UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISON

MARCUS SMITH, ALVIN HODGE and DAVID KORTRIGHT, on behalf of themselves and on behalf of all others similarly situated,

Plaintiffs,

v. Case No. : 8:19-cv-02068-CEH-CPT

KFORCE INC., a Florida profit corporation,

Defendant.
_____/

AMENDED JOINT MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT AND NOTICE TO SETTLEMENT CLASS

Plaintiffs, Alvin Hodge, and David Kortright ("Plaintiffs")[1], on their own behalf and on behalf of the putative class, pursuant to Federal Rule of Civil Procedure 23, and Defendant, K-Force, Inc., jointly file this Amended Motion for Preliminary Approval of Settlement and Notice to Settlement Class, and in support thereof assert the following:

I. NATURE AND STAGE OF PROCEEDING

A. Prior Preliminary Approval by the Court

On June 18, 2020, the Court verbally preliminarily approved the settlement. However, before any preliminary approval order could be rendered and entered, the Eleventh Circuit Court of Appeals ruled as to the propriety of class representative service awards. Accordingly, the Parties have agreed to amend their settlement to provide that such funds previously designated as awards be consideration for general releases to Defendant. As such, the Parties amend their original Motion for Preliminary Approval, and request that the Court preliminarily approve and enter an order of such to

[1] Plaintiff Maurcus Smith has been voluntarily dismissed from the action (Dkt. 27).

facilitate administration of the settlement by the third-party class administrator for the benefit of the Class as a whole.

B. The Litigation

The Class Representatives allege in their Amended Class Complaint (the "Complaint") that Defendant violated 15 U.S.C. § 1681b(b)(2)(A) of the FCRA by failing to: 1) disclose to the Class Representatives and other of its employees, former employees, and/or prospective employees (in a document consisting solely of the disclosure) that it was going to obtain a consumer report for employment purposes prior to obtaining a copy of the actual report; and, 2) as a result, obtain the proper authorization under the FCRA to obtain those consumer reports (collectively, the "FCRA Claims"). More particularly, the Class Representatives allege that the FCRA disclosure and authorization form(s) utilized by Defendant: 1) was/were not (a) stand-alone disclosure(s); and 2) contained extraneous information "blanket authorizations to various entities to release information otherwise protected by state or federal laws" and "extraneous information about various state laws."

Plaintiffs and Defendant (collectively, the "Parties") have been litigating this action since August 19, 2019. The Parties engaged in voluntary discovery, with Plaintiffs requesting and receiving class-related discovery responsive to the class allegations contained in the Complaint. The Parties attended two mediation sessions with Mark Hanley, Esq. At the first session, held on December 16, 2019, the Parties were unable to obtain resolution. However, as result of Mr. Hanley's continued efforts, the Parties agreed to attend a second mediation. At the second mediation, held on February 10, 2020, the Parties reached a settlement in principal on the terms and conditions contained herein.

C. Mediation And Settlement Agreement

This Settlement was the result of extensive settlement negotiations at two separate mediations. The Parties' continued efforts culminated in a class action settlement resolving the claims of approximately 18,000 people. The Parties memorialized settlement terms in a Joint Sitpulation of Class Settlement Agreement attached to this motion as Exhibit "A" (the "Agreement").

The Agreement, subject to Court approval, provides for settlement under the following key terms:

- Certification of a class consisting of all natural persons residing within the United States and its Territories not subject to an arbitration agreement or class waiver, with respect to whom, within the two years preceding the filing of this Action and extending through the resolution of this Action, KFORCE procured or caused to be procured a consumer report for employment purposes based on the disclosure form used for Plaintiffs;

- Defendant agrees to establish a gross Settlement Fund in the amount of $790,000.00.

- Every Settlement Class Member who timely submits a proper Claim Form will receive an award of $68.50, not subject to further reduction unless claims exceed the amount of the Net Settlement Fund.

- Any unclaimed funds and any uncashed settlement compensation after the expiration of the 180-day period for negotiating checks shall automatically revert back to Defendant.

- Payment from the Settlement Fund of an attorneys' fees award not to exceed one third of the Settlement Fund, if approved by the Court, plus reimbursement from the Settlement Fund for litigation-related costs and expenses;

- Payment from outside the Settlement Fund of $2,000 to each of the Named Plaintiffs as consideration for executing general releases; and

- Notice and Administration by a Settlement Administrator deducted from the Settlement Fund.

II. STATEMENT OF ISSUES

The issues before the Court are (a) whether to approve the Agreement on a preliminary basis, and (b) whether to approve the Notice of Proposed Class Action Settlement for distribution to members of Class.

III. THE SETTLEMENT SHOULD BE PRELIMINARILY APPROVED

A. The Law Governing Preliminary Approval

The Eleventh Circuit has recognized that "[p]ublic policy strongly favors the pretrial settlement of class action lawsuits." *In re United States Oil & Gas Litig.*, 967 F.2d 489, 493 (11th Cir. 1992); *see also Gevaerts v. TD Bank, N.A.*, 2015 WL 6751061, at *4 (S.D. Fla. Nov. 5, 2015) ("Federal courts have long recognized a strong policy and presumption in favor of class action

settlements."). Settlement "has special importance in class actions with their notable uncertainty, difficulties of proof, and length. Settlements of complex cases contribute greatly to the efficient utilization of scarce judicial resources, and achieve the speedy resolution of justice...." *Behrens v. Wometco Enters., Inc.*, 118 F.R.D. 534, 538 (S.D. Fla. 1988), *aff'd*, 899 F.2d 21 (11th Cir. 1990) (citations omitted). As a general matter, "unless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy and expensive litigation with uncertain results." 4 Alba Conte & Herbert Newberg, Newberg on Class Actions §11.50, at 155 (4th ed. 2002).

"'At the preliminary approval stage, the Court's task is to evaluate whether the Settlement is within the "range of reasonableness.' 4 Newberg on Class Actions § 11.26 (4th ed. 2010). 'Preliminary approval is appropriate where the proposed settlement is the result of the parties' good faith negotiations, there are no obvious deficiencies and the settlement falls within the range of reason.' *Smith v. Wm. Wrigley Jr. Co.,* 2010 WL 2401149, at *2 (S.D. Fla. Jun. 15, 2010)." *Almanzar v. Select Portfolio Servicing, Inc.*, 2015 WL 10857401, at *1 (S.D. Fla. Oct. 15, 2015). This Court has set forth the following process for preliminary approval of a class action settlement:

> Rule 23(e), Federal Rules of Civil Procedure, permits approval of a class action settlement if the settlement is "fair, reasonable, and adequate." *See Strube v. Am. Equity Inv. Life Ins. Co.,* 226 F.R.D. 688, 697 (M.D.Fla.2005) (Fawsett, J.). Approval is generally a two-step process in which a "preliminary determination on the fairness, reasonableness, and adequacy of the proposed settlement terms" is reached. *See* DAVID F. HERR, ANNOTATED MANUAL FOR COMPLEX LITIGATION § 21.632 (4th ed.2008). The factors considered are (1) the influence of fraud or collusion on the parties' reaching a settlement, (2) "the likelihood of success at trial," (3) "the range of possible recovery," (4) "the complexity, expense[,] and duration of litigation," (5) "the substance and amount of opposition to the settlement," and (6) "the stage of proceedings at which the settlement was achieved." *Bennet v. Behring Corp.,* 737 F.2d 982, 986 (11th Cir.1984).

Holman v. Student Loan Xpress, Inc., 2009 WL 4015573, at *4 (M.D. Fla. Nov. 19, 2009) (Merryday, J.).

The fact that the Parties agreed to a "claims-made" settlement and full reversion to Defendant does not render its terms unreasonable. *See, e.g., Saccoccio*, 297 F.R.D. at 696 (overruling objections to

claims-made process because "[t]here is nothing inherently suspect about requiring class members to submit claim forms in order to receive payment.") (citing to *Schulte v. Fifth Third Bank*, 805 F. Supp. 2d 560, 593 (N.D. Ill. 2011)); *Casey v. Citibank*, No. 12-cv-820 (N.D.N.Y.) (D.E. 222 at ¶ 6) (approving virtually identical claims- made settlement and finding that regardless of the take rate, "[t]he settlement confers substantial benefits upon the Settlement Class members, is in the public interest, and will provide the parties with repose from litigation."); *Williams v. MGM-Pathe Commc'ns Co.*, 129 F.3d 1026, 1027 (9th Cir. 1997) (discussing claims-made settlement and affirming contingency fee award based on total possible recovery); *Shames v. Hertz Corp.*, 07-cv-2174, 2012 WL 5392159 (S.D. Cal. Nov. 5, 2012) (approving claims-made settlement over objections because "there is nothing inherently objectionable with a claims-submission process, as class action settlements often include this process, and courts routinely approve claims-made settlements") (citations omitted); *Lemus v. H & R Block Enters. LLC,* No. 09-cv-3179, 2012 WL 3638550 (N.D. Cal. Aug. 22, 2012) (approving claims-made settlement where unclaimed funds reverted to the defendants); *Atkinson v. Wal-Mart Stores, Inc.*, No. 08-cv-691-T-30TBM, 2011 WL 6846747, at *5 (M.D. Fla. Dec. 29, 2011) (approving claims-made settlement with full reversion).

1. The Settlement Agreement Is Not the Product of Fraud or Collusion.

In assessing this factor, courts must presume that no fraud or collusion occurred unless there is evidence to the contrary. *DeHoyos v. Allstate Corp.*, 240 F.R.D. 269, 287 (W.D. Tex. 2007). Here, there is no evidence of fraud or collusion. The proposed settlement in the Agreement resulted from arm's length negotiations between Plaintiffs and Defendant conducted by capable, experienced attorneys and with the assistance of a seasoned and respected mediator, Mr. Mark Hanley. "Where the parties have negotiated at arm's length, the Court should find that the settlement is not the product of collusion." *Saccoccio v. JP Morgan Chase Bank, N.A.*, 297 F.R.D. 683, 692 (S.D. Fla. 2014). Courts have consistently held that the presence of an independent mediator negates any suggestion of fraud or collusion. *See, e.g., Montoya v. PNC Bank, N.A.*, 2016 WL 1529902, at *8 (S.D. Fla. Apr.

13, 2016) (use of mediator indicates there is "no suggestion of fraud or collusion"); *Hall v. Bank of Am., N.A.,* 2014 WL 7184039, at *6 (S.D. Fla. Dec. 17, 2014). There was no fraud or collusion in reaching the Settlement. During this process, the Parties thoroughly evaluated their claims and defenses in order to negotiate what they believe is the most optimal settlement on behalf of the settlement class.

In this case, settlement was obtained only after *two* mediation sessions with Mark Hanley, an experienced and well-respected mediator. Additionally, there is no evidence that Plaintiffs sacrificed the interests of the Settlement Class for their own financial gain. Under the Agreement, Named Plaintiffs will receive the same Settlement Award as the other members of the Settlement Class. The proposed settlement reached by Plaintiffs and Defendant resulted from concessions and compromise by the Parties. The Agreement is a product of the functioning of the adversarial and negotiations processes, not fraud or collusion. Accordingly, the first factor supports approval of the settlement.

2. Litigating this Case Through Trial Would Be Complex, Expensive, and Time-Consuming.

The total expenses the Parties will incur if this litigation progresses and the duration of the litigation, including the appellate process, cannot be predicted with specificity. However, it is certain Plaintiffs and Defendant will vigorously advocate for their respective positions on various legal and factual issues, that will likely entail significant motion practice and likely trial. In fact, Defendant continues to deny liability for any willful violations of the FCRA and has already asserted numerous affirmative defenses to Plaintiffs' individual and alleged class claims. Plaintiffs would soon seek Rule 23 certification, will multiply several fold the costs and expenses incurred to date. Regardless of whether the Court certifies a class, the losing party will most likely file a Rule 23(f) petition at the 11th Circuit, seeking review of the Court's decision, increasing expenses even more.

There is no reason to believe that issues raised before, during, or after a trial would be any less vigorously litigated by the Parties or less expensive and time-consuming to resolve. Absent settlement, the resolution of factual issues relevant to each class member's claims would result in protracted

litigation. The proposed settlement will save considerable time and resources that would otherwise be spent litigating disputes resolved by the proposed settlement. Thus, this factor weighs in favor of approving the settlement proposed in the Agreement. *See Bennett,* 737 F.2d at 986 ("In addition, our judgment is informed by the strong judicial policy favoring settlement as well as by the realization that compromise is the essence of settlement."); *Ayers v. Thompson*, 358 F.3d 356, 2369 (5th Cir. 2004) (holding that settlement would avoid risks and burdens of potentially protracted litigation weighed in favor of approving settlement).

3. Settlement Class Counsel Has Documents and Other Information to Realistically Value the Claims.

The Parties possess "ample information with which to evaluate the merits of the competing positions." *Ayers*, 358 F.3d at 369. Specifically, Plaintiffs have obtained sufficient discovery from Defendant to allow a well-informed and comprehensive settlement of the Class. Plaintiffs and Defendant have reviewed Defendant's records and discovery responses for the relevant time period and determined that the Class consists of approximately 18,000 individuals, including Plaintiffs. Defendant also identified and produced copies of the documents, policies, and procedures that pertain to the allegations in the Complaint.

In addition to the discovery described above, the Parties have extensively analyzed legal authorities regarding FCRA claims on a nationwide basis. Counsel for the Parties have discussed their claims and defenses with each other.

As such, the Parties believe that they have sufficient information to reach a fair, reasonable, and adequate settlement. The Agreement was negotiated based on the Parties' realistic, independent assessments of the merits of the claims and defenses in this case and should be approved.

4. Ultimate Success on the Merits of the Claims Is Uncertain Given the Risks of Litigation.

When evaluating a proposed class action settlement, the Court must balance the benefits of a certain and immediate recovery through settlement against the inherent risks of litigation. *See Bennett,*

737 F.2d at 986; *Reed v. General Motors Corp.*, 703 F.2d 170, 172 (5th Cir. 1983). Here, recovery under the Agreement is favorable for the 18,000 Class members given the general uncertainty surrounding all litigation and the risks specific to this case. If this litigation proceeds, Defendant intends to continue to vigorously defend the claims, and Plaintiffs and the Settlement Class will face obstacles on the path to recovery of statutory damages.

For members of the Settlement Class to recover any statutory damages under the FCRA, they must not only prove that Defendant failed to comply with the disclosure and authorization provisions, but also that Defendant did so willfully. *See* 15 U.S.C. § 1681n(a). Although Plaintiffs contend that the violations were willful, Defendant will contest the question of willfulness if the lawsuit is further litigated. *See, e.g., Schoebel v. Am. Integrity Ins. Co.*, 2015 WL 3407895, at *7 (M.D. Fla. May 27, 2015) (dismissing FCRA stand-alone disclosure case seeking statutory damages because alleged violation was not willful); *See also, Lewis v. Southwest Airlines Co.*, 2018 U.S. Dist. LEXIS 5576 (N.D. Tex. Jan. 11, 2018)(summary judgment for defendant on issue of wilfullness). Adverse rulings and appeals could significantly prolong the litigation and potentially result in no recovery for the class members.

Although Defendant denies liability and has asserted affirmative defenses to the claims, Defendant nevertheless recognizes, as Plaintiffs do, the risks inherent in proceeding to trial. Each phase of litigation, including post-trial appeals, presents uncertainty and risks. A negotiated settlement that provides immediate relief is preferable to protracted litigation and an uncertain result in the future. Weighed against the risks associated with litigation, the proposed settlement is fair, reasonable, and adequate.

5. The Settlement Agreement Is Fair in Light of the Possible Range of Recovery and Certainty of Damages.

The Agreement should be approved because the proposed settlement compares favorably to the limited range of damages available under the FCRA that could potentially be recovered at trial. In the

action, Plaintiffs seek to recover compensation under 15 U.S.C. § 1681n(a)(1)(A), (2), and (3) for themselves and the other class members consisting of (a) statutory damages of not less than $100 and not more than $1,000; (b) punitive damages, (c) attorney's fees and costs.[2] However, as § 1681n(a) of the FCRA indicates, proof of noncompliance with the technical requirements of the FCRA alone does not impose liability on a defendant. Recovery of damages under § 1681n(a) is contingent on establishing that the defendant willfully failed to comply with the FCRA; negligent noncompliance is not sufficient. *Safeco v. Burr*, 127 S. Ct. 2201, 2215 (2007); 15 U.S.C. § 1681n(a). And, even if liability for willful noncompliance is established as Plaintiffs believe, the determination as to the size of the award is left to the discretion of the jury, which may return an award of no damages as a possible outcome.

The settlement proposed in the Agreement secures a monetary payment to each Settlement Class Member who timely submits a proper Claim Form of $68.50 as his/her individualized Settlement Award.[3] Even if the settlement class established liability against Defendant for willful violations of the pertinent provisions of the FCRA, a real risk exists that the class members could recover less after successfully litigating their claims through trial than the payment negotiated by the parties in the Agreement.

Settlement Class Counsel believes that the individualized Settlement Award of not less than $68.50 to each Settlement Class Member is a very good settlement, providing more relief to class members than other recently approved settlements. The district court in *Hillson v. Kelly Services Inc.*, summarized the results of such settlements as follows:

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[2] § 1681(n)(a) of the FCRA states that a person who willfully fails to comply with any requirement under 15 U.S.C. § 1681 *et seq*. regarding a consumer is liable to the consumer in an amount equal to the sum (a) "any actual damages sustained by the consumer as a result of the failure or damages of not less than $100 and not more than $1,000;" (b) punitive damages in such amount as the court may allow; and (c) the costs of an action, if successful, to enforce liability under this Section plus reasonable attorneys' fees as determined by the court. 15 U.S.C. § 1681n(a)(1)(A), (2)-(3) (emphasis added).

[3] If claims exceed the amount of the Net Settlement Fund after all Settlement Costs are deducted, then the Settlement Class Members making valid claims will receive an equal *pro rata* share of the Net Settlement Fund.

> The results counsel achieved for the class were good. The gross recovery (i.e., recovery before fees and other expenses are taken from the fund) is $30 per class member (on average). This appears to be in line with the average per-class-member gross recovery in other settlements of stand-alone disclosure claims. *See Moore v. Aerotek, Inc.*, No. 2:15-CV-2701, 2017 WL 2838148, at *4 (S.D. Ohio June 30, 2017) (per-capita gross recovery of $25 in case involving a stand-alone disclosure claim and a claim that employer did not provide a copy of consumer report), *report and recommendation adopted*, 2017 WL 3142403 (S.D. Ohio July 25, 2017); *Lagos v. Leland Stanford Junior Univ.*, No. 15-CV-04524-KAW, 2017 WL 1113302, at *2 n.1 (N.D. Cal. Mar. 24, 2017) (per-capita gross recovery of $26); *Lengel v. HomeAdvisor, Inc.*, No. CV 15-2198, 2017 WL 364582, at *9 (D. Kan. Jan. 25, 2017) (citing FCRA disclosure cases with per-capita gross recoveries of $33, $40, and $44).

2017 WL 3446596, at *3 (E.D. Mich. Aug. 11, 2017); *See, e.g.*, *See, e.g., Fosbrink v. Area Wide Protective*, No. 8:17-cv-1154 (M.D. Fla. 2019) ($39 gross recovery); *Marcum v. Dolgencorp, Inc.*; No. 3:12-cv-00108 (E.D. Va. 2014) ($53 gross payment per class member reduced by attorneys' fees and service awards paid from class settlement fund); *Knights v. Publix Super Markets*, *Inc.*; No. 3:14-cv-006720 (M.D. Tenn. 2014) ($48.55 paid to each class member).

The proposed settlement provides for a reward within the reasonable range of possible recovery for members of the settlement class. "A proposed settlement need not obtain the largest conceivable recovery for the class to be worthy of approval; it must simply be fair and adequate considering all the relevant circumstances." *Klein v. O'Neal, Inc*., 705 F. Supp. 2d 632, 649 (N.D. Tex. 2010). Balancing the risk that liability cannot be established against Defendant for willful violations of the disclosure and authorization provisions of the FCRA against the range of possible recovery of damages supports settlement.

6. Settlement Class Counsel Supports the Settlement.

Counsel for Plaintiffs and Defendant are jointly moving for preliminary approval because both counsel believe the settlement is in their respective best interest. Plaintiffs and Settlement Class Counsel have likewise concluded that the proposed settlement is in the best interest of the Class.

Furthermore, the Parties anticipate that the settlement will receive broad support from putative class members, especially considering that each individual member will receive a settlement check that

is reasonable and consistent in the context of class action litigation. Even if applicants in the settlement class were able to overcome the difficulties of financing and finding legal counsel to pursue their relatively small individual claims, few members of the settlement classes are likely to be inclined toward pursuing their individual claims. Therefore, it is unlikely that settlement class members will oppose releasing their pertinent FCRA claims that in reasonable probability they never intended to bring, or were unaware to have possessed. Even if any putative class member does not agree with the terms of the proposed settlement, he or she is protected by the right to opt out of the proposed class settlement and retain his or her individual FCRA claims against Defendant rather than participating in the settlement.

The Parties believe that the Agreement represents a fair, reasonable, and adequate settlement. Consequently, the support of Plaintiffs, Settlement Class Counsel, the putative class members and Defendant, weighs in favor of approving the settlement.

B. The Notice Of Class Action Settlement Should Be Approved Because The Form And Manner Of The Notice Satisfies The Requirements of Rule 23 And Due Process.

The Notice of Class Action Settlement to be mailed to the Settlement Class is appended to the Agreement as Exhibit "2." *See attached,* Exhibit "1," Agreement, Exhibit "2." The content of the proposed class notice and the method for notifying members of each settlement class satisfy the requirements of Federal Rules of Civil Procedure 23(c)(2)(B) and (e)(1) and comport with due process. Additionally, a website, www.kforcefcraclassaction.com will be posted that will contain additional information about the Settlement and a portal through which claims may be filed.

Under Rule 23(e)(1), when approving a class action settlement, the court "must direct notice in a reasonable manner to all class members who would be bound by the proposal." Fed. R. Civ. P. 23(e)(1). In addition, for classes certified under Rule 23(b)(3), courts "must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." Fed. R. Civ. P. 23(c)(2)(B). Rule 23(c)(2)(B) also sets out the

required contents of the class notice. *Id.* The procedures described in the Agreement for informing class members of the settlement and the Notice of Proposed Class Action Settlement comply with these Rules.

The proposed notice plan is reasonable and provides the best notice practicable to the respective settlement classes. Under the Agreement, the Notice of Proposed Class Action Settlement will be sent to each class member via first class mail to the last known addresses of class members based on information contained in Defendant's records or obtained by the third-party Settlement Administrator. Notice by mail is recognized as sufficient to provide due process to known affected persons as long as the notice is "reasonably calculated . . . to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *DeHoyos*, 240 F.R.D. at 296 (sending notice by mail is preferred when all or most class members can be identified). The Agreement also includes provisions to ensure that a reasonable effort is made to locate members whose notices are returned undelivered and to re-send the Notice of Proposed Class Action Settlement to these persons to the extent possible.

The content of the Notice of Proposed Class Action Settlement satisfies Rule 23(c)(2)(B) and due process requirements. "A settlement notice need only satisfy the broad reasonableness standards imposed by due process." *In re Katrina Canal Breaches Litigation,* 628 F.3d 185, 197 (5th Cir. 2010). Due process is satisfied if the notice provides class members with "information reasonably necessary for them to make a decision whether to object to the settlement." *Id.*

The Notice of Proposed Class Action Settlement is written in language that is easy to understand. The Notices inform members of the Class of the nature of the case, the definition of the settlement class, and the claims and defenses. The Notices of Proposed Class Action Settlement also contain information regarding the right to retain their own attorney, their right to request exclusion from the class, the time and manner for requesting exclusion, and the binding effect of the class judgment. S*ee* Fed. R. Civ. P. 23(c)(2)(B). Because the Notice of Proposed Class Action Settlement communicates the essential terms of the proposed settlement in a manner that complies with Rule 23(c)(2)(B) and due

process, the Court should approve its distribution to the Settlement Class.

IV. THE COURT SHOULD APPROVE A SCHEDULE AND PROCEDURES FOR A FAIRNESS HEARING, FILING CLAIMS, OPTING OUT, OBJECTING, AND FILING A MOTION FOR ATTORNEY'S FEES AND COSTS AND INCENTIVE AWARDS.

The Parties request that, in conjunction with preliminarily approving the settlement, the Court schedule a fairness hearing to determine whether to finally approve the settlement and approve the proposed deadlines and procedures for filing claims, opting out, objecting, and for Class Counsel to move for attorney's fees and costs, and reimbursement of litigation expenses, as set forth below:

Settlement Administrator mails Notice and sets up Settlement Website ("Notice Date")	Within 30 days of Preliminary Approval Order
Deadline for Motion for Attorney's Fees and Costs, Class Settlement Administration Costs	Within 30 days of Preliminary Approval Order
Deadline for Objections	60 days after Notice is mailed by Settlement Administrator
Deadline for Opt Outs (Exclusion Requests)	60 days after Notice is mailed by Settlement Administrator
Deadline for Motion for Final Approval	21 days before Fairness Hearing
Fairness Hearing	TBD by Court
Deadline for Filing Claim	60 Days after Notice is mailed by Settlement Administrator

The procedures for opting out, objecting and submitting claim forms are set forth in detail in Sections III.K.1, III.K.L of the Settlement Agreement, and the procedures for filing a motion for attorney's fees and costs, class settlement administration costs, and an incentive award are set forth in Sections III.I. and III.J. The Parties respectfully request the opt out and objection procedures be incorporated in the Preliminary Approval Order. *See Johnson*, 2017 WL 6060778, at **2-3; *See also Almanzar*, 2015 WL 10857401, at **4-5.

V. CONCLUSION

The Court should approve the Agreement on a preliminary basis because the proposed

settlement is fair, reasonable, and adequate. The Court should appoint Plaintiffs' counsel as Class Counsel, Plaintiffs as Class Representatives, preliminarily find Class Counsel's attorneys' fees and costs are appropriate under Rule 23 for settlement purposes. Additinoally, the Notice of Proposed Class Action Settlement should be approved for distribution to the Settlement Class because it meets the requirements of Rule 23 and due process.

WHEREFORE, Plaintiffs, Alvin Hodge and David Kortright, for themselves and on behalf of all others similarly situated, and Defendant, Kforce, Inc., jointly move the Court to grant their Motion and enter an order of preliminary approval.

Dated this 22nd day of October, 2020.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided via electronic transmission and/or via U.S. Mail on this 22nd day of October, 2020, to the following:

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