

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

MILES R. HENDERSON, <i>et al.</i> ,	)	CASE NO. 1: 02CV460724
	)	
Plaintiffs,	)	JUDGE HOLLIE L. GALLAGHER
	)	
vs.	)	
	)	<b><u>CLASS ACTION SETTLEMENT</u></b>
LAWYERS TITLE INSURANCE	)	<b><u>AGREEMENT AND STIPULATION</u></b>
CORPORATION,	)	
	)	
Defendant.	)	
	)	

This Class Action Settlement Agreement and Stipulation (hereinafter the “Agreement”) is made and entered into by the Parties as defined in Part II of this Agreement.

**I. THE LITIGATION**

A. On January 25, 2002, plaintiffs Miles Henderson and Patricia Henderson (“Plaintiffs”) filed a Class Action Complaint against defendant Lawyers Title Insurance Corporation (“Lawyers Title”) in the Cuyahoga County Court of Common Pleas (the “Litigation”).

B. In the Litigation, Plaintiffs generally allege, among other things, that Lawyers Title and its authorized title insurance agents failed to charge Reissue Rate premium discounts for owner’s policies of title insurance issued by Lawyers Title in Ohio in connection with residential purchase and sale transactions that qualified for Reissue Rate premiums and/or failed to disclose the existence and/or availability of such discounts.

C. Lawyers Title denies these allegations, and denies that it was or is

liable for the claims asserted in the Litigation. Lawyers Title contends that its practices were at all times and are now fully compliant with Ohio law. In addition, Lawyers Title contends that litigation of the Plaintiffs' claims is unsuitable for class treatment, and that a class could not be properly certified in this action other than by Lawyers Title's agreement to withdraw its defenses and objections to class certification, which it does for purposes of this Agreement only.

D. The attorneys representing the Plaintiffs are experienced in litigating class action claims of the type involved in the Litigation.

E. The Parties have engaged in substantial discovery, including interrogatories, document requests, depositions of the Plaintiffs and depositions of representatives of Lawyers Title and its agents.

F. Commencing in or about August 2007, the Parties have engaged in extensive settlement negotiations. On December 10-11, 2007, counsel for Plaintiffs, representatives of Lawyers Title, and defense counsel participated in a two-day mediation session before mediator Robert Duvin.

G. The Parties and their respective attorneys, taking into account the risks, uncertainties, delay and expense involved in the Litigation, as well as other relevant considerations, have concluded that it is in the best interest of all Parties and the putative Class to compromise and fully and finally settle the Litigation in the manner and upon the terms and conditions hereinafter set forth. The Parties intend that this settlement will end and encompass all pending, threatened or possible litigation and/or claims against Lawyers Title in Ohio that allege or involve the failure of Lawyers Title and/or its agents to charge Reissue Rate premium discounts for owner's policies issued in connection with residential

purchase and sale transactions and/or the alleged failure to disclose the existence and/or availability of such discounts.

H. The Parties specifically agree that Lawyers Title's execution of this Agreement is not, and shall not be construed as, an admission by Lawyers Title or deemed to be evidence: (1) of the validity of any of the Plaintiffs' claims in the Litigation, (2) that Lawyers Title violated the rate rules for title insurance in Ohio or any other law, or (3) that the Litigation (or any other litigation) could properly be certified as a class action. The Parties further agree that neither this Agreement itself, nor any of the documents prepared by or executed by the Parties in negotiating or implementing the settlement called for by this Agreement, other than a proposed order to be entered by the Court, shall ever be filed or offered in evidence in any civil, criminal or administrative action or proceeding by Plaintiffs' Attorneys without Lawyers Title's express written consent, except to seek approval of and/or enforce compliance with this Agreement, nor shall any of the terms of any such documents be filed or offered in evidence in any proceeding other than to support Plaintiffs Attorneys' qualifications as class counsel in such proceeding.

I. As a result of their negotiations and the mediation, the Parties now enter into this Agreement to document an agreed-upon settlement.

## **II. DEFINITIONS**

These definitions are applicable to this Agreement.

A. "Audit Period" means the time between the Claims Administrator's first report to Lawyers Title of the Claims Administrator's approval of a Claim received from a Class Member and the Claim Finalization Date, as more fully set forth in Sections III(B)(2), and III(I)(4) of this Agreement.

B. "Authorized Claimant" means any Class Member who has timely and completely submitted a "Claim" that has been reviewed and approved for receipt of a "Settlement Payment" by the Claims Administrator, subject to Lawyers Title's audit rights as set forth in Section III(I)(4) of this Agreement.

C. "Claim" means an assertion made by a Class Member for a "Settlement Payment."

D. "Claimant" means any Class Member who seeks a Settlement Payment.

E. "Claims Administrator" means Analytics, Inc., and any successors designated by the Parties to effectuate the processing and payment of Claims.

F. "Claims Administration Period" means the time from the Preliminary Approval Date to the date 90 days after the Claim Finalization Date.

G. "Claim Finalization Date" means the date on which the Parties certify to the Claims Administrator that the Audit Period has concluded and the list of Authorized Claimants has become final, as more fully set forth in Section III(I)(4)(e).

H. "Claim Filing Deadline" means the date by which the Claims Administrator must have received Claims from all Class Members in order for the Claim to be deemed timely, as more fully set forth in Section III(I) of this Agreement.

I. "Class" or "Class Members" means Plaintiffs and all other persons who (i) paid all or any portion of the premium for an owner's policy of title insurance issued by Lawyers Title directly or through an issuing agent in connection with a Subject Transaction; and (ii) with respect to such Subject Transaction, there existed a Qualifying Prior Policy ; and (iii) with respect to such Subject Transaction, the "Original Rate," rather

than the "Reissue Rate" was charged for such title insurance. Excluded from this Class are employees, officers and directors of Lawyers Title and its subsidiaries or affiliates.

J. "Class Period" means the period of time ending on the Preliminary Approval Date and beginning six (6) years prior to the date of the filing of the Class Action Complaint, i.e., January 25, 1996.

K. "Costs of Administration" means all those costs actually incurred for the services of the Claims Administrator, as set forth in this Agreement, and for which the Claims Administrator shall invoice Lawyers Title during the Claims Administration Period, including but not limited to the Cost of Notice, the cost of reviewing Claims, and the cost of transmitting Settlement Payments to Authorized Claimants.

L. "Cost of Notice" means the costs invoiced to Lawyers Title by the Claims Administrator for the printing, mailing, and publication, including electronic publication, of the Notice.

M. "Court" means the Cuyahoga County Court of Common Pleas.

N. "Direct Mail Finalization Date" means the date on which the Parties certify to the Claims Administrator that the Parties have satisfied the provisions of Sections III(G)(2)(a)-(d) of this Agreement, and the list of Class Members to receive direct mail notice has become final, or the date on which the Court directs that the list of Class Members to receive direct mail notice has become final pursuant the Section III(G)(2)(e).

O. "Direct Mail Notice Agents" means those current and former title insurance issuing agents of Lawyers Title in Ohio who have been identified in discovery in the Litigation as having issued Lawyers Title insurance policies in Ohio during the Class Period.

P. “Final Judgment” means the order approving the Settlement and this Agreement in the form of the Final Judgment attached to this Agreement as Exhibit F, without any substantive change in the reasonable judgment of any Party.

Q. “Final Settlement Date” means the date on which the Final Judgment approving this Agreement becomes final. For purposes of this definition, the Final Judgment shall become final:

1. if no appeal is taken, the day after the date on which the time to appeal has expired;
2. if any appeal is taken, the day after the date on which all appeals, including petitions for rehearing or reargument, petitions for review and petitions for *certiorari* or any other form of review, have been finally disposed of in a manner resulting in affirmance of all the material provisions of the Final Judgment; or
3. on a date after entry of the Final Judgment, which date counsel for the Parties agree to in writing.

R. “Final Settlement Hearing” means the hearing to be conducted by the Court to determine whether to enter the Final Judgment.

S. “Individual Release” means the full and final release of the Released Claims contained in the Proof of Claim Form attached as Exhibit D that must be executed by each Class Member as a condition of receiving a Settlement Payment.

T. “Information” shall mean and refer to confidential materials, documents, and information produced in connection with the Litigation or this Agreement, which is subject to Section IV of this Agreement.

U. “Notice” means the Notices of Class Action Settlement attached as

Exhibits A, B and C.

V. “Objection Deadline Date” means the date twenty-one (21) days prior to the Final Settlement Hearing, or as otherwise set by the Court. It is the date by which Class Members must file and serve a written statement objecting to the Settlement or to the Plaintiffs’ attorneys’ fees or Plaintiffs’ expenses and a written notice of intention to appear if they expect to present objections to the Settlement or to Plaintiffs’ petition for payment of attorneys’ fees or reimbursement of litigation expenses.

W. “Original Rate” means the undiscounted standard, original, or basic rate for Lawyers Title owners policies of title insurance in Ohio as provided for by the Rate Manual in force at the time of a Subject Transaction.

X. “Parties” means the Plaintiffs and Lawyers Title.

Y. “Plaintiffs’ Attorneys” means, collectively, Sonkin and Koberna Co., L.P.A., Ulmer Berne LLP, Motley Rice, LLC and Gilbert Randolph, LLP.

Z. “Plaintiffs’ Attorneys’ Fees” means the amount awarded to Plaintiffs’ Attorneys by the Court for prosecuting the Litigation and implementing this Settlement.

AA. “Plaintiffs’ Expenses” means all expenses of investigation, litigation, and settlement incurred by Plaintiffs and Plaintiffs’ Attorneys.

BB. “Preliminary Approval Date” means the date of entry of the Court’s order granting preliminary approval of the Settlement in the form of the Preliminary Approval Order attached to this Agreement as Exhibit E, without any substantive change in the reasonable judgment of any Party.

CC. “Proof of Claim Form” means the proof of claim form to be

completed by potential Class Members, in the form attached hereto as Exhibit D.

DD. “Qualifying Prior Policy” means an owners policy of title insurance which (1) was issued by a title insurer licensed to do business in Ohio at the time of a Subject Transaction, (2) had been outstanding for less than ten years at the time of a Subject Transaction, (3) insured a seller in a Subject Transaction, (4) insured the property in a Subject Transaction, and (5) would otherwise have satisfied the requirements of the Reissue Rate rule applicable at the time of a Subject Transaction.

EE. “Reissue Rate” means the Reissue Rate for Lawyers Title owners policies of title insurance in Ohio as provided for by the Rate Manual in force at the time of a Subject Transaction.

FF. “Released Party” means Lawyers Title and its title insurance agents (to the extent and only to the extent they acted on behalf of Lawyers Title) together with their parent companies (including intermediate parents and ultimate parents) and subsidiaries, affiliates, predecessors, successors, and assigns, and each of their respective present and former officers, directors, employees, agents, attorneys, insurers, reinsurers, stockholders, representatives, heirs, administrators, executors, successors and assigns, and any other person or entity acting on their behalf.

GG. “Settlement” means the complete settlement and conclusion of the Litigation against Lawyers Title, including all claims that were or could have been asserted in the Litigation against Lawyers Title.

HH. “Settlement Payment” means a payment to an “Authorized Claimant” made pursuant to Section III(C) of this Agreement.

II. “Subject Transaction” means a residential purchase-sale transaction

on property located in Ohio which transaction was completed on or after January 25, 1996, in which a Lawyers Title owner's policy of title insurance was issued to the buyer either directly or through an issuing agent.

JJ. The "Rate Manual" means , collectively, all the title insurance rate manuals filed with the State of Ohio Insurance Department by or on behalf of Lawyers Title, including without limitation those filed by the Ohio Title Insurance Rating Bureau when Lawyers Title was a member thereof.

KK. "Total Settlement Fund" means the complete and all-inclusive total amount to be paid by Lawyers Title as further defined in Part III, Paragraph B below.

### **III. SETTLEMENT TERMS**

Plaintiffs and Lawyers Title enter into this Agreement to resolve fully and finally all claims of Plaintiffs and the Class Members for any alleged failure of Lawyers Title or any of its agents to give notice to Class Members of the potential availability of Reissue Rates, or to charge the discounted Reissue Rate premium under the Rate Manual for owner's policies issued by Lawyers Title directly or through issuing agents in connection with residential purchase and sale transactions during the Class Period that were or could have been asserted in the Litigation.

A. **Certification of a Settlement Class.** Lawyers Title will stipulate to the certification of a class for settlement purposes, and the Parties will file a Joint Motion for Preliminary Approval of the Settlement Agreement as described in Part III, Paragraph F.

**B. The Total Settlement Fund.**

1. **Creation of the Total Settlement Fund.** Not later than ten (10) days after the Preliminary Approval Date, Lawyers Title shall take all necessary steps to ensure the availability of the Total Settlement Fund of Six Million Five Hundred Fifty Thousand Dollars and No Cents (\$6,550,000). The Total Settlement Fund shall be the complete and all-inclusive amount paid by Lawyers Title for any and all payments required by this Agreement or to effectuate the terms and conditions of this Agreement, including, but not limited to, Claims of the Plaintiffs, Claims of the other Class Members, Plaintiffs' Attorneys' Fees and Plaintiffs' Expenses, all Costs of Administration.

2. **The Order and Timing of Distribution of the Total Settlement Fund.** All payments to be made pursuant to this Agreement from the Total Settlement Fund shall be made in the following order and pursuant to the following schedule.

(a). **Costs of Administration.** Subject to the terms of Sections III(G) and III(I)(5) of this Agreement, Lawyers Title shall pay in the ordinary course during the Claims Administration Period and from the Total Settlement Fund the Costs of Administration subject to reasonable oversight by the Parties, including the Cost of Notice, for which the Claims Administrator shall have invoiced Lawyers Title.

(b). **Plaintiffs' Attorneys' Fees and Plaintiffs' Expenses.** Subject to the terms of Section III(J) of this Agreement, Plaintiffs Attorney's Fees and Plaintiffs' Expenses shall be paid from the Total Settlement Fund within thirty (30) days of the Final Settlement Date.

(c). **Settlement Payments to Authorized Claimants.**

Subject to the terms of Section III(C) of this Agreement, Settlement Payments to Authorized Claimants shall be paid from the Total Settlement Fund within forty-five (45) days of the Claims Finalization Date.

3. If there are funds remaining in the Total Settlement Fund after deducting all amounts required to be paid under Sections III(B)(2)(a)-(c) of this Agreement, all such funds shall immediately revert and be paid to Lawyers Title, including accrued interest, and no such funds shall be subject to any claim by any other party.

4. Under no circumstances will Lawyers Title be required under this Agreement to incur or pay any fees or expenses which it is not explicitly obligated to incur or pay hereunder. Under no circumstances will any monies relating to this Settlement, this Litigation, or Agreement escheat or be subject to any unclaimed funds distribution.

C. **Settlement Payments to Authorized Claimants.** Subject to the provisions of Section III(I) of this Agreement, the following Settlement Payments shall be made to Authorized Claimants from the Total Settlement Fund.

1. **Level 1 Participation.** Level I Participants will be those Class Members who paid all or any portion of the Original Rate, as opposed to the Reissue Rate, and who (a) timely complete, sign, have notarized, and submit the Proof of Claim Form, which requires the Class Member to provide and attest to the following information: (i) the Class Member's name and address; (ii) the address of the residential property purchased and sold in the Subject Transaction; (iii) the month and year of the Subject Transaction; (iv) that the potential Class Member paid all or a portion of an "Original Rate," rather than a "Reissue Rate" premium for a Lawyers Title owner's policy issued in

connection with the Subject Transaction; and (b) timely submit with the Proof of Claim Form a copy of (i) the HUD-1 Settlement Statement from the Subject Transaction demonstrating that a Lawyers Title owners policy was issued in the Subject Transaction; or (ii) the Lawyers Title owners policy issued in the Subject Transaction; or (iii) other reliable documentation demonstrating that a Lawyers Title owners policy was issued in the Subject Transaction. Level 1 Participants will be entitled to a Settlement Payment of \$92.50.

2. **Level 2 Participation.** Level 2 Participants will be those potential Class Members who paid all or any portion of the Original Rate, as opposed to the Reissue Rate, and who (a) comply with the requirements for Level 1 Participation; and (b) timely submit with the Proof of Claim Form either (i) a copy of the Qualifying Prior Policy; or (ii) a copy of a HUD-1 Settlement Statement or such other reliable documentation from the transaction in which the Qualifying Prior Policy was issued as will identify the Qualifying Prior Policy. A deed or mortgage from the transaction in which the Qualifying Prior Policy was issued will not, without more, satisfy the requirements of this paragraph, Level 2 Participants will be entitled to \$185.00.

3. If, under the foregoing plan of distribution, there are insufficient funds remaining in the Total Settlement Fund after deducting all amounts required to be paid under Sections III(B)(2)(a) and (b) of this Agreement, then the Settlement Payments to Authorized Claimants will be proportionally reduced.

4. Where more than one Class Member submits a Claim related to the same portion of the title insurance premium in a Subject Transaction (i.e., more than one Class Member submits a claim to either the buyer's portion or the seller's portion of the premium paid), only one Class Member will be paid. Disputes in this regard will be

resolved by the Court at the request of either Party or the Claims Administrator.

5. If one or more of the following circumstances are applicable to a Class Member, then the Class Member shall not be entitled to payment under this Agreement:

(a). The Class Member has made a prior claim or filed a prior lawsuit against Lawyers Title, or made a demand for arbitration or mediation that resulted in settlement, release, or dismissal of any claim against Lawyers Title related to any alleged overcharge for title insurance;

(b). The Class Member does not comply with all of the terms of this Agreement.

**D. Agreed Business Practices.** Lawyers Title will employ, and establish policies that direct its agents to employ, the following measures to address the issues raised in the Litigation, unless and until the applicable law or rate filing changes and/or becomes more specific, or unless and until otherwise directed by an agency or court of competent jurisdiction, in which case(s) the terms of this Agreement shall be modified accordingly:

1. Lawyers Title will send a Bulletin to all Lawyers Title policy issuing agents in Ohio, which Bulletin shall supplement Bulletin 05-18 (“Reissue Credits/Refinance Rates”), reiterating that the policies set forth in Bulletin 05-18 are mandatory for all agents of Lawyers Title and all agents of Lawyers Title are required to follow them, and that, further, from the date of the supplemental Bulletin forward it is Lawyers Title’s policy to inform the buyer and seller as soon as practicable after receiving the title order that providing a qualifying prior policy may permit a discounted title

insurance rate if applicable. This Bulletin will also supplement Bulletin 05-18 in instructing Lawyers Title's agents that it is Lawyers Title's policy that, for each transaction where a Reissue Rate might apply, the agent should search its records for a Qualifying Prior Policy. This Bulletin will be sent no later than 30 days from the date of the Final Settlement Date.

2. Lawyers Title will include in all seminars that address rates a section on Reissue Rates, including but not necessarily limited to, Lawyers Title's policies and practices as described in Section III(D) concerning Reissue Rates.

3. Lawyers Title will establish a procedure whereby Lawyers Title includes in its existing audit procedures a requirement to audit for whether the agent complied with charging Reissue Rates where appropriate. Lawyers Title will address instances of noncompliance in the same manner it addresses other noncompliance issues in its normal audit procedures.

4. Lawyers Title will maintain indefinitely the policies and procedures outlined above, except as otherwise stated herein. Lawyer's Title's future practices are subject to revision pursuant to court order, statutory changes by the legislature, changes in Lawyers Title's filed rates, or changes in the rates filed by the Ohio Title Insurance Rating Bureau.

**E. Release of Claims.**

1. For and in consideration of the Total Settlement Fund and the mutual promises contained in this Agreement, the Plaintiffs and other Class Members, on behalf of themselves and their respective agents, heirs, executors, administrators, successors, assigns, guardians, and representatives, fully, finally, and forever release, as of the Final Settlement Date, the Released Parties from any and all claims for relief, causes of

action, suits, petitions, demands in law or equity, damages, debts, contracts, agreements, obligations, promises, liabilities of any nature whatsoever, regardless of legal theory, whether statutory, regulatory, or under the common law, including claims for bad faith, attorneys' fees, costs, interest, punitive damages, or expenses which are based on or in any way related to any alleged failure of any of the Released Parties or any of their agents acting on their behalf to charge a Reissue Rate discount under the Rate Manual for an owner's policy issued by Lawyers Title in connection with a residential purchase and sale transaction in the State of Ohio during the Class Period and/or to disclose the existence or availability of such discount (the "Released Claims").

2. The Released Claims include, and the Plaintiffs and other Class Members do and are hereby deemed to release, without limitation: (i) the causes of action alleged in the Class Action Complaint and Amended Complaint, including, without limitation, breach of contract, common law fraud, conversion, breach of fiduciary duty, breach of good faith and fair dealing, and unjust enrichment; and (ii) any other claim that could have been asserted related to the subject matter of the Litigation. The Released Claims do not include claims related to refinance discounts potentially available for loan policies of title insurance in refinance, as opposed to purchase and sale transactions.

3. In connection with this Release, the Plaintiffs and other Class Members are releasing past or currently existing claims and are aware that they may hereafter discover claims that existed in the past or present, that may be unknown or unsuspected, but discoverable based on reasonable investigation, or facts in addition to or different from those which they now know or believe to be true with respect to the allegations and subject matter in the Class Action Complaint and Amended Complaint.

Nevertheless, it is the intention of the Parties and other Class Members to fully, finally and forever settle and release all such matters, and all claims relating thereto, which exist or might have existed (whether or not previously or currently asserted in the Litigation) relating to the alleged failure of any of the Released Parties to disclose or provide the Reissue Rate discount for owners title insurance policies under the Rate Manual.

4. Further, as a condition of receiving a Settlement Payment, each Class Member shall execute in advance an Individual Release which shall be in the Proof of Claim Form, attached hereto as Exhibit D and approved by the Court.

5. Nothing in this Agreement, and no actions taken by Lawyers Title in connection with this Agreement, shall be construed to limit Lawyers Title's ability to pursue claimants, insureds, or assignees for fraud or misrepresentation committed in connection with claims against Lawyers Title and/or claims under this Agreement.

6. Plaintiffs' Attorneys (a) covenant not to seek from any of the Released Parties or make a claim for any attorneys' fees, costs, consultant's fees, expert witness fees, interest, or any other expenses incurred or to be incurred by Plaintiffs, other Class Members or Plaintiffs' Attorneys; and (b) represent and warrant that they are not aware of any other lawyer or law firm that has any claim for any attorneys' fees, costs, consultant's fees, expert witness fees, interest, or any other expenses incurred or to be incurred by Plaintiffs, other Class Members or Plaintiffs' Attorneys. Plaintiffs' Attorneys' Fees and Plaintiffs' Expenses as awarded by the Court will be paid only from the Total Settlement Fund.

7. Other than as specifically set forth in this Agreement, this Release shall not limit or otherwise affect the rights and obligations of any Class Member

or Lawyers Title with respect to any Lawyers Title policy of title insurance insuring a Class Member.

8. Nothing in this Agreement shall prevent Lawyers Title from pursuing affirmative relief (including but not limited to recovery of funds paid in connection with this Settlement or under this Agreement) from any Class Member whose conduct in connection with this Agreement or in connection with the Subject Transaction constitutes a violation of state law, federal law, or is otherwise fraudulent. By making a Settlement Payment under this Agreement, Lawyers Title does not waive any past, present, or future rights it might have against any Class Member.

**F. Approval of Settlement.**

1. Within fifteen (15) days of the date of execution of this Agreement by the last of the Parties to execute it, the Parties shall jointly file this Agreement, including all attached exhibits, a Joint Motion for Preliminary Approval, and all supporting papers with the Court, and shall request an order (a) preliminarily approving this Settlement; (b) preliminarily certifying the Litigation as a class action for settlement purposes only; (c) approving the Proof of Claim Form; and (d) approving the proposed form and method of notice as fair, adequate, reasonable and consistent with due process. The Parties will jointly request that the Court enter the proposed Preliminary Approval Order in the form attached as Exhibit E, without any substantive change in the reasonable judgment of any Party.

2. A Final Settlement Hearing to determine final approval of the Settlement shall be scheduled as soon as practicable, subject to the calendar of the Court. Upon final approval of the Settlement by the Court at or after the Final Settlement Hearing,

the Parties shall seek and obtain from the Court the Final Judgment in the form attached hereto as Exhibit F, without any substantive change in the reasonable judgment of any Party.

3. After entry of the Final Judgment, the Court shall have continuing jurisdiction over the Litigation solely for purposes of: (a) enforcing this Agreement; (b) addressing settlement administration matters; and (c) addressing such post-Final Judgment matters as may be appropriate under court rules or applicable law.

4. Should the Court decline to approve this Agreement, or fail to enter the Final Judgment in the form of Exhibit F, or make any substantive change to the form of Exhibit F or the documents referenced therein, in the reasonable judgment of any Party, or if on appeal an appellate court reverses or modifies the Final Judgment, the Agreement shall be voidable by Lawyers Title or Plaintiffs, by written notice to the attorneys of record for the other Party, no later than fifteen (15) days after entry of any such order or after service of an applicable notice of ruling, whichever occurs later. The Parties shall be obligated to proceed with the Settlement regardless of the Court's action on any request for Plaintiffs' Attorneys' Fees or Plaintiffs' Expenses.

**G. Notice to Class Members.**

1. The Notice(s) in the forms attached hereto as Exhibits A, B and C and as approved by the Court shall be provided to the Class using the following procedures.

2. **Direct Mail Notice.** The Parties shall provide names and last known addresses of potential Class Members to the Claims Administrator for the purposes of direct mail notice, and the Claims Administrator shall provide direct mail notice to such

potential Class Members, using the following procedures:

(a). Within sixty (60) days after the Preliminary Approval Date, Lawyers Title shall provide to the Claims Administrator and to Plaintiffs' Attorneys potential Class Members' names and addresses that can be obtained from its own records using commercially reasonable efforts. The Parties understand that these names and addresses are anticipated to be obtained primarily from (i) the electronic records of Lawyers Title's direct operations, (ii) electronic records Lawyers Title may maintain with respect to title orders placed by its title insurance issuing agents, and (iii) any files already sampled or produced by Plaintiffs or Lawyers Title during the Litigation. The Parties understand commercially reasonable efforts to primarily consist of the provision to the Claims Administrator of those names and addresses that can reasonably be obtained from the electronic records of Lawyers Title, and that commercially reasonable efforts will not generally include (i) reports that require special programming or the assistance of outside vendors to generate, (ii) information available only as an electronic image (i.e., TIFF, PDF, JPEG, or other similar non-text format), rather than as text or similarly manipulable data, in the electronic records of Lawyers Title, (iii) reports from legacy computer systems that are not readily accessible by Lawyers Title, or (iv) lists specially created from the paper records of Lawyers Title that are not available in electronic form;

(b). Within thirty (30) days after the Preliminary Approval Date, Lawyers Title shall send one written communication to the Direct Mail Notice Agents, requesting that the Direct Mail Notice Agents use commercially reasonable efforts to provide the names and addresses of potential Class Members to the Claims Administrator, and shall provide to Plaintiffs' Attorneys copies of these communications.

At the request of Plaintiffs' Attorneys made within sixty (60) days after the written communication required by this paragraph, Lawyers Title shall make one additional communication to any Direct Mail Notice Agent identified by Plaintiffs' Attorneys who, in the reasonable exercise of their judgment, have not made commercially reasonable efforts to provide the names and addresses of potential Class Members to the Claims Administrator. The Parties understand commercially reasonable efforts to primarily consist of the provision to the Claims Administrator of those names and addresses that can reasonably be obtained from the electronic records of the Direct Mail Notice Agents, and that commercially reasonable efforts will not generally include (i) reports that require special programming or the assistance of outside vendors to generate, (ii) information available only as an electronic image (i.e., TIFF, PDF, JPEG, or other similar non-text format), rather than as text or similarly manipulable data, in the electronic records of the Direct Mail Notice Agents, (iii) reports from legacy computer systems that are not readily accessible by the Direct Mail Notice Agents, or (iv) lists specially created from the paper records of Direct Mail Notice Agents that are not available in electronic form.

(c). If, within thirty (30) days of the supplemental communication provided for in subsection (b) above, Plaintiffs' Attorneys believe that a Direct Mail Notice Agent has not made commercially reasonable efforts to provide the names and addresses of potential Class Members to the Claims Administrator, Plaintiffs' Attorneys may direct subpoenas to such Direct Mail Notice Agent, seeking solely the name and address information for potential Class Members that can be provided by the Direct Mail Notice Agent using commercially reasonable efforts. Lawyers Title will not provide counsel to or pay for counsel retained by the Direct Mail Notice Agents to respond to such

subpoenas.

(d). The Parties shall reasonably cooperate to ascertain whether the Direct Mail Notice Agents have made commercially reasonable efforts to provide the names and addresses of potential Class Members to the Claims Administrator. The Claims Administrator may use ordinary and reasonable means to update the addresses of those persons appearing on the list of names and addresses of Potential Class Members.

(e). When the Parties agree that the commercially reasonable efforts of Lawyers Title and the Direct Mail Notice Agents have resulted in a list of potential class members to receive direct mail notice that, in conjunction with the written and electronic publication notices provided for in this section, will result in fair and adequate notice to the Class, the Parties shall certify to the Claims Administrator that the Parties have satisfied the provisions of Sections III(G)(2)(a)-(d) of this Agreement, and that the list of Class Members to receive direct mail notice has become final. If the Parties are unable to so agree, after good faith consultation, either Party may apply to the Court to certify that the commercially reasonable efforts of Lawyers Title and the Direct Mail Notice Agents have resulted in a list of potential class members to receive direct mail notice that, in conjunction with the written and electronic publication notices provided for in this section, will result in fair and adequate notice to the Class, and to direct that the list of Class Members to receive direct mail notice has become final.

(f). Within thirty (30) days of the Direct Mail Finalization Date, the Claims Administrator shall mail the direct mail notice in the form attached hereto as Exhibit A to each potential Class Member whose name and last known address have been provided to the Claims Administrator.

3. **Publication Notice**. The Claims Administrator shall provide publication notice to the Class using the following procedures:

(a). Within thirty (30) days of the Direct Mail Finalization Date, the Claims Administrator shall cause to be published the one-sixth page publication notice in the form attached hereto as Exhibit B in the Cleveland Plain Dealer and the Cincinnati Enquirer. Within thirty (30) days after such initial publication, the Claims Administrator shall cause to be published the one-sixth page publication notice in the form attached hereto as Exhibit B in the Columbus Dispatch, the Toledo Blade, and the Mansfield News Journal.

(b). Within thirty (30) days of the Direct Mail Finalization Date, the Claims Administrator shall establish a website accessible on the Worldwide Web and shall post there the website notice in the form attached hereto as Exhibit C. The website notice shall include a Proof of Claim Form which a potential Class Member may print and mail to the Claims Administrator. The Claims Administrator shall remove the website notice and the Proof of Claim Form from the Worldwide Web within five (5) days of the Claim Filing Deadline.

4. The Notice shall inform Class Members of their right to opt out of the Settlement, as follows:

(a). Any person or entity fitting the definition of a Class Member, who wish to be excluded from the Class shall, in a writing postmarked by the Claim Filing Deadline, so notify the Claims Administrator. To be valid, a request for exclusion must set forth: (i) in the case of an individual, the individual's name, address, and social security number; and (ii) in the case of a corporation, partnership, or other business

entity, the entity's business name, address and taxpayer identification number.

(b). Any person or entity who timely submits a request for exclusion satisfying the requirements of subsection (a) above shall no longer be considered a member of the Class, and shall be entitled to none of the benefits, nor subject to any of the obligations of this Agreement.

(c). In the event that one hundred (100) or more persons timely inform the Claims Administrator of their intention to opt out of the Settlement, this Agreement shall be voidable by Lawyers Title, at its option and in its sole discretion, by providing written notice to Plaintiffs' Attorneys and the Court at any time prior to the Claim Finalization Date.

5. All information provided to Plaintiffs' Attorneys pursuant to this Section shall be deemed confidential and subject to both the confidentiality provisions of this Agreement and the provisions of the Confidentiality Order entered in the Litigation.

#### **H. Objection Procedures.**

1. The Notice(s) shall provide that any Class Members who wish to object to the Settlement or the request for Plaintiffs' Attorneys' Fees or Plaintiffs' Expenses must comply with the requirements of Section III(H)(2) of this Agreement.

2. Any Class Member who objects to the approval of this Agreement may appear at the Final Settlement Hearing, and show cause why all terms of the proposed settlement called for by this Agreement should not be approved as fair, reasonable and adequate and why the Final Judgment should not be entered, provided, however, that any such objection or any petition to intervene in the Litigation by a Class Member must be in writing, and must include (a) proof that the objector or intervenor is a

Class Member as defined in this Agreement (including all necessary documentation required under this Agreement of an Authorized Claimant), (b) a statement of each objection being made; (c) a detailed description of the facts underlying each objection; (d) a detailed description of the legal authorities underlying each objection, if any; (e) a list of witnesses who may be called to testify at the Final Settlement Hearing, either live or by deposition or by affidavit, if any; and (f) a list of exhibits, along with copies of the exhibits, that the objector may offer during the Final Settlement Hearing, if any. All of these documents must be both filed with the Court and delivered to the Parties, no later than the Objection Deadline Date.

3. No person shall be entitled in any way to contest the approval of the terms and conditions of this Agreement or the Final Judgment to be entered thereon, except by filing and serving written objections in accordance with the provision of Section III(H)(2) of this Agreement, and any Class Member who fails to opt out or object in the manner prescribed in this Agreement shall be deemed to have waived, and shall be foreclosed forever from raising any objections to this settlement and/or this Agreement, including by appeal, or from asserting claims arising out of, relating to, or based in whole or part on any of the facts or matters alleged, or which could have been alleged, or which were otherwise at issue in the Litigation.

**I. Claims Administration and Payment of Claims.**

1. Each Notice shall be accompanied by a separate Proof of Claim Form which is attached hereto as Exhibit D, except that the publication notice may direct Class Members to the website or the Claims Administrator for the Proof of Claim Form. The Notice and Proof of Claim Form shall direct that each Class Member must

return the completed Proof of Claim Form within ninety (90) days from the date of the Final Settlement Hearing to be eligible for a Settlement Payment. As a condition of receiving a Settlement Payment, each Claimant must submit a timely Proof of Claim Form and any other documentation required by this Agreement. The Notice and Claim Form shall provide a point of contact at Lawyers Title available to assist Claimants in obtaining, within a commercially reasonable time, any supporting documentation or information needed for the Claim that may be reasonably available within Lawyers Title's records, including without limitation the name and address of the title agent or other information relating to the transaction. The Parties understand reasonably available documentation to primarily consist of the electronic records of Lawyers Title, which does not include (i) documentation that requires special programming or the assistance of outside vendors to generate, or (ii) documentation from legacy computer systems that are not readily accessible by Lawyers Title. Proof of Claim Forms postmarked after the Claim Filing Deadline shall be invalid, and thus barred from receiving a Settlement Payment under this Agreement. Under no circumstances will this deadline be extended without the express written consent of Lawyers Title. This is an absolute deadline. All Class Members are subject to this deadline, including any Class Members who file objections or seek to intervene. The filing of objections to this Agreement shall not toll or otherwise extend this deadline.

2. The Claimant must complete, sign under penalty of perjury, and mail the Proof of Claim Form by regular mail to the Claims Administrator, postmarked no later than the Claim Filing Deadline. Along with the Proof of Claim Form, to be eligible to recover, a Class Member must submit all of the required supporting material and

documentation, postmarked no later than the Claim Filing Deadline. Under no circumstances will a Class Member be permitted to supplement his/her/its claim, or submit materials in support of the claim after the Claim Filing Deadline. Any materials postmarked after the Claim Filing Deadline will not be considered in support of the claim. Failure to timely submit the fully-completed Proof of Claim Form, together with all required supporting documentation, will result in denial of the Claim. Incomplete, inaccurate, or otherwise insufficient Proof of Claim Forms will be denied. Claims that do not timely provide all information and documentation required by the Proof of Claim Form and this Agreement will be denied.

3. The Claims Administrator shall, within a reasonable time, determine with respect to each Claim received, whether the Claim and supporting documentation comply with all requirements of this Agreement for receipt of a Settlement Payment. The Claims Administrator may, in its discretion, request the assistance of the Parties in determining, with respect to any Claim, whether the Claim and supporting documentation comply with all requirements of this Agreement, provided that any communication pursuant to this provision shall include counsel for both Parties. Subject to reasonable oversight by the Parties, the Claims Administrator may, in its discretion, take reasonable steps to contact any Claimant whose Claim appears to comply with the requirements of this Agreement, but is incomplete, so that such Claim may be supplemented by the Claimant prior to the Claim Filing Deadline. If the Claims Administrator determines that a Claim complies with all requirements of this Agreement for receipt of a Settlement Payment, the Claims Administrator shall preliminarily certify a Claim as approved. The Claims Administrator shall report to the Parties the date on which

the first Claim is received by the claims administrator. The Claims Administrator shall report to the Parties the date on which the first Claim is preliminary approved. The Claims Administrator shall report to the Parties as soon as practicable after receiving notice that a Class Member intends to object to the settlement or intervene in the Litigation. The Claims Administrator shall, at the request of either Party, (a) provide to the Party a copy of each or any Claim received by the Claims Administrator, including all supporting documentation, (b) report to the Parties' counsel the substance of the work performed by the Claims Administrator, the basis for any denial of a Claim, the list of claims preliminarily approved for payment, and the total amount of Claims paid to date. The Claims Administrator's approval and denial of Claims shall be conclusive and binding on all Claimants and Parties, subject to Lawyers Title's Audit Rights, provided in Section III(I)(4) of this Agreement.

4. **Lawyers Title's Audit Rights**. At any time after the Claims Administrator's determination, pursuant to Section III(I)(3) of this Agreement, to preliminarily approve a Claim for receipt of a Settlement Payment, Lawyers Title may exercise the audit rights provided by this Section.

(a). Lawyers Title may review, in its discretion, the Claim and all supporting documentation provided to the Claims Administrator by the Claimant. In addition, Lawyers Title may review, in its discretion, any other documentation, records, evidence, testimony, reports, or other information related in any way to the Claim. Lawyers Title may subpoena documents from any Claimant, any non-Claimant party to a Subject Transaction, and/or any closing agent or lender in a prior transaction in which a Qualifying Prior Policy may or may not have been issued. The Court shall retain

jurisdiction to enforce such subpoenas.

(b). If, in its good faith judgment, Lawyers Title concludes that (i) the Claim or its supporting documentation do not comply with the requirements of this Agreement for receipt of a Settlement Payment, including because the Claimant paid a Reissue Rate, as opposed to an Original Rate, or (ii) identifies documentation, such as a HUD-1 from a prior transaction or a statement of the closing agent or lender in the prior transaction, showing that a Qualifying Prior Policy did not exist with respect to the Claim, then Lawyers Title may disapprove the Claim by providing notice of such disapproval to the Claims Administrator and counsel for the Plaintiffs. At the request of the Claims Administrator or Plaintiffs, Lawyers Title shall provide the reason for its disapproval of the Claim and the supporting documentation upon which Lawyers Title based its disapproval of the Claim.

(c). If Lawyers Title disapproves a Claim pursuant to this Section, such Claim shall not result in a Settlement Payment, and the Claimant making such Claim shall not be deemed an Authorized Claimant, unless otherwise ordered by the Court pursuant to Section III(I)(4)(d) of this Agreement.

(d). If Lawyers Title disapproves a Claim under this Section, Lawyers Title shall notify the Claims Administrator and Plaintiffs' Attorneys of the disapproval of the Claim and the grounds for such disapproval. The Claims Administrator shall notify the Class Member of the disapproval of the Claim, and if the Class Member disagrees with Lawyers Title's disapproval of the Claim, the Class Member shall have the right, within thirty (30) days of receiving notice of disapproval from the Claims Administrator, to petition the Court to resolve the dispute consistent with the terms

of this Agreement. The Class Member may be represented by Plaintiffs' Attorneys in connection with such a petition, or may select counsel of the Class Members' choosing. In the event the Class Member is represented by Plaintiffs' Attorneys in such a petition, any claim by Plaintiffs' Attorneys for fees and expenses in connection with such a petition remain subject to the limitations set forth in Section III(J)(3) of this Agreement. In the event the Class Member is represented by counsel other than Plaintiffs' Attorneys in such a petition, the Class Member and Lawyers Title shall each bear their own costs and attorney's fees incurred in resolving the dispute under this subsection. If Lawyers Title disapproves a Claim under this subsection, Plaintiffs Attorneys shall have the right to subpoena documents from any Claimant, any non-Claimant party to a Subject Transaction, and/or any closing agent or lender in a prior transaction in which a Qualifying Prior Policy may or may not have been issued. The Court shall retain jurisdiction to enforce such subpoenas.

(e). Lawyers Title shall conclude the audit provided for herein within ninety (90) days of the Claims Administrator finalizing its list of preliminarily approved Claimants. At such time thereafter as the Parties agree, or that the last of the dispute resolutions provided for by subsection (d) above shall have concluded, the Parties shall certify to the Claims Administrator that the Audit Period has concluded and the list of Authorized Claimants has become final.

(f). Lawyers Title reserves the right in its discretion not to audit any particular Claim, or to approve a Settlement Payment to any Class Member making a Claim at any time during or after exercise of Lawyers Title's audit rights. The exercise of such discretion shall not constitute a violation of this Agreement and shall not

waive or affect in any way Lawyers Title's right to exercise its audit rights with respect to any other Claim.

(g). The Claim Form shall conspicuously note that all Claims are made subject to Lawyers Title's audit rights and that the Claimant may be subject to having relevant records subpoenaed.

5. All costs, fees and expenses incurred in connection with the administration of Claims, including the Cost of Notice shall be paid from the Total Settlement Fund. As such costs are incurred, the Claims Administrator shall invoice Lawyers Title in the ordinary course. In the event Lawyers Title disputes the reasonableness of any such costs, fees or expenses, Lawyers Title may apply to the Court for disapproval of such costs by the Court, in which case such disapproved costs would be borne by the Claims Administrator. The Claims Administrator's final invoice to Lawyers Title shall be received within thirty (30) days of the Claim Finalization Date. In no event will Lawyers Title be responsible for the payment of any Costs of Administration that have not been invoiced to Lawyers Title within the Claims Administration Period. Except for its obligation to pay \$6,550,000 pursuant to Section III(B)(1), Lawyers Title shall have no liability, obligation or responsibility to any Authorized Claimant, the Class, Plaintiffs' Attorneys, the Claims Administrator or any other person or entity with respect to any Claim or costs incurred in connection with the payment or administration of Claims or the Settlement.

**J. Attorneys' Fees and Plaintiffs' Expenses.**

1. The Parties agree that Plaintiffs' Attorneys shall receive an award of reasonable attorneys' fees and costs. The Parties agree that any and all such

claims for reasonable attorneys' fees and costs will be paid only from the Total Settlement Fund, regardless of whether the fees are to compensate Plaintiffs' Attorneys for work already performed before or during the Litigation or for any remaining work to be performed, including without limitation, in documenting the Settlement, securing Court approval of the Settlement, making sure the Settlement is fairly administered and implemented, obtaining the Final Judgment, and responding to any objections or appeals.

2. Each of the Plaintiffs may request an incentive award in an amount not to exceed five thousand dollars (\$5,000) to be payable from the Total Settlement Fund, subject to Court approval. Lawyers Title will take no position on such requests.

3. Lawyers Title understands that Plaintiffs' Attorneys will apply to the Court for an award of reasonable attorneys' fees, costs and expenses incurred and expended through the Preliminary Approval Date, which will be scheduled for determination at the Final Settlement Hearing. Plaintiffs' Attorneys reserve the right to make a supplemental request for fees and expenses incurred after the Preliminary Approval Date which, if approved by the Court, shall be payable only from the Total Settlement Fund. So long as the fee and expense awards Plaintiffs' Attorneys apply for are (collectively) thirty-three point three percent (33.3%) or less of the Total Settlement Fund, Lawyers Title will neither oppose such fee or expense requests nor agree that such fee or expense requests are appropriate. Plaintiffs' Attorneys represent that they will not seek fees and expenses in excess of thirty-three point three percent (33.3%) of the Total Settlement Fund barring unforeseen circumstances, and in no event will Plaintiffs' Attorneys seek fees in excess of thirty-seven point five (37.5%) of the Total Settlement

Fund. Lawyers Title reserves all its rights to object to any request for Plaintiffs' Attorneys' fees or expenses in excess of thirty-three point three percent (33.3%) of the Total Settlement Fund. Plaintiffs and other Class Members shall not seek payment of attorneys' fees or reimbursement of costs or expenses from Lawyers Title. The Parties acknowledge and agree that the amount of any fees or expenses awarded to Plaintiffs or Plaintiffs' Attorneys shall not affect the validity or enforceability of this Agreement.

4. It is expressly agreed by the Parties that no Party to this Agreement intends that this Section or any other part of this Agreement establishes or acknowledges that anyone is entitled to or has the right to any attorney's fees other than as part of this settlement and as specifically stated in this Agreement, and that neither this Section nor this Agreement create any entitlement to any attorney's fees other than as specifically stated herein.

#### IV. Confidentiality.

A. The parties agree that the following categories of information are confidential: (1) the names, addresses, policy numbers, and other information concerning Lawyers Title insureds, customers, and Class Members or Lawyers Title claims procedures which may have been or may be compiled by Lawyers Title in effectuating this proposed settlement or which may have been produced (in discovery or otherwise) to Plaintiffs in the Litigation, (2) the names and addresses of Lawyers Title's title insurance issuing agents, past and present, (3) the data processing and other record-keeping procedures and materials to be utilized by Lawyers Title or its agents in identifying potential Class Members and effectuating Lawyers Title's other obligations hereunder; (4) any other information produced via discovery or otherwise to Plaintiffs in the Litigation and designated as

confidential, and any other information which Lawyers Title may utilize in effectuating the terms of this Agreement; and (5) claim forms submitted by Class members. These materials shall collectively be referred to in this Agreement as "Information." This Information is agreed by the parties to constitute highly confidential and proprietary business information. The confidentiality of this Information shall be protected by the Final Judgment, which shall incorporate by reference all of the provisions set forth in this Section.

B. No person, other than individuals employed by Lawyers Title or to whom Lawyers Title has expressly permitted access, shall be allowed access to any Information, except:

1. Plaintiffs' Attorneys and their clerical personnel;
2. The Claims Administrator; and
3. Such other persons as the Court may order after hearing on notice to all counsel of record.

C. All Information received by any person or entity pursuant to Section IV(B) of this Agreement shall be kept strictly confidential and not shared with any third party or used for any purpose other than as expressly authorized by this Agreement.

D. Within forty-five (45) days after the Claim Finalization Date, any and all Information provided by Lawyers Title to Plaintiffs' Attorneys, the Claims Administrator, or anyone else, and all copies thereof, shall be promptly returned to Lawyers Title by all those having received them.

E. Additionally, those Acknowledgements of Joint Stipulation Regarding Confidentiality that were previously executed pursuant to the Parties' Joint Stipulation Regarding Confidentiality in the Litigation, shall remain in force and effect.

F. Plaintiffs' Attorneys and members/employees/agents of their respective firms and Plaintiffs' experts: (1) will return or certify that they have destroyed all Information produced in this litigation and/or in connection with this Agreement to Lawyers Title's counsel; (2) will not retain any copies; and (3) will keep the Information confidential.

G. In the event that Plaintiffs or Plaintiffs Counsel reasonably require any of the Information that has been returned or destroyed pursuant to the provisions of this Agreement to defend any future action or proceeding against them, they may request that Lawyers Title provide such Information to them.

H. There is and shall be no requirement on the part of Plaintiffs or Plaintiffs Counsel to return or destroy any Information that is set forth in pleadings filed with the Court or to turn over any Information that is set forth in materials that are or may be subject to the attorney-client privilege or work product protection.

#### **V. ADDITIONAL TERMS**

A. Lawyers Title denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, or has any liability to anyone for the claims asserted in the Litigation. The Parties expressly acknowledge that this Agreement is entered into for the sole purpose of compromise of highly disputed claims and that nothing herein is an admission that any Class should have been certified in the Litigation or of liability or wrongdoing by Lawyers Title. Neither the Agreement nor any document

prepared in connection with the Settlement may be admitted in any proceeding as an admission by any of the Parties, or any person within the definition of the Class. However, this paragraph and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may only be admitted in evidence or otherwise used in any and all proceedings to enforce any or all terms of this Agreement, or in defense of any claims released or barred by this Agreement.

B. Other than (i) through court filings authorized herein and the Notices authorized by the Court, (ii) in applications by Plaintiffs' Attorneys to serve as lead or class counsel, (iii) in direct communications with Class members or potential clients, (iv) in a firm biography; and (v) beginning no sooner than thirty (30) days after the Final Settlement Date, on a firm website, neither Plaintiffs nor Plaintiffs' Attorneys shall publicize the Settlement, including without limitation, discussing the Settlement with any representative of any print, radio or television media.

C. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be addressed as follows:

To the Class or Plaintiffs:

Mark R. Koberna, Esq.  
Sonkin & Koberna Co., L.P.A.  
3401 Enterprise Parkway, Suite 400  
Cleveland, Ohio 44122

To Lawyers Title:

Mark A. Brown, Esq.  
Carlton Fields, P.A.  
Corporate Center Three at International Plaza  
4221 West Boy Scout Blvd., Suite 1000  
Tampa, Florida 33607

D. After this Agreement is fully executed by all Parties and their attorneys of record, this Agreement and its attached Exhibits shall constitute the entire agreement relating to settlement of the Litigation and the causes of action and defenses asserted therein, and it shall then be deemed that no oral representations, warranties or inducements have been made to any Party concerning this Agreement or its Exhibits other than the representations, warranties and covenants expressly stated in this Agreement and its Exhibits.

E. Plaintiffs' Attorneys warrant and represent that they are authorized by Plaintiffs for whom they are attorneys of record, and the attorneys of record for Lawyers Title warrant and represent that they are authorized by Lawyers Title, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties agree to seek the assistance of Robert Duvin as mediator, and in all cases all such documents, supplemental provisions and assistance shall be consistent with this Agreement.

F. No opinion concerning the tax consequences of the Settlement to individual Class Members is being given or will be given by the Parties or their counsel, nor is any representation or warranty in this regard made by virtue of this Agreement. Lawyers Title and Class Members must consult their own tax advisors regarding the tax

consequences of the Settlement, including any payments provided hereunder, and any tax reporting obligations they may have with respect thereto. Each Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Class Member.

G. Plaintiffs, the Class Members, Lawyers Title, and their respective counsel in the Litigation consent to the jurisdiction and venue of the Cuyahoga County Court of Common Pleas for purposes of the Preliminary Approval Order, the Final Settlement Hearing and the Final Judgment.

H. This Agreement, and any and all part of it, may be amended, modified, changed or waived only by an express written instrument signed by counsel for all Parties.

I. This Agreement shall be binding upon, and inure to the benefit of, the successors, heirs and executors of each of the Parties.

J. All terms of this Agreement and its Exhibits shall be governed by and interpreted according to the laws of the State of Ohio, without giving effect to any conflict of law principles or choice of law principles.

K. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement shall not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

L. This 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 provided that counsel for the Parties shall exchange among themselves original signed

counterparts. Facsimile signatures will be accepted and the original signature should be provided within seven (7) days thereafter. Any executed counterpart shall be admissible in evidence to prove the existence and contents of this Agreement.

M. The Parties believe that this is a fair, reasonable and adequate Settlement and have arrived at this Settlement through arms-length negotiations, taking into account all relevant factors, present and potential.


N. Within thirty (30) days after the Final Settlement Date, Plaintiffs' Attorneys shall, upon written demand of Lawyers Title, return or destroy all documents produced in discovery by Lawyers Title in the Litigation that are not designated as confidential in the Litigation or pursuant to Section IV of this Agreement. No copies may of any such document may be retained by Plaintiffs' Attorneys other than as specifically set forth in this Agreement.

O. The descriptive headings of any paragraph or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

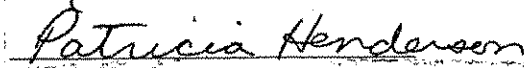
P. The exhibits hereto and thereby incorporated into this Agreement are as follows:

**SCHEDULE OF EXHIBITS**

- A. Notice of Class Action Settlement (direct mail);
- B. Notice of Class Action Settlement (publication);
- C. Notice of Class Action Settlement (website);
- D. Proof of Claim Form;
- E. Preliminary Approval Order; and
- F. Final Judgment

  
Miles Henderson

Dated 6/5/08

  
Patricia Henderson

Dated 6/5/08



Dated 6-5-08

For Plaintiffs' Attorneys  
Mark R. Koberna, Esq.  
Sonkin & Koberna Co., L.P.A.  
3401 Enterprise Parkway, Suite 400  
Cleveland, Ohio 44122

Lawyers Title Insurance Corporation

By: \_\_\_\_\_

Dated \_\_\_\_\_

Its: \_\_\_\_\_

Dated \_\_\_\_\_

Counsel for Lawyers Title  
Mark A. Brown, Esq.  
Carlton Fields, P.A.  
Corporate Center Three at International Plaza  
4221 West Boy Scout Blvd., Suite 1000  
Tampa, Florida 33607

\_\_\_\_\_  
Miles Henderson

Dated \_\_\_\_\_

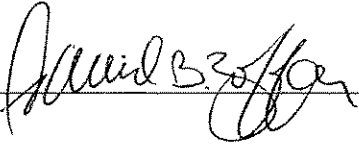
\_\_\_\_\_  
Patricia Henderson

Dated \_\_\_\_\_

\_\_\_\_\_  
For Plaintiffs' Attorneys  
Mark R. Koberna, Esq.  
Sonkin & Koberna Co., L.P.A.  
3401 Enterprise Parkway, Suite 400  
Cleveland, Ohio 44122

Dated \_\_\_\_\_

Lawyers Title Insurance Corporation

By:  \_\_\_\_\_

Dated JUNE 6, 2008

ITS: SENIOR VICE PRESIDENT - LITIGATION COUNSEL

\_\_\_\_\_  
Counsel for Lawyers Title  
Mark A. Brown, Esq.  
Carlton Fields, P.A.  
Corporate Center Three at International Plaza  
4221 West Boy Scout Blvd., Suite 1000  
Tampa, Florida 33607

Dated \_\_\_\_\_

**ATTACHMENT A**

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

**If you purchased or sold your home in Ohio between January 25, 1996 and [Preliminary Approval Date], and you paid all or any portion of the premium for an owner's policy of title insurance from Lawyers Title Insurance Corporation in connection with that transaction, you could get a payment from a class action settlement.**

*A court authorized this notice. This is not a solicitation from a lawyer.*

- There is a Proposed Settlement with Lawyers Title Insurance Corporation ("Lawyers Title" or "Defendant") in a class action lawsuit pending in the Cuyahoga County Court of Common Pleas.
- Lawyers Title has agreed in a proposed settlement to create a \$6.55 million fund from which claims of Class Members may be paid. Class Members will be entitled to obtain a settlement amount of either \$92.50 or \$185.00, provided they qualify and the required information is timely submitted.
- Your legal rights are affected whether you act or don't act. Read this notice carefully.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT A CLAIM FORM</b>	The only way to get a payment.
<b>EXCLUDE YOURSELF</b>	Get no payment. This is the only option that allows you file your own lawsuit against Lawyers Title regarding the legal claims in this case.
<b>OBJECT</b>	Write to the Court about why you don't like the settlement.
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the settlement.
<b>DO NOTHING</b>	Get no payment. Give up rights.

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

QUESTIONS? CALL 1-800-000-0000 TOLL FREE, OR VISIT XXX.COM

- The Court in charge of this case still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

QUESTIONS? CALL 1-800-000-0000 TOLL FREE, OR VISIT [XXX.COM](#)

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- 3. Why is this a class action?
- 4. Why is there a settlement?

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QUESTIONS? CALL 1-800-000-0000 TOLL FREE, OR VISIT [XXX.COM](http://XXX.COM)

## **BASIC INFORMATION**

### **1. Why did I get this notice package?**

You have received this Notice because records indicate that you may have paid for title insurance from Lawyers Title in connection with purchasing or selling a home in the State of Ohio since January 25, 1996. Or, you may have requested a copy of this Notice because you read the published Summary Notice and believe that you may be entitled to compensation from the Proposed Settlement.

The Court sent you this notice because you have a right to know about a proposed settlement of a class action lawsuit, and about your options, before the Court decides whether to approve the settlement. If the Court approves it and after objections and appeals are resolved, an administrator appointed by the Court will make a review of whether you are eligible for a payment, and if so, will send the payment that the settlement allows. This package explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the case is the Cuyahoga County Common Pleas Court, and the case is known as *Henderson v. Lawyers Title Insurance Corp.*, Case No. 1:02-cv-460724. The people who sued are called Plaintiffs, and the company they sued, Lawyers Title, is called the Defendant.

### **2. What is this lawsuit about?**

This lawsuit involves charges for title insurance in residential purchase and sale transactions in Ohio. Title insurance is often purchased in connection with such transactions, and the premium charged for the title insurance policy is one of the standard closing costs associated with the transaction. In general terms, title insurance insures against certain defects in title. An "owner's policy" of title insurance protects the property owner against competing claims of an interest in the property. In residential purchase-sale transactions, the owner's policy is issued to the buyer of the home. The premium for the policy, however, may be paid by the buyer or it may be split between the buyer and the seller. In either case, the premium would appear as one of the closing costs for the transaction listed on the HUD-1 Settlement Statement prepared in connection with the closing of the transaction.

Title insurance companies such as Lawyers Title are required by law to file the rates they will charge for title insurance with the Ohio Department of Insurance. Once these rates are approved, they are binding on the title insurance company. These so-called "filed rates" provide for certain discounts under specified circumstances, including a discount known as a "Reissue Rate." A discounted Reissue Rate must be charged where the title insurer is provided information sufficient to identify a prior title insurance policy that had been issued on the same piece of property within ten (10) years of the current purchase-sale transaction, even if the prior title insurance policy was issued by a different title insurance company.

In this lawsuit, Plaintiffs assert that Lawyers Title and/or its agents should have provided Reissue Rate discounts to buyers and sellers of homes whenever a deed appeared within ten years in the

QUESTIONS? CALL 1-800-000-0000 TOLL FREE, OR VISIT [XXX.COM](http://XXX.COM)

chain of title, or that Lawyers Title and/or its agents failed to adequately disclose the potential availability of the discounted rates in order to give buyers and sellers an opportunity to provide information in order to receive the Reissue Rate, and that, as a result, certain buyers and sellers paid too much for title insurance. Lawyers Title has denied these allegations and believes it and its agents fully complied with the applicable Reissue Rate rules, but, without admitting any liability, has decided to settle the action.

### **3. Why is this a class action?**

In a class action, one or more people, called Class Representatives (in this case Miles and Patricia Henderson), sue on behalf of people who have similar claims. All these people are referred to as the "Class" or "Class Members." One court resolves the issues for all Class Members, except for those who exclude themselves from the Class. Cuyahoga County Common Please Court Judge Hollie L. Gallagher is in charge of this class action.

### **4. Why is there a settlement?**

The Court did not decide in favor of Plaintiffs or Defendant. Instead, both sides agreed to a settlement. That way, they avoid the risks and costs of a trial, and the people affected will get compensation. The Class Representative and the attorneys for the Class think the settlement is best for everyone who is a Class Member.

## **WHO IS IN THE SETTLEMENT**

To see if you will get money from this settlement, you first have to decide if you are a class member.

### **5. How do I know if I am part of the Proposed Settlement?**

For purposes of the Proposed Settlement, the Class consists of all persons who

- (i) paid all or any portion of the premium for an owner's policy of title insurance issued by Lawyers Title directly or through an issuing agent in connection with a residential purchase-sale transaction on property located in Ohio that took place between January 25, 1996 and [DATE] (the Purchase-Sale Transaction");
- (ii) with respect to the Purchase-Sale Transaction, the "Original" (or non-discounted) Rate, rather than the Reissue (discounted) Rate, was charged for the title insurance policy; and
- (iii) the property which was sold in the Purchase-Sale Transaction was previously acquired and insured by a prior owner's policy of title insurance issued by a licensed title insurance company within ten years of the Purchase-Sale Transaction.

### **6. Who may be entitled to benefits under the Proposed Settlement?**

You could receive benefits under the Class Action Settlement if you are a Class Member as defined in the Settlement Agreement and (1) you purchased or sold residential property in Ohio anytime after January 25, 1996 (the "Purchase-Sale Transaction"), (2) in connection with that Purchase-Sale Transaction you paid all or any portion of the premium for an owner's policy of

QUESTIONS? CALL 1-800-000-0000 TOLL FREE, OR VISIT [XXX.COM](http://XXX.COM)

title insurance issued by Lawyers Title or its agents at the Original Rate, and (3) the seller in the Purchase-Sale Transaction acquired an insured title to the property within the preceding ten years.

Your HUD-1 Settlement Statement or other documents relating to the Purchase-Sale Transaction will reflect whether you may be entitled to receive benefits arising from the Class Action Settlement. The Claim Form, which must be submitted to the Claims Administrator, provides further information as to what is required to obtain the benefits.

**7. Are there exceptions to being included?**

You are not a Class Member if you are an employee, officer or director of Lawyers Title or any of its subsidiaries or affiliates.

**8. I'm still not sure if I am included.**

If you are still not sure whether you are included, you can ask for free help. You can call 1-800-000-0000 or visit [www.XXX.com](http://www.XXX.com) for more information.

**THE PROPOSED SETTLEMENT BENEFITS—WHAT YOU GET**

**9. What does the Proposed Settlement provide?**

Lawyers Title has agreed to create a \$6,550,000 fund, from which claims of Class Members who qualify and who timely send in a valid claim form will be paid.

**10. How much will my payment be?**

Assuming you qualify and you timely submit your claim, your payment will be either \$92.50 or \$185.00, depending on how you submit your claim. Here's how it works:

**To receive any kind of payment, you must timely complete, sign, have notarized, and submit the Proof of Claim Form.** Also, you must submit with the Proof of Claim form a copy of one of the following things from your Purchase-Sale Transaction (*i.e.*, the transaction in which you purchased or sold property located in Ohio on or after January 25, 1996 in which a Lawyers Title owner's policy of title insurance was issued):

- (i) the HUD-1 Settlement Statement from the Purchase-Sale Transaction demonstrating that a Lawyers Title owner's policy was issued in the Purchase-Sale Transaction; **or**
- (ii) the Lawyers Title owner's policy issued in the Purchase-Sale Transaction; **or**
- (iii) other documentation demonstrating that a Lawyers Title owner's policy was issued in the Purchase-Sale Transaction.

QUESTIONS? CALL 1-800-000-0000 TOLL FREE, OR VISIT [XXX.COM](http://XXX.COM)

**If you complete the steps above, you will be entitled to a Settlement Payment of \$92.50.**

To receive a larger settlement amount, you must complete the steps above and **ALSO** timely submit one of the following things showing the purchase of a prior owner's policy of title insurance from the same property within 10 years of the time of the Purchase-Sale Transaction (a "Qualifying Prior Policy"):

- (i) a copy of the Qualifying Prior Policy; or
- (ii) a copy of a HUD-1 Settlement Statement or such other reliable documentation from the transaction showing that a Qualifying Prior Policy was issued.

**If you complete all of the steps from both sections above, you will be entitled to a Settlement Payment of \$185.00.**

## **HOW YOU GET A PAYMENT—SUBMITTING A CLAIM FORM**

### **11. How can I get a payment?**

To qualify for payment, you must send in a Proof of Claim form. A Proof of Claim form is attached to this Notice. You can also get a claim form on the Internet at [www.XXX.com](http://www.XXX.com). Read the instructions carefully, fill out the form, include all the documents the form asks for, sign it, have it notarized, and mail it postmarked no later than **Month 00, 0000**.

### **12. When would I get my payment?**

The Court will hold a hearing on Month 00, 0000, to decide whether to approve the settlement. If Judge Gallagher approves the settlement after that, there may be appeals. Please be patient.

### **13. What am I giving up to get a payment or stay in the Class?**

Unless you exclude yourself, you are staying in the Class, and that means that you can't sue, continue to sue, or be part of any other lawsuit against Lawyers Title about the legal issues in *this* case. It also means that all of the Court's orders will apply to you and legally bind you. If you sign the claim form, you will agree to a "Release of Claims," in the claim form, which describes exactly the legal claims that you give up by remaining in the Class.

## **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you don't want a payment from this settlement, but you want keep the right to sue Lawyers Title on your own about the legal issues in this case, then you must take steps to exclude yourself—or, as it is sometimes referred to, "opt out" of the settlement Class.

### **14. How do I opt out of the Proposed Settlement?**

To exclude yourself (or opt out) from the settlement, you must send a letter by mail saying that you want to be excluded from *Henderson v. Lawyers Title*. Be sure to include your name, address, telephone number, and your signature. You must mail your exclusion request postmarked no later than **Month 00, 0000**, to:

QUESTIONS? CALL 1-800-000-0000 TOLL FREE, OR VISIT [XXX.COM](http://XXX.COM)

Lawyers Title Exclusions  
P.O. Box 0000  
City, ST 00000-0000

You can't exclude yourself on the phone or by e-mail. If you ask to be excluded, you will not get any settlement payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) Lawyers Title in the future.

**15. If I don't exclude myself, can I sue Lawyers Title for the same thing later?**

No. Unless you exclude yourself, you give up the right to sue Lawyers Title for the claims that this settlement resolves. If you have a pending lawsuit against Lawyers Title regarding the rate that was charged, speak to your lawyer in that lawsuit immediately. You must exclude yourself from *this* Class to continue your own lawsuit. Remember, the exclusion deadline is **Month 00, 0000**.

**16. If I exclude myself, can I get money from this Proposed Settlement?**

No. If you exclude yourself, do not send in a claim form to ask for any money. But, you may sue, continue to sue, or be part of a different lawsuit against Lawyers Title.

**THE LAWYERS REPRESENTING YOU**

**17. Do I have a lawyer in this case?**

Yes. The Court has appointed the following law firms to represent you and other Class Members:

Mark Koberna, Esq.  
Sonkin & Koberna Co., L.P.A.  
3401 Enterprise Parkway, #400  
Cleveland, Ohio 44122

Shannan L. Katz, Esq.  
Ulmer & Berne LLP  
1660 West Second Street, #1100  
Cleveland, Ohio 44113-1448

William Narwold, Esq.  
Motley Rice LLC  
One Corporate Center  
20 Church Street, 17<sup>th</sup> Floor  
Hartford, CT 06103

Mark Packman, Esq.  
Gilbert Randolph LLP  
1100 New York Avenue, #700  
Washington, DC 20005

Together, the lawyers are called Class Counsel. You won't be charged personally for these lawyers, but they will ask the Court to award them a fee to be paid out of the Settlement Fund. If you want to be represented by your own lawyer, you may hire one at your own expense.

**18. How will the lawyers be compensated?**

QUESTIONS? CALL 1-800-000-0000 TOLL FREE, OR VISIT [XXX.COM](http://XXX.COM)

At the Final Settlement Hearing, Class Counsel may request the Court to award Class Counsel attorneys' fees, costs, and expenses of up to 33.3% of the Total Settlement Fund, or up to 37.5% of the Total Settlement Fund if additional and unforeseen work associated with the settlement and claims process is required. The fee requested by Class Counsel would compensate Class Counsel for their efforts in achieving the Proposed Settlement for the benefit of the Class, and for their risk in undertaking this lawsuit. Class Counsel may also ask the Court for a payment of \$5,000 each to the Class Representatives, Miles Henderson and Patricia Henderson. The Court may award less than these amounts. The fees, expenses and awards approved by the Court will be paid from the Total Settlement Fund.

If unforeseen circumstances arise, Plaintiffs' Attorneys may seek fees of up to 37.5% of the Total Settlement Fund. Lawyers Title has agreed not to oppose an application by Plaintiffs' Attorneys for an award of attorneys fees, costs and expenses up to 33.3% of the Total Settlement Fund, but has reserved its right to object to any request for an award of attorneys' fees, costs or expenses in excess of that amount.

## **OBJECTING TO THE PROPOSED SETTLEMENT**

You can tell the Court that you don't agree with the Proposed Settlement or some part of it.

### **19. How do I tell the Court that I don't like the Proposed Settlement?**

If you're a Class Member, 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 not approve it. The Court will consider your views. To object, you must send a letter saying that you object to *Henderson v. Lawyers Title*. Be sure to include your name, address, telephone number, your signature, and the reasons you object to the settlement. Mail the objection to these three different places postmarked no later than **Month 00, 0000**:

<b>Court</b>	<b>Class Counsel</b>	<b>Defense Counsel</b>
Clerk of Court Cuyahoga County Court of Common Pleas 1200 Ontario St. Cleveland, Ohio 44113-1678	Mark Koberna, Esq. Sonkin & Koberna Co., L.P.A. 3401 Enterprise Parkway Suite 400 Cleveland, Ohio 44122	Mark A. Brown, Esq. Carlton Fields, P.A. 4221 W Boy Scout Blvd Suite 1000 Tampa, FL 33607

### **20. What's the difference between objecting and excluding?**

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don't want to

QUESTIONS? CALL 1-800-000-0000 TOLL FREE, OR VISIT [XXX.COM](http://XXX.COM)

be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

## **THE COURT'S FAIRNESS HEARING**

The Court will hold a hearing to decide whether to approve the settlement.  
You may attend and you may ask to speak, but you don't have to.

### **21. When and where will the Court decide whether to approve the Proposed Settlement?**

The Court will hold a Fairness Hearing at XXX a.m. on XXX day, Month 00, 0000, at the Cuyahoga County Court of Common Pleas, 1200 Ontario St., Cleveland, Ohio 44113-1678 in Courtroom 16-A. At this hearing the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Gallagher will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the Proposed Settlement. We do not know how long these decisions will take.

### **22. Do I have to come to the hearing?**

No. Class Counsel will answer questions Judge Gallagher 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 you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

### **23. May I speak at the hearing?**

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must first object to the Proposed Settlement, and then send a letter saying that it is your "Notice of Intention to Appear in *Henderson v. Lawyers Title*." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be postmarked no later than **Month 00, 0000**, and be sent to the Clerk of the Court, Class Counsel, and Defense Counsel, at the three addresses on page X, in question XX. You cannot speak at the hearing if you excluded yourself.

## **IF YOU DO NOTHING**

### **24. What happens if I do nothing at all?**

If you do nothing, you'll get no money from this settlement. But, unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Lawyers Title about the legal issues in this case.

## **GETTING MORE INFORMATION**

### **25. Are there more details about the Proposed Settlement?**

QUESTIONS? CALL 1-800-000-0000 TOLL FREE, OR VISIT XXX.COM

This notice summarizes the proposed settlement. More details are in a Settlement Agreement. You can get a copy of the Settlement Agreement by writing to XXXXX, or by visiting [www.XXX.com](http://www.XXX.com).

**26. How do I get more information?**

You can call 1-800-000-0000 toll free; write to Lawyers Title Settlement, P.O. Box 000, City, ST 00000-0000; or visit the website at [www.XXX.com](http://www.XXX.com), where you will find answers to common questions about the settlement, a claim form, plus other information to help you determine whether you are a Class Member and whether you are eligible for a payment.

DATE: MONTH 00, 0000.

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QUESTIONS? CALL 1-800-000-0000 TOLL FREE, OR VISIT [XXX.COM](http://XXX.COM)

**ATTACHMENT B**

## LEGAL NOTICE

**If you purchased or sold your home in Ohio between January 25, 1996 and [Preliminary Approval Date], and you paid all or any portion of the premium for an owner's policy title insurance from Lawyers Title Insurance Corp. in connection with that transaction, you could get a payment from a class action settlement.**

There is a Proposed Settlement with Defendant Lawyers Title Insurance Corporation ("Lawyers Title") in a class action lawsuit, *Henderson v. Lawyers Title Insurance Corp.*, Case No. 1:02-cv-460724 (Cuyahoga Ct. of Common Pleas). This Notice is a summary of your rights. For more information, visit [www.XXXX.com](http://www.XXXX.com) or call 1-800-XXX-XXXX.

### **What Is This Lawsuit About?**

This lawsuit involves charges for title insurance in residential purchase and sale transactions in Ohio. Title insurance is often purchased in connection with such transactions, and the premium charged for the title insurance policy is one of the standard closing costs associated with the transaction. In general terms, title insurance insures against certain defects in title. An "owner's policy" of title insurance protects the property owner against competing claims of an interest in the property. In residential purchase-sale transactions, the owner's policy is issued to the buyer of the home. The premium for the policy, however, may be paid by the buyer or it may be split between the buyer and the seller. In either case, the premium would appear as one of the closing costs for the transaction listed on the HUD-1 Settlement Statement prepared in connection with the closing of the transaction.

Title insurance companies such as Lawyers Title are required by law to file the rates they will charge for title insurance with the Ohio Department of Insurance. Once these rates are approved, they are binding on the title insurance company. These so-called "filed rates" provide for certain discounts under specified circumstances, including a discount known as a "Reissue Rate." A discounted Reissue Rate must be charged where the title insurer is provided information sufficient to identify a prior title insurance policy that had been issued on the same piece of property within ten (10) years of the current purchase-sale transaction, even if the prior title insurance policy was issued by a different title insurance company.

In this lawsuit, Plaintiffs assert that Lawyers Title and/or its agents should have provided Reissue Rate discounts to buyers and sellers of homes whenever a deed appeared within ten years in the chain of title, or that Lawyers Title and/or its agents failed to adequately disclose the potential availability of the discounted rates in order to give buyers and sellers an opportunity to provide information in order to receive the Reissue Rate, and as a result, certain buyers and sellers paid too much for title insurance. Lawyers Title has denied such allegations and believes it and its agents fully complied with the applicable Reissue Rate rules, but, without admitting any liability, has decided to settle this action.

### **Who May Be Entitled to Benefits Under the Proposed Settlement?**

You could receive benefits under the Class Action Settlement if you are a Class Member as defined in the Settlement Agreement and (1) you purchased or sold residential property in Ohio anytime after January 25, 1996 (the "Purchase-Sale Transaction"), (2) in connection with that Purchase-Sale Transaction you paid all or any portion of the premium for an owner's policy of title insurance issued by Lawyers Title or its agents at the Original Rate, and (3) the seller in the Purchase-Sale Transaction acquired an insured title to the property within the preceding ten years.

Your HUD-1 Settlement Statement or other documents relating to the Purchase-Sale Transaction will reflect whether you may be entitled to receive benefits arising from the Class Action Settlement. The Claim Form, which must be submitted to the Claims Administrator, provides further information as to what is required to obtain the benefits.

### **What Does The Proposed Settlement Provide?**

Lawyers Title has agreed to create a \$6,550,000 fund from which claims of Class Members may be paid. Under the Settlement Agreement, you may receive a payment of either \$92.50 or \$185.00, depending on whether you qualify and how you submit your claim. The actual amount you may be entitled to receive will be based on the number of valid claims filed.

### **Who Represents Me?**

The Court has appointed the following law firms to represent the Settlement Class: Sonkin & Koberna Co., L.P.A., Ulmer & Berne LLP, Motley Rice LLC, Gilbert Randolph LLP. You won't be charged personally for these lawyers, but they will ask the Court to award them a fee to be paid out of the Settlement Fund. If you want to be represented by your own lawyer, you may hire one at your own expense.

### **What Are My Legal Rights?**

- If you do not want a payment and do not want to be legally bound by the Proposed Settlement, you must exclude yourself in a writing postmarked by Month, Date, Year, and sent to the Claims Administrator's address below.
- If you do not exclude yourself and you are a Class Member, you will remain in the Settlement Class. To determine if you are entitled to receive a payment, you must submit a claim form, postmarked by Month, Date, Year.
- You may object to any aspect of the Proposed Settlement if you do not exclude yourself. Your written objection must be postmarked by Month, Date, Year, and filed and mailed as set out in the *Notice of Proposed Class Action Settlement* referred to below. You also may request in writing to appear at the Final Fairness Hearing.

### **Will The Court Approve The Proposed Settlement?**

The Court will hold a Final Fairness Hearing at XXX a.m. on XXX day, Month 00, 0000, before the Honorable Hollie L. Gallagher at the Cuyahoga County Court of Common Pleas, 1200 Ontario St., Cleveland, Ohio 44113-1678 in Courtroom 16-A. At this hearing the Court will consider whether the Proposed Settlement is fair, reasonable, and adequate, and it will also consider the motion for attorneys' fees, costs and expenses, and payment of an incentive award to the class representatives. If objections have been received, the Court will consider them at this time.

**How Do I Obtain Further Information?**

This is only a summary of the Proposed Settlement. For a more detailed *Notice of Proposed Class Action Settlement*, additional information on the Proposed Settlement, a copy of the Settlement Agreement, and for details on how to file a claim:

**Call** 1-800-XXX-XXXX toll free; **Visit** [www.XXX.com](http://www.XXX.com); or **Write** to the Claims Administrator at Lawyers Title Settlement, P.O. Box 000, City, ST 00000-0000.

1705209

**ATTACHMENT C**

**SEE ATTACHMENT B**

**ATTACHMENT D**

**PROOF OF CLAIM FORM**

**Lawyers Title Settlement**

**c/o Third-Party Claims Administrator**

**P.O. Box 000, City, ST 00000-0000**

**1-800-000-0000**

**www.XXX.com**

**INSTRUCTIONS**

To be entitled to any proceeds from this class action settlement, you must complete this Proof of Claim Form and have the Form notarized by signing it in the presence of a Notary Public. Once this Proof of Claim Form is completed, signed and notarized, please mail the Form by regular U.S. mail, **along with all of the documents it asks for**, to the address listed above. The completed, signed and notarized Form and all supporting documentation must be postmarked by \_\_\_\_\_.

For more details about the specifics of this lawsuit, please refer to the Class Action Notice. For full definitions of terms used in this Form, please refer to the Settlement Agreement (available at www.XXX.com).

Incomplete, inaccurate, or otherwise insufficient Proof of Claim Forms will be denied. Claims that do not provide all information and documentation required by the Proof of Claim Form postmarked by \_\_\_\_\_ will be denied.

Please note, just because you complete and send in this form with supporting documentation does not assure you of any payment as (1) only those claimants who satisfy the criteria for payment as set forth in the Settlement Agreement are eligible, and (2) the court must issue its final approval of the settlement before anyone will be paid.

**IDENTIFICATION**

Full Name(s) of Class Member(s): \_\_\_\_\_

Current Street Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

**CLAIM INFORMATION**

Address of the residential property purchased/sold in the "Purchase-Sale Transaction" (the transaction in which you purchased or sold property located in Ohio on or after January 25, 1996 in which a Lawyers Title owner's policy of title insurance was issued): \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Month & Year of the Purchase-Sale Transaction: \_\_\_\_\_

**SUPPORTING DOCUMENTATION**

**To receive any kind of settlement payment, you must timely complete, sign, have notarized, and submit the Proof of Claim Form, and you must submit with the Proof of Claim Form a copy of one of the following LEVEL 1 DOCUMENTS from your Purchase-Sale Transaction:**

### LEVEL 1 DOCUMENTS

- (i) the HUD-1 Settlement Statement from the Purchase-Sale Transaction demonstrating that a Lawyers Title owner's policy was issued in the Purchase-Sale Transaction; **or**
- (ii) the Lawyers Title owner's policy issued in the Purchase-Sale Transaction; **or**
- (iii) other documentation demonstrating that a Lawyers Title owner's policy was issued in the Purchase-Sale Transaction.

**If you timely submit one of the LEVEL 1 DOCUMENTS above, along with your completed, signed and notarized Proof of Claim Form, and you otherwise meet the requirements of the Settlement Agreement, you will be entitled to a Settlement Payment of \$92.50.**

To receive a larger settlement amount, you must complete the steps above and **ALSO** submit one of the following LEVEL 2 DOCUMENTS showing the purchase of a prior owner's policy of title insurance insuring the same property within 10 years of the time of the Purchase-Sale Transaction (a "Qualifying Prior Policy"):

### LEVEL 2 DOCUMENTS

- (i) a copy of the Qualifying Prior Policy; **or**
- (ii) a copy of a HUD-1 Settlement Statement or such other reliable documentation from the transaction showing that a Qualifying Prior Policy was issued.

**If you timely submit one of the LEVEL 1 DOCUMENTS AND one of the LEVEL 2 DOCUMENTS above, along with your completed, signed and notarized Proof of Claim Form, and you otherwise meet the requirements of the Settlement Agreement, you will be entitled to a Settlement Payment of \$185.00.**

**\*NOTE:** If you are unable to locate the supporting documentation required by this Proof of Claim Form (the LEVEL 1 and/or LEVEL 2 DOCUMENTS listed above), you may contact \_\_\_\_\_ at Lawyers Title to assist you in attempting to obtain documentation or information needed for the Claim that may be reasonably available to Lawyers Title. However, the completed, signed and notarized Proof of Claim form, along with all supporting documentation, must still be postmarked by \_\_\_\_\_.

### AFFIRMATION & RELEASE

1. I/We hereby submit myself/ourselves to the jurisdiction of the Cuyahoga County Common Pleas Court and agree to be bound by the terms of the Settlement Agreement. **All Claims are subject to Lawyers Title's audit rights. By submitting this Proof of Claim Form, you may be subject to having relevant records subpoenaed in the course of an audit of your Claim by Lawyers Title.**
2. As more fully set out in the Settlement Agreement, I/we on behalf of myself/ourselves and my/our respective agents or other representatives, fully and forever release Lawyers Title and

its title insurance agents (to the extent and only to the extent they acted on behalf of Lawyers Title) from any and all claims which are based on or in any way related to any alleged failure of Lawyers Title or its agents to charge a Reissue Rate discount under the Rate Manual for an owner's policy issued by Lawyers Title in connection with a residential purchase and sale transaction in the State of Ohio during the Class Period and/or to disclose the existence or availability of such discount.

3. I/We paid all or a portion of an undiscounted "Original Rate" rather than the discounted "Reissue Rate" premium for a Lawyers Title owner's policy issued in connection with the Purchase-Sale Transaction.
4. I/we hereby certify, swear and affirm, under penalty of perjury, that the information I/we have provided in this Proof of Claim Form and supporting documentation is true and correct to the best of my/our knowledge.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature 2 (if any): \_\_\_\_\_ Date: \_\_\_\_\_

SWORN TO BEFORE ME and subscribed in my presence this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature of NOTARY PUBLIC

\_\_\_\_\_  
Name of NOTARY PUBLIC

My commission expires: \_\_\_\_\_

1710395

**ATTACHMENT E**

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

MILES R. HENDERSON, <i>et al.</i>	)	CASE NO. 02 460724
	)	
Plaintiffs,	)	JUDGE HOLLIE GALLAGHER
	)	
v.	)	
	)	<b><u>[PROPOSED] ORDER GRANTING</u></b>
LAWYERS TITLE INSURANCE	)	<b><u>PRELIMINARY APPROVAL</u></b>
CORPORATION	)	<b><u>OF PROPOSED CLASS ACTION</u></b>
	)	<b><u>SETTLEMENT</u></b>
Defendant.	)	

The matter came before the Court for hearing on June 13, 2008 upon the Joint Motion for Preliminary Approval of Proposed Class Action Settlement. Based on the parties' submissions, the facts elicited at the hearing, and the reasonable judgment of the Court based upon the Court's familiarity with and involvement in the litigation, it is hereby ORDERED and ADJUDGED as follows:

A. The Proposed Class Action Settlement, which is set forth in the Settlement Agreement and accompanying Attachments submitted to the Court, is hereby preliminarily approved as being sufficiently fair, reasonable and adequate to warrant sending the Notices of Class Action Settlement in the forms attached to the Settlement Agreement and holding a fairness hearing on the Proposed Settlement;

B. Based upon such preliminary approval, the parties shall proceed to implement the class action settlement process, which shall be undertaken under the auspices of the Court;

C. The Court hereby certifies this action as a class action, expressly finding that given Lawyers Title's agreement pursuant to the terms of the Settlement Agreement to

waive its defenses as to the members of the proposed settlement Class for purposes of the Proposed Settlement, Plaintiffs have established the prerequisites set forth in Ohio R. Civ. P. 23(A) and (B)(3). The Class shall be defined as follows:

Plaintiffs and all other persons who (i) paid all or any portion of the premium for an owner's policy of title insurance issued by Lawyers Title directly or through an issuing agent in connection with a Subject Transaction;<sup>1</sup> and (ii) with respect to such Subject Transaction, there existed a Qualifying Prior Policy;<sup>2</sup> and (iii) with respect to such Subject Transaction, the "Original Rate," rather than the "Reissue Rate" was charged for such title insurance. Excluded from this Class are employees, officers and directors of Lawyers Title and its subsidiaries or affiliates.

The Court further appoints and designates Miles and Patricia Henderson as representatives of the Class and the law firms of Sonkin & Koberna Co., L.P.A., Ulmer & Berne, LLP, Motley Rice, LLC and Gilbert Randolph LLP as Class Counsel.

D. The parties, through the third-party claims administrator, shall proceed to send the first-class mail notice (in the form of Attachment A to the Settlement Agreement) to the members of the Class at addresses derived from records of Lawyers Title, together with published notice (in the form of Attachment B to the Settlement Agreement), all of which shall proceed in accordance with the notice plan set forth in the Settlement Agreement;

E. This matter shall be set for a final fairness hearing, at which time the Settlement will come before the Court for consideration of final approval, entry of Final Judgment, an award of attorneys' fees and reimbursement of litigation expenses to Plaintiffs'

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<sup>1</sup> "Subject Transaction" means a residential purchase-sale transaction on property located in Ohio which transaction was completed between January 25, 1996 and the date of this Order Granting Preliminary Approval of the Proposed Class Action Settlement in which a Lawyers Title owner's policy of title insurance was issued to the buyer either directly or through an issuing agent.

<sup>2</sup> "Qualifying Prior Policy" means an owner's policy of title insurance which (1) was issued by a title insurer licensed to do business in Ohio at the time of a Subject Transaction, (2) had been outstanding for less than ten years at the time of a Subject Transaction, (3) insured a seller in a Subject Transaction, (4) insured the property in a Subject Transaction, and (5) would otherwise have satisfied the requirements of the Reissue Rate rule applicable at the time of a Subject Transaction.

counsel, and such other matters as may be incidental to settlement or as otherwise may come before the Court;

F. The Court finds that the notice plan, including the forms and methods of notice as set forth in the Settlement Agreement, is fair, reasonable and adequate, and provides good and sufficient notice to the Class under Ohio R. Civ. P. 23(C)(2) and principles of due process, and that the notice plan is reasonably calculated to provide individual notice to members of the Class who can be identified through reasonable effort;

G. The Court finds that the form and content of the first-class mail notice and the publication notice adequately inform members of the Class of their rights and obligations relative to the case and that such notice complies with Ohio R. Civ. P. 23(C)(2);

H. The Court shall conduct the fairness hearing on \_\_\_\_\_, 2008 at \_\_\_\_\_, subject to continuance or adjournment;

I. The Court shall retain continuing jurisdiction over this matter and all proceedings associated with the settlement process.

IT IS SO ORDERED.

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THE HONORABLE  
HOLLIE GALLAGHER

**ATTACHMENT F**

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

MILES R. HENDERSON, <i>et al.</i> ,	)	CASE NO. 1: 02CV460724
	)	
Plaintiffs,	)	JUDGE HOLLIE L. GALLAGHER
	)	
vs.	)	
	)	
LAWYERS TITLE INSURANCE	)	
CORPORATION,	)	
	)	
Defendant.	)	
	)	

**[PROPOSED] FINAL ORDER AND JUDGMENT APPROVING  
SETTLEMENT, CERTIFYING SETTLEMENT CLASS, AND  
APPROVING AWARD OF ATTORNEYS' FEES AND COSTS**

This matter came before the Court on the Plaintiffs' Unopposed Motion for Entry of Final Order Approving Settlement and Certifying Settlement Class. The Court has reviewed and considered the parties' Settlement Agreement filed herein on May \_\_\_\_, 2008 (the "Settlement Agreement"), the Court's \_\_\_\_\_, 2008 Agreed Order Granting Preliminary Approval of Proposed Class Action Settlement and Conditionally Certifying Settlement Class, and the pleadings, motions, memoranda and arguments of counsel presented throughout this action.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. This class action settlement obligates Defendant Lawyers Title Insurance Corporation to establish a Total Settlement Fund of \$6,550,000, from which eligible class members who timely submit claim forms may make a claim for and receive payment and

from which the Costs of Administration and Plaintiffs' attorneys' fees and expenses shall be paid. Any amounts remaining in the fund after all required amounts have been paid will revert to Defendant. The settlement also obligates Defendant to implement certain business practices, which are set forth in Section III (D) of the Settlement Agreement.

2. The Agreement and proposed Settlement were reached after arm's-length negotiations between the Parties. The Agreement and the proposed Settlement are fair, reasonable, and adequate; consistent with due process and in compliance with all applicable requirements of the Ohio Rules of Civil Procedure and any other applicable law; and in the best interests of each of the Parties and the Class Members.

3. The Court finds that in negotiating, entering into, and implementing the Settlement, the Plaintiffs and the Plaintiff's Attorneys have fairly and adequately represented and protected the interests of all of the Class Members.

4. Pursuant to Rule 23(E) of the Ohio Rules of Civil Procedure, the settlement of this action, as embodied in the terms of the Settlement Agreement, is hereby finally approved as a fair, reasonable, and adequate settlement of this case in light of the factual, legal, practical, and procedural considerations raised by this case. The Settlement Agreement is incorporated by reference into this Order (with capitalized terms used herein given the same meanings set forth in the Settlement Agreement) and is hereby adopted as an Order of this Court. The Settlement Agreement shall govern all issues regarding the settlement and all rights of the parties, including the members of the Settlement Class.

5. The terms of the Agreement and this Final Judgment, including the releases and covenants not to sue in the Settlement Agreement, are binding on the Plaintiffs and all

other Class Members, as well as their heirs, executors and administrators, successors and assigns, and those terms shall have res judicata, collateral estoppel and all other preclusive effect in all pending and future claims, lawsuits or other proceedings, including all forms of alternative dispute resolution, maintained by or on behalf of any such persons, to the extent those claims, lawsuits or other proceedings involve matters that were or could have been raised in this Action or are otherwise encompassed by the Agreement.

6. All findings of fact and law set forth in the Court's [date] Agreed Order Granting Preliminary Approval of Proposed Class Action Settlement and Conditionally Certifying Settlement Class are incorporated herein by reference.

7. The Court finds that notice previously given to members of the Settlement Class in this action was the best notice practicable under the circumstances and satisfies the requirements of due process and Rule 23(E) of the Ohio Rules of Civil Procedure.

8. In accordance with the Settlement Agreement, Defendant shall cause the Plaintiffs' and the Class' relief to be disbursed in accordance with the Settlement Agreement.

9. All claims against Defendant are hereby dismissed on the merits and with prejudice, and the Clerk is directed to enter final judgment to that effect in this Action. The judgment shall be without taxable costs to any Party. The Plaintiffs and all Class Members and any person or entity acting on their behalf are permanently barred and enjoined from filing, commencing, prosecuting, intervening in, participating in (as class members or otherwise), or receiving any benefits or other relief from, any other lawsuit, in any state or federal court, arbitration, or administrative, regulatory or other proceeding or order in any

jurisdiction based on or relating to the claims and causes of action, or the facts and circumstances relating thereto, asserted in this case.

10. The Court further finds that the award of attorneys' fees as applied for by Plaintiffs' counsel pursuant to the terms of the Settlement Agreement is fair and reasonable and therefore approves such award, which is to be paid from the Total Settlement Fund.

11. The Court hereby grants the named Plaintiffs, Miles and Patricia Henderson, who have requested an incentive award the sum of \$5,000 each for their time and effort in support of the class action claims, which is to be paid from the Total Settlement Fund.

12. This Court hereby retains jurisdiction of all matters relating to the interpretation, administration, implementation, effectuation and enforcement of the Settlement Agreement.

IT IS SO ORDERED

Dated: \_\_\_\_\_, 2008

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