

Cause No. 342-362862-25

ALEX LAWRENCE AND
AMANDA LAWRENCE ET AL.,
Individually and on behalf
of all others similarly situated,

Plaintiffs,

v.

WHITLEY PENN, LLP,

Defendant.

§ IN THE DISTRICT COURT
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§
§ FORT WORTH COUNTY, TEXAS
§
§
§ 342ND JUDICIAL DISTRICT
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CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

This Class Action Settlement Agreement and Release, dated May 23, 2025, is made and entered into by and among Plaintiffs Alex Lawrence, Amanda Lawrence, Marcus Nordstrom, Alisha Patel, and Jeremy Raphael, for themselves individually and on behalf of the Settlement Class (as defined below), and Defendant Whitley Penn, LLP (“Whitley Penn”). This Settlement Agreement fully and finally resolves and settles all of Plaintiffs’ and the Settlement Class’s Released Claims, upon and subject to the terms and conditions hereof, and subject to the Court’s approval.

RECITALS

WHEREAS, on or around October 31, 2023, Whitley Penn identified suspicious activity within its email environment, which Whitley Penn subsequently determined may have impacted certain Personal Information (the “Data Incident”).

WHEREAS, during the period of the Data Incident, an unauthorized third party may have gained access to certain data used in the preparation of tax returns, such as first and last names, address, dates of birth, driver’s license number, passport number, Social Security number, K-1 visa information, taxpayer identification number, banking account information, PIN number, and or certain financial information (collectively, “Personal Information”) of approximately 716 individuals.

WHEREAS, Whitley Penn began notifying impacted individuals about the Data Incident on or around January 30, 2024.

WHEREAS, on or about July 11, 2024, Whitley Penn received a Pre-Suit Notice Regarding Impending Lawsuit on behalf of Plaintiffs Alex Lawrence, Amanda Lawrence, Marcus Nordstrom, Alisha Patel, and Jeremy Raphael (“Plaintiffs”) with a copy of Plaintiffs’ draft Complaint.

WHEREAS, the Parties soon thereafter agreed engage in pre-litigation settlement discussions to explore the potential for resolving this litigation. The Parties reached an agreement in principle to settle this matter. Following that agreement, the Parties were able to finalize all the terms of this Settlement Agreement.

WHEREAS, the above-captioned was subsequently filed in Tarrant County District Court, in the 342nd Judicial District, on March 17th, 2025.

WHEREAS, pursuant to the terms set forth below, this Agreement resolves all actual and potential claims, actions, and proceedings as set forth in the release contained herein, by and on behalf of members of the Settlement Class defined herein, but excludes the claims of all Class Members who opt out from the Settlement Class pursuant to the terms and conditions herein.

WHEREAS, Proposed Settlement Class Counsel (“Class Counsel”), on behalf of Plaintiffs and the Settlement Class, have thoroughly examined the law and facts relating to the matters at issue in the Action, Plaintiffs’ claims, and Whitley Penn’s potential defenses, including conducting independent investigation and informal discovery, conferring with defense counsel through the settlement negotiation process, as well as conducting an assessment of the merits of expected arguments and defenses throughout the litigation, including on a motion for class certification. Based on a thorough analysis of the facts and the law applicable to Plaintiffs’ claims in the Action, and taking into account the burden, expense, and delay of continued litigation, including the risks and uncertainties associated with litigating class certification and other defenses Whitley Penn may assert, a protracted trial and appeal(s), as well as the opportunity for a fair, cost-effective, and assured method of resolving the claims of the Settlement Class, Plaintiffs and Class Counsel believe that resolution is an appropriate and reasonable means of ensuring that the Class is afforded important benefits expediently. Plaintiffs and Class Counsel have also considered the uncertain outcome and the risk of continued litigation, as well as the difficulties and delays inherent in such litigation.

WHEREAS, Plaintiffs and Class Counsel believe that the terms set forth in this Settlement Agreement confer substantial benefits upon the Settlement Class and have determined that they are fair, reasonable, adequate, and in the best interests of the Settlement Class.

WHEREAS, Whitley Penn has similarly concluded that this Agreement is desirable in order to avoid the time, risk, and expense of defending protracted litigation, and to resolve finally and completely the claims of Plaintiffs and the Settlement Class.

WHEREAS, this Agreement, whether or not consummated, and any actions or proceedings taken pursuant to this Agreement, are for settlement purposes only, and Whitley Penn specifically denies any and all wrongdoing and has agreed to settle this matter to avoid protracted litigation. The existence of, terms in, and any action taken under or in connection with this Agreement shall not constitute, be construed as, or be admissible in evidence as, any admission by Whitley Penn of (i) the validity of any claim, defense, or fact asserted in the Action or any other pending or future action, or (ii) any wrongdoing, fault, violation of law, or liability of any kind on the part of the Parties.

WHEREAS, the foregoing Recitals are true and correct and are hereby fully incorporated in, and made a part of, this Agreement.

NOW, THEREFORE, in consideration of the promises, covenants, and agreements herein described and for other good and valuable consideration acknowledged by each of them to be satisfactory and adequate, and intending to be legally bound, the Parties do hereby mutually agree, as follows:

1. DEFINITIONS

As used in this Agreement, the following terms shall be defined as follows:

- 1.1 “Action” means the class action captioned *Lawrence et al. v. Whitley Penn, LLP*, Cause No. 342-362862-25 filed on March 17, 2025, in the District Court of Tarrant County, Texas, 342nd Judicial District.
- 1.2 “Administrative Expenses” means all charges and expenses incurred by the Settlement Administrator in the administration of this Settlement, including, without limitation, all expenses and costs associated with claims administration, the Notice Plan and providing Notice to the Settlement Class. Administrative Expenses also include all reasonable third-party fees and expenses incurred by the Settlement Administrator in administering the terms of this Agreement.
- 1.3 “Agreement” or “Settlement Agreement” means this Class Action Settlement Agreement and Release. The terms of the Settlement Agreement are set forth herein including the exhibits hereto.
- 1.4 “Approved Claim(s)” means a claim as evidenced by a Claim Form submitted by a Class Member that (a) is timely and submitted in accordance with the directions on the Claim Form and the terms of this Agreement; (b) is physically signed or electronically verified by the Class Member; (c) satisfies the conditions of eligibility for a Settlement Benefit as set forth herein; and (d) has been approved by the Settlement Administrator.
- 1.5 “Business Days” means Monday, Tuesday, Wednesday, Thursday, and Friday, excluding holidays observed by the federal government.
- 1.6 “Claimant” means a Class Member who submits a Claim Form for a Settlement Payment.
- 1.7 “Claim Forms” refers to the Digital Claim Form, the Postcard Claim Form, and the Printed Claim Form attached hereto as **Exhibit A**, as approved by the Court. The Postcard and Printed Claim Forms must be submitted physically (via U.S. Mail), and the Digital Claim Form must be submitted electronically (via the Settlement Website) by Class Members who wish to file a claim for their given share of the Settlement Benefits pursuant to the terms and conditions of this Agreement.

- 1.8 “Claims Deadline” means the date by which all Claim Forms must be received to be considered timely and shall be set as the date ninety (90) days after the Notice Date. The Claims Deadline shall be clearly set forth in the Long Form Notice, the Summary Notice, the Claim Form, and the Court’s order granting Preliminary Approval.
- 1.9 “Claims Period” means the period of time during which Class Members may submit Claim Forms to receive their given share of the Settlement Benefits and shall commence on the Notice Date and shall end on the date ninety (90) days thereafter.
- 1.10 “Class Counsel” means Tycko & Zavareei LLP.
- 1.11 “Class Member” means a member of the Settlement Class.
- 1.12 “Class Representatives” and “Plaintiffs” means Alex Lawrence, Amanda Lawrence, Marcus Nordstrom, Alisha Patel, and Jeremy Raphael.
- 1.13 “Court” means the District Court of Tarrant County, Texas, 342nd Judicial District.
- 1.14 “Data Incident” refers to the unauthorized access on or around September 5, 2023, that occurred as a result of a targeted cybersecurity attack into the Whitley Penn email environment, which Whitley Penn learned about on or around October 31, 2023, which may have impacted Personal Information, and which Whitley Penn disclosed publicly on or around January 30, 2024, and is the subject of the Action.
- 1.15 “Effective Date” means the date upon which the Settlement contemplated by this Agreement shall become effective as set forth in Section 10.1 below.
- 1.16 “Entity” means any person, corporation, partnership, limited liability company, association, trust, agency, or other organization of any type.
- 1.17 “Fee Award and Costs” means the amount of attorneys’ fees and reimbursement of reasonable litigation costs and expenses awarded by the Court to Class Counsel, to be paid from the Settlement Fund.
- 1.18 “Final Approval Order” means the order to be entered by the Court after the Final Approval Hearing, which approves the Settlement Agreement. A proposed Final Approval Order will be prepared by the parties and submitted contemporaneously with Plaintiffs’ Motion for Final Approval of Settlement.
- 1.19 “Final Approval Hearing” means the hearing to be conducted by the Court to determine the fairness, adequacy, and reasonableness of the Settlement pursuant to the Texas Rules of Civil Procedure and whether to issue the Final Approval Order and Judgment.
- 1.20 “Judgment” means the judgment to be entered by the Court.

- 1.21 “Long Form Notice” means the long form notice of settlement substantially in the form attached hereto as **Exhibit B**.
- 1.22 “Net Settlement Fund” means the amount of funds that remain in the Settlement Fund after funds are paid from or allocated for payment from the Settlement Fund for the following: (i) reasonable Administrative Expenses incurred pursuant to this Settlement Agreement, (ii) Service Awards approved by the Court, (iii) any amounts approved by the Court for the Fee Award and Costs, and (iv) applicable taxes, if any.
- 1.23 “Notice” means notice of the proposed class action settlement to be provided to Class Members pursuant to the Notice Plan approved by the Court in connection with preliminary approval of the Settlement. The Notice shall consist of the Post Card Notice, the Long Form Notice, and the Settlement Website and Settlement Administrator Email Address.
- 1.24 “Notice Date” means the date upon which Settlement Class Notice is initially disseminated to the Settlement Class by the Settlement Administrator, which shall be no later than thirty-five (35) days after entry of the Preliminary Approval Order.
- 1.25 “Notice Plan” means the settlement notice program, as approved by the Court, developed by the Settlement Administrator and described in this Agreement for disseminating Notice to the Class Members of the terms of this Agreement and the Final Approval Hearing.
- 1.26 “Objection Deadline” means the date by which Class Members must file and postmark required copies of any written objections, pursuant to the terms and conditions herein, to this Settlement Agreement and to any application and motion for (i) the Fee Award and Costs, and (ii) the Service Awards, which shall be sixty (60) days following the Notice Date.
- 1.27 “Opt-Out Period” means the period in which a Class Member may submit a Request for Exclusion, pursuant to the terms and conditions herein, which shall expire sixty (60) days following the Notice Date. The deadline for filing a Request for Exclusion will be clearly set forth in the Settlement Class Notice.
- 1.28 “Parties” means the Plaintiffs and Defendant Whitley Penn.
- 1.29 “Personal Information” means information potentially accessed, viewed, and/or obtained as a result of the Data Incident, including first and last names, address, dates of birth, driver’s license number, passport number, Social Security number, K-1 visa information, taxpayer identification number, banking account information, PIN number, and financial information, and any other types of personally identifiable information collected or maintained by Whitley Penn leading to notification regarding the Data Incident.

- 1.30 “Postcard Notice” means the postcard notice of the proposed Settlement herein, substantially in the form attached hereto as **Exhibit C**. The Postcard Notice also includes the Postcard Claim Form.
- 1.31 “Preliminary Approval Order” means an order by the Court that preliminarily approves the Settlement (including, but not limited to, the forms and procedure for providing Notice to the Settlement Class), permits Notice to the proposed Settlement Class, establishes a procedure for Class Members to object to or opt out of the Settlement, and sets a date for the Final Approval Hearing, without material change to the Parties’ proposed preliminary approval order to be agreed upon following the filing of Plaintiffs’ Petition and any subsequent Answer or Response by Whitley Penn.
- 1.32 “Released Claims” means any claim, liability, right, demand, suit, obligation, damage, including consequential damage, loss or cost, punitive damage, attorneys’ fees, costs, and expenses, action or cause of action, of every kind or description—whether known or Unknown (as the term “Unknown Claims” is defined herein), suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, legal, statutory, or equitable—that was or could have been asserted on behalf of the Settlement Class in the Action related to or arising from the Data Incident regardless of whether the claims or causes of action are based on federal, state, or local law, statute, ordinance, regulation, contract, common law, or any other source, and regardless of whether they are foreseen or unforeseen, suspected or unsuspected, or fixed or contingent, arising out of, or related or connected in any way with the claims or causes of action of every kind and description that were brought, alleged, argued, raised or asserted in any pleading or court filing in the Action.
- 1.33 “Released Parties” means Defendant Whitley Penn and its respective predecessors, successors, assigns, parents, subsidiaries, divisions, affiliates, departments, and any and all of its past, present, and future officers, directors, employees, equity holders, stockholders, partners, servants, agents, successors, attorneys, representatives, insurers, reinsurers, subrogees and assigns of any of the foregoing. Each of the Released Parties may be referred to individually as a “Released Party.”
- 1.34 “Request for Exclusion” is the written communication by a Class Member in which he or she requests to be excluded from the Settlement Class pursuant to the terms of the Agreement.
- 1.35 “Service Awards” means the amount awarded by the Court and paid to the Class Representatives in recognition of their role in this litigation, as set forth in Section 8 below.
- 1.36 “Settlement” means this settlement of the Action by and between the Parties, and the terms thereof as stated in this Settlement Agreement.

- 1.37 “Settlement Administrator” means CPT Group (“CPT”), the third-party class action settlement administrator selected by the Parties subject to the approval of the Court. Under the supervision of Class Counsel, the Settlement Administrator shall oversee and implement the Notice Plan and receive and process any Claim Forms and Requests for Exclusion from the Class. Class Counsel and Whitley Penn may, by agreement, substitute a different Settlement Administrator, subject to Court approval.
- 1.38 “Settlement Benefit(s)” means any Cash Fund Payments, Financial Shield Product, the Prospective Relief set forth in Section 2 herein, and any other benefits Class Members receive pursuant to this Agreement, including non-monetary benefits and relief, the Fee Award and Costs, and Administrative Expenses.
- 1.39 “Settlement Class” and “Class” means all natural persons residing in the United States who were mailed written notification by Whitley Penn that their Personal Information was potentially accessed, viewed, and/or obtained as a result of the Data Incident which occurred between September 5, 2023 and October 31, 2023. Excluded from the Settlement Class are: (1) the Judges presiding over the Action and members of their immediate families and their staff; (2) Whitley Penn, its subsidiaries, parent companies, successors, predecessors, and any entity in which Whitley Penn or its parents, have a controlling interest, and its current or former officers and directors; (3) natural persons who properly execute and submit a Request for Exclusion prior to the expiration of the Opt-Out Period; and (4) the successors or assigns of any such excluded natural person.
- 1.40 “Settlement Fund” means the sum of one hundred and fifty-five thousand dollars and no cents (\$155,000.00), to be paid by Whitley Penn, as specified in Section 3.1 of this Agreement.
- 1.41 “Settlement Payment” means any payment to be made to any Class Member pursuant to Section 3.2 herein.
- 1.42 “Settlement Website” means the Internet website to be created, launched, and maintained by the Settlement Administrator, and which allows for the electronic submission of Claim Forms and Requests for Exclusion, and provides access to relevant case documents including the Settlement Class Notice, information about the submission of Claim Forms, and other relevant documents, including downloadable Claim Forms.
- 1.43 “Taxes” means all federal, state, or local taxes of any kind on any income earned by the Settlement Fund and the expenses and costs incurred in connection with the taxation of the Settlement Fund (including, without limitation, interest, penalties and the reasonable expenses of tax attorneys and accountants). All (i) Taxes (including any estimated Taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be imposed upon the Released Parties or their counsel with respect to any income earned by the Settlement Fund for any period during which the Settlement

Fund does not qualify as a “qualified settlement fund” for federal or state income tax purposes, and (ii) expenses and costs incurred in connection with the operation and implementation of this Agreement (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this Agreement (“Tax Expenses”), shall be paid out of the Settlement Fund. Further, Taxes and Tax Expenses shall be treated as, and considered to be, an Administration Expense and shall be timely paid by the Settlement Administrator, out of the Settlement Fund, without prior order from the Court and the Settlement Administrator shall be authorized (notwithstanding anything herein to the contrary) to withhold from distribution to Class Members with Approved Claims any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treasury Regulation § 1.468B-2(1)(2)). The Parties hereto agree to cooperate with the Settlement Administrator, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Agreement. For the purpose of Section 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the Settlement Administrator shall be the “administrator.” The Settlement Administrator shall timely and properly file or cause to be filed all informational and other tax returns necessary or advisable with respect to the Settlement Fund and the escrow account (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)). Such returns (as well as the election described in this Agreement) shall be consistent with this Section and in all events shall reflect that all Taxes (including any estimated Taxes, interest or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in this Agreement.

- 1.44 “Unknown Claims” means any and all Released Claims that Whitley Penn or any Class Representative or Class Member does not know or suspect to exist in his, her, or its favor as of the Effective Date and which, if known by him, her, or it, might have materially affected his, her, or its decision(s) with respect to the Settlement. Class Representatives and Class Counsel acknowledge, and each Class Member by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Claims was separately bargained for and was a key element of the Settlement Agreement.
- 1.45 “Whitley Penn’s Counsel” or references to counsel for Whitley Penn means attorney Michelle R. Gomez and other attorneys at the law firm Baker & Hostetler LLP.
- 1.46 “Whitley Penn” or “Defendant” means Defendant Whitley Penn LLP and its current and former affiliates, parents, subsidiaries, predecessors, and successors.

2. SECURITY COMMITMENTS; PROSPECTIVE RELIEF

- 2.1 Whitley Penn agrees to adopt, continue, and/or implement various data and information security measures, at its expense, which are designed to strengthen Whitley Penn's data and information security. The Parties have agreed that Whitley Penn will implement or continue such measures for at least three years from the Effective Date of this Agreement.
- 2.2 Upon request, Whitley Penn will provide Class Counsel with sufficient information to confirm that the data and information security measures set forth in Section 2.1 have been or will be implemented, including through a confirmatory discovery or a confidential declaration regarding the measures that Whitley Penn has taken or will take in accordance with this Agreement.
- 2.3 The cost of such data and information security measures set forth in Section 2.1 shall be fully borne by Whitley Penn, and under no circumstances will such costs be deducted from the Settlement Fund.

3. SETTLEMENT FUND / MONETARY PAYMENT / BENEFITS DETAILS

- 3.1 Whitley Penn agrees to make or cause to be made a payment of one hundred and fifty-five thousand dollars and no cents (\$155,000.00), which is the Settlement Fund.

Whitley Penn agrees to create the Settlement Fund within thirty (30) days after the later of (a) entry of the Preliminary Approval Order, which shall include an order establishing the Settlement Fund pursuant to Treasury Regulation § 1.468B-1(c)(1), or (b) receipt from the Settlement Administrator of detailed wire instructions and a completed W-9 form, by making or causing to be made a deposit of one hundred and fifty-five thousand dollars and no cents (\$155,000.00) into an interest-bearing bank escrow account established and administered by the Settlement Administrator (the "Escrow Account"). The interest-bearing Escrow Account shall be held in a Qualified Settlement Fund (defined below) at a commercial bank with excess capital exceeding one billion United States dollars and zero cents (\$1,000,000,000.00), with a rating of "A" or higher by S&P, and in an account that is fully insured by the United States Government or the FDIC. The Settlement Fund will be used to pay Approved Claims, Administrative Expenses (to be agreed upon by the Parties), the Fee Award and Costs, and Service Awards. For the avoidance of doubt, and for purposes of this Settlement Agreement only, Whitley Penn's total liability shall not exceed one hundred and fifty-five thousand dollars and no cents (\$155,000.00).

- (a) All interest on the funds in the Escrow Account shall accrue to the benefit of the Settlement Class. Any interest shall not be subject to withholding and shall, if required, be reported appropriately to the Internal Revenue Service by the Settlement Administrator. The Administrator is responsible for the payment of all Taxes.

- (b) The funds in the Escrow Account shall be deemed a “qualified settlement fund” within the meaning of Treasury Regulation § 1.468B-1 at all times after the creation of the Escrow Account. All Taxes shall be paid out of the Escrow Account. Defendant, Defendant’s Counsel, Plaintiffs, and Class Counsel shall have no liability or responsibility for any of the Taxes. The Escrow Account shall indemnify and hold Defendant, Defendant’s Counsel, Plaintiffs, and Class Counsel harmless for all Taxes (including, without limitation, Taxes payable by reason of any such indemnification). For the purpose of the Internal Revenue Code and the Treasury regulations thereunder, the Settlement Administrator shall be designated as the “administrator” of the Settlement Fund. The Settlement Administrator shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)). Such returns (as well as the election described in the previous paragraph) shall be consistent with this paragraph and in all events shall reflect that all taxes (including the Taxes, any estimated Taxes, interest, or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein.
- (c) The Settlement Administrator shall maintain control over the Settlement Fund and shall be responsible for all disbursements. The Settlement Administrator shall not disburse any portion of the Settlement Fund except as provided in this Agreement and with the written agreement of Class Counsel and Defendant’s Counsel or by order of the Court. All funds held by the Settlement Administrator shall be deemed and considered to be *in custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to this Agreement or further order of the Court.

3.2 Settlement Payments:

- (a) Financial Shield Total: Each Class Member may qualify and submit a claim for 24 months of Financial Shield Total (“Financial Shield”) to be provided by CyEx, LLC. The Financial Shield benefit will provide 3-bureau credit monitoring, financial transaction monitoring, monthly credit score and score tracker solutions, bank and financial account monitoring, high risk transaction monitoring, real-time authentication alerts, fictitious identity monitoring, home title monitoring, dark web monitoring, address change monitoring, security freeze assist, lost wallet protection, spend tracking, victim assistance, customer support, and up to one million dollars (\$1,000,000.000) in comprehensive identity theft insurance.
- (b) Cash Fund Payment. In addition to submitting a claim for Financial Shield, Class Members may submit a claim to receive a pro rata cash payment from the Settlement Fund (“Cash Fund Payment”).

To receive the Financial Shield Product or the Cash Fund Payment, a Class Member must submit to the Settlement Administrator a valid Claim Form electing to receive one or both of these options.

- 3.3 Settlement Payment Methods. Class Members will be provided the option to receive any Settlement Payment due to them pursuant to the terms of this Agreement via various digital methods. In the event that Class Members do not exercise this option with the Settlement Administrator, they will receive their Settlement Payment via a physical check sent to them by U.S. Mail.
- 3.4 Deadline to File Claims. Claim Forms must be received postmarked or electronically within ninety (90) days after the Notice Date.
- 3.5 The Settlement Administrator. The Settlement Administrator shall have the authority to determine whether a Claim Form is valid, timely, and complete. To the extent the Settlement Administrator determines a claim is deficient for a reason other than late posting, within a reasonable amount of time, the Settlement Administrator shall notify the Claimant (with a copy to Class Counsel) of the deficiencies and notify the Claimant that he or she shall have thirty (30) days to cure the deficiencies and re-submit the claim. No notification is required for late-posted claims. The Settlement Administrator shall exercise reasonable discretion to determine whether the Claimant has cured the deficient claim. If the Claimant fails to cure the deficiency, the claim shall stand as denied, and the Class Member shall be so notified if practicable.
- 3.6 Timing of Settlement Benefits. Within ninety (90) days after: (i) the Effective Date; or (ii) all Claim Forms have been processed subject to the terms and conditions of this Agreement, whichever date is later, the Settlement Administrator shall cause funds to be distributed to each Class Member who is entitled to funds based on the selection made on their Claim Form.
- 3.7 Distribution of Settlement Payments: The Settlement is designed to exhaust the Settlement Fund. The Settlement Fund shall be used to make payments for the following: (i) Administrative Expenses, (ii) Fee Award and Costs, (iii) Service Award, and (iv) taxes. The remaining amount is the Net Settlement Fund. The Settlement Administrator will first apply the Net Settlement Fund to pay for Financial Shield claimed by Class Members. If Net Settlement Funds remain after paying for the Financial Shield products, the Settlement Administrator will next use it to pay valid claims for all Cash Fund Payments pursuant to Section 3.2(b) herein.
- 3.8 Deadline to Deposit or Cash Physical Checks. Class Members with Approved Claims who receive a Cash Fund Payment, by physical check, shall have sixty (60) days following distribution to deposit or cash their benefit check.
- 3.9 Residual Funds. The Settlement is designed to exhaust the Settlement Fund. To the extent any monies remain in the Net Settlement Fund more than 120 days after the pro rata distribution of all Settlement Payments to the Class Members the amount

remaining in the Net Settlement Fund, if any, shall be distributed *cy pres* by mutual agreement of the Parties to a Court-approved non-profit recipient. Should it become necessary to distribute any remaining amount of the Net Settlement Fund to a Court-approved non-profit recipient, the Parties shall petition the Court for permission to do so, providing the Court with details regarding the activities of the proposed non-profit recipient.

- 3.10 Returned Payments. For any Settlement Payment returned to the Settlement Administrator as undeliverable (including, but not limited to, when the intended recipient is no longer located at the address), the Settlement Administrator shall make one additional effort to make any digital payments and engage in reasonable efforts to find a valid address (in the case of physical checks) and resend the Settlement Payment within thirty (30) days after the physical check is returned to the Settlement Administrator as undeliverable. The Settlement Administrator shall make one attempt to repay or resend a Settlement Payment.
- 3.11 Residue of Settlement Fund. No portion of the Settlement Fund shall ever revert or be repaid to Whitley Penn and/or its insurers after the Effective Date.
- 3.12 Custody of Settlement Fund. The Settlement Fund shall be deposited into the Escrow Account but shall remain subject to the jurisdiction of the Court until such time as the entirety of the Settlement Fund is distributed pursuant to this Settlement Agreement or returned to those who paid the Settlement Fund in the event this Settlement Agreement is voided, terminated, or cancelled. In the event this Settlement Agreement is voided, terminated, or cancelled due to lack of approval from the Court or any other reason, any amounts remaining in the Settlement Fund after payment of all Administrative Expenses incurred in accordance with the terms and conditions of this Agreement, including all interest earned on the Settlement Fund net of any Taxes, shall be returned to Whitley Penn and/or its insurer, and no other person or entity shall have any further claim whatsoever to such amounts.
- 3.13 Non-Reversionary. This is a non-reversionary settlement. As of the Effective Date, all rights of Whitley Penn and/or its insurer in or to the Settlement Fund shall be extinguished, except in the event this Settlement Agreement is voided, cancelled, or terminated, as set forth herein. In the event the Effective Date occurs, no portion of the Settlement Fund shall be returned to Whitley Penn and/or its insurers.
- 3.14 Use of the Settlement Fund. As further described in this Agreement, the Settlement Administrator shall use the Settlement Fund to pay for: (i) all Administrative Expenses; (ii) any Taxes; (iii) any Service Awards; (iv) any Fee Award and Costs; and (v) the Settlement Payments and/or Settlement Benefits, pursuant to the terms and conditions of this Agreement.
- 3.15 Payment/Withdrawal Authorization. No amounts from the Settlement Fund may be withdrawn unless (i) expressly authorized by the Settlement Agreement or (ii) approved by the Court. The Parties, by agreement, may authorize the periodic payment of actual reasonable Administrative Expenses from the Settlement Fund

as such expenses are invoiced without further order of the Court. The Settlement Administrator shall provide Class Counsel and Whitley Penn with notice of any withdrawal or other payment the Settlement Administrator proposes to make from the Settlement Fund before the Effective Date at least seven (7) Business Days prior to making such withdrawal or payment.

- 3.16 Payments to Class Members. The Settlement Administrator, subject to such supervision and direction of the Court and/or Class Counsel as may be necessary or as circumstances may require, shall administer and/or oversee distribution of the Settlement Fund to Class Members pursuant to this Agreement.
- 3.17 Taxes. All Taxes relating to the Settlement Fund shall be paid out of the Settlement Fund, shall be considered an Administrative Expense, and shall be timely paid by the Settlement Administrator without prior order of the Court. Further, the Settlement Fund shall indemnify and hold harmless the Parties and their counsel for Taxes (including, without limitation, taxes payable by reason of any such indemnification payments). The Parties and their respective counsel have made no representation or warranty with respect to the tax treatment by any Class Representative or any Class Member of any payment or transfer made pursuant to this Agreement or derived from or made pursuant to the Settlement Fund. Taxes do not include any federal, state, or local tax owed by any Claimant, Class Representative, or Class Member as a result of any benefit or payment received as a result of the Settlement. Each Claimant, Class Representative, and Class Member shall be solely responsible for the federal, state, and local tax consequences to him, her, or it of the receipt of funds from the Settlement Fund pursuant to this Agreement.
- 3.18 Medicare Reporting. To enable reporting to the Centers for Medicare & Medicaid Services, any Settlement Class Member that is a Medicare beneficiary who sought services from a health care professional for emotional distress arising out of the Data Incident and will receive payment of over \$750 under this Settlement will be asked, prior to receiving payment, to provide additional information, including their gender, date of birth, and Social Security Number (last five digits at a minimum) or full Medicare Beneficiary Number. In the event that the settlement Administrator issues payment to the Settlement Class Member before receiving the additional information, the Settlement Class Member will provide the additional information as soon as possible.
- 3.19 Limitation of Liability.
- (a) Whitley Penn and its Counsel shall not have any responsibility for or liability whatsoever with respect to (i) any act, omission or determination of Class Counsel, the Settlement Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management, investment or distribution of the Settlement Fund; (iii) the formulation, design, or terms of the disbursement of the Settlement Fund; (iv) the determination, administration, calculation,

or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by, or fluctuations in the value of the Settlement Fund; or (vi) the payment or withholding of any Taxes, expenses, and/or costs incurred in connection with the taxation of the Settlement Fund or the filing of any returns.

- (b) Class Representatives and Class Counsel shall not have any liability whatsoever with respect to (i) any act, omission, or determination of the Settlement Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management, investment, or distribution of the Settlement Fund; (iii) the formulation, design, or terms of the disbursement of the Settlement Fund; (iv) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by or fluctuations in the value of the Settlement Fund; or (vi) the payment or withholding of any Taxes, expenses, and/or costs incurred in connection with the taxation of the Settlement Fund or the filing of any returns.
- (c) The Settlement Administrator shall indemnify and hold Class Counsel, the Settlement Class, Class Representatives, and Whitley Penn, and Whitley Penn's Counsel harmless for (i) any act or omission or determination of the Settlement Administrator, or any of the Settlement Administrator's designees or agents, in connection with the Notice Plan and the administration of the Settlement; (ii) the management, investment, or distribution of the Settlement Fund; (iii) the formulation, design, or terms of the disbursement of the Settlement Fund; (iv) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by, or fluctuations in the value of the Settlement Fund; or (vi) the payment or withholding of any Taxes, expenses, and/or costs incurred in connection with the taxation of the Settlement Fund or the filing of any returns.

4. RELEASE

- 4.1 Upon the Effective Date, and in consideration of the Settlement Benefits described herein, the Class Representatives and all Class Members on behalf of themselves, their heirs, assigns, executors, administrators, predecessors, and successors, and any other person purporting to claim on their behalf, release and discharge all Released Claims, including Unknown Claims, against each of the Released Parties and agree to refrain from instituting, directing or maintaining any lawsuit, contested matter, adversary proceeding, or miscellaneous proceeding against each of the Released Parties that relates to the Data Incident or otherwise arises out of the same facts and circumstances set forth in the class action complaint in this Action. This Settlement releases claims against only the Released Parties. This Settlement does not release, and it is not the intention of the Parties to this Settlement to release, any claims against any third party. Nor does this Release apply to any Class Member who timely excludes himself or herself from the Settlement.

4.2 The Parties understand that if the facts upon which this Agreement is based are found hereafter to be different from the facts now believed to be true, each Party expressly assumes that risk of such possible difference in facts and agrees that this Agreement shall remain effective notwithstanding such difference in facts. The Parties agree that in entering this Agreement, it is understood and agreed that each Party relies wholly upon its own judgment, belief, and knowledge and that each Party does not rely on inducements, promises, or representations made by anyone other than those embodied herein.

5. REQUIRED EVENTS AND COOPERATION BY PARTIES

5.1 Preliminary Approval. Class Counsel shall submit this Agreement to the Court and shall promptly move the Court to enter the Preliminary Approval Order, in the form to be agreed to by the Parties.

5.2 Cooperation. The Parties shall, in good faith, cooperate, assist, and undertake all reasonable actions and steps in order to accomplish all requirements of this Agreement on the schedule set by the Court, subject to the terms of this Agreement. If, for any reason, the Parties determine that the schedule set by the Court is no longer feasible, the Parties shall use their best judgment to seek the amendment of the schedule to accomplish the goals of this Agreement.

5.3 Certification of the Settlement Class. For purposes of this Settlement only, Plaintiffs and Whitley Penn stipulate to the certification of the Settlement Class, which is contingent upon the Court entering the Final Approval Order and Judgment of this Settlement and the occurrence of the Effective Date. Should: (1) the Settlement not receive final approval from the Court, or (2) the Effective Date not occur, the certification of the Settlement Class shall be void. Whitley Penn reserves the right to contest class certification for all other purposes. Plaintiffs and Whitley Penn further stipulate to designate the Class Representatives as the representatives for the Settlement Class.

5.4 Final Approval. The Parties shall request that the Court schedule the Final Approval Hearing for a date that is no earlier than one hundred twenty (120) days after the entry of the Preliminary Approval Order. The Parties may file a Motion for Final Approval no later than fourteen (14) days prior to the Final Approval Hearing, and a Response to any objections to the Settlement or a Supplement to the Motion for Final Approval no later than seven (7) days prior to the Final Approval Hearing.

6. CLASS NOTICE, OPT-OUTS, AND OBJECTIONS

6.1 Notice shall be disseminated pursuant to the Court's Preliminary Approval Order.

6.2 The Settlement Administrator shall oversee and implement the Notice Plan approved by the Court. All costs associated with the Notice Plan shall be paid from the Settlement Fund.

- 6.3 Direct Notice. No later than the Notice Date, or such other time as may be ordered by the Court, the Settlement Administrator shall disseminate Notice to the Class Members via direct mail.
- 6.4 Settlement Class List. Within fourteen (14) days after the issuance of the Preliminary Approval Order, Whitley Penn will provide to the Settlement Administrator a list of names and mailing addresses for any and all Class Members that it has in its possession, custody, or control. Every person on the Settlement Class List will be provided with a unique identifier by the Settlement Administrator that they will be asked for when they submit claims. Anyone who believes they are a Settlement Class Member but are not on the Settlement Class List may contact the Settlement Administrator and, upon providing reasonable proof, will be provided with a unique identifier and allowed to participate in the Settlement.
- 6.5 Confidentiality. Any information relating to Class Members provided to the Settlement Administrator pursuant to this Agreement shall be provided solely for the purpose of providing Notice to the Class Members (as set forth herein) and allowing them to recover under this Agreement; shall be kept in strict confidence by the Parties, their counsel, and the Settlement Administrator; shall not be disclosed to any third party; shall be destroyed after all distributions to Class Members have been made; and shall not be used for any other purpose. Moreover, because the Class Member list and information contained therein will be provided to the Settlement Administrator solely for purposes of providing the Class Notice and Settlement Benefits and processing opt-out requests, the Settlement Administrator will execute a confidentiality and non-disclosure agreement with Class Counsel and Whitley Penn's Counsel, and will ensure that any information provided to it by Class Members, Class Counsel, Whitley Penn, or Whitley Penn's Counsel, will be secure and used solely for the purpose of effecting this Settlement.
- 6.6 Fraud Prevention. The Settlement Administrator shall use reasonable and customary fraud-prevention mechanisms to prevent (i) submission of Claim Forms by persons other than potential Class Members, (ii) submission of more than one Claim Form per Class Member, and (iii) submission of Claim Forms seeking amounts to which the claimant is not entitled. In the event a Claim Form is submitted without a unique Class Member identifier, the Settlement Administrator shall employ reasonable efforts to ensure that the Claim is valid.
- 6.7 Settlement Website. Prior to any dissemination of the Summary Notice and prior to the Notice Date, the Settlement Administrator shall cause the Settlement Website to be launched on the Internet in accordance with this Agreement. The Settlement Administrator shall create the Settlement Website. The Settlement Website shall contain information regarding how to submit Claim Forms (including submitting Claims Forms electronically through the Settlement Website) and relevant documents, including, but not limited to, the Long Form Notice, the Claim Form, this Agreement, the Preliminary Approval Order entered by the Court, and the operative Consolidated Class Action Complaint in the Action, and will (on its URL landing page) notify the Settlement Class of the date, time, and place of the Final

Approval Hearing. The Settlement Website shall also provide the email address and mailing address through which Class Members may contact the Settlement Administrator directly.

- 6.8 Opt-Out/Request for Exclusion. The Notice shall explain that the procedure for Class Members to opt out and exclude themselves from the Settlement Class is by notifying the Settlement Administrator in writing, postmarked no later than sixty (60) days after the Notice Date. Any Class Member may submit a Request for Exclusion from the Settlement at any time during the Opt-Out Period. To be valid, the Request for Exclusion must be postmarked or received by the Settlement Administrator on or before the end of the Opt-Out Period. In the event a Class Member submits a Request for Exclusion to the Settlement Administrator via US Mail, such Request for Exclusion must be in writing and must (i) identify the case name “*Lawrence et al. v. Whitley Penn, LLP*, Cause No. 342-362862-25”; (ii) state the name, address, telephone number and unique claim ID of the Class Member seeking exclusion; (iv) be physically signed by the person(s) seeking exclusion; and (v) must also contain a statement to the effect that “I hereby request to be excluded from the proposed Settlement Class in ‘*Lawrence et al. v. Whitley Penn, LLP*, Cause No. 342-362862-25.’” Any person who elects to request exclusion from the Settlement Class shall not (i) be bound by any orders or Judgment entered in the Action, (ii) be entitled to relief under this Agreement, (iii) gain any rights by virtue of this Agreement, or (iv) be entitled to object to any aspect of this Agreement. Requests for Exclusion may only be done on an individual basis, and no person may request to be excluded from the Settlement Class through “mass” or “class” opt-outs.

In the event that within ten (10) days after the Opt-Out Date as approved by the Court, there have been more than thirty-five (35) timely and valid individual opt-outs (exclusions) submitted, Whitley Penn may, by notifying Class Counsel and the Court in writing, void this Agreement. If Whitley Penn terminates the Agreement under this section, Whitley Penn shall be obligated to pay only the Administrative Expenses incurred by the Settlement Administrator to that date for work performed in connection with the Agreement.

- 6.9 Objections. The Notice shall explain that the procedure for Class Members to object to the Settlement is by submitting written objections to the Court no later than sixty (60) days after the Notice Date (the “Objection Deadline”). Any Class Member may enter an appearance in the Action, at their own expense, individually or through counsel of their own choice. Any Class Member who wishes to object to the Settlement, the Settlement Benefits, Service Awards, and/or the Fee Award and Costs, or to appear at the Final Approval Hearing and show cause, if any, for why the Settlement should not be approved as fair, reasonable, and adequate to the Class, why a final judgment should not be entered thereon, why the Settlement Benefits should not be approved, or why the Service Awards and/or the Fee Award and Costs should not be granted, may do so, but must proceed as set forth in this paragraph. No Class Member or other person will be heard on such matters unless they have filed in this Action the objection, together with any briefs, papers, statements, or

other materials the Class Member or other person wishes the Court to consider, within sixty (60) days following the Notice Date.

All written objections and supporting papers must clearly (a) identify the case name and number; (b) state the Class Member's full name, current mailing address, and telephone number, and unique claim ID number; (c) contain a statement by the Class Member that he or she believes themselves to be a member of the Settlement Class; (d) include proof that the Class Member is a member of the Settlement Class (e.g., copy of the settlement notice, copy of the original notice of the Data Incident); (e) identify the specific factual and legal grounds for the objection, and include any documents in support of that position for consideration; (f) identify whether the Objection is an objection to the Settlement in part or in whole; (g) state whether the Objection applies only to the objector, a subset of the Settlement Class, or the entire Settlement Class; (h) identify all counsel representing the Class Member, if any; (i) include a list, including case name, court, and docket number, of all other cases in which the objector and/or the objector's counsel has filed an objection to any proposed class action settlement in the past five (5) years; (j) include all documents or writings that the Class Member desires the Court to consider; (k) contain a statement regarding whether the Class Member (or counsel of his or her choosing) intends to appear at the Final Approval Hearing; and (l) contain the signature of the Class Member or the Class Member's duly authorized attorney or representative. All objections must be submitted to the Settlement Administrator, Class Counsel identified below, and to the Court either by mailing them to: Tom Vandergriff Civil Courts Building, 5th Floor, 100 N. Calhoun Street, Fort Worth, TX 76196, or by filing them in person at the Courthouse.

All objections must be filed or postmarked on or before the Objection Deadline, as set forth above. Any Class Member who does not make their objections in the manner and by the date set forth in this Section shall be deemed to have waived any objections and shall be forever barred from raising such objections in this or any other action or proceeding, absent further order of the Court. Without limiting the foregoing, any challenge to the Settlement Agreement, the Order Granting Preliminary Approval of the Class Action Settlement Agreement, and the Final Approval Order and Judgment shall be pursuant to appeal under the applicable rules of appellate procedure and not through a collateral attack.

7. SETTLEMENT ADMINISTRATION

7.1 Submission of Claims.

- (a) Submission of Electronic and Hard Copy Claims. Class Members may submit electronically verified Digital Claim Forms to the Settlement Administrator through the Settlement Website, tear off the attached Postcard Claim Form on the Postcard Notice, or may download and print the Printed Claim Form to be filled out, signed, and submitted physically by mail to the Settlement Administrator. Claim Forms must be submitted electronically or postmarked during the Claims Period and on or before the

Claims Deadline. The Settlement Administrator shall reject any Claim Forms that are incomplete, inaccurate, or not timely received and will provide Claimants notice and the ability to cure defective claims, unless otherwise noted in this Agreement.

- (b) Review of Claim Forms. The Settlement Administrator will review Claim Forms submitted by Class Members to determine whether they are eligible for a Settlement Payment.

7.2 Settlement Administrator's Duties.

- (a) Cost Effective Claims Processing. The Settlement Administrator shall, under the supervision of the Court, administer the relief provided by this Agreement by processing Claim Forms in a rational, responsive, cost effective, and timely manner, and calculate Settlement Payments in accordance with this Agreement.
- (b) Dissemination of Notices. The Settlement Administrator shall disseminate the Notice Plan as provided for in this Agreement.
- (c) Maintenance of Records. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as required by applicable law in accordance with its business practices and such records will be made available to Class Counsel and Whitley Penn's Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. Upon request, the Settlement Administrator shall provide Class Counsel and Whitley Penn's Counsel with information concerning Notice, administration, and implementation of the Settlement. Without limiting the foregoing, the Settlement Administrator also shall:
 - (i) Receive Requests for Exclusion from Class Members and provide Class Counsel and Whitley Penn's Counsel a copy thereof no later than five (5) days following the deadline for submission of the same. If the Settlement Administrator receives any Requests for Exclusion or other requests from Class Members after expiration of the Opt-Out Period, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Whitley Penn's Counsel;
 - (ii) Provide weekly reports to Class Counsel and Whitley Penn's Counsel that include, without limitation, reports regarding the number and type of Claim Forms received, the number and type of Claim Forms approved by the Settlement Administrator, and the categorization and description of Claim Forms rejected by the Settlement Administrator. The Settlement Administrator shall also, as requested by Class Counsel or Whitley Penn's Counsel and from

time to time, provide the amounts remaining in the Net Settlement Fund;

- (iii) Make available for inspection by Class Counsel and Whitley Penn's Counsel the Claim Forms and any supporting documentation received by the Settlement Administrator at any time upon reasonable notice;
- (iv) Cooperate with any audit by Class Counsel or Whitley Penn's Counsel, who shall have the right but not the obligation to review, audit, and evaluate all Claim Forms for accuracy, veracity, completeness, and compliance with the terms and conditions of this Agreement.

7.3 Requests For Additional Information: In the exercise of its duties outlined in this Agreement, the Settlement Administrator shall have the right to reasonably request additional information from the Parties or any Class Member who submits a Claim Form.

8. SERVICE AWARDS

- 8.1 Class Representatives and Class Counsel may seek Service Awards to the Class Representatives of up to \$2,500 per Class Representative. Class Counsel may file a motion seeking Service Awards for the Class Representatives on or before fourteen (14) days prior to the Objection Deadline.
- 8.2 The Settlement Administrator shall pay the Service Awards approved by the Court to the Class Representatives from the Settlement Fund. Such Service Awards shall be paid by the Settlement Administrator, in the amount approved by the Court, within five (5) Business Days after the Effective Date.
- 8.3 In the event the Court declines to approve, in whole or in part, the payment of the Service Award in the amounts requested, the remaining provisions of this Agreement shall remain in full force and effect. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the amount of the Service Award shall constitute grounds for cancellation or termination of this Agreement.
- 8.4 The Parties did not discuss or agree upon the maximum amount of Service Awards for which Class Representatives can apply until after the substantive terms of the Settlement had been agreed upon.

9. ATTORNEYS' FEES, COSTS, AND EXPENSES

- 9.1 Class Counsel may file a motion seeking an award of attorneys' fees to be paid from the Settlement Fund, and, separately, reasonably incurred litigation expenses and costs (i.e., Fee Award and Costs) not to exceed \$77,500, no later than fourteen (14) days prior to the Objection Deadline. The motion for a Fee Award and Costs

shall be posted on the Settlement Website. The Settlement Administrator shall pay any attorneys' fees, costs, and expenses awarded by the Court to Class Counsel in the amount approved by the Court, from the Settlement Fund, within five (5) Business Days after the Effective Date.

- 9.2 Unless otherwise ordered by the Court, Class Counsel shall have the sole and absolute discretion to allocate any approved Fee Award and Costs amongst themselves.
- 9.3 The Settlement is not conditioned upon the Court's approval of an award of Class Counsel's Fee Award and Costs or Service Awards.

10. EFFECTIVE DATE, MODIFICATION, AND TERMINATION

- 10.1 The Effective Date of the Settlement shall be the first day after all of the following conditions have occurred:
 - (a) Whitley Penn and Class Counsel execute this Agreement;
 - (b) The Court enters the Preliminary Approval Order in a form to be agreed on by the Parties;
 - (c) Notice is provided to the Settlement Class consistent with the Preliminary Approval Order;
 - (d) The Court enters the Final Approval Order and Judgment, materially similar to the proposed that will be submitted in conjunction with Plaintiffs' motion for final approval; and
 - (e) The Final Approval Order and Judgment have become "Final" because: (i) the time for appeal, petition, rehearing or other review has expired; or (ii) if any appeal, petition, request for rehearing or other review has been filed, the Final Approval Order and Judgment is affirmed without material change or the appeal is dismissed or otherwise disposed of, no other appeal, petition, rehearing or other review is pending, and the time for further appeals, petitions, requests for rehearing or other review has expired.
- 10.2 In the event that the Court declines to enter the Preliminary Approval Order, declines to enter the Final Approval Order and Judgment, or the Final Approval Order and Judgment does not become Final (as described in Section 10.1(e) of this Agreement), Whitley Penn may at its sole discretion terminate this Agreement on five (5) Business Days written notice from Whitley Penn's Counsel to Class Counsel.
- 10.3 In the event the terms or conditions of this Settlement Agreement are materially modified by any court, any Party in its sole discretion to be exercised within fourteen (14) days after such modification may declare this Settlement Agreement null and void. In the event of a material modification by any court, and in the event

the Parties do not exercise their unilateral options to withdraw from this Settlement Agreement pursuant to this Section, the Parties shall meet and confer within seven (7) days of such ruling to attempt to reach an agreement as to how best to effectuate the court-ordered modification. For the avoidance of doubt, a “material modification” shall not include any reduction by the Court of the Fee Award and Costs and/or Service Awards.

- 10.4 Except as otherwise provided herein, in the event the Settlement is terminated, the Parties to this Agreement, including Class Members, shall be deemed to have reverted to their respective status in the Action immediately prior to the execution of this Agreement, and, except as otherwise expressly provided, the Parties shall proceed in all respects as if this Agreement and any related orders had not been entered. In addition, the Parties agree that in the event the Settlement is terminated, any orders entered pursuant to the Agreement shall be deemed null and void and vacated and shall not be used in or cited by any person or entity in support of claims or defenses.
- 10.5 In the event this Agreement is terminated pursuant to any provision herein, then the Settlement proposed herein shall become null and void (with the exception of Sections 10.5, and 10.6 herein) and shall have no legal effect, and the Parties will return to their respective positions existing immediately before the execution of this Agreement.
- 10.6 Notwithstanding any provision of this Agreement, in the event this Agreement is not approved by any court, or terminated for any reason, or the Settlement set forth in this Agreement is declared null and void, or in the event that the Effective Date does not occur (collectively, a “Termination Event”), Class Members, Plaintiffs, and Class Counsel shall not in any way be responsible or liable for any of the Administrative Expenses, or any expenses, including costs of notice and administration associated with this Settlement or this Agreement, except that each Party shall bear its own attorneys’ fees and costs. In the event of a Termination Event, then (a) this Settlement Agreement shall be null and void and of no force and effect; (b) the Settlement Fund and any and all interest earned thereon, less monies expended toward settlement administration, will be returned to Whitley Penn within ten (10) days after the date the Settlement Agreement becomes null and void; and (c) any release shall be of no force or effect. In such event, unless the Parties can negotiate a modified settlement agreement, the Action will revert to the status that existed before the Settlement Agreement’s execution date; the Parties will each be returned to their respective procedural postures in the litigation, and neither the Settlement Agreement nor any facts concerning its negotiation, discussion or terms will be admissible in evidence for any purpose in the Action (or in any other litigation).

11. NO ADMISSION OF WRONGDOING OR LIABILITY

11.1 This Agreement, whether or not consummated, any communications and negotiations relating to this Agreement or the Settlement, and any proceedings taken pursuant to the Agreement:

- (a) shall not be offered or received against Whitley Penn as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by Whitley Penn with respect to the truth of any fact alleged by any Plaintiffs or the validity of any claim that has been or could have been asserted in the Action or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Action or in any litigation, or of any liability, negligence, fault, breach of duty, or wrongdoing of Whitley Penn;
- (b) shall not be offered or received against Whitley Penn as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by Whitley Penn;
- (c) shall not be offered or received against Whitley Penn as evidence of a presumption, concession or admission with respect to any liability, negligence, fault, breach of duty, or wrongdoing, or in any way referred to for any other reason as against Whitley Penn, in any other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Agreement; provided, however, that if this Agreement is approved by the Court, the Parties may refer to it to effectuate the liability protection granted to them hereunder;
- (d) shall not be construed against Whitley Penn as an admission or concession that the consideration to be given hereunder represents the relief that could be or would have been awarded after trial; and
- (e) shall not be construed as or received in evidence as an admission, concession or presumption against the Class Representatives or any Class Member that any of their claims are without merit, or that any defenses asserted by Whitley Penn have any merit.

12. REPRESENTATIONS

12.1 Each Party represents that: (i) such Party has full legal right, power, and authority to enter into and perform this Agreement, subject to Court approval; (ii) the execution and delivery of this Agreement by such Party and the consummation by such Party of the transactions contemplated by this Agreement have been duly authorized by such Party; (iii) this Agreement constitutes a valid, binding, and enforceable agreement; and (iv) no consent or approval of any person or entity is necessary for such Party to enter into this Agreement.

13. NOTICE

- 13.1 All notices to Class Counsel provided for in this Agreement shall be sent by email (to all email addresses set forth below) and by First-Class mail to all of the following:

Shana Khader
Gemma Seidita
TYCKO & ZAVAREEI LLP
2000 Pennsylvania Ave. NW, Suite 1010
Washington, DC 20006
Class Counsel

- 13.2 All notices to Whitley Penn or Whitley Penn's Counsel provided for in this Agreement shall be sent by email and First-Class mail to the following:

Michelle R. Gomez
BAKER & HOSTETLER LLP
1801 California Street, Ste 4400
Denver, CO 80202-2662
mgomez@bakerlaw.com

- 13.3 All notices to the Settlement Administrator provided for in this Agreement shall be sent by email and First-Class mail to the following:

In Re: Whitley Penn Data Incident
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606-9905

- 13.4 The notice recipients and addresses designated in this Section may be changed by written notice.

14. MISCELLANEOUS PROVISIONS

- 14.1 Representation by Counsel. The Class Representatives and Whitley Penn represent and warrant that they have been represented by, and have consulted with, the counsel of their choice regarding the provisions, obligations, rights, risks, and legal effects of this Agreement and have been given the opportunity to review independently this Agreement with such legal counsel and agree to the particular language of the provisions herein.
- 14.2 Best Efforts. The Parties agree that they will make all reasonable efforts needed to reach the Effective Date and fulfill their obligations under this Agreement.
- 14.3 Contractual Agreement. The Parties understand and agree that all terms of this Agreement, including the Exhibits thereto, are contractual and are not a mere

recital, and each signatory warrants that he, she, or it is competent and possesses the full and complete authority to execute and covenant to this Agreement on behalf of the Party that they or it represents.

- 14.4 Integration. This Agreement constitutes the entire agreement among the Parties and no representations, warranties or inducements have been made to any Party concerning this Agreement other than the representations, warranties and covenants contained and memorialized herein.
- 14.5 Drafting. The Parties agree that no single Party shall be deemed to have drafted this Agreement, or any portion thereof, for purpose of the invocation of the doctrine of *contra proferentum*. This Settlement Agreement is a collaborative effort of the Parties and their attorneys that was negotiated on an arm's-length basis between parties of equal bargaining power. Accordingly, this Agreement shall be neutral, and no ambiguity shall be construed in favor of or against any of the Parties. The Parties expressly waive any otherwise applicable presumption(s) that uncertainties in a contract are interpreted against the party who caused the uncertainty to exist.
- 14.6 Modification or Amendment. This Agreement may not be modified or amended, nor may any of its provisions be waived, except by a writing signed by the persons who executed this Agreement or their successors-in-interest; however, Class Counsel, on behalf of the Settlement Class, are expressly authorized by Plaintiffs to take all appropriate actions required or permitted to be taken by the Settlement Class pursuant to the Settlement Agreement to effectuate its terms, and the Parties also are expressly authorized to enter into any modifications or amendments to the Settlement Agreement and its implementing documents (including all Exhibits to this Settlement Agreement) on behalf of the Settlement Class which they deem appropriate in order to carry out the spirit of this Settlement Agreement and to ensure fairness to the Settlement Class.
- 14.7 Waiver. The failure of a Party hereto to insist upon strict performance of any provision of this Agreement shall not be deemed a waiver of such Party's rights or remedies or a waiver by such Party of any default by another Party in the performance or compliance of any of the terms of this Agreement. In addition, the waiver by one Party of any breach of this Agreement by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.
- 14.8 Severability. Should any part, term, or provision of this Agreement be declared or determined by any court or tribunal to be illegal or invalid, the Parties agree that the Court may modify such part, term, or provision to the extent necessary to make it valid, legal, and enforceable. In any event, such part, term, or provision shall be separable and shall not limit or affect the validity, legality or enforceability of any other part, term, or provision hereunder.
- 14.9 Successors. This Settlement Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of the Parties thereto.

- 14.10 Survival. The Parties agree that the terms set forth in this Agreement shall survive the signing of this Agreement.
- 14.11 Governing Law. All terms and conditions of this Agreement shall be governed by and interpreted according to the laws of the State of Texas, without reference to its conflict of law provisions, except to the extent that federal law governs.
- 14.12 Interpretation.
- (a) Definitions apply to the singular and plural forms of each term defined.
 - (b) Definitions apply to the masculine, feminine, and neuter genders of each term defined.
 - (c) Whenever the words “include,” “includes” or “including” are used in this Agreement, they shall not be limiting but rather shall be deemed to be followed by the words “without limitation.”
- 14.13 No Precedential Value. The Parties agree and acknowledge that this Agreement carries no precedential value.
- 14.14 Fair and Reasonable. The Parties and their counsel believe this Agreement is a fair and reasonable compromise of the disputed claims, in the best interest of the Parties, and have arrived at this Agreement as a result of arm’s-length negotiations with the assistance of an experienced mediator.
- 14.15 Retention of Jurisdiction. The administration and consummation of the Settlement as embodied in this Agreement shall be under the authority of the Court, and the Court shall retain jurisdiction over the Settlement and the Parties for the purpose of enforcing the terms of this Agreement.
- 14.16 Headings. Any headings contained herein are for informational purposes only and do not constitute a substantive part of this Agreement. In the event of a dispute concerning the terms and conditions of this Agreement, the headings shall be disregarded.
- 14.17 Exhibits. The exhibits to this Agreement and any exhibits thereto are an integral and material part of the Settlement. The exhibits to this Agreement are expressly incorporated by reference and made part of the terms and conditions set forth herein.
- 14.18 Counterparts and Signatures. This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Agreement shall exchange among themselves original signed counterparts. Digital signatures shall have the same force and effect as the original.

- 14.19 Facsimile and Electronic Mail. Transmission of a signed Agreement by facsimile or electronic mail shall constitute receipt of an original signed Agreement by mail.
- 14.20 No Assignment. Each Party represents and warrants that such Party has not assigned or otherwise transferred (via subrogation or otherwise) any right, title or interest in or to any of the Released Claims.
- 14.21 Deadlines. If any of the dates or deadlines specified herein fall on a weekend or legal holiday, the applicable date or deadline shall fall on the next Business Day. All reference to “days” in this Agreement shall refer to calendar days, unless otherwise specified. 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.
- 14.22 Dollar Amounts. All dollar amounts specified herein are in United States dollars, unless otherwise expressly stated.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their duly authorized counsel:

(signatures on following page(s))

TYCKO & ZAVAREEI LLP

Dated: May 27, 2025

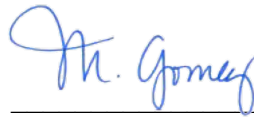


Gemma Seidita
Shana Khader
Sabita S. Soneji

Proposed Settlement Class Counsel

BAKER & HOSTETLER LLP

Dated: May 27, 2025



Michelle R. Gomez
Counsel for Defendant Whitley Penn

PLAINTIFFS

Dated: May 27, 2025

/s/ Alex Lawrence
Alex Lawrence

Dated: May 27, 2025

/s/ Amanda Lawrence
Amanda Lawrence

Dated: May 27, 2025

/s/ Marcus Nordstrom
Marcus Nordstrom

Dated: May 27, 2025

/s/ Alisha Patel
Alisha Patel

Dated: May 27, 2025

/s/ Jeremy Raphael
Jeremy Raphael