

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

I. RECITALS.

- A. Introduction. This class action settlement agreement (the “Class Settlement Agreement”) is entered into this fifth day of August 2013 by and among Plaintiffs Doyle Wheeler and Carri Wheeler (“Plaintiffs”), individually and on behalf of the members of the proposed settlement class defined herein in Section II.A (the “Settlement Class”), and Defendants Nationwide Support Services, Inc. and Joanne Garneau, individually and on behalf of the marital community of Joanne Garneau and Arthur Garneau (collectively, the “Nationwide Defendants”) in the matter of Wheeler v. Nationwide Support Services, Inc., et al., No. CV-10-202-LRS (the “Action”).
- B. Purpose. Pursuant to the terms set forth below, Plaintiff and the Nationwide Defendants enter into this Class Settlement Agreement to bring about a full, complete and final resolution of all claims asserted, or that could have been asserted, in the Action against the Nationwide Defendants by Plaintiffs and the Settlement Class. The parties agree to settle the Action as it relates to the Nationwide Defendants pursuant to the provisions of this Class Settlement Agreement, which are set forth in detail below. Plaintiffs and counsel for Plaintiffs and the proposed Settlement Class (“Class Counsel”) judge the Class Settlement Agreement to provide fair, reasonable, and adequate relief to the Settlement Class and to be in the best interests of the Settlement Class. The Nationwide Defendants agree to support preliminary and final approval of class settlement under the terms of this Class Settlement Agreement.

II. SETTLEMENT TERMS.

A. The Settlement Class.

This Class Settlement Agreement is entered into on behalf of the Settlement Class consisting of all Washington residents for whom Nationwide Support Services, Inc. agreed to provide debt adjusting services pursuant to Nationwide Support Service Agreements or otherwise provided debt adjustment services to such residents between June 24, 2006 and the date of this Class Settlement Agreement except for those Washington residents who execute a timely and valid exclusion request in accordance with Section II.G below. The Nationwide Defendants represent that there are approximately 1,430 Washington residents who are potential members of the Settlement Class.

B. The Settlement Trust.

No later than seven days following the order preliminarily approving this Class Settlement Agreement, Nationwide Defendants shall pay a total of \$950,000.00 (the “Settlement Amount”) into the IOLTA account of The Scott Law Group P.S. (the “Settlement Trust”) in settlement of all claims between the Settlement Class and the Nationwide Defendants in the Action. The Settlement Amount constitutes full and complete financial consideration for settlement of the claims of Settlement Class

members, including claims for damage, attorneys' fees, litigation costs, class notice and claims administration expenses, and class representative incentive award.

C. Calculation of Net Settlement Proceeds and Proportional Shares.

1. Net Settlement Proceeds: The settlement award issued to each Settlement Class member shall be based on a calculation of that member's proportional share of the funds remaining in the Settlement Trust after deducting any Court-awarded attorneys' fees and litigation expenses, notice and claims administration costs, class representative incentive award amount, or other Court-approved amounts. The funds remaining after all such deductions are referred to herein as the "Net Settlement Proceeds."

2. Class Members' Pro Rata Awards: Each Settlement Class member shall be entitled to an individual award representing the member's pro rata share of the Net Settlement Proceeds. Each Settlement Class member's pro rata share shall be calculated according to the formula $A / B \times C$, where A represents the total fees received by Nationwide Support Services, Inc. from the Class Member, B represents the aggregate total of all such fees paid by the Settlement Class members, and C represents the Net Settlement Proceeds. The Nationwide Defendants represent the total amount of fees the Nationwide Defendants received for all potential Settlement Class members is approximately \$2,113,252.00, which represents gross fees received less refunds paid to certain Class members.

D. Claims Administration.

1. Claims Administrator: The Scott Law Group P.S. shall serve as the administrator of the Settlement Trust and shall, for that purpose and for the purpose of providing notice to the proposed Settlement Class, be referred to as the "Claims Administrator."

2. Claims Data: To facilitate the distribution of Court-approved notice and settlement awards to Settlement Class members, the Nationwide Defendants shall provide the following information in electronic form to Class Counsel no later than 7 calendar days following the Court's entry of an order granting preliminary approval of this Class Settlement Agreement: (1) the name and last-known contact information (mailing address, email address, and phone number) of each proposed Settlement Class member; and (2) the total fees that the Nationwide Defendants received for each proposed Settlement Class member.

3. Settlement Class Member Awards: The Claims Administrator shall disburse a settlement award from the Settlement Trust to each Settlement Class member no later than thirty (30) days from the Effective Date of this Class Settlement Agreement. The settlement award shall be calculated in accordance with II.C.2 above. Individuals who timely exclude themselves from the Settlement Class shall not be entitled to any award. Each check issued pursuant to this Class Settlement Agreement shall be void if not negotiated within one hundred twenty (120) days after its date of issue and shall contain a legend to such effect.

4. Attorneys' Fees: Class Counsel shall, in conjunction with the hearing on final approval of this Class Settlement Agreement, apply to the Court for an award of attorneys' fees to be paid from the Settlement Trust. The Claims Administrator shall disburse to Class Counsel from the Settlement Trust the amount of attorneys' fees awarded by the Court no later than thirty (30) days from the Effective Date of this Class Settlement Agreement.

5. Litigation Expenses: Class Counsel shall, in conjunction with the hearing on final approval of this Class Settlement Agreement, apply to the Court for reimbursement of Class Counsels' litigation expenses to be paid from the Settlement Trust. The Claims Administrator shall disburse to Class Counsel from the Settlement Trust the amount of litigation expenses awarded by the Court no later than thirty (30) days from the Effective Date of this Class Settlement Agreement.

6. Class Notice and Claims Administration Costs: Class Counsel shall, in conjunction with the hearing on final approval of this Class Settlement Agreement, apply to the Court for compensation and reimbursement from the Settlement Trust for class notice and claims administration expenses, including those reasonably estimated to be incurred in administering this Settlement Agreement following the hearing on final approval. The Claims Administrator shall disburse to Class Counsel from the Settlement Trust the amount awarded by the Court for such notice and claims administration costs no later than thirty (30) days from the Effective Date of this Class Settlement Agreement.

7. Class Representative Incentive Award: Class Counsel shall apply to the Court for a \$2,000 incentive award to Plaintiffs for their service as class representatives. The Claims Administrator shall disburse to Plaintiffs from the Settlement Trust the amount approved and awarded by the Court as an incentive award no later than thirty (30) days from the Effective Date of this Class Settlement Agreement.

8. Disbursement of Remainder of Settlement Fund/Cy Pres: In the event that any portion of the Net Settlement Proceeds has not been disbursed as provided for in this Class Settlement Agreement after a period of 180 calendar days has elapsed from the date on which the disbursement checks were issued by the Claims Administrator, then such remaining amounts shall be disbursed to the Northwest Justice Project for the purpose of assisting and educating Washington residents with respect to practices of the debt settlement industry and issues relating to the Washington Debt Adjusting Act.

E. Class Notice.

1. The Parties agree to request approval of the form of notice attached hereto as Exhibit A. The fact that the Court may require changes in the form of notice does not invalidate this Class Settlement Agreement if the changes do not materially affect the substance of the Class Settlement Agreement.

2. Notice to the proposed Settlement Class shall be provided as ordered by

the Court. The Parties anticipate that members of the proposed Settlement Class will receive such notice directly through first class mail and also by electronic mail using the most recent contact information available.

3. In preparation for the issuance of notice to the proposed Settlement Class, the Nationwide Defendants shall provide the information set forth in Section II.D.2 to the Claims Administrator in the form of an Excel spreadsheet or similar electronic document.

4. No later than 30 days after the entry of an order granting preliminary approval of this Class Settlement Agreement, the Claims Administrator shall issue notice to all Settlement Class members in the form and manner approved by the Court. The date on which this notice is sent shall be deemed “the Initial Notice Mailing Date.”

F. Exclusion from Class.

1. Each individual who properly files a timely written request for exclusion shall be excluded from the Settlement Class and shall have no rights under this Class Settlement Agreement. An exclusion request shall be deemed timely if it is postmarked no later than 45 calendar days after the Initial Notice Mailing Date.
2. An exclusion request must: (i) be in writing; (ii) state the individual’s current address; (iii) contain the following statement: “I/we hereby request that I/we be excluded from the proposed settlement class in the case of *Wheeler v. Nationwide Support Services, Inc., et al.*; (iv) be signed; and (v) be mailed to Class Counsel at the address provided in the Class Notice and postmarked within 45 calendar days from the Initial Notice Mailing Date.
3. No later than 60 calendar days after the Initial Notice Mailing Date, Class Counsel shall file and serve a declaration identifying all individuals who have made a timely and valid request for exclusion.
4. Neither Party nor their counsel shall encourage any potential member of the Settlement Class to opt-out of the Settlement.
5. If more than five percent (5%) of the potential Settlement Class members timely file written requests for exclusion from the Settlement Class, then either Plaintiffs or the Nationwide Defendants may terminate this Class Settlement Agreement by providing notice of termination to counsel and the Court in writing within (7) days after service of Class Counsel’s declaration described in paragraph II.F.3 above.

G. Objections to the Class Settlement Agreement.

1. The notice form sent to potential members of the Settlement Class shall inform them of the right to object to this Settlement Agreement. If a person

wishes to have the Court consider such an objection, the person (1) must not exclude himself or herself from the Settlement Class and (2) must file with the Court and mail to counsel for the Parties a written objection, along with any supporting documentation that the person wishes the Court to consider, by no later than 45 calendar days from the Initial Notice Mailing Date. If such objection is submitted and overruled by the Court, the objecting member of the Settlement Class shall remain fully bound by the terms of this Class Settlement Agreement so long as it is granted final approval by the Court.

2. The Parties shall submit any responses to objections no later than 65 calendar days after the Initial Notice Mailing Date.
3. Neither Party nor their counsel shall encourage any member of the Settlement Class to file an objection to this Class Settlement Agreement.
4. Any Settlement Class member who does not appear individually or through counsel and who does not challenge or comment upon the fairness and adequacy of this Class Settlement Agreement or Class Counsel's petition for attorneys' fees and expenses shall waive and forfeit any and all rights to appear separately or object. All members of the Settlement Class shall be bound by all the terms of this Class Settlement Agreement and by all proceedings, orders and judgments in this Action.

H. Future Business.

1. The Nationwide Defendants agree to comply with Washington law including the provisions of Washington's Debt Adjusting Act, Chapter 18.28 RCW, as of the Effective Date of this Settlement Agreement.
2. Nothing in this Settlement Agreement shall prohibit the Nationwide Defendants from complying with any amendment to the Washington Debt Adjusting Act.

III. RELEASE.

- A. As of the Effective Date of this Class Settlement Agreement, Plaintiffs and each and every member of the Settlement Class, individually and as a Settlement Class, for themselves, their attorneys, spouses, executors, representatives, heirs, successors, and assigns, in consideration of the relief set forth in the Class Settlement Agreement, the sufficiency of which is acknowledged, will, to the extent permitted by law and subject only to the exception set forth in Section III.B below, fully and finally release the Nationwide Defendants, and all present and former members, officers, managers and employees, shareholders, directors, attorneys, and representatives of Nationwide Support Services, Inc., and their respective spouses, successors and assigns, from any and all past or present claims, debts, demands, causes of action, liabilities, losses, obligations, costs, fees, interest, attorneys' fees, expenses, damages, punitive damages, and injuries of every kind, nature and description that directly or indirectly relate to, or arise out of, or stem from the subject matter of this Action or any matters, transactions, occurrences, or omissions referred to in the pleadings or other papers filed or produced in this

Action. The released claims include but are not limited to statutory claims under Washington's Debt Adjusting Law (Chapter 18.28 RCW) and Consumer Protection Act (Chapter 19.86 RCW), or other state or federal statutory laws or regulations, and common law claims, whether found in tort or contract. The released claims do not include any claims against other entities and individuals separate from the Nationwide Defendants including but not limited to front-end debt settlement companies and/or other affiliates and the owners, officers, managers, agents and representatives of such companies. The agreement of Plaintiffs and Settlement Class members to provide these releases is made, among other things, in consideration of the Nationwide Defendants' payment of the Settlement Amount and in reliance on the Nationwide Defendants' representations as to the number of potential Settlement Class members and the amount of fees received by the Nationwide Defendants.

- B. Notwithstanding the release described herein, if any Nationwide Defendant violates or breaches any term of this Class Settlement Agreement, each of the Nationwide Defendants shall be jointly and severally liable for that violation or breach.

IV. PRELIMINARY AND FINAL APPROVAL PROCEDURES.

- A. No later than 10 calendar days after the execution of this Settlement Agreement, Class Counsel shall file a motion with the Court for a preliminary order approving the Class Settlement Agreement.
- B. The final approval hearing will be held on such date as the Court, in its discretion, may order; provided, however, that the final approval hearing date shall be at least 110 calendar days after the filing of the motion for preliminary approval of this Class Settlement Agreement. The Nationwide Defendants shall comply with the CAFA Notice requirements set out in 28 U.S.C. § 1715.
- C. No later than 30 calendar days prior to the Final Fairness Hearing, Class Counsel shall file a motion requesting that the Court grant final approval of the Class Settlement Agreement, including payment of attorneys' fees and expenses, and enter final judgment as to the Nationwide Defendants in the Action.
- D. In the event the Class Settlement Agreement is not given final approval in all material respects and as set forth in this Class Settlement Agreement, or the Court's final approval order is reversed on appeal, the Class Settlement Agreement shall become null and void and all funds in the Settlement Trust shall be immediately returned to the Nationwide Defendants.
- E. The effective date of this Class Settlement Agreement (the "Effective Date") shall be the later of either (1) the expiration of the time for filing an appeal from the Court's entry of a final judgment order (31 calendar days from entry of final judgment) or (2) if a timely appeal is made, the date of the final resolution of that appeal and any subsequent appeals resulting in final judicial approval of this Class Settlement Agreement.

V. FINAL APPROVAL ORDER.

- A. The Parties shall use their best efforts to secure the Court's issuance of a Final Approval Order. The Final Approval Order shall, among other things: A. Find that the Court has personal jurisdiction over the Settlement Class members and that the Court has subject matter jurisdiction to approve this Class Settlement Agreement; approve the Class Settlement Agreement as fair, adequate and reasonable, and consistent and in compliance with all applicable provisions of the law; direct the Parties and their counsel to implement and consummate this Class Settlement Agreement according to its terms and provisions; and declare this Class Settlement Agreement to be binding on the Settlement Class and to have res judicata effect in all pending and future lawsuits or other proceedings encompassed by the release set forth in Section III of this Class Settlement Agreement (the "Release");
- B. Find that notice substantially in the form of Exhibit A and the notice procedure implemented pursuant to this Agreement: (i) constitutes the best practicable notice; (ii) constitutes notice that is reasonably calculated, under the circumstances, to inform all potential Settlement Class members of their right to object to the proposed Class Settlement Agreement and to appear at the Final Approval Hearing; (iii) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) meets all applicable requirements of the Federal Rules of Civil Procedure.
- C. Dismiss the Action on the merits and with prejudice with respect to the Nationwide Defendants, without fees or costs to any party except as provided in this Class Settlement Agreement;
- D. Incorporate the Release set forth in Section III without affecting the finality of the Final Approval Order and Judgment for the purposes of appeal; retain jurisdiction as to all matters relating to administration, consummation, enforcement, and interpretation of this Class Settlement Agreement and the Final Approval Order, and for any other necessary purpose; and incorporate any other provisions as the Court deems necessary and justice.

VI. MISCELLANEOUS PROVISIONS.

- A. No Admission of Wrongdoing. The Parties hereto acknowledge that the execution of this Class Settlement Agreement and the consummation of the transactions contemplated herein do not constitute any admission of liability by the Nationwide Defendants under state or federal law, whether or not such claims have been pled in the instant action.
- B. Dismissal. In connection with the issuance of an order granting final approval of this Class Settlement Agreement, the Parties shall present the Court with a final order of dismissal with prejudice as to the Nationwide Defendants and request immediate entry of that order and thereafter file a dismissal of the Action in its entirety with prejudice.
- C. Continuing Jurisdiction. The Federal District Court for the Eastern District of Washington, State of Washington, shall have continuing jurisdiction over this

Action for the purpose of implementing this Class Settlement Agreement and all related matters, including preliminary approval of the Class Settlement Agreement, final approval of the Class Settlement Agreement, entry of final judgment as to the Nationwide Defendants, and any post-judgment issues.

- D. **Bankruptcy.** The Nationwide Defendants stipulate they do not intend to and shall not file for bankruptcy at any time in the 120 days following payment of the Settlement Trust into the IOLTA account of The Scott Law Group P.S. If any Nationwide Defendant becomes party to a bankruptcy proceeding in which any portion of the Settlement Trust is recovered by a trustee or creditor, then (1) the release identified in Section III.A shall be nullified as to that Nationwide Defendant, (2) Plaintiffs and Settlement Class members shall be entitled to pursue the full value of their claims against that Nationwide Defendant, and (3) each of the other Nationwide Defendants shall be jointly and severally liable for the full portion of the Settlement Trust recovered by a trustee or creditor.
- E. **Reasonable Best Efforts.** The Parties agree to undertake their reasonable best efforts, including, without limitation, all efforts contemplated herein, to carry out the terms of this Class Settlement Agreement. In addition to the documents and other matters specifically referenced in the Class Settlement Agreement, the Parties agree to execute and/or deliver, or cause to be executed and/or delivered, such other documents and/or other materials necessary to carry out the terms and conditions of this Class Settlement Agreement, as may be reasonably necessary to effect the obligations contemplated by the Settlement Agreement.
- F. **Amendments/Modifications.** Subject to any power of the Court to order a modification, this Class Settlement Agreement may be amended or modified only by a written instrument signed by each of the Parties and their respective counsel of record. Amendment and modifications may be made without notice to the Settlement Class unless notice is required by law or by the Court.
- G. **Construction.** The terms and conditions of this Class Settlement Agreement are the result of lengthy, intensive arm's-length negotiations between the Parties. This Class Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or its counsel participated in the drafting of this Settlement Agreement.
- H. **Counterparts.** This Class Settlement Agreement may be executed in counterparts and by facsimile, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.
- I. **Tax Consequences:** No opinions concerning the tax consequences of the proposed settlement to individual Class Members are given by the Nationwide Defendants, Plaintiffs, or Class Counsel, nor are any representations in this regard made by virtue of this Class Settlement Agreement. Each Class Member's tax obligations, if any, and the determination thereof, are the sole responsibility of the Class Member, and the tax consequences, if any, depend on the particular circumstances of each individual Class Member.
- J. **Governing Law:** This Class Settlement Agreement shall be governed by, and

interpreted according to, the law of the State of Washington without regard to its choice of law provisions.

K. Parties Bound: This Class Settlement Agreement shall be binding upon and inure to the benefit of Plaintiffs, the Settlement Class, and the Nationwide Defendants, and the respective heirs, successors and assigns of each of the foregoing.


L. Waiver: The waiver by any Party of any breach of this Settlement Agreement shall not be deemed or construed as a waiver of any other breach, whether prior or subsequent to, or contemporaneous with, this Class Settlement Agreement.

THE PARTIES HEREBY AGREE TO THE ABOVE SETTLEMENT AGREEMENT BY THE FOLLOWING SIGNATURES:

For Plaintiffs and the Settlement Class:



Doyle Wheeler

Date: 8-14-13


Carri Wheeler

Date: 8-14-13

THE SCOTT LAW GROUP, P.S.

By: 
Matthew J. Zuchetto, WSBA #33404

TERRELL MARSHALL DAUDT & WILLIE PLLC

By: 
Toby J. Marshall, WSBA #32726

Attorneys for Plaintiffs

For Defendant Nationwide Support Services, Inc.:

By: _____

Date: _____

For Defendant Nationwide Support Services, Inc.:

By: Joanne Garneau

Date: AUGUST 12, 2013

For Defendant Joanne Garneau:

Joanne Garneau
Joanne Garneau

Date: AUGUST 12, 2013

WILLIAM R. MITCHELL, INC.

By: William R. Mitchell
William R. Mitchell
Attorney for Nationwide Defendants

Date: 8-13-13