

THE HONORABLE JASON POYDRAS  
Department 18  
Noted for Motion: October 12, 2022  
Without Oral Argument

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
COUNTY OF KING

DOUGLAS PROUDLOVE, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

SEED CONSULTING, LLC, doing business as,  
SEED CAPITAL, CORP., ERIK GANTZ, KEVIN  
TUSSY, and DOES 1-10,

Defendants.

NO. 20-2-09220-7 SEA

**DECLARATION OF BLYTHE H. CHANDLER  
IN SUPPORT OF PLAINTIFF'S MOTION  
FOR PRELIMINARY APPROVAL**

I, Blythe H. Chandler, declare as follows:

**A. Background and experience.**

1. I am a member of the law firm of Terrell Marshall Law Group PLLC (Terrell Marshall), counsel of record for plaintiff in this matter. I am admitted to practice before this Court and am a member in good standing of the bar of the state of Washington. I respectfully submit this declaration in support of Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement. Except as otherwise noted, I have personal knowledge of the facts set forth in this declaration and could testify competently to them if called upon to do so.

1           2.       Terrell Marshall is a law firm in Seattle, Washington, that focuses on complex  
2 civil and commercial litigation with an emphasis on consumer protection, product defect, civil  
3 rights, and wage and hour cases. Terrell Marshall has been appointed lead or co-lead counsel  
4 representing multi-state and nationwide classes in state and federal court in Washington and  
5 throughout the United States. Since its founding in 2008, the attorneys at Terrell Marshall have  
6 represented scores of classes, tried class actions in state and federal court, and obtained  
7 hundreds of millions of dollars in monetary relief to workers, consumers, and other individuals.

8           3.       I joined Terrell Marshall in 2014 and became a member in 2018. I practice  
9 complex litigation with a focus on prosecution of consumer class actions. I have been appointed  
10 class counsel in cases challenging a wide range of unfair or deceptive practices, including debt  
11 collection practices. In 2010, I received my J.D. from the University of Washington School of  
12 Law with high honors, Order of the Coif. I served as Chief Articles Editor for the Washington Law  
13 Review. Before joining Terrell Marshall, I served as a law clerk to the Honorable Betty B.  
14 Fletcher, Senior United States Circuit Judge for the Ninth Circuit Court of Appeals, and to the  
15 Honorable John C. Coughenour, Senior United States District Judge for the Western District of  
16 Washington. I also served as a judicial extern to the Honorable Robert S. Lasnik, United States  
17 District Judge for the Western District of Washington. I co-authored chapters of the Consumer  
18 Protection Deskbook published by the Washington State Association for Justice (WSAJ) and  
19 have spoken on topics including use of experts and personal jurisdiction in class actions. I am a  
20 member of the Washington Employment Lawyers Association (WELA) Amicus Committee and  
21 currently co-chair WSJA's Consumer Protection Section. I was named to the 2020 Rising Star List  
22 by Washington Super Lawyers.

23           **B. Qualifications of other Terrell Marshall attorneys.**

24           4.       Beth E. Terrell is a founding member of Terrell Marshall. With over twenty years  
25 of experience, Ms. Terrell concentrates her practice in complex litigation, including the  
26 prosecution of consumer protection, defective product, and wage and hour class actions. Ms.  
27 Terrell has served as co-lead counsel on multi-state, multi-district, and nationwide class actions,

1 resulting in hundreds of millions of dollars in settlements for consumers and workers. Ms.  
2 Terrell also represents individual employees with wage and hour, workplace exposure, and  
3 discrimination claims. Ms. Terrell has tried and won cases in state and federal courts and  
4 argued before the Washington State Court of Appeals and the Washington State Supreme Court  
5 as well as several federal circuit level courts. Ms. Terrell served as the President of the Public  
6 Justice Foundation Board of Directors from July 2019 to July 2020, serves on the Equal Justice  
7 Works' Board of Counselors, and is Chair of both the Northwest Consumer Law Center and the  
8 Washington Employment Lawyers Association. A member of the State Bar of California and the  
9 Washington State Bar Association, Ms. Terrell Co-Chairs PLI's Consumer Financial Services  
10 Institute, and frequently presents on a wide variety of topics, including class actions, consumer  
11 protection, legal ethics, gender equity, and electronic discovery.

12 5. Amanda M. Steiner became a member of Terrell Marshall in 2015. She practices  
13 complex litigation, including the prosecution of consumer, defective product, wage and hour,  
14 and civil rights class actions. Ms. Steiner received her J.D. from the UC Berkeley School of Law in  
15 1997. Admitted in Washington, California, New York and Hawaii, she has authored briefs that  
16 have resulted in numerous favorable decisions for plaintiffs in high-profile and complex  
17 securities, antitrust, consumer and civil rights class action in federal and state courts  
18 throughout the United States. Ms. Steiner was selected for inclusion in the annual Northern  
19 California "Super Lawyers" list and was named to the Top 50 Women Lawyers of Northern  
20 California. She is a Fellow of the American Bar Foundation.

21 **C. Other cases litigated by Terrell Marshall.**

22 6. Examples of consumer protection class actions that Terrell Marshall is litigating  
23 or has litigated to successful completion include:

- 24 a. *Gold, et al. v. Lumber Liquidators, Inc.*—Filed in 2014 on behalf  
25 of a class of consumers who purchased defective flooring. The  
26 Northern District of California granted final approval of the  
27 settlement, valued at up to \$30 million, on October 22, 2020.

- 1 b. *Van Fleet v. Trion Worlds, Inc.*—Filed in 2015 on behalf of a  
2 nationwide class of online video game players deprived of a  
3 promised discount on purchases of virtual goods and who  
4 participated in an alleged illegal lottery. The San Mateo County  
5 Superior Court granted final approval of a \$420,000 settlement  
6 on June 1, 2020.
- 7 c. *Wornicki v. BrokerPriceOpinion.com*—Filed in 2013 on behalf of  
8 a nationwide class of people who provided home valuations,  
9 known as broker price opinions, but who were not paid for the  
10 opinions as promised. The District of Colorado granted final  
11 approval of a settlement of more than \$1.5 million on  
12 September 20, 2018.
- 13 d. *Jordan v. Nationstar Mortgage, LLC*—Filed in 2012 on behalf of  
14 Washington homeowners who were improperly locked out of  
15 their homes by their mortgage lender. The Eastern District of  
16 Washington granted final approval of a \$17 million settlement  
17 on May 2, 2019.
- 18 e. *Carrillo v. Wells Fargo Bank, N.A.*—Filed in 2018 on behalf of  
19 borrowers who allege Wells Fargo charged them interest rates  
20 on residential loans that were higher than the rates disclosed in  
21 the bank’s buydown agreements and closing disclosures. The  
22 case is currently pending in the Eastern District of New York.
- 23 f. *Long v. First Resolution Investment Corp.*—Filed in 2018 on  
24 behalf of Washington consumers against whom a debt buyer  
25 and its collection agency law firm obtained judgments when the  
26 debt buyer was not licensed as a collection agency. The King  
27 County Superior Court granted final approval of a settlement  
providing over \$20 million in debt relief and \$600,000 on  
August 28, 2020.

7. Examples of Fair Credit Reporting Act class actions that Terrell Marshall is  
litigating or has litigated to successful completion include:

- 22 a. *Gambles et al. v. Sterling Infosystems, Inc.*—Filed in 2015 on  
23 behalf of a nationwide class of consumers who were affected by  
24 Sterling’s inclusion of outdated adverse information on consumer  
25 reports. The Southern District of New York granted final approval  
26 to a \$15 million class settlement on September 23, 2020.
- 27 b. *Rosario v. Starbucks*—Filed in 2016 on behalf of job applicants who  
were affected by Starbucks' failure to provide notice before taking  
adverse action. On July 15, 2020, the Northern District of Georgia

1 granted final approval of the settlement which provides class  
2 members up to \$8 million in benefits.

3 c. *Leo v. Appfolio, Inc.*—Filed in 2017 on behalf of consumers who  
4 were affected by Appfolio’s matching procedures that resulted in  
5 incorrect information being included on consumer reports and  
6 Appfolio’s failure to provide consumers with required information  
7 about the sources any inaccuracies. The Western District of  
8 Washington granted final approval of the \$4.5 million settlement  
9 on July 18, 2019.

10 d. *Dougherty v. Barrett Business Services, Inc.*—Filed in 2016 on  
11 behalf of job applicants who were affected by BBSI’s failure to  
12 provide required disclosures before procuring criminal  
13 background reports. The Clark County Superior Court granted final  
14 approval of the \$1.5 million settlement on November 8, 2019.

15 e. *Terrell v. Costco Wholesale Corp.*—Filed in 2016 on behalf of  
16 applicants and employees who were affected by Costco’s failure  
17 to provide required disclosures before procuring criminal  
18 background reports. The King County Superior Court granted final  
19 approval of the \$2.49 million settlement on June 15, 2018.

20 f. *Connolly v. Umpqua Bank*—Filed in 2015 on behalf of applicants  
21 and employees who were affected by Umpqua’s failure to provide  
22 required disclosures before procuring criminal background  
23 reports and before taking adverse action based on such reports.  
24 The Western District of Washington granted final approval of the  
25 \$325,000 settlement on February 28, 2019.

26 8. Additional information about class actions litigated by Terrell Marshall is  
27 available on our website [www.terrellmarshall.com](http://www.terrellmarshall.com).

**D. The prosecution of this action.**

9. Plaintiff deposed Mr. Gantz, Mr. Tussy, and Seed’s former bookkeeper.

10. Defendants deposed Plaintiff and five other absent class members expected to  
testify at trial.

11. Plaintiff’s forensic accounting expert analyzed the financial records produced by  
defendants and third parties.

1           12.     After obtaining competing bids, Plaintiff selected CPT Group as the Class  
2 Administrator.

3           13.     Attached hereto as Exhibit 1 is a true and correct copy of the parties' Settlement  
4 Agreement and Release.

5           14.     Attached hereto as Exhibit 2 is a true of correct copy of the Postcard Notice of  
6 Settlement that will be mailed to class members.

7           15.     Attached hereto as Exhibit 3 is a true of correct copy of the Notice of Settlement  
8 that will be posted to the website.

9           16.     Attached hereto as Exhibit 4 is the Order Granting Plaintiff's Unopposed Motion  
10 for Final Approval of Class Action Settlement and Award of Attorneys' Fees, Costs and Service  
11 Award in *Strong v. Numerica Credit Union*, No. 17-2-01406-39 (Yakima Cnty. Sup. Ct. Feb. 14,  
12 2020) (awarding one-third of fund)).

13           17.     Attached hereto as Exhibit 5 is the Final Approval Order and Entry of Judgment in  
14 *Dougherty v. Barrett Business Servs., Inc.*, No. 17-2-05619-1 (Clark Cnty. Sup. Ct. Nov. 8, 2019)  
15 (awarding one-third of fund)).

16           18.     Attached hereto as Exhibit 6 is the Order Approving Award of Attorneys' Fees  
17 and Costs in *Terrell v. Costco Wholesale Corp.*, No. 16-2-19140-1 SEA (King Cnty. Sup. Ct. June  
18 19, 2018) (awarding one-third of fund).

19           19.     Class Counsel's attorneys' fee lodestar in this matter exceeds \$700,000. It is  
20 significantly higher than the requested fee award. Class Counsel will provide additional lodestar  
21 information with their motion for an award of reasonable attorneys' fees and costs.

22           20.     Plaintiff Douglas Proudlove has made significant efforts on behalf of the class. He  
23 assisted Class Counsel with our investigation of the claims, monitored the litigation for more  
24 than two years, and sat for a deposition.

25           21.     The parties participated in an unsuccessful mediation in March 2022 and  
26 ultimately resolved the matter through direct, but arm's length, negotiations after Defendants  
27 served Plaintiff with an offer of judgment.

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

EXECUTED at Seattle, Washington and dated this 10 October 2022.

By: /s/ Blythe H. Chandler, WSBA #43387  
Blythe H. Chandler, WSBA #43387

# **EXHIBIT 1**



## SETTLEMENT AGREEMENT & RELEASE

This Settlement Agreement and Release (the “Settlement Agreement”) is entered into by and between Plaintiff Douglas Proudlove, for himself and the Settlement Class Members (as defined below), and Defendants Seed Consulting LLC, Erik Gantz, and Kevin Tussy (collectively, “Defendants”). Plaintiff and Defendants are referred to collectively in this Settlement Agreement as the “Parties.”

### I. RECITALS

This Settlement Agreement is made with reference to and in contemplation of the following facts and circumstances:

1. On May 22, 2020, Plaintiff initiated a lawsuit, captioned *Proudlove v. Seed Consulting LLC*, No. 20-2-09220-7 SEA, against Defendant Seed in King County Superior Court. Plaintiff amended his complaint to add Defendants Gantz and Tussy on December 1, 2020.
2. The Court certified a class and sub-class in an order dated October 16, 2021.
3. Plaintiff alleges in the First Amended Complaint, on behalf of himself and the Class and Sub-Class, that Defendants violated Washington’s Credit Services Organization Act, 15 U.S.C. § 1692, *et seq.* (“CSOA”), and the Washington Consumer Protection Act, RCW 19.86.010, *et seq.* (“CPA”) because Seed acted as credit services organization but failed to comply with all requirements of the CSOA, and because Seed’s entire business model was unfair or deceptive to consumers. Plaintiff alleges that Gantz and Tussy are personally liable for Seed’s unfair or deceptive conduct.
4. Defendants deny all claims asserted in the Action. Defendants also deny all allegations of wrongdoing and liability in this Action. Defendants seek to settle this Action for the sole purpose of avoiding the burden and expense of continuing to litigate this Action.
5. The Parties and their counsel have conducted investigations of the facts and law underlying the claims asserted in this Action. In addition, the Parties and their counsel have conducted extensive discovery, including written discovery and depositions. The Parties and their counsel have also conducted a thorough assessment of the strengths and weaknesses of their respective cases.
6. The Parties and their counsel have engaged in arm’s-length negotiations concerning settlement of the claims asserted in the Action, including participating in private mediation with The Honorable Betsy Gonzalez (Ret.), an experienced judge and mediator.
7. Plaintiff and Class Counsel have concluded, based upon their investigation and thorough assessment, and taking into account Defendants’ defenses, the expense and time necessary to continue to litigate the Action through trial and post-judgment collection, the risks

and costs associated with any further proceedings and potential appeals, and the substantial benefits to be received pursuant to this Settlement Agreement, that a settlement with Defendants and the terms of this Settlement Agreement are fair and reasonable, as well as in the best interest of Plaintiff and the Settlement Class Members.

8. Plaintiff, on behalf of himself and the Settlement Class Members, and Class Counsel agree to the terms of this Settlement Agreement and to have judgment entered without trial or adjudication of any factual or legal issue other than those already resolved by the Court. Plaintiff and Class Counsel also agree that this Settlement Agreement, including any of its exhibits, does not constitute any evidence against, or any admission by Defendants.

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

## II. DEFINITIONS

In addition to the terms defined in other Sections of this Settlement Agreement, the following defined terms apply to this Settlement Agreement and its exhibits:

9. “Class Administrator” means the third-party selected by Class Counsel to prepare and send notice to the Classes and to administer the Settlement, including issuing payments to eligible Settlement Class Members.

10. “Class Counsel” means the law firms of Terrell Marshall Law Group, PLLC; Leonard Law; and the Law Office of Paul Arons.

11. “Class Member” means a member of the Class and Subclass defined in the Court’s order granting class certification who did not submit a request for exclusion from the Class on or before February 28, 2022:

**Umbrella Class:** All Washington residents who signed an agreement with Seed Capital in substantially the form of Exhibit A to the First Amended Complaint, paid any money to Seed Capital, and received only consumer credit cards or lines of credit as a result of Seed Capital’s services, at any time starting four years preceding the filing of this action.

**Response Marketing Sub-class:** All persons in the Umbrella Class who purchased Seed Capital’s services in connection with a program operated by Response Marketing Group or any related entity.

12. “Court” means the King County Superior Court.

13. "Effective Date" means the fifth day after the later of the following events:
  - a. The final disposition of any appeals from or review of the Final Approval Order; or
  - b. In the case of no appeal or review being filed, expiration of the applicable appellate period.
14. "Final Approval Hearing" means the hearing held by the Court to determine whether to finally approve the Settlement, and whether to approve Class Counsel's requested fees and expenses and the amount of the service awards to Plaintiff.
15. "Final Approval Order" means the order and judgment that the Court enters after finally approving the Settlement.
16. "Notice" means the notice that will be mailed to Class Members pursuant to Section VII.3 of this Settlement Agreement.
17. "Notice Plan" means the proposed plan of sending notice to the Settlement Class of the proposed Settlement as set forth in Section VII.3 of this Settlement Agreement.
18. "Objection Deadline" means 45 calendar days from the Settlement Notice Date.
19. "Opt-Out Deadline" means 45 calendar days from the Settlement Notice Date.
20. "Preliminary Approval Order" means the order that the Court enters upon preliminarily approving the Settlement.
21. "Released Claims" means all claims to be released as set forth in Section XI.2 of this Settlement Agreement.
22. "Released Parties" means Defendants Seed Consulting, LLC, Erik Gantz, and Kevin Tussy.
23. "Releasing Parties" means the named Plaintiff and members of the Classes to whom the Notice is mailed and who do not exercise their right to opt out.
24. "Settlement" means the settlement contemplated by this Settlement Agreement.
25. "Settlement Award" means a cash payment that may be available to eligible Settlement Class Members.
26. "Settlement Class Members" means all persons in the Classes who do not request to be excluded from this Settlement.

27. “Settlement Fund” means the total cash sum of \$1,575,000 to be paid by Defendants pursuant to Section III of this Settlement Agreement. Once established, the full Settlement Fund will be maintained in an escrow account managed by the Class Administrator. The Class Administrator will act in accordance with the terms of this Settlement Agreement, the orders of the Court, and the directions of Class Counsel.

28. “Settlement Notice Date” means the date the Notices are sent pursuant to the Notice Plan.

29. “Settlement Website” means the website that will be established and maintained by Class Counsel as set forth in this Settlement Agreement.

### III. SETTLEMENT CONSIDERATION

30. Notice of Settlement. Upon full execution of this Agreement, the Parties shall jointly notify the Court that they have reached an agreement to resolve this matter, subject to funding as set forth below.

31. Settlement Fund. Defendants shall pay \$1,575,000 in full and complete satisfaction of all obligations under this Settlement. The Settlement Fund shall be non-reversionary. The Settlement Fund shall be allocated to Settlement Awards, a service award to Plaintiff, attorneys’ fees and costs, and settlement administration expenses, in amounts to be determined by Class Counsel, and subject to approval by the Court.

32. Payment. Within fourteen (14) calendar days from the date this Settlement Agreement is executed, Defendants will deposit 50% of the Settlement Fund (\$787,500) (the Settlement Fund Deposit) into the trust account of Mix Sanders Thompson, PLLC to be held in trust for the benefit of the Class. Advance payment pursuant to this Paragraph 32 is a material term of and a condition precedent to this Settlement Agreement being enforceable. Within sixty (60) calendar days from the date this Settlement Agreement is executed, Defendants will deposit the other half of the Settlement Fund (\$787,500) with the Class Administrator (to be timely identified by Class Counsel). Within five (5) days of Class Counsel filing a motion for preliminary approval, Mix Sanders Thompson, PLLC will transfer the Settlement Fund Deposit to the Class Administrator.

33. Separate Payment of Fee Award. Within three (3) days of the date this Settlement Agreement is executed, Defendants agree to separately pay Class Counsel \$12,438 above and beyond the Settlement Fund to satisfy the Court’s September 6, 2022 Order Granting [sic] Determining Amount of Fee Award Regarding Plaintiff’s Motion for Sanctions.

34. Security of Defendants’ Payment Obligations. Defendants’ payment obligations under this Settlement Agreement are joint and several. Each Defendant agrees, as a material term to this Settlement Agreement, to execute a Confession of Judgment, in the form attached

as Ex. A to this Settlement Agreement. By their signatures below, Defendants waive all defenses to enforcement of any judgment entered as provided herein, in any state or federal court in the United States of America, including all defenses of personal jurisdiction.

35. Defendants Will Not File for Bankruptcy or Receivership. Defendants affirm that, prior to fulfilling the terms and conditions under this Agreement, they shall not file any claim for protection from creditors under the United States bankruptcy laws or for similar protection under any state's bankruptcy or receivership laws. If any Defendant files a Petition for Bankruptcy prior to the expiration of 90 days from the date of making all payments due under this Settlement Agreement, Plaintiff may, at his option, void this Agreement.

36. Distributions to Settlement Class Members. Each Settlement Class Member for whom the Class Administrator has a deliverable address (which shall be determined based on whether the Notice is returned undeliverable) shall be paid a single Settlement Award of their pro-rata share of the Settlement Fund based on the total amount they paid in fees.

37. Unclaimed Settlement Funds. Settlement Award checks that are not cashed within 90 days after the issue date on the check shall be voided.

38. Cy pres Award. If there are undistributed amounts remaining in the Settlement Fund after the check-cashing period described in the preceding paragraph and a second distribution is not administratively feasible, the parties agree that these amounts shall be paid to *cy pres* recipients as follows:

- a. 50% to the Legal Foundation of Washington; and
- b. 50% to the Northwest Consumer Law Center.

39. Prospective Relief. As additional consideration, Defendants agree to the following injunctive relief, which shall be included in the Preliminary and Final Approval Orders:

- a. Neither Erik Gantz nor Kevin Tussy shall ever offer or provide to Washington consumers any service involving the submission of consumer credit applications in the consumer's name, nor shall Erik Gantz or Kevin Tussy be an officer or employee of any business offering any service involving the submission of consumer credit applications in consumers' names to consumers in Washington.

#### **IV. AWARDS TO PLAINTIFF AND ATTORNEYS' FEES AND COSTS**

37. Payment to Plaintiff. Plaintiff may move the Court for a service award for his time and effort in connection with this Action. Plaintiff will ask the Court to approve a service award in an amount of not more than \$10,000. The Class Administrator shall issue any approved service award from the Settlement Fund to Plaintiff within two (2) days after the Effective Date.

38. Litigation Expenses and Attorney's Fees. Class Counsel will move the Court for an award of reasonable attorneys' fees and expenses to be paid from the Settlement Fund. Class Counsel will file their motion for an award of attorneys' fees, costs, and service awards to Plaintiff within 30 days of the Settlement Notice Date. Class Counsel shall either directly or indirectly post on the Settlement Website Class Counsel's motion for an award of fees, costs, and service awards within one business day after it is filed with the Court. The Class Administrator shall issue the award of attorneys' fees and expenses from the Settlement Fund to Class Counsel within two (2) days after the Effective Date.

## **VI. PRELIMINARY APPROVAL**

39. Motion for Preliminary Approval. Within thirty (30) days of the execution of this Agreement, Plaintiff will move the Court for entry of an order granting preliminary approval of the settlement and authorizing notice of the Settlement to the Class.

## **VII. ADMINISTRATION AND NOTICE**

40. Class Administrator. The Class Administrator shall be responsible for administration of this Settlement. The Class Administrator shall be allowed to communicate freely with the Parties' counsel, and will provide updates on a monthly basis to and as requested by the Parties' counsel.

41. Payment of Administration and Notice. All costs of administering this Settlement will be paid from the Settlement Fund.

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

- a. The Class Administrator will provide individual Notice through:
  - i. U.S. mail to the most recent address for each Settlement Class Member reflected in the records produced by Defendants in this Action, and corrected through the National Change of Address or equally reliable database.
  - ii. For each Notice returned undeliverable, the Class Administrator shall complete at least one advanced address search or skip trace and re-mail the notice to any new address identified for a Class Member. The Class Administrator may perform additional address searches at the direction of Class Counsel.

- iii. Email to the last known email address for each Settlement Class Member.
  
- b. Settlement Website. Within fourteen (14) calendar days from entry of the Preliminary Approval Order, Class Counsel will also establish and maintain the Settlement Website, which will display, at a minimum, the operative Complaint, Notice, this Settlement Agreement, opt-out form, the class certification order, and the Preliminary Approval Order. Within one business day after Class Counsel files a motion for an award of attorneys' fees, costs and service award to Plaintiff, that motion will also be displayed on the Settlement Website.

### **VIII. OPT-OUT PROCESS**

43. Opt-Out Requirements. Individuals in the Class may exclude themselves from the Settlement by advising the Class Administrator in writing no later than the Opt-Out Deadline that they do not want to be a class member. All such writings must include the name and address of the individual opting out and be postmarked no later than the Opt-Out Deadline. All persons in the Class will be bound by this Settlement and judgments of this Court in this Action unless they exclude themselves in writing by the Opt-Out Deadline. If more than 50 class members opt out of the Settlement, Defendants shall have the right, but not the obligation, to terminate this Agreement.

44. Retention of Opt-Outs. The Class Administrator will retain a copy of all opt-out requests and will provide copies to the Parties' counsel upon request.

### **IX. OBJECTIONS**

45. Right to Object. Any Settlement Class Member who desires to object to the fairness of this Settlement must file a written objection with the Court by the Objection Deadline. The written objection must provide the objector's name, address, and telephone number, and the reason(s) for the objection. If a Class Member submits both an opt-out and an objection to the settlement, the opt-out will be honored and will invalidate the objection.

46. Right to Appear at Final Approval Hearing. Anyone who properly objects, as described herein, may appear at the Final Approval Hearing, including through an attorney hired at the objector's expense. Such objectors or their attorneys intending to appear at the Final Approval Hearing should file a notice of appearance with the Court no later than ten (10) days before the Final Approval Hearing.

### **X. FINAL APPROVAL**

47. Declaration of Notice by Class Administrator. Not later than twelve (12) judicial days before the Final Approval Hearing, the Class Administrator shall provide to the Parties'

counsel a declaration stating that the Notice required by this Settlement Agreement has been completed pursuant to the Preliminary Approval Order.

48. Motion for Final Approval Order. After completion of the Notice Plan and the expiration of the Opt-Out and Objection Deadlines, and no later than nine (9) judicial days before the Final Approval Hearing, Class Counsel shall move the Court to enter the Final Approval Order. Class Counsel's motion will address any valid objections, and Defendants' counsel may, but is not required to, file an additional memorandum in response.

49. Final Approval Order. This Settlement Agreement is subject to and conditioned upon the issuance by the Court of a Final Approval Order that grants approval of this Settlement and:

- a. Finds that the notice under the Notice Plan satisfies the requirements of Due Process and CR 23;
- b. Finds that the Settlement Agreement is fair, reasonable, and adequate to the Settlement Class Members;
- c. Finds that Plaintiff and Class Counsel have adequately represented the Settlement Class Members;
- d. Finds that each Settlement Class Member shall be bound to this Settlement Agreement, including the release and covenant not to sue in Section XI;
- e. Approves this Settlement;
- f. Dismisses on the merits with prejudice all claims of the Settlement Class Members asserted in this Action; and
- g. Retains jurisdiction of all matters relating to the administration, implementation, interpretation, and enforcement of this Settlement.

#### **XI. RELEASE OF CLAIMS**

50. Release. As of the Effective Date, Plaintiff and each Settlement Class Member, their respective heirs, executors, administrators, representatives, agents, attorneys, partners, affiliates, successors, predecessors-in-interest, and assigns hereby release, resolve, relinquish, and discharge forever each of the Released Parties and their respective directors, officers, employees, heirs, executors, administrators, representatives, agents, attorneys, partners, affiliates, successors, parents, subsidiaries, predecessors-in-interest, insurers, and assigns from each of the Released Claims as defined below.



51. Released Claims. The Releasing Parties release all claims based on claims certified by the Court.

## **XII. TERMINATION OF AGREEMENT**

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

- a. The Court rejects, materially changes or modifies, or declines preliminary or final approval of the Settlement Agreement. A material change or modification shall include a change to the Settlement Proceeds, the Released Claims, or injunctive relief;
- b. An appellate court reverses the Final Approval Order;
- c. The Effective Date does not occur; or
- d. A party, its counsel or the Class Administrator breaches the terms of this Settlement Agreement prior to the Effective Date.

## **XIII. NO ADMISSION OF LIABILITY**

53. Denial of Liability. Defendants deny any liability or wrongdoing of any kind in connection with the claims alleged in this Action. Defendants have denied and continue to deny each and every material factual allegation in this Action. Nothing in this Settlement Agreement or acts performed in furtherance of this Settlement Agreement shall constitute an admission by Defendants of wrongdoing or liability in this Action. Nothing in this Settlement Agreement or acts performed in furtherance of this Settlement Agreement shall constitute an admission by Defendants of the truth of any factual allegations in this Action. While Defendants deny any liability, they have concluded that further litigating this Action would be expensive and waste time and resources. Thus, Defendants have concluded that it is desirable to fully and finally settle this Action.

54. Washington Rule of Evidence 408. Pursuant to ER 408, this Settlement Agreement and any related documents filed or created in connection with this Settlement Agreement shall be inadmissible as evidence in any proceeding, except as necessary to approve, interpret, or enforce this Settlement Agreement.

## **XIV. GENERAL PROVISIONS**

55. Entire Agreement. This Settlement Agreement and its exhibits constitute the entire agreement between the Parties.

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

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

58. Authority. Each person executing this Settlement Agreement on behalf of any of the Parties hereto represents that such person has the authority to so execute this Settlement Agreement.

59. No Oral Modifications. This Settlement Agreement may not be amended or modified in any manner except by a writing signed by Defendant and Class Counsel, and approved by the Court.

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

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

62. Severability; Severance. In the event that any portion of this Agreement is held to be invalid or unenforceable for any reason, it is hereby agreed that such invalidity or unenforceability shall not affect the other portions of this Agreement and that the remaining covenants, terms and conditions or portions hereof shall remain in full force and effect, and any court of competent jurisdiction may so modify the objectionable provision as to make it valid, reasonable and enforceable.

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

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

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

As to Plaintiff and Settlement Class Members:

TERRELL MARSHALL LAW GROUP PLLC  
Beth E. Terrell  
Email: bterrell@terrellmarshall.com  
Blythe H. Chandler  
Email: bchandler@terrellmarshall.com  
936 North 34th Street, Suite 300  
Seattle, Washington 98103-8869  
Telephone: (206) 816-6603  
Facsimile: (206) 319-5450

As to Defendants:

MIX SANDERS THOMPSON, PLLC  
Michael G. Sanders  
Email: michael@mixsanders.com  
1420 Fifth Avenue, Suite 2200  
Seattle, Washington 98101  
Telephone: (206) 521-5989  
Facsimile: (888) 521-5980

MARQUIS AURBACH  
Collin M. Jayne  
Email: cjayne@maclaw.com  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Telephone: (702) 207-6095

*Attorneys for Defendant Erik Gantz*

BULLIVANT HOUSER BAILEY PC  
Matthew R. Wojcik  
Email: Matt.wojcik@bullivant.com  
Mary Butler  
Email: Mary.butler@bullivant.com  
925 4th Avenue, Suite 3800  
Seattle, Washington 98104  
Telephone: (206) 292-8930  
Facsimile: (206) 386-5130

*Attorneys for Defendant Kevin Tussy*

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

DOUGLAS PROUDLOVE

By: Douglas Proudlove  
Plaintiff

9-29-2022  
Date

KEVIN TUSSY

By: \_\_\_\_\_  
Defendant

\_\_\_\_\_  
Date

ERIK GANTZ

By: \_\_\_\_\_  
Defendant

\_\_\_\_\_  
Date

SEED CONSULTING LLC

By: \_\_\_\_\_  
Defendant  
By Erik Gantz

\_\_\_\_\_  
Date

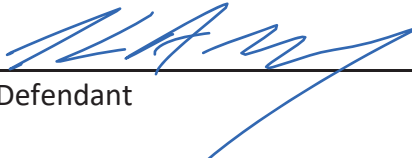
IN WITNESS HEREOF the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below.


DOUGLAS PROUDLOVE

By: \_\_\_\_\_  
Plaintiff

\_\_\_\_\_  
Date

KEVIN TUSSY

By:   
Defendant

  
Date

ERIK GANTZ

By: \_\_\_\_\_  
Defendant

\_\_\_\_\_  
Date

SEED CONSULTING LLC

By: \_\_\_\_\_  
Defendant  
By Erik Gantz

\_\_\_\_\_  
Date

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

DOUGLAS PROUDLOVE

By: \_\_\_\_\_  
Plaintiff

\_\_\_\_\_  
Date

KEVIN TUSSY

By: \_\_\_\_\_  
Defendant

\_\_\_\_\_  
Date

ERIK GANTZ

By: \_\_\_\_\_  
Defendant

9/28/22  
\_\_\_\_\_  
Date

SEED CONSULTING LLC

By: \_\_\_\_\_  
Defendant  
By Erik Gantz

9/29/22  
\_\_\_\_\_  
Date

## **EXHIBIT 2**

**COURT AUTHORIZED LEGAL NOTICE**

**YOU MAY BE ENTITLED TO A**

**PAYMENT. THIS IS NOT A COLLECTION**

**NOTICE.**

If at any time since May 22, 2016, you paid any money to Seed Capital and received consumer credit cards or lines of credit as a result of their services, you may be entitled to a payment from a class action settlement in a case titled *Proudlove v. Seed Consulting, LLC, et al.*, No. 20-2-09220-7 SEA

**For more information about the claims in the case and the Settlement, visit the settlement website at [www.terrellmarshall.com/proudlove-v-seed-capital/](http://www.terrellmarshall.com/proudlove-v-seed-capital/).**

The Settlement creates a \$1,575,000 Settlement Fund to be used to pay awards to Class Members, service award to the Class Representative (up to \$10,000), attorneys' fees and costs (up to \$519,750), and settlement administration costs.

**Class Administrator**

[Street address]

[City, St, Zip]

*Return Service Requested*

«First1» «Last1»

«CO»

«Addr2»

«Addr1»

«City», «St» «Zip»

«Country»



**Who is a Class Member?** You are in the Class if you signed an agreement and paid any money to Seed Capital and received only consumer credit cards or lines of credit as a result of Seed Capital's services at any time on or after May 22, 2016. You may also be in the Response Marketing Sub-class if you purchased Seed Capital's services in connection with a training program operated by Response Marketing Group.

**Settlement Awards:** Your estimated settlement award amount is **\$ADD**.

### **YOUR RIGHTS AND OPTIONS**

**Do Nothing. Stay in the Lawsuit. Be eligible for settlement benefits. Give up certain rights.**

If you do nothing, you will get money from the settlement, but you give up any rights to sue Defendants Seed Consulting, LLC, Erik Gantz, and Kevin Tussy, for the same or similar legal claims based on the same set of facts as those alleged in this lawsuit. You do not have to file a claim to get a payment. If you have questions about the law firms representing the Class or other details of the settlement, or to update your address, visit the settlement website at [www.terrellmarshall.com/proudlove-v-seed-capital](http://www.terrellmarshall.com/proudlove-v-seed-capital).

**Ask to be Excluded by [DATE]. Opt-out of this lawsuit. Get no benefits from it. Keep rights.**

If you exclude yourself, you will not be eligible to receive any money or benefits that come from the settlement and you may not object. This is the only option that allows you to be part of any other lawsuit against Defendants about the legal claims in this case. For more information about opting out of the lawsuit, visit the settlement website at [www.terrellmarshall.com/proudlove-v-seed-capital](http://www.terrellmarshall.com/proudlove-v-seed-capital).

**Object to the Settlement by [DATE]. Stay in this lawsuit. File a written objection to the settlement with the Court.**

If you disagree with any part of the Settlement Agreement, you may file a written objection with the Court, which will be considered at the Final Approval Hearing. If you file an objection, you may not exclude yourself from the settlement. For specific instructions on how to file an objection, visit the settlement website.

**Attend the Final Approval Hearing. The hearing is scheduled for January 13, 2023 at 1 p.m. Any changes will be posted on the settlement website.**

YOU ARE NOT REQUIRED TO ATTEND THE HEARING TO RECEIVE BENEFITS FROM THE SETTLEMENT. For instructions on how to file a request to speak at the hearing, visit the settlement website at [www.terrellmarshall.com/proudlove-v-seed-capital](http://www.terrellmarshall.com/proudlove-v-seed-capital).

**This Notice is only a summary. Details about the lawsuit can be found on the website: [www.terrellmarshall.com/proudlove-v-seed-capital](http://www.terrellmarshall.com/proudlove-v-seed-capital). Please do not contact the Court.**

## **EXHIBIT 3**

SUPERIOR COURT OF THE STATE OF WASHINGTON, COUNTY OF KING  
*Proudlove v. Seed Consulting, LLC, et al.,*  
Case No. 20-2-09220-7 SEA

**If you paid any money to Seed Capital and received consumer credit cards or lines of credit as a result of Seed’s services at any time after May 22, 2016, while residing in the state of Washington, you may be entitled to benefits from a class action settlement.**

*A Washington State court authorized this notice.*

*This is not a solicitation from a lawyer and it is not a lawsuit against you. This is not an attempt to collect a debt.*

- Defendants have agreed to establish a \$1,575,000 fund from which class members will receive cash awards. The fund will also be used to pay court-ordered settlement administration expenses, service awards, and attorneys’ fees and costs.
- The settlement resolves a lawsuit claiming that Defendants Seed Consulting, LLC, dba Seed Capital, Corp., Erik Gantz, and Kevin Tussy, (collectively referred to in this notice as “Defendants”) violated Washington’s Credit Services Organization Act, 15 U.S.C. § 1692, *et seq.* (“CSOA”), and the Washington Consumer Protection Act, RCW 19.86.010, *et seq.* (“CPA”) because Seed acted as credit services organization but failed to comply with all requirements of the CSOA, and because Seed’s business model was unfair or deceptive to consumers.
- The Defendants do not admit to any wrongdoing and deny the allegations in Plaintiff’s lawsuit.
- The Court presiding over the case authorized this notice of the settlement to the Class and will decide whether the proposed settlement should ultimately be approved.
- Court-appointed lawyers for the Class (“Class Counsel”) will ask the Court for a payment of up to **\$519,750** from the fund for their attorneys’ fees and expenses.
- The two sides disagree on whether Plaintiff and the Class would have won at trial.
- Your estimated share of the Settlement Fund, if you do not exclude yourself, is included on the postcard notice sent to you. Please note, the amount included in the postcard notice is an estimate. The final amount may be different. Your legal rights are affected whether you act or not. Please read the information on this website carefully.
- Your options are explained in this notice. To ask to be excluded, you must act **by DATE.**
- **Any questions? Read on, view the full Settlement Agreement [here](#) or call 1-855-349-7023 toll-free.**

## YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

<p><b>DO NOTHING</b></p>	<p><b>Stay in this lawsuit. Be eligible for settlement benefits. Give up certain rights.</b></p> <p>By doing nothing, you will receive a payment from the settlement, but you give up any rights to sue the Defendants separately about the same or similar legal claims in this lawsuit. You do not have to file a claim to receive payment. If you did not receive a postcard but think you are in the Class, please call <b>1-855-349-7023</b>.</p>
<p><b>EXCLUDE YOURSELF BY DATE.</b></p>	<p><b>Get out of this lawsuit. Get no benefits from it. Keep rights to sue.</b></p> <p>If you exclude yourself, you will not be eligible to receive any money or benefits that come from the settlement and you may not object. But you keep any rights to sue Defendants separately about the same legal claims in this lawsuit.</p>
<p><b>OBJECT BY DATE.</b></p>	<p><b>Stay in this lawsuit. File a written objection to the settlement with the Court.</b></p> <p>If you disagree with any part of the Settlement Agreement, you may file a written objection with the Court, which will be considered at the Final Approval Hearing. If you file an objection, you may not exclude yourself from the settlement. If the settlement is approved, you will be bound by the Settlement Agreement and you give up rights to sue Defendants separately about the same or similar legal claims in this lawsuit, but you will still be eligible to receive money and benefits that come from the settlement.</p>
<p><b>ATTEND A HEARING ON JANUARY 13, 2023 AT 1 P.M.</b></p>	<p><b>Attend the final approval hearing and ask the Court to speak.</b></p> <p>If you do not exclude yourself, you may ask to speak to the Court about the fairness of the settlement.</p>

## BASIC INFORMATION

### 1. What is this website about and why should I read it?

The purpose of this website is to let you know that a proposed settlement has been reached in the class action lawsuit titled *Proudlove v. Seed Consulting, LLC, et. al.*, Case No. 20-2-09220-7 SEA. Judge Jason Poydras of the King County Superior Court preliminarily approved the proposed settlement. You have legal rights and options that you may act on before the Court decides whether to grant final approval of the proposed settlement. Because your rights will be affected by this settlement, it is important that you read the information on this website carefully.

### 2. Why did I get this notice?

Defendants' records show that, while you lived in the state of Washington, you paid money to Seed Capital and received only consumer credit cards as a result of their services during the class period (from May 22, 2016 to the present).

### 3. What is this lawsuit about?

In a class action lawsuit, one or more people called "Class Representatives" (in this case Douglas Proudlove) sue on behalf of other people who the Plaintiff alleges have similar claims. The people together are called a "Class" or "Class Members." The individual who sued is called "Plaintiff." The companies and the individuals Plaintiff sued (in this case Seed Consulting, LLC, dba Seed Capital, Corp., Erik Gantz, Kevin Tussy, and Does 1-10) are called the "Defendants." Defendants are represented by Mix Sanders Thompson, PLLC of Seattle, Washington, Bullivant Houser Bailey PC of Seattle, Washington, and Marquis Aurbach Coffing of Las Vegas, Nevada. The King County Superior Court will resolve the issues for everyone in the Class—except for those people who choose to exclude themselves from the Class.

The Plaintiff claims the Defendants, Seed Consulting, LLC, dba Seed Capital Corp., Erik Gantz, and Kevin Tussy violated Washington's Credit Services Organization Act, 15 U.S.C. § 1692, *et seq.* ("CSOA"), and the Washington Consumer Protection Act, RCW 19.86.010, *et seq.* ("CPA") because Seed acted as credit services organization but failed to comply with all requirements of the CSOA, and because Seed's entire business model was unfair or deceptive to consumers.

The Court has certified the Class. Judge Jason Poydras is in charge of this class action.

Defendants deny the claims and deny that they have violated state law but have agreed to a settlement.

## THE SETTLEMENT

#### 4. Why is there a settlement?

The Court did not decide in favor of the Plaintiff or Defendants. Instead, both sides agreed to a settlement. This avoids the cost and risk of a trial, and the people affected will benefit now from the settlement. The Plaintiff and their attorneys think the settlement is best for all Class Members under the circumstances. Defendants have not admitted fault or that they violated any laws, but Defendants agree that a settlement is in all parties' best interests.

### WHO IS IN THE SETTLEMENT?

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

You are a member of the Umbrella Class if you signed an agreement and paid any money to Seed Capital and received only consumer credit cards as a result of Seed Capital's services at any time on or after May 22, 2016.

You may also be in the Response Marketing Sub-class if you purchased Seed Capital's services in connection with a program operated by Response Marketing Group. All members of the Class and Response Marketing Sub-class will be paid back the same percentage of fees they paid to Seed.

The Settlement Classes do not include any persons who validly request exclusion from the Settlement, as described under Question 11.

If you have questions about whether you are a part of the Class, you may call 1-855-349-7023.

### THE SETTLEMENT BENEFITS – WHAT YOU GET

#### 6. What does the settlement provide?

The settlement requires Defendants to establish a Settlement Fund in the amount of \$1,575,000 that will be used to pay Settlement Awards to Class Members, a service award of no more than \$10,000, total, to the Class Representative, up to \$519,750 in attorneys' fees and costs, and settlement administration costs estimated at \$10,000, subject to Court approval. If the Court awards anything less than the amounts requested for service awards, or attorneys' fees and costs, then the difference shall be allocated to payment of Settlement Awards.

In addition to monetary relief, the Settlement requires Defendants to provide the following injunctive relief:

- a. Neither Erik Gantz nor Kevin Tussy shall ever offer or provide to Washington consumers any service involving the submission of consumer

credit applications in the consumer's name, nor shall Erik Gantz or Kevin Tussy be an officer or employee of any business offering any service involving the submission of consumer credit applications in consumers' names to consumers in Washington.

A list of important dates and deadlines regarding this Settlement can be found [here](#).

## 7. Will I receive a payment and how much will it be?

Settlement Class Members for whom the Class Administrator has a deliverable address will be sent a check comprised of their Settlement Award. Class Members will receive a portion of the fee they each paid Seed. The estimated average payment will be \$1,980. Your estimated award amount is listed on your postcard notice.

These are estimates. Your estimated share of the Settlement Fund may increase or decrease depending on factors such as, but not limited to, the outcome of any challenge by Class Members to the settlement and the number of Class Members who effectively exclude themselves from the settlement.

Settlement Award checks that are not cashed within 90 days after the issue date on the check will be voided.

If you request to be excluded from the settlement, you will not receive any payment from the settlement.

## HOW YOU GET A PAYMENT

### 8. How can I get a payment?

If you received a postcard notice and are eligible for a Settlement Award, you will automatically be sent your payment. **You do not need to submit a claim form or contact anyone unless you need to update your mailing address.** If you did not receive a postcard notice but believe you are in the Class, you must call 1-855-349-7023 to update your address.

### 9. When will I get my payment?

The Court will hold a hearing on January 13, 2023, to decide whether to finally approve the settlement. If the hearing date changes, this website will be updated. If the Court approves the settlement, the parties will then have to wait up to 30-days to see whether there is an appeal. An appeal can take up to a year or more to resolve. In the event of an appeal, information about the appeal's progress will be posted on this website.

If there is no appeal, Class Counsel expect the payments to be mailed within **sixty-five** days of the Court’s approval of the settlement.

**10. What am I giving up to receive a benefit?**

Unless you exclude yourself, you will be part of the Class. That means you may not sue, continue to sue, or be part of any other lawsuit against Seed Consulting, LLC, Seed Capital, Erik Gantz, Kevin Tussy, or related entities regarding claims **that are the same or similar to the ones in this lawsuit**. It also means that all of the Court’s orders will apply to you and legally bind you.

The Settlement Agreement (available **here**) describes the claims you are releasing (the “Released Claims”) and against whom you are releasing claims (the “Released Parties”) in detail, so read it carefully. To summarize, the Release includes all claims under the Washington Consumer Protection Act and Credit Services Organization Act based on money you paid to Seed for its services. If you are currently involved in another lawsuit against one of the Defendants in this lawsuit, or contemplating filing such a lawsuit, you should consult with your own attorney to determine whether you need to opt out of this settlement.

**EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you don’t want a payment from this settlement, but you want to keep the right to sue or continue to sue one or more of the Defendants in a different case, then you must remove yourself from the Class. This is called excluding yourself – or “opting out” – of the settlement.

**11. How do I exclude myself from the settlement?**

You may exclude yourself from this settlement by mail, or on-line. To exclude yourself by mail, you must send a written letter to the Class Administrator at the address provided below. Your opt-out request must include your name and address and should state that you do not want to be a Class Member. Opt-out requests must be postmarked on or before the Opt-out deadline: **\_\_\_\_\_**.

Opt-out requests may be mailed to:

**ADMINISTRATOR NAME**  
**STREET ADDRESS**  
**CITY, STATE ZIP**

If you ask to be excluded, you will not get any payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in the lawsuit. You may be able to sue (or continue to sue) Defendants in the future.

**12. If I don’t exclude myself, can I sue Seed Consulting, LLC for the same things later?**



No. Unless you exclude yourself, you give up any right to sue Defendants for the claims that this settlement resolves. If you already have a lawsuit relating to Defendants, you should speak to your lawyer in that case immediately. You must exclude yourself from the Class to continue your own lawsuit based on the same facts in this case. The exclusion deadline is **XXXXXXX, 2022**.

**13. If I exclude myself, can I get anything from this settlement?**

No. You will not receive any monetary benefits if you exclude yourself and additional settlement benefits described in section 6 will not apply to you.

**THE LAWYERS REPRESENTING YOU**

**14. Do I have a lawyer in this case?**

The Court has decided that the Law Office of Paul Arons, Leonard Law, and Terrell Marshall Law Group PLLC are qualified to represent you and all Class Members. Together the lawyers are called “Class Counsel.”

**The lawyers representing the Class are:**

Paul Arons  
LAW OFFICE OF PAUL ARONS  
685 Spring Street, #104  
Friday Harbor, Washington 98250  
<https://aronsconsumerlaw.com/>

Sam Leonard  
LEONARD LAW  
3614 California Avenue SW, #151  
Seattle, Washington 98116  
<https://www.seattledebtdefense.com/>

Beth E. Terrell  
Blythe H. Chandler  
TERRELL MARSHALL LAW GROUP PLLC  
936 North 34th Street, Suite 300  
Seattle, Washington 98103  
[www.terrellmarshall.com](http://www.terrellmarshall.com)

More information about Law Office of Paul Arons, Leonard Law, and Terrell Marshall Law Group PLLC, their practices, and their lawyers’ experience is available at <https://www.seattledebtdefense.com/>, <https://aronsconsumerlaw.com/>, and [www.terrellmarshall.com](http://www.terrellmarshall.com).

You will not be separately charged for these lawyers; they will be compensated for their time and reimbursed for their costs out of the Settlement Fund in whatever amounts are approved by the Court. If you want your own lawyer, you may hire one at your own expense.

## 15. How will the lawyers be paid?

Class Counsel will ask the Court to approve payment of up to \$519,750 to them for attorneys' fees and their out-of-pocket expenses. These payments will pay Class Counsel for investigating the facts, litigating the case, and negotiating the settlement. Class Counsel will also request a service award of no more than \$10,000 for the Class Representative to compensate him for his time and effort. Class Counsel's complete request for fees, costs, and incentive awards to the Class Representative will be posted to this website no later than xxxxxx, 2022. The Court may award less than these amounts.

## OBJECTING TO THE SETTLEMENT

## 16. How do I object to the settlement?

If you are a Class Member and you do not exclude yourself from the Class, you may object to the settlement if you don't like any part of it. You may give reasons why you think the Court should not approve it. The Court will consider your views. The Court cannot change the terms of the settlement. The Court can only approve or deny the settlement.

To object, you must file your objection through electronic court filing or by mailing a written letter to the Court at the address provided below. The letter must include:

- (1) the following case name and number: *Proudlove v. Seed Consulting LLC, No. 20-2-09220-7 SEA*;
- (2) your name, address, telephone number, and email address, and if represented by counsel, of your counsel; and
- (3) your specific objections to the settlement (i.e., why you think the Court should not approve the settlement).

The objection must be postmarked no later than [redacted]. If the settlement is approved, you will still be eligible to receive a payment under the settlement.

Objections to the settlement must be filed with the Court by mailing your letter to:

King County Superior Court  
Clerk's Office  
516 Third Avenue, Room E-609  
Seattle, WA 98104

## 17. What is the difference between objecting and excluding myself from the settlement?

Objecting simply means telling the Court that you don't like something about the Settlement and asking the Court to reject it. You can object only if you stay in the Class. Excluding yourself from the settlement is telling the Court that you don't want to be part of the Class. If you exclude yourself, you may not object because the case no longer affects you.

## THE COURT'S FAIRNESS HEARING

### 18. When and where will the Court hold a hearing on the fairness of the settlement?

The Court will hold a Final Approval Hearing at 1:00 p.m. on January 13, 2023, at the King County Superior Court, 516 Third Avenue, Seattle, WA 98104. If this hearing is conducted by remote means, this website will be updated with information for participating remotely. The purpose of this hearing is for the Court to determine whether the settlement should be approved because it is fair, reasonable, adequate, and in the best interest of the Class. At the hearing, the Court will hear any objections and arguments concerning the fairness of the proposed settlement, including those related to the amount requested by Class Counsel for attorneys' fees and expenses and the service award to the Class Representative. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

**Note:** The date and time of the fairness hearing are subject to change by Court order. Any changes will be posted on this website.

### 19. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. You are welcome to come to the hearing at your own expense. If you send an objection you don't have to come to the Court to talk about it. As long as your written objection was filed or mailed on time, and meets the other criteria described in the Settlement Agreement, the Court will consider it. You may also pay a lawyer to attend, but you don't have to.

### 20. May I speak at the hearing?

If you do not exclude yourself from the Class, you may ask the Court for permission for you or your attorney to speak at the hearing concerning any part of the Settlement Agreement. If you filed an objection (see Question 16 above) and intend to appear at the hearing, please send a letter saying that it is your "Notice of Intention to Appear" in *Proudlove v. Seed Consulting LLC*, No. 20-2-09220-7 SEA." Be sure to include your name, address, telephone number, that you are a Class Member, and your signature. If you are represented by your own attorney, he or she must file a notice of appearance with the Court no later than ten (10) days before the Final Approval Hearing. Your Notice of Intention to Appear should be received at the address in Question 16, no later than ten (10) days before the hearing date, **XXXXX, 2022**. You

cannot speak at the hearing if you exclude yourself.

## IF YOU DO NOTHING

### 21. What happens if I do nothing at all?

If you do nothing, you will be a member of the Class and you will be eligible to receive settlement benefits if the Court approves the settlement.

## GETTING MORE INFORMATION

### 22. Are more details about the settlement?

This website summarizes the proposed settlement and includes links to some of the important documents in this case. More details are in the Settlement Agreement. You may review the Settlement Agreement [here](#). You can also get a copy of the Settlement Agreement by writing to the Class Administrator at the address below.

### 23. How do I get more information?

First review all the information on this website. If you still have questions, you can call 1-855-349-7023 toll free or write to the Class Administrator at, P.O. Box [xxxx](#), [City], [ST] [xxxxx-xxxx](#).

### 24. What is the contact information for the Class Administrator?

[ADMINISTRATOR NAME](#)  
[ADDRESS](#)  
[CITY, STATE ZIP](#)

[ADMINISTRATOR PHONE](#)  
[ADMINISTRATOR EMAIL](#)

PLEASE DO **NOT** CONTACT THE COURT, THE JUDGE, OR DEFENDANTS WITH QUESTIONS ABOUT THE SETTLEMENT.

## **EXHIBIT 4**

20 FEB 14 10:08

SUPERIOR COURT  
YAKIMA CO. W.

SUPERIOR COURT FOR THE STATE OF WASHINGTON  
COUNTY OF YAKIMA

THEODORE STRONG,

Plaintiff,

v.

NUMERICA CREDIT UNION,

Defendant.

NO. 17-2-01406-39

**AMENDED [PROPOSED] ORDER  
GRANTING PLAINTIFF'S  
UNOPPOSED MOTION FOR FINAL  
APPROVAL OF CLASS ACTION  
SETTLEMENT AND AWARD OF  
ATTORNEYS' FEES, COSTS AND  
SERVICE AWARD**

The Court, having considered Plaintiff's Motion for Final Approval of Class Action Settlement and Award of Attorneys' Fees, Costs and Service Award in the above-captioned matter (the "Action"), the Settlement Agreement and Release entered into between Plaintiff Theodore Strong ("Plaintiff") and Numerica Credit Union ("Defendant"), the lack of objections to and requests for exclusion from the proposed Settlement, the record in this the Action, the submissions and arguments presented by counsel, and having held a Final Approval Hearing on February 14, 2020, finds that:

1. All capitalized terms in this Final Approval Order shall have the same meanings as set forth in the Settlement Agreement.

2. The Court has jurisdiction over the subject matter of the Action and over the settling parties, including the members of the Settlement Class.

1           3.       On October 8, 2019, the Court preliminarily approved the Settlement and  
2 certified, for settlement purposes, the Class as defined in the Settlement Agreement.

3           4.       Pursuant to the Court's Preliminary Approval Order, notice of the Settlement  
4 was distributed to the Class by certified mail, US Mail, and email. The Court hereby finds and  
5 concludes that the notice was disseminated to members of the Class in accordance with the  
6 terms set forth in the Settlement and in compliance with the Court's Preliminary Approval  
7 Order. The Court further finds and concludes that the notice, and the distribution procedures set  
8 forth in the Settlement fully satisfy CR 23(c)(2) and (e) and the requirements of due process,  
9 were the best notice practicable under the circumstances, provided individual notice to all  
10 members of the Class who could be identified through reasonable effort, provided an  
11 opportunity for the Class Members to object or exclude themselves from the Settlement, and  
12 support the Court's exercise of jurisdiction over the Settlement Class as contemplated in the  
13 Settlement Agreement and this Final Approval Order.

14           5.       The Class Members were given an opportunity to object to the Settlement. No  
15 Class Members objected to the Settlement and no Class Members requested exclusion from the  
16 Settlement.

17           6.       The Settlement was arrived at as a result of arms' length negotiations conducted  
18 in good faith by experienced attorneys familiar with the legal and factual issues of this case.

19           7.       The Settlement is fair, reasonable, adequate, and in the best interests of the  
20 Settlement Class in light of the complexity, expense, and duration of litigation, as well as the  
21 risk involved in establishing liability and damages and in maintaining the class action through  
22 trial and appeal.

23           8.       The consideration provided by the Settlement constitutes fair value given in  
24 exchange for the release of the Released Claims against the Released Parties by Settlement  
25 Class Members. The Court finds that the consideration provided to members of the Settlement  
26 Class is reasonable, considering that facts and circumstances of the claims and affirmative

1 defenses asserted in the action, and the potential risks and likelihood of success of alternatively  
2 pursuing trial on the merits.

3 **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:**

4 9. The Settlement is finally approved as fair, reasonable, adequate, just, and in  
5 compliance with all applicable requirements of the applicable laws, and in the best interest of  
6 the Settlement Class. The Settlement Agreement, which shall be deemed incorporated herein,  
7 and all terms of the Settlement are finally approved and shall be consummated in accordance  
8 with the terms and provisions thereof, except as amended by any subsequent order issued by  
9 the Court.

10 10. Pursuant to CR 23(c)(3), the Action is hereby certified, for settlement purposes  
11 only, as a class action on behalf of the following Settlement Class Members: All persons who:

- 12 (a) resided in Washington state when they purchased or otherwise financed a vehicle  
13 primarily for personal, family, or household use;  
14 (b) whose contract was assigned to Defendant or financing was provided by Defendant;  
15 and  
16 (c) to whom Defendant issued or failed to issue a Notice of Intent to Sell, pursuant to  
17 RCW 62A.9A-614 during the period April 14, 2015 through May 17, 2017 and/or to  
18 whom Defendant issued or failed to issue a Notice of Deficiency, pursuant to RCW  
19 62A.9A- 616, during the period April 14, 2015 through July 31, 2018.

20 Excluded from the class are all persons who (a) filed for bankruptcy protection as to their  
21 Numerica auto loan and whose bankruptcy case was not dismissed or otherwise closed as of the  
22 date of this Settlement Agreement; or (b) against whom Defendant's assignee obtained a  
23 judgment to collect on their Deficiency Balance before May 20, 2019, which judgments are  
24 held by unrelated third party debt collectors.

25 11. The Plaintiff and each Settlement Class Member, their respective heirs,  
26 executors, administrators, representatives, agents, attorneys, partners, affiliates, successors,  
27 predecessors-in-interest, and assigns are deemed to have released, waive, acquitted, and  
discharged forever each of the Released Parties from each of the Released Claims, as defined in  
the Settlement Agreement. The Released Claims are compromised, settled, released,



1 discharged, and dismissed with prejudice by virtue of these proceedings and this Final  
2 Approval Order, provided, however, that the Released Claims shall not be construed to limit  
3 the right of Defendant or any member of the Settlement Class to enforce the terms of the  
4 Settlement.

5 12. This Final Approval Order is binding on all Settlement Class Members.

6 13. To the extent permitted by law and without affecting the other provisions of this  
7 Final Approval Order, this Final Approval Order is intended by the parties and the Court to be  
8 *res judicata* and to prohibit and preclude any prior, concurrent, or subsequent litigation brought  
9 individually, or in the name of, and/or otherwise on behalf of, Plaintiff or any Settlement Class  
10 Member with respect to the Released Claims based upon the same alleged facts.

11 14. The Court retains continuing and exclusive jurisdiction over the parties and all  
12 matters relating to the Action and Settlement, including the administration, interpretation,  
13 construction, effectuation, enforcement, and consummation of the Settlement, including its  
14 injunctive provisions, and this Final Approval Order..

15 15. This Final Approval Order is not, and shall not be construed as, an admission by  
16 Defendant of any liability or wrongdoing in this or in any other proceeding.

17 16. The Court approves Class Counsel's application for \$348,540.51 in attorneys'  
18 fees and \$18,126.16 in costs, which, together, represents one-third of the Settlement Fund.

19 17. The Settlement created a common fund for the benefit of Settlement Class  
20 Members. Accordingly, the Court finds that the percentage of the fund method is the  
21 appropriate method to use in determining the appropriate fee award in this case. *Bowles v.*  
22 *Wash. Dep't of Ret. Sys.*, 121 Wn.2d 52, 72, 847 P.2d 440 (1993).

23 18. Class Counsel obtained an excellent result for the Settlement Class. Class  
24 Counsel's work lead to the creation of a \$1.1 million common fund from which Settlement  
25 Class Members whose statutory damages under the UCC are greater than their remaining  
26 Deficiency Balance will receive cash payments. The Settlement benefits also include

1 Numerica’s agreement to request permanent deletion of the “tradeline” for Settlement Class  
2 Members’ Numerica auto loans their credit reports and Numerica’s dismissal all pending legal  
3 actions to collect those Deficiency Balances. Numerica also agrees to permanently cease  
4 collection of all remaining Deficiency Balances of the Settlement Class Members whose  
5 statutory damages are less than their Deficiency Balance or who do not have statutory  
6 damages—which amounts to approximately \$8,330,822.93 in debt waiver. However, if a  
7 Settlement Class Member brings any claim against Numerica that is not subject to the Release,  
8 Numerica may assert that the Settlement Class Member’s Deficiency Balance is an offset to  
9 that claim.

10 19. An attorneys’ fee and cost award equal to one-third of a common fund is  
11 appropriate in this case and is in line with cases litigated under the UCC and attorneys’ fees and  
12 costs awarded by Washington courts. *See* Final Judgment Approving Settlement and Certifying  
13 Settlement Class at 6, *Gales v. Capital One*, Case No. 8:13-cv-01624-WGC (D. Md. August 5,  
14 2015), ECF No. 78 (approving fee award of one-third in UCC class action); Final Judgment,  
15 *Smith v. Toyota Motor Credit Corporation*, Case No. 12-02029-WDQ (D. Md. Oct. 2, 2014),  
16 ECF No. 53 (approving fee award of 49% in UCC class action); *see also A.M. v. Moda Health*  
17 *Plan, Inc.*, C 14-1191 TSZ, 2015 WL 9839771, at \*3 (W.D. Wash. Nov. 3, 2015) (awarding fee  
18 of 35% of settlement fund); Order Approving Award of Attorneys’ Fees and Costs, *Terrell v.*  
19 *Costco Wholesale Corp.*, No. 16-2-10140-1 SEA, (King Cty. Sup. Ct. June 19, 2018) (awarding  
20 one-third of fund in class action under the Fair Credit Reporting Act).

21 20. The Court approves a service award to the Named Plaintiff in the amount of  
22 \$10,000, to be paid from the Settlement Fund. This amount is reasonable in light of Plaintiff’s  
23 efforts in this case, which included assisting his counsel with the investigation of his claims,  
24 responding to written discovery, being deposed, and assisting with settlement negotiations.

25 21. The Court further approves and authorizes the deduction of an amount not to  
26 exceed \$29,500 from the Settlement Fund to cover the Class Administrator’s costs.

1           22.     The attorneys' fees and costs, service award, and settlement administration costs  
2 are to be deducted from the Settlement Fund as set forth in the Settlement Agreement. Except  
3 as expressly set forth to the contrary in this Final Approval Order, Plaintiff and Class Counsel  
4 shall take nothing by their claims and each party shall bear his or its own fees, costs, and  
5 expenses in connection with this Action. Except for the award to Class Counsel specified  
6 above, no fees or funds shall be paid to any other counsel representing any Settlement Class  
7 Members.

8           23.     The Court dismisses the Action against Defendant, including all claims against  
9 Defendant, with prejudice, without costs to any party, except as expressly provided for in the  
10 Settlement.

11           24.     Finding that there is no just reason for delay, the Court orders that this Final  
12 Approval Order shall constitute a final judgment pursuant to CR 58 that is binding on the  
13 settling parties and the Settlement Class.

14           IT IS HEREBY ORDERED.

15           DATED this 14 day of FEB, 2020.

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19           \_\_\_\_\_  
SUPERIOR COURT JUDGE

20           Blaine G. Gibson

21           Judge

1 Presented by:

2 TERRELL MARSHALL LAW GROUP PLLC

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5 By: \_\_\_\_\_

6 Beth E. Terrell, WSBA #26759  
7 Email: bterrell@terrellmarshall.com  
8 Maria Hoisington-Bingham, WSBA #51493  
9 Email: mhoisington@terrellmarshall.com  
10 936 North 34th Street, Suite 300  
11 Seattle, Washington 98103-8869  
12 Telephone: (206) 816-6603  
13 Facsimile: (206) 319-5450

14 Alexander B. Trueblood, WSBA #50612  
15 Email: alec@hush.com  
16 TRUEBLOOD LAW FIRM  
17 10940 Wilshire Boulevard, Suite 1600  
18 Los Angeles, California 90024  
19 Telephone: (310) 443-4139  
20 Facsimile: (310) 943-2255

21 *Attorneys for Plaintiff*

22  
23  
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26  
27 AMENDED [PROPOSED] ORDER GRANTING  
PLAINTIFF'S UNOPPOSED MOTION FOR FINAL  
APPROVAL OF CLASS ACTION SETTLEMENT AND  
AWARD OF ATTORNEYS' FEES, COSTS AND SERVICE  
AWARD - 7  
CASE No. 17-2-01406-39

TERRELL MARSHALL LAW GROUP PLLC  
936 North 34th Street, Suite 300  
Seattle, Washington 98103-8869  
TEL. 206 816.6603 • FAX 206.319.5450  
www.terrellmarshall.com

# **EXHIBIT 5**

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THE HONORABLE DAVID E. GREGERSON  
Department 2

**FILED**  
**NOV 08 2019**

SUPERIOR COURT FOR THE STATE OF WASHINGTON  
COUNTY OF CLARK

Scott G. Weber, Clerk, Clark Co

11:26

AMANDA DOUGHERTY, individually and as  
a representative of the class,

Plaintiff,

v.

BARRETT BUSINESS SERVICES, INC.,

Defendant.

NO. 17-2-05619-1

**FINAL APPROVAL**  
**ORDER AND ENTRY OF**  
**JUDGMENT**

The Court, having considered Plaintiff's Motion for Final Approval of Class Action Settlement between Plaintiff Amanda Dougherty ("Plaintiff") and Barrett Business Services, Inc. ("Defendant") in the above-captioned matter (the "Action"), the Class Action Settlement Agreement and Release entered into between Plaintiff and Defendant ("Settlement"), Plaintiff's Motion for an Award of Attorneys' Fees, Costs, and Class Representative Service Award, and the lack of objections received regarding the proposed Settlement, the record in this the Action, the submissions and arguments presented by counsel, and, having held a Final Approval Hearing on November 8, 2019, finds that:

1. Unless defined herein, for purposes of this Final Approval Order, all capitalized terms in this Final Approval Order shall have the same meanings as set forth in the Settlement.
2. The Court has jurisdiction over the subject matter of the Action and over the settling parties, including the members of the Settlement Class.

1           3.       On June 28, 2018, the Court preliminarily approved the Settlement and certified,  
2 for settlement purposes, the Settlement Class as defined in the Settlement.

3           4.       Pursuant to the Court's Preliminary Approval Order, the Notice was distributed  
4 to the Class by email and US Mail. The Court hereby finds and concludes that the Notice was  
5 disseminated to members of the Settlement Class in accordance with the terms set forth in the  
6 Settlement and in compliance with the Court's Preliminary Approval Order. The Court further  
7 finds and concludes that the Notice, and the distribution procedures set forth in the Settlement  
8 fully satisfy CR 23(c)(2) and the requirements of due process, were the best notice practicable  
9 under the circumstances, provided individual notice to all members of the Settlement Class who  
10 could be identified through reasonable effort, provided an opportunity for the Settlement Class  
11 Members to object or exclude themselves from the Settlement, and support the Court's exercise  
12 of jurisdiction over the Settlement Class as contemplated in the Settlement and this Final  
13 Approval Order.

14           5.       The Settlement Class Members were given an opportunity to object to the  
15 Settlement. No Settlement Class Members objected to the Settlement. The Settlement Class  
16 Members who made valid and timely requests for exclusion are excluded from the Settlement  
17 and are not bound by this Final Approval Order. Three Settlement Class Members requested  
18 exclusion. The identities of such persons are set forth in the Declaration of Jennifer M. Keogh  
19 that was filed in support of Plaintiffs' Motion for Final Approval.

20           6.       The Settlement was arrived at as a result of arms' length negotiations conducted  
21 in good faith by experienced attorneys familiar with the legal and factual issues of this case.

22           7.       The Settlement is fair, reasonable, adequate, and in the best interests of the  
23 Settlement Class in light of the complexity, expense, and duration of litigation, as well as the  
24 risk involved in establishing liability and damages and in maintaining the class action through  
25 trial and appeal.  
26

1           8.       The consideration provided by the Settlement constitutes fair value given in  
2 exchange for the release of the Settlement Class Member Released Claims against the Released  
3 Parties. The Court finds that the consideration provided to members of the Settlement Class is  
4 reasonable, considering that facts and circumstances of the claims and affirmative defenses  
5 asserted in the action, and the potential risks and likelihood of success of alternatively pursuing  
6 trial on the merits.

7                   **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:**

8           9.       The Settlement is finally approved as fair, reasonable, adequate, just, and in  
9 compliance with all applicable requirements of the applicable laws, and in the best interest of  
10 the Settlement Class. The Settlement Agreement, which shall be deemed incorporated herein,  
11 and all terms the Settlement are finally approved and shall be consummated in accordance with  
12 the terms and provisions thereof, except as amended by any subsequent order issued by the  
13 Court.

14           10.       Pursuant to CR 23(c)(3), the Action is hereby certified, for settlement purposes  
15 only, as a class action on behalf of the following Settlement Class Members: all individuals on  
16 whom Defendant obtained a consumer report for employment purposes containing a liability  
17 release or an overbroad authorization from August 26, 2013 to June 28, 2019.

18           11.       Pursuant to CR 23, the Court certifies Plaintiff Amanda Dougherty as the Class  
19 Representative and appoints Terrell Marshall Law Group, PLLC and Berger Montague PC as  
20 Class Counsel.

21           12.       For settlement purposes only, the Court finds that the Action satisfies the  
22 applicable prerequisites for class action treatment under CR 23(a) and (b)(3), namely:

- 23                   • The Settlement Class is so numerous that joinder of all members is
- 24                   impracticable;
- 25                   • There are questions of law and fact common to the Settlement Class
- 26                   Members;



- 1 • The claims of the Class Representative are typical of the claims of the
- 2 Settlement Class Members;
- 3 • The Class Representative and Class Counsel have fairly and adequately
- 4 represented and protected the interests of all of the Settlement Class
- 5 Members;
- 6 • Common issues predominate over any individualized issues; and
- 7 • A class action is superior to thousands of individual actions.

8 13. The Plaintiff, Settlement Class Members, and their successors and assigns are  
9 permanently barred and enjoined from instituting or prosecuting, either individually or as a  
10 class, or in any other capacity, any of the Settlement Class Member Released Claims against  
11 any of the Released Parties, as set forth in the Settlement. Pursuant to the release contained in  
12 the Settlement, the Released Claims are compromised, settled, released, discharged, and  
13 dismissed with prejudice by virtue of these proceedings and this Final Approval Order,  
14 provided, however, that the Settlement Class Member Released Claims shall not be construed  
15 to limit the right of Defendant or any member of the Settlement Class to enforce the terms of  
16 the Settlement.

17 14. This Final Approval Order is binding on all Settlement Class Members, except  
18 those individuals who validly and timely excluded themselves from the Settlement. The identities  
19 of such persons are set forth in the Supplemental Declaration of Jennifer M. Keogh that was filed  
20 in support of Plaintiffs' Motion for Final Approval.

21 15. To the extent permitted by law and without affecting the other provisions of this  
22 Final Approval Order, this Final Approval Order is intended by the parties and the Court to be  
23 *res judicata* and to prohibit and preclude any prior, concurrent, or subsequent litigation brought  
24 individually, or in the name of, and/or otherwise on behalf of, Plaintiff or any Settlement Class  
25 Member with respect to the Settlement Class Member Released Claims based upon the same  
26 alleged facts.

1           16.     The Court hereby retains continuing and exclusive jurisdiction over the parties  
2 and all matters relating to the Action and/or Settlement, including the administration,  
3 interpretation, construction, effectuation, enforcement, and consummation of the Settlement,  
4 including its injunctive provisions, and this Final Approval Order. This Final Approval Order  
5 finally disposes of all claims and is appealable.

6           17.     This Final Approval Order is not, and shall not be construed as, an admission by  
7 Defendant of any liability or wrongdoing in this or in any other proceeding.

8           18.     The Court approves Class Counsel's application for \$528,752.51 in attorneys'  
9 fees and costs. This amount reflected actual costs incurred and an attorneys' fee award of one-  
10 third of the Settlement Fund.

11           19.     The Settlement created a common fund for the benefit of class members.  
12 Accordingly, the Court finds that the percentage of the fund method is the appropriate method  
13 to use in determining the appropriate fee award in this case. *Bowles v. Wash. Dep't of Ret. Sys.*,  
14 121 Wn.2d 52, 72, 847 P.2d 440 (1993).

15           20.     Class Counsel obtained an excellent result for the Settlement Class. Class  
16 Counsel's work lead to the creation of a \$1.5 million common fund. More than 10% of the  
17 Class submitted claims, and each class member who submitted a claim will be paid an  
18 estimated \$129. These results exceed those achieved in similar cases.

19           21.     An attorneys' fee award equal to one-third of a common fund is appropriate in  
20 cases litigated under the Fair Credit Reporting Act. *King v. Gen. Info. Serv., Inc.*, No. 10-cv-  
21 6850, ECF No. 126 (E.D. Penn. Nov. 4, 2014) (awarding counsel one-third of fund in FCRA  
22 class action); *Ford v. CEC Entm't Inc.*, No. 14CV677 JLS (JLB), 2015 WL 11439033, at \*1  
23 (S.D. Cal. Dec. 14, 2015) (awarding fee of one-third in FCRA class action); *Razilov v.*  
24 *Nationwide Mut. Ins. Co.*, No. 01-CV-1466-BR, 2006 WL 3312024, at \*1 (D. Or. Nov. 13,  
25 2006).

1           22.     The Court has considered the factors set forth in Washington Rule of  
2 Professional Conduct 1.5(a) in concluding that the requested fee is reasonable. Specifically:

- 3           a.     The case raised novel and difficult questions of law, which demanded litigators  
4                 with the skill and experience of Class Counsel.
- 5           b.     Class Counsel's work on this matter precluded work on other matters.
- 6           c.     A one-third fee in contingency cases is customary in this county.
- 7           d.     The excellent results obtained and the amount of time involved support the  
8                 award.

9           23.     The Court approves a service award to the Named Plaintiff in the amount of  
10 \$3,500, to be paid from the Settlement Fund.

11          24.     The Court further approves and authorizes the deduction of an amount not to  
12 exceed \$82,040.94 from the Settlement Fund to cover the Settlement Administrator's costs.

13          25.     The attorneys' fees and costs, service award, and settlement administration costs  
14 are to be deducted from the Settlement Fund as set forth in the Settlement. Save and except as  
15 expressly set forth to the contrary in this Final Approval Order, Plaintiff and Class Counsel  
16 shall take nothing by their claims and each party shall bear his or its own fees, costs, and  
17 expenses in connection with this Action. Except for the award to Class Counsel specified  
18 above, no fees or funds shall be paid to any other counsel representing any Settlement Class  
19 Members.

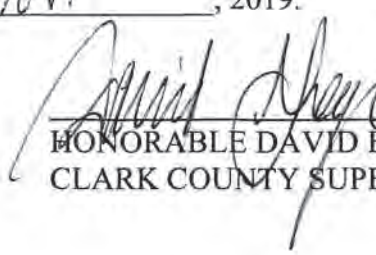
20          26.     The Court hereby dismisses the Action against Defendant, including all claims  
21 against said Defendant, with prejudice, without costs to any party, except as expressly provided  
22 for in the Settlement.

23          27.     Finding that there is no just reason for delay, the Court orders that this Final  
24 Approval Order shall constitute a final judgment pursuant to CR 58 that is binding on the  
25 settling parties and the Settlement Class.

26

1 **IT IS HEREBY ORDERED.**

2 DATED this 7 day of Nov., 2019.

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6 HONORABLE DAVID E. GREGERSON  
7 CLARK COUNTY SUPERIOR COURT JUDGE  
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## **EXHIBIT 6**

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

JULIUS TERRELL, as an individual and as a  
representative of the class,

Plaintiff,

v.

COSTCO WHOLESALE CORP.,

Defendant.

NO. 16-2-19140-1 SEA

~~[PROPOSED]~~ ORDER APPROVING  
AWARD OF ATTORNEYS' FEES AND  
COSTS

THIS MATTER came before the Court on June 15, 2018, on Plaintiff's Motion for Final Approval of Class Action Settlement and Motion for Attorneys' Fees, Costs, and Class Representative Service Award. On June 15, 2018, the Court entered an order granting final approval of the Class Settlement, approving payment of the requested attorney's fees, costs and costs of settlement administration, and awarding a class representative service award. The Court makes the following additional findings regarding its award of attorneys' fees, costs and service award.

The Court heard oral argument on June 15, 2018, and has considered the following submissions:

- 1           1.     Plaintiff's Motion for Attorneys' Fees, Costs, and Class Representative Service
- 2                     Award;
- 3           2.     The Declaration of E. Michelle Drake in support of Plaintiff's Motion for
- 4                     Attorneys' Fees, Costs, and Class Representative Service Award;
- 5           3.     The Declaration of Jennifer M. Keough Regarding Notice Administration and
- 6                     Administration Costs; and
- 7           4.     Plaintiff's Motion for Final Approval of Class Action Settlement and supporting
- 8                     documentation.

9           Based on the foregoing, the Court makes the following FINDINGS AND  
10 CONCLUSIONS:

- 11           1.     Class Counsel is highly qualified. Berger & Montague, P.C. and Terrell
- 12 Marshall Law Group, are class action litigators with nationally known reputations, and
- 13 extensive experience litigating Fair Credit Reporting Act cases.
- 14           2.     Throughout the litigation, Class Counsel provided high quality representation in
- 15 a case that turned out to be quite complex.
- 16           3.     Class Counsel obtained an excellent result for the Settlement Class. Class
- 17 Counsel's work lead to the creation of a \$2.49 million common fund. Nearly 20% of the Class
- 18 submitted claims, and each class member who submitted a claim will be paid an estimated \$63.
- 19 These results exceed those achieved in similar cases.
- 20           4.     The Settlement created a common fund for the benefit of class members.
- 21 Accordingly, the Court finds that the percentage of the fund method is the appropriate method
- 22 to use in determining the appropriate fee award in this case. *Bowles v. Wash. Dep't of Ret. Sys.*,
- 23 121 Wn.2d 52, 72, 847 P.2d 440 (1993).
- 24           5.     An attorneys' fee award equal to one-third of a common fund is appropriate in
- 25 cases litigated under the Fair Credit Reporting Act. *King v. Gen. Info. Serv., Inc.*, No. 10-cv-
- 26 6850, ECF No. 126 (E.D. Penn. Nov. 4, 2014) (awarding counsel one-third of fund in FCRA

1 class action); *Ford v. CEC Entm't Inc.*, No. 14CV677 JLS (JLB), 2015 WL 11439033, at \*1  
2 (S.D. Cal. Dec. 14, 2015) (awarding fee of one-third in FCRA class action); *Razilov v.*  
3 *Nationwide Mut. Ins. Co.*, No. 01-CV-1466-BR, 2006 WL 3312024, at \*1 (D. Or. Nov. 13,  
4 2006).

5 6. The Court has considered the factors set forth in Washington Rule of  
6 Professional Conduct 1.5(a) in concluding that the requested fee is reasonable. Specifically:

- 7 a. The case raised novel and difficult questions of law, which demanded  
8 litigators with the skill and experience of Class Counsel.  
9 b. Class Counsel's work on this matter precluded work on other matters.  
10 c. A one-third fee in contingency cases is customary in this county.  
11 d. The excellent results obtained and the amount of time involved support  
12 the award.

13 7. While the Court concludes that the percentage-of-the-fund method is appropriate  
14 here, the Court concludes that the lodestar method confirms that the requested fee is reasonable.  
15 Class Counsel devoted over 513 hours to the investigation, development, litigation and  
16 resolution of this case, incurring over \$222,400.30 in lodestar. The Court has reviewed Class  
17 Counsel's contemporaneous billing records documenting the hours worked and finds the hours  
18 expended reasonable.

19 8. Class Counsel calculated their lodestar using reasonable hourly rates.

- 20 a. The following hourly rates billed by Berger and Montague are  
21 reasonable given the experience and skill of counsel:

22

Timekeeper	Experience	Rate
E. Michelle Drake	Partner with 17 years of experience	\$700
Joseph Hashmall	Associate with 7 years of experience	\$515
John Albanese	Associate with 6 years of experience	\$430
Jean Hibray, Jean Ebersperger and Mai Xiong	Paralegals	\$230-\$280

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1           b.       The following hourly rates billed by Terrell Marshall Law Group are  
2                   reasonable given the experience and skill of counsel:

Timekeeper	Experience	Rate
Beth E. Terrell	Partner with 23 years of experience.	\$500
Amanda M. Steiner	Partner with 21 years of experience.	\$495
Jennifer R. Murray	Partner with 13 years of experience.	\$450
Maria C. Hoisington	Associate with 2 years of experience.	\$225
Bradford Kinsey, Holly Rota, Hannelore Ohaus, Samuel Levy	Paralegals and legal assistants.	\$75-\$100

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10       9.       Similar rates have been approved numerous times in class action cases brought  
11 in both the Western District of Washington and King County Superior Court. See, *e.g.*, *Carideo*  
12 *v. Dell, Inc.*, No. 06-cv-01772, ECF No. 162 (W.D. Wash. Dec. 17, 2010) (Judge Robart  
13 approving as reasonable a fee petition which included rates ranging from \$175 to \$600);  
14 *Barnett v. Wal-Mart Stores, Inc.*, No. 01-2-24553-8 (King Co., July 20, 2009) (Judge Spector  
15 approving fee request based on rates ranging from \$100 to \$760); *Splater v. Thermal Ease*  
16 *Hydronic Systems, Inc.*, No. 03-2-33553-3 (King Co., July 31, 2009) (Judge Washington  
17 approving fee request based on rates ranging from \$100 to \$760); *Hartman v. Comcast*  
18 *Business Communications, LLC*, No. 10-0413, ECF No. 106 (W.D. Wash Dec. 8, 2011) (Judge  
19 Lasnik approving Plaintiff's counsel's fee request based on rates ranging from \$180 to \$650).  
20 Class Counsel are experienced, highly regarded members of the bar with extensive expertise in  
21 the area of class actions and complex litigation involving Fair Credit Reporting Act claims like  
22 those at issue here. Their requested hourly rates are reasonable in light of their qualifications  
23 and experience.

24       10.       Class Counsel's requested fee of \$830,000 represents a 3.73 multiplier on their  
25 total lodestar to date. This requested multiplier is reasonable considering that counsel is seeking  
26 one-third of the common fund created through the Settlement. See *Bowles*, 121 Wn.2d at 72-73  
(approving multiplier of three where plaintiff's fee request was found reasonable using

1 percentage-of-the-fund method); see *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051, n. 6  
2 (9th Cir. 2002) (finding that in approximately 83% of cases surveyed by the court, the  
3 multiplier was between 1.0 and 4.0 and affirming a multiplier of 3.65); *McIntosh v. McAfee,*  
4 *Inc.*, No. 06-cv-7694, 2009 WL 673976, at \*2 (N.D. Cal. 2009) (recognizing a range from “2 to  
5 4 or even higher”); *Van Vranken v. Atlantic Richfield Co.*, 901 F. Supp. 294, 298 (N.D. Cal.  
6 1995) (“[m]ultipliers in the 3-4 range are common”).

7 11. Class Counsel assumed significant risk in this case, a factor which further  
8 justifies the requested multiplier. Class Counsel took this case on a contingency basis and have  
9 devoted nearly two years to prosecuting it with no guarantee they would ever be paid for their  
10 efforts. A review of the motions pending before this Court prior to settlement more illustrates  
11 the risk Counsel took in taking on this case. Both the delay in payment and the risk involved in  
12 this kind of case justify the multiplier requested here.

13 12. Class Counsel’s requested costs are also reasonable. Counsel submitted detailed  
14 and itemized cost records to the Court, which the Court has reviewed, and approved.

15 13. The Settlement Administrator’s fee request is also reasonable. The  
16 Administrator submitted a declaration describing the services performed in providing notice to  
17 Class Members, processing claims, and answering Class Member inquires, among other tasks.  
18 The fee charged for these services was reasonable, and is approved.

19 14. The Class Representative’s requested service payment is also reasonable.  
20 Plaintiff assisted in the investigation, litigation and settlement of this case, and a \$3500 service  
21 payment for his assistance to the Class is reasonable and appropriate.

22 **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:**

23 The following payments in connection with the Settlement may be deducted from the  
24 settlement fund in accordance with the Court’s Final Approval Order and the Settlement  
25 Agreement:

1 (1) attorneys' fees to Class Counsel in the amount of \$830,000, which is one-third  
2 of the settlement fund;

3 (2) reimbursement of Class Counsel's out-of-pocket costs in the amount of  
4 \$17,780.12;

5 (3) reimbursement of the Settlement Administrator's expenses in an amount not to  
6 exceed \$179,822 to JND Administration; and

7 (4) a Class Representative Service Award of \$3,500 to Plaintiff Julius Terrell.

8 IT IS HEREBY ORDERED.

9 DATED this 19<sup>th</sup> day of June, 2018.



11  
12 HONORABLE MARY E. ROBERTS  
13 KING COUNTY SUPERIOR COURT JUDGE

14 *Presented by:*

15 TERRELL MARSHALL LAW GROUP PLLC

16 By: /s/ Beth E. Terrell, WSBA #26759

17 Beth E. Terrell, WSBA #26759  
18 Email: bterrell@terrellmarshall.com  
19 936 North 34th Street, Suite 300  
20 Seattle, Washington 98103  
21 Telephone: (206) 816-6603  
22 Facsimile: (206) 319-5450

23 E. Michelle Drake, *Admitted Pro Hac Vice*  
24 Email: emdrake@bm.net

25 Joseph Hashmall, *Admitted Pro Hac Vice*  
26 Email: jhashmall@bm.net

BERGER & MONTAGUE, P.C.  
43 SE Main Street, Suite 505  
Minneapolis, Minnesota 55414  
Telephone: (612) 594-5933  
Facsimile: (612) 584-4470

*Attorneys for Plaintiff and the Proposed Class*