

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

MARY HEATHER MCAFEE, ZAHER MURRAY)
and GEORGE WRIGHT, on behalf of themselves)
and all similarly situated individuals,)
)
Plaintiffs,)
)
v.)
)
MERIDIANLINK, INC.,)
)
Defendant.)

Civil Action No. 3:23-cv-439

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release is made and entered into by and among Mary Heather McAfee, an individual Virginia resident; Zaher Murray, an individual Michigan resident; and George Wright, an individual Colorado resident, on behalf of themselves and all similarly situated individuals; and MeridianLink, Inc., a Delaware corporation with its principal place of business in Costa Mesa, California, and is subject to Court approval pursuant to Federal Rule of Civil Procedure 23.

1. RECITALS

WHEREAS, on July 10, 2023, McAfee brought claims against MeridianLink, Inc. under the Fair Credit Reporting Act in the Eastern District of Virginia, Richmond Division, in the matter styled *McAfee, on behalf of herself and all similarly situated individuals v. MeridianLink, Inc.*, Civil Action No. 3:23-cv-439 (E.D. Va.);

WHEREAS, MeridianLink timely answered the allegations of the original complaint on October 11, 2023, denying all liability;

WHEREAS, the complaint was amended on March 25, 2024 to add Murray and Wright as individually named plaintiffs;

WHEREAS, MeridianLink timely answered the allegations of the amended complaint on April 8, 2024, denying all liability;

WHEREAS, MeridianLink denies each and every allegation in the Litigation, has asserted numerous defenses, denies any wrongdoing or liability, and denies that Plaintiffs' class action allegations satisfy the requirements of Federal Rule of Civil Procedure 23;

WHEREAS, this Agreement has been reached after the Parties exchanged discovery and a substantial amount of information relevant to Plaintiffs' claims; this Agreement is the product of sustained, arm's length settlement negotiations over numerous calls, letters, and mediation sessions;

WHEREAS, during the course of the mediation process and the negotiations to resolve this matter, the Parties determined that, due to standard practices related to the provision of consumer data through MCL software, members of the Settlement Class are likely to be subject to credit reporting in the future and, therefore, such class members are likely to have the same issues and concerns in the future, whether yet resolved in law or not, unless changes are implemented as described in the Agreement;

WHEREAS, in light of the substantial likelihood that the putative class members will be the subject of credit reporting in the future, the most effective way to afford the class members full and final relief in a negotiated resolution of their claims is to implement a program of prospective injunctive relief;

WHEREAS, without admitting any claims or defenses asserted in the Litigation or any liability whatsoever, and solely to avoid the cost, inconvenience, and uncertainty of the Litigation, the Parties agree to a full, final, and complete resolution of their dispute; and

WHEREAS, the Parties believe that this Agreement is fair, reasonable, and adequate in resolving the litigation because it (1) provides for certification of the Settlement Class, where the Court has not yet determined whether Plaintiffs' claims properly could be brought as a class action and MeridianLink maintains that certification of any class for trial purposes would not be proper under Federal Rule of Civil Procedure 23; and (2) provides for industry-changing injunctive relief to the Settlement Class Members; and (3) provides this relief to the Settlement Class in exchange for releases tailored to the specific claims made in this case.

NOW THEREFORE, without any admission or concession of any Party as to the merits of the claims or defenses in the Litigation, it is hereby stipulated and agreed that this matter and all claims of the Settlement Class be settled, compromised, and dismissed on the merits and with prejudice, subject to Court approval, on the terms and conditions set forth herein.

These recitals are expressly incorporated as part of the Agreement.

2. DEFINITIONS

For the purposes of this Agreement, including its recitals, the following terms are defined as follows:

- 2.1 Agreement: this Settlement Agreement and Release.
- 2.2 Class Counsel: Berger Montague, PC, The Law Offices of Dale W. Pittman, and Kelly Guzzo PLC.
- 2.3 Class Representatives: Mary Heather McAfee and George Wright.

- 2.4 Complaint: the class action complaint filed on July 10, 2023 and amended on March 25, 2024.
- 2.5 Covered Conduct: the provision of data or lack thereof, including deceased reporting or indicators, through any MeridianLink software from the NCRAs to the Customer CRAs, along with any error messages or other communications or transmission messaging that relates to such consumer data.
- 2.6 Customer CRA: customers of MeridianLink who use MeridianLink software, including MCL, for the acquisition of consumer data from the NCRAs, including for the development of Tri-Merge Reports.
- 2.7 Defendant or MeridianLink: MeridianLink, Inc.
- 2.8 Effective Date: the date the Final Judgment becomes final for all purposes because either (i) the Court has entered the Final Approval Order and there were no objections; (ii) an objection was filed, the Court has entered the Final Approval Order notwithstanding any objection, no appeal has been filed in accordance with Fed. R. App. P. 4(a), and the time within which an appeal may be noticed and filed has lapsed; or (iii) if a timely appeal has been filed, the appeal is finally resolved, with no possibility of further appellate or other review, resulting in final judicial approval of this settlement and Agreement.
- 2.9 FCRA: the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*
- 2.10 Final Judgment: the Court's order granting final approval of this Settlement and concluding the Litigation.
- 2.11 Injunctive Relief: the injunctive relief to which the Defendant has agreed and which benefits the Settlement Class, as further described in Section 4.6.

- 2.12 Injunctive Relief Order: the consent order attached as **Exhibit A** to this Agreement and proposed by the Parties for entry by the Court intended to require and accomplish the Injunctive Relief that in no way imposes any obligation, duty, or responsibility on the Defendant or creates a right on behalf of the Settlement Class beyond what is described in the Injunctive Relief.
- 2.13 Internet Notice: The Class Action notice provided via the Internet as part of the Notice Plan, as further described in Section 4.4.3.
- 2.14 Litigation: the case styled *McAfee, on behalf of herself and all similarly situated individuals v. MeridianLink, Inc.*, Civil Action No. 3:23-cv-439 (E.D. Va.), as amended to include Plaintiffs Murray and Wright.
- 2.15 MCL: the Mortgage Credit Link software provided by MeridianLink and licensed or otherwise used by the Customer CRAs or their customers.
- 2.16 NCRAs: the national credit reporting agencies, including Equifax, Inc., Experian Information Solutions, Inc., and TransUnion, LLC and any successors to those entities.
- 2.17 Notice Plan: the Class Notice Plan described below in Section 4.4.
- 2.18 Parties: Plaintiffs, on behalf of themselves and similarly situated individuals; and Defendant.
- 2.19 Plaintiffs: Mary Heather McAfee, George Wright, and Zaher Murray.
- 2.20 Preliminary Approval: the Court's order in substantially similar form to the proposed order attached as **Exhibit B**, certifying the proposed Settlement Class for settlement purposes only, preliminarily approving the proposed Settlement as fair, reasonable, and adequate, appointing the Settlement Administrator, and appointing Class Counsel.

- 2.21 Released Claims: the claims released by the Settlement Class, as further set forth in Sections 6.1 through 6.2.
- 2.22 Released Parties: Defendant and its predecessors, successors, and assigns; the present and former, direct and indirect, parents, subsidiaries, sister corporations, divisions, corporate affiliates, insurers, or associates of any of the above; and any person involved in any respect with regard to the Defendant's conduct alleged in the Litigation, including officers, directors, employees, agents, owners, customers, stockholders, members, representatives, and counsel of any of the above.
- 2.23 Service Award: the one-time payment to Plaintiffs McAfee and Wright for their time and resources devoted to representing the Settlement Class, as further set forth in Section 4.7.2.
- 2.24 Settlement: the agreed-upon terms set forth in this Agreement.
- 2.25 Settlement Administrator: the third-party settlement administrator who will establish the Settlement Website and administer the Notice Plan.
- 2.26 Settlement Class: the class proposed to be certified for settlement purposes only as part of this Agreement, defined as: All natural persons who were the subject: (1) of a consumer report generated through the Defendant's software or otherwise allegedly furnished, assembled, or resold to a third party within the five years before the filing date of the Complaint; (2) where the report or data derived for purposes of populating the report contained a status indicating that the consumer was deceased from the NCRA's; (3) where at least one other NCRA's report/data did not contain a deceased notation; and (4) where the consumer was not deceased at the time the report was issued. The Settlement Class does not include Defendant's officers, directors, and

employees, Parties' counsel, any judge overseeing or considering the approval of the Settlement, together with members of their immediate family and any judicial staff.

2.27 Settlement Class Members: any person in the Settlement Class.

2.28 Settlement Website: the website to be established by the Settlement Administrator.

2.29 Tri-Merge Reports: reports containing data from multiple NCRAs accessed by or through MeridianLink software.

3. PRELIMINARY APPROVAL

Within five (5) days after signing this Agreement, Plaintiffs shall file with the Court a motion for Preliminary Approval of the proposed Settlement. The motion must seek entry of an order (in a form substantially similar to **Exhibit B**) that would, for settlement purposes only:

- a) preliminarily approve this Agreement;
- b) certify a conditional Settlement Class under Federal Rule of Civil Procedure 23(b)(2), composed of the Settlement Class Members;
- c) appoint Class Counsel to represent the Settlement Class;
- d) approve the proposed Class Notice Plan; and
- e) appoint the Settlement Administrator.

4. RULE 23(B)(2) SETTLEMENT

4.1 **Class Definition.** For purposes of Settlement only, under the express terms and conditions of this Agreement, Plaintiffs and Defendant agree to seek certification of a mandatory, nationwide Rule 23(b)(2) Settlement Class in the Litigation, as defined in Section 2.26.

4.2 **No Right to Opt Out.** Because the Settlement Class is being certified as a mandatory class under Federal Rule of Civil Procedure 23(b)(2), Settlement Class Members shall not be permitted to opt out of the Settlement Class.

4.3 Class Certification for Settlement Purposes Only. Defendant contends that this Litigation, and the class alleged therein, could not be certified as a class action under the Federal Rules of Civil Procedure for trial purposes. Nothing in this Agreement may be construed as an admission by Defendant that this Litigation or any similar case is amenable to class certification for trial purposes. Furthermore, nothing in this Agreement prevents Defendant from opposing class certification or seeking de-certification of the Settlement Class if final approval of this Agreement is not obtained, or not upheld on appeal, including review by the United States Supreme Court, for any reason, or if any of the conditions exist that permit Defendant to terminate this Agreement in accordance with the terms below.

4.4 Notice Plan.

4.4.1 Settlement Class Notice. Individual notice is not required for a class certified under Federal Rule of Civil Procedure 23(b)(2) and, thus, such will not be sent to the Settlement Class. The Parties and the Settlement Administrator will develop and recommend to the Court an appropriate and reasonable Notice Plan to reach Settlement Class Members. The Notice Plan will be administered by the experienced and highly qualified Settlement Administrator, utilizing at least the following methods or their practicable equivalents:

- a) a Rule 23(b)(2) Class Settlement Website will be established that contains the Preliminary Approval Order, the Internet Notice, the Agreement, and other relevant information regarding the Court-approval process;
- b) a toll-free telephone number will be established that will provide Settlement Class Members with access to recorded information regarding the Settlement; and

c) banner advertisements will be placed on selected Internet websites that will allow Settlement Class Members who select one of the advertisements to click on a link that directs them to the Class Settlement Website.

As soon as reasonably practicable after Preliminary Approval, the Settlement Administrator shall implement the Rule 23(b)(2) Notice Plan and other actions described in this Section.

4.4.2 **Court Appointment and Retention of Settlement Administrator.** In the Preliminary Approval Motion, the Parties will propose that the Court appoint Continental DataLogix, LLC or similarly situated entity as Settlement Administrator. The Settlement Administrator will facilitate the notice process by assisting the Parties and providing professional guidance in the implementation of the Rule 23(b)(2) Notice Plan.

4.4.3 **Internet Notice.** The Parties have agreed that they will jointly recommend the Internet Notice to the Court for approval. The Internet Notice is designed to provide comprehensive and reasonable notice of the terms of the Settlement Agreement. The Internet Notice shall be posted on the Class Settlement Website.

4.4.4 **Class Settlement Website.** The Settlement Administrator will create and maintain the Class Settlement Website to be activated as soon as practicable following Preliminary Approval. The Settlement Administrator's responsibilities will also include securing an appropriate URL. The Settlement Administrator will create and maintain the Class Settlement Website. The Class Settlement Website will post important settlement documents, such as the Agreement, the Internet Notice (in both English and Spanish), and the Preliminary Approval Order. In addition, the Class Settlement Website will include a description of the Injunctive Relief along with a copy of the Injunctive Relief

Order, a section for frequently-asked questions, and procedural information regarding the status of the Court-approval process, such as an announcement when the final approval hearing is scheduled. The Settlement Administrator will terminate the Class Settlement Website at a time to be determined after consultation with counsel for the Parties; however under no circumstances shall the Class Settlement Website be active more than one hundred and eighty (180) days after either (1) the Effective Date, or (2) the date on which the Settlement is terminated or otherwise not approved by a court. The Settlement Administrator will then transfer ownership of the URL to the Defendant.

4.4.5 **Banner Advertisements.** The Settlement Administrator will take reasonable steps to attract Settlement Class Members to the Class Settlement Website by purchasing banner advertisements on appropriate websites that will take Settlement Class Members who select the link in the advertisement to the Class Settlement Website.

4.4.6 **Toll-Free Telephone Number.** The Settlement Administrator will create and maintain a toll-free telephone number to be activated as soon as practicable following Preliminary Approval. The toll-free number will provide Settlement Class Members with recorded information (in both English and Spanish) that includes answers to frequently-asked questions and directs them to the Class Settlement Website.

4.4.7 **Costs.** Defendant shall be responsible for the costs associated with the Notice Plan and the Settlement Administrator, except as otherwise provided for in this Agreement.

4.5 **Class Action Fairness Act (“CAFA”) Notice.** Defendant shall serve notice of the settlement that meets the requirements of CAFA, 28 U.S.C. § 1715, on the appropriate federal and state officials not later than ten (10) days after the filing of this Settlement

Agreement with the Court. Before the Court's Final Approval Hearing, Defendant shall file with the Court a certification of the date(s) upon which the CAFA Notice was served.

4.6 Injunctive Relief. Under Federal Rule of Civil Procedure 23(b)(2), MeridianLink will implement the following injunctive relief within thirty (30) days after the Effective Date:

- a) With respect to any post-injunction Tri-Merge Report provided through MCL and involving a deceased indicator from less than three NCRAs where the Customer CRA has elected to suppress data from NCRAs with a deceased indicator, MeridianLink will provide the Customer CRA with the option to add its own clarifying text alert in a report line or section associated with the particular NCRA reporting said indicator on any report generated through MCL. MeridianLink will include the following statement as a default and will notify the Customer CRAs that, in the event they do not elect an alternative, this is the statement that will appear: *Unable to deliver report. Please confirm consumer personal information used in the application and contact [Customer CRA] for more information about how to reorder report.*
- b) With respect to any post-injunction Tri-Merge Report provided through MCL and involving a deceased indicator from only one NCRA, where the Customer CRA has elected to include data from NCRAs with a deceased indicator, MeridianLink will pass through to the Customer CRA the text alert from the particular NCRA reporting said indicator.
- c) All reports provided through MCL that include deceased information as described in Sections 4.6 (a) and (b), will include the following statement as a default that can be changed at the sole election and discretion of the Customer CRA: *This report contains credit information provided by the three national credit bureaus, Equifax (EFX),*

Experian (XPN), and TransUnion (TUC). If, upon review of the information contained within this merged credit report, you believe that any information is inaccurate or incomplete, please contact [customer CRA].

Any good faith action by Defendant reasonably necessary to comply with any federal, state, or local law, enactment, regulation, or judicial ruling shall not constitute a breach of this Agreement. In the event any obligation Defendant has agreed to undertake in the Injunctive Relief becomes inconsistent with any federal, state, or local law, enactment, regulation, or judicial ruling or if the Settlement Class (or any subset) agrees to impose less stringent requirements on any competitor of Defendant, then Defendant shall be released from performing such obligation after notice to the Court and Class Counsel. Any objection to such change in procedure shall be made to the Court by Class Counsel within ten (10) days of such notice.

4.7 Settlement Class Attorneys' Fees, Costs, and Other Expenses.

4.7.1 Class Counsel Fee Award. No later than forty-five (45) days prior to the Final Approval Hearing, Class Counsel shall make an application to the Court for an award of attorneys' fees, costs, and other expenses for up to seven hundred thousand dollars (\$700,000) for their representation of the Settlement Class. Class Counsel's application shall also request that the Court specifically approve all the terms of this Section. Defendant agrees to support the application by Class Counsel for attorneys' fees, costs, and other expenses in an amount up to seven hundred thousand dollars (\$700,000) in the aggregate. The \$700,000 award shall include all fees, costs, and other expenses for all attorneys (and their employees, consultants, experts, and other agents) who performed work in connection with the Litigation on behalf of the Settlement Class

Members including the Plaintiffs. Regardless of the number of attorneys sharing in the Court's award of attorneys' fees, costs, and other expenses, Defendant shall not be required to pay any award that exceeds, in the aggregate, \$700,000 in connection with the Settlement Class. This agreement with respect to attorneys' fees, costs, and other expenses was not negotiated until after the substantive terms of the settlement, including the Injunctive Relief to the Settlement Class, had been negotiated and agreed upon during the mediation.

4.7.2 **Plaintiffs' Service Award.** No later than forty-five (45) days prior to the Final Approval Hearing, Class Representatives McAfee and Wright shall make an application to the Court for the Court's approval of a Service Award of five thousand dollars (\$5,000) each and Defendant will not oppose a Service Award in that amount or less. The Parties' negotiation of, and agreement to, the foregoing Service Award did not occur until after the substantive terms of the settlement had been negotiated and agreed upon during the mediation. The Service Award shall constitute the sole consideration to Class Representatives for being Class Representatives and shall be applied for and made separately from attorneys' fees.

4.7.3 **Payment Schedule.** Within ten (10) days after the Effective Date, Defendants will pay the Class Counsel fee award and Service Award approved by the Court up to and not more than \$710,000 in the aggregate by wire transfer to the agent identified by Class Counsel.

5. ENTRY OF FINAL JUDGMENT AND ORDER

The Parties shall jointly seek entry by the Court of a Final Judgment and Order in the form of **Exhibit C** hereto, which includes the following provisions (among others):

a) granting final approval of this Agreement, and directing its implementation pursuant to its terms and conditions;

b) ruling on Class Counsel's applications for attorneys' fees, costs, and other expenses;

c) discharging and releasing the Released Parties, and each of them, from the Released Claims;

d) permanently barring and enjoining all Settlement Class Members from instituting, maintaining, or prosecuting, either directly or indirectly, any lawsuit, arbitration, or other legal or dispute proceeding that asserts Released Claims;

e) permanently barring and enjoining all Settlement Class Members from seeking to use the class action procedural device in any future lawsuit against any Released Party to assert Claims that were or could have been brought in the Litigation and that are not otherwise released and discharged by the Agreement;

f) directing that the Litigation be dismissed with prejudice and without costs;

g) stating pursuant to Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directing that the Final Judgment and Order is a final, appealable order; and

h) reserving to the Court continuing and exclusive jurisdiction over the Parties with respect to the Agreement and the Final Judgment and Order.

6. RELEASES

6.1 Settlement Class Release and Waiver of Class Action Procedural Device. The Plaintiffs and Settlement Class Members waive and release their right to pursue, in the future, any Claims against the Released Parties related to the Covered Conduct or that were or could have been brought in the Litigation, using a class action procedural device or any other form of collective device or mass action. This class action waiver includes any Claims whatsoever related to the Covered Conduct, including claims for injunctive relief, actual

damages, and/or statutory damages under 15 U.S.C. §1681, any FCRA State Equivalents, or otherwise. The Plaintiffs and the Settlement Class Members recognize that as part of this Agreement, Defendants are agreeing to the certification of a tentative Settlement Class, even though Defendants expressly deny that this Litigation could be certified as a class action for trial purposes. The Plaintiffs and Settlement Class Members further recognize that they have already availed themselves of the class action procedural device in this Litigation to obtain the agreed class-wide Injunctive Relief, and they agree that they shall not be allowed to avail themselves of any class, collective, or mass action procedural device in the future against the Released Parties for Claims related to the Covered Conduct.

6.2 Waiver of California Civil Code § 1542. Plaintiffs and Settlement Class Members acknowledge that they are aware that they may hereafter discover facts in addition to or different from those that they or Class Counsel now know or believe to be true with respect to the subject matter of this Litigation and the waivers and Releases in this Agreement, but it is their intention to, and they do upon the Effective Date of this Agreement, fully, finally, and forever settle and release any and all released claims, without regard to the subsequent discovery or existence of such different additional facts. Plaintiffs and Settlement Class Members waive any and all rights and benefits afforded by California Civil Code § 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Plaintiffs, Settlement Class Members, and Class Counsel understand and acknowledge the significance of this waiver of California Civil Code Section 1542 and/or of any other applicable federal or state law relating to limitations on releases.

6.3 Individual Right of Action. Except as otherwise released herein, the Settlement Class Members, other than Plaintiffs—who will execute separate agreements releasing their individual claims—do not release and discharge, but instead preserve, their respective right to file an individual lawsuit under 15 U.S.C. § 1681 or the state equivalent for any and all statutory damages, actual damages and/or punitive damages sustained before the Effective Date, subject to the waiver of the class action procedural device described in Section 6.1.

6.4 Defendants' Ongoing Business Conduct. Defendant believes the provision of data through its software as described in the Complaint and otherwise in this Agreement does not meet the definition of “consumer report” and that Defendant does not meet the definition of “consumer reporting agency” as those terms are defined in the FCRA. Defendants are offering the substantial modifications to their existing practices and procedures to resolve this matter and eliminate any dispute among the parties as to whether they have provided “consumer reports” within the meaning of the FCRA. The Parties acknowledge that Defendant’s Customer CRAs will continue to use Defendant’s software to generate Tri-Merge Reports. In consideration for the heightened protections that will be accomplished through the Injunctive Relief, the Plaintiffs, Class Counsel, and the Settlement Class for purposes of this Settlement acknowledge that the Defendant’s software’s facilitation of Tri-Merge Reports by Customer CRAs alone shall not be an admission or otherwise construed to mean that the data provided by Defendant is characterized as a “consumer report” or MeridianLink is characterized as a CRA within the

meaning of the FCRA. Nothing in this Agreement shall establish or imply that Defendant (i) is regulated by the Fair Credit Reporting Act or state equivalents; (ii) is a consumer reporting agency, reseller, or user; or (iii) creates, assembles, or provides “consumer reports” under the law. Defendant shall retain any available arguments, defenses, and factual bases to the contrary.

7. MISCELLANEOUS PROVISIONS

7.1 **Termination.** Defendant’s willingness to settle this Litigation on a class-wide basis and to agree to the accompanying certification of the Settlement Class is dependent upon achieving finality in this Litigation and avoiding the expense of this and other litigation. Consequently, Defendant may terminate this Settlement Agreement, declare it null and void, and have no further obligations under this Settlement Agreement to Plaintiffs or Settlement Class Members if any of the following conditions subsequently occurs: (a) the Parties fail to obtain and maintain preliminary approval of the proposed Settlement; (b) the Court fails to enter a final order consistent with the provisions of this Settlement Agreement; (c) the Settlement is not upheld on appeal, including review by the United States Supreme Court; (d) the Effective Date does not occur for any reason, including but not limited to the entry of an order by any court that would require either material modification or termination of the Settlement Agreement; or (e) Plaintiffs or Class Counsel commit a material breach of the Settlement Agreement before entry of the Final Judgment and Order. The failure of the Court or any appellate court to approve in full the request by Class Counsel for attorneys’ fees, costs, and other expenses would not be grounds for Plaintiffs, the Settlement Class, or Class Counsel to cancel or terminate this Settlement Agreement. The failure of the Court or any appellate court to approve in full the request of

the Class Representatives for their Service Award would not be grounds to terminate this Settlement Agreement. If the Settlement Agreement is not finally approved, is not upheld on appeal, or is otherwise terminated for any reason before the Effective Date, then the Court shall decertify the Settlement Class; the Settlement Agreement and all negotiations, proceedings, and documents prepared, and statements made in connection therewith, will be without prejudice to any Party and may not be deemed or construed to be an admission or confession by any Party of any fact, matter, or proposition of law; and all Parties would stand in the same procedural position as if the Settlement Agreement had not been negotiated, made, or filed with the Court.

7.2 Best Efforts to Obtain Court Approval. Plaintiffs and Defendant, and the Parties' counsel, agree to use their best efforts to obtain Court approval of this Settlement Agreement.

7.3 Court's Jurisdiction. The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Settlement Agreement. The Court also shall retain exclusive jurisdiction: (1) over any subsequent claim against Defendant related to a Settlement Class Member's Released Claims; and (2) over any determination of whether a subsequent lawsuit is released, barred, or limited by the Settlement Agreement.

7.4 Class Member Disputes. If any Class Member has a claim or dispute regarding Defendant's compliance with this Agreement, including the implementation of Injunctive Relief, such Class Member shall first submit, *pro se* or through counsel, his or her dispute directly to Defendant before taking any other action. Upon receipt of such dispute, Defendant shall provide a copy to Class Counsel. Defendant shall have thirty (30) days to

investigate the dispute and respond to the Class Member, with a copy to Class Counsel, before any motion for relief is ripe.

7.5 Settlement Notices. Except for the Class Notice Plan, all other notices or formal communications under this Agreement shall be in writing and shall be provided by electronic mail and overnight courier to counsel for the Party as follows:

For Class Counsel:

Kristi Kelly
Kelly Guzzo, PLC
3925 Chain Bridge Road, Suite 202
Fairfax, VA 22030
kkelly@kellyguzzo.com

For MeridianLink:

Kayla Dailey
General Counsel
3560 Hyland Avenue, Suite 200
Costa Mesa, CA 92626
Kayla.dailey@meridianlink.com

Eileen Rumfelt
Miller & Martin PLLC
1180 West Peachtree Street NE, Suite 2100
Atlanta, GA 30009
Eileen.rumfelt@millermartin.com

7.6 Attorneys' Fees. Except as provided for herein, the Parties each shall bear their own costs and attorneys' fees.

7.7 Confidentiality. The Parties, their counsel, and any experts in the Litigation, disclosed or undisclosed, agree that they remain subject to the Court's Protective Order entered on December 20, 2023 (Docket No. 20), as amended. Defendant may communicate with its customers, business contacts, and members of the public in the ordinary course of business about this Litigation and the Settlement as it deems necessary.

7.8 **Authority.** Each Party represents and warrants that it has the full power and authority to make the releases and agreements contained herein, and that they have not assigned, encumbered, or in any manner transferred all or a portion of the claims covered by the releases and agreements contained herein.

7.9 **Severability.** If the Court does not approve any substantive term, or if the Court effects a material change to the Agreement then the entire Agreement will be, at the Parties' discretion, void and unenforceable. Before declaring any provision of this Agreement invalid, the Parties intend that the Court first attempt to construe the provision valid to the fullest extent possible so as to render all provisions of this Agreement enforceable.

7.10 **Construction.** This Agreement shall be deemed to have been drafted by all the Parties to this Agreement, and no rule of construction shall be applied against any Party as the drafter. This Agreement includes the terms set forth in each attached exhibit. Each exhibit to this Agreement is an integral part of it. The headings within this Agreement appear for the convenience of reference only and do not affect the construction or interpretation of any part of this Agreement.

7.11 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. An electronic signature shall be deemed an original. The signatories hereto represent that they are fully authorized to bind their respective Party to all terms of this Agreement. The Parties agree that the Settlement Class Members are so numerous that it is impossible or impractical to have each Class Member execute this Agreement or to identify and provide individual notice to each Class Member. This Agreement may be executed on behalf of the Settlement Class Members by the Class Representatives.

7.12 **Entire Agreement.** This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof and cannot be altered, amended, or modified in any respect, except by a written agreement signed by authorized representatives of the Parties. All prior agreements and understandings regarding the subject matter hereof, whether written or oral, are expressly superseded hereby and are of no further force or effect.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date, and it shall be effective as of that date.

Dated: 15 July, 2024

By: Mary Heather McAfee
Mary Heather McAfee
Plaintiff

Dated: _____, 2024

By: _____
George Wright
Plaintiff

MERIDIANLINK, INC.

Dated: _____, 2024

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

Dated: _____, 2024

KELLY GUZZO PLC
By: _____
Kristi C. Kelly

Attorney for Plaintiffs

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date, and it shall be effective as of that date.

Dated: _____, 2024

By:

Mary Heather McAfee
Plaintiff

Dated: 7/11/2024 _____, 2024

By:

DocuSigned by:


George Wright
Plaintiff

MERIDIANLINK, INC.

Dated: _____, 2024

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM:

Dated: July 15 _____, 2024

KELLY GUZZO PLC

By:



Kristi C. Kelly

Attorney for Plaintiffs

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date, and it shall be effective as of that date.

Dated: _____, 2024

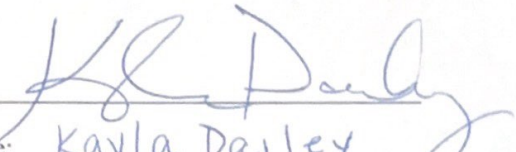
By: _____
Mary Heather McAfee
Plaintiff

Dated: _____, 2024

By: _____
George Wright
Plaintiff

MERIDIANLINK, INC.

Dated: _____, 2024

By: 
Name: Kayla Darley
Title: General Counsel

APPROVED AS TO FORM:

Dated: _____, 2024

KELLY GUZZO PLC
By: _____
Kristi C. Kelly

Attorney for Plaintiffs

Dated: July 15, 2024

GATEWOOD PLLC

By: 
Matthew Gatewood

Attorney for Defendant

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

MARY HEATHER MCAFEE, ZAHER MURRAY)
and GEORGE WRIGHT, on behalf of themselves)
and all similarly situated individuals,)

Plaintiffs,)

v.)

Civil Action No. 3:23-cv-439

MERIDIANLINK, INC.,)

Defendant.)

INJUNCTIVE RELIEF ORDER

On [DATE], 2024, the Court entered its Order granting the Motion for Final Approval of Class Action Settlement and Entry of Final Judgment and Order (ECF No. []) Under that Order and Section 4.6 of the Settlement Agreement and Release executed July 15, 2024 (the “Agreement”) (ECF No. []), the Court enters this Injunctive Relief Order, hereby ordering that Defendant complies with the following:

1. For purposes of this Injunctive Relief Order, the Court adopts and incorporates the definitions of the defined terms set forth in the Agreement. The terms of this Injunctive Relief Order are intended to reflect the Injunctive Relief provisions in the Agreement and shall not be construed to impose any obligations or requirements in addition to those set forth in the Agreement.

2. With respect to any post-injunction Tri-Merge Report provided through Mortgage Credit Link (“MCL”) and involving a deceased indicator from less than three National Credit Reporting Agencies (“NCRAs”) where the Customer CRA has elected to suppress data from NCRAs with a deceased indicator, Defendant MeridianLink, Inc. will provide the Customer CRA with the option to add its own clarifying text alert in a report line or section associated with the

particular NCRA reporting said indicator on any report generated through MCL. MeridianLink will include the following statement as a default and will notify its customers that, in the event they do not elect an alternative, this is the statement that will appear: *Unable to deliver report. Please confirm consumer personal information used in the application and contact [Customer CRA] for more information about how to reorder report.*

3. With respect to any post-injunction Tri-Merge Report provided through MCL and involving a deceased indicator from only one NCRA, where the Customer CRA has elected to include data from NCRA's with a deceased indicator, MeridianLink will pass through to the Customer CRA the text alert from the particular NCRA reporting said indicator.

4. All reports provided through MCL that include deceased information as described in Sections 2 and 3 above, will include the following statement as a default that can be changed at the sole election and discretion of the Customer CRA: *This report contains credit information provided by the three national credit bureaus, Equifax (EFX), Experian (XPN), and TransUnion (TUC). If, upon review of the information contained within this merged credit report, you believe that any information is inaccurate or incomplete, please contact [Customer CRA].*

5. If any Class Member has a claim or dispute regarding Defendant's compliance with this Agreement, including the implementation of Injunctive Relief, such Class Member shall first submit, *pro se* or through counsel, his or her dispute directly to Defendant as provided in Section 7.4 of the Agreement before taking any other action. Upon receipt of such dispute, Defendant shall provide a copy to Class Counsel. Defendant shall have thirty (30) days to investigate the dispute and respond to the Class Member, with a copy to Class Counsel, before any motion for relief is ripe.

6. Any good faith action by Defendant reasonably necessary to comply with any federal, state, or local law, enactment, regulation, or judicial ruling shall not constitute a violation of this Order or a breach of the Agreement. In the event any obligation of Defendant hereunder becomes inconsistent with any federal, state, or local law, enactment, regulation, or judicial ruling or if the Settlement Class (or any subset) agrees to impose less stringent requirements on any competitor of Defendant, then Defendant shall be released from performing such obligation after notice to the Court and Class Counsel. Any objection to such change in procedure shall be made to the Court by Class Counsel within ten (10) days of such notice.

7. This Injunctive Relief Order is consented to by Defendant as part of a negotiated compromise and does not constitute an admission of liability or wrongdoing. Further, nothing in this Injunctive Relief Order shall establish or imply that Defendant (i) is regulated by the Fair Credit Reporting Act or state equivalents; (ii) is a consumer reporting agency, reseller, or user; or (iii) creates, assembles, or provides “consumer reports” under the law. Defendant shall retain any available arguments, defenses, and factual bases to the contrary.

8. The Court reserves continuing jurisdiction over the Parties with respect to matters relating to this Injunctive Relief Order.

9. None of the parties, including any Settlement Class Member, shall be entitled to the recovery of attorneys’ fees, costs, or other expenses in connection with any efforts to monitor compliance with this Injunctive Relief Order.

IT IS SO ORDERED, this ___ day of ___, 2024.

RODERICK C. YOUNG
UNITED STATES DISTRICT JUDGE

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

MARY HEATHER MCAFEE, ZAHER MURRAY)
and GEORGE WRIGHT, on behalf of themselves)
and all similarly situated individuals,)

Plaintiffs,)

v.)

Civil Action No. 3:23-cv-439

MERIDIANLINK, INC.,)

Defendant.)

**ORDER PRELIMINARILY APPROVING
SETTLEMENT AND DIRECTING NOTICE TO CLASS**

The Court, having reviewed the Settlement Agreement and Release entered into by the Parties, hereby orders that:

1. The Court has considered the proposed settlement of the Fair Credit Reporting Act (“FCRA”) claims asserted in the above-captioned action with respect to the proposed Settlement Class¹ defined as:

All natural persons who were the subject: (1) of a consumer report generated through the Defendants’ software or otherwise allegedly furnished, assembled, or resold to a third party within the five years before the filing date of the Complaint; (2) where the report or data derived for purposes of populating the report contained a status indicating that the consumer was deceased from the NCRAs; (3) where at least one other NCRA’s report/data did not contain a deceased notation; and (4) where the consumer was not deceased at the time the report was issued.

¹ Capitalized terms are as defined in the Settlement Agreement and Release (ECF No. ____.)

The Settlement Class does not include Defendant's officers, directors, and employees, Parties' counsel, any judge overseeing or considering the approval of the Settlement, together with members of their immediate family and any judicial staff.

2. The Settlement Agreement filed by the Parties appears, upon preliminary review, to be fair, reasonable, and adequate to the Settlement Class. The proposed settlement therein is preliminarily approved, pending a Final Approval Hearing, as provided for herein.

3. For settlement purposes only, the prerequisites to a class action under Federal Rule of Civil Procedure 23(a) have been preliminary satisfied, in that:

- a. The class is so numerous that joinder of all members is impracticable;
- b. The claims of the Plaintiffs are typical of those of the members of the Settlement Class;
- c. There are questions of fact and law common to all members of the Settlement Class;
- d. The Plaintiffs will fairly and adequately protect the interests of the Settlement Class and have retained Class Counsel experienced in consumer class action litigation who have, and will continue to, adequately represent the settlement class.

4. For settlement purposes only, the Court finds this action is preliminarily maintainable as a class action under Federal Rule of Civil Procedure 23(b)(2) because Defendant has acted or refused to act on grounds generally applicable to the Settlement Class and injunctive relief is appropriate respecting the Settlement Class as a whole.

5. If the Settlement Agreement is not finally approved, is not upheld on appeal, or is otherwise terminated for any reason before the Effective Date, the Settlement Class shall be decertified, the Settlement Agreement and all negotiations, proceedings, and documents prepared, and statements made in connection therewith, shall be without prejudice to any Party and shall not be deemed or

construed to be an admission or confession by any Party of any fact, matter, or proposition of law; and all Parties shall stand in the same procedural position as if the Settlement Agreement and Release had not been negotiated, made, or filed with the Court. In that event, this Order shall not have any precedential effect with respect to a litigated class certification motion.

6. The Court appoints Mary Heather McAfee and George Wright as Class Representatives. The Court appoints Kristi C. Kelly and Andrew Guzzo of Kelly Guzzo PLC; E. Michelle Drake and Joseph C. Hashmall of Berger Montague PC; and Dale W. Pittman of The Law Offices of Dale W. Pittman as Class Counsel. The Court approves Continental DataLogix, LLC as the Settlement Administrator.

7. The Court will hold a Final Approval Hearing under Federal Rule of Civil Procedure 23(e) on _____, 2024 at _____ .m. at the United States District Court for the Eastern District of Virginia, Robinson-Merhige United States Courthouse, 701 East Broad Street, Richmond, Virginia 23219, for the following purposes:

- a. To determine whether the proposed settlement is fair, reasonable, and adequate and should be granted final approval by the Court;
- b. To determine whether a final judgment should be entered dismissing the claims of the Settlement Class with prejudice, as required by the Agreement;
- c. To consider the application of Class Counsel for an award of attorneys' fees, costs, and for a Service Award to the Class Representatives; and
- d. To rule upon such other matters as the Court may deem appropriate.

8. To the extent the Parties or Settlement Administrator determine that ministerial changes to the Notice Plan are necessary before disseminating notice to the Settlement Class Members, they may make such changes without further application to the Court.

9. The Court finds the Notice Plan fully satisfies the requirements of Federal Rule of Civil Procedure 23 and due process, constitutes appropriate notice under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

10. Any Settlement Class Member who wishes for an objection to be considered must file a written notice of objection with the Court by [*insert date 75 days after Preliminary Approval*]. The objection must include the following: (1) the Settlement Class Member's full name, address, and current telephone number; (2) if the individual is represented by counsel, the name and telephone number of counsel; (3) all objections and the basis for any such objections stated with specificity, including a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (4) the identity of any witnesses the objector may call to testify; (5) a listing of all exhibits the objector intends to introduce into evidence at the Final Approval Hearing, including a true and correct copy of such exhibits; (6) a statement regarding whether the objector intends to appear at the Final Approval Hearing; and (7) the objector's signature and a notation that the objection is for "*McAfee v. MeridianLink, Inc.*, Civil Action No. 3:23-cv-439."

11. Any Settlement Class Member who fails to timely file a written objection pursuant to the terms of this Order and the Agreement shall not be permitted to object to the approval of the settlement or the Agreement and shall be foreclosed from seeking any review of the settlement or the terms of the Agreement by appeal or other means.

12. Neither this Order nor the Agreement shall be construed or used as an admission or concession by or against the Defendant or any of the Released Parties of any fault, omission, liability, or wrongdoing, or the validity of any of the Released Claims. This Order is not a finding of the validity or invalidity of any claims in this lawsuit or a determination of any wrongdoing by the Defendant or any of the Released Parties. The preliminary approval of the Agreement does not

constitute any opinion, position, or determination of this Court, one way or the other, as to the merits of the claims and defenses of Plaintiff, the Settlement Class Members, or the Defendant.

13. The Court reserves continuing jurisdiction over this action to consider all further matters arising out of or connected with the Agreement.

IT IS SO ORDERED, this ___ day of ___, 2024.

RODERICK C. YOUNG
UNITED STATES DISTRICT JUDGE

EXHIBIT C

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

MARY HEATHER MCAFEE, ZAHER MURRAY)
and GEORGE WRIGHT, on behalf of themselves)
and all similarly situated individuals,)

Plaintiffs,)

v.)

Civil Action No. 3:23-cv-439

MERIDIANLINK, INC.,)

Defendant.)

FINAL APPROVAL ORDER

This matter, having come before the Court on Plaintiffs’ Motion for Final Approval of Class Settlement; the Court having considered all papers filed and arguments made with respect to the settlement, and having provisionally certified, by Order entered [_____, 2024], a “Settlement Class,” and the Court, being fully advised finds that:

1. Certification for settlement purposes of the Settlement Class, as defined by the Settlement Agreement proposed by the parties in this case (ECF No. __), is appropriate pursuant to Federal Rules of Civil Procedure 23(a) and 23(b). Defined terms used in this Order are those defined in the Settlement Agreement.

2. Notice to the Settlement Class required by Federal Rule of Civil Procedure 23 has been provided in accordance with the Court’s Preliminary Approval Order. This Notice has been given in an adequate and sufficient manner; constitutes appropriate notice under the circumstances; and satisfies Rule 23 and due process.

3. Defendant MeridianLink, Inc. has timely filed notification of this settlement with the appropriate officials pursuant to the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. §

1715. The Court has reviewed such notification and accompanying materials and finds that Defendant's notification complies fully with the applicable requirements of CAFA.

4. The Settlement Agreement was arrived at as a result of arm's-length negotiations conducted in good faith by counsel for the parties and is supported by the parties.

5. The settlement as set forth in the Settlement Agreement is fair, reasonable, and adequate to the members of the Settlement Class considering the complexity, expense, and duration of litigation and the risks involved in establishing liability, damages, and in maintaining the class action through trial and appeal. The Settlement Agreement shall therefore be deemed incorporated herein and the proposed settlement is finally approved and shall be consummated in accordance with the terms and provisions thereof.

6. The relief provided under the settlement constitutes fair value given in exchange for the release of claims.

7. The parties and each Settlement Class Member have submitted to the jurisdiction of this Court for any suit, action, proceeding, or dispute arising out of the Settlement Agreement.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

This action is a class action against Defendant MeridianLink, Inc., on behalf of a class of consumers that has been defined as follows:

Settlement Class: All natural persons who were the subject: (1) of a consumer report generated through the Defendant's software or otherwise allegedly furnished, assembled, or resold to a third party within the five years before the filing date of the Complaint; (2) where the report or data derived for purposes of populating the report contained a status indicating that the consumer was deceased from the NCRAs; (3) where at least one other NCRA's report/data did not contain a deceased notation; and (4) where the consumer was not deceased at the time the report was issued. The Settlement Class does not include Defendant's officers, directors, and employees, Parties' counsel, any judge overseeing or considering the approval of the Settlement, together with members of their immediate family and any judicial staff.

8. This action is hereby dismissed on the merits, with prejudice and without costs.

9. As agreed by the parties in the Settlement Agreement, upon the Effective Date, the Released Parties shall be released and discharged in accordance with the Settlement Agreement.

10. Neither this Order nor the Agreement shall be construed or used as an admission or concession by or against the Defendant or any of the Released Parties of any fault, omission, liability, or wrongdoing, or the validity of any of the Released Claims. This Order is not a finding of the validity or invalidity of any claims in this lawsuit or a determination of any wrongdoing by the Defendant or any of the Released Parties.

11. Upon consideration of Class Counsel's application for fees and costs and other expenses, the Court awards seven hundred thousand dollars (\$700,000) as reasonable attorneys' fees and reimbursement for reasonable out-of-pocket expenses.

12. Upon consideration of the application for a service award, the Class Representatives, Mary Heather McAfee and George Wright, are each awarded the amount of five thousand dollars (\$5,000.00), for the service each has performed for and on behalf of the Settlement Class.

13. The Court finds, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, that there is no just reason for delay, and directs the Clerk to enter final judgment.

BY THE COURT:

HON. RODERICK C. YOUNG
UNITED STATES DISTRICT JUDGE

Dated: _____