

Medina v. Albertsons Companies, Inc., Case No. 1:23-cv-00480
(D. Del.)
Alberto v. Albertsons Companies, Inc., Case No. 1:23-cv-00251-
DKG (D. Idaho)

CLASS SETTLEMENT AGREEMENT AND RELEASE

This Class Settlement Agreement and Release (“Class Settlement Agreement”) is made and entered into by and among the following Settling Parties (as defined below): (i) Plaintiffs Laura Medina and Maryelin Alberto (“Representative Plaintiffs” or “Plaintiffs”), individually and on behalf of the Settlement Class (as defined below), by and through their counsel, Mason Barney and Tyler Bean of SIRI & GLIMSTAD LLP and David K. Lietz of MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN, PLLC, and (ii) Defendant Albertsons Companies, Inc. (“Albertsons” and, collectively with Plaintiffs, the “Parties”), by and through its counsel, Cari Dawson and Gavin Reinke of ALSTON & BIRD LLP. The Class Settlement Agreement is subject to Court approval and is intended by the Settling Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined below), upon and subject to the terms and conditions hereof.

This class action litigation arose from a December 2022 data security incident involving Albertsons that was perpetrated by an unauthorized third party that gained access to names, dates of birth, and Social Security numbers of certain current and former Albertsons’ employees and their dependents (the “Incident”).

Plaintiffs brought their actions individually and on behalf of all persons whose personally identifiable information (“PII”) was allegedly compromised and subject to unauthorized access and exfiltration, theft, or disclosure in the Incident. Plaintiff Laura Medina filed an action on May 1, 2023 in the United States District Court for the District of Delaware (the “*Medina* Action”), and

Plaintiff Maryelin Alberto filed an action on May 17, 2023 in the United States District Court for the District of Idaho (the “*Alberto* Action,” together with the *Medina* Action, as defined below, the “Litigation”). Both the *Medina* Action and the *Alberto* Action seek to recover damages on behalf of a class of other similarly situated current and former Albertsons’ employees.

Albertsons filed motions to dismiss in both the *Medina* Action and the *Alberto* Action. While those motions were pending, after a period of informal discovery and mutual exchange of information, the Parties agreed to a formal mediation. On October 20, 2023, the Settling Parties engaged in a full-day, arms-length mediation before Robert A. Meyer, Esq. of JAMS. Mr. Meyer is a highly sought after and accomplished mediator with a plethora of experience mediating data breach cases. At the conclusion of the mediation, the Settling Parties reached an agreement to resolve all claims arising from or related to the Incident. Subsequently, the Settling Parties worked on preparing this Settlement Agreement and the associated exhibits. The Settling Parties finalized this Class Settlement Agreement on or about January 3, 2023.

Pursuant to the terms agreed to and set out below, this Class Settlement Agreement resolves all actions, proceedings, and claims against Albertsons and the Released Parties that are asserted in, arise from, or relate to Representative Plaintiffs’ complaints filed in the *Medina* Action and the *Alberto* Action (including, without limitation, all claims that relate to or arise from the Incident), as well as all other actions by and on behalf of individuals or putative classes arising from the matters referenced in those complaints.

I. CLAIMS OF REPRESENTATIVE PLAINTIFFS AND BENEFITS OF THE CLASS SETTLEMENT

Representative Plaintiffs believe the claims asserted in the Litigation, as set forth in the Complaints filed in the Litigation, have merit. Representative Plaintiffs and Representative Plaintiffs’ Counsel recognize and acknowledge, however, the expense and length of continued

proceedings necessary to prosecute the Litigation against Albertsons and the Released Parties through motion practice, trial, and potential appeals. They have also considered the uncertain outcome, particularly in an area which remains in a state of development, and risk of further litigation, as well as the difficulties and delays inherent in such litigation. Representative Plaintiffs' Counsel assert that they are highly experienced in class action litigation, particularly in the area of data breach incident litigation, and knowledgeable regarding the relevant claims, remedies, and defenses at issue generally in such litigation and in this Litigation. In addition, Albertsons contends Plaintiffs will face difficulties in certifying a class, proving liability and causation, and establishing compensable damages on a class-wide basis. While Representative Plaintiffs' Counsel believe Representative Plaintiffs would prevail on class certification and liability issues as to Albertsons, they nevertheless acknowledge the risks involved in litigation and believe settlement is in the best interests of the Settlement Class. Representative Plaintiffs' Counsel have determined that the settlement set forth in this Class Settlement Agreement is fair, reasonable, and adequate, and in the best interests of Representative Plaintiffs and the Settlement Class.

II. DENIAL OF WRONGDOING AND LIABILITY

Albertsons denies each and all of the claims and contentions alleged against it in the Litigation, believes that it would prevail on the motions to dismiss it filed in the *Medina* Action and the *Alberto* Action, and believes its defenses have merit. Albertsons denies all charges of wrongdoing or liability as alleged, or which could be alleged, in the Litigation. Albertsons specifically disputes that it is liable in any way for the Incident or that the Settlement Class Representatives or Settlement Class Members are entitled to any relief from Albertsons. Albertsons further disputes that Plaintiffs could meet Rule 23's standards to certify a class in a

contested proceeding. Nonetheless, Albertsons has concluded that further Litigation would be protracted and expensive, and that it is desirable that the Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in this Class Settlement Agreement. Albertsons has also considered the uncertainty and risks inherent in any litigation. Albertsons has, therefore, determined it is desirable and beneficial that the Litigation be settled in the manner and upon the terms and conditions set forth in this Class Settlement Agreement.

III. TERMS OF THE SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among Representative Plaintiffs, individually and on behalf of the Settlement Class, and Albertsons that, subject to the approval of the Court, the Litigation and the Released Claims shall be finally and fully compromised, settled, and released, except as to those Settlement Class Members who timely opt out of the Class Settlement Agreement, upon and subject to the terms and conditions of this Class Settlement Agreement. The Settling Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Settling Parties, the litigation, and the Settlement Agreement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

1. DEFINITIONS

As used in this Class Settlement Agreement, the following terms have the meanings specified below:

1.1 “Administration Costs” means all costs and expenses associated with providing notice of the Class Settlement Agreement to the Settlement Class, Claims Administration, and otherwise administering and carrying out the terms of this Class Settlement Agreement.

1.2 “Agreement” or “Class Settlement Agreement” means this Class Settlement

Agreement and Release.

1.3 “Attorneys’ Fees and Expenses Award” means such funds as may be awarded by the Court to Settlement Class Counsel to compensate Representative Plaintiffs’ Counsel fully and completely for their fees, costs, and expenses in connection with the Litigation.

1.4 “CAFA Notice” means a notice of the proposed Settlement in compliance with the requirements of the Class Action Fairness Act, 28 U.S.C. Sec. 1711, et seq. (“CAFA”), to be served upon the appropriate State official in each State where Class Member resides and the appropriate federal official. Costs for preparation and issuance of the CAFA Notice will be paid by Defendant from the Settlement Fund.

1.5 “Claims Administration” means the processing of payments to Settlement Class Members by the Claims Administrator.

1.6 “Claims Administrator” means Epiq Class Actions & Claims Solutions, Inc (“Epiq”), a company jointly agreed upon by the Settling Parties that is experienced in administering class action claims generally and specifically those of the type provided for in this Litigation, or, if Epiq is not approved by the Court, such other company experienced in administering class action claims generally and specifically those of the type provided for in this Litigation that is jointly agreed upon by the Settling Parties and approved by the Court.

1.7 “Claim Form” shall mean the form used by Settlement Class Members to file claims for monetary relief and credit monitoring, substantially in the form attached hereto as **Exhibit A**, as approved by the Court.

1.8 “Claims Deadline” means the date ninety (90) days after the Notice Date.

1.9 “Class Notice” means the notice of settlement that is contemplated by this Class Settlement Agreement, and which shall include the long form notice (“Long Notice”) to be posted

on the settlement website and a summary notice to be sent via first-class U.S. mail to the individuals who received formal notice of the Incident from Albertsons (“Short Notice”), substantially in the forms attached hereto as **Exhibits B** and **C**, respectively, as approved by the Court.

1.10 “Effective Date” means the date by which all of the events and conditions specified in Paragraphs 1.11 and 1.12 below for the Final Approval Order and Judgment to become Final have occurred or have been met. The Effective Date shall not be altered in the event the Court declines to approve, in whole or in part, the Attorneys’ Fees and Expenses Award or the Incentive Awards. Further, the Effective Date shall not be altered in the event that an appeal is filed with the sole issue(s) on appeal being the Attorneys’ Fees and Expenses Award and/or the Incentive Award.

1.11 “Final” means the occurrence of all of the following events: (a) the settlement pursuant to this Class Settlement Agreement is approved by the Court; (b) the Court has entered a Final Approval Order and Judgment (as that term is defined herein);; and (c) the time to appeal or seek permission to appeal from the Final Approval Order and Judgment has expired or, if appealed, the appeal has been dismissed in its entirety, or the Final Approval Order and Judgment has been affirmed in its entirety by the court of last resort to which such appeal may be taken, and such dismissal or affirmance has become no longer subject to further appeal or review. Notwithstanding the foregoing, any order solely modifying or reversing any Attorneys’ Fees and Expenses Award or Incentive Award made in this case shall not affect whether the Final Approval Order and Judgment is “Final” as defined herein or any other aspect of the Final Approval Order and Judgment.

1.12 “Final Approval Hearing” means the final hearing to be conducted by the Court in

connection with the determination of the fairness, adequacy, and reasonableness of this Class Settlement Agreement and the proposed settlement of the Litigation.

1.13 “Final Approval Order and Judgment” means the Court’s Order and Judgment Granting Final Approval of Class Action Settlement, which, among other things, approves this Class Settlement Agreement and the settlement of the Litigation as fair, adequate, and reasonable, and confirms the final certification of the Settlement Class, substantially in the form attached hereto as **Exhibit E**.

1.14 “Funding Date” has the meaning set forth in Paragraph 2.2 below.

1.15 “Incident” means the data security Incident involving Albertsons that was perpetrated by an unauthorized third-party in December 2022, which resulted in the unauthorized third-party being able to access certain current and former Albertsons’ (and/or its affiliates) employees’, dependents’, and/or job applicants names, dates of birth, and Social Security numbers, and which forms the basis of the claims filed by Representative Plaintiffs in the Litigation.

1.16 “Litigation” means the actions filed by Plaintiff Laura Medina on May 1, 2023 in the United States District Court for the District of Delaware, Case No. 1:23-cv-00480 (the “*Medina* Action”), and Plaintiff Maryelin Alberto on May 17, 2023 in the United States District Court for the District of Idaho, 1:23-cv-00251-DKG (the “*Alberto* Action”).

1.17 “Net Settlement Fund” means the amount of funds that remain in the Settlement Fund after all funds are paid from or allocated for payment from the Settlement Fund for Settlement Costs.

1.18 “Non-Profit Residual Recipient” means the National Cybersecurity Alliance.

1.19 “Notice Date” means the date by which the initial Class Notice to the Settlement Class shall be commenced, which shall be within thirty (30) days after the entry of the Preliminary Approval Order.

1.20 “Objection Deadline” means sixty (60) days after the Notice Date or such other date set by the Court in the Preliminary Approval Order.

1.21 “Opt-Out” means a Settlement Class Member (a) who timely submits a properly completed and executed Request for Exclusion, (b) who does not rescind that Request for Exclusion before the Opt-Out Deadline, and (c) as to whom there is not a successful challenge to the Request for Exclusion.

1.22 “Opt-Out Deadline” means the date by which Settlement Class Members must mail or submit through the settlement website their Request for Exclusion in order for it to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes. The Opt-Out Deadline shall be sixty (60) days after the Notice Date or such other date set by the Court in the Preliminary Approval Order.

1.23 “Parties” means Plaintiffs Laura Medina and Maryelin Alberto and Defendant Albertsons Companies, Inc., collectively.

1.24 “Person” means an individual, corporation, partnership, limited partnership, limited liability company or partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity, and their respective spouses, heirs, affiliates, attorneys, predecessors, successors, representatives, or assignees.

1.25 “Personal Information” means information that may have been exposed, compromised, or accessed during the Incident, including full names, addresses, and Social Security

numbers.

1.26 “Preliminary Approval Order” means the Court’s order granting, among other things, conditional certification of the Settlement Class, preliminary approval of this Class Settlement Agreement and the settlement of the Litigation, and approval of the form and method of Class Notice, substantially in the form set forth in **Exhibit D**.

1.27 “Released Claims” means all causes of action and claims for relief that have been asserted, or could have been asserted, by any Settlement Class Member, including Representative Plaintiffs, against any of the Released Parties based on, relating to, concerning, or arising out of the Incident, the alleged compromising and/or theft of Personal Information as a result of the Incident, and the allegations, facts, or circumstances described in the Complaint and the Litigation including, but not limited to negligence; negligence *per se*; breach of contract; breach of implied contract; breach of fiduciary duty; breach of confidence; invasion of privacy; misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment; wantonness; failure to provide adequate notice pursuant to any breach notification statute or common law duty; failure to maintain adequate or reasonable cybersecurity pursuant to any statutory or common law duty; claims under any state consumer protection statutes; claims under the California Consumer Privacy Act; and including any claims for relief including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys’ fees and expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, the appointment of a receiver, and any other form of relief. Released Claims shall not include the right of any Settlement Class Member or any of the Released Persons to enforce the terms of the settlement contained in the Settlement Agreement, and shall not include the claims of Settlement

Class Members who have timely excluded themselves from the Settlement Class.

1.28 “Released Parties” means Albertsons and each of its past, present, and future parents, subsidiaries, divisions, banners, affiliates, whether indirect or direct, as well as these entities’ respective predecessors, successors, and assigns, and their past, present, and future directors, officers, employees, agents, vendors, insurers, reinsurers, shareholders, owners, attorneys, advisors, consultants, representatives, partners, joint venturers, independent contractors, wholesalers, resellers, distributors, service providers, retailers, and the predecessors, successors, and assigns of each of them.

1.29 “Releasing Parties” means Plaintiffs and all Settlement Class Members who do not timely and properly exclude themselves from the settlement memorialized in this Class Settlement Agreement, and each of their respective heirs, executors, administrators, representatives, agents, partners, successors, attorneys, and assigns.

1.30 “Reminder Notice” means a second notice sent to all Settlement Class Members who have not yet filed a claim, by the means used to send the initial Notice (i.e. U.S. Mail). A Reminder Notice will be sent by the Claims Administrator thirty (30) days prior to the Claims Deadline, in the event that the Claims Rate (as calculated by the Claims Administrator) is less than 3% of the Settlement Class 45 days prior to the Claims Deadline. The Parties shall agree on the language to be used in any Reminder Notice before it is sent, and any Reminder Notice will be paid for out of the Settlement Fund.

1.31 “Request for Exclusion” means a substantially completed and properly-executed written request that is timely delivered to the Claims Administrator by a Settlement Class Member under Paragraph 5 of this Class Settlement Agreement and is postmarked or submitted through the settlement website on or before the Opt-Out Deadline. For a Request for Exclusion to be properly

completed and executed, subject to approval by the Court, it should: (a) state the Settlement Class Member's full name, address, and telephone number; (b) contain the Settlement Class Member's personal and original signature or the original signature of a person authorized by law to act on the Settlement Class Member's behalf with respect to a claim or right such as those asserted in the Litigation, such as a trustee, guardian, or person acting under a power of attorney, along with evidence of appointment of such person acting on the Settlement Class Member's behalf; and (c) clearly manifest the Settlement Class Member's intent to be excluded from the settlement. All Requests for Exclusion must be submitted individually in connection with a Settlement Class Member, *i.e.*, a separate request with a separate original signature is required for every Settlement Class Member seeking exclusion.

1.32 "Service Award" means such funds as may be awarded by the Court to the Representative Plaintiffs for their service as Representative Plaintiffs.

1.33 "Settlement Claim" means a claimant's claim for relief under Paragraph 2.3 of the Settlement Agreement, including all subparts.

1.34 "Settlement Class" means all individuals in the United States who were sent a notice of the Incident by Albertsons on or around April 21, 2023. Excluded from the Settlement Class are any judge presiding over this matter and any of their first-degree relatives, judicial staff, Albertsons' officers or directors, and persons who timely and validly request exclusion from the Settlement Class.

1.35 "Settlement Class Counsel" means Mason A. Barney and Tyler J. Bean of SIRI & GLIMSTAD LLP and David K. Lietz of MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN, PLLC.

1.36 "Settlement Class Member" means a member of the Settlement Class. The Settling

Parties believe that there are approximately 32,878 Settlement Class Members.

1.37 “Settlement Costs” means all costs of the settlement other than payment of Settlement Claims and the costs associated with the Business Practice Commitments identified in Paragraph 2.4, including the costs of carrying out the Notice Program, as set forth in Paragraph 4 herein, Claims Administration, any Attorneys’ Fees and Expenses Award, any Service Award to Representative Plaintiffs, and all other expenses or costs related to the settlement.

1.38 “Settlement Fund” means a non-reversionary common fund of \$750,000.00, which shall be the only amount paid by Albertsons and the sole and exclusive source of all Settlement Costs, payment of Settlement Claims, Administration Costs, Service Awards, and Attorneys’ Fees and Expenses Award. No portion of the Settlement Fund will revert to Albertsons.

1.39 “Settling Parties” means, collectively, Albertsons and Representative Plaintiffs, individually and on behalf of the Settlement Class.

1.40 “Unknown Claims” means any of the Released Claims that Releasing Parties do not know or suspect to exist in their favor at the time of the release of the Released Parties and that, if known by them, might have affected their settlement with, and release of, the Released Parties, or might have affected their decision to participate in this Class Settlement Agreement. With respect to any and all Released Claims, the Settling Parties stipulate and agree that upon the Effective Date, the Releasing Parties expressly shall be deemed to have, and by operation of the Final Approval Order shall have, released any and all Released Claims, including Unknown Claims, and waived the provisions, rights, and benefits conferred by California Civil Code § 1542, and any and all provisions, rights, and benefits conferred by any law of any state, province, or territory of the United States (including, without limitation, Montana Code Ann. § 28-1-1602; North Dakota Cent. Code § 9-13-02; and South Dakota Codified Laws § 20-7-11), which are

similar, comparable, or equivalent to California Civil Code § 1542, which provides:

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

Releasing Parties may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Released Claims, but Releasing Parties expressly shall be deemed to have, and by operation of the Final Approval Order shall have, upon the Effective Date, fully, finally, and forever settled and released any and all Released Claims including Unknown Claims.

1.41 “Unreimbursed Economic Losses” refers to both valid and verified Ordinary Losses under paragraph 2.3.1(a) and Extraordinary Losses under paragraph 2.3.1(b).

1.42 All time periods described in this Class Settlement Agreement in terms of “days” shall be in calendar days unless otherwise expressly stated herein. Days shall be counted as described in Fed. R. Civ. P. 6. If a deadline set forth in this Class Settlement Agreement falls on a Saturday, Sunday, or legal federal holiday, the deadline shall be extended to the next day that is not a Saturday, Sunday, or legal federal holiday.

2. SETTLEMENT CONSIDERATION

2.1 In consideration for the releases contained in this Class Settlement Agreement, and without admitting liability for any of the alleged acts or omissions alleged in the Litigation, and in the interests of minimizing the costs inherent in any litigation, Albertsons will perform all the following.

2.2 Albertsons will pay the Settlement Fund to the Claims Administrator as follows:
(a) within fourteen (14) days after entry of the Preliminary Approval Order, Albertsons will

advance the amounts necessary to pay for the estimated costs of the Notice Program, as set forth in Paragraph 4 herein, and Claims Administration (which amounts shall be determined and requested by the Claims Administrator), and which advances will be credited against the Settlement Fund; and (b) Albertsons will pay the balance of the Settlement Fund into the Escrow Account by or before the funding Date. (The “Funding Date” shall be seven (7) days after the Effective Date.)

2.3 The Claims Administrator will agree to make the following compensation from the Settlement Fund available to Settlement Class Members who submit valid and timely Claim Forms. To be timely, a Settlement Class Member must either submit the online Claim Form on or before the Claims Deadline, or must mail a printed Claim Form that is postmarked on or before the Claims Deadline. Claims will be subject to review for completeness and plausibility by the Claims Administrator. Claimants will have the opportunity to seek review by the Claims Administrator if they dispute the Claims Administrator’s initial determination. Should any Claimant seek review of such initial determination, the Parties shall be afforded notice and an opportunity to respond. The Claims Administrator will make the final determination as to the validity of Claims and its decision shall be binding.

2.3.1 Compensation for Out-of-Pocket Losses and Lost Time: Settlement Class

Members who submit valid and timely Claim Forms with supporting documentation may receive compensation for one or more of the following categories of loss resulting from the Incident. Claim Forms submitted by Settlement Class Members must be signed with an attestation that the information submitted is true and correct to the best of their knowledge and belief, specifically, “I swear and affirm under the laws of my state that

the information I have supplied in this Claim Form is true and correct to the best of my recollection, and that this form was executed on the date set forth below.”

- a. Compensation for Ordinary Losses: Settlement Class Members may receive compensation for unreimbursed losses, up to a total of \$1,000 per person, upon submission of a claim and supporting documentation, including the following below. Claims submitted under this subparagraph 2.3.1(a) must be supported by documentation that is not self-prepared.

- i. *Out of pocket expenses incurred* as a result of the Incident, including, without limitation, bank fees, long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used), postage, or gasoline for local travel;
- ii. *Fees for credit reports, credit monitoring, or other identity theft insurance product* purchased between December 23, 2022 and the date of the Claims Deadline;
- iii. *Up to 5 hours of lost time*, at \$25/hour, if at least one full hour was spent dealing with the Incident. An attestation from the Settlement Class Member, specifically, “I swear and affirm under the laws of my state that, to the best of my knowledge and belief, any claimed lost time was spent related to the Data Incident,” shall constitute sufficient evidence to support a claim for lost time.

- b. Compensation for Extraordinary Losses for a Victim of Actual Identity Theft:

Settlement Class Members may receive up to \$5,000 in compensation to each Claimant for proven monetary loss as a result of actual identity theft if:

- i. The loss is an actual, documented (with non-self-prepared documentation), and unreimbursed monetary loss;
 - ii. The loss was fairly traceable to the Incident;
 - iii. The loss occurred from December 23, 2022 through the Claims Deadline;
 - iv. The loss is not already covered by one or more of the examples of out-of-pocket losses above; and
 - v. The Settlement Class Member made reasonable efforts to avoid, mitigate, or seek reimbursement for, the loss, including but not limited to exhaustion of all available credit monitoring insurance and identity theft insurance.
- c. Identity Theft Monitoring: In addition to the foregoing benefits, each Settlement Class Member will be entitled to claim three (3) years of 3-bureau identity theft monitoring to Settlement Class Members. The identity theft monitoring shall be paid from the Settlement Fund and will include:
- i. Real time monitoring of the credit file at all three bureaus;
 - ii. Dark web scanning with immediate notification of potential unauthorized use;
 - iii. Public record monitoring;
 - iv. Medical identity monitoring;
 - v. Identity theft insurance (no deductible); and
 - vi. Access to fraud resolution agents to help investigate and resolve identity thefts.

2.3.2 Alternative Cash Payment: In lieu of all other settlement benefits listed in Paragraphs 2.3.1(a), 2.3.1(b), and 2.3.1(c) above, each Settlement Class Member may choose to receive a cash payment in the amount of \$75, subject to a *pro rata*

adjustment (upwards or downwards) as set forth in Paragraph 2.10 after all other expenses are paid from the Settlement Fund.

2.4 Business Practice Commitments: Albertsons agrees to adopt, implement, and/or continue the following business practices set forth below (“Business Practice Commitments”) through December 31, 2025, subject to the terms and conditions of this Section:

- Revise communications protocols and requirements
- Enhance contracts and notification requirements for third-party vendors
- Strengthen associate education and awareness campaigns
- Deploy and configure modern machine-learning based email protection
- Maintain endpoint protection for Windows, Linux and critical assets
- Maintain security controls around identity management services
- Migrate sensitive edge data from non-centralized file servers to cloud
- Maturing of data security practices

The Parties acknowledge that technical and business requirements for securing information evolve and change dynamically. In the event that technological or industry developments, or intervening changes in law, business practices, or business structure, render specific Business Practice Commitments obsolete or make compliance by Albertsons with them unreasonable, unnecessary, or impractical, Albertsons may modify its business practices as necessary to ensure appropriate data security practices are being followed. All costs associated with implementing the Business Practice Commitments will be borne by Albertsons separate and apart from the Settlement Fund.

Within thirty (30) days of the execution of this Settlement Agreement, Albertsons agrees to provide a confidential, non-public declaration, which is to be treated as attorneys’ eyes only, providing additional detail regarding the Business Practice Commitments set forth above. Albertsons will also include in that non-public, confidential declaration information about its use of multi-factor authentication.

Within fourteen (14) days of the execution of this Settlement Agreement, Albertsons agrees to provide to Plaintiffs' counsel the estimated cost of implementing the Business Practice Commitments identified above.

2.5 Assessing Claims for Documented Losses. The Claims Administrator shall verify that each person who submits a Claim Form is a Settlement Class Member. The Claims Administrator shall have the sole discretion and authority to determine whether and to what extent documentation for Ordinary or Extraordinary Losses reflect valid Unreimbursed Economic Losses actually incurred that are fairly traceable to the Incident, but may consult with both Class Counsel and Albertsons' Counsel in making individual determinations. The Claims Administrator is authorized to contact any Settlement Class Member (by e-mail, telephone, or U.S. mail) to seek clarification regarding a submitted claim prior to making a determination as to its validity.

2.6 Assessing Claims for Lost Time. The Claims Administrator shall have the sole discretion and authority to determine whether the prerequisites have been met in order to award payments of lost time under Paragraph 2.3.1(a)(iii) above, but may consult with both Class Counsel and Albertsons' Counsel in making individual determinations. The Claims Administrator is authorized to contact any Settlement Class Member (by e-mail, telephone, or U.S. mail) to seek clarification regarding a submitted claim prior to making a determination as to its validity.

2.7 Assessing Claims for Alternative Cash Payments. The Claims Administrator shall verify that each person who submits a Claim Form is a Settlement Class Member. A Settlement Class Member shall not be required to submit any documentation or additional information in support of their claim for an alternative cash payment under Paragraph 2.3.2 above. However, the Claim Form must clearly indicate that the Settlement Class Member is electing to claim the alternative cash payment in lieu of any other monetary benefits made available under

this Settlement Agreement and, specifically, Paragraph 2.3.1(a), 2.3.1(b), and 2.3.1(c) above. The Claims Administrator is authorized to contact any Settlement Class Member (by e-mail, telephone, or U.S. mail) to seek clarification regarding a submitted claim prior to making a determination as to its validity. In the event of any ambiguities in the Claim Form, the Claims Administrator must contact the Settlement Class Member prior to making a determination as to its validity and, specifically, to determine whether the Settlement Class Member wishes to file a claim for an alternative cash payment or any other benefits made available under this Settlement Agreement.

2.8 Order of Distribution of Funds. The Claims Administrator must use the funds available in the Net Settlement Fund (after payment of Settlement Costs as defined above) to make payments for approved claims in this order: documented Unreimbursed Economic Losses, followed by lost time, followed by credit monitoring, followed by payments for approved claims for pro rata alternative cash payments.

2.9 Deficiencies. To the extent the Claims Administrator determines a claim for Unreimbursed Economic Losses or lost time is deficient in whole or part, within a reasonable time of making such a determination, the Claims Administrator shall notify the subject Settlement Class Member of the deficiencies and give the Settlement Class Member fourteen (14) days to cure the deficiencies. Such notifications shall be sent via e-mail, unless the claimant did not provide an e-mail address, in which case such notifications shall be sent via U.S. mail. If the Settlement Class Member attempts to cure the deficiencies but, at the sole discretion and authority of the Claims Administrator, fails to do so, the Claims Administrator shall notify the Settlement Class Member of that determination within ten (10) days. The Claims Administrator may consult with Class Counsel and Defendant's Counsel in making such determinations.

2.10 Contingencies. In the event that the Net Settlement Fund is less than the amount required to pay all valid Settlement Claims, then all valid Unreimbursed Economic Loss claims and each valid claim for lost time shall be paid in full, all requests for credit monitoring shall be awarded, and the amounts awarded for alternative cash payment claims shall be reduced on a *pro rata* basis, such that each of the Settlement Class Members who elected to receive an alternative cash payment receives an equal amount. In no event shall the Settlement Fund be increased for any reason. In the event that the Net Settlement Fund exceeds the amount required to pay all valid Settlement Claims, then each Settlement Class Member who is entitled to receive payment for Unreimbursed Economic Loss claims, claims for lost time, and/or claims for an alternative cash payment shall receive additional funds increased on a *pro rata* basis (in other words, the same additional amount will be added to each claimant's payment) so that the Net Settlement Fund is as nearly depleted as possible. Notwithstanding the foregoing, in the event that settlement payments are increased on a *pro rata* basis, under no circumstances shall a Settlement Class member receive more than two times the amount of their original valid claim.

2.11 Residual Funds for Net Settlement Fund. To the extent any monies remain in the Net Settlement Fund more than fourteen (14) days after the expiration of the last check issued to the Settlement Class Members, that money will be distributed *pro rata* among all Settlement Class Members who timely submitted a valid and approved Claim Form or, if in the Parties' discretion too little money remains to make such a payment, the money will be donated to the Non-Profit Residual Recipient.

2.12 All attestations required by this Section must be executed by the Settlement Class Member, but may be executed by any means permitted by federal or state law.

3 PRELIMINARY SETTLEMENT APPROVAL AND FINAL APPROVAL

3.1 As soon as practicable after the execution of the Class Settlement Agreement, Settlement Class Counsel shall file a motion seeking entry of a Preliminary Approval Order in the *Medina* Action. Settlement Class Counsel shall provide Albertsons with a draft of such motion not less than five (5) days before it is filed, and Settlement Class Counsel shall consider in good faith any proposed edits Albertsons has to that motion. A proposed Preliminary Approval Order shall be submitted with the motion and shall be substantially in the form set forth in **Exhibit D**. The motion seeking entry of a Preliminary Approval Order shall request that the Court, *inter alia*:

- a) Stay all proceedings in the Litigation other than those related to approval of the Class Settlement Agreement;
- b) Stay and/or enjoin, pending Final Approval of the Class Settlement Agreement, any actions brought by Settlement Class Members concerning the Released Claims;
- c) Preliminarily certify the Settlement Class for settlement purposes only;
- d) Preliminarily approve the terms of the Class Settlement Agreement as fair, adequate, and reasonable;
- e) Appoint Representative Plaintiffs as the Settlement Class representatives for settlement purposes only;
- f) Appoint Settlement Class Counsel as counsel for the Settlement Class for settlement purposes only;
- g) Approve the Notice Program, as set forth in Paragraph 4 herein, and set the dates for the Opt-Out Deadline, and Objection Deadline;
- h) Approve the form and contents of a Long Notice substantially similar to the one attached hereto as **Exhibit B**, and a Short Notice substantially similar to the one

attached hereto as **Exhibit C**, which together shall include a fair summary of the Settling Parties' respective litigation positions, the general terms of the settlement set forth in the Class Settlement Agreement, instructions for how to object to or submit a Request for Exclusion from the settlement, and the date, time, and place of the Final Approval Hearing;

- i) Appoint a Claims Administrator; and
- j) Schedule the Final Approval Hearing.

The Parties shall, before the filing of Plaintiffs' motion for preliminary approval, inform the Court in the *Alberto* Action of the pendency of this Agreement and also file a joint motion to stay all of the proceedings in the *Alberto* Action pending the entry of the Final Approval Order and Judgment in this Action. In the event the Court in the *Alberto* Action raises any concerns regarding the Class Settlement Agreement, the Parties will work in good faith to resolve those concerns consistent with the terms and intent of this Class Settlement Agreement prior to or in conjunction with seeking preliminary approval in the *Medina* Action. It is the Parties' intent to effectuate a global settlement encompassing the *Alberto* Action in the *Medina* Action.

3.2 Albertsons will consent to the entry of the Preliminary Approval Order so long as it is substantially in the form attached to this Class Settlement Agreement as **Exhibit D** and is otherwise consistent with this Class Settlement Agreement.

3.3 Settlement Class Counsel and Albertsons shall request that the Court hold a Final Approval Hearing after notice is completed and at least one hundred (100) days after the Notice Date, and grant final approval of the Class Settlement Agreement as set forth herein.

3.4 Settlement Class Counsel shall file a motion for final approval not less than fourteen (14) days prior to the Final Approval Hearing. Settlement Class Counsel shall provide Albertsons

with a draft of such motion not less than five (5) days before it is filed, and Settlement Class Counsel shall consider in good faith any proposed edits Albertsons has to that motion.

3.5 The proposed Final Approval Order and Judgment that shall be filed with the motion for final approval shall, among other things:

- a) Determine the Class Settlement Agreement is fair, adequate, and reasonable;
- b) Finally certify the Settlement Class;
- c) Determine that the Notice Program, as set forth in Paragraph 4 herein, satisfies due process requirements;
- d) Bar and enjoin any Settlement Class Members who did not timely opt out in accordance with the requirements of this Class Settlement Agreement from asserting any of the Released Claims; and
- e) Release and forever discharge Albertsons and the Released Parties from the Released Claims, as provided for in this Class Settlement Agreement.

4 **NOTICE PROGRAM**

4.1 Within ten (10) days following the filing of the motion for preliminary approval of class action settlement, the Claims Administrator, on behalf of the Defendant, shall cause a CAFA Notice to be served upon the appropriate State and Federal officials. All expenses incurred in connection with the preparation and service of the CAFA Notice shall be borne by Defendant from the Settlement Fund, and under no circumstances will be borne by Plaintiffs or Class Counsel.

4.2 Within five (5) days following the filing of the motion for preliminary approval of class action settlement, Albertsons will provide the Claims Administrator with a list of Settlement Class Members Albertsons has been able to identify which will include, to the extent available, the name and physical mailing address of each Settlement Class Member. The Claims

Administrator shall cause notice to be disseminated to the Settlement Class Members by direct U.S. mail, pursuant to the Preliminary Approval Order and the Notice Program, as described in Paragraph 4 herein, and in compliance with all applicable laws including, but not limited to, the Due Process clause of the United States Constitution, and to be effectuated pursuant to the provisions set forth below, the costs of which shall be a Settlement Cost. The Claims Administrator must maintain the list of Settlement Class Members provided by Albertsons pursuant to this Paragraph 4.2 in strict confidence and may not share the list with anyone other than Albertsons.

4.3 Class Notice shall be provided to the Settlement Class as follows:

a) Within thirty (30) days of entry of the Preliminary Approval Order, the Claims Administrator shall send the Short Notice as follows:

- (i) The Claims Administrator shall perform any further investigations deemed appropriate by the Claims Administrator, including using the National Change of Address (“NCOA”) database maintained by the USPS, in an attempt to identify current mailing addresses for individuals whose names are provided by Albertsons, so long as the costs of such efforts are proportionate with the amount of the estimated payments to such individuals.
- (ii) The Claims Administrator will send the Short Notice (in postcard form) by first-class U.S. mail, postage prepaid;
- (iii) For any Short Notice (in postcard form) that has been mailed via first-class U.S. mail and returned by the U.S. Postal Service (“USPS”) as undeliverable, the Claims Administrator shall re-mail

the notice to the forwarding address, if any, provided by the USPS on the face of the returned mail;

- (iv) Neither the Settling Parties nor the Claims Administrator shall have any other obligation to re-mail individual notices that have been mailed as provided in this Paragraph 4.3; and
- (v) In the event that the Claims Rate (as calculated by the Claims Administrator) is less than 3% of the Settlement Class forty-five (45) days prior to the Claims Deadline, the Claims Administrator shall issue a Reminder Notice (as defined above) thirty (30) days prior to the Claims Deadline.

b) The Claims Administrator shall establish a dedicated settlement website that includes relevant settlement related documents, including but not limited to this Class Settlement Agreement, the complaints filed in the Litigation, the Long Notice approved by the Court, the preliminary approval motion, and the preliminary approval order. The Claims Administrator shall ensure that claims cannot be submitted on the settlement website without a unique claim ID that will be provided to each Settlement Class Member on the Short Notice and can also be obtained by calling the Settlement Administrator. The Claims Administrator shall maintain and update the settlement website until all payments have been made to Settlement Class Members pursuant to Paragraph 2, above. The Claims Administrator will also post on the settlement website copies of the motion for final approval of the Class Settlement Agreement, and the motion for an Attorneys' Fees and Expenses Award and Incentive Awards and other relevant filings. A toll-free number with interactive voice response and FAQs shall also be made available to address Settlement Class Members' inquiries. The settlement website shall not include any

advertising and shall remain accessible from the Notice Date until one-hundred eighty (180) days following the Effective Date, at which time the Claims Administrator shall terminate the settlement website and transfer ownership of the URL to Albertsons.

4.4 The Short Notice or Long Notice approved by the Court may be adjusted by the Claims Administrator in consultation and agreement with the Settling Parties as may be reasonable and necessary, so long as it is not inconsistent with such approval and does not materially alter the language approved by the Court.

4.5 Prior to the Final Approval Hearing, counsel for the Settling Parties shall cause to be filed with the Court an appropriate declaration from the Claims Administrator demonstrating compliance with the Court-approved Notice Program.

5 OPT-OUT PROCEDURES

5.1 Each Settlement Class Member wishing to exclude themselves from the Settlement Class must individually sign and timely mail a written Request for Exclusion to the address designated by the Claims Administrator.

5.2 To be effective, a Request for Exclusion must be postmarked no later than sixty (60) days after the Notice Date or such other date set by the Court in the Preliminary Approval Order.

5.3 Within seven (7) days after the Opt-Out Deadline, the Claims Administrator shall provide the Settling Parties with a complete and final list of all Opt-Outs who have timely and validly excluded themselves from the Settlement Class and, upon request, copies of all completed Requests for Exclusions. Settlement Class Counsel may file these materials with the Court, with any Personal Information other than names and cities and states of residence redacted, no later than seven (7) days prior to the Final Approval Hearing.

5.4 All Persons who timely and validly opt out of the Settlement Class in accordance with the requirements of this Class Settlement Agreement shall not receive any benefits of or be bound by the terms of this Class Settlement Agreement. All Persons falling within the definition of the Settlement Class who do not timely and validly opt out in accordance with the requirements of this Class Settlement Agreement shall be bound by the terms of this Class Settlement Agreement and by all proceedings, orders, and judgments in the Litigation.

6 **OBJECTION PROCEDURES**

6.1 Each Settlement Class Member who does not file a timely Request for Exclusion may file with the Court a notice of intent to object to the Class Settlement Agreement. The Long Notice shall instruct Settlement Class Members who wish to object to the Class Settlement Agreement to send their written objections to the Claims Administrator at the address indicated in the Short Notice and Long Notice. The Long Notice shall make clear that the Court can only approve or deny the Class Settlement Agreement and cannot change the terms. The Long Notice shall advise Settlement Class Members of the deadline for submission of any objections.

6.2 All notices of an intent to object to the Class Settlement Agreement must be written and should include all of the following:

- a) the objector's full name, address, telephone number, and email address (if any);
- b) a clear and detailed written statement that identifies the basis of the specific objection that the Settlement Class Member asserts;
- c) the identity of any counsel representing the objector;
- d) a statement whether the objector intends to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel,

identifying that counsel;

- e) a list of all other class action settlements that the objector has objected to in the previous ten (10) years; and
- f) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative (if any, and for duly authorized representatives evidence of appointment of same).

6.3 To be timely, written notice of an objection in the appropriate form must be filed or postmarked no later than the Objection Deadline, subject to Court approval.

6.4 Except upon a showing of good cause, any Settlement Class Member who fails to substantially and timely comply with the requirements in this Paragraph 6 for objecting shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Class Settlement Agreement, and shall be bound by all the terms of the Class Settlement Agreement and by all proceedings, orders and judgments in the Litigation. The exclusive means for any challenge to the Class Settlement Agreement shall be through the provisions of this Paragraph 6. Without limiting the foregoing, any challenge to the Settlement Agreement, the Final Approval Order, or the judgment to be entered upon final approval shall be pursuant to appeal under the Federal Rules of Appellate Procedure and not through a collateral attack.

7 CLAIMS ADMINISTRATION

7.1 The Claims Administrator shall administer and calculate the payments to Class Members.

7.2 No Person shall have any claim against the Claims Administrator, Albertsons, the Released Parties, Albertsons' counsel, Settlement Class Counsel, Representative Plaintiffs' Counsel, and/or the Representative Plaintiffs based on distribution of Settlement Claims.

7.3 The Claims Administrator shall agree to hold the Settlement Fund in an interest-bearing qualified settlement fund account, and administer the Settlement Fund, subject to the continuing jurisdiction of the Court and from the earliest possible date, as a qualified settlement fund as defined by Treasury Regulation § 1.46B-1 *et seq.*, and agree to any relation-back election required to treat the Settlement Fund as a qualified settlement fund from the earliest date possible. The Claims Administrator shall pay any taxes owed by the Settlement Fund out of the Settlement Fund. Except for funding the Settlement Fund, Albertsons shall not have any other financial obligation under the Class Settlement Agreement. In addition, under no circumstances will Albertsons have any liability for taxes or tax expenses under this Class Settlement Agreement, nor shall Albertsons be responsible for making any tax determinations under this Class Settlement Agreement.

7.4 The Claims Administrator will send funds electronically (in an electronic payment format recommended by the Claims Administrator, such as PayPal or Venmo, and agreed-upon by the Settling Parties) or award check for payments to Settlement Class Members within thirty (30) days after the Funding Date. No distributions will be made without authorization from the Settling Parties. Award payment checks shall be sent by first-class U.S. mail. Award payment checks (electronic and paper) shall be valid for a period of one hundred and eighty (180) days from issuance, and shall state, in words or substance that the check must be cashed within one hundred and eighty (180) days, after which time it will become void. In the event an award payment check becomes void, the Settlement Class Member to whom that award payment check was made payable will forfeit the right to payment and will not be entitled to have the check reissued or to any further distribution from the Settlement Fund or to any further recourse against the Released Parties, and the Class Settlement Agreement will in all other respects be fully enforceable against

the Settlement Class Member. No later than one hundred and ninety (190) days from the issuance of the award payment checks, the Claims Administrator shall take all steps necessary to stop payment on any award payment checks that remain uncashed.

7.5 All Settlement Class Members who fail to timely cash their award payment check shall be forever barred from receiving an award payment pursuant to this Class Settlement Agreement, but will in all other respects be subject to, and bound by, the provisions of this Class Settlement Agreement, including the releases contained herein, and the Final Approval Order and Judgment.

8 **RELEASES**

8.1 Upon the Effective Date, the Releasing Parties will be deemed by operation of this Class Settlement Agreement and the Final Approval Order and Judgment to have forever fully, finally, completely, and unconditionally released, discharged, and acquitted Albertsons and the Released Parties from any and all of the Released Claims, and will be deemed to have also released Unknown Claims. Further, upon the Effective Date, and to the fullest extent permitted by law, the Releasing Parties, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public, or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than the participation in the Class Settlement Agreement as provided herein) in which any of the Released Claims or Unknown Claims are asserted.

8.2 Upon entry of the Final Approval Order and Judgment, the Releasing Parties shall be barred from initiating, asserting, or prosecuting against Albertsons and any Released Parties any claims that are released by operation of the Class Settlement Agreement and the Final Approval Order and Judgment.

9 THE ATTORNEYS' FEES AND EXPENSES AWARD AND INCENTIVE AWARDS

9.1 At least seven (7) days prior to the Opt-Out Deadline, Settlement Class Counsel may file a motion seeking reasonable attorneys' fees in an amount not to exceed one-third (33.33 percent, or \$250,000) of the Settlement Fund. In addition, Settlement Class Counsel may seek their reasonable costs and expenses from the Settlement Fund, not to exceed \$25,000. The entirety of the Attorneys' Fees and Expenses Award shall be payable solely from the Settlement Fund.

9.2 Settlement Class Counsel will also request from the Court a Service Award for each of the Representative Plaintiffs in the amount of Two Thousand Five Hundred Dollars (\$2,500.00), to be paid solely from the Settlement Fund. Albertsons will not object to Representative Plaintiffs' request for a Service Award payment, unless Representative Plaintiffs' request exceeds the terms outlined in this Class Settlement Agreement.

9.3 Within seven (7) days after the Funding Date, the Claims Administrator shall pay any Attorneys' Fees and Expenses Award and Service Awards from the Settlement Fund to an account designated by Settlement Class Counsel. After the Attorneys' Fees and Expenses Award and the Incentive Awards have been deposited into this account, Settlement Class Counsel shall be responsible for distributing any Incentive Awards to Representative Plaintiffs, and shall have sole discretion in allocating such attorneys' fees and costs, and distributing to each participating Representative Plaintiffs' Counsel firm an allocated share of such attorneys' fees and costs to that firm. Albertsons shall have no responsibility for distribution of attorneys' fees or costs among participating firms.

9.4 No order of the Court or modification or reversal or appeal of any order of the Court concerning the amounts of the Attorneys' Fees and Expenses Award or the Incentive Awards hereunder shall affect whether the Judgment is Final or constitute grounds for cancellation or termination of this Class Settlement Agreement.

9.5 Albertsons shall not be liable for any additional attorneys' fees and expenses of Representative Plaintiffs' Counsel or Settlement Class Counsel in the Litigation.

10 **CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION**

10.1 Albertsons' willingness to settle this Litigation on a class-action basis and to agree to the accompanying certification of the Settlement Class is dependent on achieving finality in this Litigation and the desire to avoid the expense of this and other litigation, unless otherwise expressly provided for in this Class Settlement Agreement. Consequently, Albertsons has the right to terminate this Class Settlement Agreement, declare it null and void, and have no further obligations under this Class Settlement Agreement to the Representative Plaintiffs, the Settlement Class, or Representative Plaintiffs' Counsel/Settlement Class Counsel, unless each of the following conditions occur:

- a) The Court has entered a Preliminary Approval Order without material changes to the agreed-upon Preliminary Approval Order attached as Exhibit D;
- b) The Court enters a Final Approval Order and Judgment without material changes to the agreed-upon Final Approval Order attached as Exhibit E; and
- c) The Effective Date has occurred.

10.2 If all of the conditions in Paragraph 10.1 are not fully satisfied or if the Effective Date does not occur, this Class Settlement Agreement shall, without notice, be automatically terminated unless Settlement Class Counsel and Albertsons' counsel mutually agree in writing to proceed with the Class Settlement Agreement.

10.3 Albertsons has the right to terminate this Class Settlement Agreement, declare it null and void, and have no further obligations under this Class Settlement Agreement to the Representative Plaintiffs, the Settlement Class, or Representative Plaintiffs' Counsel/Settlement

Class Counsel if greater than twenty percent (20%) of the Settlement Class Members submit valid Requests for Exclusion from the Class Settlement Agreement.

10.4 The Parties agree, for purposes of this Class Settlement Agreement only, to the certification of the Settlement Class. In the event that the Class Settlement Agreement is not approved by the Court or the Class Settlement Agreement is terminated in accordance with its terms: (a) the Settling Parties shall be restored to their respective positions in the Litigation (without prejudice to any of the Settling Parties' respective positions on the issue of class certification or any other issue) and shall jointly request that all scheduled litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Settling Party or litigant, which extension shall be subject to the decision of the Court; (b) Albertsons will still bear any costs of notice and administration through the date of termination; and (c) the terms and provisions of the Class Settlement Agreement and statements made in connection with seeking approval of the Class Settlement Agreement shall have no further force and effect with respect to the Settling Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Class Settlement Agreement, including certification of the Settlement Class for settlement purposes only, shall be treated as vacated, *nunc pro tunc*. Notwithstanding any statement in this Class Settlement Agreement to the contrary, no order of the Court or modification or reversal on appeal of any order solely reducing the amount of any Attorneys' Fees and Expenses Award to Settlement Class Counsel shall constitute grounds for cancellation or termination of the Class Settlement Agreement.

10.5 For the avoidance of doubt, Albertsons conditionally agrees and consents to certification of the Settlement Class for settlement purposes only, and within the context of the Class Settlement Agreement only. If the Class Settlement Agreement is not fully approved or is

otherwise terminated for any reason, Albertsons reserves its right to assert any and all objections and defenses to certification of a class, and neither the Class Settlement Agreement nor anything relating to the Class Settlement Agreement, including any Court orders, shall be offered by any Person as evidence or in support of a motion to certify a class for a purpose other than the settlement set forth in this Class Settlement Agreement.

11 THE COURT RETAINS JURISDICTION OVER THE ACTION

11.1 The Settling Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Settling Parties, the litigation, and the Settlement Agreement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

12 MISCELLANEOUS PROVISIONS

12.1 The Settling Parties and their counsel acknowledge that it is their intent to consummate this Class Settlement Agreement and agree to undertake their best efforts to effectuate and implement all terms and conditions of this Class Settlement Agreement, including taking all steps and efforts contemplated by this Class Settlement Agreement, and any other steps and efforts which may become necessary by order of the Court or otherwise.

12.2 The Settling Parties intend this Class Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Litigation and with regard to the Released Parties. The Class Settlement Agreement compromises claims that are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling Parties each agree that the settlement set forth in this Class Settlement Agreement was negotiated in good faith by the Settling Parties and reflects a settlement that was reached voluntarily after consultation with competent legal counsel. Subject to Paragraph 12.3 below, the

Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum that the Litigation was brought or defended in bad faith or without a reasonable basis.

12.3 Neither Albertsons nor Representative Plaintiffs, nor their counsel, shall disparage any Released Party, nor shall either Albertsons or Representative Plaintiffs, or their counsel, issue any press release or otherwise initiate press coverage of this settlement. If contacted by the press, the Settling Party may respond generally by stating that they are pleased that the settlement was reached and that it was a fair and reasonable result. Notwithstanding the foregoing, this provision shall not impinge upon or restrict in any way Representative Plaintiffs' Counsels' obligations under the Rules of Professional Conduct in connection with communications with clients, the Settlement Class, and the Court.

12.4 Neither the Class Settlement Agreement nor any act performed or document executed pursuant to or in furtherance of the Class Settlement Agreement: (a) is or may be deemed to be or may be used as an admission, or evidence, of the validity or lack thereof of any of the Released Claims or of any wrongdoing or liability of any of the Released Parties including, but not limited to, in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal; or (b) is or may be deemed to be or may be used as an admission, or evidence, of any fault or omission of any of the Released Parties including, but not limited to, in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. Any of the Released Parties may file the Class Settlement Agreement in any action that may be brought against them or any of them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or

counterclaim.

12.5 The Class Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest. Amendments and modifications may be made without additional notice to the Settlement Class Members unless such notice is required by the Court.

12.6 The Class Settlement Agreement contains the entire agreement between the Settling Parties and supersedes all prior agreements or understandings between them. The terms of the Class Settlement Agreement shall be construed as if drafted jointly by all Settling Parties to this Class Settlement Agreement. The terms of the Class Settlement Agreement shall be binding upon each of the Settling Parties, their agents, attorneys, employees, successors and assigns, and upon all other Persons or entities claiming any interest in the subject matter hereof, including any Settlement Class Member.

12.7 The Class Settlement Agreement shall be considered to have been negotiated, executed, and delivered, and to be wholly performed, in the State of Delaware, and the rights and obligations of the parties to the Class Settlement Agreement shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Delaware without giving effect to that State's choice of law principles.

12.8 The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Class Settlement Agreement and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Class Settlement Agreement that cannot be resolved by negotiation and agreement by counsel for the Settling Parties. The Court shall retain jurisdiction with respect to the administration, consummation, and enforcement of the Class Settlement Agreement and shall retain jurisdiction for the purpose of enforcing all

terms of the Class Settlement Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice Program and the Claims Administrator. As part of its agreement to render services in connection with this Settlement, the Claims Administrator shall consent to the jurisdiction of the Court for this purpose.

12.9 The individuals signing this Class Settlement Agreement on behalf of Albertsons represent that they are fully authorized by Albertsons to enter into, and to execute, this Class Settlement Agreement on its behalf. Representative Plaintiffs' Counsel represent that they are fully authorized to conduct settlement negotiations with counsel for Albertsons on behalf of Representative Plaintiffs, and to enter into, and to execute, this Class Settlement Agreement on behalf of the Settlement Class, subject to Court approval.

12.10 None of the Settling Parties shall be considered to be the primary drafter of this Class Settlement Agreement or any provision hereof for the purpose of any rule of interpretation or construction that might cause any provision to be construed against the drafter.

12.11 The Settling Parties agree that, subject to Paragraph 12.4 of this Agreement, this Class Settlement Agreement, and the Final Approval Order and Judgment following from the Class Settlement Agreement, will not prejudice in any way the Settling Parties' right to raise any of the arguments that the Settling Parties made in this case in any future litigation.

12.12 In the event that any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable, or void, this Class Settlement Agreement shall continue in full force and effect without said provision to the extent Albertsons does not exercise its right to terminate under Paragraph 10 of this Class Settlement Agreement.

12.13 If applicable, within fourteen (14) days after the final resolution of the *Medina* Action and the *Alberto* Action, Settlement Class Counsel shall destroy all confidential, non-public

information obtained in connection with the Litigation and Class Settlement Agreement, and certify the same.

12.14 The Settling Parties agree to use their best efforts to ensure that the *Alberto* Action will remain stayed pending final court approval of the Class Settlement Agreement. Within seven (7) days of the deadline to appeal the Court’s final approval of the Class Settlement Agreement or, if an appeal is filed, within seven (7) days of the final resolution of any appeal, Plaintiff in the *Alberto* Action shall file a notice dismissing the *Alberto* Action with prejudice.

12.15 All notices or formal communications under this Class Settlement Agreement shall be in writing and shall be given (a) by hand delivery, (b) by registered or certified mail, return receipt requested, postage pre-paid, or (c) by overnight courier to counsel for the Settling Party to whom notice is directed at the following addresses, and under all of the foregoing also send a copy by electronic mail:

Representative Plaintiffs and the Settlement Class:	Albertsons:
<p>Mason A. Barney and Tyler Bean SIRI & GLIMSTAD LLP 745 Fifth Avenue, Suite 500 New York, New York 10151 Tel: (212) 532-1091 E: mbarney@sirillp.com E: tbean@sirillp.com</p> <p>AND</p> <p>David K. Lietz MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN 5335 Wisconsin Avenue NW Suite 440 Washington, D.C. 20015-2052 Tel: 866.252.0878 E: dlietz@milberg.com</p>	<p>Cari Dawson and Gavin Reinke ALSTON & BIRD LLP 1201 West Peachtree Street Atlanta, Georgia 30309 Tel: (404) 881-7000 E: cari.dawson@alston.com E: gavin.reinke@alston.com</p> <p>AND</p> <p>Jon-Peter F. Kelly Senior Vice President – Head of Litigation ATTN: Legal Department Albertsons Companies, Inc. 250 E. Parkcenter Blvd. Boise, Idaho 83706 E: jon-peter.kelly@albertsons.com E: adwoa.seymour@albertsons.com</p>

Counsel may designate a change of the person to receive written notice or a change of address, from time to time, by giving written notice to all Settling Parties in the manner described in this Paragraph 12.15.

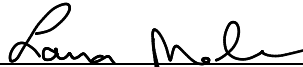
12.16 The Representative Plaintiffs, Representative Plaintiffs’ Counsel/Settlement Class Counsel, Albertsons and Albertsons’ counsel may execute this Class Settlement Agreement in counterparts, and the execution of counterparts shall have the same effect as if all Settling Parties had signed the same instrument. Facsimile, scanned, or digital (*e.g.*, AdobeSign) signatures shall be considered as valid signatures as of the date signed. This Class Settlement Agreement shall not be deemed executed until signed by the Representative Plaintiffs, all Representative Plaintiffs’ Counsel/Settlement Class Counsel, and by counsel for and representative(s) of Albertsons.

For avoidance of doubt, the following are the deadlines established by this Settlement Agreement:

Action	Deadline
Albertsons to provide to Plaintiffs’ counsel the estimated cost of implementing the Business Practice Commitments	14 days of execution of the Settlement Agreement
Albertsons Confidential Declaration regarding business practice enhancements due	30 days of the execution of this Settlement Agreement
Motion for Preliminary Approval	TBD
CAFA Notice to be served on State/Federal officials	10 days after filing of Motion for Preliminary Approval of Class Action Settlement
List of Settlement Class Members to be provided to Claims Administrator	5 days after filing of Motion for Preliminary Approval of Class Action Settlement
Albertsons to pay Claims Administrator amounts necessary for Notice Program	14 days after entry of Preliminary Approval Order
Notice Date	30 days after entry of the Preliminary Approval Order

File Motion for Attorneys' Fees and Expenses Awards and Service Awards	7 days prior to Opt-Out deadline
Objection Deadline	60 days after Notice Date
Opt-Out Deadline	60 days after Notice Date
Opt-Out list due from Claims Administrator	7 days after Opt-Out deadline
Reminder Notice of Claims Deadline to Settlement Class Members if Claims rate is less than 3%	30 days prior to Claims Deadline
Claims Deadline	90 days after the Notice Date
File Motion for Final Approval	14 days before Final Approval Hearing
List of Opt-Outs due to Court	7 days prior to Final Approval Hearing
Final Approval Hearing	More than 100 days after Notice Date
Effective Date	Date by which all of the events and conditions specified in Paragraphs 1.11 and 1.12 for the Final Approval Order and Judgment to become Final have occurred
Funding Date (Albertsons to pay the balance of the Settlement Fund in Escrow Account)	7 days after Effective Date
Attorneys' Fees and Expenses Awards and Service Awards to be paid	7 days after Funding Date
Settlement Website Accessibility	180 days after Effective Date
Distribution of Settlement Claims from Net Settlement Fund (includes Ordinary/Extraordinary Losses, Lost Time, Credit Monitoring, and Pro Rata Alternative Cash Payments)	30 days after Funding Date
Residual Funds from Net Settlement Fund disbursed	14 days after expiration of last check sent to Settlement Class Members

IN WITNESS WHEREOF, the Settling Parties hereto have caused the Class Settlement Agreement to be executed on their behalf by their duly authorized counsel of record, all as of the day set forth below:

Dated: January 3, 2024 
Laura Medina

Dated: _____, 2023 _____
Maryelin Alberto

Dated: January 4, 2024 /s/ Tyler J. Bean
Mason A. Barney or Tyler J. Bean


Dated: _____, 2023 _____
David K. Lietz
Representative Plaintiffs' Counsel and Proposed Settlement Class Counsel

Dated: _____, 2023 _____
Albertsons Companies, Inc. *Defendant*
By: _____
Its: _____


Dated: _____, 2023 _____
Counsel for Defendant
Albertsons Companies, Inc.

IN WITNESS WHEREOF, the Settling Parties hereto have caused the Class Settlement Agreement to be executed on their behalf by their duly authorized counsel of record, all as of the day set forth below:

Dated: _____, 2023 _____
Laura Medina

Dated: Jan 4, 2024, 2024 
Maryelin Alberto (Jan 4, 2024 11:43 EST)
Maryelin Alberto

Dated: _____, 2023 _____
Mason A. Barney or Tyler J. Bean

Dated: January 3, 2024 
David K. Lietz
Representative Plaintiffs' Counsel and Proposed Settlement Class Counsel

Dated: _____, 2023 _____
Albertsons Companies, Inc. *Defendant*
By: _____
Its: _____

Dated: _____, 2023 _____
Counsel for Defendant
Albertsons Companies, Inc.

IN WITNESS WHEREOF, the Settling Parties hereto have caused the Class Settlement Agreement to be executed on their behalf by their duly authorized counsel of record, all as of the day set forth below:

Dated: _____, 2023 _____
Laura Medina

Dated: _____, 2023 _____
Maryelin Alberto

Dated: _____, 2023 _____
Mason A. Barney or Tyler J. Bean

Dated: _____, 2023 _____
David K. Lietz
*Representative Plaintiffs' Counsel and Proposed
Settlement Class Counsel*

Dated: January 3, 2023 _____
Albertsons Companies, Inc. *Defendant*
By: Adwoa Gharthey-Tagoe Seymour
Its: Vice President Litigation

Dated: January 4, 2023 _____
Gavin Reinke
*Counsel for Defendant
Albertsons Companies, Inc.*