

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION
Civil Action No. 1:18-cv-01030

VALERIE WILLIAMS, on behalf of)	
herself and all others similarly)	
situated,)	
)	
Plaintiffs,)	Settlement Agreement
)	
v.)	
)	
PEGASUS RESIDENTIAL, LLC;)	
MP BRIDGES AT SOUTHPOINT,)	
LLC d/b/a BRIDGES AT)	
SOUTHPOINT,)	
)	
<u>Defendants.</u>		

This Settlement Agreement is entered into by Plaintiff Valerie Williams (“Plaintiff”), on behalf of herself and as a putative class representative; and Pegasus Residential, LLC (“Pegasus”) and MP Bridges at Southpoint LLC d/b/a Bridges at Southpoint (“MP Bridges”) (Pegasus and MP Bridges collectively referred to as “Defendants,” and Plaintiff and Defendants collectively referred to as “the Parties”).

I. Recitals

A. Plaintiff filed a putative class action complaint against Defendants in the General Court of Justice, Superior Court Division, in Durham County on November 6, 2018 (“the Action”).

B. Plaintiff alleged that Defendants unlawfully charged complaint filing fees, sheriff service fees, and attorneys' fees ("Eviction Fees") when filing a summary ejectment action against their tenants.

C. Plaintiff brought her Action on behalf of herself and classes of tenants who were threatened with and/or charged eviction fees.

D. The Action brought four claims for relief: a violation of the North Carolina Residential Rental Agreements Act (N.C.G.S. § 42-46), a violation of the North Carolina Debt Collection Act (N.C.G.S. § 75-50, *et seq.*), a violation of the North Carolina Unfair and Deceptive Trade Practices Act ("UDTPA") (N.C.G.S. § 75-1.1, *et seq.*), and a Petition for Declaratory Judgment (N.C.G.S. § 1-253, *et seq.*).

E. On December 18, 2018, Defendants filed a Notice of Removal to the United States District Court for the Middle District of North Carolina, Durham Division, Case No.: 1:18-cv-1030.

F. On January 28, 2019, Defendants filed Motions to Dismiss the UDTPA claim pursuant to Rule 12(b)(6), to which Plaintiff responded on February 19, 2020.

G. On February 13, 2019, Plaintiff filed a Motion to Conduct a Rule 26(f) Conference to proceed with discovery not subject to Defendants' Motions to Dismiss.

H. On May 3, 2019, upon full briefing, the Court denied Plaintiff's Motion to Conduct a Rule 26(f) conference, finding that it not "practicable" for the parties

to confer regarding discovery at this time...” D.E. 33 at 3.

I. On September 11th, 2019, the Court granted Defendants’ Motions to Dismiss the UDTPA claim and dismissed Plaintiff’s third cause of action. D.E. 35. The remaining causes of action remained pending.

J. On October 25, 2019, Defendants filed and served their respective responsive pleadings denying Plaintiff’s claims and asserting various defenses.

K. On November 30, 2020, Defendants moved to stay the case pending the outcome of *Suarez v. Camden Property Trust, et al.*, Case No. 19-1367 (4th Cir.). D.E. 37. Plaintiff responded in opposition, D.E. 39, and on November 19, 2020, the Court entered an order staying the case until the Fourth Circuit decided *Suarez*. D.E. 43.

L. On June 19, 2020, the Fourth Circuit resolved *Suarez*, and accordingly the Court lifted the stay on June 22, 2020. *See* Text Order June 22, 2020.

M. On July 30, 2020, the Court approved the Rule 26(f) Report submitted by the parties.

N. On July 31, 2020, Plaintiff served discovery on Defendants.

O. The Parties have engaged in extensive, arm’s length negotiations regarding the settlement of this Action, assisted by a respected mediator, Robert Beason, with mediation held on November 12, 2020. Following the mediation, the Parties agreed to all material terms.

P. The Parties have conducted an investigation of the facts and after carefully considering the circumstances of the Action, including the claims asserted and the legal and factual defenses thereto, have concluded that it would be in the Parties' best interests to enter into this Agreement to avoid the uncertainties, burden, and risks of litigation, and that this Agreement is fair, reasonable, adequate, and in the best interests of all putative class members.

Q. Defendants, despite their belief that they have strong defenses to the claims described herein, have agreed to enter this Agreement to reduce and avoid the further expense, burden, and inconvenience of protracted and uncertain litigation, and to resolve finally and completely the claims of Plaintiff and the putative class.

R. Defendants have agreed to a total Settlement Contribution, as defined below, in the amount of a Cash Fund of \$862,500.00, Debt Relief for suitable class members in the amount of \$386,959.55, and non-monetary relief in the form of a Consent Motion to Set Aside Judgment for Possession Pursuant to Rule 60(b)(5) and Stipulation of Dismissal for suitable class members.

S. The Settlement Contribution is not to be construed as an admission of liability on the part of the Released Persons. The Released Persons contend that the Settlement Contribution is made only in settlement of doubtful claims and to otherwise buy their peace—liability or improper conduct of any kind on the part of

the Released Persons being expressly denied.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff and Defendants, acting in good faith and subject to the approval of the Court, that all class and individual claims alleged against Defendants and those claims that could have been alleged are hereby compromised, settled, fully released, wholly discharged and dismissed with prejudice in accordance with the terms and conditions set forth below.

II. Definitions

A. “Agreement” or “Settlement Agreement” means this Settlement Agreement resolving the Action and all attachments and exhibits, which the Parties understand and agree set forth all of the terms and conditions of the settlement between them, and which is subject to Court approval.

B. “Cash Fund” means the amount of \$862,500.00 to be paid by Defendants or their insurers to the Claims Administrator for the benefit of the Settlement Classes pursuant to this Agreement. The Parties understand and agree that this amount constitutes the total cash payment obligation of Defendants and the other Released Persons with regard to this settlement.

C. “Claim Form” means the claim form substantially in the form attached hereto as **Exhibit A**.

D. “Claims Period” means the time period for the filing of all claim forms.

The Claims Period shall start on the date of the first day of the Notice Period and continuing until sixty (60) calendar days after the entry of the Preliminary Approval Order, or as otherwise determined by the Court.

E. “Claims Administrator” means the qualified third party administrator and agent agreed to by the Parties and approved and appointed by the Court in the Preliminary Approval Order to administer the Settlement, including providing the Notice of Class Settlement. The Parties agree to recommend that the Court appoint CPT Group as Claims Administrator to: (a) design, consult on, and implement the Notice Plan and related requirements of this Agreement; and (b) implement the Notice Plan, the Settlement website www.PMPBNCTenantsettlement.com, the submission and review of Claim Forms, and related requirements of this Agreement, subject to the Court’s approval.

F. “Class Counsel” means the following attorneys: Scott C. Harris and Patrick M. Wallace of Whitfield Bryson LLP and Edward H. Maginnis and Karl S. Gwaltney of Maginnis Law, PLLC.

G. “Class Period” means the period of time between November 6, 2014 and June 25, 2018.

H. “Class Releasers” means each Settlement Class Member, as well as each Settlement Class Member’s predecessors, successors, heirs, executors, trustees,

legal representatives, administrators, agents and assigns.

I. “Class Representative” means Valerie Williams.

J. “Collection Letter” means any letter sent by Defendants to Settlement Class Members during the Relevant Time Period that asserts that Settlement Class Members will either (a) be charged with Eviction Fees upon the filing of a summary ejectment action or (b) that Eviction Fees are owed. A non-exclusive exemplar of a Collection Letter is attached hereto as **Exhibit B**.

K. “Court” means the United States District Court for the Middle District of North Carolina, Durham Division, where the action is pending. The Honorable Loretta C. Biggs, shall retain jurisdiction to effectuate and resolve any disputes concerning the Settlement.

L. “Debt Relief” means the release and waiver of the Outstanding Debt.

M. “Defendants’ Properties” means any apartment community located in the State of North Carolina which was (i) owned by Defendants or (ii) managed by Pegasus, even if owned by an entity other than Defendants, at any point during the Class Period.

N. “Effective Date” is the date defined in Section IV.F. of this Agreement.

O. “Eviction Fees” means those out-of-pocket expenses associated with filing a complaint in summary ejectment; consisting of court filing fees, sheriff

service fees, and/or attorneys' fees.

P. "Long Form Notice" means the long form notice of settlement, substantially in the form attached hereto as **Exhibit C**.

Q. "Monetary Relief" means the \$862,500.00 Cash Fund and the \$386,959.55 in Debt Relief.

R. "Non-Monetary Relief" means the *Consent Motion to Set Aside Judgment for Possession Pursuant to Rule 60(b)(6) and Stipulation of Dismissal* in substantially the form attached hereto as **Exhibit D** that any member of the Eviction Fee Class against whom a judgment for possession at one of Defendants' Properties was obtained by Defendants or its affiliates during the Class Period is eligible to file with the appropriate Court.

S. "Notice Period" means the period of time running from the date the Claims Administrator commences the Notice Plan until such Notice Plan is complete. The Notice Period must commence within fourteen (14) calendar days after the entry of the Preliminary Approval Order and should be substantially complete no later than forty-five (45) days after the entry of the Preliminary Approval Order.

T. "Notice Plan" means the plan for dissemination of the notice of this Agreement as set forth in Section IV.C of this Agreement. The Notice Plan shall commence no later than fourteen (14) calendar days after the date of the entry of the

Preliminary Approval Order.

U. “Notice of Class Settlement” means notices, including the Long Form Notice, the Postcard Notices, the Summary Email Notices, the settlement website, and toll-free telephone number, provided to the Settlement Class pursuant to the Notice Plan.

V. “Outstanding Debt” means the total amount owed by Eviction Fee Class members, with respect to their tenancies at those of Defendants’ Properties that Pegasus currently (as of December 31, 2020) manages, at the time they vacated their apartments, including but not limited to rent, fees, costs, expenses, and charges. Pegasus represents that the total amount of Outstanding Debt is \$386,959.55.

W. “Postcard Notices” means the postcard notice, to be sent to Settlement Class Members who do not have a facially valid email address or for whom the Claims Administrator has received two undeliverable return messages, substantially in the forms of the notice attached hereto as **Exhibit E** (for Collection Letter Class members) and **Exhibit F** (for Eviction Fee Class members).

X. “Released Claims” means any and all claims, demands, actions, allegations, suits, causes of action, theories of liability, damages whenever incurred, and the liabilities of any nature whatsoever, including costs, expenses, restitution, punitive damages, exemplary damages, compensatory damages, incidental damages, pecuniary damages, fines, penalties, and attorneys’ fees, known or unknown,

suspected or unsuspected, whether past, present or future, in law or in equity, in tort or in contract, that Class Releasors, whether or not they object to this Settlement or make a claim upon or participate in the Settlement, ever had, now has, or hereafter can, shall, or may have, directly, indirectly, representatively, derivatively, or in any capacity, arising out of or relating in any way to the charging, threatening to charge, collecting, or attempting to collect Eviction Fees or any Outstanding Debt, including all claims that were or could have been alleged by Plaintiff in the Action.

Y. “Released Persons” means Defendants and all other current or former owners of Defendants’ Properties, along with their respective parent companies, lenders, insurers, investors, affiliates, suppliers, successors, assigns, subsidiaries, related entities and trustees and/or beneficiaries of trusts which have an interest in the above referenced companies; and/or any current, past or future owners, members, directors, officers, employees, attorneys, accountants, direct and indirect shareholders, partners, members, or agents of the foregoing.

Z. “Relevant Time Period” means the period of time between November 6, 2014 and June 25, 2018.

AA. “Set Aside and Dismissal” means the *Consent Motion to Set Aside Judgment for Possession Pursuant to Rule 60(b)(6) and Stipulation of Dismissal* in substantially the form attached hereto as **Exhibit D**.

BB. “Settlement” means the settlement embodied in this Agreement,

including all exhibits (which are an integral part of this Agreement and are incorporated in their entirety by reference).

CC. “Settlement Class” or “Settlement Classes” or “Settlement Class Members” are defined as those natural persons who meet the requirements for either the Collection Letter Class or Eviction Fee Class as set forth below in Section III(A).

DD. “Settlement Contribution” consists of (a) the Cash Fund in the amount of \$862,500.00, (b) Debt Relief in the amount of \$386,959.55, and (c) the Non-Monetary Relief.

EE. “Summary Email Notice” means and includes the notice to be sent to Settlement Class members who have a facially valid email address and is substantially similar to the form attached hereto as **Exhibit G** (for Collection Letter Class Members) and **Exhibit H** (for Eviction Fee Class members).

III. Settlement Terms

A. Certification of Settlement Class

The Parties agree and consent, for settlement purposes only, to the certification of the following classes in the Action:

Collection Letter Class: All natural persons who (a) at any point between November 6, 2014 and June 25, 2018, (b) resided in any of the properties in North Carolina owned and/or managed by Defendants and (c) received a Collection Letter.

Eviction Fee Class: All natural persons who (a) at any point between November 6, 2014 and June 25, 2018, (b) resided in any of the properties in North Carolina owned and/or managed by Defendants and

(c) were charged and (d) paid Eviction Fees.

Excluded from the Settlement Classes are (1) persons who are employees, directors, officers, and agents of Defendants; (2) persons who timely and properly exclude themselves from the Settlement Class as provided in this Agreement; (3) anyone who has previously executed a written release of all claims against Defendants related to the collecting of Eviction Fees and would otherwise be a member of the Settlement Class; and (4) the Court, the Court's immediate family, and Court staff.

Defendants agree and consent to certification of the Settlement Classes for settlement purposes only, and subject to the conditions of this Agreement only. Defendants' agreement is contingent upon execution of this Agreement by the Parties and entry of a Final Order and Judgment. If this Agreement, for any reason, is not finally approved or is otherwise terminated, Defendants reserve the right to reassert all of their objections and defenses to certification of any class. Plaintiff will not offer this Agreement as evidence in support of a motion to certify any class, dispositive motion, or for trial purposes.

B. Settlement Class Relief and Compensation

In consideration of a full, complete, and final settlement of the Action, dismissal of the Action with prejudice, and the release, and subject to the Court's approval and the terms of this Settlement, the Parties agree to the following

compensation and allocations.

Defendants shall provide the total Monetary Relief which consists of the Cash Fund of \$862,500.00 and Debt Relief of \$386,959.55 as set forth below. Additionally, Defendants will provide the Non-Monetary Relief set forth below.

1. Monetary Relief

a. Cash Fund

i. Collection Letter Class Cash Payments

Members of the Collection Letter Class shall receive compensation on a claims-made basis. Each Collection Letter Class member who submits a valid and timely claim form is eligible to receive \$25.00 for each Collection Letter sent by Defendants. Collection Letter Class members shall be eligible to receive a maximum of \$75.00 for all Claims submitted, subject to a pro rata reduction based on availability. The Collection Letter Class shall be allotted \$100,000.00 of the Cash Fund. Any amounts unclaimed from the \$100,000.00 allotted for the Collection Letter Class shall be re-allocated to the Eviction Fee Class.

ii. Eviction Fee Class Cash Payments

Pegasus's records demonstrate those individuals who were charged and actually paid Eviction Fees to Defendants during the Relevant Time Period and comprise the Eviction Fee Class. Accordingly, members of the Eviction Fee Class shall receive compensation directly without the submission of a claim form.

Assuming 100% participation by eligible persons, Eviction Fee Class members shall each receive approximately \$480.00 for being charged and having paid the Eviction Fees, subject to pro rata increase or reduction based on Settlement Class Member participation. If any amounts allocated pursuant to this Section cannot be evenly distributed among all Eviction Fee Class members, such amounts shall be allocated to the *cy pres* recipient(s) as ordered by the Court. In addition, any amounts unclaimed for the Settlement Class shall be allocated to the *cy pres* recipient(s) as ordered by the Court.

b. Debt Relief

Pegasus represents that, according to its records, Eviction Fee Class members have Outstanding Debt in the amount of \$386,959.55. Defendants agree to waive all Outstanding Debt owed by Eviction Fee Class members. Defendants agree to cease from attempting to collect, collecting, or assigning any right to collect Eviction Fee Class members' Outstanding Debt. Defendants shall instruct any third-party with which they had a contractual obligation to collect Outstanding Debt to cease all attempts to collect the Outstanding Debt. Defendants shall not refer, sell, assign, or otherwise transfer the Outstanding Debt. Defendants release dominion and all legal and equitable right, title, and interest to the Outstanding Debt. To the extent that Defendants or any third-party entity that has contracted with Defendants to collect the Outstanding Debt receives any payments toward the Outstanding Debt after the

Effective Date, Defendants shall, within 30 days of receipt, refund any such payments.

To effectuate this release and waiver, Pegasus or its third party agent will send an automated universal data form, or its equivalent, to the three major consumer reporting agencies (TransUnion, Experian, and Equifax) and to all credit reporting agencies that Pegasus or its third party agent has utilized during the Relevant Time Period to delete their tradelines relating to the affected Eviction Fee Class Members, within 21 days of the Effective Date. The Parties agree that the waiver of the debt relates to money previously alleged to be owed by Plaintiff and Class Members that is specifically disputed and alleged not to be owed. As such, the debt waiver portion of this settlement shall not be considered as income and Defendants shall not issue a Form 1099-C to Plaintiff or any Class Member. It is expressly understood that Defendants' reporting or their third party agents' reporting as described above shall fulfill their obligations under this paragraph. Defendants shall have no further obligations with respect to the Debt Relief portion of this Settlement and shall not be liable for any reporting agencies' failure to accurately reflect or report a tenant's information.

For avoidance of doubt, it is agreed by the Parties that the Debt Relief contained in this section is in addition to other benefits available in this Agreement, including the Cash Fund and the non-monetary relief described herein.

2. *Non-Monetary Relief*

In addition to the monetary benefits identified in Section III.B.1 of this Agreement, any member of the Eviction Fee Class against whom a judgment for possession at one of Defendants' Properties was obtained by Defendants or their affiliates during the Class Period is eligible to file with the appropriate court a *Consent Motion to Set Aside Judgment for Possession Pursuant to Rule 60(b)(5)* (the "Set-Aside") and, if the Set-Aside is granted, a *Stipulation of Dismissal* ("Dismissal"). The Set-Aside and Dismissal shall be in substantially the form attached hereto as **Exhibit D**. Eviction Fee Class members are responsible for filling out and filing the Set-Aside and Dismissal, either with the assistance of their own retained counsel or as pro se litigants. It is anticipated that Class Members might need to contact the applicable court to attempt to obtain information for the Set-Aside and Dismissal. Defendants' sole obligation with respect to the Non-Monetary Relief is its consent to the filing of a Set-Aside and Dismissal by a member of the Eviction Fee Class. Defendants make no representation or warranty that any court will grant any filed Set-Aside or Dismissal. Defendants have no obligation to assist any Settlement Class Member with any aspect of filing a Set-Aside or Dismissal or with any aspect of any related court proceedings. Additionally, Defendants shall have no obligation to execute any documents or take any further action in relation to the Non-Monetary Relief except for the execution of one copy of the form attached

as **Exhibit D**. In order to qualify for this benefit, Eviction Fee Class Members must file a valid and timely claim.

C. Administrative Expenses, Attorneys' Fees, and Costs

Within ten (10) calendar days of the entry of the Preliminary Approval Order, Defendants shall pay the first installment of \$25,000.00 to the Claims Administrator in order to implement the court-approved Notice Plan. This amount shall be subtracted from the Cash Fund. Defendants shall pay any other amount as directed to the Claims Administrator from the Cash Fund within twenty-one (21) calendar days after the Effective Date.

Within ten (10) days after the Effective Date, Defendants, or their insurers, shall pay to Whitfield Bryson LLP the amount approved for attorneys' fees and costs. Defendants will not object or otherwise comment to a request for attorneys' fees so long as the request does not exceed \$350,000.00 of the Monetary Relief, and reimbursement of expenses and costs. These amounts shall be subtracted from the Cash Fund.

D. Service Award

The Class Representative, or Class Counsel on her behalf, may make an application for a service award in an amount not to exceed \$2,500. Defendants will not oppose or otherwise comment on the service award if in the amount referenced above. The service award shall be subtracted from the Cash Fund.

E. Cy Pres

Any amounts of the Cash Fund not distributed to Settlement Class Members or awarded as administrative expenses, attorneys' fees and costs, or as a service award, shall be distributed to Legal Aid of North Carolina, subject to Court approval.

IV. Procedure for Approval and Implementation of Settlement

The Parties and their counsel shall take reasonable steps that may be requested by the Court relating to the approval and implementation of this Agreement and shall otherwise use their respective best efforts to obtain Court approval and effect the reasonable implementation of this Agreement. The procedure for obtaining Court approval of and implementing this Agreement shall be as follows:

A. Submission to the Court for Preliminary Approval

Class Counsel shall submit this Agreement to the Court, along with a motion seeking preliminary approval of the proposed Settlement, as soon as practicable following the execution of this Agreement. The motion shall request entry of the Preliminary Approval Order. Defendants agree to consent to entry of the Preliminary Approval Order in accordance with this Agreement.

In the event the Court does not approve this Agreement, the Effective Date does not occur, or this Agreement is otherwise terminated, all stayed proceedings shall resume in a reasonable manner.

B. Appointment of Claims Administrator

Subject to the approval of the Court, Class Counsel has proposed the appointment of CPT Group to serve as Claims Administrator in this matter. The Claims Administrator shall perform the following duties: (a) prepare the Notice Plan; (b) disseminate the Notice of Class Settlement; (c) process claim forms and opt-out forms; (d) receive and serve on Class Counsel, Defendants' Counsel, and the Court any written objections and opt-out requests; determine the amounts of the awards due to eligible Settlement Class Members in accord with the terms and procedures set forth herein; (e) report, in summary or narrative form, to Class Counsel and Defendants' counsel regarding the completion of the tasks identified in this paragraph; (f) issue other reports and provide any and all files, documents, and data related to this Agreement, upon request, to Defendants' Counsel, or Class Counsel; (g) carry out other related tasks in accordance with the terms of this Agreement; and (h) agree to employ its best efforts to faithfully and fully perform any and all obligations and duties imposed on the Claims Administrator pursuant to this Agreement and its exhibits and amendments (if any).

All disputes relating to the Claims Administrator's ability and need to perform its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Settlement Agreement, until all payments and obligations contemplated by the Settlement Agreement have been fully executed.

C. Plan for Dissemination of Notice

It is the Parties' intent that class members receive constitutionally adequate notice of the Settlement. Class Representative shall submit to the Court for approval the Notice Plan and the Notice of Class Settlement. The Notice Plan will provide the best notice practicable under the circumstances of the Action, conform to all aspects of Fed. R. Civ. P. 23, and comply with the terms and conditions of this Agreement.

The dissemination of the Notice of Class Settlement shall be commenced by the Claims Administrator within fourteen (14) calendar days of the entry of the Preliminary Approval Order.

The Notice Plan shall include the following:

1. Class Member Information

Pegasus provided the declaration attached to this Agreement as **Exhibit I** summarizing the number of Settlement Class Members. In addition, Pegasus shall provide the names of all Eviction Fee Class members, as well as records from which the potential members of the Collection Letter Class might be determined, to Class Counsel and the Claims Administrator. The accuracy and completeness of the identities of those names listed of the Eviction Fee Class Members and Collection Letter Class Members are material terms to this agreement.

Within five (5) business days after the entry of the Preliminary Approval Order, Pegasus shall confirm to the Claims Administrator the following regarding

the Settlement Class Members to the extent reasonably available: email addresses, and tenant address while at Defendants' Properties. The Claims Administrator shall use this information for the sole purpose of identifying the current physical address and/or email address for the Settlement Class Members.

2. Internet Website

At the commencement of the Notice Period, the Claims Administrator shall establish an internet website, www.PMPBNCTenantsettlement.com, that will inform Settlement Class Members of the terms of this Settlement, their rights, dates and deadlines and related information. The website shall include, in .pdf format and available for download, the following: (i) the Long Form Notice; (ii) the Claim Form; (iii) the Preliminary Approval Order; (iv) this Agreement (including all of its exhibits), (v) the operative Complaint filed in the Action; and (vi) any other materials agreed upon by the Parties and/or required by the Court. The Internet website shall provide Class Members with the ability to complete and submit the Claim Form electronically.

3. Toll-Free Telephone Number

Prior to the commencement of the Notice Period, the Claims Administrator shall establish a toll-free telephone number, through which Settlement Class Members may obtain information about the Action and the Settlement and request a mailed copy of the Long Form Notice and/or the Claim Form, pursuant to the terms

and conditions of this Settlement. The Long Form Notice and Claim Form will be mailed to all persons who request one via the toll-free phone number maintained by the Claims Administrator.

4. Direct Notice – Email Notice

No later than five (5) days after the commencement of the Notice Period, the Claims Administrator shall email the Summary Email Notices attached hereto as **Exhibit G** to each Collection Letter Class Member and **Exhibit H** to each Eviction Fee Class member with a facially valid email address provided by Defendants.

The Summary Email Notices will be created using an embedded html text format. This format will provide text that is easy to read without graphics, tables, images and other elements that would increase the likelihood that the message could be blocked by Internet Service Providers (ISPs) and/or SPAM filters. The emails will be sent using a server known to the major emails providers as one not used to send bulk “SPAM” or “junk” email blasts. Also, the emails will be sent in small groups so as to not be erroneously flagged as a bulk junk email blast. Each Summary Email Notice will be transmitted with a unique message identifier. If the receiving e-mail server cannot deliver the message, a “bounce code” should be returned along with the unique message identifier. For any Summary Email Notice for which a bounce code is received indicating that the message is undeliverable, at least one additional attempt will be made to deliver the notice by email. If any Summary Email

Notice is returned undeliverable two times, the Claims Administrator will send the Postcard Notices. The Summary E-mail Notices will include an embedded link to the Settlement Website.

5. Direct Notice – United States Mail

No later than five (5) days after the commencement of the Notice Period, the Claims Administrator will commence the sending of Postcard Notices by United States Postal Service (“USPS”) first class mail to all Settlement Class Members for which the Claims Administrator has a physical mailing address and does not have a facially valid email address. The Claims Administrator shall send the Postcard Notice substantially similar to the one attached as **Exhibit E** to Collection Letter Class Members and the Postcard Notice substantially similar to the one attached as **Exhibit F** to Eviction Fee Class Members.

Prior to the initial mailing of the Postcard Notices, postal mailing addresses will be checked against the National Change of Address (“NCOA”) database maintained by the USPS. Any addresses returned by NCOA as invalid will be updated through a third-party address search service prior to mailing. All addresses will be certified via the Coding Accuracy Support System (“CASS”) to ensure the quality of the zip codes, and verified through the Delivery Point Validation (“DPV”) to verify the accuracy of the addresses. Postcard Notices returned as undeliverable will be re-mailed to any new address available through postal service information,

for example, to the address provided by the postal service on returned pieces for which the automatic forwarding order has expired, but which is still available during the period in which the postal service returns the piece with the address indicated, or more current or correct addresses that may be found using a third-party lookup service (e.g., “ALLFIND”, maintained by LexisNexis). Upon successfully locating better addresses, the Postcard Notices will be promptly re-mailed. Additionally, the Notices will be mailed to all persons who request one via the toll-free phone number maintained by the administrator.

6. Post-Notice Declaration of Claims Administrator

Following the completion of the Notice Plan, the Claims Administrator shall prepare a declaration attesting to its compliance. Such declaration shall be provided to Class Counsel and Defendants’ Counsel following the end of the Notice Period and be filed with the Court no more than ten (10) days prior to the Final Fairness Hearing or seven (7) days prior the filing of any motion in support of final approval of the Settlement, whichever is earlier.

D. Opt-Outs and Objections by Settlement Class Members

1. Requests for Exclusion from Class or Opt-Outs

Any potential Settlement Class Member may request to be excluded from the Settlement Class by submitting a Request for Exclusion pursuant to the terms set forth in the Notice of Class Settlement. Any such request must be made in

accordance with the terms set forth in the Notice of Class Settlement, must be mailed or delivered to the designated Claims Administrator as provided in the Notice of Class Settlement, and will be timely only if postmarked no later than sixty (60) days following the entry of the Preliminary Approval Order.

Each Settlement Class Member not timely opting out of the proposed Settlement shall be bound by all the terms and conditions of any final approved Settlement. The Parties agree that, should a potential Settlement Class Member submit objections to the proposed Settlement and also timely submit a Request for Exclusion, that potential Settlement Class Member shall be deemed to have excluded himself or herself from the Settlement Class and his or her objections shall not be considered.

Any potential Settlement Class Member that effectively excludes him or herself from the Settlement shall not participate in or be bound by the Settlement ultimately approved by the Court.

Within seventy (70) calendar days following the entry of Preliminary Approval, the Claims Administrator shall send Defendants' Counsel and Class Counsel a report of the total number of valid Opt-Outs. The report will include the names and address of each valid Opt-Out, and copies of each Request for Exclusion it receives from putative members of the Settlement Class (whether or not valid).

2. Objections to Settlement

Any Settlement Class Member who has not submitted a timely Request for Exclusion and who wishes to object to the fairness, reasonableness, or adequacy of any aspect of the Settlement, must deliver an objection, in writing, to Class Counsel and Defense Counsel and file the objection with the Court no later than sixty (60) days after the entry of the Preliminary Approval Order or as the Court may otherwise direct.

Written objections must include: (i) the objector's name, address, and telephone number; (ii) the name of this Action and the case number; (iii) a statement of each objection; (iv) proof of class membership, and (v) a written brief detailing the specific basis for each objection, including any legal and factual support the objector wishes to bring to the Court's attention and any evidence the objector wishes to introduce in support of the objection.

If the objection is made through an attorney, the written objection must also include: (1) the identity and number of the Settlement Class Members represented by objector's counsel; (2) the number of such represented Settlement Class Members who have opted out of the Settlement Class; and (3) the number of such represented Settlement Class Members who have remained in the Settlement Class and have not objected. If the attorney intends to seek fees and expenses from anyone other than the objectors he or she represents, the attorney shall also file with the Court and serve upon Class Counsel and Defense Counsel not later than fifteen days before the Final

Fairness Hearing or as the Court may otherwise direct a document containing the following: (1) the amount of fees sought by the attorney for representing the objector and the factual and legal justification for the fees being sought; (2) a statement regarding whether the fees being sought were calculated on the basis of a lodestar, contingency, or other method; (3) the number of hours already spent by the attorney and an estimate of the hours to be spent in the future; and (4) the attorney's hourly rate.

Counsel for the Parties shall have the right to take discovery, including via subpoenas *duces* tecum and depositions, from any objector. Objectors must make themselves available for deposition by counsel for the Parties between the time the objection is filed and a date no later than five (5) business days before the Final Fairness Hearing, and the objection must include the dates when the objector is available for deposition.

Any Settlement Class Member who files and serves a written objection satisfying the requirements of this section, may appear at the Fairness Hearing, either in person or through personal counsel hired at the Settlement Class Member's expense, to object to any aspect of the fairness, reasonableness, or adequacy of the Settlement. Settlement Class members, or their attorneys, intending to make an appearance at the Final Fairness Hearing must deliver to Class Counsel and Defense Counsel and have file-marked by the Court, no later than sixty (60) days after the

entry of the Preliminary Approval Order, a Notice of Intent to Appear. The Notice of Intent to Appear must: (1) state how much time the Settlement Class Member reasonably anticipates needing to present the objection; (2) identify, by name, address, and telephone number all witnesses the Settlement Class Member proposes to have testify; (3) summarize in detail the anticipated testimony of all such witnesses; (4) identify all exhibits the Settlement Class Member intends to offer in support of the objection; and (5) attach complete copies of all such exhibits.

3. Failure to Object

Any Settlement Class Member who fails to timely file such a written statement of his or her intention to object shall be foreclosed from making any objection to the Settlement and shall waive and forfeit any and all rights he or she may have to appear separately and/or object, and shall be bound by all the terms of this Agreement and by all proceedings, orders and judgments, including but not limited to, the Release contained in Section VI.A. of this Agreement.

E. Claim Process

1. Monetary Benefits

a. *Collection Letter Class Cash Payments*

Collection Letter Class members are eligible to receive cash payments upon the submission of a valid and timely claim form. To make a claim, Collection Letter Class members must complete and sign under penalty of perjury, and either mail or

submit electronically a valid claim form through the settlement website at www.PMPBNCTenantsettlement.com. A copy of the Claim Form is attached as **Exhibit A**. If the Claim Form is mailed, it must be mailed via first class mail to the Claims Administrator and postmarked on or before the last day of the Claims Period. If the Claim Form is submitted electronically, then it must be submitted electronically through the settlement website on or before the last day of the Claims Period.

b. Eviction Fee Class Cash Payments

Eviction Fee Class members are eligible to receive compensation without submission of a Claim Form. Eviction Fee Class members shall receive an Email Summary Notice (attached hereto as **Exhibit H**) or Postcard Notice (attached hereto as **Exhibit F**), whichever is applicable, that contains the estimated recovery for each Eviction Fee Class member subject to any deduction for attorneys' fees, costs, expenses, service awards, and claims administration, and subject to increase or decrease based on participation. An Eviction Fee Class member is not required to take any affirmative action in order to qualify for compensation.

c. Debt Relief

Eviction Fee Class members are eligible to receive the Debt Relief benefit automatically without the submission of a claim form.

2. Non-Monetary Benefit

Settlement Class Members who desire to obtain the Set-Aside and Dismissal are required to submit a timely and valid claim form.

3. Miscellaneous

The Claims Administrator, in consultation with Class Counsel, shall determine whether a claimant is a Settlement Class Member and, if so, whether the claimant is in the Collection Letter Class, the Eviction Fee Class, or both.

F. Effective Date

The Agreement shall be effective upon the day all of the following events have occurred:

1. Entry of the Order Preliminarily Approving Class Settlement;
2. Final approval by the Court of this Settlement, following notice to Settlement Class Members and a Final Fairness Hearing. The Parties recognize that all relief contemplated by this Agreement is expressly contingent upon the Court's Final Approval;
3. Entry by the Court of a Final Order and Judgment; and
4. The claims alleged by Plaintiff in the Action have been dismissed with prejudice.
5. If any Settlement Class Member objects, the Effective Date shall not occur until the expiration of any time for appeal or review of such Final Order and Judgment. If any appeal is filed and not dismissed, the Effective Date shall not

occur until after such Final Order and Judgment is upheld on appeal in all material respects and is no longer subject to review upon appeal.

G. Disbursements and Distributions from the Cash Fund

Payment, disbursements, and distributions of the Cash Fund shall proceed as follows:

1. First payment: Defendants shall pay \$25,000.00 to the Claims Administrator for the costs of notice and administration within ten (10) calendar days after the order on preliminary approval is entered.

2. Second payment: Within ten (10) calendar days after the Effective Date, Defendants, or their insurers, shall cause the remainder of the Cash Fund - less the \$25,000.00 already paid to the Claims Administrator for the costs of notice and claims administration and less any awarded attorneys' fees, costs, and service award - to be remitted to the Claims Administrator.

3. Third payment: Any attorneys' fees, expenses, and costs awarded by the Court, and any service award determined by the Court for services rendered by the Class Representative, shall be paid by the Defendants, or their insurers, into the Whitfield Bryson LLP trust account for distribution to Class Counsel and the Class Representative in accordance with this Agreement. Payment of such attorneys' fees, expenses, costs, and service award shall be paid by the Defendants, or their insurers, within ten (10) calendar days after the Effective Date of this Agreement.

4. Defendants will provide to the Claims Administrator a Set-Aside and Dismissal to use for all Eviction Fee Class members who file a timely and valid claim form requesting this relief within twenty-one (21) days after the Effective Date.

5. Within twenty (20) calendar days after the Claims Period ends, the Claims Administrator shall advise Class Counsel of its proposed distribution, taking into consideration the compensation outlined in this Agreement, all valid and timely claims submitted by Settlement Class Members.

6. Within thirty (30) calendar days after the receipt of the payment described in section IV.G.2 (the “Monetary Payment”), the Claims Administrator shall disburse all approved amounts to Settlement Class members in accordance with the proposed distribution described in section IV.H.5, in accordance with the terms of this Agreement. All disbursement checks shall be cashed within six (6) months of the date of the mailing. The Claims Administrator shall also distribute the Set-Aside and Dismissals to those Eviction Fee Class members who submitted a valid and timely claim requesting one within thirty (30) calendar days after the receipt of the Monetary Payment.

7. If, after the 6-month period for Settlement Class Members to cash checks expires, any amount in the Cash Fund left undisbursed shall, subject to Court approval, be disbursed to the *cy pres* recipient, Legal Aid of North Carolina,

as ordered by the Court. The Claims Administrator shall provide a report to Class Counsel of all money in the Cash Fund left undisbursed within fifteen (15) calendar days after the 6-month period has elapsed. Class Counsel will then direct, subject to Court approval, to distribute the remainder of the Cash Fund to the *cy pres* recipient(s).

H. Retention of Records

The Claims Administrator shall retain all records relating to payment of claims under this Agreement for a period of five (5) years from the Effective Date of this agreement.

V. Exclusive Remedy, Dismissal of Claims, and Retention of Jurisdiction

A. Exclusive Remedy

This Agreement shall be the exclusive remedy for any and all Released Claims, any claim arising out of the subject matter of this Agreement, and any complaint by any Settlement Class Member against the Released Persons related to the Released Claims. No Released Person shall be subject to liability or expense of any kind to any Settlement Class Member related to the Released Claims except as provided in this Agreement. Upon Final Approval of this Agreement, each Settlement Class Member shall be barred from initiating, asserting or prosecuting any Released Claims against any Released Person. This Agreement shall be binding upon, and inure to the benefit of, the Parties' successors and assigns.

B. Dismissal of Claims

The Parties agree that upon the Effective Date of this Agreement, all Released Claims shall be dismissed with prejudice in accordance with the Final Order and Judgment.

C. Jurisdiction

The Court shall retain exclusive and continuing jurisdiction over the Parties and this Agreement with respect to the performance of its terms and conditions (and disputes arising out of or relating to this Agreement), the proper provision of all compensation, the implementation and enforcement of its terms, conditions, and obligations, and the non-performance by the Claims Administrator of its duties.

VI. Releases and Reservations

A. Released Claims

Upon the Effective Date of this Agreement, the Released Persons shall be released and forever discharged by the Class Releasers from all Released Claims. All Class Releasers covenant and agree that they shall not hereafter seek to establish liability against any Released Person based, in whole or in part, on any of the Released Claims. Each Class Releaser expressly waives and fully, finally, and forever settles and releases any known or unknown, suspected or unsuspected, contingent or non-contingent Released Claims without regard to the subsequent discovery or existence of different or additional facts.

The Class Representative and the other Settlement Class Members further expressly waive and relinquish any and all rights that they may have under Section 1542 of the California Civil Code or any similar statute of any other state. Section 1542 provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Without acknowledging that Defendants would have any such liability, Defendants agree that these Releases do not cover, and that they will not assert these Releases or the settlement of claims pursuant to this Settlement as a defense to any claim for actual personal injury or any other claim not arising from the allegations contained in Plaintiff's complaint or regarding the Outstanding Debt.

Upon the Effective Date of the Settlement, all Settlement Class Members that have not filed a timely notice of exclusion shall be forever enjoined and barred from asserting any of the Released Claims, and any such Settlement Class Member shall be deemed to have forever released the Released Persons from any and all such Released Claims.

B. Reservation of Claims and Rights, No Admission

Released Claims shall not include (a) any claim against any person or entity that is not a Released Person or (b) any claim for breach of this Agreement. The

Parties agree that this Agreement, whether or not the Effective Date occurs, and any and all negotiations, documents, and discussion associated with it shall be without prejudice to the rights of any Party (other than those compromised herein); shall not be deemed or construed to be an admission or evidence of any violation of any statute or law, of any liability or wrongdoing by Released Persons, or of the truth of any of the claims or allegations contained in any Complaint or pleading whether in this Action or in any action or proceeding of any kind whatsoever, civil, criminal or otherwise, before any court, administrative agency, regulatory body or any other body or authority present or future. Neither this Agreement, nor any of its provisions, nor any statement or document filed in connection herewith nor the fact of this Agreement, shall be filed, offered, received in evidence or otherwise used in any action or proceeding. This Agreement and all of the terms herein constitute compromises and offers to compromise. In the event that this Agreement is terminated, nothing in this Agreement or its negotiation may be used as evidence in any action between the Parties. The Parties expressly reserve all their rights if this Agreement fails to become final and effective substantially in accordance with its terms.

Notwithstanding the preceding paragraph, this Agreement may be pleaded as a full and complete defense to any action, suit or other proceeding that has been or may be instituted, prosecuted or attempted with respect to any of the Released

Claims, and may be filed, offered, received into evidence, and otherwise used for such defense. This Agreement may also be used in connection with the Parties' application for approval or enforcement of this Agreement and all proceedings incident thereto, including requests for attorneys' fees, costs, disbursements and compensation to the Settlement Class and any disputes arising from this Agreement.

VII. Miscellaneous Provisions

A. Reasonable Best Efforts

The Parties agree to (i) use their reasonable best efforts, including all steps required by this Agreement and other efforts that may be necessary or appropriate, by order of the Court or otherwise, to carry out the terms of this Agreement; (ii) use their reasonable best efforts to defeat any lawsuit seeking to challenge this Agreement; and (iii) support the Settlement in all statements in any forum. Class Counsel has carefully reviewed this Agreement and has concluded that it is in the best interests of the Settlement Class Members and represents a fair and efficient method of compensating them for their claims against the Released Persons. Accordingly, Class Counsel hereby represents that they shall recommend that each Settlement Class Member accept his or her settlement offer under the terms of this Agreement. The Parties recognize, however, that the decision whether to participate in this Agreement rests with each individual Settlement Class Member.

B. Authorization to Enter Agreement

The undersigned representatives of Defendants represent that they are fully authorized to enter into and execute this Agreement on behalf of Defendants. Class Counsel represent that they are fully authorized to conduct settlement negotiations with Defendants' Counsel on behalf of Plaintiff and to enter into and execute this Agreement on behalf of Plaintiff and the putative Settlement Class, subject to approval by the Court.

C. Binding Effect

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

D. No Party is the Drafter

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

E. Choice of Law

This Agreement shall be governed by and interpreted according to the substantive laws of the State of North Carolina without regard to its choice of law or conflict of laws principles.

F. Amendment or Waiver

This Agreement shall not be modified in any respect except by a writing

executed by all Parties to this Agreement. The waiver of any rights conferred by this Agreement shall be effective only if made in writing by the waiving Party. The waiver by any Party of any breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior to, subsequent to, or contemporaneous with this Agreement.

G. Integrated Agreement

This Agreement, including its exhibits, contain an entire, complete, and integrated statement of the terms agreed to by and between the Parties.

H. No Collateral Attack

This Agreement shall not be subject to collateral attack by any Settlement Class member or any recipient of the Notice of Class Settlement after the Final Order and Judgment is entered. Such prohibited collateral attacks shall include but not be limited to claims that the Settlement Class Member failed for any reason to receive timely notice of the procedure for submitting a claim.

I. Amendments

The terms and provisions of this Agreement may be amended only by a written agreement that is both (a) signed by Plaintiff and an authorized representative of each of Defendants and (b) approved by the Court.

J. Meet and Confer regarding Disputes

Should any dispute arise among the Parties or their respective Counsel

regarding the implementation or interpretation of this Agreement, Class Counsel and Defendants' Counsel shall meet and confer with one another and/or the mediator in an attempt to resolve such disputes prior to submitting such disputes to the Court.

K. Waiver of Compliance

Any failure of any Party, Defendants' Counsel, and/or Class Counsel hereto to comply with any obligation, covenant, agreement, or condition herein may be expressly waived in writing, to the extent permitted under applicable law, by the Party or Parties and their respective counsel hereto entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or failure to insist upon strict compliance with any representation, warranty, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

L. Severability

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

M. Execution of Counterparts

This Agreement may be executed in counterparts. Facsimile or PDF

signatures shall be valid signatures as of the date thereof, although the original signature pages shall be appended to this Agreement and filed with the Court thereafter.

N. No Publicity

Except as may be required by law, Class Counsel agree not to make any reference to Defendants on or in their firm or individual websites, other social media sites, or other promotional or marketing materials, other than to accurately report the information listed in this Agreement.

IN WITNESS WHEREOF, the Parties hereto, by and through their fully authorized representatives, have executed this Agreement as of December __, 2020.

FOR PLAINTIFF, VALERIE WILLIAMS AND CLASS COUNSEL:


Valerie Williams (Dec 22, 2020 17:03 EST)
Valerie Williams

Dated: 12/22/2020

Edward Maginnis
Edward Maginnis (Dec 22, 2020 14:44 EST)
Ed H. Maginnis Karl
S. Gwaltney Maginnis
Law, PLLC

Dated: 12/22/2020

Scott C Harris
Scott C Harris (Dec 22, 2020 16:35 EST)
Scott C. Harris Patrick
M. Wallace Whitfield
Bryson LLP

Dated: 12/22/2020

FOR PEGASUS RESIDENTIAL, LLC.:

Lindy Ware
Lindy Ware (Dec 22, 2020 16:23 EST)
Lindy Ware

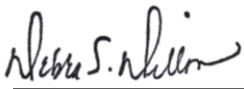
Dated: 12/22/2020

COUNSEL FOR DEFENDANT PEGASUS RESIDENTIAL, LLC.:

Michael Eric Ross
Michael Eric Ross (Dec 22, 2020 14:48 EST)
Matthew R. Rosenkoff
Michael Eric Ross
Taylor English Duma LLP

Dated: 12/22/2020

FOR DEFENDANT'S MP BRIDGES AT SOUTHPOINT, LLC d/b/a BRIDGES AT SOUTHPOINT:



Dated: 12/22/2020

COUNSEL FOR DEFENDANTS MP BRIDGES AT SOUTHPOINT, LLC d/b/a
BRIDGES AT SOUTHPOINT:

William S. Cherry III

[William S. Cherry III \(Dec 22, 2020 14:48 EST\)](#)

Dated: 12/22/2020

Michael T. Medford

Williams S. Cherry III

Manning, Fulton, & Skinner, P.A.