Class Members have submitted claims. This claims rate is remarkable, and reflects the Class Members' favorable reaction to the Settlement and the relief being made available. *See In re TikTok, Inc., Consumer Privacy Litig.*, 565 F. Suppl. 3d 1076, 1090 (N.D. Ill. 2021) (describing a "22% claims rate" as "impressive"); *City of Greenville v. Syngenta Crop Protection, Inc.*, 904 F. Supp. 2d 902, 904 (S.D. Ill. 2012) (observing that "many class actions experience claims rates of less than 15%").

Based on the Settlement's formula⁴ for allocation, Class Counsel anticipate that many claimants will receive an individual payment well in excess of \$1,000, with some Class Members eligible to receive a payment in the tens of thousands of dollars. (Geske Decl. ¶ 25). Among the claims submitted to date, the anticipated per-person payment amount is more than \$7,000 on average. (*Id.*). Although the final amount of each individual payment may be subject to adjustment

⁴ The amount of each Class Member's payment is determined according to a formula that takes into account the Class Members' individual damages. (Exh. A ¶¶ 5.2.3-5.2.6). The formula, outlined in Section 5.2 of the Settlement Agreement, provides that the anticipated payment to each claimant will be a baseline of \$625.00 plus a percentage of their "maximum potential individual damages." (*Id.* ¶ 5.2.4). The maximum potential individual damages are determined using compensation data to calculate what the Class Members would have been paid had the challenged compensation changes at issue in this case not occurred, and then subtracting what the Class Members were actually paid under the allegedly unlawful compensation plans. (*Id.* ¶ 5.2.5). The Parties developed this formula and damages model with the assistance of a damages expert and the Settlement Administrator in order to fairly and equitably compensate Class Members according to the amount of unpaid or underpaid commissions they are allegedly owed. (*Id.* ¶ 5.2.4).

based on the number of claims submitted, Class Counsel do not presently anticipate that the Class Members' individual payments will need to be reduced or adjusted downward by a significant amount, if at all, unless the Settlement Fund is exhausted. (*Id.* ¶ 26; Exh. A ¶¶ 5.2.5-5.2.6).

The Settlement Fund will also be used to cover the fees and expenses associated with the Settlement, including the costs of Notice and Administrative Expenses; any Service Award to the Class Representative approved by the Court; any award of attorneys' fees and litigation expenses to Class Counsel approved by the Court; and employer-side payroll taxes. (Exh. A ¶ 5.1.2).

C. The Settlement's Notice Plan And Claims Process Are Being Carried Out Successfully.

The Settlement's notice plan commenced following preliminary approval and has proved to be very effective at reaching the Class Members. Indeed, the high claims rate is itself testament to the fact that the notice plan has succeeded in informing the Class Members of their rights and options under the Settlement.

As outlined in Plaintiff's Preliminary Approval Motion and the Parties' Settlement Agreement, Class Counsel developed a robust, three-part notice plan with the assistance of Simpluris—a nationally recognized class action settlement administrator with substantial experience in employment matters. (Exh. A ¶¶ 3.27, 7.2-7.6). The Settlement's notice plan included: (1) direct notice by mail; (2) direct notice by email, and (3) a Settlement Website. (*Id.*).

Notice commenced on July 7, 2022, when the Settlement Administrator began sending direct notice by both mail and email and launched the Settlement Website. (Geske Decl. ¶ 20). The format and language of the notices were carefully drafted in straightforward, easy-to-read language in order to apprise Class Members of all material aspects of the Settlement, such as the relief they are entitled to, their rights to object to the Settlement or opt-out, and the amount of attorneys' fees that could be sought as an award for Class Counsel. (*See generally* Exhs. 2-5 to Settlement

Agreement). The Settlement Administrator also sent a reminder email and reminder postcard on September 6, 2022 to remind the Class Members of upcoming deadlines, such as the Claims Deadline and Opt-Out & Objection Deadline. (Exh. A ¶ 7.5).

The Notices also invited Class Members to visit the Settlement Website, where they can submit a claim or review more detailed information. The Settlement Website is presently live and can be reached at the following URL: <https://www.careerbuildersettlement.com>. The Settlement Website contains all of the important information about the Settlement, including key dates and deadlines (e.g., claims deadline, objection deadline, final approval hearing date and time, etc.), all relevant court documents (e.g., the Preliminary Approval Order, Settlement Agreement, and this Motion), contact information for Class Counsel, and most importantly, an accessible claims submission module that enables Class Members to easily submit their claim online. (*See id.* ¶ 7.6). In addition, the Settlement Website gives detailed instructions for opting out or filing objections. (*Id.*).

The Parties were able to compile fairly reliable contact information for the Class Members based on CareerBuilder's personnel records (*id.* ¶ 7.3.1.), but the Settlement Administrator nonetheless took additional steps to ensure that the provided information was accurate by running each Class Member's contact information through the national change-of-address database to determine, to the best of its ability, the correct address for each Class Member. (*Id.* ¶ 7.3.3). In the event any mailings were undeliverable, the Settlement Administrator also performed a reverse-lookup to attempt to locate updated contact information and re-send the notice. (*Id.* ¶ 7.4.3).

The Settlement Administrator has also been responsible for receiving submitted claims and determining whether each claim is valid. (*Id.* ¶ 6.3.3.). There are still two weeks left in the claims period, but according to the last report received from the Settlement Administrator, 243 of the 341

Class Members, or 71.26%, have already submitted claims. (Geske Decl. ¶ 24).

D. The Class Members' Response To The Settlement Has Been Overwhelmingly Positive, And Class Counsel Have Not Received Any Objections or Opt-Outs.

In addition to notifying the Class Members about the opportunity to submit a claim, the Settlement's Notices also informed the Class Members that they could exclude themselves from the Settlement or object to its terms by the Claims Deadline. (Exh. A ¶ 7.2). Further, a detailed long-form notice available on the Settlement Website explained the procedures and deadlines for filing opt-out requests and informed Class Members that they had the right to be heard at the upcoming final approval hearing. (*Id.* ¶ 7.6.2.).

Although there are still two weeks left before the deadline for objections and opt-outs, none of the Class Members have objected to or opted out of the Settlement as of the date of this filing. (Geske Decl. ¶ 27). This lack of any opposition to the Settlement, together with the very high 71.26% claims rate, reflects both strong support for the Settlement among the Class Members and a positive reaction to the Settlement's terms.

IV. DISCUSSION

Plaintiff seeks an award of attorneys' fees for Class Counsel in the amount of 33% of the total Settlement Fund, or \$1,249,875, plus reimbursement of reasonable litigation expenses totaling \$48,532.52. (*See* Preliminary Approval Order at 6; Ex. A ¶ 5.3.). As explained in detail below, this request is well within the range of fee awards approved in similar class actions and is fair and reasonable in light of the work performed by Class Counsel and the recovery secured on behalf of the Class Members.

A. Plaintiff's Requested Fee Award For Class Counsel Is Reasonable And Well-Earned Given The Excellent Result Obtained For The Class Members.

i. The Court should apply the percentage-of-the-fund method for calculating Class Counsel's attorney fee award, because it is the preferred method in common fund class actions.

It is well settled that attorneys who, by their efforts, create a common fund for the benefit of a class are entitled to reasonable compensation for their services. *See Wendling v. S. Ill. Hosp. Servs.*, 242 Ill. 2d 261, 265 (2011) (citing *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980)) (“a litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney’s fee from the fund as a whole.”). That is, where “an equitable fund has been created, attorneys for the successful plaintiff may directly petition the court for the reasonable value of those of their services which benefited the class.” *Baksinski v. Northwestern Univ.*, 231 Ill. App. 3d 7, 13–14 (1st Dist. 1992) (citing *Fiorito v. Jones*, 72 Ill. 2d 73 (1978)). This rule “is based on the equitable notion that those who have benefited from litigation should share in its costs.” *Sutton v. Bernard*, 504 F.3d 688, 691 (7th Cir. 2007) (citing *Skelton v. Gen. Motors Corp.*, 860 F.2d 250, 252 (7th Cir. 1988)).⁵

The preferred method for calculating class counsel’s attorney fee award in common fund settlements like this one is the percentage-of-the-fund method. *In re Capital One Telephone Consumer Protection Act Litig.*, 80 F. Supp. 3d 781, 794-95 (N.D. Ill. 2015) (holding that the percentage-of-the-fund method is “the normal practice,” because “such an approach is more efficient for the court and more likely to yield an accurate approximation of the market rate.”); *see also Ryan v. City of Chicago*, 274 Ill. App. 3d 913, 923-25 (1st Dist. 1995) (collecting cases). Under the percentage-of-the-fund approach, the attorneys’ fees awarded are “based upon a

⁵ Federal court precedent is instructive here because “[t]he Illinois Supreme Court has adopted the approach taken by the majority of Federal courts on the issue of attorney fees in equitable fund cases.” *Baksinski*, 231 Ill. App. 3d at 13 (citing *Fiorito*, 72 Ill. 2d 73).

percentage of the amount recovered on behalf of the plaintiff class.” *Brundidge v. Glendale Federal Bank, F.S.B.*, 168 Ill. 2d 235, 238 (1995).

Although courts also have discretion to calculate class counsel’s fee award based on the lodestar method, *see Shaun Fauley, Sabon, Inc. v. Metro. Life Ins. Co.*, 2016 IL App (2d) 150236, ¶ 58, the weight of authority supports using the percentage-of-the-fund method for awarding attorneys’ fees in common fund class actions. *Ryan*, 274 Ill. App. 3d at 923-24 (observing that most courts “have abandoned the lodestar in favor of a percentage fee in common fund cases”); *Spano v. Boeing Co.*, No. 06-cv-743-NJR-DGW, 2016 WL 3791123, at *3 (S.D. Ill. Mar. 31, 2016) (“The use of a lodestar cross-check is no longer recommended in the Seventh Circuit”); *Williams v. Rohm & Haas Pens. Plan*, 658 F.3d 629, 636 (7th Cir. 2011) (“consideration of a lodestar check is not an issue of required methodology”).

Here, Plaintiff submits that the Court should follow the weight of precedent and apply the percentage-of-the-fund approach—the approach used in the vast majority of courts presiding over common fund class actions. *Capital One*, 80 F. Supp. 3d at 794 (finding that even though “in common fund cases like this one, district courts have discretion to choose either the lodestar or a percentage approach to calculating fees . . . [T]he court agrees with Class Counsel that the fee award . . . should be calculated as a percentage of the money recovered for the class”); *Sawyer v. Stericycle, Inc.*, No. 2015-CH-07190 (Cir. Ct. Cook Cnty, Ill.) (Martin, Jr., J.) (granting final approval and awarding class counsel attorneys’ fees based on percentage-of-the-fund); *Kolinek v. Walgreen Co.*, 311 F.R.D. 483, 500 (N.D. Ill. 2015) (“[t]he Court agrees with [plaintiff’s] counsel that the fee award in this case should be calculated based on a percentage-of-the-fund method”).

The use of the percentage-of-the-fund method in common fund settlements flows from, and is supported by, the fact that a percentage-based approach promotes early resolution and

disincentivizes protracted litigation driven solely by counsel's efforts to increase their lodestar. *Brundidge*, 168 Ill. 2d at 242. For this reason, the percentage-of-the-fund method best aligns the interests of the class and its counsel, as class counsel are encouraged to pursue the greatest amount of relief possible for the class rather than maximizing attorney time regardless of the ultimate recovery.

By contrast, a lodestar approach encourages significant inefficiencies and further litigation as the parties and the court have to review the extensive billing records produced and determine the reasonableness of the time spent on any particular task and whether it actually furthered the litigation. *Ryan*, 274 Ill. App. 3d at 924 (“[T]he lodestar approach has been subjected to increased scrutiny as its deficiencies began to offset or exceed its benefits. . . . Percentage analysis approach eliminates the need for additional major litigation and further taxing of scarce judicial resources Significantly, . . . nearly half of the 11,000 page record in this case is devoted to fee litigation.”).

Applying a percentage-of-the-fund approach is also generally more appropriate in cases like this one because it best reflects the fair market price for the legal services provided by the class counsel. *See id.* at 923 (noting that “a percentage fee [i]s the best determinant of the reasonable value of services rendered by counsel in common fund cases”) (citing *Court Awarded Attorney Fees, Report of the Third Circuit Task Force*, 108 F.R.D. 237, 255-56 (3d. Cir. 1985)); *Sutton*, 504 F.3d at 693 (directing district court on remand to consult the market for legal services so as to arrive at a reasonable percentage of the common fund recovered).

Here, the percentage-of-the-fund method would most fairly compensate Class Counsel for the significant time and resources expended in obtaining relief for the Class Members, while taking into account the magnitude of the recovery achieved for the Class Members and the substantial risk of non-payment in bringing this litigation, particularly in light of Defendants' multiple merits-

based defenses and the two pending motions to dismiss. Accordingly, the Court should adopt and apply the percentage-of-the-fund approach here. Under this approach, Class Counsel's requested attorney fees are reasonable in light of the work performed, the recovery secured for the Class Members, and the percentages approved in similar cases.

ii. The requested attorneys' fee award equates to 33% of the Settlement Fund—a percentage that is reasonable and within the range approved in other Illinois cases.

Plaintiff's request for a 33% fee award is well within the range of fee awards that courts, including numerous judges within the Circuit Court of Cook County, have found to be reasonable in common fund cases. Both state and federal courts in Illinois have observed that "[t]he typical contingent fee is between 33 and 40 percent." *Gaskill v. Gordon*, 160 F.3d 361, 362 (7th Cir. 1998)); *Ryan*, 274 Ill. App. 3d at 924-26 (finding no error in the circuit court's decision to grant a 33 1/3% fee award); *Retsky Family Ltd. P'ship v. Price Waterhouse LLP*, No. 97 C 7694, 2001 WL 1568856, at *4 (N.D. Ill. Dec. 10, 2001) (noting that a "customary contingency fee" ranges "from 33 1/3% to 40% of the amount recovered") (citing *Kirchoff v. Flynn*, 786 F.2d 320, 324 (7th Cir. 1986)); *Meyenburg v. Exxon Mobil Corp.*, No. 3:05-cv-15-DGW, 2006 WL 2191422, at *2 (S.D. Ill. July 31, 2006) ("33 1/3% to 40% (plus the cost of litigation) is the standard contingent fee percentages in this legal marketplace for comparable commercial litigation"); *see also* William B. Rubenstein, 5 Newberg and Rubenstein on Class Actions § 15:83 (6th ed. 2022) (observing that "50% of the fund is the upper limit on a reasonable fee award from any common fund").

Indeed, judges within the Circuit Court of Cook County have repeatedly approved attorneys' fee awards well in excess of the 33% sought here. For example, in *Willis v. iHeartMedia Inc.*, class counsel were awarded fees and costs of 40% of an \$8,500,000 common fund in a class settlement. *See* Final Judgment and Order of Dismissal at 5, No. 16-CH-02455, (Ill. Cir. Ct. Cook

Cnty. Aug. 11, 2016) (Gamrath, J.); *see also Zepeda v. Intercontinental Hotels Group, Inc.*, 2018-CH-02140 (Ill. Cir. Ct. Cook Cnty. 2018) (Atkins, J.) (granting 40% fee award based on percentage-of-the-fund method); *Svagdis v. Alro Steel Corp.*, 17-CH-12566 (Ill. Cir. Ct. Cook Cnty. 2018) (Larsen, J.) (same); *Zhirovetskiy v. Zayo Group, LLC*, 17-CH-09323 (Cir. Ct. Cook Cnty., Ill., 2019) (Flynn, J.) (same); *McGee v. LSC Communications, Inc.*, 17-CH-12818 (Ill. Cir. Ct. Cook Cnty.) (Atkins, J.) (same); *Smith v. Pineapple Hospitality Grp.*, 18-CH-06589 (Ill. Cir. Ct. Cook Cnty.) (Moreland, J.) (same); *Marshall v. Lifetime Fitness, Inc.*, 17-CH-14262 (Ill. Cir. Ct. Cook Cnty.) (Tailor, J.) (granting fee award of 33% based on percentage-of-the-fund method).

Accordingly, the percentage Plaintiff seeks as a fee award is well-grounded in case precedent, consistent with the market rate in Illinois, and well within the range of attorneys' fees awarded by numerous other Illinois state and federal courts in consumer class actions.

iii. The requested percentage of attorneys' fees is appropriate given the significant risks involved in continued litigation.

The attorneys' fee award sought in this case is particularly warranted in light of the challenges Plaintiff faced and the risks of continued litigation. *See Sabon, Inc.*, 2016 IL App (2d) 150236, at ¶ 59 (upholding fee award based on percentage-of-the-fund in light of the "substantial risk in prosecuting this case under a contingency fee agreement given the vigorous defense of the case and defenses asserted by [the defendant]"); *Ryan*, 274 Ill. App. 3d at 924 (noting that the trial court's fee award was reasonable given the funds recovered for the class and the contingency risk).

While Plaintiff strongly believes that he would prevail on the merits if this Litigation had not settled, he acknowledges that Defendants have firmly denied his material allegations and have presented a vigorous defense. Both Defendants have filed motions to dismiss seeking dismissal of the Complaint and all of Plaintiff's claims. Defendants' motions contend, among other things, that the compensation plans that give rise to Plaintiff's and the other Class Members' claims contain

disclaimers that allowed Defendants to lawfully make the challenged compensation changes. Defendants have also argued in their motions that the compensation plans do not constitute enforceable contracts or agreements that provide a basis for claims for breach of contract or violation of the IWPCA. Additionally, Defendants have asserted that the compensation plans preclude equitable claims at common law because Plaintiff's claims are founded on a written document. Any of these defenses, if successful, would likely result in Plaintiff and the proposed Class Members receiving materially less in compensation, or potentially no recovery whatsoever. Even if Plaintiff prevailed on the merits with respect to these issues, he would also need to succeed in obtaining class certification, which would be highly contested, as Defendants have already indicated they intend to oppose class certification.

Class Counsel therefore undertook significant risk in proceeding with this litigation. Had Defendants prevailed either on the merits or in defeating class certification, the Class Members would have received *nothing*. Even so, and despite an uncertain outcome, Class Counsel undertook this case on a wholly contingent basis, knowing that the litigation could last for years and would require the devotion of a substantial amount of attorney time and a significant expenditure of litigation expenses with no guarantee of compensation. (Geske Decl. ¶¶ 12-13). Indeed, "[t]here are numerous class actions in which plaintiffs' counsel expended thousands of hours and yet received no remuneration whatsoever despite their diligence and expertise." *Schwartz v. TXU Corp.*, 2005 WL 3148350, at *32 (N.D. Tex. Nov. 8, 2005).

Moreover, the fact that no other firms came forward to pursue the claims in this matter further underscores the risk inherent in this Litigation. Competing class actions can arise when lawyers think that cases have the potential to generate large recoveries and significant attorneys' fees. *In re Synthroid Mktg. Litig.*, 325 F.3d 974, 979 (7th Cir. 2003). Conversely, a "[l]ack of

competition not only implies a higher fee but also suggests that most members of the . . . bar saw this litigation as too risky for their practices.” *Silverman v. Motorola Solutions, Inc.*, 739 F.3d 956, 958 (7th Cir. 2013). That is exactly the circumstance here. The market judged this to be a high-risk case, and no other plaintiffs filed parallel cases.

Notwithstanding the many risks of proceeding and staunch opposition from Defendants, Class Counsel achieved an excellent result for the Class Members in obtaining a \$3,787,500 fund as well as significant per-person payments. Class Counsel were able to achieve these results solely due to their experience and extensive efforts in prosecuting this litigation; developing and prosecuting Plaintiff’s claims; fully briefing multiple motions on both procedural and merits-based issues, including Defendants’ two motions to dismiss; vigorously pursuing discovery; effectively engaging in settlement negotiations; identifying potential Class Members; and securing court approval of the Settlement Agreement. (Geske Decl. ¶ 15). In light of the challenges in this Litigation, Class Counsel’s accomplishment of securing a settlement with a significant monetary recovery is an exceptional result that amply justifies the requested fee award.

iv. The substantial monetary relief obtained on behalf of the Class Members further justifies the requested percentage of attorneys’ fees.

As stated above, the compensation being made available is outstanding both in the aggregate and on a per-person basis, which further supports Plaintiff’s requested fee award.

Absent this case, none of the Class Members could have feasibly obtained the relief that the Settlement provides. Although many of the Class Members’ individual damages are significant, they are still dwarfed by the costs trying this case and obtaining a judgment. This would preclude many, if not all Class Members from bringing an individual action to seek redress for their losses. Additionally, many Class Members may not have access to competent counsel willing to invest the time and resources necessary to bring a class action and to prosecute their claims.

Because the Class Members have little incentive to bring individual actions, it is unlikely that the Class Members would be able to obtain any relief at all if not for this suit.

Even so, Plaintiff and Class Counsel were able to overcome these obstacles and obtain meaningful relief for consumers across the country. It is fact patterns such as this that highlight the efficiencies of the class action model and the benefits for employees. *Schoenbaum v. E.I. Dupont De Nemours and Co.*, 2009 WL 4782082, at *8 (E.D. Mo. 2009) (“[T]he argument in favor of class action treatment is most compelling where individual suits would in effect have negative value because litigation costs would outweigh any potential recovery.”).

Given the significant monetary compensation obtained for the Class Members, an attorneys’ fee award of 33% of the Settlement Fund is reasonable and fair—particularly, as discussed above, in light of the “substantial risk in prosecuting this case under a contingency fee agreement,” and the “defenses asserted by [Defendants].” *Sabon, Inc.*, 2016 IL App (2d) 150236, ¶ 59.

v. The time and effort expended by Class Counsel support the requested fee award.

Plaintiff’s counsel undertook the prosecution of this action with no guarantee of success, and the knowledge that hundreds if not thousands of hours of attorney time would be required. (Geske Decl. ¶ 12). Class Counsel’s efforts include: (1) investigating Defendants’ business practices and specifically their compensation practices for commission-based sales representatives; (2) evaluating the facts giving rise to Plaintiff’s claims and potential defenses thereto; (3) drafting detailed pleadings; (4) drafting and successfully briefing a motion to remand in response to Defendants’ improper removal of this case to federal court; (5) briefing and opposing both of Defendants’ 735 ILCS § 5/2-615 motions to dismiss; (6) propounding written discovery requests; (7) reviewing numerous documents obtained through Plaintiff’s counsel’s

investigation and produced in discovery; (8) coordinating and conducting three arms-length mediation sessions before the Hon. James R. Epstein (Ret.) of JAMS Chicago; (9) engaging in months of ongoing settlement negotiations involving, among other things, the claims administration process, the scope of the release, the compensation provided to putative class members, and the details of the injunctive relief being provided; (10) working closely with the Settlement Administrator to develop a robust notice plan to apprise the Class Members of the Settlement; (11) exchanging numerous draft settlement documents with Defendants' counsel, which resulted in the drafting and execution of the finalized Settlement Agreement and related documents, including class notices and claim form documents; (12) preparing the final executed Settlement Agreement and related documents; (13) drafting and presenting the filings in support of approval of the Settlement; (14) fielding inquiries about the Settlement from Class Members; and (15) supervising and working with the Settlement Administrator to oversee implementation of the Notice Plan and claims process. (*Id.* ¶ 15).

Thus, the significant amount of time and effort devoted to this case by Class Counsel and the efficient and effective management of the litigation confirm that the fee request here is reasonable.

B. The Court Should Also Award Class Counsel's Reasonable Litigation Expenses Incurred In Prosecuting This Litigation.

It is well settled that class counsel whose representation leads to creation of a common fund may seek reimbursement of their reasonable litigation expenses out of the fund in addition to a fee award. *See, e.g., In re Synthroid Marketing Litig.*, 264 F.3d 712, 722 (7th Cir. 2001); *see also Spicer v. Chi. Bd. Options Exch., Inc.*, 844 F. Supp. 1226, 1256 (N.D. Ill. 1993) (noting that courts regularly award reimbursement of those expenses that are reasonable and necessarily incurred in the course of litigation).

Reimbursable expenses that should be awarded are generally consistent with the types of “expenses private clients in large class actions (auctions and otherwise) pay.” *In re Synthroid*, 264 F.3d at 722; *Kaplan v. Houlihan Smith & Co.*, No. 12-cv-5134, 2014 WL 2808801, at *4 (N.D. Ill. June 20, 2014) (awarding expenses “for which a paying client would reimburse its lawyer”). Accordingly, courts generally award expenses for expert fees; travel; long distance and conference telephone; postage; delivery services; and computerized legal research. *See, e.g., In re Cont’l Ill. Sec. Litig.*, 962 F.2d 566, 570 (7th Cir. 1992) (“clear error” to deny reimbursement of Lexis and Westlaw expenses because “the arms’ length market reimburses” such expenses).

Here, Class Counsel has incurred \$48,532.52 in costs that fall within these categories. These costs are primarily comprised of litigation and discovery costs, including expert fees, mediation fees, and filing fees. (Geske Decl. ¶ 16). Class Counsel has reviewed their expense records carefully and determined that the expenses were necessary to the successful prosecution of a case of this size and complexity on behalf of the Settlement Class, and they are typical of expenses regularly awarded in consumer class actions. Accordingly, Plaintiff requests that the Court approve as reasonable Class Counsel’s reimbursable litigation expenses.

C. The Proposed Service Award For Plaintiff Is Reasonable And Should Be Approved.

The requested \$15,000 Service Award is also well-earned and in line with other awards granted to class representatives in similar class actions in Illinois. Because a named plaintiff is essential to any class action, “[i]ncentive awards are justified when necessary to induce individuals to become named representatives.” *Spano*, 2016 WL 3791123, at *4 (approving incentive awards of \$25,000 and \$10,000 for class representatives) (internal citation omitted); *GMAC Mortg. Corp. of Pa. v. Stapleton*, 236 Ill. App. 3d 486, 497 (1st Dist. 1992) (noting that incentive awards “are not atypical in class action cases . . . and serve to encourage the filing of class actions suits.”).

Here, Plaintiff's efforts and participation in prosecuting this case justify the \$15,000 Service Award sought. Even though no award of any sort was promised to Plaintiff prior to the commencement of the litigation or any time thereafter, Plaintiff nonetheless contributed his time and effort serving as a representative on behalf of the Class Members—exhibiting a willingness to participate and undertake the responsibilities and risks attendant with bringing a representative action. (Geske Decl. ¶¶ 29-32).

Indeed, Plaintiff's willingness to contest Defendants' allegedly unlawful compensation practices was the primary catalyst for this litigation. Were it not for Plaintiff's willingness to pursue this action on a class-wide basis, his efforts and contributions to the litigation by assisting Class Counsel with their investigation and filing of this suit, and his continued participation and monitoring of the case up through settlement, the substantial benefit to the Class Members afforded under the Settlement Agreement would not exist. (*Id.*).

The \$15,000 Service Award requested for Plaintiff is well within the range of typical incentive awards granted in class actions. Indeed, numerous courts that have granted final approval in similar class action settlements have awarded the same or significantly larger incentive awards than the one sought here. *See, e.g., Craftwood Lumber Co. v. Interline Brands, Inc.*, No. 11-cv-4462, 2015 WL 1399367, at **6-7 (N.D. Ill. March 23, 2015) (awarding \$25,000 incentive award); *Satterfield v. Simon & Schuster*, No. 06-cv-2893, Dkt. 131 at 4 (N.D. Cal. Aug. 13, 2010) (awarding incentive awards totaling \$30,000, including a \$20,000 award to one of the class representatives); *Lozano v. Twentieth Century Fox Film Corp.*, No. 09-cv-6344, Dkt. 65, at 5 (N.D. Ill. Apr. 15, 2011) (awarding \$15,000 incentive award to the plaintiff); *Murray v. Bill Me Later, Inc.*, No. 12-cv-04789, Dkt. 78 (N.D. Ill. Nov. 20, 2014) (awarding \$30,000 incentive awards to both class representatives).

Compensating Plaintiff for the risks and efforts he undertook to benefit the Class Members is reasonable under the circumstances of this case, especially in light of the exceptional results obtained. As shown above, courts have regularly approved incentive awards in similar class action litigation consistent with and far greater than the agreed-upon \$15,000 Service Award here. Moreover, no objection to the Service Award has been raised to date. Accordingly, a Service Award of \$15,000 to Plaintiff is reasonable, justified by Plaintiff's time and effort in this case, and should be approved.

V. CONCLUSION

For the foregoing reasons, Plaintiff and Class Counsel respectfully request that the Court enter an order: (i) approving an award of attorneys' fees and expenses of \$1,298,407.52; (ii) approving a Service Award of \$15,000 to Plaintiff in recognition of his significant efforts on behalf of the Class Members; and (iii) granting such further relief as the Court deems reasonable and just.

Dated: September 21, 2022

Respectfully submitted,

BENJAMIN FONGERS, individually and
on behalf of similarly situated individuals

By: /s/ Paul T. Geske

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 21, 2022 a copy of the foregoing *Plaintiff's Motion and Incorporated Memorandum of Law in Support of Approval of Attorneys' Fees, Expenses & Service Award* was filed electronically with the Clerk of Court, with a copy served on the following counsel of record by electronic mail:

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Under penalties as provided by law, pursuant to Section 1-109 of the Civil Code of Civil Procedure, the undersigned certifies that the statements set forth in the above certificate of service are true and correct, except as to matters therein stated to be on information and believe and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

/s/ Paul T. Geske

Exhibit A

CLASS SETTLEMENT AGREEMENT

I. PREAMBLE

This Class Settlement Agreement is entered into as of the last date of execution below by and between CareerBuilder, LLC and Apollo Global Management, Inc. on the one hand, and Benjamin D. Fongers, both individually and on behalf of the Settlement Class Members, on the other, in connection with the lawsuit captioned *Fongers v. CareerBuilder, LLC, et al.*, No. 2019-CH-12804, which is pending in the Chancery Division of the Circuit Court of Cook County, Illinois before the Honorable Thaddeus L. Wilson.

II. RECITALS

WHEREAS, on November 1, 2019, Plaintiff Benjamin D. Fongers filed a putative class action lawsuit against Defendants CareerBuilder, LLC and Apollo Global Management, Inc., alleging that the Defendants unlawfully reduced and subsequently withheld commissions they owed to Plaintiff and other sales representative employees for sales those employees made prior to the compensation change.

WHEREAS, Plaintiff's Class Action Complaint filed in the Litigation asserts claims against Defendants under five counts for: (I) common law breach of contract; (II) common law breach of implied contract; (III) common law unjust enrichment; (IV) violation of the Illinois Sales Representative Act, 820 ILCS 120/1, et seq.; and (V) violation of the Illinois Wage and Payment Collection Act, 820 ILCS 115/1, et seq.

WHEREAS, the Litigation was initially assigned to the Honorable Michael T. Mullen and captioned *Fongers v. CareerBuilder, LLC, et al.*, No. 2019-CH-12804.

WHEREAS, on December 5, 2019, Defendants removed the Litigation to the United States District Court for the Northern District of Illinois pursuant to the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1332(d). Following removal, the case was assigned to the Honorable Charles R. Norgle, Sr. with case no. 19-cv-07966.

WHEREAS, Defendants' removal led to motion practice before the federal district court. For example, on January 6, 2020, Plaintiff filed a motion to remand, requesting that the Litigation be returned to state court on the grounds that Defendants' removal was improper and factually unsupported. Defendants' opposed Plaintiff's request, and the Parties fully briefed the motion. On October 21, 2020, Judge Norgle granted Plaintiff's motion to remand.

WHEREAS, the Parties' motion practice in federal court continued after remand. On March 8, 2021, Plaintiff filed a fee motion before Judge Norgle, seeking an award of attorneys' fees incurred as a result of Defendants' removal pursuant to 28 U.S.C. § 1447(c). Like the motion to remand, Plaintiff's fee motion was contested and fully briefed. On December 13, 2021, Judge Norgle entered an order granting Plaintiff's fee motion and awarding fees as requested.

WHEREAS, following remand to state court, Plaintiff propounded written discovery on May 21, 2021.

WHEREAS, on June 11, 2021, Defendants each filed motions to dismiss Plaintiff's Complaint pursuant to 735 ILCS § 5/2-615, with Apollo joining many of CareerBuilder's arguments by reference. Defendant CareerBuilder also filed a motion for protective order requesting that the Court stay discovery pending resolution of the motions to dismiss.

WHEREAS, in response to Defendants' motions to dismiss, Plaintiff moved to strike CareerBuilder's motion, which led to Defendants filing amended motions to dismiss on June 25, 2021. Plaintiff opposed Defendants' amended motions and filed opposition briefs on July 23, 2021, and Defendants filed reply briefs in support of their motions on August 13, 2021.

WHEREAS, after the motions to dismiss were briefed, the Parties agreed to explore the possibility of resolution. To that end, the Parties agreed to attend a mediation and filed a joint stipulation on August 5, 2021 to stay the Litigation pending the mediation.

WHEREAS, by agreement, Plaintiff and CareerBuilder selected the Honorable James R. Epstein (Ret.) of JAMS Chicago, a former justice of the Illinois Appellate Court, as mediator and scheduled a full-day mediation session to take place before Judge Epstein on October 21, 2021.

WHEREAS on October 21, 2021, Plaintiff, CareerBuilder, and their counsel attended a full-day, arm's-length mediation before Judge Epstein. They did not reach a resolution, but they nonetheless made progress and agreed to continue mediation, appearing for mediation sessions before Judge Epstein on December 14 and 20, 2021.

WHEREAS, although the second and third mediation sessions were productive, Plaintiff and CareerBuilder were unable to reach an agreement to resolve the Litigation, and they requested that the Court lift the stay and set a hearing on Defendants' pending motions.

WHEREAS, on December 21, 2021, the presiding Judge of the Chancery Division of the Circuit Court of Cook County entered General Administrative Order No. 2021-10, which caused the Litigation to be reassigned to calendar 1 before the Honorable Thaddeus L. Wilson.

WHEREAS, on February 7, 2022, the Court held a hearing on Defendants' pending Section 2-615 motions to dismiss and Defendant CareerBuilder's motion for protective order staying discovery. At the conclusion of the hearing, the Court granted CareerBuilder's motion for protective order and took Defendants' motions to dismiss under advisement.

WHEREAS, over the weeks following the February 7, 2022 hearing, Plaintiff and CareerBuilder continued their attempts to resolve the Litigation and ultimately reached an agreement to finally and fully settle the Litigation according to the terms set forth herein.

WHEREAS, after three mediation sessions and protracted, arm's-length negotiations, which included the involvement of an experienced mediator, the Parties now seek to enter into this Settlement Agreement. The Parties have agreed to settle the Litigation on the terms and conditions

set forth herein in recognition that the outcome of the Litigation is uncertain and that achieving a final result through continued litigation would involve substantial additional risk, discovery, and time and expense.

WHEREAS, Plaintiff and Class Counsel have conducted a thorough investigation into the facts of this case, and have diligently pursued the Class Members' claims against Defendants, including but not limited to: preparing and filing the Complaint; briefing Defendants' motions to dismiss and CareerBuilder's motion to stay discovery; propounding written discovery on CareerBuilder; reviewing relevant documents and discovery produced during the mediation process; researching applicable law and potential defenses; hiring and consulting with a damages expert; developing the arguments for class certification; advocating for the rights of the putative class members; and preparing for class certification and trial. Based on the foregoing, Plaintiff and Class Counsel have concluded that a settlement according to the terms set forth below is fair, reasonable, adequate, and beneficial to and in the best interests of Plaintiff and the Settlement Class Members in light of (1) the existence of multiple complex and contested issues of law and fact; (2) the risks inherent in litigation, including any trial or appeal; (3) the likelihood that future proceedings will be unduly protracted and expensive if the Litigation is not settled by voluntary agreement; (4) the magnitude of the benefits derived from the Settlement in light of both the maximum potential and likely range of recovery to be obtained through further litigation and the expense thereof, as well as the potential of no recovery whatsoever; and (5) Plaintiff's determination that the Settlement and the relief thereunder is fair, reasonable, adequate, and substantially beneficial to the Settlement Class Members.

WHEREAS, Defendants deny all charges of wrongdoing or liability of any kind whatsoever that Plaintiff or Settlement Class Members have asserted in this Litigation. Despite Defendants' belief that they are not liable for, and have good defenses to, the claims alleged in the Litigation, Defendants desire to settle the Litigation, and thus avoid the expense, risk, inconvenience, and distraction of continued litigation of any action or proceeding relating to the matters being fully settled and finally put to rest in this Settlement Agreement. Neither this Settlement Agreement, nor any negotiation or act performed or document created in relation to the Settlement Agreement or negotiation or discussion thereof is, or may be deemed to be, or may be used as, an admission of, or evidence of, any wrongdoing or liability.

NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and among the undersigned that the Litigation be settled and compromised on the following terms and conditions.

Each of the foregoing recitals is incorporated into this Agreement as though fully set forth therein.

III. DEFINITIONS

Whenever the following terms are used in capitalized form in this Agreement or in the attached Exhibits, they shall be defined and interpreted as follows:

3.1. **“Administrative Expenses”** means the costs and expenses incurred by the Settlement Administrator in implementing this Settlement, including but not limited to the costs of providing Notice, administering the claims process, disbursing payments to the Class Members, and performing other settlement administration functions in accordance with this Agreement.

3.2. **“Agreement” or “Settlement Agreement”** means this Class Settlement Agreement and its accompanying Exhibits.

3.3. **“Apollo”** means Defendant Apollo Global Management, Inc.

3.4. **“Apollo’s Counsel”** means Kevin Duff of Rachlis Duff & Peel, LLC and Jonathan Rosenberg and Andrew Bednark of O’Melveny & Myers, LLP.

3.5. **“Approved Claims”** means valid and complete claims for compensation that are timely submitted by Settlement Class Members and approved for payment by the Settlement Administrator in accordance with this Agreement.

3.6. **“CareerBuilder”** means Defendant CareerBuilder, LLC.

3.7. **“CareerBuilder’s Counsel”** means Noah Finkel and Andrew Scroggins of Seyfarth Shaw LLP.

3.8. **“Claim”** means a request submitted by a Settlement Class Member via a Claim Form to receive an individual payment out of the Settlement Fund in accordance with the procedures and terms set forth in this Agreement.

3.9. **“Claim Form”** shall mean the form that each Settlement Class Member may submit to the Settlement Administrator, either by mail or online via the Settlement Website, to be eligible for compensation under this Settlement.

3.10. **“Claims Deadline”** means the date by which all Claim Forms must be postmarked (if mailed) or submitted (if submitted electronically via the Settlement Website) in order to be considered timely. The Parties intend to request that the Court set the Claims Deadline on a date at least ninety (90) days after the dissemination of Notice.

3.11. **“Class” or “Settlement Class”** means, consistent with Section IV of this Agreement, all individuals who (1) were employed by CareerBuilder as an Account Executive, Senior Account Executive, Major Account Executive, National Account Executive, or Key Account Executive; (2) were compensated at least in part under either of CareerBuilder’s “Revenue Rep” plans dated January 1, 2018 and/or August 1, 2018; and (3) closed a sale of a contract, product, or service before March 1, 2019 that generated revenue on or after March 1, 2019. As explained in more detail below, the Settlement Class does not include those who elect to opt-out from the Class in accordance with this Agreement or those who are otherwise excluded.

3.12. **“Class Counsel”** means Myles McGuire, Paul T. Geske, and Brendan Duffner of McGuire Law, P.C.

3.13. “Class Members” or “Settlement Class Members” means each and every member of the Settlement Class, except those who elect to opt-out or are otherwise excluded from the Settlement Class in accordance with this Agreement.

3.14. “Court” means the court presiding over the Litigation and approval of the Settlement as well as any appellate court that may review any orders related to this Settlement or this Litigation.

3.15. “Defendants” means CareerBuilder, LLC and Apollo Global Management, Inc., collectively.

3.16. “Defendants’ Counsel” means CareerBuilder’s Counsel and Apollo’s Counsel, collectively.

3.17. “Effective Date” means the date when the Settlement Agreement becomes final and effective and shall fall on the first day after the latest of the following occurrences:

i. The date the time to appeal or seek permission to appeal or seek other judicial review of the entry of the Final Approval Order approving the Settlement and dismissing this Litigation with prejudice as to Defendants has expired with no appeal or other judicial review having been taken or sought; or

ii. If an appeal or other judicial review has been taken or sought, the latest of: (i) the date the Final Approval Order is finally affirmed by an appellate court with no possibility of subsequent appeal or other judicial review therefrom; or (ii) the date the appeal(s) or other judicial review therefrom are finally dismissed with no possibility of subsequent appeal or other judicial review; or (iii) if remanded to the Circuit Court or to a lower appellate court following an appeal or other review, the date the Final Approval Order is entered by the Circuit Court after remand and the time to appeal or seek permission to appeal or seek other judicial review of the entry of that Final Approval Order has expired with no further appeal or other judicial review having been taken or sought. If further appeal is sought after a remand, the time periods in this Sub-Section shall apply.

3.18. “Litigation” means the lawsuit captioned *Fongers v. CareerBuilder, LLC, et al.*, No. 2019-CH-12804, which is pending in the Chancery Division of the Circuit Court of Cook County, Illinois before the Honorable Thaddeus L. Wilson, or any other judge presiding in his stead and having jurisdiction over the case.

3.19. “Net Settlement Amount” means the amount of the Settlement Fund available for distribution to Settlement Class Members who have submitted Approved Claims after payment of: the costs of Notice and Administrative Expenses; any Service Award to the Settlement Class Representative approved by the Court; any award of attorneys’ fees, costs, and litigation expenses to Class Counsel approved by the Court; and employer-side payroll taxes.

3.20. “Net Settlement Amount Available for *Pro Rata* Allocation” means the Net Settlement Amount less the sum of all of the \$625.00 minimum Settlement benefits allocated according to Section 5, below.

3.21. “Notice” means the Settlement Website and the documents attached to this Agreement as Exhibits 2, 3, 4, and 5, which are to be used for purposes of providing notice of this Settlement to the Settlement Class Members consistent with the requirements of Due Process.

3.22. “Opt-Out & Objection Deadline” means the date by which all objections to the Settlement and/or requests for exclusion from the Settlement by Settlement Class Members must be postmarked and mailed. The Parties intend to request that the Court set the Opt-Out & Objection Deadline on a date at least ninety (90) days after the dissemination of Notice.

3.23. “Parties” means Plaintiff and Defendants, collectively.

3.24. “Plaintiff” or “Class Representative” shall mean Plaintiff Benjamin D. Fongers.

3.25. “Parties’ Counsel” means both Class Counsel and Defendants’ Counsel, collectively.

3.26. “Settlement” means the compromise and settlement of the Litigation as contemplated by this Agreement.

3.27. “Settlement Administrator” means, subject to Court approval, Simpluris, a third-party settlement administrator that shall perform certain notice and claims administration functions in accordance with this Agreement, subject to Class Counsel’s supervision.

3.28. “Settlement Fund” means an interest-bearing account to be opened and administered by the Settlement Administrator and funded by CareerBuilder on Defendants’ behalf in the amount of \$3,787,500.00 (three million seven hundred eighty-seven thousand and five hundred dollars) for purposes of paying: (i) Approved Claims; (ii) the costs of Notice and Administrative Expenses; (iii) any Service Award to the Class Representative approved by the Court; (iv) any award of attorneys’ fees, costs, and litigation expenses to Class Counsel approved by the Court; and (v) employer-side payroll tax obligations.

3.29. “Settlement Website” means the website established and maintained by the Settlement Administrator to provide Settlement Class Members with access to relevant case documents, the online Claim Form and claim submission module, and other information regarding the Settlement.

3.30. “Service Award” or “Incentive Award” means the amount that may be requested and awarded to the Class Representative, subject to Court approval and paid from the Settlement Fund, in acknowledgement of the Class Representative’s participation, cooperation, and time and efforts devoted to pursuing this litigation and obtaining this Settlement on behalf of the Settlement Class Members.

IV. SETTLEMENT CLASS CERTIFICATION

4.1. For purposes of the Settlement only, the Parties stipulate and agree that: (1) the Class shall be certified in accordance with the class definition in Paragraph 4.2. below; (2) Plaintiff shall represent the Class as the Class Representative; and (3) McGuire Law, P.C. shall be appointed as Class Counsel.

4.2. Subject to Court approval, the Parties shall request that the Court certify the following Settlement Class:

All individuals who: (1) were employed by CareerBuilder as an Account Executive, Senior Account Executive, Major Account Executive, National Account Executive, or Key Account Executive; (2) were compensated at least in part under either of CareerBuilder's "Revenue Rep" plans dated January 1, 2018 or August 1, 2018; and (3) who closed a sale of a contract, product, or service before March 1, 2019 that generated revenue on or after March 1, 2019.

4.3. Expressly excluded from the Settlement Class are all persons who timely elect to opt-out from the Settlement Class in accordance with this Agreement, the Court and staff to whom this case is assigned, and any immediate family members of the Court or its staff.

4.4. Any certification of the Settlement Class under this Agreement is for settlement purposes only, and if for any reason the Court does not grant final approval of the Settlement, or if final approval is not granted following the appeal of any order by the Court, or if for any reason the Settlement Effective Date does not occur, the certification of the Settlement Class for settlement purposes shall be deemed null and void, and each Party shall retain all of their respective rights as they existed prior to execution of this Settlement Agreement, and neither this Settlement Agreement, nor any of its accompanying Exhibits or any orders entered by the Court in connection with this Settlement Agreement, shall be admissible or used for any purpose in this Litigation.

4.5. The Parties and Class Counsel further agree that, other than to effectuate the Settlement of this Litigation, the certification of the Settlement Class for settlement purposes and all documents related thereto, including this Agreement and all accompanying Exhibits and all orders entered by the Court in connection with this Agreement, are only intended to be used under the specific facts and circumstances of this case and are not intended to be used in any other judicial, arbitral, administrative, investigative, or other court, tribunal, forum, or other proceeding against Defendants.

V. MONETARY RELIEF FOR THE SETTLEMENT CLASS

5.1. Settlement Fund.

5.1.1. Subject to the terms of this Agreement, and subject to Court approval, CareerBuilder agrees to pay on Defendants' behalf the amount of three million seven hundred eighty-seven thousand and five hundred dollars (\$3,787,500.00) into the Settlement Fund. CareerBuilder shall deposit this sum into the Settlement Fund by the later

of July 2, 2022 or within fourteen (14) days after the Court grants preliminary approval to the Settlement.

5.1.2. The Settlement Fund shall be used to pay: (i) Claims that are complete, valid, timely, and approved for payment by the Settlement Administrator; (ii) the costs of Notice and Administrative Expenses; (iii) any Service Award to the Settlement Class Representative approved by the Court; (iv) any award of attorneys' fees and litigation expenses to Class Counsel approved by the Court; (v) and employer-side payroll taxes.

5.1.3. The Settlement Administrator shall maintain the Settlement Fund as a Court-approved Qualified Settlement Fund pursuant to Section 1.468B-1 et seq. of the Treasury Regulations promulgated under Section 468B of the Internal Revenue Code of 1986, as amended.

5.1.4. If the Settlement is not finally approved, all amounts remaining in the Settlement Fund belong to CareerBuilder, less any Administrative Expenses paid to date. Neither Plaintiff nor Class Counsel shall have any financial responsibility for any Administrative Expenses paid out of the Settlement Fund in the event that the Settlement Agreement is not finally approved.

5.1.5. In no event will CareerBuilder's responsibility for attorneys' fees, expenses, and costs, Administrative Expenses, employer-side taxes, payments to individual Class Members, and/or a Service Award exceed the obligation to fund the Settlement Fund as described in this Agreement. If there are moneys remaining in the Settlement Fund after payment of the items listed in Paragraph 5.1.2., above, and after payment to any *cy pres* recipient(s) pursuant to Paragraph 5.2.8, below, those funds shall be returned to CareerBuilder.

5.1.6. The Settlement Fund (i) represents the total extent of CareerBuilder's monetary obligations under the Settlement Agreement, and (ii) shall be fixed under this Section and be final. CareerBuilder shall have no obligation to make further payments into the Settlement Fund beyond those described herein nor any other financial responsibility or obligation relating to the Settlement beyond the Settlement Fund, and Apollo shall have no obligation to make any payment to the Settlement Fund or in connection with the Settlement or this Agreement

5.2. Individual Payments to Class Members.

5.2.1. Settlement Class Members who submit an Approved Claim shall be entitled to a payment from the Net Settlement Amount.

5.2.2. Each Settlement Class Member may only submit one claim and receive one individual payment.

5.2.3. Every Settlement Class Member who submits an Approved Claim shall be entitled to a minimum individual payment of \$625.00.

5.2.4. If a Settlement Class Member has purported damages that exceed \$625.00, they will instead be eligible to receive an amount determined based on a damages model created with the assistance of the Settlement Administrator and applied equitably across the Settlement Class, taking into account the amount of each Settlement Class Member's individual damages. The formula for determining the anticipated payout for each such Settlement Class Member is as follows:

Anticipated individual Settlement benefit = \$625.00 + (P * Maximum Potential Individual Damages), where P is the portion of the Net Settlement Amount Available For *Pro Rata* Allocation divided by the sum of Maximum Potential Individual Damages for all Class Members.

5.2.5. As used in this Section, Maximum Potential Individual Damages are defined and calculated as follows:

Step 1: Calculate each individual's maximum potential revenue bonus payout had the "Revenue Bonus" portion of CareerBuilder's January 1, 2018 compensation plan and the "Annual Contract Value (ACV) Monthly Bonus" portion of CareerBuilder's July 1, 2018 plan continued for Class Members from March 1, 2019 until their employment terminated;

Step 2: Subtract what each Class Member was actually paid over the relevant period from the amount determined in Step 1;

Step 3: Apply statutory interest to the difference pursuant to 820 ILCS 115/14(a).

5.2.6. If, after the Claims Deadline, the sum of all Individual Settlement Benefits to be paid to Class Members who have submitted Approved Claims would exceed the Net Settlement Amount, the amount of each claimant's Individual Settlement Benefit payment will be reduced *pro rata* so that all Approved Claims can be paid.

5.2.7. Payments to individual Settlement Class Members who have submitted an Approved Claim will be made by check, payable to each respective Settlement Class Member and mailed to the address listed on their Claim Form. The Settlement Administrator shall mail individual payments within fourteen (14) days of the Effective Date.

5.2.8. In the event that checks sent to Settlement Class Members are not cashed within ninety (90) days after their date of issuance, whether because the checks were not received or otherwise, those checks will become null and void. The amount of the uncashed checks after the 90-day expiration date, less any amounts necessary for remaining Administrative Expenses, will be distributed to *cy pres* recipients selected by the Parties and approved by the Court. The Court may revise this *cy pres* provision as necessary without terminating or otherwise impacting this Settlement Agreement, provided the

Court's revision does not increase the total amount of the Settlement Fund.

5.2.9. The Parties agree that for income tax purposes, half of each individual payment made pursuant to this Settlement shall be allocated as non-wage compensation and half shall be subject to required withholdings and deductions and may be reported as income, as required by law. Defendants' applicable employer-side taxes shall be calculated and deducted from the Settlement Fund. The Settlement Administrator shall also issue to each Settlement Class Member who submits an Approved Claim an IRS Form W2. If required by IRS regulations, the Settlement Administrator shall issue to each Settlement Class Member who submits an Approved Claim, and the Class Representative who cashes any Service Award, an IRS Form 1099. Other than the reporting requirements herein, Settlement Class Members shall be solely responsible for the reporting and payment of their share of any federal, state, and/or local income or other taxes on payments received pursuant to this Settlement Agreement. It is understood and agreed that the Parties take no position and offer no advice regarding how any Class Member chooses to treat any payment made hereunder for tax or any other purpose.

5.2.10. The Court may require changes to the method of allocation of the Settlement Fund without invalidating this Settlement Agreement, provided that the other material terms of the Settlement Agreement are not altered.

5.3. Attorneys' Fees and Litigation Expenses.

5.3.1. Plaintiff may apply to the Court for an award of reasonable attorneys' fees, costs, and litigation expenses for Class Counsel that, subject to Court approval and applicable law, will be paid from the Settlement Fund by the Settlement Administrator to an account designated by Class Counsel.

5.3.2. Plaintiff will file any motion for award of attorneys' fees, costs, and expenses at least fourteen (14) days prior to the Claims Deadline.

5.3.3. With no consideration given or received, Plaintiff has agreed to limit the request for an award of attorneys' fees to no more than 33% of the Settlement Fund, plus reimbursement of reasonable litigation costs and expenses. Defendants may elect to contest Plaintiff's fee request but otherwise Defendants take no position on the amount to be sought by Plaintiff and do not object to a reasonable award of attorneys' fees and litigation expenses as determined by the Court and sought in accordance with this Agreement and applicable law.

5.3.4. If the Court grants an award of attorneys' fees, costs, and expenses to Class Counsel, the amount of the award shall be paid by the Settlement Administrator within fourteen (14) days after the Effective Date and transferred to an account designated by Class Counsel.

5.3.5. In the event that the Court does not approve the requested award of attorneys' fees and litigation expenses, or the Court awards attorneys' fees and litigation

expenses in an amount less than that requested, such decision shall not affect the validity and enforceability of the Settlement and shall not be a basis for rendering the entire Settlement null, void, or unenforceable. Any award made by the Court with respect to Class Counsel's attorneys' fees, costs, or expenses, or any proceedings incident thereto, including any appeal thereof, shall not operate to terminate or cancel this Agreement. Plaintiff retains the right to appeal any decision by the Court regarding its award of attorneys' fees, costs, and litigation expenses.

5.4. Class Representative Service Award.

5.4.1. Plaintiff may apply to the Court for a reasonable Service Award that, subject to Court approval and applicable law, will be paid to Plaintiff from the Settlement Fund by the Settlement Administrator and mailed to an address provided by Class Counsel.

5.4.2. Plaintiff's request for a Service Award will be made contemporaneously with any motion for award of attorneys' fees, costs, and expenses filed at least fourteen (14) days prior to the Claims Deadline.

5.4.3. With no consideration given or received, Plaintiff has agreed to limit the amount sought for a Service Award to no more than \$15,000. Defendants may elect to contest the request for a Service Award but otherwise Defendants take no position on the amount to be sought for a Service Award and do not object to a reasonable Service Award as determined by the Court and sought in accordance with this Agreement and applicable law.

5.4.4. If the Court grants Plaintiff a Service Award, the Service Award shall be paid by check mailed by the Settlement Administrator to Plaintiff within fourteen (14) days after the Effective Date.

5.4.5. The denial by the Court of any request for a Service Award shall not affect the validity and enforceability of the Settlement and shall not be a basis for anyone to seek to void the Settlement.

5.5. Notice and Administration Costs. Notice and Administration Costs shall be paid to the Settlement Administrator from the Settlement Fund. Based on cost estimates provided to Class Counsel, it is anticipated that Administrative Expenses and costs of Notice will not exceed \$100,000.

VI. CLAIMS SUBMISSION

6.1. Procedure for Submission of Claims.

6.1.1. To be eligible to receive an individual payment under the Settlement, all Settlement Class Members must timely submit a completed Claim Form, which shall be substantially similar in form and content to Exhibit 1 to this Agreement.

6.1.2. Claim Forms may be submitted to the Settlement Administrator electronically via the Settlement Website or via U.S. Mail to an address provided in the Notice for processing, review, and payment of Claims.

6.1.3. Hard copies of Claim Forms will be sent to Class Members by U.S. Mail with the initial mailed Notices and will also be accessible to be completed and submitted electronically on the Settlement Website.

6.1.4. The Claim Form will require each Class Member to verify his or her full name, mailing address, email address, contact telephone number, and attest that he or she is a Class Member.

6.1.5. Any Claim Form that is untimely or that lacks the requisite information will be deemed ineligible for payment. However, for any partially-completed Claim Forms, the Settlement Administrator shall attempt to contact the Settlement Class Member who submitted the Claim Form at least one time by e-mail or, if no e-mail address is available, by regular U.S. mail to: (i) inform the Settlement Class Member of any error(s) and/or omission(s) in the Claim Form; and (ii) give the Settlement Class Member an opportunity to cure any errors and/or omissions in the Claim Form. The Settlement Class Member shall have until the Claims Deadline, or fourteen (14) days after being contacted by the Settlement Administrator, whichever is later, to cure the error(s) and/or omission(s) in the Claim Form.

6.1.6. Notwithstanding the foregoing, the Settlement Administrator may, with the consent of Class Counsel, approve Claim Forms with missing information if the information is not necessary to determine the validity of the claim.

6.2. Claims Deadline.

6.2.1. In order to be eligible for approval and payment, Claim Forms must be timely and submitted on or before the Claims Deadline.

6.2.2. The Claims Deadline shall be set on a date at least ninety (90) days after the dissemination of Notice, subject to Court approval.

6.2.3. The date on which the Claims Deadline falls shall be clearly set forth in any order granting preliminary approval to the Settlement as well as in the Notices and the Claim Form itself.

6.3. Approval of Claims.

6.3.1. A Claim Form shall be approved if it is complete, timely, and valid, as determined by the Settlement Administrator.

- a.** A Claim Form is complete if it contains all requested information verified by the Settlement Class Member.

- b.** A Claim Form is timely if it is submitted by the Claims Deadline.
- c.** A Claim Form is valid if it was submitted by a Settlement Class Member and does not otherwise contain any false or fraudulent information.

6.3.2. Unless the Parties agree otherwise, a Settlement Class Member is not entitled to any compensation from the Settlement if they fail to submit a Claim Form; if they submit a Claim Form after the Claims Deadline; if the Claim Form is incomplete and remains incomplete after an opportunity to cure any errors and/or omissions; and/or if the Claim Form contains false or fraudulent information.

6.3.3. Within seven (7) days after the Claims Deadline, the Settlement Administrator shall review and process all submitted Claim Forms and determine which Claims are initially approved and which Claims are initially rejected. The Settlement Administrator shall approve or reject Claims in accordance with the provisions of this Agreement but may, at its discretion, request additional information from the Parties or a Settlement Class Member prior to initially rejecting or accepting any claim submitted.

6.3.4. The Settlement Administrator shall employ reasonable procedures to screen Claim Forms for abuse and/or fraud and shall deny Claim Forms where there is evidence of abuse and/or fraud.

6.3.5. Within seven (7) days of the Claims Deadline, the Settlement Administrator shall submit to the Parties' Counsel a report in the form of an Excel spreadsheet and a PDF listing the status of all Settlement Class Members' Claims, including: whether approved, rejected, incomplete, or no Claim Form submitted, and the total amount to be paid to each recipient, which shall be determined in accordance with the formula set forth in Section V, above.

6.3.6. If any Party wishes to challenge the acceptance or rejection of a Claim, they shall notify all other Parties' Counsel via email within fourteen (14) days of receiving the claims report by identifying the Claim(s) and the reason(s) for the challenge.

6.3.7. Within twenty-one (21) days of having received the claims report from the Settlement Administrator, Class Counsel and Defendants' Counsel may meet and confer regarding any issues that either Class Counsel or Defendants believe need to be raised with the Settlement Administrator regarding the claims report. Class Counsel and Defendants' Counsel agree to use their best efforts to resolve any disputes. If necessary, the Parties may request that the Settlement Administrator conduct reasonable follow up with particular Settlement Class Members in the event of questions regarding the information provided by any Settlement Class Member or take other reasonable steps as agreed to by the Parties.

6.3.8. Subject to the other provisions of this Agreement, the Settlement Administrator shall have final authority for determining whether a Claim Form is complete, valid, timely, and should be approved or rejected.

VII. NOTICE TO THE CLASS

7.1. The Settlement Administrator shall be responsible for effectuating Notice of the Settlement to Settlement Class Members in accordance with the provisions of this Section subject to Court approval and Class Counsel's supervision.

7.2. The Notice, which shall be substantially in the form of Exhibits 2, 3, 4, and 5 attached hereto, shall be used for the purpose of informing Settlement Class Members about the pending Settlement and all material aspects of the Settlement Agreement, including how they may (a) obtain a copy of the Claim Form to participate in and receive compensation under the Settlement; (b) obtain further information about their rights with respect to the Settlement; (c) request exclusion or opt-out from the Settlement Class and the proposed Settlement, if desired; (d) object to any aspect of the proposed Settlement, if desired; and (e) attend the final approval hearing, if desired. Additionally, the Notice shall explain what cash compensation is being made available and make clear the binding effect of the Settlement's release on all persons who do not timely request exclusion from the Settlement Class.

7.3. Class List.

7.3.1. CareerBuilder shall create a list of Settlement Class Members, based on readily available information and personnel records already within its possession, including Settlement Class Members' names, employee ID numbers, last-known mailing addresses, email addresses, telephone numbers, and social security numbers (the "Class List").

7.3.2. Within fourteen (14) days after the execution of this Settlement Agreement, if not sooner, CareerBuilder shall provide the Class List to the Settlement Administrator and to Class Counsel, who shall use such information for no purpose other than the implementation of the Settlement and the Court's orders approving this Settlement and shall otherwise keep such information confidential.

7.3.3. Prior to disseminating Notice, the Settlement Administrator, using the Class List, shall run each Settlement Class Member's provided contact information through the national change-of-address database to determine, to the best of its ability, the correct address for each Settlement Class Member.

7.4. Initial Notice.

7.4.1. Within thirty (30) days after entry of an order granting preliminary approval to the Settlement, the Settlement Administrator shall cause the initial short-form notice depicted in Exhibit 2 to be sent to every Settlement Class Member via both U.S. mail and email using the Settlement Class Members' last known contact information.

7.4.2. A hard copy of the Claim Form depicted in Exhibit 1 will be included with initial short-form notices sent by mail.

7.4.3. If any of the emails or mailings sent as part of the initial notice are undeliverable or result in a “bounce-back,” the Settlement Administrator shall make reasonable efforts, including performing at least one reverse-lookup, to locate updated contact information. The Settlement Administrator will then attempt to re-send the short-form notice within ten (10) days.

7.5. Reminder Notice. Thirty (30) days prior to the Claims Deadline, the Settlement Administrator shall cause the reminder email and reminder postcard depicted in Exhibits 3 and 4, respectively, to be sent to Settlement Class Members who have not yet submitted a Claim to remind them of their rights and pending deadlines under this Settlement.

7.6. Settlement Website.

7.6.1. Within twenty-eight (28) days after entry of an order granting preliminary approval to the Settlement Agreement, the Settlement Administrator shall launch the Settlement Website. Unless otherwise agreed to by the Parties, the Settlement Website shall be maintained until sixty (60) days after the Effective Date and then taken down. The URL of the Settlement Website shall be www.careerbuildersettlement.com.

7.6.2. The Settlement Website shall host all relevant information about the Settlement, including electronic copies of this Agreement and its Exhibits, a long form version of the Notice of the Settlement substantially in the form of Exhibit 5 attached hereto, a list of important dates and deadlines, and copies of Court orders bearing on the Settlement and its approval.

7.6.3. The Settlement Website will contain a claims submission module, where Settlement Class Members can input an ID number easily submit a Claim Form electronically.

7.7. The Parties agree that distribution of Notice in the manners described above constitutes the best notice practicable under the circumstances, and complies fully with any and all substantive and procedural Due Process rights guaranteed by the United States Constitution and any other applicable law. The Parties further agree that the Notice sufficiently notifies the Settlement Class of the terms of the proposed Settlement, their right to object to the Settlement or to opt-out of the Settlement, and the deadlines and procedures to object, opt-out, or submit a Claim Form in connection with this Settlement.

VIII. RELEASE

8.1. Releasing Settlement Class Members.

8.1.1. The Parties acknowledge that this Settlement, including the release contained in this Section, reflects a compromise of disputed claims.

8.1.2. For purposes of this Section VIII, “Releasing Settlement Class Members” means the Class Representative and all Settlement Class Members, except those who elect to opt out or are otherwise excluded from the Settlement Class in accordance with this Agreement.

8.2. Comprehensive Waiver, Release, and Dismissal.

8.2.1. Subject to final approval by the Court of the Settlement, and for good and valuable consideration set forth herein, the receipt and sufficiency of which is hereby acknowledged, all Releasing Settlement Class Members irrevocably release, acquit, and forever discharge Defendants, their current and former direct or indirect parents, subsidiaries, affiliates, predecessors, successors, assigns, directors, officers, partners, members, principals, employees, agents, and representatives of and from any and all claims, rights, causes of action, penalties, demands, damages, debts, accounts, duties, costs and expenses (other than those costs and expenses required to be paid pursuant to this Agreement), liens, charges, complaints, causes of action, obligations, or liability of any and every kind that were asserted in the Litigation, or that could have been asserted but were not asserted in the Litigation, or in any other court or forum, whether known or unknown, fixed or contingent, matured or unmatured, accrued or unaccrued, on the basis of, connected with, arising out of, or related in any way to any or all of the alleged acts, omissions, facts, matters, transactions, circumstances, and occurrences that were directly or indirectly alleged, asserted, described, set forth, or referred to in the Litigation, whether such allegations were or could have been based on common law or equity, or on any statute, rule, regulation, order, or law, whether federal, state, or local, through the date of Final Approval. The scope of this release expressly includes, without limitation, all claims to bonus, incentive compensation, or commissions during Class Members’ employment with CareerBuilder.

8.2.2. Releasing Settlement Class Members also agree to release and forego any claims for attorneys’ fees and costs incurred by them or by Class Counsel or any other attorney in connection with the Litigation, and this Settlement, and all claims related to conduct in discovery in the Litigation.

8.2.3. Releasing Settlement Class Members understand and agree that this release is a full and final general release applying to both those claims that are currently known, anticipated, or disclosed to Releasing Settlement Class Members and to all those that are presently unknown, unanticipated, or undisclosed to any Releasing Settlement Class Members arising out of the alleged facts, circumstances, and occurrences underlying the claims set forth in the Litigation. Releasing Settlement Class Members acknowledge that the facts could be different than they now know or suspect to be the case, but they are nonetheless releasing all such unknown claims. In exchange for the good and valuable consideration set forth herein, all Releasing Settlement Class Members further waive any and all rights or benefits that they as individuals or the classes may now have as a result of the alleged facts, circumstances, and occurrences underlying the claims set forth in the Litigation. In exchange for the good and valuable consideration set forth herein, all

Releasing Settlement Class Members further waive any and all rights or benefits that they as individuals or as Releasing Settlement Class Members may now have as a result of the alleged facts, circumstances, and occurrences underlying the claims set forth in the Litigation under the terms of Section 1542 (a) of the California Civil Code (or similar statute in effect in any other jurisdiction), which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH DEBTOR.

8.3. The comprehensive waiver and release contemplated in this Section VIII is contingent upon entry of an order finally approving the Settlement and shall take effect on the Effective Date.

IX. OPT-OUT PROCEDURE

9.1. Right to Opt-Out.

9.1.1. Settlement Class Members shall have the right to exclude themselves from the Settlement, if they wish to do so.

9.1.2. A Settlement Class Member who wishes to be excluded from the Settlement must submit a request for exclusion in writing to the Settlement Administrator.

9.2. Opt-Out Requirements.

9.2.1. For a request for exclusion to be accepted, it must be timely and valid.

9.2.2. To be timely, a request for exclusion must be mailed and postmarked on or before the Opt-Out & Objection Deadline and received by the Settlement Administrator no later than five (5) days after the Opt-Out & Objection Deadline. The date of the Opt-Out & Objection Deadline will be provided in all forms of Notice and posted on the Settlement Website.

9.2.3. To be valid, a request for exclusion must: (a) contain a statement that the Settlement Class Member wishes to be excluded from the Settlement Class; (b) be personally signed and dated by the Settlement Class Member; and (c) provide the Settlement Class Member's full name, mailing address, email, and telephone number.

9.2.4. Because requests for exclusion must be personally signed, mass-generated exclusion requests are invalid and may be denied by the Settlement Administrator.

9.2.5. A request for exclusion that is sent to an address other than that of the Settlement Administrator designated in the Notice, or that is not postmarked within the time specified, shall be ineffective and the person serving such a request shall be deemed to be a member of the Settlement Class and thus bound as a Settlement Class Member by the Settlement Agreement, if approved.

9.3. Effect of Opting Out.

9.3.1. If the Settlement is finally approved by the Court, all Settlement Class Members who have not timely and validly excluded themselves will be bound by the Settlement and will be deemed to be a Releasing Settlement Class Member as defined herein, and the relief made available under the Settlement will be their sole and exclusive remedy.

9.3.2. Any member of the Settlement Class who timely and validly elects to be excluded shall not: (i) be bound by any order or final Judgment; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Settlement Agreement; or (iv) be entitled to object to any aspect of this Settlement Agreement. Because a person who opts out is no longer a member of the Settlement Class, they cannot also cannot object to the Settlement.

9.3.3. Settlement Class Members cannot both submit a Claim and request exclusion. If a Settlement Class Member returns both a Claim Form and a written request for exclusion, the request for exclusion shall be deemed void and of no force and effect, and the Claim Form shall be processed under the terms of this Settlement Agreement.

9.4. Opt-Out List.

9.4.1. Within seven (7) days after the Opt-Out & Objection Deadline, the Settlement Administrator shall provide the Parties' Counsel with a list reflecting all individuals who have timely and validly excluded themselves from the Settlement Class.

9.4.2. A list reflecting all individuals who timely and validly excluded themselves from the Settlement shall also be filed with the Court at the time of the motion for final approval of the Settlement.

9.5 Option to Void Agreement.

If the total number of Settlement Class Members who exclude themselves as reflected in the list as referenced in Section 9.4.2. exceeds ten percent of the total number of Settlement Class Members, CareerBuilder may, in its sole discretion, rescind and void this Agreement by providing notice to Class Counsel within ten days of its receipt of the list referenced in Section 9.4.2.

X. OBJECTION PROCEDURE

10.1. Settlement Class Members shall have the right to object to the Settlement, if they wish to do so.

10.2. To be considered, an objection must be in writing, include the objector's full name and the case name and case number(s) of the Litigation; the objector's current address, email, and phone number; the reasons why the objector objects to the Settlement along with any supporting legal authority; and the objector's signature. In addition, the objecting Settlement Class Member must identify any previously-filed objections they or their counsel have filed in any state or federal court class action in the last five (5) years. This listing must contain (i) the name of the case; (ii) the case number; (iii) the court in which the objection was filed; and (iv) the outcome of the objection. The objection must also indicate whether or not the objector intends to appear at the final fairness hearing on the motion for final approval of the Settlement.

10.3. A Settlement Class Member who wishes to object to the Settlement must notify the Parties and the Court of his or her objection, in writing, on or before the Opt-Out & Objection Deadline. Additionally, any objection(s) must be filed with the Court on or before the Opt-Out & Objection Deadline, and copies must be served on the Settlement Administrator and the Parties' Counsel.

10.4. The Parties will request that the Court order that failure to comply timely and fully with these procedures shall result in the invalidity and rejection of an objection. The Parties will request that the Court order that no Settlement Class Member shall be entitled to appear at the final approval hearing (whether individually or through the objector's counsel) or to object to the Settlement unless written notice of the Settlement Class Member's objection and any brief in support of the objection have been filed with the Court and served upon the Parties' Counsel on or before the Opt-Out & Objection Deadline.

10.5. Any Settlement Class Member who objects to the Settlement and wishes to appear and speak at the final approval hearing must include in his or her written objection a statement expressing intention to appear and speak at the final approval hearing, or send a "Notice of Intent to Appear" at the final approval hearing to the Clerk of the Court and to the Parties' Counsel, postmarked on or before the Opt-Out & Objection Deadline. The Notice of Intent to Appear must include: the case name and case number of the lawsuit; the Settlement Class Member's full name, address, email address, and phone number; a statement clearly indicating the intention to appear at the final approval hearing and the reasons for seeking to appear; copies of any papers or information to be presented to the Court, if any; and the Settlement Class Member's signature.

10.6. Settlement Class Members who do not file and serve timely written objections in accordance with the procedures set forth in this Agreement have waived any objections to the Settlement and are forever foreclosed from making any objection (whether by appeal or otherwise) to the Settlement, or any aspect of the Settlement, including, without limitation, the fairness, reasonableness, or adequacy of the proposed Settlement, or any award of attorneys' fees or reimbursement of costs and expenses. The Parties will request that the Court order that Settlement Class Members who fail to file and serve written objections in accordance with this Section shall be deemed to have waived any objections and shall be foreclosed from making any objection to the certification of the Settlement Class or to the Settlement Agreement.

10.7. Settlement Class Members cannot both object to and exclude themselves from the Settlement. Any Settlement Class Member who attempts to both object to and exclude themselves from this Settlement will be deemed to have excluded themselves and will forfeit the right to object to this Settlement Agreement or any of its terms.

10.8. In the event the Parties determine that an objection is frivolous or otherwise without merit, the Parties shall request that the Court, within its discretion, overrule the objection and award appropriate costs and fees to the Parties in opposing such objection(s).

XI. PROCEDURE FOR APPROVAL OF THE SETTLEMENT

11.1. Preliminary Approval.

11.1.1. Plaintiff and Class Counsel shall file an unopposed motion with the Court seeking entry of an order granting preliminary approval of the Settlement and requesting that the Court's order:

- a.** Preliminarily approve the Settlement;
- b.** Conditionally certify the Settlement Class pursuant to 735 ILCS 5/2-801 for settlement purposes in accordance with applicable legal standards and this Agreement;
- c.** Approve as to form and content the Claim Form and proposed Notices;
- d.** Schedule a final fairness hearing on the question of whether the proposed Settlement should be finally approved as fair, reasonable, and adequate as to the Settlement Class;
- e.** Approve and appoint Myles McGuire, Paul T. Geske, and Brendan Duffner of McGuire Law, P.C. as Class Counsel;
- f.** Approve Plaintiff Benjamin Fongers as Class Representative;
- g.** Approve Simpluris as Settlement Administrator; and
- h.** Approve the establishment of the Settlement Fund.

11.1.2. Defendants and Defendants' Counsel shall cooperate with Class Counsel to obtain preliminary approval.

11.1.3. At or after the hearing on the preliminary approval motion, the Parties shall submit a proposed preliminary approval order that is the same or substantially similar to Exhibit 6, subject to agreed-upon revisions or modifications as appropriate or requested by

the Court.

11.1.4. Following preliminary approval, the Parties shall continue to take any steps necessary to stay any pending proceedings so as to preserve the status quo until either the Effective Date occurs, or the Settlement Agreement is voided.

11.2. Final Approval.

11.2.1. The Parties will jointly request that the Court hold a final fairness hearing approximately 150 days after preliminary approval to determine whether to grant final approval to the Settlement.

11.2.2. Prior to the final approval hearing, Plaintiff and Class Counsel will file an unopposed motion for final approval requesting that the Court:

- a.** Grant final approval to the Settlement, finding that its terms are fair, reasonable, and adequate, and entered into good faith and without collusion;
- b.** Confirm certification of the Settlement Class for settlement purposes pursuant to 735 ILCS 5/2-801 in accordance with applicable legal standards and this Agreement;
- c.** Approve disbursement of the Settlement Fund pursuant to this Agreement;
- d.** Approve Class Counsel's application for an award of Attorneys' Fees and Litigation Expenses pursuant to this Agreement;
- e.** Approve the Settlement Class Representative Incentive Award;
- f.** Resolve any properly filed objections to the Settlement Agreement;
- g.** Approve the Release provided in Section VIII and order that, as of the Effective Date, the Releasing Settlement Class Members will be barred from pursuing released claims against Defendants;
- h.** Dismiss the claims in the Litigation with prejudice and with each Party to bear their own fees and costs, except as provided for in this Agreement;
- i.** Reserve continuing and exclusive jurisdiction over the Settlement and this Agreement for the purposes of administering, consummating, supervising, construing and enforcing the Settlement Agreement;

- j. Approve and direct consummation of this Agreement finding that, pursuant to 735 ILCS 5/2-1301, there is no just reason for delay of entry of final judgment with respect to the foregoing

11.2.3. In their submissions to the Court in support of final approval of the Settlement, Plaintiff and Class Counsel will submit a proposed final approval order that is the same or substantially similar to Exhibit 7, subject to agreed-upon revisions or modifications as appropriate or requested by the Court.

11.2.4. The final approval order shall not be considered final until the occurrence of the Settlement Effective Date.

XII. MUTUAL FULL COOPERATION

12.1. The Parties agree to cooperate fully with each other and the Administrator to accomplish the terms of this Settlement, including but not limited to execution of all necessary documents, and to take such other action as may reasonably be necessary to implement the terms of this Settlement. The Parties shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that may become necessary by order of the Court or otherwise, to effectuate the terms of this Settlement. As soon as practicable after execution of this Settlement, Class Counsel shall, with the assistance and cooperation of Defendants and their counsel, take all necessary steps to secure the Court's approval of the Settlement.

XIII. STATEMENT OF NO ADMISSION

13.1. Nothing contained in this Agreement shall be construed or deemed an admission of liability, culpability, or wrongdoing on the part of Defendants, and Defendants deny liability for any alleged wrongdoing, including denying that Plaintiff has adequately pled any claim against them in Plaintiff's Complaint. Defendants expressly deny liability for the claims asserted and specifically deny and do not admit any of the pleaded facts not admitted in its pleadings in the Litigation. Nor shall this Agreement constitute an admission by Defendants as to any interpretation of laws or as to the merits, validity, or accuracy of any claims made against them in the Litigation. Likewise, nothing in this agreement shall be construed or deemed an admission by Plaintiff or the Settlement Class with regards to the validity of any of Defendants' defenses or affirmative defenses. Each of the Parties has entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

13.2. This Agreement, and all related documents, including the Settlement Agreement, the certification for settlement purposes entered pursuant to this Agreement, and any Claims, requests to opt-out, objections, or other materials submitted by Settlement Class Members and all other actions taken in implementation of the Settlement, including any statements, discussions, or communications, and any materials prepared, exchanged, issued, or used during the course of the negotiations leading to this Agreement are settlement documents and shall be inadmissible in evidence and shall not be used for any purpose in this Litigation or in any other judicial, arbitral, administrative, investigative, or other court, tribunal, forum, or proceeding, or any other litigation

against Defendants, for any purpose, except in an action or proceeding to approve, interpret, or enforce the terms of this Agreement.

13.3. The Claim Forms, requests to opt-out, objections, and any other evidence produced or created by any Settlement Class Member in connection with the claims resolutions procedures pursuant to this Settlement, and any actions taken by Defendants in response to such materials do not constitute, are not intended to constitute, and will not be deemed to constitute an admission by Defendants of any violation of any federal, state, or local law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in equity.

13.4. Any certification of the Settlement Class in accordance with the terms of this Agreement is for settlement purposes only. Nothing in this Agreement will be construed as an admission or acknowledgement of any kind that any class should be certified in this Litigation or in any other action or proceeding. Further, neither this Agreement, nor the Court's actions with regard to this Agreement, will be deemed admissible in this Litigation and are not intended to be admissible (and Plaintiff and Class Counsel shall not seek their admission), in any other judicial, arbitral, administrative, investigative, or other court, tribunal, forum, or proceeding, or in any other litigation, regarding the propriety of class certification or collective treatment. In the event that this Agreement is not approved by the Court or any appellate court, or otherwise fails to become effective and enforceable, or is terminated, or the Effective Date does not occur for any reason, Defendants will not be deemed to have waived, limited, or affected in any way any of their objections or defenses in the Litigation.

XIV. VOIDING THE AGREEMENT

14.1. In the event that this Settlement is not approved, or if for any reason the Effective Date does not occur, the Parties may elect to deem the Settlement Agreement null, void, and unenforceable, and the Parties shall return to their respective positions prior to engaging in settlement negotiations.

XV. SIGNATORIES' AUTHORITY

15.1. The respective signatories to this Agreement represent that they are fully authorized to enter into this Settlement Agreement on behalf of the respective Parties for submission to the Court for preliminary and final approval.

XVI. NO PRIOR ASSIGNMENTS

16.1. The Parties represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right released and discharged in this Settlement.

XVII. NOTICES AND COMMUNICATIONS

17.1. Unless otherwise specifically provided herein, all notices, demands, or other

communications given hereunder shall be in writing and shall be deemed to have been duly given: (i) on the date given, if given by hand delivery; (ii) within one (1) business day, if sent by overnight delivery services such as Federal Express or similar courier; (iii) on the third business day after mailing by United States registered or certified mail, return receipt requested, or (iv) on the day received for delivery by e-mail.

17.2. All notices given under this Agreement shall be addressed as follows:

To Plaintiff and Class Counsel:

Paul T. Geske
MCGUIRE LAW, P.C.
55 West Wacker Dr. 9th Floor
Chicago, Illinois 60601
pgeske@mcgpc.com

To CareerBuilder:

Andrew Scroggins
SEYFARTH SHAW, LLP
233 South Wacker Dr., Suite 8000
Chicago, IL 60606
ascroggins@seyfarth.com

To Apollo:

Jonathan Rosenberg
B. Andrew Bednark
O'Melveny & Myers LLP
7 Times Square
New York, NY 10036
jrosenberg@omm.com
abednark@omm.com

and

Kevin B. Duff
Rachlis Duff & Peel, LLC
542 S. Dearborn Street, Suite 900
Chicago, IL 60605
kduff@rdaplawn.net

XVIII. CONFIDENTIALITY

18.1. The negotiations related to this Agreement (including the negotiations related to the drafting of this Agreement, and any negotiations prior to preliminary approval or between the time of preliminary and final approval) will remain strictly confidential and shall not be discussed with

anyone other than the Parties, their retained attorneys, their accountants and financial or tax advisers, their retained consultants, the Court, the Settlement Administrator, and the mediator Hon. James Epstein (Ret.) and his staff, unless otherwise agreed to by Class Counsel and Defendants or unless otherwise ordered by the Court. Notwithstanding the other provisions of this Section, Defendants may, if necessary, disclose the Settlement in filings that Defendants are required to make with the Securities and Exchange Commission, including 10-Q and 10-K filings, or in other disclosures to investors.

XIX. PRESS RELEASE

19.1. No Party, nor the Parties' Counsel, shall initiate any statements to the media regarding the Settlement. The Parties shall agree on a statement to be used in the event of press inquiries regarding the settlement. Nothing in this provision is intended to prohibit implementation of Notice to the Settlement Class in accordance with this Agreement.

XX. MISCELLANEOUS PROVISIONS

20.1. Construction. The Parties agree that the terms and conditions of this Settlement are the result of lengthy, intensive arms-length negotiations between the Parties and that this Settlement shall not be construed in favor of or against any party by reason of the extent to which any party or her or his counsel participated in the drafting of this Settlement.

20.1. Captions and Interpretations. Paragraph titles or captions contained in this Agreement are a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision of this Agreement. Each term of this Agreement is contractual and not merely a recital.

20.2. Modification. This Agreement may not be changed, altered, or modified, except in a writing signed by the Parties and approved by the Court. Notwithstanding the foregoing, the Parties agree that any dates contained in this Agreement may be modified by agreement of the Parties without Court approval if the Parties agree and cause exists for such modification. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties.

20.3. Integration Clause. This Agreement, the Exhibits hereto, and any other documents delivered pursuant hereto contain the entire agreement between the Parties relating to the resolution of the Litigation, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or the Parties' Counsel, are merged in this Agreement. No rights under this Settlement may be waived except in writing and signed by the Party against whom such waiver is to be enforced.

20.4. Binding on Assigns. This Settlement shall be binding upon, and inure to the benefit of, the Parties and their respective heirs, trustees, executors, administrators, successors, and assigns.

20.5. Class Counsel Signatories. It is agreed that because the Settlement Class Members

are so numerous, it is impossible or impractical to have each Settlement Class Member execute this Settlement. The Notice provided in accordance with this Agreement will provide all Settlement Class Members with a summary of the Settlement and will advise all Settlement Class Members of the binding nature of the release. Excepting only those Settlement Class Members who timely submit a valid request for exclusion, such Notice shall have the same force and effect as if this Settlement were executed by each Settlement Class Member.

20.6. Counterparts. This Agreement may be executed in any number of counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one and the same Agreement, which shall be binding upon and effective as to all Parties. This Agreement shall be deemed executed as of the date that the last party signatory signs the Agreement.

20.7. Applicable Law. This Agreement shall be governed by Illinois law without regard to its choice of law or conflicts of law principles or provisions.

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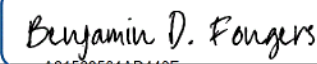
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IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement by and through their duly authorized representatives and counsel on the dates stated below.

BENJAMIN FONGERS, individually and
as Class Representative

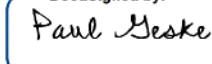
DocuSigned by:

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Signature

6/1/2022

Date

MCGUIRE LAW, P.C., as Class Counsel

DocuSigned by:

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Signature

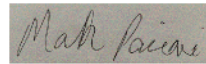
Paul Geske

Printed Name

6/1/2022

Date

CareerBuilder, LLC, as Defendant



Signature

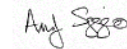
mark pacioni

Printed Name

6/1/2022

Date

Seyfarth Shaw LLP, as Counsel for
Defendant CareerBuilder



Signature

Andrew Scroggins

Printed Name

6/1/2022

Date

Apollo Global Management, Inc. as
Defendant



Signature

Brian Carney

Printed Name

06/01/2022

Date

O'Melveny & Myers, LLP as Counsel for
Defendant Apollo Global Management, Inc.



Signature

Jonathan Rosenberg

Printed Name

06/01/2022

Date

Exhibit 1

[FIRST & LAST NAME]
[ADDRESS LINE 1 & 2]
[CITY, STATE, & ZIP]

Fongers v. Careerbuilder, LLC
CIRCUIT COURT OF COOK
COUNTY, ILLINOIS
Case No. 2019-CH-12804

Class Member ID#

**Must be postmarked no
later than [CLAIMS
DEADLINE]**

Claim Form

This form is for submitting a claim to participate in the class action settlement in *Fongers v. CareerBuilder, LLC, et al.*, No. 2019-CH-12804 (Cir. Ct. Cook Cnty.). If you received this form in the mail, then you have been identified as someone who is a member of the Settlement Class and are eligible to submit a Claim to receive a payment from the Settlement Fund.

INSTRUCTIONS TO SUBMIT YOUR CLAIM: If you wish to submit a Claim, please read these instructions carefully. There are two ways to submit a Claim: (1) You can submit your Claim online at the Settlement Website, www.careerbuildersettlement.com. Online Claims must be completed and submitted by **[DATE]** to be timely. (2) If instead you would like to submit a Claim by U.S. mail, confirm that your contact information at the top of this page is accurate; if you need to make any changes, write them in the spaces provided below. After confirming your contact information, read and sign the certification at the bottom of this page and mail your completed Claim Form to the Settlement Administrator at **[ADDRESS]**. If submitted by mail, this form must be postmarked by **[DATE]**.

IMPORTANT NOTE: To be eligible to receive a payment from the Settlement, you must submit your Claim either online or by mailing this Claim Form to the settlement administrator by **[DATE]**.

Each Class Member is entitled to submit only one Claim. If your Claim is approved, you will receive a check by mail from the Settlement Fund. The amount paid to each Class Member varies according to the amount of each Settlement Class Member's individual commissions, revenue bonuses, and claimed losses. It is anticipated that **each Class Member will be eligible to receive a minimum payment of at least \$625.00**, but the final amount each claimant ultimately receives will depend on the number of Approved Claims. You can confirm the amount you are eligible to receive online on the Settlement Website. If you do not submit a Claim, you will not be eligible to receive any payment from the Settlement, but you will still be bound by the Settlement Agreement and its release unless you exclude yourself. See the Settlement Website for more details and instructions regarding your options under this Settlement.

FIRST NAME MI LAST NAME

STREET ADDRESS

CITY STATE ZIP

EMAIL ADDRESS CONTACT PHONE NUMBER

I certify that I am a member of the Settlement Class and that the information above is true to the best of my knowledge. I understand that the Settlement Administrator has the ability to verify my Claim.

Signature: _____ Date: _____

Exhibit 2

A class action settlement has been reached on behalf of certain sales representatives who worked for CareerBuilder. You may be entitled to a cash payment from the settlement.

This is an official legal notice to inform you about the Settlement. This is not an ad from a lawyer.

What is this notice about?

A settlement has been reached in a class action lawsuit against CareerBuilder, LLC and Apollo Global Management, Inc. The lawsuit, entitled *Fongers v. CareerBuilder, LLC, et al.*, No. 2019-CH-12804 (Ill. Cir. Ct. Cook Cnty.), involves claims that the Defendants unlawfully changed their compensation plans in 2019 to reduce or eliminate commissions they owed to their sales representatives for sales made prior to the compensation change. The Defendants deny having violated the law, and the Court has not decided who is right or wrong. Rather, the parties have reached a compromise to end the lawsuit and avoid the uncertainties and costs of further litigation.

Why did I get this notice?

This notice was sent to inform you that you are a member of the Settlement Class and are eligible to submit a Claim to receive a payment from the Settlement. The Settlement Class includes all who: (1) were employed as an Account Executive, Senior Account Executive, Major Account Executive, National Account Executive, or Key Account Executive; (2) were compensated at least in part under either of CareerBuilder's "Revenue Rep" plans dated January 1, 2018 and/or August 1, 2018; and (3) closed a sale of a contract, product, or service before March 1, 2019 that generated revenue on or after March 1, 2019.

What can I get from the proposed Settlement?

The proposed Settlement involves creation of a Settlement Fund of up to \$3,787,500.00. You are eligible to submit a Claim for a cash payment from the Settlement Fund. The amount of each Class Member's payment will vary depending on their individual commissions, revenue bonuses, and claimed losses. Further, the final amount of each payment could change depending on how many Approved Claims are submitted. However, it is anticipated that **each Class Member is eligible to receive a minimum payment of at least \$625.00**. If the Court approves the Settlement, the Settlement Fund will also be used to pay all fees and costs of the Settlement, including notice and administration costs, an Incentive Award to the Class Representative, and an award of attorneys' fees and expenses for the lawyers representing the Class.

What are my options?

To submit a Claim to receive a payment, you must complete and submit a Claim Form online at the Settlement website, www.careerbuildersettlement.com, or by mail by **Month/Day, 2022**. Alternatively, if you don't want to be part of the Settlement, or you'd rather bring claims against the Defendants at your own expense, you can exclude yourself by opting out by **Month DD, 2022**. But you won't receive a payment from the Settlement if you opt out. You may also object to the Settlement by **Month DD, 2022** if you disagree with it. If you submit a Claim or otherwise choose not to exclude yourself, you will release any claims you may have against the Defendants, as described in the Settlement Agreement posted on the Settlement Website. Please see the detailed notice on the Settlement Website for more information.

When will the Settlement be approved?

The Court will hold a hearing on **Month/DD, 2022** to consider whether to approve the Settlement and a request by the lawyers representing the Class for an award of attorneys' fees of up to 33% of the Settlement Fund, plus their costs for their work in the case. The court will also consider an Incentive Award payment of up to \$15,000 to the Class Representative. You can appear at the hearing, but you don't have to. You can also hire your own attorney, at your own expense, to appear or speak for you at the hearing.

For more information and to submit a Claim, visit www.careerbuildersettlement.com.

Exhibit 3

TO: [Class Member Email Address]
FROM: [Settlement Administrator]
SUBJECT: CareerBuilder Sales Rep Class Action Settlement

THIS IS YOUR FINAL REMINDER: A class action settlement has been reached on behalf of certain sales representatives who worked for CareerBuilder. You may be entitled to a payment from the Settlement, but you must act by [Month Day, 2022]

What is this notice about? A settlement has been reached in a class action lawsuit against CareerBuilder, LLC and Apollo Global Management, Inc. The lawsuit, entitled *Fongers v. CareerBuilder, LLC, et al.*, No. 2019-CH-12804 (Ill. Cir. Ct. Cook Cnty.), involves claims that the Defendants unlawfully changed their compensation plans in 2019 to reduce or eliminate commissions they owed to their sales representatives for sales made prior to the compensation change. The Defendants deny having violated the law, and the Court has not decided who is right or wrong. Rather, the parties have reached a compromise to end the lawsuit and avoid the uncertainties and costs of further litigation.

Why did I get this notice? This notice was sent to remind you that you are a member of the Settlement Class and are eligible to submit a Claim to receive a payment from the Settlement. The Settlement Class includes all who: (1) were employed as an Account Executive, Senior Account Executive, Major Account Executive, National Account Executive, or Key Account Executive; (2) were compensated at least in part under either of CareerBuilder's "Revenue Rep" plans dated January 1, 2018 and/or August 1, 2018; and (3) closed a sale of a contract, product, or service before March 1, 2019 that generated revenue on or after March 1, 2019.

What can I get from the proposed Settlement? The proposed Settlement provides for a fund totaling \$3,787,500.00, and Class Members are eligible to submit a Claim for a cash payment from the Settlement Fund. The amount each Class Member receives will vary based on the amount of their individual commissions, revenue bonuses, and claimed losses. Further, the final amount of each payment could change depending on how many Approved Claims are submitted. It is anticipated that **each Class Member will be eligible for a minimum payment of at least \$625.00**. You can confirm the amount you are eligible to receive online at the Settlement Website, www.careerbuildersettlement.com. If the Court approves the Settlement, the Settlement Fund will also be used to pay all fees and costs of the Settlement, including notice and administration costs, an Incentive Award to the Class Representative, and an award of attorneys' fees and expenses for the lawyers representing the Class.

What are my options? To submit a Claim to receive a payment, you must complete and submit a Claim Form online at the Settlement website, www.careerbuildersettlement.com, or by mail by **Month/Day, 2022**. Alternatively, if you don't want to be part of the Settlement, or you'd rather bring claims against the Defendants at your own expense, you can exclude yourself by opting out by **Month DD, 2022**. But you won't receive a payment from the Settlement if you opt out. You may also object to the Settlement by **Month DD, 2022** if you disagree with it. If you submit a Claim or otherwise choose not to exclude yourself, you will release any claims you may have against the Defendants, as described in the Settlement Agreement posted on the Settlement Website. Please see the detailed notice on the Settlement Website for more information.

When will the Settlement be approved? The Court will hold a hearing on **Month/DD, 2022** to consider whether to approve the Settlement and a request by the lawyers representing the Class for an award of

attorneys' fees of up to 33% of the Settlement Fund, plus their costs for their work in the case. The court will also consider an Incentive Award payment of up to \$15,000 to the Class Representative. You can appear at the hearing, but you don't have to. You can also hire your own attorney, at your own expense, to appear or speak for you at the hearing.

For more information and to submit a Claim, visit www.careerbuildersettlement.com.

Exhibit 4

LEGAL NOTICE

Fongers v. CareerBuilder, LLC, et al., No.
2019-CH-12804 (Ill. Cir. Ct. Cook Cnty.)

First-Class Mail
U.S. Postage Paid

A class action settlement has been reached on behalf of certain sales representatives who worked for CareerBuilder. You may be entitled to a payment from the Settlement.

A court authorized this notice to inform you about your rights. This is not a solicitation from a lawyer.

See reverse side for details. For more information and to submit a claim form, visit www.careerbuildersettlement.com.

FINAL REMINDER

CareerBuilder Sales Rep Class Action Settlement Notice

What is this notice about? A settlement has been reached in a class action lawsuit against CareerBuilder, LLC and Apollo Global Management, Inc. The lawsuit, entitled *Fongers v. CareerBuilder, LLC, et al.*, No. 2019-CH-12804 (Ill. Cir. Ct. Cook Cnty.), involves claims that the Defendants unlawfully changed their compensation plans in 2019 to reduce or eliminate commissions they owed to their sales representatives for sales made prior to the compensation change. The Defendants deny having violated the law, and the Court has not decided who is right or wrong. Rather, the parties have reached a compromise to end the lawsuit and avoid the uncertainties and costs of further litigation.

Why did I get this notice? This notice was sent to remind you that you are a member of the Settlement Class and are eligible to submit a Claim to receive a payment from the Settlement. The Settlement Class includes all who: (1) were employed as an Account Executive, Senior Account Executive, Major Account Executive, National Account Executive, or Key Account Executive; (2) were compensated at least in part under either of CareerBuilder's "Revenue Rep" plans dated January 1, 2018 and/or August 1, 2018; and (3) closed a sale of a contract, product, or service before March 1, 2019 that generated revenue on or after March 1, 2019.

What can I get from the proposed Settlement? The proposed Settlement provides for a fund totaling \$3,787,500.00, and Class Members are eligible to submit a Claim for a cash payment from the Settlement Fund. The amount each Class Member receives will vary based on the amount of their individual commissions, revenue bonuses, and claimed losses. Further, the final payment amount could also change depending on how many Approved Claims are submitted. It is anticipated that **each Class Member will be eligible for a minimum payment of at least \$625.00**. You can confirm the amount you are eligible to receive online at the Settlement Website, www.careerbuildersettlement.com. If the Court approves the Settlement, the Settlement Fund will also be used to pay all fees and costs of the Settlement, including notice and administration costs, an Incentive Award to the Class Representative, and an award of attorneys' fees and expenses for the lawyers representing the Class.

What are my options? To submit a Claim to receive a payment, you must complete and submit a Claim Form online at the Settlement website, www.careerbuildersettlement.com, or by mail by **Month/Day, 2022**. Alternatively, if you don't want to be part of the Settlement, or you'd rather bring claims against the Defendants at your own expense, you can exclude yourself by opting out by **Month DD, 2022**. But you won't receive a payment from the Settlement if you opt out. You may also object to the Settlement by **Month DD, 2022** if you disagree with it. If you submit a Claim or otherwise choose not to exclude yourself, you will release any claims you may have against the Defendants, as described in the Settlement Agreement posted on the Settlement Website. Please see the detailed notice on the Settlement Website for more information.

When will the Settlement be approved? The Court will hold a hearing on **Month/DD, 2022** to consider whether to approve the Settlement and a request by the lawyers representing the Class for an award of attorneys' fees of up to 33% of the Settlement Fund, plus their costs for their work in the case. The court will also consider an Incentive Award payment of up to \$15,000 to the Class Representative. You can appear at the hearing, but you don't have to. You can also hire your own attorney, at your own expense, to appear or speak for you at the hearing.

CAREERBUILDER SALES REP CLASS ACTION SETTLEMENT CLAIM FORM

This form is for submitting a claim to participate in the class action settlement in *Fongers v. CareerBuilder, LLC, et al.*, No. 2019-CH-12804 (Cir. Ct. Cook Cnty.). If you received this form in the mail, then you have been identified as someone who is a member of the Settlement Class and are eligible to submit a claim to receive a payment from the Settlement Fund.

INSTRUCTIONS TO SUBMIT YOUR CLAIM: If you wish to submit a Claim, please read these instructions carefully. There are two ways to submit a Claim. (1) You can submit your claim online at the Settlement Website, www.careerbuildersettlement.com. Online claims must be completed and submitted by [DATE] to be timely. (2) If instead you would like to submit a Claim by U.S. mail, confirm that your contact information on this postcard is accurate; if you need to make any changes, write them in the spaces provided below. After confirming your contact information, read and sign the certification at the bottom of this page and mail your completed Claim Form to the Settlement Administrator at [ADDRESS]. If submitted by mail, this form must be postmarked by [DATE].

IMPORTANT NOTE: To be eligible to receive a payment from the Settlement, you must submit your Claim either online or by mailing this Claim Form to the settlement administrator by [DATE].

First and Last Name:	
Street Address:	
City:	State/Zip Code:
Telephone Number:	Email Address:

Each Class Member is entitled to submit only one Claim. If your Claim is approved, you will receive a check by mail from the Settlement Fund. The amount paid to each Class Member varies depending on each Settlement Class Member's individual commissions, revenue bonuses, and claimed losses. Further, the final amount of each payment could also change depending on how many Approved Claims are submitted. It is anticipated that **each Class Member will be eligible to receive a minimum payment of at least \$625.00**. You can confirm the amount you are eligible to receive online on the Settlement Website. If you do not submit a Claim, you will not be eligible to receive any payment from the Settlement, but you will still be bound by the Settlement Agreement and its release unless you exclude yourself. See the Settlement Website for more details and instructions regarding your options under this Settlement.

I certify that I am a member of the Settlement Class and that the information above is true to the best of my knowledge. I understand that the Settlement Administrator has the ability to verify my Claim.

Signature

Date

First-Class Mail
U.S. Postage Paid

CareerBuilder Sales Rep Class Action Settlement
[Settlement Administrator Address]

Exhibit 5

Certain CareerBuilder sales representatives may be entitled to a cash payment from a class action settlement.

Official Notice for *Fongers v. CareerBuilder, LLC, et al.*, No. 2019-CH-12804 (Ill. Cir. Ct. Cook Cnty.)

This legal Notice was authorized by the Circuit Court for Cook County, Illinois to inform Settlement Class Members about their rights and the opportunity to submit a Claim in the Settlement. This is not an advertisement from a lawyer.

What is this Notice about?

This Notice provides important information about a proposed classwide settlement in a class action lawsuit against CareerBuilder, LLC (“CareerBuilder”) and Apollo Global Management, Inc. (“Apollo”) (collectively, the “Defendants”). The lawsuit involves claims that the Defendants unlawfully changed their compensation plans in 2019 to reduce or eliminate commissions they owed to their sales representatives for sales made prior to the compensation change. Although the Court presiding over the case has not decided who is right or wrong, the Parties have reached a compromise to end the lawsuit and provide compensation to those who may have been affected. **Please read this notice carefully. It summarizes the rights and options under the settlement.** You can access and read the full Settlement Agreement at www.careerbuildersettlement.com.

Who’s in the Settlement?

The Settlement Class: All individuals who: (1) were employed as an Account Executive, Senior Account Executive, Major Account Executive, National Account Executive, or Key Account Executive; (2) were compensated at least in part under either of CareerBuilder’s “Revenue Rep” plans dated January 1, 2018 and/or August 1, 2018; and (3) closed a sale of a contract, product, or service before March 1, 2019 that generated revenue on or after March 1, 2019.

What are my options?

If you are a member of the Settlement Class, then you have the following options under the settlement:

- 1) Submit a Claim to Receive Compensation:** The proposed Settlement provides for a fund totaling \$3,787,500.00, and Class Members are eligible to submit a Claim for a cash payment from the Settlement Fund. The amount each Class Member receives will vary based on the amount of their individual commissions, revenue bonuses, and claimed losses. Further, the final payment amount could also change depending on how many Approved Claims are submitted. It is anticipated that **each Class Member will be eligible for a minimum payment of at least \$625.00. To receive a payment, you must submit a claim by [DATE]**. You can submit your claim online at the Settlement Website or mail it to the Settlement Administrator. Please see below for further instructions.

- 2) **Exclude Yourself:** You may exclude yourself from the Settlement. If you choose this option, you will not receive a payment from the Settlement, but you will keep your right to hire your own lawyers and bring a separate lawsuit against the Defendants at your own expense if you want to do so. Your request to exclude yourself must be submitted by mail no later than **[DATE]**. You must follow the process described in section 8 below. If the Settlement is approved and you do not exclude yourself, you will be bound by the Settlement and will release certain claims as described below.
- 3) **Object:** You may object to the Settlement. The deadline for objecting to the Settlement is **[DATE]**. All objections must be mailed to the Parties' lawyers and the Settlement Administrator. See Part 7 below for details.
- 4) **Do Nothing:** If you do nothing, you will remain a member of the Settlement Class but you will not receive any payment and will still be bound by the release of claims against the Defendants.

NOTE: This Notice is just a summary. The Settlement Class Members' rights and options under the Settlement—and the deadlines to exercise them—are explained in the Settlement Agreement and summarized below.

PLEASE DO NOT CALL OR WRITE THE COURT, THE COURT CLERK'S OFFICE, THE DEFENDANTS, OR THE DEFENDANTS' ATTORNEYS. THEY WILL NOT BE ABLE TO ASSIST YOU. If you have questions, or if you'd like more information, please visit www.careerbuilderssettlement.com or call the lawyers representing the Class at (312) 893-7002.

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1. Who's part of the Settlement?

The Court has preliminarily certified a "Settlement Class" defined to include the following people:

All individuals who: (1) were employed as an Account Executive, Senior Account Executive, Major Account Executive, National Account Executive, or Key Account Executive; (2) were compensated at least in part under either of CareerBuilder's "Revenue Rep" plans dated January 1, 2018 and/or August 1, 2018; and (3) closed a sale of a contract, product, or service before March 1, 2019 that generated revenue on or after March 1, 2019.

The Settlement Class excludes the Defendants; the Court and staff to whom the lawsuit is assigned, and any immediate family members of the Court or its staff; and any persons who elected to exclude themselves pursuant to and in compliance with the Settlement Agreement.

The Circuit Court for Cook County, Illinois (Judge Thaddeus L. Wilson) has conditionally certified the Settlement Class for the purpose of facilitating the Settlement.

If you are not sure whether you are in the Settlement Class, or have any other questions about the Settlement, call the lawyers appointed to represent the Settlement class at (312) 893-7002 or visit the Settlement Website at www.careerbuildersettlement.com.

2. What is this lawsuit about?

The lawsuit, filed in 2019, involves claims that the Defendants implemented a new compensation plan in early 2019 under which they unlawfully reduced and then later eliminated commissions they owed to their sales representatives for sales those employees had already made. As alleged in the case, the Class Members were paid commissions of 4% or 2% on revenue generated from the sale of most CareerBuilder products and services. The lawsuit further alleges that, in March 2019, the Defendants implemented a new plan under which the affected sales representatives would receive as little as 0% – .25% in commissions. The lawsuit also alleges that, in July 2019, the Defendants announced that they would not pay any commissions for revenue from sales made under prior plans.

There are multiple claims asserted in the lawsuit, including claims for: (I) common law breach of contract; (II) common law breach of implied contract; (III) common law unjust enrichment; (IV) violation of the Illinois Sales Representative Act, 820 ILCS 120/1, *et seq.*; and (V) violation of the Illinois Wage and Payment Collection Act, 820 ILCS 115/1, *et seq.* The full complaint filed in the lawsuit is posted at www.careerbuildersettlement.com and contains all of the allegations.

The Defendants deny Plaintiff's allegations about the compensation plan changes and deny that they have violated the law. Neither the Court nor a jury have considered or decided the merits of the allegations in the lawsuit. The Parties have negotiated and entered into the proposed Settlement to avoid the risk, uncertain outcome, expense and distraction of continued litigation.

3. Who represents me?

In a class action, one or more people called “class representatives” sue on behalf of other people who have the same or similar claims. In this case, the Plaintiff, Benjamin Fongers, sued CareerBuilder and Apollo and sought to represent other employees who could have similar claims against the Defendants. The Court has appointed Plaintiff for settlement purposes to be the Class Representative for all Settlement Class Members in the case.

The Court has also appointed the law firm McGuire Law, P.C. as Class Counsel to represent the Settlement Class members. If you want to be represented by your own lawyer, you may hire one at your own expense.

4. What benefits can I receive from the Settlement?

The Defendants have agreed to pay up to \$3,787,500.00 into a Settlement Fund to be distributed to Class Members after deductions for the fees and costs associated with the Settlement. In order to be eligible to receive a payment from the Settlement Fund, Settlement Class Members must timely submit a valid and complete Claim.

The exact amount each Class Member is eligible to receive varies based on individual circumstances such as the amount of their commissions, revenue bonuses, and claimed losses. It is anticipated that each Class Member will be eligible for a minimum payment of at least \$625.00, but the final amount could change depending on how many Approved Claims are submitted.

The Settlement Administrator, working with the Parties, has developed a damages model to calculate the amounts of individual Class Member payments based on the factors stated above. You can confirm the amount you are eligible to receive online at the Settlement Website, www.careerbuildersettlement.com.

If you timely submit a valid and complete Claim Form that is approved for payment by the Settlement Administrator, your settlement payment will be paid by check mailed to you. Claims will only be paid after the Court grants final approval of the Settlement and after any appeals are resolved. If there are appeals, resolving them can take time. Please be patient.

5. How do I make a Claim to get a Payment?

To qualify for a payment from the Settlement, you must be a Settlement Class Member and submit a Claim Form by the Claims Deadline, which is [DATE]. You may submit your Claim online at the Settlement Website. The Settlement Administrator has also mailed the Class Members hard copies of Claim Forms, which can be mailed to the Settlement Administrator. Claim Forms must be postmarked or submitted online on or before [[DATE]]. Failure to provide complete and accurate information could result in a denial of your claim.

6. Do I have to pay the lawyers representing me?

No. The Court has appointed attorneys from McGuire Law P.C. in Chicago, Illinois to serve as Class Counsel to represent the members of the Settlement Class. If you want to be represented by a different lawyer, you may hire one at your own expense.

To date, Class Counsel have not received any payment for their services in litigating the case on behalf of the Class Representative and the Settlement Class, nor have Class Counsel been reimbursed for their costs and expenses directly relating to their representation of the Settlement Class. Prior to final approval of the Settlement, Class Counsel will ask the court for an award of attorneys' fees and litigation expenses for investigating the facts, litigating the case, and negotiating the Settlement. This award is subject to court approval and can be up to 33% of the settlement fund, or \$1,262,500 plus reimbursable costs and litigation expenses.

Class Counsel's contact information is as follows:

Myles McGuire
Paul T. Geske
Brendan Duffner
MCGUIRE LAW, P.C.
55 West Wacker Drive, 9th Fl.
Chicago, Illinois 60601
mmcguire@mcgpc.com
pgeske@mcgpc.com
bduffner@mcgpc.com
Tel: (312) 893-7002

Class Counsel may also request that an Incentive Award of up to \$15,000 be awarded to the Class Representative in recognition of his service to the Settlement Class. The amount of any fee or service award will be subject to approval by the court.

7. What am I agreeing to by remaining in the Settlement Class in this case?

If you are a member of the Settlement Class, and you choose to remain in the Settlement Class (i.e. you do not exclude yourself), then you will be eligible to submit a Claim to receive a payment from the \$3,787,500.00 Settlement Fund as described above. Settlement Class Members will also be bound by the release of claims in the Settlement. This means that if the Settlement is finally approved, Settlement Class Members cannot sue, continue to sue, or be part of any lawsuit against the Defendants for claims made in the lawsuit that led to the Settlement.

The released claims include all claims that were or could have been asserted in the Litigation, regardless of whether those claims are known or unknown, filed or unfiled, asserted or as yet unasserted, existing or contingent, and specifically include any claims for bonuses, incentive compensation, and/or commissions during employment with CareerBuilder.

8. What if I don't agree with the Settlement?

If you are a member of the Settlement Class, and have not excluded yourself from the Settlement, you may object to the Settlement or any part of the Settlement if you think there are legal reasons why the court should reject it. If you object, the court will consider your views. To object, you must file your objection with the Court and serve a copy to the Settlement Administrator and the lawyers for both the Settlement Class and the Defendants. Your objection must clearly state the following information:

- a) The case name and case number of this Litigation (*Fongers v. CareerBuilder, LLC, et al.*, No. 2019-CH-12804 (Ill. Cir. Ct. Cook Cnty.)).
- b) Your full name, current address, email address and phone number;
- c) The reasons why you object to the Settlement along with any supporting materials;
- d) Information about all other objections you or your lawyer(s) have made in other class action cases in state or federal courts, including the name of the case, case number, the court in which the objection was filed, and the outcome of the objection; and
- e) Your signature.

Your objection must be filed and postmarked no later than [date]. Objections must be mailed to:

The Settlement Administrator

[Address]

Plaintiff's Counsel

Paul Geske
MCGUIRE LAW, P.C.
55 W. Wacker Drive, 9th Fl.
Chicago, IL 60601

CareerBuilder's Counsel

Andrew Scroggins
SEYFARTH SHAW, LLP
233 South Wacker Dr., Suite 8000
Chicago, IL 60606

Apollo's Counsel

Kevin B. Duff
Rachlis Duff & Peel, LLC
542 S. Dearborn Street, Suite 900
Chicago, IL 60605

9. Can I exclude myself from the Settlement Class?

If you do not want a payment and do not want to be legally bound by the terms of the Settlement, you must exclude yourself from the Settlement. If you do so, you will not be eligible to receive any payments as a result of this Settlement. However, you will retain the right to sue or continue to sue the Defendants on your own and at your own expense if you wish to pursue any of the claims being released as part of this Settlement.

To exclude yourself from the Settlement Class, you must submit a timely and valid “Opt-Out Request” to the Settlement Administrator in writing. To be valid, the request must include:

- a) The case name and case number of this Litigation (*Fongers v. CareerBuilder, LLC, et al.*, No. 2019-CH-12804 (Ill. Cir. Ct. Cook Cnty.)).
- b) Your full name, current mailing address, email address, and phone number;
- c) A statement that you wish to exclude yourself from the Settlement Class; and
- d) Your signature.

To be considered timely, you must submit your fully completed Opt-Out Request to the following address postmarked no later than [date].

Settlement Administrator: [address]

REQUESTS FOR EXCLUSION FROM THE CLASS THAT ARE NOT POSTMARKED ON OR BEFORE [date] WILL NOT BE HONORED.

You cannot exclude yourself from the Settlement Class by telephone, email, or on the Settlement Website. You cannot exclude yourself by mailing a request to any other location or after the deadline above. Your request for exclusion must be signed by you, and you cannot request exclusion on behalf of others.

10. What is the difference between objecting and asking to be excluded?

Objecting is telling the Court the legal reasons why you do not like something about the Settlement. You can object to the Settlement only if you are a Settlement Class Member and you do not exclude yourself.

Excluding yourself is telling the court that you do not want to be part of the Settlement. If you exclude yourself, you cannot object to the Settlement because it no longer affects you.

11. What if I do nothing at all?

If you are a Settlement Class Member and do nothing in response to this notice, you will remain a member of the Settlement Class and release your claims against the Defendants. However, you will not be eligible to receive an individual payment. **You must submit a claim to receive a payment from this Settlement.** See Part 4 above.

12. When will the court finally rule on the Settlement?

The Court will hold a final approval hearing to decide whether to grant final approval to the Settlement and any requests for fees, expenses, and an Incentive Award. The final approval hearing is currently set for [date] at [time] in Courtroom 2307 of the Chancery Division of the Circuit Court of Cook County, Illinois, Richard J. Daley Center, 50 W. Washington St., Chicago, Illinois 60602. The hearing may be

moved to a different date or time without additional notice, so you should check the Settlement Website and the court's docket for updates.

At the final approval hearing, the court will consider whether the Settlement is fair, reasonable, and adequate. The court will also consider the request by Class Counsel for attorneys' fees and expenses and for the Class Representative's incentive award. If there are any objections, the court will consider them at the final approval hearing as well. After the hearing, the court will decide whether to finally approve the settlement. We do not know how long that decision may take.

You may attend the hearing, at your own expense, but you do not have to do so. If you wish to ask the Court for permission to speak at the hearing, you must send a "Notice of Intent to Appear" letter to the Court and to Settlement Class Counsel and Defendants' Counsel saying that you intend to appear and wish to be heard. Your Notice of Intent to Appear must include the following:

- a) The case name and case number of this litigation (*Fongers v. CareerBuilder, LLC, et al.*, No. 2019-CH-12804 (Ill. Cir. Ct. Cook Cnty.)).
- b) Your full name, current address, email address, and phone number;
- c) A statement that this is your "Notice of Intent to Appear" at the final approval hearing in this case;
- d) Copies of any papers, exhibits, or other evidence or information that you will present to the court;
- e) The reasons you want to be heard; and
- f) Your signature.

You must send copies of your Notice of Intent to Appear, postmarked by [date], to:

Clerk of the Circuit Court
Richard J. Daley Center
50 W. Washington St.
Chicago, Illinois 60602

Plaintiff's Counsel

Paul Geske
McGUIRE LAW, P.C.
55 W. Wacker Drive, 9th Fl.
Chicago, IL 60601

CareerBuilder's Counsel

Andrew Scroggins
SEYFARTH SHAW, LLP
233 South Wacker Dr., Suite 8000
Chicago, IL 60606

Apollo's Counsel

Kevin B. Duff
Rachlis Duff & Peel, LLC
542 S. Dearborn Street, Suite 900
Chicago, IL 60605

Note: You cannot object or speak at the hearing if you exclude yourself from the Settlement.

13. Does this Notice contain the entire Settlement Agreement?

No. This is only a summary of the Settlement. If the Settlement is approved and you do not exclude yourself from the Settlement Class, you will be bound by the terms and the release contained in the Settlement Agreement, and not just by the terms of this Notice. You can view the full Settlement Agreement online at www.careerbuilderssettlement.com, or you can call Class Counsel for more information.

14. Where can I get more information?

For more information, visit www.careerbuilderssettlement.com or call class counsel at (312) 893-7002.

NOTE: PLEASE DO NOT CALL OR WRITE THE COURT, THE COURT CLERK'S OFFICE, THE DEFENDANTS, OR THE DEFENDANTS' COUNSEL. THEY WILL NOT BE ABLE TO ASSIST YOU.

Exhibit 6

**CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

BENJAMIN D. FONGERS, individually and)
on behalf of similarly situated individuals,)

Plaintiff,)

v.)

CAREERBUILDER, LLC, a Delaware)
limited liability company, APOLLO)
GLOBAL MANAGEMENT, INC., a)
Delaware corporation,)

Defendants.)

No. 2019-CH-12804

Hon. Thaddeus L. Wilson

[PROPOSED] PRELIMINARY APPROVAL ORDER

This matter having come before the Court for consideration of Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement ("Motion"), the Court having considered and reviewed Plaintiff's Motion, the Parties' class action Settlement Agreement, and all other papers that have been filed with the Court related to the Settlement Agreement, including all exhibits and attachments to the Motion and the Settlement Agreement,

IT IS HEREBY ORDERED:

1. Unless stated otherwise, all capitalized terms used in this Order shall be defined and interpreted in accordance with the definitions in the Parties' Settlement Agreement.
2. The Parties have applied to the Court for preliminary approval of the proposed Settlement, the terms of which are set forth in the Settlement Agreement, and have provided the Court with sufficient information to enable it to determine whether to certify the Settlement Class and order that notice be given to the Settlement Class Members.
3. Subject to further consideration by the Court at the time of final approval, the Court

preliminarily approves the Parties' Settlement as falling within the range of possible final approval and as meriting notice to the Settlement Class Members for their consideration.

4. For settlement purposes only, pursuant to Section 2-801 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-801, the Court hereby preliminarily certifies the Settlement Class defined as:

All individuals who (1) were employed by CareerBuilder as an Account Executive, Senior Account Executive, Major Account Executive, National Account Executive, or Key Account Executive; (2) were compensated at least in part under either of CareerBuilder's "Revenue Rep" plans dated January 1, 2018 and/or August 1, 2018; and (3) closed a sale of a contract, product, or service before March 1, 2019 that generated revenue on or after March 1, 2019.

5. For settlement purposes only, the Court preliminarily finds that the Parties' Settlement Agreement and the proposed Settlement Class satisfy all of the prerequisites to maintenance of a class action listed in Section 2-801, namely:

- A. The Settlement Class Members are so numerous that joinder of all of them is impracticable;
- B. There are questions of law and fact common to the Settlement Class Members, which predominate over any questions affecting only individual members;
- C. The Plaintiff and Class Counsel have fairly and adequately represented and protected the interests of all of the Settlement Class Members; and
- D. Class treatment is an appropriate method for the fair and efficient adjudication of the controversy in the Litigation.

6. The Court further finds, preliminarily and for settlement purposes only, that the Settlement was negotiated in good faith and the relief provided for the Settlement Class Members under the Settlement Agreement is fair, reasonable, and adequate. In particular, Plaintiff and Class

Counsel have adequately and capably represented the Settlement Class; the Settlement Agreement was negotiated at arms-length between the Parties and only reached following multiple mediations before an experienced mediator, the Hon. James R. Epstein (Ret.) of JAMS Chicago; the monetary relief provided for the Settlement Class constitutes adequate compensation; and the Settlement Agreement treats Settlement Class Members equitably relative to each other.

7. The Court appoints Plaintiff Benjamin Fongers as Class Representative of the Settlement Class, and the following counsel are appointed as Class Counsel:

Myles McGuire
Paul T. Geske
Brendan Duffner
MCGUIRE LAW, P.C.
55 W. Wacker Drive, 9th Fl.
Chicago, IL 60601

8. The Court finds that Plaintiff and Class Counsel have and will continue to fairly and adequately represent and protect the interests of the members of the Settlement Class in accordance with Section 2-801(3).

9. The Court approves, in form and content, the plan for notifying the Settlement Class as set forth in the Settlement Agreement and its attendant Exhibits and finds that the Notice provides the best notice practicable under the circumstances of this Settlement. The Court further finds that the Parties' proposed Notice satisfies Due Process, such that the Settlement Agreement will be binding on all Settlement Class Members upon final approval. The Court finds that the proposed Notice is clearly designed to advise the Class Members of their rights.

10. No notice other than that specifically identified in the Settlement Agreement and its attendant Exhibits is necessary in this action. The Parties, by agreement, may revise the Notices and Claim Form in ways that are not material, or in ways that are appropriate to update the documents for purposes of accuracy, readability, or formatting.

11. The Court approves the establishment of the Settlement's \$3,787,500.00 Settlement Fund, which shall be funded and administered as a Qualified Settlement Fund in accordance with Treasury Regulation § 1.468B-1, 26 C.F.R. § 1.468B-1 and the terms of the Settlement Agreement.

12. [SETTLEMENT ADMINISTRATOR] is hereby appointed Settlement Administrator to supervise and administer the notice process, as well as to oversee the claims submission process and administration of the Settlement, as more fully described in the Settlement Agreement. The Settlement Administrator shall proceed with the distribution of class notice, as set forth in the Settlement Agreement and its attendant exhibits.

13. The Settlement Administrator shall effectuate Notice to the Settlement Class in accordance with the Settlement Agreement and its attendant Exhibits. The Settlement Administrator shall begin disseminating Notice no later than [DATE] (30 days from entry of this Order), provided, however, that the Parties may agree to issue Notice at a later date if needed for scheduling and logistical considerations.

14. Settlement Class Members who wish to receive benefits under the Settlement Agreement must timely submit a valid and completed Claim Form in accordance with the instructions provided in the Notices, on or before the Claims Deadline under the Settlement Agreement (90 days after dissemination of Notice). Any Settlement Class Member who does not timely submit a Claim Form deemed to be complete and valid in accordance with the Settlement Agreement shall not be entitled to receive any monetary benefit under the Settlement. The Court hereby approves as to form and content the Claim Form attached to the Settlement Agreement.

15. Any person who would otherwise be a Settlement Class Member may request to be excluded (or "opt-out") from the Settlement Class. In order to exercise the right to be excluded, a person within the Settlement Class must timely send a written request for exclusion to the

Settlement Administrator, providing his or her name and address, email address, telephone number, signature, the name and number of this case, and a statement that he or she wishes to be excluded from the Settlement Class. Any request for exclusion submitted via U.S. mail must be personally signed by the person requesting exclusion. Such exclusion requests must be sent to the Settlement Administrator at the address specified in the Notice, by first class mail, postage prepaid, and postmarked no later than the Opt-Out & Objection Deadline under the Settlement Agreement (90 days after dissemination of Notice), and received by the Settlement Administrator within five (5) business days after the Opt-Out & Objection Deadline.

16. No person within the Settlement Class, or any person acting on behalf of, in concert with, or in participation with that person within the Settlement Class, may request exclusion from the Settlement Class on behalf of another.

17. Settlement Class Members shall be bound by all determinations and orders pertaining to the Settlement, including the release of all claims to the extent set forth in the Settlement Agreement, whether favorable or unfavorable, unless such persons request exclusion from the Settlement Class in a timely and proper manner, as provided herein and in the Settlement Agreement. Settlement Class Members who do not timely and validly request exclusion shall be so bound even if they have previously initiated or subsequently initiate litigation or other proceedings against Defendant or the Releasees relating to the claims released under the terms of the Settlement Agreement.

18. Any person in the Settlement Class who elects to be excluded shall not: (i) be bound any final approval order; (ii) be entitled to relief under the Settlement Agreement; (iii) gain any rights by virtue of the Settlement Agreement; or (iv) be entitled to object to any aspect of the Settlement Agreement.

19. Class Counsel may file a motion seeking an award of reasonable attorneys' fees of up to 33% of the Settlement Fund plus reimbursable costs and litigation expenses, as well as an Incentive Award for the Class Representative, no later than , 2022 (14 days prior to the Claims Deadline).

20. Any Settlement Class Member who has not requested exclusion from the Settlement Class and who wishes to object to any aspect of the Settlement Agreement, including to the payment of an Incentive Award for the Class Representative or to the amount of the attorneys' fees, costs, and litigation expenses that Class Counsel intends to seek, may do so, either personally or through an attorney, by filing a written objection with the Court, together with the supporting information set forth below in paragraph 21 of this Order, and serving such objection upon Class Counsel, Defendant's Counsel, and the Settlement Administrator no later than the Opt-Out & Objection Deadline under the Settlement Agreement (90 days after dissemination of Notice). Addresses for service are as follows:

Class Counsel

Paul T. Geske
Brendan Duffner
MCGUIRE LAW, P.C.
55 W. Wacker Drive, 9th Floor
Chicago, IL 60601

CareerBuilder's Counsel

Noah Finkel
Andrew Scroggins
SEYFARTH SHAW, LLP,
233 South Wacker Dr., Suite 8000,
Chicago, IL 60606

Settlement Administrator

XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXX

Apollo's Counsel

Kevin Duff
RACHLIS, DUFF & PEEL, LLC,
542 S. Dearborn St., Suite 900,
Chicago, Illinois 60605

Clerk of Court

Clerk of the Circuit Court of Cook County
Chancery Division
50 W. Washington Street, #802
Chicago, IL 60602

Jonathan Rosenberg
Andrew Bednark
O'MELVENY & MYERS, LLP,
7 Times Square,
New York City, NY 10036

21. Any Settlement Class Member who has not requested exclusion and who intends to object to the Settlement must state, with specificity and in writing, all objections and the basis for any such objection(s), and must also state in writing: (i) his or her full name, address, email address, and telephone number; (ii) the case name and number of this Litigation; (iii) all grounds for the objection, with factual and legal support for the stated objection, including any supporting materials; (iv) proof of standing; (v) the identification of any other objections he or she has filed, or has had filed on his or her behalf, in any other class action cases in the last five years (including, for each case, the name of the case, the case number, the court in which the objection was filed, and the outcome of the objection); and (vi) the objector's signature. Objections not filed and served in accordance with this Order shall not be received or considered by the Court. Any Settlement Class Member who fails to timely file and serve a written objection in accordance with this Order shall be deemed to have waived, and shall be forever foreclosed from raising, any objection to the Settlement, to the fairness, reasonableness, or adequacy of the Settlement, to an award of attorneys' fees, costs, and litigation expenses, to the payment of any Incentive Award, and to the entry of a final approval order and the right to appeal the same.

22. A Settlement Class Member who has not requested exclusion from the Settlement Class and who has properly submitted a written objection in compliance with this Order may appear at the final approval hearing in person or through counsel to show cause why the proposed Settlement should not be approved as fair, reasonable, and adequate. Attendance at the hearing is not necessary; however, persons wishing to be heard orally in opposition to the approval of the Settlement and/or Class Counsel's requested attorneys' fee award and/or the request for an Incentive Award to the Class Representative are required to indicate in their written objection their intention to appear at the final approval hearing on their own behalf or through counsel. For any

Settlement Class Member who files a timely written objection and who indicates his or her intention to appear at the final approval hearing on their own behalf or through counsel, such Settlement Class Member must also include in his or her written objection the identity of any witnesses he or she may call to testify, and all exhibits he or she intends to introduce into evidence at the final approval hearing, which shall be attached.

23. No Settlement Class Member shall be entitled to be heard, and no objection shall be considered, unless the requirements set forth in this Order and in the Settlement Agreement are fully satisfied. Any Settlement Class Member who does not make his or her objection to the Settlement in the manner provided herein, or who does not also timely provide copies to the designated counsel of record for the Parties at the addresses set forth herein, shall be deemed to have waived any such objection and any right to challenge the Settlement by appeal, collateral attack, or otherwise, and shall be bound by the Settlement Agreement, the releases contained therein, and all aspects of the Final Approval Order.

24. All papers in support of final approval of the Settlement shall be filed no later than fourteen (14) days before the final approval hearing.

25. Pending final approval of the proposed Settlement, no Settlement Class Member may prosecute, initiate, commence, or continue any lawsuit (individual or class action) with respect to the released claims against Defendant or any of the other releasees.

26. The final approval hearing shall be held before the Court on , 2022 in Courtroom 2307 of the Chancery Division of the Circuit Court of Cook County, Illinois, Richard J. Daley Center, 50 W. Washington St., Chicago, Illinois 60602 (or via remote means as needed) for the following purposes:

- a) to finally determine whether the applicable prerequisites for settlement class

action treatment under 735 ILCS 5/2-801 have been met;

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

c) to determine whether the judgment as provided under the Settlement Agreement should be entered, including an order prohibiting Settlement Class Members from further pursuing claims released in the Settlement Agreement;

d) to consider any motion for an award of attorneys' fees, costs, and litigation expenses by Class Counsel;

e) to consider the request for an Incentive Award to the Class Representative;

f) to consider the distribution of the Settlement Fund pursuant to the Settlement Agreement; and

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

27. The final approval hearing may be postponed, adjourned, transferred, or continued by order of the Court without further notice to the Settlement Class. At or following the final approval hearing, the Court may enter a judgment approving the Settlement Agreement and a final approval order in accordance with the Settlement Agreement that adjudicates the rights of all Settlement Class Members.

28. Settlement Class Members do not need to appear at the Final Approval Hearing or take any other action to indicate their approval.

29. All discovery and other proceedings in the Litigation as between Plaintiff and Defendant are stayed and suspended until further order of Court except such actions as may be necessary to implement the Settlement Agreement and this Order.

30. For clarity, the deadlines set forth above and in the Settlement Agreement are as

follows:

Notice to be issued by: _____, **2022** (30 days from entry of this Order)

Claims Deadline: _____, **2022** (90 days from issuance of Notice)

**Opt-Out & Objection
Deadline:** _____, **2022** (90 days from issuance of Notice)

**Class Counsel's Fee
Motion:** _____, **2022** (14 days prior to the Claims Deadline)

**Final Approval
Submissions Due:** _____, **2022** (14 days prior to the final approval hearing)

Final Approval Hearing: _____, **2022** at _____

IT IS SO ORDERED.

ENTERED: _____

Hon. Thaddeus L. Wilson

Exhibit 7

**CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

BENJAMIN D. FONGERS, individually and)
on behalf of similarly situated individuals,)

Plaintiff,)

v.)

CAREERBUILDER, LLC, a Delaware)
limited liability company, APOLLO)
GLOBAL MANAGEMENT, INC., a)
Delaware corporation,)

Defendants.)

No. 2019-CH-12804

Hon. Thaddeus L. Wilson

[PROPOSED] FINAL ORDER AND JUDGMENT

This matter having come before the Court for consideration of Plaintiff's Unopposed Motion for Final Approval of Class Action Settlement and Unopposed Motion for Approval of Attorneys' Fees, Litigation Expenses, and Incentive Award, due and adequate notice having been given to all Parties and the Settlement Class Members, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED, and DECREED:

1. Unless stated otherwise, all capitalized terms used in this Final Order and Judgment shall be defined and interpreted in accordance with the definitions in the Parties' Settlement Agreement.

2. The Court has read and considered the papers filed in support of Plaintiff's Motions, including all exhibits thereto and supporting declarations. The Parties have provided the Court with sufficient information to enable it to determine whether to certify the Settlement Class and finally approve the Settlement.

3. The Court finds that it has jurisdiction over the subject matter of the Litigation and all claims raised therein, and has personal jurisdiction over all Parties to the Litigation, including all Settlement Class Members.

4. The Court preliminarily approved the Parties' Settlement Agreement in its Preliminary Approval Order dated [REDACTED], 2022. Pursuant to 735 ILCS 5/2-801, the Court's Preliminary Approval Order, and the plan for Notice outlined in the Settlement Agreement, the Settlement Class Members were notified of the terms of the proposed Settlement and of a final approval hearing to determine, *inter alia*, whether the terms and conditions of the Settlement Agreement are fair, reasonable, and adequate for the release and dismissal of the released claims against the releasees.

5. The Court held a final approval hearing on [REDACTED], 2022, at which time the Parties and all other interested persons were afforded the opportunity to be heard in support of or in opposition to the Settlement. Settlement Class members were notified of their right to retain an attorney and appear at the hearing in support of or in opposition to the proposed Settlement.

6. Pursuant to 735 ILCS 5/2-801, and solely for purposes of settlement, the Court confirms and finally approves certification of the following Settlement Class:

All individuals who (1) were employed by CareerBuilder as an Account Executive, Senior Account Executive, Major Account Executive, National Account Executive, or Key Account Executive; (2) were compensated at least in part under either of CareerBuilder's "Revenue Rep" plans dated January 1, 2018 and/or August 1, 2018; and (3) closed a sale of a contract, product, or service before March 1, 2019 that generated revenue on or after March 1, 2019.

7. Based on the papers filed with the Court and the presentations made to the Court by the Parties and other interested persons at the final approval hearing, and pursuant to 735 ILCS 5/2-801, the Court now grants final approval to the Settlement and finds that the Settlement Agreement is fair, reasonable, adequate, and in the best interests of the Settlement Class Members,

because: Plaintiff and Class Counsel have adequately and capably represented the Settlement Class; the Settlement Agreement was negotiated at arms-length between the Parties and only reached following multiple mediation sessions before an experienced mediator, the Hon. James R. Epstein (Ret.) of JAMS Chicago; the Settlement's \$3,787,500.00 Settlement Fund and the monetary relief provided for the Settlement Class Members constitutes adequate compensation, taking into account the risks that both sides faced with respect to the merits of the claims alleged and remedies requested, the costs, risks, and delay of trial and appeal, the hurdles involved in maintaining a class action, and the expense and duration of further litigation; and the Settlement Agreement treats Settlement Class Members equitably relative to each other.

8. For settlement purposes only, the Court confirms the appointment of Plaintiff Benjamin Fongers as Class Representative of the Settlement Class and the following counsel as Class Counsel:

Myles McGuire
Paul T. Geske
Brendan Duffner
McGuire Law, P.C.
55 W. Wacker Drive, 9th Floor
Chicago, IL 60601

9. With respect to the Settlement Class, the Court finds, for settlement purposes only, that the prerequisites to certification listed in 735 ILCS 5/2-801 are satisfied, namely:

- A. Subsection 2-801(1) is satisfied because the Settlement Class is so numerous that joinder would be impracticable;
- B. Subsection 2-801(2) is satisfied because there are questions of fact or law common to the class, and those common questions predominate over any questions affecting only individual members;
- C. Subsection 2-801(3) is satisfied because Plaintiff and Class Counsel have

capably and adequately represented the Settlement Class Members and their interests are not antagonistic to those of the Settlement Class; and

- D. Subsection 2-801(4) is satisfied because a class action is an appropriate method for the fair and efficient adjudication of the controversy in this Litigation.

10. The Court finds that adequate notice was given to all Settlement Class Members pursuant to the terms of the Parties' Settlement Agreement and the Preliminary Approval Order. The Court has further determined that the Notices fully and accurately informed Settlement Class Members of all material elements of the Settlement, constituted the best notice practicable under the circumstances, and fully satisfied the requirements of the Due Process Clause of the United States Constitution.

11. The Court orders the Parties to the Settlement Agreement to perform their obligations thereunder. The terms of the Settlement Agreement shall be deemed incorporated herein as if explicitly stated and shall have the full force of an order of this Court.

12. The Court enters judgment and dismisses the Litigation with prejudice, with each Party to bear its own fees and costs (except as otherwise provided herein and in the Settlement Agreement) as to Plaintiff's and all Settlement Class Members' claims against Defendants. The Court adjudges that the released claims described in the Settlement Agreement are released against the releasees.

13. The Court adjudges that Plaintiff and all Settlement Class Members who have not opted out of the Settlement Class shall be deemed to have fully, finally, and forever released, relinquished, and discharged all released claims against the releasees.

14. The Court further adjudges that, upon entry of this Order, the Settlement

Agreement and the above-referenced release will be binding on, and have preclusive effect in, all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiff and all other Settlement Class Members who did not validly and timely opt out of the Settlement, and their respective affiliates, assigns, heirs, executors, administrators, successors, agents, and insurers, as set forth in the Settlement Agreement. The releasees may file the Settlement Agreement and/or this Final Order and Judgment in any action or proceeding that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

15. Plaintiff and Settlement Class Members who did not validly and timely request exclusion from the Settlement are permanently barred and enjoined from asserting, commencing, prosecuting, or continuing any of the released claims described in the Settlement Agreement against any of the releasees.

16. The Court approves an award of attorneys' fees, costs, and litigation expenses to Class Counsel in the amount of \$_____. This amount shall be paid from the Settlement Fund in accordance with the terms of the Settlement Agreement. The Court, having considered the materials submitted by Class Counsel in support of final approval of the Settlement and their request for an award of attorneys' fees, costs, and litigation expenses and in response to any timely filed objections thereto, finds the requested award appropriate and reasonable for the following reasons: First, the Court finds that the Settlement provides substantial benefits to the Settlement Class. Second, the Court finds the amount fair and reasonable in light of the substantial work performed by Class Counsel. Third, the Court concludes that the Settlement was negotiated at arms-length without collusion, and that the negotiation of the attorneys' fees only followed

agreement on the settlement benefits for the Settlement Class Members. Finally, the Court notes that the Settlement Notices specifically and clearly advised the Settlement Class Members that Class Counsel would seek an award in the amount sought.

17. The Court approves payment of an Incentive Award in the amount of \$_____ for the Class Representative, and specifically finds such amount to be reasonable in light of the services performed by Plaintiff for the Settlement Class, including taking on the risks of litigation and helping achieve the compensation made available to the Settlement Class. This amount shall be paid from the Settlement Fund in accordance with the terms of the Settlement Agreement.

18. Neither this Final Order and Judgment, the Settlement Agreement, nor the payment of any consideration in connection with the Settlement shall be construed or used as an admission or concession by or against Defendants or any of the other releasees of any fault, omission, liability, or wrongdoing, or of the validity of any of the released claims. This Final Order and Judgment is not a finding as to the merits of any claims in this Litigation or a determination of any wrongdoing by Defendants or any of the other releasees. The final approval of the Settlement Agreement does not constitute any position, opinion, or determination of this Court as to the merits of the claims or defenses of the Parties or the Settlement Class Members.

19. Any outstanding objections to the Settlement Agreement are overruled and denied in all respects. The Court finds that no reason exists for delay in entering this Final Order and Judgment. Accordingly, the Clerk is directed to enter this Final Order and Judgment.

20. The Parties, without further approval from the Court, are permitted to agree to and adopt such amendments, modifications, and expansions of the Settlement Agreement and its implementing documents (including all exhibits to the Settlement Agreement) so long as they are consistent in all material respects with the Final Order and Judgment and do not limit the rights of

the Settlement Class Members.

IT IS SO ORDERED.

ENTERED: _____

Hon. Thaddeus L. Wilson

Exhibit B

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

BENJAMIN D. FONGERS, individually and)
on behalf of similarly situated individuals,)

Plaintiff,)

v.)

CAREERBUILDER, LLC, a Delaware)
limited liability company, APOLLO)
GLOBAL MANAGEMENT, INC., a)
Delaware corporation,)

Defendants.)

2019 CH 12804

Hon. Thaddeus L. Wilson

PRELIMINARY APPROVAL ORDER

This matter having come before the Court for consideration of Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement ("Motion"); the Court having considered and reviewed Plaintiff's Motion, the Parties' class action Settlement Agreement, and all other papers that have been filed with the Court related to the Settlement Agreement, including all exhibits and attachments to the Motion and the Settlement Agreement;

IT IS HEREBY ORDERED:

1. Unless stated otherwise, all capitalized terms used in this Order shall be defined and interpreted in accordance with the definitions in the Parties' Settlement Agreement.
2. The Parties have applied to the Court for preliminary approval of the proposed Settlement, the terms of which are set forth in the Settlement Agreement, and have provided the Court with sufficient information to enable it to determine whether to certify the Settlement Class and order that notice be given to the Settlement Class Members.
3. Subject to further consideration by the Court at the time of final approval, the Court

preliminarily approves the Parties' Settlement as falling within the range of possible final approval and as meriting notice to the Settlement Class Members for their consideration.

4. For settlement purposes only, pursuant to Section 2-801 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-801, the Court hereby preliminarily certifies the Settlement Class defined as:

All individuals who (1) were employed by CareerBuilder as an Account Executive, Senior Account Executive, Major Account Executive, National Account Executive, or Key Account Executive; (2) were compensated at least in part under either of CareerBuilder's "Revenue Rep" plans dated January 1, 2018 and/or August 1, 2018; and (3) closed a sale of a contract, product, or service before March 1, 2019 that generated revenue on or after March 1, 2019.

5. For settlement purposes only, the Court preliminarily finds that the Parties' Settlement Agreement and the proposed Settlement Class satisfy all of the prerequisites to maintenance of a class action listed in Section 2-801, namely:

- A. The Settlement Class Members are so numerous that joinder of all of them is impracticable;
- B. There are questions of law and fact common to the Settlement Class Members, which predominate over any questions affecting only individual members;
- C. The Plaintiff and Class Counsel have fairly and adequately represented and protected the interests of all of the Settlement Class Members; and
- D. Class treatment is an appropriate method for the fair and efficient adjudication of the controversy in the Litigation.

6. The Court further finds, preliminarily and for settlement purposes only, that the Settlement was negotiated in good faith and the relief provided for the Settlement Class Members under the Settlement Agreement is fair, reasonable, and adequate. In particular, Plaintiff and Class

Counsel have adequately and capably represented the Settlement Class; the Settlement Agreement was negotiated at arms-length between the Parties and only reached following multiple mediations before an experienced mediator, the Hon. James R. Epstein (Ret.) of JAMS Chicago; the monetary relief provided for the Settlement Class constitutes adequate compensation; and the Settlement Agreement treats Settlement Class Members equitably relative to each other.

7. The Court appoints Plaintiff Benjamin Fongers as Class Representative of the Settlement Class, and the following counsel are appointed as Class Counsel:

Myles McGuire
Paul T. Geske
Brendan Duffner
MCGUIRE LAW, P.C.
55 W. Wacker Drive, 9th Fl.
Chicago, IL 60601

8. The Court finds that Plaintiff and Class Counsel have and will continue to fairly and adequately represent and protect the interests of the members of the Settlement Class in accordance with Section 2-801(3).

9. The Court approves, in form and content, the plan for notifying the Settlement Class as set forth in the Settlement Agreement and its attendant Exhibits and finds that the Notice provides the best notice practicable under the circumstances of this Settlement. The Court further finds that the Parties' proposed Notice satisfies Due Process, such that the Settlement Agreement will be binding on all Settlement Class Members upon final approval. The Court finds that the proposed Notice is clearly designed to advise the Class Members of their rights.

10. No notice other than that specifically identified in the Settlement Agreement and its attendant Exhibits is necessary in this action. The Parties, by agreement, may revise the Notices and Claim Form in ways that are not material, or in ways that are appropriate to update the documents for purposes of accuracy, readability, or formatting.

11. The Court approves the establishment of the Settlement's \$3,787,500.00 Settlement Fund, which shall be funded and administered as a Qualified Settlement Fund in accordance with Treasury Regulation § 1.468B-1, 26 C.F.R. § 1.468B-1 and the terms of the Settlement Agreement.

12. Simpluris is hereby appointed Settlement Administrator to supervise and administer the notice process, as well as to oversee the claims submission process and administration of the Settlement, as more fully described in the Settlement Agreement. The Settlement Administrator shall proceed with the distribution of class notice, as set forth in the Settlement Agreement and its attendant exhibits.

13. The Settlement Administrator shall effectuate Notice to the Settlement Class in accordance with the Settlement Agreement and its attendant Exhibits. The Settlement Administrator shall begin disseminating Notice no later than July 7, 2022 (30 days from entry of this Order), provided, however, that the Parties may agree to issue Notice at a later date if needed for scheduling and logistical considerations.

14. Settlement Class Members who wish to receive benefits under the Settlement Agreement must timely submit a valid and completed Claim Form in accordance with the instructions provided in the Notices, on or before the Claims Deadline under the Settlement Agreement (90 days after dissemination of Notice or October 5, 2022). Any Settlement Class Member who does not timely submit a Claim Form deemed to be complete and valid in accordance with the Settlement Agreement shall not be entitled to receive any monetary benefit under the Settlement. The Court hereby approves as to form and content the Claim Form attached to the Settlement Agreement.

15. Any person who would otherwise be a Settlement Class Member may request to be excluded (or "opt-out") from the Settlement Class. In order to exercise the right to be excluded, a

person within the Settlement Class must timely send a written request for exclusion to the Settlement Administrator, providing his or her name and address, email address, telephone number, signature, the name and number of this case, and a statement that he or she wishes to be excluded from the Settlement Class. Any request for exclusion submitted via U.S. mail must be personally signed by the person requesting exclusion. Such exclusion requests must be sent to the Settlement Administrator at the address specified in the Notice, by first class mail, postage prepaid, and postmarked no later than the Opt-Out & Objection Deadline under the Settlement Agreement (90 days after dissemination of Notice or October 5, 2022), and received by the Settlement Administrator within five (5) business days after the Opt-Out & Objection Deadline.

16. No person within the Settlement Class, or any person acting on behalf of, in concert with, or in participation with that person within the Settlement Class, may request exclusion from the Settlement Class on behalf of another.

17. Settlement Class Members shall be bound by all determinations and orders pertaining to the Settlement, including the release of all claims to the extent set forth in the Settlement Agreement, whether favorable or unfavorable, unless such persons request exclusion from the Settlement Class in a timely and proper manner, as provided herein and in the Settlement Agreement. Settlement Class Members who do not timely and validly request exclusion shall be so bound even if they have previously initiated or subsequently initiate litigation or other proceedings against Defendant or the Releasees relating to the claims released under the terms of the Settlement Agreement.

18. Any person in the Settlement Class who elects to be excluded shall not: (i) be bound any final approval order; (ii) be entitled to relief under the Settlement Agreement; (iii) gain any rights by virtue of the Settlement Agreement; or (iv) be entitled to object to any aspect of the

Settlement Agreement.

19. Class Counsel may file a motion seeking an award of reasonable attorneys' fees of up to 33% of the Settlement Fund plus reimbursable costs and litigation expenses, as well as an Incentive Award for the Class Representative, no later than September 21, 2022 (14 days prior to the Claims Deadline).

20. Any Settlement Class Member who has not requested exclusion from the Settlement Class and who wishes to object to any aspect of the Settlement Agreement, including to the payment of an Incentive Award for the Class Representative or to the amount of the attorneys' fees, costs, and litigation expenses that Class Counsel intends to seek, may do so, either personally or through an attorney, by filing a written objection with the Court, together with the supporting information set forth below in paragraph 21 of this Order, and serving such objection upon Class Counsel, Defendant's Counsel, and the Settlement Administrator no later than the Opt-Out & Objection Deadline under the Settlement Agreement (90 days after dissemination of Notice). Addresses for service are as follows:

Class Counsel

Paul T. Geske
Brendan Duffner
MCGUIRE LAW, P.C.
55 W. Wacker Drive, 9th Floor
Chicago, IL 60601

Settlement Administrator

See Settlement Website for Address

Clerk of Court

Clerk of the Circuit Court of Cook County
Chancery Division
50 W. Washington Street, #802
Chicago, IL 60602

CareerBuilder's Counsel

Noah Finkel
Andrew Scroggins
SEYFARTH SHAW, LLP,
233 South Wacker Dr., Suite 8000,
Chicago, IL 60606

Apollo's Counsel

Kevin Duff
RACHLIS, DUFF & PEEL, LLC,
542 S. Dearborn St., Suite 900,
Chicago, Illinois 60605

Jonathan Rosenberg
Andrew Bednark
O'MELVENY & MYERS, LLP,

7 Times Square,
New York City, NY 10036

21. Any Settlement Class Member who has not requested exclusion and who intends to object to the Settlement must state, with specificity and in writing, all objections and the basis for any such objection(s), and must also state in writing: (i) his or her full name, address, email address, and telephone number; (ii) the case name and number of this Litigation; (iii) all grounds for the objection, with factual and legal support for the stated objection, including any supporting materials; (iv) proof of standing; (v) the identification of any other objections he or she has filed, or has had filed on his or her behalf, in any other class action cases in the last five years (including, for each case, the name of the case, the case number, the court in which the objection was filed, and the outcome of the objection); and (vi) the objector's signature. Objections not filed and served in accordance with this Order shall not be received or considered by the Court. Any Settlement Class Member who fails to timely file and serve a written objection in accordance with this Order shall be deemed to have waived, and shall be forever foreclosed from raising, any objection to the Settlement, to the fairness, reasonableness, or adequacy of the Settlement, to an award of attorneys' fees, costs, and litigation expenses, to the payment of any Incentive Award, and to the entry of a final approval order and the right to appeal the same.

22. A Settlement Class Member who has not requested exclusion from the Settlement Class and who has properly submitted a written objection in compliance with this Order may appear at the final approval hearing in person or through counsel to show cause why the proposed Settlement should not be approved as fair, reasonable, and adequate. Attendance at the hearing is not necessary; however, persons wishing to be heard orally in opposition to the approval of the Settlement and/or Class Counsel's requested attorneys' fee award and/or the request for an Incentive Award to the Class Representative are required to indicate in their written objection their

intention to appear at the final approval hearing on their own behalf or through counsel. For any Settlement Class Member who files a timely written objection and who indicates his or her intention to appear at the final approval hearing on their own behalf or through counsel, such Settlement Class Member must also include in his or her written objection the identity of any witnesses he or she may call to testify, and all exhibits he or she intends to introduce into evidence at the final approval hearing, which shall be attached.

23. No Settlement Class Member shall be entitled to be heard, and no objection shall be considered, unless the requirements set forth in this Order and in the Settlement Agreement are fully satisfied. Any Settlement Class Member who does not make his or her objection to the Settlement in the manner provided herein, or who does not also timely provide copies to the designated counsel of record for the Parties at the addresses set forth herein, shall be deemed to have waived any such objection and any right to challenge the Settlement by appeal, collateral attack, or otherwise, and shall be bound by the Settlement Agreement, the releases contained therein, and all aspects of the Final Approval Order.

24. All papers in support of final approval of the Settlement shall be filed no later than October 28, 2022.

25. Pending final approval of the proposed Settlement, no Settlement Class Member may prosecute, initiate, commence, or continue any lawsuit (individual or class action) with respect to the released claims against Defendant or any of the other releasees.

26. The final approval hearing shall be held before the Court on November 14, 2022 at 11:00 a.m. in Courtroom 2307 of the Chancery Division of the Circuit Court of Cook County, Illinois, Richard J. Daley Center, 50 W. Washington St., Chicago, Illinois 60602. The parties may either appear in person in Courtroom 2307 or appear remotely via Zoom, unless otherwise ordered

by the Court. [Zoom Meeting ID: 876 8729 8501 / Passcode" 926987]. The final approval hearing shall be held for the following purposes:

- a) to finally determine whether the applicable prerequisites for settlement class action treatment under 735 ILCS 5/2-801 have been met;
- b) to finally determine whether the Settlement is fair, reasonable, and adequate, and should be approved by the Court;
- c) to determine whether the judgment as provided under the Settlement Agreement should be entered, including an order prohibiting Settlement Class Members from further pursuing claims released in the Settlement Agreement;
- d) to consider any motion for an award of attorneys' fees, costs, and litigation expenses by Class Counsel;
- e) to consider the request for an Incentive Award to the Class Representative;
- f) to consider the distribution of the Settlement Fund pursuant to the Settlement Agreement; and
- g) to rule upon such other matters as the Court may deem appropriate.

27. The final approval hearing may be postponed, adjourned, transferred, or continued by order of the Court without further notice to the Settlement Class. At or following the final approval hearing, the Court may enter a judgment approving the Settlement Agreement and a final approval order in accordance with the Settlement Agreement that adjudicates the rights of all Settlement Class Members.

28. Settlement Class Members do not need to appear at the Final Approval Hearing or take any other action to indicate their approval.

29. All discovery and other proceedings in the Litigation as between Plaintiff and

Defendant are stayed and suspended until further order of Court except such actions as may be necessary to implement the Settlement Agreement and this Order.

30. For clarity, the deadlines set forth above and in the Settlement Agreement are as follows:

Notice to be issued by: **July 7, 2022** (30 days from entry of this Order)

Claims Deadline: **October 5, 2022** (90 days from issuance of Notice)

**Opt-Out & Objection
Deadline:** **October 5, 2022** (90 days from issuance of Notice)

**Class Counsel's Fee
Motion:** **September 21, 2022** (14 days prior to the Claims Deadline)

**Final Approval
Submissions Due:** **October 28, 2022**

Final Approval Hearing: **November 14, 2022 at 11:00 a.m.**

IT IS SO ORDERED.

ENTERED: June 7, 2022



Hon. Thaddeus L. Wilson

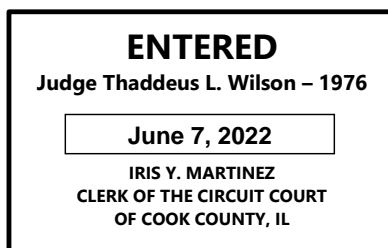


Exhibit C

**CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

BENJAMIN D. FONGERS, individually and)
on behalf of similarly situated individuals,)

Plaintiff,)

v.)

CAREERBUILDER, LLC, a Delaware)
limited liability company, APOLLO)
GLOBAL MANAGEMENT, INC., a)
Delaware corporation,)

Defendants.)

No. 2019-CH-12804

Hon. Thaddeus L. Wilson

Calendar 1

**DECLARATION OF PAUL T. GESKE IN SUPPORT OF PLAINTIFF'S MOTION
FOR APPROVAL OF ATTORNEYS' FEES, EXPENSES & SERVICE AWARD**

I, Paul T. Geske, hereby aver pursuant to 735 ILCS 5/1-109 that I am fully competent to make this Declaration, I have personal knowledge of all matters set forth herein unless stated otherwise, and I would testify to all such matters if called as a witness.

1. I am a licensed attorney at McGuire Law, P.C., and I am admitted to practice in Illinois and before numerous federal courts throughout the country, including the U.S. District Court for the Northern District of Illinois and the U.S. Supreme Court.

2. Along with my colleagues at McGuire Law, P.C., Myles McGuire and Brendan Duffner, I am counsel of record for Plaintiff Benjamin Fongers in the above-captioned case.

3. The Court appointed my colleagues and I to serve as Class Counsel representing the certified Settlement Class in this matter, and this Declaration is being submitted in support of Plaintiff's Motion & Memorandum in Support of Approval of Attorneys' Fees, Expenses & Service Award being filed herewith.

Background and Qualifications

4. In my role as an attorney at McGuire Law, P.C., I have served as class counsel in numerous class action cases in state and federal courts across the country. My practice spans a wide variety of different types of matters, including those involving employee compensation, data security, privacy protection, consumer fraud, product liability, and product mislabeling claims. My litigation efforts have helped secure many notable class settlements, such as *Vergara v. Uber Techs., Inc.*, 15-cv-6942 (N.D. Ill.), where I and my colleagues were appointed co-lead class counsel to represent three classes asserting consumer claims against Uber, culminating in a \$20 million nationwide class settlement. I have also recently obtained favorable class settlements and served a class counsel in *Pearlstone v. Wal-Mart Stores, Inc.*, No. 4:17-cv-02856-HEA (E.D. Mo.); *Burdette-Miller v. Williams & Fudge, Inc.*, No. 2016-M6-000470 (Ill. Cir. Ct. Cook Cnty.); *Farag v. Kiip, Inc.*, 19 CH 01695 (Ill. Cir. Ct. Cook Cnty.); *Sheeley v. Wilson Sporting Goods, Co.*, 18-CH-04770 (Ill. Cir. Ct. Cook Cnty.); *Flahive v. Inventurus Knowledge Solutions, Inc.*, 17-CH-07570 (Ill. Cir. Ct. Cook Cnty.); *Seal v. RCN Telecom Servs., LLC*, 16-CH-07073 (Ill. Cir. Ct. Cook Cnty.), and *Valladares v. Blackboard, Inc.*, 16 CH 06482 (Ill. Cir. Ct. Cook Cnty.), among many others. I am currently serving on the Plaintiffs Steering Committee, Law & Briefing Committee, and Consumer Class Committee of the plaintiffs' counsel leadership group appointed in *In re: Valsartan, Losartan, & Irbesartan Products Liability Litigation*, MDL No. 19-2875 (D. N.J.), a large pharmaceutical drug MDL.

5. In my practice, I regularly handle cases involving matters of first impression and issues of national significance, and I have developed a long track-record of successes at both the trial and appellate level. For example, I was a member of the litigation team representing the plaintiff in *Campbell-Ewald Co. v. Gomez*, 136 S. Ct. 663 (2016), where the Supreme Court ruled

in our favor and issued a landmark decision regarding the doctrine of mootness in class actions. I also successfully briefed and argued a precedent-setting appeal before the Sixth Circuit Court of Appeals in a case arising out of the Flint Water Crisis. *Guertin v. Michigan*, 912 F.3d 907 (6th Cir. 2019). There, the Sixth Circuit for the first time sustained claims for violation of the Due Process right to bodily integrity based on delivery of lead-contaminated drinking water. Following the Sixth Circuit's ruling, I briefed and successfully opposed two petitions for rehearing *en banc* filed by the *Guertin* defendants, 924 F.3d 309 (6th Cir. 2019), as well as two petitions for a writ of *certiorari* filed before the U.S. Supreme Court. *City of Flint v. Guertin*, No. 19-205, 2020 WL 283268 (Mem) (Jan. 21, 2020) (denying petition for writ of *certiorari*); *Busch v. Guertin*, No. 19-350, 2020 WL 283269 (Mem) (Jan. 21, 2020) (same).

6. I received my B.A. *cum laude* from the University of Illinois at Chicago in 2011 and my J.D. *magna cum laude* from the Chicago-Kent College of Law in 2015.

McGuire Law, P.C.

7. McGuire Law, P.C. is a law firm based in Chicago, Illinois that focuses its practice on class actions and complex litigation, representing clients in state and federal trial and appellate courts throughout the country.

8. Along with myself, the other McGuire Law, P.C. attorneys representing Plaintiff and the Settlement Class Members in this matter regularly handle complex litigation on behalf of employees and consumers and have extensive experience in class action lawsuits similar in size and complexity to the instant case. McGuire Law, P.C. attorneys and their firms have been appointed as class counsel in numerous class actions in state and federal courts throughout the country.¹

¹ See, e.g., *Gray v. Mobile Messenger Americas, Inc.* (S.D. Fla. 2008); *Gresham v. Keppler & Associates, LLC* (Sup. Ct. Los Angeles Cnty., Cal. 2008); *Sims v. Cellco Partnership* (N.D. Cal. 2009); *Van Dyke v.*

9. My colleague Myles McGuire is the managing partner of McGuire Law, P.C. Mr. McGuire has been recognized as a leader in class actions by his peers and courts he has appeared before and has been appointed lead counsel in numerous state and federal class actions. Mr. McGuire has successfully prosecuted claims on behalf of his clients in state and federal courts at both the trial and appellate levels in many different types of cases, such as those involving consumer fraud, unfair competition, invasion of privacy, false advertising, and breach of contract, among others. Mr. McGuire is a graduate of Marquette University and Marquette University Law School and is admitted to practice before the Illinois Supreme Court, Wisconsin Supreme Court, and the U.S. Supreme Court, where he was co-lead counsel in the *Campbell-Ewald Co. v. Gomez* matter. Prior to founding McGuire Law, P.C. in 2013, Mr. McGuire was a managing member of

Media Breakaway, LLC (S.D. Fla. 2009); *Paluzzi v. mBlox, Inc.* (Ill. Cir. Ct. Cook Cnty. 2009); *Ryan v. Snackable Media, LLC* (Ill. Cir. Ct. Cook Cnty. 2011); *Parone v. m-Qube, Inc.* (Ill. Cir. Ct. Cook Cnty. 2010); *Valdez v. Sprint Nextel Corp.* (N.D. Cal. 2010); *Lozano v. Twentieth Century Fox* (N.D. Ill. 2011); *Kramer v. Autobytel* (N.D. Cal. 2011); *Walker v. OpenMarket, Inc.* (Ill. Cir. Ct. Cook Cnty. 2011); *Schulken v. Washington Mutual Bank* (N.D. Cal. 2011); *In re Citibank HELOC Reduction Litig.* (N.D. Cal 2012); *Murray v. Bill Me Later, Inc.* (N.D. Ill. 2014); *Valladares v. Blackboard, Inc.* (Ill. Cir. Ct. Cook Cnty. 2016); *Hooker v. Sirius XM Radio, Inc.* (E.D. Va. 2017); *Flahive v. Inventurus Knowledge Solutions, Inc.* (Ill. Cir. Ct. Cook Cnty. 2017); *Serrano v. A&M (2015) LLC* (N.D. Ill. 2017); *Seal v. RCN Telecom Servs., LLC* (Ill. Cir. Ct. Cook Cnty. 2017); *Vergara v. Uber Technologies, Inc.* (N.D. Ill. 2018); *Zepeda v. International Hotels Group, Inc.* (Ill. Cir. Ct. Cook Cnty. 2018); *Kovach v. Compass Bank* (Cir. Ct. Jefferson Cnty., Ala. 2018); *Svagdis v. Alro Steel Corp.* (Ill. Cir. Ct. Cook Cnty. 2018); *Zhirovetskiy v. Zayo Group, LLC* (Ill. Cir. Ct. Cook Cnty. 2019); *Marshall v. Life Time Fitness, Inc.* (Ill. Cir. Ct. Cook Cnty. 2019); *McGee v. LSC Communications, Inc.* (Ill. Cir. Ct. Cook Cnty. 2019); *Prather v. Wells Fargo Bank, N.A.* (N.D. Ill. 2019); *Nelson v. Nissan North America, Inc.*, (M.D. Tenn. 2019); *Smith v. Pineapple Hospitality Grp.* (Ill. Cir. Ct. Cook Cnty. 2020); *Garcia v. Target Corp.* (D. Minn. 2020); *Roberts v. Superior Nut and Candy Co., Inc.* (Ill. Cir. Ct. Cook Cnty. 2020); *Rafidia v. KeyMe, Inc.* (Ill. Cir. Ct. Cook Cnty. 2020); *Burdette-Miller v. William & Fudge, Inc.* (Ill. Cir. Ct. Cook Cnty. 2020); *Farag v. Kiip, Inc.* (Ill. Cir. Ct. Cook Cnty. 2020); *Lopez v. Multimedia Sales & Mktg., Inc.* (Ill. Cir. Ct. Cook Cnty. 2020); *Prelipceanu v. Jumio Corp.* (Ill. Cir. Ct. Cook Cnty. 2020); *Williams v. Swissport USA, Inc.* (Ill. Cir. Ct. Cook Cnty. 2020); *Glynn v. eDriving, LLC* (Ill. Cir. Ct. Cook Cnty. 2020); *Pearlstone v. Costco Wholesale Corp.* (E.D. Mo. 2020); *Kusinski v. ADP, LLC* (Ill. Cir. Ct. Cook Cnty. 2021); *Draland v. Timeclock Plus, LLC* (Ill. Cir. Ct. Cook Cnty. 2021); *Harrison v. Fingercheck, LLC* (Ill. Cir. Ct. Lake Cnty. 2021); *Rogers v. CSX Intermodal Terminals, Inc.* (Ill. Cir. Ct. Cook Cnty. 2021); *Gonzalez v. Silva International, Inc.* (Ill. Cir. Ct. Cook Cnty. 2021); *Salkauskaite v. Sephora USA, Inc.* (Ill. Cir. Ct. Cook Cnty. 2021); *Williams v. Inpax Shipping Solutions, Inc.* (Ill. Cir. Ct. Cook Cnty. 2021); *Roberts v. Paramount Staffing, Inc.* (Ill. Cir. Ct. Cook Cnty. 2021); *Roberts v. Paychex, Inc.* (Ill. Cir. Ct. Cook Cnty. 2021); *Zanca v. Epic Games, Inc.* (Sup. Ct. Wake Cnty., N.C. 2021); *Rapai v. Hyatt Corp.*, 2017-CH-14483 (Ill. Cir Ct. Cook Cnty. 2022).

Edelson McGuire, LLC.

10. My colleague, Brendan Duffner, is an associate at McGuire Law with experience as class counsel in several class actions in Illinois state and federal courts. Mr. Duffner received his B.A. from the University of Wisconsin-Madison and his J.D. from the Saint Louis University of School of Law.

11. A copy of the McGuire Law, P.C. firm resume is attached hereto.

Class Counsel's Efforts Leading to the Settlement

12. From the outset of this Litigation, the attorneys and support staff of McGuire Law, P.C. understood that prosecution of this case would require that other work be foregone and anticipated spending hundreds if not thousands of hours litigating the claims in this matter with no guarantee of success. Class Counsel also recognized that there was significant uncertainty surrounding how the Court would resolve the applicable legal and factual issues here, and that there would be significant opposition from two defendants with substantial legal resources.

13. McGuire Law, P.C. assumed a significant risk of non-payment in prosecuting this Litigation given the formidable legal defenses that Defendants and their counsel raised or were prepared to raise had this case proceeded further. For example, both Defendants have filed dispositive motions seeking dismissal all of Plaintiff's claims. Defendants' motions contend, among other things, that the compensation plans that give rise to Plaintiff's and the other Class Members' claims contain disclaimers that allowed Defendants to lawfully make the challenged compensation changes. Defendants have also argued in their motions that the compensation plans do not constitute enforceable contracts or agreements that provide a basis for Plaintiff's claims. Additionally, Defendants have asserted that the compensation plans preclude equitable claims at common law because Plaintiff's claims are founded on a written document.

14. Throughout this litigation, Defendants and their counsel have vigorously disputed Plaintiff's individual claims on the merits and his ability to represent a class of others subject to the allegedly unlawful compensation practices at issue in this case. Had this case not settled, and had Plaintiff's claims withstood dismissal, the Parties would have continued with extensive discovery, including targeted class discovery, and would have engaged in further motion practice on merits issues at the summary judgment stage. Defendants also would have contested class certification. Given the financial resources at Defendants' disposal, any final decision favorable to Plaintiff would likely have been appealed or challenged through post-judgment proceedings.

15. Despite the significant risks and impediments involved in this litigation, Class Counsel zealously prosecuted Plaintiff's claims and were able to obtain an outstanding Settlement for the benefit for the Settlement Class Members. The work that the attorneys and staff of McGuire Law, P.C. have committed to this case has been substantial. Among other things, the work that McGuire Law, P.C. attorneys have performed includes:

- a. Investigating Defendants' business practices and specifically their compensation practices for commission-based sales representatives;
- b. Evaluating the facts giving rise to the claims asserted by Plaintiff and potential defenses thereto and developing those claims;
- c. Drafting the initial Class Action Complaint and other pleadings and motions;
- d. Drafting and successfully briefing a motion to remand in response to Defendants' improper removal of the Litigation to federal court;
- e. Briefing and opposing each of Defendants' 735 ILCS § 5/2-615 Motions to Dismiss;

- f. Propounding written discovery requests;
 - g. Reviewing numerous documents obtained through Plaintiff's counsel's investigation and data produced in discovery;
 - h. Coordinating and conducting three arms-length mediation sessions before the Hon. James R. Epstein (Ret.) of JAMS Chicago, former Illinois Appellate Court Judge;
 - i. Engaging in months of ongoing settlement negotiations involving, among other things, the claims administration process, the scope of the release, and the compensation provided to putative class members;
 - j. Working closely with the Settlement Administrator to develop a robust, nationwide notice plan to apprise the Settlement Class Members of the Settlement;
 - k. Exchanging numerous draft settlement documents with Defendants' counsel, which resulted in the drafting and execution of the finalized Settlement Agreement and related documents, including class notices and claim form documents;
 - l. Preparing the final executed Settlement Agreement and related documents;
 - m. Drafting and presenting the filings in support of approval of the Settlement;
 - n. Fielding inquiries about the Settlement from Settlement Class Members; and
 - o. Supervising and working with the Settlement Administrator to oversee implementation of the notice plan and claims process.
16. In addition to the foregoing, McGuire Law, P.C. has incurred \$48,532.52 in

expenses related to this litigation, which are comprised primarily of litigation and discovery costs, including the retention of Plaintiff's expert, mediation fees, and filing fees. Every effort was made to keep these expenses at a minimum. Being responsible for advancing all expenses, Class Counsel had a strong incentive not to expend any funds unnecessarily.

Class Counsel's Continuing Efforts Since Preliminary Approval

17. In addition to Class Counsel's efforts to secure the Settlement reached here, we have also been responsible for overseeing the notice and claims process in accordance with the terms of the Settlement and this Court's June 7, 2022 Preliminary Approval Order.

18. Following preliminary approval, and prior to the start of the notice period, I reviewed and revised the content of the Notices, the Settlement Website, and the online claim submission module to ensure that they were accurate and easy to understand.

19. From the outset of the notice and claims process, I and my firm have been actively involved in supervising and managing all aspects of the Settlement Administrator's administration of the Settlement. To this end, I have been in regular communication with the Settlement Administrator and received and reviewed weekly reports from the Settlement Administrator to keep track of claims data.

20. The Settlement Administrator has informed me that, in accordance with the Court's Preliminary Approval Order, the notice plan approved by the Court commenced on July 7, 2022 when the Settlement Administrator began sending direct notice by both mail and email and launched the Settlement Website.

21. The Settlement Administrator has also informed me that, on September 6, 2022, they sent a reminder email and reminder postcard to remind the Class Members of upcoming deadlines, such as the Claims Deadline and Opt-Out & Objection Deadline.

22. The Notices that were sent were carefully drafted in straightforward, easy-to-read language in order to apprise Class Members of all material aspects of the Settlement, such as the relief they are entitled to, their rights to object to the Settlement or opt-out, and the amount of attorneys' fees that could be sought as an award for Class Counsel.

23. The Notices also invited Class Members to visit the Settlement Website, where they can submit a claim or review more detailed information. The Settlement Website is presently live and can be reached at the following URL: <https://www.careerbuildersettlement.com>. The Settlement Website contains all of the important information about the Settlement, including key dates and deadlines (e.g., claims deadline, objection deadline, final approval hearing date and time, etc.), all relevant court documents (e.g., the Preliminary Approval Order, Settlement Agreement, and this Motion), contact information for Class Counsel, and most importantly, an accessible claims submission module that enables Class Members to easily submit their claim online. In addition, the Settlement Website gives detailed instructions for opting out or filing objections.

24. There are still two weeks left in the claims period as of the date of this filing, but according to the last report received from the Settlement Administrator, 243 of the 341 Class Members, or 71.26%, have already submitted claims.

25. Assuming that all of the claims submitted to date are valid and compensable, I anticipate that, based on the current claims data and the Settlement's formula for allocation, many claimants will receive an individual payment well in excess of \$1,000, and some Class Members will receive a payment in the tens of thousands of dollars. Among the claims submitted to date, the anticipated per-person payment amount is more than \$7,000 on average.

26. Although the final amount of each individual payment may be subject to adjustment based on the number of claims submitted, I do not presently anticipate that the Class Members'

individual payments will need to be reduced or adjusted downward by a significant amount, if at all, unless the Settlement Fund is exhausted.

27. To date, my firm has not received any requests to be excluded from the Settlement nor any objections to the Settlement from the Class Members. The Settlement Administrator has informed me that they, likewise, have not received any objections or opt-out requests.

28. Going forward, I and my colleagues will continue to supervise the administration of the Settlement up to and through final approval and will monitor the distribution of settlement payments by the Settlement Administrator.

The Class Representative's Contributions to the Litigation

29. Plaintiff, Benjamin Fongers, has been closely involved in this litigation from its outset. He has willingly lent his name to this matter, contributed his own time and efforts in prosecuting his claims on behalf of others, and is deserving of the requested Service Award.

30. Prior to filing this case, Mr. Fongers was instrumental in assisting Class Counsel's investigation of his claims and Defendants' sales representative compensation practices, and he has remained fully involved in the litigation through the present. His efforts and involvement include:

- a. Making himself consistently available to consult with Class Counsel over the phone and by email on numerous occasions to answer questions about the facts underlying his claims;
- b. Compiling and providing the necessary evidence and documentation to support his claims;
- c. Reviewing pleadings and other case filings;
- d. Searching through his records to provide additional information in response to

follow-up questions from Class Counsel;

- e. Attending the in-person mediation held in connection with this matter;
- f. Reviewing the Settlement documents to ensure that their terms were in the best interests of his fellow Class Members; and
- g. Committing many hours of his own time for the benefit of the Settlement Class.

31. Together with Class Counsel, Mr. Fongers has succeeded in obtaining substantial financial relief for the Settlement Class Members. Were it not for Mr. Fongers' efforts and contributions to the Litigation by assisting Class Counsel with their investigation and prosecution of his claims, and his monitoring of the case throughout the course of the litigation, the substantial benefit to the Settlement Class Members afforded under this Settlement Agreement would not have been achieved.

32. Mr. Fongers has not received any side payments in this matter, was never promised any payments, and was not guaranteed that he would receive an award of any kind in this litigation. The requested Service Award requested for Mr. Fongers is being sought in recognition of his time, effort, and contributions to this case.

Under penalties as provided by law pursuant to Section 735 ILCS 5/1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

Executed on September 21, 2022 in Chicago, Illinois.

/s/ Paul T. Geske
Paul T. Geske, Esq.

MCGUIRE LAW, P.C. FIRM RESUME

MCGUIRE LAW, P.C. is a plaintiffs' class action and commercial litigation firm in Chicago, Illinois.

Our attorneys have been recognized as leaders in these fields by state attorneys general, legislatures, national media groups, the courts, and our peers. We have served as lead counsel in many high-profile class action lawsuits, including recently at the U.S. Supreme Court in *Campbell- Ewald v. Gomez* 136 S. Ct. 663 (2016), the mobile content class actions against major cellular telephone carriers and their subcontractors, auto manufacturers, the home equity credit reduction cases against major banks and other financial institutions, and numerous biometric privacy cases, including the first ever biometric privacy settlement involving workers, among many others. We have been asked to submit testimony to Members of Congress on issues related to class actions and have repeatedly worked with federal and state regulatory agencies involving matters at issue in our cases. Our attorneys have developed a strong reputation as capable, experienced litigators, and they are frequently invited to appear on local and national television and radio programs and to speak to the press and others about our cases and about consumer protection and class action issues more generally.

CLASS ACTION PRACTICE GROUP

MCGUIRE LAW, P.C. is a leader in plaintiffs' class and mass action litigation, with a particular emphasis on class actions involving emerging technologies and consumer privacy. As has been recognized by federal courts, attorneys at our firm have an extensive history of experience in complex class action litigation and are well-respected in the plaintiffs' class action bar.

We have several sub-groups within our plaintiffs' class practice group:

Biometric Privacy Litigation: MCGUIRE LAW is a national leader in biometric privacy litigation, particularly the distinct subset of BIPA employment litigation. Since the surge in BIPA litigation in 2017, McGuire attorneys have been appointed class counsel in more finally-approved BIPA class action settlements than any other law firm in the nation and have frequently recovered more in cash compensation per class member than many other such settlements.

Representative Settlements:

- *Marshall v. Life Time Fitness, Inc.*, 17-CH-14262 (Ill. Cir. Ct. Cook Cnty.): Lead counsel in \$1,700,000 biometric privacy class action settlement.
- *Zhirovetskiy v. Zayo Group, LLC*, 17-CH-09323 (Ill. Cir. Ct. Cook Cnty.): Lead counsel in \$990,000 employee biometric privacy class

action settlement.

- *Svagdis v. Alro Steel Corp.*, 17-CH-12566 (Ill. Cir. Ct. Cook Cnty.): Lead counsel in \$300,000 employee biometric privacy class action settlement.
- *McGee v. LSC Communications, Inc.*, 17-CH-12818 (Ill. Cir. Ct. Cook Cnty.): Lead counsel in \$700,000 employee biometric privacy class action settlement.
- *Zepeda v. Intercontinental Hotels Group, Inc.*, 18-CH-2140 (Ill. Cir. Ct. Cook Cnty.): Lead counsel in \$500,000 employee biometric privacy class action settlement.

Technology Class Actions: McGuire attorneys have established key precedents in a variety of consumer protection statutes applied to emerging technologies, such as the Telephone Consumer Protection Act (“TCPA”), resulting in the settlement of numerous nationwide class actions involving both cellular and landline telephony, including against industry leaders such as Verizon, AT&T, and many others, and collectively worth over one hundred million dollars.

Representative Settlements:

- *McFerren v. AT&T Mobility, LLC*, No. 08-CV-151322 (Fulton County Sup. Ct., GA): Lead counsel in class action settlement involving 16 related cases against the largest wireless service provider in the nation. The “no cap” settlement fully refunded a nationwide class of consumers who alleged incurring unauthorized mobile content charges on their cell phone bills.
- *Paluzzi v. Cellco Partnership*, No. 07 CH 37213 (Cir. Ct. Cook Cnty., Ill.): Lead counsel in class action settlement involving more than two dozen cases alleging unauthorized mobile content charges. Resulted in class settlement for \$36 million.
- *Lozano v. 20th Century Fox*, No. 09-cv-05344 (N.D. Ill): Lead counsel in class action alleging that defendants violated the TCPA by sending unsolicited text messages to consumers’ cellular telephones. Resulted in class settlement for \$16 million.
- *Gray v. Mobile Messengers America, Inc.*, No. 08-CV-61089 (S.D. Fla.): Lead counsel in case alleging unauthorized charges placed on cell phone bills. Resulted in class settlement for \$12 million.

- *Parone v. m-Qube, Inc.*, No. 08 CH 15834 (Cir. Ct. Cook Cnty., Ill.): Lead counsel in class action involving over two dozen cases alleging the imposition of unauthorized mobile content charges. Resulted in class settlement for \$16 million.
- *Rojas v. Career Education Corporation*, No. 1:10-cv-05260 (N.D. Ill.): Lead counsel in class action alleging that defendants violated the TCPA by sending unsolicited text messages to cellular telephones of consumers. Resulted in class settlement for \$19,999,400.
- *Kramer v. B2Mobile, et al*, No. 0-cv-02722 (N.D. Cal.): Lead counsel in class action alleging violation of the TCPA by sending unsolicited text messages to cellular telephones of consumers. Resulted in class settlement for \$12.2 million.
- *Williams, et al. v. Motricity, Inc. et al.*, Case No. 09 CH 19089 (Cir. Ct. Cook Cnty., Ill.): Lead counsel in class action involving more than two dozen cases alleging the imposition of unauthorized mobile content charges. Resulted in class settlement for \$10.85 million.
- *VanDyke v. Media Breakaway, LLC*, No. 08 CV 22131 (S.D. Fla.): Lead counsel in class action alleging unauthorized mobile content charges. Resulted in class settlement for \$7 million.
- *Weinstein, et al. v. Airt2me, Inc.*, Case No. 06 C 0484 (N.D. Ill): Co-lead counsel in class action alleging violation of federal law by sending unsolicited text messages to cellular telephones of consumers. Resulted in class settlement for \$7 million.
- *Gresham v. Cellco Partnership*, No. BC 387729 (Los Angeles Sup. Ct.): Lead counsel in class action alleging unauthorized charges were placed on cell phone bills. Resulted in class settlement providing full refunds.
- *Duffy v. Nevis Mobile, LLC*, No. 08 CH 21376 (Cir. Ct. Cook Cnty., Ill.): Lead counsel in certified class action against mobile content provider for unauthorized mobile content charges resulting in default judgment over \$10 million.
- *Murray v. Bill Me Later, Inc.* No. 12-cv-04789 (N.D. Ill.): Co-lead counsel in class action brought on behalf of consumers for debt collection calls placed in violation of the TCPA. Resulted in class settlement for \$9.9 million.

- *Valladares v. Blackboard Connect, Inc.* No. 16-CH-06482 (Cir. Ct. Cook Cnty., Ill.): Lead counsel in \$7.5 million TCPA class action settlement.
- *Hooker v. Sirius XM Radio, Inc.*, No. 13-cv-00003 (E.D. Va.): Co-lead counsel in \$35 million TCPA class action settlement.
- *Truong v. Peak Campus Management, LLC*, No. 16-CH-09735 (Cir. Ct. Cook Cnty., Ill.): Co-lead counsel in \$7 million TCPA class action settlement.
- *Kovach v. Compass Bank, N.A.*, No. 18-cv-09734 (Cir. Ct. Jefferson County, AL): Lead counsel in \$7 million TCPA class action settlement.
- *Garcia v. Target Corporation*, No. 16-cv-09734 (D. Minn.): Co-lead counsel in \$7 million TCPA class action settlement.
- *Oliver v. The Mens Wearhouse, Inc.* No. 16-cv-00110 (C.D. Cal.): Lead counsel in \$2 million TCPA class action settlement.
- *Manouchehoury v. Styles For Less, Inc.*, No. 15-cv-01234 (S.D. Cal.): Co-lead counsel in \$4 million TCPA class action settlement.
- *Vergara v. Uber Technologies, Inc.*, No. 15-cv-06942 (N.D. Ill.): Co-lead counsel in \$20 million TCPA class action settlement.

Banking Class Actions: McGuire attorneys were at the forefront of class action litigation in the aftermath of the economic collapse in 2008 and the federal bailouts of the banks, including nationwide class actions based on claims that some of the largest national banks unlawfully suspended home equity lines of credit lines and failed to honor loan modification programs.

Representative Settlements:

- *Hamilton v. Wells Fargo Bank, N.A.*, 09-cv-04512 (N.D. Cal.): Lead Counsel in class actions challenging Wells Fargo's suspensions of home equity lines of credit. Nationwide settlement restored access to over \$1 billion in credit and provided industry leading service enhancements and injunctive relief.
- *In re JP Morgan Chase Bank Home Equity Line of Credit Litigation*, 10-cv-3647 (N.D. Ill.): Court appointed interim co-lead counsel in nationwide class action alleging illegal suspensions of home equity credit

lines. Resulted in a class settlement providing for the reinstatement of more than \$2 billion in consumer credit.

- *Levin v. Citibank, N.A.*, C-09-0350 (N.D. Cal.): Court appointed interim co-lead counsel in nationwide class action alleging illegal suspensions of home equity credit lines. Resulted in class settlement providing hundreds of millions of dollars in consumer credit.

General Consumer Protection Class Actions: MCGUIRE LAW has successfully prosecuted class action suits against automotive manufacturers, technology companies, retail chains, and other businesses on behalf of consumers.

Representative Settlements:

- *Nelson v. Nissan North America, Inc.*, No. 17-cv-01140 (M.D. Tenn.): Lead counsel in defective paint class action settlement.
- *Farag v. Kiip, Inc.*, No. 18-CH-31842 (Cir. Ct. Cook Cnty., Ill.): Class counsel in \$1 million unlawful smart phone tracking class action settlement.
- *Sheeley v. Wilson Sporting Goods, Inc.* No. 18-CH-04470 (Cir. Ct. Cook Cnty., Ill.): Class counsel in defective baseball equipment class action settlement.

Our cases regularly receive attention from local and national media, including in the Chicago Tribune, USA Today, the Wall Street Journal, the New York Times, the LA Times, by the Reuters and UPI news services, and BBC International. Our cases have appeared in numerous electronic media, including CNN, Fox News, NPR, and CBS, as well as programming outside of the United States.

GENERAL COMMERCIAL LITIGATION

Our attorneys have handled a wide range of general commercial litigation matters, from partnership and business-to-business disputes. We have handled cases involving tens of thousands of dollars to “bet the company” cases involving billions of dollars. We have also represented non-profit corporations and handled numerous matters on a pro bono basis. Our attorneys have collectively prosecuted hundreds of class actions, as well as participated in scores of arbitrations and mediations. All of our attorneys regularly practice in state and federal trial and appellate courts.

OUR ATTORNEYS

MYLES MCGUIRE is Managing Partner of MCGUIRE LAW. He has been recognized as a leader in class actions and technology law by his peers and courts around the country.

Myles has been appointed lead counsel in numerous state and federal class actions resulting in hundreds of millions of dollars for his clients. He is regularly asked to weigh in on state and federal legislation involving his cases. An experienced litigation and appellate attorney, Myles has litigated class actions that have established precedent concerning the legality of converting cellular telephones into credit cards, the applicability of consumer protection statutes to internet businesses, and the interpretation of numerous other state and federal statutes including the Telephone Consumer Protection Act. He has successfully prosecuted numerous claims on behalf of his clients in trial and appellate courts at both the state and federal levels throughout the country involving consumer fraud, unfair competition, invasion of privacy, false advertising and breach of contract, among others.

Myles' practice includes the prosecution of nationwide and regional litigation, including multidistrict and putative class action litigation, and on appeals arising out of such litigation including in the U.S. Supreme Court where he served as lead counsel in a matter of fundamental importance for class action jurisprudence nationwide.

Myles has settled numerous class actions and has served as class counsel to many groundbreaking settlements in state and federal courts. As lead counsel, he has also secured settlements in cases of first impression involving Facebook, AT&T and Interpublic among many others, collectively worth hundreds of millions of dollars.

Myles has been asked by members of Congress to comment on proposed legislation involving the telecommunications industry and has provided testimony on related matters to state regulatory bodies including the California Public Utilities Commission (CPUC) and the Office of the Attorney General of the State of Florida, among others. He has repeatedly been recognized as an Illinois Super Lawyer.

Myles also represents clients in the technology and consumer product industries in a variety of commercial disputes, including intellectual property and employment matters. Myles also advises companies and non-profits on legal compliance and legislative issues in addition to handling many types of complex litigation.

Myles has been admitted to practice in many state and federal courts throughout the country and is a member of the bars of the Illinois Supreme Court, Wisconsin Supreme Court and U.S. Supreme Court.

Myles is a graduate of Marquette University and Marquette University Law School.

EVAN M. MEYERS is a Partner at MCGUIRE LAW. Evan is an experienced trial and appellate litigator who has handled all aspects of the litigation process – from pleadings through trial – for a broad range of complex litigation matters, including product manufacturing defects, healthcare technology, telecommunications, environmental, consumer fraud, and business torts.

Evan has extensive experience with consumer protection class action litigation, including matters involving technology; he has served as a lead attorney in scores of consumer class actions that have recovered hundreds of millions of dollars in damages for consumers across the nation; and has been appointed class counsel in over a dozen class actions involving the Telephone Consumer Protection Act.

Evan serves as proposed class counsel in dozens of BIPA class actions and has been appointed class counsel in several BIPA class action settlements, resulting in millions of dollars of relief for thousands of Illinois workers. *See, e.g., Zhirovetskiy v. Zayo Group, LLC*, 17-CH-09323 (Cir. Ct. Cook Cnty., Ill.); *Svagdis v. Alro Steel Corp.*, 17-CH-12566 (Cir. Ct. Cook Cnty., Ill.); *Marshall v. Life Time Fitness, Inc.*, 17-CH-14262 (Cir. Ct. Cook Cnty., Ill.); *Zepeda v. Intercontinental Hotels Group, Inc.*, 18-CH-2140 (Cir. Ct. Cook Cnty., Ill.).

Evan has led litigation against major financial institutions in the wake of the financial crash of 2008. As co-lead counsel, Evan secured settlements with Citibank, Chase and Wells Fargo, among others, restoring hundreds of millions of dollars in credit lines to consumers.

An accomplished oral advocate, Evan has successfully argued before multiple trial and appellate courts, including the Ninth Circuit Court of Appeals in the seminal class action case of *Gomez v. Campbell-Ewald Co.*, 768 F.3d 871 (9th Cir. 2014), where he secured reversal of summary judgment prior to grant of a petition for writ of certiorari by the U.S. Supreme Court.

Prior to joining MCGUIRE LAW, Evan was a litigation associate at the national law firm Drinker Biddle & Reath LLP, where he represented a wide range of clients including Fortune 500 companies and municipalities. Additionally, Evan served as a judicial extern for the Hon. Wayne R. Andersen (Ret.) of the U.S. District Court for the Northern District of Illinois. Evan has been admitted to practice in numerous courts including the U.S. Supreme Court, Ninth Circuit Court of Appeals, the Northern District of Illinois, and the Illinois Supreme Court.

Evan received his J.D., *cum laude*, from the University of Illinois College of Law and his B.A., with distinction, from the University of Michigan.

EUGENE Y. TURIN is an Associate at MCGUIRE LAW. Eugene concentrates his practice on consumer class action litigation as well as civil and commercial litigation. Eugene currently prosecutes class action litigation ongoing in federal district courts across multiple states including California, Minnesota, Indiana and Nevada as well as handling appellate work before the Ninth Circuit Court of Appeals and the Seventh Circuit Court of Appeals.

Eugene has been appointed class counsel by numerous federal and state courts across the country, including by the Central District of California (*Oliver v. The Men's Wearhouse*, No. 16-cv-01100 (2019)), District of Minnesota (*Garcia v. Target Corporation*, No. 16-cv-02574 (2019)), Northern District of Illinois (*see, e.g., Zeidel v. A&M (2015) LLC*, No. 13-cv-6989 (2018)), and the Circuit Court of Cook County (*see, e.g., Valladares v. Blackboard, Inc, et al.*, No. 2016-CH-06482 (2017)).

Eugene has been admitted to practice in several courts, including the Ninth Circuit Court of Appeals, the Seventh Circuit Court of Appeals, and the Northern District of Illinois. Eugene received his J.D., *magna cum laude*, from the Loyola University School of Law, where he also

received his certificate in trial advocacy and was a member of the Loyola Law Journal and the ABA National Moot Court team. Eugene received his B.A., *summa cum laude*, from Loyola University Chicago.

PAUL T. GESKE is an Associate at MCGUIRE LAW. Paul's practice consists of prosecuting consumer class action litigation in Illinois and throughout the country. In his practice, he primarily represents plaintiffs in consumer class actions and multi-state, complex litigation. He has served as class counsel on behalf of statewide and nationwide classes in a variety of matters, including cases involving emerging technology, privacy issues, consumer fraud, product liability, and product mislabeling claims.

Paul has significant federal appellate experience and routinely handles cases involving matters of first impression and issues of national significance. For example, he was a member of the litigation team that obtained a 6-3 victory before the U.S. Supreme Court in *Campbell-Ewald Co. v. Gomez*, 136 S. Ct. 663 (2016), resulting in a precedent-setting decision regarding the doctrine of mootness in class actions.

Recently, Paul successfully briefed and argued an appeal before the Sixth Circuit Court of Appeals in *Guertin et al. v. Michigan et al.*, 912 F.3d 907 (6th Cir. 2019) reh'g en banc denied, 924 F.3d 309, one of the lead cases in the Flint Water Crisis litigation. *Guertin* was the first Flint Water Crisis case to successfully state a claim for violation of the substantive due process right to bodily integrity.

Paul has served as lead counsel or class counsel in numerous successful class actions, such as *Vergara et al. v. Uber Techs., Inc.*, 15-cv-6942 (N.D. Ill.), where he was appointed co-lead counsel to represent three nationwide classes asserting TCPA claims against Uber, culminating in a \$20 million nationwide settlement. Paul also recently obtained favorable settlements on behalf of classes of consumers in *Sheeley v. Wilson Sporting Goods, Co.*, 18-CH-04770 (Cir. Ct. Cook Cnty., Ill.), *Flahive v. Inventurus Knowledge Solutions, Inc.*, 17-CH-07570 (Cir. Ct. Cook Cnty., Ill.), and *Valladares v. Blackboard, Inc.*, 16 CH 06482 (Cir. Ct. Cook Cnty., Ill.), among many others. He has also been appointed to the Plaintiffs Steering Committee in the defective pharmaceutical class action *In re: Valsartan Products Liability Litigation*, MDL No. 19-2875 (D. N.J.).

Paul is an avid writer and he frequently writes articles for legal journals and publications: *Avoiding Pick-Off Moves in Class Actions*, Illinois Bar Journal (September 2017); *Class Actions Back from the Brink: The Future of Mootness and "Pick-Offs" in Class Action Litigation Following Campbell-Ewald Co. v. Gomez*, JURIST.org (March 14, 2016); *Oppress Me No More: Amending the Illinois LLC Act to Provide Additional Remedies for Oppressed Minority Members*, 90 Chi-Kent L. Rev. 185 (2015); *Seventh Circuit Holds that Bankruptcy Trustee's "Strong-Arm" Powers are Not Strong Enough for the IRS*, 10 Seventh Circuit Rev. 1 (2014).

Paul graduated *cum laude* and with distinction from the University of Illinois at Chicago, where he received his B.A. in Political Science with a minor in Economics. He received his J.D., *magna cum laude*, from the Chicago-Kent College of Law, where he was also inducted into the Order of the Coif. During law school, Paul was an executive articles editor of the Chicago-Kent Law Review, an editor for the Seventh Circuit Review, and a judicial extern to the Honorable James R. Epstein (ret.) of the Illinois Appellate Court, First District.

DAVID L. GERBIE is an Associate at MCGUIRE LAW whose practice is focused on civil, commercial, and data privacy class action litigation. David is admitted to practice in Illinois, Wisconsin, the Northern District of Illinois and the Seventh Circuit.

David represents the interests of Illinois residents and workers in dozens of BIPA class actions. David has been appointed class counsel in several BIPA class action settlements, including the first-ever BIPA settlement involving an employer's use of biometric timekeeping devices. *See Zepeda v. Intercontinental Hotels Group, Inc.*, 18-CH-2140 (Cir. Ct. Cook Cnty., Ill.). Through such cases David has been appointed to represent the interests of thousands of employees whose biometrics were obtained in violation of BIPA. *See Marshall v. Life Time Fitness, Inc.*, 17-CH-14262 (Cir. Ct. Cook Cnty., Ill.)

David continues to litigate many BIPA and data breach class actions, as well as cases involving defective products and false advertising. David has served as a guest speaker on biometric privacy on several prestigious panels, including at The Sedona Conference and at the American Bar Association.

David received his J.D. from the University of Wisconsin Law School and received his B.A. from Northern Illinois University.

WILLIAM P. KINGSTON is an Associate at MCGUIRE LAW. William concentrates his practice in consumer class action and data privacy litigation, including biometric privacy litigation. William is admitted to practice law in Illinois and before the U.S. District Court for the Northern District of Illinois. William has been appointed as class counsel in multiple BIPA class action settlements.

Prior to joining MCGUIRE LAW, William advocated for underserved populations while working in a Fair Housing Clinic in Chicago, fighting against racial and income-based discrimination in housing. In furtherance of his public interest efforts, William organized a community outreach program for union members in Chicago as a member of an affiliate of the AFL-CIO.

William received his J.D. from the John Marshall Law School and received his B.A. from Dalhousie University.

TIMOTHY P. KINGSBURY is an Associate at MCGUIRE LAW where he concentrates his practice on biometric privacy, consumer protection, and mass tort litigation. Tim is the lead attorney on several BIPA class action lawsuits. Tim is admitted to practice in Illinois and in the Northern District of Illinois.

Prior to joining MCGUIRE LAW, Tim clerked for a leading Chicago-area defense firm and apprenticed in the legal department of one of the country's largest franchisors. Tim received his J.D., *cum laude*, from the University of Illinois College of Law, where he served as an editor of the Illinois Law Review and as a member of the Community Preservation Clinic of Champaign-Urbana, where he represented the underprivileged in foreclosure proceedings.

Tim received his B.A. from Princeton University and is a member of Illinois State Bar Association and the Chicago Bar Association.

ANDREW T. HELDUT is an Associate at MCGUIRE LAW where he concentrates his practice on consumer protection matters. Andrew assists in the prosecution of several consumer class action lawsuits and is admitted to practice law in Illinois and in the Northern District of Illinois.

Prior to joining MCGUIRE LAW, Andrew served as an assistant to various aldermanic campaigns in Chicago and for the office of U.S. Senator Richard J. Durbin. Andrew received his J.D. from the John Marshall Law School, where he served in various student organizations focused on achieving peace and economic development in Eastern Europe and Middle East.

Andrew received his B.A. from the University of Strathclyde (U.K.) and is a member of American Bar Association and the Chicago Bar Association.

BRENDAN DUFFNER is an Associate at MCGUIRE LAW where he concentrates his practice on biometric privacy and consumer protection matters. Brendan assists in the prosecution of several privacy lawsuits and is admitted to practice law in Illinois and in the Northern District of Illinois.

Brendan joined MCGUIRE LAW in 2017 and has contributed to each of the firm's BIPA settlements as well as its ongoing BIPA litigation. Brendan received his J.D. from Saint Louis University School of Law, where he served a member of the Entrepreneurship and Community Development Clinic, assisting small business owners in entity formation and trademark prosecutions, later earning academic excellence in the area of Trademark and Unfair Competition.

Brendan received his B.A. in economics from the University of Wisconsin-Madison and is a member of Illinois State Bar Association and the Chicago Bar Association.

COLIN P. BUSCARINI is an Associate at MCGUIRE LAW where he concentrates his practice on consumer protection matters. Colin assists in the prosecution of several consumer class action lawsuits and is admitted to practice law in the state of Illinois.

Prior to joining MCGUIRE LAW, Colin served as a licensed mediator of the Circuit Court of Cook County and as a member of the civil litigation department of a midwestern law firm. Colin received his J.D. from UIC John Marshall Law School.

Colin received his B.A. from the University of South Dakota and is a member of Illinois State Bar Association.

STEVEN R. BECKHAM is an Associate at MCGUIRE LAW where he concentrates his practice on commercial and consumer class action litigation matters.

Prior to joining McGuire Law, Steven served as a member of the University of Wisconsin Consumer Law Clinic and the Moot Court Board. Steven received his J.D. from the University of Wisconsin Law School where he served as an editor of the Wisconsin International Law Journal.

Steven received his B.A. *cum laude* from the University of Missouri and is a member of Illinois and Wisconsin State Bar Associations.

CHANDNE JAWANDA is an Associate at MCGUIRE LAW where she concentrates her practice on consumer protection matters.

Prior to joining McGuire Law, Chandne served as a teaching assistant at the University of Illinois Chicago School of Law and as a member of the Student Bar Association, Consumer Law Clinic and the Moot Court Board. Chandne received her J.D. from the University of Illinois Chicago School of Law where she was a member of the Dean's List.

Chandne received her B.A. from the University of Arkansas and is a member of Illinois and Chicago State Bar Associations.

JORDAN R. FRYINGER is an Associate at MCGUIRE LAW where he concentrates his practice on consumer protection matters.

Prior to joining McGuire Law, Jordan assisted with litigation defense for firms located in New York and Massachusetts. Jordan received his J.D., *cum laude*, from Loyola University Chicago School of Law where he served as a member of Mediation and Advocacy Clinic representing multiple clients during EEOC and IDHR employment disputes.

Jordan received B.A. from the University of Idaho and is a member of the Illinois State Bar Association.

JOSEPH M. DUNKLIN is an Associate at MCGUIRE LAW where he concentrates his practice on class action and complex litigation related to data privacy and other consumer protection matters. Much of his practice is informed by professional experience in the fields of supply chain management and consumer data analytics.

Prior to joining McGuire Law, Joseph assisted with appellate matters for the Louisiana Capital Assistance Center, participated in Land of Lincoln Legal Aid's expungement summits, and interned within the United States House of Representatives.

Joseph received his J.D. from the University of Illinois College of Law, where he served as an editor of the University of Illinois Law Review. Joseph received his B.B.A. in International Business from Loyola University Chicago. Joseph is a California native and a member of the Illinois State Bar Association.