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10 Attorneys for Plaintiff and the Proposed Class  
(Additional Counsel on Next Page)  
11

12 **UNITED STATES DISTRICT COURT**  
13 **EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION**  
14

15 ERIC FELIX, an individual, on behalf  
of himself and others similarly situated,

16 PLAINTIFF,  
17

18 V.

19 WM. BOLTHOUSE FARMS, INC.;  
20 and DOES 1 thru 50, inclusive,  
21 DEFENDANTS.

CASE NO. 1:19-cv-00312-AWI-JLT

**JOINT STIPULATION  
REGARDING FINALIZED NOTICE  
PACKET**

U.S. Magistrate Judge:  
Jennifer L. Thurston

1 **MORGAN, LEWIS & BOCKIUS LLP**  
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9 Telephone: (415) 442-1000  
Fax: (415) 442-1001

10 Attorneys for Defendant  
11 WM. BOLTHOUSE FARMS, INC.

1 Pursuant to the Court's Order Regarding Administration Timeline and Notice  
2 Packet of January 15, 2019 (Doc. 32) and having duly met and conferred, Plaintiff  
3 ERIC FELIX ("Plaintiff") and Defendant WM. BOLTHOUSE FARMS, INC.  
4 ("Defendant") (collectively referred to herein as the "Parties"), by and through their  
5 respective undersigned counsel, hereby jointly submit the finalized Notice Packet.

6 WHEREAS, pursuant to the Court's Order scheduling the hearing on  
7 Plaintiff's Motion for Final Approval for May 4, 2020, the Parties amended the  
8 Notice Packet to reflect the hearing date.

9 Attached hereto as Exhibit "A" is the amended and final Notice Packet to be  
10 disseminated to Class Members.

11 IT IS SO STIPULATED.

12  
13 DATED: January 17, 2020

KINGSLEY & KINGSLEY, APC

14  
15 By: 

Eric B. Kingsley  
Kelsey M. Szamet  
Attorneys for Plaintiff Eric Felix

16  
17  
18  
19 DATED: January 17, 2020

MORGAN, LEWIS & BOCKIUS LLP

20  
21 By: /s/ Ashley A. Baltazar

John S. Battenfeld  
Aimee Mackay  
Ashley A. Baltazar  
Attorneys for Defendant  
WM. BOLTHOUSE FARMS, INC.

# EXHIBIT "A"

**NOTICE OF CLASS ACTION SETTLEMENT**

***A court authorized this notice. This is not a solicitation from a lawyer. This is not a lawsuit against you and you are not being sued. However, your legal rights may be affected by the settlement, and you have a choice to make now in order to receive money under the proposed settlement.***

**READ THIS NOTICE CAREFULLY; YOUR LEGAL RIGHTS MAY BE AFFECTED.**

YOU MAY BE ENTITLED TO A PAYMENT UNDER THE TERMS OF A CLASS ACTION SETTLEMENT.

A proposed global class action settlement (the "Settlement") has been reached with respect to a class action lawsuit: *ERIC FELIX, an individual, on behalf of himself and others similarly situated, Plaintiff v. WM. BOLTHOUSE FARMS, INC., and DOES 1 thru 50, inclusive, Defendants*, filed in the United States District Court for the Eastern District of California, Case No. 1:19-CV-00312-AWI-JLT. If you filled out WM. BOLTHOUSE FARMS, INC.'s ("Bolthouse") form entitled "Consent to Request Consumer Report & Investigative Consumer Report Information" permitting Sterling Infosystems Inc. to obtain and use consumer report information for employment purposes during the time period of March 7, 2017 to July 31, 2018 (individually, "Settlement Class Member", collectively, the "Settlement Class"), a class action lawsuit may affect your rights and you may be entitled to a payment under this settlement.

**PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.**

**SUMMARY OF NOTICE**

**What is the Case About?**

A lawsuit entitled *ERIC FELIX, an individual, on behalf of himself and others similarly situated, Plaintiff v. WM. BOLTHOUSE FARMS, INC., and DOES 1 thru 50, inclusive, Defendants*, filed in the United States District Court for the Eastern District of California, Case No. 1:19-CV-00312-AWI-JLT on March 7, 2019 (the "Litigation"), is now pending. The litigation was filed by Plaintiff Eric Felix (the "Named Plaintiff") a former employee of Bolthouse, against Bolthouse. Plaintiff and Bolthouse are collectively referred to as the "Parties."

In the Litigation, the Named Plaintiff alleged that Bolthouse failed to obtain proper authorization prior to obtaining background checks and that the Consent to Request Consumer Report & Investigative Consumer Report Information utilized by Bolthouse failed to clearly and conspicuously disclose that a consumer report may be obtained for employment purposes. The claims being settled involve complex legal and factual issues. The key issues in dispute are (1) whether the form referenced above provided by Bolthouse to applicants provided proper disclosure that Bolthouse would engage Sterling Infosystems to obtain a background check on those applicants; and (2) whether applicants' signed authorization was properly obtained prior to Bolthouse obtaining background checks on those applicants.

Bolthouse has asserted and continues to assert many defenses in the Litigation. Bolthouse disputes Plaintiff's claims, expressly denies any wrongdoing or liability whatsoever arising out of the conduct alleged in this Litigation, and contends that all of its practices were in compliance with applicable law. There has been no finding of any violation of the law by Bolthouse. However, the

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Parties have reached a settlement for reasons including the costs and risks of litigation, discussed further below. The settlement cannot be interpreted to mean that any party prevailed or was defeated in the case.

On January 7, 2020, the Court preliminarily approved the Parties' class action settlement. The Settlement provides for Individual Settlement Payments depending on the number of background checks obtained from March 7, 2017 to July 31, 2018.

This notice summarizes the proposed settlement. For the precise terms and conditions of the settlement, please see the settlement agreement by accessing [www.FelixBolthouseSettlement.com](http://www.FelixBolthouseSettlement.com) or Court's docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.caed.uscourts.gov>. The settlement agreement is attached to the Declaration of Kelsey Szamet filed in Support of Plaintiffs' Application for Preliminary Approval of the settlement. You may also contact the Settlement Administrator, contact Class Counsel, or visit the office of the Clerk of the Court for the United States District Court for the Eastern District of California, at 510 19<sup>th</sup> Street, Bakersfield, CA 93301, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS**

<b>OVERVIEW OF YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT</b>	
<b>IF YOU DO NOTHING</b>	By doing nothing, you <b><u>will</u> automatically</b> receive an Individual Settlement Payment if the Settlement receives final approval by the Court. In exchange, you will be bound by all terms of the Settlement and any Final judgment entered in the Litigation, including a release of certain claims as described below. The Settlement Administrator will mail you a settlement check at the address where the Administrator mailed this Notice (unless you timely provide a forwarding address to the Settlement Administrator). <b>Read more at "IF YOU DO NOTHING" below.</b>
<b>IF YOU EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS (OPT OUT)</b>	If you submit a valid Opt Out Statement to the Settlement Administrator postmarked no later than April 5, 2020, you <b><u>will not</u></b> receive an Individual Settlement Payment and you will not release any claims as described below.  <b>Read more at "EXCLUDING YOURSELF FROM THE SETTLEMENT?" below.</b>
<b>IF YOU OBJECT</b>	If you wish to object to the Settlement, you must submit a written Objection, and supporting papers, to the Court no later than April 5, 2020. This option is only available to you if you do <u>not</u> exclude yourself.  <b>Read more at "OBJECTING TO THE SETTLEMENT below.</b>

QUESTIONS? CALL 844-975-1784

<b>IF YOU GO TO THE FINAL APPROVAL HEARING</b>	If you submit a valid and timely objection to the settlement, you may ask to speak in Court about the fairness of the settlement. You may enter an appearance through an attorney. The Deadline to ask to speak in Court about the settlement is April 5, 2020. The Final Approval Hearing will take place on: May 4, 2020.  <b>Read more at “THE COURT’S FINAL APPROVAL HEARING” below.</b>
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**The Court presiding over this Litigation must still decide whether to grant final approval of the Settlement. Payments will only be issued if the Court grants final approval of the settlement, and if there are any appeals, after appeals are resolved. Please be patient.**

Your legal rights are affected whether or not you decide to act. Please read this Notice carefully.

### **BASIC INFORMATION**

#### **1. Why did I get this Notice?**

According to Bolthouse’s records, you are a member of the class of persons covered by this Settlement (“Class Member”). On January 7, 2020, the District Court for the Eastern District of California (the “Court”) ordered that this Notice be provided to Class Members to inform them of the Settlement and their rights with respect to the Settlement. This Notice explains the Actions, the Settlement, and your legal rights.

#### **2. Why is this lawsuit a class action?**

In a class action, one or more people called “Plaintiff(s)” (in this case, Eric Felix) sue on behalf of people who have similar alleged claims. All of these people are a “class” or “class members.” The Court will resolve the issues alleged in Litigation for all Class Members, except for those who exclude themselves from the class by timely submitting an Opt Out Statement. On January 7, 2020, Magistrate Judge Jennifer L. Thurston issued an order conditionally certifying the Settlement Class for purposes of settlement only.

#### **3. Who is in the Settlement Class?**

“Settlement Class Members” or “Settlement Class” means all individuals who filled out Bolthouse’s form entitled “Consent to Request Consumer Report & Investigative Consumer Report Information” permitting Sterling Infosystems Inc. to obtain and use consumer report information for employment purposes during the time period of March 7, 2017 to July 31, 2018.

#### **4. Has the Court decided who is right?**

No. The Court has made no decision regarding the merits of Plaintiff’s allegations or Bolthouse’s defenses.

#### **5. Why did this case settle?**

The Parties reached a settlement in order to avoid the risk and expense of further litigation. Plaintiff and her attorneys believe the proposed settlement is fair, reasonable, adequate, and in the  
QUESTIONS? CALL 844-975-1784

best interest of the class members to whom it applies given the outcome of their investigation, the sharply contested issues involved, the expense and time necessary to pursue the litigation through trial and any appeals, the risk of an adverse outcome, the uncertainties of complex litigation, and the substantial benefits to be received by the members of the Settlement Class pursuant to this settlement. The Settlement does not mean that any laws were broken. Bolthouse vigorously disputes Plaintiff's claims and assert that it has complied with all of its legal obligations. However, Bolthouse has also concluded that further litigation would be protracted and expensive and would divert resources and management and employee time.

### **THE SETTLEMENT BENEFITS – WHAT YOU GET**

#### **1. What are the Terms of the Proposed Settlement?**

Subject to Court approval, under the terms of the settlement, Bolthouse has agreed to pay a maximum payment of \$118,275 ("Settlement Amount") in exchange for a release of the Settlement Class Members' Released Claims (defined below) who do not exclude themselves from the settlement. Portions of the Settlement Amount will be used to pay Class Counsel's Attorneys' Fees and Costs, Named Plaintiff's Enhancement Award, and the Administrative Costs of Settlement. The remainder of the Settlement Amount (the "Net Settlement Fund") will be distributed to Settlement Class Members, who do not exclude themselves from the Class, pro rata. The Settlement Amount will be allocated as follows.

- a) **Class Counsel's Attorney's Fees and Costs.** Kingsley & Kingsley, APC and Davtayan Professional Law Corporation ("Class Counsel") represent the Settlement Class. Class Counsel will request that the Court compensate them for the work performed for the benefit of the Class up to \$39,425. It will separately ask the Court to reimburse litigation costs and expenses of up to \$9,000.
- b) **Named Plaintiff's Enhancement Award.** Class Counsel will request that the Named Plaintiff receive an enhancement award of up to \$5,000 in his role as Named Plaintiff.
- c) **Administrative Costs.** Class Counsel will ask the Court to reimburse the Settlement Administrator, JND Legal, for the costs incurred in administering the proposed Settlement ("Settlement Administrative Costs"). The Settlement Administrative Costs are estimated to be no more than \$18,500.
- d) **Payments to Class Members.** The amounts described in Subparts a)-c), above, will be subtracted from the Settlement Amount, and the amount remaining will constitute the Net Settlement Amount. The Net Settlement Amount will then be allocated for distribution under the procedure described below to Class Members who do not exclude themselves from the Settlement.

Only Class Members who do not submit an Opt Out Statement ("Participating Class Members") will receive a share of the Net Settlement Amount (the "Individual Settlement Payment"). Each Participating Class Member will receive his/her pro rata share of the Net Settlement Amount. Your estimated Individual Settlement Payment is \$37.23.

Your Individual Settlement Payment may be higher or lower depending on a number of factors. The exact amount you will receive cannot be finally calculated at this time because we do not yet know the number of class members who will participate in the settlement and the Court has not yet approved the amounts that will be deducted from the settlement fund, which include

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Plaintiff's Counsel's application for attorneys' fees and expenses and Service Awards to the Plaintiffs who brought this lawsuit.

## **2. Tax Treatment of Settlement Payment**

The Parties agree that the Individual Settlement Payments are for penalties. The Individual Settlement Payments will be reported as penalties for which an IRS Form 1099 shall be issued. The Parties are neither providing tax nor legal advice, nor making representations regarding tax obligations or consequences, if any, related to any settlement amounts to be paid to the Participating Class Members. Each Participating Class Member will assume any tax obligations or consequences that may arise from any settlement amount paid to him or her and should consult with a tax expert if he or she has any questions.

## **3. Your Estimated Individual Settlement Payment**

After the deduction of the Court-approved fees from the Settlement Amount, the remaining sum (the "Net Settlement Amount") is estimated to be \$54,350. Each Participating Class Member will receive his/her pro rata share of the Net Settlement Amount.

## **4. What rights am I giving up in exchange for the settlement benefits?**

In exchange for receiving payments under the Settlement, Plaintiff and each Class Member who does not submit a valid Opt Out Statement (which would include you), for the period from March 7, 2017 to July 31, 2018, will fully and finally release Bolthouse and Bolthouse's respective past, present, and future companies, divisions, parents, subsidiaries, joint ventures, affiliates, and insurers; Bolthouse's past, present, and future shareholders, directors, owners, officers, members, managers, agents, employees, attorneys, insurers, predecessors, representatives, successors, and assigns of any of the foregoing; from any and all claims of any kind whatsoever, whether known or unknown, whether based on common law, regulations, statute, or a constitutional provision, under state, federal or local law, arising out of the allegations made in the Litigation and that reasonably arise, or could have arisen, out of the facts alleged in the Litigation as to the Class Members, including, but not limited to, claims arising from the procurement of a consumer report on them by any of the Released Parties, and any other claims for violations of the Fair Credit Reporting Act, 15 U.S.C. §1681b, et seq., whether willful, or otherwise, for declaratory relief, statutory damages, punitive damages, costs, and attorneys' fees.

### **HOW TO GET A SETTLEMENT PAYMENT**

#### **1. Who Is the Settlement Administrator?**

An independent Settlement Administrator, JND Legal, has been hired to administer the settlement process and calculate and distribute the settlement payments. Reasonable costs and expenses incurred by the Settlement Administrator will be deducted from the maximum payment in the amount of \$18,500. The contact information for the Settlement Administrator is as follows:

Bolthouse Farms Background Checks Settlement  
c/o JND Legal Administration  
PO Box 91231  
Seattle, WA 98111

QUESTIONS? CALL 844-975-1784

## **2. How do I get a settlement payment?**

If the Settlement receives final approval by the Court, and you do not opt out of the Settlement, you will automatically receive an Individual Settlement Payment and you will be bound by all terms of the Settlement and any Final Order and Judgment entered in the Actions and will give up your rights to be part of any other lawsuit against Bolthouse involving the same or similar legal claims as the ones alleged in the Litigation arising during the Class Period. You will be mailed a settlement check at the address where this notice was mailed (unless you timely provide a forwarding address to the Settlement Administrator).

## **3. When will I get my check?**

The Court will hold a Final Approval Hearing on May 4, 2020, at 9:00 a.m. to determine whether to approve the Settlement. If the Court approves the Settlement, and there are no appeals, then the Settlement Administrator will mail your payment directly to you within a month or so after the approval order is issued. If there are any appeals of the approval order, your payment will be delayed until all appeals are resolved and the settlement becomes effective.

Please also be advised that you will only have 180 days from the date that the check is issued to cash it. After one-hundred eighty (180) calendar days from the date of mailing, the checks shall become null and void, and any monies remaining in the distribution account shall be distributed. After this time, the checks shall become null and void, and any monies remaining in the distribution account shall be distributed by the Settlement Administrator California Legal Aid Fund.

### **EXCLUDING MYSELF FROM THE SETTLEMENT**

#### **1. How do I ask the Court to exclude me from the Settlement Class?**

If you do not wish to participate in the Settlement (i.e., “opt out”), you must complete and send a timely letter to the Settlement Administrator (“Opt Out Statement”). The letter must:

- a. Contain your name, address, telephone number, and the last four digits of your Social Security number;
- b. Clearly state that you do not wish to be included in the Settlement by including substantially the words “I opt out of the Bolthouse FCRA settlement; and
- c. Be signed by you.

The letter must be completed, signed, dated and mailed by First Class U.S. Mail, or the equivalent, postmarked no later than April 5, 2020 to:

Bolthouse Farms Background Checks Settlement  
c/o JND Legal Administration  
PO Box 91231  
Seattle, WA 98111

Opt Out Statements that do not include all required information and/or that are not timely submitted will be deemed null, void, and ineffective. Class Members who fail to submit a valid and timely Opt Out Statement on or before April 5, 2020, shall be bound by all terms of the Settlement and any Final Judgment entered in the Actions if the Settlement is approved by the Court.

QUESTIONS? CALL 844-975-1784

**2. If I exclude myself, can I get anything from the Settlement?**

No. If you exclude yourself now you will not get anything from the Settlement. If you ask to be excluded, you will not get a settlement payment and you will not be bound by the Settlement, including the release of claims.

**3. If I don't exclude myself, can I sue later?**

No. Unless you exclude yourself, you give up the right to sue Bolthouse for the Released Claims arising during the Class Period. You must exclude yourself from the Settlement Class to start or continue your own lawsuit.

**OBJECTING TO THE SETTLEMENT**

**1. How do I object to the Settlement?**

Any Class Member who does not submit an Opt Out Statement may object to the proposed Settlement, or any portion thereof, by completing a written objection ("Objection"). The Objection must be signed and mailed to Bolthouse Farms Background Checks Settlement, c/o JND Legal Administration, PO Box 91231, Seattle, WA 98111 by First Class U.S. Mail, or the equivalent, postmarked no later than April 5, 2020.

To be valid, your Objection must:

- a. Contain your name, address, telephone number, and the last four digits of your Social Security;
- b. State that you wish to be included in the Settlement and do not wish to opt out of the Settlement;
- c. State the basis for your objection;
- d. State the case name and number: *Felix v. Wm. Bolthouse Farms, Inc., et al.*, Case No. 1:19-CV-00312-AWI-JLT;
- e. State whether you or someone on your behalf intends to appear at the Final Approval Hearing; and
- f. Have your signature.

If you do not object in the manner described above, you shall be deemed to have waived any objections to the proposed Settlement, including its fairness or adequacy, the payment of attorney's fees or litigation costs to Class Counsel, the Service Award to the Plaintiffs, and any and all other aspects of the Settlement.

**2. What's the difference between objecting and asking to be excluded?**

You cannot both exclude yourself and object. You can do one or the other, or neither. Objecting is simply telling the Court you do not like something about the Settlement. You can object only if you remain a Class Member. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case and settlement no longer affects you.

QUESTIONS? CALL 844-975-1784

**IF YOU DO NOTHING**

**1. What happens if I do nothing at all?**

If you do nothing, you will automatically receive an Individual Settlement Payment if the Settlement is finally approved as described above and you will be bound by the release described in this Notice.

**THE LAWYERS REPRESENTING YOU**

**1. Do I have a lawyer in this case?**

Yes. The Court has decided that the following lawyers are qualified to represent you and all Class Members for purposes of this Settlement. This means they have been appointed to serve as Class Counsel and represent the Class Members. You do not have to pay anything for Class Counsel's representation for purposes of this Settlement. However, if you want your own lawyer, you are free to hire one at your own expense. Class Counsel's contact information is as follows:

<p><u>Class Counsel:</u> KINGSLEY &amp; KINGSLEY, APC Kelsey M. Szamet, Esq. 16133 Ventura Blvd., Suite 1200 Encino, CA 91436 Telephone: (818) 990-8300 Fax: (818) 990-2903</p>
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**2. How will the costs of the lawsuit and settlement be paid?**

You will not be charged for these lawyers as they will be paid their fees and reimbursed for their advancement of litigation expenses, as awarded by the Court, out of the Settlement Amount. Subject to court approval, Class Counsel will ask the Court to award attorney's fees to compensate them for the work performed for the benefit of the Class up to up to \$39,425. It will separately ask the Court to reimburse litigation costs and expenses of up to \$9,000.

In addition, and subject to Court approval, the attorneys representing Plaintiffs and the Class will ask the Court to authorize an Enhancement Award of up to Five Thousand Dollars (\$5,000) for Plaintiff for his participation in the Actions and for taking on the risk of litigation.

The Court may award less than these amounts. If lesser amounts are awarded, those amounts will be included in the Net Settlement Amount and will be available for distribution to Participating Class Members.

**THE COURT'S FINAL APPROVAL HEARING**

Class Counsel will file with the Court a formal motion for final approval of the proposed settlement further discussing the reasons justifying the settlement as fair and reasonable. After Class Counsel files a motion for final approval, the Court will hold a hearing to decide whether to approve the Settlement. You may attend the hearing and you may ask to speak, but you don't have to.

QUESTIONS? CALL 844-975-1784

**1. When and where will the Court decide whether to approve the settlement?**

The Court will hold a Final Approval Hearing on May 4, 2020 at 9:00 a.m., at the United States District Court for the Eastern District of California, located at 510 19<sup>th</sup> Street, Bakersfield, CA 93301. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If comments or objections have been received, whether or not objectors appear at the hearing, the Court will consider them at this time. The Court will also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take. **Please note the Court reserves the right to change the date of the Final Approval Hearing without any further notice to you. Please check the Court's PACER site at <https://ecf.caed.uscourts.gov> or [www.FelixBolthouseSettlement.com](http://www.FelixBolthouseSettlement.com) to confirm that the date has not been changed.**

If the proposed settlement is approved, the Court will enter an Order and Final Judgment. The Final Judgment will dismiss with prejudice the Released Claims against the Released Parties defined above.

**2. Do I have to come to the hearing?**

No. Class Counsel will answer any questions the judge may have. But you are welcome to come or to have an attorney enter an appearance on your behalf. If you send an Objection, you don't have to come to Court to talk about it. As long as you mailed your Objection on time, the Court will consider it. You will not be charged for the work performed by Class Counsel, the lawyers that the Court decided are qualified to represent you and all Class Members for purposes of this Settlement. You may also pay another lawyer to attend, but it is not required. Class Counsel will not represent you in connection with any Objection.

**GETTING MORE INFORMATION**

**1. How can I receive more information?**

The foregoing is only a summary of the Litigation and the proposed settlement, including the terms describing the release and how settlement payments will be calculated. As explained above, for the precise terms and conditions of the settlement, you may review the settlement agreement by accessing [www.FelixBolthouseSettlement.com](http://www.FelixBolthouseSettlement.com) or the Court's docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.caed.uscourts.gov>. The settlement agreement is attached to the Declaration of Kelsey Szamet filed in Support of Plaintiffs' Application for Preliminary Approval of the settlement. You may also contact the Settlement Administrator, contact Class Counsel, or visit the office of the Clerk of the Court for the United States District Court for the Eastern District of California, 510 19<sup>th</sup> Street, Bakersfield, CA 93301 between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

Bolthouse Farms Background Checks Settlement  
c/o JND Legal Administration  
PO Box 91231  
Seattle, WA 98111

Any inquiries concerning this Notice should be addressed to the Settlement Administrator at 844-975-1784 or Class Counsel at (818) 990-8300.

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS**

QUESTIONS? CALL 844-975-1784

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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION**

ERIC FELIX, an individual, on behalf  
of himself and others similarly situated,

PLAINTIFF,

V.

WM. BOLTHOUSE FARMS, INC.;  
and DOES 1 thru 50, inclusive,  
DEFENDANTS.

CASE NO. 1:19-cv-00312-AWI-JLT

**[PROPOSED] ORDER REGARDING  
FINALIZED NOTICE PACKET**

U.S. Magistrate Judge:  
Jennifer L. Thurston

1 Pursuant to the Court’s Order Regarding Administration Timeline and Notice  
2 Packet of January 15, 2019 (Doc. 32), Plaintiff ERIC FELIX (“Plaintiff”) and  
3 Defendant WM. BOLTHOUSE FARMS, INC. (“Defendant”) (collectively referred  
4 to herein as the “Parties”), by and through their respective undersigned counsel, and  
5 in conjunction with the Settlement Administrator, amended the Notice Packet to list  
6 Ma4, 2020 as the hearing date on Plaintiff’s Motion for Final Approval.

7 Attached hereto as Exhibit “A” is the amended and final Notice Packet to be  
8 disseminated to Class Members.

9 Thus, the Court ORDERS:

10 The Notice Packet attached hereto as Exhibit “A” is the final Notice Packet to  
11 be disseminated to Class Members pursuant to the administration timeline ordered  
12 by this Court.

13 **IT IS SO ORDERED.**

14 DATED: \_\_\_\_\_

15 \_\_\_\_\_  
16 JENNIFER L. THURSTON  
17 UNITED STATES MAGISTRATE JUDGE  
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# EXHIBIT "A"



**NOTICE OF CLASS ACTION SETTLEMENT**

***A court authorized this notice. This is not a solicitation from a lawyer. This is not a lawsuit against you and you are not being sued. However, your legal rights may be affected by the settlement, and you have a choice to make now in order to receive money under the proposed settlement.***

**READ THIS NOTICE CAREFULLY; YOUR LEGAL RIGHTS MAY BE AFFECTED.**

YOU MAY BE ENTITLED TO A PAYMENT UNDER THE TERMS OF A CLASS ACTION SETTLEMENT.

A proposed global class action settlement (the "Settlement") has been reached with respect to a class action lawsuit: *ERIC FELIX, an individual, on behalf of himself and others similarly situated, Plaintiff v. WM. BOLTHOUSE FARMS, INC., and DOES 1 thru 50, inclusive, Defendants*, filed in the United States District Court for the Eastern District of California, Case No. 1:19-CV-00312-AWI-JLT. If you filled out WM. BOLTHOUSE FARMS, INC.'s ("Bolthouse") form entitled "Consent to Request Consumer Report & Investigative Consumer Report Information" permitting Sterling Infosystems Inc. to obtain and use consumer report information for employment purposes during the time period of March 7, 2017 to July 31, 2018 (individually, "Settlement Class Member", collectively, the "Settlement Class"), a class action lawsuit may affect your rights and you may be entitled to a payment under this settlement.

**PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.**

**SUMMARY OF NOTICE**

**What is the Case About?**

A lawsuit entitled *ERIC FELIX, an individual, on behalf of himself and others similarly situated, Plaintiff v. WM. BOLTHOUSE FARMS, INC., and DOES 1 thru 50, inclusive, Defendants*, filed in the United States District Court for the Eastern District of California, Case No. 1:19-CV-00312-AWI-JLT on March 7, 2019 (the "Litigation"), is now pending. The litigation was filed by Plaintiff Eric Felix (the "Named Plaintiff") a former employee of Bolthouse, against Bolthouse. Plaintiff and Bolthouse are collectively referred to as the "Parties."

In the Litigation, the Named Plaintiff alleged that Bolthouse failed to obtain proper authorization prior to obtaining background checks and that the Consent to Request Consumer Report & Investigative Consumer Report Information utilized by Bolthouse failed to clearly and conspicuously disclose that a consumer report may be obtained for employment purposes. The claims being settled involve complex legal and factual issues. The key issues in dispute are (1) whether the form referenced above provided by Bolthouse to applicants provided proper disclosure that Bolthouse would engage Sterling Infosystems to obtain a background check on those applicants; and (2) whether applicants' signed authorization was properly obtained prior to Bolthouse obtaining background checks on those applicants.

Bolthouse has asserted and continues to assert many defenses in the Litigation. Bolthouse disputes Plaintiff's claims, expressly denies any wrongdoing or liability whatsoever arising out of the conduct alleged in this Litigation, and contends that all of its practices were in compliance with applicable law. There has been no finding of any violation of the law by Bolthouse. However, the

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Parties have reached a settlement for reasons including the costs and risks of litigation, discussed further below. The settlement cannot be interpreted to mean that any party prevailed or was defeated in the case.

On January 7, 2020, the Court preliminarily approved the Parties' class action settlement. The Settlement provides for Individual Settlement Payments depending on the number of background checks obtained from March 7, 2017 to July 31, 2018.

This notice summarizes the proposed settlement. For the precise terms and conditions of the settlement, please see the settlement agreement by accessing [www.FelixBolthouseSettlement.com](http://www.FelixBolthouseSettlement.com) or Court's docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.caed.uscourts.gov>. The settlement agreement is attached to the Declaration of Kelsey Szamet filed in Support of Plaintiffs' Application for Preliminary Approval of the settlement. You may also contact the Settlement Administrator, contact Class Counsel, or visit the office of the Clerk of the Court for the United States District Court for the Eastern District of California, at 510 19<sup>th</sup> Street, Bakersfield, CA 93301, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS**

<b>OVERVIEW OF YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT</b>	
<b>IF YOU DO NOTHING</b>	By doing nothing, you <b><u>will automatically</u></b> receive an Individual Settlement Payment if the Settlement receives final approval by the Court. In exchange, you will be bound by all terms of the Settlement and any Final judgment entered in the Litigation, including a release of certain claims as described below. The Settlement Administrator will mail you a settlement check at the address where the Administrator mailed this Notice (unless you timely provide a forwarding address to the Settlement Administrator). <b>Read more at "IF YOU DO NOTHING" below.</b>
<b>IF YOU EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS (OPT OUT)</b>	If you submit a valid Opt Out Statement to the Settlement Administrator postmarked no later than April 5, 2020, you <b><u>will not</u></b> receive an Individual Settlement Payment and you will not release any claims as described below.  <b>Read more at "EXCLUDING YOURSELF FROM THE SETTLEMENT?" below.</b>
<b>IF YOU OBJECT</b>	If you wish to object to the Settlement, you must submit a written Objection, and supporting papers, to the Court no later than April 5, 2020. This option is only available to you if you do <u>not</u> exclude yourself.  <b>Read more at "OBJECTING TO THE SETTLEMENT below.</b>

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<b>IF YOU GO TO THE FINAL APPROVAL HEARING</b>	If you submit a valid and timely objection to the settlement, you may ask to speak in Court about the fairness of the settlement. You may enter an appearance through an attorney. The Deadline to ask to speak in Court about the settlement is April 5, 2020. The Final Approval Hearing will take place on: May 4, 2020.  <b>Read more at “THE COURT’S FINAL APPROVAL HEARING” below.</b>
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**The Court presiding over this Litigation must still decide whether to grant final approval of the Settlement. Payments will only be issued if the Court grants final approval of the settlement, and if there are any appeals, after appeals are resolved. Please be patient.**

Your legal rights are affected whether or not you decide to act. Please read this Notice carefully.

### **BASIC INFORMATION**

#### **1. Why did I get this Notice?**

According to Bolthouse’s records, you are a member of the class of persons covered by this Settlement (“Class Member”). On January 7, 2020, the District Court for the Eastern District of California (the “Court”) ordered that this Notice be provided to Class Members to inform them of the Settlement and their rights with respect to the Settlement. This Notice explains the Actions, the Settlement, and your legal rights.

#### **2. Why is this lawsuit a class action?**

In a class action, one or more people called “Plaintiff(s)” (in this case, Eric Felix) sue on behalf of people who have similar alleged claims. All of these people are a “class” or “class members.” The Court will resolve the issues alleged in Litigation for all Class Members, except for those who exclude themselves from the class by timely submitting an Opt Out Statement. On January 7, 2020, Magistrate Judge Jennifer L. Thurston issued an order conditionally certifying the Settlement Class for purposes of settlement only.

#### **3. Who is in the Settlement Class?**

“Settlement Class Members” or “Settlement Class” means all individuals who filled out Bolthouse’s form entitled “Consent to Request Consumer Report & Investigative Consumer Report Information” permitting Sterling Infosystems Inc. to obtain and use consumer report information for employment purposes during the time period of March 7, 2017 to July 31, 2018.

#### **4. Has the Court decided who is right?**

No. The Court has made no decision regarding the merits of Plaintiff’s allegations or Bolthouse’s defenses.

#### **5. Why did this case settle?**

The Parties reached a settlement in order to avoid the risk and expense of further litigation. Plaintiff and her attorneys believe the proposed settlement is fair, reasonable, adequate, and in the

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best interest of the class members to whom it applies given the outcome of their investigation, the sharply contested issues involved, the expense and time necessary to pursue the litigation through trial and any appeals, the risk of an adverse outcome, the uncertainties of complex litigation, and the substantial benefits to be received by the members of the Settlement Class pursuant to this settlement. The Settlement does not mean that any laws were broken. Bolthouse vigorously disputes Plaintiff's claims and assert that it has complied with all of its legal obligations. However, Bolthouse has also concluded that further litigation would be protracted and expensive and would divert resources and management and employee time.

### **THE SETTLEMENT BENEFITS – WHAT YOU GET**

#### **1. What are the Terms of the Proposed Settlement?**

Subject to Court approval, under the terms of the settlement, Bolthouse has agreed to pay a maximum payment of \$118,275 ("Settlement Amount") in exchange for a release of the Settlement Class Members' Released Claims (defined below) who do not exclude themselves from the settlement. Portions of the Settlement Amount will be used to pay Class Counsel's Attorneys' Fees and Costs, Named Plaintiff's Enhancement Award, and the Administrative Costs of Settlement. The remainder of the Settlement Amount (the "Net Settlement Fund") will be distributed to Settlement Class Members, who do not exclude themselves from the Class, pro rata. The Settlement Amount will be allocated as follows.

- a) **Class Counsel's Attorney's Fees and Costs.** Kingsley & Kingsley, APC and Davtayan Professional Law Corporation ("Class Counsel") represent the Settlement Class. Class Counsel will request that the Court compensate them for the work performed for the benefit of the Class up to \$39,425. It will separately ask the Court to reimburse litigation costs and expenses of up to \$9,000.
- b) **Named Plaintiff's Enhancement Award.** Class Counsel will request that the Named Plaintiff receive an enhancement award of up to \$5,000 in his role as Named Plaintiff.
- c) **Administrative Costs.** Class Counsel will ask the Court to reimburse the Settlement Administrator, JND Legal, for the costs incurred in administering the proposed Settlement ("Settlement Administrative Costs"). The Settlement Administrative Costs are estimated to be no more than \$18,500.
- d) **Payments to Class Members.** The amounts described in Subparts a)-c), above, will be subtracted from the Settlement Amount, and the amount remaining will constitute the Net Settlement Amount. The Net Settlement Amount will then be allocated for distribution under the procedure described below to Class Members who do not exclude themselves from the Settlement.

Only Class Members who do not submit an Opt Out Statement ("Participating Class Members") will receive a share of the Net Settlement Amount (the "Individual Settlement Payment"). Each Participating Class Member will receive his/her pro rata share of the Net Settlement Amount. Your estimated Individual Settlement Payment is \$37.23.

Your Individual Settlement Payment may be higher or lower depending on a number of factors. The exact amount you will receive cannot be finally calculated at this time because we do not yet know the number of class members who will participate in the settlement and the Court has not yet approved the amounts that will be deducted from the settlement fund, which include

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Plaintiff's Counsel's application for attorneys' fees and expenses and Service Awards to the Plaintiffs who brought this lawsuit.

## **2. Tax Treatment of Settlement Payment**

The Parties agree that the Individual Settlement Payments are for penalties. The Individual Settlement Payments will be reported as penalties for which an IRS Form 1099 shall be issued. The Parties are neither providing tax nor legal advice, nor making representations regarding tax obligations or consequences, if any, related to any settlement amounts to be paid to the Participating Class Members. Each Participating Class Member will assume any tax obligations or consequences that may arise from any settlement amount paid to him or her and should consult with a tax expert if he or she has any questions.

## **3. Your Estimated Individual Settlement Payment**

After the deduction of the Court-approved fees from the Settlement Amount, the remaining sum (the "Net Settlement Amount") is estimated to be \$54,350. Each Participating Class Member will receive his/her pro rata share of the Net Settlement Amount.

## **4. What rights am I giving up in exchange for the settlement benefits?**

In exchange for receiving payments under the Settlement, Plaintiff and each Class Member who does not submit a valid Opt Out Statement (which would include you), for the period from March 7, 2017 to July 31, 2018, will fully and finally release Bolthouse and Bolthouse's respective past, present, and future companies, divisions, parents, subsidiaries, joint ventures, affiliates, and insurers; Bolthouse's past, present, and future shareholders, directors, owners, officers, members, managers, agents, employees, attorneys, insurers, predecessors, representatives, successors, and assigns of any of the foregoing; from any and all claims of any kind whatsoever, whether known or unknown, whether based on common law, regulations, statute, or a constitutional provision, under state, federal or local law, arising out of the allegations made in the Litigation and that reasonably arise, or could have arisen, out of the facts alleged in the Litigation as to the Class Members, including, but not limited to, claims arising from the procurement of a consumer report on them by any of the Released Parties, and any other claims for violations of the Fair Credit Reporting Act, 15 U.S.C. §1681b, et seq., whether willful, or otherwise, for declaratory relief, statutory damages, punitive damages, costs, and attorneys' fees.

### **HOW TO GET A SETTLEMENT PAYMENT**

#### **1. Who Is the Settlement Administrator?**

An independent Settlement Administrator, JND Legal, has been hired to administer the settlement process and calculate and distribute the settlement payments. Reasonable costs and expenses incurred by the Settlement Administrator will be deducted from the maximum payment in the amount of \$18,500. The contact information for the Settlement Administrator is as follows:

Bolthouse Farms Background Checks Settlement  
c/o JND Legal Administration  
PO Box 91231  
Seattle, WA 98111

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## **2. How do I get a settlement payment?**

If the Settlement receives final approval by the Court, and you do not opt out of the Settlement, you will automatically receive an Individual Settlement Payment and you will be bound by all terms of the Settlement and any Final Order and Judgment entered in the Actions and will give up your rights to be part of any other lawsuit against Bolthouse involving the same or similar legal claims as the ones alleged in the Litigation arising during the Class Period. You will be mailed a settlement check at the address where this notice was mailed (unless you timely provide a forwarding address to the Settlement Administrator).

## **3. When will I get my check?**

The Court will hold a Final Approval Hearing on May 4, 2020, at 9:00 a.m. to determine whether to approve the Settlement. If the Court approves the Settlement, and there are no appeals, then the Settlement Administrator will mail your payment directly to you within a month or so after the approval order is issued. If there are any appeals of the approval order, your payment will be delayed until all appeals are resolved and the settlement becomes effective.

Please also be advised that you will only have 180 days from the date that the check is issued to cash it. After one-hundred eighty (180) calendar days from the date of mailing, the checks shall become null and void, and any monies remaining in the distribution account shall be distributed. After this time, the checks shall become null and void, and any monies remaining in the distribution account shall be distributed by the Settlement Administrator California Legal Aid Fund.

### **EXCLUDING MYSELF FROM THE SETTLEMENT**

#### **1. How do I ask the Court to exclude me from the Settlement Class?**

If you do not wish to participate in the Settlement (i.e., “opt out”), you must complete and send a timely letter to the Settlement Administrator (“Opt Out Statement”). The letter must:

- a. Contain your name, address, telephone number, and the last four digits of your Social Security number;
- b. Clearly state that you do not wish to be included in the Settlement by including substantially the words “I opt out of the Bolthouse FCRA settlement; and
- c. Be signed by you.

The letter must be completed, signed, dated and mailed by First Class U.S. Mail, or the equivalent, postmarked no later than April 5, 2020 to:

Bolthouse Farms Background Checks Settlement  
c/o JND Legal Administration  
PO Box 91231  
Seattle, WA 98111

Opt Out Statements that do not include all required information and/or that are not timely submitted will be deemed null, void, and ineffective. Class Members who fail to submit a valid and timely Opt Out Statement on or before April 5, 2020, shall be bound by all terms of the Settlement and any Final Judgment entered in the Actions if the Settlement is approved by the Court.

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**2. If I exclude myself, can I get anything from the Settlement?**

No. If you exclude yourself now you will not get anything from the Settlement. If you ask to be excluded, you will not get a settlement payment and you will not be bound by the Settlement, including the release of claims.

**3. If I don't exclude myself, can I sue later?**

No. Unless you exclude yourself, you give up the right to sue Bolthouse for the Released Claims arising during the Class Period. You must exclude yourself from the Settlement Class to start or continue your own lawsuit.

**OBJECTING TO THE SETTLEMENT**

**1. How do I object to the Settlement?**

Any Class Member who does not submit an Opt Out Statement may object to the proposed Settlement, or any portion thereof, by completing a written objection ("Objection"). The Objection must be signed and mailed to Bolthouse Farms Background Checks Settlement, c/o JND Legal Administration, PO Box 91231, Seattle, WA 98111 by First Class U.S. Mail, or the equivalent, postmarked no later than April 5, 2020.

To be valid, your Objection must:

- a. Contain your name, address, telephone number, and the last four digits of your Social Security;
- b. State that you wish to be included in the Settlement and do not wish to opt out of the Settlement;
- c. State the basis for your objection;
- d. State the case name and number: *Felix v. Wm. Bolthouse Farms, Inc., et al.*, Case No. 1:19-CV-00312-AWI-JLT;
- e. State whether you or someone on your behalf intends to appear at the Final Approval Hearing; and
- f. Have your signature.

If you do not object in the manner described above, you shall be deemed to have waived any objections to the proposed Settlement, including its fairness or adequacy, the payment of attorney's fees or litigation costs to Class Counsel, the Service Award to the Plaintiffs, and any and all other aspects of the Settlement.

**2. What's the difference between objecting and asking to be excluded?**

You cannot both exclude yourself and object. You can do one or the other, or neither. Objecting is simply telling the Court you do not like something about the Settlement. You can object only if you remain a Class Member. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case and settlement no longer affects you.

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**IF YOU DO NOTHING**

**1. What happens if I do nothing at all?**

If you do nothing, you will automatically receive an Individual Settlement Payment if the Settlement is finally approved as described above and you will be bound by the release described in this Notice.

**THE LAWYERS REPRESENTING YOU**

**1. Do I have a lawyer in this case?**

Yes. The Court has decided that the following lawyers are qualified to represent you and all Class Members for purposes of this Settlement. This means they have been appointed to serve as Class Counsel and represent the Class Members. You do not have to pay anything for Class Counsel's representation for purposes of this Settlement. However, if you want your own lawyer, you are free to hire one at your own expense. Class Counsel's contact information is as follows:

<p><u>Class Counsel:</u> KINGSLEY &amp; KINGSLEY, APC Kelsey M. Szamet, Esq. 16133 Ventura Blvd., Suite 1200 Encino, CA 91436 Telephone: (818) 990-8300 Fax: (818) 990-2903</p>
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**2. How will the costs of the lawsuit and settlement be paid?**

You will not be charged for these lawyers as they will be paid their fees and reimbursed for their advancement of litigation expenses, as awarded by the Court, out of the Settlement Amount. Subject to court approval, Class Counsel will ask the Court to award attorney's fees to compensate them for the work performed for the benefit of the Class up to up to \$39,425. It will separately ask the Court to reimburse litigation costs and expenses of up to \$9,000.

In addition, and subject to Court approval, the attorneys representing Plaintiffs and the Class will ask the Court to authorize an Enhancement Award of up to Five Thousand Dollars (\$5,000) for Plaintiff for his participation in the Actions and for taking on the risk of litigation.

The Court may award less than these amounts. If lesser amounts are awarded, those amounts will be included in the Net Settlement Amount and will be available for distribution to Participating Class Members.

**THE COURT'S FINAL APPROVAL HEARING**

Class Counsel will file with the Court a formal motion for final approval of the proposed settlement further discussing the reasons justifying the settlement as fair and reasonable. After Class Counsel files a motion for final approval, the Court will hold a hearing to decide whether to approve the Settlement. You may attend the hearing and you may ask to speak, but you don't have to.

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**1. When and where will the Court decide whether to approve the settlement?**

The Court will hold a Final Approval Hearing on May 4, 2020 at 9:00 a.m., at the United States District Court for the Eastern District of California, located at 510 19<sup>th</sup> Street, Bakersfield, CA 93301. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If comments or objections have been received, whether or not objectors appear at the hearing, the Court will consider them at this time. The Court will also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take. **Please note the Court reserves the right to change the date of the Final Approval Hearing without any further notice to you. Please check the Court's PACER site at <https://ecf.caed.uscourts.gov> or [www.FelixBolthouseSettlement.com](http://www.FelixBolthouseSettlement.com) to confirm that the date has not been changed.**

If the proposed settlement is approved, the Court will enter an Order and Final Judgment. The Final Judgment will dismiss with prejudice the Released Claims against the Released Parties defined above.

**2. Do I have to come to the hearing?**

No. Class Counsel will answer any questions the judge may have. But you are welcome to come or to have an attorney enter an appearance on your behalf. If you send an Objection, you don't have to come to Court to talk about it. As long as you mailed your Objection on time, the Court will consider it. You will not be charged for the work performed by Class Counsel, the lawyers that the Court decided are qualified to represent you and all Class Members for purposes of this Settlement. You may also pay another lawyer to attend, but it is not required. Class Counsel will not represent you in connection with any Objection.

**GETTING MORE INFORMATION**

**1. How can I receive more information?**

The foregoing is only a summary of the Litigation and the proposed settlement, including the terms describing the release and how settlement payments will be calculated. As explained above, for the precise terms and conditions of the settlement, you may review the settlement agreement by accessing [www.FelixBolthouseSettlement.com](http://www.FelixBolthouseSettlement.com) or the Court's docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.caed.uscourts.gov>. The settlement agreement is attached to the Declaration of Kelsey Szamet filed in Support of Plaintiffs' Application for Preliminary Approval of the settlement. You may also contact the Settlement Administrator, contact Class Counsel, or visit the office of the Clerk of the Court for the United States District Court for the Eastern District of California, 510 19<sup>th</sup> Street, Bakersfield, CA 93301 between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

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c/o JND Legal Administration  
PO Box 91231  
Seattle, WA 98111

Any inquiries concerning this Notice should be addressed to the Settlement Administrator at 844-975-1784 or Class Counsel at (818) 990-8300.

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS**

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