

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RODNEY CHOATE, on behalf of the MRMC ESOP,
and on behalf of a class of other persons similarly
situated,

Plaintiff,

v.

WILMINGTON TRUST, N.A. as successor to
Wilmington Trust Retirement and Institutional
Services Company,

Defendant.

Cons. Case No. 17-250-RGA

DECLARATION OF GREGORY Y. PORTER

I, Gregory Y. Porter, affirm as follows:

1. I am one of the counsel for the Plaintiff in this case. I submit this declaration in support of Plaintiff's Motion for Preliminary Approval of Settlement.

2. The facts contained in this declaration are within my personal knowledge, and I could testify to those facts if called to do so under oath.

3. My firm is co-counsel of record in this case. Previous submissions describing my background and legal experience as well as the background and legal experience of co-counsel, Daniel Feinberg, were provided to the Court as part of Plaintiff's Motion for Class Certification, D.I. 80.

4. In 2017 and in 2018, the Parties, through their counsel, participated in arm's length and good faith settlement discussions and, in 2019, sought the assistance of Mediator Robert A. Meyer, Esq. of JAMS.

5. The Parties first met in Washington, D.C., in October 2017 to conduct an early

discussion of settlement which included a presentation by MRMC management. In the first quarter of 2018, the parties exchanged blind expert reports, after which the mediation efforts were suspended as the Parties were too far apart in their settlement positions.

6. After completing all discovery and briefing summary judgment motions, the Parties scheduled a mediation with Mr. Meyer, an experienced mediator, in September 2019.

7. The Parties drafted and submitted comprehensive mediation statements to Mr. Meyer that focused all sides on the key issues. The Parties vigorously engaged in the mediation process, during which all counsel made presentations to Mr. Meyer and all attendees. The Parties did not agree to settlement terms at that time, but the Mediator continued to have follow-up discussions with the Parties and presented a Mediator's Proposal to the Parties in January 2020. Each Party accepted the Mediator's Proposal.

8. The Parties' negotiations were at arm's length, extensive and hard fought, and were conducted over a several months with the assistance of Mr. Meyer.

9. The process of documenting the Settlement continued in the weeks following the mediation. The Parties ultimately executed the Settlement Agreement currently before the Court for preliminary approval, and attached as Exhibit A, on April 15, 2020.

10. Prior to their mediation, the Parties engaged in comprehensive discovery. They propounded and responded to written discovery. Plaintiff's counsel received and reviewed tens of thousands of documents produced by Wilmington Trust, MRMC, and all relevant non-parties. The Parties also took more than a dozen depositions, including witnesses who were involved in the underlying ESOP transactions, in prior litigation between Martin family members, and the expert witnesses. Plaintiff's counsel retained and consulted with two experts who prepared detailed reports and analyses on valuation and due diligence. Wilmington Trust's counsel

retained and consulted with multiple experts, and three testifying experts retained by Wilmington Trust prepared reports on similar topics. All experts were deposed. The Parties were ready for trial when they agreed to a settlement in principle.

11. The settlement payment represents an average payment of approximately \$6,100 per Class Member based on the estimate of 3,200 Class Members. The settlement payment will be allocated on a pro rata basis based on each Class Member's number of vested shares of MRMC stock. Plaintiff believes the proposed Settlement is a fair compromise of the Class's claims.

12. True and correct copies of Angeion Group's summary of experience are attached as Exhibit B

I declare, pursuant to 28 U.S.C. § 1746 and under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed at Washington D.C. this 16th day of April 2020.

/s/ Gregory Y. Porter
Gregory Y. Porter

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RODNEY CHOATE, on behalf of the MRMC
ESOP, and on behalf of a class of other
persons similarly situated,

Plaintiff,

v.

WILMINGTON TRUST, N.A. as successor to
Wilmington Trust Retirement and Institutional
Services Company,

Defendant.

No. 1:17-cv-250-RGA

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Settlement Agreement”) is entered into between Plaintiff Rodney Choate, individually and on behalf of the Class (as defined below), and Defendant Wilmington Trust, N.A. (“Wilmington Trust” or “Defendant”) (Plaintiff and Defendant collectively referred to as “Parties”).

RECITALS

WHEREAS, on March 10, 2017, Lyle J. Guidry, on behalf of a putative class of participants and beneficiaries in the MRMC ESOP, filed a complaint against Wilmington Trust in the United States District Court for the District of Delaware (the “Court”), Case No. 17-cv-250 alleging that Wilmington Trust violated the Employee Retirement Income Security Act of 1974 in connection with the MRMC ESOP’s acquisition in 2012 and 2013 of the stock of Martin Resource Management Corporation (“MRMC”);

WHEREAS, on April 28, 2017, Plaintiff Rodney Choate filed a complaint in the United States District Court for the District of Delaware, Case No. 17-cv-482, alleging similar facts and claims against Wilmington Trust;

WHEREAS, on May 17, 2017, the Court entered an Order consolidating the two actions;

WHEREAS, a consolidated Amended Class Action Complaint was filed on May 30, 2017 (the “Amended Complaint”);

WHEREAS, Wilmington Trust filed an answer to the Amended Complaint on June 26, 2017, denying any wrongdoing or liability and asserting certain affirmative defenses;

WHEREAS, a consolidated Second Amended Class Action Complaint was filed on November 2, 2017 (the “Operative Complaint”);

WHEREAS, Wilmington Trust filed an Answer to the Operative Complaint on November 16, 2017, denying any wrongdoing or liability and asserting certain affirmative defenses;

WHEREAS, the parties conducted extensive discovery, including third-party discovery and expert discovery, and prepared motions for summary judgment and made pre-trial submissions;

WHEREAS, on December 10, 2019, the Court entered an Order granting Plaintiff’s Motion for Class Certification;

WHEREAS, on January 28, 2020, the Court entered an Order amending the caption of the consolidated action to remove Lyle J. Guidry as a Named Plaintiff;

WHEREAS, Wilmington Trust continues to deny all material allegations in the Operative Complaint and, more generally, denies any wrongdoing or liability with respect to the MRMC ESOP, including the MRMC ESOP’s acquisition in 2012 and 2013 of the stock of Martin Resource Management Corporation. Wilmington Trust maintains that, at all relevant times, it has

acted reasonably and prudently with respect to the MPMC ESOP and the MPMC ESOP participants and beneficiaries and, further, that its actions at all times have complied with all applicable laws; and

WHEREAS, in 2017 and in 2018, the Parties, through their counsel, participated in arm's length and good faith settlement discussions and, in 2019, sought the assistance of Mediator Robert A. Meyer, Esq. Under the guidance of Mr. Meyer, the Parties reached an agreement in principle regarding settlement.

NOW, THEREFORE, it is agreed by the Parties, in consideration of the promises, covenants, and agreements herein stated, and for other good and valuable consideration, that the "Lawsuit" and "Released Claims" (as defined herein) shall be settled and dismissed on the merits and with prejudice in accordance with the following terms and conditions, all subject to the approval by the Court

1. Additional Definitions.

1.1 "Class" shall mean "All persons who were participants in the MPMC ESOP between October 2, 2012 and December 10, 2019 and/or the beneficiaries of such ESOP participants. Excluded from the Class are Ruben S. Martin, III, Scott D. Martin, and their family, legal representatives, successors, heirs and assigns," as reflected in the Court's December 10, 2019 Order granting Plaintiff's Motion for Class Certification.

1.2 "Class Member" shall mean a member of the Class.

1.3 "Class Notice" shall mean notice of the Settlement to the Class in a form and substance substantially similar to Exhibit 1 hereto, to be provided the Class Members pursuant to the Preliminary Approval Order in the manner and form approved by the Court and in compliance with Rule 23 of the Federal Rules of Civil Procedure.

1.4. “Fairness Hearing” shall mean the hearing at which the Court will consider whether the Settlement should be approved pursuant to Rule 23 of the Federal Rules of Civil Procedure.

1.5. “Final” shall have the same meaning ascribed to “final” under 28 U.S.C. § 1291, and: (i) the time expired to file an appeal, motion for reargument, motion for rehearing, petition for a writ of certiorari or other writ (“Appeal Proceeding”) with respect to a judicial ruling or order with no such Appeal Proceeding having been filed; or (ii) if an Appeal Proceeding has been filed with respect to such judicial ruling or order, (a) the judicial ruling or order has been affirmed without material modification and with no further right of review, or (b) such Appeal Proceeding has been denied or dismissed with no further right of review.

1.6. “Final Order” shall mean a final judgment and order of dismissal substantially similar to Exhibit 2 attached hereto which is to be entered by the Court finally approving the terms of this Settlement Agreement and dismissing the Lawsuit with prejudice.

1.7. “Independent Fiduciary” shall mean Prudent Fiduciary Services.

1.8. “Lawsuit” shall mean the consolidated actions styled “Rodney Choate, on behalf of the MRMC ESOP, and on behalf of a class of other persons similarly situated, v. Wilmington Trust, N.A. as successor to Wilmington Trust Retirement and Institutional Services Company,” Civil Action No. 17-250-RGA pending in the United States District Court for the District of Delaware.

1.9. “Plaintiff’s Counsel” or “Class Counsel” shall mean Bailey & Glasser LLP and Feinberg, Jackson, Worthman & Wasow LLP.

1.10. “Preliminary Approval Order” shall mean the order preliminarily approving the Settlement substantially in the form annexed as Exhibit 3 hereto.

1.11. “Released Claims” shall have the meaning set forth in Section 3.2.

1.12 “Releasees” shall have the meaning set forth in Section 3.1.

1.13 “Settlement” shall mean the settlement to be consummated under this Settlement Agreement.

1.14 “Settlement Administrator” shall mean Angeion Group.

1.15 “Settlement Amount” shall mean \$19.5 million.

1.16 “Service Award” shall mean the amount requested by Plaintiff to be awarded to Rodney Choate in recognition of his service as a class representative.

2. Conditions to Finality of Settlement.

The Settlement shall be final and unconditional when each of the following conditions in Sections 2.1 through 2.4 has been satisfied. The Parties will use reasonable good faith efforts to cause each of the conditions to occur within the times indicated.

2.1. Condition #1: Court Approval.

The Settlement shall have been approved by the Court in accordance with the following steps:

2.1.1. Motion for Preliminary Approval of Settlement and of Notices.

On or before April 20, 2020, Plaintiff will file a motion (“Preliminary Approval Motion”) with the Court for entry of the Preliminary Approval Order in the form annexed as Exhibit 4 hereto. Plaintiff shall give Defendant at least five (5) business days to review the Preliminary Approval Motion before filing. Defendant may, but shall not be required to, submit papers in connection with the Preliminary Approval Motion.

2.1.2. Service of Notice under the Class Action Fairness Act.

Defendant shall prepare and serve the notices required by CAFA, as specified by 28 U.S.C. § 1715, within ten (10) days after the Settlement Agreement is filed with the Court.

2.1.3. Preliminary Approval Order; Issuance of Class Notice.

The Court shall issue the Preliminary Approval Order, substantially in the form annexed as Exhibit 4 hereto. Subject to the requirements of the Preliminary Approval Order, Plaintiff shall cause the Class Notice to be disseminated to the Class Members and shall post the Class Notice on a website at least ninety (90) days before the Fairness Hearing. The Parties will seek to set the Fairness Hearing for a date on or after September 8, 2020, which shall be at least ninety (90) days after the mailing of the Class Notice. The Parties will request that MRMC provide, or cause to be provided by the recordkeeper or third-party administrator for the MRMC ESOP, the names, last known mailing addresses of the Class Members, and (1) the number of vested shares of MRMC stock allocated to their ESOP account as of December 10, 2019, (2) if the Class Member received a prior distribution of the Class Member's entire account balance, the number of vested shares of MRMC stock allocated to their ESOP account as of the date of the prior distribution, and (3) the number of vested shares of MRMC stock allocated to each Class Member's account as of December 10, 2019 that had been previously allocated to other Class Members' accounts. The information in the preceding sentence shall be provided to the Settlement Administrator to the extent available with reasonable effort in electronic format, at least twenty-one (21) days prior to the deadline for mailing notice.¹ Any reasonable costs incurred by third parties (such as the Settlement Administrator or the MRMC ESOP's recordkeeper or third-party administrator) associated with the identification of Class Members, the determination of the number of vested shares or the dissemination of the Class Notice shall

¹ The Parties acknowledge that any information provided by MRMC for this purpose shall be treated as "Confidential" under the Stipulation and Order for the Production and Exchange of Confidential Information. Plaintiff expressly acknowledges that the information may be used solely to deliver the class notice.

be paid from the Settlement Amount, but in no event shall such expenses include any ESOP trustee fees or legal fees incurred by MRMC.

2.1.4. Motion for Final Approval of Settlement.

Plaintiff will file a motion seeking final approval of the Settlement (the “Final Approval Motion”) and for approval of attorneys’ fees and expenses and the Service Award with the Court no later than forty-five (45) days before the Fairness Hearing date set by the Court in the Preliminary Approval Order. The language of the Final Approval Motion shall be subject to the review and input of Defendant, and Plaintiff shall give Defendant at least five (5) business days to review the Final Approval Motion before filing. Defendant may, but shall not be required to, submit papers in connection with the Final Approval Motion.

2.1.5. The Fairness Hearing.

At or after the Fairness Hearing, the Court will determine: (i) whether to enter the Final Order approving the Settlement and dismissing the Lawsuit; (ii) whether the distribution of the Settlement Amount and the Plan of Allocation should be approved; (iii) what attorneys’ fees and expenses should be granted to Plaintiff’s Counsel; and (iv) what, if any, Service Award should be awarded.

2.1.6. Entry of Final Order.

The Court shall have entered the Final Order.

2.2. Condition #2: Funding of Settlement Amount, Establishment of Money Market Fund Investment Option and Updated Valuation of MRMC Stock.

2.2.1 The Settlement Amount shall have been deposited into the Settlement Fund Account in accordance with Section 7.2 and 7.3.

2.2.2 Within ten (10) business days of the Final Order becoming Final, MRMC shall add a money market fund to the ESOP’s investment lineup.

2.3.3 Within ten (10) business days of the Final Order becoming Final, MRMC, as plan administrator, shall obtain a valuation of the ESOP's MRMC stock as of the end of the last quarter prior to entry of the Final Order.

2.3. Condition #3 Independent Fiduciary Approval

2.3.1 The Independent Fiduciary shall have the following responsibilities, including whether to approve and authorize the settlement of Released Claims on behalf of the MRMC ESOP.

2.3.1.1 The Independent Fiduciary shall comply with all relevant conditions set forth in Prohibited Transaction Class Exemption 2003-39, "Release of Claims and Extensions of Credit in Connection with Litigation," issued December 31, 2003, by the United States Department of Labor, 68 Fed. Reg. 75,632, as amended ("PTE 2003-39") in making its determination

2.3.1.2 The Independent Fiduciary shall notify MRMC and Wilmington Trust of its determination in writing, which notification shall be delivered no later than thirty (30) calendar days before the Fairness Hearing.

2.3.1.3 Fees and expenses up to \$25,000 that are associated with the Independent Fiduciary's determination will be paid from the Settlement Amount. Fees and expenses in excess of \$25,000 shall be the responsibility of the Defendant.

2.3.1.4. Counsel for Wilmington Trust and Plaintiff's Counsel shall respond to reasonable requests by the Independent Fiduciary for information so that the Independent Fiduciary can review and evaluate the Settlement.

2.3.1.5 Within ten (10) calendar days of receipt of the written determination by the Independent Fiduciary, Wilmington Trust shall (a) review the determination by the Independent Fiduciary, (b) conclude whether the Independent Fiduciary has made the

determinations required by PTE 2003-39, and (c) notify Plaintiff's Counsel in writing of its conclusion in that regard.

2.4 Condition #4: Finality of Final Order.

The Final Order has become Final.

If Plaintiff and Defendant disagree as to whether each and every condition set forth in Section 2 herein has been satisfied or waived, they shall promptly confer in good faith and, if unable to promptly resolve their differences, shall present their disputes for determination to the Court.

3. Releases.

3.1 Releases by Plaintiff and the Class.

Effective upon the entry of the Final Order, Plaintiff and the Class on behalf of the MRMC ESOP, themselves, their beneficiaries, heirs, executors, representatives, and assigns, absolutely and unconditionally release and forever discharge Wilmington Trust, MRMC, the shareholders of MRMC, and the named and functional fiduciaries of the MRMC ESOP and each of their respective parent companies, subsidiaries, affiliates, directors, officers, employees, agents, attorneys, relations, representatives, assigns, insurers and reinsurers (collectively, "Releasees"), from all Released Claims, as defined in section 3.2. Notwithstanding any other provision hereof, the Releases set forth in Section 3 will remain in effect during the pendency of any Appeal Proceeding of the Final Order. Only if any Appeal Proceeding results in a reversal or vacation of the Final Order will the Releases become void and lose their effect, at which time the provisions of Section 10 will become effective.

3.2 Released Claims.

The Released Claims shall include any and all claims of any nature whatsoever (including claims for any and all losses, damages, unjust enrichment, attorneys' fees,

disgorgement of fees, litigation costs, injunction, declaration, contribution, indemnification, or any other type or nature of legal or equitable relief), that in any way relate to the MRMC ESOP's investment in the stock of MRMC during the Class Period, whether against Releasees in their capacity as individuals, corporate entities, or in their capacities as fiduciaries, whether known or unknown, in law or equity, which were or could have been asserted in the Lawsuit, including but not limited to claims related to the MRMC ESOP's acquisition of MRMC stock or the sale of stock by any MRMC shareholder (the "Released Claims"). In the event that any court with original or appellate jurisdiction over the Lawsuit issues a final determination that any portion of Section 3 herein is not enforceable, the Parties will jointly modify Section 3 herein to conform with such determination, and in any event portions of Section 3 herein that are enforceable shall remain enforceable.

Plaintiff hereby expressly waives, on his own behalf and on behalf of all Class Members and the MRMC ESOP, any and all rights and benefits respectively conferred by the provisions of Section 1542 of the California Civil Code and all similar provisions of the statutory or common law of any other State, Territory, or other jurisdiction. Section 1542 reads in pertinent part:

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

4. Covenants.

4.1 Covenants Not to Sue.

4.1.1 Plaintiff and all Class Members, and Plaintiff's Counsel covenant and agree, (i) not to file any claim or action against any Releasee based on a Released Claim; and (ii) that the foregoing covenant and agreement shall be a complete defense to any such lawsuit or claims against any of the Releasees, and shall bar any such lawsuit or claims.

4.1.2 Wilmington Trust covenants and agrees not to file any claim or action against Plaintiff or Plaintiff's Counsel relating to any claims, allegations, or conduct in the Lawsuit.

4.2 Taxation of Settlement Fund. Plaintiff acknowledges that Releasees have no responsibility for any taxes due on the Settlement Fund, on earnings on the Settlement Fund, or any amounts that Plaintiff receives from the Settlement Fund. Nothing herein shall constitute an admission or representation that any such taxes will or will not be due.

5. Representations and Warranties.

5.1 Plaintiff's Representations and Warranties. Plaintiff represents and warrants on behalf of himself and all Class Members as follows:

5.1.1 That Plaintiff and his counsel have conducted an appropriate investigation and discovery, and have diligently litigated the Lawsuit.

5.1.2 That none of the Plaintiff's claims or causes of action made in the Lawsuit or that could have been alleged in the Lawsuit against any of the Releasees have been or will be assigned, encumbered, or in any manner transferred in whole or in part.

5.1.3 That Plaintiff shall have no surviving claim or cause of action against any of the Releasees with respect to the Released Claims.

5.2 Parties' Representations and Warranties.

The Parties, and each of them, represent and warrant:

5.2.1. That they are voluntarily entering into this Settlement Agreement as a result of arm's-length negotiations among Plaintiff's Counsel and counsel for Defendant, with the assistance and recommendation of the Mediator, Robert A. Meyer, Esq.; that in executing this Settlement Agreement, they are relying solely upon their own judgment, belief, and knowledge, and the advice and recommendations of their own independently selected counsel, concerning

the nature, extent, and duration of their rights, obligations, and claims hereunder and regarding all matters which relate in any way to the subject matter hereof; and that, except as provided herein, they have not been influenced to any extent whatsoever in executing this Settlement Agreement by any representation, statement, or omission pertaining to any of the foregoing matters by any Party or by any person representing any Party to this Settlement Agreement. With respect to the Settlement, each of the Parties assumes the risk of mistake as to facts and/or law.

5.2.2. That they have carefully read the contents of this Settlement Agreement, and this Settlement Agreement is signed freely by each person executing this Settlement Agreement on behalf of such Party. The Parties, and each of them, further represent and warrant to each other that he, she, or it has made such investigation of the facts pertaining to the Settlement, this Settlement Agreement, and all of the matters pertaining thereto, as he, she, or it deems necessary or appropriate.

5.3 Signatories' Representations and Warranties.

Each person executing this Settlement Agreement on behalf of themselves or in a representative capacity do hereby personally represent and warrant that, to the best of his or her information and knowledge formed after reasonable inquiry, he or she has the authority to execute this Settlement Agreement on behalf of, and fully bind, each principal for whom such individual represents or purports to represent.

6. **No Admission of Liability.**

6.1 This Settlement Agreement and the payments made hereunder are made in compromise of disputed claims and are not admissions of any liability of any kind, whether legal, equitable, or factual, and are not admissions of any damages or losses. The Settlement Agreement, whether or not consummated, and any discussions, negotiations, proceedings or agreements relating to the Settlement Agreement, and any matters arising in connection with

settlement discussions or negotiations, proceedings, or agreements, shall not be construed, offered or received against or to the prejudice of the Parties for any purpose, and in particular:

6.1.1 do not constitute and shall not be deemed to constitute any liability or wrongdoing by any of the Releasees, or give rise to any inference of wrongdoing or liability under ERISA;

6.1.2 do not constitute, and shall not be offered or received against or to the prejudice of Releasees as evidence of any presumption, concession or admission by Releasees with respect to the truth of any allegation by Plaintiff or as alleged in the Lawsuit, or of any liability, damages, fault, omission, or wrongdoing of Releasees;

6.1.3 do not constitute, and shall not be offered or received against or to the prejudice of Plaintiff as evidence of any presumption, concession or admission by Plaintiff with respect to the truth of any allegation or affirmative defense by Defendant or as alleged in the Answer, or to limit any claim of damages or remedy requested by Plaintiff;

6.1.4 do not constitute and shall not be offered by or received against or to the prejudice of Releasees, in any other civil, criminal, or administrative lawsuit or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Settlement Agreement.

6.2 Releasees may file this Settlement Agreement and/or the Final Order in any action that may be brought against them in order to support a defense or counterclaim based in principles of res judicata, collateral estoppel, release, good-faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim, or to effectuate the liability protection granted them under any applicable insurance policies. A Party may file this Settlement Agreement and/or the Final Order in any

action that the Party brings against another Party to enforce the terms of this Settlement Agreement and/or the Final Order.

7. The Settlement Fund Account.

7.1 Plaintiff's Counsel or the Settlement Administrator shall establish at a federally chartered financial institution reasonably acceptable to Defendant (the "Financial Institution") an interest-bearing account (the "Settlement Fund Account"). The Parties agree that the Settlement Fund Account is intended to be, and will be, an interest-bearing Qualified Settlement Fund within the meaning of Treas. Reg. § 1.468B-1 and, after the Final Order becomes final, it will be a subtrust of the MRMC ESOP. Plaintiff's Counsel shall provide to the Defendant: (i) written notification of the date of establishment of the Settlement Fund Account; (ii) written notification of the following information regarding the Financial Institution and the Settlement Fund Account: bank name, bank address, ABA number, account number, account name, and IRS Form W-9 and taxpayer identification number; and (iii) any additional information needed to deposit the Settlement Amount into the Settlement Fund Account. Plaintiff's Counsel shall direct the Financial Institution to make distributions by wire transfer or check from the Settlement Fund only in strict accordance with the Settlement Agreement and Court Orders. No other disbursements may be authorized by Plaintiff's Counsel.

7.2 Ten (10) business days after the entry of the Preliminary Approval Order, Defendant shall make restitution by depositing \$500,000 into the Settlement Fund Account; provided however, that if Plaintiff's Counsel has not yet provided the Defendant with the notifications and information required in (i)-(iii) in the preceding paragraph, then the deadline for the Defendant to make the deposit into the Settlement Fund Account, shall be extended to ten (10) business days after the date on which Plaintiff's Counsel provides the requisite notifications and information.

7.3 Not later than seven (7) business days after the entry of the Final Order by the Court, Wilmington Trust shall make further restitution by depositing \$19,000,000 into the Settlement Fund Account.

7.4 The Settlement Amount deposited into the Settlement Fund Account will be considered to be in the legal custody of the Court until such time as such funds may be distributed pursuant to further order of the Court or pursuant to the terms of this Settlement Agreement. The Parties acknowledge and agree that Releasees shall have no authority, control or liability in connection with the design, management, administration, investment, maintenance, or control of the Settlement Fund Account, or for any expenses the Settlement Fund Account may incur or any taxes that may be payable to the Settlement Fund.

7.5 The Settlement Amount shall be the full and sole monetary contribution made by or on behalf of Releasees in connection with the Settlement. The Settlement Amount specifically covers any claims for attorneys' fees and litigation expenses by Plaintiff. Except as otherwise specified in this Settlement Agreement, the Parties shall bear their own costs and expenses (including attorneys' fees) in connection with the Lawsuit and effectuating this Settlement Agreement and securing necessary Court orders and approvals with respect to the same.

8. Payments from the Settlement Fund Account.

8.1 Administration Expenses. Plaintiff's Counsel may direct the Settlement Administrator in writing, without notice to Defendant or further order of the Court, to disburse from the Settlement Fund Account (i) the amount required for payment of any taxes owed on the Settlement Fund Account, (ii) amounts for the reasonable expenses of administering the Settlement Fund Account, including (a) reasonable expenses associated with the preparation and filing of all tax reports and tax returns required to be filed; (b) expenses associated with the preparation and issuance of any required Forms 1099 associated with payments from the

Settlement Fund Account; (c) fees charged and expenses incurred by the Financial Institution associated with the administration of the Settlement Fund Account; and (d) fees charged and expenses incurred by the Settlement Administrator, including reasonable costs incurred in preparing and mailing the Class Notice and any supplemental notice to the Class, in implementing the Plan of Allocation (as defined below) and in disbursing funds from the Settlement Fund Account; (iii) the fees charged by the Independent Fiduciary not to exceed \$25,000; and (iv) the fees charged by the valuation firm to prepare the valuation of MRMC stock described in Section 8.2.2.2, not to exceed \$80,000.

If the Settlement Agreement is terminated or does not become final for any reason after the expenditure of funds to pay for the reasonable costs associated with the Class Notice, Plaintiff's Counsel shall be obligated to instruct the Settlement Administrator (or an escrow agent, successor trustee, or other person with authority to disburse the funds) to return the funds remaining in the Settlement Fund Account to Defendant.

8.2 Disbursements from Settlement Fund Account.

8.2.1 Plaintiff's Counsel shall be entitled to seek Court approval of the disbursement of money from the Settlement Fund Account ten (10) business days after the entry of the Final Order, regardless of objections or appeal, to pay Attorney's Fees and Litigation Expenses approved by the Court, as provided in Section 9.1. Plaintiff's Counsel agree to return to the Settlement Fund Account any fees and expenses that are disbursed if the Settlement Agreement is terminated or does not become final or if the amount of Attorney's Fees or Litigation Expenses is reduced by a subsequent court order that is Final.

8.2.2 Plaintiff's Counsel shall be entitled to seek Court approval of the disbursement of money from the Settlement Fund Account after the Final Order is Final to:

8.2.2.1 Pay any Service Award approved by the Court. In recognition of his service as a class representative, Plaintiff Rodney Choate shall request a Service Award not to exceed \$20,000.

8.2.2.2 For Payment to the Class. After the amounts payable pursuant to Sections 8.1 and 8.2.1 and 8.2.2.1 have been determined and disbursed, the net amount remaining in the Settlement Fund Account (the "Net Proceeds") shall be calculated by the Settlement Administrator. The Settlement Administrator shall implement the Plan of Allocation (defined below) and, thereby, determine how much of the Net Proceeds should be allocated to each Class Member in proportion to the vested company shares that he or she held in the MRMC ESOP, using the records available to it, and considering documents, if any, submitted by Class Members. The Settlement Administrator shall provide to the Trustee of the MRMC ESOP a spreadsheet reflecting each Class Member's allocable portion of the Net Proceeds. A Class Member's share of the Net Proceeds will be based on the number of vested shares of MRMC stock allocated to their ESOP account as of (1) December 10, 2019, or (2) if the Class Member received a prior distribution of the Class Member's account balance, the number of vested shares of MRMC stock allocated to their ESOP account prior to the date of any distributions, divided by the sum total of all such vested shares of MRMC stock of all Class Members, which shall constitute that Class Member's "Entitlement Percentage." The Settlement Class Member's settlement allocation shall be calculated by multiplying the total value of the Net Proceeds by his or her Entitlement Percentage ("Plan of Allocation"). MRMC shares allocated to Class Members' accounts as of December 10, 2019 that had been previously allocated to other Plan participants' accounts but re-allocated due to forfeiture shall not be included in the share count for purposes of calculating each Class Member's allocable portion. The allocable portion of the Net Proceeds of those Class Members with an existing account in the MRMC ESOP shall be

contributed to their ESOP account and either invested in MRMC stock or in a money market fund based on the election of such Class Members. If a Class Member with an existing account in the MRMC ESOP does not make an election, then the allocable portion of the Net Proceeds for such Class Member will be contributed to their ESOP account in MRMC stock. For Class Members who receive their allocable portion in MRMC stock, the number of shares allocated to their account will be based on the per share value of MRMC stock as determined by a valuation of MRMC stock as of the end of the last quarter prior to the date of the Final Order. The allocable portion of the Net Proceeds of those Class Members without an existing account in the MRMC ESOP shall be distributed by check to those Class Members directly by the Settlement Administrator, unless the Class Member elects to rollover such amounts into an eligible retirement account, but Releasees and the Settlement Administrator shall have no responsibility or liability for or in connection with the determination of whether or not the Class Member is eligible to elect such a rollover. Plaintiff, Plaintiff's Counsel, Defendant, and Defendant's counsel also shall have no responsibility or liability for or in connection with the calculations and distributions of the Net Proceeds among and to the Class Members. Plaintiff's Counsel and the Settlement Administrator shall be responsible for preparing and disseminating all communications and election forms to Class Members. The Trustee of the MRMC ESOP and any third party administrator shall have no responsibility or liability for or in connection with the calculation, allocation within the ESOP, or distribution of the Net Proceeds as among or to the Class Members, except that, in the event of an error by the Trustee of the MRMC ESOP or by a third party administrator in the distribution from the ESOP following payment to it of the Net Proceeds allocable among the Class Members, the Trustee of the MRMC ESOP shall correct the error within a reasonable amount of time.

8.2.2.3 Neither Wilmington Trust, Plaintiff's Counsel nor the Settlement Administrator shall have any responsibility for determining the value of MRMC stock allocated to those Class Members with an existing account balance in the MRMC ESOP. The Plan Administrator of the MRMC ESOP, with the assistance of the valuation firm retained under Section 8.2.2.2, shall determine the fair market value of MRMC stock allocated to those Class Members with an existing account balance in the MRMC ESOP.

8.2.2.4 Should the Court reduce the Attorneys' Fees and Expenses sought by Plaintiffs' Counsel or the requested Service Award to the Plaintiff, the amount of such reduction shall not revert to any of the Releasees, but instead shall be added to the Net Proceeds.

9. Attorneys' Fees and Litigation Expenses and Service Awards.

9.1 Payment of Plaintiff's Attorneys' Fees and Litigation Expenses and Service Awards. Plaintiff's Counsel may apply to the Court for an award of attorneys' fees and for reimbursement of litigation expenses, including the cost and expense of any service company, expert, or consultant retained by Plaintiff's Counsel. The aggregate amount of the attorneys' fees and litigation expenses shall not exceed \$6 million. Plaintiff also may apply to the Court for a Service Award. Plaintiff's Counsel shall file their application for attorneys' fee and litigation expenses and for the Service Award no later than forty-five (45) days before the Fairness Hearing and, thereafter, shall be entitled to receive attorneys' fees and litigation expenses and the class representative shall be entitled to Service Award from the Settlement Fund Account to the extent awarded by the Court. Defendant shall take no position with respect to Plaintiff's Counsel's application for attorneys' fees and litigation expenses or for the Service Award. Defendant does not agree or concede that the amount of attorneys' fees and/or any expenses that may be sought by Plaintiff's Counsel or the Service Award are appropriate or reasonable, but simply takes no position.

9.2 Separate Consideration. The procedure for and allowance or disallowance by the Court of Plaintiff's application for attorneys' fees and litigation expenses and for the Service Award are a separate part of the Settlement set forth in this Settlement Agreement, but are separate from the Court's consideration of the fairness, reasonableness and adequacy of the Settlement set forth in this Settlement Agreement. Any order or proceeding relating to any application for attorneys' fees, litigation expenses in an amount less than the amount requested by Plaintiff's Counsel or request for the Service Award, or any appeal from any order relating thereto or reversal or modification, thereof, shall not operate to terminate or cancel the Settlement Agreement, or affect or delay the finality of the Final Order approving the Settlement Agreement and the Settlement set forth herein. If at the time of any disbursement from the Settlement Fund Account there shall be a pending application for attorneys' fees or expenses or the Service Award, there shall be reserved in the Settlement Fund Account an amount equal to the amount of the pending application, until such time as the Court shall rule upon such application and, with respect to the Service Award, such ruling shall become Final.

10. Termination of the Settlement Agreement.

10.1 Termination. This Settlement Agreement may be terminated by either Party if (i) the Court declines to approve the Settlement by entering the Final Order, or (ii) the Final Order entered by the Court is reversed or modified in any material respect by any Appeal Proceeding, provided that the terminating party, within fourteen (14) calendar days from the date of such event, furnishes written notice to Plaintiff's Counsel or Defendant's Counsel, as the case may be, of the termination of this Settlement, specifying the terms modified or not approved that give rise to the right to terminate.

10.2 Consequences of Termination of the Settlement Agreement. If the Settlement Agreement is terminated, the following shall occur:

10.2.1 Plaintiff's Counsel or Defendant's Counsel shall promptly after the date of termination of the Settlement Agreement notify the Court and return any Settlement Amount to the Defendant, except for amounts disbursed or incurred pursuant to Section 8.1.

10.2.2 The Lawsuit shall for all purposes revert to its status as of the day immediately before December 11, 2019 and the Parties shall request a scheduling conference with the Court. In any subsequent proceeding, the terms of this Settlement Agreement shall not constitute nor be construed as an admission by any Party, nor be used against any Party, in any manner, whether as evidence or argument.

10.2.3 The Settlement shall be deemed void and of no further force and effect.

11. Miscellaneous Provisions.

11.1 Continuing Jurisdiction of the Court. The Court shall retain jurisdiction over this Lawsuit to resolve any dispute that may arise regarding the Settlement Agreement, the Class Notice, the Final Order, or any other matters relating thereto, including any dispute regarding validity, performance, interpretation, administration, enforcement, enforceability, or termination of the Settlement Agreement.

11.2 Required Disclosures. The parties acknowledge and agree that (i) they shall be authorized to disclose the fact of the Settlement and the Settlement Amount; and (ii) they may make such public filings and accompanying public statements as required to be made under applicable law concerning the Settlement upon execution of this Settlement Agreement and the filing of this Settlement Agreement with the Court for preliminary approval. Neither Plaintiff nor Plaintiff's Counsel shall issue a press release. Nothing in this paragraph is intended to limit or restrict Class Counsel's ability to communicate with Class members.

11.3 Complete Resolution. The Parties intend the Settlement of the Lawsuit to be the full, final and complete resolution of the Released Claims and the Lawsuit. The Parties and their counsel agree that they shall not make any applications for sanctions, pursuant to Rule 11 of the Federal Rules of Civil Procedure or other court rule or statute, with respect to any claim or defense in this Lawsuit.

11.4 Governing Law. The construction, interpretation, operation, effect and validity of this Settlement Agreement and all documents necessary to effectuate it, shall be governed by the law of the State of Delaware, without giving effect of laws or choice of law provisions thereof, except to the extent the laws of the United States, including federal common law, governs any matter set forth herein, in which case federal law shall govern.

11.5 Severability. The provisions of this Settlement Agreement are not severable.

11.6 Destruction or Return of Protected Materials. Within sixty (60) calendar days after the Final Order become Final, the Parties shall fully comply with the applicable provisions of the Protective Order concerning the destruction or return of protected materials.

11.7 Amendment of Settlement Agreement. Before the entry of the Final Order, the Settlement Agreement may be modified or amended only by written agreement signed by or on behalf of all Parties. Following entry of the Final Order, the Settlement Agreement may be modified or amended only by written agreement signed on behalf of all Parties and approved by the Court. Amendments or modifications may be made without notice to the Class Members unless notice is required by law or the Court.

11.8 Waiver. The provisions of this Settlement Agreement may be waived only in writing executed by the waiving party. The waiver by any Party of any breach of this Settlement Agreement shall not be deemed to be or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.

11.9 Retention of Privilege. Nothing in this Settlement Agreement, or the negotiations relating thereto, is intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, attorney-client privilege, joint defense privilege, or work product protection.

11.10 Construction. None of the Parties hereto shall be considered to be the drafter of this Settlement Agreement or any provision hereof for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

11.11 Principles of Interpretation. The following principles of interpretation apply to this Settlement Agreement.

11.11.1 Headings. The headings of this Settlement Agreement are for purposes of reference only and do not affect in any way the meaning or interpretation of this Settlement Agreement.

11.11.2 Terms of Inclusion. Whenever the words “include,” “includes,” or “including” are used in this Settlement Agreement, they shall not be limiting but rather be deemed to be followed by the words “without limitation.” The connectives “and,” “or,” and “and/or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a sentence or clause all subject matter that might otherwise be construed to be outside of its scope. The terms “herein,” “hereof,” and the like shall be deemed to refer to this Settlement Agreement as a whole.

11.12 Further Assurances. Each of the Parties agrees, without further consideration, and as part of finalizing the Settlement hereunder, that they will in good faith execute and deliver each other documents and take such other actions as may be necessary to consummate and effectuate the subject matter and purpose of this Settlement Agreement, so long as such

documents and actions are consistent with the terms of this Settlement Agreement and do not effectively result in a material modification of the terms of this Settlement Agreement.

11.13 Survival. All representations, warranties and covenants set forth in this Settlement Agreement shall be deemed continuing and shall survive the Settlement.

11.14 Entire Agreement.

11.14.1 All of the recitals and exhibits to the Settlement Agreement are material and integral parts hereof and are, except as set forth, fully incorporated herein by this reference.

11.14.2 The Parties acknowledge that this Settlement Agreement specifically supersedes any settlement terms or settlement agreements that were previously agreed upon orally or in writing by any of the Parties regarding the issues of the Settlement.

11.15 Counterparts. This Settlement Agreement may be executed in two (2) or more counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same instrument. Signatures sent by e-mail "PDF" shall be deemed originals.

11.16 Successors and Assigns. This Settlement Agreement shall be binding upon, and insure to the benefit of, the successors and assigns of the Parties.

11.17 Binding Effect. This Settlement Agreement shall be binding when signed, but the Settlement shall be effective only on the condition that the Court approves the Settlement Agreement and satisfaction of Section 2 herein.

11.18 Notices. Any notice, demand, or other communication under this Settlement Agreement (other than the Class Notice, or other notices given at the direction of the Court) shall be in writing and shall be deemed duly given upon receipt if it is addressed to each of the

intended recipients as set forth below and personally delivered, sent by registered or certified mail (postage prepaid), or delivered by reputable express overnight courier:

IF TO PLAINTIFF:

Daniel Feinberg
Feinberg Jackson Worthman & Wasow LLP
2030 Addison Street, Suite 500
Berkeley, CA 94704

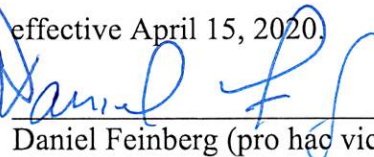
Gregory Y. Porter
Bailey & Glasser LLP
1055 Thomas Jefferson Street NW,
Suite 540
Washington, DC 20007

IF TO DEFENDANT

Michael J. Prame
Groom Law Group, Chartered
1701 Pennsylvania Ave NW, Suite 1200
Washington, D.C. 20006

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement

effective April 15, 2020.



Daniel Feinberg (pro hac vice)
Todd Jackson (pro hac vice)
Feinberg, Jackson, Worthman & Wasow LLP
2030 Addison Street, Suite 500
Berkeley, CA 94704
Telephone: (510) 269-7988
Facsimile: (510) 269-7994
dan@feinbergjackson.com
todd@feinbergjackson.com

Gregory Y. Porter (pro hac vice)
Ryan T. Jenny (pro hac vice)
Patrick O. Muench (pro hac vice)
Bailey & Glasser, LLP
1055 Thomas Jefferson Street NW
Suite 540
Washington, DC 20007
Telephone: (202) 463-2101

intended recipients as set forth below and personally delivered, sent by registered or certified mail (postage prepaid), or delivered by reputable express overnight courier:

IF TO PLAINTIFF:

Daniel Feinberg
Feinberg Jackson Worthman & Wasow LLP
2030 Addison Street, Suite 500
Berkeley, CA 94704

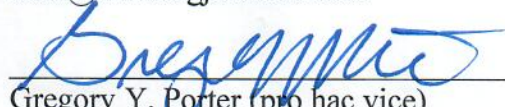
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rjenny@baileyglasser.com
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David A. Felice (#4090)
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2961 Centerville Road, Suite 302
Wilmington, DE 19808
Telephone: (302) 504-6333
Facsimile: (302) 504-6334
dfelice@baileyglasser.com

For Named Plaintiff and the Class



Michael J. Prame (*pro hac vice*)
Sarah M. Adams (*pro hac vice*)
Sarah M. Humble (*pro hac vice*)
Groom Law Group, Chartered
1701 Pennsylvania Ave NW, Suite 1200
Washington, D.C. 20006
Telephone: (202) 857-0620
mprame@groom.com
sadams@groom.com
shumble@groom.com

Wilmington Trust, N.A.

By: 

Its: Group Vice President

*Attorneys for Defendant
Wilmington Trust, N.A.*

EXHIBIT 1

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

**PLEASE READ THIS NOTICE CAREFULLY.
A FEDERAL COURT AUTHORIZED THIS NOTICE.
THIS IS NOT A SOLICITATION.**

You are receiving this notice because the records of the MRMC Employee Stock Ownership Plan indicate that you were a participant in the Plan at some time during the period October 2, 2012 through December 10, 2019 (“Class Period”). Your rights may be affected by a proposed class action settlement of this lawsuit.

Please read the following information carefully to find out what the lawsuit is about, what the terms of the proposed settlement are, what rights you have to object to the proposed settlement if you disagree with its terms, and what deadlines apply to the right to object to the proposed settlement.

WHAT THIS LAWSUIT IS ABOUT

Plaintiff Rodney Choate (“Plaintiff”), a participant in the MRMC Employee Stock Ownership Plan (“the Plan”) sponsored by Martin Resource Management Corporation (“MRMC”), filed this lawsuit against Wilmington Trust, N.A. (“Wilmington Trust”), in the U.S. District Court for the District of Delaware (the “Lawsuit”). The Lawsuit claims that Wilmington Trust violated a federal statute, the Employee Retirement Income Security Act of 1974 (“ERISA”) in connection with the Plan’s acquisition of MRMC stock in in October 2012 and December 2013, for total payments of approximately \$375.5 million (the “ESOP Transactions”). Specifically, Plaintiff alleges that Wilmington Trust violated its duties ERISA § 404, 29 U.S.C. § 1104, and ERISA § 406, 29 U.S.C. § 1106, when it, among things, approved a purchase price for MRMC stock that exceeded fair market value.

Wilmington Trust denies all of Plaintiff’s allegations in the Lawsuit, denies any wrongdoing regarding the ESOP Transactions, and has vigorously defended itself in the Lawsuit.

THE TERMS OF THE SETTLEMENT

To avoid the additional expense, delay, and uncertainty of the outcome of the Lawsuit, Plaintiff and the Class defined below, and Wilmington Trust have agreed to a Settlement that provides payments to Class Members. These and other terms of the Settlement are set forth in the Class Action Settlement Agreement dated April 15, 2020 (“Settlement Agreement”), and are summarized below. The complete Settlement Agreement is available at [[website](#)] or from Class Counsel.

1. The Class Covered by the Settlement. On December 10, 2019, the Court granted Plaintiff’s Motion for Class Certification. The Class is defined as: “All persons who were participants in the MRMC ESOP between October 2, 2012 and December 10, 2019 and/or beneficiaries of such ESOP participants. Excluded from the Class are Ruben S. Martin III, Scott D. Martin, and their family, legal representatives, successors, heirs, and assigns.” Whether or not

a person meets this definition will be based on the Plan's records. You have received this Notice because, based upon those records, you are believed to be a member of the Class. You do not have the right to exclude yourself from the Class or the benefits of the Settlement. This Lawsuit was certified as a mandatory ("non-opt-out") class action.

2. The Payment and Allocation of the Settlement Fund:

(a) Under the Settlement, Wilmington Trust will make a payment of \$19,500,000 (the "Settlement Amount") to the Settlement Fund.

(b) The Settlement Amount, plus any accrued interest, shall be the "Gross Settlement Fund."

(c) The "Net Proceeds" shall be the Gross Settlement Fund less:

- (1) Administrative Expenses, which include amounts required to pay taxes, administer the Settlement Fund Account, issue notice of the Settlement and communicate with Class Members, and make payments to the Class Members;
- (2) Class Counsel's attorneys' fees and expenses, which together shall not exceed \$6,000,000;
- (3) The cost of an independent fiduciary to review the settlement not to exceed \$25,000;
- (4) The cost of a valuation firm to determine the value of MRMC stock not to exceed \$80,000; and
- (5) A Service Award to the Named Plaintiff in an amount not to exceed \$20,000.

(d) The Net Proceeds will be distributed to Class Members in accordance with the Plan of Allocation approved by the Court, a copy of which is available on the website established by the Settlement Administrator as indicated below. A Class Member's share of the Net Proceeds will be based on the number of vested shares of MRMC stock allocated to their ESOP account as of (1) December 10, 2019, or (2) if the Class Member received a prior distribution of the Class Member's account balance, the number of vested shares of MRMC stock allocated to their ESOP account prior to the date of any distributions, divided by the sum total of all such vested shares of MRMC stock of all Class Members, which shall constitute that Class Member's "Entitlement Percentage." The Settlement Class Member's settlement allocation shall be calculated by multiplying the total value of the Net Proceeds by his or her Entitlement Percentage.

Forfeited shares that were reallocated to Class Members shall not be included in the total of vested shares allocated to a Class Member's account balance.

Class Members will not need to submit a claim to receive their allocable portion of the Settlement. Their allocated portion will be calculated based on the Plan's records. For Class Members with accounts in the Plan as of December 10, 2019, their allocable portion of the Settlement shall be contributed to their ESOP account and, until retirement or otherwise eligible for a distribution, invested in MRMC stock or in a money market fund within the ESOP based on the election of such Class Members. If a Class Member with an existing Plan account does not make an election, then the allocable portion of the settlement for such Class Member will be contributed to their ESOP account in MRMC stock. The share price for MRMC shares shall be based on a special valuation of MRMC stock as of the end of the last quarter prior to the date the Court enters an order granting final approval to the settlement. Class Members who no longer have an account in the Plan will receive a payment from the Settlement Administrator, with the option, if eligible, to deposit the funds in an eligible retirement account.

Neither Plaintiff nor Wilmington Trust makes any representations regarding the future performance of MRMC stock. Class Members who currently have an account in the Plan may seek independent financial advice in deciding whether to elect to invest their settlement payment in a money market fund or MRMC stock.

An election form is included with this Notice. Class Members who currently have an account in the Plan can also make their election online at www.XXXXYYY.com. Class Members who currently have an account in the Plan will need to return the election form or make their election online by May XX, 2020. As described above, if a Class Member who has an account in the Plan does not return the election form by that date, then his or her settlement allocation will be contributed to their ESOP account in MRMC stock.

Class Members who do not currently have an account in the Plan and who wish to roll over their settlement allocation to an eligible retirement account will need to make an election by returning the election form by May XX, 2020. If a Class Member who does not currently have an account in the Plan does not return the election form by that date, then his or her settlement allocation will be paid in cash less tax withholding.

3. Release of Claims. In exchange for payment of the Settlement Amount by Wilmington Trust and satisfaction of the conditions contained in the Settlement Agreement, all Class Members (and their beneficiaries, heirs, executors, representatives, and assigns) and the Plan will release (or give up) any claims that in any way relate to the MRMC ESOP's investment in MRMC stock during the Class Period, including but not limited to claims related to the MRMC ESOP's acquisition of MRMC stock or the sale of stock by any MRMC shareholder. Class Members and their beneficiaries, heirs, executors, representatives, and assigns and any successor trustee will be prohibited from filing or pursuing any other lawsuits or actions based on such claims against Wilmington Trust, MRMC, the shareholders of MRMC, and the named

and functional fiduciaries of the MRMC ESOP and each of their respective parent companies, subsidiaries, affiliates, directors, officers, employees, agents, attorneys, relations, representatives, assigns, insurers and reinsurers. The Releases and the Covenant Not to Sue are set forth in full in the Settlement Agreement, which can be viewed online at [website], or requested from Class Counsel.

STATEMENT REGARDING THE POTENTIAL OUTCOME OF THE LAWSUIT

As with any Lawsuit, the Plaintiff and Wilmington Trust would face an uncertain outcome if the Lawsuit were not settled. Continued litigation could result in a judgment greater or less than the amount obtained in the Settlement, or in no recovery at all. The Plaintiff and Wilmington Trust disagree about whether Wilmington Trust did anything wrong, and they do not agree on the amount, if any, that would be recoverable even if Plaintiff prevailed at trial. Wilmington Trust has denied, and continues to deny, all claims and contentions of the Plaintiff in the Lawsuit, has denied, and continues to deny, any wrongdoing or liability whatsoever, and is entering into the Settlement solely to avoid the cost, disruption and uncertainty of litigation. A settlement avoids the expense, further delay and uncertainty of a trial and gives money to Class Members more quickly. The Plaintiff and the attorneys for the Class think the Settlement is best for all Class Members.

THE SETTLEMENT APPROVAL PROCESS

The Court has granted preliminary approval of the proposed Settlement and has approved this Notice to the Class. The Settlement will not take effect, however, until it receives final approval from the Court after an opportunity for Class Members to object, as described below. Following the deadline for objecting to the Settlement, the Court will hold a Fairness Hearing on _____, 2020 at the United States District Court, located at 844 N King Street, Courtroom 6A, Wilmington, Delaware 19801 in Courtroom 6A. The date and location of the Fairness Hearing is subject to change by order of the Court, which will appear on the Court's docket for this Lawsuit.

THE OPPORTUNITY TO OBJECT TO THE SETTLEMENT

If you are a Class Member, you can object to the Settlement if you do not like any part of it. To object, you must send your objection to the Clerk, U.S. District Court for the District of Delaware, 844 North King Street, Unit 18, Wilmington, Delaware 19801, and to the Parties at the following addresses:

To Class Counsel:

Gregory Y. Porter
Bailey & Glasser, LLP
1055 Thomas Jefferson Street, NW
Suite 540
Washington, DC 20007

Daniel Feinberg
Feinberg, Jackson, Worthman & Wasow LLP
2030 Addison Street, Suite 500
Berkeley, CA 94704

To Defendant's Counsel:

Michael Prame
Groom Law Group, Chartered
1701 Pennsylvania Avenue, NW
Washington, D.C. 20006

Settlement Administrator

Angeion Group
P.O. Box 0000
City, State 00000-0000

Objections must be filed with the Court by _____, (21 days before the Fairness Hearing). Objections filed after that date will not be considered. To be valid, the objection must set forth, in clear and concise terms: (a) the case name and number (*Choate v. Wilmington Trust N.A.*, Cons. Case No. 17-250-RGA); (b) the name, address, and telephone number of the objector objecting and, if represented by counsel, of his or her counsel; (c) the complete basis for objection; (d) a statement of whether the objector intends to appear at the Fairness Hearing, either with or without counsel; (e) a statement of whether the objection applies only to the objector, to a specific subset of the class, or to the entire class, and (f) copies of all supporting documents.

Any Class Member who files and serves a written objection in accordance with the above paragraph may appear, in person or by counsel, at the Fairness Hearing, to show cause why the proposed Settlement should not be approved as fair, adequate, and reasonable, but only if the objector: (a) files with the Clerk of the Court a notice of intention to appear at the Fairness Hearing by the objection deadline ("Notice of Intention to Appear"); and (b) serves the Notice of Intention to Appear on Class Counsel and Defense Counsel by the objection deadline.

The Notice of Intention to Appear must include copies of any papers, exhibits, or other evidence that the objector will present to the District Court in connection with the Fairness Hearing. Any Class Member who does not file a Notice of Intention to Appear in accordance with the deadlines and other specifications set forth in the Settlement Agreement and Class Notice shall be deemed to have waived his or her right to appear.

Any Class Member who does not make his or her objection in the manner provided shall be deemed to have waived such objection, shall not be permitted to object to any terms or approval of the Settlement at the Fairness Hearing, and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the proposed Settlement as incorporated in the Settlement Agreement, and to the award of attorneys' fees and expenses to

Class Counsel and the payment of a Service Award to the Class Representatives for their representation of the Class, unless otherwise ordered by the Court. Responses to objections shall be filed 10 days before the Fairness Hearing

The Court will consider Class Member objections in deciding whether to grant final approval. Class Members who do not comply with these procedures, or who miss the deadline to file an objection, lose the opportunity to have their objection considered by the Court or to appeal from any order or judgment entered by the Court regarding the Settlement.

ATTORNEYS' FEES AND SERVICE AWARDS FOR NAMED PLAINTIFF

The attorneys for the Plaintiff and the Class ("Class Counsel") are:

Gregory Y. Porter
Ryan T. Jenny
Patrick O. Muench
Bailey & Glasser, LLP
1055 Thomas Jefferson Street, NW
Suite 540
Washington, DC 20007

Daniel Feinberg
Todd Jackson
Feinberg, Jackson, Worthman & Wasow LLP
2030 Addison Street, Suite 500
Berkeley, CA 94704

David A. Felice
Bailey & Glasser, LLP
Red Clay Center at Little Falls
2961 Centerville Road, Suite 302
Wilmington, DE 19808

Class Counsel will seek an award of attorneys' fees and reimbursement of their litigation expenses, totaling no more than \$6 million of the Settlement Amount. Class Counsel's litigation expenses include the cost and expense of process servers, travel, court reporters and transcripts, and experts retained by Class Counsel. Class Counsel shall also seek a Service Award for the named Plaintiff from the Settlement Amount of up to \$20,000. The fee application and supporting papers will be filed on or before 45 days before the Fairness Hearing. After that date you may review the application and supporting papers at [[website](#)]. You may file an objection to the request for attorneys' fees and expenses and to the Service Award under the same procedures for objecting to the Settlement. Any attorneys' fees, expenses and Service Award approved by the Court, and the expenses incurred by the Settlement Administrator in sending this Notice and otherwise administering the Settlement, will be paid from the Gross Settlement Fund.

GETTING MORE INFORMATION

You can visit the website at [website], where you will find the full Settlement Agreement, the Court's order granting Preliminary Approval of the Settlement, this Notice, and other relevant pleadings and documents. If you cannot find the information you need on the website, you may also contact Class Counsel for more information.

WHAT IF MY ADDRESS OR OTHER INFORMATION HAS CHANGED OR CHANGES AFTER I RECEIVE MY NOTICE?

It is your responsibility to inform the Settlement Administrator of your updated address or other information. You may do so by email to the following email address: XXXX@YYYY.com or by U.S. Mail to the following mailing address: Choate v. Wilmington Trust, N.A., Settlement Administrator, Angeion Group, P.O. Box 0000; City, State 00000-0000.

Please do not contact the Court, Wilmington Trust, MRMC or Wilmington Trust's Counsel. They will not be able to give you additional information.

Dated: _____, 2020

By Order of the United States District Court
District Judge Richard G. Andrews

EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RODNEY CHOATE, on behalf of the MRMC
ESOP, and on behalf of a class of other
persons similarly situated,

Plaintiff,

v.

WILMINGTON TRUST, N.A. as successor to
Wilmington Trust Retirement and Institutional
Services Company,

Defendant.

Cons. Case No. 17-250-RGA

[PROPOSED] FINAL JUDGMENT AND ORDER OF DISMISSAL WITH PREJUDICE

Plaintiff Rodney Choate (“Plaintiff” or “Class Representative”) submitted a Motion for Final Approval of the Settlement (“Final Approval Motion”) set forth in the Class Action Settlement Agreement dated April 15, 2020 (the “Settlement Agreement”). Class Counsel also has submitted to the Court their Unopposed Motion For An Order Awarding Attorneys’ Fees and Costs And Expenses To Class Counsel, and A Service Award to Class Representative (“Class Counsel Fees and Costs and Service Award Motion”).

On _____, 2020, this Court granted preliminary approval to the proposed class action settlement set forth in the Settlement Agreement. The Court also approved the procedure for giving Class Notice to the members of the Class as certified by the Court by Order dated December 10, 2019, and set a Final Approval Hearing to take place on _____, 2020. The Court finds that due and adequate notice was given to the Class as required in the Court’s Order.

The Court has reviewed the papers filed in support of the Final Approval Motion, including the Settlement Agreement and exhibits thereto, memoranda and arguments submitted on behalf of the Class, and supporting affidavits.

On _____, 2020, this Court held a duly noticed Final Approval Hearing to consider: (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable and adequate; (2) whether a judgment should be entered dismissing the Class Members' Released Claims on the merits and with prejudice; and (3) whether and in what amount to award attorneys' fees and expenses to Class Counsel; and any award to the Class Representative for his representation of the Class.

Based on the papers filed with the Court and the presentations made to the Court by the Parties and by other interested persons at the Final Approval Hearing, it appears to the Court that the Settlement Agreement is fair, adequate, and reasonable, and in the best interests of the Class.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. **Definitions.** This Judgment incorporates by reference the definitions in the Settlement Agreement, and all capitalized terms used, but not defined herein, shall have the same meanings as in the Settlement Agreement.
2. **Jurisdiction.** This Court has jurisdiction over the subject matter of the Lawsuit and over all parties to the Lawsuit, including all Class Members, and venue in this Court is proper.
3. **No Merits Determination.** By entering this Order, the Court does not make any determination as to the merits of this case.
4. **Class.** On December 10, 2019, the Court certified a Class consisting of "All persons who were participants in the Martin Resource Management Corporation Employee Stock

Ownership Plan (ESOP) between October 2, 2012 and the date of this Order [December 10, 2019] and/or beneficiaries of such ESOP participants. Excluded from the Class are Ruben S. Martin III, Scott D. Martin, and their family, legal representatives, successors, heirs, and assigns.” D.I. 135.

5. **Designation of Class Representatives and Class Counsel.** The Court confirms the prior appointment of the Plaintiff Rodney Choate as Class Representative, and the law firms of Bailey & Glasser LLP and Feinberg, Jackson, Worthman & Wasow LLP as Class Counsel.

6. **Settlement Approval.** Pursuant to Rule 23(e), this Court hereby approves the Settlement and finds that it is, in all respects, fair, reasonable and adequate to the Parties. The Court further finds that the Settlement is the result of good faith arm’s-length negotiations between experienced counsel representing the interests of the Parties. Accordingly, the Settlement is hereby finally approved in all respects, there is no just reason for delay, and the Parties are hereby directed to perform its terms.

7. **Dismissal with Prejudice.** Final Judgment is hereby entered with respect to the Released Claims of all Class Members, and the Released Claims are hereby dismissed in their entirety with prejudice and without costs, and the case shall be closed.

8. **Releases.** The releases as set forth in section 3 of the Settlement Agreement are expressly incorporated herein in all respects and made effective by operation of this Judgment. The Court hereby approves the release provisions as contained and incorporated in section 3 of the Settlement Agreement, including but not limited to the definitions of Released Claims and Releasees. The Class Members and the Plan shall be deemed to have, and by operation of the Judgment shall have, fully, finally and forever released, relinquished and discharged all Released Claims against the Releasees.

9. **Bar Order.** Plaintiff and all Class Members are hereby barred and enjoined from filing any claim or action against any Releasee based on, relating to, or arising from any Released Claim. The foregoing provision shall be a complete defense to any such lawsuit or claims against any of the Releasees.

10. **Approval of Class Notice.** The form and means of disseminating the Class Notice as provided for in the Order Preliminarily Approving Settlement and Providing for Notice constituted the best notice practicable under the circumstances, including individual notice to all Class Members who could be identified through reasonable effort. Said Notice fully satisfied the requirements of Rule 23 and complied with all laws, including, but not limited to, the Due Process Clause of the United States Constitution.

11. **Attorneys' Fees and Expenses.** Plaintiff and Class Counsel have moved for an award of attorneys' fees in the amount of \$_____, and costs and expenses of \$_____. The Court has considered this application separately from this Judgment. The Court finds that an award of \$_____ in attorneys' fees, and \$_____ in costs and expenses is fair and reasonable, and the Court approves of Class Counsel attorneys' fees, costs and expenses in these amounts to be paid from the Settlement Amount.

12. **Service Award.** The Court further finds that a Service Award for Mr. Choate in the amount of \$_____, is fair and reasonable, and the Court approves the Service Award in this amount. The Court directs the Settlement Administrator to disburse that amount to Mr. Choate from the Settlement Amount as provided in the Settlement Agreement.

13. **Use of Order.** Neither this Order, the fact that a settlement was reached and filed, the Settlement Agreement, nor any related negotiations, statements or proceedings shall be construed as, offered as, admitted as, received as, used as, or deemed to be an admission or

concession of liability or wrongdoing whatsoever or breach of any duty on the part of Wilmington Trust. This Order is not a finding of the validity or invalidity of any of the claims asserted or defenses raised in the Lawsuit. In no event shall this Order, the fact that a settlement was reached, the Settlement Agreement, or any of its provisions or any negotiations, statements, or proceedings relating to it in any way be used, offered, admitted, or referred to in the Lawsuit, in any other action, or in any judicial, administrative, regulatory, arbitration, or other proceeding, by any person or entity, except by the Parties and only the Parties in a proceeding to enforce the Settlement Agreement.

14. **Continuing Jurisdiction.** Without affecting the finality of this Judgment in any way, this Court hereby retains continuing jurisdiction over the administration, consummation, enforcement, and interpretation of the Settlement Agreement, the Final Judgment, and for any other necessary purpose, including to ensure compliance with the Protective Order.

15. **Termination of Settlement.** This Settlement Agreement may be terminated by either Party if (i) the Court declines to approve the Settlement by entering the Final Order, or (ii) the Final Order entered by the Court is reversed or modified in any material respect by any Appeal Proceeding, provided that the terminating party, within fourteen (14) calendar days from the date of such event, furnishes written notice to Class Counsel or Defendant's Counsel, as the case may be, of the termination of this Settlement, specifying the terms modified or not approved that give rise to the right to terminate.

If the Settlement Agreement is terminated, the following shall occur: (i) Class Counsel or Defendant's Counsel shall promptly after the date of termination of the Settlement Agreement notify the Court and return any Settlement Amount to the Defendant, except for amounts disbursed or incurred pursuant to Section 8.1 of the Settlement Agreement; (ii) the Lawsuit shall

for all purposes revert to its status as of the day immediately before January 28, 2020, and the Parties shall request a scheduling conference with the Court; and (iii) the Settlement shall be deemed void and of no further force and effect

16. **Implementation of the Agreement.** The Parties are hereby authorized to implement the terms of the Agreement.

17. **Reasonable Extensions.** Without further order of this Court, the Parties may agree to reasonable extensions of time to carry out any of the provisions of the Agreement.

18. **CAFA Notice.** Wilmington Trust has provided notification to all appropriate federal and state officials regarding the Settlement as required by 28 U.S.C. § 1715.

19. **Entry of Final Judgment.** There is no just reason for delay in the entry of this Order and Final Judgment and immediate entry by the Clerk of the Court is hereby directed.

20. **Action Closed.** The Clerk of the Court is hereby directed to close the Action.

IT IS SO ORDERED.

DATED: _____

THE HONORABLE RICHARD G. ANDREWS
UNITED STATES DISTRICT JUDGE

EXHIBIT 3

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RODNEY CHOATE, on behalf of the
MRMC ESOP, and on behalf of a class of
other persons similarly situated,

Plaintiff,

v.

WILMINGTON TRUST, N.A. as successor
to Wilmington Trust Retirement and
Institutional Services Company,

Defendant.

Cons. Case No. 17-250-RGA

**[PROPOSED] ORDER GRANTING PLAINTIFF’S MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT AND PROPOSED NOTICE OF
SETTLEMENT**

Plaintiff Rodney Choate (“Plaintiff” or “Class Representative”) has moved, pursuant to Federal Rule of Civil Procedure 23(e), for an order preliminarily approving the settlement of this Action, in accordance with the Class Action Settlement Agreement dated April 15, 2020 (the “Settlement Agreement”), which, together with the exhibits thereto, sets forth the terms and conditions for a proposed settlement of this action. The Court having read and considered the Settlement Agreement and the exhibits thereto,

IT IS HEREBY ORDERED that:

1. **Settlement.** Plaintiff, on behalf of himself and all members of the Class, and Defendant Wilmington Trust, N.A. (“Wilmington Trust”), have negotiated a potential settlement to this action to avoid the expense, uncertainties, and burden of protracted litigation, and to resolve the Released Claims (as defined in the Settlement Agreement) against Wilmington Trust and the other Releasees (as defined in the Settlement Agreement).

2. **Definitions.** This Order incorporates by reference the definitions in the Settlement Agreement, and all capitalized terms used, but not defined herein, shall have the same meanings as in the Settlement Agreement.

3. **Jurisdiction.** This Court has jurisdiction over the subject matter of this action and over all parties to this action, including all Class Members, and venue in this Court is proper.

4. **Preliminary Approval.** The Court hereby preliminarily approves the Settlement Agreement as fair, reasonable, and adequate, subject to further consideration at the Fairness Hearing described below. The Court finds on a preliminary basis that the Settlement Agreement falls within the range of reasonableness and was the product of informed, good-faith, arm's-length negotiations between the Parties and their counsel, and therefore meets the requirements for preliminary approval.

5. **Class.** The Court previously certified a Class defined as:

All persons who were participants in the MRMC ESOP between October 2, 2012 and December 10, 2019 and/or the beneficiaries of such ESOP participants. Excluded from the Class are Ruben S. Martin, III, Scott D. Martin, and their family, legal representatives, successors, heirs and assigns.

D.I. 134. The Court appointed the Plaintiff Rodney Choate as Class Representative, and the law firms of Bailey & Glasser LLP and Feinberg, Jackson, Worthman & Wasow LLP, as Class Counsel. *Id.*

6. **Final Approval Hearing.** A hearing (the "Fairness Hearing") shall be held before this Court, on _____, 2020, at _____m., at the United States District Court for the District of Delaware, 844 North King Street, Wilmington, Delaware 19801, Courtroom 6A, to determine, among other things: (i) whether the proposed Settlement of this action on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate to the Class and should be approved by the Court; (ii) whether a Final Order as provided in Paragraph

1.6 of the Settlement Agreement should be entered; (iii) whether Class Members should be bound by the Releases set forth in Paragraph 3 of the Settlement Agreement; and (iv) any amount of fees and expenses that should be awarded to Class Counsel and any Service Award to the Class Representative for his representation of the Class. The Parties shall include the date of the Fairness Hearing in the Class Notice to be mailed to the Class.

7. **Class Notice.** The Court approves the form, substance and requirements of the proposed Class Notice, attached to the Settlement Agreement as Exhibit 1. The Court further finds that the form, content and mailing of the Class Notice meet the requirements of Rule 23 and due process. The Court further finds that this is the best notice practicable under the circumstances and is reasonably calculated, under all the circumstances, to apprise potential Class Members of the pendency of this action, and to apprise Class Members of their right to object to the proposed Settlement and their right to appear at the Fairness Hearing. The Court further finds that the Class Notice constitutes valid, due and sufficient notice to all persons entitled to notice.

8. **Settlement Administrator.** The Court appoints Angeion Group (“Settlement Administrator”) to supervise and administer the notice procedure as more fully set forth below:

- a. At least ninety (90) days before the Fairness Hearing (the “Notice Date”), Plaintiffs shall cause the Class Notice to be disseminated to the Class Members and shall post the Class Notice, and the operative Complaint in this action, as well as contact information for the Settlement Administrator and Class Counsel, on a website for the Class;
- b. the Class Notice shall be substantially in the form of Exhibit 1 to the Settlement Agreement (though the Settlement Administrator shall have discretion to format

the Class Notice in a reasonable manner to minimize mailing or administration costs), by first class U.S. mail to each individual Class Members;

- c. Following the issuance of the Class Notice, the Settlement Administrator shall provide counsel with written confirmation of the mailing; and
- d. The Settlement Administrator shall otherwise carry out its duties as set forth in the Settlement Agreement.

9. **Objections.** Any Class Member may object to the proposed Settlement, or any aspect of it including attorneys' fees and expenses, and Service Awards, by filing a written objection with the Clerk of the United States District Court for the District of Delaware, United States District Court for the District of Delaware, 844 North King Street, Unit 18, Wilmington, Delaware 19801, on or before twenty-one (21) calendar days before the Fairness Hearing. A copy of the objection must also be mailed to Class Counsel and Defense Counsel, so that it is received on or before twenty-one (21) calendar days before the Fairness Hearing. To be valid, the objection must set forth, in clear and concise terms: (a) the case name and number (*Choate v. Wilmington Trust N.A.*, Cons. Case No. 17-250-RGA); (b) the name, address, and telephone number of the objector objecting and, if represented by counsel, of his or her counsel; (c) the complete basis for objection; (d) a statement of whether the objector intends to appear at the Fairness Hearing, either with or without counsel; (e) a statement of whether the objection applies only to the objector, to a specific subset of the class, or to the entire class, and (f) copies of all supporting documents. Any Class Member who does not make his or her objection in the manner provided shall be deemed to have waived such objection, shall not be permitted to object to any terms or approval of the Settlement at the Fairness Hearing, and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the proposed Settlement as

incorporated in the Settlement Agreement, and to the award of attorneys' fees and expenses to Class Counsel and the payment of a Service Award to the Class Representatives for their his representation of the Class, unless otherwise ordered by the Court. Responses to objections shall be filed 10 days before the Fairness Hearing.

10. **Appearance of Objectors at Fairness Hearing.** Any Class Member who files and serves a written objection in accordance with Paragraph 9 of this Order may appear, in person or by counsel, at the Fairness Hearing, to show cause why the proposed Settlement should not be approved as fair, adequate, and reasonable, but only if the objector: (a) files with the Clerk of the Court a notice of intention to appear at the Fairness Hearing by the objection deadline ("Notice of Intention to Appear"); and (b) serves the Notice of Intention to Appear on Class Counsel and Defense Counsel by the objection deadline.

The Notice of Intention to Appear must include copies of any papers, exhibits, or other evidence that the objector will present to the District Court in connection with the Fairness Hearing. Any Class Member who does not file a Notice of Intention to Appear in accordance with the deadlines and other specifications set forth in the Settlement Agreement and Class Notice shall be deemed to have waived his or her right to appear.

11. **Service of Motion for Final Approval.** The motion in support of final approval of the Settlement and Class Counsel's application for attorneys' fees and expenses and Class Representative Service Award shall be filed and served no later than forty-five (45) calendar days prior to the Fairness Hearing and any responsive papers shall be filed and served no later than twenty-one (21) calendar days prior to the Fairness Hearing.

12. **Fees, Expenses, and Awards.** Neither Wilmington Trust nor the Releasees shall have any responsibility for any application for attorneys' fees and expenses or Service Award

request submitted by Class Counsel, and such matters will be considered separately from the fairness, reasonableness, and adequacy of the Settlement. At or after the Fairness Hearing, the Court shall determine whether any application for attorneys' fees and expenses, and any Service Award to the Class Representative for his representation of the Class, should be approved.

13. **Releases.** If the Settlement is finally approved, the Plaintiff and the Class shall release the Releasees from all Released Claims and all Class Members will be bound by the Final Approval Order.

14. **Use of Order.** Neither this Order, the fact that a settlement was reached and filed, the Settlement Agreement, nor any related negotiations, statements, or proceedings shall be construed as, offered as, admitted as, received as, used as, or deemed to be an admission or concession of liability or wrongdoing whatsoever or breach of any duty on the part of Wilmington Trust. This Order is not a finding of the validity or invalidity of any of the claims asserted or defenses raised in this action. In no event shall this Order, the fact that a settlement was reached, the Settlement Agreement, or any of its provisions or any negotiations, statements, or proceedings relating to it in any way be used, offered, admitted, or referred to in this action, in any other action, or in any judicial, administrative, regulatory, arbitration, or other proceeding, by any person or entity, except by the Parties and only the Parties in a proceeding to enforce the Settlement Agreement.

15. **Continuance of Fairness Hearing.** The Court reserves the right to continue the date of the Fairness Hearing without further notice to the Class Members, and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modifications as may be agreed to by the Parties, if appropriate, without further notice to the Class.

16. **Stay of Proceedings.** All proceedings in this action are stayed until further Order of this Court, except as may be necessary to implement the Settlement or comply with the terms of the Settlement Agreement.

17. **No Merits Determination.** By entering this Order, the Court does not make any determination as to the merits of this case.

18. **Jurisdiction.** This Court retains jurisdiction over this action to consider all further matters arising out of or connected with the Settlement Agreement and the Settlement.

IT IS SO ORDERED

Dated: _____

THE HONORABLE RICHARD G. ANDREWS
UNITED STATES DISTRICT JUDGE

EXHIBIT 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RODNEY CHOATE, on behalf of the
MRMC ESOP, and on behalf of a class of
other persons similarly situated,

Plaintiff,

v.

WILMINGTON TRUST, N.A. as successor
to Wilmington Trust Retirement and
Institutional Services Company,

Defendant.

Cons. Case No. 17-250-RGA

**[PROPOSED] ORDER GRANTING PLAINTIFF’S MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT AND PROPOSED NOTICE OF
SETTLEMENT**

Plaintiff Rodney Choate (“Plaintiff” or “Class Representative”) has moved, pursuant to Federal Rule of Civil Procedure 23(e), for an order preliminarily approving the settlement of this Action, in accordance with the Class Action Settlement Agreement dated April 15, 2020 (the “Settlement Agreement”), which, together with the exhibits thereto, sets forth the terms and conditions for a proposed settlement of this action. The Court having read and considered the Settlement Agreement and the exhibits thereto,

IT IS HEREBY ORDERED that:

1. **Settlement.** Plaintiff, on behalf of himself and all members of the Class, and Defendant Wilmington Trust, N.A. (“Wilmington Trust”), have negotiated a potential settlement to this action to avoid the expense, uncertainties, and burden of protracted litigation, and to resolve the Released Claims (as defined in the Settlement Agreement) against Wilmington Trust and the other Releasees (as defined in the Settlement Agreement).

2. **Definitions.** This Order incorporates by reference the definitions in the Settlement Agreement, and all capitalized terms used, but not defined herein, shall have the same meanings as in the Settlement Agreement.

3. **Jurisdiction.** This Court has jurisdiction over the subject matter of this action and over all parties to this action, including all Class Members, and venue in this Court is proper.

4. **Preliminary Approval.** The Court hereby preliminarily approves the Settlement Agreement as fair, reasonable, and adequate, subject to further consideration at the Fairness Hearing described below. The Court finds on a preliminary basis that the Settlement Agreement falls within the range of reasonableness and was the product of informed, good-faith, arm's-length negotiations between the Parties and their counsel, and therefore meets the requirements for preliminary approval.

5. **Class.** The Court previously certified a Class defined as:

All persons who were participants in the MRMC ESOP between October 2, 2012 and December 10, 2019 and/or the beneficiaries of such ESOP participants. Excluded from the Class are Ruben S. Martin, III, Scott D. Martin, and their family, legal representatives, successors, heirs and assigns.

D.I. 134. The Court appointed the Plaintiff Rodney Choate as Class Representative, and the law firms of Bailey & Glasser LLP and Feinberg, Jackson, Worthman & Wasow LLP, as Class Counsel. *Id.*

6. **Final Approval Hearing.** A hearing (the "Fairness Hearing") shall be held before this Court, on _____, 2020, at _____m., at the United States District Court for the District of Delaware, 844 North King Street, Wilmington, Delaware 19801, Courtroom 6A, to determine, among other things: (i) whether the proposed Settlement of this action on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate to the Class and should be approved by the Court; (ii) whether a Final Order as provided in Paragraph

1.6 of the Settlement Agreement should be entered; (iii) whether Class Members should be bound by the Releases set forth in Paragraph 3 of the Settlement Agreement; and (iv) any amount of fees and expenses that should be awarded to Class Counsel and any Service Award to the Class Representative for his representation of the Class. The Parties shall include the date of the Fairness Hearing in the Class Notice to be mailed to the Class.

7. **Class Notice.** The Court approves the form, substance and requirements of the proposed Class Notice, attached to the Settlement Agreement as Exhibit 1. The Court further finds that the form, content and mailing of the Class Notice meet the requirements of Rule 23 and due process. The Court further finds that this is the best notice practicable under the circumstances and is reasonably calculated, under all the circumstances, to apprise potential Class Members of the pendency of this action, and to apprise Class Members of their right to object to the proposed Settlement and their right to appear at the Fairness Hearing. The Court further finds that the Class Notice constitutes valid, due and sufficient notice to all persons entitled to notice.

8. **Settlement Administrator.** The Court appoints Angeion Group (“Settlement Administrator”) to supervise and administer the notice procedure as more fully set forth below:

- a. At least ninety (90) days before the Fairness Hearing (the “Notice Date”), Plaintiffs shall cause the Class Notice to be disseminated to the Class Members and shall post the Class Notice, and the operative Complaint in this action, as well as contact information for the Settlement Administrator and Class Counsel, on a website for the Class;
- b. the Class Notice shall be substantially in the form of Exhibit 1 to the Settlement Agreement (though the Settlement Administrator shall have discretion to format

the Class Notice in a reasonable manner to minimize mailing or administration costs), by first class U.S. mail to each individual Class Members;

- c. Following the issuance of the Class Notice, the Settlement Administrator shall provide counsel with written confirmation of the mailing; and
- d. The Settlement Administrator shall otherwise carry out its duties as set forth in the Settlement Agreement.

9. **Objections.** Any Class Member may object to the proposed Settlement, or any aspect of it including attorneys' fees and expenses, and Service Awards, by filing a written objection with the Clerk of the United States District Court for the District of Delaware, United States District Court for the District of Delaware, 844 North King Street, Unit 18, Wilmington, Delaware 19801, on or before twenty-one (21) calendar days before the Fairness Hearing. A copy of the objection must also be mailed to Class Counsel and Defense Counsel, so that it is received on or before twenty-one (21) calendar days before the Fairness Hearing. To be valid, the objection must set forth, in clear and concise terms: (a) the case name and number (*Choate v. Wilmington Trust N.A.*, Cons. Case No. 17-250-RGA); (b) the name, address, and telephone number of the objector objecting and, if represented by counsel, of his or her counsel; (c) the complete basis for objection; (d) a statement of whether the objector intends to appear at the Fairness Hearing, either with or without counsel; (e) a statement of whether the objection applies only to the objector, to a specific subset of the class, or to the entire class, and (f) copies of all supporting documents. Any Class Member who does not make his or her objection in the manner provided shall be deemed to have waived such objection, shall not be permitted to object to any terms or approval of the Settlement at the Fairness Hearing, and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the proposed Settlement as

incorporated in the Settlement Agreement, and to the award of attorneys' fees and expenses to Class Counsel and the payment of a Service Award to the Class Representatives for their his representation of the Class, unless otherwise ordered by the Court. Responses to objections shall be filed 10 days before the Fairness Hearing.

10. **Appearance of Objectors at Fairness Hearing.** Any Class Member who files and serves a written objection in accordance with Paragraph 9 of this Order may appear, in person or by counsel, at the Fairness Hearing, to show cause why the proposed Settlement should not be approved as fair, adequate, and reasonable, but only if the objector: (a) files with the Clerk of the Court a notice of intention to appear at the Fairness Hearing by the objection deadline ("Notice of Intention to Appear"); and (b) serves the Notice of Intention to Appear on Class Counsel and Defense Counsel by the objection deadline.

The Notice of Intention to Appear must include copies of any papers, exhibits, or other evidence that the objector will present to the District Court in connection with the Fairness Hearing. Any Class Member who does not file a Notice of Intention to Appear in accordance with the deadlines and other specifications set forth in the Settlement Agreement and Class Notice shall be deemed to have waived his or her right to appear.

11. **Service of Motion for Final Approval.** The motion in support of final approval of the Settlement and Class Counsel's application for attorneys' fees and expenses and Class Representative Service Award shall be filed and served no later than forty-five (45) calendar days prior to the Fairness Hearing and any responsive papers shall be filed and served no later than twenty-one (21) calendar days prior to the Fairness Hearing.

12. **Fees, Expenses, and Awards.** Neither Wilmington Trust nor the Releasees shall have any responsibility for any application for attorneys' fees and expenses or Service Award

request submitted by Class Counsel, and such matters will be considered separately from the fairness, reasonableness, and adequacy of the Settlement. At or after the Fairness Hearing, the Court shall determine whether any application for attorneys' fees and expenses, and any Service Award to the Class Representative for his representation of the Class, should be approved.

13. **Releases.** If the Settlement is finally approved, the Plaintiff and the Class shall release the Releasees from all Released Claims and all Class Members will be bound by the Final Approval Order.

14. **Use of Order.** Neither this Order, the fact that a settlement was reached and filed, the Settlement Agreement, nor any related negotiations, statements, or proceedings shall be construed as, offered as, admitted as, received as, used as, or deemed to be an admission or concession of liability or wrongdoing whatsoever or breach of any duty on the part of Wilmington Trust. This Order is not a finding of the validity or invalidity of any of the claims asserted or defenses raised in this action. In no event shall this Order, the fact that a settlement was reached, the Settlement Agreement, or any of its provisions or any negotiations, statements, or proceedings relating to it in any way be used, offered, admitted, or referred to in this action, in any other action, or in any judicial, administrative, regulatory, arbitration, or other proceeding, by any person or entity, except by the Parties and only the Parties in a proceeding to enforce the Settlement Agreement.

15. **Continuance of Fairness Hearing.** The Court reserves the right to continue the date of the Fairness Hearing without further notice to the Class Members, and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modifications as may be agreed to by the Parties, if appropriate, without further notice to the Class.

16. **Stay of Proceedings.** All proceedings in this action are stayed until further Order of this Court, except as may be necessary to implement the Settlement or comply with the terms of the Settlement Agreement.

17. **No Merits Determination.** By entering this Order, the Court does not make any determination as to the merits of this case.

18. **Jurisdiction.** This Court retains jurisdiction over this action to consider all further matters arising out of or connected with the Settlement Agreement and the Settlement.

IT IS SO ORDERED

Dated: _____

THE HONORABLE RICHARD G. ANDREWS
UNITED STATES DISTRICT JUDGE

EXHIBIT B



INNOVATION. IT'S PART OF OUR DNA.

Class Action · Mass Tort · Legal Noticing · Litigation Support

STREAMLINING CLAIMS ADMINISTRATION FOR BETTER OUTCOMES AND LOWER COSTS

Angeion Group provides comprehensive settlement management services for class actions, mass tort, and bankruptcy administration. Leveraging world-class technology, proven best practices, and expert consulting, Angeion delivers the services and capabilities that drive greater efficiency in settlement administration. Formed by a proven and experienced executive leadership team, Angeion is bringing novel ideas and fresh approaches to notice and claims administration.

THE ANGEION GROUP DIFFERENCE

Proven Experience

Count on Angeion for a trusted and proven track record in claims administration. Angeion executives have managed in excess of 2,000 class action administrations and notice programs and have distributed in excess of \$12 billion (USD) in benefits to class members.

Best Practice Focus

Our team harnesses this experience through a set of proven and standard case management methodologies that form best practices and procedures for settling all cases. Underlying our commitment to best practices is our proprietary processing approach that simplifies and streamlines settlement administration. No other settlement administration firm can deliver this level of quality and experience.

Integrated Services

Angeion is a leader in turnkey integrated services for claims administration and litigation support. We provide law firms, courts and claimants with the seamless efficiency and peace of mind that comes from working with one proven partner, from discovery through settlement administration.

Transparent Processes

Angeion further leverages our technology expertise to bring a new level of transparency to claims administration, facilitating seamless claims processes and open lines of communication in even the most complex class action cases.

Operational Excellence

Our sophisticated infrastructure drives superior case management and enables us to provide a settlement administration that is more efficient and cost-effective than other claims administrators.



COMPREHENSIVE CLAIMS ADMINISTRATION SERVICES

Lean on the experience of Angeion to handle the nuances of settlement administration, managing thousands of complex tasks swiftly and efficiently. Our technology-enabled services offer the flexible capacity for settlements of all sizes.

Class Action Administration

Rely on the expertise and technology savvy of Angeion Group to manage your class action settlement needs at the highest level of precision and efficiency. Angeion's end-to-end class action services, best practice approaches, and dedicated operational infrastructure provide a streamlined and efficient administration path for all types of class action matters – large and small – including: Antitrust, Securities, Labor & Employment, and Consumer.

Mass Tort Administration

Angeion Group provides comprehensive services and consulting expertise for mass tort administration. Our services are designed to help our clients achieve the highest value resolution of cases efficiently and cost-effectively. Angeion delivers end-to-end support for every step of the mass tort administration process – including data intake and management, records retrieval, claims adjudication, lien resolution and Qualified Settlement Fund (QSF) distribution.

LEGAL NOTICING SERVICES

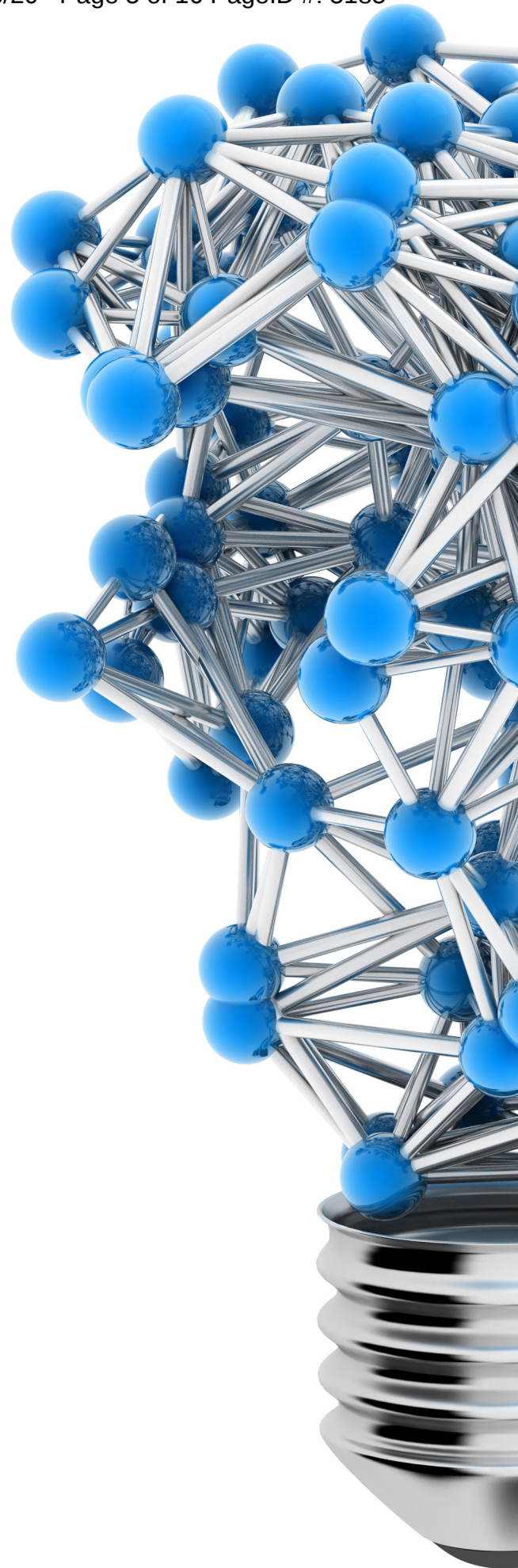
Utilizing a measurable and industry-approved methodology, including the most targeted combination of traditional paid media (print and broadcast), digital, social and mobile media, and innovative direct marketing, Angeion Group implements notice plans for any class, regardless of unique demographic or linguistic requirements. Angeion works with counsel to develop the most cost-effective notice plan strategies to maximize class member reach and minimize cost.

LITIGATION SUPPORT SERVICES

Angeion Group augments our core claims administration services with comprehensive support for all case-related requirements. Partnering with Angeion, counsel can access proven, value-added services including document review, electronic discovery and court reporting. Services are delivered through our sister-organization The Reliable Companies - an industry leader in e-discovery and litigation support, providing clients with access to expert professionals and leading edge technology.

DATA BREACH SERVICES

When a data breach occurs, providing timely and accurate information to affected individuals is crucial for seamless crisis management. Corporate clients and their legal counsel turn to Angeion Group for the rapid data breach response solutions that support notification and compliance efforts, facilitate message control, and aid litigation strategies. Angeion delivers the immediate, expert response services that provide our clients with trusted professionalism and peace of mind after a data breach event.



CONTACT US TODAY TO LEARN
HOW WE ARE **CHANGING THE RULES**

ANGEION GROUP

1650 Arch Street, Suite 2210
Philadelphia, PA 19103
(215) 563-4116
www.angeiongroup.com

Angeion Group provides comprehensive settlement management services for class actions, mass tort, and bankruptcy administration. Leveraging world-class technology, proven best practices, and expert consulting, Angeion delivers the services and capabilities that drive greater efficiency in settlement administration. Formed by a proven and experienced executive leadership team, Angeion is bringing novel ideas and fresh approaches to notice and claims administration.

SERVICE OFFERINGS

Class Action Claims Administration

- Pre-Settlement Consultation
- Legal Noticing Services
- Claims Processing
- Data Management
- Website Design
- Call Center Services
- Distribution Services

Mass Tort Administration

- Data Intake
- Records Retrieval
- Claims Adjudication
- Noticing & Communications
- Lien Resolution
- QSF Fund Distribution

Litigation Support

- Electronic Discovery Services
- Court Reporting
- Document Review

Data Breach

- Data Breach Notification
- Customized Websites
- Call Center Services
- Data Management
- Program Oversight and Compliance

THE ANGEION GROUP DIFFERENCE

Proven Experience

Count on Angeion for a trusted and proven track record in claims administration. Angeion executives have managed in excess of 2,000 class action administrations and notice programs and have distributed in excess of \$12 billion (USD) in benefits to class members.

Best Practice Focus

Our team harnesses this experience through a set of proven and standard case management methodologies that form best practices and procedures for settling all cases. Underlying our commitment to best practices is our proprietary processing approach that simplifies and streamlines settlement administration. No other settlement administration firm can deliver this level of quality and experience.

Integrated Services

Angeion is a leader in turnkey integrated services for claims administration and litigation support. We provide law firms, courts and claimants with the seamless efficiency and peace of mind that comes from working with one proven partner, from discovery through settlement administration.

Transparent Processes

Angeion further leverages our technology expertise to bring a new level of transparency to claims administration, facilitating seamless claims processes and open lines of communication in even the most complex class action cases.

Operational Excellence

Our sophisticated infrastructure drives superior case management and enables us to provide a settlement administration that is more efficient and cost-effective than other claims administrators.

COMPREHENSIVE CLAIMS ADMINISTRATION SERVICES

Lean on the experience of Angeion to handle the nuances of settlement administration, managing thousands of complex tasks swiftly and efficiently. Our technology-enabled services offer the flexible capacity for settlements of all sizes.

Class Action Administration

Rely on the expertise and technology savvy of Angeion Group to manage your class action settlement needs at the highest level of precision and efficiency. Angeion's end-to-end class action services, best practice approaches, and dedicated operational infrastructure provide a streamlined and efficient administration path for all types of class action matters – large and small – including: Antitrust, Securities, Labor & Employment, and Consumer.

Mass Tort Administration

Angeion Group provides comprehensive services and consulting expertise for mass tort administration. Our services are designed to help our clients achieve the highest value resolution of cases efficiently and cost-effectively. Angeion delivers end-to-end support for every step of the mass tort administration process – including data intake and management, records retrieval, claims adjudication, lien resolution and Qualified Settlement Fund (QSF) distribution.

LEGAL NOTICING SERVICES

Utilizing a measurable and industry-approved methodology, including the most targeted combination of traditional paid media (print and broadcast), digital, social and mobile media, and innovative direct marketing, Angeion Group implements notice plans for any class, regardless of unique demographic or linguistic requirements. Angeion works with counsel to develop the most cost-effective notice plan strategies to maximize class member reach and minimize cost.

LITIGATION SUPPORT SERVICES

Angeion Group augments our core claims administration services with comprehensive support for all case-related requirements. Partnering with Angeion, counsel can access proven, value-added services including document review, electronic discovery and court reporting. Services are delivered through our sister-organization The Reliable Companies - an industry leader in e-discovery and litigation support, providing clients with access to expert professionals and leading edge technology.

DATA BREACH SERVICES

When a data breach occurs, providing timely and accurate information to affected individuals is crucial for seamless crisis management. Corporate clients and their legal counsel turn to Angeion Group for the rapid data breach response solutions that support notification and compliance efforts, facilitate message control, and aid litigation strategies. Angeion delivers the immediate, expert response services that provide our clients with trusted professionalism and peace of mind after a data breach event.

JUDICIAL RECOGNITION

PATORA v. TARTE, INC.

Case No. 7:18-cv-11760

The Honorable Kenneth M. Karas, United States District Court, Southern District of New York (October 2, 2019): The Court finds that the form, content, and method of giving notice to the Class as described in Paragraph 9 of this Order: (a) will constitute the best practicable notice; (b) are reasonably calculated, under the circumstances, to apprise the Settlement Class Members of the pendency of the Action, the terms of the Proposed Settlement, and their rights under the Proposed Settlement, including but not limited to their rights to object to or exclude themselves from the Proposed Settlement and other rights under the terms of the Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class Members and other persons entitled to receive notice; and (d) meet all applicable requirements of law, including but not limited to 28 U.S.C. § 1715, Rule 23(c) and (e), and the Due Process Clauses of the United States Constitution. The Court further finds that all of the notices are written in simple terminology, are readily understandable by Settlement Class Members, and are materially consistent with the Federal Judicial Center's illustrative class action notices.

CARTER, ET AL. v. GENERAL NUTRITION CENTERS, INC., and GNC HOLDINGS, INC.

Case No. 2:16-cv-00633

The Honorable Mark R. Hornak, United States District Court, Western District of Pennsylvania (September 9, 2019): The Court finds that the Class Notice and the manner of its dissemination described in Paragraph 7 above and Section VII of the Agreement constitutes the best practicable notice under the circumstances and is reasonably calculated, under all the circumstances, to apprise proposed Settlement Class Members of the pendency of this action, the terms of the Agreement, and their right to object to or exclude themselves from the proposed Settlement Class. The Court finds that the notice is reasonable, that it constitutes due, adequate and sufficient notice to all persons entitled to receive notice, and that it meets the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, and any other applicable laws.

CORZINE v. MAYTAG CORPORATION, ET AL.

Case No. 5:15-cv-05764

The Honorable Beth L. Freeman, United States District Court, Northern District of California (August 21, 2019): The Court, having reviewed the proposed Summary Notice, the proposed FAQ, the proposed Publication Notice, the proposed Claim Form, and the proposed plan for distributing and disseminating each of them, finds and concludes that the proposed plan will provide the best notice practicable under the circumstances and satisfies all requirements of federal and state laws and due process.

MEDNICK v. PRECOR, INC.

Case No. 1:14-cv-03624

The Honorable Harry D. Leinenweber, United States District Court, Northern District of Illinois (June 12, 2019): Notice provided to Class Members pursuant to the Preliminary Class Settlement Approval Order constitutes the best notice practicable under the circumstances, including individual email and mail notice to all Class Members who could be identified through reasonable effort, including information provided by authorized third-party retailers of Precor. Said notice provided full and adequate notice of these proceedings and of the matter set forth therein, including the proposed Settlement set forth in the Agreement, to all persons entitled to such notice, and said notice fully satisfied the requirements of F.R.C.P. Rule 23 (e) and (h) and the requirements of due process under the United States and California Constitutions.

GONZALEZ v. TCR SPORTS BROADCASTING HOLDING LLP, ET AL.

Case No. 1:18-cv-20048

The Honorable Darrin P. Gayles, United States District Court, Southern District of Florida (May 24, 2019): The Court finds that notice to the class was reasonable and the best notice practicable under the circumstances, consistent with Rule 23(e)(1) and Rule 23(c)(2)(B).

ANDREWS ET AL. v. THE GAP, INC., ET AL.

Case No. CGC-18-567237

The Honorable Richard B. Ulmer Jr., Superior Court of the State of California, County of San Francisco (May 10, 2019): The Court finds that (a) the Full Notice, Email Notice, and Publication constitute the best notice practicable under the circumstances, (b) they constitute valid, due, and sufficient notice to all members of the Class, and (c) they comply fully with the requirements of California Code of Civil Procedure section 382, California Rules of Court 3.766 and 3.769, the California and United States Constitutions, and other applicable law.

COLE, ET AL. v. NIBCO, INC.

Case No. 3:13-cv-07871

The Honorable Freda L. Wolfson, United States District Court, District of New Jersey (April 11, 2019): The record shows, and the Court finds, that the Notice Plan has been implemented in the manner approved by the Court in its Preliminary Approval Order. The Court finds that the Notice Plan constitutes: (i) the best notice practicable to the Settlement Class under the circumstances; (ii) was reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of this..., (iii) due, adequate, and sufficient notice to all Persons entitled to receive notice; and (iv) notice that fully satisfies the requirements of the United States Constitution (including the Due Process Clause), Fed. R. Civ. P. 23, and any other applicable law.

DIFRANCESCO, ET AL. v. UTZ QUALITY FOODS, INC.

Case No. 1:14-cv-14744

The Honorable Douglas P. Woodlock, United States District Court, District of Massachusetts (March 15, 2019): The Court finds that the Notice plan and all forms of Notice to the Class as set forth in the Settlement Agreement and

Exhibits 2 and 6 thereto, as amended (the "Notice Program"), is reasonably calculated to, under all circumstances, apprise the members of the Settlement Class of the pendency of this action, the certification of the Settlement 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.

IN RE: CHRYSLER-DODGE-JEEP ECODIESEL MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY LITIGATION

Case No. 3:17-md-02777

The Honorable Edward M. Chen, United States District Court, Northern District of California (February 11, 2019): Also, the parties went through a sufficiently rigorous selection process to select a settlement administrator. See Proc. Guidance for Class Action Sett. ¶ 2; see also Cabraser Decl. ¶¶ 9-10. While the settlement administration costs are significant – an estimated \$1.5 million – they are adequately justified given the size of the class and the relief being provided.

In addition, the Court finds that the language of the class notices (short and long-form) is appropriate and that the means of notice – which includes mail notice, electronic notice, publication notice, and social media "marketing" – is the "best notice...practicable under the circumstances." Fed. R. Civ. P. 23(c)(2)(B); see also Proc. Guidance for Class Action Sett. ¶¶ 3-5, 9 (addressing class notice, opt-outs, and objections). The Court notes that the means of notice has changed somewhat, as explained in the Supplemental Weisbrot Declaration filed on February 8, 2019, so that notice will be more targeted and effective. See generally Docket No. 525 (Supp. Weisbrot Decl.) (addressing, inter alia, press release to be distributed via national newswire service, digital and social media marketing designed to enhance notice, and "reminder" first-class mail notice when AEM becomes available).

Finally, the parties have noted that the proposed settlement bears similarity to the settlement in the Volkswagen MDL. See Proc. Guidance for Class Action Sett. ¶ 11.

RYSEWYK, ET AL. v. SEARS HOLDINGS CORPORATION and SEARS, ROEBUCK AND COMPANY

Case No. 1:15-cv-04519

The Honorable Manish S. Shah, United States District Court, Northern District of Illinois (January 29, 2019): The Court holds that the Notice and notice plan as carried out satisfy the requirements of Rule 23(e) and due process. This Court has previously held the Notice and notice plan to be reasonable and the best practicable under the circumstances in its Preliminary Approval Order dated August 6, 2018. (Dkt. 191) Based on the declaration of Steven Weisbrot, Esq. of Angeion Group (Dkt. No. 209-2), which sets forth compliance with the Notice Plan and related matters, the Court finds that the multi-pronged notice strategy as implemented has successfully reached the putative Settlement Class, thus constituting the best practicable notice and satisfying due process.

MAYHEW, ET AL. v. KAS DIRECT, LLC, and S.C. JOHNSON & SON, INC.

Case No. 7:16-cv-06981

The Honorable Vincent J. Briccetti, United States District Court, Southern District of New York (June 26, 2018): In connection with their motion, plaintiffs provide the declaration of Steven Weisbrot, Esq., a principal at the firm Angeion Group, LLC, which will serve as the notice and settlement administrator in this case. (Doc. #101, Ex. F: Weisbrot Decl.) According to Mr. Weisbrot, he has been responsible for the design and implementation of hundreds of class action administration plans, has taught courses on class action claims administration, and has given testimony to the Judicial Conference Committee on Rules of Practice and Procedure on the role of direct mail, email, and digital media in due process notice. Mr. Weisbrot states that the internet banner advertisement campaign will be responsive to search terms relevant to "baby wipes, baby products, baby care products, detergents, sanitizers, baby lotion, [and] diapers," and will target users who are currently browsing or recently browsed categories "such as parenting, toddlers, baby care, [and] organic products." (Weisbrot Decl. ¶ 18). According to Mr. Weisbrot, the internet banner advertising campaign will reach seventy percent of the proposed class members at least three times each. (Id. ¶ 9). Accordingly, the Court approves of the manner of notice proposed by the parties as it is reasonable and the best practicable option for confirming the class members receive notice.

IN RE: OUTER BANKS POWER OUTAGE LITIGATION

Case No. 4:17-cv-00141

The Honorable James C. Dever III, United States District Court, Eastern District of North Carolina (May 2, 2018): The court has reviewed the proposed notice plan and finds that the notice plan provides the best practicable notice under the circumstances and, when completed, shall constitute fair, reasonable, and adequate notice of the

settlement to all persons and entities affected by or entitled to participate in the settlement, in full compliance with the notice requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process. Thus, the court approves the proposed notice plan.

GOLDEMBERG, ET AL. v. JOHNSON & JOHNSON CONSUMER COMPANIES, INC.

Case No. 7:13-cv-03073

The Honorable Nelson S. Roman, United States District Court, Southern District of New York (November 1, 2017): Notice of the pendency of the Action as a class action and of the proposed Settlement, as set forth in the Settlement Notices, was given to all Class Members who could be identified with reasonable effort, consistent with the terms of the Preliminary Approval Order. The form and method of notifying the Class of the pendency of the Action as a class action and of the terms and conditions of the proposed Settlement met the requirements of Rule 23 of the Federal Rules of Civil Procedure, due process, and any other applicable law in the United States. Such notice constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

HALVORSON v. TALENTBIN, INC.

Case No. 3:15-cv-05166

The Honorable Joseph C. Spero, United States District Court, Northern District of California (July 25, 2017): The Court finds that the Notice provided for in the Order of Preliminary Approval of Settlement has been provided to the Settlement Class, and the Notice provided to the Settlement Class constituted the best notice practicable under the circumstances, and was in full compliance with the notice requirements of Rule 23 of the Federal Rules of Civil Procedure, due process, the United States Constitution, and any other applicable law. The Notice apprised the members of the Settlement Class of the pendency of the litigation; of all material elements of the proposed settlement, including but not limited to the relief afforded the Settlement Class under the Settlement Agreement; of the res judicata effect on members of the Settlement Class and of their opportunity to object to, comment on, or opt-out of, the Settlement; of the identity of Settlement Class Counsel and of information necessary to contact Settlement Class Counsel; and of the right to appear at the Fairness Hearing. Full opportunity has been afforded to members of the Settlement Class to participate in the Fairness Hearing. Accordingly, the Court determines that all Final Settlement Class Members are bound by this Final Judgment in accordance with the terms provided herein.

IN RE: ASHLEY MADISON CUSTOMER DATA SECURITY BREACH LITIGATION

MDL No. 2669/Case No. 4:15-md-02669

The Honorable John A. Ross, United States District Court, Eastern District of Missouri (July 21, 2017): The Court further finds that the method of disseminating Notice, as set forth in the Motion, the Declaration of Steven Weisbrot, Esq. on Adequacy of Notice Program, dated July 13, 2017, and the Parties' Stipulation—including an extensive and targeted publication campaign composed of both consumer magazine publications in People and Sports Illustrated, as well as serving 11,484,000 highly targeted digital banner ads to reach the prospective class members that will deliver approximately 75.3% reach with an average frequency of 3.04—is the best method of notice practicable under the circumstances and satisfies all requirements provided in Rule 23(c)(2)(B) and all Constitutional requirements including those of due process.

The Court further finds that the Notice fully satisfies Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process; provided, that the Parties, by agreement, may revise the Notice, the Claim Form, and other exhibits to the Stipulation, in ways that are not material or ways that are appropriate to update those documents for purposes of accuracy.

TRAXLER, ET AL. v. PPG INDUSTRIES INC., ET AL.

Case No. 1:15-cv-00912

The Honorable Dan Aaron Polster, United States District Court, Northern District of Ohio (April 27, 2017): The Court hereby approves the form and procedure for disseminating notice of the proposed settlement to the Settlement Class as set forth in the Agreement. The Court finds that the proposed Notice Plan contemplated constitutes the best notice practicable under the circumstances and is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action and their right to object to the proposed settlement or opt out of the Settlement Class in full compliance with the requirements of applicable law, including the Due Process Clause of the United States Constitution and Rules 23(c) and (e). In addition, Class Notice clearly and concisely states in plain, easily understood language: (i) the nature of the action; (ii) the definition of the certified Settlement Class; (iii) the claims and issues of the Settlement Class; (iv) that a Settlement Class Member may enter an appearance

through an attorney if the member so desires; (v) that the Court will exclude from the Settlement Class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3).

IN RE: THE HOME DEPOT, INC., CUSTOMER DATA SECURITY BREACH LITIGATION

Case No. 1:14-md-02583

The Honorable Thomas W. Thrash Jr., United States District Court, Northern District of Georgia (March 10, 2017): The Court finds that the form, content, and method of giving notice to the settlement class as described in the settlement agreement and exhibits: (a) constitute the best practicable notice to the settlement class; (b) are reasonably calculated, under the circumstances, to apprise settlement class members of the pendency of the action, the terms of the proposed settlement, and their rights under the proposed settlement; (c) are reasonable and constitute due, adequate, and sufficient notice to those persons entitled to receive notice; and (d) satisfy the requirements of Federal Rule of Civil Procedure 23, the constitutional requirement of due process, and any other legal requirements. The Court further finds that the notice is written in plain language, uses simple terminology, and is designed to be readily understandable by settlement class members.

ROY v. TITFLEX CORPORATION t/a GASTITE and WARD MANUFACTURING, LLC

Case No. 384003V

The Honorable Ronald B. Rubin, Circuit Court for Montgomery County, Maryland (February 24, 2017): What is impressive to me about this settlement is in addition to all the usual recitation of road racing litanies is that there is going to be a) public notice of a real nature and b) about a matter concerning not just money but public safety and then folks will have the knowledge to decide for themselves whether to take steps to protect themselves or not. And that's probably the best thing a government can do is to arm their citizens with knowledge and then the citizens can make decision. To me that is a key piece of this deal. I think the notice provisions are exquisite [emphasis added].

IN RE: LG FRONT LOADING WASHING MACHINE CLASS ACTION LITIGATION

Case No. 2:08-cv-00051

The Honorable Madeline Cox Arleo, United States District Court, District of New Jersey (June 17, 2016): This Court further approves the proposed methods for giving notice of the Settlement to the Members of the Settlement Class, as reflected in the Settlement Agreement and the joint motion for preliminary approval. The Court has reviewed the notices attached as exhibits to the Settlement, the plan for distributing the Summary Notices to the Settlement Class, and the plan for the Publication Notice's publication in print periodicals and on the internet, and finds that the Members of the Settlement Class will receive the best notice practicable under the circumstances. The Court specifically approves the Parties' proposal to use reasonable diligence to identify potential class members and an associated mailing and/or email address in the Company's records, and their proposal to direct the ICA to use this information to send absent class members notice both via first class mail and email. The Court further approves the plan for the Publication Notice's publication in two national print magazines and on the internet. The Court also approves payment of notice costs as provided in the Settlement. The Court finds that these procedures, carried out with reasonable diligence, will constitute the best notice practicable under the circumstances and will satisfy.

FENLEY v. APPLIED CONSULTANTS, INC.

Case No. 2:15-cv-00259

The Honorable Mark R. Hornak, United States District Court, Western District of Pennsylvania (June 16, 2016): The Court would note that it approved notice provisions of the settlement agreement in the proceedings today. That was all handled by the settlement and administrator Angeion. The notices were sent. The class list utilized the Postal Service's national change of address database along with using certain proprietary and other public resources to verify addresses. the requirements of Fed.R.Civ.P. 23(c)(2), Fed.R.Civ.P. 23(e) (l), and Due Process....

The Court finds and concludes that the mechanisms and methods of notice to the class as identified were reasonably calculated to provide all notice required by the due process clause, the applicable rules and statutory provisions, and that the results of the efforts of Angeion were highly successful and fulfilled all of those requirements [emphasis added].

FUENTES, ET AL. v. UNIRUSH, LLC d/b/a UNIRUSH FINANCIAL SERVICES, ET AL.

Case No. 1:15-cv-08372

The Honorable J. Paul Oetken, United States District Court, Southern District of New York (May 16, 2016): The Court approves, as to form, content, and distribution, the Claim Form attached to the Settlement Agreement as Exhibit A, the Notice Plan, and all forms of Notice to the Settlement Class as set forth in the

Settlement Agreement and Exhibits B-D, thereto, and finds that such Notice is the best notice practicable under the circumstances, and that the Notice complies fully with the requirements of the Federal Rules of Civil Procedure. The Court also finds that the Notice constitutes valid, due and sufficient notice to all persons entitled thereto, and meets the requirements of Due Process. The Court further finds that the Notice is reasonably calculated to, under all circumstances, reasonably apprise members of the Settlement Class of the pendency of the Actions, the terms of the Settlement Agreement, and the right to object to the settlement and to exclude themselves from the Settlement Class. The Parties, by agreement, may revise the Notices and Claim Form in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting for publication.

IN RE: WHIRLPOOL CORP. FRONTLOADING WASHER PRODUCTS LIABILITY LITIGATION
MDL No. 2001/Case No. 1:08-wp-65000

The Honorable Christopher A. Boyko, United States District Court, Northern District of Ohio (May 12, 2016): The Court, having reviewed the proposed Summary Notices, the proposed FAQ, the proposed Publication Notice, the proposed Claim Form, and the proposed plan for distributing and disseminating each of them, finds and concludes that the proposed plan for distributing and disseminating each of them will provide the best notice practicable under the circumstances and satisfies all requirements of federal and state laws and due process.

SATERIALE, ET AL. v. R.J. REYNOLDS TOBACCO CO.
Case No. 2:09-cv-08394

The Honorable Christina A. Snyder, United States District Court, Central District of California (May 3, 2016): The Court finds that the Notice provided to the Settlement Class pursuant to the Settlement Agreement and the Preliminary Approval Order has been successful, was the best notice practicable under the circumstances and (1) constituted notice that was reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Action, their right to object to the Settlement, and their right to appear at the Final Approval Hearing; (2) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (3) met all applicable requirements of the Federal Rules of Civil Procedure, Due Process, and the rules of the Court.

FERRERA, ET AL. v. SNYDER'S-LANCE, INC.
Case No. 0:13-cv-62496

The Honorable Joan A. Lenard, United States District Court, Southern District of Florida (February 12, 2016): The Court approves, as to form and content, the Long-Form Notice and Short-Form Publication Notice attached to the Memorandum in Support of Motion for Preliminary Approval of Class Action Settlement as Exhibits 1 and 2 to the Stipulation of Settlement. The Court also approves the procedure for disseminating notice of the proposed settlement to the Settlement Class and the Claim Form, as set forth in the Notice and Media Plan attached to the Memorandum in Support of Motion for Preliminary Approval of Class Action Settlement as Exhibits G. The Court finds that the notice to be given constitutes the best notice practicable under the circumstances, and constitutes valid, due, and sufficient notice to the Settlement Class in full compliance with the requirements of applicable law, including the Due Process Clause of the United States Constitution.

IN RE: POOL PRODUCTS DISTRIBUTION MARKET ANTITRUST LITIGATION
MDL No. 2328/Case No. 2:12-md-02328

The Honorable Sarah S. Vance, United States District Court, Eastern District of Louisiana (December 31, 2014): To make up for the lack of individual notice to the remainder of the class, the parties propose a print and web-based plan for publicizing notice. The Court welcomes the inclusion of web-based forms of communication in the plan. The Court finds that the proposed method of notice satisfies the requirements of Rule 23(c)(2)(B) and due process. The direct emailing of notice to those potential class members for whom Hayward and Zodiac have a valid email address, along with publication of notice in print and on the web, is reasonably calculated to apprise class members of the settlement. Moreover, the plan to combine notice for the Zodiac and Hayward settlements should streamline the process and avoid confusion that might otherwise be caused by a proliferation of notices for different settlements. Therefore, the Court approves the proposed notice forms and the plan of notice.

SOTO, ET AL. v. THE GALLUP ORGANIZATION, INC.
Case No. 0:13-cv-61747

The Honorable Marcia G. Cooke, United States District Court, Southern District of Florida (June 16, 2015): The Court approves the form and substance of the notice of class action settlement described in ¶ 8 of the Agreement and

attached to the Agreement as Exhibits A, C and D. The proposed form and method for notifying the Settlement Class Members of the settlement and its terms and conditions meet the requirements of Fed. R. Civ. P. 23(c)(2) (B) and due process, constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons and entities entitled to the notice. The Court finds that the proposed notice is clearly designed to advise the Settlement Class Members of their rights.

OTT v. MORTGAGE INVESTORS CORPORATION OF OHIO, INC.

Case No. 3:14-cv-00645

The Honorable Janice M. Stewart, United States District Court, District of Oregon (July 20, 2015): The Notice Plan, in form, method, and content, fully complies with the requirements of Rule 23 and due process, constitutes the best notice practicable under the circumstances, and is due and sufficient notice to all persons entitled thereto. The Court finds that the Notice Plan is reasonably calculated to, under all circumstances, reasonably apprise the persons in the Settlement Class of the pendency of this action, the terms of the Settlement Agreement, and the right to object to the Settlement and to exclude themselves from the Settlement Class.

REPRESENTATIVE CASES

Angeion Group's end-to-end class action services, best practice approaches, and dedicated operational infrastructure provide a streamlined and efficient administration path for all types of class action matters including: Antitrust, Securities, Labor & Employment, and Consumer. Some of the cases being managed by our settlement administration team include:

CONSUMER

- Simmons et al. v. Ambit Energy Holdings, LLC et al.
- Silvis v. Ambit Northeast, LLC
- In Re Ashley Madison Customer Data Security Breach Litigation
- In re ARRIS Cable Modem Consumer Litigation
- Gerard R. Gunthert and Abby B. Gunthert v. Bankers Standard Insurance Company
- Bishop, et al. v. Behr Process Corporation, et al.
- Venneman et al. v. BMW Financial Services NA, LLC and Financial Services Vehicle Trust
- Friske v. Bonnier Corporation
- Harriet K Gordon and Neil Raynor v. Briad Restaurant Group, LLC d/b/a The Briad Group
- Peel et. al. v BrooksAmerica
- Anderson, et al. v. Burlington Coat Factory, et al.
- Des Roches, et al. v. California Physicians' Service, et al.
- In re Canon Ink Jet Printer Litigation
- Ferrer, et al. v. CareFirst, Inc., et al
- Demchak Partners et al. v. Chesapeake Appalachia, LLC
- Looney, et al. v. Chesapeake Energy Corp., et al.
- Ciolino v. Christine Valmy, Inc.; CV Cosmetology, Inc. et al.
- Chrysler-Dodge-Jeep Ecodiesel Marketing, Sales Practices, and Products Liability Litigation
- Kish v. City of Oak Park
- Body Recovery Clinic v. Concentra, Inc., et al.
- Stivers v. Credit Acceptance Corporation
- Cross Timbers Decking/Duralife Notice Program
- Cryptsy Cryptocurrency Litigation
- Pierluigi Mancuso v. Crystal Title Agency, LLC and Robert M. Sebia
- Douglas v. DHI Group, Inc. et al.
- In re: Dial Complete Marketing and Sales Litigation
- Kokobaeva, et. al. v. Eddie Bauer, LLC
- Jones et al. v. EEG, Inc., et al.
- Wendy Grasso and Nicholas Grasso, on behalf of themselves and all others similarly situated v. Electrolux Home Products, Inc.
- Clark v. Experian and Brown v. Experian Information Solutions, Inc.
- Mohammed v. Faloni & Associates, LLC
- Richard McMillin v Fogle Enterprises, Inc. and Nolan Fogle
- David Case, et al. v. French Quarter Group III, LLC, et al. (aka Southwind)
- Andrews et al. v. The Gap, Inc. et al.
- A & M Gerber, LLC v. GEICO General Insurance Co.
- James, et al. v. Global Tel*Link Corporation, Inmate Telephone Service and DSI-ITI LLC
- Roma Pizzeria, et al. v. Harbortouch
- In re: The Home Depot, Inc., Customer Data Security Breach Litigation
- Kerri C. Wood v. J Choo USA, Inc.
- Sophia Krivy v. Jean Madeline Education Center of Cosmetology, Inc. d/b/a "The Jean Madeline Aveda Institute" ("JMEC"); Jean Madeline Inc., and Samuel Lehman
- Elliott et al. v. KB Home Raleigh-Durham, Inc.
- Nelson v. Ledgewood B.K. Inc., et al.
- In re: Lenovo Adware Litigation
- In re: LG Front-Loading Washing Machine Class Action Litigation
- Parker v. Logitech, Inc.
- Brandi Price and Christine Chadwick v. L'Oréal USA, Inc. and Matrix Essentials LLC
- In Re: Lumber Liquidators Chinese-Manufactured Laminate Flooring Durability Marketing And Sales Practices Litigation
- Williamson v. McAfee, Inc.
- Hartman v. Medcredit, Inc.
- Hartman vs. Monarch Recovery Management, Inc., USDC Western District of PA
- Santamaria, et al. v. Nature's Value, Inc., et al.
- Remijas, Frank, Farnoush and Kao v. The Neiman Marcus Group, LLC.
- Kimberly Cole, et al v. NIBCO, Inc.
- T.S. Kao, Inc. d/b/a Lucky 7 Chinese Food v. North American Bancard, LLC and Global Payments Direct, Inc
- Oglesby, et al. v. The "Original" W. Hargrove Demolition Company, Inc. d/b/a Camden Towing Inc. and the City of

- Camden
- In Re: Outer Banks Power Outage Litigation
- Dobosenski v. Payday America, Inc.
- Colin Higgins Productions, Ltd. v. Paramount Pictures Corporation
- Harshbarger, et al. v. The Penn Mutual Life Insurance Company
- LaChapelle v PeoplesBank and PeoplesBancorp, MHC
- Traxler et al. v. PPG Industries, Inc. et al.
- Gary Mednick and Steven Bayer v. Precor Incorporated
- Slade v. Progressive Security Insurance Co.
- Citizens Bank Forced Placed Insurance-Cook v. RBS Citizens, N.A, and Richards v. RBS Citizens, N.A.
- Remington Firearms Class Action Settlement
- Darrell and Kathleen Thompson v. Resort Sales Missouri, Inc. and Spinnaker Resorts, Inc.
- Rodman v. Safeway Inc.
- Nicodemus, et al. vs. Saint Francis Memorial Hospital, et al.
- Rysewyk, et al. v. Sears Holding Corporation, et al.
- Orakwue, et al. v. Selman & Associates Ltd., et al.
- Wiggins v. Sky NJ, LLC
- Vogt v. State Farm Life Insurance Company
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