



**1. Settlement.** Representative Plaintiff and Defendant have negotiated a proposed settlement of Representative Plaintiff's claims in this action, individually and on behalf of a class of policyholders of the Defendant, described below as the Settlement Class, to avoid the expense, uncertainties, and burden of protracted litigation, and to resolve the Released Claims against the Released Persons as set forth in the Agreement.

The Court has carefully reviewed the Agreement, as well as the files, records, and proceedings to date in this matter. The terms and conditions in the Agreement are incorporated here as though fully set forth in this Order, and, unless otherwise indicated, capitalized terms in this Order shall have the same definitions that are in the Agreement.

**2. Preliminary Approval.** The Agreement entered into by and among the Representative Plaintiff and Defendant was negotiated at arm's length and is approved on a preliminary basis as fair, reasonable, and adequate, subject to further consideration at the Final Approval Hearing.

**3. Settlement Class Relief.** The proposed Claim Settlement Payments to Class Members and the settlement consideration, as identified in Sections 4, 6, and 7 of the Agreement, is approved on a preliminary basis as fair, reasonable, and adequate. The Settlement Class means all Class Members within the "Tennessee Settlement Class" under the Agreement, which means:

[D]uring the Class Period defined in Section 2.11, Representative Plaintiff and all policyholders who were insured by GEICO under a motor vehicle insurance policy issued in Tennessee for collision and uninsured motorist coverage and submitted an uninsured motorist claim to GEICO in which GEICO determined the other driver was known, uninsured, and solely at fault and to whom GEICO applied a deductible (or any other deductible).

"Class Period" means the following time period: from June 29, 2012 until five (5) business days after the Court enters the Preliminary Approval Order as defined by Sections 2.2. and 3.3.3.

**4. Preliminary Certification of Settlement Class.** For settlement purposes only, the Court makes the following determinations as to certification of the Settlement Class:

4.1 The Court preliminarily certifies the Settlement Class for purposes of settlement only, under Fed. R. Civ. P. 23(a) and (b)(3);

4.2 The Settlement Class is so numerous that joinder of all members is impracticable;

4.3 There are questions of law or fact common to the members of the Settlement Class;

4.4 The claims of the Representative Plaintiff are typical of the claims of the other Class Members;

4.5 Representative Plaintiff is capable of fairly and adequately protecting the interests of the members of the Settlement Class, in connection with the Agreement;

4.6 Common questions of law and fact predominate over questions affecting only individual members of the Settlement Class; and

4.7 Resolution of Class Members' claims pursuant to the Agreement is superior to other available methods for the fair and efficient resolution of the claims of the Settlement Class.

**5. Designation of Class Representative.** Representative Plaintiff Jonathan H. Weimar is designated as the representative of the Settlement Class for the sole purpose of seeking approval of and administering the Settlement Agreement.

**6. Designation of Class Counsel.** The law firms of Watson Burns, PLLC and Futhey Law Firm, PLC are designated as Class Counsel for the Settlement Class for the sole purpose of the Settlement.

**7. Final Approval Hearing.** A hearing regarding final approval of the Settlement (“Final Approval Hearing”) will be held at 10:15 a.m. on Wednesday, December 2, 2020 in Memphis, Tennessee before the honorable Judge John T. Fowlkes, Jr., to determine, among other things: (i) whether final judgment should be entered resolving and approving the Settlement of Representative Plaintiff’s and the Settlement Class claims against Defendant in the action as fair, reasonable, and adequate; (ii) whether Representative Plaintiff’s and the Settlement Class’s claims against Defendant in the action should be dismissed with prejudice pursuant to the Agreement; (iii) whether Settlement Class Members should be bound by the Release set forth in the Agreement; and (iv) whether the application of Class Counsel for an award of attorney’s fees and expenses (including any incentive award to Representative Plaintiff) should be approved and in what amounts. The Final Approval Hearing may take place, at the sole discretion of the Court, via telephone or video conference so as to allow the Final Approval Hearing to proceed despite limitations on in-court hearings related to the COVID-19 pandemic. Any Class Member who files a notice of intent to appear shall be provided with information required to access the telephonic or video hearing.

**8. Class Notice.**

8.1 The Court approves the methods of providing notice to Class Members as described in the Agreement, including the Class Notice attached as Exhibit B to the Agreement and the manner of providing notice to Class Members described in Section 5 of the Agreement. The Court finds that notice as described in the Agreement is reasonably calculated, under all the circumstances, to apprise Class Members of the pendency of this Action, the terms of the Agreement, and their right to object to the Settlement or to exclude themselves from the Settlement Class. The Court further finds that the Class Notice, the Settlement website, and the other forms of notice described in the

Agreement are reasonable, constitute due, adequate, and sufficient notice to all persons entitled to receive notice, and meet all legal requirements, including the requirements of Fed. R. Civ. P. 23 and due process.

8.2 The Class Notice, in the form and content of Exhibit B to the Settlement Agreement, shall be mailed by the Settlement Administrator not less than seventy-five (75) days before the Final Approval Hearing regarding the Settlement, in the manner described in the Agreement.

8.3 No later than the posting of the Class Notice, the Settlement Administrator shall establish a website containing copies of the Agreement and exhibits, the Preliminary Approval Order, the Class Notice, Claim Form, Opt-out Form, Spanish translations of the Class Notice, Claim Form, and Opt-out Form, and such other documents and information about the Settlement as Class Counsel and Defendant's Counsel agree upon. The Claim Form shall be available to download or print from the Settlement website, and signed, scanned, completed copies of the Class Form may be uploaded on the Settlement website. The Settlement website shall have a Uniform Resource Locator which identifies the Settlement website at **www.tennesseeumclassaction.com**, or such other URL as Class Counsel and Defendant's Counsel agree upon. The Settlement website shall not include any advertising and shall not bear any logos or trademarks of the Defendant other than those appearing in the Agreement. The Settlement website shall cease to operate and the Administrator shall remove all information from the Settlement website no later than the Final Accounting as set forth in section 7.13 of the Agreement.

No later than the posting of the Class Notice, the Settlement Administrator shall establish a toll-free interactive voice response phone number, with script recordings of information about this Settlement, including information about the Claim Form, utilizing the relevant portions of the Class Notice and Claim Form. At Defendant's option, the settlement telephone line may also

provide for live operators during select times to answer certain basic questions about the Settlement. The Administrator shall send the Class Notice and Claim Form, or Spanish translations of both, upon request of any Class Members. The phone number shall remain open and accessible through the Claim Deadline and allow for Class Members to leave recorded messages. Except for requests for the Class Notice or Claim Form, the Administrator will promptly advise Class Counsel of recorded messages left by Class Members concerning the Action and/or the Settlement, or direct any Class Members with questions that cannot be answered to Class Counsel, so that Class Counsel may timely and accurately respond to such inquiries.

8.4 Settlement Class Members may submit Claim Forms in the form attached to the Agreement as Exhibit C, requesting a Claim Settlement Payment in accordance with the terms of the Agreement. To be considered valid and timely, a Claim Form must be materially complete, and filled out online on the Settlement website within forty-five (45) days after the scheduled date of the Preliminary Approval Hearing. Signed and completed Claim Forms may also be scanned and uploaded on the Settlement Website by the Claim Deadline. Claim Forms may be submitted on behalf of deceased or incapacitated Class Members by Legally Authorized Representatives, with written evidence of authority.

8.5 Not less than ten (10) days before the Final Approval Hearing, the Administrator will provide Class Counsel and Defendant's Counsel with an affidavit or declaration attesting that Class Notice has been disseminated and published in accordance with the Preliminary Approval Order and this Agreement, confirming the timely transmittal or mailing of notices concerning the Settlement required by the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1715, *et seq.*, and identifying Persons who submitted timely and valid Requests for Exclusion. Class Counsel shall file the affidavit(s) or declaration(s) with the Court before the Final Approval Hearing.

8.6 Defendant shall comply with the notice obligations under the Class Action Fairness Act, 28 U.S.C. §§ 1715, *et seq.*, in connection with the proposed Settlement.

**9. Settlement Administrator.** The Court approves and authorizes Defendant to retain JND Legal Administration as the Administrator to implement the terms of the Agreement, and authorizes and directs the Administrator to (a) mail the Class Notice; (b) establish the interactive voice response phone line system; (c) establish the Settlement website; (d) receive and process Claim Forms; and (e) carry out such other responsibilities as are provided for in the Agreement or as may be agreed to by Class Counsel and Defendant, all according to and as provided in the Agreement.

**10. Exclusion from the Settlement Class.** Members of the class who wish to opt out of the settlement must complete an Opt-Out Form, which is attached to the Agreement as Exhibit D, on the settlement website within forty-five (45) days after the scheduled date of the Preliminary Approval Hearing.

10.1 Except for Class Members who timely submit a valid request for exclusion from the Settlement Class, all other Class Members will be deemed to be Class Members for all purposes under the Agreement, and upon the Effective Date will be bound by its terms, including, but not limited to, the Releases in Section 9 of the Agreement and Final Judgment approving the Settlement.

10.2 If the proposed Settlement is finally approved, any Class Member who has not submitted a timely Opt-out Form requesting to be excluded from the Settlement Class shall be bound by the Final Judgment and all subsequent proceedings, orders, and judgments in this Action, even if he or she has pending, or subsequently initiates, litigation against the Defendant or any Released Persons relating to any of the Released Claims as defined in the Agreement.

**11. Objections and Appearances.** Any Class Member who does not submit a valid request for exclusion may object to the Settlement by complying with the procedures and deadlines in this Agreement. The Class Notice and Settlement website will identify the requirements to assert a valid written objection.

11.1 Any Class Member who wishes to object to the Settlement must do so in a writing filed with the Clerk of Court, mailed to the Administrator at the address identified in the Mail Notice and on the Settlement website, postmarked no later than the objection deadline of thirty (30) days before the Final Approval Hearing, as identified in the Preliminary Approval Order. To be valid, a written objection must include: (a) the case name and number; (b) the name and address of the objecting Class Member and of counsel, if represented; and (c) the basis for the objection.

11.2 Any Class Member who fails to object to the Settlement in the manner described in this Section shall be deemed to have waived any objection, shall not be permitted to object to any terms or approval of the Settlement at the Final Approval Hearing, and shall be foreclosed from seeking any review of the Settlement or the terms of the Agreement by appeal or other means.

**12. Releases.**

If the Settlement is finally approved, all Releasing Persons, including Representative Plaintiff and each Class Member, shall, by operation of the Final Judgment, be deemed to have fully, conclusively, irrevocably, forever, and finally released, relinquished, and discharged Defendant and all other Released Persons from any and all claims, Unknown Claims, actions, causes of action, suits, debts, sums of money, payments, obligations, reckonings, promises, damages, interest, penalties, attorney's fees and costs, liens, judgments, and demands of any kind whatsoever that each Releasing Person has or may have had prior to the Effective



Date of the Final Judgment and arising from a loss during the Class Periods, whether *ex contractu* or *ex delicto*, debts, liens, contracts, liabilities, agreements, attorneys' fees, costs, penalties, interest, expenses, or losses (including actual, consequential, statutory, extra-contractual and punitive or exemplary damages), and whether arising under or based on contract, extra-contractual or tort theories, at law or in equity, or under federal, state or local law, statute, ordinance, rule or regulation, whether asserted individually or in a representative capacity, whether past or present, mature or not yet mature, that any of the Representative Plaintiff or Class Members have raised or could have raised in the Action against any of the Released Persons ("Released Claims") relating in any way to deductibles for uninsured motorist coverage.

**13. Attorneys' Fees, Expenses, and Service Awards.** The total of all applications for attorneys' fees, expenses, and an incentive award by Class Counsel and any other person on behalf of Class Members shall not exceed \$115,000.00. Class Counsel agree that the amount of such fees and expenses awarded shall fully compensate them for all work and expenses in this Action for the claims asserted before and after entry of Final Judgment. Defendant agrees not to oppose or otherwise object to an application by Class Counsel for, and Class Counsel agree not to seek, an award of attorneys' fees and expenses and an incentive award in this Action that exceeds the foregoing total amount.

**14. Preliminary Injunction.** In order to protect the continuing jurisdiction of the Court and to effectuate this Order, the Agreement, and the Settlement, all Class Members who do not timely exclude themselves from the Settlement Class, and anyone acting or purporting to act on their behalf, are preliminarily enjoined from directly or indirectly (a) filing, commencing, prosecuting, maintaining, intervening in, or participating in (as parties, class members or otherwise), any new or existing action or proceeding before any court or tribunal regarding any

Released Claims against any Released Persons; and (b) organizing any Class Members into a separate opt-out 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 new or pending action) based on or relating to the claims and causes of action, or the facts and circumstances relating thereto, in this action and/or the Released Claims.

**15. Service of Papers.** Class Counsel and Defendant's Counsel shall promptly furnish to each other any objections or requests for exclusion that they receive and shall file such objections with the Court on or before the Final Approval Hearing, unless such documents already appear on the Court's docket.

**16. Termination of Settlement.** This Order shall become null and void, and shall be without prejudice to the rights of the parties, all of whom shall be restored to their respective positions existing immediately before this Court entered this Order, if: (a) the proposed Settlement is not finally approved by the Court, or Final Judgment is not entered or does not become Final, or the Effective Date does not occur; or (b) the Settlement Agreement is terminated pursuant to the terms of the Agreement for any reason.

In such event, and except as provided therein, the proposed Settlement and Agreement shall have no further force or effect, and all proceedings that have occurred with regard to the Agreement and the Proposed Settlement shall be without prejudice to the rights and contentions of the parties and any Class Members; the preliminary certification of the Settlement Class for settlement purposes shall be automatically vacated; all communications and documents related to the Settlement will be subject to Federal Rule of Evidence 408 and all other applicable settlement and negotiation privileges; this Order and other orders entered by the Court pursuant

to the Agreement will be treated as vacated, *nunc pro tunc*; the Agreement and the Court's orders, including this Order, shall not be used or referred to for any purpose whatsoever; and the parties shall retain, without prejudice, any and all objections, arguments, and defenses with respect to class certification.

**17. Use of Order Following Termination of Settlement.** This Order shall be of no force and effect if the Settlement does not become Final and shall not be construed or used as an admission, concession, or declaration by or against Defendant of any fault, wrongdoing, breach, or liability, or by or against Representative Plaintiff or Class Members that their claims lack merit or that the relief requested in this action is inappropriate, improper, or unavailable, or as a waiver by any party of any defenses they may have.

**18. Stay.** All proceedings in this action as to the claims of Representative Plaintiff against Defendant are stayed, except as necessary to effectuate the terms of the Settlement.

**19. Necessary Steps.** The Court authorizes and directs the parties to take all other necessary and appropriate steps to implement the Settlement as set forth in the Agreement.

**IT IS SO ORDERED**, this 5<sup>th</sup> day of August 2020.

*s/John T. Fowlkes, Jr.*  
JOHN T. FOWLKES, JR.  
UNITED STATES DISTRICT JUDGE