



## AlaFile E-Notice

01-CV-2023-903893.00

Judge: ELISABETH A. FRENCH

To: JONATHAN S. MANN  
jonm@pittmandutton.com

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# NOTICE OF ELECTRONIC FILING

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IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

DANIEL SULLEN ET AL V. VIVINT INC  
01-CV-2023-903893.00

The following matter was FILED on 1/9/2024 4:39:27 PM

**C001 SULLEN DANIEL**

**C002 RENFROE JOSHUA**

PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION  
SETTLEMENT

[Filer: MANN JONATHAN STEPHEN]

Notice Date: 1/9/2024 4:39:27 PM

JACQUELINE ANDERSON SMITH  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
716 N. RICHARD ARRINGTON BLVD.  
BIRMINGHAM, AL, 35203

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STATE OF ALABAMA

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01-JEFFERSON

District Court  Circuit Court

CV2

CIVIL MOTION COVER SHEET

DANIEL SULLEN ET AL V. VIVINT INC

Name of Filing Party: C001 - SULLEN DANIEL  
C002 - RENFROE JOSHUA

Name, Address, and Telephone No. of Attorney or Party. If Not Represented.

JONATHAN S. MANN  
2001 PARK PLACE N., STE. 1100  
BIRMINGHAM, AL 35203

Attorney Bar No.: MAN057

Oral Arguments Requested

TYPE OF MOTION

Motions Requiring Fee

Motions Not Requiring Fee

- Default Judgment (\$50.00)  
Joinder in Other Party's Dispositive Motion  
(i.e. Summary Judgment, Judgment on the Pleadings,  
or other Dispositive Motion not pursuant to Rule 12(b))  
(\$50.00)
- Judgment on the Pleadings (\$50.00)
- Motion to Dismiss, or in the Alternative  
Summary Judgment (\$50.00)  
Renewed Dispositive Motion (Summary  
Judgment, Judgment on the Pleadings, or other  
Dispositive Motion not pursuant to Rule 12(b)) (\$50.00)
- Summary Judgment pursuant to Rule 56 (\$50.00)
- Motion to Intervene (\$297.00)
- Other \_\_\_\_\_  
pursuant to Rule \_\_\_\_\_ (\$50.00)

- Add Party
- Amend
- Change of Venue/Transfer
- Compel
- Consolidation
- Continue
- Deposition
- Designate a Mediator
- Judgment as a Matter of Law (during Trial)
- Disburse Funds
- Extension of Time
- In Limine
- Joinder
- More Definite Statement
- Motion to Dismiss pursuant to Rule 12(b)
- New Trial
- Objection of Exemptions Claimed
- Pendente Lite
- Plaintiff's Motion to Dismiss
- Preliminary Injunction
- Protective Order
- Quash
- Release from Stay of Execution
- Sanctions
- Sever
- Special Practice in Alabama
- Stay
- Strike
- Supplement to Pending Motion
- Vacate or Modify
- Withdraw
- Other Plaintiffs' Unopposed Motion for  
Preliminary Approval of Class Action  
Settlement

\*Motion fees are enumerated in §12-19-71(a). Fees pursuant to Local Act are not included. Please contact the Clerk of the Court regarding applicable local fees.

Local Court Costs \$ 0 \_\_\_\_\_

pursuant to Rule 23 \_\_\_\_\_ (Subject to Filing Fee)

Check here if you have filed or are filing contemporaneously with this motion an Affidavit of Substantial Hardship or if you are filing on behalf of an agency or department of the State, county, or municipal government. (Pursuant to §6-5-1 Code of Alabama (1975), governmental entities are exempt from prepayment of filing fees)

Date:  
1/9/2024 4:27:56 PM

Signature of Attorney or Party  
/s/ JONATHAN S. MANN

\*This Cover Sheet must be completed and submitted to the Clerk of Court upon the filing of any motion. Each motion should contain a separate Cover Sheet.

\*\*Motions titled 'Motion to Dismiss' that are not pursuant to Rule 12(b) and are in fact Motions for Summary Judgments are subject to filing fee.

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA  
 BIRMINGHAM DIVISION**

<b>DANIEL SULLEN and JOSHUA RENFROE,</b>	)	
<b>on behalf of themselves and other persons</b>	)	
<b>similarly situated,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
<b>v.</b>	)	<b>Case No.: 01-CV-2023-903893</b>
	)	
<b>VIVINT, INC.,</b>	)	
	)	
<b>Defendant.</b>	)	

**PLAINTIFFS' UNOPPOSED MOTION & MEMORANDUM IN SUPPORT OF  
 PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Dated: January 9, 2024

**PITTMAN, DUTTON, HELLUMS, BRADLEY  
 & MANN, P.C.**  
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*Counsel for Plaintiffs and the Proposed Settlement  
 Classes*

Plaintiffs Daniel Sullen and Joshua Renfroe, individually, and on behalf of the two proposed Settlement Classes of similarly situated individuals (hereinafter, the “Settlement Classes”), respectfully submit this Unopposed Motion for Preliminary Approval of Class Action Settlement and Memorandum of Law in support thereof. As set forth below and in the proposed Preliminary Approval Order, Plaintiffs respectfully request that this Court enter an Order:

- (1) granting Preliminary Approval<sup>1</sup> of the proposed Settlement Agreement;
- (2) conditionally certifying the Settlement Classes;
- (3) appointing PITTMAN, DUTTON, HELSUMS, BRADLEY & MANN, P.C. as Class Counsel;
- (4) approving the proposed Notice Plan and directing that it be implemented; and
- (5) appointing A.B. Data, Ltd. to serve as the Settlement Administrator.

This Memorandum describes in detail the reasons why preliminary approval is in the best interests of the members of the Settlement Classes and is consistent with Alabama Rule of Civil Procedure 23.

## INTRODUCTION

The Parties in this putative class action alleging violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.* (the “FCRA”), as well as Alabama state law, have reached a proposed settlement which provides all persons of the proposed Settlement Classes with the ability to receive cash payment for having, without authorization, their credit report information accessed, accounts created in their name, and, in some instances, collection efforts directed toward them on such unauthorized accounts (the “Settlement”). (*See generally*, Ex. A.) The Settlement provides

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<sup>1</sup> Capitalized terms not herein defined shall have the meaning ascribed to them in Settlement Agreement, which is attached hereto as Exhibit A. For the Court’s reference, Section 1 of the Settlement Agreement is devoted to the definitions of capitalized terms.

significant monetary relief to consumers and establishes a cash settlement fund in the maximum amount of \$9,750,000.00, from which members of the Settlement Classes who file valid and timely claims will be compensated. Additionally, the Settlement provides for significant prospective injunctive relief whereby Defendant Vivint, Inc. (“Vivint”) will implement material changes to its business practices to minimize, if not eliminate, the creation of unauthorized accounts and will implement new identify verification procedures for debt collections on delinquent accounts. If approved, the Settlement would bring certainty and closure—and significant and valuable monetary and injunctive relief for consumers—to what otherwise would likely be contentious and costly litigation over Vivint’s liability, or lack thereof, for its allegedly unlawful business practices.

As discussed in more detail below, the proposed Settlement meets all the requirements of Ala. R. Civ. P. 23, as well as all standards for the evaluation of fairness of a proposed settlement.<sup>2</sup> *See In re Liberty Nat’l Ins. Cases*, No. 02-cv-2741, 2006 WL 8436814, at \*9 (N.D. Ala. Mar. 31, 2006). The terms of the Settlement, which include a Settlement Fund providing members of the Settlement Classes the ability to receive cash compensation, along with improvements to Vivint’s account creation and collection practices, meet and exceed the applicable standards of fairness and provide relief that is substantially similar to other class action settlements that have been approved throughout the country. Accordingly, the Court should preliminarily approve the Settlement so that members of the Settlement Classes can receive notice of their rights and the claims administration process may begin.

## **I. THE LITIGATION**

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<sup>2</sup> Rule 23 of the Alabama Rules of Civil Procedure is modeled after Rule 23 of the Federal Rules of Civil Procedure and, therefore, federal decisions interpreting Rule 23 are authoritative. *Reynolds Metals Co. v. Hill*, 825 So. 2d 100, 104 n. 1 (Ala. 2002) (citing *Cutler v. Orkin Exterminating Co.*, 770 So. 2d 67 (Ala. 2000)).

**A. The FCRA.**

The FCRA is a federal statute that prohibits, in relevant part, entities and individuals from accessing a consumer's credit report information without a permissible purpose. 15 U.S.C. §1681(b). "Congress enacted the FCRA in order to protect consumers from individuals or entities who impermissibly access consumers' credit reports." *Cole v. Am. Family Mut. Ins. Co.*, 33 F. Supp. 2d 1038, 1046 (D. Kan. 2004). "The FCRA enumerates an exhaustive list of the 'permissible purposes' for which a person may use or obtain a consumer report." *Domante v. Dish Network*, 974 F.3d 1342, 1345 (11th Cir. 2020) (citing 15 U.S.C. § 1681b(a)(3), (f)(1)). Permissible purposes include inquiries related to employment, underwriting insurance, credit applications, or other legitimate business needs, such as for transactions initiated by a consumer (i.e., opening an account) or a review of an existing account to ensure a consumer continues to meet the terms of the account. *See* 15 U.S.C. § 1681b(a)(3), (f)(1)

**B. The Lawsuit.**

Defendant Vivint, among other things, provides smart home security services and related equipment to its customers, who sometimes finance the purchase of the equipment (e.g., cameras, sensors, etc.) through third-party lenders that partner with Vivint. As an ordinary part of its business practices, Vivint creates new home security service accounts with customers, collecting certain personal identifying information, in part, to access would-be customers' credit report information to verify their identity and credit worthiness for the payment of monthly fees or eligibility for financing of equipment purchases through Vivint's third-party lending partners.

However, investigation by Plaintiffs' counsel revealed that, in certain instances, the individual whose credit report information Vivint accessed differed from the individual seeking security services or equipment from Vivint. In such circumstances, the consumer whose credit report information was accessed may not have known that Vivint inquired and obtained their credit

report information since they never knew about or consented to it. As such, Plaintiffs allege that Vivint lacked a permissible purpose to access that credit report information in violation of the FCRA. Counsel further determined that, sometimes, when the payment obligations of the unauthorized accounts became delinquent, it resulted in collection efforts against consumers who were not Vivint accountholders or customers, who also never signed a contract. These efforts, at times, targeted the unsuspecting consumer (rather than the individual actually receiving the security services with the financed equipment), including instances where a third-party purchaser of the delinquent Vivint account furnishes derogatory credit report information (i.e., that the account is past due) to consumer reporting agencies (e.g., Equifax or TransUnion).

On April 9, 2019, Plaintiffs' counsel filed a Class Action Complaint against Vivint for violations of the FCRA and common law in federal court. Vivint thereafter hired competent and experienced defense counsel. Vivint answered Plaintiffs' Second Amended Complaint, raising several defenses, including that Plaintiffs were seeking to represent a "fail safe," subjective, and indeterminate class that could not be certified and that Plaintiffs had not suffered any actual injury and/or lacked standing under Article III. The Parties fiercely litigated the merits of the case for more than two (2) years. The litigation included the following, *inter alia*:

- Plaintiffs' filing of two amended complaints and Vivint's answers;
- Extensive written discovery exchanged by the Parties, including four (4) sets of interrogatories and requests for production of documents served on Vivint, as well as two (2) sets of requests for admissions, and five (5) non-party subpoenas;
- Vivint's productions of over seven thousand pages of documents and voluminous amounts of other electronically stored information, including massive Excel-spreadsheet datasets;
- Plaintiffs' productions of documents and other electronically stored information;
- Multiple lengthy letters and dozens of meet and confers regarding discovery disputes;



- Plaintiffs' depositions of five (5) of Vivint's executives, as well as three (3) separate depositions of Vivint's 30(b)(6) corporate representative;
- Vivint's depositions of each of the Plaintiffs;
- Full briefing and a hearing on Plaintiffs' motion to compel additional discovery from Vivint;
- Full briefing on Plaintiffs' motion for class certification;
- Full briefing on Vivint's motion to strike Plaintiffs' class certification expert;
- Plaintiffs retained and disclosed three (3) additional experts to support their claims, including a certified fraud examiner, a cyber security standards expert, and a credit damages expert;
- Vivint's depositions of all four (4) of Plaintiffs' experts, including one expert being deposed twice;
- Full briefing on Vivint's three (3) additional motions to strike Plaintiffs' additional experts and their reports;
- Full briefing on Plaintiffs' motion for leave to supplement Plaintiffs' reply brief in further support of class certification; and,
- Full briefing on Vivint's motion for summary judgment on all claims.

With both sides facing the uncertainty of the pending class certification decision and the possibility of incurring liability on a class-wide basis or a decision of no liability at all, the Parties then agreed to engage in settlement negotiations to determine if a class-wide settlement could be reached. To that end, counsel for Plaintiffs and for Vivint expended significant efforts in exchanging additional documents and information regarding Vivint's practices relevant to the members of the proposed Settlement Classes. The parties hired past Alabama State Bar President and experienced litigator and mediator Lee Copeland, Esq. of Copeland, Franco, Screws & Gill, P.A. to mediate their negotiations, which unfolded over the course of numerous sessions (both in person and virtually, as well as countless phone calls. After conducting extensive negotiations, the Parties were finally able to reach an agreement in principle to resolve the case. Counsel for

Plaintiffs and for Vivint expended substantial further efforts and resources in finalizing the Settlement Agreement, including the form of notice that was to be provided to Class Members, as well as the scope of the release and settlement benefits. Eventually, these discussions culminated in the class action Settlement Agreement for which Plaintiffs now seek preliminary approval.

## **II. THE PROPOSED SETTLEMENT**

### **A. The Settlement Classes.**

The proposed Settlement would establish two Settlement Classes defined as follows:

#### (1) Damages Settlement Class

All natural Persons in the United States for whom Vivint accessed consumer report information without authorization and used his or her information to create a Vivint account between January 1, 2016, and the date the Court enters the Preliminary Approval Order of the Settlement and who have been subjected to collection efforts by Vivint.

Excluded from the Damages Settlement Class are: (1) any parent, subsidiary, affiliate, or controlled persons of Defendant, as well as the officers, directors, agents, servants, or employees of Defendant and the immediate family members of such persons; (2) governmental agencies, entities, or judicial officers; and (3) any person or entity which properly executes and submits a timely request for exclusion from the Settlement Class.

#### (2) Injunctive Settlement Class

All natural Persons in the United States for whom Vivint accessed consumer report information without authorization between January 1, 2016, and the date the Court enters the Preliminary Approval Order of the Settlement and who have not been subjected to collection efforts by Vivint.

Excluded from the Injunctive Settlement Class are: (1) any parent, subsidiary, affiliate, or controlled persons of Defendant, as well as the officers, directors, agents, servants, or employees of Defendant and the immediate family members of such persons; (2) governmental agencies, entities, or judicial officers; and (3) any person or entity which properly executes and submits a timely request for exclusion from the Settlement Class.

(Ex. A, §§ 1.19, 1.39, 1.63.)

### **B. The Settlement Fund.**

The proposed Settlement will establish a \$9,750,000.00 cash Settlement Fund. (Ex. A, §§ 1.67, 2.2.) Each valid claimant will be entitled to a payment from the Settlement Fund equal to the

sum of (1) \$1,200.00 times the number of accounts created in their name without authorization for which they were subjected to collection efforts (a Damages Settlement Class Account) and (2) \$250.00 times the number of accounts created in their name for which no evidence of collection efforts exists (an Injunctive Settlement Class Account). Payouts to claimants will be made from the Settlement Fund after the payments are made for notice and administration costs, attorneys' fees (not to exceed one third of the Settlement Fund (\$3,250,00.00)) and costs (not to exceed \$165,000.00), and service award payment to the two Plaintiffs (not to exceed \$15,000.00 each). (Ex. A, §§ 2.2, 2.3, 7.1, 8.1.) In the event the value of claims exceeds the value of the Distributable Settlement Fund, (Ex. A, §§ 1.27, 2.3(a)), the amount paid on each Approved Claim will be adjusted downward *pro rata*, so that the Distributable Settlement Fund is sufficient to pay all Approved Claims. (Ex. A, § 2.3(e).) The Settlement provides for only one claim per person, and, while nothing shall prevent any individual from recovering for both Damages Settlement Class Accounts and Injunctive Settlement Class Accounts, a Settlement Class Member may receive only a single recovery per Settlement Class Account. (Ex. A, §§ 1.20, 1.40, 1.64, 1.65, 2.3(d)). In other words, a Settlement Class Account can either be a Damages Settlement Account or an Injunctive Settlement Class Account, not both. Plaintiffs anticipate that each member of the Settlement Classes will likely be able to claim the full amount being made available, although the amounts may be lower if the ultimate number of valid Claim Forms submitted is higher than anticipated.

### **C. Additional Relief.**

The Settlement also provides significant injunctive, non-monetary, relief to the Settlement Classes and the public. Vivint has agreed to do the following acts and implement the following material changes to its business practices in order to minimize, if not effectively eliminate, unauthorized account creation or debt collection efforts:

- i. Vivint will remove each approved Claimant from any unauthorized Vivint account(s) with which he or she is associated, to the extent they are so associated;
- ii. In order to verify that the customer has consented to Vivint accessing his or her consumer report, Vivint will incorporate into its pre-qualification credit inquiry a process that:
  - a. requires the customer to provide the last four digits of the customer's social security number; and
  - b. if the system returns a mismatch, will block the transaction from proceeding until sufficient information is entered to produce a match;
- iii. Vivint will incorporate into its financing application process a system to verify the consumer's identity that includes requiring the customer to present government-issued identification;
- iv. Vivint will incorporate into its financing application process a process whereby the customer prepares the financing application from the customer's own device;
- v. Vivint will incorporate into its financing application process a process whereby the customer acknowledges that he or she agrees and understands that Vivint will be using his or her personal information to access his or her consumer report for the purpose of financing home security equipment from Vivint;
- vi. Vivint will incorporate a policy requiring that a government-issued identification for each person signing a Vivint contract for equipment or services be viewed or captured during the account creation or installation processes; and
- vii. Vivint will take reasonable steps to verify every name and address included with a Vivint account to confirm that the individual is properly included within the account prior to:
  - a. attempting to collect any debt;
  - b. referring an account to a debt collector;
  - c. selling any debt to a debt buyer; or
  - d. reporting any debt to a consumer reporting agency.

(Ex. A, § 2.8.)

**D. Notice and Settlement Administration.**

As a consequence of the unauthorized credit access, account creation, and collections on unauthorized accounts at issue in this litigation, there are many instances where the members of the Settlement Classes have no connection or relationship with Vivint, and thus Vivint does not have complete or, possibly, accurate contact information for the Class Members. Accordingly, to reach as many potential Class Members as possible, notice will be comprised of two parts: 1) Direct Notice sent via first-class mail (or e-mail, if known) to individuals who may have had unauthorized accounts opened in their name and for whom contact information may be obtained via reverse lookup, and 2) Publication Notice for individuals for whom specific identity verification information cannot be obtained. (*See* Ex. A, § 3.1(a), (b); Ex. A, Ex. 2, 3 (Short Form Class Notice and Claim Form); Ex. A, Ex. 4 (Notice Plan)).

Finally, the proposed Notice Plan will establish a Website with the Claim Form, downloadable case motions, court orders, and other documents, including the Settlement Agreement and a detailed Long Form Notice.

**E. Opt-Out and Objection Procedure.**

Members of the Settlement Classes will have an opportunity to exclude themselves from the Settlement or object to its approval. The procedures and deadlines for filing opt-out requests and objections, (*see* Ex. A, §§ 3.2, 3.3), will be referenced in the Publication Notice and conspicuously listed in the Long Form Notice and on the Settlement Website. The notices will also inform members of the Settlement Classes that the Final Approval Hearing will be their opportunity to appear and have their objections heard and that Class Members will be bound by the release unless they timely exercise their right to exclusion.

**F. Release.**

In exchange for the relief described above, members of the Settlement Classes who do not exclude themselves will provide Vivint and its affiliates a full release of all claims related to the allegedly improper credit access, account creation, and/or account collection, which includes a release of all claims under the FCRA and all other related federal, state, or local law, regulation, or ordinance, and any other statutory or common law claim that could have been asserted based upon the same conduct. (*See Ex. A, §§ 1.43, 1.56, 1.57, 1.65, 1.69, 5.1.*)

As explained in more detail below, the proposed Settlement should be preliminarily approved as it meets all of the requirements for certification of a settlement class under Rule 23(b)(2) and (3) of the Alabama Rules of Civil Procedure; the proposed Notice Plan satisfies the requirements of Alabama Rule 23(c)(2); and the Settlement is fair, reasonable, and adequate.

### **III. THE PROPOSED SETTLEMENT CLASSES MEET THE REQUIREMENTS OF ALA. R. CIV. P. 23 AND SHOULD BE PRELIMINARILY CERTIFIED**

For settlement purposes only, the Parties have agreed that the Court should make preliminary findings and enter an order granting provisional certification of the Settlement Classes and appoint Plaintiffs and their counsel to represent the Settlement Classes. “The validity of use of a temporary settlement class is not usually questioned.” *Conte & Newberg, 4 Newberg on Class Actions*, §11.25 (4th Ed. 2002). The *Manual for Complex Litigation* explains the benefits of settlement classes:

Settlement classes – cases certified as class actions solely for settlement – can provide significant benefits to class members and enable the defendants to achieve final resolution of multiple suits. Settlement classes also permit defendants to settle while preserving the right to contest the propriety and scope of the class allegations if the settlement is not approved[.] . . . An early settlement produces certainty for the plaintiffs and defendants and greatly reduces litigation expenses.

*Manual for Complex Litigation* (Fourth) § 21.612. Prior to granting preliminary approval of a class action settlement, a court should determine that the proposed settlement class is a proper class for settlement purposes. *Manual for Complex Litigation* (Fourth) § 21.632; *Amchem Prods. Inc. v.*

*Windsor*, 521 U.S. 591, 620 (1997). A class may be certified under Ala. R. Civ. P. 23 if the following four prerequisites of Rule 23(a) are satisfied—(1) numerosity, (2) commonality, (3) typicality, and (4) adequacy of representation—as well as at least one of the three subdivisions of Rule 23(b). Here, the Settlement Classes satisfy all the requirements of Rule 23 and should be conditionally certified.

**A. Numerosity.**

Numerosity is met where “the class is so numerous that joinder of all members is impracticable.” Ala. R. Civ. P. 23(a)(1); *Cheminova Am. Corp. v. Corker*, 779 So. 2d 1175, 1179 (Ala. 2000). “The numerosity requirement imposes no absolute minimum number” and “[t]he court can accept commonsense assumptions in order to support a finding of numerosity[.]” *Cheminova*, 779 So. 2d at 1179. Where it is “clear” that the class numbers in the “thousands” and the defendant does not “actively contest the numerosity requirement,” the numerosity requirement is satisfied. *Id.*; *CVS Caremark Corp. v. Lauriello*, 175 So. 3d 596, 601 (Ala. 2014).

Here the proposed Settlement Classes encompass individuals nationwide and, given the scope of Vivint’s operations and the number of individuals seeking accounts as a general matter, the number of members of the Settlement Classes is likely in the thousands. The Classes are sufficiently numerous such that joinder would be impracticable, given the number of individuals in the Settlement Classes, the geographic disbursement of Settlement class members throughout the country, and that absent a class action few members of the Settlement Classes could afford to bring an individual lawsuit over the amounts at issue since each individual member’s claim is relatively small and statutorily limited.

**B. Commonality.**

Commonality, the second requirement for class certification under Ala. R. Civ. P. 23(a), is met where there are “questions of law or fact common to the class.” Ala. R. Civ. P. 23(a)(2). The commonality requirement can be summarized as follows:

Rule 23(a)(2) requires that there are questions of law or fact common to the class. Yet not every question of law or fact must be common to every member of the class. The requirement is met if the questions linking the class members are substantially related to the resolution of the litigation even though the individuals are not identically situated. Identical questions are not necessary and factual discrepancies are not fatal to certification.

*Coleman v. Cannon Oil Co.*, 141 F.R.D. 516, 521 (M.D. Ala. 1992) (internal citations omitted). “Commonality may exist where the party opposing the class has engaged in a course of conduct that affects all class members and gives rise to a plaintiff’s claim.” *Dujanovic v. Mortgage Am., Inc.*, 185 F.R.D. 660, 667 (N.D. Ala. 1999); *see also Braxton v. Farmer’s Ins. Group*, 209 F.R.D. 654, 658 (N.D. Ala. 2002).

Other FCRA class actions where the class members’ claims arose under the FCRA and focused on the same course of conduct by the defendant have been found to have common legal and factual issues. *See, e.g., Walker v. Calusa Investments, LLC*, 244 F.R.D. 502 (S.D. Ind. 2007). Similarly, here, all members of the proposed Settlement Classes share a common statutory FCRA claim arising out of the same standardized conduct: the accessing of credit and creation of accounts without authorization, at times resulting in collection efforts. Proving a FCRA violation would require the resolution of the same central factual and legal issues, including whether Vivint accessed the credit report information of members of the Settlement Classes without their consent, whether the accounts created in individuals name were done so with authorization, and whether that conduct violated the FCRA and state law. Thus, the common questions resulting from Vivint’s alleged conduct can be answered on a class-wide basis based on common evidence maintained by Defendant. Accordingly, this factor is satisfied.



### **C. Typicality.**

The third element of maintaining a class action is that the claims of the class representatives are typical of the claim of each member of the class. Ala. R. Civ. P. 23(a)(3). For a plaintiff to meet Rule 23(a)'s requirement of typicality her claims must "have the same essential characteristics as the class at large." *Cheminova*, 779 So. 2d at 1180 (citing *Coleman*, 141 F.R.D. at 527). However, the "class members' claims need not be identical to satisfy the typicality requirement; rather, there need only exist 'a sufficient nexus between the legal claims of the named class representatives and those of individual class members[.]'" *Manno*, 289 F.R.D. at 686; *see also Wright v. Circuit City Stores, Inc.*, 201 F.R.D. 526, 543 (N.D. Ala. 2001) ("particular factual differences, differences in the amount of damages claimed or even the availability of certain defenses against a class representative may not render his or her claims atypical") (citations omitted).

Here, Plaintiffs claims are typical to that of the other putative members of the Settlement Classes. All have allegedly had their credit accessed by Vivint and unauthorized accounts created in their name by Vivint in violation of the FCRA, and all Damages Settlement Class Members have suffered the same injury of having been subjected to collection efforts on unauthorized accounts. Consequently, Plaintiffs' claims satisfy the typicality requirement of Rule 23(a)(3).

### **D. Adequacy of Representation.**

Under Rule 23(a)(4), Plaintiffs must also establish that they can "fairly and adequately protect the interests of the class." Ala. R. Civ. P. 23(a)(4). This requirement is satisfied where "the named Plaintiffs have [no] interests antagonistic to those of the rest of the class" and "Plaintiffs' counsel are qualified, experienced and generally able to conduct the proposed litigation." *Cheminova*, 779 So. 2d at 1181 (citing *Appleyard v. Wallace*, 754 F.2d 955, 958 (11th Cir. 1985)).

Courts have readily found that a proposed class representative was adequate where the same actions of defendant resulted in FCRA claims of the named plaintiffs and members of the class. *See e.g., Fernandez v. Rent Grow, Inc.*, 341 F.R.D. 174, 206 (D. Md. 2022). Here, Plaintiffs' interests are entirely representative of and consistent with the interests of the proposed Settlement Classes—all have allegedly had their credit accessed and/or accounts created in their name without authorization, and their pursuit of this matter has demonstrated that they have been, and will remain, zealous advocates for the Settlement Classes. Thus, Plaintiffs have the same interests as the Settlement Classes, with the primary interest of obtaining relief from Vivint for claimed violations of the FCRA and common law.

Further, Plaintiffs retained counsel that have regularly engaged in major complex litigation and have extensive experience in consumer class actions. (*See* Declaration of Jon Mann, attached hereto as Exhibit B, at ¶¶ 2–5.) As shown in Ex. B, Plaintiffs' counsel and their firm have been appointed as class counsel in numerous complex consumer class action cases like this one, as well as leadership positions in many other complex litigations involving class actions or mass actions. Plaintiffs' counsel have adequately represented the interests of the Plaintiffs and members of the proposed Settlement Classes from the inception of this litigation, and will adequately represent the Settlement Classes throughout the Settlement, should it be approved.

**E. The Settlement Classes Meet the Requirements of Rule 23(b)(2) and (3).**

Plaintiffs must also show that the proposed Settlement Classes meet one of the Requirements of Ala. R. Civ. P. 23(b). Plaintiffs seek certification of the proposed Settlement Classes pursuant to Rules 23(b)(2) and (3), which require establishing, respectively, that Vivint has acted or refused to act in a manner generally applicable to the classes such that injunctive relief is appropriate, and that common questions of law or fact predominate over individual questions,

and that a class action is superior to other available methods of adjudication. Ala. R. Civ. P. 23(b)(2) and (3); *Cheminova*, 779 So. 2d at 1181.

Starting with Ala. R. Civ. P. 23(b)(3), here, as other courts have found when looking at similar cases brought under the FCRA, the common issues identified above outweigh any individualized issues in the litigation. *See e.g., Walker*, 244 F.R.D. at 506–07. All of the members of the Settlement Classes had their credit report information accessed without authorization and had fraudulent accounts created in their name. Accordingly, there are no individualized issues that may predominate.

Further, a class action is superior to class members bringing individual actions because absent a class action, most members of the Settlement Classes would find the cost of litigating their claims—each of which is statutorily limited to \$1,000 under the FCRA—to be prohibitive. It is thus unlikely that individuals would invest the time and expense necessary to seek relief through individual litigation. In addition, as stated by the United States Supreme Court, a class action is the superior method of resolving large scale claims if it will “achieve economies of time, effort, and expense, and promote . . . uniformity of decision as to persons similarly situated, without sacrificing procedural fairness or bringing about other undesirable results.” *Amchem* 521 U.S. at 615. Here, because all the members of the Settlement Classes claims involve the same course of conduct by Vivint and are subject to resolution based on the determination of the same common legal and factual issues, it would also be most efficient for their claims to be adjudicated on a class basis. Nor is there any concern regarding the “difficulties in managing a class action” since “[t]he proposed settlement negates any potential problems for managing a class action.” *Family Medicine Pharmacy, LLC v. Trxade Group, LLC*, No. 15-0590-KD-B, 2016 WL 6573981, at \*7 (S.D. Ala. Nov. 4, 2016) (citing *Amchem*, 521 U.S. at 620) (“Confronted with a request for settlement-only

class certification, a district court need not inquire whether the case, if tried, would present intractable management problems[ ]”).

As to Ala. R. Civ. P. 23(b)(2), certification is appropriate because the interests of members of the Settlement Classes are uniform, as the harm alleged is “homogeneous and flow[s] from the same business practice of” Vivint. *Kelly v. Bus. Info. Grp., Inc.*, No. 15-6668, 2019 WL 414915, at \* 7 (E.D. Pa. Feb. 1, 2019) (affirming Rule 23(b)(2) and (3) classes in same FCRA action). Courts have recognized the appropriateness of having both a damages class under Rule 23(b)(3) and injunctive class under Rule 23(b)(2) in the FCRA context to ensure compensation for harm and prevention of future harm. *Id.*; *Berry v. Schulman*, 807 F.3d 600, 612 (4th Cir. 2015) (affirming approval of hybrid FCRA class settlement under both Rule 23(b)(2) and (3) where the relief sought and interests of class members were uniform).

Because the proposed Settlement Classes satisfy all the requirements under Ala. R. Civ. P. 23(a) and 23(b)(2) and (3), Plaintiffs respectfully request that the Court grant preliminary certification of the Settlement Classes.

#### **IV. THE PROPOSED NOTICE PLAN SATISFIES THE REQUIREMENTS OF RULE 23(c)(2) and 23(e)**

Under Ala. R. Civ. P. 23(c)(2), where, as here, a class is certified pursuant to Rule 23(b)(3), the Court is directed to provide class members who “can be identified through reasonable effort” notice advising them that:

(A) the court will exclude the member from the class if the member so requests by a specified date; (B) the judgment, whether favorable or not, will include all members who do not require exclusion and (C) any member who does not request exclusion may, if the member desires, enter an appearance through counsel.

Rule 23(e) further specifies that “notice of [any] proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs.” Ala. R. Civ. P. 23(e). In accordance with Ala. R. Civ. P. 23(c)(2) and 23(e), the Parties request that this Court appoint A.B.

Data, Ltd. as the Settlement Administrator and direct that notice be provided to Class Members in accordance with the “Notice Plan” in the attached Settlement Agreement. (*See* Ex. A, §§ 1.62, 3.1; Notice Plan, Ex. 4 to Ex. A).

The proposed notices in this case satisfy the requirements of Ala. R. Civ. P. 23(c)(2) and 23(e). As set forth in detail in Section II(D), *supra*, the Settlement Agreement contemplates a multi-part notice plan designed to reach as many potential members of the Settlement Classes as possible. First, as noted above, Direct Notice of the Settlement will be sent via U.S. Mail to all Damages Settlement Class Members whose contact information will be obtained by conducting a reverse lookup. (Ex. A, § 3.1(a)). In addition, to the extent any Damages Settlement Class Members do not receive direct notice, the Settlement also provides for Publication Notice that will be provided via a nationally circulated publication and digital channels and which will be published within twenty-one (21) days of preliminary approval being granted. (Ex. A, § 3.1(b); Notice Plan, Ex. 4 to Ex. A). Additionally, the Settlement Administrator will establish a website containing the relevant court documents and the notice form, as well as information regarding how members of the Settlement Classes can exclude themselves from the Settlement Agreement. (Ex. A, § 3.1(c); Notice Plan, Ex. 4 to Ex. A). The proposed Short and Long Form Notices, Claim Form, and Publication Notice are attached as Exhibits 1, 2, 3, and 4(a) to the Settlement Agreement. These notices all provide members of the Settlement Classes information regarding: a description of the Settlement Classes; a description of the proposed Settlement; the procedures and deadlines for filing objections or seeking exclusion from the Settlement; the consequences of opting out or remaining in the Settlement Classes; that Class Counsel will apply for attorneys’ fees, expenses, and a service award for the Class Representatives; and how to obtain additional information about the case. The proposed Settlement Administrator also believes the proposed Notice Plan is

adequate and meets all requirements, as shown in Exhibit C (Declaration of Eric Schachter). Accordingly, Plaintiffs request that, pursuant to Alabama Rules of Civil Procedure 23(c)(2) and 23(e), this Court direct that notice be provided in the manner set forth in the proposed Notice Plan.

#### **V. THE PROPOSED SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE**

In addition to evaluating whether a proposed settlement class meets the requirements for class certification, any settlement agreement purporting to resolve a class action must also obtain “approval of the court.” Ala. R. Civ. P. 23(e). At the preliminary approval stage, the “Court must first ‘make a preliminary evaluation of the fairness of the settlement before directing that notice be given to the settlement class.’” *Family Medicine Pharmacy*, 2016 WL 6573981, at \*7. However, critically, preliminary approval should be “granted unless a proposed settlement is obviously deficient.” *Id.* In evaluating whether a settlement should be preliminary approved, courts typically evaluate whether the settlement is “fair, reasonable, and adequate.” *See Faught v. Am. Home Shield Corp.*, 668 F.3d 1233, 1240 (11th Cir. 2011) (citing *Holmes v. Cont’l Can Co.*, 706 F.2d 1144, 1147 (11th Cir. 1983)). The factors typically evaluated to determine whether a settlement is “fair, reasonable, and adequate” are

(1) the likelihood of success at trial; (2) the range of possible recovery; (3) the point on or below the range of possible recovery at which the settlement is fair, adequate, and reasonable; (4) the complexity, expense, and duration of the litigation; (5) the substance and amount of opposition to the settlement; (6) the stage of the proceedings at which the settlement was achieved; and (7) the financial ability of the defendant to withstand a greater judgment[.]

*Adams v. Robertson*, 676 So. 2d 1265, 1273 (Ala. 1995). Even a preliminary application of these factors to this case demonstrates that the proposed Settlement is “fair, reasonable, and adequate.”

As to the first factor, while Plaintiffs believe that they have a very good likelihood of prevailing on their FCRA claims against Vivint, they are also aware that Vivint has denied their material allegations and have raised several legal defenses, any of which, if successful, would

result in the Plaintiffs and the proposed members of the Settlement Classes receiving no monetary recovery whatsoever. Specifically, Vivint is prepared to argue that Plaintiffs have not suffered any actual injury, that no violation of the FCRA occurred, and that Plaintiffs would not be able to adversely certify any proposed class. The risk that Plaintiffs would be unsuccessful in certifying a class of similarly situated individuals is particularly relevant, given that class certification of FCRA cases is by no means guaranteed. *See, e.g., Soualian v. Int'l Coffee and Tea LLC*, No. CV 07-502, 2007 WL 4877902 (S.D. Cal. June 11, 2007). Accordingly, there is significant risk that either Plaintiffs' individual claims will not survive, or else that Plaintiffs will ultimately be unsuccessful in certifying a class of individuals who would be entitled to any award following trial.

With respect to factors two and three, the proposed Settlement is fair, reasonable, and adequate and is in the best interest of members of the Settlement Classes because, upon submission of a valid Claim Form and approval of the claim, members of the Settlement Classes are each provided a payment that will compensate them for each account opened in their name in amounts tailored to reflect whether the members of the Settlement Classes have suffered actual damages. Given that the members of the Settlement Classes claims' are statutorily limited under the FCRA to \$1,000.00, this represents a significant benefit. Similar class action settlements involving violations of the FCRA have received final approval in courts across the country. *Robinson v. Nat'l Student Clearinghouse*, 14 F. 4th 56 (1st Cir. 2021) (approving payout of approximately \$33.35 per class member); *Schofield v. Delta Air Lines, Inc.*, No. 18-cv-00382-EMC, 2019 U.S. Dist. LEXIS 31535, at \*1 (N.D. Cal. Feb. 27, 2019) (\$50 per class member); *Marcus Chism v. Pepsico Inc.*, Case No. 3:17-cv-00152-VC, Doc. 101, (N.D. Cal. Sept. 6, 2018) (\$62.87 per class member). Accordingly, the proposed Settlement, which creates a \$9,750,000.00 Settlement Fund where each

Class Member can submit a claim for an amount higher than many of the above listed settlements is equally fair, reasonable, and adequate, and warrants Court approval.

With respect to factor four, in the absence of settlement, it is certain that the expense, duration, and complexity of the protracted litigation that would result would be substantial. The Parties would have to undergo significant motion practice before any trial on the merits could even be contemplated. Such motion practice would likely include both motions for summary judgment on Plaintiffs' individual claims, as well as briefing on any motion for class certification brought by Plaintiffs. Further, given the complexity of the issues and the amount in controversy, the defeated party(ies) would likely appeal both any decision on the merits (at summary judgment and/or trial), as well as any decision on class certification. As such, the immediate and considerable relief provided to the Settlement Classes under the Settlement weighs heavily in favor of its approval compared to the inherent risk and delay of continued litigation, trial, and appeal.

Addressing factor five, given the strength of this Settlement and the significant amount of the award that members of the Settlement Classes can claim, Plaintiffs expect little or no opposition to the Settlement by members of the Settlement Classes. While it is difficult to ascertain the reaction of the members of the Settlement Classes to the Settlement prior to notice being disseminated, Plaintiffs themselves have approved of the Settlement and believe that it is a fair, reasonable, and adequate settlement considering the defenses raised by Vivint and the potential risks involved with continued, protracted litigation.

With respect to the sixth factor, while the instant case is still early on procedurally, this Settlement was reached only after significant litigation, time, expense, and discovery efforts by the Parties. In addition, the Settlement Agreement was negotiated at arm's length in an adversarial,



mediated setting between counsel who are experienced in all aspects of consumer class action litigation with the assistance of an experienced, capable, and well-respected mediator.

Finally, as to the seventh factor, Vivint's ability to pay if Plaintiffs were to succeed at trial, further supports the Settlement. Although Vivint operates a profitable financial corporation, a judgment finally entered against it in this case could likely be much larger than the Settlement, and could constitute a loss to Vivint, given that the FCRA provides for a statutory penalty of \$1,000 per violation, along with attorneys' fees and even punitive damages, in the event of evidence the FCRA violation was willful.

In conclusion, the Settlement Agreement is fair, reasonable, and adequate considering, among other things: (1) the relief available to Plaintiffs and Class Members under the terms of the Settlement Agreement; (2) the attendant risks and uncertainty of litigation, as well as the difficulties and delays inherent in litigation; and (3) the desirability of resolving the case promptly to provide effective relief to Plaintiffs and the Settlement Classes.

## **VI. CONCLUSION**

For the foregoing reasons, and on terms set forth more fully in the proposed Preliminary Approval Order, Plaintiffs Daniel Sullen and Joshua Renfroe respectfully request that this Court issue an order: (1) appointing Daniel Sullen and Joshua Renfroe as Settlement Class Representatives; (2) appointing Jon Mann, Austin Whitten, Tom Dutton, and Mike Bradley of PITTMAN, DUTTON, HELLUMS, BRADLEY & MANN, P.C. as Class Counsel; (3) preliminarily approving the proposed Settlement Agreement; (4) approving the form and methods of the proposed Notice Plan; (5) ordering the issuance of notice; and (6) granting such further relief as the Court deems reasonable and just.

The Parties propose the following schedule leading to the hearing on final approval of the settlement:

1. **Website Notice Posted by Settlement Administrator:** created and launched within twenty-one (21) days of the date of entry of the Order granting Preliminary Approval;
2. **Notice Date:** the Settlement Administrator shall begin Publication Notice and shall complete all other forms of notice no later than twenty-one (21) days after the date of entry of the Order granting Preliminary Approval;
3. **Claims Deadline:** Claim forms must be postmarked or electronically submitted to the Settlement Administrator within forty-five (45) days after the Final Approval Hearing;
4. **Deadline for Opt-Outs / Objections:** each opt-out and/or objection must be submitted/postmarked or filed with the Court within sixty (60) days after the Notice Date;
6. **Submission of Papers in Support of Attorneys' Fees and Expenses:** must be filed no later than fourteen (14) days prior to the objection/exclusion deadline;
7. **Submission of Papers in Support of Final Approval of Settlement and in Response to any Objections:** must be filed no later than fourteen (14) days prior to the date of the Final Approval hearing; and,
8. **Final Approval Hearing:** to be set approximately ninety (90) days after the date of entry of the Order granting Preliminary Approval, or such other date as ordered by the Court.

Dated: January 9, 2024

Respectfully submitted,

*/s/ Jon Mann*

Jonathan S. Mann (MAN057)

Austin B. Whitten (WHI165)

Tom Dutton (DUT001)

Michael C. Bradley (BRA094)

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*Attorneys for Plaintiffs and the Proposed  
Settlement Classes*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 9, 2024, I filed the foregoing with the Clerk of the Court using the Court's AlaFile system, which will send notification of such filing to all counsel of record:

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Jonathan P. Hoffmann  
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*/s/ Jon Mann*  
\_\_\_\_\_  
Of Counsel



ELECTRONICALLY FILED  
1/9/2024 4:39 PM  
01-CV-2023-903893.00  
CIRCUIT COURT OF  
JEFFERSON COUNTY, ALABAMA  
JACQUELINE ANDERSON SMITH, CLERK

# Exhibit A Settlement Agreement

**CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE**

This Settlement Agreement and Release (“Settlement Agreement,” “Agreement,” or “Settlement”)<sup>1</sup> is entered into between Plaintiffs, Daniel Sullen and Joshua Renfroe, on behalf of themselves individually and as the representatives of classes of Persons defined below (“Plaintiffs”), and Vivint, Inc. (“Vivint” or “Defendant”). Plaintiffs and Vivint are collectively referred to in this Agreement as the “Parties.”

**RECITALS**

**WHEREAS**, on October 30, 2023, Plaintiffs filed a putative class action lawsuit in the Circuit Court of Jefferson County, Alabama, captioned *Sullen, et al. v. Vivint, Inc.*, Case No. 01-CV-2023-903893 (the “Litigation”);

**WHEREAS**, in the Litigation, Plaintiffs contend that Vivint violated the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681, *et seq.*, as well as Alabama state law, by allegedly accessing and using their credit information without authorization or consent in order to create accounts for home security services, in addition to subjecting some unauthorized accounts to collection attempts;

**WHEREAS**, Plaintiffs and Defendant have engaged in settlement discussions, including without waiver numerous mediation sessions (both in person and electronically) and calls with Lee Copeland, Esq. serving as impartial mediator, to determine whether they could reach a consensual resolution of the Litigation;

**WHEREAS**, The Parties agree that by having both Plaintiffs serve as Class Representative (defined in Section 1.15 below), they better protect the class and ensure adequacy;

---

<sup>1</sup> Unless otherwise stated, capitalized terms shall have the meanings ascribed to them in Section 1 of this Settlement Agreement.

**WHEREAS**, Plaintiffs and Defendant have reached an agreement in principle to resolve the Litigation;

**WHEREAS**, Plaintiffs' attorneys have thoroughly investigated the relevant facts regarding Defendant's account creation, billing, and collection; Defendant's policies, practices, and procedures regarding the same; and the law relating to the Litigation, before determining whether the Litigation should be resolved by entering into this Settlement Agreement;

**WHEREAS**, Defendant denies all liability for the claims asserted in the Litigation;

**WHEREAS**, without admitting or conceding any wrongdoing or liability, and solely for the purpose of avoiding the inconvenience, expense, and risk of further litigation, Vivint has agreed to settle all claims, demands, and liabilities between Defendant, on the one hand, and Plaintiffs, and the Settlement Class, on the other, including all claims that have been asserted, or could have been asserted, in the Litigation; and

**WHEREAS**, Plaintiffs and their counsel believe that the claims asserted in the Litigation have merit, but they have concluded that the terms and conditions provided in this Agreement are fair, reasonable, adequate, and in the best interests of the Settlement Class as a means of resolving the Litigation, considering (1) the benefits to the Settlement Class under this Settlement, (2) Defendant's demonstrated willingness to vigorously oppose class certification and the merits of Plaintiffs' claims if the Litigation is not settled, and (3) the attendant risks, costs, uncertainties, and delays of proceeding with the Litigation.

**NOW, THEREFORE**, it is agreed, by and among the undersigned, that the Litigation shall be settled on the terms and conditions set forth herein, subject to judicial approval.

## **1. DEFINITIONS**

**1.1.** "Address Data" shall have the meaning ascribed to it in Section 2.6(b)(4).

**1.2.** “Administration Costs” shall mean (i) the costs and expenses associated with the production, dissemination, and publication of the Class Notice, (ii) the costs and expenses of the Settlement Administrator and Claims Referee in effectuating this Agreement (but not the costs of the Mediation), and (iii) any other costs associated with the Settlement of this Litigation (other than Plaintiffs’ Service Awards and attorneys’ fees and expenses (including costs) sought by Class Counsel).

**1.3.** “Agreement Execution Date” shall mean the date on which the final signature is affixed below to execute this Settlement Agreement.

**1.4.** “Approved Claims” shall mean the aggregate of all claims submitted by Settlement Class Members in accordance with the Final Order and Judgment and approved by the Settlement Administrator, after any review and challenge procedures as provided in Section 2.6(c).

**1.5.** “Attorneys’ Fee Order” shall mean the Court’s order on the Fee and Expense Application as contemplated in Section 8.1.

**1.6.** “Claim Form” shall mean the form that Settlement Class Members are required to submit (either electronically via the settlement website or email, or by mail) to the Settlement Administrator in order to receive a distribution from the Settlement Fund, which is identical in all material respects to that attached hereto as Exhibit 3. The Claim Form will require claimants to:

- i. fully complete, sign, and attest under penalty of perjury that the information is “True and Accurate”;
- ii. declare that he or she (1) did not authorize Vivint to access his or her consumer report information; (2) did not authorize Vivint to create an account in his or her name; and (3) were subjected to collections on an unauthorized account; and,
- iii. include (1) first and last name (and middle initial), (2) date of birth, (3) street address, city, state, and zip for each address at which he or she resided, owned in part or in whole, or with which he or she was associated during the Class Period, and (4) other contact information (email address and

phone numbers).

The Claim Form will further inform claimants that “You may submit only one claim form. Submitting more than one claim form will not increase your compensation under the Settlement Agreement.” For Claim Forms sent to a recipient of Direct Notice only, the Settlement Administrator shall assign a unique number (e.g., Claim 1) (a “Claim Number”). The assignment of a Claim Number shall have no impact on the process outlined in Section 2, including without waiver the process for determining whether a Claimant has submitted a claim deemed an Approved Claim, or is entitled to payment.

**1.7.** “Claimant” shall refer to an individual who has filed a claim that is initially approved by the Settlement Administrator, pursuant to Section 2.6.

**1.8.** “Claims Data” shall mean the data Vivint provides the Settlement Administrator after receipt of a Completed Claims List, pursuant to Section 2.6. Such data shall include available information, if any, sufficient to confirm:

- i. the number of accounts for which Vivint accessed the Claimant’s credit information;
- ii. the number of Damages Settlement Class Accounts created with the Claimant’s credit information;
- iii. the number of Injunctive Settlement Class Accounts created with the Claimant’s credit information;
- iv. the service address of each account identified in (ii) and (iii) above; and,
- v. whether Vivint attempted Collection Efforts with regards to Damages Settlement Class Accounts.

Excluded from the term Claims Data is data related to accounts where:

- i. the service address matches any address provided by the Claimant on their Claim Form;
- ii. the account was created outside of the Claims Period; or,



- iii. the Claimant's credit was not accessed as part of the account creation process.

**1.9.** “Claims Deadline” shall mean the date by which all Claim Forms must be submitted electronically or postmarked (if sent by mail) to be considered timely and shall be set, subject to approval by the Court, on a date forty-five (45) days after the Final Approval hearing. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order as well as in the Short Form Class Notice, the Claim Form, the Long Form Class Notice, and the Publication Notice. Under no circumstances shall the Claims Deadline be less than ninety (90) days from the commencement of Publication Notice.

**1.10.** “Claims Referee” shall mean the Mediator or any other individual the Parties may mutually agree to in writing, including without waiver the Settlement Administrator.

**1.11.** “Claims Reverse Look-up Data” shall mean the physical address(es), telephone number, and email address, as applicable and available, obtained by the Settlement Administrator from independent reverse look-up services that is associated with the Person found within the Claims Data. The services used by the Settlement Administrator shall, if reasonably practicable, identify the likely current address of each Person.

**1.12.** “Class Counsel” shall mean Jonathan Mann, Austin Whitten, Tom Dutton, and Michael Bradley of Pittman, Dutton, Hellums, Bradley & Mann, P.C.

**1.13.** “Class Notice” shall mean the Short Form Class Notice, Long Form Class Notice, and the Publication Class Notice, collectively.

**1.14.** “Class Period” shall mean the period between January 1, 2016 and the date of entry of the Preliminary Approval Order.

**1.15.** “Class Representatives” shall mean the named Plaintiffs Daniel Sullen and Joshua Renfroe in the Litigation.

**1.16.** “Collection Efforts” shall mean a telephone call, letter, email, or furnishing of credit information made for the purpose of attempting to obtain or encourage payment of any alleged financial obligation or monies owed.

**1.17.** “Completed Claims List” shall have the meaning ascribed to it in Section 2.6(b).

**1.18.** “Court” shall mean the Circuit Court of Jefferson County, Alabama, and Judge Elisabeth French, the judge to whom this matter is assigned, or any judge who shall succeed that judge as presiding over the Litigation.

**1.19.** “Damages Settlement Class” shall mean all natural Persons in the United States for whom Vivint accessed consumer report information without authorization and used his or her information to create a Vivint account between January 1, 2016, and the date the Court enters the Preliminary Approval Order of the Settlement and who have been subjected to Collection Efforts by Vivint. Excluded from the term “Damages Settlement Class” are: (1) any parent, subsidiary, affiliate, or controlled persons of Defendant, as well as the officers, directors, agents, servants, or employees of Defendant; (2) governmental agencies, entities, or judicial officers; and (3) any Person who properly executes and submits a timely Request for Exclusion from the Settlement Class.

**1.20.** “Damages Settlement Class Account” shall mean an account (i) for which a Damages Settlement Class Member’s credit was accessed by Vivint without authorization (ii) between January 1, 2016, and the date the Court enters the Preliminary Approval Order of the Settlement, (iii) which account was subjected to Collection Efforts by Vivint.

**1.21.** “Damages Settlement Class Member” shall mean a Person who falls within the definition of the Damages Settlement Class and who has not submitted a valid and timely Request for Exclusion from the Settlement Class.

1.22. “Defendant” shall mean Vivint, Inc.

1.23. “Direct Notice” shall mean the direct notice component of the Notice Plan agreed to by the Parties and shall be made through means outlined in Exhibit 4 attached hereto.

1.24. “Direct Notice Data” shall refer to the names, dates of birth, Social Security numbers, mailing addresses, service address for each account falling within the scope of this Section 1.24, telephone numbers, and email addresses, if reasonably known to Defendant and existing in its systems, of Persons whose credit information was used by Defendant to create accounts from January 1, 2016 to the date the Court enters the Preliminary Approval Order regardless of whether the account was subsequently closed. Excluded from Direct Notice Data are names, dates of birth, Social Security numbers, mailing addresses, telephone numbers, and email addresses of Persons for accounts where:

- i. Credit was approved on the first attempt, at account creation; or
- ii. Defendant’s records include a photo identification or video/iPad verification at the time of contract signing and equipment installation, and the government-issued identification or video/iPad verification provided to Defendant matches the name and signature on the account, at the time of contract signing/equipment installation; or
- iii. Third-party financiers (such as Citizens and Fortiva) required a full or partial Social Security number of applicants, at account creation, as part of their underwriting; or
- iv. Vivint received an address for an applicant from the credit reporting agencies during a credit pull (at account creation), and the applicant’s address matched the service address for the new account, at the time of contract signing/equipment installation; or
- v. Defendant never subjected the account to Collection Efforts either by Defendant itself or third parties Defendant engaged to collect on its behalf.

The names, dates of birth, Social Security numbers, mailing addresses, telephone numbers, and email addresses of Persons who Vivint has submitted to the Consumer Fund outlined in Section

2.3(f) shall not be excluded from Direct Notice simply due to being submitted to the Consumer Fund.

**1.25.** “Direct Notice Data Confirmation” shall mean documentation (along with a signed attestation under penalty of perjury) showing the accuracy and integrity of the process used to obtain Direct Notice Data.

**1.26.** “Direct Notice Recipients” shall have the meaning ascribed to it in Exhibit 4, Section I.

**1.27.** “Distributable Settlement Fund” shall have the meaning ascribed to it in Section 2.3(a).

**1.28.** “Effective Date” shall mean the date upon which the Final Approval Order substantially in the form of Exhibit 6 becomes both final and no longer subject to appeal or review (or further appeal or review), whether by exhaustion of any possible appeal, lapse of time, or otherwise.

**1.29.** “Final Approval Hearing” shall mean the hearing to be held before the Court where Plaintiffs will request that the Settlement Agreement receive Final Approval and that the Court approve the Fee and Expense Application and a Service Award to the Class Representative.

**1.30.** “Fee and Expense Application” shall mean the petition to be filed by Class Counsel, in which they seek approval of an award of attorneys’ fees, costs, and expenses.

**1.31.** “Final Approval” shall mean the entry of the Final Order and Judgment.

**1.32.** “Final Order and Judgment” shall mean a final order entered by the Court that grants approval of the Settlement following the Final Approval Hearing, and which is identical in all material respects to Exhibit 6 to this Settlement Agreement.

**1.33.** “Service Award” shall mean the service award that the Court awards to the Class

Representatives pursuant to Section 7.1.

**1.34.** “Initial Payment” shall mean One Million Dollars (\$1,000,000.00) deposited in the Settlement Fund for the purpose of the Notice Plan and Administration Costs.

**1.35.** “Initially Approved Claims” shall have the meaning ascribed to it in Section 2.6(b).

**1.36.** “Initially Approved Claims List” shall have the meaning ascribed to it in Section 2.6(b).

**1.37.** “Initially Rejected Claims” shall have the meaning ascribed to it in Section 2.6(b).

**1.38.** “Initially Rejected Claims List” shall have the meaning ascribed to it in Section 2.6(b).

**1.39.** “Injunctive Settlement Class” shall mean all natural Persons in the United States for whom Vivint accessed consumer report information without authorization between January 1, 2016, and the date the Court enters the Preliminary Approval Order of the Settlement and who have not been subjected to Collection Efforts by Vivint. Excluded from the term “Injunctive Settlement Class” are: (1) any parent, subsidiary, affiliate, or controlled persons of Defendant, as well as the officers, directors, agents, servants, or employees of Defendant; (2) governmental agencies, entities, or judicial officers; and (3) any Person who properly executes and submits a timely Request for Exclusion from the Settlement Class.

**1.40.** “Injunctive Settlement Class Account” shall mean an account (i) for which a Injunctive Settlement Class Member’s credit was accessed by Vivint without authorization (ii) between January 1, 2016 and the date the Court enters the Preliminary Approval Order of the Settlement, and (iii) which account was not subjected to Collection Efforts by Vivint.

**1.41.** “Injunctive Settlement Class Member” shall mean a Person who falls within the definition of the Injunctive Settlement Class and who has not submitted a valid and timely Request

for Exclusion from the Settlement Class.

1.42. “JAMS Rules” shall have the meaning ascribed to it in Section 11.2.

1.43. “Litigation” shall mean *Sullen, et al. v. Vivint, Inc.*, Case No. 01-CV-2023-903893, currently pending in the Circuit Court of Jefferson County, Alabama.

1.44. “Long Form Class Notice” shall mean the non-summary notice that will be made available on the settlement website for access by all Settlement Class Members and will be sent by the Settlement Administrator, via mail or e-mail, on request from a Settlement Class Member. The Long Form Class Notice will be identical in all material respects to that attached hereto as Exhibit 1, and shall also include the Claim Form.

1.45. “Mediator” shall mean Lee Copeland, Esq. of Copeland, Franco, Screws & Gill, P.A., or any other mediator mutually agreed to by the Parties.

1.46. “Non-Claims Payment” shall mean an amount equal to the sum of (i) the Court-approved award of attorneys’ fees and costs in the Attorneys’ Fee Order and (ii) the Service Award minus (iii) the outstanding balance of the Settlement Fund at the time the Non-Claims Payment is made.

1.47. “Notice Date” shall mean the date by which the Notice Plan has been completely carried out and shall be a date no later than twenty-one (21) days after entry of the Preliminary Approval Order, or such other date as ordered by the Court.

1.48. “Notice Plan” shall mean the proposed plan developed by the Settlement Administrator of disseminating to members of the Settlement Class notice of the proposed Settlement and of the Final Approval Hearing. The Notice Plan will include both Direct Notice and Publication Notice components, as set forth in Exhibit 4.

1.49. “Notice Reverse Look-up Data” shall have the meaning ascribed to it in Exhibit 4,

## Section I.

**1.50.** “Objection/Exclusion Deadline” shall mean the date by which Persons within the Settlement Class may submit a written objection to this Settlement Agreement or a Request for Exclusion. The Objection/Exclusion Deadline shall be a date no later than sixty (60) days after the Notice Date, or such other date as ordered by the Court.

**1.51.** “Parties” shall mean Plaintiffs and Defendant, collectively.

**1.52.** “Person” shall mean a natural person, estate, or legal representative.

**1.53.** “Plaintiffs” shall mean Daniel Sullen and Joshua Renfroe.

**1.54.** “Preliminary Approval Order” shall mean an order entered by the Court that grants preliminary approval to the Settlement in accordance with Section 4.1, certifies the Settlement Class, and approves the Notice Plan, and which is identical in all material respects to Exhibit 5 to this Settlement Agreement.

**1.55.** “Publication Notice” shall mean the publication component of the Notice Plan agreed to by the Parties, and shall be made through publication notice substantially in the form of Exhibit 4(a) attached hereto.

**1.56.** “Released Claims” shall mean any and all claims, counterclaims, suits, liabilities, demands, damages, costs, expenses, tax consequences, causes of action, and lawsuits, whether known or unknown (including Unknown Claims), whether legal, statutory, equitable, or of any other type or form, whether under federal, state, or local law, and whether brought in an individual, representative, or any other capacity, of every kind and nature and description whatsoever, past, present, and future, that the Settlement Class Members may now have or may have at any time hereafter on account of, arising from, or related to the Litigation, the transactions and occurrences forming the basis of the Litigation, any allegations that are made or could have been made in the

Litigation, anything recited in this Agreement, and all transactions and dealings in any manner relating thereto or otherwise among the Released Parties and the Settlement Class Members that have occurred before the execution of this Settlement.

**1.57.** “Released Parties” shall mean Vivint and all of its present, past, and future predecessors, successors, parents, subsidiaries, holding companies, affiliates, corporations, companies, divisions, assigns, officers, directors, committees, employees, fiduciaries, general partners, limited partners, shareholders, administrators, actuaries, agents, insurers, reinsurers, representatives, attorneys, retained experts, and trustees. The Parties expressly agree that any Person being released under this Agreement who is not a party to this Agreement is an intended third-party beneficiary of this Agreement.

**1.58.** “Removed Data” shall have the meaning ascribed to it in Exhibit 4, Section I.

**1.59.** “Request for Exclusion” shall mean a Person’s request that complies with paragraph “(2) Exclude yourself” in the Long Form Class Notice, attached hereto as Exhibit 1.

**1.60.** “Reverse Look-up Data” shall have the meaning ascribed to it in Exhibit 4, Section I.

**1.61.** “Settlement” shall mean the compromise and settlement agreement embodied in this Settlement Agreement.

**1.62.** “Settlement Administrator” shall mean A.B. Data, Ltd., or such other Person as the Parties shall later mutually agree in writing and who agrees to accept such responsibility, as described in this Agreement.

**1.63.** “Settlement Class” shall mean the Damages Settlement Class and the Injunctive Settlement Class, collectively.

**1.64.** “Settlement Class Accounts” shall refer to Damages Settlement Class Accounts and



Injunctive Settlement Class Accounts, collectively.

**1.65.** “Settlement Class Member” shall mean Damages Settlement Class Members and Injunctive Settlement Class Members, collectively.

**1.66.** “Settlement Class Period” shall mean the time period from January 1, 2016 through and including the date of the Preliminary Approval Order.

**1.67.** “Settlement Fund” means a cash settlement fund that shall be established by Defendant up to a maximum amount of Nine Million Seven Hundred Fifty Thousand Dollars (\$9,750,000.00). The Settlement Fund shall be initially funded by Vivint within fourteen (14) days after the entry of the Preliminary Approval Order in the amount of the Initial Payment and subsequently funded by Vivint in the amount of the Non-Claims Payment and the Final Claims Payment, as more specifically provided in Section 2.2 of this Agreement. The Initial Payment, Non-Claims Payment, and Final Claims Payment are the only payments to be made into the Settlement Fund. Defendant shall make the Initial Payment to an escrow account designated by the Settlement Administrator and transmitted via wire transfer following instructions to be provided by the Settlement Administrator. Defendant shall receive a credit in the amount of any Administration Costs against its Settlement Fund after such payment is made. The Settlement Fund shall be used to pay all Approved Claims, Administration Costs, Plaintiffs’ Service Awards, and attorneys’ fees and expenses (including costs) pursuant to the Attorneys’ Fee Order. The Settlement Fund represents the limit and extent of Defendant’s monetary obligations under this Agreement and the value of the Released Claims. In no event shall Defendant’s total financial liability with respect to this Settlement exceed Nine Million Seven Hundred Fifty Thousand Dollars (\$9,750,000.00). Once Defendant makes all payments required under this Agreement to the Settlement Fund, Defendant has no further payment obligation to the Settlement Class. The

Parties shall ensure that the Settlement Administrator only makes payments from the Settlement Fund in accordance with this Agreement, or as ordered by the Court, and provides a full accounting for all receipts to the Settlement Fund and disbursements from the Settlement Fund.

**1.68.** “Short Form Class Notice” shall mean the summary notice distributed to potential Settlement Class Members, as provided herein, and identical in all material respects to that attached hereto as Exhibit 2.

**1.69.** “Unknown Claims” shall mean any Released Claims that Plaintiffs or any other members of the Settlement Class do not know or suspect to exist in their favor at the time of the release of the Released Parties and which, if known by them, might have affected their settlement with and release of the Released Parties. Without admitting that California law in any way applies to this Agreement, with respect to any and all Released Claims, the Parties agree that, upon the entry of the Final Order and Judgment, Plaintiffs and all Settlement Class Members shall be deemed to have, and by operation of the Final Order and Judgment shall have, expressly waived the provisions, rights, and benefits of California Civil Code § 1542, which provides:

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

Plaintiffs and all other Settlement Class Members shall be deemed to have, and by operation of the Final Order and Judgment shall have, expressly waived all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to California Civil Code § 1542. Plaintiffs and all other Settlement Class Members shall be deemed by operation of the Final Order and Judgment to have

acknowledged that the foregoing waiver was separately bargained for and is a key element of the Settlement of which this release is a part.

**1.70.** “Vivint’s Counsel” shall mean Jason Tompkins and Jonathan Hoffmann of Balch & Bingham LLP.

**1.71.** “Website” shall have the meaning ascribed to it in Exhibit 4, Section III.

## **2. SETTLEMENT RELIEF**

**2.1. *Settlement Contingent.*** This Settlement Agreement is contingent upon the Court entering (a) a Preliminary Approval Order substantially in the form of Exhibit 5 or in such other form which is mutually acceptable to all Parties and (b) a Final Order and Judgment substantially in the form of Exhibit 6 or in such other form which is mutually acceptable to all Parties. In the event conditions (a) and (b) do not both occur, this Settlement shall not be effective, as provided in Section 9.3.

**2.2. *Settlement Fund.*** Vivint agrees to pay up to a maximum of Nine Million Seven Hundred Fifty Thousand Dollars (\$9,750,000.00) into the Settlement Fund solely as necessary under this Agreement. Within fourteen (14) days after the entry of the Preliminary Approval Order, Vivint shall pay into the Settlement Fund the Initial Payment. Within seven (7) days after the Effective Date, Vivint shall pay into the Settlement Fund the Non-Claims Payment. Vivint shall also pay into the Settlement Fund the Final Claims Payment (as defined in Section 2.7 below) within fourteen (14) days after the Claims Finalization Date, as stated in Section 2.7 below. The Initial Payment, Non-Claims Payment, and Final Claims Payment (i) are the only payments Vivint shall make under this Settlement, (ii) shall be credited towards Vivint’s total payment obligation to the Settlement Fund, and (iii) shall collectively under no circumstances exceed Nine Million

Seven Hundred Fifty Thousand Dollars (\$9,750,000.00) in total. The Settlement Fund will be used to pay the following amounts in connection with the Settlement:

- i. Compensation to the Settlement Class Members (via the Distributable Settlement Fund, as defined in Section 2.3(a) below) for Approved Claims;
- ii. Service Award (as defined in Section 7.1 below) approved by the Court;
- iii. Administration Costs; and
- iv. All attorneys' fees and expenses (including costs) approved by the Court pursuant to the Attorneys' Fee Order.

**2.3. *Distribution to Settlement Class Members.***

**(a)** The Distributable Settlement Fund shall consist of the difference of Nine Million Seven Hundred Fifty Thousand Dollars (\$9,750,000.00) minus the amount of any Court-approved Service Award, Administration Costs, attorneys' fees and expenses (including costs) pursuant to the Attorneys' Fee Order, and Claims Referee expenses to resolve challenged claims or claim denials under Section 2.6(c) (the "Distributable Settlement Fund"). Settlement Class Members shall receive a single payment in an amount equal to the sum of payments for which they are entitled under Sections 2.3(b) and (c), subject to the terms of Section 2.3(d), (e), and (f).

**(b)** Subject to Sections 2.3(d), (e), and (f), each Damages Settlement Class Member who timely submits a Claim Form by the Claims Deadline in accordance with Section 2.6(a) below that is found to be valid and approved and otherwise among the Approved Claims, as provided herein, shall be entitled to payment from the Distributable Settlement Fund in an amount equal to the number of Damages Settlement Class Accounts for which the Damages Settlement Class Member is shown to be an account holder multiplied by One Thousand Two Hundred Dollars (\$1,200.00).

(c) Subject to Sections 2.3(d), (e), and (f), each Injunctive Settlement Class Member who timely submits a Claim Form by the Claims Deadline in accordance with Section 2.6(a) below that is found to be valid and approved and otherwise among the Approved Claims, as provided herein, shall be entitled to payment from the Distributable Settlement Fund in an amount equal to the number of Injunctive Settlement Class Accounts for which the Injunctive Settlement Class Member is an account holder multiplied by Two Hundred Dollars Fifty Dollars (\$250.00).

(d) Nothing shall prevent Damages Settlement Class Members who additionally qualify as Injunctive Settlement Class Members from receiving payment from the Distributable Settlement Fund in amount reflecting both Damages Settlement Class Accounts and Injunctive Settlement Class Accounts, provided that Settlement Class Members may receive only a single recovery per Settlement Class Account.

(e) In the event that the Distributable Settlement Fund is not sufficient to allow each Approved Claim to receive the amount provided in Section 2.3(a), the amount paid to each Approved Claim will be adjusted downward *pro rata*, so that the Distributable Settlement Fund is sufficient to pay all Approved Claims.

(f) In the event that a Settlement Class Member has received compensation from the Consumer Fund established by the Stipulated Order for Permanent Injunction and Civil Penalty Judgment entered by the United States District Court for the District of Utah, Case No. 2:21-cv-00267-TS, on April 29, 2021, the amount to be paid on any Approved Claims by such Settlement Class Member pursuant to this Section 2.3 shall be reduced by the amount of compensation received; provided, however, that under no circumstances—other than those described in Section 2.3(e)—shall any Approved Claim be reduced below Two Hundred Fifty Dollars (\$250.00).

**2.4. *Deadline for Cashing Checks.*** Settlement Class Members shall have ninety (90) days from the date a settlement check is issued (the date printed on the settlement check) to cash the check. Settlement Class Members each may make a single request to the Settlement Administrator to re-issue a settlement check, provided that such request is made within ninety (90) days of the Effective Date and the Settlement Administrators records do not indicate that the original settlement check issued to such Settlement Class Member was cashed. Settlement Class Member shall have ninety (90) days from the date of such reissued checks (the date printed on the settlement check) to cash the re-issued check. All payments to Settlement Class Members via check will state on the face of the check that the check will expire and become null and void unless cashed within ninety (90) days after the date of issuance. To the extent a check issued to a Settlement Class Member who does not timely request a reissued check consistent with the terms of this Section 2.4 or a reissued check issued to a Settlement Class Member is not cashed within ninety (90) days after issuance, such Settlement Class Member's claim is deemed to have been waived and the funds associated with any such uncashed claim checks shall remain in the Settlement Fund. Any amounts left unused in the Settlement Fund (including the Distributable Settlement Fund) shall be used to pay the Settlement Administrator for the costs and fees of the Settlement Administrator referenced herein (or to reimburse Defendant for any such payments to the Settlement Administrator or Claims Referee). Any other remaining funds in the Settlement Fund after making all payments required under the Agreement (including the Distributable Settlement Fund) shall revert to Defendant. The Settlement Administrator shall pay to Defendant any such funds within ten (10) days after all other payments from the Settlement Fund are made pursuant to this Agreement and the last applicable ninety (90) day period for any Settlement Class Member to cash a check has passed.

**2.5. *Entire Monetary Obligation.*** Vivint’s payment obligations under this Settlement Agreement will be fully discharged by payment of the amounts due in compliance with this Agreement, and that Vivint shall have no other monetary obligations to the Settlement Class, nor any obligations to make any other payments to Settlement Class Members under this Agreement or otherwise. Under no circumstances shall Vivint’s monetary obligations under this Agreement exceed Nine Million Seven Hundred Fifty Thousand Dollars (\$9,750,000.00).

**2.6. *Claims Process.***

**(a) *Submission of Claims.*** Only one claim may be submitted per Person. All Claim Forms must be postmarked or submitted electronically to the Settlement Administrator by the Claims Deadline. Settlement Class Members who do not submit a timely and valid Claim Form on or before the Claims Deadline shall not be entitled to receive any portion of the Settlement Fund. A Claim Form is invalid if it does not contain all required information, is not attested by the claimant, or is not timely postmarked or submitted electronically. Settlement Class Members shall not be entitled to a portion of the Distributable Settlement Fund if they fail to submit a valid Claim Form substantially in the form attached hereto as Exhibit 3.

**(b) *Claims Processing.***

**(1)** On a rolling basis, but in any event no later than fourteen (14) days after the Claims Deadline, the Settlement Administrator shall process all Claim Forms submitted and shall determine which claims are completed and which claims are initially rejected. To make such a determination, the Settlement Administrator shall confirm that each Claim Form submitted (1) is in the form required herein, (2) is timely, (3) is complete, and (4) is not a Person within the Removed Data. Only claims meeting all four (4) criteria of the preceding sentence shall be deemed completed; all other claims shall be initially rejected (the “Initially Rejected Claims”).

(2) Within fourteen (14) days after the Claims Deadline, the Settlement Administrator shall prepare an electronic Excel spreadsheet listing each completed claim by a unique reference number along with the following information from such claims:

- i. the name, address, and email of the Claimant;
- ii. whether the Claimant is a Direct Notice Recipient;
- iii. whether the Claimant alleges to have been subject to Collection Efforts;
- iv. whether the Claimant provided supporting documentation regarding Collection Efforts with access to same; and
- v. any supplemental information regarding Collection Efforts provided by the Claimant

(the “Completed Claims List(s)”). The Settlement Administrator shall provide Counsel for the Parties a copy of the Completed Claims List(s), with an electronic pdf copy of all Claim Forms, including all supporting documentation provided, if any, and each Claim Form labeled with the Claim Form reference number contained in the Completed Claims List.

(3) Within fourteen (14) days after the Claims Deadline, the Settlement Administrator shall provide counsel for each Party with an electronic pdf copy of all Initially Rejected Claims and shall prepare a spreadsheet listing each rejected claim, the name, address, and email of the Person who filed the claim, the reason for the rejection of the claim, and a reference number assigned to the Claim Form (the “Initially Rejected Claims List”).

(4) No later than twenty-one (21) days after receipt of the Completed Claims List by Vivint’s Counsel, Vivint shall provide to the Settlement Administrator the Claims Data associated with the Completed Claims List. No later than seven (7) days after receipt of the Claims Data, the Settlement Administrator shall pull the Claims Reverse Look-up Data related to received Claims Data. By referencing the Claims Data, Direct Notice Data, Notice Reverse Look-up Data,



and Claims Reverse Look-up Data (collectively and for purposes of this Section, the “Address Data”), the Settlement Administrator shall determine:

- i. whether a Claimant had their credit information accessed by Vivint;
- ii. the number of Injunctive Settlement Class Accounts associated with a Claimant, if any;
- iii. the number of Damages Settlement Class Accounts associated with a Claimant, if any;
- iv. whether Vivint attempted Collection Efforts regarding the Accounts; and
- v. whether the service address for any Settlement Class Account within the Claims Data matches a Claimant’s address listed in the Address Data.

(5) No later than ten (10) days of the receipt of Claims Data, the Settlement Administrator shall prepare an electronic Excel spreadsheet listing each completed claim by a unique reference number along with the following information from such claims:

- i. the name of the Claimant;
- ii. the number of Injunctive Settlement Class Accounts associated with a Claimant for which (a) the Settlement Administrator believes the Claimant is entitled to payment and (b) the service address does not match the Claimant’s address in the Address Data;
- iii. the number of Damages Settlement Class Accounts associated with a Claimant for which (a) the Settlement Administrator believes the Claimant is entitled to payment and (b) the service address does not match the Claimant’s address in the Address Data; and
- iv. the proposed total payout to the Claimant.

(the “Initially Approved Claims List”, and the claims contained therein, the “Initially Approved Claims”, each an “Initially Approved Claim”).

(c) ***Review and Challenge of Claim Decisions.*** No later than twenty-eight (28) days after the date both Parties’ counsel have received both the Initially Approved Claims List and the Initially Rejected Claims List and the electronic pdf copies of approved Claim Forms from the

Settlement Administrator, the Parties shall audit and challenge any Initially Approved Claims or Initially Rejected Claims by serving upon each other via email a Notice of Claim Challenges identifying by claim number any approved or rejected claims the respective Party wishes to challenge and the reason for the challenge. Upon request of either Class Counsel or Vivint's Counsel, the Settlement Administrator shall provide the Notice Reverse Look-up Data related to Persons subject to a good faith challenge. Class Counsel and Vivint's Counsel shall meet and confer in an effort to resolve any disputes over any claims challenged by either of them and if the challenges are not withdrawn or resolved, the Parties shall, no later than fourteen (14) days after initially serving a challenge to the approval or rejection of a claim to the other Party, submit the challenges to the Claims Referee to resolve. Within ten (10) days of receipt of any challenge to the Initially Approved Claims List(s) and/or Initially Rejected Claims List(s) by the Parties, the Claims Referee shall resolve such challenge, and his or her decision shall be final. Any costs of the Claims Referee in resolving disputed claims shall be paid from the Settlement Fund. For purposes of the Agreement, including without waiver Section 2.6, the Defendant's records shall be deemed accurate and binding unless contradicting documentation is submitted, in which case the Claims Referee shall consider the documentation in making his or her decision.

The date all claims are finalized either without any dispute or by the decision of the Claims Referee shall be referred to as the "Claim Finalization Date," which shall in no event be later than the date the Claims Referee resolves any disputes made the Parties pursuant to this Section 2.6(c). If neither Class Counsel nor Vivint's Counsel have any challenges to the Initially Approved Claims List(s) and/or the Initially Rejected Claims List(s), the Claims Finalization Date shall be the later of the Effective Date or the date on which both Class Counsel and Vivint's Counsel inform the Settlement Administrator by email that neither Party has any objection to the claims determinations

made by the Settlement Administrator or the time for informing each other of such challenges has lapsed. If the Claims Referee must resolve challenges to the Initially Approved Claims List(s) and/or Initially Rejected Claims Lists(s) as outlined above, then the Claim Finalization Date shall be the later of the Effective Date or the date on which the Claims Referee communicates to the Parties his or her decision regarding any such challenges.

**2.7. *Payment of Claims.*** Within seven (7) days of the Claim Finalization Date, the Settlement Administrator shall provide Vivint with a spreadsheet setting forth the claim number, Claimant name, address and email, amount of payment for each claim, and total amount to be paid for all claims (the “Final Claims List”). Within fourteen (14) days of the Claims Finalization Date, Vivint shall pay to the Settlement Fund an amount sufficient for the Settlement Fund to pay all claims listed on the Final Claims List. Such payment shall be referred to as the “Final Claims Payment.” Notwithstanding any other provision of this Agreement, Vivint shall not be required to make the Final Claims Payment before the Effective Date. The Final Claims Payment shall be made by Vivint by wire (with wire instructions to be provided by the Settlement Administrator) to the escrow account maintained by the Settlement Administrator. No later than seven (7) days after the Effective Date, the Settlement Administrator may then make payment from the Settlement Fund by issuing settlement checks to the Settlement Class Members listed on the Final Claims List. Once Vivint makes the Final Claims Payment, its payment obligations to the Settlement Class Members under this Agreement shall be deemed to have been fully satisfied. The total of the Administration Payment, the Non-Claims Payment, and the Final Claims Payment shall not exceed \$9,750,000.00. Any amounts remaining in the Settlement Fund after issuance of settlement checks shall first be used to pay the Settlement Administrator for the costs and fees of the Settlement

Administrator (or to reimburse Defendant for any such payments to the Settlement Administrator) and shall then be paid to Defendant, as further provided in Section 2.4.

**2.8. *Prospective Injunctive Relief.*** Defendant has agreed to implement material changes to its business practices in order to reasonably minimize, if not eliminate, accounts created without authorization, Vivint will agree to do the following acts and implement the following changes to its procedures:

- i. Vivint will remove each approved Claimant from any unauthorized Vivint account(s) with which he or she is associated, to the extent they are so associated;
- ii. In order to verify that the customer has consented to Vivint accessing his or her consumer report, Vivint will incorporate into its pre-qualification credit inquiry a process that:
  - a. requires the customer to provide the last four digits of the customer's social security number; and
  - b. if the system returns a mismatch, will block the transaction from proceeding until sufficient information is entered to produce a match;
- iii. Vivint will incorporate into its financing application process a system to verify the consumer's identity that includes requiring the customer to present government-issued identification;
- iv. Vivint will incorporate into its financing application process a process whereby the customer prepares the financing application from the customer's own device;
- v. Vivint will incorporate into its financing application process a process whereby the customer acknowledges that he or she agrees and understands that Vivint will be using his or her personal information to access his or her consumer report for the purpose of financing home security equipment from Vivint;
- vi. Vivint will incorporate a policy requiring that a government-issued identification for each person signing a Vivint contract for equipment or services be viewed or captured during the account creation or installation processes; and

- vii. Vivint will take reasonable steps to verify every name and address included with a Vivint account to confirm that the individual is properly included within the account prior to:
  - a. attempting to collect any debt;
  - b. referring an account to a debt collector;
  - c. selling any debt to a debt buyer; or
  - d. reporting any debt to a consumer reporting agency.

Within thirty (30) days after the Effective Date, Vivint will provide Class Counsel with a detailed report, attested to under penalty of perjury by an executive of Defendant, outlining its efforts to adopt and implement the changes and actions outlined in this Section 2.8.

### **3. NOTICE TO THE CLASS**

**3.1. *Notice to the Class.*** Upon entry of the Preliminary Approval Order, Class Counsel shall cause the Settlement Administrator to implement the Notice Plan, as outlined in Exhibit 4, the costs of which shall be considered Administration Costs. Such Notice Plan shall comport with Due Process and shall include the following components:

**(a) *Direct Notice.*** Within twenty-one (21) days after entry of the Preliminary Approval Order, or such other date ordered by the Court, the Settlement Administrator shall disseminate by first class mail and electronic mail (if known) the Short Form Class Notice, substantially identical to Exhibit 2 hereto, to such Persons outlined in the Notice Plan.

**(b) *Publication Notice.*** Within twenty-one days after entry of the Preliminary Approval Order, or such other date ordered by the Court, Class Counsel shall cause the Settlement Administrator to implement the Publication Notice Plan, with the notice set forth in Exhibit 4.

**(c) *Settlement Website.*** After the Preliminary Approval Order is issued but prior to the Notices being disseminated, the Long Form Class Notice shall be published on a website to be created and administered by the Settlement Administrator. The Settlement Website shall include

pertinent case information and documents (including, but not limited, all relevant pleadings and motions and settlement agreement), as well as the ability to download the Long Form Notice substantially in the form of Exhibit 1. On the Settlement Website, Settlement Class Members will be able to download and submit a Claim Form, substantially in the form of Exhibit 3. Settlement Class Members may also receive a Claim Form by mailing a request, sending an email with a request, or by calling the Settlement Administrator.

**3.2. Exclusions.** The Class Notice shall advise the Settlement Class Members of their right to exclude themselves from the Settlement Class. Settlement Class Members shall be permitted to exclude themselves from the Settlement Class, provided that they comply with the requirements for doing so as set forth in the Preliminary Approval Order and the Class Notice. A Person in the Settlement Class who requests to be excluded from the Settlement Class must do so in writing. A Request for Exclusion must be emailed or postmarked on or before the Objection/Exclusion Deadline. In order to exercise the right to be excluded, a Person in the Settlement Class must timely email or mail a written Request for Exclusion to the Settlement Administrator providing his or her name, address and email, Claim Number (if applicable), a signature, and a statement that he or she wishes to be excluded from the Settlement Class. Any requests to be excluded that do not include all of the foregoing information, or that are sent to an address other than that designated in the Notice, or that are not submitted or postmarked within the Objection/Exclusion Deadline, shall be deemed to be invalid and the Persons or entities serving such a request shall be members of the Settlement Class and shall be bound as Settlement Class Members by the Agreement, if approved.

Any Person in the Settlement Class who successfully submits a Request for Exclusion shall not: (i) be bound by any orders or the Final Order and 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. The Request for Exclusion must be personally signed by the Person requesting exclusion. So-called “mass” or “class” opt-outs shall not be allowed.

If more than seventy-five (75) Settlement Class Members successfully submit a Request for Exclusion from the Settlement Class, Vivint shall have the option to cancel or terminate this Agreement, which shall have the effects described in Section 9.3 below.

**3.3. *Objections.*** Settlement Class Members shall be permitted to object to the Settlement, provided that they comply with the requirements for filing an objection as set forth in the Preliminary Approval Order and the Class Notice. The Class Notice shall advise the Settlement Class Members of their rights to object to the Settlement Agreement. Objections to this Settlement Agreement, and any papers submitted in support of said objection, shall be received by the Court at the Final Approval Hearing if and only if, on or before the Objection/Exclusion Deadline approved by the Court and specified in the Class Notice, the Person making an objection files notice of his or her intention to do so and at the same time (a) files copies of such papers he or she proposes to submit at the Final Approval Hearing with the Clerk of the Court and (b) sends copies of such papers via mail, hand delivery, or overnight delivery service to both Class Counsel and Vivint’s Counsel.

Any Settlement Class Member who intends to object to this Settlement Agreement must include: his or her full name, address and email; all grounds for the objection along with factual and legal support, including without waiver documentation or evidencing purportedly proving the same, for the stated objection; and the identity of any other class action cases to which the Person objected in the previous four (4) years. If represented by counsel, the objecting Settlement Class

Member must also provide the name and telephone number of his or her counsel. If a Settlement Class Member hires an attorney in connection with making an objection, that attorney must also file with the Court a notice of appearance by the objection deadline.

Although an objector's attendance at the Final Approval Hearing is not mandatory, an objector who intends to attend the Final Approval Hearing must indicate in his or her written objection his or her intention to appear at the Final Approval Hearing on his or her own behalf or through counsel. For any Settlement Class Member who timely files a written objection and who indicates an intention to appear at the Final Approval Hearing on his or her 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 also be attached.

**3.4. *Effect of Failing to Object.*** Any Settlement Class Member who fails to timely file a written objection with the Court in accordance with the terms of Section 3.3 and the Class Notice, shall not be permitted to object to this Settlement Agreement at the Final Approval Hearing, shall be foreclosed from seeking any review of this Settlement Agreement by appeal or other means, and shall be deemed to have waived his or her objections and be forever barred from making any such objections in the Litigation. To be valid, the objection must be filed with the Court and delivered to Class Counsel and Vivint's Counsel on or before the Objection/Exclusion Deadline set by the Court and specified in the Class Notice.

**4. MOTION FOR PRELIMINARY APPROVAL AND PRELIMINARY CERTIFICATION OF PROPOSED SETTLEMENT CLASS FOR SETTLEMENT PURPOSES AND MOTION FOR FINAL ORDER AND JUDGMENT**

**4.1. *Motion for Preliminary Approval and Preliminary Certification of Settlement Class.*** As soon as practicable after execution of this Agreement, Plaintiffs shall move



for (i) preliminary approval of the Settlement, including entry of an order identical in all material respects to the form of the Preliminary Approval Order attached hereto as Exhibit 5, (ii) preliminary appointment of Class Representatives and Class Counsel, and (iii) for purposes of this Settlement only, preliminary and conditional certification of the Settlement Class. The proposed Preliminary Approval Order submitted to the Court will seek a Final Approval Hearing date of approximately ninety (90) days from the entry of the Preliminary Approval Order.

**4.2. Motion for Final Approval and Final Certification of the Settlement Class.** At least fourteen (14) days prior to the Final Approval Hearing, or by some other date if so directed by the Court, Plaintiffs will move for (i) final approval of the settlement, (ii) final appointment of the Class Representatives and Class Counsel, and (iii) final certification of the Settlement Class, including for the entry of a Final Order and Judgment identical in all material respects to the Final Order and Judgment attached hereto as Exhibit 6, and will file a memorandum in support of the motion for final approval.

**4.3. Certification for Settlement Purposes Only.** Vivint agrees to not oppose certification of the Settlement Class only for the limited purpose of effectuating the Settlement Agreement. If the Settlement Agreement is not preliminarily or finally approved in all material respects, Vivint reserves all rights to object to the propriety of class certification in the Litigation and in all other contexts and for all other purposes, and neither this Agreement nor Vivint's non-opposition to the conditional certification of a settlement class for purposes of this Settlement may be cited as an admission by Vivint of the propriety of class certification.

**4.4. Vacating Settlement Certification and Reservation of Rights.** The certification of the Settlement Class shall be binding only with respect to the settlement of the Litigation. If the Settlement Agreement is not approved, the Settlement is terminated, or the Settlement is reversed,

vacated, or modified in any material respect by the Court or any other court, the certification of the Settlement Class shall be vacated, the Litigation shall proceed as though the Settlement Class had never been certified, and no reference to the prior Settlement Class or any documents related thereto shall be made for any purpose relating to class certification.

## **5. RELEASE**

**5.1. *Released Claims and Parties.*** Upon entry of the Final Approval Order, the Settlement Class Members, on behalf of themselves, their predecessors, successors, assigns, beneficiaries, and additional insureds, shall be deemed to have, and by operation of the Final Order and Judgment shall have, fully, finally, and forever released, relinquished and discharged the Released Parties from and for any and all liability for the Released Claims, and shall be forever enjoined from the prosecution of each and every Released Claim against any and all of the Released Parties, provided, however, that nothing herein is meant to bar any claim seeking enforcement of this Agreement or court orders relating to it.

## **6. SETTLEMENT ADMINISTRATION**

**6.1. *Settlement Administrator.*** The Settlement Administrator shall administer the Settlement consistent with this Agreement subject to the supervision of Vivint Counsel and Class Counsel, and with the supervision of the Court as circumstances may require.

**6.2. *Settlement Administrator's Obligations.*** The Settlement Administrator shall, under the supervision of the Court, Vivint Counsel, and Class Counsel, administer the relief provided by this Settlement Agreement by processing Claim Forms in a rational, responsive, cost effective, and timely manner. The Settlement Administrator shall maintain reasonably detailed records of its activities performed under this Settlement Agreement. The Settlement Administrator shall maintain all such records as are required by applicable law in accordance with its normal

business practices and such records will be made available to Class Counsel and Vivint's Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. The Settlement Administrator shall provide Class Counsel and Vivint's Counsel with information concerning Class Notice, the Notice Plan, claims filed and approved, claims filed and disallowed, and the administration and implementation of the Settlement Agreement.

Without limiting the foregoing, the Settlement Administrator shall:

- i. Forward to Vivint's Counsel, with copies to Class Counsel, all original documents and other materials received in connection with the administration of the Settlement Agreement, and all copies thereof, within thirty (30) days after the Claim Finalization Date;
- ii. File a notice with the Court regarding the completion of the Notice Plan no later than forty-five (45) days after entry of the Preliminary Approval Order;
- iii. Receive requests from Persons within the Settlement Class to exclude themselves from the Settlement Class and promptly provide Class Counsel and Vivint's Counsel a copy of said requests, regardless of whether the Settlement Administrator receives the exclusion request before or after the deadline for the submission of such forms and requests;
- iv. Provide weekly reports to Class Counsel and Vivint's Counsel, including without limitation, reports regarding the number of Claim Forms received, the number of Claim Forms approved by the Settlement Administrator, and the categorization and description of Claim Forms rejected, in whole or in part, by the Settlement Administrator; and
- v. Upon receipt of reasonable notice from Class Counsel or Vivint's Counsel, make available for inspection at any time all Claim Forms and any other documents or correspondence relating to the Settlement.

**6.3. Challenges to Acceptance or Rejection of Claim Forms.** Both Class Counsel and Vivint's Counsel shall have the right to challenge the acceptance or rejection of any Claim Form submitted by a Settlement Class Member in accordance with Section 2.6. If Class Counsel and Vivint's Counsel reach an agreed decision regarding the acceptance or rejection of any Claim

Form, the Settlement Administrator shall follow that decision. To the extent that Class Counsel and Vivint's Counsel are not able to agree on the disposition of a challenge, the Claims Referee shall timely decide such a challenge and its decision shall be final in accordance with Section 2.6. Any costs of the Claims Referee for challenges shall be considered Administration Costs to be paid from the Settlement Fund.

**6.4 Information about Administration Process.** Class Counsel and Vivint's Counsel each agree to keep all information about the Settlement administration process—including without limitation all information received pursuant to Section 6 of this Agreement, such as claims reports, information concerning opt-outs, Initially Approved and Rejected Claims Lists, the Final Claims List, and information about potential Settlement Class Members—confidential and may use it only for purposes of effectuating this Agreement. Notwithstanding the foregoing, as required by the Court or to effectuate the intent of this Agreement, the Parties may disclose: opt-outs, objections, claims, and other documents as necessary to enforce the terms and conditions of this Agreement.

## **7. SERVICE AWARD TO CLASS REPRESENTATIVES**

**7.1.** In recognition of their efforts on behalf of the Settlement Class, the Class Representatives shall, subject to the Court's approval, request and receive an aggregate Service Award in the amount of Thirty Thousand Dollars (\$30,000.00), in addition to any amounts that they may be entitled to receive under the Settlement Agreement.

**7.2.** Notwithstanding any contrary provision of this Agreement, the allowance or disallowance (in whole or in part) by the Court of any application for the Service Awards shall be considered by the Court separately from its consideration of the fairness, reasonableness, and adequacy of the Settlement, and any Order or proceedings relating to the Service Awards, or any

appeal of any Order relating thereto, shall not operate to terminate or cancel this Agreement or be deemed material thereto.

**7.3.** The Settlement Administrator shall pay the amount of the Service Awards approved by the Court from the escrow account maintained by the Settlement Administrator within five (5) days after the Effective Date. The Settlement Administrator shall issue checks for any Service Awards in the approved amount made payable to the Class Representatives and delivered to Class Counsel. This payment shall be credited as payment from the Settlement Fund. Plaintiffs shall provide Vivint with their Social Security Numbers before the aforementioned payments are due.

## **8. ATTORNEYS' FEES**

**8.1.** Class Counsel will move the Court for an award of attorneys' fees and expenses (including costs) to be paid from the Settlement Fund. Class Counsel may petition the Court for an award of attorneys' fees not to exceed one-third (1/3) or Three Million Two Hundred Fifty Thousand Dollars (\$3,250,000.00) of the Settlement Fund and expenses (including costs) not to exceed One Hundred Sixty-Five Thousand (\$165,000.00). Vivint agrees not to object to Class Counsel's Fee and Expense Application if Class Counsel's request for attorneys' fees and expenses (including costs) does not exceed the amounts identified in this Section 8.1. Class Counsel has, in turn, agreed not to seek or accept attorneys' fees and expenses (including costs) in excess of the amounts identified in this Section 8.1.

**8.2.** Class Counsel will file their Fee and Expense Application no later than fourteen (14) days prior to the Objection/Exclusion Deadline unless otherwise ordered by the Court. Notwithstanding any contrary provision of this Agreement, the Court's consideration of the Fee and Expense Application is to be conducted separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement Agreement, and the Attorneys' Fee Order

or proceedings incident thereto, including any appeal thereof, shall not operate to terminate or cancel this Agreement or be deemed material thereto.

**8.3.** Class Counsel shall provide the Settlement Administrator with its completed W-9 before the payment of the award of attorneys' fees and costs is due. Within seven (7) days after the Effective Date, Defendant shall pay into the Settlement Fund the Non-Claims Payment.

**8.4.** The Settlement Administrator shall pay from the Settlement Fund the amount awarded in the Attorneys' Fee and Expenses Order fourteen (14) days after the Effective Date. Any payment of the amount awarded in the Attorneys' Fee and Expenses Order shall be paid via electronic transfer to an account designated by Class Counsel.

## **9. CONTINGENCIES, EFFECT OF DISAPPROVAL OR TERMINATION OF SETTLEMENT**

**9.1. *Option to Terminate.*** If the Court or, in the event of an appeal, any appellate court, refuses to approve, or otherwise modifies any material aspect of this Agreement, the proposed Preliminary Approval Order, or the Final Order and Judgment, Vivint may elect to terminate this Agreement and the Settlement as stated in this Section 9.

**9.2. *Events Giving Rise to Option to Terminate.*** This Agreement and the Settlement shall terminate and be cancelled if Vivint provides to Class Counsel written notification in accordance with Section 11.6 of this Agreement of its election of a right to terminate arising under this paragraph 9.2 within five (5) days after any of the following events:

- i. The Court declines to enter or materially modifies the contents of the Preliminary Approval Order attached hereto as Exhibit 5;
- ii. The Court declines to enter or materially modifies the contents of the Final Order and Judgment attached hereto as Exhibit 6;
- iii. The Court's Final Order and Judgment is vacated, reversed, or modified in any material respect on any appeal or other review or in a collateral proceeding occurring prior to the Effective Date. For purposes of this

Agreement and this Section 9.2, no order of the Court, or modification or reversal on appeal of any order of the Court, concerning the amount in the Attorneys' Fees Order and/or Service Award to the Class Representative shall constitute grounds for cancellation or termination of the Agreement so long as the appellate court does not award (or direct the trial court to award) more than the amount in Section 8.1;

- iv. The Effective Date does not occur for some other reason;
- v. Any federal or state authorities object to or request material modifications to the Agreement; or
- vi. More than seventy five (75) Persons submit valid and timely Requests for Exclusion from the Settlement Class (provided the ten (10) day period for notice shall run from when the Settlement Administrator notifies Defendant of this event).

**9.3. *Effect of Termination.*** If, for any reason, this Agreement is terminated or fails to become effective, then the Parties shall be deemed to have reverted to their respective status in the Litigation before the Settlement term sheet was signed and before the Settlement Agreement was signed, and Plaintiffs and the Defendant shall proceed in all respects as if this Agreement and any related orders had not been entered. Further, neither this Agreement, nor any order issued by the Court in furtherance of this Agreement, shall have any effect if this Agreement is terminated nor shall this Agreement, or any order issued by the Court in furtherance of this Agreement, be used as evidence, or be used to support any argument of waiver, estoppel (including collateral, judicial, or promissory estoppel), or res judicata. Additionally, in the event of termination of this Agreement or failure of this Agreement to become and remain effective (including without waiver through Final Approval), the Parties agree that Defendant may remove the Litigation to federal court, and the Class Representatives, Settlement Class Members, and Class Counsel waive any procedural defects in the removal, including without limitation untimeliness under 28 U.S.C. § 1446(b)(2)(B). The waiver by the Class Representatives, Settlement Class Members, and Class Counsel in the preceding sentence shall survive termination of this Agreement. The Parties further agree that the

claims of Plaintiffs and Settlement Class Members brought in this action relate back to the claims originally filed by them and on their behalf in *Dorn, et al. v. Vivint Inc.*, 2:19-cv-00258 (M.D.Ala.), and Defendant agrees to waive for purposes of this action any statute of limitations defenses that were not available to it in *Dorn, et al. v. Vivint Inc.*, 2:19-cv-00258 (M.D.Ala.).

## **10. NO ADMISSION OF WRONGDOING**

**10.1 *No Admission of Liability.*** As a result of the Litigation, Defendant has already implemented, and will continue to implement, certain changes to its business practices in order to reasonably minimize the creation of unauthorized accounts for services. Nonetheless, Vivint has vigorously denied, and continues to deny, that it committed any violation of the FCRA, Alabama law, or other laws, and has vigorously denied, and continues to deny, all allegations of wrongdoing or liability whatsoever with respect to the Released Claims, including any and all claims of wrongdoing or liability alleged or asserted in the Litigation. Vivint states that it is agreeing to this Settlement solely because it provides substantial and meaningful benefits to the Settlement Class and will eliminate the substantial burden, expense, and uncertainties of further litigation along with the concomitant use of resources and efforts.

**10.2. *Agreement Not to be Construed as Evidence of Admission.*** This Agreement and any of its terms, any agreement or order relating thereto, and any payment or consideration provided for herein, is not and shall not be construed as an admission by Vivint or the Released Parties of any fault, wrongdoing, or liability whatsoever. This Agreement and any of its terms, any agreement, order, or notice relating thereto, and any payment or consideration provided for herein shall not be offered by any Party to be received in evidence in any civil, criminal, administrative, or other proceeding, as a presumption, concession, or admission of any fault, wrongdoing, or liability on the part of Vivint or any of the Released Parties.



**10.3. Exceptions.** Nothing contained in this Section shall prevent this Agreement (or any agreement, order, or notice relating thereto) from being used, offered, or received in evidence in any proceeding to approve, enforce, or otherwise effectuate the Settlement (or any agreement or order relating thereto) or the Final Order and Judgment. This Agreement may be filed and used in other proceedings, where relevant, to demonstrate the fact of its existence and of this Settlement, including but not limited to the Released Parties filing the Agreement and/or the Final Order and Judgment in any other action that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, waiver, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

## **11. MISCELLANEOUS**

**11.1. Public Statements.** Class Counsel (and any affiliate counsel) shall not hold a press conference to discuss this Settlement (or information learned in this matter). However, notwithstanding the foregoing, Class Counsel may explain to Settlement Class Members that the Lawsuit has been settled and how to obtain Settlement benefits when contacted by Settlement Class Members regarding the Settlement and may, after the Effective Date, include this Settlement on their firm website, marketing materials, and in any court filings in the future. This Section shall not be construed to limit or impede the notice requirements of Section 3.1 above, nor shall this Section be construed to prevent Class Counsel from notifying or explaining to potential Settlement Class Members or others that this case has settled, the merits of such settlement, and how to obtain Settlement benefits. Class Counsel warrants and represents to Defendant that Class Counsel: (a) does not currently represent any client or clients that plan to, or are considering whether to, seek exclusion from the Settlement, and shall not advocate for same (or assist those who are so advocating); (b) has disclosed to Defendant any Class Members that Class Counsel is aware plans

to, or is considering whether to, seek exclusion from the Settlement; and (c) will not solicit, or assist others in soliciting, Class Members to exclude themselves from the Class Settlement.

**11.2. *Duty to Cooperate.*** The Parties promise to cooperate in good faith and to take all actions reasonably necessary to effectuate this Agreement. Class Counsel (and any affiliate counsel) expressly acknowledge that a conflict of interest would exist if they represented (directly or indirectly) any individual (i) who will be a Settlement Class Member who challenges in any way the Settlement described in this Agreement; or (ii) who opts out or who claims at some later date that they were not bound by the terms of this Agreement for any reason. It is expressly acknowledged and agreed that no Party will institute, participate in, or encourage any appeal from an order implementing this Agreement; provided, however, any Party has the right to appeal an order which is in any way different from the material terms of this Agreement or which materially alters the consideration to be given by or to any Party. The Parties further agree that if, before the Effective Date, any issues regarding interpretation or implementation of, or compliance with, this Settlement Agreement (other than disputes concerning challenges to a Initially Approved Claims List or a Initially Rejected Claims List, which shall be resolved in accordance with Section 2.6(c)) arise between or among the Parties and such issues cannot be resolved by the Parties themselves, either Party may submit such issues for mandatory mediation before the Mediator, and if this informal process fails to resolve the dispute, then either Party may submit such issues for binding arbitration before the Mediator, who will arbitrate the issues and deliver a decision that is binding on the Parties, pursuant to the JAMS Comprehensive Arbitration Rules & Procedures (the “JAMS Rules”). In the event that the Mediator is unavailable or unwilling to act in this capacity and the Parties fail to agree upon a substitute individual to do so, either Party may apply to the

administrator of JAMS, Inc. in Chicago, Illinois for the appointment of a neutral to serve in such capacity. In any such arbitration, the JAMS Rules shall apply and control.

**11.3. *Entire Agreement.*** This Agreement is the entire agreement between the Parties regarding the subject matter covered by the terms of this Agreement and it supersedes any prior agreements, written or oral, including the term sheet and any written settlement offers or emails exchanged between the Parties regarding the subject matter covered by the terms of this Agreement. This Settlement Agreement cannot be altered, modified, or amended, except through a writing executed by all Parties.

**11.4. *Construction of Agreement.*** This Settlement Agreement shall be construed to effectuate the intent of the Parties to resolve all disputes encompassed by the Agreement. All Parties have participated in the drafting of this Agreement, and any ambiguity should not be resolved by virtue of a presumption in favor of any Party. The Settlement Agreement was reached at arm's-length by Parties represented by counsel.

**11.5. *Executed in Counterparts.*** This Settlement Agreement may be executed by exchange of executed signature pages by facsimile or Portable Document Format ("PDF") as an electronic mail attachment, and any signature transmitted by facsimile or PDF via electronic mail for the purpose of executing this Settlement Agreement shall be deemed an original signature for purposes of this Settlement Agreement. This Settlement Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same instrument.

**11.6. *Notices.*** Unless otherwise provided herein, any notice, request, instruction, application for Court approval, or application for Court order sought in connection with the Agreement, other than documents electronically filed with the Court, shall be in writing and sent

by electronic mail, or else delivered personally or sent by certified mail or overnight delivery service, postage pre-paid, with copies by e-mail to the attention of Class Counsel and Vivint's Counsel (as well as to any other recipients that a court may specify). As of the date hereof, the respective representatives are as follows:

For Vivint:

Jason B. Tompkins  
Jonathan P. Hoffmann  
Balch & Bingham LLP  
1901 Sixth Ave. N., Suite 1500  
Birmingham, AL 35203  
205.226.8743  
jtompkins@balch.com  
jhoffmann@balch.com

For the Settlement Class:

Jonathan S. Mann  
Austin B. Whitten  
Tom Dutton  
Michael C. Bradley  
Pittman, Dutton, Hellums, Bradley & Mann, P.C.  
2001 Park Place North, #1100  
Birmingham, AL, 35203  
Tel: (205) 322-8880  
jonm@pittmandutton.com  
austinw@pittmandutton.com  
tomd@pittmandutton.com  
mikeb@pittmandutton.com

**11.7. *Extensions of Time.*** The Parties may agree, subject to the approval of the Court where required, to reasonable extensions of time to carry out the provisions of the Agreement.

**11.8. *Governing Law.*** This Agreement shall be governed by and construed in accordance with the laws of Alabama without giving effect to any conflict of law provisions that would cause the application of the laws of any jurisdiction other than Alabama.

**11.9. *Recitals.*** The Parties hereby agree that each of the recitals set forth above is true and correct. Each of the definitions and recitals set forth above is expressly incorporated into this

“Agreement” section of this Agreement. Each of the Parties agree not to contest the accuracy of any of the recitals set forth above.

**11.10. *Expenses.*** Except as specified in Section 8 or as otherwise expressly set forth herein, each Party hereto will pay all of its own fees, costs, and expenses incurred in connection with the Litigation, including fees, costs, and expenses incident to the Mediation, the negotiation, preparation, or compliance with this Agreement, and including any fees, expenses, and disbursements of counsel, accountants, and other advisors. Nothing in this Agreement shall require Vivint to pay any monies other than as expressly provided herein.

**11.11. *Jurisdiction.*** The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and the Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in this Agreement.

**(SIGNATURE PAGES TO FOLLOW)**

IN WITNESS WHEREOF, the undersigned have caused this Settlement Agreement to be executed as of the dates set forth below.

**ON BEHALF OF PLAINTIFFS AND SETTLEMENT CLASS:**

DANIEL SULLEN

*Daniel Sullen*

Date: 12-20-2023

JOSHUA RENFROE

*Joshua Renfro*

Date: 12-31-2023

**ON BEHALF OF CLASS COUNSEL:**

Jonathan S. Mann  
Austin B. Whitten  
Tom Dutton  
Michael C. Bradley  
Pittman, Dutton, Hellums, Bradley & Mann, P.C.  
2001 Park Place North, Suite 1100  
Birmingham, AL 35203

*[Handwritten signature]*

Date: 12/20/2023

**ON BEHALF OF DEFENDANT VIVINT, INC.:**



Name: Bruce Chung

Title: EVP & CFO

Date: 12/18/2023

**Exhibits**

Exhibit 1	Long Form Class Notice
Exhibit 2	Short Form Class Notice
Exhibit 3	Claim Form
Exhibit 4	Notice Plan
Exhibit 4(a)	Publication Notice
Exhibit 5	Draft Preliminary Approval Order
Exhibit 6	Draft Final Order and Judgment



## **EXHIBIT 1—LONG FORM NOTICE**

### **NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

*Sullen, et al. v. Vivint, Inc.*, Case No. 01-CV-2023-903893 (Ala. Cir. Ct. Jefferson Cnty.)

*For more information, visit [www.website.com](http://www.website.com).*

*Para una notificación en Español, visitar [www.website.com](http://www.website.com).*

**PLEASE READ THIS NOTICE CAREFULLY. YOU MAY BE ENTITLED TO A CASH PAYMENT FROM A CLASS ACTION SETTLEMENT IF YOUR CREDIT WAS ACCESSED BY VIVINT, INC. TO OPEN ACCOUNTS WITHOUT AUTHORIZATION OR IF YOU WERE SUBJECTED TO COLLECTION ATTEMPTS REGARDING SUCH ACCOUNTS. THIS NOTICE EXPLAINS YOUR RIGHTS AND OPTIONS AND THE DEADLINES TO EXERCISE THEM.**

*This is a court-authorized notice of a proposed class action settlement. This is not a solicitation from a lawyer and is not notice of a lawsuit against you.*

#### **WHY DID I GET THIS NOTICE?**

This is a court-authorized notice of a proposed settlement in a class action lawsuit, *Sullen, et al. v. Vivint, Inc.*, Case No. 01-CV-2023-903893, pending in the Circuit Court of Jefferson County, Alabama, Birmingham Division before the Honorable Elisabeth French. The settlement would resolve a lawsuit brought on behalf of persons who allege that Vivint, Inc. (“Vivint”) accessed their credit information without authorization with certain of those individuals having been subject to collection efforts regarding accounts that were created using the credit information that was accessed without authorization. If you received this notice directly, you have been identified as someone who may have had their credit accessed to create unauthorized accounts. The Court has granted preliminary approval of the settlement and has conditionally certified the Settlement Classes for settlement purposes only. This notice explains the nature of the class action lawsuit, the terms of the Settlement, and the legal rights and obligations of the Settlement Class Members. Please read the instructions and explanations below so that you can better understand your legal rights.

#### **WHAT IS THIS LAWSUIT ABOUT?**

The federal Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681 *et seq.*, prohibits accessing consumers’ credit information without a permissible purpose. This lawsuit alleges that Vivint violated the FCRA by accessing credit information of consumers to create accounts without their authority and thereby without a permissible purpose. Certain of those individuals were subject to collection efforts regarding these accounts. Vivint contests these claims and denies that it violated the FCRA.

#### **WHY IS THIS A CLASS ACTION?**

A class action is a lawsuit in which an individual called a “Class Representative” brings a single lawsuit on behalf of other people who have similar claims. All of these people together are a “Class” or “Class Members.” Once a Class is certified, a class action Settlement that is finally approved by the Court resolves the issues for all Settlement Class Members, except for those who exclude themselves from the Settlement Class. In a class action lawsuit, it’s possible to have multiple classes, which may be appropriate when class members seek different types of relief, such as monetary damages for one group versus affirmative acts (such as changing of business practices) by a defendant for another group.

#### **WHY IS THERE A SETTLEMENT?**

To resolve this matter without the continued expense, delay, and uncertainties of litigation, the Parties have reached a Settlement, which resolves all claims against Vivint. The Settlement requires Vivint to pay money to the Settlement Classes, as well as pay settlement administration expenses, attorneys’ fees and costs to class counsel, a service award

payment to the Class Representatives, and requires Vivint to strengthen its business practices related to account creation and collections (if approved by the Court). The Settlement is not an admission of wrongdoing by Vivint and does not imply that there has been, or would be, any finding that Vivint violated the law.

The Court has already preliminarily approved the Settlement. Nevertheless, because the settlement of a class action determines the rights of all members of the class, the Court overseeing this lawsuit must give final approval to the Settlement before it can be effective. The Court has conditionally certified the Settlement Classes for settlement purposes only, so that members of the Settlement Classes can be given this notice and the opportunity to submit a Claim Form to receive the cash benefits offered by the Settlement, to exclude themselves from the Settlement Classes, and to voice their support or opposition to final approval of the Settlement. If the Court does not give final approval to the Settlement, or if it is terminated by the Parties, the Settlement will be void, and the lawsuit will proceed as if there had been no settlement and no certification of the Settlement Classes.

## WHO IS IN THE SETTLEMENT CLASSES?

For this Settlement, there is a Damages Settlement Class and an Injunctive Settlement Class, which together form the Settlement Classes.

You are a member of the Damages Settlement Class if, at any time between January 1, 2016, and [REDACTED], 2024, Vivint accessed your credit information without authorization, used that information to create an account, and subjected you to collection efforts regarding such account. You are a member of the Injunctive Settlement Class if, at any time between January 1, 2016, and [REDACTED], 2024, Vivint accessed your credit without authorization and used that information to create an account, but you were not subjected to any collection efforts by Vivint. If you believe you fit into either of the Damages or Injunctive Settlement Classes, then you may visit the settlement website ([www.website.com](http://www.website.com)) for further instructions on making a claim for cash benefits.

## WHAT ARE MY OPTIONS?

### (1) Accept the Settlement.

To accept the Settlement, you must submit a Claim Form by [REDACTED]. You may obtain a Claim Form at [www.website.com](http://www.website.com), and you may submit your Claim Form either electronically via the settlement website or by email ([REDACTED]@[REDACTED].com) or U.S. Mail (sent or postmarked by [REDACTED], 2024) to the Settlement Administrator at [REDACTED]. If the Settlement is approved and your claim is deemed timely and valid, a check will be mailed to you. ***Submitting a valid, complete, and timely Claim Form is the only way to receive a cash payment from this Settlement and is the only thing you need to do to receive a payment.*** Once you submit a claim, the Settlement Administrator will utilize Vivint's records and third-party records to determine whether you are entitled to a cash payment from the Settlement and, if so, the value of your claim.

### (2) Exclude yourself.

You may exclude yourself from the Settlement. If you do so, you will not receive any cash payment, but you will not release any claims you may have against Vivint and the Released Parties (as that term is defined in the Settlement Agreement) and are free to pursue whatever legal rights you may have by pursuing your own lawsuit against the Released Parties at your own risk and expense. To exclude yourself from the Settlement, you must notify the Settlement Administrator either by email ([vivint@abdata.com](mailto:vivint@abdata.com)) or mail a signed letter to the Settlement Administrator at [REDACTED], postmarked by [REDACTED]. The exclusion email and/or letter must state that you exclude yourself from this Settlement and must include the name and case number of this litigation, as well as include your full name, address and email, Claim Number (if applicable) and a statement that you wish to be excluded, and your signature.

### (3) Object to the Settlement.

If you wish to object to the Settlement, you must submit your objection in writing to the Clerk of the Court of the Jefferson County Courthouse, 716 N. Richard Arrington Blvd., Birmingham, Alabama 35203. The objection must be received by the Court no later than [REDACTED]. You must also send a copy of your objection to the attorneys for all Parties to the lawsuit, including the attorneys representing the Class Representatives

and the Settlement Classes (Jonathan S. Mann, Austin B. Whitten, and Michael C. Bradley of Pittman, Dutton, Hellums, Bradley & Mann, P.C., 2001 Park Place North, Suite 1100, Birmingham, AL, 35203), as well as the attorneys representing Vivint (Jason Tompkins, Jonathan Hoffmann, BALCH & BINGHAM LLP, 1901 Sixth Ave. N., Suite 1500, Birmingham, AL 35223), postmarked no later than [REDACTED]. Any objection to the proposed Settlement must include your full name, address and email; all grounds for the objection along with factual and legal support, including documentation or evidence purportedly proving the same, for the stated objection; and the identity of any other class action cases to which you objected in the previous four (4) years. If you hire an attorney in connection with making an objection, that attorney must also file with the Court a notice of appearance by the objection deadline of [REDACTED]. If you do hire your own attorney, you will be solely responsible for payment of any fees and expenses the attorney incurs on your behalf. If you exclude yourself from the Settlement, you cannot file an objection.

You may appear at the Final Approval Hearing, which to be held on [REDACTED], 2024 at [REDACTED] a.m., in the Jefferson County Courthouse, 716 N. Richard Arrington Blvd., Courtroom [REDACTED], Birmingham, Alabama 35203, in person or through counsel, to show cause of 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, the request for attorneys' fees and expenses, and/or the request for a Service Award to the Class Representatives are required to indicate in their written objection their intention to appear at the hearing on their own behalf or through counsel and to identify the names of any witnesses they intend to call to testify at the Final Approval Hearing, as well as identify and attach any exhibits they intend to introduce at the Final Approval Hearing.

**(4) Do Nothing.**

If you do nothing, you will receive no money from the Settlement Fund, but you will still be bound by all orders and judgments of the Court. Unless you exclude yourself from the Settlement, you will not be able to file or continue a lawsuit against the Released Parties regarding any of the Released Claims. ***Submitting a valid and timely Claim Form is the only way to receive a cash payment from this Settlement.***

***For information on how to request exclusion from the classes or file an objection, or for more information on submitting a claim, please visit the Settlement website [www.website.com](http://www.website.com), or call (XXX) XXX-XXXX.***

**WHAT DOES THE SETTLEMENT PROVIDE?**

**A. Cash Payments.** Vivint has agreed to create a \$9,750,000.00 Settlement Fund for the Class Members. All Settlement Class Members are required to submit a Claim Form in order to receive a payment out of the Settlement Fund. If the Settlement is approved, each Damages Settlement Class Member who submits a complete, timely Claim Form that is deemed valid will be entitled to a payment equal to the number of accounts created with their credit information without authorization for which the Damages Settlement Class Member was subject to collection efforts times \$1,200 paid out of the Settlement Fund. If the Settlement is approved, each Injunctive Settlement Class Member who submits a complete, timely Claim Form that is deemed valid will be entitled to a payment equal to the number of accounts created with their credit information without authorization times \$250 paid out of the Settlement Fund. **Settlement Class Members can only receive payment for an account once (i.e., either \$250 or \$1,200 for an account, not \$1,450).** You can be a member of both the Damages and Injunctive Settlement Classes. The exact amount of each Class Member's payment is unknown at this time; the amount may be less than the calculation above depending on several factors, including how many Settlement Class Members return valid Claim Forms and the costs of the other expenses to be paid from the Settlement Fund. The Settlement Administrator will issue a check to each Class Member who submits a valid Claim Form following the final approval of the Settlement. All checks issued to Settlement Class Members (including re-issued checks) will expire and become void 90 days after they are issued. Class Members who receive but, for whatever reason, do not cash an initial check may make a one-time request to the Settlement Administrator to send them a re-issued check. Requests for re-issued checks must be made within 90 days of the date on the initial check. Re-issued checks will be in the same amount as the initial check. Additionally, the attorneys who brought this lawsuit (listed below) will ask the Court to award them attorneys' fees not to exceed one-third (1/3) of the Settlement Fund (or Three Million Two Hundred Fifty Thousand Dollars (\$3,250,000.00)) for the substantial time, effort, and resources expended in investigating the facts, litigating the case

and negotiating the Settlement, in addition to reimbursement of expenses and costs not to exceed One Hundred Sixty Five Thousand (\$165,000.00). The Class Representatives will also apply to the Court for a total payment of up to \$30,000 for their time, effort, and service in this matter.

**B. Prospective Injunctive Relief (Business Practice Improvements & Assurances).** As part of this Settlement, Vivint has also agreed to take the following actions and make the following material changes to its business practices going forward:

- i. Vivint will remove each approved Claimant from any unauthorized Vivint account(s) with which he or she is associated, to the extent they are so associated;
- ii. In order to verify that a prospective customer has consented to Vivint accessing his or her consumer report, Vivint will incorporate into its pre-qualification credit inquiry a process that:
  - a. requires the customer to provide the last four digits of the customer's social security number; and,
  - b. if the system returns a mismatch, will block the transaction from proceeding until sufficient information is entered to produce a match;
- iii. Vivint will incorporate into its financing application process a system to verify the consumer's identity that includes requiring the customer to present government-issued identification;
- iv. Vivint will incorporate into its financing application process a process whereby the customer prepares the financing application from the customer's own device;
- v. Vivint will incorporate into its financing application process a process whereby the customer acknowledges that he or she agrees and understands that Vivint will be using his or her personal information to access his or her consumer report for the purpose of financing home security equipment from Vivint;
- vi. Vivint will incorporate a policy requiring that a government-issued identification for each person signing a Vivint contract for equipment or services be viewed or captured during the account creation or installation processes; and,
- vii. Vivint will take reasonable steps to verify every name and address included with a Vivint account to confirm that the individual is properly included within the account prior to:
  - a. attempting to collect any debt;
  - b. referring an account to a debt collector;
  - c. selling any debt to a debt buyer; or,
  - d. reporting any debt to a consumer reporting agency.

**IS THIS SETTLEMENT RELATED TO VIVINT'S SETTLEMENT AGREEMENT WITH THE FEDERAL TRADE COMMISSION?**

No, while some of the claims and allegations are similar, this lawsuit was prosecuted by private citizens and is entirely separate from the case that was prosecuted by the Federal Trade Commission. If you are a member of the Settlement Classes in this case, you are entitled to make a claim for cash payment in this Settlement even if you

have already received a cash payment from the Federal Trade Commission. However, if you are entitled to receive a cash payment from this Settlement, the amount of your payment will be reduced by the amount that you received from the Federal Trade Commission. Payments will not be reduced to less than \$250.

### **WHAT RIGHTS AM I GIVING UP IN THIS SETTLEMENT?**

Unless you exclude yourself from this Settlement, you will be considered a member of the Settlement Classes, which means you give up your right to file or continue a lawsuit against Vivint and all Released Parties relating to accessing your credit without authorization from January 1, 2016 to [REDACTED], 2024. Giving up your legal claims is called a release. The precise terms of the release are set forth in the Settlement Agreement, which is available on the settlement website. Unless you formally exclude yourself from this Settlement, you will release your claims whether or not you submit a Claim Form and receive payment. If you have any questions, you can talk for free to the attorneys identified below who have been appointed by the Court to represent the Settlement Classes, or you are welcome to talk to any other lawyer of your choosing at your own expense.

### **WHEN WILL I BE PAID?**

The Parties cannot predict exactly when (or whether) the Court will give final approval to the Settlement, so please be patient. However, if the Court finally approves the Settlement, you will be paid as soon as practicable after the Court order becomes final, which should occur within approximately [REDACTED] days after the Settlement has been finally approved. If there is an appeal of the Settlement, payment may be delayed. Updated information about the case is available at [www.\[REDACTED\].com](http://www.[REDACTED].com), or you can call the Settlement Administrator at [REDACTED], or contact Class Counsel at the information provided below.

### **WHEN WILL THE COURT RULE ON THE SETTLEMENT?**

The Court has already given preliminary approval to the Settlement. A final hearing on the Settlement, called a final approval or fairness hearing, will be held to determine the fairness of the Settlement. At the Final Approval Hearing, the Court will also consider whether to make final the certification of the Classes for Settlement purposes, hear any proper objections and arguments to the Settlement, as well as any requests for an award of attorneys' fees and expenses and a Class Representatives Service Award that may be sought by Class Counsel. The Court will hold the Final Approval Hearing on [REDACTED] at [REDACTED] : [REDACTED] a.m. at the Jefferson County Courthouse, 716 N. Richard Arrington Blvd., Courtroom [REDACTED], Birmingham, Alabama 35203.

If the Settlement is given final approval, the Court will not make any determination as to the merits of the claims against Vivint or its defenses to those claims. Instead, the Settlement's terms will take effect and the lawsuit will be dismissed on the merits with prejudice. Both sides have agreed to the Settlement in order to achieve an early and certain resolution to the lawsuit, in a manner that provides specific and valuable benefits to the members of the Settlement Classes.

If the Court does not approve the Settlement, if it approves the Settlement and the approval is reversed on appeal, or if the Settlement does not become final for some other reason, you will not be paid at this time and Class Members will receive no benefits from the Settlement. Plaintiffs, Vivint, and all of the Class Members will be in the same position as they were prior to the execution of the Settlement, and the Settlement will have no legal effect, no class will remain certified (conditionally or otherwise), and the Plaintiffs and Vivint will continue to litigate the lawsuit. There can be no assurance that if the Settlement is not approved, the Settlement Classes will recover more than is provided in the Settlement, or indeed, anything at all.

### **WHO REPRESENTS THE CLASSES?**

The Court has approved the following attorneys to represent the Settlement Classes. They are called "Class Counsel." You will not be charged for these lawyers. If you want to be represented by your own lawyer instead, you may hire one at your own expense.

Jonathan S. Mann  
Austin B. Whitten  
Michael C. Bradley  
Pittman, Dutton, Hellums, Bradley & Mann, P.C.  
2001 Park Place North, Suite 1100  
Birmingham, AL, 35203  
Tel: (205) 322-8880  
jonm@pittmandutton.com  
austinw@pittmandutton.com  
mike@pittmandutton.com

**WHERE CAN I GET ADDITIONAL INFORMATION?**

This Notice is only a summary of the proposed Settlement of this lawsuit. More details are in the Settlement Agreement which, along with other documents, can be obtained at [www.website.com](http://www.website.com). If you have any questions, you can also call the Settlement Administrator at [REDACTED] or Class Counsel at the numbers or email addresses set forth above. In addition to the documents available on the settlement website, all pleadings and documents filed in Court may be reviewed or copied in the Office of the Clerk of the Court. Please do not call the Judge or the Clerk of the Court about this case, as they will not be able to give you advice on your options.

## **EXHIBIT 2—SHORT FORM NOTICE**

**YOU MAY BE ENTITLED TO A CASH PAYMENT FROM A CLASS ACTION SETTLEMENT IF YOUR CREDIT WAS ACCESSED BY VIVINT, INC. TO OPEN ACCOUNTS WITHOUT AUTHORIZATION OR IF YOU WERE SUBJECTED TO COLLECTION ATTEMPTS REGARDING SUCH ACCOUNTS. THIS NOTICE EXPLAINS YOUR RIGHTS AND OPTIONS AND THE DEADLINES TO EXERCISE THEM.**

*Sullen, et al. v. Vivint, Inc.*, Case No. 01-CV-2023-903893 (Ala. Cir. Ct. Jefferson Cnty.)

*For more information, visit [www.website.com](http://www.website.com).*

*Para una notificación en Español, visitar [www.website.com](http://www.website.com).*

Vivint, Inc. (“Vivint”) is a company that sells and services smart home security systems across the United States. A settlement has been reached in a class action lawsuit involving allegations that Vivint accessed individuals’ credit information without authorization with certain of those individuals having been subject to collection efforts regarding accounts that were created using the credit information that was accessed without authorization. The lawsuit, *Sullen, et al. v. Vivint, Inc.*, Case No. 01-CV-2023-903893 (Ala. Cir. Ct. Jefferson Cnty.), further alleges that Vivint violated the federal Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681 *et seq.*, by accessing credit information of consumers to create accounts without their authorization and thereby without a permissible purpose. Certain of those individuals were subject to collection efforts regarding these accounts. Vivint contests these claims and denies that it violated the FCRA. The proposed settlement is not an admission of wrongdoing by Vivint. Vivint denies that it violated the FCRA or any similar laws, and the Court hasn’t decided who is right or wrong. Rather, the parties are resolving the dispute by settlement.

### **Am I a Member of the Settlement Classes?**

You could be a member of the Settlement Classes if, at any time between January 1, 2016, and [REDACTED], 2024, Vivint accessed your credit without authorization and used that information to create a Vivint account in your name.

### **What Can I Get from the Proposed Settlement?**

If the Court finally approves the settlement, class members who timely submit a valid claim form will be entitled to a payment of up to \$1,200 per account created in their name without authorization for which he or she was subjected to collection attempts and up to \$250 per additional account created in his or her name without authorization that was not subjected to collection attempts, all paid out of a \$9,750,000 fund (the “Settlement Fund”) that Vivint has agreed to create. The exact amount of each class member’s payment is unknown at this time, but it may be reduced depending on several factors, including how many settlement class members return valid claim forms and whether the class member previously received a payment from Vivint’s settlement with the Federal Trade Commission. Administration expenses, attorneys’ fees and costs, and service awards are also to be paid from the Settlement Fund.

To make a claim for a cash payment, you must submit a completed claim form electronically via the settlement website or email or by U.S. mail (sent or postmarked) by [REDACTED], 2024. All timely claims will be verified using Vivint’s records, and receiving this Notice does not guarantee that you are a class member or will receive a cash payment.

### **What are my Options?**

Please visit the settlement website, [www.website.com](http://www.website.com), for details about your options and related deadlines. If you do not want to be legally bound by the settlement, you must exclude yourself by [REDACTED], 2024. If you do not exclude yourself, you will release any claims you may have, as more fully described in the Settlement Agreement, available at the settlement website. You may also object to the settlement by making a valid objection by [REDACTED], 2024. The Long Form Notice, available on the website, explains how to exclude yourself or object. The Court will hold a fairness hearing on [REDACTED], 2024 to consider whether to approve the settlement and a request by Class Counsel for attorneys’ fees of up to one-third of the Settlement Fund for their substantial work in the case, in addition to reimbursement of expenses and costs not to exceed One Hundred Sixty Five Thousand (\$165,000.00). The Court will also consider a request for service award payments totaling \$30,000 to the Class Representatives. You may appear at the hearing, either by yourself or through an attorney hired by you, but you don’t have to.

***For more information and for a claim form, visit [www.website.com](http://www.website.com) or call 1-999-999-9999.***

YOUR CLAIM NUMBER [IF APPLICABLE]: [XXXXXX]

**EXHIBIT 3—CLAIM FORM****VIVINT, INC. CLASS ACTION SETTLEMENT  
PROOF OF CLAIM FORM**

**TO RECEIVE A PAYMENT FROM THE SETTLEMENT FUND, YOU MUST COMPLETE THIS CLAIM FORM AND SUBMIT IT BY [REDACTED], 2024, AND IT MUST ALSO BE VALIDATED THROUGH THE CLAIMS ADMINISTRATION PROCESS.**

IMPORTANT NOTE: You must submit this Claim Form as stated in Step 5 below by [DATE] or with a postmark date of no later than [Date] in order for its validity to be considered to receive payment. To complete this Claim Form, read the instructions below in Step 1; provide the requested information in Step 2; sign the certification in Step 3; provide the optional supporting documentation in Step 4, and submit the completed Claim Form electronically or by mail as outlined in Step 5.

Each Settlement Class Member may submit *only one* Claim Form regardless of the number of times you believe Vivint, Inc. (“Vivint”) accessed your credit information, the number of accounts that may have been opened without authorization, or the number of collection efforts you may have been subjected to. Settlement Class Members are eligible to receive compensation for each account that was opened without authorization and each account subjected to collections. However, Settlement Class Members can only receive payment for an account once. Submitting more than one Claim Form will not increase your compensation under the Settlement Agreement. After a valid Claim Form is submitted, the Settlement Administrator will utilize Vivint’s records and third-party records to determine the amount each eligible Settlement Class Member is actually entitled to receive under the terms of the Settlement Agreement.

**STEP 1 – INSTRUCTIONS**

In the spaces below in Steps 2 and 3, provide your (i) name, (ii) date of birth, (iii) address(es), (iv) email, (v) phone number, (vi) claim number, if applicable, and (vii) provide your responses to each of the certifications in Step 3. Remember that only credit accesses, account creations, or collection efforts by Vivint occurring between January 1, 2016, and [Prelim Approval], are eligible for a claim.

**STEP 2 – REQUIRED CLAIMANT INFORMATION**

**Name:** \_\_\_\_\_  
                   *(First)*  *(Middle Initial)*  *(Last)*

**Date of Birth:** \_\_\_\_\_

**All address(es) you have been associated with from January 1, 2016 to [Prelim Approval]:**

\_\_\_\_\_  
*(Street)*





YOUR CLAIM NUMBER [IF APPLICABLE]: [XXXXXX]

- What were the account number(s) of your Vivint account(s)? \_\_\_\_\_ (not required)

In addition to the accounts above, if any, I believe that Vivint opened an account using my name or credit information without my authorization during the period of January 1, 2016, through \_\_\_\_\_, 2024.

I believe that I was subjected to collection efforts by Vivint regarding unauthorized accounts that were opened in my name from January 1, 2016, through \_\_\_\_\_, 2024.

I certify, UNDER PENALTY OF PERJURY, that all the above statements are TRUE AND ACCURATE to the best of my knowledge. I understand that the Settlement Administrator and the Parties have the right to verify my responses or otherwise dispute any claims that are based on inaccurate responses.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**STEP 4 – OPTIONAL SUPPORTING DOCUMENTATION**

If you checked any of the boxes in Step 3 above, and you possess any supporting documentation, please attach to this Claim Form (either by attaching .pdfs, if submitting electronically via the settlement website or by email, or by including a hard copy print out, if you are submitting this Claim Form by mail) all documentation you contend evidences the fact Vivint accessed your credit, created an account in your name without authorization, or made collection efforts against you. Documentation may include screen shots, emails, letters, credit report print outs, or call records. Submitting documentation to support your claim is NOT required, but it can assist the Settlement Administrator in determining the validity and/or value of your claim.

**STEP 5 – METHODS OF SUBMISSION**

**Claim Form Submission Deadline: DATE**

Please complete the Claim Form above and submit it electronically via the settlement website (www.WEBSITE.com) or by emailing it (claims@WEBSITE.com) or by mailing a completed Claim Form no later than midnight, U.S. Eastern Standard Time, on [Date] to the following physical address:

[INSERT]

**EXHIBIT 4—NOTICE PLAN**

## Notice Plan

The Settlement Administrator shall notify the Settlement Class Members as follows:

I. Direct Notice

The Settlement Administrator shall, using independent reverse look-up services and databases, determine the physical address, telephone number, and email addresses, as applicable and available, of each Person found within the Direct Notice Data (the “Notice Reverse Look-up Data”). The Settlement Administrator shall then remove all data associated with accounts where the independently identified physical address matches the service address contained within Direct Notice Data (the “Removed Data”). The Settlement Administrator shall send, via regular U.S. Mail and via electronic mail (if known), the Short Form Notice to the individuals remaining in the Direct Notice Data after such removal (the “Direct Notice Recipients”). The Settlement Administrator shall also re-mail notices one time that are returned as unable to be delivered.

II. Publication Notice

The Settlement Administrator shall create a nationwide publication program substantially consistent with the proposal provided by the Settlement Administrator to the Parties, attached hereto as **Schedule A**, reasonably calculated to provide notice to Injunctive Settlement Class Members and any Damages Settlement Class Members who may not receive Direct Notice. Such publication will use the notice attached to the Agreement as Exhibit 4(a) (“Publication Notice”) and will include running notices for a minimum of six (6) consecutive weeks, starting no later than thirty (30) days from the Court’s entry of the Preliminary Approval Order. Publication may include digital (e.g., social media), print, or other mediums (e.g., radio), as deemed advisable by the Settlement Administrator and agreed to by the Parties.

III. Website

The Settlement Administrator shall create a website no later than twenty-one (21) days from the Court’s entry of the Preliminary Approval Order that shall include the following documents, which shall be available for download:

- (a) Complaint in the Litigation;
- (b) Motion for Preliminary Approval
- (c) Settlement Agreement;
- (d) Long Form Notice; and
- (e) Claim Form.

(the “Website”). The Website shall additionally contain information intended to assist and inform Class Members regarding the Settlement and the claims process, including without waiver the Claims Deadline.

**EXHIBIT 4(a)—PUBLICATION NOTICE****NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT**

**YOU MAY BE ENTITLED TO A CASH PAYMENT FROM A CLASS ACTION SETTLEMENT IF YOUR CREDIT WAS ACCESSED BY VIVINT, INC. TO OPEN ACCOUNTS WITHOUT AUTHORIZATION OR IF YOU WERE SUBJECTED TO COLLECTION ATTEMPTS REGARDING SUCH ACCOUNTS. THIS SETTLEMENT IS ENTIRELY SEPERATE FROM VIVINT'S SETTLEMENT WITH THE FEDERAL TRADE COMMISSION.**

*For more information, visit [www.website.com](http://www.website.com).*

*Para una notificacion en Espanol, visitar [www.website.com](http://www.website.com)*

Vivint, Inc. ("Vivint") is a company that sells and services smart home security systems across the United States. A settlement has been reached in a class action lawsuit involving allegations that Vivint accessed credit information in violation of the Fair Credit Reporting Act and created Vivint accounts without authorization. The proposed settlement is not an admission of wrongdoing by Vivint, and Vivint denies that it violated the law. The Court has not decided who is right or wrong. Rather, to save the time, expense, and distraction of litigation, Vivint has agreed to a settlement of the class action lawsuit. That settlement has been preliminarily approved by a Court in Birmingham, Alabama. For complete information visit [www.website.com](http://www.website.com).

As part of the settlement, Vivint has agreed to establish a settlement fund of \$9,750,000, from which class members may submit a claim form to receive a cash payment. The exact amount of each class member's payment is unknown at this time; but it will be up to \$1,200 per account created in their name without authorization for which he or she was subjected to collection attempts and \$250 per additional account created in his or her name without authorization that was not subjected to collection attempts, to be paid from the settlement fund. Please visit [www.website.com](http://www.website.com) to learn more about the settlement and your rights and options, including how to submit a claim form electronically or by mail, as well as how to exclude yourself or object to the settlement. Claim forms must be submitted by [REDACTED], 2024.

As part of the settlement, Class Counsel will request an award of attorneys' fees not to exceed one-third (1/3) of the settlement fund and expenses (including costs) not to exceed One Hundred Sixty-Five Thousand (\$165,000.00). The Class Representatives will also petition the Court for a total award of \$30,000.00 for their services in bringing this suit. It is not expected that the award of fees or the service award will reduce the benefit to any Class Member, but it is possible depending on the number of valid claims submitted. You may retain your own counsel, but only at your own expense.

**The sole purpose of this notice is to inform you of the settlement so that you can decide what to do about it.  
For more information, and to submit a claim form, visit [www.website.com](http://www.website.com).**

**Summary Of Your Legal Rights And Options In The Settlement**

<b>You May:</b>	<b>Result</b>	<b>Due Date:</b>
AGREE WITH THE SETTLEMENT AND SUBMIT A CLAIM FORM	By submitting a claim, you are eligible to receive a payment from the Settlement Fund if your claim is deemed valid, but you give up your right to be part of any other lawsuits involving claims associated with this case, if any.	The claim form must be submitted through the settlement website, sent by email, or must be postmarked by <b>[insert date]</b> or your claim will be rejected.
EXCLUDE YOURSELF FROM THE SETTLEMENT	You get no payment, but you can be a part of future lawsuits involving claims associated with this case, if any.	Your exclusion request must be submitted in writing and mailed to the Claims Administrator, postmarked no later than <b>[insert date]</b> .
OBJECT TO THE SETTLEMENT	Write to the Court about the reasons that you're against the settlement.	Your Objection must be in writing and filed with the Court with copies to all counsel by <b>[insert date]</b> .
ATTEND A HEARING	Request that you be allowed to speak in Court about the fairness of the settlement.	You must file a Notice of Intention to Appear and Object with the Court with copies to counsel by <b>[insert date]</b> .
DO NOTHING	If you do nothing, you get no payment and give up your legal rights.	

For complete information about the settlement and your options, related Court documents, and claim form, please visit [www.\[settlement\].com](http://www.[settlement].com) or call [\[toll free number\]](tel:[toll free number]). You may also contact the attorneys for the class: Jon Mann, Austin Whitten, or Mike Bradley of Pittman, Dutton, Hellums, Bradley & Mann, P.C., 2001 Park Place North, Suite 1100, Birmingham, AL 35203, (205) 322-8880.



3. For settlement purposes only, the Court finds that the prerequisites to class action treatment under Alabama Rule of Civil Procedure 23, including numerosity, commonality and predominance, and adequacy, have been preliminarily satisfied.

4. The Court hereby conditionally certifies, pursuant to Alabama Rule of Civil Procedure 23, and for the purposes of settlement only, the following Settlement Classes consisting of:

(1) Damages Settlement Class

All natural Persons in the United States for whom Vivint accessed consumer report information without authorization and used his or her information to create a Vivint account between January 1, 2016, and the date the Court enters the Preliminary Approval Order of the Settlement and who have been subjected to Collection Efforts by Vivint. Excluded from the term “Damages Settlement Class” are: (1) any parent, subsidiary, affiliate, or controlled persons of Defendant, as well as the officers, directors, agents, servants, or employees of Defendant; (2) governmental agencies, entities, or judicial officers; and (3) any person or entity which properly executes and submits a timely request for exclusion from the Settlement Class; and,

(2) Injunctive Settlement Class

All natural Persons in the United States for whom Vivint accessed consumer report information without authorization between January 1, 2016, and the date the Court enters the Preliminary Approval Order of the Settlement and who have not been subjected to collection efforts by Vivint. Excluded from the term “Injunctive Settlement Class” are: (1) any parent, subsidiary, affiliate, or controlled persons of Defendant, as well as the officers, directors, agents, servants, or employees of Defendant; (2) governmental agencies, entities, or judicial officers; and (3) any person or entity which properly executes and submits a timely request for exclusion from the Settlement Class.

5. For settlement purposes only, Plaintiffs Daniel Sullen and Joshua Renfroe are hereby appointed as Class Representatives.

6. For settlement purposes only, the following counsel are hereby appointed as Class Counsel:

Jonathan S. Mann  
Austin B. Whitten  
Tom Dutton

Michael C. Bradley  
Pittman, Dutton, Hellums, Bradley & Mann, P.C.  
2001 Park Place North, Suite 1100  
Birmingham, AL 35203

7. The Court recognizes that, pursuant to the Settlement Agreement, Vivint retains all rights to object to the propriety of class certification in the Litigation in all other contexts and for all other purposes should the Settlement not be finally approved. Therefore, as more fully set forth below, if the Settlement is not finally approved, and litigation resumes, this Court's preliminary findings regarding the propriety of class certification shall be of no further force or effect whatsoever, and this Order will be vacated in its entirety.

8. The Court approves, in form and content, the Long Form Class Notice, Short Form Class Notice, Publication Notice, and Notice Plan, attached to the Settlement Agreement as Exhibits 1, 2, 4(a), and 4, respectively, and finds that they meet the requirements of Alabama Rule of Civil Procedure 23(c)(2) and 23(e) and satisfy Due Process.

9. The Court finds that the Notice Plan as set forth in the Settlement Agreement meets the requirements of Alabama Rule of Civil Procedure 23(c)(2) and 23(e) and constitutes the best notice practicable under the circumstances, including through a dedicated website and through publication in a national newspaper and by direct individual notice by postcard and email (if known) to potential Settlement Class Members, and satisfies fully the requirements of Due Process, and any other applicable law, such that the Settlement Agreement and Final Order and Judgment will be binding on all Settlement Class Members. In addition, the Court finds that no notice other than that specifically identified in the Settlement Agreement is necessary in this action. The Parties, by agreement, may revise the Class Notice and Claim Form in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting for publication.



10. A.B. Data, Ltd. is hereby appointed Settlement Administrator to supervise and administer the Notice Plan, as well as to oversee the administration of the Settlement, as more fully set forth in the Settlement Agreement.

11. The Settlement Administrator may proceed with the distribution of Class Notice as set forth in the Settlement Agreement and the Notice Plan, and all forms of Notice shall be issued no later than [REDACTED], 2024 (twenty-one (21) days from the date of this Order)(the “Notice Date”).

12. Settlement Class Members who wish to receive benefits under the Settlement Agreement must complete and submit a valid Claim Form in accordance with the instructions provided in the Class Notice. The Court hereby approves as to form and content the Claim Form attached to the Settlement Agreement as Exhibit 3.

13. All Claim Forms must be submitted to the Settlement Administrator and postmarked, sent by email, or submitted through the Settlement Website no later than [REDACTED], 2024 (forty-five (45) days after the Final Approval Hearing). Settlement Class Members who do not timely submit a Claim Form deemed to be valid in accordance with Section 2.6 of the Settlement Agreement shall not be entitled to receive any portion of the Settlement Fund.

14. 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 hereinafter provided. Settlement Class Members who do not timely and validly request exclusion in accordance with Section 3.2 of the Settlement Agreement shall be so bound even if they have previously initiated or subsequently

initiate litigation or other proceedings against Vivint or the Released Parties relating to the claims released under the terms of the Settlement Agreement.

15. Any Person within the Settlement Class may request exclusion from the Settlement Class by expressly stating his/her request in a written exclusion request in accordance with Section 3.2 of the Settlement Agreement. Such exclusion requests must be received by the Settlement Administrator at the email address or mailing address specified in the Class Notice in written form, by first class mail, postage prepaid, and postmarked, no later than [REDACTED], **2024** (sixty (60) days from the Notice Date).

16. In order to exercise the right to be excluded, a Person within the Settlement Classes must timely submit a written request for exclusion to the Settlement Administrator providing his/her name, address, and email, the name and case number of this Lawsuit, and a statement that he or she wishes to be excluded from the Settlement Classes. Any request for exclusion must be personally signed by the person requesting exclusion. No person within the Settlement Classes, or any person acting on behalf of, in concert with, or in participation with that person within the Settlement Classes, may request exclusion from the Settlement Classes of any other person within the Settlement Classes.

17. Any person in the Settlement Classes who elects to be excluded shall not: (i) be bound by any orders or the Final Order and Judgment; (ii) be entitled to relief under the Settlement Agreement; (iii) gain any rights by virtue of this Settlement Agreement; or (iv) be entitled to object to any aspect of the Settlement Agreement.

18. Class Counsel may file any motion seeking an award of attorneys' fees, costs and expenses, as well as a Service Award for the Class Representatives, no later than [REDACTED], **2024** (fourteen (14) days prior to the Exclusion and Opt-Out Deadlines).

19. 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 the amount of the attorneys' fees and expenses that Class Counsel intends to seek and the payment of any Incentive Award, may do so, either personally or through an attorney, by filing a written objection, together with the supporting documentation set forth below in Paragraph 20 of this Order, with the Clerk of the Court, and served upon Class Counsel, Vivint's counsel, and the Settlement Administrator no later than [REDACTED], 2024 (sixty (60) days from the Notice Date). Addresses for Class Counsel, Vivint's Counsel, the Settlement Administrator, and the Clerk of Court are as follows:

Class Counsel:

Jonathan S. Mann  
Austin B. Whitten  
Tom Dutton  
Michael C. Bradley  
Pittman, Dutton, Hellums,  
Bradley & Mann, P.C.  
2001 Park Place North, Suite 1100  
Birmingham, AL 35203

Vivint's Counsel:

Jason Tompkins  
Jonathan Hoffmann  
BALCH & BINGHAM LLP  
1901 Sixth Ave. N., Suite 1500  
Birmingham, AL 35203

Settlement Administrator:

A.B. Data, Ltd.  
600 A.B. Data Drive  
Milwaukee, WI 53217

Clerk of Court:

Clerk of the Circuit Court of  
Jefferson County  
Birmingham Division  
Jefferson County Courthouse  
716 N. Richard Arrington Blvd.  
Birmingham, AL 35203

20. Any Settlement Class Member who has not requested exclusion and who intends to object to this Agreement must state, in writing, all objections and the basis for any such objection(s), and must also state in writing: his/her full name, address and email; all grounds for the objection along with factual and legal support, including documentation or evidence purportedly proving the same, for the stated objection; and the identity of any other class action

cases to which the Person objected in the previous four (4) years. If represented by counsel, the objecting Settlement Class Member must also provide the name and telephone number of his/her counsel. 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, including the fairness, reasonableness, or adequacy of the Settlement, the payment of attorneys' fees, costs, and expenses, the payment of any Service Award, and the Final Approval Order and the right to appeal same.

21. A Settlement Class Member who has not requested exclusion from the Settlement Class and who has properly submitted a written objection in compliance with the Settlement Agreement, 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 Fee and Expense Application and/or the request for a Service Award to the Class Representatives 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/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/her written objection the identity of any witnesses he/she may call to testify, and all exhibits he/she intends to introduce into evidence at the Final Approval Hearing, which shall be attached.

22. 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 by appeal, collateral attack, or otherwise, and shall be bound by the Settlement Agreement, the releases contained therein, and all aspects of the Final Order and Judgment.

23. All papers in support of the final approval of the proposed Settlement shall be filed no later than fourteen (14) days before the Final Approval Hearing.

24. Pending the final determination of the fairness, reasonableness, and adequacy of the proposed Settlement, no Settlement Class Member may prosecute, institute, commence, or continue any lawsuit (individual action or class action) with respect to the Released Claims against any of the Released Parties.

25. A hearing (the “Final Approval Hearing”) shall be held before the Court on           , 2024 at       :       a.m./p.m., at the Jefferson County Courthouse, 716 N. Richard Arrington Blvd., Courtroom       , Birmingham, Alabama 35203 (approximately ninety (90) days after the date of this Order) (or at such other time or location as the Court may without further notice direct) for the following purposes:

(a) to finally determine whether the applicable prerequisites for settlement class action treatment under Alabama Rule of Civil Procedure 23 have been met;

(b) to 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 a bar order prohibiting Settlement Class Members from further pursuing claims released in the Settlement Agreement;

(d) to consider the application for an award of attorneys' fees, costs, and expenses of Class Counsel;

(e) to consider the application for a Service Award to the Class Representatives;

(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.

26. 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 Judgment and Order in accordance with the Settlement Agreement that adjudicates the rights of all Settlement Class Members.

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

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

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

**Class Notice Mailed by:** 21 days from Date of Preliminary Approval,  
by                     , 2024.

**Publication Notice by:** 21 days from Date of Preliminary Approval,

by [REDACTED], 2024.

**Settlement Website launched by:** 21 days from Date of Preliminary Approval,  
by [REDACTED], 2024.

**Fee and Expense Application:** 14 days prior to Objection/Exclusion Deadline:  
by [REDACTED], 2024.

**Deadline for Objections/Exclusions:** 60 days from the Notice Date,  
by [REDACTED], 2024.

**Final Approval Motion Filed:** 14 days prior to Final Approval Hearing,  
by [REDACTED], 2024.

**Final Approval Hearing:** [REDACTED], 2024 at [REDACTED] : [REDACTED] a.m./p.m.

**Claims Deadline:** 45 days after Final Approval,  
by [REDACTED], 2024.

**IT IS SO ORDERED.**

ENTERED: \_\_\_\_\_

\_\_\_\_\_  
Hon. Elisabeth French  
Jefferson County Circuit Court Judge





4. The Court has read and considered the papers filed in support of this Motion, including the Settlement Agreement and exhibits thereto and supporting declarations.

5. The Court held a Final Approval Hearing on [REDACTED], 2024, at which time the Parties and all other interested persons were afforded the opportunity to be heard in support of and in opposition to the Settlement.

6. 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, the Court now gives final approval to the Settlement and finds that the Settlement Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Classes. The complex legal and factual posture of the Litigation, and the fact that the Settlement Agreement is the result of arms-length negotiations presided over by a neutral mediator, further support this finding.

7. Pursuant to Alabama Rule of Civil Procedure 23, the Court finally certifies, for settlement purposes only, the following Settlement Classes:

(1) Damages Settlement Class

All natural Persons in the United States for whom Vivint accessed consumer report information without authorization and used his or her information to create a Vivint account between January 1, 2016, and the date the Court enters the Preliminary Approval Order of the Settlement and who have been subjected to collection efforts by Vivint. Excluded from the term “Damages Settlement Class” are: (1) any parent, subsidiary, affiliate, or controlled persons of Defendant, as well as the officers, directors, agents, servants, or employees of Defendant; (2) governmental agencies, entities, or judicial officers; and (3) any person or entity which properly executes and submits a timely request for exclusion from the Settlement Class; and

(2) Injunctive Settlement Class

All natural Persons in the United States for whom Vivint accessed consumer report information without authorization between January 1, 2016, and the date the Court enters the Preliminary Approval Order of the Settlement and who have not been subjected to collection efforts by Vivint. Excluded from the term “Injunctive Settlement Class” are: (1) any parent, subsidiary, affiliate, or controlled persons of Defendant, as well as the officers, directors, agents, servants, or employees of Defendant and the immediate family members

of such persons; (2) governmental agencies, entities, or judicial officers; and (3) any person or entity which properly executes and submits a timely request for exclusion from the Settlement Class.

8. The persons who are listed on Exhibit 1 to this order have made timely and valid requests for exclusion and are excluded from the Settlement Class and are not bound by this Final Order and Judgment.

9. For settlement purposes only, the Court confirms the appointment of Plaintiffs Daniel Sullen and Joshua Renfroe as Class Representatives of the Settlement Class.

10. For settlement purposes only, the Court confirms the appointment of the following counsel as Class Counsel, and finds they are experienced in class litigation and have adequately represented the Settlement Class:

Jonathan S. Mann  
Austin B. Whitten  
Tom Dutton  
Michael C. Bradley  
Pittman, Dutton, Hellums, Bradley & Mann, P.C.  
2001 Park Place North, Suite 1100  
Birmingham, AL 35203

11. With respect to the Settlement Classes, this Court finds, for settlement purposes only, that: (a) the Settlement Classes defined above are so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to the Settlement Classes, and those common questions predominate over any questions affecting only individual members; (c) the Class Representatives and Class Counsel have fairly and adequately protected, and will continue to fairly and adequately protect, the interests of the Settlement Classes; and (d) certification of the Settlement Classes is an appropriate method for the fair and efficient adjudication of this controversy.

12. The Court has determined that the Class Notice given to the Settlement Class Members, in accordance with the Preliminary Approval Order, fully and accurately informed

Settlement Class Members of all material elements of the Settlement and constituted the best notice practicable under the circumstances, and fully satisfied the requirements of Alabama Rule of Civil Procedure 23(c)(2) and 23(e), applicable law, and the Due Process Clauses of the U.S. Constitution and Alabama Constitution.

13. 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 set forth and shall have the full force of an order of this Court.

14. The Court dismisses the Litigation with prejudice and without costs (except as otherwise provided herein and in the Settlement Agreement) as to Plaintiffs' and all Settlement Class Members' claims against Vivint. The Court adjudges that the Released Claims and all of the claims described in the Settlement Agreement are forever released, relinquished, and discharged against the Released Parties.

15. The Court adjudges that the Plaintiffs and all Settlement Class Members who have not opted out of the Settlement Classes shall be deemed to have fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties, as defined under the Settlement Agreement.

16. Without limiting any provision of this Order, including Paragraphs 14 and 15, the Released Claims specifically extend to claims that Plaintiffs and Settlement Class Members do not know or suspect to exist in their favor at the time that the Settlement Agreement, and the releases contained therein, become effective. The Court finds that Plaintiffs have, and the Settlement Class Members are deemed to have, knowingly waived the protections of California Civil Code § 1542 and any other applicable federal or state statute, case law, rule or regulation relating to limitations on releases.

17. The Court further adjudges that, upon entry of this Order, the Settlement Agreement and the above-described release of the Released Claims will be binding on, and have *res judicata* preclusive effect in, all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and all other Settlement Class Members whose names do not appear on Exhibit 1 hereto as having validly and timely excluded themselves from the Settlement, and their respective affiliates, assigns, heirs, executors, administrators, successors, and agents, as set forth in the Settlement Agreement. The Released Parties 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.

18. Plaintiffs 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 or any of the claims described in the Settlement Agreement against any of the Released Parties.

19. The Court approves payment of attorneys' fees to Class Counsel in the amount of Three Million Two Hundred Fifty Thousand Dollars (\$3,250,000.00). This amount shall be paid from the Settlement Fund in accordance with the terms of the Settlement Agreement. The Court also approves payment or reimbursement of costs and expenses in the amount of One Hundred Sixty-Five Thousand (\$165,000.00). The Court, having considered the materials submitted by Class Counsel in support of final approval of the Settlement and their request for attorneys' fees, costs and expenses and in response to any timely filed objections thereto, finds the award of attorneys' fees, costs and expenses appropriate and reasonable for the following reasons: first, the

Court finds that the Settlement provides substantial benefits to the Settlement Classes. Second, the Court finds the payment 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 with the aid of an impartial, experienced mediator, 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 Class Notice specifically and clearly advised the Settlement Class that Class Counsel would seek an award in the amount sought.

20. The Court approves service awards in the amount of Fifteen Thousand Dollars (\$15,000.00) for each of the Class Representatives, Daniel Sullen and Joshua Renfroe, and specifically finds such amount to be reasonable in light of the services performed by Plaintiffs for the Settlement Classes, including taking on the risks of litigation and helping achieve the results to be made available to the Settlement Classes. This amount shall be paid from the Settlement Fund in accordance with the terms of the Settlement Agreement.

21. Neither this Final Order and Judgment, nor 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 Vivint or any of the Released Parties 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 of the validity or invalidity of any claims in this Litigation or a determination of any wrongdoing by Vivint or any of the Released Parties. The final approval of the Settlement Agreement does not constitute any position, opinion, or determination of this Court, one way or another, as to the merits of the claims or defenses of Plaintiffs, the Settlement Class Members, or Vivint.

22. Any 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 hereby directed forthwith to enter this Final Order and Judgment.

23. The Parties, without further approval from the Court, are hereby 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. Elisabeth French  
Jefferson County Circuit Court Judge

EXHIBIT 1

List of persons validly and timely excluded from the Settlement:

1.

NO FURTHER NAMES FOLLOW



ELECTRONICALLY FILED  
1/9/2024 4:39 PM  
01-CV-2023-903893.00  
CIRCUIT COURT OF  
JEFFERSON COUNTY, ALABAMA  
JACQUELINE ANDERSON SMITH, CLERK

## Exhibit B

# Declaration of Jon Mann



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM DIVISION**

<b>DANIEL SULLEN and JOSHUA RENFROE,</b>	)	
<b>on behalf of themselves and other persons</b>	)	
<b>similarly situated,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
<b>v.</b>	)	<b>Case No.: 01-CV-2023-903893</b>
	)	
<b>VIVINT, INC.,</b>	)	
	)	
<b>Defendant.</b>	)	

**DECLARATION OF JON MANN IN SUPPORT OF PLAINTIFFS’ UNOPPOSED  
MOTION FOR PRELIMINARY APPROVAL  
OF CLASS ACTION SETTLEMENT**

I, Jon Mann, being competent to testify, make the following declaration based on my personal knowledge and, where stated, upon information and belief. I declare:

**Counsel Qualifications**

1. I am counsel for the Plaintiffs in this action and have personal knowledge of the facts and matters stated herein.

2. I am a shareholder with the law firm of Pittman, Dutton, Hellums, Bradley & Mann P.C. (“PDHBM”). My practice includes complex litigation, including class actions, mass torts, and products liability matters. I have litigated complex actions since 2011, with an emphasis on consumer claims and defective products. PDHBM represents plaintiffs in complex litigation, including class actions, in federal and state courts. While our firm is located in Birmingham, Alabama, our firm routinely litigates cases nationwide.

3. I am admitted to practice before courts of the State of Alabama. I have also been admitted to practice before the United States Court of Appeals for the Eleventh Circuit, the United States District Court for the Northern District of Alabama, the United States District Court for the

Middle District of Alabama, the United States District Court for the Southern District of Alabama, the United States District Court for the Northern District of Florida, the United States District Court for the Northern District of Georgia, the United States District Court for the Northern District of Indiana, the United States District Court for the Southern District of Indiana, the United States District Court for the Eastern District of Louisiana, the United States District Court for the District of Maryland, the United States District Court for District of Massachusetts, the United States District Court for the District of Minnesota, the United States District Court for the District of New Jersey, the United States District Court for the Eastern District of New York, the United States District Court for the Western District of Pennsylvania, and the Los Angeles County Superior Court.

4. I and other PDHBM lawyers have been appointed to leadership positions in the following class actions and multidistrict litigations (MDLs) over the past ten years, including MDL 2406, *In re Blue Cross Blue Shield Antitrust Litigation* (Local Facilitating Counsel for Subscriber Plaintiffs); MDL 2441, *In re Stryker Rejuvenate and ABG II Hip Implant Products Liability Litigation* (Plaintiffs' Steering Committee); MDL 2595, *In re Community Health Systems, Inc., Customer Data Security Breach Litigation* (Local Liaison Counsel); MDL 2734, *In re Abilify (Aripiprazole) Products Liability Litigation* (Plaintiffs' Steering Committee); *In re: Arby's Restaurant Group, Inc. Data Security Litigation* (Financial Institution Plaintiffs' Steering Committee); MDL 2846, *In re Davol, Inc./C.R. Bard, Inc. Polypropylene Hernia Mesh Products Liability Litigation* (Plaintiffs' Steering Committee); MDL 2875, *In re Valsartan Products Liability Litigation* (Plaintiffs' Steering Committee); MDL 2885, *In re 3M Combat Arms Earplug Products Liability Litigation* (Common Benefit Fund Committee), MDL 2974, *In re Paragard IUD Products Liability Litigation* (Plaintiffs' Steering Committee), *Williams v. Gulf Coast Pain*

*Consultants, LLC d/b/a Clearway Pain Solutions Institute*, 3:19-cv-01659 (N.D. Fla.) (Settlement Class Counsel), *Pirani v. Medical Properties Trust, Inc.*, 2:23-cv-00486 (N.D. Ala.) (Liaison Counsel), and MDL 2885, *In re 3M Combat Arms Earplug Products Liability Litigation* (Settlement Implementation and Administration Committee).

5. I and other PDHBM attorneys have also been appointed as settlement class counsel in consumer class action cases involving health care data breaches, such as *Kathy L. Limbaugh, et al. v. Norwood Clinic, Inc.*, Circuit Court, Jefferson County, Alabama, Case No. 01-cv-2022-900851 and *Williams v. Gulf Coast Pain Consultants, LLC d/b/a Clearway Pain Solutions Institute*, 3:19-cv-01659 (N.D. Fla.). PDHBM lawyers have also been involved in other class actions in the past several years which have resolved favorably to their clients, including *Winsouth Credit Union v. MAPCO Express, Inc. and Delek US Holdings, Inc.*, 3:14-cv-1753 (M.D. Tn.), *Bach Enterprises, Inc. v. Advanced Disposal Services South, Inc.*, Circuit Court, Barbour County, Alabama, Case No. 69-cv-2013-9000090, *In re Arby's Restaurant Group, Inc. Data Security Litigation*, 1:17-cv-514 (N.D. Ga.), and *In re Blue Cross Blue Shield Antitrust Litigation*, MDL 2406, 2:13-cv-20000-RDP (N.D. Ala.). I and other PDHBM attorneys are currently putative class counsel in several pending actions involving antitrust, consumer protection, privacy, and securities claims. A more exhaustive firm resume is attached as Exhibit 1 to this Declaration.

### **Initial Investigation and Communications**

6. This is a putative class action brought by Plaintiffs Daniel Sullen and Joshua Renfroe (“Plaintiffs” or “Class Representatives”), individually and on behalf of all others similarly situated (the “Settlement Classes”), arising out of fraudulent (or “unauthorized”) accounts for smart home security services that were created by employees and/or agents of Defendant Vivint, Inc. (“Vivint”). The Plaintiffs and members of the Settlement Classes each had their credit report

information accessed by Vivint and at least one unauthorized Vivint account opened in his or her name. In some instances, the unauthorized accounts became delinquent, and Vivint initiated debt collections against the Plaintiffs and members of the Damages Settlement Class for the unpaid balance of the fraudulent account(s).

7. My law firm was first contacted about this matter in February of 2019, after which our team immediately and vigorously gathered all information available regarding Vivint and instances of fraudulent accounts being created, including many hours of searching for and combing through publicly available complaints posted on the internet.

8. Our initial investigation into the facts and circumstances of the alleged fraudulent accounts by our clients revealed that this appeared to be a systemic problem affecting many individuals across the country.

### **Procedural Posture**

9. After an initial investigation, I (along with other members of my firm) filed a Class Action Complaint (the “Federal Complaint”) in the U.S. District Court for the Middle District of Alabama. The Federal Complaint was filed on April 9, 2019, alleging causes of action for: (1) Negligence/Wantonness and (2) Violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.*

10. Thereafter, the Parties engaged in more than two (2) years of contentious litigation, including:

- Plaintiffs’ filing of two amended complaints and Vivint’s answers;
- Extensive written discovery exchanged by the Parties, including four (4) sets of interrogatories and requests for production of documents served on Vivint, as well as two (2) sets of requests for admissions, and five (5) non-party subpoenas;

- Vivint’s productions of over seven thousand pages of documents and voluminous amounts of other electronically stored information, including massive Excel-spreadsheet datasets;
- Plaintiffs’ productions of documents and other electronically stored information;
- Multiple lengthy letters and dozens of meet and confers regarding discovery disputes;
- Plaintiffs’ depositions of five (5) of Vivint’s executives, as well as three (3) separate depositions of Vivint’s 30(b)(6) corporate representative;
- Vivint’s depositions of each of the Plaintiffs;
- Full briefing and a hearing on Plaintiffs’ motion to compel additional discovery from Vivint;
- Full briefing on Plaintiffs’ motion for class certification;
- Full briefing on Vivint’s motion to strike Plaintiffs’ class certification expert;
- Plaintiffs retained and disclosed three (3) additional experts to support their claims, including a certified fraud examiner, a cyber security standards expert, and a credit damages expert;
- Vivint’s depositions of all four (4) of Plaintiffs’ experts, including one expert being deposed twice;
- Full briefing on Vivint’s three (3) additional motions to strike Plaintiffs’ additional experts and their reports;
- Full briefing on Plaintiffs’ motion for leave to supplement Plaintiffs’ reply brief in further support of class certification; and,
- Full briefing on Vivint’s motion for summary judgment on all claims.<sup>1</sup>

### **History of Settlement Negotiations**

11. After the Parties fully briefed Vivint’s potentially-dispositive Motion for Summary Judgment and other consequential motions, the Parties agreed to participate in formal mediation to try to resolve the case.

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<sup>1</sup> For the Court’s reference, a copy of the PACER Docket Report is attached as Exhibit 2 to this Declaration, which shows each filing submitted during litigation of the federal matter up to October 27, 2023.

12. The Parties participated in numerous in-person, full-day mediation sessions, as well as additional virtual and telephonic mediation sessions, with mediator Lee Copeland, Esq. of Copeland, Franco, Screws & Gill, P.A., a prominent and well-respected mediator with significant experience handling class action mediations.

13. Counsel for Plaintiffs also demanded that Vivint provide additional confirmatory data and discovery materials to ensure certain representations made during negotiations were true and accurate, which Vivint ultimately provided.

14. The Parties then agreed to settle the matter on a class-wide basis and executed an informal “term sheet” with the key provisions of the agreement.

15. Thereafter, counsel for the Parties had countless phone calls with each other, exchanged hundreds of emails, and participated in many additional in-person meetings to hash out the details of the Settlement Agreement. The Parties negotiated the myriad of details regarding the Settlement, circulating drafts back and forth of the Settlement Agreement and its many exhibits. Specifically, Parties diligently negotiated the final terms of settlement and drafted and finalized the Settlement Agreement, along with accompanying notice forms, a claim form, and other exhibits.

16. The Settlement Agreement was finalized and fully executed by all Parties on December 31, 2023.

17. Plaintiffs also obtained competitive bids from various experienced notice and settlement administrators and thereafter, with Defendant’s input and approval, selected A.B. Data, Ltd., a highly experienced and well-respected class action administrator, to act as the Settlement Administrator, subject to the Court’s approval.

18. The Settlement is the result of prolonged arm's length negotiations, including in-person meetings, numerous telephone conferences, as well as emails directly exchanged between experienced, capable counsel who had a comprehensive understanding of the strengths and weaknesses of each party's claims and defenses. Moreover, the Settlement was reached only after Plaintiffs' counsel deposed numerous Vivint executives and employees, analyzed thousands of Vivint documents and electronically stored information produced in discovery, and performed other vital research and investigation related to Plaintiffs' claims.

19. While the negotiations between Plaintiffs' counsel and Vivint's counsel were collegial, cordial, and professional, there is no doubt that they were adversarial in nature, with both sides forcefully advocating the position of their respective clients.

**The Settlement is Fair, Reasonable, and Adequate**

20. The full terms of Settlement are included in the Settlement Agreement, submitted as Exhibit A to Plaintiffs' Motion for Preliminary Approval.

21. In my opinion, I believe the Settlement is fair, reasonable, and adequate and provides significant monetary and non-monetary benefits for Plaintiffs and the Settlement Class Members.

22. My years of experience representing individuals in complex class actions—including consumer protection actions—contributed to an awareness of Plaintiffs' settlement leverage, as well as the needs of Plaintiffs and the proposed Settlement Classes. I believe that Plaintiffs would ultimately prevail in the litigation on a class-wide basis. However, I am also aware that a successful outcome is uncertain and would be achieved, if at all, only after further prolonged, arduous litigation with the likely risk of drawn-out appeals. It is my individual opinion,

based on my substantial experience, that the Settlement provides significant, important, and appropriate relief to the Settlement Class Members and warrants the Court's preliminary approval.

23. I believe this Settlement is a positive resolution for the Settlement Classes and falls comfortably within the range of reasonableness and represents a fair and reasonable discount from potential recovery. It is also my considered opinion that the Claim Form, Summary Notice, and Long Form Notice accurately and plainly explain the Settlement Benefits and how to obtain them, offer a clear opportunity for members of the Settlement Classes to exclude themselves if they so choose, and provides a mechanism for the Settlement Classes to share their opinions about the Settlement with the Court.

24. To my knowledge, Plaintiffs have no conflicts of interest with the other members of the Settlement Classes, as Plaintiffs each had fraudulent Vivint accounts created in their names using their credit report information without their authorization—same as the other Settlement Class Members—and Plaintiffs share the Settlement Classes' interests of maximizing their recovery and preventing future harm.

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

Executed this 9th day of January 2024, in Birmingham, Alabama.




---

Jonathan S. Mann  
**PITTMAN, DUTTON, HELLUMS,  
 BRADLEY & MANN, P.C.**  
 2001 Park Place North, Suite 1100  
 Birmingham, AL 35203  
 Tel: (205) 322-8880  
 Email: [jonm@pittmandutton.com](mailto:jonm@pittmandutton.com)

*Attorney for the Plaintiffs and the Proposed  
 Settlement Classes*



Exhibit 1  
PDHBM Firm Resume



**PITTMAN DUTTON  
HELLUMS BRADLEY  
— & MANN, P.C. —**

ATTORNEYS AT LAW

## FIRM RÉSUMÉ

Pittman, Dutton, Hellums, Bradley & Mann P.C. (“PDHBM”) attorneys have been representing individuals, consumers, and small businesses in complex civil litigation for over 35 years. PDHBM has resolved thousands of cases, hundreds of which resulted in verdicts and settlements exceeding \$1 million. Additionally, PDHBM has been in leadership in cases involving class actions and mass tort litigations in which recoveries have exceeded over three-billion dollars for consumers and small businesses. PDHBM has handled cases in every Alabama circuit court and in all Alabama federal courts. PDHBM is located in Birmingham, Alabama, but routinely represents clients in mass tort litigation and class actions throughout the country.

PDHBM and its lawyers have consistently been recognized by numerous national organizations, publications and their peers as among the most successful and experienced courtroom lawyers in the country. These include U.S. News Best Law Firms in America, The Best Lawyers in America, Top Ranked Law Firms by Martindale-Hubbell, American College of Trial Lawyers, American Board of Trial Advocates, Martindale-Hubbell’s AV Preeminent Peer Review Rated, Million Dollar Advocates Forum, and SuperLawyers.

## REPRESENTATIVE MULTI DISTRICT AND CLASS ACTION LITIGATION LEADERSHIP EXPERIENCE

### Class Actions

*In re Blue Cross Blue Shield Antitrust Litigation* (Local Facilitating Counsel for Subscriber Plaintiffs)

*Kathy L. Limbaugh, et al. v. Norwood Clinic, Inc.*, Circuit Court, Jefferson County, Alabama, Case No. 01-cv-2022-900851.00 (Class Counsel representing victims of a data breach)

*Fiyyaz Pirani, Trustee of Imperium Irrevocable Trust v. Medical Properties Trust, Inc.*, 2:23-cv-00486 (N.D. Ala.) (Liaison Counsel for shareholders in a securities fraud class action)

*Williams v. Gulf Coast Pain Consultants*, 3:19-cv-01659 (N.D. Fla.) (Class Counsel representing victims of a data breach)

*In re Arby’s Restaurant Group, Inc. Data Security Litigation*, 1:17-cv-514 (N.D. Ga.) (Plaintiffs’ Steering Committee)

*In re Community Health Systems, Inc., Customer Data Security Breach Litigation* (Local Liaison Counsel)

*Bach Enterprises, Inc. v. Advanced Disposal Services South, Inc.*, Circuit Court, Barbour County, Alabama, Case No. 69-cv-2013-9000090 (Class Counsel)



**PITTMAN DUTTON  
HELLUMS BRADLEY  
— & MANN, P.C. —**

ATTORNEYS AT LAW

*WinSouth Credit Union, individually and on behalf of all similarly situated v. MAPCO Express, Inc. and Delek US Holdings, Inc.* (Class Counsel representing financial institution victims of a data breach)

*Mandi Phillips, individually and on behalf of all similarly situated v. MAPCO Express, Inc. and Delek US Holdings, Inc.* (Class Counsel representing individual victims of a data breach)

### **Medical Device Multidistrict Litigation**

*In re Paragard IUD Products Liability Litigation* (Plaintiffs' Steering Committee)

*In re Davol, Inc./C.R. Bard, Inc. Polypropylene Hernia Mesh Products Liability Litigation* (Plaintiffs' Steering Committee)

*In re Stryker Rejuvenate and ABG II Hip Implant Products Liability Litigation* (Plaintiffs' Steering Committee)

### **Pharmaceutical Multidistrict Litigation**

*In re Valsartan Products Liability Litigation* (Plaintiffs' Steering Committee)

*In re Abilify (Aripirazole) Products Liability Litigation* (Plaintiffs' Steering Committee)

### **Other Product Liability Multidistrict Litigation**

*In re 3M Combat Arms Earplug Products Liability Litigation* (Common Benefit Fund Committee)

*In re 3M Combat Arms Earplug Products Liability Litigation* (Settlement Implementation and Administration Committee)

### **PDHBM also represents or represented clients in the following complex litigations:**

- *In re Total Body Formula Products Liability Litigation* (Co-Lead Counsel; member of Plaintiffs' Executive Committee and Plaintiffs' Steering Committee)
- *Physician Mutual Class Action*
- *In re NCAA Student-Athlete Name & Likeness Licensing Litigation*
- *In re Yasmin and Yaz (Drospirenone) Marketing, Sales Practices and Products Liability Litigation*
- *In re Vioxx Products Liability Litigation*
- *In re Prempro Product Liability Litigation*
- *In re Hydroxycut Marketing and Sales Practices Litigation*
- *In re DePuy Orthopaedics, Inc., ASR Hip Implant Products Liability Litigation*
- *In re DePuy Orthopaedics, Inc., Pinnacle Hip Implant Products Liability Litigation*



PITTMAN DUTTON  
HELLUMS BRADLEY  
— & MANN, P.C. —

ATTORNEYS AT LAW

- *In re Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010*
- *In re Chinese-Manufactured Drywall Products Liability Litigation*
- *In re Actos (Pioglitazone) Products Liability Litigation*
- *In re Xarelto (Rivaroxaban) Products Liability Litigation*
- *In re Pradaxa (Dabigatran Etexilate) Products Liability Litigation*
- *In re C.R. Bard, Inc., Pelvic Repair System Products Liability Litigation*
- *In re Cook Medical, Inc., Pelvic Repair System Products Liability Litigation*
- *In re Coloplast Corp. Pelvic Support Systems Products Liability Litigation*
- *In re Biomet M2a Magnum Hip Implant Products Liability Litigation*
- *In re Stryker LFIT V40 Femoral Head Products Liability Litigation*
- *In re Smith & Nephew Birmingham Hip Resurfacing (BHR) Hip Implant Products Liability Litigation*
- *In re Taxotere (Docetaxel) Products Liability Litigation*
- *In re Atrium Medical Corp. C-Qur Mesh Products Liability Litigation*
- *In re Ethicon Physiomesh Flexible Composite Hernia Mesh Products Liability Litigation*
- *In re Davol, Inc./C.R. Bard, Inc. Polypropylene Hernia Mesh Products Liability Litigation*
- *In re Diisocyanates Antitrust Litigation*
- *In re Local TV Advertising Antitrust Litigation*
- *In re Exactech Polyethylene Orthopedic Products Liability Litigation*

Exhibit 2  
Docket Report

**U.S. District Court**  
**Alabama Middle District (Montgomery)**  
**CIVIL DOCKET FOR CASE #: 2:19-cv-00258-MHT-JTA**

Dorn et al v. Vivint, Inc.

Assigned to: Honorable Judge Myron H. Thompson

Referred to: Magistrate Judge Jerusha T. Adams

Cause: 15:1681 Fair Credit Reporting Act

Date Filed: 04/09/2019

Date Terminated: 01/07/2022

Jury Demand: Plaintiff

Nature of Suit: 480 Consumer Credit

Jurisdiction: Diversity

Date Filed	#	Docket Text
04/09/2019	<a href="#">1</a>	CLASS ACTION COMPLAINT against Vivint, Inc. (Filing fee \$ 400.00, receipt number 4602053178), filed by Tiffany Dorn. (Attachments: # <a href="#">1</a> Civil Cover Sheet, # <a href="#">2</a> Receipt) (alm, ) (Entered: 04/11/2019)
04/09/2019		DEMAND for Trial by Jury by Tiffany Dorn. (No pdf attached to this entry - See doc <a href="#">1</a> for pdf) (alm, ) (Entered: 04/11/2019)
04/09/2019	<a href="#">2</a>	Corporate/Conflict Disclosure Statement by Tiffany Dorn. (alm, ) (Entered: 04/11/2019)
04/11/2019	<a href="#">3</a>	Summons Issued as to Vivint, Inc.; mailed CMRRR with copy of <a href="#">1</a> Complaint. (alm, ) (Entered: 04/11/2019)
05/14/2019	<a href="#">4</a>	Summons Returned Unexecuted as to Vivint, Inc. with the following notation: "Return to Sender, Vacant, Unable to Forward". (alm, ) (Entered: 05/14/2019)
05/24/2019	<a href="#">5</a>	ANSWER to <a href="#">1</a> Complaint by Vivint, Inc..(Tompkins, Jason) (Entered: 05/24/2019)
05/24/2019		PURSUANT TO THE <a href="#">5</a> ANSWER - ***Attorney Joseph Dennis Leavens & Jonathan Hoffmann for Vivint, Inc. added. (No pdf attached to this entry) (alm, ) (Entered: 05/28/2019)
05/28/2019	<a href="#">6</a>	Notice of Deficiency requiring filing of Corporate Disclosure/Conflict Statement sent to Vivint, Inc.; Corporate Disclosures due by 6/7/2019. (Attachments: # <a href="#">1</a> Corporate/Conflict Disclosure Attachment)(alm, ) (Entered: 05/28/2019)
05/31/2019	<a href="#">7</a>	<b>ORDER: It is the ORDER, JUDGMENT, and DECREE of the court that the plf has until 6/14/2019, to amend the complaint to allege subject-matter jurisdiction properly. Signed by Honorable Judge Myron H. Thompson on 5/31/2019.</b> (alm, ) (Entered: 05/31/2019)
06/07/2019	<a href="#">8</a>	<b>RULE 26(f) ORDER: it is ORDERED that the Rule 26(f) report containing the discovery plan shall be filed as soon as practicable, as further set out in order; Rule 26 Meeting Report due by 6/28/2019. Signed by Honorable Judge Myron H. Thompson on 6/7/2019.</b> (alm, ) (Entered: 06/07/2019)
06/07/2019	<a href="#">9</a>	Corporate/Conflict Disclosure Statement by Vivint, Inc. re <a href="#">6</a> Notice of Deficiency requiring filing of Corporate Disclosure/Conflict Statement. (Tompkins, Jason) Modified on 6/7/2019 to add the link to the <a href="#">6</a> Notice (alm, ). (Entered: 06/07/2019)

06/13/2019	<a href="#">10</a>	FIRST AMENDED CLASS ACTION COMPLAINT with JURY DEMAND against Vivint, Inc., filed by Tiffany Dorn.(Mann, Jonathan) Modified on 6/14/2019 to clarify the docket text (kr, ). (Entered: 06/13/2019)
06/26/2019		Case Reassigned to Honorable Judge Stephen Michael Doyle as Referral Judge; Honorable Judge Gray M. Borden no longer assigned to the case. (No pdf attached to this entry) (alm, ) (Entered: 06/26/2019)
06/28/2019	<a href="#">11</a>	REPORT of Rule 26(f) Planning Meeting. (Whitten, Austin) (Entered: 06/28/2019)
07/10/2019	<a href="#">12</a>	<b>UNIFORM SCHEDULING ORDER: Final Pretrial Conference set for 10/29/2020, in chambers in Montgomery, Alabama before Honorable Judge Myron H. Thompson; Jury Trial set for 12/7/2020, at 10:00 AM, in Montgomery, Alabama before Honorable Judge Myron H. Thompson; Dispositive and Daubert Motions due by 5/1/2020; Mediation Notice due by 4/10/2020; Amended Pleadings due by 9/25/2019; Discovery due by 3/27/2020, as further set out in order. Signed by Honorable Judge Myron H. Thompson on 7/10/2019. (Furn: Calendar, AG)(kr, ) (Entered: 07/10/2019)</b>
08/14/2019	<a href="#">13</a>	ANSWER to <a href="#">10</a> Amended Complaint by Vivint, Inc..(Tompkins, Jason) (Entered: 08/14/2019)
09/25/2019	<a href="#">14</a>	Unopposed MOTION for Leave to File Second Amended Class Action Complaint by Tiffany Dorn. (Attachments: # <a href="#">1</a> Exhibit A)(Mann, Jonathan) (Entered: 09/25/2019)
09/26/2019	<a href="#">15</a>	<b>TEXT ORDER: It is ORDERED that the <a href="#">14</a> unopposed motion for leave to file a second amended class action complaint is granted; Plfs shall file the second amended complaint within five business days of this order. Signed by Honorable Judge Myron H. Thompson on 9/26/2019. (No PDF attached to this entry)(amf, ) (Entered: 09/26/2019)</b>
09/26/2019	<a href="#">16</a>	(Second Amended Class Action Complaint) AMENDMENT TO COMPLAINT <i>Second</i> against All Defendants, filed by Tiffany Dorn, Daniel Sullen, Joshua Renfroe.(Mann, Jonathan) Modified on 9/26/2019 to clarify the docket text and to add as also filed on behalf of Plfs Sullen & Renfroe (amf, ). (Entered: 09/26/2019)
09/26/2019		SECOND AMENDED CLASS ACTION COMPLAINT with Jury Demand against Vivint, Inc., filed by Joshua Renfroe, Tiffany Dorn, Daniel Sullen. (No PDF attached to this entry - See doc <a href="#">16</a> for PDF)(amf, ) (Entered: 09/26/2019)
09/26/2019	<a href="#">17</a>	Notice of Deficiency requiring filing of Corporate Disclosure/Conflict Statement sent to Daniel Sullen & Joshua Renfroe; Corporate Disclosures due by 10/7/2019. (Attachments: # <a href="#">1</a> Corporate/Conflict Disclosure Attachment)(amf, ) (Entered: 09/26/2019)
09/27/2019	<a href="#">18</a>	Corporate/Conflict Disclosure Statement by Joshua Renfroe re <a href="#">17</a> Notice of Deficiency requiring filing of Corporate Disclosure/Conflict Statement. (Whitten, Austin) Modified on 9/27/2019 to add as filed on behalf of Plf Renfroe & to remove as filed on behalf of Plf Dorn (amf, ) (Entered: 09/27/2019)
09/27/2019	<a href="#">19</a>	Corporate/Conflict Disclosure Statement by Daniel Sullen re <a href="#">17</a> Notice of Deficiency requiring filing of Corporate Disclosure/Conflict Statement. (Whitten, Austin) (Entered: 09/27/2019)
09/27/2019	<a href="#">20</a>	(JOINT Supplement Regarding Mediation) STATUS REPORT re <a href="#">11</a> REPORT of Rule 26(f) Planning Meeting by Vivint, Inc., Daniel Sullen, Joshua Renfroe, Tiffany Dorn. (Hoffmann, Jonathan) Modified on 9/27/2019 to clarify the docket text, to add as also filed on behalf of the Plfs, & to add the link to doc <a href="#">11</a> (amf, ) (Entered: 09/27/2019)

10/14/2019	<a href="#">21</a>	<b>ANSWER to <a href="#">16</a> Second Amended Class Action Complaint by Vivint, Inc..(Hoffmann, Jonathan)</b> (Main Document 21 replaced on 10/15/2019 to attach a corrected PDF document to reflect the initials of the Magistrate Judge in the case number as "SMD" and not "GMB") (amf, ). Modified on 10/15/2019 (amf, ). (Entered: 10/14/2019)
10/15/2019	<a href="#">22</a>	NOTICE of Correction re <a href="#">21</a> Answer, to attach a corrected PDF document to reflect the initials of the Magistrate Judge in the case number as "SMD" and not "GMB". (Attachments: # <a href="#">1</a> Main PDF to Document <a href="#">21</a> )(amf, ) (Entered: 10/15/2019)
11/14/2019	<a href="#">23</a>	Joint MOTION for Entry of Protective Order by Vivint, Inc., Daniel Sullen, Joshua Renfroe, Tiffany Dorn. (Tompkins, Jason) Modified on 11/14/2019 to add as also filed on behalf of the Plfs (amf, ). (Entered: 11/14/2019)
11/15/2019	24	<b>TEXT ORDER granting <a href="#">23</a> Joint Motion for Entry of Protective Order; The protective order will be entered seperately. Signed by Honorable Judge Stephen Michael Doyle on 11/15/2019. (No PDF attached to this entry) (amf, )</b> (Entered: 11/15/2019)
11/15/2019	<a href="#">25</a>	<b>PROTECTIVE ORDER REGARDING CONFIDENTIAL INFORMATION. Signed by Honorable Judge Stephen Michael Doyle on 11/15/2019. (amf, )</b> (Entered: 11/15/2019)
11/20/2019		Case reassigned to Honorable Judge Jerusha T. Adams. Honorable Judge Stephen Michael Doyle no longer assigned to the case as referral judge (NO PDF document attached to this notice). (djy, ) (Entered: 11/20/2019)
01/10/2020	<a href="#">26</a>	Unopposed MOTION to Modify <i>Scheduling Order Deadlines</i> by Tiffany Dorn, Joshua Renfroe, Daniel Sullen re <a href="#">12</a> Uniform Scheduling Order. (Mann, Jonathan) Modified on 1/10/2020 to add the link to the <a href="#">12</a> Order (amf, ). (Entered: 01/10/2020)
01/16/2020	<a href="#">27</a>	<b>ORDER granting <a href="#">26</a> Unopposed Motion to Modify Scheduling Order Deadlines; The <a href="#">12</a> uniform scheduling order is modified in the following respects: A) The deadline for filing a motion for class certification is extended from 1/24/2020, to 3/24/2020; B) The deadline for completing discovery is extended from 3/27/2020, to 5/26/2020; C) The deadline for the parties' settlement conference is extended from 4/3/2020, to 6/2/2020; D) The deadline for filing dispositive motions is extended from 5/1/2020, to 6/30/2020; E) All unexpired deadlines expressly tied to the above dates are adjusted accordingly; All other deadlines are unchanged. Signed by Honorable Judge Myron H. Thompson on 1/16/2020. (amf, )</b> (Entered: 01/16/2020)
03/24/2020	<a href="#">28</a>	MOTION for Class Certification by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Mann, Jonathan) (Entered: 03/24/2020)
03/24/2020	<a href="#">29</a>	MEMORANDUM BRIEF in Support re <a href="#">28</a> MOTION for Class Certification filed by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Mann, Jonathan) (Entered: 03/24/2020)
03/24/2020	<a href="#">30</a>	Evidentiary Submission in Support re <a href="#">28</a> MOTION for Class Certification, <a href="#">29</a> MEMORANDUM BRIEF filed by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C, # <a href="#">4</a> Exhibit D, # <a href="#">5</a> Exhibit E, # <a href="#">6</a> Exhibit F)(Mann, Jonathan) (Additional attachment(s) added on 3/25/2020 to redact personal information contained in original filing pursuant to the E-government rules: # <a href="#">7</a> Exhibit A (Redacted)) (amf, ). Modified on 3/25/2020 (amf, ). (Entered: 03/24/2020)
03/25/2020	<a href="#">31</a>	<b>ORDER: It is ORDERED that the <a href="#">28</a> motion for class certification is set for submission, without oral argument, on 4/29/2020, with any opposition brief and evidentiary materials due by 4/15/2020, and any reply to the opposition due by 4/29/2020. Signed by Honorable Judge Myron H. Thompson on 3/25/2020. (amf, )</b> (Entered: 03/25/2020)



04/06/2020	<a href="#">32</a>	MOTION to Extend Deadline to Respond to Motion for Class Certification to Accommodate Deposition of Previously Undisclosed Expert re <a href="#">28</a> MOTION for Class Certification by Vivint, Inc.. (Hoffmann, Jonathan) (Main Document 32 replaced on 4/6/2020 to attach a corrected PDF document to properly reflect the initials of the Magistrate Judge in the case number as "JTA" and not "SMD", & to reflect the date on the certificate of service as 4/6/2020 & not 3/25/2020.) (amf, ). Modified on 4/6/2020 to add the link to the <a href="#">28</a> motion & remove the erroneous link from the <a href="#">29</a> memorandum brief (amf, ). (Entered: 04/06/2020)
04/06/2020	<a href="#">33</a>	NOTICE of Correction re <a href="#">32</a> MOTION to Extend Deadline, to attach a corrected PDF document to properly reflect the initials of the Magistrate Judge in the case number as "JTA" and not "SMD", & to reflect the date on the certificate of service as 4/6/2020 & not 3/25/2020. (Attachments: # <a href="#">1</a> Main PDF to Document <a href="#">32</a> )(amf, ) (Entered: 04/06/2020)
04/06/2020	<a href="#">34</a>	<b>ORDER TO SHOW CAUSE by the Plfs, if any there be, as to why <a href="#">32</a> MOTION to Extend Deadline to Respond to Motion for Class Certification to Accommodate Deposition of Previously Undisclosed Expert should not be granted; Show Cause Response due by 4/9/2020. Signed by Honorable Judge Myron H. Thompson on 4/6/2020. (amf, )</b> (Entered: 04/06/2020)
04/09/2020	<a href="#">35</a>	RESPONSE in Opposition re <a href="#">32</a> MOTION to Extend Deadline to Respond to Motion for Class Certification to Accommodate Deposition of Previously Undisclosed Expert re <a href="#">28</a> MOTION for Class Certification filed by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Mann, Jonathan) (Entered: 04/09/2020)
04/13/2020	<a href="#">36</a>	<b>TEXT ORDER granting <a href="#">32</a> Motion to Extend Deadline to Respond to Motion for Class Certification to the extent that the deadlines for response and reply to the <a href="#">28</a> motion for class certification are each continued by 14 days. Signed by Honorable Judge Myron H. Thompson on 4/13/2020. (No PDF attached to this entry) (amf, )</b> (Entered: 04/13/2020)
04/27/2020	<a href="#">37</a>	MOTION for Leave to File Supplementary Evidence in Support of Motion for Class Certification Under Seal by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Whitten, Austin) (Entered: 04/27/2020)
04/27/2020	<a href="#">38</a>	MOTION for Leave to File Confidential Document Under Seal by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Whitten, Austin) (Entered: 04/27/2020)
04/29/2020	<a href="#">39</a>	OPPOSITION to <a href="#">28</a> MOTION for Class Certification , <a href="#">29</a> MEMORANDUM Brief filed by Vivint, Inc.. (Hoffmann, Jonathan) (Entered: 04/29/2020)
04/29/2020	<a href="#">40</a>	Evidentiary Submission in Support re <a href="#">39</a> OPPOSITION filed by Vivint, Inc.. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C (1 of 3), # <a href="#">4</a> Exhibit C (2 of 3), # <a href="#">5</a> Exhibit C (3 of 3), # <a href="#">6</a> Exhibit D, # <a href="#">7</a> Exhibit E, # <a href="#">8</a> Exhibit F (1 of 2), # <a href="#">9</a> Exhibit F (2 of 2), # <a href="#">10</a> Exhibit G) (Hoffmann, Jonathan) (Entered: 04/29/2020)
04/29/2020	<a href="#">41</a>	MOTION to Strike Declaration <i>and Exclude Report of Chad Seales</i> re <a href="#">30</a> Evidentiary Submission by Vivint, Inc.. (Hoffmann, Jonathan) (Entered: 04/29/2020)
04/30/2020	<a href="#">42</a>	<b>ORDER: It is ORDERED that the <a href="#">41</a> motion to strike is set for submission, without oral argument, on 5/28/2020, with any opposition brief due by 5/21/2020, and any reply to the opposition due by 5/28/2020. Signed by Honorable Judge Myron H. Thompson on 4/30/2020. (amf, )</b> (Entered: 04/30/2020)
04/30/2020	<a href="#">43</a>	<b>ORDER: It is ORDERED that plfs' <a href="#">37</a> motion for leave to file supplementary evidence in support of class certification and <a href="#">38</a> motion for leave to file a confidential document under seal, which dfts have informed the court they do not oppose, are</b>

		<b>granted. Signed by Honorable Judge Myron H. Thompson on 4/30/2020. (amf, )</b> (Entered: 04/30/2020)
04/30/2020	<a href="#">44</a>	MOTION to File Under Seal Exhibits in Support re <a href="#">39</a> OPPOSITION by Vivint, Inc.. (Attachments: # <a href="#">1</a> Exhibit A)(Hoffmann, Jonathan) Modified on 5/1/2020 to add the link to doc <a href="#">39</a> (amf, ). (Entered: 04/30/2020)
05/01/2020	45	<b>TEXT ORDER granting <a href="#">44</a> Motion to File Under Seal Exhibits. Signed by Honorable Judge Myron H. Thompson on 5/1/2020. (No PDF attached to this entry) (amf, )</b> (Entered: 05/01/2020)
05/08/2020	<a href="#">46</a>	Unopposed MOTION to Extend Deadline to Reply to Defendant's <a href="#">39</a> Opposition to Motion for Class Certification re 36 Text Order by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Whitten, Austin) Modified on 5/8/2020 to add the link to doc <a href="#">39</a> (amf, ). (Entered: 05/08/2020)
05/08/2020	47	<b>TEXT ORDER granting <a href="#">46</a> Unopposed MOTION to Extend Deadline to Reply to Defendant's <a href="#">39</a> Opposition to Motion for Class Certification. Signed by Honorable Judge Myron H. Thompson on 5/8/2020. (No pdf attached to this entry) (wcl, )</b> (Entered: 05/08/2020)
05/11/2020	<a href="#">48</a>	NOTICE of Filing Documents Under Seal by Tiffany Dorn, Joshua Renfroe, Daniel Sullen re <a href="#">28</a> MOTION for Class Certification , <a href="#">29</a> MEMORANDUM BRIEF. (Attachments: # <a href="#">1</a> Exhibit (Vivint_Dorn001087) to Doc <a href="#">28</a> & <a href="#">29</a> , # <a href="#">2</a> Exhibits (Vivint_Dorn001659 & Vivint_Dorn001814) to Doc <a href="#">28</a> & <a href="#">29</a> )(amf, ) (Entered: 05/15/2020)
05/15/2020	<a href="#">49</a>	Joint MOTION to Modify Scheduling Order Deadlines by Tiffany Dorn, Joshua Renfroe, Daniel Sullen, Vivint, Inc.. (Bradley, Michael) Modified on 5/18/2020 to clarify the docket text and to add Dft Vivint, Inc. as a filer (bes, ). (Additional attachment(s) added on 5/18/2020: # <a href="#">1</a> Corrected Certificate of Service) (bes, ). (Entered: 05/15/2020)
05/21/2020	<a href="#">50</a>	<b>ORDER directing that: (1) GRANTING <a href="#">49</a> Joint MOTION to modify the scheduling order; (2) the <a href="#">12</a> uniform scheduling order, as amended, is modified in the following respects: (A) The deadline for completing discovery is extended from 5/26/2020, to 7/27/2020; (B) The deadline for the parties settlement conference is extended from 6/2/2020, to 8/3/2020; (C) The deadline for filing dispositive motions is extended from 6/30/2020, to 8/31/2020; (D) the Pretrial Conference is reset from 10/29/2020, to 1/20/2021 and the Jury Trial is reset from 12/7/2020, to the term of court beginning on 3/15/2021, at 10:00 a.m.; (E) All unexpired deadlines (if any) expressly tied to the above dates are adjusted accordingly. All other deadlines remain unchanged. Signed by Honorable Judge Myron H. Thompson on 5/21/2020. Furnished to calendar group &amp; AG.(djt, )</b> (Entered: 05/21/2020)
05/21/2020	<a href="#">51</a>	RESPONSE in Opposition re <a href="#">41</a> MOTION to Strike <a href="#">30</a> Evidentiary Submission, <i>Declaration of Chad Seales</i> filed by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Mann, Jonathan) (Entered: 05/21/2020)
05/27/2020	<a href="#">52</a>	REPLY BRIEF in further Support re <a href="#">28</a> MOTION for Class Certification filed by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Attachments: # <a href="#">1</a> Ex A, # <a href="#">2</a> Ex B, # <a href="#">3</a> Ex C, # <a href="#">4</a> Ex D, # <a href="#">5</a> Ex E)(Mann, Jonathan) (Additional attachment(s) added on 5/28/2020 to redact personal information contained in original filing pursuant to the E-government rules: # <a href="#">6</a> Ex D (Redacted)) (amf, ). Modified on 5/28/2020 (amf, ). (Entered: 05/27/2020)
05/28/2020	<a href="#">53</a>	REPLY in Support of Motion re <a href="#">41</a> MOTION to Strike <a href="#">30</a> Evidentiary Submission, filed by Vivint, Inc.. (Attachments: # <a href="#">1</a> Exhibit 1)(Hoffmann, Jonathan) (Main Document 53 replaced on 5/29/2020 to attach a corrected PDF document to properly reflect the initials

		of the Magistrate Judge in the case number as "JTA" and not "SMD") (amf, ). Modified on 5/29/2020 (amf, ). (Entered: 05/28/2020)
05/29/2020	<a href="#">54</a>	NOTICE of Correction re <a href="#">53</a> Reply in Support, to attach a corrected PDF document to properly reflect the initials of the Magistrate Judge in the case number as "JTA" and not "SMD". (Attachments: # <a href="#">1</a> Main PDF to Document <a href="#">53</a> )(amf, ) (Entered: 05/29/2020)
05/29/2020	<a href="#">55</a>	NOTICE of Filing.Wav File Exhibits re <a href="#">40</a> Evidentiary Submission by Vivint, Inc.. (Attachments: # <a href="#">1</a> Exhibits A-1 & A-3)(amf, ) (Entered: 05/29/2020)
05/29/2020	<a href="#">56</a>	NOTICE of Sealed Filing re <a href="#">39</a> OPPOSITION by Vivint, Inc.. (Attachments: # <a href="#">1</a> Exhibit C-7, # <a href="#">2</a> Exhibit C-8, # <a href="#">3</a> Exhibit C-9, # <a href="#">4</a> Exhibit C-10, # <a href="#">5</a> Exhibit C-12, # <a href="#">6</a> Exhibit D-2, # <a href="#">7</a> Exhibit E-3)(amf, ) (Entered: 05/29/2020)
06/02/2020	<a href="#">57</a>	MOTION for Leave to File Confidential Documents Under Seal by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Mann, Jonathan) (Entered: 06/02/2020)
06/03/2020	<a href="#">58</a>	<b>TEXT ORDER granting <a href="#">57</a> Motion for Leave to File Confidential Documents Under Seal. Signed by Honorable Judge Myron H. Thompson on 6/3/2020. (No PDF attached to this entry) (amf, )</b> (Entered: 06/03/2020)
06/08/2020	<a href="#">59</a>	NOTICE of Filing Documents Under Seal by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Attachments: # <a href="#">1</a> Exhibit A (Confidential, Filed Under Seal))(wcl, ) (Entered: 06/08/2020)
07/09/2020	<a href="#">60</a>	MOTION for Immediate Status Conference by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Mann, Jonathan) (Entered: 07/09/2020)
07/13/2020	<a href="#">61</a>	<b>ORDER: it is ORDERED that the dft file a response to the <a href="#">60</a> motion for immediate status conference by 7/20/2020. Signed by Honorable Judge Myron H. Thompson on 7/13/2020. (wcl, )</b> (Entered: 07/13/2020)
07/17/2020	<a href="#">62</a>	First MOTION to Compel Responses to Discovery Requests <i>and</i> MOTION to Compel Depositions of Certain Vivint Employees by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C)(Mann, Jonathan) Modified on 7/20/2020 to clarify the docket text (amf, ). (Entered: 07/17/2020)
07/17/2020	<a href="#">63</a>	MOTION For Leave To Take Additional 30(b)(6) Deposition of Vivint, Inc. by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C)(Mann, Jonathan) (Entered: 07/17/2020)
07/20/2020	<a href="#">64</a>	<b>TEXT ORDER: Upon consideration of the Plaintiffs' <a href="#">62</a> First Motion to Compel Responses to Discovery Requests and Motion to Compel Depositions of Certain Vivint Employees, filed on 7/17/2020, and for good cause, it is ORDERED that the Defendant shall SHOW CAUSE on or before 7/22/2020 as to why the <a href="#">62</a> motion should not be granted; The Plaintiffs shall file a reply by noon on 7/24/2020. Signed by Honorable Judge Jerusha T. Adams on 7/20/2020. (No PDF attached to this entry) (amf, )</b> (Entered: 07/20/2020)
07/20/2020	<a href="#">65</a>	RESPONSE to Motion re <a href="#">60</a> MOTION for Immediate Status Conference filed by Vivint, Inc.. (Attachments: # <a href="#">1</a> Exhibit A)(Hoffmann, Jonathan) (Entered: 07/20/2020)
07/22/2020	<a href="#">66</a>	RESPONSE to Motion re <a href="#">62</a> First MOTION to Compel Responses to Discovery Requests <i>and</i> MOTION to Compel Depositions of Certain Vivint Employees filed by Vivint, Inc.. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C, # <a href="#">4</a> Exhibit D, # <a href="#">5</a> Exhibit E, # <a href="#">6</a> Exhibit F, # <a href="#">7</a> Exhibit G)(Hoffmann, Jonathan) (Entered: 07/22/2020)
07/24/2020	<a href="#">67</a>	REPLY in Support re <a href="#">62</a> First MOTION to Compel Responses to Discovery Requests <i>and</i> MOTION to Compel Depositions of Certain Vivint Employees filed by Tiffany Dorn,

		Joshua Renfroe, Daniel Sullen. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B)(Mann, Jonathan) Modified on 7/27/2020 to add the link to the <a href="#">62</a> motion & remove the link from the <a href="#">66</a> response (amf, ). (Entered: 07/24/2020)
07/24/2020	<a href="#">68</a>	Joint MOTION to Modify Scheduling Order Deadlines by Tiffany Dorn, Joshua Renfroe, Daniel Sullen, Vivint, Inc.. (Mann, Jonathan) Modified on 7/27/2020 to add as also filed on behalf of the Defendant (amf, ). (Entered: 07/24/2020)
07/24/2020	<a href="#">69</a>	<b>TEXT ORDER: For good cause, it is ORDERED that counsel in this matter shall appear for a telephonic status hearing in this case on Tuesday, 7/28/2020 at 10:00 a.m. Counsel will be provided dial in information by email. Parties are directed to dial in at least five minutes before the hearing is scheduled to begin. If the parties should experience any difficulty, contact chambers at (334) 954-3680. Signed by Honorable Judge Jerusha T. Adams on 7/24/2020. Furnished to calendar group &amp; KR. (NO PDF document attached to this notice).(dji, )</b> (Entered: 07/24/2020)
07/27/2020	<a href="#">70</a>	<b>ORDER: it is ORDERED that the plfs' <a href="#">60</a> motion for immediate status conference and the issues discussed therein are referred to the United States Magistrate Judge for consideration and resolution or recommendation, as appropriate. The magistrate judge should make a recommendation as to whether any deadlines in the Uniform Scheduling Order (doc. no. <a href="#">12</a> , as amended) should be extended. Signed by Honorable Judge Myron H. Thompson on 7/27/2020. (wcl, )</b> (Entered: 07/27/2020)
07/27/2020	<a href="#">71</a>	<b>TEXT ORDER: Upon consideration of the Plaintiffs' <a href="#">63</a> Motion for Leave to Take Additional 30(b)(6) Deposition of Vivint, and for good cause, it is ORDERED that the Defendant shall show cause in writing, on or before July 28, 2020 by 9:00 a.m., as to why the motion should not be GRANTED. Signed by Honorable Judge Jerusha T. Adams on 7/27/2020. (No pdf attached to this entry)(wcl, )</b> (Entered: 07/27/2020)
07/27/2020	<a href="#">72</a>	RESPONSE to Motion re <a href="#">63</a> MOTION For Leave To Take Additional 30(b)(6) Deposition of Vivint, Inc., and MOTION for a Rule 26 Protective Order filed by Vivint, Inc.. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C, # <a href="#">4</a> Exhibit D)(Hoffmann, Jonathan) (Additional attachment(s) added on 7/28/2020 to redact personal information contained in original filing pursuant to the E-government rules: # <a href="#">5</a> Exhibit B (Redacted)) (amf, ). Modified on 7/28/2020 (amf, ). (Entered: 07/27/2020)
07/27/2020		MOTION for a Rule 26 Protective Order by Vivint, Inc.. (No PDF attached to this entry - See doc <a href="#">72</a> for PDF) (amf, ) (Entered: 07/27/2020)
07/28/2020	<a href="#">73</a>	<b>ORDER denying <a href="#">62</a> Motion to Compel Responses to Discovery Requests and Motion to Compel Depositions of Certain Vivint Employees with leave to re-file after compliance with FRCP 37(a)(1); The parties are hereby ADVISED to comply with the Middle District of Alabama's Guidelines to Civil Discovery Practice. Signed by Honorable Judge Jerusha T. Adams on 7/28/2020. (wcl, )</b> (Entered: 07/28/2020)
07/28/2020	<a href="#">74</a>	<b>ORDER: it is hereby ORDERED as follows: 1) Plfs' <a href="#">60</a> Motion for Immediate Status Conference is DENIED as moot; 2) On or before 8/4/2020, Plfs shall show cause in writing why Dft's <a href="#">72</a> Motion for a Rule 26 Protective Order should not be granted; Dft shall have a reply by 8/11/2020; 3) The parties shall meet and confer on or before 8/4/2020 to resolve the issues raised in Plfs' <a href="#">63</a> Motion for Leave to Take Additional 30(b)(6) Deposition of Vivint, Inc.; If this discovery dispute is not resolved by the parties, the undersigned will set another hearing to resolve this motion and Dft's Motion for a Rule 26 Protective Order; The parties' <a href="#">68</a> Joint Motion to Modify Scheduling Order Deadlines will be addressed by separate Recommendation. Signed by Honorable Judge Jerusha T. Adams on 7/28/2020. (wcl, )</b> (Entered: 07/28/2020)
07/28/2020	<a href="#">75</a>	Minute Entry for proceedings held before Honorable Judge Jerusha T. Adams: Telephone Status Conference held on 7/28/2020 (PDF available for court use only). (Court Reporter

		Katie Sears-Silas.) (kr, ) (Entered: 07/29/2020)
07/30/2020	<a href="#">76</a>	<b>RECOMMENDATION OF THE MAGISTRATE JUDGE: it is the RECOMMENDATION of the undersigned that the <a href="#">68</a> Joint Motion to Modify Scheduling Order Deadlines be granted; Objections to R&amp;R due by 8/14/2020. Signed by Honorable Judge Jerusha T. Adams on 7/30/2020. (amf, ) (Entered: 07/30/2020)</b>
08/04/2020	<a href="#">77</a>	Joint NOTICE Regarding Discovery Motions by Vivint, Inc., Daniel Sullen, Joshua Renfroe, Tiffany Dorn re <a href="#">74</a> Order (Attachments: # <a href="#">1</a> Exhibit A)(Hoffmann, Jonathan) Modified on 8/5/2020 to add as also filed on behalf of the Plaintiffs (amf, ). (Entered: 08/04/2020)
08/05/2020	<a href="#">78</a>	<b>ORDER denying as moot <a href="#">63</a> Motion for Leave To Take Additional 30(b)(6) Deposition of Vivint, Inc. &amp; <a href="#">72</a> Motion for a Rule 26 Protective Order. Signed by Honorable Judge Jerusha T. Adams on 8/5/2020. (amf, ) (Entered: 08/05/2020)</b>
08/07/2020	<a href="#">79</a>	<b>ORDER: it is ORDERED as follows: (1) The <a href="#">76</a> recommendation of the United States Magistrate Judge is adopted; (2) The <a href="#">68</a> joint motion to modify the scheduling order is granted to the extent set forth below; (3) The <a href="#">12</a> uniform scheduling order, as amended, is modified in the following respects: (A) The deadline for completing discovery is extended from 7/27/2020, to 9/25/2020; (B) The deadline for the parties' settlement conference is extended from 8/3/2020, to 10/2/2020; (C) The deadline for filing dispositive motions is extended from 8/31/2020, to 10/30/2020; (D) The pretrial is reset from 1/20/2021, to 6/23/2021, at 10:00 a.m., and the trial is reset from 3/15/2021, to the term of court beginning on 8/16/2021, at 10:00 a.m. (E) All unexpired deadlines expressly tied to the above dates are adjusted accordingly. All other deadlines remain unchanged. Signed by Honorable Judge Myron H. Thompson on 8/7/2020. (furn: calendar, ag) (RESET: PTC from 1/20/2021 to 6/23/2021 @ 10AM; Jury Trial from 3/15/2021 to 8/16/2021 @ 10AM) (wcl, ) (Entered: 08/07/2020)</b>
09/11/2020	<a href="#">80</a>	Opposed MOTION to Modify Scheduling Order Deadlines re <a href="#">79</a> Order, <a href="#">12</a> Uniform Scheduling Order by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Mann, Jonathan) (Entered: 09/11/2020)
09/18/2020	<a href="#">81</a>	MOTION to Exclude Expert Report and Testimony of Lindsay H. Gill and MOTION to Strike Plaintiff's Reply in Support of Class Certification re <a href="#">52</a> REPLY BRIEF in further Support by Vivint, Inc.. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B)(Hoffmann, Jonathan). Added MOTION to Exclude on 9/21/2020 (amf, ).(Main Document <a href="#">81</a> replaced on 9/21/2020 to attach a corrected PDF document to properly reflect the initials of the Referral Judge in the case number as "JTA" and not "SMD") (amf, ). Modified on 9/21/2020 to clarify the docket text & to add the link to the <a href="#">52</a> reply (amf, ). (Entered: 09/18/2020)
09/21/2020	<a href="#">82</a>	NOTICE of Correction re <a href="#">81</a> MOTION to Exclude Expert Report and Testimony of Lindsay H. Gill <i>and</i> MOTION to Strike Plaintiff's Reply in Support of Class Certification, to attach a corrected PDF document to properly reflect the initials of the Referral Judge in the case number as "JTA" and not "SMD:.". (Attachments: # <a href="#">1</a> Main PDF to Document <a href="#">81</a> )(amf, ) (Entered: 09/21/2020)
09/22/2020	<a href="#">83</a>	<b>ORDER TO SHOW CAUSE by the dft, if any there be, in writing as to why the <a href="#">80</a> Motion to Modify Scheduling Order should not be granted; Show Cause Response due by 9/25/2020; The plfs may file a reply by 9/29/2020. Signed by Honorable Judge Myron H. Thompson on 9/22/2020. (wcl, ) (Entered: 09/22/2020)</b>
09/22/2020	<a href="#">84</a>	<b>ORDER: it is ORDERED that the dft's <a href="#">81</a> motion to exclude the expert report and testimony of Lindsay H. Gill and to strike plfs' reply in support of class certification</b>

		<b>is set for submission, without oral argument, on 10/20/2020, with any opposition brief due by 10/13/2020, and any reply to the opposition due by 10/20/2020. Signed by Honorable Judge Myron H. Thompson on 9/22/2020. (wcl, ) (Entered: 09/22/2020)</b>
09/25/2020	<a href="#">85</a>	RESPONSE in Opposition re <a href="#">80</a> Opposed MOTION to Modify Scheduling Order Deadlines filed by Vivint, Inc.. (Hoffmann, Jonathan) (Entered: 09/25/2020)
09/29/2020	<a href="#">86</a>	REPLY to Response to Motion re <a href="#">80</a> Opposed MOTION to Modify Scheduling Order Deadlines filed by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Mann, Jonathan) (Entered: 09/29/2020)
09/30/2020	<a href="#">87</a>	<b>ORDER: It is ORDERED that: 1) Plaintiffs' <a href="#">80</a> opposed motion to modify scheduling order deadlines is granted; 2) The <a href="#">12</a> uniform scheduling order, as amended, is modified in the following respects: A) The deadline for completing discovery is extended from 9/25/2020, to 11/24/2020; B) The deadline for the parties' settlement conference is extended from 10/2/2020, to 12/1/2020; C) The deadline for filing dispositive motions is extended from 10/30/2020, to 12/29/2020; D) All unexpired deadlines expressly tied to the above dates are adjusted accordingly; All other deadlines remain unchanged. Signed by Honorable Judge Myron H. Thompson on 9/30/2020. (amf, ) (Entered: 09/30/2020)</b>
10/08/2020	<a href="#">88</a>	Unopposed MOTION to Stay Briefing Deadlines by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Mann, Jonathan) (Entered: 10/08/2020)
10/09/2020	<a href="#">89</a>	<b>ORDER: it is ORDERED that the <a href="#">88</a> Unopposed Motion to Stay Briefing Deadlines is granted, and all briefing deadlines related to the <a href="#">81</a> motion to exclude are stayed pending resolution of the plaintiffs' forthcoming motion for leave to supplement their reply brief. Signed by Honorable Judge Myron H. Thompson on 10/9/2020. (amf, ) (Entered: 10/09/2020)</b>
12/08/2020	<a href="#">90</a>	Notice of Mediation and Settlement Conference by All Plaintiffs (Mann, Jonathan) (Entered: 12/08/2020)
12/16/2020	<a href="#">91</a>	Joint MOTION to Modify Scheduling Order Deadlines re <a href="#">87</a> Order by Vivint, Inc.. (Hoffmann, Jonathan) (Additional attachment(s) added on 12/21/2020: # <a href="#">1</a> Corrected Certificate of Service) (amf, ). (Entered: 12/16/2020)
12/18/2020	<a href="#">92</a>	<b>ORDER directing that: (1) the <a href="#">91</a> Joint MOTION to Modify scheduling order deadlines is granted; (2) the <a href="#">12</a> uniform scheduling order, as amended, is modified to the extent that the deadline for filing dispositive motions is extended from 12/29/2020, to 1/12/2021, with all unexpired deadlines expressly tied to that date adjusted accordingly ; (3) The following briefing schedule shall apply to any dispositive or Daubert motions filed by the above deadline: responses shall be due 45 days from the date such motion is filed, and any replies to the responses shall be due 21 days from the date such response is filed. Signed by Honorable Judge Myron H. Thompson on 12/18/2020. (dgy, ) (Entered: 12/18/2020)</b>
12/23/2020	<a href="#">93</a>	MOTION for Leave to Supplement to Plaintiffs' Reply Brief in Further Support of Plaintiffs' Motion for Class Certification by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Attachments: # <a href="#">1</a> Exhibit Supplemental Report of Lindsay Gill)(Mann, Jonathan) (Entered: 12/23/2020)
12/23/2020	<a href="#">94</a>	MOTION for Leave to File Confidential Documents Under Seal by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Mann, Jonathan) (Entered: 12/23/2020)
12/28/2020	95	<b>TEXT ORDER granting <a href="#">94</a> Motion for Leave to File Confidential Documents Under Seal. Signed by Honorable Judge Myron H. Thompson on 12/28/2020. (No PDF attached to this entry) (amf, ) (Entered: 12/28/2020)</b>

12/29/2020	<a href="#">96</a>	NOTICE of Filing Documents Under Seal by Tiffany Dorn, Joshua Renfroe, Daniel Sullen re <a href="#">93</a> - 1 Supplemental Expert Report. (Attachments: # <a href="#">1</a> Exhibits A,B, & C to Doc <a href="#">93</a> - 1 )(amf, ) (Entered: 12/30/2020)
01/12/2021	<a href="#">97</a>	MOTION to Exclude Expert Report and Testimony of Christopher Bullock by Vivint, Inc.. (Attachments: # <a href="#">1</a> Exhibit 1, # <a href="#">2</a> Exhibit 2)(Leavens, Joseph) (Entered: 01/12/2021)
01/12/2021	<a href="#">98</a>	MOTION to Exclude Expert Opinions of Stan V. Smith by Vivint, Inc.. (Attachments: # <a href="#">1</a> Exhibit 1, # <a href="#">2</a> Exhibit 2, # <a href="#">3</a> Exhibit 3, # <a href="#">4</a> Exhibit 4, # <a href="#">5</a> Exhibit 5, # <a href="#">6</a> Exhibit 6, # <a href="#">7</a> Exhibit 7)(Tompkins, Jason) (Entered: 01/12/2021)
01/12/2021	<a href="#">99</a>	MOTION for Summary Judgment by Vivint, Inc.. (Hoffmann, Jonathan) (Entered: 01/12/2021)
01/12/2021	<a href="#">100</a>	MEMORANDUM BRIEF in Support re <a href="#">99</a> MOTION for Summary Judgment filed by Vivint, Inc.. (Hoffmann, Jonathan) (Entered: 01/12/2021)
01/12/2021	<a href="#">101</a>	Evidentiary Submission in Support re <a href="#">99</a> MOTION for Summary Judgment filed by Vivint, Inc.. (Attachments: # <a href="#">1</a> Exhibit A- Declaration of Potter, # <a href="#">2</a> Exhibit B- Ricks Depo, # <a href="#">3</a> Exhibit C- Dorn Depo (1 of 3), # <a href="#">4</a> Exhibit C- Dorn Depo (2 of 3), # <a href="#">5</a> Exhibit C - Dorn Depo (3 of 3), # <a href="#">6</a> Exhibit D - Renfroe Depo, # <a href="#">7</a> Exhibit E - Sullen Depo, # <a href="#">8</a> Exhibit F- Seales Depo (1of 2), # <a href="#">9</a> Exhibit F Seales (2 of2), # <a href="#">10</a> Exhibit G - Vivint Discovery Responses)(Hoffmann, Jonathan) (Entered: 01/12/2021)
01/12/2021	<a href="#">102</a>	MOTION for Leave to File Under Seal Exhibits in Support re <a href="#">99</a> MOTION for Summary Judgment by Vivint, Inc.. (Attachments: # <a href="#">1</a> Exhibit A - Proposed Order)(Hoffmann, Jonathan) Modified on 1/13/2021 to add the link to the <a href="#">99</a> Motion (amf, ). (Entered: 01/12/2021)
01/13/2021	103	<b>TEXT ORDER granting <a href="#">102</a> Motion for Leave to File Under Seal Exhibits in Support of Motion for Summary Judgment. Signed by Honorable Judge Myron H. Thompson on 1/13/2021. (No PDF attached to this entry) (amf, )</b> (Entered: 01/13/2021)
01/13/2021	<a href="#">104</a>	<b>ORDER: Upon consideration of the plfs' <a href="#">93</a> motion for leave to supplement, it is ORDERED that the dfts shall file a response to the motion by 1/20/2021, and that the plfs may file a reply to the response by 1/25/2021. Signed by Honorable Judge Myron H. Thompson on 1/13/2021. (bes, )</b> (Entered: 01/13/2021)
01/14/2021	<a href="#">105</a>	NOTICE of Filing of WAV Exhibits by Vivint, Inc. re <a href="#">99</a> MOTION for Summary Judgment , <a href="#">101</a> Evidentiary Submission. (Attachments: # <a href="#">1</a> Exhibit A-2, # <a href="#">2</a> Exhibit A-4) (amf, ) (Entered: 01/15/2021)
01/14/2021	<a href="#">106</a>	NOTICE of Sealed Filing by Vivint, Inc. re <a href="#">99</a> MOTION for Summary Judgment , <a href="#">101</a> Evidentiary Submission. (Attachments: # <a href="#">1</a> Exhibit A-1, # <a href="#">2</a> Exhibit C-7, # <a href="#">3</a> Exhibit C-8, # <a href="#">4</a> Exhibit C-9, # <a href="#">5</a> Exhibit C-10, # <a href="#">6</a> Exhibit C-12, # <a href="#">7</a> Exhibit D-2, # <a href="#">8</a> Exhibit E-3) (amf, ) (Entered: 01/15/2021)
01/20/2021	<a href="#">107</a>	RESPONSE in Opposition re <a href="#">93</a> MOTION for Leave to Supplement to Plaintiffs' Reply Brief in Further Support of Plaintiffs' Motion for Class Certification by Vivint, Inc.. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C, # <a href="#">4</a> Exhibit D, # <a href="#">5</a> Exhibit E) (Hoffmann, Jonathan) (Entered: 01/20/2021)
01/25/2021	<a href="#">108</a>	REPLY to Response to Motion re <a href="#">93</a> MOTION for Leave to Supplement to Plaintiffs' Reply Brief in Further Support of Plaintiffs' Motion for Class Certification filed by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Attachments: # <a href="#">1</a> Exhibit Ex. A - Compilation of Letters to Vivint re Discovery Deficiencies)(Mann, Jonathan) (Entered: 01/25/2021)

02/05/2021	<a href="#">109</a>	NOTICE of Supplemental Authority by Tiffany Dorn, Joshua Renfroe, Daniel Sullen (Attachments: # <a href="#">1</a> Exhibit Cherry, et al. v. Dometic Corp.)(Mann, Jonathan) (Entered: 02/05/2021)
02/16/2021	<a href="#">110</a>	<b>OPINION AND ORDER: it is ORDERED that: 1) The plaintiffs' <a href="#">93</a> motion for leave to supplement is granted; 2) The plaintiffs shall, by 2/19/2021, file Lindsay Gill's supplemental expert report (doc. no. <a href="#">93</a> - 1) as a supplement to their reply brief in support of their <a href="#">52</a> motion for class certification; The clerk's office shall link the supplement to the exhibits previously filed under seal (doc. no. <a href="#">96</a> - 1); 3) Defendant Vivint, Inc.'s <a href="#">81</a> motion to exclude the expert report and testimony of Lindsay Gill is denied without prejudice; Defendant Vivint, Inc. may file a motion to exclude Gill's supplemented report and testimony by 5:00 p.m. on 3/12/2021; 4) Defendant Vivint, Inc. may file a surreply in opposition to the plaintiffs' motion for class certification by 5:00 p.m. on 3/19/2021. Signed by Honorable Judge Myron H. Thompson on 2/16/2021. (amf, )</b> (Entered: 02/16/2021)
02/19/2021	<a href="#">111</a>	NOTICE of Filing of Supplemental Expert Report of Lindsay Gill by Tiffany Dorn, Joshua Renfroe, Daniel Sullen re <a href="#">52</a> Reply Brief (Attachments: # <a href="#">1</a> Supplement Lindsay Gill's Supplemental Expert Report)(Mann, Jonathan) (Entered: 02/19/2021)
02/26/2021	<a href="#">112</a>	RESPONSE in Opposition re <a href="#">99</a> MOTION for Summary Judgment filed by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Mann, Jonathan) (Additional attachment(s) added on 3/8/2021 to redact personal information contained in original filing pursuant to the E-government rules: # <a href="#">1</a> Main PDF Document (Redacted)) (amf, ). Modified on 3/8/2021 (amf, ). (Entered: 02/26/2021)
02/26/2021	<a href="#">113</a>	Evidentiary Submission re <a href="#">112</a> Response in Opposition to Motion for Summary Judgment filed by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Attachments: # <a href="#">1</a> Exhibit 1, # <a href="#">2</a> Exhibit 2, # <a href="#">3</a> Exhibit 3, # <a href="#">4</a> Exhibit 4, # <a href="#">5</a> Exhibit 5, # <a href="#">6</a> Exhibit 6, # <a href="#">7</a> Exhibit 7, # <a href="#">8</a> Exhibit 8, # <a href="#">9</a> Exhibit 9, # <a href="#">10</a> Exhibit 10, # <a href="#">11</a> Exhibit 10-A, # <a href="#">12</a> Exhibit 11, # <a href="#">13</a> Exhibit 11-A, # <a href="#">14</a> Exhibit 15, # <a href="#">15</a> Exhibit 16, # <a href="#">16</a> Exhibit 17-A, # <a href="#">17</a> Exhibit 17-B, # <a href="#">18</a> Exhibit 17-C, # <a href="#">19</a> Exhibit 18, # <a href="#">20</a> Exhibit 19, # <a href="#">21</a> Exhibit 23 and Ex. 23-1, # <a href="#">22</a> Exhibit 25, # <a href="#">23</a> Exhibit 26-A, # <a href="#">24</a> Exhibit 26-B, # <a href="#">25</a> Exhibit 26-C, # <a href="#">26</a> Exhibit 26-D, # <a href="#">27</a> Exhibit 26-E, # <a href="#">28</a> Exhibit 26-F)(Mann, Jonathan) Modified on 3/1/2021 to clarify text (cwl, ). (Additional attachment(s) added on 3/8/2021 to redact personal information contained in original filing pursuant to the E-government rules: # <a href="#">29</a> Exhibit 3 (Redacted), # <a href="#">30</a> Exhibit 25 (Redacted)) (amf, ). Modified on 3/8/2021 (amf, ). (Entered: 02/26/2021)
02/26/2021	<a href="#">114</a>	RESPONSE in Opposition re <a href="#">97</a> MOTION to Exclude Expert Report and Testimony of Christopher Bullock filed by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Attachments: # <a href="#">1</a> Exhibit Ex. A Bullock Report, # <a href="#">2</a> Exhibit Ex. B Bullock Depo)(Mann, Jonathan) (Entered: 02/26/2021)
02/26/2021	<a href="#">115</a>	RESPONSE in Opposition re <a href="#">98</a> MOTION to Exclude Expert Opinions of Stan V. Smith filed by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Attachments: # <a href="#">1</a> Exhibit A - Expert Report of Stan V. Smith, Ph.D., # <a href="#">2</a> Exhibit B - Deposition of Stan V. Smith, Ph.D.)(Mann, Jonathan) (Entered: 02/26/2021)
03/02/2021	<a href="#">116</a>	NOTICE of Filing.WAV File Exhibits Regarding Evidentiary Submission in Support of Plaintiff's Response to Vivint, Inc.'s <a href="#">99</a> MOTION for Summary Judgment by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Attachments: # <a href="#">1</a> Exhibit 8-A, 8-B, 8-C, 8-D, 8-E, 8-F, 8-G, 8-H, 8-1, 8-J, 8-K, 8-L 8-M, 8-N, 8-0, 8-P, 8-Q, 8-R, 8-S, and 8-T)(amf, ) (Entered: 03/02/2021)
03/02/2021	<a href="#">117</a>	NOTICE of Sealed Filing Regarding Evidentiary Submission in Support of Plaintiff's Response to Vivint Inc.'s <a href="#">99</a> MOTION for Summary Judgment by Tiffany Dorn, Joshua



		Renfroe, Daniel Sullen. (Attachments: # <a href="#">1</a> Exhibit 1, # <a href="#">2</a> Exhibit 2, # <a href="#">3</a> Exhibit 9, # <a href="#">4</a> Exhibit 12, # <a href="#">5</a> Exhibit 13, # <a href="#">6</a> Exhibit 14 A, # <a href="#">7</a> Exhibit 14 B, # <a href="#">8</a> Exhibit 14 C, # <a href="#">9</a> Exhibit 14 D, # <a href="#">10</a> Exhibit 14 E, # <a href="#">11</a> Exhibit 14 F, # <a href="#">12</a> Exhibit 15, # <a href="#">13</a> Exhibit 20 A, # <a href="#">14</a> Exhibit 20 B, # <a href="#">15</a> Exhibit 20 C, # <a href="#">16</a> Exhibit 21 A, # <a href="#">17</a> Exhibit 21 B, # <a href="#">18</a> Exhibit 21 C, # <a href="#">19</a> Exhibit 22A, # <a href="#">20</a> Exhibit 24, # <a href="#">21</a> Exhibit 27)(amf, ) (Entered: 03/03/2021)
03/12/2021	<a href="#">118</a>	MOTION to Exclude Supplemental Expert Report and Testimony of Lindsay H. Gill by Vivint, Inc.. (Attachments: # <a href="#">1</a> Exhibit A - Gill Initial Report, # <a href="#">2</a> Exhibit B - Gill Initial Deposition, # <a href="#">3</a> Exhibit C - Gill Supplemental Report, # <a href="#">4</a> Exhibit D - Gill Supplemental Deposition, # <a href="#">5</a> Exhibit E - Demonstrative)(Hoffmann, Jonathan) (Entered: 03/12/2021)
03/19/2021	<a href="#">119</a>	REPLY in Support re <a href="#">97</a> MOTION to Exclude Expert Report and Testimony of Christopher Bullock filed by Vivint, Inc.. (Leavens, Joseph) (Entered: 03/19/2021)
03/19/2021	<a href="#">120</a>	REPLY BRIEF re <a href="#">98</a> MOTION to Exclude Expert Opinions of Stan V. Smith filed by Vivint, Inc.. (Tompkins, Jason) (Entered: 03/19/2021)
03/19/2021	<a href="#">121</a>	SUR-REPLY in Opposition re <a href="#">28</a> MOTION for Class Certification filed by Vivint, Inc.. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B)(Tompkins, Jason) (Entered: 03/19/2021)
03/19/2021	<a href="#">122</a>	REPLY in Support re <a href="#">99</a> MOTION for Summary Judgment , <a href="#">100</a> Memorandum Brief filed by Vivint, Inc.. (Hoffmann, Jonathan) (Entered: 03/19/2021)
04/06/2021	<a href="#">123</a>	<b>ORDER: It is ORDERED that the <a href="#">118</a> motion to exclude the supplemental expert report and testimony of Lindsay H. Gill is set for submission, without oral argument, on 5/4/2021, with any opposition brief and evidentiary materials due by 4/27/2021 and any reply to the opposition due by 5/4/2021. Signed by Honorable Judge Myron H. Thompson on 4/6/2021. (amf, )</b> (Entered: 04/06/2021)
04/27/2021	<a href="#">124</a>	RESPONSE in Opposition re <a href="#">118</a> MOTION to Exclude Supplemental Expert Report and Testimony of Lindsay H. Gill filed by Tiffany Dorn, Joshua Renfroe, Daniel Sullen. (Attachments: # <a href="#">1</a> Exhibit Gill's Original Expert Report, # <a href="#">2</a> Exhibit Gill's First Depo Transcript, # <a href="#">3</a> Exhibit Gill's Supplemental Expert Report, # <a href="#">4</a> Exhibit Gill's Second Depo Transcript)(Mann, Jonathan) (Entered: 04/27/2021)
05/03/2021	<a href="#">125</a>	NOTICE of Change of Firm Name by Tiffany Dorn, Joshua Renfroe, Daniel Sullen (Mann, Jonathan) (Entered: 05/03/2021)
05/04/2021	<a href="#">126</a>	REPLY in Support re <a href="#">118</a> MOTION to Exclude Supplemental Expert Report and Testimony of Lindsay H. Gill filed by Vivint, Inc.. (Hoffmann, Jonathan) (Entered: 05/04/2021)
05/28/2021	<a href="#">127</a>	Joint MOTION to Stay Outstanding Deadlines and Withhold Rulings Pending Mediation by Vivint, Inc., Daniel Sullen, Joshua Renfroe, Tiffany Dorn. (Tompkins, Jason) Modified on 6/1/2021 to add as also filed on behalf of the Plaintiffs (amf, ). (Entered: 05/28/2021)
06/03/2021	<a href="#">128</a>	<b>ORDER: It is ORDERED that: 1) The <a href="#">127</a> joint motion to stay outstanding deadlines and withhold rulings pending mediation is granted; 2) All outstanding, unexpired deadlines are stayed, including any that have come due since the filing of the joint motion to stay; 3) The pretrial, currently set for 6/23/2021, and the trial, currently set for 8/16/2021, are continued generally; 4) No later than fourteen days after the mediation, the parties shall file with the court a notice regarding the result of the mediation, which notification shall include the parties' proposal regarding resumption of this matter, including a new trial date and pretrial deadlines, if needed; 5) The court will not rule on any pending motions unless and until it receives notice from the parties that the mediation was unsuccessful. Signed by Honorable Judge Myron H. Thompson on 6/3/2021. (Furnished: Calendar &amp; AG)</b>

		(Terminated: PTC for 6/23/2021 & Jury Trial for 8/16/2021) (amf, ) (Entered: 06/03/2021)
01/07/2022	<a href="#">129</a>	<b>ORDER: It is ORDERED that: 1) Starting on 2/1/2022, and on the first Tuesday of every month thereafter until the conclusion of the mediation/settlement effort, the parties shall jointly file periodic reports on the status of the mediation/settlement effort; 2) Within 14 days of the conclusion of the mediation/settlement effort, the parties shall file with the court a notice regarding the result of the mediation, which notification shall include, if necessary, the parties' proposal regarding resumption of this matter, including a new trial date and pretrial deadlines; 3) All pending motions are denied with leave to reinstate should the case not settle; 4) This case is administratively closed pending mediation. Signed by Honorable Judge Myron H. Thompson on 1/7/2022. (amf, ) (Entered: 01/07/2022)</b>
02/01/2022	<a href="#">130</a>	Joint STATUS REPORT Regarding Mediation by Vivint, Inc., Daniel Sullen, Joshua Renfroe, Tiffany Dorn. (Hoffmann, Jonathan) Modified on 2/2/2022 to add as also filed on behalf of the Plaintiffs (amf, ). (Entered: 02/01/2022)
03/01/2022	<a href="#">131</a>	Joint STATUS REPORT Regarding Mediation by Vivint, Inc., Daniel Sullen, Joshua Renfroe, Tiffany Dorn. (Hoffmann, Jonathan) Modified on 3/1/2022 to add as also filed on behalf of the Plaintiffs (amf, ). (Entered: 03/01/2022)
04/04/2022	<a href="#">132</a>	Joint STATUS REPORT <i>Regarding Mediation</i> by Vivint, Inc., Daniel Sullen, Joshua Renfroe, Tiffany Dorn. (Tompkins, Jason) Modified on 4/4/2022 to clarify the docket text and to add the PLFs as filers (bes, ). (Entered: 04/04/2022)
05/03/2022	<a href="#">133</a>	Joint STATUS REPORT <i>Regarding Mediation</i> by Vivint, Inc., Daniel Sullen, Joshua Renfroe, Tiffany Dorn. (Tompkins, Jason) Modified on 5/4/2022 to add as also filed on behalf of the Plaintiffs (amf, ). (Entered: 05/03/2022)
05/20/2022	<a href="#">134</a>	Joint STATUS REPORT <i>Regarding Mediation</i> by Vivint, Inc., Daniel Sullen, Joshua Renfroe, Tiffany Dorn. (Tompkins, Jason) Modified on 5/20/2022 to add as also filed on behalf of the Plaintiffs (amf, ). (Entered: 05/20/2022)
06/07/2022	<a href="#">135</a>	Joint STATUS REPORT <i>Regarding Mediation</i> by Vivint, Inc., Daniel Sullen, Joshua Renfroe, Tiffany Dorn. (Tompkins, Jason) Modified on 6/8/2022 to add as also filed on behalf of the Plaintiffs (amf, ). (Entered: 06/07/2022)
07/05/2022	<a href="#">136</a>	Joint STATUS REPORT <i>Regarding Mediation</i> by Tiffany Dorn, Joshua Renfroe, Daniel Sullen, Vivint, Inc.. (Mann, Jonathan) Modified on 7/5/2022 to add as also filed on behalf of the Defendant (amf, ). (Entered: 07/05/2022)
07/19/2022	<a href="#">137</a>	Joint STATUS REPORT <i>Regarding Mediation</i> by Tiffany Dorn, Joshua Renfroe, Daniel Sullen, Vivint, Inc.. (Mann, Jonathan) Modified on 7/19/2022 to add as also filed on behalf of the Defendant (amf, ). (Entered: 07/19/2022)
08/02/2022	<a href="#">138</a>	(Joint Status Report) Notice of Mediation and Settlement Conference by Tiffany Dorn, Joshua Renfroe, Daniel Sullen, Vivint, Inc.. (Mann, Jonathan) Modified on 8/3/2022 to clarify the docket text, to remove as filed on behalf of "all plaintiffs", and and to list the filers individually (amf, ) (Entered: 08/02/2022)
08/02/2022		Joint STATUS REPORT <i>Regarding Mediation</i> by Tiffany Dorn, Joshua Renfroe, Daniel Sullen, Vivint, Inc.. (No PDF attached to this entry - See doc <a href="#">138</a> for PDF) (amf, ) (Entered: 08/03/2022)
09/06/2022	<a href="#">139</a>	JOINT STATUS REPORT <i>Regarding Mediation</i> by Vivint, Inc., Daniel Sullen, Joshua Renfroe, Tiffany Dorn. (Tompkins, Jason) Modified on 9/8/2022 to add the plfs as filers and to clarify the docket text (wcl, ). (Entered: 09/06/2022)

10/04/2022	<a href="#">140</a>	Joint STATUS REPORT Regarding Mediation by Vivint, Inc., Tiffany Dorn, Daniel Sullen, Joshua Renfroe. (Tompkins, Jason) Modified on 10/5/2022 to clarify text as to pleading and add plfs as filers. (es, ). (Entered: 10/04/2022)
05/10/2023	<a href="#">141</a>	<b>IMPORTANT NOTICE: Counsel for the parties are reminded that they are to file monthly status reports on the first Tuesday of every month until the conclusion of the mediation/settlement effort, pursuant to the court's order of January 7, 2022 (Doc. <a href="#">129</a> ). Signed by Honorable Judge Myron H. Thompson on 5/10/2023. (cwl, )</b> (Entered: 05/10/2023)
05/11/2023	<a href="#">142</a>	(STRICKEN - ATTORNEY E-FILED UNDER INCORRECT EVENT) NOTICE by Tiffany Dorn, Joshua Renfroe, Daniel Sullen <i>of Joint Status Report Regarding Mediation</i> (Mann, Jonathan) Modified on 5/12/2023 (cwl, ). (Entered: 05/11/2023)
05/11/2023		Joint STATUS REPORT Regarding Mediation by Tiffany Dorn, Joshua Renfroe, Daniel Sullen, Vivint, Inc. (No pdf attached - see doc <a href="#">142</a> for pdf. Attorney used incorrect event when e-filing) (cwl, ) (Entered: 05/12/2023)
06/06/2023	<a href="#">143</a>	Joint STATUS REPORT <i>Regarding Mediation</i> by Tiffany Dorn, Vivint, Inc., Joshua Renfroe, Daniel Sullen (Mann, Jonathan) Modified on 6/6/2023 to add joint filers and clarify as joint (cwl, ). (Entered: 06/06/2023)
07/05/2023	<a href="#">144</a>	Joint STATUS REPORT <i>Regarding Mediation</i> by Tiffany Dorn, Joshua Renfroe, Daniel Sullen, and Vivint, Inc.. (Mann, Jonathan) Modified on 7/5/2023 to clarify text and add filers (hrr, ). (Entered: 07/05/2023)
08/01/2023	<a href="#">145</a>	Joint STATUS REPORT Regarding Mediation by Tiffany Dorn, Joshua Renfroe, Daniel Sullen, Vivint, Inc.. (Mann, Jonathan) Modified on 8/2/2023 to add as also filed on behalf of the Defendant (amf, ). (Entered: 08/01/2023)
08/17/2023	<a href="#">146</a>	<b>ORDER: the clerk of court is ORDERED to mail the letters to plaintiff Tiffany Dorn's attorneys. The court assumes that the plaintiffs' attorneys will respond to plaintiff Dorn's concerns. Signed by Honorable Judge Myron H. Thompson on 8/17/2023. (Letters mailed to plf's attorney as directed) (hrr, )</b> (Entered: 08/17/2023)
09/06/2023	<a href="#">147</a>	Joint STATUS REPORT <i>Regarding Mediation</i> by Tiffany Dorn, Joshua Renfroe, Daniel Sullen, Vivint, Inc.. (Mann, Jonathan) Modified on 9/6/2023 to clarify text and add DFT as filer(bes, ). (Entered: 09/06/2023)
09/19/2023	<a href="#">148</a>	MOTION for Jonathan Mann, Austin Whitten, and Michael Bradley to Withdraw as Attorney by Tiffany Dorn. (Attachments: # <a href="#">1</a> Text of Proposed Order)(Mann, Jonathan) Modified on 9/20/2023 to reflect requesting attys(bes, ). (Entered: 09/19/2023)
09/21/2023	<a href="#">149</a>	<b>ORDER: it is ORDERED as follows: (1) The motion to withdraw (Doc. <a href="#">148</a> ) is granted, and the PDHBM attorneys shall no longer be counsel of record for plaintiff Tiffany Dorn in this action. The PDHBM attorneys shall remain counsel of record for all other plaintiffs. (2) The PDHBM attorneys shall, by September 26, 2023, file with the court the current mailing address and telephone number for plaintiff Tiffany Dorn. In the meantime, they shall mail plaintiff Dorn a copy of this order. (3) Plaintiff Dorn shall proceed pro se, that is, without counsel, unless new counsel appears for her. (4) Plaintiff Dorn shall have until November 20, 2023, to obtain new counsel or advise the court that she intends to proceed pro se before her claims will be moved off the courts administrative docket to resume litigation. Signed by Honorable Judge Myron H. Thompson on 9/21/2023. (bes, )</b> (Entered: 09/21/2023)
09/22/2023	<a href="#">150</a>	NOTICE by Tiffany Dorn <i>of Current Mailing Address and Telephone Number of plaintiff Tiffany Dorn</i> (Mann, Jonathan) (Entered: 09/22/2023)

09/22/2023		***PURSUANT TO THE <a href="#">149</a> ORDER & FILING OF THE <a href="#">150</a> NOTICE - Attorneys Austin Brock Whitten, Michael Cory Bradley, and Jonathan Stephen Mann terminated for PLF Dorn. (No PDF attached to this entry) (bes, ) (Entered: 09/25/2023)
10/03/2023	<a href="#">151</a>	Joint STATUS REPORT Regarding Mediation by Joshua Renfroe, Daniel Sullen, Vivint, Inc.. (Mann, Jonathan) Modified on 10/4/2023 to remove as filed on behalf of Plaintiff Tiffany Dorn & to add as also filed on behalf of Defendant Vivint, Inc.. (amf, ). (Additional attachment(s) added on 10/4/2023: # <a href="#">1</a> Certificate of Service) (amf, ). (Entered: 10/03/2023)
10/18/2023	<a href="#">152</a>	MOTION for Hearing by Tiffany Dorn. (bes, ) (Entered: 10/19/2023)
10/19/2023	<a href="#">153</a>	NOTICE of Non-Attendance in Mediation Sessions, Fraudulent Inducement, Negligence, Manipulation by Tiffany Dorn (bes, ) (Entered: 10/19/2023)
10/20/2023	<a href="#">154</a>	<b>ORDER: it is ORDERED that, by 10/27/2023, the parties (other than plf Tiffany Dorn) shall file a joint stipulation of dismissal or other appropriate document to resolve the case in light of the settlement. Signed by Honorable Judge Myron H. Thompson on 10/20/2023. (bes, )</b> (Entered: 10/20/2023)
10/27/2023	<a href="#">155</a>	Joint STIPULATION of Dismissal of the Claims of PLFs Sullen & Renfroe by Joshua Renfroe, Daniel Sullen, Vivint, Inc.. (Mann, Jonathan) Modified on 10/30/2023 to clarify text and add DFT as filer (bes, ). (Entered: 10/27/2023)

<b>PACER Service Center</b>			
<b>Transaction Receipt</b>			
01/09/2024 14:30:42			
<b>PACER Login:</b>	Awhitten2018	<b>Client Code:</b>	45498
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	2:19-cv-00258-MHT-JTA End date: 10/27/2023
<b>Billable Pages:</b>	14	<b>Cost:</b>	1.40



ELECTRONICALLY FILED  
1/9/2024 4:39 PM  
01-CV-2023-903893.00  
CIRCUIT COURT OF  
JEFFERSON COUNTY, ALABAMA  
JACQUELINE ANDERSON SMITH, CLERK

# Exhibit C

## Declaration of Eric Schachter

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM DIVISION

<b>DANIEL SULLEN and JOSHUA RENFROE,</b>	)	
<b>on behalf of themselves and other persons</b>	)	
<b>similarly situated,</b>	)	
<b>Plaintiffs,</b>	)	<b>Case No.: 01-CV-2023-903893</b>
<b>v.</b>	)	
<b>VIVINT, INC.,</b>	)	
<b>Defendant.</b>	)	

**DECLARATION OF ERIC SCHACHTER OF A.B. DATA IN SUPPORT OF  
PLAINTIFFS’ MOTION FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT AND TO  
DIRECT NOTICE TO THE PROPOSED SETTLEMENT CLASSES**

I, Eric Schachter, declare and state as follows:

1. I am a Senior Vice President at A.B. Data, Ltd.’s Class Action Administration Company headquartered in Milwaukee, Wisconsin (“A.B. Data”). My business address is 600 A.B. Data Drive, Milwaukee, Wisconsin 53217. This declaration (“Declaration”) is based upon my personal knowledge and upon information provided by the parties, my associates, and A.B. Data staff members.

2. Subject to Court approval, the parties have retained A.B. Data after a competitive bidding process to provide notice and related settlement administrative services.

3. A.B. Data has been appointed as notice, claims, and/or settlement administrator in hundreds of class actions, administering some of the largest and most complex notice and claims administration programs of all time, involving all aspects of media, direct, and third-party notice programs, data management and analysis, claims administration, and settlement fund distribution. A profile of A.B. Data’s background and capabilities, including representative case and client lists, is attached as **Exhibit A**.

4. I have over 20 years of experience in class action administration implementing and maintaining notice plans and claims administration programs in hundreds of class action cases and related proceedings, including complex consumer, antitrust, and securities class actions; Securities and Exchange Commission settlements and related distributions; and civil rights, privacy, employment, and insurance class actions.

5. In consultation with the parties, I have prepared a proposed notice and administration plan for this litigation. This Declaration will describe the proposed notice plan (“Notice Plan”) and how it will provide due process to the Settlement Classes. The methods and tools used in developing the notice plan are of a type reasonably relied upon in the fields of media, advertising, and communications.

### NOTICE PLAN

6. The objective of the Notice Plan is to provide notice of the proposed Settlement to the Settlement Classes<sup>1</sup>, which are generally defined as:

(1) Damages Settlement Class:

*All natural Persons in the United States for whom Vivint accessed consumer report information without authorization and used his or her information to create a Vivint account between January 1, 2016, and the date the Court enters the Preliminary Approval Order of the Settlement and who have been subjected to Collection Efforts by Vivint; and*

(2) Injunctive Settlement Class:

*All natural Persons in the United States for whom Vivint accessed consumer report information without authorization between January 1, 2016, and the date the Court enters the Preliminary Approval Order of the Settlement and who have not been subjected to collection efforts by Vivint.*

7. The Notice Plan includes direct notice via First-Class Mail and email, to the extent A.B. Data receives working email addresses for any Settlement Class Members, and paid and

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<sup>1</sup> Any person or entity included in either or both of these classes is referred to in this declaration as a “Settlement Class Member.”

earned media, including digital and social media advertising and a press release. A dedicated, case-specific website and telephone line will complement the Notice Plan and serve as a resource for Settlement Class Members to get more information.

### **Direct Notice**

8. The proposed Notice Plan includes direct notice by First-Class U.S. Mail and email to members of the Damages Settlement Class for whom a mailing or email address is known.

9. To effectuate direct notice, Vivint will initially provide A.B. Data with a list of known names, information, and service addresses for Damages Settlement Class Members.

10. A.B. Data will send the Short-Form Notice, formatted as a postcard (“Postcard Notice”), by First-Class Mail to Damages Settlement Class Members with a known mailing address.

11. In advance of initiating the mailing, A.B. Data will process the names and mailing addresses they receive through the national change of address (“NCOA”) database compiled and maintained by the U.S. Postal Service (“USPS”) and, using any updated information available in the NCOA database, will send the Postcard Notice directly to those Damages Settlement Class Members. For any Postcard Notices that are returned by the USPS as undeliverable as addressed (“UAA”) with a forwarding address, A.B. Data will promptly remail the Postcard Notice to the forwarding address. For any UAA Postcard Notice returned with no forwarding address provided, A.B. Data will search for an updated address using an information provider to which we subscribe. If an updated address is available, A.B. Data will promptly remail the Postcard Notice to the updated address.

12. A.B. Data will also send the Short-Form Notice, in the form of an email (“Email Notice”), to Damages Settlement Class Members for whom an email address is available.



13. In advance of initiating emailing, A.B. Data will perform several tasks to maximize deliverability. These tasks include running the list of recipient email addresses through a deliverability analysis to ensure the email addresses are valid and working with our email service providers to develop sending strategies to achieve optimal deliverability. A.B. Data will also exclude words or phrases known to trigger SPAM or junk filters, not including attachments to the email, and send the emails in tranches over a period of days or weeks.

### **Target Audience**

14. A.B. Data uses methodology and measurement tools used in the media planning and advertising industry to design and measure the adequacy of a paid media plan to reach a particular audience.

15. To design the paid media portion of the Notice Plan, A.B. Data used syndicated, accredited research to select an equivalent demographic profile, known as a target audience, that best represents potential Settlement Class Members; reviewed the target audience's demographics and media consumption habits; analyzed, measured, and selected media vehicles that will effectively and efficiently reach the target audience; and built the overall recommended paid media plan using recognized media measurement tools to quantify and ensure adequacy of the notice.

16. To develop the target audience profile and review its demographics and media habits, we examined 2023 syndicated data from the nationally accredited resource, MRI-Simmons.<sup>2</sup> MRI-Simmons is a nationally accredited media and marketing research firm that

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<sup>2</sup> MRI-Simmons is the country's largest, most comprehensive, and most reliable consumer and media and product/service usage database. Data from the *Survey of the American Consumer*, conducted continuously since 1979, is used in the majority of media and marketing plans written in the United States. The firm's multidimensional database is the largest and most reliable source for integrated media planning. About 450 U.S. advertising agencies, including 90 of the top 100, subscribe to MRI Simmons Research, along with A.B. Data and more than 200 national marketers. MRI Simmons offers the most detailed and representative picture of U.S. demographics and lifestyles, including information on usage of nearly 6,000

provides syndicated data on audience size, composition, and other relevant factors pertaining to major media, including broadcast, magazines, newspapers, and outdoor advertising. MRI-Simmons provides a single source of major media, products, services, and in-depth consumer demographic and lifestyle/psychographic characteristics.

17. MRI-Simmons does not provide specific demographic information on people for whom Vivint accessed consumer report information without authorization. However, it does measure households that have a “Smarthome” Security System connected to home controllers/hubs (“Smarthome Households”). MRI-Simmons showed that individuals in Smarthome Households have a median age of 43 and 69% have a household income over \$75,000. A.B. Data selected this broad, encompassing target as it ensures the paid media will adequately reach potential Settlement Class Members along with a secondary target audience of Adults between 18 and 54 years of age with a household income of \$75,000 or more (“High Income Adults 18-54”). Everybody is exposed to and consumes media differently, and it may even change daily. However, over time, our media consumption follows a specific pattern, known as our individual media habits, which can be tracked. Certain demographic groups may be heavy consumers, light consumers, or non-users of a particular medium. Data from MRI-Simmons helps A.B. Data determine which mediums are used most heavily by the target audiences. Internet was chosen to effectively reach potential Settlement Class Members.

18. Based on the target audiences’ media consumption habits and demographic information, A.B. Data chose the most effectual and cost-effective media vehicles that would reach them, have compatible editorial content, and would communicate well with Settlement Class Members.

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product and service brands across 550 categories, the magazines and newspapers audiences read, the websites they look at, the television programs they watch, and the radio stations they listen to.

### Paid Media

19. To supplement the direct notice, A.B. Data designed a paid media plan (including digital and social media advertising) to reach those who do not receive a Short-Form Notice via email or mail. Paid media advertising is guaranteed to appear and allows control over the content, timing, and positioning of the message.

20. Digital and social media are included in the Notice Plan to reach potential Settlement Class Members. A.B. Data recommends advertising on a variety of websites and social media applications, maximizing ad exposure to potential Settlement Class Members.

21. Over 98% of Smarthome Households used the Internet in the last 30 days.<sup>3</sup> This type of advertising allows the viewer to click on an ad and instantly view the case-specific website to register, file a claim, and/or obtain additional information about their rights.

22. Social media also provides an opportunity for potential Settlement Class Members to not only link to the Settlement website, but also seamlessly share ads and information about the Settlement with their family, friends, community, and related social networks. Over 57% of Smarthome Households used YouTube, 67% used Facebook, 46% used Instagram, and 21% used X (formerly known as Twitter) in the past 30 days.<sup>4</sup>

23. All digital and social media ads will include images appropriate for this case and target audiences and an embedded link to the Settlement website to increase the ad visibility and click-through rate. Banner and newsfeed ads will be placed in premium positions on websites and social media sites, so they are easily seen when viewers first open the website page or application. A case-specific Facebook page will be created as a landing page for the links in the Facebook and Instagram newsfeed ads. Sample banner and social media ads are attached as **Exhibit B**.

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<sup>3</sup> MRI-Simmons 2023 *Doublebase Study*.

<sup>4</sup> Comscore 2023.

24. An estimated 103.3 million gross impressions<sup>5</sup> will be delivered across desktop, tablet, and mobile devices for 30 days on Google Display Network, YouTube, Facebook, Instagram, and X. Google Display Network places digital ads on websites, blogs, and other properties within its own network and over 2 million other websites across the Internet. YouTube is an online video sharing and social media platform that has over 200 million users in the United States. Facebook.com is a free, global social networking website that helps people communicate with friends, family, and coworkers. Instagram is a photo- and video-sharing social networking application with highly engaged users who click on posts and ads. Twitter, now rebranded as X, is a social platform used to communicate and stay connected with short messages or posts.

25. Targeted digital and social media advertising will also be used to reach relevant demographic segments that may include heavier concentrations of potential Settlement Class Members. Targeted advertising can often be effective, as it is more specific. Tactics include:

<b>Strategy</b>	<b>Rationale</b>
Mobile – In-App	Ads targeted to individuals while they are using relevant mobile applications. Mobile applications could include home security apps, shopping apps, news apps, game apps, weather apps, exercise apps, entertainment apps, and sports apps.
Mobile – Websites	Ads targeted to phones and tablets whose users are visiting websites that are contextually relevant or websites being visited by relevant users.
Contextual/Channel	Ads targeted to individuals who visited websites with relevant content and context, such as home and security-related content.
Behavioral	Ads targeted to user IDs across the Internet whose owners have shown activity ( <i>e.g.</i> , clicked through to the Settlement website) in the past.

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<sup>5</sup> Gross (targeted) impressions are the duplicated sum of audiences of all media vehicles containing the notice.

Strategy	Rationale
Predictive (Look-Alike) Modeling	Using “look-alike” modeling to target ads to user IDs whose owners have strong similarities to users who have previously “clicked through” to the Settlement website.
Third-Party	Ads targeted to people who identified themselves as having a smarthome security system using third-party sources.
Facebook/Instagram	Ads targeted to users who expressed an interest or like pages related to Vivint or home security and whose email addresses match that of known Settlement Class Members.
X	Ad delivery will be targeted to X users who may have mentioned related keywords such as “smarthome security” in their feed or who follow handles such as @VivintHome.
Settlement Class Member Lists	Ads targeted to emails (if available) of known or potential members of the Settlement Classes.

26. The digital campaign will be optimized to adjust for audiences and demographic groups that are most responsive and engaged and will maximize exposure across websites that are best, driving potential Settlement Class Members to the Settlement website.

27. To make it easy for potential Settlement Class Members to locate the Settlement website, sponsored search listings will be purchased to appear on Google, the most highly visited search engine, and/or other search partners. When a person uses a specific target phrase and/or keyword in a search engine to search for information, the link to the settlement website may appear on the search result pages. Sample keyword terms or phrases may include “Vivint Smarthome Litigation,” “Vivint Security Settlement,” and many others.

28. A.B. Data’s digital media team is certified in Google Ads Display, Google Ads Search, Google Analytics, Facebook, The Interactive Advertising Bureau (“IAB”)<sup>6</sup> Digital Media Buying & Planning, IAB Digital Media Sales, and Hootsuite Social Marketing.

<sup>6</sup> The Interactive Advertising Bureau (“IAB”) is an American advertising business organization that develops industry standards, conducts research, and provides legal support for the online advertising industry.

### Earned Media

29. In addition to the paid media, A.B. Data will distribute a news release via *PR Newswire*'s US1 Newswire to help the case gain more attention from the media and potential Settlement Class Members. The press release will reach traditional media outlets (television, radio, newspapers, magazines), news websites, and journalists nationwide.

30. News about the settlement will also be broadcast to the news media via X (formerly known as Twitter). It will be tweeted from *PR Newswire*'s and A.B. Data's X accounts to thousands of media outlets, journalists, and other followers.

### Media Delivery

31. The proposed Notice Plan provides Settlement Class Members with multiple exposure opportunities to media vehicles carrying the notice. To evaluate the strength and efficiency of the paid media,<sup>7</sup> A.B. Data uses MRI-Simmons and Comscore<sup>8</sup> to calculate the estimated *reach*<sup>9</sup> and *frequency*<sup>10</sup> against the target audience. This Notice Plan will reach an estimated 76.7% of the target audience with an average frequency of 1.5 times.

32. The proposed Notice Plan provides a reach similar to those that courts have approved previously and is within the range recommended and considered reasonable by The Federal Judicial Center's *Judges' Class Action Notice and Claims Process Checklist and Plain*

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<sup>7</sup> The targeted Internet advertising is not measured for this target audience, so its contribution to the overall reach of the media is not calculated.

<sup>8</sup> Comscore is a global Internet information provider that maintains a proprietary database of more than two million consumers. These consumers have given Comscore permission to monitor their browsing and transaction behavior, including online and offline purchasing. Leading companies and advertising agencies use this database for detailed insights into consumer behavior and Internet usage.

<sup>9</sup> Reach is the estimated percentage of a target audience reached through a specific media vehicle or combination of media vehicles.

<sup>10</sup> Frequency is the estimated average number of opportunities an audience member has to see the notice.

*Language Guide.*<sup>11</sup>

### **TOLL-FREE TELEPHONE NUMBER**

33. To assist Settlement Class Members in understanding the terms of the Settlement and their rights, A.B. Data will establish a case-specific toll-free telephone number. Live operators will be available during business hours, and interactive voice response (“IVR”) technology will be available 24/7. The call center provides the following services:

- a. Inbound toll-free telephone line,
- b. Interactive-voice-response system,
- c. Live operators during business hours,
- d. Call scripts developed by our experts and approved by the parties, and
- e. Detailed reporting.

34. The automated attendant answers phone calls and presents callers with a series of choices in response to basic questions. If callers require further assistance, they have the option to transfer to a live operator during business hours. Any messages received after business hours will be returned the following business day.

### **CASE WEBSITE**

35. A.B. Data will also implement and maintain a case-specific Settlement website for this matter to ensure Settlement Class Members can easily access relevant case information and updates. The website will provide, among other things, a summary of the case and Settlement Class Member rights and options, copies of the Long-Form Notice and relevant pleadings,

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<sup>11</sup> The *Judges’ Class Action Notice and Claims Process Checklist and Plain Language Guide* states: “The lynchpin in an objective determination of the adequacy of a proposed notice effort is whether all the notice efforts together will reach a high percentage of the class. It is reasonable to reach between 70-95%.”

important dates, any pertinent updates concerning the Action, and the ability to submit a Claim Form electronically. The website will be secure, with an “https” designation.

### **CONCLUSION**

36. It is my opinion, based on my individual expertise and experience, and that of my A.B. Data colleagues, that the proposed Notice Plan described herein is designed to effectively reach Settlement Class Members, will deliver plain language notices that will capture Settlement Class Members’ attention, and provide them with the information in an informative and easy to understand manner that is necessary to effectively understand their rights and options. This proposed Notice Plan conforms to the standards employed by A.B. Data in similar notification plans. For all these reasons, in my opinion, the proposed Notice Plan is the best practicable under the circumstances and satisfies due process.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 9<sup>th</sup> day of January 2024 in Milwaukee, Wisconsin.



Eric Schachter



# EXHIBIT A

**Class  
Action  
Administration**



**Headquarters**

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P: 866-217-4470  
F: 414-961-3099

**New York**

One Battery Park Plaza  
32<sup>nd</sup> Floor  
New York, NY 10004  
P: 646-290-9137

**Washington DC**

915 15<sup>th</sup> St., NW, Ste. 300  
Washington, DC 20005  
P: 202-618-2900  
F: 202-462-2085

**Florida**


5080 PGA Boulevard, Ste. 209  
Palm Beach Gardens, FL 33418  
P: 561-336-1801  
F: 561-252-7720

**Israel**

19 Weissburg Street  
Tel Aviv 69358  
Israel  
P: +972 (3) 720-8782


# CAPABILITIES

## About A.B. Data


 Founded in 1981, **A.B. Data has earned a reputation** for expertly managing the complexities of class action administration in consumer, antitrust, securities, Securities and Exchange Commission (SEC) enforcement actions, and ERISA, Attorneys General, employment, civil rights, insurance, environmental, wage and hour, and other class action cases. **A.B. Data's work in all aspects of class action administration** has been perfected by decades of experience in hundreds of class action cases involving billions of dollars in total settlements. Dedicated professionals deliver **A.B. Data's all-inclusive services**, working in partnership with its clients to administer their class action cases effectively, efficiently, and affordably, regardless of size or scope.

**A.B. Data offers unmatched resources and capacity** and is capable of expertly administering any class action notice, settlement, and/or fund administration. Whether notifying millions of class members in the United States or throughout the world, processing millions of claims, distributing payments digitally via A.B. Data's Digital PayPortal<sup>SM</sup>, or printing and distributing millions of checks, **A.B. Data matches its talent and technology** to the specific needs of its clients, delivering unparalleled service on time and on budget without ever compromising quality.

## Location, Ownership Structure

 **A.B. Data is an independently owned**, more than 40-year-old, Milwaukee, Wisconsin-based company that prides itself on its vast expertise and industry-leading innovations. We like to remind our clients and partners that we're not just a class action administration company, but a group of experienced, dedicated professionals who believe that relationships are just as important as the accurate and timely management of class action administrations. In other words, we are people who do business with people.

## Services

 **Every A.B. Data client is deserving of the best job we can put forward.** A.B. Data makes class action administration easy for our clients with clarity, convenience, and efficiency. Our priority is to navigate the intricacies of our clients' matters and deliver successful results by using our solid expertise, advanced technology, and top-quality products and services. We pay attention to the details and get it right the first time.

We aim to provide our clients the full experience of a truly collaborative working relationship. It is why we believe much of our success originates from our philosophy of "people doing business with people."

## Services

### All Digital — From Notice to Distribution

**A.B. Data is uniquely positioned to design, implement, and maintain notice and settlement administration programs** using an innovative, "all-digital" approach that replaces the more traditional and less efficient methods of administration, such as newspaper ads, mailed notices, and paper checks. Many of our recent proposed notice plans and claim programs utilize the latest technologies such as microtargeted digital ads for notice, streamlined online claims, and distributing settlement funds electronically using a digital paywall. These methods provide significant cost savings, are consistent with the amendments to Rule 23 that are now in effect, and importantly provide much-needed alignment of class action notice and administration with current consumer behaviors.

### Pre-Settlement Consultation

**The pre-settlement consultation is a collaborative session** designed to help A.B. Data clients prepare a stronger case. Our support teams simplify the task of sorting through a maze of documents during investigation and discovery, streamlining the process and preserving fund assets. From there, we assist with fully interactive media packages for court presentations and settlement negotiations. A.B. Data works closely with our clients, offering expert testimony on documents, processing, class and notice manageability, and proposed plans of allocation.

### Media Services

**A.B. Data continues to earn our reputation** as the early innovator in integrating advanced micro-targeting techniques, including contextual targeting, behavioral targeting, and predictive modeling. Coupled with inventive digital media strategies to drive claims, case-specific banner ad development, class member research, and comScore analysis services, our multi-tiered media programs are designed to cost-effectively deliver notice to potential class members and increase claims rates.

### Notice Administration

**In A.B. Data, clients have a comprehensive resource** with a depth of experience in direct notice. Our compliance and understanding of Rule 23 of the Federal Rules of Civil Procedure are crucial in meeting the "plain language" legal requirements for any campaign. From our sophisticated digital media capabilities and extensive global experience with class member research, our experts create notice documents that are easily understandable and cost-efficient to produce. We consult with our clients to deliver notice documents from multi-page, mailed, or emailed notice packets to concise postcards that establish the most influential and cost-effective means of communicating with potential claimants.

## Claims Processing

**A.B. Data continues to bring game-changing technologies** to improve the speed and precision in claims processing. Our robust system for online claims submissions allows us to meticulously verify data and documentation, preserve and authenticate claims, and calculate and verify settlement amounts. In addition, our data network infrastructure includes on-site data storage, backup, contingency plans, and security for electronic and hard copy claim filings. It is all part of a total commitment to be the most innovative and comprehensive resource in the industry. At A.B. Data, we take pride in having the in-house capacity to process millions of pages, as well as the organizational integrity to treat every claim as if it were the only one.

## Contact Center

**A.B. Data's Contact Center is comprised of a full staff** that is trained on and equipped with online and telecommunication systems to monitor and connect with class members. Associates routinely monitor class member communication for all class action administrations, including antitrust, consumer, and securities.

Utilizing monitoring software, associates watch multiple social media channels simultaneously, allowing for instantaneous routing of inquiries and interaction with claimants. Detailed and concise analytical reports outlining Contact Center activities are always provided.

Our Contact Center and case websites are capable of handling millions of class member engagements, as recently displayed in a campaign which garnered over 1.2 million website visits in two months and had more than 72,500 Facebook engagements. Facebook comments and threads are monitored and claimants are guided to the website for more information. Google AdWords and display advertising have also brought hundreds of thousands of visitors to various case websites.

A.B. Data's Contact Center also has Spanish language associates in-house and we can accommodate any language, given proper lead time. Traditional call center facilities are also available, if needed.

## Case Websites

**We offer a state-of-the-art technology platform** that supports every step of our class action administration process. Our expert marketing professionals design customized case-specific websites that provide potential class members easy access to case information, critical documents, important deadlines, as well as the capability to file claim forms and register for future mailings about the case. Claimants can use the website to elect to receive their settlement payments by mail or by one of several digital payment options, all accessible by mobile devices.

## Settlement Fund Distribution

**From complete escrow services to establishment of qualified settlement funds**, check printing and mailing, electronic cash or stock distribution and tax services, A.B. Data has always provided a full-service solution to Settlement Fund Distribution. Our IT team has decades of experience in developing and implementing fast, secure databases and claims administration systems that ensure class members receive the correct amount in their settlement disbursement. Today's digital capabilities allow even greater convenience for class members. In certain instances, claimants can now elect to

instantaneously receive settlement payments through popular digital-payment options, such as PayPal, Amazon, and virtual debit cards.

## A.B. Data's Leadership



A.B. Data's administration team is composed of the following key executives, who collectively have decades of experience settling and administering class actions:

**Bruce A. Arbit, Co-Managing Director** and one of the founders of the A.B. Data Group, serves as Chairman of the Board and oversees the day-to-day operations of the A.B. Data Group of companies, employing almost 400 people in the United States and Israel. Mr. Arbit is also Chairman of the Board of Integrated Mail Industries, Ltd. and has served as a member of the Board of Directors of University National Bank and State Financial Bank. He is the past Chairman of Asset Development Group, Inc., Home Source One, and American Deposit Management and is a member of the National Direct Marketing Association, the Direct Marketing Fundraising Association, and the American Association of Political Consultants. He was named 1996 Direct Marketer of the Year by the Wisconsin Direct Marketing Association.

A.B. Data's work in class action litigation support began with the Court selecting A.B. Data to oversee the restitution effort in the now-famous Swiss Banks Class Action Case, the International Commission on Holocaust Era Insurance Claims, and every other Holocaust Era Asset Restitution program, in which it was the company's job to identify, contact, and inform survivors of the Holocaust. A.B. Data delivered by reaching out to millions of people in 109 countries who spoke more than 30 languages. Since those days, Mr. Arbit has guided the class action division through phenomenal growth and success. Today, A.B. Data manages hundreds of administrations annually that distributes billions of dollars to class members.

**Thomas R. Glenn, President**, Mr. Glenn's management of A.B. Data's Class Action Administration Company includes designing and implementing notice plans and settlement administration programs for antitrust, securities, and Securities and Exchange Commission settlements and SEC disgorgement fund distributions, as well as consumer, employment, insurance, and civil rights class actions. Mr. Glenn previously served as Executive Vice President at Rust Consulting and has more than 30 years of executive leadership experience.

**Eric Miller, Senior Vice President**, as a key member of A.B. Data's Class Action Administration Leadership Team, oversees the Case Management Department and supervises the operations and procedures of all of A.B. Data's class action administration cases. Mr. Miller is recognized in the class action administration industry as an expert on securities, SEC, consumer, product recall, product liability, general antitrust, pharmaceutical antitrust, and futures contract settlements, to name a few settlement types. Prior to joining A.B. Data, Mr. Miller served as the Client Service Director for Rust Consulting, responsible there for its securities practice area. He has more than 20 years of operations, project management, quality assurance, and training experience in the class action administration industry. In addition, Mr. Miller manages A.B. Data's office in Palm Beach Gardens, Florida.

**Eric Schachter, Senior Vice President**, is a member of A.B. Data's Class Action Administration Leadership Team. He has over 15 years of experience in the legal settlement administration services industry. Mr. Schachter's responsibilities include ensuring successful implementation of claims administration services for A.B. Data's clients in accordance with settlement agreements, court orders, and service agreements. He also works closely with Project Managers to develop plans of administration to provide the highest level of effective and efficient delivery of work product. A frequent speaker on claims administration innovation and best practices at industry events nationwide, Mr. Schachter has a bachelor's degree in sociology from Syracuse University, earned his law degree at Hofstra University School of Law, and was previously an associate at Labaton Sucharow LLP in New York City.

**Elaine Pang, Vice President, Media**, oversees the Media Department and is responsible for the direction, development, and implementation of media notice plans for A.B. Data's clients. Ms. Pang brings more than 15 years of experience in developing and implementing multifaceted digital and traditional media for high profile complex legal notice programs. She uses her experience in class actions and advertising to provide the best practicable notice plans for large scale campaigns across domestic and international regions, and she leverages her expertise to better understand the evolving media landscape and utilize cutting-edge technology and measurement tools. Prior to entering the class action industry, Ms. Pang worked with many leading reputable brands, including General Mills, Air Wick, Jet-Dry, Comedy Central, Madison Square Garden, Radio City Music Hall, and Geox. She earned her MBA from Strayer University and holds a BS in Marketing from Pennsylvania State University. Ms. Pang's credentials include Hootsuite Social Marketing Certification, Google Adwords and Analytics Certification, and IAB Digital Media Buying and Planning Certification.

**Paul Sauberer, Vice President of Quality**, is responsible for overseeing quality assurance and process management, working diligently to mitigate risk, ensure exceptional quality control, and develop seamless calculation programming. Mr. Sauberer brings more than 20 years of experience as a quality assurance specialist with a leading claims-processing company where he developed extensive knowledge in securities class action administration. He is recognized as the class action administration industry's leading expert on claims and settlement administrations of futures contracts class actions.

**Justin Parks, Vice President**, is a member of A.B. Data's Class Action Administration Leadership Team. Mr. Parks brings extensive experience in client relations to A.B. Data's business development team. Mr. Parks has over 15 years of experience in the legal settlement administration services industry and has successfully managed and consulted on notice plans and other administrative aspects in hundreds of cases. Mr. Parks is uniquely experienced in Data Privacy matters, having consulted with clients on numerous matters stemming from data breaches as well as violations of the Illinois Biometric Information Privacy Act (BIPA), including some of the first ever Biometric Privacy related settlements in history. Mr. Parks' knowledge and understanding of the class action industry, as well as his client relationship skills, expand A.B. Data's capacity to achieve its business development and marketing goals effectively.

**Steve Straub, Senior Director of Operations**, started with A.B. Data in 2012 as a Claims Administrator. He moved through the ranks within the company where he spent the past five years as Senior Project Manager managing many of the complex commodities cases such as *In re LIBOR-Based Financial Instruments Antitrust Litigation*, *In re London Silver Fixing, Ltd. Antitrust Litigation*, and *Laydon v. Mizuho Bank, Ltd., et al.* Mr. Straub's performance in these roles over the past ten years, along with his comprehensive knowledge of company and industry practices and first-person experience leading the project management team, has proven him an invaluable member of the A.B. Data team.

In his role as Claimant Operations Director, his responsibilities include developing efficiencies within the operations center, which includes mailroom, call center, and claims processing areas. His areas of expertise include business process development, strategic/tactical operations planning and implementation, risk analysis, budgeting, business expansion, growth planning and implementation, cost reduction, and profit, change, and project management. Mr. Straub is well-versed in the administration of securities, consumer, and antitrust class action settlements. He earned his Juris Doctor degree from Seton Hall University School of Law in Newark, New Jersey.

**Jack Ewashko, Director of Client Services**, brings twenty years of industry and brokerage experience to his role with A.B. Data. He is an accomplished client manager adept at facilitating proactive communications between internal and outside parties to ensure accurate and timely deliverables. Mr. Ewashko previously held positions at two claim administration firms where he oversaw the securities administration teams and actively managed numerous high-profile matters, including the \$2.3 billion foreign exchange litigation. He notably served as Vice President, FX and Futures Operations at Millennium Management, a prominent global alternative investment management firm. As he progressed through trading, analytic, management, and consultancy roles at major banks and brokerage firms, Mr. Ewashko gained hands-on experience with vanilla and exotic securities products, including FX, commodities, mutual funds, derivatives, OTC, futures, options, credit, debt, and equities products. In the financial sector, he also worked closely with compliance and legal teams to ensure accuracy and conformity with all relevant rules and regulations regarding the marketing and sale of products, as well as the execution and processing of trades. He has held Series 4, Series 6, Series 7, and Series 63 licenses, and has been a member of the Futures Industry Association (FIA) and Financial Industry Regulatory Authority (FINRA). Mr. Ewashko earned his Bachelor of Business Administration from Long Island University, Brooklyn, New York.

**Brian Devery, Director of Client Services**, brings more than a decade of experience in class action administration and project management, as well as over two decades of experience as an attorney (ret.). Mr. Devery currently focuses on consumer, antitrust, employment, and other non-securities based administrations. In addition to driving project administration, he is focused on the implementation of process improvement, streamlining, and automation. Mr. Devery is admitted to practice law in State and Federal Courts of New York with his Juris Doctorate earned from the Maurice A. Deane School of Law at Hofstra University, Hempstead, New York.

**Adam Walter, PMP, Director of Client Services**, has nearly fifteen years of experience managing the administration of securities class action settlements and SEC disgorgements totaling more than \$4 billion. He has managed settlement programs in engagements involving some of the largest securities class action settlements and is a key contributor to the development of administration strategies that meet the evolving needs of our clients. His responsibilities include developing case administration strategies to ensure that all client and court requirements and objectives are met, overseeing daily operations of case administrations, ensuring execution of client deliverables, providing case-related legal and administration support to class counsel, overseeing notice dissemination programs, implementing complex claims-processing and allocation methodologies, establishing quality assurance and quality control procedures, and managing distribution of settlement funds. Mr. Walter holds a bachelor's degree in business administration from Florida Atlantic University, Boca Raton, Florida. He also has been an active member of the Project Management Institute since 2010 and is PMP®-certified.

**Eric Nordskog, Director of Client Services**, started with A.B. Data in 2012 on the operations team, managing dozens of team leads and claims administrators in the administration of legal cases and actions. In 2017, Mr. Nordskog was promoted to Project Manager, due in part to his proven ability to add consistency and efficiency to the e-claim filing process with new streamlined processes and audit practices. Today, as Senior Project Manager, he directs many of A.B. Data's securities, insurance, and



consumer cases. He regularly oversees the administration of large insurance cases, such as two recent Cigna Insurance matters that involved complex calculations and over one million class members each. He is also the primary hiring and training manager for new project managers and coordinators. Mr. Nordskog earned his Juris Doctor degree from Marquette University Law School, Milwaukee, in 2001.

**Eric Schultz, MCSE, Information Technology Manager and Security Team Chairperson**, has been with A.B. Data for more than 19 years, and is currently responsible for overseeing all information technology areas for all A.B. Data divisions across the United States and abroad, including network infrastructure and architecture, IT operations, data security, disaster recovery, and all physical, logical, data, and information systems security reviews and audits required by our clients or otherwise. As a Microsoft Certified Systems Engineer (MCSE) with more than 25 years of experience in information technology systems and solutions, Mr. Schultz has developed specializations in network security, infrastructure, design/architecture, telephony, and high-availability network systems.

## Secure Environment



**A.B. Data's facilities provide the highest level of security** and customization of security procedures, including:

- A Secure Sockets Layer server
- Video monitoring
- Limited physical access to production facilities
- Lockdown mode when checks are printed
- Background checks of key employees completed prior to hire
- Frequency of police patrol – every two hours, with response time of five or fewer minutes
- Disaster recovery plan available upon request

## Data Security



**A.B. Data is committed to protecting the confidentiality, integrity, and availability of personal identifying information** and other information it collects from our clients, investors, and class members and requires that its employees, subcontractors, consultants, service providers, and other persons and entities it retains to assist in distributions do the same. A.B. Data has developed an Information Security Policy, a suite of policies and procedures intended to cover all information security issues and bases for A.B. Data, and all of its divisions, departments, employees, vendors, and clients. A.B. Data has also recently taken the necessary, affirmative steps toward compliance with the EU's General Data Protection Regulation and the California Consumer Privacy Act.

A.B. Data has a number of high-profile clients, including the Securities and Exchange Commission (SEC), the United States Department of Justice, the Attorneys General of nearly all 50 states, other agencies of the United States government, and the Government of Israel, as well as direct banking and payment services companies with some of the most recognized brands in United States financial services and some of the largest credit card issuers in the world.

We are therefore frequently subjected to physical, logical, data, and information systems security reviews and audits. We have been compliant with our clients' security standards and have also been determined to be compliant with ISO/IEC 27001/2 and Payment Card Industry (PCI) data-security standards, the Gramm-Leach-Bliley Act (GLB) of 1999, the National Association of Insurance Commissioners (NAIC) Regulations, the Health Insurance Portability and Accountability Act (HIPAA) of 1996, and the Health Information Technology for Economic and Clinical Health Act (HITECH).

The Government of Israel has determined that A.B. Data is compliant with its rigorous security standards in connection with its work on Project HEART (Holocaust Era Asset Restitution Taskforce).

A.B. Data's fund distribution team has been audited by EisnerAmper LLP and was found compliant with class action industry standards and within 99% accuracy. EisnerAmper LLP is a full-service advisory and accounting firm and is ranked the 15th-largest accounting firm in the United States.

In addition, as part of PCI compliance requirements, A.B. Data has multiple network scans and audits from third-party companies, such as SecurityMetrics and 403 Labs, and is determined to be compliant with each of them.

## Fraud Prevention and Detection



**A.B. Data is at the forefront of class action fraud prevention.**

A.B. Data maintains and utilizes comprehensive proprietary databases and procedures to detect fraud and prevent payment of allegedly fraudulent claims.

We review and analyze various filing patterns across all existing cases and claims. Potential fraudulent filers are reported to our clients as well as to the appropriate governmental agencies where applicable.

## Representative Class Action Engagements



**A.B. Data and/or its team members have successfully administered** hundreds of class actions, including many major cases. Listed below are just some of the most representative or recent engagements.

### Consumer & Antitrust Cases

- *In re EpiPen Marketing, Sales Practices and Antitrust Litigation*
- *In re Broiler Chicken Antitrust Litigation - Commercial (Indirect)*
- *In re Broiler Chicken Antitrust Litigation - Indirect*
- *In re Broiler Chicken Antitrust Litigation - Direct*
- *In re Pork Antitrust Litigation - Directs*
- *In re Pork Antitrust Litigation - Indirects*

- *Peter Staley, et al. v. Gilead Sciences, Inc., et al.*
- *In re: Opana ER Antitrust Litigation*
- *In re Ranbaxy Generic Drug Application Antitrust Litigation*
- *In re Valeant Pharmaceuticals Int'l, Inc. Third-Party Payor Litigation*
- *Staley, et al., v. Gilead Sciences*
- *In Re: Generic Pharmaceuticals Pricing Antitrust Litigation – Direct Purchasers*
- *Beef Direct Purchaser Antitrust Litigation*
- *BCBSM, Inc. v. Vyera Pharmaceuticals, et al. (Daraprim)*
- *In re Automobile Antitrust Cases I and II*
- *Olean Wholesale Grocery Cooperative, Inc., et al. v. Agri Stats, Inc., et al. (Turkey)*
- *Integrated Orthopedics, Inc., et al. v. UnitedHealth Group, et al.*
- *In Re: Restasis (Cyclosporine Ophthalmic Emulsion) Antitrust Litigation*
- *Vista Healthplan, Inc., et al. v. Cephalon, Inc., et al. (Provigil)*
- *Jeffrey Koenig, et al. v. Vizio, Inc.*
- *Wit, et al. v. United Behavioral Health*
- *Weiss, et al. v. SunPower Corporation*
- *Smith, et al. v. FirstEnergy Corp., et al.*
- *Resendez, et al. v. Precision Castparts Corp. and PCC Structural, Inc.*
- *Julian, et al. v. TTE Technology, Inc., dba TCL North America*
- *Eugenio and Rosa Contreras v. Nationstar Mortgage LLC*
- *Phil Shin, et al. v. Plantronics, Inc.*
- *In re: Qualcomm Antitrust Litigation*
- *In re Resistors Antitrust Litigation*
- *The Hospital Authority of Metropolitan Government of Nashville and Davidson County, Tennessee v. Momenta Pharmaceuticals, Inc. and Sandoz Inc. ("Lovenox Antitrust Matter")*
- *William Kivett, et al. v. Flagstar Bank, FSB, and DOES 1-100, inclusive*
- *Adelphia, Inc. v. Heritage-Crystal Clean, Inc.*
- *LLE One, LLC, et al. v. Facebook, Inc.*
- *Bach Enterprises, Inc., et al. v. Advanced Disposal Services South, Inc., et al.*
- *JWG Inc., et al. v. Advanced Disposal Services Jacksonville, L.L.C., et al.*
- *State of Washington v. Motel 6 Operating L.P. and G6 Hospitality LLC*
- *In re GSE Bonds Antitrust Litigation*
- *Wave Lengths Hair Salons of Florida, Inc., et al. v. CBL & Associates Properties, Inc., et al.*
- *In re Loestrin 24 FE Antitrust Litigation*
- *Office of the Attorney General, Department of Legal Affairs, State of Florida v. Pultegroup, Inc. and Pulte Home Company, LLC*
- *In re Cigna-American Specialties Health Administration Fee Litigation*
- *In re: Intuniv Antitrust Litigation*
- *High Street, et al. v. Cigna Corporation, et al.*
- *Gordon Fair, et al. v. The Archdiocese of San Francisco, San Mateo, and Marin County*
- *Bizzarro, et al. v. Ocean County Department of Corrections, et al.*
- *Meeker, et al. v. Bullseye Glass Co.*
- *MSPA Claims 1, LLC v. Ocean Harbor Casualty Insurance Company*
- *Tennille v. Western Union Company - Arizona*
- *Garner, et al. v. Atherotech Holdings, Inc. and Garner, et al. v. Behrman Brothers IV, LLC, et al.*
- *Robinson, et al. v. Escallate, LLC*
- *Josefina Valle and Wilfredo Valle, et al. v. Popular Community Bank f/k/a Banco Popular North America*
- *Vision Construction Ent., Inc. v. Waste Pro USA, Inc. and Waste Pro USA, Inc. and Waste Pro of Florida, Inc.*

- *Plumley v. Erickson Retirement Communities, et al.*
- *In re London Silver Fixing, Ltd. Antitrust Litigation*
- *Ploss v. Kraft Foods Group, Inc. and Mondelēz Global LLC*
- *In re Mexican Government Bonds Antitrust Litigation*
- *In re Ready-Mixed Concrete Antitrust Litigation*
- *In re: Marine Hose Antitrust Litigation*
- *Iowa Ready Mixed Concrete Antitrust Litigation*
- *In re Potash Antitrust Litigation (II)*
- *In re Evanston Northwestern Healthcare Corp. Antitrust Litigation*
- *In re Polyurethane Foam Antitrust Litigation*
- *In re LIBOR-Based Financial Instruments Antitrust Litigation*
- *In re Lorazepam and Clorazepate Antitrust Litigation*
- *In re Cardizem CD Antitrust Litigation*
- *Vista Healthplan, Inc., and Ramona Sakiestewa v. Bristol-Myers Squibb Co., and American BioScience, Inc.*
- *In re Lupron Marketing and Sales Practices Litigation*
- *In re Terazosin Hydrochloride Antitrust Litigation*
- *In re Warfarin Sodium Antitrust Litigation*
- *Rosemarie Ryan House, et al. v. GlaxoSmithKline PLC and SmithKline Beecham Corporation*
- *Carpenters and Joiners Welfare Fund, et al. v. SmithKline Beecham*
- *New Mexico United Food and Commercial Workers Union's and Employers' Health and Welfare Trust Fund, et al. v. Purdue Pharma L.P.*
- *In Re Pharmaceutical Industry Average Wholesale Price Litigation*
- *Alma Simonet, et al. v. SmithKline Beecham Corporation, d/b/a GlaxoSmithKline*
- *In re Relafen Antitrust Litigation*
- *In Re Remeron Direct Purchaser Antitrust Litigation*
- *In re TriCor Indirect Purchasers Antitrust Litigation*
- *Nichols, et al., v. SmithKline Beecham Corporation*
- *In re: DDAVP Indirect Purchaser Antitrust Litigation*

## Securities Cases

- *Plymouth County Retirement Association v. Spectrum Brands Holdings, Inc., et al.*
- *Tung, et al. v. Dycom Industries, Inc., et al.*
- *Boutchard., et al. v. Gandhi, et al. ("Tower/e-Minis")*
- *MAZ Partners LP v. First Choice Healthcare Solutions, Inc.*
- *SEB Investment Management AB, et al. v. Symantec Corporation, et al.*
- *In re Impinj, Inc. Securities Litigation*
- *In re Netshoes Securities Litigation*
- *Yellowdog Partners, LP, et al. v. Curo Group Holdings Corp., et al.*
- *In re Brightview Holdings, Inc. Securities Litigation*
- *In re Obalon Therapeutics, Inc. Securities Litigation*
- *In re Willis Towers Watson PLC Proxy Litigation*
- *In re Blue Apron Holdings, Inc. Securities Litigation*
- *In re: Qudian Inc. Securities Litigation*
- *Plymouth County Contributory Retirement System v. Adamas Pharmaceuticals, et al.*
- *In re Perrigo Company PLC Securities Litigation*
- *Enriquez, et al. v. Nabriva Therapeutics PLC, et al.*
- *Teamsters Local 456 Pension Fund, et al. v. Universal Health Services, Inc., et al.*
- *Olenik, et al. v. Earthstone Energy, Inc.*

- *Shenk v. Mallinckrodt plc, et al.*
- *In re The Allstate Corp. Securities Litigation*
- *Christopher Vataj v. William D. Johnson, et al. (PG&E Securities II)*
- *Kirkland v. WideOpenWest, Inc.*
- *Oklahoma Police Pension and Retirement System v. Sterling Bancorp, Inc.*
- *In re Uxin Limited Securities Litigation*
- *City of Hallandale Beach Police Officers' & Firefighters' Personnel Retirement Trust v. Ergen, et al. (Echostar)*
- *Lewis v. YRC Worldwide Inc., et al.*
- *Tomaszewski v. Trevena, Inc., et al.*
- *In re Restoration Robotics, Inc. Securities Litigation*
- *Public Employees' Retirement Systems of Mississippi, et al. v. Treehouse Foods, Inc., et al.*
- *Ronald L. Jackson v. Microchip Technology, Inc., et al.*
- *In re Micro Focus International plc Securities Litigation*
- *In re Dynagas LNG Partners LP Securities Litigation*
- *Weiss, et al. v. Burke, et al. (Nutraceutical)*
- *Yaron v. Intersect ENT, Inc., et al.*
- *Utah Retirement Systems v. Healthcare Services Group, Inc., et al.*
- *In re PPDAl Group Inc. Securities Litigation*
- *In re: Evoqua Water Technologies Corp. Securities Litigation*
- *In re Aqua Metals, Inc. Securities Litigation*
- *St. Lucie County Fire District Firefighters' Pension Trust Fund v. Southwestern Energy Company*
- *In re CPI Card Group Inc. Securities Litigation*
- *Arkansas Teacher Retirement System, et al. v. Alon USA Energy, Inc., et al.*
- *In re TAL Education Group Securities Litigation*
- *GCI Liberty Stockholder Litigation*
- *In re SciPlay Corporation Securities Litigation*
- *In re Allergan Generic Drug Pricing Securities Litigation*
- *In re Vivint Solar, Inc. Securities Litigation*
- *In re YayYo Securities Litigation*
- *In re JPMorgan Treasury Futures Spoofing Litigation*
- *Searles, et al. v. Crestview Partners, LP, et al. (Capital Bank)*
- *In re Lyft, Inc. Securities Litigation*
- *In re Aegean Marine Petroleum Network, Inc. Securities Litigation*
- *In re JPMorgan Precious Metals Spoofing Litigation*
- *In re Pivotal Software, Inc. Securities Litigation*
- *Longo, et al. v. OSI Systems, Inc., et al.*
- *In re Homefed Corporation Stockholder Litigation*
- *Pierrelouis v. Gogo Inc., et al.*
- *Pope v. Navient Corporation, et al.*
- *In re Merit Medical Systems, Inc. Securities Litigation*
- *In re Frontier Communications Corporation Stockholder Litigation*
- *Holwill v. AbbVie Inc.*
- *Budicak, Inc., et al. v. Lansing Trade Group, LLC, et al. (SRW Wheat Futures)*
- *Yannes, et al. v. SCWorx Corporation*
- *In re Fannie Mae/Freddie Mac Senior Preferred Stock Purchase Agreement Class Action Litigations*
- *In re Myriad Genetics, Inc. Securities Litigation*
- *In re Chicago Bridge & Iron Co. N.V. Securities Litigation*
- *The Arbitrage Fund, et al. v. William Petty, et al. (Exactech)*
- *In re Columbia Pipeline Group, Inc. Merger Litigation*

- *Martinek v. AmTrust Financial Services, Inc.*
- *City of Pittsburgh Comprehensive Municipal Pension Trust Fund, et al. v. Benefitfocus, Inc., et al.*
- *In re: Evoqua Water Technologies Corp. Securities Litigation*
- *Laydon v. Mizuho Bank, Ltd., et al.*
- *Lomingkit, et al. v. Apollo Education Group, Inc., et al.*
- *In re Caraco Pharmaceutical Laboratories, Ltd. Shareholder Litigation*
- *Norfolk County Retirement System, et al. v. Community Health Systems, Inc., et al.*
- *Chester County Employees' Retirement Fund v. KCG Holdings, Inc., et al.*
- *Oklahoma Law Enforcement Retirement System, et al. v. Adeptus Health Inc., et al.*
- *Di Donato v. Insys Therapeutics, Inc., et al.*
- *Lundgren-Wiedinmyer, et al. v. LJM Partners, Ltd, et al.*
- *Martin, et al. v. Altisource Residential Corporation, et al.*
- *Stephen Appel, et al. v. Apollo Management, et al.*
- *In re Medley Capital Corporation Stockholder Litigation*
- *Forman, et al. v. Meridian BioScience, Inc., et al.*
- *Public Employees' Retirement System of Mississippi, et al. v. Endo International PLC, et al.*
- *In Re Flowers Foods, Inc. Securities Litigation*
- *Jiangchen, et al. v. Rentech, Inc., et al.*
- *In re Liberty Tax, Inc. Stockholder Litigation*
- *In re RH, Inc. Securities Litigation*
- *Lazan v. Quantum Corporation, et al.*
- *Nabhan v. Quantum Corporation, et al.*
- *Edmund Murphy III, et al. v. JBS S.A.*
- *Public Employees' Retirement System of Mississippi, et al. v. Sprouts Farmers Market, Inc., et al.*
- *In re Starz Stockholder Litigation*
- *Judith Godinez, et al. v. Alere Inc., et al.*
- *Rahman and Giovagnoli, et al. v. GlobalSCAPE, Inc., et al.*
- *Arthur Kaye, et al. v. ImmunoCellular Therapeutics, Ltd., et al.*
- *In re CPI Card Group Inc. Securities Litigation*
- *Daniel Aude, et al. v. Kobe Steel, Ltd., et al.*
- *In re Quality Systems, Inc. Securities Litigation*
- *Cooper, et al. v. Thoratec Corporation, et al.*
- *Washtenaw County Employees' Retirement System, et al. v. Walgreen Co., et al.*
- *Elkin v. Walter Investment Management Corp., et al.*
- *In Re CytRx Corporation Securities Litigation*
- *Ranjit Singh, et al. v. 21Vianet Group, Inc., et al.*
- *In re PTC Therapeutics, Inc. Securities Litigation*
- *Securities and Exchange Commission v. Mark A. Jones*
- *In re Sequans Communications S.A. Securities Litigation*
- *In re Henry Schein, Inc. Securities Litigation*
- *Ronge, et al. v. Camping World Holdings, Inc., et al.*
- *Oklahoma Firefighters Pension & Retirement System v. Lexmark International, Inc.*
- *Christakis Vrakas, et al. v. United States Steel Corporation, et al.*
- *Emerson et al. v. Mutual Fund Series Trust, et al. ("Catalyst")*
- *In re Fannie Mae 2008 Securities Litigation*
- *In re Anadarko Petroleum Corporation Class Action Litigation*
- *Ge Dandong, et al., v. Pinnacle Performance Limited, et al.*
- *In Re: Rough Rice Commodity Litigation*
- *Xuechen Yang v. Focus Media Holding Limited et al.*
- *In re Massey Energy Co. Securities Litigation*

- *In re Swisher Hygiene, Inc.*
- *The City of Providence vs. Aeropostale, Inc., et al.*
- *In re Metrologic Instruments, Inc. Shareholders Litigation*
- *Public Pension Fund Group v. KV Pharmaceutical Company et al.*
- *Pension Trust Fund for Operating Engineers, et al. v. Assisted Living Concepts, Inc., et al.*
- *In re Lehman Brothers Equity/Debt Securities Litigation*
- *In re: Platinum and Palladium Commodities Litigation (Platinum/Palladium Physical Action)*
- *In re: Platinum and Palladium Commodities Litigation (Platinum/Palladium Futures Action)*
- *In re General Electric Co. Securities Litigation*
- *In re CNX Gas Corporation Shareholders Litigation*
- *Oscar S. Wyatt, Jr. et al. v. El Paso Corporation, et al.*
- *In re Par Pharmaceutical Securities Litigation*
- *In re Par Pharmaceutical Companies, Inc. Shareholders Litigation*
- *In re Delphi Financial Group Shareholders Litigation*
- *In re SLM Corporation Securities Litigation*
- *In re Del Monte Foods Company Shareholder Litigation*
- *Leslie Niederklein v. PCS Edventures!.com, Inc. and Anthony A. Maher*
- *In re Beckman Coulter, Inc. Securities Litigation*
- *Michael Rubin v. MF Global, Ltd., et al.*
- *Allen Zametkin v. Fidelity Management & Research Company, et al.*
- *In re BP Prudhoe Bay Royalty Trust Securities Litigation*
- *Police and Fire Retirement System of the City of Detroit et al. v. SafeNet, Inc., et al.*
- *In re Limelight Networks, Inc. Securities Litigation*
- *In re Gilead Sciences Securities Litigation*
- *In re ACS Shareholder Litigation, Consolidated C.A. No. 4940-VCP*
- *Lance Provo v. China Organic Agriculture, Inc., et al.*
- *In re LDK Solar Securities Litigation*

## Labor & Employment Cases

- *Verizon OFCCP Settlement*
- *Alvarez, et al. v. GEO Secure Services, LLC*
- *Sartena v. Meltwater FLSA*
- *Carmen Alvarez, et al. v. Chipotle Mexican Grill, Inc., et al.*
- *Turner, et al. v. Chipotle Mexican Grill, Inc.*
- *Long, et al. v. Southeastern Pennsylvania Transportation Authority*
- *Matheson, et al. v. TD Bank, N.A.*
- *Ludwig, et al. v. General Dynamics Information Technology, Inc., et al.*
- *Bedel, et al. v. Liberty Mutual Group Inc.*
- *Irene Parry, et al. v. Farmers Insurance Exchange, et al.*
- *Maldonado v. The GEO Group, Inc.*
- *Alderman and Maxey v. ADT, LLC*
- *Albaceet v. Dick's Sporting Goods*
- *Rodriguez v. The Procter & Gamble Company*
- *Adekunle, et al. v. Big Bang Enterprises, Inc. d/b/a The Revenue Optimization Companies*
- *Gorski, et al. v. Wireless Vision, LLC*
- *Lopez, et al. v. New York Community Bank, et al.*
- *Hamilton, et al. v. The Vail Corporation, et al.*
- *Eisenman v. The Ayco Company L.P.*
- *Matheson v. TD Bank, N.A.*

- *Simon v. R.W. Express LLC, d/b/a Go Airlink NYC*
- *Perez v. Mexican Hospitality Operator LLC, d/b/a Cosme*
- *Shanahan v. KeyBank, N.A.*
- *Loftin v. SunTrust Bank*
- *Alvarez v. GEO Secure Services, LLC*
- *Weisgarber v. North American Dental Group, LLC*
- *Talisa Borders, et al. v. Wal-mart Stores, Inc.*
- *Reale v. McClain Sonics Inc., et al.*
- *Larita Finisterre and Songhai Woodard, et al. v. Global Contact Services, LLC*
- *Adebisi Bello v. The Parc at Joliet*
- *Garcia, et al. v. Vertical Screen, Inc.*
- *Brook Lemma and Matthieu Hubert, et al. v. 103W77 Partners LLC, et al. ("Dovetail Settlement")*
- *American Federation of Government Employees, Local 1145 v. Federal Bureau of Prisons, U.S. Penitentiary, Atlanta, Georgia*
- *Lisa Ferguson, Octavia Brown, et al. v. Matthew G. Whitaker, Acting AG, DOJ Bureau of Prisons ("USP Victorville")*
- *American Federation of Government Employees, Local 2001 v. Federal Bureau of Prisons, Federal Correctional Institution, Fort Dix, New Jersey*
- *American Federation of Government Employees, Local 506 v. U.S. Department of Justice, Federal Bureau of Prisons, U.S. Penitentiary Coleman II, Coleman, Florida*
- *Vargas v. Sterling Engineering*
- *Rosenbohm v. Verizon*
- *Alex Morgan, et al. v. United States Soccer Federation, Inc.*
- *Iskander Rasulev v. Good Care Agency, Inc.*
- *Kyndl Buzas, et al., v. Phillips 66 Company and DOES 1 through 10*
- *American Federation of Government Employees, Local 408 v. U.S. Dept. of Justice, Federal Bureau of Prisons, Federal Correctional Complex, Butner, NC*
- *In re 2014 Avon Products, Inc. ERISA Litigation*
- *In re Eastman Kodak ERISA Litigation*
- *Taronica White, et al. v. Attorney General Loretta Lynch, Department of Justice*
- *Lisa Ferguson, et al. v. Acting Attorney General Matthew Whitaker, Department of Justice*
- *Melissa Compere v. Nusret Miami, LLC, et al.*
- *Abelar v. American Residential Services, L.L.C., Central District of California*
- *Flores, et al. v. Eagle Diner Corp., et al., Eastern District of Pennsylvania*
- *Michael Furman v. Godiva Chocolatier, Inc., 15<sup>th</sup> Judicial Circuit, Palm Beach County, Florida*
- *Finisterre et. al v. Global Contact Services, LLC, New York State Supreme Court, Kings County*
- *McGuire v. Intelident Solutions, LLC, et al., Middle District of Florida, Tampa Division*
- *Duran De Rodriguez, et al. v. Five Star Home Health Care Agency, Inc. et al., Eastern District of New York*

### Data Breach/BIPA Cases

- *Hunter v. J.S.T. Corp. BIPA Settlement*
- *Atkinson, et al. v. Minted, Inc.*
- *Rosenbach, et al. v. Six Flags Entertainment Corporation and Great America LLC*
- *Pratz, et al. v. MOD Super Fast Pizza, LLC*
- *The State of Indiana v. Equifax Data Breach Settlement*
- *In re: Vizio, Inc. Consumer Privacy Litigation*
- *In re: Google, Inc. Street View Electronic Communications Litigation*
- *Devin Briggs and Bobby Watson, et al. v. Rhinoag, Inc. ("Briggs Biometric Settlement")*
- *Trost v. Pretium Packaging L.L.C.*



- *In re: Barr, et al. v. Drizly, LLC f/k/a Drizly, Inc., et al.*

## Telephone Consumer Protection Act (TCPA) Cases

- *Perrong, et al. v. Orbit Energy & Power, LLC*
- *Baldwin, et al. v. Miracle-Ear, Inc.*
- *Floyd and Fabricant, et al. v. First Data Merchant Services LLC, et al.*
- *Hoffman, et al. v. Hearing Help Express, Inc., et al.*
- *Lowe and Kaiser, et al. v. CVS Pharmacy, Inc., et al.*
- *Johansen v. HomeAdvisor, Inc., et al.*
- *Charvat, et al. v. National Holdings Corporation*
- *Hopkins, et al. v. Modernize, Inc.*
- *Diana Mey vs. Frontier Communications Corporation*
- *Matthew Donaca v. Dish Network, L.L.C.*
- *Matthew Benzion and Theodore Glaser v. Vivint, Inc.*
- *John Lofton v. Verizon Wireless (VAW) LLC, et al.*
- *Lori Shamblin v. Obama for America, et al.*
- *Ellman v. Security Networks*

## For More Information

For more detailed information regarding A.B. Data's experience, services, or personnel, please see our website at [www.abdataclassaction.com](http://www.abdataclassaction.com).

# EXHIBIT B

If Your Credit Was  
Accessed by  
**VIVINT, INC.**  
To Open Accounts  
Without Authorization



You May Be Entitled to a  
Cash Payment from a  
Class Action Settlement

[Submit a Claim >](#)

[casewebsiteurl.com](http://casewebsiteurl.com)

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA  
 BIRMINGHAM DIVISION**

SULLEN DANIEL,	)	
RENFROE JOSHUA,	)	
Plaintiffs,	)	
	)	
V.	)	Case No.: CV-2023-903893.00
	)	
VIVINT INC,	)	
Defendant.	)	

**ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION  
 SETTLEMENT**

This matter having come before the Court on Plaintiffs’ Unopposed Motion in Support of Preliminary Approval of Class Action Settlement (the “Motion”), the Court having reviewed in detail and considered the Motion and memorandum in support of the Motion, the Class Action Settlement Agreement (“Settlement Agreement”) between Plaintiffs Daniel Sullen and Joshua Renfroe and Defendant Vivint, Inc. (“Vivint”) (together, the “Parties”), 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, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED AS FOLLOWS:

1. Capitalized terms used in this Order that are not otherwise defined herein have the same meaning assigned to them as in the Settlement Agreement.
2. The terms of the Settlement Agreement are preliminarily approved as fair, reasonable, and adequate. There is good cause to find that the Settlement Agreement was

negotiated at arms-length between the Parties, who were represented by experienced counsel and assisted by an impartial, well-respected mediator.

3. For settlement purposes only, the Court finds that the prerequisites to class action treatment under Alabama Rule of Civil Procedure 23, including numerosity, commonality and predominance, and adequacy, have been preliminarily satisfied.

4. The Court hereby conditionally certifies, pursuant to Alabama Rule of Civil Procedure 23, and for the purposes of settlement only, the following Settlement Classes consisting of:

(1) Damages Settlement Class

All natural Persons in the United States for whom Vivint accessed consumer report information without authorization and used his or her information to create a Vivint account between January 1, 2016, and the date the Court enters the Preliminary Approval Order of the Settlement and who have been subjected to Collection Efforts by Vivint. Excluded from the term “Damages Settlement Class” are: (1) any parent, subsidiary, affiliate, or controlled persons of Defendant, as well as the officers, directors, agents, servants, or employees of Defendant; (2) governmental agencies, entities, or judicial officers; and (3) any person or entity which properly executes and submits a timely request for exclusion from the Settlement Class; and,

(2) Injunctive Settlement Class

All natural Persons in the United States for whom Vivint accessed consumer report information without authorization between January 1, 2016, and the date the Court enters the Preliminary Approval Order of the Settlement and who have not been subjected to collection efforts by Vivint. Excluded from the term “Injunctive Settlement Class” are: (1) any parent, subsidiary, affiliate, or controlled persons of Defendant, as well as the officers, directors, agents, servants, or employees of Defendant; (2) governmental agencies, entities, or judicial officers; and (3) any person or entity which properly executes and submits a timely request for exclusion from the Settlement Class.

5. For settlement purposes only, Plaintiffs Daniel Sullen and Joshua Renfroe are hereby appointed as Class Representatives.

6. For settlement purposes only, the following counsel are hereby appointed as Class Counsel:

Jonathan S. Mann  
Austin B. Whitten  
Tom Dutton  
Michael C. Bradley  
Pittman, Dutton, Hellums, Bradley & Mann, P.C.  
2001 Park Place North, Suite 1100  
Birmingham, AL 35203

7. The Court recognizes that, pursuant to the Settlement Agreement, Vivint retains all rights to object to the propriety of class certification in the Litigation in all other contexts and for all other purposes should the Settlement not be finally approved. Therefore, as more fully set forth below, if the Settlement is not finally approved, and litigation resumes, this Court's preliminary findings regarding the propriety of class certification shall be of no further force or effect whatsoever, and this Order will be vacated in its entirety.

8. The Court approves, in form and content, the Long Form Class Notice, Short Form Class Notice, Publication Notice, and Notice Plan, attached to the Settlement Agreement as Exhibits 1, 2, 4(a), and 4, respectively, and finds that they meet the requirements of Alabama Rule of Civil Procedure 23(c)(2) and 23(e) and satisfy Due Process.

9. The Court finds that the Notice Plan as set forth in the Settlement Agreement meets the requirements of Alabama Rule of Civil Procedure 23(c)(2) and 23(e) and constitutes the best notice practicable under the circumstances, including through a dedicated website and through publication in a national newspaper and by direct individual notice by postcard and email (if known) to potential Settlement Class Members, and satisfies fully the requirements of Due Process, and any other applicable law, such that the Settlement Agreement and Final Order and Judgment will be binding on all Settlement Class Members. In addition, the Court finds that no notice other than that specifically identified in the Settlement Agreement is necessary in this action. The Parties, by agreement, may revise the Class Notice and Claim Form in ways that are

not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting for publication.

10. A.B. Data, Ltd. is hereby appointed Settlement Administrator to supervise and administer the Notice Plan, as well as to oversee the administration of the Settlement, as more fully set forth in the Settlement Agreement.

11. The Settlement Administrator may proceed with the distribution of Class Notice as set forth in the Settlement Agreement and the Notice Plan, and all forms of Notice shall be issued no later than [REDACTED], 2024 (twenty-one (21) days from the date of this Order)(the “Notice Date”).

12. Settlement Class Members who wish to receive benefits under the Settlement Agreement must complete and submit a valid Claim Form in accordance with the instructions provided in the Class Notice. The Court hereby approves as to form and content the Claim Form attached to the Settlement Agreement as Exhibit 3.

13. All Claim Forms must be submitted to the Settlement Administrator and postmarked, sent by email, or submitted through the Settlement Website no later than [REDACTED], 2024 (forty-five (45) days after the Final Approval Hearing). Settlement Class Members who do not timely submit a Claim Form deemed to be valid in accordance with Section 2.6 of the Settlement Agreement shall not be entitled to receive any portion of the Settlement Fund.

14. 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 hereinafter provided. Settlement Class Members who do not timely and validly request exclusion in accordance with Section 3.2

of the Settlement Agreement shall be so bound even if they have previously initiated or subsequently initiate litigation or other proceedings against Vivint or the Released Parties relating to the claims released under the terms of the Settlement Agreement.

15. Any Person within the Settlement Class may request exclusion from the Settlement Class by expressly stating his/her request in a written exclusion request in accordance with Section 3.2 of the Settlement Agreement. Such exclusion requests must be received by the Settlement Administrator at the email address or mailing address specified in the Class Notice in written form, by first class mail, postage prepaid, and postmarked, no later than [REDACTED], **2024** (sixty (60) days from the Notice Date).

16. In order to exercise the right to be excluded, a Person within the Settlement Classes must timely submit a written request for exclusion to the Settlement Administrator providing his/her name, address, and email, the name and case number of this Lawsuit, and a statement that he or she wishes to be excluded from the Settlement Classes. Any request for exclusion must be personally signed by the person requesting exclusion. No person within the Settlement Classes, or any person acting on behalf of, in concert with, or in participation with that person within the Settlement Classes, may request exclusion from the Settlement Classes of any other person within the Settlement Classes.

17. Any person in the Settlement Classes who elects to be excluded shall not: (i) be bound by any orders or the Final Order and Judgment; (ii) be entitled to relief under the Settlement Agreement; (iii) gain any rights by virtue of this Settlement Agreement; or (iv) be entitled to object to any aspect of the Settlement Agreement.



18. Class Counsel may file any motion seeking an award of attorneys' fees, costs and expenses, as well as a Service Award for the Class Representatives, no later than [REDACTED], 2024 (fourteen (14) days prior to the Exclusion and Opt-Out Deadlines).

19. 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 the amount of the attorneys' fees and expenses that Class Counsel intends to seek and the payment of any Incentive Award, may do so, either personally or through an attorney, by filing a written objection, together with the supporting documentation set forth below in Paragraph 20 of this Order, with the Clerk of the Court, and served upon Class Counsel, Vivint's counsel, and the Settlement Administrator no later than [REDACTED], 2024 (sixty (60) days from the Notice Date).

Addresses for Class Counsel, Vivint's Counsel, the Settlement Administrator, and the Clerk of Court are as follows:

Class Counsel:

Jonathan S. Mann  
Austin B. Whitten  
Tom Dutton  
Michael C. Bradley  
Pittman, Dutton, Hellums,  
Bradley & Mann, P.C.  
2001 Park Place North, Suite 1100  
Birmingham, AL 35203

Vivint's Counsel:

Jason Tompkins  
Jonathan Hoffmann  
Balch & Bingham LLP  
1901 Sixth Ave. N., Suite 1500  
Birmingham, AL 35203

Settlement Administrator:

A.B. Data, Ltd.  
600 A.B. Data Drive  
Milwaukee, WI 53217

Clerk of Court:

Clerk of the Circuit Court of  
Jefferson County  
Birmingham Division  
Jefferson County Courthouse  
716 N. Richard Arrington Blvd.  
Birmingham, AL 35203

20. Any Settlement Class Member who has not requested exclusion and who intends to object to this Agreement must state, in writing, all objections and the basis for any such objection(s), and must also state in writing: his/her full name, address and email; all grounds for the objection along with factual and legal support, including documentation or evidence purportedly proving the same, for the stated objection; and the identity of any other class action cases to which the Person objected in the previous four (4) years. If represented by counsel, the objecting Settlement Class Member must also provide the name and telephone number of his/her counsel. 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, including the fairness, reasonableness, or adequacy of the Settlement, the payment of attorneys' fees, costs, and expenses, the payment of any Service Award, and the Final Approval Order and the right to appeal same.

21. A Settlement Class Member who has not requested exclusion from the Settlement Class and who has properly submitted a written objection in compliance with the Settlement Agreement, 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 Fee and Expense Application and/or the request for a Service Award to the Class Representatives 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/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/her written objection the identity of any witnesses he/she may call to testify, and all exhibits he/she intends to introduce into evidence at the Final Approval Hearing, which shall be attached.

22. 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 by appeal, collateral attack, or otherwise, and shall be bound by the Settlement Agreement, the releases contained therein, and all aspects of the Final Order and Judgment.

23. All papers in support of the final approval of the proposed Settlement shall be filed no later than fourteen (14) days before the Final Approval Hearing.

24. Pending the final determination of the fairness, reasonableness, and adequacy of the proposed Settlement, no Settlement Class Member may prosecute, institute, commence, or continue any lawsuit (individual action or class action) with respect to the Released Claims against any of the Released Parties.

25. A hearing (the "Final Approval Hearing") shall be held before the Court on [REDACTED], 2024 at [REDACTED] : [REDACTED] a.m./p.m., at the Jefferson County Courthouse, 716 N. Richard Arrington Blvd., Courtroom [REDACTED], Birmingham, Alabama 35203 (approximately ninety (90) days after the date of this Order) (or at such other time or location as the Court may without further notice direct) for the following purposes:

(a) to finally determine whether the applicable prerequisites for settlement class action treatment under Alabama Rule of Civil Procedure 23 have been met;

(b) to 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 a bar order prohibiting Settlement Class Members from further pursuing claims released in the Settlement Agreement;

(d) to consider the application for an award of attorneys' fees, costs, and expenses of Class Counsel;

(e) to consider the application for a Service Award to the Class Representatives;

(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.

26. 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 Judgment and Order in accordance with the Settlement Agreement that adjudicates the rights of all Settlement Class Members.

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

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

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

**Class Notice Mailed by:** 21 days from Date of Preliminary Approval,  
by [REDACTED], 2024.

**Publication Notice by:** 21 days from Date of Preliminary Approval,  
by [REDACTED], 2024.

**Settlement Website launched by:** 21 days from Date of Preliminary Approval,  
by [REDACTED], 2024.

**Fee and Expense Application:** 14 days prior to Objection/Exclusion Deadline:  
by [REDACTED], 2024.

**Deadline for Objections/Exclusions:** 60 days from the Notice Date,  
by [REDACTED], 2024.

**Final Approval Motion Filed:** 14 days prior to Final Approval Hearing,  
by [REDACTED], 2024.

**Final Approval Hearing:** [REDACTED], 2024 at [REDACTED] : [REDACTED] a.m./p.m.

**Claims Deadline:** 45 days after Final Approval,  
by [REDACTED], 2024.

**IT IS SO ORDERED.**

**DONE this[To be filled by the Judge].**

/s/[To be filled by the Judge]  
**CIRCUIT JUDGE**

PROPOSED ORDER