



## RECITALS

On January 18, 2006, Plaintiffs brought a putative class action against Defendants in the United States District Court for the Eastern District of Virginia, Civil Action No. 3:06-CV-0044 REP (the “Action”). The Plaintiffs’ Amended Complaint alleged that Defendant initiated arbitrations and collection efforts in Virginia in violation of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§ 1692 *et seq.* On March 23, 2007, the Court entered a Memorandum and Order granting Plaintiffs’ Motion for Class Certification in part and denying that motion in part. The class claims certified by the court are as follows: that W&A

1. Misrepresented the character, amount, or legal status of class members’ debts in violation of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692e(2)(A);
2. Threatened action that cannot legally be taken or that is not intended to be taken in violation of the FDCPA, 15 U.S.C. § 1692e(5); and
3. Used false, deceptive, or misleading representations or means in an attempt to collect a debt in violation of the FDCPA, 15. U.S.C. §§ 1692e and e(10).

By order dated July 26, 2007, the Court entered an Order certifying a class which is defined as follows:

- a. All persons with addresses in Virginia;
- b. From whom Defendant obtained or attempted to obtain an arbitration award through an arbitral process with non-participatory process that included a notice with the statement, “You may request a Hearing in your Response or in a separate writing. Unless you have agreed otherwise, an In-person Participatory Hearing will be held in the Judicial District where you reside or do business.”;

- c. In connection with an attempt to collect an alleged debt that is shown by Defendant's records or the records of the original creditors to be primarily for personal, family, or household purposes;
- d. During the one year prior to the date of filing this action and through the date of certification, i.e., January 18, 2005 through March 23, 2007.

On November 28, 2007, the Parties participated in a mediation before Magistrate Judge Dohnal, resulting in this agreement.

W&A contests both the liability and damages in this Action. Nonetheless, taking into account the uncertainty and risks inherent in any litigation, especially in complex cases, W&A has concluded that further defense of the Action would be protracted, burdensome, and expensive, and that it is desirable and beneficial to it that the Action be fully and finally settled and terminated in the manner and upon the terms and conditions set forth in this Settlement Agreement. This Settlement Agreement, and all related documents, shall not be construed as or deemed to be evidence of or an admission or concession on the part of W&A with respect to any claim of any fault or liability or wrongdoing or damage whatsoever.

Plaintiffs believe that the claims asserted in the Action have merit. Nonetheless, Plaintiffs and their counsel recognize and acknowledge the expense and length of continued prosecution of litigation against W&A through trial and any subsequent appeals. Plaintiffs and their counsel also have taken into account the uncertain outcome and risks of any litigation, especially in complex actions, as well as the difficulties and delays inherent in such litigation. Therefore, Plaintiffs believe that it is desirable that the Released Claims be fully and finally compromised, settled and resolved with prejudice, and barred pursuant to the terms set forth herein and that the sole remaining class claim, the Excessive Fee Claim, be dismissed without

prejudice. Based on their evaluation, Plaintiffs' Counsel have concluded that the terms and conditions of this Settlement Agreement are fair, reasonable and adequate to the Settlement Class, and that it is in the best interests of the Settlement Class to settle the class claims raised in the Action pursuant to the terms and provisions of this Settlement Agreement.

The Settling Parties, and each of them, shall not assert or pursue in any action, claim or rights that any other party hereto violated any provision of Rule 11 of the Federal Rules of Civil Procedure. The Settling Parties agree that the Action was resolved in good faith, following arms' length bargaining, confers substantial benefits upon the Settling Parties, and each of them, and, based upon their evaluation, achieves the best relief possible consistent with their interests.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Plaintiffs and Defendant, and each of them, by and through their respective undersigned counsel that, subject to approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, in consideration of the benefits flowing to the Settling Parties from the Settlement set forth herein, that the Action and the Released Claims shall be finally and fully compromised, settled and released, and the Action shall be dismissed with prejudice, as to all Parties (with the exception of the Excessive Fees Claim which shall be dismissed without prejudice), upon and subject to the terms and conditions of this Settlement Agreement.

1. Definitions

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

1.1 "Class Administrator" means W&A, or the non-law firm professional claims administrator, person or entity appointed at W&A's discretion to provide notice to the

Settlement Class and administer the claims process.

1.2 “Court” means the United States District Court for the Eastern District of Virginia, Richmond Division.

1.3 “Defendant” or “W&A” means Wolpoff & Abramson LLP.

1.4 “Defendant’s Counsel” means the law firm of Williams Mullen.

1.5 “Effective Date of Settlement” or “Effective Date” means the first date by which all of the events and conditions specified in Section 8.1 have been met and have occurred.

1.6 “Excessive Fees Claim” means the certified class claim alleging violations of the FDCPA based on the allegation that, through an arbitration process, W&A improperly increased the amount of the alleged debt by adding fees in amounts greater than what the consumer’s court costs would have been if the claim had been resolved in state court in contravention of an alleged contractual limitation on the amount of arbitration, filing, or hearing fees that a consumer could be required to reimburse to W&A’s client, MBNA, pursuant to MBNA’s credit card agreement with its customers.

1.7 “Final” means one business day following the later of the following events: (i) the date upon which the time expires for filing or noticing any appeal of the Court’s Final Judgment and Order, approving the Settlement substantially in the form of Exhibit B hereto; and (ii) if there is an appeal or appeals, the date of completion, in a manner that finally affirms and leaves in place the Final Order and Judgment without any material modification, of all proceedings arising out of the appeal or appeals (other than an appeal or appeals solely with respect to attorneys fees and reimbursement of expenses in which case payment of only those disputed fees and costs will be withheld pending final disposition of such appeal(s)) including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for certiorari, all

proceedings ordered on remand, and all proceedings arising out of any subsequent appeal or appeals following decisions on remand; or (iii) the date of final dismissal of any appeal or the final dismissal of any proceeding on certiorari.

1.8 “Final Order and Judgment” means the proposed final order and judgment to be entered by the Court approving the Settlement, substantially in the form attached as Exhibit B hereto.

1.9 “Named Plaintiffs” or “Class Representatives” means Robin Karnette and Diane McIntyre.

1.10 “Notice” or “Class Notice” means the Notice of Pendency and Proposed Settlement of Class Action and Settlement Hearing Thereon, which is to be sent to members of the Settlement Class substantially in the form of Exhibit A hereto.

1.11 “Order for Notice and Hearing” or “Preliminary Approval Order” means the proposed order preliminarily approving the Settlement and directing notice thereof to the Settlement Class substantially in the form attached as Appendix B of the Joint Motion for Approval of Class Settlement.

1.12 “Parties” or “Settling Parties” means the Plaintiffs and Defendant.

1.13 “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 spouses, heirs, predecessors, successors, representatives, or assigns.

1.14 “Plaintiffs” or “Class Action Plaintiffs” means the Plaintiffs and the Settlement Class Members.

1.15 “Plaintiffs’ Counsel” means: (1) the Law Office of Dale W. Pittman, P.C.; and (2) the law firm of Horwitz, Horwitz & Associates.

1.16 “Released Parties” means W&A and any and all of W&A’s respective present or past administrators, predecessors, successors, assigns, parents, subsidiaries, associates, affiliates, employees, agents, consultants, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, investment bankers, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and Persons, firms, trusts, corporations, officers, directors, other individuals or entities in which W&A has a controlling interest or which is related to or affiliated with W&A, or any other representatives of any of these Persons and entities.

1.17 “Released Claims” means all claims with the exception of the Excessive Fees Claim defined in § 1.6 herein (including “Unknown Claims” as defined below), demands, rights, liabilities or causes of action, in law or in equity, accrued or unaccrued, fixed or contingent, direct, individual or representative, of every nature and description whatsoever, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, including the law of any jurisdiction outside the United States, against the Released Parties, or any of them, arising out of the facts, transactions, events, matters, occurrences, acts, disclosures, statements, misrepresentations, omissions or failures to act that were or could have been alleged or asserted in the Action, belonging to Plaintiffs and their present or past heirs, executors, estates, administrators, predecessors, successors, assigns, parents, subsidiaries, associates, affiliates, employers, employees, agents, consultants, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, investment bankers, underwriters, lenders, and any other representatives of any of these Persons and entities (including, without limitation, any claims, whether direct, derivative, representative or in any other capacity, arising under federal, state, local, statutory or common law or any other law, rule or regulation, including the law of any jurisdiction

outside of the United States) that relate in any way to any violation of law, any misstatement or omission, any breach of duty, any negligence or fraud or any other alleged wrongdoing or misconduct. The Excessive Fees Claim shall not be deemed a Released Claim but, instead, shall be dismissed without prejudice pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure.

1.18 “Settled Claims” means all of the Released Claims and the Excessive Fees Claim.

1.19 “Settlement” means the settlement contemplated by this Settlement Agreement.

1.20 “Settlement Class” means:

- a. All persons with addresses in Virginia;
- b. From whom Defendant obtained or attempted to obtain an arbitration award through an arbitral process with non-participatory process that included a notice with the statement, “You may request a Hearing in your Response or in a separate writing. Unless you have agreed otherwise, an In-person Participatory Hearing will be held in the Judicial District where you reside or do business.”;
- c. In connection with an attempt to collect an alleged debt that is shown by Defendant’s records or the records of the original creditors to be primarily for personal, family, or household purposes;
- d. During the one year prior to the date of filing this action and through the date of certification, i.e., January 18, 2005 through March 23, 2007.

1.21 “Settlement Class Member” or “Class Member” means a Person who falls within the definition of the Settlement Class as set forth above.

1.22 “Unknown Claims” means claims that the Plaintiffs or any or all other Persons and entities whose claims are being released, or *any* of them, do not know or suspect to exist,

which, if known by him, her or it, might affect his, her or its agreement to release the Released Parties or the Released Claims or might affect his, her or its decision to agree, object or not to object to the Settlement. Plaintiffs acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of this release, but that it is their intention to finally and forever to settle and release the Released Claims, notwithstanding any Unknown Claims they may have, as that term is defined in this Paragraph.

2. Settlement Consideration

2.1 Within fifteen (15) days of the Effective Date, W&A shall cause \$6,001.00 to be paid to each of the Named Plaintiffs, in care of their counsel of record. Of this amount, \$1,001.00 is paid as compensation for their individual claims for statutory damages, \$1,000.00 is paid as compensation for their individual claims for actual damages, and \$4,000.00 is paid as compensation for their service to the Settlement Class. Each of the Named Plaintiffs shall execute a general release in favor of W&A releasing all of their individual claims, known or unknown, against W&A.

2.2 Within fifteen (15) days of the Effective Date, W&A, as Class Administrators, shall, after first updating the Class Member list through National Change of Address, distribute checks to each Class Member representing their pro rata share of the \$49,000 class statutory damages (representing the maximum amount of statutory damages recoverable by the Class under the FDCPA). The Class Members' checks shall be sent by first class mail sent to the most recent addresses in W&A's business records for each of the Class Members. Should the check not be cashed within ninety (90) days of its issuance date, W&A shall cancel the check, but then within one hundred fifty (150) days of the uncashed, canceled check's issuance, W&A must

distribute, as a *cy pres* remedy, the sum total of the uncashed, canceled checks to the Legal Services Corporation of Virginia for consumer representation or education.

2.3 Plaintiffs' Counsel shall submit a petition to the Court requesting the approval of a total of up to \$250,000.00 in attorneys' fees and documented costs incurred through November 28, 2007. Subject to Court approval, W&A shall pay to Plaintiffs' Counsel, and shall not object to the payment of, the sum of up to \$250,000.00 representing Plaintiffs' Counsels' combined total of attorneys' fees and documented costs incurred through November 28, 2007. Further, in the event that Plaintiffs' Counsel expends over twenty (20) hours of legal time after November 28, 2007 (the date upon which the Memorandum of Understanding was executed), W&A shall pay such additional reasonable costs and legal fees. Specifically, and not by way of limitation, Plaintiffs' Counsel are entitled to be compensated by W&A for all reasonable costs and attorneys' fees devoted to considering and/or addressing any intervenors or objectors who may appear.<sup>1</sup> On the fifteenth (15) day after this Court's Final Judgment and Order Approving Class Settlement becomes a non - appealable final order as defined in the Settlement Agreement, W&A shall pay to Plaintiffs' Counsel the agreed upon sum of up to \$250,000.00 (or such other sum as the Court awards) in a lump sum.

### 3. Releases

3.1 The obligations incurred pursuant to this Settlement Agreement shall be a full and final disposition of the Action, and any and all Released Claims, as against all Released Parties.

3.2 Upon the Effective Date, Plaintiffs, and each of them, shall be deemed to have,

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<sup>1</sup> If the parties are unable to agree as to the reasonableness of such additional costs and legal fees, the Court shall make such determination. W&A expressly reserves the right to object to and challenge the reasonableness of all costs and fees sought in any such supplemental fee application.

and by operation of the Final Order and Judgment shall have, fully, finally, and forever released, relinquished and discharged all Released Claims against the Released Parties, and each of them.

4. Settlement Administration

4.1 Within fourteen (14) business days after the date of the Order Preliminary Approving Settlement and Providing for Notice and Hearing (“Preliminary Approval Order”), W&A, as Class Administrator, shall cause a copy of the Court approved Class Notice to be sent by first class mail to the addresses of Settlement Class Members as contained in Defendant’s books and records as of the date of the Order for Notice and Hearing.

5. Termination of Settlement

5.1 Plaintiffs, on behalf of the Settlement Class, or W&A, shall have the right to terminate the Settlement and this Settlement Agreement by providing written notice of their election to do so (“Termination Notice”) to all other Parties hereto within thirty (30) days of: (i) the Court’s declining to enter the Preliminary Approval Order in any material respect; (ii) the Court’s refusal to approve this Settlement Agreement or any material part of it; (iii) the Court’s declining to enter the Final Order and Judgment in any material respect; or (iv) the date upon which the Final Order and Judgment is modified or reversed in any material respect by the Fourth Circuit Court of Appeals or the United States Supreme Court.

6. Order for Notice of Settlement Hearing

6.1 Promptly after the execution of this Settlement Agreement, Plaintiffs’ Counsel and Defendant’s Counsel shall jointly submit this Settlement Agreement together with its exhibits to the Court and shall apply for preliminary approval of the Settlement set forth in this Settlement Agreement, entry of an Preliminary Approval Order, and approval for the mailing of

the Class Notice, substantially in the form of Exhibit A hereto, which shall include the general terms of the Settlement set forth in this Settlement Agreement and the date of the Final Fairness Hearing as defined below.

6.2 At the time of the joint submission described in Section 6.1, Plaintiffs' Counsel and Defendant's Counsel shall also jointly request that, after Class Notice is given, the Court hold a hearing (the "Final Fairness Hearing") and finally approve the Settlement of the Action as set forth herein.

6.3 After Class Notice is given, the Parties shall request and obtain from the Court a Final Order and Judgment Approving Class Settlement essentially identical to the form attached to this Agreement as Exhibit B. The Final Order and Judgment will (among other things):

(a) find that the Court has personal jurisdiction over all Settlement Class Members and that the Court has subject matter jurisdiction to approve the Settlement Agreement, including all exhibits thereto;

(b) approve the Settlement Agreement and the proposed settlement as fair, reasonable and adequate as to, and in the best interests of, each of the Parties and the Settlement Class Members; direct the Parties and their counsel to implement and consummate the Settlement Agreement according to its terms and provisions; and declare the Settlement Agreement to be binding on, and have res judicata and preclusive effect regarding the Released Claims in all pending and future lawsuits or other proceedings maintained by or on behalf of, Named Plaintiffs and all other Settlement Class Members, as well as their heirs, executors and administrators, successors and assigns;

(c) find that the Class Notice and the notice methodology implemented

pursuant to the Settlement Agreement: (1) constitute the best practicable notice; (2) constitute notice that is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action, their right to object to the proposed Settlement and to appear at the Final Fairness Hearing; (3) are reasonable and constitute due, adequate and sufficient notice to all persons entitled to receive notice; and (4) meet all applicable requirements of law, the Due Process Clause of the United States Constitution and the Federal Rules of Civil Procedure;

(d) find that Plaintiffs' Counsel and the Plaintiffs adequately represented the Settlement Class for purposes of entering into and implementing the Settlement;

(e) dismiss the Action (including all individual claims and Settlement Class claims presented thereby) on the merits and with prejudice (with the exception of the Excessive Fees Claim which shall be dismissed without prejudice pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure), without fees or costs to any party except as provided in the Settlement Agreement;

(f) incorporate the Release set forth above in Section 3, make the Release effective as of the date of the Final Order and Judgment, and forever discharge the Released Parties from any claims or liabilities arising from or related to the facts, circumstances, or subject matter of this Action;

(g) bar and enjoin all Settlement Class Members from (1) filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in any lawsuit in any jurisdiction based on or relating to the claims and causes of action, or the facts and circumstances relating thereto, in this Action with the exception of the Excessive

Fees Claim, and (2) organizing Settlement Class Members into a separate class for purposes of pursuing as a purported class action any lawsuit (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action) based on or relating to the claims and causes of action, or the facts and circumstances relating thereto, in this Action;

(h) authorize the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all exhibits to this Agreement) as (1) shall be consistent in all material respects with the Final Order and Judgment, and (2) do not limit the rights of Settlement Class Members;

(i) without affecting the finality of the Final Order and Judgment for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement and interpretation of the Settlement Agreement and the Final Order and Judgment, and for any other necessary purpose; and

(j) incorporate any other provisions, as the Court deems necessary and just.

7. Plaintiffs' Counsels' Attorneys' Fees and Reimbursement of Expenses

7.1 Plaintiffs' Counsel will be paid attorneys' fees and reimbursed for expenses pursuant to Section 2.3 herein.

7.2 The Released Parties shall have no responsibility for, and no liability whatsoever with respect to, the allocation among Plaintiffs' Counsel and/or any other person who may assert some claim thereto, of any award resulting from the Fee and Expense Motion.

8. Conditions of Settlement, Effect of Disapproval, Cancellation

8.1 The Effective Date of this Settlement Agreement shall not occur unless and until

each of the following events occurs and shall be the date upon which the last (in time) of the following events occurs:

(a) The Court has entered the Preliminary Approval Order, substantially in the form attached as Appendix B of the Joint Motion for Approval of Class Settlement;

(b) The Court has approved the Settlement, following notice to the Class and a hearing, as provided in Rule 23 of the Federal Rules of Civil Procedure, and has entered the Final Order and Judgment, or a judgment substantially in the form of Exhibit B; and

(c) The Final Order and Judgment referenced above has become a non-appealable "Final" order as defined in § 1.7 herein.

8.2 If some or all of the conditions specified in Section 8.1 are not met, or in the event that this Settlement Agreement is not approved by the Court, or the Settlement set forth in this Settlement Agreement is terminated or fails to become effective in accordance with its terms, then this Settlement Agreement shall be canceled and terminated subject to Section 8.3 unless Plaintiffs' Counsel and Defendant's Counsel mutually agree in writing to proceed with this Settlement Agreement. If any Party engages in a material breach of the terms hereof, any other Party, provided that it is in substantial compliance with the terms of this Settlement Agreement, may terminate this Settlement Agreement on notice to all of the Settling Parties.

8.3 If this Settlement Agreement is terminated or fails to become effective for the reasons set forth in Sections 8.1 and 8.2 above, the Settling Parties shall be restored to their respective positions in the Action as of November 28, 2007, the date of the Mediation before Magistrate Judge Dohnal. In such event, any Final Order and Judgment or other order entered

by the Court in accordance with the terms of this Settlement Agreement shall be treated as vacated, nunc pro tunc.

9. Miscellaneous Provisions

9.1 The Settling Parties (a) acknowledge that it is their intent to consummate this Settlement 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 Settlement Agreement and to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Settlement Agreement. Plaintiff's Counsel and Defendant's Counsel agree to cooperate with one another in seeking Court approval of the Preliminary Approval Order regarding the Settlement Agreement, and promptly to agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Settlement.

9.2 The Settling Parties intend this Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Action (with the exception of the Excessive Fees Claim) as well as any disputes that could have been raised in the Action by the Plaintiff and the Settlement Class, and each or any of them, against the Released Parties, and each or any of them. Accordingly, the Settling Parties agree not to assert in any forum that the Action was brought by the Plaintiff or defended by the defendants in bad faith or without a reasonable basis and hereby agree that, during the course of the Action, the parties and their respective counsel at all times complied with the requirements of Rule 11 of the Federal Rules of Civil Procedure.

9.3 Whether or not the Effective Date occurs or this Settlement Agreement is terminated, neither this Settlement Agreement nor the Settlement contained herein, nor any

act performed or document executed pursuant to or in furtherance of this Settlement Agreement or the Settlement:

(a) Is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them, as an admission, concession or evidence of the validity of any of the Settled Claims, the truth of any fact alleged by the Plaintiffs, the deficiency of any defense that has been or could have been asserted in the litigation, or of any alleged wrongdoing, liability, negligence, or fault of the Released Parties, or any of them;

(b) Is, may be deemed, or shall be used, offered or received against W&A, 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 Parties, or any of them;

(c) Is, may be deemed, or shall be used, offered or received against the Named Plaintiffs or the Settlement Class, or each or any of them, as an admission, concession or evidence of, the infirmity or strength of any claims raised in the Action, the truth or falsity of any fact alleged by W&A, or the availability or lack of availability of meritorious defenses to the claims raised in the Action;

(d) Is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them, as an admission or concession with respect to any liability, negligence, fault or wrongdoing as against any Parties to the Settlement Agreement, in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal.

(e) Is, may be deemed, or shall be construed against the Plaintiffs and the Settlement Class, or each or any of them, or against the Released Parties, or each or any of

them, as an admission or concession that the consideration to be given hereunder represents an amount equal to, less than or greater than that amount that could have or would have been recovered after trial; and

(f) Is, may be deemed, or shall be construed as or received in evidence as an admission or concession against the Plaintiffs and the Settlement Class, or each and any of them, or against the Released Parties, or each or any of them, that any of Plaintiffs' claims are with or without merit or that damages recoverable under the Amended Complaint would have exceeded or would have been less than any particular amount.

Notwithstanding the above, the Settlement, this Settlement Agreement, and any acts performed and/or documents executed in furtherance of or pursuant to this Settlement Agreement and/or Settlement may be used in any proceedings as may be necessary to effectuate the provisions of this Settlement Agreement.

If this Settlement Agreement is approved by the Court, any party or any of the Released Parties may file this Settlement Agreement and/or the Final Order and Judgment in any action that may be brought against such party or parties in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim

9.4 The headings used herein are used for the purpose of convenience only and are not meant to have legal effect.

9.5 The waiver by one party of any breach of this Settlement Agreement by any other party shall not be deemed as a waiver of any other prior or subsequent breaches of this Settlement Agreement.

9.6 All of the Exhibits to this Settlement Agreement are material and integral parts thereof and are fully incorporated herein by this reference.

9.7 This Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.

9.8 This Settlement Agreement and the Exhibits attached hereto constitute the entire agreement among the parties hereto and no representations, warranties or inducements have been made to any party concerning this Settlement Agreement or its Exhibits other than the representations, warranties and covenants contained and memorialized in such documents. Except as otherwise provided herein, each Party shall bear its own costs.

9.9 Each counsel or other Person executing this Settlement Agreement, any of its Exhibits, or any related settlement documents on behalf of any party hereto hereby warrants and represents that such Person has the full authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to the Settlement Agreement to effectuate its terms.

9.10 This Settlement 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 Settlement Agreement all exchange original signed counterparts. A complete set of original executed counterparts shall be filed with the Court.

9.11 This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto and the Released Parties.

9.12 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Settlement Agreement, and all parties hereto submit to the

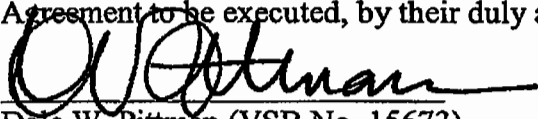
jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in this Settlement Agreement.

9.13 This Settlement Agreement and the Exhibits thereto shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the Commonwealth of Virginia and the rights and obligations of the parties to this Settlement Agreement shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the Commonwealth of Virginia without giving effect to that state's choice of law principles.


9.14 This Settlement Agreement is deemed to have been prepared by counsel for all parties, as a result of arms' length negotiations among the parties. Whereas all parties have contributed substantially and materially to the preparation of this Settlement Agreement, it shall not be construed more strictly against one party than another.

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement

Agreement to be executed, by their duly authorized attorneys.



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**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

ROBIN KARNETTE and DIANE MCINTYRE, Plaintiffs, etc.

v. Civil Action No. 3:06-CV-00044 REP (Judge Payne)

WOLPOFF & ABRAMSON, L.L.P., Defendants.

**THIS IS TO NOTIFY YOU THAT YOU MAY RECEIVE A CASH PAYMENT UNDER  
THE TERMS OF A PROPOSED SETTLEMENT OF THIS CLASS ACTION LAWSUIT. THIS IS NOT A BILL.**

**THIS NOTICE EXPLAINS:**

- A. The lawsuit**
- B. The settlement.**
- C. Your rights and how to claim your share.**
- D. Further court proceedings.**
- E. Additional information.**

**A. THE LAWSUIT**

A class action lawsuit was filed by Plaintiffs Robin Karnette and Diane McIntyre, on behalf of themselves and all other similarly situated, against Wolpoff and Abramson LLP (“W&A”) in the United States District Court for the Eastern District of Virginia alleging violations of the Fair Debt Collection Practices Act.

The Court has made the following rulings: (1) the Class Action Settlement Agreement is preliminarily approved; (2) this notice is to be sent to all members of the Class; (3) the Class, through this notice, shall be advised of the right to object to this settlement; and (4) you will be bound by its terms and conditions if the Settlement receives final approval by the Court.

The Settlement Class is defined as follows:

- a. All persons with addresses in Virginia;
- b. From whom Defendant obtained or attempted to obtain an arbitration award through an arbitral process with non-participatory process that included a notice with the statement, “You may request a Hearing in your Response or in a separate writing. Unless you have agreed otherwise, an In-person Participatory Hearing will be held in the Judicial District where you reside or do business.”;
- c. In connection with an attempt to collect an alleged debt that is shown by Defendant’s records or the records of the original creditors to be primarily for personal, family, or household purposes;
- d. During the one year prior to the date of filing this action and through the date of certification, i.e., January 18, 2005 through March 23, 2007.

**B. THE SETTLEMENT**

Plaintiffs Karnette and McIntyre and Defendant W&A have agreed to settle this case as outlined below. Defendant is willing to enter into the settlement to avoid the further expense and inconvenience of litigation.

**Potential Recovery For Class Members**

**Benefits To Class Members**

Upon the Effective Date hereof, and in consideration of Defendant’s payment of the Settlement amounts set forth below and its agreement not to send any further arbitration notices to consumers that contain the statement “You may request a Hearing in your Response or in a separate writing. Unless you have agreed otherwise, an In-person Participatory Hearing will be held in the Judicial District where you reside or do business”, each Settlement Class Member shall be deemed to have, and by operation of the proposed Final Order and Judgment shall have fully finally and forever released, relinquished and discharged all Released Claims (including “Unknown Claims”) against the Defendant. A total of 1421 persons are members of the class and the total monetary benefit to the Settlement Class is the sum of \$49,000 which amount shall be paid directly to Class Members. Any portion of that amount which cannot be distributed to the Class Members shall be awarded to, and shall be distributed to, the Legal Services Corporation of Virginia for purposes of consumer representation and advocacy.

**How Much Money Will You Receive?**

Each class member will receive a pro rata share of the total class recovery of \$49,000 representing the maximum recovery of statutory damages allowable under the FDCPA. For each Class Member this amount is projected to be approximately \$34.58.

**When You Will Be Paid:**

The distribution of the checks will be made approximately fifteen days from the date of the Final Order and Judgment Approving Class Settlement by the Court becomes a “final” non-appealable order.

**Release of Claims Against the Defendants**

If the terms of this Class Settlement are approved by the Court, you release Defendant Wolpoff & Abramson, L.L.P., and its parents, affiliates, subsidiaries, successors, assignees, and its present and former directors, officers, employees or agents, attorneys and insurers, from the claims made in this lawsuit with the exception of the Excessive Fees Claim defined in § 1.6 of the Settlement Agreement, which can be found at the website listed at the end of this notice, and which claim is not being released but shall be dismissed without prejudice to your right to file a similar claim in your individual capacity.

**Other Parts of the Settlement**

Plaintiffs Robin Karnette and Diane McIntyre will each receive \$6,001.00 from defendant, as statutory damages, compensatory damages, and for their service to the class.

Defendants will pay to Class Counsel, Dale W. Pittman and O. Randolph Bragg, reasonable attorney fees and nontaxable costs in the amount to be approved by the Court not to exceed \$250,000.00.

The costs and attorneys' fees and additional payment to Plaintiffs are in addition to the Class Settlement identified above.

**C. YOUR RIGHTS & HOW TO CLAIM YOUR SHARE****How To Claim Your Share of the Class Fund:**

**If you wish to claim your share of the class fund, you need not do anything.**

**D. FURTHER COURT PROCEEDINGS**

A Final Fairness Hearing will be held before the Honorable Robert E. Payne on March 25, 2008, at 10:30 a.m. in Courtroom 348, U.S. District Court for the Eastern District of Virginia, 1000 E. Main Street, Richmond, Virginia. At the hearing, Judge Payne will decide whether the proposed settlement is reasonable, adequate and fair. If the Court approves it, the settlement will be completed and the distributions paid as stated above. Any Settlement Class Member may appear and show cause (if he or she has any): (1) why the proposed Settlement of the Action should or should not be approved as fair, just, reasonable and adequate; (2) why a Final Judgment and Order Approving Class Settlement should or should not be entered thereon; and/or

(3) why attorneys' fees and expenses should or should not be awarded to Plaintiffs' Counsel.

However, no Settlement Class Member or any other Person shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement, or the proposed Final Order and Judgment Approving Class Settlement to be entered thereon approving the same, or the attorneys' fees and expenses to be awarded to Plaintiffs' Counsel unless that Person has (a) delivered by hand or sent by overnight or first-class mail written objections and copies of any papers and briefs such that they are received on or before twenty-one (21) days before the date of the Final Fairness Hearing, to Dale W. Pittman, The Law Office of Dale W. Pittman, The Eliza Spotswood House, 112-A West Tabb Street, Petersburg, Virginia 23803-3212, and to A. Peter Brodell, Williams Mullen, 1021 E. Cary Street, Richmond, VA 23219, and (b) filed said objections, papers and briefs with the Clerk of the United States District Court, Eastern District of Virginia, Room 307, 1000 East Main Street, Richmond, Virginia, on or before twenty-one (21) calendar days before the date of the Final Fairness Hearing.

Any Settlement Class Member who does not make his or her objection in the manner provided herein shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement as incorporated in the Settlement Agreement, to the Final Order and Judgment Approving Class Settlement, and/or to the award of attorneys' fees and reimbursement of expenses to Plaintiffs' Counsel, unless otherwise ordered by the Court. Class Members who have filed an objection should appear at the hearing to explain their position. **You need not appear in order to receive your share of the class funds.**

**E. ADDITIONAL INFORMATION**

If you would like more information about this notice or this litigation, you may write Plaintiffs' Counsel, Dale W. Pittman, The Law Office of Dale W. Pittman, The Eliza Spotswood House, 112-A West Tabb Street, Petersburg, Virginia 23803-3212.

The court papers filed in this case, Civil Action No.: 3:06-CV-00044 REP are available for inspection in the Office of the Clerk, U.S. District Court for the Eastern District of Virginia, Room 307, 1000 E. Main Street, Richmond, Virginia. The class action complaint, the order certifying the class, and other documents can be viewed at the following website:

<http://www.wolpoffandabramsonclassaction.com>

**Please do not contact the Judge or Clerk of the Court. They will not be able to give you advice about this case.**