

NO. 20-CI-005631

JEFFERSON CIRCUIT COURT  
DIVISION THREE  
HON. MITCH PERRYALISSA GOODLETT, individually,  
and as the representative of a class  
of similarly-situated persons,  
123 Lakeview Drive  
Lawrenceburg, Kentucky 40342**PLAINTIFF**

v.

BROWN-FORMAN CORPORATION  
850 Dixie Highway  
Louisville, Kentucky 40210**DEFENDANT***Electronically Filed***NOTICE**

Notice is hereby given that the following Motion will be brought on for hearing before the Judge of the Jefferson Circuit Court on February 15, 2021, at 9:45 a.m., or as soon thereafter as counsel may be heard.

**PLAINTIFF'S UNOPPOSED MOTION  
FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Comes now, D. Greg Blankinship of the law firm Finkelstein, Blankinship, Frei-Pearson & Garber LLP, and respectfully moves the Court on behalf of Plaintiff Alissa Goodlett for entry of an order preliminarily approving a proposed class action settlement of this matter.

In support of this motion, Plaintiff submits a memorandum of law and the declarations of D. Greg Blankinship and Jessica L. Lukasiewicz.

**WHEREFORE**, Plaintiff respectfully requests the Court to enter an order (1) certifying the proposed Class; (2) naming Plaintiff as class representative; (3) appointing Thomas & Solomon

LLP and Finkelstein, Blankinship, Frei-Pearson & Garber, LLP as Class Counsel; (4) granting preliminary approval to the Settlement Agreement; (5) approving the proposed notices (6) scheduling a Final Approval Hearing; and (7) granting such further relief the Court deems reasonable and just

Dated: February 9, 2021

Respectfully submitted,

/s/ D. Greg Blankinship

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 9, 2021, a true and correct copy of the foregoing was served via KCOJ eFiling System on the following:

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MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

sf-4422795



## TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES .....	iii
I. INTRODUCTION.....	1
II. BACKGROUND.....	2
III. SETTLEMENT DISCUSSIONS.....	3
IV. TERMS OF SETTLEMENT.....	3
A. Identity Theft Protection Services .....	3
B. Reimbursement for Out-of-Pocket Losses.....	4
C. Reimbursement for Attested Time.....	4
D. Cash Payment for Inconvenience.....	5
E. Non-Monetary Relief .....	5
F. Release .....	5
G. Notice and Settlement Administration.....	6
H. Attorneys' Fees and Costs .....	6
I. Service Award.....	6
V. THE PROPOSED SETTLEMENT CLASS SHOULD BE CERTIFIED .....	6
VI. THE COURT SHOULD CERTIFY THE CLASS FOR PURPOSES OF SETTLEMENT .....	8
A. The Class Satisfies the Requirements of CR 23.01 .....	9
1. The Class Satisfies the Numerosity Requirement.....	9
2. The Class Satisfies the Commonality Requirement.....	10
3. The Class Satisfies the Typicality Requirement.....	11
4. The Class Satisfies the Adequacy Requirement.....	12

B.	The Class Satisfies the Requirements of CR 23.02.....	16
1.	Common Questions of Law and Fact Predominate.....	16
2.	This Class Action is the Superior Method of Adjudication.....	17
C.	Plaintiff's Counsel Should Be Appointed As Class Counsel.....	18
VII.	THE COURT SHOULD GRANT PRELIMINARY APPROVAL TO THE SETTLEMENT.....	18
A.	Whether Settlement was Reached after Arm's Length Negotiations .....	20
B.	The Settlement Contains No Obvious Deficiencies.....	21
C.	The Settlement Favors No Class Representative or a Segment of the Class .....	22
D.	Reasonableness of Settlement.....	22
VIII.	THE COURT SHOULD APPROVE THE FORM AND METHOD OF NOTICE OF THE SETTLEMENT TO THE CLASS.....	24
IX.	THE COURT SHOULD APPROVE THE DEADLINES FOR CLASS MEMBERS TO OBJECT OR OPT-OUT OF THE SETTLEMENT, AS WELL AS DEADLINES TO SUBMIT CLAIM FORMS.....	25
X.	THE COURT SHOULD SET A DATE FOR THE FINAL APPROVAL HEARING.....	25
XI.	CONCLUSION.....	26
	CERTIFICATE OF SERVICE .....	27

# TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Almonte v. Marina Ice Cream Corp.</i> , No. 16-00660, 2016 WL 7217258 (S.D.N.Y. Dec. 8, 2016).....	7
<i>Amchem Prods. Inc. v. Windsor</i> , 521 U.S. 591 (1997) .....	16
<i>Amos v PPG Indus.</i> , No. 2:05-cv-70, 2015 WL 4881459 (S.D. Ohio Aug 13, 2015).....	21
<i>Bacon v. Honda of Am. Mfg., Inc.</i> , 370 F.3d 565 (6th Cir. 2004) .....	9, 10
<i>Beattie v. CenturyTel, Inc.</i> , 511 F.3d 554 (6th Cir. 2007) .....	11
<i>Camesi v. Univ. of Pittsburgh Med. Ctr.</i> , No. 09-85J, 2009 WL 3032590 (W.D. Pa. Sept. 17, 2009).....	15
<i>Castillo v. Seagate Tech., LLC</i> , No. 16-cv-01958, ECF No. 76 (N.D. Cal. Oct. 19, 2017).....	7, 13, 16, 23, 25
<i>Crawford v Lexington-Fayette Urban Cty. Gov't</i> , No. 06-299-JBC, 2008 WL 2885230 (E.D. Ky. Oct 23, 2008).....	21
<i>Doe v. Roman Catholic Diocese of Covington</i> , No. 03-CI-00181, 2006 WL 250694 (Ky. Cir. Ct. Jan. 31, 2006).....	19
<i>Duhaime v. John Hancock Mut. Life Ins. Co.</i> , 177 F.R.D. 54 (D. Mass. 1997) .....	20
<i>Ehrhart v. Verizon Wireless</i> , 609 F.3d 590 (2d Cir. 2010) .....	19
<i>Eisen v. Carlisle and Jacquelin</i> , 417 U.S. 156 (1994) .....	24
<i>Frank v. Eastman Kodak Co.</i> , 228 F.R.D. 174 (W.D.N.Y. 2005) .....	15
<i>Grunin v. International House of Pancakes</i> , 513 F.2d 114 (8th Cir.) .....	24

<i>Hamelin v. Faxton-St. Luke's Healthcare</i> , 274 F.R.D. 385 (N.D.N.Y. 2011) .....	15
<i>Hensley v. Haynes Trucking, LLC</i> , 549 S.W.3d 430 (Ky. 2018).....	7, 9, 10, 12, 17
<i>Hillson v. Kelly Serv.</i> No. 2:15-cv-10803, 2017 WL 279814 (E.D. Mich. Jan. 23, 2017).....	20, 21
<i>Hyland v. HomeServices of Am., Inc.</i> , No. 05-cv-612, 2012 WL 122608 (W.D. Ky. Jan. 17, 2012) .....	20
<i>In re Am. Med Sys., Inc.</i> , 75 F.3d 1069 (6th Cir. 1996) .....	9, 11
<i>In re Heartland Payment Sys.</i> , 851 F. Supp. 2d 1040 (S.D. Tex. 2012).....	23
<i>In re Initial Pub. Offering Sec. Litig.</i> , 260 F.R.D. 81 (S.D.N.Y. 2009).....	7
<i>In re Sketchers Toning Shoe Prods. Liab. Litig.</i> , 2012 WL 3312668, 2012 (W.D. Ky. Aug 13, 2012).....	20
<i>Int'l Union, United Auto., Aerospace &amp; Agr. Implement Workers of Am. v. Gen. Motors Corp.</i> , 497 F.3d 615 (6th Cir. 2007) .....	19
<i>Lily v. Jamba Juice Co.</i> , 308 F.R.D. 231 (N.D. Cal. 2014) .....	24
<i>Lonardo v. Travelers Indem. Co.</i> , 706 F. Supp. 2d 766 (N.D. Ohio 2010) .....	19
<i>Manning v. Liberty Tire Servs. of Ohio, LLC</i> , 577 S.W.3d 102 (Ky. Ct. App. 2019) .....	9, 16
<i>Marisol A. v. Giuliani</i> , 126 F.3d 372 (2d Cir. 1997) .....	7
<i>Masters v. F.W. Webb Co.</i> , No. 03-CV-6280L, 2006 WL 2604833 (W.D.N.Y. Sept. 11, 2006) .....	15
<i>May v. Blackhawk Mining, LLC</i> , 319 F.R.D. 233 (E.D. Ky. 2017).....	7

<i>Robinson v. Shelby Cty. Bd. Of Educ.</i> , 566 F.3d 642 (6th Cir. 2009) .....	18, 19
<i>Rosiles-Perez v. Superior Forestry Serv., Inc.</i> , 250 F.R.D. 332 (M.D. Tenn. 2008). .....	9, 11
<i>Smith v. Triad of Alabama, LLC</i> , No. 14-324, 2017 WL 1044692 (M.D. Ala. Mar.17, 2017) .....	11
<i>Sprague v. Gen Motors Corp.</i> , 133 F.3d 388 (6th Cir. 1998) .....	12
<i>St. Joseph Health System Medical Information Cases</i> , JCCP No. 4716, ECF No. 418 (Cal. Sup. Ct. Feb 3, 2016) .....	11, 13
<i>Tabata v. Charleston Area Med Ctr., Inc.</i> , 759 S.E.2d 459 (W. Va. 2014) .....	11
<i>Tenn. Ass’n of Health Maint. Orgs., Inc. v. Grier</i> , 262 F.3d 559 (6th Cir. 2001) .....	19
<i>Thacker v. Chesapeake Appalachia, L.L.C.</i> , 259 F.R.D. 268 (E.D. Ky. 2009). .....	16, 19
<i>Wal-Mart Stores, Inc. v. Dukes</i> , 564 U.S. 338 (2011) .....	10, 11
<i>Weinberger v. Kendrick</i> , 698 F. 2d 61 (2d Cir. 1982) .....	19
<i>Whitlock v. FSL Mgmt., LLC</i> , 843 F.3d 1084 (6th Cir. 2016) .....	19
<i>Wiley v. Adkins</i> , 48 S.W.3d 20 (Ky. 2001).....	10
<i>Williams v. Vukovich</i> , 720 F.2d 909 (6th Cir. 1983) .....	20

#### **Other Authorities**

6 Ky. Prac. R. Civ. Proc. Ann. Rule 23.01, Comment 5 (Aug. 2017 .....	12
Manual for Complex Litigation, Fourth §§ 21.622–23 (2006)–23 (2006) .....	20
Manual For Complex Litigation, §13.14, at 173 (4th ed. 2004) .....	20

*Newberg on Class Actions*, §13:14 (5th ed.) ..... 20

package : 000014 of 000136

MOT : 000007 of 000035

## I. INTRODUCTION.

Plaintiff Alissa Goodlett (the “Plaintiff”), individually, and as the representative of a class of similarly situated persons (the “Class Members” or the “Class”), respectfully submits this memorandum of law in support of her motion for preliminary approval of a class action settlement that will resolve claims against Defendant Brown-Forman Corporation (“Defendant” or “Brown Forman”) arising out of Plaintiff’s allegations with respect to a security incident that Brown-Forman disclosed in or about August 2020 (the “Data Breach”). Shortly after the filing of this complaint, Plaintiff and Defendant (collectively, the “Parties”) engaged in informal discovery. After informal discovery, with the assistance of an experienced mediator, Honorable Ann O’Malley Shake (Ret.), the Parties were able to resolve this dispute and correspondingly drafted a settlement agreement (the “Settlement” or “Settlement Agreement”). *See* Class Action Settlement Agreement and Release, Exhibit A to the Declaration of Greg Blankinship (“Blankinship Decl.”).

The Settlement provides an extraordinary result for the approximately 20,000 Class Members, consisting of current and former employees (as well as their beneficiaries and dependents), whose personal information, including social security numbers, was potentially compromised as a result of the Data Breach. In particular, the Settlement states that Defendant will offer Class Members (i) up to three (3) years of identity theft protection; (ii) reimbursement for out-of-pocket losses up to \$5,000 per individual that have not been reimbursed by insurance; (iii) reimbursement of up to eight (8) hours at \$20 per hour expended remedying issues related to identity theft caused by the Data Breach; and (iv) \$250 cash payment for inconvenience for those Class Members who have submitted and received an insurance payment. Settlement Agreement ¶ 28. In addition, Defendant will adopt and implement certain business practice commitments and remedial measure for a period of three (3) years. *Id.* at ¶ 29. Plaintiff estimates the identity

protection services available to the Class Members alone is valued at more than \$14 million. Blankinship Decl. ¶ 6. This Settlement, which is the result of arm's length negotiations, provides substantial benefit to the Class, and compares favorably with other recent data breach settlements.

Accordingly, and as explained in greater detail below, Plaintiff respectfully requests that the Court grant preliminary approval of the Settlement; certify the proposed Class for purposes of notice and settlement; appoint Plaintiff as the class representative; appoint Thomas & Solomon LLP ("TS") and Finkelstein, Blankinship, Frei-Pearson & Garber, LLP ("FBFG") as Class Counsel; approve the form and method of notice of the proposed Settlement to the Class; set deadlines for Class Members to object to or exclude themselves from the Settlement; schedule a final approval hearing at which the Court can consider whether to give final approval to the Settlement no earlier than 125 days, but no later than 150 days following the granting of preliminary approval; and grant such further relief the Court deems just and proper.

## **II. BACKGROUND.**

This litigation arises out of a cyber-attack. On or about July 28, 2020, Brown-Forman discovered it was the victim of a cyber-attack by Sodinokibi ("REvil"). Before Brown-Forman was able to stop the attack, REvil stole certain records containing information about current and former employees, as well as certain beneficiaries and dependents of those employees. *See* Complaint, ("Compl.") at ¶ 18. REvil claimed to have taken one terabyte of corporate data from which it shared screenshots of file names as proof, with some files dating back ten years. Compl. at ¶ 21. Defendant confirmed that the Data Breach occurred, and acknowledged that certain personal information ("PI") of approximately 20,000 individuals may have been impacted. *Id.* at ¶ 22. Defendant sent Plaintiff a letter dated August 25, 2020 informing her of the Data Breach and that as a result her PI (which could include Social Security number, work contact information,



home address, position, business title and salary-related information) was compromised. *Id.* at ¶ 23.

### **III. SETTLEMENT DISCUSSIONS.**

The Parties selected a respected mediator, Honorable Ann O'Malley Shake (Ret.), to assist them in resolving this dispute. Blankinship Decl. ¶ 3. The parties engaged in informal discovery and Defense counsel provided Plaintiff's Counsel information regarding the Data Breach. *Id.* at ¶ 4. After a full-day mediation session on December 11, 2020, the parties reached an agreement in principle codified in the form of a Term Sheet. *Id.* at ¶ 5. After agreeing to the Term Sheet, the Parties negotiated the Settlement Agreement, which involved the exchange of multiple drafts, conference calls and resolution of various issues in dispute. *Id.*

The settling Parties recognize and acknowledge the benefits of settling this case. Absent settlement, Plaintiff is confident that she will prevail in certifying the Class of approximately 20,000 individuals. Nonetheless, Plaintiff recognizes that all litigation has risks, and that discovery, class certification proceedings, and trial will be time consuming and expensive for both Parties. Plaintiff also recognizes the potential benefits of early resolution, not the least being that Class Members will receive proper identity theft protections and compensation far sooner.

### **IV. TERMS OF SETTLEMENT.**

#### **A. Identity Theft Protection Services**

The Settlement Agreement provides identity theft protection through Experian IdentityWorks<sup>SM</sup> for a total period of three (3) years for all Class Members who submit a Claim Form (Identity Protection) within seventy-five (75) days after the Notice Deadline. Settlement Agreement ¶ 28(a). If Class Members previously signed up for one year of credit monitoring and identity theft protection coverage through Brown-Forman before suit was filed, they are eligible

to receive two additional years of Experian IdentityWorks<sup>SM</sup> for a total of three years. Settlement Agreement ¶ 28(a). Experian IdentityWorks<sup>SM</sup> includes credit monitoring from all three bureaus, access to Experian credit report, \$1 million in identity theft insurance, and identity restoration services. *Id.* Plaintiff's Counsel values the identity theft protection component of the Settlement consideration at approximately \$14.4 million to the Class. Blankinship Decl. ¶ 6.

### **B. Reimbursement for Out-of-Pocket Losses**

The Settlement Agreement allows for reimbursement to Class Members for Out-of-Pocket Losses up to \$5,000 per individual that have not been reimbursed by related insurance provided by Experian IdentityWorks<sup>SM</sup>. Settlement Agreement ¶ 28(b). Out-of-Pocket Losses may include, without limitation: (1) unreimbursed costs, expenses, losses, or charges incurred as a result of identity theft or identity fraud, falsified tax returns, or other possible misuse of the Class Member's personal information; (2) costs incurred on or after August 25, 2020, associated with accessing or freezing/unfreezing credit reports with any credit reporting agency; and (3) other miscellaneous expenses incurred related to any Out-of-Pocket Loss such as notary, fax, postage, copying, mileage, and long-distance telephone charges. *Id.* at ¶ 28(b)(i). To receive reimbursement for Out-of-Pocket Losses, Class Members must submit a Claim Form (Other Benefits). *Id.* The Claim Form (Other Benefits) must be submitted no later than the expiration date of the Settlement Class Member's Experian IdentityWorks<sup>SM</sup> identity protection services provided under the Settlement. *Id.*

### **C. Reimbursement for Attested Time**

In addition, the Settlement Agreement provides for Reimbursement for Attested Time. Class Members who have expended time remedying issues related to identity theft directly caused by the Data Breach are eligible for reimbursement. *Id.* at ¶ 28(c). Class Members are eligible to

receive reimbursement for up to eight (8) hours of time spent at \$20 an hour. *Id.* In order to receive Reimbursement for Attested Time, a Class Member must submit a Claim Form (Other Benefits) no later than the expiration date of the Settlement Class Member's Experian IdentityWorks<sup>SM</sup> identity protection services provided under the Settlement. *Id.*

**D. Cash Payment for Inconvenience**

Settlement Class Members who have submitted and received an insurance payment through Experian IdentityWorks<sup>SM</sup> may submit the Claim Form (Other Benefits) for a cash payment of \$250. Settlement Agreement ¶ 28(d). A claim for Cash Payment for Inconvenience must be submitted under the Claim Form (Other Benefits) by no later than the expiration date of the Settlement Class Member's Experian IdentityWorks<sup>SM</sup> identity protection services provided under the Agreement. *Id.*

**E. Non-Monetary Relief**

The Settlement Agreement requires Defendant to adopt and implement the following Business Practice Commitments for at least three (3) years following the Effective Date: (1) Enhanced Cybersecurity Training and Awareness Program; (2) Enhanced Data Security Policies; (3) Enhanced Security Measures; (4) Further Restricting Access to Personal Information; and (5) Enhanced Monitoring and Response Capability. *Id.* at ¶ 29.

**F. Release**

In exchange for the relief described above, Class Members who do not opt-out of the Settlement will fully release Brown-Forman and its related and affiliated entities (the "Released Parties" defined in the Settlement Agreement) of liability for all claims arising out of or related to the Data Breach. *Id.* at ¶ 47.

**G. Notice and Settlement Administration**

The Parties agreed to the appointment of Heffler Claims Group, as Settlement Administrator (the “Settlement Administrator”). Settlement Agreement ¶ 22. The Settlement Administrator will, subject to Court Approval, provide notice to the class in the manner set forth below. The cost of notice and settlement administration will be paid by Brown-Forman, without reduction in any benefits to Class Members. *Id.* at ¶ 35.

**H. Attorneys’ Fees and Costs**

Plaintiff’s Counsel intends to seek the Court’s approval of attorneys’ fees and costs in the total aggregate amount of up to \$570,000 subject to this Court’s approval. *Id.* at ¶ 30. Brown-Forman does not intend to challenge or object to Plaintiff’s Counsel’s request for attorneys’ fees and costs. *Id.* Should the Court grant preliminary approval, in advance of the Final Approval Hearing, Plaintiff intends to submit more detailed information to support her request for \$570,000 in attorneys’ fees and costs. Blankinship Decl. ¶ 7.

**I. Service Award**

Plaintiff’s Counsel will apply to the Court for a service award in the sum of Five Thousand Dollars and Zero Cents (\$5,000) for the class representative. *Id.* at ¶ 29. The service award reflects the work the class representative has performed in assisting Plaintiff’s Counsel with this litigation, including numerous telephonic conferences with Plaintiff’s Counsel, assisting with drafting the complaint, and the work she will continue to perform through the approval process of the Settlement. *See* Declaration of Jessica L. Lukasiewicz (“Lukasiewicz Decl.”) at ¶ 3.

**V. THE PROPOSED SETTLEMENT CLASS SHOULD BE CERTIFIED.**

“Conditional settlement class certification and appointment of class counsel have several practical purposes, including avoiding the costs of litigating class status while facilitating a global

settlement, ensuring notification of all class members of the terms of the proposed settlement agreement, and setting the date and time of the final approval hearing.” *Almonte v. Marina Ice Cream Corp.*, No. 16-00660, 2016 WL 7217258, at \*2 (S.D.N.Y. Dec. 8, 2016). Where a class is proposed in connection with a motion for preliminary approval, similar to under the Federal Rules of Civil Procedure, the Kentucky Rules of Civil Procedure (“CR”) provide that a court must ensure that the requirements of 23.01 and 23.02 are satisfied. *See Hensley v. Haynes Trucking, LLC*, 549 S.W.3d 430, 435 (Ky. 2018). Courts generally employ a more liberal, rather than restrictive construction, when deciding certification. *See May v. Blackhawk Mining, LLC*, 319 F.R.D. 233 (E.D. Ky. 2017) (in granting a motion for class certification, the court noted that the court “may not turn the class certification proceedings into a dress rehearsal for the trial on the merits.”) *See generally Marisol A. v. Giuliani*, 126 F.3d 372, 377 (2d Cir. 1997).

However, when, as here, certification is sought of a settlement class, because the case will never go to trial, the court need not consider the manageability of the proceedings should the case or cases proceed to trial. *See In re Initial Pub. Offering Sec. Litig.*, 260 F.R.D. 81, 88 (S.D.N.Y. 2009). Courts routinely certify settlement classes in data breach cases, and there is no reason why this case should be different. *See, e.g., In re Zappos Sec. Breach Litig.*, No. 12-00325, ECF No. 335 (D. Nev. Sept. 19, 2019); *Hapka v. CareCentrix, Inc.*, No. 16-02372, ECF No. 91 (D. Kan. Sept. 29, 2017); *Sackin v. Transperfect Global, Inc.*, No. 17-1469, ECF No. 55 (S.D.N.Y. Mar. 13, 2018); *In re Yahoo! Inc. Customer Data Breach Sec. Litig.*, Case No. 16-02752, ECF No. 390 (N.D. Cal. 2019); *Castillo v. Seagate Tech., LLC*, No. 16-cv-01958, ECF No. 76 (N.D. Cal. Oct. 19, 2017). Here, the proposed Settlement Class meets each of the elements of certification under CR 23.01 and satisfies the requirements of CR 23.02.

**VI. THE COURT SHOULD CERTIFY THE CLASS FOR PURPOSES OF SETTLEMENT.**

The first step in approving a class action settlement is to certify a class for settlement purposes. Pursuant to the Kentucky Rules of Civil Procedure, the Court must find that all of the requirements of CR 23.01 are satisfied. In particular, a litigant seeking to certify a class must first show:

- (a) the class is so numerous that joinder of all members is impracticable;
- (b) there are questions of law or fact common to the class;
- (c) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and
- (d) the representative parties will fairly and adequately protect the interest of the class.

**CR 23.01.**

Further, a litigant must also show that any one of the subsections of CR 23.02 is also satisfied. CR 23.02 provides that a class action can be maintained where:

- (a) the prosecution of separate actions by or against individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class; or
- (b) the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole; or
- (c) the court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

**C.R. 23.02.**

Here, as set forth in more detail below, the prerequisites of CR 23.01 and 23.02 are satisfied and the Court should certify the following Class:

All individuals who were notified by Brown-Forman that their personal information

was or may have been compromised in the Data Breach initially disclosed by Brown-Forman on or about August 2020.

Settlement Agreement ¶ 7. Although Defendant reserves its right to oppose class certification should this Court not approve the Settlement, the Parties have also agreed that the Class should be certified to effectuate this Settlement so that notice of the proposed Settlement can be delivered to the Class and the options available can be explained, including their ability to participate, opt-out, or object.

**A. The Class Satisfies the Requirements of CR 23.01**

**1. The Class Satisfies the Numerosity Requirement**

First, CR 23.01 requires a proposed class be “so numerous that joinder of all members is impracticable.” There is no specific minimum number of proposed class members required to satisfy the numerosity requirement, but rather “requires examination of the specific facts of each case and imposes no absolute limitations. When class size reaches substantial proportions, however, the impracticability requirement is usually satisfied by the numbers alone.” *Rosiles-Perez v. Superior Forestry Serv., Inc.*, 250 F.R.D.332, 338 (M.D. Tenn. 2008) (quoting *In re Am. Med Sys., Inc.*, 75 F.3d 1069, 1079 (6th Cir. 1996) (internal quotations and citations omitted)). “Whether a number is so large that it would be impracticable to join all parties in a class action depends not upon any magic number or formula, but rather upon the circumstances surrounding the case.” *Hensley*, 549 S.W.3d 430. “The facts of the case guide a court's determination that the class is sufficiently large to make joinder impractical.” *Bacon v. Honda of Am. Mfg., Inc.*, 370 F.3d 565, 570 (6th Cir. 2004). “A class of 2,500 is sufficiently numerous to make joinder impracticable.” *Manning v. Liberty Tire Servs. of Ohio, LLC*, 577 S.W.3d 102, 113 (Ky. Ct. App. 2019).

Here, the putative class is comprised of more than 20,000 individuals throughout the

Commonwealth of Kentucky and elsewhere. Under these circumstances, joinder is both impracticable and undesirable, and the numerosity requirement of CR 23.01(a) is plainly satisfied.

2. The Class Satisfies the Commonality Requirement

Additionally, the same rule requires the existence of “questions of law or fact common to the class.” CR 23.01. A proposed class satisfies the “commonality” requirement when “it is unlikely that differences in the factual background of each claim will affect the outcome of the legal issue.” *Bacon*, 370 F.3d at 570. It is not mandatory for plaintiffs to show that all questions of law or fact are common, instead there just must be questions of law or fact common to the class. *Hensley*, 549 S.W.3d 443 (citing *Wiley v. Adkins*, 48 S.W.3d 20, 23 (Ky. 2001)). The common contention must be of such a nature that it is capable of class-wide resolution and that the “determination of its truth or falsity will resolve an issue.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 338 (2011).

Commonality, like typicality, “serve[s] as guideposts for determining whether under the particular circumstances maintenance of a class action is economical and whether the named plaintiff’s claim and the class claims are so interrelated that the interests of the class members will be fairly and adequately protected in their absence.” *Wal-Mart*, 564 U.S. at 349, n.5.

Here, Plaintiff’s claims are common to, and typical of, those of the Class - - indeed, they are identical for all material purposes. Class Members allege identical claims of negligence, breach of express contract, breach of implied contract, unjust enrichment, and violation of Kentucky’s Personal Information Security Law. Compl. ¶¶ 17-102. Plaintiff alleges that Defendant failed to adequately protect the Class Members’ PI and that, as a result, each Class Member’s PI may have been disclosed in the Data Breach. The common questions of law and fact exist as against the Defendant in this action. These common legal and factual questions include, but are not limited



to, whether the Defendant owed all the Class Members a duty to safeguard their information; whether the Defendant breached that duty; whether the Defendant has invaded the privacy of the Class Members; whether the Class Members have sustained monetary loss, and the proper measure of that loss; whether Class Members are entitled to punitive and/or exemplary damages; and whether Class Members are entitled to declaratory and injunctive relief.

Answering these questions, regardless of the outcome, will resolve the allegations for the whole class “in one stroke,” thereby effectuating “class-wide resolution.” *Wal-Mart*, 564 U.S. at 338. In fact, courts have held that privacy litigation as a result of defendant’s insufficient security measures to safeguard consumers’ personal information is appropriate for class certification because the class members’ claims are all based on the same action (or inaction) of the defendant. *See Smith v. Triad of Ala., LLC*, No. 14-324, 2017 WL 1044692, at \*15-16 (M.D. Ala. Mar.17, 2017); *St. Joseph Health System Medical Information Cases*, JCCP No. 4716, ECF No. 418 (Cal. Sup. Ct. Feb 3, 2016) (certifying a class in a data breach case); *Tabata v. Charleston Area Med. Ctr., Inc.*, 759 S.E.2d 459, 466-67 (W. Va. 2014) (ordering certification in a data breach case and holding that the lower court abused its discretion in originally declining to certify). For these reasons, the commonality requirement of CR 23.01(b) is plainly met.

### 3. The Class Satisfies the Typicality Requirement

CR 23.01 requires that the class representative’s claims be typical of those of the putative class they seek to represent. A claim is considered typical if “it arises from the same event or practice or course of conduct that gives rise to the claims of other class members, and if his or her claims are based on the same legal theory.” *Rosiles-Perez*, 250 F.R.D. at 341 (quoting *In re Am. Med. Sys., Inc.*, 75 F.3d at 1082); *see Beattie v. CenturyTel, Inc.*, 511 F.3d 554, 561 (6th Cir. 2007). The typicality requirement has been defined by the Sixth Circuit “as goes the claim of the named

plaintiff, so go the claims of the class.” *Sprague v. Gen. Motors Corp.*, 133 F.3d 388, 389 (6th Cir. 1998).

“Regarding the *typicality* requirement, ‘The claims and defenses are considered typical if they arise from the same event, practice, or course of conduct that gives rise to the claims of other class members and if the claims of the representative are based on the same legal theory.’” *Id.* (citing Kurt A. Philipps, Jr., et al., 6 Ky. Prac. R. Civ. Proc. Ann. Rule 23.01, Comment 5 (Aug. 2017 updated)) (emphasis in original).

Here, Plaintiff’s claims are typical of the claims of the Class Members she seeks to represent. Plaintiff, like other Class Members, entrusted Defendant with her sensitive PI as a condition of employment and their PI may have also been compromised as a result of the same Data Breach. Similarly, Plaintiff and Class Members’ claims are based upon the same legal theories and same violations of law.

For these reasons, the typicality requirement of CR 23.01(b) is plainly met.

4. The Class Satisfies the Adequacy Requirement

Finally, in considering the adequacy requirement of CR 23.01, “[a] court will normally look at two criteria (1) the representative must have common interest with the unnamed members of the class; and (2) it must appear that the representative will vigorously prosecute the interests of the class through qualified counsel. [T]he representative must not have any significant interests antagonistic to or conflicting with those of the unnamed members of the class.” *Hensley*, 549 S.W.3d at 443 (internal citation omitted).

Here, the class representative’s interests in this litigation are entirely aligned to those of all other members of the Class with no conflicting interests. Plaintiff shares the same interest in securing relief for the claims in this case as every other member of the proposed Class, and there

is no evidence of any conflict of interest. Blankinship Decl. ¶ 8. Next, Plaintiff has demonstrated her continued willingness to vigorously prosecute this case and has regularly consulted with her counsel, reviewed documents and the proposed settlement, indicated her willingness to sit for depositions in this case, and has indicated a desire to continue protecting the interests of the class through settlement or continued litigation. *Id.* at ¶ 9. Furthermore, Plaintiff is familiar with the lawsuit and is fully aware of her claims, as well as the claims of the Class Members she seeks to represent. *Id.* at ¶ 10.

Additionally, Plaintiff's chosen counsel (Thomas & Solomon LLP and Finkelstein, Blankinship, Frei-Pearson & Garber, LLP) are firms with extensive experience litigating major class actions in state and federal courts throughout the United States, and they are familiar and knowledgeable on the subject matter of this lawsuit. Plaintiff's Counsel had done substantial work identifying, investigating, prosecuting, and settling the claims as lead counsel in many complex class actions - - including multiple data breach cases in which they secured favorable judgments in favor of its clients. *See* Exhibit A to Lukasiewicz Decl. and Exhibit B to Blankinship Decl.

Plaintiff's Counsel will similarly continue to adequately protect the interest of the proposed Class. FBFG regularly engages in major complex litigation and has extensive experience in consumer privacy class action lawsuits, including cases of first impression related to data breaches and consumer privacy. Blankinship Decl. ¶ 11. *See* FBFG Firm Resume, Exhibit B to Blankinship Decl. Similarly, courts throughout the country have appointed FBFG as class counsel. *Id.* at ¶ 12. *See, e.g., Castillo, LLC*, No. 16-01958, 2017 WL 4798611, at \*2 (appointing Jeremiah Frei-Pearson of FBFG as interim co-lead class counsel in a W-2 data breach); *St. Joseph Health Sys. Med. Info. Cases*, JCCP No. 4716 (granting contested class certification motion in a data breach case and appointing Jeremiah Frei-Pearson of FBFG as co-lead class counsel); *In re Zappos*, Case

No. 12-00325, ECF No. 335 (D. Nev. Sept. 19, 2019) (granting preliminary approval and appoint FBFG as co-lead class counsel); *Sackin*, ECF No. 55 at ¶ 6. Moreover, Plaintiff's Counsel have diligently investigated, prosecuted, and dedicated substantial resources to the claims in this action and will continue to do so throughout its pendency. Blankinship Decl. ¶ 13.

The lawyers at TS are seasoned litigators who are experienced in employment issues with considerable experience in prosecuting class actions and other complex litigation and therefore competent and capable of conducting this litigation. Lukasiewicz Decl. ¶ 4. TS has devoted the majority of its practice to representing and protecting the rights of individuals against large institutions through complex and class litigation within a variety of substantive contexts. *Id.* at ¶ 5.

For example, founding partner, J. Nelson Thomas currently sits on the American Bar Association's editorial board for the Fair Labor Standards Act treatise. *Id.* at ¶ 6. Mr. Thomas is a nationally recognized speaker on class and collective actions. *Id.* at ¶ 7. Further, partner Jessica Lukasiewicz has litigated class and collective action lawsuits for over twelve years at Thomas & Solomon LLP. *Id.* at ¶ 8. Associate Jonathan Ferris has litigated class and collective actions for over eight years at Thomas & Solomon LLP. *Id.* at ¶ 9. During their time with Thomas & Solomon LLP, Mr. Thomas, Ms. Lukasiewicz, and Mr. Ferris have represented classes of thousands upon thousands of class members, in both class and collective actions. A few examples of these successes include the following:

- *Davis v. JPMorgan Chase & Co.*, No. 01-6492 (W.D.N.Y.). Nationwide class and collective action of mortgage underwriters seeking unpaid overtime. After ten years of litigation, including an appeal to the Second Circuit which reversed the district court's order granting summary judgment in favor of the defendants, the parties reached a \$42 million settlement that received final approval in 2011.
- *Malcolm & Luciano v. Eastman Kodak Co.*, Nos. 03-6589, 04-6194 (W.D.N.Y.). Class and collective actions on behalf of certain technical writers and customer support service specialists alleging such employees had been improperly misclassified as exempt from overtime. The parties agreed to a settlement fund of \$11 million to resolve the claims. The

court granted final approval of the settlement in 2007.

- *George v. TD Bank, N.A.*, No. 12-1695 (D.Conn.). Class and collective action filed on behalf of employees who performed underwriting functions for the financial institution for wage and hour violations. In 2013, the parties reached an \$8 million settlement.
- *Gregg v. Trustees of the Univ. of Penn.*, No. 09-5547 (W.D. Pa.). Class and collective action lawsuit on behalf of hospital workers for unpaid wages, including during meal breaks. The parties reached a \$7.75 million settlement in 2011.
- *Stenclik v. JPMorgan Chase & Co.*, No. 06-6237 (W.D.N.Y.). Represented plaintiffs who worked as personal and consumer bankers in a class and collective action claiming they were misclassified as exempt from overtime. A \$7.75 million settlement was reached in 2007.

Lukasiewicz Decl. ¶ 10.

Many courts have acknowledged Thomas & Solomon LLP's class action leadership and ethical standards. *See Frank v. Eastman Kodak Co.*, 228 F.R.D. 174, 182 (W.D.N.Y. 2005) (Thomas & Solomon "has demonstrated that it is well-qualified to conduct the litigation."); *Camesi v. Univ. of Pittsburgh Med. Ctr.*, No. 09-85J, 2009 WL 3032590, at \*1 (W.D. Pa. Sept. 17, 2009) (granting appointment as class counsel because Thomas & Solomon LLP were "qualified and could appropriately represent the plaintiffs"); *Masters v. F.W. Webb Co.*, No. 03-CV-6280L, 2006 WL 2604833, at \*3 (W.D.N.Y. Sept. 11, 2006) (Thomas & Solomon LLP "is abundantly experienced in employment litigation, a substantial portion of which has been conducted before this Court."); *Hamelin v. Faxton-St. Luke's Healthcare*, 274 F.R.D. 385, 396 (N.D.N.Y. 2011) (Thomas & Solomon has "established they are qualified and able to conduct this litigation."). Lukasiewicz Decl. ¶ 11.

TS is both experienced in class action litigation in general and also highly knowledgeable regarding data breach litigation. *Id.* at ¶ 12. TS is currently pursuing numerous data breach cases and has devoted significant resources to extensively researching and analyzing the relevant claims and case law. *See Id.* at ¶ 13; TS Firm Resume, Exhibit A to the Lukasiewicz Decl.

Thus, Plaintiff and Plaintiff's Counsel will adequately represent the members of the Class and their interests.<sup>1</sup> Plaintiff accordingly request that the Court appoint Plaintiff as class representatives and appoint TS and FBFG as Class Counsel.

**B. The Class Satisfies the Requirements of CR 23.02**

1. Common Questions of Law and Fact Predominate

CR 23.02 provides that a class action can be maintained in part where “the court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members.” The predominance requirement focuses on whether the proposed Class is sufficiently cohesive to warrant adjudication by representation. *Amchem Prods. Inc. v. Windsor*, 521 U.S. 591, 623 (1997). “Class-wide issues predominate if resolution of some of the legal or factual questions for class-wide resolution can be achieved using generalized proof, and if these particular issues are more substantial than those requiring individualized proof.” *Manning*, 577 S.W.3d at 116 (citing *Thacker v. Chesapeake Appalachia, L.L.C.*, 259 F.R.D. 268, 270 (E.D. Ky. 2009)).

Here, as noted above, the common factual and legal questions presented are whether Defendant: (1) disclosed the Class Members' PI; (2) was on notice of the risk that Brown-Forman was a target of a hacking scheme; (3) failed to protect the Class Members' PI with industry-standard protocols and technologies; (4) caused the Class Members' PI to be compromised by its actions and/or inactions; (5) promised Class Members that Brown-Forman would protect their PI that they provided as a condition of their employment; (6) had a duty to protect Class Members' PI; and (7) breached its duty to protect Class Members' PI. As many courts have held, these common issues predominate over individual ones. *See generally Sackin*, ECF No. 55; *Castillo*,

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<sup>1</sup> Both TS and FBFG have the resources available to adequately represent this Class. Blankinship Decl. ¶ 14; Lukasiewicz Decl. ¶ 15.

2017 WL 4798611, at \*1 (preliminarily certifying a similar settlement class of employees whose employer disclosed their PI in response to a phishing scam).

Accordingly, the predominance requirement is satisfied.

2. This Class Action is the Superior Method of Adjudication

Finally, CR 23.02 provides that not only must common questions of law or fact of the class predominate over any questions affecting only individuals, but the “class action [must be] superior to other available methods for the fair and efficient adjudication of the controversy.” To address the superiority requirement, courts may look to whether the consolidation of claims as a class action benefits both sides. *See Hensley*, 549 S.W.3d at 448 (superiority requirement may be satisfied where class members benefit from not having to bring separate claims for same relief and defendants benefit from ability to organize defense in one litigation).

Class treatment presents a superior channel for fairly resolving similar issues and claims without repetitious and wasteful litigation. The proposed class action is the surest way to fairly and expeditiously compensate approximately 20,000 Class Members while preventing the inundation of courts with repetitive cases and reducing transaction costs which in turn ensures the maximization of Class Members’ potential compensation.

Here, a class-wide resolution can clearly be achieved using generalized rather than individualized proof because the PI of all Class Members may have been exposed as a result of the same data breach and all Class Members’ claims will rise and fall through the application of law to the same facts. Thus, the core issue that entirely governs the outcome of this case is common to each and every Class Member. Hence, a class action is the superior method of adjudicating the present claims for all parties. Consequently, Class Members need not bring individual actions to obtain relief and Defendant can resolve all Class Members’ claims through the Settlement. “It is

not necessary that there be a complete identification of facts relating to all members of the class as long as there is a common nucleus of operative facts.” *Id.* For these reasons, the superiority requirement of CR 23.02(c) is satisfied.

**C. Plaintiff’s Counsel Should Be Appointed As Class Counsel**

Under CR 23.07, “a court that certifies a class must appoint class counsel. . . [who] must fairly and adequately represent the interests of the class.” CR 23.07(1) and 23.07(4). In making this determination, the Court must consider the following attributes of counsel: (1) work in identifying or investigating potential claims; (2) experience in handling class actions or other complex litigation and the types of claims asserted in the case; (3) knowledge of the applicable law; and (4) resources committed to representing the class. CR 23.07(1)(a)(i-iv). As discussed above, FBFG and TS have experience identifying or investigating potential claims, extensive experience in prosecuting class actions and other complex litigation, knowledge of the applicable law, and the resources available to represent the Class. Blankinship Decl. ¶¶ 11-14; Lukasiewicz Decl. ¶¶ 4-14. Specific to this case, Plaintiff’s Counsel has diligently investigated this matter by dedicating substantial resources to the investigation of the claims at issue, which includes interviews of numerous Class Members. Blankinship Decl. ¶ 13; Lukasiewicz Decl. ¶ 14. Plaintiff’s Counsel has also diligently developed the innovative and complex theories of this lawsuit, exchanged and reviewed informal discovery, and successfully negotiated the present Settlement to the benefit of the Settlement Class. Blankinship Decl. ¶¶ 4-5, 13; Lukasiewicz Decl. ¶ 13. Accordingly, Plaintiff respectfully requests that the Court appoint FBFG and TS as Class Counsel for the Class.

**VII. THE COURT SHOULD GRANT PRELIMINARY APPROVAL OF THE SETTLEMENT.**

Public policy strongly encourages the settlement of disputes in lieu of litigation. *Robinson*



*v. Shelby Cty. Bd. of Educ.*, 566 F.3d 642, 648 (6th Cir. 2009); *Lonardo v. Travelers Indem. Co.*, 706 F. Supp. 2d 766, 778 (N.D. Ohio 2010). Accordingly, settlement agreements should be upheld whenever equitable and policy considerations so permit. *Robinson*, 566 F.3d at 648. This is especially true in class action litigation, in which there is a “particularly muscular” presumption in favor of class action settlements. *Whitlock v. FSL Mgmt., LLC*, 843 F.3d 1084, 1094 (6th Cir. 2016) (quoting *Ehrhart v. Verizon Wireless*, 609 F.3d 590 (2d Cir. 2010)); see also *Int’l Union, United Auto., Aerospace & Agr. Implement Workers of Am. v. Gen. Motors Corp.*, 497 F.3d 615, 632 (6th Cir. 2007) (noting “the federal policy favoring settlement of class actions”); *Lonardo*, 706 F. Supp. 2d at 778 (same). “The central question raised by the proposed settlement of a class action is whether the compromise is fair, reasonable and adequate. There are significant justifications, such as the reduction of litigation and related expenses, for the general policy favoring the settlement of litigation.” *Weinberger v. Kendrick*, 698 F. 2d 61, 73 (2d Cir. 1982) (citation omitted). A class action “may be settled, voluntarily dismissed, or compromised only with the court’s approval.” CR 23.05.

“The procedure for approving a class action settlement includes three steps: (1) the court must preliminarily approve the settlement; (2) the class members must be given notice of the proposed settlement; and (3) the court must hold a hearing to determine whether the proposed settlement is fair, reasonable and adequate.”<sup>2</sup> *Thacker* 259 F.R.D. at 270 (citing *Tenn. Ass’n of*

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<sup>2</sup> Under CR 23.05(2), at the final approval stage, the Court ultimately must determine that the settlement is “fair, reasonable, and adequate.” *Doe v. Roman Catholic Diocese of Covington*, No. 03-CI-00181, 2006 WL 250694, at \*1 (Ky. Cir. Ct. Jan. 31, 2006). The Court has broad discretion in evaluating a class action settlement. *Int’l Union*, 497 F.3d at 636. In approving a settlement as fair, reasonable and adequate, at the final approval stage, Kentucky courts consider numerous factors, in no particular order, that may be considered in deciding whether a settlement should be approved, including: (1) reasonableness and amount of settlement; (2) future expense and likely duration of litigation; (3) whether settlement was reached after arm’s length negotiations; and (4) experience of class counsel. *Doe*, 2006 WL 250694, at \*1. Plaintiffs will submit a brief addressing how the Settlement satisfies each of these points following the notice period and in advance of any final fairness hearing.

*Health Maint. Orgs., Inc. v. Grier*, 262 F.3d 559, 565–66 (6th Cir. 2001)); *see also* Federal Judicial Center’s Manual for Complex Litigation, Fourth §§ 21.622–23 (2006) (describing multi-step approval process); Manual For Complex Litigation, §13.14, at 173 (4th ed. 2004).

At the preliminary approval stage, the Court’s review is not exacting. It must determine whether the proposed settlement (1) appears to be the result of serious, informed, non-collusive negotiation, (2) has no obvious deficiencies, (3) does not improperly grant preferential treatment to class representatives or segments of the class, and (4) falls within the range of possible approval. *In re Sketchers Toning Shoe Prods. Liab. Litig.*, 2012 WL 3312668, 2012 WL 3312668 at \*8 (W.D. Ky. Aug 13, 2012); *Hyland v. HomeServices of Am., Inc.*, No. 05-cv-612, 2012 WL 122608, at \*2 (W.D. Ky. Jan. 17, 2012) (citing *Grier*, 262 F.3d at 565-66). If this is the case, Class Members will receive notification of the Settlement, and the Court will hold a final approval hearing at which time it can make a final determination as to whether the settlement is fair, reasonable, and adequate under all of the circumstances, based on a full record.

As set forth below, each of the factors considered at preliminary approval are easily satisfied.

**A. Whether Settlement was Reached after Arm’s Length Negotiations**

The main procedural factor that courts consider in determining whether to preliminary approve a proposed class action settlement is whether the agreement arose out of arm’s length, non-collusive negotiations. *Hillson v. Kelly Serv.*, No. 2:15-cv-10803, 2017 WL 279814, at \*6 (E.D. Mich. Jan. 23, 2017) (citing *Newberg on Class Actions*, § 13:14 (5th ed.)). Hence, when a settlement is the result of extensive negotiations by experienced and knowledgeable counsel, that fact weighs in favor of approval. *See Williams v. Vukovich*, 720 F.2d 909, 923 (6th Cir.1983); *Duhaime v. John Hancock Mut. Life Ins. Co.*, 177 F.R.D. 54, 68 (D. Mass. 1997) (“[I]n general, a

settlement arrived at after arm's length bargaining may be presumed to be fair.”). The use of a neutral, experienced mediator is an indication that the parties' agreement is non-collusive. *Hillson*, 2017 WL 279814, at \*6 (preliminary approving settlement mediated in part by the Hon. Judge Wayne Anderson); *Amos v. PPG Indus.*, No. 2:05-cv-70, 2015 WL 4881459, at \*5 (S.D. Ohio Aug 13, 2015) (granting final approval to settlement, where settlement was “the product of arm's length negotiations by experienced counsel facilitated by [a] national recognized mediator”); *Crawford v Lexington-Fayette Urban Cty. Gov't*, No. 06-299-JBC, 2008 WL 2885230, at \*6 (E.D. Ky. Oct 23, 2008) (finding no risk of fraud or collusion relative to final approval, where settlement was “the product of arm's length, good faith settlement negotiations” led by “an experienced, third-party neutral mediator”).

Here, the Parties selected a respected mediator, Honorable Ann O'Malley Shake (Ret.), to assist them in resolving this dispute. Blankinship Decl. ¶ 3. The Parties engaged in informal discovery and participated in a full-day mediation session on December 11, 2020. Even after reaching an agreement in principle codified in the form of a Term Sheet, the Parties negotiated the Settlement Agreement, which involved the exchange of multiple drafts, conference calls and resolution of various issues in dispute. *Id.* at 5.

As such, preliminary approval should be granted.

**B. The Settlement Contains No Obvious Deficiencies.**

The proposed Settlement has no obvious deficiencies that would preclude approval, such that notifying the Settlement Class and proceeding to a formal fairness hearing would be a waste of time. As explained above, the proposed Settlement was reached only after arm's length negotiations between the Parties and their counsel, who considered the advantages and disadvantages of continued litigation with the assistance of a highly experienced mediator. These negotiations produced a result that Plaintiff's Counsel believes to be in the best interests of the

Class Members in light of the costs and risks of continued litigation.

Therefore, preliminary approval is warranted.

**C. The Settlement Favors No Class Representative or a Segment of the Class**

Significantly, this Settlement treats all Class Members equally in terms of their ability to recover under the Settlement.<sup>3</sup> As explained above, should preliminary approval of the Settlement be granted, Class Members will all receive a notice explaining their options they have available under the Settlement. Settlement Agreement ¶ 33. Indeed, depending on the harm suffered by the Class Member, they are eligible to recover all categories of relief, including credit monitoring; reimbursement of expenses; reimbursement for lost time; and cash reimbursement. Furthermore, under the Settlement, Defendant commits to implement certain business practices to safeguard against future data breaches. In addition to providing information as to how Class Members can participate or seek recovery, the notice will also provide information as to how they can opt-out or object to the Settlement.

Accordingly, this factor too favors preliminary approval of the Settlement.

**D. Reasonableness of Settlement**

When considering the reasonableness of the Settlement, preliminary approval should be granted.

Indeed, this Settlement is comparable to other data breach class action settlements. Data breach class action settlements often include relief to class members in the form of some of the following: (1) credit monitoring; (2) reimbursement of expenses; (3) reimbursement for lost time; (4) cash reimbursement; and/or (5) injunctive relief and/or a commitment from defendant to

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<sup>3</sup> Although Plaintiff will seek a modest service award in recognition of the time and effort she spent performing her duties as Settlement class representative, the Settlement is not contingent on the award, and such awards are common and in no way preclude preliminary approval.

implement certain business practices. Data breach settlements often include only a couple of categories of relief. *See Hapka*, No. 16-02372, ECF No. 89-1 (D. Kan. Sept. 20, 2017) (the court approved a data breach settlement that provided class members with two years of credit monitoring, reimbursement of out-of-pocket losses and prospective relief); *Castillo*, No. 16-cv-01958, ECF No. 73-1, (N.D. Cal., July. 27, 2017) (court preliminarily approved a data breach class action settlement providing for two years of credit monitoring, reimbursement of economic losses and a commitment from defendant to implement and maintain data security practices); *In re Heartland Payment Sys.*, 851 F. Supp. 2d 1040, 1049, 1079-80 (S.D. Tex. 2012) (approving settlement providing for reimbursement of (1) out-of-pocket expenses from card cancellations or replacements, (2) out-of-pocket expenses from unauthorized and unreimbursed account charges, (3) out-of-pocket expenses from identity theft, and (4) up to 5 hours at \$10/hour in time spent for the incurred expenses).

Here, this Settlement provides for many forms of relief for Class Members, including (1) identity theft protection (credit monitoring) services for up to three (3) years total; (2) Reimbursement for Out-of-Pocket Losses up to \$5,000 per individual that have not been reimbursed by insurance, Reimbursement for Attested Time for up to eight (8) hours of time spent at \$20 per hour, and a Cash Payment for Inconvenience of \$250. *See* Settlement Agreement ¶ 28. In addition, Defendant agrees to adopt and implement certain business practice commitments and remedial measures for a period of three (3) years, which include enhanced cybersecurity training and awareness program, enhanced data security policies, enhanced security measures, further restricting access to personal information, and enhanced monitoring and response capabilities. Settlement Agreement ¶ 29.

Accordingly, this factor weighs in favor of granting preliminary approval of the Settlement.

**VIII. THE COURT SHOULD APPROVE THE FORM AND METHOD OF NOTICE OF THE SETTLEMENT TO THE CLASS.**

The Settlement also sets forth a comprehensive method of providing notice of the Settlement to Class Members. The Settlement provides for direct e-mailed or mailed notice to all Class Members. The notice forms, attached as exhibits to the Settlement Agreement, “clearly and concisely state in plain, easily understood language: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the class any member who requests exclusion by a specified date; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment, whether favorable or not, on members under CR 23.03.” CR 23.03(4)(b).

The proposed forms and method of notice provide “the best notice that is practicable under the circumstances” as they are likely to reach Class Members and inform them of their rights in a clear manner. *Id.* The Court should therefore approve the proposed forms and manner of notice and direct their issuance according to the terms of the Settlement. Courts have routinely found that mailing notices to Class Members when individual addresses are known to be appropriate. *See e.g. Eisen v. Carlisle and Jacquelin* 417 U.S. 156 (1994) (court found that there was no reason to not mail individual notices to each of the two and a quarter million class members whose names and addresses were easily obtainable through reasonable effort); *Lily v. Jamba Juice Co.*, 308 F.R.D. 231, 239 (N.D. Cal. 2014) (accepting notice plan that provided notice by mail for class members whose addresses were obtainable and notice through internet and print media for class members whose addresses were not); and *Grunin v. International House of Pancakes*, 513 F.2d 114, 121 (8th Cir.) (mailing notice to last known address of class members constitutionally adequate even where one-third of class members were not reached by mailing).

In adherence to notice requirements, courts have preliminarily approved data breach settlement agreements which included mailing notices to class members. Those data breach settlements include, *Hapka*, No. 16-02372, ECF No. 91 (D. Kan. Sept. 29, 2017); *Sackin*, No. 17-1469, ECF No. 55 (S.D.N.Y. Mar. 13, 2018); *Castillo*, 16-cv-01958, ECF No. 76 (N.D. Cal. Oct. 19, 2017); and *In re Anthem, Inc. Data Breach Litigation*, No. 5:15-MD-02617, ECF No. 869-8 (N.D. Cal. June 23, 2017).

Accordingly, the Court should approve the form and method of the notice as set forth in the Settlement Agreement.

**IX. THE COURT SHOULD APPROVE THE DEADLINES FOR CLASS MEMBERS TO OBJECT OR OPT-OUT OF THE SETTLEMENT, AS WELL AS DEADLINES TO SUBMIT CLAIM FORMS.**

As part of the Settlement, Class Members have the right to (a) receive the benefits of the Settlement in exchange for a release of their claims, including three (3) years of credit monitoring services, Reimbursement for Out-of-Pocket Losses, Reimbursement for Attested Time, and Cash Payment for Inconvenience; (b) exclude themselves from the Settlement if they do not wish to obtain the benefits of the Settlement or release their claims; or (c) remain part of the Settlement Class but object to the Settlement. Pursuant to the Settlement Agreement, Class Members will have seventy-five (75) days from the Notice Deadline to submit a Claim Form (Identity Protection); until the date their Experian IdentityWorks<sup>SM</sup> identity protection coverage expires to submit a Claim Form (Other Benefits); and seventy-five (75) days from the Notice Deadline to object or opt-out of the Settlement. This is a reasonable amount of time for Class Members to make an informed decision.

Therefore, the opt-out and objection deadline merits approval.

**X. THE COURT SHOULD SET A DATE FOR THE FINAL APPROVAL HEARING.**

A final approval hearing must be held after notice to Class Members. While Class Members

generally do not appear at the final approval hearing, the notice to Class Members includes this date, and Class Counsel and counsel for Defendant will appear to further explain why the Settlement should be granted final approval. It is common for the final approval hearing to be set shortly after the deadline for Class Members to object or exclude themselves from the Settlement. Therefore, Plaintiff respectfully requests that the Court set a final approval hearing no earlier than 125 days and no later than 150 days following the granting of preliminary approval.

## **XI. CONCLUSION.**

In light of the foregoing, Plaintiff respectfully requests the Court to enter an order, a proposed form of which is attached, (1) certifying the proposed Class; (2) naming Plaintiff as class representative; (3) appointing Thomas & Solomon LLP and Finkelstein, Blankinship, Frei-Pearson & Garber, LLP as Class Counsel; (4) granting preliminary approval to the Settlement Agreement; (5) approving the proposed notices (6) scheduling a Final Approval Hearing; and (7) granting such further relief the Court deems reasonable and just.

Defendant does not oppose the preliminary approval of the proposed Settlement.



Dated: February 9, 2021

Respectfully submitted,

/s/ D. Greg Blankinship

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 9, 2021, a true and correct copy of the foregoing was served via KCOJ eFiling System on the following:

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/s/ D. Greg Blankinship  
D. Greg Blankinship (*admitted pro hac vice*)  
**Finkelstein, Blankinship, Frei-Pearson &  
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White Plains, New York 10601  
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*Attorney for Plaintiff and Class Members*

NO. 20-CI-005631

JEFFERSON CIRCUIT COURT  
DIVISION: THREE  
JUDGE: HON. MITCH PERRY*(ELECTRONICALLY FILED)*ALISSA GOODLETT, individually,  
and as the representative of a class  
of similarly-situated persons,  
123 Lakeview Drive  
Lawrenceburg, Kentucky 40342**PLAINTIFF****-AND-****VS.**BROWN-FORMAN CORPORATION  
850 Dixie Highway  
Louisville, Kentucky 40210**DEFENDANT****DECLARATION OF D. GREG BLANKINSHIP**

I, D. Greg Blankinship, affirm under penalty of perjury pursuant to 28 U.S.C. § 1746 and CR Rule 11, that the following is true and correct:

1. I am a founding partner of the law firm of Finkelstein, Blankinship, Frei-Pearson & Garber, LLP ("FBFG"), counsel for Plaintiff Alissa Goodlett in the above-captioned case, brought on behalf of Plaintiff and a putative class of approximately 20,000 individuals (the "Class" or "Class Members") whose personal information ("PI") was potentially compromised as a result of an electronic security incident that occurred on or about July 28, 2020 (the "Data Breach").

2. I am fully familiar with the facts and circumstances surrounding this matter, and I submit this declaration in support of Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement.

3. The Parties selected a respected mediator, (ret.) Honorable Ann O'Malley Shake, to assist them in resolving this dispute.

4. The parties engaged in informal discovery and Defense counsel provided Plaintiff's Counsel information regarding the Data Breach.

5. After a full-day mediation session on December 11, 2020, the parties reached an agreement in principle codified in the form of a Term Sheet. After agreeing to the Term Sheet, the Parties negotiated the Settlement Agreement, which involved the exchange of multiple drafts, conference calls and resolution of various issues in dispute. A copy of the Class Action Settlement Agreement and Release ("Settlement Agreement") is attached hereto as **Exhibit A**.

6. Plaintiff's Counsel values the identity theft protection component of the Settlement consideration at approximately \$14.4 million to the Class.

7. At the final approval stage of the settlement approval process, Plaintiff's counsel intends to move the Court for an order awarding Class Counsel's application for attorneys' fees, costs, and a class representative service award in an amount not to exceed \$575,000 which Defendant agrees not to oppose.

8. The class representative's interests in this litigation are entirely aligned to those of all other members of the Class with no conflicting interests. Plaintiff shares the same interest in securing relief for the claims in this case as every other member of the proposed Class, and there is no evidence of any conflict of interest.

9. Plaintiff has demonstrated her continued willingness to vigorously prosecute this case and has regularly consulted with her counsel, reviewed documents and the proposed settlement, indicated her willingness to sit for depositions in this case, and has indicated a desire to continue protecting the interests of the class through settlement or continued litigation.

10. Furthermore, Plaintiff is familiar with the lawsuit and is fully aware of her claims, as well as the claims of the Class Members she seeks to represent.

11. Finkelstein, Blankinship, Frei-Pearson & Garber, LLP (“FBFG”) regularly engages in major complex litigation and has extensive experience in consumer privacy class action lawsuits, including cases of first impression related to data breaches and consumer privacy.

12. State and federal courts throughout the country have appointed FBFG as class counsel.

13. FBFG has diligently investigated, prosecuted, and dedicated substantial resources to the claims in this action and will continue to do so throughout its pendency.

14. Further, FBFG has the resources available to adequately represent this Class.

15. Attached as **Exhibit B** to this Declaration is a copy of Finkelstein, Blankinship, Frei-Pearson & Garber, LLP’s firm resume.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 9, 2021  
White Plains, New York

/s/ D. Greg Blankinship  
D. Greg Blankinship  
**FINKELSTEIN, BLANKINSHIP,  
FREI-PEARSON & GARBER, LLP**  
One North Broadway Suite 900  
White Plains, New York 10601  
Telephone: (914) 298-3284  
gblankinship@fbfglaw.com

# Exhibit A

## **CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE**

This Class Action Settlement Agreement and Release (the “Agreement”) is entered into by and between Plaintiff Alissa Goodlett (“Plaintiff”), individually and on behalf of all others similarly situated, and Defendant Brown-Forman Corporation (“Defendant” or “Brown-Forman”) (collectively, the “Parties”). The Agreement is subject to preliminary and final approval by Jefferson County Circuit Court (the “Court”) as required by Rule 23 of the Kentucky Rules of Civil Procedure.

WHEREAS, on or about September 30, 2020, Plaintiff filed a class action complaint (“Complaint”) in the Jefferson County Circuit Court entitled *Goodlett v. Brown-Forman Corporation*, Case No. 20-CI-005631, and the matter was assigned to the Honorable Mitch Perry (the “Action”);

WHEREAS, the Action arises out of a data breach initially disclosed by Brown-Forman on or about August 25, 2020 (the “Data Breach”);

WHEREAS, Plaintiff and Class Counsel believe that the factual and legal claims asserted in the Action are meritorious. Class Counsel have investigated the facts relating to the claims and the underlying events in the Action; made a thorough study of the legal principles applicable to the claims asserted in the Action; and conducted a thorough assessment of the strengths and weaknesses of the claims in the Action;

WHEREAS, Brown-Forman denies the allegations and all liability with respect to any and all facts and claims alleged in the Action; that Plaintiff and the class she purports to represent have suffered any damage; and that the Action satisfies the requirements to be tried as a class action under Rule 23 of the Kentucky Rules of Civil Procedure;

WHEREAS, the Parties agreed to engage the Honorable Ann O’Malley Shake (Ret.) as a mediator to oversee settlement negotiations in this Action. In advance of formal mediation, Brown-Forman provided certain discovery. The Parties also exchanged detailed mediation briefs with their respective positions on the merits of the claims and class certification;

WHEREAS, following extensive arm’s length settlement negotiations conducted through Judge Shake that included an all-day mediation session on December 11, 2020, the Parties executed a binding term sheet setting forth the essential terms of settlement;

NOW, THEREFORE, in exchange for the mutual promises and valuable consideration provided for in this Agreement, and without any admission or concession by either Party, the Parties agree to a full, complete, and final settlement and resolution of the Action, subject to Court approval, on the following terms and conditions.

### **I. DEFINITIONS**

In addition to the terms defined at various points within the Agreement, the following definitions of terms apply throughout the Agreement.

1. **“Brown-Forman Counsel”** means David F. McDowell and Purvi G. Patel of Morrison & Foerster LLP.
2. **“Claim Form(s)”** means collectively the Claim Form (Identity Protection) and Claim Form (Other Benefits).
3. **“Claim Form (Identity Protection)”** means the form substantially in the form of Exhibit 1 attached hereto that Settlement Class Members must complete and submit on or before the Claim Deadline (Identity Protection) to be eligible to enroll in Experian IdentityWorks<sup>SM</sup> identity protection services.
4. **“Claim Form (Other Benefits)”** means the form substantially in the form of Exhibit 2 attached hereto that Settlement Class Members must complete and submit on or before the Claim Deadline (Other Benefits) in order to be eligible for Reimbursement for Out-of-Pocket Losses, Reimbursement for Attested Time, and Cash Payment for Inconvenience.
5. **“Claim Deadline (Identity Protection)”** means the last day to submit a timely Claim Form (Identify Protection), which will be seventy-five (75) days after the Notice Deadline.
6. **“Claim Deadline (Other Benefits)”** means last day to submit a timely Claim Form (Other Benefits), which will occur on the expiration date of the Settlement Class Member’s Experian IdentityWorks<sup>SM</sup> identity protection services provided under this Agreement.
7. **“Class” or “Class Members”** means all individuals who were notified by Brown-Forman that their personal information was or may have been compromised in the data breach initially disclosed by Brown-Forman on or about August 25, 2020.
8. **“Class Counsel”** shall mean Nelson Thomas, Jessica L. Lukasiewicz, and Jonathan W. Ferris of Thomas & Solomon LLP, and Jeremiah Frei-Pearson and Greg Blankinship of Finkelstein, Blankinship, Frei-Pearson & Garber, LLP.
9. **“Data Breach”** means the data breach initially disclosed by Brown-Forman on or about August 25, 2020.
10. **“Effective Date”** has the meaning ascribed in Paragraph 42 of this Agreement.
11. **“Final Approval Hearing”** means the hearing to determine whether the Settlement should be given final approval and whether the applications of Class Counsel for attorneys’ fees, costs, expenses, and the class representative service award should be approved.
12. **“Motion for Final Approval”** is the motion to be filed by Plaintiff pursuant to Paragraph 41 of this Agreement.
13. **“Motion for Preliminary Approval”** is the motion to be filed by Plaintiff pursuant to Paragraph 33 of this Agreement. This Agreement shall be an exhibit to the Motion for Preliminary Approval.



14. **“Notice(s)”** means the written notices to be sent to the Class pursuant to the Preliminary Approval Order, as set forth in Paragraph 34 of this Agreement.

15. **“Notice Deadline”** means the last day by which Notice must begin issuing to the Class, and will initially occur thirty (30) days after entry of the Preliminary Approval Order.

16. **“Objection Deadline”** is the last day on which a Settlement Class Member may file an objection to the Settlement, which will be seventy-five (75) days after the Notice Deadline.

17. **“Opt-Out Deadline”** is the last day on which a Class Member may file a request to be excluded from the Settlement Class, which will be seventy-five (75) days after the Notice Deadline.

18. **“Order and Final Judgment”** means an order of the Court granting Final Approval of the Settlement and the corresponding final judgment.

19. **“Preliminary Approval Order”** means an order issued by the Court preliminarily approving the Settlement provided for in this Agreement.

20. **“Released Claims”** means any and all claims or causes of action of every kind and description, including any causes of action in law, claims in equity, complaints, suits or petitions, and any allegations of wrongdoing, demands for legal, equitable or administrative relief (including, but not limited to, any claims for injunction, rescission, reformation, restitution, disgorgement, constructive trust, declaratory relief, compensatory damages, consequential damages, penalties, exemplary damages, punitive damages, attorneys’ fees, costs, interest or expenses) that the Releasing Parties had, have or may claim now or in the future to have (including, but not limited to, assigned claims and any and all “Unknown Claims” as defined below) that were or could have been asserted or alleged arising out of the same nucleus of operative facts as any of the claims alleged or asserted in the Action, including but not limited to the facts, transactions, occurrences, events, acts, omissions, or failures to act that were alleged, argued, raised or asserted in any pleading or court filing in the Action, including those concerning: (i) the disclosure of the Settlement Class Members’ personal information in the Data Breach; (ii) Brown-Forman’s maintenance of Settlement Class Members’ personal information as it relates to the Data Breach; (iii) Brown-Forman’s information security policies and practices as it relates to the Data Breach; or (iv) Brown-Forman’s provision of notice to Settlement Class Members following the Data Breach.

21. **“Settlement”** means the settlement reflected by this Agreement.

22. **“Settlement Administrator”** means Heffler Claims Group or another settlement administrator selected by Brown-Forman with the consent of the Plaintiff (not to be unreasonably withheld, conditioned or delayed).

23. **“Settlement Class”** or **“Settlement Class Member”** means all Class Members other than any Settlement Class Opt-Outs.

24. **“Settlement Class Opt-Out”** means any Class Member who timely and validly submits a request for exclusion from the Settlement Class in accordance with the procedures set forth in Paragraph 40 of this Agreement and the Settlement Long-Form Notice.

25. **“Settlement E-mail Notice”** refers to the notice to be provided to the Class by e-mail, substantially in the form of Exhibit 3 attached hereto, in accordance with Paragraph 34(b) of this Agreement.

26. **“Settlement Long-Form Notice”** refers to the notice to be made available to the Class on the website (see Paragraph 34(b)(iii)), substantially in the form of Exhibit 4 attached hereto, in accordance with Paragraph 34(c) of this Agreement.

27. **“Settlement Postcard Notice”** refers to the notice to be provided to the Class by U.S. Mail, substantially in the form of Exhibit 5 attached hereto, in accordance with Paragraph 34(b) of this Agreement.

## II. SETTLEMENT TERMS

28. Class Benefit. Subject to the terms of this Agreement, Brown-Forman shall make available the following benefits (none of which are mutually exclusive) to Settlement Class Members who have submitted valid Claim Forms:

(a) Credit Monitoring Services. Settlement Class Members may enroll in Experian IdentityWorks<sup>SM</sup> identity protection services for a total period of three (3) years by submitting the Claim Form (Identity Protection) by the Claim Deadline (Identity Protection). Class Members who have already signed up for one (1) year of Experian IdentityWorks<sup>SM</sup> identity protection services offered by Brown-Forman following the Data Breach will be entitled to an additional two (2) years of services. Experian IdentityWorks<sup>SM</sup> includes credit monitoring from all three bureaus, access to the Experian credit report, \$1 million in identity theft insurance, and identity restoration services.

(b) Reimbursement for Out-of-Pocket Losses. Settlement Class Members may submit a claim for Out-of-Pocket Losses up to \$5,000 per Settlement Class Member that have not been reimbursed by insurance provided through Experian IdentityWorks<sup>SM</sup> (see Paragraph 28(b)(iii)) by submitting the Claim Form (Other Benefits) by the Claim Deadline (Other Benefits).

(i) **“Out-of-Pocket Losses”** are unreimbursed costs or expenditures incurred by Settlement Class Members that are fairly traceable to the Data Breach.

Out-of-Pocket Losses will be deemed “fairly traceable” to the Data Breach if (1) the timing of the loss occurred on or after July 14, 2020; and (2) the personal information used to commit identity theft or fraud consisted of the same type of personal information that was provided to Brown-Forman prior to the Data Breach.

Out-of-Pocket Losses may include, without limitation: (1) unreimbursed costs, expenses, losses, or charges incurred as a result of identity theft or identity fraud, falsified tax returns, or other possible misuse of the Settlement Class Member’s personal information; (2) costs incurred on or after August 25, 2020, associated with accessing or freezing/unfreezing credit reports with any

credit reporting agency; and (3) other miscellaneous expenses incurred related to any Out-of-Pocket Loss such as notary, fax, postage, copying, mileage, and long-distance telephone charges.

(ii) To receive Reimbursement for Out-of-Pocket Losses Settlement Class Members must provide to the Settlement Administrator information required to evaluate the claim, including: (1) the Settlement Class Member's name and current address; (2) documentation supporting the claim, including denial of the claim by Experian IdentityWorks<sup>SM</sup> (see Paragraph 28(b)(iii)); and (3) a brief description of the documentation describing the nature of the loss, if the nature of the loss is not apparent from the documentation alone.

Documentation supporting Out-of-Pocket Losses can include receipts or other documentation not "self-prepared" by the Settlement Class Member that documents the costs incurred. "Self-prepared" documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity to or support other submitted documentation.

(iii) To be eligible for Reimbursement of Out-of-Pocket Losses, Settlement Class Members must first submit a claim for reimbursement to Experian IdentityWorks<sup>SM</sup>. Experian IdentityWorks<sup>SM</sup> must have then denied the claim in whole or in part, and the Settlement Class Member must have exhausted the Experian IdentityWorks<sup>SM</sup> claims process.

(c) Reimbursement for Attested Time. Settlement Class Members may submit a claim for up to eight (8) hours of time spent remediating issues related to identity theft directly caused by the Data Breach at \$20 an hour by submitting the Claim Form (Other Benefits) by the Claim Deadline (Other Benefits).

(i) To receive Reimbursement for Attested Time, Settlement Class Members must provide to the Settlement Administrator information required to evaluate the claim, including: (1) the Class Member's name and current address; (2) a brief description of the time incurred including activities undertaken by the Class Member; and (3) an attestation that the information is being provided under penalty of perjury.

(d) Cash Payment for Inconvenience. Settlement Class Members who have submitted and received an insurance payment through Experian IdentityWorks<sup>SM</sup> relating to the Data Breach may submit a claim for a cash payment of \$250 by submitting the Claim Form (Other Benefits) by the Claim Deadline (Other Benefits).

(i) To receive a Cash Payment for Inconvenience, Settlement Class Members must provide to the Settlement Administrator the information required to evaluate the claim, including: (1) the Settlement Class Member's name and current address; and (2) documentation associated with insurance claim to Experian IdentityWorks<sup>SM</sup>, including documentation showing insurance payment.

29. Business Practice Commitments. Brown-Forman agrees to adopt and implement certain business practice commitments and remedial measures set forth in the declaration described below in Paragraph 29(ii) ("Business Practice Commitments") for a period of at least three (3) years following the Effective Date, subject to Paragraph 29(i) Modification and Costs. These Business Practice Commitments are specific business practice commitments and remedial measures within the following general categories:

- (1) Enhanced Cybersecurity Training and Awareness Program;
- (2) Enhanced Data Security Policies;
- (3) Enhanced Security Measures;
- (4) Further Restricting Access to Personal Information; and
- (5) Enhanced Monitoring and Response Capability.

(i) Modification and Costs. The Parties acknowledge that technical requirements for securing information evolve and change dynamically. In the event that technological or industry developments, or intervening changes in law or business practices render specific Business Practice Commitments obsolete or make compliance by Brown-Forman with them unreasonable or technically impractical, Brown-Forman may modify its business practices as necessary to ensure appropriate security practices are being followed. For three years following the Effective Date (on or before the anniversary of the Effective Date), Brown-Forman will confirm in writing to Class Counsel that it is in compliance with its obligations under this Paragraph and the previous Paragraph. All costs associated with implementing the Business Practice Commitments will be borne by Brown-Forman.

(ii) Enforcement. Brown-Forman will provide to Class Counsel a declaration attesting to the Business Practice Commitments within thirty (30) days after the Effective Date. Such declaration shall be treated as confidential and cannot be used for any purpose other than enforcement of this Settlement Agreement. If at any time Class Counsel has information indicating Brown-Forman is not complying with its Business Practice Commitments, the Parties are required to meet and confer to discuss the issue prior to seeking Court intervention. To the extent Court intervention is required, the Parties agree to cooperate in seeking the Court's permission to file the Business Practice Commitments and any discussion of the Business Practice Commitments under seal.

30. Class Counsel's Attorneys' Fees, Expenses, and Class Representative Service Award for Plaintiff. Plaintiff will move the Court for an order awarding Class Counsel's application for attorneys' fees and costs not to exceed five hundred seventy thousand dollars (\$570,000) and a class representative service award not to exceed five thousand dollars (\$5,000) (for a total amount not to exceed \$575,000), which Brown-Forman agrees not to oppose. This term was negotiated only after the Parties reached an agreement as to the class benefit provided for in Paragraphs 28 and 29.

Any order for attorneys' fees, expenses, and the class representative award made by the Court in accordance with this paragraph shall be paid by wire transfer within ten (10) days after the Effective Date and Brown-Forman's receipt of a completed IRS Form W-9s for Class Counsel, whichever is later. Brown-Forman shall wire the amount(s) awarded for (i) attorneys' fees and expenses and (ii) the class representative service award separately, through two wire transfers. Class Counsel shall provide Brown-Forman Counsel payment instructions within five (5) days of the Effective Date.

### **III. IMPLEMENTATION OF SETTLEMENT**

31. Reasonable Best Efforts to Effectuate This Settlement. Consistent with the terms of this Agreement and notwithstanding the rights of the Parties to terminate this Agreement as set

forth herein, the Parties and their counsel agree to cooperate and to use their reasonable best efforts, including all steps and efforts contemplated by this Agreement and any other reasonable steps and efforts that may be necessary or appropriate, by order of the Court or otherwise, to carry out the terms of this Agreement.

32. Class Certification for Settlement Purposes Only. The Parties acknowledge and agree and hereby stipulate that: (i) the Class will be certified for settlement purposes only pursuant to this Agreement, (ii) Brown-Forman reserves the right to object to class certification de novo in the event this Agreement is terminated for any reason, (iii) this Agreement shall have no precedential effect with regard to any motion for certification of a litigation class that may be filed if this matter is not fully and completely resolved through this settlement effort; and (iv) this Agreement shall have no precedential effect with regard to any other lawsuit against Brown-Forman that may be pending now or in the future, other than in a proceeding seeking to enforce this Agreement.

33. Motion for Preliminary Approval. Following the execution of this Agreement, Plaintiff shall promptly file a Motion for Preliminary Approval seeking entry of the Preliminary Approval Order. Plaintiff shall provide Brown-Forman with the opportunity to review and comment on the Motion for Preliminary Approval, and Brown-Forman shall cooperate with Plaintiff to obtain preliminary approval of the Settlement consistent with the terms herein. The Preliminary Approval Order shall be substantially similar to the proposed order attached as Exhibit 6.

34. Notice to the Class.

(a) List of the Class Members. Within twenty (20) days of entry of the Preliminary Approval Order, Brown-Forman shall prepare and provide to the Settlement Administrator a list of the names, last known addresses, and last known e-mail addresses of the Class Members.

(b) Notice. Within thirty (30) days of entry of the Preliminary Approval Order, the Settlement Administrator shall provide the Class Members with notice of the proposed Settlement by the following methods:

(i) E-Mail. The Settlement Administrator shall distribute the Settlement E-Mail Notice to those Class Members for whom Brown-Forman has provided an e-mail address.

(ii) U.S. Mail. The Settlement Administrator shall send the Settlement Postcard Notice via U.S. Mail to the Class Members' last known address (such addresses to be confirmed and, as necessary, updated using National Change of Address data). If the mailing of a Settlement Postcard Notice is returned as undeliverable, the Settlement Administrator will make reasonable efforts to identify a new address for that Class Member, including, but not limited to, skip-tracing, and promptly re-send the Settlement Postcard Notice to the identified new address, if any. If the Settlement Postcard Notice is returned as undeliverable a second time, the Settlement Administrator shall not have any obligation to re-send the Settlement Postcard Notice (unless the USPS provides a new address when returning the postcard as undeliverable for the second time) or attempt to identify a new address for that Class Member.

(iii) Website. The Settlement Administrator shall maintain a website, beginning on or before Notice Deadline and ending no later than three years and six months after the Effective Date. The website shall include copies of the Complaint, Settlement Agreement, Motion for Preliminary Approval, Preliminary Approval Order, Settlement Long-Form Notice, Claim Form (Identity Protection), Claim Form (Other Benefits), motions for Class Counsel's attorneys' fees, expenses, and/or class representative service award for Plaintiff, Motion for Final Approval, and Order and Final Judgement. The Website shall also provide applicable Settlement deadlines and answers to frequently asked questions.

(iv) Toll-Free Number. The Settlement Administrator will also maintain a toll-free number that will provide recorded answers to frequently asked questions about the Settlement.

(c) Settlement Long Form Notice. The Settlement Long Form Notice will be made available to the Class Members on the Website.

(d) Proof of Notice. Plaintiff shall file with the Motion for Final Approval, or at such other time required by the Court, a declaration from the Settlement Administrator confirming that notice has been provided to the Class in accordance with Paragraph 34.

35. Payment of Expenses Related to Notice and Administration. Brown-Forman will pay all costs incurred and fees charged by the Settlement Administrator in providing notice to the Class in accordance with Paragraph 34 and otherwise administering the Settlement.

36. Claim Forms. Settlement Class Members may submit Claim Forms electronically via the website referenced in Paragraph 34(b)(iii) or physically by mail to the Settlement Administrator. Claims Forms must be submitted electronically or postmarked by the applicable Claim Deadline (Identity Protection) and/or Claim Deadline (Other Benefits). Claim Forms must be submitted individually by a Settlement Class Member, not as or on behalf of a group, class, or subclass, except that the Claim Forms may be submitted by a legal representative of a deceased Settlement Class Member or a Settlement Class Member who has been adjudicated to be mentally incompetent. If Claim Forms are submitted by a legal representative of a deceased or mentally incompetent Settlement Class Member, the Claim Forms must be submitted together with a copy of a court order or other documentation from which the Settlement Administrator can reasonably verify the authority of the legal representative to act on behalf of the Settlement Class Member.

37. Claim Form Disputes. To the extent the Settlement Administrator determines a Claim Form is deficient in whole or part, within a reasonable time of making such a determination, the Settlement Administrator shall notify the Settlement Class Member of the deficiencies and give the Settlement Class Member twenty-one (21) days to cure the deficiencies. Such notifications shall be sent via e-mail, unless the Settlement Class Member did not provide an e-mail address, in which case such notifications shall be sent via U.S. Mail. If the Settlement Class Member attempts to cure the deficiencies but, at the sole discretion and authority of the Settlement Administrator, fails to do so, the Settlement Administrator shall notify the Settlement Class Member of that determination within seven (7) days of the determination. The Settlement Administrator may consult with Class Counsel and Brown-Forman Counsel in making such determinations.

38. Objections. Any Settlement Class Member who wishes to object to the Settlement must send a signed, written objection to the Settlement Administrator by the Objection Deadline (or other date required by the Court). Written objections must set forth the following:

- (a) the name of the proceedings (“*Goodlett v. Brown-Forman Corporation*”);
- (b) the Settlement Class Member’s full name, current mailing address, and telephone number;
- (c) a statement of the specific grounds for the objection, as well as any documents supporting the objection;
- (d) a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class;
- (e) the identity of any attorneys representing the objector;
- (f) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; and
- (g) the signature of the Settlement Class Member or the Settlement Class Member’s attorney.

Settlement Class Members who fail to make objections in the manner specified in Paragraph 38 of this Agreement will be deemed to have waived any objections and will be foreclosed from making any objections, whether by a subsequent objection, intervention, appeal, or any other process.

39. Intention to Appear at Final Approval Hearing. Any Settlement Class Member who wishes to be heard at the Final Approval Hearing must send a signed Notice of Intention to Appear to the Settlement Administrator no later than seventy-five (75) days following the Notice Deadline (or other date required by the Court). The Notice of Intention to Appear must set forth the following:

- (a) the name of this Action (“*Goodlett v. Brown-Forman Corporation*”);
- (b) the full name, address, and telephone number of the person intending to appear at the Final Approval Hearing;
- (c) the words “Notice of Intention to Appear” at the top of the document;
- (d) the points the person wishes to speak about at the Final Approval Hearing; and
- (e) the identity (name, address, and telephone number) of any lawyer who will speak on the person’s behalf.

40. Opt-Outs. A Class Member may opt out of the Settlement by submitting an opt-out request to the Settlement Administrator by U.S. mail, as set forth in the Notice. Any such opt-out

request, in order to be timely, must be postmarked by the Opt-Out Deadline (or other date required by the Court). The Request for Exclusion must set forth the following:

- (a) the name of this Action (“*Goodlett v. Brown-Forman Corporation*”);
- (b) the full name, address, and telephone number of the person requesting to be excluded;
- (c) the words “*Request for Exclusion*” at the top of the document; and
- (d) a declaration stating “I request that I be excluded from the Settlement Class in *Goodlett v. Brown-Forman Corporation*, and do not wish to participate in the settlement. I understand that by requesting to be excluded from the Settlement Class, I will not receive any benefits under the Settlement.”

Requests to opt-out must be exercised individually by a Class Member, not as or on behalf of a group, class, or subclass. A list of Class Members submitting a timely request for exclusion shall be submitted to the Court with the Motion for Final Approval. All Class Members who do not timely and properly exclude themselves from the Settlement Class shall be bound by this Agreement, and their claims shall be released as provided for herein.

A Class Member cannot submit an opt-out request and a Claim Form. If a Class Member submits an opt-out request and a Claim Form, the Settlement Administrator will determine based on the communication with the latest date (provided it is timely) whether the Class Member intends to opt out or submit a Claim Form.

A Class Member cannot submit both an opt-out request and an objection. If a Class Member submits both an opt-out request and an objection, the Settlement Administrator will send a letter explaining that they are not permitted to make both such requests, and asking the Class Member to make a final decision as to whether to opt out or object and inform the Settlement Administrator of that decision within ten (10) days. If the Class Member does not respond to that communication within ten (10) days after it was mailed (or by the Objection and Opt-Out Deadlines, whichever is later), the Class Member will be treated as having opted out of the Class, and the objection will not be considered, subject to the Court’s discretion.

41. Motion for Final Approval. In accordance with a schedule to be established by the Court, Plaintiff shall file a Motion for Final Approval seeking final approval of the Settlement and entry of final judgment. Plaintiff shall provide Brown-Forman with the opportunity to review and comment on the Motion for Final Approval, and Brown-Forman shall cooperate with Plaintiff to obtain final approval of the Settlement consistent with the terms herein. The Final Approval Order and Judgment shall be substantially similar to the proposed order attached as Exhibit 7.

42. Effective Date of Settlement. The Settlement detailed in this Agreement shall be effective five (5) days following the latest of: (i) the date upon which the time expires for filing or noticing any appeal of the Order and Final Judgment or one (1) business day following entry of the Final Approval Order and Judgment if no parties have standing to appeal; or (ii) if any appeal, petition, request for rehearing, or other review has been filed, the Final Approval Order and Judgment is affirmed without material change or the appeal is dismissed or otherwise disposed of,



no other appeal, petition, rehearing, or other review is pending, and the time for further appeals, petitions, requests for rehearing, or other review has expired.

43. Provision of Credit Monitoring Services. The Settlement Administrator shall send an activation code to each Settlement Class Member who submitted a valid Claim Form (Identity Protection) within thirty (30) days of the Effective Date, which can be used to activate Credit Monitoring Services via an enrollment website maintained by Experian. Such enrollment codes shall be sent via e-mail, unless the claimant did not provide an e-mail address, in which case such codes shall be sent via U.S. mail. Credit Monitoring Services claimants may activate Credit Monitoring Services for a period of at least ninety (90) days from the date the Settlement Administrator sends the activation code.

44. Payment of Other Benefits. Payments for Reimbursement of Out-of-Pocket Losses, Reimbursement for Attested Time, and Cash Payment for Inconvenience will be made by the Settlement Administrator within forty-five (45) days of validation of the Claim Form (Other Benefits) according to the process set forth in Paragraphs 36 and 37 or forty-five (45) days after the Effective Date, whichever is later. Thirty (30) days after the Effective Date, and every month thereafter for three and a half years, the Settlement Administrator shall invoice Brown-Forman for claims to be paid from the prior month. Within ten (10) business days Brown-Forman will provide the Settlement Administrator with the funds to pay the claims made during the previous month.

45. Uncashed Checks. In the event that a check or draft issued to a Settlement Class Member by the Settlement Administrator is not negotiated within one-hundred eighty (180) days of the date of the check or draft, within sixty (60) days thereafter, the Settlement Administrator shall return the funds to Brown-Forman, unless otherwise agreed between the Settlement Administrator and Brown-Forman. The Settlement Class Member shall be deemed to have waived his or her entitlement to payment under this Agreement and Brown-Forman shall have no further monetary liability or responsibility to that Settlement Class Member. All other terms of this Agreement, including the Release set forth in Paragraph 47 below, shall remain in effect.

46. All Claims Satisfied. Each Settlement Class Member shall look solely to the relief described in Paragraphs 28 and 29 for settlement and satisfaction, as provided herein, of all Released Claims.

#### **IV. RELEASES AND JURISDICTION OF COURT**

47. Release of Released Entities. Upon the Effective Date, and in consideration of the Settlement benefits described herein, each of the Settlement Class Members, and each of their respective heirs, executors, administrators, representatives, agents, partners, successors, attorneys, and assigns (the "Releasing Parties") shall be deemed to have released, acquitted, and forever discharged any and all Released Claims against Brown-Forman and its present and former predecessors, successors, assigns, parents, subsidiaries, divisions, affiliates, departments, and any and all of their past, present, and future officers, directors, employees, stockholders, partners, servants, agents, successors, attorneys, advisors, consultants, representatives, insurers, reinsurers, subrogees and the predecessors, successors, and assigns (the "Released Parties") of any of the foregoing.

48. Unknown Claims. The Released Claims include the release of Unknown Claims. “Unknown Claims” means claims that could have been raised in the Action and that any of the Releasing Parties does not know or suspect to exist, which, if known by him, her or it, might affect his, her or its agreement to release the Released Parties of any of the foregoing or the Released Claims or might affect his, her or its decision to agree, object or not to object to the Settlement. Upon the Effective Date, the Releasing Parties shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides as follows:

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.

49. Upon the Effective Date, each of the Releasing Parties shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state, the District of Columbia or territory of the United States, by federal law, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to Section 1542 of the California Civil Code. The Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of the Release, but that it is their intention to finally and forever settle and release the Released Claims, including but not limited to any Unknown Claims they may have, as that term is defined in this Paragraph.

50. Consent to Jurisdiction. The Parties hereby irrevocably submit to the exclusive jurisdiction of the Court for purposes of any suit, action, proceeding, or dispute arising out of, or relating to, this Agreement or the applicability of this Agreement.

51. Resolution of Disputes; Retention of Jurisdiction. Any disputes between or among the Parties concerning matters contained in this Agreement shall, if they cannot be resolved by negotiation and agreement, be submitted to the Court for resolution. The Court shall retain jurisdiction over the implementation and enforcement of this Agreement.

## **V. TERMINATION OF THE AGREEMENT**

52. Rejection or Material Alteration of Settlement Terms. Brown-Forman and the Plaintiff shall each have the right to terminate this Agreement by providing written notice of their election to do so to each other within seven (7) days of: (1) the Court declining to enter the Preliminary Approval Order in a form materially consistent with this Settlement Agreement and indicating that it would not enter a Preliminary Approval Order if the Parties make revisions that are materially consistent with this Agreement; (2) the Court declining to enter a Final Approval Order and Judgment in a form materially consistent with this Agreement (other than determining, in the Court’s sole discretion, the amount of the attorneys’ fees and expenses award and service award in accordance with Paragraph 30) and indicating that it would not enter a Final Approval Order and Judgment if the Parties make revisions that are materially consistent with this

Agreement; (3) the date upon which the Final Approval Order and Judgment is modified or reversed in any material respect by any appellate court, which indicates that the Settlement cannot be approved if the Parties make revisions that are materially consistent with this Agreement (except with respect to the amount of the attorneys' fees and expenses or service award); or (4) the mutual agreement of the Plaintiff and Brown-Forman to terminate the Agreement. If an option to terminate this Agreement arises under this Paragraph, no Party is required for any reason or under any circumstance to exercise that option.

53. Return to Pre-Agreement Status. In the event any of the Parties exercise the right of termination enumerated in Paragraph 52, this Agreement shall be null and void, the Parties shall jointly request that any orders entered by the Court in accordance with this Agreement be vacated, and the rights and obligations of the Parties shall be identical to those prior to the execution of this Agreement. In the event either Party exercises any right of termination, the Parties agree to jointly request that the Court provide a reasonable opportunity to engage in such other further proceedings as were contemplated before the Parties entered into this Agreement.

54. No Admission of Liability / Compromise of Disputed Claims. The Parties hereto agree that this Agreement, whether or not the Effective Date occurs, and any and all negotiations, documents and discussions associated with it shall not be deemed or construed to be an admission or evidence of any violation of any statute or law, of any liability or wrongdoing by Brown-Forman or of the truth of any of the claims or allegations contained in the Complaint; and evidence thereof shall not be discoverable or used directly or indirectly by the Plaintiff or any third party, in any way for any purpose, except that the provisions of this Agreement may be used by the Parties to enforce its terms, whether in the Action or in any other action or proceeding. This Agreement and all of the terms herein constitute compromises and offers to compromise under applicable Kentucky rules of court and statutes. In the event that this Agreement is terminated pursuant to Paragraph 52, nothing in this Agreement or its negotiation may be used as evidence in any action. The Parties expressly waive the potential applicability of any doctrine, case law, statute, or regulation, which, in the absence of this Paragraph, could or would otherwise permit the admissibility into evidence of the matters referred to in this Paragraph. The Parties expressly reserve all their rights and defenses if the Settlement set forth in this Agreement does not become final and effective substantially in accordance with the terms of this Agreement. The Parties also agree that this Agreement, any orders, pleadings or other documents entered in furtherance of this Agreement, and any acts in the performance of this Agreement are not intended to be, nor shall they in fact be, admissible, discoverable, or relevant in any other case or other proceeding against Brown-Forman to establish grounds for certification of any class, to prove either the acceptance by any Party hereto of any particular theory of coverage, or as evidence of any obligation that any Party hereto has or may have to anyone. This provision shall survive any termination of this Agreement.

## **VI. REPRESENTATIONS AND WARRANTIES**

55. Authorization to Enter this Agreement. The undersigned representative of Brown-Forman represents and warrants that he or she is fully authorized to enter into and to execute this Agreement on behalf of Brown-Forman. Class Counsel represent and warrant that they are fully authorized to conduct settlement negotiations with Brown-Forman Counsel on behalf of Plaintiff

and to enter into, and to execute, this Agreement on behalf of Plaintiff and the Settlement Class, subject to Court approval.

56. Assignment. Plaintiff represents and warrants that she has not assigned or transferred any interest in the Action, in whole or in part.

57. Representation. Plaintiff acknowledges that she has been represented by counsel of her own choosing in the Action and the negotiation and execution of this Agreement, fully understands this Agreement, and that she has had a reasonable and sufficient opportunity to consult with counsel before executing this Agreement.

## **VII. ADDITIONAL PROVISIONS**

58. Use of this Agreement. The provisions of this Agreement, and any orders, pleadings or other documents entered in furtherance of this Agreement, may be offered or received in evidence solely (i) to enforce the terms and provisions hereof or thereof, (ii) as may be specifically authorized by a court of competent jurisdiction after hearing upon application of a Party hereto, (iii) in order to establish payment or a defense in a subsequent case, including res judicata, or (iv) to obtain Court approval of this Agreement.

59. Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

60. Headings. The headings to this Settlement Agreement have been inserted for convenience only and are not to be considered when construing the provisions of this Agreement.

61. Construction. This Agreement shall be construed and interpreted to effectuate the intent of the Parties. Plaintiff intends for the Settlement to provide fair compensation to Plaintiff and Settlement Class Members. Brown-Forman intends for the agreement to provide for a complete resolution of the Released Claims. This Settlement Agreement shall not be construed more strictly against one Party than another merely because of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that because of the arm's-length negotiations resulting in this Settlement Agreement, all Parties hereto have contributed substantially and materially to the preparation of the Settlement Agreement. All terms, conditions and exhibits are material and necessary to this Settlement Agreement and have been relied upon by the Parties in entering into this Settlement Agreement.

62. Choice of Law. All terms of this Agreement shall be governed by and interpreted according to the substantive laws of the State of Kentucky without regard to its choice of law or conflict of laws principles.

63. Amendment or Waiver. This Agreement shall not be modified in any respect except by a writing executed by all the Parties hereto, and the waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party or their counsel, who may only sign with the permission of their clients. The waiver by any Party of any breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous.

64. Modification. Prior to entry of the Final Approval Order and Judgment, this Agreement may, with approval of the Court, be modified by written agreement of the Parties or their counsel, who may only sign with the permission of their clients, without giving any additional notice to the Settlement Class, provided that such modifications are not materially adverse to the Settlement Class.

65. Execution in Counterparts. This Agreement may be executed in counterparts. Facsimile signatures, electronic signatures obtained through a service ensuring an authentication process, or signatures in PDF format shall be considered as valid signatures as of the date thereof, and may be filed with the Court.

66. Integrated Agreement. This Agreement, including the exhibits hereto, contains an entire, complete, and integrated statement of each and every term and provision agreed to by and between the Parties hereto, and supersedes any prior oral or written agreements and contemporaneous oral agreements among the Parties, including but not limited to the Confidential Settlement Term Sheet agreed to by the Parties on December 11, 2020. Exhibits to this Agreement are integral to the Agreement and are hereby incorporated and made part of this Agreement.

67. Notices. All notices and other communications required or permitted under this Agreement, other than requests for exclusion or objections to the proposed Settlement, shall be in writing and delivered in person, by overnight delivery service and by e-mail. Any such notice shall be deemed given as of the date of receipt and shall be delivered to the Parties as follows:

If to the Plaintiff:

Jessica L. Lukasiewicz  
jlukasiewicz@theemploymentattorneys.com  
Thomas & Solomon LLP  
693 East Avenue  
Rochester, New York 14607

Jeremiah Frei-Pearson  
jfrei-pearson@fbfglaw.com  
Finkelstein, Blankinship, Frei-Pearson &  
Garber, LLP  
One North Broadway Suite 900  
White Plains, New York 10601

If to Brown-Forman:

David F. McDowell  
dmcdowell@mofo.com  
Purvi G. Patel  
ppatel@mofo.com  
Morrison & Foerster LLP  
707 Wilshire Boulevard  
Los Angeles, CA 90017-3543

68. Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision if the Parties mutually elect to proceed as if such invalid, illegal or unenforceable provision had never been included in the Agreement.

69. Confidential Information. The Settlement Administrator shall keep confidential any personal identifying information of the Class Members, and any financial information of Brown-Forman, that has or may come into its possession.

70. Deadlines. In the event any date or deadline set forth in this Settlement Agreement falls on a weekend or federal or state legal holiday, such date or deadline shall be on the first business day thereafter.

71. Retention of Records. The Settlement Administrator shall retain records relating to all mailed notices, returned mailed notices, correspondence related to the Settlement and Settlement checks for a period of three (3) years and six (6) months after the Effective Date. After this time, the Settlement Administrator will provide these records to Brown-Forman if it so desires, and the Settlement Administrator shall destroy any such documentary records it has in its possession, and Brown-Forman will have the option, in its sole discretion, to destroy such records.

72. Contact with Class Members. Brown-Forman may communicate with the Class Members in the ordinary course of its business. Brown-Forman will refer inquiries regarding this Agreement and the administration of the Settlement to the Settlement Administrator and/or Class Counsel.

### SIGNED AND AGREED:

Dated: 02/08/2021  
February \_\_, 2021

ALISSA GOODLETT



By: Alissa Goodlett  
02/09/2021 01:53:11 UTC

Dated: February \_\_, 2021

BROWN-FORMAN CORPORATION

By: \_\_\_\_\_

Its: \_\_\_\_\_

### APPROVED AS TO FORM ONLY:

Dated: February \_\_, 2021

THOMAS & SOLOMON LLP

By: Jessica L. Lukasiewicz  
*Attorney for Plaintiff*

70. Deadlines. In the event any date or deadline set forth in this Settlement Agreement falls on a weekend or federal or state legal holiday, such date or deadline shall be on the first business day thereafter.

71. Retention of Records. The Settlement Administrator shall retain records relating to all mailed notices, returned mailed notices, correspondence related to the Settlement and Settlement checks for a period of three (3) years and six (6) months after the Effective Date. After this time, the Settlement Administrator will provide these records to Brown-Forman if it so desires, and the Settlement Administrator shall destroy any such documentary records it has in its possession, and Brown-Forman will have the option, in its sole discretion, to destroy such records.

72. Contact with Class Members. Brown-Forman may communicate with the Class Members in the ordinary course of its business. Brown-Forman will refer inquiries regarding this Agreement and the administration of the Settlement to the Settlement Administrator and/or Class Counsel.

**SIGNED AND AGREED:**

Dated: February \_\_, 2021

ALISSA GOODLETT

\_\_\_\_\_  
By: Alissa Goodlett

Dated: February \_\_, 2021

BROWN-FORMAN CORPORATION

By: \_\_\_\_\_

Its: \_\_\_\_\_

**APPROVED AS TO FORM ONLY:**

02/09/2021  
Dated: February \_\_, 2021

THOMAS & SOLOMON LLP

  
\_\_\_\_\_  
Sign New e-signature ID: 7e7952af2e...  
By: Jessica L. Lukasiewicz  
02/09/2021 10:10:26 UTC  
*Attorney for Plaintiff*

70. Deadlines. In the event any date or deadline set forth in this Settlement Agreement falls on a weekend or federal or state legal holiday, such date or deadline shall be on the first business day thereafter.

71. Retention of Records. The Settlement Administrator shall retain records relating to all mailed notices, returned mailed notices, correspondence related to the Settlement and Settlement checks for a period of three (3) years and six (6) months after the Effective Date. After this time, the Settlement Administrator will provide these records to Brown-Forman if it so desires, and the Settlement Administrator shall destroy any such documentary records it has in its possession, and Brown-Forman will have the option, in its sole discretion, to destroy such records.

72. Contact with Class Members. Brown-Forman may communicate with the Class Members in the ordinary course of its business. Brown-Forman will refer inquiries regarding this Agreement and the administration of the Settlement to the Settlement Administrator and/or Class Counsel.

**SIGNED AND AGREED:**

Dated: February \_\_, 2021

ALISSA GOODLETT

By: Alissa Goodlett

Dated: February 9, 2021

BROWN-FORMAN CORPORATION

By: [Signature]

Its: SVP - Deputy General Counsel

**APPROVED AS TO FORM ONLY:**

Dated: February \_\_, 2021

THOMAS & SOLOMON LLP

By: Jessica L. Lukasiewicz  
*Attorney for Plaintiff*



Dated: February \_\_, 2021

FINKELSTEIN, BLANKINSHIP,  
FREI-PEARSON & GARBER, LLP

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By: Greg Blankinship  
*Attorney for Plaintiff*

Dated: February 9, 2021

MORRISON & FOERSTER LLP



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By: Purvi G. Patel  
*Attorney for Defendant*  
*Brown-Forman Corporation*

Dated: February 9, 2021

FINKELSTEIN, BLANKINSHIP,  
FREI-PEARSON & GARBER, LLP



By: Greg Blankinship  
*Attorney for Plaintiff*

Dated: February \_\_, 2021

MORRISON & FOERSTER LLP

---

By: Purvi G. Patel  
*Attorney for Defendant*  
*Brown-Forman Corporation*

# Exhibit 1

**JEFFERSON CIRCUIT COURT**

*Goodlett, et al. v. Brown-Forman Corporation*, No. 20-CI-005631

**CLAIM FORM (IDENTITY PROTECTION)**

**Instructions:** If you were notified by Brown-Forman that your personal information was or may have been compromised in the data breach disclosed by Brown-Forman in or about August 2020, you can enroll in Experian IdentityWorks<sup>SM</sup> identity protection services for a total of three (3) years. For example, if you already signed up for one (1) year of monitoring, you will be eligible to submit an Identity Protection Claim Form to have an additional two (2) years of monitoring services. Experian IdentityWorks<sup>SM</sup> includes credit monitoring from all three bureaus, access to the Experian credit report, \$1 million in identity theft insurance, and identity restoration services.

Submit this claim form online at [WEBSITE] by no later than [DATE]. You can also mail this claim form to [SETTLEMENT ADMINISTRATOR ADDRESS] postmarked no later than [DATE].

The detailed Notice and Settlement Agreement contain additional information and are available at [WEBSITE] or by calling [SETTLEMENT NUMBER].

**Important:** If you are submitting a claim for Reimbursement of Out-of-Pocket Losses, Reimbursement for Attested Time, and/or a Cash Payment for Inconvenience, please make sure to complete the separate **CLAIM FORM (OTHER BENEFITS)**.

**A. CONTACT INFORMATION**

Name:

---

Address:

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City, State, Zip Code:

---

Email Address:

---

**B. ATTESTATION UNDER PENALTY OF PERJURY**

By submitting this Claim Form, I declare under penalty of perjury under the laws of the State of Kentucky that the information I have provided is true and accurate and that I am a member of the Class defined as follows: “all individuals who were notified by Brown-Forman that their personal information was or may have been compromised in the data breach initially disclosed by Brown-Forman in or about August 2020.”

---

Signature

---

Date

*Typing your name constitutes your legal signature, in the same manner as if you signed by hand*

**THIS CLAIM FORM MUST BE COMPLETED, SIGNED, AND SUBMITTED TO THE SETTLEMENT ADMINISTRATOR BY [DATE].**

IF YOU HAVE ANY QUESTIONS ABOUT THIS LAWSUIT, YOUR RIGHTS, OR COMPLETING THIS CLAIM FORM, PLEASE CONTACT CLASS COUNSEL AT 585-272-0540 or [ContactUs@theemploymentattorneys.com](mailto:ContactUs@theemploymentattorneys.com).

# Exhibit 2

**JEFFERSON CIRCUIT COURT**

*Goodlett, et al. v. Brown-Forman Corporation*, No. 20-CI-005631

**CLAIM FORM (OTHER BENEFITS)**

If you were notified by Brown-Forman that your personal information was or may have been compromised in the data breach disclosed by Brown-Forman in or about August 2020 (the “Data Breach”), you may submit a claim for one or more of the following benefits:

1. **Reimbursement for Out-of-Pocket Losses.** If you incurred expenses that are fairly traceable to the Data Breach, such as money spent remedying identity theft or identity fraud or freezing/unfreezing credit reports with any credit reporting agency, you can be reimbursed up to \$5,000. You must submit documents supporting your claim, including denial of the claim by Experian IdentityWorks<sup>SM</sup>.
2. **Reimbursement for Attested Time.** If you spent time remedying issues related to identify theft directly caused by the Data Breach, you can recover \$20 per hour for up to eight (8) total hours.
3. **Cash Payment for Inconvenience.** If you submitted and received an insurance payment through Experian IdentityWorks<sup>SM</sup> relating to the Data Breach, you can receive a cash payment of \$250.

Submit this claim form via [WEBSITE] or mail this claim form to [SETTLEMENT ADMINISTRATOR ADDRESS] postmarked no later than the date on which your Experian IdentityWorks<sup>SM</sup> provided under the settlement expires.

The detailed Notice and Settlement Agreement contain additional information and are available at [WEBSITE] or by calling [SETTLEMENT NUMBER].

**IMPORTANT:** If you are submitting a claim for Identity Protection, please make sure the complete the separate **CLAIM FORM (IDENTITY PROTECTION)**.

**A. CONTACT INFORMATION**Name:  

---

Address:  

---

City, State, Zip Code:  

---

Email Address:  

---

**B. REIMBURSEMENT FOR OUT-OF-POCKET LOSSES**

If you lost or spent money trying to prevent or recover from fraud or identity theft caused by the Data Breach, and Experian IdentityWorks<sup>SM</sup> denied your claim for reimbursement, you can receive reimbursement for up to \$5,000.

You must attach documents that show what happened and how much you lost or spent so that you can be repaid. You must also submit documents that show Experian IdentityWorks<sup>SM</sup> denied your claim. Handwritten receipts are, by themselves, not enough to receive reimbursement, but can be considered to add clarity to or support other submitted documentation.

Description of Loss or Money Spent and Supporting Documents (Identify each document you are attaching, and explain why it is related to the Data Breach)	Amount	Date

**C. REIMBURSEMENT FOR ATTESTED TIME**

If you spent time remediating issues related to identity theft directly caused by the Data Breach, you can be compensated \$20 per hour for up to eight (8) hours.

You must describe the actions you took in response to the Data Breach and the time each action took.

sf-4408912



Total time spent remediating issues related to the Data Breach: \_\_\_\_\_ Hours \_\_\_\_\_ Minutes

Explanation of Time Spent (Identify what you did and why)	Date	Number of Hours and Minutes

**D. CASH PAYMENT FOR INCONVENIENCE**

If you submitted and received an insurance payment through Experian IdentityWorks<sup>SM</sup> relating to the Data Breach, you can receive a cash payment of \$250.

You must provide documentation showing the insurance payment by Experian IdentityWorks<sup>SM</sup>.

**Place an “x” or “yes” in the space provided to confirm your election.**

\_\_\_\_\_ I wish to receive a Cash Payment for Inconvenience of \$250.

**E. ATTESTATION UNDER PENALTY OF PERJURY**

By submitting this Claim Form, I declare under penalty of perjury under the laws of the State of Kentucky that the information I have provided is true and accurate and that I am a member of the Class defined as follows: “all individuals who were or will be notified by Brown-Forman that their personal information was or may have been compromised in the data breach initially disclosed by Brown-Forman in or about August 2020.”

---

Signature

---

Date

*Typing your name constitutes your legal  
signature, in the same manner as if you signed  
by hand*

**THIS CLAIM FORM MUST BE COMPLETED, SIGNED, AND SUBMITTED TO THE SETTLEMENT ADMINISTRATOR BY THE DATE ON WHICH YOUR EXPERIAN IDENTITYWORKS<sup>SM</sup> PROVIDED UNDER THE SETTLEMENT EXPIRES.**

IF YOU HAVE ANY QUESTIONS ABOUT THIS LAWSUIT, YOUR RIGHTS, OR COMPLETING THIS CLAIM FORM, PLEASE CONTACT CLASS COUNSEL AT [ContactUs@theemploymentattorneys.com](mailto:ContactUs@theemploymentattorneys.com) or 585-272-0540.

# Exhibit 3

**E-Mail Notice**

To: [Class Member]

From: Heffler Claims Group

Subject: Legal Notice of Settlement of Class Action and Applicable Deadlines

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*A Court directed this Notice. This is not a solicitation from a lawyer.*

YOU ARE ELIGIBLE FOR UP TO THREE YEARS OF CREDIT MONITORING AND YOU MAY ALSO BE ELIGIBLE TO RECEIVE CASH PAYMENTS.

**TO: All individuals who were notified by Brown-Forman Corporation that their personal information was or may have been compromised in the data breach initially disclosed by Brown-Forman in or about August 2020.**

A class action settlement has been proposed in litigation against Brown-Forman relating to a data breach that Brown-Forman disclosed on or about August 2020 ("Data Breach"). The case is known as *Goodlett et al. v. Brown-Forman Corporation*, Case No. 20-CI-005631 in the Jefferson Circuit Court. You are receiving this notice because Brown-Forman's records show that your personal information was or may have been compromised in the Data Breach. **The easiest way to submit a claim under the settlement is online at [website].**

**Please read the detailed Class Notice and proposed settlement at [website] to fully understand your legal rights and options.**

**Under the terms of the settlement, you could be eligible to receive:**

Identity Theft Protection Coverage: You can sign up for three years total of identity theft protection coverage through Experian IdentityWorks<sup>SM</sup>. For example, if you previously signed up for one (1) year of identity theft protection coverage through Brown-Forman, you will be eligible to receive an additional two (2) years of coverage.

**To be eligible to receive identity theft protection coverage, you must submit a completed Claim Form (Identity Protection) by [75 days after notice is mailed/emailed].** You can access the Claim Form online at [WEBSITE].

Other Benefits: You may also be eligible to receive Reimbursement for Out-of-Pocket Losses, Reimbursement for Attested Time, and a Cash Payment for Inconvenience caused by the Data Breach. Further information about these benefits and whether you are eligible to receive them can be found at [WEBSITE].

**To be eligible to receive these benefits, you must submit a completed Claim Form (Other Benefits) by the date on which your Experian IdentityWorks<sup>SM</sup> provided under the settlement expires. You can access the Claim Form online at [WEBSITE].**

Additional Information:

To object to the proposed settlement, please review Section 7 of the detailed Class Notice at [HYPERLINK]. To opt-out of the proposed Settlement, please review Section 8 of the detailed Class Notice at [HYPLERLINK]. The deadline for objecting to the proposed settlement or opting out of the settlement is [75 DAYS FROM THE NOTICE DATE].

The Court will hold a hearing on [DATE] to consider whether to approve the Settlement and whether to award up to \$570,000 in attorneys' fees and expenses to Class Counsel and \$5,000 to Plaintiff for her service as a class representative.

If you have questions or concerns, you can contact Class Counsel at ContactUs@theemploymentattorneys.com or at 585-272-0540. You can also contact the Settlement Administrator at [INSERT].

# Exhibit 4

**If you were notified by Brown-Forman  
that your personal information was or may have  
been compromised in the data breach initially  
disclosed by Brown-Forman in or about  
August 2020, you may be entitled to benefits  
from a class action Settlement.**

*A Court directed this notice. This is not a solicitation from a lawyer.*

**YOU ARE ELIGIBLE FOR UP TO THREE YEARS OF CREDIT MONITORING AND  
YOU MAY ALSO BE ELIGIBLE TO RECEIVE CASH PAYMENTS.**

A class action settlement has been proposed in litigation against Brown-Forman Corporation relating to a data breach that Brown-Forman disclosed on or about August 2020 (the "Data Breach"). The case is known as *Goodlett et al. v. Brown-Forman Corporation*, Case No. 20-CI-005631 in the Jefferson Circuit Court. The proposed Settlement will provide benefits to Class Members whose personal information may have been affected by the Data Breach.

**YOUR LEGAL RIGHTS AND OPTIONS IN THE PROPOSED SETTLEMENT**

<b>Do Nothing</b>	<p>By doing nothing, you will be foregoing the ability to obtain up to three (3) years of identity theft protection. If you have already signed up for identity theft protection in response to the August 2020 notice of the Data Breach, you are giving up the ability to extend that coverage to span a total of three (3) years.</p> <p>You will also be giving up the ability to receive other benefits available under the Settlement, should it be approved. These benefits are: reimbursement for out-of-pocket losses, reimbursement for attested time, and a cash payment for inconvenience.</p> <p>You are also relinquishing any rights you may have to sue Brown-Forman regarding the Data Breach.</p>
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<b>Timely Submit Claim Form(s).</b>	<p>To be eligible to receive a total of three (3) years of identity protection coverage, you must submit a Claim Form (Identity Protection) by <b>[75 days after Notice Deadline]</b>.</p> <p>To be eligible to receive reimbursement for out-of-pocket losses, reimbursement for attested time incurred remediating issues related to the Data Breach, or a cash payment for inconvenience due to the Data Breach, you must submit a Claim Form (Other Benefits) by the date on which your Experian IdentityWorks<sup>SM</sup> credit monitoring provided under the Settlement expires.</p>
<b>Object to the Settlement</b>	<p>Submit an objection to the Court by <b>[75 days after Notice Deadline]</b>, to let the Court know you disagree with some or all of the terms of the proposed Settlement. You can still submit Claim Forms if you object to the proposed Settlement. If the Court approves the Settlement, you will be bound by the Court's decision and the Settlement Agreement.</p>
<b>Opt-out of the Settlement</b>	<p>Submit an Opt-Out Statement by <b>[75 days after Notice Deadline]</b>, to be excluded from the Settlement. If you opt out of the Settlement, you forfeit any rights to Settlement benefits. You will retain any right you may have to sue Brown-Forman regarding the Data Breach.</p>

**This Notice explains these rights and options and the deadlines to exercise them. The Court still has to decide whether to approve this Settlement. Benefits for valid claims will be provided if the Court approves the Settlement and after any appeals are resolved. Please be patient.**

#### BASIC INFORMATION

##### 1. What is this lawsuit about?

On July 28, 2020, Brown-Forman discovered it was the victim of a cyber-attack. The cyber-criminals stole certain records containing information about some of Brown-Forman's current and former employees (and in some cases, limited information about employee dependents or beneficiaries). Brown-Forman initially disclosed the Data Breach in or about August 2020, and has notified current and former employees whose personal information was or may have been compromised in the Data Breach.



Thereafter, Alissa Goodlett filed a class action lawsuit alleging that she and other individuals were affected by the Data Breach. Alissa Goodlett is the “Plaintiff” or “Class Representative” and she sued Brown-Forman the “Defendant” on behalf of people who have similar claims (the “Class”). The lawsuit alleges Brown-Forman did not adequately protect the Class Members personal information. Brown-Forman denies all allegations of wrongdoing.

## 2. Why is there a proposed Settlement?

The Court did not reach a final decision in favor of the Class or Brown-Forman. Instead, both sides agreed to a proposed Settlement to resolve the lawsuit. A settlement avoids the costs and uncertainty of a trial and related appeals, while providing benefits to the Class.

The Class Representative and Class Counsel believe the proposed Settlement is best for all members of the Class. The Court in charge of the lawsuit has granted preliminary approval of the proposed Settlement and has ordered that this notice be made available to explain it.

## 3. Who does the proposed Settlement affect?

You are a Class Member and are affected by the proposed Settlement if Brown-Forman notified you that your personal information was or may have been compromised in the Data Breach.

If you have questions about whether you are a Class Member, you may contact the Settlement Administrator at [phone number] or Class Counsel (see Question 10 below).

If you are a Class Member, you are eligible to obtain benefits under the proposed Settlement. The available benefits and process for submitting claims to receive benefits are described in Questions 4 and 6 below.

## 4. What benefits are provided?

The Settlement provides the following benefits:

### **Identity Protection Services.**

Members of the Class can elect to enroll in Experian IdentityWorks<sup>SM</sup> identity protection services for a total period of three (3) years. Experian IdentityWorks<sup>SM</sup> includes credit monitoring from all three bureaus, access to the Experian credit report, \$1 million in identity theft insurance, and identity restoration services.

If you previously signed up for identity protection coverage through Brown-Forman after receiving notice of the Data Breach, you must submit a valid Claim Form (Identity Protection) in order to receive additional coverage for a period of three (3) years total. If you did not previously sign up for identity protection services, and you submit a valid Claim Form (Identity Protection), you will receive three (3) years of identity theft protection coverage.

**To be eligible to receive identity theft protection coverage, you must submit a completed Claim Form (Identity Protection) by [75 days after Notice Deadline].**

**Reimbursement for Out-of-Pocket Losses.**

If you incurred expenses that are fairly traceable to the Data Breach, that were not reimbursed by insurance provided through Experian IdentityWorks<sup>SM</sup>, you can be reimbursed up to \$5,000. Examples of reimbursable Out-of-Pocket Losses include:

- costs, expenses, losses or charges incurred a result of identity theft or identity fraud, falsified tax returns, or other possible misuse of your personal information;
- costs incurred on or after August 25, 2020, associated with accessing or freezing/unfreezing credit reports with any credit reporting agency; or
- other miscellaneous expenses incurred related to any Out-of-Pocket Loss such as notary, fax, postage, copying, mileage, and long-distance telephone charges.

If you submit a claim for Reimbursement of Out-of-Pocket Losses, you must provide the Settlement Administrator with your contact information as well as documents that show what happened and how much you lost or spent so that you can be repaid. You must also submit documents that show Experian IdentityWorks<sup>SM</sup> denied your claim(s). Handwritten receipts are, by themselves, not enough to receive reimbursement, but can be considered to add clarity to or support other submitted documentation.

Out-of-Pocket Losses will be deemed fairly traceable to the Data Breach if the timing of the loss occurred on or after July 14, 2020, and the personal information used to commit identity theft or fraud consisted of the same type of personal information that was provided to Brown-Forman prior to the Data Breach.

To be reimbursed for Out-of-Pocket Losses, you must first sign up for Experian IdentityWorks<sup>SM</sup> provided through the Settlement by submitting a Claim Form (Identity Protection) by [75 days after Notice Deadline], submit a claim for reimbursement to Experian IdentityWorks<sup>SM</sup> that is denied in whole or in part by Experian, and have exhausted Experian's claims process.

**To be eligible to receive Reimbursement for Out-of-Pocket Losses, you must submit a completed Claim Form (Other Benefits) by the date on which your Experian IdentityWorks<sup>SM</sup> provided under the Settlement expires.**

**Reimbursement for Attested Time.**

If you spent time remedying issues related to identify theft directly caused by the Data Breach, you can submit a claim for \$20 per hour for up to eight (8) total hours.

If you submit a claim for Reimbursement for Attested Time, you must provide the Settlement Administrator with your contact information as well as the actions you took in response to the Data Breach and the time each action took. Class Members must also attest that the information is provided under penalty of perjury.

**To be eligible to receive Reimbursement for Attested Time, you must submit a completed Claim Form (Other Benefits) by the date on which your Experian IdentityWorks<sup>SM</sup> provided under the Settlement expires.**

**Cash Payment for Inconvenience.**

If you submitted and received an insurance payment through Experian IdentityWorks<sup>SM</sup> relating to the Data Breach, you can receive a cash payment of \$250.

If you submit a claim for a Cash Payment for Inconvenience, you must provide the Settlement Administrator with your contact information as well as documentation showing the insurance payment by Experian.

To receive a Cash Payment for Inconvenience, you must first sign up for Experian IdentityWorks<sup>SM</sup> provided through the Settlement by submitting a Claim Form (Identity Protection) by **[75 days after Notice Deadline]** and receive an insurance payment through Experian IdentityWorks<sup>SM</sup> relating to the Data Breach.

**To be eligible to receive Cash Payment for Inconvenience, you must submit a completed Claim Form (Other Benefits) by the date on which your Experian IdentityWorks<sup>SM</sup> provided under the Settlement expires.**

**Business Practice Commitments.** Brown-Forman agrees to adopt and implement certain business practice commitments and remedial measures within the following general categories until at least three years after the Effective Date of the Settlement:

1. Enhanced Cybersecurity Training and Awareness Program.
2. Enhanced Data Security Policies.
3. Enhanced Security Measures.
4. Further Restricting Access to Personal Information.
5. Enhanced Monitoring and Response Capability.

**5. How will the proposed Settlement impact my legal rights?**

If the Court approves the proposed Settlement and you do not opt out of the Settlement, you will no longer be able to sue Brown-Forman for claims relating to the Data Breach (see Question 8 below).

The Settlement Agreement describes the released claims specifically, so read it carefully. Section IV of the Settlement Agreement describes the specific claims you are giving up against Brown-Forman. You will be releasing Brown-Forman and all related people as described in Paragraph 47 of the Settlement Agreement. The Settlement Agreement is available at **[website]** or you can request a copy from the Settlement Administrator at **[phone]**. Talk to Class Counsel (see Question 10 in the section on “The Lawyers Representing You” below) or your own lawyer if you have questions about the Released Claims or what they mean.

**SUBMITTING THE CLAIM FORMS TO PARTICIPATE IN THE SETTLEMENT****6. How do I submit the Claim Forms to receive the benefits of the proposed Settlement?**

You must submit a Claim Form (Identity Protection) and/or a Claim Form (Other Benefits) to receive Settlement benefits. **Note that there are different deadlines that apply for each Claim Form, and to be eligible for Reimbursement for Out-of-Pocket Losses or Cash Payment for Inconvenience you must first submit a claim for Identity Protection.**

- The **Claim Form (Identity Protection)** must be submitted online [here] on [75 days after notice deadline] or by mail postmarked on or before [75 days after notice deadline].
- The **Claim Form (Other Benefits)** must be submitted online [here] or by mail postmarked on or before the date on which your Experian IdentityWorks<sup>SM</sup> provided under the Settlement expires.

You can access and submit the Claim Forms online by going to [WEBSITE]. Alternatively, you can submit the Claim Forms by printing the forms from the Website or requesting paper copies from the Settlement Administrator, and mailing the completed Claim Forms to the Settlement Administrator at [SETTLEMENT ADMINISTRATOR ADDRESS].

**You must sign the Claim Forms. If you submit your Claim Form(s) online, typing your name in the signature box will constitute your legal signature.**

If you move after submitting a Claim Form, it is your responsibility to provide your new address to the Settlement Administrator. The Settlement Administrator will use the most recent address it has on file for providing benefits under the Settlement.

**OBJECTING TO THE PROPOSED SETTLEMENT****7. How can I object?**

As a Class Member, you can object to the proposed Settlement if you do not think the proposed Settlement is fair, reasonable, or adequate by filing a written objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the Settlement. If the Court denies approval, the Class Members will not receive the benefits described in this notice, and the lawsuit will continue.

You may object to the proposed Settlement in writing and appear at the Final Approval Hearing, either in person or through your own attorney, at your own expense, if the Court allows. If you appear through your own attorney, you are responsible for paying that attorney. All written objections and supporting papers must include:

- i. the name of the proceedings (“*Goodlett v. Brown-Forman Corporation*”);
- ii. your full name, current mailing address, and telephone number;

- iii. a statement of the specific grounds for the objection, as well as any documents supporting the objection;
- iv. a statement as to whether the objection applies only to you, to a specific subset of the class, or to the entire class;
- v. the identity of any attorney(s) representing you;
- vi. a statement regarding whether you (or your attorney) intends to appear at the Final Approval Hearing; and
- vii. either your or your attorney's signature.

**CLASS MEMBERS MUST MAIL OBJECTIONS TO THE SETTLEMENT ADMINISTRATOR POSTMARKED BY [75 DAYS AFTER THE NOTICE DEADLINE].**

If you wish to be heard at the Final Approval Hearing, you must send a signed Notice of Intention to Appear to the Settlement Administrator no later than [seventy-five (75) days following the Notice Deadline (or other date required by the Court)]. The Notice of Intention to Appear must include the following:

- i. the name of this Action (“*Goodlett v. Brown-Forman Corporation*”);
- ii. your full name, address, and telephone number if you intend to appear at the Final Approval Hearing;
- iii. the words “Notice of Intention to Appear” at the top of the document;
- iv. the points you wish to speak about at the Final Approval Hearing; and
- v. the identity (name, address, and telephone number) of any lawyer who will speak on your behalf.

If you object and the Settlement is approved, you will still be entitled to receive benefits under the Settlement that you qualify for, but you must submit a valid Claim Form to do so (see Question 6 above). Submitting a Claim Form does not waive your objection to the Settlement.

If you want to keep the right you may have, if any, to sue Brown-Forman based on the Data Breach, you must exclude yourself from the Settlement Class, as described below in Question 8.

**EXCLUDING YOURSELF FROM THE PROPOSED SETTLEMENT**

**8. How do I opt out of the proposed Settlement?**

To opt out and not be part of the Class, you must mail a letter to the Settlement Administrator stating that you wish to do so.

Your opt-out request should state: “I request that I be excluded from the settlement class in *Goodlett v. Brown-Forman Corporation*, and do not wish to participate in the Settlement.” The

letter must include: (1) your full name and current address; and (2) your signature. Your request for exclusion must be postmarked no later than [75 days after Notice Deadline] and must be mailed to:

[SETTLEMENT ADMINISTRATOR ADDRESS]

**REQUESTS TO OPT-OUT THAT ARE NOT POSTMARKED ON OR BEFORE [DATE] WILL NOT BE HONORED.**

If you opt-out of the Settlement, you cannot also object to the Settlement.

**9. If I do not exclude myself, can I sue Brown-Forman for the same thing later?**

No. If you do not exclude yourself from the Settlement, and the Court approves the proposed Settlement, you give up the right you may have, if any, to sue Brown-Forman and the Released Entities for any claims arising out of the Data Breach. See the answer to Question 5 above.

**THE LAWYERS REPRESENTING YOU**

**10. Do I have a lawyer in the case?**

The Court has appointed the following lawyers to represent you and the other Settlement Class Members:

<b>J. Nelson Thomas</b> <b>Jessica L. Lukasiewicz</b> Thomas & Solomon, LLP 693 East Avenue Rochester, NY 14607	<b>Jeremiah Frei-Pearson</b> <b>Greg Blankinship</b> Finkelstein, Blankinship, Frei-Pearson & Garber, LLP One North Broadway Suite 900 White Plains, NY 10601
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These lawyers are called Class Counsel. Class Members will not be charged by these lawyers for their work on the case. If you want to be represented by your own lawyer, you may hire one at your own expense.

You can contact Class Counsel at 585-272-0540 or at [ContactUs@theemploymentattorneys.com](mailto:ContactUs@theemploymentattorneys.com).

**11. How will the lawyers be paid?**

Any attorneys' fees and expenses approved by the Court will be paid by Brown-Forman, and the amount of any such award will not affect the benefits to be provided to eligible Settlement Class Members as described above. Class Counsel will ask the Court to award (1) up to \$570,000 for attorneys' fees and costs to Class Counsel; and (2) up to \$5,000 for a service award to the Class Representative. Brown-Forman has agreed not to oppose the request for the award up to these amounts. The Court may award less than this amount.

## THE COURT'S FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing on [DATE] in Courtroom \_\_\_\_\_ of the Jefferson County Judicial Center, 700 W. Jefferson St., Louisville, KY 40202, or the hearing may be conducted virtually by online or telephonic means. The date of the hearing may change. If you plan to attend, please check the Settlement website at [WEBSITE]. If the hearing is conducted virtually, instructions for how Class Members may attend the hearing will be posted at [WEBSITE].

At this hearing, the Court will consider whether the proposed Settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court may listen to people who have submitted timely requests to speak at the hearing. The Court may also decide how much Class Counsel will receive as attorneys' fees and expenses, and the amount of an award, if any, the Class Representative will receive. At or after the hearing, the Court will decide whether to approve the proposed settlement. We do not know how long these decisions will take.

**YOU ARE NOT OBLIGATED TO ATTEND THIS HEARING.**

### IF YOU DO NOTHING

#### 12. What happens if I do nothing?

If you do nothing, you will be included in the Settlement Class, and will not be able to pursue any other lawsuit against Brown-Forman and the Released Entities concerning or relating to the Data Breach. If you previously signed up for identity protection services when offered by Brown-Forman, you will not receive any further benefits other than the identity protection services you have already received. If you did not previously sign up for identity protection services, and you do nothing, you will not be eligible for reimbursement of out-of-pocket losses or the cash payment for inconvenience.

### GETTING MORE INFORMATION

#### 13. Are there more details about the proposed Settlement?

This notice summarizes the proposed Settlement. For precise terms and conditions of the Settlement, please see the Settlement Agreement available at [WEBSITE].

**PLEASE DO NOT CONTACT BROWN-FORMAN, THE COURT, OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIMS PROCESS. CLASS COUNSEL OR THE SETTLEMENT ADMINISTRATOR ARE AVAILABLE TO ASSIST YOU SHOULD YOU HAVE ANY QUESTIONS.**

# Exhibit 5



Filed

20-CI-005631

02/09/2021

David L. Nicholson, Jeffers

Settlement Administrator

c/o Administrator

PO Box \_\_\_\_\_

\_\_\_\_\_, \_\_\_\_ XXXXX-XXXX

FIRST-CLASS MAIL

U.S. POSTAGE PAID

CITY, ST

PERMIT NO. XXXX

package : 000086 of 000136

***A COURT DIRECTED THIS NOTICE.  
THIS IS NOT A SOLICITATION  
FROM A LAWYER.***

**YOU ARE ELIGIBLE FOR  
UP TO THREE YEARS  
OF CREDIT MONITORING  
AND YOU MAY ALSO  
BE ELIGIBLE TO RECEIVE  
CASH PAYMENTS.**

<<Barcode>>

Class Member ID: <<Refnum>>

<<FirstName>> <<LastName>>

<<BusinessName>>

<<Address>>

<<Address2>>

<<City>>, <<ST>> <<Zip>>-<<zip4>>

[BARCODE AREA]

00044 of 000059

**TO: All individuals who were notified by Brown-Forman Corporation that their personal information was or may have been compromised in the data breach initially disclosed by Brown-Forman in or about August 2020.**

A class action settlement has been proposed in litigation against Brown-Forman relating to a data breach that Brown-Forman disclosed on or about August 2020 (“Data Breach”). The case is known as Goodlett et al. v. Brown-Forman Corporation, Case No. 20-CI-005631 in the Jefferson Circuit Court. You are receiving this notice because Brown-Forman’s records show that your personal information was or may have been compromised in the Data Breach. **The easiest way to submit a claim under the settlement is online at [website].**

**Please read the detailed Class Notice and proposed settlement at [website] to fully understand your legal rights and options.**

**Under the terms of the settlement, you could be eligible to receive:**

**Identity Theft Protection Coverage:** You can sign up for three years total of identity theft protection coverage through Experian IdentityWorks<sup>SM</sup>. For example, if you previously signed up for one (1) year of identity theft protection coverage through Brown-Forman, you will be eligible to receive an additional two (2) years of coverage.

**To be eligible to receive identity theft protection coverage, you must submit a completed Claim Form (Identity Protection) by [75 days after notice is mailed/emailed].** You can access the Claim Form online at [WEBSITE].

**Other Benefits:** You may also be eligible to receive Reimbursement for Out-of-Pocket Losses, Reimbursement for Attested Time, and a Cash Payment for Inconvenience caused by the Data Breach. Further information about these benefits and whether you are eligible to receive them can be found at [WEBSITE].

**To be eligible to receive these benefits, you must submit a completed Claim Form (Other Benefits) by the date on which your Experian IdentityWorks<sup>SM</sup> provided under the settlement expires. You can access the Claim Form online at [WEBSITE].**

Information on how to object to or opt out of the proposed Settlement can be found in Sections 7 and 8, respectively, of the detailed Class Notice available at [WEBSITE]. The deadline for objecting to or opting out of the proposed Settlement is [75 DAYS FROM THE NOTICE DATE].

The Court will hold a hearing on [DATE] to consider whether to approve the Settlement and whether to award up to \$570,000 in attorneys’ fees and expenses to Class Counsel and \$5,000 to Plaintiff for her service as a class representative.

If you have questions or concerns, you can contact Class Counsel at ContactUs@theemploymentattorneys.com or at 585-272-0540. You can also contact the Settlement Administrator at [INSERT].

# Exhibit 6

NO. \_\_\_\_\_

JEFFERSON CIRCUIT COURT

DIVISION: \_\_\_\_\_

JUDGE: \_\_\_\_\_

*(ELECTRONICALLY FILED)*

ALISSA GOODLETT, individually,  
and as the representative of a class  
of similarly-situated persons,  
123 Lakeview Drive  
Lawrenceburg, Kentucky 40342

**PLAINTIFF****-AND-****VS.**

BROWN-FORMAN CORPORATION  
850 Dixie Highway  
Louisville, Kentucky 40210

**DEFENDANT**

**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT AND APPROVING NOTICE PROGRAM**

This matter coming before the Court upon the motion of Plaintiff seeking preliminary approval of a class action settlement between Plaintiff Alissa Goodlett and Defendant Brown-Forman Corporation, good cause being shown, and the Court being fully advised in the premises,

**IT IS HEREBY ORDERED, DECREED, AND ADJUDGED AS FOLLOWS:**

1. Terms and phrases in this order shall have the same meaning as set forth in the Settlement Agreement.
2. The Court has jurisdiction over the subject matter of the Action, Plaintiff, the Class, and Defendant, and venue is proper in this Court.

**Settlement Class Certification**

3. Pursuant to Rule 23 of the Kentucky Rules of Civil Procedure, the Court preliminarily certifies, for settlement purposes only, a Class consisting of the following:

sf-4408930

All individuals who were notified by Brown-Forman that their personal information was or may have been compromised in the data breach initially disclosed by Brown-Forman in or about August 2020.

4. The Court hereby appoints Plaintiff Alissa Goodlett as Class Representative.

5. The Court hereby appoints Thomas & Solomon LLP and Finkelstein, Blankinship, Frei-Pearson & Garber, LLP as Class Counsel, finding that Class Counsel are well-qualified and experienced.

### **Preliminary Approval**

6. Plaintiff has moved the Court for an order approving the Settlement Agreement, which, together with the documents incorporated therein, sets forth the terms and conditions for a proposed settlement and dismissal of the Action with prejudice against Defendant. The Court, having read and considered the Settlement Agreement and having received the Parties' arguments in support of the Settlement Agreement, hereby preliminarily approves the Settlement Agreement in its entirety subject to the Final Approval Hearing.

7. The Court preliminarily finds that the requirements for class certification under Rule 23.02(a) *et seq.* of the Kentucky Rules of Civil Procedure are satisfied for the reasons set forth in the Plaintiff's Motion for Preliminary Approval. For purposes of the settlement, the Court finds that the proposed Class is ascertainable and that the requirements of numerosity, commonality, typicality, and adequacy of representation are satisfied. The Court further finds preliminarily that, for purposes of the settlement, there are predominant common questions of fact or law. The Court further finds preliminarily that the settlement is a superior means of resolving the Class Members' claims rather than individual suits.

8. The Court finds that, subject to the Final Approval Hearing, the Settlement Agreement falls within the range of possible approval as fair, reasonable, adequate, and in the best interests of the Settlement Class as to their claims against Defendant. The Court further finds that the Settlement Agreement substantially fulfills the purposes and objectives of the class action and provides beneficial relief to the Settlement Class. The Court also finds that the Settlement

Agreement: (a) is the result of serious, informed, non-collusive arms' length negotiations involving experienced counsel familiar with the legal and factual issues of this case and made with the assistance of experienced mediator, the Honorable Ann O'Malley Shake (Ret.); (b) is sufficient to warrant notice of the settlement and the Final Approval Hearing to the Settlement Class; (c) meets all applicable requirements of law, including Kentucky Rule of Civil Procedure 23; and (d) is not a finding or admission of liability by Defendant.

### **Notice and Administration**

9. Heffler Claims Group is hereby appointed as Settlement Administrator and shall perform all the duties of the Settlement Administrator as set forth in the Settlement Agreement and this order.

10. The Court finds that the notice plan and all forms of Notice to the Class as set forth in the Settlement Agreement and Exhibits 3 through 5 thereto (the "Notice Program") is reasonably calculated to, under the circumstances, apprise the members of the Class of the pendency of this action, the certification of the Class, the terms of the Settlement Agreement, and the right of members to object to the settlement or to exclude themselves from the Class. The Notice Program is consistent with the requirements of Rule 23 and due process and constitutes the best notice practicable under the circumstances.

11. The Court thus hereby approves the Notice Program, including the proposed Notice documents attached as Exhibits 3 through 5 to the Settlement Agreement. The Court also approves the plan for claims administration, including the Claim Forms attached as Exhibits 1 and 2 to the Settlement Agreement. The Parties may, by agreement, revise the Notice and Claims Forms in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting.

12. Within twenty (20) days of entry of the Preliminary Approval Order, Brown-Forman shall provide the Settlement Administrator with a list of the names, last known mailing addresses, and electronic mail addresses of the Class Members;

13. Pursuant to the Settlement Agreement, after the entry of this Preliminary Approval Order, and subject to the requirements of the Settlement Agreement and this Preliminary Approval Order, Brown-Forman shall coordinate with the Settlement Administrator to provide Notice beginning within thirty (30) days of this Order being entered (“Notice Date”) as follows:

- a The Settlement Administrator shall send the Settlement E-mail Notice to each Class Member for whom Defendant provided an email address on or before the Notice Date;
- b The Settlement Administrator shall send the Settlement Postcard Notice via U.S. Mail to each Class Member on or before the Notice Date;
- c If the mailing of a Settlement Postcard Notice is returned as undeliverable, the Settlement Administrator will make reasonable efforts to identify a new address for that Class Member, including, but not limited to, skip-tracing, and promptly re-send the Settlement Postcard Notice to the identified new address, if any. If the Settlement Postcard Notice is returned as undeliverable a second time, the Settlement Administrator shall not have any obligation to attempt to identify a new address for that Class Member unless the USPS provides a new address when returning the postcard as undeliverable for the second time.
- d The Settlement Administrator shall publish, on or before the Notice Date, the Long-Form Notice on the website in accordance with the requirements set forth in the Settlement Agreement.

14. Class Members who wish to receive benefits under the Settlement Agreement must complete and submit a valid Claim Form (Identity Protection) and/or a valid Claim Form (Other Benefits). The deadline to submit a Claim Form (Identity Protection) is seventy-five (75) days after the Notice Date. Any Claim Forms (Other Benefits) must be submitted by the expiration date of the Settlement Class Member’s Experian IdentityWorks<sup>SM</sup> identity protection services provided under the Settlement.

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### Objections

15. Any member of the Class may object to the granting of final approval to the settlement. Any Class Member may object on their own or may do so through separate counsel at their own expense. Any objection must be mailed to the Settlement Administrator, no later than seventy-five (75) days after the Notice Date. Any written objection to the Settlement must include: (i) the name of the proceedings (“*Goodlett v. Brown-Forman Corporation*”); (ii) the Settlement Class Member’s full name, current mailing address, and telephone number; (iii) a statement of the specific grounds for the objection, as well as any documents supporting the objection; (iv) a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (v) the identity of any attorneys representing the objector; (vi) a statement regarding whether the Settlement Class Member (or their attorney) intends to appear at the Final Approval Hearing; and (vii) the signature of the Settlement Class Member or the Settlement Class Member’s attorney.

16. In addition, if the Settlement Class Member (or their attorney) intends to appear at the Final Approval Hearing, a Notice of Intention to Appear must be mailed to the Settlement Administrator, no later seventy-five (75) days after the Notice Date. The Notice of Intention to Appear must contain the following information, if the Class Member (or their attorney) requests permission to speak at the final approval hearing: (i) the name of this Action (“*Goodlett v. Brown-Forman Corporation*”); (ii) the full name, address, and telephone number of the person intending to appear at the Final Approval Hearing; (iii) the words “Notice of Intention to Appear” at the top of the document; (iv) the points the person wishes to speak about at the Final Approval Hearing; and (v) the identity (name, address, and telephone number) of any lawyer who will speak on the person’s behalf.

17. Any member of the Class who fails to file and serve a timely written objection in compliance with the requirements of this Order and the Settlement Agreement shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement.



**Exclusion**

18. Class Members who wish to exclude themselves from the Class for purposes of this Settlement may do so by submitting an opt-out request to the Settlement Administrator prior to the opt-out deadline, which shall be seventy-five (75) days after the Notice Date. The opt-out request must comply with the exclusion procedures set forth in the Settlement Agreement. Each Class Member desiring to opt out from the Settlement Class shall timely submit, by U.S. Mail, a written opt-out request to the Settlement Administrator. The written notice must clearly manifest the intent to opt out from the Settlement Class and must: (1) state "I request that I be excluded from the settlement class in *Goodlett v. Brown-Forman Corporation*, and do not wish to participate in the settlement."; (2) identify a Class Member's name and current address; and (3) include a signature. A request for exclusion may not request exclusion of more than one member of the Class. Mass opt-outs are not permitted.

19. Any member of the Class who timely requests exclusion consistent with these procedures may not file an objection to the Settlement and shall be deemed to have waived any rights or benefits under this Settlement. Any member of the Class who fails to submit a valid and timely request for exclusion shall be bound by all terms of the Settlement Agreement and the Final Judgment.

**Fairness Hearing**

20. A fairness hearing (the "Final Approval Hearing" or "Fairness Hearing") shall be held before this Court on [REDACTED], Jefferson County Judicial Center, 700 West Jefferson Street, Louisville, KY 40202, or by videoconference or telephonic means, to consider: (a) whether the proposed settlement of the Action on the terms and conditions provided for in the Settlement Agreement is fair, reasonable and adequate and should be given final approval by the Court; (b) whether a final judgment should be entered; (c) whether to award payment of attorneys' fees, costs, and expenses to Class Counsel and in what amount; and (d) whether to award payment of a service award to the Class Representative and in what amount. The Court may adjourn the Fairness Hearing without further notice to Class Members. If the Court chooses to hold the

Fairness Hearing by videoconference or telephonic means, notice will be posted on the Settlement Website.

21. Class Counsel shall file any papers in support of their requested award of attorneys' fees and expenses and the Settlement Class Representative's service award on or before 7 days before the deadline for Class Members to object to the Settlement.

22. Plaintiff shall file a Motion for Final Approval and the Parties shall file any response to any objections to the Settlement on or before 10 days before the Fairness Hearing.

### **Miscellaneous Provisions**

23. To protect its jurisdiction to consider the fairness of the Settlement Agreement and to enter a final order and judgment having binding effect on all Class Members, the Court hereby enjoins all members of the Class, and anyone who acts or purports to act on their behalf, from pursuing all other proceedings in any state or federal court that seeks to address rights or claims of any Released Party or Class Member relating to, or arising out of, any of the Released Claims.

24. Class Members shall be bound by all determinations and judgments concerning the Action and/or Settlement Agreement, whether favorable or unfavorable.

25. All case deadlines are stayed and suspended until further notice from the Court, except for such actions as are necessary to implement the Settlement Agreement and this Order.

26. The Parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the settlement which are not materially inconsistent with either this Order or the terms of the Settlement Agreement.

27. Nonsubstantive amendments may be made to Settlement Agreement and Settlement Notice upon written agreement of the Parties without Court approval.

28. In the event that this Settlement Agreement is terminated pursuant to its terms, disapproved by any court (including any appellate court), and/or not consummated for any reason, or the Effective Date for any reason does not occur, the order certifying the Settlement Class for purposes of effectuating the Settlement, and all preliminary and/or final findings regarding that class certification order, shall be automatically vacated upon notice of the same to the Court, the

Action shall proceed as though the Class had never been certified pursuant to this Settlement Agreement and such findings had never been made, and the Action shall return to the procedural posture in effect prior to entry of this Order. Neither party, nor counsel shall refer to or invoke the vacated findings and/or order relating to class settlement or Rule 23 of the Kentucky Rules of Civil Procedure if this Settlement Agreement is not consummated and the Action is later litigated and contested by Defendant under Rule 23 of the Kentucky Rules of Civil Procedure.

29. The Settlement Agreement is not a concession or admission, and shall not be used against Brown-Forman or any of the Released Parties as an admission or indication with respect to any claim of any fault or omission by Brown-Forman or any of the Released Parties. Whether or not the Settlement Agreement is finally approved, neither the Settlement Agreement, nor any document, statement, proceeding or conduct related to the Settlement Agreement, nor any reports or accounts thereof, shall in any event be:

- a Construed as, offered or admitted in evidence as, received as or deemed to be evidence for any purpose adverse to the Released Parties, including, but not limited to, evidence of a presumption, concession, indication, or admission by Brown-Forman or any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage; or
- b Disclosed, referred to, or offered or received in evidence against any of the Released Parties in any further proceeding in the Action, or in any other civil, criminal, or administrative action or proceeding, except for purposes of settling the Action pursuant to the Settlement Agreement and by the Parties for purposes of enforcing the Settlement Agreement.

ENTERED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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Hon. Mitch Perry  
Jefferson Circuit Judge

sf-4408930

# Exhibit 7

NO. \_\_\_\_\_

JEFFERSON CIRCUIT COURT

DIVISION: \_\_\_\_\_

JUDGE: \_\_\_\_\_

*(ELECTRONICALLY FILED)*

ALISSA GOODLETT, individually,  
and as the representative of a class  
of similarly-situated persons,  
123 Lakeview Drive  
Lawrenceburg, Kentucky 40342

**PLAINTIFF****-AND-****VS.**

BROWN-FORMAN CORPORATION  
850 Dixie Highway  
Louisville, Kentucky 40210

**DEFENDANT****[PROPOSED] FINAL APPROVAL ORDER AND JUDGMENT**

This Court conducted a hearing regarding final approval of the Settlement Agreement in this action on \_\_\_\_\_, 2021. After reviewing the Settlement Agreement, all papers filed in connection with Plaintiff's motion for final approval of the Settlement Agreement, motion for attorneys' fees and costs, motion for class representative service award for Plaintiff Alissa Goodlett, and the argument of counsel, and, good cause appearing, IT IS HEREBY ORDERED THAT:

1. Plaintiff's motion for final approval of the parties' Settlement Agreement is GRANTED. The Court hereby finally approves the Settlement Agreement and finds that the settlement terms set forth therein are fair, adequate, and reasonable, and are hereby ordered to be performed by all parties.

2. The Court hereby confirms as final its provisional certification, for the purposes of settlement pursuant to Rule 23 of the Kentucky Rules of Civil Procedure, a settlement class as defined as follows:

All individuals who were notified by Brown-Forman that their personal information was or may have been compromised in the data breach initially disclosed by Brown-Forman in or about August 2020.

(the "Settlement Class"). The Settlement Class does not include persons who validly and timely submitted an opt-out request.

3. The Court hereby confirms as final its appointment of Alissa Goodlett as the representative of the Settlement Class.

4. The Court hereby confirms as final its appointment of Thomas & Solomon LLP and Finkelstein, Blankinship, Frei-Pearson & Garber, LLP as Class Counsel.

5. The Court has determined the Class Members received proper and adequate notice of the Settlement, final approval hearing, Class Counsel's application for attorneys' fees, and service award to the Class Representative.

6. This final approval order and judgment applies to all claims or causes of action settled under the terms of the Settlement Agreement, and shall be fully binding with respect to all Settlement Class Members who did not properly request exclusion.

7. The Court hereby grants Class Counsel's motion for attorneys' fees and costs in the amount of five-hundred and seventy thousand dollars (\$570,000.00). The Court finds that the amount of this award is fair and reasonable in light of the efforts expended by Class Counsel in prosecuting this action and the benefits obtained for the Settlement Class. Defendant is hereby directed to pay Settlement Class counsel this amount as provided in Paragraph 30 of the Settlement Agreement.

8. The Court hereby grants Plaintiff's motion for a class representative service award for Plaintiff Alissa Goodlett in the amount of five thousand dollars (\$5,000.00). This amount is awarded in recognition of the risk to Plaintiff as the class representative in commencing the action, both financial and otherwise, and the amount of time and effort spent by Plaintiff as class representative. Defendant is hereby directed to pay Plaintiff this amount as provided in Paragraph 30 of the Settlement Agreement.

9. Upon the Effective Date, the Action shall be, and hereby is dismissed with prejudice in its entirety as to the Defendant, with each party to bear their own costs and attorneys' fees, except as provided in the Settlement Agreement, and all of the claims of the Settlement Class Members shall be, and hereby are, dismissed and released pursuant to the Settlement Agreement.

10. This Judgment and Order, and the Settlement Agreement, and all papers related thereto, are not, and shall not be construed to be, an admission by the Defendant of any liability, claim, or wrongdoing in this Action or in any other proceeding.

11. In the event that the Settlement Agreement does not become effective in accordance with the Settlement Agreement, then this Judgment and Order shall be rendered null and void to the extent provided by and in accordance with the Settlement Agreement and shall be vacated, and in such event, all orders entered in connection herewith shall be null and void to the extent provided by and in accordance with the Settlement Agreement.

12. The Court hereby finds that there is no just reason for delay of entry of this Judgment and hereby directs its entry.

13. Without affecting the finality of this Judgment in any way, this Action shall remain open and the Court hereby retains continuing jurisdiction over (a) implementation of this Settlement Agreement; (b) disposition of the benefits to the class and payment of attorneys' fees,

costs, and the class representative service award; and (c) all parties hereto for the purpose of construing, enforcing and administering the Settlement Agreement and this Judgment.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

\_\_\_\_\_

Hon. Mitch Perry



# Exhibit B

# **FBFG** | **Finkelstein, Blankinship, Frei-Pearson & Garber, LLP**

## **FIRM RESUME**

**Finkelstein, Blankinship, Frei-Pearson & Garber, LLP**

The lawyers of Finkelstein, Blankinship, Frei-Pearson & Garber, LLP (“FBFG”)<sup>1</sup> have successfully litigated complex class actions in federal and state courts across the country and have obtained successful results for clients against some of the world’s largest corporations. A sampling of FBFG’s more significant cases includes:

- *Farruggio v. 918 James Receiver, LLC*, No. 3831/2017 (Onondaga Cty. Com. Div.). Class action on behalf of approximately 4,000 residents of an unsafe nursing home. On July 5, 2018, the Court granted Plaintiffs’ contested motion to certify a class of all nursing home residents and appointed a FBFG attorney as class counsel. On December 18, 2018, the Court finally approved a settlement with the current owners valued at over \$4 million that required the home to provide substantial injunctive relief to make the home safe and also provided the then-highest per capita payout of any nursing home class action in New York. After a two-day mediation, the parties reached a classwide settlement with the prior owners that will be the highest valued settlement in a New York nursing home class action.
- *Saint Joseph Health System Medical Information Cases*, JCCP No. 4716 (Cal. Sup.Ct.). Complex class action on behalf of approximately 31,800 patients who were victimized by a data breach. A FBFG lawyer was appointed co-lead class counsel. The Court denied Saint Joseph’s demurrer and the Court of Appeals upheld that ruling. The Court certified the class and denied Saint Joseph’s summary judgment motion; the Court of Appeals upheld those rulings as well. On the eve of trial the parties reached a settlement valued at approximately \$39 million and the Court finally approved the settlement on February 3, 2016. This settlement provides the more money per capita to individual class members than any other known data breach settlement.
- *Sackin v. Transperfect Global, Inc.*, No. 17-1469 (S.D.N.Y. 2017). Class action on behalf of over 4,800 individuals victimized by a data breach. On June 15, 2017, the Court entirely denied Transperfect’s motion to dismiss. The Court appointed FBFG as class counsel and, on December 14, 2018, finally approved a settlement valued at over \$40 million.
- *Castillo v. Seagate Technology LLC*, No. 16-1958 (N.D. Cal.). Class action on behalf of over 12,000 individuals victimized by a data breach. On September 19, 2016, the Court denied Seagate’s motion to dismiss in part. The Court appointed a FBFG attorney as co-lead class counsel and, on March 14, 2018, finally approved settlement valued at over \$40 million.

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<sup>1</sup> Three of the founding partners of FBFG were formerly partners in the firm of Meiselman, Packman, Nealon, Scialabba & Baker, P.C. (“MPNSB”). References in this resume to “lawyers of FBFG” includes instances involving current FBFG lawyers while they were at MPNSB.

- *Lowell v. Lyft, Inc.*, No. 17-6521 (S.D.N.Y.). Nationwide class action on behalf of millions of people with disabilities who are denied services by Lyft. On November 29, 2018, the Court denied Lyft's motion to compel arbitration, calling Lyft's arguments "supremely unjust," and denied in part Lyft's motion to dismiss.
- *Durling v. Papa John's International Inc.*, No. 16-03592 (S.D.N.Y.). Nationwide class and collective action on behalf of tens of thousands of Papa John's delivery drivers who were paid wages below the minimum. On August 3, 2018, the Court conditionally certified a nationwide collective of all corporate Papa John's delivery drivers.
- *McLaughlin v. IDT Energy*, No. 14-4107 (E.D.N.Y.). Nationwide class action alleging that IDT overcharged consumers for gas and electric supply. On October 18, 2018, the Court certified the class, appointed the lawyers of FBFG as co-lead class counsel, and approved the settlement valued at over \$54 million.
- *Edwards v. North American Power & Gas, LLC*, No. 14-1714 (D. Conn.). Nationwide class action alleging that North American Power charged electricity and gas rates far in excess of what it promised to charge variable rate customers. On August 2, 2018, the Court certified the class, appointed the lawyers of FBFG as co-lead class counsel, and approved the settlement valued at over \$19 million.
- *Hamlen v. Gateway Energy Services Corp.*, No. 16-03526 (S.D.N.Y.). Class action alleging that Gateway Energy overcharged its customers for natural gas. The case settled on behalf of a nationwide class of Gateway Energy natural gas customers. The court granted final approval of the settlement, valued at approximately \$12 million, on September 13, 2019.
- *Wise v. Energy Plus Holdings, LLC*, No. 11-7345 (S.D.N.Y.). Nationwide class action alleging that Energy Plus falsely claimed to offer competitive electricity rates when its prices were substantially higher than market rates in violation of New York Gen. Bus. L. § 349 and other consumer protection laws. On September 17, 2013, the Court certified the class, appointed the lawyers of FBFG as lead class counsel, and approved the settlement valued at over \$11 million.
- *Chen v. Hiko Energy, LLC*, No. 14-1771 (S.D.N.Y.). Multistate class action alleging that Hiko falsely claimed to offer competitive electricity rates when its prices are substantially higher than market rates in violation of New York Gen. Bus. L. §§ 349 and 349-d, and common law. On May 9, 2016, the Court certified the class, appointed the lawyers of FBFG as class counsel, and approved the settlement valued at over \$10 million.
- *Goldemberg v. Johnson & Johnson Consumer Companies, Inc.*, No. 13-3073 (S.D.N.Y.). Class action alleging deceptive labeling in connection with Defendant's Aveeno Naturals brand of personal care products. Plaintiffs defeated Defendant's motions to dismiss and exclude Plaintiffs' expert's report and

obtained class certification and an appointment as co-lead class counsel. On November 1, 2017, the Court approved a proposed settlement valued at \$6.75 million.

- *In Re: KIND LLC “Healthy and All Natural” Litigation*, Nos. 15-md-2645, 15-mc-2645 (S.D.N.Y.). Class action alleging false advertising of Defendant KIND’s snack food products. Appointed as co-lead interim class counsel on November 13, 2015.
- *Bellino v. JPMorgan Chase Bank, N.A.*, No. 14-3139 (S.D.N.Y.). Statewide class action on behalf of mortgagors alleging Chase’s failure to comply with mortgage recording requirements. On November 9, 2017, the Court approved a settlement valued at \$10,808,630, certifying the settlement class and appointing FBFG attorneys as class counsel.
- *Reed v. Friendly’s Ice Cream, LLC*, No. 15-0298 (M.D. Pa.). Nationwide class and collective minimum wage and overtime claim on behalf of approximately 10,000 servers. On January 31, 2017, the Court certified the class, appointed a FBFG lawyer as co-lead class counsel, and approved the settlement valued at over \$4.6 million.
- *Quinn v. Walgreens*, No. 12-8187 (S.D.N.Y.). Nationwide settlement valued at \$2.8 million to resolve Plaintiffs’ claim that Defendant’s glucosamine products did not perform as represented. On March 24, 2015, the Court certified the class, appointed FBFG lawyers as Co-Lead Class Counsel and approved a nationwide \$2.8 million settlement.
- *Al Fata v. Pizza Hut of America, Inc.*, No. 14-376 (M.D. Fla.). Statewide minimum wage claim on behalf of approximately 2,000 Pizza Hut delivery drivers. On June 21, 2017, the Court certified the class and approved a settlement valued at \$3.1 million that provided the then-highest per-person recovery in any delivery driver under-reimbursement class action.
- *Adler v. Bank of America, N.A.*, No. 13-4866 (S.D.N.Y.). Class action alleging that Bank of America failed to timely present certificates of discharge for mortgages that were satisfied in New York State. On July 20, 2016, the Court certified the class, appointed the lawyers of FBFG as class counsel, and approved the settlement valued at over \$7 million.
- *In re Michaels Stores, Inc. Zip Code Litigation*, No. 11-10920 (D. Mass.). Statewide class action alleging that Michaels Stores unlawfully collected consumers’ private information. After securing a groundbreaking decision by the Massachusetts Supreme Judicial Court, establishing that consumers whose privacy has been violated may bring consumer protection claims against companies that unlawfully collect personal identification information, the lawyers of FBFG were appointed as co-lead class counsel and negotiated a classwide settlement, which the Court approved.

FBFG is also counsel of record in numerous class actions throughout the country, including cases pending in United States District Courts in New York, California, Massachusetts, Nevada, New Jersey, Maryland, New Mexico, Colorado, Arkansas, and Pennsylvania, as well as actions pending in the state courts of New York, California, Nebraska, and New Jersey.

FBFG also has an accomplished appellate practice, having obtained numerous groundbreaking decisions from federal and state appellate courts. Examples include: *In re Zappos.com, Inc.*, 888 F.3d 1020, 1027-28 (9th Cir. 2018), *cert. denied*, 18-225, 2019 WL 1318579 (U.S. Mar. 25, 2019) (reversing dismissal by district court and holding that consumers whose personal identification information was stolen in a data breach have Article III standing); *Zahn v. N. Am. Power & Gas, LLC*, 2016 IL 120526, 72 N.E.3d 333, *reh'g denied* (Jan. 23, 2017) (on certified question from the Seventh Circuit, holding that the Illinois Commerce Commission does not have exclusive jurisdiction to hear consumer claims against alternative retail electricity suppliers); *Zahn v. N. Am. Power & Gas, LLC*, 847 F.3d 875 (7th Cir. 2017) (reversing dismissal of consumer's putative class action seeking redress for excessive electricity charges by alternative retail electricity supplier); *John v. Whole Foods Mkt. Grp., Inc.*, 858 F.3d 732, 738 (2d Cir. 2017) (reversing dismissal of consumer's putative class action seeking redress for Whole Foods' alleged practice of representing the weight of prepackaged foods); *Tyler v. Michaels Stores, Inc.*, 464 Mass. 492, 984 N.E.2d 737 (2013) (on certified question from U.S. District Court for the District of Massachusetts, finding that the collecting personal identification information from unwitting consumers violates Massachusetts consumer protection law).

### **Attorney Profiles**

#### **Jeremiah Frei-Pearson**



Jeremiah Frei-Pearson is a founding partner of FBFG. He is a passionate advocate and an experienced litigator who represents consumers and employees in complex class actions. The National Trial Lawyers Association selected Mr. Frei-Pearson as a member of the Top 100 Trial Lawyers every year since 2014. Mr. Frei-Pearson is a member of the Best Attorneys of America, a distinction that is limited to less than 1% of attorneys, and he is also designated as a Super Lawyer, a distinction awarded to only 5% of the New York Metro Area. Mr. Frei-Pearson practices in federal and state courts throughout the country and his areas of expertise include class actions, privacy, consumer fraud, employment law, and civil rights.

Prior to joining FBFG, Mr. Frei-Pearson was an associate with Kaye Scholer LLP, a multinational law firm, and a staff attorney with Children's Rights, a national public interest law firm representing children in foster care reform class action lawsuits. Mr. Frei-Pearson received his B.A. from Skidmore College, *Magna Cum Laude*, Phi Beta Kappa in 2000 and he earned his in 2003 from Stanford Law School. While in law school, Mr. Frei-Pearson was a Public Interest Fellow and served as Senior Symposium Editor of the Stanford Law & Policy Review.

A sampling of Mr. Frei-Pearson's significant cases includes:

- Appointed class counsel in *Farruggio v. 918 James Receiver, LLC*, No. 3831/2017 (Onondaga Cty. Com. Div). Class action on behalf of approximately 4,000 residents of an unsafe nursing home. On July 5, 2018, the Court granted Plaintiffs' contested motion to certify a class of all nursing home residents. On December 18, 2018, the Court finally approved a settlement with the current owners valued at over \$4 million that required the home to provide substantial injunctive relief to make the home safe and also provided the highest *per capita* payout of any nursing home class action in New York. After a two-day mediation, the parties reached a classwide settlement with the prior owners that will be the highest valued settlement in a New York nursing home class action.
- Appointed co-class counsel in *Saint Joseph Health System Medical Information Cases*, JCCP No. 4716 (Cal. Sup. Ct.). The Court denied Saint Joseph's demurrer and the Court of Appeals upheld that ruling. After more than two years of litigation, the Court granted Plaintiffs' motion to certify a class of approximately 31,800 data breach victims. On January 14, 2015, the Court denied Saint Joseph's motion for summary judgment. The Court of Appeals upheld the Court's summary judgment and class certification decisions. The case was set for trial on August 24, 2015, but the parties reached a settlement valued at approximately \$39 million, which the Court finally approved on February 3, 2016. This settlement provides the more money *per capita* to individual class members than any other known data breach settlement on record.
- Appointed co-lead class counsel in *Castillo v. Seagate Technology LLC*, No. 16-02136 (N.D. Cal.). Class action on behalf of over 12,000 individuals victimized by a data breach. On September 19, 2016, the Court denied Seagate's motion to dismiss in part. On March 14, 2018, the Court finally approved a settlement valued at over \$40 million.
- Appointed class counsel in *Sackin v. Transperfect Global, Inc.*, No. 17-1469 (S.D.N.Y. 2017). Class action on behalf of over 4,800 individuals victimized by a data breach. On June 15, 2017, the Court entirely denied Transperfect's motion to dismiss. On December 14, 2018, the Court finally approved a settlement valued at over \$40 million.
- Appointed co-liaison class counsel in *Yahoo! Inc. Private Information Disclosure Cases*, JCCP No. 4895 (Cal Sup. Ct.). Complex class action involving one of the largest data breaches in U.S history. The Court denied Yahoo's demurrer, and, after Plaintiffs' class certification motion was fully briefed, the parties reached a settlement valued at over \$85 million. Plaintiffs moved for preliminary approval in federal court.
- Appointed co-lead class counsel in *In Re Zappos.Com, Inc., Customer Data Security Breach Litigation*, No. 16-16860 (D. Nev. 2012). Multidistrict class action on behalf of approximately 23 million consumers victimized by a data breach. The Ninth Circuit reversed the District Court' decision dismissing the

case and issued a significant decision holding that data breach victims whose personal identification information was stolen in a data breach have standing. On March 25, 2019, the Supreme Court denied Zappos' request for certiorari. The court granted preliminary approval of the settlement on September 19, 2019.

- Lead counsel to plaintiffs in *Lowell v. Lyft, Inc.*, No. 17-6521 (S.D.N.Y.). Nationwide class action on behalf of millions of people with disabilities who are denied services by Lyft. On November 29, 2018, the Court denied Lyft's motion to compel arbitration, calling Lyft's arguments "supremely unjust", and denied in part Lyft's motion to dismiss. Discovery is ongoing and Plaintiffs will expeditiously move for class certification.
- Lead counsel to Plaintiffs and the certified collective in *Durling v. Papa John's International Inc.*, No. 16-03592 (S.D.N.Y.). Nationwide class and collective action on behalf of tens of thousands of Papa John's delivery drivers who were paid wages below the minimum. On August 3, 2018, the Court conditionally certified a nationwide collective of all corporate Papa John's delivery drivers.
- Appointed co-lead class counsel in *Reed v. Friendly's Ice Cream, LLC*, No. 15-00298 (M.D. Pa.). The Court denied motions to dismiss and ruled for plaintiffs on several other motions in this wage and hour class action. On January 31, 2017, the Court certified the class and finally approved a settlement valued at over \$4.6 million.
- Appointed co-lead class counsel in *Al Fata v. Pizza Hut of America, Inc.*, No. 14-376 (M.D. Fla.). The Court denied defendant's motion to compel arbitration. While Plaintiffs' class certification motion was *sub judice*, the parties reached a class settlement on behalf of a Florida class of delivery drivers alleging minimum wage violations. The Court granted final approval of the settlement, which is valued at \$3.1 million, on June 21, 2017.
- Appointed class counsel in *Hanna v. CFL Pizza, LLC*, No. 05-2011-CA-52949 (Fl. Cir. Court). On September 3, 2013, the Court granted final approval of a settlement that created a substantial settlement fund for under-reimbursed Pizza Hut franchisee delivery drivers who alleged violations of Florida minimum wage law.
- Appointed co-class counsel in *Bellaspica v. PJPA, LLC*, No. 13-3014 (E.D. Pa.). On June 22, 2016, the Court granted final approval of a FLSA collective action settlement, providing a settlement fund for under-reimbursed Papa John's franchisee pizza delivery drivers.
- Appointed class counsel in *Yoeckel v. Marriott*, No. 703387 (Queens Cty. Com. Div.). Class action alleging that Marriott violated New York wage and hour laws. On May 3, 2017, the Court certified a class and finally approved a settlement that provided class members with 100% of their maximum compensatory damages alleged.



- Appointed co-class counsel in *Miller v. Fresh*, No. 14-0880 (Mass. Suffolk Cty.). State-wide class action alleging that Fresh unlawfully collected consumers' personal identification information. On July 15, 2015, the Court certified a class and granted final approval to a settlement.
- Appointed co-class counsel in *Miller v. Patagonia*, No. 14-0888 (Mass. Suffolk Cty.). State-wide class action alleging that Patagonia unlawfully collected consumers' personal identification information. On February 9, 2015, the Court certified a class and granted final approval to a settlement.
- Counsel to the Plaintiffs in *D.G. ex rel. Stricklin v. Henry*, No. 08-074 (N.D. Okl.). In this class action to reform Oklahoma's foster care system, the Court certified a statewide class of Oklahoma's foster children (an opinion that was affirmed by the Tenth Circuit). As a result of this litigation, Oklahoma has committed to restructuring its state foster care agency to eliminate dangerous practices (such as an unsafe shelter where babies in state custody disproportionately suffered fractured skulls), and improve measurable outcomes for children in state custody.
- As counsel in *Charlie and Nadine H. v. Christie*, No. 99-3678 (D.N.J.), worked with the state agencies, a federally appointed monitor, and the Court to help ensure implementation of a consent decree to reform New Jersey's foster care system. Among many other significant achievements under the consent decree, New Jersey broke a record for adoptions achieved, significantly reformed supervision procedures that were inadequate, and substantially increased the percentage of foster children who subsequently attended college. Mr. Frei-Pearson continues to be involved in this litigation in a *pro bono* capacity.

Mr. Frei-Pearson has received numerous awards for his legal work, including the New York City Bar Association's Thurgood Marshall Award for his work on death penalty cases, a citation from the New York City Council for his child advocacy work, and the 2010 Palomountain Award from Skidmore College. Mr. Frei-Pearson is also active in his community; he is a district leader in White Plains, where he serves as Chair of the Mayor's Sustainability Committee and a member (and former Chair) of the Mayor's Committee For People With Disabilities; he also serves on the Board of the Legal Services of the Hudson Valley.

Mr. Frei-Pearson is admitted to practice in New York and is a member of the bars of the U.S. District Courts for the Eastern, Northern, Western, and Southern Districts of New York.

### Greg Blankinship



Greg Blankinship is a founding partner of FBFG, and he specializes in class actions in state and federal courts. Mr. Blankinship has worked on substantial class action matters representing both defendants and plaintiffs in numerous state, federal, and multidistrict class actions, including wage and hour and consumer fraud matters. Mr. Blankinship has been named class counsel by numerous courts. Mr. Blankinship has been designated a New York Super Lawyer every year since 2014, a distinction earned by only five percent of the lawyers in the New York metro area.

Prior to joining FBFG, Mr. Blankinship was an associate with Skadden, Arps, Slate, Meagher & Flom LLP and Greenberg Traurig, LLP. Mr. Blankinship received his B.A. from Emory University in 1991 and his M.A. from the University of North Carolina in 1995. He attended law school at the University of Washington, where he earned his J.D. in 2003. While in law school, Mr. Blankinship was a member of the University of Washington Law Review.

A sampling of Mr. Blankinship's successful cases includes:

- Appointed Interim Co-Lead Class Counsel in *Goldemberg v. Johnson & Johnson Consumer Companies, Inc.*, No. 13-3073 (S.D.N.Y.). Class action alleging deceptive labeling in connection with Defendant's Aveeno Naturals brand of personal care products. Plaintiffs defeated Defendant's motions to dismiss and exclude Plaintiffs' expert's report, and won class certification. On November 1, 2017, the Court approved a proposed settlement valued at \$6.75 million.
- Appointed to the Plaintiffs' Executive committee in *In Re: Santa Fe Natural Tobacco Company Marketing and Sales Practices Litigation*, No. 16-md-2695 (D. N.M.). Plaintiffs in this multidistrict litigation contend that Santa Fe Natural Tobacco mislead consumers into believing their cigarettes were less harmful than others because they are natural and organic. Litigation is on-going.
- Appointed co-class counsel in *Hamlen v. Gateway Energy Services Corp.*, No. 16-03526 (S.D.N.Y.). Class action alleging that Gateway Energy overcharged its customers for natural gas. The case settled on behalf of a nationwide class of Gateway Energy natural gas customers. The court granted final approval of the settlement, valued at approximately \$12 million, on September 13, 2019.
- Class counsel in *McLaughlin v. IDT Energy*, No. 14-4107 (E.D.N.Y.). Nationwide class action alleging that IDT overcharged consumers for gas and electric supply. On October 18, 2018, the Court certified the class, appointed the lawyers of FBFG as co-lead class counsel, and approved the settlement valued at over \$54 million.

- Class counsel in *Edwards v. North American Power & Gas, LLC*, No. 14-1714 (D. Conn.). Nationwide class action alleging that North American Power charged electricity and gas rates far in excess of what it promised to charge variable rate customers. On August 2, 2018, the Court certified the class, appointed the lawyers of FBFG as co-lead class counsel, and approved the settlement valued at over \$19 million.
- Counsel in *Wise v. Energy Plus Holdings LLC*, No. 11-7345 (S.D.N.Y.). Plaintiffs alleged that Energy Plus, an independent electricity supplier, misrepresented that its rates were reflective of the market when they were much higher. The Court granted final approval of a settlement covering more than 400,000 consumers in eight states and valued at more than \$11,000,000.
- Appointed Class Counsel in *Brenner v. J.C. Penney Company, Inc.*, No. 13-11212 (D. Mass.). Plaintiff alleged that J.C. Penney requested and recorded customers' ZIP codes, which it then used to identify consumers' mailing addresses to send them junk mail, in violation of Massachusetts law. The Court granted final approval of a settlement valued at more than \$3.5 million.
- Appointed Class Counsel in *Brenner v. Kohl's Corporation*, No. 13-10935 (D. Mass.). State-wide class action alleging that Kohl's unlawfully collected consumers' personal identification information. On December 5, 2013, the Court granted preliminary approval to a settlement valued at \$435,000 and appointed lawyers of FBFG class counsel.
- Appointed Interim Co-Lead Class Counsel in *Chen v. Hiko Energy, LLC*, No. 4-01771 (S.D.N.Y.). State-wide class action alleging that Hiko charged deceptively high electricity and natural gas rates.
- Appointed Interim Co-Lead Class Counsel in *Tyler v. Bed Bath & Beyond, Inc.*, No. 13-10639 (D. Mass.). Plaintiff alleged that Bed, Bath & Beyond illegally requested and recorded customers' ZIP codes.

Mr. Blankinship's broad experience as a litigator has also exposed him to a wide variety of substantive business and consumer issues. He also has substantial experience with the issues and procedural aspects of large class action and complex cases.

Mr. Blankinship is admitted to practice in New York and Massachusetts and is a member of the bars of the U.S. District Courts for the Eastern, Western, Northern, and Southern Districts of New York, the District of Connecticut, the District of Massachusetts, and the First, Second, Third, Seventh, and Ninth Circuit Courts of Appeals.

**Todd S. Garber**

Todd S. Garber is a founding partner of FBFG. Mr. Garber is an experienced litigator, who practices in state and federal courts. His areas of experience include class actions, consumer fraud, securities fraud, complex commercial disputes, business torts, antitrust, and general litigation. Mr. Garber was designated a New York Super Lawyer every year since 2013, a distinction earned by only five percent of the lawyers in the New York metro area.

Prior to joining FBFG, Mr. Garber worked at Lowey Dannenberg Cohen & Hart, P.C., where he prosecuted and defended complex commercial litigation matters and class actions.

Mr. Garber's career achievements include:

- Appointed co-class counsel in *Hamlen v. Gateway Energy Services Corp.*, No. 16-03526 (S.D.N.Y.). Class action alleging that Gateway Energy overcharged its customers for natural gas. The case settled on behalf of a nationwide class of Gateway Energy natural gas customers. The court granted final approval of the settlement, valued at approximately \$12 million, on September 13, 2019.
- Appointed Class Counsel in *Brenner v. J.C. Penney Company, Inc.*, No. 13-11212 (D. Mass.). Plaintiff alleged that J.C. Penney requested and recorded customers' ZIP codes, which it then used to identify consumers' mailing addresses to send them junk mail, in violation of Massachusetts law. The Court granted final approval of a settlement valued at more than \$3.5 million.
- Appointed Class Counsel in *Brenner v. Kohl's Corporation*, No. 13-10935 (D. Mass.). State-wide class action alleging that Kohl's unlawfully collected consumers' personal identification information. On March 12, 2014, the Court granted final approval to a settlement valued at \$425,000 and appointed lawyers of FBFG class counsel.
- Appointed Co-Lead Class Counsel in *Quinn v. Walgreen*, No. 12-8187 (S.D.N.Y.). Nationwide settlement valued at \$2.8 million to resolve Plaintiffs' claim that Defendant's glucosamine products did not perform as represented. On March 24, 2015, the Court finally approved the settlement and certified the class.
- Appointed Interim Co-Lead Class Counsel in *Chen v. Hiko Energy, LLC*, No. 14-cv-01771 (S.D.N.Y.). State-wide class action alleging that Hiko charged deceptively high electricity and natural gas rates. On May 9, 2016, the Court certified the class and approved a settlement valued at over \$10 million.
- Appointed Interim Co-Lead Class Counsel in *Goldemberg v. Johnson & Johnson Consumer Companies, Inc.*, No. 13-3073 (S.D.N.Y.). Class action alleging deceptive labeling in connection with Defendant's Aveeno Naturals

brand of personal care products. Plaintiffs defeated Defendant's motions to dismiss and exclude Plaintiffs' expert's report, and won class certification. On November 1, 2017, the Court approved a proposed settlement valued at \$6.75 million.

- Appointed Co-Lead Class Counsel in *Tyler v. Bed Bath & Beyond, Inc.*, No. 13-10639 (D. Mass.). Plaintiff alleged that Bed, Bath & Beyond illegally requested and recorded customers' ZIP codes.
- Class Counsel in *Wise v. Energy Plus Holdings LLC*, No. 11-7345 (S.D.N.Y.). Plaintiffs alleged that Energy Plus, an independent electricity supplier, misrepresented that its rates were reflective of the market when they were much higher. The Court granted final approval of a settlement covering more than 400,000 consumers in eight states and valued at more than \$11,000,000.
- As counsel for the New York City Pension Funds, Lead Plaintiff in *In re Juniper Networks, Inc. Sec. Litig.*, No. C-06-04327 JW (N.D. Cal 2010), helped achieve a settlement of \$169.5 million, one of the largest settlements in an options backdating case, after more than three years of hard-fought litigation.
- Involvement in the prosecution of a number of high-profile cases, which have resulted in hundreds of millions of dollars in recoveries for investors, including *In re WorldCom Securities Litigation*, *In re HealthSouth Securities Litigation*, *In re DaimlerChrysler AG Securities Litigation*, and *In re Bayer AG Securities Litigation*.
- Representation of institutional investors in stockholder voting rights and corporate governance cases, including *Gabelli Global Multimedia v. Western Investment LLC*, 700 F. Supp. 2d 748 (D. Md. 2010); *Delcath Systems, Inc. v. Ladd*, 466 F.3d 257 (2d. Cir. 2006); *Salomon Brothers Mun. Partners Fund, Inc. v. Thornton*, 410 F. Supp. 2d 330 (S.D.N.Y. 2006); *meVC Draper Fisher Jurvetson Fund I, Inc. v. Millennium Partners*, 260 F. Supp. 2d 616 (S.D.N.Y. 2003); and *Millenco L.P. v. meVC Draper Fisher Jurvetson Fund I, Inc.*, 824 A.2d 11 (Del. Ch. 2002).

Mr. Garber received his B.A. from Cornell University in 1999 and his J.D. from the Benjamin N. Cardozo School of Law in 2002, where he was articles editor for the Cardozo Journal of International and Comparative Law and was competitively selected to work for the New York City Law Department's Corporation Counsel in its Appellate Division.

Mr. Garber co-authored "Morrison v. National Australia Bank: The Potential Impact on Public Pension Fund Fiduciaries," The NAPPA Report, Vol. 24, Number 3, August 2010, and "Loss Causation in the Ninth Circuit," New York Law Journal, September 2, 2008.

Mr. Garber is admitted to practice in New York and Connecticut and is a member of the bars of the U.S. District Courts for the Eastern, Western, and Southern Districts of New York and the Second Circuit Court of Appeals.

**Andrew Finkelstein**

Andrew Finkelstein is the Managing Partner of Finkelstein, Blankinship, Frei-Pearson & Garber, LLP. He has become a noted consumer activist through his representation of injured individuals against corporate wrong doers and other irresponsible parties.

Mr. Finkelstein served as Captain of the 9/11 Victim Compensation Fund in a pro bono capacity, where he helped obtain over \$10 million for victims and waived all legal fees associated with this representation. Mr. Finkelstein is also the Chairman of the Plaintiff Personal Injury Steering committee for the Neurontin Liability Multidistrict Litigation in Boston, Massachusetts. He has worked closely with the FDA regarding the adverse effects associated with Neurontin, having filed a Citizens Petition seeking enhanced warning of the side effects of this drug, specifically increased suicidal tendencies. Additionally, Mr. Finkelstein

is a member of the Executive Steering Committee of the Hormone Replacement Therapy Multidistrict Litigation in both Philadelphia, Pennsylvania and Little Rock, Arkansas. He is a member of the Plaintiff Steering Committee of the Ortho Evra Birth Control Patch New Jersey Coordinated Litigation, and the Plaintiff Steering Committee of the Viagra Multidistrict Litigation in Minneapolis, Minnesota.

Mr. Finkelstein is a frequent lecturer at Continuing Legal Education courses. His topics include “Science in the Courtroom”, “Technology in the Courtroom”, “Prosecution of a Pharmaceutical Case”, “The Ethics of On-line Advertising”, and “Structured Settlements and the Personal Injury Settlement.”

In addition to these presentations, Mr. Finkelstein volunteers his time to present his “Commit to Quit Texting While Driving” seminar to area high school students.

**John Sardesai-Grant**

Mr. Sardesai-Grant is a highly experienced litigator who specializes in class actions in state and federal courts.

Before joining FBFG, John was an associate at Baritz & Colman LLP, where he represented clients in employment discrimination and commercial disputes. As of counsel to Reese Richman LLP, John brought cases against the New York Police Department on behalf of victims of police misconduct. As an associate at Brower Piven, P.C., he prosecuted complex securities fraud class actions on behalf of shareholders. And as an associate at Bickel & Brewer, a premier commercial litigation boutique, he represented clients in a variety of regulatory and commercial matters.

John earned his B.S. in Economics from The Wharton School at the University of Pennsylvania, as well as an M.A. in Chinese from the University of Pennsylvania’s Graduate School of Arts and Sciences. John received his J.D. from New York University School of Law.



John is admitted to practice in New York and the United States District Courts for the Southern and Eastern Districts of New York and the District of Colorado. He is an active member of the New York County Lawyers Association.

**Bradley F. Silverman**



Mr. Silverman is a highly experienced litigator. He has represented individuals and public and private companies in courts throughout the country. He has broad experience handling numerous types of disputes. This experience includes the representation of plaintiffs and defendants in: class actions; contract disputes; employment matters; disputes relating to the management and control of closely held businesses; intellectual property and trade secret disputes; RICO actions; antitrust and unfair competition matters; real estate disputes; Title IX and other claims relating to college disciplinary actions; challenges to local and state laws that are either unconstitutional or preempted by federal law; and actions to enforce First Amendment rights.

At FBFG, Mr. Silverman's practice focuses on class actions in which he represents individuals across the country who have been harmed by the unlawful acts of companies. Past class actions in which he has been involved include *In re: Coca-Cola Products Marketing and Sales Practices Litigation*, a multidistrict litigation where Mr. Silverman's prior firm served as co-lead counsel for all plaintiffs. In that case and in other cases, he has asserted claims against some of the largest food manufacturers in the world for placing illegal, deceptive, and false statements on product labels.

Prior to joining FBFG, Mr. Silverman practiced at several of the leading litigation firms in New York City, including the international law firm of Kaye Scholer LLP (now Arnold & Porter Kaye Scholer LLP). He received his undergraduate degree, *Magna Cum Laude*, from Brandeis University. He received his law degree from the University of Pennsylvania Law School where he served as a member of the Moot Court Board and as Senior Editor of the Journal of International Economic Law. Born and raised in Brooklyn, New York, he and his family now reside in Westchester County.

**Sami Ahmad**



Sami Ahmad is an associate at FBFG, where he specializes in prosecuting class actions in state and federal courts. Mr. Ahmad joined the firm after working as an associate at a prominent firm specializing in securities class action litigation. He was previously an Honors Intern with the Securities & Exchange Commission and a paralegal and financial analyst. Mr. Ahmad received his J.D. from George Washington University, a Certificate of Financial Analysis from New York University, and his B.A., with honors, from McGill University. During law school, Mr. Ahmad served as an

Associate Editor on the George Washington Business and Finance Law Review and also worked as a research assistant focusing on contract law.

**Olena Ball**

Olena Ball is an associate at FBFG, where she specializes in prosecuting class actions in state and federal courts. Mrs. Ball joined the firm after working at several prominent law firms. She received her J.D. from Benjamin N. Cardozo School of Law and her B.A., cum laude, from the City College of New York. During law school, Mrs. Ball served on the Cardozo Women's Law Journal.

**Chantal Khalil**

Ms. Khalil is an associate at FBFG, where she specializes in class actions in state and federal courts. She is admitted to practice in New York and in the United States District Court for the Southern District of New York. Ms. Khalil received her J.D. from George Washington University Law School and her B.A. from New York University (*Magna Cum Laude*). During Law School, Ms. Khalil served on *The George Washington International Law Review*, was recognized as a Thurgood Marshall Scholar, and received President Obama's Volunteer Service Award.

**Earl Kirkland III**

Mr. Kirkland is an associate at FBFG, where he specializes in class actions in state and federal courts. Mr. Kirkland joined the firm from the NAACP Legal Defense and Educational Fund, Inc. (LDF), where he litigated complex civil rights matters across the country involving issues of educational equity, criminal justice, and voting rights. At LDF, he also co-drafted amicus briefs defending transgender youth rights and challenging Pennsylvania's death penalty. Mr. Kirkland previously clerked for the Honorable Damon J. Keith of the U.S. Court of Appeals for the Sixth Circuit, the Honorable Linda V. Parker of the U.S. District Court for the Eastern District of Michigan, and then Honorable Edward Ewell, Jr. of the Third Judicial Circuit of Michigan. He received his J.D. from Cornell Law School and his B.A., with honors, from the University of Michigan.



**Ayana McGuire**

Ms. McGuire is an associate at FBFG, where she specializes in class actions in state and federal courts. Ms. McGuire received her J.D. from the University of Connecticut School of Law and her B.A. from Cornell University. She is a member of the New York bar.

**Chantel Mills**

Chantel Mills is an associate at FBFG, where she specializes in prosecuting class actions in state and federal courts. Ms. Mills joined the firm after working at several prominent law firms. She received her J.D. from William and Mary School of Law and her B.A., with honors, from the University of Pennsylvania. During law school, Ms. Mills received various awards for her commitment to academic excellence and community service.

**W. Scott Terrell III**

Mr. Terrell is an associate at FBFG, where he specializes in class actions in state and federal courts. Before joining FBFG, Mr. Terrell clerked for the Honorable Dale S. Fisher and for Magistrate Judge Karen L. Stevenson, both in the Central District of California. He also worked for four years in the Bronx District Attorney's Office, serving successfully in the Trial Bureau and in the Appeals Bureau. Mr. Terrell received his J.D. from the University of Virginia School of Law and his B.A. from Morehouse College.

**Andrew White**

Mr. White is an associate at FBFG, where he specializes in class actions in state and federal courts. Mr. White received his J.D. from New York University School of Law and his B.A. from State University of New York, College at Potsdam. During law school, Mr. White served as an editor for the Journal of Law and Liberty. Mr. White is admitted to practice in New York and in the United States District Court for the Southern District of New York.

NO. 20-CI-005631

JEFFERSON CIRCUIT COURT  
DIVISION: THREE  
JUDGE: HON. MITCH PERRY

(ELECTRONICALLY FILED)

ALISSA GOODLETT, individually,  
and as the representative of a class  
of similarly-situated persons,  
123 Lakeview Drive  
Lawrenceburg, Kentucky 40342**PLAINTIFF****-AND-****VS.**BROWN-FORMAN CORPORATION  
850 Dixie Highway  
Louisville, Kentucky 40210**DEFENDANT****DECLARATION OF JESSICA L. LUKASIEWICZ**

Jessica L. Lukasiewicz, Esq. declares, pursuant to 28 U.S.C. § 1746 and CR Rule 11, that the following is true and correct.

1. I am a partner at the law firm of Thomas & Solomon LLP ("TS"). This law firm, along with Finkelstein, Blankinship, Frei-Pearson & Garber, LLP, represents the plaintiff in the above-captioned action.

2. I am fully familiar with the facts and circumstances surrounding this matter, and I submit this declaration in support of Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement.

***Service Award***

3. Plaintiff's Counsel will apply to the Court for a service award in the sum of Five Thousand Dollars and Zero Cents (\$5,000) for the class representative. The service award reflects

the work the class representative has performed in assisting Plaintiff's Counsel with this litigation, including numerous telephonic conferences with Plaintiff's Counsel, assisting with drafting the complaint, and the work she will continue to perform through the approval process of the Settlement.

***Firm Experience***

4. The lawyers at Thomas & Solomon LLP ("TS") are seasoned litigators who are experienced in employment issues with considerable experience in prosecuting class actions and other complex litigation, and are therefore competent and capable of conducting this litigation.

5. TS has devoted the majority of its practice to representing and protecting the rights of individuals against large institutions through complex and class litigation within a variety of substantive contexts.

6. For example, founding partner, J. Nelson Thomas currently sits on the American Bar Association's editorial board for the Fair Labor Standards Act treatise.

7. Mr. Thomas is a nationally recognized speaker on class and collective actions.

8. Further, Partner Jessica Lukasiewicz has litigated class and collective action lawsuits for over twelve years at Thomas & Solomon LLP.

9. Associate Jonathan Ferris has litigated class and collective actions for over eight years at Thomas & Solomon LLP.

10. During their time with Thomas & Solomon LLP, Mr. Thomas, Ms. Lukasiewicz, and Mr. Ferris have represented class of thousands upon thousands of class members, in both class and collective actions. A few examples of these successes include the following:

- *Davis v. JPMorgan Chase & Co.*, No. 01-6492 (W.D.N.Y.). Nationwide class and collective action of mortgage underwriters seeking unpaid overtime. After ten years of litigation, including an appeal to the Second Circuit which reversed the district' court's

order granting summary judgment in favor of the defendants, the parties reached a \$42 million settlement that received final approval in 2011.

- *Malcolm & Luciano v. Eastman Kodak Co.*, Nos. 03-6589, 04-6194 (W.D.N.Y.). Class and collective actions on behalf of certain technical writers and customer support service specialists alleging such employees had been improperly misclassified as exempt from overtime. The parties agreed to a settlement fund of \$11 million to resolve the claims. The court granted final approval of the settlement in 2007.
- *George v. TD Bank, N.A.*, No. 12-1695 (D.Conn.). Class and collective action filed on behalf of employees who performed underwriting functions for the financial institution for wage and hour violations. In 2013, the parties reached an \$8 million settlement.
- *Gregg v. Trustees of the Univ. of Penn.*, No. 09-5547 (W.D. Pa.). Class and collective action lawsuit on behalf of hospital workers for unpaid wages, including during meal breaks. The parties reached a \$7.75 million settlement in 2011.
- *Stenclik v. JPMorgan Chase & Co.*, No. 06-6237 (W.D.N.Y.). Represented plaintiffs who worked as personal and consumer bankers in a class and collective action claiming they were misclassified as exempt from overtime. A \$7.75 million settlement was reached in 2007.

11. Many courts have acknowledged Thomas & Solomon LLP's class action leadership and ethical standards. *See Frank v. Eastman Kodak Co.*, 228 F.R.D. 174, 182 (W.D.N.Y. 2005) (Thomas & Solomon "has demonstrated that it is well-qualified to conduct the litigation."); *Camesi v. Univ. of Pittsburgh Med. Ctr.*, No. 09-85J, 2009 WL 3032590, at \*1 (W.D. Pa. Sept. 17, 2009) (granting appointment as class counsel because Thomas & Solomon LLP were "qualified and could appropriately represent the plaintiffs"); *Masters v. F.W. Webb Co.*, No. 03-CV-6280L, 2006 WL 2604833, at \*3 (W.D.N.Y. Sept. 11, 2006) (Thomas & Solomon LLP "is abundantly experienced in employment litigation, a substantial portion of which has been conducted before this Court."); *Hamelin v. Faxton-St. Luke's Healthcare*, 274 F.R.D. 385, 396 (N.D.N.Y. 2011) (Thomas & Solomon has "established they are qualified and able to conduct this litigation.").

12. TS is both experienced in class action litigation in general and also highly knowledgeable regarding data breach litigation.

13. For instance, TS has diligently developed the innovative and complex theories of this lawsuit, exchanged and reviewed informal discovery, and successfully negotiated the present Settlement to the benefit of the Settlement Class.

14. TS is currently pursuing numerous data breach cases and has devoted significant resources to extensively researching and analyzing the relevant claims and case law.

15. Further, TS has the financial resources available to adequately represent this Class.

16. Attached as **Exhibit A** to this Declaration is a copy of Thomas & Solomon LLP's firm resume.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 9, 2021.

/s/ Jessica L. Lukasiewicz  
**Jessica L. Lukasiewicz**  
Thomas & Solomon LLP  
693 East Avenue  
Rochester, New York 14607  
(585) 272-0540  
jlukasiewicz@theemploymentattorneys.com

# Exhibit A

# **THOMAS & SOLOMON LLP**

## **FIRM RESUME**

**Thomas & Solomon LLP**

Thomas & Solomon LLP (“T&S”) has extensive experience litigating complex actions, including nationwide class and collective actions. The lawyers at Thomas & Solomon also litigate complex qui tam actions, involving claims of fraud against the government. Descriptions of representative cases involving T&S are below:

- *McDonald v. Paperless Corporation, et al.*, No. 20-cv-516 (M.D. Fla.). Filed a data breach class action involving a breach of current and former employees’ personal information, including their names, address, pay and withholdings information, bank account number information, and Social Security numbers.
- *Coleman, et al. v. Railworks, et al.*, No. 20-civ-02428 (S.D.N.Y.). Filed a data breach class action involving a breach of current and former employees’ (and their beneficiaries and IRS Form 1099 vendors) Form W-2 data and/or payroll information.
- *U.S. ex rel. Carranza v. Guaranteed Rate, Inc.*, No. 17-637 (N.D.N.Y.). T&S filed a qui tam action alleging that the bank had used improper underwriting policies and practices thereby engaging in fraud against the government. After an investigation by the government, a \$15 million settlement was reached.
- *Lusk v. Serve U Brands, Inc.*, No. 17-6451 (W.D.N.Y.). Represented delivery drivers in a class and collective action for wage and hour violations, including the failure to pay drivers required reimbursement for vehicle expenses. The action was settled in 2019 for \$2.5 million.
- *U.S. ex rel. McGeehan v. Gateway Funding Diversified Mort. Servcs.*, No. 16-750 (N.D.N.Y.). Relator, represented by T&S, filed a qui tam action against the financial institution claiming that it falsely certified compliance with underwriting requirements for Federal Housing Administration insurance. After an investigation by the government, a \$14.5 million settlement was reached.
- *Roach v. T.C. Cannon Corp.*, No. 10-591 (N.D.N.Y.). In an action alleging violations of various wage and hour laws on behalf of hourly workers at a restaurant chain, T&S served as co-class counsel. A class was certified, after the Second Circuit reversed and remanded an order by the district court denying class certification. The parties reached a settlement in 2018 in this case and companion litigation in the amount \$3.5 million.
- *U.S. ex rel. Bozzelli v. PHH Mortgage Corp.*, No. 13-3084 (E.D.N.Y.). In a qui tam action claiming defendants engaged in fraud, including against the Federal Housing Administration through their underwriting practices, the claims were settled for approximately \$74.5 million after an investigation by the government.
- *Jones v. Rochester Convention Center Mgmt. Corp.*, No. 2014-9258 (Monroe Cty.). Class action against management company for unpaid gratuities and other



expenses on behalf of banquet service workers. In 2017, the parties ultimately reached a settlement of \$2.2 million.

- *Demanchick v. S.G.P. Assocs. L.L.C.*, No. 2016-796 (Monroe Cty.). T&S brought a class action on behalf of banquet service workers working at a hotel. The case was resolved for \$1.8 million in 2017.
- *Velva B. v. Megan J. Brennan, Postmaster General*, Hearing No. 520-2010-00280X (EEOC). T&S served as co-class counsel in a discrimination disability case involving over 100,000 workers against the U.S. Postal Service. The case was certified as a class action, and the EEOC found in favor of the employees holding that the Postal Service engaged in classwide discrimination, entitling class members to seek relief for the harm they experienced.
- *U.S. ex rel. Kelschenbach v. M&T Bank Corp.*, No. 13-280 (W.D.N.Y.). Whistleblower qui tam case alleging that the bank engaged in fraudulent mortgage lending practices under loans guaranteed by the Federal Housing Administration. After an investigation by the government into the claims, the matter was settled for \$64 million in 2016.
- *Acevedo v. Workfit Medical LLC*, No. 14-6221 (W.D.N.Y.). T&S filed a lawsuit on behalf of employees against a medical staffing company for unpaid wages and overtime and for wage notice violations. In 2015, the parties reached a settlement of \$2.1 million which received final approval in 2016.
- *Goldowsky v. First Niagara Bank, N.A.*, No. 16/7322 (Monroe Cty.). In a class and collective action alleging violations of federal and state overtime law, T&S achieved a \$2.94 million settlement to resolve the claims on behalf of the plaintiffs.
- *Belviso v. Global Spectrum, LP*, No. E154027/2014 (Erie Cty.). T&S filed a class action lawsuit for unpaid gratuities pursuant to the New York Labor Law on behalf of banquet service employees who worked at the Niagara Falls Conference and Event Center. The settlement amount totaled \$1.25 million and was approved by the court in 2016.
- *Nemeth v. General Motors Fin. Co., Inc.*, No. 12-2761 (C.D. Cal.). Class and collective action filed on behalf of underwriters working for an automobile financing company. T&S achieved a \$2.9 million settlement to resolve plaintiffs' claims.
- *George v. TD Bank, N.A.*, No. 12-1695 (D.Conn.). Class and collective action filed on behalf of employees who performed underwriting functions for the financial institution for wage and hour violations. In 2013, the parties reached an \$8 million settlement.
- *Cavallaro v. UMass Mem. Health Care Inc.*, No. 09-40152 (D.Mass.). On behalf hourly employees at a health care system, T&S brought a class and collective

action for overtime wages. After dismissal by the district court, the First Circuit reversed and remanded, and the parties commenced settlement discussions. The parties reached a \$2.2 million settlement in 2013.

- *Hamelin v. Faxon-St. Luke's Healthcare*, No. 08-1219; *Colozzi v. St. Joseph's Hosp. Health Center*, No. 08-1220; *Myers v. Crouse Health System, Inc.*, No. 08-1221 (N.D.N.Y.). In certified class actions brought on behalf of health care workers alleging claims under federal and state law for unpaid wages and overtime, T&S achieved settlements totaling \$4.5 million for the workers with the three health care systems.
- *Beatty v. Capital One Financial Corp.*, No. 12-434 (N.D. Ill.). T&S brought a lawsuit on behalf of a class and collective claiming that underwriters and relationship managers employed by the defendants were misclassified as exempt from overtime. A settlement of \$3.2 million was reached and approved by the court in 2012.
- *Davis v. JPMorgan Chase & Co.*, No. 01-6492 (W.D.N.Y.). Nationwide class and collective action on behalf of mortgage underwriters seeking unpaid overtime. After ten years of litigation, including an appeal to the Second Circuit which reversed the district court's order granting summary judgment in favor of the defendants, the parties reached a \$42 million settlement that received final approval in 2011.
- *Barrus v. Dick's Sporting Goods.*, No. 05-6253 (W.D.N.Y.). Class and collective action nationwide on behalf of hourly employees claiming unpaid overtime wages. After extensive litigation and depositions of class members throughout the country, the parties reached a \$15 million settlement which achieved final approval in 2011.
- *Gregg v. Trustees of the Univ. of Penn.*, No. 09-5547 (W.D. Pa.). T&S filed a class and collective action lawsuit on behalf of hospital workers for unpaid wages, including during meal breaks. The parties reached a \$7.75 million settlement in 2011.
- *Huchzermeier v. Unity Health System*, No. 2008/16016 (Monroe Cty.). Action on behalf of a class and collective of employees who worked at a health system for wage and hour violations. In 2009, T&S achieved a settlement of \$1.6 million for the workers.
- *Doe v. JPMorgan Chase & Co.*, No. 06-6237 (W.D.N.Y.). Represented plaintiffs who worked as personal and consumer bankers in a class and collective action claiming they were misclassified as exempt from overtime. A \$7.75 million settlement was reached in 2007.
- *Mitchell v. Paychex, Inc.*, 03-6650 (W.D.N.Y.). Class and collective action on behalf of national sales support representatives and direct marketing sales

representatives for unpaid overtime compensation as a result of being misclassified as exempt employees. The parties reached a \$5.5 million settlement which the court approved in 2007.

- *Malcolm & Luciano v. Eastman Kodak Co.*, Nos. 03-6589, 04-6194 (W.D.N.Y.). Class and collective actions on behalf of certain technical writers and customer support service specialists alleging such employees had been improperly misclassified as exempt from overtime. The parties agreed to a settlement fund of \$11 million to resolve the claims. The court granted final approval of the settlement in 2007.
- *Lighthouse v. Rochester Institute of Tech.*, No. 2007-003180 (Monroe Cty.). Plaintiffs challenged the employer's policy of automatically deducting time for meal breaks and its time rounding policy, among others. The parties were able to resolve the claims for \$2.5 million in 2007.

T&S represents clients in class actions and other matters in courts across the country and is currently prosecuting cases in United States District Courts in New York, Florida, and California.

### **Attorney Profiles**

#### **J. Nelson Thomas**



J. Nelson Thomas is a founding partner of T&S. He has more than two decades of experience, including successfully representing clients in complex class and collective action lawsuits and whistleblower cases involving fraud on the government. He is a featured national speaker and author and leads panel discussions with judges and other lawyers on these issues. While his practice currently focuses on representing employees, he represented numerous employers at his previous firm – from large international companies to local entrepreneurial start-ups – acquiring a depth of experience that gives him an edge in litigating cases for plaintiffs. In 2017, he had the 22nd largest settlement in the country and the fifth largest in New York State. The total settlements he has reached for his clients over his career exceed \$200 million. Mr. Thomas is an arbitrator with the American Arbitration Association and a certified federal court mediator with the U.S. District Court for the Western District of New York. Mr. Thomas received his B.A., *summa cum laude*, from Emory University and his J.D. from the University of Virginia School of Law. He has been selected a Super Lawyer from 2011 through the present and has received the Martindale-Hubbell AV Preeminent rating from 2009 through the present, signifying the highest level of professional excellence.

In 1999, Mr. Thomas was recognized by the judges of the U.S. District Court for the Western District of New York as they awarded him the Special Service Award for “his excellence in the vigorous representation of his clients.” In 2002, he received the 40 under 40 Award, which honors leaders who have made a significant contribution to the Rochester community.

Mr. Thomas is admitted to practice in New York and Pennsylvania and is a member of the bars of the Supreme Court of the United States, the Court of Appeals for the Second, Third, Sixth and Ninth Circuits, and U.S. District Courts for the District of Colorado, the Western, Eastern, Northern and Southern Districts of New York and the Western District of Pennsylvania.

**Jessica Lukasiewicz**



Jessica Lukasiewicz is a partner at T&S. Since joining the firm, Ms. Lukasiewicz has worked extensively on representing employees in wage-and-hour matters under both state and federal law, including the Fair Labor Standards Act. She also counsels and litigates on a wide variety of employment matters including discrimination, sexual harassment, and the Family Medical Leave Act. She was recognized as a Rising Star from 2015 through 2019.

During law school, Ms. Lukasiewicz gained experience on a wide range of discrimination issues while working at MFY Legal Services, Inc., Legal Services of Central New York, and the U.S. Department of Education Office for Civil Rights. She was also Business Editor for The Digest.

Before attending law school, Ms. Lukasiewicz graduated *cum laude* from the University of Florida in 2005, where she majored in psychology.

Ms. Lukasiewicz is admitted to practice in New York and is a member of the bars of the U.S. District Courts for the District of Colorado, the Western, Eastern, Northern, and Southern Districts of New York and the Second Circuit Court of Appeals.

**Jonathan Ferris**



Jonathan Ferris is an associate attorney at T&S. He returned to T&S as an associate in 2012 after working there as a lead paralegal from 2007 to 2009. Since rejoining the firm, Mr. Ferris has been involved in developing and prosecuting fraud cases on behalf of whistle-blowers against health-care providers, defense contractors, and other government contractors. Mr. Ferris has also worked on a variety of collective- and class-action wage-and-hour lawsuits. Mr. Ferris graduated from Albany Law School *cum laude* in 2012. While in law school, in addition to working as a law clerk and summer associate for Thomas & Solomon in 2010 and 2011, Mr. Ferris was a quarterfinalist in the Karen C. McGovern Senior Prize Trials Competition. Before attending law school, Mr. Ferris graduated with honors in English from Colby College in 2007.

Mr. Ferris is admitted to practice in New York and is a member of the bars of the U.S. District Courts for the District of Colorado and the Eastern, Western, and Southern Districts of New York as well as the Court of Appeals for the Third Circuit.

NO. 20-CI-005631

JEFFERSON CIRCUIT COURT  
DIVISION: THREE  
HON. MITCH PERRY*(ELECTRONICALLY FILED)*ALISSA GOODLETT, individually,  
and as the representative of a class  
of similarly-situated persons,  
123 Lakeview Drive  
Lawrenceburg, Kentucky 40342**PLAINTIFF****-AND-****VS.**BROWN-FORMAN CORPORATION  
850 Dixie Highway  
Louisville, Kentucky 40210**DEFENDANT****[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT AND APPROVING NOTICE PROGRAM**

This matter coming before the Court upon the motion of Plaintiff seeking preliminary approval of a class action settlement between Plaintiff Alissa Goodlett and Defendant Brown-Forman Corporation, good cause being shown, and the Court being fully advised in the premises,

**IT IS HEREBY ORDERED, DECREED, AND ADJUDGED AS FOLLOWS:**

1. Terms and phrases in this order shall have the same meaning as set forth in the Settlement Agreement.
2. The Court has jurisdiction over the subject matter of the Action, Plaintiff, the Class, and Defendant, and venue is proper in this Court.

**Settlement Class Certification**

3. Pursuant to Rule 23 of the Kentucky Rules of Civil Procedure, the Court preliminarily certifies, for settlement purposes only, a Class consisting of the following:

All individuals who were notified by Brown-Forman that their personal information was or may have been compromised in the data breach initially disclosed by Brown-Forman in or about August 2020.

4. The Court hereby appoints Plaintiff Alissa Goodlett as Class Representative.

5. The Court hereby appoints Thomas & Solomon LLP and Finkelstein, Blankinship, Frei-Pearson & Garber, LLP as Class Counsel, finding that Class Counsel are well-qualified and experienced.

### **Preliminary Approval**

6. Plaintiff has moved the Court for an order approving the Settlement Agreement, which, together with the documents incorporated therein, sets forth the terms and conditions for a proposed settlement and dismissal of the Action with prejudice against Defendant. The Court, having read and considered the Settlement Agreement and having received the Parties' arguments in support of the Settlement Agreement, hereby preliminarily approves the Settlement Agreement in its entirety subject to the Final Approval Hearing.

7. The Court preliminarily finds that the requirements for class certification under Rule 23.02(a) *et seq.* of the Kentucky Rules of Civil Procedure are satisfied for the reasons set forth in the Plaintiff's Motion for Preliminary Approval. For purposes of the settlement, the Court finds that the proposed Class is ascertainable and that the requirements of numerosity, commonality, typicality, and adequacy of representation are satisfied. The Court further finds preliminarily that, for purposes of the settlement, there are predominant common questions of fact or law. The Court further finds preliminarily that the settlement is a superior means of resolving the Class Members' claims rather than individual suits.

8. The Court finds that, subject to the Final Approval Hearing, the Settlement Agreement falls within the range of possible approval as fair, reasonable, adequate, and in the best interests of the Settlement Class as to their claims against Defendant. The Court further finds that the Settlement Agreement substantially fulfills the purposes and objectives of the class action and provides beneficial relief to the Settlement Class. The Court also finds that the Settlement

Agreement: (a) is the result of serious, informed, non-collusive arms' length negotiations involving experienced counsel familiar with the legal and factual issues of this case and made with the assistance of experienced mediator, the Honorable Ann O'Malley Shake (Ret.); (b) is sufficient to warrant notice of the settlement and the Final Approval Hearing to the Settlement Class; (c) meets all applicable requirements of law, including Kentucky Rule of Civil Procedure 23; and (d) is not a finding or admission of liability by Defendant.

### **Notice and Administration**

9. Heffler Claims Group is hereby appointed as Settlement Administrator and shall perform all the duties of the Settlement Administrator as set forth in the Settlement Agreement and this order.

10. The Court finds that the notice plan and all forms of Notice to the Class as set forth in the Settlement Agreement and Exhibits 3 through 5 thereto (the "Notice Program") is reasonably calculated to, under the circumstances, apprise the members of the Class of the pendency of this action, the certification of the Class, the terms of the Settlement Agreement, and the right of members to object to the settlement or to exclude themselves from the Class. The Notice Program is consistent with the requirements of Rule 23 and due process and constitutes the best notice practicable under the circumstances.

11. The Court thus hereby approves the Notice Program, including the proposed Notice documents attached as Exhibits 3 through 5 to the Settlement Agreement. The Court also approves the plan for claims administration, including the Claim Forms attached as Exhibits 1 and 2 to the Settlement Agreement. The Parties may, by agreement, revise the Notice and Claims Forms in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting.

12. Within twenty (20) days of entry of the Preliminary Approval Order, Brown-Forman shall provide the Settlement Administrator with a list of the names, last known mailing addresses, and electronic mail addresses of the Class Members;

13. Pursuant to the Settlement Agreement, after the entry of this Preliminary Approval Order, and subject to the requirements of the Settlement Agreement and this Preliminary Approval Order, Brown-Forman shall coordinate with the Settlement Administrator to provide Notice beginning within thirty (30) days of this Order being entered (“Notice Date”) as follows:

- a The Settlement Administrator shall send the Settlement E-mail Notice to each Class Member for whom Defendant provided an email address on or before the Notice Date;
- b The Settlement Administrator shall send the Settlement Postcard Notice via U.S. Mail to each Class Member on or before the Notice Date;
- c If the mailing of a Settlement Postcard Notice is returned as undeliverable, the Settlement Administrator will make reasonable efforts to identify a new address for that Class Member, including, but not limited to, skip-tracing, and promptly re-send the Settlement Postcard Notice to the identified new address, if any. If the Settlement Postcard Notice is returned as undeliverable a second time, the Settlement Administrator shall not have any obligation to attempt to identify a new address for that Class Member unless the USPS provides a new address when returning the postcard as undeliverable for the second time.
- d The Settlement Administrator shall publish, on or before the Notice Date, the Long-Form Notice on the website in accordance with the requirements set forth in the Settlement Agreement.

14. Class Members who wish to receive benefits under the Settlement Agreement must complete and submit a valid Claim Form (Identity Protection) and/or a valid Claim Form (Other Benefits). The deadline to submit a Claim Form (Identity Protection) is seventy-five (75) days after the Notice Date. Any Claim Forms (Other Benefits) must be submitted by the expiration date of the Settlement Class Member’s Experian IdentityWorks<sup>SM</sup> identity protection services provided under the Settlement.



### Objections

15. Any member of the Class may object to the granting of final approval to the settlement. Any Class Member may object on their own or may do so through separate counsel at their own expense. Any objection must be mailed to the Settlement Administrator, no later than seventy-five (75) days after the Notice Date. Any written objection to the Settlement must include: (i) the name of the proceedings (“*Goodlett v. Brown-Forman Corporation*”); (ii) the Settlement Class Member’s full name, current mailing address, and telephone number; (iii) a statement of the specific grounds for the objection, as well as any documents supporting the objection; (iv) a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (v) the identity of any attorneys representing the objector; (vi) a statement regarding whether the Settlement Class Member (or their attorney) intends to appear at the Final Approval Hearing; and (vii) the signature of the Settlement Class Member or the Settlement Class Member’s attorney.

16. In addition, if the Settlement Class Member (or their attorney) intends to appear at the Final Approval Hearing, a Notice of Intention to Appear must be mailed to the Settlement Administrator, no later seventy-five (75) days after the Notice Date. The Notice of Intention to Appear must contain the following information, if the Class Member (or their attorney) requests permission to speak at the final approval hearing: (i) the name of this Action (“*Goodlett v. Brown-Forman Corporation*”); (ii) the full name, address, and telephone number of the person intending to appear at the Final Approval Hearing; (iii) the words “Notice of Intention to Appear” at the top of the document; (iv) the points the person wishes to speak about at the Final Approval Hearing; and (v) the identity (name, address, and telephone number) of any lawyer who will speak on the person’s behalf.

17. Any member of the Class who fails to file and serve a timely written objection in compliance with the requirements of this Order and the Settlement Agreement shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement.

**Exclusion**

18. Class Members who wish to exclude themselves from the Class for purposes of this Settlement may do so by submitting an opt-out request to the Settlement Administrator prior to the opt-out deadline, which shall be seventy-five (75) days after the Notice Date. The opt-out request must comply with the exclusion procedures set forth in the Settlement Agreement. Each Class Member desiring to opt out from the Settlement Class shall timely submit, by U.S. Mail, a written opt-out request to the Settlement Administrator. The written notice must clearly manifest the intent to opt out from the Settlement Class and must: (1) state “I request that I be excluded from the settlement class in *Goodlett v. Brown-Forman Corporation*, and do not wish to participate in the settlement.”; (2) identify a Class Member’s name and current address; and (3) include a signature. A request for exclusion may not request exclusion of more than one member of the Class. Mass opt-outs are not permitted.

19. Any member of the Class who timely requests exclusion consistent with these procedures may not file an objection to the Settlement and shall be deemed to have waived any rights or benefits under this Settlement. Any member of the Class who fails to submit a valid and timely request for exclusion shall be bound by all terms of the Settlement Agreement and the Final Judgment.

**Fairness Hearing**

20. A fairness hearing (the “Final Approval Hearing” or “Fairness Hearing”) shall be held before this Court on \_\_\_\_\_, Jefferson County Judicial Center, 700 West Jefferson Street, Louisville, KY 40202, or by videoconference or telephonic means, to consider: (a) whether the proposed settlement of the Action on the terms and conditions provided for in the Settlement Agreement is fair, reasonable and adequate and should be given final approval by the Court; (b) whether a final judgment should be entered; (c) whether to award payment of attorneys’ fees, costs, and expenses to Class Counsel and in what amount; and (d) whether to award payment of a service award to the Class Representative and in what amount. The Court may adjourn the Fairness Hearing without further notice to Class Members. If the Court chooses to hold the

Fairness Hearing by videoconference or telephonic means, notice will be posted on the Settlement Website.

21. Class Counsel shall file any papers in support of their requested award of attorneys' fees and expenses and the Settlement Class Representative's service award on or before 7 days before the deadline for Class Members to object to the Settlement.

22. Plaintiff shall file a Motion for Final Approval and the Parties shall file any response to any objections to the Settlement on or before 10 days before the Fairness Hearing.

### **Miscellaneous Provisions**

23. To protect its jurisdiction to consider the fairness of the Settlement Agreement and to enter a final order and judgment having binding effect on all Class Members, the Court hereby enjoins all members of the Class, and anyone who acts or purports to act on their behalf, from pursuing all other proceedings in any state or federal court that seeks to address rights or claims of any Released Party or Class Member relating to, or arising out of, any of the Released Claims.

24. Class Members shall be bound by all determinations and judgments concerning the Action and/or Settlement Agreement, whether favorable or unfavorable.

25. All case deadlines are stayed and suspended until further notice from the Court, except for such actions as are necessary to implement the Settlement Agreement and this Order.

26. The Parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the settlement which are not materially inconsistent with either this Order or the terms of the Settlement Agreement.

27. Nonsubstantive amendments may be made to Settlement Agreement and Settlement Notice upon written agreement of the Parties without Court approval.

28. In the event that this Settlement Agreement is terminated pursuant to its terms, disapproved by any court (including any appellate court), and/or not consummated for any reason, or the Effective Date for any reason does not occur, the order certifying the Settlement Class for purposes of effectuating the Settlement, and all preliminary and/or final findings regarding that class certification order, shall be automatically vacated upon notice of the same to the Court, the

Action shall proceed as though the Class had never been certified pursuant to this Settlement Agreement and such findings had never been made, and the Action shall return to the procedural posture in effect prior to entry of this Order. Neither party, nor counsel shall refer to or invoke the vacated findings and/or order relating to class settlement or Rule 23 of the Kentucky Rules of Civil Procedure if this Settlement Agreement is not consummated and the Action is later litigated and contested by Defendant under Rule 23 of the Kentucky Rules of Civil Procedure.

29. The Settlement Agreement is not a concession or admission, and shall not be used against Brown-Forman or any of the Released Parties as an admission or indication with respect to any claim of any fault or omission by Brown-Forman or any of the Released Parties. Whether or not the Settlement Agreement is finally approved, neither the Settlement Agreement, nor any document, statement, proceeding or conduct related to the Settlement Agreement, nor any reports or accounts thereof, shall in any event be:

- a Construed as, offered or admitted in evidence as, received as or deemed to be evidence for any purpose adverse to the Released Parties, including, but not limited to, evidence of a presumption, concession, indication, or admission by Brown-Forman or any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage; or
- b Disclosed, referred to, or offered or received in evidence against any of the Released Parties in any further proceeding in the Action, or in any other civil, criminal, or administrative action or proceeding, except for purposes of settling the Action pursuant to the Settlement Agreement and by the Parties for purposes of enforcing the Settlement Agreement.

ENTERED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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Hon. Mitch Perry  
Jefferson Circuit Judge