

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

AMANDA ANDERSON, on behalf
of herself and all others similarly situated,

Plaintiff,

v.

WSE PROPERTY MANAGEMENT LLC,

Defendant.

Civil Action File No.: 20EV005363

**Plaintiff Amanda Anderson's Unopposed Motion For Preliminary Approval Of The Class
Settlement And Class Notice**

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Introduction

Plaintiff Amanda Anderson (“Plaintiff” or “Ms. Anderson”) and Defendant WSE Property Management, LLC (“Defendant” or “WSE”) have reached a negotiated settlement (the “Class Settlement”) to resolve their claims on a class-wide basis. Therefore, Anderson now moves, unopposed, for this Court to certify the Class for the purpose of settlement; grant preliminary approval of the Class Settlement; approve the proposed forms to notify Class members of the Class Settlement; set deadlines for the submission of Class member claims, requests for opt-out, objections to the Class Settlement, and motions for attorney fees and Class representative service awards; and scheduling a final approval hearing to consider any objections and to make a final ruling on approval of the Class Settlement. A copy of a proposed order is attached to this motion as Exhibit 7, and a proposed order is also being separately filed on the Court’s docket.

As detailed below, the Class Settlement requires WSE to make available \$800,000 to satisfy Class Members claims. From this amount, WSE will be solely responsible for the expense associated with Class Notice and settlement administration, as well as Class Counsel’s attorneys’ fees and costs. The Class Settlement will provide thousands of Class Members potential relief for claims spanning a twenty-year time period. A copy of the comprehensive settlement agreement is attached to this motion as Exhibit 1.

The Class will obtain these benefits without the substantial risk of continued litigation and the substantial delay that would occur if this Class Settlement were not approved. If this action were instead to proceed through class certification, interlocutory appeal, trial, and a final judgment appeal, there is a material risk that the Class will not receive any relief or that the same relief that can be obtained now will not be available for many more years. A unique factor in this case is that WSE is winding down its business and does not possess significant assets; and the common fund represents an estimate of the remaining insurance proceeds to WSE. As such, the Class Settlement

is fair, reasonable, and adequate, and this Court should grant preliminary approval.

Factual and Procedural Background

This is a class action on behalf of WSE residential apartment tenants for alleged violations of the Georgia security deposit statute, O.C.G.A. § 44-7-35, as well as claims for breach of contract, fraud, and related claims arising from alleged violations by WSE of various terms of its lease agreements with its tenants. The named Plaintiff and proposed Class Representative is Amanda Anderson, a former tenant of the Windward Place apartment community, which was managed by WSE during Ms. Anderson's tenancy.

Defendant is WSE, which has historically operated as part of The Worthing Companies. WSE's sole business was property management of multi-family housing. However, WSE's business was not profitable in the years leading up to, and including, this lawsuit, resulting in WSE transferring all employees and assigning all management contracts for \$0.0. WSE ended its ongoing business for reasons unrelated to this lawsuit and transferred all contracts in an attempt to continue employment for all WSE employees.

Plaintiff filed this initial complaint in this action on September 17, 2020. In the complaint, she alleged that she signed a 13-month rental agreement with WSE to rent an apartment at 3080 Market Place, Alpharetta, Georgia ("Unit 6304") at Windward Place on or about August 4, 2018. Her monthly rent for the lease was \$1,355.00. As part of her rental agreement, she paid a refundable \$99.00 security deposit.

Plaintiff alleges that, after the lease term was finished, she gave notice that she was vacating her apartment in 30 days and paid an additional \$500 to convert to a month-to-month tenancy under the terms of the contract. She alleges that the lease ended on or about October 4, 2019, at which point she vacated the property. According to the complaint, WSE then failed to take the necessary steps required by Georgia's security deposit statute before retaining her security deposit.

She alleges that an agent of WSE Property Management entered Unit 6304 and conducted an inspection without providing her with prior notice. She alleges that WSE failed to provide her with a comprehensive list of any damages to the premises which is the basis for any charge against the security deposit. She alleges that WSE nonetheless retained her security deposit, rather than returning it 30 days after vacancy. Under the Security Deposit Statute, a landlord can only retain the security deposit if it provides the tenant with a written statement within thirty (30) days after vacancy identifying the exact reasons for doing so and including the comprehensive list of damages prepared as required by Code Section 44-7-33. She alleges that WSE has also sought to collect money from her for alleged damages to the apartment.

Based on these allegations, which WSE dispute, Plaintiff sought to certify a class pursuant to O.C.G.A. § 9-11-23 on behalf of herself and a Class defined as follows: (a) any citizen of Georgia; (b) who had an agreement for the rental of real property where WSE Property Management or any of its subsidiaries or affiliated entities or persons was the owner or managing agent of that property; (c) whose security deposit was not returned within one month of the termination of the lease due to alleged damage to the premises, or whom WSE Property Management has sought to collect money for alleged damages to the apartment; (d) for whom WSE Property Management had either a phone number, email address or mailing address but did not provide, within thirty days of the termination of the lease, a comprehensive list of any damage done to the premises which is the basis for any charge against the security depositor the exact reason for keeping the security deposit; (e) since 20 years prior to the filing of this action; (f) excluded from the class are tenants which WSE Property Management mailed or gave a comprehensive list due to alleged damages to the apartment or the reason for retention of the security deposit within 30 days after the occupancy.

On November 6, 2020, Defendant answered, denying the substantive allegations in the complaint, and filed a counterclaim against Plaintiff. Defendant also filed a motion to dismiss. Defendant's principal argument in its motion to dismiss was that Plaintiff should not be able to obtain class-wide relief going twenty (20) years back as requested, but only six (6) years back under the statute of limitation for breach of contract. The dispositive issue was whether the applicable statute of limitation was created by O.C.G.A. § 9-3-22, which creates a default statute of limitation of twenty years for claims arising under statute where the statute itself does not set a limitations period; or whether it was created by O.C.G.A. § 9-3-24, which provides a six (6) year statute of limitation for claims arising under written contract.

On December 7, 2020, Plaintiff responded to Defendant's motion to dismiss, arguing that the twenty-year statute of limitations should apply. On December 18, 2020, Defendant filed a reply in further support of its motion to dismiss. On January 4, 2021, at the suggestion of the Court, the parties submitted an outline of their arguments for the upcoming scheduled oral argument. On January 7, 2021, the Court heard oral argument on the Defendant's motion. On January 28, 2021, the Court denied Defendant's motion to dismiss. On January 30, 2021, the Court entered a certificate of immediate review.

On February 9, 2021, Defendant filed its application for an interlocutory appeal with the Court of Appeals. On February 10, 2021, the case was docketed with the Georgia Court of Appeals having a case number of A21I0135. On February 16, 2021, the parties filed a consent motion to stay discovery while the application for interlocutory appeal was pending. On February 19, 2021, Plaintiff opposed Defendant's application for an interlocutory appeal. On February 27, 2021, the Court stayed discovery pending a ruling from the Georgia Court of Appeals. On March 5, 2021, the Georgia Court of Appeals denied the application for interlocutory appeal. This sent the case

into discovery.

The parties exchanged written discovery requests. On March 18, 2021, the parties filed a status report with the court, noting that they were having discovery disputes. The primary dispute arose over Defendant not producing full records of all tenancies within the 20-year period preceding the complaint. On April 14, 2021, the Court held a status hearing on the parties' discovery disputes. On April 20, 2021, the Court entered an order stating that Plaintiff was entitled to the discovery it sought, with reasonable limits, and directed the parties to confer and devise a plan to narrow the scope of discovery. From that point forward, each party served significant document production on the other. On August 25, 2021, Defendant's corporate representative was deposed.

On September 20, 2021, Plaintiff filed an amended complaint based in large part on WSE's company representative's testimony. Based on evidence developed in discovery, and the testimony of WSE's corporate representative, Plaintiff amended her complaint to create a total of ten (10) claims, which fell into four broad categories:

- (1) Utility Meter Claims. These claims related to evidence developed in discovery that Ms. Anderson and other members of the putative class were charged for utilities based on estimated usage; whereas their lease stated they would be charged for actual usage based on a sub-metered reading. The Utility Meter Claims encompassed Count I (Breach of Contract), Count II (Negligent Misrepresentation), Count III (Fraud), and Count IV (Money Had and Received).
- (2) Utility Fees Claims. These claims related to evidence developed in discovery that Ms. Anderson and other members of the putative class were charged fees in connection with the provision of utility service, over and above the actual cost of the utilities, including

“admin fees” and “service fees”; whereas their lease stated they would not be charged for any such fees. The Utility Fees Claims encompassed Count V (Breach of Contract) and Count VI (Money Had and Received).

(3) Holdover Rent Claims. These claims related to evidence developed in discovery that WSE incorrectly calculated the rent due from tenants like Ms. Anderson and other members of the putative class who converted to a month-to-month lease by merit of not renewing an annual (or greater) lease. The Holdover Rent claims encompassed Count VII (Breach of Contract).

(4) Security Deposit Claims. These claims related to separate alleged violations of the Security Deposit Statute based on evidence developed in discovery. Count VIII alleged that WSE violated by the Statute by charging excessive amounts for alleged damages to the property. Count IX alleged that WSE failed to provide required notice of the exact reason for retaining any security deposit due to damage to the premises, as required by the Statute. And Count X alleged generally that WSE violated the Security Deposit Statute by failing to return the deposit to Ms. Anderson and those who, like her, were entitled to such return.

On October 19, 2021, the parties filed a joint motion to extend the discovery period. On November 2, 2021, the Court extended the discovery period until April 20, 2022. On February 1, 2022, WSE took Plaintiff's deposition. On April 12, 2022, the parties filed a joint motion to extend the discovery period until October 20, 2022, which the Court granted.

On June 16, 2022, Plaintiff filed a motion to amend the complaint to add an additional party as a defendant under OCGA 9-11-21. On July 18, 2022, Defendant opposed Plaintiff's motion to amend the complaint to add an additional defendant. On August 22, 2022, Plaintiff

filed a reply in further support of her motion to amend the complaint to add an additional defendant.

On September 7, 2022, the parties informed this Court that they had been discussing settlement and requested the Court to suspend its consideration of the motion to amend the complaint to add an additional party.

Throughout the litigation of this matter, counsel have met, had phone calls, and exchanged numerous correspondence regarding the potential for settlement. It is through the course of these exchanges that counsel have ultimately agreed to the Comprehensive Settlement Agreement.

Argument

1. The Court Should Certify the Class For Settlement Purposes.

Generally speaking, Georgia law follows federal law with regard to whether a court should certify a class for settlement purposes. *See, e.g., Sta-Power Indus., Inc. v. Avant*, 134 Ga. App. 952, 953 (1975) (“Since there are only a few definitive holdings in Georgia on this particular section of the Georgia Civil Practice Act, we also look to federal cases to aid us.”).

“Federal courts have long recognized a strong policy and presumption in favor of class action settlements.” *Gevaerts v. TD Bank, N.A.*, No. 11:14-cv-20744-RLR, 2015 WL 6751061, at *4 (S.D. Fla. Nov. 5, 2015). “Settlement agreements are highly favored in the law and will be upheld whenever possible because they are a means of amicably resolving doubts and uncertainties and preventing lawsuits.” *In re Nissan Motor Corp. Antitrust Litig.*, 552 F.2d 1088, 1105 (5th Cir. 1977). “Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems, for the proposal is that there be no trial.” *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997) (cites omitted). However, the Court must find that the other requirements of Rule 23 (a) and (b) are satisfied. *Id.* “Subdivisions (a) and (b) focus court attention on whether a proposed class has sufficient unity so

that absent members can fairly be bound by decisions of class representatives.” *Id.* at 621.

That unity is present here for three reasons.

First, the case law emphasizes that class certification is an appropriate and important remedy in consumer cases, particularly where, as here, if class certification is denied, the costs of an individual lawsuit would exceed the recovery any individual Class member could receive. *See, e.g., Lilly v. Jamba Juice Co.*, No. 13-cv-02998-JST, 2014 WL 4652283, at *4 (N.D. Cal. Sept. 18, 2014) (finding that “where the injury to any individual consumer is small, but the cumulative injury to consumers as a group is substantial, [] the class action mechanism provides one of its most important social benefits”); *Laumann v. NHL*, 105 F. Supp. 3d 384, 407 (S.D.N.Y. 2015) (finding that, in consumer cases, class actions are “an important enforcement device”); *McDowell Valley Vineyards, Inc. v. Sabate USA, Inc.*, No. C-04-078 SC, 2004 WL 1771574, at *5 (N.D. Cal. Aug. 6, 2004) (finding that consumer class actions “serve important roles in the enforcement of consumers’ rights”).

Second, Anderson easily satisfies the four requirements of Rule 23 (a)—numerosity, commonality, typicality and adequacy.

Numerosity—“The numerosity requirement is satisfied if the proposed class is so numerous that joinder of all members is impracticable.” *In re Tri-State Crematory Litig.*, 215 F.R.D. 660, 689 (N.D. Ga. 2003). “[W]hile there is no fixed numerosity rule, generally less than twenty-one is inadequate, more than forty adequate, with numbers between varying according to other factors.” *Cox v. Am. Cast Iron Pipe Co.*, 784 F.2d 1546, 1553 (11th Cir. 1986).

Here, numerosity is easily established, given that Windward Place is one of around 104 apartment complexes that were managed by the WSE Defendants during the last twenty years in Georgia. Over that period of time, WSE has operated or managed around 31,000 individual

apartment units across Georgia.

Commonality—“To satisfy the commonality requirement, Plaintiff must show the presence of questions of law or fact common to the entire class.” *In re Tri-State Crematory Litig.*, 215 F.R.D at 690. “The commonality requirement ‘does not require that all the questions of law and fact raised by the dispute be common or that the common questions of law or fact predominate over individual issues.’” *Delta/AirTran Baggage Fee Antitrust Litig.*, 317 F.R.D. 675, 693 (N.D. Ga. 2016). Indeed, “for purposes of Rule 23(a)(2) even a single common question will do.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 359 (2011). The Eleventh Circuit has described the commonality requirement as a “low hurdle” to overcome. *Williams v. Mohawk Indus., Inc.*, 568 F.3d 1350, 1356 (11th Cir. 2009).

Typicality—Typicality is satisfied when the plaintiff’s claims and the class’s claims “arise from the same event or pattern or practice and are based on the same legal theory.” *Kornberg v. Carnival Cruise Lines, Inc.*, 741 F.2d 1332, 1337 (11th Cir. 1984). The plaintiff’s “interest in prosecuting [her] own case must simultaneously tend to advance the interests of the absent class members.” *Deiter v. Microsoft Corp.*, 436 F.3d 461, 466 (4th Cir. 2006). However, “[t]he interests and claims of Named Plaintiffs and class members need not be identical to satisfy typicality.” *DG v. Devaughn*, 594 F.3d 1188, 1198 (10th Cir. 2010).

Rather, “[w]hen the class representative’s claim and the claims of the other ‘class members are based on the same legal or remedial theory, differing fact situations of the class members do not defeat typicality’.” *In re Quick Cash, Inc.*, 541 B.R. 526, 534 (Bankr. D.N.M. 2015) (quoting *DG*, 594 F.3d at 1198).

Here, commonality and typicality will also easily be established, given that, with respect to each proposed Class, there are central, common, and simple factual issues:

- (1) With respect to the Utility Meter Claims, did the tenant have a lease that stated they would be charged for actual usage, and were they in fact charged for estimated usage;
- (2) With respect to the Utility Fees Claims, did the tenant have a lease that stated they would not be charged fees associated with the collection of utilities, and were they in fact charged fees;
- (3) With respect to the Holdover Rent Claims, did the tenant have a lease that stated they would be charged market-rent-plus-\$500 each month if their lease converted to month to month; is the Plaintiff correct that such term meant they should be charged their previous monthly rent rate-plus \$500; yet was the Plaintiff charged some higher amount; and
- (4) With respect to the Security Deposits Claims, did WSE provide the required notices of alleged damages before retaining the security deposit.¹

WSE denies that it violated Ms. Anderson's or any class members' legal rights with respect to each claim. But whoever is correct, the answer will be the same for each member of each class who meets the criteria set forth in the settlement agreement.

Adequacy—Adequacy is established when “class members share common objections and the same factual and legal positions and have the same interest in establishing the liability of defendants.” *In re Delta/AirTran*, 317 F.R.D. at 680.

¹ In the Amended Complaint, Plaintiff proposed two additional classes for security deposit related claims: (1) individuals who were charged for damages that did not actually occur; and (2) individuals who were charged in excess of the actual cost to repair damages. In the course of negotiations, the parties have determined that they will not seek certification of these classes due to potential commonality issues. The general release will nonetheless cover these claims. However, the general release specifically provides that, in the event WSE or a released entity takes legal action against an individual for alleged damages, the release shall not preclude members of the Class from asserting any affirmative defense, including that WSE or the released entity violated the security deposit statute.

Adequacy is also established here. Anderson has the same material interests as the rest of the Class. Anderson and the Class all share the same factual and legal positions given that Anderson and the Class are all asserting the same claims. Meanwhile, Class Counsel has substantial experience litigating class actions. *See* Aff. of James Radford, attached as Exhibit 5 to this motion; Aff. of S. Wexler, attached as Exhibit 6 to this motion.

Third, Anderson satisfies the two additional requirements of Rule 23 (b)(3)—predominance and superiority. With respect to the Security Deposit Claim, the class is based on a statutory cause of action, which means that every class member’s claim depends on the same uniform language from the statute, not from any individual lease or contract. In fact, Georgia statutory law prohibits any contractual diminishment of the rights under the security deposit statute, so there is no need to review any individual lease or contract. *See, e.g.*, O.C.G.A. § 44-7-2 (b) (“In any contract, lease, license agreement, or similar agreement, oral or written, for the use or rental of real property as a dwelling place, a landlord or tenant may not waive, assign, transfer, or otherwise avoid any of the rights, duties, or remedies contained in the following provisions of law: ... Article 2 of this chapter, relating to security deposits[.]”). On top of prohibiting any contractual diminishment, the security deposit statute also affirmatively and expressly bars claims against tenants for damages to the premises if the tenant is not provided with the list of damages within the prescribed time periods. *See* O.C.G.A. § 44-7-35 (b).

As a result, for the Security Deposit Claim, there is a strong case for predominance and superiority because there will be no individual leases to consider and no need to evaluate the individual damage allegedly done to the premises. In fact, even in a case where the tenant caused catastrophic fire damage, the Court of Appeals held that the security deposit statute still barred a claim for damages. *See, e.g., State Farm Fire & Cas. Co. v. Bajalia*, 216 Ga. App. 707, 708 (1995)

(“Although State Farm argues there should be an exception ... for catastrophic damages not anticipated under the lease, it has provided no authority to support this interpretation and this court will not find such an exception where the legislature has clearly not provided one.”).

With respect to the Utility Meter, Utility Fees, and Holdover Rent Claims, each is based on a standard, common lease term, and the question of whether that term exists, and whether WSE charged the authorized amount, is a simple “yes” or “no” question; therefore, common issues substantially predominate.

Further, because the average class member’s damages are a few hundred dollars at most, this case presents a “negative value suit”; *i.e.*, a case where an individual suit will cost a Class member more than they could recover. One of the “most compelling rationale[s] for finding superiority in a class action” is “the existence of a negative value suit.” *Castano v. Am. Tobacco Co.*, 84 F.3d 734, 748 (5th Cir. 1996). That is because where, as here, the costs of litigating exceed the potential recovery, there is no alternative to class actions for fairly and efficiently adjudicating the controversy. Further, even if the cost of individual lawsuits did not exceed the potential recovery, proceeding on an individual basis would result in duplicative, unnecessary work for the parties and the Court.

2. The Court Should Preliminarily Approve the Class Settlement.

Approval of a class action settlement occurs in two steps.

First, the district court conducts a preliminary evaluation of the fairness and adequacy of the settlement to determine whether there is good reason to schedule a full fairness hearing and notify the settlement class. *See* Manual for Complex Litigation (Fourth) § 21.632; *In re Skinner Group, Inc.*, 206 B.R. 252, 261-62 (Bankr. N.D. Ga. 1997); *McNamara v. Bre-X Minerals Ltd.*, 214 F.R.D. 424, 426 (E.D. Tex. 2002); *In re Prudential Ins. Co. of Am. Sales Practices Litig.*, 962

F. Supp. 450, 562 (D.N.J. 1997), *aff'd*, 148 F.3d 283 (3d Cir. 1998). This is generally “made on the basis of information already known, supplemented as necessary by briefs, motions, or informal presentations by parties.” Manual for Complex Litigation (Fourth) § 21.632.

“The purpose of this cursory examination is to detect defects in the settlement that would risk making ‘notice to the class, with its attendant expenses, and a hearing ... futile gestures.’” *In re Electronic Data Sys. Corp. “ERISA” Litig.*, No. 6:03-MD-1512, 2005 WL 1875545, at *4 (E.D. Tex. June 30, 2005) (quoting Newberg on Class Actions § 11:25 (4th ed. 2002)). “A preliminary fairness assessment ‘is not to be turned into a trial or rehearsal for trial on the merits,’ for ‘it is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements.’ Rather, the Court’s duty is to conduct a threshold examination of the overall fairness and adequacy of the settlement in light of the likely outcome and the cost of continued litigation.” *In re Inter-Op Hip Prosthesis Liability Litig.*, 204 F.R.D. 330, 350 (N.D. Ohio 2001) (cites omitted). If the settlement appears to be fair and adequate upon a preliminary examination, then the district court directs the plaintiff to send notice of the proposed settlement to the class.

Second, after receiving any comments and objections from the class members, the court conducts a final fairness hearing on settlement approval. Manual for Complex Litigation, Fourth, § 21.632; *In re Skinner*, 206 B.R. at 261-62; *McNamara*, 214 F.R.D. at 426; *In re Prudential Ins.*, 962 F. Supp. at 562. At this final hearing, the district court evaluates the settlement in light of “(1) the existence of fraud or collusion [among the parties in reaching] the settlement; (2) the complexity, expense, and likely duration of the litigation; (3) the stage of the proceedings [at which the settlement was achieved] and the amount of discovery completed; (4) the probability of the plaintiffs' success on the merits; (5) the range of possible recovery; and (6) the opinions of the

class counsel, class representatives, and the substance and amount of opposition to the settlement.” *Leverso v. SouthTrust Bank of Ala., N.A.*, 18 F.3d 1527, 1531 n.6 (11th Cir. 1994).

The district court evaluates these six factors in light of “the strong judicial policy favoring settlement as well as by the realization that compromise is the essence of settlement.” *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984). “Particularly in class action suits, there is an overriding public interest in favor of settlement.” *Cotton v. Hinton*, 559 F.2d 1326, 1331 (5th Cir. 1977). “[A]ccordingly class-action settlements will be disapproved only upon ‘considerable circumspection.’” *Mashburn v. Nat’l Healthcare, Inc.*, 684 F. Supp. 660, 667 (M.D. Ala. 1988) (quoting *Jamison v. Butcher & Sherrerd*, 68 F.R.D. 479, 481 (E.D. Pa. 1975)).

This means that, “in evaluating the terms of the compromise in relation to the likely benefits of a successful trial, the trial judge ought not try the case in the settlement hearings. It cannot be overemphasized that neither the trial court in approving the settlement nor this Court in reviewing that approval have the right or the duty to reach any ultimate conclusions on the issues of fact and law which underlie the merits of the dispute.” *Cotton*, 559 F.2d at 1330.

“Neither should it be forgotten that compromise is the essence of a settlement. The trial court should not make a proponent of a proposed settlement ‘justify each term of settlement against a hypothetical or speculative measure of what concessions might have been gained; inherent in compromise is a yielding of absolutes and an abandoning of highest hopes.’” *Id.* (quoting *Milstein v. Werner*, 57 F.R.D. 515, 524-25 (S.D.N.Y.1972)). “In performing this balancing task, the trial court is entitled to rely upon the judgment of experienced counsel for the parties. Indeed, the trial judge, absent fraud, collusion, or the like, should be hesitant to substitute its own judgment for that of counsel.” *Cotton*, 559 F.2d at 1330 (cite omitted).

Here, this settlement is at the first stage—preliminary approval—in which the Court

conducts a preliminary examination to determine whether the settlement appears to be fair, reasonable and adequate and that there is good reason to give notice to the Class. Looking towards the factors for final approval identified in *Cotton and Bennett*, the Court should grant preliminary approval of the Class Settlement and order that notice to the Class be given.

(1) Fraud Or Collusion In Reaching The Settlement

“Where the parties have negotiated at arm’s length, the Court should find that the settlement is not the product of collusion.” *Saccoccio v. JPMorgan Chase Bank, N.A.*, 297 F.R.D. 683, 692 (S.D. Fla. 2014). Here, the Settlement was the result of extensive negotiations and ongoing litigation among experienced counsel. There is no indication of collusion, nor does any party have an incentive to collude.

(2) Complexity, Expense, And Duration Of Litigation

In the event that this action was not settled, Anderson and the Class faced the prospect of a long and potentially expensive litigation. For one, given that this case is still in the middle of class discovery, if there is no settlement, the action would likely continue for another two to four years before a final, non-appealable judgment was reached. The early settlement accomplished in this matter provides the Class with the opportunity to avoid that delay, and to obtain a recovery now. Further, this matter would have likely included a meaningful amount of additional expense. Indeed, if this matter continued through class certification, trial and appeal, it is likely that Class Counsel would incur over a million dollars in attorneys’ fees and over a quarter of a million dollars in expenses (for experts, depositions and ESI).

In addition, while Anderson believes that she is correct that the 20-year statute of limitation applies to the Security Deposits Claims, it is admittedly a question of first impression that has never been directly decided by the Georgia Court of Appeals or the Georgia Supreme Court. While

Anderson believes that her and the Class's legal position is the correct one, there is nonetheless substantial risk to Anderson and the Class in continuing to litigate this issue.

(3) The Stage Of The Proceedings At Which The Settlement Was Achieved

As stated above, the Settlement has been achieved at a relatively early stage in the litigation; *i.e.*, while Anderson's motion to amend the complaint to add an additional party remains pending and before any class certification motion was required to be filed.

This fact militates in favor of approving the Settlement for at least two reasons. First, by settling early in the litigation, the Class avoids the risk of losing the motion to amend, the motion for class certification, any interlocutory appeal from such class certification orders, and any jury trial. Second, an early settlement allows Class members to obtain recovery several years sooner than they would if this case proceeded through trial and appeal.

With respect to the amount of discovery completed, Anderson and Class Counsel were able to make an informed decision regarding the settlement amount. Indeed, before mediation, WSE provided to Class Counsel extensive documentation regarding its tenancy and their lease agreements.

(4) The Probability Of Success On The Merits

Although Anderson believes strongly in her claims, given the early stage of this litigation, Anderson and the Class face numerous hurdles before obtaining a final judgment. Among other things, Anderson and the Class would have to prevail on a motion for class certification, likely take or defend against an interlocutory appeal on class certification, defeat summary judgment, succeed at trial, and then take or defend a second and final appeal on the final judgment. And as set forth above, because the Georgia Court of Appeals and Georgia Supreme Court have never ruled on the statute of limitation question, there are substantial risks to both sides which factor

heavily in favor of settlement.

(5) The Range Of Possible Recovery

This case presents a unique situation where there may be little to funds left available to claimants if the settlement is not approved. As stated above, WSE has wound down its business and is not likely to earn revenue going forward. Moreover, WSE's applicable insurance was in the form of a professional liability errors and omissions policy with Hiscox USA. In addition to reserving its rights to deny the claims asserted in this suit, the Hiscox policy was an eroding insurance policy with costs of defense included within the insurance policy limits. Thus, all costs and expenses associated with the defense of WSE dollar for dollar reduced the insurance available to the class if the claims asserted in this lawsuit were successful. If the case proceeded through discovery and motions practice, the amount of insurance available to pay the class claims may be minimal, if any money is available at all.

The Class Settlement offers possible recovery for *twenty years* of potential claims. By itself, this factor weighs in favor of approving the settlement. Although Anderson believes strongly that a twenty-year statute of limitations applies, WSE is likely to challenge whether a six-year statute of limitation period would apply instead. As a result, the Class Settlement is favorable to the Class in providing for the broader statutory period.

Meanwhile, any individual class member can receive up to their total security deposit in terms of potential recovery. In other words, if an individual class member had a \$200 security deposit fully withheld, the individual class member may receive the entire \$200 through this Class Settlement; if the individual class members was charged \$100 in utility fees, they would receive that full amount.

And though the individual class member loses the ability to receive treble damages

otherwise offered by the Security Deposit Statute, or punitive damages, compromise is necessary for settlement, and importantly, the class member receives the benefit of finality and resolution of counter-claims held by WSE for alleged apartment damage against the class member, which could otherwise result in the class member owing money to WSE.

(6) The Opinions of Class Counsel, the Class Representatives, and The Substance and Amount of Opposition

As stated above, Class Counsel has extensive experience litigating class actions on both the plaintiff and defense sides. Class Counsel would not have agreed to the settlement, and would not request approval from this Court, if they did not believe that this settlement was fair, reasonable and adequate.

3. The Court Should Approve The Proposed Schedule For Final Settlement Approval, Class Notice Forms, The Administrator, And The Claim Forms.

A proposed order is attached as Exhibit 7, and a proposed order is also being separately filed on the Court's docket. The proposed order sets forth the following schedule, which is also contained in the Comprehensive Settlement Agreement between the parties:

- within 15 calendar days of the Court's preliminary approval order, WSE shall provide the Class Action Administrator with the information needed to administer the Class (to the extent known), including but not limited to, names of Class members, last known addresses of known Class members, last known email addresses of known Class members, and any other information the Class Action Administrator deems necessary for administration;
- within 60 calendar days of the Court's preliminary approval order, the Class Action Administrator shall provide notice to Class members using a methodology that will ensure notice is received by as many Class members as practicable, as set forth below, and such notice shall include a copy of the Claim Form or access to same;
- within 90 calendar days of the Court's preliminary approval order, Anderson and Class Counsel shall file motions for Class Representative Service Award and Class Counsel fees and expenses;

- within 150 calendar days of the Court's preliminary approval order (and such date shall constitute the Deadline for Class Claims, Opt-Outs, and Objections), Class Members must submit any claims, requests to opt out of the Class, or objections;
- no earlier than 30 calendar days from the Deadline for Class Claims, Opt-Outs, and Objections, the Court shall hold a final approval hearing.

The parties agree that Kurtzman Carson Consultants ("KCC") shall serve as the Class Action Administrator and perform the duties, tasks, and responsibilities associated with providing Class Notice and administering the settlement, and the Court is asked to appoint KCC as Class Action Administrator.

The parties also agree to the forms of notice, short form and long form, and the claims form, all of which are attached as exhibits to this motion. *See* Short Form Notice, attached to this motion as Exhibit 2; Long Form Notice, attached to this motion as Exhibit 3; Claim Form, attached to this motion as Exhibit 4. These documents do not contain specific dates, but rather have placeholders that indicate how many days the deadline runs from the entry of the Court's preliminary approval order. Once the Court issues its preliminary approval order, those dates will be filled in with date-certain deadlines.

Conclusion

For those reasons, this Court should grant Anderson's motion for preliminary approval of the class and class notice. Signature and certificate of service pages follow.

Anderson submits this motion on 28th day of February, 2023.

/s/ Shimshon Wexler

Ga. Bar No. 436163

S Wexler, LLC

2244 Henderson Mill Rd, Ste. 108

Atlanta, Georgia 30345

Tel: 212-760-2400

swexleresq@gmail.com

Attorney for Plaintiff

/s/ James Radford

Ga. Bar No. 108007

RADFORD & KEEBAUGH, LLC

315 W. Ponce de Leon Ave., Suite 1080

Decatur, Georgia 30030

Tel: 678-271-0302

james@decaturlegal.com

Attorney for Plaintiff

Certificate of Service

I certify that, on **March 3, 2023** I served a copy of **Plaintiff Anderson's Unopposed Motion For Preliminary Approval Of Class Settlement And Class Notice** by statutory electronic service on all counsel of record for WSE.

/s/ James Radford
Ga. Bar No. 108007
RADFORD & KEEBAUGH, LLC
315 W. Ponce de Leon Ave., Suite 1080
Decatur, Georgia 30030
Tel: 678-271-0302
james@decaturlegal.com

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EXHIBIT 1 to
MOTION FOR PRELIMINARY APPROVAL

—

Comprehensive Settlement Agreement (with exhibits)

Anderson v. WSE Property Management, LLC

State Court of Fulton County
State of Georgia
Civil Action File No. 20EV005363

Comprehensive Settlement Agreement

February 28, 2023

1. **Background.**

Plaintiff Amanda Anderson (“Anderson”), individually and on behalf of the Class, and Defendant WSE Property Management, LLC (“WSE”) enter into this Comprehensive Settlement Agreement.

Anderson and WSE hereby agree to the following terms in full settlement of the action styled *Anderson v. WSE Property Management, LLC*, Civil Action File No. 20EV005363 (the “Action”), pending before the State Court of Fulton County, State of Georgia, subject to approval by the Court.

2. **The Class.**

For settlement purposes, the Classes shall be defined as follows:

- (a) Any person;
- (b) Who had an agreement for the rental of real property with WSE, or any of its subsidiaries or affiliated entities or persons, including but not limited to Windward Place Apartments;
- (c) And who either:
 - (i) had all or some of their security deposit not returned due, at least in part, to alleged damage to the premises or otherwise were charged for said alleged damages;
 - (ii) had all or some of their security deposit retained during the time period beginning on September 17, 2000 and continuing through the date of the Final Approval Hearing; and
 - (iii) did not receive a list of alleged damage to the premises within thirty (30) business days of termination of the occupancy (the “***Security Deposit Class***”);
- (d) or:
 - (i) had a lease that contained a provision that the tenant would only be charged for their actual sub-metered utility usage; yet
 - (ii) were charged an amount for utilities based on an estimate that was greater than their utility usage during the time period beginning on September 17, 2014 and continuing through the date of the Final Approval Hearing (the “***Utility Meter Class***”);
- (e) or:

were charged fees, including “administrative fees” associated with the collection of utility payments that were greater than the amount their contracts said they would be charged, during the time period beginning on September 17, 2014, and continuing through the date of the Final Approval Hearing (the “*Utility Fees Class*”);

(f) or:

- (i) had a lease with a “Special Provision” which provides that if the lease goes month to month they will be charged a \$200 surcharge in addition to market rent; and
- (ii) their lease did in fact go to month-to-month (as opposed to entering into a new lease agreement); but
- (iii) nevertheless were charged more than \$200 above their previous monthly rent, during the time period beginning on September 17, 2014 and continuing through the date of the Final Approval Hearing (the “*Holdover Rent Class*”).

If the settlement is not fully and finally approved for any reason, no party shall be bound by this class definition. Further, no party shall use the fact that this class definition was proposed as a settlement class as evidence in support of any argument or position in any motion, briefing, hearing, appeal, or otherwise.

3. **Notice And Settlement Administration**

The parties agree that Kurtzman Carson Consultants (“KCC”) shall serve as the Class Action Administrator and perform the duties, tasks, and responsibilities associated with providing Class Notice and administering the settlement.

All fees, costs, and expenses associated with Class Notice and settlement administration (including but not limited to all fees, costs, and expenses of the Class Action Administrator, mailing Class Notice, and publishing Class Notice) shall be paid from the common fund.

4. **Monetary Consideration.**

(a) **Claims-Made Payment to the Class.**

A claims-made process will be set up and run by the Class Action Administrator (described in Section 3 above). If an individual is a member of the Class, as defined in Section 2 above, and the Class member submits a claim that is ultimately approved by the Class Action Administrator, following the process set forth below, the Class member will receive one of the following, as applicable:

- (i) *For the Security Deposit Class, payment of that portion of their security deposit that was withheld for alleged damage to the premises.*

- (ii) *For the Utility Meter Class, \$10;*
- (iii) *For the Utility Fees Class, a refund of all fees charged to them for collection of utilities beyond the amount that was disclosed and agreed to in the lease; and/or*
- (iv) *For the Holdover Rent Class, payment of the difference between their-previous-monthly-rent-plus-\$200 and the monthly rent they were actually charged.*

All claims must be made within 150 calendar days of the Court's preliminary approval order as set forth below.

The aggregate amount of money to be made available to the Class – including the total amount all Class members could receive through the claims-made process, attorney fees, costs, and expenses, and Class Representative Service Award for which WSE shall be responsible to pay – is capped at **\$800,000** (eight-hundred thousand dollars) (the “Class Capped Amount” or the “common fund”).

If the total amount of approved claims, when aggregated with attorney fees, costs, and expenses, and Class Representative Service Award, exceeds the Class Capped Amount, the approved claims submitted by class members shall be reduced on a *pro rata* basis, such that the total aggregate amount of approved claims, attorney fees, costs and expenses, and Class Representative Service Award does not exceed the Class Capped Amount.

WSE will not be required to provide the monetary consideration to satisfy the claims-process upfront. Instead, WSE will be required to provide the consideration within thirty business days of the Class Action Administrator's final determination of the claims-made process.

If the Class Action Administrator determines that the total claims made by Class members is below the Class Capped Amount, WSE will not be required to pay the Class Capped Amount; they will pay only the approved claims made, attorney fees, costs, and expenses, and Class Representative Service Award subject to the Class Capped Amount.

If any class member opts out pursuant to provision 6(e) below, WSE shall be entitled to retain funds from the Class Capped Amount to defend against said opt-out suits. \$5,000 shall be calculated for each opt-out so that WSE may defend against each opt-out suit. If the total amount of claims, fees, costs and expense, plus the amounts calculated for opt-outs meets or exceeds the Class Capped Amount, \$5,000 shall be deducted from the Class Capped Amount for each opt-out. After these amounts are deducted, the approved claims shall be reduced on a *pro rata* basis, such that the total aggregate amount of approved claims, fees, costs, and expenses do not exceed the Class Capped Amount, as reduced by the set aside amounts. If the total amount of claims, fees, costs and expense, plus the amounts calculated for opt-outs does not meet or exceed the Class Capped Amount, no amount of money will be removed from the Class Capped Amount for opt-outs.

A Class member's settlement check will be mailed to Class members, who do not timely and properly opt out, at the Class member's last known address, or the address provided by the Class member for an approved claim, within ten business days of the Class Administrator's receipt of payment of the monetary consideration by WSE.

If a Class member's settlement check is not deposited or cashed within 180 days of the check being mailed, the settlement check will become null and void and the Class member will have no right to receive any additional payment.

Any Class member settlement paid to a deceased Class member shall be made payable to the estate of the deceased Class member, provided that the Class member's estate informs the Class Administrator, prior to the date that settlement payments are mailed, of the Class member's death.

Any settlement checks returned by the Postal Service (or private delivery service) as undeliverable shall invalidate the claim of such Settlement Class Member.

WSE and their counsel have no responsibility or liability for any federal, state, or other taxes owed by Class members as a result of, or that arise from, any Class member's settlement or any other term or condition of this Comprehensive Settlement Agreement.

The Class Action Administrator shall prepare, send, file, and furnish all tax information reporting forms required for payments made by the Settlement Fund as required by the Internal Revenue Service pursuant to the Internal Revenue Code and related Treasury Regulations. WSE agrees to cooperate with the Class Action Administrator to the extent reasonably necessary to carry out any tax reporting.

In the event that WSE, any Class member, or any person claiming to be a Class Member raises a dispute as to an individual's membership in the Class or the calculation of the Class member's settlement, counsel shall meet and confer as to how to resolve the dispute. If they are unable to resolve the dispute, it will be resolved by the Class Action Administrator. The Class Action Administrator's decisions on such disputes shall be final, binding, and non-appealable.

The Class Action Administrator shall provide WSE and Class Counsel with a reconciliation and accounting of the Settlement Fund at each of the following times: (a) no later than ten business days after the Class Member settlements are mailed; and (b) no later than ten business days after the expiration of the 180-day period for depositing or cashing a Class member's settlement check.

(b) **Payment for Class Representative Service Award.**

Anderson, through her counsel, shall be entitled to apply to the Court for a Class Representative Service Award of **\$15,000** (fifteen thousand dollars) for her service as Class Representative. WSE shall not oppose or appeal such application for a Class Representative Service Award up to the amount set forth above.

If, and in whatever amount, the Court approves such application, and Anderson does not appeal or otherwise object to such order, then within ten business days of such approval by the

Court, WSE will provide the Class Action Administrator with the monetary consideration to pay for such Class Representative Service Award. Within ten business days of receipt of such payment from WSE, the Class Action Administrator will provide Anderson, through her counsel, with a check for her Class Representative Service Award.

(c) **Payment for Class Counsel Attorney Fees And Expenses.**

James Radford of Radford & Keebaugh, LLC; and Shimshon Wexler of The Law Offices of Shimshon Wexler, P.C. shall be entitled to apply to the Court to serve as Class Counsel. WSE shall not oppose or appeal such application.

Class Counsel shall be entitled to apply to the Court for payment of fees and expenses in the amount of **\$360,000** (three-hundred and sixty thousand dollars) from the common fund. Attorneys' fees are paid by the Class from the common fund and not WSE. WSE shall not oppose or appeal such application for payment of fees and expenses up to the amount set forth above.

If, and in whatever amount, the Court approves such application, and Class Counsel does not appeal or otherwise object to such order, then within ten business days of such approval by the Court, WSE will provide the Class Action Administrator with the monetary consideration to pay for such Class Counsel fees and expenses. Within ten business days of receipt of such payment from WSE, the Class Action Administrator will distribute the Class Counsel fees and expenses to Class Counsel pursuant to their fee-sharing agreement among Class Counsel.

Anderson and WSE agree and intend to demarcate clearly between the settlement proceeds in which Class members have an interest and which may subject them to tax liability and the Class Representative Service Award and Class Counsel's fees and expenses for which Class members should not have any obligation to pay taxes. Accordingly, the amount paid separately as the Class Representative Service Award and Class Counsel's fees and expenses are independent and apart from the amounts paid to Class members, and Class members do not have an interest in such awards.

WSE and any of their subsidiaries or affiliated entities or agents shall bear their own attorney fees, expenses, and other costs associated with this litigation and settlement.

5. **Additional Consideration**

WSE shall not pursue any claims for debt related to security deposits against any Class Members.

6. **Settlement Procedures.**

(a) **Preliminary Approval Motion.**

Anderson's counsel will prepare and submit for the Court's consideration a Motion for Preliminary Approval of the Class Settlement and a proposed order preliminarily approving the Class Settlement as fair, reasonable, and adequate. Anderson's Counsel shall draft the Motion for

Preliminary Approval and proposed order, and work with WSE' Counsel in good faith effort to agree on the Motion and proposed order. In the event that no agreement is able to be reached, despite good faith effort, Anderson's counsel shall submit a Motion and proposed order, and WSE have the right to submit a Response (though still in support of approval) and a proposed order.

Anderson and WSE agree to a Short-Form Notice, attached as Exhibit A to this Agreement, a Long-Form Notice, attached as Exhibit B to this Agreement, and a Claim Form, attached as Exhibit C to this Agreement. The Short-Form Notice, Long-Form Notice, and Claim Form will be submitted to the Court along with the Preliminary Approval Motion, and ultimately, the Notices and Form given must be approved by the Court.

(b) **Schedule.**

Anderson and WSE agree to the following schedule:

- within 15 calendar days of the Court's preliminary approval order, WSE shall provide the Class Action Administrator with the information needed to administer the Class, including but not limited to, names of Class members (to the extent known), last known addresses of known Class members, last known email addresses of known Class members, and any other information the Class Action Administrator deems necessary for administration;
- within 60 calendar days of the Court's preliminary approval order, the Class Action Administrator shall provide notice to Class members using a methodology reasonably calculated to reach as many Class members as possible based on obtainable information, as set forth below, and such notice shall include a copy of the Claim Form or information regarding how to file a claim online;
- within 90 calendar days of the Court's preliminary approval order, Anderson and Class Counsel shall file motions for Class Representative Service Award and Class Counsel fees and expenses;
- within 150 calendar days of the Court's preliminary approval order (and such date shall constitute the Deadline for Class Claims, Opt-Outs, and Objections), Class Members must submit any claims, requests to opt out of the Class, or objections;
- no earlier than 30 calendar days from the Deadline for Class Claims, Opt-Outs, and Objections, the Court shall hold a final approval hearing.

(c) **Class Notice.**

Anderson and WSE agree that the Class Action Administrator shall provide class notice by mail, email, and publication.

For mail notice, the Class Action Administrator shall take the last known physical addresses provided by WSE for those known Class members and attempt to update those addresses

through the National Change of Address system or similar databases. With respect to any mail notices that are returned undelivered, the Class Action Administrator shall attempt one trace and, if the trace establishes another address, shall attempt one additional notice by mail to that address.

For publication notice, the Class Action Administrator shall place notice via advertisement once each in the Atlanta Journal Constitution, the Savannah Morning News, the Augusta Chronicle, and the Columbus Ledger-Enquirer. The Class Action Administrator shall also run internet banner ads targeting desktop and mobile devices over a 30-day campaign duration.

The Class Action Administrator shall also maintain a Settlement Website containing the latest Complaint, Notice, Order Granting Preliminary Approval, Applications for Class Representative Service Award, and Class Counsel's attorney fees and expenses, and order granting final approval. The website shall be maintained until 180 days after the last settlement check is mailed or 90 days after the Court's final approval order, whichever is later.

(d) **Claim.**

The Class Action Administrator shall, in good faith, determine whether claims submitted by Class members substantially comply with the Claim Form and provide a reasonable basis for determining that the person is a Class member. Non-material or minor deviations shall not preclude a Class member from receiving a settlement check.

The Class Action Administrator shall, in summary form, reasonably and weekly update Anderson and WSE regarding the number of claims made, the number of claims accepted, the number of claims rejected, and any other information needed for the parties to determine the effectiveness of the claims-made process. Upon request, Anderson and/or WSE may request to view the individual claims submitted and may challenge the validity of any such claims within 14 days of the receipt of them. If necessary, the Class Action Administrator will consult with Anderson's and WSE's counsel to answer any questions or resolve any disputes that arise regarding the validity of Claims Forms.

(e) **Opting Out.**

If a Class member wishes to be excluded from the Class and this Settlement, the Class Member is required to submit to the Class Action Administrator, as provided in the Notice, a signed, written, and dated statement that the person opts out of the Class and understands that they will receive no money from the Settlement.

To be effective, the opt-out statement (i) must be timely received by the Class Action administrator, (ii) must include the Class member's name and last four digits of their social security number, and (iii) must be personally signed and dated by the Class member (or by someone with authority to do so on behalf of the Class member).

The Class Action Administrator will provide, within five business days of any opt-out statement, the statement to Anderson and WSE. At least ten business days before the final approval hearing, the Class Action Administrator will file all opt-out statements with the Court.

(f) **Objections.**

Any Class member who has not submitted a timely and proper opt-out statement and who wishes to object to the fairness, reasonableness, or adequacy of the Settlement must both timely file a written objection with the Court and send a copy of that written objection by mail to Anderson's counsel and WSE's counsel at the address provided in the Notice.

To be valid and considered by the Court, an objection must (i) be received by the Court on or before the Objection deadline; (ii) state each objection the Class Member raises and the specific factual and legal bases for each objection; (iii) include proof that the individual is a Class member; (iv) identify, with specificity, each instance in which the Class member or their counsel has objected to a class action settlement in the past ten years; and (v) be personally signed by the Class member. All evidence and legal argument a Class member wishes to use to support an objection must be timely filed with the Court and sent to Anderson's counsel and WSE's counsel. An objection will not be considered unless the requirements of this Section are met.

Anderson and WSE may file responses to any objections that are submitted. Any Class member who timely and properly files and serves an objection may appear at the final approval hearing, but only if the Class member files a notice of intention to appear with the Court least 14 days before the final approval hearing. Failure to adhere to the requirements of this Section will bar a Class member from having the right to be heard at the final approval hearing.

(g) **Release.**

The "Effective Date" of this settlement shall be the first date on which all the following statements are true:

- (a) All parties have executed this Comprehensive Settlement Agreement;
- (b) No party has terminated this Comprehensive Settlement Agreement;
- (c) The Court has preliminarily approved the Comprehensive Settlement Agreement and proposed settlement;
- (d) The Court has entered a final judgment approving the Comprehensive Settlement Agreement and the proposed settlement without material alteration, and dismissing the Action with prejudice;
- (e) One of the following has occurred: (i) The time to appeal from the Final Judgment has expired without the filing of any appeal of any terms of or any Court rulings pertaining to terms of the proposed settlement, the Comprehensive Settlement Agreement, or the request for attorney's fees, or (ii) any such appeal has been dismissed or grounds for such appeal overruled by final appellate ruling, and the passage of time and/or decision of an appellate court has made further appellate review unavailable.

On the Effective Date, Anderson and the Class members, including their heirs, trustees, executors, administrators, principals, beneficiaries, assigns, and successors, and WSE will be bound by the Final Judgment and conclusively deemed to have fully released, acquitted, and forever discharged any and all known or unknown claims, causes of action, or suits of whatever kind or nature arising from the acts which have been alleged or which could have been alleged in the Action by any Class member, whether at law, in equity, or under any statute or regulation arising from or in any way related to the claims asserted in the Action (the “Released Claims”) against WSE and all of their past and present officers, directors, agents, attorneys, employees, stockholders, divisions, parent companies, holding companies, affiliated companies, and subsidiaries, and all of their successors, assigns, and legal representatives of any of the entities and/or persons listed in these paragraphs, and insurers, property owners, and any individual or entity in privity with WSE or the property owners in connection with any of the claims alleged or that could have been alleged arising out of the underlying factual allegations in the operative complaint (the “Released Parties”). The Released Claims do not include any claim for enforcement of the Comprehensive Settlement Agreement or the Final Judgment.

This release shall not affect the right of any person who is sued by a Released Party to raise an affirmative defense. For example, although this Agreement releases property owners from future claims for damages for violating Georgia’s security deposit statute, this Agreement would not preclude a tenant, as a defense to an action to collect for damages to a property, to assert as a defense that the property owner violated the security deposit statute.

Upon the entry of the Final Judgment described above, the case will be dismissed with prejudice as to WSE, and Anderson, individually and on behalf of the Class, will release all Released Parties from any and all Released Claims.

The release language as written above is a material term of this Agreement.

7. **No Admission Of Liability.**

Nothing in the fact of or the terms of the settlement shall constitute or be used as an admission of any act or omission or wrongdoing by any party in this action, nor constitute or be used as evidence against any party in this action as an admission, concession, presumption, or inference in any way, in any matter or otherwise. Any and all communications and documents made pursuant to the settlement or mediation are and will remain confidential subject to Rule 408 of the Georgia evidence code or other applicable law. However, and of course, this Comprehensive Settlement Agreement may be used to enforce the Comprehensive Settlement Agreement itself or to enforce any orders of the Court pursuant to this Comprehensive Settlement Agreement.

8. **Representation And Warranty.**

WSE represent and warrant that the spreadsheets containing data provided to Class Counsel and any additional spreadsheets or similar tenant data provided to Class Counsel was, to the best of their knowledge, complete and accurate and included relevant data that they reasonably had

access to and could provide. From that data, the parties made reasonable, good-faith extrapolations of the Class's claims and damages.¹

WSE are providing and affirming this Representation and Warranty, which is attached as Exhibit D to this Comprehensive Settlement Agreement.

9. **Entire Agreement.**

The terms set forth in this Comprehensive Settlement Agreement constitute the complete statement of the agreement between the parties relating to the subject matter of this agreement, superseding all previous negotiations and understandings and may not be contradicted by evidence of any prior or contemporaneous agreement.

Each party and their counsel agree, represent, and warrant that no representations, warranties, consideration, or inducements have been made to any party or their counsel concerning this agreement other than the terms contained and covered in this Comprehensive Settlement Agreement and the Class Settlement Term Sheet and that they have not executed this agreement in reliance on any promise, statement, representation, or warranty, written or oral, not expressly contained in this Comprehensive Settlement Agreement or the Class Settlement Term Sheet.

Faye J. Wall

On Behalf of WSE

Amanda A. Anderson

Amanda Anderson

4860-3309-1647, v. 1

¹ If this settlement agreement terminates for any reason, all data provided pursuant to this settlement agreement will be destroyed and/or returned to WSE. Anderson and class counsel will not use the data for any purpose in any future suit.

Exhibit A to Settlement Agreement
Short Form Notice to Class

LEGAL NOTICE

If you rented a property managed by WSE Property Management, including Windward Place Apartments, you may be eligible for a payment from a class action settlement.

A settlement has been reached with WSE Property Management, LLC (“WSE”) in a class action lawsuit about whether it withheld security deposits, overcharged for actual utility usage and contracted utility amounts, and failed to honor leases with special provisions for month-to-month rentals.

Who’s included? You are included in the Settlement if you had a rental agreement for real property with WSE and either: (1) had all or some of your security deposit withheld, at least in part, due to alleged damage to the premises or otherwise were charged for alleged damages; had all or some of your security deposit retained between September 17, 2000 and the Final Approval Hearing date; and did not receive a list of alleged damage within 30 business days of occupancy termination (“Security Deposit Class”); or (2) had a lease that contained a provision that you would only be charged for your actual sub-metered utility usage, yet were charged an amount for utilities based on an estimate that was greater than your utility usage between September 17, 2014 and the Final Approval Hearing date (“Utility Meter Class”); or (3) were charged fees, including “administrative fees” associated with the collection of utility payments that were greater than the amount on your contract between September 17, 2014 and the Final Approval Hearing date (“Utility Fees Class”); or (4) had a lease with a “Special Provision” providing that if the lease goes month-to-month you will be charged a \$200 surcharge in addition to market rent; and your lease went month-to-month; but you were charged more than \$200 above your previous monthly rent, between September 17, 2014 and the Final Approval Hearing date (“Holdover Rent Class”).

What does the Settlement provide? WSE will provide up to \$800,000 to resolve the Settlement. If you submit an approved Claim Form, you will receive a payment based on the Settlement Class you are included in. Security Deposit Class members will receive the portion of their security deposit that was withheld for alleged damage; Utility Meter Class members will receive \$10; Utility Fees Class members will receive a refund of all fees charged to them for collection of utilities beyond the amount disclosed and agreed to in the lease; and Holdover Rent Class members will receive the difference between their-previous-monthly-rent-plus-\$200 and the monthly rent actually charged. Payment amounts may be reduced on a *pro rata* basis if the amount needed to pay approved claims, attorneys’ fees and expenses, and service award exceeds \$800,000.

How do you get a payment? You must submit a Claim Form by **Month XX, 2023**. Claim Forms may be submitted online or printed from [www.\[website\].com](http://www.[website].com).

Your other options. If you do nothing, your rights will be affected and you won’t get a payment. If you don’t want to be legally bound by the Settlement, you must exclude yourself from it by **Month XX, 2023**. Unless you exclude yourself, you won’t be able to sue or continue to sue WSE or related parties for any claim made in this lawsuit or released by the Settlement Agreement. If you stay in the Settlement (*i.e.*, don’t exclude yourself), you may object to it and ask for permission for you or your lawyer to appear and speak at the hearing—at your own cost—but you don’t have to. Objections are due by **Month XX, 2023**.

The Court's Hearing. The Court will hold a Final Approval Hearing in this case (*Anderson v. WSE Property Management, LLC*, No. 20EV005363) on Month XX, 2023 to consider whether to approve: the Settlement; a request for \$360,000 in attorneys' fees and costs; and a \$15,000 service award for the Class Representative.

Want more information? Call 1-___-___-___; visit [www.\[website\].com](http://www.[website].com); or write to *Anderson v. WSE Property Management, LLC*, Attn: Settlement Administrator, P.O. Box _____, City, ST _____.

Exhibit B to Settlement Agreement
Long Form Notice to Class

If you rented a property managed by WSE Property Management you may be eligible for a payment from a class action settlement.

A state court authorized this Notice. This is not a solicitation from a lawyer.

- An \$800,000 settlement has been reached with WSE Property Management, LLC (“WSE”) in a class action lawsuit about whether it improperly withheld security deposits, charged more than actual utility usage, charged more than contracted utility amounts, and failed to honor leases with special provisions for month-to-month rentals.
- You may be eligible for a payment from the proposed settlement if you had a rental agreement with WSE and (1) had all or some of your security deposit withheld due to alleged damage or had all or some of your security deposit retained between September 17, 2000 and the date of the Final Approval Hearing (see below) and you did not receive a list of the alleged damage within 30 business days of lease termination; or (2) had a lease stating you would only be charged for your actual sub-metered utility usage, but you were charged for utilities based on an estimate that was greater than your utility usage; or (3) were charged fees associated with the collection of utility payments that were greater than the amount indicated on your contracts; or (4) had a lease with a “Special Provision” stating you would be charged a \$200 surcharge in addition to market rent if your lease went month-to-month, but your lease went month-to-month and you were charged more than \$200 above your previous monthly rent.
- The Settlement will provide payments to those who qualify. You will need to file a Claim Form to receive a payment.
- Your legal rights are affected whether you act, or don’t act. Read this Notice carefully.

| YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT | |
|---|---|
| SUBMIT A CLAIM FORM BY MONTH XX, 2023 | This is the only way to get a payment from this Settlement. If you submit a Claim Form, you will give up the right to sue the Defendant in a separate lawsuit about the claims this Settlement resolves. |
| EXCLUDE YOURSELF BY MONTH XX, 2023 | This is the only option that allows you to sue, continue to sue, or be part of another lawsuit against the Defendant related to the legal claims this Settlement resolves. If you exclude yourself, you will no longer be eligible to receive a payment from this Settlement. |
| OBJECT BY MONTH XX, 2023 | Write to the Court about why you do not like the Settlement. |
| GO TO A HEARING | You may ask to appear and speak to the Court about the fairness of the Settlement. |
| DO NOTHING | Get no payment. Give up any rights you might have to sue the Defendant about the legal claims made in this case and resolved by the Settlement. |

- These rights and options—and the deadlines to exercise them—are explained in this Notice. The deadlines may be moved, canceled, or modified. Check the Settlement Website at [www.\[website\].com](http://www.[website].com) regularly for updates.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made to qualifying individuals who submit a valid Claim Form only if the Court approves the Settlement and after any appeals are resolved. Please be patient.

QUESTIONS? CALL TOLL-FREE 1-XXX-XXX-XXXX OR VISIT WWW.[WEBSITE].COM

BASIC INFORMATION

1. Why is there a notice?

The Court authorized this Notice because you have a right to know about the proposed settlement of this class action lawsuit, and about your options, before the Court decides whether to approve the Settlement.

Judge [insert name] of the State Court of Fulton County, State of Georgia, is overseeing this case. The case is titled *Anderson v. WSE Property Management, LLC*, Civil Action File No. 20EV005363 (the “Action”). This notice explains the lawsuit, the Settlement, and your legal rights. The person who filed this lawsuit is called the Plaintiff and the company she sued, WSE Property Management, LLC, is called the Defendant.

2. What is this lawsuit about?

The lawsuit claims that WSE violated the Georgia security deposit statute, O.C.G.A. § 44-7-35. It also alleges claims for breach of contract, fraud, and violations of various terms of WSE’s lease agreements with its tenants. WSE denies all of the claims and allegations made in the lawsuit.

More information about the lawsuit can be found in the [Class Action Complaint](#) and [Defendant’s Answer to the Class Action Complaint](#) available at [www.\[website\].com](http://www.[website].com).

3. Why is there a class action?

In a class action, one or more people called “Named Plaintiffs” or “Class Representatives” (in this case, Amanda Anderson) sue on behalf of themselves and other people who have similar claims. Together, all the people with similar claims (except those who exclude themselves) are members of a “Settlement Class.”

4. Why is there a settlement?

The Court did not decide in favor of the Plaintiff or Defendant. Instead, both sides agreed to a settlement. The Settlement allows the Plaintiff and Defendant to avoid the risks and costs of litigation and the uncertainty of trial and appeals. The Class Representative and her attorneys believe this Settlement is in the best interests of all Settlement Class members.

WHO IS INCLUDED IN THE SETTLEMENT?

5. How do I know if I am included in the Settlement?

You are included in the Settlement if you had an agreement for the rental of real property with WSE and either:

- 1) had all or some of your security deposit not returned due, at least in part, to alleged damage to the premises or otherwise were charged for said alleged damages; had all or some of your security deposit retained during the time period beginning on September 17, 2000 and continuing through the date of the Final Approval Hearing; **and** did not receive a list of alleged damage to the premises within thirty (30) business days of termination of the occupancy (the “Security Deposit Class”); or
- 2) had a lease that contained a provision that you would only be charged for your actual sub-metered utility usage; yet were charged an amount for utilities based on an estimate that was greater than your utility usage during the time period beginning on September 17, 2014 and continuing through the date of the Final Approval Hearing (the “Utility Meter Class”); or
- 3) were charged fees, including “administrative fees” associated with the collection of utility payments that were greater than the amount your contract said you would be charged, during the time period beginning on September 17, 2014 and continuing through the date of the Final Approval Hearing (the “Utility Fees Class”); or
- 4) had a lease with a “Special Provision” which provides that if the lease goes month-to-month you will be charged a \$200 surcharge in addition to market rent; and your lease did in fact go to month-to-month (as

QUESTIONS? CALL TOLL-FREE 1-[xxx-xxx-xxxx](#) OR VISIT [WWW.\[WEBSITE\].COM](http://WWW.[WEBSITE].COM)

opposed to entering into a new lease agreement); but nevertheless you were charged more than \$200 above your previous monthly rent, during the time period beginning on September 17, 2014 and continuing through the date of the Final Approval Hearing (the “Holdover Rent Class”).

6. What if I am still not sure whether I am included in the Settlement?

If you are not sure whether you are a Settlement Class member, or have any other questions about the Settlement, go to [www.\[website\].com](http://www.[website].com) or call 1-xxx-xxx-xxxx or send questions to:

Anderson v. WSE Property Management, LLC

Attn: Settlement Administrator

P.O. Box _____

City, ST _____ - _____

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

7. What does the Settlement provide?

WSE will provide up to \$800,000 to resolve the Settlement. This amount will be used to pay valid claims submitted by Settlement Class members, attorneys’ fees, costs, and expenses, and Class Representative Service Award.

If the amount needed to pay approved claims, attorneys’ fees, costs, and expenses, and the Class Representative Service Award exceeds \$800,000, the approved claims submitted by Settlement Class members will be reduced on a *pro rata* basis. If the amount needed to pay approved claims, attorneys’ fees, costs, and expenses, and the Class Representative Service Award is less than \$800,000, WSE will pay only the amount required for all of these amounts.

8. What can I get from the Settlement?

If you submit an approved Claim Form, you will receive a payment based on the Settlement Class or Classes you are included in.

- Security Deposit Class members will receive payment of the portion of their security deposit that was withheld for alleged damage to the premises;
- Utility Meter Class members will receive \$10;
- Utility Fees Class members will receive a refund of all fees charged to them for collection of utilities beyond the amount that was disclosed and agreed to in the lease; and
- Holdover Rent Class members will receive the difference between their-previous-monthly-rent-plus-\$200 and the monthly rent they were actually charged.

NOTE: Payment amounts may be reduced on a *pro rata* basis if the amount needed to pay approved claims, attorneys’ fees, costs, and expenses, and the Class Representative Service Award is greater than \$800,000.

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

Unless you exclude yourself, you are choosing to stay in the Settlement Class. If the Settlement is approved and becomes final, all of the Court’s orders will apply to you and legally bind you. You won’t be able to sue, continue to sue, or be part of any other lawsuit against WSE and the Released Parties (as that term is defined in Question 10) about the legal issues in this case. The rights you are giving up are called Released Claims. See Question 10 for more detail on the Released Parties and Released Claims.

10. What are the Released Claims?

Generally, if and when the Settlement becomes final, Settlement Class members, including their heirs, trustees, executors, administrators, principals, beneficiaries, assigns, and successors, will be bound by the Final Judgment and conclusively deemed to have fully released, acquitted, and forever discharged any and all known or unknown claims, causes of action, or suits of whatever kind or nature arising from the acts which have been alleged or which could have been alleged in the Action by any Class member, whether at law, in equity, or under any statute or regulation arising from or in any way related to the claims asserted in the Action against WSE and all of their past and present officers, directors, agents, attorneys, employees, stockholders, divisions, parent companies, holding companies, affiliated companies, and subsidiaries, and all of their successors, assigns, and legal representatives of any of the entities and/or persons listed in these paragraphs, and insurers, property owners, and any individual or entity in privity with WSE or the property owners in connection with any of the claims alleged or that could have been alleged arising out of the underlying factual allegations in the operative complaint (the “Released Parties”). The Released Claims do not include any claim for enforcement of the Comprehensive Settlement Agreement or the Final Judgment.

The Released Claims do not affect the right of any person who is sued by a Released Party to raise an affirmative defense. For example, the Settlement does not preclude a tenant, as a defense to an action to collect for damages to a property, to assert as a defense that the property owner violated the security deposit statute.

Complete details regarding the Released Claims can be found in the Comprehensive Settlement Agreement, available at [www.\[website\].com](http://www.[website].com).

HOW TO GET A PAYMENT

11. How do I get a payment from the Settlement?

You must complete and submit a valid Claim Form by **Month XX, 2023**. Claim Forms may be submitted online at [www.\[website\].com](http://www.[website].com) or printed from the website and mailed to the address on the form.

12. When will I receive my payment?

The Court will hold a Fairness Hearing on [**Month __, 2023**] to decide whether to grant final approval to the Settlement. If the Court approves the Settlement, there may be appeals. It is always uncertain whether appeals will be filed and, if so, how long it will take to resolve them. Payments will be distributed to Settlement Class members who submit valid Claim Forms if and when the Court grants final approval to the Settlement and after any appeals are resolved. Please be patient.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

Yes, James Radford of Radford & Keebaugh, LLC and Shimshon Wexler of The Law Offices of Shimshon Wexler, P.C. have been appointed as “Class Counsel” to represent you and other Settlement Class members. You will not be personally charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

14. How will the lawyers be paid?

Class Counsel will ask the Court for attorneys’ fees and expenses of \$360,000, as well as a \$15,000 Service Award for the Class Representative. If approved, these amounts will be paid from the up to \$800,000 amount WSE has agreed to pay to resolve the Settlement before paying the approved claims submitted by Settlement Class members.

EXCLUDING YOURSELF FROM THE SETTLEMENT

QUESTIONS? CALL TOLL-FREE 1-**xxx-xxx-xxxx** OR VISIT [WWW.\[WEBSITE\].COM](http://WWW.[WEBSITE].COM)

If you want to keep the right to sue WSE or the Released Parties about the legal claims resolved by this Settlement, and you do not want to receive a Settlement payment, you must take steps to get out of the Settlement. This is called excluding yourself or opting out of the Settlement.

15. How do I exclude myself from the Settlement?

To exclude yourself from the Settlement, you must mail a letter to the Settlement Administrator that includes the following information:

- Your name, address, and telephone number;
- The name of the case (*Anderson v. WSE Property Management, LLC*, Case No. 20EV005363);
- A statement indicating (a) you want to be excluded from this Settlement, and (b) by excluding yourself, you understand that you will not receive any money from this Settlement; and
- Your signature.

You must mail your exclusion request, postmarked no later than **Month __, 2023**, to:

Anderson v. WSE Property Management, LLC
Attn: Settlement Administrator
P.O. Box _____
City, ST _____ - _____

16. If I ask to be excluded from the Settlement, can I still get a payment?

No, you will not receive a payment from the Settlement if you exclude yourself.

OBJECTING TO THE SETTLEMENT

17. How do I tell the Court if I do not like the Settlement?

If you do not submit a timely and proper request for exclusion and you wish to object to the fairness, reasonableness, or adequacy of the Settlement, you must timely file a written objection with the Court and send a copy of that written objection by mail to Class Counsel and WSE’s Counsel at the addresses provided below.

To be valid, your objection must include:

- Your name, address and telephone number;
- Proof of your membership in the Settlement Class;
- A statement of the reasons for the objection and any evidence supporting those reasons;
- The name, address, email address, and telephone number of your lawyer, if you have one;
- Identify, with specificity, each instance in which you or your lawyer has objected to a class action settlement in the past ten years;
- A statement regarding whether you and/or your lawyer intend to appear at the Final Approval Hearing; and
- Your signature.

Your objection, along with any supporting material you wish to submit, must be received by the Court with a copy sent to Class Counsel and WSE’s Counsel postmarked no later than **Month __, 2023** at the following addresses:

| <u>Clerk of the Court</u> | <u>Class Counsel</u> | <u>WSE’s Counsel</u> |
|---------------------------|----------------------|----------------------|
| | | |

18. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you remain a member of the Settlement Class (that is, do not exclude yourself). Excluding yourself is telling the Court that you don't want to be part of the Settlement. If you exclude yourself, you cannot object because the Settlement no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

19. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing on **Month __, 2023 at __ : __ .m.** at the **[insert court name and address]**.

At this hearing the Court will whether the Settlement is fair, reasonable, and adequate and whether to approve Class Counsel's request for attorney's fees and expenses and service award. If there are objections, the Court will consider them. Judge **[insert name]** will listen to people who have asked to speak at the hearing.

20. Do I have to come to the hearing?

No. Class Counsel will answer any questions that the Court may have, but you may come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you delivered and mailed your written objection on time to the proper addresses, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

21. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Fairness Hearing by including a statement in your objection indicating that you intend to appear at the Final Approval Hearing (*see* Question **17**). You cannot speak at the hearing if you exclude yourself from the Settlement Class.

IF YOU DO NOTHING

22. What happens if I do nothing at all?

If you do nothing, you will not get a payment from this Settlement. Unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against WSE or the Release Parties about the Released Claims.

GETTING MORE INFORMATION

23. How do I get more information?

This Notice summarizes the proposed Settlement. More details are in the Comprehensive Settlement Agreement. The Comprehensive Settlement Agreement and other related documents are available at **www.[website].com**. If you have additional questions you may call the Settlement Administrator at **1-xxx-xxx-xxxx**, or write to:

Anderson v. WSE Property Management, LLC
Attn: Settlement Administrator
P.O. Box _____
City, ST _____ - _____

PLEASE DO NOT CONTACT THE COURT, CLERK OF THE COURT OR DEFENDANT CONCERNING THIS CASE.

QUESTIONS? CALL TOLL-FREE 1-**xxx-xxx-xxxx** OR VISIT WWW.**[WEBSITE].COM**

Exhibit C to Settlement Agreement
Claim Form

Your claim must be submitted or postmarked by: [Month] [Day], 2023

Anderson v. WSE Property Management Case No. 20EV005363

CLAIM FORM

Instructions: Complete this Claim Form in its entirety. Submit this Claim Form online or by mail no later than Month Day, 2023.

- Security Deposit Class: Receive payment of the portion of your security deposit that was withheld for alleged damage to the premises.
Utility Meter Class: Receive a \$10 payment.
Utility Fees Class: Receive a refund of all fees charged to you for the collection of utilities beyond the amount that was disclosed and agreed to in the lease.
Holdover Rent Class: Receive payment of the difference between your-previous-monthly-rent-plus-\$200 and the monthly rent you were actually charged.

SECTION 1: CLASS MEMBER INFORMATION

First: MI: Last:

Address:

Address:

City: State: ZIP:

Phone: Email:

* This information will be used to communicate with you about your claim, which we will do primarily by email if you provide an email address. The information you provide will not be used for any other purposes, nor will it be sold, or provided to others, except as is necessary to efficiently process this your claim.

I lived at the following WSE property:

My Apartment Number, Unit Number, and/or Physical Address was:

SECTION 2: SETTLEMENT BENEFIT(S) ELECTION

- Check this box if you are a member of the Security Deposit Class and would like to receive payment of the portion of your security deposit that was withheld for alleged damage to the premises. State the amount you contend was withheld for alleged damages to the premises: \$
Check this box if you are a member of the Utility Meter Class and would like to receive a \$10 payment.
Check this box if you are a member of the Utility Fees Class and would like to receive a refund of all fees charged to you for the collection of utilities beyond the amount that was disclosed and agreed to in the lease. State the amount of fees you contend you were charged beyond the amount that was disclosed and agreed to in the lease: \$
Check this box if you are a member of the Holdover Rent Class and would like to receive payment of the difference between your-previous-monthly-rent-plus-\$200 and the monthly rent you were actually charged. For the period where you were a "Holdover" tenant, state the amount you paid during your lease, and the amount you were charged as a Holdover tenant: \$

SECTION 3: SIGNATURE

Print Name:

Signature: Date (MM/DD/YY):

Once you've completed all applicable sections, submit this Claim Form online or print and mail this Claim Form by Month Day, 2023 to:

Anderson v. WSE Property Management Settlement Administrator
P.O. Box
City, ST -

Exhibit D to Settlement Agreement
Representation and Warranty of WSE

**IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA**

AMANDA ANDERSON, on behalf
of herself and all others similarly situated,

Plaintiff,

v.

WSE PROPERTY MANAGEMENT LLC,

Defendant.

Civil Action File No.: 20EV005363

REPRESENTATION AND WARRANTY OF WSE PROPERTY MANAGEMENT, LLC

Defendant WSE Property Management, LLC (“WSE”) represents and warrants that the spreadsheets containing data provided to Class Counsel and any additional spreadsheets or similar tenant data provided to Class Counsel was, to the best of its knowledge, complete and accurate and included relevant data that it reasonably had access to and could provide.

This March 3, 2023.

Faye J. Wall

On behalf of WSE

| | |
|-------------------------|--|
| Title | Ex 1 - Settlement Agreement with Exhs |
| File name | Ex 1 - Settlement...ent with Exhs.pdf |
| Document ID | 29ca49edbf51ad852a24cef8135fe4e03f3428e1 |
| Audit trail date format | MM / DD / YYYY |
| Status | ● Signed |

Document History

| | | |
|--|---------------------------------------|---|
|  SENT | 03 / 01 / 2023 15:15:57 UTC | Sent for signature to Amanda Anderson (amandaanderson100@outlook.com) from radford.law@gmail.com IP: 107.130.113.14 |
|  VIEWED | 03 / 01 / 2023 15:59:54 UTC | Viewed by Amanda Anderson (amandaanderson100@outlook.com) IP: 47.151.184.240 |
|  SIGNED | 03 / 01 / 2023 16:01:39 UTC | Signed by Amanda Anderson (amandaanderson100@outlook.com) IP: 47.151.184.240 |
|  COMPLETED | 03 / 01 / 2023 16:01:39 UTC | The document has been completed. |

| | |
|--------------------------------|---|
| Title | Ex 1 - Settlement Agreement with Exhs(signed) |
| File name | Ex 1 - Settlement... Exhs(signed).pdf |
| Document ID | 4c37208f0312a3f6d3bacbca89cbc741890bcf40 |
| Audit trail date format | MM / DD / YYYY |
| Status | ● Signed |

Document History

| | | |
|--|---------------------------------------|---|
|  SENT | 03 / 03 / 2023 15:23:20 UTC | Sent for signature to Faye Wall (fjwall@worthingse.com) from radford.law@gmail.com IP: 99.98.102.253 |
|  VIEWED | 03 / 03 / 2023 16:28:32 UTC | Viewed by Faye Wall (fjwall@worthingse.com) IP: 75.144.46.33 |
|  SIGNED | 03 / 03 / 2023 16:29:44 UTC | Signed by Faye Wall (fjwall@worthingse.com) IP: 75.144.46.33 |
|  COMPLETED | 03 / 03 / 2023 16:29:44 UTC | The document has been completed. |

EXHIBIT 2 to
MOTION FOR PRELIMINARY APPROVAL

—

Short Form

LEGAL NOTICE

If you rented a property managed by WSE Property Management, including Windward Place Apartments, you may be eligible for a payment from a class action settlement.

A settlement has been reached with WSE Property Management, LLC (“WSE”) in a class action lawsuit about whether it withheld security deposits, overcharged for actual utility usage and contracted utility amounts, and failed to honor leases with special provisions for month-to-month rentals.

Who’s included? You are included in the Settlement if you had a rental agreement for real property with WSE and either: (1) had all or some of your security deposit withheld, at least in part, due to alleged damage to the premises or otherwise were charged for alleged damages; had all or some of your security deposit retained between September 17, 2000 and the Final Approval Hearing date; and did not receive a list of alleged damage within 30 business days of occupancy termination (“Security Deposit Class”); or (2) had a lease that contained a provision that you would only be charged for your actual sub-metered utility usage, yet were charged an amount for utilities based on an estimate that was greater than your utility usage between September 17, 2014 and the Final Approval Hearing date (“Utility Meter Class”); or (3) were charged fees, including “administrative fees” associated with the collection of utility payments that were greater than the amount on your contract between September 17, 2014 and the Final Approval Hearing date (“Utility Fees Class”); or (4) had a lease with a “Special Provision” providing that if the lease goes month-to-month you will be charged a \$200 surcharge in addition to market rent; and your lease went month-to-month; but you were charged more than \$200 above your previous monthly rent, between September 17, 2014 and the Final Approval Hearing date (“Holdover Rent Class”).

What does the Settlement provide? WSE will provide up to \$800,000 to resolve the Settlement. If you submit an approved Claim Form, you will receive a payment based on the Settlement Class you are included in. Security Deposit Class members will receive the portion of their security deposit that was withheld for alleged damage; Utility Meter Class members will receive \$10; Utility Fees Class members will receive a refund of all fees charged to them for collection of utilities beyond the amount disclosed and agreed to in the lease; and Holdover Rent Class members will receive the difference between their-previous-monthly-rent-plus-\$200 and the monthly rent actually charged. Payment amounts may be reduced on a *pro rata* basis if the amount needed to pay approved claims, attorneys’ fees and expenses, and service award exceeds \$800,000.

How do you get a payment? You must submit a Claim Form by **Month XX, 2023**. Claim Forms may be submitted online or printed from [www.\[website\].com](http://www.[website].com).

Your other options. If you do nothing, your rights will be affected and you won’t get a payment. If you don’t want to be legally bound by the Settlement, you must exclude yourself from it by **Month XX, 2023**. Unless you exclude yourself, you won’t be able to sue or continue to sue WSE or related parties for any claim made in this lawsuit or released by the Settlement Agreement. If you stay in the Settlement (*i.e.*, don’t exclude yourself), you may object to it and ask for permission for you or your lawyer to appear and speak at the hearing—at your own cost—but you don’t have to. Objections are due by **Month XX, 2023**.

The Court's Hearing. The Court will hold a Final Approval Hearing in this case (*Anderson v. WSE Property Management, LLC*, No. 20EV005363) on Month XX, 2023 to consider whether to approve: the Settlement; a request for \$360,000 in attorneys' fees and costs; and a \$15,000 service award for the Class Representative.

Want more information? Call 1- ___ - ___ - ____; visit [www.\[website\].com](http://www.[website].com); or write to *Anderson v. WSE Property Management, LLC*, Attn: Settlement Administrator, P.O. Box _____, City, ST _____ - ____.

EXHIBIT 3 to
MOTION FOR PRELIMINARY APPROVAL

—

Long Form

If you rented a property managed by WSE Property Management you may be eligible for a payment from a class action settlement.

A state court authorized this Notice. This is not a solicitation from a lawyer.

- An \$800,000 settlement has been reached with WSE Property Management, LLC (“WSE”) in a class action lawsuit about whether it improperly withheld security deposits, charged more than actual utility usage, charged more than contracted utility amounts, and failed to honor leases with special provisions for month-to-month rentals.
- You may be eligible for a payment from the proposed settlement if you had a rental agreement with WSE and (1) had all or some of your security deposit withheld due to alleged damage or had all or some of your security deposit retained between September 17, 2000 and the date of the Final Approval Hearing (see below) and you did not receive a list of the alleged damage within 30 business days of lease termination; or (2) had a lease stating you would only be charged for your actual sub-metered utility usage, but you were charged for utilities based on an estimate that was greater than your utility usage; or (3) were charged fees associated with the collection of utility payments that were greater than the amount indicated on your contracts; or (4) had a lease with a “Special Provision” stating you would be charged a \$200 surcharge in addition to market rent if your lease went month-to-month, but your lease went month-to-month and you were charged more than \$200 above your previous monthly rent.
- The Settlement will provide payments to those who qualify. You will need to file a Claim Form to receive a payment.
- Your legal rights are affected whether you act, or don’t act. Read this Notice carefully.

| YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT | |
|---|---|
| SUBMIT A CLAIM FORM BY MONTH XX, 2023 | This is the only way to get a payment from this Settlement. If you submit a Claim Form, you will give up the right to sue the Defendant in a separate lawsuit about the claims this Settlement resolves. |
| EXCLUDE YOURSELF BY MONTH XX, 2023 | This is the only option that allows you to sue, continue to sue, or be part of another lawsuit against the Defendant related to the legal claims this Settlement resolves. If you exclude yourself, you will no longer be eligible to receive a payment from this Settlement. |
| OBJECT BY MONTH XX, 2023 | Write to the Court about why you do not like the Settlement. |
| GO TO A HEARING | You may ask to appear and speak to the Court about the fairness of the Settlement. |
| DO NOTHING | Get no payment. Give up any rights you might have to sue the Defendant about the legal claims made in this case and resolved by the Settlement. |

- These rights and options—and the deadlines to exercise them—are explained in this Notice. The deadlines may be moved, canceled, or modified. Check the Settlement Website at [www.\[website\].com](http://www.[website].com) regularly for updates.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made to qualifying individuals who submit a valid Claim Form only if the Court approves the Settlement and after any appeals are resolved. Please be patient.

QUESTIONS? CALL TOLL-FREE 1-[xxx-xxx-xxxx](tel:xxx-xxx-xxxx) OR VISIT [WWW.\[WEBSITE\].COM](http://www.[website].com)

BASIC INFORMATION

1. Why is there a notice?

The Court authorized this Notice because you have a right to know about the proposed settlement of this class action lawsuit, and about your options, before the Court decides whether to approve the Settlement.

Judge [insert name] of the State Court of Fulton County, State of Georgia, is overseeing this case. The case is titled *Anderson v. WSE Property Management, LLC*, Civil Action File No. 20EV005363 (the “Action”). This notice explains the lawsuit, the Settlement, and your legal rights. The person who filed this lawsuit is called the Plaintiff and the company she sued, WSE Property Management, LLC, is called the Defendant.

2. What is this lawsuit about?

The lawsuit claims that WSE violated the Georgia security deposit statute, O.C.G.A. § 44-7-35. It also alleges claims for breach of contract, fraud, and violations of various terms of WSE’s lease agreements with its tenants. WSE denies all of the claims and allegations made in the lawsuit.

More information about the lawsuit can be found in the [Class Action Complaint](#) and [Defendant’s Answer to the Class Action Complaint](#) available at [www.\[website\].com](http://www.[website].com).

3. Why is there a class action?

In a class action, one or more people called “Named Plaintiffs” or “Class Representatives” (in this case, Amanda Anderson) sue on behalf of themselves and other people who have similar claims. Together, all the people with similar claims (except those who exclude themselves) are members of a “Settlement Class.”

4. Why is there a settlement?

The Court did not decide in favor of the Plaintiff or Defendant. Instead, both sides agreed to a settlement. The Settlement allows the Plaintiff and Defendant to avoid the risks and costs of litigation and the uncertainty of trial and appeals. The Class Representative and her attorneys believe this Settlement is in the best interests of all Settlement Class members.

WHO IS INCLUDED IN THE SETTLEMENT?

5. How do I know if I am included in the Settlement?

You are included in the Settlement if you had an agreement for the rental of real property with WSE and either:

- 1) had all or some of your security deposit not returned due, at least in part, to alleged damage to the premises or otherwise were charged for said alleged damages; had all or some of your security deposit retained during the time period beginning on September 17, 2000 and continuing through the date of the Final Approval Hearing; **and** did not receive a list of alleged damage to the premises within thirty (30) business days of termination of the occupancy (the “Security Deposit Class”); or
- 2) had a lease that contained a provision that you would only be charged for your actual sub-metered utility usage; yet were charged an amount for utilities based on an estimate that was greater than your utility usage during the time period beginning on September 17, 2014 and continuing through the date of the Final Approval Hearing (the “Utility Meter Class”); or
- 3) were charged fees, including “administrative fees” associated with the collection of utility payments that were greater than the amount your contract said you would be charged, during the time period beginning on September 17, 2014 and continuing through the date of the Final Approval Hearing (the “Utility Fees Class”); or
- 4) had a lease with a “Special Provision” which provides that if the lease goes month-to-month you will be charged a \$200 surcharge in addition to market rent; and your lease did in fact go to month-to-month (as

QUESTIONS? CALL TOLL-FREE 1-[xxx-xxx-xxxx](tel:1-xxx-xxx-xxxx) OR VISIT [WWW.\[WEBSITE\].COM](http://www.[website].com)

opposed to entering into a new lease agreement); but nevertheless you were charged more than \$200 above your previous monthly rent, during the time period beginning on September 17, 2014 and continuing through the date of the Final Approval Hearing (the “Holdover Rent Class”).

6. What if I am still not sure whether I am included in the Settlement?

If you are not sure whether you are a Settlement Class member, or have any other questions about the Settlement, go to [www.\[website\].com](http://www.[website].com) or call 1-xxx-xxx-xxxx or send questions to:

Anderson v. WSE Property Management, LLC

Attn: Settlement Administrator

P.O. Box

City, ST -

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

7. What does the Settlement provide?

WSE will provide up to \$800,000 to resolve the Settlement. This amount will be used to pay valid claims submitted by Settlement Class members, attorneys’ fees, costs, and expenses, and Class Representative Service Award.

If the amount needed to pay approved claims, attorneys’ fees, costs, and expenses, and the Class Representative Service Award exceeds \$800,000, the approved claims submitted by Settlement Class members will be reduced on a *pro rata* basis. If the amount needed to pay approved claims, attorneys’ fees, costs, and expenses, and the Class Representative Service Award is less than \$800,000, WSE will pay only the amount required for all of these amounts.

8. What can I get from the Settlement?

If you submit an approved Claim Form, you will receive a payment based on the Settlement Class or Classes you are included in.

- Security Deposit Class members will receive payment of the portion of their security deposit that was withheld for alleged damage to the premises;
- Utility Meter Class members will receive \$10;
- Utility Fees Class members will receive a refund of all fees charged to them for collection of utilities beyond the amount that was disclosed and agreed to in the lease; and
- Holdover Rent Class members will receive the difference between their-previous-monthly-rent-plus-\$200 and the monthly rent they were actually charged.

NOTE: Payment amounts may be reduced on a *pro rata* basis if the amount needed to pay approved claims, attorneys’ fees, costs, and expenses, and the Class Representative Service Award is greater than \$800,000.

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

Unless you exclude yourself, you are choosing to stay in the Settlement Class. If the Settlement is approved and becomes final, all of the Court’s orders will apply to you and legally bind you. You won’t be able to sue, continue to sue, or be part of any other lawsuit against WSE and the Released Parties (as that term is defined in Question 10) about the legal issues in this case. The rights you are giving up are called Released Claims. See Question 10 for more detail on the Released Parties and Released Claims.

10. What are the Released Claims?

Generally, if and when the Settlement becomes final, Settlement Class members, including their heirs, trustees, executors, administrators, principals, beneficiaries, assigns, and successors, will be bound by the Final Judgment and conclusively deemed to have fully released, acquitted, and forever discharged any and all known or unknown claims, causes of action, or suits of whatever kind or nature arising from the acts which have been alleged or which could have been alleged in the Action by any Class member, whether at law, in equity, or under any statute or regulation arising from or in any way related to the claims asserted in the Action against WSE and all of their past and present officers, directors, agents, attorneys, employees, stockholders, divisions, parent companies, holding companies, affiliated companies, and subsidiaries, and all of their successors, assigns, and legal representatives of any of the entities and/or persons listed in these paragraphs, and insurers, property owners, and any individual or entity in privity with WSE or the property owners in connection with any of the claims alleged or that could have been alleged arising out of the underlying factual allegations in the operative complaint (the “Released Parties”). The Released Claims do not include any claim for enforcement of the Comprehensive Settlement Agreement or the Final Judgment.

The Released Claims do not affect the right of any person who is sued by a Released Party to raise an affirmative defense. For example, the Settlement does not preclude a tenant, as a defense to an action to collect for damages to a property, to assert as a defense that the property owner violated the security deposit statute.

Complete details regarding the Released Claims can be found in the Comprehensive Settlement Agreement, available at [www.\[website\].com](http://www.[website].com).

HOW TO GET A PAYMENT

11. How do I get a payment from the Settlement?

You must complete and submit a valid Claim Form by **Month XX, 2023**. Claim Forms may be submitted online at [www.\[website\].com](http://www.[website].com) or printed from the website and mailed to the address on the form.

12. When will I receive my payment?

The Court will hold a Fairness Hearing on **[Month __, 2023]** to decide whether to grant final approval to the Settlement. If the Court approves the Settlement, there may be appeals. It is always uncertain whether appeals will be filed and, if so, how long it will take to resolve them. Payments will be distributed to Settlement Class members who submit valid Claim Forms if and when the Court grants final approval to the Settlement and after any appeals are resolved. Please be patient.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

Yes, James Radford of Radford & Keebaugh, LLC and Shimshon Wexler of The Law Offices of Shimshon Wexler, P.C. have been appointed as “Class Counsel” to represent you and other Settlement Class members. You will not be personally charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

14. How will the lawyers be paid?

Class Counsel will ask the Court for attorneys’ fees and expenses of \$360,000, as well as a \$15,000 Service Award for the Class Representative. If approved, these amounts will be paid from the up to \$800,000 amount WSE has agreed to pay to resolve the Settlement before paying the approved claims submitted by Settlement Class members.

EXCLUDING YOURSELF FROM THE SETTLEMENT

QUESTIONS? CALL TOLL-FREE 1-**xxx-xxx-xxxx** OR VISIT [WWW.\[WEBSITE\].COM](http://WWW.[WEBSITE].COM)

If you want to keep the right to sue WSE or the Released Parties about the legal claims resolved by this Settlement, and you do not want to receive a Settlement payment, you must take steps to get out of the Settlement. This is called excluding yourself or opting out of the Settlement.

15. How do I exclude myself from the Settlement?

To exclude yourself from the Settlement, you must mail a letter to the Settlement Administrator that includes the following information:

- Your name, address, and telephone number;
- The name of the case (*Anderson v. WSE Property Management, LLC*, Case No. 20EV005363);
- A statement indicating (a) you want to be excluded from this Settlement, and (b) by excluding yourself, you understand that you will not receive any money from this Settlement; and
- Your signature.

You must mail your exclusion request, postmarked no later than **Month __, 2023**, to:

Anderson v. WSE Property Management, LLC
Attn: Settlement Administrator
P.O. Box _____
City, ST _____ - _____

16. If I ask to be excluded from the Settlement, can I still get a payment?

No, you will not receive a payment from the Settlement if you exclude yourself.

OBJECTING TO THE SETTLEMENT

17. How do I tell the Court if I do not like the Settlement?

If you do not submit a timely and proper request for exclusion and you wish to object to the fairness, reasonableness, or adequacy of the Settlement, you must timely file a written objection with the Court and send a copy of that written objection by mail to Class Counsel and WSE’s Counsel at the addresses provided below.

To be valid, your objection must include:

- Your name, address and telephone number;
- Proof of your membership in the Settlement Class;
- A statement of the reasons for the objection and any evidence supporting those reasons;
- The name, address, email address, and telephone number of your lawyer, if you have one;
- Identify, with specificity, each instance in which you or your lawyer has objected to a class action settlement in the past ten years;
- A statement regarding whether you and/or your lawyer intend to appear at the Final Approval Hearing; and
- Your signature.

Your objection, along with any supporting material you wish to submit, must be received by the Court with a copy sent to Class Counsel and WSE’s Counsel postmarked no later than **Month __, 2023** at the following addresses:

| <u>Clerk of the Court</u> | <u>Class Counsel</u> | <u>WSE’s Counsel</u> |
|---------------------------|----------------------|----------------------|
| | | |

18. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you remain a member of the Settlement Class (that is, do not exclude yourself). Excluding yourself is telling the Court that you don't want to be part of the Settlement. If you exclude yourself, you cannot object because the Settlement no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

19. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing on **Month __, 2023 at __ : __.m.** at the **[insert court name and address]**.

At this hearing the Court will whether the Settlement is fair, reasonable, and adequate and whether to approve Class Counsel's request for attorney's fees and expenses and service award. If there are objections, the Court will consider them. Judge **[insert name]** will listen to people who have asked to speak at the hearing.

20. Do I have to come to the hearing?

No. Class Counsel will answer any questions that the Court may have, but you may come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you delivered and mailed your written objection on time to the proper addresses, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

21. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Fairness Hearing by including a statement in your objection indicating that you intend to appear at the Final Approval Hearing (*see* Question **17**). You cannot speak at the hearing if you exclude yourself from the Settlement Class.

IF YOU DO NOTHING

22. What happens if I do nothing at all?

If you do nothing, you will not get a payment from this Settlement. Unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against WSE or the Release Parties about the Released Claims.

GETTING MORE INFORMATION

23. How do I get more information?

This Notice summarizes the proposed Settlement. More details are in the Comprehensive Settlement Agreement. The Comprehensive Settlement Agreement and other related documents are available at **www.[website].com**. If you have additional questions you may call the Settlement Administrator at **1-xxx-xxx-xxxx**, or write to:

Anderson v. WSE Property Management, LLC

Attn: Settlement Administrator

P.O. Box _____

City, ST _____ - _____

PLEASE DO NOT CONTACT THE COURT, CLERK OF THE COURT OR DEFENDANT CONCERNING THIS CASE.

QUESTIONS? CALL TOLL-FREE 1-xxx-xxx-xxxx OR VISIT WWW.[WEBSITE].COM

EXHIBIT 4 to
MOTION FOR PRELIMINARY APPROVAL

—

Claim Form

Your claim must be submitted or postmarked by: [Month] [Day], 2023

**Anderson v. WSE Property Management
Case No. 20EV005363**

CLAIM FORM

Instructions: Complete this Claim Form in its entirety. Submit this Claim Form online or by mail no later than **Month Day, 2023**.

- **Security Deposit Class:** Receive payment of the portion of your security deposit that was withheld for alleged damage to the premises.
- **Utility Meter Class:** Receive a \$10 payment.
- **Utility Fees Class:** Receive a refund of all fees charged to you for the collection of utilities beyond the amount that was disclosed and agreed to in the lease.
- **Holdover Rent Class:** Receive payment of the difference between your-previous-monthly-rent-plus-\$200 and the monthly rent you were actually charged.

SECTION 1: CLASS MEMBER INFORMATION

First: _____ MI: _____ Last: _____

Address: _____

Address: _____

City: _____ State: _____ ZIP: _____

Phone: _____ - _____ - _____ Email: _____

** This information will be used to communicate with you about your claim, which we will do primarily by email if you provide an email address. The information you provide will not be used for any other purposes, nor will it be sold, or provided to others, except as is necessary to efficiently process this your claim.*

I lived at the following WSE property: _____

My Apartment Number, Unit Number, and/or Physical Address was: _____

SECTION 2: SETTLEMENT BENEFIT(S) ELECTION

- Check this box if you are a member of the Security Deposit Class and would like to receive payment of the portion of your security deposit that was withheld for alleged damage to the premises. State the amount you contend was withheld for alleged damages to the premises: \$ _____.
- Check this box if you are a member of the Utility Meter Class and would like to receive a \$10 payment.
- Check this box if you are a member of the Utility Fees Class and would like to receive a refund of all fees charged to you for the collection of utilities beyond the amount that was disclosed and agreed to in the lease. State the amount of fees you contend you were charged beyond the amount that was disclosed and agreed to in the lease: \$ _____.
- Check this box if you are a member of the Holdover Rent Class and would like to receive payment of the difference between your-previous-monthly-rent-plus-\$200 and the monthly rent you were actually charged. For the period where you were a "Holdover" tenant, state the amount you paid during your lease, and the amount you were charged as a Holdover tenant: \$ _____

SECTION 3: SIGNATURE

Print Name: _____

Signature: _____ Date (MM/DD/YY): _____

Once you've completed all applicable sections, submit this Claim Form online or print and mail this Claim Form by **Month Day, 2023** to:

Anderson v. WSE Property Management **Settlement Administrator**
P.O. Box _____
City, ST _____ - _____

EXHIBIT 5 to
MOTION FOR PRELIMINARY APPROVAL

—

Affidavit of James Radford

**IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA**

AMANDA ANDERSON, on behalf
of herself and all others similarly situated,

Plaintiff,

v.

WSE PROPERTY MANAGEMENT LLC,

Defendant.

Civil Action File No.: 20EV005363

AFFIDAVIT OF JAMES RADFORD

COMES NOW James Radford and states the following based upon his own personal knowledge.

1.

My name is James Radford. I have served as class counsel for the Plaintiff class in the above-captioned matter throughout this litigation. I give this affidavit in support of Plaintiff's Unopposed Motion For Preliminary Approval Of The Class Settlement And Class Notice ("Motion").

2.

I have a general trial practice with specialization in constitutional and civil rights litigation. I graduated *cum laude* from the University of Georgia School of Law in May 2006. While at UGA Law, I served on the Editorial Board of the *Georgia Law Review* and represented the school in

national competitions as a member of the moot court team. Upon graduation, I worked for two years as a Staff Attorney with the Eleventh Circuit U.S. Court of Appeals, where I reviewed hundreds of federal appeals, many of which related to the federal civil rights statutes, including Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and 42 U.S.C. § 1983. I joined the law firm of Parks, Chesin & Walbert (“PCW”) as an Associate in August of 2008. There, I became actively involved in the litigation of civil rights matters, under the guidance of Lee Parks, David Walbert, Andrew Coffman, and Larry Chesin. I left PCW in January 2012, to begin my own legal practice, James Radford LLC, where I served as the principal attorney.

3.

I was joined by a law partner, Regan Keebaugh, in July of 2014, and we formed the firm of Radford & Keebaugh, LLC. We currently employ two full-time Associate Attorneys, a full-time experienced paralegal, and an administrative assistant. We have two experienced lawyers who work with our firm on an “of counsel” basis as well. We have an active practice, with hundreds of client matters pending at any given time, focusing on civil rights litigation.

4.

Radford & Keebaugh is a fully solvent business, and we have generated profits through each year of our business. We have no debt. We have a line of credit through our bank but have never had to use it. We maintain general and professional liability insurance that covers all of our attorneys. All of our attorneys are fully licensed and vetted with no history of discipline.

5.

I am admitted to practice before all state trial and appellate courts in Georgia, the United

States District Courts for the Northern, Middle, and Southern Districts of Georgia, the United States Court of Appeals for the Eleventh Circuit, and the U.S. Supreme Court, to which I have authored two (2) petitions for writ of *certiorari*.

6.

During my time practicing law, I have developed a reputation for my skills and expertise in litigation. I have specific experience in complex class action litigation. Most recently, I served as class counsel in the matter of *Githieya v. Global Tel Link* (N.D. Ga. 1:15-CV-00986) which I filed on April 3, 2015 as a putative class action and which settled for \$67 million in class-wide relief on August 30, 2022. *Githieya* was a nationwide class action against the nation's largest provider of Inmate Calling Services (ICS), based on unauthorized charges to customers. I was the originating attorney, and have been appointed class counsel, in *Lawson v. City of Atlanta* (1:18-CV-02484, N.D. Ga.), a class action filed under the ADA on behalf of mobility impaired individuals who are denied equal access to Atlanta's pedestrian infrastructure, which is currently in a settlement posture. I played a lead role in the litigation of the class action suit in *Belton v. State of Georgia, et al.*, (Civil Action No. 1:10-CV-0583-RWS, N.D. Ga.), an ADA case on behalf of deaf Georgians in need of public mental health services; the Court in *Belton* granted class certification and summary judgment to the plaintiffs based on depositions I took and briefs authored primarily by me.

7.

My additional experience includes *R.W. v. Georgia Board of Regents*, (1:13-CV-2115-LMM, N.D. Ga.), where I served as lead and trial counsel in an ADA case in which we obtained a

jury verdict and complete injunctive relief for a disabled student who was denied access to student housing. I was served as lead counsel, presented oral argument, and obtained a 9-0 reversal of the lower court's decision before the Georgia Supreme Court in the case of *Williams v. City of Greenville, et al.*, (290 Ga. 557), which focused on the liability of public officials for acts taken without authority of law under state law. In the case of *Karas v. New NGC, Inc.* (Civil Action No. 1:10-CV-2280, N.D.Ga.), I obtained a jury verdict and received a judgment of \$226,658 in federal court in favor of a woman who was terminated from her job based on her sex, in violation of Title VII of the Civil Rights Act of 1964, against a major manufacturing corporation represented by a large Atlanta law firm. In the case of *Abdulahi v. Wal-Mart* (Civil Action No. 1:12-cv-04330, N.D.Ga.), I obtained an order imposing sanctions upon Wal-Mart for spoliation of evidence in an employment discrimination matter, which resulted in a published decision that is regularly cited by attorneys seeking spoliation sanctions in discrimination cases; we ultimately reached a confidential settlement in this matter. I attained what was, at the time, the largest reported settlement against a municipality under the Georgia Whistleblower Protection Act in the case of *Grantham v. City of Lakeland, et al.* (Civil Action No. CE-11-718, Lanier County Superior Court). I have served as lead counsel in a number of high profile cases throughout the past five years, including *Shelbayah v. Georgia State University* (regarding a Muslim student who was harassed by a university professor), *Lack v. Kersey* (regarding claims under the First Amendment by a high school student who was removed from his position as Student Body President); *Armstrong v. City of Rome* (malicious prosecution claims against Director of Rome-Floyd Parks and Recreation Department, in which court recently denied an exhaustive motion to dismiss by defendants); and

Grantham v. City of Lakeland (regarding two Chiefs of Police who were terminated after opposing Mayor's demand to target political opponents for prosecution).

8.

I first became involved in the instant case when my co-counsel, Shimshon Wexler, reached out to seek my assistance in a putative class action based on his knowledge of my success in other class actions. Throughout the litigation, Mr. Wexler and I have worked diligently to ensure that all relevant facts were presented to the court, that the evidence was developed through written discovery and depositions, and the Class's interests were protected through zealous advocacy in the various motions that have come before the court. We will continue to represent the class effectively through the implementation of the settlement agreement.

9.

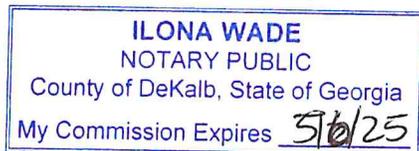
Based on my experience and the resources of my law practice, I believe I am qualified and capable to serve as Class Counsel in this matter and to adequately represent the interests of the classes.

I, THE UNDERSIGNED, DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING STATEMENTS ARE TRUE AND CORRECT AND BASED ON MY OWN PERSONAL KNOWLEDGE.

This 27th day of February, 2023.


JAMES RADFORD

Notary seal:



Page 5

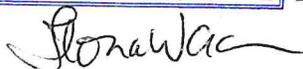


EXHIBIT 6 to
MOTION FOR PRELIMINARY APPROVAL

—

Affidavit of Shimshon Wexler

**IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA**

AMANDA ANDERSON, on behalf
of herself and all others similarly situated,

Plaintiff,

v.

WSE PROPERTY MANAGEMENT LLC,

Defendant.

Civil Action File No.: 20EV005363

AFFIDAVIT OF SHIMSHON WEXLER

COMES NOW the undersigned, Shimshon Wexler, and declares under penalty of perjury that the following statements are true and correct:

1. My name is Shimshon Wexler. I am majority age and under no disability that would render me unable to give truthful testimony.
2. I am an attorney and have been admitted to practice law in the State of New York since January 2010 and in the state of Georgia since June 2015.
3. My license to practice law has never been suspended or revoked.
4. I have never been disciplined and there are no disciplinary proceedings pending against me.
5. I received my bachelor's degree from Touro College in 2003 and graduated from New York Law School in 2009.
6. Early in my career, I worked for the law firm of Herzfeld & Rubin, PC, a New York-based law firm serving clients internationally.

7. Since leaving that law firm in late 2010, I have been engaged as a solo practitioner representing consumers under consumer protection laws.
8. I bring individual claims as well as class actions.
9. I generally practice on a contingency basis and not an hourly basis.
10. I was certified as co-counsel in the security deposit class action of *Roberson v ECI Group, Inc et al*, 17A64506, Dekalb County, Georgia State Court (\$2.4 million settlement).
11. I have been certified to act as sole lead class counsel in consumer class action lawsuits. *See Gonzalez v Relin, Goldstein & Crane, LLP*, U.S. District Court, S.D.N.Y. Case No. 12-cv-783-ER (FDCPA) and the EFTA consumer class action of *Fried v. The Bank of Castile*, U.S. District Court, W.D.N.Y. Case No. 12-cv-624-WMS.
12. I have also been certified as class co-counsel in several FDCPA class actions. *See Burton v. Nations Recovery Ctr., Inc.*, U.S. District Court, E.D.N.Y. Case No. 13-cv-1426-BMC (I was approved for \$300 per hour); *Cohn v New Century*, U.S. District Court, E.D.N.Y. Case No. 14-cv-2855-RER (I was approved for \$300 per hour) and *Quatinetz v Eco Shield Pest Control*, U.S. District Court, S.D.N.Y. Case No. 7:19-cv-08576-CS (I was awarded \$20,000 based on an application for 42.3 hours hours of work).
13. I have also been certified as class co-counsel in several FACTA class actions. *See Katz v ABP Corp.*, U.S. District Court, E.D.N.Y. Case No. 12-cv-4173-ENV-RER (attorney's awarded \$375,000, I was awarded \$300 per hour with a multiplier of 1.25, where class was eligible to receive more than 2.5 million in cash); and *Schwartz v Intimacy*, U.S. District Court, S.D.N.Y. Case No. 13-cv-5735-PGG (gift cards, not coupons, worth \$50 mailed to over 70,000 individuals, attorneys awarded \$500,000, I was awarded \$300 per hour with a multiplier of 1.46)

and *Soto v. Six Flags Great America, et al*, Circuit Court of the 19th Judicial District, Lake County Illinois, Case No. 17 CH 1118 (attorneys awarded 1.7 million).

14. I first became involved in the instant case when I was approached by Ms. Anderson regarding a letter she had received from a collection agency trying to collect for alleged damages to her apartment by WSE, her former landlord. Based on my knowledge of Georgia's security deposit statute and my work on previous class actions under the statute, I recognized potential class action claims arising from Ms. Anderson's case. I associated my co-counsel, James Radford, based on his reputation and my knowledge of his success working on class actions. Throughout the litigation, Mr. Radford and I have worked diligently to ensure that all relevant facts were presented to the court, that the evidence was developed through written discovery and depositions, and the Class's interests were protected through zealous advocacy in the various motions that have come before the court. We will continue to represent the class effectively through the implementation of the settlement agreement.

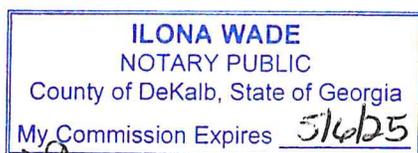
15. Based on my experience and the resources of my law practice, I believe I am qualified and capable to serve as Class Counsel in this matter and to adequately represent the interests of the classes.

I submit the foregoing under the penalty of perjury, this 27th day of February, 2023.

/s Shimshon Wexler

Shimshon Wexler

Notary Seal:



Ilona Wade

EXHIBIT 7 to
MOTION FOR PRELIMINARY APPROVAL

—

Proposed Order

**IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA**

AMANDA ANDERSON, on behalf
of herself and all others similarly situated,

Plaintiff,

v.

WSE PROPERTY MANAGEMENT LLC,

Defendant.

Civil Action File No.: 20EV005363

**[PROPOSED] ORDER GRANTING PLAINTIFFS' UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

This matter is before the Court on Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement and Class Notice (the "Motion") of the above-captioned case between Plaintiff Amanda Anderson ("Plaintiff" or "Ms. Anderson") and Defendant WSE Property Management, LLC ("Defendant" or "WSE") (the "Action") as set forth in the Parties' Settlement Agreement (the "Agreement," which memorializes the "Settlement").

Having duly considered the filings made in connection with the Motion, **THE COURT HEREBY FINDS AND ORDERS AS FOLLOWS:**

1. The Court finds that it has jurisdiction over the Action and each of the Parties for purposes of settlement and asserts jurisdiction over the Class Plaintiffs and Defendant for purposes of considering and effectuating this Settlement.
2. Unless defined herein, all defined terms in this Order shall have the meanings ascribed to them in the Agreement.

3. Defendant does not oppose the Court's entry of the proposed Preliminary Approval Order.

4. This Court has considered all of the presentations and submissions related to the Motion and, having presided over and managed this Action, with the facts, contentions, claims, and defenses as they have developed in these proceedings, and is otherwise fully advised of all relevant facts in connection therewith.

I. Preliminary Certification of the Settlement Class, Class Representatives, and Class Counsel

5. For purposes of settlement only, the Court finds that the prerequisites for a class action under O.C.G.A. § 9-11-23(a), (b)(2), and (b)(3) have been satisfied in that: (a) the members of the Settlement Class are so numerous that joinder of all Settlement Class Members in the class action is impracticable; (b) there are questions of law and fact common to the Settlement Class; (c) the claims of the Class Plaintiffs are typical of the claims of the Settlement Class; (d) the Class Plaintiffs and their counsel have fairly and adequately represented and protected the interests of Settlement Class Members; (e) WSE has allegedly acted on grounds that apply generally to the Settlement Class, such that the non-monetary relief proposed in the Settlement is appropriate respecting the class as a whole; (f) the questions of law or fact common to Settlement Class Members predominate over any questions affecting only individual members; and (g) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

6. Pursuant to O.C.G.A. § 9-11-23, the Court preliminarily certifies, for purposes of settlement only, the following Settlement classes:

- (a) Any person;
- (b) Who had an agreement for the rental of real property with WSE, or any of its subsidiaries or affiliated entities or persons, including but not limited to Windward Place Apartments;
- (c) And who either:
 - (i) had all or some of their security deposit not returned due, at least in part, to alleged damage to the premises or otherwise were charged for said alleged damages;
 - (ii) had all or some of their security deposit retained during the time period beginning on September 17, 2000 and continuing through the date of the Final Approval Hearing; and
 - (iii) did not receive a list of alleged damage to the premises within thirty (30) business days of termination of the occupancy (the “**Security Deposit Class**”);
- (d) or:
 - (i) had a lease that contained a provision that the tenant would only be charged for their actual sub-metered utility usage; yet
 - (ii) were charged an amount for utilities based on an estimate that was greater than their utility usage during the time period beginning on September 17, 2014 and continuing through the date of the Final Approval Hearing (the “**Utility Meter Class**”);
- (e) or:

were charged fees, including “administrative fees” associated with the collection of utility payments that were greater than the amount their contracts said they would be charged, during the time period beginning on September 17, 2014 and continuing through the date of the Final Approval Hearing (the “**Utility Fees Class**”);
- (f) or:
 - (i) had a lease with a “Special Provision” which provides that if the lease goes month to month they will be charged a \$200 surcharge in addition to market rent; and

- (ii) their lease did in fact go to month-to-month (as opposed to entering into a new lease agreement); but
- (iii) nevertheless were charged more than \$200 above their previous monthly rent, during the time period beginning on September 17, 2014 and continuing through the date of the Final Approval Hearing (the “*Holdover Rent Class*”).

7. Specifically excluded from the Settlement Class are the following persons: employees of WSE and each of their respective immediate family members; Class Counsel; and the judges who have presided over the Action and any related cases.

8. This Court finds that the following counsel are experienced and adequate for purposes of these settlement approval proceedings and appoints them as Class Counsel: James Radford of Radford & Keebaugh, LLC; Shimshon Wexler of The Law Offices of Shimshon Wexler, PC.

II. Preliminary Approval of the Class Settlement

9. The Court has conducted a preliminary evaluation of the Settlement as set forth in the Agreement for fairness, adequacy, and reasonableness. Based on that evaluation, the Court finds there is cause to believe that: (i) the Agreement is fair, reasonable, and adequate, and within the range of possible approval; (ii) the Agreement has been negotiated in good faith at arm’s-length between experienced attorneys familiar with the legal and factual issues of this case; and (iii) with respect to the forms of notice of the material terms of the Agreement to Settlement Class Members for their consideration and reaction, that notice is appropriate and warranted.

10. Therefore, the Court preliminarily approves the Settlement, attached hereto as Exhibit 1, as fair, reasonable, and adequate, subject to further consideration by the Court at the

Fairness Hearing. The Settlement is sufficiently fair, reasonable, and adequate to warrant providing notice to the Settlement Class.

11. A Fairness Hearing shall be held before this Court on _____, at _____ a.m./p.m., at the Fulton County Courthouse, Justice Center Tower, 185 Central Avenue, SW Atlanta, GA 30303, before Hon. Myra H. Dixon, to determine whether the proposed Settlement of the Action on the terms and conditions provided for in the Settlement is fair, reasonable, and adequate to the Settlement Class and should be finally approved by the Court; to determine whether an Final Approval Order approving the Settlement should be entered; to determine whether the plan for distribution of claims should be approved; to determine any amount of attorneys' fees, costs, and expenses that should be awarded to Class Counsel; to determine any account of case-contribution awards to be awarded to the Class Plaintiffs for their service as the class representatives for the Settlement Class; to hear any objections by Settlement Class Members to the Settlement, claims process, any award of attorneys' fees, costs, and expenses to Class Counsel, or any conditional Case-Contribution Awards to the Plaintiffs; and to consider such other matters as the Court may deem appropriate. The Fairness Hearing may be postponed, adjourned, or continued by order of the Court without further notice to the Settlement Class. After the Fairness Hearing, the Court may enter a Final Approval Order in accordance with the Agreement that will adjudicate the rights of the Settlement Class Members (as defined in the Settlement) with respect to the claims being settled.

12. Pursuant to O.C.G.A. § 9-11-23(c), the Court appoints for settlement purposes only Kurtzman Carson Consultants LLC ("KCC" or "Class Action Administrator") to supervise

and administer the notice procedure as well as the processing of claims as more fully set forth in the Agreement.

III. Notice to Class Members

13. Under O.C.G.A. § 9-11-23(c)(2), the Court finds that the content, format, and method of disseminating notice under the Settlement Class Notice Program, as set forth in the Motion, the Declaration of Christie K. Reed filed on February 28, 2023 and the Settlement Agreement, is the best notice practicable under the circumstances and satisfies all requirements provided in 9-11-23 and due process. The Court approves such notice, and hereby directs that such notice be disseminated no later than 60 days following the entry of this Order, in the manner set forth in the proposed Agreement, to Settlement Class Members under O.C.G.A. § 9-11-23(c)(2).

14. The Settlement Website, as called for in the Settlement Agreement, shall be published no later than 21 days following the entry of this Order.

15. The Court approves the form of the Short Form Notice, Long Form Notice, and Claims Form, attached hereto as Exhibits 2, 3, and 4.

16. The Class Action Administrator will provide to Class Counsel no later than 21 days prior to the Fairness Hearing, a declaration reflecting that the Settlement Class Notice Program has been executed in accordance with the Settlement Agreement and Preliminary Approval Order, which will be filed with the Court.

17. Settlement Class Members who wish to either object to the Settlement or request to be excluded from it must do so by the Objection Date and Opt-Out Date of _____, 2023 which is 150 calendar days after the entry of this Order. Settlement Class Members may not both

object and opt out. If a Settlement Class Member submits both an Opt-Out Request and an Objection, the Opt-Out Request will be controlling.

18. To submit an Opt-Out Request, a Settlement Class Member must follow the directions in the Notice and send a compliant request to the Class Action Administrator at the address designated in the Class Notice by the Opt-Out Date. In the Opt-Out Request, the Settlement Class Member must state his or her full name, address, and telephone number, and must state in writing that he or she wishes to be excluded from the Settlement. No Opt-Out Request will be valid unless all of the information described above is included. No Settlement Class Member, or any person acting on behalf of or in concert or participation with that Settlement Class Member, may exclude any other Settlement Class Member from the Settlement Class; however, nothing herein shall prevent Settlement Class Members from obtaining the assistance of another, such as a lawyer or family member, in preparing or submitting any individual Opt-Out Request.

19. If a timely and valid Opt-Out Request is made by a member of the Settlement Class, then that person will not be a Settlement Class Member, and the Agreement and any determinations and judgments concerning it will not bind the excluded person.

20. All Settlement Class Members who do not opt out in accordance with the terms set forth in the Agreement will be bound by all proceedings, orders, and judgments in the Action, even if such Settlement Class Member has previously initiated or subsequently initiates individual litigation or other proceedings encompassed by the Release.

21. To object to the Settlement, Settlement Class Members must follow the directions in the Notice and file a written objection with the Court by the Objection Date. In the written

objection, the Settlement Class Member must state his or her full name, current address, email address (if any), phone number, the particular Settlement Class of which he or she contends he or she is part, the time period during which he or she was a WSE tenant, the property where he or she was a WSE tenant, and evidence that he or she is a member of the Class. An objecting class member must identify, with specificity, each instance in which the Class member or their counsel has objected to a class action settlement in the past ten years. An objecting class member must personally sign the statement of objection. An objecting Settlement Class Member must also clearly state in detail the legal and factual ground(s) for their objection, and whether they intend to appear at the Fairness Hearing on their own behalf or through counsel. Any documents that the Settlement Class Member wishes the Court to consider must also be attached to the objection. If the Settlement Class Member is represented by counsel, the objection shall provide such counsel's name, address, telephone number, and e-mail address. No objection will be valid unless all of the information described above is included. Copies of all papers filed with the Court must be simultaneously delivered to Class Counsel and counsel for Defendant. The Parties will have the right to depose any objector as to the basis and circumstances of his or her objection and to assess the objector's standing.

22. Any response to an objection shall be filed with the Court no later than 7 days prior to the Fairness Hearing.

23. Any Settlement Class Member who fails to timely raise an objection to the Settlement or who fails to otherwise comply with the requirements for objections set forth in the Agreement shall be foreclosed from seeking any adjudication or review of this Settlement.

24. Any attorney hired by a Settlement Class Member for the purpose of objecting to (a) the proposed Settlement, (b) the Attorneys' Fees, Expenses, and Costs award, and/or (c) the Case-Contribution Awards and/or who intends to make an appearance at the Fairness Hearing shall file with the Clerk of the Court and provide to the Class Action Administrator (who shall forward it to Class Counsel and WSE's Counsel) a notice of intention to appear no later than the Objection Date or as the Court may otherwise direct.

25. The Class Action Administrator shall establish a post office box and email address in the name of the Class Action Administrator to be used for receiving Opt-Out Requests, Claim Forms, and any other communications from Settlement Class Members, and providing that only the Class Action Administrator, Class Counsel, WSE's Counsel, the Court, the Clerk of the Court, and their designated agents shall have access to this post office box and email account, except as otherwise provided in this Settlement Agreement.

26. The Class Action Administrator shall also create and maintain the Settlement Website consistent with the terms of the Agreement, including that Class Members shall be permitted to submit Claim Forms, Opt-Out Requests, and any other communications to the Class Action Administrator via the Settlement Website. The Class Action Administrator shall make that Website publicly available no later than 21 days after entry of the Preliminary Approval Order, and it shall be maintained until the conclusion of the Class Notice Period.

27. Class Counsel shall file their Motion for an Award of Attorneys' Fees, Expenses, and Costs and Motion for Case-Contribution Awards to the Class Plaintiffs no longer than 90 days after the entry of this Order.

28. The Class Action Administrator shall provide the final Opt-Out List to Class Counsel and WSE's Counsel no later than fourteen days after the Opt-Out Date and then file with the Court the Opt-Out List with an affidavit attesting to the completeness and accuracy thereof no later than five days thereafter or on such other date as the Parties or Court may direct.

29. All Settlement Class Members are preliminarily enjoined from (i) filing, commencing, prosecuting, intervening in, or participating as plaintiff, claimant, or class member in any other lawsuit or administrative, regulatory, arbitral, or other proceeding in any jurisdiction based on the Released Claims; (ii) filing, commencing, participating in, or prosecuting a lawsuit or administrative, regulatory, arbitral, or other proceeding as a class action on behalf of any member of the Settlement Class who has not timely excluded himself or herself (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action), based on the Released Claims; or (iii) attempting to effect Opt-Outs of a class of individuals in any lawsuit or administrative, regulatory, arbitral, or other proceeding based on, relating to, or arising out of the claims and causes of action or the facts and circumstances giving rise to the Action and/or the Released Claims. Notwithstanding the foregoing, this provision, and any other provision of the Settlement Agreement, does not prevent members of the Settlement Class from participating in any action or investigation initiated by a state or federal agency.

30. Pending the final determination of whether the Settlement should be approved, all pre-trial proceedings and briefing schedules in the Action are stayed. If the Settlement is terminated or final approval does not for any reason occur, the stay will be immediately terminated.

31. If the Settlement is not approved or consummated for any reason whatsoever, the Settlement and all proceedings in connection with the Settlement will be without prejudice to the right of Defendant or the Class Plaintiffs to assert any right or position that could have been asserted if the Agreement had never been reached or proposed to the Court. In such an event, the Parties will return to the status quo ante in the Action, and the certification of the Settlement Class will be deemed vacated. The certification of the Settlement Class for settlement purposes, or any briefing or materials submitted seeking certification of the Settlement Class, will not be considered in connection with any subsequent class certification decision.

32. The Agreement and any and all negotiations, documents, and discussions associated with it, will not be deemed or construed to be an admission or evidence of any violation of any statute, law, rule, regulation, or principle of common law or equity, or of any liability or wrongdoing, by Defendant, or the truth of any of the claims, and evidence relating to the Agreement will not be discoverable or used, directly or indirectly, in any way, whether in the Action or in any other action or proceeding, except for purposes of demonstrating, describing, implementing, or enforcing the terms and conditions of the Agreement, this Order, and the Final Approval Order.

33. Counsel are hereby authorized to use all reasonable procedures in connection with approval and administration of the Settlement that are not materially inconsistent with this Order or the Agreement, including making, without further approval of the Court, minor changes to the form or content of the notices and Claim Form and other exhibits that they jointly agree are reasonable and necessary. The Court reserves the right to approve the Agreement with such

modifications, if any, as may be agreed to by the Parties without further notice to the members of the Class.

34. Accordingly, the following are the deadlines by which certain events must occur:

| Event | Deadline |
|---|---|
| Class Action Administrator will publish the Settlement Website | 21 days after entry of the Preliminary Approval Order |
| Class notice mailed and/or emailed (as required by the Settlement Agreement) to individuals on the Class Notice List | 60 days after entry of the Preliminary Approval Order (the "Notice Date") |
| Published Class Notice to be published | 60 days after entry of the Preliminary Approval Order |
| Last day for Class Counsel to file Motion for Attorneys' Fees, Expenses, and Costs and Motion for Case-Contribution Awards | 90 days after entry of the Preliminary Approval Order |
| Last day for Settlement Class Members to object or opt out of the Settlement | 150 days after entry of the Preliminary Approval Order |
| Last day for Settlement Class Members to submit a Claim Form | 150 days after entry of the Preliminary Approval Order |
| Class Action Administrator will provide counsel for the Parties with a report on the Opt-Outs | 14 days after the Opt-Out Date |
| Class Action Administrator will provide counsel for the Parties with a report on the total number of notices sent under the Settlement Class Notice Program | 14 days after the close of the Class Notice Period |
| Last day to file Motion for Final Approval of Settlement | 180 days after entry of the Preliminary Approval Order |
| Class Action Administrator will provide Class Counsel with a declaration reflecting that the Settlement Class Notice Program was executed in accordance with the Preliminary Approval Order | 21 days before Fairness Hearing |
| Fairness Hearing | At least 210 days after entry of Preliminary Approval Order |

35. The Court shall maintain continuing jurisdiction over these proceedings for the benefit of the Settlement Class defined in this Order.

IT IS SO ORDERED this ____ day of _____, 2023

Hon. Myra H. Dixon
State Court of Fulton County, Georgia

EXHIBIT 8 to
MOTION FOR PRELIMINARY APPROVAL

—

Affidavit of Christie Reed

**IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA**

AMANDA ANDERSON, on behalf
of herself and all others similarly situated,

Plaintiff,

v.

WSE PROPERTY MANAGEMENT LLC,

Defendant.

Civil Action File No.: 20EV005363

Affidavit of Christie K. Reed Regarding Notice Procedures

I, Christie K. Reed, declare as follows:

1. My name is Christie K. Reed. I have personal knowledge of the matters set forth herein.

2. I am a Vice President of Legal Notification Services at KCC Class Action Services, LLC (“KCC”), a firm that provides comprehensive class action services, including claims administration, legal notification, email and postal mailing campaign implementation, website design, call center support, class member data management, check and voucher disbursements, tax reporting, settlement fund escrow and reporting, and other related services critical to the effective administration of class action settlements. Our experience includes many of the largest and most complex settlement administrations of both private litigation and of actions brought by state and federal government regulators. KCC has been retained to administer more than 7,000 class actions and distributed settlement payments totaling well over a trillion dollars in assets.

3. This Declaration describes KCC’s experience, the proposed notice plan (the “Notice Plan”), and the forms of notice (“Notice” or “Notices”) designed to provide notice to class members for this class action settlement.

4. Unless otherwise noted, capitalized terms have the same meaning ascribed to them as in the Settlement Agreement and Release.

EXPERIENCE

5. KCC has administered class action settlements involving such defendants as HP-Compaq, Toyota, LensCrafters, United Parcel Service, Ford, Mitsubishi, Nissan, Whirlpool, ATI Video Cards, and Twentieth Century Fox. Further, KCC has been retained as the administrator in a variety of matters, including those alleging violations of the Illinois Biometric Information Privacy Act. Some case examples which KCC has been involved with include: *Barba v. Shire U.S., Inc.*, No. 1:13-cv-21158 (S.D. Fla.); *Beck-Ellman v. Kaz USA Inc.*, No. 10-cv-2134 (S.D. Cal.); *Brickman v. Fitbit, Inc.*, No. 3:15-cv-02077 (N.D. Cal.); *Cicciarella v. Califia Farms, LLC*, No. 7:19-cv-08785 (S.D.N.Y); *Elkies v. Johnson & Johnson Services, Inc.*, No. 2:17-cv-07320 (C.D. Cal.); *Friend v. FGF Brands (USA), Inc.*, No. 1:18-cv-07644 (N.D. Ill.); *Holt v. Foodstate, Inc.*, No. 1:17-cv-00637 (D. N.H.); *Kusinski v. ADP, LLC*, No. 2017-CH-12364 (Cir. Ct. Cook County, Ill.); *In re Facebook Biometric Information Privacy Litig.*, No. 3:15-cv-03747 (N.D. Cal.); *In re Morning Song Bird Food Litig.*, No. 3:12-cv-01592 (S.D. Cal.); *In Re: Rust-Oleum Restore Marketing, Sales Practices and Products Liab. Litig.*, No. 1:15-cv-01364 (N.D. Ill.); *In re Trader Joe's Tuna Litig.*, No. 2:16-cv-01371 (C.D. Cal.); *Lerma v. Schiff Nutrition International, Inc.*, No. 3:11-cv-01056 (S.D. Cal.); *Morrisey v. Tula Life, Inc.*, No. 2021L000646 (Cir. Ct. Ill.); *Poertner v. The Gillette Co. and The Procter & Gamble Co.*, No. 6:12-cv-00803 (M.D. Fla.); *Rael v. The Children's Place, Inc.*, No. 3:16-cv-00370 (S.D. Cal.); *Rikos v. The Procter & Gamble Co. (Align Probiotics)*, No. 11-cv-00226 (S.D. Ohio); *Roberts v. Electrolux Home Products, Inc.*, No. 8:12-cv-01644 (C.D. Cal.); *Schneider v. Chipotle Mexican Grill, Inc.*, No. 3:16-cv-02200 (N.D. Cal.); *Salkauskaite v. Sephora, Inc.*, No. 1:18-cv-08507 (N.D. Ill.); and *Vo. Luxottica of America*

Inc., No. 19-CH-10946 (Cit. Ct. Cook County, Ill.).

6. If the Court grants Plaintiff Amanda Anderson's Unopposed Motion For Preliminary Approval Of The Class Settlement And Class Notice, and if KCC is appointed as the Settlement Administrator by the Court in this matter, KCC is prepared to, capable of, and willing to implement the Notice Plan as set forth in the Comprehensive Settlement Agreement.

NOTICE PLAN DETAILS

Class Definition

7. The Classes are defined as (a) any person; (b) who had an agreement for the rental of real property with WSE, or any of its subsidiaries or affiliated entities or persons, including but not limited to Windward Place Apartments; (c) and who either: (i) had all or some of their security deposit not returned due, at least in part, to alleged damage to the premises or otherwise were charged for said alleged damages; (ii); had all or some of their security deposit retained during the time period beginning on September 17, 2000 and continuing through the date of the Final Approval Hearing; and (iii) did not receive a list of alleged damage to the premises within thirty (30) business days of termination of the occupancy (the "Security Deposit Class"); (d) or: (i) had a lease that contained a provision that the tenant would only be charged for their actual sub-metered utility usage; yet (ii) were charged an amount for utilities based on an estimate that was greater than their utility usage during the time period beginning on September 17, 2014 and continuing through the date of the Final Approval Hearing (the "Utility Meter Class"); (e) or: were charged fees, including "administrative fees" associated with the collection of utility payments that were greater than the amount their contracts said they would be charged, during the time period beginning on September 17, 2014 and continuing through the date of the Final Approval Hearing (the "Utility Fees Class"); (f) or (i) had a lease with a "Special Provision" which provides that if

the lease goes month to month they will be charged a \$200 surcharge in addition to market rent; and (ii) their lease did in fact go month-to-month (as opposed to entering into a new lease agreement); but (iii) nevertheless were charged more than \$200 above their previous monthly rent, during the time period beginning September 17, 2014 and continuing through the date of the Final Approval Hearing (the “Holdover Rent Class”).

Individual Notice

8. Defendant will provide KCC with a list of names of Class members (to the extent known), last known addresses of known Class members, last known email addresses of known Class members, and any other information KCC deems necessary for administration (“Notice List”).

9. An email Summary Notice will be sent to approximately 54,136 Class members for whom an email address is available. The notice content will be included in the body of the email, rather than as an attachment, to avoid spam filters and improve deliverability. The email will contain a link to the settlement website.

Publication Notice

10. In addition to the individual notice effort, KCC will cause the Summary Notice to be distributed nationally as a press release over PR Newswire’s US1 National Distribution.

11. KCC will also cause the Summary Notice to be published as an approximate eighth-page ad unit once each in *The Atlanta Journal-Constitution*, *The Augusta Chronicle*, the *Columbus Ledger-Enquirer*, and the *Savannah Morning News*.

12. Additionally, approximately 5,800,000 digital media impressions will be purchased programmatically and distributed over various websites and mobile apps on the Google Display Network and on Facebook. The impressions will be targeted to adults 18 years of age and older in

Georgia. Impressions will appear on both desktop and mobile devices, including smartphones and tablets, in display and native ad formats, and will include an embedded link to the case website.

Response Mechanisms

13. KCC will establish and maintain a case-specific website to allow Class members to obtain additional information and documents about the Settlement. The settlement website will allow users to read, download, and print the Comprehensive Settlement Agreement, the latest Complaint, Notice, Order Granting Preliminary Approval, Applications for Class Representative Service Award, and Class Counsel's attorney fees and expenses, and order granting final approval, as well as other documents and deadlines. Class members will also be able to review a list of Frequently Asked Questions (FAQs) and Answers and file a claim form online. The website address will be provided in all printed notice materials and accessible through an embedded link the email notice and digital notices.

14. KCC will establish and host a case-specific toll-free number to allow Class members to learn more about the settlement in the form of frequently asked questions and answers, and to request to have a long-form notice and claim form mailed directly to them. The toll-free number will be included in all printed notice documents.

15. KCC will create and maintain a case-specific P.O. Box address to receive opt-out requests and other correspondence. KCC will process all opt-outs in accordance with the Comprehensive Settlement Agreement.

NOTICE DESIGN AND CONTENT

16. KCC has assisted in preparing the proposed notice documents for this settlement. The notice documents have been designed to be noticeable and understandable. The Claim Form avoids replicating language and legalistic terminology. The Notices and Claim Form are

informative, reasonably convey all required information, and are consistent with notices provided in similar class action settlements.

17. The Notices were designed to satisfy the requirements of Rule 23, adhere to the guidelines set for in the *Manual for Complex Litigation, Fourth*, and comply with the Federal Judicial Center's (FJC) Illustrative Forms of Class Action Notices.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 3rd day of March, 2023, at Lakewood, CA



Georgia Kay Lord
3/3/23

Christie K. Reed

Christie K. Reed