IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
EASTERN DIVISION

JOHN DOE, and all others similarly situated,

Plaintiffs,

vs.

GREGORY SCOTT STEPHEN; BARNSTORMERS BASKETBALL, INC., d/b/a BARNSTORMERS BASKETBALL OF IOWA; AMATEUR ATHLETIC UNION OF THE UNITED STATES, INC.; and ADIDAS AMERICA, INC.,

Defendants.

No. 3:20-CV-0005

ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

I. INTRODUCTION

Between 2005 and 2018, Greg Stephen secretly took or obtained sexually explicit photographs or videos of hundreds of minors, many of whom participated in programs through Stephen's employer, Barnstormers Basketball, Inc. ("BBI"). Plaintiff John Doe, individually and on behalf of others similarly situated ("Plaintiffs"), brought claims against BBI for allegedly negligently hiring and retaining Stephen, among other theories. BBI denies liability.

The Court certified a class, and Plaintiffs and BBI prepared for trial. Shortly before trial, Plaintiffs and BBI submitted a Joint Notice of Settlement. (ECF 178.) On August 24, 2022, Plaintiffs and BBI moved for preliminary approval of their settlement agreement and asked for Court-authorized notice to be sent to class members. (ECF 180, p. 1.) The parties submitted supplemental briefing in support of their Motion for Preliminary Approval a few weeks later in response to a request from the Court. (ECF 187.) After careful review of the proposed settlement agreement and briefing, the Court GRANTS Plaintiffs' and BBI's Motion for Preliminary Approval.

II. BACKGROUND

A. Factual and Procedural Background.

BBI is an Iowa-based youth basketball organization. (ECF 1-4, p. 117.) Stephen co-founded BBI in 2005 with Jamie Johnson, an organizer for the Amateur Athletic Union of the United States, Inc. ("AAU"). (ECF 1-4, p. 126.) Stephen began coaching BBI boys' basketball teams shortly thereafter. (Id.)

In 2018, Stephen pled guilty to five counts of Sexual Exploitation of a Minor. (ECF 1-4, p. 130.) In his Plea Agreement, Stephen admitted to: using hidden cameras to record nude minors in hotel rooms; assuming the identity of teenage females to solicit explicit images from minors; and having inappropriate physical contact with minors. (Id., pp. 130, 132–134.) He admitted engaging in this conduct from 2005 to 2018 and acknowledged that his position with BBI gave him opportunities to victimize minors, including during team-related trips and in shared hotel rooms. (Id., pp. 131–132.) In 2019, Stephen was sentenced to 180 years' imprisonment. (Id., p. 134.)

Plaintiffs filed suit on November 2, 2018, in the Iowa District Court for Johnson County. (ECF 1, ¶ 1.)[1] The case was later removed to this Court. (Id.) On September 23, 2021, over BBI's objection, the Court certified the following class under Fed. R. Civ. P. 23(b)(3):

> All past or present Barnstormer Basketball, Inc., participants who:
>
> 1. were affiliated with a Barnstormer Basketball, Inc., team at any point in time between 2005 and April 5, 2018, while Greg Stephen was involved with the organization; and
> 2. fell victim to Greg Stephen's illicit acts of secretly procuring nude images and/or recordings of minors.

(ECF 70.) The Court later denied BBI's motion to decertify. (ECF 171.)

Trial was scheduled to begin August 1, 2022. The parties were clearly well prepared and willing to go to trial, as illustrated by their extensive pretrial filings, which included dozens of motions in limine and detailed trial briefs, jury instructions, and related materials. (ECF 119, 120, 131, 151, 154, 156.) However, on July 29, 2022, Plaintiffs and BBI notified the Court that they had reached settlement in principle. (ECF 178.) Plaintiffs filed their motion for preliminary approval of the settlement agreement a few weeks later. (ECF 180.)

[1] AAU and adidas have both successfully moved to compel arbitration and stay this action as to them. (ECF 1, ¶ 2; ECF 23.)

The Court was largely inclined to grant the motion for preliminary approval but needed the parties to clarify three issues before doing so: (1) the breadth of the release given to BBI and "Related Parties" (as defined in the agreement); (2) the impact of the proposed dismissal "with prejudice" on claims against Defendants Greg Stephen and adidas America, Inc. ("adidas"); and (3) the mechanics of the settlement fund, including who will hold the money pending final settlement approval. (ECF 184, 1.) The parties filed a supplemental brief on September 15, 2022. (ECF 187.)

B. Summary of the Proposed Settlement Agreement.

The proposed agreement includes a broad release in favor of BBI and "Related Parties," including, *inter alia*, AAU and its insurers. (ECF 181, p. 5.)[2] The release covers all "Released Claims," which is broadly defined to include "all claims, rights, causes of action, liabilities, actions, suits, damages, or demands of any kind whatsoever, known or unknown, matured or unmatured, at law or in equity, existing under federal or state law, that relate to the Claims made in the Lawsuit and that were or could have been alleged in the Lawsuit against Barnstormers or Related Parties…" (Id.)

In exchange for this broad release, BBI will pay $1.9 million within 60 days of this Court's Order preliminarily approving the settlement. (Id.) BBI further agrees "to strictly adhere to any and all youth protection policies and protocols for athlete welfare and misconduct prevention mandated by any organization [it] is a member of or otherwise affiliates itself with." (Id.) The proposed agreement does not specify who will hold the money pending final approval and throughout the claims allocation process. The parties have since clarified that the funds will be deposited in Grefe & Sidney, P.L.C.'s trust account and distributed to class members with the assistance of Atticus Administration, LLC. (ECF 187, p. 4.)

The amount available for distribution to class members will be $1.9 million minus (1) administrative expenses, (2) attorney fees and expenses awarded, and (3) enhancement payments awarded by the Court. (ECF 181, p. 1.) According to class counsel, there are currently "98 confirmed victims that could fall within the class definition." (ECF 180, p. 4.) Counsel estimates that each class member will receive approximately $10,000. (Id.) Although not explicit in the

[2] AAU is nominally a defendant in the case, although the Iowa District Court for Johnson County (Case No. LACV080354) granted AAU's motion to compel arbitration, and thus the case against AAU has been stayed since October 16, 2019. (ECF 1, ¶ 2.)

agreement, it appears from other documents that Plaintiffs' counsel will seek a 40% fee award, as well as reimbursement of reasonable expenses. (Id., p. 4 n. 1; ECF 181-1.)

The agreement acknowledges that class members may timely object to the fairness, reasonableness, or adequacy of the settlement and fee award for class counsel. (ECF 181, pp. 2, 7.) The parties propose the week of November 13, 2022, for a final approval hearing. (ECF 181-1.) The "Effective Date" of the agreement is the date the Court enters a Final Order and Judgment and any appeals are resolved (or the time for appeal expires), except that the Effective Date will not be delayed by modification or appeal "from those parts of the Final Order and Judgment that (i) pertains to either the Plan of Allocation or the Fee and Expense Award; and (ii) has no effect on this Agreement becoming binding, effective, and final in its entirety between Releasing Plaintiffs, Class Members, and Defendant." (ECF 181, pp. 3–4.) Following the Effective Date, Plaintiff John Doe will dismiss the Lawsuit with prejudice, and class members will be barred from raising any Released Claim against BBI and Related Parties (which include AAU, but not adidas). (Id. at 5, 7.)

Plaintiffs also submitted a "Plan of Allocation" describing how claims will be processed and settlement funds disbursed. (ECF 181-2.) Pursuant to this Plan, a claims administrator shall, subject to Court supervision, oversee the administration and calculation of class member claims and distribute settlement funds to authorized claimants. (Id., p. 8.) To be eligible for payment, individuals claiming to be class members must timely submit a claim form and supporting documents to the claims administrator. (Id., pp. 8–9.) The claim form will be created by the claims administrator and set out the proof required for a successful claim. (ECF 181-2, p. 1.) Plaintiffs' lead counsel, Guy R. Cook, has discretion to accept late-submitted claims, provided this does not materially delay the distribution of settlement funds to previously authorized claimants. (Id., p. 8.) Plaintiffs' lead counsel also may allow the claims administrator to waive "de minimis or formal or technical defects" in claim forms. (Id., pp. 8–9.)

III. LEGAL STANDARD

Court approval is required for a class-wide settlement. Fed. R. Civ. P. 23(e). The approval process involves two stages. First, the Court conducts preliminary review of the settlement agreement. *Id*. If the Court concludes it likely will approve the agreement, it must "direct notice [of the settlement] in a reasonable manner to all class members who would be bound by the proposal." *Id.* Second, after notice has been provided, and "[i]f the proposal would bind class

members," the Court must hold a final approval hearing to determine whether the agreement is "fair, reasonable, and adequate" under factors set forth in Fed. R. Civ. P. 23(e)(2).

"A settlement agreement is 'presumptively valid.'" *In re Uponor, Inc., F1807 Plumbing Fittings Prods. Liab. Litig.*, 716 F.3d 1057, 1063 (8th Cir. 2013) (quoting *Little Rock Sch. Dist. v. Pulaski Cnty. Special Sch. Dist. No. 1*, 921 F.2d 1371, 1391 (8th Cir.1990)). "That said, preliminary approval is not simply a judicial 'rubber stamp' of the parties' agreement." *Martin v. Cargill, Inc.*, 295 F.R.D. 380, 383 (D. Minn. 2013). Instead, under Fed. R. Civ. P. 23(e), "the district court acts as a fiduciary, serving as a guardian of the rights of absent class members." *In re Wireless Tel. Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 932 (8th Cir. 2005). In determining whether to approve a class settlement, the Court must consider the factors set forth in Fed. R. Civ. P. 23(e)(2), which include whether:

> (A) the class representatives and class counsel have adequately represented the class;
> (B) the proposal was negotiated at arm's length;
> (C) the relief provided for the class is adequate, taking into account:
> (i) the costs, risks, and delay of trial and appeal;
> (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class member claims;
> (iii) the terms of any proposed award of attorney's fees, including timing of payment; and
> (iv) the agreement required to be identified under Rule 23(e)(3); and
> (D) the proposal treats class members equitably relative to each other.

Id.

In the course of evaluating these factors, the Eighth Circuit has directed district courts to consider: "(1) the merits of the plaintiff's case weighed against the terms of the settlement, (2) the defendant's financial condition, (3) the complexity and expense of further litigation, and (4) the amount of opposition to the settlement." *Marshall v. Nat'l Football League*, 787 F.3d 502, 508 (8th Cir. 2015) (quoting *In re Uponor*, 716 F.3d at 1063). "The single most important factor in determining whether a settlement is fair, reasonable, and adequate is a balancing of the strength of the plaintiff's case against the terms of the settlement." *Id.* (quoting *Van Horn v. Trickey*, 840 F.2d 604, 607 (8th Cir. 1988)). The Court may not unilaterally modify a proposed settlement agreement, but it may advise the parties that it will not approve a proposed settlement until certain modifications are made. *Evans v. Jeff D.,* 475 U.S. 717, 726–27, (1986); *see also Rawa v. Monsanto Co.*, 934 F.3d 862, 871 (8th Cir. 2019) (same).

IV. LEGAL ANALYSIS

A. The Court Is Likely to Approve the Proposed Settlement Agreement.

The Court is satisfied, for purposes of preliminary approval, that the proposed settlement is "fair, reasonable, and adequate" considering the factors set forth in Eighth Circuit precedent and Fed. R. Civ. P. 23(e)(2). The Court is confident that the class representative and class counsel have adequately represented the class. There is no indication that any conflicts of interest or other deficiencies have arisen in counsel's representation of the class. Moreover, judging by the pretrial filings and hearings, counsel clearly devoted substantial time and energy to the case and were fully prepared to go to trial unless acceptable settlement terms were reached. The Court is likely to find the adequate representation factor satisfied.

Similarly, the record shows the proposal was negotiated at arm's length. In some circumstances, such as when parties present a settlement for court approval before meaningful litigation has occurred, concerns develop that the agreement might be the product of collusion—i.e., the defendant might be paying off plaintiff's counsel to free itself from liability without providing meaningful value to the class. *See Keil v. Lopez*, 862 F.3d 685, 693 (8th Cir. 2017) ("The court's role in reviewing a negotiated class settlement is . . . to ensure that the agreement is not the product of fraud or collusion . . . .") (quoting *Marshall*, 787 F.3d at 509); *see also Pettway v. Am. Cast Iron Pipe Co.*, 576 F.2d 1157, 1169 (5th Cir. 1978) (holding class interests must not be "wrongfully compromised, betrayed, or 'sold out'"). The Court has no such concerns here. In the months before trial, the two sides intensely litigated issues ranging from class certification to admissibility of evidence to governing legal standards—and even who could be in the courtroom during *voir dire*. The Court is confident the parties negotiated settlement with similar intensity.

On the merits, both sides would have risk if this case went to trial. It is, of course, undisputed that Gregory Stephen engaged in abhorrent behavior, and Plaintiffs are "victims" in every sense of the word. But BBI is not automatically liable for Stephen's behavior: Plaintiffs would have to prove BBI knew or should have known of Stephen's propensity for abuse and hired or retained him anyway. Given the inherently secretive nature of Stephen's conduct (e.g., hiding cameras in hotel rooms), Plaintiffs may not have succeeded in convincing a jury that BBI knew or should have known of his abusive conduct. Indeed, some of his illicit acts occurred in a private residence, separate and apart from BBI-sanctioned events. Moreover, even if Plaintiffs established BBI's liability, the jury would have had wide discretion in awarding damages.

The analysis for AAU is similar except that it was even further removed from day-to-day involvement in Stephen's activities than BBI. Thus, again, there would be risk to Plaintiffs if they proceeded to trial.

Weighed against the merits, the Court is likely to find the relief described by the proposed agreement is adequate, particularly considering BBI's and AAU's financial condition. The release contemplated by the agreement is broad, extinguishing all potential claims against BBI and AAU (ECF 187, p. 2-3), and the Court was at first hesitant to grant preliminary approval without first understanding why Plaintiffs would agree to such a broad release as to both parties (ECF 184, pp. 6-8). But broad releases are sometimes in the best interests of class members. *In re Gen. Am. Life Ins. Co. Sales Pracs. Litig.*, 357 F.3d 800, 805 (8th Cir. 2004). After reviewing the parties' supplemental briefing, the Court concludes this is likely the case here. BBI is a small non-profit organization with limited resources outside of insurance proceeds. AAU is a larger organization, but still a non-profit—and, as noted above, much further removed from day-to-day oversight of Greg Stephen's actions. So Plaintiffs have relatively strong claims against an entity with little or no capacity to satisfy a judgment and relatively weak claims against an entity with somewhat (but only somewhat) deeper pockets. Under these circumstances, a policy-limits settlement is likely a fair, reasonable, and adequate outcome. *See In re Immune Response Sec. Litig.*, 497 F. Supp. 2d 1166, 1172 (S.D. Cal. 2007) (finding proposed class settlement was fair, reasonable, and adequate when, *inter alia*, the only available source of funds were insurance policies and those limits were likely exhausted by the settlement); *see also In re Enron Corp. Sec., Derivative & "ERISA" Litig.*, 228 F.R.D. 541, 558–59 (S.D. Tex. 2005) (same); *Fed. Ins. Co. v. Caldera Med., Inc.*, No. 215CV00393SVWPJW, 2017 WL 11037391, at *8 (C.D. Cal. Jan. 31, 2017) (same); *Spencer v. Comserv Corp.*, No. CIV 4-84-794, 1986 WL 15155, at *7 (D. Minn. Dec. 30, 1986) (same).

For essentially the same reasons, the Court is satisfied the proposed settlement is fair, reasonable, and adequate despite releasing claims for general and special damages alike. With policy limits having been exhausted, there is a relatively low likelihood that a class member who suffered an acute form of emotional distress—to the extent there are such class members at all—would be able to recover more from AAU or BBI than the proposed settlement agreement already provides.

The parties also have satisfied the Court regarding the impact (or, more precisely, lack thereof) of the settlement on claims against Greg Stephen and adidas America, Inc. ("adidas"). The

parties agree it is not their intent to release any claims against Stephen or adidas and note that adidas is specifically carved out of the release. (Id., pp. 3-4.) In light of this clarification, the Court understands that the dismissal of the case "with prejudice" refers only to the case against BBI and AAU, and not against adidas or Stephen.

Finally, the Court is likely to find the proposed agreement treats class members equitably in relation to one another. Other than the "service award" of $7,500 for the class representative, class members are treated the same. (ECF 181-1, p. 2, 8-10); *see also Petrovic v. Amoco Oil Co*., 200 F.3d 1140, 1146 (8th Cir. 1999) ("It seems to us that almost every settlement will involve different awards for various class members."). The service award is likely to be justified given the length of the class representative's involvement with the suit and his "substantial action to step forward and pursue the present litigation." *Jones v. Casey's Gen. Stores, Inc.*, 266 F.R.D. 222, 231 (S.D. Iowa 2009) (approving $10,000 "incentive compensation" for class representatives). Given the nature of the underlying abuse, it was no small act of courage to proceed with the case.

B. Issue for Class Counsel to Address in Greater Detail at the Final Approval Hearing.

At the final approval hearing, the Court will evaluate the same factors discussed above to ensure the settlement agreement is "fair, reasonable, and adequate" under Eighth Circuit precedent and Fed. R. Civ. P. 23(e). As part of this analysis, the Court will have to decide whether to approve class counsel's request for attorney's fees. Plaintiffs' filings suggest counsel will request a fee in the amount of 40% of the total common fund, plus fees and expenses. (ECF 180, 4 n. 1; ECF 180-1.)

The Court has discretion whether to apply a lodestar or percentage-of-the-fund method when assessing the reasonableness of a fee request. *Johnston v. Comerica Mortg. Corp.*, 83 F.3d 241, 246 (8th Cir. 1996). When employing the percentage of the fund method, district courts determine whether the requested percentage is "in line with other awards in the Eighth Circuit." *Huyer v. Wells Fargo & Co.*, 314 F.R.D. 621, 629 (S.D. Iowa 2016), *aff'd sub nom. Huyer v. Njema*, 847 F.3d 934 (8th Cir. 2017), and *aff'd sub nom. Huyer v. Buckley*, 849 F.3d 395 (8th Cir. 2017). Even when the percentage method is applied, district courts often verify the reasonableness of an award under the lodestar approach. *Petrovic*, 200 F.3d at 1157. Courts in the Eighth Circuit "have frequently awarded attorney fees between twenty-five and thirty-six percent of a common fund." *In re Xcel Energy, Inc., Sec., Derivative & "ERISA" Litig.*, 364 F. Supp. 2d 980, 998 (D. Minn. 2005). An award of 36 to 38% of the common fund is not unreasonable *per se* but "on the

high end of the typical range." *Huyer*, 849 F.3d at 399 (8th Cir. 2017); *see also In re U.S. Bancorp Litig.*, 291 F.3d 1035, 1038 (8th Cir. 2002) (affirming fee award of 36% in class action settlement).

"The Eighth Circuit has not established factors that a district court must consider when awarding fees under the percentage-of-the-fund method, however, some cases have relied on the twelve-factor test from *Johnson v. Georgia Highway Express,* 488 F.2d 714, 719–20 (5th Cir.1974)." *Huyer*, 314 F.R.D. at 628–29; *see also Zoll v. E. Allamakee Cmty. Sch. Dist.*, 588 F.2d 246, 252 (8th Cir. 1978) (acknowledging the Eighth Circuit has "expressly approved" the *Johnson* factors).[3] These factors include:

1. The time and labor required,
2. The novelty and difficulty of the question,
3. The skill requisite to perform the legal services properly,
4. The preclusion of other employment due to acceptance of the case,
5. The customary fee,
6. Whether the fee is fixed or contingent,
7. Time limitations imposed by the client or the circumstances,
8. The amount involved and the results obtained,
9. The experience, reputation, and ability of the attorneys,
10. The undesirability of the case,
11. The nature and length of the professional relationship with the client, and
12. Awards in similar cases.

Zoll, 588 F.2d at 252 n. 11. The Court need only apply relevant *Johnson* factors, not all twelve. *Huyer*, 314 F.R.D. at 629.

At least 21 days in advance of the final approval hearing, class counsel must file their motion for attorney fees and reimbursement of litigation expenses. The motion should substantiate counsel's request for fees by addressing as many of the *Johnson* factors as counsel believes are relevant. In particular, and without limitation, counsel should provide the Court with the number

[3] This Court has also applied the *Johnson* factors to lodestar calculations. *See, e.g.*, *Sun Media Sys., Inc. v. KDSM, LLC*, 587 F. Supp. 2d 1059, 1075 (S.D. Iowa 2008). For frame of reference, courts in the Eighth Circuit have approved lodestar multipliers ranging anywhere from 1.8 to 5.6. *See Huyer*, 849 F.3d at 399 (multiplier of 1.8); *In re Xcel Energy*, 364 F. Supp.at 999 (multiplier of 4.7); *In re Charter Commc'ns, Inc.,* No. MDL 1506, 4:02-CV-1186 CAS, 2005 WL 4045741, at *18 (E.D. Mo. June 30, 2005) (multiplier of 5.6); *In re St. Paul Travelers Secs. Litig.,* No. Civ. 04–3801 JRTFLN, 2006 WL 1116118, at *1 (D. Minn. April 25, 2006) (multiplier of 3.9).

of hours spent on this case and the rates at which those attorneys otherwise would have billed those hours.

V. CONCLUSION

The Court concludes it likely will approve the proposed settlement agreement following a final hearing and therefore **GRANTS** Plaintiffs' Motion for Preliminary Approval. The Court further **ORDERS** as follows:

1. The Court will hold a final approval hearing (also known as a "fairness hearing") on December 5, 2022, at 2:00 p.m. Central Time, at the United States District Court for the Southern District of Iowa, 131 East 4th Street, Davenport, Iowa 52801. At the final approval hearing, the Court will determine, among other things, (i) whether the proposed agree is fair, reasonable, adequate, and in the best interests of the class; (ii) whether to award Plaintiffs' requested attorney fees and reimbursement; and (iii) whether to award the class representative his requested service award.
2. The parties shall create a website to facilitate class member education on or before October 7, 2022 (the "Settlement Website"). The parties will publish a copy of this Order on the Settlement Website, as well as the: (i) proposed settlement agreement; (ii) Long Form Notice (Exhibit A); and (iii) claim form. These items must be posted on the Settlement Website on or before October 7, 2022.
3. The Court directs that the parties distribute the Long Form Notice (Exhibit A) and Summary Notice (Exhibit B) to class members. The parties shall amend the notices to include the URL for the Settlement Website and then send, publish, and/or post the Notices to class members on or before October 7, 2022, in the following manner:
    a. Plaintiffs' lead counsel shall: (i) send a Summary Notice by U.S. Mail to all present and former BBI participants who have been identified by the parties; (ii) publish the contents of the Summary Notice in the *Des Moines Register* and *The Gazette*; (iii) and post the Long Form Notice on the "Justice for Victims of Greg Stephen" Facebook page.
    b. BBI shall: (i) email the Long Form Notice to every e-mail address in its possession affiliated with a past or present BBI participant; (ii) distribute the Long Form Notice to every identifiable individual (past and present) affiliated

with BBI via BBI's TeamSnap network; and (iii) post a link to the Long Form Notice on BBI's team affiliated social media pages.

On or before October 14, 2022, Plaintiffs' lead counsel and counsel for BBI will separately file declarations with the Court confirming the Long Form Notices and Summary Notices have been sent, published, and/or posted in conformance with this Order.

4. Any class member who wishes to object to the proposed agreement or Plaintiffs' motion for attorney fees and reimbursement of litigation expenses and for the class representative's service award must include with their objection: (i) the case name and number; (ii) the class member's full name, address, and telephone number; (iii) the basis for the class member's belief that they are a member of the settlement class; and (iv) the basis of the class member's objection(s), including any legal support.

5. Class member objections must be submitted to the Court. These objections may be submitted either by mailing them to the Clerk of Court for the United States District Court for the Southern District of Iowa, 123 East Walnut Street, Des Moines, Iowa 50309, or by filing them in person at any location of the United States District Court for the Southern District of Iowa. In addition to submitting their objections to the Court, class members must mail or email a copy of their objections to Plaintiffs' lead counsel and counsel for BBI at the following addresses:

Guy R. Cook
Grefe & Sidney, PLC
500 E. Court Avenue, Suite 200
Des Moines, Iowa 50309
Email: gcook@grefesidney.com
PLAINTIFFS' LEAD COUNSEL

Martha L. Shaff
Betty, Neuman & McMahon, P.L.C.
1900 East 54th Street
Davenport, IA 52807-2708
Email: martha.shaff@bettylawfirm.com
ATTORNEYS FOR BBI

All objections must be filed or received by the Court and received by Plaintiffs' lead counsel and counsel for BBI on or before November 23, 2022, to be considered by the Court. Given the sensitive subject matter, objections automatically will be

treated as having been filed under seal without further leave of Court being required; however, the Court encourages an objecting party to include the words "CONFIDENTIAL – FILED UNDER SEAL" or similar language on the objection when it is submitted to the Court and counsel.

6. Any class member who wishes to opt-out and be excluded from the settlement must send written notice that they are opting out of the settlement to the claims administrator at the following address:

   Atticus Administration, LLC
   1250 Northland Drive, Suite 240
   Mendota Heights, MN 55120

   The opt-out notice must be postmarked on or before November 7, 2022, for the class member to be excluded from the settlement.

7. Plaintiffs' motion for attorney fees and reimbursement of litigation expenses and for the class representative's service award must be filed with the Court, served on the parties, and published on the Settlement Website no later than 21 calendar days prior to the final approval hearing. The parties' motion in support of final approval of the settlement agreement shall likewise be filed with the Court, served on the parties, and published on the Settlement Website no later than 21 calendar days prior to the final approval hearing. Any responses to these motions shall be filed with the Court and served on the parties no later than 14 days prior to the final approval hearing. Any replies shall be filed with the Court and served on the parties no later than 7 days prior to the final approval hearing.

IT IS SO ORDERED.

Dated: September 29, 2022.

Stephen H. Locher
UNITED STATES DISTRICT JUDGE