

TABLE OF EXHIBITS

- Exhibit A: Postcard Notice
- Exhibit B: Long Form Notice to be Posted Online
- Exhibit C: [proposed] Preliminary Approval Order

IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiffs Thomas Cabral (“Cabral”) and Cheryl Pantano (“Pantano”) (collectively, “Plaintiffs”) and Defendants PHH Mortgage Corporation (“PHH”), individually and as successor by merger to named defendant Ocwen Loan Servicing, LLC (“Ocwen”) (PHH and Ocwen are hereinafter referred to collectively as “PHH Defendants”), (individually, a “Party,” and collectively, the “Parties”) for with all terms as defined below, each through their duly authorized counsel, that the above-captioned action is hereby settled on all of the terms and conditions set forth in this Stipulation of Settlement and Release, and that upon approval by the Court, final judgment shall be entered on the terms and conditions set forth herein.

I. INTRODUCTION

1. The Litigation

The Cabral Litigation

On or about April 23, 2019, Cabral filed a putative class action complaint titled *Thomas Cabral v. PHH Mortg. Corp.*, No. 1973CV00379, in the Superior Court for the County of Bristol of the Commonwealth of Massachusetts (the “*Cabral Litigation*”). In his Complaint, Cabral sought to certify a state-wide class of consumers who received calls from PHH in excess of two calls within a seven-day period, in violation of the Massachusetts Consumer Protection Act, M.G.L. c. 93A § 2, et seq. (“MCPA”), and the Massachusetts Debt Collection Regulations, 940 CMR § 7.00, et seq. (“MDCR”).

On May 30, 2019, in response to the Complaint and pursuant to 28 U.S.C. §§ 1332(a) & 1441, PHH removed the matter to United States District Court for the District of Massachusetts and subsequently filed a Motion to Dismiss. On October 9, 2019 the Court remanded the matter back to state court. On November 1, 2019, PHH removed the matter again to this Court based on jurisdiction under the Class Action Fairness Act (“CAFA”) and filed a second Motion to Dismiss,

which is still pending. Cabral filed an Opposition to PHH's Motion to Dismiss and thereafter PHH filed a Reply. Meanwhile, the Parties agreed to stay this matter to proceed to mediation.

The Pantano Litigation

On or about April 8, 2019, Pantano filed a putative class action complaint titled *Cheryl Pantano v. Ocwen Loan Servicing, LLC*, No. 1977CV00530, in the Superior Court for the County of Essex of the Commonwealth of Massachusetts (the "*Pantano* Litigation"). In her Complaint, Pantano sought to certify a state-wide class of consumers who received calls from Ocwen in excess of two calls within a seven-day period, in violation of the Massachusetts Consumer Protection Act, M.G.L. c. 93A § 2, et seq. ("MCPA"), and the Massachusetts Debt Collection Regulations, 940 CMR § 7.00, et seq. ("MDCR").

On May 24, 2019, in response to the Complaint and pursuant to 28 U.S.C. §§ 1332(a) & 1441, Ocwen removed the matter to the United States District Court for the District of Massachusetts and filed a Motion to Dismiss. The *Pantano* Litigation was docketed in the United States District Court for the District of Massachusetts as *Cheryl Pantano v. Ocwen Loan Servicing, LLC*, 1:19-cv-11178, the Honorable Denise J. Casper presiding. On December 20, 2019, the federal court remanded the matter back to state court. On April 29, 2020, the *Pantano* Litigation was transferred to the Superior Court for the County of Suffolk of the Commonwealth of Massachusetts, Business Litigation Session docketed as *Cheryl Pantano v. Ocwen Loan Servicing, LLC*, No. 2084Cv00908. Ocwen then re-filed its Motion to Dismiss. While that Motion was still pending with the court, the Parties agreed to stay the *Pantano* litigation and proceed to mediation. As discussed below, the mediation resulted in a resolution of the *Pantano* Litigation, and, as a term of that settlement the *Pantano* Litigation would be dismissed and consolidated with the *Cabral* Litigation so the Parties could finalize the class settlement in the United States District Court for

the District of Massachusetts. Accordingly, on January 13, 2021, *Pantano*'s counsel dismissed the *Pantano* Litigation and on February 4, 2021 filed a First Amended Complaint in the *Cabral* Litigation to add *Pantano* and her claims.

The Mediation

The Parties agreed to hold a consolidated mediation on September 29, 2020 for both the *Cabral* and *Pantano* Litigations in attempts to resolve the matters globally. Following the mediation, the matters settled globally for \$576,000.00 conditioned on the terms set forth herein. All Parties agreed to the proposed settlement amount subject to discovery. Following discovery, the Parties will jointly move for preliminary approval of the Settlement.

This Agreement is a compromise, and the Agreement, any related documents, and any negotiations resulting in it shall not be construed as or deemed to be evidence of or an admission or concession of liability or wrongdoing on the part of PHH Defendants, or any of the Released Persons (as defined in this Agreement), with respect to any claim of any fault or liability or wrongdoing or damage whatsoever.

2. Views of Class Counsel

Plaintiffs, and their counsel, on behalf of the Settlement Class (as defined below), after receiving information and conducting discovery have concluded based upon their investigation, and taking into account the contested issues involved, the legal principles at issue, the expense and time necessary to prosecute the Action through trial, the risks and costs associated with further prosecution of the Action, the uncertainties of complex litigation, and the substantial benefits to be received pursuant to this Settlement Agreement, that a settlement with the PHH Defendants on the terms set forth is fair, reasonable, and adequate, and in the best interest of the Plaintiff and the Settlement Class.

Accordingly, Class Counsel believes that this Settlement is certainly reasonable in light of all the attendant risks of litigation and obtaining no relief for the class.

3. The PHH Defendants' Denial of Wrongdoing and Liability

At all times, PHH Defendants have denied and continue to deny liability for the claims asserted in the Action and deny that they committed, threatened, attempted or intended to commit any wrongful act or violation of law or duty. As more fully briefed in PHH and Ocwen's respective Motions to Dismiss, Plaintiffs' claims fail for several threshold reasons. First, Plaintiffs failed to satisfy the prerequisites of any Chapter 93A cause of action by providing a sufficient pre-suit demand letter identifying, in detail, both the PHH Defendants' purportedly unfair conduct and Plaintiffs' resultant injuries. See M.G.L. c. 93A, § 9(3). Because this demand letter is a statutory precondition of pursuing a Chapter 93A claim, Plaintiffs' respective Complaints should be dismissed entirely. Second, even if the Plaintiffs were successful in clearing this initial hurdle, the claims themselves lack merit. Specifically, Plaintiffs fail to plead the essential elements of a cognizable Chapter 93A emotional distress claim along with a "privacy" injury separate and distinct from the regulatory violations alleged. In each instance, these failures are fatal to Plaintiffs' causes of action, and, as a result, dismissal is warranted.

Nevertheless, considering the uncertainty and risks inherent in any litigation, PHH Defendants have concluded that further defense of the Action would be counterproductive, would not be cost-efficient, and would be unduly protracted, costly, burdensome and disruptive to its business operations, as compared to the terms of Settlement. Therefore, the PHH Defendants believe that it is desirable and beneficial that the Action be fully and finally settled and terminated in the manner and upon the terms and conditions set forth in this Agreement. As set forth in Paragraphs 2.3, 5.4, 11.6.3, and 12.3 below, this Agreement shall in no event be construed as or deemed to be evidence of an admission or concession by PHH Defendants or any of the Released

Persons with respect to any claim of any fault or liability or wrongdoing or damage whatsoever.

* * *

Given all of the foregoing and considering the risks and uncertainties inherent in continued litigation and all factors bearing on the merits of settlement, the Parties are satisfied that the terms and conditions of this Agreement and Settlement are more than fair, reasonable, adequate and in their respective best interests.

II. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT

1 Definitions

1.1 As used in this Agreement and the attached exhibits (which are integral parts of this Stipulation and are incorporated in their entirety by reference), the following terms have the following meanings, unless this Agreement specifically provides otherwise:

1.1.1 “*Cabral* Litigation” means the lawsuit captioned *Thomas Cabral v. PHH Mortgage Corporation*, originally filed on April 23, 2019 in the Superior Court of Massachusetts and removed to the United States District Court for the District of Massachusetts, No. 1:19-cv-12245-DJC.

1.1.2 “*Pantano* Litigation” means the lawsuit captioned *Cheryl Pantano v. Ocwen Loan Servicing, LLC*, originally filed on April 8, 2019 in the Superior Court of Massachusetts and transferred to the Superior Court for the County of Suffolk of the Commonwealth of Massachusetts, Business Litigation Session, No. 2084Cv00908. As defined herein, the *Pantano* Litigation was dismissed and consolidated with the *Cabral* Litigation to form the Action.

1.1.3 “Action” means the lawsuit captioned *Thomas Cabral and Cheryl Pantano, on behalf of themselves and all others similarly situated v. PHH Mortgage Corporation and Ocwen Loan Servicing, LLC*, No. 1:19-cv-12245-ADB, pending in the United States

District Court for the District of Massachusetts, which is inclusive of all claims and defenses set forth in both the *Cabral* and *Pantano* Litigations pursuant to Paragraph 3.2.

1.1.4 “Agreement” means this Stipulation of Settlement and Release and the exhibits attached hereto or incorporated herein, including any amendments subsequently agreed to by the Parties pursuant to the provisions of Section 11 of this Agreement and any exhibits to such amendments.

1.1.5 “Attorneys’ Fees and Expenses” means such aggregate funds as may be awarded by the Court from the Settlement Fund to compensate Class Counsel (and any other past, present, or future attorneys for Plaintiffs or the Settlement Class in this Action for all of the past, present, and future attorneys’ fees, costs (including court costs), expenses, and disbursements earned or incurred collectively and individually by any and all of them, their investigators, experts, staff, and consultants combined in connection with the *Cabral* Litigation, the *Pantano* Litigation and the Action.

1.1.6 “Class Counsel” means Lemberg Law, LLC.

1.1.7 “Class List” means the list produced by Ocwen consisting of the names, last known addresses and telephone numbers of the 10,125 Settlement Class Members.

1.1.8 “Class Notice” means the legal notice summarizing the terms of this Agreement, in forms substantially similar to that attached as **Exhibit A** (Postcard Notice) and **Exhibit B** (Long Form/Website Notice), to be provided to the Settlement Class pursuant to the provisions of Section 6 of this Agreement.

1.1.9 “Class Period” means April 8, 2015 through the execution of this Agreement for the Pantano Litigation and April 23, 2015 through the execution of this Agreement for the Cabral Litigation.

1.1.10 “Costs of Administration” means the reasonable and necessary costs incurred means the reasonable expenses incurred by the Settlement Administrator in administering the settlement, providing Notice pursuant to the Notice Plan approved by the Court and mailing checks for Settlement Class Members. Settlement Administration Costs shall be paid from the Settlement Fund.

1.1.11 “Court” means the United States District Court for the District of Massachusetts, the Honorable Allison D. Burroughs presiding, or any other judge of this court who shall succeed her as the Judge assigned to this Action.

1.1.12 “Fairness Hearing” means the hearing held by the Court to consider evidence and argument for the purposes of determining, among other things, whether this Agreement and the Settlement are fair, reasonable and adequate; whether this Agreement should be given final approval through entry by the Court of the Final Order and Judgment; and whether certification of the Settlement Class should be made final. The Fairness Hearing shall be held no earlier than one hundred and fifty (150) days after the date of entry of the Preliminary Approval Order.

1.1.13 “Chapter 93A” means Massachusetts General Laws Chapter 93A: Regulation of Business Practices For Consumers Protection, MGL c.93A § 2. *et seq.*

1.1.14 “MDCR” means Massachusetts Debt Collection Regulations, 940 C.M.R. § 7.00 *et seq.*

1.1.15 “Final Order and Judgment” means the order entered by the Court finally approving the Settlement and this Agreement; certifying the Settlement Class pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure; and granting judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure, which unless the Parties otherwise agree

shall be in substantially the same form as is agreed to by the Parties and submitted to the Court at or before the Fairness Hearing.

1.1.16 “Final Settlement Date” means ten (10) days after the date on which the Final Order and Judgment approving this Agreement becomes final. For purposes of this Agreement, the Final Order and Judgment shall become final: (a) if no appeal is taken from the Final Order and Judgment, on the date on which the time to appeal therefrom has expired pursuant to Federal Rule of Appellate Procedure 4; or (b) if any appeal is taken from the Final Order and Judgment, on the date on which all appeals therefrom, including petitions for rehearing or re-argument pursuant to Federal Rule of Appellate Procedure 40, petitions for rehearing *en banc* pursuant to Federal Rule of Appellate Procedure 35 and petitions for certiorari pursuant to Rule 13 of the Supreme Court or any other form of appellate review, have been fully and finally disposed of in a manner that affirms all of the material provisions of the Final Order and Judgment.

1.1.17 “Individual Allocations” means the share of the Settlement Fund that all Settlement Class Members are entitled to receive following payment from the Settlement Fund of any Attorneys’ Fees and Expenses, Costs of Administration, and Service Awards that may be awarded by the Court, to be calculated and determined in accordance with Section 4 of this Agreement.

1.1.18 “Objection/Exclusion Deadline” means the date by which any written objection to this Agreement must be filed with the Court and any request for exclusion by a Settlement Class Member must be received by the Settlement Administrator, which shall be designated as sixty (60) days after the Notice Date.

1.1.19 “Ocwen” means Ocwen Loan Servicing, LLC.

1.1.20 “Notice Date” means the date notice to the class shall issue and which shall be designated as thirty (30) days after entry of the Preliminary Approval Order.

1.1.21 “Parties” or “Party” means Plaintiffs and the PHH Defendants, separately and collectively, as each of those terms is defined in this Agreement.

1.1.22 “Person” means an individual, corporation, partnership, limited 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, predecessors, successors, representatives or assignees.

1.1.23 “PHH” means PHH Mortgage Corporation.

1.1.24 “PHH Defendants” means PHH and Ocwen, separately and collectively, as each of those terms is defined in this Agreement.

1.1.25 “PHH Defendants’ Counsel” means Joe N. Nguyen, of the law firm of Stradley Ronon Stevens & Young, LLP.

1.1.26 “Plaintiff Cabral” or “Cabral” means Thomas Cabral, one of the two named plaintiffs in this Action.

1.1.27 “Plaintiff Pantano” or “Pantano” means Cheryl Pantano, one of the two named plaintiffs in this Action.

1.1.28 “Plaintiffs” collectively means Plaintiff Cabral and Plaintiff Pantano.

1.1.29 “Preliminary Approval Order” means the order to be entered by the Court preliminarily approving the Settlement as outlined in this Agreement, certifying the Settlement Class for settlement purposes only, designating Class Counsel as counsel for the Settlement Class and Plaintiffs as the representatives of the Settlement Class, and

approving the form and content of the Class Notice and Proof of Claim to be disseminated to the Settlement Class. A proposed version of the Preliminary Approval Order is attached hereto as **Exhibit C**.

1.1.30 “Release” means the release and waiver set forth in Section 3 of this Agreement.

1.1.31 “Released Claims” means any and all actual, potential, filed, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected claims, demands, liabilities, rights, causes of action, contracts or agreements, extra contractual claims, damages, punitive, exemplary or multiplied damages, expenses, costs, attorneys’ fees and/or obligations, whether in law or in equity, accrued or unaccrued, direct individual or representative, of every nature and description whatsoever, that arises out of the calls by the PHH Defendants to the 10,125 Settlement Class Members in excess of two times in a seven day period regarding a debt, including, but not limited to, any claims that could be made pursuant to the Massachusetts Consumer Protection Act, M.G.L. c. 93A, et seq., Massachusetts Debt Collection Regulations, 940 CMR §7.00, et. seq. or the Fair Debt Collection Practices Act, 15 U.S.C. 1692, et seq.

1.1.32 “Released Persons” means (a) PHH, Ocwen, and any and all of their current or former predecessors, successors, assigns, parent corporations, subsidiaries, divisions, related and affiliated companies and entities, associates, vendors, service providers, software licensors and licensees, clients and customers, principals, stockholders, directors, officers, partners, principals, members, employees, attorneys, consultants, independent contractors, representatives, and agents, transferee servicers, and all individuals or entities acting by, through, under, or in concert with any of them; and (b) any trustee of a mortgage

securitization trust which includes loans on which Settlement Class Members are borrowers, including, but not limited to, any direct or indirect subsidiary of any of them, and all of the officers, directors, employees, agents, brokers, distributors, representatives, and attorneys of all such entities.

1.1.33 “Releasing Parties” means the Named Plaintiffs, all Settlement Class Members and: (1) with respect to any Settlement Class Member that is not an individual, all of its present, former, and future direct and indirect parent companies, affiliates, subsidiaries, divisions, agents, franchisees, successors, predecessors-in interest, and all of the aforementioned’s present, former, and future officers, directors, employees, shareholders, attorneys, agents, independent contractors and any other representatives; and, (2) with respect to any Settlement Class Member who is an individual, any present, former, and future spouses, dependents, children, parents, and any other members of the household who used the telephone number to which calls from or on behalf of the PHH Defendants were made, as well as the present, former, and future estates, heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, assigns and any other representatives of each of them.

1.1.34 “Service Award” means such funds as may be awarded by the Court from the Settlement Fund to each of the two Plaintiffs to compensate each of them for their respective efforts in bringing the Action and achieving the benefits of this Agreement on behalf of the Settlement Class.

1.1.35 “Settlement” means the settlement and related terms between the Parties as set forth in this Agreement.

1.1.36 “Settlement Administrator” means the firm approved by the Court to issue

Notice to the Settlement Class and to administer the Settlement.

1.1.37 “Settlement Class” is “All persons residing in the Commonwealth of Massachusetts to whom, within the Class Period, the PHH Defendants may have made in excess of two telephone calls regarding a debt within a seven-day period to their residence, cellular telephone, or other provided telephone number as reflected on the Class List.”

1.1.38 “Settlement Class Members” means Persons in the Settlement Class who are not otherwise excluded by specific order of the Court from the Settlement Class.

1.1.39 “Settlement Fund” means the total aggregate common fund that the PHH Defendants will be obligated to pay by operation of this Settlement Agreement if it receives final approval from the Court and the Final Approval Order and Judgment becomes final. The Settlement Fund equals five hundred and seventy-six thousand dollars (\$576,000.00) and constitutes the PHH Defendants maximum and exclusive payment obligation, including, but not limited to, all payments to Settlement Class Members, Plaintiffs, any and all attorneys representing Plaintiffs or Settlement Class Members and the Settlement Administrator, under this Settlement Agreement to settle the Action in full.

1.1.40 “Settlement Website” means the website to be created by the Settlement Administrator containing full details and information about the Settlement, including this Agreement, the Preliminary Approval Order, and the Long Form Notice.

1.2 Other capitalized terms used in this Agreement but not defined in this Section 1 shall have the meanings ascribed to them elsewhere in this Agreement and the exhibits attached hereto.

1.3 The terms “he or she” and “his or her” include “it” or “its” where applicable.

2 Representations, Acknowledgements, and Warranties

2.1 Class Counsel have concluded, after due investigation and after carefully considering the relevant circumstances, that: (1) it is in the best interest of Plaintiffs and the Settlement Class to enter into this Agreement to avoid the uncertainties of litigation and assure that the benefits reflected herein, including the value of the Settlement Fund under this Agreement, are obtained for Plaintiffs and the Settlement Class, and (2) the Settlement set forth in this Agreement is fair, reasonable, and adequate within the meaning of Federal Rule of Civil Procedure 23 and in the best interests of Plaintiffs and the Settlement Class.

2.2 Based on, among other things, their extensive investigation in the Action, including their extensive legal research, discovery, investigation and mediation, Class Counsel recommend and agree to this Settlement as set forth herein.

2.3 Plaintiffs, each for himself or herself individually and on behalf of each Settlement Class Member, and the PHH Defendants acknowledge and agree that neither this Agreement nor the releases given herein, nor any consideration therefore, nor any actions taken to carry out or obtain Court approval of this Agreement are intended to be, nor may they be deemed or construed to be, an admission or concession of liability, or the validity of any claim, or defense, or of any point of fact or law (including but not limited to matters respecting class certification) on the part of any Party. The PHH Defendants expressly deny the allegations of Plaintiffs' complaints including, without limitation, the allegations of the Operative Cabral and Pantano Complaints. Neither this Agreement, nor the fact of the Settlement, nor the settlement proceedings, nor settlement negotiations, nor statements made in court proceedings, nor any related document, shall be used as an admission of any fault or omission by the PHH Defendants or the Released Persons, or be construed as, offered as, received as, or used as evidence of an admission, concession,

presumption, or inference of any fact or of any liability or wrongdoing by the PHH Defendants or the Released Persons in any proceeding, or as a waiver by the PHH Defendants or the Released Persons of any applicable defense, or for any other purposes other than such proceedings as may be necessary to defend, consummate, interpret, or enforce the Settlement contemplated by this Agreement.

2.4 Each counsel or other Person executing this Agreement on behalf of any Party hereto expressly warrants and represents that (a) such Person has the full authority to execute this Agreement on behalf of the Party for whom such Person is executing the Agreement (including on behalf of such Person's client, to the extent the Person signing this Agreement is an attorney); (b) it is acting upon its respective independent judgments and upon the advice of its respective counsel, and not in reliance upon any representation, warranty, or covenant, express or implied, of any nature or kind by any other Person other than the representations, warranties and covenants contained and memorialized in this Agreement; and (c) any representation, warranty or covenant, express or implied, of any nature or kind that is not contained in this Agreement is immaterial to the decision to enter into this Agreement. The undersigned Class Counsel represent and warrant that they are authorized to execute this Agreement on behalf of both Plaintiffs and the Settlement Class.

2.5 Plaintiffs each represent and warrant that they are the sole and exclusive owners of all claims that they are personally asserting in this Action and releasing under this Agreement, including all Released Claims. Plaintiffs each further acknowledge that they have not assigned, pledged, or in any manner whatsoever, sold, transferred, assigned or encumbered any right, title, interest or claim arising out of or in any way whatsoever pertaining to the Action or to the Released Claims, and that they are not aware of anyone other than themselves claiming any interest, in whole

or in part, in the Action, the Released Claims, or in any benefits, proceeds or values under the Action or the Released Claims on their behalf. Plaintiffs each further represent and warrant that they will indemnify, defend and hold all other Parties harmless as a result of any assignment of such right, and enter into this Settlement without coercion of any kind.

3 Dismissal, Release, and Covenant not to Sue

3.1 Subject to Court approval, Plaintiffs agree, on behalf of themselves, the Settlement Class Members, and Releasing Parties that this Agreement shall be the full and final disposition of: (i) the Action against the PHH Defendants; and (ii) any and all Released Claims as against all Released Persons.

3.2 In consideration for the Settlement benefits described in this Agreement, each of the Plaintiffs, on behalf of themselves and each other Releasing Person, hereby release, and each of the Settlement Class Members and other Releasing Parties shall be deemed to have released, and by operation of the Final Order and Judgment upon the Effective Date shall have released, all Released Claims against all of the Released Persons, separately and severally. In connection therewith, upon the Effective Date, each of the Releasing Parties and Settlement Class Members: (i) shall be deemed to have, and by operation of the Final Order and Judgment, shall have, fully, finally, and forever waived, released, relinquished, remised, acquitted, and discharged to the fullest extent permitted by law all Released Claims against each and all of the Released Persons; (ii) shall forever be barred and enjoined from commencing, instituting, prosecuting, or participating in any fashion in any and all claims, causes of action, suits, or any other proceeding in any court of law or equity, arbitration tribunal, or other forum of any kind, directly, representatively, derivatively, or in any other capacity and wherever filed, any Released Claims against any of the Released Persons; and (iii) shall be deemed to have agreed and covenanted not to sue any of the Released

Persons with respect to any Released Claims or to assist any third party in commencing or maintaining any suit against any Released Person related in any way to any Released Claims.

3.3 The Releasing Parties may hereafter discover facts other than or different from those which they now know or believe to be true with respect to the subject matter of the Released Claims. Nevertheless, Plaintiffs, the Settlement Class Members, and the other Releasing Parties do hereby expressly, fully, finally, and forever settle and release, and each of the Releasing Parties, upon the Effective Date, shall be deemed to have, and by operation of the Final Order and Judgment shall have, fully, finally, and forever settled and released, any and all Released Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

3.4 All Settlement Class Members and other Releasing Parties shall be bound by the releases set forth in this Section 3.

3.5 Subject to the provisions of this Section 3 and the injunctions contemplated herein, nothing in this Release shall preclude any filing in this Action seeking to have the Court enforce the terms of this Agreement, including participation in any of the processes detailed therein.

4 The Settlement Fund, Administration Process, Plan of Allocation, and Distribution of Individual Allocations

4.1 Pursuant to and subject to all other terms of this Agreement, and in consideration for (a) the dismissal of the Action with prejudice, (b) the Release set forth in Section 3 and the approval, entry, and enforcement thereof by the Court, and (c) the other promises and covenants in this Agreement, the PHH Defendants have agreed to fund the Settlement Fund of \$576,000.00.

4.2 The Settlement Fund shall be applied to pay any Class Counsel's Attorneys' Fees and Expenses, Costs of Administration, and any Service Awards that may be approved by the Court, pursuant to the provisions of Section 9 of this Agreement. Following the payment of any

such Attorneys' Fees and Expenses, Costs of Administration and Service Awards, the balance of the Settlement Fund will be distributed as Individual Allocations to Settlement Class Members. Individual Allocations to the Settlement Class Members shall be calculated as follows:

4.2.1 Each Settlement Class Member shall receive an Individual Allocation calculated on a *pro rata* basis after Attorneys' Fees and Expenses, Costs of Administration and Service Awards are deducted from the Settlement Fund..

4.3 The Parties shall cause the Settlement Administrator to distribute the Individual Allocations to Settlement Class Members no later than thirty (30) days following the Final Settlement Date. Individual Allocations shall be distributed to Settlement Class Members as follows:

4.3.1 Individual Allocations shall be paid by check made payable to each Settlement Class Member on a *pro rata* basis, payable in U.S. funds. Each such check shall be mailed to the mailing address for the Settlement Class Members as reflected in the Class List.

4.3.2 All checks for Individual Allocation relief shall state on the face of the check that the check will expire and become null and void unless cashed within ninety (90) days after the date of issuance of the check.

4.3.3 Failure of the Settlement Class Members to deposit, negotiate or otherwise cash the check within ninety (90) days of issuance shall constitute a release by those Settlement Class Members (and all other Releasing Parties associated with those Settlement Class Members) of any and all rights to relief under the Settlement.

4.3.4 The Individual Allocations that were sent to the Settlement Class Members but not cashed, deposited or negotiated within ninety (90) days will be pooled and

distributed on a *pro rata* basis to the Settlement Class Members that received their Individual Allocation and deposited, cashed and/or negotiated the check within the ninety (90) day period.

4.4 Individual Allocation relief for Settlement Class Members that remains unclaimed after the first and second distributions as described in paragraph 4.3, shall revert back to the PHH Defendants.

4.5 Only Settlement Class Members are entitled to any distribution of Individual Allocations. Settlement Class Members who timely and properly exclude themselves and/or opt out from the Settlement Class as provided in this Agreement or who otherwise are specifically excluded by order of the Court and Settlement Class Members who do not become Settlement Class Members as provided in this Agreement are not entitled to any distribution of Individual Allocations. Undistributed Individual Allocations shall revert back to the PHH Defendants.

5 Preliminary Approval Order

5.1 After the execution of this Agreement, Class Counsel shall submit this Agreement together with its exhibits to the Court and shall move the Court for entry of the Preliminary Approval Order, substantially in the form of **Exhibit C** hereto.

5.2 The requested Preliminary Approval Order shall include, among other things included in **Exhibit C**, provision for the following:

5.2.1 Preliminary approval of the Settlement set forth in this Agreement as fair, reasonable, and adequate within the meaning of Federal Rule of Civil Procedure 23;

5.2.2 Conditional approval of the Settlement Class as for settlement purposes only;

5.2.3 Appointment of Class Counsel and Plaintiffs as the representatives of the

Settlement Class;

5.2.4 Approval of the mailing of the Class Notices, substantially in the form attached as **Exhibit A**;

5.2.5 Approval of the procedures set forth in the Class Notices for Settlement Class Members to seek exclusion from the Settlement Class or to object to the Settlement and/or the Fee and Expense Application;

5.2.6 Approval of the appointment of a Settlement Administrator;

5.2.7 Preliminarily enjoining (i) Settlement Class Members from directly or indirectly filing, commencing, participating in, or prosecuting (as class members or otherwise) any lawsuit in any jurisdiction asserting on their own behalf claims that would be Released Claims if this Settlement is finally approved, unless and until they timely exclude themselves from the Settlement Class as specified in the this Order and in the Agreement and its exhibits; and (ii) regardless of whether they opt out, Settlement Class Members from directly or indirectly filing, prosecuting, commencing, or receiving proceeds from (as class members or otherwise) any separate purported class action asserting, on behalf of any Settlement Class Members who have not opted out from this Settlement Class, any claims that would be Released Claims if this Settlement receives final approval and becomes effective; and

5.2.8 The scheduling of the Fairness Hearing.

5.3 The PHH Defendants, without admitting that the Action meets the requisites for certification of a contested litigation class under Federal Rule of Civil Procedure 23 or for class certification for any purpose other than settlement, hereby agrees, on each and all of the terms and conditions set forth herein, and solely for purposes and in consideration of the Settlement set forth

herein, not to oppose the certification of the Settlement Class for settlement purposes only, the appointment of Class Counsel as legal counsel for the Settlement Class, or the approval of Plaintiffs as the representatives of the Settlement Class.

5.4 The Court's certification of the Settlement Class for settlement purposes only (whether in the Preliminary Approval Order or Final Order and Judgment) shall not be deemed to be an adjudication of any fact or issue for any purpose other than the accomplishment of the provisions of this Settlement and this Agreement, and shall not be considered as law of the case, res judicata, judicial estoppel, promissory estoppel, or collateral estoppel in the Action or in any other proceeding unless and until the Final Settlement Date is reached. Whether or not the Settlement reaches the Final Settlement Date, the Parties' stipulations and agreements as to class certification for settlement purposes only (and any and all statements or submission made by the Parties in connection with seeking the Court's approval of the Settlement and this Agreement) shall not be deemed to be any stipulation or grounds for estoppel or preclusion as to the propriety of class certification, nor any admission of fact or law regarding any request for class certification, in any other action or proceeding, whether or not involving the same or similar claims. In the event the Settlement and this Agreement are not approved, or the Final Settlement Date is not reached, or this Agreement is terminated, canceled, or fails to become effective for any reason whatsoever, the Parties' stipulations and agreements as to certification of the Settlement Class shall be null and void and the Court's certification order shall be vacated, and thereafter no class or classes will remain certified, and nothing in this Agreement or other papers or proceedings related to the Settlement shall be used as evidence or argument by any party concerning whether the Action may properly be maintained as a class action under applicable law; provided, however, that Plaintiffs and Class Counsel may thereafter seek certification of a litigation class or classes before the Court

and the PHH Defendants may oppose such certification on any available grounds. In the event the Settlement and this Agreement are not approved, or the Final Settlement Date is not reached, or this Agreement is terminated, canceled, or fails to become effective for any reason whatsoever, nothing in this Settlement or this Agreement shall be admissible in any effort to certify the proposed Settlement Class as a litigation class or any other class in this or any other court under any circumstances.

6 Notice to, and Communications with, the Settlement Class and Federal and State Officials

6.1 **Notice to Appropriate Federal and State Officials.** Pursuant to the notice provisions of the Class Action Fairness Act, 28 U.S.C. § 1715, within ten (10) days after this Agreement is deemed filed with the Court, the PHH Defendants will provide notice of this Action and this Agreement to the Attorney General of the United States; the Consumer Finance Protection Bureau; the Federal Trade Commission; and the Attorney General of Commonwealth of Massachusetts.

6.2 Notice to the Settlement Class Members

6.2.1 The Class Notice shall be the notice to be provided to the Settlement Class Members, and shall otherwise comply with Federal Rule of Civil Procedure 23 and any other applicable statutes, laws, and rules, including, but not limited to, the Due Process Clause of the United States Constitution.

6.2.2 Subject to the requirements of the Preliminary Approval Order, the Parties shall cause the Settlement Administrator to send, no later than thirty days (30) days after entry of the Preliminary Approval Order, the Postcard Notice (**Exhibit A**) by First-Class U.S. Mail, proper postage prepaid, to the Settlement Class Members on the Class List, addressed to the mailing address of record for that Settlement Class Member as reflected

in the PHH Defendants' records. Prior to mailing, the Settlement Administrator shall attempt to update the last known borrower mailing addresses for each Settlement Class Member on the Class List as reflected in the PHH Defendants' records through the National Change of Address system or similar databases used by the Settlement Administrator.

6.2.3 **Further information.** The Settlement Class Administrator shall create the Settlement Website. The Settlement Website shall provide case related information and deadlines along with documents including the Long Form Notice, the Preliminary Approval Order, and this Settlement Agreement. The Settlement Class Administrator shall set up a toll-free telephone number for receiving toll-free calls related to the Settlement.

6.2.4 Following issuance of the Preliminary Approval Order, Class Counsel and the PHH Defendants' Counsel may by mutual agreement make any changes in the font, format, or content of the Class Notice or the exhibits thereto any time before the Class Notice is first mailed to Settlement Class Members, so long as such changes do not materially alter the substance of the Class Notice. Any material substantive changes proposed by Class Counsel and the PHH Defendants' Counsel following issuance of the Preliminary Approval Order must be approved by the Court.

6.2.5 The Parties shall cause the Settlement Administrator to re-mail any Class Notices returned by the United States Postal Service with a forwarding address and shall continue to do so with respect to any such Class Notice that is received seven (7) days or more prior to the Objection/Exclusion Deadline. With respect to Class Notices that are returned by the United States Postal Service without a new or forwarding address, the Parties shall cause the Settlement Administrator to as soon as practicable determine whether a valid address can be located through use of the United States Postal Service's

National Change of Address database and/or other reasonable means and without undue cost and delay, and then promptly re-mail Class Notices for whom the Settlement Administrator is reasonably able to locate a valid address in accordance herewith, so long as the valid address is obtained by the Settlement Administrator at least seven (7) days or more prior to the Objection/Exclusion Deadline.

6.2.6 The Parties shall cause the Settlement Administrator to establish an automated interactive voice recognition telephone system for the purposes of providing information concerning the nature of the Action, the material terms of the Settlement, and the deadlines and procedures for Settlement Class Members to exercise their opt-out and objection rights and to submit Proof of Claim forms. The Class Notice shall include and disclose the telephone number of this automated interactive voice recognition telephone system.

6.3 Not later than fourteen (14) days before the date of the Fairness Hearing, the Settlement Administrator, and to the extent necessary the Parties, shall file with the Court a declaration or declarations, based on the personal knowledge of the declarant(s), verifying compliance with these class-wide notice procedures.

6.4 The Parties agree that the PHH Defendants shall have the right to communicate with, and respond to inquiries from, Settlement Class Members in the ordinary course of the PHH Defendants' business, a right which the PHH Defendants expressly reserve. However, any inquiries about this Agreement or about the Action shall be referred to Class Counsel or to the Settlement Administrator.

6.5 **Media Communications.**

6.5.1 The Parties and their counsel agree to ensure that any comments about or

descriptions of this Settlement and Agreement or its value or cost in the media or in any other public forum apart from the Action are accurate. In addition, the Parties and their counsel agree that until such time as the Final Order and Judgment is entered:

6.5.1.1 Any press releases or public communications regarding the Agreement shall be reviewed and mutually approved and agreed to by Class Counsel and the PHH Defendants' Counsel before dissemination or publication.

6.5.1.2 Class Counsel and the PHH Defendants' Counsel may, after mutual consultation, make only mutually agreeable press communications announcing the Settlement, but shall not otherwise issue any press release or printed or broadcast public communication about this Agreement or the Settlement.

6.5.2 Notwithstanding the foregoing, the PHH Defendants may disclose this Agreement to, and discuss this Agreement with, its parent companies, affiliated companies, customers, and clients, and each of their respective accountants, shareholders, auditors, consultants and investors, as well as with government entities as necessary to comply with applicable law, at any time before or after the Final Order and Judgment.

7 Requests for Exclusion

7.1 Any Settlement Class Member who wishes to be excluded from the Settlement Class must mail a written "request for exclusion" to the Settlement Administrator at the address provided in the Class Notice, postmarked no later than the Objection/Exclusion Deadline. A written request for exclusion must: (a) contain a caption or title that identifies it as "Request for Exclusion in *Cabral, et al. v. PHH Mortg. Corp.* (Case No. 1:19-cv-12245-ADB)"; (b) include the

Settlement Class Member's name, mailing and email addresses, and contact telephone number; (c) specify that he or she wants to be "excluded from the Settlement Class"; and (d) be personally signed by the Settlement Class Member.

7.2 Each Settlement Class Member who wishes to be excluded from the Settlement Class must submit his or her own personally signed written request for exclusion. A single written request for exclusion submitted on behalf of more than one Settlement Class Member will be deemed invalid.

7.3 Unless excluded by Order entered by the Court for good cause shown prior to the final approval of this Settlement, any Settlement Class Member who fails to strictly comply with the procedures set forth in this Section 7 for the submission of written requests for exclusion will be deemed to have consented to the jurisdiction of the Court, will be deemed to be a Settlement Class Member, and will be bound by all subsequent proceedings, orders, and judgments in the Action, including, but not limited to, the Release, even if he or she has litigation pending or subsequently initiates litigation against the PHH Defendants relating to the Released Claims.

7.4 The Settlement Administrator shall file with the Court, no later than fourteen (14) days before the Fairness Hearing, a list reflecting all requests for exclusion it has received. The list shall also identify which of those requests for exclusion were received late, and which requests for exclusion failed to comply with the requirements of this Section 7.

7.5 Settlement Class Members who exclude themselves from the Settlement Class as set forth in this Section 7 expressly waive any right to the continued pursuit of any objection to the Settlement as set forth in Section 8, or to otherwise pursue any objection, challenge, appeal, dispute, or collateral attack to this Agreement or the Settlement, including to the Settlement's fairness, reasonableness, and adequacy; to the appointment of Class Counsel and Plaintiffs as the

representatives of the Settlement Class; to any Service Awards or Attorneys' Fee and Expense awards; and to the approval of the Claims Administration Process, the Class Notice, and the procedures for disseminating the Class Notice to the Settlement Class.

8 Objections to Settlement

8.1 Any Settlement Class Member who has not filed a timely written request for exclusion and who wishes to object to the fairness, reasonableness, or adequacy of this Agreement or the proposed Settlement, or to the award of Attorneys' Fees and Expenses or the Service Awards, or to any other aspect or effect of the proposed Settlement, must file with the Court a written statement of his or her objection no later than the Objection/Exclusion Deadline. To file a written statement of objection, a Settlement Class Member must file it or deliver it on or before the Objection/Exclusion Deadline.

8.2 A written statement of objection must: (a) contain a caption or title that identifies it as "Objection to Class Settlement in *Cabral, et al. v. PHH Mort. Corp.* (Case No. 1:19-cv-12245-ADB)"; (b) include the Settlement Class Members' name, mailing and email addresses, contact telephone number, and the number(s) for which an objection is being made; (c) set forth the specific reason(s), if any, for each objection, including all legal support the Settlement Class Member wishes to bring to the Court's attention and all factual evidence the Settlement Class Member wishes to introduce in support of the objection; (d) disclose the name and contact information of any and all attorneys representing, advising, or in any way assisting the Settlement Class Member in connection with the preparation or submission of the objection; and (e) be personally signed by the Settlement Class Member.

8.3 A Settlement Class Member may file and serve a written statement of objection either on his own or through an attorney retained at his own expense; provided, however, that a

written statement of objection must be personally signed by the Settlement Class Member, regardless of whether he has hired an attorney to represent him.

8.4 Any Settlement Class Member who properly files and serves a timely written objection, as described in this Section 8, may appear at the Fairness Hearing, either in person or through personal counsel hired at the Settlement Class Member's own expense, to object to the fairness, reasonableness, or adequacy of this Agreement or the proposed Settlement, or to the award of Attorneys' Fees and Expenses or Service Awards, or to any other aspect or effect of the proposed Settlement. However, any Settlement Class Member who intends to make an appearance at the Fairness Hearing must include a statement to that effect in his or her objection. If a Settlement Class Member hires his or her own personal attorney to represent him or her in connection with an objection, and if that attorney wishes to appear at the Fairness Hearing, the attorney must: (a) file a notice of appearance with the Clerk of Court in the Action no later than the Objection/Exclusion Deadline and (b) serve and deliver a copy of that notice of appearance to Class Counsel and the PHH Defendants' Counsel no later than the Objection/Exclusion Deadline.

8.5 Any Settlement Class Member who fails to strictly comply with the provisions and deadlines of this Section 8 shall waive any and all objections to the Settlement, its terms, or the procedures for its approval, shall forfeit any and all rights he or she may have to appear separately and/or to object, and will be deemed to have consented to the jurisdiction of the Court, to be part of the Settlement Class, and to be bound by all subsequent proceedings, orders, and judgments in the Action, including, but not limited to, the Release.

8.6 Any Settlement Class Member who objects to the Settlement but does not file an exclusion request shall, unless he or she is subsequently excluded by Order of the Court, remain a Settlement Class Member and therefore be entitled to all of the benefits, obligations and terms of

the Settlement if this Agreement and the terms contained therein are approved and the Final Settlement Date is reached.

8.7 Only Settlement Class Members may object to the Settlement as set forth in this Section 8. Settlement Class Members who are excluded from the Settlement Class, whether by submitting a timely and valid request for exclusion as set forth in Section 7 or by order of the Court, have no standing to object to the Settlement.

9 Attorneys' Fees and Expenses and Service Awards

9.1 Class Counsel may petition the Court for an award of Attorneys' Fees and Expenses in an aggregate amount not to exceed one third (1/3) of the Settlement Fund. Class Counsel shall file its motion for an Attorneys' Fees and Expenses award no later than thirty (30) days before the Objection/Exclusion Deadline. The PHH Defendants agree not to oppose an award of Attorneys' Fees and Expenses to the extent such award does not exceed one third (1/3) of the Settlement Fund.

9.2 All attorneys' fees for, and any reimbursement of litigation expenses incurred by, Class Counsel shall be paid out of the Settlement Fund. Other than funding the Settlement Fund pursuant to the requirements of Section 4, the PHH Defendants and the Released Persons shall have no responsibility for, and no liability whatsoever with respect to, any payment of attorneys' fees or expenses to Class Counsel or any payment of attorneys' fees or expenses to any other attorneys, which Class Counsel or any other counsel and Plaintiffs shall seek to have paid only from the Settlement Fund.

9.3 Plaintiffs and Class Counsel may also petition the Court for Service Awards to each of the Plaintiffs to be paid from the Settlement Fund, in an amount not exceed \$6,000 per Plaintiff, for an aggregate amount not to exceed \$12,000. The PHH Defendants agree not to oppose an award of Attorneys' Fees and Expenses to the extent such award does not exceed an aggerate amount of

\$12,000.

9.4 Within fourteen (14) days after the later of (a) the Final Settlement Date or (b) receipt of wire instructions from Class Counsel, whichever is later, the Settlement Administrator shall pay Class Counsel from the Settlement Fund any Attorneys' Fees and Expenses and Service Awards that may be awarded by the Court. Class Counsel shall be solely responsible for supplying the Settlement Administrator with all information required by the Settlement Administrator in order to pay such awards from the Settlement Fund, and to comply with the Settlement Administrator's state and local reporting obligations. Class Counsel will also be solely responsible for distributing such Service Awards to the Plaintiffs, in accordance with the terms and provisions of any Order entered by the Court approving such awards.

9.5 In the event the Final Order and Judgment is not entered, or this Agreement and the Settlement do not reach the Final Settlement Date, the PHH Defendants will not be liable for, and shall be under no obligation to pay, any of the Attorneys' Fees and Expenses and Service Awards set forth herein and described in this Agreement.

9.6 The effectiveness of this Agreement and Settlement will not be conditioned upon or delayed by the Court's failure to approve in whole or in part any petition by Plaintiffs and Class Counsel for Attorneys' Fees and Expenses and Service Awards. The denial, downward modification, or failure to grant any petition by Plaintiffs and Class Counsel for Attorneys' Fees and Expenses and Service Awards shall not constitute grounds for modification or termination of this Agreement or the Settlement proposed herein. However, Plaintiffs may appeal a ruling which denies the petition Attorneys' Fees and Expenses and Service Awards in whole or in part and the disbursement of the Settlement Fund will occur after such appeal is resolved.

10 Final Order and Judgment

10.1 If the Preliminary Approval Order is entered by the Court, after the dissemination of the Class Notice and not later than fourteen (14) days before the Fairness Hearing, Class Counsel shall move the Court to enter a Final Order and Judgment. The Final Order and Judgment shall, among other things:

10.1.1 Find that the Court has personal jurisdiction over the Parties and all Settlement Class Members and that the Court has subject matter jurisdiction to approve the Agreement, including all attached exhibits;

10.1.2 Approve the Agreement and the proposed Settlement as fair, reasonable and adequate as to, and in the best interests of, the Settlement Class Members; direct the Parties and their counsel to implement and consummate the Agreement according to its terms and provisions; and declare the Agreement to be binding upon, and have res judicata and collateral estoppel effect in all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and the Settlement Class Members;

10.1.3 Find that the Class Notice implemented pursuant to the Agreement (a) constituted the best practicable notice under the circumstances; (b) constituted notice that is reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action, their right to object or exclude themselves from the Agreement and proposed Settlement; and to appear at the Fairness Hearing; (c) was reasonable and constituted due, adequate and sufficient notice to all persons entitled to receive notice; and (d) met all applicable requirements of the Federal Rules of Civil Procedure, the Due Process Clause of the United States Constitution, and the rules of the Court;

10.1.4 Find that Plaintiffs and Class Counsel adequately represented the Settlement Class for purposes of entering into and implementing the Agreement;

10.1.5 Incorporate the Release set forth in Section 3 of this Agreement, make the Release effective as of the Final Settlement Date, and forever discharge the Released Persons as set forth in this Agreement;

10.1.6 Permanently bar and enjoin all Settlement Class Members or Releasing Parties from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in, any lawsuit or other action in any jurisdiction based on the Released Claims;

10.1.7 Order that the Court retains continuing and exclusive jurisdiction over all matters relating to the Settlement or the consummation of the Settlement; the validation of the Settlement; the construction and enforcement of the Settlement and any orders entered pursuant thereto; and all other matters pertaining to the Settlement or its implementation and enforcement;

10.1.8 Direct that judgment of dismissal on the merits and with prejudice of the Action (including all individual claims and class action claims presented thereby) shall be final and entered forthwith, without fees or costs to any Person or Party except as provided in this Agreement; and

10.1.9 Without affecting the finality of the Final Order and Judgment for purposes of appeal, retain jurisdiction as to the administration, consummation, enforcement and interpretation of this Agreement and the Final Order and Judgment, and for any other necessary purpose.

11 Modification, Disapproval, Cancellation, or Termination of this Agreement

11.1 Before entry of the Final Order and Judgment, the terms and provisions of this Agreement may be amended, modified, or expanded by written agreement of the Parties and

approval of the Court.

11.2 This Agreement shall terminate at the sole option and discretion of either Party if: (a) the Court, or any appellate court(s), rejects, materially modifies, or denies approval of this Agreement including, without limitation, the terms of relief, the definition of the Settlement Class and the terms and conditions for its certification, and/or the terms of the Release; or (b) the Court, or any appellate court(s), does not enter a Final Order and Judgment materially the same as the form agreed by the Parties. However, under no circumstances shall the Court's failure to approve, in whole or in part, any petition by Plaintiffs and Class Counsel for a Service Award and Attorneys' Fees and Expenses as set forth in Section 9 of this Agreement provide Plaintiffs or Class Counsel with a basis for terminating this Agreement.

11.3 The PHH Defendants may also in their sole and absolute judgment and discretion elect to terminate this Agreement if requests for exclusion are submitted by more than 10% of Settlement Class Members.

11.4 Any terminating Party must exercise its option to withdraw from and terminate this Agreement, as provided in this Section 11, by a signed writing served on the other Party no later than thirty-five (35) days after receiving notice of the event prompting the termination unless there is a motion or petition seeking reconsideration, alteration or appeal review of the event, in which case no later than thirty-five (35) days after the final conclusion of any such motion or petition seeking reconsideration, alteration, or appellate review thereof, whichever is later.

11.5 If any of the foregoing termination events occurs, no Party is required for any reason or under any circumstance to exercise that option.

11.6 If the Final Settlement Date does not occur or this Agreement is terminated pursuant to the provisions of this Section 11, then:

11.6.1 This Agreement shall be null and void and shall have no force or effect, through principles of estoppel, res judicata, or otherwise, and no Party to this Agreement shall be bound by any of its terms, except for the terms of this Paragraph 11.6 and its sub-parts;

11.6.2 This Agreement, all of its provisions, and all negotiations, statements, documents orders and proceedings relating to it shall be inadmissible in evidence for any purpose, and shall be without prejudice to the rights of the PHH Defendants, Plaintiffs and the Settlement Class, all of whom shall be restored to their respective positions in the Action as of the date existing immediately before the signing of this Agreement, except that the Parties shall cooperate in requesting that the Court set a new scheduling order such that neither Party's substantive or procedural rights is prejudiced by the attempted Settlement;

11.6.3 Neither this Agreement, nor the Settlement contained in this Agreement, nor any act performed, or document executed pursuant to or in furtherance of this Agreement or the Settlement:

11.6.3.1 is, may be deemed, or shall be used, offered or received against the Released Persons, or each or any of them, as an admission, concession, or evidence of, the validity of any Released Claims, the truth of any fact alleged by Plaintiffs, the deficiency of any defense that has been or could have been asserted in the Action, the violation of any law or statute, the reasonableness of the Settlement amount or of Class Counsel's reasonable attorneys fees' and expenses, or of any alleged wrongdoing, liability, negligence or

fault of the Released Persons, or any of them;

11.6.3.2 is, may be deemed, or shall be used, offered, or received against Plaintiffs, the Settlement Class or each of any of them as an admission, concession, or evidence of any fault, misrepresentation, or omission with respect to any statement or written document approved or made by the Released Persons, or any of them; and

11.6.3.3 is, may be deemed, or shall be used, offered, or received against the Released Persons, or each or any of them, as an admission or concession with respect to any liability, negligence, fault or wrongdoing as against any Released Persons, or of the certifiability of any class, in any bankruptcy, civil, criminal or administrative proceeding in any court, administrative agency, or other tribunal. However, the Settlement, this Agreement, and any acts performed and/or documents executed in furtherance of or pursuant to this Agreement and/or Settlement may be used in any proceedings as may be necessary to effectuate or enforce the provisions of this Agreement. If this Agreement is approved by the Court and the Final Settlement Date is reached, any of the Parties or any of the Released Persons may file this Agreement and/or the Final Order and Judgment in any action that may be brought against such Person or Persons in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith estimate, judgment bar or preclusion, or any other theory of

claim preclusion or issue preclusion or similar defense or counterclaim.

11.6.4 Any Settlement-related order(s) or judgments entered in this Action after the date of execution of this Agreement shall be deemed vacated, *nunc pro tunc*, and shall be without force or effect, and the Parties and the Settlement Class Members shall be returned to the status quo ante with respect to the Action as if they had never entered into this Agreement, and any of the Parties may move the Court to vacate any and all orders entered by the Court pursuant to the provisions of this Agreement;

11.6.5 No litigation class will be certified pursuant to or in whole or in part because of or by reference to this Agreement and the Parties stipulate that certification of the Settlement Class will be deemed to have been conditional and made only for purposes of this particular Agreement and for purposes of settlement only, and will therefore be immediately vacated and voided for all other purposes, without prejudice to or effect on subsequent motions for certification of a litigation class on grounds wholly independent of this Agreement. In such event, the PHH Defendants and the PHH Defendants' Counsel will not be deemed to have consented to (and will not be estopped to oppose) the certification of any class for purposes of litigation, and will retain all rights to object to or oppose any motion for certification of a class for purposes of litigation, including certification of the Settlement Class provided for in this Agreement as a litigation class or any other class(es);

11.6.6 The Released Persons expressly do not waive any, but instead affirmatively reserve all, of their defenses, arguments and motions as to all claims that have been or might later be asserted in the Action including, without limitation, the argument that the Action may not be litigated as a class action; and

11.6.7 Plaintiffs and all other Settlement Class Members expressly reserve and do not waive any motions as to, and arguments in support of, all claims that have been or might later be asserted in the Action including, without limitation, any argument concerning class certification, liability and/or available remedies.

12 General Matters and Reservations

12.1 The obligation of the Parties to implement and conclude the proposed Settlement is and shall be contingent upon each of the following:

12.1.1 Entry by the Court of the Preliminary Approval Order, followed thereafter by the Fairness Hearing and subsequent entry by the Court of the Final Order and Judgment approving the Settlement, from which the time to appeal has expired or which has remained unmodified after the exhaustion and final disposition of any appeal(s) or petition(s) for appellate review; and

12.1.2 Any other conditions stated in this Agreement.

12.2 The Parties: (a) acknowledge that it is their intent to consummate this Agreement; and (b) agree, subject to their fiduciary and other legal obligations, to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement and to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Agreement. The Parties, Class Counsel, and the PHH Defendants' Counsel agree to cooperate with one another in (a) seeking Court approval of the Preliminary Approval Order, the Agreement, and the Final Order and Judgment and in the event of any appeal(s), to use their reasonable best efforts to effect prompt consummation of this Agreement and the proposed Settlement; (b) promptly agreeing upon and executing all such other documents as may be reasonably required to obtain final approval of the Agreement; and (c) resolving any disputes that may arise in the

implementation of the terms of this Agreement.

12.3 The PHH Defendants' execution of this Agreement shall not be construed to release—and the PHH Defendants expressly do not intend to release—any claim they may have or make against any insurer, reinsurer, indemnitor, client, loan investor, prior loan servicers, consultant, or vendor for any judgment, payment, liability, cost or expense incurred in connection with this Agreement, including, without limitation, for attorneys' fees and costs. In addition, the execution of this Agreement shall not be construed to release any claims that the PHH Defendants may have against existing borrowers arising from the lender/borrower relationship, including, but not limited to, the right to foreclose on delinquent loans.

12.4 This Agreement, complete with its exhibits, sets forth the sole and entire agreement and understanding of the Parties with respect to its subject matter, and it may not be altered, amended, or modified except by written instrument made in accordance with the provisions of this Agreement and executed by or on behalf of all Parties or their respective successors in interest. The Parties expressly acknowledge that no other agreements, arrangements, or understandings not expressed in this Agreement exist among or between them regarding the subject matter of this Agreement and that in deciding to enter into this Agreement, they each have relied solely upon their own judgment and knowledge. This Agreement supersedes any prior agreements, understandings, or undertakings (written or oral) by and between the Parties regarding the subject matter of this Agreement.

12.5 Any inconsistency between this Agreement and the attached exhibits will be resolved in favor of this Agreement.

12.6 To the extent not governed by federal law, this Agreement, any amendments thereto, and any claim, cause of action or dispute arising out of or relating to this Agreement shall

be governed by, interpreted under, and enforced in accordance with the laws of the Commonwealth of Massachusetts without regard to any conflict-of-law principles that may otherwise provide for the application of the law of another jurisdiction.

12.7 Any disagreement and/or action seeking directly or indirectly to challenge, modify, construe, obtain relief from, extend, limit, or enforce this Agreement shall be commenced and maintained only in the Court and in this Action. Without in any way compromising the finality of the Final Order and Judgment, the Court shall retain exclusive and continuing jurisdiction over all matters related in any way to the Settlement and the Agreement, including but not limited to the implementation of the Settlement and the interpretation, administration, supervision, enforcement and modification of this Agreement and the relief it provides to Plaintiffs and the Settlement Class Members.

12.8 Whenever this Agreement requires or contemplates that one of the Parties shall or may give notice to the other, notice shall be provided by e-mail and/or next-day (excluding Saturdays, Sundays and Legal Holidays) express delivery service as follows:

12.8.1 If to the PHH Defendants, then to Joe Nguyen, Stradley Ronon Stevens & Young, LLP (Telephone: (215) 564-8000; Email: jnguyen@stradley.com).

12.8.2 If to Plaintiffs, or the Settlement Class, or Class Counsel, then to Sergei Lemberg, Lemberg Law, LLC, 43 Danbury Road, Wilton, CT 06897 (Telephone: (203) 653-2250; Email: slemberg@lemborglaw.com)

12.9 Subject to the terms of the Final Order and Judgment, no certifications by the Parties regarding their compliance with the terms of the Settlement and this Agreement will be required. Any dispute as to the Parties' compliance with their obligations under the Settlement and this Agreement shall be brought and resolved only in the Action and only by the Court, and

applicable appellate courts, and in no other action or proceeding.

12.10 All time periods set forth herein shall be computed in calendar days unless otherwise expressly provided. In computing any period of time prescribed or allowed by this Agreement or by order of the Court, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a Legal Holiday (as defined in Rule 6(a)(6) of the Federal Rules of Civil Procedure), or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the office of the clerk of the court inaccessible, in which event the period shall run until the end of the next day that is not one of the aforementioned days.

12.11 The time periods and dates described in this Agreement are subject to the Court's approval. These time periods and dates may be changed by the Court or by the Parties' written agreement without notice to the Settlement Class. The Parties reserve the right, subject to the Court's approval, to agree to any reasonable extensions of time that might be necessary to carry out any of the provisions of this Agreement.

12.12 Neither the Settlement Class, Plaintiffs, Class Counsel, the PHH Defendants nor the PHH Defendants' Counsel shall be deemed to be the drafter of this Agreement or of any particular provision, nor shall any of them argue that any particular provision should be construed against its drafter or otherwise resort to the *contra proferentem* canon of construction. All Parties agree that this Agreement was drafted by counsel for the Parties during and through extensive arm's length negotiations with the aid of a neutral mediator. No parol or other evidence may be offered to explain, construe, contradict, or clarify this Agreement's terms, the intent of the Parties or their counsel, or the circumstances under which this Agreement was made or executed.

12.13 The Parties expressly acknowledge and agree that this Agreement and its exhibits, along with all related drafts, motions, pleadings, conversations, negotiations, and correspondence, constitute an offer of compromise and a compromise within the meaning of Federal Rule of Evidence 408 and any equivalent rule of evidence in any state. In no event shall this Agreement, any of its provisions or any negotiations, statements or court proceedings relating to its provisions, or any documents created for the purposes of mediation, negotiation, or confirmatory due diligence or informal discovery, whether or not exchanged with opposing counsel, in any way be construed as, offered as, received as, used as, or deemed to be evidence of any kind in the Action, any other action, or in any judicial, administrative, regulatory or other proceeding, except in a proceeding to effectuate or enforce this Agreement or the rights of the Parties or their counsel. Without limiting the foregoing, neither this Agreement nor any related negotiations, statements, or court proceedings shall be construed as, offered as, received as, used as or deemed to be evidence of an admission or concession of any proposition of fact or law or of any liability or wrongdoing whatsoever on the part of any person or entity, including, but not limited to, the Released Persons, Plaintiffs or the Settlement Class or as a waiver by the Released Persons, Plaintiffs or the Settlement Class of any applicable privileges or immunities (including, without limitation, the attorney-client privilege or work product immunity), claims or defenses.

12.14 Plaintiffs each expressly affirm that the allegations contained in the complaints, including the Operative consolidated Cabral Complaint, were made in good faith and have a basis in fact, but that they consider it desirable for the Action to be settled and dismissed because of the risks associated with continued litigation and the substantial benefits that the Settlement will provide to the Settlement Class Members.

12.15 The waiver by one of the Parties of any breach of this Agreement by another of the

Parties shall not be deemed a waiver of any other prior or subsequent breaches of this Agreement.

12.16 If one Party to this Agreement considers the other Party to be in breach of its obligations under this Agreement, that Party must provide the breaching Party with written notice of the alleged breach and provide a reasonable opportunity to cure the breach before taking any action to enforce any rights under this Agreement.

12.17 No opinion concerning the tax consequences, if any, of this Agreement and Settlement as to individual Settlement Class Members or anyone else is being given or will be given by the PHH Defendants, the PHH Defendants' Counsel, Plaintiffs or Class Counsel; nor is any representation or warranty in this regard made by virtue of this Agreement or Settlement. Each Settlement Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Settlement Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Settlement Class Member. Nothing in this Agreement or in the Class Notice is to be construed as tax advice of any kind.

12.18 Headings contained in this Agreement are used for the purpose of convenience only and are not intended to alter or vary the construction and meaning of this Agreement.

12.19 The recitals of this Agreement are incorporated by this reference and are part of this Agreement.

12.20 This Agreement shall be equally binding upon and inure to the benefit of the Plaintiffs and the Settlement Class Members, their representatives, heirs, successors and assigns, as upon and to the benefit of the PHH Defendants.

12.21 Nothing herein shall be deemed a waiver of any prior release individually executed between the PHH Defendants and any Settlement Class Member.

12.22 This Agreement may be signed with a facsimile or PDF format signature and in

counterparts, each of which shall constitute a duplicate original.

Agreed to on the date(s) indicated below.

07/30/2021

Dated: _____, 2021

By: _____



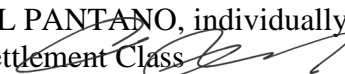
THOMAS CABRAL, individually and on behalf of the Settlement Class

07/30/2021

Dated: _____, 2021

By: _____

CHERYL PANTANO, individually and on behalf of the Settlement Class



Dated: _____, 2021

PHH MORTGAGE CORPORATION successor by merger to Ocwen Loan Servicing

By: _____

Its: _____

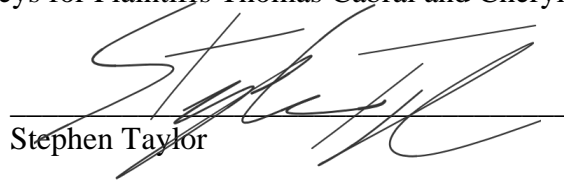
APPROVED AS TO FORM BY COUNSEL:

Dated: _____, 2021

LEMBERG LAW, LLC
Attorneys for Plaintiffs Thomas Cabral and Cheryl Pantano

07/30/2021

By: _____



Stephen Taylor

Dated: _____, 2021

STRADLEY RONON STEVENS & YOUNG, LLP
Attorneys for Defendants PHH Mortgage Corporation, successor by merger to Ocwen Loan Servicing, LLC

By: _____

Joe Nguyen

Exhibit A

Short Form/Post Card Notice

NOTICE FROM
UNITED STATES DISTRICT FOR THE DISTRICT OF
MASSACHUSETTS
(not a lawyer solicitation)

A Settlement Agreement has been reached in a class action lawsuit alleging that PHH Mortgage Corporation and Ocwen Loan Servicing, LLC (the "PHH Defendants"), violated the law by placing in excess of two telephone calls in a seven-day period to Massachusetts consumers to collect a debt. The records show that you may be a class member and may be entitled to payment under the Settlement Agreement reached in the case.

A settlement fund of \$576,500 has been established to pay Settlement Class Members, attorney's fees, costs, any incentive awards to the Class Representatives and settlement administration costs. Each Class Member is entitled to an equal share of the fund. If the settlement is approved, Settlement Class Members shall qualify for direct payments from the Settlement Fund. Your legal rights are affected whether you act or don't act so read this notice carefully.

This Postcard Notice contains limited information about the Settlement. For more information or to submit an online Claim Form, visit SETTLEMENTWEBSITE.com

[[[Admin Address]]]

[NOTICE ID IN DIGITS]
[NOTICE ID IN BARCODE]

Postal Service: Please Do Not Mark or Cover Barcode

[FIRST1] [LAST1]
[BUSINESSNAME]
[ADDR1] [ADDR2]
[CITY] [ST] [ZIP]

PRESORTED
FIRST-CLASS
MAIL

U.S. POSTAGE
PAID

THIS CARD PROVIDES LIMITED INFORMATION ABOUT THE SETTLEMENT VISIT www.xyz.com FOR MORE INFORMATION

In the lawsuit, the Plaintiffs allege that the PHH Defendants violated the Massachusetts Consumer Protection Act, M.G.L. c. 93A § 2, et seq. (“MCPA”), and the Massachusetts Debt Collection Regulations, 940 CMR § 7.00, et seq. (“MDCR”), by placing in excess of two calls regarding a debt within a seven-day period to Plaintiffs and other Massachusetts consumers. The PHH Defendants deny any wrongdoing, deny they violated the MCPA, the MDCR or any other law. The Parties have agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of further litigation. You can read Plaintiffs’ Amended Complaint, the Settlement Agreement, other case documents, at www. .com

Who’s Included in the Settlement Class? All persons residing in the Commonwealth of Massachusetts to whom, within the Class Period, the PHH Defendants may have made in excess of two telephone calls regarding a debt within a seven-day period to their residence, cellular telephone, or other provided telephone number as reflected on the Class List. There are 10,125 Settlement Class Members on the Class List.

What Can You Get? If the Settlement Agreement is approved, each of the 10,125 Settlement Class Member will be sent an equal share of the \$576,500 Settlement Fund after deductions for administrative costs, attorneys’ fees and costs and any incentive awards to the named Plaintiffs. Class Counsel will request up to one-third of the Settlement Fund in attorneys’ fees and costs and up to \$6,000 as an incentive award to each of the named Plaintiffs for their services on behalf of the Settlement Class. If some Settlement Class Members do not cash the Initial Settlement Check, those uncashed funds will be distributed equally in a Second Settlement Check to all Settlement Class Members who did cash their first check.

The Settlement is explained in detail in the Full Notice and in the Settlement Agreement available at www.xyz.com.

How to Get Money? You do not need to do anything to recover. If the Settlement Agreement is approved payments will be made directly to Settlement Class Members.

Your Other Rights. If you do not want to be legally bound by the Settlement, you must exclude yourself by **DATE** or you will not be able to sue the Defendants for any claims relating to this case. If you exclude yourself, you cannot get money from this Settlement. If you stay in the Settlement Class, you may object to the Settlement by **DATE**. The Full Notice, located at the website listed below, explains how to exclude yourself from, or object to, the Settlement. The Court will hold a hearing in this case on **DATE** at **TIME** p.m. to consider whether to approve the Settlement, Plan of Allocation, and a request by the lawyers representing all Class Members for fees and for reimbursement of expenses for litigating the case and negotiating the Settlement. You may attend the hearing and ask to be heard by the Court, but you do not have to. **If you do not take any action, you will be legally bound by the Settlement and any orders or Judgments entered in the Action, and will fully, finally, and forever give up any rights to prosecute Released Claims.**

For more information or a Claim Form, call 800-xxx-xxxx or visit www.xyz.com

Do not contact the Court, Defendant or its counsel with questions.

Exhibit B

Long Form Notice to be Posted Online

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

-----X

THOMAS CABRAL AND CHERYL PANTANO,
on behalf of themselves and all others similarly
situated,

Plaintiffs,

vs.

PHH MORTGAGE CORPORATION AND OCWEN
LOAN SERVICING, LLC,

Defendants.



-----X

**NOTICE REGARDING RIGHT TO BENEFIT FROM
CLASS ACTION SETTLEMENT**

A Settlement Agreement has been reached in a class action lawsuit alleging PHH Mortgage Corporation and Ocwen Loan Servicing, LLC (the “PHH Defendants”) violated the law by placing in excess of two telephone calls in a seven-day period to Massachusetts consumers to collect a debt. The PHH Defendants’ records show that you may be a class member under the Settlement Agreement reached in the case.

A settlement fund of \$576,500 has been established to pay valid claims, attorney’s fees, costs, any incentive award to each of the Class Representatives (Thomas Cabral and Cheryl Pantano) and settlement administration costs. If the settlement is approved, Settlement Class Members shall qualify for direct payments from the Settlement Fund. Your legal rights are affected whether you act or don’t act so read this notice carefully.

YOUR OPTIONS	
Option 1: Do Nothing	Do nothing and recover from the Settlement Fund If the Settlement Agreement is approved by the Court, Settlement Class Members will receive direct equal payments from Settlement Fund. Settlement Class Members do not need to submit any claim to recover.
Option 2: Ask to be Excluded Deadline: _____	Get out of this lawsuit and get no benefits from it You may ask to be excluded from the lawsuit. By excluding yourself, you cannot recover as part of this settlement and you keep a right to sue on your own.
Option 3: Object Deadline: _____	Object to the terms of the Settlement Agreement. You may object to the terms of the Settlement Agreement and have your objections heard at the _____ Fairness Hearing. If you object to the Settlement Agreement you do remain part of the Settlement Class.

1. What is this lawsuit about?

In the lawsuit, the Plaintiffs allege that the PHH Defendants violated the Massachusetts Consumer Protection Act, M.G.L. c. 93A § 2, *et seq.* (“MCPA”), and the Massachusetts Debt Collection Regulations, 940 CMR § 7.00, *et seq.* (“MDCR”), by placing in excess of two calls regarding a debt within a seven-day period to Plaintiffs and other Massachusetts consumers.

The PHH Defendants deny any wrongdoing, deny that that it violated the MCPA, the MDCR or any other law.

Both sides have agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of further litigation.

You can read Plaintiffs’ Amended Complaint, the Settlement Agreement, other case documents, and submit a claim form at www._____.com

2. Why is this a class action?

In a class action, a Class Representative (in this case the Plaintiffs Thomas Cabral and Cheryl Pantano) sues on behalf of a group (or a “Class”) of people. Here, the Class Representatives sued on behalf of people who have similar claims regarding allegedly excessive debt collection calls.

3. Why is there a settlement?

To avoid the cost, risk, and delay of litigation, the Parties reached a settlement agreement as to Plaintiffs’ and the Class claims.

4. How do I know if I am a part of the settlement?

For settlement purposes, the Court has certified a Class consisting of all people who meet the following definition:

All persons residing in the Commonwealth of Massachusetts to whom, within the Class Period, the PHH Defendants may have made in excess of two telephone calls regarding a debt within a seven-day period to their residence, cellular telephone, or other provided telephone number as reflected on the Class List.

There are 10,125 Settlement Class Members on the Class List.

5. How do I recover?

You do not need to do anything to recover. If the Settlement Agreement is approved, the Settlement Fund, minus administrative costs, attorneys’ fees and costs and any incentive award to the named plaintiff, will be distributed by a mailed check directly to Settlement Class Members in an equal amount.

If some Settlement Class Members do not cash the Initial Settlement Check, those uncashed funds will be distributed equally in a Second Settlement Check to all Settlement Class Members who did cash their first check.

6. What am I giving up to receive these benefits?

By staying in the Class, all of the Court's orders will apply to you, and you give a "release" for any claims arising from allegedly excessive telephone calls to you. A release means you cannot sue or be part of any other lawsuit against the PHH Defendants and the Released Parties about the claims or issues in this lawsuit and you will be bound by the Settlement Agreement.

7. How much will the Class Representatives receive?

The Class Representatives will receive their portion of the settlement as a Class Member and an incentive award for having pursued this action. Any incentive payment is subject to Court Approval. The Class Representatives will request an Incentive Award of \$6,000 each.

8. Do I have a lawyer in this case?

To represent the class, the Court has appointed attorneys with the law firm of Lemberg Law, LLC, 43 Danbury Road, Wilton, CT 06897 as "Class Counsel." Class Counsel will request an award of attorney's fees of up to 33% of the Settlement Fund. Any attorney's fee and expense award is subject to Court Approval. You may hire your own attorney, but only at your own expense.

9. I don't want to be part of this case, how do I ask to be excluded?

Answer: Send a Request to Be Excluded.

If you don't want a payment from this settlement, but you want to keep the right to individually sue the Defendants about the issues in this case, then you must take steps to get out of the settlement. This is called excluding yourself, or "opting out", of the Settlement Class. To request to exclude yourself, you must send a letter by mail which: (a) contains a caption or title that identifies it as "Request for Exclusion in *Cabral, et al. v. PHH Mortg. Corp.* (Case No. 1:19-cv-12245-ADB)"; (b) include the Settlement Class Member's name, mailing and email addresses, and contact telephone number; (c) specify that he or she wants to be "excluded from the Settlement Class"; and (d) be personally signed by the Settlement Class Member.

You must mail your exclusion request postmarked no later than [insert date] to [] [] [].

10. How do I object?

Any Settlement Class Member who has not requested to be excluded from the Settlement Class may object to the Settlement. In order to exercise this right, you must submit your objection to the Court by the Objection Deadline. Your objection must (a) contain a caption or title that identifies it as "Objection to Class Settlement in *Cabral, et al. v. PHH Mort. Corp.* (Case No. 1:19-cv-12245-ADB)"; (b) include the Settlement Class Members' name, mailing and email addresses, contact telephone number, and the number(s) for which an objection is being made; (c) set forth the specific reason(s), if any, for each objection, including all legal support the Settlement Class Member wishes to bring to the Court's attention and all factual evidence the Settlement Class Member wishes to introduce in support of the objection; (d) disclose the name

and contact information of any and all attorneys representing, advising, or in any way assisting the Settlement Class Member in connection with the preparation or submission of the objection; and (e) be personally signed by the Settlement Class Member. Any Class Member that fails to do object in the manner set forth herein shall be foreclosed from making such objection or opposition, by appeal, collateral attack, or otherwise and shall be bound by all of the terms of this Settlement upon Final Approval and by all proceedings, orders and judgments, including but not limited to the Release in the Action.

Objections must be filed with the Clerk of the Court and delivered or postmarked no later than _____.

The Court's address is: *Clerk of the Court, District of Massachusetts, 1 Courthouse Way, Boston, Massachusetts 02210*

The Fairness Hearing

The Court will hold a fairness hearing on _____, **2021** in the courtroom of the Honorable Allison D. Burroughs, U.S. Courthouse, *District of Massachusetts, 1 Courthouse Way, Boston, Massachusetts 02210*. The purpose of the hearing will be for the Court to determine whether the proposed settlement is fair, reasonable, and adequate and in the best interests of the Class and to rule on applications for compensation for Class Counsel and an incentive award for the Class Representative. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the proposed settlement.

YOU ARE **NOT** REQUIRED TO ATTEND THIS HEARING TO BENEFIT FROM THIS SETTLEMENT. The hearing may be postponed to a later date without notice.

FOR MORE INFORMATION

Additional information and documents, including case documents, are available at www.SETTLEMENTWEBSITE.com, or you can call [[[]]].

Exhibit C

Preliminary Approval Order

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

THOMAS CABRAL AND CHERYL
PANTANO, on behalf of themselves and all
others similarly situated,

Plaintiff,

vs.

PHH MORTGAGE CORPORATION AND
OCWEN LOAN SERVICING, LLC,

Defendants.

:
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: Civil Action No. 1:19-cv-12245-ADB
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**[PROPOSED] ORDER PRELIMINARILY APPROVING SETTLEMENT;
CERTIFYING SETTLEMENT CLASS; APPROVING NOTICE; AND SETTING
DATE FOR FINAL APPROVAL HEARING**

WHEREAS, Plaintiffs Thomas Cabral and Cheryl Pantano (“Plaintiffs”) and Defendants PHH Mortgage Corporation (“PHH”), individually and as successor by merger to named defendant Ocwen Loan Servicing, LLC (“Ocwen”) (PHH and Ocwen are hereinafter referred to collectively as “PHH Defendants”), have reached a proposed Settlement of the Action, which is set forth in the Settlement Agreement filed with the Court; and

WHEREAS, Plaintiffs have applied to the Court for preliminary approval of the proposed Settlement, the terms and conditions of which are set forth in the Settlement Agreement; and

WHEREAS, the Court has fully considered the record of these proceedings, the Settlement Agreement and all exhibits thereto, the representations, arguments and recommendation of counsel for the Parties and the requirements of law; and

WHEREAS, it appears to the Court upon preliminary examination that the proposed Settlement is fair, reasonable and adequate, and that a hearing should be held after notice to the Settlement Class of the proposed Settlement to finally determine whether the proposed Settlement is fair, reasonable and adequate and whether a Final Approval Order and Judgment should be entered in this Action.

THIS COURT FINDS AND ORDERS AS FOLLOWS:

1. The capitalized terms used in this Preliminary Approval Order shall have the same meaning as defined in the Settlement Agreement except as may otherwise be ordered.

2. The Court preliminarily approves the Settlement Agreement as fair, reasonable and adequate to the Settlement Class, as falling within the range of possible final approval, and as meriting notice of the Settlement to persons in the Settlement Class for their consideration and a hearing on the approval of the Settlement.

3. The Settlement Agreement was entered into by experienced counsel and only after extensive arm's-length negotiations involving mediation before the Honorable Stephen E. Neel (Ret.), former Superior Court judge for the Commonwealth of Massachusetts and an experienced mediator.

4. For purposes of the Settlement only, the Court conditionally certifies the following Settlement Class:

All persons residing in the Commonwealth of Massachusetts to whom, within the Class Period, the PHH Defendants may have made in excess of two telephone calls regarding a debt within a seven-day period to their residence, cellular telephone, or other provided telephone number as reflected on the Class List.

5. The Court preliminarily finds, for Settlement purposes only, that:

a. The above-described Settlement Class is so numerous that joinder of all members is impracticable;

b. There are questions of law or fact common to the Settlement Class;

c. The claims of the Settlement Class Representatives are typical of the claims of the Settlement Class;

d. The Settlement Class Representatives will fairly and adequately protect the interests of the Settlement Class;

e. The questions of fact or law common to the members of the Settlement Class predominate over the questions affecting only individual members; and

f. Certification of the Settlement Class is superior to other available methods for the fair and efficient adjudication of the controversy. The Court notes that, because the litigation is being settled, rather than litigated, it need not consider the manageability issues that would be presented by this litigation. *Amchem Prods. Inc. v. Windsor*, 117 S. Ct. 2231, 2240 (1997).

6. The Court finds that it has personal jurisdiction over all Class Members, including the absent Class Members.

7. The Named Plaintiffs shall be the Settlement Class Representatives of the Settlement Class. This Court preliminarily finds that they will fairly and adequately represent and protect the interests of the absent Class Members.

8. The Court approves Lemberg Law, LLC, as settlement Class Counsel. This Court preliminarily finds that they are competent, capable of exercising all responsibilities as Class Counsel and will fairly and adequately represent and protect the interests of the absent Class Members.

9. The Court approves KCC Class Action Administration to serve as the Settlement Administrator in this Action.

10. Any information on the Class List shall be provided solely for the purpose of providing Notice to the Settlement Class and informing Settlement Class Members about their rights further to this Settlement, shall be kept in strict confidence, shall not be disclosed to any third party other than as set forth in the Settlement Agreement to effectuate the terms of the Agreement or the administration process, shall be used for no other cases, and shall be used for no other purpose.

11. To the extent that any federal or state law governing the disclosure and use of consumers' financial information (including but not limited to "nonpublic personal information" within the meaning of the Graham–Leach–Bliley Act, 15 U.S.C. ch. 94, and its implementing regulations) permits such disclosure only as required by an order of a court, this order—

- (a) qualifies as “judicial process” under 15 U.S.C. § 6802(e)(8), and
- (b) authorizes the production of such information subject to this order’s protections, in which case the producing party’s production of such information in accordance with this order constitutes compliance with the applicable law’s requirements.

To the extent that any such law requires a producing or requesting party to give prior notice to the subject of any consumer financial information before disclosure, the Court finds that the limitations in this order furnish good cause to excuse any such requirement, which the Court hereby excuses.

12. If the Settlement is terminated or is not consummated for any reason, the foregoing conditional certification of the Settlement Class and appointment of the Settlement Class Representatives shall be void and of no further effect, and the parties to the proposed Settlement shall be returned to the status each occupied before entry of this Order, without prejudice to any legal argument that any of the parties to the Settlement might have asserted but for the Settlement.

13. A Final Approval Hearing shall be held before this Court on _____, 20__,¹ to address: (a) whether the Court should finally certify the Settlement Class and whether the Settlement Class Representatives and Class Counsel have adequately represented the Settlement Class; (b) whether the proposed Settlement should be finally approved as fair, reasonable and adequate and whether the Final Approval Order and Judgment should be entered; (c) whether the Released Claims of the Settlement Class in this Action should be dismissed on the merits and with prejudice; (d) whether Class Counsel’s Attorney’s Fees and Costs application and the Incentive Award for Named Plaintiffs should be approved; and (e) such other matters as the Court may deem necessary or appropriate. Papers in support of final approval of the Settlement, the Incentive Award to Named Plaintiffs, and Class Counsel’s Attorney’s Fees and Costs application shall be filed with the Court according to the

¹ A date no earlier than 120 days following entry of this Preliminary Approval Order as detailed in paragraph 23 *infra*.

schedule set forth in Paragraph 21 below. The Final Approval Hearing may be postponed, adjourned, or continued by order of the Court without further notice to the Settlement Class. After the Final Approval Hearing, the Court may enter a Final Approval Order and Judgment in accordance with the Settlement Agreement that will adjudicate the rights of all Class Members with respect to the Released Claims being settled. The Court may finally approve the Settlement at or after the Fairness Hearing with any modifications agreed to by the PHH Defendants and the Class Representative and without further notice to the Settlement Class.

14. The Court approves, as to form and content, the use of a Long Form Notice and Short Form/Postcard Notice substantially similar to the forms attached as Exhibits A and B to the Settlement Agreement, respectively. Written Notice will be provided to members of the Settlement Class by first-class U.S. mail using the PHH Defendants' records as well as other investigations deemed appropriate by the Settlement Administrator, updated by the Settlement Administrator in the normal course of business. All Notices shall be mailed within 30 days of the date of entry of this Preliminary Approval Order (the "Notice Deadline"). Prior to the Final Approval Hearing, the Settlement Administrator will submit to the Court a declaration of compliance with these notice provisions.

15. The cost of Notice and settlement administration shall be paid by the PHH Defendants from the Settlement Fund as provided for in the Settlement Agreement.

16. The Notice, as directed in this Order, constitutes the best notice practicable under the unique circumstances of this case and is reasonably calculated to apprise the members of the Settlement Class of the pendency of this Action and of their right to object to the Settlement or exclude themselves from the Settlement Class. The Court further finds that the Notice program is reasonable, that it constitutes due, adequate and sufficient notice to all persons entitled to receive such notice and that it meets the requirements of due process and of Federal Rule of Civil Procedure 23.

17. Any member of the Settlement Class who desires to be excluded from the Settlement Class, and therefore not be bound by the terms of the Settlement Agreement, must

submit to the Settlement Administrator, pursuant to the instructions and requirements set forth in the Notice, a timely and valid written request for exclusion postmarked no later than 60 days following the Notice Deadline.

18. Each request for exclusion, or “Opt-Out”, must be personally signed by the individual Class Member; any so-called “mass” or “class” opt-outs shall not be allowed. Further, to be valid and treated as a successful exclusion or “Opt-Out” the request must a) contain a caption or title that identifies it as “Request for Exclusion in *Cabral, et al. v. PHH Mortg. Corp.* (Case No. 1:19-cv-12245-ADB)”; (b) include the Settlement Class Member’s name, mailing and email addresses, and contact telephone number; (c) specify that he or she wants to be “excluded from the Settlement Class”; and (d) be personally signed by the Settlement Class Member.

19. No person shall purport to exercise any exclusion rights for any other Person, or purport to exclude any other Class Member as a group, aggregate or class involving more than one Class Member, or as an agent or representative. Any such purported exclusion shall be void and the Person that is the subject of the purported opt-out shall be treated as a member of the Settlement Class and be bound by the Settlement.

20. Any member of the Settlement Class who elects to be excluded shall not be entitled to receive any of the benefits of the Settlement, shall not be bound by the release of any claims pursuant to the Settlement Agreement, and shall not be entitled to object to the Settlement or appear at the Final Approval Hearing.

21. Any Class Member who does not submit a valid and timely request for exclusion may object to the proposed Settlement. Any such Class Member shall have the right to appear and be heard at the Final Approval Hearing, either personally or through an attorney retained at the Class Member’s own expense. Any such Class Member must file with the Court a written notice of intention to appear together with supporting papers, including a detailed statement of the specific objections made, delivered or postmarked no later than the Objection Deadline. Each Objection must (a) contain a caption or title that identifies it as “Objection to Class Settlement in *Cabral, et al. v. PHH Mort. Corp.* (Case No. 1:19-cv-12245-ADB)”; (b) include the Settlement

Class Members' name, mailing and email addresses, contact telephone number, and the number(s) for which an objection is being made; (c) set forth the specific reason(s), if any, for each objection, including all legal support the Settlement Class Member wishes to bring to the Court's attention and all factual evidence the Settlement Class Member wishes to introduce in support of the objection; (d) disclose the name and contact information of any and all attorneys representing, advising, or in any way assisting the Settlement Class Member in connection with the preparation or submission of the objection; and (e) be personally signed by the Settlement Class Member. Any Class Member that fails to do object in the manner set forth herein shall be foreclosed from making such objection or opposition, by appeal, collateral attack, or otherwise and shall be bound by all of the terms of this Settlement upon Final Approval and by all proceedings, orders and judgments, including but not limited to the Release in the Action.

22. Pending final determination of whether the Settlement should be approved, Plaintiffs, all persons in the Settlement Class, and persons purporting to act on their behalf are enjoined from commencing or prosecuting (either directly, representatively, or in any other capacity) any Released Claim against any of the Released Parties in any action, arbitration or proceeding in any court, arbitration forum or tribunal.

23. Further settlement proceedings in this matter shall proceed according to the following schedule:

<u>EVENT</u>	<u>SCHEDULED DATE</u>
Notice mailing deadline	30 days after entry of Preliminary Approval Order
Attorney's Fees and Costs application due by	30 days following the Notice mailing deadline
Incentive Award application due by	30 days following the Notice mailing deadline
Last day for Class Members to opt-out of Settlement	60 days following the Notice mailing deadline
Last day for Class Members to Object to the Settlement	60 days following the Notice mailing deadline

Briefs in support of Final Approval due by	14 days prior to the Final Approval Hearing
PHH Defendants to file certification regarding CAFA notice requirements	14 days prior to the Final Approval Hearing
Final Approval Hearing	On the date set in paragraph 13, but no earlier than 120 days after entry of Preliminary Approval Order

24. Service of all papers on counsel for the parties shall be made as follows: for settlement Class Counsel to Sergei Lemberg, Lemberg Law, LLC, 43 Danbury Road, Wilton, CT 06897; for Defendants to Joe Nguyen, Stradley Ronon Stevens & Young, LLP, 2005 Market Street, Suite 2600, Philadelphia, Pennsylvania 19103.

25. In the event that a Final Approval Order and Judgment is not entered by the Court, or the Effective Date of the Settlement does not occur, or the Settlement Agreement otherwise terminates according to its terms, this Order and all orders entered in connection therewith shall become null and void, shall be of no further force and effect, and shall not be used or referred to for any purposes whatsoever, including without limitation for any evidentiary purpose (including but not limited to class certification), in this Action or any other action. In such event the Settlement Agreement, exhibits, attachments and all negotiations and proceedings related thereto shall be deemed to be without prejudice to the rights of any and all of the parties, who shall be restored to their respective positions as of the date and time immediately preceding the execution of the Settlement Agreement.

26. The Court may, for good cause, extend all of the deadlines set forth in this Order without further notice to the Settlement Class.

27. All discovery and other litigation activity in this Action is hereby stayed pending final approval of the Settlement.

28. The Settlement shall not constitute an admission, concession, or indication of the validity of any claims or defenses in the Action, or of any wrongdoing, liability, or violation by

the PHH Defendants, which vigorously denies all of the claims and allegations raised in the Action.

IT IS SO ORDERED.

DATED: _____, 2020

By: _____
Allison D. Burroughs
United States District Judge