

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS  
AT KANSAS CITY**

**PRAIRIE POINTE ORTHODONTICS,  
P.A., on behalf of itself and all others  
similarly situated,**

**Plaintiff,**

v.

**JORNS & ASSOCIATES, LLC, ZEN  
LIFE HOLDINGS, INC. d/b/a “JORNS  
& ASSOCIATES”, BEN WOOD,  
MALCOLM MENEZES, AND JASON  
CHARLES GUCK A/K/A JASON  
CHARLES,**

**Defendants.**

**Case No. 2:22-cv-2451**

**CLASS ACTION**

**SETTLEMENT AGREEMENT AND RELEASE**

This settlement agreement (the “Settlement Agreement”) is entered into as of August 3, 2023, by and between Plaintiff Prairie Pointe Orthodontics (“Plaintiff”), for itself and on behalf of the class of persons it represents (“Settlement Class,” defined below), and Defendants Jorns & Associates, LLC (“Jorns”), Zen Life Holdings, Inc. (“Zen Life”), Ben Wood, Malcom Menezes, and Jason Charles Guck (with Plaintiff and Defendants collectively referred to herein as the “Parties”). This Settlement Agreement is intended by the Parties to resolve, discharge, and settle the “Released Claims” (defined below), upon and subject to the terms and conditions of this Settlement Agreement, and subject to final approval of the Court fully, finally, and forever.

**I. RECITALS**

The following recitals are material terms of this Settlement Agreement, and all defined terms used in the recitals shall have the meaning provided in Section II, below, except as otherwise defined herein. This Settlement Agreement is made with reference to and in contemplation of the

following facts and circumstances:

**A.** On November 4, 2022, Plaintiff filed a class action complaint in the United States District Court for the District of Kansas, on behalf of itself and a putative class, against Defendant Jorns. The Complaint alleged Jorns violated the Telephone Consumer Protection Act of 1991, as amended by the Junk Fax Prevention Act of 2005, 47 U.S.C. § 227 (“TCPA”), by sending unsolicited fax advertisements that failed to include a compliant opt-out provision (the “Action”).

**B.** On December 20, 2022, Defendant Jorns filed its Answer to the Complaint, denying liability, identifying Defendant Zen Life as the sender of the faxes in question, denying all involvement with (and knowledge of) the alleged fax advertisements, and asserting certain affirmative defenses.

**C.** On December 28, 2022, Plaintiff filed an Amended Complaint adding Zen Life as a defendant.

**D.** On February 9, 2023, Zen Life filed its Answer to the Complaint, denying liability and asserting certain affirmative defenses.

**E.** Thereafter, the Parties engaged in both formal and informal class discovery, and exchanged Rule 26(a)(1) initial disclosures. This included the production of documents pertaining to the sending of the faxes in question, as well as discovery of third parties who were involved in both transmitting the faxes and providing the list of fax numbers to which the faxes were intended to be transmitted.

**F.** On May 3, 2023, Plaintiff filed its Second Amended Complaint adding as individual defendants Ben Wood, Malcom Menezes, and Jason Charles Guck. The Second Amended Complaint is the operative complaint in the Action.

**G.** On May 17, 2023, Defendants Jorns and Zen Life filed their Answers to the Second

Amended Complaint, denying liability and asserting certain affirmative defenses.

**H.** On June 9, 2023, Individual Defendants Wood, Menezes, and Guck filed a motion to dismiss for lack of personal jurisdiction. On June 26, 2023, the Plaintiff filed and the Court granted a motion for an extension of time to respond to the motion to dismiss. That motion has not been resolved and was still pending as of the date of the Parties' settlement.

**I.** On June 14, 2023, the Parties filed a Joint Mediation Notice with the Court confirming that the Parties had scheduled a mediation to be held on July 19, 2023.

**J.** On June 29, 2023, Plaintiff served responses to Interrogatories and Requests for Production served by Jorns.

**K.** On July 14, 2023, Plaintiff served interrogatories and second set of requests for production to Jorns, and served interrogatories to Zen Life.

**L.** On July 19, 2023, the Parties participated in a full-day mediation with a third-party neutral and experienced mediator, Thomas V. Bender (the "Mediator"). As a result of the mediation, the Parties reached agreement as to the principal terms of a settlement, which they embodied in a Term Sheet that counsel for all Parties executed on July 19, 2023.

**M.** On July 21, 2023, the Parties filed a Joint Motion to Stay Deadlines pending entry of a Settlement Agreement.

**N.** On July 24, 2023, for good cause shown, the Court granted the Joint Motion to Stay Deadlines.

**O.** Defendants deny all claims asserted against them in the Action, deny all allegations of wrongdoing and liability, and deny all material allegations in the Second Amended Complaint. Defendants desire to settle the Action on the terms set forth herein solely for the purpose of avoiding the burden, expense, risk, and uncertainty of continuing these proceedings. Defendants

believe that this settlement is fair, reasonable, and adequate, and that the Settlement Agreement should be approved by the Court under Rule 23 of the Federal Rules of Civil Procedure.

**P.** Plaintiff and Plaintiff's Counsel Joey P. Leniski and Anthony A. Orlandi (at the law firm of Herzfeld, Suetholz, Gastel, Leniski and Wall, PLLC) and Richard Fisk (at the law firm of Beam-Ward, Kruse, Wilson & Fletes, LLC) ("Class Counsel") have investigated the facts and law underlying the claims asserted in the Action and believe that the claims have merit. Nonetheless, Plaintiff and Class Counsel recognize and acknowledge the expense, time, risk, and uncertainty associated with continued prosecution of the Action against Defendants through class certification, dispositive motions, trial, and any subsequent appeals. Plaintiff and Class Counsel have also taken into account the sharply contested issues involved, and the risks, uncertainty and difficulties inherent in litigation, especially in complex actions. Therefore, Plaintiff and Class Counsel believe that it is desirable that the Released Claims be fully and finally compromised, settled, dismissed with prejudice, and barred pursuant to the terms set forth herein. Based on their evaluation, Plaintiff and Class Counsel have concluded that the terms and conditions of this Settlement Agreement are fair, reasonable, and convey substantial benefits to the Settlement Class, and that it is in the best interests of the Settlement Class to settle the Released Claims, as defined herein, pursuant to the terms and provisions of this Settlement Agreement, under Rule 23 of the Federal Rules of Civil Procedure.

**Q.** The Parties agree that the Action was resolved in good faith, following arm's-length bargaining presided over by the Mediator, and that the settlement reflected herein confers substantial benefits upon the Parties and the Settlement Class.

**R.** Class Counsel have not been retained by any client other than Plaintiff for purposes of pursuing claims against Defendants related to the sending of unsolicited faxes, nor does Class

Counsel have any intent to advertise or otherwise seek any prospective clients to pursue such claims.

**S.** This Settlement Agreement incorporates agreements contained in the Term Sheet and other issues not addressed in the Term Sheet or otherwise previously resolved.

**T.** The Parties understand, acknowledge, and agree that the execution of this Settlement Agreement constitutes the settlement and compromise of disputed claims. This Settlement Agreement is inadmissible as evidence against any party except to enforce the terms hereof and is not an admission of wrongdoing or liability on the part of any party hereto. It is the Parties' desire and intention to effect a full, complete, and final settlement and resolution of all existing disputes and claims as set forth herein.

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED** by and among the Parties, by and through their undersigned respective counsel, subject to final approval by the Court after a hearing or hearings as provided for in this Settlement Agreement and as may be ordered by the Court, and in consideration of the benefits flowing from the Settlement Agreement 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, upon and subject to the terms and conditions of this Settlement Agreement.

## **II. DEFINITIONS**

1. **“Cash Award”** means a cash payment to an Eligible Settlement Class Member, pursuant to Section III.D, below.

2. **“Claim Form”** means the claim form that is to be provided to the Settlement Class, subject to approval by the Court, substantially in the form attached hereto as **Exhibit A** or in such form as may be ordered by the Court.

3. **“Claim Period”** means the period of time in which a Settlement Class Member may submit a Claim Form, which must be properly completed so that a Settlement Class Member is eligible to receive a Cash Award as part of the settlement. The last day of the Claim Period will be sixty (60) days following the first date of dissemination of the Class Notice or such other time as may be ordered by the Court.

4. **“Claims Administrator”** means the settlement and claims administrator selected by Class Counsel pursuant to Section III.M, below, subject to approval by the Court.

5. **“Class Counsel”** means:

Joe P. Leniski, Jr.  
Anthony (“Tony”) Orlandi  
HERZFELD, SUETHOLZ, GASTEL, LENISKI AND WALL, PLLC  
The Freedom Center  
223 Rosa Parks Ave., Ste. 300  
Nashville, TN 37203

Richard S. Fisk  
BEAM-WARD, KRUSE, WILSON & FLETES, LLC  
8645 College Blvd., Suite 250  
Overland Park, Kansas 66210

6. **“Class Representative”** means Prairie Pointe Orthodontics, P.A.

7. **“Class Notice”** means notice of this Settlement Agreement and Final Approval Hearing, and any exhibits thereto, which is to be provided to the putative Settlement Class Members by various means pursuant to this Agreement, including Fax Notice, Website Notice, and any additional notice that might be ordered by the Court.

8. **“Court”** means the United States District Court for the District of Kansas.

9. **“Cy Pres Distribution”** means monies that may be distributed from the Settlement Fund if any such monies remain in the Settlement Fund after payment of Settlement Administration Costs, Fee Award, Service Award, and Cash Awards, pursuant to Section III.E.

10. **“Defendants’ Counsel”** means:

**For Zen Life:**

Sean D. Walsh  
HINKLE LAW FIRM  
1617 North Parkway, Suite 400  
Wichita, Kansas 67206  
swalsh@hinklaw.com

Brian E. Whiteley  
Barclay Damon LLP  
160 Federal Street, Suite 1001  
Boston, MA 02110

Kyra E. Ganswith  
80 State Street  
Albany, NY 12207

**For Jorns:**

Patrick A. Edwards  
Stinson LLP  
1625 North Waterfront Parkway, Suite 300  
Wichita, Kansas 67206-6620

Andrew J. Scavotto  
Stinson LLP  
7700 Forsyth Boulevard, Suite 1100  
St. Louis, Missouri 63105

11. **“Effective Date”** means the date provided for in Section III.Q.
12. **“Eligible Settlement Class Member”** means a Settlement Class Member who timely submits a complete and accurate Claim Form or on whose behalf such a Claim Form has been submitted to the Claims Administrator, pursuant to Section III.D.
13. **“Fax Notice”** means the notice that will be provided to putative Settlement Class Members pursuant to Section III.I.2.a, subject to approval by the Court, substantially in the form attached hereto as **Exhibit B** or in such other form as may be ordered by the Court. The Fax Notice shall direct recipients to the address of the Settlement Website, which will host a more detailed

form of the Notice, substantially in the form attached hereto as **Exhibit C**.

14. **“Fee Award”** means the amount of attorneys’ fees and reimbursement of expenses awarded by the Court to Class Counsel.

15. **“Final Approval Hearing”** means the hearing before the Court at or after which the Court will make a final decision whether to approve the proposed settlement set forth herein as fair, reasonable, and adequate.

16. **“Final Approval Order and Judgment”** means the order to be submitted to the Court in connection with the Final Approval Hearing, substantially in the form attached hereto as **Exhibit D** or in such form as may be ordered by the Court, and entered by the Court following the Final Approval Hearing.

17. **“Medical Fax List”** means the list of medical providers supplied by AdverFax that was used in transmitting the faxes in question, which was attached to the Declaration of Robert Martino dated May 30, 2023.

18. **“Net Settlement Fund”** means the Settlement Fund less any Settlement Administration Costs of the Claims Administrator, Service Award, and Fee Award.

19. **“Notice Plan”** means the plan, as set forth in Section III.I.2, and as executed and administered by the Claims Administrator, for disseminating notice to putative Settlement Class Members regarding the Settlement Agreement and of the Final Approval Hearing.

20. **“Preliminary Approval Hearing”** means the hearing at or after which the Court will make a preliminary decision whether to approve the settlement set forth in this Settlement Agreement as fair, adequate, reasonable, and within the reasonable range of possible final approval.

21. **“Preliminary Approval Order”** means the document substantially in the form



attached hereto as **Exhibit E** or such other order that may be entered by the Court, for purposes of preliminarily approving the Settlement Agreement, certifying the Settlement Class solely for settlement purposes, and approving the form of the Notice and Notice Plan.

22. **“Released Claims”** means any and all actions, causes of action, suits, debts, sums of money, claims, controversies, and demands whatsoever, in law or in equity, whether known or unknown, which the Releasing Parties ever had, now have, or hereafter can, shall or may have against the Released Parties, including all claims that were or could have been asserted in the Action.

23. **“Releasing Parties”** means the Plaintiff, Settlement Class Members, and other parties defined in Section III.N who do not otherwise timely opt-out of the Settlement Class (whether or not such members submit claims).

24. **“Released Parties”** means Defendants and other parties defined in Section III.N.

25. **“Service Award”** means an award to the Class Representative in an amount to be determined by the Court, in its sole discretion, as referenced in Section III.F.

26. **“Settlement Fund”** means the sum of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) that Defendants have agreed to pay pursuant to the terms of this Settlement Agreement, including but not limited to Section III.A below.

27. **“Settlement Class”** means all persons, natural or otherwise, in the United States and its territories who, (1) from October 12, 2018 to the present, (2) were sent one or more facsimile transmissions substantially in the form attached as **Exhibit A** to the Second Amended Complaint. Excluded from the Class are: (1) Jorns & Associates, LLC, Zen Life Holdings, Inc. and any entity in which Jorns & Associates, LLC or Zen Life Holdings, Inc. has a controlling interest, Ben Wood, Malcom Menezes, Jason Charles Guck, and their legal representatives,

officers, directors, assignees, and successors, and any co-conspirators; (2) any judge or justice to whom this action is assigned, together with any relative of such judge or justice within the third degree of relationship, and the spouse of any such person; and (3) any persons who validly opt-out of the Settlement Class.

28. **“Settlement Class Member”** means any individual or entity who is included within the definition of the Settlement Class and who has not submitted a valid request for exclusion.

29. **“Settlement Administration Costs”** means: (1) all costs of providing notice to persons in the Settlement Class (including, but not limited to, costs for Fax Notice, the Settlement Website, and any additional notice that might be ordered by the Court); (2) all costs of administering the settlement, including, but not limited to, the cost of printing and mailing Cash Awards, Claim Forms, the cost of maintaining a designated post office box for receiving Claim Forms, the costs of maintaining a webpage to process Claim Forms, and the costs (including anticipated or projected costs) of administering the settlement through completion, including the distribution of *Cy Pres* funds, if any; and/or (3) the fees, expenses, and all other costs of the Claims Administrator.

30. **“Settlement Website”** means the website that the Claims Administrator will establish as soon as practicable following entry of the Preliminary Approval Order, but prior to the commencement of any Class Notice, as a means for putative Settlement Class Members to obtain notice of and information about the settlement, through and including hyperlinked access to this Settlement Agreement, the full length form of notice (the “Website Notice,” which will be subject to approval by the Court, substantially in the form attached hereto as **Exhibit C** or in such other form as may be ordered by the Court), Claim Form, the Preliminary Approval Order, and such

other documents as Class Counsel and Defendants' Counsel agree to post or that the Court orders posted on the website. These documents shall remain on the Settlement Website at least until the date the Court issues its order following the Final Approval Hearing.

### **III. TERMS OF SETTLEMENT**

**A. Settlement Consideration.** Pursuant to this Settlement Agreement, as full and complete consideration for the settlement, Defendants agree to provide a Settlement Fund in the amount of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) for the purpose of making payments with respect to: (a) all Eligible Settlement Class Members under this Settlement Agreement; (b) all Settlement Administration Costs; (c) any Service Award to the Class Representative; and, (d) any Fee Award to Class Counsel (collectively, the "Settlement Payments"). Defendants also agree to be enjoined under Rule 23(b)(2) from engaging in future conduct involving facsimile advertising and promotion which would violate the Telephone Consumer Protection Act. Defendants will fund the Settlement Fund as follows: within seven (7) days following the Court's entry of the Preliminary Approval Order, Defendants will transfer all funds to the Claims Administrator (via wire transfer instructions provided by the Claims Administrator to Defendants). The Settlement Fund shall be held by the Claims Administrator in escrow (or such other restricted access account to which the Parties may agree) for the benefit of the Eligible Settlement Class Members and to provide for the payments set forth in this Settlement Agreement, subject to Court approval. Also, except as provided in Section III.B., no portion of the Settlement Fund shall revert to Defendants.

**B. Settlement Not Approved.** If this Settlement Agreement is not presented for approval, is not finalized for any reason, or does not become effective for any reason, the Parties shall be returned to their respective positions at the date of the signing of this Settlement

Agreement and this Settlement Agreement shall be of no force or effect. In such event, any Final Approval 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*, and the Parties shall be returned to the *status quo ante* with respect to the Action as if no settlement had occurred. In addition, should this Settlement Agreement not be approved, finalized, or not become effective for any reason, and regardless of fault, all monies paid by Defendants pursuant to Section III.A., but not yet spent or contractually obligated as payment for Notice, shall be refunded along with any and all accrued interest to Defendants within fifteen (15) days of the event that prevents or precludes the Settlement Agreement from becoming effective. In the event the Settlement Agreement does not receive final approval, Defendants will not be entitled to any refund of any costs paid for class notice.

**C. Payments from the Settlement Fund.** The Settlement Payments shall be paid out of the Settlement Fund. The *Cy Pres* Distribution shall be paid out of the Net Settlement Fund. The Settlement Fund shall first be reduced by the Settlement Administration Costs, Fee Award, and Service Award prior to making any Cash Awards to Eligible Settlement Class Members pursuant to Section III.D.

**D. Claims For Cash Awards.**

1. Cash Awards. Cash Awards shall be made to Eligible Settlement Class Members.
2. Conditions For Filing a Claim for a Cash Award. Any Settlement Class Member with a claim for a Cash Award must timely submit or have timely submitted on the Class Member's behalf a Claim Form to the Claims Administrator. The Claim Form may be submitted to the Claims Administrator by mail, email, facsimile transmission to a designated facsimile phone number, via the Settlement Website, or any other method approved by the Court. The Settlement

Claims Administrator will have no obligation to honor any Claim Form or information not submitted by a method not approved by the Court. Any suggestion of denial of claims will be provided to Class Counsel in writing. If the Parties cannot agree upon which claims should be denied, then the Parties shall submit the issue to the Court for determination at Final Approval.

To be considered fully executed, the Claim Form must contain all of the information set forth in the Claim Form approved by the Court. The Parties attach as **Exhibit A** hereto a copy of the Claim Form they intend to present to the Court for approval. Only one Claim Form will be honored per Settlement Class Member, regardless of the number of facsimiles directed to the Settlement Class Member, or the number of facsimile numbers to which the Settlement Class Member received a facsimile.

3. Time To Submit a Claim for a Cash Award. In order to be deemed timely, signed Claim Forms and all required information must be submitted via a method approved by the Court, which will be specified in the Claim Form. If a timely submitted Claim Form fails to be fully and accurately completed, or the Claim Form otherwise fails to provide the necessary information required by the Court, the Claims Administrator will send the Settlement Class Member notice of the defect in the Claim Form or information. The Settlement Class Member shall be permitted to re-submit a new Claim Form or provide additional information but, to be valid, the new Claim Form and information must be completed fully and accurately and submitted to the Claims Administrator via a method approved by the Court before the last date of the Claim Period. The Claim Period may be extended only by order of the Court.

4. Calculation of Cash Awards. Each Eligible Settlement Class Member may be entitled to receive a Cash Award. The amount of the Cash Award to each Eligible Settlement Class Member will be based on the Eligible Settlement Class Member's *pro rata* share of the

amount of the Net Settlement Fund, as computed against the number of timely Claim Forms submitted by all Eligible Settlement Class Members

5. Distribution of Cash Awards. As soon as practicable, but no later than sixty (60) days following the Effective Date, Cash Awards shall be mailed by the Claims Administrator to Eligible Settlement Class Members. The Claims Administrator shall mail, by first class mail, a check to each Eligible Settlement Class Member. Checks will be valid for 120 days from the date on the check. The amounts of any checks that remain uncashed more than 120 days after the date on the check will be reissued to Eligible Settlement Class Members, if practical, or paid as *Cy Pres* Distribution pursuant to Section III.E.

**E. Cy Pres.**

1. Cy Pres Distribution. If Fifty Thousand Dollars (\$50,000.00) or less remains in the Settlement Fund after payment of the Settlement Payments, including any amounts resulting from checks that remain uncashed more than 120 days after the date on the check, such remaining amount in the Settlement Fund will comprise the *Cy Pres* Distribution. If more than Fifty Thousand Dollars (\$50,000.00) remains in the Settlement Fund after payment of the Settlement Payments, the remaining amount shall be distributed on a *pro rata* basis to each Eligible Settlement Class Member approved to receive a Cash Award, if doing so is administratively feasible. Any remaining money left in the Settlement Fund following this reissue, if any, including funds from uncashed checks, shall be paid out as a *Cy Pres* distribution.

2. Timing and Selection Procedures. The *Cy Pres* Distribution, if any, shall be made no later than three hundred sixty-five (365) days following the Effective Date. Plaintiff shall propose a *Cy Pres* recipient and submit that recipient for the Court's approval. In no event shall any unclaimed amounts remaining in the Settlement Fund revert to Defendants.

**F. Service Award.** In recognition of its effort on behalf of the Settlement Class, the Class Representative shall be entitled to request a service award in an amount to be determined by the Court, in its sole discretion. Class Counsel intends to request that the Class Representative be awarded up to Ten Thousand Dollars (\$10,000). Plaintiff agrees to accept, and will not oppose or appeal, an award of a lesser amount by the Court. Any service award approved by the Court shall be paid out of the Settlement Fund within five (5) days following the Effective Date. Court approval of the Service Award, or its amount, will not be a condition of the settlement. In addition, no interest will accrue on such amounts at any time. Defendants and/or Defendants' counsel agree not to take any position with respect to the payments described in this paragraph.

**G. Attorneys' Fees and Costs.** Plaintiff shall move the Court for an award of attorneys' fees and costs at least fourteen (14) days prior to the putative Settlement Class Members' deadlines to object to or exclude themselves from the Settlement. Subject to the Court's approval, the Settlement Fund shall be used to pay the Fee Award to Class Counsel. Class Counsel shall apply, subject to the approval of the Court, for attorneys' fees of up to one-third (33.33 percent) (or Eight-Hundred Thirty-Three Thousand Two Hundred and Fifty Dollars (\$833,250)) of the Settlement Fund, as well as for reimbursement of its reasonable expenses incurred in pursuing the litigation through final approval. Any Fee Award approved by the Court shall be paid out of the Settlement Fund within five (5) days following the Effective Date. Court approval of attorneys' fees and costs is not a condition of the settlement. In addition, no interest will accrue on such amounts at any time. Defendants and/or its counsel agree not to take any position with respect to the award described in this paragraph.

**H. Preliminary Approval.**

1. Preliminary Certification of Settlement Class. Plaintiff, Class Counsel, and

Defendants stipulate that, for the purposes of settlement only, the requirements of Federal Rules of Civil Procedure 23(a), 23(b)(2), and 23(b)(3) are satisfied and that the Court may properly certify the Settlement Class.

2. Preliminary Approval Motion. Promptly following execution of this Settlement Agreement, but no later than thirty (30) days following the execution of this Settlement Agreement, Plaintiff will move the Court for entry of the Preliminary Approval Order, which shall specifically include provisions that: (1) preliminarily approve the settlement reflected herein as fair, adequate, reasonable, and within the reasonable range of possible final approval; (2) conditionally certify the Settlement Class for settlement purposes only and appoint Class Counsel as counsel for the Settlement Class and Plaintiff as Class Representative; (3) approve the form of Class Notice and find that the Notice Plan set forth herein is appropriate and constitutes the best notice reasonable and practicable under the circumstances, is due and sufficient notice to the Settlement Class, and fully satisfies the requirements of due process and Federal Rule of Civil Procedure 23; (4) establish a procedure for putative Settlement Class Members to object to the settlement or exclude themselves from the Settlement Class, and set a date following entry of the Preliminary Approval Order, after which no one shall be allowed to object to the settlement or opt-out/exclude himself or herself from the Settlement Class or seek to intervene in the Action; (5) approve the Claim Form and the claims submission process described herein; (6) finally certify the Settlement Class; (7) pending final determination of whether the settlement should be approved, bar all persons in the Settlement Class, directly, on a representative basis, or in any other capacity from commencing or prosecuting against any of the Released Parties any action, arbitration, or proceeding in any court, arbitration forum, or tribunal asserting any of the Released Claims; (8) authorize the Parties, without further approval from the Court, to agree to and adopt



such conforming amendments, modifications, and expansions of the Settlement Agreement and its implementing documents (including all exhibits to this Settlement Agreement) so long as they are consistent in all material respects with the terms of the Final Approval Order and Judgment; (9) pending final determination of whether the settlement should be approved, stay all proceedings in the Action, except those related to the effectuation of the settlement; and (10) schedule a Final Approval Hearing no earlier than 100 days after entry of the Preliminary Approval Order, or such other time as the Court shall set. Defendants agree not to oppose and to cooperate in good faith with the filing of preliminary approval motion.

**I. Class Notice.**

1. Upon entry of the Preliminary Approval Order, the Claims Administrator shall cause the Notice to be disseminated to putative Settlement Class Members. Such Notice shall comport with Rule 23 of the Federal Rules of Civil Procedure, and be effectuated pursuant to the Notice Plan, the costs of which shall be deemed part of the Settlement Administration Costs, and which shall be paid from the Settlement Fund.

2. Notice Plan. The Notice Plan includes:

a. *Fax Notice.* Subject to approval by the Court, as requested by Plaintiff and in conformity with all applicable state and federal laws, within thirty (30) days following entry of the Preliminary Approval Order the Claims Administrator will provide Fax Notice in the form attached hereto as **Exhibit B** to putative Settlement Class Members, using the numbers on the Medical Fax List. If any Class Notice is deemed undeliverable, then the Claims Administrator may attempt to locate the current or former provider of the fax number using the NPI database. If any such search locates an updated provider of the fax number, the Claim Administrator shall forward the Class Notice to the fax number obtained from the search.

b. *Settlement Website.* Within thirty (30) days following entry of the Preliminary Approval Order, the Claims Administrator will establish and maintain the Settlement Website. The Settlement Website shall contain a link to the Website Notice and provide for online submission of Claim Forms. The Settlement Website will become active after entry of the Preliminary Approval Order and shall remain active at least until the date of the Final Approval Hearing.

3. Payment of Class Notice. Except as otherwise provided herein, all costs for Class Notice are Settlement Administration Costs and shall be paid from the Settlement Fund. In the event the Settlement Agreement does not receive final approval, Defendants will not be entitled to a refund of any costs paid for Class Notice.

4. CAFA Notice. No later than ten (10) days after the filing of the motion to enter the Preliminary Approval Order, Defendants shall provide the notice required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715 et seq. (“CAFA Notice”) and shall advise Class Counsel of the date the CAFA Notice is sent.

**J. Exclusion From Settlement.**

1. Deadline. Persons in the Settlement Class may opt-out/exclude themselves from this settlement by submitting a written request containing all of the information described in Paragraph 2 of Section III.J, below, to the Claims Administrator by mail, fax, or via the Settlement Website. To be valid, opt-out requests must contain all of the information described below and be sent to the Claims Administrator not later than forty-five (45) days following the date of dissemination of the Class Notice.

2. Exclusion Requests. Exclusion requests must: (a) be signed (if sent by mail or fax) or electronically signed (if submitted via the Settlement Website); (b) include the full name, address, and fax number of the person(s) requesting exclusion; and (c) include the following

statement: “I/we request to be excluded from the class settlement in *Prairie Pointe Orthodontics, P.A., v. Jorns & Associates, LLC., et al.*, Case. No. 2:22-cv-2451.” No exclusion request will be valid unless all of the information described above is included. A request to be excluded that is sent by means other than that designated in the notice, or that is not timely received by the Claims Administrator, shall be invalid. No putative Settlement Class Member, or any person acting on behalf of or in concert or participating with that person, may exclude any other putative Settlement Class Member from the Settlement Class. So-called “mass” or “class” opt-outs shall not be allowed. Any putative Settlement Class Member who elects to be excluded shall not: (i) be bound by the Final Approval Order and Judgment; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Settlement Agreement; or (iv) be entitled to object to any aspect of this Settlement Agreement.

3. Delivery To Court. The Claims Administrator will retain a copy of all exclusion requests. Not later than ten (10) days before the Final Approval Hearing, the Claims Administrator shall file with the Court a declaration that lists all of the exclusion requests received.

**K. Objections to the Settlement.**

1. Right To Object. A Settlement Class Member may appear at the Final Approval Hearing to argue that the proposed settlement should not be approved and/or to oppose the application of Class Counsel for an award of attorneys’ fees and/or the service award to the Plaintiff only if the Settlement Class Member complies with the requirements set forth herein.

2. Deadline. To be heard, the Settlement Class Member must make any objection in writing and file it with the Court not later than forty-five (45) days following the date of dissemination of the Class Notice. In order to be heard, the objection must also be mailed to the Claims Administrator.

3. Content of Objection. For an objection to be considered by the Court, the objection must set forth: (1) the name and case number of the Action; (2) the objector's full name, address, their facsimile phone number, and cellular telephone number or other telephone number where the objector may be reached; (3) an explanation of the basis upon which the objector claims to be a Settlement Class Member; (4) all grounds for the objection in writing, accompanied by any legal support for the objection known to the objector or his or her counsel; (5) all exhibits he/she intends to introduce into evidence at the hearing on Final Approval, which shall be attached; (6) the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection; (7) the identity of all counsel representing the objector who will appear at the Final Approval Hearing or who has a financial interest in the objection; (8) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection; (9) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and (10) the objector's signature (an attorney's signature is not sufficient). Settlement Class Members who wish to appear in person or by counsel at the Final Approval Hearing must file with the Court and serve on Class Counsel and counsel for Defendants at least fifteen (15) days before the Final Approval Hearing a notice of their intent to appear.

**L. Final Approval.** Following the provision of Class Notice and expiration of the time for submission of Claim Forms, exclusions, and objections, and at least fourteen (14) days prior to the Final Approval Hearing, Plaintiff shall file a motion requesting that the Court enter the Final Approval Order and Judgment, which shall specifically include provisions that: (1) finally approve the settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class; (2) find that the Court has personal jurisdiction over all Settlement Class Members and that

the Court has subject matter jurisdiction to approve this Settlement Agreement, including all exhibits hereto; (3) find that the Class Notice as given was the best notice practicable under the circumstances, is due and sufficient notice to the Settlement Class, and fully satisfies the requirements of due process and Federal Rule of Civil Procedure 23; (4) find that the Class Representative and Class Counsel adequately represented the Settlement Class for purposes of entering into and implementing the Settlement Agreement; (5) approve the Claim Form; (6) confirm that the Releasing Parties have released all Released Claims and are permanently barred and enjoined from asserting, commencing, prosecuting, or continuing any of the Released Claims against the Released Parties; and (8) dismiss the Action (including, without limitation, all individual claims, Settlement Class Member claims, and Released Claims asserted therein against the Released Parties) with prejudice, subject to the Court retaining jurisdiction over the enforcement of the terms of this Agreement; and (9) incorporate any other provision, as the Court deems necessary and just. Defendants agree not to oppose and to cooperate in good faith with the filing of final approval motion to the extent that it conforms to the Settlement Agreement.

**M. Administration of the Settlement.** Subject to Court approval, the settlement administration process, including provision of Class Notice and calculation and distribution of Cash Awards, will be conducted by the Claims Administrator. Class Counsel in its sole discretion will select a Claims Administrator, who shall be subject to Court approval. Defendants will reasonably cooperate with Class Counsel and the Claims Administrator's efforts to transmit Class Notice and administer the settlement. The Claims Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Claims Administrator shall maintain all such records as are required by applicable law in accordance with its normal business practices, including but not limited to a summary of work performed by the Claims Administrator, including

an accounting of all amounts paid from the Settlement Fund to Settlement Class Members. Such records will be provided to Class Counsel and Defendants' Counsel and to the Court along with the motion for Final Approval and Judgment. Without limiting the foregoing, the Claims Administrator shall receive objections and exclusion forms and, in such event, shall promptly provide to Class Counsel and Defendants' Counsel copies thereof. In the exercise of its duties outlined in this Agreement, the Claims Administrator shall have the right to reasonably request additional information from the Parties or any Settlement Class Member.

**N. Releases.** Upon the Effective Date of the Settlement (as set forth in Section III.Q), each Settlement Class Member (other than those who submit valid and timely opt-outs) will release and forever discharge Defendants, together with all of their current and former parents, subsidiaries, affiliates, officers, directors, stockholders, employees, administrators, assigns, agents, members, owners, managers, heirs, predecessors, successors, attorneys, and representatives for all causes of action relating in any way to the Released Claims.

Upon the Effective Date of the Settlement (as set forth in III.Q), Defendants release all claims of any kind or nature that have been or could have been asserted against the Class Representative, any Settlement Class Member (other than those who submit valid and timely opt-outs), or Class Counsel relating in any way to the Released Claims (other than those who submit valid and timely opt-outs).

Without limiting the foregoing, the Released Claims specifically extend to claims that the Releasing Parties do not know or suspect to exist in their favor at the time that the Settlement Agreement, and the releases contained therein, becomes effective. This Paragraph constitutes a waiver of, without limitation as to any other applicable law, section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

The Releasing Parties understand and acknowledge the significance of these waivers of California Civil Code section 1542 and any other applicable federal or state statute, case law, rule, or regulation relating to limitations on releases. In connection with such waivers and relinquishment, the Releasing Parties acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts that they now know or believe to be true with respect to the subject matter of the settlement, but that it is their intention to release fully, finally, and forever all Released Claims with respect to the Released Parties, and in furtherance of such intention, the releases of the Released Claims will be and remain in effect notwithstanding the discovery or existence of any such additional or different facts.

**O. Stay/Bar of Other Proceedings.** All proceedings in the Action will be stayed following entry of the Preliminary Approval Order, except as may be necessary to implement the settlement or comply with the terms of the Settlement Agreement. Pending determination of whether the Settlement Agreement should be granted final approval, the Parties in the Action agree not to pursue any claims or defenses otherwise available to them, and no person in the Settlement Class, either directly, on a representative basis, or in any other capacity, will commence or prosecute against any of the Released Parties any action or proceeding asserting any of the Released Claims. The proposed order submitted with a motion for preliminary approval will contain an injunction enjoining the commencement or prosecution of Released Claims by persons in the Settlement Class or persons purporting to act on their behalf pending final approval of the Agreement. The Settlement Agreement will be conditioned upon the entry of such an injunction.

Defendants shall provide notice of such injunction in any jurisdiction in which an action asserting claims subject to the injunction is pending and in which they are named individually or collectively.

**P. Termination of Settlement.** To the extent that the terms of Paragraph Q below are not fulfilled, Defendants, or the Class Representative on behalf of the Settlement Class, shall have the right to request the termination of this Settlement Agreement by filing a written request to do so with the Court and serving a copy of such written request on all other Parties hereto within ten (10) business days of any Parties' actual notice of: (i) the Court's refusal to enter a Preliminary Approval Order; or (ii) the Court's refusal to enter a Final Approval Order and Judgment or any appellate Court's refusal to uphold the Final Approval Order and Judgment in any respect. Upon effective termination, the balance of the Settlement Fund not expended on Notice, as provided in Sections III.B, shall be returned to Defendants.

**Q. Conditions of Settlement, Effect of Disproval, Cancellation, or Termination.**

1. The Effective Date of this Settlement Agreement shall not occur unless and until each of the following events has occurred and shall be the date upon which the last (in time) of the following events occurs:
  - a. This Agreement has been signed by Plaintiff, Defendants, Class Counsel, and Defendants' Counsel;
  - b. The Court has entered the Preliminary Approval Order;
  - c. Following Notice to the Settlement Class and a Final Approval Hearing, the Court has entered the Final Approval Order and Judgment (or a final approval order and judgment consistent with this Agreement); and
  - d. The final disposition of any related appeals of final judgment has occurred, or in the case of no appeals or review being filed, the date of expiration of the applicable appellate period.
2. If any one or all of the conditions specified in Section III.Q.1 is not met, or in the



event that this Settlement Agreement is not approved by the Court, then this Settlement Agreement shall be canceled and terminated and be deemed null and void unless Class Counsel and Defendants mutually agree in writing to proceed with the settlement on such mutually agreeable alternative terms as approved by the Court.

3. If this Agreement is terminated or fails to become effective, the Parties shall be restored to their respective positions in the Action as of the date of the signing of this Settlement Agreement. In such event, any Final Approval 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*, and the Parties shall be returned to the *status quo ante* with respect to the Action, as if this Settlement Agreement had never been entered into.

**R. Return of Produced Documents.** It is agreed that, within thirty (30) days after the Effective Date, the originals and all copies of all documents produced by the opposing party in the Action, whether in paper or electronic form, shall be returned to the producing party or certified by the recipient as having been destroyed.

**S. Non-Disparagement.** Plaintiff and Class Counsel agree that neither they nor their respective agents, subsidiaries, affiliates, successors, assigns, directors, officers, or key employees will take any action designed or reasonably foreseeable to disparage, call into disrepute, defame, slander, or otherwise criticize Defendants and/or Defendants' counsel regarding any issue related in any way to the Action or this settlement. Defendants agree that neither they nor their respective agents, subsidiaries, affiliates, successors, assigns, directors, officers, or key employees will take any action designed or reasonably foreseeable to disparage, call into disrepute, defame, slander, or otherwise criticize Plaintiff and Class Counsel regarding any issue related in any way to the Action or this settlement. Plaintiff and Class Counsel may make public statements to the Court as

necessary to obtain preliminary or final approval of the settlement. This provision shall not prohibit Class Counsel from communicating with any Settlement Class Member regarding the Action or the Settlement Agreement, or in responding to inquiries or objections raised by the Settlement Class or third parties. This provision shall not prohibit any party from publicizing the fact of this settlement on its website and social media accounts, responding to media inquiries about the settlement, or from noting in filings with courts in support of appointment as class counsel in other matters.

**T. General Matters.**

1. Agreement to Effectuate This Settlement. The Class Representative, Class Counsel, Defendants, and Defendants' counsel agree to undertake their reasonable best efforts to effectuate this Settlement Agreement, including: (i) all steps that may be appropriate or necessary to secure the Court's preliminary and final approvals and entry of the Preliminary Approval Order and the Final Approval Order and Judgment and (ii) all steps that may be appropriate or necessary to oppose any challenges to or appeals from the Court's orders approving the Settlement Agreement.

2. No Admission of Liability. It is expressly declared that the Released Parties deny any liability and are settling to avoid the cost, risk, uncertainty, and inconvenience of litigation.

3. Evidentiary Preclusion. Neither this Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of the settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Released Parties; (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of the Released Parties in any civil, criminal, or administrative proceeding in any court, administrative agency, or other forum; (c) is,

may be deemed, or shall be construed against Plaintiff and the Settlement Class, or each or any of them, or against the Released Parties, or each or any of them, as an admission, concession, or evidence 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 (d) is, may be deemed, or shall be construed against Plaintiff and the Settlement Class, or each or any of them, or against the Released Parties, or each or any of them, as an admission, concession, or evidence that any of Plaintiff's or the Settlement Class claims are with or without merit or that damages recoverable in the Action would have exceeded or would have been less than any particular amount. The Released Parties may file this Settlement Agreement and/or the judgment in any action or proceeding that may be brought against them to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar, reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

4. Parties Authorized to Enter Into Settlement Agreement. Each person executing the Settlement Agreement on behalf of a party hereto covenants, warrants, and represents that he or she is and has been fully authorized to do so by such party. Each party hereto represents and warrants that he, she, or it intends to be bound fully by the terms of this Settlement Agreement.

5. Time Periods. The time periods and dates described in this Settlement Agreement with respect to the giving of Class Notice and hearings are subject to approval and modification by the Court.

6. Fees and Costs. Except as otherwise provided herein, each party hereto shall bear its own costs and attorneys' fees.

7. Agreement Binding on Successors in Interest. This Settlement Agreement is

binding on and shall inure to the benefit of the respective heirs, successors, and assigns of the Parties.

8. Signatures. The Parties and their counsel may sign separate copies of this Settlement Agreement, which together will constitute one agreement. In addition, signatures sent in pdf format, by email, or by facsimile constitute sufficient execution of this Settlement Agreement.

9. Execution in Counterparts. This Settlement Agreement is effective upon its execution by all Parties. The Parties may execute this Settlement Agreement in counterparts. Each counterpart shall be deemed to be an original, and the execution of counterparts shall have the same force and effect as if all Parties had signed the same instrument.

10. Entire Agreement. This Settlement Agreement contains the entire agreement between the Parties and supersedes all prior understandings, agreements, or writings regarding the subject matter hereof. This Settlement Agreement may be amended or modified only by a written instrument signed by all Parties or their successors in interest or their duly authorized representatives.

11. Confidentiality. The Parties will keep the settlement terms strictly confidential until the filing of a motion with the Court to preliminarily approve the Settlement Agreement.

**U. Miscellaneous Provisions.**

1. Each and every Exhibit to this Settlement Agreement is incorporated herein by this reference as though fully set forth herein.

2. Unless the context of this Settlement Agreement requires otherwise, the plural includes the singular, the singular includes the plural, and “including” has the inclusive meaning of “including without limitation.” The words “hereof,” “herein,” “hereby,” “hereunder,” and other

similar terms of this Settlement Agreement refer to this Settlement Agreement as a whole and not exclusively to any particular provision hereof. All pronouns and any variations thereof will be deemed to refer to masculine, feminine, or neuter, singular, or plural, as the identity of the person or persons may require.

3. The waiver by one party of any breach hereof by any other party shall not be deemed a waiver, by that party or by any other party, of any other prior or subsequent breach of this Settlement Agreement.

4. Each party hereto warrants that he, she, or it is acting upon his, her, or its independent judgment and upon the advice of his, her, or its own counsel and not in reliance upon any warranty or representation, express or implied, of any nature or kind by any other party.

5. This Settlement Agreement has been carefully read by each of the Parties, or their responsible officers thereof, and its contents are known and understood by each of the Parties. This Settlement Agreement is signed freely by each party executing it.

6. No party to this Settlement Agreement has heretofore assigned, transferred, or granted, or purported to assign, transfer, or grant, any of the claims, demands, or cause or causes of action disposed hereby.

7. In the event any one or more of the provisions contained herein shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalid, illegal, or unenforceable provision shall be ineffective but shall not in any way invalidate or otherwise affect any other provision.

8. Any disputes that arise out of the finalization of the settlement documentation shall be brought before the Mediator for expedited, telephonic mediation and if unsuccessful, for final, binding resolution.

9. The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Settlement Agreement, and all Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied herein.

10. This Settlement Agreement is deemed to have been prepared by counsel for all Parties, as a result of arm's-length negotiations among the Parties with the aid of a neutral mediator. 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.

***Remainder of Page Intentionally Left Blank***

***Signatures to Follow***

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed.

**For Plaintiff and the Settlement Class:**

By:   
On behalf of Prairie Pointe Orthodontics, P.A.  
Class Representative

Date: 8/3/2023

\_\_\_\_\_  
On behalf of HERZFELD, SUETHOLZ, GASTEL,  
LENISKI AND WALL, PLLC

Date: \_\_\_\_\_

**For Defendant Jorns & Associates, LLC:**

By: \_\_\_\_\_  
Authorized Representative  
Defendant Jorns & Associates, LLC

Date: \_\_\_\_\_

\_\_\_\_\_  
STINSON LLP

Date: \_\_\_\_\_

**For Defendant Zen Life Holdings, Inc.:**

By: \_\_\_\_\_  
Authorized Representative  
Defendant Zen Life Holdings, Inc.

Date: \_\_\_\_\_

\_\_\_\_\_  
BARCLAY DAMON LLP

Date: \_\_\_\_\_

**For Defendant Ben Wood:**

By: \_\_\_\_\_  
Ben Wood

Date: \_\_\_\_\_

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed.

**For Plaintiff and the Settlement Class:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
On behalf of Prairie Pointe Orthodontics, P.A.  
Class Representative



Date: 8/3/23

On behalf of HERZFELD, SUETHOLZ, GASTEL,  
LENISKI AND WALL, PLLC

**For Defendant Jorns & Associates, LLC:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Authorized Representative  
Defendant Jorns & Associates, LLC

\_\_\_\_\_  
STINSON LLP

Date: \_\_\_\_\_

**For Defendant Zen Life Holdings, Inc.:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Authorized Representative  
Defendant Zen Life Holdings, Inc.

\_\_\_\_\_  
BARCLAY DAMON LLP

Date: \_\_\_\_\_

**For Defendant Ben Wood:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Ben Wood




IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed.

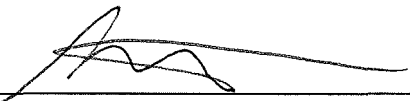
**For Plaintiff and the Settlement Class:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
On behalf of Prairie Pointe Orthodontics, P.A.  
Class Representative

\_\_\_\_\_ Date: \_\_\_\_\_  
On behalf of HERZFELD, SUETHOLZ, GASTEL,  
LENISKI AND WALL, PLLC

**For Defendant Jorns & Associates, LLC:**

By:  \_\_\_\_\_ Date: 08 / 03 / 2023  
Authorized Representative  
Defendant Jorns & Associates, LLC

 \_\_\_\_\_ Date: 8/3/2023  
STINSON LLP

**For Defendant Zen Life Holdings, Inc.:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Authorized Representative  
Defendant Zen Life Holdings, Inc.

\_\_\_\_\_ Date: \_\_\_\_\_  
BARCLAY DAMON LLP

**For Defendant Ben Wood:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Ben Wood

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed.

**For Plaintiff and the Settlement Class:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
On behalf of Prairie Pointe Orthodontics, P.A.  
Class Representative

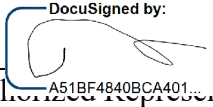
\_\_\_\_\_ Date: \_\_\_\_\_  
On behalf of HERZFELD, SUETHOLZ, GASTEL,  
LENISKI AND WALL, PLLC

**For Defendant Jorns & Associates, LLC:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Authorized Representative  
Defendant Jorns & Associates, LLC

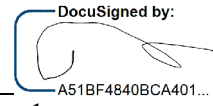
\_\_\_\_\_ Date: \_\_\_\_\_  
STINSON LLP

**For Defendant Zen Life Holdings, Inc.:**

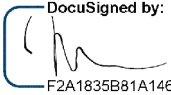
By: \_\_\_\_\_ Date: 08/04/2023  
 DocuSigned by:  
A51BF4840BCA401...  
Authorized Representative  
Defendant Zen Life Holdings, Inc.

\_\_\_\_\_ Date: \_\_\_\_\_  
BARCLAY DAMON LLP

**For Defendant Ben Wood:**

By: \_\_\_\_\_ Date: 08/04/2023  
 DocuSigned by:  
A51BF4840BCA401...  
Ben Wood

**For Defendant Malcom Menezes:**

By:  \_\_\_\_\_  
F2A1835B81A146F...enezes

Date: 08/04/2023 \_\_\_\_\_

**For Defendant Jason Charles Guck:**

By: \_\_\_\_\_  
Jason Charles Guck

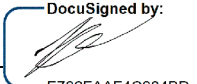
Date: \_\_\_\_\_

**For Defendant Malcom Menezes:**

By: \_\_\_\_\_  
Malcom Menezes

Date: \_\_\_\_\_

**For Defendant Jason Charles Guck:**

By: \_\_\_\_\_  
Jason Charles  \_\_\_\_\_  
E782FAAF4C284BD...

Date: 08/04/2023

# EXHIBIT A

**PLEASE SUBMIT THIS CLAIM FORM BY [Insert], 2023**

**RE: PRAIRIE POINTE ORTHODONTICS, P.A. V. JORNS & ASSOCIATES, LLC, ET AL.,  
U.S. DISTRICT COURT, DISTRICT OF KANSAS – CASE NO. 2:22-CV-2451**

**Our records reflect that this fax number may have received an unsolicited facsimile transmission regarding your eligibility to claim ERC credits (the “ERC Fax”), an exemplar of which is displayed to the right.**

**If this information is correct, and you wish to receive payment under the proposed Settlement Agreement in this action, please fill in the information below, sign the Claim Form, and return this form to the Claims Administrator as instructed below.**



**1. CLAIMANT INFORMATION:**

<b>Full name of person or business</b>	<b>Street Address</b>
<b>Current Phone Number</b>	<b>City</b>
<b>Fax Number (where the ERC Fax was sent)*</b>	<b>State                  Zip</b>

\*If you received class notice by fax, for your convenience, the fax number is listed on your notice.

**2. AFFIRMATION:**

I attest that I owned this number in Fall 2022, to the best of my knowledge that number was operative and receiving faxes, and I therefore would have received the ERC Fax directed to this number during that timeframe.

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Name (please print):** \_\_\_\_\_

**3. SUBMIT YOUR CLAIM TO RECEIVE PAYMENT:**

- (1) Mail claim form to: Claims Administrator, [mailing address].
- (2) Fax claim form to: [Claims Administrator’s fax number].
- (3) Submit claim online at [www. .... .com](http://www. .... .com) by following the instructions provided there.

**QUESTIONS? VISIT [Internet URL] OR CALL [**

# EXHIBIT B

## **LEGAL NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND CLAIM FORM –**

**\*\*\*DO NOT DISCARD\*\*\***

**If you received an unsolicited fax regarding ERC tax credits prior to July 19, 2023, a class action lawsuit pending in the U.S. District Court for the District of Kansas may affect your rights.**

Records indicate that you may be a member of a class in the action styled in *Prairie Pointe Orthodontics, P.A., v. Jorns & Associates, LLC., et al.*, in the United States District Court for the District of Kansas, Kansas City Division, Case. No. 2:22-cv-2451, which has been settled subject to court approval. The purpose of this Notice is to inform putative Settlement Class Members of the terms of the proposed settlement and important deadlines relating to the settlement, whose terms are described and defined in the Settlement Agreement between the Parties, as summarized below, and as described more fully on the Settlement Website at [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

**WHAT IS THE LAWSUIT ABOUT?** Plaintiff alleges that Defendants Jorns & Associates, LLC, Zen Life Holdings, Inc., Ben Wood, Malcom Menezes, and Jason Charles Guck (“Defendants”) violated the federal Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq., by sending unsolicited fax advertisements lacking compliant opt-out provisions prior to July 19, 2023. Defendants deny all liability and wrongdoing whatsoever. The Court has not ruled on the merits of Plaintiff’s claims or Defendants’ defenses.

**WHAT ARE THE TERMS OF THE PROPOSED SETTLEMENT?** Defendants have agreed to pay \$2,500,000 into a Settlement Fund, from which, subject to court approval, payments to Eligible Settlement Class Members, Settlement Administration Costs, Service Awards to the Class Representative and Class Counsel’s Fee Award will be paid. Further, Defendants have agreed to be enjoined from engaging in future conduct involving facsimile advertising and promotion which would violate the Telephone Consumer Protection Act.

**WHO REPRESENTS YOU?** Joe P. Leniski, Jr. and Anthony “Tony” Orlandi (of the law firm Herzfeld, Suetholz, Gastel, Leniski and Wall PLLC) and Richard Fisk (of the law firm Beam-Ward, Kruse, Wilson & Fletes, LLC) represent you as “Class Counsel.” You do not have to pay any money to Class Counsel directly. However, Class Counsel is requesting attorneys’ fees and costs of up to 33% of the settlement amount that will be paid from the Settlement Fund. Class Counsel’s Fee Award and documents in support of the Fee Award will be available for viewing on the Settlement Website by [DATE].

**WHAT ARE YOUR RIGHTS AND OPTIONS?** You can do nothing and stay in the Settlement Class, or you can exclude yourself from the Settlement Class as set forth below. You may also file an objection and appear at the final approval hearing.

- **In order to receive benefits under the proposed settlement, you must submit a fully executed Claim Form by no later than [DATE XX, 2022].** The Claim Form is attached to this fax and may also be accessed on the Settlement Website, \_\_\_\_\_. The Claim Form may be submitted to the Class Administrator by mail, email, facsimile transmission or electronically through the Settlement Website. Please see the Settlement Website for additional details concerning how to submit a claim form.
- **To exclude yourself from the settlement, submit a written exclusion either by mail, fax or through the Settlement Website on or before [DATE].** To be valid, the written exclusion request must contain specific information that is described on the Settlement Website, at [Website URL] and in the Settlement Agreement also available on the settlement website at [Website URL]. If you do not submit a fully executed and timely exclusion request, you will be bound by the terms of the proposed settlement and you will give up your right to sue the Released Parties (as that term is defined in the Settlement Agreement) concerning the legal claims in this case.
- **To object to the proposed settlement or the requested Fee Award, you must file an objection with the Court and send the objection to counsel postmarked by [DATE XX, 2023]** at the addresses listed on the Settlement Website, [addresses]. Anyone who files a timely objection to the proposed settlement may ask to appear at the final approval hearing. If your objection is valid and timely, the Court may consider it whether or not you appear.
- **If you do not file a claim,** you will not receive any monetary award and you will lose the right to sue the Released Parties (as that term is defined in the Settlement Agreement) concerning the legal claims in this case.

**The Final Approval Hearing will take place on [DATE] at [TIME] at [PLACE].**

**WANT MORE INFORMATION?** Complete details about your rights and options are available on the Settlement Website, [www.\\_\\_\\_\\_\\_.com](http://www._____.com). Do not call the Court.



# EXHIBIT C

## LEGAL NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

**If you received an unsolicited fax regarding your eligibility for ERC credits prior to July XX 2023, a class action lawsuit pending in the U.S. District Court for the District of Kansas may affect your rights.**

**To:** All persons, natural or otherwise, in the United States and its territories who, (1) from October 12, 2018 to the present, (2) were sent one or more facsimile transmissions substantially in the form attached as Exhibit A to the Second Amended Complaint (the “**Settlement Class**”)<sup>1</sup>.

A settlement has been reached in a class action lawsuit styled *Prairie Pointe Orthodontics, P.A., v. Jorns & Associates, LLC., et al.*, pending in the United States District Court for the District of Kansas, Kansas City Division, Case. No. 2:22-cv-2451 (the “**Action**”).

The Action alleges that Defendants Jorns & Associates, LLC, Zen Life Holdings, Inc., Ben Wood, Malcom Menezes, and Jason Charles Guck violated the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* by sending unsolicited fax advertisements (“**ERC Faxes**”) lacking compliant opt-out provisions.

The Court has granted preliminary approval of a settlement on behalf of the Settlement Class as set forth in the Settlement Agreement (“**the Settlement**”). This Notice explains the nature of the lawsuit, the terms of the Settlement, and your legal rights and options. Please read it carefully.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT A CLAIM FORM</b>	<b>To receive a share of the Settlement, you must submit a fully executed Claim Form no later than [DATE].</b> Please visit <a href="http://www._____.com">www._____.com</a> to submit a Claim Form or for instructions as to how to submit a Claim Form by fax, mail, or email.
<b>OPT-OUT/EXCLUDE YOURSELF FROM THE SETTLEMENT</b>	<b>To exclude yourself from this settlement (or opt out),</b> you must submit a written exclusion by mail, fax or electronically at <a href="http://www._____.com">www._____.com</a> on or before [DATE]. To be valid, the written exclusion request must contain your name, your address, the fax number that received the unsolicited fax advertisement, and a signed statement that you wish to opt out of the settlement class. The address and fax number to which you can fax or mail your request for exclusion are set forth below. You can also opt-out via the Settlement Website. If you do not submit a fully executed and timely exclusion request, you will be bound by the terms of the proposed settlement and you will give up your right to sue the Released Parties (as that term is defined in the Settlement Agreement).
<b>OBJECT TO THE SETTLEMENT</b>	<b>To object to the proposed settlement or the attorneys’ fees and cost or incentive award application,</b> you must file a written objection with the Court by [DATE], and send the objection to the Claims Administrator to the address or fax number listed below, and it must be postmarked or faxed by [DATE]. Anyone who files a timely objection may ask to appear at the final approval hearing. If your objection is valid and timely, the Court may consider it whether or not you appear. Visit <a href="http://www._____.com">www._____.com</a> for further details.

<sup>1</sup> Unless otherwise defined, all terms used herein shall have the same meaning as set forth in the Settlement Agreement.

<b>DO NOTHING</b>	<b>If you do not submit a Claim Form or request exclusion, you will be bound by any judgment entered by the Court, and will release any claims regarding the ERC Faxes, but you will receive no payment.</b>
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**This Notice explains these rights and options, and the deadlines to exercise them.**

If you have further questions, please contact the Claims Administrator at [insert toll free number and email address], or Class Counsel, whose information is set forth below in FAQ No. 5.

## **BASIC INFORMATION**

### **1. What is this action about?**

Plaintiff Prairie Pointe Orthodontics, P.A. (“**Plaintiff**”) filed a class action complaint against Defendants Jorns & Associates, LLC (“**Jorns**”), Zen Life Holdings, Inc. (“**Zen Life**”), Ben Wood (“**Wood**”), Malcom Menezes (“**Menezes**”), and Jason Charles Guck (“**Guck**”) in an action styled *Prairie Pointe Orthodontics, P.A., v. Jorns & Associates, LLC., et al.*, in the United States District Court for the District of Kansas, Kansas City Division, Case. No. 2:22-cv-2451, (the “**Action**”). Plaintiff alleges that Defendants violated the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq* (“**TCPA**”) by sending unsolicited fax advertisements regarding the recipients’ eligibility for ERC credits. Defendants deny all claims. The Honorable Judge Julie A. Robinson is overseeing this Action. The Court has not ruled on the merits of the claims, but the parties have reached a settlement that, if approved by the Court, will resolve all of Plaintiff’s and the Settlement Class’ claims regarding the faxes.

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

In a class action, a class representative or plaintiff (in this case, Prairie Pointe Orthodontics, P.A.) files a lawsuit on behalf of itself as well as other people with similar claims. One court then resolves the issues for all of the class members at once, except for those who exclude themselves from the proposed class. If the parties reach a settlement, as here, then court approval of the settlement is required because it affects class members who did not directly participate in the litigation, and such persons are afforded notice of the settlement and an opportunity to participate or not, as well as to comment upon whether the settlement should be approved. This Class Notice is being provided for that purpose.

### **3. Why is there a settlement?**

To resolve this matter without further expense and delay, and the uncertainties associated with any litigation, Plaintiff and Defendants have reached a Settlement, which resolves all claims against the Defendants and certain related persons/parties in connection with the issuance of the ERC Faxes. The Settlement is not an admission of wrongdoing by Defendants and does not imply that there has been, or would be, any finding that Defendants violated the TCPA or any other law. In fact, Defendants vigorously deny that they violated the TCPA or any other law in connection with transmitting the faxes. The Court has not ruled on the merits of the parties’ claims and defenses, as the parties reached this Settlement instead. Plaintiff and its attorneys (“**Class Counsel**”) believe

the settlement is a reasonable compromise, and in the best interest of the settlement class, given the claims and defenses asserted and the time it would take to litigate the case through trial and associated appeals.

## WHO IS IN THE SETTLEMENT CLASS?

### 4. How do I know whether I am part of the Settlement Class?

The Court has defined the Settlement Class as:

**All persons, natural or otherwise, in the United States and its territories who, (1) from October 12, 2018 to the present, (2) were sent one or more facsimile transmissions substantially in the form attached as Exhibit A to the Second Amended Complaint.**

Excluded from the Class are: (1) Jorns & Associates, LLC, Zen Life Holdings, Inc. and any entity in which Jorns & Associates, LLC or Zen Life Holdings, Inc. has a controlling interest, Ben Wood, Malcom Menezes, Jason Charles Guck, and their legal representatives, officers, directors, assignees, and successors, and any co-conspirators; (2) any judge or justice to whom this action is assigned, together with any relative of such judge or justice within the third degree of relationship, and the spouse of any such person; and (3) any persons who validly opt-out of the Settlement Class.

If you are still not sure whether you are included in the class, you can find more information by exploring the Settlement Website at [URL], or contacting the Claims Administrator via the Settlement Website, by fax at [fax number], or by email at [address].

## THE LAWYERS REPRESENTING YOU

### 5. Do I have lawyers in this case?

The Court has appointed the following attorneys to represent you and the other putative Settlement Class Members as Class Counsel.

Joe P. Leniski, Jr.  
Anthony (“Tony”) Orlandi  
HERZFELD, GASTEL, SUETHOLZ,  
LENISKI AND WALL, PLLC  
223 Rosa Parks Av, Ste. 300  
Nashville, TN 37203  
joey@hsglawgroup.com  
tony@hsglawgroup.com

Richard S. Fisk  
BEAM-WARD, KRUSE, WILSON  
& FLETES, LLC  
8645 College Blvd., Suite 300  
Overland Park, Kansas 66210  
rfisk@bkwflaw.com

If you want to be represented by your own lawyer, you may hire one at your own expense.

## 6. How will Class Counsel be paid?

You will not be personally charged by Class Counsel. Class Counsel will ask the Court to approve an award of attorneys' fees in an amount not to exceed 33.33% of the Settlement Fund, as well as reimbursement of their litigation costs, for their efforts in prosecuting the case to this date on a contingent basis as well as obtaining the settlement they have negotiated. Class Counsel will also seek a \$10,000 Service Award for Plaintiff in recognition of his service as Class Representative during the pendency of this litigation. The Court may award less than these amounts.

## THE SETTLEMENT BENEFITS

## 7. What does the settlement provide?

The Settlement provides cash payments to Eligible Settlement Class Members who file valid and approved Claim Forms. Defendants have agreed to pay \$2,500,000 to resolve the Action. This amount will cover all payments to Eligible Settlement Class Members, any Court approved attorneys' fees and cost award, any Court approved service award payable to Plaintiff, and the costs of administering the settlement. Defendants also agree to be enjoined from engaging in future conduct involving facsimile advertising or promotion which would violate the Telephone Consumer Protection Act.

## 8. How much will my payment be?

If you submit a valid and timely Claim Form, your payment will be based on your *pro rata* share of the amount of the Settlement Fund, as computed against the number of unsolicited faxes received by all other claiming Class Members, which remains after payment of Settlement Administration Costs, Fee Award, and any Service Award.

## 9. What am I giving up to stay in the class?

Unless you exclude yourself from the Settlement, you will be part of the Settlement Class, and you will be bound by the releases provided for by the Settlement, regardless of whether you submit a claim. This means that, if the settlement is approved, you cannot sue, continue to sue or be part of any other lawsuit against any of the Released Parties (as that term is defined in the Settlement Agreement), including Defendants, related to the Released Claims, as that term is defined in the Settlement Agreement. It also means that all of the Court's orders will apply to you and will legally bind you with respect to the Action.

## HOW TO SUBMIT A CLAIM FORM

## 10. How do I receive payment?

To qualify to receive payment, you must send in a fully executed Claim Form no later than **11:59 p.m. CT on [REDACTED], 2023**, in one of the following ways:

- (1) Mail it to the Claims Administrator at [address] with a postmark before the deadline
- (2) Fax it to [toll free number]
- (3) Submit it online at [www.\\_\\_\\_\\_\\_.com](http://www._____.com) by following the instructions provided there.

**Read the instructions carefully.** To be valid, the claim form must be completed fully and accurately, signed, and submitted timely. You will not be afforded an opportunity to cure or remedy any defects in your submission.

#### **11. When will I receive payment?**

The Court will hold a Final Approval Hearing on [DATE] to decide whether to approve the proposed settlement. If the Court approves the proposed settlement, after that, there may be appeals. It is always uncertain when and how these appeals will be resolved, and resolving them can take time, sometimes a year or more. Everyone who submits a Claim Form may access information regarding the progress of the settlement through the Settlement Website at [www.\\_\\_\\_\\_\\_.com](http://www._____.com). Please check the website and be patient.

#### **12. What if my name or address changes after I submit a Claim Form?**

If your name or address needs to be corrected, you must notify the Claims Administrator through the Settlement Website, by fax, email, or mail, as provided above. If you do not, your payment, when issued, will be sent to the wrong address. Replacement checks will not be issued.

### **EXCLUDING YOURSELF FROM THE SETTLEMENT**

#### **13. How do I exclude myself or opt out of the settlement?**

If you want to retain the right to sue or continue to sue the Released Parties, including Defendants, regarding the Released Claims, then you must take steps to exclude yourself from the Settlement Class. This is called excluding yourself or opting out of the settlement.

To exclude yourself from this settlement (or opt out), you must submit a written exclusion by mail, fax or electronically at [www.\\_\\_\\_\\_\\_.com](http://www._____.com) on or before [DATE]. To be valid, the written exclusion request must contain your name, your address, the fax number that received the unsolicited fax advertisement, and a signed statement that you wish to opt out of the settlement class. The address and fax number to which you can fax or mail your request for exclusion are set forth below. You can also opt-out via the Settlement website. If you do not submit a fully executed and timely exclusion request, you will be bound by the terms of the proposed settlement and you will give up your right to sue the Released Parties, including Defendants.

#### **14. If I do not opt-out, can I sue the defendants for the same thing later?**

No. If you do not submit a fully executed and timely exclusion request, you will be bound by the terms of the proposed settlement and you will give up your right to sue the Released Parties, including Defendants.

**15. If I exclude myself, can I receive payment from this settlement?**

No. If you submit a fully executed and timely exclusion request, you will not be able to submit a claim form for a settlement payment and you cannot object to the Settlement, as the Settlement will not bind or apply to you in any way.

**OBJECTING TO THE SETTLEMENT**

**16. How do I object to the settlement?**

If you are a member of the Settlement Class, you may object to the Settlement or any part of the Settlement that you think the Court should reject, and the Court may consider your views. To object, you must state your objection in writing advising the Court that you object to the Settlement in the lawsuit styled *Prairie Pointe Orthodontics, P.A., v. Jorns & Associates, LLC., et al.*, and you also must send a copy of your objection to the Claims Administrator.

In order to be considered by the Court, the written objection must include (1) the name and case number of the Action; (2) the objector's full name, address, facsimile phone number where they received the unsolicited facsimile, and cellular telephone number or other telephone number where the objector may be reached; (3) an explanation of the basis upon which the objector claims to be a Settlement Class Member; (4) all grounds for the objection in writing, accompanied by any legal support for the objection known to the objector or his or her counsel; (5) all exhibits he/she intends to introduce into evidence at the hearing on Final Approval, which shall be attached; (6) the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection; (7) the identity of all counsel representing the objector who will appear at the Final Approval Hearing or who has a financial interest in the objection; (8) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection; (9) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and (10) the objector's signature (an attorney's signature is not sufficient).

**In order to be valid, objections must be both filed with the Court and mailed to the Claims Administrator at [address], and received or postmarked no later than [DATE].**

**17. What is the difference between filing an objection and opting out?**

Objecting is telling the Court that you do not like something about the Settlement. You can object only if you stay in the Settlement Class. You are still entitled to receive payment from the Settlement Fund (if the Court nevertheless approves the Settlement). Excluding yourself means that you do not want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because you are no longer a party to the Settlement and are not affected by it.

**18. May I come to Court to speak about my objection?**

Yes. You or your attorney may request an opportunity to speak at the Final Approval Hearing about your objection. To do so, you must timely file an objection as required in Question No. 16 above. You must also file a document with the Court stating your “Notice of Intention to Appear in *Prairie Pointe Orthodontics, P.A., v. Jorns & Associates, LLC., et al.*” You must include your name, address, telephone number and your signature in the notice. Your Notice of Intention to Appear must be filed with the Court no later than **[DATE]** and be sent to the Claims Administrator as noted in Question 16, above. If you exclude yourself from the Settlement Class, you give up the right to speak at the hearing.

**IF YOU DO NOTHING**

**19. What happens if I do nothing and do not submit a Claim Form?**

If you do nothing and do not submit a Claim Form, then you will still remain a member of the Settlement Class. You will give up your rights to sue the Released Parties, including Defendants, regarding the Released Claims, but you will not receive any benefits under the settlement.



## THE COURT'S FINAL APPROVAL HEARING

### 20. When and where will the Court decide whether to approve the settlement?

The Court will hold a final approval hearing at [Time] on [Date] at the U.S. District Court for the District of Kansas, 500 State Avenue, Kansas City, Kansas, 66101 in Courtroom [redacted]. At this hearing, the Court will consider whether the settlement is fair, reasonable and adequate. If there are valid objections, the Court also will consider them and may listen to people who have asked to speak at the hearing. The Court may also award payments to Class Counsel and Plaintiff at this time.

### 21. Do I have to attend the hearing?

No. Class Counsel will appear at the hearing on behalf of the Settlement Class. However, you are welcome to come, or have your own lawyer appear, at your own expense.

### 22. May I speak at the hearing?

You may ask the Court for permission to speak at the final approval hearing, but only in connection with an objection that you have timely submitted to the Court.

## ADDITIONAL INFORMATION

### 23. How do I find more information?

This Notice summarizes the proposed Settlement. Complete details are provided in the Settlement Agreement, which is available at [www.\[redacted\].com](http://www.[redacted].com). Additional information is also available by contacting the Claims Administrator via the Settlement Website, at [address], or [fax number].

Complete copies of the other public pleadings, court rulings, and other filings in this Action are available for review and copying at the U.S. District Court, Office of the Clerk, 500 State Avenue, Kansas City, Kansas, 66101, or through PACER ([www.pacer.gov](http://www.pacer.gov)).

If you have questions about this notice or the proposed settlement, you may contact Class Counsel. **Please do not contact the Court for information.**

# EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS  
AT KANSAS CITY**

**PRAIRIE POINTE ORTHODONTICS,  
P.A., on behalf of itself and all others  
similarly situated,**

**Plaintiff,**

v.

**JORNS & ASSOCIATES, LLC, ZEN  
LIFE HOLDINGS, INC. d/b/a “JORNS  
& ASSOCIATES”, BEN WOOD,  
MALCOLM MENEZES, AND JASON  
CHARLES GUCK A/K/A JASON  
CHARLES,**

**Defendants.**

**Case No. 2:22-cv-2451**

**CLASS ACTION**

**[PROPOSED] FINAL APPROVAL ORDER**

Before the Court is Plaintiff’s unopposed motion requesting that the Court enter an Order granting final approval of the settlement in this Action (“Settlement”) involving Plaintiff Prairie Pointe Orthodontics (“Plaintiff” or “Class Representative”)<sup>1</sup>, for itself and on behalf of the class of persons it represents (“Settlement Class” ), and Defendants Jorns & Associates, LLC (“Jorns”), Zen Life Holdings, Inc. (“Zen Life”), Ben Wood, Malcom Menezes, and Jason Charles Guck (with Plaintiff and Defendants collectively referred to herein as the “Parties”). as fair, reasonable, and adequate.

Having reviewed and considered the Settlement Agreement and the motion for final approval of the settlement, and having conducted a Final Approval Hearing on \_\_\_\_\_,

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<sup>1</sup> Unless otherwise defined, all terms used herein shall have the same meaning as set forth in the Settlement Agreement (D.E. \_\_\_\_)

2023, the Court makes the findings and grants the relief set forth below approving the Settlement upon the terms and conditions set forth in this Final Approval Order and Judgment.

**THE COURT** not being required to conduct a trial on the merits of the case or determine with certainty the factual and legal issues in dispute when determining whether to approve a proposed class action settlement; and

**THE COURT** makes the findings and conclusions hereinafter set forth for the limited purpose of determining whether the Settlement should be approved as being fair, reasonable, adequate and in the best interests of the Settlement Class;

1. The Settlement involves allegations in Plaintiff's Second Amended Class Action Complaint (Doc. No. 39) that Defendants violated the Telephone Consumer Protections Act ("TCPA") by sending unsolicited fax advertisements that failed to include a compliant opt-out provision.

2. The Settlement does not constitute an admission of liability by, and the Court expressly does not make any finding of liability or wrongdoing by Defendants.

3. Unless otherwise noted, words spelled in this Order with initial capital letters have the same meaning as set forth in the Settlement Agreement.

4. On \_\_\_\_\_, the Court entered an Order which among other things: (a) approved Class Notice, including approval of the form and manner of Class Notice set forth in the Settlement Agreement; (b) preliminarily approved the Settlement; (c) set deadlines for opt-outs and objections; (d) approved and appointed the Claims Administrator; and (e) set the date for the Final Approval Hearing.

5. In the Order Granting the Motion for Preliminary Approval of Class Settlement Agreement, pursuant to Rule 23(b)(3), 23(b)(2), and 23(e), the Court conditionally certified the

Settlement Class, defined as follows:

All persons, natural or otherwise, in the United States and its territories who, (1) from October 12, 2018 to the present, (2) were sent one or more facsimile transmissions substantially in the form attached as Exhibit A to the Second Amended Complaint.

6. The Court, having reviewed the terms of the Settlement Agreement submitted by the parties pursuant to Rule 23(e), grants final approval of the Settlement Agreement and defines the Settlement Class as defined therein and in the Preliminary Approval Order, and finds that the settlement is fair, reasonable, and adequate and meets the requirements of Rule 23.

7. The Settlement Agreement provides for:

- a. Fax notice to every number on the list of medical providers supplied by AdverFax that was used in transmitting the faxes in question (the “Medical Fax List”);
- b. The creation of a non-reversionary \$2,500,000.00 Settlement Fund, from which Eligible Settlement Class Members (as defined in Settlement Agreement Section II.12.) who submit a valid Claim Form will receive a pro rata Cash Award after deductions for the Settlement Administration Costs, Service Award, and Plaintiffs’ Fee Award (including reasonable litigation costs), all of which were subject to approval by the Court; and
- c. Injunctive relief to ensure that no Defendant will engage in future conduct involving facsimile advertising and promotion which would violate the TCPA.

8. The terms of the Settlement Agreement are fair, reasonable, and adequate, and are hereby approved, adopted, and incorporated by the Court. The Parties, their respective attorneys, and the Claims Administrator are hereby directed to consummate the Settlement in accordance with this Order and the terms of the Settlement Agreement.

9. Notice of the Final Approval Hearing, the proposed motion for the Fee Award, and the proposed Service Award payment to Plaintiff have been provided to putative Settlement Class Members, as directed by this Court’s Orders, and an affidavit or declaration of the Claims Administrator’s compliance with Class Notice has been filed with the Court.

10. The Court finds the proposed Class Notice, as therein ordered, constitutes the best

possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all putative Settlement Class Members in compliance with the requirements of Rule 23(c)(2).

11. As of the final date that putative Settlement Class Members can exclude themselves in accordance with Section III.J. of the Settlement Agreement, \_\_\_\_\_ putative Settlement Class Members have submitted a valid Exclusion Request (as set forth in Section III.J.2 of the Settlement Agreement) to be excluded from the Settlement. The names of those persons are set forth in Exhibit A to this Order. Those persons are not bound by this Final Approval Order and Judgment, as set forth in the Settlement Agreement.

12. The Court has considered all the documents filed in support of the Settlement, and has fully considered all matters raised, all exhibits and declarations filed, all evidence received at the Final Approval Hearing, all other papers and documents comprising the record herein, and all oral arguments presented to the Court.

13. Pursuant to the Settlement Agreement, the Parties and the Claims Administrator shall implement the Settlement in the manner and time frame as set forth therein.

14. Pursuant to the Settlement Agreement, Plaintiffs and the Settlement Class Members release claims against Defendants and related persons/entities, and Defendants and Third-Party Defendants release claims against one another and related persons/entities, as defined in the Settlement Agreement, as follows:

- Each Settlement Class Member (other than those who submit valid and timely opt-outs) will release and forever discharge Defendants, together with all of their current and former parents, subsidiaries, affiliates, officers, directors, stockholders, employees, administrators, assigns, agents, members, owners, managers, heirs, predecessors, successors, attorneys, and representatives for all causes of action relating in any way to the Released Claims.
- Defendants release all claims of any kind or nature that have been or could have been

asserted against the Class Representative, any Settlement Class Member (other than those who submit valid and timely opt-outs), or Class Counsel relating in any way to the Released Claims (other than those who submit valid and timely opt-outs).

As set forth in the Settlement Agreement, Released Claims shall not include the right of any Settlement Class Member or any of the Released Persons to enforce the terms of the Settlement contained in this Settlement Agreement and shall not include the claims of those persons identified in Exhibit A to this Order who have timely and validly requested exclusion from the Class.

15. On the Effective Date and in consideration of the promises and covenants set forth in this Settlement Agreement, (i) Plaintiff and each Settlement Class Member, and each of their respective spouses and children with claims on behalf of the Settlement Class Member, executors, representatives, guardians, wards, heirs, estates, successors, predecessors, next friends, co-borrowers, co-obligors, co-debtors, legal representatives, attorneys, agents, and assigns, and all those who claim through them or who assert claims (or could assert claims) on their behalf (including the government in the capacity as *parens patriae* or on behalf of creditors or estates of the releasors), and each of them (collectively and individually, the “Releasing Parties” as defined in Settlement Agreement, Section II.23.) will be deemed to have, and by operation of the Final Approval Order and Judgment shall have, fully, finally, completely, and forever released and discharged the Released Parties (as defined in Settlement Agreement, Section II.22.) from the Released Claims.

16. Defendants are hereby enjoined under Fed. R. Civ. P. 23(b)(2) from engaging in future conduct involving facsimile advertising and promotion which would constitute a violation of the Telephone Consumer Protection Act of 1991, as amended by the Junk Fax Prevention Act of 2005, 47 U.S.C. § 227.

17. The Court determines that this Final Approval Order and Judgment complies in all respects with Federal Rule of Civil Procedure 65(d)(1).

18. The Court approves Class Counsel's application for attorneys' fees and reimbursement of expenses incurred in the prosecution of the case in the amount of \$\_\_\_\_\_.

19. The Court approves Class Counsel's application for a Service Award for the Class Representative in the amount of \$\_\_\_\_\_.

20. The Court finds the fees and costs of the Claims Administrator are reasonable.

21. The Settlement Agreement, including all of its terms and Exhibits, is fully and finally approved. The Court shall retain jurisdiction pending full implementation of the Settlement, and the Parties shall file, in due course, a joint notice informing the Court that the settlement has been finally implemented, at which point this case shall be closed.

22. In accordance with Rule 23, this Final Approval Order and Judgment resolves all claims against all parties in this Action and is a final order. There is no just reason to delay the entry of final judgment in this matter, and the Clerk is directed to file this Order as the final judgment in this matter.

IT IS SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2023.

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HON. JULIE A. ROBINSON  
UNITED STATES DISTRICT JUDGE



# EXHIBIT E

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS  
AT KANSAS CITY**

**PRAIRIE POINTE ORTHODONTICS,  
P.A., on behalf of itself and all others  
similarly situated,**

**Plaintiff,**

v.

**JORNS & ASSOCIATES, LLC, ZEN  
LIFE HOLDINGS, INC. d/b/a “JORNS  
& ASSOCIATES”, BEN WOOD,  
MALCOLM MENEZES, AND JASON  
CHARLES GUCK A/K/A JASON  
CHARLES,**

**Defendants.**

**Case No. 2:22-cv-2451**

**CLASS ACTION**

**[PROPOSED] PRELIMINARY APPROVAL ORDER  
GRANTING MOTION FOR PRELIMINARY APPROVAL OF CLASS SETTLEMENT**

This matter came before the Court on Plaintiff’s Unopposed Motion for Preliminary Approval of Class Settlement. Plaintiff, individually and on behalf of the proposed Settlement Class,<sup>1</sup> and Defendants have entered into a Settlement Agreement that settles the above-captioned litigation on a class basis (the “Settlement”).

On November 4, 2022, Plaintiff commenced this action alleging that Defendant Jorns & Associates, LLC (“Jorns”) violated the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. (the “TCPA”) by allegedly sending unsolicited fax advertisements that failed to include a compliant opt-out provision. On December 28, 2022, Plaintiff filed an Amended Complaint in this action adding Zen Life Holdings, Inc. (“Zen Life”) as a defendant. On May 3, 2023, with

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<sup>1</sup> Unless otherwise defined, all terms used herein shall have the same meaning as set forth in the Settlement Agreement (D.E. \_\_\_)

leave of Court, Plaintiff filed a Second Amended Complaint adding Ben Wood, Malcom Menezes, and Jason Charles Guck.

The Parties, through their counsel, have entered into a Settlement Agreement following good faith, arms-length negotiations and a mediation overseen by Thomas V. Bender. The Parties have agreed to settle this action, pursuant to the terms of the Settlement Agreement, and subject to the approval and determination of the Court as to the fairness, reasonableness, and adequacy of the Settlement which, if approved, will result in dismissal of this action with prejudice.

Having reviewed the Settlement Agreement, including the exhibits attached thereto, and all prior proceedings herein, and for good cause shown, it is hereby ordered that Plaintiffs' Motion for Preliminary Approval is granted as set forth herein.

**1. Class Certification for Settlement Purposes Only.** For settlement purposes only and pursuant to Rules 23(b)(3), 23(b)(2), and 23(e), the Court provisionally certifies a Settlement Class in this matter defined as follows:

**All persons, natural or otherwise, in the United States and its territories who, (1) from October 12, 2018 to the present, (2) were sent one or more facsimile transmissions substantially in the form attached as Exhibit A to the Second Amended Complaint.**

Excluded from the Settlement Class are: (1) Jorns & Associates, LLC, Zen Life Holdings, Inc. and any entity in which Jorns & Associates, LLC or Zen Life Holdings, Inc. has a controlling interest, Ben Wood, Malcom Menezes, Jason Charles Guck, and their legal representatives, officers, directors, assignees, and successors, and any co-conspirators; (2) any judge or justice to whom this action is assigned, together with any relative of such judge or justice within the third degree of relationship, and the spouse of any such person; and (3) any persons who validly opt-out of the Settlement Class.

The Court provisionally finds, for settlement purposes only, that: (a) the Settlement Class is so numerous that joinder of all putative Settlement Class Members would be impracticable; (b) there are issues of law and fact common to the Settlement Class; (c) the claims of the Class Representative is typical of and arise from the same operative facts and seeks similar relief as the claims of the putative Settlement Class Members; (d) the Class Representative and Class Counsel will fairly and adequately protect the interests of the Settlement Class as the Class Representative has no interest antagonistic to or in conflict with the Settlement Class and have retained experienced and competent counsel to prosecute this matter on behalf of the Settlement Class; (e) questions of law or fact common to the putative Settlement Class Members predominate over any questions affecting only individual members; and (f) a class action and class settlement is superior to other methods available for a fair and efficient resolution of this controversy.

**2. Class Representative and Class Counsel.**

The Class Representative has demonstrated that: its claims are typical of the Settlement Class it seeks to represent; it is adequate; it has interests in common with the Settlement Class; there is no potential conflict between its claims and those of the Settlement Class; and it has demonstrated that it is willing to vigorously prosecute these claims. The Court appoints Plaintiff as Class Representative.

Similarly, Class Counsel have demonstrated that (a) they are competent and experienced in class actions and TCPA litigation in particular; and (b) adequately represent the interests of the proposed class. The Court therefore appoints Joe P. Leniski, Jr. and Anthony “Tony” Orlandi (of the law firm Herzfeld, Suetholz, Gastel, Leniski and Wall, PLLC) and Richard Fisk (of the law firm Beam-Ward, Kruse, Wilson & Fletes, LLC) as Class Counsel.

3. **Preliminary Settlement Approval.** Upon preliminary review, the Court concludes and finds that the proposed Settlement is fair, reasonable, and adequate to warrant providing Class Notice of the Settlement.. Accordingly, the proposed Settlement is preliminarily approved.

4. **Jurisdiction.** The Court concludes that it has subject matter jurisdiction and personal jurisdiction over the Parties before it for the purposes of the Settlement. Additionally, venue is proper in this court.

5. **Final Approval Hearing.** A Final Approval Hearing shall be held at \_\_\_\_ a.m./p.m. on \_\_\_\_\_, 2023 in the U.S. District Court for the District of Kansas, 500 State Avenue, Kansas City, Kansas, 66101 in Courtroom \_\_\_\_, to determine, among other things, whether: (a) this matter should be finally certified as a class action for settlement purposes; (b) the Settlement should be finally approved as fair, reasonable, and adequate; (c) the action should be dismissed with prejudice pursuant to the terms of the Settlement Agreement; (d) Settlement Class Members should be bound by the releases set forth in the Settlement Agreement; (e) the motion of Class Counsel for an award of attorneys' fees, costs, and expenses should be approved; and (f) the motion of the Class Representative for a Service Award should be approved.

Plaintiff's Motion for a Fee Award, and a Service Award shall be filed 14 days before the putative Settlement Class Members' deadlines to object to or exclude themselves from the Settlement Agreement.

Plaintiff's Motion for Final Approval of the Settlement shall be filed with the Court at least 14 Days prior to the Final Approval Hearing.

By no later than 7 Days prior to the Final Approval Hearing, the Parties shall file responses, if any, to any objections to the Settlement Agreement or objections to Plaintiff's request for a Fee

Award and Service Award. These responses may be incorporated into replies in support of Final Approval of the Settlement and the Motion for a Fee Award, and a Service Award.

6. **Administration.** The Court appoints \_\_\_\_\_ as the Claims Administrator, with responsibility for class notice and claims administration and to fulfill the duties of the Claims Administrator set forth in the Settlement Agreement. All costs and expenses associated with providing Class Notice including, but not limited to, the Claims Administrator's fees, as well as the costs associated with administration of the Settlement, shall be deducted from the Settlement Fund.

7. **Notice to the Class.** The proposed Class Notice set forth in the Settlement Agreement, as reflected in Exhibits A, B, and C to the Settlement Agreement, satisfy the requirements of Federal Rules of Civil Procedure, provide the best notice practicable under the circumstances, and are hereby approved. Non-material modifications to these Exhibits may be made without further order of the Court. The Claims Administrator is directed to carry out the Class Notice in conformance with the Settlement Agreement.

Within **30 days from the date of this Order**, the Claims Administrator shall complete Class Notice in the manner set forth in Section III.I. of the Settlement Agreement.

8. **Findings and Conclusions Concerning Class Notice.** The Court finds that the form, content, and method of giving notice to the Settlement Class as described in in this Order and in Section III.I. of the Settlement Agreement (including the exhibits thereto): (a) will constitute the best practicable notice to the Settlement Class; (b) are reasonably calculated to apprise putative Settlement Class Members of the pendency of the action, the terms of the proposed Settlement, and their rights under the proposed Settlement (including but not limited to their rights to object to or exclude themselves from the proposed Settlement, and their other rights under the terms of

the Settlement Agreement); and (c) are reasonable and constitute due, adequate, and sufficient notice to all putative Settlement Class Members and other persons entitled to receive notice. The Court also concludes that Class Notice meets all applicable requirements of law, including Rule 23(c) and (e), and the Due Process Clause(s) of the United States Constitution. The Court further finds that the Class Notice is written in plain language, uses simple terminology, and is designed to be readily understandable by the putative Settlement Class Members.

**9. Exclusion from Class.** Any putative Settlement Class Member who wishes to be excluded from the Settlement Class must submit a written request notifying the intent to exclude himself or herself by mail, fax, or via the Settlement Website not later than **45 Days after the Notice Deadline** (the “Opt-Out Period”). For a request for exclusion to be valid, the written notification must: (a) be signed (if sent by mail or fax) or electronically signed (if submitted via the Settlement Website); (b) include the full name, address, and fax number of the person(s) requesting exclusion; and (c) include the following statement: “I/we request to be excluded from the class settlement in Prairie Pointe Orthodontics, P.A., v. Jorns & Associates, LLC., et al., Case. No. 2:22-cv-2451.” No exclusion request will be valid unless all of the information described above is included. A request to be excluded that is sent by means other than that designated in the notice, or that is not timely received by the Claims Administrator, shall be invalid. No putative Settlement Class Member, or any person acting on behalf of or in concert or participation with that person, may exclude any other putative Settlement Class Members from the Settlement Class. So-called “mass” or “class” opt-outs shall not be allowed. Any putative Settlement Class Member who elects to be excluded shall not: (i) be bound by the Final Approval Order and Judgment; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Settlement Agreement; or (iv) be entitled to object to any aspect of this Settlement Agreement.

The Claims Administrator shall provide the Parties with copies of all completed opt-out notifications, and a final list of all who have timely and validly excluded themselves from the Settlement Class, which Class Counsel must file with the Court and serve on Defendants no later than 10 days after the date for a putative Settlement Class Member to exclude himself or herself from the Settlement Class has expired.

Any putative Settlement Class Member who does not timely and validly exclude herself or himself from the Settlement will be a Settlement Class Member, and shall be bound by the terms of the Settlement Agreement. If Final Approval and Judgment is entered, any Settlement Class Member who has not submitted a timely, valid written notice of exclusion from the Settlement Class shall be bound by all proceedings, orders, and judgments in this matter, including but not limited to the Release set forth in the Final Approval Order and Judgment. This would include Settlement Class Members who have previously initiated or who subsequently initiate any litigation against any or all of the Released Parties relating to the claims and transactions released in the Settlement Agreement. All individuals or entities who submit valid and timely notices of exclusion from the Settlement Class shall not be entitled to receive any benefits of the Settlement.

**10. Objections and Appearances.** A Settlement Class Member who complies with the requirements of this paragraph may object to the Settlement, the Service Award, or the Fee Award.

No Settlement Class Member shall be heard, and no papers, briefs, pleadings, or other documents submitted by any Class Member shall be received and considered by the Court, unless the objection is filed with the Court and postmarked and mailed to the Claims Administrator by no later than **45 Days after the Notice Deadline** (the “Objection Deadline”). For an objection to be considered by the Court, the objection must also include all of the information set forth in



Section III.K. of the Settlement Agreement, which is as follows: (1) the name and case number of the Action; (2) the objector's full name, address, facsimile phone number where they received the unsolicited facsimile, and cellular telephone number or other telephone number where the objector may be reached; (3) an explanation of the basis upon which the objector claims to be a Settlement Class Member; (4) all grounds for the objection in writing, accompanied by any legal support for the objection known to the objector or his or her counsel; (5) all exhibits he/she intends to introduce into evidence at the Final Approval Hearing, which shall be attached; (6) the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection; (7) the identity of all counsel representing the objector who will appear at the Final Approval Hearing or who has a financial interest in the objection; (8) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection; (9) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and (10) the objector's signature (an attorney's signature is not sufficient). Settlement Class Members who wish to appear in person or by counsel at the Final Approval Hearing must file with the Court and serve on Class Counsel and counsel for Defendants at least fifteen (15) days before the Final Approval Hearing a notice of their intent to appear.

Any Settlement Class Member who fails to comply with the provisions in this Paragraph may waive and forfeit any and all rights he or she may have to object, and shall be bound by all the terms of the Settlement Agreement, this Order, and by all proceedings, orders, and judgments in this matter, including, but not limited to, the release in the Settlement Agreement if Final Order and Judgment is entered.

Any Settlement Class Member, including a Settlement Class Member who submits a timely written objection, as described above, may appear at the Final Approval Hearing, either in person or through counsel hired at the Settlement Class Member's expense, to object to or comment on the fairness, reasonableness, or adequacy of the Settlement, the Service Award, or the Fee Award, or any other matters relating to approval of the Settlement.

If a Final Approval Order and Judgment is entered, any Settlement Class Member who fails to object in the manner prescribed herein shall be deemed to have waived his or her objections and shall be forever barred from making any such objections in this action or in any other proceeding or from challenging or opposing, or seeking to reverse, vacate, or modify any approval of the Settlement Agreement, the Service Award, or the Fee Award.

**11. Claims Process and Distribution and Allocation Plan.** The Claims Administrator will assess and determine the validity of claims, subject to review by the Parties, and make *pro rata* Settlement payments to Eligible Settlement Class Members who submit a timely, valid Claim Form. The Court preliminarily approves the plan for remuneration described in Section III.D. of the Settlement Agreement and directs that the Claims Administrator effectuate the distribution of Cash Awards according to the terms of the Settlement Agreement, should the Settlement be finally approved.

Settlement Class Members who qualify for and wish to submit a Claim Form shall do so in accordance with the requirements and procedures specified in the Class Notice and the Claim Form. If Final Approval Order and Judgment is entered, then all Settlement Class Members who qualify for a payment under the Settlement but fail to submit a claim in accordance with the requirements and procedures specified in the Class Notice and the Claim Form shall be forever barred from receiving any such benefit, but will in all other respects be subject to and bound by

the provisions in the Settlement Agreement, the release of claims included in that Settlement Agreement, and the Final Approval Order and Judgment.

**12. 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 as of the date of the execution of the Settlement Agreement if the Settlement is not finally approved by the Court or is terminated in accordance with the Settlement Agreement. In such event, the Settlement and Settlement Agreement shall become null and void and be of no further force and effect, and neither the Settlement Agreement nor the Court's orders, including this Order, relating to the Settlement shall be used or referred to for any purpose whatsoever.

**13. Use of Order.** This Order shall be of no force or effect if Final Approval Order and Judgment is not entered or there is no Effective Date and shall not be construed or used as an admission, concession, or declaration by or against Defendants of any fault, wrongdoing, breach, liability, or the certifiability of any class. Nor shall this Order be construed or used as an admission, concession, or declaration by or against the Class Representative or any other Settlement Class Member that his or her claim lacks merit or that the relief requested is inappropriate, improper, unavailable, or as a waiver by any Party of any defense or claim he, she, or it may have in this litigation or in any other lawsuit.

**14. Stay of Proceedings.** Except as necessary to effectuate this Order, all proceedings and deadlines in this matter are stayed and suspended pending the Final Approval Hearing and issuance of the Final Approval Order and Judgment, or until further order of this Court.

**15. Continuance of Hearing.** The Court reserves the right to adjourn or continue the Final Approval Hearing and related deadlines without further written notice to the Settlement

Class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the website maintained by the Claims Administrator.

**16. Injunction in Aid of Jurisdiction.** Pending final approval of the Settlement Agreement and pursuant to Rule 65(a), the Court hereby enjoins all Settlement Class Members (and any person purporting to act on behalf of a Class Member) from commencing or prosecuting any claims against any Defendant for violating the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (the “TCPA”) or any other law for sending ERC marketing faxes. Defendants shall provide notice of such injunction in any jurisdiction in which an action asserting such claims is pending.

**17. Summary of Deadlines.** The preliminarily approved Settlement shall be administered according to its terms pending the Final Approval Hearing. Deadlines arising under the Settlement Agreement and this Order include but are not limited to:

**Notice Completion Deadline:** 30 Days after Preliminary Approval

**Motion for Final Approval:** 14 Days before Final Approval Hearing

**Motion for Service Award, Attorneys’ Fees, and Costs:** 14 Days before the deadline for Class Members to Opt-Out or Object

**Opt-Out Deadline:** 45 Days after Notice Completion Deadline

**Objection Deadline:** 45 Days after Notice Completion Deadline

**Replies in Support of Final Approval, Service Award, and Fee Request (if necessary):** 7 Days before Final Approval Hearing

**Claim Deadline:** 60 Days after Notice Completion Deadline

**Final Approval Hearing:** \_\_\_\_\_

IT IS SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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HON. JULIE A. ROBINSON  
UNITED STATES DISTRICT JUDGE