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26
27 **UNITED STATES DISTRICT COURT**
28 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

29 JOHN SMITH, individually and as
30 a representative of the Class,

31 Plaintiff,

32 v.

33 A-CHECK AMERICA INC. d/b/a
34 A-CHECK GLOBAL,

35 Defendant.

Case No.: 5:16-cv-00174-VAP-KK

**SETTLEMENT AGREEMENT
AND RELEASE**

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28

1 Plaintiff John Smith (“Named Plaintiff” or “Class Representative”),
2 individually and on behalf of the proposed Settlement Class, and Defendant
3 A-Check America Inc. d/b/a A-Check Global (“Defendant” or “A-Check”),
4 hereby enter into this Settlement Agreement to resolve this class action.
5 The parties hereto are together the “Parties.”

6 **I. RECITALS**

7 1. On December 3, 2015, Named Plaintiff John Smith filed this
8 proposed class action against Defendant A-Check America Inc., d/b/a A-
9 Check Global in Superior Court of the State of California. On January 29,
10 2016, A-Check removed the lawsuit to this Court. On February 17, 2016,
11 Plaintiff filed his First Amended Complaint. (*See* Dkt. No. 15.)

12 2. The operative complaint in this Action alleges that Defendant
13 willfully violated the Fair Credit Reporting Act (“FCRA”) by preparing
14 background reports that contained information in violation of 15 U.S.C.
15 § 1681c.

16 3. On December 1, 2016, the Parties attended a full-day
17 mediation with mediator Joan Kessler and signed a binding Terms Sheet.
18 Prior to that mediation, the Parties exchanged numerous pieces of
19 information related to this Action, through both formal and informal
20 discovery. Defendant provided information on its databases, class size,
21 recordkeeping systems, and internal policies and controls. Plaintiff also
22 deposed Defendant’s corporate representative and the Parties engaged in
23 numerous conference calls, some of which included technical consultants
24 for each side who exchanged views on how to extract information from
25 Defendant’s databases.

26 4. Prior to mediation the Parties provided the mediator with
27 mediation briefs, setting forth their positions on the merits of Named
28

1 Plaintiff's claims, the prospects of class certification, and their views on an
2 appropriate settlement structure and value.

3 5. Defendant denies that it has engaged in any wrongdoing and
4 does not admit or concede any liability in connection with any facts or
5 claims that have been alleged against it, but has agreed to this Settlement
6 Agreement because of the substantial expense of litigation, the length of
7 time necessary to resolve the issues presented, and the disruption to its
8 business operations.

9 6. Based upon their analysis and evaluation of several factors,
10 Class Counsel recognize the substantial risks of continued litigation and
11 delay, including the likelihood that the case, if not settled now, might not
12 result in any recovery for the Named Plaintiff and Settlement Class.

13 7. Class Counsel have conducted a thorough study and
14 investigation of the law and facts relating to the claims that were asserted and
15 that could have been asserted, as well as a thorough study and investigation
16 of the scope and identity of the Settlement Class (which are based in part on
17 the Defendant's discovery responses), and have concluded, taking into
18 account the benefits of this Settlement and the risks and delay of further
19 litigation, that this Settlement is fair and reasonable and in the best interests
20 of the Named Plaintiff and Settlement Class.

21 8. Subject to the approval of the Court, the Parties wish to settle
22 this Action, effect a compromise, and terminate the Action. In light of the
23 above recitals, the Parties understand and agree that the claims asserted here
24 shall be settled, compromised, and released, subject to the approval of the
25 Court, upon and subject to the following terms and conditions:

26 **II. DEFINITIONS**

27 9. Action or Litigation means this lawsuit, styled as *John Smith v.*
28 *A-Check America Inc. d/b/a A-Check Global*, No. 5:16-cv-00174-VAP-KK

1 (C.D. Cal.).

2 10. Agreement means this Settlement Agreement and Release.

3 11. Class Counsel means Berger & Montague, P.C.

4 12. Class List means a list of all members of the Settlement Class, to
5 be generated by Defendant and provided to Class Counsel and the Settlement
6 Administrator not more than seven business days after the Court enters a
7 preliminary approval order. The Class List shall include full names and last
8 known addresses, in Excel or another agreed-upon format, which shall be at
9 Defendant's expense.

10 13. Class Representative or Named Plaintiff means John Smith.

11 14. Court means the United States District Court for the Central
12 District of California.

13 15. Cy Pres Recipient means Southern Center for Human Rights in
14 Atlanta, an internationally recognized non-profit organization that advocates
15 for criminal-justice-system reforms and engages in advocacy on behalf of
16 criminal defendants, incarcerated individuals, and individuals with criminal
17 records.

18 16. Declaration means the sworn statement provided by Defendant
19 to Class Counsel after execution of the Parties' Terms Sheet and prior to the
20 execution of this Agreement, attached hereto as Exhibit A.

21 17. Defendant or Released Parties or A-Check means Defendant A-
22 Check America Inc. d/b/a A-Check Global and its respective present, former
23 and future parents, subsidiaries, corporate family members, officers,
24 directors, and employees, individually, jointly and severally. This term does
25 not include the entities from whom Defendant purchases data nor does this
26 term include Innovative Enterprises, Inc.

27 18. Effective Date means the first day after the first date on which
28 all of the following have occurred:

- a. all Parties, Class Counsel, and Defendant's counsel have executed this Agreement;
- b. the Court has issued a preliminary approval order;
- c. reasonable notice has been given to Settlement Class Members including providing them an opportunity to opt out of or object to the Settlement;
- d. the Court has held a fairness hearing, entered Final Judgment approving the Settlement, awarded the Class Representative any service payment, and awarded Class Counsel their reasonable attorneys' fees and costs; and
- e. Only if there are written objections filed before the fairness hearing and those objections are not later withdrawn, the last of the following events to occur:
 - i. if no appeal is filed, then the date on which the objector's time to appeal the Final Judgment has expired with no appeal or any other judicial review having been taken or sought; or
 - ii. if an appeal of the Final Judgment has been timely filed or other judicial review was taken or sought, the date that order is finally affirmed by an appellate court with no possibility of subsequent appeal or other judicial review or the date the appeals or any other judicial review are finally dismissed with no possibility of subsequent appeal or other judicial review.

It is the intention of the Parties that the Settlement shall not become effective until the Court's Final Judgment has become final.

19. Final Approval Order or Final Judgment means the Court's order granting final approval of this Settlement.

1 20. Gross Maximum Settlement Amount or "GSA" means
2 \$400,000, which shall be the maximum total amount from which the Named
3 Plaintiff and Settlement Class Members will be paid, from which all out-of-
4 pocket costs of settlement administration will be paid, and from which Class
5 Counsel's attorneys' fees, costs, and expenses and Named Plaintiff's service
6 payment, if approved by the Court, will be paid. Defendant will pay the GSA
7 into a common fund, which shall be established and maintained by the
8 Settlement Administrator as a Qualified Settlement Fund for federal tax
9 purposes pursuant to Treas. Reg. § 1.468B-1. The Settlement Administrator,
10 on behalf of the Settlement Class, shall be responsible for all administrative,
11 accounting and tax compliance activities in connection with the Qualified
12 Settlement Fund, including any filing necessary to obtain Qualified
13 Settlement Fund status pursuant to Treas. Reg. § 1.468B-1. Defendant shall
14 provide to the Settlement Administrator any documentation necessary to
15 facilitate obtaining Qualified Settlement Fund status. The GSA shall
16 represent the full extent of Defendant's financial obligations under this
17 Settlement Agreement. There shall be no reversion to Defendant from the
18 GSA under any circumstance.

19 21. Net Settlement Fund means the amount of money remaining
20 after the Gross Maximum Settlement Amount is reduced by the following
21 amounts, as approved by the Court: (a) the service payment to the Named
22 Plaintiff; (b) reasonable attorneys' fees and costs to Class Counsel; and (c)
23 the fees of the Settlement Administrator.

24 22. Opt-Out Deadline or Objections Deadline means the date the
25 Court establishes as the deadline by which Settlement Class Members must
26 mail and postmark a written notice of their intent to opt-out of the Settlement
27 and by which objections to the preliminarily approved Settlement must be
28

1 filed with the Court. The Parties shall jointly request that this date shall be no
2 less than forty-five days after the mailing of Postcard Notice.

3 23. Postcard Notice means the double-sided postcard attached
4 hereto as Exhibit B, subject to Court approval, which the Settlement
5 Administrator will mail, via first-class U.S. mail, to each Settlement Class
6 Member.

7 24. Parties means the Class Representative and Defendant.

8 25. Settlement or Agreement means this Settlement Agreement and
9 Release.

10 26. Settlement Administrator means Kurzman, Carson Consultants
11 who were chosen by Class Counsel following a competitive bidding process.
12 Kurzman, Carson Consultants shall remain neutral when executing their
13 duties. The Settlement Administrator shall be bound to the terms of this
14 Settlement Agreement.

15 27. Settlement Class means the following:

16 *All persons who were the subject of a background report*
17 *prepared by Defendant, whose report contained one or more*
18 *items of criminal information which were non-convictions,*
19 *where such information antedated the report by more than*
20 *seven years, and whose report was issued at any time dating*
from February 17, 2014 to the date of execution of this
Agreement.

21 The Parties, in good faith, estimate that Settlement Class comprises 2,717
22 individuals.¹

23 28. Settlement Class Member means any individual who is a
24 member of the Settlement Class who does not file a timely and valid written
25 notice of intent to opt-out by the Opt-Out Deadline.

27 ¹ The Parties agree that Plaintiff can withdraw from the Settlement if additional review
28 indicates the Settlement Class is larger than 2,922 individuals.

1 29. Settlement Website means a website to be established and
2 maintained by the Settlement Administrator, at a URL to be agreed upon by
3 the Parties, and as described below in paragraph 42.

4 **III. RELIEF AND BENEFITS**

5 **A. NON-MONETARY RELIEF**

6 30. As a direct result of the filing of this Action, Defendant has
7 implemented an automated process to screen out information that should not
8 be reported pursuant to 15 U.S.C. § 1861c. See Ex. A. As part of this
9 Agreement, Defendant agrees to keep an automated screening process in
10 place for at least two years after the Effective Date unless Defendant
11 believes in good faith that a change in existing law or regulation warrants a
12 departure from this practice, at which time Defendant shall notify Class
13 Counsel of the change and the basis therefore. Nothing in this Agreement
14 shall prohibit Defendant from exercising reasonable business judgment to
15 make appropriate adjustments to the manner in which the automated review
16 is conducted (e.g., changing algorithms to account for new terms, etc.).

17 31. As a direct result of the filing of this Action, Defendant has
18 implemented procedures to confirm that charges which are dismissed or
19 dropped due to amendment of the charge prior to conviction are no longer
20 reported after seven years. See Ex. A. As part of this Agreement,
21 Defendant agrees to keep this procedure in place for at least two years after
22 the Effective Date unless Defendant believes in good faith that a change in
23 existing law or regulation warrants a departure from this practice, at which
24 time Defendant shall notify Class Counsel of the change and the basis
25 therefore. Nothing in this Agreement shall prohibit Defendant from
26 exercising reasonable business judgment to make appropriate adjustments to
27 the manner in which the automated review is conducted (e.g., changing
28 algorithms to account for new terms, etc.).

1 32. Defendant agrees to provide a copy of their report to all
2 Settlement Class Members who contact Defendant to request a copy per the
3 method stated on the notice and the Settlement Website.

4 **B. MONETARY RELIEF**

5 33. In exchange for the release of claims described below,
6 Defendant shall deposit the GSA of \$400,000 with the Settlement
7 Administrator, which shall be distributed as discussed in this section.

8 34. The GSA shall represent the full and complete extent of
9 Defendant's financial obligations under this Settlement Agreement, and
10 Defendant's financial obligations shall be complete when Defendant
11 deposits the GSA with the Settlement Administrator. There shall be no
12 reversion to Defendant from the GSA under any circumstance.

13 35. Distribution of Net Settlement Fund to Settlement Class
14 Members: Any Settlement Class Members who does not opt-out shall
15 receive a payment from the Net Settlement Fund. Defendant, in assembling
16 the class list, shall note which Settlement Class Members had outdated
17 information related to criminal charges on their reports, and which
18 Settlement Class Members had only outdated information related to traffic
19 offenses on their reports. The Net Settlement Fund shall be distributed to
20 Settlement Class Members such that individuals with any outdated criminal
21 charges on their reports shall receive a payment four times greater than
22 those with only outdated traffic violations on their reports.

23 36. Service Payment to Class Representative: Class Counsel will
24 petition the Court for a \$3,500 service payment to Class Representative, in
25 consideration for his service as a Named Plaintiff. If approved by the Court,
26 this service payment will be paid to the Class Representative by the
27 Settlement Administrator at the same time that checks are issued to the
28 Settlement Class Members. This amount shall be in addition to the amount

1 paid to the Class Representative as a class payment described in paragraph
2 34 above, but shall come out of the GSA. By signing this Agreement, the
3 Parties warrant that the Class Representative's service payment was
4 negotiated only after the amount to the class had been agreed upon. Should
5 the Court decline to approve any requested payment, or reduce such
6 payment, the Settlement shall still be effective.

7 37. Attorneys' Fees and Costs: Class Counsel may apply to the
8 Court for an award of fees and costs to be paid from the GSA. The
9 application for attorneys' fees shall be in an aggregate sum not to exceed
10 one-third of the GSA. Costs and out-of-pocket expenses shall be paid in
11 addition to attorneys' fees in the amount in which they were or are incurred
12 by Class Counsel and are approved for reimbursement by the Court. Costs
13 incurred by Class Counsel that are associated with the administration of the
14 Settlement shall also be eligible for reimbursement if approved by the
15 Court. By signing this Agreement, the Parties warrant that Class Counsel's
16 attorneys' fees and costs were negotiated only after the amount of the GSA
17 and method of distribution to Settlement Class Members had been agreed
18 upon. Should the Court decline to approve any requested payment, or
19 reduce such payment, the Settlement shall still be effective.

20 38. Settlement Administrator's Expenses: Reasonable expenses of
21 the Settlement Administrator shall be paid from the GSA up to a total of
22 \$23,000. In no event will Defendant be responsible for any further
23 administration expenses outside of the GSA.

24 39. Cy Pres: Settlement Class Members shall have 180 days after
25 checks are mailed to negotiate their checks. Thirty days following the close
26 of the check-negotiation period, the Settlement Administrator shall
27 distribute any remaining amounts in the Net Settlement Fund to the *Cy Pres*
28 Recipient.

1 40. Taxes: The Settlement Administrator on Defendant's behalf
 2 will issue to each Settlement Class Member who received and cashed his or
 3 her settlement check, an IRS Form 1099 if required by law and within the
 4 time required by law. Nothing in this Agreement shall be construed as
 5 Defendant or Class Counsel providing any advice regarding the payment of
 6 taxes or the tax consequences of a Settlement Class Member's participation
 7 in any portion of this Agreement.

8 **IV. NOTICE, OBJECTIONS, AND OPT-OUTS**

9 **A. NOTICE, WEBSITE, CONSUMER REPORTS AND** 10 **PHONE SUPPORT**

11 41. Within thirty days of receiving the Class List from Defendant,
 12 the Settlement Administrator shall mail the Postcard Notice to Settlement
 13 Class Members via first-class U.S. mail.

14 42. Prior to mailing, the Settlement Administrator shall utilize the
 15 U.S. Postal Office's National Change of Address System and appropriate
 16 proprietary software to verify and/or update Settlement Class Members'
 17 addresses. Should any Postcard Notice be returned as undeliverable or
 18 returned with a forwarding address, the Settlement Administrator shall re-
 19 mail the Postcard Notice to the forwarding address and, if no forwarding
 20 addresses is provided, utilize any other legally available database for the
 21 purpose of finding new addresses and remailing.

22 43. The Settlement Administrator shall cause the Settlement
 23 Website to "go live" on the date that the Postcard Notice is mailed and once
 24 the Parties have agreed to the content of the Settlement Website. The
 25 Settlement Website shall:

- 26 a. Provide Settlement Class Members with an opportunity to
 27 update their contact information;

- b. Contain copies of the pleadings in this matter, including the operative complaint, this Agreement, and copies of any orders issued by the Court in connection with this Settlement;
- c. Inform individuals that they are entitled to receive one free copy of any consumer report produced by A-Check and directions for requesting such a report from A-Check directly;
- d. Provide individuals the toll free number described in paragraph 44;
- e. Absent agreement by the Parties, not be taken down until all remaining funds from the GSA are distributed following the Effective Date;
- f. Be updated as appropriate regarding developments in the Litigation; and
- g. Contain the Long Form Notice attached hereto as Exhibit E.

44. On the date that the Postcard Notice is mailed, the Settlement Administrator shall implement a temporary Call Center which will have an Interactive Voice Response (“IVR”) system to provide Class Members with information about the Settlement and will allow Class Members to provide their updated contact information.

B. OBJECTION AND OPT-OUT REQUIREMENTS

45. Right to Opt Out: All individuals in the Settlement Class will have the right to be excluded from, *i.e.*, to “opt out” of, the Settlement Class. On or before the Opt-Out Deadline, each individual who elects to opt out of the Settlement must send, by first-class U.S. mail, written notice addressed to the Settlement Administrator indicating his or her name and address and stating that he or she desires to opt out of the Settlement or otherwise does not want to participate in the Settlement. Any individual who does not timely (as measured by the postmark on that individual’s written notice) opt out of

1 the Settlement by written notice correctly directed to the Settlement
2 Administrator and containing the requisite information shall remain a
3 member of the Settlement Class and shall be bound by any orders of the
4 Court about the Settlement or the Settlement Class. In no event shall
5 individuals who purport to opt out of the Settlement as a group, aggregate,
6 collective, or class be considered a successful opt out. Any individual in the
7 Settlement Class who fails to timely and validly opt out of the Settlement
8 Class under this Settlement Agreement shall be bound by the terms of this
9 Settlement.

10 46. Objections: Any Settlement Class Member who wishes to object
11 to the Settlement must file a timely written statement of objection with the
12 Clerk of Court, and mail a copy of that objection with the requisite postmark
13 to the Settlement Administrator no later than the Objections Deadline. The
14 Settlement Administrator shall transmit the objection to Class Counsel and
15 Defendant's counsel within one business day of receipt. The objection must
16 state the case name and number; the basis for and an explanation of the
17 objection; the name, address, telephone number, and email address of the
18 Settlement Class Member making the objection; and a statement of whether
19 the Settlement Class Member intends to appear at the fairness hearing, either
20 with or without counsel. In addition, any objection must be personally signed
21 by the Settlement Class Member and, if represented by counsel, then by
22 counsel. Any Settlement Class Member who fails to make objections in the
23 manner specified above shall be deemed to have waived any objections and
24 shall be foreclosed from making any objections, whether by appeal or
25 otherwise, to the Settlement. No Settlement Class Member shall be entitled to
26 contest in any way the approval of the terms and conditions of this
27 Agreement or the Court's Final Approval Order or Final Judgment except by
28 filing and serving written objections in accordance with the provisions of this

1 Agreement. Class Counsel and Defendant agree that no payments or other
2 consideration shall be provided to any objector or to counsel for any objector
3 to the Settlement in connection with the objector withdrawing an objection,
4 foregoing the right to appeal an objection, or withdrawing an appeal unless
5 such payment is disclosed to and approved by the Court.

6 **V. CLASS CERTIFICATION PURSUANT TO FED. R. CIV. P. 23**

7 47. The Parties stipulate to class certification pursuant to Fed. R.
8 Civ. P. 23 for purposes of settlement only. Should the Settlement not be
9 approved by the Court, Defendant specifically reserves its right to contest a
10 future motion for class certification. The Parties will request approval of a
11 Settlement Class for purposes of administration and resolution of this Action
12 only. If the Court does not grant either preliminary or final approval of this
13 Settlement, then the Parties agree to revert to their previous positions.

14 **VI. RELEASE OF CLAIMS**

15 48. Settlement Class Release: On the Effective Date of this
16 Settlement Agreement, for the Settlement Class benefits and for other good
17 and valuable consideration, the receipt and sufficiency of which are hereby
18 acknowledged by Named Plaintiff and Class Counsel, all Settlement Class
19 Members fully and forever release, waive, acquit, and discharge the Released
20 Parties from any and all claims the Settlement Class has under 15 U.S.C. §
21 1681c of the Fair Credit Reporting Act and any analogous state law claims
22 (collectively, the "Settlement Class Member Released Claims"). This release
23 explicitly includes claims for actual damages, statutory damages, and
24 punitive damages, as well as for attorneys' fees and costs. The Parties agree
25 that the payments made hereunder are meant to compensate Settlement Class
26 Members for all harms incurred as a result of the allegations set forth in the
27 First Amended Complaint. It is expressly intended and understood by the
28 Parties that this Settlement Agreement is to be construed as a complete

1 settlement, accord, and satisfaction of the Settlement Class Member Released
2 Claims.

3 **VII. NO ADMISSION OF LIABILITY**

4 49. Defendant does not admit any liability, and this Settlement shall
5 not constitute an admission of liability by Defendant. Nothing in this
6 Agreement nor any action taken under it shall be deemed or construed as an
7 admission of wrongdoing of any nature on the part of Defendant with respect
8 to any allegations or claims, nor does it constitute an admission that others
9 are similarly situated or that any putative class meets the requirements for
10 class certification.

11 **VIII. TIMING OF BRIEFING, CAFA NOTICE, FINAL FAIRNESS**
12 **HEARING, AND PAYMENTS**

13 50. Named Plaintiff shall endeavor to move for preliminary
14 settlement approval by January 30, 2017, shall propose the preliminary
15 approval order attached hereto as Exhibit C, and shall request that the
16 Settlement be preliminarily approved without a formal hearing and based on
17 the submission of pleadings only. The Parties agree that Named Plaintiff can
18 cite to the Federal Rule 30(b)(6) witness transcript in settlement approval
19 briefing. Defendant shall not oppose the motion for preliminary approval.

20 51. Within ten days of the Named Plaintiff moving for preliminary
21 settlement approval, Defendant shall serve upon the appropriate state
22 officials of each state in which a Named Plaintiff or a Settlement Class
23 Member resides and upon the pertinent U.S. Attorney General for each such
24 state, a notice of this proposed Settlement, and other filings required by the
25 Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1715. Defendant
26 will provide a copy of this notice to Class Counsel and will file with the
27 Court a notice of compliance with CAFA's requirements.
28

1 52. Named Plaintiff will file his Motion for Attorneys' Fees and
2 Costs, Class Representative service payment, and Payment of the Settlement
3 Administrator's Expenses no later than fourteen days before the Opt-Out
4 Deadline.

5 53. Named Plaintiff shall move for final settlement approval no later
6 than thirty days after the Opt-Out Deadline, and in cooperation with
7 Defendant's counsel, Class Counsel shall propose the Final Approval Order
8 attached hereto as Exhibit D, Defendant shall not oppose that motion, and the
9 Parties shall jointly request a fairness hearing as soon as is practicable but no
10 sooner than forty-five days after the Opt-Out Deadline.

11 54. No later than five business days following the Effective Date,
12 Defendant shall wire transfer the GSA to the account established by the
13 Settlement Administrator.

14 55. As soon as is practicable, but no later than twenty days
15 following the Effective Date, the Settlement Administrator shall mail checks
16 to all Settlement Class Members, including the service payment to the Class
17 Representative.

18 56. As soon as is practicable, but no later than twenty days
19 following the Effective Date, the Settlement Administrator shall wire any
20 approved attorneys' fees and costs to Class Counsel.

21 **IX. SETTLEMENT CONTINGENT ON APPROVAL**

22 57. Settlement Contingent on Final Approval: This Settlement is
23 contingent upon final approval of a class action settlement on behalf of the
24 Settlement Class described herein. In the event that a court of competent
25 jurisdiction rejects any portion of this Settlement Agreement, the Parties
26 agree that they will return to mediation with a mutually acceptable mediator.
27 In the event that a court of competent jurisdiction does not finally approve
28 such settlement for the Settlement Class, this Agreement shall have no effect.

1 58. Settlement Modification. The Parties may agree by stipulation
2 executed by counsel to modify the exhibits to this Agreement to effectuate
3 the purpose of this Agreement or to conform to guidance from the Court
4 about the contents of such exhibits without the need to further amend this
5 Agreement. Any stipulation modifying the Settlement must be filed with the
6 Court and is subject to the Court's approval.

7 **X. MISCELLANEOUS**

8 59. Entire Agreement: This Agreement, together with its exhibits,
9 constitutes the full and entire agreement among the Parties with regard to the
10 subject matter and supersedes all prior representations, agreements, promises,
11 or warranties, written, oral, or otherwise. No party shall be liable or bound to
12 any other party for any prior representation, agreement, promise, or warranty,
13 oral or otherwise, except for those that are expressly set forth in or attached
14 to this Agreement.

15 60. No Prior Assignments: The Named Plaintiff represents,
16 covenants, and warrants that he has not directly or indirectly, assigned,
17 transferred, encumbered, or purported to assign, transfer, or encumber to any
18 person or entity any portion of any liability, claim, demand, action, cause of
19 action, or that are rights released or discharged in this Settlement except as
20 set forth in this Agreement.

21 61. Construction: The Parties agree that the terms and conditions of
22 this Agreement are the result of lengthy, arm's-length negotiations between
23 the Parties and that this Agreement will not be construed in favor of or
24 against any party by reason of the extent to which any party or the party's
25 counsel participated in the drafting of this Agreement.

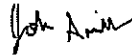
26 62. Construction of Captions and Interpretations: Paragraph titles,
27 captions, or headings in this Agreement are inserted as a matter of
28 convenience and for reference and in no way define, limit, extend, or

1 describe the scope of this Agreement or any provision in it. Each term of this
2 Agreement is contractual and is not merely a recital.

3 63. This Agreement may be executed in one or more counterparts.
4 All executed counterparts and each of them shall be deemed to be one and
5 the same Agreement. This Agreement may be executed by signature
6 delivered by facsimile, PDF, text, or .jpg and need not be the original "ink"
7 signature. A complete set of executed counterparts shall be filed with the
8 Court. This Agreement shall become binding upon its execution by the Class
9 Representative, Defendant, and counsel.

10
11 IN WITNESS WHEREOF the Parties and their counsel have caused this
12 Settlement Agreement to be duly executed.

13
14 Date: 1/20/2017



15 John Smith

16
17 A-CHECK AMERICA INC.
18 d/b/a A-CHECK GLOBAL

19 Date: 1/26/17

By: 

20 Its: DON SHIMIZU

21
22 COUNSEL FOR PLAINTIFF

23 BERGER & MONTAGUE, P.C.

24 Dated: January 24, 2017

By: 

25 E. Michelle Drake

26 emdrake@bm.net

27 Joseph C. Hashmall

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EXHIBIT A

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Attorneys for Defendant
 A-CHECK AMERICA INC. d/b/a
 A-CHECK GLOBAL

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

JOHN SMITH, individually and as
 a representative of the Classes,

Plaintiff,

v.

A-CHECK AMERICA INC. d/b/a
 A-CHECK GLOBAL,

Defendant.

CLASS ACTION

Case No. 16-cv-00174-VAP-KK

Assigned to the Hon. Virginia A. Phillips

Magistrate Judge Hon. Kenly Kiya Kato

**DECLARATION OF GARY
 HANLEY REGARDING
 SETTLEMENT AGREEMENT**

Hearing:
 FAC Filed: February 17, 2016
 Discovery Cut Off: January 2, 2017
 Trial Date: None set

1 I, Gary Hanley, declare and state as follows:

2 1. I have personal knowledge of the facts contained in this declaration,
3 and if called as a witness, I could and would testify as to their accuracy.

4 2. I am the Compliance Director for A-Check America, Inc., d/b/a A-
5 Check Global ("A-Check"). In this position, I am familiar with A-Check's
6 policies, practices, and procedures regarding its compliance with the Fair Credit
7 Reporting Act ("FCRA") and state equivalent laws.

8 3. A-Check takes compliance with the FCRA and state equivalent laws
9 seriously. A-Check ensures compliance through various means, including:
10 extensive training of its employees and clients; enforcement of comprehensive
11 policies, procedures, and practices; detailed review of every consumer report for
12 compliance before it is sent to the client; and periodic auditing of its quality and
13 control department to ensure that it is properly reviewing consumer reports.

14 4. In July 2015, Plaintiff John Smith ("Plaintiff") filed a class action
15 complaint against A-Check alleging that it violated Section 1681c(a) of the FCRA
16 by preparing consumer background reports that contained dismissed charges that
17 pre-date the consumer reports by more than seven years. Specifically, Plaintiff
18 alleged that A-Check should not have reported original charges older than seven
19 years that were later amended even if there was ultimately a conviction for a
20 different offense.

21 5. After Plaintiff filed this lawsuit in July 2015, A-Check reviewed its
22 policy in connection with Plaintiff's allegations. Because a charge ultimately
23 resulted in a conviction, albeit for a different offense, A-Check believed that it was
24 lawful to report the original charge so that it was reporting complete data as
25 required under Section 1681k.

EXHIBIT B

COURT ORDERED

NOTICE

Smith v. A-Check

America Inc.

Class Action Notice

Smith v. A-Check America Inc.
c/o ADMINISTRATOR
ADDRESS
ADDRESS

FIRST CLASS
MAIL
US POSTAGE
PAID
Permit# __



Postal Service: Please do not mark barcode

ABC-1234567-8

First Last
Address1
Address2
City, State, Zip Code

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
Case No. 5:16-CV-00174

Class Action Notice

Smith v. A-Check America Inc.
c/o ADMINISTRATOR
ADDRESS



Name/Address Changes:

«First1» «Last1»

«CO»

«Addr1» «Addr2»

«City», «St» «Zip» «Country»

IF YOU MOVE, send your CHANGE OF ADDRESS to ADMINISTRATOR at the above address.

If the Court approves the Settlement and all requested attorneys' fees, costs, administration expenses, and service awards, your estimated settlement payment will be \$_. Your payment may be smaller or larger depending on the number of Settlement Class Members that choose to participate in the Settlement. YOU DO NOT NEED TO DO ANYTHING TO RECEIVE THAT PAYMENT.

A settlement has been reached in a class action lawsuit against A-Check. Plaintiff alleges that A-Check prepared background reports that contained information not permitted under the Fair Credit Reporting Act, specifically criminal non-convictions older than seven years. A-Check denies that it violated any law, but has agreed to the settlement to avoid the uncertainties and expenses associated with continuing the litigation. This notice summarizes the proposed Settlement. For the precise terms and conditions of the settlement, review the Settlement Agreement, available at www.URL.com.

Am I a Class Member? A-Check's records indicate you are a Class Member.

What Can I Get? If the Settlement is approved by the Court and you do not choose to exclude yourself from the Settlement Class, you will receive a settlement payment. The amount of your payment will depend on the amount of attorneys' fees, Class Representative service payment, and administration costs approved by the Court. The total gross maximum settlement amount is \$400,000. After court-approved deductions, this fund will be divided among the class members, with those whose reports contained dismissed criminal charges (rather than traffic violations) receiving more. Class Counsel estimates that those in your category will receive approximately \$___, although this number will vary depending on the amount of attorneys' fees, Class Representative service payment and administration costs. You can also obtain instructions regarding how to receive a free copy of the background report(s) A-Check produced about you by going to www.XXX.com.

How Do I Get a Payment? You do not need to take any action in order to receive a payment.

What Are My Other Options? If you do not wish to participate in the settlement, and do not wish to receive a settlement payment, you may exclude yourself from the Settlement Class by mailing a written notice to the Settlement Administrator by **Date**. If you exclude yourself, you cannot receive a settlement payment, but you keep any rights you may have to sue A-Check over the legal issues in this litigation. If you do not exclude yourself, you and/or your lawyer have the right to appear before the Court and/or object to the Settlement. Your written objection must be filed with the Court no later than **Date**. Specific instructions on how to object to or exclude yourself from the Settlement are available at www.URL.com.

Who Represents Me? The Court has appointed a team of lawyers from Berger & Montague, P.C. to serve as Class Counsel. They will petition to be paid legal fees and expenses up to \$XX from the settlement fund. However, you may hire your own lawyer at your expense if you so choose.

When Will the Court Consider the Settlement? The Court will hold a final approval hearing on **DATE** at **TIME** at **Location**. At that hearing, the Court will hear any objections concerning the fairness of the Settlement, decide whether to approve the requested attorneys' fees, Class Representative awards, and administration costs, and determine the final fairness of the Settlement.

How Do I Get More Information? For more information, including the full Notice and Settlement Agreement, go to www.URL.com, or contact the Settlement Administrator at 1-800-XXX-XXXX.

Business Reply Mail
Artwork

EXHIBIT C

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

JOHN SMITH, individually and as
a representative of the Class,

Plaintiff,

v.
A-CHECK AMERICA INC. d/b/a
A-CHECK GLOBAL,

Defendant.

Case No.: 5:16-cv-00174-VAP-KK

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Based on Plaintiff's Unopposed Motion for Preliminary Approval for the Proposed Class Action Settlement between Plaintiff John Smith ("Named Plaintiff" or "Class Representative") and A-Check America Inc. d/b/a A-Check Global ("A-Check" or "Defendant") in the above-captioned matter ("Lawsuit"), as set forth in the Settlement Agreement entered into between Plaintiff and Defendant (the "Settlement Agreement"), and for good cause shown therein, IT IS HEREBY ORDERED:

1. Unless defined herein, all capitalized terms in this Order shall have the same meanings as set forth in the Settlement Agreement.

2. For settlement purposes only, the Court preliminarily finds that the Settlement of the Lawsuit, on the terms and conditions set forth in the Settlement Agreement, including all exhibits thereto, is fair, reasonable, adequate and in the best interest of the Settlement Class Members and within the range of reasonableness for preliminary settlement approval. The Court finds that: (a) the Settlement Agreement resulted from extensive arm's-length negotiations; and (b) the Settlement Agreement is sufficiently reasonable to

warrant notice of the Settlement to persons in the Settlement Class and a full hearing on the approval of the Settlement.

3. Pursuant to Fed. R. Civ. P. 23(b)(3), the Court conditionally certifies, for settlement purposes only, the following Settlement Class with respect to the claims asserted against A-Check in the Lawsuit:

All persons who were the subject of a background report prepared by Defendant, whose report contained one or more items of criminal information which were non-convictions, where such information antedated the report by more than seven years, and whose report was issued at any time dating from February 17, 2014 to [Date]

4. The Court preliminarily finds, for purposes of settlement only, that the Lawsuit meets all the prerequisites of Rule 23 of the Federal Rules of Civil Procedure, including that:

(a) The Settlement Class appears to be so numerous that joinder of all members is impracticable;

(b) There appear to be questions of law or fact common to the Settlement Class for purposes of determining whether this Settlement should be approved;

(c) The Named Plaintiff's claims appear to be typical of the claims being resolved through the proposed Settlement;

(d) The Named Plaintiff appears to be capable of fairly and adequately protecting the interests of the Settlement Class in connection with the proposed Settlement;

(e) Common questions of law and fact appear to predominate over questions affecting only individual persons in the Settlement Classes. Accordingly, the Settlement Class appears to be sufficiently cohesive to warrant settlement by representation; and

(f) Certification of the Settlement Class appears to be superior to

other available methods for the fair and efficient resolution of the claims of the Settlement Class.

5. For settlement purposes only, the Court preliminarily certifies Plaintiff John Smith as the Class Representative. The Court preliminarily appoints Berger & Montague, P.C. as Class Counsel. The Court preliminarily finds that Class Counsel have and will fairly and adequately represent the interests of the Settlement Class Members.

6. The court appoints Kurzman, Carson Consultants as the Settlement Administrator in this case, to carry out the tasks set forth in the Settlement Agreement.

7. The Court approves the Postcard Notice, attached to the Settlement Agreement as Exhibit B, for distribution in accordance with the schedule set forth in the Settlement Agreement. The Court finds that the proposed method of class notice fully satisfies the requirements of due process, the Federal Rules of Civil Procedure, and constitutes the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto.

8. All Settlement Class Members have the right to either opt-out or object to this Settlement pursuant to the procedures and schedule included in the Settlement. The opt-out and objection deadlines shall be calculated as set forth in the Settlement Agreement and shall be included on the Postcard Notices where so indicated.

9. A Final Approval Hearing shall take place before the Honorable Virginia A. Phillips on , 2017 at , at the United States District Court, Central District of California, First Street Courthouse, Courtroom 8A, 8th Floor, 350 West 1st Street, Los Angeles, CA 90012, to determine: whether the proposed Settlement of the Lawsuit on the terms and conditions provided for in the Settlement Agreement is fair, reasonable and

adequate and should be approved; whether the Final Approval Order, as provided for in the Settlement Agreement, should be entered; and the amount of any fees and costs that may be awarded to Class Counsel, and the amount of any service award that may be awarded to the Named Plaintiff, as provided for in the Settlement Agreement. The Court will also hear and consider any properly lodged objections at that time under the process set forth in the Settlement Agreement. The Final Approval Hearing may be postponed, adjourned, or rescheduled by order of the Court without further notice to the Settlement Class Members.

10. Objections by any Settlement Class Member to the Settlement Agreement shall be heard by the Court at the Final Approval Hearing. Written objections shall be sent to the Clerk of Court and the Settlement Administrator and must state the case name and number; the basis for and an explanation of the objection; the name, address, telephone number, and email address of the Settlement Class Member making the objection; and a statement of whether the Settlement Class Member intends to appear at the fairness hearing, either with or without counsel. In addition, any objection must be personally signed by the Settlement Class Member and, if represented by counsel, then by counsel. 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 foreclosed from making any objections, whether by appeal or otherwise, to the Settlement.

11. Class Counsel shall file any application for an award of attorneys' fees and costs, Class Representative Service Payment, and payment of the Settlement Administrator's expenses no later than fourteen (14) days prior to the Opt-Out Deadline.

12. All proceedings in the Lawsuit are stayed pending final approval of the Settlement, except as may be necessary to implement the Settlement or comply with the terms of the Settlement Agreement.

13. Counsel for the parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the settlement that are not materially inconsistent with either this Order or the terms of the Settlement Agreement.

SO ORDERED:

Dated: _____

Hon. VIRGINIA A. PHILLIPS
Chief United States District Judge

EXHIBIT D

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

JOHN SMITH, individually and as
a representative of the Class,

Plaintiff,

v.

A-CHECK AMERICA INC. d/b/a
A-CHECK GLOBAL,

Defendant.

Case No.: 5:16-cv-00174-VAP-KK

**[PROPOSED] FINAL
APPROVAL ORDER**

The Court, having considered Plaintiff's Unopposed Motion for Final Approval of the Proposed Class Action Settlement between Plaintiff John Smith ("Named Plaintiff" or "Class Representative") and A-Check America Inc. d/b/a A-Check Global ("A-Check" or "Defendant") in the above-captioned matter ("Lawsuit"), the Settlement Agreement entered into between Plaintiff and Defendant (the "Settlement Agreement"), the any objections received, the record, the submissions and arguments presented by counsel, and, having held a Final Approval Hearing on [DATE], finds that:

1. Unless defined herein, for purposes of this Final Approval Order, all capitalized terms in this Final Approval Order shall have the same meanings as set forth in the Settlement Agreement.

2. This Court has jurisdiction over the subject matter of this action and over the settling parties hereto.

3. On [DATE], this Court preliminarily approved the Settlement and certified, for settlement purposes, the Settlement Class as defined in the Settlement Agreement.

4. Pursuant to the Court's Preliminary Approval Order, the Postcard

Notice was mailed. The Court hereby finds and concludes that the Postcard Notice was disseminated to members of the Settlement Class in accordance with the terms set forth in the Settlement Agreement and in compliance with this Court's Preliminary Approval Order. The Court further finds and concludes that the Postcard Notice and the distribution procedures set forth in the Settlement Agreement fully satisfy Fed. R. Civ. P. 23 and the requirements of due process, was the best notice practicable under the circumstances, provided individual notice to all members of the Settlement Class who could be identified through reasonable effort, provided an opportunity for the Settlement Class Members to object or exclude themselves from the Settlement, and support the Court's exercise of jurisdiction over the Settlement Class as contemplated in the Settlement and this Final Approval Order. The Court hereby finds and concludes that the notice provided by Defendant to the appropriate state and federal officials pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, fully satisfied the requirements of that statute.

5. The Settlement Class Members were given an opportunity to object to the settlement. The Settlement Class Members who made valid and timely requests for exclusion are excluded from the Settlement and are not bound by this Final Approval Order. Only [REDACTED] Settlement Class Members requested exclusion. The identities of such persons are set forth in the Settlement Administrator's Declaration, ECF No. [REDACTED].

6. The Settlement Agreement was arrived at as a result of arm's-length negotiations conducted in good faith by experienced attorneys familiar with the legal and factual issues of this case.

7. The Settlement Agreement is fair, reasonable, adequate, and in the best interests of the Settlement Class in light of the complexity, expense, and duration of litigation, as well as the risk involved in establishing liability and damages and in maintaining the class action through trial and appeal.

8. The settlement consideration provided by the Settlement Agreement constitutes fair value given in exchange for the release of the Released Claims against the Released Parties. The Court finds that the consideration provided to members of the Settlement Class is reasonable, considering that facts and circumstances of the claims and affirmative defenses asserted in the Lawsuit, and the potential risks and likelihood of success of alternatively pursuing trial on the merits.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

9. The Settlement Agreement is finally approved as fair, reasonable, adequate, just, and in compliance with all applicable requirements all applicable laws, and in the best interest of the Settlement Class. Any objections have been considered and are hereby overruled. The Settlement Agreement, which shall be deemed incorporated herein, and the Settlement are finally approved and shall be consummated in accordance with the terms and provisions thereof, except as amended by any subsequent order issued by this Court.

10. Pursuant to Fed. R. Civ. P. 23(b)(3), the Lawsuit is hereby certified, for settlement purposes only, as a class action on behalf of the following Settlement Class Members with respect to the claims asserted:

All persons who were the subject of a background report prepared by Defendant, whose report contained one or more items of criminal information which were non-convictions, where such information antedated the report by more than seven years, and whose report was issued at any time dating from February 17, 2014 to [Date].

11. Pursuant to Fed. R. Civ. P. 23, the Court certifies Named Plaintiff John Smith as the Class Representative and appoints Berger & Montague, P.C. as Class Counsel.

12. For settlement purposes only, the Court finds that the Lawsuit satisfies the applicable prerequisites for class action treatment under Fed. R. Civ. P. 23, namely:

- The Settlement Class is so numerous that joinder of all members is impracticable;
- There are questions of law and fact common to the Settlement Class Members;
- The claims of the Class Representative are typical of the claims of the Settlement Class Members;
- The Class Representative and Class Counsel have fairly and adequately represented and protected the interests of all of the Settlement Class Members;
- Common questions of law and fact predominate over questions affecting only individual Settlement Class Members; and
- Class treatment of these claims will be efficient and manageable, thereby achieving an appreciable measure of judicial economy, and a class action is superior to other available methods for a fair and efficient adjudication of this controversy.

13. The Plaintiff and the Settlement Class Members are permanently enjoined from prosecuting any of the Settlement Class Member Released Claims against any of the Released Parties, as set forth in the Settlement Agreement.

14. This Final Approval Order is binding on all Settlement Class Members, except those individuals who validly and timely excluded themselves from the Settlement.

15. The Court hereby retains continuing jurisdiction over the parties and matters relating to the Lawsuit and/or Settlement Agreement, including the administration, interpretation, construction, effectuation, enforcement,

and consummation of the Settlement, including its injunctive provisions, and this Final Approval Order.

16. The Court approves Class Counsel's application for \$ _____ in attorneys' fees and costs, and for a service award to the Named Plaintiff in the amount of \$ _____, to be paid from the Settlement Fund. The Court further approves and authorizes the deduction of an amount not to exceed \$ _____ from the Settlement Fund to cover the Settlement Administrator's fees and costs. These amounts are to be deducted from the Settlement Funds as set forth in the Settlement Agreement.

17. This Court hereby dismisses the Lawsuit against Defendant, including all claims against said Defendant, with prejudice, without costs to any party, except as expressly provided for in the Settlement Agreement.

18. Finding that there is no just reason for delay, the Court orders that Final Approval Order shall constitute a final judgment pursuant to Fed. R. Civ. P. 54 that is binding on the settling parties and the Settlement Class.

SO ORDERED:

Dated: _____

Hon. VIRGINIA A. PHILLIPS
Chief United States District Judge

EXHIBIT E

- This is a Court-authorized notice of a proposed Settlement in a class-action lawsuit.
- The lawsuit is about background checks that A-Check America Inc. d/b/a A-Check Global (“A-Check”) produced on class members.
- You do not need to do anything in order to receive a payment from this Settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
No Response Needed	You do not need to do anything to participate in this Settlement. If the Settlement is approved by the Court, unless you choose to exclude yourself, you will receive a payment.
Exclude Yourself	This is the only option that allows you to be part of any other lawsuit or legal action against A-Check about the matters being resolved in this Settlement. However, you will not receive payment in this Settlement.
Object	Write to the Court about why you object to the Settlement.
Go to a Hearing	Ask to speak in Court about the fairness of the Settlement.

- Your rights and options—and the deadlines to exercise them—are explained in this Notice.

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, you may view the Settlement Agreement at www.URL.com. You may also contact the Settlement Administrator at 1-800-XXX-XXXX, access the Court docket in this case through the Court’s Public Access to Court Electronic Records (PACER) system at www.cacd.uscourts.gov, or visit the Office of the Clerk of the Court for the Central District of California, Western Division, Los Angeles Courthouse, 312 N. Spring Street, Room G-8, Los Angeles, CA 90012, between 9:00 AM and 4:00 PM, Monday-Friday, excluding Court holidays.

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BASIC INFORMATION

1. Why did I get this Notice?

The Court in this case approved the posting of this Notice so that it could be viewed by potential members of the Settlement Class. The Settlement Class includes:

All persons who were the subject of a background report prepared by A-Check, whose report contained one or more items of criminal information which were non-convictions older than seven years, and whose report was issued at any time dating from February 17, 2014 to to the DATE.

If you are unsure of whether you are in the Settlement Class, you can contact the Settlement Administrator at XX.

Composition of the Settlement Class is based upon A-Check's records.

This Notice has been posted because members of the Settlement Class have a right to know about a proposed settlement of a class-action lawsuit in which they are class members, and about all of their options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after objections or appeals relating to that Settlement are resolved, the benefits provided for by the Settlement will be available to members of the Settlement Class.

This Notice explains the Litigation, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. A full copy of the Settlement Agreement may be reviewed at the Settlement Website: www.URL.com. This Notice contains only a summary of the Settlement Agreement.

The Court in charge of this case is the United States District Court for the Central District of California, and the case is known as *Smith v. A-Check America Inc. d/b/a A-Check Global*, Case No. 5:16-cv-00174 (the "Litigation"). The person who filed this Litigation is called the Named Plaintiff, and A-Check is the Defendant.

2. What is the Litigation about?

Named Plaintiff alleges that A-Check violated the Fair Credit Reporting Act by preparing background reports that contained information which legally could not be reported, specifically criminal non-convictions older than seven years.

A-Check disputes the Named Plaintiff's allegations and denies all liability to Named Plaintiff and the Settlement Class. A-Check denies Named Plaintiff's allegations and has raised a number of defenses to the claims asserted.

The Parties are settling the Litigation to avoid the risk and expense of further litigation. No court has found A-Check to have violated the law in any way. No court has found that the Named Plaintiff could recover any certain amount in this Litigation.

Although the Court has authorized notice to be given of the proposed Settlement, this Notice does not express the opinion of the Court on the merits of the claims or defenses asserted by either side in the Litigation.

3. Why is this case a class action?

Class actions are lawsuits in which the claims and rights of many people are decided in a single proceeding. In a class action, representative plaintiffs are called "Class Representatives." They seek to assert claims on behalf of

all members of a class or classes of similarly situated people. By doing this, they can conserve resources by asserting their claims in a single lawsuit. Class actions often involve circumstances where claimed individual damages are too small for people to proceed on their own, but where the defendant's conduct affected a lot of people all in the same way.

Lawyers who represent people who file class actions are called "class counsel." To date, the lawyers who brought this case ("Class Counsel") have not been paid any money for their work and have paid all their expenses out of pocket. They will only be paid if they win the Litigation or if the Court approves the Settlement.

4. Why is there a Settlement?

The Court did not decide this case in favor of the Named Plaintiff or in favor of A-Check. If approved, the Settlement will stop the Litigation from being litigated any more. If the Litigation continued to be litigated, there is a possibility that the Settlement Class would receive nothing. There is also the possibility that A-Check would be required to pay more than it has agreed to pay as a result of the Settlement.

Class Counsel investigated the facts and applicable law regarding the Named Plaintiff's claims and A-Check's defenses. The Parties engaged in lengthy and arm's-length negotiations to reach this Settlement. Named Plaintiff and Class Counsel believe that the proposed Settlement is fair, reasonable, and adequate and in the best interests of the Settlement Class.

Both sides agree that, by settling, A-Check is not admitting any liability or that it did anything wrong. Both sides want to avoid the uncertainties and expense of further litigation.

WHO IS IN THE SETTLEMENT

5. How do I know if I am part of the Settlement?

Everyone who fits into this description is a part of the Settlement:

All persons who were the subject of a background report prepared by A-Check, whose report contained one or more items of criminal information which were non-convictions older than seven years, and whose report was issued at any time dating from February 17, 2014 to [DATE].

If you received a Postcard Notice, A-Check's records indicate you are a member of the Settlement Class. If you are not certain as to whether you are a member of the Settlement Class, you may contact the Settlement Administrator to find out. The Administrator can be reached at 1-800-XXX-XXXX. The question of class membership will be determined based on A-Check's records.

THE SETTLEMENT BENEFITS—WHAT YOU GET

6. What does the Settlement provide?

The Settlement provides non-monetary and monetary benefits for Settlement Class Members.

First, A-Check has agreed to implement an automated process to screen out information that should not be reported on background reports. As part of this agreement, A-Check will keep an automated screening process in place for at least two years. A-Check has already implemented procedures to confirm that charges which are

dismissed or dropped due to amendment of a criminal charge prior to conviction are no longer reporter after seven years.

Second, A-Check will provide members of the Settlement Class with free copies of background report(s) that A-Check produced about them upon the Settlement Class Member's request.

Third, A-Check will provide a Settlement fund of \$400,000. This money will be divided among the Settlement Class Members, and will also be used to pay for any Court-approved attorneys' fees, Class Representative awards, and administration costs. After Court-approved deductions, the Settlement Fund will be divided among Class Members, with those Class Members whose reports contained dismissed criminal charges receiving four times more than those whose reports contained dismissed civil violations (such as traffic tickets). The exact amount each Settlement Class Member will receive will depend on the amount of fees, awards and costs, as well as the number of Settlement Class Members participating in the Settlement. The parties estimate those with criminal information on their reports will receive approximately \$XX and those with traffic information on their reports will receive approximately \$XX. The postcard notice you received tells you which group you are in.

7. How can I get a benefit?

You do not need to do anything to be eligible to receive a payment under this Settlement. Unless you exclude yourself from the Class, you will automatically receive a payment.

Your interest as a member of the Settlement Class will be represented by the Named Plaintiff and Class Counsel. You will be bound by any judgment arising from the Settlement. If the Settlement is approved, the Settlement Administrator will send you a check for any money to which you are entitled under the Settlement.

If you change your address, you must mail a notification of your new address to the Settlement Administrator or submit a change of address online at www.URL.com.

8. When would I get my benefit?

The Court will hold a final approval hearing on DATE at TIME to decide whether to approve the Settlement. If the Settlement is approved, there may be appeals. Payments to members of the Settlement Class will be made only if the Settlement is finally approved. This may take some time, so please be patient.

9. What am I giving up to get a benefit or stay in the Settlement Class?

Upon the Court's approval of the Settlement, all members of the Settlement Class who have not filed a timely and proper notice to exclude themselves from the Settlement Class (as well as their spouses, heirs, and others who may possess rights on their behalf), fully release A-Check from any and all claims arising under 15 U.S.C. § 1681c of the Fair Credit Reporting Act and any analogous state law claims (collectively, the "Settlement Class Member Released Claims"). This release explicitly includes claims for actual damages, statutory damages, and punitive damages, as well as for attorneys' fees and costs, relating to the Settlement Class Member Released Claims. This release is limited to the Settlement Class Member Released Claims and is not intended to be construed as a general release of all employment related claims.

This release may affect your rights, and may carry obligations, in the future. To view the full terms of this release, which are contained in the Settlement Agreement, please visit www.URL.com.

10. How do I get out of the Settlement?

If you choose to be excluded from the Settlement (or “opt out”), you will not be bound by any judgment or other final disposition of the Litigation and you will not receive any settlement payment. You will retain any claims against A-Check you might have. To opt out, you must state in writing your desire to be excluded from the Settlement Class. **Your request for exclusion must be sent by first-class mail, postmarked on or before DATE, addressed to:**

ATTENTION: PLEASE MAIL TO:
c/o Settlement Administrator
ADDRESS
ADDRESS

If the request is not postmarked on or before DATE, your request for to exclude yourself will be invalid, and you will be bound by the terms of the Settlement approved by the Court, including without limitation, the judgment ultimately rendered in the case, and you will be barred from bringing any claims which arise out of or relate in any way to the claims in the Litigation as specified in the release referenced in paragraph 9 above.

11. If I don’t exclude myself, can I sue A-Check for the same thing later?

No. Unless you exclude yourself, you give up any right to sue A-Check for the claims that this Settlement resolves. If you have a pending lawsuit, speak to your lawyer in that case immediately.

12. If I exclude myself, can I get benefits from this Settlement?

No. If you exclude yourself, you are not part of the Settlement.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

The Court has appointed Berger & Montague, P.C., as Class Counsel:

E. Michelle Drake
Berger & Montague, P.C.
43 SE Main Street, Suite 505
Minneapolis, MN 55414

You may hire your own attorney to advise you, but if you hire your own attorney, you will be responsible for paying that attorneys’ fees.

14. How will the lawyers and Class Representative be paid?

Class Counsel have not been paid anything for their representation of the Settlement Class to date. They have paid all the expenses of litigation out of their own pockets. If they were to lose the case, they would be paid nothing.

In connection with this Settlement, Class Counsel intend to apply to the Court for an award of attorneys’ fees, in an amount not to exceed \$133,333.33. That amount is equal to one-third of the Settlement fund. They also intend to seek out-of-pocket litigation expenses incurred during the Litigation. The Court will evaluate whether this fee

request is reasonable in light of Class Counsel's skill and the risk they undertook in bringing the Litigation. The Court may award less.

The Court has appointed Named Plaintiff John Smith as Class Representative. Class Counsel also will seek service awards for the Named Plaintiff of no more than \$3,500 for Plaintiff John Smith. The award is intended to compensate the Class Representative for the time and effort he has put into bringing this Litigation on behalf of everyone in the Settlement Class.

The costs of Settlement Administration are expected to be approximately \$XX. If awarded by the Court, all of these amounts will be paid directly out of the Settlement Fund.

OBJECTING TO THE SETTLEMENT

15. How do I tell the Court that I don't like the Settlement?

You can ask the Court to deny approval of the Settlement by filing an objection. You cannot ask the Court to order a larger Settlement; the Court can only approve or deny the Settlement as-is. If the Court denies approval, no Settlement payments will be sent out and the Litigation will continue. If that is what you want to happen, you must object.

You may object to the proposed Settlement in writing. You may also appear at the final approval hearing, either in person, or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney.

All written objections and supporting papers must (a) clearly identify the case name and number (*Smith v. A-Check America Inc. d/b/a A-Check Global*, Case No. 5:16-cv-00174); (b) contain the basis for and an explanation of the objection; (c) contain your name, address, telephone number, and email address (if you have one), and be signed by you or any attorney representing you; (d) include a statement of whether you intend to appear at the final approval hearing, either with or without an attorney; (e) be submitted to the Court, either by mail to the Clerk of Court, United States District Court for the Central District of California, Los Angeles Courthouse, 312 N. Spring Street, Room G-8, Los Angeles, CA 90012, or by filing your objection in person at any location of the United States District Court for the Central District of California, and (f) a copy mailed to the Settlement Administrator. Your objection must be filed and/or postmarked on or before **DATE**.

Any member of the Settlement Class who does not file and serve an objection in the time and manner described above will not be permitted to raise that objection later.

The Parties have agreed and it is a term of the Settlement that no payments will be made to any objector, or any objector's counsel, for any reason, without district court approval.

16. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement. Excluding yourself is telling the Court that you don't want to be part of the Settlement. If you exclude yourself, you have no basis to object, because the Litigation no longer affects you.

17. Where and when will the Court decide whether to approve the Settlement?

There will be a final approval hearing to consider approval of the proposed Settlement on DATE at TIME at the United States District Court for the Central District of California, First Street Courthouse, Courtroom 8A, 8th Floor, 350 West 1st Street, Los Angeles, CA 90012. The hearing may be postponed to a later date without further notice; Settlement Class Members should check www.URL.com regularly for any changes to this date. The purpose of the hearing is to determine the fairness, reasonableness, and adequacy of the terms of Settlement; whether the Settlement Class is adequately represented by the Class Representative and Class Counsel; and whether an order and Final Judgment should be entered approving the proposed Settlement. The Court also will consider Class Counsel's application for an award of attorneys' fees and expenses and Class Representative's compensation.

You will be represented at the final approval hearing by Class Counsel, unless you choose to enter an appearance in person or through your own counsel. The appearance of your own attorney is not necessary to participate in the hearing.

18. Do I have to come to the hearing?

No. Class Counsel will represent the Settlement Class at the final approval hearing, but you are welcome to come at your own expense. If you send any objection, you do not have to come to Court to talk about it, but you may if you wish. As long as you filed and mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, if you wish.

19. May I speak at the hearing?

You may ask the Court for permission to speak at the final approval hearing. To do so, you must send with your objection a notice of intention to appear at the hearing as described in Paragraph 15 above. You cannot speak at the hearing if you excluded yourself.

GETTING MORE INFORMATION

20. Are there more details about the Settlement?

This Notice is only a summary. For a more detailed statement of the matters involved in the Litigation or the Settlement, you may refer to the papers filed in this case during regular business hours at the Office of the Clerk of Court, United States District Court for the Central District of California, Los Angeles Courthouse, 312 N. Spring Street, Room G-8, Los Angeles, CA 90012, File: *Smith v. A-Check America Inc. d/b/a A-Check Global*, Case No. 5:16-cv-00174. The full Settlement Agreement and certain pleadings filed in the case are also available at www.URL.com or can be requested, in writing or by phone, from the Settlement Administrator.

21. How do I get more information?

You can visit www.URL.com or contact the lawyers representing the Settlement Class, identified in Paragraph 13 above. **Please do not contact the Court for information.**