

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY
DEPARTMENT, CHANCERY DIVISION**

JENNIFER ROTTNER, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

PALM BEACH TAN, INC., a Texas corporation,
PBT ACQUISITION I, LLC, a Texas limited
liability company, and JOHN DOE
DEFENDANTS 1-20, Illinois citizens,

Defendants.

Case No.: 2015-CH-16695

Hon. Celia G. Gamrath

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Settlement Agreement”) is entered into by and among Plaintiff Jennifer Rottner (“Rottner” or “Plaintiff”), for herself individually and on behalf of the Settlement Class, and Defendants Palm Beach Tan, Inc. and PBT Acquisition I, LLC (together “Palm Beach Tan” or “Defendants”) (Plaintiff and Defendants are referred to individually as a “Party” and collectively referred to as the “Parties.”). This Settlement Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims upon and subject to the terms and conditions hereof, and is subject to the approval of the Court.

RECITALS

The Class Action

A. On November 13, 2015 Plaintiff Jennifer Rottner filed a putative class action complaint against Palm Beach Tan, Inc. (a Delaware Corporation) in the Circuit Court of Cook County, Illinois, alleging, *inter alia*, a claim for damages and an injunction under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1 *et seq.* (“BIPA”) (the “Action”). Plaintiff

alleged that Palm Beach Tan, Inc. (a Delaware Corporation) collected her fingerprint data as a customer at one of Palm Beach Tan's tanning salons in Illinois without authorization, through the use of a finger-scanning customer identification system.

B. This case has been litigated for nearly six years and has included several motions to dismiss, reconsideration, and appeals—including a petition for leave to appeal the First District's decision in this case to the Illinois Supreme Court. This litigation also occurred amidst a rapidly shifting landscape around BIPA generally.

C. On January 20, 2016, Plaintiff amended her Complaint to: (i) dismiss as a defendant Palm Beach Tan, Inc. (a Delaware Corporation); and (ii) add as defendants Palm Beach Tan, Inc. (a Texas Corporation) and PBT Acquisition I, LLC. Shortly thereafter, on January 27, 2016, Plaintiff served her first set of written discovery requests on Defendants, including interrogatories and requests for production. Defendants responded on May 20, 2016.

D. At the outset of the case, in March 2016, the Parties engaged in initial settlement discussions and collectively decided that mediation would be beneficial. On April 4, 2016 the Parties participated in a mediation with the Honorable Robert V. Boharic, of ADR Systems, but were unable to reach resolution at that time and returned to litigation.

E. On April 20, 2016 Plaintiff amended her Complaint a second time to add two common law claims for negligence and unjust enrichment.

F. On May 18, 2016 Palm Beach Tan moved to dismiss the case on, among others, the then-undecided basis that Plaintiff was not "aggrieved" under the meaning of BIPA's damages provision, 740 ILCS 14/20. On July 12, 2016 the circuit court—acting through Judge Mikva—denied the motion with respect to Plaintiff's BIPA claim. Thereafter, on August 12, 2016, Plaintiff amended her Complaint a third time.

G. On September 7, 2016, Defendants then moved to strike Plaintiff's claims for liquidated damages, arguing that the statutory damages provided by BIPA were unavailable absent proof of any actual damages caused by the alleged statutory violation. On December 20, 2016 this Court granted Defendants' motion to strike, but later certified for appeal, on August 22, 2017, the question of whether BIPA permits recovery of liquidated damages where a party does not plead any actual damages or harm resulting from the statutory violation. *See* Ill. S. Ct. R. 308(a).

H. On September 21, 2017, Plaintiff filed her Petition for Permission to Appeal under Ill. Sup. Ct. R. 308(a). *Rottner v. Palm Beach Tan, Inc.*, 2017 IL App (1st) 1-17-2287. The First District denied Plaintiff's petition on November 1, 2017. *Id.*

I. Just a few months later, on December 21, 2017, the Second District Illinois Appellate Court decided *Rosenbach v. Six Flags Entertainment Corp.*, 2017 IL App (2d) 170317, which held that a plaintiff could not state a cause of action under BIPA as an "aggrieved" person without some additional injury or harm. *Id.* ¶¶ 1, 20.

J. Because *Rosenbach* was binding in this District, on December 28, 2017, Defendants moved the Court to reconsider its July 18, 2016 denial of Defendants' motion to dismiss. On March 2, 2018, the Court dismissed Plaintiff's suit with prejudice and rendered the order final and appealable.

K. On January 25, 2019, and while Plaintiff's Rule 308(a) appeal was pending, the Illinois Supreme Court issued its decision in *Rosenbach v. Six Flags Entertainment Corp.*, holding that "an individual need not allege some actual injury or adverse effect, beyond violation of his or her rights under the Act, in order to qualify as an 'aggrieved person.'" 2019 IL 123186 ¶ 40.

L. On March 4, 2019, following the Illinois Supreme Court's *Rosenbach* decision, the First District held in interlocutory appeal in this case that "a plaintiff who proves a violation of the Biometric Information Privacy Act may recover liquidated damages without proof of actual damages beyond violation of the Act." *Rottner v. Palm Beach Tan, Inc.*, 2019 IL App (1st) 180691-U, A001-006, ¶ 1.

M. Defendants sought leave to appeal to the Illinois Supreme Court, which was denied.

N. On July 31, 2020 Plaintiff filed an amended motion for class certification. Thereafter, on September 8, 2020 Plaintiff filed a second amended motion for class certification following this Court's Order that the Parties meet and confer regarding the designation of confidential documents pursuant to the Protective Order entered in this case.

O. On October 6, 2020 Plaintiff served her second set of written discovery requests on Defendants, including interrogatories and requests for production. Defendants served their first set of written discovery requests to Plaintiff on October 8, 2020, including interrogatories, requests for production, and requests for admission. Defendants responded on November 17, 2020; and Plaintiff responded on November 5, 2020.

P. Defendants filed their first amended answer on October 19, 2020 to Plaintiff's operative complaint (the Third Amended Complaint) denying liability and asserting fifteen affirmative defenses.

Q. On January 13, 2021, Defendants moved to extend the deadlines for class certification expert discovery and class certification briefing by 120 days pending the anticipated decision by the Illinois Appellate Court for the First Judicial District in *Tims v. Black Horse Carriers, Inc.*, Case No. 1-20-056, regarding the applicable statute of limitations under BIPA.

The Court granted the extension, as modified.

R. On May 4, 2021, the Court granted a further extension of the class certification deadlines pending the *Tims* decision.

S. Then, in August 2021, while the Parties awaited a decision from the Illinois Appellate Court in *Tims v. Black Horse Carriers, Inc.*, the Parties revisited the possibility of classwide settlement.

T. On September 1, 2021 the Court granted a third 90-day extension due to the Parties' on-going discussions involving potential settlement.

U. Over several months, the Parties exchanged numerous offers and counter-offers on the terms and structure of the Settlement, and engaged in a number of lengthy negotiations over the phone (in light of the COVID-19 pandemic). The Parties' settlement discussions and negotiations continued until the Parties reached agreement on the material terms of a classwide settlement in October 2021, and executed a Binding Memorandum of Understanding on November 1, 2021.

V. Plaintiff and Class Counsel conducted a comprehensive examination of the law and facts relating to the allegations in the Complaint and Defendants' potential defenses. Plaintiff believes that the claims asserted in the Action have merit, that she would have ultimately succeeded in obtaining certification of the proposed Settlement Class through litigation, and that she would have prevailed on the merits at summary judgment or at trial. But Plaintiff and Class Counsel recognize that Defendants have raised factual and legal defenses in the Action that presented a risk that Plaintiff may not prevail and/or that a class might not be certified for trial. Class Counsel have also taken into account the uncertain outcome and risks of any litigation, especially in complex actions, as well as the difficulty and delay inherent in such litigation and

any appeals therefrom. Plaintiff and Class Counsel believe that this Agreement presents an exceptional result for the Settlement Class, and one that will be provided to the Settlement Class without delay. Therefore, Plaintiff believes that it is desirable that the Released Claims be fully and finally compromised, settled, and resolved with prejudice, and barred pursuant to the terms and conditions set forth in this Settlement Agreement.

W. Defendants deny all allegations of wrongdoing and liability and deny all material allegations in the Complaint, and believe they have good defenses against class certification and on the merits. But Defendants have similarly concluded that this Settlement Agreement is desirable to avoid the time, risk, and expense of defending protracted litigation, and to avoid the risk posed by the Settlement Class's claims for liquidated damages under BIPA, particularly in view of the unsettled state of the law on issues in this case. Defendants thus desire to resolve finally and completely the pending and potential claims of Plaintiff and the Settlement Class.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Plaintiff, the Settlement Class, and Defendants, that subject to Court approval after a hearing as provided for in this Settlement Agreement, and in consideration of the benefits flowing to the Parties from the Settlement set forth herein, the Released Claims shall be fully and finally compromised, settled, and released, and the Action shall be dismissed with prejudice, upon and subject to the terms and conditions set forth in this Settlement Agreement.

AGREEMENT

1. DEFINITIONS

As used herein, in addition to any definitions set forth elsewhere in this Settlement Agreement, the following terms shall have the meanings set forth below:

1.1 “**Action**” means the case captioned *Rottner v. Palm Beach Tan, Inc.*, Case 2015-CH-16695 (Cir. Ct. Cook Cty. Ill.).

1.2 “**Agreement**” or “**Settlement**” or “**Settlement Agreement**” means this Class Action Settlement Agreement and the attached Exhibits.

1.3 “**Approved Claim**” means a Claim Form submitted by a Settlement Class Member that is (a) timely and submitted in accordance with the directions on the Claim Form and the terms of this Agreement, (b) is fully completed and physically or electronically signed by the Settlement Class Member, and (c) satisfies the conditions of eligibility for a Settlement Payment as set forth in this Agreement.

1.4 “**Claims Deadline**” means the date by which all Claim Forms must be postmarked or submitted on the Settlement Website to be considered timely, and shall be set as a date no later than sixty-three (63) days following the Notice Date, subject to Court approval. The Claims Deadline shall be clearly set forth in the order preliminarily approving the Settlement, as well as in the Notice and the Claim Form.

1.5 “**Claim Form**” mean the documents substantially in the form attached hereto as Exhibits A and B, as approved by the Court. The Claim Form, which shall be completed by Settlement Class Members who wish to file a claim for a Settlement Payment, shall be available in paper and electronic format. The Claim Form will require claiming Settlement Class Members to provide the following information: (i) full name, (ii) current U.S. Mail address, (iii) current contact telephone number and email address, and (iv) a statement that he or she scanned their finger(s) for tanning purposes at a Palm Beach Tan facility in the state of Illinois between November 13, 2010 and March 24, 2016. The Claim Form will not require notarization, but will require affirmation that the information supplied is true and correct. The Claim Form will

provide Class Members with the option of having their Settlement Payment transmitted to them electronically through Venmo, Zelle, Paypal, or check.

1.6 “**Class Counsel**” means attorneys Jay Edelson, J. Eli Wade-Scott, and Theo J. Benjamin of Edelson PC.

1.7 “**Class Representative**” or “**Plaintiff**” means the named Plaintiff in the Action, Jennifer Rottner.

1.8 “**Court**” means the Circuit Court for Cook County, Illinois, the Honorable Celia G. Gamrath presiding, or any judge who shall succeed her as the Judge assigned to the Action.

1.9 “**Defendants**” mean Palm Beach Tan, Inc., a Texas corporation, and PBT Acquisition I, LLC, a Texas limited liability company.

1.10 “**Defendants’ Counsel**” means attorneys Mike Lynn and Jared Eisenberg of Lynn Pinker Hurst & Schwegmann, LLP and Joseph Cancila and Nick Kahlon of Riley Safer Holmes & Cancila LLP.

1.11 “**Effective Date**” means one business day following the later of: (i) the date upon which the time expires for filing or noticing any appeal of the Final Judgment; (ii) if there is an appeal or appeals, the date of completion, in a manner that finally affirms and leaves in place the Final Judgment without any material modification (apart from the Fee Award or incentive award to the Class Representative), of all proceedings arising out of the appeal(s) (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for review and/or certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal(s) following decisions on remand); or (iii) the date of final dismissal of any appeal or the final dismissal of any proceeding on certiorari with respect to the Final Judgment.

1.12 “**Escrow Account**” means the separate, interest-bearing escrow account to be established by the Settlement Administrator under terms acceptable to Class Counsel and Defendants at a depository institution insured by the Federal Deposit Insurance Corporation. The money in the Escrow Account shall be invested in the following types of accounts and/or instruments and no other: (a) demand deposit accounts and/or (b) time deposit accounts and certificates of deposit, in either case with maturities of forty-five (45) days or less. Any interest earned on the Escrow Account shall inure to the benefit of the Settlement Class as part of the Settlement Payment, if practicable. The Settlement Administrator shall be responsible for all tax filings with respect to the Escrow Account, and any tax amounts due from income earned thereon shall be paid out of the Settlement Fund.

1.13 “**Fee Award**” means the amount of attorneys’ fees and reimbursement of costs to Class Counsel by the Court to be paid out of the Settlement Fund.

1.14 “**Final Approval Hearing**” means the hearing before the Court where Plaintiff will request that the Final Judgment be entered by the Court finally approving the Settlement as fair, reasonable and adequate, and approving the Fee Award and the incentive award to the Class Representative.

1.15 “**Final Judgment**” means the final judgment to be entered by the Court approving the settlement of the Action in accordance with this Settlement Agreement after the Final Approval Hearing.

1.16 “**Notice**” means the notice of this proposed Settlement and Final Approval Hearing, which is to be disseminated to the Settlement Class substantially in the manner set forth in this Settlement Agreement, fulfills the requirements of Due Process and 735 ILCS 5/2-801 *et seq.*, and is substantially in the form of Exhibits B, C, and D attached hereto.

1.17 “**Notice Date**” means the date by which the Notice is disseminated to the Settlement Class, which shall be a date no later than twenty-eight (28) days after entry of Preliminary Approval.

1.18 “**Objection/Exclusion Deadline**” means the date by which a written objection to the Settlement Agreement must be filed with the Court or a request for exclusion submitted by a person within the Settlement Class must be postmarked or received by the Settlement Administrator, which shall be designated as a date sixty-three (63) days after the Notice Date, as approved by the Court. The Objection/Exclusion Deadline will be set forth in the Notice and on the Settlement Website.

1.19 “**Preliminary Approval**” means the Court’s Order preliminarily approving the Agreement, certifying the Settlement Class for settlement purposes, and approving the form and manner of the Notice.

1.20 “**Released Claims**” means any and all actual, potential, filed, unfiled, known or unknown (including “Unknown Claims” as defined below), fixed or contingent, claimed or unclaimed, suspected or unsuspected, claims, demands, liabilities, rights, causes of action, damages, punitive, exemplary or multiplied damages, expenses, costs, attorneys’ fees and/or obligations, whether in law or in equity, accrued or unaccrued, direct, individual or representative, of every nature and description whatsoever, whether based on the Illinois Biometric Information Privacy Act or other federal, state, local, statutory or common law or any other law, including all claims that were brought or could have been brought in the Action, arising out of or relating to actual or alleged facts, transactions, events, matters, occurrences, acts, disclosures, statements, representations, omissions or failures to act regarding

the collection, capture, receipt, storage, use, profit from, purchase, possession, retention, destruction, disclosure, and/or dissemination of biometric data.

1.21 “**Released Parties**” means Defendants Palm Beach Tan, Inc. and PBT Acquisition I, LLC, and each of their respective past, present, and future, direct and indirect heirs, assigns, associates, corporations, investors, owners, shareholders, parents, subsidiaries, joint venturers, entities commonly controlled, divisions, officers, directors, agents, employees, predecessors, successors, managers, insurers, reinsurers, franchisees, attorneys, managers, and administrators. This definition expressly includes, but is not limited to, PBT Holdings, Inc., Palm Beach Tan, Inc., Palm Beach Tan Holdings, Inc., PBT Atlantic Acquisition, LLC, PBT Acquisition I, LLC, and Palm Beach Tan Franchising, Inc.

1.22 “**Releasing Parties**” means Plaintiff, each Settlement Class Member, and their respective present or past heirs, executors, estates, administrators, and agents.

1.23 “**Settlement Administration Expenses**” means the expenses incurred by the Settlement Administrator in or relating to administering the Settlement, providing Notice, creating and maintaining the Settlement Website, receiving and processing Claim Forms, disbursing Settlement Payments, related tax expenses, fees of the escrow agent, and other such related expenses, with all such expenses to be paid from the Settlement Fund.

1.24 “**Settlement Administrator**” means Kroll Settlement Administration, LLC, subject to approval of the Court, which will provide the Notice, create and maintain the Settlement Website, receive and process Claim Forms, send Settlement Payments to Settlement Class Members, be responsible for tax reporting, and perform such other settlement administration matters set forth in or contemplated by the Settlement.

1.25 “**Settlement Class**” means all individuals who scanned their finger(s) on a finger scanner for tanning purposes at a Palm Beach Tan facility in the state of Illinois between November 13, 2010 and March 24, 2016. Excluded from the Settlement Class are: (1) any Judge or Magistrate presiding over this action and members of their families, (2) Defendants, Defendants’ subsidiaries, parent companies, successors, predecessors, and any entity in which Defendants or its parents have a controlling interest, (3) persons who properly execute and file a timely request for exclusion from the Settlement Class, and (4) the legal representatives, successors or assigns of any such excluded person.

1.26 “**Settlement Class Member**” or “**Class Member**” means a person who falls within the definition of the Settlement Class and who does not submit a valid request for exclusion from the Settlement Class.

1.27 “**Settlement Fund**” means the non-reversionary cash fund that shall be established by Defendants in the total amount of Ten Million, Three Hundred Thousand Dollars (\$10,300,000.00) to be deposited into the Escrow Account as follows: First, Defendants shall pay \$150,000 within seven (7) days of Preliminary Approval. Second, Defendants shall make a further payment (the “Down Payment”) of \$2,425,000 within 15 days of Final Judgment. If this Settlement is terminated or otherwise fails to become effective in accordance with Sections 7.1 and 9 of this Agreement, these amounts shall fully revert to Defendants less any amounts paid for notice costs, and Defendants shall have no obligation to make further payment to the Settlement Fund. Defendants shall then make three subsequent payments of \$2,575,000 each (the “Subsequent Payments”), to be paid on the calendar anniversary of the execution of the Down Payment on each subsequent year for three years. To the extent Defendants fail to timely make any installment payment, Defendants shall have six (6) months from the date such payment was

otherwise due to cure and provide such payment (the “Cure Period”); during the Cure Period, interest on the unpaid installment payment shall accrue at the rate of nine percent (9%), starting from the time the payment was due and lasting through such time as the payment is made, and this interest shall be paid at such time as the installment payment is paid. If Defendants fail during the Cure Period to make any installment payment then owing, including interest, then Defendants agree that upon the end of the Cure Period the full amount of the Settlement Fund shall be immediately due and payable into the Escrow Account (less any amounts previously deposited) (the “Acceleration Payment”), with applicable Cure Period interest earned thereon at the rate of nine percent (9%) in accordance with 815 ILCS 205/4. Should Defendants fail to timely make any installment payment, but subsequently satisfy the requirements set forth in this Section 1.27 for the Cure Period or otherwise satisfy the Acceleration Payment, the Parties agree that Defendants shall not be in material breach of this Agreement. The Settlement Fund shall satisfy all monetary obligations of Defendants under this Settlement Agreement, including the Fee Award, litigation costs, Settlement Administration Expenses, Settlement Payments, any incentive award to the Class Representative, and any other payments or other monetary obligations contemplated by this Agreement. The Settlement Fund shall be kept in the Escrow Account with permissions granted to the Settlement Administrator to access said funds until such time as the above-listed payments are made. Except as otherwise stated in this Section 1.27, in no event shall any amount paid by Defendants into the Escrow Account, or any interest earned thereon, revert to Defendants or any other Released Party.

1.28 “**Settlement Payments**” means a *pro rata* portion of the Settlement Fund less any Fee Award, incentive award to the Class Representative, and Settlement Administration

Expenses, which will be paid in four installments, once a calendar year, as discussed in Section 2.

1.29 “**Settlement Website**” means the website to be created, launched, and maintained by the Settlement Administrator, which will provide access to relevant settlement administration documents, including the Notice, relevant court filings, and the ability to submit Claim Forms online. The Settlement Website shall be live and active by the Notice Date, and the URL of the Settlement Website shall be subsequently agreed to by the Parties.

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

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS 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.

Upon the Effective Date, and by operation of the Final Judgment, each of the Releasing Parties shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state, the District of Columbia or territory of the United States, by federal law, or principle of common law, or the law of any jurisdiction outside of the United

States, which is similar, comparable or equivalent to Section 1542 of the California Civil Code. Plaintiff, the other Settlement Class Members, and the Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of the Release, but that it is their intention to finally and forever settle and release the Released Claims, notwithstanding any Unknown Claims they may have, as that term is defined in this Section.

2. SETTLEMENT RELIEF

2.1 Settlement Payments to Settlement Class Members.

a. Settlement Class Members shall have until the Claims Deadline to submit Claim Forms. Each Settlement Class Member who submits an Approved Claim shall be entitled to Settlement Payments.

b. The Settlement Administrator shall have sole and final authority for determining if Settlement Class Members' Claim Forms are complete, timely, and accepted as an Approved Claim.

c. Apart from those Settlement Administration Expenses of the Settlement Administrator incurred following entry of a Preliminary Approval Order, no disbursements will be made from the Settlement Fund to pay any portion of monetary relief to the Settlement Class, the incentive award to the Class Representative, or reasonable attorneys' fees to Class Counsel until at least five business days after the Effective Date.

d. Within twenty-eight (28) days after the Effective Date, or such other date more than five days after the Effective Date as the Court may set, the Settlement Administrator shall send the first of four Settlement Payments from the Settlement Fund

by the payment method selected by the Class Member. Class Members will have the option of having their Settlement Payment transmitted to them through Venmo, Zelle, Paypal, or check. Class Members who do not choose a payment method on the mail-in the Claim Form will be sent a check via First Class U.S. Mail to the mailing address provided on the Claim Form, as updated through the National Change of Address database if necessary by the Settlement Administrator.

e. The subsequent three (3) Settlement Payments will be made in the same manner as Section 2(c), within sixty (60) days of Defendants' funding the Escrow Account with each Subsequent Payment.

f. Each payment issued to a Class Member by check will state on the face of the check that it will become null and void unless cashed within ninety (90) calendar days after the date of issuance.

g. In the event that an electronic deposit to a Class Member is unable to be processed, the Settlement Administrator shall attempt to contact the Class Member within thirty (30) calendar days to correct the problem.

h. To the extent that any of the first three (3) checks issued to a Settlement Class Member are not cashed within ninety (90) days after the date of issuance or any of the first three (3) electronic deposits are unable to be processed within ninety (90) days of the first attempt, such funds shall be returned to the Settlement Fund for pro rata distribution in the remaining Settlement Payments. To the extent that a final check issued to a Settlement Class Member is not cashed within ninety (90) days after the date of issuance, or a final electronic deposit is unable to be processed within ninety (90) days of the first attempt, such funds distributed to the Illinois Bar Foundation, or any other cy

pres recipient selected by the Court, pursuant to 735 ILCS 5/2-807(b), subject to approval of the Court.

2.2 **Prospective Relief.**

a. Defendants stopped using and removed from their Illinois salons all finger scan hardware previously utilized as of March 24, 2016, following the filing of the Action. Should Defendants resume use of scan hardware in Illinois salons that collects and/or retains biometric identifiers (such as fingerprints) or any information based on biometric identifiers used to identify an individual (collectively referred to herein as “biometric data”), Defendants shall take all steps necessary to comply with the Illinois Biometric Information Privacy Act, including making BIPA-required disclosures, obtaining written releases, destroying biometric data that it no longer needs, and establishing a publicly-available retention policy. *See* 740 ILCS 14/1 *et seq.*

b. Defendants further agree to destroy all data in their possession obtained through the use of finger scan hardware previously utilized in their Illinois salons.

3. **RELEASE**

3.1 **The Release.** Upon the Effective Date, and in consideration of the settlement relief described herein, the Releasing Parties, and each of them, shall be deemed to have released, and by operation of the Final Judgment shall have, fully, finally, and forever, released, relinquished and discharged all Released Claims against each and every one of the Released Parties.

3.2 **No Assignment.** No member of the Settlement Class shall be permitted to assign any claim or right or interest from this settlement relating to any of the Released Claims against the Released Parties to any other person or party.

4. NOTICE TO THE CLASS

4.1 The Notice shall include:

a. *Class List.* Defendants shall provide the Settlement Administrator a list of all names, e-mail addresses (to the extent made available to Defendants), and last known U.S. mail addresses of all persons in the Settlement Class (the “Class List”) as soon as practicable, but by no later than thirty (30) days after the execution of this Agreement. The Settlement Administrator shall keep the Class List and all personal information obtained therefrom, including the identity and mailing addresses of all persons strictly confidential. The Class List may not be used by the Settlement Administrator for any purpose other than advising specific individual Settlement Class members of their rights, mailing Settlement Payments, and otherwise effectuating the terms of the Settlement Agreement or the duties arising thereunder, including the provision of Notice of the Settlement.

b. The Notice shall include the best notice practicable, including but not limited to:

i. *Update Addresses.* Prior to mailing any Notice, the Settlement Administrator will update the U.S. mail addresses of persons on the Class List using the National Change of Address database and other available resources deemed suitable by the Settlement Administrator. The Settlement Administrator shall take all reasonable steps to obtain the correct address of any Settlement Class members for whom Notice is returned by the U.S. Postal Service as undeliverable and shall attempt re-mailings as described below in Section 5.1.

ii. *Direct Notice.* The Settlement Administrator shall send Notice via e-mail substantially in the form of Exhibit C to all persons in the Settlement Class for whom an email address is available on the Class List no later than the Notice Date. The Settlement Administrator is authorized to send up to three (3) reminder emails to each person on the Class List with an email at the request of Class Counsel, with a copy of any such request provided to Defendants' Counsel. The reminder emails shall be substantially in the form of Exhibit C, with minor, non-material modifications to indicate that it is a reminder email rather than an initial notice. If no email address is available for a person in the Class List, or in the event transmission of an e-mail Notice results in a "bounce-back," the Settlement Administrator shall, no later than thirty (30) days after the entry of Preliminary Approval, send a Notice via First Class U.S. Mail substantially in the form of Exhibit B to each such Settlement Class member's physical address in the Class List.

iii. *Internet Notice.* Within fourteen (14) days after the entry of Preliminary Approval, the Settlement Administrator will develop, host, administer, and maintain the Settlement Website, containing the Notice substantially in the form of Exhibit D.

4.2 The Notice shall advise the Settlement Class of their rights under the Settlement Agreement, including the right to be excluded from or object to the Settlement Agreement or its terms. The Notice shall specify that any objection to this Settlement Agreement, and any papers submitted in support of said objection, shall be received by the Court at the Final Approval Hearing, only if, on or before the Objection/Exclusion Deadline approved by the Court and

specified in the Notice, the person making an objection shall file notice of his or her intention to do so and at the same time (a) file copies of such papers he or she proposes to submit at the Final Approval Hearing with the Clerk of the Court, (b) file copies of such papers through the Court's eFileIL system if the objection is from a Settlement Class Member represented by counsel, who must also file an appearance, and (c) send copies of such papers via email, U.S. mail, hand, or overnight delivery service to Class Counsel and Defendants' Counsel.

4.3 **Right to Object or Comment.** Any Settlement Class Member who intends to object to this Settlement Agreement must present the objection in writing, which must be personally signed by the objector and must include: (a) the Settlement Class Member's full name and current address; (b) a statement that he or she believes himself or herself to be a member of the Settlement Class; (c) the specific grounds for the objection; (d) all documents or writings that the Settlement Class Member desires the Court to consider; (e) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection; and (f) a statement indicating whether the objector intends to appear at the Final Approval Hearing (either personally or through counsel, who must file an appearance or seek *pro hac vice* admission). All written objections must be filed with the Court and postmarked, e-mailed or delivered to Class Counsel and Defendants' Counsel no later than the Objection/Exclusion Deadline. Any Settlement Class Member who fails to timely file a written objection with the Court and notice of his or her intent to appear at the Final Approval Hearing in accordance with the terms of this Section and as detailed in the Notice, and at the same time provide copies to designated counsel for the Parties, shall not be permitted to object to this Settlement Agreement at the Final Approval Hearing, and shall be foreclosed from seeking any

review of this Settlement Agreement or Final Judgment by appeal or other means and shall be deemed to have waived his or her objections and be forever barred from making any such objections in the Action or any other action or proceeding.

4.4 **Right to Request Exclusion.** Any person in the Settlement Class may submit a request for exclusion from the Settlement on or before the Objection/Exclusion Deadline. To be valid, any request for exclusion must (a) be in writing; (b) identify the case name *Rottner v. Palm Beach Tan, Inc.*, Case 2015-CH-16695 (Cir. Ct. Cook Cty. Ill.); (c) state the full name and current address of the person in the Settlement Class seeking exclusion; (d) be signed by the person seeking exclusion; and (e) be postmarked or received by the Settlement Administrator on or before the Objection/Exclusion Deadline. In light of the COVID-19 pandemic, the Settlement Administrator shall create a dedicated e-mail address to receive exclusion requests electronically. Each request for exclusion must also contain a statement to the effect that “I hereby request to be excluded from the proposed Settlement Class in *Rottner v. Palm Beach Tan, Inc.*, Case 2015-CH-16695 (Cir. Ct. Cook Cty. Ill).” A request for exclusion that does not include all of the foregoing information, that is sent to an address or e-mail address other than that designated in the Notice, or that is not postmarked or delivered to the Settlement Administrator within the time specified, shall be invalid and the persons serving such a request shall be deemed to remain Settlement Class Members and shall be bound as Settlement Class Members by this Settlement Agreement, if approved. Any person who elects to request exclusion from the Settlement Class shall not (a) be bound by any orders or Final Judgment entered in the Action, (b) receive a Settlement Payment under this Settlement Agreement, (c) gain any rights by virtue of this Settlement Agreement, or (d) be entitled to object to any aspect of this Settlement Agreement or

Final Judgment. No person may request to be excluded from the Settlement Class through “mass” or “class” opt-outs.

5. SETTLEMENT ADMINISTRATION

5.1 Settlement Administrator’s Duties.

a. *Dissemination of Notices.* The Settlement Administrator shall disseminate the Notice as provided in Section 4 of this Settlement Agreement.

b. *Undeliverable Notice via U.S. Mail.* If any Notice sent via U.S. mail is returned as undeliverable, the Settlement Administrator shall forward it to any forwarding addresses provided by the U.S. Postal Service. If no such forwarding address is provided, the Settlement Administrator shall perform skip traces to attempt to obtain the most recent addresses for such Settlement Class members.

c. *Maintenance of Records.* The Settlement Administrator shall maintain reasonably detailed records of its activities under this Settlement Agreement. The Settlement Administrator shall maintain all such records as required by applicable law in accordance with its business practices and such records will be made available to Class Counsel and Defendants’ Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. Upon request, the Settlement Administrator shall provide Class Counsel and Defendants’ Counsel with information concerning the Notice, any requests for exclusion, and the administration and implementation of the Settlement. Should the Court request, the Parties shall submit a timely report to the Court summarizing the work performed by the Settlement Administrator, including a post-distribution accounting of all amounts from the Settlement Fund paid to Settlement Class Members, the number and value of checks

not cashed, the number and value of electronic payments unprocessed, and the amount distributed to any *cy pres* recipient.

d. *Receipt of Requests for Exclusion.* The Settlement Administrator shall receive requests for exclusion from persons in the Settlement Class and provide to Class Counsel and Defendants' Counsel a copy thereof within five (5) days of the Objection/Exclusion Deadline. If the Settlement Administrator receives any requests for exclusion or other requests from Settlement Class Members after the deadline for the submission of requests for exclusion, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Defendants' Counsel. The Settlement Administrator shall create a dedicated e-mail address to receive exclusion requests electronically.

e. *Creation of Settlement Website.* The Settlement Administrator shall create the Settlement Website. The Settlement Website shall include a toll-free telephone number and mailing address through which persons in the Settlement Class may contact the Settlement Administrator and/or Class Counsel directly.

f. *Processing Claim Forms.* The Settlement Administrator shall, under the supervision of the Court, administer the relief provided by this Settlement Agreement by processing Claim Forms in a rational, responsive, cost effective, and timely manner. The Settlement Administrator shall be obliged to employ reasonable procedures to screen claims for abuse or fraud and deny Claim Forms where there is evidence of abuse or fraud, including by cross-referencing Approved Claims with the Class List. The Settlement Administrator shall determine whether a Claim Form submitted by a Settlement Class Member is an Approved Claim and shall reject Claim Forms that fail to

(a) comply with the instructions on the Claim Form or the terms of this Agreement, or (b) provide full and complete information as requested on the Claim Form. In the event a person submits a timely Claim Form by the Claims Deadline, but the Claim Form is not otherwise complete, then the Settlement Administrator shall give such person reasonable opportunity to provide any requested missing information, which information must be received by the Settlement Administrator no later than twenty-eight (28) calendar days after the Claims Deadline. In the event the Settlement Administrator receives such information more than twenty-eight (28) calendar days after the Claims Deadline, then any such claim shall be denied. The Settlement Administrator may contact any person who has submitted a Claim Form to obtain additional information necessary to verify the Claim Form.

g. *Timing of Settlement Payments.* The Settlement Administrator shall make the Settlement Payments contemplated in Section 2 of this Settlement Agreement to Settlement Class Members as set forth in Sections 1.27 and 2.1.

h. *Tax reporting.* The Settlement Administrator shall be responsible for all tax filings related to the Escrow Account, including performing back-up withholding, and payments, if necessary from the Settlement Fund and making any required “information returns” as that term is used in 26 U.S.C. § 1 *et seq.*

6. PRELIMINARY APPROVAL AND FINAL APPROVAL

6.1 **Preliminary Approval.** Promptly after execution of this Settlement Agreement, Class Counsel shall submit this Settlement Agreement to the Court and shall move the Court to enter an order granting Preliminary Approval, which shall include, among other provisions, a request that the Court:

- a. Appoint Plaintiff as Class Representative of the Settlement Class for settlement purposes only;
- b. Appoint Class Counsel to represent the Settlement Class;
- c. Certify the Settlement Class under 735 ILCS 5/2-801 *et seq.*, for settlement purposes only;
- d. Preliminarily approve this Settlement Agreement for purposes of disseminating Notice to the Settlement Class;
- e. Approve the form and contents of the Notice and the method of its dissemination to members of the Settlement Class; and
- f. Schedule a Final Approval Hearing to review comments and/or objections regarding this Settlement Agreement, to consider its fairness, reasonableness and adequacy, to consider the application for a Fee Award and incentive award to the Class Representative, and to consider whether the Court shall issue a Final Judgment approving this Settlement Agreement and dismissing the Action with prejudice.

6.2 **Final Approval.** After Notice to the Settlement Class is given, Class Counsel shall move the Court for entry of a Final Judgment, which shall include, among other provisions, a request that the Court:

- a. find that it has personal jurisdiction over all Settlement Class Members and subject matter jurisdiction to approve this Settlement Agreement, including all attached Exhibits;
- b. approve the Settlement as fair, reasonable and adequate as to, and in the best interests of, the Settlement Class Members;

- c. direct the Parties and their counsel to implement and consummate the Settlement according to its terms and conditions;
- d. declare the Settlement to have released all pending and future lawsuits, claims, or other proceedings maintained, held, or to be held by or on behalf of Plaintiff and all other Settlement Class Members and Releasing Parties;
- e. find that the Notice implemented pursuant to the Settlement Agreement (1) constitutes the best practicable notice under the circumstances, (2) constitutes notice that is reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action and their rights to object to or exclude themselves from this Settlement Agreement and to appear at the Final Approval Hearing, (3) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice, and (4) fulfills the requirements of 735 ILCS 5/2-801 *et seq.*, Due Process, and the rules of the Court;
- f. find that the Class Representative and Class Counsel adequately represented the Settlement Class for purposes of entering into and implementing the Settlement Agreement;
- g. dismiss the Action on the merits and with prejudice, without fees or costs to any Party except as provided in this Settlement Agreement;
- h. incorporate the Release set forth above, make the Release effective as of the Effective Date, and forever discharge the Released Parties as set forth herein;
- i. authorize the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement and its implementing documents (including all Exhibits to this Settlement Agreement) that

(i) shall be consistent in all material respects with the Final Judgment, and (ii) do not limit the rights of Settlement Class Members;

j. without affecting the finality of the Final Judgment for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement and interpretation of the Settlement Agreement and the Final Judgment, and for any other necessary purpose; and

k. incorporate any other provisions, consistent with the material terms of this Settlement Agreement, as the Court deems necessary and just.

6.3 Cooperation. The Parties shall, in good faith, cooperate, assist and undertake all reasonable actions and steps in order to accomplish these required events on the schedule set by the Court, subject to the terms of this Settlement Agreement.

7. TERMINATION OF THE SETTLEMENT AGREEMENT

7.1 Termination. Subject to Section 9 below, the Class Representative, on behalf of the Settlement Class, and Defendants shall have the right to terminate this Agreement by providing written notice of the election to do so to all other Parties within ten (10) days of any of the following events: (i) the Court's refusal to grant Preliminary Approval of this Agreement in any material respect; (ii) the Court's refusal to grant final approval of this Agreement in any material respect; (iii) the Court's refusal to enter the Final Judgment in this Action in any material respect; (iv) the date upon which the Final Judgment is modified or reversed in any material respect by the appellate court or the Supreme Court; or (v) the date upon which an Alternative Judgment, as defined in Paragraph 9.1 of this Agreement, is modified or reversed in any material respect by the appellate court or the Supreme Court.

7.2 **Confirmatory Discovery.** Defendants represent that the Settlement Class contains up to 46,598 class members. Defendants shall supplement their interrogatory responses to reflect this, or otherwise provide confirmatory discovery regarding the size of the Settlement Class within seven (7) days after the Parties execute this Agreement.

8. INCENTIVE AWARD AND CLASS COUNSEL'S ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES

8.1 Defendants agree that Class Counsel is entitled to reasonable attorneys' fees and unreimbursed expenses incurred in the Action as the Fee Award. The amount of the Fee Award shall be determined by the Court based on petition from Class Counsel. Class Counsel has agreed, with no consideration from Defendants, to limit their request for attorneys' fees and unreimbursed costs to thirty-five percent (35%) of the Settlement Fund. Defendants may challenge the amount requested. Payment of the Fee Award shall be made from the Settlement Fund, as set forth in this Section 8 and Section 1.27. Should the Court award less than the amount sought by Class Counsel, the difference in the amount sought and the amount ultimately awarded pursuant to this Section shall remain in the Escrow Account and be distributed to Settlement Class Members as Settlement Payments.

8.2 The Fee Award shall be paid in four equal installments following Defendants' deposit of the Down Payment and the Subsequent Payments. The first installment of the Fee Award shall be payable within five (5) business days after the Effective Date. The three subsequent installments shall be paid within (5) business days of each Subsequent Payment. Payments of the Fee Award shall be made by the Settlement Administrator via wire transfer to an account designated by Class Counsel after providing necessary information for electronic transfer.

8.3 Defendants agree that the Class Representative shall, as set forth in Section 1.27,

be paid an incentive award in the amount of Five Thousand Dollars (\$5,000.00) from the Settlement Fund, in addition to any Settlement Payment pursuant to this Settlement Agreement and in recognition of her efforts on behalf of the Settlement Class, subject to Court approval. Should the Court award less than this amount, the difference in the amount sought and the amount ultimately awarded pursuant to this Section shall remain in the Escrow Account and be distributed to Settlement Class Members as Settlement Payments. Any award shall be paid by the Settlement Administrator from the Escrow Account (in the form of a check to the Class Representative that is sent care of Class Counsel) within five (5) business days after the Effective Date.

9. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION.

9.1 The Effective Date shall not occur unless and until each and every one of the following events occurs:

- a. This Agreement has been signed by the Parties, Class Counsel, Defendants' Counsel;
- b. The Court has entered an order granting Preliminary Approval of the Agreement;
- c. The Court has entered an order finally approving the Agreement, following Notice to the Settlement Class and a Final Approval Hearing, and has entered the Final Judgment, or a judgment substantially consistent with this Settlement Agreement that has become final and unappealable;
- d. In the event that the Court enters an order and final judgment in a form other than that provided above ("Alternative Judgment") to which the Parties have consented, that Alternative Judgment has become final and unappealable; and

e. If there is an appeal or appeals, the appeal or appeals are dismissed or affirm and leave in place the Final Judgment without any material modification (apart from the Fee Award or incentive award to the Class Representative).

9.2 If some or all of the conditions specified in Section 9.1 are not met, or in the event that this Agreement is not approved by the Court, or the settlement set forth in this Agreement is terminated or fails to become effective in accordance with its terms, or is modified in material part (apart from the Fee Award or incentive award to the Class Representative) by the Court or an appellate court, then this Agreement shall be canceled and terminated subject to Section 9.3, unless Class Counsel and Defendants' Counsel mutually agree in writing to proceed with this Settlement Agreement. If any Party is in material breach of the terms hereof, any other Party, provided that it is in substantial compliance with the terms of this Agreement, may terminate this Settlement Agreement on notice to all other Parties. Notwithstanding anything herein, the Parties agree that the Court's decision as to the amount of the Fee Award to Class Counsel set forth above or the incentive award to the Class Representative, regardless of the amounts awarded, shall not prevent the Settlement Agreement from becoming effective, nor shall it be grounds for termination of the Agreement.

9.3 If this Settlement Agreement is terminated or fails to become effective for the reasons set forth above, the Parties shall be restored to their respective positions in the Action as of the date of the signing of this Agreement, and Defendants' entry into the Settlement Agreement shall not be considered, in any way, as an admission concerning liability or the propriety of class certification. In such event, any Final Judgment or other order entered by the Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*, and the Parties shall be returned to the *status quo ante* with respect to the Action as if this

Settlement Agreement had never been entered into. In the event the Settlement is terminated or fails to become effective for any reason, the Settlement Fund, less any Taxes paid or due, less the Settlement Administrative Expenses actually incurred and paid or payable from the Settlement Fund identified in Section 1.27, shall be returned to Defendants within thirty (30) calendar days after written notification of such event in accordance with instructions provided by Defendants' Counsel to the Settlement Administrator.

10. MISCELLANEOUS PROVISIONS.

10.1 The Parties: (a) acknowledge that it is their intent to consummate this Agreement; and (b) agree, subject to their fiduciary and other legal obligations, to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement and to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Settlement Agreement. Class Counsel and Defendants' Counsel agree to cooperate with one another in seeking entry of an order granting Preliminary Approval and the Final Judgment, and promptly to agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Settlement Agreement.

10.2 Each signatory to this Agreement represents and warrants (a) that he, she, or it has all requisite power and authority to execute, deliver and perform this Settlement Agreement and to consummate the transactions contemplated herein, (b) that the execution, delivery and performance of this Settlement Agreement and the consummation by it of the actions contemplated herein have been duly authorized by all necessary corporate action on the part of each signatory, and (c) that this Settlement Agreement has been duly and validly executed and delivered by each signatory and constitutes its legal, valid and binding obligation.

10.3 The Parties intend this Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Released Claims by Plaintiff and the other Settlement Class Members, and each or any of them, on the one hand, against the Released Parties, and each or any of the Released Parties, on the other hand. Accordingly, the Parties agree not to assert in any forum that the Action was brought by Plaintiff or defended by Defendants, or each or any of them, in bad faith or without a reasonable basis.

10.4 The Parties have relied upon the advice and representation of counsel, selected by them, concerning the claims released. The Parties have read and understand fully this Settlement Agreement and have been fully advised as to the legal effect by counsel of their own selection and intend to be legally bound by the same.

10.5 Whether the Effective Date occurs or this Settlement is terminated, neither this Settlement Agreement nor the Settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of this Settlement Agreement or the Settlement:

a. is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them as an admission, concession or evidence of, the validity of any Released Claims, the truth of any fact alleged by Plaintiff, the deficiency of any defense that has been or could have been asserted in the Action, the violation of any law or statute, the reasonableness of the Settlement Fund, Settlement Payment, or the Fee Award, or of any alleged wrongdoing, liability, negligence, or fault of the Released Parties, or any of them;

b. is, may be deemed, or shall be used, offered or received against Defendants an admission, concession or evidence of any fault, misrepresentation or

omission with respect to any statement or written document approved or made by the Released Parties, or any of them;

c. is, may be deemed, or shall be used, offered or received against Plaintiff or the Settlement Class, or each or any of them as an admission, concession or evidence of, the infirmity or strength of any claims asserted in the Action, the truth or falsity of any fact alleged by Defendants, or the availability or lack of availability of meritorious defenses to the claims raised in the Action;

d. is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them as an admission or concession with respect to any liability, negligence, fault or wrongdoing as against any Released Parties, in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. However, the Settlement, this Settlement Agreement, and any acts performed and/or documents executed in furtherance of or pursuant to this Settlement Agreement and/or Settlement may be used in any proceedings as may be necessary to effectuate the provisions of this Settlement Agreement. Moreover, if this Settlement Agreement is approved by the Court, any of the Released Parties may file this Settlement Agreement and/or the Final Judgment in any action that may be brought against such parties in order to support a defense or counterclaim;

e. is, may be deemed, or shall be construed against Plaintiff and the Settlement Class, or each or any of them, or against the Released Parties, or each or any of them, as an admission or concession that the consideration to be given hereunder represents an amount equal to, less than or greater than that amount that could have or would have been recovered after trial; and

f. is, may be deemed, or shall be construed as or received in evidence as an admission or concession against Plaintiff and the Settlement Class, or each and any of them, or against the Released Parties, or each or any of them, that any of Plaintiff's claims are with or without merit or that damages recoverable in the Action would have exceeded or would have been less than any particular amount.

10.6 The headings used herein are used for the purpose of convenience only and are not meant to have legal effect.

10.7 The waiver by one Party of any breach of this Settlement Agreement by any other Party shall not be deemed as a waiver of any other prior or subsequent breaches of this Settlement Agreement.

10.8 All of the Exhibits to this Settlement Agreement are material and integral parts hereof and are fully incorporated herein by reference.

10.9 This Settlement Agreement and its Exhibits A-D set forth the entire agreement and understanding of the Parties with respect to the matters set forth herein, and supersede all prior negotiations, agreements, arrangements and undertakings with respect to the matters set forth herein. No representations, warranties or inducements have been made to any Party concerning this Settlement Agreement or its Exhibits other than the representations, warranties and covenants contained and memorialized in such documents. This Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

10.10 Except as otherwise provided herein, each Party shall bear its own attorneys' fees and costs incurred in any way related to the Action.

10.11 Plaintiff represents and warrants that she has not assigned any claim or right or

interest relating to any of the Released Claims against the Released Parties to any other person or party and that she is fully entitled to release the same.

10.12 Each counsel or other Person executing this Settlement Agreement, any of its Exhibits, or any related settlement documents on behalf of any Party hereto, hereby warrants and represents that such Person has the full authority to do so and has the authority to take appropriate action required or permitted to be taken pursuant to the Settlement Agreement to effectuate its terms.

10.13 This Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Signature by digital, facsimile, or in PDF format will constitute sufficient execution of this Settlement Agreement. A complete set of original executed counterparts shall be filed with the Court if the Court so requests.

10.14 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Settlement Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in this Settlement Agreement.

10.15 This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without reference to the conflicts of laws provisions thereof.

10.16 This Settlement Agreement is deemed to have been prepared by counsel for all Parties, as a result of arm's-length negotiations among the Parties. Whereas all Parties have contributed substantially and materially to the preparation of this Settlement Agreement, it shall not be construed more strictly against one Party than another.

10.17 Where this Settlement Agreement requires notice to the Parties, such notice shall

be sent to the undersigned counsel: Theo J. Benjamin, EDELSON PC, 350 North LaSalle Street, 14th Floor, Chicago, Illinois 60654; Jared Eisenberg of LYNN PINKER HURST & SCHWEGMANN, LLP, 2100 Ross Avenue, Suite 2700, Dallas, Texas 75201; Nick Kahlon of RILEY SAFER HOLMES & CANCELIA LLP, 70 West Madison Street, Suite 2900, Chicago, Illinois 60602.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

JENNIFER ROTTNER

Dated: 02.08.2022

By (signature): *Jennifer Rottner*

Name (printed): Jennifer Rottner

EDELSON PC

Dated: 02/08/2022

By (signature): *J. Wade-Scott*

Name (printed): J. Eli Wade-Scott

Its (title): Partner

PALM BEACH TAN, INC.

Dated: _____

By (signature): _____

Name (printed): _____

Its (title): _____

PBT ACQUISITION I, LLC

Dated: _____

By (signature): _____

Name (printed): _____

Its (title): _____

JENNIFER ROTTNER

Dated: _____

By (signature): _____

Name (printed): _____

EDELSON PC

Dated: _____

By (signature): _____

Name (printed): _____

Its (title): _____

PALM BEACH TAN, INC.

Dated: FEB 8, 2022

By (signature): 

Name (printed): ERIC M HALL

Its (title): CFO

PBT ACQUISITION I, LLC

Dated: FEB 8, 2022

By (signature): 

Name (printed): ERIC M HALL

Its (title): CFO

EXHIBIT A

CLAIM FORM

Instructions. Fill out each section of this form and sign where indicated. Please select a payment method of check, Zelle, PayPal, or Venmo and provide the necessary information. If you opt for payment via check and your Claim Form is approved, you will receive checks in the mail at the address you provide below. **THIS CLAIM FORM MUST BE SUBMITTED BY: [CLAIMS DEADLINE]**

<u>First Name</u>		<u>Last Name</u>	
<u>Street Address</u>			
<u>City</u>	<u>State</u>	<u>ZIP Code</u>	
<u>Contact Phone # (You may be contacted if further information is required.)</u>			

Select Payment Method. Select the box of how you would like to receive your payments and provide the requested information:

- Check
- Zelle®
- PayPal®
- Venmo®

*If you selected to receive payment from Zelle, PayPal, or Venmo, please provide the email address or phone number associated with your account:

<u>Email Address [for Zelle, PayPal, or Venmo]</u>	<u>Cell Phone # [for Zelle or Venmo]</u>
--	--

Class Member Affirmation: By submitting this Claim Form, I declare that I am a member of the Settlement Class and that the following information is true and correct: I am an individual who scanned my finger(s) for tanning purposes at a Palm Beach Tan facility in the state of Illinois between November 13, 2010 and March 24, 2016.

Signature: _____

Date: ____ - ____ - ____
(MM-DD-YY)

Settlement Administrator Information:
[ADDRESS]

For more information, visit www._____.com.

EXHIBIT B

COURT AUTHORIZED NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

OUR RECORDS INDICATE YOU MAY HAVE USED A FINGER SCANNER AT A PALM BEACH TAN TANNING SALON BETWEEN NOVEMBER 13, 2010 AND MARCH 24, 2016 IN ILLINOIS AND MAY BE ENTITLED TO PAYMENTS FROM A CLASS ACTION SETTLEMENT.

XXX

Rottner v. Palm Beach Tan, Inc. c/o Settlement Administrator P.O. Box 0000 City, ST 00000-0000

First-Class Mail US Postage Paid Permit #__



Postal Service: Please do not mark barcode

XXX—«ClaimID» «MailRec»

«First1» «Last1» «C/O» «Addr1» «Addr2» «City», «St» «Zip» «Country»

By Order of the Court Dated: [date]

CLAIM FORM

THIS CLAIM FORM MUST BE SUBMITTED ONLINE OR POSTMARKED BY [CLAIMS DEADLINE]

Instructions: Fill out each section of this form and sign where indicated. Select to receive payment via check, Zelle, PayPal, or Venmo and provide the necessary information. Or file a claim online at www.[tobedetermined].com. If you opt for payment via check and your Claim Form is approved, you will receive a check in the mail at the address you provide below:

Name (First, M.I., Last): _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

Contact Phone #: (_____) _____ (You may be contacted if further information is required.)

Select Payment Method. Select the box of how you would like to receive your payments and provide the requested information:

- Check • Zelle® • PayPal® • Venmo®

*If you selected to receive your payments from Zelle, PayPal, or Venmo, please provide the email address or phone number associated with your account:

Table with 2 columns: Email Address [for Zelle, PayPal, or Venmo], Cell Phone # [for Zelle or Venmo]

Class Member Verification: By submitting this Claim Form, I declare that I am an individual who scanned my finger(s) on a finger scanner for tanning purposes at a Palm Beach Tan facility in the state of Illinois between November 13, 2010 and March 24, 2016.

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

The Settlement Administrator will review your Claim Form. If accepted, you will be mailed four payments, the amount of which will depend on the number of valid claim forms received. This process takes time, please be patient.

Questions, visit www.[tobedetermined].com or call [toll free number]

This notice is to inform you that a proposed settlement has been reached in a class action lawsuit between Palm Beach Tan, Inc. and PBT Acquisition I, LLC (“Palm Beach Tan”) and individuals who used a finger scanner at a Palm Beach Tan facility in the state of Illinois. The lawsuit claims that Palm Beach Tan violated an Illinois law called the Illinois Biometric Information Privacy Act when it collected individuals’ biometric data through its finger-scanning customer identification system, without complying with the law’s requirements. Palm Beach Tan denies it did anything wrong. The Court has not decided who is right or wrong. Please read this notice carefully. Your legal rights are affected whether you act, or don’t act.

Who is included in the Settlement Class? Our records indicate that you may be included in the Settlement Class. The Settlement Class includes all persons who scanned their finger(s) on a finger scanner for tanning purposes at a Palm Beach Tan facility in the state of Illinois between November 13, 2010 and March 24, 2016.

What can I get out of the settlement? If you’re eligible and the Court approves the settlement, you can file a claim to receive cash payments. The payment amount is estimated to be between 700 to \$1,400, depending on the number of valid claims submitted. This amount is an equal share of a \$10,300,00 fund that Palm Beach Tan agreed to create, after any Court-approved payment of settlement expenses, attorneys’ fees, and any incentive award. In order to allow Palm Beach Tan to pay all of the money, the Settlement Fund will be paid in four installments over four years. Settlement Class members who submit a valid claim during the claims period will get their estimated payment in four equal installments of \$175 to \$350 per year.

How do I get my payment? Just complete and return the attached Claim Form by mail, or file online at [www.\[tobedetermined\].com](http://www.[tobedetermined].com), by **[Claims Deadline]**.

What are my Options? You can do nothing, comment on or object to any of the settlement terms, or exclude yourself from the settlement. If you do nothing, you won’t get any payment, and you won’t be able to sue Palm Beach Tan or certain related companies and individuals in a future lawsuit about the claims addressed in the settlement. If you exclude yourself, you won’t get any payment but you’ll keep your right to sue Palm Beach Tan on the issues the settlement concerns. You must contact the settlement administrator by mail or e-mail to exclude yourself. You can also object to the settlement if you disagree with any of its terms. **All Requests for Exclusion and Objections must be received by [Objection/Exclusion Deadline]**.

Do I have a lawyer? Yes. The Court has appointed lawyers from the law firm Edelson PC as “Class Counsel.” They represent you and other Settlement Class Members. The lawyers will request to be paid from the total amount that Palm Beach Tan agreed to pay to the Settlement Class Members. You can hire your own lawyer, but you’ll need to pay that lawyer’s legal fees if you do. The Court has also chosen Jennifer Rottner—a class member like you—to represent the Settlement Class.

When will the Court approve the settlement? The Court will hold a final approval hearing on **[date]** at **[time]** before the Honorable Celia G. Gamrath in Room 2508 at the Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602. The Court will hear objections, determine if the settlement is fair, and consider Class Counsel’s request for fees and expenses of up to 35% of the Settlement Fund, also paid in four installments and an incentive award of \$5,000 for the Class Representative. The request will be posted on the settlement website by **[two weeks prior to Objection/Exclusion Deadline]**.

NO POSTAGE
NECESSARY
IF MAILED IN
THE UNITED
STATES

Rottner v. Palm Beach Tan, Inc. Settlement
c/o Settlement Administrator
PO Box 0000
City, ST 00000-0000

XXX

EXHIBIT C

From: tobedetermined@domain.com
To: JohnDoeClassMember@domain.com
Re: Legal Notice of Proposed Class Action Settlement

OUR RECORDS INDICATE YOU MAY HAVE USED A FINGER SCANNER AT A PALM BEACH TAN TANNING SALON BETWEEN NOVEMBER 13, 2010 AND MARCH 24, 2016 IN ILLINOIS AND MAY BE ENTITLED TO PAYMENTS FROM A CLASS ACTION SETTLEMENT.

This is an official court notice. You are not being sued. This is not an ad for a lawyer.

For more information, visit www.tobedetermined.com.

This notice is to inform you that a proposed settlement has been reached in a class action lawsuit between Palm Beach Tan, Inc. and PBT Acquisition I, LLC (“Palm Beach Tan”) and individuals who used a finger scanner at a Palm Beach Tan in Illinois. The lawsuit claims that Palm Beach Tan violated an Illinois law called the Illinois Biometric Information Privacy Act when it collected individuals’ biometric data through its finger-scanning customer identification system, without complying with the law’s requirements. Palm Beach Tan denies it did anything wrong. The Court has not decided who is right or wrong. Please read this notice carefully. Your legal rights are affected whether you act, or don’t act.

Who is included in the Settlement Class? Our records indicate that you may be included in the Settlement Class. The Settlement Class includes all persons who scanned their finger(s) on a finger scanner for tanning purposes at a Palm Beach Tan facility in the state of Illinois between November 13, 2010 and March 24, 2016.

What can I get out of the settlement? If you’re eligible and the Court approves the settlement, you can file a claim to receive a cash payment. The payment amount is estimated to be between 700 to \$1,400, depending on the number of valid claims submitted. This amount is an equal share of a \$10,300,000 fund that Palm Beach Tan agreed to create, after any Court-approved payment of settlement expenses, attorneys’ fees, and any incentive award. In order to allow Palm Beach Tan to pay all of the money, the Settlement Fund will be paid in four installments over four years. Settlement Class members who submit a valid claim during the claims period will get their payment in four equal installments of an estimated \$175 to \$350 per year.

How do I get my payment? Just complete the short and simple Claim Form online at [\[Claim Form Link\]](#). You can choose to receive your payment via Zelle, PayPal, Venmo, or a check. A paper Claim Form with pre-paid postage was attached to the postcard notice you may have received in the mail. The paper claim form lets you select to receive your payment, if you are eligible, via Zelle, Paypal, Venmo, or check. *All Claim Forms must be submitted online or postmarked by [\[Claims Deadline\]](#).*

What are my Options? You can do nothing, comment on or object to any of the settlement terms, or exclude yourself from the settlement. If you do nothing, you won’t get any payment, and you won’t be able to sue Palm Beach Tan or certain related companies and individuals in a future lawsuit about

the claims addressed in the settlement. If you exclude yourself, you won't get a payment but you'll keep your right to sue Palm Beach Tan on the issues the settlement concerns. You must contact the settlement administrator by mail or email ([email address]) to exclude yourself. You can also object to the settlement if you disagree with any of its terms. *All Requests for Exclusion and Objections must be received by [Objection/Exclusion Deadline].*

Do I have a lawyer? Yes. The Court has appointed lawyers from Edelson PC as "Class Counsel." They represent you and other Settlement Class Members. The lawyers will request to be paid from the total amount that Palm Beach Tan agreed to pay to the Settlement Class Members. You can hire your own lawyer, but you'll need to pay that lawyer's legal fees if you do. The Court has also chosen Jennifer Rottner—a class member like you—to represent the Settlement Class.

When will the Court approve the settlement? The Court will hold a final approval hearing on [date] at [time] before the Celia G. Gamrath in Room 2508 at the Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602. The Court will hear objections, determine if the settlement is fair, and consider Class Counsel's request for fees and expenses of up to 35% of the Settlement Fund, also paid in four installments, and an incentive award of \$5,000 for the Class Representative. The request will be posted on the settlement website by [two weeks prior to Objection/Exclusion Deadline].

EXHIBIT D

CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Rottner v. Palm Beach Tan, Inc., Case No. 2015-CH-16695

IF YOU USED A FINGER SCANNER AT A PALM BEACH TAN TANNING SALON IN ILLINOIS BETWEEN NOVEMBER 13, 2010 AND MARCH 24, 2016, YOU CAN CLAIM A PAYMENT FROM A CLASS ACTION SETTLEMENT.

This is an official court notice. You are not being sued. This is not an ad for a lawyer.

- A Settlement has been reached in a class action lawsuit between Palm Beach Tan, Inc. and PBT Acquisition I, LLC (“Defendants” or “Palm Beach Tan”) and certain individuals who visited a Palm Beach Tan salon in the state of Illinois. The lawsuit claims that Palm Beach Tan violated an Illinois law called the Illinois Biometric Information Privacy Act (“BIPA”) by collecting individuals’ fingerprint data through its fingerprint-scanning identification system at its tanning salons throughout Illinois without complying with the law’s requirements. Palm Beach Tan denies it did anything wrong. The Court has not decided who is right or wrong. The Settlement has been preliminarily approved by a court in Cook County, Illinois.
- You are included in the Settlement if you scanned your finger(s) for tanning purposes at a Palm Beach Tan facility in the state of Illinois between November 13, 2010 and March 24, 2016. If you received a notice of the Settlement in the mail or by e-mail, our records indicate that you may be a class member and you can submit a claim form online or by mail to receive a cash payment.
- If the Court approves the Settlement, members of the Class who submit valid claims will receive four payments of an equal, or *pro rata*, share of a \$10,300,000 settlement fund that Palm Beach Tan has agreed to establish, after all notice and administration costs, incentive award, and attorneys’ fees have been paid. Individual payments to class members who submit a valid Claim Form are estimated to be \$700 to \$1,400, depending on the number of valid claims submitted. In order to allow Defendants to pay all the money, estimated payments of \$175 to \$350 will be made **once a year for four years**.
- Please read this notice carefully. Your legal rights are affected whether you act, or don’t act.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM	This is the only way to receive a payment. You must submit a claim form either online or by mail before [Claims Deadline] .
DO NOTHING	You will receive no payment under the Settlement and give up your rights to sue Defendants about the issues in this case.
EXCLUDE YOURSELF	You will receive no payment, but you will retain any rights you currently have to sue Defendants about the issues in this case.
OBJECT	Write to the Court explaining why you don't like the Settlement.
ATTEND A HEARING	Ask to speak in Court about the fairness of the Settlement.

These rights and options—**and the deadlines to exercise them**—are explained in this notice.

The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be provided only after the Court approves the Settlement and any issues with the Settlement are resolved. Please be patient.

BASIC INFORMATION

1. What is this notice and why should I read it?

A Court authorized this notice to let you know about a proposed Settlement with the Defendants. You have legal rights and options that you may act on before the Court decides whether to approve the proposed Settlement. You may be eligible to receive a cash payment as part of the Settlement. This notice explains the lawsuit, the Settlement, and your legal rights.

Judge Celia G. Gamrath of the Circuit Court of Cook County, Illinois is overseeing this class action. The case is called *Rottner v. Palm Beach Tan, Inc.*, Case No. 2015-CH-16695. The person who filed the lawsuit, Jennifer Rottner, is the Plaintiff. The companies she sued, Palm Beach Tan, Inc. and PBT Acquisition I, LLC are the Defendants. Palm Beach Tan operates a chain of tanning salons located throughout the United States, including in Illinois.

2. What is a class action lawsuit?

A class action is a lawsuit in which an individual called a “Class Representative” brings a single lawsuit on behalf of other people who have similar legal claims. All of these people together are a “Class” or “Class Members.” Once a Class is certified, a class action Settlement finally approved by the Court resolves the issues for all Settlement Class Members, except for those who exclude themselves from the Settlement Class.

THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

3. What is this lawsuit about?

The Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et seq.*, prohibits the collection, storage, and/or use of a person’s biometric data for any purpose, without first providing notice and getting consent in writing. Biometrics are things like your fingerprint, faceprint, or a scan of your eye’s iris. This lawsuit alleges that Defendants violated BIPA by using finger-scanning devices at Palm Beach Tan salons in Illinois to identify individuals without complying with the law’s requirements. Defendants deny these allegations and deny that they violated BIPA. No Court has decided who is right.

More information about the complaint in the lawsuit and the Defendants’ position can be found in the “Court Documents” section of the settlement website at [www.\[tobedetermined\].com](http://www.[tobedetermined].com).

4. Who is included in the Settlement Class?

The Court has decided that this Settlement includes all individuals who scanned their finger(s) for tanning purposes at a Palm Beach Tan facility located in the state of Illinois between November 13, 2010 and March 24, 2016. If you received a notice of the Settlement via email or in the mail, our records indicate that you may be a Class Member included in the Settlement. You may call or email the Settlement Administrator at [phone number] or [email address] to ask whether you are a member of the Settlement Class.

THE SETTLEMENT BENEFITS

5. What does the Settlement provide?

Cash Payments. If you’re eligible, you can file a claim to receive cash payments. The amount of each payment is estimated to be around \$700 to \$1,400, depending on the number of valid claims submitted. This is an equal share of a \$10,300,000 fund that Palm Beach Tan has agreed to create, after the payment of settlement expenses, attorneys’ fees, and any incentive award for the Class Representative in the litigation approved by the Court. In order to allow Palm Beach Tan to pay all the money, the Settlement Fund will be paid in four installments over four years. Settlement Class members who submit a valid claim during the claims period will get their payment in four estimated equal installments of \$175 to \$350 per year by the Settlement Administrator.

Prospective Relief. Palm Beach Tan stopped using finger-scanning devices in March of 2016, but further agrees under the Settlement that, if it uses biometric technology in the future, it will comply with BIPA going forward by obtaining written releases from all Illinois customers who use biometric devices, making BIPA-required disclosures, destroying biometric data in compliance with the statute, and establishing a publicly-available retention policy.

HOW TO GET SETTLEMENT BENEFITS

6. How do I get a payment?

If you are a Settlement Class member and you want to get a payment, you must complete and submit a valid Claim Form by [Claims Deadline]. If you received an email notice, it contained a link to the online Claim Form, which is also available on this website here [Claim Form Link] and can be filled out and submitted online. A paper Claim Form with pre-paid postage was attached to the postcard notice you may have received in the mail. The claim form lets you select to receive your payment via Zelle, Paypal, Venmo, or check.

7. When will I get my payments?

The hearing to consider the fairness of the Settlement is scheduled for [Final Approval Hearing Date]. If the Court approves the Settlement and there are no appeals, Class Members whose claims were approved by the Settlement Administrator will be sent their first of four payments within 60 days in the method they selected. The remaining three payments will be made by the same method at around the same time for the following three years. Please be patient. Uncashed checks and electronic payments that are unable to be completed for the first three payments will expire and become void 90 days after they are issued and will be returned to the fund and distributed to class members in later payments. Any final uncashed checks or undeliverable electronic payments will be donated to the Illinois Bar Foundation or such other not-for-profit organization(s) as the Court may order.

THE LAWYERS REPRESENTING YOU

8. Do I have a lawyer in the case?

Yes, the Court has appointed lawyers Jay Edelson, J. Eli Wade-Scott, and Theo J. Benjamin of Edelson PC as the attorneys to represent you and other Class Members. These attorneys are called "Class Counsel." In addition, the Court appointed Plaintiff Jennifer Rottner to serve as the Class Representative. She is a Class Member like you. Class Counsel can be reached by calling 1-866-354-3015.

9. Should I get my own lawyer?

You don't need to hire your own lawyer because Class Counsel is working on your behalf. You may hire your own lawyer, but if you do so, you will have to pay that lawyer.

10. How will the lawyers be paid?

Class Counsel will ask the Court for attorneys' fees and expenses of up to 35% of the Settlement Fund, and will also request an incentive award of \$5,000 for the Class Representative from the Settlement Fund. The Court will determine the proper amount of any attorneys' fees and expenses to award Class Counsel and the proper amount of any award to the Class Representative. The Court may award less than the amounts requested. The lawyers will receive any award of attorneys' fees in four installments over a period of four years like the class members.

YOUR RIGHTS AND OPTIONS

11. What happens if I do nothing at all?

If you do nothing, you will receive no money from the Settlement Fund, but you will still be bound by all orders and judgments of the Court. Unless you exclude yourself from the Settlement, you will not be able to file or continue a lawsuit against Defendants or other Released Parties regarding any of the Released Claims. **Submitting a valid and timely Claim Form is the only way to receive a payment from this Settlement.**

To submit a Claim Form, or for information on how to request exclusion from the class or file an objection, please visit the settlement website, www.[to be determined].com, or call (XXX) XXX-XXXX.

12. What happens if I ask to be excluded?

You may exclude yourself from the Settlement. If you do so, you will not receive any cash payment, but you will not release any claims you may have against Palm Beach Tan and the Released Parties (as that term is defined in the Settlement Agreement) and are free to pursue whatever legal rights you may have by pursuing your own lawsuit against Palm Beach Tan and the Released Parties at your own risk and expense.

13. How do I ask to be excluded?

You can mail or email a letter stating that you want to be excluded from the Settlement. Your letter must: (a) be in writing; (b) identify the case name, *Rottner v. Palm Beach Tan, Inc.*, 2015-CH-16695 (Cir. Ct. Cook Cty. Ill.); (c) state the full name and current address of the person in the Settlement Class seeking (d) be signed by the person(s) seeking exclusion; and (e) be postmarked or received by the Settlement Administrator on or before [Objection/Exclusion Deadline]. Each request for exclusion must also contain a statement to the effect that “I hereby request to be excluded from the proposed Settlement Class in *Rottner v. Palm Beach Tan, Inc.*, 2015-CH-16695 (Cir. Ct. Cook Cty. Ill).” You must mail or e-mail your exclusion request no later than [Objection/Exclusion Deadline] to:

Rottner v. Palm Beach Tan Settlement Administrator
P.O. Box 0000
City, ST 00000-0000

-or-

[e-mail address]

You can't exclude yourself over the phone. No person may request to be excluded from the Settlement Class through “mass” or “class” opt-outs.

14. If I don't exclude myself, can I sue Palm Beach Tan for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Palm Beach Tan and any other Released Party for the claims being resolved by this Settlement.

15. If I exclude myself, can I get anything from this Settlement?

No. If you exclude yourself, you will not receive a payment.

16. How do I object to the Settlement?

If you do not exclude yourself from the Settlement Class, you can object to the Settlement if you don't like any part of it. You can give reasons why you think the Court should deny approval by filing an objection. To object, you must file a letter or brief with the Court stating that you object to the Settlement in *Rottner v. Palm Beach Tan, Inc.*, 2015-CH-16695 (Cir. Ct. Cook Cty. Ill.), no later than [Objection/Exclusion Deadline]. Your objection must be e-filed or delivered to the Court at the following address:

Clerk of the Circuit Court of Cook County - Chancery Division
Richard J. Daley Center, 8th Floor
50 West Washington Street
Chicago, Illinois 60602

The objection must be in writing, must be signed, and must include the following information: (a) your full name and current address, (b) a statement that you believe you are a member of the Settlement Class, (c) whether the objection applies only to you, to a specific subset of the Settlement Class, or to the entire Settlement Class, (d) the specific grounds for your objection, (e) all documents or writings that you wish the Court to consider, (f) the name and contact information of any attorneys representing, advising, or in any way assisting you in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection, and (g) a statement indicating whether you intend to appear at the Final Approval Hearing. If you hire an attorney in connection with making an objection, that attorney must file an appearance with the Court or seek *pro hac vice* admission to practice before the Court, and electronically file the objection by the objection deadline of [Objection/Exclusion Deadline]. If you do hire your own attorney, you will be solely responsible for payment of any fees and expenses the attorney incurs on your behalf. If you exclude yourself from the Settlement, you cannot file an objection.

In addition to filing your objection with the Court, you must send via mail, email, or delivery service, by no later than [Objection/Exclusion Deadline], copies of your objection and any supporting documents to both Class Counsel and the Defendants' lawyers at the addresses listed below:

Class Counsel	Defense Counsel
Theo J. Benjamin tbenjamin@edelson.com EDELSON PC 350 North LaSalle Street, 14th Floor Chicago, Illinois 60654	Michael P. Lynn mlynn@lynnllp.com Jared Eisenberg jeisenberg@lynnllp.com LYNN PINKER HURST & SCHWEGMANN, LLP 2100 Ross Avenue, Suite 2700 Dallas Texas 75201 Joseph Cancila, Jr. jcancila@rshc-law.com Nick Kahlon nkahlon@rshc-law.com RILEY SAFER HOLMES & CANCILA LLP 70 West Madison Street, Suite 2900, Chicago, Illinois 60602

Class Counsel will file with the Court and post on the settlement website its request for attorneys' fees and incentive awards on [date 2 weeks before Objection / Exclusion deadline].

17. What's the difference between objecting and excluding myself from the Settlement?

Objecting simply means telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class as a Class Member. Excluding yourself from the Settlement Class is telling the Court that you don't want to be a Settlement Class Member. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

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

The Court will hold the Final Approval Hearing at [time] on [date] before the Honorable Celia G. Gamrath in Room 2508 at the Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602, or via remote means as instructed by the Court. The purpose of the hearing is for the Court to determine whether the Settlement is fair, reasonable, adequate, and in the best interests of the Class. At the hearing, the Court will hear any objections and arguments concerning the fairness of the proposed Settlement, including those related to the amount requested by Class Counsel for attorneys' fees and expenses and the incentive award to the Class Representative.

Note: The date and time of the Final Approval Hearing are subject to change by Court Order. Any changes will be posted at the settlement website, www.[tobedetermined].com.

19. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. You are welcome to 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 your written objection was filed or mailed on time and meets the other criteria described in

the Settlement, the Court will consider it. You may also pay a lawyer to attend, but you don't have to.

20. May I speak at the hearing?

Yes. If you do not exclude yourself from the Settlement Class, you may ask the Court for permission to speak at the hearing concerning any part of the proposed Settlement. If you filed an objection (see Question 16 above) and intend to appear at the hearing, you must state your intention to do so in your objection.

GETTING MORE INFORMATION

21. Where do I get more information?

This notice summarizes the proposed Settlement. More details, including the Settlement Agreement and other documents are available at www.tobedetermined.com or at the Clerk's Office in the Clerk's Office in the Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602, between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Court holidays and any closures as a result of the COVID-19 pandemic. You can also contact Class Counsel at 1-866-354-3015 with any questions.

PLEASE DO NOT CONTACT THE COURT, THE JUDGE, THE DEFENDANTS OR THE DEFENDANTS' LAWYERS WITH QUESTIONS ABOUT THE SETTLEMENT OR DISTRIBUTION OF SETTLEMENT PAYMENTS.